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TAX CUTS AND JOBS ACT (INCLUDING RECENT IRS GUIDANCE)

INTRODUCTION

The **"Tax Cuts and Jobs Act" (TCJA)** signed into law in late 2017 represents the most substantial tax reform legislation since 1986, and most of its provisions **are first effective in 2018.** For example, **generally starting in 2018,** TCJA: Reduces income tax rates for the vast majority of individual taxpayers; Reduces or eliminates altogether certain itemized deductions; Substantially increases the standard deduction; Expands or modifies certain child and dependent tax incentives; Almost doubles the estate tax exemption; Significantly reduces the corporate income tax rate; Provides for more rapid business write-offs for capital expenditures; Creates a new 20% deduction for owners of certain pass-through business entities (e.g., proprietorships, partnerships, LLCs, S corporations); and much more. It is no overstatement to say that this mammoth tax bill is already having a major impact on many, if not most, businesses and individuals.

We are sending you this letter so you can stay informed on the provisions of TCJA that we believe are having the greatest impact on individual and business clients. The IRS continues releasing a steady stream of guidance on many of TCJA's more important provisions. Therefore, this letter also includes a discussion of the most important IRS guidance that has been released to date on TCJA.

Caution! Even though the IRS has released guidance on various TCJA provisions, we are still waiting for further IRS clarification on several important provisions. The IRS continues to release guidance sporadically, but it is impossible to predict the IRS's time table for releasing additional guidance in the future. We closely monitor these IRS releases on an ongoing basis. Please call our firm for the latest IRS notifications and announcements regarding any TCJA provision that we do not address in this letter. Also, ***we suggest you call our firm before implementing any tax planning technique discussed in this letter.*** You cannot properly evaluate a particular planning strategy without calculating your overall tax liability with and without that strategy. This letter contains ideas for Federal income tax planning only. ***State income tax issues are not addressed.***

TABLE OF CONTENTS

The ***FIRST PART of this letter*** discusses changes we believe will have the most ***significant impact on "INDIVIDUALS."*** The ***LAST PART*** discusses changes we believe will have the ***greatest impact on "BUSINESSES."*** A ***TABLE OF CONTENTS*** begins on the next page to help you locate items of interest.

TABLE OF CONTENTS

<u>SELECTED TAX REFORM PROVISIONS PRIMARILY IMPACTING INDIVIDUALS</u>

The following discussion addresses selected changes under the **Tax Cuts And Jobs Act ("TCJA")** that we believe will have the greatest impact on individual taxpayers.

<u>PLEASE NOTE</u> that each of the changes below **impacting "Individual"** taxpayers **is first effective in 2018** and will **sunset after 2025** (unless we indicate otherwise)!

<u>CHANGES IN TAX RATES, STANDARD DEDUCTION, PERSONAL EXEMPTIONS, AMT, AND CREDITS</u>

<u>Changes In The Individual Income Tax Rates.</u> Before TCJA, there were seven regular income tax rate brackets as follows: 10%, 15%, 25%, 28%, 33%, 35%, and 39.6%. **Starting in 2018 and through 2025,** TCJA changes the seven tax rate brackets to:10%, 12%, 22%, 24%, 32%, 35%, and 37%. As compared to prior law, TCJA's regular income tax rates generally reduce the tax rate on comparable levels of taxable income. For example, before TCJA, the tax rate for 2018 that would have been applied to joint filers with taxable income from $19,050 to $77,400 would have been 15% had TCJA not been enacted. After TCJA, the actually tax rate for 2018 for that same range of taxable income is subject to a 12% rate. Moreover, before TCJA, the top 39.6% tax rate for 2018 would have kicked in for joint filers once their taxable income exceeded $480,050 (exceeded $426,700 for singles). However, the new top rate of 37% under TCJA will not kick in for joint filers until their 2018 taxable income exceeds $600,000 (exceeds $500,000 for singles). **<u>Caution!</u>** TCJA **did not change** the **3.8% Net Investment Income Tax** on investment income (e.g., capital gains, dividends, passive income) which will continue to apply once the modified adjusted gross income of married taxpayers filing jointly exceeds $250,000 (exceeds $200,000 if single).

- **<u>Observation.</u>** Although TCJA lowers the actual tax rates at most income levels (regardless of filing status), the overall tax impact on a particular individual or family as compared to prior law will vary due to other changes in TCJA, such as: an increase in the standard deduction, loss of personal and dependency exemptions, the elimination or limitation of certain itemized deductions, increases in the child tax credit, higher income phase-outs for the child credit, and a new credit for certain qualifying dependents.

Kiddie Tax On Children's Unearned Income. Before TCJA, if children below certain ages had unearned income (e.g., interest, dividends, capital gains) above $2,100, this unearned income was generally taxed at the child's parents' tax rates. This has commonly been referred to as the **"Kiddie Tax." Starting in 2018 and through 2025,** TCJA contains a somewhat similar but revised "Kiddie Tax" rule whereby the unearned income (above $2,100 for 2018) is generally reported on the child's return but is taxed at the higher income tax rates that apply to trusts and estates. As was the case before TCJA, in certain situations parents may still "elect" to report a child's interest and dividends on the parents' tax return by filing Form 8814 ("Parents' Election To Report Child's Interest And Dividends"). Generally this option is available if the child has gross income of less than $10,500 and the child's income comes only from interest and dividends. **Caution!** If the child's parents qualify to file (and do file) Form 8814, the child's unearned income will also be included in the parents' return for purposes of computing the parents' 3.8% Net Investment Income Tax.

- **Tax Tip!** Reasonable wages for services actually performed are "earned income" exempt from the Kiddie Tax. Therefore, parents who hire children to work in the family business should be able to deduct reasonable wages paid to a child and hopefully at the parent's higher rates, while the wages would be taxed to the child at the tax rates of a single individual. For 2018, a child (even if eligible to be claimed as a dependent) could have total W-2 wages of up to $12,000 (assuming no other taxable income) and pay no taxes at all (i.e., a child with "earned income" of $12,000 could offset the income with the $12,000 standard deduction that applies to a single individual for 2018). Moreover, if the child is under age 18 at the end of the year and is employed by his or her parents in a proprietorship (Schedule C), on a farm (Schedule F), or by a partnership owned entirely by the child's parents, the child's wages would also be exempt from FICA taxes. **Caution!** Before employing this tactic, check with our Firm to ensure the child does not use the earned income to provide over one-half of his or her own support. Otherwise, you may lose the ability to take the **Child Tax Credit** of up to $2,000 (discussed in more detail below) for the child.

Minor Changes In The Tax Rates For Long-Term Capital Gains And Qualified Dividends. Starting in 2018 and through 2025, TCJA retains the same 0%, 15%, and 20% rates that applied before 2018 to long-term capital gains and qualified dividends. Under TCJA, the 0%, 15%, and 20% rates apply at income levels similar to prior law. For example, under prior law, for 2018, the 20% rate was scheduled to kick in if and to the extent a taxpayer's long-term capital gains and qualified dividends caused taxable income on a joint return to exceed $480,050 ($426,700 for singles). Under TCJA for 2018, the 20% rate applies on a joint return if and to the extent a taxpayer's long-term capital gains and qualified dividends causes the taxpayer's taxable income to equal or exceed $479,000 ($425,800 for singles). Consequently, the income levels where the 0%, 15%, and 20% long-term capital gain rates apply have changed very little as a result of TCJA.

Increased Standard Deduction. In an attempt to help simplify the income tax rules for individuals, TCJA substantially increases the standard deduction **starting in 2018 and through 2025.** It is expected that far fewer people will benefit from itemizing their deductions, and therefore their record-keeping will be simplified. TCJA increases the Standard Deduction to the following levels for 2018: Joint Return - $24,000 (up from $13,000); Single - $12,000 (up from $6,500); and Head-of-Household - $18,000 (up from $9,550). As under prior law, TCJA provides for an "additional" standard deduction for taxpayers who are disabled or blind of $1,300 for joint filers ($1,600 if single). In addition, for someone who could have been claimed as a dependent of another, TCJA retains the standard deduction of $1,050 (or the dependent's earned income plus $350, if greater).

Reduction Of Personal Exemption Deduction Amount To Zero. Starting in 2018 and through 2025, TCJA **reduces the personal exemption deduction** for taxpayers and their dependents **to zero!** Under prior law, the personal exemption amount for 2018 was scheduled to be $4,150. **Observation.** Under prior law, to be a "dependent" of a taxpayer, the person had to be either the Taxpayer's "Qualifying Child" or "Qualifying Relative." Although the personal exemption deduction **is reduced to zero** for dependents, TCJA retains the previous definitions of "Dependent," "Qualifying Child," and "Qualifying Relative," for other purposes, such as: Head-of-Household status; the Earned Income Credit; the American Opportunity Tax Credit; the increased Child Tax Credit; and the new $500

Family Tax Credit (discussed in more detail below).

Enhanced Child Tax Credit. For 2017, subject to certain income phase-out thresholds, individuals were allowed a maximum Child Tax Credit of $1,000 for each **"Qualifying Child"** who **had not reached age 17** by the end of the tax year. **Starting in 2018 and through 2025,** TCJA doubles the maximum Child Tax Credit for each **"Qualifying Child"** to **$2,000,** and also significantly increases the income level where the credit begins phasing out. Under TCJA, the Child Tax Credit begins phasing out as the individual's modified adjusted gross income (MAGI) **exceeds $400,000** on a **Joint Return** (up from the previous $110,000), or **exceeds $200,000 if Single** (up from the previous $75,000). For purposes of TCJA's enhanced Child Tax Credit, the term **"Qualifying Child"** has the same definition as under prior law (i.e., a child who meets certain residency, age, relationship, and support tests). **Tax Tip!** Due to the doubling of the maximum Child Tax Credit (from $1,000 to $2,000) and the substantial increases in the income phase-out thresholds, the Child Tax Credit will be more valuable and more widely available than under prior law. **Caution!** In order to claim the Child Tax Credit of up to $2,000, TCJA requires that the Qualifying Child have a qualified Social Security Number (SSN) before the return's filing due date. The child's ITIN or ATIN will not satisfy this requirement.

