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# Tax Reform Seminar: **TAX CUTS AND JOB ACT OF 2017**

March 6, 2018

# Today's Outline

## *Tax Cuts and Jobs Act of 2017*

- ***I. Introduction and Background***
- II. Individual Income Tax
- III. Business Tax
- IV. Employment, Compensation and Retirement
- V. Tax-Exempt Organization
- VI. Estate and Gift Tax
- VI. Q & A

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# Individual Income Tax Provisions

- *Effective Dates*
- *Income Tax Rates*
- *Standard Deduction & Personal Exemption*
- *Itemized Deductions*
- *Other Deductions*
- *Child Tax Credit*
- *Other Provisions*



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# Effective Dates Individual Provisions (Most)



- Start *January 1, 2018*
- Expire *January 1, 2026*
- Why? To keep within “Budgetary Parameters”

# Individual Tax Brackets

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2017

10 - 15 - 25 - 28 - 33 - 35

39.6%

2018

10 - 12 - 22 - 24 - 32 - 35

37.0%



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# Individual Tax Rates

## Married Filing Joint

**2017**

\$0 - 18,650	10%
\$18,650 - \$75,900	15%
\$75,900 - \$153,100	25%
\$153,100 - \$233,350	28%
\$233,350 - \$416,700	33%
\$416,700 - \$470,700	35%
\$470,700 +	39.6%

**2018**

\$0 - \$19,050	10%
\$19,050 - \$77,400	12%
\$77,400 - \$165,000	22%
\$165,000 - \$315,000	24%
\$315,000 - \$400,000	32%
\$400,000 - \$600,000	35%
\$600,000+	37%



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# Comparison of Tax

## Married Filing Joint, 2 Kids, Itemized Deductions

Married Filing Joint, 2 Kids, Itemize				
	<u>Federal Income Tax</u>			
<u>Income</u>	<u>2017</u>	<u>2018</u>	<u>Inc(Dec)</u>	<u>%</u>
\$ 50,000	\$ 113	\$ (1,381)	\$ (1,494)	-100%
100,000	7,538	4,739	(2,799)	-37%
150,000	20,178	15,599	(4,579)	-23%
200,000	31,629	26,819	(4,810)	-15%
300,000	57,651	49,859	(7,792)	-14%
400,000	91,093	76,499	(14,594)	-16%
500,000	127,188	114,629	(12,559)	-10%
1,000,000	314,949	293,467	(21,482)	-7%



# Individuals – Other Tax Rates

## ***LT Capital Gains and Dividends***

No change under TCJA

Old Law -0-% 15% 20% rate.  
Rate depends on taxable income

## ***Net Investment Income (NII)***

No change under TCJA

Old Law 3.8% on rents, dividends, Interest, capital gains, etc. Rate depends on AGI

## ***Alternative Minimum Tax (AMT)***

Kept by TCJA but with higher exemption

# Standard Deduction & Personal Exemption

	2017	2018
• Std Deduction – <i>Single</i>	6,350	12,000
• Std Deduction – <i>Married</i>	12,700	24,000
• Personal Exemption	4,050	-0-

# Standard Deduction – 65 or Blind

	<i>Married</i>	
	<u><i>Joint</i></u>	<u><i>Single</i></u>
Standard Deduction	24,000	12,000
Age 65 or over - taxpayer	1,300	1,600
Age 65 or over - spouse	<u>1,300</u>	<u>-</u>
	26,600	13,600
Blind - taxpayer	1,300	1,600
Blind - spouse	<u>1,300</u>	<u>-</u>
	<u><u>29,200</u></u>	<u><u>15,200</u></u>



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# What is *Blind*?

- *Defined - Internal Revenue Code Section 63(f)(4)*
  - Central visual acuity does not exceed 20/200 with correcting lenses
  - or*
  - Field of vision is 20 degrees or less

# Individual Itemized Deductions - Schedule A

Medical

Taxes

Interest

Charitable Contributions

Casualty Losses

Miscellaneous



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# Medical

## Retained

AGI threshold reduced to 7.5% for 2017 and 2018 only; 10% after that

- (House bill had repealed)

# Taxes

## Old

*State/local income taxes, real estate taxes, sales tax in lieu of income tax – all fully deductible*

## NEW

- Sched. A Itemized Combined Deduction limited to \$10,000
- Rental/Business - still deductible



