

Tax Cuts & Jobs Act

BACKGROUND FROM A BUSINESS PERSPECTIVE

- Some of the reasons given in support of the new law
 - Promote economic and jobs growth
 - Promote domestic investments by businesses
 - Make U S more competitive in relation to other developed countries
 - Make U S more attractive for world investments
 - Allow for repatriation of corporate funds held overseas



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CORPORATE TAX RATES REDUCED SIGNIFICANTLY

- New law reduced the corporate tax rate to a flat 21%
 - Old law – corporations were subject to graduated rates that resulted in a 35% corporate tax rate for income over \$10,000,000 with a phase-out of the lower rates
 - Effective corporate rates under the old law for perspective:



Taxable income over --	But not over --	The tax is:	Of the amount over --
\$0	\$50,000	15%	\$0
\$50,000	\$75,000	\$7,500+25%	\$50,000
\$75,000	\$100,000	\$13,750+34%	\$75,000
\$100,000	\$335,000	\$22,250+39%	\$100,000
\$335,000	\$10,000,000	\$113,900+34%	\$335,000
\$10,000,000	\$15,000,000	\$3,400,000+35%	\$10,000,000
\$15,000,000	\$18,333,333	\$5,150,000+38%	\$15,000,000
\$18,333,333	----	+35%	\$0



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PERSONAL SERVICE CORPORATIONS

- New corporate tax rate of a flat 21% now also applies to Personal Service Corps (previously taxed at a flat 35% rate) – PSC definition -

Where substantially all of the corporation's activities involve the performance of services in the fields of:

- Health
- Law
- Engineering
- Architecture
- Accounting
- Actuarial Science
- Performing Arts
- Consulting



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BUSINESS EXPENSE DEDUCTIONS

Corporate AMT:

Corporate Alternative Minimum Tax (AMT) repealed

- For tax years 2018 – 2020: AMT **credits** are refundable and can be used to offset regular tax liability in an amount equal to 50% of the excess of the minimum tax credit for the year over the amount of the credit allowable for the year (100% for tax years beginning in 2021)



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DIVIDENDS RECEIVED DEDUCTION



Changes:

- **Dividends received deduction reduced from 70% to 50%**
- **20% or more owned corporations – Dividends received deduction reduced from 80% to 65%**
- **10% or more owned foreign corporations – Dividends received deduction set at 100%**



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EXCESSIVE EMPLOYEE COMPENSATION



Exceptions to the \$1MM deduction limitation for commissions and performance-based pay are repealed.

Definition of covered employee is updated to include the CEO, CFO, and the three other highest paid officers.



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REHAB CREDIT FOR HISTORIC STRUCTURES



- **10% credit for pre- 1936 structures repealed**
- **Now 20% credit claimed over 5 years for rehabilitation of qualified historic structures is available**



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CREDIT FOR EMPLOYER-PAID FAMILY & MED LEAVE



- **New credit for 2018 and 2019 – 12.5% credit if wages paid during leave are at least 50% of normal wages**
- **Credit increases 0.25% to a maximum of 25% for each 1% of wages paid over 50%**
- **Minimum period – 2 weeks; Maximum period limited to 12 weeks**



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BUSINESS EXPENSE DEDUCTIONS

Sec 179 – Increased Expensing Amounts:

For tangible property placed in service after 12/31/2017:

- Maximum limit is increased from \$500K to \$1MM
- Phase-out threshold increased from \$2MM to \$2.5MM
- After 2018 tax year, above limits are indexed for inflation



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BUSINESS EXPENSE DEDUCTIONS

Sec 179 – Expanded Eligible Property:

For tangible property placed in service after 12/31/2017 – Eligible Property expanded as follows:

- Qualified “real property” improvements, after placed in service, including roofs, HVAC, fire protection systems, alarm systems and other security related systems
- Certain depreciable personal property used to furnish lodging available for rent (old law – excluded these items)



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BUSINESS EXPENSE DEDUCTIONS

Bonus Depreciation:

100% immediate expensing is available for:

- Certain business expenses for new and **USED** property, including machinery and equipment and qualified real estate improvement property acquired and placed in service after 9/27/2017
- New construction and/or acquired property is eligible
- 100% expensing is available thru 2022 and then phased-out at a 20% reduction per year thereafter until it is completely phased-out in 2027



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BUSINESS EXPENSE DEDUCTIONS

Farm or Ranch Equipment Depreciation:

Changes include:

- New farm or ranch equipment (excl. grain bins, cotton ginning equipment, fence, or other land improvements) placed in service after 12/31/2017 - the depreciable period has been reduced from 7 years to 5 years
- 3, 5, 7 and 10 year agricultural property may now use the 200% double-declining balance method as opposed to the prior 150% declining balance method for calculating depreciation; 15 or 20yr property can still use 150% DB



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BUSINESS EXPENSE DEDUCTIONS

Qualified Real Estate Improvements:

Changes include:

