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FEBRUARY 2018 NEWSLETTER

TAX CUTS AND JOBS ACT/RECONCILIATION ACT OF 2017

On December 22, 2017 Congress passed and President Trump signed Public Law No. 115-97, known as the Tax Cuts and Jobs Act ("TCJA"). Most of the provisions are effective for taxable years beginning after 2017, i.e., this year, 2018. Most of the provisions affecting individuals, including income, estate, gift and generation-skipping tax changes, are effective for taxable years from 2018-2025 and sunset after that date. Generally the business tax reform measures are permanent. In this newsletter we have summarized some of the changes with respect to transfer tax, including the taxation of trusts and estates, individual income tax, business income tax, tax exempt organizations, and international tax. Of course this is not a comprehensive summary of this very complex re-write of the Internal Revenue Code. Rather, we have sought to briefly highlight certain changes we believe might be most relevant to our clients. Most importantly, it is our recommendation that in light of these dramatic changes, clients should revisit their estate plans and consult with us on any changes that might be appropriate.

TRANSFER TAX

Federal Estate, Gift and Generation-Skipping Transfer Tax

The federal estate, gift and generation-skipping transfer ("GST") tax exemption amounts were doubled to approximately $11.2 million per individual as of January 1, 2018. (We say "approximately" because the TCJA defines the exemption amount as $10 million indexed for inflation beginning in 2011, and as of this writing the IRS has not yet announced the precise amount of the 2018 exemption.) The exemption amount will be indexed for inflation in calendar years 2019 through 2025 but is scheduled to revert to its 2017 level (indexed for inflation) beginning on January 1, 2026. The tax rate for all three taxes remains at 40%, and the estate and gift tax remain unified - that is, taxable gifts made during life reduce, dollar for dollar, the exemption available to shelter transfers occurring at death. As a result of the increased exemption, it is estimated that only about 1800 estates will owe estate tax in 2018, down from about 5000 in 2017.

As a result of indexing for inflation under existing law (not as a result of the new tax law), the gift tax annual exclusion (the amount that each donor may give to any number of individual donees each calendar year without using up any of his or her gift and estate tax exemption amount) has increased to $15,000, and the annual exclusion available for gifts to a non-citizen spouse has increased to $152,000, both effective as of January 1, 2018.

As under prior law, assets included in the estate of a deceased individual (except for those which constitute "income in respect of a decedent" - including, most importantly, tax-deferred retirement plans such as 401(k)s and IRAs) receive a new income tax basis, "stepped-up" (or possibly, although rarely, "stepped-down") to their date of death values. Assets transferred by lifetime gift do not receive any such basis adjustment; rather, the donee's basis remains the same as the donor's, adjusted for any gift tax paid with respect to the appreciation. (In those rare cases where the market value of the gifted assets is less than the donor's basis, the donee's basis is that lower market value.)

The new law retains "portability" of the estate tax exemption - i.e., the ability of a surviving spouse to claim the deceased spouse's unused exemption by filing a timely federal estate tax return. Portability is available only for the federal estate and gift tax exemption, not for the GST tax exemption. We are not aware of any states that allow portability of their state estate tax exemptions.

State Estate Tax

Virginia currently has no state estate tax, having abolished it several years ago.

The District of Columbia's estate tax exemption increased to the same level as the federal exemption (i.e., approximately $11.2 million) on January 1, 2018, but legislation requiring the District's Chief Financial Officer to issue a report on "decoupling" DC's tax law from federal law has been introduced and endorsed by all members of the Committee on Finance and Revenue. Thus it remains to be seen whether DC's estate tax exemption will be reduced, perhaps even retroactively to January 1.

Maryland's estate tax exemption increased to $4 million on January 1, 2018 and is currently scheduled to increase to the same level as the federal exemption on January 1, 2019; however, given the recent dramatic increase in the federal exemption it is certainly possible that the Maryland state government will also consider "decoupling" its tax laws from federal law.

PLANNING IN LIGHT OF TRANSFER TAX CHANGES

We strongly recommend that all of our clients contact us for an estate planning review in light of the dramatic increase in the estate, gift and GST tax exemptions. Married couples who have currently have simple "sweetheart" plans leaving their entire estates to each other at the first death and then to their children (outright or in trust) at the survivor's death may not need to make changes, but everyone whose documents include trusts created for tax planning purposes should revisit his or her plan.

