Duffy Kruspodin, LLP
Certified Public Accountants

San Diego

4225 Executive Square
Suite 900
La Jolla, CA 92037
tel (858) 642-5050
fax (858) 642-5065

4304 Park Blvd.
San Diego, CA 92103
tel (619) 295-2637
fax (619) 299-5549

Los Angeles

21600 Oxnard St.
Suite 2000
Woodland Hills, CA 91367
tel (818) 385-0585
fax (818) 436-7588

9171 Wilshire Blvd.
Suite 650
Beverly Hills, CA 90210
tel (310) 274-9922
fax (310) 858-1640

www.dkllpcpa.com

Member

American Institute of
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Dear Clients and Friends,

On July 1, 2019, California's Governor signed Assembly Bill 91 (A.B. 91") into law. The Bill put California in conformity with many, but not all, of the changes made by the Tax Cuts and Jobs Act of 2017 (TCJA).

Although California does not conform to all of the changes made under the TCJA, as it conforms to the Internal Revenue Code ("IRC"), the following highlights the most notable changes made under A.B. 91:

Small Business Accounting Method Changes

This provision ensures that the definition of a Small Business is the same for California and Federal. Taxpayers with average annual gross receipts of $25 million or less can now do the following:

- Use the cash method of accounting
- Be exempt from Capitalizing Inventory Costs
- Do Not Have to Account for Inventories
- Adopt the Completed Contract Method for contracts less than 2 years

These accounting method changes are effective for tax years beginning on or after January 1, 2019. Taxpayers can, however, elect to apply these provisions to tax years beginning or after January 1, 2018.

Elimination of NOL Carrybacks

For taxable years beginning after December 31, 2018, Net Operating Loss Carrybacks are disallowed. In addition, net operating loss deductions are limited to 80% of the corporate or individual taxpayer's taxable income. Carryforwards can be now carried forward indefinitely.

Excess Business Losses for Noncorporate Taxpayers

The amount of business losses for a taxpayer is limited to $500,000 for couples who are married filing joint, and $250,000 for all other individuals. This will match the Federal limitations. However, unlike the Federal limitations that expire in 2026, these limitations will not have an expiration date.

Repeal of the Technical Partnership Termination

This eliminates the requirement to treat a partnership as technically terminated when over 50% of the partnership interest changed hands. This conforms to current Federal law, preventing the need for two separate California partnership returns in a given period when only one Federal return is needed.

Partnerships may elect to apply conformity to partnership taxable years beginning after December 31, 2017, and before January 1, 2019.

Limitation on Like-Kind Exchanges to Real Property

Under previous law, both personal and real property were eligible for this treatment. This provision limits Like-Kind exchanges to only real property for businesses and certain individuals. Individuals with Adjusted Gross Income less than $500,000, who are married filing joint, or $250,000 for all other statuses, can still use a like-kind exchange for personal property. However, note that Federal law prohibits the use of Like-Exchanges for any personal property across the board. This change is effective for exchanges completed after January 10, 2019.

IRC Section 338 Elections

Under previous law, if a taxpayer makes an IRC Section 338 election to treat certain qualified stock purchases as asset purchases, they would have to make a separate election to have it apply for California. Taxpayers could opt to have separate treatment for Federal and California purposes. This provision makes it so a taxpayer's decision whether or not to make an IRC Section 338 Election, is binding for both Federal and California.

The result of this Bill will alleviate the compliance burden faced by all California Taxpayers, as well as increase State revenues for the upcoming fiscal years.

Questions?

Please contact your local Duffy Kruspodin office.

The following contributed to this article: Joshua J. Bodenstadt, Partner; Derek Hess, CPA; Andy Nguyen, CPA