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Tax Update

Protecting *Americans from Tax Hikes Act of 2015* Renews Popular Tax Breaks, Making Many of Them Permanent

On December 18, 2015, the President signed into law The Protecting Americans from Tax Hikes Act of 2015 (PATH Act) which extended, in some cases permanently, many popular tax breaks which had previously expired. The PATH Act also provides some new tax provisions. This Update highlights some of the most popular provisions.

Business Taxes

Code Section 179 Expense

The PATH Act permanently sets the Code Section 179 expense limit at $500,000, with a $2 million overall investment limit. Both amounts are indexed for inflation beginning in 2016. The Act also makes permanent the 179 expense provision for qualified real property (eliminating the $250,000 cap beginning in 2016), and makes permanent the rule allowing off-the-shelf computer software to be 179 expensed.

Bonus Depreciation

Bonus depreciation for new property is extended through 2019 under the Act. The schedule for bonus depreciation is: 50% for 2015-2017; 40% for 2018; and 30% for 2019. The Act also modifies bonus depreciation to include qualified improvement property.

15-Year Recovery for Certain Leasehold Improvements

The 15-year recovery period for qualified leasehold improvements, qualified restaurant property, and qualified retail improvements has been permanently extended.

Research Tax Credit

The research and development credit is permanently extended under the Act, and modifications are included allowing some taxpayers to claim the credit against AMT and certain payroll taxes.

S Corporation Built-In Gains Tax Period

The five-year recognition period for built-in gains following a conversion to an S corporation is extended permanently.

Work Opportunity Tax Credit (WOTC)

The WOTC is extended through 2019. The Act also enhances the WOTC for employers that hire certain long-term unemployed individuals.

New Markets Tax Credit

The Act authorizes an additional $3.5 billion of new markets tax credits for each year from 2015 to 2019.

100-Percent Gain Exclusion on Qualified Small Business Stock

The provision allowing the gain on the sale or exchange of qualified small business stock held for more than five years for non-corporate taxpayers has been made permanent under the Act.

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Filing Dates for W2s and 1099-MISC

The Act requires certain information returns (including W-2, W-3, and 1099-MISC) to be filed with the IRS by January 31 following the year end. This is generally the same date as the due date for sending the forms (or similar statements) to the employees/individuals. This provision is effective for returns relating to calendar years after the date of enactment (e.g., filed in 2017).

Individual Taxes

State and Local Sales Tax Deduction

The option to take an itemized deduction for state and local sales tax in lieu of income taxes is now permanent.

Charitable Distributions from IRAs

The provision allowing an IRA owner who is age 70½ or older to exclude up to $100,000 per year in distributions made directly from the IRA to certain public charities has been extended permanently.

American Opportunity Tax Credit (AOTC)

The AOTC for various tuition and related expenses has been made permanent and indexed for inflation. For 2015, the credit is capped at $2,500 for individuals with AGI that does not exceed $80,000 ($160,000 for joint filers).

Child Tax Credit

The Act makes permanent certain provisions of the child tax credit for low- and moderate-income parents.

Teachers' Classroom Expense Deduction

The $250 above-the-line deduction for eligible teachers' classroom expenses has been permanently extended. The deduction has also been indexed to inflation (beginning in 2016) and enhanced to include "professional development expenses" (beginning in 2016).

Mortgage Debt Exclusion

The Act excludes from income cancellation of mortgage debt on principal residences up to $2 million ($1 million if married filing separately) through the 2016 tax year.

Mortgage Insurance Premium Deduction

The treatment of qualified mortgage insurance premiums as interest for purposes of the mortgage interest deduction has been extended through 2016.

Qualified Tuition/Related Expenses Deduction

The Act extends through 2016 the above-the-line deduction for qualified tuition and fees for post-secondary education.

Earned Income Credit

The Act makes permanent the increase ($5,000) in the phase-out amount for joint filers. The increased 45 percent credit percentage for taxpayers with three or more qualifying children is also now permanent.

Computer Equipment – Code Section 529 Plans

The Act permanently allows the purchase of computer equipment and technology to be considered a qualified expense when paid for with a distribution from a Code Section 529 plan.

Parity for Employer-Provided Mass Transit and Parking Benefits

Transit passes and vanpool benefits are now permanently excluded from an employee's wages at the same amount as employer-provided parking.

Affordable Care Act

"Cadillac" Plans

The excise tax on certain "high-value" health insurance plans is postponed for two years, from 2018 to 2020. The Act also allows the payment of this tax to be deductible against income tax.

Medical Device Excise Tax

The excise tax on qualified medical devices has been delayed for two years. This tax will not apply to sales during calendar years 2016 and 2017.

Energy Extenders

Residential Energy Property Credit

The Act extends through 2016 the Code Section 25C residential energy property credit.

Energy-Efficient Commercial Buildings Deduction

The Act extends through 2016 the deduction for energy-efficient commercial buildings and updates the energy-efficient standards.

Solar Investment Tax Credits

The solar investment tax credit and the credit for qualified residential solar property have been extended through 2021.

Production Tax Credit for Wind Energy

The Production Tax Credit for wind energy has been extended through 2019. This credit is now subject to reduced phase-down percentages for years 2015-2019.

Real Estate Investment Trusts (REITs)

Included in the Act are several provisions modifying and clarifying the tax rules related to REITs. These provisions include:

- The tax-free treatment of spin-offs.
- Limits on designations of dividends by REITs.
- The calculation of earnings and profit.
- The effect of the operation of foreclosed real property by an REIT subsidiary on the REIT income tests.
- The treatment of debt instruments of publicly offered REITs and mortgages as real estate assets.
- Fixed percentage rent and interest exceptions for REIT income tests.
- Alternative safe-harbor for determining percentage of assets an REIT may sell annually.
- Clarification of the treatment of certain services provided by taxable REIT subsidiaries.

The information above does not include all of the provisions of the PATH Act. The Act includes many other, less relevant provisions that could impact you. If you would like to discuss any of the provision included in the PATH Act, or how the Act may affect you, contact Chuck Marston, Rich Pacella or Danelle Stewart at cmarston@srsnodgrass.com, rpacella@srsnodgrass.com, or dstewart@srsnodgrass.com or at (724) 934-0344.