



Income Tax Update: Planning Opportunities and Pitfalls as Your Client's Prepare to File 2019 Returns

Estate Planning Council of St. Louis

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Benefit and Traps

- You are communicating with your clients in 2020. What can my client still do for 2019 in 2020? How can we all add value?!

A decorative graphic consisting of a grid of squares. The top-left portion of the grid is composed of light blue squares, while the bottom-right portion is composed of darker blue squares. A small white square with a black crosshair is positioned at the intersection of the two colored regions.

Qualified Opportunity Zones

What can you bring up to your clients that could still affect them now in the new Opportunity Zone Regulations?



Benefit and Traps

- Tax Cuts and Jobs Act of 2017 added a new tax law break for taxpayers with capital gain to defer that gain subject to the following rules if the taxpayer invests in a Qualified Opportunity Fund (QOF) that invests in a Qualified Opportunity Zone (QOZ) trade or business. (See §1400Z-2)



Benefit and Traps

- There are over 8,764 designated Opportunity Zones certified by the U.S. Treasury in the United States and five possessions.



Benefit and Traps

- There are many potential benefits to this program.
 - 1) The taxpayer gets to defer the tax on capital gain from a disposition of property to an unrelated person generally within the earlier:
 - The date investment is sold or exchanged; or
 - December, 31, 2026
 - 2) The taxpayer has 180 days to invest (no tracing of funds) some or all of the capital gain into a QOF (general rule).
 - 3) The QOF fund investment will have a zero basis (ignoring debt basis in a partnership).
 - 4) The zero basis is increased 10% for a five year hold.
 - 5% for a seven year hold (2020 too late for this one)
 - 5) And the potential elimination of tax on gains from the underlying new investment held greater than 10 years (even depreciation recapture!).



Benefit and Traps

- When do the 180 day rules start?
- How do final Regulations issued December 19, 2019 affect estate planners?



Proposed Regulations 180 Day Rule

- Proposed Regulations 180 Day Rule
- You had 180 days for a capital gain for an investor from date of sale or exchange that recognizes gain to invest in the Qualified Opportunity Fund.
 - If your passthrough entity had the gain and did not defer you as an individual owner had date of gain or end of the entity's taxable year (most time 12/31); and
 - Code Section 1231 gain had to be netted with Code Section 1231 losses and couldn't invest until 12/31/2019.



Final Regulations!

- (Technically 2021 but can apply them back.)
- Changed Code Section 1231 gain rules to:
 1. No need to net Code Section 1231 losses, and
 2. Have to start 180 days on date of sale or exchange.
- Transitional rules:
 1. Code Section 1231 gains can use 12/31/2019 if they net Code Section 1231 losses. (In essence use the Proposed Regulations.)



Final Regulations!

- In Addition, if flow through entity has capital gain, but it itself does not defer, then the individual partner, shareholder, member, can elect:
 1. Date of sale
 2. Final day of entity's tax year, or
 3. Due date for entity without extensions (new)
 - Partnership 3/15 for calendar year
 - S-Corporation 3/15 for calendar year



Benefit and Traps

- §1400Z-2(e)(3) provides that “in the case of a decedent, amounts recognized under this section shall, if not properly included in the gross income of the decedent, be includible in gross income under §691”.
- What happens then if taxpayer with deferred gain dies before December 31, 2026 with deferred gain in a QOF?



Benefit and Traps

- §691 applies to income in respect of a decedent (IRD)
- So the IRD is reportable by the recipient §1014(c) denies a step up in basis at death to items of IRD.
- Final Regulations state that the transfer of a qualifying investment by reason of taxpayer's death is **NOT** an inclusion event.



Benefit and Traps

Examples:

- 1) A transfer because of death to the deceased's estate.
- 2) A distribution of a qualifying investment made by the deceased's estate.
- 3) Transfer of jointly owned qualifying investment to surviving co-owner by operation of law.
- 4) A distribution of a qualifying investment by deceased owner's trust made by reason of his death.
- 5) Any other transfer of a qualifying investment at death by operation of law.



Benefit and Traps

But, the final Regulations also define that the following transfers are inclusion events! Thus, triggering all or some of the deferred gain under §691.

- 1) A sale or exchange or other disposition by deceased taxpayer's estate or trust other than a distribution described in Example 1 through 5 previously.
- 2) Any disposition by the surviving joint owner or other recipient who received the qualifying investment by operation of law on the taxpayer's death.
- 3) Any disposition by the legator, heir or beneficiary who received the qualifying investment by reason of the taxpayer's death.



