Tax Changes Under the Tax Cuts and Jobs Act of 2017

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On December 22, 2017, President Trump signed into law the Tax Cuts and Jobs Act of 2017 (the "TCJA of 2017" or the "TCJA"). The TCJA is one of the largest overhauls of our federal tax code in years. Some of the goals of the TCJA include: simplifying the tax code, reducing the tax rates on corporations and reducing the taxes paid by the "middle class".

2018 Individual Income Tax Changes

The following is a summary of some of the changes that were made to the individual income tax rules.

TAX RATES REDUCED AND BRACKETS EXPANDED

Although one of the initial goals of the TCJA was to simplify the tax code and reduce the number of tax brackets, when the TCJA was finalized it continued to have seven brackets, however, the rates were mostly reduced and many of the brackets were expanded.

The tables below summarize the new tax brackets and rates for individual taxpayers. The first table reflects the brackets and rates for 2018 under the TCJA and the second table reflects the brackets and rates that would have been in effect in 2018 under the old tax law.

Effective Brackets and Tax Rates for 2018 Under Old Tax Law

Tax Rate	Single	Married Filing Jointly	Head of Household	Married Filing Separately
10%	$0 - $9,525	$0 - $19,050	$0 - $13,600	$0 - $9,525
15%	$9,525 - $38,700	$19,050 - $77,400	$13,600 - $51,850	$9,525 - $38,700
25%	$38,700 - $93,700	$77,400 - $156,150	$51,850 - $133,850	$38,700 - $78,075
28%	$93,700 - $194,450	$156,150 - $237,950	$133,850 - $216,700	$78,075 - $118,975
33%	$194,450 - $424,950	$237,950 - $424,950	$216,700 - $424,950	$118,975 - $212,475
35%	$424,950 - $426,700	$424,950 - $480,050	$424,950 - $453,350	$212,475 - $240,025
39.60%	Over $426,700	Over $480,050	Over $453,350	Over $240,025

Effective Brackets and Tax Rates for 2018 Under Old Tax Law

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10%	$0 - $9,525	$0 - $19,050	$0 - $13,600	$0 - $9,525
15%	$9,525 - $38,700	$19,050 - $77,400	$13,600 - $51,850	$9,525 - $38,700
25%	$38,700 - $93,700	$77,400 - $156,150	$51,850 - $133,850	$38,700 - $78,075
28%	$93,700 - $194,450	$156,150 - $237,950	$133,850 - $216,700	$78,075 - $118,975
33%	$194,450 - $424,950	$237,950 - $424,950	$216,700 - $424,950	$118,975 - $212,475
35%	$424,950 - $426,700	$424,950 - $480,050	$424,950 - $453,350	$212,475 - $240,025
39.60%	Over $426,700	Over $480,050	Over $453,350	Over $240,025

STANDARD DEDUCTION "DOUBLED"

Comparison of Standard Deduction for 2018		
Filing Status	Amount Under TCJA	Amount Under Old Law
Single	$12,000	$6,500
Married Filing Jointly	$24,000	$13,000
Head of Household	$18,000	$9,350
Married Filing Separately	$12,000	$6,500

In addition to cutting the individual income tax rates and making changes to the brackets subject to each rate, Congress also intended to simplify the tax code. As indicated above, the number of tax brackets was not reduced, however, many other steps were taken to simplify the tax code. The overall goal of tax simplification was mostly handled through a large increase in the standard deduction as well as limitation and elimination of various itemized deductions. The standard deduction is the deduction to which all taxpayers are entitled without having to take specific or itemized deductions. Presumably, by increasing the standard deduction, fewer taxpayers will itemize their deductions, thereby simplifying their tax return preparation.

PERSONAL EXEMPTIONS FOR TAXPAYER, SPOUSE AND DEPENDENTS – ELIMINATED

The TCJA eliminates personal exemptions. Under the old tax law, a personal exemption was available to the taxpayer, provided that no one else claimed the taxpayer as a dependent. The taxpayer also was entitled to an exemption for each of the taxpayer's dependents. Finally, if the taxpayer filed a joint return with their spouse, they also received an exemption for their spouse. Under the old tax law, the amount of the personal exemption for 2018 was scheduled to be $4,150 for each exemption.

