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Businesses benefit under tax reform

The Tax Cuts and Jobs Act contains a bevy of tax breaks, and most business owners will come out ahead. However, some tax breaks were reduced or eliminated to make room for others. Here are some of the most significant changes for businesses:

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► New 21 percent flat tax rate for corporations
The new law establishes a flat 21 percent corporate rate for businesses and personal service corporations. Previously, C corporations paid graduated federal income tax rates of 15 percent on taxable income of $0 to $50,000; 25 percent on taxable income of $50,001 to $75,000; 34 percent on taxable income of $75,001 to $10 million; and 35 percent on taxable income over $10 million. Personal service corporations paid a flat 35 percent rate.

► Deductions for 'pass-through' business income
Under the old rules, income from pass-through business entities (sole proprietorships, partnerships, S corporations and certain LLCs) was passed through to the owner and taxed at standard individual tax rates. The new law establishes a 20 percent deduction based on an owner's "qualified business income," subject to restrictions.

The QBI deduction isn't available for income from most service businesses (engineering and architecture firms are listed as exceptions), if the individual owner's taxable income exceeds $157,000 ($315,000 for joint filers). The law also establishes a W-2 wage

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Tax reform impacts pass-through entities

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Previously, net taxable income from pass-through business entities such as sole proprietorships, partnerships, certain LLCs, and S corporations was passed through to owners and taxed at their standard rates. Now, the Tax Cuts and Jobs Act creates a 20 percent deduction for this business income.

The proposals on pass-through business entities were a hot-topic among lower and middle market businesses and were closely watched during the final months of negotiation over the tax reform bill. The end result, most experts agree, is complicated. The deduction is now based on an owner's qualified business income (QBI) and subject to a variety of limitations and exclusions.

Most simply, small businesses will have no restriction on taking the deduction as long as taxable income falls below $157,000 for a single return or $315,000 for a joint return.

Tax filers above that threshold will not qualify for the deduction if they are a specified service business or a business that conducts investing or investment management. The rules specifically list a host of excluded businesses, effectively blocking all professional consultants, medical professionals, financial managers, athletes, and artists from taking the deduction. The law does, however, make an exception for engineers and architects.

If your business isn't a service business, you still have to jump through one more hoop to qualify for the deduction: Your business either has to have a certain amount of W2 wages or a certain amount in depreciable business property. Specifically, the owner's QBI can't exceed 50 percent of W2 wages or 25 percent of W2 wages plus 2.5 percent of the cost of qualified property.

Qualified property means depreciable, tangible property (including real estate), owned by a business and used for the production of QBI.

The pass-through entity deduction also applies to investments in REITS and publicly traded partnerships, and although the corporate tax law changes are permanent, the pass-through entity deduction expires in 2025, just like the individual tax cuts in the law.

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OSHA recordkeeping rule stalled

In May of 2016, OSHA enacted amendments to its recordkeeping regulation that would require establishments with 250 or more employees to submit OSHA 300 logs and 301 forms electronically. But now that change is in limbo.

At the time the change was announced, OSHA said the forms would be published on its website, with employee names and other personal information redacted. According to the agency, "making injury information publicly available will 'nudge' employers to focus on safety."

But the Trump administration's Unified Agenda of Regulatory and Deregulatory Actions proposed removing the requirement to electronically submit forms 300 and 301. OSHA now says it may eliminate the requirement because it cannot guarantee the non-release of personally identifiable information. Instead, covered employers would continue to submit 300A summary forms.

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Opponents have argued that a 300 log is not always an accurate reflection of an employer's safety program and that publicizing such data would provide harmful fodder to union organizers and litigants.

However, OSHA currently has no ability to obtain a national snapshot of a company's injury and illness data because such information lives on paper and is limited to individual establishments that have been inspected. The electronic submission requirements would have changed that, providing an OSHA compliance officer with a way to compare hazards and mitigation efforts at one facility with efforts made at another. As a result, employers who did not use such hazard information to improve conditions nationwide could have theoretically been charged with a "willful" violation. By not collecting 300 log and 301 forms in an electronic format, OSHA loses this insight and opportunity.