Benefit and Traps

- Of importance to all taxpayers triggering gain by an inclusion event or December 31, 2026 is §1400Z-2(b)(2), amount includible
 - 1400Z-2(b)(2)(A) in general – The amount of gain included in gross income under subsection (a)(1)(A) shall be the excess of –
 - 1400Z-2(b)(2)(A)(i) the “lesser of” the amount of gain excluded under paragraph (1) or the fair market value of the investment as determined as of the date described in paragraph (1), less
 - 1400Z-2(b)(2)(A)(ii) the taxpayer’s basis in the investment



Benefit and Traps

- All opportunity zone investors get this rule
- Consider the fact that most opportunity investors will be partnerships investing in partnerships with appropriate discounts!
- If invests in high risk technology then in some cases minimal taxes would be due on December 31, 2026!



Benefit and Traps

- Accordingly, estate planners need to consider strategies to provide liquidity on this so-called “judgment day” of December 31, 2026 where the taxpayer dies prior to that date. This may include life insurance – perhaps held through an irrevocable life insurance trust of which the person who inherits the QOF interest under the insured’s estate plan is a primary beneficiary.
- A gift will be an inclusion event for these purposes! (This may be challenged in court.)
- So will §1041 transfers pursuant to a divorce!



Benefit and Traps

- The final Regulations continue to provide an exception to this general rule in the case of grantor trusts, as Treas. Reg. §1.1400Z2(b)-(1)(c)(5)(i) provides that if the owner of a qualifying investment contributes it to a trust, and under the grantor trust rules, the owner of the investment is the deemed owner of the trust, the contribution is not an inclusion event.
- Termination of grantor trust status can also be an inclusion event unless triggered by death.



Benefit and Traps

- Final Regulations clarified that contributions and sales to grantor trust pursuant to Regulation 85-13 would not be inclusion events!
- In addition, final Regulations clarified that in addition to sales and gifts to grantor trusts that swap powers as noted in §675(4)(c) and transfer of a QOF interest as payment on an installment note will **NOT** be inclusion events!
- Distributions of QOF interests to the grantor from a GRAT will **NOT** be an inclusion event!
- Final Regulations also clarified that these grantor trust transactions will not create a new 10 year holding period.



Benefit and Traps – Death!

- Final Regulations deny any step up at death, even the appreciation in the QOF investment over the original deferred gain.
- It will be important to educate heirs of this rule to avoid losing the benefits of the 10 year gain exclusion.
- Also, what if your client has installment sale capital gains from sales or exchanges prior to December 31, 2017? They can now be eligible from Opportunity Zone deferral!!



Code Section 1202

C-Corporations are viewed as “bad” by many closely held companies, but can Code Section 1202 make Sense? What industries qualify and should I convert?



What is Qualified Small Business Stock (QSBS) Exclusion?

- Under the current version of IRC Section 1202, a domestic small business operating as a C-Corporation can issue QSBS to qualifying investors who may sell the stock tax-free after a five year holding period.



Stack & Pack The Per Issuer Limitation?

- You're not limited to one or another, but careful reading reveals entitled to both.
- The limitation cannot exceed the greater of \$10 million per taxpayer or 10 times basis limitation “for the taxable year”.



