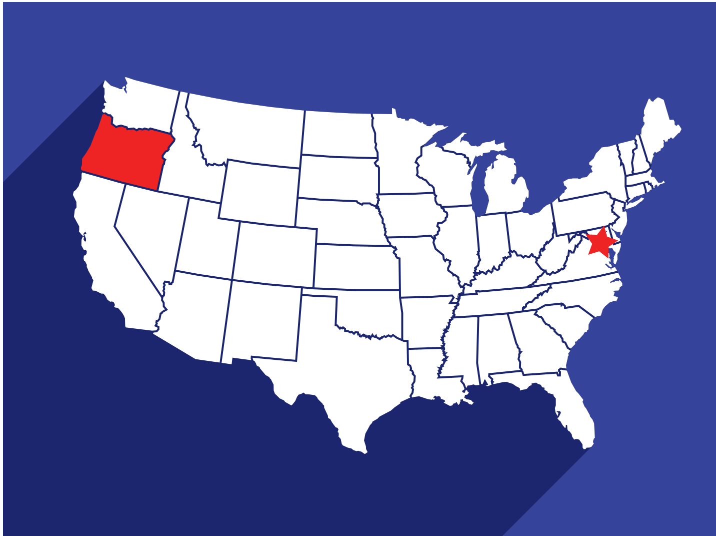

An Analysis of Changes in Federal Tax Laws for the year 2018

Prepared by the Taxation Strategic Committee
Oregon Society of CPAs

Oregon Society of Certified Public Accountants

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Introduction

On behalf of the Oregon Society of CPA's Taxation Strategic Committee, it is both an honor and a pleasure that we present an Analysis of Changes in Federal Tax Laws.

Oregon Society of CPAs (OSCPA) Legislative Analysis

This OSCPA Legislative Analysis presents Federal tax law changes. Unlike most years our focus in this presentation is on the Tax Cuts and Jobs Act of 2017 and not all the acts passed since the 2018 session. This act was broad reaching and changed the federal tax code in dramatic ways. The federal government is still issuing regulations and guidance to these changes. Given this complexity, we have attempted to draw your attention to all provisions, but our recommendations may change depending on these interpretations. Our committee has been presenting the Legislature with this analysis for many years. Our primary objective is to be a technical resource to the Legislature and, secondarily, to promote taxpayer compliance by striving to keep Oregon tax law tied to the Internal Revenue Code. This connect is accomplished by using both a "fixed date conformity" and a "permanent connection."

Oregon has a long history of conforming to the Internal Revenue Code, and to do so each Legislative Assembly analyzes the implications of recent Federal law changes. Occasionally, Federal Acts passed during the last several plus current year should be considered by the Legislature due to tax implications and the dates associated with the Act(s).

Oregon's "permanent connection" applies only to the definition of taxable income. Typically, we will recommend that Federal changes to provisions that fall outside the definition of taxable income also be changed to conform to the Internal Revenue Code. Some examples of the types of items requiring a law change are tax credits, estimated tax provisions, and net operating loss rules. Many of these provisions are currently tied to definitions in the Internal Revenue Code as of Dec. 31, 2018 and the tie date should generally be updated to Dec. 31, 2018. For years beginning on or after Jan. 1, 2011, Oregon is permanently connected to the Internal Revenue Code for the definition of Federal taxable income. One exception to this connection is for the deduction related to pass-through income under IRC 199A.

This roadmap shows how the tax code was changed by the 2017 tax act (Pub. L. No. 115-97, enacted Dec. 22, 2017), including amendments to the act made by the Bipartisan Budget Act of 2018 (Pub. L. No. 115-123, enacted Feb. 9, 2018) and the Consolidated Appropriations Act, 2018 (Pub. L. No. 115-141, enacted Mar. 23, 2018). To see the legislative text of the 2017 tax act relating to each topic, click the links on the act section numbers. Amendments to the 2017 tax act by later legislation appear in red.

Recommendation - A .... Pages 1-54

Recommendation - B .... Pages 55-79

Recommendation - C .... Pages 80-87

Recommendation - E .... Pages 88-93

Recommendations Key

A

General reconnect: Oregon automatically reconnects to the Federal change. Oregon generally subscribes to the provisions being amended, and therefore, we do not recommend any change. No modification is necessary to tie to the Federal change. We have noted with an asterisk (*) items that may be of interest and warrant further consideration by Oregon.

B

No ORS change necessary: No change is necessary to the ORS. This provision affects a credit, penalty, administrative rule, or other provision as Oregon has its own rules which apply only to the Federal tax system, does not apply to the determination of taxable income, or is automatically modified by provisions in the ORS. Oregon does not automatically adopt these provisions; however, no modification of ORS is necessary. We have noted with an asterisk (*) items that may be of interest and warrant further consideration by Oregon.

C

ORS change necessary: A change to the ORS is necessary in order to conform to this Federal provision. To increase taxpayer compliance, it is recommended that Oregon Statutes conform as closely as possible to Federal changes.

D

Note: There are no D recommendations this year.

No ORS change necessary: These provisions reference the tax code, but do not impact tax law. We have analyzed any relevant tax provisions and they are included in Recommendations A through C above.

E

These Acts may reference the tax code but may not impact income tax law. We have not analyzed these Acts in full and have noted with an asterisk (*) items that may be of interest and warrant further consideration by Oregon.

Recommendation – A

Tax Reform Roadmap

Recommendation – A

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Topic	Prior Law	2017 Tax Act, as Amended	Act Sections	I.R.C. Sections
Cash Method of Accounting	Corporations and partnerships with corporate partners are prohibited from using the cash method of accounting unless they meet an average annual gross receipts of $5 million or less for the prior three taxable years, for all post 1985 years. Certain farming entities are prohibited from using the cash method if average gross receipts exceed $1 million. Family farm corporations are permitted to use the cash method if average gross receipts do not exceed $25 million. Qualified personal service corporations are generally permitted to use the cash method regardless of gross receipts.	Effective for tax years beginning after Dec. 31, 2017, taxpayers with average annual gross receipts of $25 million (indexed for inflation) or less for the prior three taxable years are permitted to use the cash method of accounting, regardless of entity structure or industry. Repeals the requirement that corporations and partnerships with corporate partners satisfy the average gross receipts requirement for all prior years. Application of this provision is a change in method of accounting under §481.	§13102	§448, §447
Accounting for Inventories	Businesses where the production, purchase, or sale of merchandise is a material income-producing factor must account for inventories and must also use the accrual method as their overall method of accounting. Under Rev. Proc. 2002-28, taxpayers in certain industries who have average annual gross receipts of $10 million or less for the three taxable-year period ending with the applicable prior taxable year may account for inventory as materials and supplies that are not incidental if they are not otherwise prohibited from using the cash method as their overall method of accounting under §448. Under Rev. Proc. 2001-10, certain industries are still required to account for inventories if their average annual gross	Effective for tax years beginning after Dec. 31, 2017, taxpayers with average annual gross receipts of $25 million or less (indexed for inflation) for the three-taxable-year period ending with the taxable year, which precedes such taxable year are exempt from the requirement to account for inventories under §471, regardless of entity structure or industry. Such taxpayers may either treat inventories as materials and supplies that are not incidental or conform to the taxpayer's financial accounting treatment §471(c). Application of this provision is a change in method of accounting under §481.	§13102	§471(c) (new), §448

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Topic	Prior Law	2017 Tax Act, as Amended	Act Sections	I.R.C. Sections
Accounting for Inventories (cont.)	receipts for the 3-tax-year period ending with the applicable prior tax year exceed $1 million.			
UNICAP	Under the UNICAP rules, businesses must either include in inventory or capitalize certain direct and indirect costs related to real or tangible property produced by a taxpayer or real or personal property acquired by a taxpayer for resale. Businesses with $10 million or less in average annual gross receipts for the three-taxable-year period ending with the taxable year preceding such taxable year are exempt from this requirement with respect to personal property acquired for resale under §263A(b)(2). There are also several industry or item specific exemptions from the UNICAP rules.	Effective for tax years beginning after Dec. 31, 2017, taxpayers with average annual gross receipts of $25 million or less (indexed for inflation) for the three-taxable-year period ending with the taxable year, which precedes such taxable year are exempt from the UNICAP rules, regardless of entity structure or industry under 263A(i). Exemptions from the UNICAP rules that are not tied to average annual gross receipts test are retained. Application of this provision is a change in method of accounting under §481.	§13102	§263A(i) (new), §448
Expensing Costs of Replanting Citrus Plants	Taxpayers who are majority co-owners are not required under the UNICAP rules to capitalize costs incurred due to the replanting of edible crops following loss or damage due to casualty, so long as the same type of crop lost or damaged is replanted. The exception to this requirement also applies to costs incurred by a minority co-owner, if: (1) the majority co-owner has more than a 50% equity interest, and (2) the minority co-owner materially participates in the business during the tax year in which the replanting costs were incurred.	Allows two categories of taxpayers to deduct (rather than capitalize) the replanting costs for citrus plants lost or damaged due to freezing temperatures, disease, droughts, pest, or casualty: (1) A minority co-owner, if the majority co-owner has an equity interest of not less than 50% in the replanted plants and the minority co-owner holds any part of the remaining equity interest (note that this rule essentially removes the material participation requirement that applies for purposes of the other special rule for	§13207	§263A

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Topic	Prior Law	2017 Tax Act, as Amended	Act Sections	I.R.C. Sections
Expensing Costs of Replanting Citrus Plants (cont.)		minority co-owners contained in §263A(d)(2)(B)). (2) A person who acquires all of the majority owner's equity interest in the land on which the loss or damage and replanting occurred. Effective for costs paid or incurred after Dec. 22, 2017, but not later than Dec. 22, 2027.		
Craft Beverage Modernization: Exempt Aging Period from UNICAP	The UNICAP rules require taxpayers to capitalize interest paid or incurred during the property's production period and that is allocable to the property produced by the taxpayer or acquired for resale, which: (1) has a class life of at least 20 years, (2) has an estimated production period exceeding 2 years, or (3) has an estimated production period exceeding 1 year and a cost exceeding $1 million. In the case of property that is customarily aged (e.g., tobacco, wine, whiskey etc.) before it is sold the production period includes the aging period under Reg. §1.263A-12(d).	The aging periods of beer, wine, and distilled spirits are excluded from calculation of the production period for purposes of the UNICAP interest capitalization rules under §263A(f). The exclusion applies to interest costs paid or accrued in calendar years beginning after Dec. 31, 2017 and expires after Dec. 31, 2019.	§13801	§263A(f)
Accounting for Long-term Contracts	Contractors with average annual gross receipts of $10 million or less for the three prior taxable years are classified as "small contractors" and are exempt from the requirement to use the percentage-of-completion method of accounting for long-	Effective for contracts entered into after Dec. 31, 2017, the act amended §460 to allow taxpayers with average annual gross receipts of $25 million (indexed for inflation) or less for the three-taxable-year period ending with the taxable year which precedes such taxable	§13102	§460

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Accounting for Long-term Contracts (cont.)	term construction contracts to be completed within two years and may instead use the completed contract method or other applicable methods.	year an exemption from the requirement to use the percentage-of-completion accounting method for long-term construction contracts to be completed within two years, regardless of entity structure. Taxpayers that meet such exception may use the completed-contract method (or any other permissible exempt contract method). Application of this provision applies on a cutoff basis and does not result in an adjustment under §481.		
Local Lobbying Expenses	For amounts paid before Dec. 22, 2017, an exception to the general disallowance of a deduction for lobbying expenses is available for expenses incurred for lobbying on legislation being considered by local government bodies, with Indian tribal government entities being treated as local government bodies for this purpose.	The Act eliminates the deduction for lobbying expenses regarding legislation before local government bodies, including Indian tribal governments, effective for amounts paid or incurred on or after Dec. 22, 2017.	§13308	§162
Other Accounting Methods	To compute original issue discount (OID) and the portion of OID allocable to a period, the stated redemption price at maturity and the term must be known. Issuers of OID instruments accrue and deduct the amount of OID as interest expense in the same manner as the holder. If a taxpayer holds a pool of credit card receivables that require interest to be paid only if the borrowers do not pay their accounts by a specified date ("grace-period	Effective for tax years beginning after Dec. 31, 2017, the all events test with respect to any item of gross income is not treated as met any later than the tax year in which that item is taken into account as revenue in an applicable financial statement or other financial statement specified by the IRS. An exception applies for any item of income for which a special method of accounting is used (other than the special methods of accounting for bonds and other debt instruments contained in §1271- §1288). Thus, taxpayers	§13221	§451, §1271 - §1288

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Topic	Prior Law	2017 Tax Act, as Amended	Act Sections	I.R.C. Sections
Other Accounting Methods (cont.)	interest"), the taxpayer is required to accrue interest or OID on such pool based upon a reasonable assumption regarding the timing of the payments of the accounts in the pool. Under these rules, certain amounts (other than grace period interest) related to credit card transactions, such as late-payment fees, cash-advance fees, and interchange fees, have been determined to create OID or increase the amount of OID on the pool of credit card receivables to which the amounts relate. Taxpayer may defer income related to advance payments when the taxpayer receives payment before the taxpayer provides goods or services to its customer. The exceptions allow tax deferral to mirror financial accounting deferral.	are required to apply the revenue recognition rules under §451 before applying the rules under §1271- §1288 (including the OID rules under §1272). An exception applies to any item of gross income in connection with a mortgage servicing contract. In the case of income from a debt instrument having OID, these rules apply to tax years beginning after Dec. 31, 2018, and any §481 adjustment made due to a change in method of accounting would be taken into account over six years. Codifies the current deferral method of accounting for advance payments for goods and services provided under Rev. Proc. 2004-34, which allows taxpayers to defer the inclusion of income associated with certain advance payments to the end of the tax year following the tax year of receipt if such income also is deferred for financial statement purposes.		
Certain Contributions by Governmental Entities Not Treated as Contributions to Capital	The gross income of a corporation generally does not include contributions to its capital. Contributions to aid in construction and contributions as a customer or potential customer are not contributions to the capital of a corporation. An exception provides that contributions to aid in the construction of a regulated public utility that provides water or sewage disposal services are tax-free	Provides that term "contributions to capital" does not include (1) any contribution in aid of construction or any other contribution as a customer or potential customer, and (2) any contribution by any governmental entity or civic group (other than a contribution made by a shareholder as such). Modifies, but preserves §118, which continues to only apply to corporations.	§13312	§118

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Topic	Prior Law	2017 Tax Act, as Amended	Act Sections	I.R.C. Sections
Certain Contributions by Governmental Entities Not Treated as Contributions to Capital (cont.)	contributions to the capital of the utility corporation.	Effective for contributions made after Dec. 22, 2017, except for contributions made after Dec. 22, 2017, by a governmental entity pursuant to a master development plan that has been approved prior to such date by a governmental entity.		
Rollover of Publicly Traded Securities Gain into SSBICs	Gain or loss generally is recognized on any sale, exchange, or other disposition of property. However, individuals and corporations may roll over, without recognition of income, any capital gain realized on the sale of publicly traded securities when the proceeds are used to purchase common stock or a partnership interest in a specialized small business investment corporation (SSBIC) within 60 days of the sale of the securities. The amount of gain that a taxpayer may roll over in a tax year is the lesser of: (1) the $50,000 ($250,000 for corporations) annual limitation, or (2) the $500,000 ($1,000,000 for corporations) lifetime limitation, reduced by any gain previously excluded under this special rule for all preceding tax years.	The Act repeals the rule permitting rollover of gains on publicly traded securities to an SSBIC, effective for sales after Dec. 31, 2017.	§13313	§1044 (repeal)
Temporary 100% Expensing for Certain Business Assets	Taxpayers received an additional depreciation (bonus depreciation) deduction in the year in which they placed certain "qualified property" in service, effective for property placed in service through 2019 (2020 for certain qualified property with a	The Act extends bonus depreciation for qualified property and specified plants through Dec. 31, 2026 (Dec. 31, 2027 for longer production period property and certain aircraft).	§13201	§168(k)

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Topic	Prior Law	2017 Tax Act, as Amended	Act Sections	I.R.C. Sections
Temporary 100% Expensing for Certain Business Assets **(cont.)**	longer production period and certain aircraft). The amount of bonus depreciation generally was 50% of the adjusted basis of such property placed in service before 2018 and phased down to 40% in 2018 and 30% in 2019. However, for longer production period property and qualifying aircraft, the amount of bonus depreciation was 50% of the adjusted basis of such property placed in service before 2019 and phased down to 40% in 2019 and 30% in 2020. Qualified property that was eligible for bonus depreciation included tangible personal property with a recovery period of 20 years or less under the modified accelerated cost recovery system (MACRS), certain off-the-shelf computer software, water utility property, and qualified improvement property. "Specified plants" (certain trees, vines, and plants bearing fruit or nuts) planted or grafted before 2020 were also eligible for bonus depreciation, when planted or grafted rather than when placed in service. Finally, to be eligible for bonus depreciation, the original use of the property had to begin with the taxpayer. Taxpayers may elect out of bonus depreciation for any class of property. Taxpayers could elect to accelerate the use of prior year minimum tax credits in lieu of	The Act expands the definition of qualified property to include qualified film, television, and live theatrical productions initially released, broadcast, or staged live after Sept. 27, 2017; and to include used property that was not used *by the taxpayer* before the taxpayer purchased it. The Act excludes from the definition of qualified property certain public utility property and property used in a trade or business that deducted floor plan financing indebtedness (indebtedness incurred by car dealerships to finance motor vehicle inventory). The Act initially allows 100% bonus depreciation (i.e., full expensing) for property that is both acquired and placed in service after Sept. 27, 2017, reducing the percentage that may be expensed for property placed in service after Dec. 31, 2022, as follows: <u>Qualified Property and Specified Fruit- and Nut-Bearing Plants</u> • For property placed in service after Sept. 27, 2017, and before Jan. 1, 2023 (before Jan. 1, 2024, for longer production period property and qualifying aircraft), 100% bonus depreciation. • For property placed in service after Dec. 31, 2022, and before Jan. 1,		

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Topic	Prior Law	2017 Tax Act, as Amended	Act Sections	I.R.C. Sections
Temporary 100% Expensing for Certain Business Assets (cont.)	deducting bonus depreciation.	2024 (after Dec .31, 2023, and before Jan. 1, 2025 for longer production period property and qualifying aircraft), 80% bonus depreciation. • For property placed in service after Dec. 31, 2023, and before Jan. 1, 2025 (after Dec. 31, 2024, and before Jan. 1, 2026, for longer production period property and qualifying aircraft), 60% bonus depreciation. • For property placed in service after Dec. 31, 2024, and before Jan. 1, 2026 (after Dec. 31, 2025, and before Jan. 1, 2027, for longer production period property and qualifying aircraft), 40% bonus depreciation. • For property placed in service after Dec. 31, 2025, and before Jan. 1, 2027 (after Dec. 31, 2026, and before Jan. 1, 2028, for longer production period property and qualifying aircraft), 20% bonus depreciation. Taxpayers may elect 50% bonus depreciation in lieu of 100% bonus depreciation for qualified property placed in service during the first tax year ending after Sept. 27, 2017. Prior law (including the phase-down) applies to property acquired before Sept. 28, 2017, even if it is placed in service after Sept. 27, 2017.		

