

# Contemporary Planning Strategies After the Tax Cuts and Jobs Act of 2017

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# Agenda

- New Tax Rates for Individuals, Estates, and Trusts
- Eight Other Big Income Tax Changes for Individuals
- Understanding the New Qualified Business Income Deduction
- Overview of Estate and Gift Tax Changes
- New Estate Planning Paradigms for Married Couples

# Federal Income Tax Brackets – Individuals, Estates, and Trusts – ORDINARY INCOME

## Federal Income Tax Brackets for Individuals, Estates, and Trusts – ORDINARY INCOME

PRE-TAX CUTS AND JOBS ACT*				POST-TAX CUTS AND JOBS ACT (THROUGH 2025)			
2018 Taxable Income Exceeding				2018 Taxable Income Exceeding			
Single	Married	Trusts and Estates	Rate	Single	Married	Trusts and Estates	Rate
\$0	\$0		10%	\$0	\$0	\$0	10%
\$9,525	\$19,050	\$0	15%	\$9,525	\$19,050		12%
\$38,700	\$77,400	\$2,600	25%	\$38,700	\$77,400		22%
\$93,700	\$156,150	\$6,100	28%	\$82,500	\$165,000	\$2,550	24%
\$195,450	\$237,950	\$9,300	33%	\$157,500	\$315,000		32%
\$424,950	\$424,950		35%	\$200,000	\$400,000	\$9,150	35%
\$426,700	\$480,050	\$12,700	39.6%	\$500,000	\$600,000	\$12,500	37%

\* From Revenue Procedure 2017-58, issued October 19, 2017.

# Federal Income Tax Brackets – Individuals, Estates, and Trusts – CAP GAIN/DIVIDEND

## Federal Income Tax Brackets for Individuals, Estates, & Trusts – CAPITAL GAINS & DIVIDENDS

PRE-TAX CUTS AND JOBS ACT*				POST-TAX CUTS AND JOBS ACT (THROUGH 2025)			
2018 Taxable Income Exceeding			Cap Gain Rate	2018 Taxable Income Exceeding			Cap Gain Rate
Single	Married	Trusts and Estates	Cap Gain Rate	Single	Married	Trusts and Estates	Cap Gain Rate
\$0	\$0	\$0	0%	\$0	\$0	\$0	0%
\$38,700	\$77,400	\$2,600	15%	\$38,600	\$77,200	\$2,600	15%
AGI > \$200,000	AGI > \$250,000		18.8%	AGI > \$200,000	AGI > \$250,000		18.8%
\$426,700	\$480,050	\$12,700	23.8%	\$425,800	\$479,000	\$12,700	23.8%

\* From Revenue Procedure 2017-58, issued October 19, 2017.

# Eight Other Big Income Tax Changes for Individuals:

## (1) Fatter Standard Deduction

2018 Standard Deduction Pre-Tax Cuts and Jobs Act	Filing Status	2018 Standard Deduction Post-Tax Cuts and Jobs Act
\$13,000	<b>Married Filing Jointly</b>	\$24,000
\$9,550	<b>Head of Household</b>	\$18,000
\$6,500	<b>Unmarried</b>	\$12,000
\$6,500	<b>Married Filing Separately</b>	\$12,000

# Eight Other Big Income Tax Changes for Individuals:

## (2) Goodbye Personal Exemptions

2018 Personal Exemption Pre-Tax Cuts and Jobs Act	Status	2018 Personal Exemption Post-Tax Cuts and Jobs Act
\$4,150*	Individual	--
\$4,150*	Dependent	--
\$600	Estate	\$600
\$300	Simple Trust	\$300
\$100	Complex Trust	\$100

\* Subject to income-based phase out

# Eight Other Big Income Tax Changes for Individuals:

## (3) Child Tax Credit Reform

Child Credit Feature	Pre-Tax Cuts and Jobs Act	Post-Tax Cuts and Jobs Act
Credit Amount	\$1,000 per child	\$2,000 per child \$500 per other dependent
Phaseout Begins When AGI Exceeds...		
Unmarried & Head of House Joint Filers	\$75,000 \$110,000	\$200,000 \$400,000
Phaseout Complete When AGI Hits...		
Unmarried & Head of House Joint Filers	\$95,000 \$130,000	\$240,000 \$440,000
Refundable Portion	15% of earned income in excess of \$3,000	15% of earned income in excess of \$2,500, not to exceed \$1,400 per child (as adjusted for inflation)

# Eight Other Big Income Tax Changes for Individuals:

## (4) Changes to Home Mortgage Interest Deduction

### OLD RULES

Deduct interest on up to \$1 million  
in ACQUISITION DEBT

Deduct interest on up to \$100,000  
in HOME EQUITY DEBT

11/15 of the  
interest is  
deductible

EXAMPLE: T borrows \$1.5  
million to purchase home

### 2018 - 2025

Deduct interest on up to \$750,000  
in ACQUISITION DEBT (if debt  
incurred after 12/15/2017)

NO DEDUCTION for interest on  
HOME EQUITY DEBT

1/2 of the  
interest is  
deductible



# Eight Other Big Income Tax Changes for Individuals:

## (5) Changes to Deduction for State and Local Taxes

EXAMPLE: Taxpayer pays

- \$5,000 property tax on house
- \$10,000 state income tax
- \$13,000 state sales tax

2017 DEDUCTION

**\$18,000**

(property tax + sales tax)

2018 DEDUCTION

**\$10,000**

(cap)

# Eight Other Big Income Tax Changes for Individuals:

## (6) Deduction Threshold for Medical Expenses

Year	Medical Expense Deduction Threshold (AGI percentage)
Through 2012	7.5%
2013 – 2016	10% (7.5% if age 65+)
2017 – 2018	7.5%
2019 and beyond	10%