Basic Elements of QSBS

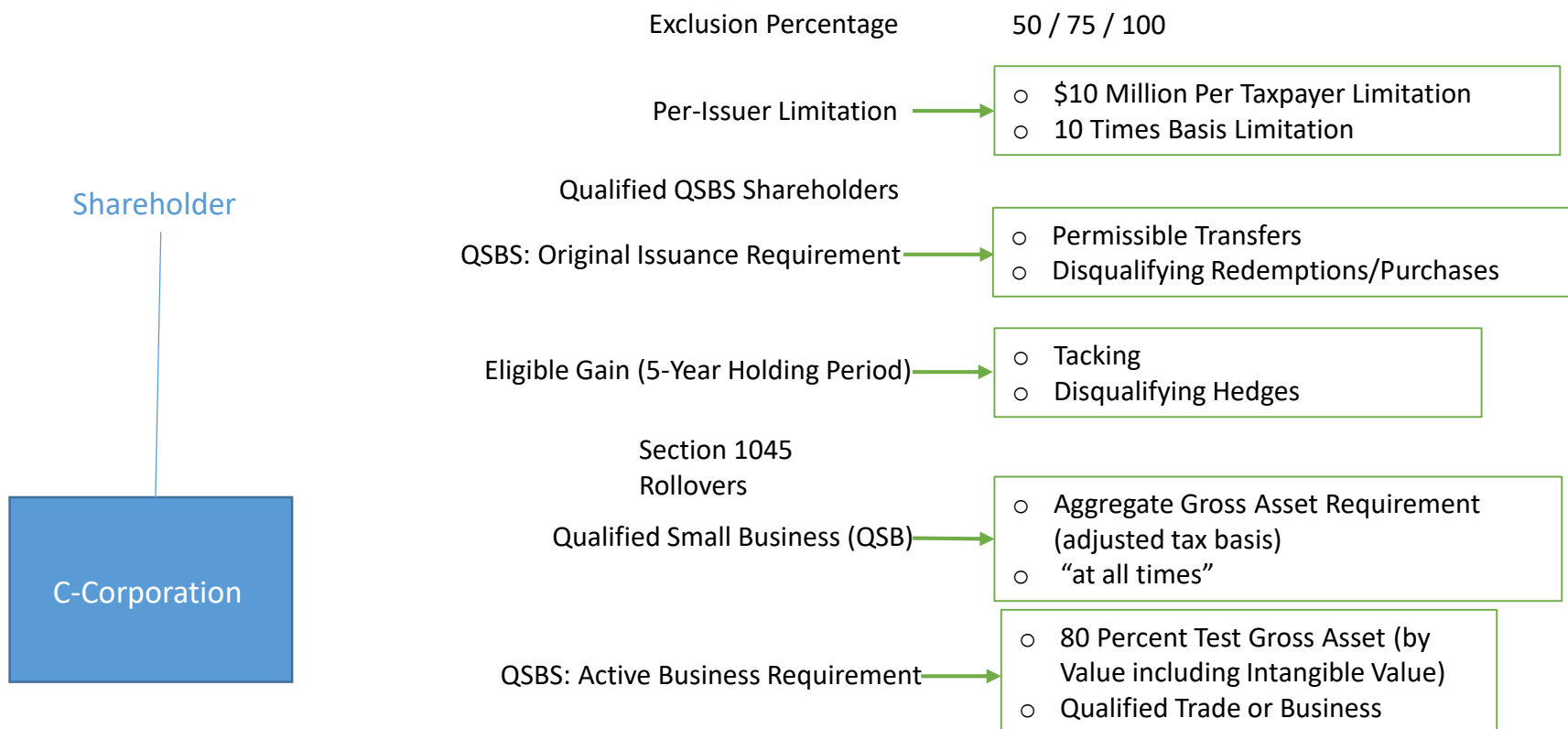
- The \$10,000,000 per taxpayer limitation is reduced by recognized gain of that particular stock in prior years (think installment sale) whereas the 10 times basis limitation is not!
- The Per-Issuer Limitation is based on Per-Issuer (per corporation), per taxpayer basis.



Who can Qualify?

- Typically
 - Manufacturing
 - Distribution
 - Technology, including software
 - Non-consulting companies

QSBS & QSB: Corporate and Shareholder Qualifications





“Qualified” QSB Shareholders

- Not for C-Corporations, but it is for
 - Individuals
 - Trusts
 - Estates
 - Passthrough entities
 - Partnership
 - S-Corporations
 - RIC
 - Common Trust Fund



- Domestic C-Corporation
 - Aggregate gross assets means adjusted tax basis in assets cannot be greater than \$50 million before and after stock issued
- All Corporations greater than 50% owned are considered one (no brother/sister test)
- Must use at least 80% of its assets in “qualifying trade or business”

