Tax Reform – M&E and Transportation Fringe Benefits

02.09.18

The Tax Cuts and Jobs Act (TCJA) that passed in December of 2017 changed the tax treatment of certain expenses for fringe benefits, meals and entertainment beginning January 1, 2018. The TCJA may require changes to the way your entity accounts for these expenses.

Fringe Benefits:

Moving Expenses: Beginning January 1, 2018, qualified moving expense reimbursements must be included in an employee's taxable income. This excludes qualified moving expenses related to active duty Armed Forces members.

Qualified Transportation Fringe Benefits: Beginning January 1, 2018, expenses related to the provision of qualified transportation fringe benefits (excluding qualified bicycle expense reimbursements) are not deductible by the employer. Neither are expenses paid for transporting an employee between his residence and place of business unless necessary for the safety of the employee.

Reimbursements for qualified bicycle expenses paid after January 1, 2018 are deductible by the employer. However, the reimbursement for qualified bicycle commuting expenses must be included in the recipient’s taxable income.

Qualified transportation benefits, excluding bicycle expense reimbursements, continue to be excluded from the recipient’s taxable income.

Paid and Free Parking Lots At or Near the Business Premises: We are awaiting further guidance from the IRS to confirm whether the qualified transportation fringe benefit disallowance extends to expenses incurred or reimbursed by the employer for employee parking near or at the employer’s business regardless of whether parking is offered to both employees and customers.

Meals and Entertainment:

Entertainment: Under the previous law, 50% of most meals and entertainment expenses directly associated with the entity’s trade or business were deductible. The TCJA does not allow for a deduction of most expenses related to entertainment, recreation, club dues or similar items beginning January 1, 2018. Entertainment related to certain meetings of employees, stockholders, business leagues, etc. that was previously 100% deductible under the old law may still be fully deductible after January 1, 2018. Please consult us directly with any specific questions.

Overtime Meals and Meal Money: Meals and meal money provided to enable employees to work overtime was previously excluded from employee income as a de minimis fringe benefit and was fully deductible to the employer. Beginning January 1, 2018, these expenses are only 50% deductible to the employer. TCJA leaves open the question of whether these expenses will be included in the employee’s taxable income beginning January 1, 2018. We are awaiting further guidance from the IRS.

Meals Provided for the Convenience of the Employer: Qualified meals provided for the convenience of the employer at or near the employer’s place of business were previously 100% deductible. As of January 1, 2018, these expenses are only 50% deductible through 2025. No deduction will be allowed for these expenses after 2025.

Other Meals and Office Parties: Other business and travel meals continue to be 50% deductible. Expenses for office holiday parties remain 100% deductible.

Summary

Suggested Action Items

- Update your accounting system to include the following in wages subject to FIT, FITW, FICA, and FUTA for all expenses paid January 1, 2018 through December 31, 2025:
  - Moving expenses
  - Qualified bicycle expense reimbursements

- Confirm state conformity with the TCJA for all states in which your entity has employees. State withholding rules may or may not differ from the above. As of now, California does not conform to most provisions of the TCJA.
Consider if any changes to company policy regarding meals, entertainment, and fringe benefit expenses should be made in light of the TCJA:

- Will your entity continue to provide de minimis fringe benefits (other than bicycle reimbursement) for which no deduction is allowed?
- Consider requiring employees to report meals separately from entertainment expenses in reimbursement requests.
- Will your entity continue to reimburse employees for entertainment expenses?
- Will your entity continue to offer free meals to employees on premises for which only a 50% deduction is allowed as of January 1, 2018 and for which no deduction is allowed after 2025?

Update your chart of accounts to include separate accounts for the following line items:

- Entertainment Expenses
- Meals Provided for the Convenience of the Employer
- Overtime Meals and Meal Money
- Other Business and Travel Meals
- Office Parties
- Parking Expenses – Employee Spaces
- Parking Expenses – Non-Employee Spaces

If you have any questions about tax reform or its impact on your business, please contact Julie West, Corporate Tax Partner, at jwest@bpmcpa.com or (650) 855-6881.

i. IRC §132(g) and IRC §217
ii. TCJA §11048
iii. IRC §132(f)
iv. TCJA §13304
v. IRC §132(f)
vi. TCJA §11047
vii. IRC §274(n)
viii. TCJA §13304
ix. IRC §274(e)(5) and §274(e)(6)
x. IRC §274(e)(4)
xi. IRC §119 and IRC §132(e)
 xii. IRC §274(n) and TCJA §13304
xiii. IRS Reg. §1.132-6(d)(2)
xiv. IRS Reg. §1.132-6(d)(2)