Tax Cuts and Jobs Act (TCJA)

INDIVIDUAL CHANGES:

1. Standard vs. itemized deductions

The increase in the standard deduction likely means that many more taxpayers will be better off with the standard deduction in 2018. That will mean simplification for many more taxpayers, but they still may not be happy if they did not know about it and did not prepare for the loss of itemized deductions during 2018.

2. Medical expense deduction

The threshold for the medical expense deduction is lowered to 7.5 percent of adjusted gross income for regular tax and Alternative Minimum Tax purposes. It reverts back to 10 percent in 2019.

3. SALT cap

The state and local tax deduction is capped at $10,000. This includes both state income or sales taxes and property taxes. State efforts to do workarounds for the limit through state charitable contributions with state income tax credits may not work due to IRS proposed regulations limiting the charitable deduction to the extent of any state or local tax credits. This also impacts pre-existing state charitable contribution programs. If the taxpayer can allocate part of the SALT to a business, that portion escapes the cap.

4. Casualty loss

There is no casualty loss deduction unless for a federally declared disaster. The taxpayer is required to include the FEMA number and the location of property when the claiming loss deduction.

5. Charitable contributions

The deduction limit is increased to 60 percent of AGI. There is no deduction if the contribution secures athletic event seating rights. Taxpayers will need contemporaneous substantiation for any contribution of $250 or more, even if the charity has reported contribution to IRS.

6. Mortgage interest deduction

Be careful of any mortgage modification that included cash out, even if just for closing costs – it may result in loss of the grandfathered $1 million debt limit and become a $750,000 debt limit. **<u>No home equity interest deduction</u>** can be claimed unless the taxpayer can document the expenses to buy, build or improve the home.

7. Miscellaneous itemized deductions

Tax Cuts and Jobs Act (TCJA)

The deduction for miscellaneous itemized deductions subject to the 2 percent of AGI floor was repealed through 2025, including unreimbursed employee business expenses, investment expenses, tax preparation fees, and hobby expenses.

8. 20 % deduction for owners of pass-through businesses

The deduction is claimed on the new Line 9 on the draft Form 1040. There is a need to determine qualified business income, and taxpayers may also need to determine if theirs is a specified service trade or business, if there are W-2 wages, and the unadjusted basis of qualified property immediately after acquisition. For owners of partnerships and S corporations, business information should be provided in Box 20 of Form K-1.

9. Child Tax Credit

To claim the increased child tax credit in 2018, taxpayers will need Social Security numbers for every qualifying child.

10. Qualifying relative credit

There is a new $500 deduction for a qualifying relative. The taxpayer ID number is sufficient for this credit, which can apply to a child that does not qualify for the CTC.

11. Moving expenses

The deduction and exclusion are gone for everyone -- except members of the Armed Forces.

12. The Kiddie Tax

The Kiddie Tax is now taxed at the estate and trust tax rates, rather than the parents' tax rate.

13. Alternative Minimum Tax (AMT)

The increase in the AMT exclusion amounts and lower regular tax rates will likely mean that fewer middle-income taxpayers will be caught by the AMT, but more higher-income taxpayers will be caught.

14. Carried interests

There is a new three-year holding period for carried interests to obtain long-term capital gain treatment.

15. Tax return preparation fees

The miscellaneous itemized deduction for tax return preparation fees is no longer available through 2025.

Tax Cuts and Jobs Act (TCJA)

BUSINESS CHANGES:

1. Business expensing

There are higher expensing limits for capital purchases under Code Sec. 179 and bonus depreciation (currently 100 percent). Be careful, however – higher expensing is likely to reduce the 20 percent deduction for owners of pass-through businesses.

2. Business interest

There are new limits on deducting business interest based on a 30 percent of AGI limit, unless the business is under $25 million in average gross receipts.

3. Under $25 million in average gross receipts

Also, if the business is under $25 million in average gross receipts, it can use the cash method of accounting, has no requirement for inventories, and is exempt from the UNICAP rules. The taxpayer may need to file a Form 3115 for a change of accounting method.

4. NOL

There is no carryback of net operating losses to prior years unless for farming and certain insurance companies.

5. Entertainment and meal expenses

There is no deduction for entertainment expenses. The 50 percent deduction for meal expenses survives if the taxpayer can identify the meal expense separately from the entertainment expense.

6. Attorney’s Fees - Sexual harassment settlements

There is no deduction for sexual harassment or abuse settlements if the settlement includes a non-disclosure agreement.

7. Paid family and medical leave

There is a new credit for paid family and medical leave.

8. Transportation exclusions

Many transportation fringe benefit exclusions have been eliminated.

9. Sale of partnership interests

If there has been a sale of a partnership interest, partners and partnerships should check certification requirements that there is no foreign interest involved in the sale to avoid a 10 percent withholding requirement.

10. Attorney advanced litigation costs

There is no longer a current deduction for litigation costs advanced by an attorney.

11. Out-of-state sellers

Many states have implemented the Supreme Court's Wayfair decision requiring out-of-state sellers to collect sales tax.

12. INTERNATIONAL TAXES

The changes in the international tax area are extensive and complicated, involving a shift from a world-wide tax system to a quasi-territorial tax system. It involves a new transition tax on unrepatriated foreign earnings (also applied for 2017), a tax on global intangible low-taxed income, a tax to counteract base erosion and abuse, and a deduction for foreign-derived intangible income. There are also many related changes to the foreign tax credit.

UNCERTAINTIES:

1. Expired provisions

More than 30 tax breaks have expired for 2018 and have not yet been extended by Congress. They include many energy-related provisions and specific industry provisions. For individuals, they include the tuition and fees deduction, the mortgage insurance premium deduction, and the forgiveness of mortgage debt exclusion.

2. Qualified improvement property

Tax Cuts and Jobs Act (TCJA)

For leasehold improvement property, retail improvement property, and restaurant property (referred to as Qualified Improvement Property under the Tax Cuts and Jobs Act), Congress apparently intended to qualify the property for immediate expensing but instead required 30-year depreciation, compared to 15-year depreciation required in the past. Congress is working on a technical correction, but it has not yet passed. The IRS is uncertain that it has authority to act given the clear statutory language. There are many other technical corrections also awaiting congressional action.

3.Regulations

The lack of final regulations on many changes in the Tax Cuts and Jobs Act has left taxpayers with many unanswered questions on the details of these provisions.