Many married couples whose documents include "bypass family trust" tax planning designed to utilize both spouses' transfer tax exemptions no longer need such planning. Couples whose combined net worth is unlikely to exceed $11 million may now prefer to have simpler estate plans leaving all assets outright to the survivor at the first death and rely on the portability election, rather than bypass planning, to take advantage of the predeceased spouse's exemption. An outright disposition to the surviving spouse has the further advantage of a stepped-up basis for all assets at the surviving spouse's death (which is not available for assets held in a bypass trust created by a predeceased spouse). For the same reason, persons who are beneficiaries of bypass trusts created by a predeceased spouse may wish to explore the possibility (if permissible under the governing instrument) of terminating those trusts by distributing all assets outright to the surviving spouse.

At the other end of the spectrum, individuals and couples in a position to make large gifts (including those who had already given away their full exemption amounts under prior law but who now have an additional approximately $5.7 million of exemption available) should strongly consider doing so before the increased exemptions sunset in 2026. (And indeed, they should strongly consider doing so before 2020. We think it is possible, perhaps even likely, that the transfer tax exemptions will be reduced significantly if the Democrats reclaim Congress and the Presidency.) It appears likely that even if the exemption is reduced in the future, lifetime gifts in excess of the exemption applicable at date of death will be grandfathered and not subject to "clawback."

Persons making large gifts should consider the following strategies, many of which can be used in combination with one another: (1) gifts to "dynasty" trusts to benefit their descendants for generations to come, in theory forever, taking advantage of both the GST exemption and the estate and gift tax exemption; (2) gifts of fractional interests in closely-held businesses or real estate whose gift tax value is discounted due to lack of control and lack of marketability (the availability of these discounts was thought to be in danger in 2016 when the IRS issued regulations that would have dramatically curtailed their use, but those regulations were withdrawn in January 2017); and (3) gifts applied to premium payments (if possible, structured to require only a small number of payments or even a single payment) on a large life insurance policy owned by an irrevocable trust, sheltering the entire face value of the policy from estate tax (and GST tax if desired).

Married couples can even make large gifts and retain access to the gifted funds by creating trusts for the benefit of each other (and/or their children or other beneficiaries). These "spousal lifetime access trusts," or "SLATs" must be structured carefully to ensure that the gifted assets are excluded from both spouses' taxable estates.

In sum, the expanded exemptions under the new tax law have a dramatic impact on existing estate plans containing formula clauses, and they also present planning opportunities for those in a position to make large gifts. Since nearly everyone is affected, we encourage everyone to contact us for an estate planning review.

INCOME TAXATION OF TRUSTS AND ESTATES

The new lower individual income tax rates also apply to trusts and estates, although the brackets are highly compressed, with trusts and estates reaching the highest (37%) bracket at just

$12,500 in 2018. A $600 deduction is available to each estate, a $300 deduction to each "simple" trust (one that it is required to distribute all income currently), and a $100 deduction to each "complex" trust (one that is not required to distribute all income currently). A "qualified disability trust" for the benefit of a disabled individual is entitled to a deduction of $4150 (indexed for inflation) for calendar years 2018 through 2025. The $10,000 limitation on the deductibility of state and local taxes applies to trusts. Trusts and estates may no longer claim miscellaneous itemized deductions for calendar years 2018 through 2025. There is some uncertainty about whether executor and trustee fees are considered non-deductible miscellaneous itemized deductions, but most commentators believe this is not the case, and that such fees continue to be deductible. It appears that the deduction previously allowed to beneficiaries at the termination of estates and trusts for excess deductions and losses will be lost as miscellaneous itemized deductions.

MISCELLANEOUS CHANGES RELEVANT TO TRANSFER TAX

"Kiddie Tax" Made Harsher

Under the new tax law, the unearned income of a child younger than 18 or a full-time student age 19-23 (with certain exceptions) is taxed under the tax brackets applicable to trusts and estates, which reach the highest brackets at relatively low level of income. (For example, in 2018 the 37% bracket is applied to income over $12,500.) This is harsher than the "kiddie tax" under prior law, which taxed such a child's (or young adult full-time student's) unearned income at the parents' marginal tax rate.

