Washington Update

Planning After
The Tax Cuts and Jobs Act of 2017

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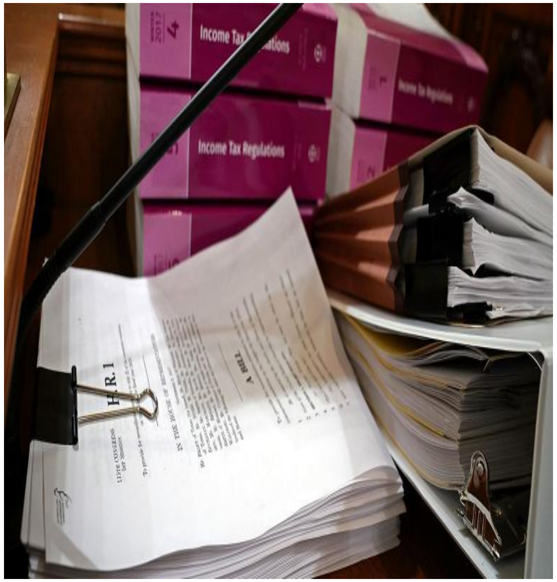
Agenda

- Introduction to TCJA of 2017
- Impact on Individual Taxes
- Impact on Business Taxes
- Impact on Life Settlements and Life Insurance Policies



Introduction

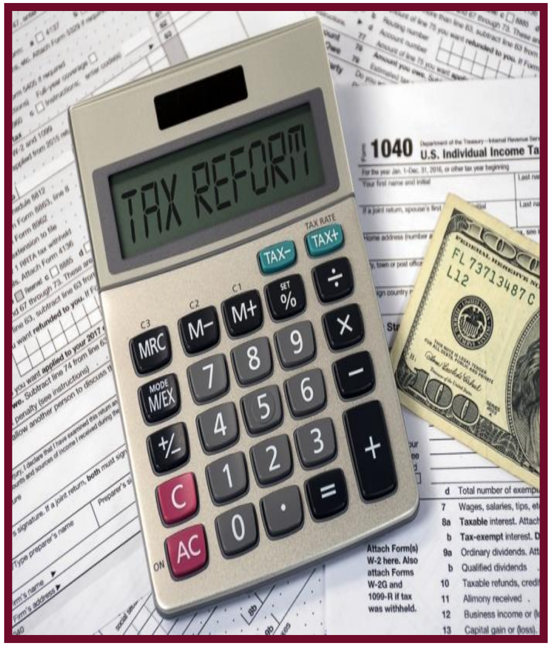
- H.R.1, The Tax Cut and Jobs Act of 2017[1]
  - $5.5 trillion in tax cuts;
  - $4.0 trillion in tax increases; and
  - Complex overhaul of corporate taxation.[2]
- The Bryd Amendment- Senate Robert Byrd (D-WV) – established Section 313 in the Congressional Budget Act of 1990.
  - The official name: To Provide For Reconciliation to Titles II and V of the Concurrent Resolution on the Budget for Fiscal Year 2018.
- Many provisions in the Act sunset after 12/31/2025

Source: [1]H.R.! Tax Cuts and Jobs Act; https://www.congress.gov/115/bills/hr1/BILLS-115hr1enr.pdf; [2]Joint Committee on Taxation; (JCT): https://waysandmeansforms.house.gov/uploadedfiles/12.15.17_jct_score.pdf/

IMPACT ON INDIVIDUAL TAXES

Individual Income Tax Rates

- TCJA Section 11001, Modification of Rates. The Act has kept seven tax brackets:
  - 10%, 12%, 22%, 24%, 32%, 35%, and 37%.
- These brackets apply to tax years beginning after Dec. 31, 2017, and before Jan. 1, 2026



Tax Brackets

Single		Single	
Old Rates	Old Brackets	New Rates	New Brackets
10%	$0 - $9,525	10%	$0 - $9.525
15%	$9,526 - $38,700	12%	$9,526 - $38,700
25%	$38,701 - $93,700	22%	$38,701 - $82,500
28%	$93,701 - $195,451	24%	$82,501 - $157,500
33%	$195,451 - $424,950	32%	$157,501 - $200,000
35%	$424,950 - $426,700	35%	$200,001 - $500,000
39.6%	$426,701+	37%	$500,001+

Single Filers

AGI	2017 Marginal Rate	2017 Marginal Liability	AGI	2018 Marginal Rate	2018 Marginal Liability	Savings	Incremental Savings
$50,000	25%	$5,639	$50,000	12%	$4,370	$1,269	
$100,000	25%	$18,139	$100,000	12%	$15,410	$2,729	$1,460
$200,000	28%	$46,070	$200,000	24%	$41,850	$4,220	$1,491
$300,000	33%	$80,295	$300,000	32%	$76,490	$3,805	($415)
$400,000	33%	$115,104	$400,000	35%	$111,490	$3,614	($191)
$500,000	39.6%	$154,004	$500,000	35%	$146,490	$7,514	$3,900
$600,000	39.6%	$194,504	$600,000	37%	$183,250	$11,254	$3,740
$700,000	39.6%	$235,004	$700,000	37%	$220,250	$14,754	$3,500
$800,000	39.6%	$275,504	$800,000	37%	$257,250	$18,254	$3,500
$900,000	39.6%	$316,004	$900,000	37%	$294,250	$21,754	$3,500
$1,000,000	39.6%	$356,504	$1,000,000	37%	$331,250	$25,254	$3,500
$2,000,000	39.6%	$761,504	$2,000,000	37%	$704,069	$57,435	$17,500

Source: 2018 Gassman, Crotty & Denicola, P.A.

