Tax Cuts and Jobs Act: Tax Reform 2017
Selected Items for Discussion

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HMMMM…..

The difference between death and taxes is death doesn't get worse every time Congress meets.

-- Will Rogers

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"Tax Cuts and Jobs Act"

- December 22, 2017, President Trump signed H.R. 1, the "Tax Cuts and Jobs Act" into law which now changes the taxation landscape for individuals and businesses.

- The digesting of what it all means has begun.
- Talk topics: Overview of changes:
  - Individual
  - Business

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Individual Changes

- Tax rates have changed:
  - 2017: 10%, 15%, 25%, 28%, 33%, 35%, and 39.6%
  - 2018: 10%, 12%, 22%, 24%, 32%, 35%, and 37%

  - Rate changes are effective for tax years beginning after December 31, 2017 and before January 1, 2026

  - Estates and Trusts: 10%, 24%, 35% and 37%
    - At $12,500 of taxable income goes to 37%

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Individual Changes

- Standard Deduction increased for tax years beginning after December 31, 2017 and before January 1, 2026
  - MFJ $24,000
  - Head-of-Household $18,000
  - Single / MFS $12,000
  - No changes to additional deduction amount for elderly or blind ($1,050 or $1,550 dependent upon filing status)

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Individual Changes

- Personal Exemptions are SUSPENDED
  - For Tax years beginning after December 31, 2017 and before January 1, 2026.
  - Effectively reduces the exemption amount to zero.

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Better off Tax wise?

- It depends!! A family with two kids, all things equal may have a higher tax liability:
  - Old rules: 2018 Standard Deduction MFJ $13,000 plus 4 X $4,150 = $29,600 Tax Free Income
  - New rules: 2018 Standard deduction only: $24,000 Tax Free Income

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Individual Changes

- New measure of inflation index: now to use “chained CPI-U”

- Chained CPI-U generally grows at a slower pace because it takes into consideration that consumers substitute between goods in response to relative prices.

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Individual Changes

- Kiddie Tax Modified:
  - Beginning for tax years after December 31, 2017 taxable earned income is taxed at single individual rates; and
  - Taxable income that is derived from unearned sources (portfolio, capital gains, etc.) are taxed according to estate and trust income tax brackets.
    - Estates and Trusts: 10%, 24%, 35% and 37%
    - At $12,500 of taxable income goes to 37%

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Individual Changes

- Capital Gains rates are retained:
  - 0%, 15%, and 20%
  - The new law maintains the breakpoints of the old law, but uses the chained CPI-U indexing for inflation for tax years after December 31, 2017.
  - 2018: 15% breakpoint is $77,200 MFJ

    20% breakpoint is $479,000 MFJ

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Individual Changes

- Income from Pass-Through Entities
  - For tax years beginning after December 31, 2017 and before January 1, 2026 a new deduction is added.
  - Sec. 199A "Qualified Business Income" (QBI), includes an estate and trust, from PTR, S-corp, LLC, sole proprietor is allowed to generally deduct 20% of QBI (farm profit) subject to W-2 wage limitations, except for sole proprietors, the greater of
    - 50% of W-2 wages with respect to the QBI
    - 25% of W-2 wages plus 2.5% of unadjusted basis of "qualified property" acquired in the tax year.

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Individual Changes

- Net Operating Losses (NOLs)
- For tax years beginning after December 31, 2017 and before January 1, 2026,
  - 80% of losses allowed
  - Excess farm losses ($300,000) regarding USDA subsidies no longer applies.
  - However, the NOL is generally not allowed in the year of the loss, but rather, is carried forward to subsequent tax years.

Individual Changes

- Personal Casualty and Theft Losses
- For tax years beginning after December 31, 2017 and before January 1, 2026,
  - Are suspended, except for personal casualty losses incurred in a Federally-declared disaster.

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Individual Changes

- Child Tax Credit
  - New law increases to $2,000 from $1,000 for each qualifying child under 17 years of age.
    - AGI phase outs apply
    - Refundable amount increased to $1,400 per qualifying child
    - SSN required for each child
  - Non-child dependent was added under the new law for an amount of $500.

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Individual Changes

- Itemized Deduction Changes for tax years beginning after December 31, 2017 and before January 1, 2026:
  - A Taxpayer may deduct State, Local and foreign property taxes, and State and local income taxes to a cap of $10,000 or $5,000 (MFS)
  - Mortgage Interest is allowed subject to indebtedness limitations $750,000 ($375,000 MFS)
  - Home equity mortgage interest deduction is suspended.

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Individual Changes

- Charitable Contribution Deduction Limitation Increased
  - Beginning for tax years after December 31, 2017 and before January 1, 2026, the contribution limit is increased to 60%.
    - Example: AGI = $100,000, limit is now $60,000, any carry over of excess contributions can be carried forward five years.

The rule for contemporaneous written acknowledgment (CWA) has been repealed for tax years beginning after December 31, 2016.

