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Retrospective on Key Tax Developments in 2018

SPECIAL REPORT

This retrospective covers key tax developments that occurred during the 2018 calendar year as well as changes going into effect for 2018, including tax laws, rulings, significant case law, and other guidance that may affect 2018 returns. Many of the items listed below reflect law changes made by, and guidance issued on, the Tax Cuts and Jobs Act (TCJA; P.L. 115-97) — the sweeping tax reform law that significantly altered the tax landscape.

Tax Rates

- For tax years beginning after 2017 and before 2026, seven tax rates apply for individuals: 10%, 12%, 22%, 24%, 32%, 35%, and 37%; and four tax rates apply for estates and trusts: 10%, 24%, 35%, and 37%.
- The 2018 IRS Form 1040 has been significantly reduced in size and contains far fewer lines than any of its predecessors. But, it also includes six new accompanying schedules to which most of those removed lines have been moved.
- The Social Security wage base for 2018 is $128,400.
- For tax years beginning after 2017, the corporate income tax rate is 21%, and the corporate alternative minimum tax (AMT) is repealed.
- For tax years beginning after 2017, tax bracket amounts and certain other tax parameters under the Code that are adjusted for inflation under Code Sec. 1(f)(3) are adjusted by reference to chained CPI-U (Consumer Price Index for "all-urban customers").

Taxable and Exempt Income

- Generally effective for stock attributable to options exercised or restricted stock units settled after 2017, a qualified employee can elect under Code Sec. 83(i) to defer, for income tax purposes, recognition of the amount of income attributable to qualified stock transferred to the employee by the employer, for up to five years after vesting.
- For 2018, the optional standard mileage rate for valuing an employee's use of an employer-provided auto is 54.5¢ per mile.
- For 2018, an employee can exclude up to $260 a month of employer-provided qualified parking benefits and the same amount for the combined value of transit passes and transportation in a commuter highway vehicle.
- The exclusion for qualified bicycle commuting reimbursements is suspended from 2018 through 2025.
- The exclusion for qualified moving expense reimbursements (except for certain members of the Armed Forces) is suspended from 2018 through 2025.
- For 2018, the maximum exclusion for employer-provided adoption assistance is $13,810, and the associated AGI phase-out amounts have increased.
- For 2018, an employee's contribution to a health flexible spending account (FSA) through salary reduction contributions can't exceed $2,650.
- Certain exceptions to the life insurance transfer-for-value rule don't apply to life settlement transactions for transfers after 2017.
- For 2018, the income threshold for the definition of a "highly compensated employee" under the employer-owned life insurance rules is $120,000.
- For 2018, the per-diem dollar threshold in computing the limits for the exclusion of benefits from long-term care insurance is $360.
- Certain student loans that are discharged on account of death or total and permanent disability of the student during 2018 through 2025 are excluded from gross income.

Deductions – Expenses of a Business

- New definitions of "publicly held corporation," "covered employee," and "applicable employee remuneration" apply to the rules governing the deduction limit for compensation paid to top officers.
- For amounts incurred or paid after 2017, employers may not deduct the expense of a qualified transportation fringe provided to an employee, and deductions are generally not allowed for transportation expenses provided to an employee for travel between the employee's residence and place of employment.
- For 2018, a high deductible health plan (HDHP) for medical savings account (MSA) purposes is one with an annual deductible of at least $2,300 and not more than $3,450 for individual coverage ($4,550 and not more than $6,850 for family coverage); in addition, the maximum out-of-pocket expenses can't exceed $4,550 for individual coverage ($8,400 for family coverage).
- For 2018, an HDHP for health savings account (HSA) purposes is a health plan with an annual deductible that is not less than $1,350 for individual coverage and $2,700 for family coverage. Maximum out-of-pocket expenses for 2018 can't exceed $6,650 for individual coverage and $13,300 for family coverage.
- The maximum annual health saving account (HSA) deductible contribution is the sum of the monthly contribution limits, based on eligibility and health plan coverage on the first day of the month. The monthly limit is 1/12 of the indexed amount for self-only coverage ($3,450 for 2018) and for family coverage ($6,900 for 2018).
- For 2018, the standard mileage rate for business travel is 54.5¢.
- Business deductions for entertainment expenses are generally disallowed after 2017.
- In a Notice, IRS provided transitional guidance on the deductibility of business meals that are purchased in an entertainment context.
- The simplified per diem rates for post-Sept. 30, 2018 travel are $287 for high-cost areas and $195 for all other localities. For pre-Oct. 1, 2018 travel, these amounts were $284 and $191, respectively.
- For amounts paid or incurred after 2017, cash, gift cards, and other intangible personal property specifically don't qualify as employee achievement awards.
- Generally for amounts paid or incurred on or after Dec. 22, 2017, no deduction is allowed for: (i) any otherwise deductible amount paid or incurred to, or at the direction of, a government or specified nongovernmental entity in relation to the violation of any law or the investigation or inquiry by such government or entity into the potential violation of any law; or (ii) any settlement, payout, or attorney fees related to sexual harassment or sexual abuse if such payments are subject to a nondisclosure agreement.
- For tax years beginning after 2017, under Code Sec. 199A, non-corporate taxpayers may deduct 20% of "qualified business income" from a partnership, S corporation, or sole proprietorship (i.e., the "pass-through" or QBI deduction).
- IRS issued proposed reliance regs that explain the operation and calculation of the Code Sec. 199A passthrough deduction.
- For tax years beginning after 2017, specified agricultural or horticultural cooperatives may claim a deduction for a percentage of the cooperative's qualified production activities income (QPAI), similar to the pre-2018 domestic production activities deduction (DPAD).
- For amounts paid or incurred after on or after Dec. 22, 2017, the business expense deduction for lobbying local governments is repealed.

