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2019 Year-End Tax Planning for Individuals

As the end of 2019 approaches, more and more information and guidance is released by the IRS relating to the Tax Cuts and Jobs Act, (TCJA) as well as guidance relating to several different areas not impacted by the landmark tax reform act. While some of the claimed benefits of tax reform were the simplification of filing, the lowering of income tax rates, the increased standard deduction, (severely limiting itemized deductions), no personal exemptions, an increased child tax credit and fewer and fewer taxpayers being subject to the AMT tax, there are still many steps that individuals can take now that can lower their tax bills. Planning during the final weeks of this year involves much more, both in terms of traditional year-end strategies and strategies developed in response to developments that have taken place over the last couple of years.

Despite these major changes, the time tested approach of deferring income and accelerating deductions, along with bunching expenses into one year to minimize taxes, still works. Individuals should postpone income until 2020 and accelerate deductions into 2019 if doing so will enable the taxpayer to claim larger deductions, credits, and other tax breaks that are phased out over varying levels of adjusted gross income. Some of these tax breaks are child tax and education credits, deductions to IRA accounts, and student loan interest deductions. Postponing income is beneficial for individual taxpayers who expect to be in a lower tax bracket next year, due to changes in their financial circumstances. Or if you feel you might be in a higher tax bracket next year, you might want to accelerate income into 2019.

Here are some things your can do now or you can consider, to help you with your year-end planning techniques:

Data gathering - Year-end planning should start with data collection and a review of your prior year returns. This includes information on losses or other carryovers, estimated tax installments, and items that were unusual. Conversations regarding next year should include discussions of any plans for significant purchases or dispositions, as well as any possible life cycle events.

Life cycle events - The biggest variables for many taxpayers impacting their year-end tax planning surrounds life events such as marriage, divorce, birth or adoption of a child, a new job or the loss of a job, retirement, casualty losses, changes in medical expenses, moving, business successes and/or failures, and your losing credits on a return, because your child became one year older in 2019. These life events may, for instance, result in a change in filing status that will affect tax liability. The possibility of significant changes and/or significant or unusual items of income or loss should also be part of a year-end tax

strategy. Additionally, taxpayers need to look into the future and predict, if possible, any events that could trigger significant income, losses, or deductions.

Income tax rates - One of the most significant factors in tax planning for individuals is their tax bracket. The most direct control taxpayers have over their tax bracket rests in their ability to control the timing of income and deductible expenses. For example, taxpayers who expect to be in a lower tax bracket in 2020 should consider deferring income to 2020 and accelerating deductions into 2019. While tax brackets seem as though they will be relatively stable for the next few years, individual circumstances could mean a shift in brackets from year to year. In 2019 the top rate of 37% begins at $510,300 for head of households and single filers, and $612,350 for joint filers.

If you are due a year-end bonus, it may be advantageous for you to try to arrange with your employer to defer the bonus until early 2020.

Estimated tax penalty – Many individuals who formerly received large refunds, found instead, that they had to pay large tax bills, when they filed their 2018 tax returns. The IRS announced in 2018, that it would only impose a penalty on individuals for underpayment of estimated taxes, if less than 80 percent of taxes were withheld or paid during 2018, instead of the normal 90 percent that the IRS used in other years. It is unlikely that the IRS will grant this kind of relief again for 2019. Taxpayers again should check their withholdings and estimated tax payments to make sure they have enough withheld, or paid in, to cover their projected 2019 tax liability.

3.8% surtax - Higher-income earners must be aware that there is a 3.8% surtax on certain unearned income. The surtax is 3.8% of the lesser of net investment income, or the excess of modified adjusted gross income over a threshold amount. The threshold amount is $250,000 for joint filers or surviving spouses, $125,000 for married individuals filing separately, and $200,000 for all others. If your projected income comes close to these amounts, you should consider ways, through deferrals, to minimize your income.

