A Small Business Serving Small Business

Important Tax Information for 2017 & 2018 as of January 2, 2018

There were many tax law changes, extensions and sunsets in the tax law for 2017 and 2018. We have attempted to summarize many of these provisions, and we have not included all items regarding the law changes. Some of the provisions are very complex and we could not adequately summarize them in this document.

We expect further tax law changes in 2018. We also expect to see clarifications to the recently signed Tax Cut and Jobs Act (Act). We will keep you updated as these occur.

You will see the term "suspended" used frequently in the items listed. The term is used when a section of the law is no longer applicable through a sunset date. It is not used if an item is permanently repealed.

If there are major tax law changes in 2018, we will communicate them to our clients. For specific limits for items such as personal exemptions, tax tables, etc., please see the Tax Facts tab under the Tax Tools tab on our web site for this information.

The items listed in this document are summaries of complex tax rules. Various sources provided the material for this update and some areas of the new tax laws are yet to be fully defined. You should consult our office for more detail before acting on any of the items listed in this document.

General –

- **Social Security Wage Base –** The Social Security wage base increases from $ 127,200 for 2017 to $ 128,400 for 2018.

- **Bogus IRS and State Tax Authority Phone Requests –** There have been many phone scams going around that are purportedly from the IRS or a state tax authority. The caller claims to be from the IRS or a state tax authority and claims you owe taxes and must submit payment through a wire transfer or prepaid debit card, or you receive an email supposedly from the IRS or state tax authority asking you to share your bank account, credit card or Social Security number. What should you do?

  The sad truth is that many scammers pretend to be tax agents as part of identity theft or other criminal activity. If you receive a surprising or suspicious communication purportedly from the IRS or state tax authority, do not provide any identifying information, don't give any bank or payment information and call us immediately. We can help you identify a bogus request for information and work with you to respond to a legitimate tax authority contact. You can also call the IRS directly at 800-829-1040 to verify any communication you receive or 800-366-4484 to report the scam.

- **IRS and Private Debt Collection –** The IRS now uses private collection for certain overdue federal tax debts. They have selected four contractors to implement the new program. The new program, authorized under a federal law enacted by Congress in December of 2015, enables the designated contractors to collect, on the government's behalf, outstanding inactive tax receivables.

  These private collection agencies will work on accounts where taxpayers owe money, and the IRS is no longer actively working the account. Several factors contribute to the IRS assigning these accounts to private collection agencies, including older, overdue tax accounts or lack of resources preventing the IRS from working the cases.

The IRS will give taxpayers and their representative written notice that their account is being transferred to a private collection agency. The agency will then send a second, separate letter to the taxpayer and their representative confirming this transfer.

The companies authorized for the private debt collection are CBE Group, Conserve, Performant and Pioneer. We think this is a bad idea given the tax scams that have been taking place but there is nothing we can do about this in the short term. It you hear from a company about collecting an IRS debt, contact us to help ensure that it is legitimate.

- **Indiana and Private Debt Collection –** The Indiana Department of Revenue has contracted with Premiere Credit of North America, LLC. as a legal collection agent who is authorized to apply levies, wage garnishments, etc. Questions may be directed to the Department of Revenue's Collections Division at (317) 232-2165.

  Again, we think this is a bad idea given the tax scams that have been taking place but there is nothing we can do about this in the short term. It you hear from the company about collecting an Indiana debt, contact us to help ensure that it is legitimate.

- **Foreign Account Reporting** - The federal government's push for higher compliance among U.S. taxpayers with foreign accounts and assets is the Foreign Account Tax Compliance Act (FATCA) will continue.

  The FinCEN Form 114, Report of Foreign Bank and Financial Accounts (FBAR), must now be electronically filed with the US Department of Treasury, not the Internal Revenue Service. The filing deadline for this form has been changed from June 30th to April 17th. This form's due date may now be extended for 6 months along with your individual income tax return. The due date of both forms must be the same.

  The FBAR is generally required to be filed by a U.S. person with a financial interest, signature authority or other authority over foreign financial accounts if at any point during the calendar year the aggregate value of all such foreign accounts equaled or exceeded $ 10,000, even if for one day.

  FATCA defines a "specified foreign financial asset" to include ownership of (1) any financial account maintained by a foreign financial institution, (2) any stock or security issued by a non-U.S. person, (3) any financial interest or contract held for investment that has a non-U.S. issuer or counterparty, and (4) any interest in a foreign entity including businesses, trusts and foreign estates. Consequently, taxpayers who purchase foreign real estate through an entity will have a filing obligation.

  The penalties for failure to comply with these provisions are severe.

  NOTE: Many online gambling sites are hosted outside of the US and are considered foreign accounts.

  There are actually more and more complex reporting requirements than can be listed here. If you have any foreign assets that are not publically traded and/or held in a US brokerage account, you need to discuss your situation with a tax professional.

- **Standard Mileage Rates** – The standard business mileage rate for 2017 was $ .535. The 2018 mileage rate increases to $ .545 per mile. The medical and moving expense mileage rates are $ .18, which is up $ .01 per mile. The charitable mileage rate remains unchanged at $ .14 per mile. Please see the Tax Facts tab on our web site for any updates. If these rates change in 2018, they will be posted there.

- **State Conformity with Tax Cut and Jobs Act –** Many states will need to pass laws or issue administrative rules or regulations in order to conform to the new law. Until they do so, if they do, there will be many addbacks or adjustments to state taxable income to remove the effects of the new law. This results from the late passage of the new tax law, the timing of many of the state's legislative sessions and the various state's budget situations.

- **Top 1%** - For Indiana in 2016 it took an Adjusted Gross Income of $ 296,640 to be considered in the top 1%. Nationally, this amount was $ 389,436.

- **How Long Should You Keep Records -** The length of time you should keep a document depends on the action, expense, or event which the document records. Generally, you must keep your records that support an item of income, deduction or credit shown on your tax return until the period of limitations for that tax return runs out.

  The period of limitations is the period of time in which you can amend your tax return to claim a credit or refund, or the IRS can assess additional tax. The information below reflects the periods of limitations that apply to income tax returns. Unless otherwise stated, the years refer to the period after the return was filed. Returns filed before the due date are treated as filed on the due date.

  Note: Keep copies of your filed tax returns. They help in preparing future tax returns and making computations if you file an amended return.

  Period of Limitations that apply to income tax returns
  - Keep records for 3 years if some of the situations below do not apply to you.
  - Keep records for 3 years from the date you filed your original return or 2 years from the date you paid the tax, whichever is later, if you file a claim for credit or refund after you file your return.
  - Keep records for 7 years if you file a claim for a loss from worthless securities or bad debt deduction.
  - Keep records for 6 years if you do not report income that you should report, and it is more than 25% of the gross income shown on your return.
  - Keep records indefinitely if you do not file a return.
  - Keep records indefinitely if you file a fraudulent return.
  - Keep employment tax records for at least 4 years after the date that the tax becomes due or is paid, whichever is later.
  - The following questions should be applied to each record as you decide whether to keep a document or throw it away.

  Are the records connected to property?

  Generally, keep records relating to property until the period of limitations expires for the year in which you dispose of the property. You must keep these records to figure any depreciation, amortization, or depletion deduction and to figure the gain or loss when you sell or otherwise dispose of the property.

  If you received property in a nontaxable exchange, your basis in that property is the same as the basis of the property you gave up, increased by any money you paid. You must keep the records on the old property, as well as on the new property, until the period of limitations expires for the year in which you dispose of the new property.

Healthcare –

- Repeal of Affordable Care Act Individual Mandate for 2019 and Beyond – For tax years 2019 and beyond the Individual Mandate is permanently repealed. If you did not maintain minimum essential coverage for 2017, the annual Shared Responsibility Payment (SRP) amount is the greater of:
  - 2.5% (up from 2%) of the household income that is above the tax return filing threshold for the taxpayer's filing status; or
  - The family's flat dollar amount, which is $ 695 (up from $ 325) per adult and $ 347.50 (up from $ 162.50) per child (under age 18).
  - The maximum is $ 2,085.

- **Health Insurance Reporting Forms -** Individuals who have been covered by an employer, insurance company or through the health insurance market place will receive one or more of the following forms regarding their coverage. The deadline for providing the forms has been extended from January 31, 2018 until March 2, 2018 for the 1095-B and 1905-C. Therefore, many taxpayers will have to prepare their 2017 personal income tax returns without having their form(s).

Form 1095-A is for individuals who bought health insurance through the Marketplace. This is a Health Insurance Marketplace Statement which includes information about their coverage and any premium assistance received. Form 1095-A will help individuals complete their returns. Providing the form is mandatory for insurers for 2017.

Form 1095-B will be supplied by insurers to each covered enrollee and it supplies the information needed to report on the coverage provided. Providing the form is mandatory for insurers for 2017.

Form 1095-C is the form large employers will use to report health insurance offered and coverage information to employees. Providing the form is mandatory for 2017.

- **Report Life Changes to the Insurance Marketplace –** If you enrolled in insurance coverage through the Health Insurance Marketplace, you are required to report changes to the Marketplace when they happen, for example changes to your household income or family size, because they may affect your eligibility for the advance payments of the premium tax credits.

  Changes in circumstances that you should report to the Marketplace include, but are not limited to:
  - increases or decreases in your household income, including lump sum payments like a lump sum payment of Social Security benefits
  - marriage or divorce
  - the birth or adoption of a child
  - starting a job with health insurance
  - gaining or losing your eligibility for other health care coverage
  - changing your residence

  For the full list of changes you should report, visit HealthCare.gov.

- **The IRS Will Enforce Health Care Coverage on 2017 Returns** – The IRS has announced that it will not accept electronically filed 2017 individual income tax returns unless taxpayers indicate that they and everyone on their return had health care coverage, qualified for an exemption from coverage, or will make a shared responsibility payment. The IRS also said that any returns filed on paper that do not address the health coverage requirements may be suspended until the Service receives additional information, and any refund due may be delayed.

- **Advance Payments of the Premium Tax Credit –** When you enroll in coverage through the Marketplace, you can choose to have monthly advance credit payments sent directly to your insurer. If you get the benefit of advance credit payments in any amount, or if you plan to claim the premium tax credit, you must file a federal income tax return and use a Form 8962, Premium Tax Credit (PTC) to reconcile the amount of advance credit payments made on your behalf with the amount of your actual premium tax credit. You must file an income tax return for this purpose even if you are otherwise not required to file a return.

  Here are four things to know about advance payments of the premium tax credit:
  - If the premium tax credit computed on your return is more than the advance credit payments made on your behalf during the year, the difference will increase your refund or lower the amount of tax you owe. This will be reported in the 'Payments' section of Form 1040.
  - If the advance credit payments are more than the amount of the premium tax credit you are allowed, you will add all or a portion of the excess advance credit payments made on your behalf to your tax liability by entering it in the 'Tax and Credits' section of your tax return. This will result in either a smaller refund or a larger balance due.
  - If advance credit payments are made on behalf of you or an individual in your family, and you do not file a tax return, you will not be eligible for advance credit payments or cost-sharing reductions to help pay for your Marketplace health insurance coverage in future years.
  - The amount of excess advance credit payments that you are required to repay may be limited based on your household income and filing status. If your household income is 400 percent or more of the applicable federal poverty line, you will have to repay all of the advance credit payments.

- **Health Coverage Tax Credit Advance Payments Form –** This form (1099-H) is used to report advance payments for your health coverage insurance premiums. The payments were forwarded directly to your insurance provider. This form is required in order to complete your 2017 federal tax return. It is required to be issued by January 31, 2018 for tax year 2017.

- **Health Care Law Affects Aggregated Companies –** The ACA applies an approach to common ownership that also applies for other tax and employee benefit purposes. This longstanding rule generally treats companies that have a common owner or similar relationship as a single employer. These are aggregated companies. The law combines these companies to determine whether they employ at least 50 full-time employees including full-time equivalents.

  If the combined employee total meets the threshold, then each separate company is an applicable large employer. Each company – even those that do not individually meet the threshold – is subject to the employer shared responsibility provisions.

- **HSA Contribution Limits –** The Health Savings Account contribution limits for 2017 were $ 3,400 for individuals and $ 6,750 for families. For 2018, the individual contribution limit is $ 3,450 and the family limit is $ 6,900. There is a $ 1k catch up contribution available for those primary beneficiaries 55 and older. If the primary beneficiary is covered by Medicare, then no HSA contributions are allowed. If the spouse of the primary beneficiary is covered by Medicare, then HSA contributions are allowed for both parties.

- **HSA Features and Benefits –** HSA funds can be used to pay for COBRA insurance premiums or Medicare health insurance premiums as long as the account owner is 65 or over. This does not apply to a Medicare supplemental insurance policy. Please check with your tax advisor before using HSA funds to pay for insurance premiums. There are also other benefits available.

- **Long-Term Care Insurance Premiums –** The maximum annual deductions as medical expenses for premiums paid for long-term care insurance for the 2017 and 2018 tax years are based on the taxpayers age at the end of the tax year and the amounts are:
  - 40 or less, the limit is $ 410 for 2017 ($ 420 for 2018);
  - More than 40 but not more than 50, $ 770 for 2017 ($ 780 for 2018);
  - More than 50 but not more than 60, $ 1,530 for 2017 ($ 1,560 for 2018);
  - More than 60 but not more than 70, $ 4,090 for 2017 ($ 4,160 for 2018) and
  - More than 70, $ 5,110 for 2017 ($ 5,200 for 2018).