Tax Brackets

Married, Joint Filer	
Old Rates	Old Brackets
10%	$0 - $19,050
15%	$19,051-$77,400
25%	$77,401-$156,150
28%	$156,151-$237,950
33%	$237,951-$424,950
35%	$424,951-$480,050
39.6%	$480,051+

Married, Joint Filer	
New Rates	New Brackets
10%	$0 - $19.050
12%	$19,051-$77,400
22%	$77,401-$165,000
24%	$165,001-$315,000
32%	$315,001-$400,000
35%	$400,001-$600,000
37%	$600,001+

Taxpayers MFJ

AGI	2017 Marginal Rate	2017 Marginal Liability	AGI	2018 Marginal Rate	2018 Marginal Liability	Savings	Incremental Savings
$50,000	15%	$3,448	$50,000	12%	$2,739	$709	
$100,000	25%	$11,278	$100,000	24%	$8,739	$2,539	$1,830
$200,000	28%	$37,061	$200,000	24%	$30,819	$6,242	$3,703
$300,000	33%	$67,803	$300,000	24%	$54,819	$12,984	$6,742
$400,000	39.6%	$103,574	$400,000	32%	$83,699	$19,875	$6,891
$500,000	39.6%	$140,452	$500,000	35%	$117,979	$22,473	$2,598
$600,000	39.6%	$180,952	$600,000	35%	$152,979	$27,973	$5,500
$700,000	39.6%	$221,452	$700,000	37%	$189,499	$31,953	$3,980
$800,000	39.6%	$261,952	$800,000	37%	$226,499	$35,453	$3,500
$900,000	39.6%	$302,452	$900,000	37%	$300,499	$38,953	$3,500
$1,000,000	39.6%	$342,952	$1,000,000	37%	$490,401	$42,453	$12,598
$2,000,000	39.6%	$747,952	$2,000,000	37%	$676,138	$71,814	$16,763

Source: 2018 Gassman, Crotty & Denicola, P.A.

Tax Brackets

Head of Household	
Old Rates	Old Brackets
10%	$0 - $13,600
15%	$13,601 - $51,800
25%	$51,801 - $82,500
28%	$82,501 - $157,500
33%	$157,501 - $200,000
35%	$200,001 - $500,000
39.6%	$500,001+

Head of Household	
New Rates	New Brackets
10%	$0 - $13,600
12%	$13,601 - $51,800
22%	$51,801 - $82,500
24%	$82,501 - $157,500
32%	$157,501 - $200,000
35%	$200,001 - $500,000
37%	$500,001+

Tax Brackets

MFS		MFS	
Old Rates	Old Brackets	New Rates	New Brackets
10%	$0 - $9,325	10%	$0 - $9,525
15%	$9,326 - $37,950	12%	$9,526 - $38,700
25%	$37,951 - $76,550	22%	$38,701 - $82,500
28%	$76,551 - $116,675	24%	$82,501 - $157,500
33%	$116,676 - $208,350	32%	$157,501 - $200,000
35%	$208,351 - $235,350	35%	$200,001 - $300,000
39.6%	$235,351+	37%	$300,001+

Inflation Adjustment

- Ever since the Reagan administration, tax brackets have been indexed with inflation based on the CPI.
  - This avoids tax bracket creep when a taxpayers move into a higher tax bracket because inflation pushes up their income.
- TCJA Section 11002, Inflation Adjustment Based on Chained-CPI
  - The income threshold amounts for each rate bracket will now be indexed based on the Chained CPI Index (C-CPI-U) in tax years beginning after Dec. 31, 2018.
- Chained CPI-U
  - An adjustment to CPI that reduces the inflation rate by attempting to factor in human behavior that when prices rise, some consumers will look for less expensive substitute products, so that the overall inflation is lower than it would first appear when measured by actual spending.
- Results
  - Bracket creep will increase faster for taxpayers; this will increase taxes, and thus is a hidden revenue raiser.

CPI vs. C-CPI-U Historically

Year	CPI	Chained-CPI
2001	177.1	103.9
2002	179.9	106.0
2003	184.0	107.8
2004	188.9	111.2
2005	195.3	114.4
2006	201.6	117.0
2007	207.34	121.3
2008	215.3	121.56

Year	CPI	Chained-CPI
2009	214.54	124.54
2010	218.06	126.14
2011	224.94	129.84
2012	229.59	131.77
2013	232.96	133.51
2014	236.74	134.21
2015	237.02	134.79
2016	240.01	137.22
Cumulative Average	2.22%	2.00%

The method by which inflation is calculated has been changed. Under the prior law, inflation measures were adjusted based on the CPI. Under the new law, inflation will be adjusted to “Chained CPI.” Changing the inflation adjustment to Chained CPI will result in a tax increase over the long-run for most taxpayers after the tax cuts expire.

Personal Exemptions

- TCJA Section 11041, The Act suspends the deduction for personal exemptions.
  - In 2017, the deduction was worth $4,050 for each filer, including spouse, and for each eligible dependent (was to increase to $4,150 in 2018).
  - PEP is repealed.
- Effective for tax years beginning after Dec. 31, 2017, and before Jan. 1, 2026.