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Topic	Prior Law	2017 Tax Act, as Amended	Act Sections	I.R.C. Sections
Depreciation Limitation for Luxury Automobiles and Personal Use Property	The annual cost recovery deduction for certain passenger automobiles is limited. For passenger automobiles placed in service in 2017 for which the additional first-year depreciation deduction under §168(k) is not claimed, a taxpayer may depreciate a maximum amount of $3,160 for the year in which the vehicle is placed in service, $5,100 for the second year, $3,050 for the third year, and $1,875 for the fourth and later years in the recovery period. This limit is indexed for inflation and applies to the aggregate deduction for depreciation and §179 expensing. Passenger automobiles eligible for the additional first-year depreciation allowance in 2017 may depreciate an additional $8,000 in the first year the vehicle is placed in service. Special rules apply to listed property. Listed property generally includes passenger automobiles, other property used as a means of transportation, property generally used for entertainment, recreation, or amusement, any computer or peripheral equipment, and any other property of a type specified in Treasury regulations.	The Act increases the listed property depreciation limits for passenger automobiles placed in service after Dec. 31, 2017, to $10,000 for the year in which the vehicle is placed in service, $16,000 for the second year, $9,600 for the third year, and $5,760 for the fourth and later years. These amounts will be indexed for inflation for automobiles placed in service after Dec. 31, 2018. The Act removes computer or peripheral equipment from the definition of listed property. These amendments apply to property placed in service after Dec. 31, 2017.	§13202	§168(k)(2)(F), §280F
Recovery Period for Farming Property	Property used in a farming business is assigned various recovery periods in the same manner as other business property. With some exceptions, any property used in a	The Act repeals the requirement that property used in a farming business use the 150% declining balance method and provides a 5-year recovery period for machinery or	§13203	§168(b)

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Topic	Prior Law	2017 Tax Act, as Amended	Act Sections	I.R.C. Sections
Recovery Period for Farming Property (cont.)	farming business is subject to the 150% declining balance method.	equipment used in a farming business, effective for property placed in service after Dec. 31, 2017.		
Depreciation Deductions for Nonresidential Real Property and Residential Rental Property	The MACRS recovery periods applicable to most tangible personal property range from three to 20 years and generally use the 200% and 150% declining balance methods in calculating depreciation – switching to the straight-line method where it yields a larger depreciation balance in the first year. There is an alternative depreciation system (ADS), the use of which is required for tangible property used predominantly outside the United States, certain tax-exempt property, tax-exempt bond financed property, and certain imported property covered by an Executive order. A taxpayer can also elect to use ADS for any class of property for any tax year. Under ADS, all property is depreciated using the straight-line method over recovery periods which are generally equal to the class life of the property. Exceptions apply.	The Act: • eliminates the separate terms “qualified leasehold improvement property”, “qualified restaurant property”, and “qualified retail improvement property” and moves the definition of “qualified improvement property” from §168(k) to §168(e); • intends to, but due to a drafting omission fails to, provide a 10-year recovery period for all qualified improvement property; • intends to, but due to a drafting omission fails to, provide a 20-year ADS recovery period for all qualified improvement property; • requires a real property trade or business that elects out of the interest expense deduction limitation to use ADS to depreciate its nonresidential real property, residential rental property, and qualified improvement property; • requires farming businesses that elect out of the interest expense deduction limitation to use ADS to depreciate property with a recovery	§13204	§168, §467(e)

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Topic	Prior Law	2017 Tax Act, as Amended	Act Sections	I.R.C. Sections
Depreciation Deductions for Nonresidential Real Property and Residential Rental Property (cont.)		period of 10 years or more; and • lowers the ADS recovery period to 30 years for residential rental property. These amendments apply to property placed in service after Dec. 31, 2017.		
Limitation on Business Interest Expense Deduction	Business interest is generally allowed as a deduction in the tax year in which the interest is paid or accrued, subject to a number of limitations.	The Act limits the deduction for net interest expense incurred by a business to the sum of business interest income, 30% of adjusted taxable income, and floor plan financing interest. Businesses with average annual gross receipts of $25 million or less are exempt from the limit. Disallowed interest may be carried forward indefinitely. The Act allows real property trades or businesses that use the ADS and farming businesses to elect not to be subject to the business interest deduction limit. The interest deduction limit does not apply to certain regulated public utilities. These amendments apply to tax years beginning after Dec. 31, 2017.	§13301, §13205	§163(j)
Deductions for Income Attributable to Domestic Production Activities	Taxpayers may claim a deduction equal to 9% of the lesser of the taxpayer's qualified production activities income, which is derived from property that was manufactured,	The Act repeals the deduction for all taxpayers. It does not extend the deduction for Puerto Rico activities. This amendment applies to tax years	2017 tax act §13305	§199

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Topic	Prior Law	2017 Tax Act, as Amended	Act Sections	I.R.C. Sections
Deductions for Income Attributable to Domestic Production Activities (cont.)	produced, grown, or extracted within the United States, or the taxpayer's taxable income for the tax year.	beginning after Dec. 31, 2017. Note: The Consolidated Appropriations Act, 2018, Div. T, §101(c), provides a transition rule that continues the application of former §199 for qualified payments received by patrons from specified agricultural or horticultural cooperatives in tax years beginning after Dec. 31, 2017, if the payments are attributable to qualified production activities of the cooperative in tax years beginning before Jan. 1, 2018. The qualified payment remains subject to, and may be deducted in accordance with, former §199, and no deduction is permitted under §199A.	Consolidated Appropriations Act Div. T., §101(c)	
Section 179 Expensing	Businesses may immediately expense up to $500,000 (adjusted for inflation - $510,000 for 2017) of the cost of any §179 property placed in service each tax year. If the business places in service more than $2 million (adjusted for inflation - $2,030,000 for 2017) of §179 property in a tax year, then the amount available for immediate expensing is reduced by the amount by which the cost of such property exceeds $2 million (as adjusted). Further limitations on the ability to immediately expense this amount may apply based on the business's taxable income for the year.	The Act increases the amount that a taxpayer may expense under §179 to $1 million. The act also increases the phaseout threshold to $2.5 million. These amounts are indexed for inflation for tax years beginning after 2018. The $25,000 cost limitation for SUVs is also indexed for inflation for tax years beginning after 2018. The Act expands the definition of qualified real property to include all qualified improvement property and certain improvements (roofs, heating, ventilation, and air-conditioning property, fire protection and alarm systems, and security systems) made to nonresidential real property.	§13101	§179

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Topic	Prior Law	2017 Tax Act, as Amended	Act Sections	I.R.C. Sections
Section 179 Expensing (cont.)		These amendments apply to property placed in service in tax years beginning after Dec. 31, 2017.		
NOL Deduction	A net operating loss is the amount by which a taxpayer's current-year business deductions exceed its current-year gross income. Net operating losses may not be deducted in the year generated but may be carried back two years and carried forward 20 years.	The Act limits the NOL deduction for NOLs arising in tax years *beginning* after Dec. 31, 2017, to 80% of taxable income (computed without regard to the NOL deduction), and provides that amounts carried over to later tax years are adjusted to take into account this limitation. The Act also eliminates NOL carrybacks and allows unused NOLs to be carried forward indefinitely, except for farming NOLs and NOLs of property and casualty insurance companies, both of which are permitted a two-year carryback. Insurance companies are limited to a 20-year carryforward. This amendment applies to NOLs arising in tax years *ending* after Dec. 31, 2017.	§13302	§172
Like-Kind Exchanges of Real Property	No gain or loss is recognized to the extent that property held for productive use in the taxpayer's trade or business, or property held for investment purposes, is exchanged for property of a like-kind that also is held for productive use in a trade or business or for investment.	The Act limits the nonrecognition of gain or loss to like-kind exchanges of real property that is not held primarily for sale. This amendment generally applies to exchanges completed after Dec. 31, 2017 but does not apply to an exchange if the property disposed of in the exchange (the relinquished property) is disposed of on or before Dec. 31, 2017, or if the property received in the exchange (the replacement property) is received on or before Dec. 31, 2017.	§13303	§1031

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Topic	Prior Law	2017 Tax Act, as Amended	Act Sections	I.R.C. Sections
Entertainment, etc. Expenses	Employers can only deduct expenses associated with entertainment, amusement, or recreational activities if they establish that the activity was directly related to the active conduct of the employer's trade or business or a facility used in connection with such activity. If an employer is entitled to deduct entertainment expenses, there generally is a 50% cap of the amount otherwise deductible. No deduction is allowed for membership dues with respect to any club organized for entertainment purposes. Gross income generally includes the value of employer-provided fringe benefits, except as discussed below. In general, a service provider includes in gross income the amount by which the fair market value of a fringe benefit exceeds the sum of the amount paid by the service provider and the amount that is specifically excluded from gross income. Certain employer-provided fringe benefits are excluded from a service provider's gross income. These include de minimis fringes, qualified transportation fringes, and meals that are provided for the convenience of the employer. Qualified transportation fringes include qualified parking, transit passes, vanpool benefits, and qualified bicycle commuting reimbursements.	Under the Act, no deduction is allowed for entertainment, amusement, or recreation; membership dues for a club organized for business, pleasure, recreation, or other social purposes; or a facility used in connection with any of the above. The Act repeals the exception to the deduction disallowance for entertainment, amusement, or recreation that is directly related to (or, in certain cases, associated with) the active conduct of the taxpayer's trade or business (and the related rule applying a 50% limit). The deduction for 50% of food and beverage expenses associated with operating a trade or business generally is retained. The Act expands the 50% limit to include employer expenses associated with providing food and beverages to employees through an eating facility meeting de minimis fringe requirements. The Act disallows deductions for expenses associated with providing any qualified transportation fringe to employees, and except for ensuring employee safety, any expense incurred for providing transportation (or any payment or reimbursement) for commuting between the employee's residence and place of employment. The Act also disallows employer deductions for	§13304	§274

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Topic	Prior Law	2017 Tax Act, as Amended	Act Sections	I.R.C. Sections
Entertainment, etc. Expenses (cont.)		expenses associated with meals provided for the employer's convenience on, or near, the employer's business premises through an employer-operated facility that meets certain requirements. These amendments generally apply to amounts paid or incurred after Dec. 31, 2017, but the elimination of the deduction for meals provided at the convenience of the employer applies to amounts paid or incurred after Dec. 31, 2025.		
Deduction for FDIC Premiums	Amounts paid by insured depository institutions pursuant to an assessment by the Federal Deposit Insurance Corporation (FDIC) to support the Deposit Insurance Fund (DIF) are currently deductible as a trade or business expense.	Institutions with consolidated assets of $10 billion or less are allowed a full deduction. Institutions with consolidated assets between $10 billion and $50 billion are limited on the amount of FDIC premium payments that may be deducted based on a ratio of the total consolidated assets in excess of $10 billion as it bears to $40 billion. This effectively eliminates the deduction for FDIC premiums for financial institutions with consolidated assets equal to or greater than $50 billion. For purposes of determining consolidated assets, members of an expanded affiliated group are treated as one taxpayer. These amendments apply to tax years beginning after Dec. 31, 2017.	§13531	§162(r) (new)

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Topic	Prior Law	2017 Tax Act, as Amended	Act Sections	I.R.C. Sections
Self-Created Property Not Treated as a Capital Asset	A self-created patent, invention, model or design, or secret formula or process is treated as a capital asset.	The Act treats gain or loss from the disposition of a self-created patent, invention, model or design, or secret formula or process as ordinary in character. It preserves the election to treat musical compositions and copyrights in musical works as capital assets. These amendments apply to dispositions of such property after Dec. 31, 2017.	§13314	§1221
Amortization of Research and Experimental Expenditures	Taxpayers may elect either to deduct current research or experimental expenditures paid or incurred in connection with a present or future trade or business or to treat such expenditures as deferred expenses and amortize these costs over a period of not less than 60 months.	Specified research or experimental expenditures, including software development expenditures, are capitalized and amortized ratably over a five-year period (15 years if attributable to research conducted outside of the United States). Land acquisition and improvement costs, and mine (including oil and gas) exploration costs, are not subject to this rule. Upon retirement, abandonment, or disposition of property, any remaining basis continues to be amortized over the remaining amortization period. Applies on a cutoff basis to expenditures paid or incurred in tax years beginning after Dec. 31, 2021.	§13206	§174
Advance Refunding Bonds	Interest on advance refunding bonds is generally not taxable for governmental bonds but is taxable for private activity bonds.	The Act repeals the exclusion from gross income of interest on a bond issued to advance refund another bond. Effective for advance refunding bonds issued after Dec. 31, 2017.	§13532	§149(d)

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Topic	Prior Law	2017 Tax Act, as Amended	Act Sections	I.R.C. Sections
New Exception to Transfer for Value Rule	Generally, amounts received under a life insurance contract and paid by reason of the death of the insured are excluded from federal income tax. An exception to this rule is when the life insurance contract has been transferred for valuable consideration (transfer for value rules). The transfer for value rules generally provide that if a life insurance contract is sold or otherwise transferred for valuable consideration, the excludable amount paid by reason of the death of the insured is reduced by the sum of the actual value of the consideration paid and any premiums or other amounts paid by the transferee of the contract after the transfer.	The Act adds a new provision to the transfer for value rule that provides the exception to the exclusion from income of death benefits does not apply to a transfer of a life insurance contract or any interest therein which is a reportable policy sale. Effective for tax years beginning after Dec. 31, 2017.	§13522	§101(a)(2)
Clarification of Tax Basis of Life Insurance Contracts	Life insurance contracts were not generally widely bought and sold before the burgeoning of the AIDS epidemic when a market developed for individuals to cash out their life insurance policies to someone other than the issuing company. General basis determination rules applied, but there was not great certainty regarding basis determination.	The Act adds a new provision that clarifies that no adjustment can be made to the basis of any annuity or life insurance contract for “mortality, expense, or other reasonable charges incurred.” Effective for transactions entered into after Aug. 25, 2009.	§13521	§1016, §7702

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Topic	Prior Law	2017 Tax Act, as Amended	Act Sections	I.R.C. Sections
Denial of Deduction for Settlements Subject to a Nondisclosure Agreement Paid in Connection with Sexual Harassment or Sexual Abuse	Taxpayers generally may deduct ordinary and necessary expenses paid or incurred in carrying on any trade or business, but several exceptions apply.	The Act disallows a deduction for any settlement, payout, or attorney fees related to sexual harassment or sexual abuse if the payments are subject to a nondisclosure agreement. Effective for amounts paid or incurred after Dec. 22, 2017.	§13307	§162(q) (new)
Modification of Tax Treatment of Alaska Native Corporations and Alaska Native Settlement Trusts	Alaska Native Corporations hold property for Alaska Natives. Subject to some exceptions, Alaska Natives are generally the only permitted common shareholders and under the Alaska Native Claims Settlement Act, a Native Corporation may transfer money or other property to an Alaska Native Settlement Trust for the benefit of beneficiaries who constitute all or a class of the shareholders of the Native Corporation, to promote the health, education, and welfare of beneficiaries and to preserve the heritage and culture of Alaska Natives. Generally subject to tax under the same rules as other corporations and trusts, they are permitted to make an irrevocable election to pay tax on taxable income at the lowest rate for individuals, and to pay tax on capital gains at a rate consistent with being subject to such lowest rate of tax. A Settlement Trust distribution is excludible	The Act allows an Alaska Native Corporation to exclude from its gross income certain payments described in the Alaska Native Claims Settlement Act (ANCSA) that it assigns to an Alaska Native Settlement Trust, provided the assignment is in writing and the Native Corporation does not receive the payment before assignment. The assigned payment is includible in the Settlement Trust's gross income when received. It also allows a Native Corporation to elect to deduct contributions to a Settlement Trust, up to the amount of its taxable income. Any unused deduction may be carried forward 15 years. The Settlement Trust is required to report income equal to the deduction taken by the Native Corporation. For noncash contributions, the Settlement Trust takes a carryover basis in the property and may elect to defer recognition of income until it disposes	§13821	§646, §139G (new), §247 (new)

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Topic	Prior Law	2017 Tax Act, as Amended	Act Sections	I.R.C. Sections
Modification of Tax Treatment of Alaska Native Corporations and Alaska Native Settlement Trusts (cont.)	from the incomes of the beneficiaries to the extent of the taxable income of the Settlement Trust for the tax year and all prior tax years for which an election was in effect, decreased by income tax paid by the Trust, plus tax-exempt interest from state and local bonds for the same period. A special loss disallowance rule reduces any loss that would otherwise be recognized on disposition of stock of a sponsoring Native Corporation by a proportion of all contributions to all electing Settlement Trusts by the sponsoring Native Corporation.	of the property. However, if the Settlement Trust disposes of property subject to this election within the first tax year after the tax year of contribution, the election would be voided, and the Settlement Trust must file an amended return for the year of contribution and pay any applicable tax on the disposition plus interest and a 10% penalty. Under a reporting requirement, a Native Corporation electing to deduct contributions to a Settlement Trust is required to furnish an information statement to the Settlement Trust. The income exclusion is effective for tax years beginning after Dec. 31, 2016. The deductibility of contributions is effective for tax years for which the Native Corporation's refund statute of limitations period has not expired, and there is a one-year waiver of the refund statute of limitations period in the event that the period expires before the end of the one-year period beginning on Dec. 22, 2017. The reporting requirement is applicable to tax years beginning after Dec. 31, 2016.		
Deductibility of Fines and Penalties for Federal Income Tax Purposes	No deduction is allowed for fines or penalties paid to a government for the violation of any law.	The Act denies a deduction for amounts paid in relation to the violation of a law or investigation into the potential violation of a law, if a government (or similar entity) is a complainant or investigator with respect to the violation or potential violation. An exception applies to restitution (including	§13306	§162, §6050X (new)

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Topic	Prior Law	2017 Tax Act, as Amended	Act Sections	I.R.C. Sections
Deductibility of Fines and Penalties for Federal Income Tax Purposes (cont.)		remediation of property) identified in a court order or settlement agreement as restitution, remediation, or required to come into compliance with any law. Restitution for failure to pay tax assessed under the Internal Revenue Code, is deductible only to the extent it would have been allowable if it had been timely paid. Another exception applies to any amount paid or incurred as taxes due. Effective for amounts paid or incurred on or after Dec. 22, 2017, except that the amendments do not apply to amounts paid or incurred under any binding order or agreement entered into before such date. This exception does not apply to an order or agreement requiring court approval unless the approval was obtained before such date.		
Qualified Opportunity Zones	The Code contains many tax incentives to aid economically distressed areas that seek to attract otherwise unavailable investment of capital into distressed communities. They're used to start new businesses, develop abandoned property, or provide low-income housing.	The Act provides that the chief executive officer of the state (which includes the District of Columbia) may submit nominations for a limited number of opportunity zones to the Secretary for certification and designation. Once these opportunity zones are certified and designated, taxpayers that invest in such areas may be eligible to receive tax benefits based on their investment. The tax benefits include temporary deferral of inclusion in gross income of capital gains that are reinvested in a qualified opportunity fund (investment vehicle organized as a corporation or a partnership for the purpose	2017 tax act §13823 Bipartisan Budget Act §4115	§1400Z-1 (new), §1400Z-2 (new)

