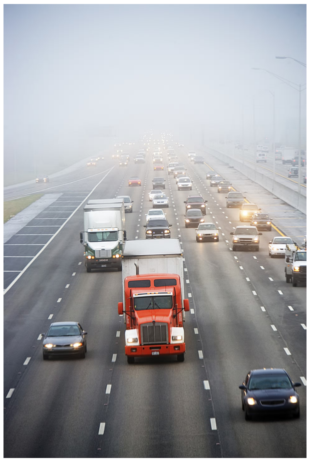
Griffing & Company, P.C.
Certified Public Accountants and Consultants

February 7, 2018

Business Tax Changes for 2018



Now is the time for businesses to start considering changes in strategies based on the newly enacted Tax Cuts and Jobs Act ("TCJA"). We are providing an overview of some of the more important business tax changes in the new law. Unless otherwise noted, the changes are effective for tax years beginning in 2018. Soon we will provide another newsletter to update you on individual tax implications to keep in mind during 2018.

We would also like to let you know that the standard mileage rate for 2018 has been increased to $.545 per business mile driven. This should be incorporated into your reimbursements since you are not allowed to deduct mileage reimbursed over this amount.

Following are some of the new tax law changes we felt would be of interest to you:

- *Corporate tax rates reduced.* One of the more significant new law provisions cuts the corporate tax rate to a flat 21%. Before the new law, rates were graduated, starting at 15% for taxable income up to $50,000, with rates at 25% for income between 50,001 and $75,000, 34% for income between $75,001 and $10 million, and 35% for income above $10 million.

- *Dividends-received deduction.* The dividends-received deduction available to corporations that receive dividends from other corporations has been reduced under the new law. For corporations owning at least 20% of the dividend-paying company, the dividends-received deduction has been reduced from 80% to 65% of the dividends. For corporations owning under 20%, the deduction is reduced from 70% to 50%.

- *Alternative minimum tax repealed for corporations.* The corporate alternative minimum tax (AMT) has been repealed by the new law.

- *Alternative minimum tax credit.* Corporations can offset their regular tax liability by the AMT credit. For tax years beginning after 2017 and before 2022, the credit is refundable in an amount equal to 50% (100% for years beginning in 2021) of the excess of the AMT credit for the year over the amount of the credit allowable for the year against regular tax liability. Thus, the full amount of the credit will be allowed in tax years beginning before 2022.

- *Net Operating Loss ("NOL") deduction modified.* Under the new law, generally, NOLs arising in tax years ending after 2017 can only be carried forward, not back. The general two-year carryback rule, and other special carryback provisions, have been repealed. However, a two-year carryback for certain farming losses is allowed. These NOLs can be carried forward indefinitely, rather than expiring after 20 years. Additionally, under the new law, for losses arising in tax years beginning after 2017, the NOL deduction is limited to 80% of taxable income, determined without regard to the deduction. Carryovers to other years are adjusted to take account of the 80% limitation.

- *Limit on business interest deduction.* Under the new law, every business, regardless of its form, is limited to a deduction for business interest equal to 30% of its adjusted taxable income. For pass-through entities such as partnerships and S corporations, the determination is made at the entity, i.e., partnership or S corporation, level. Adjusted taxable income is computed without regard to the repealed domestic production activities deduction and, for tax years beginning after 2017 and before 2022, without regard to deductions for depreciation, amortization, or depletion. Any business interest disallowed under this rule is carried into the following year, and, generally, may be carried forward indefinitely. The limitation does not apply to taxpayers (other than tax shelters) with average annual gross receipts of $25 million or less for the three-year period ending with the prior tax year. Real property trades or businesses can elect to have the rule not apply if they elect to use the alternative depreciation system for real property used in their trade or business. Certain additional rules apply to partnerships.

Domestic production activities deduction ("DPAD") repealed. The new law repeals the DPAD for tax years beginning after 2017. The DPAD formerly allowed taxpayers to deduct 9% (6% for certain oil and gas activities) of the lesser of the taxpayer's (1) qualified production activities income ("QPAI") or (2) taxable income for the year, limited to 50% of the W-2 wages paid by the taxpayer for the year. QPAI was the taxpayer's receipts, minus expenses allocable to the receipts, from property manufactured, produced, grown, or extracted within the U.S.; qualified film productions; production of electricity, natural gas, or potable water; construction activities performed in the U.S.; and certain engineering or architectural services.

- *New fringe benefit rules.* The new law eliminates the 50% deduction for business-related entertainment expenses. The pre-Act 50% limit on deductible business meals is expanded to cover meals provided via an in-house cafeteria or otherwise on the employer's premises. Additionally, the deduction for transportation fringe benefits (e.g., parking and mass transit) is denied to employers, but the exclusion from income for such benefits for employees continues. However, bicycle commuting reimbursements are deductible by the employer but not excludable by the employee. Last, no deduction is allowed for transportation expenses that are the equivalent of commuting for employees except as provided for the employee's safety.

