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How the Tax Proposals May Impact Your Business:

Placing Assets in Service: 2017 versus 2018

If you've been following the U.S. tax reform process, you are probably aware of some of the tax rules that have been targeted for modification. The House of Representatives passed the Tax Cuts and Jobs Act on November 16, 2017. This Act provides for significant changes to the US taxation of both individuals and businesses. Some of the proposed changes are as follows:

- Reduction of individual tax brackets from 7 to 4;
- Increase of standard deductions, while eliminating many individual tax deductions currently allowed;
- Reduction of the corporate tax rate from 35% to 20%;
- Creates a 25% maximum tax rate on pass-through business income (for non-active partners or members), and (for active partners or members) assumes 70% of business income is compensation subject to ordinary rates while 30% is business income subject to the 25% rate;
- Extends Net Operating Loss carryover to an indefinite time period, while restricting the NOL carryover deduction to 90% of current taxable income; it eliminates the 2 year carryback rule;
- Eliminates the Section 199 manufacturing deduction;
- Eliminates Alternative Minimum Tax for individuals and corporations;
- Moves to a "quasi" territorial tax system;
- Allows full expensing of certain capital assets for five years; and
- Provides for deemed repatriation of currently deferred foreign earnings and profits at a rate of 14% for cash and cash-equivalent profits and 7% for illiquid holdings of reinvested foreign earnings.

It is important for business owners to not only understand the impact these proposed changes could have on them and their businesses, but to determine if they should implement any changes to their business operations or structure as a result of the U.S. tax reform. It should be noted that the Senate version passed by the Senate Finance Committee has some differences from the version passed by the House.

Placing Assets in Service

The Act provides for 100% expensing of certain capital assets placed in service for five years, beginning in tax year 2018. Corporations that are planning to place qualifying assets into service in the next couple of months should consider the income tax impact of placing them into service in 2017 versus 2018. If placed in service in 2017, the assets would be capitalized and the taxpayer would take deductions over time. However, the 2017 portion (say from bonus depreciation) would reduce taxable income in a year with maximum corporate rates of 35%. Under the Tax Act, if such assets are placed in service in 2018, the assets would be expensed 100% in 2018 when the tax rate is 20%.

In addition to the timing of the deductions and difference in tax rates, it may benefit the taxpayer to consider any impact under the change in net operating loss rules. If a deduction in 2017 causes a net operating loss in that year, the taxpayer would be permitted to carry the loss back to 2016. However, fully expensing an asset in 2018 that causes a net operating loss in that year would not be permitted to be carried back to previous years.

The above is just one example of actions taxpayers should consider in anticipation of, or because of the passing of the proposed Tax Act by the House. The international tax consultants at Moore Stephens Doeren Mayhew are available to discuss the proposed tax law changes, how they may impact your business, and actions you may want to consider in light of the upcoming tax reform.