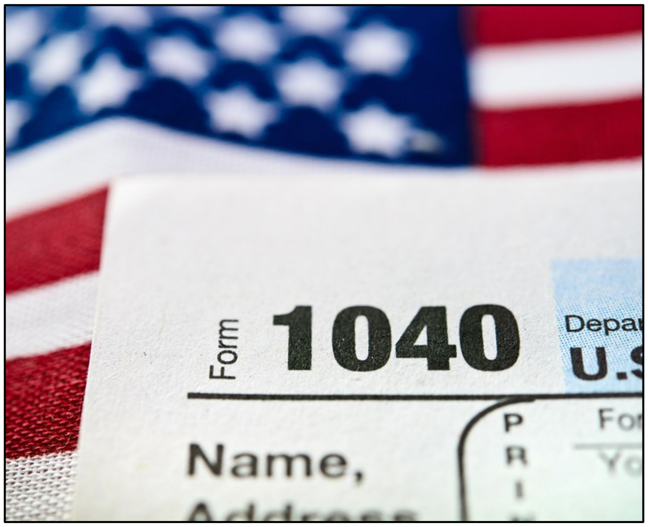
Special Edition Tax Alert

December 22, 2017

Highlights of the Tax Reform Bill

President Trump has signed the "Tax Cuts and Jobs Act" (H.R. 1) (the Act) that was approved by the Senate and the House. The bill is massive and contains many tax law changes, some of which are extremely complex. The majority of the provisions will go into effect in the tax year beginning January 1, 2018. This special edition tax alert covers the highlights of tax reform for individuals and businesses.



Summary of Individual Tax Changes in the Act

New Income Tax Rates & Brackets

For tax years beginning in 2018 through 2025, the Act applies seven altered tax brackets to individuals based on filing status: 10%, 12%, 22%, 24%, 32%, 35%, and 37%. The top rate applies to taxable income over $600,000 for married individuals filing joint returns, or $500,000 for single individuals and heads of households. The Act also reduces the tax brackets for estates and trusts to four: 10%, 24%, 35%, and 37%. See the enclosed charts starting on page six for specifics.

Standard Deduction Increased

For tax years beginning in 2018 through 2025, 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. Inflation applies in tax years beginning after 2018. The current additional standard deduction for the elderly and blind is unchanged.

Personal Exemptions Suspended

Previously, taxpayers were allowed a personal exemption for themselves, their spouses, and any dependents. The Act effectively suspends the deduction for personal exemptions by reducing it to zero. This provision sunsets in 2026.

"Kiddie Tax" Modified

Beginning in 2018, the rates for single individuals apply to the portion of a child's taxable income attributable to earned income. A child's taxable net unearned income is taxed at the trust and estate rates (see section above and the enclosed charts). The Kiddie Tax applies to a child if he or she is under age 19 at the end of the tax year or is a full-time student under age 24, with at least one living parent AND his or her unearned income exceeds $2,100.

Capital Gains Thresholds Indexed

The Act maintains current maximum rates on net capital gains and qualified dividends (0%, 15% and 20%), but indexes the bracket thresholds for inflation in tax years beginning after 2017. For 2018, the 15% breakpoint is $77,200 for joint returns; $51,700 for heads of household; $2,600 for trusts and estates; and $38,600 for other unmarried individuals. The 20% breakpoint is $479,000 for joint returns; $452,400 for heads of household; $12,700 for estates and trusts; and $425,800 for other unmarried individuals.

New Deduction for Pass-Through Income

Previously, income from a pass-through entity (sole proprietorships, partnerships, LLCs, and S corporations) was subject to the tax rate of the entity's owners or shareholders and reported on their individual returns. For tax years beginning after December 31, 2017 and before January 1, 2026, the Act adds a new deduction for taxpayers with qualified business income (QBI) from a pass-through entity. QBI is the net amount of "qualified items of income, gain, deduction, and loss" relating to any qualified trade or business of the taxpayer. An individual taxpayer generally may deduct 20% of QBI.

The deduction cannot exceed the greater of:

1) 50% of the W-2 wages with respect to the qualified trade or business ("W-2 wage limit"), or
2) the sum of 25% of the W-2 wages paid with respect to the qualified trade or business plus 2.5% of the unadjusted basis, immediately after acquisition, of all "qualified property" (tangible, depreciable property used and still available for use at the end of a given tax year).

The deduction does not apply to the trade or business of being an employee, nor to certain service businesses, such as those offering investment-type activities. However, the service-business exclusion does not apply to taxpayers whose income does not exceed $315,000 married filing jointly or $157,500 for other individuals. The limitation is phased in for those taxpayers over the next $100,000 of income for married filing jointly taxpayers and $50,000 for others.

