New Tax Reform Changes for Businesses, Trusts & Estates, and Individuals

Dear Clients & Friends:

In late December, the Congress passed the Tax Cuts and Jobs Act, which resulted in significant changes to the tax code. While these changes affected all taxpayers, the IRS has not yet issued the regulations to provide much-needed guidance on how to implement the changes. However, we wanted to provide a summary of some tax issues that we feel are important for your 2018 tax planning.

BUSINESSES

Meals & Entertainment Expenses:

The new tax law changed the rules for deducting meals and entertainment expenses. Entertainment expenses such as tickets to sporting events, theater tickets, golf fees, etc. are no longer deductible. In addition, employee meals for the convenience of the employer are lowered from 100% to 50%. The 100% deduction remains for holiday parties, summer picnics and similar social events for the benefit of employees. Businesses will need to review and revise their chart of accounts to identify these expenses. In addition to revising the chart of accounts, businesses will need to review their expense reimbursement policies and consider whether to include entertainment expense reimbursements as wages.

Moving Expenses:

Reimbursements for moving expenses made to employees must now be included as compensation. An exception applies to members of the Armed Forces on active duty.

Audit rule for Partnerships:

Partnerships may be subject to income tax under the new audit rules. This topic is complex and we will issue guidance in a separate memo as the new law may require changes to the partnership agreement.

TRUSTS AND ESTATES

Trusts and Estates are subject to the same income and reporting rules as individual taxpayers so the elimination of many of the deductions for the individuals mentioned below will also apply to the trust and estates. We are still waiting for guidance from the IRS as to the treatment of tax preparation fees, legal fees for trust and estate administration, trustee/executor fees and the deduction of state and local taxes over $10,000.

Fiduciary tax rate changes were minimal, but individual tax rates decreased. Trustees and executors should consider making distributions (if allowed by the trust or estate document) of income to the beneficiaries, so that the income is taxed to the beneficiaries at a lower rate.

INDIVIDUALS

Many itemized deductions have been eliminated and the standard deduction has been increased to $12,000 for Single and Married Filing Separate taxpayers, and $24,000 for Married Filing Jointly taxpayers. With the new $10,000 limit placed on the state and local income tax deduction many taxpayers may now find that they are no longer able to itemize.

Charitable Contributions:

For those taxpayers 70 ½ or older that must take required minimum distributions from their IRAs, consider making a direct transfer from your IRA (up to $100,000 per year) to a charity. In doing so, the distribution will satisfy your RMD requirement and your philanthropic desire, while at the same time reducing your Adjusted Gross Income. Keep in mind that these qualified charitable distributions must be direct transfers to the charity and must come from your IRA. Note – They cannot come from 401Ks.

Another idea is to bundle your charitable contributions. Instead of making annual contributions of $5,000 or $10,000 in one year, consider bundling your contributions into one year to take you above the new $24,000 standard deduction and provide a tax benefit. Check with your financial advisors to see if they have donor advised funds, which would allow you to receive an immediate tax benefit in the year of contribution, but allow you to direct the funds to your charity of choice over the following year(s).

Employee Business Expenses:

The new tax law eliminated miscellaneous itemized deductions. Since you can't deduct unreimbursed employee business expenses anymore, try negotiating with your employer to cover them through tax-free reimbursements under an accountable plan. The employer would still get the benefit of these deductions (subject to certain limitations such as for meals and entertainment). Note that this can be a savings for both you and your employer. Consider asking your employer to institute an accountable expense reimbursement plan in lieu of compensation. The reimbursement of expenses is deductible by the employer and not taxable to the employee. The sweetener is that both you and the employer save FICA and Medicare taxes!

Investment Fees:

Due to the elimination of the miscellaneous itemized deductions, tax and investment related expenses are no longer deductible. Have a discussion with your investment advisor and consider changing to commission-based sales & purchase arrangements. The transaction costs reduce the gain/increase the loss providing a tax benefit. Also, be sure that investment fees incurred in your traditional IRA are paid directly from your IRA, effectively gaining a deduction since the fees will be paid from pretax funds.

Payroll Checkup:

The IRS has encouraged taxpayers who have typically itemized their deductions to use the withholding calculator on the IRS's website to perform a "payroll checkup," noting that changes made by the Tax Cuts and Jobs Act may warrant an adjustment. By checking your withholding now you can avoid any unhappy surprises in April.

Divorce Planning:

For our clients having marriage difficulties, note that for divorce agreements signed after December 31, 2018, alimony will no longer be deductible by the payer, and will not be taxable to the recipient. Existing prenuptial agreements should be reviewed as well.

Also, the child tax credit has been increased, so it is important to be specific on who will claim dependents in shared custody situations.

In addition to the above suggestions, there have been some recent developments.

...*Postcard tax form*. The IRS released a new draft version of the 2018 Form 1040, U.S. Individual Income Tax Return. The new Form is markedly different from the 2017 version of the form and would replace the current Form 1040, as well as the Form 1040A and the Form 1040EZ. The "postcard" draft form is about half the size of the current version and contains far fewer lines than its predecessor. However, this reduction in length is countered by the fact that the draft form has six new accompanying schedules.

...***States taxing of online/internet sales***. States have lost significant sales tax revenues because they have been unable to tax online/internet sales under the old physical presence nexus standards. In the South Dakota v. Wayfair case, the U.S. Supreme Court ruled that the State had established that the vendor had substantial nexus through "extensive virtual presence." With this decision the rules for collecting sales tax will change dramatically. Businesses should review their nexus footprint in each state. All taxpayers should be sure to pay sales tax on all internet purchases. This will allow you to avoid paying a use tax when filing your tax return.

Although much has changed, many of the old tax planning strategies are still beneficial. Consider taking advantage or IRAs, SEPs or other retirement plans, health savings accounts, 529 college saving plans as well as managing your investment portfolio to harvest capital losses against capital gains.

Please call us for more information about any of the above suggestions or if you would like us to work with you on tax planning or projections. Enjoy the Summer!