Tax Cut and Jobs Act

(updated 12/17/17)
Overview

1. Introduction – where are we now
2. Impact to Individuals
3. Impact to Pass-through Businesses
4. Impact to C corporations
5. Other Issues
## Tax Reform – Individual Rates - sunset on 12/31/25

<table>
<thead>
<tr>
<th>Taxable Income Exceeding</th>
<th>Rates</th>
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<tbody>
<tr>
<td></td>
<td>Single</td>
</tr>
<tr>
<td>$0</td>
<td>$0</td>
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<tr>
<td>$9,525</td>
<td>$19,050</td>
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<tr>
<td>$38,600</td>
<td>$77,200</td>
</tr>
<tr>
<td>$38,700</td>
<td>$77,400</td>
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<tr>
<td>$82,500</td>
<td>$165,000</td>
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<tr>
<td>$157,500</td>
<td>$250,000</td>
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<tr>
<td>$200,000</td>
<td>$315,000</td>
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<tr>
<td>$425,800</td>
<td>$479,000</td>
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<tr>
<td>$500,000</td>
<td>$600,000</td>
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</tbody>
</table>
Kiddie Tax

- Unearned income taxed similar to trusts and estates
- Earned income taxed under ordinary rules
Standard Deduction/Exemption

- Married filing joint - $24,000
- Single - $12,000
- HOH - $18,000
  - Sunset 12/31/2025
- Repeals personal exemptions
  - Sunset 12/31/2025
## Itemized Deductions

- Repeals overall limitations on itemized deductions - sunset

- Mortgage interest – sunset
  - Limits deduction to $750,000 mortgage – applies to mortgages incurred after December 15, 2017.
  - No deduction for home equity loans

- State and local tax deduction - sunset
  - No deduction for income tax even if paid in carrying on a trade or business
  - Can still deduct property and sales tax incurred in carrying on a trade or business
  - Allows up to $10,000 for property tax, sales or income
  - Prohibits pre-payment of 2018 taxes in 2017
## Itemized Deductions

- **Personal casualty loss** - *sunset*
  - Repealed except for losses incurred in a Presidentially declared disaster

- **Tax Prep fee deduction** – repealed - *sunset*

- **Miscellaneous itemized deductions** – repealed - *sunset*
  - Includes unreimbursed employee expenses and investment fees

- **Gambling losses** – similar to House bill - *sunset*
## Itemized Deductions

<table>
<thead>
<tr>
<th>Itemized Deductions</th>
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<tbody>
<tr>
<td>• Charitable contributions</td>
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<tr>
<td>o Increases limit to 60% of AGI for cash paid to public charities</td>
</tr>
<tr>
<td>o Removes deduction for amounts paid for right to purchase tickets to athletic events</td>
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<tr>
<td>• Moving expense – repealed except for those incurred by a member of the Armed Forces - sunset</td>
</tr>
<tr>
<td>• Medical expenses – maintained and brings it back to pre-ACA 7.5% for 2017 and 2018</td>
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<tr>
<td>• Investment interest expense – allowed</td>
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</tbody>
</table>
Other Deductions

- Alimony expenses – repealed starting in 2019; Corresponding inclusion into income is also repealed
- Most “above the line” deductions were retained, including contributions to HSA, educator expenses, and contributions to retirement plans
Fringe Benefits

- Qualified bicycle commuting reimbursement – repealed - Sunset
- Exclusion for qualified moving expense reimbursement – repealed – Sunset
- Employee achievement awards – in order to be excluded, it must be tangible personal property, which is defined to not include cash, cash equivalents, gift cards, gift coupons, gift certificates, vacations, meals, lodging, tickets to events, stocks, bonds, or similar items.
Retirement

- Conversion from traditional IRA to Roth IRA is permitted. However, recharacterization of that conversion back to a traditional IRA is not permitted.
Education

- Can use 529 plan dollars for K-12 and homeschoolers up to $10k per year
- Also includes homeschooling in the definition of higher education expenses that will qualify
- Discharge of student loan by reason of death or disability excluded from income
AMT

- Individual – Modified exemption amounts subject to AMT
  - $78,750 amount to $109,400
  - $50,600 amount to $70,300
- Corporate – Repealed
Credits

• Child Tax Credit - sunset
  o Increases it to $2,000, with refundable amount of $1,400
  o Child under 17
  o Must have SSN for refundable
  o $500 nonrefundable credit for non-child dependent
  o Phases out $200,000/$400,000
Estate/Gift/GST

- Increase the basic exclusion to $10 million for estates and gifts, indexed for inflation beginning in 2011
- Exemption for 2018 will be approximately $11.2M
- Retain step up in basis
- Increased exemption sunsets 12/31/25
Tax Reform – ACA

- Repeal of the ACA’s Individual Mandate beginning after December 31, 2018
# Tax Reform – 2016 Disaster Relief

<table>
<thead>
<tr>
<th>Senate</th>
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<tbody>
<tr>
<td>• 2016 Presidentially Declared Disaster Relief – allowed to take $100,000 from retirement plan without penalty and income tax paid over 3 years</td>
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<tr>
<td>• Casualty loss not limited to 10% of AGI, but must exceed $500 per casualty</td>
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<tr>
<td>• Loss may be claimed in addition to standard deduction</td>
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</table>
Pass-through – Business Income
Business Income