Section 529 Plans Made More Flexible

Under prior law, funds in a Section 529 educational savings plan could be withdrawn tax-free only if used to pay for college and/or graduate school costs (including tuition, fees and room and board). The new tax law allows withdrawals from Section 529 plans of up to $10,000 per year to pay for elementary and secondary education costs.

Life Settlements of Life Insurance Policies

In general, life insurance proceeds paid by reason of the death of an insured are excluded from federal income tax. However, pursuant to the "transfer for value" rules, if a life insurance contract is sold during the insured's lifetime, the amount of proceeds paid by reason of the insured's death that is excluded from income tax is generally limited. The new tax law makes some modifications to the transfer for value rules. It reverses the IRS position announced in Rev. Rul. 2009-13 and provides that in the case of a life settlement (i.e., a sale) of a life insurance policy, the taxpayer's basis in the policy is not reduced by "cost of insurance" charges. Reporting requirements are added for "reportable policy sales," defined as the direct or indirect acquisition of a life insurance policy if the acquiring party has no substantial family, financial or business relationship with the insured, and none of the transfer for value exceptions apply to such sales.

"ABLE" Account Changes

ABLE Accounts under Code Section 529A allow individuals with disabilities and their families to fund tax preferred savings accounts to pay for qualified disability related expenses. The TCJA increases contribution limits to these accounts, imposes additional record keeping requirements, and allows certain rollovers from qualified tuition programs to an ABLE account without penalty.

INDIVIDUAL INCOME TAX

New Rate Brackets

RATE	SINGLE	MARRIED	CHANGE
10%	0 - $9,525	0 - $19,050	None
12%	$9,526 - $38,700	$19,051 - $77,400	Lower
22%	$38,701 - $82,500	$77,401 - $165,000	Lower
24%	$82,501 - $157,500	$165,001 - $315,000	Lower
32%	$157,501 - $200,000	$315,001 - $400,000	Lower
35%	$200,001 - $500,000	$400,001 - $600,000	Lower
37%	Over $500,001	Over $600,000	Lower

Formerly the top bracket was 39.6% above $480,000 for married couples. The 3.8% net investment income tax and 0.9% additional medicare tax remain in effect. There are no changes to the 20% maximum tax rate on long term capital gain and qualified dividends.

Standard Deductions and Personal Exemption

The standard deduction is increased to $24,000 for married couples, $12,000 for single filers. The personal exemption has been eliminated.

State and Local Tax Deductions

The deduction for state and local income, sales and property taxes ("SALT") not related to a business or investment activity (as defined in Code Section 212) is limited to $10,000 (not indexed) for married joint filers and single individuals and $5,000 for married individuals filing separately. Accordingly the deduction for SALT should still be available on Form 1040 Schedule C, for trade or business activities, and on Schedule E, for activities generating net rent or royalty income.

Home Mortgage Interest Deduction

The home mortgage interest deduction for acquisition indebtedness on a home closing after December 15, 2017 is limited to the interest on $750,000 of debt, down from $1 million under prior law. The $750,000 limit is not indexed. No deduction is allowed for home equity loan indebtedness regardless of when incurred; however, home equity loans used to renovate or improve the home are considered acquisition indebtedness and remain deductible, subject to the above limitations. Pre-

Act rules apply to acquisition indebtedness incurred prior to that date, and to refinancing of those loans not exceeding the amount of the prior loan.

Charitable Deduction

The charitable contribution deduction continues to be allowed with a few modifications. Cash contributions to public charities are now deductible each year up to 60% (an increase from 50%) of AGI. The 80% deduction for contributions made for university athletic seating rights has been eliminated.

Miscellaneous Itemized Deduction/Pease Limitation

The Act adds new Code Section 67(g) which suspends miscellaneous itemized deductions through 2025. Also the Pease limitation (reducing most itemized deductions by 3% of the amount by which AGI exceeds a threshold amount ($313,800 in 2017 for married couples) is eliminated. This will have little impact for many taxpayers because of the elimination of most itemized deductions.

Medical Expenses

The medical deduction is expanded for 2017-2018 only by reducing the threshold to 7.5% (rather than 10%) of AGI.

