


## IRS/DOR Tax Update

### TCJA Impact on Individuals, Estates & Trusts

*Presented by:*  
Valerie Middlebrooks, CPA - December 10, 2018  
Karly Laughlin, CPA - December 10, 2018  
Jordan Rosen, CPA, MST, AEP® - December 11 and 13, 2018



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## Tax Cuts and Jobs Act (H.R. 1)

- Official title- “An Act to Provide for Reconciliation Pursuant to Titles II and V of the Concurrent Resolution on the Budget for Fiscal Year 2018”
- “AAPRTZ5CRBFY18” too hard to say, so we use “TCJA”
- Will create a deficit of \$1.456 trillion through 2027
- Most Corporate provisions are permanent
- Most individual provisions sunset after 2025



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## Individual, Estate and Trust Provisions



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### Individual Tax Rates (2018 - 2025)

2017	2018 - 2025
10%	10%
15%	12%
25%	22%
28%	24%
33%	32%
35%	35%
39.6%	37%

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### Certain Phase-outs Suspended (2018 - 2025)

- Phase-out of personal exemptions suspended
- Phase-out of itemized deductions suspended



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### Change to Withholding Rates Tied to Tax Rates (2018 - 2025)

- Will need to change
  - Gambling winnings - 24% (from 25%)
  - Mandatory flat rate on suppl. Wages > 1 million-37% (from 39.6%)
  - Vol. withholdings on social security - 7%, 10%, 12% and 22% (from 10%, 15% and 25%)
  - Backup withholdings on reportable payments - 24% (from 28%)



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**For Married Individuals Filing Joint Returns and Surviving Spouses**

If taxable income is:	The tax is:
Not over \$19,050	10% of the taxable income
Over \$19,050 but not over \$77,400	\$1,905 plus 12% of the excess over \$19,050
Over \$77,400 but not over \$165,000	\$8,907 plus 22% of the excess over \$77,400
Over \$165,000 but not over \$315,000	\$28,179 plus 24% of the excess over \$165,000
Over \$315,000 but not over \$400,000	\$64,179 plus 32% of the excess over \$315,000
Over \$400,000 but not over \$600,000	\$91,379 plus 35% of the excess over \$400,000
Over \$600,000	\$161,379 plus 37% of the excess over \$600,000

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**For Single Individuals (Other Than Heads of Households and Surviving Spouses)**

If taxable income is:	The tax is:
Not over \$9,525	10% of the taxable income
Over \$9,525 but not over \$38,700	\$952.50 plus 12% of the excess over \$9,525
Over \$38,700 but not over \$82,500	\$4,453.50 plus 22% of the excess over \$38,700
Over \$82,500 but not over \$157,500	\$14,089.50 plus 24% of the excess over \$82,500
Over \$157,500 but not over \$200,000	\$32,089.50 plus 32% of the excess over \$157,500
Over \$200,000 but not over \$500,000	\$45,689.50 plus 35% of the excess over \$200,000
Over \$500,000	\$150,689.50 plus 37% of the excess over \$500,000

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**For Heads of Households**

If taxable income is:	The tax is:
Not over \$13,600	10% of the taxable income
Over \$13,600 but not over \$51,800	\$1,360 plus 12% of the excess over \$13,600
Over \$51,800 but not over \$82,500	\$5,944 plus 22% of the excess over \$51,800
Over \$82,500 but not over \$157,500	\$12,698 plus 24% of the excess over \$82,500
Over \$157,500 but not over \$200,000	\$30,698 plus 32% of the excess over \$157,500
Over \$200,000 but not over \$500,000	\$44,298 plus 35% of the excess over \$200,000
Over \$500,000	\$149,298 plus 37% of the excess over \$500,000

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**For Married Filing Separately**

If taxable income is:	The tax is:
Not over \$9,525	10% of the taxable income
Over \$9,525 but not over \$38,700	\$952.50 plus 12% of the excess over \$9,525
Over \$38,700 but not over \$82,500	\$4,453.50 plus 22% of the excess over \$38,700
Over \$82,500 but not over \$157,500	\$14,089.50 plus 24% of the excess over \$82,500
Over \$157,500 but not over \$200,000	\$32,089.50 plus 32% of the excess over \$157,500
Over \$200,000 but not over \$300,000	\$45,689.50 plus 35% of the excess over \$200,000
Over \$300,000	\$80,689.50 plus 37% of the excess over \$300,000

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**For Estates and Trusts**

If taxable income is:	The tax is:
Not over \$2,550	10% of the taxable income
Over \$2,550 but not over \$9,150	\$255 plus 24% of the excess over \$2,550
Over \$9,150 but not over \$12,500	\$1,839 plus 35% of the excess over \$9,150
Over \$12,500	\$3,011.50 plus 37% of the excess over \$12,500

