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OBJECTIVE ADVICE ON THE ROAD OF LIFE

Robert R. Roback, Sr. CPA, CFS, CFA In Memory of (1956-2011)
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Dear Client,

We wanted to make you aware of certain Internal Revenue Service tax laws and policies that have passed and/or been announced within the past week that will affect your 2015 and beyond business income tax situations. We have included the more pertinent changes in the front of the communication.

The 2016 Standard Mileage Rates for Business, Medical, Moving and Charitable travel were issued on December 17, 2015 as follows:

Business miles driven – 54 cents per mile
Medical and Moving miles driven – 19 cents per mile
Charitable miles driven – 14 cents per mile

These rates have decreased from the 2015 values due to the drop in gas prices. The Internal Revenue Service performs an annual study of fixed and variable costs incurred to maintain a vehicle to determine the above rates.

President Obama signed the "Protecting Americans from Tax Hikes Act of 2015" and the "2016 Consolidated Appropriations Act, 2016" into law on **Friday, December 18, 2015**. The laws extend, modify, and/or add numerous business-related provisions that affect business of all sizes. A summary of the major changes or extensions are provided below.

Tax Credits, Depreciation, and Other Provisions Extended and/or Modified

Several major items were addressed by the new legislation:

• **Increased expensing limitations and treatment of certain real property as § 179 property** -The Act retroactively retains the 2015 limits, i.e., a taxpayer may elect to expense up to $500,000 of equipment costs (with a phase-out for purchases in excess of $2,000,000). The Act also **permanently** extends the higher expensing limitation and phase-out amounts. Starting in 2016, the limitations will be indexed for inflation. The special rules that allow expensing for computer software and qualified real property (qualified leasehold improvement property, qualified restaurant property, and qualified retail improvement property) are also permanently extended by the tax deal. Furthermore, beginning in 2016, the $250,000 qualified real property expensing limitation is eliminated.

• **Bonus depreciation** - The Act extends bonus depreciation for property acquired and placed in service during 2015 through 2019 (with an additional year for certain property with a longer production period). The bonus depreciation percentage is 50% for property placed in service during 2015, 2016 and 2017 and phases down, to 40% in 2018, and 30% in 2019.

• **The research and development credit** - The Act permanently extends the R& D credit. Beginning in 2016, eligible small businesses ($50 million or less in gross receipts) may claim the credit against alternative minimum tax liability, and the credit can be used by certain small businesses against the employer's payroll tax (i.e., FICA) liability.

Health Care Related Changes

• **Delay of excise tax on high cost employer-sponsored health coverage** - The Act provides for a two-year delay of the excise tax on high-cost employer-sponsored health coverage (also known as the "Cadillac" tax); thus, the tax will become effective in 2020 rather than 2018.

• **Deductibility of excise tax on high cost employer-sponsored health coverage** - The Act allows the excise tax on high-cost employer-sponsored health coverage to be deductible as a business expense.

• **Moratorium on medical device excise tax** - The Act delays the implementation of the 2.3% excise tax imposed on the sale of medical devices until 2018.

Other extensions and modifications were made to the following credits and other Code provisions:

• The work opportunity tax credit (extended through 2019; adds qualified long-term unemployed individuals as eligible hires);

• Employer wage credit for employees who are active duty members of the uniformed services (made permanent; allows all businesses to be eligible);

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

• Indian employment tax credit (extended through 2016);

• Classification of certain race horses as 3-year property (extended through 2016);

• Special expensing rules for certain film and television productions (extended through 2016; adds live theatrical productions as eligible);

• Empowerment zone tax incentives (extended through 2016; employee residence test modified);

Provisions Affecting S Corporations, RICs and Other Business Activities

• **Extension of exclusion of 100% of gain on qualified small business stock** - The Act permanently extends the exclusion of 100% of the gain on certain small business stock for non-corporate taxpayers to stock acquired after September 27, 2010, and held for more than five years. This provision also extends the rule that eliminates such gain as an AMT preference item. The changes are effective for stock acquired after December 31, 2014.

• **Extension of reduction in S corporation recognition period for built-in gains tax** - The Act permanently reduces the § 1374 recognition period to five years for tax years beginning in 2015. Pre-existing installment sales continue to be governed by the holding periods for the years of sale. This is effective for tax years beginning after December 31, 2014.

• **Extension of favorable S corporation's charitable contribution of property** - The shareholder's basis in S corporation stock is reduced by the shareholder's pro rata basis in the donated property (rather than the pro rata fair market value of the donated property had the provision expired).

• **Treatment of timber gains** - The Act taxes C corporation timber gains at a tax rate of 23.8%. This is effective for tax years beginning after 2015.

• **Extension of treatment of certain dividends of regulated investment companies** - The Act permanently extends provisions allowing for the pass-through character of interest-related dividends and short-term capital gains dividends from regulated investment companies to non-resident aliens. This is effective for tax years beginning after December 31, 2014.

If you should have any questions relating to any changes or extensions please contact us for clarification.

Sincerely yours,

Kumlander, Donofrio, Hay & Pehl