**SUPPLEMENT TO ACCOMPANY**

**INDIVIDUAL TAXATION**

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**Tax Cuts and Jobs Act of 2017**

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**Van-Griner**

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**INTRODUCTION**

On December 22, 2017, President Trump signed into law the *Tax Cuts and Jobs Act* (the Act) that represents the most comprehensive overhaul of the tax law in over 30 years. The Act extends to virtually every area of the law, impacting not only individuals but businesses as well. As discussed in this supplement, the Act eliminates or changes many rules that have long been a part of the tax landscape, and, at the same time, adds many new provisions.

This supplement updates the text for these revisions as well as other items of note since publication. These changes are reflected in the following pages and are referenced to the 2018 edition by chapter and page.

In order to comply with budget rules, Congress made most changes effective for tax years beginning after December 31, 2017 and before January 1, 2026. In effect, existing law is suspended until 2026. However, it is anticipated that the suspension is merely temporary and the changes ultimately will become permanent. For this reason, the supplement does not make the distinction and assumes the changes are permanent unless otherwise noted.

 Highlights of the *Tax Cuts and Jobs Act* (P.L. 115-97, 12/22/2017)

* The Act reduces the tax rates for all taxpayers, both individuals and businesses.
* The new law retains seven marginal tax rates for individuals. However, these individual rates are reduced and the spreads of the tax brackets are wider.

 **2017**: 10%, 15%, 25%, 28%, 33%, 35%, 39.6%
 **2018**: 10%, 12%, 22%, 24%, 32%, 35%, 37.0%

* The graduated rates for all C corporations are eliminated and replaced by a single flat rate of 21%, down from the top rate of 35%.
* To address the disparity between the rates for C corporations and flow-thru businesses (partnerships, S corporations, self-employed individuals and certain rental activities), flow-thrus are entitled to a special deduction generally equal to 20% of their “qualified business income.”
* The tax rates for dividends and capital gains remain at 0%, 15% and 20%.
* The deduction for personal and dependent exemptions is eliminated. Trusts also lose their exemption deduction of $300 for a simple trust and $100 for a complex trust. Nevertheless, the rules for identifying dependents are retained to be used for other purposes of the law (e.g., child tax credit, head of household, surviving spouse).
* The child tax credit is doubled from $1,000 to $2,000 and up to $1,400 is refundable.
* The standard deduction (shown below) is increased substantially, reducing the number of taxpayers that will itemize deductions.

 2018 2017
Individuals $12,000 $ 6,350
Joint returns 24,000 12,700
Head of household 18,000 9,350