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**Capital Gain and Qualified Dividend Tax Rates**

- Retain 0%, 15% and 20% rates
- Retain pre-Act break points, but indexed for inflation
- Thus, for now, the 20% rate will kick-in prior to reaching the threshold for the top ordinary bracket.
  - 20% = \$479,000 (MFJ)
  - 37% = \$600,000 (MFJ)

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### Standard Deduction Doubles (2018 - 2025)

MFJ : \$24,000  
Single: \$12,000  
HH \$18,000

- There was no change to the additional standard deduction for those taxpayers age 65 and/or blind (\$1,250 each)
- More taxpayers are expected to use the standard deduction



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### Personal Exemptions Suspended (2018 - 2025)

- TCJA suspends all personal and dependent exemptions

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### Kiddie Tax Modified (after 2017)

- Earned income taxed at rates for single individuals
- Net unearned income (ordinary and preferred) taxed at rates for estates and trusts.

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### Alternative Minimum Tax (2018 - 2025)

- TCJA increases the exemption amounts

	2017	2018 - 2025
MFJ & SS	\$84,500	\$109,400
Single/H.H.	\$54,300	\$70,300
MFS	\$42,450	\$54,700

- Increases the threshold at which the exemptions starts to phase-out

	2017	2018 - 2025
MFJ & S.S.	\$160,900	\$1,000,000
Single/H.H.	\$120,700	\$500,000

\*No Change to computation for estates and trusts other than for inflation adjustments beginning after 2018

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### Medical Expense Deduction (2017 and 2018 only)

- AGI threshold reduced to 7½ % for all taxpayers
- Rule limiting medical deduction to amount over 10% of AGI for AMT purposes is suspended



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### State and Local Tax Deduction (2018 - 2025)

- State, local and foreign property taxes and state and local sales tax are only deductible in carrying out a trade on business, or in connection with the production of income, with the following exception
- A taxpayer may claim as an itemized deduction up to \$10,000 (\$5,000 for MFS) of state and local property taxes not paid as T&B or investment purposes (but not foreign property taxes) plus state and local income or sales taxes paid).
- See proposed regulations and IR 2018-172 dated August 23, 2018 which address reduction of charitable contributions by the amount of state tax credit provided, in response to state work arrounds.

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### Mortgage and Home Equity Loan Interest Deduction (2018 - 2025)

- All home equity loan interest is suspended
- Pre 12/16/17 acquisition indebtedness interest up to the prior \$1 million limitation can still be deducted
- Post 12/15/17 acquisition indebtedness interest deduction is limited to \$750,000 (\$375,000 for MFS)
- Binding contract exception
- Refinancing the \$1 million (\$500,000 of MFS) of existing acquisition debt continues to be grandfathered as long as proceeds do not exceed the amount of refinanced debt.



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### Charitable Contribution Limit Increased (2018 - 2025)

Section 170 (b) Limit increased from 50% to 60% for cash contributions



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### Suspended Deductions (2018 - 2025)

- Miscellaneous Itemized Deductions that are subject to the 2% floor (Section 67(g))
- Overall limitation on Itemized Deductions (Section 68(f))
- Qualified bicycle commuting exclusion (Section 132(f)(8)) - reimbursement to be included in gross income
- Exclusion from income of qualified moving expenses, except for certain members of the military on active duty
- Moving expense deduction (except for certain members of the military)
- Personal Casualty & Theft Loss deduction, except for those incurred in a Federally-declared disaster. Rules do not apply where loss does not exceed gain

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### Alimony Deduction/Inclusion

- Applicable:
  - Divorce or separation agreements executed after 2018
  - Agreements executed prior to 2018 and subsequently modified
- Alimony payments no longer deductible (Section 215 (a))
- Alimony receipt no longer taxable (Section 71(a) and 61(a)(8))

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### Business Loss Limitation for Non-Corporate Taxpayers

- A.K.A. "Excess Business Loss" (2018 - 2025)**
- Loss limitation rule limits the business loss of a non-C corporate taxpayer to \$500,000 each year (MFJ) or \$250,000 (all others); and creates an excess business loss for amounts above those thresholds
  - Excess business loss applies after the application of the passive loss rules (Section 469)
  - Excess business loss for the year is carried over as an N.O.L. to the subsequent year (no limitation on number of years carried forward)
  - For partnerships and S Corporations, the limitation is applied at the partner or shareholder level
  - Excess farm loss limitation rules don't apply

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### Recharacterization of ROTH Conversions

- Disallowed after 2017
- Perceived taxpayers were gaming the system



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### Expanded Use of Section 529 Funds (after 2017)

For distributions after 2017, up to \$10,000 per beneficiary can be used per tax year for tuition at an elementary or secondary public, private, or religious school.



