Tax Cuts and Jobs Act: New Limitation of Interest Expense Deduction

Date: 12/21/17

On December 20, 2017, both houses of Congress passed the Tax Cuts and Jobs Act (H.R. 1). The bill is expected to be signed into law by President Trump in the coming days. Among the extensive changes to the U.S. federal income taxation contained in the legislation is a new limitation on the deductibility of net business interest expense that exceeds 30% of a taxpayer's "adjustable taxable income." The new limitation, which will replace the existing "earnings stripping" rules of Section 163(j) of the Internal Revenue Code, generally applies to all debt incurred by a taxpayer, including third-party debt. In this regard, the new limitation is far more sweeping than the existing earnings stripping rules, which generally apply only to the related-party debt and certain third-party debt guaranteed by foreign affiliates of the taxpayer.

Attorneys

- Craig M. Horowitz
- Aliza R. Levine