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CERTIFIED PUBLIC ACCOUNTANTS

January 14, 2016 – 2015 Year-End Tax Legislation

In mid-December, Congress passed and President Obama signed two new laws: the Protecting Americans from Tax Hikes Act of 2015 (PATH Act) and the Consolidated Appropriations Act, 2015 (known as the fiscal year (FY) 2016 omnibus). The tax provisions in the new laws impact all types of taxpayers. This letter presents a high level overview of the tax provisions in the new law. Keep in mind that every taxpayer's situation is unique. Some taxpayers may benefit more from certain changes in the new laws than others. That's why it is important to carefully study the changes made to the tax laws by the PATH Act and the FY 2016 omnibus. The first quarter of 2016 provides a good opportunity to review the new tax laws and their potential impact on your tax-strategy. Please contact our office to schedule a time to discuss the new tax laws in detail and how we can adjust your tax strategy.

Tax extenders

The tax extenders are popular but traditionally temporary tax breaks. There are more than 50 extenders, which in past years have routinely been extended for one or two years. The PATH Act takes a different approach. The PATH Act extends permanently some, but not all, of the extenders. The permanent extenders include:

- Reduced earnings threshold for additional child tax credit
- Earned income credit modifications
- Teachers' classroom expense deduction
- State and local sales tax deduction
- Transit benefits parity
- Special rule for qualified conservation contributions
- Tax-free distributions from IRAs for charitable purposes for individuals age 70 1/2 and older
- Enhanced Code Sec. 179 expensing
- Research tax credit
- Tax treatment of certain payments to controlling exempt organizations
- Basis adjustment to stock of S corporations making charitable contributions of property
- Employer wage credit for activated military reservists
- 15-year straight-line cost recovery for qualified leasehold improvements, qualified restaurant buildings and improvements, and qualified retail improvements
- Treatment of certain dividends of regulated investment companies
- Exclusion of 100 percent of gain on certain small business stock
- Reduction in S corp recognition period for built-in gains tax
- Subpart F exception for active financing income
- Temporary minimum low-income housing tax credit rate for non-federally subsidized buildings
- Military housing allowance exclusion for determining whether a tenant in certain counties is low-income
- RIC qualified investment entity treatment under FIRPTA
- Charitable deduction for contributions of food inventory

Extenders extended through 2019. The PATH Act also extends, and in some cases modifies, through 2019, the New Markets Tax Credit, Work Opportunity Tax Credit, bonus depreciation, and look-through treatment of payments between related controlled foreign corporations.

Extenders extended through 2016. Additionally, the PATH Act extends, and in some cases modifies, through 2016, the:

- Exclusion from gross income of discharges of acquisition indebtedness on principal residences
- Mortgage insurance premiums treated as qualified residence interest
- Deduction for qualified tuition and related expenses
- Indian employment tax credit
- Qualified zone academy bonds
- Seven-year recovery period for motorsports entertainment complexes
- Accelerated depreciation for business property on an Indian reservation
- Election to expense mine safety equipment
- Special expensing rules for certain film and television productions
- Code Sec. 199 deduction for Puerto Rico
- Empowerment zone tax initiatives
- Increase in limit on cover over of rum excise taxes to Puerto Rico and the Virgin Islands
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Energy extenders

Included in the PATH Act are extensions of extenders intended to encourage energy conservation and the development of non-fossil fuel energy sources. These incentives include the Code Sec. 25C credit for nonbusiness energy property, credit for alternative fuel vehicle refueling property, second generation biofuel producer credit, biodiesel and renewable diesel incentives, credit for the production of Indian coal facilities, credit for energy-efficient new homes, special allowance for second generation biofuel plant property, energy efficient commercial buildings deduction, special rule for sales or dispositions to implement FERC or state electric restructuring policy for qualified electric utilities, excise tax credits and payment provisions relating to alternative fuel, and credit for fuel cell vehicles. The FY 2016 omnibus provides for an extension of the wind production tax credit (subject to phase-down) and certain incentives for solar power (also subject to phase-down).

