Tax Cuts & Jobs Act – Individuals

Many changes!

- Generally effective after 12/31/17
- Most changes are temporary
  - Sunset after 2025
- Guidance is needed
- Future legislation?
- State conformity to changes?
Hurricane Harvey – Casualty Loss

• If you are in a disaster area, the casualty loss rules have been significantly loosened to allow Harvey victims to get a much larger deduction
• Changes the normal rules
  – the rule that the loss must be reduced by 10% of adjusted gross income is eliminated
  – Can be taken regardless of whether you itemize
  – Can amend your 2016 tax return for the 2017 loss
  – The $100 reduction per loss is raised to $500
• Going forward, you must be in a federally declared disaster area

The basics

• Still seven tax brackets
  – 10%, 12%, 22%, 24%, 32%, 35%, 37%
• No more dependent exemption
• Higher child tax credit ($2,000)
  – New $500 non-child dependent credit
• Increase in standard deduction
• Individual AMT not repealed
  – But exemption amounts have increased
Dividend and capital gains rates unchanged

- The top tax bracket for qualified dividends and capital gains is 20% (23.8% if the net investment income tax applies).

Here’s the breakdown:

- 0% for MFJ taxpayers with < $77.2k taxable income
- 15% for MFJ taxpayers with between $77.2k and $479k taxable income
- 20% for MFJ taxpayers with taxable income greater than $479k

Itemized deductions changes

- Repeal of the overall limitation on itemized deductions
- Medical deduction threshold is 7.5% for 2017 & 2018
  - Reverts to 10% starting in 2019
- Mortgage interest limited to $750k of debt
  - Debt prior to 12/15/17 is grandfathered
- Home equity interest no longer deductible
- State and local tax deduction is limited to $10k ($5k if MFS)
- Misc. deductions subject to 2% threshold no longer deductible
Misc. itemized deductions subject to 2% AGI

- Unreimbursed employee expenses
- Tax prep fees
- Hobby expenses
- Investment fees/expenses
- Legal fees related to producing income
- Safe deposit fee

...are no longer deductible

Expired provisions (at the end of 2016)

- Exclusion of discharge of indebtedness on principal residence
- Deduction of mortgage insurance premiums
- Above-the-line deduction for qualified tuition and fees
- Credits for qualified energy property
20% pass-through deduction

• 20% of qualified business income
• Qualified business income definitions
  – Qualified trade/business income
    • Not a specified trade/business
    • Trade/business involving performance of services
  – Does not include investment income
  – Does not include reasonable compensation paid from S corporation or guaranteed payments paid to a partner
  – Phase-out limitation

Affordable Care Act impact

• Penalty to maintain insurance coverage (individual mandate) is repealed for 2019 and forward
• HOWEVER, still in effect for 2017 and 2018
• 2017 penalty:
  • Higher of 2.5% of yearly household income, or
  • $695 per person ($347.50 per child under 18)
Affects on the net investment income tax (NIIT)

• No change to NIIT itself, but……
• Investment fees and state income tax (amount attributable to investment income) reduce investment income to lower amount subject to NIIT
• Since investment fees are no longer deductible and state income tax is limited to $10k, this will likely cause an increase in the amount subject to NIIT

Alternative minimum tax (AMT) changes

• Alternative tax system that parallels the regular federal tax (with different rates and rules for deductions)
• Increase in exemption amount
• Due to limit on state/local tax deduction and repeal of miscellaneous deductions, impact should be less
Estate and gift taxes changes

• 2018 estate tax exemption: $11.2 million
• 2018 gift tax annual exclusion: $15,000
• Estate planning is more than minimizing estate taxes.
  – Updating documents
  – Repurposing insurance
  – Privacy
  – Asset protection

Education tax benefit changes

• Sec 529 plan distributions for private school tuition
• Sec 529 plan assets can transfer to ABLE accounts for family members
• Student loan forgiveness will not be taxable income to student upon death/total disability
Other individual changes to note

- Casualty losses: only from federally-declared disasters
- Alimony: deduction/inclusion repealed for divorces executed after 12/31/18
- Moving expenses deduction repealed
- Kiddie tax now at trusts/estate tax rates

Charitable contribution changes

- AGI limitation increased to 60% for cash contributions (from 50%)
- No 80% deduction for right to purchase athletic tickets
- Exception to contemporaneous written acknowledgement requirement is repealed (must be obtained now for any contribution of $250 or more)
State and local tax issues

- Total deduction limit of $10k ($5k if MFS)
  - Combination of income/sales and state/local property taxes
- Exceptions
  - Tax imposed at entity level
  - Property taxes for residential rental property/business property
- Prepayment of 2018 state income taxes in 2017
- Prepayment of 2018 real estate taxes in 2017

Depreciation changes

- Additional first year/bonus depreciation-100% for property acquired after 9/27/17
- Phase down schedule for years after 2022
- Now allowed for new and used property
- Qualified improvement property no longer qualifies
- Luxury auto limits – (note that additional $8k depreciation has been extended for 2017)

- Increases to Sec. 179 ($1M and threshold $2.5M)
- SUV limitation remains at $25,000
- Limits are indexed for inflation
- Expansion for certain real property (roofs, HVAC)
Corporate rate changes

- Flat rate of 21%
- Effective for years beginning after 12/31/17
- Fiscal year corporations should apply Sec. 15
- Personal service corporations taxed at same rate (no more surtax)
- Corporate AMT has been repealed
- Dividends received deduction reduced

Changes to fringe benefits/entertainment expense

- Repeal of business entertainment expenses
- Repeal of deduction for qualified transportation fringe benefits
- Repeal of exclusion for bicycle commuting reimbursement
- Repeal of exclusion for employee reimbursed moving expenses
- Other changes to employee fringe benefits
Net operating loss provisions

• No longer allowed to carryback NOLs
• Carried forward indefinitely
• 80% of taxable income may be reduced by NOL

Other changes to note

• New limits on executive compensation deduction
• Changes for Sec. 1031 exchanges
• Changes to carried interest rule
• Expenses for employer operating eating facilities is now 50% (rather than fully deductible)
• Lobbying costs no longer deductible
• New credit for paid family and medical leave
Thank you