Highlights from the Tax Cuts and Jobs Act

Charlotte County Estate Planning Council

May 8, 2018

Betsy McMillan, CPA

WLM WEBB, LORAH & MCMILLAN, PLLC
Certified Public Accountants and Consultants

Individual income tax changes

- Most widely publicized changes in the new legislation including:
  - Reduced income tax rates
  - Expanded standard deduction
  - Personal exemption eliminated
  - Reductions and limitations on itemized deductions
  - Expansion of child tax credit
  - Moving expenses eliminated
  - Alimony changes
  - Increased AMT exemption
  - Health care individual mandate changes

Reduction in tax rates – We continue to have 7 different tax brackets

2017 - MFJ

Taxable Income	Rate
$0 - $18,650	10%
$18,650 - $75,900	15%
$75,900 - $153,100	25%
$153,100 – $233,350	28%
$233,350 - $416,700	33%
$416,700 - $470,700	35%
Over $470,700	39.6%

2018 – MFJ

Taxable Income	Rate
$0 - $19,050	10%
$19,050 - $77,400	12%
$77,400 - $165,000	22%
$165,000 - $315,000	24%
$315,000 - $400,000	32%
$400,000 - $600,000	35%
Over $600,000	37%

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The rates for single taxpayers are as follows:

2017 - Single

Taxable Income	Rate
$0 - $9,325	10%
$9,325 - $37,950	15%
$37,950 - $91,900	25%
$91,900 – $191,650	28%
$191,650 - $416,700	33%
$416,700 - $418,400	35%
Over $418,400	39.6%

2018 – Single

Taxable Income	Rate
$0 - $9,525	10%
$9,525 - $38,700	12%
$38,700 - $82,500	22%
$82,500 - $157,500	24%
$157,500 - $200,000	32%
$200,000 - $500,000	35%
Over $500,000	37%

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Increased standard deduction

2017 – Old law

- Single - $6,350
- MFJ - $12,700
- MFS - $6,350
- Head of Household - $9,350
- Additional deduction – blind or over age 65
  - S or HOH - $1,550
  - MFJ or MFS - $1,250 each

2018 – New law

- Single - $12,000
- MFJ - $24,000
- MFS - $12,000
- Head of Household - $18,000
- Additional deduction – blind or over age 65
  - S or HOH - $1,600
  - MFJ or MFS - $1,300

Itemized deduction changes

Old Law

- Medical expenses deductible to the extent they exceed 10% of AGI
- Taxes
  - Greater of general sales tax or state income tax, plus
  - Real estate and other taxes
  - No cap

New Law

- Medical expenses deductible if they exceed 7.5% of AGI
  - Retroactive for 2017. Applies for 2018.
  - For 2019, reverts to 10% of AGI
- Taxes – capped at $10K total – same taxes are deductible

Itemized deductions, continued

2017 - Old Law

- Mortgage interest
  - Up to $1M of outstanding principal on up to two residences
  - Up to $100K home equity debt
  - PMI deductible (AGI limitations) – extended retroactively in Feb budget bill
- Charitable donations – cash donations to charities limited to 50% of AGI

2018 – New Law

- Mortgage interest
  - Up to $750K of outstanding principal on up to two residences
  - Home equity interest eliminated
  - PMI – no longer deductible
- Charitable donations – Cash donations to charities limited to 60%. Other rules related to charitable deductions remain the same

Itemized deductions, continued

- Casualty and theft losses
  - Were generally deductible to the extent that they exceed 10% of AGI, less a $100 floor (although rules were relaxed to a $500 floor in a Presidentially declared disaster area for 2017)
  - Under the new law, casualty and theft losses are eliminated, unless due to natural disasters
- Miscellaneous itemized deductions
  - Under old law, deductible if exceed 2% of AGI
  - New law – ELIMINATED!!! This eliminates deductions for:
    - Legal/estate planning and accounting/tax preparation fees
    - Investment advisory fees
    - Excess deductions on termination
    - Unreimbursed employee business expenses
    - Safe deposit box, other investment expenses, etc.

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Other deduction items

- PEASE limitation on itemized deductions is eliminated.
- Personal exemptions are GONE! In 2017, the personal exemption was $4,050 per person.
- Child and dependent credit
  - Old law
    - $1,000 per child under age 17
    - Phase outs begin $75K single/$110K MFJ
  - New law
    - $2,000 per child under age 17 (up to $1,400 refundable)
    - $500 for other dependents age 17 and older (non-refundable)
    - Phase outs begin at $200K single/$400K MFJ of AGI

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Other individual income tax changes

- Moving expenses – Eliminated unless related to move for certain military personnel
- Alimony
  - No longer deductible for payor or taxable to payee
  - Applicable to new decrees after 2018
  - Note – existing agreements continue to be taxable/deductible
- Domestic Production Activities Deduction – Eliminated
- AMT exemption – the new law retains the individual AMT
  - AMT exemption under old law - $54,300 S, $84,500 MFJ
  - AMT exemption under new law - $70,300 S, $109,400
  - Phase outs begin at a much higher income level, ensuring that fewer individuals are subject to AMT

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Health Care

- Individual Mandate – Eliminated for **2019 forward.** So the penalty for no coverage is still in play for 2018
- Certain aspects of the Affordable Care Act remain unchanged by this new legislation. Notably:
  - 3.8% surtax on net investment income
  - .9% Medicare surtax on earned income (w-2 wages and self-employment income)
  - (note – the $250K MFJ/$200K S thresholds are not indexed for inflation)