Alimony

Since 1942, there has been an alimony deduction in the tax code. However, under the new law, for divorces or separation agreements finalized after 2018, spouses paying alimony will no longer be able to take a deduction and spouses receiving alimony will no longer be required to report it as income. Modifications of existing agreements after 2018 will be subject to the new rule if the terms of the agreement expressly subject the modifications to the new rule. This provision does NOT sunset after 2025. Some experts foresee an increase in the number of divorces this year by spouses hoping to take advantage of the deduction before it expires.

Child Tax Credit

This credit is increased from $1,000 for each qualifying child under age 17 to $2,000, and the phase-out does not begin until income exceeds $400,000 for married filing jointly or $200,000 for others. The Act increases the refundable portion of the credit to $1,400.

A $500 non-refundable credit is allowed for qualifying dependents other than qualifying children.

Alternative Minimum Tax (AMT)

The AMT is NOT eliminated but the exemption is increased to $109,400 and the phase-out threshold is increased from $150,000 to $1 million for married filing jointly.

Limitation on Personal Casualty and Theft Loss

Only losses incurred as a result of federally-declared disasters may be deducted.

Student Loan Indebtedness Discharge

Student loans discharged after 2017 are excluded from income. This is a change from prior law, which recognized as taxable income student loans discharged by death or disability.

Gambling Loss Limitation Modified

The limitation on wagering losses under Code Section 165(d) is modified to provide that all deductions for expenses incurred in carrying out wagering transactions (not just gambling losses) are limited to the extent of winnings.

Re-characterization of Roth IRAs

Contributions to Roth IRAs are non-deductible, but qualified distributions from Roth IRAs are not includable in the recipient's income. Traditional IRAs maybe converted to Roth IRAs, and the amount converted is includable in the taxpayer's income as if a withdrawal had been made. Formerly, if the owner had a change of heart he/she could under certain circumstances re-characterize the IRA back from Roth to traditional IRA status. That option is no longer available.

Elimination of Obamacare Mandate

Beginning in 2019 there is no longer a mandate to have qualifying health insurance.

BUSINESS TAX

Reduction of Corporate Income Tax Rate and Repeal of AMT

Lowering the corporate income tax rate was the signature feature of the tax reform plan. Unlike the individual income tax rate reductions, the changes for C corporations are permanent. Under prior law, C corporations paid graduated federal income tax rates of 15%, 25%, 34%, and 35% on taxable income, and personal service corporations (PSCs) paid a flat rate of 35%. Under the new law, effective in 2018, there is one flat rate of 21% for C corporations, and this rate also applies to PSCs. TCJA also repeals the corporate AMT. The goal of policymakers in lowering the corporate tax rate is to make America's rate more competitive with the rates in other countries and to encourage taxpayers to use domestic C corporations in their business activities.

New Income Tax Deduction For Pass-Through Businesses

The TCJA creates a new income tax deduction for taxpayers, including individuals, trusts, and estates, that own pass-through businesses, i.e. partnerships, limited liability companies, S-corporations, and sole proprietorships. A pass-through business does not pay tax at the entity level as C corporations do; instead the profits of the entity pass through and are taxed directly to the owners. Policymakers took the view that because the new law lowered the income rate for

corporations, pass-through businesses also deserved a tax break. While this new provision, codified in new Section 199A, does provide substantial tax relief for taxpayers who operate their businesses through pass-through entities, it is complex and the calculation to determine the deduction is intricate. Stated simply, taxpayers with qualified business income ("QBI") from a pass-through business may be able to deduct from taxable income (not AGI) up to 20% of QBI. For taxpayers in the top bracket of 37%, the 20% deduction means that the effective income tax rate for pass-through income is 29.6%.

There are a number of important limitations and exclusions, which we broadly summarize here. Owners of businesses that engage in certain services are limited in their ability to benefit from the deduction if their adjusted gross income is greater than $157,500 for single taxpayers and $315,000 for married taxpayers, and are prohibited from taking any deduction if income from the business is in excess of $267,500 for single taxpayers and $415,000 for married taxpayers. The targeted businesses are those where the principal asset of the trade or business is the reputation or skill of one or more of its employees or owners. These "specified service business(es)" include those in the fields of health, law, accounting, actuarial science, performing arts, consulting, athletics, financial services, brokerage services, as well as businesses involving the performance of services that consist of investing and investment management, trading or dealing in securities, partnership interests or commodities. Engineers and architects were originally included in this list, but were excluded from the final bill, meaning they should be able to benefit from the deduction. In certain circumstances the deduction is limited based on the business's W-2 wages and/or the unadjusted basis of business property. (There is a complicated calculation to determine the amount of the deduction that is beyond the scope of this newsletter). In addition to the wage limitations and the specified service trade or business limitations, only domestic business income qualifies for the deduction; there is no deduction for foreign business income. The deduction is not available for investment income, including capital gains, dividends, and interest income. The deduction is also not available for compensation income such as wages or guaranteed payments. The deduction is available for qualified REIT dividends, qualified cooperative dividends, and qualified publicly traded partnership income.

