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# SPECIAL REPORT:
# Tax Cuts and Jobs Act of 2017

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## TAX CUTS AND JOBS ACT OF

## 2017 INTRODUCTION

The Tax Cuts and Jobs Act of 2017 ("TCJA") was enacted into law on December 22, 2017. The TCJA represents the most significant overhaul of the Internal Revenue Code in more than 30 years. It contains many provisions that will impact retirement, long-term care, estate and special needs planning. The following is a short summary of some of these provisions. To learn how the TCJA may affect you, please schedule an appointment with a Littman Krooks LLP attorney.

### INDIVIDUAL TAXES & RATES

#### NEW INCOME TAX RATES & BRACKETS

- For tax years beginning after Dec. 31, 2017 and before Jan. 1, 2026, seven tax rates apply for individuals: 10%, 12%, 22%, 24%, 32%, 35%, and 37%.
- The TCJA also provides four tax rates for estates and trusts: 10%, 24%, 35%, and 37%.
- The TCJA tax brackets for 2018 are listed at the end of this document.

#### STANDARD DEDUCTION INCREASED

- For tax years beginning after Dec. 31, 2017 and before Jan. 1, 2026, the standard deduction is increased to $24,000 for married individuals filing a joint return, $18,000 for head-of-household filers, and $12,000 for all other taxpayers, adjusted for inflation in tax years beginning after 2018.
- No changes were made to the current-law additional standard deduction for the elderly and blind.

#### NEW MEASURE OF INFLATION

- For tax years beginning after Dec. 31, 2017 (Dec. 31, 2018 for figures that are newly provided under the TCJA for 2018 and thus will not be reset until after that year), dollar amounts that were previously indexed using CPI-U will instead be indexed using chained CPI-U (C-CPI-U).
- C-CPI-U grows at a slower pace than CPI-U because it takes into account a consumer's ability to substitute between goods in response to changes in relative prices.
- The amounts that apply to retirement plans that are annually adjusted using Social Security methodology under IRS regulations are not affected by these changes. Unless the regulations are reissued and amended to mandate the use of C-CPI-U or the Social Security methodology is changed to mandate such use, these amounts will continue to be annually adjusted using CPI-U.

### KIDDIE TAX MODIFIED

- Parents and grandparents frequently make gifts of income producing property to children and grandchildren.
- The Kiddie tax is applied to a child if: (1) the child has not reached the age of 19 by the close of the tax year, or the child is a full-time student under the age of 24, and either of the child's parents is alive at such time; (2) the child's unearned income exceeds $2,100 (for 2018); and (3) the child does not file a joint return.
- For tax years beginning after Dec. 31, 2017, 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.
- The child's tax on unearned income will no longer be affected by the parent's tax situation or the unearned income of any siblings. However, since estates and trusts have compressed tax brackets (for example, 37% for taxable income over $12,500), the child's unearned income will be taxed at a higher rate than that of a single individual.

### CAPITAL GAINS PROVISIONS CONFORMED

- The TCJA generally retains present-law maximum rates on net capital gains and qualified dividends. It retains the breakpoints that exist under pre-Act law, but indexes them for inflation using C-CPI-U in tax years after Dec. 31, 2017.
- For 2018, the 15% breakpoint is $77,200 for MFJ returns and surviving spouses, $38,600 for MFS and single individuals, $51,700 for heads of household, and $2,600 for trusts and estates.
- For 2018, the 20% breakpoint is $479,000 for MFJ returns and surviving spouses, $239,501 for MFS, $425,800 single individuals, $452,400 for heads of household, and $12,700 for trusts and estates.

### AMT RETAINED, WITH HIGHER EXEMPTION AMOUNTS

- For tax years beginning after Dec. 31, 2017 and before Jan. 1, 2026, the TCJA increases the Alternative Minimum Tax Exemption ("AMT exemption") and phases out amounts for individuals.
- Beginning in 2018, the AMT exemption amounts for individuals are as follows:
  - $109,400 for married individuals filing jointly or surviving spouses;
  - $70,300 for single or head of household filers; and
  - $54,700 for married individuals filing separately (i.e., 50 percent of the amount for married individuals filing jointly).
- The AMT exemption amounts will phase out at $1 Million for married couples and surviving spouses and $500,000 for single individuals and all other taxpayers.

## Personal Deductions, Exclusions & Credits

### State & Local Tax Deduction

- For tax years beginning after Dec. 31, 2017 and before January 1, 2026, an individual taxpayer may claim an itemized deduction of up to $10,000 ($5,000 for a married taxpayer filing a separate return) for the aggregate of (i) State and local property taxes; and (ii) State and local income paid or accrued in the tax year.

