



Income Tax Developments

Tennessee / Federal





Tennessee Works Act

- Tennessee has seen a string of budget surpluses
- Remote seller sales tax revenues continue to be strong
- On May 11, 2023, Tennessee Works Act Signed into law – single largest tax cut in Tennessee state history:
 - Business Tax Threshold increased for small businesses
 - Changes to Franchise & Excise Tax
 - Sales Tax Regulations Codification



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Tennessee Works Act – Business Tax

- Business Tax Changes to Support Small Businesses:
 - Changes Apply to Tax Years Ending ON or after December 31, 2023
 - Law Increases the business tax filing threshold from \$10,000 to \$100,000 per jurisdiction
 - Increases the gross sales threshold for contractors performing contracts in Tennessee from \$50,000 to \$100,000 per jurisdiction before a “deemed location” is established.
 - Businesses with gross receipts of more than \$3,000 but less than \$100,000 will be required to maintain a minimum activity license in each locale– Tennessee Dept. of Revenue does not issue business licenses
 - Sales > \$100,000 in a Tennessee jurisdiction – filing requirement as usual

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Tennessee Works Act – Franchise & Excise Tax

- Beginning with Tax Years ending ON or after December 31, 2024:
 - A new \$50,000 “standard deduction” from net earnings for excise tax
 - A new minimum threshold for franchise tax on the *real and tangible property base*. Tax will be measured on property base in excess of \$500,000
 - Creates Temporary Paid Family & Medical Leave Credit Effective for years ending ON or after 12/31/2023, but before 12/31/2025 – Credit allowed using same as federal credit, for TN employees, up to 50% of franchise & excise tax liability
 - Extends Credit Carryforwards from 15 years to 25 years – Jobs tax credits, Industrial Machinery Credits, Paid Family & Medical Leave Credits, Etc. Extended Credit Period Applies to tax credits earned in tax years ending on or after 12/31/2008



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Tennessee Works Act – Franchise & Excise Tax

- Bonus Depreciation FINALLY comes to Tennessee...
- Bonus Depreciation will be allowed to be claimed using percentages under Federal TCJA Laws for assets purchased ON OR AFTER January 1, 2023.
- Tennessee will adopt a Single Sales Factor Apportionment formula – phasing in over the next couple of years
 - 2023 = 5x sales, 2024 = 11x sales



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Tennessee Works Act – Franchise & Excise Tax

- Single Sales Factor Apportionment in Tennessee
- Tennessee will now join 30+ other states who utilize a single-sales factor approach to apportion income
- Tennessee Began Using Economic Nexus Principles For Sourcing sales beginning in 2016 – most other states have also embraced using economic nexus for
- Being more closely aligned with the majority of states should help reduce distortion in state income taxes



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Tennessee Works Act – Franchise & Excise Tax

- Taxpayer located in Chattanooga has substantially all of its sales to major customers in Atlanta, Georgia.

Apportionment Comparison					
Apportionment Factor	2022		2025		
	Tennessee	Georgia	Tennessee	Georgia	
	Property	100%	N/A	N/A	N/A
Payroll	100%	N/A	N/A	N/A	
Sales	0%	100%	0%	100%	
State Apportionment	40%	100%	0%	100%	
\$1,000,000 Of Apportionable Income					
Apportioned Income	\$	1,400,000.00	\$	1,000,000.00	





Tennessee Works Act – Sales Tax

- Taxation of the repair of Tangible personal property – where property is repaired outside the state but is delivered to Tennessee or to a carrier for delivery in Tennessee
- Sales Tax Provisions in the law codify some prior regulations and rules – aligning interstate commerce with Streamline Sales Tax rules. Retains origin sourcing method for intrastate sales
- Food and Food Ingredients (Groceries) Sales Tax Holiday from August through October 2023



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Federal Tax – Employee Retention Credit

- Employee Retention Credit created in 2020 as an additional measure to assist employers whose businesses were harmed by Covid protocols to retain employees.
- Promoters of Easy-Money ERC Credits for a “nominal fee” popped up everywhere
- This was NOT the Payroll Protection Program – required specific metrics or government orders affecting business to claim



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Federal Tax – Employee Retention Credit

- IRS Has Frozen Processing of ERC Claims through Year End
- Just Announced Program for Taxpayers to Withdraw their ERC Claims if they were misled by promoters
- More guidance forthcoming if refund was already received



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US Treasury– Beneficial Ownership Reporting

- The Financial Crimes Enforcement Network (FinCEN) through the Corporate Transparency Act (CTA) is mandating that millions of entities report their beneficial ownership information to FinCEN.
- All Domestic and Foreign Entities that have Filed registration documents with a U.S. State must report, unless they meet an exception
- Entities created before 01/01/2024 will have to report before 01/01/2025. Entities created in 2024 have 90 days to file. After 2024, new entities are expected to have only 30 days to file



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US Treasury– Beneficial Ownership Reporting

- Main Exception – “Large Operating Entities” that employ more than 20 people in the U.S., have over \$5 million of gross revenues, have a physical office in the U.S.
- Other 22 Exceptions are specific / require analysis:
 - Bank, Governmental Authority, Broker/Dealer in Securities, Venture Capital Fund Adviser, Insurance Company, Accounting Firm 😊😊, Tax-Exempt entity, see listing



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Federal Tax – TCJA

Some Sunsets Can Be Ugly

- Tax Cuts and Jobs Act went into effect on January 1, 2018
- Significant Tax Savings in these laws, including reduced individual rates, reduced estate exclusion, Qualified Business Income Deduction, Increased Standard Deduction, Increased Child Tax Credit, Large reduction in C-Corporation rates, Corporate AMT eliminated, Individual AMT exemption substantially increased
- Some budget offsets: Using Chained CPI for inflation, Remove Personal Exemptions, SALT Limit of \$10,000, Mortgage Int Deduction reduced, misc. itemized deductions disallowed, business interest limitation, no charitable deduction for seating rights, NOL carrybacks eliminated, LKEs limited, R&D expensing removed for 2022 (with the expectation it would be “fixed”)



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Federal Tax – TCJA

Some Sunsets Can Be Ugly

- Budget Reconciliation Was Used to “Balance the Books” for Federal Budget Rules to Pass the Tax Cuts and Jobs Act. This requires the legislation to break even after a certain period – so many favorable tax provisions “sunset” at the end of 2025
- As with many tax laws, the expectation is that a later Congress will adjust the laws to keep them in place. This didn’t work so well for Research and Development capitalization.



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Federal Tax – TCJA

2025 Individual Sunsets

- Individual Tax Rates Return to 2017 levels
- Standard Deduction back cut in half, personal exemptions return
- Cap on SALT deduction on Schedule A is lifted
- Child Tax Credit Reduced
- Bonus Depreciation begins phasing out (80% in 2023)
- AMT Phase Out is reduced
- QUALIFIED BUSINESS INCOME DEDUCTION REMOVED
- ESTATE TAX EXEMPTION IS REDUCED BY HALF



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Federal Tax – TCJA

- Most Corporate Changes made in TCJA are “Permanent” changes
 - “You keep using that word. I do not think it means what you think it means”
- Election in November of 2024 > Major Tax Provisions affecting all Individuals sunset at end of 2025 > Debt Ceiling continues to rise and remains a hot topic
- Be Prepared



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Questions?