Unlike the permanent corporate tax cuts, this provision sunsets at the end of 2025. As stated above, the law on this income tax deduction is incredibly complex and tax advisors anxiously await further guidance from the IRS on this topic.

Treatment of Carried Interest

Carried interest has historically been taxed at favorable capital gain rates instead of as ordinary income. Under the new law, effective in 2018, the holding period requirement has increased from 1 year to 3 years in order for carried interest to be taxed as long-term capital gain rather than ordinary income.

1031 Exchanges

In a 1031 exchange, also known as a like-kind exchange, no gain or loss is recognized if property used in a trade or business or held for investment is exchanged for like-kind property. This type of transaction is commonly used by owners of investment real property who want to exchange that property for a similar property on a tax-deferred basis. The new law continues to permit the deferral of taxes on the exchange of like-kind real estate, including deferred exchanges where the

proceeds of sale of one property are escrowed prior to reinvestment in a like-kind property. However, beginning in 2018, the new law repeals the deferral of gain for exchanges of all other types of property, including personal property. Personal property items excluded from tax-free exchange treatment include assets such as art, computers, software, planes, automobiles, machinery, equipment, copyrights, or franchise licenses.

Fringe Benefits

The TCJA made changes to the deductibility rules for entertainment, meal, transportation, and other fringe benefits, affecting both employers and employees. All of the fringe benefit changes go into effect beginning 2018.

Prior law allowed taxpayers to deduct 50% of entertainment and recreation expenses that were directly related to the taxpayer's trade or business. This included, for example, business entertaining such as attending sports events, playing golf, or membership dues for clubs. Under the new law, nearly all entertainment expenses are nondeductible, except for those expressly listed in Section 274(e). These exceptions include expenses for food and beverages for employees furnished on the business premises, expenses for goods, services or facilities treated as compensation to an employee, reimbursed expenses, recreational expenses for certain employees, expenses related to business meetings of employees, stockholders, agents, or directors and expenses related to attendance at a business meeting, expenses for items made available to the public, expenses for entertainment sold to customers, and expenses includible in income of persons who are not employees. In addition, office holiday parties should continue to be fully deductible under these exceptions. So while employers may continue to deduct expenses related to certain social and recreational activities for their employees, most entertainment expenses incurred for the benefit of non-employees may no longer be deducted.

With respect to food and beverage expenses, the new law continues to allow a 50% deduction for food and beverage expenses associated with a trade or business. For example, meals purchased during business travel remain 50% deductible. But the new law applies a 50% deduction limitation on certain expenses that previously were eligible for a 100% deduction. The new 50% limit applies to food and beverages provided to employees as *de minimis* fringe benefits, to meals provided at an on-premises dining facility, and to meals provided on premises to employees for the employer's convenience. These three expenses are subject to the 50% deduction until the end of 2025, at which time they become nondeductible.

For transportation benefits, under prior law, employers were permitted a deduction for the cost of certain transportation fringe benefits provided to employees. These included certain parking expenses and bicycling commuting reimbursement, transit pass programs, and transportation in a commuter highway vehicle. Under the new law, employers may not deduct the expenses related to qualified transportation and parking benefits after 2017. However, employees should continue to be able to exclude qualified transportation fringe benefits from their income.

For moving expenses, employees may no longer exempt from taxable income employer-provided qualified moving expense payments or reimbursements. The personal deduction for moving expenses is also eliminated by TCJA. Importantly, there is an exception for members of the U.S. armed forces who can continue to deduct such expenses and exclude them from income. These restrictions last until the end of 2025. Payments by employers continue to be deductible.