- *Family and medical leave credit.* A new general business credit is available for tax years beginning in 2018 and 2019 for eligible employers equal to 12.5% of wages they pay to qualifying employees on family and medical leave if the rate of payment is 50% of wages normally paid to the employee. The credit increases by 0.25% (up to a maximum of 25%) for each percent by which the payment rate exceeds 50% of normal wages. For this purpose, the maximum leave that may be taken into account for any employee for any year is 12 weeks. Eligible employers are those with a written policy in place allowing qualifying full-time employees at least two weeks of paid family and medical leave a year, and less than full-time employees a pro-rated amount of leave. A qualifying employee is one who has been employed by the employer for one year or more, and who, in the preceding year, had compensation not above 60% of the compensation threshold for highly compensated employees. Paid leave provided as vacation leave, personal leave, or other medical or sick leave is not considered family and medical leave.

- *Increased Code Sec. 179 expensing.* The new law increases the maximum amount that may be expensed under Code Sec. 179 to $1 million. If more than $2.5 million of property is placed in service during the year, the $1 million limitation is reduced by the excess over $2.5 million. Both the $1 million and the $2.5 million amounts are indexed for inflation after 2018. The expense election has also been expanded to cover (1) certain depreciable tangible personal property used mostly to furnish lodging or in connection with furnishing lodging, and (2) the following improvements to nonresidential real property made after it was first placed in service: roofs; heating, ventilation, and air-conditioning property; fire protection and alarm systems; security systems; and any other building improvements that aren't elevators or escalators, don't enlarge the building, and aren't attributable to internal structural framework.

- *Bonus depreciation.* Under the new law, a 100% first-year deduction is allowed for qualified new and **used** property acquired and placed in service after September 27, 2017 and before 2023. Pre-Act law provided for a 50% allowance, to be phased down for property placed in service after 2017. Previously, used property did not qualify for this special depreciation. Under the new law, the 100% allowance is phased down starting after 2023.

- *Depreciation of qualified improvement property.* The new law provides that qualified improvement property is depreciable using a 15-year recovery period and the straight-line method. Qualified improvement property is any improvement to an interior portion of a building that is nonresidential real property placed in service after the building was placed in service. It does not include expenses related to the enlargement of the building, any elevator or escalator, or the internal structural framework. There are no longer separate requirements for leasehold improvement property or restaurant property.

- *Depreciation of farming equipment and machinery.* Under the new law, subject to certain exceptions, the cost recovery period for farming equipment and machinery the original use of which begins with the taxpayer is reduced from 7 to 5 years. Additionally, in general, the 200% declining balance method may be used in place of the 150% declining balance method that was required under pre-Act law.

- *Luxury auto depreciation limits.* Under the new law, for a passenger automobile for which bonus depreciation (see above) is not claimed, the maximum depreciation allowance is increased to $10,000 for the year it's placed in service, $16,000 for the second year, $9,000 for the third year, and $5,760 for the fourth and later years in the recovery period. These amounts are indexed for inflation after 2018. For passenger autos eligible for bonus first year depreciation, the maximum additional first year depreciation allowance remains at $8,000 as under pre-Act law.

- *Computers and peripheral equipment.* The new law removes computers and peripheral equipment from the definition of listed property. Thus, the heightened substantiation requirements and possibly slower cost recovery for listed property no longer apply.

- *Like-kind exchange treatment limited.* Under the new law, the rule allowing the deferral of gain on like-kind exchanges of property held for productive use in a taxpayer's trade or business or for investment purposes is limited to cover only like-kind exchanges of real property not held primarily for sale. Under a transition rule, the pre-TCJA law applies to exchanges of personal property if the taxpayer has either disposed of the property given up or obtained the replacement property before 2018.

- *Excessive employee compensation.* Under pre-Act law, a deduction for compensation paid or accrued with respect to a covered employee of a publicly traded corporation is deductible only up to $1 million per year. Exceptions applied for commissions, performance-based pay, including stock options, payments to a qualified retirement plan, and amounts excludable from the employee's gross income. The new law repealed the exceptions for commissions and performance-based pay. The definition of "covered employee" is revised to include the principal executive officer, principal financial officer, and the three highest-paid officers. An individual who is a covered employee for a tax year beginning after 2016 remains a covered employee for all future years.

- *Employee achievement awards clarified.* An employee achievement award is tax free to the extent the employer can deduct its cost, generally limited to $400 for one employee or $1,600 for a qualified plan award. An employee achievement award is an item of tangible personal property given to an employee in recognition of length of service or a safety achievement and presented as part of a meaningful presentation. The new law defines "tangible personal property" to exclude cash, cash equivalents, gift cards, gift coupons, gift certificates (other than from an employer pre-selected limited list), vacations, meals, lodging, theater or sports tickets, stocks, bonds, or similar items, and other non-tangible personal property.

As you see, there are numerous changes affecting businesses. Many pass-through businesses also have a new deduction available on the owner's Form 1040. If you wish to discuss how any of these provisions may affect your specific business, please contact us One of our CPAs would be happy to work with you.

Griffing & Company, P.C.
One Sugar Creek Center Blvd., Suite 450
Sugar Land, TX
(281) 491-8866 Fax (281) 491-8998