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TAX REPORT

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Tax Cuts and Jobs Act

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The most sweeping tax legislation since the 1986 Tax Reform Act is about to be enacted. Although the ink is barely dry, taxpayers need to take note and act accordingly or "pay" the consequences for inaction. Many of the provisions need to be studied further to fully digest all of the components, but below is an *Executive Summary* of the contemplated changes to the Internal Revenue Code ("IRC"). This *Executive Summary* is broken into four sections: (1) Businesses; (2) Individuals; (3) Potential 2017 Action Items and (4) Final Thoughts.

Businesses

1. The C corporation tax rate will be reduced from 35% to 21%.
2. The corporate Alternative Minimum Tax for C corporations will be eliminated.
3. "Qualified Business Income" will be taxed on 80% of pass-through income. "Pass through businesses" include: (i) a sole proprietorship filing a Schedule C; (ii) partnerships; (iii) limited liability companies; and (iv) S corporations.
4. IRC Section 1031 ("like-kind exchanges") are only permitted for real estate. Other types of "investment property" will no longer qualify.
5. IRC Section 179 expensing is increased to $1 million for "qualified property" placed in service in tax years beginning after 2017, with a phase-out beginning at $2.5 million. The "qualified property" definition is also expanded.
6. Bonus depreciation is increased from 50% to 100% for "qualified property" placed in service after September 27, 2017.
7. Interest expense limitations for interest that exceeds 30% of "adjusted taxable income."
8. Net operating losses arising in tax years beginning after 2017 would be limited to 80% of taxable income. Certain carryback losses would be repealed.
9. IRC Section 199 dealing with the Domestic Production Activities deduction is repealed.
10. The cash method of accounting for C corporations and partnerships with $25 million or less of gross receipts will be allowed.

11. Percentage of completion will be allowed with average gross receipts of $25 million or less, will be permitted.
12. Tax on deferred foreign earnings of a 10% shareholder's pro rata share will be taxed at the rate of 15.5% (cash equivalents) and 8% for all else.

Individuals

	Current Law in 2017	New TCJA
Ordinary Income Tax Rates	7 brackets with a top rate of 39.6%	7 brackets with a top rate of 37%. The brackets increase at higher levels of income.
Deduction Phase-outs and Itemized Deductions	Applies to AGI over: $261,500 (single) $313,800 (married)	Standard deduction increases to $24,000 (joint filer). State and local income tax deduction (and property tax) capped at $10,000. Mortgage interest deduction on only $750,000 (grandfathered). Medical expenses 7.5% of AGI. No miscellaneous itemized deductions.
Alternative Minimum Tax	28% minimum rate, with exemption amount of $54,300 (single); $84,500 (married); $24,100 (Trusts)	A reduced number of individuals will be subject to the AMT
Rates on Capital Gains/Dividends	Top rate of 20%, 1 year holding period	Retained
Surtax on Net Investment Income	3.8% above $200,000 AGI (single); $250,000 (married), Trusts with income over $12,400	Retained
Estate Tax and Exemption	Top tax rate of 40%, $5,490,000, as adjusted for inflation	$11.2 Million per person
Gift Exemption	Top tax rate of 40%, $5,490,000, as adjusted for inflation	Unified with estate tax, retained

Potential 2017 Action Items

1. Pre-pay 2017 state income taxes (2018 will not qualify).
2. Defer income into 2018 where possible (lower rates in 2018).
3. Recognize business losses in 2017.
4. Place vehicle in service in 2018 as depreciation limits increase.
5. Make charitable donations in 2017 versus 2018.
6. Pay tax preparer fees in 2017 (2018 eliminated).

Final Thoughts

In broad terms, the TCJA reduces the income tax brackets and limits itemized deductions. The net effect should be the reduction of income tax liabilities for most taxpayers. With the reduction of the corporate tax rate from 35% to 21%, the "old" C corporation will need to be re-examined as the top individual tax rate is at the higher 37%. The other major new change is the introduction of the 20% reduction for pass-through entities. As a result, all businesses need to re-evaluate their entity structure going forward.

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