Source: TCJA 11041; IRC §151(d), §152, §642(b), §873(b), §3402(a)(2)

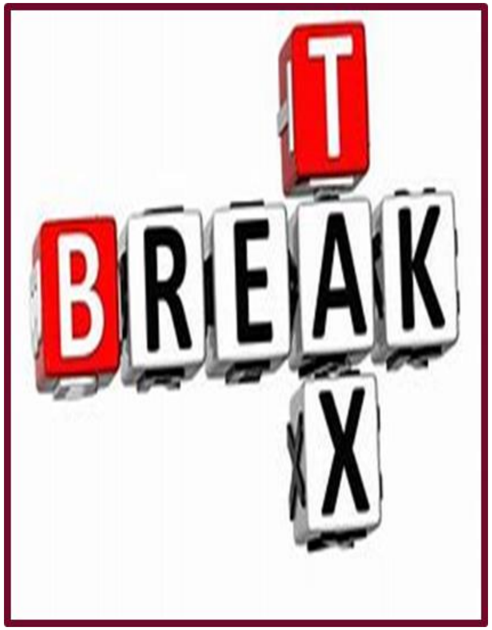
Standard Deduction

- TCJA Section 11021, Increase in Standard Deduction, increases (almost doubles) the standard deduction to the following amounts:
    - $24,000 Joint return or a surviving spouse (was $12,700 in 2017));
    - $18,000 Head of Household (was $9,350 in 2017); and
    - $12,000 Single filers (was $6,350 in 2017).
- The Act retains the enhanced standard deduction for the blind and elderly that is available under current law ($1,300/$1,600).
- The amount of the standard deduction will be indexed for inflation using C-CPI-U in tax years beginning after 2018.
- Increased standard deduction amounts will expire after Dec. 31, 2025.

Source: TCJA 11021; IRC §1(c)(2)(A, §2(a)(2), §32, § 63(c), § 7706

Itemized Deductions

- An itemized deduction is an eligible expense that individual taxpayers can report (Schedule A) on their federal income tax returns in order to decrease their taxable income.
  - Most taxpayers were allowed a choice between the itemized deductions and the standard deduction.
- TCJA of 2017 made a lot of changes to itemized deductions and to the AMT. Pease rule repealed.



Itemized Deductions

Deduction	Current Law	TCJA 2017	Notes	Eff./Exp.Date
State and Local Taxes (TCJA § 11042, IRC §164(b))	Unlimited	Capped at $10,000	Applies to state and local: (1) property taxes; plus (2) income or sales taxes.	Begins in tax year 2018 Expires after tax year 2025
Mortgage Interest (TCJA § 11043; IRC § 163(h)	Limited to interest paid on debt of up to $1,000,000	Lowered to $750,000	Current home owners (or homes acquired under contracts entered into before Dec. 15, 2017, which transactions close before April 1, 2018) will remain subject to the $1 million limitation.	New limitation applies to homes acquired under contracts entered into before Dec. 15, 2017, which close before April 1, 2018 Expires after tax year 2025
Unreimbursed Medical Expenses (TCJA § 11027; IRC §213)	Limited to 10% of AGI. Over 65, reduced to 7.5%	Reduced to 7.5%of AGI for all taxpayers	Beginning, January 1, 2019, the threshold goes back up to 10% for all taxpayers	*Begins in tax year 2017, and expires after tax year 2018 (threshold increases to 10%)

Itemized Deductions

Deduction	Current Law	TCJA 2017	Notes	Eff./Exp.Date
Charitable Deductions (TCJA § 11023, §13704, §13705; IRC § 170)	Generally available for contributions to charitable orgs, certain limitations apply	Adjusted limit of cash contributions to 60%	Exception for contemporaneous written acknowledgment repealed. No deduction allowed for a donation in exchange for college sports seating rights.	Begins in tax year 2018 Expires after tax year 2025
Limitation / Phase-out of Itemized Deductions (TCJA § 11046; IRC § 68)	Single filer with AGI over \$261,500; or married jointly AGI over \$313,800 phased out	Repealed (Pease repealed)		Begins in tax year 2018 Expires after tax year 2025
Moving Expenses (TCJA § 11049; IRC § 217)	Allowed for unreimbursed qualified moving expenses (IRS Form 3903)	Repealed	Deduction remains for members of the Armed Forces (or their spouse or dependents) on active duty who move due to military order.	Begins in tax year 2018 Expires after tax year 2025

Itemized Deductions

Deduction	Current Law	TCJA 2017	Notes	Eff./Exp.Date
Personal Casualty and Theft Losses (TCJA § 11044; IRC §165(h))	Generally allowable for any such loss	Only available if such loss is attributable to a disaster, as declared by the President		Begins in tax year 2018 Expires after tax year 2025
Miscellaneous Itemized Deductions (TCJA § 11045, IRC § §62, §67(g), §262A)	Total of misc. deductions must be more than 2% of AGI	Repealed	Generally include expenses for production or collection of income, tax preparation, unreimbursed employee expenses.	Begins in tax year 2018 Expires after tax year 2025
Home Equity Debt Interest (TCJA § 11045, IRC § §62, §67(g), §262(A))	Interest paid on home equity debt of up to $100,000	Repealed		

“Bunching” Itemized Deductions

- The tax strategy of “bunching” deductions
  - Taxpayers whose itemized deductions are near the standard deduction have been able to do this for years, not only with charitable contributions, but with property taxes and to some extent with income taxes.
  - TCJA significantly increases the number of taxpayers who should consider this strategy for their charitable contributions.”
- The itemized deduction that provides the most leeway is the charitable contribution.
  - Six remaining itemized deductions
- Use of Donor Advisor Funds

Alimony Payments

- TCJA Section 11051, Repeal of Deduction For Alimony Payments:
  - Alimony payments will no longer be deductible by the payor and will not be included in income of the payee for divorce or separation agreements entered into after 2018.
  - Divorce or separation agreements means:
    - A decree of divorce or separate maintenance or a written instrument incident to such a decree;
    - A written separation agreement; or
    - A decree (not described above, requiring a spouse to make payments for the support or maintenance of the other spouse.

