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TAX UPDATE

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TAX UPDATES
THE TAX CUTS AND JOBS ACT (2017)

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General Comments

- You will not be doing your taxes on a post card, get used to that!
- Many aspects of the tax “overhaul” has actually added additional complexity and created complications
- As of May the IRS had already identified over 700 forms and publications that needed revisions due to the tax bill and nothing that could be scrapped.
- Joint Committee on Taxation had/s their work cut out for them. They were continuing to review all documents including emails to determine the *intent* of various aspects of the bill
  - Then to determine if issues required a technical bill fix or change to regulation
  - All information is then provided to the IRS and chief counsel then back down to teams to work on
- PLAN TO JUST PAY UP AND FILE AN EXTENSION
- Many of the positives of the bill go away for 2026 tax year, some before and a couple a bit later

Lame Duck

- Congress still needs to fund portions of the government to advert a partial shut down by December 7
- Additional Tax Legislation is on the agenda during lame duck session
  - The senate has not yet taken up the House’ Tax Cuts 2.0
  - Technical Fixes are still required to overhaul H.R. 1 (115) and a separate extension of expired temp. tax breaks (extenders). This would include such things as the biofuel tax credits
- Then there is the Farm Bill

Cost

- Treasury Secretary Mnuchin stated that "not only will this tax plan pay for itself but it will pay down debt"
  - NOT TRUE: U.S. Department of Treasury Estimates the cost at $2.3 Trillion over 10-years (2018 – 2027) if tax break extensions are given for individual and large estates beyond 2025.
    - 2018 – 2027 shortfall ranges from $1 trillion to $1.3 trillion
    - 2019 – 2028 shortfall estimates range from $700 billion to $1.1 trillion
  - The extra revenue generated from the tax cuts is not enough to pay for the tax bill.
  - The estimated economic growth will pay for the tax cuts and not be able to go towards the deficit
- CBO estimates 2018 – 2028 (11-year) that it will cost $2.3 trillion with $461 billion offset with additional revenue through economic growth.
- The New CBO estimates $1.9 Trillion added debt that will be offset by $582 billion. Why?
- Higher Interest Rates for your loans!

PERSONAL SIDE OF THE CHANGES

Personal Taxes Only (most of this reverts in 2026)

- $10,000 deduction limit for personal income, sales and property tax
  - All property taxes deducted on Schedules C and F has no limit.
- Increased Standard Deduction (almost double, $12,000 S & $24,000 MFJ)
- Increased Child Tax Credit (doubled): $2,000 per child with increase phase out ($110,000 - $400,000 MFJ)
- Itemizing becomes difficult with the standard deduction and loss of some options
- Medical: anything more than 7.5% of AGI (10% previously and goes back to this for the 2019 year)
- Charitable Limit increase from 50% to 60% of AGI
- Misc. Itemized deductions: GONE until it returns in 2026 tax year
- Sorry, Alimony Payments are no longer deductible

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2018 Individual Income Tax Brackets (revert back to previous in 2026)

	Single/Individual		Married Filed Jointly	
	Low	Top	Low	Top
10%	$ -	$ 9,524.00	$ -	$ 19,049.00
12%	$ 9,525.00	$ 38,699.00	$ 19,050.00	$ 77,399.00
22%	$ 38,700.00	$ 82,499.00	$ 77,400.00	$ 164,999.00
24%	$ 82,500.00	$ 157,499.00	$ 165,000.00	$ 314,999.00
32%	$ 157,500.00	$ 199,999.00	$ 315,000.00	$ 399,999.00
35%	$ 200,000.00	$ 499,999.00	$ 400,000.00	$ 599,999.00
37%	$ 500,000.00	And Up	$ 600,000.00	And Up

Estate and Gift Taxes

- Estate and Gift Exclusion/Exemption (2018 – 2025)
  - $5,000,000 (Single) base year w/ increase every year as an inflation adjustment
  - 2017
    - $5,490,000 for single, $10,980,000 for a married couple
  - 2018 – 2025 Tax Years
    - Base was doubled with continued annual increases based on inflationary equation
    - For 2018 Single: $11.2 Million
  - Portability
    - Surviving spouse may use the unused portion of the deceased spouse (only if proper tax forms are filed!)
- Annual Exclusion for gift tax purposes is $15,000

LIKE-KIND EXCHANGE AND DEPRECIATION

Trade-Ins

(no longer receive like-kind exchange treatment)

- PRE-2018 (Trade-ins received Section 1031 deferral)
  - In the past the trade-in value of an asset was subtracted from the purchase value and the "cash to boot" is what would be depreciated out with no "depreciation Recapture" having to be paid on the asset traded-in. The "cash-to-boot" is the value to be depreciated
- 2018 and on
  - Depreciated assets that are traded-in will have a 1245 gain "Depreciation Recapture" paid. It is treated like a sale of an asset
  - The total value of the purchased asset is what gets depreciated

Trade-In's Case Example

- Farmer has $100,000 tractor that has been depreciated to $0.
  - The tractor has a trade-in value of $35,000
- Farmer trades in the used tractor for a new tractor with a sales price of $150,000
- Farmer must pay 1245 depreciation recapture (gain) on $35,000
- The Farmer will get to Depreciate the selling price of the new tractor of $150,000
- Be careful of using Section 179 and Special Depreciation to push your income too low!
  - You want to be able to maximize benefits of Self-Employed Health Insurance Deduction, Retirement tax benefits, etc.

