Dear Client:

The following is a summary of important tax developments that occurred in October, November, and December of 2018 that may affect you, your family, your investments, and your livelihood. Please call us for more information about any of these developments and what steps you should implement to take advantage of favorable developments and to minimize the impact of those that are unfavorable.

Business meals. One of the provisions of the Tax Cuts and Jobs Act (TCJA) disallows a deduction for any item with respect to an activity that is of a type generally considered to constitute entertainment, amusement, or recreation. However, the TCJA did not address the circumstances in which the provision of food and beverages might constitute entertainment. The new guidance clarifies that, as in the past, taxpayers generally may continue to deduct 50% of otherwise allowable business meal expenses if:

a. The expense is an ordinary and necessary expense paid or incurred during the tax year in carrying on any trade or business;
b. The expense is not lavish or extravagant under the circumstances;
c. The taxpayer, or an employee of the taxpayer, is present at the furnishing of the food or beverages;
d. The food and beverages are provided to a current or potential business customer, client, consultant, or similar business contact; and
e. In the case of food and beverages provided during or at an entertainment activity, the food and beverages are purchased separately from the entertainment, or the cost of the food and beverages is stated separately from the cost of the entertainment on one or more bills, invoices, or receipts.

Convenience of the employer. IRS provided new guidance under the Code provision allowing for the exclusion of the value of any meals furnished by or on behalf of an individual's employer if the meals are furnished on the employer's business premises for the convenience of the employer. IRS determined that the "*Kowalski* test" — which provides that the exclusion applies to employer-provided meals only if the meals are necessary for the employee to properly perform his or her duties — still applies. Under this test, the carrying out of the employee's duties in compliance with employer policies for that employee's position must require that the employer provide the employee meals in order for the employee to properly discharge such duties in order to be "for the convenience of the employer". While IRS is precluded from substituting its judgment for the business decisions of a taxpayer as to its business needs and concerns and what specific business policies or practices are best suited to addressing such, IRS can determine whether an employer actually follows and enforces its stated business policies and practices, and whether these policies and practices, and the needs and

concerns they address, necessitate the provision of meals so that there is a substantial noncompensatory business reason for furnishing meals to employees.

Depreciation and expensing. IRS provided guidance on deducting expenses under Code Sec. 179(a) and depreciation under the alternate depreciation system (ADS) of Code Sec. 168(g), as amended by the TCJA. The guidance explains how taxpayers can elect to treat qualified real property, as defined under the TCJA, as property eligible for the expense election. The TCJA amended the definition of qualified real property to mean qualified improvement property and some improvements to nonresidential real property, such as: roofs; heating, ventilation and air-conditioning property; fire protection and alarm systems; and security systems. The guidance also explains how real property trades or businesses or farming businesses, electing out of the TCJA interest deduction limitations, can change to the ADS for property placed in service before 2018, and provides that such is not a change in accounting method. In addition, the guidance provides an optional depreciation table for residential rental property depreciated under the ADS with a 30-year recovery period.

Partnerships. IRS issued final regulations implementing the new centralized partnership audit regime, which is generally effective for tax years beginning after Dec. 31, 2017 (although partnerships could have elected to have its provisions apply earlier). Under the new rules, adjustments to partnership-related items are determined at the partnership level. The final regulations clarify that items or amounts relating to transactions of the partnership are partnership-related items only if those items or amounts are shown, or required to be shown, on the partnership return or are required to be maintained in the partnership's books and records. A partner must, on his or her own return, treat a partnership item in a manner that's consistent with the treatment of that item on the partnership's return. The regulations clarify that so long as a partner notifies the IRS of an inconsistent treatment, in the form and manner prescribed by the IRS, by attaching a statement to the partner's return (including an amended return) on which the partnership-related item is treated inconsistently, this consistency requirement is met, and the effect of inconsistent treatment does not apply to that partnership-related item. If IRS adjusts any partnership-related items, the partnership, rather than the partners, is subject to the liability for any imputed underpayment and will take any other adjustments into account in the adjustment year. As an alternative to the general rule that the partnership must pay the imputed underpayment, a partnership may elect to "push out" the adjustments, that is, elect to have its reviewed year partners take into account the adjustments made by the IRS and pay any tax due as a result of these adjustments.

State & local taxes. IRS has provided safe harbors allowing a deduction for certain payments made by a C corporation or a "specified pass-through entity" to or for the use of a charitable organization if, in return for such payment, they receive or expect to receive a state or local tax credit that reduces a state or local tax imposed on the entity. Such payment is treated as meeting the requirements of an ordinary and necessary business expense. For tax years beginning after Dec. 31, 2017, the TCJA limits an individual's deduction to $10,000 ($5,000 in the case of a married individual filing a separate return) for the aggregate amount of the following state and local taxes paid during the calendar year:

1. Real property taxes;
2. Personal property taxes;
3. Income, war profits, and excess profits taxes, and
4. General sales taxes.