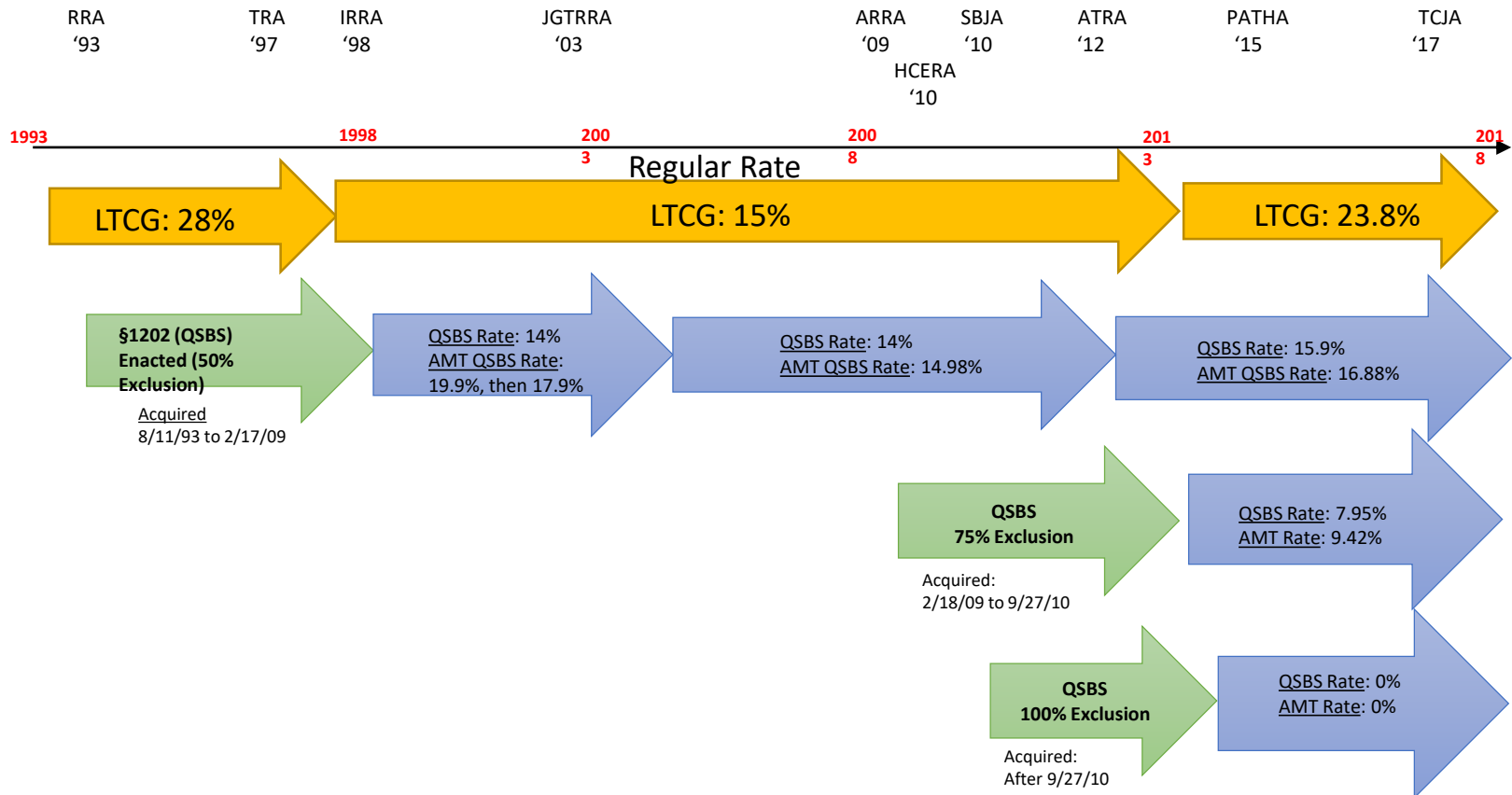


- §351
 - Existing businesses can convert to QSBS by meeting §351!
 - §351 will be taxable if transfer receives
 - Money
 - Liabilities in excess of basis relief



- §1202 exclusion escape §1411 3.5% tax

Timeline of Tax Rates





Basic Elements of QSBS

- For only §1202 and §1045 purposes a section 351 exchange of property
 - Taxpayer gets to count FMV as addition to 10 times basis!!!
 - 5 Year holding period starts then
 - However, the FMV is not eligible for §1202 consideration, it's deemed non-section 1202 gain!
 - (Note you might want to do a valuation to support FMV!)

Observation: Only gains that accrue after issuance of stock qualify!



Eligible Gain

- QSBS can be preferred stock, convertible preferred stock or common stock.
- No limit as to round of shares issues as long as you meet the QSB requirements.



Eligible Gain

- If a corporation is a QSB when QSBS is issued, it won't affect the QSBS status of previously issued shares if the issuer subsequently ceases to be a qualified small business.
- Once a corporation aggregates gross assets greater than \$50,000,000, then the corporation can no longer issue QSBS even if the corporation's gross assets dip to less than \$50,000,000.



Eligible Gain

- §83 stock is deemed to start holding period when value taken into account
- Section 83(b) election or vesting



- §1202 contains an aggregate gross asset limitation. There is no time frame by which a preexisting trade or business must convert to a C-Corporation!
- Many businesses may be able to convert to §1202!



Qualified Stock Defined

- Original Issuance
- Exercise of options and warrants and conversion of convertible debt is treated as original issue!
- No limit as to round of shares issues, as long as you meet the QSB requirements.



Common Situation

- Founders of start up often a partnership.
- Once private equity gets involved often convert to C-Corporation!