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# Mortgage Interest

- Old Law 2017
- Interest deduction on mortgage debt up to \$1,000,000
- Interest deduction on Home Equity debt up to \$100,000
- *Primary* and one *Secondary* residence





# Mortgage Interest

## New Law

- Reduces cap to \$750,000 on debt incurred > 12/14/17
  - \$1 million cap remains on refinancings
    - Applies to interest paid after 2017
  - Primary and second residence (same as old)
    - No deduction (generally) on Home Equity >2017;
- No “grandfather” provision as with refi \$1 mil cap



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# Charitable Contributions

- Retained - AGI threshold increased to 60% (from 50%)
- Denies deduction for payments for college athletic event seating rights



# Casualty Losses

- Repealed

except for presidentially  
declared disaster areas

Examples: Hurricane Nate - No

Hurricane Katrina - Yes



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# Miscellaneous Itemized

2%

All REPEALED

Examples:

Employee business expenses

Investment-related subscriptions

Investment advisor fees

Safe deposit box

Tax prep fees

Fees to determine tax liability



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# Tax Planning with Higher Standard Deduction

- “Bunch” deductions in future years if total itemized deductions are under standard deduction
- Take Required Minimum Distributions (“RMD”) from IRAs directly to charity in lieu of claiming as charitable deduction



# Individual Deductions – “Above the Line”

<i>Alimony</i>	Repealed (divorce >12/31/18)
<i>Moving</i>	Repealed deduct; reimbursements taxable
<i>Educator’s \$250</i>	No change
<i>Archer MSAs</i>	No change
<i>\$250k/\$500k Principal Residence Exclusion</i>	No change

# Individual Child Credit

## Old

\$1,000 per child

Phaseout begins

\$110,000 Adjusted  
Gross Income (AGI)

Married, \$75,000 AGI  
single

## New

\$2,000 per child

Phaseout begins

\$400,000 AGI Married,  
\$200,000 AGI single

\$500 credit other  
dependents

*(Note: Credit may alleviate  
loss of personal exemption  
for dependent)*



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# Other Individual Provisions

- Old

ACA Individual Health Insurance Mandate

529 Education Plans - college expenses only

3% itemized deduction  
“phase out” if AGI over \$315,000 married, \$261,500 single

- New

Repealed after 2018

\$10,000 *distribution* for high school/elementary. Can set up for child *in utero*.

No more phase out of itemized deductions; i.e. 100% of itemized allowed



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# Business Income Tax

## Provisions

- *Meal and Entertainment Deduction*
- *Interest Expense limitation*
- *Net Operating Losses*
- *C-Corporation Tax Rates*
- *20% Deduction for Pass-through Entities*
- *Write-off of Business Assets*
- *Other Changes*



# Meals & Entertainment

*Old*

*New*

	<i>Old</i>	<i>New</i>
<b>Office Holiday Parties Summer Office Picnic</b>	100% deductible	100% deductible
<b>Entertaining Clients</b>	<p>Meals - 50% deductible</p> <p>Event tickets, 50% deductible for face value of ticket; anything above face value is non-deductible</p> <p>Tickets to qualified charitable events are 100% deductible</p>	<p>Meals – 50% deductible</p> <p>No deduction for entertainment expenses</p>
<b>Employee Travel Meals</b>	50% deductible	50% deductible
<b>Meals Provided for Convenience of Employer</b>	100% deductible provided they are excludible from employees' gross income as de minimis fringe benefits; otherwise, 50% deductible	50% deductible (nondeductible after 2025)



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# Limit on Deduction of Business Interest

- Every business, regardless of form, cannot deduct interest exceeding 30% of adjusted taxable income
- For 1/1/18 – 1/1/22, adjusted taxable income is EBITDA
- Limited interest deduction carries forward indefinitely
- Businesses with average annual gross receipts of \$25M or less are exempt from the limitation
- Can elect out of limitation if ADS is used to depreciate applicable real property



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# Modification of Net Operating Losses (NOLs)

- For tax years after 12/31/2017 – 2 year carryback is eliminated
- Carry forward indefinitely
- NOL deduction is limited to 80% of taxable income



# C-Corporation Tax Rates

- Current
  - Top corporate rate 35%
  - Lower rates for first \$100k except Personal Svc Corps

- New

Corporate rate is 21% for all corps including PSCs.