New Limitations on "Excess Business Loss"

Prior rules limited the deduction of losses from farm activities for non-corporate taxpayers. For tax years beginning after December 31, 2017 and before January 1, 2026, the Act provides that the excess farm-loss limitation does not apply, and instead a non-corporate taxpayer's "excess business loss" (deductions attributable to passive activities, to the extent they exceed income from passive activities) is disallowed. Under the new rule, excess business losses are not allowed for the tax year, but are instead carried forward and treated as part of the taxpayer's net operating loss (NOL) carryforward in subsequent tax years.

Deduction for Casualty & Theft Losses Suspended

Previously, personal casualty losses (those resulting from theft or disaster such as flood) were available as itemized deductions subject to an adjusted gross income (AGI) threshold. For tax years beginning after December 31, 2017 and before January 1, 2026, the personal casualty and theft loss deduction is suspended, except for such losses incurred in a federally declared disaster. Personal casualty loss may offset personal casualty gain, but the excess may not be deducted.

If otherwise available, losses arising from a federally declared 2016 disaster area between 2018 and 2025 may be added to the standard deduction.

Gambling-Loss Limitation Modified

Prior rules allowed taxpayers to claim gambling losses only to the extent of winnings, while deductions connected to wagering (e.g. transportation, fees) could be fully claimed. For tax years beginning after December 31, 2017 and before January 1, 2026, the Act requires all gambling expense deductions and losses to be offset against winnings.

Child Tax Credit Increased

For tax years beginning after December 31, 2017 and before January 1, 2026, the child tax credit is increased to $2,000 for each child under the age of 17, and $500 for certain non-child dependents. The credit is phased out for adjusted gross incomes over $200,000 single or $400,000 married filing joint, and it is refundable via the Additional Child Tax Credit up to $1,400 per child if the credit allowed exceeds the tax owed.

State & Local Tax Deduction Limited

Previously, state or local tax and property taxes paid by an individual were fully deductible. For tax years beginning after December 31, 2017 and before January 1, 2026, full deduction is suspended except for such taxes or paid in carrying on a trade or business. Partial deduction is permitted up to $10,000 of the aggregate amount of such taxes.

Prepayments of 2018 state or local income tax, made in 2017, will be treated as paid in 2018.

Mortgage Interest Deduction Limited

For tax years beginning after December 31, 2017 and before January 1, 2026, the deduction for interest on home equity loans is suspended. The deduction for mortgage interest on a primary or secondary residence is limited to interest on the first $750,000 of debt. The lower limits do not apply to home loans taken out before December 15, 2017, or to such existing loans that are later refinanced. In tax years beginning after 2025, the previous limitations of $1 million mortgage debt and $100,000 home equity debt are restored, and taxpayers may deduct interest on such loans regardless of when they were taken out.

Charitable Contribution Deduction Increased

For taxpayers who still itemize deductions after 2017, the 50% limitation for cash contributions to public charities and certain private foundations is increased to 60%. Contributions greater than 60% of a taxpayer's "contribution base" may be carried forward and deducted for up to five years, subject to the ceiling each year.

Alimony Deduction/Inclusion Rules Suspended

For divorce agreements executed after December 31, 2018 or executed before that date, but modified after it, alimony payments are not deductible by the paying spouse or included in the income of the receiving spouse. Income used for alimony is taxed to the paying spouse at the rates applicable to him or her.

Miscellaneous Itemized Deductions Suspended

For tax years beginning after 2017 and before 2026, the deduction for miscellaneous itemized deductions subject to the 2% floor is suspended. Taxpayers will not be allowed to deduct certain expenses (such as tax preparation fees) that previously could be deducted if they exceeded, in the aggregate, 2% of the taxpayer's AGI.

"Pease limitation" on Itemized Deductions Suspended

For tax years beginning after 2017 and before 2026, the Act suspends the limitation on deductions applied to higher-income taxpayers who itemized, commonly known as the Pease limitation. For taxpayers above a threshold around $300,000, their otherwise allowable amount of itemized deductions was reduced by 3% of the amount their AGI exceeded the threshold.

Treatment of Moving Expenses Modified

For tax years beginning after December 31, 2017 and before January 1, 2026, the exclusion for qualified moving expense reimbursements is suspended, except for members of the Armed Forces on active duty (and their spouses and dependents) who move pursuant to a military order and incident to a permanent change of station.

The deduction for moving expenses, applicable for those incurred when starting a new job 50 miles farther from the taxpayer's former residence than the old job, is also suspended, with the same exception for military moves.

Reduction of Medical Expense Deduction Threshold

Unreimbursed medical expenses paid for care of a taxpayer and his or her spouse and dependents are deductible subject to various AGI limits. For tax years beginning after December 31, 2016 and ending before January 1, 2019, the threshold on medical expense deductions is reduced to 7.5% for all taxpayers.

Repeal of ACA Individual Mandate

The penalty applying to those who fail to maintain health coverage under the Affordable Care Act is repealed.

Estate & Gift Tax Exemption Increased

In 2017, the basic exclusion amount for estates and gifts is $5.49 million per taxpayer. Estates and gifts above that threshold are taxed under 12 brackets topping out at 40% for taxable estates larger than $1 million. However, for decedents dying and gifts made after December 31, 2017 and before January 1, 2026, the exclusion amount is doubled to an indexed $10 million ($11.2 million in 2018).