One thing you can consider is electing installment sale treatment so that gains are spread over a couple of years. By spreading the gains over several years, your net investment income and modified adjusted gross income may be reduced to minimize or eliminate the 3.8% surtax.

Another thing you can think about is changing how you invest your money into tax exempt income, verses taxable income. Tax exempt income is not subject to the 3.8% surtax. You also should consider how your state will tax this income, before you make any decisions to change your investment portfolio.

.9% additional Medicare tax – The .09% additional Medicare tax kicks in when wages and self-employment income exceeds threshold amounts. The threshold amount is $250,000 for joint filers, $125,000 for married couples filing separately, and $200,000 for all others. Employers are required to withhold this additional Medicare tax from wages in excess of $200,000, regardless of a person's filing status. If an individual changes jobs during the year and earns less than $200,000 on each job, and at year end, goes over the threshold amount for their filing status, the taxpayer would owe the additional Medicare tax, but there would be no withholding on it by their employers. Estimated tax payments might then be required.

If you underpaid your estimated taxes during the year, you could be facing a penalty for underpayment of estimated tax. One way to correct this is to ask your employer to withhold additional federal, state and

city taxes from your remaining paychecks, or if you are receiving retirement income, you can ask the payer also to withhold additional taxes for you to make up for the under paid estimated tax.

Investments - Taxpayers holding investments, whether in the form of securities, real estate, collectibles, or other assets, often have an opportunity to reduce their overall tax bill by some strategic buying and selling toward the end of the year, as well as, exchanging appreciated assets for like-kind exchange property in order to defer gains. Tax rates on investments are also impacted by the total amount of your income, so a determination should be made as to what is the best time to sell investments. Balancing tax considerations with other factors is part of the challenge in dealing with investments, including the ordinary income tax rates, the net investment income tax rates, the capital gains tax rates, and the alternative minimum tax (AMT) rate.

Long-term capital gains from sales of most assets held for over one year are taxed at 0%, 15% or 20% depending on a taxpayer's taxable income. Each year, the maximum capital loss that a taxpayer can take is limited to $3,000, or if married filing separately, $1,500. The remaining capital losses are carried over to future years. Net short term capital gains are taxed as ordinary income.

Long term capital gains on so-called "collectible assets" are generally taxed at 28%. Collectible assets are things like coins, precious metals, antiques and fine art.

In addition, if you sold property that was required to be depreciated, the depreciation that you took, or should have taken, in years that you owned the property, is subject to a 25% depreciation recapture tax rate.

It is not known how long the capital gains rates will stay at the current level. You might want to look at your investment gains and/or losses now, to see if you should sell any stocks to help you lower your taxes. Capital gains from sales of investments are subject to the 3.8% surtax, if you are subject to this additional tax.

The 20% rate applies when taxable income for married filing joint filers is $488,850 or higher, for head of household filers, the amount is $461,700 or higher and for single filers the amount is $434,550 or higher.

Planning opportunities include considering holding capital assets for at least 12 months in order to get the benefit of long term capital gain rates or considering selling unrealized loss positions in your investment portfolios, to offset capital gains recognized already for investments sold earlier in the year.

IRA conversions – If you are eligible to do so, and if you are interested in converting your traditional IRA to a Roth IRA, consider converting traditional IRA money invested in undervalued stocks or mutual funds, into a Roth IRA. Remember, however, that this conversion will increase adjusted gross income for 2019 and possibly reduce tax benefits, or cause you to pay taxes on other income, as well.

Required minimum distributions – Individuals must remember to take required minimum distributions from their IRA, 401K plans, or from any other employer sponsored retirement plans. Required minimum distributions from these plans must begin by April 1st of the year following the year an individual reaches age 70 ½. Individuals who are not 5% owners and who continue to work may defer required minimum distributions until April 1st following the year that they retire from their employer based retirement plan. You must take required minimum distributions form your traditional IRA after you reach age 70 ½ regardless of your work status. Roth IRAs do not have any minimum withdrawal requirements.

