1

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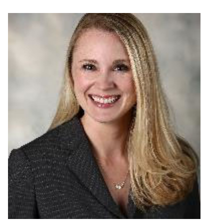

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3

Overview

4

Tax Extender Items

5

199A – Qualified Business Income Deduction

- Right now, set to sunset Dec 31, 2025
- Top extension priority
- This is to “match” the 21% corporate federal rate for passthrough entities
- Additionally, individual tax rates revert back to pre-TCJA levels at this time

6

6

100% Bonus Depreciation

- Bonus depreciation is phasing out beginning in 2023
  - 80% in 2023
  - 60% in 2024
  - 40% in 2025
  - 20% in 2026
- Bipartisan support to extend 100%, but may not get included until 2025 at this rate

7

7

Meals & Entertainment

- 50% Deduction limitation for business meals
  - 50% deduction limitation applies to business meals again starting 1/1/2023
  - Non-business meals remain 100% non-deductible
  - This is a permanent difference, so the limitation needs to be considered in the 2023 effective tax rate calculations

8

8

Research and Development

- Section 174: Capitalization of research and development expenses began in 2022
- Must capitalize and amortize over 5 years (15 for certain foreign expenditures
- Still a lot of uncertainty regarding scope, applicability
- E.g. software development

9

9

Child Tax Credit

- In 2021, there was an expanded federal child tax credit
- Raised to $3,000 per child ages 6-17, $3,600 per child under age 6 (previously $2,000 per child)
- Reverts back to $1,000 in 2026
- Democratic support to expand the credit

10

10

Interest expense limitation

- Less applicable to banks, but may affect lending
- The amount of deductible business interest expense in a taxable year cannot exceed the sum of the entity's business adjusted taxable income
- Can no longer addback depreciation and amortization, which will push many more into the limitation

11

11

Post-2025 TCJA Changes

Provision	Change under TCJA (that would be reversed after 2025)	2026 law if no action taken
Income tax rates	10%, 12%, 22%, 24%, 32%, 35%, 37%	10%, 15%, 25%, 28%, 33%, 35%, 39.6%
Child tax credit	$2,000 credit, $1,400 refundability cap, higher income phaseout	$1,000, $1,000 refundability cap
Employer FMLA Credit	General business credit based on wages paid during family & medical leave	No credit
Individual AMT	Exemption $126,500/ married, $81,300 otherwise (inflation adjusted)	$84,500/ married, $54,300/individual
Standard deduction	$12,000/single, $24,000/married filing jointly	$6,350/single, $12,700/married
Itemized deductions	Suspension of certain itemized deductions	Itemized deductions reinstated
Housing deduction caps	Deduction cap of $750,000, home equity interest suspended	$1m, home equity interest reinstated
SALT deduction cap	$10,000	No cap
Limit on wagering losses	Applies not only to wagers, but other expenses incurred in connection	Applies only to wagers
Charitable contributions	AGI limitation for charitable contributions increased to 60%	50%
199A deduction	20% deduction on certain pass-through income	No deduction
Moving expenses	Suspension of deduction	Reinstated
Employer meals	50% deduction for employer de minimis food and beverage expenses	Not deductible
ABLE Accounts	Contributions eligible for saver's credit, rollovers from 529 plans permitted, contribution increase	No saver's credit, 529 rollover, or contribution increase
Estate tax	Exemption $12.92m (inflation adjusted)	$5.49m (pre-2018 $5m inflation adjusted)

International provision	Change after 2025
GILTI	Deduction reduced from 50% to 37.5%
FDII	Deduction reduced rom 37.% to 21.875%
BEAT	Rate increased from 10% or 11% for banks/dealers to 12.5% & 13.5% and base expands with modifications to regular tax (i.e., the allowance for credits that reduces regular tax expands)

12

02

Tax planning in a high interest rate environment & long-range planning

13

Tax Planning

- Market Discount Accretion
  - General tax treatment – accretion taxed when security is disposed
  - IRC Sec. 1278 (b) Election – recognize accretion into taxable income over the life of the security
- Planning
  - IRC Sec. 1278 (b) Election revocation – Form 3115 Filed
  - Deferred income until security are sold
  - Need to analyze benefit of revocation vs. potential tax rate increases

