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Rödl & Partner Tax Matters
Recent news on tax issues in the United States of America
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2017 Tax Cuts and Jobs Act is Final!

On December 22, 2017, President Trump signed into law the 2017 Tax Cuts and Jobs Act. This is the most consequential tax change in over 30 years. Below please find a very general overview of the main tax provisions of the law. We have divided the chart into business, international, and individual tax provisions. The wide range of changes are in many cases effective immediately and will require taxpayers to act quickly and to evaluate many aspects of their business and structure going forward.

Rödl & Partner will provide further details of the law as we analyze the full impact of these provisions.

Key Business Tax Provisions

Proposal	Current Law	New Law
Corporate tax rates	▪ 35% rate ▪ 20% rate for Alternative Minimum Tax	▪ Flat rate of 21% effective in 2018 ▪ Alternative Minimum Tax is repealed beginning in 2018 ▪ The maximum corporate tax rate on capital gains is repealed as obsolete

Key Business Tax Provisions

Proposal	Current Law	New Law
Pass-through entities tax rates	▪ Income is passed through to the owners to be taxed at the individual rates	▪ In lieu of changing the rate, the law permits individuals, estates and trusts a deduction of 20% of "qualified business income" from a partnership, S corporation or sole proprietorship, which does not include service businesses ▪ The deduction is limited to 50% of W-2 wages paid by the qualified business or 25% of wages paid plus 2.5% of the cost of qualified property of the business. Any losses can be carried forward to the next tax year ▪ Only domestic business income qualifies ▪ Multiple qualified businesses are aggregated
Cost recovery	▪ Expense investment over the investment's applicable life under MACRS or ADS with bonus depreciation of 50% phasing down to 30% in 2019 ▪ Luxury autos are limited to $8,000 bonus depreciation ▪ Small business expense under Section 179 is subject to numerous restrictions	▪ Full expensing of new and used equipment and other qualified property investments for property placed in service between 9/27/2017 and 1/1/2023 ▪ Retained ▪ Section 179 annual deduction limit raised to $1 million with a dollar-for-dollar phase-out for total annual investment in excess of $2.5 million ▪ Computer and peripheral equipment is removed from the definition of listed property

Proposal	Current Law	New Law
Interest expense	▪ Generally deductible when paid or accrued, subject to numerous limitations	▪ For businesses with average gross receipts of more than $25 million, business interest expense is generally limited to 30% of adjusted taxable income ▪ Adjusted taxable income does not take into account depreciation, amortization or depletion ▪ For partnerships, the limitation is applied at the partnership level ▪ Disallowed interest expense is carried forward indefinitely
Dividends	▪ Dividends received are either 70%, 80% or 100% deductible	▪ Dividends received are either 65%, 50% or 100% deductible, effectively preserving the current effective tax rate on dividends
Net Operating Loss Deductions	▪ NOLs can be carried back 2 years and carried forward 20 years; utilization of NOL can result in Alternative Minimum Tax liability	▪ NOLs can only be deducted to the extent of 80% of taxable income before NOL deduction ▪ All carrybacks are repealed, but losses can be carried forward indefinitely
Business Deductions	▪ Deduction for domestic production activities (§199) available, subject to limitations ▪ Research and development expenses are deductible when incurred unless an election is made to amortize the costs ▪ Deductions for meals and entertainment are deductible, subject to certain limitations ▪ Qualified transportation expenses are deductible	▪ Deduction for domestic production activities (§199) is repealed ▪ R&D deductions are retained ▪ Expenses for entertainment are generally not deductible except to the extent any benefits to an employee are treated as taxable compensation to the employee ▪ The 50% limitation under current law would apply only to expenses for qualifying business meals, and this deduction would be expanded to include food and beverages provided to employees through an eating facility that meets the de minimis fringe requirements

Proposal	Current Law	New Law
Business Deductions (cont.)		▪ All deductions for qualified transportation fringe benefits to employees are disallowed, except for those that ensure employee safety
Like-Kind Exchanges	▪ Like-kind exchange rules apply to a wide range of property	▪ Only real property not held primarily for sale is eligible to receive like-kind exchange treatment
Partnership and Pass-Through Taxation	▪ A partnership can be terminated for tax purposes when certain sales or exchanges of partnership interests occurs	▪ Technical termination rule repealed ▪ Rule limiting certain deductions to the extent of partner basis will now apply to charitable contributions and foreign taxes, which were previously exempted from the limitation. ▪ "Substantial built-in loss" definition is expanded as it affects transfer of partnership interests ▪ Gain or loss from the sale of a partnership interest is U.S. effectively-connected income as if the business sold all assets on the date of partnership transfer (effective after November 27, 2017) ▪ Loss limitation rules allow excess business losses equal to the excess of aggregate deductions attributable to businesses of the taxpayer over the sum of aggregate gross income of the taxpayer plus a threshold amount. The limitation applies at the partner or S corporation shareholder level and includes limitation carryforwards.
Credits and Incentives	▪ Various credits and incentives are provided to businesses	▪ Generally no significant changes to credits and incentives