Failure to take a required withdrawal can result in a penalty of 50% of the amount of the required minimum distribution not withdrawn. If you turn age 70 ½ in 2019, you can delay the first required distribution to 2020, but you will have to take a double distribution in 2020, the amount required for 2019, plus the amount required for 2020.

A planning opportunity exists here, as you can decide if you want to bunch income into 2020, as you plan on being in a lower tax bracket that year, since you no longer have wages or some other income. You should call us to discuss what you project your future income to be.

For individuals who can no longer itemize, taxpayers that are age 70 ½ or older by the end of 2019 and have traditional IRAs, they might want to consider making 2019 charitable donations, via a qualified charitable distribution from their IRA account. Such distributions are made directly to charities from their IRA accounts, and the amount of the contribution is neither included in gross income, nor deductible on Sch. A, Form 1040. The amount of the qualified charitable distribution reduces the amount of the taxpayer's required minimum distribution, which in turn would save the taxpayer some tax dollars.

Education – Individuals can claim a credit for tuition paid in 2019, even if the academic period begins by the end of March 2020. If your income bracket qualifies you for an education credit, this is one way that you might be able to get an education credit on your 2019 tax return.

The Tax Cut and Jobs Act also allows you to take a distribution of up to $10,000 from a 529 plan for elementary and high school education. Previously, this distribution was only allowed for college tuition and expenses. However, many states have not yet amended their 529 plans to follow what the federal government is allowing. So, if you plan on taking money out of a 529 plan, for elementary and high school education, you must first check with the state plan, to see if the distribution will be taxable, or not taxable, in your state.

401K contribution – Your adjusted gross income can be reduced if individuals increase the amount of their 401(k) contributions. The maximum amount allowed for 2019 is: $19,000 if you are under age 50, and if you are age 50 or older, a catch-up contribution of $6,000 is allowed.

IRAs – For 2019 if you are under the age of 50, you can contribute up to $6,000 into IRA accounts. Individuals that are age 50 or older, are eligible to make an additional catch-up contribution of $1,000 to an IRA.

Net operating losses – The TCJA limited a net operating loss deduction allowed up to 80 percent of taxable income (determined without regard to the deduction), for most individuals. In addition, all net operating losses generated in 2018 and later years, may only be carried forward. The two year carryback rule in effect before 2018 generally no longer exists.

2019 tax law changes- Nearly all the provisions of TCJA came into effect during 2018. However, there are some new tax laws that came into effect in 2019 that individuals should be aware of.

Alimony - One very significant change that came into effect January 1, 2019, is the treatment of alimony. Beginning with divorces and separation agreements entered after December 31, 2018, alimony or separate maintenance payments are no longer deductible by the payer, nor includible in the income of

the payee. This change does not affect divorce or separation agreements entered before 2019, nor those altered after 2018 where the changed method of taxation is not expressly stated to apply.

Medical expenses - The floor for claiming deductions for medical expenses increased to 10 percent for 2019 after TCJA lowered it to 7.5 percent in 2018. Some taxpayers may be able to work around this adjusted gross income limitation by applying a "bunching strategy" to pull or push discretionary medical expenses into the year where they will do some tax good.

Repeal of health insurance penalty - The repeal of the individual mandate penalty for those without qualified health insurance took place this year. Therefore, if you do not have health insurance, there no longer will be a penalty for not having health insurance on your tax return.

The Affordable Care Act did not eliminate the obligation of an Applicable Large Employer (those with 50 or more full-time or full-time equivalent employees) to provide affordable health coverage.

Cryptocurrency - On October 9th, the IRS issued the first cryptocurrency tax guidance since 2014. The new revenue ruling provided answers to questions covering basis, gains, or losses, on the sale or exchange of digital currency and ways to determine the fair market value on the tax treatment of a cryptocurrency hard fork. It also provides guidance clarifying when taxes are due. Keeping accurate records is increasingly critical. The IRS will penalize taxpayers for non-compliance.