* The increases to the standard deduction for the elderly and blind are maintained.
* The phase-out for itemized deductions is eliminated.
* Under the revised kiddie tax rules, the child’s tax on unearned income (including dividend and long-term capital gains) is computed using the tax rates for estates and trusts rather than those of his or her parents.
* For divorces after 2018, alimony is no longer deductible and is not taxable to the recipient.
* The deduction for moving expenses is eliminated. Reimbursements for an employee’s moving expenses would be considered taxable income with no offsetting deduction.
* The deduction for qualified tuition and related expenses expired for tax years after 2017 and was not extended.
* The floor at which unreimbursed medical expenses are not deductible drops from 10% to 7.5% of AGI.
* The itemized deductions for real and personal property taxes as well as state and local income and sales taxes are now combined and limited to a maximum of $10,000. Up to $10,000 will be added back for alternative minimum tax purposes.
* Foreign real property taxes may not be deducted.
* The mortgage interest deduction continues for both a principal and second residence but is limited to the interest on mortgage loans not more than $750,000 (down from $1,000,000, although the $1,000,000 amount continues for home mortgages obtained before December 15, 2017).
* The deduction for interest on home equity loans is eliminated. Interest on existing home equity loans was not grandfathered and is nondeductible.
* The charitable contribution deduction was retained and the limitation on the total deductible contributions was increased from 50% to 60% of adjusted gross income. Amounts paid to colleges and universities for athletic seating rights no longer qualify as a charitable contribution deduction.
* The Act eliminates the 50% deduction for the costs of entertainment directly related to or associated with business (e.g., taking a prospect out to lunch or to a ballgame). In addition, no deduction is allowed for the costs of amusement or recreational activities or facilities (e.g., golf outings with clients, tickets to sporting events or Broadway plays). As under prior law, food or beverage expenses associated with operating a business, such as meals consumed by employees while traveling for business purposes are still deductible subject to the 50% disallowance rule.
* Under the new law, only 50% of the costs of food and beverages for employees at a corporate snack bar or an in-house cafeteria are deductible.
* The Act clarifies that employee achievement awards shall not include cash, cash equivalents gift cards or gift certificates (unless redeemable for tangible personal property from a limited array of pre-approved items by the employer) nor vacations, meals, lodging, tickets to theater or sporting events, stocks, bonds, other securities, and other similar items.
* Under the new law, employers may not deduct any expense incurred for providing transportation or any payment or reimbursement to an employee for commuting except as necessary for ensuring the safety of the employee.
* Individuals generally can no longer deduct casualty losses unless they occurred in a federally declared disaster area.
* Deductions for all miscellaneous itemized deductions including unreimbursed employee business expenses and such items as home office expenses, investment advisory expenses and tax preparation expenses, are eliminated.
* The alternative minimum tax is maintained for individuals (with higher exemptions) but eliminated for C corporations.
* Under the amended bonus depreciation rules, most businesses can immediately expense 100% of the cost of qualified property. The new law eliminates the rule that bonus depreciation is available only if the “original use” of the property began with the taxpayer. So now both new and used property can be expensed.
* The amount of depreciable tangible personal property that can be expensed in the year of acquisition under § 179 is increased to $1,000,000 and begins its dollar for dollar phase-out at $2,500,000. The Act also extends the use of § 179 to certain building improvements.
* The annual depreciation limits on passenger automobiles are increased.
* Net operating loss (NOL) carryovers or carrybacks are deductible only to the extent of 80% of the taxpayer's taxable income. NOLs normally can only be carried forward.
* Under a new rule, the amount of net business losses of a sole proprietorship, partnership, or S corporation that can be deducted on an owner’s return is limited to $500,000 (joint return) or $250,000 (all other returns).
* Funds in a § 529 college savings account can now be used for elementary and high school expenses (e.g., home schooling, private or religious school tuition)
* The Act restricts the use of the like-kind exchange rules solely to exchanges of real property and not tangible personal property (e.g., vehicles and equipment) To the extent of any trade-in value, a taxable exchange would result. But, this increased basis (i.e., not just any boot paid, but the trade-in value of the now taxable exchange) could be offset by either Sec. 179 or bonus depreciation on the newly-acquired property.
* The deduction under § 199 related to domestic production and manufacturing activities is eliminated.
* The estate tax exemption is doubled and after appropriate inflation adjustments for 2018 is expected to be about $11,200,000 million (effectively is $22,400,000 for a married couple.
* The gift tax exclusion increased under the normal inflation adjustment rules to $15,000.
* Proposed changes relating to the following items were not made and, therefore, the treatment remains the same as under prior law: child and dependent care credit; deduction for student loan interest; exclusion for employer provided education assistance and employer provided housing; educational credits (American Opportunity Tax Credit (the Hope Scholarship Credit) and the Lifetime Learning Credit; gain on the sale of personal residence, adoption exclusion and credit.

CHAPTER 1: AN OVERVIEW OF FEDERAL TAXATION

**Page 1-8 Marginal Tax Rates.** The Act reduced the rates for all individual taxpayers as shown below.

 **2017**: 10%, 15%, 25%, 28%, 33%, 35%, 39.6%
 **2018**: 10%, 12%, 22%, 24%, 32%, 35%, 37.0%

**Tax Rate Schedules.** The tax rate schedules for 2018 are below. Note that the brackets for joint return are exactly twice the size of those for single taxpayers, except for the 35% and 37% rates.

 2018 Single

 If taxable income is % on Of the
Over But not over The tax is + Excess Amount over

$ 0 $ 9,525 $ 0.00 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% 200,00
 500,000 150,689.50 37% 500,000

# 2018 Married Filing Jointly and Surviving Spouses

 If taxable income is % on Of the
Over But not over The tax is + Excess Amount over

$ 0 $ 19,050 $ 0.00 10% $ 0
 19,050 77,400 1,905.00 12% 19,050
 77,400 165,000 8,907.00 22% 77,400
 165,000 315,000 28,179.00 24% 165,000
 315,000 400,000 64,179.00 32% 315,000
 400,000 600,000 91,379.00 35% 400,000
 600,000 161,379.00 37% 600,000

# 2018 Head of Household

 If taxable income is % on Of the
Over But not over The tax is + Excess Amount over

$ 0 $ 13,600 $ 0.00 10% $ 0
 13,600 51,800 1,360.00 12% 13,600
 51,800 82,500 5,944.00 22% 51,800
 82,500 157,500 12,698.00 24% 82,500
 157,500 200,000 30,698.00 32% 157,500
 200,000 500,000 44,298.00 35% 200,000
 500,000 149,298.00 37% 500,000

