



Tax Forum
IRS Nationwide

2018



S-Corporation Hot Spots – What you need to know in light of The Tax Cuts and Jobs Act!

Presented by:

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Learning Objectives

At the end of this course, you will be able to:

- Recognize various changes to S-Corporation expenses in light of the TCJA
- Identify business expenses unique to S-Corporations
- Determine reporting requirements of certain S-Corporation expenses
- Assess the implications of fringe benefits and officer compensation



Tax Cuts & Jobs Act

- Cash vs. Accrual
 - Raised to \$25M
 - inflation adjusted after 2018
 - Look back is three prior years
 - IRC §481(a) adjustment is 6 years when converting from S to C
 - Must not be the final year of business
 - Rev Proc 68-35
 - Books on accrual basis; tax on cash basis



Tax Cuts & Jobs Act

- Rev Proc 2018-40
 - Waives 5 year waiting period
 - Current §481(a) adjustment can be netted with new, or continued if in the middle of the 4 years
- Form 3115
 - Simplified filing
 - Can combine changes
 - Auto approval



Tax Cuts & Jobs Act

- Form 1125-A COGS
 - Inventory still must be recorded on the books and only deducted if sold (Rev Proc 2002-28)
 - LIFO method must use accrual
 - IRC §263A
 - No more if under 25M!!!
 - File 3115
 - See Rev Proc 2018-40

Tax Cuts & Jobs Act

- DPAD repealed – IRC §199
 - Except for certain farming income
- Qualified Business Income (QBI) IRC §199A
 - Deduction taken at the shareholder level
 - Reported on K-1, separately stated items
 - QBI, Wages, Asset basis, SSTB
 - If no K-1 entry, amount is presumed to be 0!



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Tax Cuts & Jobs Act



- Qualified Business Income
 - Net trade or business income from a Relevant Passthrough Entity (RPE)
 - S-Corp, Partnership, or Sole Proprietorship
 - Domestic income
 - Trade or business under §162
 - Includes aggregate qualified REIT dividends, co-op dividends and PTP income
 - Excludes investment income

Tax Cuts & Jobs Act

- Qualified Business Income
 - Specified Service Trade or Business (SSTB)
 - Modified Section 1202(e)(3)(A)
 - Removes engineering & architecture
 - Adds “owners”
 - Proposed Regs 107892-18
 - De Minimis Rule = <10% service, not an SSTB (gross receipts >\$25M , 5%)
 - “Reputation or skill” narrowly defined
 - “Crack & Pack” strategy diminished



Expense Hot Spots



- Repairs & Maintenance
 - Capitalization rules
- Interest
 - TCJA 30% limitation – small business exemption
- Health insurance
 - 2% shareholder reminders,
 - QSEHRA – Notice 2017-67



Reasonable Salary

- Compensation of Officers
 - Form 1125-E
 - Determining what is reasonable
 - Supporting what is reasonable
 - Noncash compensation
 - Compensation mistakes
- In light of the 20% QBI
 - increase? decrease?

Reasonable Salary

- Example of increasing wages for QBI
 - MFJ, over \$415,000 taxable income, non-service 1120S K-1 business, no depreciable assets
 - K-1 income of \$600K, wages pd of \$100K, QBI deduction is \$50K (lesser of: 20% income = \$120K, or 50% of wages = \$50K)
 - K-1 income of \$500K, wages pd of \$200K, QBI deduction is \$100K (lesser of: 20% of income = \$100K, or 50% of wages = \$100K)
 - Must still be “reasonable”

Fringe Benefits

- Employee achievement awards – no cash, gift cards, coupons, certificates, vacations, meals, lodging, etc. You still can pick from tangible items (IRC §274)
- Transportation fringes; (IRC §132) no commuter, qualified parking, transit passes, bicycles
- Moving expenses – no, except for military!

Meals & Entertainment

- No more entertainment, amusement or recreational deduction, membership dues for any club
- Meals – for convenience of employer now deductible at 50%, will be 0 in 2026
- Company picnics, parties, still ok IRC §274-2 (f)(2)(v)



Depreciation



- IRC §179 \$1M limit for years beginning 1/1/2018
- Qualified improvement property
- Luxury autos – increased!
- Computers no longer listed property
- Certain farm property

Bonus Depreciation

- New bonus as of 9/27/2017 = 100% and includes used (can elect to use 50% for all of 2017)
- Bonus applies to asset class
- Proposed Regs IR 2018-159
 - Applies to property acquired **and** placed in service after 9/27/2017
 - Specified type
 - Qualified Improvement Property
 - Acquired and placed in service after 9/27/2018 and before 1/1/2018

Other Hot Spots

- IRC §1031 Like Kind Exchanges
 - Only Real Property Qualifies
- Penalties and Fines
 - IRC §162f
 - Expands the disallowance for fines and penalties paid to governmental agencies
 - 1099 reporting requirement – new IRC 6050X



Other Hot Spots



- Proposed regs 107892-1
 - Employees vs Independent Contractors
 - Recharacterizations possible
 - Professional employer organization (PEO)
 - Wages can be allocated for QBI



S-Corp Shareholder Home Office



- Employee business expense no longer allowed
- Schedule E – rent income, deduct interest & taxes. May be beneficial with higher standard deduction
 - Self-rental limitations for SSTB
- Reimbursement plan may be the best for home office (sq ft % for all home expenses, but not principal)

Distributions

- Based on ownership, no special allocations
 - If exceed basis, taxable as cap gains
- Post termination transition period
 - Relevant when going from S to C - Corp
 - 1 year or 120 days in certain circumstances
 - **TCJA** - Distributions of AAA after 1 year tax free based on ratio of AAA to Corp E&P



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New Family Leave Credit



- FML Leave for 2018, 2019
 - 12.5% of wages paid up to 12 weeks
 - Increase of .25% for each percent paid above 50%, 25% max
 - Elective, not mandatory, written policy, non-discriminatory



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Revoking The S-Election



- IRC §1362 – SH>50% of outstanding stock (including non-voting)
- Revocation before 15th day of 3rd month = current total taxable year (March 15th for calendar years)
- Corp return as of first day of tax year (Jan. 1st calendar year)



Revoking The S-Election

- Risks of revocation
 - Forgo QBI deduction
 - Owner distributions of cash
 - Difference in state law
 - 5 year waiting period
 - C-Corp tax rates subject to change
 - Sale of business / asset sale



What did we do for the last hour?!?

- Discussed changes to S-Corporation expenses in light of the TCJA
- Identified Business Expenses Unique to S-Corporations
- Unique Reporting Requirements of Certain S-Corp Expenses
- Discussed the implications of fringe benefits and officer compensation



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For More Information

National Society of Accountants

More information is available at:

NSA Booth in the Vendor Hall

Or at the NSA table in the lobby

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