Reminders

- S-Corporations can form C-Corporation subsidiaries and S-Corporation essentially becomes holding company.
- Does not apply to asset sale (but does on liquidation)!!
- Raising capital for stock should be timed so as to not go over \$50,000,000 all at once. \$60,000,000 of cash plus assets versus (\$40 and \$20 million).



Extender Bill

Congress actually passed a tax law in 2019 that has nothing to do with impeachment. A quick note of the Secure & Extender Acts.



Extender Bill

- Mortgage insurance premiums deductible as home mortgage interest
- > 7.5% AGI for medical versus 10%
- Qualified tuition and related expense deduction \$4,000/\$2,000 §222 retroactive
- WOTC
- Repeal retroactively of tax exempt parking tax
- §179D commercial building \$1.80/square foot deduction
 - Lighting
 - HVAC
 - Building envelope
- 45L \$2,000 credit

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Code Section 45L & Code Section 179D



Section 45L

- Section 45L is a \$2,000 tax credit for owners of residential building that built new or rehabbed.
- It's for energy efficient dwelling units. You need to pay for certifications!
- You can go back and amend from 2016 through 2018 and/or claim on your 2019 when property placed in service!



Section 45L

- What typically qualifies?
 - Apartment buildings less than three stories above grade
 - Affordable housing
 - Assisted living
 - Extended stay hotels
 - Student housing
 - Residential condo's
- A 70 unit residential project that qualifies could generate a tax credit of \$140,000!!



Code Section 179D

- What about energy efficient new buildings or upgrades for commercial building? And residential greater than three stories above grade?
- They can get §179D up to \$1.80 per square foot additional depreciation deductions!
- Need certification!
- Can go back to 2006 through 2020!



Section 45L

- \$1.80 per square foot is
 - 60 cents/square foot certain energy efficient HVAC systems
 - 60 cents/square foot certain energy efficient lighting systems
 - 60 cents/square foot certain energy efficient building envelope
- Designers can get this deduction for tax exempt entities
- Can combine this with cost segregation and bonus depreciation



Secure Act



- Penalty free withdrawal from IRA and retirement plans of \$5,000 for births and adoptions
- Graduate and post graduate stipends now treated as earned income for IRA purposes
- Qualified pension plan adopted by due date counts as 12/31 (for 2020 →)



- Post death RMD modified for employees or IRA owners who die after 12/31/2019
 - General rule must distribute money by the end of the 10th calendar year following death
 - Old 5 year rule for non individual beneficiaries, estates and charities
 - Exception for eligible designated beneficiaries (EDB's)
 - Spouse
 - Minor child
 - Chronically ill
 - Disabled
 - Any other individual less than 10 years than IRA owner or employee



- Spouse can
 - Cash in IRA
 - Rollover to her/his own IRA account
 - Elect to be a beneficiary
 - Can take distribution over spouse life expectancy or deceased spouse whichever is longer if RMD's already started
 - If RMD's didn't start, then defer until they would have started over surviving spouse life expectancy
- §529 Plans expanded to include apprenticeship programs (registration with Department of Labor)
- Allows for Lifetime \$10,000 student loan distribution or pay student loan interest or debt and to a sibling (\$10,000 cap as well)



- RMD date changed for 70½ to 72 for individuals who turn 70½ after 12/31/2019



- Kiddie Tax reinstated for tax years after 12/31/2019
 - Can amend for tax years 2018 and 2019
 - Act also eliminates the reduced AMT exemption
- Kiddie Tax applies to any child:
 - Under age 19 or is student less than 24
 - Has at least one living parent
 - Has unearned income greater \$2,200 (2019)
 - Doesn't file joint return
 - If over 17 didn't provide more than half support

A decorative graphic in the top right corner consisting of a grid of colored squares. The grid is 14 squares wide and 4 squares high. The first 12 squares in each row are dark blue. The 13th square in the first two rows is light blue, and the 14th is dark red. The 13th square in the third row is orange, and the 14th is green. The remaining squares in the grid are light purple. A white square with a black border is positioned over the intersection of the 13th and 14th squares in the third row.

Federal Tax Deductions: Bonus Depreciation

How can your clients still get more depreciation
for 2019 now?