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Topic	Prior Law	2017 Tax Act, as Amended	Act Sections	I.R.C. Sections
Qualified Opportunity Zones (cont.)		of investing in qualified opportunity zone property that holds at least 90% of its assets in qualified opportunity zone property) and the permanent exclusion of capital gains from the sale or exchange of an investment in the qualified opportunity fund. Effective on Dec. 22, 2017, except for gain deferral, which is unavailable with respect to any sale or exchange made after Dec. 31, 2026, and the exclusion of capital gain recognition on the sale or exchange of an investment in the qualified opportunity fund which is not available for investments in qualified opportunity zones made after Dec. 31, 2026. Note: The Bipartisan Budget Act of 2018 provides that each population census tract in Puerto Rico is deemed to be certified and designated as a qualified opportunity zone.		
S Corporation Conversion to C Corporation	Distributions from a terminated S corporation are treated as paid from its accumulated adjustment account if made during the post-termination transition period which ends on the later of one year from the last day the corporation was an S corporation, or the due date for filing the last return of the S corporation (including extensions). Net adjustments are needed to prevent amounts from being duplicated or omitted as	Effective for S corporations that revoke their S corporation elections during the two-year period beginning on Dec. 22, 2017, and have the same owners on both Dec. 22, 2017, and the revocation date, distributions from a terminated S corporation will be treated as paid from its accumulated adjustment account and from its earnings and profits proportionally.	§13543	§481, §1371

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Topic	Prior Law	2017 Tax Act, as Amended	Act Sections	I.R.C. Sections
S Corporation Conversion to C Corporation (cont.)	a result of an accounting method change and attributable to the revocation of the S corporation election (e.g. cash to accrual). Net decreases in taxable income are generally taken into account in the year of change. Net increases in taxable income are generally taken ratably over a four-year period beginning with the year of change.	Taxpayers are to account for adjustments under §481(a) due to the termination over a six-year period. This applies whether the adjustments increase or decrease taxable income.		
Expansion of Qualifying Beneficiaries of an Electing Small Business Trust (ESBT)	An electing small business trust (ESBT) is an eligible shareholder of an S corporation. Eligible beneficiaries of ESBTs are individuals, estates, and certain charitable organizations which are eligible to directly hold S corporation stock. Nonresident alien individuals may not be shareholders or potential current beneficiaries of an ESBT.	Effective Jan. 1, 2018, a nonresident alien is a permissible potential current beneficiary of an ESBT.	§13541	§1361
Charitable Contribution Deduction for Electing Small Business Trusts (ESBT)	For tax years beginning before Jan. 1, 2018, charitable contribution deductions made by an ESBT are governed by the rules under §642 that are applicable to trusts generally. Those rules allow trusts an unlimited deduction for charitable contributions or amounts set aside for charitable purposes.	The Act provides that the charitable deduction of an ESBT will no longer be determined by the rules generally applicable to trusts, but by the rules applicable to individuals. As a result, the percentage limitations and carryforward provisions applicable to individuals apply to charitable contributions made by the portion of an ESBT holding S corporation stock. The provision applies to tax years beginning after Dec. 31, 2017.	§13542	§641, §642, §170
Substantial Built-in Loss	A partnership does not adjust the basis of partnership property following the transfer of a	Effective for transfers of partnership interests after Dec. 31, 2017, the definition of a	§13502	§743(d)

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Substantial Built-in Loss (cont.)	partnership interest unless the partnership has made a one-time §754 election for basis adjustments or the partnership has a substantial built-in loss immediately after the transfer. If an election is in effect or if the partnership has a substantial built-in loss immediately after the transfer, adjustments are made with respect to the transferee partner to account for the difference between the transferee partner's proportionate share of the adjusted basis of the partnership property and the transferee's basis in its partnership interest. A substantial built-in loss exists if the partnership's adjusted basis in its property exceeds by more than $250,000 the fair market value of the partnership property. Certain securitization partnerships and electing investment partnerships are not treated as having a substantial built-in loss in certain instances, and thus are not required to make basis adjustments to partnership property. For electing investment partnerships, in lieu of the partnership basis adjustments, a partner-level loss limitation rule applies.	substantial built-in loss is expanded to include a hypothetical disposition by the partnership of all partnership's assets in a fully taxable transaction for cash equal to the assets' fair market value, if immediately after the transfer of the partnership interest, the transferee would be allocated a net loss upon such hypothetical disposition in excess of $250,000.		
Basis Limitation on Partner Losses	A partner's distributive share of partnership loss is limited to the adjusted basis of the partner's interest in the partnership tax year in which the loss occurred. However, under	Effective for partnership tax years beginning after 2017, the basis limitation on the deductibility of partner losses applies to a partner's distributive share of charitable	§13503	§704(d)

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Basis Limitation on Partner Losses (cont.)	current regulations, foreign taxes paid, and charitable contributions made are not taken into account in applying the basis limitation on partner losses.	contributions and foreign taxes, which are exempt from such limitation under the current regulations. Does not apply to the partner's distributive share of the excess of fair market value over adjusted basis on charitable contributions of appreciated property.		
Limitation on Losses for Taxpayers Other than Corporations	The passive loss rules, which apply to individuals, estates and trusts, and closely held corporations, limit the deduction of losses from passive trade or business activities of a taxpayer. In addition, the excess farm loss rules, which apply to taxpayers other than C corporations, limit the deduction of excess farm losses of a taxpayer in certain circumstances. An excess farm loss for a tax year is the excess of the aggregate deductions attributable to farming businesses over the sum of (i) the aggregate gross income or gain attributable to farming businesses, and (ii) a threshold amount.	Effective for tax years beginning after Dec. 31, 2017, disallows an excess business loss of a taxpayer other than a C corporation. However, an excess business loss is treated as part of the taxpayer's net operating loss carryover to the following year. An excess business loss for the tax year is the excess of aggregate deductions of the taxpayer attributable to trades or businesses of the taxpayer, over the sum of aggregate gross income or gain of the taxpayer plus a threshold amount ($500,000 for married taxpayers filing jointly; $250,000 for all other taxpayers (indexed for inflation)). The limitation applies at the partner or S corporation shareholder level. The limitation expires after Dec. 31, 2025. The excess farm loss limitation is suspended for tax years beginning after Dec. 31, 2017, and before Jan. 1, 2026. [*Bloomberg Editor's Note:* The carryforward in subsequent tax years is determined under the NOL rules provided under the Act.]	§11012	§461 §461(l) (new) is the search term

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Topic	Prior Law	2017 Tax Act, as Amended	Act Sections	I.R.C. Sections
Tax Gain on the Sale of Partnership Interest on Look-through Basis	A foreign person engaged in a trade or business in the United States is taxed on income that is "effectively connected" with the conduct of that trade or business ("effectively connected gain or loss"). Partners in a partnership are engaged in the conduct of a trade or business within the United States if the partnership is so engaged. The extent to which the income, gain, or loss is derived from assets used in or held for use in the conduct of the U.S. trade or business and whether the activities of the trade or business were a material factor in the realization of the income, gain, or loss (the "asset use" and "business activities" tests) are factors considered in determining whether income is effectively connected. In determining whether the asset use or business activities tests are met, due regard is given to whether such assets or such income, gain, or loss were accounted for through such trade or business. Special rules apply to treat gain or loss from disposition of U.S. real property interests as effectively connected with the conduct of a U.S. trade or business. Consideration received by the nonresident alien or foreign corporation for all or part of its interest in a partnership that is attributable to a U.S. real property interest is considered to be received from the sale or exchange in the United	Effective for sales, exchanges, or other dispositions on or after Nov. 27, 2017, gain or loss from the sale, exchange, or other disposition of an interest in a partnership engaged in a U.S. trade or business is treated as effectively connected with a U.S. trade or business to the extent that the transferor would have had effectively connected gain or loss had the partnership sold all of its assets at fair market value as of the date of the sale or exchange. Any gain or loss from the hypothetical asset sale by the partnership is allocated to interests in the partnership in the same manner as nonseparately stated income and loss.	§13501	§864

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Topic	Prior Law	2017 Tax Act, as Amended	Act Sections	I.R.C. Sections
Tax Gain on the Sale of Partnership Interest on Look-through Basis (cont.)	States of such property.			
Technical Termination of Partnership	A sale or exchange of 50% or more of the total interest in a partnership's capital and profits within a 12-month period causes the technical termination of the partnership. The partnership's existence does not necessarily end upon a technical termination. Generally, however, the partnership's tax year closes, partnership-level elections cease to apply, and partnership depreciation recovery periods restart.	Repeals the technical termination rule for partnership tax years beginning after Dec. 31, 2017. Thus, a partnership is treated as continuing upon a sale or exchange of 50% or more of the total interest in a partnership's capital and profits within a 12-month period, and new elections are not required or permitted.	§13504	§708(b)(1)(B) (repeal)
Carried Interest or Recharacterization of Certain Gains in the Case of Partnership Profits Interests Held in Connection with Performance of Investment Services	The receipt of a profits interest in a partnership in exchange for the performance of investment services is typically know as a carried interest. The character of partnership items that pass through to the owner of the profits interest is the same as if the items were realized directly by that owner or partner. Thus, a partner's distributive share of the partnership's long-term capital gain is treated as long-term capital gain in the hands of the partner. Gain is long-term capital gain if it arises from the sale, exchange, or other disposition of a capital asset held for more than one year. For an individual taxpayer, long-term capital gain is taxed at preferential rates.	For tax years beginning after Dec. 31, 2017, three-year holding period requirement for long-term capital gain and loss for certain service-based partnership interests, notwithstanding the rules of §83 or any election in effect under §83.	§13309	§83, §1061 (new), §1062 (redesignated)

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Topic	Prior Law	2017 Tax Act, as Amended	Act Sections	I.R.C. Sections
Special rules relating to sales or transfers involving specified 10% owned foreign corporations	Section 961 provides guidance with respect to basis adjustments to stock in CFCs and other property. Under §1248(a), if a U.S. person sells or exchanges stock in a foreign corporation and that person was a 10% U.S. shareholder at any time during the five-year period ending on the date of the sale or exchange when the foreign corporation was a CFC, then the gain recognized on the sale or exchange of the stock will be included in the gross income of the U.S. person as a dividend. Section 1016 requires that proper adjustments must be made in respect of the property, including with respect to §1059, which requires corporate shareholders to reduce basis in stock by the nontaxed portion of extraordinary dividends. Section 964(e) provides that if a CFC recognizes gain on the sale or exchange of stock in any other foreign corporation the gain will be treated as a dividend and included in the gross income of the CFC to the same extent that it would have been under §1248(a) if the CFC were a U.S. person. Section 367(a) provides that if a U.S. person transfers property to a foreign corporation in connection with certain nonrecognition transactions, the foreign corporation will not	The Act added several provisions to the Code to ensure coordination between the new 100% dividend received deduction for the foreign-source portion dividends received by corporate U.S. shareholders of specified 10% owned foreign corporations (§245A) with existing rules for stock sales, basis adjustments, and the sale by a CFC of a lower tier CFC. The Act also added rules regarding the transfer of branch losses to a specified 10% foreign corporation and repealed the active trade or business exception under §367(a). *Sales of stock by U.S. persons:* The Act added new subparagraph (j) to §1248, which provides that in the case of the sale or exchange by a domestic corporation of stock in a foreign corporation held for one year or more, any amount received by the domestic corporation that is treated as a dividend under §1248 will also be treated as a dividend for purposes of §245A. *Basis reductions:* The Act also added new §961(d), which provides that, solely for purposes of determining a loss, a corporate U.S. shareholder's basis in the stock of a specified 10% owned foreign corporation must be reduced by an amount equal to the dividend received deduction allowable under §245A in the taxable year of the corporate U.S. shareholder. Section 961(d) coordinates	§14102	§91 (new), §367, §961, §965 §1248

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Topic	Prior Law	2017 Tax Act, as Amended	Act Sections	I.R.C. Sections
Special rules relating to sales or transfers involving specified 10% owned foreign corporations (cont.)	be treated as a corporation for purposes of determining gain recognition. Section 367(a)(3) provides exceptions to the general rule for transfers of property used in the active conduct of a trade or business; however, the exception does not apply to gain realized on the transfer of assets of a foreign branch of a U.S. person to foreign corporation to the extent that the foreign branch has previously deducted losses. §367(a)(3)(C).	with the exclusion provision in §1059 so that if the stock basis has already been reduced under §1059, 961(d) does not require an additional basis reduction. *Sale by a CFC of a lower tier CFC:* The Act added §964(e)(4), which provides that if an amount is treated as a dividend under §964(e)(1) because of a sale or exchange by a CFC of stock in another foreign corporation held for a year or more, then (i) the foreign-source portion of the dividend will be treated as subpart F income of the selling CFC for purposes of §951(a)(1)(A), (ii) a U.S. shareholder of the selling CFC must include its pro rata share of that subpart F income in gross income for its taxable year, and (iii) the amount included in subpart F income of the U.S. shareholder would be eligible for the deduction under new §245A in the same manner as if the subpart F income were a dividend received by the corporate U.S. shareholder from the selling CFC. The provisions apply to sales or exchanges that occur after Dec. 31, 2017. *Inclusion of transferred loss amounts in certain asset transfers:* The Act also added §91, which provides that in the case of a domestic corporation that transfers substantially all of the assets of a foreign branch (within the meaning of		

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Topic	Prior Law	2017 Tax Act, as Amended	Act Sections	I.R.C. Sections
Special rules relating to sales or transfers involving specified 10% owned foreign corporations (cont.)		§367(a)(3)(C), as in effect before the date of enactment of the Act, i.e., assets with previously deducted losses) to a specified 10% owned foreign corporation with respect to which the domestic corporation is a U.S. shareholder after the transfer, the domestic corporation must include an amount equal to the transferred loss amount in gross income, subject to certain limitations. Section 91 treats the amounts recognized under this provision as U.S. source and provides rules for basis adjustment when inclusions are recognized. Section 91 applies to transfers that occur after Dec. 31, 2017, but includes a transition rule. The Act repeals the active trade or business exception under §367 by striking §367(a)(3).		
Source of inventory sales income	Income from the sale or exchange of inventory property is sourced on the basis of sales and production activities, as provided by regulation. Under Reg. §1.863-3(b)(1), 50% of such income is treated as attributable to production activity and is generally sourced where the production assets are located, while the remaining 50% of the income is attributable to sales activity and is sourced where the rights, title, and interest of the seller are transferred to the buyer.	The Act provides that income from the sale or exchange of inventory property is sourced solely on the basis of the production activities with respect to that property, instead of being sourced on the basis of sales and production activities. Effective for taxable years beginning after Dec. 31, 2017.	§14303	§863

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Topic	Prior Law	2017 Tax Act, as Amended	Act Sections	I.R.C. Sections
Election to increase percentage of domestic taxable income offset by overall domestic loss treated as foreign source	For taxable years beginning prior to Jan. 1, 2018, if an overall domestic loss (ODL) offset foreign-source income, then in later years, a portion of the taxpayer's U.S.-source taxable income is recharacterized as foreign-source income for purposes of computing the foreign tax credit. The portion of the taxpayer's U.S.-source income for years succeeding the ODL is the lesser of the amount of the loss (to the extent not used in prior taxable years) or 50% of the taxpayer's U.S.-source income.	The Act provides an election to increase the percentage of taxable income treated as foreign source by allowing that if any “pre-2018 unused overall domestic loss” is taken into account for any “applicable taxable year,” the taxpayer may elect to have §904(g)(1)(B) apply to the loss at a percentage greater than 50%, but not greater than 100%. The term “pre-2018 unused overall domestic loss” means any ODL that arises in a qualified taxable year beginning before Jan. 1, 2018, that has not been used under §904(g)(1) for any taxable year beginning before Jan. 1, 2018. “Applicable taxable year” is defined as taxable years beginning after Dec. 31, 2017 and before Jan. 1, 2028. Effective for taxable years beginning after Dec. 31, 2017.	§14304	§904
Subpart F	Section 951(b) defines a U.S. shareholder as a U.S. person who owns or is considered as owning by applying the rules of ownership of §958(b), 10% or more of the total combined voting power of all classes of stock entitled to vote of such foreign corporation. Foreign shipping income earned between 1976 and 1986 was not subject to current U.S. tax under subpart F if the income was reinvested in certain qualified shipping investments. However, net decreases in	The Act expands the definition of U.S. shareholder to include U.S. persons who own 10% or more of the total value of shares of all classes of stock of such foreign corporation. The Act repeals current taxation of previously excluded qualified investments under §955. The Act repeals foreign base company oil related income as subpart F income under §954. Stock attribution rules for determining CFC status are modified to treat a U.S. corporation	§14211– §14215	§951, §954, §955, §958, §6038

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Topic	Prior Law	2017 Tax Act, as Amended	Act Sections	I.R.C. Sections
Subpart F (cont.)	qualified shipping investments were subject to inclusion in subpart F income. A U.S. shareholder of a CFC is subject to U.S. tax under subpart F on foreign base company oil related income regardless of whether the CFC distributes such income to the U.S. shareholder. Section 958(b)(4) prevents the attribution of stock ownership from a foreign person to a U.S. person. Section 951(a)(1) requires that foreign corporation be a controlled foreign corporation (CFC) for an uninterrupted period of 30 days or more before it is classified as a CFC for tax purposes.	as constructively owning stock held by its foreign shareholder. The Act eliminates the 30-day rule in §951(a)(1).		
Deduction for foreign-derived intangible income and global intangible low-taxed income	U.S. corporations are generally subject to U.S. taxation on worldwide income and generally may deduct all of their interest expense. Non-U.S. corporations are generally not subject to U.S. tax on non-U.S. income. A U.S. shareholder of a foreign corporation is not subject to tax on the earnings of a foreign corporation unless the foreign corporation distributes the earnings as a dividend, however, if the foreign corporation is a controlled foreign corporation (CFC) the U.S. shareholder may have to include its pro rata share of current earnings and profits of the CFC in gross income currently under subpart	The Act adds a new provision, §250, to the Code which allows a domestic corporation a deduction equal to the sum of (1) 37.5% of the "foreign-derived intangible income" (FDII) of the corporation for the taxable year plus (2) 50% of the global intangible low-taxed income (GILTI) amount (if any) that is included in the gross income of the domestic corporation under §951A for the taxable year and the amount treated as a dividend received by the corporation under §78 that is attributable to the GILTI amount included in gross income for the year. Section 250 provides that if in any year the sum of the	§14401;	§59A (new), §6038A

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Deduction for foreign-derived intangible income and global intangible low-taxed income (cont.)	F of subchapter N of the Code. If a domestic corporation capitalizes a foreign subsidiary with debt, the earnings from the foreign subsidiary will be foreign-source dividend income eligible for an 85% dividend received deduction under former §965 and the domestic corporation will receive a deduction against U.S. source income for the interest expense. If an alternative structure is used so that a foreign affiliate issues the debt to the U.S. entity, the U.S. entity will still receive an deduction against U.S.-source income for the interest expense paid to the foreign affiliate, but the payment to the foreign affiliate is generally subject to a statutory 30% withholding tax under §881. This rate is often reduced or even eliminated in U.S. income tax treaties, however, and the foreign affiliate could be subject to little or no tax on the interest income, reducing the global effective tax rate of the affiliated group. Consequently, U.S. corporations can erode the U.S. tax base by deducting interest paid on related-party debt (even when the amount of interest expense is legitimately arm's length) without paying U.S. tax on the corresponding income.	FDII and GILTI exceed the domestic corporation's taxable income determined without regard to this section, then the amount of FDII and the amount of GILTI taken into account will be reduced before the deduction under §250(a) is computed. The deduction is also reduced for taxable years beginning after Dec. 31, 2025 to 21.875% of FDII and 37.5% of GILTI. FDII of a domestic corporation is the amount that bears the same ratio to the corporation's “deemed intangible income” as its “foreign-derived deduction eligible income” bears to its “deduction eligible income.” For purposes of §250, a corporation's deemed intangible income means the excess (if any) of its deduction eligible income over its deemed tangible income return. The deemed tangible income return means, with respect to any corporation, an amount equal to 10% of the corporation's qualified business asset investment (QBAI) (as defined in §951A(d), determined by substituting “deduction eligible income” for “tested income” in §951A(d)(2) and without regard to whether the corporation is a CFC. Deduction eligible income is the excess (if any) of a domestic corporation's gross income, determined without regard to a number of provisions (e.g., among others, subpart F income under §951 and GILTI inclusions under new §951A).		