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Depreciation

- Useful Tax life has changed
  - 5-years on new equipment and machinery
    - Except to Grain Bins, Fencing, Ginning Equipment, and Land Improvements)
  - 7-years for used (this was the same previously)
- Farms are no longer required to use 150 declining balance for 3,5,7, and 10-year items
- Section 179
  - $1 million limit
    - Dollar for dollar phase out at $2.5 million
- Special (Bonus) Depreciation
  - May opt out of 100% and choose 50% for purchases in 2017 and brought into service in 2018. (there is a 40% scenario that may not affect most.
  - 100% or 50% may be claimed in certain circumstances
  - May be able to be used on fruit & nuts trees and vines
  - Will be phased out over time

UNICAP & SEC. 199A

Uniform Capitalization Rules (UNICAP)

- This is important for those with fruit and nut trees and vines
- Any farm that has an average gross receipts for the past 3-years of $25 million or less (and is not a tax shelter) is not subject to the UNICAP
- What happens to those farms that have already opted out of UNICAP?
  - IRS has not offered guidance on this
  - Some believe that this is not an issue as they state this is a fundamental rule change that would make those that previously opted out to opt back in allowing for GDS vs. ADS depreciation, bonus depreciation, etc. as long as you meet the exemption rule(s)

Section 199a

- Guidance has been drafted and released but is not finalized, hearings are taking place
- Figuring your deduction is NOT easy
- Still waiting on guidance for agricultural and horticultural cooperative rules
- Need clarification on whether someone dealing with grain or commodity (buying, selling, distribution of product other than their own) will be classified as an SSTB which may limit or restrict the 20% deduction

Section 199a

- Specific Service Trade or Business (SSTB)
  - No worries if:
    - SSTB is less than 10% of overall income for business with an avg. of $25 million or less.
    - SSTB is less than 5% of overall income for business with an avg. of $25 million or more.
- Draft guidance appears to place grain elevators, dealing with purchases of commodities from off the farm and sales/delivery to others as SSTB
  - If you are above the 199a threshold (MFJ $315,000 taxable income + Phase in amount of $100,000 MFJ) this could be a problem. None of that income is eligible for the 199a 20% deduction

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Sec. 199a Limitations

- Threshold Phase-out: $157,500 (S) and $315,000 (MFJ) + Phase In of $50,000 (S), $100,000 (MFJ)
  - If Below Threshold & Does NOT Sell to a Coop:
    - Which ever is less: 20% of QBI or 20% of Ordinary Taxable Income
  - If Below Threshold & Does Sell to a Coop:
    - Deduction = 20% QBI - the lesser of 9% of QBI related to coop income OR 50% of Wages
  - If Above Threshold (selling or not selling to a coop):
    - You must have wages to get any deduction or you will be limited to 2.5% of qualified property
  - If above Threshold and Phase-in, limits on SSTB income, etc.
- Qualified Property: All tangible property held for less than 11-years. All property held longer than 10-years and still being depreciated.
  - Uses Cost Basis of the Qualified Property
  - Land is not Included!

Section 199a

- To receive 20% deduction the income must be Qualified Business Income (QBI)
- Most 1231 gains (long-term gains/losses) are not considered QBI
  - Raised breeding livestock (cull dairy cows) receives long-term capital gains and is not considered QBI
  - 1231 short term gains for "Depreciation Recapture" are QBI
- Rent between entities that have common ownership (more than 50%) will be considered QBI (self-rental) if aggregated into one business for tax purposes
  - A landlord renting ground and is not materially participating in the trade or business the rent will not be considered QBI
- Carryover losses incurred prior to 2018 will not be considered in calculating income for the 20%
- C-Corps not eligible for Section 199a

NOL'S AND MISC.

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Net Operating Loss (NOL’s)

- New limit on business losses (Excess Business Loss)
- Required to accumulate all losses on taxes
  - If greater than $250,000 (S) or $500,000 (MFJ) the excess is not allowed
    - Excess is carried forward as part of NOL
- Can only carry-back two years but can be carried forward indefinitley
- Can only offset 80% of income

- Waiting on what hopes to be further guidance and possible corrections.

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Misc.

- Misc. Deduction
  - 2018 – 2025 Tax Years is not allowed!
- Meal Expenses
  - Pre 2018
    - 50% deductible
    - If for employees for the convenience of the employer on business property then it was 100% deductible
  - 2018 and forward
  - Business related entertainment is not deductible at all
  - Interim Guidance
    - Meals with clients, etc. are deductible to 50% then phased out in 2026 to 0% being deductible

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Meal Expenses

- Taxpayers may continue to deduct 50% of the cost of business meals if the taxpayer (or an employee of the taxpayer) is present and the food or beverage expenses are ordinary and necessary in carrying on the trade or business and are not considered lavish or extravagant under the circumstances.
- 50% Deductible: The meals may be provided to a current or potential business customer, client, consultant or similar business contact.
- 50% Deductible: Food and beverages that are provided during entertainment events will not be considered entertainment if purchased separately from the event or if the cost of the food and beverages are stated separately from the cost of the entertainment on one or more bills, invoices or receipts.
- Meal expenses incurred while traveling on business and certain other business-related meals are still 50% deductible. The 50% disallowance rule also now applies to meals provided via an on-premises cafeteria or otherwise on the employer’s premises for the convenience of the employer; until 2025, when these meals will no longer be deductible.
- 100% Deductible if:
  - If treated as compensation, recreational activities primarily for the benefits of the employees and not highly compensated individuals
  - Offsite company meeting at hotel, convention center, etc.

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