Tax Reform Highlights

By **AKASH SEHGAL, CURTIS KIM** and **AUBÉRIE SILVAIN**

On December 22, 2017, President Trump signed the "Tax Cuts and Jobs Act" ("The Act") into law. The Act constitutes the most massive reform of the Internal Revenue Code (IRC) since 1986. The Act generally sunsets the individual provisions starting in 2026 while the business provisions are for the most part permanent.

This article is intended to highlight certain selected provisions of the Act.

AKASH SEHGAL
PARTNER, TAX LEADER
GREEN HASSON JANKS
ASEHGAL@GREENHASSONJANKS.COM
310-873-1622

INDIVIDUAL PROVISIONS

The Act maintains a seven-bracket system with individual brackets of 10%, 12%, 22%, 24%, 32%, 35% and 37%. The top rate applies to single filers with income over $500,000 and to married individuals filing jointly with income over $600,000. It also nearly doubles the standard deduction to $12,000 for single filers to $24,000 for married individuals filing jointly.

The cost of these measures is offset by the disallowance of certain tax benefits. The Act suspends the personal exemption deduction and the miscellaneous deductions. It also significantly limits the ability to deduct state and local taxes by capping the maximum deduction from state and local sales, income or property taxes to $10,000 ($5,000 if married filing separately) and capped the home-mortgage interest deduction to interest on $750,000 of acquisition indebtedness. The Act suspends home equity interest deduction through 2025. In addition, the Act retains the individual alternative minimum tax ("AMT").

BUSINESS PROVISIONS

Regarding businesses generally, the Act increases the average gross receipt threshold to $25 million for the mandatory use of the accrual method of accounting. Thus, more small businesses can now use the cash method of accounting. The Act also relaxes the rules to account for inventory as material and supplies.

The Act doubles the expensing deduction for properties in the year placed in service to $1 million (Section 179 Deduction) subject to certain limitations. More importantly, the Act generally provides the bonus depreciation deduction to 100% for qualified properties (and is not limited to new properties) through 2022 (80% for 2023, 60% for 2024, 40% for 2025 and 20% for 2026).

Trusted Advisors

On the offset side, the Act disallows deductions for entertainment and certain fringe benefits, generally limits net interest expenses to 30% of the business's adjusted taxable income, and a deduction from net operating losses to 80% of taxable income, and narrows like-kind exchange deferral to real property. 50% of business meals can be deducted under the Act.

CORPORATE TAX PROVISIONS

The Act reduces the corporate tax rates from the graduated tax rates of up to 35% to a flat 21% rate (as of January 2018) and repeals the corporate AMT. This reduction constitutes the largest reduction in the United States' history and is aimed to boost the U.S. economy, as the United States previously had the highest corporate tax rate among OECD members.

PASS-THROUGH ENTITIES PROVISIONS

The Act retains the long-term capital gain treatment for carried interest but increases the holding period to three years to qualify. The active business loss deduction (other than corporations) is now capped at $250,000 ($500,000 for married filing jointly).

Unlike the past rules, the Act now allows individuals to deduct 20% of the qualified business income (QBI) from a pass-through entity. The deduction is limited to the greater of 50% of the W-2 wages or the sum of 25% of the W-2 plus 2.5% of the unadjusted basis of acquired qualified property. Taxpayers shall compute their QBI first before looking at the limitation. Certain exceptions apply.

INTERNATIONAL TAXATION PROVISIONS

The Act allows a 100% deduction for the foreign-source portion dividends received for 10% owned foreign subsidiaries of U.S. corporations. On the other hand, the Act now repeals indirect foreign tax credits except for certain circumstances.

The Act imposes a one-time repatriation of deferred foreign-income deemed and taxed at 15.5% for cash and cash equivalents (8% for other assets). In addition, the Act includes several provisions that aim to prevent the erosion of U.S. tax base, such as denial of deductions for certain related-party transactions, among others.

Taxpayers should discuss with their tax advisors how the new provisions affect their tax posture. Additionally, given the scope of the Act and the pace of developments, clarifications and guidance are expected for the implementation of the Act.

Akash Sehgal, Partner at Green Hasson Janks, leads the Firm's Tax Practice, along with having deep expertise in multistate income and franchise tax, sales and use tax and credits and incentives. He has more than 20 years of tax experience, and prior to joining Green Hasson Janks he worked at two Big Four firms in Los Angeles and Seattle.

Curtis Kim, Principal at Green Hasson Janks, has more than 15 years of accounting experience with a concentration on a broad range of income tax planning matters, including domestic and international reorganizations, mergers and acquisitions, divestitures, joint ventures, technology transfers and tax-efficient capital structures.

Aubérie Silvain is a Tax Associate at Green Hasson Janks. Prior to Green Hasson Janks she worked at an accounting firm in Paris, France.

To learn more, visit greenhassonjanks.com.