Please note, however, that under the old tax law the ability to receive the benefit of the personal exemption(s) was phased out if your adjusted gross income ("AGI") exceeded certain thresholds and could be fully phased out. For example, in 2018 a single individual would fully lose the benefit of their personal exemption(s) if their AGI exceeded $389,200, and a married couple filing a joint return would lose all benefit of their personal exemption(s) if their AGI exceeded $442,500.

DEDUCTION FOR STATE & LOCAL TAXES – LIMITED TO $10,000

One of the more controversial changes in the TCJA is the limitation on the deduction for state and local taxes ("SALT") to $10,000. The SALT deduction includes all state and local taxes, such as income taxes, property taxes and sales taxes and was previously unlimited. While taxpayers in high tax states (e.g. California, Connecticut, New Jersey and New York) and those in other states with highly valued real property may lose the ability to deduct all of their SALT, as further discussed below, other changes to the tax code may reduce the overall effect of this limitation.

DEDUCTION FOR MORTGAGE INTEREST – LIMITED

The TCJA also increases the limit on the taxpayer's ability to deduct interest on mortgage notes. Under both the TCJA and prior tax law, a taxpayer can deduct interest on loans used to purchase first and second homes and secured by the property. However, under the TCJA the limit for the maximum combined amount of these mortgage loans was reduced from $1,000,000 to $750,000. Homeowners who had mortgages in place on or before December 31, 2017 will be grandfathered into the old limit. In addition, if a taxpayer refinances an old grandfathered loan, the loan will continue to be grandfathered with the old limits as long as the amount financed is not increased.

DEDUCTION FOR INTEREST ON HOME EQUITY LOANS – ELIMINATED

The TCJA eliminated the ability of the taxpayer to deduct interest on home equity loans and home equity lines of credit. Under the prior tax law, a taxpayer could deduct the interest on these loans. Unlike the provision for mortgage interest, there is no provision to grandfather existing home equity loans.

DEDUCTION FOR LOSS DUE TO CASUALTY AND THEFT – LIMITED

Under the prior tax law, a taxpayer could, after certain limitations, deduct losses on personal property relating to casualty and theft to the extent such losses exceed 10% of the taxpayer's AGI. Casualty losses are those related to a sudden and unexpected event such as a fire, earthquake, hurricane, flood or tornado and do not result from normal wear and tear. Under the TCJA of 2017, deductions are no longer available for theft and are only available for casualty losses if the President declares a natural disaster.

MISCELLANEOUS DEDUCTIONS – ELIMINATED

Under the prior tax law, taxpayers could deduct various miscellaneous expenses to the extent they exceeded 2% of the taxpayer's AGI. Examples of these expenses include, but are not limited to, tax preparation fees, investment expenses, employee business expenses (e.g. license and regulatory fees and unreimbursed continuing education costs). Under the TCJA of 2017, these deductions are eliminated.

DEDUCTIONS FOR MOVING EXPENSES – MOSTLY ELIMINATED

Under the old tax law, if your move was caused by a job change and you met certain distance requirements, you could deduct your moving expenses. Under the TCJA, this deduction is eliminated for all taxpayers, except members of the armed forces.

DEDUCTION FOR ALIMONY PAYMENTS – ELIMINATED

Under the prior tax law, if you made alimony payments to an ex-spouse, you could deduct these payments from your income, and the ex-spouse receiving the alimony was required to include alimony received in their taxable income. The TCJA eliminates this deduction which means if you are making alimony payments, you will no longer be able to deduct them, and your ex-spouse will no longer include them in their income.

DEDUCTION FOR MEDICAL EXPENSES – INCREASED

Under the TCJA, taxpayers may deduct more of their medical expenses. These expenses are now deductible to the extent that your total medical expenses exceed 7.5% of your AGI. Under the prior tax law, these deductions were also allowed, but only to the extent that they exceeded 10% of your AGI.