Executive Compensation

The TCJA expands the limitation on deductions for executive compensation in excess of $1 million. Previously, publicly held corporations were limited to a $1 million cap on the deductibility of compensation paid to a single "covered employee." A "covered employee" included the CEO and the three highest paid officers. There was also an exception that allowed compensation above the $1 million cap to be deductible if the compensation was "performance-based." The new law expands the definition of a covered employee to include the company's CEO, CFO, and the three highest paid employees. Additionally, once an employee qualifies as a covered employee, he or she will remain a covered employee as long as he or she is being paid by the corporation. TCJA repeals the performance-based exception entirely. Finally, it expands the types of companies subject to the deduction limitation to include all companies that file SEC reports. These changes go into effect beginning in 2018. However, compensation paid pursuant to a written contract entered into between the company and the covered employee that was in effect on November 2, 2017 is exempt as long as the contract is not materially modified after that date. While the limitation of this deduction means that companies who pay significant performance bonuses to top executives will face a larger tax bill, experts point out that the reduction of the corporate rate to 21% more than offsets the loss of the deduction for corporations.

New Section 81(i) provides complex rules for a new opportunity for certain private companies to make tax-advantaged equity grants.

Regarding year-end bonuses to owner employees, the new tax rules will require detailed analysis of the tax advantages of paying dividends vs. cash compensation.

Net Operating Losses

For losses occurring after 2017, the use of net operating losses ("NOLs") would be limited to 80% of taxable income. Taxpayers may carry forward NOLs indefinitely but generally may not carry back any NOLs.

Corporate Dividend Received Deduction

The domestic corporate dividends received deduction ("DRD") is reduced. Effective in 2018, a corporation may only deduct 65% of dividends receive from U.S. corporations in which the receiving corporation owns more than 20% of the stock (reduced from 80%), and a corporation may only deduct 50% of dividends received from other U.S. corporations (reduced from 70%).

Limitation on Interest Expense Deductions

The TCJA limits deductions for net interest expenses to 30% of the taxpayer's "adjusted taxable income." Any excess interest expense can be carried forward indefinitely. Beginning in 2022, deductions for depreciation, amortization and depletion will be taken into account, reducing the taxpayer's adjustable taxable income, thus making the computation less favorable to taxpayers. There is a small business exception to this rule for businesses with average gross receipt of $25 million or less. Also excepted are businesses operating in certain industries, specifically regulated public utilities and real estate.

Expenses and Depreciation

For property placed in service beginning 2018, the maximum amount a taxpayer may expense under Section 179 is increased from $500,000 to $1 million. There are also complex new rules permitting bonus first year depreciation for certain assets in certain circumstances.

Partnership Tax Law Changes

There are new partnership tax rules relating to technical termination and substantial built-in loss.

Treatment of S Corporations Connected to C Corporations

These rules are ameliorated to encourage the anticipated trend of S corporations converting to C corporations to take advantage of the new C corporation tax rates.

Luxury Auto Depreciation

For passenger autos placed in service beginning 2018 the new law permits greater annual depreciation deduction limits.

Buy-Sell/Redemption Agreements

The repeal of corporate AMT will make redemption agreements funded by company-owned life insurance a more appealing alternative to the cross-purchase model.

Business Planning: Choice of Entity

In light of the new incentives provided for C corporations and the repeal of corporate AMT as well as the competing incentives for pass-through entities, many existing business will want to reconsider their choice and start-ups will have complex choices. The new rules on converting S corporations to C corporations and the various industry-specific incentives all need to be considered.

TAX EXEMPT ORGANIZATIONS

Unrelated Business Taxable Income (UBTI) Calculated Separately for Each Activity

New Code Section 512(a)(6) provides that UBTI is determined separately for each trade or business activity of a tax-exempt organization.

Excise Tax For Certain Private Colleges and Universities

A new 1.4% excise tax on net investment income of endowments applies to private colleges and universities that have more than 500 students, assets of at least $500,000 per student, and 50% or more of tuition paying students located in the U.S.

Excise Tax On Certain Payments to Highly Compensated Employees

Tax-exempt employers will pay an excise tax of 21% on certain remuneration in excess of

$1 million paid to any of the organization's five highest paid employees, under new Code Section 4968.

Unrelated Business Income Tax (UBIT) on Certain Employee Fringe Benefits

A new UBIT is imposed on tax-exempt organizations which provide certain employee fringe benefits including transportation, parking facilities and on-campus athletic facilities.