- The moving expense deduction is suspended from 2018 through 2025, except for certain moves by members of the Armed Forces.
- For tax years beginning after 2017, "small resellers" for purposes of the Code Sec. 263A uniform capitalization rules means taxpayers with annual gross receipts of up to $25 million.
- IRS issued final regs on the simplified method uniform capitalization (UNICAP) rules for property produced or held for resale.

Interest Expense, Taxes, and Losses

- For tax years beginning after 2017, subject to limited exceptions, a taxpayer's deduction for business interest is limited to the sum of: (i) the taxpayer's business interest income for the year, (ii) 30% of the taxpayer's adjusted taxable income for the year (but not less than zero), plus (iii) the taxpayer's floor plan financing interest (i.e., certain interest paid by vehicle dealers) for the tax year.
- IRS issued proposed reliance regs on the new business interest deduction limit, including rules for C corporations, partnerships and S corporations, the exception for small taxpayers, and various elections.
- For tax years beginning after 2017, taxpayers can't deduct any "disqualified related party amount" (certain interest or royalties) paid or accrued under a hybrid transaction or by, or to, a "hybrid entity."
- The aggregate amount of debt that can be treated as "acquisition indebtedness" for a qualified residence of the taxpayer is generally limited to $750,000 ($375,000 for a married individual filing a separate return) for each tax year from 2018 through 2025.
- The deduction for interest on "home equity debt" has been suspended from 2018 through 2025, but interest on a home equity loan used to buy, build, or improve a home may be deductible.
- The safe harbor for governmental homeowner assistance payments has been extended through 2021.
- From 2018 through 2025, the annual deduction for state and local property, income, etc. taxes (SALT) is limited to $10,000.
- IRS issued proposed regs that would eliminate the benefit of certain "workarounds" implemented by states to avoid the $10,000 SALT limitation.
- From 2018 through 2025, foreign real property tax may not be deducted, other than taxes paid or accrued in carrying on a trade or business or in an activity for the production or collection of income.
- From 2018 through 2025, a noncorporate taxpayer's "excess business" loss is disallowed and treated as part of the taxpayer's net operating loss (NOL) carryforward in subsequent tax years.
- For 2018 through 2025, all deductions for expenses incurred in carrying out wagering transactions, and not just gambling losses, are limited to the amount of gambling winnings.
- The deduction for personal casualty and theft losses is generally suspended from 2018 through 2025, except for: (a) personal casualty losses incurred in a Federally declared disaster; and (b) nondisaster personal casualty losses to the extent of personal casualty gains.

- For losses arising in tax years beginning after 2017, the NOL deduction is limited to 80% of taxable income and generally cannot be carried back, but can be carried forward indefinitely.
- IRS issued proposed reliance regs that would remove the Code Sec. 385 documentation requirements (i.e., the portion of the final Code Sec. 385 regs issued in 2016 that provide rules for the documentation necessary to determine whether certain related party interests in a corporation are treated as stock or indebtedness for tax purposes).

Depreciation, Amortization, Property Expensing, and Depletion

- For property placed in service after 2017, machinery and equipment used in agriculture is part of the 5-year MACRS class.
- For property placed in service after 2017, the categories of qualified leasehold improvement property, qualified restaurant property, and qualified retail improvement property are no longer eligible for 15-year MACRS depreciation (39-year MACRS applies instead).
- For property placed in service after 2017, depreciation under the alternate depreciation system (ADS) is required for any nonresidential real property, residential rental property, and qualified improvement property held by an electing real property trade or business (generally, a real property trade or business that elects to not apply new limitations on interest deductions effective for tax years beginning after 2017). Depreciation under the ADS is also required of any MACRS property with a recovery period of 10 years or more that is held by a farm business that makes a similar election.
- For property placed in service after 2017, the ADS recovery period for residential rental property is 30 years.
- Generally for property that is both (1) acquired and placed in service after Sept. 27, 2017, and (2) placed in service before 2027, bonus depreciation is increased to 100% (full expensing). Beginning in 2023, the 100% amount gradually phases down.
- IRS issued proposed regs, on which taxpayers can rely, that clarify the post-Sept. 27, 2018 placed-in-service-and-acquisition requirement that applies to 100% bonus depreciation and to other changes in the bonus depreciation rules.
- For property placed in service after Sept. 27, 2017 and before 2027, qualified film, television, and live theatrical productions are "qualified property" for bonus depreciation purposes.
- For qualified property that is both (1) acquired and placed in service after Sept. 27, 2017, and (2) placed in service before 2027, bonus depreciation may be claimed for most used as well as new property. IRS issued proposed regs, on which taxpayers can rely, that provide guidance as to how used property can qualify for bonus depreciation.
- For tax years beginning after 2017, the election trading bonus and accelerated depreciation for otherwise-deferred AMT credits is repealed.
- For tax years beginning in 2018, the Code Sec. 179 expensing limit is $1 million.
- For tax years beginning in 2018, the investment-based phase-out level for Code Sec. 179 expensing is $2.5 million.
- The Code Sec. 179 expensing limit for heavy SUVs is $25,000 for tax years beginning in 2018.
- For property placed in service after 2017, computer or peripheral equipment has been removed from the definition of "listed property."

