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Tax Reform Special Report

On Friday, December 22, 2017, the "Tax Cuts and Jobs Act" (H.R. 1) was signed into law by President Trump. Almost all of these provisions go into law January 1, 2018.

We have put together a side-by-side comparison of current law and the "Tax Cuts and Jobs Act" (H.R. 1) changes. There are numerous tax planning issues facing both individuals and business owners.

TAX CUTS AND JOBS ACT OF 2017

This table compares the predominate changes made by the "Tax Cuts and Jobs Act of 2017" to the tax law as it was during 2017 for individuals and small businesses.



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2017	TAX CUTS & JOBS ACT (2018)
Exemptions	
\$4,050	Suspended through 2025 (effectively repealed)
Standard Deductions	
Single: \$6,350	Single: \$12,000
Head of household: \$9,350	Head of household: \$18,000
Married filing joint: \$12,700	Married filing joint: \$ 24,000
Add'l Elderly & Blind	Add'l Elderly & Blind
Joint & Surviving Spouse: \$1,250	Joint & Surviving Spouse: \$1,300
Others: \$1,550	Others: \$1,600
Itemized Deductions	
<u>Medical</u> – Allowed in excess of 10% of AGI	Retained for 2017 and 2018 with an AGI threshold of 7.5% regardless of age. Threshold increases to 10% after 2018. 7.5% threshold also applies for AMT purposes for '17 and '18.
<u>Taxes</u> –Property taxes, and state and local income taxes are deductible. Taxpayers can elect to deduct sales tax in lieu of state income tax.	The deduction for taxes is retained but capped at \$10,000 for the year. Foreign real property taxes may not be included. The Act prohibits claiming a 2017 itemized deduction on a pre-payment of income tax for 2018 or other future taxable year in order to avoid the dollar limitation applicable for taxable years beginning after 2017.
<u>Home Mortgage Interest</u> –Allows interest on \$1M of acquisition debt on primary and second home and interest on \$100K of home equity debt.	Allows interest on \$750K of acquisition debt on primary and secondary home. Grandfathers interest on up to \$1M of acquisition debt for loans prior to

		home equity debt.
	<u>Charitable Contributions</u> – Allows charitable contributions generally not exceeding 50% of a taxpayer's AGI.	Continues to allow charitable contributions and increases the 50% of AGI to 60%. Bans charitable deduction for payments made in exchange for college athletic event seating rights. Also repeals certain substantiation exceptions.
	<u>Gambling Losses</u> – Allows a deduction for gambling losses not exceeding gambling income.	Continues to allow a deduction for gambling losses not to exceed the gambling income. Clarifies that "gambling losses" includes any deduction otherwise allowable in carrying on any wagering transaction.
	<u>Personal Casualty & Theft Losses</u> – Casualty and theft losses are allowed to the extent each loss exceeds \$100 and the sum of all losses for the year exceeds 10% of the taxpayer's AGI.	Suspends personal casualty losses through 2025, except for casualty losses attributable to a disaster declared by the President under Sec 401 of the Robert T Stafford Disaster Relief and Emergency Assistance Act.
	<u>Tier 2 Miscellaneous</u> – Includes deductions for employee business expenses, tax preparation fees, investment expenses and certain casualty losses.	Suspends all tier 2 (those subject to the 2% of AGI threshold) itemized deductions through 2025.
	<u>Phase-out of Itemized Deductions</u> –Itemized deductions are phased out for higher income taxpayers.	The phase-out is suspended through 2025.
	Above-The-Line Deductions	
	<u>Teachers' Deduction</u> – Allowed up to \$250 (indexed) for classroom supplies and professional development courses.	Continues to allow this deduction.
	<u>Moving Deduction & Reimbursements</u> – Allows a deduction for moving expenses for a job related move where the commute is 50 miles further and the individual is employed for a certain length of time. Qualified moving expense reimbursements are excluded from the employee's gross income.	Deduction is suspended through 2025 except for military change of station. Employer (other than military) reimbursement would be included as taxable wages.
	<u>Alimony</u> – Allows the payer of alimony to claim an above-the-line deduction for qualified payments; recipient reports the income.	For divorce agreements entered into after December 31, 2018 or existing agreements modified after that date that specifically include this amendment in the modification, alimony would no longer be deductible by the payer and would not be income to the recipient.
	<u>Performing Artists Expenses</u> – An employee with an AGI of \$16,000 or less who receives \$200 or more from each of two or more employers in the performing arts field can deduct their performing arts expenses that exceed 10% of AGI as an above-the-line deduction.	Retained - The House Bill would have repealed this deduction but the conference agreement retains it in its current form.
	<u>Government Officials' Expenses</u> - An official who is paid on a fee basis as an employee of a state or local government and who pays or incurs expenses with	Retained - The House Bill would have repealed this deduction but the conference agreement retains it in its current form.