- Allows a deduction of 20% of domestic qualified business income from a partnership, S corporation or sole proprietorship
- Deduction does not apply to service businesses, except in the case of a taxpayer whose income does not exceed $315,000 (or $157,500 for single). This special treatment phases out at a $100,000 range (or $50,000 for single).
- Deduction is limited to the greater of:
  - 50% of W-2 income for the business
  - 25% of W-2 plus 2.5% of the unadjusted basis of qualified property
- Does not apply to any amount paid by an S corporation for reasonable compensation or guaranteed payments to a partner
- Special rate also does not apply to investment type income such as interest, dividends and capital gain.
- Must qualify as a “trade of business”
- Publicly traded partnership are included
- Deduction expires after 12/31/25
### Business Income – Non-Corporate Losses

- NOL limited to 80% of taxable income (similar to AMT rule)
- Only applies to new NOLs after 1/1/18

- Excess business loss not allowed in a given year and are added to NOL – **sunsets 12/31/25**
- Excess business loss is defined as the excess of deductions attributable to trade or business over the income of the taxpayer PLUS a threshold amount.
  - $500,000 for joint
  - $250,000 for single

Example – current year business deductions are $1,000,000. Taxpayer has business income of $250,000. Taxpayers threshold amount is $500,000. Taxpayers excess business loss is $250,000. Taxpayer can use the $500,000 in the current year to offset other income.
Business Income – Carried Interest

- Creates a 3 year holding period for certain partnership interest received in exchange for services in order to qualify for long-term capital gain treatment
Partnerships – Technical Terminations

• Repeal of technical termination rules
Corporate Tax
Corporate Tax Rates

- Changes graduated rates to a flat 21% tax rate for corporations
- Eliminates special tax rate for personal service corporations
- Effective on 1/1/2018
Dividend Received Deduction

- Modifies 70% dividend received deduction to a 50% deduction
- Modifies 80% deduction for dividend received from a 20% owned corporation to 65%
- Effective 1/1/18
## Business Expensing

- Allows for 100% expensing of qualified property placed in service after September 27, 2017 and before January 1, 2023
- Extended through 2026, with 80% in 2023, 60% in 2024, 40% in 2025, and 20% in 2026.
- Repeal requirement that original use of qualified property begin with the taxpayer, allowing property to qualify if it is the taxpayer’s first use
- Not available for real property trade or businesses that opt to not apply interest limitation
Real Property Business Expensing

- Eliminates distinctions between qualified leasehold improvement property, qualifies restaurant property, and qualified retail improvement property and provides a general 15 year recovery period for qualified improvement property (with a 20-year ADS period).
- Real property trade or businesses that opt out of the business interest limitation are required to use ADS recovery method.
179 Business Expensing

- Increases expense amount to $1,000,000
- Increases phase-out threshold to $2,500,000
- Expands the application of section 179 to depreciable tangible personal property used predominantly to furnish lodging or in connection with furnishing lodging
- Expands the definition of qualified real property eligible for section 179 to include certain improvements to nonresidential real property: roofs, heating, ventilation, and air conditioning property; fire protection and alarm systems; security systems.
Interest Expense

- Limits deduction for business interest to the sum of business interest income plus 30% of adjusted taxable income of the taxpayer for the taxable year (thus limits net interest expense to 30% of adjusted taxable income, as the House Bill does), determined at tax-filer level
- Provides for double-counting rules for pass-through and allows additional deduction for a partner of a partnership to the extent the partnership could have deducted more business interest
- Allows carry forward of disallowed interest deduction indefinitely
- Limitations do not apply to businesses who meet the $25,000,000 gross receipts test
- Does not apply to floor plan financing
- Real property businesses can opt out of the limitation
### Accounting Method Changes

- Increases availability of cash method to those C-corporations and partnerships with corporate partners whose annual average gross receipts do not exceed $25,000,000 for the three prior taxable years.
- Increases exemption for inventory accounting to taxpayers that meet the $25,000,000 gross receipts test.
- Exempts business with average gross receipts of $25,000,000 from UNICAP rules.
- Expands the application of the exception from the percentage-of-completion method to those contracts that meet the 2 year threshold and are performed by a taxpayer that meets the $25,000,000 gross receipt test for the current year.
Accounting Method Changes

- Conformity of income recognition with applicable financial statement
- Codify current deferral regime for advanced payments for goods and services per Rev. Proc. 2004-34
Business Deductions

- Repeal domestic production activities deduction for corporate and non-corporate
- Repeals deduction for entertainment, amusement, recreation activities, facilities, or membership dues; retains 50% deduction on certain food/beverages
- Limitation on deduction for FDIC premiums
- Extends the 50% limit for meals provided for the employer’s convenience on or near the employer’s business premises. Such amounts are disallowed if paid after December 31, 2025.
Business Credits

- Limits credit for clinical testing expenses for certain drugs for rare diseases
- Limits rehabilitation credit – 20% historic credit remains, but taken over 5 years
- Repeal of deduction for certain unused business credits
Corporate Net Operating Losses

- Limits NOL deduction to 80% of taxable income determined without regard to the deduction
- Creates indefinite carryforward if disallowed losses
- Repeals carryback in most cases, but retains 2 year carryback for certain farming losses
- Only applies to NOLs created after 1/1/18
Like-Kind Exchanges

• Limits like-kind exchange rule to real property not held primarily for sale
Contribution to Capital

• Modifies current law such that contributions to capital would not be included in income if the contribution aids in the construction or any other contribution as a customer or potential customer or is a contribution by a governmental entity or civic group. Appears to only modify section 118 as it applies to non-shareholder contributions. Section 118 would continue to only apply to corporations.