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Pennsylvania State Tax Update: Capital Stock and Franchise Tax Finally Meets Its Demise

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The Pennsylvania capital stock and franchise tax was finally repealed as of December 31st 2015 after several attempts by previous administrations and the current governor to phase out this antiquated tax. The tax has been around since the 1800s and is imposed on corporations with capital stock, joint-stock associations, limited liability companies, business trusts, and other companies doing business in Pennsylvania. Pennsylvania businesses paid the capital stock tax based on a formula that took into account the value of assets, meaning that a business such as a real estate entity would be required to pay the tax even if it did not have net income. Understandably, this tax was extremely unpopular in the business world. Although it was a nuisance, the tax could be avoided by placing assets in partnerships rather than corporations or limited liability companies. Fortunately, it will no longer be necessary to pay the capital stock tax or plan around it in structuring business holdings.

Because the Pennsylvania capital stock and franchise stock tax have finally been terminated, this should provide additional growth opportunity for Pennsylvania businesses and allow businesses to choose any type of entity without consideration of the capital stock and franchise tax.

Federal Tax Update: Protecting Americans from Tax Hikes Act of 2015 (PATH Act).

The U.S. Congress also took steps to modify and make permanent a number of tax breaks for individuals and small businesses. A few of these are discussed below.

Section 179 expensing limit- This is one of the most positive tax legislation actions that has taken place in the past several years for small businesses. Congress recently made permanent the $500,000.00 Section 179 expensing limit thereby ensuring that small businesses may continue to elect to expense up to $500,000.00 of investment in new equipment and other qualifying property instead of having to depreciate the cost over a number of years.

Business and Individual Tax "Extenders" made permanent or extended for longer periods of time- Congress has again extended a varied assortment of more than 50 individual and business tax deductions, credits and savings laws. This package has repeatedly been extended for short periods of time (1 or 2 years), but the most recent action by Congress in the PATCH Act made some provisions permanent while extending others for either 5 or 2 years.

The extended business provisions include the following:

- the minimum low-income housing tax credit rate for non-federally subsidized new buildings; made permanent;
- the new markets tax credit; extended through 2019
- the work opportunity tax credit; extended through 2019; the new law also modifies the credit beginning in 2016 to apply to employers who hire qualified long-term unemployed individuals (i.e., those who have been unemployed for 27

weeks or more) and increases the credit with respect to such long-term unemployed individuals to 50% of the first $6,000 of wages

• 15-year straight line cost recovery for qualified leasehold improvements, qualified restaurant buildings and improvements, and qualified retail improvements; made permanent

• 50% bonus depreciation; extended for property placed in service during 2015 through 2019 (but 2016 through 2020 for certain property with a longer production period and certain aircraft); the 50% rate is phased down to 40% for property placed in service during 2018 (but 2019 for the long production period property and aircraft) and 30% for property placed in service during 2019 (but 2020 for the long production period property and aircraft); the provision makes qualified building improvements (no longer just qualified building leasehold improvements) bonus depreciation eligible and permits most plants bearing fruit or nuts to be eligible for bonus depreciation when planted or grafted rather than when income-producing

• the exclusion from a tax-exempt organization's unrelated business taxable income (UBTI) of interest, rent, royalties, and annuities paid to it from a controlled entity; made permanent

The extended individual provisions include the following;

• the provision that permits tax-free distributions to charity from an individual retirement account (IRA) of up to $100,000 per taxpayer per tax year, by taxpayers age 70 or older; made permanent

• the above-the-line deduction for qualified tuition and related expenses; extended through 2016

• the deduction for mortgage insurance premiums deductible as qualified residence interest; extended through 2016

• the $250 above-the-line deduction for teachers and other school professionals for expenses paid or incurred for books, certain supplies, equipment, and supplementary material used by the educator in the classroom; made permanent; also modified, beginning in 2016, to index the $250 cap to inflation and include professional development expenses

• tax credits for low to middle wage earners that were originally enacted as part of the 2009 stimulus package and were slated to expire at the end of 2017; made permanent; these tax credits are: (1) the American Opportunity Tax Credit, which provides up to $2,500 in partially refundable tax credits for post-secondary education, (2) eased rules for qualifying for the refundable child credit, and (3) various earned income tax credit (EITC) changes

If you have any questions concerning the above mentioned tax updates, please feel free to contact Tim Malloy at 484-334-8371.