Identity Theft & Security -

- **IRS Identity Protection PIN Numbers –** The IRS will require the use of Identity Protection PINs for all Social Security numbers that have experienced some sort of identity theft related event regardless of whether the SSN is entered for a primary, spouse, or dependent/qualifying individual. This will be an annual requirement and failure to include the IP PIN in any of the required fields will result in the return being rejected.

  Entry of an IP PIN will be required for any SSN with an IP PIN requirement on the following Forms/Schedules:
  - Form 1040, Individual Income Tax Return, series
  - Form 2441, Child and Dependent Care Expenses
  - Schedule Earned Income Credit.

- **Identity Theft Victims May Obtain Copies of Fraudulent Tax Returns –** Acknowledging that taxpayers victimized by stolen identification tax refund fraud may have a reason to determine just what information about them was stolen and how it was used, the IRS said it will provide copies of fraudulent returns for the current tax year and up to six previous tax years. However, requests for the returns must meet strict requirements, and certain information will be redacted from the copies provided. Also, the IRS must have resolved the underlying identity theft case before it will provide a copy of any affected return. For now, only individual returns in the 1040 series may be requested.

There are special rules and restrictions for this program. Please contact us if you think you have been a victim of fraudulent tax returns.

- **Indiana ID Protection Program -** The Indiana Department of Revenue will continue its identity protection program for the 2017 tax season. This program is designed to combat the growing epidemic of identity theft across the nation. With the right information, identity theft criminals could submit a tax return in a victim's name and steal his or her refund. Victims may not even know it was stolen until after submitting a tax return and learning that a return was already submitted in their name.

  Security Features

  To prevent taxpayers' refunds from being stolen, the department has increased its security features this year and they are using the automated identity verification services of LexisNexis to help confirm the identities of all Hoosier taxpayers due a refund for their 2017 return. Identity information from individual income tax returns due a refund is checked against the LexisNexis identity verification database. This database verifies that the person submitting the return is who they say they are.

  Identity Confirmation Quiz

  Some taxpayers will be asked to further confirm their identities through the Identity Confirmation Quiz. Taxpayers are selected when there are irregularities in their information when screened through the LexisNexis identity verification database. Currently, only 5 percent of taxpayers are selected to take the quiz.

  Those selected to take the quiz are not suspected of committing identity theft. Irregularities that may trigger the requirement to take the quiz include the taxpayer having moved very recently and neither the department nor LexisNexis had the updated address or a taxpayer may have accidently transposed some numbers of his SSN or street address.

  Selected taxpayers receive a letter from the Indiana Department of Revenue with instructions on how to take the Identity Confirmation Quiz. Tax preparers are not notified that clients are selected to take the quiz because each taxpayer is responsible for taking the quiz.

  The quiz contains four questions for which only the taxpayer would know the answer. Each taxpayer selected has two attempts to take the quiz via the Indiana Department of Revenues secure website. After successful completion of the quiz, the taxpayer should receive his or her refund on time—within 14 days if electronically filed and within 12 weeks if filed by paper.

  Those who do not pass within two attempts will be asked to contact the department at a special number where they have an additional chance to take it.

- **Driver's License Information to Electronically File –** More states are starting to require a driver's license or state ID card number in order to electronically file personal income tax returns. Among those doing so currently are Alabama, Ohio and New York. This list will continue to grow in the future.

- **IRS Taxpayer Contact -** Here are eight things to know about in-person contacts from the IRS.

  The IRS initiates most contacts through regular mail delivered by the United States Postal Service.

  There are special circumstances when the IRS will come to a home or business. This includes:
  - When a taxpayer has an overdue tax bill
  - When the IRS needs to secure a delinquent tax return or a delinquent employment tax payment
  - To tour a business as part of an audit
  - As part of a criminal investigation

  Revenue officers are IRS employees who work cases that involve an amount owed by a taxpayer or a delinquent tax return. Generally, home or business visits are unannounced.

IRS revenue officers carry two forms of official identification. Both forms of ID have serial numbers. Taxpayers can ask to see both IDs.

The IRS can assign certain cases to private debt collectors. The IRS does this only after giving written notice to the taxpayer and any appointed representative. Private collection agencies will never visit taxpayers at their home or business.

The IRS will not ask that a taxpayer makes a payment to anyone other than the U.S. Department of the Treasury.

IRS employees conducting audits may call taxpayers to set up appointments, but not without having first notified them by mail. Therefore, by the time the IRS visits a taxpayer at home, the taxpayer would be well aware of the audit.

IRS criminal investigators may visit a taxpayer's home or business unannounced while conducting an investigation. However, these are federal law enforcement agents and they will not demand any sort of payment.

If you have any doubt regarding whether or not the contact is legitimate, contact us before doing anything.

Individuals –

- **Individual Filing Thresholds –** The federal individual income tax return filing thresholds for 2017 are as follows:
  - Single taxpayer: $ 10,400
  - Single taxpayer (age 65 or over): $ 11,950
  - Married filing joint return: $ 20,800
  - Married filing joint return (one 65 or over): $ 22,050
  - Married filing joint return (both 65 or over): $ 23,300
  - Married filing separate return: $ 4,050
  - Head of Household: $ 13,400
  - Head of Household (65 or over): $ 14,950
  - Qualifying Widow(er) with Dependent Child: $ 16,750
  - Qualifying Widow(er) with Dependent Child (65 or over): $ 18,000

- **Changes in Tax Rates & Brackets –** The Act would reduce the number of tax brackets (ranging from 10% to 39.6%) from seven to four: 12%, 25%, 35%, and 39.6%. The amounts below are for taxable income.
  - The 10% bracket is $ 0 through $ 19,050 for joint returns/surviving spouses, $ 0 through $ 13,600 for heads of household, half of the joint amount for any other individuals (i.e. $ 0 through $ 9,525), and $ 0 through $ 2,550 for an estate or trust.
  - The 12% bracket would end at: $ 77,400 for joint returns/surviving spouses, $ 51,800 for heads of household, half of the joint amount for any other individuals (i.e., $ 38,700), and N/A for an estate or trust.
  - The 22% bracket would end at: $ 165,000 for joint returns/surviving spouses, $ 82,500 for heads of household, half of the joint amount for any other individuals (i.e., $ 82,500), and N/A for an estate or trust.
  - The 24% bracket would end at: $ 315,000 for joint returns/surviving spouses, $ 157,500 for heads of household, half of the joint amount for any other individuals (i.e., $ 157,500), and $ 9,150 for an estate or trust.
  - The 32% bracket would end at: $ 400,000 for joint returns/surviving spouses, $ 200,000 for heads of household, half of the joint amount for any other individuals (i.e., $ 200,000), and N/A for an estate or trust.
  - The 35% bracket would end at: $ 600,000 for joint returns/surviving spouses, $ 300,000 for heads of household, half of the joint amount for any other individuals (i.e., $ 300,000), and $ 12,500 for an

estate or trust.

- The 37% bracket would start at: $ 600,000 for joint returns/surviving spouses, $ 300,000 for heads of household, half of the joint amount for any other individuals (i.e., $ 300,000), and $ 12,500 for an estate or trust.
- In addition, the Act would provide for a "phaseout" of the 12% rate under which, as described in the Section-by-Section summary, the benefit of the 12% rate is phased out for taxpayers with AGI over $1 million ($1.2 million for joint filers).

- **Refunds in 2017 –** Beginning in 2017, a new law requires the IRS to hold refunds on tax returns claiming the Earned Income Tax Credit or the Additional Child Tax Credit until mid-February. Under the change required by Congress in the Protecting Americans from Tax Hikes (PATH) Act, the IRS must hold the entire refund — even the portion not associated with the EITC and ACTC — until at least Feb. 15. This change helps ensure that taxpayers get the refund they are owed by giving the IRS more time to help detect and prevent fraud.

- **Standard Deduction Increased for 2018 -** For tax years beginning after Dec. 31, 2017 and before Jan. 1, 2026, the standard deduction is increased to $24,000 for married individuals filing a joint return, $18,000 for head-of-household filers, and $12,000 for all other taxpayers, adjusted for inflation in tax years beginning after 2018. No changes are made to the current-law additional standard deduction for the elderly and blind.

- **Personal Exemptions Suspended for 2018 -** For tax years beginning after Dec. 31, 2017 and before Jan. 1, 2026, the deduction for personal exemptions is effectively suspended by reducing the exemption amount to zero. A number of corresponding changes are made throughout the Code where specific provisions contain references to the personal exemption amount. In each of these instances, the dollar amount to be used is $4,150, as adjusted by inflation.

- **Kiddie Tax Modified for 2018 –** For tax years beginning after Dec. 31, 2017, the taxable income of a child attributable to earned income is taxed under the rates for single individuals, and taxable income of a child attributable to net unearned income is taxed according to the brackets applicable to trusts and estates. If an income threshold is exceeded, then this rule applies.

- **Renewal Reminder for Individual Taxpayer Identification Numbers (ITINS) -** ITINs are used by people who have tax-filing or payment obligations under U.S. law but are not eligible for a Social Security number. Under a recent change in law, any ITIN not used on a tax return at least once in the past three years expired on December 31, 2017. In addition, any ITIN with middle digits of either 70, 71, 72 or 80 (9NN-70-NNNN, etc.) also expired on that date.

  This means that anyone with an expiring ITIN and a need to file a tax return in the upcoming filing season should file a renewal application in the next few weeks to avoid lengthy refund and processing delays. Failure to renew early could result in refund delays and denial of some tax benefits until the ITIN is renewed.

- **Flexible Spending Arrangements (Section 125 Plans) Limited -** Salary reduction contributions to a health flexible spending arrangement under a cafeteria plan are subject to a yearly dollar limit of $ 2,600 for 2017. This limit will increase to $ 2,650 for 2018.

- **Capital gains/qualified dividends –** For 2017, Individuals in the 10 and 15 percent rate brackets can take advantage of a zero percent capital gains and qualified dividend tax rate. Individuals in the 28% to 35% tax brackets will see a 15% capital gains and qualified dividends tax rate. Individuals in the 39.6% rate bracket will see a maximum tax rate of 20 percent on capital gains and qualified dividends. Only net capital gains and qualified dividends are eligible for this special tax treatment.

  For 2018 and beyond, The Act generally retains the present-law maximum rates on net capital gain and qualified dividends, retaining the existing breakpoints between the 0%, 15%, and 20% breakpoints (except that the breakpoints would be indexed using chained CPI, as explained below).

For tax years beginning after 2018, the dollar amounts above would be indexed for inflation. And, beginning in 2023, the measure of inflation would be chained CPI (Consumer Price Index), as opposed to CPI-U (CPI for all urban customers) under current law.

- **Broker Basis Reporting Investor Caveat –** Your broker will usually have a default method of tracking basis. The most common IRS approved methods are Average Cost, First-In-First-Out or Specific Identification. There could be other variations on these methods. First, you need to check with your broker to see what method is their default. Second, you need to find out what method you have used in the past if you have sold any portion of a particular investment. This is especially important for mutual funds. If you have used a particular method of costing in the past, you may be locked into having to use that method in the future without IRS permission to change. This can be a very complex area to deal with and you should consult with both your stock broker/investment advisor and CPA to get more information on how this will affect you going forward.

- **Above-the-Line Deduction for Educator Expenses -** Eligible elementary and secondary school teachers can claim an above-the-line deduction for up to $250 per year of expenses paid or incurred for books, certain supplies, computer and other equipment, and supplementary materials used in the classroom has been made permanent retroactive to that date. The $ 250 also will be indexed for inflation. Indiana conforms to this deduction.

- **Indiana Public School Educator Expense Credit -** Indiana now has a credit of up to $ 100 per eligible educator working for an Indiana school corporation for expenses paid for qualified classroom supplies. These expenses cannot also be counted for the above the line federal deduction for educator expenses. Public school means a school maintained by an Indiana school corporation and includes charter schools. Private schools, parochial schools and homeschools are not public schools.

- **State and Local Tax Deduction Limited** – For tax years beginning after Dec. 31, 2017 and before Jan. 1, 2026, subject to the exception described below, State, local, and foreign property taxes, and State and local sales taxes, are deductible only when paid or accrued in carrying on a trade or business or an activity for the production of income. State and local income, war profits, and excess profits are not allowable as a deduction.

  However, a taxpayer may claim an itemized deduction of up to $10,000 ($5,000 for a married taxpayer filing a separate return) for the *aggregate* of (i) State and local property taxes *not* paid or accrued in carrying on a trade or business or activity for the production of income; and (ii) State and local income, war profits, and excess profits taxes (or sales taxes in lieu of income, etc. taxes) paid or accrued in the tax year. Foreign real property taxes may not be deducted.

  Prepayment provision. For tax years beginning after Dec. 31, 2016, in the case of an amount paid in a tax year beginning before Jan. 1, 2018 with respect to a State or local income tax imposed for a tax year beginning after Dec. 31, 2017, the payment will be treated as paid on the last day of the tax year for which such tax is so imposed for purposes of applying the above limits. In other words, a taxpayer who, in 2017, pays an income tax that is imposed for a tax year after 2017, can't claim an itemized deduction in 2017 for that prepaid income tax.

