

TAX CUTS AND JOBS ACT (TCJA) TAX REFORM UPDATE

Business Specific

EFFECTIVE 1/1/2018

The Tax Cuts and Jobs Act ("TCJA") changed deductions, depreciation, expensing, tax credits and other tax items that affect businesses. This side-by-side comparison can help businesses understand the changes and plan accordingly.

Deductions, depreciation and expensing

Changes to deductions, depreciation and expensing may affect a taxpayer's business taxes. [Publication 535](#), Business Expenses, and [Publication 946](#), How to Depreciate Property, explain many of these topics in detail.

Deductions

Deductions	2017 Law	What changed under TCJA
New deduction for qualified business income of pass-through entities	No previous law for comparison. This is a new provision.	This new provision, also known as Section 199A , allows a deduction of up to 20% of qualified business income for owners of some businesses. Limits apply based on income and type of business.
Limits on deduction for meals and entertainment expenses	A business can deduct up to 50% of entertainment expenses directly related to the active conduct of a trade or business or incurred immediately before or after a substantial and bona fide business discussion.	The TCJA generally eliminated the deduction for any expenses related to activities considered entertainment, amusement or recreation. However, under the new law, taxpayers can 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 beverages are not considered lavish or extravagant. The meals may be provided to a current or potential business customer, client, consultant or similar business contact. If provided during or at an entertainment activity, the food and beverages must be purchased separately from the entertainment, or the cost of the food or beverages must be stated separately from the cost of the entertainment on one or more bills, invoices, or receipts. Notice 2018-76 provides additional information on these changes.

Deductions	2017 Law	What changed under TCJA
New limits on deduction for business interest expenses	The deduction for net interest is limited to 50% of adjusted taxable income for firms with a debt-equity ratio above 1.5. Interest above the limit can be carried forward indefinitely.	<p>The change limits deductions for business interest incurred by certain businesses. Generally, for businesses with 25 million or less in average annual gross receipts, business interest expense is limited to business interest income plus 30% of the business's adjusted taxable income and floor-plan financing interest</p> <p>There are some exceptions to the limit, and some businesses can elect out of this limit. Disallowed interest above the limit may be carried forward indefinitely, with special rules for partnerships.</p>
Changes to rules for like-kind exchanges	Like-kind exchange treatment applies to certain exchanges of real, personal or intangible property.	<p>Like-kind exchange treatment now applies only to certain exchanges of real property.</p> <p>For more information, see Form 8824, Like-Kind Exchanges, and its instructions, as well as Publication 544, Sales and Other Disposition of Assets.</p>
Payments made in sexual harassment or sexual abuse cases	No previous law for comparison. This is a new provision.	No deduction is allowed for certain payments made in sexual harassment or sexual abuse cases.
Changes to deductions for local lobbying expenses	Although lobbying and political expenditures are generally not deductible, a taxpayer can deduct payments related to lobbying local councils or similar governing bodies.	TCJA repealed the exception for local lobbying expenses. The general disallowance rules for lobbying and political expenses now apply to payments related to local legislation as well.

Depreciation

Depreciation	2017 Law	What changed under TCJA
Temporary 100 percent expensing for certain business assets	<p>Certain business assets, such as equipment and buildings, are depreciated over time.</p> <p>Bonus depreciation for equipment, computer software, and certain improvements to nonresidential real property allows an immediate deduction of 50% for equipment</p>	<p>TCJA temporarily allows 100% expensing for business property acquired and placed in service after Sept. 27, 2017 and before Jan. 1, 2023.</p> <p>The 100% allowance generally decreases by 20% per year in taxable years beginning after 2022 and expires Jan. 1, 2027.</p>