	the expenses as a deduction in calculating AGI.	
Employee Fringe Benefits		
	<u>Bicycle Commuting</u> – Allows reimbursement of \$20 per month as tax-free compensation	Suspended through 2025
	<u>Employer Provided Housing</u> – Allows an exclusion from income for the costs of housing provided an employee for the convenience of the employer	Retained - The House Bill would have limited the excludable amount, but the conference agreement retains the exclusion in its current form.
	<u>Dependent Care Assistance</u> – Allows an exclusion from gross income of up to \$5,000 per year for employer provided dependent care assistance.	Retained - The House Bill would have repealed the excludable amount, but the conference agreement retains the exclusion in its current form.
	<u>Adoption Assistance</u> – An employee can exclude a maximum of \$13,570 (2017) for qualified adoption expenses paid or reimbursed by an employer. The exclusion is phased out for higher-income taxpayers.	Retained – The House Bill would have repealed the exclusion, but the conference agreement retains the exclusion in its current form.
Tax Rates		
	There are seven tax brackets: 10, 15, 25, 28, 33, 35 and 39.6%.	There will continue to be seven tax brackets but at different rates and thresholds. The rates are: 10, 12, 22, 24, 32, 35 and 37%
Identifying Shares Sold		
	Under current law a taxpayer who disposes of part of his shares in a corporation that were acquired at different times or for different prices is allowed to choose which shares are considered sold if they are adequately identified.	The Senate version of the bill would have required using the first-in first-out (FIFO) method of selection for which shares were sold. However, the final bill does not include that requirement.
Child Tax Credit		
	Allows a credit of \$1,000 per qualified child under the age of 17. The credit is reduced by \$50 for each \$1,000 the taxpayer's modified gross income exceeds \$75K for single taxpayers, \$110K for married taxpayers filing joint and \$55K for married taxpayers filing separate. Taxpayers are eligible for a refundable credit equal to 15% of earned income in excess of \$3,000. There is also a special refundable computation when there are 3 or more qualifying children.	Retains the "under age 17" requirement and increases the child tax credit to \$2,000, with up to \$1,400 being refundable per qualified child. The credit phases out for taxpayers with AGI over \$200,000 (\$400,000 if married joint). Thresholds are not inflation-indexed. Child must have a valid Social Security Number that is issued before the due date of the return to qualify for this credit.
Non-child Dependent Credit		
	No such provision	Allows a \$500 non-refundable credit for non-child dependents. Same phaseout rule as for Child Tax Credit.
Alternative Minimum Tax (AMT)		
	<u>Individuals</u> – 2017 Exemption amounts are \$84,500 for married taxpayers filing jointly,	Retained, but the exemption amounts are increased to:

