Tax Cuts and Jobs Act – The Signed Bill

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This morning, the President signed the Tax Cuts and Jobs Act into law. Below we highlight some notable points:

<u>Individual Taxes</u>

- For individual taxpayers, the bill retains 7 tax brackets, but at different thresholds and generally lower rates as follows:

Current Law		Single	MFJ
10%	>	-	-
15%	>	$9,325	$18,600
25%	>	$37,950	$75,900
28%	>	$91,900	$153,100
33%	>	$191,650	$233,350
35%	>	$416,700	$416,700
39.6%	>	$418,400	$470,700

TCJA		Single	MFJ
10%	>	-	-
12%	>	$9,525	$19,050
22%	>	$38,700	$77,400
24%	>	$82,500	$165,000
32%	>	$157,500	$315,000
35%	>	$200,000	$400,000
37%	>	$500,000	$600,000

MFJ= Married Filing Jointly

- The standard deduction increases as follows:

Current Law	
Single	**MFJ**
$6,350	$12,700

TCJA Law	
Single	**MFJ**
$12,000	$24,000

- The personal exemption (currently $4,050 per eligible exemption) is eliminated.

- The Child Tax Credit is doubled from $1,000 to $2,000 per eligible child. In addition, the phase-out is increased from $110,000 to $400,000 of adjusted gross income for those married filing jointly.

- The $7,500 credit for the purchase of an electric car is eliminated, starting 1/1/2018.

- The Individual Alternative Minimum Tax (AMT) is retained, but with higher thresholds and higher phase-outs, as follows:

Current Law – AMT Exemption	
Single	**MFJ**
$54,300	$84,500

TCJA – AMT Exemption	
Single	**MFJ**
$70,300	$109,400

Current Law – AMT Phase Out	
Single	**MFJ**
$120,700	$160,900

TCJA – AMT Phase Out	
Single	**MFJ**
$500,000	$1,000,000

Impact:

  - As a result of this change, significantly fewer people will find themselves in the AMT.

  - Many high-income taxpayers in high tax bracket states who will lose the ability to deduct most of their state taxes under the new law had already lost the benefit of some or all of those deductions due to the AMT under current law. Most of these people will not be in AMT under the new law.

- The much-discussed FIFO (first-in, first out) rule for sales or other dispositions of securities did not make it into the final bill, so taxpayers continue to be able to identify which shares they sell or gift.

- Eliminates the penalty for not obtaining health insurance (aka the individual mandate), effective starting in 2019.

- §529 Plans can now be used for elementary and secondary education and can also be rolled into ABLE accounts for individuals with disabilities.

Itemized Deductions

- Under the new law, taxpayers are limited to deducting a combined $10,000 in state and local income, real estate, and sales taxes. This presents the following planning opportunities for taxpayers who are not in the AMT for 2017:
  - It may make sense to make state estimated tax payments in December for their remaining 2017 state income tax balance.
  - Some cities allow homeowners to pre-pay some or all of their 2018 real estate taxes. Reach out to your local City Hall for logistics. If you have a mortgage and they escrow for real estate taxes, you will have to let them know which taxes you prepaid.
  - An anti-abuse provision has been included in the bill which explicitly disallows a 2017 deduction for prepaying 2018 state income taxes. It makes no mention of prepaying 2018 real estate taxes, but it is not inconceivable that this could change.

- The new law increases the charitable income tax deduction for cash gifts from 50% to 60% of AGI. Disallows deductions for money paid for seating rights at college athletic programs (the current rule is that 80% of such amounts are allowed as a deduction). Buy those seating rights now!

- The home mortgage deduction limit is reduced from interest on $1m of indebtedness to interest on $750k of indebtedness. Existing mortgages are grandfathered at $1m of indebtedness, as are debts for homes under contract as of 12/15/17 and closed before 4/1/18.

- Eliminates the deduction for interest on home equity loans.

- The medical expense deduction is retained. For 2017 and 2018, the threshold is reduced to 7.5%, effectively expanding the deduction for those two years. For 2019 and beyond, the AGI threshold returns to its current 10%.

- Eliminates the deduction for all miscellaneous itemized deductions subject to the 2% floor under current law.

Estate, Gift, and Generation-Skipping Transfer Taxes

- Doubles the estate and gift tax exemption for decedents dying between 1/1/2018 and 12/31/2025. The 2018 estate tax exemption amount would be $11.2m ($22.4m total for married couples).

Business Taxes

- Permanent reduction of the top corporate tax rate from 35% to 21% starting in 2018

- Eliminates the Domestic Production Activities Deduction

- Increases bonus depreciation to 100% (from its current 50%) for property placed in service through 2022. Depreciation decreases by 20% each year from 2023-2027. Phase-out increases to $2.5m (from its current $1m) starting in 2018.

- For businesses treated as a pass-through entity for tax purposes, the bill allows a new deduction for the lesser of 20% for pass-through income or 50% of the W-2 wages paid with respect to the business. The deduction is disallowed for certain service trades or businesses with income above a threshold.

Whenever major legislation like this is passed, it tends to be followed over the coming years with technical corrections acts to address any unintended consequences of the new law. Planning strategies evolve as commentators and practitioners become more familiar with the law. In the meantime, the Pathstone tax team will continue to carefully monitor developments and implications of the newly passed law.