AMT Exemption Increased

The Act retains the alternative minimum tax (AMT), which is intended to prevent taxpayers with substantial income from using deductions, credits and exclusions to avoid tax liability. Under AMT, taxpayers "give back" various tax benefits, and the larger amount of that tax or the regular tax is owed. AMT has its own exemption amount, which is phased out at higher income levels.

For tax years beginning after 2017 and before 2026, the Act increases AMT exemption amounts to $109,400 for joint returns and $70,300 for single individuals. These exemptions begin to phase out at $1 million for joint returns and $500,000 for all other individual taxpayers. AMT taxable income exceeding the phase-out thresholds reduces the exemption amounts by 25% of the excess.

Qualified §529 Account Uses Expanded

Prior to the Act, Section 529 college savings accounts could only be used for qualified higher education expenses. If funds were used for any other purpose, the interest portion of each withdrawn amount was subject to both income tax and a 10% excise tax.

For distributions after December 31, 2017, qualified expenses are expanded to include tuition at elementary or secondary public, private, or religious schools, and expenses associated with home schooling, up to $10,000 per tax year.

Certain Student Loan Discharges Excluded from Income

While a taxpayer's gross income generally includes the discharge of his or her indebtedness, under certain circumstances the discharge of student loans is excluded; the Act adds to these circumstances. After December 31, 2017 and before January 1, 2026, an amount of student loan indebtedness discharged due to death or total permanent disability of the student is excluded from gross income.

Recharacterization of Certain IRA and Roth IRA Contributions

Previously taxpayers were permitted to recharacterize contributions and conversions of IRAs. The Act generally repeals existing law, with an exception for recharacterization of regular annual contributions, which will be allowed for traditional IRAs but not Roth IRA conversions. Thus, a person who converts a traditional IRA to a Roth cannot later change his mind and convert back.

For more information or questions, please contact our tax professionals at taxalerts@windes.com or toll free at **844.4WINDES** (844.494.6337).

New Individual Tax Brackets

Unmarried Individual Filers	
Current	Proposed rates
10% Income up to $9,525	**10%** Income up to $9,525
15% Over $9,525 to $38,700	**12%** Over $9,525 to $38,700
25% Over $38,700 to $93,700	**22%** Over $38,700 to $82,500
28% Over $93,700 to $195,450	**24%** Over $82,500 to $157,500
33% Over $195,450 to $424,950	**32%** Over $157,500 to $200,000
35% Over $424,950 to $426,700	**35%** Over $200,000 to $500,000
39.6% Over $426,700	**37%** Over $500,000

Married Joint Filers	
Current	Proposed rates
10% Up to $19,050	**10%** Up to $19,050
15% Over $19,050 to $77,400	**12%** Over $19,050 to $77,400
25% Over $77,400 to $156,150	**22%** Over $77,400 to $165,000
28% Over $156,150 to $237,950	**24%** Over $165,000 to $315,000
33% Over $237,950 to $424,950	**32%** Over $315,000 to $400,000
35% Over $424,950 to $480,050	**35%** Over $400,000 to $600,000
39.6% Over $480,050	**37%** Over $600,000

Heads of Households	
Current	Proposed rates
10% Up to $13,600	**10%** Up to $13,600
15% Over $13,600 to $51,850	**12%** Over $13,600 to $51,800
25% Over $51,850 to $133,850	**22%** Over $51,800 to $82,500
28% Over $133,850 to $216,700	**24%** Over $82,500 to $157,500
33% Over $216,700 to $424,950	**32%** Over $157,500 to $200,000
35% Over $424,950 to $453,350	**35%** Over $200,000 to $500,000
39.6% Over $453,350	**37%** Over $500,000

NEW ESTATE AND TRUST INCOME TAX BRACKETS

Estates and Trusts	
Current	Proposed rates
15% Up to $2,550	**10%** Up to $2,550
25% Over $2,550 to $6,000	**24% plus $255** Over $2,550 to $9,150
28% Over $6,000 to $9,150	**35% plus $1,839** Over $9,150 to $12,500
33% Over $9,150 to $12,500	**37% plus $3,011.50** Over $12,500
39.6% Over $12,500	

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Summary of Business Tax Changes in the Act

New Income Tax Flat Rate

In prior years, corporations were taxed under eight brackets with a 35% top rate, with personal service corporations taxed at a flat 35%. For tax years beginning after 2017, the corporate tax rate is a flat 21% and there is no special rate for personal service corporations.

Dividends-Received Deduction Percentages Reduced

Corporations that receive dividends from other corporations are entitled to a deduction that is increased if the receiving corporation owns at least 20% of the other corporation. The Act reduces the deduction to 50% for dividends from a 20%-owned corporation and 65% for other dividends.