- Regular (as opposed to bonus first-year) depreciation and expensing limits for autos, trucks, and vans placed in service in 2018 and used 100% for business are: $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 in the recovery period.
- The $8,000 increase for "qualified property" in the first-year depreciation cap for passenger autos was extended, effective for property both acquired and placed in service after Sept. 27, 2017 and before 2027.
- IRS issued proposed regs providing guidance on the additional first-year depreciation deduction, as modified by the Tax Cuts and Jobs Act.
- Autos, trucks and vans leased in 2018 are subject to revised income inclusion amounts, as provided in IRS tables.

Charitable Contributions, Medical Expenses, Alimony, and Other Nonbusiness Deductions

- For cash contributions made in 2018 through 2025, the 50% limitation under Code Sec. 170(b) for an individual's cash contributions to public charities and certain private foundations is increased to 60%.
- The amounts of benefits received by charitable donors that are considered to be inconsequential have increased for 2018. Items are considered "inconsequential" if: (1) the value of all benefits received isn't more than $108 or (2) the amount contributed to the charity is at least $54 and the donor receives only token benefits (bookmarks, calendars, mugs, posters, tee shirts, etc.) generally costing no more than $10.80.
- For contributions made in tax years beginning after 2017, no charitable deduction is allowed for any payment to an institution of higher education in exchange for which the taxpayer receives the right to buy tickets or seating at an athletic event.
- The Tax Court held that a long-term lessee of buildings couldn't contribute a facade conservation easement.
- Certain charitable deduction limitations are suspended for individuals making "qualifying charitable contributions" for relief efforts in the California wildfire disaster area.
- Certain charitable deduction limitations are suspended, and special carryover rules are provided, for corporations making "qualifying charitable contributions" for relief efforts in the California wildfire disaster area.
- IRS issued final charitable contribution substantiation/reporting regs.
- For 2018, the "floor" beneath medical expense deductions is 7.5% for all taxpayers.
- For 2018, the maximum amount of premiums paid for a qualified long-term care insurance contract that are deductible as a medical expense are: for individuals age 40 or less, $420; more than 40 but not more than 50, $780; more than 50 but not more than 60, $1,560; more than 60 but not more than 70, $4,160; and more than 70, $5,200.
- For 2018, the mileage rate for use of a car for qualified medical transportation is 18¢ per mile.
- For any divorce or separation agreement that's executed after 2018, or executed on or before that date but modified thereafter, the alimony-paying spouse won't be able to deduct the payments, and the alimony-receiving spouse won't include them in gross income.
- IRS indicated that it would issue regs clarifying that Code Sec. 682, which was repealed by the Tax Cuts and Jobs Act, will generally continue to apply with regard to trust income payable to a former spouse who was divorced or legally separated under a divorce or separation instrument executed before 2019.

Education Tax Breaks and ABLE Accounts

- The Lifetime Learning credit phases out over higher levels of modified AGI for 2018.
- Beginning in 2018, "qualified higher education expenses" for qualified tuition program (QTP) purposes include up to $10,000 per beneficiary per tax year for expenses for tuition in connection with enrollment or attendance at an elementary or secondary public, private, or religious school.
- The higher education exclusion for savings bond income phases out over higher levels of modified AGI for 2018.
- The deduction for interest paid on qualified higher education loans phases out at higher levels of modified AGI for 2018.
- For 2018, the maximum teachers' out-of-pocket classroom-related expenses is $250.
- For 2018, the amount of aggregate contributions from all taxpayers that a qualified ABLE account may receive is $15,000.
- For 2018 through 2025, after the general dollar limit for ABLE account contributions is reached, an ABLE account's designated beneficiary may contribute, subject to a number of limitations, an additional amount, up to the lesser of (a) the beneficiary's compensation for the tax year, or (b) the federal poverty line for a one-person household.
- In a Notice, IRS provided guidance on the new contribution limits for ABLE accounts and announced its intent to issue proposed regs.

Affordable Care Act Provisions

- The 2.3% medical device excise tax doesn't apply to sales during 2018 or 2019.
- The annual fee on health insurance providers remains in effect for 2018 (but is suspended for calendar year 2019).
- IRS, together with the Departments of Labor and Health and Human Services, issued proposed regs that would, for plan years beginning on or after Jan. 1, 2020, allow integrating health reimbursement accounts (HRAs) and other account-based group health plans with individual health insurance coverage, if certain conditions are met. IRS then issued a Notice that set out potential approaches to issues raised by these regs.
- IRS, together with the Departments of Labor and Health and Human Services, issued final regs on the coverage of certain preventive services under the Affordable Care Act, including services relating to the so-called "contraceptive mandate."
- IRS, together with the Departments of Labor and Health and Human Services, issued final regs expanding the coverage period for short-term, limited duration insurance (STLDI).
- For policy and plan years that end after Oct. 1, 2018 and before Oct. 1, 2019, the adjusted dollar amount for the Patient-Centered Outcomes Research Institute fee is $2.45. For policy and plan years ending on or after Oct. 1, 2017 and before Oct. 1, 2018, the amount was $2.39.
- In a Notice, IRS clarified the effect of the suspension of personal exemption deductions on certain health care provision.