# 2018 Married Filing Separately

 If taxable income is % on Of the
Over But not over The tax is + Excess Amount over

$ 0 $ 9,525 $ 0.00 10% $ 0
 9,525 51,800 1,360.00 12% 9,525
 38,700 82,500 5,944.00 22% 51,800
 82,500 157,500 12,698.00 24% 82,500
 157,500 200,000 30,698.00 32% 157,500
 200,000 300,000 44,298.00 35% 200,000
 300,000 149,298.00 37% 500,000

2018 Estates and Trusts
 If taxable income is % on Of the
Over But not over The tax is + Excess Amount over

$0 $ 2,550 $ 0.00 10% $ 0
 2,550 9,150 225.00 24% 2,550
 9,150 12,500 1,839.00 35% 9,150
 12,500 3,011.50 37% 12,500

**Example 6.** The amounts in this example change due to the reduction of the tax rates in 2018.

H, an unmarried taxpayer, has taxable income of $67,000 for 2018*.* Referring to tax rate for single taxpayer (not a head of household), an unmarried taxpayer with tax­able income of $67,000 has a tax of $10,679.50 as computed below. H’s marginal tax rate is 22 percent.

2018 tax on $38,700. . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . $ 4,453.50
Plus: Tax on income above $38,700: ([$67,000 − $38,700 = $28,300] × 22%). . . . . . . . . . . . . . . . 6,226.00 Tax liability. . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . $10,679.50

Compare this tax to the 2017 tax in the text. The tax for 2018, $10,679.50, has been reduced by the new law by $1,809.25 ($12,488.75 - $10,679.50).

**Page 1-9**

Corporate tax rates for 2018 and beyond are no longer progressive. The corporate income tax is now a flat rate of 21% and long term capital gains are taxed at the same rates.

**Example 8.** K, unmarried, has 2018 taxable income of $85,000 and pays a tax of $14,689.50. Although her marginal tax rate is 22 percent, K’s average tax rate is only 17.28% ($14,689.50 ÷ $85,000).

**Page 1-10**

**Example 9.** Assume the same facts as in *Example 8* above except that K’s total economic income is $100,000, the $15,000 difference between total income and taxable income being attributable to exclusions and deductions (e.g., interest on tax-exempt bonds and the standard deduction). In such case, K would pay taxes at an effective rate of 14.69% [$14,689.50 ÷ $100,000)].

 **Page 1-13**

**EXHIBIT 1-3.** The Act eliminated the deduction for personal and dependent exemptions. As a result, the calculation of taxable income is modified.

**Page 1-14**

For purposes of computing the estate and gift tax, the Act increases the exemption amount for 2018 to $11,200,000 (effectively $22,400,000 for married couples).

**Page 1-15**

The annual gift tax exclusion is adjusted annually for inflation and rises to $15,000 in 2018. Thus a husband and wife can give up to $30,000 tax free (i.e., without using any of their exemption).

The gift tax exemption is the same as for the estate tax. The Act increases it for 2018 to $11,200,000.

**Page 1-15**

The Act increases the unified credit to $4,425,800, which effectively shelters $11,200,000 from the estate and gift tax. It is important to note that the estate and gift tax are structured such that any exemption used during life is not available at death. The rules effectively prevent a taxpayer from getting two exemptions.

**Page 1-15**

The wage base for Social Security is increased for 2018 to $128,400.

CHAPTER 2: TAX PRACTICE AND RESEARCH

**Page 2-3**

**PTINs**. In 2017, a federal judge rule that while the IRS could require a PTIN, it had exceeded its authority in collecting fees. Consequently, there is no fee for the 2018 filing season. Moreover, the IRS may be required to refund over $300 million in fees that it has previously collected.

CHAPTER 3: TAXABLE ENTITIES, TAX FORMULA,
 INTRODUCTION TO PROPERTY TRANSACTIONS

**Page 3-6**

**Exhibit 3-3.** The Act eliminates the deduction for personal and dependency exemptions.

After 2017, the corporate tax is a flat rate of 21% while individual rates are progressive from 10% to 37%.

**Example 3.** The analysis must be revised to reflect the new 21% tax rate for corporations and a new top rate of 37% for individuals.