Federal Tax Deductions: Bonus Depreciation

- After TCJA we now have 100% bonus depreciation with no dollar limit! New and used!!
- Criteria for bonus-qualified assets
 - Property with recovery period of 20 years or less
 - Computer software
 - Water utility property
 - Qualified film, TV and theatrical production costs
 - Certain aircraft (not used in a transportation business)
- Common disqualifiers
 - Building and its structural framework (39 year property and 27.5)
 - Note: Elevators/escalators are considered “structural”
 - Qualified improvement property not eligible



Cost Segregation

- Bonus depreciation is a percentage write off of eligible assets placed in service in that year!
- If you missed prior years beyond the statute, you can go back and catch up!
- An engineering study called a “Cost Segregation Study” can identify real property components that can be classified as a 20 year life or less
- Less than 20 year life can be 20-40% of building!



Cost Segregation Study

- Used to be only “new” assets qualified for bonus!
- Tax Cuts and Jobs Act of 2017 (TCJA) now allow “used” property no dollar limit!
- Used buildings purchased can get “bonus depreciation”



Federal Tax Deductions: Section 179

Why Use it if We Have Bonus Depreciation?

- Annual tax write-off Sec. 179 limit is \$1,020,000 for 2019
 - Phase-out at \$2,550,00 qualified additions (dollar-for-dollar basis)
 - Completely phases out at \$3.57 million of additions
- Future years indexed for inflation (For 2020 \$1,040,000 for write off and \$2,590,000 for phase out)
- Taxable income limitation - cannot produce a loss, can produce a carryover however!
- Criteria for Section 179 assets
 - Tangible personal property: machinery, equipment, furniture, computers, etc.
 - Computer software
 - Qualified improvement property is eligible!!
 - Roofs, HVAC, fire protection, alarm and security systems



Quality Improvement Property (QIP)

- Former terms for qualified leasehold/retail/restaurant improvements are Qualified Improvement Property (QIP)
 - No lease requirement (can be owned or leased)
 - No 3-year old building rule
 - Certain structural components now considered QIP
 - Roofs
 - HVAC systems
 - Fire/security/alarm systems

A decorative graphic consisting of a grid of squares. The top-left section is a 4x14 grid of light orange squares. To its right is a 4x2 grid of white squares, with a thin orange border around the central 2x2 area. Below the white squares is a 2x6 grid of medium orange squares. The entire graphic is set against a solid orange background.

Bailout!

One Congressional Scribe's error has one
bailout left!



Quality Improvement Property (QIP)

- QIP currently treated as 39-year recovery period (not bonus eligible)
- Congress failed to write the new 15-year class into the tax code for QIP and still has not issued a correction, but we can at least get \$1,020,000 of Section 179!!!



Qualified Improvement Property Defined

- “Qualified improvement property” is any improvement to an interior portion of a building that is nonresidential real property if the improvement is placed in service after the date the building was first placed in service (Code Sec. 168(e)(6)(A) as amended by 2017 Tax Cuts and Jobs Act §13204(a)(4)(B)) *except* for any improvement for which the expenditure is attributable to
 1. Enlargement of the building,
 2. Any elevator or escalator, or
 3. The internal structural framework of the building. (Code Sec. 168(e)(6)(B))



Tangible Property Regulations

Are your clients still depreciating two roofs?
Here's how to fix that!



Tangible Property Regulations

- Many taxpayers with real estate don't realize they are depreciating two or more roofs
- 2014 and 2015 we could elect to fix prior years with a partial asset disposition election (PAD)
- Now client can only elect PAD election on the current year!!
- Roof replacement in 2019
 - Write off old with PAD election
 - Write off new up to §179 \$1,020,000



Tangible Property Regulations

- We can “scrub” depreciation schedules!
 - We can change accounting method to expense items that should have been expensed!
 - We can identify assets (cost segregation) that have shorter life and catch up all prior depreciation in one current year.
 - We can write off removal costs!
 - We can implement de minimis election if taxpayer adopt account policy of \$2,500 or less or \$5,000 or less with AFS



Tangible Property Regulations

- Why worry if you don't scrub?
 - §1.1016-3 give IRS the power to scrub with accounting method change!
So what?
 - If taxpayer capitalized items that should be repairs they can write off in a closed year! Increasing §1245 recapture without ever getting deduction!
 - Same with incorrect class lives
 - 5 versus 7 lives, etc.
or
 - Took bonus depreciation on class lives that taxpayer missed classified
 - 5 year property is 7 year property!



Sale or Exchange of Patents

How certain transfers of patents may not be such a good idea.



Sale or Exchange of Patents

- Used to have three code sections to obtain long-term capital gain on self created asset patents!
- Code Sections 1221, 1231 and 1235!
- TCJA has for dispositions after 12/31/2017 eliminated Code Section 1221 and 1231 as options for many. Only way for the inventor and certain investors to get long-term capital gain treatment is Code Section 1235.



