Impact of TCJA on Fiduciary Income Taxation

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References

## Rates & Brackets

<table>
<thead>
<tr>
<th>IF TAXABLE INCOME IS...</th>
<th>THE TAX IS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Not over $2,550</td>
<td>10% of taxable income</td>
</tr>
<tr>
<td>Over $2,550 but not over $9,150</td>
<td>$255 plus 24% of excess over $2,550</td>
</tr>
<tr>
<td>Over $9,150 but not over $12,500</td>
<td>$1,839 plus 35% of excess over $9,150</td>
</tr>
<tr>
<td>Over $12,500</td>
<td>$3,011.50 plus 37% of excess over $12,500</td>
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QBI Deduction

- Estate or trust must conduct trade and business
- Trust or estate formed or funded with a principal purpose of obtaining a §199A deduction will be disregarded in determining the threshold amount of §199A(e)(2)(A) Reg. §1.199A-6(d)(3)(vii)
- REIT dividends and PTP income separately accounted for in the deduction.
- Comprehensive example with negative QBI allocated to beneficiaries See Reg. §1.199A-6(d)(3)(viii)
- Proposed regulation for charitable remainder trusts
Miscellaneous Deductions

§67(e)(1)

“... costs which are paid or incurred in connection with the administration of the estate or trust and which would not have been incurred if the property were not held in such trust or estate...”
Expenses in Termination Year

- Generally, deductions exceeding income in termination year deductible by beneficiaries. §642(h)(2)

- Treasury and IRS studying the extent to which §642(h)(2) applies to miscellaneous expenses that are no longer deductible. Notice 2018-61
Multiple Trusts  §643(f)

- Multiple trusts treated as one trust if
  (1) substantially the same grantor(s)
  (2) substantially the same beneficiary or beneficiaries
  (3) formed with a principal purpose of avoiding tax
- “Significant” non-tax purpose. Prop. Reg. §1.643(f)-1(b)
Material Participation

- IRS has consistently ruled that only the fiduciary’s participation counts in measuring whether an estate or trust has active or passive income or loss from a trade and business.
  
  TAM 200733023, PLR 201029014


- §1411 adopts §469 tests to identify if income from a trade or business subject to 3.8% tax on NII
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