- **Maximum "Refundable" Child Tax Credit Increased From $1,000 to $1,400.** In addition to increasing the maximum Child Tax Credit up to $2,000, TCJA allows **up to $1,400** (up from $1,000) of the Child Tax Credit to be "refundable" to the extent of 15% of the taxpayer's earned income in excess of $2,500 (down from $3,000). Thus, a taxpayer with only one Qualifying Child would need "earned income" of at least $11,833 to get the full $1,400 refundable Child Tax Credit (i.e., [$11,833 less $2,500 = $9,333] x 15% = $1,400). **Please note that a "refundable"** credit generally means to the extent the credit exceeds the taxes you would otherwise owe with your individual income tax return without the credit, the IRS will send you a check for the excess.

New $500 Family Tax Credit. TCJA creates a **new non-refundable "Family Tax Credit" of up to $500** for each person the taxpayer could have claimed as a dependent under prior law but who does not qualify for the $2,000 Child Tax Credit. This $500 Family Tax Credit will generally be available for a: **1)** "Qualifying Child" who does not qualify for the $2,000 Child Tax Credit because the child is 17 or older, and **2)** "Qualifying Relative." Generally, **a "Qualifying Relative"** is a person who is not a Qualifying Child but who meets certain residency, gross income, and relationship tests. This $500 Family Tax Credit is added to any other child tax credits and the total credits begin phasing out once a taxpayer's MAGI exceeds $400,000 on a joint return or $200,000 for singles. **Planning Alert!** One of the requirements for being classified as a "Qualifying Relative" is that the individual cannot have "gross income" in excess of the "personal exemption" deduction amount (which TCJA has reduced to zero). However, the IRS has announced that, solely for purposes of determining whether an individual meets the gross income requirement of a "Qualifying Relative", the personal exemption deduction amount will be deemed to be $4,150. In other words, an individual that otherwise satisfies the requirements of a "Qualifying Relative" cannot have gross income in excess of $4,150 for 2018.

Changes To The Alternative Minimum Tax For Individuals. Although TCJA **retains** the **"Alternative Minimum Tax"** (AMT) for individual taxpayers, **starting in 2018 and through 2025** the Act offers new relief by: **1)** Increasing the AMT exemption amounts for joint filers to $109,400 (up from $86,200) and for single filers to $70,300 (up from $55,400), and **2)** Increasing the amount of alternative minimum taxable income where the AMT exemption amount begins to phase out for joint filers to $1 million (up from $164,100) and for single filers to $500,000 (up from $123,100). These amounts will be indexed for inflation for future years. **Tax Tip!** Due to these and other changes under TCJA, it has been estimated that the number of individuals subject to AMT will drop from approximately 5 million down to a level closer to 200,000. **Caution!** TCJA does retain certain adjustments that could potentially trigger AMT. For example, AMT adjustments and preference items that survived TCJA include: the Standard Deduction; the State and Local Tax (SALT) Deduction (up to the new cap under TCJA of $10,000); Income from exercise of Incentive Stock Options; Interest on Private Activity Bonds; and Accelerated Depreciation Adjustments.

SELECTED CHANGES TO VARIOUS TAX DEDUCTIONS FOR INDIVIDUAL TAXPAYERS

Impact Of TCJA On Certain "Above-The-Line" Deductions. So-called **"above-the-line"** deductions reduce both your "adjusted gross income" (AGI) and your "modified adjusted gross income" (MAGI), while **"itemized"** deductions (i.e., below-the-line deductions) do **not** reduce either AGI or MAGI. Deductions that reduce your AGI (or MAGI) can potentially generate multiple tax benefits by: **1)** Reducing your taxable income and allowing you to be taxed in a lower tax bracket; **2)** Freeing up deductions (and tax credits) that phase out as your AGI (or MAGI) increases (e.g., Child Tax Credit; Family Tax Credit; certain IRA contributions; certain education credits; adoption credit, etc.); **3)** Reducing your MAGI below the income thresholds for the 3.8% Net Investment Income Tax (i.e., 3.8% NIIT only applies if MAGI exceeds $250,000 if married filing jointly; $200,000 if single); or **4)** Reducing your household income to a level that allows you to qualify for a "refundable" Premium Tax Credit for health insurance purchased on a government Exchange.

- **"Above-The-Line" Deductions That Were Retained Under TCJA.** Many of the popular **"above-the-line"** deductions were retained under TCJA. For example, the following above-the-line deductions were retained: IRA and Health Savings Account (HSA) contributions; Health insurance premiums for self-employed individuals; Qualified student loan interest; Business expenses for a self-employed individual; Expenses related to rental or royalty income; Certain expenses related to the administration of estates and trusts; and, tax preparation fees for certain business-related tax returns. Also, above-the-line deductions were retained for unreimbursed business expenses incurred by: members of a reserve component of the Armed Forces of the United States, state or local government officials paid on a fee basis, and certain performing artists.

- **Suspension Of The Deduction For Qualified "Moving Expenses" And The Exclusion For Employer-Reimbursed Moving Expenses.** Under prior law, the deduction for qualified **"Moving Expenses"** was an above-the-line deduction and an employer's reimbursement of an employee's qualified moving expenses was a tax-free fringe benefit. **Starting in 2018 and through 2025,** TCJA generally **suspends** the deduction for **"Moving Expenses"** and also suspends the income exclusion of employer-reimbursed moving expenses.

  Members Of Armed Forces Still Get Tax-Favored Treatment For Their Qualified Moving Expenses. Generally, active members of the Armed Forces who move pursuant to a military order because of permanent change of station may still deduct un-reimbursed qualified moving expenses and may exclude the reimbursement of those moving expenses. **Tax Tip.** For 2018, an Armed Forces member may use the standard rate of **18 cents per mile** to determine the deductible moving expense.

- **Repeal Of Deduction For Qualified "Alimony Payments."** Currently, an individual making qualified alimony payments is allowed an "above-the-line" deduction for the payments and the recipient of the payments must include the payments in income. **Effective for "Divorce or Separation Instruments" executed after 2018,** TCJA **repeals altogether** the deduction for **alimony payments,** and the alimony payments **will no longer be taxable to the payee.** If the divorce instrument is **executed before 2019,** the alimony payments will continue to be deductible by the individual making the payments (and taxable to the recipient) unless the divorce instrument is **modified to expressly provide** that the alimony payments are to be nondeductible to the payer and nontaxable to the recipient. **Planning Alert!** Individuals contemplating divorce must **"execute"** a **"Divorce or Separation Instrument" before 2019** to ensure that any alimony payments will be deductible. Individuals who anticipate receiving alimony payments can avoid being taxed on those payments if they delay **"executing"** any **"Divorce or Separation Instrument"** until **after 2018.**

  Divorce Or Separation Agreement. The term **"Divorce or Separation Instrument"** means: **1)** A decree of divorce or separate maintenance, or a written instrument incident to such a decree, **2)** A written separation agreement, or **3)** A decree (not described in the previous Item 1) requiring a spouse to make payments for the support or maintenance of the other spouse.

  Child Support. The prior law treatment of child support is not changed by TCJA (i.e., child support payments are not deductible by the individual making the payments and are not taxable to the recipient).

  Transfer Of "Property" Incident To A Divorce. TCJA did not change the tax treatment of one spouse transferring property to the other spouse "incident to a divorce." In that event, there is no gain or loss triggered to the transferor spouse, and the transferee spouse assumes the transferor spouse's tax basis in the transferred property.

No Sunset Date! The repeal fo the deduction for alimony payments **has no sunset date!**

New Limitations On Certain "Itemized Deductions." **"Itemized Deductions"** (i.e., below-the-line deductions) do **not** reduce your AGI or MAGI, but may still provide tax savings if they exceed in the aggregate your Standard Deduction. Since TCJA substantially increases the Standard Deduction, it will take a larger amount of itemized deductions to generate a tax benefit after 2017. However, TCJA not only increases the amount of the Standard Deduction, it also repeals or places new limits on several popular itemized deductions. Consequently, it is anticipated that far fewer individuals will "itemize" deductions after TCJA. **Good News!** Before TCJA, your aggregate itemized deductions generally began phasing out using a 3% phase-out rate once your adjusted gross income (AGI) exceeded a certain amount. For example, for 2017, the phase-out for joint filers began at $313,800 and at $261,500 for singles. **Starting in 2018 and through 2025, TCJA suspends this 3% phase-out rule.**

New Limits On The Home Mortgage Interest Deduction. Before TCJA, individuals were generally allowed an itemized deduction for home mortgage interest: **1)** Paid on up to $1,000,000 ($500,000 for married individuals filing separately) of **"Acquisition Indebtedness"** (i.e., funds borrowed to purchase, construct, or substantially improve your principal or second residence and secured by that residence), and **2)** Paid on up to $100,000 of **"Home Equity Indebtedness"** (i.e., funds borrowed that do not qualify as "Acquisition Indebtedness" but are secured by your principal or second residence - regardless of how the funds are used). TCJA makes the following changes:

- **Reduction In Cap For "Acquisition Indebtedness."** For **Acquisition Indebtedness incurred after December 15, 2017**, the dollar cap for "Acquisition Indebtedness" is **reduced from $1,000,000 to $750,000** ($375,000 for married filing separately) for **2018 through 2025.** There are two **"grandfather"** rules that allow you to use the $1,000,000 cap for: **1)** Any "Acquisition Indebtedness" you **incurred on or before December 15, 2017,** or **2)** Any Acquisition Indebtedness that was incurred pursuant to a binding written contract entered into **before December 15, 2017** to close on the purchase of a **"principal residence"** before **January 1, 2018,** provided the individual purchased that residence **before April 1, 2018. Caution!** The $750,000 cap that generally applies to "Acquisition Indebtedness" incurred after December 15, 2017 is reduced by the outstanding balance of any grandfathered "Acquisition Indebtedness."