- **Itemized Deduction Limitations Suspended –** Through 2017 for taxpayers whose income exceed the threshold, the otherwise allowable amount of itemized deductions was reduced by 3% of the amount of the taxpayers' adjusted gross income exceeding the threshold. The total reduction couldn't be greater than 80% of all itemized deductions, and certain itemized deductions were exempt from the Pease limitation.

  For tax years beginning after Dec. 31, 2017 and before Jan. 1, 2026, the limitation on itemized deductions is suspended.

- **Alternative Minimum Tax Retained –** For tax years beginning after Dec. 31, 2017 and before Jan. 1, 2026, the Act increases the AMT exemption amounts for individuals as follows:
  - For joint returns and surviving spouses, $109,400.
  - For single taxpayers, $70,300.
  - For marrieds filing separately, $54,700.

  Under the Act, the above exemption amounts are reduced (not below zero) to an amount equal to 25% of the amount by which the alternative taxable income of the taxpayer exceeds the phase-out amounts, increased as follows:
  - For joint returns and surviving spouses, $1 million.
  - For all other taxpayers (other than estates and trusts), $500,000.

  For trusts and estates, the base figure of $22,500 and phase-out amount of $75,000 remain unchanged, but these amounts will, as will those above, be adjusted under the new C-CPI-U inflation measure.

- **Alimony Deduction Repealed -** For any divorce or separation agreement executed after Dec. 31, 2018, or executed before that date but modified after it (if the modification expressly provides that the new amendments apply), alimony and separate maintenance payments are not deductible by the payor spouse and are not included in the income of the payee spouse. Rather, income used for alimony is taxed at the rates applicable to the payor spouse.

- **Miscellaneous Itemized Deductions Suspended –** For tax years beginning after Dec. 31, 2017 and before Jan. 1, 2026, the deduction for miscellaneous itemized deductions that are subject to the 2% floor is suspended.

- **Qualified Bicycle Communing Exclusion Suspended –** For 2017, an employee was allowed to exclude up to $20 per month in qualified bicycle commuting reimbursements-i.e., any amount received from an employer during a 15-month period beginning with the first day of the calendar year as payment for reasonable expenses during a calendar year. For tax years beginning after Dec. 31, 2017 and before Jan. 1, 2026, the exclusion from gross income and wages for qualified bicycle commuting reimbursements is suspended.

- **Exclusion for Moving Expense Reimbursements Suspended** – For tax years beginning after Dec. 31, 2017 and before Jan. 1, 2026, the exclusion for qualified moving expense reimbursements is suspended, except for members of the Armed Forces on active duty (and their spouses and dependents) who move pursuant to a military order and related to a permanent change of station.

- **Moving Expense Deduction Suspended –** For tax years beginning after Dec. 31, 2017 and before Jan. 1, 2026, the deduction for moving expenses is suspended, except for members of the Armed Forces on active duty who move pursuant to a military order and incident to a permanent change of station.

- **Deduction for Living Expenses for Members of Congress Eliminated –** For tax years beginning after the enactment date, members of Congress cannot deduct living expenses when they are away from home. **Note:** I don't have any member of Congress as clients but I thought you would appreciate that they inflicted some pain on themselves!

- **3.8% surtax on investment income & gains -** For certain unearned income of individuals, trusts, and estates are subject to a surtax (i.e., it's payable on top of any other tax payable on that income). The surtax, also called the "unearned income Medicare contribution tax" or the "net investment income tax" (NIIT), is 3.8% of the lesser of (1) "net investment income" (NII) or (2) the excess of modified adjusted gross income (MAGI) over the unindexed threshold amount ($ 250,000 for joint filers or surviving spouses, $ 125,000 for a married individual filing a separate return, and $ 200,000 in any other case). Net investment income is generally defined as the sum of the excess of:
  - Gross income from interest, dividends, annuities, royalties, and rents, other than such income that is derived in the ordinary course of a trade or business that is not a passive activity or a trade or business of trading in financial instruments or commodities;
  - Other gross income derived from a trade or business that is a passive activity with respect to the taxpayer or a trade or business of trading in financial instruments or commodities; and

- Net gain (taken into account in computing taxable income) attributable to the disposition of property other than property held in a trade or business that is not a passive activity or a trade or business of trading in financial instruments or commodities; over
- Allowable deductions allocable to such gross income or net gain.

- **Additional .9% Medicare tax on earned income –** The Additional Medicare tax on earned income applies to filers who have earned or self-employment income or make in excess of $ 200k (single filer), $ 125k (married filing separately) and $ 250k (married filing jointly).

  Employers must withhold the additional .9% Medicare tax from wages in excess of $ 200,000 regardless of filing status or other income. Self-employed persons must take it into account in figuring estimate tax. For example, an individual earns $ 200,000 from one employer during the first half of the year and a like amount from another employer during the balance of the year. He would owe the additional Medicare tax, but there would be no withholding by either employer for the additional Medicare tax since wages from each employer do not exceed $ 200,000.

  Also, in determining whether they may need to make adjustments to avoid a penalty for underpayment of estimated tax, individuals also should be mindful that the additional Medicare tax may be over-withheld. This could occur, for example, when only one of two spouses works and reaches the threshold for the employer to withhold, but the couple's income won't be high enough to actually cause the tax to be owed.

- **New Limitations on "Excess Business Loss"** – For tax years beginning after Dec. 31, 2017 and before Jan. 1, 2026, the Act provides that the excess farm loss limitation doesn't apply, and instead a noncorporate taxpayer's "excess business loss" is disallowed. Under the new rule, excess business losses are not allowed for the tax year but are instead carried forward and treated as part of the taxpayer's net operating loss (NOL) carryforward in subsequent tax years. This limitation applies *after* the application of the passive loss rules described above.

  An excess business loss for the tax year is the excess of aggregate deductions of the taxpayer attributable to the taxpayer's trades and businesses, over the sum of aggregate gross income or gain of the taxpayer plus a threshold amount. The threshold amount for a tax year is $500,000 for married individuals filing jointly, and $250,000 for other individuals, with both amounts indexed for inflation.

  In the case of a partnership or S corporation, the provision applies at the partner or shareholder level. Each partner's or S corporation shareholder's share of items of income, gain, deduction, or loss of the partnership or S corporation is taken into account in applying the above limitation for the tax year of the partner or S corporation shareholder; and regulatory authority is provided to apply the new provision to any other passthrough entity to the extent necessary, as well as to require any additional reporting as IRS determines is appropriate to carry out the purposes of the provision.

- **Mortgage and Home Equity Interest Deductions Limited** – For tax years beginning after Dec. 31, 2017 and before Jan. 1, 2026, the deduction for interest on home equity indebtedness is suspended, and the deduction for mortgage interest is limited to underlying indebtedness of up to $750,000 ($375,000 for married taxpayers filing separately). For tax years after Dec. 31, 2025, the prior $1 million/$500,000 limitations are restored, and a taxpayer may treat up to these amounts as acquisition indebtedness regardless of when the indebtedness was incurred. The suspension for home equity indebtedness also ends for tax years beginning after Dec. 31, 2025.

  Treatment of indebtedness incurred on or before Dec. 15, 2017. The new lower limit doesn't apply to any acquisition indebtedness incurred before Dec. 15, 2017.

  "Binding contract" exception. A taxpayer who has entered into a binding written contract before Dec. 15, 2017 to close on the purchase of a principal residence before Jan. 1, 2018, and who purchases such residence before Apr. 1, 2018, shall be considered to incur acquisition indebtedness prior to Dec. 15, 2017.

  Refinancing. The $1 million/$500,000 limitations continue to apply to taxpayers who refinance existing qualified residence indebtedness that was incurred before Dec. 31, 2017, so long as the indebtedness resulting from the refinancing doesn't exceed the amount of the refinanced indebtedness

- **Mortgage Insurance Premiums Deduction Expired -** The deduction of mortgage insurance premiums by a taxpayer in connection with acquisition indebtedness with respect to the taxpayer's qualified residence expired at the end of 2016.

- **Home Mortgage Modification Programs Tax Impact –** There are multiple federal home mortgage modification programs in existence. The tax impact can vary from none to having to show the amount of forgiven debt or the difference between the amount of a mortgage and the short sale proceeds as income. If you are in one of these situations, please contact us to discuss the potential tax consequences.

- **Vacation Home Rental Activities –** If an individual owns a vacation home or a dwelling unit and uses it for both personal and rental purposes, the deduction of expenses is limited, except for those expenses which are deductible without regard to business use of the property-e.g., mortgage interest, property taxes and casualty losses. Note: There are 2018 changes to some of the types of expenses that would be deductible personally if they were not treated as rental expenses.

  The owner's personal use of the home (or portion of it) for even one day in the tax year triggers these "vacation home" limits. For any tax year in which the owner uses the (rented) vacation home or other dwelling unit for personal purposes, or rents it out for less than a fair rental, the owner's deduction for maintenance, utilities, depreciation, etc., can't exceed the percentage of those total expenses for the year "attributable" to the rental period. If a taxpayer who rents out a dwelling unit also uses it as a residence, the deductions for business use (i.e., rental) of the home (other than otherwise deductible expenses, such as mortgage interest and real estate taxes) are limited to net income from the business.

  A home is used as a residence in any tax year in which the owner's use of the unit (or a portion of it) for personal purposes exceeds the longer of (1) 14 days, or (2) 10% of the period of rental use. In general, if a taxpayer uses a dwelling unit for personal purposes for any part of a day, that day is counted as a personal use day. If the taxpayer is engaged in repair and maintenance of the residence on a substantially full-time basis for any day, such use will not constitute personal use of the residence. Personal use also includes use by certain relatives.

- **Rules on Charitable Contributions -** By law all charitable contributions claimed as a deduction on your tax return must be substantiated by keeping a written record of the contribution. Acceptable written records used to substantiate each contribution include a cancelled check or bank record that supports the donation, or a written receipt or similar statement that includes the name of the donee organization and the date and amount of the contribution and if any goods or services were received in exchange for the contribution. Contributions of $ 250 or more require a contemporaneous statement from the charitable organization. If the resulting returns are examined by the IRS, requests may be made for the written record of the contribution. It is recommended that for any charitable contributions claimed, you retain the written records for at least seven years.

  The substantiation rules for noncash contributions require the donated property's fair market value (FMV) to be determined. FMV is the depreciated, or used, value of the donated property. It is not the purchase price of a similar "new" item. The following methods can be used to determine FMV:
  - Valuation guides available from organizations such as the Salvation Army or Goodwill. Many guides include a value range that can be used to determine FMV based upon location and condition of the property. Keep any guides used to determine FMV with your tax records.
  - Compare prices at area thrift stores for items in comparable condition. Visit a few stores to determine price and demand for the property.
  - Search online auctions or classified ads for comparable items. Keep printouts of such listings used to determine FMV of the donated property.
  - For donated items with a FMV of more than $ 5,000, valuation by a qualified appraiser will be required in most cases. Keep the appraiser's report with your tax documents.

To further substantiate your noncash contribution, keep any acknowledgment letters, receipts, or similar statements from the organization. Consider keeping a picture of the donated item(s) with your tax documents. See IRS Publication 561, Determining the Value of Donated Property, for further information.

There are more stringent rules for contributions over $ 500 and for motor vehicles, boats and airplanes.

- **Charitable Contribution Deduction Limitation Increased –** For contributions made in tax years beginning after Dec. 31, 2017 and before Jan. 1, 2026, the 50% limitation for cash contributions to public charities and certain private foundations is increased to 60%. Contributions exceeding the 60% limitation are generally allowed to be carried forward and deducted for up to five years, subject to the later year's ceiling. And, for contributions made in tax years beginning after Dec. 31, 2016, the provision for the donee reporting exemption from the contemporary written acknowledgement requirement is repealed.

- **Amounts Paid for College Athletic Seating Rights –** For contributions made in tax years beginning after Dec. 31, 2017, no charitable deduction would be allowed for any payment to an institution of higher education in exchange for which the payor receives the right to purchase tickets or seating at an athletic event.

- **Gambling Loss Limitations Modified –** For tax years beginning after Dec. 31, 2017 and before Jan. 1, 2026, the limitation on wagering losses is modified to provide that *all* deductions for expenses incurred in carrying out wagering transactions, and not just gambling losses, are limited to the extent of gambling winnings.

- **Net Disaster Loss Relief Available to Non-Itemizers –** Effective for tax years beginning after Dec. 31, 2017, and before Jan. 1, 2026, if an individual has a net disaster loss (defined below) for any tax year beginning after Dec. 31, 2017, and before Jan. 1, 2026, the standard deduction is increased by the net disaster loss.

  The Act also provides that, if any individual has a net disaster loss for any tax year beginning after Dec. 31, 2017 and before Jan. 1, 2026, the AMT adjustment for the standard deduction doesn't apply to the increase in the standard deduction that is attributable to the net disaster loss. Thus, while the standard deduction is generally disallowed under the AMT rules, the portion of the standard deduction attributable to a net disaster loss is allowed for AMT purposes.

  Net disaster loss. A net disaster loss is the excess of (i) qualified disaster-related personal casualty losses, over (ii) personal casualty gains. "Qualified disaster-related personal casualty losses" are those that arise in a 2016 disaster area (below). Personal casualty gains are those described in the IRS Code.