	<p>\$54,300 for single and head of household.</p> <p>The exemption phase-out thresholds are:</p> <p>\$160,900 for married taxpayers filing jointly, \$80,450 for married filing separate, and \$120,700 for single and head of household.</p>	<p>jointly, \$54,700 for married filing separate, and \$70,300 for single and head of household.</p> <p>The exemption phase-out thresholds are increased to: \$1 Million for married taxpayers filing jointly and \$500K for others.</p>
	<p><u>Corporate</u></p>	<p>Repealed</p>
	<p>Education Provisions</p>	
	<p><u>American Opportunity Credit (AOTC)</u> –The AOTC provides a post-secondary education tax credit of up to \$2,500 per year, per student for up to four years. 40% of the credit is refundable. The credit has a phase-out threshold of \$160K for MFJ filers (no credit allowed for MFS) and \$80K for others.</p>	<p>Retained - The House Bill would have extended the credit to a fifth year, but the conference agreement retained the credit in its current form.</p>
	<p><u>Lifetime Learning Credit (LLC)</u> –LLC provides annual credit of up to \$2,000 per family for post-secondary education. The credit has a phase-out threshold of \$112K for MFJ filers (no credit allowed for MFS) and \$56K for others.</p>	<p>Retained - The House Bill would have repealed the LLC, but the conference agreement retains the credit in its current form.</p>
	<p><u>Coverdell Education Accounts</u> – An annual non-deductible contribution of up to \$2,000 is permitted and with tax-free accumulation if distributions are used for grammar school and above education expenses.</p>	<p>Retained - The House Bill would have barred any further contributions to Coverdells, but allowed a rollover to a Sec 529 plan. However, the conference agreement retains Coverdell accounts in their current form.</p>
	<p><u>Sec 529 Plans</u> – These accounts allow non-deductible contribution and provide for tax-free accumulation if distributions are used for post-secondary education expenses.</p>	<p>Amended to allow tax-free distributions of up to \$10K per year for grammar and high school education tuition and expenses.</p>
	<p><u>Discharge of Student Loan Indebtedness</u>– Excludes from income the discharge of debt where the discharge was contingent on the student working a specific period of time in certain professions and for certain employers.</p>	<p>Modified to exclude income from the discharge of indebtedness due to death or permanent disability of the student.</p>
	<p><u>Higher Education Interest</u> – Allows an interest deduction of up to \$2,500 for interest paid on post-secondary education loans.</p>	<p>Retained - The House Bill would have repealed the higher education interest deduction, but the conference agreement retains the deduction in its current form.</p>
	<p><u>Tuition Deduction</u> – Allows an above-the-line deduction for tuition and related expenses in years before 2017. The amount of the deduction is limited by AGI and the maximum deduction for any year is \$4,000.</p>	<p>Retained - The House Bill would have repealed the tuition deduction, but the conference agreement retains the deduction in its current form. This means that the termination date of December 31, 2016 still applies, so this deduction would not be allowed for 2017 and later.</p>
	<p><u>Employer Provided Education Assistance</u> – An employer is permitted to provide tax-free employee fringe benefits up to \$5,250 per year for an employee's education.</p>	<p>Retained - The House Bill would have repealed employer provided education assistance, but the conference agreement retains the assistance in its current form.</p>