  Special Rule When Refinancing Acquisition Indebtedness. Subject to limited exceptions, if a taxpayer incurred Acquisition Indebtedness on or before December 15, 2017 (i.e., grandfathered Acquisition Indebtedness), the refinancing of that indebtedness after December 15, 2017 will still be entitled to the $1,000,000 cap (to the extent of the outstanding balance of the original Acquisition Indebtedness on the date of the refinancing).

  Definition Of "Qualified Residence" Is Not Changed. TCJA did not change the rule that Acquisition Indebtedness can be incurred with respect to your qualified "Second Residence" (as well as your "Principal Residence"), which could be a house, condominium, mobile home, boat, or house trailer that contains sleeping, cooking, and toilet facilities.

- **Suspension Of Interest Deduction For "Home Equity Indebtedness." For 2018 through 2025,** taxpayers may not deduct interest with respect to "Home Equity Indebtedness" (i.e., up to $100,000 of funds borrowed that do not qualify for "Acquisition Indebtedness" but are secured by your principal or second residence). **Caution!** Unlike the interest deduction for "Acquisition Indebtedness," TCJA **does not grandfather** any interest deduction for **"Home Equity Indebtedness"** that was **outstanding before 2018.**

  Certain Loans Secured By Your Home's Equity May Qualify As Acquisition Indebtedness! Loans that have been labeled by your lender as a home equity loan, home equity line of credit (HELOC), or second mortgage on a Qualified Residence can be classified as "Acquisition Indebtedness" if the borrowed funds were used to

"substantially improve" your Qualified Residence that secures the loan. No matter how the loan is labeled by the lender, for tax purposes, this type of loan would be classified as "Acquisition Indebtedness" and not "Home Equity Indebtedness." Consequently, the interest on this type of home improvement loan continues to be deductible after 2017, subject to the $1,000,000 or $750,000 loan limitation, whichever applies. **Planning Alert!** The IRS says that a home improvement is **"substantial"** if it: **1) adds to the value** of your home, **2) prolongs** your **home's useful life,** or **3) adapts** your home to **new uses.** The IRS also says that simply repainting your home is not "substantial," unless the repainting is part of a renovation that substantially improves the Qualified residence.

Certain Loans Secured By Your Home's Equity Might Generate Deductible "Business" Or "Investment" Interest. Under IRS-approved interest tracing rules, interest paid on loan proceeds that were secured by your Qualified Residence but were used in your business or to purchase an investment is generally deductible as business interest or investment interest. <u>**Caution!**</u> These interest tracing rules are tricky. If you are planning some type of home equity loan (or if you already have one outstanding), please call us if you want assistance in determining whether the interest tracing rules could possibly generate deductible business or investment interest.

<u>**$10,000 Cap On The "State And Local" Tax Deduction.**</u> **From 2018 through 2025,** the aggregate itemized deduction for state and local real property taxes, state and local personal property taxes, and state and local income taxes (or sales taxes if elected) is **limited to $10,000** ($5,000 for married filing separately). Foreign real property taxes are not deductible at all unless the taxes are paid in connection with a business or in an activity for the production of income. However, deductions continue to be allowed for state, local, and foreign **"property"** or **"sales"** taxes, and **foreign income, war profits,** or **excess profits taxes** paid or incurred in carrying on the taxpayer's **trade or business** (e.g., taxpayer's Schedule C, Schedule E, or Schedule F operations) or in connection with the taxpayer's production of income.

- **Some States Trying To Circumvent The $10,000 Cap.** In response to TCJA's $10,000 limitation on the Federal income tax deduction for state and local taxes, some state legislatures are considering adopting or have adopted legislation designed to circumvent the $10,000 cap. For example, some states are either considering or have passed legislation that allows taxpayers to make contributions to funds controlled by state or local governments, or other transferees specified by the state, in exchange for tax credits against taxpayers' state and local taxes. The aim of these proposals is to allow taxpayers to fully deduct the contributions as charitable contributions for Federal income tax purposes even though the contribution reduces the individual's state and local tax liability. <u>**Caution!**</u> The IRS has issued proposed regulations designed to thwart these attempts. Please call our Firm if you would like more information on the IRS's position on this issue.

<u>**Repeal Of Casualty And Theft Loss Deductions.**</u> **From 2018 through 2025,** TCJA generally suspends the deduction for personal casualty losses and theft losses. However, personal casualty losses attributable to a Federally-declared disaster continue to be deductible as itemized deductions. <u>**Planning Alert!**</u> Even after TCJA, personal casualty losses generally continue to be deductible to the extent the taxpayer has personal casualty "gains" for the same year. In addition, TCJA did not change the existing rules for deducting casualty losses with respect to property held in a trade or business or for investment.

<u>**New Restrictions On Gambling-Related Deductions For Gambling Activities By Professional Gamblers.**</u> For **"Non-Professional Gamblers"** (the vast majority of gamblers), TCJA did not change the long-standing rules that: **1)** Gambling losses are only allowed to the extent gambling winnings ("allowable gambling losses"), **2)** "Allowable gambling losses" are classified as "itemized deductions" (but not "miscellaneous itemized deductions"), and **3)** "Allowable gambling losses" provide a tax benefit only if overall itemized deductions (including "allowable gambling losses") exceed the taxpayer's standard deduction. <u>**Caution!**</u> Since TCJA significantly increased the standard deduction from 2018 through 2025, non-professional gamblers will have to incur more allowable gambling losses than before TCJA in order to gain any **actual tax benefit** from those losses.

With respect to **"Professional Gamblers,"** TCJA also did not change the long-standing rules that: **1)** Their gambling losses are only allowed to the extent gambling winnings ("allowable gambling losses"), and **2)** A Professional Gambler's "allowable gambling losses" are above-the-line deductions and are not impacted by TCJA's increase in the standard deduction. **<u>Caution!</u> From 2018 through 2025,** TCJA provides that, in addition to the gambler's gambling losses, all of a Professional Gambler's other gambling related expenses (e.g., travel expenses, meals and lodging while away from home, etc.) are likewise limited to the taxpayer's gambling winnings.

<u>Changes To The Charitable Contribution Deduction.</u> TCJA retains the charitable contribution deduction with the following changes: **1) From 2018 through 2025,** the 50% AGI limitation under prior law for cash contributions to public charities and certain other organizations **is increased to 60%,** and **2) Starting in 2018** (with no sunset date), a charitable contribution deduction is no longer allowed for contributions made to colleges and universities in exchange for the contributor's right to purchase tickets or seating at an athletic event (prior law allowed the taxpayer to deduct 80% as a charitable contribution).

- **Tax-Free Qualifying Transfers From IRAs To Charities Retained.** The popular rule allowing taxpayers who **have reached age 70½** to make a tax-free transfer of **up to $100,000** from **their IRAs directly to a qualified charity** has been retained. The IRA transfer to the charity also counts toward the IRA owner's "Required Minimum Distributions" (RMDs) for the year. **<u>Planning Alert!</u>** Since this tax break effectively allows a qualifying taxpayer to exclude all or a portion of their otherwise taxable RMDs from taxable income, it has the same tax effect as allowing an "above-the-line" deduction for the charitable contribution. Therefore, TCJA makes this tax break even more valuable for those individuals who will not itemize deductions because of the increased standard deduction.

<u>Modifications To The Deduction For Qualified Medical Expenses.</u> TCJA generally retains the existing rules for medical expense deductions. However, for **tax years beginning in 2017 and 2018** (for both regular tax purposes and AMT purposes), a taxpayer may deduct medical expenses to the extent they **exceed 7.5%** (down from 10%) of his or her AGI. The 7.5% threshold reverts back to 10% **after 2018.**

<u>Suspension Of Miscellaneous Itemized Deductions Subject To The 2% Phase-Out Threshold.</u> Before TCJA, certain "miscellaneous itemized deductions" (e.g., un-reimbursed employee business expenses, certain investment expenses) were allowed only to the extent they exceeded in the aggregate 2% of the taxpayer's adjusted gross income (AGI). **Starting in 2018,** TCJA not only repeals this 2% reduction rule, but also **suspends through 2025** any deduction for "Miscellaneous Itemized Deductions" that were subject to the 2% of AGI reduction. Examples of the expenses that are not deductible **after 2017 and before 2026** include: **Un-reimbursed employee business expenses** (as discussed in more detail below); Expenses attributable to the **management of investments;** Expenses otherwise allowed under the **"hobby loss"** rules of §183 (as discussed in more detail below); **Indirect miscellaneous itemized deductions from pass-through entities** (including partnerships, S corporations, Estates and Trusts); **Investment fees and expenses including share of investment expenses from pass-through entities.**

- **<u>Un-Reimbursed Employee Business Expenses.</u> Starting in 2018 and through 2025, "un-reimbursed"** employee business expenses are Miscellaneous Itemized Deductions, and therefore are **not deductible at all.** However, employee business expenses that are **<u>reimbursed</u>** under the employer's qualified Accountable Reimbursement Arrangement are not Miscellaneous Itemized Deductions. Thus, if an employee is reimbursed for a legitimate business expense by his or her employer under an **"Accountable Reimbursement Arrangement,"** the reimbursement is not taxable to the employee. However, reimbursements under an arrangement that is not a qualified **Accountable Reimbursement Arrangement** generally must be treated as compensation and included in the employee's W-2, and the employee would get no offsetting deduction for the business expense. **<u>Planning Alert!</u>** Generally, in order for an employer to have qualified **"Accountable Reimbursement Arrangement"** - **1)** the employer must maintain a reimbursement arrangement that requires the employee to substantiate covered expenses, **2)** the reimbursement arrangement must require the return of amounts paid to the employee that are in excess of the amounts substantiated, and **3)** there must be a business connection between the reimbursement (or advance) and anticipated business expenses. **Please call our Firm** if you need assistance in establishing or maintaining an Accountable Reimbursement Arrangement.