- Creation of a General Qualified Improvement Property Category and elimination of the specific categories for qualified leasehold improvements; qualified restaurant property; and qualified retail improvements property
- Depreciable period for qualified improvement property placed into service after 12/31/2017 is generally 15 years
- Changes from the more specific categories and definitions above to the one general category will impact industries differently – some positive and some negative
- Qualified improvement property is now eligible for Sec 179 and bonus depreciation due to the 15 year period



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LUXURY AUTO DEPRECIATION LIMITS

- New law increased the luxury auto depreciation limits
New limits are as follows (indexed for inflation after 2018):



Year		Limit Amount: (old limit amount)	Percent
1	Lesser of	\$10,000 (\$3,160) or	20.00%
2	Lesser of	\$16,000 (\$5,100) or	32.00%
3	Lesser of	\$9,600 (\$3,050) or	19.20%
4 - 5	Lesser of	\$5,760 (\$1,875) or	11.52%
6	Lesser of	\$5,760 (\$1,875) or	5.76%
7+	Can't exceed	\$5,760	---



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SUV SEC 179 LIMIT

- New law established Sec 179 Limit for SUVs at \$25K (vehicle weight > 6,000 pounds and not > 14,000 pounds)

Example (limit indexed for inflation after 2018):



Purchase Price	\$55,000
Sec 179 (Max)	<\$25,000>
Subtotal	\$30,000
Bonus Depreciation	<\$30,000>
2018 Deduction	\$55,000



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BUSINESS EXPENSE DEDUCTIONS

Business Interest Expense Deduction Limits:

Deduction limited to:

- Applies regardless of business structure
- Business net interest expense deduction is subject to disallowance for the portion that exceeds 30% of the business's adjusted taxable income (said another way, limit equals business interest income plus 30% of adjusted taxable income plus interest on floor plan financing)
- Can apply at the individual taxpayer or shareholder-partner entity level in relation to partnerships and S-Corps
- Interest expense related to floor plan financing of motor vehicles, recreational vehicles or farm machinery inventory held for re-sale or lease and secured by the inventory is not limited



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BUSINESS EXPENSE DEDUCTIONS

Business Interest Expense Deduction Limits:

Deduction limited to: (continued)

- Small business exception: if taxpayer's annual average gross receipts for the three tax years ending with the prior tax year do not exceed \$25MM
- Exclusion for certain electric cooperatives and regulated public utilities
- Real property businesses can opt out if they use ADS (Alternative Depreciation System) for depreciation purposes
- Farming businesses can opt out if they use ADS for depreciation purposes



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BUSINESS EXPENSE DEDUCTIONS

New Sec 199A – New Deduction for Pass Thru Income:

Deduction:

- 20% of **qualified business income** from a partnership, S-Corp, sole proprietorship, and real estate investors



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BUSINESS EXPENSE DEDUCTIONS

New Sec 199A – New Deduction for Pass Thru Income:

Qualified Business Income:

- Only from businesses in the U S
- Net business income, gains, deductions and losses
- Excluding investment capital gains/losses and dividends
- Reduced by employee compensation and guaranteed payments to partners



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BUSINESS EXPENSE DEDUCTIONS

**New Sec 199A – New Deduction for Pass Thru
Income:**

**If taxpayer's taxable income is below \$315,000
(Married Filing Joint) or \$157,500 (filing Single), no
further restrictions or limitations apply**



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BUSINESS EXPENSE DEDUCTIONS

New Sec 199A – New Deduction for Pass Thru Income:

Professional Services Type Businesses (except Engineering & Architecture) Not Eligible Once Taxable Income Is At Or Exceeds \$315,000 (married filing joint) or \$157,500 (filing single):

- Healthcare
- Accounting
- Law
- Actuarial
- Performing Artists
- Brokerage
- ...



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BUSINESS EXPENSE DEDUCTIONS

New Sec 199A – New Deduction for Pass Thru Income:

Deduction Limits:

- 50% of W-2 wages paid by business; or
- Sum of 25% of W-2 wages plus 2.5% of unadjusted basis of qualified property capital assets

Note: W-2 Limit does not apply to taxpayers with taxable income below \$315,000 (married filing joint) or \$157,500 (filing single)



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BUSINESS EXPENSE DEDUCTIONS

New Sec 199A – New Deduction for Pass Thru Income:

Deduction Calculation:

- Lesser of 20% of taxpayer's Qualified Business Income

Or, Greater of:

- 50% of W-2 wages, or
- Sum of 25% of W-2 wages plus 2.5% of depreciable capital assets



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BUSINESS EXPENSE DEDUCTIONS

Accounting Methods – Cash Method:

New law raises gross receipts limit from \$5,000,000 to \$25,000,000



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BUSINESS EXPENSE DEDUCTIONS

Accounting Methods – Inventories:

New law allows taxpayers who do not exceed \$25,000,000 in average annual gross receipts to account for inventories as non-incidentals materials and supplies or otherwise in a manner that conforms to the taxpayer's financial accounting treatment



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BUSINESS EXPENSE DEDUCTIONS

Accounting Methods – Long-Term Contracts:

New law allows taxpayers, who do not exceed \$25,000,000 in average annual gross receipts, an exception to the percentage-of-completion method on construction contracts when project is completed within 2 years



