Tax

Comprehensive Tax Reform Enacted

On December 20, Congress passed the most significant tax reform bill since 1986 and today, President Trump signed it into law.

The Tax Reform Act ("Act") will radically reshape the entire United States tax system for years to come. This alert briefly summarizes the key effects of the Act on corporations, pass through entities, and taxpayers with international activities. (A separate alert addresses the impact on individuals.) Please visit the Harter Secrest & Emery tax reform homepage for more detailed coverage, articles, and a listing of client events and speaking engagements.

Corporate and Business Tax

The Act slashes corporate tax rates, reducing the current 35% rate to 21% and repeals the corporate alternative minimum tax.

Other critical business provisions are radically reshaped:

- Until the end of 2022, property can be fully expensed in the year of acquisition. This bonus depreciation provision begins to phase out in 2023.
- Business interest expense is limited to business interest income plus 30% of business taxable income. Disallowed interest expense can be carried forward indefinitely. Small businesses would be exempt from the limits.
- Net operating losses can be carried forward indefinitely (but cannot be carried back). 80% of income can be offset by net operating losses.

HSE Tip

Consider accelerating compensation or other deductions into 2017 to ensure deductibility at the higher 2017 rates.

Pass Through Entities

To provide tax relief for small businesses, the proposal creates a 20% deduction for the non-wage portion of the pass-through income of partnerships, S corporations and sole proprietorships. This deduction is subject to the following limitations:

- The deduction is capped at an amount equal to the greater of (i) 50% of qualified employee wages with respect to the trade or business or (ii) 25% of the W-2 wages with respect to the trade or business plus 2.5% of the unadjusted basis of certain business assets.
- The deduction begins to be phased out for income from specified services businesses if income is above $315,000 (married taxpayers), and is fully phased out at income of $415,000.
- The deduction expires in 2025.

International

Perhaps the most significant change under the Act is a complete reshaping of the US international tax system from a worldwide system to a territorial system. Under the current system, taxpayers are taxed on their income from around the world, with the potential for foreign tax credits to mitigate double taxation. Under the new system, multinational corporations generally pay US tax only on domestic income.

As part of this change, Congress has enacted a repatriation "toll tax" on previously untaxed foreign earnings and added provisions to prevent base-erosion by shifting of US income overseas.

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If you have any questions about the potential impact of tax reform on your organization, please contact your HSE attorney and visit the HSE Tax Reform page for extensive coverage of these significant changes.