DEDUCTION FOR CHARITABLE DONATIONS – MODIFIED

The TCJA made several changes to your ability to deduct charitable contributions. One of these changes relates to your ability to deduct cash contributions. Under the prior tax law, a taxpayer could deduct charitable contributions of up to 50% of your AGI. This limitation applied to contributions of all property, and under the TCJA you are still able to deduct up to 50% of your AGI for contributions of most types of assets. However, under the TCJA, taxpayers may now deduct up to 60% of their AGI if the contribution is made in cash.

The TCJA also makes the IRA charitable rollover permanent. This provision can be very beneficial to taxpayers who have attained age 70 ½. It allows a taxpayer to make a direct transfer to a qualified charity up to $100,000 from an IRA. The transfer counts against your minimum required distribution amount and is not included in your income. Because the transferred amount isn't included in your income, it doesn't increase your AGI which can affect your ability to take certain deductions such as those for medical expenses. Further, since the amount of the transfer isn't included in your AGI, you don't get a deduction for the distribution. However, because the distribution is not included in your income, the effect of the direct charitable rollover is that you receive a 100% deduction for the contribution and is often the best method a taxpayer over age 70 ½ has of satisfying charitable gifts.

The TCJA also changes the ability of a taxpayer to deduct gifts to a college or university if they receive athletic event tickets or the right to purchase athletic event tickets. Under the prior tax law, a taxpayer could deduct the full value of these gifts, even if they

received tickets or the right to purchase tickets. Under the TCJA, a taxpayer must reduce their taxable contribution by the value of the tickets or rights received.

LIMITATION ON ITEMIZED DEDUCTIONS – ELIMINATED

Under the old tax law, high income individuals were limited in the amount of the itemized deductions they were allowed. This limitation, commonly known as the Pease Limitation, reduced the amount of a taxpayer's itemized deductions by 3% of each dollar a taxpayer's AGI exceeded certain thresholds. The limitation was limited to 80% of the taxpayer's itemized deductions. For 2018 the threshold amount for a single individual was scheduled to be $266,700 and for married taxpayers filing a joint return the threshold was $320,000.

The TCJA of 2017 eliminates the limitation on a taxpayer's itemized deductions.

CHILD TAX CREDIT – CREDIT DOUBLED AND PHASE OUT INCREASED

The TCJA increases the amount of the child tax credit to $2,000 per dependent child under the age of 17. In addition, the TCJA also adds a $500 credit for other nonchild dependents. Finally, the TCJA greatly increases the phase out thresholds for taxpayers which means that many more taxpayers will benefit from these credits. The table below summarizes the phase out ranges under the TCJA and the old tax law.

Comparison of Child Tax Credit Phase Outs for 2018		
Filing Status	Range Under TCJA	Range Under Old Law
Single	$200,000 - $240,000	$75,000 - $95,000
Married Filing Jointly	$400,000 - $440,000	$110,000 - $130,000
Head of Household	$200,000 - $240,000	$75,000 - $95,000
Married Filing Separately	$200,000 - $240,000	$55,000 - $75,000

The child tax credit is a credit and not a deduction. This means that if you qualify, the effect is to reduce your tax liability by the full amount of the available credit. A tax deduction on the other hand will only reduce your tax liability by the tax rate multiplied by the amount of the deduction. For example, if the taxpayer is in the 24% tax bracket and has a $2,000 deduction, their tax liability is reduced by $480, while a $2,000 tax credit will reduce their tax liability by $2,000. If this credit reduces the taxpayer's tax liability below $0, the refundable amount is limited to $1,400.

INDIVIDUAL MANDATE – ELIMINATED

Under the prior tax law, a tax penalty was assessed on any individual who did not have qualified health insurance coverage. Although the TCJA of 2017 does not repeal this tax penalty, it does reduce the tax penalty to $0 by 2019.

