



eTax Alert | Tax Reform Highlights

Final Business/Corporate/Partnership Provisions in Tax Cuts and Jobs Act of 2017

Here is a chart that briefly summarizes the major provisions affecting our business clients, including corporations, partnerships, and sole proprietorships.

General business provisions	Tax Cuts and Jobs Act of 2017
Effective date	Unless otherwise indicated, business changes are permanent, generally, for tax years beginning after 12/31/17.
Corporate tax rates	21% flat tax rate. Also applies to PSCs.
Dividends received deduction	Corporations are allowed a deduction with respect to dividends received from other taxable domestic corporations. The dividends-received deduction has been reduced from 70% to 50% (and from 80% to 65% for a 20% owned corporation.)
Territorial	The provision generally establishes a participation exemption system for foreign income. This exemption is provided for by means of a 100% deduction for the foreign-source portion of dividends received from specified 10% owned foreign corporations by domestic corporations that are United States shareholders of those foreign corporations.
Repatriation	All controlled foreign corporations (CFCs) and all foreign corporations (other than PFICs), in which a US person owns a 10% voting interest, must pay a 15.5% tax rate on accumulated post-1986 foreign earnings held in the form of cash or cash equivalents, and 8% tax rate on all other earnings. This increased tax liability generally may be paid over an eight-year period. This is effective for the last taxable year of a foreign corporation that begins before Jan. 1, 2018, and with respect to US shareholders, for the taxable years in which or with which such taxable years of the foreign corporations end.
Corporate AMT	Repealed

General business provisions	Tax Cuts and Jobs Act of 2017
Carried interest	A carried interest (profits interest) is taxed at long-term capital gains rates only if the interest is held more than 3 years (was 1 year).
\$199A deduction	<p>20% deduction. New §199A provides that an individual taxpayer generally may deduct 20% of qualified business income from a partnership, S corporation, or sole proprietorship, REIT dividends, cooperative dividends, and publicly traded partnerships. The deduction may not exceed 20% of the taxpayer's taxable income (reduced by net capital gains).</p> <p>Qualified business income. Qualified business income (QBI) is determined for each qualified trade or business. QBI is the net income of the US business. It does not include any investment income (interest, dividends, capital gains, and losses). Reasonable compensation in the S corporation and guaranteed payments in the partnership reduce QBI. If the net amount of qualified business income from all qualified trades or businesses during the taxable year is a loss, it is carried forward and reduces QBI in the next taxable year. QBI includes both passive and active income.</p> <p>W-2 limits. Subject to a taxable income threshold, the deductible amount for each qualified trade or business is the lesser of (a) 20% of the taxpayer's qualified business income with respect to the trade or business, or (b) the greater of 50% of the W-2 wages with respect to the trade or business or the sum of 25% of the W-2 wages with respect to the trade or business and 2.5% of the unadjusted basis, immediately after acquisition, of all qualified property.</p> <p>Phase-in of W-2 wages limitation. The W-2 wage limitation does not apply for a taxpayer with taxable income less than a threshold amount. The "threshold amount" is \$315,000 MFJ (\$157,000 if single) and is indexed for inflation. For those with income above the threshold amount, the deduction phases out over \$100,000 MFJ (\$50,000 single).</p>

General business provisions	Tax Cuts and Jobs Act of 2017
<p>§199A deduction (continued)</p>	<p>Specified service trades or businesses. Subject to a taxable income threshold, the deduction is not allowed with respect to “specified service trades or businesses.” Specified service trades or businesses are any trade or business involving the performance of services in the fields of health, law, accounting, actuarial science, performing arts, consulting, athletics, financial services, brokerage services, including investing and investment management, trading, or dealing in securities, partnership interests or commodities, and any trade or business where the principal asset of such trade or business is the reputation or skill of one or more of its employees. Engineers and architects are omitted from specified service trades or businesses.</p> <p>Phase-in of specified service business limitation. The exclusion from the definition of a qualified business for specified service trades or businesses does not apply for a taxpayer with taxable income less than a threshold amount. The “threshold amount” is \$315,000 MFJ (\$157,000 if single) and is indexed for inflation. For those with income above the threshold amount, the deduction phases out over \$100,000 MFJ (\$50,000 single).</p> <p>Other items. Deduction does not reduce SE tax or AGI. Trusts may qualify for the deduction on their pass-through income.</p>

