

Alert: Tax Cuts and Jobs Act

February 26, 2018

Enactment of United States tax reform in December 2017, when the President signed into law the *Tax Cuts and Jobs Act* (“Tax Act,” “Act” or “TCJA”), introduced the most significant changes to the U.S. tax system since 1986. Reform of this magnitude brings complex, wide-ranging impacts to CPAs, tax practitioners, and most importantly, taxpayers.

Although some commentators believe that the Tax Act provides simplification by eliminating certain tax provisions, most CPAs and tax practitioners would agree that the numerous complexities added by the Act more than outweigh any benefits from the simplification. Due to the number of changes, as well as some new concepts introduced in the law, there is a need for immediate guidance from the Internal Revenue Service, and possibly from Congress. Whether individual states will conform with the federal changes and to what extent adds to the complexities and the need for guidance and clarification.

With a few exceptions, the provisions of the Act are generally effective starting in 2018, although many of the provisions for individuals are temporary and are scheduled to sunset after 2025. Unfortunately, timing of guidance as well as any technical corrections may take months if not years to promulgate.

CPAs and tax practitioners are faced with the burden of how to address with their clients the potential implications of tax reform without putting themselves, or their firms, at risk. CAMICO’s claims experience continues to show that CPAs who successfully manage client expectations, which includes **informing clients of “opportunities”** and **advising clients of “risks,”** in addition to just following professional standards, are more likely to **“get it right”** and avoid becoming victims of potential liability exposures.

Risk Management Guidance

Since the impact of the Tax Act may be significant to your individual and business clients, CAMICO strongly recommends that policyholders consider the following risk management steps. This list is not meant to be all-inclusive.

1. Send a notification letter regarding some of the significant highlights of the Tax Act to both individual and business clients. The letter should also include a strong call to action message encouraging clients to contact the firm if they feel that they may benefit from tax planning assistance. For defensive documentation purposes, CAMICO recommends the firm maintain, and retain, a list detailing to whom this letter was sent. **CAMICO provides sample client notification letters to CAMICO policyholders on the CAMICO Members-Only Site under Knowledge Tree → Reference Library → Alert Documents → 2018 → Tax Reform.**

(Note: Your firm might choose to incorporate this information in your client newsletters or by other methods. What is important is adequately communicating (and documenting!) the significant Tax Act implications to clients that might be impacted.)

2. CAMICO strongly recommends that firms establish a suitable time frame for the tax planning engagements, which for many firms may be the summer months. Firms need to provide themselves with sufficient time to develop the understanding and competencies necessary to be in a position to appropriately assist clients impacted by the Tax Act.

3. If engaged to perform tax planning work, be sure to utilize well-drafted engagement letters designed for this purpose. In addition to specifying the scope and limits of the tax planning engagement, special disclaimer language should be included in these engagement letters. For example, clients should acknowledge their understanding that the final regulations have not yet been promulgated, and changes, including technical corrections, may be forthcoming. **CAMICO provides sample engagement letters to CAMICO policyholders on the CAMICO Members-Only Site under Knowledge Tree → Reference Library → Alert Documents → 2018 → Tax Reform.**
4. Because of the amount of additional time and expense involved, some taxpayers may choose to NOT formally engage the firm to perform tax planning services. However, be wary of those clients who may ask “quick” questions of the firm to solicit some planning guidance. These situations can pose risk to the firm if not adequately documented and/or disclaimed. For example, firms may want to consider having language in their engagement letters that specifies: *“It is our policy to put all advice upon which a client intends to rely in writing. We believe this is necessary to avoid any confusion and make clear the specific nature of our advice. You should not rely on any unwritten advice from our firm.”*
5. Given the Tax Act’s significant changes related to the flat corporate tax rate and the new deduction for “pass-through” entities, some clients may rethink their choice of legal entity. This type of evaluation and assessment certainly has tax implications associated with it, but be wary of rendering legal advice without a license. Clients will need other advisors, in this case, legal counsel, to assist them (as well as you) to evaluate and implement changes that may be necessary to maximize their tax benefits.
6. Be proactive, not reactive, as you work with your clients. There are many moving parts in these early days so making hasty decisions without all the facts may be premature.

Additional Resources

For additional information, you can reference the following resources:

- <https://www.irs.gov/newsroom/resources-for-tax-law-changes>
- <https://www.aicpa.org/interestareas/tax/resources/specializedguidance/taxreform.html>