Depreciation	2017 Law	What changed under TCJA
	<p>placed in service in 2017, 40% in 2018, and 30% in 2019.</p> <p>Long-lived property generally is not eligible. The phase down is delayed for certain property, including property with a long production period.</p>	<p>The law now allows expensing for certain film, television, and live theatrical productions, and used qualified property with certain restrictions.</p> <p>For more information, see Tax Reform: Changes to Depreciation Affect Businesses Now and New 100-percent depreciation deduction for businesses.</p>
<p>Changes to rules for expensing depreciable business assets (section 179 property)</p>	<p>A taxpayer can expense the cost of qualified assets and deduct a maximum of \$500,000, with a phaseout threshold of \$2 million.</p> <p>Generally, qualified assets consist of machinery, equipment, off-the-shelf computer software and certain improvements to nonresidential real property.</p>	<p>TCJA increased the maximum deduction to \$1 million and increased the phase-out threshold to \$2.5 million.</p> <p>It also modifies the definition of section 179 property to allow the taxpayer to elect to include certain improvements made to nonresidential real property.</p> <p>Publication 946, How to Depreciate Property, and the Additional First Year Depreciation Deduction (Bonus) FAQs provide additional resources on this topic.</p>
<p>Changes to depreciation of luxury automobiles</p>	<p>There are limits on depreciation deductions for owners of cars, trucks and vans.</p>	<p>TCJA increased depreciation limits for passenger vehicles. If the taxpayer doesn't claim bonus depreciation, the greatest allowable depreciation deduction is:</p> <ul style="list-style-type: none"> • \$10,000 for the first year, • \$16,000 for the second year, • \$9,600 for the third year, and • \$5,760 for each later taxable year in the recovery period. <p>If a taxpayer claims 100% bonus depreciation, the greatest allowable depreciation deduction is \$18,000 for the first year, and the same as above for later years.</p>
<p>Changes to listed property</p>	<p>Computers and peripheral equipment are categorized as listed property. Their deduction and depreciation is subject to strict substantiation requirements.</p>	<p>TCJA removes computer or peripheral equipment from the definition of listed property.</p>
<p>Changes to the applicable recovery period for real property</p>	<p>The General Depreciation System (GDS) and the Alternative Depreciation System (ADS) of the Modified Accelerated Cost Recovery</p>	<p>The general depreciation system recovery periods are still 39 years for nonresidential real property and 27.5 years for residential rental property. The alternative depreciation system</p>

Depreciation	2017 Law	What changed under TCJA
	System (MACRS) provide that the capitalized cost of tangible property is recovered over a specified life by annual deductions for depreciation.	recovery period for nonresidential real property is still 40 years. However, TCJA changes the alternative depreciation system recovery period for residential rental property from 40 years to 30 years. Qualified leasehold improvement property, qualified restaurant property and qualified retail improvement property are no longer separately defined and given a special 15-year recovery period under the new law.

Businesses with employees: Changes to fringe benefits and new credit

For businesses that have employees, there are changes to [fringe benefits](#) and a new tax credit that can affect a business's bottom line.

Fringe benefit	2017 law	What changed under TCJA
Suspension of the exclusion for qualified bicycle commuting reimbursements	Up to \$20 per month in employer reimbursement for bicycle commuting expense is not subject to income and employment taxes of the employee.	Under TCJA, employers can deduct <u>qualified bicycle commuting reimbursements</u> as a business expense. Employers must now include 100% of these reimbursements in the employee's wages, subject to income and employment taxes.
Suspension of exclusion for qualified moving expense reimbursements	An employee's moving expense reimbursements are not subject to income or employment taxes.	Under TCJA, employers must include <u>moving expense reimbursements</u> in employees' wages, subject to income and employment taxes. Generally, members of the U.S. Armed Forces can still exclude qualified moving expense reimbursements from their income.
Prohibition on cash, gift cards and other non-tangible personal property as employee achievement award	Employers can deduct the cost of certain employee achievement awards. Deductible awards are excludible from employee income.	Special rules allow an employee to exclude certain <u>achievement awards</u> from their wages if the awards are tangible personal property. An employer also may deduct awards that are tangible personal property, subject to certain deduction limits. TCJA clarifies that tangible personal property doesn't include cash, cash equivalents, gift cards, gift coupons, certain gift certificates, tickets to theater or sporting events, vacations, meals, lodging, stocks, bonds, securities, and other similar items.