General business provisions	Tax Cuts and Jobs Act of 2017
Loss limitation rules §461	Excess business losses of a taxpayer other than a corporation are not allowed for the taxable year. An excess business loss for the taxable year is the excess of aggregate deductions of the taxpayer attributable to trades or businesses of the taxpayer (determined without regard to the limitation of the provision) over the sum of aggregate gross income or gain of the taxpayer plus a threshold amount. The threshold amount for a taxable year is \$500,000 MFJ (250,000 single). Excess business losses not allowed are carried forward and treated as part of the taxpayer's NOL carryforward. This limit applies at the partner or shareholder level. Each partner's distributive share and each S corporation shareholder's pro rata share of items of income, gain, deduction, or loss of the partnership or S corporation are taken into account in applying this limitation. This limitation applies after the passive loss rules.
Cash method of accounting	For taxpayers with less than \$25 million in average gross receipts (was \$10 million) may use the cash method of accounting regardless of entity structure or industry.
Accounting for inventory	Taxpayers with average gross receipts of less than \$25 million (was \$10 million) may account for inventories as materials and supplies that are not incidental (or conform to the taxpayer's financial accounting treatment).
UNICAP §263A	The threshold for the UNICAP rules (§263A) increases from \$10 million to \$25 million.
All events test	All events occur fixing right to receive income when income can be determined with reasonable accuracy, but no later than when item is included in an applicable financial statement (AFS) starting in 2018.
Long-term contracts §460	Generally, the percentage of completion method of accounting is required for long-term contracts. For business with less than \$25 million in gross receipts (was \$10 million), the completed contract method of accounting can be used for construction contracts lasting less than two years.
Self-created property	Gain or loss from the disposition of self-created property is treated as ordinary income/loss. Self-created property includes patents, inventions, and models or designs and secret formulas. Musical compositions and copyrights are still a capital asset.

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Like-kind Exchanges	The §1031 like-kind exchange rules are modified to provide that the nonrecognition is limited to real property that is not held primarily for sale. Generally applies to exchanges completed after 12/31/17. However, an exception is provided for any exchange if the property disposed of by the taxpayer in the exchange is disposed of on or before 12/31/17, or the property received by the taxpayer in the exchange is received on or before such date.																		
Meals and entertainment disallowed	Expenses for entertainment, amusement, and recreation are not deductible. Dues for a club organized for business, pleasure, or social purposes are not deductible. Meals provided for the convenience of the employer at or near the employer's premises are not deductible.																		
Listed property	Home computers and peripheral equipment, including laptops, are no longer listed property.																		
Luxury auto limits	<p>For luxury autos placed in service after 12/31/17 for which the bonus depreciation is not claimed, depreciation amounts are increased.</p> <table data-bbox="384 824 762 1052"> <thead> <tr> <th></th> <th><u>2017</u></th> <th><u>2018</u></th> </tr> </thead> <tbody> <tr> <td>Yr 1</td> <td>\$3,160</td> <td>\$10,000</td> </tr> <tr> <td>Yr 2</td> <td>\$5,100</td> <td>\$16,000</td> </tr> <tr> <td>Yr 3</td> <td>\$3,050</td> <td>\$ 7,600</td> </tr> <tr> <td>Yr 4+</td> <td><u>\$1,875</u></td> <td><u>\$ 5,760</u></td> </tr> <tr> <td>After 5 yrs:</td> <td>\$15,060</td> <td>\$47,120</td> </tr> </tbody> </table>		<u>2017</u>	<u>2018</u>	Yr 1	\$3,160	\$10,000	Yr 2	\$5,100	\$16,000	Yr 3	\$3,050	\$ 7,600	Yr 4+	<u>\$1,875</u>	<u>\$ 5,760</u>	After 5 yrs:	\$15,060	\$47,120
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Transportation fringe benefits	The \$20/month fringe benefit provision for bicycling to work is repealed.																		
Interest expense	For businesses with more than \$25 million of gross receipts, interest expense deductions are limited to interest income + 30% of adjusted taxable income plus interest on floor plan financing. Limitations apply at the partner/shareholder level; any excess is carried forward. Allocated excess business interest reduces basis. If ownership interest is disposed of with excess business interest that reduced basis, reverse the reduction.																		

