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TAX CUTS AND JOBS ACT OF 2017

An Executive Summary

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20% Passthrough Business Deduction

- 20% deduction for qualified business income (QBI) through 2025 from a partnership, S corporation or sole proprietorship.

- This deduction, taken on the individual owner's tax return, effectively reduces the top tax rate from 37% to 29.6% on qualifying income.

- QBI is defined as all business income other than investment income.

- QBI does not include wages or guaranteed payments received from the business.

20% Passthrough Business Deduction

- The deduction has specified business limitations, wage limitations and asset base limitations once taxable income exceeds certain thresholds.
  - Married-filing-jointly: $315,000 to $415,000
  - Single: $157,500 - $207,500

- Specified Service Business: health, law, accounting, actuarial science, performing arts, consulting, athletics, financial services, brokerage services or a business that relies on the skills or reputation of the owner.

- Wage limitation: the 20% deduction is limited to the greater of
  1. 50% of W-2 wages OR
  2. 25% of W-2 wages plus 2.5% of the cost of tangible depreciable property

Interest Limitations

- Business interest paid deduction changes
- Interest in excess of the sum of 30% of adjusted taxable income plus business interest income and floor-plan financing interest is not deductible
  - Adjusted taxable income is taxable income without regard to interest expense, any nonbusiness income or deductions, any NOL deduction and any deduction for depreciation, amortization or depletion
  - Indefinite carryover for disallowed interest deduction

Interest Limitations

- Pass-through entity's disallowed interest available to entity's owners
- Farming and real property trades or businesses can elect out of the limitation, subject to some requirements to use the alternative depreciation system
- Small businesses with average annual gross receipts of $25 Million or less exempt

Business Deductions and Exclusions

- Like-kind exchanges limited to real property
- Partnership technical terminations (IRC Section 708(b)(1)(B)) are repealed

Carried Interests

- Gains from carried interests will be treated as short-term capital gain for all capital gains “with respect to” the interest if interest held less than three years
- Applies to partnership interests received in connection with the performance of substantial services in connection with raising or returning capital and investing in securities, commodities and other investments, or investing in or developing real estate held for rental or investment

Opportunity Zone Program

- Incentives provided to invest in new business, new real estate or substantial redevelopment of real estate in designated areas.
  - Investments can not be golf courses, country club, stores focused on alcoholic beverages, etc. ("sin businesses")

- Proposed zones have been selected and are waiting government approval.
  - NC: ncommerce.com
  - SC: scopportunityzone.com

Opportunity Zone Program

- IRS is still working on specifics and guidance
- Expectations of the rule are:
  - Six months to invest capital gains from the sale of an investment into an opportunity fund.
    - Any corporation or partnership will be able to create an opportunity fund.
  - Six months for the fund to invest 90% of the assets into a project located in an opportunity zone.

Opportunity Zone Program

- Expectations continued:
  - Temporary Deferral:
    - Capital gains will be deferred until the sale of the new investment or December 31, 2026
    - Reduction in the original taxable amount as follows:
      - QO Fund Owned 5 years = 10% reduction in deferred gain
      - QO Fund Owned 7 years = 15% reduction in deferred gain
  - Permanent Deferral:
    - Owned 10 or longer = elimination of capital gain on sale of QO Fund investment

Planning Opportunities

- Cost segregation study
- Capital investment planning
- Debt structuring analysis
- Analyzing methods of accounting
- Tax projections
- Accounting system tracking for meals and entertainment

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