MURTHA CULLINA

NEWS ALERT

HEALTH CARE

How Physicians Can Plan For The New 20% Deduction For Qualified Business Income From Pass Through Entities

By Marc T. Finer | February 13, 2018

On December 22, 2017, President Trump signed the "Tax Cuts and Jobs Act" into law. Effective as of January 1, 2018, the Act represents the most sweeping changes to the US tax code in the last 30 years. While the most publicized change may have been the reduction in the corporate income tax rate from a maximum of 35% to a flat 21%, there was another significant change that may affect physicians. Specifically, starting in 2018, the Act permits the owners of certain pass-through entities, such as partnerships, limited liability companies and S corporations, to deduct 20% of their share of the entities' business income ("qualified business income" or "QBI") in determining their personal U.S. income tax liability. Put another way, taxpayers that are owners of these types of pass-through entities may be subject to U.S. income tax on only 80% of their qualified pass-through income.

Physicians should be able to fully benefit from this change if their taxable income does not exceed $157,500 for a single filer or $315,000 for joint filers. The benefits completely phase out at $207,500 for a single filer and $415,000 for joint filers.

Above these thresholds, the 20% deduction from QBI is potentially available if the physician's qualified business income is not from a "specified service trade or business." Unfortunately for physicians, a specified service trade or business includes a trade or business involved in performing services in the field of health. So a key issue for physicians, if they engage in other activities that might not be deemed a "health" business, is whether the other activities would qualify for the 20% deduction. This might suggest the possibility that by splitting up a medical practice into more than one pass-through entity, the income from the non-medical practice entity might qualify for the 20% deduction.

For example, a physician could consider owning medical equipment or real estate used by the medical practice in a separate limited liability company, which leases the equipment and real estate to the practice. Or a physician might establish a separate entity that provides

Paul E. Knag, Co-Chair
203.653.5407
pknag@murthalaw.com

Stephanie S. Sobkowiak, Co-Chair
203.772.7782
ssobkowiak@murthalaw.com

Heather O. Berchem
203.772.7728
hberchem@murthalaw.com

Julia P. Boisvert
860.240.6018
jboisvert@murthalaw.com

Dena M. Castricone
203.772.7767
dcastricone@murthalaw.com

Marc T. Finer
860.240.6096
mfiner@murthalaw.com

Daniel J. Kagan
203.772.7726
dkagan@murthalaw.com

Mindy S. Tompkins
860.240.6063
mtompkins@murthalaw.com

administrative or billing services. Unfortunately, the line between health-related services and non-health related services is not always clear. For example, the IRS has ruled that a company that had a patent on a medical test and was in the business of analyzing the test results and preparing laboratory results for health providers was not providing services in the field of health. On the other hand, employees who operated ultrasound equipment were determined to be health-care professionals notwithstanding that the employees were not required to be licensed, did not provide direct treatment services to patients and did not make healthcare decisions.

At this point, many advisors are urging a wait and see approach, to allow the Internal Revenue Service to provide relevant guidance. However, the law is of course in effect now, so it would seem prudent to at least conduct a review of options at this point.

If you have any questions regarding the new tax laws, how the changes in the tax law might affect your medical practice and/or the potential tax planning opportunities stemming from these changes, please contact Marc T. Finer, Tax Partner, at 860-240-6096 or mfiner@murthalaw.com or Paul E. Knag at 203.653.5407 or pknag@murthalaw.com.