PROTECTING AMERICANS FROM TAX HIKES (PATH) ACT OF 2015

On December 18, 2015, President Obama signed into legislation the Protecting Americans from Tax Hikes (PATH) Act of 2015. Following are some of the more pertinent provisions of the PATH Act:

BUSINESSES PROVISIONS

Code Sec. 179 Expensing

Beginning in 2015, the Act permanently sets the Code Sec. 179 expensing limit at $500,000 with a $2 million overall investment limit before phase out. Both the expensing limit and investment limit will be indexed for inflation beginning in 2016.

Bonus Depreciation

The Act extends and allows for additional first year bonus depreciation for property acquired and placed in service during 2015 through 2019 under the following phase-down schedule:

- 50 percent for 2015-2017;
- 40 percent in 2018; and
- 30 percent in 2019

Research Tax Credit

The research and development (R&D) tax credit which is available to taxpayers with specified increases in business-related qualified research is being permanently extended.

Reduced Recognition Period for S Corporation Built-In Gains Tax

The Act makes permanent the five-year recognition period (rather than ten years) for which an S corporation must hold its assets following conversion from a C corporation to avoid the tax on built-in gains.

Work Opportunity Tax Credit

The Work Opportunity Tax Credit (WOTC) is extended through 2019 and enhances the credit for employers that hire certain long-term unemployed individuals.

100-Percent Gain Exclusion on Qualified Small Business Stock

The 100-percent exclusion allowed for gain on the sale or exchange of qualified small business stock held for more than five years by non-corporate taxpayers is also being made permanent.

Other Permanent Extenders

The Act also permanently extends:

- 15-year straight-line cost recovery period for qualified leasehold improvements, restaurant property and retail improvements
- Basis adjustment to S corporation stock when the corporation makes charitable contributions of property

INDIVIDUALS PROVISIONS

Charitable Distributions from IRAs

The Act permanently extends the ability of individuals age 70 1/2 and older to make tax-free distributions from individual retirement accounts (IRAs) to a qualified charitable organization. This exclusion is capped at a maximum of $100,000 per taxpayer in any tax year.

American Opportunity Tax Credit

The Act makes permanent the American Opportunity Tax Credit (AOTC) the provisions of which were originally set to expire in 2017. In addition, the Act increases the credit amount to $2,500 for four years of post-secondary education with adjusted gross income (AGI) phase-out amounts of $80,000 for single and $160,000 for married filing jointly returns.

AFFORDABLE CARE ACT

Additionally the Act and the FY 2016 omnibus affect several provisions under the ACA.

"Cadillac" Plans

The Act delays for two years the ACA excise tax on high-dollar health care plans, known as "Cadillac" plans. Further, payments of the excise tax will be a deduction against income tax.

Medical Devices

The Act imposes a two year moratorium on the ACA excise tax on qualified medical devices. The tax will not apply to sales during calendar years 2016 and 2017.

MISCELLANEOUS PROVISIONS

Code Sec. 529 Plans

The Act expands the definition of qualified higher education expenses for which tax-preferred distributions from 529 accounts can be made. Eligible expenses now include computer equipment and software.

Solar Incentives

The FY 2016 omnibus extends the solar investment tax credit and the credit for qualified residential solar property to year 2021.