- **<u>Examples Of "Itemized Deductions" That Are Not "Miscellaneous Itemized Deductions."</u>** The following is a list of selected "itemized deductions" that are not "miscellaneous itemized deductions," and therefore are still deductible as itemized deductions after TCJA: Otherwise deductible gambling losses; Charitable contributions; Medical expenses; Impairment-related work expenses; Certain deductions related to the amortization of bond premiums; Otherwise deductible investment interest expense; and Deduction for "losses" from a transaction entered into for profit. **<u>Caution!</u>** Although not classified as "miscellaneous itemized deductions," TCJA placed new limitations (as previously discussed) on the following itemized deductions: Home mortgage interest; State and local taxes; and, Casualty losses.

<u>SELECTED OTHER MISCELLANEOUS CHANGES IMPACTING INDIVIDUALS</u>

TCJA also made the following tax changes that impact individuals:

<u>Re-Characterization Of Roth IRA Conversions No Longer Allowed.</u> If a traditional IRA is converted to a Roth IRA **on or after January 1, 2018,** TCJA will no longer allow the owner to later "re-characterize" that converted Roth IRA back to a traditional IRA. In other words, the conversion of an IRA to a Roth IRA cannot be undone. Under prior law, an individual was generally allowed to recharacterize the previous conversion of a traditional IRA to a Roth IRA as late as October 15th of the following calendar year. **<u>Caution!</u>** This change eliminates the previous planning technique that allowed an individual to convert from a regular IRA to a Roth IRA and then later undo the conversion (by the following October 15th) if the value of the converted Roth IRA dropped significantly after the conversion. The IRS also says that the prohibition applies to the conversion from a traditional, SEP, or SIMPLE IRA to a Roth IRA, as well as amounts rolled over into a Roth IRA from other retirement plans such as 401(k) or 403(b) plans. **<u>Planning Alert!</u>** Even after TCJA, an individual may still make an initial contribution to a Roth IRA (for 2018 up to $5,500 or $6,500 if at least age 50), and then later convert the Roth IRA to a traditional IRA (if done before the due date for the income tax return for that year).

- **<u>No Sunset Date!</u>** This rule prohibiting the re-characterization of a previous Roth IRA conversion **has no sunset date!**

<u>Extended Rollover Period For Plan Loan Offsets.</u> If an employee terminates employment with an outstanding loan from an employer's retirement plan (e.g., a 401(k) plan) and does not repay the loan, the balance of the loan is usually offset against the employee's retirement account. This offset is treated as a taxable distribution from the plan. Prior to 2018, the individual could contribute cash to an IRA within 60 days of the loan offset and the amount of the unpaid loan would not be included in the individual's income to the extent of the contributed amount. **Starting in 2018,** TCJA provides that an employee who separates from employment with an outstanding loan from an employer-sponsored retirement plan has **until the due date for filing the employee's income tax return for the year of the offset, including extensions** (instead of the previous 60-day rule), to contribute (i.e., rollover) any of the offset amount to an IRA and avoid taxation to the extent of the amount contributed.

- **<u>No Sunset Date!</u>** This provision extending the rollover period for plan loan offsets **has no sunset date!**

<u>New Exclusion For Certain Student Debt Discharges.</u> Effective for discharges after 2017 and before 2026, TCJA provides that any income resulting from the discharge of certain student debt on account of the **death or total and permanent disability** of the student is excluded from taxable income.

<u>Penalty For Failure To Purchase Health Care Coverage Repealed After 2018.</u> Starting in <u>2019,</u> TCJA essentially eliminates the penalty for failure to purchase qualified health coverage by reducing the **"Shared Responsibility Tax"** (SR Tax) **to zero. <u>Planning Alert!</u>** The SR Tax for failure to purchase qualified health care coverage **continues to apply for <u>2018,</u>** unless an exemption from the tax applies. For those without qualified health care coverage for all of 2018 (assuming no exemption applies), the **SR Tax** is generally the **greater of: 1)** 2½% of household income in excess of the income tax return filing threshold, or **2)** $695 per adult ($347.50 per child under age 18) limited to a household maximum of $2,085. **Planning Pointer!** If you or your dependent does not have qualifying health care coverage, you may qualify for an exemption, such as: You lived abroad and met certain conditions; You failed to have "qualified health plan coverage" for less than 3 months during the year; Your income is below the threshold for filing an income tax return; or, You qualify for a **"hardship exemption." Tax Tip!** Previously, to qualify for a "hardship exemption," you were required to apply for a "hardship exemption" certification with the Health Insurance Marketplace. However, the 2018 **"Draft" Form 8965** ("Health Coverage Exemptions") **does not require** you to obtain a hardship exemption certificate from the Marketplace in order to claim the exemption on your 2018 tax return. Instead, you may claim the exemption directly on Form 8965 if you experienced a hardship that prevented you from obtaining minimum essential coverage. Please contact us if you need more information on the types of hardships you would need to satisfy.

- **No Sunset Date!** This reduction of the SR Tax to zero **has no sunset date!**

ACA's "Premium Tax Credit" Is Not Repealed. TCJA **did not repeal** the refundable **"Premium Tax Credit"** under ACA for eligible low-and-middle income individuals who purchase health insurance through a State or Federal Exchange.

CHANGES IN 529 PLANS AND §529A ABLE ACCOUNTS

529 Plans Allowed To Pay K-12 Tuition. Previously, tax-favored distributions from 529 plans could only be made for post-high school education expenses. **Starting in 2018,** TCJA allows 529 plans to pay **up to $10,000 per beneficiary per year** of qualified tuition in connection with the enrollment or attendance of the designated beneficiary at **a public, private, or religious elementary or secondary school. Caution!** This annual $10,000 limitation applies on a per-student basis. Thus, an individual who is a designated **beneficiary of multiple §529 plans may receive total distributions for K-12 expenses during a taxable year of no more than $10,000.** Any excess over this amount would be treated as a distribution subject to tax under the general distribution rules for §529 plans. **Note!** TCJA retains the existing rules that allow Coverdell Education Savings Accounts (also known as education IRAs) to pay qualified K-12 expenses (as well as college costs).

- **No Sunset Date!** This provision allowing payments from 529 plans for qualified K-12 tuition **has no sunset date!**

Certain Rollovers From 529 Plan To An "ABLE Account." Starting in 2018 and through 2025, TCJA allows qualifying distributions from a 529 Plan to be rolled over within 60 days to an **ABLE Account** (i.e., a relatively new tax-favored savings account for qualified beneficiaries who are disabled or blind). To qualify, the distribution must be made either: **1)** From the designated disabled beneficiary's 529 Account to the same disabled beneficiary's ABLE Account; or **2)** From any individual's 529 plan to the ABLE Account of a "qualifying" family member of the individual. More specifically, a non-disabled individual could rollover a qualifying distribution from the individual's 529 Account to the ABLE Account set up for any of the individual's following qualifying disabled family members: **1)** Spouse; **2)** Child or descendant of a child; **3)** Brother, sister, stepbrother, or stepsister; **4)** Father, mother, or ancestor of either; **5)** Stepfather or stepmother; **6)** Niece or nephew; **7)** Aunt or uncle; **8)** In-law; **9)** The spouse of any individual described in **1)** through **8);** or **10)** Any first cousin. **Caution!** The rollover amount counts toward the overall annual limit on contributions to the ABLE Account (i.e., $15,000 for 2018).

Additional Contributions May Be Made To An ABLE Account. Starting in 2018 and through 2025, TCJA allows the designated beneficiary of an ABLE Account to make a contribution in excess of the normal limitation ($15,000 for 2018) equal to the **lesser of: 1)** The **Federal poverty line** for a one-person household ($12,140 for 2018), or **2)** The designated beneficiary's compensation for the year. In addition, the designated beneficiary of the ABLE account **may claim the saver's credit for contributions made to his or her ABLE account.** For a single individual, the saver's credit could be as high as $1,000.

ESTATE AND GENERATION-SKIPPING TRANSFER TAXES

Unified Exclusion Amount And GST Exemption Amount Increased To $11,180,000. Effective for individuals dying and generation-skipping transfers after 2017 and before 2026, TCJA increases the **Basic Unified Exclusion Amount** for gift & estate tax purposes and the generation-skipping exemption amount **to $11,180,000 for 2018** (after indexing for inflation). Previously, the exclusion and exemption amounts for 2018 were scheduled to be $5,600,000. TCJA did not change the current law provision allowing a deceased spouse's estate to elect to transfer the deceased spouse's unused Exclusion Amount (i.e., the portability election) to the surviving spouse. **Planning Alert!** Before this increase in the Unified Exclusion Amount, an individual dying in 2018 with a $11,180,000 estate would generally have had estate taxes payable of $2,232,000. After TCJA, the same estate would have estate taxes of zero. **Tax Tip!** Since the increased unified exclusion amount for gifts and the increased exemption for generation-skipping transfers are only available for gifts and generation-skipping transfers **through 2025,** individuals should examine their estate and gift tax plans in light of this temporary opportunity to make additional tax-free transfers. Feel free to call us if we can help with your estate plan.