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Deduction for foreign-derived intangible income and global intangible low-taxed income (cont.)		Taken together, the 21% corporate tax rate under amended §11 and the deductions for FDII and GILTI under new §250, yield effective tax rates of 13.125% on FDII and 10.5 % on GILTI, for taxable years beginning after Dec. 31, 2017, and before Jan. 1, 2026. Effective for taxable years beginning after Dec. 31, 2017.		
Limitations on income shifting through intangible property transfers	A transfer of intangible property to a foreign affiliate that occurs in connection with certain corporate transactions is generally not subject to the nonrecognition rules that may otherwise be applicable. The transferor of intangible property must recognize gain from the transfer as though the intangible were transferred (regardless of the stage of development of the intangible property) in exchange for payments contingent on the use, productivity, or disposition of the transferred property in amounts that would have been received either annually over the useful life of the property or upon disposition of the property after the transfer. The appropriate amounts of those imputed payments are determined using transfer-pricing principles. Final regulations eliminate an exception under temporary regulations that permitted nonrecognition of gain from outbound transfers of foreign goodwill and going concern value.	The Act revises the definition of intangible property in §936(h)(3)(B) for purposes of §367(d) and §482. Under the Act, workforce in place, goodwill (both foreign and domestic), and going concern value are intangible property within the meaning of §936(h)(3)(B), as well as the residual category of "any similar item" the value of which is not attributable to tangible property or the services of an individual. The source or amount of value would not be relevant to whether property that is one of the specified types of intangible property is within the scope of the definition. The Act clarifies that, in the case of transfers of multiple intangible properties in one or more related transactions, valuation of such intangible property on an aggregate basis is explicitly permitted if the Commissioner determines that an aggregate basis achieves a more reliable result than an asset-by-asset approach. This approach would be consistent	§14221	§367, §482, §936

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Limitations on income shifting through intangible property transfers (cont.)		with Tax Court decisions in cases outside of the §482 context, where collections of multiple, related intangible assets were viewed by the Tax Court in the aggregate; and also consistent with the cost-sharing regulations. Lastly, the Act codifies the realistic alternative principle with respect to intangible property which is founded on the notion that a taxpayer will only enter into a particular transaction if none of its realistic alternatives is economically preferable to the transaction under consideration. Effective for transfers in taxable years beginning after Dec. 31, 2017.		
Certain related party amounts paid or accrued in hybrid transactions or with hybrid entities	No provision.	The Act denies a deduction for any disqualified related party amount paid or accrued pursuant to a hybrid transaction or by, or to, a hybrid entity. Any interest or royalty paid or accrued to a related party may constitute a disqualified related party amount in one or two ways: (1) if there is no corresponding inclusion to the related party under the tax law of the country of which such related party is a resident; or (2) if such related party is allowed a deduction with respect to such amount under the tax law of such country. However, any such payments that are included in gross income of a U.S. shareholder under §951(a) would be excluded from disqualified related party amount.	§14222	§267A

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Certain related party amounts paid or accrued in hybrid transactions or with hybrid entities **(cont.)**		The Act provides that a related party, for these purposes, would be determined under the rules of §954(d)(3), except that such section applies with respect to the payor as opposed to the CFC as otherwise referred to in that section. A hybrid transaction is any transaction, series of transactions, agreement, or instrument one or more payments with respect to which are treated as interest or royalties for federal income tax purposes and which are not so treated for purposes of the tax law of the foreign country of which the recipient of such payment is resident for tax purposes or is subject to tax. A hybrid entity is any entity which is either: (1) treated as fiscally transparent for federal income tax purposes but not so treated for purposes of the tax law of the foreign country of which the entity is resident for tax purposes or is subject to tax, or (2) treated as fiscally transparent for purposes of the tax law of the foreign country of which the entity is resident for tax purposes or is subject to tax but not so treated for federal income tax purposes. The Act grants the Secretary broad authority to issue regulations or other guidance as may be necessary or appropriate to carry out the purposes of the bill; including rules for applying the provisions to branches (whether domestic or foreign), rules applying the provisions to domestic entities, and rules providing for exceptions to the general rule set forth in the provision.		

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Certain related party amounts paid or accrued in hybrid transactions or with hybrid entities (cont.)		Effective for taxable years beginning after Dec. 31, 2017.		
PFICs	U.S. shareholders of a passive foreign investment company (PFIC) are taxed on the PFIC's earnings. A PFIC is defined as any foreign corporation (1) 75% or more of the gross income of which is passive, or (2) at least 50% of the assets of which produce passive income. Among other exceptions, passive income does not include any income that is derived in the active conduct of an insurance business if the corporation is predominantly engaged in an insurance business and would be taxed as an insurance company were it a U.S. corporation.	The PFIC insurance exception is restricted to foreign corporations that would be taxed as an insurance company if they were U.S. corporations and if loss and loss adjustment expenses, unearned premiums, and certain reserves exceed 25% (or 10% in certain circumstances) of the foreign corporation's total assets.	§14501	§1297
Interest Expense Apportionment	Generally, interest expense may be allocated and apportioned under either the asset method or the modified gross income method. Under the asset method, taxpayers are permitted to use either the tax basis or the fair market value of their assets.	The Act prohibits members of a U.S. affiliated group from allocating interest expense on the basis of the fair market value of assets for purposes of §864(e). Instead, the members must allocate interest expense based on the adjusted tax basis of assets. Effective for tax years beginning after Dec. 31, 2017.	§14502	§864

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Topic	Prior Law	2017 Tax Act, as Amended	Act Sections	I.R.C. Sections
***Global intangible low-taxed income (GILTI)**	U.S. citizens, resident individuals and U.S. corporations are generally subject to U.S. tax on worldwide income. Generally, foreign corporations are not subject to tax on income earned in an active foreign trade or business and U.S. shareholders of foreign corporations are not subject to tax on the earnings of such foreign corporations until the income is distributed to the shareholders as dividends. However, a U.S. shareholder of a controlled foreign corporation (CFC) must include in gross income its pro rata share of the CFC's subpart F income without regard to whether the income is distributed to the shareholders. Under current transfer pricing rules, however, if a CFC owns important assets, undertakes key functions, or bears significant risks in a foreign jurisdiction, that CFC is treated as earning more than a routine profit, often resulting in substantial profits being generated at the CFC level. Allocating profits in this manner does not trigger taxation under the subpart F rules; thus, U.S. tax on those profits is deferred until they are distributed to U.S. shareholders.	The Act added new §951A, which requires a U.S. shareholder of any CFC to include in gross income for a taxable year its “global intangible low-taxed income” (GILTI) for the taxable year. GILTI is determined annually with respect to each U.S. shareholder as the excess (if any) of shareholder's “net CFC tested income” for the year over the shareholder's “net deemed tangible income return” for the year. Net deemed tangible income return is the excess of 10% of the aggregate of a shareholder's pro rata share of the “qualified business asset investment” of each CFC with respect to which the shareholder is a U.S. shareholder in that taxable year over the amount of interest expense taken into account under §951A(c)(2)(A)(ii) in determining the shareholder's net CFC tested income for the taxable year to the extent the interest income attributable to such expense is not taken into account in determining the shareholder's net CFC tested income. Net CFC tested income is the excess (if any) of the aggregate of a shareholder's pro rata share of the tested income of each CFC with respect to which the shareholder is a U.S. shareholder for that taxable year of the U.S. shareholder (determined for each taxable year of the CFC that ends in or with such taxable year the U.S. shareholder) over the	§14201	§951A (new)]

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***Global intangible low-taxed income (GILTI)** (cont.)		aggregate of the shareholder's pro rata share of the tested loss of each CFC with respect to which the shareholder is a U.S. shareholder of that taxable year of the U.S. shareholder (determined for each taxable year of the CFC that ends in or with the taxable year of the U.S. shareholder). A qualified business asset investment is, with respect to any CFC for any taxable year, the average of that CFC's average adjusted bases as of the close of each quarter of that taxable year in specified tangible property used in a trade or business of the CFC and of a type with respect to which a depreciation deduction is allowable under §167. Specified tangible property is any tangible property used in the production of tested income. However, property that is used both in the production of tested income and non-tested income will only be treated as specified tangible property in the same proportion that the gross tested income produced with respect to such property bears to the total gross income produced with respect to such property. The rules regarding qualified business asset investments include special provisions regarding the determination of adjusted basis and rules applicable to partnership property. New §951A includes specific guidance regarding the determination of pro rata		

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***Global intangible low-taxed income (GILTI) (cont.)**		shares for purposes of §951A and states that GILT included in gross income will be treated as amounts included under §951(a)(1)(A) for purposes of applying other provisions of the Code except as otherwise provided by the Secretary. Effective for taxable years of CFCs beginning after Dec. 31, 2017, and to taxable years of U.S. shareholders in which or with which such taxable years of foreign corporations end.		
Qualified Bicycle Commuting Reimbursement	Qualified bicycle commuting reimbursements of up to $20 per month are excludible from an employee's gross income. Amounts that are excludible from gross income for income tax purposes also are excluded from wages for employment tax purposes.	Suspends the exclusion from gross income and wages for qualified bicycle commuting reimbursements. Effective for tax years beginning after Dec. 31, 2017, and before Jan. 1, 2026.	§11047	§132(f)(8), §274
Recharacterization of Certain IRA and Roth IRA Contributions	An individual may recharacterize a contribution to a traditional IRA as a contribution to a Roth IRA, and vice versa. An individual also may recharacterize a conversion of a traditional IRA to a Roth IRA. The deadline for recharacterization generally is Oct. 15 of the year following the conversion. When a recharacterization occurs, the individual is treated for tax purposes as not having made the conversion. The recharacterization must include any net earnings related to the conversion.	Provides that the special rule that allows a contribution to one type of IRA to be recharacterized as a contribution to the other type of IRA does not apply to a conversion contribution to a Roth IRA. Thus, recharacterization cannot be used to unwind a Roth conversion. However, recharacterization is still permitted with respect to other contributions. These changes are effective for plan years beginning after Dec. 31, 2017.	§13611	§408A(d)(6)(B)(iii)

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Rollovers of Plan Loan Offsets	Employer-sponsored retirement plans may provide loans to employees. Unless the loan satisfies certain requirements in both form and operation, the amount of a retirement plan loan is a deemed distribution from the retirement plan. A deemed distribution of an unpaid loan balance is generally taxed as though an actual distribution occurred, and is subject to the 10% early distribution tax, unless an exception applies. A deemed distribution is not eligible for rollover to another eligible retirement plan. A plan may provide that an employee's obligation to repay a loan is accelerated (for example, if the employee is terminated) and, if the loan is not repaid, the loan is cancelled and the amount in the employee's account balance is offset by the amount of the unpaid loan balance (loan offset). A loan offset is treated as an actual distribution, not a deemed distribution, from the plan that is eligible for tax-free rollover to another eligible retirement plan within 60 days following the offset. The offset amount is the amount needed to repay the loan.	An employee who has taken a plan loan has until the due date for filing the employee's tax return for that year (including extensions) to contribute the loan balance to an IRA (instead of the current 60 days) to avoid having the loan amount treated as a taxable distribution. The transfer is treated like a tax-free rollover. This rule applies to employees whose plans terminate or who experience a severance from employment while having a plan loan outstanding. The plan loan offset must relate to a loan that satisfies §72(p)(2), otherwise the loan will be treated as a taxable deemed distribution under §72(p)(1). Applicable to taxable years beginning after Dec. 31, 2017.	§13613	§402(c)(3)
Deduction for Excessive Employee Remuneration	Generally, a deduction for compensation paid or accrued with respect to a "covered employee" of a publicly traded corporation is capped at $1 million per year. The deduction limitation does not apply to commissions or	Repeals the commission and performance-based compensation exceptions to the $1 million yearly limit on the deduction for compensation paid with respect to a covered employee of a publicly traded corporation.	§13601	§162(m)(2) Through §162(m)(4)

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Deduction for Excessive Employee Remuneration (cont.)	performance-based remuneration (including stock options). For purposes of the deduction limitation, a covered employee is defined by the IRS to include the principal executive officer (PEO) and the three highest compensated officers (other than the PEO) as of the close of the tax year. The pre-reform IRS definition does not necessarily include the chief financial officer (CFO). However, the SEC, for securities law purposes, defines a "covered employee" to include the chief executive officer (CEO), the CFO, and the three highest-paid employees, other than the CEO and CFO, who were serving as executive officers at the end of the last completed fiscal year.	"Covered employees" include the CEO, CFO and the three highest paid employees. Once an employee qualifies as a covered employee, the deduction limitation applies to that person so long as the corporation pays remuneration to that person (or to any beneficiaries). Applicable to tax years beginning after Dec. 31, 2017, except that a transition rule applies so that no changes take effect with respect to a written binding contract in effect on Nov. 2, 2017, that is not modified in any material respect on or after such date.		
Qualified Equity Grants	No provision.	New §83(i) provides tax benefits to employees of certain start-up companies. Generally, an employee may make a special election with respect to qualified stock transferred to them, so that no amount is included in income for the first tax year in which the rights of the employee in such stock are transferable or are not subject to a substantial risk of forfeiture, whichever is applicable. Income taxation can be deferred by the employee until the earlier of (a) five years, or (b) the occurrence of a specified event, such as the stock of the company being readily tradable on an established	§13603	§83(i) (new), §422(b), §3401(i) (new), §6652(p) (new)

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Qualified Equity Grants (cont.)		securities market, or a revocation of the election. A written plan must provide that at least 80% of the employees of the company are granted stock options or restricted stock units (RSUs) with the same rights and privileges. The 80% eligibility requirement is met only if affected employees (new hires or existing employees) are either granted stock options or RSUs for that year, and not a combination of both. Certain notice requirements apply. Where an inclusion deferral election is made with respect to an incentive stock option (including one under an employee stock purchase plan), the option is treated as a nonqualified stock option for FICA purposes. Excluded employees who are not considered qualified individuals able to make a special election include individuals who first become a 1% owner or one of the four highest compensated officers in a tax year, or who fell into such a classification in any of the 10 preceding tax years. Receipt of qualified stock under §83(i) is not treated as a nonqualified deferred compensation plan for purposes of §409A. Section 83(b) elections may not be made with respect to RSUs. This prevents recipients from accelerating the taxable event to the time of the transfer itself in order to attempt to limit the amount of ordinary income that is not		

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Qualified Equity Grants (cont.)		recognized in acquiring and later selling the restricted stock units. The provisions governing qualified stock apply to stock attributable to options exercised or RSUs settled after Dec. 31, 2017. Under a transition rule, until the IRS issues regulations or other guidance implementing the 80% rule and employer notice requirements under the provision, a corporation is treated as complying with these requirements if it uses a reasonable good faith interpretation in applying the rules. The penalty for a failure to provide the required notice applies to failures after Dec. 31, 2017.		
Relief for 2016 Disaster Areas	Taxpayer's distributions from qualified retirement plans are generally included in income. Unless an exception applies, a distribution before the taxpayer turns age 59 1/2 is subject to a 10% additional early withdrawal tax. Taxpayers may rollover distributions into another eligible retirement plan within 60 days to avoid income inclusion. The IRS has discretion to waive the 60-day period for taxpayers who fail to make the rollover in time. Individuals may claim itemized deductions for personal casualty losses (i.e., losses not connected with a trade or business or entered into for profit), including property losses	Provides an exception to the 10% early withdrawal tax in the case of a distribution due to a qualified 2016 disaster and shields a qualified plan from disqualification for making any such distribution. In addition, unless an election to the contrary is made, taxpayers recognize income attributable to a qualified 2016 disaster distribution ratably over three years, taxpayers are allowed a period of up to three years for recontributions of qualified 2016 disaster distributions, and casualty losses associated with a 2016 disaster are deductible without regard to whether aggregate net losses exceed 10% of a taxpayer's adjusted gross income, as long as they exceed $500 per casualty. A qualified 2016 disaster distribution includes any	§11028	§72(t), §165, §401-§403, §408, §457, §3405

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Relief for 2016 Disaster Areas (cont.)	arising from fire, storm, shipwreck, or other casualty, or from theft. Certain tax legislation, including the Disaster Tax Relief and Airport and Airway Extension Act of 2017 (Pub. L. No. 115-63), provides for a special above-the-line deduction for personal casualty losses arising from specified natural disasters.	distribution made on or after Jan. 1, 2016, and before Jan. 1, 2018, to an individual whose principal place of abode at any time during calendar year 2016 was in the 2016 disaster area. The disaster relief extends to any area with respect to which a major disaster has been declared by the President under §401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act during calendar year 2016. Personal casualty loss relief applies to losses arising in tax years beginning after Dec. 31, 2015, and before Jan. 1, 2018. These changes are effective on Dec. 22, 2017.		
Length of Service Awards for Public Safety Volunteers	Special rules apply to deferred compensation plans of state and local government and private, tax-exempt employers. However, an exception to these rules applies in the case of a plan paying solely length of service awards to bona fide volunteers (or their beneficiaries) on account of qualified services performed by the volunteers. The exception applies only if the aggregate amount of length of service awards accruing for a bona fide volunteer with respect to any year of service does not exceed $3,000.	Increases the aggregate amount of length of service awards for bona fide volunteers to $6,000 (up from $3,000), subject to adjustment for inflation. For defined benefit plans, the limit applies to the actuarial present value of the aggregate amount. Effective for tax years beginning after Dec. 31, 2017.	§13612	§457(e)(11)