Tax Credit	2017 law	What changed under TCJA
New employer credit for paid family and medical leave	No previous law for comparison. This is a new provision.	<p>The TCJA added a new tax credit for employers that offer paid family and medical leave to their employees.</p> <p>The credit applies to wages paid in taxable years beginning after December 31, 2017, and before January 1, 2020.</p> <p>The credit is a percentage of wages (as determined for Federal Unemployment Tax Act (FUTA) purposes and without regard to the \$7,000 FUTA wage limitation) paid to a qualifying employee while on family and medical leave for up to 12 weeks per taxable year. The percentage can range from 12.5% to 25%, depending on the percentage of wages paid during the leave.</p> <p>For more information on the new credit, see Notice 2018-71 and New credit benefits employers who provide paid family and medical leave.</p>

Business structure and accounting methods

An organization's business structure is an important consideration when applying tax reform changes. The Tax Cuts and Jobs Act changed some things related to these topics.

Business structure topic	2017 law	What changed under TCJA
Changes to cash method of accounting for some businesses	Small business taxpayers with average annual gross receipts of \$5 million or less in the prior three-year period may use the cash method of accounting.	<p>The TCJA allows small business taxpayers with average annual gross receipts of \$25 million or less in the prior three-year period to use the cash method of accounting. The law expands the number of small business taxpayers eligible to use the cash method of accounting and exempts these small businesses from certain accounting rules for inventories, cost capitalization and long-term contracts. As a result, more small business taxpayers can change to cash method accounting starting after Dec. 31, 2017.</p> <p>Revenue Procedure 2018-40 provides further details on these changes.</p>

Business structure topic	2017 law	What changed under TCJA
Changes regarding conversions from an S corporation to a C corporation	<p>In the case of an S corporation that converts to a C corporation:</p> <ul style="list-style-type: none"> • Net adjustments that are needed to prevent amounts from being duplicated or omitted as a result of an accounting method change and attributable to the revocation of the S corporation election (e.g. adjustments required because of a required change from the cash method to an accrual method): net adjustments that decrease taxable income generally were taken into account entirely in the year of change, and net adjustments that increase taxable income generally were taken into account ratably during the four-taxable-year period beginning with the year of change. • Distributions of cash by the C corporation to its shareholders during a post-termination transition period (generally one year after the conversion) are, to the extent of stock basis tax-free, then capital gain to the extent of remaining accumulated adjustments account (AAA). Distributions more than AAA are treated as dividends coming from accumulated Earnings and Profits (E&P). Distributions after that period are dividends to the extent of E&P and taxed as dividends. 	<p>The TCJA makes two modifications to existing law for a C corporation that (1) was an S corporation on Dec. 21, 2017 and revokes its S corporation election after Dec. 21, 2017, but before Dec. 22, 2019, and (2) has the same owners of stock in identical proportions on the date of revocation and on Dec. 22, 2017.</p> <p>The following modifications apply to these entities:</p> <ul style="list-style-type: none"> • The period for including net adjustments that are needed to prevent amounts from being duplicated or omitted as a result of an accounting method change and attributable to the revocation of the S corporation election is changed to six years. This six-year period applies to net adjustments that decrease taxable income as well as net adjustments that increase taxable income. • Distributions of cash following the post-termination transition period are treated as coming out of the corporation's AAA and E&P proportionally. <p>See Revenue Procedure 2018-44 for more detailed information.</p>

Businesses or individuals that rehabilitate historical buildings

Topic	2017 law	What changed under TCJA
Changes to the rehabilitation tax credit	Owners of certified historic structures were eligible for a tax credit of 20% of qualified rehabilitation expenditures.	<p>TCJA keeps the 20% credit for qualified rehabilitation expenditures for certified historic structures but requires that taxpayers take the 20% credit over five years instead of in the year they placed the building into service.</p> <p>The 10% credit for pre-1936 buildings is repealed under TCJA.</p>

Topic	2017 law	What changed under TCJA
	Owners of pre-1936 buildings were eligible for a tax credit of 10% of qualified rehabilitation expenditures.	