529 plans

Code Sec. 529 plans are popular vehicles to save for higher education. The PATH Act provides that qualified higher education expenses for 529 plans include the purchase of computers and software. The PATH Act also revises the rules for aggregation and refunds. The PATH Act also makes some taxpayer-friendly changes to ABLE accounts.

Affordable Care Act

When Congress passed the Affordable Care Act (ACA) in 2010, lawmakers included a number of revenue raisers to help offset the cost of health care reform. The ACA imposes an excise tax on qualified medical devices. The ACA also imposes an excise tax on high-cost employer-sponsored health insurance. Additionally, the ACA imposes a fee on health insurance providers. These three provisions in the ACA are modified by the PATH Act and the FY 2016 omnibus.

The PATH Act imposes a two-year moratorium (for sales in 2016 and 2017) on the ACA's excise tax on qualified medical devices. The FY 2016 omnibus provides for a two-year delay of the excise tax on high-cost employer-sponsored health coverage (also known as "Cadillac" plans). Under the FY 2016 omnibus, the excise tax on high-cost plans will first be effective in 2020 rather than in 2018, as originally scheduled by the ACA. The FY 2016 omnibus also makes the excise tax on high-cost plans deductible as a business expense.

Employee benefits

Included in the PATH Act are clarifications for church plans and certain governmental plans. The PATH Act also affects rollovers into SIMPLE IRAs. Another provision relates to retirement benefits for certain federal law enforcement officials.

IRS budget and operations

Many taxpayers experienced problems contacting the IRS during the 2016 filing season. The IRS could not answer all of the calls it received from taxpayers with questions. In fact, customer service levels fell to new lows. According to the IRS, cuts to its budget in recent years contributed to its poor customer service. The FY 2016 omnibus allocates an additional $290 million above FY 2015 levels to the IRS to improve customer service. Congress also directed the IRS to use the additional funds to improve cybersecurity and continue to uncover and prevent tax-related identity theft and refund fraud.

Lawmakers also codified the agency's Taxpayer Bill of Rights, prohibited the use of personal email for official business, and provided for termination of employment for taking official actions for political purposes, among other changes for agency employees. The year-end legislation also includes a number of provisions affecting how the IRS reviews and grants applications for Code Sec. 501(c)(4) status and the issuance of regulations for Code Sec. 501(c)(4) organizations.

Tax Court

Congress also tweaked the rules for the U.S. Tax Court. The PATH Act provides for certain administrative changes to the Tax Court's operations, impacting areas such as the filing period for interest abatement cases, venue for appeal of spousal relief and collection cases, judicial conduct, and judicial conferences.

REITs

The PATH Act makes a number of changes to real estate investment trusts (REITs). These include restrictions on tax-free spinoffs, repeal of a preferential dividend rule for publicly offered REITs, treatment of certain services provided by taxable REIT subsidiaries, and more.

Revenue provisions

Included in the year-end legislation are several measures treated as revenue raisers. These provisions include updated standards for the energy efficient commercial buildings deduction, excise tax equivalency for liquefied petroleum gas and liquefied natural gas, exclusion from gross income of certain clean coal power grants, clarification of valuation rule for early termination of certain charitable remainder unitrusts, prevention of transfer of certain losses from tax indifferent parties, and treatment of certain persons as employers with respect to motion picture projects.

Looking ahead

Passage of the PATH Act and the FY 2016 omnibus has some lawmakers predicting that Congress will tackle comprehensive tax reform in 2016. On the table are numerous tax reform proposals to overhaul individual and business taxation, lower the corporate tax rate, revise the rules for international taxation, and much more. Our office will keep you posted of any progress with comprehensive tax reform in 2016.

The PATH Act and the FY 2016 omnibus include other provisions not described here. There are a number of provisions targeted to specific taxpayers, just touched on here. As always, please contact our office for more details about the PATH Act and the FY 2016 omnibus.