

# FEDERAL TAX UPDATE & CONSIDERATIONS FOR THE EXPIRATIONS OF THE TAX CUT AND JOBS ACT



McKONLY & ASBURY

TAX | ASSURANCE | CONSULTING | ACCOUNTING

# WHAT ARE WE GOING TO TALK ABOUT TODAY?

- Current Tax Law and How We Got Here
- What's Coming in 2026?
- Employee Retention Credits
- IRC Section 174 (R&D) Update
- Inadvertent S Corporation Terminations





McKONLY & ASBURY

TAX | ASSURANCE | CONSULTING | ACCOUNTING

# CURRENT TAX LAW AND HOW WE GOT HERE

# CURRENT TAX LAW

- Tax Cuts and Jobs Act
  - C Corporation Provisions
    - Lowered rate to a flat 21% - PERMANENT
  - Individuals – Expire after 2025
    - Lowered the Top Individual Tax Rate to 37%
    - Increased Rate Bracket Spread
    - Allows for a 20% Deduction Against Flow-Through Income (QBI Deduction)
    - Increased the Standard Deduction
      - But Eliminated Personal Exemptions
    - Capped the State and Local Tax Deduction at \$10k
    - Increased the AMT Exemptions
    - Increased the Child Tax Credit
    - Suspended Miscellaneous Itemized Deductions
    - Dramatically Increased the Estate Tax Exemption



# CURRENT TAX LAW & HOW WE GOT HERE

## ■ Tax Cuts and Jobs Act

### ■ Other

- Bonus Depreciation – CALENDAR YEAR
  - Phase Out Began in 2023 – 80%
  - 2024 – 60% ... 2026 – 20%
- IRC Section 174 – R&D Capitalization

## ■ How did we get here?

- Two Words – Budget Reconciliation





McKONLY & ASBURY

TAX | ASSURANCE | CONSULTING | ACCOUNTING

**WHAT'S COMING IN 2026?**

# WHAT ABOUT 2026?

- C Corporations – rate stays at 21%
- Individuals
  - Top Rate Back to 39.6%
  - Brackets Get Compressed
  - Standard Deduction Reduced
  - Personal Exemptions Come Back
  - QBI Deduction – GONE
  - SALT Cap – GONE
  - AMT Exemptions Reduced
  - Estate Tax Exemption Back to \$5m



# SO WHAT?

- We're Just Back to 2017, Right?
- Wrong!
  - C Corp Rate DOES NOT CHANGE
  - QBI Deduction is GONE
  - Flow-Through Income Max Rate – 39.6% PLUS STATE!
    - SALT Deduction Most Likely Limited by AMT
  - C Corp Max Rate – 25%?
    - Double Taxation
  - Is This the End of Flow Throughs?





# WHAT ABOUT YOU AND ME?

## ■ 2023 – 2025

- Take Advantage of the Standard Deduction
- Maximize HSA/FSA etc.
- Accelerate Income?
- Estate Planning?

## ■ 2026

- Know the Changes
  - What is a \$10k Charitable Contribution Worth in 2025?
  - What is it Worth in 2026?





McKONLY & ASBURY

TAX | ASSURANCE | CONSULTING | ACCOUNTING

# EMPLOYEE RETENTION CREDIT

# EMPLOYEE RETENTION CREDIT

- What's the IRS Doing?
  - Officially – numerous warnings and clarifications
  - Unofficially – 90% of enforcement division switched to ERC compliance
- What are the ERC “Experts” telling you?
  - Mask mandate? You qualify!
  - Social distancing? You qualify!
  - Supply Chain Issues? You qualify!
  - Do we sign the 941X? Well... no.
  - Do I work for the company calculating the credit? Well... no.
  - Are we even calculating the credit? Well... no. We just take the numbers you give us.
  - But You're Certifying that We Qualify, Right? Not Exactly.
  - But you don't need to pay us until you get the credit!



# EMPLOYEE RETENTION CREDIT

- What are the rules?
  - Greater than 50% decrease in gross receipts (20% in 2021)
    - 2020 or 2021 calendar quarter vs same 2019 calendar quarter
  - Shut down by government mandate
    - Supply chain issues?
    - Customer issues?
    - Operate remotely?
    - Partial shutdown?
  - No double dipping with PPP or other wage credits!





McKONLY & ASBURY

TAX | ASSURANCE | CONSULTING | ACCOUNTING

# IRC SECTION 174 (R&D) UPDATE

# IRC SECTION 174

- What is it?
  - Specified Research or Experimental Expenditures incurred in tax years beginning after December 31, 2021, must be capitalized and amortized over five years using the half-year method (so six years)
  - Over Fifteen years if costs not domestic
- When did they do this?
  - 2017 – this is how we're supposed to pay for the Tax Cuts and Jobs Act



# IRC SECTION 174

- What are “Specified Research or Experimental Expenditures”?
  - Anything that Generates a Credit
  - Software Development Costs (regardless of whether or not it’s eligible for the credit)
  - Includes Costs that are NOT Credit Eligible
    - Labor
    - Materials & Supplies
    - Cost Recovery
    - Patent Costs
    - Management
    - Travel



# IRC SECTION 174

- So, what do we do now?
  - Just don't take the R&D credit? (doesn't solve the problem)
  - Plan accordingly
  - Call your legislators
  - Cross your fingers







McKONLY & ASBURY

TAX | ASSURANCE | CONSULTING | ACCOUNTING

# INADVERTENT S CORPORATION TERMINATIONS

# THE LLC/S CORP TRAP

## ■ PLR 202247004

- Tells us how the IRS will view S Corporations that are also LLCs that have operating agreements that are inconsistent with S Corp rules
- How does this happen?
- Good news – they'll forgive you
- Bad news – it's expensive (like \$50k +)
- So, how do we avoid this?



# CONTACT INFORMATION



**Mark Heath, CPA**

Partner

Director of Tax Services

[mheath@macpas.com](mailto:mheath@macpas.com)

717-972-5755



**McKONLY & ASBURY**  
TAX | ASSURANCE | CONSULTING | ACCOUNTING

Visit us online at [www.macpas.com](http://www.macpas.com) for more information.