Year in Review: Top Four Tax Changes Affecting Oregonians

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The past 12 months have seen significant changes to federal tax laws, through the passage of the Tax Cuts and Jobs Act ("TCJA") late in 2017, and to state tax laws as states respond to TCJA and grapple with recent U.S. Supreme Court decisions.

TCJA and the Qualified Business Income Deduction

TCJA's passage marks the most sweeping overhaul of federal tax policy in three decades, and presents new opportunities and challenges for Oregon businesses. One of the most significant departures from prior law is the enactment of the "qualified business income" deduction. The deduction is intended to level the playing field between corporations (which received a significant tax rate reduction under TCJA) and sole proprietorships, partnerships, limited liability companies, and "S" corporations, commonly referred to as "pass-through entities." The deduction is generally 20 percent of the income generated by the pass-through entity, although the deduction is phased out for taxpayers with incomes over $157,000 (for single filers) or $315,000 (for married filers) engaged in certain service businesses or with few employees or physical assets.

As a component of federal tax laws, the qualified business income deduction applies only to federal income tax. Although Oregon's income tax laws generally follow the mandates of federal income tax law, the Oregon legislature chose to deny this deduction for Oregon income tax purposes. So qualifying Oregonians can take advantage of a significant new federal income tax deduction, but must still pay Oregon income taxes on that same income.

State and Local Tax Deduction

Another significant change introduced by TCJA is a cap on the amount of state and local taxes (income and property taxes, for Oregonians) that can be deducted for federal income tax purposes. Under prior law, the state and local tax ("SALT") deduction was unlimited; under TCJA however, a taxpayer's SALT deduction is limited to $10,000. Because Oregonians are subject to a relatively high income tax rate, as well as ever-increasing property taxes, this SALT deduction limitation is likely to be more painful for Oregonians than for residents of states with lower SALT obligations.

Supreme Court Creates New Tax Trap for Businesses Selling Outside Oregon

Oregon has long prided itself on not imposing or collecting sales taxes, so much so that the mere concept of a sales tax is foreign to many Oregonians. For nearly 50 years, the United States followed a rule established by the Supreme Court that prohibited states from imposing a sales tax collection obligation on retailers unless they had a physical presence in the state. This rule was formally restated in the famous *Quill v. North Dakota* case in 1992, and many Oregon businesses relied on it as grounds for not collecting sales tax in states where their customers reside.

In 2018, the Supreme Court heard the case *Wayfair v. South Dakota*, which presented the question whether a state can compel an out-of-state retailer without a physical presence in the state to collect and pay sales tax. To account for advances in electronic commerce and the rise and prevalence of online retail stores, the Court ruled in South Dakota's favor, upending 50 years of legal precedent and creating a treacherous new playing field in which retailers must learn and comply with many new state and municipal sales tax regimes.

As a result, Oregon businesses would be well advised to collect information from customers about where they live, learn the state and local sales tax laws of every jurisdiction in which they reside, and establish systems to collect and remit sales tax to those jurisdictions.

Oregon Transit Tax

Last summer the Oregon legislature passed House Bill 2017, which created a new statewide payroll tax to fund public transportation projects and improvements. The tax is one-tenth of 1 percent of employees' wages and, like existing payroll and employment tax regimes, is withheld from the employee's paycheck and remitted by the employer. Although the withholding mechanism is similar to other tax withholding, the new transit tax is unaffected by income tax withholding exemptions. So employers would do well to verify that transit tax withholding is accurately calculated for all employees. This new tax became effective on July 1, 2018.

Conclusion

Recent months have seen a number of significant tax changes directly affecting Oregonians. The final result in terms of actual tax cost remains unclear, but it is certain that Oregonians must be vigilant about monitoring and complying with the ever-changing landscape of state and federal taxes.

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