

Introduction to the 2023-2024 Edition

In 2022, Congress enacted the Inflation Reduction Act, a multi-purpose piece of legislation in response to the highest inflation numbers in years. While not as aggressive as President Biden's goals expressed in his "Build Back Better" aspiration, it nonetheless accelerated infrastructure projects all over the country. It also introduced a new corporate alternative minimum tax, advanced climate change efforts by increasing favorable credits, and provided additional funds to the Internal Revenue Service over the next ten years of approximately 80 million dollars to increase staffing and enforcement as well as to replace outdated equipment.

While inflation appears to be heading in the right direction, albeit slowly, the effects of multiple interest rate increases by the Federal Reserve have stymied much of the economy. Banking instability, office and commercial real estate issues, and a divisive Congress render economic predictions of little comfort or reliability. Notwithstanding all the uncertainty, there are Internal Revenue Service rulings and procedures, changing tax rates and tax brackets, as well as Section 199A, and other provisions affecting everyday operations and daily decisions with which we must keep current.

Unless and until these provisions expire or are amended, they continue to be interpreted and offer mostly advantageous goals for taxpayers and their advisors. Of particular interest to advisors on "choice of entity" matters is Section 199A, the pass-through business deduction provision. This is a complicated provision with multiple requirements, exemptions, and many yet-to-be interpreted provisions. The aim of the statute is to provide a maximum effective tax rate of 29.6 percent on an individual's domestic "qualified business income" (as defined) from a partnership, an S corporation, or a sole proprietorship. The reduced maximum rate is produced by a 20 percent deduction, then 80 percent ($[100\% - 20\%] \times 37$ percent maximum individual marginal rate yields 29.6%). This provision is in effect for tax years 2018 through 2025. The analysis of choice of entity now must compare the impacts of this tax regimen versus the straightforward 21 percent flat corporate tax rate. The personal alternative minimum tax remains, albeit modified and its impacts reduced.

Code Section 179, amended probably more than any other over the past several years, finally has permanent provisions permitting expensing of the cost of qualifying tangible personal property placed in service after 2017. And bonus depreciation provisions, which have themselves fluctuated routinely, have been amended once again. One-hundred percent expensing is allowed in year one for qualified tangible personal property acquired before 2023, with a 20 percent phase-out per year after that.

The impacts of the 2017 TCJA are many, varied, and, not reviewed and vetted as thoroughly as many tax professionals would have preferred. The IRS has issued both proposed and final Regulations, as well as Revenue Rulings and notices, addressing some of the many complexities of the TCJA, especially providing guidance on Section 199A. But this is only the beginning of what promises to constitute a very long process of interpretation and refinement.

With the 2017 TCJA, more so than with most important tax legislation, the effective dates and possible sunset date(s) require careful examination. "The S Corporation Handbook" attempts to explain, clarify, and provide insight into the various provisions affecting these pass-through entities.