Source: TCJA 11051; IRC § 61, § 121(d)(3)

Child Tax Credit

- TCJA Section 11022 Increase in and Modification of Child Tax Credit:
  - The child tax credit is doubled from $1,000 per qualified child to $2,000 subject to an increased threshold MAGI amount (not indexed with inflation):
    - $400,000 MFJ; and
    - $200,000 for other taxpayers.
- Provides that $1,400 of this credit is refundable for each eligible child and also indexes the maximum amount refundable for inflation.
- In addition, it provides a $500 nonrefundable credit for dependents (care for adult family members) other than qualifying children.
- Must provide the SSN# of each qualifying child.
- All provisions are effective for tax years beginning after Dec. 31, 2017, and before Jan. 1, 2026.

Source: TCJA 11022; IRC § 24

Individual Alternative Minimum Tax

- TCJA Section 12003, Increased Exemption for Individuals:
  - Individual AMT, is retained, but AMT exemption amounts for individuals [IRC § 55(d)(1)] are increased as follows (indexed for inflation):
    - $109,400 for married taxpayers filing jointly or for surviving spouses;
    - $70,300 for single taxpayers; and
    - $54,700 for married taxpayers filing separately.
  - Also, increases the phase-out of exemption amounts in IRC §55(d)(3) as follows:
    - $1,000,000 for married taxpayers filing jointly or for surviving spouses;
    - $500,000 for single taxpayers and married taxpayers filing separately.
- Effective for tax beginning after Dec. 31, 2017, and before Jan. 1, 2026.

Source: TCJA 12003; IRC §55

Capital Gains Tax Rates

Tax Rate	Long-Term Capital Gain/ Qualified Dividend Income	
	Married Filing Jointly	Single
0%	$0 - $77,200	$0 – 38,600
15%	$77,200 - $479,000	$38,600 - $425,800
20%	$479,000 +	$425,800+

- Short term capital gains will continue to be taxed at ordinary income rates.
- Additional 3.8% Medicare will apply if income exceeds $250,000 married/$200,000 single unless gain is from sale of active business asset.

Kiddie Tax

The Kiddie Tax, which taxes an 18 year old or younger child's unearned investment income over a certain threshold ($2,100) remains the same. Prior law, unearned income of the child was taxed at the parents' rates. Under the new Act, unearned income will be taxed using the new trust tax rates, which are as follows:

Ordinary Taxable Income	Ordinary Tax Rate
Up to $2,550	10%
$2,551 - $9,150	24%
$9,151 - $12,500	35%
$12,501 +	37%

Capital Gain Income	Capital Gain Tax Rate
$0 - $2,600	0%
$2,661 - $12,700	15%
$12,701 +	20%

- Children aged 19 to 24 with unearned income over a certain threshold may also be subject to the Kiddie Tax if he or she is a full-time student.
- Complex Trust taxation - $3,011.50 on the first $12,500 of undistributed income - $37% in excess thereof.
- $100,000 of income would be taxed at a 35.39% average tax rate.

529 Plans

- TCJA, Section 11032, 529 Account Funding For Elementary and Secondary Education:
  - Qualified expenses will now include elementary and high school education of up to $10,000 per year.
  - Allow 529 Plans to be used to pay for tuition for private school for grades kindergarten through 12th grade, as opposed to only being used for college and graduate schools.

Source: TCJA 11032; IRC § 529(c)

Education

Deduction	TCJA 2017	Eff./Exp.Date
Consolidation of Education Savings Rule (TCJA § 11032; IRC §529)	The Act provides that elementary and secondary school expenses of up to $10,000 per year are qualified expenses for qualified tuition programs. The provision applies to distributions made after Dec. 31, 2017.	Begins in tax year 2018 Expires after tax year 2025
Reforms to Discharge of Certain Student Loan Indebtedness (TCJA § 11031; IRC §108(f))	The Act excludes from taxable income, income resulting from the discharge of certain student debt on account of the death or total and permanent disability of the student.	Begins in tax year 2018 Expires after tax year 2025

ABLE Accounts

- ABLE Accounts (Achieving A Better Life Experience Act of 2014) are a tax-preferred way for those with disabilities to save. Annual contributions are capped at the annual gift exclusion amount ($15,000 in 2018) and are not deductible, but earnings in the account are tax-deferred, and can be tax-free if withdrawn for qualified disability expenses. The Act limits eligibility to individuals with significant disabilities with an age onset of disability before turning 26 years of age.
- TCJA Section 11024 Increased Contributions to ABLE Accounts:
  - ABLE account beneficiaries earning income from employment will be able to make ABLE contributions above the $15,000 annual cap from their own income up to the FPL, which is currently $11,770 for a single individual, provided they do not participate in their employer's retirement plan.
- TCJA Section 11025 Rollovers To ABLE Programs From 529 Plans:
  - Allows families who have saved money in 529 plan to roll over up to $15,000 each year to an ABLE account. The 529 plan must be for the same beneficiary as the ABLE account or for a member of the same family as the ABLE account holder [IRC 529 (c)(3)(C)]

Source: TCJA 11024; IRC § 529A(b)(2)(B); IRC § 25(b)