14

Tax Planning

- TEFRA – Interest Expense Disallowance
  - Minimize TEFRA disallowance as interest expense increases
    - Calculated as a percentage of total interest expenses/avg total assets x average municipals
    - S Corporations 20% disallowance on back qualifies for first 3 years
    - C Corporations 20% disallowance on bank qualified municipals
    - C Corp and S Corp 100% disallowance on non-bank qualified municipals
    - Minimize NBQ bonds
    - TEFRA interest expense disallowance generally does not apply to tax-exempt obligations held by an investment subsidiary
      - There are other tax implication to consider with an investment subsidiary – please consult your tax advisor if you are considering

15

Tax Planning

- Gross Receipts and Cash Basis Tax Returns
  - In times of higher interest rates gross income increases
    - C Corps
      - 2023 - $29 million average annual gross receipts over 3 year rolling period
      - Average gross receipts exceeding $29 million – convert to accrual basis tax return
    - S Corps
      - Generally, no gross receipt limitation
      - Automatic change to cash method with $50 million or less average annual gross receipts

16

Tax Planning

- Negative Impact of Bond Value (unrealized losses)
  - Bonds that carry an unrealizes loss, once sold loss is then realized in income
    - Losses on sales of securities is classified as ordinary income for banks under IRC Sec. 582(c)
    - Applies to both C Corp and S Corp
    - Will not apply to Holding Companies and Investment Subsidiaries
      - Loss will be classified as capital loss and limited to total capital gains for each respective year

17

Tax Planning

- Other tax strategies to increase expense and/or defer income recognition
  - Cost segregation studies on constructed or purchased buildings
  - Accelerated depreciation on fixed assets
    - Bonus depreciation- 80% in 2023, 60% in 2024, 40% in 2025, 20% in 2026, 0% 2027 and on
    - Section 179 – 100% on qualifying assets
  - Cash method of accounting
  - Prepaid expense 12-month rule – Automatic accounting method change
    - Once elected, can determine whether to accelerate deduction each year
  - Bad Debt Conformity election to defer taxation of nonaccrual loan interest
    - Revenue Ruling 2007-32

18

Long Term Tax Planning

- Expiration of Section 199A and potential tax rate increases
- S Corporation vs. C Corporation Analysis
  - C Corp tax rate is 21%, currently no expiration date
  - S Corp highest individual tax rate 37%, on 80% of entity earnings (29.6% effective federal rate)
    - High income passive shareholders also pay 3.8% Net Investment Income Tax
  - As of 2025 top tax rate increases back to 39.6% with no 20% deduction (3.8% NIIT still applies)

19

Long Term Tax Planning

- C Corporation
  - Bank's priority is capital retention and growth
  - Double Taxation - Dividends are taxed at the individual level
  - Stock basis does not increase in value based on annual activity
- S Corporation
  - Bank's priority is return of profits to Shareholders
  - S Corp distributions generally not taxable to Shareholders
  - Stock basis is adjusted each year based on annual activity

20

03

Employee Retention Tax Credit

21

ERC – Quick Refresh

- Employee Retention Tax Credit
- Refundable federal payroll tax credit
- Enacted as a part of the CARES Act of 2020
- Big dollars have given rise to a lot of potential fraud

22

ERC – Qualifications

- Gross receipts test (some unique items for bank gross receipts); OR
- “More than nominal” impact from government order
- Supply chain disruption? Impact on banks?
- Statute of limitations for ERC is 5 years, whereas it is 3 years for income taxes
  - File a protective claim?
  - Rely on mitigation provisions?

23

ERC – Dirty Dozen

- IRS noted it’s concerns about the legitimacy of many refund claims, and they added it to the top of its Dirty Dozen list of tax scams for 2023
- In September, they went a step further and announced an immediate pause to processing new claims for the rest of 2023
- Additionally, all claims are expected to take 180 days to process, compared to the 90-day process previously in place
- Accounting impact – potential reserve against the claim on audited financial statements?