Proposal	Current Law	New Law
Accounting Methods for Small Businesses	▪ Cash method of accounting limited to businesses with less than $5 million in gross receipts ▪ Accrual method for inventory required for businesses with average gross receipts of more than $10 million ▪ Certain expenses are required to be capitalized into inventory for most businesses ("UNICAP") ▪ Long-term contracts require percentage of completion method of accounting for businesses with average gross receipts of more than $10 million ▪ For an accrual basis taxpayer, an amount is included in income when all the events have occurred that fix the right to receive that income and the amount of that income can be determined with reasonable accuracy, unless an exception permits deferral or exclusion ▪ Taxpayers can elect to deduct currently the amount of certain reasonable research or experimentation (R&E) expenditures paid or incurred in connection with a trade or business	▪ Cash method of accounting expanded to businesses with gross receipts of less than $25 million ▪ Accrual method for inventory not required for businesses with average gross receipts of less than $25 million ▪ UNICAP is not required for businesses with average gross receipts of less than $25 million. Exemptions not tied to gross receipts are retained ▪ Long-term contracts require percentage of completion method of accounting for businesses with average gross receipts of more than $25 million ▪ Taxpayers are now required to recognize income no later than the year in which the taxpayer recognized the income for financial statement purposes ▪ Taxpayers' domestic R&E expenditures must be amortized over a 5 year period and foreign expenditures over a 15 year period

Key International Tax Provisions

Proposal	Current Law	New Law
Dividend exemption system	▪ Currently no provision	▪ A dividend-exemption system is created that exempts 100% of foreign-source dividends paid to a U.S. shareholder that owns 10% or more of the foreign corporation, subject to a one-year holding period ▪ Deduction is not available for "hybrid entities" ▪ No foreign tax credit would be allowed, including for withholding taxes
Repatriation tax	▪ Previously untaxed foreign earnings are taxed at 35% corporate rate when repatriated	**New Repatriation / Toll Tax** ▪ Accumulated foreign earnings of specified foreign corporations are deemed repatriated at the end of 2017 and are taxed at 15.5% (cash) or 8% (illiquid assets) ▪ Specified foreign corporations are generally controlled foreign corporations ▪ Taxpayers can elect to pay this tax over an eight-year installment period ▪ Statute of limitations on assessments of the tax is extended to six years ▪ Repeals the active trade or business exception allowed for certain reorganizations

Proposal	Current Law	New Law
Base Erosion / Subpart F	• Anti-deferral rules for controlled foreign corporations, foreign base company income and other provisions	**New GILTI Tax** • U.S. shareholders of CFCs would be subject to tax on "global intangible low-taxed income" ("GILTI") • GILTI is the excess of the shareholder's net CFC income over the shareholder's deemed tangible income return (the excess of 10% of the aggregate of the pro rata share of qualified business asset investment reduced by certain interest expense) • The domestic corporation is allowed a deemed credit up to 80% of foreign income taxes paid **New Base Erosion Minimum Tax** ▪ Establishes a base erosion minimum tax to prevent companies from stripping earnings out of the U.S. through payments to foreign affiliates that are deductible for U.S. tax purposes ▪ Applies to corporations that have average annual gross receipts of at least $500 million (including foreign corporations with ECI) for the three-tax year period ending with the preceding tax year and a "base erosion percentage" of at least 3% (base erosion payments divided by total deductible payments) ▪ Base erosion minimum tax is the higher of 10% of the corporation's income without deductions for "base erosion payments" and its regular corporate liability

Proposal	Current Law	New Law
Base Erosion / Subpart F (cont.)		▪ A base erosion payment is any amount paid or accrued by the taxpayer to a foreign related party for which a deduction is allowed. This includes the purchase from a foreign related party of property that is subject to an allowance for depreciation or amortization, but excludes cost of goods sold **Other Subpart F Changes** ▪ Basis adjustment rules would apply to transfers of intangible property from CFCs to U.S shareholders ▪ Definition of U.S. shareholder of a controlled foreign corporation expanded to included 10% owner ▪ Subpart F constructive attribution rules allow downward attribution from foreign persons to related U.S. persons
Foreign Tax Credits	• Direct and indirect foreign tax credits allowed to the extent of income taxed in the U.S.	▪ Indirect foreign tax credit under §902 is repealed ▪ Income from sale of inventory is sourced solely on basis of production activities

