



Tax Cuts and Jobs Act As Enacted

Effect on Individuals and Families

The Tax Cuts and Jobs Act of 2017 (the "Act") was signed into law today, December 22, 2017. The Act will significantly impact the income, gift, estate, and generation skipping transfer taxes. It creates both pitfalls for the unwary and potential planning opportunities. Below is a summary of the provisions of the Act most directly affecting individuals and families. Unless otherwise noted, the following provisions take effect as of January 1, 2018 and terminate on January 1, 2026.

- **Reduction of estate, gift and GST taxes:** The Act doubles the current exemption levels for the estate, gift, and generation-skipping transfer taxes to \$11.2 million per person, indexed for inflation.
 - The exemption is scheduled to return to its 2017 level (plus inflation) in 2026.
 - The underlying structure of the estate tax is unchanged and its rate remains at 40%, so the estate planning strategies commonly used during the past few decades will remain valid.
- **New ordinary income tax brackets:** The Act lowers certain tax rates on ordinary income and adjusts bracket cutoff levels, which are indexed for inflation going forward. The tax rates on capital gains and qualified dividends will generally remain the same.
 - The following is a comparison of ordinary income tax brackets and rates for 2017 and 2018, as modified by the Act:





Single Individuals					
2017			2018		
Taxable Income		Rate	Taxable Income		Rate
\$0 -	\$9,325	10%	\$0 -	\$9,525	10%
\$9,326 -	\$37,950	15%	\$9,526 -	\$38,700	12%
\$37,951 -	\$91,900	25%	\$38,701 -	\$82,500	22%
\$91,901 -	\$191,650	28%	\$82,501 -	\$157,500	24%
\$191,651 -	\$416,700	33%	\$157,501 -	\$200,000	32%
\$416,701 -	\$418,400	35%	\$200,001 -	\$500,000	35%
\$418,401 +		39.6%	\$500,001 +		37%

Married Couples Filing Jointly					
2017			2018		
Taxable Income		Rate	Taxable Income		Rate
\$0 -	\$18,650	10%	\$0 -	\$19,050	10%
\$18,651 -	\$75,900	15%	\$19,051 -	\$77,400	12%
\$75,901 -	\$153,100	25%	\$77,401 -	\$165,000	22%
\$153,101 -	\$233,350	28%	\$165,001 -	\$315,000	24%
\$233,351 -	\$416,700	33%	\$315,001 -	\$400,000	32%
\$416,701 -	\$470,700	35%	\$400,001 -	600,000	35%
\$470,701 +		39.6%	\$600,001 +		37%

- Note that these rates will be applied to ordinary “taxable income,” which is total ordinary income less all deductions, exclusions and exemptions.
- While the new brackets will save taxes for many, people who continue to itemize deductions in 2018 may experience no savings or a tax increase due to the Act’s reduction or elimination of certain deductions, as described below.
- **Standard deduction doubled; personal exemption eliminated:** The Act nearly doubles the standard deduction by increasing it from \$6,350 to \$12,000 for individuals and from \$12,700 to \$24,000 for married couples filing jointly. This change will be partially offset by the repeal of the \$4,050-per-person personal exemption.
 - On net, these changes are expected to dramatically reduce the number of people who itemize deductions.



- **\$10,000 cap on state and local tax deductions:** The Act caps the aggregate deductions for state and local taxes at \$10,000. This includes income, property, and sales taxes.
 - For people in states with high taxes, this will reduce or eliminate savings from other provisions of the Act and could result in a net tax increase.
 - The \$10,000 cap does not apply to property taxes imposed on business or investment property.
- **Limit on deduction for mortgage interest:** The Act reduces the cap on deducting mortgage interest by only permitting deductions on interest from the first \$750,000 of a mortgage rather than the first \$1 million. The new cap will apply to most newly purchased homes beginning on December 16, 2017.
 - Existing mortgages (and mortgages on homes that were under contract on December 15, 2017, with a closing scheduled for before the end of 2017) will be grandfathered from this rule, as will refinances of existing mortgages.
 - Beginning in 2018, taxpayers will no longer be able to deduct mortgage interest on any home equity loans, *even if they were in place prior to 2018.*
 - Taxpayers will still be able to deduct mortgage interest on vacation homes.
- **Repeal of several other common deductions:** The Act repeals deductions for individual tax preparation fees, investment fees and expenses, alimony paid and moving expenses, all effective in 2018.
 - Alimony will also no longer be reportable as income by the recipient, but these new rules governing alimony payments will not apply to divorces finalized prior to 2019. *The new alimony rules are not scheduled to automatically terminate in 2026.*
- **Relaxation of the Alternative Minimum Tax:** The Act increases the Alternative Minimum Tax exemption to \$70,300 for individuals and \$109,400 for married couples filing jointly. In addition, it raises the income levels at which the exemption begins to phase-out to \$500,000 for individuals and \$1 million for married couples filing jointly. It also repeals the AMT for corporations.
 - A common reason taxpayers become subject to the AMT is that their deductions for state and local taxes are large enough to reduce their income tax liability below the level at which the AMT is triggered. The Act's \$10,000 cap on those deductions will result in higher income tax for those people but it should also remove many of them from the AMT because their income tax liability would be back above the AMT trigger





level. This should lessen the blow felt by the cap on state and local tax deductions.

- **Increase in charitable deduction for gifts of cash:** The Act raises the limit on income tax deductions for contributions of cash to a public charity from 50% to 60% of the donor's adjusted gross income.
 - Deduction limits for gifts of other types of assets and gifts to private foundations will not be changed.
- **Education tax benefits:** Although previous versions of the Act would have eliminated certain tax credits, deductions, and exclusions related to higher education, the final Act does not affect those items. In addition, under the final Act the discharge of student debt on death or total disability will no longer be treated as taxable income.
- **Expanded uses for 529 Plans:** Distributions from 529 plans will no longer be limited to use for higher education. Rather, the Act allows for 529 Plan distributions of up to \$10,000 per student per year (in the aggregate, across all 529 plan accounts) for public, private and religious elementary or secondary school tuition.
- **Phase out of itemized deductions is repealed:** The Act eliminates the phase out of itemized deductions, which previously began to apply at income levels of \$261,500 for individuals and \$313,800 for married couples filing jointly.
 - The continued existence of the AMT will limit this benefit for some.
- **Change in treatment of "pass through" businesses:** The Act will change the manner in which much of the income of limited liability companies, partnerships, S-corporations and sole proprietorships is taxed. Owners of these businesses will be taxed at their individual rate less a 20% deduction for "qualified business income."
 - The deduction is not available for pass through investment income such as dividends, capital gains, and investment interest.
 - A complex formula based upon the amount of employee compensation paid and capital investment made in depreciable assets may cap the amount of available deduction.
 - There are significant limits on this benefit for owners of personal services businesses (e.g., doctors, lawyers, accountants, consultants, financial service providers, and performing artists), but engineers and architects are not categorized this way so are not subject to those limits.





- Note that all service providers may be able to make use of some or all of this 20% deduction if they have relatively modest taxable income.
- This is perhaps the most controversial provision in the Act and certain aspects of it are quite ambiguous, which often leads to both planning opportunities and pitfalls for the unwary.

To read a summary of our year-end tax planning tips, please click [here](#).

And as always, if you have any questions or would like to discuss how the Act may affect you, please contact a member of our Private Client Group, or the author of this advisory:

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