### Personal exemptions

- For 2017, the personal exemption amount is $4,050.
- The TCJA provides that, for tax years beginning after Dec. 31, 2017, and before Jan. 1, 2026, the exemption amount is zero.
- However, the personal exemption amount (currently $4,050 and inflation adjusted) is retained for Qualified Disability Trusts.
- The $600 personal exemption for an estate and the $300 personal exemption for a trust are not affected by the TCJA.

### Mortgage and home equity indebtedness interest deduction

- For tax years beginning after Dec. 31, 2017 and before Jan. 1, 2026, the deduction for interest on home mortgage indebtedness is temporarily limited to interest on acquisition debt. The deduction for acquisition mortgage interest is limited to underlying indebtedness of up to $750,000 ($375,000 for married taxpayers filing separately). The new lower limit doesn't apply to any acquisition indebtedness incurred before Dec. 15, 2017.
- The deduction for interest on acquisition mortgage indebtedness applies to debt incurred in acquiring, constructing, or substantially improving a qualified residence and which is secured by the residence.
- A qualified residence for this purpose includes the taxpayer’s principal residence and one other residence such as a vacation home that is not rented out at any time during the tax year or that is used by the taxpayer for a minimum number of days. A qualified residence can be a house, condominium, cooperative, mobile home, house trailer, or boat.
- Additionally, beginning Jan. 1, 2018, taxpayers may not claim a deduction for existing and new interest on home equity debt.

### Medical expense deduction

- For tax years beginning after Dec. 31, 2016 and ending before Jan. 1, 2019, the threshold on medical expense deductions is reduced to 7.5% for all taxpayers. For tax years commencing on January 1, 2019 and later, the threshold on medical expense deductions returns to 10% of adjusted gross income.

- Because of the high cost of long-term care, the medical expense deduction has been relied upon by many persons with chronic illness and special needs who require assistance with their activities of daily living.

### ALIMONY DEDUCTION BY PAYER AND INCLUSION BY PAYEE SUSPENDED

- For any divorce or separation agreement executed after Dec. 31, 2018, or executed before that date but modified thereafter (if such modification expressly provides that the new amendments apply), alimony and separate maintenance payments are not deductible by the spouse making the payment and are not included in the income of the payee spouse.
- Income used for the payment of alimony is taxed at the rates applicable to the spouse making the payment.

### CHARITABLE DEDUCTION

- The TCJA increases the contribution-base percentage limit for tax years beginning after Dec. 31, 2017, and before Jan. 1, 2026, for deductions of cash contributions by individuals to public charities from 50% to 60% (the “60% limit”).
- Other TCJA provisions reduce charitable giving incentives. Perhaps most significantly, more taxpayers are expected to take advantage of the increased standard deduction rather than itemizing deductions. Taxpayers who no longer itemize won't be able to deduct any of their charitable contributions. If this is the case, taxpayers may want to consider making a large gift to a donor advised fund with a public charity to prepay charitable contributions in order to obtain an itemized deduction.

### MISCELLANEOUS ITEMIZED DEDUCTIONS SUSPENDED

- For tax years beginning after Dec. 31, 2017 and before Jan. 1, 2026, the deduction for miscellaneous itemized deductions that are subject to the 2% floor is suspended. Therefore, the following expenses may not be deducted:
  - unreimbursed employee business expenses (including expenses for travel, lodging, meals, entertainment, continuing education, subscriptions to professional journals, union or professional dues, professional uniforms, job hunting, and business use of an employee's home);
  - Investment expenses (including investment advisory fees, subscriptions to investment advisory publications, certain attorneys’ fees, and safety deposit box rental); and
  - tax determination expenses (including tax return preparation fees)

### LIMITATION ON ITEMIZED DEDUCTIONS SUSPENDED

- Under prior law, an individual whose adjusted gross income exceeds an applicable threshold amount (for example in 2017, $266,700 for single taxpayers and $313,800 for joint filers) must reduce the total of his itemized deductions. For tax years beginning after Dec. 31, 2017 and before Jan. 1, 2026, this reduction of itemized deductions is suspended.

### Filing Requirements

- Income tax filing requirements prior to the TCJA relied on the personal exemption.
- For tax years beginning after Dec. 31, 2017 and before Jan. 1, 2026, the TCJA provides that an individual will be required to file an income tax return if his or her gross income exceeds the standard deduction ($12,000 in 2018) and couples will be required to file income tax returns if their gross income exceeds the standard deduction that applies to a joint return ($24,000 in 2018).