24

ERC – IRS Audit

- Thousands of claims are under audit
- More than 250 criminal investigations have been initiated
- More than $2.8 billion in potentially fraudulent claims
- New settlement program for employers who would like to withdraw pending claims, repay ERC refunds received
  - Withdrawing a fraudulent claim may not exempt the filer from potential criminal investigation

25

ERC – IRS Audit

- Just this week, the IRS announced that they sent 20,000 letters regarding disallowed ERC claims
- Two categories of claims identified and disallowed:
  - Entity not in existence during period of eligibility
  - No paid employees during period of eligibility
- The IRS reminds us there is still time to withdraw pending ERC claims
- They also continue to stress the importance of examining the credit requirements and talking to a trusted tax professional about eligibility

26

04

Tax Credits and Incentives

27

Tax Credits

- Work Opportunity Credit
  - WOTC Extended until December 31, 2025
  - Tax credit received based on wages paid to certain individuals
    - Between 25% - 40% credit on up to $6,000 of wages paid ($24,000 for certain qualified veterans)
    - Employee/Employer fill out Form 8850 (pre-screening notice) and submit to state workforce agency within 28 days of hire
    - Credit does not apply to individuals considered “re-hires”

28

28

Tax Credits

- Work Opportunity Credit
  - Qualified Individuals (most common)
    - Those formerly incarcerate or convicted of a felony
    - Recipients of Federal Temporary Assistance for Needy Families (TANF) benefits
    - Residents of areas designated as empowerment zones or rural renewal counties (ages 18 – 40)
    - Individuals whose families are recipients of Supplemental Nutrition Assistance Program (SNAP) benefits
    - Individuals experiences long term unemployment

29

29

Tax Credits

- Community Development – Increase CRA rating
  - Low Income Housing Tax Credit
    - 4% - 9% credit on construction costs over a 10-year period on investment in low-income housing development
  - Historical Rehabilitation Tax Credit
    - Must be certified historic structure through application with Department of Interior
    - 20% on qualified expenditures, 4% per year over 5 years
  - New Markets Tax Credit
    - Tax credit for investment in low-income communities through investment in Community Development Entities
    - Credit: 5% of investment year 1-3, 6% of investment year 4-7

30

30

Tax Credits

- Energy Tax Credits
  - Investment Tax Credit
    - Energy properties placed in service before 1/1/2025
    - Credit amount:
      - Full Credit – 30% of cost of investment
      - Base Rate – 6% of cost of investment
    - Basis of property for depreciation purposes reduced by 50% of the credit amount
    - Difference between base credit and full credit depends labor requirement qualification
    - All energy projects need to be analyzed to determine qualification of credit amount

31

31

Tax Credits

- Energy Tax Credits
  - Labor Requirement
    - Prevailing wage and minimum apprenticeship threshold
      - Payment of labor must be required minimum
      - Hours of labor must meet required minimum
      - Assume the prevailing wage and minimum apprenticeship requirements to be documented and reported by contractor of project

32

32

Tax Credits

- Energy Tax Credits
  - Clean Vehicles Tax Credit
    - New Vehicles Credit
      - Businesses will not receive credit on used vehicles
      - Final assembly must occur in the US
      - Cost of new vehicles must be below specified MSRP
      - Up to $7,500 credit on new vehicles

33

33

Tax Credits

- Energy Tax Credits
  - Commercial Clean Vehicle Credit
    - Must be depreciable property
    - Credit amount - 15% of tax basis
      - 30% for vehicle not powered by gas or diesel engine
    - Total credit can be up to $40,000
      - Max credit $7,500 for vehicles with gross vehicle weight ratings (GVWRs) of under 14,000 lbs
  - Commercial Clean Vehicle Credit and Clean Vehicle Tax Credit can not be combined (must choose one or the other)

34

34

Tax Credits

- Energy Tax Credits
  - Transferability
    - Entities that create tax credit may not have taxable income to utilize
    - Can sell tax credit to unrelated third party for cash
      - Seller does not recognize income, buyer does not incur expense
      - Credits are sold at a discount
    - Transferability of credits for cash began in 2023
    - C Corporations with taxable income have immediate tax benefit
    - S Corporation pass-thru credit to Shareholders – important to determine if the credit is deductible on Shareholder's individual tax return