**Page 3-12**

**Deduction for Qualified Business Income.** To address the disparity between the tax rates for C corporations and flow-thru businesses (partnerships, S corporations, self-employed individuals and certain rental activities), flow-thrus are entitled to a special deduction generally equal to 20% of their “qualified business income.” This deduction contained in new § 199A will be discussed in Chapter 19 of this supplement.This deduction is not a deduction for AGI nor is it an itemized deduction but simply a deduction in arriving at taxable income.

**Page 3-12**

**Classifying Deductions.** Deductions from AGI no longer contain personal and dependency exemptions since the Act eliminates the deduction for exemptions. Deductions from AGI now consist of itemized deductions and the deduction related to qualified business income (which is not a deduction for AGI and is not an itemized deduction).

**Page 3-18**

**Adjusted Gross Income.** Under the new law, medical expenses can be deducted if they exceed 7.5% of AGI (rather than 10% of AGI).

**Example 11.** The floor for medical expenses is 7.5% of AGI or $3,000 ($40,000 x 7.5%). Thus, $7,000 of medical expenses is deductible. However, if total itemized deductions do not exceed the standard deduction (in this case $12,000), the taxpayer may receive little, if any, tax savings.

**Page 3-19**

**EXHIBIT 3-6.** Several of the items should be deleted, including

* Alimony for divorces after 2018
* Deduction for domestic production activities (§ 199)
* Moving expenses
* Tuition payments

**Itemized Deductions and the Standard Deduction.** Under the Act, itemized deductions includes all deductions other than deductions for AGI and the deduction related to qualified business income. The Act eliminated the deduction for exemptions.

As noted in the text, the purpose of creating itemized deductions was to eliminate the need for taxpayer to list or itemize every deduction. Over the years, more and more people were itemizing their deductions because they exceeded the standard deduction. With the substantial increase in the standard deduction, far fewer will be itemizing, making it easier for taxpayers to comply and easier for the IRS to administer.

**Page 3-19**

**Basic Standard Deduction.** The Act substantially increases the standard deduction for 2018. In addition, it retains the additional standard deduction for elderly and blind taxpayers. Itemized deductions may be deducted only if they exceed the standard deduction, which depends on the taxpayer’s filing status. The standard deduction amounts are shown below. Note that the additional standard deduction is not available if the taxpayer itemizes.

 Additional Standard Deduction
 Standard Deduction Age 65 or Blind

 2018 2017 2018 2017

Single $12,000 $ 6,350 $1,600 $1,550
Head of household 18,000 9,350 1,600 1,550
Joint return 24,000 12,700 1,300 1,250
Married filing separate 12,000 6,350 1,300 1,250

**Standard Deduction for Dependents.** For individuals who may be claimed as dependents, the standard deduction is the larger of $1,050 or (earned income + $350 not to exceed the normal standard deduction of $12,000) (§ 63(c)(5) and Rev. Proc. 2017-58).

**Page 3-21**

**EXHIBIT 3-7 Partial List of Itemized Deductions**

* The floor where medical expenses are not deductible is 7.5% of AGI (rather than 10% of AGI).
* Under the Act, charitable contribution deductions are limited to 60% of AGI (rather than 50%).
* All miscellaneous itemized deductions are eliminated.

**Page 3-22**

**Miscellaneous Itemized Deductions.** The new law eliminates the deduction for all miscellaneous itemized deductions. Common miscellaneous itemized deductions included unreimbursed employee business expenses (e.g., travel, entertainment, home office), investment expenses, safety deposit box fees and tax preparation expenses. Tax preparation expenses attributable to self employment income reported on Schedule C and rental income reported on Schedule E are still deductible on those schedules, effectively making such expenses deductible for AGI.

**Exemptions.** The deduction for exemptions is eliminated.

**Page 3-23**

**Taxable Income and Tax Rates.** The tax rate structures under the 2018 law are still graduated but the seven rates are lower than 2017: 10, 12, 22, 24, 32, 35 and 37 percent. For 2018, the 24% marginal rate applies to single taxpayers when income exceeds $82,500 but that amount is doubled for joint returns to $165,000.

**Example 14**

Note that the tax in the text using the 2017 rules and rate schedules is $17,477.50 while the tax for 2018, as computed below, is $18,323. The higher tax in 2018 results because the deduction for the four exemptions ($16,200) is eliminated in 2018 and the lower rates in 2018 are not sufficient to offset the lost benefit of the exemptions.