Contemporary Written Acknowledgment Exemption Repealed

Organizations which file the required return for contributions of $250 or more must now provide contemporary written acknowledgment.

Changes Not Made

The House version of the bill would have permitted political activities by Code Section 501(c)(3) charitable organizations. That was eliminated from the final bill.

No changes were made to donor advised funds, but additional reporting and payment requirements were discussed.

Repeal of tax free treatment of tuition benefits for graduate students and other employees was discussed but not implemented.

INTERNATIONAL TAX

Estate Tax Exemption For Non-Resident Foreign Citizens

This remains unchanged at $60,000 (subject to variations in some estate tax treaties).

Deemed Repatriation

Every U.S. owner of at least a 10% interest in a foreign subsidiary corporation must include the accumulated earnings of the foreign subsidiary as income in 2017. (New Code Section 965.) This appears to apply to individuals. This new law is highly complex and its interpretation and application to specific individuals will depend on future guidance to be issued by the IRS.

Other Changes

There are numerous other changes to the taxation of international business enterprises beyond the scope of this newsletter.

Disposition of Partnership Interest

Gain or loss from the sale of an interest in a partnership (domestic or foreign) by a foreign partner is now considered to be effectively connected to a U.S. trade or business and therefore

potentially taxable to a non-US seller to the extent that the sale by the partnership of all of its assets at fair market value would have generated U.S. effectively connected income for the foreign partner.

Non-Resident Alien Taxpayers May Be Beneficiaries of Electing Small Business Trusts (ESBTs)

Foreigners may not be shareholders of S corporations, but the new law permits them to be beneficiaries of ESBTs.

OTHER NEWS

Frederick J. Tansill & Associates, LLC celebrated its 20th anniversary on November 1, 2017 and we continue to thrive. Our Firm was again selected by U.S. News & World Report as one of the Best Law Firms in the Washington Metro Area in 2015, 2016, and 2017. Fred was named in 2016 and 2017 as a Super Lawyer in Washington, D.C. and Virginia and in Best Lawyers in America. He was also named in Northern Virginia Magazine as a top financial professional and in the December 2017 and January 2018 issues of Washingtonian Magazine as one of the Top Lawyers (trusts and estates) and Top Money Advisers (estate attorneys) in the D.C. area. He was also listed in the Washington Post Magazine and Richmond Magazine as a top lawyer in Washington, D.C. and in The Wall Street Journal as a top rated lawyer in Washington, D.C. In May 2017, Fred gave a presentation at the EFG Bank & Trust Conference in the Bahamas on the topic of U.S. and Offshore Asset Protection Strategies, FATCA, and U.S. Estate, Gift, and Income Tax on Non-Resident Aliens. Fred was interviewed on CBS Evening News about President Trump's trust arrangements and he was also quoted in the Washington Post and The New York Times and several other media outlets on the same topic. Fred will be speaking in November 2018 at the 16th Annual Trust & Estate Institute in New York City on Asset Protection Planning.

Brooke earned her second law degree in May 2016 when she graduated from Georgetown University Law Center with a Masters Degree in Taxation (LL.M.) and a Certificate in Estate Planning. In January 2017, Brooke presented on the topic of Planning with Retirement Assets to the Estate Planning Committee of the D.C. Bar Taxation Section. In the summer of 2017 she was elected Co-Chair of the Wills, Trusts, and Estates Section of the Fairfax Bar Association. In the winter of 2018, she was elected Vice-Chair of the Associate Board of City Year Washington D.C., a charity that focuses on educating children and teenagers in the most impoverished neighborhoods in D.C.

Cindy's daughter Kate is now a first-year law student at the Antonin Scalia Law School at George Mason University in Arlington, Virginia. Cindy and her husband Todd are pleased that their daughter is following in their footsteps.

Nivin and her husband Kevin moved closer to the firm and now live in Vienna.

Fred's younger daughter Charlie got marred in July 2017 to Andrew Shearer-Collie, originally from Scotland. The celebration was at Keswick Hall in Charlottesville, Virginia.

REVIEW OF YOUR SITUATION

If you would like us to review the desirability of any changes or additions to your estate plan or to discuss anything in this Newsletter, please contact us to set up an appointment.

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