	<p>Employees of educational institutions, their spouses and dependents may receive a nontaxable benefit of reduced tuition.</p>	<p>repealed the exclusion from income of tuition reductions, but the conference agreement retains the benefit in its current form.</p>
	<p><u>Exclusion for Interest on U.S. Savings Bonds used for Higher Education Expenses</u> - Interest earned on a qualified United States Series EE savings bond issued after 1989 is excludable from gross income to the extent the proceeds of the bond upon redemption are used to pay for higher education expenses. The exclusion is phased out for higher income taxpayers.</p>	<p>Retained. The House Bill would have repealed the exclusion from income of U.S. savings bond interest used for higher education expenses, but the conference agreement retains the benefit in its current form.</p>
	<p><u>Sec 529 – Able Account Rollovers</u></p>	<p>Distributions after 2017 from 529 plans would be allowed to be rolled over to an ABL account without penalty, provided that the ABL account is owned by the designated beneficiary of that 529 account, or a member of the designated beneficiary's family.</p>
	<p>Home Sale Exclusion</p>	
	<p>Generally, where a taxpayer owns and uses a home as his principal residence for 2 out of the 5 years prior to its sale, the taxpayer can exclude up to \$250,000 (\$500,000 for a married couple) of profit from the sale.</p>	<p>Both the Senate and House bills would have changed the qualifying period to 5 out of 8 years, and the House bill would have phased the exclusion out for higher income taxpayers. The conference agreement retains the current law.</p>
	<p>Roth Conversion Recharacterizations</p>	
	<p>Permits, within certain time limits, a Traditional to Roth IRA conversion to be undone.</p>	<p>The Act repeals the special rule that allows IRA contributions to one type of IRA (either traditional or Roth) to be recharacterized as a contribution to the other type of IRA. Thus, for example, under the provision, a conversion contribution establishing a Roth IRA during a taxable year can no longer be recharacterized as a contribution to a traditional IRA (thereby unwinding the conversion).</p>
	<p>Estate & Gift Taxes</p>	
	<p>\$5.49 Million (2017) is exempt from gift and/or estate tax. This is in addition to the annual gift tax exclusion, which for 2017 is \$14,000 per gift recipient.</p>	<p>The exclusion is increased to \$10 Million adjusted for inflation since 2011, which is estimated to be approximately \$11.2 Million. The annual gift tax exclusion is retained. The House Bill would have repealed the estate tax for decedents dying in 2025 or later, but the conference agreement did not include this provision.</p>
	<p>Entertainment Expenses</p>	
	<p>A taxpayer who can establish that entertainment expenses or meals are directly related to (or associated with) the active conduct of its trade or business, generally may deduct 50% of the expense.</p>	<p>No deduction is allowed for (1) an activity generally considered to be entertainment, amusement or recreation, (2) membership dues with respect to any club organized for business, pleasure, recreation or other social purposes, or (3) a facility or portion thereof used in connection with items (1) and (2). Also disallows a deduction for</p>

		qualified transportation fringe to the taxpayer's employees. Employers may still deduct 50% of the food and beverage expenses associated with operating their trade or business (e.g., meals consumed by employees on work travel).
	Tax Credits	
	<i>Electric Vehicle Credit</i> - Provides a non-refundable credit of up to \$7,500 for the purchase of a qualified electric vehicle.	Retained – the House Bill originally repealed this credit, but the credit is retained in the conference agreement.
	<i>Adoption Credit</i> – Provides a credit of up to \$13,570 for child under the age of 18 or a person physically or mentally incapable of self care.	Retained – the House Bill originally repealed this credit, but the credit is retained in the conference agreement.
	Sec 1031 Exchange	
	There is non-recognition of gain when taxpayers trade properties of like-kind that are used for business or investment.	For exchanges completed after December 31, 2017, only real property will qualify for Sec 1031 treatment.
	Real Estate Recovery Periods	
	Currently real property has a MACRS recovery period of 39 years for commercial property and 27.5 years for residential rental property.	The Senate version would have shortened the recovery period for real property. However, the conference agreement retains the 27.5 and 39-year recovery periods.
	Net Operating Loss (NOL) Deduction	
	Generally a NOL may be carried back 2 years and any remaining balance is then carried forward until used up or a maximum of 20 years unless the taxpayer elects to forego the carryback and carry the loss forward only.	The 2-year carryback provision is generally repealed after 2017 except for certain farm losses. Beginning after December 31, 2017, the NOL deduction is limited to 80% of taxable income (determined without regard to the NOL deduction) for losses arising in taxable years beginning after December 31, 2017.
	Sec 179 Expensing	
	A taxpayer can elect to expense up to \$510,000 of tangible business property, off the shelf software and certain qualified real property (generally leasehold improvements). The annual limit is reduced by \$1 for every \$1 over a \$2,030,000 investment limit. The Sec 179 deduction for certain sport utility vehicles is capped at \$25,000.	For property placed in service after 2017: The annual expensing and investment threshold limits are increased to \$1,000,000 and \$2,500,000, respectively, with both subject to inflation indexing. SUV cap to be inflation-adjusted. Definition of Sec 179 property expanded to include certain depreciable tangible personal property – e.g., beds and other furniture, refrigerators, ranges, and other equipment used in the living quarters of a lodging facility such as an apartment house, dormitory, or any other facility (or part of a facility) used predominantly to furnish lodging or in connection with furnishing lodging. Expands the definition of qualified real property eligible for Sec 179 expensing to include any of the following improvements to nonresidential real property placed in service after the date

