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Tax Cuts and Jobs Act

New tax law opens opportunities for businesses

The Tax Cuts and Jobs Act (TCJA), signed into law on December 22, 2017 is the most significant tax legislation since 1986. The following is an overview of some of the changes to business taxes.

Corporate tax

For tax years beginning January 1, 2018, the **statutory C corporation tax rate will be reduced from a maximum of 35% to a flat rate of 21%.**

The **Corporate Alternative Minimum Tax (CAMT) has been repealed**. Prior to the Tax Cuts and Jobs Act, corporations were subject to the Alternative Minimum Tax, a separate determination of an entity's tax liability. Every corporation was required to calculate their taxes at the corporate income tax regime and the AMT, ultimately paying the higher tax. The purpose of the AMT was to ensure all corporations paid some tax by limiting or eliminating certain deductions.

Taxpayers with prior year AMT credit can continue to offset regular tax liability prior to 2022. Prior year AMT credit is refundable up to 50% of remaining credits (100% for year 2021).

Pass-through tax

Domestic qualified business income (QBI) from a pass-through entity will be taxed at the business owner's individual income tax rate less a deduction up to 20%, subject to certain limitations. Wage and capital limits apply for all businesses (**other than for specified service businesses**) if the business owner's taxable income exceeds the threshold amount ($157,500 for individual taxpayers and $315,000 for married taxpayers filing jointly). In these cases, the 20% deduction cannot exceed 50% of the business W-2 wages allocated to the business owner or the sum of 25% of W-2 wages plus 2.5% of the unadjusted basis, immediately after acquisition, of all qualified property.

For specified service businesses with taxable income that exceeds the threshold amount and the phase-in range ($207,500 for individual taxpayers and $415,000 for married taxpayers filing jointly), the deduction does not apply.

This deduction sunsets after 2025 and reverts to pre-existing law.

Specified service business

A specified service business is any business involving the performance of services in the fields of health, law, accounting, actuarial science, performing arts, consulting, athletics, financial services, brokerage services, or any business where the principal asset of such business is the reputation or skill of one or more of its employees or owners. This definition excludes architectural and engineering businesses.

Switching from an S corporation to a C corporation The Act changes the distribution structure for an S corporation that is terminated and converts to a C corporation. Under the Act, 481(a) adjustments from the C corporation are taken into account ratably during a six taxable-year period. The formula takes into consideration factors such as the accumulated adjustment account, earnings and profits, and same owners and proportional ownership pre- and post-S corporation termination.

Business deductions

Dividends Received Deduction: Under TCJA the 80% dividends received deduction is reduced to 65% and the 70% dividends received deduction is reduced to 50%.

Business Interest Deduction: The Act limits deductions on net interest expense to 30% of a business' adjustable taxable income. However, businesses with average annual gross receipts below $25 million are exempt from these limitations and businesses involved in certain real estate activities such as real estate development, redevelopment, construction, acquisition, conversion, rental, operation, management leasing, may also choose to be exempt from this limitation. Any disallowed interest may be carried forward indefinitely.

Net Operating Loss (NOL) Deduction: The Act limits the NOL deduction to 80% of taxable income and provides that any amount applied against other years must be adjusted to account for this limitation. Losses incurred in taxable years beginning after December 31, 2017 may be carried forward indefinitely however carrybacks are eliminated. There is an exception for losses incurred in a farming business, which would be a two-year carryback.

IRC Section 179 Expensing: Pre-Act, businesses were able to fully deduct as an expense (rather than depreciate over time) qualifying property placed into service for the tax year with a deduction cap of $500,000. That $500,000 deduction ceiling was reduced if the qualifying property exceeded $2 million. Generally, qualifying property was limited to tangible personal property. The TCJA increases the deduction cap to $1 million to be reduced if the qualifying property exceeds $2.5 million. The Act also expands the definition of qualifying property to include tangible personal property used to furnish lodgings and expands the definition of qualified real property that is eligible for expensing under this provision to include improvements to nonresidential real property including roofs, heating, ventilation, air-conditioning, fire protection, alarm systems, and security systems.

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