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# As deadline looms, new tax laws are in play

**SPECIAL REPORT: TAX LAW**

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As the April 15 filing deadline approaches, individuals and businesses are coming to grips with new state regulations in play, as well as those introduced under the Tax Cuts and Jobs Act.

The federal bill was passed in 2017 and this is the first filing year to be affected. With fewer state and local tax deductions permitted, the laws could leave some people surprised to learn they will receive a smaller refund, said attorney Mark Stulmaker of Lipsitz Green Scime Cambria LLP.

"Everybody is nervous to see what their refund may be," he said.

Attorney Jeffrey Human of Gross Shuman PC agreed.

"I think what we're finding is that now is the first year that we're going to see the impact of the changes. ... It will be interesting to see how they all impact the individual tax return," Human said. "It will depend for individuals based on what they're holding. ... Some people will pay more and some people will pay less."

There are lots of changes for businesses, including checking to see if they're eligible for the Qualified Business Income deduction for pass-through entities.

The deduction was allowed the previous filing year but due to the complexity of the regulations, many eligible businesses avoided it, Stulmaker said.

"They created this section of the law that's so complicated, no one really wanted to go there," he said.

The IRS has offered further documentation to help, he said.

There are two components, according to the IRS. Eligible taxpayers may be entitled to deduct:

Up to 20 percent of their Qualified Business Income from a domestic business operated as a sole proprietorship or through a partnership, S corporation, trust or estate;
20 percent of their combined qualified real estate investment trust dividends and qualified publicly traded partnership income.

For individuals with taxable income that exceeds $157,500 or a married couple filing a joint return with income over $315,000, the deduction is limited and contingent on the type of trade or business, the amount of W-2 wages paid and the unadjusted basis immediately after acquisition of qualified property held, the IRS said.

Income earned through a C corp or by providing services as an employee is not eligible for the Qualified Business Income deduction.

Other new or revised deductions for businesses are explained on the **IRS website** and concern excess business losses, net operating losses, meal and entertainment expenses, fines and penalties, state and local credits, business expense and fringe-benefit deductions and more.

"The big thing is that the (new laws) made major changes to corporation tax rates, the idea being that income from capital investments should be taxed as they are. ... They've dramatically lowered the tax rates," Stulmaker said.

K. Craig Reilly, senior associate at Hodgson Russ LLP, said it will be interesting to see how the new taxes go over now that much more of the Tax Cuts and Jobs Act must be reckoned with.

"Now that we're coming up on the 2018 filing season, this is sort of where the rubber meets the road," Reilly said.

**State and local changes**

Two other recent changes in New York and beyond are worth keeping an eye on, he said.

Some businesses are still coming to terms with more expansive Nexus standards that took effect in 2015, he said. The regulations imposed a corporate franchise tax filing obligation on corporations from out of state that net more than $1 million in sales in New York.

"If you are deriving enough of an income in your dealings with those clients, you could become a tax filer in the state without really realizing it," Reilly said.

The other change came as a result of a U.S. Supreme Court decision in 2018 that ruled states can charge tax on purchases made from out-of-state sellers who have no physical presence in the state.

"Up until that decision (South Dakota v. Wayfair Inc.), the U.S. Constitution rule was that you had to have a physical presence in the state," he said. "Even if what you were selling was subject to tax, that wasn't really your issue; that was going to be the purchaser's issue."

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