On Schedule 1 this year, there is now a question about whether you received, sold, sent or exchanged any financial interests in any virtual currencies, and this question must be answered by all taxpayers.

Additional 2019 tax information:

Standard deduction and personal exemptions – The standard deduction for 2019 is $24,400 for joint filers, $18,350 for heads of household and $12,200 for single filers. In addition, single filers get an additional $1,650 exemption if they are over 65 or legally blind, and married filing joint filers each get an additional $1,300 exemption if they are over 65 or legally blind.

The TCJA allows a child tax credit of $2,000 for a qualifying child under the age of 17, with a work eligible social security number. The credit phases out for couples with an adjusted gross income over $400,000 mfj, and $200,000 for singles. The TCJA also added a $500 nonrefundable credit for each dependent of the taxpayer who is not a qualifying child under age 17.

Social security - The FICA wage cap for 2019 is $132,900.

Gift tax exclusion -- The gift tax exclusion remains at $15,000.

Estate tax exemption - The exemption for 2019 is $11,400,000 and the portability election still exists. The "portability election" refers to the right of a surviving spouse to claim the unused portion of the federal estate tax exemption of their deceased spouse and add it to the balance of their own exemption.

Mileage rates – For 2019, the business travel standard mileage rate is 58 cents, a mile, the medical travel rate is 20 cents a mile, and the charitable travel rate is 14 cents a mile.

2018 tax law changes – As a reminder, these changes took place last year.

State and local taxes – The deduction for state and local taxes is limited to $10,000 per year. If your tax limit has not reached the maximum amount allowed, you can pay your fourth quarter estimated state tax payment in December of 2019, instead of in January 2020. Also, if your local law permits you to pay in advance, you can pay your 2020 real estate taxes in December 2019, instead of in January 2020. As with income deferral and expense acceleration, you need to consider your tax bracket status when timing deductions. Itemized deductions are worth more when you are in a higher tax bracket. If you expect to be in a higher tax bracket in 2020, you will save more by timing the deduction for that year.

The $10,000 SALT limitation does not apply to a trade or business. It is important that you segregate taxes paid for personal, business and investment activities, so you can maximize your deductions.

Miscellaneous itemized deductions – The Tax Cuts and Job Act eliminated miscellaneous itemized deductions for individuals. This includes deductions for unreimbursed employee expenses, and tax preparation fees. With the loss of being able to deduct employee business expenses, employees should ask their employers if the expenses can be paid through an accountable plan. This is a nontaxable benefit to the employee and if the employee complies with the laws of the plan, they will be able to be reimbursed for their expenses, which no longer are deductible, and not have to put the reimbursement into income.

Casualty losses - Personal casualty and theft losses are deductible only if they are attributable to a federally declared disaster, and only to the extent the $100 per casualty and 10% of adjusted gross income limits are met.

Charitable deductions - Cash gifts or donations to a public charity are deductible up to 60% of your adjusted gross income. You can also donate property to a charitable organization. If you donate appreciated property and the fair market value of the property exceeds the cost basis and if you use as a deduction the fair market value of the property, then the maximum amount of the deduction is limited to 30% of your adjusted gross income. If instead you wish to use the cost basis of the donated property, the maximum deduction increases to 50% of your adjusted gross income. This is true for donations of appreciated property to private operating foundations, as well as donations to non-operating foundations. Where there is a combined contribution of appreciated property and cash, the total contribution is limited to 50% of adjusted gross income. Charitable contributions produce no tax benefit until the standard deduction is reached. If you cannot itemize one year, you might want to consider bunching or stacking several years' worth of contributions into a single year, so that the itemized deduction then exceeds the standard deduction for that year, and you now will get an additional tax benefit, for the contributions that you are making.

