PLANNING UNDER THE NEW RULES OF THE TAX CUTS AND JOBS ACT OF 2017

The Tax Cuts and Jobs Act of 2017 (Pub. Law 115-97) ("TCJA"), signed December 22, 2017, made sweeping changes to our individual, gift and estate, business and international tax rules. This article will highlight the key changes for individuals, with initial ideas for related tax planning. Generally, the changes are effective for tax years beginning after December 31, 2017 and before January 1, 2026.

Major changes for individuals include the following:

Estate and Gift Tax Exemption Doubled

Effective January 1, 2018, TCJA doubled the unified federal gift and estate tax exemption to $11,180,000 per individual (up from $5,490,000 for 2017). This increase allows more taxpayers to plan their estates without concern over potential gift or estate taxes. Only a tiny fraction of the population will now owe federal estate taxes. As a result, more taxpayers can be expected to use joint trusts, with a focus on asset protection and management. Life insurance will continue to be an important planning tool, especially to cover debts, income taxes on IRA or other income in respect of a decedent, last illness and burial expenses, business buyout obligations, any need to create additional estate assets and related factors. The exemption is scheduled to revert back to current law in 2026.

Tax Rates Reduced

Individual tax rates are significantly cut, as follows:

10% retained
15% lowered to 12%
25% lowered to 22%
28% lowered to 24%
33% lowered to 32%
35% retained
39.6% lowered to 37%

The bracket thresholds for these rates have also been adjusted upward. Delaying receipt of income remains a useful planning technique, where available. In 2026, the rates and brackets that were in place for 2017 are scheduled to return.

Standard Deduction Increased

One of the most important TCJA changes is a significant increase in the standard deduction, beginning in 2018, as follows:

Single	$12,000 ($6,350 for 2017)
Married filing jointly	$24,000 ($12,700 for 2017)
Head of household	$18,000 ($9,350 for 2017)

The additional standard deduction amounts for elderly and handicapped individuals continues. As a result of this change, far less taxpayers are expected to itemize deductions. For those no longer itemizing, record keeping and tax preparation should be less cumbersome. The technique of "doubling up" charitable gifts and tax payments in alternate years, using a standard deduction in the off year, will be less useful as a planning device. The new law specifically precludes claiming a 2017 deduction for prepaid state and local income taxes imposed for a tax year beginning after December 31, 2017.

Dependent Care Credit Doubled

The maximum child care credit for those under age 17 has been doubled to $2,000 beginning in 2018. Up to $1,400 may be refunded, even if the taxpayer owes no federal income tax. The income above which this credit will phase out has been increased significantly ($400,000 for married filing jointly). A $500 nonrefundable credit has been added for qualifying 17 and 18 year old dependents, children with disabilities and certain dependent relatives. By contrast, the personal and dependency exemptions ($4,150 for 2017) have been "suspended" at zero through 2025.

Itemized Deduction Rules Modified

For those individuals that will still itemize deductions, several changes are notable. The deduction for state and local taxes is limited to $10,000 in combined property and income taxes. This is in contrast to the unlimited itemized deduction allowed for these items under prior law.

Deduction will not be allowed for foreign real property taxes. The mortgage interest deduction is reduced from $1,000,000 to $750,000 (married filing jointly) of home acquisition debt incurred after December 31, 2017. The old rule applies to some closings before April 1, 2018 and refinancing of prior debt outstanding at the time of refinancing. Deductions for home equity interest will be eliminated in 2018. All deductions for miscellaneous itemized deductions subject to the 2% of adjusted gross income floor are repealed from 2018 through 2025, such as tax return preparation, expenses for the production of income and unreimbursed employee business expenses.

The limit on charitable deductions is increased from 50% to 60% of adjusted gross income. The adjusted gross income threshold for medical expenses is reduced from 10% to 7.5% for 2018, a potential help for those with major medical expenses this year. The phase out for itemized deductions with income over certain thresholds was repealed.

The above changes may influence taxpayers to the extent that a possible deduction is a factor being considered when incurring these expenses.

Section 529 Plan Expansion

Up to $10,000 per year may now be taken from a Section 529 plan to cover tuition at a public, private or religious elementary or secondary school. Existing education related tax provisions were left in place by the TCJA.

Miscellaneous Hits and Misses

Starting in 2019, for agreements entered into after 2018, taxpayers can no longer deduct alimony payments required by a divorce agreement and recipients of such alimony payments will no longer have to include them in taxable income. Current tax treatment continues for earlier agreements.

The new statute repeals the above, the line deductions for casualty losses (unless disaster related) and moving expenses (unless military). Moving expenses are also disallowed as an itemized deduction under IRC Section 217.

The TCJA set the rate at $0 for the excise taxes on individuals who fail to obtain health coverage under the Affordable Care Act (often called the “individual mandate”). Under the "Kiddie tax" rules, the unearned income of children will now be taxed at the compressed trust and estate rates, instead of being taxed at the higher marginal rate for their parents' income.

The TCJA did not repeal the individual alternative minimum tax, in spite of considerable discussion by Congress. The exemption amounts and phase out thresholds increase significantly in 2018. Together with the new limit on the deduction for state and local taxes and elimination of the personal and dependency exemptions, fewer individuals should be subject to the alternative minimum tax.

Conclusion

The TCJA is a major tax law, exceeding 450 pages. Contact one of our Couzens Lansky business or estate planning attorneys at 248-489-8600 to evaluate the impact of the changes on your situation. This would be an ideal time to review and to update your personal estate plan.