Tax Credits

- The general business credit limitation for a corporation is applied by treating the corporation as having a minimum tax of zero, negating the corporate AMT (repealed after 2017) as a limit on allowable business credits for corporations.
- For amounts paid or incurred after 2017, the rehabilitation credit is no longer two- tiered. A single 20% credit for rehabilitating certified historic structures is allowed over a 5-year period.
- The carbon sequestration credit has been restructured to account for both carbon dioxide and carbon oxide, with the amount of credit based, in part, on whether carbon oxide was captured before or after Feb. 9, 2018.
- For 2018, a low-income housing credit for rehabilitation expenditures is allowed only if, during any 24- month period, the expenditures are not less than the greater of: (i) 20% of the building's adjusted basis, or (ii) $6,800.
- For 2018, the refined coal credit is $7.03 per ton of refined credit coal, with no phaseout.
- The orphan drug credit is reduced to 25% of qualified clinical expenses, and taxpayers may elect to take a reduced credit in lieu of reducing otherwise allowable deductions.
- For 2018, the small employer health insurance credit is reduced if the average annual full-time wages per employee were more than $26,800.
- The new employer-paid family and medical leave credit for 2018 and 2019 is 12.5% of the amount of wages paid to qualifying employees during any period they're on family and medical leave if the rate of payment is at least 50% of the wages normally paid to an employee, up to maximum of 12 weeks of leave for any employee during the tax year. 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%.
- The maximum amount of the earned income tax credit (EITC) and the credit's AGI-based phaseout thresholds have increased for 2018.
- For 2018, the maximum amount of investment income that a taxpayer can receive and still qualify for the EITC is $3,500.
- For the premium tax credit available to certain purchasers of health insurance, an eligible employer-sponsored plan is "affordable" if the part of the annual premium that an employee must pay for self-only coverage is 9.56% or less of the taxpayer's household income for the 2018 plan year.
- For 2018, the adoption expense credit is $13,810.
- For 2018 through 2025, a $500 credit is available for each dependent of the taxpayer who is a U.S. citizen, national or resident, other than a qualifying child.
- For 2018 through 2025, the child tax credit is increased to $2,000, and the credit phaseout thresholds are increased.
- For 2018 through 2025, the refundable portion of the child tax credit for any qualifying child is limited to $1,400.
- The AGI amounts used in computing the "saver's" credit for elective deferrals and IRA contributions have increased for 2018.
- For amounts contributed in tax years beginning after Dec. 22, 2017 and before 2026, amounts contributed to an ABLE account by the account's designated beneficiary are eligible for the saver's credit.

- For tax years beginning after 2017 and before 2022, a corporation's minimum tax credit (MTC) (1) may offset regular tax liability for any tax year, and (2) is refundable for any tax year beginning after 2017 and before 2022 in an amount equal to 50% (100% for tax years beginning in 2021) of the excess MTC for the tax year, over the amount of the credit allowable for the year against regular tax liability.
- For purposes of the foreign tax credit limitation, for tax years beginning after 2017, there are now additional separate categories for "global intangible low-taxed income" and "foreign branch income."
- IRS issued proposed regs explaining the new foreign tax credit limitation categories and providing transition rules.
- For purposes of the foreign tax credit, for tax years beginning after 2017, an 80% "deemed paid" foreign tax credit is available for amounts included in the US shareholder's income as global intangible low-taxed income (GILTI).
- IRS issued proposed regs explaining how deemed paid credits are determined.
- For tax years beginning after 2017 and before 2028, a taxpayer may, with respect to pre-2018 unused overall domestic loss, elect to recapture up to 100% of its US source income for the tax year.
- For distributions made after 2017, a 10% corporate US shareholder of a "specified 10% owned foreign corporation" may generally deduct 100% of the foreign-source portion of a dividend received from the specified 10% owned foreign corporation, and the deemed-paid credit under Code Sec. 902 no longer applies. A domestic corporation that is a US shareholder of a controlled foreign corporation (CFC) may still claim a deemed-paid credit, but this credit is limited to 80% of foreign taxes paid with respect to global intangible low-taxed income.
- In a Notice, IRS announced its intent to amend certain dividend equivalent regs and to delay their effective date, and also extended their phase-in period.

Sales and Exchanges

- Generally for tax years beginning after 2017, an accrual basis seller reports gain or loss not later than the year in which the income is taken into account for financial reporting purposes.
- For exchanges completed after 2017 (subject to transition rules), like-kind exchange treatment is limited to exchanges of real property that is not held primarily for sale.
- Generally effective on Dec. 22, 2017, gains invested in a "Qualified Opportunity Fund" can be temporarily deferred and, if the investment in the Fund is held for 10 years, permanently excluded. IRS issued proposed regs explaining the mechanics of the deferral.
- IRS issued a complete list of all population census tracts it has designated as Qualified Opportunity Zones.
- For business autos for which the optional business standard mileage rate is used, depreciation is considered to have been allowed at a rate of 25¢ for 2018.