Recharacterization of Certain IRA and Roth IRA Contributions

- TCJA Section 13611,Repeal of Special Rule Permitting Recharacterization of Roth Conversions
  - Amends IRC § 408A(d)(6)(B)(ii)provides that the special rule that allows a contribution to one type of IRA to be recharacterized as a contribution to the other type of IRA but does not apply to a conversion contribution to a Roth IRA.
  - Thus, recharacterization cannot be used to unwind a Roth conversion.
  - However, recharacterization is still permitted with respect to other contributions.
- These changes are effective for plan years beginning after Dec. 31, 2017

Source: TCJA 13611; IRC § 408A(d)(6)(B)(ii)

Rollovers of Plan Loan Offsets

- TCJA Section 13613, Extended Rollover Period For Plan Loan Offset Amounts:
  - An employee who has taken a plan loan has until the due date for filing the employee's tax return for that year (including extensions) to contribute the loan balance to an IRA (instead of the current 60 days) to avoid having the loan amount treated as a taxable distribution. The transfer is treated like a tax-free rollover. This rule applies to employees whose plans terminate or who experience a severance from employment while having a plan loan outstanding. The plan loan offset must relate to a loan that satisfies §72(p)(2), otherwise the loan will be treated as a taxable deemed distribution under §72(p)(1).
- Applicable to taxable years beginning after Dec. 31, 2017.

Source: TCJA 13613; IRC § 402(c)(3)

Relief for 2016 Disaster Areas

- TCJA Section 11028, Relief For 2016 Disaster Areas:
  - Exception to the 10% early withdrawal tax in the case of a distribution due to a qualified 2016 disaster and shields a qualified plan from disqualification for making any such distribution.
  - In addition, unless an election to the contrary is made, taxpayers recognize income attributable to a qualified 2016 disaster distribution ratably over three years, taxpayers are allowed a period of up to three years for recontributions of qualified 2016 disaster distributions, and casualty losses associated with a 2016 disaster are deductible without regard to whether aggregate net losses exceed 10% of a taxpayer's adjusted gross income, as long as they exceed $500 per casualty.
- A qualified 2016 disaster distribution includes any distribution made on or after Jan. 1, 2016, and before Jan. 1, 2018, to an individual whose principal place of abode at any time during calendar year 2016 was in the 2016 disaster area.
- Personal casualty loss relief applies to losses arising in taxable years beginning after Dec. 31, 2015, and before Jan. 1, 2018.
- These changes are effective on the date of enactment.

Source: TCJA 11028; IRC §72(t), §165, §401-403, §408, §457, § 3405

Affordable Care Act Individual Mandate

- TCJA, Section 11081, Elimination of Shared Responsibility Payment For Individual Failing To Maintain Minimum Essential Coverage:
  - Reduces the amount of the individual shared responsibility payment by striking $695 in paragraph A and inserting $ 0. (Repealed
  - Applies to months beginning after Dec. 31, 2018.

Source: TCJA 11081; IRC § 5000A(c)

Estate Tax Law Summary

	2017	2018 - 2025	After 2025
Annual Gift Exemption	$14,000	$15,000 (as adjusted for inflation)	$15,000 (as adjusted for inflation)
Tuition and Medical Direct Payment Exemption	Unlimited	Same	Same
Lifetime Exemption (TCJA § 11061; IRC § 2010(c)(3)	2017-$5,490,000 (was scheduled to increase to $5,600,000 in 2018 under prior law)	$11,2000,000 (plus inflation)	Back to $5,600,000 (as adjusted for inflation) in 2026
Estate Tax Rate	40%	40%	40%
Discounts and Installment Sales/GRAT's, etc.	Available	Appear to be available	Same as 2018-2015
Portability of First Dying Spouse Exemption	Yes	Yes	Yes

Estates and Trust Tax Rates

2017 Tax Law	
Rate	**Income Level**
15%	$0 -$2,550
25%	$2,551 - $6,000
28%	$6,001 - $9,150
33%	$9.151 - $12,500
39.6%	$12,501+

TCJA 2017 (New Tax law)	
Rate	Income Level
10%	$0 -$2,550
24%	$2551 - $9,150
35%	$9,151 - $12,500
37%	$12,501+

Note: Repeal of itemized deductions may affect Trust income

IMPACT ON CORPORATE AND BUSINESS TAXES

Corporate Tax Rate

- TCJA Section 13001, 21-Percent Corporate Tax Rate:
  - Reduces the corporate tax rate to a flat 21% for tax years beginning after Dec. 31, 2017.
  - Repeals the maximum corporate tax rate on net capital gain as obsolete.
  - Does not require a special rate for personal service corporations.
- TCJA Section 13002, Reduction in Dividend Received Deductions to Reflect Lower Corporate Income Tax Rates:
  - Reduces the 80% dividends received deduction to 65% and the 70% dividends received deduction to 50%. Also reduces the corresponding taxable income limitations.
- No expiration.

Source: TCJA Sections 13001, 13002; IRC §11, §243, §245, §246, §246A, §861

Corporate Alternative Minimum Tax

- Repeals the corporate AMT for tax years beginning after Dec. 31, 2017
- Continues to allow the prior year minimum tax credit to offset the taxpayer's regular tax liability for any tax year.
- For tax years beginning after 2017 and before 2022, the prior year minimum tax credit is refundable in an amount equal to 50% (100% for tax years beginning in 2021) of the excess of the credit for the tax year over the amount of the credit allowable for the year against regular tax liability.
- No expiration.