Businesses benefit under tax reform

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limitation on the deduction, with limitations, exceptions, and phase-in rules.

► Corporate AMT repeal

Previously, a corporate alternative minimum tax (AMT) was imposed at a 20 percent rate, although corporations with average annual gross receipts of less than $7.5 million for the preceding three tax years were exempt. The AMT has now been repealed.

► More generous Section 179 deduction rules

Section 179 of the Internal Revenue Code helps small businesses by allowing them to take a depreciation deduction for certain assets in one year, rather than depreciating them over a longer time period. The previous limit for a Section 179 deduction was $510,000, but now that limit is increased to $1 million.

The new law expands the definition of eligible property to include certain personal business property, as well as qualified expenditures for roofs, HVAC equipment, fire protection and alarm systems, and security systems for nonresidential real property. The law also provides more generous first-year bonus depreciation rules for qualified property placed in service between September 28, 2017 and December 31, 2022.

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► Cash accounting method available to more businesses

The new law increases the threshold for using the cash method from $5 million to $25 million. This makes the more flexible cash accounting method available to more medium-sized businesses.

► New limits on interest deductions

Generally, prior law established that a business's interest expenses were fully deductible. Now, affected businesses can't deduct interest expenses in excess of 30 percent of "adjusted taxable income." For tax years 2018 through 2021, adjusted taxable income is calculated by adding back allowable deductions for depreciation, amortization and depletion. After 2021, those adjustments will no longer be made.

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However, most taxpayers with average annual gross receipts of $25 million or less for the three previous tax years are exempt from the interest deduction limitation.

► Stricter rules on deducting losses

Deductions for net operating losses (NOLs) have been reduced, limiting the amount of taxable income that can be offset with NOL deductions from 100 percent to 80 percent.

► Stricter rules on meals and entertainment

Previously, businesses could deduct 50 percent of business-related meal and entertainment expenses. Plus, meals provided on the employer's business premises were 100 percent deductible. Now, entertainment-related expenses are no longer deductible, and the deduction for on-premises meals has been lowered to 50 percent. After 2025, on-premises meals will be completely nondeductible.

► No deduction for commuter benefits

The new law no longer allows employers to take a deduction for subsidizing an employee's commute, eliminating deductions for car services, parking allowances, and transit passes. Those benefits still remain tax-free to the employee.

While changes to the individual tax scheme are temporary, changes to the business tax scheme are permanent and comprehensive. Review and analysis will be ongoing as experts evaluate the potential opportunities and impact for businesses. Consult your tax professional for a full understanding of how these tax changes could affect you.

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Data security and the vulnerability of the company car

By now, you've probably heard the horror stories about hackable cars. The most publicized concern is that digitally connected cars are vulnerable to hackers who could disable the engine or even take control of the steering.

But while this kind of physical threat grabs headlines, a different risk goes relatively unmentioned: data security. According to a recent post in the online publication *Motherboard*, our cars may be housing an alarming cache of unsecured data.

Reportedly, a security expert hacked into his own vehicle by connecting a USB flash drive loaded with computer scripts designed to access the car's "infotainment" system. What he found was a serious privacy issue: call histories, contacts, text and email messages, and even directory listings from mobile phones that had been synced to the car, simply stored in plain text.

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In the experiment, the researcher had physical access to the car's computer system via a USB connection. But he suggests that hackers could access the same information remotely through an in-car internet connection.

Car manufacturers are continuing to learn about and address these security risks. In the meantime, there are a few steps you might consider to protect your company data:

- Require employees to update their car's firmware in a timely manner following an update;
- Prohibit employees from syncing mobile devices to company vehicles; or
- Prohibit employees from syncing a company-issued mobile device to their personal vehicles or rental vehicles.

Strict prohibitions may not be popular with employees, however, particularly those who regularly travel for work or commute long distances. When connected to a cellphone, vehicle infotainment systems offer a host of conveniences such as hands-free calling, spoken delivery of text messages, and navigation.

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