Alternative Minimum Tax (AMT) repealed.



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# “Pass-Through” Entities

- S-Corporations, Partnerships, and Sole Proprietorships
- Income tax is not taxed at the entity level
- Rather, income is “passed through” and taxed at the individual owner level



# 20% Deduction for Pass-Through Entities

TCJA provides for a 20% deduction applied to Qualified Business Income (QBI)

Example:

QBI from pass-through	=	\$100,000
20% Deduction	=	20,000
Income taxed	=	80,000
Income tax 35% w/out deduct	=	35,000
Income tax 35% w/deduct	=	28,000
Tax reduction (7.0%)	=	7,000

Simple enough – right?





# QBI – Qualified Business Income

- Net amount of items of income, gain, deduction, and loss with respect to a trade or business
- QBI does not include specified investment items, e.g. capital gains/losses, dividends, and interest income.
- QBI does not include reasonable compensation received from an S corporation, or guaranteed payment from a partnership
- Rental income is not excluded from QBI – passive real estate investments should qualify for deduction



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# 20% Deduction for Pass-Throughs (cont..)

- Limitations apply to “Specified service trades or businesses”
  - *Accounting*
  - *Health*
  - *Law*
  - *Consulting*
  - *Athletics*
  - *Financial services*
  - *Brokerage services*
  - *Or any business where principal asset of the business is the reputation or skill of employee(s)*



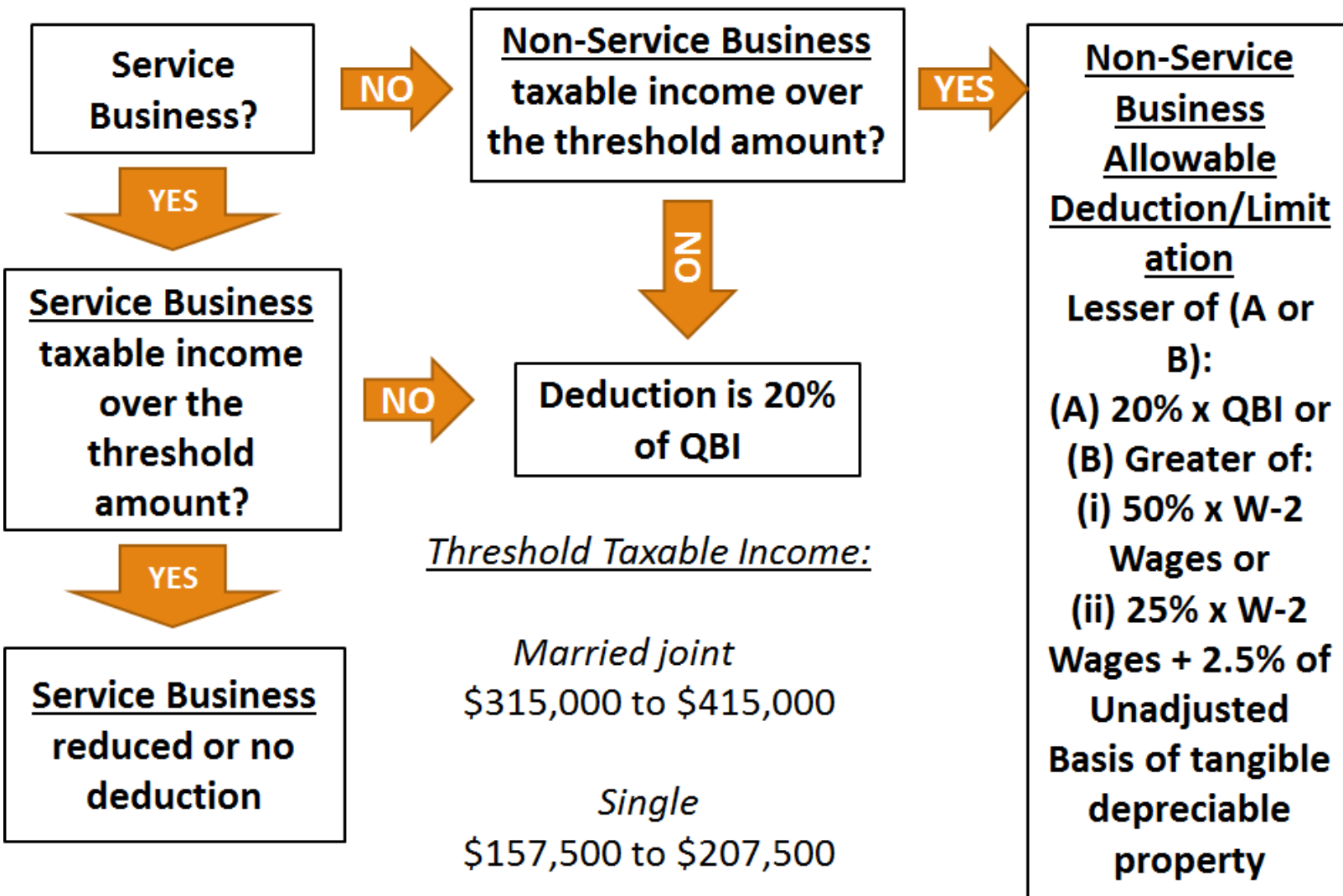
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# 20% Deduction for Pass-Throughs (cont..)