Corporate AMT Repealed

Corporations with gross receipts of more than $7.5 million for the preceding three tax years were previously required to pay a 20% AMT, with an exemption amount of up to $40,000. For tax years beginning after 2017, the Act repeals corporate AMT. For tax years beginning in 2018 to 2020, AMT credit utilization limitation is increased by 50%, and AMT credit carryforward becomes a refundable credit.

Net Operating Loss Deduction Modified

For NOLs arising in tax years beginning after December 31, 2017, the carryback period is eliminated and the carryforward period is made indefinite. There is an exception for certain losses incurred in the trade or business of farming; for these, a two-year carryback applies. For NOLs arising in tax years beginning after 2017 and before 2023, NOL utilization is limited to 80% of taxable income. NOLs of property and casualty insurance companies can be carried back two years and forward 20 years to offset 100% of taxable income in such years.

Small Business Election to Expense Assets Increased

Under Code §179, taxpayers may elect to deduct the cost of qualifying property currently, rather than recover the cost over several years through depreciation. Qualifying property is generally defined as tangible personal property, including computer software and real property, purchased for use in a trade or business. Prior tax law limited the deduction to $500,000 in a given tax year, phased out when the cost of qualifying property exceeded $2 million.

For property placed in service in tax years beginning after 2017, the maximum amount that may be expensed per year is raised to $1 million, and the phase-out threshold amount is increased to $2.5 million. The definition of qualified property under §179 is expanded to include tangible personal property used to furnish lodging and certain improvements to nonresidential real property: roofs; heating, ventilation and air-conditioning property; fire protection and alarm systems; and security systems.

Cost Recovery of Qualifying Business Assets Temporarily Accelerated

The Act allows 100% immediate expensing for qualified property placed in service from Sep. 27, 2017 through December 31, 2022. The allowed amount is phased down annually through 2026 (80% in 2023, 60% in 2024, 40% in 2025, and 20% in 2026). For property with a longer production period, phaseout begins in 2024 instead. The definition of qualified property is expanded to include used property acquired by the taxpayer, provided the property was not used by the taxpayer before being acquired.

Recovery Period for Real Property Shortened

The cost recovery periods for most real property are 39 years for nonresidential real property and 27.5 years for residential rental property. The straight-line depreciation method and mid-month convention are required for such real property.

Pre-Act law treated qualified leasehold improvement, qualified restaurant and qualified retail improvement property separately; the Act erases these distinctions and provides a 15-year recovery period and straight-line depreciation for qualified improvement property. Thus, qualified improvement property placed in service after December 31, 2017, is generally depreciable over 15 years using the straight-line method and half-year convention, without regard to whether the improvements are to property subject to a lease, placed in service more than three years after the date the building was first placed in service, or made to a restaurant building.

Like-Kind Exchange Treatment Limited

Previously Code §1031 provided that no gain or loss was recognized on the exchange of a wide range of property held for productive use or investment. For transfers after December 31, 2017, the rule is modified to allow like-kind exchanges only for real property not held primarily for sale. Transactions begun before 2018 may be completed under a transition rule if the taxpayer has either disposed of the relinquished property or acquired the replacement property by December 31, 2017.

Use of Cash Method Expanded

A gross receipts test applies to limit what entities may use the cash method of accounting. Previously the threshold for farms, qualified personal service corporations and C corporations who use cash accounting was $5 million annually. For tax years beginning in 2018 or later, taxpayers with annual gross receipts that do not exceed $25 million for the three prior tax years may use the cash method. In addition, the requirement that the threshold must be satisfied for all prior years is repealed.

Deductibility of Fines and Penalties Expanded

Taxpayers are not allowed deductions for expenses that include bribe payments, health care fraud, lobbying payments, or any fines paid to the government for breaking the law. The Act adds to this list any amount paid to or for the government in relation to the violation of any law or the government investigation of any potential violation. An exception applies to restitution or remediation payments and any amount paid or incurred as taxes due.

Employee Achievement Awards

The value of tangible property given to an employee as an award, either in recognition of length of service or safety achievement, is excludable to the extent the employer can deduct the cost of the award (generally up to $400 per employee). The Act tweaks the definition of “tangible property” to exclude cash, cash equivalents, gifts cards, gift coupons, gift certificates, vacations, meals, lodging, tickets for theatre or sporting events, stock, bonds or similar items.

New Credit for Employer-Paid Family and Medical Leave

The Act introduces a credit to employers for compensation paid to employees while they are on family or medical leave. For tax years beginning after 2017 and before 2020, eligible employers may claim a credit for 12.5% of wages paid to qualifying employees during any period in which such employees are on family and medical leave if the payment rate under the program is 50% of the wages normally paid to an employee. The credit increases by 0.25 percentage points (but not above 25%) for each percentage point by which the rate of payment exceeds 50% of normal wages.

