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Illinois Weighs In on Federal Tax Reform

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The Illinois Department of Revenue has published guidance on the impact of federal tax reform on Illinois taxpayers, including with respect to the repatriation transition tax, prepaid property tax, and small business expensing.

The Tax Cuts and Jobs Act (the Act), signed into law on December 22, 2017, will have varying effects on a corporation's state income tax base depending on the state. The Illinois Department of Revenue recently analyzed the Act and issued its views in a publication, Explanation of the Impact on Illinois Tax Revenue Resulting from the Federal Tax Cuts and Jobs Act. The publication is not a comprehensive review of the Act's implications, but it does address major areas of concern. Some of its specific guidance includes the following.

Repatriation Transition Tax

The Act amended Internal Revenue Code (IRC) Section 965 to require certain shareholders of controlled foreign corporations (CFCs) to include in gross income certain amounts of deemed subpart F income (net of a related deduction). Under the Act, accumulated foreign earnings held by CFCs of a US shareholder will be deemed repatriated and taxed federally at the rate of 15.5% if attributable to cash or cash equivalents and at the rate of 8% if attributable to illiquid assets. The taxpayer may then elect to pay the resulting federal income tax liability over an eight-year period. This provision will increase federal taxable income.

- The Illinois Department of Revenue has advised that the Illinois subtraction modification for foreign dividends will exclude a portion of the increase from Illinois base income.

Global Intangible Low-Taxed Income (GILTI)

The Act also amended IRC Section 951A, adding a new subpart F inclusion for each US shareholder's share of the GILTI of a CFC (net of a related deduction). Specifically, GILTI is income that exceeds 10% of a CFC's Qualified Business Asset Investment (QBAI), which is defined as the CFC's fixed assets that are depreciable as trade or business assets under IRS Section 167 and does not include the CFC's intangible property such as patents, trademarks, and other items that are amortizable under IRC Section 197. This provision will increase federal taxable income.

- The Illinois Department of Revenue has advised that the Illinois subtraction modification for foreign dividends will exclude a portion of the increase from Illinois base income.

Bonus Depreciation

The Act amended IRC Section 168(k) to allow 100% bonus depreciation for qualified property acquired and placed in service after September 27, 2017, and before January 1, 2023.

- The Illinois Department of Revenue has advised that Illinois is not decoupled from the 100% bonus depreciation.

Small Business Expensing

The Act also amended IRC Section 179 to increase the maximum deduction for small businesses to $1 million and increase the phase-out threshold to $2.5 million.

- The Illinois Department of Revenue has advised that Illinois is not decoupled from the revised version of IRC Section 179.

Prepaid Property Tax

Any property tax paid in 2017 will be allowed as an Illinois Property Tax Credit on 2017 IL-1040 forms.

Taxpayers in Illinois, and other states, should continue to monitor the changes that are sure come as legislators and revenue administrators take the federal tax law changes into account.

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