H and W are married and file a joint return for 2018*.* They have AGI of $151,000, two dependents, and itemized deductions of $30,800. Their taxable income is $120,200, computed as follows:

Adjusted gross income. . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . $ 151,000

Minus: Itemized deductions. . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . ( 30,800)

Personal exemptions . . . . . . . . . . . . . . . . . . . . . . . . . . . , . . . . . . . . . . . . . ---------

Equals: Taxable income. . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . $ 120,200

The tax for a married couple filing jointly on this amount computed using the 2018 rate schedules is $18,323 as shown below.

Tax on $77,400. . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . .. . . . . . . . . $10,452.50

Plus: Tax on excess at 25% ([$120,200 − $77,400 = $42,800] × 0.22). . . . . . . . . . . . . . + 9,416.00

Equals: Total tax . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . $18,323.00

**EXHIBIT 3-8 Partial List of Tax Credits**

* The credits contained in Exhibit 3-8 generally remain but certain credits have been revised. For example, the child tax credit has been increased from $1,000 to $2,000 per child .
* The 10% credit for rehabilitation of structures placed in service before 1936 is repealed

**Page 3-23**

**EXHIBIT 3-9 Partial List of Other Taxes**

The taxes contained in Exhibit 3-9 continue, including the alternative minimum tax for individuals (but not for corporations).

**Page 3-30**

**Introduction to Property Transactions**

The Act makes no changes in the basic rules concerning gains and losses from sales or other dispositions of property discussed in this chapter. The rates for long-term capital gains of 0, 15 and 20 percent remain the same and are applied in the same manner.

CHAPTER 4: PERSONAL AND DEPENDENCY EXEMPTIONS;
 FILING STATUS, DETERMINATION OF TAX, ETC.

**Page 4-2**

**Exemptions.** The deduction for personal and dependency exemptions is repealed. Technically, however, that is accomplished by setting the personal exemption amount to zero. But for purposes of any other provision of the Code, the reduction in the exemption amount is ignored. The effect is to leave all of the other rules concerning dependents and the like in place. Consequently, the definition of dependents is retained and still relevant for various purposes in the Code (e.g., child tax credit, surviving spouse and head of household filing status). Where necessary, the amount of the exemption is considered $4,150 (see Act § 11041(a)(2) and Code § 151(d)(5)(A)).

**Page 4-12**

**Phase-Out of Personal and Dependency Exemptions.** Since the deduction for exemptions is eliminated the phase-out rules are no longer needed.

**Page 4-13**

**Child Tax Credit.** The child tax credit (§ 24(h)(1)) is increased from $1,000 to $2,000 for each qualifying child. In addition, up to $1,400 of the credit is refundable (e.g., if the taxpayer owes zero taxes, he or she could still benefit and receive up to $1,400; see Chapter 13 for calculation). The credit remains available only for children under the age of 17.

In addition, under the new law, a credit of $500 is allowed for each dependent of the taxpayer other than a qualifying child (e.g., an older parent who lives with a child).

The Act increases the threshold dollar amounts at which the credit begins to phase-out. The starting point (modified AGI) is $400,000 of for joint returns and $200,000 for all others. These are not indexed for inflation.

**Page 4-17 and 4-18**

**Surviving Spouse.** As explained in the text, an individual qualifies as a surviving spouse only if he or she maintains a home for a dependent child. For this purpose, the rules regarding dependents discussed earlier in the chapter still apply. This is true notwithstanding the Act’s elimination of the deduction for exemptions.

**Page 4-18**

**Head of Household.** To qualify as a head of household, an individual must maintain a home for a qualifying child or a dependent relative. For this purpose, the rules regarding dependents (qualifying child and qualifying relative discussed earlier in the chapter still apply. This is true notwithstanding the Act’s elimination of the deduction for exemptions.

**Page 4-27**

**Special Tax Computation Rules: Persons Claimed as Dependents**

**Standard Deduction**. For individuals who may be claimed as dependents, the standard deduction is the larger of $500 or (earned income + $250 not to exceed $6,100) (§ 63(c)(5)).

**Kiddie Tax.**  The Act significantly altered the manner in which the kiddie tax is computed. According to the new law, a child’s income would be taxed at the rates applying to estates and trusts (see below) to the extent it exceeds $1,000 (twice the child’s standard deduction). The child’s taxable income attributable to earned income is taxed at the normal rates for individuals. Under the new approach, the child's tax will no longer be affected by the tax situation of the child's parent or the unearned income of any siblings.

2018 Estates and Trusts
 If taxable income is % on Of the
Over But not over The tax is + Excess Amount over

$0 $ 2,550 $ 0.00 10% $ 0
 2,550 9,150 225.00 24% 2,550
 9,150 12,500 1,839.00 35% 9,150
 12,500 3,011.50 37% 12,500

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