Tax Act 2017
Tax Planning for Global HNW Investors

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THE WOLFE LAW GROUP

The Wolfe Law Group is an international array of legal and tax experts providing collaborative services for Global High Net Worth Investors on a per client basis.

Gary S. Wolfe, A Professional Law Corporation has over 35 years of experience providing clients with expertise for IRS Civil and Criminal Tax Audits, International Tax Planning, and International Asset Protection.

Awards
Since 2015 Gary have been the recipient of 29 separate international tax awards from 10 different global expert societies in London/UK including:

International Tax Planning Law Firm of the Year Award (2017) – International Advisory Experts.

International Tax Advisor of the Year (2017) - Global Business Magazine/Prof. Sector Network.

Click here for complete list.

Books
To date Gary has written 18 e-books (available on Amazon) regarding the IRS, International Tax Planning and Asset Protection. Click here for complete list.

Articles
To date Gary has published or been interviewed in 100+ separate articles published by 15 different US and International magazines. Click here for complete list.

Video
In December 2016 Gary was interviewed by California CEO Magazine and RCBNNews.org on the subject of Criminal Tax Evasion and IRS Tax Audits: Civil and Criminal Issues. This 4 part series, which has been published by Lorman Education, can be viewed below:

Criminal Tax Evasion - Part 1
Criminal Tax Evasion – Part 2
Criminal Tax Evasion – Part 3
Criminal Tax Evasion – Part 4

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TAX ACT 2017:
TAX PLANNING FOR GLOBAL HNW INVESTORS

The December 20, 2017 Tax Act has been portrayed as a massive tax cut for Americans. Yet, it increases the federal deficit by nearly $1.5 trillion (which is now at $20.6 trillion). The ramifications are simple, the higher the federal deficit the more money spent for interest due on the national debt (which has become one of the biggest expense items in the federal budget). Contrary to the public pronouncements of a major tax cut, investors and wage earners may on a case by case basis pay more in tax than previously paid in prior tax years.

For Fiscal Year 2017 (ending 9/30/17), the U.S. Government projects it will pay out approximately $474.5 billion in interest. The U.S. Government estimates that in 2017 they will collect taxes of $3.21 trillion and spend $3.65 trillion, a shortfall of $443 billion. So the shortfall ($443 billion) is primarily due to $474.5 billion in interest due on the federal deficit (the interest due on the national debt is how much money the federal government must pay on outstanding public debt each year).

The FACT TANK (8/17/17: Drew DeSilver) stated: at the end of President Clinton's 2nd term there were huge multi-billion budget surpluses; it was projected that at the end of 2012 (based on then projections) the entire federal government debt would be paid off. Instead of being paid off in 2017, the national debt is over $20 trillion and projected to go to $22 trillion. The U.S. debt is now bigger than the entire U.S. Gross Domestic Product (as of 2nd Qtr 2017 the U.S. GDP was estimated to be $19.23 trillion).

The time bomb is the rate of interest paid. Currently in 2017 thru 7/17 the rate of interest paid was 2.28%. If the rate of interest is once again restored to historic levels (5-7%) then the interest paid on the national debt may go to well over $1 trillion per year (which is nearly 1/3 of current budget outlays). The rising rates of interest are a time bomb in synchronicity with a $20 trillion+ national debt.

So the 2017 Tax Act may present an unexpected tax increase for Global HNW investors due to a confluence of tax changes:

1. For wage earners who divorce, the alimony paid (decided by state laws which governs the divorce) will no longer be tax deductible after 12/31/18. So the payor of alimony will now have two problems: the alimony due, and no offsetting income tax deduction (for alimony paid) which means they will owe more in taxes (not less);

2. For residents of New York and California who can no longer deduct an unlimited amount for either state or local income/property/sales taxes (which are now capped at $10,000) effectively their taxable income subject to tax may now be higher with greater federal tax due (than prior years);

3. Homeowners who purchase new homes will be limited to a $750,000 mortgage deduction (not the current $1,000,000) for interest paid, which effectively means their taxable income will increase for the $250,000 mortgage interest no longer allowed.

Investors may be cheered by favorable tax provisions: federal top tax rate of 37% (no longer 39.6%), and a 20% tax deduction for pass-through income paid by an LLC, S-Corp or Partnership. However, if the 37% rate is on a higher taxable income because of the loss of tax deductions for alimony, state/local taxes, or reduced home interest mortgage deduction the actual income tax may be higher than prior tax years.

Additional provisions, e.g. repeal of IRC Sec. 165 casualty losses may further actually increase taxable income (for personal property lost under IRC sec 165 (c) (3)), are now limited to national disaster areas (however, if the loss from fire, storm, shipwreck, theft or other casualty is for funds which were invested for profit than under IRC 165 (c) (2) the losses may still be tax-deductible).

For those U.S. taxpayers who hold their investments in revocable trusts (like many investors) they will not get the benefit of a 20% income tax deduction for pass-through entities.

Many of the tax reductions promised, or increased capital investments, or new hiring by U.S. companies, whose corporate income tax rate is reduced from 35% to 21%, is neither guaranteed nor even recommended (a low percent of U.S. companies, i.e. less than 15% have made plans to increase their spending on capital investments or jobs). Rather, as in the 1986 Tax Act and the 2004 Tax Act, the funds realized from tax savings were used to repurchase the company stocks and boost their share prices which advantage the shareholders only.

U.S. corporations will now no longer be taxed on worldwide income. They will be taxed on a territorial system of tax, i.e. they won't owe tax on income made offshore (outside the U.S.). Instead, U.S. companies will be required to pay a one-time lower tax rate on existing offshore profits (upon repatriation) of 15.5% for cash and 8% on non-cash assets (e.g. equipment which was purchased with offshore profits). However, there is no assurance that these funds will not be used solely for stock buybacks to boost stock prices of the company.

The tax consequences of the 2017 Tax Act are still not known and will not be for several years from now. What is known is that what has been represented as a tax break for all Americans may not be the case and should be reviewed on a case by case basis. Global HNW investors should not be remiss and assume tax savings are coming, but instead should project their new 2018 and 2019 taxes in light of the tax law changes and then evaluate whether they will indeed pay more not less income tax.

Immediate tax planning may include:

1. Shift all investment assets from ownership by revocable trusts to pass-through entities (S-Corporations, Partnerships and Pass-through entities) to take advantage of the new 20% income tax deduction for pass-through income.

2. For income tax deductions for theft losses (IRC 165) defined under state law (and may include blackmail, burglary, embezzlement, larceny, robbery, kidnapping for ransom, fraud or misrepresentation) these losses will no longer be deductible under IRC 165 (c) (3) as

uninsured non-reimbursed losses. However, they may still be income tax deductible if they qualify under IRC 165 (c) (2) involving a transaction entered into for profit (e.g. victims of Ponzi schemes like ”Madoff victims”).

3. A focus on gift tax planning. Under the 2017 Tax Act the exemption is raised to $10.98 million for an individual taxpayer and twice that ($21.96 million) for husband and wife. A key tax planning strategy may include gifting assets up to the exemption amounts so they will not be included in the estate at death (40% tax rate). Under this tax planning, the future appreciation is not subject to estate tax. So if $22 million is gifted, and the value of those assets appreciates by $10 million, so at the time of death, they are worth $32 million, then the $10 million appreciation is not subject to 40% estate tax and the investor saves $4 million (40% of $10 million).