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Suspended Deductions

- Alimony Deduction after December 31, 2018
- Miscellaneous Itemized Deductions (2% floor)
- Qualified Bicycle Commuting Exclusion
- Moving Expense Reimbursements
- "Pease" Limitations on Itemized Deductions
- Moving Expenses Deduction
- Living Expenses of Members of CONGRESS

Repeal of OBAMACARE Individual Mandate after 12/31/2018

Estate and Gift Tax

- Gift Tax Exclusion Amounts for tax years beginning after December 31, 2017 and before January 1, 2026:
  - Annual Exclusion $15,000
  - Lifetime Exclusion: $11.2 million ($22.4 per married couple)
- Step-up to FMV is retained
- Estate Exclusion Amount for tax years beginning after December 31, 2017 and before January 1, 2026:
  - $11.2 million ($22.4 per married couple)

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Tax Reform Implications for Businesses

- C-corporation Changes
  - Flat tax at 21% (for those in 15% an increase of 40%)
  - Dividends-received deduction percentage decreased to 65% from 80%
  - Corporate AMT is repealed for tax years beginning after Dec 31, 2017.

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Tax Reform Implications for Businesses

- Expensing and Depreciation
  - Section 179 increased to $1 million with investment limit of $2.5 million (NC does not conform)
  - SUVs limited to $25,000
    - Full size crew cab ½ Ton pickups with a short box are SUVs by definition.
  - Qualified Real Property allowed
    - Roofs, HVAC, fire protection, security and alarm systems

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Tax Reform Implications for Businesses

- First-year (Bonus) Depreciation
  - 100% first-year depreciation (Sept 27, 2017 – Dec 31, 2022) Now allowed for new and **used** property
  - 80% 2023
  - 60% 2024
  - 40% 2025
  - 20% 2026
  - Bonus sunsets after December 31,2026

North Carolina doesn't conform to Bonus

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Tax Reform Implications for Businesses

- New Farming and Machinery Depreciation
  - For property placed into service after December 31, 2017:
  - Cost recovery period is now 5 years for **new** machinery and equipment; **used** is still 7 years
  - Grain bins, fences, cotton ginning equipment, and land improvements are 7 year assets.
  - 200% declining balance is to be used on 3-, 5-, 7- and 10-year property
  - 150% declining balance on 15 and 20 year property

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Tax Reform Implications for Businesses

- Limits on Deduction of Business Interest
  - Beginning after December 31, 2017, every business, regardless of form, is generally subject to a disallowance of a deduction of net interest expense in excess of 30% of the business's adjusted taxable income.
  - This is determined at the tax filer level.
  - However, for pass-through entities, the determination is made at the entity level.

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Tax Reform Implications for Businesses

- Limits on Deduction of Business Interest
  - An exemption from these rules applies for taxpayers with average gross receipts for a three-tax year period ending with the prior taxable year that do not exceed $25 million.
  - Farming businesses can elect out if they use ADS to depreciate any property used in the farming business with a recovery period of ten years or more.
    - Single purpose structures (poultry / hog houses)

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Tax Reform Implications for Businesses

- Modification of Net Operating Loss Deduction
  - Generally the carry-back provisions are repealed and replaced carry forward with deduction limited to 80% of taxable income.
  - For Farmers, the 5-year carry back is modified to 2-year carry-back and then any remaining NOL can be carried forward indefinitely.
  - For losses created in tax years beginning after December 31, 2017, the NOL deduction is limited to 80% of taxable income. Carryovers are subject to this limitation too.

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Tax Reform Implications for Businesses

- Domestic Production Activities Deduction (DPAD) is repealed
- DPAD replaced with Section 199A 20% deduction discussed earlier.

Tax Reform Implications for Businesses

- Like-Kind Exchanges are now LIMITED
  - Generally, for tax years beginning after December 31, 2017, like-kind exchanges are going to be allowed for real property that is not held primarily for sale (inventory)
  - Therefore, in the future, trades of equipment and machinery will be a two-step transaction:
    - Sale of traded in item at trade allowance (FMV)
    - Purchase of new item (higher basis) can use Section 179 expense or Bonus depreciation to offset tax consequence of sale.

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Tax Reform Implications for Businesses

- Research and Experimentation expenses
  - Beginning for tax years after December 31, 2021, “specified R&E expenses” must be capitalized and amortized ratably over 5-year period beginning with the midpoint of the tax year in which these expense occur.

Tax Reform Implications for Businesses

- Employer's Deduction for Fringe Benefit Expenses Limited
  - Entertainment expenses are disallowed
  - The current 50% business meals deduction limit now includes "in-house cafeteria" or otherwise on the premises of the employer.
    - Not clear how this will impact farmers at this time.
    - The exclusion of income for employees for this and other such benefits is retained.

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Where to from here?

- I understand that a "Technical Corrections Bill" is already in the works to address issues that emerged from the passage of the "Tax Cuts and Jobs Act".
- The Treasury Department must issue rules and regulations pertinent to the new tax law, which are forthcoming.
- IRS will be gearing up…but they, too, are adjusting to a "new reality" as of December 22, 2017.

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Questions?

- Thank you for your attention!!

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