Key Individual Tax Provisions

Proposal	Current Law	New Law
Individual tax rates	• Seven rate brackets (10%, 15%, 25%, 28%, 33%, 35%, and 39.6%) • Alternative Minimum Tax applies if greater than regular tax • 3.8% net investment income tax	• Enhance standard deductionseven rate brackets, although several rates, including the top rate, would be lowered slightly (new top rate of 37%) • Generally no change to capital gains or dividend tax rates • Alternative Minimum Tax rates are retained with increased exemption and phase out amounts • Retains the 3.8% net investment income tax • New rates and brackets expire at the end of 2025
Enhance standard deduction	• $6,350 for single individuals; $12,700 for married individuals	▪ Increases the standard deduction to $12,000 for single individuals and $24,000 for married individuals
Personal Exemption	• $4,050 for each personal exemption	▪ Eliminated
Itemized deductions	• Limitation on itemized deductions • $1,000,000 limitation on acquisition debt for home mortgages • Deduction for state and local income and property taxes • Deduction for personal casualty losses • Deduction for losses and expenses from gambling activities; losses limited to winnings	▪ Overall limitation on itemized deductions suspended until January 1, 2026 ▪ Current mortgage interest deduction on existing mortgages is unchanged. Mortgage interest deduction on new debt is limited to $750,000 of acquisition indebtedness. ▪ Deductions for state and local taxes and property taxes combined are capped at $10,000 ▪ Deduction for casualty losses repealed, other than those incurred in a disaster area

Proposal	Current Law	New Law
Itemized deductions (cont.)	• Various deductions for charitable donations, subject to certain limitations • Medical expenses are deductible to the extent they exceed 10% of AGI • Moving expenses deductible subject to certain limitations	▪ All deductions for expenses incurred in carrying out wagering transactions would be limited to wagering winnings ▪ Charitable contribution deductions are modified to increase the AGI limitations on cash contributions from 50% to 60% ▪ Deduction retained with the floor decreased to 7.5% of AGI ▪ Moving expense deduction is eliminated except for certain U.S. Armed Forces ▪ All miscellaneous itemized deductions subject to the 2% floor have been repealed
Individual Mandate	• Individual responsibility payment	▪ Reduced to zero for health care coverage status for months beginning after December 31, 2018
Child tax credit	• Individuals can claim a maximum child tax credit of $1,000 for each qualifying child under the age of 17	▪ Child tax credit is increased to $2,000 for a qualifying child ▪ A $500 credit is available for dependents other than qualifying children ▪ The phase-out for the credit is increased to $400,000 for joint returns ▪ The refundable portion of the credit is lowered to $1,400. Taxpayers would be required to provide a work-eligible SSN to receive the credit
Estate Tax	• 40% tax levied on the net value (after exclusion of $5 million, subject to inflation adjustment) of the estate of a deceased person before distribution to the heirs	▪ Exclusion doubled to $10 million, indexed for inflation from 2011, effective for decedents dying and gifts made after 2017. No repeal of the estate tax is provided

Summary

As you can see, the new tax law contains sweeping changes that will affect businesses and individuals alike. In the coming weeks, we will be analyzing the new provisions in great detail to provide you with relevant insights and planning opportunities.

Please contact your Rödl & Partner representative with any questions.

Achieve Together

„Die größte Volkswirtschaft der Welt bietet spannende und interessante Projekte, die es zu verwirklichen gilt. Sei es in noch jungen Branchen wie dem Erneuerbare Energien-Sektor oder dem starken Produktionssektor. Unser Know-how hilft unseren Mandanten bei der Verwirklichung ihrer ganz individuellen Ziele."

Rödl & Partner

„Jeder Auftritt verfolgt ein Ziel, dass wir konsequent umsetzen. Mit allen individuellen Castells verwirklichen wir die lange einstudierten und trainierten Figuren – jedes Mal ein Ansporn für die nächste Formation."

Castellers de Barcelona

Each and every person counts" – to the Castellers and to us.

Human towers symbolise in a unique way the Rödl & Partner corporate culture. They personify our philosophy of solidarity, balance, courage and team spirit. They stand for the growth that is based on own resources, the growth which has made Rödl & Partner the company we are today.

„Força, Equilibri, Valor i Seny" (strength, equilibrium, valour and common sense) is the Catalan motto of all Castellers, describing their fundamental values very accurately. It is to our liking and also reflects our mentality. Therefore Rödl & Partner embarked on a collaborative journey with the representatives of this long-standing tradition of human towers – Castellers de Barcelona – in May 2011. The association from Barcelona stands, among many other things, for this intangible cultural heritage.

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