Capital Gains and Losses

- For 2018, new statutory breakpoints apply for the imposition of 0%, 15% and 20% capital gains/qualified dividend rates for noncorporate taxpayers.
- For dispositions after 2017, patents, inventions, models, or designs (whether or not patented), secret formulas or processes are excluded from the definition of "capital assets."
- For tax years beginning after 2017, partnership interests ("carried interests") received for the performance of substantial services in certain specified trades or businesses must be held for more than three years to qualify for long-term capital gains rates.

Tax Accounting and Inventories

- For 2018, a business is exempted from the general limitation on use of the cash method if its three-year-average gross receipts are $25 million or less.
- Generally for tax years beginning after 2017, the all-events test for any item of gross income isn't be treated as met any later than when the item is taken into account as revenue in an applicable financial statement (if the taxpayer has one for a tax year) or other financial statement specified by IRS.
- For tax years beginning after 2017, the deferral method of accounting for advance payments for goods and services has been codified.
- In a Notice, IRS clarified that accrual-method taxpayers may rely on prior guidance on deferral of advance payments until guidance on newly codified deferral rules is issued and becomes effective.
- During the 2-year period beginning Dec. 22, 2017, Code Sec. 481 adjustments that are attributable to S elections revoked by certain corporations are taken into account ratably over a 6-tax year period beginning with the year of change.
- IRS has updated automatic consent procedures for accounting method changes, including many occasioned by the Tax Cuts and Jobs Act provisions.
- IRS has updated automatic consent procedures for accounting method changes made to conform with FASB and IASB contract revenue recognition standards.
- For 2018, a business is exempted from use of the percentage-of-completion long-term contract method if its three-year-average annual gross receipts are $25 million or less.
- For 2018, a business is exempt from mandatory inventory accounting if its three-year-average annual gross receipts are $25 million or less.

Tax Withholding

- For stock attributable to options exercised, or restricted stock units settled, after 2017, withholding is required at the highest individual rate when the value of stock subject to a Code Sec. 83(i) deferral election is included in income.
- For 2018 through 2025, when the exemption amount is zero, employees are entitled to a "withholding allowance" instead of an "exemption" for each item under Code Sec. 3402(f)(1).
- For 2018, an employee who can be claimed as a dependent on someone else's return can't claim an exemption from withholding if his or her income exceeded $1,050, and includes more than $350 of unearned income.
- For 2018, the threshold amount subjecting cash payments to domestic service employees (e.g., nannies) to FICA is $2,100.

Individual Tax Computation

- For tax years beginning after 2017, an above-the-line deduction is allowed (with limits) for attorneys' fees and court costs relating to awards under SEC Act of '34 § 21F, a state law false or fraudulent claim meeting the requirements of Social Security Act, §1909(b) or Commodity Exchange Act § 23.
- Miscellaneous itemized deductions subject to the 2%-of-AGI floor are suspended from 2018 to 2025.
- The limitation on itemized deductions (the "Pease" limitation) is suspended from 2018 through 2025.
- The basic standard deduction amounts for 2018 are: $12,000 for single or married filing separate taxpayers, $24,000 for married filing joint and surviving spouses, and $18,000 for heads of household.
- The additional standard deduction amounts for elderly or blind taxpayers for 2018 are $1,600 for unmarried taxpayers (including heads of household) and $1,300 for married taxpayers (whether or not filing jointly) or surviving spouses.
- IRS announced that it will issue proposed regs providing that the reduction of the exemption amount to zero won't be taken into account in determining whether a person is a qualifying relative.
- Personal exemptions (and personal exemption phaseout (PEP)) are suspended from 2018 through 2025.
- From 2018 through 2025, the taxable income of a child attributable to earned income is taxed under the rates for single individuals, and taxable income of a child attributable to net unearned income is taxed according to the brackets applicable to trusts and estates.
- For 2018, the dollar thresholds for the optional methods of computing net earnings from self-employment are $5,717.38 and $7,920.

Alternative Minimum Tax

- For tax years beginning after 2017, the corporate alternative minimum tax (AMT) has been repealed.
- For 2018, the inflation-adjusted amount used to determine the individual tentative minimum tax is $191,100.
- For tax years beginning in 2018, the individual AMT exemption amounts are: $70,300 for unmarried individuals, $109,400 for married individuals filing jointly, and $54,700 (50% of the joint filing amount) for married individuals filing separately.
- For tax years beginning in 2018, the AMT exemption amount for estates and trusts is $24,600.
- For 2018, the AMT exemption amount for a child subject to the kiddie tax is the lesser of $7,600 plus the child's earned income, or $70,300.