Mortgage interest limitation - The Tax Cuts and Job Act reduced the amount of home mortgage acquisition debt from $1,000,000 to $750,000 on which interest can be deducted for tax years 2018 through 2025. The TCJA also eliminated the ability to deduct as home mortgage interest, amounts paid on up to $100,000 of non-acquisition debt, known as "home equity debt". If the new funds are borrowed through a home equity loan and are used for acquisition debt purposes, or for home improvements, they are subject to the $750,000 deduction limit. The TCJA suspends the prior provision that allowed up to $100,000 of interest on home equity debt to be treated as deductible qualified residence interest. This means that you can no longer borrow against your home to purchase a car or use the funds to pay for school expenses for your children and take a mortgage interest deduction on your tax return. It is important that you keep track of how you spend proceeds of a home equity loan. If you use the money

to acquire business assets, that portion will be deductible as trade or business interest, or as investment interest expense, if the funds are used to purchase other types of investments.

Under a grandfather rule, for acquisition debt in place before December 15, 2017, the $1,000,000 limit continues to apply. Interest on debt incurred prior to December 15, 2017, but refinanced later, is deductible to the extent the new debt does not exceed the original debt.

If you no longer can itemize, and get a deduction for this interest expense, you might want to consider paying down your mortgage.

Additional things to consider:

Investment in a qualified opportunity zone – Although the capital gains rates are low, some taxpayers still would prefer to defer paying any tax until a later date. The TCJA added a new way to defer the tax on capital gains for up to seven years by investing in a qualified opportunity zone. There are opportunity zones set up in all 50 states. The zones are designed to attract private capital to rehabilitate disadvantaged and impoverished areas of America. To take advantage of this tax deferral, you must invest the gain from the sale of a capital asset into an opportunity zone within six months after the date of sale. For partnerships, the date starts at the end of the partnership's tax year. Some tax benefits include:

1 – Tax on the initial capital gain is deferred until December 2026, unless you sell the asset earlier.
2 – If the proceeds are invested in the fund for five years, 10% of the initial gain is not taxed.
3 – If the proceeds remain invested for an additional two years, another 5% of the gain is not taxed.
4 – In order to achieve the full 15% exemption, the investment must be made before December 31, 2019.
5 – If you hold the opportunity zone investment for a full ten years, any appreciation on the original investment is exempt from tax. This doesn't affect the tax treatment of the original, reinvested gain.

The IRS has issued only proposed regulations at this time, but the tax treatment and benefits are advantageous

Passive activities - Each taxpayer's passive activity portfolio should be reviewed, to determine whether disposing of a passive activity in 2019 will allow the taxpayer to deduct suspended passive activity losses.

Tax legislation - Several bills have been proposed during 2019, but none of them have seen much advancement. Congress came close to passing the SECURE Act, which would have made changes to retirement savings and employer retirement contribution provisions, but that has stalled in the Senate. There also has been talk of a technical corrections bill, as well as Tax Reform 2.0, but it is unlikely that there will be any progress on either of these bills before the end of 2019.

In addition, there are more than 30 taxpayer friendly provisions for tax extenders, which include several energy-related business credits, the above-the-line deduction for tuition and fees, the treatment of mortgage insurance premiums as qualified residence interest, as well as the exclusion of the cancelation of debt income on primary residences. These provisions have not been extended so far.

What did pass was the Taxpayer First Act. This bill was signed by President Trump on July 1, 2019. The bill made some modifications to private debt collections, improved customer service functions, and enhanced identity theft protections, along with a new independent appeals function being created.

2019 Year-End Tax Planning for Businesses

As year-end approaches, each business should consider the many opportunities that might be lost if year-end tax planning is not explored. A business may want to consider several general strategies, such as the use of traditional timing techniques for delaying income recognition and accelerating deductions. A business should also consider customized strategies tailored to its situation.

For the 2019 tax year, taxpayers have relative clarity with respect to available credits and deductions. Except for a handful of industry specific tax credits and deductions that expired at the end of 2017, most temporary credits and deductions were permanently extended several years ago. A handful of other credits expire in 2019 through 2021.