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§179 amount	The §179 expensing amount is increased to \$1 million (was \$510,000). The phase-out starts at \$2,500,000 (was \$2,030,000), both being indexed for inflation, as well as the \$25,000 sports utility vehicle limitation.
§179 qualified real property	<p>The definition of qualified real property eligible for §179 expensing is expanded to include any of the following improvements to nonresidential real property placed in service after the date such property was first placed in service: roofs; heating, ventilation, and air-conditioning; fire protection and alarm systems; and security systems.</p> <p>The definition of §179 property has been expanded to include certain depreciable tangible personal property used predominantly to furnish lodging or in connection with furnishing lodging.</p>
§168(k) bonus depreciation	Bonus depreciation is increased to 100% (was 50%) of qualifying property placed in service after 9/27/2017 and before 1/1/2023. A phase-out starts 12/31/2022. The requirement that property must be new to qualify for bonus depreciation has been repealed.
Net operating loss (NOL)	The two-year carryback and the special carryback provisions have been repealed, except for a two-year carryback for farming losses. NOLs may be carried forward indefinitely. The NOL deduction is limited to 80% of taxable income (determined without regard to the deduction) for losses arising in taxable years beginning after December 31, 2017.
§199 Deduction	The §199 domestic production activity deduction is repealed.
Farm changes—depreciation and excess farm losses	The seven-year recovery period for any machinery or equipment (other than any grain bin, cotton ginning asset, fence, or other land improvement) used in a farming business has been shortened to five years if the original use of which commences with the taxpayer and is placed in service after Dec. 31, 2017. Also repealed is the required use of the 150% declining balance method for property used in a farming business (i.e., for three-, five-, seven-, and ten-year property). Lastly, the excess farm losses limitation has been repealed.

General business provisions	Tax Cuts and Jobs Act of 2017
Business credits—family leave credit	For 2018 and 2019, a new employer credit is available for wages paid under a written plan during family or medical leave if the employer pays at least 50% of normal wages. The credit is 12.5% but increases by .25% (but not above 25%) for each 1% where rate of pay exceeds 50%. Limited to 12 weeks.
Rehab of historic structure credits	The 10% credit for pre-1936 buildings has been repealed. The 20% credit for qualified rehabilitation expenditures with respect to a certified historic structure is allowable for a taxable year during the five-year period beginning in the taxable year in which the qualified rehabilitated building is placed in service.

General business provisions	Tax Cuts and Jobs Act of 2017
<p>Qualified equity grants—§83(i)</p>	<p>Income deferral election, in general: When made within 30 days of exercise of a vested option or upon vesting of shares under an RSU (under the rules of §409A), election allows for a deferral of income for up to a maximum of five years.</p> <p>Qualified employee: A qualified employee is an employee other than (1) a 1% owner of the corporation, (2) the CEO or CFO, (3) family members of (1) and (2), or (4) any of the four highest-compensated officers of the corporation.</p> <p>Qualified stock: Election can be applied to RSUs, ISOs, ESPPs, and NQs within 30 days of taxable exercise. When made with respect to stock under a statutory option, the option is no longer treated as a statutory option.</p> <p>Section 83(i) income tax-deferred until earlier of:</p> <ol style="list-style-type: none"> 1. Five years or 2. Occurrence of a specified event (such as (a) stock becoming readily tradable, (b) employee becomes excluded, or (c) §83(i) election revoked. <p>Section 83(i) eligible corporation (written plan) requirement: A corporation is an eligible corporation with respect to a calendar year if (1) no stock of the employer corporation is readily tradable on an established securities market during any preceding calendar year, and (2) the corporation has a written plan under which, in the calendar year, not less than 80% of all employees who provide services to the corporation are granted stock options, or restricted stock units (RSUs), with the same rights and privileges to receive qualified stock.</p>