SELECTED TAX REFORM PROVISIONS PRIMARILY IMPACTING BUSINESSES

TAXATION OF BUSINESS INCOME

PLEASE NOTE that, unless we indicate otherwise, each of the changes below **have no scheduled sunset date!**

Reduction In Corporate Tax Rate. For tax years **beginning after 2017,** TCJA provides for a flat tax rate of 21% (down from a top 35% rate) for regular "C" corporations. "Personal Service Corporations" (PSCs) are also subject to the flat 21% tax rate (down from a 35% flat tax rate). A PSC is generally a "C" corporation that is primarily in the business of providing services in the areas of health, law, accounting, engineering, architecture, actuarial sciences, performing arts, or consulting. **Caution! Before 2018,** the tax on C Corporations was calculated at graduated rates ranging from 15% to 35% of corporate taxable income. However, using these previous progressive tax rate tables, the **overall effective tax rate** for C corporations with taxable income **below $90,385 was below 21%.** Consequently, assuming the corporation previously had no exposure to the corporate AMT, the flat regular corporate rate of 21% after TCJA is effectively an overall regular tax-rate increase for C corporations with taxable income **under $90,385. Observations!** Before TCJA, a C corporation that converted to an S corporation (converted S Corporation) was potentially subject to a flat 35% corporate built-in gains tax or passive investment income tax. After TCJA, the tax rate on both of these corporate taxes potentially imposed on a converted S corporations **is reduced to a flat rate of 21%.** **Planning Alert!** The IRS has confirmed that a fiscal-year C corporation essentially uses a blended tax rate for the fiscal year that includes January 1, 2018. Please call our Firm if you have a fiscal-year C corporation and you need information on determining this blended tax rate for your corporation.

Repeal Of "Corporate" Alternative Minimum Tax (AMT). TCJA **repeals** the **corporate AMT** for **tax years beginning after 2017.** A corporation will be allowed a **refundable credit** for each of the **tax years beginning in 2018, 2019, and 2020** equal to **50%** of unused AMT credit carryovers to those respective years in excess of the regular tax for those years. Any **AMT credit carryover amount** that remains unused after applying it to the **2021** regular tax is 100% refundable. Consequently, the **entire corporate AMT credit** that carries over beyond 2017 will be recouped either as a reduction in post-2017 corporate income tax and/or a refundable credit **no later than 2021. Planning Alert!** The IRS has confirmed that a fiscal-year C corporation essentially uses a blended AMT rate for the fiscal year that includes January 1, 2018.

Decreased Dividends Received Deduction. Before TCJA, "C" corporations that received dividends from other corporations were entitled to a deduction for dividends received. If the corporation owned **at least 20%** of the stock of another corporation, an **80% dividends received deduction** was allowed. If the corporation owned **less than 20%** of the stock, a **70% deduction** was allowed. **After 2017,** TCJA reduces **the 80%** dividends received deduction **to 65%** and reduces **the 70%** dividends received deduction **to 50%.**

NEW 20% DEDUCTION FOR QUALIFYING INCOME

Background. One of the most significant and far-reaching provisions under TCJA is the ability of qualified taxpayers to take a 20% Deduction with respect to **"Qualified Business Income," "Qualified REIT Dividends,"** and **"Publically-Traded Partnership Income."** Of these three types of qualifying income, **"Qualified Business Income"** (QBI) is expected to have the biggest impact on the greatest number of taxpayers. Consequently, the remainder of this discussion focuses **primarily on QBI. Planning Alert!** The rules for determining the 20% Deduction for Qualified REIT Dividends and Publicly-Traded Partnership Income are relatively straight forward.

This deduction is available **for tax years beginning after 2017 through 2025.** If you qualify, you simply deduct it from your taxable income. The 20% Deduction does not reduce your adjusted gross income (AGI) or impact your calculation for self-employment tax. Moreover, the deduction reduces your Taxable Income regardless of whether you itemized deductions or claim the standard deduction.

Highlights Of The 20% Deduction For "Qualified Business Income." In certain situations, the rules for determining whether a taxpayer qualifies for the new 20% Deduction with respect to **Qualified Business Income (QBI)** can be quite complicated. Consequently, the discussion below provides only an "overview" of the primary requirements a taxpayer must satisfy to be eligible to take the 20% Deduction as it applies to QBI. **Caution!** If you need additional information on any matter we discuss below, please call our Firm and we will be glad to review your specific situation and help you determine whether you will qualify for this new 20% Deduction.

- **Who Could Qualify For The 20% Deduction With Respect To "Qualified Business Income" (QBI)?** Taxpayers who may qualify for the 20% Deduction for "Qualified Business Income" (QBI) generally include taxpayers who report certain types of business income as: Individual owners of S corporations or partnerships; Sole Proprietors; Trusts and Estates; and Certain beneficiaries of trusts and estates.

- **Rules For 20% Deduction For QBI Much Simpler For Taxpayers With "Taxable Income" Of $157,500 Or Below ($315,000 Or Below If Filing Joint Return).** As noted above, the rules for computing the 20% Deduction for QBI can become quite complicated in certain situations. However, as you read the following discussion, you will discover that the rules for determining the 20% Deduction for QBI are far simpler for individuals with 2018 "Taxable Income" (excluding the 20% Deduction) of **$157,500 or below** (**$315,000** or below if married filing jointly).

- **"Qualified Business Income." "Qualified Business Income" (QBI)** - that is generally eligible for the 20% Deduction is defined as the net amount of qualified items of income, gain, deduction, and loss with respect to **"any"** trade or business **other than: 1)** Certain **personal service** businesses known as **"Specified Service Trade Or Businesses"** (described in more detail below), and **2)** The **Trade or Business** of performing services **"as an employee." Caution!** W-2 wages you receive as an employee do not qualify for the 20% Deduction. Moreover, the IRS says that income you earn as an independent contractor (e.g., sole proprietor) will not qualify if it is ultimately determined that you should have been classified as a "common law" employee. Determining whether a person should be classified as a "common law" employee requires the weighing of multiple factors and is exceedingly fact specific. If you are operating as an independent contractor and would like us to assist you in determining whether you could possibly be re-classified by the IRS as a "common law" employee, please call our Firm.

  QBI Generally Does Not Include: 1) Dividends, investment interest income, short-term capital gains, long-term capital gains, income from annuities, commodities gains, foreign currency gains, etc.; **2) Reasonable compensation** paid **by a qualified trade of business to a service provider; 3)** Any **"guaranteed payment"** paid to a partner by the partnership; or **4)** Any amount allocated or distributed by a partnership **to a partner** where it is ultimately determined that the partner was **acting other than in** his or her capacity as a partner for services rendered to a partnership.

- **Basic Formula For Determining The Amount Of The 20% Deduction Where The Only Income**

<u>Qualifying For The 20% Deduction Is "Qualified Business Income."</u>

Step 1 – Calculate The "Initial 20% Deduction Amount" For Each, Separate "Qualified Trade Or Business" Interest Of The Taxpayer. The **"Initial 20% Deduction Amount"** for each owner's "Qualified Trade or Business" interests is the **<u>lesser of:</u> 1) 20%** of the owner's share of **"Qualified Business Income"** (which can be a business "loss") from the owner's interest in each **"Qualified Trade or Business,"** or **2)** The **owner's share** of the **W-2 Wage and Capital Limitation** (if applicable) for each such trade or business interest. **<u>Planning Alert!</u>** As discussed in more detail below, if your "Taxable Income" (excluding the 20% Deduction) is **$157,500 or below** (**$315,000 or below** if married filing jointly), you **<u>are not subject</u>** to the **W-2 Wage and Capital Limitation.**

Step 2 –Total Your "Initial Deduction Amounts" From Each "Qualified Trade or Business" Interest. Add the **"Initial Deduction Amounts"** in **Step 1** for each "Qualified Trade or Business" interest. This is Your **"Tentative 20% Deduction Amount."**

Step 3 – Apply Overall Limitation. The aggregate **"Tentative Deduction Amounts"** computed in Step 2 **cannot exceed 20%** of the **excess** of your "Taxable Income" (before your 20% Deduction) over your "Net Capital Gains" (if you have any). **<u>Caution!</u>** This overall limitation in Step 3 ensures that your **20% Deduction Amount** can never exceed 20% of your Taxable Income (before your 20% Deduction) less your amount (if any) of Net Capital Gains.

- **<u>W-2 Wage And Capital Limitation.</u>** For taxpayers subject to the "W-2 Wage and Capital Limitation" mentioned in step 1 above, this limitation is **<u>the greater of:</u> 1)** 50% of the taxpayer's allocable share of the business's W-2 wages paid with respect to each "Qualified Trade or Business" properly allocable to "Qualified Business Income," or **2)** The sum of 25% of the taxpayer's allocable share of W-2 wages with respect to each "Qualified Trade or Business" plus 2.5% of the taxpayer's allocable share of unadjusted basis of tangible depreciable property held by the business at the close of the taxable year and which is used for the production of "Qualified Business Income." **<u>Observation.</u>** This limitation, to the extent it applies to a taxpayer, is generally designed to ensure that the maximum 20% Deduction amount is available only to qualified businesses that have sufficient W-2 wages, sufficient tangible depreciable business property, or both.