Sale or Exchange of Patents

- Code Section 1235 applies to “holders” as defined in Code Section 1235. Includes individuals or partnership comprised of individuals. Does not include S-Corporations!
- Reconsider investor transfers to S-Corporations due to TCJA.



Research & Development (R&D) Credit



The Potential Benefits of the R&D Credit

- There are several benefits to realizing the R&D tax credit. These benefits can include the following:
 - Could be up to 19 cents of R&D tax credit for every qualified dollar
 - Dollar-for-dollar reduction in your federal and state income tax liability
 - Increase in earnings-per-share
 - Reduction of your effective tax rate
 - Improved cash flow
 - Credit Carried forward up to 20 years



The Potential Benefits of the R&D Credit

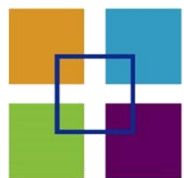
- Recent regulatory developments make claiming the R&D tax credit for companies much more feasible
- Look back studies can recognize unclaimed credits for open tax years (generally 3 or 4 years)
- There is a \$250,000 credit for start up companies to claim against their payroll tax!



R&D Credit

Industry:

Manufacturers



Proprietary Product Manufacturers

- Examples:
 - Boat and ship builders
 - Automotive OEMs and suppliers
 - Aerospace OEMs and suppliers
 - Chemical manufacturers
 - Medical equipment manufacturers
 - Food and beverage manufacturers
 - Firearms manufacturers
 - Life science companies
 - Custom manufacturers



Proprietary Product Manufacturers

- Qualified Activities:
 - New product development
 - Product improvement – functionality, performance, reliability, or quality
 - Production process development
 - Developing new techniques or tooling
- Eligible Expenditures
 - Wages – engaging, supervising, supporting
 - Prototypes
 - Prototype tooling
 - Contract research



Custom Manufacturers

■ Examples:

- Plastic processors – injection molding, thermoforming, blowmolding, extrusion
- Tool shops – injection molds, blow molds, dies
- Stampers – automotive or aerospace
- Dental laboratories
- Machine shops – automotive, aerospace, consumer products
- Electronics manufacturers
- Automation companies and integrators
- Resin or chemical manufacturers
- Foundries or casting operations
- Film extrusion



R&D Credit

Industry:

Software & Technology



Software & Technology Companies

■ Examples:

- Firmware developers
- Software development companies – proprietary or custom
- Video game developers
- Artificial intelligence
- Robotics manufacturers and programmers
- ERP software developers
- Banks developing software
- Internal software that interacts with 3rd parties



Software & Technology Companies


- Qualified Activities:
 - Developing programming code
 - Developing new algorithms or system architecture
 - Developing new firmware
 - Developing technology or programming code for robotics
 - App development
- Eligible Expenditures
 - Wages – Engaging, supervising, or supporting
 - Firmware prototypes
 - Pilot models
 - Contract research



R&D Credit

Industry:

Engineering Firms



Engineering firms

- Examples:

- Structural engineering firms
- Electrical engineering firms
- Civil engineering firms
- Mechanical engineering firms
- Design-build contractors with engineers on staff



Qualifying Projects:

- ✓ Fixed Fee or Lump Sum Projects
- ✓ Technological bid and proposal time



- Qualified Activities:
 - Developing new bridge or road designs
 - Developing new electrical systems
 - Developing new HVAC systems
 - Designing and developing new building structures
- Eligible Expenditures
 - Wages – Engaging, supervising, or supporting
 - Contract research



R&D Credit

Case Studies



Case Studies

- \$50 million custom injection molder
 - \$1.8 million in Federal and state tax savings over four years
- \$40 million boat manufacturer
 - \$625,000 of Federal tax savings over three years
- \$26 million injection mold builder
 - \$595,000 of Federal tax savings over three years
- \$48 million engineering firm
 - \$555,000 of Federal savings over two years
- 11 million robotics integrator
 - \$2.1 million in Federal tax savings over four years
- \$43 million custom resin compounder
 - \$190,000 of Federal tax savings over two years



Tax Planning for Elders

How can independent living perfectly healthy individuals claim a medical deduction?



