RAYMOND JAMES

Tax planning: Corporate executives

Understanding how the tax law affects corporate executives

Given the complexity of changes to the tax code in the United States, there is much to consider in determining the impact tax legislation will have on the personal finances of corporate executives.

OVERVIEW

Passed in late 2017, tax-reform legislation made sweeping changes to the tax code in the United States, including changes to individual and corporate income tax rates. Known as the Tax Cuts and Jobs Act, the legislation first took effect in 2018, with many of its provisions set to expire on Jan. 1, 2026.

The law includes tax-rate cuts for individuals, corporations and pass-through businesses, and eliminates many individual and business deductions. It increases exemptions for gift and estate taxes; the generation-skipping transfer (GST), which addresses wealth transfer; and the Alternative Minimum Tax (AMT), a supplemental tax affecting high-income earners. It also makes numerous changes affecting multinational businesses.

With regard to tax laws affecting corporate executives or certain other employees, the legislation could create new planning opportunities or enhance previously existing ones, such as stock option and restricted stock grants. Also, the carried interest provision discussed below increased the holding period required to obtain long-term capital gain treatment.

TAX PLANNING

Nonqualified stock options: If you have vested and unexercised nonqualified stock options (NQO), you may benefit from exercising these options if you are moving to a lower tax bracket. Keep in mind, the legislation goes into effect starting with the taxable year 2018 and is scheduled to expire on Jan. 1, 2026, at which time the law reverts to 2017.

Incentive stock options: Given the increased exemption and phase-out thresholds, as well as the elimination or limitation of certain itemized deductions, you may find you are no longer subject to the Alternative Minimum Tax (AMT). As with NQOs, if you have vested and unexercised incentive stock options (ISO), you may benefit from exercising these options if you are in a lower tax bracket than before and you can avoid application of the AMT.

IMPORTANT TOPICS

- Nonqualified stock options (NQO)
- Incentive stock options (ISO)
- Restricted stock options
- Private company employment
- Carried interests

Moving after retirement: If you are planning to move upon retirement to a more tax-friendly state and will have unexercised stock options, consider exercising those options after the move to save state income taxes.

Restricted shares and stock options: If you anticipate receiving grants of restricted shares and stock options from your employer, you could see significant income tax savings with reduced tax rates by making a Section 83(b) election with respect to any future grants. Such an election could allow more of the post-grant appreciation in the shares to be taxed at preferential capital gain rates, rather than as ordinary income. You should consult with your tax advisor before taking any actions, to weigh benefits against potential risks.

Private companies: New qualified equity grant rules allow employees and some executives of private companies to defer income recognition on certain stock options and restricted stock units. Although this provision may see limited use for several reasons, you should consult your company's compensation and benefits department and your tax advisor to see if you can benefit from a Section 83(i) deferral election.

Carried interests: If you work for a capital investment or related business and receive grants of profits interests, such as carried interests, for providing services, you should be aware of the rule that disposition of such interests within three years of grant generally results in short-term capital gain treatment. Previously, the required holding period for long-term capital gain treatment was more than one year. Consequently, you should work with your employer and your tax advisor to increase the likelihood that these interests will be held for at least three years before a sale, in order to obtain the benefit of long-term capital gain tax rates.

Let's work together with your tax and legal professionals to determine how the legislation affects you directly.

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