February 5, 2018

re: TAX CUTS AND JOBS ACT: HOMEOWNERS

To Our Clients and Friends:

Over the course of the next few weeks, we are choosing selected topics from the Tax Cuts and Jobs Act and sharing further details about them with you. This article's topic relates to the home mortgage interest and real estate tax deductions. The Act modifies these popular tax benefits.

MORTGAGE INTEREST DEDUCTION

Home mortgage interest is generally deductible if it is paid or accrued on acquisition indebtedness or home equity indebtedness secured by any qualified residence of the taxpayer (i.e., the taxpayer's principal or second residence). The deduction for acquisition indebtedness was limited to interest paid on the first $1 million of debt ($500,000 for a married taxpayer filing a separate return) and the first $100,000 on home equity loans ($50,000 for a married taxpayer filling a separate return).

Under the Act, a taxpayer may treat no more than $750,000 as acquisition indebtedness ($375,000 in the case of married taxpayers filing separately) for tax years beginning after December 31, 2017, and before January 1, 2026. Acquisition indebtedness is defined as the principal indebtedness incurred in acquiring or improving the qualified residence of the taxpayer.

The reduced amounts for application of the acquisition indebtedness do not apply to any indebtedness incurred on or before December 15, 2017. Therefore, a taxpayer who purchased their home on or before December 15, 2017, may continue to deduct interest paid on the first $1 million of debt ($500,000 for a married taxpayer filing a separate return).

A taxpayer who entered into a binding written contract before December 15, 2017, to close on the purchase of a principal residence before January 1, 2018, and who purchases such residence before April 1, 2018, shall be considered to have incurred acquisition indebtedness prior to December 15, 2017.

The Act suspends the deduction for interest on home equity indebtedness. Therefore, for tax years beginning after December 31, 2017, a taxpayer may not claim a deduction for interest on home equity indebtedness. The suspension ends for tax years beginning after December 31, 2025. Home equity indebtedness is indebtedness other than acquisition indebtedness secured by the taxpayers qualified residence.

Special rules apply in the case of indebtedness from refinancing existing acquisition indebtedness. Specifically, the $1,000,000 ($500,000 in the case of married taxpayers filing separately) limitation continues to apply to any indebtedness incurred on or after December 15, 2017, to refinance qualified residence indebtedness incurred before that date to the extent the amount of the indebtedness resulting from the refinancing does not exceed the amount of the refinanced indebtedness. Thus, the maximum dollar amount that may be treated as principal residence acquisition indebtedness will not decrease by reason of a refinancing.

For tax years beginning after December 31, 2025, a taxpayer may treat up to $1,000,000 ($500,000 in the case of married taxpayers filing separately) of indebtedness as acquisition indebtedness, regardless of when the indebtedness was incurred.

STATE AND LOCAL TAX DEDUCTION

The Act provides that beginning in 2018, a taxpayer may claim an itemized deduction of up to $10,000 ($5,000 for a married taxpayer filing a separate return) for the total amount of:

1. state and local property taxes not paid or accrued in carrying on a trade or business, and

2. state and local income taxes (or sales taxes in lieu of income taxes) for the tax year.

Foreign real property taxes cannot be deducted under this exception.

Caution. Under the Act, you may not claim an itemized deduction in 2017 on a pre-payment of 2018 real estate taxes in order to avoid the dollar limitation applicable for tax years beginning after 2017.

In view of these tax changes, we urge you to contact us, particularly if you are considering transactions involving your home, including selling, refinancing, or leasing. Due to the limitations placed on mortgage interest and state and local tax deductions, some taxpayers may find themselves beginning to claim the Act's single standard deduction ($24,000/$12,000 for married/single taxpayers) instead of itemizing deductions. Please feel free to contact us if you have questions regarding the information presented in this letter.

Very truly yours,

Miller*Searles* LLC