Corporations

- Generally for contributions made after 2017, the term "contributions to capital" generally no longer includes: (i) any contribution in aid of construction or any other contribution as a customer or potential customer, or (ii) any contribution by any governmental entity or civic group (other than a contribution made by a shareholder as such).
- For tax years beginning after 2017, the 70% dividends received deduction is reduced to 50%, and the 80% dividends received deductions is reduced to 65%.
- For 2018 through 2025, subject to a limitation based on taxable income, domestic corporations are allowed deductions for foreign-derived intangible income (FDII) and global intangible low-taxed income (GILTI).
- For distributions after 2017, a domestic corporation that is a "US shareholder" of a "specified 10%-owned foreign corporation" can, if certain requirements are met, deduct an amount equal to the foreign-source portion of any dividend from the specified 10%- owned foreign corporation.
- For amounts paid or accrued in tax years beginning after 2017, certain corporate taxpayers are subject to a tax on "base erosion payments" under Code Sec. 59A. IRS issued proposed guidance explaining how the "base erosion anti-abuse tax," or BEAT, would apply.
- For tax years beginning after 2017, qualified personal service corporations are subject to a flat 21% tax rate.
- For tax years beginning after 2017, a nonresident alien can now be a potential current beneficiary of an Electing Small Business Trust (ESBT).
- For S elections that are revoked by an "eligible terminated S corporation" during the 2-year period beginning Dec. 22, 2017, special rules govern both: (i) adjustments made under Code Sec. 481 that are attributable to the revocation; and (ii) the treatment of post-revocation distributions under Code Sec. 1371(f).
- For transfers after 2017, the "active trade or business exception" to Code Sec. 367 is eliminated.

Partnerships

- For partnership tax years beginning after 2017, in determining the amount of the partner's loss, the partner's distributive shares under Code Sec. 702(a) of partnership charitable contributions and taxes paid or accrued to foreign countries or US possessions are taken into account; however, in the case of a charitable contribution of property with a fair market value that exceeds its adjusted basis, the partner's distributive share of the excess is not taken into account.
- IRS issued final regs to prevent corporate partners from avoiding gain in partnership transactions.
- IRS issued proposed reliance regs restoring prior rules on the allocation of partnership liabilities in disguised sales.
- For partnership tax years beginning after 2017, a partnership has a substantial built-in loss with respect to a transfer of a partnership interest if either: (1) the partnership's adjusted basis in the partnership property exceeds by more than $250,000 the fair market value of the property, or (2) the transferee partner would be allocated a loss of more than $250,000 if the partnership assets were sold for cash equal to their fair market value immediately after the transfer.
- For partnership tax years beginning after 2017, the partnership technical termination rule has been repealed.
- IRS privately ruled that the cessation of doing business as a partnership may result from a cessation of the business or from the fact that there is only one continuing partner in the partnership.

Trusts, Estates and Decedents

- For 2018, the 20% maximum rate for capital gains and qualified dividends applies to estates and trusts with income above $12,700, the 0% rate applies to amounts up to $2,600, while the 15% rate applies to amounts over $2,600 and up to $12,700.
- IRS issued proposed regs regarding the creation of multiple trusts for tax avoidance purposes.
- IRS announced that it intends to issue regs clarifying that non-grantor trusts may continue to deduct expenses under Code Sec. 67(e) during tax years when miscellaneous itemized deductions are not available.
- For 2018, the exemption amount for a qualified disability trust is $4,150.

Exempt Organizations

- For tax years beginning after 2017, "applicable tax-exempt organizations" are subject to a 21% excise tax on (i) remuneration exceeding $1 million paid to a covered employee, and (ii) excess parachute payments made to a covered employee.
- For tax years beginning after 2017, certain private colleges and universities with at least 500 tuition paying students, and with assets of at least $500,000 per student, are subject to a 1.4% excise tax on net investment income.
- For 2018, tax-exempt entities that fail to disclose their participation in prohibited tax shelter transactions are subject to a $100 per day penalty, not to exceed $52,000.
- For 2018, agricultural or horticultural organizations may exclude annual dues up to $165 from unrelated taxable income.
- For amounts paid or incurred after 2017, unrelated business taxable income of a tax-exempt organization also includes any expenses paid or incurred for "qualified transportation fringe benefits," for a parking facility used in connection with "qualified parking," or for any "on-premises athletic facility," if certain requirements are met.
- Generally for tax years beginning after 2017, tax-exempt organizations with more than one unrelated trade or business generally must calculate their UBTI separately for each trade or business, such that losses from one may not be used to offset income of another. IRS issued a Notice providing interim and transition rules.
- For tax years beginning after 2017, an exception to the tax on "excess business holdings" applies if certain requirements are met.

Insurance Companies

- For tax years beginning after 2017, the small life insurance company deduction has been repealed.

Retirement Plans

- For 2018, the limit on 401(k) plan elective deferrals is $18,500.
- For 2018, the catch-up contribution limit for 401(k), Code Sec. 457, and most Code Sec. 403(b) participants is $6,000.
- For 2018, the annual compensation limit on plan benefits and contributions under Code Sec. 401(a)(17) is $275,000.
- For 2018, the compensation amount used in determining "highly compensated employee" status under the qualified plan coverage and eligibility rules is $120,000.
- For 2018, annual additions under a participant's defined contribution plans cannot exceed $55,000.