  2016 disaster area. The Act provides tax relief relating to any "2016 disaster area," which means any area with respect to which a major disaster was declared by the President under section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act during calendar year. The application of this provision might be limited as it applies to losses potentially deductible in the 2018 through 2025 tax years, but is limited to losses incurred in the 2016 disaster areas.

- **Medical Expense Deduction Threshold Changes –** Individuals who itemize their deductions can claim deductions for medical expenses when they reach 7.5 percent of adjusted gross income. This is a change from a 10% threshold for those under 65. This reduction is only effective for tax years through 2018.
- **Raised Casualty Floor & Modified Threshold –** For tax years beginning after Dec. 31, 2017, and before Jan. 1, 2026, the Act provides that if an individual has a net disaster loss (for this purpose, the definition above applies except that the timeframe is changed to any tax year beginning after Dec. 31, 2015 and before Jan., 1, *2018*), (i) the $100-per-casualty floor is increased to $500; and (ii) the 10%-of-AGI threshold doesn't apply.

- **Relief from Early Withdrawal Tax for "Qualified 2016 Disaster Distributions" –** The Act provides an exception to the retirement plan 10% early withdrawal tax for up to $100,000 of "qualified 2016 disaster distributions." These distributions are defined as distributions from an eligible retirement plan made (a) 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 located in a 2016 disaster area and who has sustained an economic loss by reason of the events that gave rise to the Presidential disaster declaration. An "eligible retirement plan" means a qualified retirement plan, a section 403(b) plan or an IRA.

Income attributable to a qualified 2016 disaster distribution can, under the Act, be included in income ratably over three years, and the amount of a qualified 2016 disaster distribution can be recontributed to an eligible retirement plan within three years.

The Act also provides that a plan amendment made pursuant to the above disaster relief provisions may be retroactively effective if certain requirements are met, including that it be made on or before the last day of the first plan year beginning after Dec. 31, 2018 (Dec. 31, 2020 for a governmental plan), or a later date prescribed by IRS.

- **Medicare Premium Based on Prior AGI –** If your second prior year (2016 for 2018 premiums) Adjusted Gross Income (AGI) exceeds $ 170k (married filing joint) and $ 85k (single), your Medicare premiums for the following year will increase. The amount of the premium increases as your AGI increases. This is over and above any normal general rate increases. See our web site (www.wheelercpa.biz) under the "Tax Tools" tab and the "Medicare & Social Security" sub-tab for details.

- **Medicare Premium "Hold Harmless" Provision –** Social Security benefits cannot be reduced below the prior-year benefits due to increasing Medicare premium costs. Because there will be a 2% increase for Social Security COLA for 2018, any increase above this amount in the Medicare premium (usually deducted from the beneficiary's Social Security check) would result in a net reduction in the beneficiary's check—which would run afoul of the hold-harmless provision. This provision does not apply to the following categories of individuals –
  - Individuals who are not receiving Social Security benefits but are covered by Medicare. For example, an individual age 66 who decides not to begin collecting Social Security benefits until they reach age 70 to take advantage of delayed retirement credits (DRCs).
  - Higher-income individuals who pay a higher Medicare Part B premium because their income exceeds the threshold established when Congress passed the law subjecting them to higher Part B premiums.
  - New enrollees in 2017 or 2018.
  - Dual-eligible Medicare-Medicaid enrollees because the state pays their Medicare Part B premium and, as a result, their Social Security check is not impacted.

- **Exclusion for Discharged Home Mortgage Debt Expired After 2016 –** The discharge of indebtedness income from qualified principal residence debt expired on December 31, 2016.

  The exclusion applies to home mortgage debt that's discharged subject to a written arrangement that's entered into before Jan. 1, 2017. Thus, according to an official summary of the bill, the exclusion applies to qualified principal residence debt that is discharged in 2017, if the discharge is pursuant to a binding written agreement entered into in 2016. This is a fluid area and may not survive the regulation writing process.

- **Debt Forgiveness –** Debt is generally includable in income for the year the debt is forgiven. Some of the relief provisions have been extended through 2017. It is a complex area and, if you have forgiven debt in a tax year, please contact us to discuss the potential tax consequences. Indiana does not conform to these provisions.

- **Parking and Transportation Benefits** – An employee can exclude up to $ 255 a month of employer provided qualified parking benefits for 2017. This increases to $ 260 for 2018. The combined value of transit passes and transportation in a commuter highway vehicle was raised to match the qualified parking benefits. These amounts are indexed for inflation.

- **Non-custodial Parent Dependent Claim -** A noncustodial parent is not allowed to claim the dependency exemption deduction for minor children without obtaining a signed IRS Form 8332 releasing the custodial parent's claim to the dependency exemption deduction. The form must be filed with the claiming parent's federal return if the divorce was finalized after 2009. There have been recent court cases where the IRS has denied the claim because the form was not in hand when the tax return was filed. It did not matter that the divorce decree specified that each party was authorized to claim one child as a dependent. Form 8332 releases the dependency exemption and the child tax credit but does not entitle the non-custodial parent to claim head of household, the earned income credit, or the dependent care credit.

- **Child Tax Credit Increased –** For 2017 the Child Tax Credit (CTC) allowed taxpayers to claim a $1,000 tax credit for each qualifying child under age 17 that the taxpayer can claim as a dependent. The CTC phases out when taxpayers' income exceeds certain thresholds. To the extent the CTC exceeds the taxpayer's tax liability, the taxpayer is eligible for a refundable credit equal to 15% percent of earned income in excess of $ 3,000.

  For tax years beginning after Dec. 31, 2017 and before Jan. 1, 2026, the child tax credit is increased to $2,000, and other changes are made to phase-outs and refundability during this same period, as outlined below.

  Phase-out. The income levels at which the credit phase out is increased to $400,000 for married taxpayers filing jointly ($200,000 for all other taxpayers) (not indexed for inflation).

  Non-child dependents. In addition, a $500 nonrefundable credit is provided for certain non-child dependents.

  Refundability. The amount that is refundable is increased to $1,400 per qualifying child, and this amount is indexed for inflation, up to the base $2,000 base credit amount. The earned income threshold for the refundable portion of the credit is decreased from $3,000 to $2,500.

  SSN required. No credit will be allowed to a taxpayer with respect to any qualifying child unless the taxpayer provides the child's SSN.

- **Household Employee Wage Limits –** For 2017, cash remuneration paid by an employer for domestic service in the employer's private home weren't FICA wages if the amount paid during the year was less than $ 2,000 ($ 2,100 for 2018). The dollar threshold applies separately to each domestic employee.

  There is an exception to the household employee rule: If the worker is under the age of 18 and providing these services, and it is not his or her primary occupation, he or she is not considered an employee. For example, a student who comes over to babysit or clean your house is not an employee for federal tax purposes. On the other hand, if the individual is under 18 and this household job is his or her principal occupation, you must withhold and pay FICA taxes. Alternatively, you can choose to pay the FICA taxes yourself by not withholding these taxes from wages and grossing up their Box 1 W-2 by the amount paid by you.

  You also have an obligation to pay (but not withhold) federal unemployment taxes (FUTA) and state unemployment taxes (SUTA) if you pay a total of $ 1,000 or more in cash wages (excluding the value of food and lodging) to your employees in any calendar quarter of the current year or last year. The FUTA tax applies to the first $ 7,000 and Indiana SUTA tax applies to the first $ 9,500 of wages paid.

- **Energy Efficient Improvements Credit -** Individuals who made approved energy efficiency improvements to their homes in 2017 and beyond are no longer eligible for the up to a $ 500 tax credit. It expired at the end of 2016.

- **Residential Energy-Efficient Solar Property Credit Extended and Phased Out –** The new law allows an individual to claim a 30% credit for qualified solar electric property expenditures made during the year. A qualified solar electric property expenditure is an expenditure for property which uses solar energy to generate electricity for use in a dwelling unit located in the U.S. and used as a residence by the taxpayer.

  The 30% credit also applies for "qualified solar water heating property expenditures" made during the year for property to heat water for use in a dwelling unit located in the U.S. and used as a residence by the taxpayer, if at least half of the energy used by the property for that purpose is derived from the sun.

The Act extends the residential energy-efficient solar property credits for five years, to apply to property placed in service before Jan. 1, 2022. For property placed in service after Dec. 31, 2019 and before Jan. 1, 2021, the energy percentage is 26%; and for property placed in service after Dec. 31, 2020 and before Jan. 1, 2022, the energy percentage is 22%.

- **Social Security Statements –** You are able to obtain a copy of your annual Social Security benefits statement (Form 1099 or 1942) on line at www.ssa.gov beginning February 1, 2018.

- **Full Social Security Retirement Age –** Beginning in 2017 the SS full retirement age has increased to 66 years 2 months. It will rise to 67 years old by 2022. There is also an impact if someone retires at 62 years old. Please research benefits before starting to draw SS.

- **Plug-in Electric Vehicle Credit Repealed** – The credit for purchasing plug-in electric vehicles has been repealed as of January 1, 2018.

- **American Opportunity Tax Credit** - The American Opportunity Tax Credit allows for a partially refundable above the line credit of up to $2,500 for four years of post-secondary education per student. The credit begins phasing out for those with Modified Adjusted Gross Incomes of $80,000 (single and head of household) and $160,000 (married filing jointly). These amounts apply to 2017.

  A taxpayer claiming the AOTC must report the employer identification number (EIN) of the educational institution to which the taxpayer makes qualified payments under the credit.

  For education furnished in academic periods beginning after that date, higher education institutions are required to report (on Form 1098-T) only qualified tuition and related expenses actually paid.

- **Lifetime Learning Credit and Hope Scholarship Credit Repealed –** These two credits have been repealed for 2018 and beyond. They have been folded into the Enhanced American Opportunity Tax Credit.

- **Qualified Tuition Program (QTP) Distributions for Apprenticeships**. The Act would add to the term "qualified education expenses" certain books and supplies required for registered apprenticeship programs. It now includes expenses for K-12 education, except for home schooling, up to $10,000 per beneficiary per year.

- **Coverdale Education Savings Accounts –** No new contributions will be allowed for Coverdale ESAs after 2017.

- **Student Loan Discharged on Death or Disability –** For discharges of indebtedness after Dec. 31, 2017 and before Jan. 1, 2026, certain student loans that are discharged on account of death or total and permanent disability of the student are also excluded from gross income.

- **Series E US Savings Bond Interest Exclusion for Higher Education Expenses -** The exclusion from income of interest on U.S. savings bonds used to pay qualified higher education expenses has been repealed as of January 1, 2018.

- **Gross Income from Qualified Tuition Reduction Programs –** The old law through 2017 permits non-profit educational institutions, including colleges and universities, to provide their employees, spouses, or dependents with tuition reductions that are excluded from taxable income. This long-standing provision helps employees and members of their families afford a college education, providing an important benefit to many middle and low-income college employees.

  Additionally, the old law significantly lowers the cost of graduate education by providing many Ph.D. and Masters graduate students with a non-taxable tuition reduction while serving as teaching or research assistants, a key component of their academic training.

  This benefit has been repealed for 2018 and beyond.

- **Pell Grants and Student Related Tax Deductions and Credits –** For 2017 under the old tax law, students who are not eligible for the AOTC may be eligible for a Lifetime Learning Credit (LLC) in any year of postsecondary study. The non-refundable LLC is equal to 20% of up to $10,000 of qualifying expenses per tax return.

  Pell Grants (and many other scholarships) can be treated in one of two ways for tax purposes:
  - Tax-free and subtracted from AOTC-eligible expenses. Pell Grants allocated to qualified tuition and related expenses are excluded from taxable income, but they are also subtracted from qualified tuition and related expenses for purposes of the AOTC and LLC, potentially reducing the credit for which students are eligible.
  - Taxable and not subtracted from AOTC-eligible expenses. Pell Grants allocated to living expenses such as room and board are included in the student's taxable income and are not subtracted from qualified tuition and related expenses for purposes of the AOTC and LLC, potentially increasing the credit for which students are eligible.

  Generally, students are allowed to decide whether to treat their Pell Grants as paying for qualified tuition and related expenses or for living expenses. Students may choose to treat Pell Grants as paying for living expenses even if the institution applies the Pell Grant against tuition and fees. A student may allocate Pell Grant funds toward living expenses up to the amount of his actual living expenses, which may differ from the living expenses estimated by his school in computing his official cost of attendance under student aid rules. Under such an allocation:
  - Any scholarship (including a Pell Grant) must be used in a manner consistent with its terms;
  - Any scholarship that is allocated to qualified tuition and related expenses must be subtracted from qualified tuition and related expenses for purposes of the AOTC (or LLC); and
  - Any scholarship that is allocated to living expenses be included in taxable income on the student's (and not the parent's) federal income tax return.

  The issue. Many students would benefit by claiming at least a portion of their qualified tuition and related expenses for the AOTC, even if that requires including some of their Pell Grant (or other scholarships) in taxable income. If a student's qualified tuition and related expenses exceed his scholarships by $4,000 or more, the student can claim the maximum AOTC without having to include any scholarship in income. But if qualified tuition and related expenses minus scholarships is less than $4,000, the student may benefit by including a portion of the scholarship in income in order to claim a larger AOTC. Most Pell Grant recipients who are eligible for the AOTC would benefit from allocating a portion their Pell Grant to living expenses so as to be able to claim at least $2,000 of qualified tuition and related expenses for the AOTC.