Source: TCJA Sections 12001, 12002; IRC § 53, §55

Business Interest Deduction

- TCJA Section 13301, Limitation on Deduction For Interest:
  - Limits the deductibility of net interest expense to 30 percent of earnings before interest, taxes, depreciation, and amortization (EBITDA) for four years, and 30 percent of earnings before interest and taxes (EBIT) thereafter.
  - Businesses with average gross receipts that do not exceed $25,000,000 are exempt
  - Any interest disallowed is carried forward indefinitely
- Effective Date: Apply to tax years beginning after December 31, 2017.

Source: TCJA Sections 13101; IRC § 163(j)

Section 179 Expensing

- TCJA Section 13101, Modification of Rules For Expensing Depreciable Business Assets:
  - Increases the amount that a taxpayer may expense under IRC § 179 to $1,000,000. Also increases the phase-out threshold to $2,500,000. These amounts are indexed for inflation for tax years beginning after 2018.
  - The $25,000 cost limitation for SUVs is also indexed for inflation for tax years beginning after 2018.
  - The Act also expands the definition of qualified real property to include all qualified improvement property and certain improvements (roofs, heating, ventilation, and air-conditioning property, fire protection and alarm systems, and security systems) made to nonresidential real property.
- Effective Date: Property placed in service in taxable years beginning after December 31, 2017

Source: TCJA Sections 13101; IRC § 179

Net Operating Loss Deduction

- TCJA Section13302 Modification of Net Operating Loss Deduction:
  - Limits the NOL deduction to 80% of taxable income and provides that amounts carried to other years be adjusted to account for the limitation for losses arising in tax years beginning after Dec. 31, 2017.
  - NOLs of property and casualty insurance companies may be carried back two years and carried forward 20 years to offset 100% of taxable income in such years.
  - The Act eliminates carrybacks (except for farming NOLs, which would be permitted a two-year carryback) and allows unused NOLs to be carried forward indefinitely.
- Effective Date: Taxable years beginning after December 31, 2017.

Source: TCJA Sections 13102; IRC § 172 (a)

Like-Kind Exchanges of Real Property

- TCJA Section 13303, Like-Kind Exchanges of Real Property:
  - Limits the non-recognition of gain for like-kind IRC § 1031 exchanges to real property that is not held primarily for sale.
  - The Act applies to exchanges completed after Dec. 31, 2017.
  - However, an exception is provided for any exchange if either the property being exchanged or the property received is exchanged or received on or before Dec. 31, 2017.

Source: TCJA Section 13303; IRC § 1031(a)(1)

Employer Credit for Paid Family and Medical Leave (FML)

- TCJA Section 13403, Employer Credit For Paid Family and Medical Leave:
  - Permits eligible employers (employers that allow all qualifying full-time employees at least two weeks annual paid FML and medical leave and allow part-time employees a commensurate amount of leave on a pro rata basis) to claim a business credit for 12.5% of the wages paid to qualifying employees during any period in which such employees are on FML if the payment rate under the program is 50% of the wages normally paid to an employee.
  - The credit is increased by 0.25 percentage points (but not above 25%) for each percentage point by which the rate of payment exceeds 50%.
- Effective for wages paid in tax years beginning after Dec. 31, 2017. Not applicable to wages paid in tax years beginning after Dec. 31, 2019.

TCJA § 13403; IRC § 45(s)

Other Business Related Exclusions and Deductions

- Luxury automobile depreciation limits (TCJA Section 13202):
  - Increased the depreciation limits under IRC § 280F that apply to listed property. For passenger automobiles placed in service after 2017 and for which bonus depreciation is not claimed, the maximum amount of allowable depreciation is $10,000 for the year in which the vehicle is placed in service, $16,000 for the second year, $9,600 for the third year, and $5,760 for the fourth and later years.

- Qualified transportation fringe benefits (TCJA Section 13304):
  - The act disallows a deduction for expenses associated with providing any qualified transportation fringe to employees of the taxpayer and, except as necessary for ensuring the safety of an employee, any expense incurred for providing transportation (or any payment or reimbursement) for commuting between the employee's residence and place of employment.

Source: TCJA Section 13304; IRC § 274(a); IRC § 274(n)

Other Business Related Exclusions and Deductions (con't.)

- Entertainment Expenses (TCJA Section 13304)
  - The act disallows a deduction for (1) an activity generally considered to be entertainment, amusement, or recreation; (2) membership dues for any club organized for business, pleasure, recreation, or other social purposes; or (3) a facility or portion thereof used in connection with any of the above items.

- Meals (TCJA Section 13304)
  - Under the act, taxpayers are still generally able to deduct 50% of the food and beverage expenses associated with operating their trade or business (e.g., meals consumed by employees on work travel). For amounts incurred and paid after Dec. 31, 2017, and until Dec. 31, 2025, the act expands this 50% limitation to expenses of the employer associated with providing food and beverages to employees through an eating facility that meets requirements for *de minimis* fringes and for the convenience of the employer. Such amounts incurred and paid after Dec. 31, 2025, will not be deductible.

Pass-Through Entities

- Section 11011 Deduction for QBI for Pass-Through Entities:
  - "Pass-Through Entities": Sole-proprietorships, Partnerships, Limited Liability Companies and S-Corporations (also applies to trusts and estates).
  - "*Qualified Business Income*" (QBI) means the net amount of qualified items of income, gain, deduction, and loss with respect to the qualified trade or business of the taxpayer.
  - A "*qualified trade or business*" means any trade or business other than a specified service business [1202(e)(3)(A)]
- New Code Section 199A – QBI deduction
  - Pass-through entity may be eligible to receive a deduction of 20% of QBI (an effective top marginal rate of 29.6% [37% x (1-20%])

Source: TCJA 11011; IRC § 199A

Modification To Limit Based on Taxable Income

- Exception to Limit:
  - $315,000 - $415,000 (MFJ)
  - $157,500 - $215,000 (S)

Calculation of the QBI Deduction

- The amount determined under this paragraph with respect to any qualified trade or business is the lesser of—

  (A) 20 percent of the taxpayer's qualified business income with respect to the qualified trade or business, or

  (B) the greater of—

    (i) 50 percent of the W-2 wages with respect to the qualified trade or business, or

    (ii) the sum of 25 percent of the W-2 wages with respect to the qualified trade or business, plus 2.5 percent of the unadjusted basis immediately after acquisition of all qualified property.

