TOP 10 THINGS COMPANIES NEED TO KNOW ABOUT TAX REFORM

The $1.5 trillion new tax law represents the most sweeping change to tax code in a generation. Tax reform of this magnitude will have broad implications for businesses of all sizes and in all industries.

While accountants and tax departments wade through the 185-page legislation, here are the top 10 things companies need to know:

1. The corporate tax rate was permanently reduced from 35 percent to 21 percent.

The top corporate tax rate has been permanently reduced from 35 percent to a flat rate of 21 percent, beginning in 2018. Unlike all other provisions in the new law, including tax breaks for individuals, the new corporate tax rate provision does not expire. Personal service corporations—like healthcare, law, accounting, consulting, financial services, actuarial sciences, performing arts, and athletics—which have historically been subject to some of the highest tax rates—are now taxed at the same rate as other C corporations. View BDO's full alert.

2. There's a tax break for owners of pass-through entities.

The new law provides owners of pass-through businesses—which include individuals, estates, and trusts—with a deduction of up to 20 percent of their domestic qualified business income (QBI), whether it is attributable to income earned through an S corporation, partnership, sole proprietorship, or disregarded entity. Without the new deduction, taxpayers would pay 2018 taxes on their share of qualified earnings at rates up to 37 percent. With the new 20-percent deduction, the tax rate on such income could be as low as 29.6 percent. It should again be noted that certain service industries are excluded from the preferential rate, unless taxable income is below $207,500 (for single filers) and $415,000 (for joint filers), under which the benefit of the deduction is phased out. View BDO's full alert.

3. There might be huge tax benefits to changing your company's current choice of entity.

Taxpayers should consider evaluating the choice of entity used to operate their businesses. The 21-percent reduced corporate tax rate may increase the popularity of corporations. However, factors such as the new 20-percent deduction for pass-through income, expected use of after-tax cash earnings, and potential exit values will significantly complicate these analyses. The potential after-tax cash benefits ultimately realized by owners could make choice-of-entity determinations one of the most important decision taxpayers will now make. View BDO's full alert.

4. There have been significant changes to the international tax system.

In connection with these changes, certain U.S. shareholders who own stock in certain foreign corporations will have to pay a one-time "transition tax" on their share of accumulated overseas earnings. Other changes include a "participation exemption", which is a 100% dividend received deduction, that permits certain domestic C corporations to receive dividends from their foreign subsidiaries without being taxed on such dividends when certain conditions are satisfied. There is also a new requirement that certain U.S. shareholders of controlled foreign corporations (CFCs) include in income their share of the "global intangible low-taxed income" of such CFCs. Finally, there are new measures to deter base erosion and promote U.S. production. View BDO's full alert.

5. The corporate AMT and DPAD are dead, but Research Tax Credits live on.

The law repeals the Section 199 Domestic Production Activities Deduction (DPAD) for tax years beginning after 2017. The Research Tax Credit was retained and is now more valuable given reduction of the corporate tax rate from 35 percent to 21 percent. View BDO's full alert.

The corporate Alternative Minimum Tax (AMT) is also repealed beginning in 2018. This means taxpayers who would have been subject to AMT and therefore generally wouldn't have been able to use Research Tax Credits to offset their federal income tax liability now will be able to do so. Going forward, any prior corporate AMT credit carryovers may offset the regular tax liability for any taxable year after 2017. View BDO's full alert.

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6. They've scrapped NOL carrybacks and limited the use of carryforwards.

Previously, businesses were able to offset current taxable income by claiming net operating losses (NOLs), generally eligible for a two-year carryback and 20-year carryforward. Now NOLs for tax years ending after 2017 cannot be carried back, but can be indefinitely carried forward. In addition, NOLs for tax years beginning in 2018 will be subject to an 80-percent limitation. Companies will have to track their NOLs in different buckets and consider cost recovery strategy on depreciable assets in applying the 80-percent limitation. View BDO's full alert.

7. Tax reform's impact on accounting methods may change when revenue is recognized, but new provisions could also lead to temporary and permanent tax benefits.

Under the new law, accrual basis taxpayers must now recognize income no later than the taxable year in which such income is taken into account as revenue in an applicable financial statement.

However, new provisions also provide favorable methods of accounting that were not previously available. That, coupled with the reduction in tax rates, creates a favorable and unique environment for filing accounting method changes.

There are many method changes still available for the 2017 tax year. Taxpayers should evaluate current accounting methods to identify any actionable opportunities to accelerate deductions and defer income for the 2017 tax year, which could result in significant tax savings. View BDO's full alert.

8. There are new rules for bonus depreciation and full expensing on new and used property.

The new tax law allows a 100-percent first-year deduction—up from 50 percent—for the adjusted basis of qualifying assets placed in service after September 27, 2017, and before January 1, 2023, with a gradual phase down in subsequent years before sunsetting after 2026. The definition of qualifying property was also expanded to include used property purchased in an arm's-length transaction. Businesses should pay close attention to any qualifying asset acquisitions made during the fourth quarter of 2017, as the full expensing can be taken on the 2017 return if the property was acquired and placed in service after September 27, 2017.

Additionally, under new tax law, taxpayers may now deduct up to $1 million under Section 179 for properties placed in service beginning in 2018 — double the previous allowable amount. The phase-out threshold is increased to $2.5M and will be indexed for inflation in future years and the types of qualifying property has been expanded. View BDO's full alert.

9. The availability of the cash method of accounting expanded for small businesses.

Beginning in 2018, the average annual gross receipts threshold for businesses to use the cash method increases from $5 million to $25 million. Under the cash method of accounting, companies do not recognize income until actually or constructively received—regardless of whether the purchase, production, or sale of merchandise is an income-producing factor.

Additionally, small businesses who meet the $25 million gross receipts threshold are not required to account for inventories and are exempt from the uniform capitalization rules (UNICAP). The $25 million is indexed for inflation for tax years beginning after 2018. View BDO's full alert.

10. Now is the time to assess total rewards strategies.

Tax reform significantly impacts various components of an employer's total compensation program—namely the $1 million deduction cap on pay to the PEO, PFO and top 3 executives for any year; an excise tax imposed on tax-exempt entities paying over $1 million to their covered employees during a year or providing excessive severance packages to those employees; disallowed deductions for transportation fringe benefits provided to employees; income inclusion for employer-paid moving expenses; further deduction limitations on certain meal and entertainment expenses; and a 2-year tax credit for employer-paid family and medical leave programs. As the IRS releases guidance, employers must immediately modify their payroll systems to reflect tax reform changes impacting individual taxpayers. View BDO's full alert.