



2017 Year-End Federal Tax Update

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FINANCIAL MANAGERS LEARNING FORUM

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## EMANCIPATION DAY

What day of the week does April 15, 2018 fall on?

- Answer – Sunday.

So when is Form 1040 due for 2017?

- Answer – Tuesday, April 17, 2018.

As Emancipation Day occurs on Sunday, April 15, 2018, it will be observed in Washington, DC on Monday, April 16, 2018. Since the national office of the IRS will be closed that day, any tax filings due that day get pushed forward to the next business day.

## RELIEF FOR HURRICANE VICTIMS

- Disaster Tax Relief and Airport and Airway Extension Act of 2017 – Signed on September 29 by President Trump and provides the following relief to victims of Hurricanes Harvey, Irma, and Maria:
  - Eliminates the 10% AGI floor for claiming a personal casualty loss.
  - Increases the casualty loss floor from \$100 to \$500.
  - Standard deduction is increased by casualty loss for non-itemizers.
  - Loss is allowed for AMT purposes.
- IRS procedural relief:
  - Tax returns / tax payments with post-hurricane due dates pushed back to January 31, 2018.
  - Can claim casualty loss on either 2016 or 2017 Form 1040.

## 2017 / 2018 TAX THRESHOLDS

- Standard Mileage Rate: 53.5 cents/mile; Moving/Medical: 17 cents; Charitable: 14 cents for 2017.
- Medical expenses must exceed 10% of AGI for all taxpayers for 2017.
- Social Security wage base: \$127,200 for 2017, \$128,700 for 2018.
- Sec. 401(k)/403(b) limits: \$18,000/\$24,000 – 2017, \$18,500/\$24,500 – 2018.
- IRA contribution limit remains at \$5,500 + \$1,000 over age 50.
- Defined contribution plan: \$54,000 for 2017, \$55,000 for 2018.
- Annual gift tax exclusion: \$14,000 for 2017, \$15,000 for 2018.
- Due date for W-2 forms and 1099-MISC forms that report nonemployee compensation changed to January 31 following end of calendar year. Can request a 30-day extension on Form 8809.

## DEPRECIATION LIMITS FOR 2017/2018

### Sec. 179 Expense:

- 2017 – \$510,000, phase-out begins at \$2,030,000
- 2018 – \$520,000, phase-out begins at \$2,070,000

### Bonus depreciation:

- 50% for 2017 additions
- 40% in 2018
- 30% in 2019

## TAX CUTS AND JOBS ACT

- Personal income tax rates:
  - Currently 39.6% top rate above \$418,400 single, above \$470,700 joint.
  - House: 39.6% above \$500,000 other than joint filers; above \$1 million.
  - Senate: Top rate of 38.5% on same taxable income thresholds.
- Capital gains rates are unchanged, including 3.8% NIIT.
- Standard deductions:
  - Current law: \$6,350 single, \$12,700 joint.
  - Both bills increase to \$12,000 / \$24,000.
- Both bills repeal personal exemptions (\$4,050 for 2017), offset by increased child and dependent tax credits.

## TAX CUTS AND JOBS ACT (cont.)

### Deductions Repealed:

- State and local income taxes: Both bills unless related to a business.
- Real estate taxes: House caps at \$10,000.
- Medical expenses: House repeals, Senate retains.
- Non-disaster related casualty losses.
- Miscellaneous itemized deductions: House repeals tax preparation fees and unreimbursed employee business expenses; Senate repeals all items.
- Moving expenses.
- Alimony for post-2017 divorces (nontaxable to recipient): No Senate provision.

## TAX CUTS AND JOBS ACT (cont.)

- Home Mortgage Interest:
  - House limits acquisition indebtedness to \$500,000 for post-11/2/17 acquisitions; no home equity indebtedness; no secondary residence.
  - Senate merely eliminates home equity indebtedness.
- Charitable contributions: Both bills increase AGI limit from 50% to 60% for cash contributions.
- Both bills repeal the 3% itemized deduction phase-out.
- **Both bills repeal the Alternative Minimum Tax (AMT).**

## TAX CUTS AND JOBS ACT (cont.)

- Sale of principal residence:
  - Both bills change the 2 out of preceding 5 year requirement to 5 out of preceding 8 years.
  - House bill phases out \$250k / \$500k gain exclusions if AGI exceeds those amounts.
- Estate Tax, Generation-Skipping Tax (GST), & Gift Tax
  - Both bills double the \$5 million exemption amounts, which are indexed annually for inflation: \$5,490,000 for 2017, \$5.6 million for 2018.
  - House bill repeals the estate tax and GST after 2023. Gift tax is not repealed.

## TAX CUTS AND JOBS ACT (cont.)

- Corporate tax rates:
  - Both bills replace the current graduated rate structure for C corporations with a 20% flat tax: House – 2018, Senate – 2019.
  - Personal Service Corporation (PSC) tax rate drops from 35% to 25% under House bill; same 20% rate under Senate bill.
- Reduced tax rate on income from pass-through entities:
  - House bill subjects 30% of net income to maximum tax rate of 25%. Can apply a formula measuring the capital percentage based on a rate of return. The 25% default tax rate would not be available for personal services businesses (health, law, accounting, consulting, engineering, etc.).
  - Senate bill creates a deduction of 17.4% of domestic qualified business income from a partnership, S corporation, or sole proprietorship; personal service businesses again ineligible.