Technical Termination of Partnerships Repealed

Under existing rules, a partnership terminates if, within a 12-month period, there is a sale or exchange of 50% or more of the total interests in partnership capital and profits. For partnership tax years beginning after December 31, 2017, the technical termination rule is repealed. The Act does not change the existing rule that a partnership is considered terminated if it ceases to carry on all of its business operations.

Domestic Production Activities Deduction Repealed

Pre-Act law allowed up to a 9% deduction on qualified production activity income. Qualifying receipts came from property manufactured, produced, grown or extracted within the U.S.; certain film productions and construction activities; and certain engineering or architectural services. For tax years beginning after 2017, the Act repeals the domestic production activities deduction for non-corporate taxpayers. For tax years beginning after 2018, the deduction is repealed for C corporations.

Qualifying Beneficiaries of an ESBT

Eligible beneficiaries of an electing small business trust (ESBT) include individuals, estates, and certain charitable organizations eligible to hold S corporation stock directly. Nonresident aliens may not hold S corporation shares and, therefore, are not eligible ESBT beneficiaries. For tax years beginning after 2017, the Act permits nonresident alien individuals to be current beneficiaries of an ESBT.

Charitable Contribution Deduction for ESBTs

When an ESBT makes a charitable contribution, prior tax law applied the deduction rules for trusts to the amount, rather than the deduction rules for individuals. The Act switches this, so that the charitable contribution deduction of an ESBT is determined by individual rather than trust rules. Under these rules, the deduction is allowed subject to certain AGI percentage limitations, and a five-year carryforward of amounts in excess of the limitation is allowed.

Employer's Deduction for Meals and Entertainment Limited

Previously a taxpayer could deduct up to 50% of expenses related to meals and entertainment, while housing and meals provided for the convenience of the employer, along with other fringe benefits including transportation, were excluded from an employee's gross income.

For amounts paid after 2017, the deduction for entertainment expenses is disallowed; the 50% deduction for business meals is expanded to include meals provided on the premises of the employer; and the deduction for employee transportation fringe benefits is denied, but such amounts are still excluded from an employee's income. Beginning in 2026, the employer deduction for on-premises meal expenses is disallowed.

Summary of Foreign Income Tax Changes in the Act

Regime type

Previously, the U.S. applied a worldwide regime with deferral and foreign tax credit offsets to both corporate and individual taxpayers. The Act changes this to a participation exemption regime with a 100% dividends-received deduction (see below) that is only available to corporations.

Deduction for Foreign-Source Portion of Dividends

The current law taxing U.S. corporations on the foreign income distributed by their foreign subsidiaries is replaced under the new Act. For foreign corporation tax years beginning after 2017, the Act introduces a deduction for foreign dividends received by U.S. corporations. A domestic corporation that owns 10% of a foreign corporation receives a 100% deduction for the foreign-source portion of dividends. The foreign-source portion is the amount that bears the same ratio to the dividend as the subsidiary's undistributed foreign earnings bear to the subsidiary's total undistributed earnings.

Deduction for Foreign-Derived Intangible Income (FDII) and Global Intangible Low-Taxed Income (GILTI)

For tax years beginning in 2018 through 2026, a U.S. corporation is allowed a deduction, for the applicable tax year, equal to: 37.5% of the FDII of the U.S. Corporation, plus 50% of the GILTI amount included in the gross income of the U.S. Corporation. For tax years after calendar year 2025, the deduction for the applicable tax year will be 21.875% of the FDII of the U.S. Corporation, plus 37.5% of the GILTI amount included in the gross income of the U.S. Corporation.

Expanded Definition of a "U.S. Shareholder"

Previously, a U.S. Shareholder was defined as a person who owns 10% or more of the voting power of all stock classes with the power to vote. Under the new Act, the definition is broadened to include any U.S. person owning 10% or more of the total value of shares of stock classes of a foreign corporation.

Base Erosion and Anti-Abuse Tax

Previously, there was no minimum tax that was mandated to be paid on certain deductible payments to a foreign affiliate. For tax years beginning in 2018, some U.S. corporations with average gross receipts of $500 million will be required to pay "base erosion anti-abuse tax" (BEAT). BEAT is equivalent to the base erosion minimum tax amount for the applicable tax year.

Limitations on Income Shifting through Intangible Property Transfers

For transfers in tax years beginning in 2018, the Act focuses on recurring issues that have come into play in controversial transfers of intangible property. The Act states intangible property to be workforce in place, foreign and domestic goodwill, and going concern value. The Act also includes the residual category of any comparable item for which the value is not related to tangible property or individual services.

Denial of Deduction for Certain Related Party Payments

For tax years beginning in 2018, the Act repudiates a deduction for any disqualified related party amount paid or accrued with respect to a hybrid transaction or by, or to, a hybrid entity.

Disqualified Related Party Amount - Any interest or royalty paid or accrued to a related party as long as:

1. there is no parallel presence to the related party under the tax law of the related party's country of residence, or

2. the related party is allowed a deduction with respect to such amount under the tax law of their country of residence.