  Good News! - Owners With Taxable Income Below Certain Thresholds Are Exempt From The W-2 Wage And Capital Limitation! As previously noted, otherwise qualifying taxpayers **are entirely exempt** from the **W-2 Wage And Capital Limitation** if the Taxpayer's **"Taxable Income"** for 2018 (computed without regard to the 20% Deduction) does **not exceed $157,500 ($315,000** if filing jointly). **<u>Caution!</u>** The Wage and Capital Limitation phases in ratably as a taxpayer's Taxable Income **goes from $157,500 to $207,500 or from $315,000 to $415,000** (if filing jointly). **<u>Planning Alert!</u>** This "Taxable Income" threshold applies separately to each individual owner of a qualifying business. For instance, assume **Owner A** and **Owner B** each **own 50%** of an S corporation that generates Qualified Business Income (QBI) and each files a joint return. If Owner A has "Taxable Income" **of $315,000 or less,** she would be **fully exempt** from the W-2 Wage and Capital Limitation with respect to her share of the S corporation's QBI. However, if Owner B's "Taxable Income" equals or **exceeds $415,000,** he would be **fully subject to** W-2 Wage Capital Limitation.

- **<u>Basic Example Illustrating The 20% Deduction Computation.</u>** Assume that taxpayer owns 50% of an S corporation (operating a retail store that is generating QBI). The S corporation has $700,000 of QBI. The taxpayer has $315,000 of "Taxable Income," has $15,000 of "Net Capital Gain," and files a joint return. Since the taxpayer's "Taxable Income" is not over $315,000, he **is not subject** to the W-2 Wage and Capital Limitation. Therefore, his 20% Deduction amount is computed as follows: **The lesser of: 1) $70,000** (20% of $350,000 - the owner's share of the S corporation's QBI of $700,000), or **2)** The owner's share of the W-2 wage and capital limitation for the trade or business (which does not apply because owner's Taxable Income does not exceed $315,000). However, the deduction may not exceed 20% of the owner's "Taxable Income" ($315,000) less His "Net Capital Gains" ($15,000) or $300,000. Therefore, the amount of the owner's 20% Deduction **is limited to $60,000** ($300,000 x 20%).

- **<u>Business Income From "Specified Service Trade Or Businesses" (SSTB) Generally Does Not Qualify For The 20% Deduction For Owners Who Have "Taxable Income" Above Certain Thresholds.</u>** Based on your "Taxable Income" (before the 20% Deduction), all or a portion of your business income from a so-called "Specified Service Trade or Business" (i.e., certain service-type operations listed below) **may not qualify** for the 20% Deduction. More specifically: **1)** If your **"Taxable Income"** (before the 20% Deduction) is **$157,500 or below** (**$315,000 or below** if married **filing jointly**), **"<u>all</u>"** of the business income from your "Specified Service Trade or Business" **(SSTB)** is eligible for the 20% Deduction; **2)** If your **"Taxable Income"** is **between $157,500 and $207,500** (between **$315,000 and $415,000** if married **filing jointly**), only **"<u>a prorata portion</u>"** of your SSTB income will be eligible for the 20% Deduction, and **3)** If your **"Taxable Income"** is **$207,500 or more** (**$415,000 or more** if married **filing jointly**), **"<u>none</u>"** of your SSTB income qualifies for the 20% Deduction.

  Example Of SSTB Income Fully Eligible For The 20% Deduction. Assume the taxpayer is a physician who owns 50% of an S Corporation (that operates the physician's medical practice which is an SSTB) and the S corporation has $700,000 of QBI. The taxpayer has $315,000 of "Taxable Income," $15,000 of "Net Capital Gain," and files a joint return. Since the physician's **"Taxable Income" is not over $315,000: 1)** Her pass-through business income from her S Corporation's medical practice (an SSTB) is **fully eligible** for the 20% Deduction and, in addition **2)** She **is not subject to** the **W-2 Wage and Capital Limitation** (i.e., as discussed previously - her Taxable Income on her joint return **does not exceed $315,000**). Therefore, her 20% Deduction Amount is computed as follows: **The lesser of: 1) $70,000** (20% of $350,000 - the owner's 50% share of the S corporation's QBI of $700,000), or **2)** The owner's share of the W-2 Wage and Capital Limitation for the trade or business (which does not apply because owner's Taxable Income does not exceed $315,000). However, the deduction may not exceed 20% of the Owner's "Taxable Income" ($315,000) less her "Net Capital Gains" ($15,000) which equals $300,000. Therefore, the amount of the owner's 20% Deduction **is $60,000** ($300,000 x 20%). **<u>Caution!</u>** If this physician (who is filing a joint return) had "Taxable Income" **of $415,000 or more**, then **"none"** of her business income from the medical practice (which is an SSTB) would be eligible for the 20% Deduction. **<u>Planning Alert!</u>** This example illustrates that a taxpayer with Taxable Income of **$157,500 or less** (**$315,000 or less** if married **filing jointly**) is provided two major benefits: **1)** The taxpayer's SSTB income is fully eligible for the 20% Deduction, **<u>and</u> 2)** The taxpayer is completely exempt from the W-2 Wage and Capital Limitation.

- **<u>"Specified Service Trade or Business" (SSTB).</u>** An SSTB is generally defined as a trade or business activity involved in the performance of services in the fields of: health, law, accounting, actuarial science, performing arts, consulting, athletics, financial services, brokerage services, any trade or business where the principal asset of such trade or business is the reputation or skill of one or more of its employees, or any trade or business involving the services of investing and investment management, trading, or dealing in securities, partnership interests, or commodities. **<u>Note!</u>** An "SSTB" **<u>does not include</u>** the performance of **architectural** or **engineering** services.

  IRS Provides Additional Guidance On SSTBs. In early August, the IRS released significant guidance on the 20% Deduction, which included examples of the types of businesses that **<u>would</u>** or **<u>would not</u> <u>be</u> classified as SSTBs.** This IRS guidance is far too lengthy to cover in detail in this letter. However, here are a **few notable examples** from that IRS guidance designed to illustrate the types of businesses that **<u>would be included</u>** (or **<u>would not be included</u>**) in the following selected **Fields of Service** that are included in the SSTB definition: **1) <u>Health</u>: Includes -** Physicians, pharmacists, nurses, dentists, veterinarians, physical therapists, psychologists; **Does Not Include -** Operation of health clubs or health spas, research, testing, and manufacture and/or sales of pharmaceuticals or medical devices; **2) <u>Law</u>: Includes -** Performance of services by lawyers, paralegals, legal arbitrators, mediators, and similar professionals; **Does Not Include -** Services by printers, delivery services, or stenography services; **3) <u>Accounting</u>: Includes -** Accountants, enrolled agents, return preparers, financial auditors, and similar professionals; **Does Not Include -** Payment processing and billing analysis; **4) <u>Performing Arts</u>: Includes -** Actors, singers, musicians, entertainers, directors; **Does Not Include -** Services by persons who broadcast or otherwise disseminate video or audio of performing arts; **5) <u>Consulting</u>: Includes -** Professional advice and counsel to clients to assist the client in achieving goals and solving problems and providing advice and counsel regarding advocacy with the intention of influencing decisions made by a government or governmental agency; **Does Not Include -** Services other than advice and counsel, such as sales or economically similar services or the provision of training and educational courses; **6)** **<u>Financial Services</u>: Includes -** Managing wealth, advising clients with respect to finances, developing retirement plans, developing wealth transition plans; **Does Not Include -** Taking deposits or making loans; **7)** **<u>Brokerage Services</u>: Includes -** Person who arranges transactions between a buyer and a seller with respect to securities for a commission or fee; **Does Not Include -** Real estate agents and brokers, or insurance agents and brokers; **8)** **<u>Investment Management</u>: Includes -** Receipt of fees for providing investing, asset management, or investment management services; **Does Not Include -** Directly managing real property; and **9)** **<u>Principal Asset Is Reputation/Skill Of Employees Or Owners</u>: Includes -** Fees for celebrity endorsements, appearance fees, and fees for use of celebrity images. **Does Not Include -** Operating business income even if generated to a large degree by the good business reputation of the owners and/or employees. **<u>Caution!</u>** Although this IRS guidance is certainly helpful, it does not address all potential SSTB situations. If you own a service-related business that is not addressed by the IRS guidance summarized above, please call our Firm. We will be glad to review your specific situation.

- **<u>In Certain Situations - Keeping Your "Taxable Income" From Exceeding $157,500 ($315,000 If Filing Jointly) May Allow You To Maximize Your 20% Deduction Amount.</u>** It's worth repeating that, if for 2018 you are expecting your "Taxable Income" (before the 20% Deduction) to be **$157,500 or below** (**$315,000 or below** if filing a **joint return**), you will have two significant advantages when it comes to qualifying for maximum 20% Deduction with respect to Qualified Business Income (QBI): **1)** Your 20% Deduction amount will not be subject to the W-2 Wage and Capital limitation, and **2)** Your business income that is generated by a "Specified Service Trade or Business" (SSTB) will be fully eligible for the 20% Deduction. Consequently, owners whose expected 20% Deduction would otherwise be significantly reduced by either of these limitations, will generally have an additional tax incentive to defer taxable income and/or increase deductions that cause their **Taxable Income** to **drop below** the **$157,500** or **$315,000 thresholds.** **<u>Planning Alert!</u>** There are many time-tested strategies for taxpayers to defer taxable income or increase deductions. For example, a taxpayer could significantly increase deductions before year-end by: Bunching into the current tax year the charitable deductions the taxpayer was planning to make over the next several years; or, Accelerating into the current tax year planned purchases of business equipment, vehicles, etc. that would qualify for the 100% 168(k) Bonus Depreciation or the 179 Deduction (both of which are discussed in more detail below). Please call our Firm if you would like additional information on these planning techniques.

