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Tax Reform - Subchapter S Banks and Other Issues

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Issue Update

On December 22, 2017, President Trump signed the Tax Cuts and Jobs Act (TCJA), which includes a significant tax rate cut for corporations and a 20% deduction for shareholders of certain businesses that operate as pass-through entities. This was a signature legislative initiative and viewed as very important to economic growth in our country. With current and potential changes in Congress and the Administration, maintaining these pro-growth policies is critical.

Approximately one-third of the banks in the U.S. have elected S Corporation status and are taxed as pass-through entities. The 20% deduction is new to the Internal Revenue Code (IRC) and although general rules were included in the statute, there was a significant need for guidance on which specific businesses qualify for the deduction and how the deduction is calculated.

On January 18, 2019, the IRS and Treasury issued final regulations interpreting Section 199A of the IRC. The final regulation package contains important language confirming that S Banks should generally qualify for the deduction. However, impacted banks and their advisors will need to interpret the rules and implement records and processes with respect to certain aspects of the banking business (such as wealth management) that may not qualify and may have implications for the availability of the deduction.

In addition to the pass-through entity regulations, the IRS and Treasury are in the process of issuing a variety of guidance with respect to the TCJA. This guidance is expected to address Bank Owned Life Insurance, Opportunity Zone tax credits, deductibility of net interest expense and certain international taxation issues. ABA is working to understand the concerns and issues raised by members and others and will work to advocate for banks in this important process.

Why it Matters To Your Community

The enactment of tax reform is intended to help our economy and country grow. Banks are a critical component of the economy and the underlying communities that drive growth and prosperity. Tax reform provisions and interpretations should allow banks to be competitive and assist in the growth of the economy.

Recommended Action Items

1. Bankers should share with policymakers the impact of tax reform on their communities and their business.
2. Bankers should share experiences, concerns and issues that are encountered in the implementation of the provisions of the TCJA. ABA will work with policymakers to address the issues in guidance, etc.