Hybrid Transaction - Interest or royalties paid or accrued that are not considered as such by the country of residence of the foreign recipient.

Hybrid Entity - Treated as fiscally transparent for federal income purposes only.

Surrogate Foreign Corporation Dividends Are Not Qualified

Dividends paid in tax years beginning in 2018 to individual shareholders are not taxed at the lower rates on qualified dividends. This only applies to dividends received by corporations that are a proxy foreign corporation, other than those considered to be a U.S. corporation, and which first became a foreign proxy subsequent to the enactment date.

Indirect Foreign Tax Credits Repealed

A U.S. corporate 10% owner of a foreign corporation was formerly allowed a credit for foreign taxes that the U.S. corporation was treated as having paid when the foreign-taxed income was distributed to the shareholder as a dividend.

After December 31, 2017, no foreign tax credit is allowed for any taxes (including withholding taxes) paid or accrued with respect to any dividend to which the deduction for the foreign-source portion of dividends applies. However, a foreign tax credit is allowed for any subpart F income that is included in the income of the U.S. shareholder on a current-year basis.

Election with Respect to Foreign Tax Credit Limitation

Previously, for purposes of the limitation on the foreign tax credit, a taxpayer with an overall domestic loss for any tax year could characterize as foreign-source income an amount equal to the lesser of the full amount of the loss to the extent not carried back, or 50% of the taxpayer’s U.S.-source taxable income for the succeeding tax year. For tax years beginning after 2017 and before 2028, the taxpayer may elect to apply an amount greater than the 50% above but less than 100% with respect to pre-2018 unused overall domestic losses.

Excise Tax on Insider Stock Compensation of Expatriated Corporations Increased

An excise tax applies to the value of stock compensation held by disqualified individuals if a corporation expatriates, and gain on any stock in the expatriated corporation is recognized by shareholders at the time of expatriation. Previously, the excise tax was 15% of the stock value; under the Act, the tax is 20% for corporations expatriating after the date of enactment.

Foreign-held earnings and profits

Pre-Act tax law deferred U.S. tax on foreign-held earnings and profits (E&P) until the income was repatriated. Under the Act, there will be deemed repatriation of previously untaxed E&P at a rate of 8% (noncash) or 15.5% (cash & equivalents), payable over eight years. There will be a clawback of this rate reduction if a company inverts within 10 years after the Act is enacted.

Intangible property

Previously, foreign-derived intangible income was untaxed. Under the act, such property is taxed at 20% with a 37.5% deduction through 2025, and then at 21.875%.

For more information or questions, please contact our tax professionals at taxalerts@windes.com or toll free at **844.4WINDES** (844.494.6337).

Individuals

Provision	2017	2018*
Income tax rates and brackets	• 10% - to $9,525 single/$19,050 MFJ • 15% - to $38,700/$77,400 • 25% - to $93,700/$156,150 • 28% - to $195,450/$237,950 • 33% - to $424,950/$424,950 • 35% - to $426,700/$480,050 • 39.6% - over $426,700/$480,050	• 10% - to $9,525 single/$19,050 joint • 12% - to $38,700/$77,400 • 22% - to $82,500/$165,000 • 24% - to $157,500/$315,000 • 32% - to $200,000/$400,000 • 35% - to $500,000/$600,000 • 37% - over $500,000/$600,000
"Kiddie tax"	• Child's net unearned income taxed at parent's rate if parent's rate higher than child's • Child's earned income taxed at single individual rate	• Child's net unearned income taxed per trust/estate brackets • Child's earned income taxed at single individual rate
Net investment and Medicare tax	• Plus 3.8% on net investment income • Plus 0.9% Medicare tax on income	No change
Standard deduction	$6,350/$12,700	$12,000/$24,000
Personal exemption	$4,050 for each household member	Suspended
Miscellaneous Itemized deductions	Total must exceed 2% of AGI to be deductible	Suspended
"Pease limit" on itemized deductions	Applies to AGI > $261,500/$313,800	Suspended
Child tax credit	• $1,000 credit per child under age 17 • Phased out for AGI > $75,000/ $110,000 • Refundable if credit exceeds tax owed via additional child tax credit	• $2,000 credit per child under age 17 and $500 per non-child dependent • Phased out for AGI > $200,000 / $400,000 • Refundable up to $1,400 per child
AMT	• 26%/28% on alternative minimum taxable income • Exemption: $54,300/$84,500 • Exemption phaseout starts at: $120,700/$160,900	• 26%/28% on alternative minimum taxable income • Exemption: $70,300/$109,400 • Exemption phaseout starts at: $500,000/$1,000,000
State/local and property tax deductions	Fully deductible	• Up to $10,000 of aggregate state/local and property taxes deductible • 2017 prepayments of 2018 state/local income tax treated as paid in 2018
Mortgage interest deduction	Interest deductible on first $1M of mortgage on primary or secondary residence, and first $100k of home equity debt	• Interest deductible on first $750,000 of mortgage on primary or secondary residence • No home equity debt deduction • Existing mortgages grandfathered