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Miscellaneous Itemized Deductions – 2 Percent Floor	A taxpayer may deduct certain expenses as miscellaneous itemized deductions. The deduction claimed is the portion of the sum of the expenses that exceeds 2% of the taxpayer's adjusted gross income (AGI). The expenses which qualify generally fall into the categories of unreimbursed employee expense; tax preparation fees; and other expenses paid to produce or collect income that is included in the taxpayer's gross income or expenses to manage, conserve, or maintain property held for producing income, or expenses to determine, contest, pay, or claim a refund of any tax. Eligible educators (kindergarten through grade 12) can deduct up to $250 of qualified expenses, independently of the 2% miscellaneous itemized deductions.	The Act suspends all miscellaneous itemized deductions that are subject to the 2% floor under present law for tax years beginning after Dec. 31, 2017, and before Jan. 1, 2026.	§11045	§62, §67(g) (new)
Limitation on Itemized Deductions	The total amount of otherwise allowable itemized deductions (other than medical expenses, investment interest, and casualty, theft, or wagering losses) is limited for certain upper-income taxpayers (sometimes referred to as the "Pease" limitation). This limitation applies on top of any other limitations applicable to such deductions. Under the Pease limitation, the otherwise allowable total amount of itemized deductions is reduced by 3% of the amount by which the taxpayer's adjusted gross income exceeds a threshold	The Act suspends the overall limitation on itemized deductions for tax years beginning after Dec. 31, 2017, and before Jan. 1, 2026.	§11046	§68

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Limitation on Itemized Deductions (cont.)	amount, according to filing status. The Pease limitation does not reduce itemized deductions by more than 80%.			
Mortgage Interest Deduction	Taxpayers may claim itemized deductions for mortgage interest paid with respect to a principal residence and one other residence of the taxpayer. Taxpayers who itemize their deductions may deduct interest payments on up to $1 million in acquisition indebtedness (for acquiring, constructing, or substantially improving a residence), and up to $100,000 in home equity indebtedness. Under the alternative minimum tax (AMT), however, the deduction for home equity indebtedness is disallowed.	The Act reduces the mortgage interest deduction to interest on $750,000 of acquisition indebtedness interest for debt incurred after Dec. 15, 2017. The $1 million limitation remains for older debt. The deduction is not limited to interest on a taxpayer's principal residence. For tax years beginning after Dec. 31, 2025, the limitation reverts back to $1 million regardless of when the debt was incurred. The Act suspends the mortgage interest deduction for interest on home equity indebtedness for tax years beginning after Dec. 31, 2017, and before Jan. 1, 2026.	§11043	§163(h)
State and Local Tax Deduction	Individuals may claim itemized deductions for state and local government income and property taxes paid. In lieu of the itemized deduction for state and local income taxes, individuals may claim an itemized deduction for state and local government sales taxes.	The Act provides that individual taxpayers may elect to deduct state and local sales, income, or property taxes up to $10,000 ($5,000 for a married taxpayer filing a separate return) for tax years beginning after Dec. 31, 2017 and beginning before Jan. 1, 2026. For amounts paid in a tax year beginning before Jan. 1, 2018, with respect to state or local income taxes, beginning after Dec. 31, 2017, the payment is treated as if paid on the	§11042	§164(b)

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State and Local Tax Deduction (cont.)		last day of the tax year for which such tax is imposed for purposes of applying the limitation of the deduction. The Act also provides that individuals may deduct state, local, and foreign property taxes and state and local sales taxes when paid or accrued in carrying on a trade or business and generally disallows a deduction for individual state and local income, war profits, and excess profits taxes.		
***Elimination of Living Expense Deduction for Members of Congress**	Current law deems the place of residence of a senator or representative within the state or district he represents to be his or her tax home and limits the member's annual deduction for living expenses to a maximum of $3,000.	The Act eliminates the deduction for members of Congress for living expenses while away from their congressional districts or home states, effective for tax years beginning after Dec. 22, 2017.	§13311	§162(a)
Charitable Contributions	For tax years beginning before 2018 and after 2025, the limitation on the deduction for cash contributions made to public charities, private operating foundations, and private distributing foundations is 50% of AGI. The deduction for cash contributions to private nonoperating foundations is limited generally to 30% of AGI. For contributions made in tax years beginning before 2018, a taxpayer who receives the right to purchase tickets to an educational institution's athletic events in exchange for a contribution to the educational institution is	The Act increases the AGI limitation on cash contributions from 50% to 60%, effective for contributions made in tax years beginning after 2017 and before 2026. The Act repeals the current 80% deduction for contributions made for university athletic seating rights, effective for contributions made in tax years beginning after 2017. The Act also repeals the exception to the contemporaneous written acknowledgement requirement for contributions of $250 or more	§11023, §13704, §13705	§170

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Charitable Contributions (cont.)	permitted to deduct 80% of the amount contributed. For contributions made in tax years beginning before Jan. 1, 2017, a taxpayer is not required to substantiate a charitable contribution with a contemporaneous written acknowledgement from the charity if the donee organization files a return reporting required information on the donation.	when the donee organization files the required return, effective for contributions made in tax years beginning after Dec. 31, 2016.		
Personal Casualty Losses Deduction	Individuals may claim itemized deductions for personal casualty losses (i.e., losses not connected with a trade or business or entered into for profit), including property losses arising from fire, storm, shipwreck, or other casualty, or from theft. Certain tax legislation, including the Disaster Tax Relief and Airport and Airway Extension Act of 2017 (Pub. L. No. 115-63), provided for a special above-the-line deduction for personal casualty losses arising from specified natural disasters.	The Act limits the personal casualty loss itemized deduction for property losses (not used in connection with a trade or business or transaction entered into for profit) to apply only to losses incurred as a result of federally-declared disasters. This limitation on deductibility applies to losses arising in tax years beginning after Dec. 31, 2017, and before Jan. 1, 2026.	§11044	§165(h)
Limitation on Wagering Losses Deduction	Taxpayers may claim itemized deductions for losses from gambling, but only to the extent of gambling winnings. However, taxpayers may claim other deductions connected to gambling that are deductible regardless of gambling winnings.	The Act amends the definition of losses from wagering transactions to include any otherwise allowable deduction incurred in carrying on wagering transactions (e.g., traveling to and from a casino), applicable to tax years beginning after Dec. 31, 2017, and before Jan. 1, 2026.	§11050	§165(d)

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Tax Preparation Services Deduction	Individuals may claim a miscellaneous itemized deduction (subject to a 2% floor) for tax preparation expenses.	The Act suspends all miscellaneous itemized deductions (including for tax preparation expenses) that are subject to the 2% floor under §67 under present law for tax years beginning after Dec. 31, 2017, and before Jan. 1, 2026.	§11045	§212
Medical Expense Deduction	Taxpayers may claim itemized deductions for out-of-pocket medical, dental and related expenses of the taxpayer, a spouse, or a dependent not compensated for by insurance. This deduction is allowed only to the extent the expenses exceed 10% of the taxpayer's adjusted gross income. A special rule applicable to taxpayers (or their spouses) who have attained the age of 65 before the close of tax years beginning after Dec. 31, 2012 and ending before Jan. 1, 2017, reduced the floor to 7.5%. This rule is disregarded, however, for the purposes of computing the alternative minimum tax.	For tax years beginning after Dec. 31, 2016, and ending before Jan. 1, 2019, the Act reduces the medical expense deduction floor to 7.5% of adjusted gross income and eliminate the minimum tax preference.	§11027	§213
Alimony Payments Deduction	Alimony payments generally are allowed as above-the line deductions for the payor and are included in the income of the payee. However, alimony payments are neither deductible by the payor, nor includible in the income of the payee, if designated as such by the divorce decree or separation agreement.	The Act eliminates the current above-the-line deduction for alimony payments. The Act does not require the payee receiving alimony payments to include alimony payments into income. This provision is effective for divorce decrees, separation agreements, and certain modifications entered into after 2018.	§11051	§215
Moving Expenses Deduction	Taxpayers may claim deductions for moving expenses incurred in connection with starting	The Act generally suspends the deduction for moving expenses for tax years beginning	§11049	§217

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Moving Expenses Deduction (cont.)	a new job, regardless of whether or not the taxpayer itemizes his deductions. To qualify, the new workplace generally must be at least 50 miles farther from the former residence than the former place of work or, if the taxpayer had no former workplace, at least 50 miles from the former residence.	after Dec. 31, 2017, and before Jan. 1, 2026. However, the deduction generally is still available for active duty members of the Armed Forces who move pursuant to a military order and incident to a permanent change of station.		
Expenses Attributable to the Trade or Business of Being an Employee	Taxpayers generally may claim deductions for trade and business expenses, regardless of whether the taxpayer itemizes deductions or takes the standard deduction. Taxpayers generally may claim expenses relating to the trade or business of being an employee only if they itemize deductions. Certain expenses attributable to the trade or business of being an employee, however, are allowed as above-the-line deductions, including reimbursed expenses included in the employee's income, certain expenses of performing artists, certain expenses of state and local government officials, certain expenses of elementary and secondary school teachers, and certain expenses of members of reserve components of the U.S. military. Eligible educators above-the-line deduction is for any ordinary and necessary expenses incurred (1) for professional development courses, or (2) for materials (books, supplies, computers, and other supplementary materials) used in the classroom. The	The Act suspends all miscellaneous itemized deductions that are subject to the 2% floor under present law, including expenses attributable to the trade or business of performing services as an employee, for tax years beginning after Dec. 31, 2017, and before Jan. 1, 2026.	§11045	§67

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Expenses Attributable to the Trade or Business of Being an Employee (cont.)	deduction may not exceed $250 (for 2017). This amount is indexed for inflation. Gross income does not include any qualified fringe benefit, including working condition fringe benefits.			
Reforms to Discharge of Certain Student Loan Indebtedness	Generally, debt that is forgiven constitutes gross income to the debtor, even if the debt is forgiven on account of death or disability. However, under certain conditions, cancellation of student loan indebtedness does not constitute gross income to the debtor.	The Act excludes from taxable income, income resulting from the discharge of certain student debt on account of the death or total and permanent disability of the student. Effective for loans discharged after Dec. 31, 2017.	§11031	§108
Contributions to ABLE Accounts	Qualified ABLE programs are tax-favored savings programs intended to benefit disabled individuals. The saver's credit is a nonrefundable tax credit for eligible taxpayers for qualified retirement savings contributions. The maximum annual contribution eligible for the credit equals $2,000 per individual, and the credit rate depends on the adjusted gross income (AGI) of the taxpayer. The saver's credit is in addition to any deduction or exclusion that would otherwise apply with respect to the contribution.	The Act increases the contribution limit to ABLE accounts under certain circumstances. Once the overall limitation on contributions is reached, the designated beneficiary may contribute an additional amount, up to the lesser of the federal poverty line for a one-person household, or the individual's compensation for the tax year. Effective for tax years beginning after Dec. 22, 2017, with a sunset after Dec. 31, 2025.	§11024	§25B, §529A

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Rollovers from Qualified Tuition Programs to Qualified ABLE Programs	Owners of qualified tuition programs under §529 can rollover the funds to another account without subjecting the funds to income tax. Rollovers to qualified ABLE accounts under §529A are not permitted. Qualified ABLE programs are tax-favored savings programs intended to benefit disabled individuals. They are established and maintained by state agencies (or instrumentalities thereof) and must meet certain conditions.	The Act permits taxpayers to roll over amounts from qualified tuition programs (§529 accounts) to ABLE accounts without penalty, but only if the designated beneficiary (or member of the beneficiary's family) of the qualified tuition plan owns the ABLE account. Such amounts count toward the overall limitation on contributions to an ABLE account within a tax year, and any amount in excess is included in the distributee's gross income. Effective for distributions after Dec. 22, 2017, with a sunset after Dec. 31, 2025.	§11025	§529
Employee Achievement Awards	Employee achievement awards are excluded from employees' income and deductible to the employer, within certain limitations. To qualify for the tax exclusion, an employee achievement award must be tangible personal property given in recognition of the employee's length of service or safety achievement at a ceremony that is a meaningful presentation. Prop. Reg. §1.274-8(c)(2) excludes from the definition of "tangible personal property" cash or gift certificate, or vacations, meals of lodging, tickets to theater and sporting events and stocks, bonds, and other securities.	The Act defines "tangible personal property" in the context of employee achievement awards to exclude cash, cash equivalents, gift coupons, or certificates as well as vacations, meals, lodging, or tickets to theater or sporting events, stocks, bonds securities or other similar items. Effective for amounts paid or incurred after Dec. 31, 2017. [*Bloomberg Editor's Note*: It appears that this provision codifies Prop. Reg. §1.274-8(c)(2).]	§13310	§74, §274

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Treatment of Certain Individuals Performing Services in the Sinai Peninsula of Egypt	Members of the Armed Forces serving in combat zones are afforded a number of tax benefits, including the exclusion from income of certain military pay received for any month during which the member served in a combat zone, or was hospitalized as a result of serving in a combat zone; or special estate tax rules or an exemption from taxes applicable to a service member that dies while serving in a combat zone as a result of wounds, disease, or injury incurred while doing so. Special benefits are also available to surviving spouses in the event of a service member's death or missing status.	The Act grants combat zone tax benefits to the Sinai Peninsula of Egypt, if (as of Dec. 22, 2017) any member of the Armed Forces is entitled to special pay for services performed there under 37 U.S.C. §310 (which relates to special pay for duty subject to hostile fire or imminent danger). Generally effective beginning June 9, 2015, through any subsequent tax year beginning before Jan. 1, 2026, however the provisions related to wage withholding apply to remuneration paid after Dec. 22, 2017.	§11026	§112
Exclusion for Qualified Moving Expense Reimbursements	Qualified moving expense reimbursements provided by an employer to an employee are excluded from the employee's income.	The Act suspends the exclusion from gross income for qualified moving expense reimbursements for tax years beginning after Dec. 31, 2017, and before Jan. 1, 2026. The exclusion is available for active duty members of the Armed Forces who move pursuant to a military order and incident to a permanent change of station.	§11048	§132, §82
Unrelated Business Taxable Income	For amounts paid or incurred before 2018, those amounts used to provide certain fringe benefits (transportation benefits, qualified parking benefits, and access to on-site athletic facilities) to an exempt organization employee are not treated as unrelated business taxable income.	The Act requires exempt organizations to include in unrelated business taxable income the amount of certain fringe benefit expenses for which a deduction is disallowed, effective for amounts paid or incurred after 2017. The Act also requires that organizations that carry on more than one unrelated trade or	§13702, §13703	§512, §513

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Unrelated Business Taxable Income (cont.)	For tax years beginning before 2018, an exempt organization that carries on more than one unrelated trade or business calculates its unrelated business taxable income on an aggregate basis, which allows the organization to use a deduction generated by one trade or business to offset income earned by another.	business separately calculate unrelated business taxable income for each trade or business, effectively prohibiting using deductions relating to one trade or business to offset income from a separate trade or business. The change applies to tax years beginning after 2017.		

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Topic	Prior Law	2017 Tax Act, as Amended	Act Sections	I.R.C. Sections
Corporate Alternative Minimum Tax	Taxpayers must compute their income for purposes of the regular income tax, then recompute their income for purposes of the alternative minimum tax (AMT). Corporations with average gross receipts equal to or in excess of $7.5 million over the preceding three tax years are subject to the AMT. A taxpayer's tax liability is the greater of their regular tax liability or their AMT liability. Corporations receive a credit for AMT paid (the prior-year minimum tax credit), which they can carry forward and claim against regular tax liability in future tax years, to the extent such liability exceeds AMT in a particular year.	Repeals the corporate AMT for tax years beginning after Dec. 31, 2017. Continues to allow the prior year minimum tax credit to offset the taxpayer's regular tax liability for any tax year. For tax years beginning after 2017 and before 2022, the prior year minimum tax credit is refundable in an amount equal to 50% (100% for tax years beginning in 2021) of the excess of the credit for the tax year over the amount of the credit allowable for the year against regular tax liability. No expiration.	§12001, §12002	§53, §55
Corporate Tax Rate	A corporation's regular tax liability is determined by applying the following rates: 15% for $0-$50,000 of taxable income, 25% for $50,001-$75,000 of taxable income, 34% for $75,001-$10,000,000 of taxable income and 35% for excess of $10,000,000 of taxable income. The 15% and 25% rates are phased out for corporations with taxable income between $100,000 and $335,000 and the 34% rate is gradually phased out for corporations with taxable income between $15,000,000 and $18,333,333. Additionally, personal service corporations are not entitled to use the graduated corporate rates below	Reduces the corporate tax rate to a flat 21% for tax years beginning after Dec. 31, 2017. Repeals the maximum corporate tax rate on net capital gain as obsolete. Does not require a special rate for personal service corporations. No expiration. Reduces the 80% dividends received deduction to 65% and the 70% dividends received deduction to 50%. Also reduces the corresponding taxable income limitations.	§13001, §13002	§11, §243, §245, §246, §246A, §861

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Topic	Prior Law	2017 Tax Act, as Amended	Act Sections	I.R.C. Sections
Corporate Tax Rate (cont.)	the 35% rate. Corporations which receive dividends from other taxable corporations are generally allowed a deduction equal to 70% of the dividends received. In the case of any dividend received from a 20%-owned corporation, the amount of the deduction is equal to 80% of the dividend received. The aggregate deduction for dividends received is limited to 70% of the corporation's taxable income or 80% of the corporation's taxable income in the case of any dividend received from a 20%-owned corporation. For this purpose, certain preferred stock is not taken into account. If a dividend is received from a corporation that is a member of the same affiliated group, a corporation is generally allowed a deduction equal to 100% of the dividend received.			
Credit for Clinical Testing Expenses for Certain Drugs and Rare Diseases	Drug manufacturers may claim a credit (the orphan drug credit), as part of the general business credit, equal to 50% of qualified clinical testing expenses.	Limits the orphan drug credit to 25% of qualified clinical testing expenses for the tax year. Taxpayers are able to elect a reduced credit in lieu of reducing otherwise allowable deductions (similar to the research credit under §280C). The amendments apply to tax years beginning after Dec. 31, 2017.	§13401	§45C

