

Keeping up with Pennsylvania and Federal Tax Law Changes

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A bevy of state and federal tax changes have recently come down, and businesses across Pennsylvania should be checking to see how they affect their bottom line.

- Pennsylvania has begun enforcing a 2017 law that expanded an income tax withholding requirement. This new requirement mandates that individuals and entities who pay Pennsylvania-sourced income to nonresident, independent contractors in amounts of more than \$5,000 per year must now withhold Pennsylvania income tax from those payments. Another group affected by this new requirement are those who rent Pennsylvania property from nonresident landlords. Going forward, those Pennsylvania tenants will be expected to withhold income tax from their rent. To comply with this new requirement, those that fall into either of these two groups must apply for a withholding account with the Pennsylvania Department of Revenue and begin filing withholding tax returns.
- The [Tax Cuts and Jobs Act of 2017](#) will start to affect more businesses as its ramifications become reality. For-profit and nonprofit entities, regardless of their mission or work, are now required to pay a 21 percent tax on certain fringe benefits that they provide to their employees. This change may be particularly concerning for nonprofits, such as churches, that have historically been exempt from filing returns and paying taxes, but will now be expected to do so. It likely will be difficult to determine the value of various fringe benefits that never had a monetary value attached to them. Despite having gone into effect on January 1, the U.S. Treasury has yet to provide regulations that will flesh out these issues, but they are in the works. But don't wait for further clarification. These entities are to make such valuations on things like employee parking spaces without guidance and pay the respective tax quarterly.
- Taxpayers don't lose out on all of the new changes. The new 83(i) election took effect February 1 as part of the Tax Cuts and Jobs Act of 2017. The election is available to employees of corporations that do not trade its stock on a securities market and have written agreements providing that 80 percent of all employees who provide services to the corporation are granted either stock options or restricted stock units (RSUs). By exercising the 83(i) election, those employees may defer for five years recognition of income associated with vested stock options or vested RSUs received.
- The Tax Cuts and Jobs Act of 2017 may give businesses a reason to reconsider their choice of form. A new deduction was thought to make pass-through entities, such as partnerships and LLCs, more attractive to businesses. But the new lower corporate tax rates and Section 1202 of the Internal Revenue Code may be enough to cause businesses to consider incorporating as C corporations. Section 1202 permits individuals to exclude up to 100 percent of the gain from the sale of qualified small business stock (QSBS). To qualify, the

C corporation's assets may not have exceeded \$50 million prior to or at the time the stock was issued. At least 80 percent of the corporation's assets must be used in the course of a qualified trade or business and, the shareholder must have acquired the stock on original issuance from the corporation. In some instances, the benefits of Section 1202 can even be had by pass-through entities in a hybrid approach, where the operating assets of the entity are contributed to a C corporation. With the new Tax Cuts and Jobs Act, now is a great time to reexamine your business.

For more information regarding these tax changes and what we can do to help you understand them, please contact any of the attorneys in [Barley Snyder's Tax Practice Group](#).

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