		tools; heating, ventilation, and air-conditioning property; fire protection and alarm systems; and security systems.
	Unlimited Expensing	
	For 2017 current law allows 50% of the cost of eligible new property to be deducted with the balance of the cost depreciable. This is commonly termed "bonus" depreciation. The bonus rate is scheduled to decline to 40% for 2018, 30% for 2019 and 0% thereafter.	Allows 100% unlimited expensing of tangible business assets (except structures) acquired after September 27, 2017 and through 2022. Applies when a taxpayer first uses the asset (does not need to be new).
	"Luxury Auto" Depreciation Limit	
	Annual limits apply to passenger autos used for business on which depreciation is claimed. For vehicles placed in service in 2017 the limits are \$3,160, \$5,100, \$3,050 and \$1,875, respectively, for years 1, 2, 3, and 4 and later. If bonus depreciation is claimed, the first-year limitation is increased by an additional \$8,000.	For passenger autos placed in service after 2017 the maximum amount of allowable depreciation is increased to the following amounts if bonus depreciation is not claimed: \$10,000 for the placed-in-service year, \$16,000 for the 2nd year, \$9,600 for the 3rd year, and \$5,760 for the 4th and later years. Amounts will be indexed for inflation after 2018.
	Listed Property	
	To claim a business deduction for certain types of property, referred to as listed property, enhanced substantiation requirements must be followed and deductions are only allowed if business use of the property is more than 50%. Computers have been included in this category.	Computers and peripheral equipment placed in service after 2017 have been removed from the definition of listed property.
	Deduction For Pass-Through Income	
	No such provision.	The Act provides a 20% deduction for pass-through income, limited to the greater of (1) 50 percent of wage income or (2) 25% of wage income plus 2.5% of the cost of tangible depreciable property for qualifying businesses, including publicly traded partnerships, but not including certain service providers. The limitations (both caps and exclusions) do not apply to joint filer's with income below \$315K and ratably phases out between \$315K and \$415K. For other filers the threshold is \$157K and phases out between \$157K and \$207K.
	Excess Business Losses For Individuals	
	Losses, other than passive losses, were allowed, and if a net loss was the result, a NOL deduction was created and carried back 2 years and then forward 20 years until used up.	A taxpayer other than a C corporation would not be allowed an "excess business loss." Instead, the loss would be carried forward and treated as part of the taxpayer's net operating loss (NOL) carryforward in subsequent taxable years. Excess business loss for a taxable year is defined in the Act as the excess of the taxpayer's aggregate deductions attributable to the taxpayer's trades or businesses for that year, over the sum of the taxpayer's aggregate gross income or gain for the year plus a "threshold

individuals filing jointly, or \$250,000 for other individuals. The provision will apply after taking into account the passive activity loss rules.

Domestic Production Deduction (Sec 199)

Sec 199 provides a deduction from taxable income (AGI in the case of an individual), equal to 9% of the lesser of the taxpayer's qualified domestic production activities income or taxable income (determined without regard to the section 199 deduction) for the taxable year. The deduction is further limited to 50% of the W-2 wages paid by the taxpayer that are allocable to domestic production gross receipts for the year.

Repealed, effective 2018

ACA Individual Insurance Mandate

Anyone who does not meet one of the limited exemptions must have health insurance or pay a penalty. In the tax code this is referred to as the "shared responsibility payment." The penalty is the greater of an inflation adjusted flat dollar amount or 2.5% of the taxpayer's household income. For 2018 the flat dollar amount is \$695 per adult and \$347.50 per child but not more than \$2,085 per family.

Repealed, effective 2019.

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