Note: Exception to deduction limit: Based on taxable income:
MFJ $315,000 - $415,000; and $157,500 - $207,5000 (S)

Specified Service Trade or Business

Defined in Section 1202(e)(3)(A):

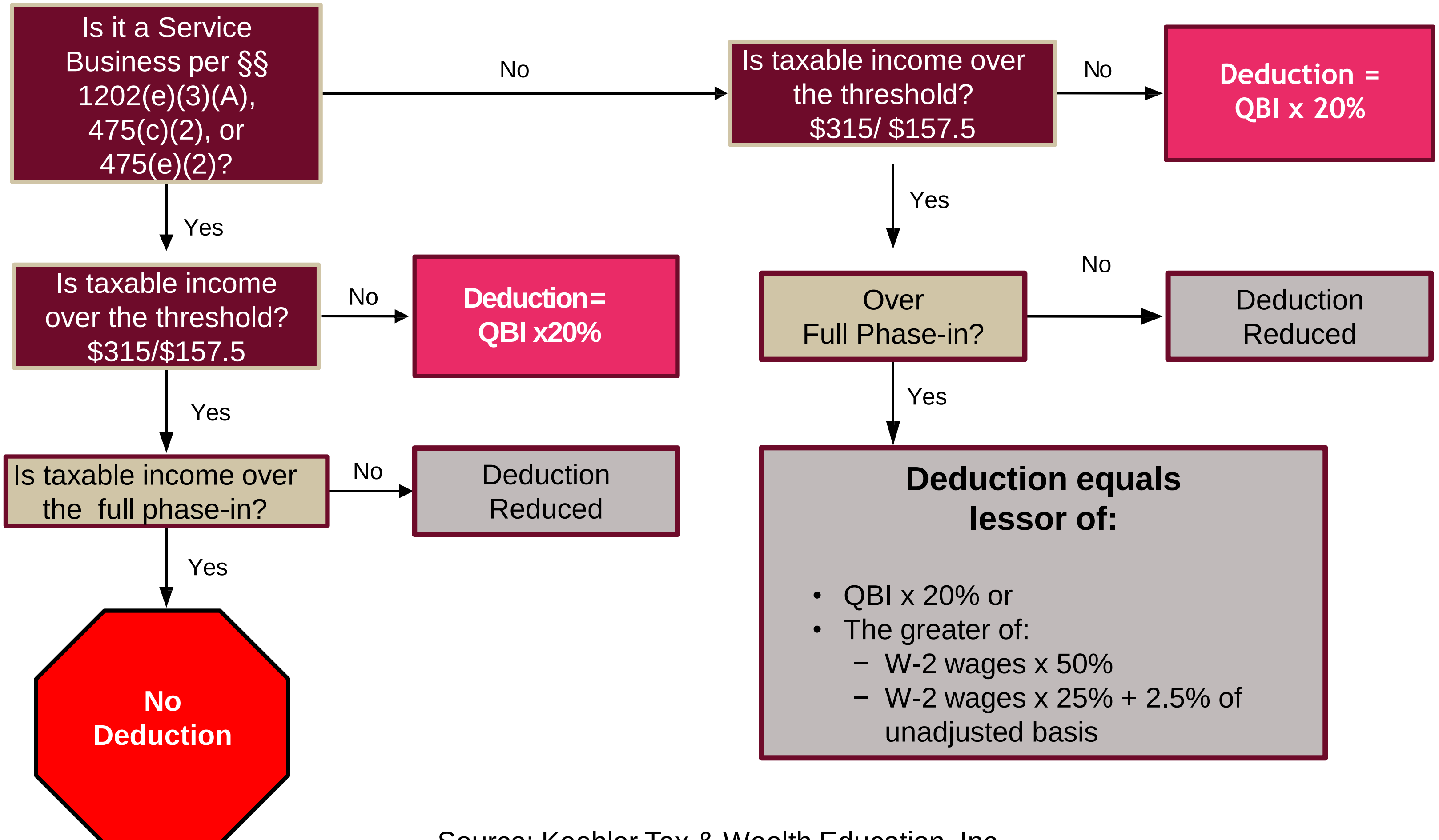
Health	Actuarial Science	Consulting	Investing, trading, or dealing in securities, commodities, etc.
Law	Performing Arts	Athletics	Reputation or skill of one or more employees
Accounting	Brokerage Services	Financial Services	

An “exception-to-the-exception”, though, retains the 20% deduction for any service businesses where the individual owner/partner has taxable income of less than $315,000 (for married couples, or $157,500 for individuals). In other words, a partner who earns “just” $125,000 actually does get the 20%-of-income deduction. But once the partner’s taxable income exceeds the threshold, the deduction phases out, and is fully eliminated by $415,000 of taxable income (for married couples, or $207,500 for individuals).