### Affordable Care Act

Individual Mandate: For months beginning after Dec. 31, 2018, the amount of the individual shared responsibility payment is reduced to zero.

- The net result of these changes is that no shared responsibility payment will be required after 2018, nor will there be any penalty imposed for failing to maintain minimum essential coverage.
- This revision will likely reduce the number of healthy people seeking coverage beginning in 2019, thereby increasing premiums.

Net Investment Tax and Additional Medicare Tax: The TCJA leaves intact the 3.8% net investment income tax and the 0.9% additional Medicare tax, both enacted by the Affordable Care Act.

### Tax-Preferred Accounts

#### ABLE account changes

- Effective for tax years beginning after the enactment date and before Jan. 1, 2026, the contribution limitation to ABLE accounts with respect to contributions made by the designated beneficiary is increased. After the overall limitation on contributions is reached (i.e., the annual gift tax exemption amount; for 2018, $15,000), an ABLE account's designated beneficiary can contribute an additional amount, up to the lesser of (a) the federal poverty line for a one-person household ($12,060 in 2017); or (b) the individual's compensation for the tax year.
    - Contributions up to the annual gift tax exclusion may be made by any person, including the designated beneficiary.
        - Additional amounts may be contributed only by a designated beneficiary for whom no contribution was made to a 401k plan, TSA, or government deferred contribution plan.
- For distributions after the date of enactment, amounts from qualified tuition programs (QTPs, also known as 529 accounts) are allowed to be rolled over to an ABLE account without penalty, provided that the ABLE account is owned by the designated beneficiary of that 529 account, or a member of

such designated beneficiary's family. Such rolled-over amounts are counted towards the overall limitation on amounts that can be contributed to an ABLE account within a tax year, and any amount rolled over in excess of this limitation is includible in the gross income of the distributee.

- Additionally, the designated beneficiary of an ABLE account can claim the saver's credit under for contributions made to his or her ABLE account.
- The TCJA also requires that a designated beneficiary (or person acting on the beneficiary's behalf) maintain adequate records for ensuring compliance with the above limitations.

### 529 ACCOUNT FUNDS

- For distributions after Dec. 31, 2017, "qualified higher education expenses" include tuition at an elementary or secondary public, private, or religious school, up to a $10,000 limit per tax year.
- The above $10,000 limitation applies on a per-student basis, rather than a per-account basis. So, although an individual may be the designated beneficiary of multiple 529 accounts, that individual may receive a maximum of $10,000 in tax-free distributions for elementary or secondary school tuition, regardless of whether the funds are distributed from multiple accounts.

## ESTATE & GIFT TAX RETAINED WITH INCREASED EXEMPTION

### ESTATE & GIFT TAXES

- For estates of decedents dying and gifts made after Dec. 31, 2017 and before Jan. 1, 2026, the TCJA doubles the base estate and gift tax exemption amount from $5 million to $10 million. The $10 million amount is indexed for inflation occurring after 2011 and is expected to be approximately $11.2 million in 2018 ($22.4 million per married couple).
- In addition to the increase in the basic exclusion amount, the TCJA modifies the computation of gift tax payable and estate tax payable in cases where gifts have been made in prior years. With respect to the computation of gift tax payable, the tax rates in effect at the time of the decedent's death are to be used rather than the rates that were in effect at the time the gifts were made.

**GST Taxes**: The language in the TCJA does not mention generation-skipping transfers, but because the generation-skipping transfer tax exemption amount is based on the basic exclusion amount, generation-skipping transfers will also see an increased exclusion amount.

**NYS:** For NYS, the basic exclusion amount remains at $5,250,000 for decedents dying on or after April 1, 2017 and on or before December 31, 2018.

## RETIREMENT PLANS

Roth IRA Recharacterization: The TCJA will do away with the recharacterization of Roth conversions. For tax years beginning after Dec. 31, 2017, the rule that allows a contribution to one type of IRA to be recharacterized as a contribution to the other type of IRA does not apply to a conversion contribution to a Roth IRA. Thus, a recharacterization cannot be used to unwind a Roth conversion.

401(k) Loans: Under the TCJA, employees who leave an employer with a 401(k) loan outstanding will be able to repay the loan by the day they file their federal income tax return. Currently, such employees must repay the loan within 60 days of their departure. Those who fail to repay the loan within the applicable time period must pay income tax on the loan balance and, if they are younger than 59 1/2, a 10% penalty tax.

