The MendenFreiman Advisor
SPRING 2018
A Report on Legal Issues Affecting Privately Held Businesses and Personal Wealth

Est. 1997
MENDENFREIMAN
YOUR FUTURE IS HERE®

IN THIS ISSUE

Tax Cuts and Jobs Act: Key Provisions Affecting Individuals and Businesses

Tax Cuts and Jobs Act: Key Provisions Affecting Individuals and Businesses

When the Tax Cuts and Jobs Act of 2017 (TCJA) was signed into law, Americans received the most sweeping tax legislation since the Tax Reform Act of 1986. While the 2017 tax deadline has passed, every individual, business owner, and corporate tax payer in the U.S. will see impacts from 2018 through 2025. This newsletter provides a brief overview of some of the most significant provisions affecting individuals and businesses.

Except where noted, these changes are effective for tax years beginning after December 31, 2017, and before January 1, 2026.

CHANGES THAT AFFECT INDIVIDUALS

1. **Tax Brackets.** TCJA maintains seven income tax brackets but adjusts the tax rates to 10%, 12%, 22%, 24%, 32%, 35%, and 37%. The top rates for 2017, which previously applied at $418,400 of taxable income for single filers ($470,700 for joint filers), will now take effect at $500,000 (and $600,000 respectively) and will continue to be adjusted for inflation.

2. **Personal Exemptions and Standard Deduction.** For 2017, taxpayers can claim a personal exemption of $4,050 each for themselves, their spouses and any dependents. If a filer chooses not to itemize deductions, they can also take a standard deduction based on their filing status. For 2018–2025, TCJA suspends personal exemptions and roughly doubles the standard deduction amounts. The standard deduction amounts will be adjusted for inflation beginning in 2019.

CONTINUED ON PAGE 2

 CONTINUED FROM PAGE 1

	2017	2018-2025
Personal Exemption	$4,050 for tax payer, spouses, and any dependents	Suspended
Standard Deduction	$6,350-singles and separate filers $9,350 for head of household filers $12,700 for married couples filing jointly	$12,000 for singles and separate filers $18,000 for heads of households $24,000 for married couples filing jointly

3. **Estate Tax.** TCJA doubles the basic exclusion amount (the portion of an estate that will not be subject to estate tax) to $10 million for 2018–2025. The basic exclusion amount is adjusted for inflation each year; and after adjusted using the new "chained CPI" method, the IRS announced in Rev. Proc. 2018-18 that the exclusion amount for 2018 is $11.18 million. Because the exemption doubling is only temporary, taxpayers with assets in the $5 million to $11 million range (twice that for married couples) still need to keep estate taxes in mind in their planning.

4. **Mortgage Interest Deduction.** TCJA tightens limits on the itemized deduction for home mortgage interest. For 2018–2025, it generally allows a taxpayer to deduct interest only on mortgage debt of up to $750,000, if acquired on or after December 16, 2017. The limit remains at $1 million for mortgage debt incurred before December 16, 2017. TCJA suspends the deduction for interest on home equity debt for 2018–2025. Taxpayers cannot claim deductions for such home equity debt interest at all, regardless of when the debt was incurred or how it is used.

5. **State and Local Tax Deduction.** For 2018–2025, taxpayers can claim a deduction of no more than $10,000 for the aggregate of state and local property taxes and either income or sales taxes if itemizing deductions.

6. **Family Tax Credits.** TCJA doubles the credit to $2,000 per child under age 17 beginning in 2018. The maximum amount refundable is limited to $1,400 per child. Under the new law, the credit does not begin to phase out until adjusted gross income exceeds $400,000 for married couples or $200,000 for all other filers (compared with the 2017 phaseouts of $110,000 and $75,000). The phaseout thresholds will not be indexed for inflation though, meaning the credit will lose value over time. Beginning in 2018, TCJA includes a $500 nonrefundable credit for qualifying dependents other than qualifying children (for example, a taxpayer's 17-year-old child, parent, sibling, niece or nephew, or aunt or uncle).

7. **Roth Conversions.** Taxpayers who convert a pretax traditional IRA into a post-tax Roth IRA lose their ability to later "recharacterize" (reverse) the conversion.

8. **Additional Deductions, Exclusions and Credits.**

    a) **Miscellaneous itemized deductions subject to a 2 percent floor.**

    b) **Charitable contributions.** For 2018–2025, the limit on the deduction for cash

CONTINUED ON PAGE 3

donations to public charities is raised to 60 percent of AGI from 50 percent.

c) **Alimony payments.** Alimony payments will not be deductible — and will be excluded from the recipient's taxable income — for divorce agreements executed (or, in some cases, modified) after December 31, 2018.

d) **Medical Expense Deduction.** The threshold for deducting such unreimbursed expenses is reduced from 10 percent of adjusted gross income (AGI) to 7.5 percent for all taxpayers for both regular and alternative minimum tax (AMT) purposes in 2018. The percentage will go back to 10 percent in 2019.

e) **Moving expenses.** The deduction for work-related moving expenses is suspended for 2018–2025, except for active-duty members of the armed forces (and their spouses or dependents) who move because of a military order that calls for a permanent change of station.

f) **529 Plans.** 529 plan distributions can be used for elementary or secondary public, private, or religious school expenses up to $10,000 per year per student. So even though a student may be the beneficiary of multiple accounts, only $10,000 per year can be distributed tax free for that student.

g) **TCJA leaves in place many deductions and credits, including the following:** principal residence gain exclusion, exclusion for employer-provided adoption assistance, lifetime learning credit, deduction for student loan interest, and deduction for graduate student tuition waivers.