  Many taxpayers may be unaware that they have a choice of how to allocate scholarship funds between qualified tuition and related expenses and living expenses on their tax return. This is a very complex area of the tax law and you should always consult your tax preparer regarding your choices.

  Under the new law, Pell Grant money is allocated to any allowable education expense and any excess would be income or any remaining qualified education expense after the Pell Grant money is accounted for can be applied to any other available qualified education tax deduction or credit. As with the old law, no double counting of qualified education expenses is allowed.

- **Employer Provided Education Assistance Programs Repealed –** This tax benefit that was worth up to $ 5,250 per year has been repealed. This does not include job related continuing professional education for employees.

- **Form 1098-T Required to Claim Education Credits or Deductions –** Taxpayers who want to claim higher education related credits or deductions must have a Form 1098-T, *Tuition Statement*, that includes all the information required on the form. The institution of higher learning must furnish the form to the student by January 31, 2018 and it must be provided to their tax preparer if they wish to claim a credit or deduction for 2017.

- **Casualty and Theft Losses Suspended –** For tax years beginning after Dec. 31, 2017 and before Jan. 1, 2026, the personal casualty and theft loss deduction is suspended, except for personal casualty losses incurred in a Federally-declared disaster. However, where a taxpayer has personal casualty gains, the loss suspension doesn't apply to the extent that such loss doesn't exceed gain.

- **Social Security Income Limits Before Full Retirement Age -** There are new limits on how much a worker under full retirement age can earn before he or she has Social Security benefits reduced. The limit increases from $16,920 a year to $17,040 for 2018, after which $1 in benefits is withheld for every $2 earned above the limit. There are special rules for the year that a person reaches full retirement age.

- **Surviving spouse's options for decedent spouse's IRAs -** A surviving spouse who is the sole designated beneficiary of the deceased spouse's IRA has a choice not available to other beneficiaries: The spouse may roll over the decedent's IRA into an IRA established in the spouse's own name, or elect to treat the decedent's IRA as the surviving spouse's own IRA. Either way, the surviving spouse is treated as if he or she had funded the IRA.

- **IRA Contribution Limits –** The maximum 2017 and 2018 IRA contribution limits are $ 5,500 ($ 6,500 if age 50 or older). These contributions must be made by the original due date of the federal tax return (April 18, 2018 for 2017 taxes) without extensions. The contribution limit is a combined limit for both regular and Roth IRAs. These amounts are unchanged from 2016 amounts. There are income limits associated with the types, deductibility and amounts of IRA contributions.

- **Excise Tax on Excess IRA Contributions** - If you contribute more than the IRA limits for 2017, you are subject to a six percent tax on the excess amount. The tax applies each year that the excess amounts remain in your account. You can avoid the tax if you withdraw the excess amounts from your account by the due date of your 2017 tax return (including extensions).

- **Rollovers Allowed from Retirement Plans to SIMPLE Accounts –** The Protecting Americans from Tax Hike Act allows a taxpayer to roll over amounts from an employer-sponsored retirement plan (e.g., 401(k) plan) to a SIMPLE IRA, if the plan has existed for at least two years. Specifically, a rollover may be made from a traditional IRA, a qualified trust, a qualified annuity, tax-sheltered annuity or a governmental section 457. But no rollover contribution is allowed to be made to the SIMPLE retirement account until after the 2-year period beginning on the date that the employee first participated in a qualified salary reduction arrangement maintained by the employee's employer).

- **Nontaxable IRA Transfers to Eligible Charities –** Taxpayers who are age 70½ or older can make tax-free distributions to a charity from an Individual Retirement Account (IRA) of up to $100,000 per year. These distributions weren't subject to the charitable contribution percentage limits since they were neither included in gross income nor claimed as a deduction on the taxpayer's return. This provision has been made permanent. Indiana conforms to this provision. **There are many potential tax benefits to this provision given the new tax law changes for 2018.**

- **Roth IRA Recharacterizations Repealed –** Under 2017 current law if an individual makes a contribution to an IRA (traditional or Roth) for a tax year, the individual is allowed to recharacterize the contribution as a contribution to the other type of IRA (traditional or Roth) by making a trustee-to-trustee transfer to the other type of IRA before the due date for the individual's income tax return for that year. In the case of a recharacterization, the contribution will be treated as having been made to the transferee IRA (and not the original, transferor IRA) as of the date of the original contribution. Both regular contributions and conversion contributions to a Roth IRA can be recharacterized as having been made to a traditional IRA.

  Under the new law for tax years beginning after Dec. 31, 2017, the 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.

- **Converting Traditional IRAs and Qualified Retirement Plan Funds to Roth IRAs –** Taxpayers may convert amounts in a traditional IRA to amounts in a Roth IRA without regard to their modified adjusted gross income or filing status. The conversion may be done in one of three ways: (1) Rollover to a Roth IRA of a distribution from a traditional IRA within 60 days of the distribution. (2) Trustee-to-trustee transfer from the trustee of the traditional IRA to the trustee of the Roth IRA. (3) Transfer of an amount in a traditional IRA to a Roth IRA maintained by the same trustee.

  Similarly, participants in qualified 401(k) plans and 403(b) annuity plans that maintain a qualified Roth contribution program may make an in-plan Roth rollover. The rollover may be made regardless of the taxpayer's income level.

  Amounts in a SEP-IRA or a SIMPLE IRA also may be converted to a Roth IRA. However, a conversion from a SIMPLE IRA may be made only after the 2-year period beginning on the date on which the taxpayer first participated in any SIMPLE IRA maintained by the taxpayer's employer.

  See the limitation on one IRA rollover per year for an important caution. There are other limitations and rules regarding these types of rollovers.

- **One IRA Rollover Per Year -** Taxpayers are allowed to roll over one IRA, or part of an IRA, to another IRA only one time in a 12-month period. This does not mean a calendar year, but 12 months from the first rollover. It does not matter how many different IRA accounts you may have, only one rollover per 12 month period is allowed. This new rule is based on the IRS winning a court case. If you have more than one rollover within the 12 month period, all but the first rollover will be treated as a distribution and subject to tax and penalties.

  The one-rollover-per-year limitation also does not apply to a rollover to or from a qualified plan, nor does it apply to trustee-to-trustee transfers. Such a rollover is disregarded in applying the one-rollover-per-year limitation to other rollovers.

  NOTE: If these are not done correctly, the rollover can be deemed a distribution and be taxable in the year of the excess rollover.

- **401(k) Rollovers to Roth Accounts -** 401(k), 403(b) and 457(b) governmental plans can allow participants to roll over pre-tax account balances into a designated Roth account within their plans. The rollover will be taxable, except for any after-tax contributions.

- **Roth IRA Minimum Distribution Rules -** Roth IRAs are not subject to the regular IRA minimum distribution rules before death. Thus, no minimum distributions from a Roth IRA have to be made while the Roth IRA owner is alive. Because the pre-death minimum distribution rules don't apply to Roth IRAs, amounts in the Roth IRA can continue to build up tax-free for the benefit of the taxpayer's heirs after the Roth IRA owner has reached age 70 1 / 2.

  However, the *post-death* minimum distribution rules (which apply to traditional IRAs), also apply to Roth IRAs, with the exception of the "at-least-as-rapidly" rule (i.e., the rule requiring that the remaining portion of the participant's (or the Roth IRA owner's) interest be distributed at least as rapidly as under the method of distribution that was in effect at the date of the owner's death.

  The post-death minimum distribution rules apply to the Roth IRA as though the Roth IRA owner died before his required beginning date. Thus, the entire interest in the Roth IRA must be distributed:
  - by the end of the fifth calendar year after the year of the owner's death (sometimes referred to as the "five-year rule"); or
  - to a designated beneficiary over a period of not greater than that beneficiary's life expectancy (the "life expectancy rule"), and distribution must begin before the end of the calendar year following the year of death.

- **Spouse Roth IRA Beneficiary RMD Rules -** If the sole beneficiary is the decedent's spouse, then the spouse may:
  - delay distributions until the decedent would have reached age 70 1 / 2, or
  - treat the Roth IRA as his own (in which case the spouse is considered the individual for whose benefit the Roth IRA is maintained.

  If the surviving spouse of a decedent Roth IRA owner treats the inherited Roth IRA as his own, then only the minimum distribution rules wouldn't apply during the surviving spouse's life, and the *post-death* minimum distribution rules would apply after the spouse's death.

- **Unrelated Business Taxable Income (UBTI) –** Trusts, corporations, and any other organizations generally exempt from taxation under Sec. 501(c) are subject to tax on unrelated business taxable income. These organizations include Qualified pension, profit sharing, stock bonus plans, Individual retirement accounts (IRAs), including Roth and SEP IRAs; and charitable remainder trusts.

  To the extent an exempt organization has gross income (defined as gross receipts less cost of goods sold) of more than $1,000 from a regularly conducted unrelated trade or business, it must file Form 990-T, *Exempt Organization Business Income Tax Return*, to report and pay income tax on its UBTI.

  This often includes partnerships and S corporations held in retirement accounts.

  This is a complex tax area and you should review the holdings in all of your retirement accounts to ensure that you are not subjecting the accounts to UBTI. If you are unsure of any related area please consult your tax advisor.

  Under the new 2018 law, for tax years beginning after Dec. 31, 2017 (subject to an exception for net operating losses (NOLs) arising in a tax year beginning before Jan. 1, 2018, that are carried forward), losses from one unrelated trade or business may not be used to offset income derived from another unrelated trade or business. Gains and losses have to be calculated and applied separately.

- **Retirement Plan Distributions –** When participants choose to direct their retirement plan distribution to go to multiple destinations, the amounts will be treated as a single distribution for allocating pre-tax and after-tax basis. This will allow 401(a) qualified, 403(b) and 457(b) governmental retirement plan participants to:
  - Roll over amounts to both a Roth IRA and a non-Roth IRA.
  - Allocate the pre-tax amount of the distribution to the non-Roth IRA and the after-tax amount to the Roth IRA, and avoid having to pay income tax on pre-tax amounts rolled over to the non-Roth IRA.

- **Review Your Will, Powers of Attorney and Estate Plans –** When was the last time you reviewed your will or estate plan? We recommend that you revisit your will and estate plan every time you experience a major life event, such as marriage, the birth of a child, retirement or other significant milestones. Even if there is no meaningful change in your life, it's smart to review the documents every couple of years to ensure it still addresses all your estate concerns and reflects your wishes. A review will also allow you to catch up on any law changes and values of your estate since your last will update. Changes in circumstances may also require updating your durable and medical powers of attorney.

- **Indiana Estimated Tax Payments –** You may make your Indiana estimated tax payments using the Indiana DORpay portal. It can be found at http://www.in.gov/dor/4340.htm. You can also use the system to check the status of prior payments made through the system.

- **ABLE Account Changes –** Effective for tax years beginning after the enactment date of the Act and before Jan. 1, 2026, the contribution limitation to ABLE accounts with respect to contributions made by the designated beneficiary is increased, and other changes are in effect as described below. After the overall limitation on contributions is reached (i.e., the annual gift tax exemption amount; for 2018, $15,000), an ABLE account's designated beneficiary can contribute an additional amount, up to the lesser of (a) the Federal poverty line for a one-person household; or (b) the individual's compensation for the tax year.

Saver's credit eligible. Additionally, the designated beneficiary of an ABLE account can claim the saver's credit for contributions made to his ABLE account.

Recordkeeping requirements. The Act also requires that a designated beneficiary (or person acting on the beneficiary's behalf) maintain adequate records for ensuring compliance with the above limitations.

For distributions after the date of enactment, amounts from qualified tuition programs (QTPs, also known as 529 accounts are allowed to be rolled over to an ABLE account without penalty, provided that the ABLE account is owned by the designated beneficiary of that 529 account, or a member of such designated beneficiary's family. Such rolled-over amounts are counted towards the overall limitation on amounts that can be contributed to an ABLE account within a tax year, and any amount rolled over in excess of this limitation is includible in the gross income of the distributee.

- **New Deferral Election for Qualified Stock Option Grants –** Generally effective with respect to stock attributable to options exercised or restricted stock units (RSUs) settled after Dec. 31, 2017 (subject to a transition rule; see below), a qualified employee can elect to defer, for income tax purposes, recognition of the amount of income attributable to qualified stock transferred to the employee by the employer. The election applies only for income tax purposes; the application of FICA and FUTA is not affected.

  The election must be made no later than 30 days after the first time the employee's right to the stock is substantially vested or is transferable, whichever occurs earlier. If the election is made, the income has to be included in the employee's income for the tax year that includes the earliest of:

  - The first date the qualified stock becomes transferable, including, solely for this purpose, transferable to the employer.
  - The date the employee first becomes an "excluded employee" (i.e., an individual: (a) who is one-percent owner of the corporation at any time during the 10 preceding calendar years; (b) who is, or has been at any prior time, the chief executive officer or chief financial officer of the corporation or an individual acting in either capacity; (c) who is a family member of an individual described in (a) or (b); or (d) who has been one of the four highest compensated officers of the corporation for any of the 10 preceding tax years.
  - The first date on which any stock of the employer becomes readily tradable on an established securities market;
  - The date five years after the first date the employee's right to the stock becomes substantially vested; or
  - The date on which the employee revokes his or her election.