* Changes sunset December 31, 2025

Individuals (continued)		
Provision	**2017**	**2018***
Individual health insurance mandate (ACA)	Penalty applies for those who fail to maintain health coverage	No penalty
Unreimbursed medical expenses	Deductible subject to various AGI limits	Deductible subject to 7.5% of AGI limitation for 2017 and 2018; percentage increases to 10% in 2019
Charitable contributions	Deductible subject to various AGI limits	• Increased limitation for cash contributions from 50% to 60% • All other AGI limits unchanged
Personal casualty losses	Deductible subject to 10% of AGI	• Repealed except for losses from federally declared disaster areas. • Losses arising between 2018 and 2025 from 2016 federally declared disaster areas may be added to the standard deduction.
Excess business loss limitation	Excess farm losses for individuals limited	• Excess farm loss limitation replaced with limitation on excess business losses of an individual • Not allowed for tax year but carried forward as part of individual net operating loss (NOL)
Net operating loss deduction	2-year carryback / 20-year carryforward allowed to offset taxable income	• Limited to the lesser of 80% of taxable income (excluding NOLs) or the aggregate NOL carryforward/carryback for tax years after 2017 • Carryforwards unlimited • Carrybacks disallowed
Alimony	Payments deductible by payer and taxable to payee	• Not deductible to payer or taxable to payee • Applies to divorce agreements executed after 2018
§529 college savings accounts	Earnings subject to income and excise taxes if withdrawn for non-qualified higher education expenses	Qualified expenses expanded to include tuition at elementary or secondary public, private, or religious schools, and expenses associated with home schooling, up to $10,000 per tax year
Student loans discharged on death or disability	Included in gross income	Excluded from gross income if discharged on account of death or total permanent disability of the student
* Changes sunset December 31, 2025		

Estates and Trusts

Provision	2017	2018
Income tax rates and brackets*	• 15% - to $2,550 • 25% - to $6,000 • 28% - to $9,150 • 33% - to $12,500 • 39.6% - over $12,500	• 10% - to $2,550 • 24% - to $9,150 • 35% - to $12,500 • 37% - over $12,500
Estate and gift tax*	• Basic exclusion amount of $5.49M per taxpayer • 12 brackets topping out at 40% for taxable estates larger than $1M	• Exclusion increased to $11.2M per taxpayer • Brackets unchanged
Qualifying beneficiaries of an ESBT	• Eligible beneficiaries of an electing small business trust (ESBT) include individuals, estates, and certain charitable organizations eligible to hold S corporation stock directly • Nonresident aliens may not hold S corporation shares and therefore are not eligible ESBT beneficiaries	Nonresident alien individuals allowed to be current beneficiaries of an ESBT
Charitable contribution deduction for ESBTs	Deduction applicable to trusts for charitable contributions, rather than the deduction applicable to individuals, applies to an ESBT	Charitable contribution deduction of an ESBT is determined by individual rules, not trust rules: • Deduction limited to certain adjusted gross income (AGI) percentages allowed • Five-year carryforward of amounts in excess of limitation allowed

* Changes sunset December 31, 2025

Businesses		
Provision	**2017**	**2018**
Corporate income	• Eight brackets with a 35% top rate • Personal service corporations taxed at a 35% flat rate	• 21% flat rate • No special rate for personal service corporations
Passthrough income	Subject to owner's income tax rate	• 20% deduction for domestic business profits, limited to greater of (1) 50% of W-2 wages or (2) 25% of W-2 wages plus 2.5% of the unadjusted basis of qualified property after wage limitation phase-in • Specified service businesses generally not eligible, except for taxpayers with taxable income <$157.5k/$315k (deduction phased-out over the next $50k/$100k) • W-2 wage limitation phased in for taxpayers with taxable income >$157.5k/315k (over the next $50k/ $100k) • Special rules apply to certain income from PTPs and dividends from REITs • Trusts and estates are eligible for the deduction
Corporate dividends received deduction	70% deduction; 80% if received from a 20%-owned corporation	Reduced to 50% deduction and 65% deduction, effective for tax years beginning after 2017
Corporate AMT	20% on alternative minimum taxable income	• AMT repealed, effective for tax years beginning after 2017 • For tax years beginning in 2018 to 2020, AMT credit utilization limitation is increased by 50%, and AMT credit carryforward becomes a refundable credit • For tax years beginning in 2021, AMT credit utilization limitation is increased to 100%
Net operating loss deduction	2-year carryback and 20-year carryforward allowed to offset taxable income	• NOL carryback period is eliminated and NOL carryforward period is indefinite for NOLs arising in tax years ending after 2017 • NOL utilization is limited to 80% of taxable income for NOLs arising in tax years beginning after 2017 and before 2023

