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Local attorneys on new tax law: 'Everyone is going to get a good deal out of this'

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GableGotwals attorneys are working with clients as they prepare for the newly passed federal tax law. They are (from left) Shepherd F. Miers Jr., David B. McKinney and James Scears.
Ralph Schaefer/For TB&LN

Winners and losers are in the new Tax Cuts and Jobs Act that went into effect Jan. 1.

Exactly who will be on the plus or negative side of President Donald Trump's Christmas gift to the nation remains to be seen in the complicated legislation, according to three GableGotwals attorneys.

David B. McKinney, Sheppard F. Miers Jr. and James Scears have been working on various parts of the legislation as they advise clients about possible changes, then add "stay tuned" as the Internal Revenue Service establishes regulations to clarify vague conference committee minutes.

McKinney's focus has been on employee benefit and estate taxes. Miers and Scears teamed up to work on other parts of the law.

"What I expect from the new law and is the general legislative intent by Congress and the President is to reduce tax rates, leave more money on the table for taxpayer businesses and individuals to invest and start businesses, or maintain their businesses more efficiently and create jobs," Miers said. "I am positive on that. While it's hard to say, I think universally everyone is going to get a good deal out of this and it will flow through to help everybody to some extent."

Everyone has been hearing and reading about tax reform for the past several years, he said. Congress, particularly Republicans, wanted to reform the tax law, make it simpler and more efficient. The big takeaway is the corporate tax reduction is permanent, Scears said, while individual changes will phase out in 2025 and 2026 unless made permanent by Congressional action.

Congress budgeted $1.5 trillion in revenue reductions in the tax law and used every penny, Miers said. That money over a few years will be going into the economy both through corporate and individual tax reductions.

The intended big winners are corporations, who will pay a lower flat rate of 21 percent on all profits. Accounting rules have been liberalized to help small businesses on the front end that will make it easier to comply with federal tax laws than in past years.

Miers admitted to having had sleepless nights as he reviewed the new tax law.

Nonprofits. “There aren’t a lot of changes to the deductibility of charitable gifts,” McKinney said. Now it is possible to give away 60 percent of one’s adjusted gross income to mainstream charities, churches, Red Cross and others, as opposed to 50 percent under the old tax law.

The corporate tax rates could affect tax-driven contributions. It will be an interesting study to see these corporate tax contributions to charity, Scears added, and whether they are made because it is a deduction or they want to help for the greater good.

Some people may want to give money to charity regardless of their tax status, regardless of whether or not they get a tax break, Miers said. “If they get the break, good. If not, so be it.”

Pass through. Complex rules are in place for businesses using the pass through deduction, Scears said. Whether or not a business will benefit will depend upon the definition, sole proprietorship, partnership, S Corporation or an LLC.

Rules on these categories split between what is defined as a specific service, trade or business, as they are taxed in different ways.

Congress phrased the pass through legislation as aimed at main street firms to help start or grow their business, Miers said. Large income taxable entities may find they cannot play to get the deduction, even if they are organized as a partnership or LLC. Congress tried to create a narrow path through which some taxpayers fit and others don’t.

McKinney expects some clients to take a hard look at changing or tweaking their corporate ownership structure during the year to get a 20 percent tax deduction.

Federal estate tax. Speculation about whether the federal estate tax would be repealed were discussion topics before the new legislation was introduced, but Miers expected the repeal. In fact, a vote among Tulsa tax professionals was taken before the law came out and the organization was almost evenly split.

Republicans and Democrats use the estate tax to fund raise, he said. Instead, they increased the exemption to $11 million, and that is a pretty good deal.

Employee benefits. Pension and health plans date back to World War II when taxes went up to 90 percent, McKinney said. Congress wanted to find a way to get more money to employees without having them pay more taxes and put in benefits that could be deducted.

Now that taxes are so low, McKinney wonders if employers will look at different ways to provide employee benefits or just give them cash. It’s too early to tell what will happen.

Millennials. There was a question about whether millennials will be as interested in purchasing homes because of the changes. That deduction for the middle class has not been a major issue for a long time because they didn't make enough money to get an economic benefit, Scears said.

People on the East and West coasts got a big deduction because they were paying more interest. Even though the three attorneys have been studying the new law and reviewing its impact, they advise clients to "stay tuned."

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