  The election is available for "qualified stock" attributable to a statutory option. In such a case, the option is not treated as a statutory option, and the rules relating to statutory options and related stock do not apply. In addition, an arrangement under which an employee may receive qualified stock is not treated as a nonqualified deferred compensation plan solely because of an employee's inclusion deferral election or ability to make the election.

  Deferred income inclusion also applies for purposes of the employer's deduction of the amount of income attributable to the qualified stock. That is, if an employee makes the election, the employer's deduction is deferred until the employer's tax year in which or with which ends the tax year of the employee for which the amount is included in the employee's income as described in (1) - (5) above.

  The new election applies for qualified stock of an eligible corporation. A corporation is treated as such for a tax year if: (1) no stock of the employer corporation (or any predecessor) is readily tradable on an established securities market during any preceding calendar year, and (2) the corporation has a written plan under which, in the calendar year, not less than 80% of all employees who provide services to the corporation in the US (or any US possession) are granted stock options, or restricted stock units (RSUs), with the same rights and privileges to receive qualified stock.

  Detailed employer notice, withholding, and reporting requirements also apply with regard to the election.

As noted above, the income deferral election generally applies with respect to stock attributable to options exercised or RSUs settled after Dec. 31, 2017. However, under a transition rule, until IRS issues regulations or other guidance implementing the 80% and employer notice requirements under the provision, a corporation will be treated as complying with those requirements if it complies with a reasonable good faith interpretation of them. The penalty for a failure to provide the notice required under the provision applies to failures after Dec. 31, 2017.

- **Indiana Military Family Relief Fund –** Taxpayers may donate all or part of their tax refund to the military family relief fund. See http://www.in.gov/dva/2329.htm for more details.

- **Indiana School Scholarship Credit –** This is a 50% credit for amounts donated to qualified scholarship granting organizations in Indiana. The School Scholarship Credit can now be carried forward for nine years after the unused credit year, and the cap on this credit has increased to $ 12.5 million for the fiscal year ending on June 30, 2018. See http://www.doe.in.gov/choice/school-scholarships for more information on the program.

- **Indiana Income Tax Rate -** The 2017 Indiana individual income tax rate was 3.23%. No further rate decreases are scheduled.

- **Indiana Saving for College 529 Plan –** Indiana taxpayers are eligible for a 20% credit for contributions up to an aggregate of $ 5,000 in contributions to the Indiana College Choice 529 Direct Savings Plan (www.collegechoicedirect.com). The contribution must be postmarked by December 31st of the tax year for which the credit is to be taken. This is a non-refundable credit. The plan beneficiary does not have to attend an Indiana College or University. This is one of the best tax savings tips for Indiana residents.

- **Indiana Saving for College 529 Plan Enhanced Security** - As of August 27, 2017, the Indiana College Choice 529 Direct Savings Plan will require you to verify your identity using a PIN sent to you via text message or phone call each time you log in at www.collegechoicedirect.com. You will be provided with the option of designating your computer, smartphone, and/or tablet as "trusted". Once your device is "trusted" we won't require a PIN the next time you sign on from that device. To ensure that your PIN will be delivered to the correct phone number, please confirm or update the phone number listed on your 529 account.

- **Indiana Dependent Deductions –** Effective Jan. 1, 2017, the $1,500 deduction for dependent children is expanded to include certain individuals for whom the taxpayer is the legal guardian, but not the parent.

- **Indiana Military Service Deduction for Retirees and Survivors –** Indiana law now allows a deduction for military retirement pay or survivor's benefits received as a result of the individual's active or reserve service in the armed services.

  For taxable years beginning before January 1, 2018, to qualify for the military service deduction for military retirement or survivor's benefits, the taxpayer or surviving spouse must be at least 60 years of age on the last day of the tax year and have received military retirement or survivor's benefits while a resident of Indiana. The allowable adjustment is the amount of military or survivor's benefits received while a resident of Indiana and included in adjusted gross income. The maximum allowable deduction is $5,000.

  For taxable years beginning after December 31, 2017, the maximum allowable deduction for military retirement or survivor's benefits is increased to $6,250. In addition, the minimum age requirement for qualification has been eliminated. This deduction is in addition to the $5,000 deduction for which taxpayers are otherwise entitled for certain military service income.

  Note: Military income earned while in a **combat zone** may be exempt (not taxed) on your federal income tax return. If that income is exempt on your federal income tax return, then it will also be exempt (not taxed) for Indiana income tax purposes. Since Indiana isn't taxing this income, your combat zone income is not eligible for a deduction.

Important: If you received both military pay and retirement pay or survivor's benefits during the tax year, the total deduction cannot be greater than $5,000 per qualifying person. For example, if you earned $6,000 in military pay the first half of the year and $1,500 in retirement pay the second half of the year, you can deduct only $5,000 of your income.

- **Indiana Civil Service Annuity Adjustment –** Indiana Code allows a deduction for a portion of a federal civil service annuity. To qualify for the civil service annuity adjustment, the taxpayer must be at least 62 years old at the close of the tax year and have received a civil service annuity included in the taxpayer's adjusted gross income while a resident of Indiana. The individual's surviving spouse also qualifies for the deduction but does not have to be age 62 or older to qualify.

  The allowable adjustment is equal to the federal civil service annuity received up to a maximum of $16,000 for 2017 and thereafter, minus the total amount of Social Security and tier 1 and tier 2 railroad retirement benefits received while a resident of Indiana.
  - Example: During 2017 a full-year Indiana resident who was 66 years old received a civil service annuity of $17,000. This person also received Social Security retirement benefits of $1,300. The taxpayer received no other income during the year.

    The taxpayer would be entitled to a civil service annuity adjustment of $14,700, computed by subtracting the $1,300 Social Security retirement benefits from the first $16,000 of civil service annuity received.

- **Indiana Taxation of Non-resident Professional Athlete Team Members** – Nonresident professional athletes playing or on contract with a team will apportion their income to Indiana based on duty days performed in Indiana compared to total duty days in a taxable year.

  The provision for apportioning income of nonresident athletes' income applies to members of a professional baseball, basketball, football, hockey, or soccer team that played games or had services rendered by a team member in Indiana.

  The provision applies to employees who are active players, players on a disabled list, and other individuals required to travel with and perform services on behalf of the team on a regular basis. This includes coaches, managers, and trainers.

  The provision does not apply to members of race teams or to other entertainers such as actors or musicians. Beginning January 1, 2018, team members will also be subject to local income taxes.

  See Indiana Department of Revenue Information Bulletin # 88 for more details.

- **Indiana Private School State Tax Deduction –** The State of Indiana allows for a deduction for private school K-12 tuition and fees. Home schooling can also qualify. The amount is $ 1,000 per dependent child attending a private school. The deduction can be applied to tuition, fees, computer software, textbooks, or school supplies bought for the child. The child must be eligible to receive free K-12 education in an Indiana school corporation.

- **Indiana Residency –** The Indiana Department of Revenue (IDR) has increasingly been looking at whether or not out of state residents who still maintain Indiana ties are actually residents. We have seen more inquiries recently than at any time in the past. If you are a resident of another state with Indiana ties, make sure that all of your documentation such as voting records, insurance, license, car registrations, etc. list the resident state rather than Indiana. One key that the IDR has looked at is whether or not you have a homestead exemption on an home maintained in Indiana. They consider this a de facto admission of residency. While these cases can often be favorably resolved, there is a lot of expense and heartache to do so. We have a list of residency related factors we can provide to you if you have questions regarding residency.

- **Indiana Insulation Deduction –** The Indiana Insulation Deduction has been repealed and is not available for tax years 2017 and beyond.

Business –

- **S Corporation and Partnership returns electronic filing in Indiana –** Now that the State of Indiana accepts electronic filed S Corporation and Partnership returns, we will file all of these type of tax returns electronically.

- **Partnership and S Corporation tax return due dates –** As a reminder, the 2017 partnership and S Corporation federal tax return due dates are March 15, 2018. This should ease some of the due date compression for individual taxpayers who own partnership interests. Six month extensions are available.

- **C (Regular) Corporation tax return due date –** The 2017 C (Regular) Corporation federal tax return due date is April 17, 2018 or the 15th day of the fourth month following the end of the tax year for fiscal year corporations. Six month extensions are available. There is a special rule for C corporations with a June 30th year end.

- **W-2 and 1099- MISC Filing Date –** The government copies of W-2s and 1099-MISCs must be filed by January 31, 2018.

- **New Indiana Secretary of State Filing Requirements for LPs & LLPs** - Effective January 1, 2018, all domestic and foreign limited partnerships (LPs) and limited liability partnerships (LLPs) will be required to file biennial reports with the Secretary of State's office. This new requirement makes LPs and LLPs consistent with the other entity types and helps to ensure that the Secretary of State's office has updated information on file for LPs and LLPs.

- **New Deduction for Pass-Through Income** - Under pre-Act law, the net income of these pass-through businesses- sole proprietorships, partnerships, limited liability companies (LLCs), and S corporations- was not subject to an entity-level tax and was instead reported by the owners or shareholders on their individual income tax returns. Thus, the income was effectively subject to individual income tax rates.

  Generally for tax years beginning after Dec. 31, 2017 and before Jan. 1, 2026, the Act adds a new section under which a non-corporate taxpayer, including a trust or estate, who has qualified business income (QBI) from a partnership, S corporation, or sole proprietorship is allowed to deduct:

  - the *lesser* of: (a) the "combined qualified business income amount" of the taxpayer, or (b) 20% of the excess, if any, of the taxable income of the taxpayer for the tax year over the sum of net capital gain and the aggregate amount of the qualified cooperative dividends of the taxpayer for the tax year; *plus*
  - the *lesser* of: (i) 20% of the aggregate amount of the qualified cooperative dividends of the taxpayer for the tax year, or (ii) taxable income (reduced by the net capital gain) of the taxpayer for the tax year.

  The "combined qualified business income amount" means, for any tax year, an amount equal to: (i) the deductible amount for each qualified trade or business of the taxpayer (defined as 20% of the taxpayer's QBI subject to the W-2 wage limitation; see below); *plus* (ii) 20% of the aggregate amount of qualified real estate investment trust (REIT) dividends and qualified publicly traded partnership income of the taxpayer for the tax year.

  QBI is generally defined as the net amount of "qualified items of income, gain, deduction, and loss" relating to any qualified trade or business of the taxpayer. For this purpose, qualified items of income, gain, deduction, and loss are items of income, gain, deduction, and loss to the extent these items are effectively connected with the conduct of a trade or business within the U.S. and included or allowed in determining taxable income for the year. If the net amount of qualified income, gain, deduction, and loss relating to qualified trade or businesses of the taxpayer for any tax year is less than zero, the amount is treated as a loss from a qualified trade or business in the succeeding tax year. QBI does *not* include: certain investment items; reasonable compensation paid to the taxpayer by any qualified trade or business for services rendered with respect to the trade or business; any guaranteed payment to a partner for services to the business; or a payment to a partner for services rendered with respect to the trade or business.

The 20% deduction is not allowed in computing adjusted gross income (AGI), but rather is allowed as a deduction reducing *taxable* income.

Limitations. For pass-through entities, other than sole proprietorships, the deduction cannot exceed the greater of:

- 50% of the W-2 wages with respect to the qualified trade or business ("W-2 wage limit"), or
- the sum of 25% of the W-2 wages paid with respect to the qualified trade or business *plus* 2.5% of the unadjusted basis, immediately after acquisition, of all "qualified property." Qualified property is defined as meaning tangible, depreciable property which is held by and available for use in the qualified trade or business at the close of the tax year, which is used at any point during the tax year in the production of qualified business income, and the depreciable period for which has not ended before the close of the tax year.

For a partnership or S corporation, each partner or shareholder is treated as having W-2 wages for the tax year in an amount equal to his or her allocable share of the W-2 wages of the entity for the tax year. A partner's or shareholder's allocable share of W-2 wages is determined in the same way as the partner's or shareholder's allocable share of wage expenses. For an S corporation, an allocable share is the shareholder's pro rata share of an item. However, the W-2 wage limit does not apply in the case of a taxpayer with taxable income not exceeding $315,000 for married individuals filing jointly ($157,500 for other individuals). The application of the W-2 wage limit is phased in for individuals with taxable income exceeding these thresholds, over the next $100,000 of taxable income for married individuals filing jointly ($50,000 for other individuals).

Thresholds and exclusions. The deduction does not apply to specified service businesses (i.e., trades or businesses described in Code Sec. 1202(e)(3)(A) , but excluding engineering and architecture; and trades or businesses that involve the performance of services that consist of investment-type activities). However, the service business limitation does not apply in the case of a taxpayer whose taxable income does not exceed $315,000 for married individuals filing jointly ($157,500 for other individuals), both indexed for inflation after 2018. The benefit of the deduction for service businesses is phased out over the next $100,000 of taxable income for joint filers ($50,000 for other individuals). The deduction also does not apply to the trade or business of being an employee.

The new deduction for pass-through income is also available to specified agricultural or horticultural cooperatives, in an amount equal to the lesser of (i) 20% of the co-op's taxable income for the tax year, or (ii) the greater of (a) 50% of the W-2 wages of the co-op with respect to its trade or business, or (b) or the sum of 25% of the W-2 wages of the cooperative with respect to its trade or business plus 2.5% of the unadjusted basis immediately after acquisition of qualified property of the cooperative.