Businesses (continued)		
Provision	**2017**	**2018**
Capital expensing and cost recovery	• Modified Accelerated Cost Recovery System (MACRS)/ Alternative Depreciation System (ADS) with bonus depreciation or accelerated use of AMT credits • Additional first-year depreciation deduction allowed equal to 50% of the adjusted basis of qualified property acquired and placed in service before 2020	• 100% immediate expensing for qualified property placed in service from Sept. 27, 2017 through 2022, then phased down annually through 2026 (80% in 2023, 60% in 2024, 40% in 2025, 20% in 2026) • Phase out for property with longer production periods begins instead in 2024 • Qualified property includes used property acquired by the taxpayer, provided it was not used by the taxpayer before being acquired
Small business election to expense depreciable business assets	• Current deduction for eligible property allowed under §179 • $500k limit in a given year, phased out when the cost of qualifying property exceeds $2M	• Maximum current expense threshold increased to $1M, phased out when the cost of qualifying property exceeds $2.5M • Definition of qualified property to include all qualified improvement property and improvements to roofs, heating, ventilation, air conditioning property, fire protection and alarm systems, and security systems made to nonresidential real property
Manufacturing deduction (§199)	Up to a 9% deduction on qualified production activity income	Repealed
Like-kind exchanges	No gain or loss recognized for wide range of property held for productive use or investment	• No gain or loss recognition allowed only for real property not held primarily for sale • Transactions begun before 2018 can be completed
Research and experimentation (R&E) expenditures	May be immediately deducted or amortized over five years	Existing rules continue to apply, but expenditures from after 2021 are subject to amortization over 5/15 years for research conducted inside/outside the U.S.
Use of the cash method of accounting	Farming businesses, qualified personal service corporations and C corporations with annual gross receipts that do not exceed $5M can generally use the cash method of accounting	• Average gross-receipt threshold increased to $25M • Requirement that threshold must be satisfied for all prior years repealed
Deductibility and reporting of fines and penalties	No deductions for bribe payments, health care fraud, lobbying payments, and any fines paid to the government for breaking the law	Restitution exempted from nondeductibility
Self-created capital assets	Capital assets include self-created property such as certain copyright, literary, musical, artistic, or similar works	Self-created patents, inventions, models or designs, or secret formulas or processes excluded from qualifying as capital assets

Businesses (continued)		
Provision	**2017**	**2018**
Technical terminations of partnerships	Partnership terminates if, within a 12-month period, there is a sale or exchange of 50% or more of the total interests in partnership capital and profits	Repealed
Employer credit for paid family and medical leave	N/A	• Eligible employers permitted to claim a credit for 12.5% of wages paid to qualifying employees during any period in which such employees are on family and medical leave if the payment rate under the program is 50% of the wages normally paid to an employee • Credit increased by 0.25 percentage points (but not above 25%) for each percentage point by which the rate of payment exceeds 50% • Effective for wages paid in tax years beginning after 2017 and before 2020
Entertainment, etc. expenses	50% deduction for qualified expenses	Deduction disallowed, except: • No deduction for transportation fringe benefits, athletic facilities or personal amenities provided to employee not directly related to trade or business unless taxable compensation to the employee • 50% deduction for food and beverage expenses associated with the operation of a taxpayer’s trade or business • 50% limitation expanded to employer expenses associated with providing meals to employees as a de minimis fringe benefit under current law

International		
Provision	**2017**	**2018**
Regime type	• Worldwide regime with deferral and foreign tax credit offsets • Applies to corporations and individuals	• Participation exemption regime with 100% dividends received deduction • Only available to corporations
Foreign-held earnings and profits	US tax deferred until income is repatriated	• Deemed repatriation of previously untaxed E&P at rate of 8% (noncash) or 15.5% (cash & equivalents) • Clawback of rate reduction if company inverts within 10 years after bill enactment • Payable over eight years
Intangible property	N/A	20% tax on foreign-derived intangible income with 37.5% deduction through 2025, then 21.875%
Base-erosion prevention measures	Deferral limited for certain types of passive and mobile income	• 20% tax on “global intangible low-taxed income” with 50% deduction through 2025, then 37.5% • 10% “minimum tax” on taxable income in excess of deductible payments to related foreign parties • Deduction denied for interest or royalties paid on certain hybrid transactions if no corresponding inclusion to related party or if related party is allowed deduction

Compensation and Benefits		
Provision	**2017**	**2018**
Recharacterization of certain IRA and Roth IRA Contributions	Taxpayers permitted to recharacterize contributions and conversion of IRAs	Repealed, but recharacterization of regular, annual contributions will be permitted except for Roth IRA conversions
Qualified moving expense reimbursements	Excluded from income	Repealed except as applied to military moves
Employee achievement awards	• Excludable to the extent the employer can deduct the cost of the award (generally limited to $400 per employee) • Applies to tangible property given in recognition of length of service or safety achievement	• "Tangible property" defined to not include cash, cash equivalents, gifts cards, gift coupons, gift certificates, vacations, meals, lodging, tickets for theatre or sporting events, stock, bonds or similar items

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