- Specified Service Trade or Business
- Qualified business income limited by taxable income
- 20% Deduction allowed at lower income levels
- Phases out when:
- \$157,500 - \$207,500 taxable income for single taxpayers
- \$315,000 - \$415,000 for married filing joint taxpayers

# 20% Deduction for Pass-Throughs (cont..)

- Non-specified Service Business
- Same phase outs as mentioned before with two exceptions
  - Greater of 50% of W-2 wages or 25% W-2 wages plus 2.5% of the unadjusted basis in business property
  - Limitation is designed to ensure maximum 20% deduction is only available to qualified businesses that have sufficient W-2 wages, sufficient tangible depreciable property, or both



# C-corp vs S-corp

- Total C-corp rate can be as high as 39.8%, top individual rate is 37%, and potential pass-through rate (with 20% deduction) is 29.6%
- If S-corporation owner does not plan on taking cash distributions and wants to grow the business/pass to the next generation, it might make sense to convert to a C-corp
- If S-corporation owner is thinking about selling the business, it is not advised to convert because of potential tax on cash distribution with transaction



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# Write off of Business Assets

- Sec 179 Expensing
- Current \$500,000
- Phase-out at \$2.0 million
  
- Bonus Depreciation
- Current - 50% of cost of new property

New: \$1,000,000  
(1/1/2018) expense

Phase-out at \$2.5  
million

New: 100% cost  
new *and* used property  
(9/28/17 to 1/1/2023)



# Other Business Changes

- Small business accounting changes (Gross Receipts of \$25M or less)
  - Allowed to use cash method of accounting
  - Allows simplified methods for accounting for inventory and exempt from UNICAP
- Section 1031 Like-Kind Exchanges only allowed for real property
- Domestic Activity Production Deduction (DPAD) is repealed
- Technical termination of partnerships have been repealed
- Repatriation of deferred foreign income on foreign entities





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## HR Implications of Tax Reform

### Employer Credit for Paid FMLA Sec. 13403

#### Family Medical Leave Act

- “Employers” must have 50 or more employees
- “Eligible Employees” have 12 months of service for the employer with at least 1250 hours within the past 12 months
- 12 weeks UNPAID leave for serious health conditions
  - Employee or family member who is incapacitated for 3+ days plus continuous treatment
  - Child birth or adoption
  - Military service exigencies

## Employer Credit under Tax Reform

- “Employer” has no minimum employee count and applies to any employer who has a written policy providing:
  - At least 2 weeks paid FMLA to full-time employees
  - Prorated amount to part-time employees
  - Pays at least 50% of employee’s normal wage
- For non-FMLA mandated employers or FMLA mandated employers who provide paid leave to non-FMLA eligible employees non-discrimination and non-interference assurances

## Employer Credit Under Tax Law (Cont.)

- Eligible Employee – Employed 1 year and has compensation  $\leq$  \$72,000 (for 2018)
- Qualifying conditions – Same as FMLA
- Exclusions from Credit
  - Leave paid or required by state or local law
  - Vacation pay, personal leave, medical or sick leave
- Credit
  - 12.5% + .25% by which FMLA pay exceeds regular wage, up to 25%
  - Available up to 12 weeks per year
- Duration of Credit- 12/31/2017 – 12/31/2019