- **Limits on Deduction of Business Interest –** Under the old law, interest paid or accrued by a business generally is deductible in the computation of taxable income subject to a number of limitations. For a taxpayer other than a corporation, the deduction for interest on indebtedness that is allocable to property held for investment (investment interest) is limited to the taxpayer's net investment income for the tax year.

  The Code may disallow a deduction for disqualified interest paid or accrued by a corporation in a tax year if: (1) the payor's debt-to-equity ratio exceeds 1.5 to 1.0 (the safe harbor ratio); and (2) the payor's net interest expense exceeds 50% of its adjusted taxable income (generally, taxable income computed without regard to deductions for net interest expense, net operating losses, domestic production activities under Code Sec. 199 , depreciation, amortization, and depletion).

  For tax years beginning after Dec. 31, 2017, every business, regardless of its form, is generally subject to a disallowance of a deduction for net interest expense in excess of 30% of the business's adjusted taxable income. The net interest expense disallowance is determined at the tax filer level. However, a special rule applies to pass-through entitles, which requires the determination to be made at the entity level, for example, at the partnership level instead of the partner level.

  For tax years beginning after Dec. 31, 2017 and before Jan. 1, 2022, adjusted taxable income is computed without regard to deductions allowable for depreciation, amortization, or depletion and without the former Code Sec. 199 deduction (which is repealed effective Dec. 31, 2017).

An exemption from these rules applies for taxpayers (other than tax shelters) with average annual gross receipts for the three-tax year period ending with the prior taxable year that do not exceed $25 million. The business-interest-limit provision does not apply to certain regulated public utilities and electric cooperatives. Real property trades or businesses can elect out of the provision if they use ADS to depreciate applicable real property used in a trade or business. Farming businesses can also elect out if they use ADS to depreciate any property used in the farming business with a recovery period of ten years or more. An exception from the limitation on the business interest deduction is also provided for floor plan financing (i.e., financing for the acquisition of motor vehicles, boats or farm machinery for sale or lease and secured by such inventory).

- **Corporate Tax Rates Reduced –** Under old law through 2017, corporations are subject to graduated tax rates of 15% (for taxable income of $0-$50,000), 25% (for taxable income of $50,001-$75,000), 34% (for taxable income of $75,001-$10,000,000), and 35% (for taxable income over $10,000,000). Personal service corporations pay tax on their entire taxable income at the rate of 35%.

  For tax years beginning after Dec. 31, 2017, the corporate tax rate is a flat 21% rate.

- **Dividends Received Deduction Percentages Reduced –** Under old law through 2017, corporations that receive dividends from other corporations are entitled to a deduction for dividends received. If the corporation owns at least 20% of the stock of another corporation, an 80% dividends received deduction is allowed. Otherwise, a 70% deduction is allowed.

  For tax years beginning after Dec. 31, 2017, the 80% dividends received deduction is reduced to 65%, and the 70% dividends received deduction is reduced to 50%.

- **Corporate AMT Repealed –** For tax years beginning after Dec. 31, 2017, the corporate AMT is repealed.

  For tax years beginning after 2017 and before 2022, the AMT credit is refundable and can offset regular tax liability in an amount equal to 50% (100% for tax years beginning in 2021) of the excess of the minimum tax credit for the tax year over the amount of the credit allowable for the year against regular tax liability. Accordingly, the full amount of the minimum tax credit will be allowed in tax years beginning before 2022.

- **Modification of NOL Deduction –** Under the 2017 law, a net operating loss (NOL) may generally be carried back two years and carried over 20 years to offset taxable income in such years. However, different carryback periods apply with respect to NOLs arising in different circumstances. For example, extended carryback periods are allowed for NOLs attributable to specified liability losses and certain casualty and disaster losses.

  Under the new law for NOLs arising in tax years ending after Dec. 31, 2017, the two-year carryback and the special carryback provisions are repealed, but a two-year carryback applies in the case of certain losses incurred in the trade or business of farming.

  For losses arising in tax years beginning after Dec. 31, 2017, the NOL deduction is limited to 80% of taxable income (determined without regard to the deduction). Carryovers to other years are adjusted to take account of this limitation, and, except as provided below, NOLs can be carried forward indefinitely.

  However, NOLs of property and casualty insurance companies can be carried back two years and carried over 20 years to offset 100% of taxable income in such years.

- **Domestic Production Activities Deduction Repealed –** For tax years beginning after Dec. 31, 2017, the Domestic Production Activities Deduction is repealed for non-corporate taxpayers. For tax years beginning after Dec. 31, 2018, the DPAD is repealed for C corporations.

- **Like Kind Exchange Treatment Limited –** Under the law through 2017, the like-kind exchange rule provided that no gain or loss was recognized to the extent that property-which included a wide range of property from real estate to tangible personal 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.

  Under the new law and generally effective for transfers after Dec. 31, 2017, the rule allowing the deferral of gain on like-kind exchanges is modified to allow for like-kind exchanges only with respect to real property that is not held primarily for sale. However, under a transition rule, the pre-Act like-kind exchange rules apply to exchanges of personal property if the taxpayer has either disposed of the relinquished property or acquired the replacement property on or before Dec. 31, 2017.

- **Five-Year Write-off of Specified R&E Expenses –** Under the old 2017 law, taxpayers may elect to deduct currently the amount of certain reasonable research or experimentation (R&E) expenses paid or incurred in connection with a trade or business. Alternatively, taxpayers may forgo a current deduction, capitalize their research expenses, and recover them ratably over the useful life of the research, but in no case over a period of less than 60 months. Or, they may elect to recover them over a period of 10 years.

  Under the new law for amounts paid or incurred in tax years beginning after Dec. 31, 2021, "specified R&E expenses" must be capitalized and amortized ratably over a 5-year period (15 years if conducted outside of the U.S.), beginning with the midpoint of the tax year in which the specified R&E expenses were paid or incurred.

  Specified R&E expenses subject to capitalization include expenses for software development, but not expenses for land or for depreciable or depletable property used in connection with the research or experimentation (but do include the depreciation and depletion allowances of such property). Also excluded are exploration expenses incurred for ore or other minerals (including oil and gas). In the case of retired, abandoned, or disposed property with respect to which specified R&E expenses are paid or incurred, any remaining basis may not be recovered in the year of retirement, abandonment, or disposal, but instead must continue to be amortized over the remaining amortization period.

  Use of this provision is treated as a change in the taxpayer's accounting method, initiated by the taxpayer, and made with IRS's consent. For R&E expenditures paid or incurred in tax years beginning after Dec. 31, 2025, the provision is applied on a cutoff basis (so there is no adjustment under Code Sec. 481(a) for R&E paid or incurred in tax years beginning before Jan. 1, 2026).

- **Employer's Deduction for Certain Fringe Benefit Limited –** Under the old 2017 law, a taxpayer may deduct up to 50% of expenses relating to meals and entertainment. Housing and meals provided for the convenience of the employer on the business premises of the employer are excluded from the employee's gross income. Various other fringe benefits provided by employers are not included in an employee's gross income, such as qualified transportation fringe benefits.

  Under the new law for amounts incurred or paid after Dec. 31, 2017, deductions for entertainment expenses are disallowed, eliminating the subjective determination of whether such expenses are sufficiently business related; the current 50% limit on the deductibility of business meals is expanded to meals provided through an in-house cafeteria or otherwise on the premises of the employer; and deductions for employee transportation fringe benefits (e.g., parking and mass transit) are denied, but the exclusion from income for such benefits received by an employee is retained. In addition, no deduction is allowed for transportation expenses that are the equivalent of commuting for employees (e.g., between the employee's home and the workplace), except as provided for the safety of the employee.

  For tax years beginning after Dec. 31, 2025, the Act will disallow an employer's deduction for expenses associated with meals provided for the convenience of the employer on the employer's business premises, or provided on or near the employer's business premises through an employer-operated facility that meets certain requirements.

- **No Deductions for Amounts Paid for Sexual Harassment Subject to Nondisclosure Agreement** – After the new law's enactment date, no deduction is allowed for any settlement, payout, or attorney fees related to sexual harassment or sexual abuse if such payments are subject to a nondisclosure agreement.

- **Employee Achievement Awards –** Employee achievement awards are excludable to the extent the employer can deduct the cost of the award-generally limited to $400 for any one employee, or $1,600 for a "qualified plan award." An employee achievement award is an item of tangible personal property given to an employee in recognition of either length of service or safety achievement and presented as part of a meaningful presentation.

  New law. For amounts paid or incurred after Dec. 31, 2017, a definition of "tangible personal property" is provided. Tangible personal property does not include cash, cash equivalents, gifts cards, gift coupons, gift certificates (other than where from the employer pre-selected or pre-approved a limited selection) vacations, meals, lodging, tickets for theatre or sporting events, stock, bonds or similar items. and other non-tangible personal property. No inference is intended that this is a change from present law and guidance

- **Limitations on Excessive Employee Compensation –** Under existing 2017 law, a deduction for compensation paid or accrued with respect to a covered employee of a publicly traded corporation is limited to no more than $1 million per year. However, under pre-Act law, exceptions applied for: (1) commissions; (2) performance-based remuneration, including stock options; (3) payments to a tax-qualified retirement plan; and (4) amounts that are excludable from the executive's gross income.

  For tax years beginning after Dec. 31, 2017, the exceptions to the $1 million deduction limitation for commissions and performance-based compensation are repealed. The definition of "covered employee" is revised to include the principal executive officer, the principal financial officer, and the three other highest paid officers. If an individual is a covered employee with respect to a corporation for a tax year beginning after Dec. 31, 2016, the individual remains a covered employee for all future years.

  Under a transition rule, the changes do not apply to any remuneration under a written binding contract which was in effect on Nov. 2, 2017 and which was not modified in any material respect after that date. Compensation paid pursuant to a plan qualifies for this exception if the right to participate in the plan is part of a written binding contract with the covered employee in effect on Nov. 2, 2017. The fact that a plan was in existence on Nov. 2, 2017 isn't by itself sufficient to qualify the plan for the exception. The exception ceases to apply to amounts paid after there has been a material modification to the terms of the contract. The exception does not apply to new contracts entered into or renewed after Nov. 2, 2017. A contract that is terminable or cancelable unconditionally at will by either party to the contract without the consent of the other, or by both parties to the contract, is treated as a new contract entered into on the date any such termination or cancellation, if made, would be effective. However, a contract is not treated as so terminable or cancellable if it can be terminated or cancelled only by terminating the employment relationship of the covered employee.

- **Deduction for Local Lobbying Expenses Eliminated –** Under existing 2017 law, businesses generally may deduct ordinary and necessary expenses paid or incurred in connection with carrying on any trade or business. Under pre-Act law, an exception to the general rule, however, disallows deductions for lobbying and political expenditures with respect to legislation and candidates for office, except for lobbying expenses with respect to legislation before local government bodies (including Indian tribal governments).

  Under the new law for amounts paid or incurred on or after the date of enactment, the deduction for lobbying expenses with respect to legislation before local government bodies (including Indian tribal governments) is eliminated.

- **Rehabilitation Credit Limited** – Under existing 2017 law, a 20% credit is provided for qualified rehabilitation expenditures with respect to a certified historic structure, i.e., any building that is listed in the National Register, or that is located in a registered historic district and is certified by the Secretary of the Interior to the Secretary of the Treasury as being of historic significance to the district. A 10% credit is provided for qualified rehabilitation expenditures with respect to a qualified rehabilitated building, which generally means a building that was first placed in service before 1936. A building is treated as having met the substantial rehabilitation requirement under the 10% credit only if the rehabilitation expenditures during the 24-month period selected by the taxpayer and ending within the tax year exceed the greater of (1) the adjusted basis of the building (and its structural components), or (2) $5,000.

Straight-line depreciation or the ADS must be used in order for rehabilitation expenditures to be treated as qualified for the credit.

Under the new law for amounts paid or incurred after Dec. 31, 2017, the 10% credit for qualified rehabilitation expenditures with respect to a pre-'36 building is repealed and a 20% credit is provided for qualified rehabilitation expenditures with respect to a certified historic structure which can be claimed ratably over a 5-year period beginning in the tax year in which a qualified rehabilitated structure is placed in service.

A transition rule provides that for qualified rehabilitation expenditures (for either a certified historic structure or a pre-'36 building), for any building owned or leased (as provided under pre-Act law) by the taxpayer at all times on and after Jan. 1, 2018, the 24-month period selected by the taxpayer, or the 60-month period selected by the taxpayer under the rule for phased rehabilitation, is to begin no later than the end of the 180-day period beginning on the date of the enactment, and apply to such expenditures paid or incurred after the end of the tax year in which such 24- or 60-month period ends.

- **New Credit for Employer-Paid Family and Medical Leave -** Under existing 2017 law, no credit is provided to employers for compensation paid to employees while on leave.

  Under the new law for wages paid in tax years beginning after Dec. 31, 2017, but not beginning after Dec. 31, 2019, the Act allows businesses to claim a general business credit equal to 12.5% of the amount of wages paid to qualifying employees during any period in which such employees are on family and medical leave (FMLA) if the rate of payment is 50% of the wages normally paid to an employee. The credit is increased by 0.25 percentage points (but not above 25%) for each percentage point by which the rate of payment exceeds 50%. All qualifying full-time employees have to be given at least two weeks of annual paid family and medical leave (all less-than-full-time qualifying employees have to be given a commensurate amount of leave on a pro rata basis).