CHANGES THAT AFFECT BUSINESSES

1. **Corporate Tax Rate.** The cornerstone of the TCJA is a new lower rate for regular C corporations. C corporations are separate taxpaying entities with their own tax rates. Under the TCJA, all C corporations are subject to a single flat tax rate of 21 percent. This replaces the tax rates ranging from 15 percent to 35 percent that C corporations paid under prior law. The change in the corporate tax rate is "permanent" (which for tax law purposes, simply means there is no automatic sunset for this provision).

2. **Corporate Alternative Minimum Tax (AMT).** Prior to TCJA, the corporate alternative minimum tax (AMT) was imposed at a 20 percent rate. However, corporations with average annual gross receipts of less than $7.5 million for the preceding three tax years were exempt. Beginning in 2018, the new law repeals the corporate AMT. Corporations that paid the corporate AMT in earlier years were allowed an AMT credit under prior law. The new law allows corporations to fully use their AMT credit carryovers in 2018–2021 tax years.

3. **"Pass-Through" Deduction.** Individuals who receive business income from pass-through entities (e.g., sole proprietors, partners) generally report business income on their individual income tax returns, paying tax at individual rates. For tax years 2018 through 2025, a new deduction is available equal to 20 percent of qualified business income from sole proprietorships, partnerships, S corporations and LLCs.

For those with taxable incomes exceeding certain thresholds, the deduction may be limited or phased out altogether, depending on two broad factors:

CONTINUED ON PAGE 4

 CONTINUED FROM PAGE 1

- The deduction is generally limited to the greater of 50 percent of the W-2 wages reported by the business, or 25 percent of the W-2 wages plus 2.5 percent of the value of qualifying depreciable property held and used by the business to produce income.
- The deduction is not allowed for certain businesses that involve the performance of services in fields including health, law, accounting, actuarial science, performing arts, consulting, athletics, and financial services.

For those with taxable incomes not exceeding $157,500 ($315,000 if married filing jointly), neither of the two factors above will apply (i.e., the full deduction amount can be claimed). Those with taxable incomes between $157,500 and $207,500 (between $315,000 and $415,000 if married filing jointly) may be able to claim a partial deduction.

ESTATE PLANNING UNDER THE NEW TAX LAW

Important tax planning and non-tax planning considerations that could impact your estate and gift taxes are:

Tax Planning Considerations

TCJA greatly reduces the number of estates subject to federal estate and gift taxes (until December 31, 2025). With the step-up in tax basis retained and a much higher federal estate tax exemption, income tax planning becomes a much more important element in estate planning and estate administration. For estates impacted by the sunset of the doubled exemption at the end of 2025 (or sooner, if tax laws are changed by a new administration or Congress), this will be further complicated by a potential "use-it-or-lose-it" scenario. Each case is unique, and there are a number of planning options that can be utilized to accomplish the specific goals of an individual client, including the following:

- Irrevocable Life Insurance Trusts (ILITs)
- Dynasty Trusts
- Grantor Retained Annuity Trusts (GRATs)
- Intentionally Defective Grantor Trusts (IDGTs)

Non-Tax Planning Considerations

The estate tax has always been and will continue to be a secondary motivation for estate planning. The maxim, "don't let the tax tail wag the planning dog" is just as true under TCJA as it has always been. Proper planning is motivated by a desire to preserve, protect, and transfer assets; and estate tax considerations are just one aspect. As always, the primary considerations for estate planning remain the same:

- Disposition of property
- Designation of guardians and conservators for minor children
- Creditor/Divorce protection
- Incapacity planning

We understand this new law is a lot to digest, and we want to ensure our recommendations match your individual estate and gift plans or business structures. If you would like more details about any aspect of how the new law may affect you, please contact us to schedule a consultation.

At MendenFreiman, we understand business and life can be complicated. For over 20 years, we have made it our mission to identify and simplify complex business, wealth and life-planning issues for our clients. In addition to law degrees, most of our attorneys have earned advanced degrees in business, accounting or tax; and several are certified public accountants. This diverse combination of legal, management, tax and financial expertise sets our firm apart. Our clients trust us to help them solve complicated business planning, transactional, wealth transfer and estate planning matters.

Super Lawyers GeorgiaTrend

5565 GLENRIDGE CONNECTOR, N.E. SUITE 850 ATLANTA, GA 30342 PHONE 770.379.1450 FAX 770.379.1455 MENDENFREIMAN.COM