

“ONE BIG BEAUTIFUL BILL ACT” BUSINESS TAX PROVISIONS

July 2025

Executive Summary

On July 4, 2025, President Trump signed the omnibus “One Big, Beautiful Bill Act” (“OBBBA”) into law. Many of the OBBBA’s provisions are not directly business or enterprise-related: border security, deportations, Medicaid, etc., and will not be reviewed here. The provisions that are business/enterprise-related can be divided into those making permanent provisions of the 2017 Tax Cut and Jobs Act (“TCJA”) that were scheduled to sunset at the end of this year, and new provisions (the OBBBA and TCJA, collectively, the “Acts”).

I. 2017 Tax Cut and Jobs Act Provisions Made Permanent.

- Corporate Tax Rate. TCJA reduced the corporate tax rate from a four-bracket progressive tax with a highest bracket of 35% on taxable income of over \$10 million to a single, permanent flat tax of 21%. The lower flat corporate tax is likely to:
 - Encourage C-corporations. C-corporations should become a relatively more attractive business entity form, compared with limited liability companies (“LLCs”) and limited partnerships (“LPs”), which feature “pass-through” taxation (no taxation at the entity level; business owners are taxed at ordinary income rates for their *pro rata* share of profits and losses). Nevertheless, LLCs and LPs are likely to remain better choices for enterprises and funds that expect to remain private and closely held (*see*, our “Public or Private: When Should a Company Go Public and When Stay Private?”, available [Here](#)).
 - Encourage Asset Sales. All other things being equal, purchasers in M&A transactions (“Acquirers”) tend to prefer Asset Purchases, since they can pick and choose what seller (“Target”) assets to buy and which Target liabilities to assume or exclude. By contrast, all other things being equal, Targets and their shareholders tend to prefer Stock Purchases, since they dispose of all assets and liabilities together in what is usually a simpler transaction, and because it can “step up” its tax basis in Target’s assets and depreciate and amortize them more advantageously. Tax Code §338 provides for two different elections under §338(g) and §338(h)(10) to allow both Acquirer and Target preferences to be accommodated by a Stock Purchase (preferred by Target) that allows Acquirer to receive a stepped-up tax basis in Target’s assets as though an Asset Purchase had taken place (*see*, our “Mergers & Acquisitions 2: Tax Structuring Considerations”

([M&A 2](#)). For Acquirer, the depreciation and amortization of the stepped-up assets are deductible. The §338 elections trigger a taxable “deemed asset sale,” and therefore make sense only when the stepped-up basis is more valuable than the tax cost of the deemed asset sale. The Acts’ lowered flat corporate tax rate may encourage the use of asset sale structures.

- Pass-Through Business Deduction. Non-incorporated investors in businesses structured as pass-through entities (U.S. LLCs, LPs, S-corporations) and sole proprietorships can deduct approximately 20% of their qualified business income. There are some restrictions based on W-2 wages paid to non-sole proprietorship employees. Specified service industries, such as law practice, healthcare, and other professional services are excluded from the deduction, BUT joint filers in the excluded industries with individual income from the business below \$315,000 and other filers with income below \$157,500 can claim the full deduction. The service business limitation on the pass-through deduction phases in at higher incomes. The pass-through business deduction substantially reduces taxation on the owners of pass-through entities and should make their use for private, closely-held companies even more popular. The deduction also is a counter to the corporate tax reduction, to the extent that C-corporations may be expected to develop new popularity on account of their lowered taxation.
- Limitations on Business Interest Expense Deduction. Prior to the TCJA, interest paid or accrued by a business was in general fully deductible. The Acts limit the deduction of net interest expense to 30% of EBITDA (earnings before interest, taxes, depreciation, and amortization. For pass-through entities, the interest expense deduction is applied at the entity level, not the shareholder/owner level. Interest that cannot be deducted in the current tax year can be carried forward indefinitely. Some businesses are exempt; for example, real property businesses can continue to fully deduct interest, but must use the alternative depreciation method. Among the effects the limitation on business interest expense deduction is likely to have:
 - Discourage Debt Financing. The limitation on business interest expense deduction should disfavor debt financing as a general matter in a time when interest rates have risen after over a decade of hovering near zero. A generation of corporate finance has grown in the extraordinary environment of virtually free money at negligible interest at low inflation. That period has come to an end, and the end of full business interest deductibility should be considered when arranging the corporate finance structure. Among other things, convertible debt instruments, term loans, revolving credit facilities, debentures and short-term notes will all change in relation to each other and to equity

because of the loss of the full deduction, with the incurring of debt by a business a more expensive proposition than hitherto. The relative availability of debt finance may also be affected.

- Expensing. The Acts permit the immediate, full expensing of short-term capital investments, including domestic research and development costs.
- Executive Compensation. The TCJA increased the limitations on deductibility of executive compensation. The “performance” exception was also ended. Among the effects the executive compensation deduction changes are likely to have:
 - A sharper pencil and a better rationale for high end executive compensation, since it will now cost the company dollar-for-dollar.
- Anti-Inversion/Territorial Tax Measures. The TCJA took steps to discourage the widely criticized practice of U.S. businesses with substantial multinational operations maintaining cash income in overseas tax havens like the Republic of Ireland to avoid U.S. taxation when the cash was “repatriated” to the United States. The TCJA and OBBBA deter so-called “inversions” with the “deemed” repatriation over eight years of currently deferred foreign profits at a rate of 15.5% for liquid (cash and cash equivalent) profits and 8% for illiquid (reinvested foreign) profits. This is a step towards “territorial” taxation, in which earnings are taxed where earned, as most tax jurisdictions do, and are not subject to U.S. worldwide taxation, as formerly practiced. The Acts also eliminate federal income tax on dividends received by a U.S. corporation from a 10% owned non-U.S. subsidiary. The Acts also discourage inversions by imposing excise taxes on insiders of U.S. corporations that expatriate to non-U.S. jurisdictions, and taxes dividends paid to domestic shareholders of the foreign company at ordinary income rates. Finally, the Acts imposes a minimum tax of 10% on income of certain domestic corporations before allowing deductions for interest, royalties, and other payments by the domestic corporation to foreign affiliates.
- Carried Interest. The Acts require a three-year holding period for availability of long-term capital gains treatment to “carried interest.” The carried interest holding period will probably be of limited effect since most private equity and venture capital investors typically hold investments for more than three years anyway; nevertheless, short term (less than three years) “flipping” is discouraged.

II. New OBBBA Provisions

- Spaceports. The OBBBA allows “spaceports” – facilities at or close to a space launch or reentry site – to sell tax-exempt bonds, like airports.
- Oil and Gas Minimum Tax Carve-out. Exempts the oil and gas industry from a 15% minimum tax on large corporations enacted during the Biden administration.
- GILTI. Decreases the Global Intangible Low-Tax Income (“GILTI”) deduction rate to 40%. GILTI is renamed “Net Controlled Foreign Corporation (“CFC”) Tested Income.”
- BEAT. Changes the Base Erosion and Anti-Abuse (“BEAT”) tax rate to 10.5%.
- FDII. Decreases the Foreign Derived Intangible Income (“FDII”) deduction to 33.34% and renames it “Foreign Derived Deduction Eligible Income” (“FDDEI”).

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