The last few months of the year provide an important "last chance" to change the final course of your businesses tax year before it closes for good. Some of the reasons why year-end tax planning toward the end of 2019 may be particularly fruitful are as follows:

Business credits and deductions - Many business-related tax credits and deductions that were periodically scheduled to expire were permanently extended in 2015. Others were twice extended one year for both 2016 and 2017 and are not available for the 2019 filing season unless extender legislation is enacted. A few were extended for a five-year period. Some others were modified and extended by TCJA. Taking inventory of what deductions and credits your business has been using and whether they remain available or will be removed soon can significantly impact your bottom line. Many of the provisions now periodically extended relate to energy-related activities, or specific industries, but it is important to make sure that any credits are thought about considering their availability.

Depreciation and expensing - TCJA made some significant changes to encourage business to expand and invest in new property. First-year depreciation allowances on certain business property, or bonus depreciation, has fluctuated over the last few years, but TCJA provides for 100 percent bonus depreciation for property placed in service before 2023. The property bought can be used (with some exceptions) or new property. The 100% deduction is permitted without any proration based on when the asset was put into service, so you will get this 100% deduction, even if the asset is in service for only a few days in 2019. Bonus depreciation can only be taken on property with a life of 20 years or less. It is not available for the enlargement of a building or for the internal structural framework of a building.

Additionally, the limitation on expensing certain depreciable assets has been increased to $1.2 million with a $2.55 million investment limitation (subject to annual inflation adjustments). While 2019 is not necessarily the last time these benefits will be available, there has been no better time to take advantage of them. Expensing is available for most depreciable property, other than buildings, escalators or elevators. It is also available for qualified improvement property, which is generally any interior improvement to a building. Roofs, heating ventilation and air conditioning property, fire protection and alarm systems and security systems also qualify for the 179 deduction.

Qualified business income deduction - Beginning in 2018, business owners, sole proprietorships, partnerships, trusts and S corporations can deduct up to 20% of their qualified business income (QBI) from their taxable income. This is one of the centerpieces of TCJA, and broadly applies to many taxpayers. The

IRS has released comprehensive guidance on this deduction. This is a completely new deduction, with new documentation requirements.

The credit also is reduced, and eventually eliminated, for certain taxpayers once their income exceeds certain amounts, so a year-end review may be helpful to get the most out of the deduction. For 2019, if taxable income exceeds $321,400 for a married couple filing jointly, $160,700 for singles and heads of household, the deduction may be limited based on whether the taxpayer engaged in a service type trade or business, such as consulting, health, accounting, or law, or if the trade or business is not considered a service type business. For service type trades or businesses, once your income exceeds these amounts, there no longer is a QBI deduction.

The amount of the W-2 wages paid by the trade or business and/or the unadjusted basis of qualified fixed assets, such as machinery and equipment held by the trade or business will also be used to calculate the deduction. The limitations are phased in, for example, for married filing joint taxpayers with taxable incomes between $321,400 and $421,400 and for single taxpayers with taxable incomes between $160,700 and $210,700.

Again, taxpayers may be able to achieve significant tax savings with respect to this deduction, by deferring income or accelerating deductions to be below these thresholds. In addition, depending on a taxpayer's business, a taxpayer also may be able to increase the QBI deduction by increasing W-2 wages before year-end, or by purchasing additional fixed assets before the end of the year.

The rules are quite complicated, so business owners will need our help in order to determine this deduction.

Cash method of accounting. - Another provision arising from TCJA was a more permissive adoption of the cash method of accounting. Beginning in 2018, corporations with average annual gross receipts of up to $25 million ($26 million for 2019) can use the cash method. To qualify as a small business for this purpose, a taxpayer must, among other things, satisfy a gross receipts test. For 2019, the gross receipts test is satisfied if during a three-year testing period, average annual gross receipts don't exceed $26,000,000. Many of the traditional end-of-year planning techniques relating to timing, such as income deferral or income acceleration, are made easier when the cash method of accounting is used. For example, by deferring invoicing clients or by accelerating paying expenses ahead of time, business owners can lower their taxable income.