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Topic	Prior Law	2017 Tax Act, as Amended	Act Sections	I.R.C. Sections
Rehabilitation Credit	The rehabilitation credit is a one-time credit (either 20% or 10%) based on a fixed percentage of rehabilitation costs incurred in connection with the rehabilitation of certain real property.	The Act provides a 20% credit (to be claimed ratably over a five-year period beginning in the tax year when the structure is placed in service) for qualified rehabilitation expenditures with respect to a historic structure. The amendment is generally effective for amounts paid or incurred after Dec. 31, 2017, with a transition rule for specifically qualified buildings.	§13402	§47
Tax Credit Bonds	Holders of tax credit bonds receive federal tax credits fully or partially in lieu of interest payments from the issuer, depending on the level of federal subsidy. For some of these bonds, during 2009 and 2010, issuers had the option of instead issuing taxable bonds and receiving direct payments from the federal government.	The Act repeals the authority to issue new tax credit bonds. Effective for bonds issued after Dec. 31, 2017.	§13404	§54 - §54AA
Net Operating Losses of Life Insurance Companies	A loss from operations of a life insurance company for any tax year may be carried back up to three tax years and carried forward up to 15 years. An election permits a life insurance company to relinquish a carryback for any loss from operations for any tax year; and if the life insurance company is a new company for the loss year, an operations loss carryover of 18 years is allowed.	The Act repeals the special rules applicable to life insurance companies' loss from operations and requires life insurance companies to calculate net operating losses (NOLs) under §172, as amended by the Act, which disallows any carryback of NOLs but allows an indefinite carryforward of losses. The Act also repeals §844. Effective for losses arising in tax years beginning after Dec. 31, 2017.	§13511	§810, §844, §172, §805(a)(4)

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Topic	Prior Law	2017 Tax Act, as Amended	Act Sections	I.R.C. Sections
Small Life Insurance Companies	Life insurance companies with assets less than $500 million may deduct 60% of tentative life insurance company income (LICTI) up to $3 million. The amount of the deduction is reduced by 15% of so much of the tentative LICT for the tax year as exceeds $3 million.	The Act repeals the small life insurance company deduction. Effective for tax years beginning after Dec. 31, 2017.	§13512	§806
Adjustment for Change in Computing Life Insurance Reserves	Section 807(c) lists items taken into account in computing life insurance reserves; §807(d) describes different reserving methodologies used in computing life insurance reserves, and §807(e) provides special rules used in computing life insurance reserves. Section 807(f) requires that if the basis for determining any item listed in subsection (c) changes during a tax year, the resulting difference must be amortized over a 10-year period if it meets a certain threshold.	The Act amends §807(f) to treat the change in the basis for determining any item listed in §807(c) so that the resulting difference must be taken into account in accordance with the rules under §481. Effective for tax years beginning after Dec. 31, 2017.	§13513	§807(f)
Computation of Life Insurance Tax Reserves	Section 807(c) lists items taken into account in computing life insurance reserves; §807(d) describes different reserving methodologies used in computing life insurance reserves, and §807(e) provides special rules used in computing life insurance reserves.	The Act amends §807(c), (d), and (e) with respect to the computation of life insurance tax reserves. The Act changes the appropriate rate of interest for discounting reserves held under certain insurance and annuity contracts to the highest rate or rates permitted to be used to discount such reserves by the NAIC as of the date the reserve is determined. The Act changes the maximum amount of any life insurance reserve that can be deducted for federal tax	§13517	§807

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Computation of Life Insurance Tax Reserves (cont.)		purposes and adds a similar cap on the maximum deductible life insurance reserve for variable contracts; the Act changes the determination date for reserve methods prescribed by the NAIC; and amends the special rules regarding supplemental benefits and substandard risks; the Act adds a new reporting requirement with respect to reserves and reserving methodologies. Effective for tax years beginning after Dec. 31, 2017, with transition relief.		
Life Insurance Company Proration for Dividends Received Deduction	Life insurance companies allocate investment income including dividend income, between the company's share and the policyholders' share. As a result, the dividend received deduction allowed under §243 and §245 is limited to the company's share under §805(a)(4). Section 812 provides the so-called "proration" rules for determining the company's share of dividends.	The Act amends §812 to provide that, for purposes of §805(a)(4), the term "company's share" means 70%, and for purposes of §807, the term "policyholder's share" means 30%, with respect to any tax year beginning after Dec. 31, 2017.	§13518	§812, §805(a)(4), §807
Modification of Property/Casualty Proration Rules	Property and casualty (P&C) insurance companies are required to reduce the losses incurred reserve deduction by 15% of certain items of otherwise excludable income including tax-exempt interest, deductible dividends received, and certain increases in life reserves.	The Act changes the 15% proration factor to an "applicable percentage" 5.25% divided by the top corporate tax rate for the tax year. Thus, for 2018, the factor will be 25%. Effective for tax years beginning after Dec. 31, 2017.	§13515	§832(b)(5)

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Topic	Prior Law	2017 Tax Act, as Amended	Act Sections	I.R.C. Sections
Modification of Discounting Rules for Unpaid Losses	Insurance companies must discount unpaid loss reserves by line of business using over a 24-month period and using an applicable federal rate that is published by line of business each year by the Secretary. Insurance companies may elect to use their own loss payment pattern for discounting purposes.	The Act substantially changes the discounting rules applicable to unpaid losses by reducing the number of lines of business to two, changing the amortization period to 60 months and deleting the company election to use its own historical loss payment pattern for discounting purposes.	§13523	§846
Repeal of §847 and Estimated Tax Payments of Insurance Companies	Insurance companies may elect to claim a deduction for the difference between the amount of reserves computed on a discounted basis and the amount computed on an undiscounted basis, however then must make a special estimated tax payment equal to the tax benefit attributable to the deduction.	The Act repeals §847. Effective for tax years beginning after Dec. 31, 2017.	§13516	§847
Certain Policy Acquisition Expenses	Life insurance company expenses associated with earning a stream of premium income generally are required to be spread over 10 years. Those expenses are calculated using a simplified method that reflects expense ratios for three broad categories of insurance contracts and are the lesser of a specified percentage of the net premiums received on each of the company's three categories of insurance contracts, or the company's general deductions.	Extends the amortization period for specified policy acquisition expenses to the 180-month period beginning with the first month in the second half of the tax year and modifies the specific percentage of net premiums deductible for certain insurance contracts. Additionally, the Act adds a special transition rule for specified policy acquisition expenses first required to be capitalized in a tax year beginning before Jan. 1, 2018.	§13519	§848

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Topic	Prior Law	2017 Tax Act, as Amended	Act Sections	I.R.C. Sections
Special Rule for Distributions to Shareholders from Pre-1984 Policyholders Surplus Account	The policyholder surplus account (PSA) of a stock life insurance company is a residual account from pre-1984 tax law when life insurance companies were subject to tax under the three-phase system of the Life Insurance Company Act of 1959. The Deficit Reduction Act of 1984 repealed the three-phase system of taxation but did not require life insurance companies to take into income the funds held in existing PSAs, but instead allowed companies to continue to pay tax on distributions from PSAs as amounts were paid out. Under current law, §815 requires that distributions by a stock life insurance company from a PSA be added to life insurance company taxable income (LICTI); it also provides an ordering rule that distributions to shareholders of the company are treated as made first out of the shareholders surplus account, then out of the PSA, and last out of other accounts. (Special rules applied tor distributions made after Dec. 31, 2004, and before Jan. 1, 2007.)	The Act repeals §815 and provides in its place a "phased inclusion" in life insurance company taxable income (LICTI) of any remaining PSA balance held by a stock life insurance company determined as of the close of such company's last tax year beginning before Jan. 1, 2018. Under the phased inclusion, any company with a PSA balance must include the balance in LICTI ratably over an eight-year period beginning with the first tax year beginning after Dec. 31, 2017. Effective for tax years beginning after Dec. 31, 2017.	§13514	§815
***New Tax Reporting Requirements for Life Settlement Transactions**	No such requirements.	The Act adds significant new reporting requirements on the acquisition of a life insurance contract or any interest in a life insurance contract in a "reportable policy sale." A reportable policy sale is one in which the acquirer generally has no insurable interest in the life insured under the policy,	§13520	§6050Y (new)

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Topic	Prior Law	2017 Tax Act, as Amended	Act Sections	I.R.C. Sections
***New Tax Reporting Requirements for Life Settlement Transactions** (cont.)		e.g. a life settlement contract. The acquirer must file an information return and provide a written statement of the information to the persons identified in the return, including the seller. The issuer of the policy must make an information return and provide a written statement of that information to the persons identified in that return. Finally, every person who pays reportable death benefits must make an information return and provide a written statement of the information to persons identified in the return. Effective for reportable policy sales after Dec. 31, 2017, and for reportable death benefits paid after Dec. 31, 2017.		
Employer Credit for Paid Family and Medical Leave	Taxpayers generally may deduct ordinary and necessary expenses paid or incurred in carrying on any trade or business, but several exceptions apply.	The Act permits employers that provide paid family and medical leave to their employees to claim a general business credit for a percentage of the wages paid to qualifying employees on leave under the Family and Medical Leave Act. To be eligible, employers must provide at least two weeks of leave and compensate employees on leave at a minimum of 50% of their regular wages. The credit percentage ranges from 12.5% to 25% of the cost of paid leave, depending on	§13403	§45S (new)

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Topic	Prior Law	2017 Tax Act, as Amended	Act Sections	I.R.C. Sections
Employer Credit for Paid Family and Medical Leave (cont.)		how much of an employee's regular earnings the benefit replaces. Employers can claim a credit for up to 12 weeks of leave per employee. Employers can claim the credit only for workers who have been employed by the employer for at least a year and who earn less than $72,000 per year. The amendments apply to wages paid in tax years beginning in 2018 and 2019 only.		
Deductibility of Fines and Penalties for Federal Income Tax Purposes	No deduction is allowed for fines or penalties paid to a government for the violation of any law.	The Act denies a deduction for amounts paid in relation to the violation of a law or investigation into the potential violation of a law, if a government (or similar entity) is a complainant or investigator with respect to the violation or potential violation. An exception applies to restitution (including remediation of property) identified in a court order or settlement agreement as restitution, remediation, or required to come into compliance with any law. Restitution for failure to pay tax assessed under the Internal Revenue Code, is deductible only to the extent it would have been allowable if it had been timely paid. Another exception applies to any amount paid or incurred as taxes due. Effective for amounts paid or incurred on or after Dec. 22, 2017, except that the amendments do not apply to amounts paid or	§13306	§162, §6050X (new)

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Deductibility of Fines and Penalties for Federal Income Tax Purposes (cont.)		incurred under any binding order or agreement entered into before such date. This exception does not apply to an order or agreement requiring court approval unless the approval was obtained before such date.		
Tax Gain on the Sale of Partnership Interest on Look-through Basis	Consideration received by a nonresident alien or foreign corporation for all or part of its interest in a partnership that is attributable to a U.S. real property interest is considered to be received from the sale or exchange in the United States of such property. Gain attributable to sales of U.S. real property interests may be subject to withholding tax of 10% of the amount realized on the transfer.	Effective for sales, exchanges, or other dispositions after Dec. 31, 2017, the transferee is required to deduct and withhold 10% of the amount realized on the sale, exchange, or other disposition of the partnership interest, unless the transferor certifies in an affidavit that it is not a nonresident alien individual or foreign corporation. If the transferee fails to withhold any amount required to be withheld, then the partnership is required to deduct and withhold that amount (plus interest) from distributions to the transferee. Under a related grant of regulatory authority, the IRS may prescribe appropriate regulations or other guidance with respect to exchanges described in §332, §351, §354, §355, §356, or §361. [*Bloomberg Editor's Note*: Conferees intend that, under regulatory authority to carry out withholding requirements of the provision, the IRS may provide guidance permitting a broker, as agent of the transferee, to deduct	§13501	§864

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Topic	Prior Law	2017 Tax Act, as Amended	Act Sections	I.R.C. Sections
Tax Gain on the Sale of Partnership Interest on Look-through Basis (cont.)		and withhold the tax equal to 10% of the amount realized on the disposition of a partnership interest to which the provision applies.] [*Bloomberg Editor's Note*: In Notice 2018-08, the IRS announced that the application of the new withholding rules to the disposition of publicly traded partnership interests is suspended until regulations or other guidance has been issued.]		
Repeal of indirect foreign tax credits; determination of deemed foreign tax credit on current-year basis	Foreign-source income earned by a foreign subsidiary of a U.S. corporation generally is not subject to U.S. tax until the income is distributed as a dividend to the U.S. parent corporation. Taxpayers are allowed foreign tax credit or a deduction for foreign income taxes paid on the income out of which the dividend is paid, but generally only when the foreign earnings are distributed to the U.S. parent or otherwise subject to U.S. taxation. The foreign tax credit generally is available to offset, in whole or in part, the U.S. tax owed on foreign-source income. Generally, a U.S. shareholder is subject to U.S. tax on subpart F income of its CFCs, even if the income is not repatriated. A separate foreign tax credit is available to U.S. shareholders for foreign taxes paid on the subpart F income.	The Act repealed §902, the indirect foreign tax credit for U.S. corporations owning 10% or more of a foreign corporation. The Act also includes amendments that disallow the foreign tax credit or a deduction for foreign taxes paid on amounts that are eligible for the allowable 100% dividend received deduction under §245A or the deduction under §965. These provisions are discussed with the respective deduction provisions. The Act also amends §960 regarding the deemed paid foreign tax credit available to U.S. shareholders of CFCs to require that it be computed on a current year basis. The repeal of the indirect foreign tax credit and amendment to §960 are effective for taxable year beginning after Dec. 31, 2017.	§14301	§78, §902, §960

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Repeal of indirect foreign tax credits; determination of deemed foreign tax credit on current-year basis (cont.)		The Act also amends the gross up rules under §78, as a conforming amendment, to ensure it coordinates with the amendment §960. The Act amends the foreign tax credit limitation provisions under §904 by adding a new limitation basket for foreign branch income and a new election for taxpayers to increase the percentage of domestic taxable income to be offset by overall domestic loss treated as foreign source.		
Separate foreign tax credit limitation basket for foreign branch income	U.S. owners of foreign branches are subject to U.S. tax on income earned by the foreign branch and may receive a foreign tax credit for taxes paid to a foreign country on income earned by that branch. However, U.S. owners are not required to include income earned by the foreign branch in a separate category, i.e., a foreign tax credit limitation basket, for purposes of calculating the foreign tax credit.	The Act requires foreign branch income to be allocated to a specific foreign tax credit limitation basket. Foreign branch income is defined as the business profits of a U.S. person that are attributable to at least one qualified business unit (QBU) in one or more foreign countries. The Act specifies that the business profits of a QBU do not include passive category income. However, the Act states that other rules relating to the business profits of a QBU will be established by the Secretary of the Treasury. Effective for taxable years beginning after Dec. 31, 2017.	§14302	§904
Surrogate foreign corporations not eligible for reduced rate on dividends	Individuals are taxed at long-term capital gain rates on certain qualified dividends from domestic corporations and from foreign	The Act provides that any individual shareholder who receives a dividend from a corporation that first becomes a surrogate foreign corporation (as defined in	§14223	§1

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Topic	Prior Law	2017 Tax Act, as Amended	Act Sections	I.R.C. Sections
Surrogate foreign corporations not eligible for reduced rate on dividends (cont.)	corporations that satisfy certain requirements under §1(h)(11).	§7874(a)(2)(B)) after the date of enactment, other than a foreign corporation which is treated as a domestic corporation under §7874(b), will not be entitled to the lower rates on qualified dividends provided for in §1(h). Effective for dividends received after Dec. 22, 2017 (the date of enactment).		
Tax on base erosion payments of taxpayers with substantial gross receipts	No provision.	The Act adds §59A to the Code. Section 59A requires that "applicable taxpayers" pay a "base erosion minimum tax amount," which is in addition to any other income tax imposed under the Code. An applicable taxpayer is, with respect to any taxable year, a taxpayer that: (1) is a corporation other than a regulated investment company (RIC), a real estate investment trust (REIT), or an S corporation; (2) has average annual gross receipts for the three-taxable-year-period ending with the preceding taxable year of at least $500 million; and (3) has a base erosion percentage of 3% or higher for the taxable year (2% in the case of certain banks and securities dealers). For purposes of determining if a foreign person is an applicable taxpayer, only the gross receipts taken into account when determining income effectively connected with the conduct of a trade or business within the United States are	§14401	§59A, (new), §6038A

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Tax on base erosion payments of taxpayers with substantial gross receipts **(cont.)**		taken into account for the three-taxable-year period test. For purposes of this section, "foreign person" has the same meaning as in §6038A(c)(3). The base erosion minimum tax amount means, with respect to any applicable taxpayer for any taxable year, the excess of 10% (5% for taxable years beginning in calendar year 2018) of the "modified taxable income" of the applicable taxpayer for the taxable year over an amount equal to the regular tax liability (as defined in §26(b)) of the taxpayer for the taxable year reduced (but not below zero) by the excess (if any) of the credits allowed under chapter 1 against such regular tax liability over the sum of: (1) the credit allowed under §38 for the taxable year that is allocable to the research credit determined under §41(a), plus (2) the portion of the applicable §38 credits not in excess of 80% of the lesser of the amount of such credits or the base erosion minimum tax amount (determined without regard to this clause (2)). For taxable years beginning after Dec. 31, 2025, two changes are made: (1) the excess of 10% of modified taxable income is changed to 12.5%, and (2) the regular tax liability is reduced by the aggregate amount of the credits allowed under chapter 1 (and not other adjustment is made.)		