- For 2018, the annual benefit provided under a defined benefit plan cannot exceed $220,000.
- Special increased limitations and relaxed repayment dates apply with regard to loans from qualified plans taken by individuals impacted by certain specified disasters.
- Relief from the 10% early withdrawal penalty tax and other temporary tax relief is provided to individuals impacted by certain specified disasters.
- For 2018, employees and self-employed individuals in an employer-maintained retirement plan may deduct up to $5,500.
- For amounts treated as distributed in tax years beginning after 2017, the rollover period for certain "qualified plan loan offsets" is extended from 60 days to the tax return due date.
- For amounts paid in tax years beginning after 2017, wrongfully levied retirement plan account or benefit returned after 2017, and interest on such, is eligible for tax-free 60-day rollover treatment.
- For 2018, the allowable annual nondeductible contribution to a Roth IRA phases out over the following levels of modified AGI: for joint filers, $189,000 to $199,000; for married persons filing separately, $0 to $10,000; and for single taxpayers and heads of household, $120,000 to $135,000.
- For tax years beginning after 2017, under Code Sec. 408A(d)(6)(B), an IRA-to-Roth IRA conversion can no longer be recharacterized (i.e., converted back to a regular IRA), and therefore cannot be reconverted.
- Relaxed rules apply to hardship distributions from, and rollovers to, Code Sec. 403(b) plans to victims of certain specified disasters.
- IRS issued proposed regs that would amend the existing regs relating to hardship distributions from Code Sec. 401(k) plans.
- IRS provided relief from the "once-in-always-in" condition of the part-time exclusion for Code Sec. 403(b) plans.

Farmers

- For net operating losses (NOLs) arising in tax years after 2017, any part of an NOL that's a "farming loss" can be carried back to each of the two tax years preceding the tax year of the loss.
- From 2018 through 2025, the limitation of deduction of farm losses is suspended, and a broader "excess business loss" disallowance rule applies.
- For tax years beginning after 2017, the cash method may be used by farming C corporations (and farming partnerships with a C corporation partner) that satisfy a $25 million gross receipts test (adjusted for inflation after 2018).
- For amounts paid or incurred for replanting, etc. after Dec. 22, 2017, and before Dec. 23, 2027 for citrus plants lost or damaged due to casualty, the costs may also be deducted by a person other than the taxpayer if certain requirements are met.
- IRS provided automatic consent for taxpayers to change method of accounting to deduct post-casualty citrus replanting costs.
- Most MACRS farming property placed in service after 2017 may be depreciated under the 200% declining balance method.

Foreign Income and Transactions

- For 2018, the foreign earned income exclusion amount is $103,900.
- For 2018, the foreign housing cost exclusion amount is $14,546.
- For tax years beginning after 2017, individuals serving in combat zones are now excepted from the rule that an individual does not have a tax home in a foreign country for any period his or her abode is in the US.
- IRS has stated that individuals won't lose their status as bona fide residents of Puerto Rico or the Virgin Islands due to a dislocation of up to 268 days (effective beginning Sept. 6, 2017, and ending May 31, 2018) caused by Hurricane Irma or Hurricane Maria.
- For tax years of foreign corporations beginning after 2017, and tax years of US shareholders with or within which those tax years of foreign corporations end, a "US shareholder" of a CFC is now determined based on either voting power or value of stock owned.
- For tax years of foreign corporations beginning after 2017, and tax years of US shareholders with or within which those tax years of foreign corporations end, US shareholders of CFCs must include in gross income global intangible low-taxed income (GILTI), in a manner generally similar to inclusions of subpart F income. IRS has issued proposed regs to implement the GILTI regime, including reporting rules.
- For sales or exchanges after 2017, in the case of the sale or exchange by a domestic corporation of stock in a foreign corporation held for one year or more, any amount received by the domestic corporation which is treated as a dividend by reason of Code Sec. 1248 is now treated as a dividend for purposes of applying the Code Sec. 245A dividend received deduction rules.
- For tax years beginning after 2017, the inclusion of foreign base company oil-related in foreign base company income has been repealed.
- For tax years beginning after 2017, proceeds from the sale of inventory are now generally sourced on the basis of the production activities with respect to the property.
- For tax years beginning after 2017, the requirement that a foreign corporation had to be a CFC for an uninterrupted period of 30 days or more during the tax year for its Subpart F income to be taxed to its shareholders has been eliminated.
- For sales, exchanges, and dispositions after Nov. 26, 2017, notwithstanding any other tax rules, if a nonresident alien individual or foreign corporation owns, directly or indirectly, an interest in a partnership that is engaged in any trade or business in the US, gain or loss on the sale or exchange of all (or any portion of) the interest is treated as effectively connected with the conduct of the trade or business to the extent the gain or loss does not exceed certain limitations.
- For 2018, an individual with "average annual net income tax" of more than $165,000 for the five tax years ending before the date of the loss of US citizenship will be a covered expatriate. Under a mark-to-market deemed sale rule, all property of a covered expatriate is treated as sold on the day before the expatriation date for its fair market value. However, for tax years beginning in 2018, the amount that would otherwise be includible in the gross income of any individual under these mark-to-market rules will be reduced by $711,000.
- IRS has announced that, until regs are issued implementing the requirement to withhold on amounts realized on dispositions of partnership interests, taxpayers must use the principles applicable to withholding on US real property interests, including the use of Forms 8288 and 8288-A.

- IRS issued proposed regs and other guidance on Code Sec. 965, which generally requires US taxpayers to pay a "transition tax" on the untaxed foreign earnings of certain specified foreign corporations as if those earnings had been repatriated to the US.
- In a Notice, IRS delayed the due date for the Code Sec. 965 basis election until after proposed regs, issued earlier this year, are finalized.
- IRS issued guidance clarifying the treatment of overpaid Code Sec. 965(h) installments.
- In a Notice, IRS extended the exception from "US real property" to certain types of obligations and announced its intent to issue regs.
- On Dec. 1, 2018, the user fee for residency certification made on Form 8802 (Application for US Residency Certification) increased from $85 to $185 for non-individual taxpayers.