Corporations – A corporation, other than a large corporation, that projects a small net operating loss for 2019, and substantial net income in 2020, may find it worthwhile to accelerate just enough of its 2020 income, into 2019, or to defer just enough of its 2019 deductions to 2020, to create a small amount of net income for 2019. If this is done, the 2020 estimated tax installments will be based on a small amount of income shown on the 2019 return, instead of having to pay estimated taxes based on 100% of the projected 2020 taxable income

Family Leave Credit - TCJA also created a new credit for employers making family leave payments to employees. The credit is only available to employers who have a written policy in place for the payment and credit. The credit expires after 2019, barring legislation to extend it, so employers who make these payments, and want to claim the credit, should make sure to do so while they can.

C corporations vs S corporations - C corporations are now subject to a flat 21% rate. While considerably lower than the maximum 35% which applied under prior law many small corporations saw a tax increase since the lower brackets no longer applied. The new law did not eliminate the potential second tax on distributions of corporate funds through a dividend or upon the sale of stock. The structure of the law is such that if the corporation is subject to a 21% rate on its income, and the remaining 79% is distributed as a dividend, the remaining 79% will be subject to a federal 20%, 15% or 0% rate, depending upon a taxpayer's tax bracket. However, if the corporation keeps its money in the corporation, instead of distributing it to its stockholders, then the corporation will only by paying, at a maximum, 21% on the income the corporation made.

Section 1202 stock – For certain stockholders of C corporations, gains on the sales of original issuance stock, if held for five years, can be eligible to be excluded from tax, to the extent of the greater of $10 million, or 10 times the tax basis.

In evaluating the selection of C corporation status, a number of factors should be considered, including the age of the owners, what their tax brackets are, what their exit strategy plan is, (stock sale or asset sale), the timing of the exit, and what gain is expected on the sale of the corporation. All of this comes into play in order to determine if it is better to operate as a C corporation or as an S corporation.

Alternative minimum tax repeal – The TCJA repealed the alternative minimum tax for corporations for 2018 and later years. If a C Corporation has an AMT credit, it can recover the credit via a refund over a four-year period starting in 2018 through 2021.

Section 199A qualified business income deduction – This deduction is not available to C corporations. Taxpayers or businesses that operate as sole proprietors (including single member limited liability companies), partnerships and S corporations, might be entitled to a 199A 20% deduction.

There is now a safe harbor for real estate businesses, to see if those entities can take a 199A deduction. To meet the requirements of the safe harbor, the taxpayer must, with respect to each rental real estate activity, satisfy each of the following:

1 – Keep separate books and records that reflect the income and expenses of the business.
2 – For each business in existence for less than four years, there must be 250 hours or more of rental services performed, per year. For businesses in existence for four or more years, if any three of the five consecutive years ending with the current year, have 250 or more hours of rental services performed, per year, the test is satisfied.
3 – Rental services includes time spent on advertising to rent or lease, negotiating leases, the collection of rent, the daily operations, maintenance and repairs of the property, as well as the management of the real estate and supervision of employees and independent contractors. It does not include time spent in arranging financing, procuring property, traveling to the property, improving property, or studying and reviewing financial information.

For taxable years starting on or after January 1, 2020, the taxpayer must keep contemporaneous records, including time reports, logs or other similar documents, showing the hours of all services performed, the description of all of the services performed, the dates of which such services were performed, and who performed the services.

For all years, the taxpayer must attach a statement to their tax return, attesting that they met these requirements.

With many of the changes that have taken place, the future of tax planning is uncertain. Our office is always happy to help you with your year-end tax planning, so please contact us.

Sincerely yours,

Ceasar & Smilow, LLP