BUSINESS GOVERNMENT

Broadway awaits news of a possible tax break

By Caitlin Huston - 47 minutes ago

Steven Mnuchin, U.S. Treasury secretary, listens during a meeting with U.S. President Donald Trump in the Cabinet Room of the White House on Oct. 17, 2018. (Photo: Andrew Harrer/Bloomberg via Getty Images

Accountants are looking toward the new year to see if their lobbying efforts could give Broadway investors and producers another tax break.

Under a provision of the Tax Cuts and Jobs Act, which began taking effect in 2018 and will appear on tax returns for the first time in 2019, owners of limited liability companies and other pass-through entities are eligible for a tax deduction of up to 20 percent of qualified business income. However, individuals who work in the performing arts, including theater investors, have been excluded from the deduction under the initial guidelines written by the U.S. Treasury Department.

Accountants at Withum and members of the Broadway League met with the Treasury Department in the fall to argue for the inclusion of Broadway investors under the 199A deduction, which they said would apply to the profits made on a show.

They await the release of final guidelines from Treasury by the end of the year or early next year. If no new guidelines are released before tax returns are prepared, accountants will operate under the assumption that theater investors are not included.

The Tax Cuts and Jobs Act is meant to promote the creation of small businesses and the jobs they create. However, it excludes certain categories that it deems “specialized services,” meaning services where compensation is awarded based on a talent or skill, such as health, law, engineering, athletics and performing arts, among others.

In a meeting with the Treasury Department, accountants from Withum and the League argued that producers and investors are not already being paid for their specific skill, such as actors or directors are, and are creating jobs for others, including those not working directly in the performing arts. But, the current rules appear to apply to anyone that facilitates a production.

“They said it’s not whether you’re providing the service, which is what everybody read it to be in the beginning, it’s whether you’re in the trade or business that provides that service,” said Scott Bartolf, a senior tax manager at Withum.

That means that businesses selling merchandise at shows, for example, would qualify for the deduction, as it does not directly engage in the business of putting on a show.

The Treasury Department, which writes regulations intended to convey the meaning of the law passed by Congress, did not respond to a request for comment.

There is an income exception to the law, meaning a single person with a total taxable income of $157,000 up to $207,500 or joint filers with an income of less than $315,000 to

$415,000 will be eligible for a 20 percent tax credit — with partial deductions as the income increases as part of that range — regardless of whether they fall into one of the excluded categories.

Representatives from other excluded categories, have also spoken out and submitted comments, including the commissioner of Major League Baseball, excluded under "sports teams," who argued for the inclusion of professional sports clubs and club owners as part of the deduction.

Under current law, the deduction will phase out in 2025, but accountants believe the tax break was one worth fighting for, given its importance.

"I think for individuals, it's arguably the most impactful," Bartolf said.

BROADWAY NEWS

ABOUT US

Pulling back the curtain.

Contact us: info@broadway.news

FOLLOW US