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Topic	Prior Law	2017 Tax Act, as Amended	Act Sections	I.R.C. Sections
Tax on base erosion payments of taxpayers with substantial gross receipts (cont.)		For purposes of §59A, modified taxable income means the taxable income of the taxpayer computed for the taxable year, determined without regard to any base erosion tax benefit from any base erosion payment and without regard to the base erosion percentage of any net operating loss deduction allowed under §172 for the year. The term base erosion tax benefit generally means any deduction allowed with respect to a base erosion payment for the taxable year; a base erosion payment generally means any amount paid or accrued to a foreign person that is a related party (within the meaning of §59A(g)) to the taxpayer, and with respect to which a deduction is allowable under the Code. Base erosion payments specifically include amounts paid or accrued to a foreign related person for the purchase of depreciable (or amortizable property); for any premium or other consideration paid or accrued to a foreign related person for reinsurance payments; and certain amounts paid or accrued a surrogate foreign corporation (as defined in §7874(a)(2)(B)) that is related to the taxpayer or a foreign person that is a member of the same expanded affiliated group as the surrogate foreign corporation. There are exceptions for certain amounts paid or accrued for services, and an		

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Tax on base erosion payments of taxpayers with substantial gross receipts (cont.)		exception for certain qualified derivative payments made in the ordinary course of trade or business. There is also an exception for any base erosion tax benefit attributable to any base erosion payment on which tax is imposed by §871 or §882, and the tax has been deducted and withheld under §1441 or §1442, it is not taken into account in computing modified taxable income or the base erosion percentage. If the rate of tax under §871 or §882 is reduced, the exclusion would only apply in proportion to such reduction. The base erosion percentage means, for any taxable year, the percentage determined by dividing the aggregate amount of base erosion tax benefits of the taxpayer for the taxable year by the sum of: (1) the aggregate amount of the deductions allowable to the taxpayer under §59A(c)(2)(A)(i) and (ii) for the taxable year, and (2) the base erosion tax benefits allowable to the taxpayer under §59A(c)(2)(A)(iii) and (iv) for the taxable year. Effective for amounts paid or accrued after Dec. 31, 2018. The Act also adds additional reporting requirements and penalties under §6038A(b). The additional reporting requirements relate to: (1) the name, principal place of business, nature of business, and country or countries		

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Topic	Prior Law	2017 Tax Act, as Amended	Act Sections	I.R.C. Sections
Tax on base erosion payments of taxpayers with substantial gross receipts (cont.)		in which organized or resident, of each person which – (i) is a related party to the reporting corporation, and (ii) had any transaction with the reporting corporation during its taxable year; (2) the manner in which the reporting corporation is related to each person referred to in (1); and (3) transactions between the reporting corporation and each related foreign person. If a reporting corporation or the foreign corporation to whom §6038C applies is an applicable taxpayer, it must also report: (1) such information as the Secretary determines necessary to determine the base erosion minimum tax amount, base erosion payments, and base erosion tax benefits of the taxpayer for the taxable year; and (2) such other information as the Secretary determines necessary to carry out §59A. The penalties for failure to furnish information or maintain records under §6038A(d)(1) and §6038A(d)(2) are increased from $10,000 to $25,000. Amendments to §6038A are effective for taxable years beginning after Dec. 31, 2017.		
Stock Compensation of Insiders in Expatriated Corporations	If a shareholder recognizes gain on a transaction described in §7874 (and even if the resulting entity is treated as a foreign corporation), then any disqualified individuals will be subject to a 15% excise tax on the	Excise tax on stock compensation in a corporate inversion is increased to 20% from 15%.	§13604	§4985

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Topic	Prior Law	2017 Tax Act, as Amended	Act Sections	I.R.C. Sections
Stock Compensation of Insiders in Expatriated Corporations (cont.)	value of specified stock compensation (including stock options and stock-linked compensation) held with respect to the former U.S.-incorporated entity.			
Affordable Care Act Individual Mandate	Individuals are personally responsible for obtaining for themselves and their dependents health care coverage on a monthly basis that meets the requirements for minimum essential coverage. A tax penalty applies unless the individual purchases health insurance or is exempt from the penalty.	Reduces the amount of the individual shared responsibility payment enacted as part of the Affordable Care Act to zero. Applies to months beginning after Dec. 31, 2018.	§11081	§5000A(c)
Tax Rates	**Individual Income Tax Rates** For tax year 2017, there are seven regular individual income tax brackets of 10%, 15%, 25%, 28%, 33%, 35%, and 39.6%, and five categories of filing status. The income levels for each bracket threshold are indexed annually based on increases in the Consumer Price Index (CPI). Married Filing Jointly and Surviving Spouses: • 10% (Taxable income not over $18,650) • 15% (Over $18,650 but not over $75,900) • 25% (Over $75,900 but not over $153,100) • 28% (Over $153,100 but not over $233,350) • 33% (Over $233,350 but not over $416,700) • 35% (Over $416,700 but not over 470,700) • 39.6% (over $470,700)	**Individual Income Tax Rates** The Act has seven tax brackets: 10%, 12%, 22%, 24%, 32%, 35%, and 37%. These brackets apply to tax years beginning after Dec. 31, 2017, and before Jan. 1, 2026 Married Filing Jointly and Surviving Spouses: • 10% (Taxable income not over $19,050) • 12% (Over $19,050 but not over $77,400) • 22% (Over $77,400 but not over $165,000) • 24% (Over $165,000 but not over $315,000) • 32% (Over $315,000 but not over $400,000) • 35% (Over $400,000 but not over 600,000) • 37% (over $600,000)	§11001, §11002	§1, §15, §63(c)(2)(A)

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Topic	Prior Law	2017 Tax Act, as Amended	Act Sections	I.R.C. Sections
Tax Rates (cont.)	Married Filing Separately: • 10% (Taxable income not over $9,325) • 15% (Over $9,325 but not over $37,950) • 25% (Over $37,950 but not over $76,550) • 28% (Over $76,550 but not over $116,675) • 33% (Over $116,675 but not over $208,350) • 35% (Over $208,350 but not over $235,350) • 39.6% (over $235,350) Head of Household: • 10% (Taxable income not over $13,350) • 15% (Over $13,350 but not over $50,800) • 25% (Over $50,800 but not over $131,200) • 28% (Over $131,200 but not over $212,500) • 33% (Over $212,500 but not over $416,700) • 35% (Over $416,700 but not over $444,550) • 39.6% (over $444,550) Single Individuals: • 10% (Taxable income not over $9,325) • 15% (Over $9,325 but not over $37,950) • 25% (Over $37,950 but not over $91,900) • 28% (Over $91,900 but not over $191,650) • 33% (Over $191,650 but not over $416,700) • 35% (Over $416,700 but not over $418,400) • 39.6% (Over $418,400)	Married Filing Separately: • 10% (Taxable income not over $9,525) • 12% (Over $9,525 but not over $38,700) • 22% (Over $38,700 but not over $82,500) • 24% (Over $82,500 but not over $157,500) • 32% (Over $157,500 but not over $200,000) • 35% (Over $200,000 but not over $300,000) • 37% (Over $300,000) Head of Household: • 10% (Taxable income not over $13,600) • 12% (Over $13,600 but not over $51,800) • 22% (Over $51,800 but not over $82,500) • 24% (Over $82,500 but not over $157,500) • 32% (Over $157,500 but not over $200,000) • 35% (Over $200,000 but not over $500,000) • 37% (Over $500,000) Single Individuals: • 10% (Taxable income not over $9,525) • 12% (Over $9,525 but not over $38,700) • 22% (Over $38,700 but not over $82,500) • 24% (Over $82,500 but not over $157,500) • 32% (Over $157,500 but not over $200,000) • 35% (Over $200,000 but not over $500,000) • 37% (Over $500,000) The income threshold amounts for each rate		

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Topic	Prior Law	2017 Tax Act, as Amended	Act Sections	I.R.C. Sections
Tax Rates (cont.)	 **<u>Capital Gains Tax Rates</u>** Short-term capital gains are taxed as ordinary income. For tax year 2017, taxpayers in the 10% and 15% tax brackets pay no tax on long-term gains on most assets; taxpayers in the 25%, 28%, 33%, or 35% income tax brackets face a 15% rate on long-term capital gains. For those in the top 39.6% bracket for ordinary income, the rate is 20%.	bracket will be indexed for inflation using C-CPI-U in tax years beginning after Dec. 31, 2018. Unlike the revised tax rates, the requirement to index the amounts for inflation using the C-CPI-U will not expire. The "kiddie tax" Is simplified. **<u>Capital Gains Tax Rates</u>** Under the Act, the breakpoints between the 0% and 15% rates and between the 15% and 20% rates are the same as the under present law. For tax years beginning in 2018, the rate thresholds are as follows: <u>Married Filing Jointly (and Surviving Spouses)</u>: • 15% Rate Threshold - $77,200 • 20% Rate Threshold - $479,000 <u>Married Filing Separately</u>: • 15% Rate Threshold - $38,600 • 20% Rate Threshold - $239,500 <u>Head of Household</u>: • 15% Rate Threshold - $51,700 • 20% Rate Threshold - $452,400 <u>Other Individuals</u>: • 15% Rate Threshold - $38,600 • 20% Rate Threshold - $425,800 The above 15% and 20% threshold amounts apply to tax years beginning after Dec. 31,		

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Tax Rates **(cont.)**		2017, and before Jan. 1, 2026. These amounts will be indexed for inflation using C-CPI-U in tax years beginning after Dec. 31, 2018. The requirement to index amounts for inflation using C-CPI-U will not expire.		
Standard Deduction	An individual reduces adjusted gross income (AGI) by personal exemption deductions and either (i) the applicable standard deduction or (ii) itemized deductions, to determine taxable income. The basic standard deduction varies depending upon a taxpayer's filing status. For 2017, the standard deduction is $6,350 for single individuals and married individuals filing separate returns, $9,350 for heads of households, and $12,700 for married individuals filing a joint return. The amounts of the basic and additional standard deductions are indexed annually for inflation (CPI). Taxpayers may elect to claim itemized deductions in lieu of taking the applicable standard deductions. Taxpayers blind or 65 or older are eligible for an increased standard deduction.	The Act increases the standard deduction to the following amounts: • $24,000 (joint return or a surviving spouse) • $18,000 (unmarried individual with at least one qualifying child) • $12,000 (for single filers) The Act retains the enhanced standard deduction for the blind and elderly that is available under current law. The amount of the standard deduction will be indexed for inflation using C-CPI-U in tax years beginning after 2018. Increased standard deduction amounts will expire after Dec. 31, 2025. Effective for tax years beginning after Dec. 31, 2017.	§11021	§1(c)(2)(A), §2(a), §32, §63(c)
Personal Exemptions	A taxpayer generally may claim personal exemptions for the taxpayer, the taxpayer's spouse, and any dependents. For 2017, taxpayers may deduct $4,050 for each	The Act suspends the deduction for personal exemptions for tax years beginning after Dec. 31, 2017, and before Jan. 1, 2026.	§11041	§151(d), §152, §642(b), §873(b), §3402(a)(2)

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Topic	Prior Law	2017 Tax Act, as Amended	Act Sections	I.R.C. Sections
Personal Exemptions (cont.)	personal exemption. The exemption amount is indexed annually for inflation (CPI). Additionally, a personal exemption phase-out (PEP) reduces a taxpayer's personal exemptions by 2% for each $2,500 ($1,250 for married filing separately) by which the taxpayer's AGI exceeds $261,500 (single), $287,650 (head-of-household), $313,800 (married filing jointly), and $150,000 (married filing separately). These threshold amounts apply to tax year 2017 (and also are indexed for inflation).			
Individual Alternative Minimum Tax	Taxpayers must compute their income for purposes of the regular income tax, then recompute their income for purposes of the alternative minimum tax (AMT). A taxpayer's tax liability is the greater of their regular tax liability or their AMT liability. For individuals, estates and trusts, the AMT has a 26% bracket and a 28% bracket. In computing the AMT, only alternative minimum taxable income (AMTI) above an AMT exemption amount is taken into account, but AMTI represents a broader base of income than regular taxable income because many deductions and tax preferences are disallowed for AMT purposes.	For tax years beginning after Dec. 31, 2017, and before Jan. 1, 2026, the Act increases the AMT exemption amounts for individuals in §55(d)(1) as follows: • $109,400 for married taxpayers filing jointly or for surviving spouses; • $70,300 for single taxpayers; and • $54,700 for married taxpayers filing separately. Also, for tax years beginning after Dec. 31, 2017, and before Jan. 1, 2026, the Act increases the phase-out of exemption amounts in §55(d)(3) as follows: • $1,000,000 for married taxpayers filing jointly or for surviving spouses; • $500,000 for single taxpayers and married taxpayers filing separately.	§12003	§55

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Topic	Prior Law	2017 Tax Act, as Amended	Act Sections	I.R.C. Sections
Individual Alternative Minimum Tax (cont.)		For any tax year beginning in a calendar year after 2018, the Act also indexes all the above amounts for inflation.		
Enhancement of Child Tax Credit	An individual may claim a $1,000 tax credit for each qualifying child under the age of 17. The aggregate amount of child tax credits that may be claimed is phased out by $50 for each $1,000 of AGI over $75,000 for single filers and $110,000 for joint filers. Neither the $1,000 credit amount nor the AGI thresholds are indexed for inflation. The taxpayer must submit a valid taxpayer identification number (TIN) for each child for whom the credit is claimed. To the extent the child tax credit exceeds the taxpayer's tax liability, the taxpayer is eligible for a refundable credit (the additional child tax credit (ACTC)) equal to 15% of earned income in excess of $3,000. The taxpayer is not required to have a Social Security number (SSN) to claim the refundable portion of the credit.	Under the Act, the child tax credit is increased to $2,000. The Act provides a $500 nonrefundable credit for dependents other than qualifying children (generally retaining the current law definition of dependent). The Act increases the threshold modified adjusted gross income amount where the credit begins to phase out to $400,000 for married taxpayers filing jointly, and to $200,000 for other taxpayers. This amount is not indexed for inflation. The Act reduces the earned income threshold for the refundable portion of the credit to $2,500. The Act provides that the maximum amount of refundable credit per eligible child is $1,400, and also indexes the maximum amount refundable for inflation. Additionally, the Act requires that a taxpayer provide the social security number of each qualifying child that is claimed on a tax return in order to receive the child tax credit.	§11022	§24

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Topic	Prior Law	2017 Tax Act, as Amended	Act Sections	I.R.C. Sections
Enhancement of Child Tax Credit (cont.)		All provisions are effective for tax years beginning after Dec. 31, 2017, and before Jan. 1, 2026.		
Contributions to ABLE Accounts	Qualified ABLE programs are tax-favored savings programs intended to benefit disabled individuals. Contributions to ABLE accounts are not deductible and generally may not exceed the annual gift tax exclusion amount ($14,000 per donee for 2017). Contributions must also not exceed limits imposed on accounts under the qualified tuition program of its respective state, and a qualified ABLE program must provide safeguards to ensure such. Income on ABLE accounts is not subject to current income tax. The saver's credit is a nonrefundable tax credit for eligible taxpayers for qualified retirement savings contributions. The maximum annual contribution eligible for the credit equals $2,000 per individual, and the credit rate depends on the adjusted gross income (AGI) of the taxpayer. The saver's credit is in addition to any deduction or exclusion that would otherwise apply with respect to the contribution.	The Act increases the contribution limit to ABLE accounts under certain circumstances. Once the overall limitation on contributions is reached, the designated beneficiary may contribute an additional amount, up to the lesser of the federal poverty line for a one-person household, or the individual's compensation for the tax year. The Act permits the designated beneficiary to claim the saver's credit for contributions made to his or her ABLE account. The Act requires that a designated beneficiary, or a person acting on behalf of a designated beneficiary, maintain adequate records to ensure that additional ABLE account contributions do not exceed the lesser of the federal poverty line for a one-person household or the individual's compensation for the tax year. The designated beneficiary, or a person acting on behalf of the designated beneficiary, is also obligated to ensure compliance with the additional contribution limitation. Effective for tax years beginning after Dec. 22, 2017, with a sunset after Dec. 31, 2025.	§11024	§25B, §529A

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Topic	Prior Law	2017 Tax Act, as Amended	Act Sections	I.R.C. Sections
IRS Levy	If the IRS has wrongfully levied against property, the IRS may return the levied property at any time, provided that the IRS still has possession of the property. If the levied property is money or property which has been sold, the IRS may return an amount equal to the levied money or the sale proceeds within nine months after the date of the levy. Civil actions for wrongful levies must be brought within nine months of the date of levy.	The Act extends the period of time the IRS has to return monetary proceeds from the sale of property that has been wrongfully levied upon to two years. The Act also extends the time period for bringing a civil action for wrongful levy to two years. Effective for levies made after Dec. 22, 2017, and levies made on or before Dec. 22, 2017, if the nine-month period has not expired as of Dec. 22, 2017.	§11071	§6343, §7426, §6532
Estate and Gift Taxes	For decedents dying and gifts made before 2018 and after 2025, the federal estate and gift tax unified credit basic exclusion amount is set at $5 million, adjusted for inflation from a base year of 2010 ($5.49 million for decedents dying and gifts made in 2017).	The Act increases the federal estate and gift tax unified credit basic exclusion amount to $10 million (adjusted for inflation from the same 2010 base year), effective for decedents dying and gifts made after 2017 and before 2026.	§11061	§1014, §2001-§2210, §2502, §2505
Generation-Skipping Transfer Tax	For transfers made before 2018 and after 2025, the federal GST exemption amount is equal to $5 million, adjusted for inflation from a base year of 2010 ($5.49 million for transfers made in 2017).	The Act increases the federal GST exemption amount to $10 million (adjusted for inflation from the same 2010 base year), effective for generation-skipping transfers made after 2017 and before 2026.	§11061	§2601-§2664

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Topic	Prior Law	2017 Tax Act, as Amended	Act Sections	I.R.C. Sections
Pass-Through Tax Treatment	Businesses organized as sole proprietorships, partnerships, limited liability companies and S corporations are generally treated as pass-through entities subject to tax at the individual owner or shareholder level rather than the entity level. Net income earned by owners of these entities is reported on their individual income tax returns and is subject to ordinary income tax rates, up to the top individual marginal rate of 39.6%.	For tax years beginning after Dec. 31, 2017, and before Jan. 1, 2026, taxpayers who have domestic "qualified business income" (QBI) from a partnership, S corporation, or sole proprietorship are entitled to a deduction equal to: (1) the lesser of the combined qualified business income amount of the taxpayer or 20% of taxable income (reduced by net capital gain), plus (2) the lesser of 20% of qualified cooperative dividends or taxable income (reduced by net capital gain). The deduction reduces taxable income, not adjusted gross income, and eligible taxpayers are entitled to the deduction whether or not they itemize. Trusts and estates are eligible for the deduction. Rules similar to the rules under §199 (as in effect on Dec. 1, 2017) apply for apportioning between fiduciaries and beneficiaries any W-2 wages and unadjusted basis of qualified property under the limitation based on W-2 wages and capital. Taxpayers with pass-through income from specified service businesses in the fields of health, law, accounting, actuarial science, performing arts, consulting, athletics, financial services, and brokerage services are generally not eligible for the deduction. The combined qualified business income amount is equal to 20% of QBI (subject to the W-2 wage limitation) determined for each	2017 tax act §11011 Consolidated Appropriations Act Div. T., §101	§1, §62, §63, §199A (new), §701, §1366, §6662

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Topic	Prior Law	2017 Tax Act, as Amended	Act Sections	I.R.C. Sections
Pass-Through Tax Treatment (cont.)		qualified trade or business, plus 20% of qualified REIT dividends and 20% of qualified publicly traded partnership income. QBI is the net amount of all domestic business income other than investment income (e.g., dividends, investment interest income, short-term capital gains, long-term capital gains, commodities gains, foreign currency gains, etc.). The W-2 wage limitation is the greater of either: (a) 50% of the W-2 wages paid with respect to the qualified trade or business, or (b) the sum of 25% of the W-2 wages with respect to the qualified trade or business plus 2.5% of the unadjusted basis, immediately after acquisition, of all qualified property. "W-2 wages" of a partnership, S corporation, or sole proprietorship is the sum of wages subject to wage withholding, elective deferrals, and deferred compensation paid by the business during the calendar year ending during the tax year. Thus, if the partnership, S corporation, or sole proprietorship does not pay "W-2 wages," and the second limitation does not apply, the owner or taxpayer's deduction would be zero. For this purpose, qualified property is generally defined as tangible property subject to depreciation under §167, held by a qualified trade or business, and used in the production of qualified business income.		