## TAX CUTS AND JOBS ACT (cont.)

- Sec. 179 Expense:
  - House bill increases limit to \$5 million with phase-out at \$20 million.
  - Senate bill increases limit to \$1 million with phase-out at \$2.5 million.
  
- Bonus depreciation: Under both bills – 100% for acquisitions made September 28, 2017 – December 31, 2022. House bill allows used property.
  
- Interest expense deduction for businesses:
  - House bill disallows deduction for net interest expense in excess of 30% of adjusted taxable income. Businesses with average annual gross receipts of \$25 million or less would be exempt. Five-year carryforward.
  - Senate bill limits interest expense to sum of business interest income + 30% of adjusted taxable income. Exemption for average annual gross receipts of \$15 million or less, indefinite carryforward.

## TAX CUTS AND JOBS ACT (cont.)

- Net Operating Loss (NOL) deduction:
  - Both bills limit use of NOL to 90% of taxable income.
  - Both bills generally repeal all carrybacks.
  
- Domestic Production Activities Deduction (DPAD) repealed.
  
- Corporate AMT is repealed.
  
- Contributions to 401(k) / 403(b) plans: Senate bill prohibits “catch-up” contribution of \$6,000 if prior year wages were \$500,000 or more.

## MISCELLANEOUS IRS ANNOUNCEMENTS

- IR-2017-103: IRS approves first group of 84 Certified Professional Employer Organizations (CPEOs).
- TIGTA report on risk of employment tax fraud to businesses using PEOs.
- National Taxpayer Advocate Mid-Year Report to Congress:
  - Overview of the Filing Season
  - Private Debt Collection Implementation
  - U.S. Passport Revocations and Denials
  - Transparency in the Offshore Voluntary Disclosure Programs

## MISCELLANEOUS IRS ANNOUNCEMENTS (cont.)

- Office of Appeals Pilots Virtual Service
- Tax scams show no end in sight – W-2 e-mail, fake insurance tax form
- Various issues related to use of private debt collectors

## IRS AUDIT DEVELOPMENTS

- Offshore Voluntary Disclosure Program (OVDP) announcement made by director of withholding and international individual compliance on May AICPA webcast.
  - 6,000 taxpayers that either withdrew or declined since the program began in 2009 are being targeted.
  - Since commencement more than \$9.9 billion in tax, interest, and penalties have been collected from 55,800 participants through October 2016.
- LB&I guidance issued to auditors in June regarding inspection of Key Officer and Executive tax returns.

## IRS AUDIT DEVELOPMENTS (cont.)

- Late W-2 submissions to SSA double per July report.
- Criminal Investigation (CI) division chief announcement in August of two significant investigation initiatives:
  - Nationally coordinated investigations unit
  - Dedicated international tax enforcement group
- TIGTA September report – IRS audit statistics:
  - Examination staffing in FY 2016 reached a 20-year low: 8,847 employees, down 4% from FY 2015, down 23% from FY 2012.
  - Examinations down 9% from FY 2015, down 32% from FY 2012.
- TIGTA September report – IRS is underutilizing Form 1099-K data.



## IDENTITY THEFT UPDATE

- Statistics announced by IRS commissioner – Through early May, the IRS had stopped more than \$6.5 billion in fraudulent refunds on 969,000 tax returns confirmed to have been filed by identity thieves.
- TIGTA audit of identity theft victim assistance:
  - March 2015: On average 278 days to close cases, 11% not properly resolved.
  - June 2017: On average 166 days to close cases, 7% not properly resolved.
- Two individuals charged in FAFSA scheme.
- Justice for Victims of IRS Scams and Identity Theft Act of 2017
- Numerous Indian nationals plead guilty for roles in multimillion dollar India-based call center scams.

## IDENTITY THEFT UPDATE (cont.)

- July IRS announcement:
  - 107,000 individual victims through May 2017 v. 204,000 victims through May 2016, and 297,000 victims through May 2015.
  - 10,000 business tax return victims through June 1 v. 4,000 for calendar year 2016 and 350 for calendar year 2015.
  - Through May 2017, there were 177 data breaches at preparers' offices.
- Special challenges arise in Amish identity refund fraud cases.
- For 2018, there will be a new "Verification Code" box included on all W-2 forms for the first time; a 16-character code on about 66 million Forms W-2.
- Commissioner Koskinen announcement in mid-October post-Equifax hack: Assume your ID has been stolen.

## CASES DECIDED DURING PAST YEAR

- *Lindsay Manor Nursing Home, Inc.* – Corporation could not claim economic hardship relief from an IRS levy.
- *Creigh* – No deduction where software engineer’s executive MBA qualified her for a new trade or business.
- *Byrne* – Officers’ reasonable belief that taxes were paid precluded trust fund penalty.
- *Langer* – Former IRS agent liable for fraud penalties.
- *Whitsett* – Taxpayer’s reliance on preparer who made many mistakes was reasonable and in good faith.

## CASES DECIDED DURING PAST YEAR (cont.)

- *Herrmann* – Court of Federal Claims grants couple \$7.86 million refund.
- *Jeremy M. Jacobs et ux* – Boston Bruins owners can deduct full cost of away game meals.
- *RERI Holdings I LLC* – Loss of \$33 million charitable contribution deduction.
- *Haynes* – Previously decided late filing penalty cases are not limited to paper returns.
- *Tony Pedregon Lopez et ux* – Parents cannot deduct child’s pageant expenses.
- *Boneparte* – Tunnel bridge agent was a casual gambler, not a professional.

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