35

35

Tax Credits

- Energy Tax Credits
  - Transferability - mechanics
    - Election to transfer the tax credit is an irrevocable
    - Seller pre-registers with IRS, and receives registration number which is included on the buyer's tax return
    - Buyer can carryforward/carryback purchased credit
    - Buyer is subject to recapture rules (buyer assumes all risk)
    - Credit purchase/sale agreement is attached to the tax return filed with the utilization of the transferred credit
    - Expect to see marketplaces popping up for energy credit brokering

36

36

05

Tax Implication of Remote Work

37

SALT Issues

- Has a remote employee moved to a new state?
  - This could give rise to Nexus in a state
- How do you track where your employees are physically working?
  - Some have implemented a survey. CPA Firms may track with timesheets

38

38

International Issues

- Remote work gives many of us flexibility to login from vacation
- However international travel should be closely monitored
- Have you considered locking employees out while abroad?

39

39

Personnel Issues

- Many are requiring a minimum number of days in office
- Monitor swipes to see who is physically in the office and where
- Company culture can be greatly impacted

40

40

06

Corporate Transparency Act

41

Corporate Transparency Act

- This does not generally apply to Banks, Credit Unions or Holding Companies
- What is it
  - A report filed with FinCEN reporting information on entity and each senior executive and beneficial owner
- Purpose
  - To assist law enforcement to detect tax evasion, money laundering, terrorist financing, corruption and other financial crimes
- Effective
  - January 1, 2021, but has been extended to December 31, 2024

42

42

Corporate Transparency Act

- What types of entities will file:
  - Any entity that is credited by filing with the Secretary of State
    - C Corporations, S Corporations, LLC's (including single member disregarded entities), LPs, and LLPs
- What types of entities will not file:
  - Sole proprietorships, general partnerships and most trusts
- These are not filed by CPAs, recommend seeking advice of lawyer if applicable

43

43

Corporate Transparency Act

- Who is exempt
  - Most common exempt entities are entities with all three of the following:
    - More than 20 full-time equivalent employees
    - More than $5 Million gross revenues or sales
    - A physical place of business in the US
  - Publicly Traded companies and entities that file reports with the SEC
  - Financial Institutions – banks, thrifts, credit unions, money service businesses
  - Bank Holding Companies and Savings & Loan Holding Companies as defined in respective Acts
  - Insurance companies, state licensed insurance producer, securities brokers and dealers, public utilities, pooled investment funds, tax exempt entities

44

44

07

Miscellaneous Updates

45

Miscellaneous Updates

- Shareholder’s Individual Tax Forms
  - Form 7203 – S Corporation Shareholder Stock and Debt Basis Limitations
    - Filed by S Corporation Shareholders on their individual tax returns
      - Required for Shareholders who:
        - Are claiming a deduction for their share of aggregate loss from an S Corporation
        - Received a nondividend distribution from an S Corporation
        - Disposed of Stock is an S Corporation
        - Received a loan repayment from and S Corporation

46

46

Miscellaneous Updates

- Shareholder's Individual Tax Forms
  - Form 7206 – Self-Employed Health Insurance Deduction
    - Filed by S Corporation Shareholders on their individual tax returns
      - What is Self-Employed Health Insurance deduction
        - Health and accident insurance premiums paid on behalf of a greater than 2-percent S corporation shareholder-employee are deductible by the S corporation and reportable as wages on the shareholder-employee's Form W-2, subject to income tax withholding.

47

47

Miscellaneous Updates

- Information Reporting
  - Starting January 1, 2023 certain business have an e-filing requirement information reporting
    - Must e-file if required to file at least 10 information returns
      - For example, five 1099-INTs and five W-2s, then must e-file
  - IRS has E-file taxpayer portal known as IRIS for free e-filing of information returns
    - https://www.irs.gov/filing/e-file-forms-1099-with-iris
    - Please reach out to your tax advisor for information e-filing information returns on your behalf

48

48

Questions?

- If anything comes up later, please reach out to either Meghan or Emily
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49

49