## Denial of Deduction for Sexual Harassment

### Settlements Subject to Non-Disclosure Agreement

- Sec. 13307
- No Deduction for
  - Settlement or payment for sexual harassment or sexual abuse
  - Attorney's fees related to such settlement if subject to a non-disclosure agreement
- Effective Upon Enactment
  - Carefully allocate settlement funds in multi-claim settlement
  - Carefully word release language of severance agreements

## Denial of Deduction for Penalties and Fines

- Sec. 13306
- No deduction for any amount paid to, or at the direction of, the government relating to a violation of the law or investigation into potential violation of the law
  - Includes judgements and settlements
- Restitution amounts, ie, back pay, still deductible
- *Previously, only amounts paid directly to the government were non-deductible*
  - Example: Liquidated damages paid to employee in FLSA claim in which government involved are now non-deductible
- Applies to payments after enactment unless paid pursuant to order or agreement entered prior to enactment

## Miscellaneous Fringe Benefit Deductions

- |                  |   |
|------------------|---|
| Sec. 13304       | Lowers deduction for food provided to employees (50%) (employee picnics and holiday parties are still 100%)   |
| Sec. 13703       | Eliminates deduction for employer incentives for commuter and parking benefits (except to insure safety)  |
| Sec. 13310       | Deduction for employee achievement awards that are tangible personal property now excludes cash, cash equivalents, gift cards, gift certificates, vacations, meals, tickets, etc. |
| Sec. 1310 & 1405 | Moving expenses no longer excluded from employee's income and employee may not deduct unreimbursed moving expenses  |

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## Tax-Exempt Bonds

### Old Law

- Availability of “advanced refunding”

### New Law

- Elimination of “advanced refunding” after 12/31/17
- Proposed elimination of private activity bonds

## Charitable Contributions

### Old Law

- 50% income based % limit for charitable contributions of cash to public charities
- Charitable deduction for payments made for college athletic event seating rights
- Contemporaneous written acknowledgment (CWA) requirement

### New Law

- 60% income based % limit for charitable contributions of cash to public charities
- No deduction for college athletic event seating rights
- Repeal of exception to CWA requirement

## Standard Deduction and the Estate Tax Exclusion

### Old Law

- Standard Deduction
  - \$6,500 (single)
  - \$13,000 (joint)
  - \$9,550 (HoH)

### New Law

- Standard Deduction
    - \$12,000 (single)
    - \$24,000 (joint)
    - \$18,000 (HoH)
- 
- Sunsets after 2025
  - Will people still give?

## Excise Tax on Executive Compensation

### Old Law

- Payments in excess of \$1,000,000 for “covered employees” not subject to excise tax

### New Law

- 21% excise tax on payments in excess of \$1,000,000 for “covered employees”

## Separate Computation of UBI

### Old Law

- UBTI determined in aggregate
- UBTI rate

### New Law

- §512 (a)(6)
- UBTI determined separately for each trade or business activity
- UBTI rate 21%

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## Double Exemptions

### Old Law

- \$5.49mm – Individual for 2017
- \$10.98mm – married couple 2017

### New Law

- \$11.2mm – Individual
- \$22.4mm – Married couple
- GST Doubles (based on exclusion amount)
- Temporary Duration 2018-2025
  - Applies to decedents dying and gifts made after December 31, 2017 but before January 1, 2026

## Gift Tax Annual Exclusion

Old Law  
(2017)

\$14,000

New Law  
(2018)

\$15,000



## Estate Tax Rates

- Sunsets after 2025
- Unchanged (top rate of 40%)
  - \$5.6-11.2mm
  - \$11.2-22.4mm
  - (indexed for inflation)
- Basis adjustment (step up)  
to FMV at death remains

## No Estate Tax Repeal

- Proposed in House Bill for decedents dying after 2024
- Would have left a gift tax in place but reduced rate to 35% after 2024

## Charitable Contribution Deduction Limitation Increase

### Old Law

- Deductible, limits on cash contribution (50%)

### New Law

- Deductible, limits on cash contribution (60%)
- Standard deduction increased
  - \$24,000 married
  - \$18,000 head of household
  - \$12,000 all other individuals
    - Will people contribute less? Consider “bunching” deductions.
- Doubling of estate tax exclusion will disincentivize testamentary gifts to charity
- Alabama Opportunity Scholarship Fund

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