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BUSINESS EXPENSE DEDUCTIONS

Investment in Qualified Opportunity Zones:

- New law allows for the designation of certain low-income community property as Qualified Opportunity Zones with a 10 year period
- New law allows for the creation of Qualified Opportunity Investment Funds organized as a corporation or partnership to invest in Qualified Opportunity Zone properties (Funds must hold at least 90% of their assets in Opportunity Zone property (can include related stock, partnership interests and physical property assets))
- Temporary deferral of capital gains allowed when re-invested in a Qualified Opportunity Zone Investment Fund



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BUSINESS EXPENSE DEDUCTIONS

Net Operating Loss (NOL) Deduction:

Changes:

- 2 year carryback of NOL eliminated (except for farm losses)
- Indefinite NOL carryforward now available
- NOL deduction now limited to 80% of adjusted taxable income



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BUSINESS EXPENSE DEDUCTIONS

Like-Kind Exchanges:

Changes:

- Personal property no longer eligible
- Now only for real property that is not held primarily for sale
- Transition rule allows for completion of exchanges and favorable tax treatment regardless of property type, if started and documented prior to 12/31/2017 with either the relinquished property having been disposed of or the replacement property having been acquired



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STOCK OPTIONS...



New Tax Law updated the rules in this area as to employees covered, elections and deferrals – review the details of the new Act and regulations for this area – seek professional advice, as needed



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RETIREMENT PLANS



New Tax Law eliminates option allowing employees to re-characterize IRA conversion contributions to a ROTH IRA and vice versa

Re-Characterization can no longer be used to unwind a ROTH IRA conversion



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SELF-CREATED PROPERTY



New Tax Law treats income from sale of self-created property (patents, designs, etc) as **ORDINARY INCOME** and is no longer treated as capital assets and capital gains



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CARRIED INTEREST



New Tax Law still treats Hedge Fund or Private Equity Managers – Carried Interest related compensation as a long-term capital gain, but now it must be held for more than 3 years to receive this favorable tax treatment



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LISTED PROPERTY



New Tax Law removes computers and related peripherals (including laptops) from being defined as “listed property” and subject to the previous higher documentation and substantiation requirements and possible longer depreciation or cost recovery periods



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BUSINESS EXPENSE DEDUCTIONS

Employer's deduction for certain fringe benefit expenses limited:

Limitations include:

- Meals and entertainment limitations
- Entertainment expense deduction no longer allowed
- Current 50% limit on deductibility of business meals is expanded to include on-site cafeteria arrangements
- Deduction for meals provided on-site will then be eliminated after 2025
- Transportation fringe benefit for employee commuting (e.g. parking, mass transit, bicycle allowance - \$20, etc) are no longer available
- No deduction for employee commuting mileage & expenses



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BUSINESS EXPENSE DEDUCTIONS

Research Expenses Deduction:

Changes:

- After 2021, expenses must be capitalized
- Amortization period – 5 years (mid-point method)
- Covered research expenses defined



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PENALTIES AND FINES



Penalties and fines paid after 12/21/2017 related to violation of laws no longer deductible, with some exceptions



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EMPLOYEE ACHIEVEMENT AWARDS



Deduction no longer includes cash, gift cards, coupons, vacations, meals or lodging, etc



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SEXUAL HARASSMENT SETTLEMENTS



No deduction for amounts paid after 12/22/2017 in relation to sexual harassment or abuse claims when an NDA is involved



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DOMESTIC PRODUCTION ACTIVITIES



Deduction for domestic production activities (DPAD) repealed for non-corporate taxpayers after 12/31/2017 and repealed for corporate taxpayers after 12/31/2018 – Former deduction (9%) was intended to provide tax incentives for businesses that produced most of their goods or work in the United States, as opposed to sending that work overseas



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LOCAL LOBBYING EXPENSES



LOCAL lobbying expenses are no longer deductible for amounts paid after 12/21/2017



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BUSINESS EXPENSE DEDUCTIONS

Resources:

- Tax Cuts and Jobs Act - enacted into law December 22, 2017 –
<https://www.congress.gov/115/bills/hr1/BILLS-115hr1enr.pdf>
- Tax Cuts and Jobs Act of 2017 – 115th United States Congress - complete text with table of contents: published 1/29/2018 – Lexington, KY – available for purchase
- 2017 Tax Cuts and Jobs Act / Law – by Luis Ayala – large print and double-spaced version of the law available for purchase
- Other reference guides and publications continue to come out
- Additional IRS regulations and interpretive guidance continue to be released in 2018 (www.irs.gov)



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BUSINESS EXPENSE DEDUCTIONS



Don't forget to consider and monitor how your state tax is impacted by the new federal tax law and how your state is conforming or is not conforming or accommodating the new federal tax law, and the timing of same



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BUSINESS EXPENSE DEDUCTIONS

This information is a partial list of business issues.



**Call Today To Discuss The
New Tax Law And How It
Impacts Your Business
Ph 573-554-6135**



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BUSINESS EXPENSE DEDUCTIONS

Thank You!

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