Opportunity for tax-favored investments

Opportunity Zones are a tool designed to spur economic development and job creation in distressed communities. Businesses or individuals can participate.

Topic	2017 law	What changed under TCJA
Opportunity Zones	No previous law for comparison. This is a new provision.	<p>Investments in Opportunity Zones provide tax benefits to investors. Investors can elect to temporarily defer tax on capital gains that are reinvested in a Qualified Opportunity Fund (QOF). The tax on the gain can be deferred until the earlier of the date on which the QOF investment is sold or exchanged, or Dec. 31, 2026. If the investor holds the investment in the QOF for at least ten years, the investor may be eligible for a permanent exclusion of any capital gain realized by the sale or exchange of the QOF investment.</p> <p>For more information, see Notice 2018-48 and Revenue Procedure 2018-16.</p>

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TAX REFORM UPDATE

EMPLOYER SPECIFIC

EFFECTIVE 1/1/2018

Bicycle Commuting Reimbursements No Longer Excluded from Employees' Income but Still Deductible by Employers

Under the new tax law, employers can deduct qualified bicycle commuting reimbursements as a business expense for 2018 through 2025.

The new tax law suspends the exclusion of qualified bicycle commuting reimbursements from an employee's income for 2018 through 2025. Employers must now include these reimbursements in the employee's wages.

Exclusion from Income of Qualified Moving Expense Reimbursements

Per a transition rule in the new law, reimbursements an employer pays to an employee in 2018 for qualified moving expenses incurred in a prior year aren't subject to federal income or employment taxes. The same is true if the employer pays a moving company in 2018 for qualified moving services provided to an employee prior to 2018. To qualify, reimbursements or payments must be for work-related moving expenses that would have been deductible by the employee if the employee had directly paid them before Jan. 1, 2018. The employee must not have deducted them in 2017. For more information on the 2017 rules, see Form 3903 or Publication 521.

Employers who have included these payments in individuals' wages or compensation, can take steps to correct employment taxes for overpayment of taxes withheld. For more information about correcting employment taxes, see:

- Publication 15 (Circular E), Employer's Tax Guide, and
- The instructions for Form 941-X, Adjusted Employer's Quarterly Federal Tax Return or Claim for Refund

Qualified Moving Expenses Reimbursements No Longer Excluded from Employees' Income, with Two Exceptions

For 2018 through 2025, employers must include moving expense reimbursements in employees' wages. The new tax law suspends the exclusion for qualified moving expense reimbursements.

Exception 1: Members of the U.S. Armed Forces can still exclude qualified moving expense reimbursements from their income if:

- They are on active duty
- They move pursuant to a military order and incident to a permanent change of station
- The move expenses would qualify as a deduction if the employee didn't get a reimbursement

Exception 2: Employers may exclude from wages any 2018 reimbursements to or payments on behalf of employees for moving expenses incurred for a move that took place prior to January 1, 2018, and which would have been deductible had they been paid prior to that date. See [Notice 2018-75](#).

Employee Achievement Award — Tangible Personal Property Defined

Special rules allow an employee to exclude certain achievement awards from their wages if the awards are tangible personal property. An employer also may deduct awards that are tangible personal property, subject to certain deduction limits.

The new law clarifies that tangible personal property doesn't include cash, cash equivalents, gift cards, gift coupons, certain gift certificates, tickets to theater or sporting events, vacations, meals, lodging, stocks, bonds, securities, and other similar items.

<https://www.irs.gov/newsroom/employer-update>