TAX REFORM: TOP PROVISIONS IMPACTING BUSINESSES

The Tax Cuts and Jobs Act is bringing sweeping changes to many areas of the tax law. As your tax advisor, Anders is looking ahead to help you minimize your company's tax burden for 2018. To help you prepare for the impacts, below are the top provisions affecting businesses.

BUSINESS TAX RATES

- Corporate tax rate reduced from 35% to **21%**
- Pass-through companies allowed a **20%** deduction on domestic qualifying business income not to exceed 50% of wage income for higher-income taxpayers, but not for specified service businesses, not including architects and engineers and smaller specified service businesses. Alternatively, for the higher income taxpayers, the deduction applies to **25%** of wage income plus 2.5% of the unadjusted cost of depreciable tangible assets.

INCREASED EXPENSING AND SECTION 179

- Immediately expense **100%** of qualifying property placed in service after September 27, 2017 and before January 1, 2023
- Repeal of "original use" requirement for newly acquired property to qualify. Additional depreciation is allowed if it was "first use" of the taxpayer. In other words, used property now qualifies for bonus depreciation
- Section 179 expensing increased to **$1,000,000** and phase-out amount increased to $2,500,000
- Section 179 qualifying property also includes improvements to non-residential property such as roofs, heating, ventilation, fire alarm/security systems and air-conditioning property
- Increased depreciation limits for listed property under section 280F. For listed property, such as certain vehicles not taking bonus depreciation, the maximum deduction per year is increased to **$10,000 in year 1**, $16,000 in year 2, $9,600 in year 3, and $5,760 in year 4 and on. Computers are removed from the definition of listed property
- Certain farming equipment is allowed a recovery period of **5 years**, instead of 7. The 150% declining balance method is no longer required for this equipment and farmers could use the **200%** declining balance method

QUALIFIED IMPROVEMENT PROPERTY

- Definitions for qualified leasehold improvement, qualified restaurant and qualified retail improvement property are eliminated. The replacement is a single definition for qualified improvement property
- All qualified improvement property is allowed a recovery period of **15 years**. The depreciation method is under MACRS and eligible for section 179 expensing

LIKE-KIND EXCHANGES

- Like-kind exchanges are only allowed for real property

ALTERNATIVE MINIMUM TAX

- AMT is eliminated for C-Corporations, but remains for individuals. The individual exemption is increased

ACCOUNTING METHODS AND RECOGNITION OF INCOME

- Cash method of accounting is allowed for corporations and partnerships with a corporate partner as long as gross receipts are $25 million or less, indexed for inflation. The exceptions to the accrual method remain for personal service corporations, partnerships without C-Corp partners, and other pass-through entities
- Businesses with average gross receipts of **$25 million or less** are allowed the cash method of accounting even with inventories and could use the method for inventory accounting reflected on their books. In addition, they are exempt under current UNICAP rules
- The $10 million average gross receipts exception for the percentage of completion method for accounting for long-term contracts is increased to **$25 million**
- A taxpayer has to recognize income no later than the taxable year in which such income is taken into account as income on an Applicable Financial Statement, as defined in legislation. This could possibly modify the current "Constructive Receipt" and "All Events Test" doctrines for certain companies

LIMITATION ON NET INTEREST EXPENSE

- Businesses are subject to a disallowance of net interest expense in excess of **30%** of adjusted taxable income as defined in legislation, EBITDA for first 4 years and then EBIT thereafter
- The carryforward of disallowed net interest expense is indefinite
- An exemption to these rules are allowed for businesses with average gross receipts under **$25 million**. Real Property Trades or Businesses are also exempt

NET OPERATING LOSS DEDUCTIONS

- Allowed only to the extent of **80%** of taxable income
- All carrybacks generally repealed with some exceptions
- NOLs generated effectively after the provision are allowed to be carried forward indefinitely

MEALS AND ENTERTAINMENT EXPENSES

- No deduction allowed for entertainment expenses including, but not limited to, such items as amusement or recreation, facilities or membership dues
- Qualifying business meals and beverages only allowed a deduction with the **50%** limit remaining in place, and this limitation is expanded to employee meals. Employee meals will be fully non-deductible beginning in 2026

BONDS

- Interest on newly issued Advance Funding Bonds (AFB) is no longer tax-exempt
- Tax credit bonds can no longer be issued

EXECUTIVE COMPENSATION

- The exceptions to the $1 million deduction limitation for compensation to covered employees are eliminated. These exceptions under the current law are commissions, performance-based comp (including stock options), payments to the tax-qualified retirement plan, and amounts excludable from the executive's gross income. Covered Employees include the CEO, the CFO and the three highest-paid employees

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We will continue to communicate with our clients about how the new tax law will impact individuals and businesses going forward. Please contact your Anders advisor to discuss your specific situation.