# Eight Other Big Income Tax Changes for Individuals:

## (7) Tax Treatment of Alimony

**OLD RULE** → “Alimony” is gross income to the recipient and deductible (above the line) by the payor

**NEW RULE** (for divorce or separation instruments executed AFTER 2018 or for pre-existing instruments modified AFTER 2018 expressly providing the new rule applies) → “Alimony” is *not* gross income to the recipient *nor* deductible by the payor

# Eight Other Big Income Tax Changes for Individuals:

## (8) No More Miscellaneous Itemized Deductions

**OLD RULE** → “Miscellaneous itemized deductions” deductible only to the extent they exceed (in the aggregate) 2% of adjusted gross income

**NEW RULE (2018 – 2025)** → “Miscellaneous itemized deductions” **DISALLOWED**

Examples: (1) safe deposit box rentals; (2) hobby expenses; (3) fees paid for appraisals in connection w/ losses and charitable contributions; (4) fees paid for tax advice and tax return preparation; and (5) unreimbursed business expenses of employees

# Executive Summary: §199A Deduction for Qualified Business Income

## (1) Who Qualifies

- Partner in a “partnership”
  - Shareholder in an S corporation
  - Sole proprietor engaged in a trade or business
- 
- C corporation shareholders DO NOT QUALIFY
  - Employees DO NOT QUALIFY

# Executive Summary: §199A Deduction for Qualified Business Income

(2) **Taxable Income Zones** – Eligibility for (and the amount of) the deduction depend on taxable income (w/o regard to §199A)

## **ZONE 1:**

**Taxable income does not exceed \$157,500 (\$315,000 for MFJ)**

## **ZONE 2:**

**Taxable income \$157,500 – 207,500 (\$315,000 – 415,000)**

## **ZONE 3:**

**Taxable income more than \$207,500 (\$415,000 for MFJ)**

# Executive Summary: §199A Deduction for Qualified Business Income

## (3) Specified Service Businesses

- Services in the fields of health, law, accounting, actuarial science, performing arts, consulting, athletics, financial services, or brokerage services
- Business's principal asset is the reputation or skill of 1+ employees or owners
- Services consisting of investing and investment management, trading, or dealing in securities, partnership interests, or commodities.

**ZONE 2:  
Deduction  
phases out**

**ZONE 3:  
No deduction**

# Executive Summary: §199A Deduction for Qualified Business Income

(4) Must be Engaged in Conduct of United States Trade or Business

(5) Deduction Amount

Do this for  
each trade  
or business!

**ZONE 1:**

**20% of QBI**

**ZONE 2:**

**20% of QBI, reduced  
if 50% of “wage-basis  
limit” is less**

**ZONE 3:**

**20% of QBI or, if less,  
50% of the “wage-  
basis limit”**



# Executive Summary: §199A Deduction for Qualified Business Income

## (6) Qualified Business Income

- Net amount of items of income, gain, loss, and deduction from an eligible trade or business, *except for* items of capital gain and loss, and certain dividends from REITs, cooperatives, and publicly-traded partnerships
- If the net amount from all eligible businesses is a net loss, that net loss carries over to the next taxable year as a loss from a separate qualified trade or business

# Executive Summary: §199A Deduction for Qualified Business Income

## (7) The “Wage-Basis Limit”

The *greater* of:

- 50% of W-2 wages paid by business to employees; or
- 25% of W-2 wages paid *plus* 2.5% of unadjusted basis immediately after acquisition of all depreciable property used in the business still on hand at year end

# Executive Summary: §199A Deduction for Qualified Business Income

## (8) Trusts and Estates –

- Estates and trusts with interests in partnerships and S corporations are eligible for the deduction
- The Act instructs Treasury to issue regulations explaining how the deduction is to be apportioned between fiduciaries and beneficiaries

(9) **Sunrise, Sunset** - The deduction applies in taxable years that begin after 2017 and before 2026

# Wealth Transfer Tax Changes



“I think not having the estate tax recognizes the people that are investing, as opposed to those that are just spending every darn penny they have, whether it’s on booze or women or movies.” - Iowa Sen. Chuck Grassley, December 2, 2017

- Increase basic exclusion amount to \$10 million, adjusted for post-2011 inflation, starting in 2018
- Retain complete step-up in basis for property acquired from a decedent
- Revert to \$5 million exclusion, adjusted for post-2011 inflation, starting in 2026
- Estimated 10-year revenue cost from “doubling” the exclusion = \$83 billion

# PLANNING PARADIGMS FOR MARRIED COUPLES



**BUCKET ONE**  
Up to \$11.18 million



**BUCKET TWO**  
\$11.18 - \$22.36 million



**BUCKET THREE**  
\$22.36+ million

# PLANNING PARADIGMS FOR MARRIED COUPLES



**BUCKET ONE**  
Up to \$11.18 million

- TRUST OR NO TRUST?
- STEPPED-UP BASIS FOR EVERYTHING
  - Outright gift
  - Trust with general power of appointment
  - QTIP trust
- PROTECTIVE PORTABILITY ELECTION

# PLANNING PARADIGMS FOR MARRIED COUPLES



## BUCKET TWO

\$11.18 – 22.36 million

- TRUST OR NO TRUST?
- If NO TRUST (outright gift)
  - All to surviving spouse
  - Disclaimed amounts pass to credit shelter trust
- If TRUST
  - *Clayton* QTIP
  - Unelected amounts pour into credit shelter trust

# PLANNING PARADIGMS FOR MARRIED COUPLES



**BUCKET THREE**  
\$22.36+ million

- KEEP CALM AND CARRY ON
  - Valuation discount planning
  - Charitable planning
- BUSINESS SUCCESSION PLANNING FOR PASS-THROUGH ENTITIES