This limitation does not apply to certain taxes that are paid and incurred in carrying on a trade or business or a for-profit activity. An entity will be considered a specified pass-through entity only if:

1. The entity is a business entity other than a C corporation that is regarded for all federal income tax purposes as separate from its owners;
2. The entity operates a trade or business;
3. The entity is subject to a state or local tax incurred in carrying on its trade or business that is imposed directly on the entity; and
4. In return for a payment to a charitable organization, the entity receives or expects to receive a state or local tax credit that the entity applies or expects to apply to offset a state or local tax described in (3), above, other than a state or local income tax.
5.

Personal exemption suspension. IRS provided guidance clarifying how the suspension of the personal exemption deduction from 2018 through 2025 under the TCJA applies to certain rules that referenced that provision and were not also suspended. These include rules dealing with the premium tax credit and, for 2018, the individual shared responsibility provision (also known as the individual mandate). Under the TCJA, for purposes of any other provision, the suspension of the personal exemption (by reducing the exemption amount to zero) is not be taken into account in determining whether a deduction is allowed or allowable, or whether a taxpayer is entitled to a deduction.

Obamacare hardship exemptions. IRS guidance identified additional hardship exemptions from the individual shared responsibility payment (also known as the individual mandate) which a taxpayer may claim on a Federal income tax return without obtaining a hardship exemption certification from the Health Insurance Marketplace (Marketplace). Under the Affordable Care Act (ACA, or Obamacare), if a taxpayer or an individual for whom the taxpayer is liable isn't covered under minimum essential coverage for one or more months before 2019, then, unless an exemption applies, the taxpayer is liable for the individual shared responsibility payment. Under the guidance, a person is eligible for a hardship exemption if the Marketplace determines that:

i. He or she experienced financial or domestic circumstances, including an unexpected natural or human-caused event, such that he or she had a significant, unexpected increase in essential expenses that prevented him or her from obtaining coverage under a qualified health plan;
ii. The expense of purchasing a qualified health plan would have caused him or her to experience serious deprivation of food, shelter, clothing, or other necessities; or
iii. He or she has experienced other circumstances that prevented him or her from obtaining coverage under a qualified health plan.

Certain Obamacare due dates extended. IRS has extended one of the due dates for the 2018 information reporting requirements under the ACA for insurers, self-insuring employers, and certain other providers of minimum essential coverage, and the information reporting requirements for applicable large employers (ALEs). Specifically, the due date for furnishing to individuals the 2018 Form 1095-B (Health Coverage) and the 2018 Form 1095-C (Employer-Provided Health Insurance Offer and Coverage) is extended to Mar. 4, 2019. Good-faith transition relief from certain penalties for 2018 information reporting requirements is also extended.

Limitation on deducting business interest expense. IRS has provided a safe harbor that allows taxpayers to treat certain infrastructure trades or businesses (such as airports, ports, mass commuting facilities, and sewage and waste disposal facilities) as real property trades or businesses solely for purposes of qualifying as an electing real property trade or business. For tax years beginning after Dec. 31, 2017, the TCJA provides that a deduction allowed for business interest for any tax year can't exceed the sum of:

1. The taxpayer's business interest income for the tax year;
2. 30% of the taxpayer's adjusted taxable income for the tax year; plus
3. The taxpayer's floor plan financing interest (certain interest paid by vehicle dealers) for the tax year.

The term "business interest" generally means any interest properly allocable to a trade or business, but for purposes of the limitation on the deduction for business interest, it doesn't include interest properly allocable to an "electing real property trade or business". Thus, interest expense that is properly allocable to an electing real property trade or business is not properly allocable to a trade or business, and is not business interest expense that is subject to the interest limitation.

Avoiding penalties. IRS has identified the circumstances under which the disclosure on a taxpayer's income tax return with respect to an item or position is adequate for the purpose of reducing the understatement of income tax under the substantial understatement accuracy-related penalty for 2018 income tax returns. The guidance provides specific descriptions of the information that must be provided for itemized deductions on Form 1040 (Schedule A); certain trade or business expenses; differences in book and income tax reporting; and certain foreign tax and other items. The guidance notes that money amounts entered on a form must be verifiable, and the information on the return must be disclosed in the manner set out in the guidance. An amount is verifiable if, on audit, the taxpayer can prove the origin of the amount (even if that number is not ultimately accepted by the IRS) and the taxpayer can show good faith in entering that number on the applicable form. If the amount of an item is shown on a line of a return that does not have a preprinted description identifying that item (such as on an unnamed line under an "Other Expense" category), the taxpayer must clearly identify the item by including the description on that line. If an item is not covered by this guidance, disclosure is adequate with respect to that item only if made on a properly completed Form 8275 (Disclosure Statement) or 8275-R (Regulation Disclosure Statement), as appropriate, attached to the return for the year or to a qualified amended return.

Regards,

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Accounting Partners, Inc.