Returns and Payments of Tax

- Individual return filing thresholds have increased for 2018.
- For tax years beginning after Feb. 9, 2018, persons age 65 and older at the end of the tax year can use Form 1040SR, which will be similar to Form 1040EZ, but not restricted based on income, which can include Social Security benefits, distributions from retirement plans, annuities and other deferred pay arrangements, interest and dividends, and adjusted net capital gain.
- The income tax return filing threshold for a bankruptcy estate of an individual is $12,000 for 2018.
- After 2017, reporting requirements apply to the acquirer of an existing life insurance contract or interest therein in a reportable policy sale (and to the issuer of the contract) and to the payor of reportable death benefits. IRS has issued draft 2018 Form 1099-LS, which is to be used by acquirers of a life insurance contract.
- Generally for amounts paid or incurred after 2017, government agencies (or entities treated as such agencies) that are complainants or investigators with respect to a violation or potential violation of any law must report to IRS and to the taxpayer the amount of each settlement agreement or order entered into where the aggregate amount required to be paid or incurred to or at the direction of the government is at least $600 (or such other amount as may be specified by IRS).
- IRS issued proposed regs under which all information returns, regardless of type, would be taken into account in determining whether a person meets the 25-return threshold and thus must file the returns electronically.

Tax Audits, Deficiencies, Refunds, and Penalties

- Generally for returns for partnership tax years beginning after 2017, streamlined unified audit partnership rules replace the TEFRA and electing large partnership rules. Under the new rules, adjustment to items of income, gain, loss, deduction, or credit of a partnership for a partnership tax year, and any partner's distributive share of such adjustment, is generally determined at the partnership level.
- IRS issued proposed regs that would provide guidance on how partnerships and their partners adjust tax attributes to take into account partnership adjustments under the new partnership audit regime.
- The interest rates with respect to overpayments of tax are: for the first quarter of 2018, 4% for individuals and 3% for corporations (1.5% if the overpayment is by a C corporation and exceeds $10,000); and for the last three quarters of 2018, 5% for individuals and 4% for corporations (2.5% if the overpayment is by a C corporation and exceeds $10,000).
- The interest rates with respect to underpayments of tax are: for the first quarter of 2018, 4%, and for the last three quarters of 2018, 5%. A higher rate applies on large corporate underpayments: 6% for the first quarter of 2018, and 7% for the last three quarters of 2018.

- For a refund claim for overpayment of excludible wrongful incarceration damages, the limitation period is waived until Dec. 18, 2019.
- For 2018, the minimum failure to file penalty on income tax returns filed more than 60 days late, unless due to reasonable cause, is the lesser of $210 or the amount of tax required to be shown on the return.
- Certain civil penalties on tax return preparers, and total maximum amounts that can be imposed, have increased for 2018.
- IRS issued final regs on the tax return preparer penalty under Code Sec. 6695(g) to reflect changes made by the Tax Cuts and Jobs Act.
- For 2018, the monthly national average bronze plan premium for purposes of the individual shared responsibility payment is $283 for an individual and $1,415 for a family of 5 or more.
- The penalties for failure to file information returns and provide payee statements have increased for 2018.
- For 2018, failure to file a partnership return exposes the partnership to a $200 per-partner, per-month penalty.
- For 2018, failure to file an S corporation return exposes the S corporation to a $200 per-shareholder, per-month penalty.
- The dollar amount in the definition of "seriously delinquent tax debt" for purposes of the revocation/denial-of passport rules in Code Sec. 7345 is $51,000 for 2018.
- For wrongful IRS levies made after Dec. 22, 2017 (and those for which the prior-law 9-month period of limitations remained open), an amount equal to the money levied upon or the money received from a sale of the property may be returned within two years from the date of the levy.
- IRS issued proposed regs that would authorize limited return disclosure to State Department contractors.
- IRS issued proposed regs that would limit the role of non-government attorneys in summons procedures.

Estate, Gift, and Generation-Skipping Transfer Taxes

- A district court held that the value of a grantor retained annuity trust (GRAT) was includible in an estate because the right to the annuity was determined to be a right to possess or enjoy the income from the transferred property.
- The total decrease in the value of all real property under the special use valuation election may not exceed $1,140,000 for 2018 deaths.
- For 2018, the basic exclusion amount for gift and estate tax purposes is $11,180,000.
- For 2018, the applicable credit amount has increased to $4,417,800, which is the tax that would otherwise be imposed on $11,180,000.
- IRS issued proposed regs that would protect pre-2026 gifts from the post-2025 drop in the exclusion amount.
- The Tax Court held that, when the second spouse dies, IRS may examine the estate tax return of the predeceased spouse if that spouse elected portability.
- For 2018, an executor must file an estate tax return if the decedent's gross estate at death exceeds the basic exclusion amount of $11,180,000.
- For 2018, the gift tax exclusion is $15,000.
- For 2018, the gift tax annual exclusion for gifts to a noncitizen spouse is $152,000.
- For 2018, the generation skipping transfer (GST) exemption is $11,180,000.

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