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Estate and Gift Tax Provisions

- Basic exemption increased to $10M – with inflation adjustments, this equates to $11,180,000 for 2018. (same exemption level applies for GST purposes)
- Top rate remains at 40%
- Portability remains available (must file Form 706)
- Annual exclusion increased to $15,000 per donee in 2018
- Income tax issues:
  - Limitations on deductibility of taxes and miscellaneous itemized deductions previously mentioned in individual provisions
  - Note – trustee/PR fees, legal and accounting fees are treated as “above the line” items for income tax purposes, therefore, it appears these deductions are available
- ESBT changes
  - Eligible beneficiaries now include current non-resident alien beneficiaries
  - Charitable deduction of an ESBT is now governed by the rules applicable to individuals rather than trusts (for contributions generated by the S portion)

The income tax rates for estates and trusts are adjusted as follows:

2017 – Old law

Taxable income	Rate
$0 - $2,550	15%
$2,550 - $6,000	25%
$6,000 - $9,150	28%
$9,150 - $12,500	33%
Over $12,500	39.6%

2018 – New law

Taxable income	Rate
$0 - $2,550	10%
$2,550 - $9,150	24%
$9,150 - $12,500	35%
Over $12,500	37%

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Business tax changes

- C Corporations
  - New flat tax rate of 21%
  - The corporate AMT has been eliminated
- Depreciation changes
  - Bonus depreciation expanded and modified
    - Applies to property acquired and placed in service after 9/27/17 (one of the few items impacting the 2017 returns)
    - Allows full current expensing of acquisitions (100% bonus depreciation)
    - Both new and used acquisitions now qualify
    - Exclusions – public utility property and property owned by certain vehicle dealerships
    - 100% is reduced to 80% in 2023, 60% in 2024, 40% in 2025, 20% in 2026, and 0% thereafter
  - Section 179 expensing – elected on an asset by asset basis
    - Increases eligible 179 deduction from $500K to $1M. Phase down threshold begins once qualifying acquisitions reach $2.5M (increased from $2M)
    - Expands qualifying property to include most non-residential building improvements other than elevators, escalators, building enlargements or changes to internal structural framework.

Depreciation changes, continued

- Section 179, continued
  - Residential rental real estate generally does not qualify for Section 179 expensing. However, items used in connection with residential buildings (ie. Non-affixed appliances), now qualify as Section 179 property.
- Vehicles
  - The TCJA triples the annual dollar caps on depreciation of passenger autos
  - Bonus depreciation is also expanded for vehicles (increased from $8K to $16K) – note, luxury auto limits complicate future year's calculations
  - Vehicles in excess of 6,000 lbs. gross vehicle weight are still allowed the $25K Section 179 deduction. However, they may also qualify for the bonus depreciation limits without the application of the luxury auto limits.
- Computers & peripherals no longer treated as listed property

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Other general business provisions

- NOLs
  - In general, no longer carried back – indefinite carryover
  - NOL deduction limited to 80% of taxable income
- Business interest limitations
  - Applies to all businesses, regardless of form with average annual gross receipts of over $25M
  - Interest expense is limited to 30% of AGI (w/o regard to depreciation/amortization)
  - Amounts subject to limitation are carried over to subsequent years
  - For pass-through entities, limit calculated at entity level
- Meals & entertainment – entertainment no longer deductible
- Like-kind exchanges – on real property only. No longer applies to exchanges of tangible personal property

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And…Anti-Tax Simplification! The Section 199A Qualified Business Income Deduction

- Applies to “pass-through” businesses including:
  - Sole proprietors
  - Partnerships and LLCs
  - S Corporations
- Applies to non-corporate taxpayers
  - Individuals
  - Estates & trusts
- Qualified business income
  - Items of gain, income, deduction and loss from any qualified trade or business
  - Must be effectively connected with a US trade or business
  - Does not include certain investment items

Pass-through deduction, continued

- Qualified business income, continued
  - Does not apply to guaranteed payments to a partner
  - Does not apply to compensation paid to the taxpayer
- Qualified business income deduction is "below the line" – doesn't reduce AGI
- Deduction is 20% of business income, but is subject to many limitations:
  - Cannot exceed 20% of the excess of taxable income over net capital gain
  - QBI less than zero is carried forward & treated as a loss from QBI in future year
  - Several rules are in place to further limit the deduction, and ensure that high-income taxpayers don't attempt to convert wages or other compensation into income eligible for the deduction

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Pass-through deduction, continued

- Limits on specified service trades or business
  - Applies to taxpayers with taxable income above $157,500 ($315,000 MFJ)
  - Once taxable income exceeds the above amounts, exclusion is phased in over the next $50K of taxable income ($100K for joint filers)
  - No deduction once taxable income reaches $207,500 ($415,000 MFJ)
  - Applies to those in the fields of health, law, accounting, consulting, athletics, financial or brokerage services, or those where the principal asset is the reputation or skill of one or more employees or owners.
- Additional limitations – all businesses – income over $157,500 ($315K MFJ)
  - 50% of W-2 wages with respect to the qualified business (W-2 wage limit)
  - 25% of wages + 2.5% of unadjusted basis of qualified property (depreciable property used in business on which the depreciable period has not yet ended)

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"A tax loophole is something that benefits the other guy. If it benefits you, it is tax reform – Russell B. Long"

Discussion

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