DEDUCTION FOR CERTAIN PASS THROUGH INCOME

The TCJA of 2017 adds a deduction of 20% of qualified business income from a partnership, S corporation or sole proprietorship. The rules associated with this deduction are complex and depend upon the taxpayer's income and the type of business involved. For example, an individual taxpayer with AGI of less than $157,000 or taxpayers filing a joint marital return with AGI of less than $315,000 will get this deduction regardless of the type of business involved. However, for taxpayers with AGI in excess of these limits, other tests must be met, and the income may not be from a listed trade or business which includes, but is not limited to, lawyers, financial service professionals, CPAs, doctors, athletes and actors.

2018 Corporate Tax Changes

The TCJA of 2017 includes significant changes to the taxation of corporations. The most significant of which is the reduction of the corporate tax rate from a maximum rate of 35% to a flat rate of 21%. Numerous other changes were also made to the corporate tax code; however, they are not discussed here.

2018 Gift, Estate and GST Tax Changes

The TCJA of 2017 also includes several changes to the gift, estate and generation skipping transfer ("GST") taxes. These changes are summarized below.

GIFT, ESTATE AND GST TAX EXEMPTION

The TCJA increased the amount an individual may give away during lifetime and/or at death as well as the amount that can be transferred to a grandchild, more remote descendant or other individual classified as a "skip person". These exemptions continue to be unified and for 2018 were significantly increased. Although there has been much discussion of this amount doubling from $5,600,000 to $11,200,000, as discussed below the actual amount of the 2018 exemption is not currently known, however, it is likely to be $11,180,000.

ANNUAL EXCLUSION AMOUNT

The TCJA continues to allow for gifts to an individual and certain trusts to qualify for the annual exclusion for gift and GST tax purposes. As discussed below the actual amount of the annual exclusion is not known, however, it should be $15,000. This means that each person may make gifts to an unlimited number of individuals, and provided the gift to any one person does not exceed $15,000; there is no use of the gift, estate and/or GST exemption.

NO CLAW BACK

One of the concerns that estate planning professional had with the gift, estate and GST tax law under the prior tax law, was what would happen if an individual made gifts of the full exemption amount today, and when the individual died the exemption was much less. In other words, could a tax be assessed against assets you no longer owned? This issue exists because estate tax is calculated by adding back all prior taxable gifts and then allowing a credit based upon the law in the year of death. So today a taxpayer could make gifts in excess of $11,000,000 and owe no gift tax. However, if the taxpayer died at a time that the estate tax exemption was only $1,000,000, they could owe $4,000,000 in estate tax; in other words, the tax could be clawed back.

The TCJA of 2017 attempts to resolve this question by requiring that regulations be issued to clarify that there should be no claw back. However, the TCJA does not itself actually require that there be no claw back.

CHANGE IN INDEXING

As discussed above, with respect to the increase in the annual exclusion amount and the lifetime exemptions for gift, estate and GST taxes, the TCJA raises questions as to the actual amount of these exemptions and/or exclusions. This is caused because the TCJA changes how these amounts are adjusted for inflation. Prior to the passing of the TCJA of 2017, adjustments were based upon changes to the Consumer Price Index for All Urban Areas ("CPI-U") and were determined using a fiscal year of September through August. Pursuant to the TCJA, these adjustments are now based upon the less generous Chained Consumer Price Index for All Urban Areas ("C-CPI-U"). While there may be reasons to make this change, the full effect of the change was not likely understood by Congress.

Under the old tax law, which used CPI-U as the basis for adjustments, it could be determined before the beginning of the next calendar year what the increases in the exemptions and/or exclusions would be. However, because of the method used to determine chained consumer price indexes, the C-CPI-U will not likely be finalized until a full year after the calendar year at issue. As a result, the determination of the actual amount of the 2018 exemption for gift, estate and GST taxes will not be determined until early 2019.

Conclusion

The TCJA includes numerous significant changes to the tax law, many of which are very complex. How the TCJA of 2017 will affect you personally is something you should discuss with your tax and estate planning advisors.