- **<u>Payments By A Partnership To A Partner For Services.</u>** A partner's pass-through share of **Qualified Business Income** generally **"is eligible"** for the 20% Deduction. However, the following types of payments to a partner by a partnership **"are not eligible": 1)** Any amount that is a **"guaranteed payment"** paid by the partnership to the partner, or **2)** Any amount allocated or distributed by a partnership **to a partner** where it is ultimately determined that the partner was **acting other than in** his or her capacity as a partner for services rendered to a partnership. **<u>Caution!</u>** It is not always clear whether specific payments to a partner will fall into one of these categories that are not eligible for the 20% Deduction. In light of these potential limitations, please call our Firm if you want us to review your partnership's current payment arrangement with its partners.

<u>EXPANDED WRITE-OFFS FOR CERTAIN CAPITAL EXPENDITURES</u>

<u>Background.</u> TCJA dramatically increases the first-year deductions that may be taken for business assets qualifying for the §179 Deduction and/or the §168(k) Bonus Depreciation Deduction.

<u>100% First-Year 168(k) Bonus Depreciation Deduction.</u> For the past several years, one of the most popular tax-favored deductions has been the 168(k) Bonus Depreciation Deduction. Before TCJA, the 168(k) Deduction was equal to 50% of the cost of qualifying **new** depreciable assets placed-in-service. TCJA generally increased the 168(k) Bonus Depreciation Deduction **to 100%** for qualifying property acquired and placed-in-service **<u>after September 27, 2017</u>** and **before January 1, 2023.** After 2022 the 100% deduction begins phasing out and phases out completely after 2026.

- **TCJA Expands 168(k) Bonus Depreciation To "Used" Property.** Previously, only **"new"** qualifying property was eligible for the 168(k) Bonus Depreciation Deduction. For qualifying property acquired and placed-in-service **after September 27, 2017 and before 2027,** TCJA allows the 168(k) Bonus Depreciation to be taken on **"new" or "used"** property. Therefore, under TCJA, property that generally qualifies for the 168(k) Bonus Depreciation includes **"new"** or **"used"** business property that has a depreciable life for tax purposes of **20 years or less** (e.g., machinery and equipment, furniture and fixtures, sidewalks, roads, landscaping, computers, computer software, farm buildings, and qualified motor fuels facilities). **Caution!** Although used property acquired and placed-in-service **after September 27, 2017 and before 2027** may qualify for the 168(k) Bonus Depreciation Deduction, used property will not qualify if the taxpayer previously depreciated the property or acquired the property from certain parties related to the taxpayer.

  Planning Alert! The expansion of the 168(k) Bonus Depreciation to "used" property creates new planning opportunities including: **1)** A lessee that currently leases qualifying 168(k) property (e.g., leased equipment) from an unrelated lessor, could later purchase the property from the lessor and qualify for the 100% 168(k) Bonus Depreciation; **2)** Taxpayers that purchase the operating assets of another operating business will be able to deduct 100% of the purchase price that is properly allocated to 168(k) assets of the target business; **3)** Otherwise qualifying 168(k) property purchased new or used for personal use (e.g., a truck or passenger vehicle) which is later converted primarily to business use by the same owner can qualify for the 100% 168(k) Bonus Depreciation Deduction in the year of the conversion (**Caution!** for a car, truck, or SUV the business mileage for the year of conversion would generally have to be greater than the personal mileage); and **4)** The IRS says that a person who buys a partnership interest from an unrelated selling partner may be entitled to the 100% 168(k) Bonus Depreciation Deduction with respect to a certain portion of the purchase price of the partnership interest, if the partnership owns existing qualifying 168(k) property. **Planning Alert!** Please call our Firm if you need additional information regarding the rules for determining whether a portion of the cost incurred by a purchaser of a partnership interest might qualify for the 168(k) Bonus Depreciation.

- **Annual Depreciation Caps For Passenger Vehicles Increased.** Vehicles used primarily in business generally qualify for the 168(k) Bonus Depreciation. However, there is a dollar cap imposed on business cars, and also on trucks, vans, and SUVs that have a **loaded vehicle weight of 6,000 lbs or less.** More specifically, these vehicles **acquired and placed-in-service in 2017** and used 100% for business were generally allowed **maximum depreciation of $3,160** ($3,560 for trucks and vans) **for 2017.** Also, these caps were increased by $8,000 if the vehicle otherwise qualified for the 168(k) Bonus Depreciation.

  For qualifying vehicles placed-in-service **after 2017** and used 100% for business, TCJA increases the annual depreciation caps (without regard to the $8,000 increase) as follows: **1st year - $10,000** (up from $3,160 if placed-in-service in 2017); **2nd year - $16,000** (up from $5,100); **3rd year - $9,600** (up from $3,050); **fourth and subsequent years - $5,760** (up from $1,875). Moreover, if the vehicle (new or used) otherwise qualifies for the 168(k) Bonus Depreciation, the first year depreciation cap is increased by $8,000 (i.e., from $10,000 to $18,000). **Planning Alert!** Thus, a vehicle otherwise qualifying for the 168(k) Bonus Depreciation Deduction with loaded **Gross Vehicle Weight (GVW) of 6,000 lbs or less** used **exclusively for business** and **placed-in-service in 2018** would be entitled to a **depreciation deduction for 2018 of up to $18,000,** whether purchased new or used. Even better, if the same new or used business vehicle (which is used 100% for business) has a loaded GVW **over 6,000 lbs, 100% of its cost** (without a dollar cap) could be deducted **in 2018** as a **168(k) Bonus Depreciation Deduction.**

- **100% 168(k) Bonus Depreciation Expanded To Production Costs Related To Certain Qualified Film, TV, And Live Theatrical Productions.** Effective for productions **acquired and placed-in-service after September 27, 2017 and before 2027,** the 100% 168(k) Bonus Depreciation Deduction is available for the production costs of certain qualified film, television and live theatrical productions. To qualify, generally 75% or more of the compensation must be paid to actors, production personnel, directors and producers for services performed in the United States. **Planning Alert!** Before TCJA, generally a taxpayer could elect to deduct immediately only up to $15 million (and in some cases up to $20 million) of these productions costs. There is no dollar limit with regard to the 100% 168(k) Bonus Depreciation Deduction.

<u>TCJA Expands The 179 Deduction.</u> Another popular and frequently-used business tax break is the up-front Section 179 deduction ("179 Deduction"). Generally, TCJA makes the following changes to the 179 Deduction:

- **<u>Increased Caps.</u>** Effective for **property placed-in-service in tax years beginning after 2017,** TCJA **increases the 179 Deduction limitation** to **$1,000,000** (up from $510,000 for 2017) and increases the **phase-out threshold** to **$2,500,000** (up from $2,030,000 for 2017). These caps are to be indexed for inflation after 2018. Also, the current $25,000 cap for SUVs remains, but will be indexed for inflation beginning in 2019. **<u>Planning Alert!</u>** The $25,000 cap for SUVs applies only for purposes of the 179 Deduction. This $25,000 cap **does not apply** with respect to the 100% 168(k) Bonus Depreciation Deduction (discussed above) taken on SUVs!

- **<u>Qualifying Property Generally Expanded.</u>** Generally, "depreciable" property qualifies for the **179 Deduction** if: **1)** It is purchased **new or used, 2)** It is "tangible personal" property, **and 3)** It is used primarily for business purposes (e.g., machinery and equipment, furniture and fixtures, business computers, etc.). Off-the-shelf business software also qualifies. **<u>Planning Alert!</u>** Prior law did not allow the 179 Deduction for property used in **connection with lodging** (other than hotels, motels, etc.). **Effective for property placed-in-service in tax years beginning after 2017,** TCJA removes this restriction, so the 179 Deduction **is now allowed** for otherwise qualifying property used in connection with lodging (e.g., the cost of furnishing a home that the owner is renting to others would now qualify).

- **<u>New Definition Of "Qualified Real Property."</u> Before TCJA,** property that qualified for the 179 Deduction also included **"Qualified Real Property"** (i.e., certain leasehold improvements to existing commercial buildings; certain costs of acquiring and/or improving restaurant buildings; and, certain costs of improving the interior of existing buildings used for retail sales).

  Effective for property placed-in-service in tax years beginning after 2017, TCJA changed the definition of **"Qualified Real Property"** (which qualifies for the 179 Deduction) to mean any of the following "improvements" to an existing commercial (i.e., nonresidential) building that are placed-in-service after the commercial building was first placed-in-service: **1) "Qualified Improvement Property"** (defined below), **2) Roofs, 3) Heating, Ventilation, and Air-Conditioning Property, 4) Fire Protection and Alarm Systems,** and **5) Security Systems. <u>Tax Tip!</u>** Determining whether a major repair to a building's roof should be capitalized or deducted immediately as a repair under the voluminous capitalization regulations, is not always an easy task. Since new roofs with respect to an existing commercial building may now qualify for the Section 179 Deduction after 2017, in many situations the "capitalization vs. repair" issue relating to the replacement of roofs should largely be eliminated where the 179 limitations for the year are not exceeded.