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### ABLE Account Changes (2018 - 2025)

- After the overall limit on contributions is reached, (\$15,000 in 2018), the designated beneficiary can contribute an additional amount up to the lesser of the Federal poverty-line for a one-person household or the individual's compensation for the year
- Designated beneficiary's contributions are now eligible for the saver's credit.



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### “Net Disaster Loss” Relief (2018 – 2025)

- Applicable to any 2016 disaster area
- Net disaster loss added to standard deduction
- For AMT - still allowed in place of standard deduction
- Limited applicability

**Raised Casualty Floor and Threshold for 2016 Disaster Loss**

- \$100-per-casualty floor is increased to \$500
- 10% of AGI threshold does not apply

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### Relief from 10% Early Withdrawal Penalty for Qualified 2016 Disaster Distributions

- Relief on up to \$100,000 of qualified withdrawals from 1/1/2016 – 12/31/2017
- Principal place of abode must be in designated 2016 disaster area and sustained an economic loss by reason of events in 2016
- Income attributed to distribution can be included in income over 3 years
- The amount of a qualified 2016 disaster distribution can be recontributed to an eligible retirement plan within 3 years

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### Student Loan Discharge (2018 - 2025)

Discharge due to death or total and permanent disability is excluded from gross income.



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### Amounts Paid for College Athletic Seating Rights

For contributions made after 2017, no charitable deduction is allowed for any payment in exchange for rights to purchase seating.



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### Gambling Loss Limitation Modified (2018 - 2025)

**ALL** deductions for expenses incurred in carrying out wagering activities, not just losses, are limited to gambling winnings.



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### Deduction for Living Expenses of Members of Congress (after 12/22/2017)

No deduction for living expenses when away from home.



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### Increased Child Tax Credit (2018 - 2025)

- Prior Law:
  - Credit up to \$1,000 per qualifying child under age 17
  - Phased-out started when AGI > \$75,000 (\$110,000 for MFJ)
  - Refundable credit = 15% of earned income > \$3,000
- New Law:
  - Credit increases to \$2,000 per qualifying child under age 17
  - Phase-out begins when AGI > \$200,000 (\$400,000 for MFJ)
  - Refundable portion is limited to \$1,400/child
  - Earned income threshold for the refundable portion is lowered to \$2,500
  - SSN REQUIRED FOR ALL QUALIFYING CHILDREN
  - Non-child dependent can claim \$500 non-refundable credit

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### Penalty for Failure to Maintain Adequate Health Insurance (the Individual Mandate) - Beginning in 2019

Penalty (tax) reduced to zero



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### Self-Created Property Not Treated as a Capital Asset (Dispositions after 2017)

- The following are excluded as capital assets under section 1221(a)(3):
  - Patents
  - Inventions
  - Models or designs
  - Secret formulas or processes
- Which are held by the taxpayer who created the property, or by a taxpayer with a substituted or transferred basis from the taxpayer who created the property



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### Carried Interest (after 2017)

- TCJA imposes a 3-year holding period in order for certain partnership interests received in connection with the performance of services to be taxed as LTCG
- Interests not meeting the 3-year holding period will be taxed as STCG

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### Estate and Gift Taxes (2018 - 2025)

- Doubles the base exemption to \$10 million per person
- Indexed for inflation after 2011
- Retains portability rules
- 2018 amount will be \$11,180,000
- TCJA silent on GST Tax exemption - but assumed to increase based on basic exclusion rules
- Rate remains at 40%



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### Effect of Other Changes on Estates and Trusts

- State and local income tax deduction
- State and local real estate tax deduction
- 2% deductions
- Other deductions – Section 67(e)
  - Tax preparation
  - Attorney fees
  - Fiduciary fees
- Section 691(c) remains deductible (need clarification)



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### Effect of Other Changes on Estates and Trusts - Cont.

- Excess deductions in year of termination flow through as a miscellaneous I/D subject to 2% floor. New law would eliminate it. Need to plan for year of termination. Can expenses be broken out by category?

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### Qualified Beneficiaries of an ESBT (after 2017)

- Existing Law - ESBT - Electing Small Business Trust - may be a shareholder in an S Corporation
- New law now allows a nonresident alien individual to be a potential current beneficiary of an ESBT (in addition to resident individuals, estates, and certain charitable organizations)



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### Charitable Contribution Deduction for an ESBT (after 2017)

**Deduction for charitable contributions will be determined using rules applicable to individuals (not trusts)**

- Percentage limitation
- Carry forward provisions



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### Questions?

Valerie Middlebrooks, CPA  
Karly Laughlin, CPA  
Jordan Rosen, CPA, MST, AEP®

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