## REVENUE IMPACT

- The changes in the tax code are expected to reduce federal tax revenues by an estimated $1.46 trillion over 10 years, according to the nonpartisan Joint Committee on Taxation.
- "The national debt, instead of rising to 91% of gross domestic product in 2027 from 77% now, soars to 100% if the cost-cutting gimmicks (such as tax-cut expirations that aren't meant to occur) are ignored, according the Committee for a Responsible Federal Budget. Allowing for some positive effect on growth and revenue, it still reaches 98%." *The Wall Street Journal*, GOP Tax Bill Fixes Some Problems, But Exacerbates Others, Greg Ip, December 20, 2017.

# TAX BRACKETS

## SINGLE TAXPAYERS FOR TAX YEARS BEGINNING IN 2018

| Taxable Income Is… | | The Tax Is… | |
|---|---|---|---|
| Over | But Not Over | | Of The Amount Over |
| $ 0 | $9,525 | 10% | $0 |
| $9,525 | $38,700 | $952.50 + 12% | $9,525 |
| $38,700 | $82,500 | $4,453.50 + 22% | $38,700 |
| $82,500 | $157,500 | $14,089.50 + 24% | $82,500 |
| $157,500 | $200,000 | $32,089.50 + 32% | $157,500 |
| $200,000 | $500,000 | $45,689.50 + 35% | $200,000 |
| $500,000 | | $150,689.50 + 37% | $500,000 |

## MARRIED INDIVIDUALS FILING SEPARATE RETURNS FOR TAX YEARS BEGINNING IN 2018

| If Taxable Income Is… | | The Tax Is… | |
|---|---|---|---|
| **Over** | **But Not Over** | | **Of The Amount Over** |
| $ 0 | $9,525 | 10% | $0 |
| $9,525 | $38,700 | $952.50 + 12% | $9,525 |
| $38,700 | $82,500 | $4,453.50 + 22% | $38,700 |
| $82,500 | $157,500 | $14,089.50 + 24% | $82,500 |
| $157,500 | $200,000 | $32,089.50 + 32% | $157,500 |
| $200,000 | $300,000 | $45,689.50 + 35% | $200,000 |
| $300,000 | | $80,689.50 + 37% | $300,000 |

## MARRIED INDIVIDUALS FILING JOINT RETURNS AND SURVIVING SPOUSES FOR TAX YEARS BEGINNING IN 2018

| Taxable Income Is… | | The Tax Is… | |
|---|---|---|---|
| **Over** | **But Not Over** | | **Of The Amount Over** |
| $ 0 | $19,050 | 10% | $0 |
| $19,050 | $77,400 | $1,905 + 12% | $19,050 |
| $77,400 | $165,000 | $8,907 + 22% | $77,400 |
| $165,000 | $315,000 | $28,179 + 24% | $165,000 |
| $315,000 | $400,000 | $64,179 + 32% | $315,000 |
| $400,000 | $600,000 | $91,379 + 35% | $400,000 |
| $600,000 | | $161,379 + 37% | $600,000 |

## HEADS OF HOUSEHOLD FOR TAX YEARS BEGINNING IN 2018

| Taxable Income Is… | | The Tax Is… | |
|---|---|---|---|
| **Over** | **But Not Over** | | **Of The Amount Over** |
| $ 0 | $13,600 | 10% | $0 |
| $13,600 | $51,800 | $1,360.00 + 12% | $13,600 |
| $51,800 | $82,500 | $5,944 + 22% | $51,800 |
| $82,500 | $157,500 | $12,698 + 24% | $82,500 |
| $157,500 | $200,000 | $30,698 + 32% | $157,500 |
| $200,000 | $500,000 | $44,298 + 35% | $200,000 |
| $500,000 | | $149,298 + 37% | $500,000 |

## ESTATES AND TRUSTS FOR TAX YEARS BEGINNING IN 2018

| Taxable Income Is… | | The Tax Is… | |
|---|---|---|---|
| **Over** | **But Not Over** | | **Of The Amount Over** |
| $ 0 | $2,550 | 10% | $0 |
| $2,550 | $9,150 | $255 + 24% | $2,550 |
| $9,150 | $12,500 | $1,839 + 35% | $9,150 |
| $12,500 | | $3,011.50 + 37% | $12,500 |

For tax years beginning after December 31, 2018, the bracket thresholds are to be annually adjusted for inflation using C-CPI-U.

## ABOUT THIS HANDOUT

This handout is a summary of the current rules and regulations. This explanation is provided as a courtesy to help you recognize potential issues. It is not intended as a substitute for legal advice. It is distributed with the understanding that if you need legal advice, you will seek the services of a competent professional. While every precaution has been taken to make this explanation accurate, we assume no responsibility for errors or omissions, or for damages resulting from the use of the information in this explanation.

LITTMAN KROOKS LLP

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