- **<u>Definition Of "Qualified Improvement Property."</u>** The first category of "Qualified Real Property" listed above qualifying for the 179 Deduction is Qualifying Improvement Property. **"Qualifying Improvement Property"** is generally defined as: **1)** an **Improvement, 2)** to the **Interior Portion** of a nonresidential **Commercial Building** (provided the improvement is not attributable to an enlargement of the building, elevators or escalators, or the internal structural framework of the building), and **3)** provided the **Improvement** is **placed-in-service <u>after</u>** the building was first placed-in-service. **<u>Caution!</u>** The Committee Reports to TCJA make it clear that Congress intended to enact statutory language that would ensure that **"Qualified Improvement Property"** would also qualify for the 100% 168(k) Bonus Depreciation Deduction if placed-in-service after 2017. However, that intended statutory language was omitted (presumably inadvertently) from the final TCJA legislation. Consequently, the IRS in recently-released proposed regulations is taking the position that **"Qualified Improvement Property"** placed-in-service after 2017 has a 39-year depreciable life and **<u>does not qualify</u>** for **the 168(k) Bonus Depreciation Deduction,** unless and until Congress enacts legislation correcting its statutory mistake. **<u>Good News!</u>** Under the existing provisions of TCJA, it is clear that **"Qualified Improvement Property"** placed-in-service in tax years beginning after 2017 **<u>does qualify</u>** for the **179 Deduction** (subject to dollar cap limitations).

SIMPLIFIED ACCOUNTING FOR CERTAIN SMALL BUSINESSES

Overview. **Generally effective for tax years beginning after 2017,** TCJA provides the following accounting method relief for businesses with **Average Gross Receipts (AGRs)** for the **Preceding Three Tax Years** of **$25 Million or Less:** **1)** Allows "C" corporations to use the cash method of accounting (before TCJA, a C corporation, other than a personal service C corporation, could use the cash method only if it had AGRs of $5 million or less), **2)** Generally allows a business to use the cash method even if the business has inventories, **3)** Generally allows simplified methods for accounting for inventories, **4)** Generally exempts businesses from applying UNICAP, and **5)** Liberalizes the availability of the completed-contract method. **Planning Alert!** The IRS has released detailed procedures to follow for taxpayers who qualify and wish to change their accounting methods in light of these new relief provisions. Please call our Firm if you think you may qualify, and we will provide you with additional details.

CHANGES TO NOLs AND DEDUCTIONS FOR BUSINESS INTEREST

New Limits On Business Interest. **Effective for tax years beginning after 2017,** TCJA generally provides that businesses may not deduct interest expense for a taxable year in excess of **1)** Interest income, plus **2)** 30% of the business's adjusted taxable income, plus **3)** Floor plan financing interest. Any excess is carried over to subsequent years for an unlimited number of years. **Planning Alert!** Businesses with **Average Gross Receipts** for the preceding three tax years **of $25 million or less** are generally **"exempt"** from this new limitation on interest expense deduction. In addition, certain **Real Property Trades or Businesses** and **Farming Businesses** with average receipts exceeding $25 million may "elect out" of the limitation on business interest deduction. However, this election will generally require the business to use slower depreciation rates on certain depreciable assets and may restrict its ability to claim the 100% 168(k) Bonus Depreciation Deduction. **Caution!** When applicable, these interest limitation rules can be extremely complex particularly where pass-through entities (partnerships and S corporations) are involved. If you think your business exceeds the $25 million Average Gross Receipts safe harbor and you want more detailed information on these rules, please contact our Firm.

Modifications To The NOL Deduction. TCJA generally makes the following changes to the Net Operating Loss (NOL) deduction: **1)** For **NOLs arising in tax years "ending" after 2017, repeals** the prior law 20-year limitation on the number of years to which an NOL could be carried forward (i.e., the carryover period is not limited), and also **repeals** the ability to carry back the NOL to previous years (except TCJA allows NOLs attributable to certain farming businesses and certain property and casualty insurance companies to be carried back to the 2 prior tax years); and **2)** For **NOLs arising in tax years "beginning" after 2017** and carried to future years, the NOL carryforward will not be allowed to offset more than 80% of taxable income (as determined before the NOL deduction).

OTHER SELECTED MISCELLANEOUS BUSINESS CHANGES

TCJA also made changes and modifications to the following selected business provisions:

Changes To §1031 Like-Kind Exchanges. Subject to certain transition relief, **effective for exchanges completed after 2017,** TCJA allows 1031 like-kind exchanges **only with respect** to **real property** that is held in a trade or business or for investment. TCJA does not change the existing rule that disallows Section 1031 exchanges for "dealer" real estate (i.e., real estate held primarily for sale to customers in the ordinary course of taxpayer's trade or business). The potential negative impact on taxpayers due to this change include: **1) Valuable artworks** held for "investment" that constitute "personal" property (e.g., paintings, collectibles, etc.) that might have otherwise qualified for 1031 treatment before TCJA, **will no longer qualify; 2) Business vehicles and equipment** that are **traded in** for new business vehicles/equipment will be treated as a **fully taxable transaction** (i.e., taxable gain will be triggered to the extent the fair market value of the traded-in vehicle/equipment exceeds its basis); and **3)** Any portion of a building that is classified as "personal" property (e,g., nonstructural components of a building that have been treated as depreciable personal property based on a **Cost Segregation Study**) will **no longer qualify** for 1031 treatment. **<u>Planning Alert!</u>** Even though the trade in of a business vehicle or equipment will be a fully taxable transaction, the fair market value of the replacement business vehicle/equipment received in the exchange should be **fully deductible** if the replacement vehicle otherwise qualifies as new or used 168(k) property (subject to possible depreciation caps if certain passenger vehicles are involved).

<u>Repeal Of Deductions For Certain Entertainment, Amusement, And Recreation Activities.</u> Effective for amounts paid or incurred after 2017, TCJA repeals all business deductions with respect to: **1)** An activity generally considered to be entertainment, amusement or recreation, **2)** Membership dues with respect to any club organized for pleasure, recreation or other social purposes, or **3)** A facility or portion of a facility used in connection with either of the above. **<u>Planning Alert!</u>** Initially, some questioned whether this new provision also eliminated the current 50% deduction for business meals with customers or clients. Fortunately, the IRS recently announced that taxpayers can still generally deduct 50% of the cost a taxpayer incurs for meals with a business associate (i.e., a current or potential business customer, client, consultant, or similar business contact). In addition, the IRS stated that a taxpayer could deduct 50% of the cost of food and beverages provided during a nondeductible entertainment activity with a business associate provided the food and beverages are purchased separately from the entertainment, or the cost of the food and beverages is stated separately from the cost of the entertainment on one or more bills, invoices, or receipts. **<u>Caution!</u>** If an employer reimburses an employee's deductible business meal and beverage expense under an Accountable Reimbursement Arrangement, the employer could deduct 50% of the reimbursement. However, as discussed earlier, an employee who is not reimbursed by the employer for the business meal would get no deduction because un-reimbursed employee business expenses are no longer deductible under TCJA (from 2018 through 2025).

<u>Changes For Meals Provided To Employees On Employer's Premises.</u> Under prior law, an employer could generally **deduct 100%** of the cost of business meals that were excludable from the income of employees because they were provided at an employer-operated eating facility **for the convenience of the employer.** TCJA generally retains this provision with the following modifications: **1) Effective for amounts incurred and paid after 2017 and before 2026,** the employer **may deduct only 50%** (down from 100%) of these employer-provided meals at an employer-operated eating facility, and **2) Effective for amounts paid or incurred <u>after December 31, 2025,</u>** TCJA **repeals the deduction altogether** for these employer-provided meals at an employer-operated eating facility.

<u>Repeal Of Technical Termination Of Partnerships.</u> Under prior law, for tax purposes, a partnership was deemed terminated if there was a **sale or exchange of 50% or more** of the total interest in partnership capital and profits. This so-called technical termination generally caused: **1)** Some of the tax attributes of the old partnership to be terminated, **2)** The partnership's taxable year to be closed (potentially resulting in short tax years), **3)** Partnership-level elections generally to be terminated, and **4)** The partnership depreciation recovery periods to be restarted. **Effective for partnership tax years beginning after December 31, 2017,** TCJA **repeals altogether this technical termination rule** related to the sale or exchange of 50% or more of the partnership interests.
<u>Carried Interest.</u> Effective for taxable years beginning after 2017, TCJA essentially increases a partnership's long-term capital gain holding period from 1 year to 3 years for pass-through capital gains that pass-through to certain partners holding an interest in a partnership received for performing services. The provision would generally apply to a partner who received his or her partnership interest in connection with the performance of substantial services in a trade or business activity that involves the raising of capital and either investing or developing certain assets (e.g., securities assets, rental or investment real estate).

<u>New Employer Credit For Qualified Paid Family Leave Program.</u> Effective for wages paid in tax years beginning **in 2018 and 2019,** TCJA provides a general business credit for Qualified Employers that have a written policy providing at least two weeks annual paid family and medical leave to qualifying full-time employees and the policy requires employees to receive at least 50% of normal pay during the leave. The credit equals 12.5% of the wages *"paid"* to Qualified Employees during any period in which employees are on Qualified Family and Medical Leave. The credit is increased by .25 percentage points (but not above 25%) for each percentage point by which the employer's policy requires a rate of pay that exceeds 50%. The maximum amount of family and medical leave that may be taken into account for any one employee for a tax year is 12 weeks. **Planning Alert!** The IRS recently provided detailed guidance on the procedures for implementing a Qualified Paid Family Leave Program. Please call our Firm if you would like additional information.

FINAL COMMENTS

The **Tax Cuts And Jobs Act Of 2017** is mammoth in its scope and reach, and we have attempted to discuss only selected provisions that we believe will have the greatest impact on the largest number of our clients. If you have heard of a provision in TCJA that we did not address in this letter (or if you want additional information on a topic we did discuss), please contact us. In addition, please call us before implementing any planning ideas discussed in this letter, or if you need additional information. **Note!** The information contained in this material represents a general overview of selected provisions in the **Tax Cuts And Jobs Act Of 2017** and should not be relied upon without an independent, professional analysis of how any of the items discussed may apply to a specific situation.