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Topic	Prior Law	2017 Tax Act, as Amended	Act Sections	I.R.C. Sections
Pass-Through Tax Treatment **(cont.)**		[*Bloomberg Editor's Note*: The second alternative for calculating the wage limit was added by the Conference Committee and permits real estate businesses with large capital investments but few employees to qualify for a deduction under this provision.] Neither the "W-2 wage" limit nor the prohibition on specified services businesses applies to a taxpayer with taxable income not exceeding $157,500 ($315,000 in the case of a joint return). These limitations are fully phased in for a taxpayer with taxable income in excess of the threshold amount plus $50,000 ($100,000 in the case of a joint return). The deduction expires after Dec. 31, 2025. Note: The Consolidated Appropriations Act, Div. T., §101 eliminated the deduction for qualified cooperative dividends and modified the special rules for specified agricultural and horticultural cooperatives and their patrons. Amendments made to §199A are effective as if included in §11011 of the 2017 tax act. For tax years beginning after Dec. 31, 2017, and before Jan. 1, 2026, taxpayers who have domestic QBI from a partnership, S corporation, or sole proprietorship are entitled to a deduction equal to the lesser of: the combined qualified business income amount of the taxpayer or 20% of taxable income (reduced by net capital gain).		

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Topic	Prior Law	2017 Tax Act, as Amended	Act Sections	I.R.C. Sections
Pass-Through Tax Treatment (cont.)		Rules similar to former §199 apply for specified agricultural and horticultural cooperatives and their patrons. Such cooperatives are permitted a deduction equal to 9% of the lesser of: (a) qualified production activities income (QPAI), or (b) taxable income. Patrons are similarly permitted the deduction with respect to the portion of QPAI attributable to qualified payments from the cooperative. The cooperative is denied a deduction for qualified payments for which its patrons are permitted a deduction. A special rule prevents a double benefit for patrons and requires them to reduce their combined qualified business income amount by the lesser of (1) 9% of QBI properly allocable to qualified payments from a cooperative, or (2) 50% of the w-2 wages allocable to such qualified payments. The 2018 CAA also modified the definition of QBI, striking the term “investment” from the description of items not treated as qualified items. Therefore, QBI does not include any of the described items, regardless of whether the items are attributable to business activities or investment, unless an exception is provided. Note: Oregon disconnected from IRC Section 199A in SB 1528.		

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Topic	Prior Law	2017 Tax Act, as Amended	Act Sections	I.R.C. Sections
100% deduction for foreign-source portion of dividends & repatriation "participation exemption system" for taxation of foreign income	U.S. citizens, resident individuals, and U.S. corporations are subject to U.S. tax on worldwide income. U.S. shareholders of foreign corporations are generally not taxed on the income earned by the foreign corporation until the income is distributed as a dividend to the U.S. shareholders. however, subpart F of subchapter N of the Code provides an anti-deferral regime that taxes certain U.S. shareholders of controlled foreign corporations on their pro rata share of the controlled foreign corporation's current year's earnings and profits, whether or not the earnings and profits are actually distributed as dividends. Subpart F also includes a provision that prevents amounts that have been included in the gross income of U.S. shareholders as subpart F income from being taxed again when actually distributed.	The Act provides a 100% deduction for the foreign-source portion of any dividend received by a domestic corporation that is a U.S. shareholder of a specified 10% owned foreign corporation. Thus, although the anti-deferral regime of subpart F was left intact, if the foreign corporation pays a dividend, the foreign-source portion of that dividend will essentially be exempt from U.S. tax. The act also provides conforming amendments, including a disallowance of any foreign tax credit (or deduction for foreign taxes) on foreign taxes paid on the foreign-source portion of the dividend. The Act amends §246(c) to require a one-year holding period for stock in a specified 10% owned foreign corporation during which period the foreign corporation must qualify as a specified 10% owned foreign corporation and the domestic corporation must qualify as a U.S. shareholder. The Act also adds a new provision to the foreign tax credit limitation rules that in calculating the foreign tax credit limitation, domestic corporations that are U.S. shareholders of specified 10% owned foreign corporations the foreign-source portion of the §245A must disregard the foreign-source portion of dividends for which the deduction under §245A is allowed as well as any deductions allocated or apportioned to such income.	§14101	§245A (new), §246, §904,

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Topic	Prior Law	2017 Tax Act, as Amended	Act Sections	I.R.C. Sections
100% deduction for foreign-source portion of dividends & repatriation "participation exemption system" for taxation of foreign income (cont.)		The provision and amendments are effective for distributions (and deductions in the case of the foreign tax credit limitation calculation) made after Dec. 31, 2017.		
Treatment of deferred foreign income upon transition to "participation exemption system" of taxation	Section 965 provides a one-time deduction of 85% for certain dividends received by a U.S. corporate shareholder from its CFCs. The U.S. shareholder had to elect the deduction and the amount eligible for the temporary deduction was subject to several limitations and was accompanied by a proportional disallowance of the foreign tax credit with respect to the dividends for which the deduction was allowed. The amount of dividends eligible for the 85% deduction could not exceed the amount by which the cash dividends exceeded the taxpayer's average repatriation level calculated for a three-year base period preceding the year of the deduction. A separate limitation capped the eligible dividends to the greater of $500 million or the amount identified on the taxpayer's recent audited financial statements as earnings invested indefinitely outside the United States. Increases in related-party indebtedness in the year further limited the availability of the deduction. The dividends were required to be invested in the United States in accordance with a domestic	The Act amends §965 to require a deferred foreign income corporation to increase its subpart F income for the last taxable year that began before Jan. 1, 2018 by the greater of the accumulated post-1986 deferred foreign income of such corporation as of Nov. 2, 2017 or the accumulated post-1986 deferred foreign income of such corporation determined as of Dec. 31, 2017. A "deferred foreign income corporation" is defined "with respect to any United States shareholder" as "any specified foreign corporation of such United States shareholder which has accumulated post-1986 deferred foreign income..." A specified foreign corporation is defined as any CFC and any foreign corporation with respect to which one or more domestic corporations is a U.S. shareholder exclusive of passive foreign investment companies (PFICs) that are not also CFCs. The Act requires U.S. shareholders to include in gross income their pro rata share of the increased subpart F income, but the amended §965(b) does allow U.S.	§14103	§965

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Topic	Prior Law	2017 Tax Act, as Amended	Act Sections	I.R.C. Sections
Treatment of deferred foreign income upon transition to "participation exemption system" of taxation (cont.)	reinvestment plan approved by the taxpayer's senior management and board of directors. Since 2004 there have been additional proposals to use estimated tax collections from a proposed one-time tax on untaxed foreign earnings under a reduced tax rate as a means of long-term funding for the Highway Trust Fund. The proposals have varied with respect to whether tax should be applied to certain corporation shareholder or all shareholders, whether the one-time tax should be mandatory or voluntary, and whether the tax should be applied as a stand-alone provision or as part of broad tax reform.	shareholders to reduce amounts included in gross income by deficits in earnings and profits from other specified foreign corporations by netting earnings and profits among specified foreign corporations if a U.S. shareholder has interests in more than one specified foreign corporation. Section 965 as amended by the Act also imposes two different tax rates on the net subpart F inclusions of U.S. shareholders determined by the category of deferred income – cash or other assets. The rates are reached by means of deductions applied to the income inclusions designed to reduce the income inclusion to a net amount subject to the respective tax rate, 15.5% for cash and 8% for non-cash assets. Section 965 includes an election for taxpayers to amortize the inclusion of accumulated post-1986 deferred income over eight years; §965 also includes an election not to apply the net operating loss deduction. Section 965 disallows the direct foreign tax credit for the applicable percentage of any taxes paid or accrued with respect to any amount for which a deduction is allowed under this section. Section 965 also includes special rules for S corporation shareholders, including specific reporting requirements; as well as special		

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Topic	Prior Law	2017 Tax Act, as Amended	Act Sections	I.R.C. Sections
Treatment of deferred foreign income upon transition to “participation exemption system” of taxation (cont.)		rules for U.S. shareholders that are real estate investment trusts (REITs). Section 965 extends the limitation on assessments to six years for the net tax liability under this section, and provides rules for recapture in the event a U.S. shareholder is allowed the deduction Section 965 is effective for taxable years beginning after Dec. 31, 2017. Note: Section 965 was addressed in 2018 session – SB 1589.		
Consolidation of Education Savings Rules	Qualified education expenses that may paid under qualified tuition programs include qualified higher education but not elementary and secondary school expenses.	The Act provides that elementary and secondary school expenses of up to $10,000 per year are qualified expenses for qualified tuition programs. The provision applies to distributions made after Dec. 31, 2017.	§11032	§529

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Note: There are no D recommendations this year.

No ORS change necessary: These provisions reference the tax code, but do not impact tax law. We have analyzed any relevant tax provisions and they are included in Recommendations A through C above.

Recommendation – E

Tax Reform Roadmap

Recommendation – E

These Acts may reference the tax code but may not impact income tax law. We have not analyzed these Acts in full and have noted with an asterisk (*) items that may be of interest and warrant further consideration by Oregon.

Topic	Prior Law	2017 Tax Act, as Amended	Act Sections	I.R.C. Sections
Aircraft Management Services	An excise tax is imposed on amounts paid for taxable transportation (generally, air transportation that begins and ends in the United States). Generally, for domestic flights, the tax consists of (1) a 7.5% ad valorem tax applied to the amount paid and (2) a flat dollar amount for each flight segment (consisting of one takeoff and one landing). Generally, aircraft management services companies provide aircraft owners, among other things, with administrative and support services (such as scheduling, flight planning, and weather forecasting), aircraft maintenance services, pilots and crew, and regulatory compliance. Aircraft owners generally pay aircraft management services companies a monthly fee to cover the fixed expenses of maintaining the aircraft and a variable fee to cover the cost of using the aircraft.	The Act exempts certain payments related to the management of private aircraft from the excise taxes imposed on taxable air transportation. Exempt payments include amounts paid by an aircraft owner for management services related to maintenance and support of the owner's aircraft or flights on the owner's aircraft. Effective for amounts paid after Dec. 22, 2017.	§13822	§4261
Excise Tax on Tax Exempt Organization Executive Compensation	For tax years beginning before Jan. 1, 2018, an exempt organization is generally not subject to the limitations on the deductibility of compensation paid to organization executives applicable to non-exempt employers, and is not subject to tax on amounts paid to such employees.	The Act imposes an excise tax equal to corporate tax rate (set at 21% by the Act) on compensation in excess of $1 million paid to an applicable tax-exempt organization's five-highest paid employees for a tax year (or any person who was such an employee in any tax year beginning after 2016). The excise tax also applies to parachute payments exceeding the portion of the base amount (defined as the average annual compensation	§13602	§4960 (new)

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Topic	Prior Law	2017 Tax Act, as Amended	Act Sections	I.R.C. Sections
Excise Tax on Tax Exempt Organization Executive Compensation (cont.)		of the employee for the five tax years before the employee's separation from employment) that is allocated to the payment. The tax on excess parachute payments applies only to payments made to employees who are highly compensated (within the meaning of §414(q). The Act treats compensation as paid when rights to remuneration are not subject to a substantial risk of forfeiture (as defined in §457(f)(3)(B)). The Act exempts from the definition of "compensation" for purposes of the tax, remuneration paid to licensed medical professionals in exchange for medical services performed. The tax applies to tax years beginning after Dec. 31, 2017.		
Excise Tax on Investment Income of Private Colleges and Universities	For tax years beginning before Jan. 1, 2018, an exempt private educational institution is generally treated as a public charity and is therefore not subject to the excise tax on net investment income that is applicable to private foundations.	The Act imposes a 1.4% excise tax on certain private colleges and universities and their related organizations. Under the terms of the 2017 tax act, this provision applies only to private institutions that have more than 500 students, have at least 50% of their students located in the United States, and have assets of at least $500,000 per full-time student (not including assets used directly by the institution in carrying out the institution's educational purpose). The Bipartisan Budget Act of 2018 modified those requirements by adding the term "tuition-paying," so that the	2017 tax act §13701 Bipartisan Budget Act §41109	§4968 (new)

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Topic	Prior Law	2017 Tax Act, as Amended	Act Sections	I.R.C. Sections
Excise Tax on Investment Income of Private Colleges and Universities (cont.)		tax applies to institutions that have more than 500 *tuition-paying* students and at least 50% of their *tuition-paying* students located in the United States. The assets and net investment income of related organizations would be treated as the assets of the private college or university. The Act clarifies that an institution's number of students is to be determined using the daily average number of full-time (or full-time equivalent) students attending the institution. The changes apply for tax years beginning after Dec. 31, 2017.		
General Tax Rate on Beer	The general tax rate on beer is $18 per barrel (31 gallons).	The Act lowers the beer tax rate from $18 per barrel to $16 per barrel on the first six million barrels brewed or imported. Beer brewed or imported in excess of six million barrels is taxed at $18 per barrel. These provisions apply to beer removed after Dec. 31, 2017, and before Jan. 1, 2020.	§13802	§5051(a)(1)
Tax Rate on Beer for Small Brewers	The tax rate for brewers brewing fewer than two million barrels of beer per calendar year is $7 per barrel for the first 60,000 barrels removed for consumption or sale. Barrels produced in excess of 60,000 are taxed at the general beer tax rate of $18 per barrel.	The Act lowers the beer tax rate for small brewers (brewers brewing fewer than two million barrels per calendar year) from $7 per barrel for the first 60,000 barrels produced to $3.50 for the first 60,000 barrels. The Act also lowers the tax rate paid by small brewers for barrels produced in excess of 60,000 from $18 to $16 per barrel.	§13802	§5051(a)(2)

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Topic	Prior Law	2017 Tax Act, as Amended	Act Sections	I.R.C. Sections
Tax Rate on Beer for Small Brewers (cont.)		These provisions apply to beer removed after Dec. 31, 2017, and before Jan. 1, 2020.		
Transfers of Beer in Bond	Beer may be removed from one brewery to another brewery belonging to the same brewer without payment of tax. Beer may also be removed by one corporation to a brewery owned by another corporation without payment of tax, depending on the controlling interests of the corporations.	The Act allows beer to be transferred between bonded premises without payment of tax, even if the premises are not commonly-owned, as long as the transferee accepts responsibility for any required tax payment. These provisions apply to calendar quarters beginning after Dec. 31, 2017, and before Jan. 1, 2020. Note: The Bipartisan Budget Act of 2018 provides that these amendments may not be construed to preempt, supersede, or otherwise limit or restrict any state, local, or tribal law that prohibits or regulates the production or sale of malt beverages.	2017 tax act §13803 Bipartisan Budget Act §41111	§5051, §5414
Tax Rate on Wine	Wine producers who produce 250,000 wine gallons or less during a calendar year are permitted a credit of $0.90 per wine gallon on the first 100,000 wine gallons removed per year for consumption or sale. The credit is reduced by 1% for each 1,000 wine gallons of wine produced in excess of 150,000 wine gallons during the calendar year. Sparkling wine producers are not eligible for the credit.	The Act removes the 250,000 gallon wine production limitation for wine producers to receive a credit against the wine excise tax (meaning all wine producers and importers are able to utilize the credit). Sparkling wine producers and importers are also eligible to claim the credit. The bill changes the calculation of the credit to: (1) $1.00 per wine gallon for the first 30,000 wine gallons, plus; (2) $0.90 per wine gallon on the next 100,000 wine gallons, plus;	§13804	§5041(c)

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Topic	Prior Law	2017 Tax Act, as Amended	Act Sections	I.R.C. Sections
Tax Rate on Wine (cont.)		(3) $0.535 cents per wine gallon on the next 620,000 wine gallons. For hard cider, the credit follows the same production levels, but equals $0.062, $0.056, and $0.03, respectively. These provisions apply to wine removed after Dec. 31, 2017, and before Jan. 1, 2020.		
Alcohol Content of Wine for Excise Taxation	Still wines containing not more than 14% alcohol-by-volume are taxed at the lowest rate of tax for wine: $1.07 per wine gallon. Still wines containing more than 14% alcohol-by-volume but less than 21% alcohol-by-volume are taxed at the second-lowest rate of tax for wine: $1.57 per wine gallon.	The Act modifies the first two wine excise tax rate tiers by increasing the alcohol-by-volume content to 16%. "Still wine" up to 16% alcohol-by-volume is taxed at the lowest rate: $1.07 per wine gallon. These provisions apply to wine removed after Dec. 31, 2017, and before Jan. 1, 2020.	§13805	§5041(b)
Tax Rate for Mead and Certain Sparkling Wines	Mead and sparkling wine are taxed based on their alcohol content, their carbon dioxide content, and, if applicable, whether the wine is sparkling due to artificial carbonation or natural effervescence. All mead and sparkling wine with more than 0.392 grams of carbon dioxide per 100 milliliters is taxed at a minimum rate of $3.30 per wine gallon.	The Act adds definitions of "mead" and "low alcohol by volume wine." These definitions clarify that mead and low alcohol volume wine containing not more than 0.64 grams of carbon dioxide per 100 milliliters and less than 8.5% alcohol by volume are taxed at the lowest rate applicable to still wine: $1.07 per wine gallon. These provisions apply to wine removed after Dec. 31, 2017, and before Jan. 1, 2020.	§13806	§5041(b)
Tax Rate on Distilled Spirits	Distilled spirits are taxed at a rate of $13.50 per proof gallon.	The Act creates a tiered-rate system of for taxes on distilled spirits. The tax rate applicable to the first 100,000 proof gallons is	§13807	§5001

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Topic	Prior Law	2017 Tax Act, as Amended	Act Sections	I.R.C. Sections
Tax Rate on Distilled Spirits (cont.)		$2.70 per proof gallon; for all proof gallons in excess of that amount, but below 22,130,000 proof gallons, the rate is $13.34; and for all additional amounts, the rate is $13.50 per proof gallon. These provisions apply to distilled spirits removed after Dec. 31, 2017, and before Jan. 1, 2020.		
Transfer of Bonded Spirits	Bulk distilled spirits in approved containers may be transferred in bond between bonded premises without payment of tax.	The Act allows distilled spirits to be transferred in bond between bonded premises without payment of tax, regardless of whether the distilled spirits are “bulk” distilled spirits. These provisions apply to distilled spirits transferred in bond after Dec. 31, 2017, and before Jan. 1, 2020. Note: The Bipartisan Budget Act of 2018 provides that these amendments may not be construed to preempt, supersede, or otherwise limit or restrict any state, local, or tribal law that prohibits or regulates the production or sale of distilled spirits.	2017 tax act §13808 Bipartisan Budget Act §41111	§5212

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