Independent Care Facilities

- Many taxpayers are entering into independent living facilities as part of a Community Care Retirement Center
- Depending on the type of Lifecare Contract an upfront entrance fee less than 90% refundable could be considered as a part of the prepayment for future medical along with the current monthly costs to be eligible for a percentage calculation. *Baker vs. Commr. 122 T.C. 143 (2004)*



Independent Care Facilities

- Even though a married couple move into an independent care facility and are not sick or chronically ill, they are eligible to consider taking a medical deduction. In this instance, that could be substantial. This is an accounting method, however, and might not be wise since you would be stuck with this percentage method for the life of your stay at the Continuing Care Retirement Center (CCRC) versus not deducting the entrance fee at all but waiting until you enter assisted living and/or full skilled nursing home whereby more likely that 100% of your monthly costs would qualify.



Health Care & HIPAA!

- Assisted living, home health care and full skilled nursing home costs can be 100% medical deductions!
- In 1996 HIPAA had a hidden significant change that effects most of your clients who are residents of community care organizations.
- HIPAA amends §213(d) of IRC of 1986
 - Adds new category of medical deduction “qualified long-term care services”



Medical Care Definitions §213(d)

- The term “medical care” means amounts paid:
 - 1) For the diagnosis, cure, mitigation, treatment, or prevention of disease,
 - 2) For the purpose of affecting any structure or function of the body,
 - 3) For transportation primarily for and essential to medical care referred to in subparagraph (A),
 - 4) HIPPA added for qualified long-term care services (as defined in section 7702B(c))



- (c) “Qualified long-term care services” means necessary diagnostic, preventive, therapeutic, curing, treating, mitigating and rehabilitation services and maintenance or personal care services



- Individual receiving services must be chronically ill! (Sounds terrible)
- Individual needs substantial assistance or standby assistance with at least two activities of daily living (ADL's) for at least 90 days within the prior 12 months and provided pursuant to a plan of care certified by a certified "health care practitioner"



- ADL's
 - Eating
 - Toileting
 - Transferring
 - Bathing
 - Dressing
 - Continence



- Or chronically ill can mean “substantial supervision to patient for health and safety reasons due to severe cognitive impairment”
- Provided pursuant to a plan of care prescribed by a “Licensed Health Care Practitioner”
 - Physician
 - Registered professional nurse
 - Licensed social worker



Medical Deduction Limits

- 7.5% AGI floor for medical deduction 2018 and 2019 for regular and AMT



Who Claims Medical Deduction?

- Parents or children may claim, it depends



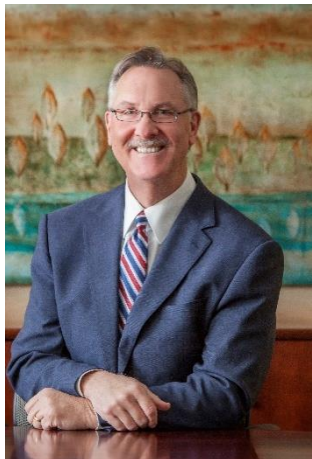
Children Cannot Claim Parents Unless

- Must be able to be claimed as a dependent on tax return or unless only condition flunked is the gross income test
 - Qualifying relative
 - Gross income less than \$4,200 in 2019
 - Provide greater than 50% support
 - Parent or grandparent (relative test)
 - U.S. Citizen, resident alien, resident of Canada or Mexico



What If I Missed This?

- Make payments directly to medical providers (Here, the residential community) §2503(e)
- Amended returns – 3 years
- Multiple support agreements

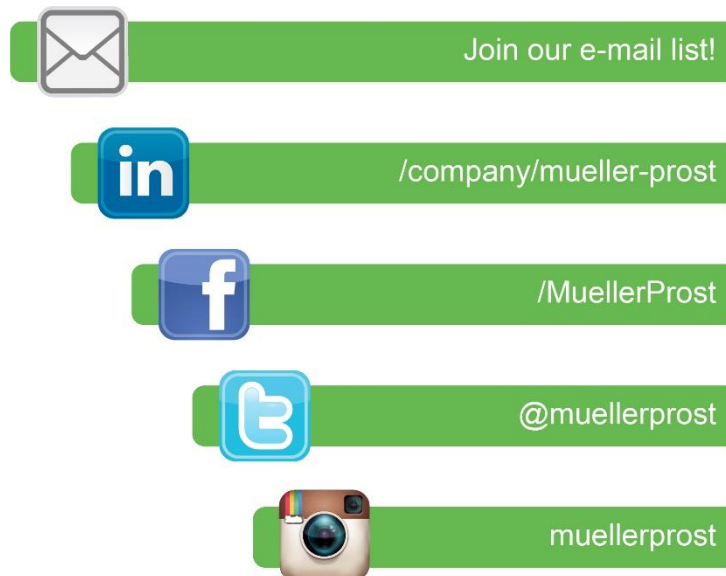


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