Simplified Phase-out Formula

MFJ $$\left(1 - \frac{\text{taxable income} - \$315{,}000}{100{,}000}\right) \text{ X QBI X } 20\%$$

All others $$\left(1 - \frac{\text{taxable income} - \$157{,}500}{50{,}000}\right) \text{ X QBI X } 20\%$$



Source: Keebler Tax & Wealth Education, Inc.

QBI Deduction

Sole Proprietor of Operating Business (Income Below Phase-Out Range)

Paul, married and a sole proprietor, has $100,000 net business income from his coffee shop in 2018. Paul and her husband have $34,000 of other income and will take the standard deduction ($24,000) in 2018. Based on these facts, below is a summary of Paul's QBI deduction in 2018:

Net business income (a)	$100,000
Other income	34,000
Adjusted gross income	$134,000
Less: Standard deduction	- 24,000
Taxable income (b)	$110,000
QBI deduction*	**$20,000**

** QBI deduction = Lesser of: (a) 20% of net business income ($100,000 x 20% = $20,000) or (b) 20% of taxable income ($110,000 x 20% = $22,000)*

QBI Deduction

S-Corporation Shareholder in a Service Business (Income Above Phase-Out Range)

Pat, married and a 33.33% owner in Bright, Inc. (a dental clinic), has $550,000 of pass-through net business income in 2018. Pat and her husband have $50,000 of other income and expect to take the standard deduction ($24,000) in 2018. Based on these facts, below is a summary of Pat's QBI deduction in 2018

Net business income (a)	$550,000
Other income	250,000
Adjusted gross income	$800,000
Less: Standard deduction	- 24,000
Taxable income (b)	$776,000
QBI deduction*	**$0**

* QBI deduction is completely phased out because Amy is in a service business and her income is above the phase-out range for married taxpayers

QBI Deduction

Partner in a Partnership Involvedin Rental Real Estate (Income Above Phase-Out Range)

Matt, married and a 50% partner in M Realty, LP, has $750,000 of pass-through net business income in 2018. Matt and his wife have $100,000 of other income and will have $50,000 of itemized deductions ($10,000 real estate and state income taxes + $40,000 charitable donations) in 2018. Additionally, M Realty, LP has $120,000 of W-2 wages and $4,000,000 of assets (unadjusted cost basis). Based on these facts, below is a summary of Matt's QBI deduction in 2018:

Net business income (a)	$750,000
Other income	100,000
Adjusted gross income	$850,000
Less: Itemized deductions	- 50,000
Taxable income (b)	$800,000
QBI deduction*	**$ 65,000**

** QBI Deduction = Lesser of: (a) 20% of net business income ($750,000 x 20% = $150,000), (b) 20% of taxable income ($800,000 x 20% = $160,000) or (c) greater of: (i) 50% of W-2 wages ($120,000 x 50% x 50% = $30,000) or (ii) 25% of W-2 wages plus 2.5% of unadjusted cost basis of assets ([$120,000 x 50% x 25%] + [$4,000,000 x 50% x 2.5%] = $65,000)*

Planning Considerations

- Increase Pension Contributions to Reduce Taxable Income:
  - Where a taxpayer is over the income limit, salary could be reduced and mandatory pension contributions increased, and no part of the pension contribution will be included in income, so that the deduction can apply.
  - Many taxpayers in small businesses should consider Cash Balance and or Combination plans that will enable the HCE to put $200,000 or more a year into pension plans to enable them to be under the income limitation amounts.
  - Note: Elective profit sharing contributions count as wages under the statute, but conventional employer contributions do not.

Planning Considerations

- BUY A NEW PIECE OF EQUIPMENT TO GENERATE A SECTION 179 DEDUCTION.
  - A single doctor earning $210,000 a year based upon $70,000 in salary and $140,000 in K-1 income would **not** be eligible for the deduction because his income exceeds the $207,500 threshold.
  - The single doctor could replace equipment in his office that cost $60,000 and immediately expense such equipment using the new bonus depreciation rules or Section 179 deduction.
  - The doctor's taxable income would then be equal to $150,000 consisting of $70,000 of salary and $80,000 in K-1 income, and the doctor would be eligible for the Section 199A deduction.
  - The doctor could then take a $16,000 Section 199A deduction that would save $5,920 in taxes in addition to the tax savings realized by writing off the property purchased.

IMPACT ON LIFE SETTLEMENTS AND LIFE INSURANCE POLICIES

Life Settlement Transactions

- TCJA Section 13520, Tax Reporting For Life Settlements:
  - The Act adds significant new reporting requirements on the acquisition of a life insurance contract or any interest in a life insurance contract in a "reportable policy sale."
  - A reportable policy sale is one in which the acquirer generally has no insurable interest in the life insured under the policy, e.g. a life settlement contract.
- The acquirer must file an information return and provide a written statement of the information to the persons identified in the return, including the seller.

Source: TCJA Sections 13520; IRC § 6050Y(new)

Life Insurance

- Clarification of Tax Basis of Life Insurance Contract (TCJA Section 13521):
  - The Act adds a new provision that requires proper adjustment be made for "mortality, expense or other reasonable charges incurred under an annuity or life insurance contract."
  - Effective for transactions entered into after Aug. 25, 2009.

- New Exception to Transfer For Value Rule(TCJA Section 13522):
  - The Act adds a new provision to the transfer for value rule that provides the exception to the exclusion from income of death benefits does not apply to a transfer of a life insurance contract or any interest therein which is a reportable policy sale.
  - Effective for taxable years beginning after Dec. 31, 2017.

Source: TCJA Sections 13522; IRC § 101(a)(2)


The End

Survey

Take time to fill out survey. Thank You!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&
A