Tax Cuts and Jobs Act

Key Provisions for 2017 Returns

This publication is produced by the Land Grant University Tax Education Foundation. This publication supplements the *2017 National Income Tax Workbook*. While most of the provisions in the 2017 Tax Cuts and Jobs Act (the "TCJA") are effective for tax years after December 31, 2017, there are a few provisions that will impact the 2017 tax year. This publication explains key provisions in the TCJA that are important for filing 2017 tax returns (and in some cases amending earlier returns). The *2018 National Income Tax Workbook* and supplemental publications and courses will provide a comprehensive discussion of the entire TCJA. Please visit our website at taxworkbook.com for more information about online courses and tax workshops near you.

Saver's Credit for ABLE Contributions. Effective for contributions made after December 22, 2017 and before January 1, 2026, a designated beneficiary can claim the saver's credit for contributions that the beneficiary makes to his or her ABLE account [TCJA § 11024, I.R.C. § 25B].

Rollovers to ABLE Programs from Section 529 Programs. Effective for distributions made after December 22, 2017 and before January 1, 2026, distributions from a qualified tuition program (a section 529 account) can be rolled over tax-free to an ABLE account. The ABLE account must be owned by the same designated beneficiary or a member of the family of the designated beneficiary of the 529 account [TCJA § 11025, I.R.C. § 529].

Repeal of Substantiation Exception for Contributions Reported by a Donee. Effective for contributions made in tax years beginning after December 31, 2016, the TCJA repeals the I.R.C. § 170(f)(8) exception that allows a return filed by a donee organization to satisfy the requirement for a contemporaneous written acknowledgment. Thus, the taxpayer must obtain a contemporaneous written acknowledgement for any contribution of $250 or more [TCJA § 13705, § I.R.C. 170].

Reduction in Medical Expense Deduction Floor. Effective for any tax year beginning after December 31, 2012, and ending before January 1, 2017, for a taxpayer if such taxpayer or such taxpayer's spouse was age 65 before the close of such tax year; and effective beginning after December 31, 2016, and ending before January 1, 2019, for all other taxpayers; a taxpayer can deduct medical expenses to the extent that they exceed 7.5% of the taxpayer's AGI. The I.R.C. § 56(b)(1)(B) rule that limits the medical expense deduction to 10% for AMT purposes does not apply to tax years beginning after December 31, 2016, and ending before January 1, 2019. For these years, the 7.5% threshold applies for purposes of the AMT [TCJA § 11027, I.R.C. §§ 56, 213].

Relief for 2016 Disaster Areas. Generally effective December 22, 2017. Special rules apply to certain retirement distributions in an area that the president declared to be a major disaster area in calendar year 2016. The term *qualified 2016 disaster distribution* means any distribution from an eligible retirement plan made on or after January 1, 2016, and before January 1, 2018, to an individual whose principal place of abode at any time during calendar year 2016 was in a 2016 disaster area and who has sustained an economic loss because of the events giving rise to the presidential declaration of a disaster applicable to such area. The I.R.C. § 72(t) 10% early withdrawal penalty does not apply to any qualified 2016 disaster distribution, up to a total of $100,000. An individual who receives a qualified 2016 disaster distribution may repay it to an eligible retirement plan within 3 years. Unless the taxpayer elects out, qualified disaster distributions that are required to be included in gross income are included ratably over the 3-tax-year period beginning with the tax year of the distribution. Special rules allow retroactive plan amendments to reflect these new provisions [TCJA § 11028, I.R.C. §72(t)].

Personal Casualty Losses Related to a 2016 Major Disaster. A net disaster loss for any tax year beginning after December 31, 2015, and before January 1, 2018 is not subject to the 10% of AGI threshold. For a net disaster loss beginning after December 31, 2015 and before January 1, 2018, the $100-per-casualty floor is increased to $500 and the standard deduction is increased by the net disaster loss (the taxpayer does not have to itemize deductions and can add the loss to the standard deduction) [TCJA § 11028, I.R.C. § 165].

Limit on Deduction for State and Local Taxes. For tax years beginning after December 31, 2017, and before January 1, 2026, the deduction for foreign real property taxes is eliminated and the aggregate deduction for individual state and local real property taxes, state and local personal property taxes, state and local, and foreign, income, war profits, excess profits taxes, and general sales taxes is limited to $10,000 ($5,000 for MFS) for any tax year. Amounts paid in a tax year beginning before January 1, 2018, with respect to a state or local income tax imposed for a tax year beginning after December 31, 2017, are treated as paid on the last day of the tax year for which such tax is imposed. Thus, the taxpayer cannot claim an itemized deduction in 2017 for pre-paid income taxes, but the taxpayer may claim an itemized deduction for pre-paid property taxes. Whether a taxpayer can deduct the prepayment of state or local real property taxes in 2017 depends on whether the taxpayer makes the payment in 2017 and the real property taxes are assessed prior to 2018. A prepayment of anticipated real property taxes that have not been assessed prior to 2018 are not deductible in 2017. The following examples illustrate these points:

Example 1. County A assesses property tax on July 1, 2017 for the period July 1, 2017 to June 30, 2018. On July 31, 2017, County A sends notices to residents notifying them of the assessment and billing the property tax in two installments with the first installment due September 30, 2017 and the second installment due January 31, 2018. Assuming the taxpayer paid the first installment in 2017, the taxpayer can pay the second installment on December 31, 2017, and can claim a deduction for this prepayment on the taxpayer's 2017 return.

Example 2. County B also assesses and bills its residents for property taxes on July 1, 2017, for the period July 1, 2017 to June 30, 2018. County B intends to make the usual assessment in July 2018 for the period July 1, 2018 to June 30, 2019. However, because county residents wish to prepay their 2018-2019 property taxes in 2017, County B has revised its computer systems to accept prepayment of property taxes for the 2018-2019 property tax year. Taxpayers who prepay their 2018-2019 property taxes in 2017 cannot deduct the prepayment on their federal tax returns because the county will not assess the property tax for the 2018-2019 tax year until July 1, 2018.

[TCJA § 11042, I.R.C. § 164]

Extension of Time to Contest IRS Levy. For levies made after December 22, 2017, and levies made on or before December 22, 2017 if the 9-month period has not expired as of December 22, 2017, the TCJA extends the period for returning the monetary proceeds from the sale of property that has been wrongfully levied upon and the period for bringing a civil action for wrongful levy from 9 months to 2 years [TCJA §11071, § I.R.C. 6343].

Bonus Depreciation. The TCJA increases the bonus depreciation to 100% for qualified property that is both acquired and placed in service after September 27, 2017, and it establishes a new phase-down schedule for years after 2022. For a taxpayer's first tax year ending after September 27, 2017 (the 2017 tax year for calendar-year taxpayers), a taxpayer can elect to apply a 50% allowance instead of the 100% allowance. A similar rule applies to plants bearing fruit or nuts if the plants are planted or grafted after September 27, 2017. The TCJA extends bonus depreciation to qualified used property, with several anti-abuse rules that limit the bonus depreciation to property that was purchased in an arm's length transaction [TCJA § 13201, I.R.C. § 168].