- **Taxable Year of Income Inclusion –** In general, for a cash basis taxpayer, an amount is included in income when actually or constructively received. For an accrual basis taxpayer, an amount is included in income when all the events have occurred that fix the right to receive such income and the amount thereof can be determined with reasonable accuracy (i.e., when the "all events test" is met), unless an exception permits deferral or exclusion. A number of exceptions that exist to permit deferral of income relate to advance payments. An advance payment is when a taxpayer receives payment before the taxpayer provides goods or services to its customer. The exceptions often allow tax deferral to mirror financial accounting deferral (e.g., income is recognized as the goods are provided or the services are performed).

  Under the new law generally for tax years beginning after Dec. 31, 2017, a taxpayer is required to recognize income no later than the tax year in which such income is taken into account as income on an applicable financial statement (AFS) or another financial statement under rules specified by IRS (subject to an exception for long-term contract income).

  The Act also codifies the current deferral method of accounting for advance payments for goods and services to allow 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. In addition, it directs taxpayers to apply the revenue recognition rules under Code Sec. 452 before applying the original issue discount (OID) rules.

In the case of any taxpayer required by this provision to change its accounting method for its first tax year beginning after Dec. 31, 2017, such change will be treated as initiated by the taxpayer and made with IRS's consent.

Under a special effective date provision, the AFS conformity rule applies for OID for tax years beginning after Dec. 31, 2018, and the adjustment period is six years.

- **Cash Basis Method of Accounting –** Under existing 2017 law, a corporation, or a partnership with a corporate partner, may generally only use the cash method of accounting if, for all earlier tax years beginning after Dec. 31, '85, the corporation or partnership met a gross receipts test-i.e., the average annual gross receipts the entity for the three-tax-year period ending with the earlier tax year does not exceed $5 million. Under current law, farm corporations and farm partnerships with a corporate partner may only use the cash method of accounting if their gross receipts do not exceed $1 million in any year. An exception allows certain family farm corporations to qualify if the corporation's gross receipts do not exceed $25 million. Qualified personal service corporations are allowed to use the cash method without regard to whether they meet the gross receipts test.

  Under the new law for tax years beginning after Dec. 31, the cash method may be used by taxpayers (other than tax shelters) that satisfy a $25 million gross receipts test, regardless of whether the purchase, production, or sale of merchandise is an income-producing factor. Under the gross receipts test, taxpayers with annual average gross receipts that do not exceed $25 million (indexed for inflation for tax years beginning after Dec. 31, 2018) for the three prior tax years are allowed to use the cash method.

  The exceptions from the required use of the accrual method for qualified personal service corporations and taxpayers other than C corporations are retained. Accordingly, qualified personal service corporations, partnerships without C corporation partners, S corporations, and other pass-through entities are allowed to use the cash method without regard to whether they meet the $25 million gross receipts test, so long as the use of the method clearly reflects income.

  Use of this provision results is a change in the taxpayer's accounting method for purposes of Code Sec. 481 .

- **Accounting for Inventories –** Under existing 2017 law, businesses that are required to use an inventory method must generally use the accrual accounting method. However, the cash method can be used for certain small businesses that meet a gross receipt test with average gross receipts of not more than $1 million ($10 million businesses in certain industries). These business account for inventory as non-incidental materials and supplies.

  Under the new law for tax years beginning after Dec. 31, 2017, taxpayers that meet the $25 million gross receipts test are not required to account for inventories under Code Sec. 471 , but rather may use an accounting method for inventories that either (1) treats inventories as non-incidental materials and supplies, or (2) conforms to the taxpayer's financial accounting treatment of inventories.

  Use of this provisions results is a change in the taxpayer's accounting method for purposes of Code Sec. 481 **.**

- **Accounting for Long-Term Contracts –** Under existing 2017 law, an exception from the requirement to use the percentage-of-completion method (PCM) for long-term contracts was provided for construction companies with average annual gross receipts of $10 million or less in the preceding three years (i.e., they are allowed to instead deduct costs associated with construction when they are paid and recognize income when the building is completed).

  Under the new law for contracts entered into after Dec. 31, 2017 in tax years ending after that date, the exception for small construction contracts from the requirement to use the PCM is expanded to apply to contracts for the construction or improvement of real property if the contract: (1) is expected (at the time such contract is entered into) to be completed within two years of commencement of the contract and (2) is performed by a taxpayer that (for the tax year in which the contract was entered into) meets the $25 million gross receipts test.

Use of this PCM exception for small construction contracts is applied on a cutoff basis for all similarly classified contracts (so there is no adjustment under Code Sec. 481(a) for contracts entered into before Jan. 1, 2018).

- **Repeal of Partnership Technical Termination** – Under current 2017 law, a partnership is considered as terminated if, within any 12-month period, there is a sale or exchange of 50% or more of the total interest in partnership capital and profits. A technical termination gives rise to a deemed contribution of all the partnership's assets and liabilities to a new partnership in exchange for an interest in the new partnership, followed by a deemed distribution of interests in the new partnership to the purchasing partners and the other remaining partners. As a result of a technical termination, some of the tax attributes of the old partnership terminate; the partnership's tax year closes; partnership-level elections generally cease to apply; and the partnership depreciation recovery periods restart.

  Under the new law for partnership tax years beginning after Dec. 31, 2017, the rule providing for the technical termination of a partnership is repealed. The repeal doesn't change the pre-Act law rule of that a partnership is considered as terminated if no part of any business, financial operation, or venture of the partnership continues to be carried on by any of its partners in a partnership.

- **Partners Cannot Be Employees –** The IRS has issued temporary regulations clarifying that partners cannot be employees of the partnership or a disregarded entity owned by the partnership. This has employee plan and benefit implications. This may change in the future as the IRS has asked for comments on the temporary regulations.

- **Non-Resident Indiana S Corporation Shareholders and Partners -** Indiana requires income based withholdings be paid to the state for all out of state S Corporation shareholders and partners. The rules are somewhat complex, so check with your tax advisor for the details of the requirements. Failure to withhold and remit can result in penalties.

- **Business Entity Reports –** The Indiana Secretary of State (SoS) has notified businesses that their notification of Business Entity Report Due dates will no longer be made via US mail. The notifications will only be made via e-mail in the future. Please make sure that you have a correct e-mail on file with the Indiana SoS web site.

  Failure to file the reports can result in having your company administratively dissolved which can lead to many problems. After a business entity has formed or been granted authority to do business in the state of Indiana, it has an ongoing responsibility to file regular business entity reports. These reports must be filed every two years by for-profit and non-profit businesses. The filings are due during the anniversary month of the organization's formation or the anniversary month when granted authority to do business in the State of Indiana.

- **Partial Disposition Election –** A favorable item in the final tangible property regulations that may save businesses some money is the partial disposition election. Using this election, the taxpayer can claim a loss on the disposition of a structural component of a building or on the disposition of a component of any other asset without needing to make a general asset account election. The partial disposition rule also minimizes circumstances in which an original part and any subsequent replacements of the same part must be simultaneously capitalized and depreciated. Thus, for example, if the taxpayer replaced an engine in a truck, the old engine would generally continue being depreciated as part of the truck, while the new engine would also be depreciated. Under the partial disposition rule, the taxpayer can now retire the old engine and recognize a loss on that disposition.

- **De Minimis Safe Harbor Expensing –** The de Minimis safe harbor in the capitalization regs that allows businesses to elect to expense their outlays for "lower-cost" business assets. Under this safe harbor, which applies to an amount paid during the tax year to acquire or produce a unit of property (UOP), or acquire a material or supply, and generally applies to amounts paid in tax years beginning on or after Jan. 1, 2014, qualifying businesses with an applicable financial statement (AFS) can expense eligible property if the amount paid doesn't exceed $5,000 per invoice (or per item as substantiated by the invoice). If the taxpayer does not have an AFS, the same rule applies except that the amount paid for eligible property can't exceed $2,500 per invoice (or per item as substantiated by the invoice); this amount was $500 before 2016, but IRS won't challenge an earlier use of the higher amount. Both the $5,000 and $2,500/$500 amounts can be changed by published IRS guidance. Assets expensed under the de minimis safe harbor election may be deducted in the year of purchase, assuming that the costs that otherwise qualify as ordinary expenses, and assuming the costs don't have to be capitalized under the UNICAP rules.

NOTE: All Companies must also adopt a capitalization policy in order to take advantage of the de minimis rules. Please contact us about this and see a sample policy on our web site (www.wheelercpa.biz) under the W&A Forms tab.

NOTE 1: The Indiana Department of Local Government finance has stated that it does not recognize this safe harbor for Indiana Business Tangible Personal Property Tax returns though we have seen no enforcement of this position. It could become an issue in the future and the Indiana CPA Society is working to obtain clarification on this issue.

- **Bonus Depreciation Rate Changes** – The 50% bonus depreciation election remains in effect for property placed in service in 2017.

  Under the new law a 100% first-year deduction for the adjusted basis is allowed for qualified property acquired and placed in service after Sept. 27, 2017, and before Jan. 1, 2023 (after Sept. 27, 2017, and before Jan. 1, 2024, for certain property with longer production periods). Thus, the phase-down of the 50% allowance for property placed in service after Dec. 31, 2017, and for specified plants planted or grafted after that date, is repealed. The additional first-year depreciation deduction is allowed for new and used property. (The pre-Act law phase-down of bonus depreciation applies to property acquired before Sept. 28, 2017, and placed in service after Sept. 27, 2017.)

  Caution: The Act refers to the new 100% depreciation deduction in the placed-in-service year as "100% expensing," but the tax break should not be confused with expensing under Code Sec. 179 , which is subject to entirely separate rules.

  In later years, the first-year bonus depreciation deduction phases down, as follows:
  - 80% for property placed in service after Dec. 31, 2022 and before Jan. 1, 2024.
  - 60% for property placed in service after Dec. 31, 2023 and before Jan. 1, 2025.
  - 40% for property placed in service after Dec. 31, 2024 and before Jan. 1, 2026.
  - 20% for property placed in service after Dec. 31, 2025 and before Jan. 1, 2027.

  For certain property with longer production periods, the beginning and end dates in the list above are increased by one year. For example, bonus first-year depreciation is 80% for long-production-period property placed in service after Dec. 31, 2023 and before Jan. 1, 2025.

  First-year bonus depreciation sunsets after 2026.

  For productions placed in service after Sept. 27, 2017, qualified property eligible for a 100% first-year depreciation allowance includes qualified film, television and live theatrical productions. A production is considered placed in service at the time of initial release, broadcast, or live staged performance (i.e., at the time of the first commercial exhibition, broadcast, or live staged performance of a production to an audience).

  For certain plants bearing fruit or nuts planted or grafted after Sept. 27, 2017, and before Jan. 21, 2023, the 100% first-year deduction is also available.

  For the first tax year ending after Sept. 27, 2017, a taxpayer can elect to claim 50% bonus first-year depreciation (instead of claiming a 100% first-year depreciation allowance

  The election to accelerate AMT credits in lieu of bonus depreciation is repealed.

- **Luxury Automobile Limits Increased** – For passenger autos placed in service in 2017, for which the additional first-year depreciation deduction is not claimed, the maximum amount of allowable depreciation deduction is $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 limitation is indexed for inflation.

  For passenger automobiles eligible for the additional first-year depreciation allowance in 2017, the first-year limitation is increased by an additional $8,000.

  For passenger automobiles placed in service after Dec. 31, 2017, in tax years ending after that date, for which the additional first-year depreciation deduction is not claimed, the maximum amount of allowable depreciation is increased 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 in the recovery period. For passenger automobiles placed in service after 2018, these dollar limits are indexed for inflation. For passenger autos eligible for bonus first-year depreciation, the maximum first-year depreciation allowance remains at $8,000.

  In addition, computer or peripheral equipment is removed from the definition of listed property, and so isn't subject to the heightened substantiation requirements that apply to listed property

  For passenger automobiles acquired before Sept. 28, 2017, and placed in service after Sept. 27, 2017, the pre-Act phase-down of the Code Sec. 280F increase amount in the limitation on the depreciation deductions applies.

- **Recovery Period for Real Property Shortened -** The cost recovery periods for most real property are 39 years for nonresidential real property and 27.5 years for residential rental property. The straight line depreciation method and mid-month convention are required for such real property.

  Under pre-Act law, qualified leasehold improvement property was an interior building improvement to nonresidential real property, by a landlord, tenant or subtenant, that was placed in service more than three years after the building is and that meets other requirements. Qualified restaurant property was either (a) a building improvement in a building in which more than 50% of the building's square footage was devoted to the preparation of, and seating for, on-premises consumption of prepared meals (the more-than-50% test), or (b) a building that passed the more-than-50% test. Qualified retail improvement property was an interior improvement to retail space that was placed in service more than three years after the date the building was first placed in service and that meets other requirements.

  Qualified improvement property is any improvement to an interior portion of a building that is nonresidential real property if such improvement is placed in service after the date such building was first placed in service. Qualified improvement property does not include any improvement for which the expenditure is attributable to the enlargement of the building, any elevator or escalator, or the internal structural framework of the building.

  If a taxpayer elected the ADS, residential rental property had a recovery period of 40 years. ADS is principally a straight-line depreciation system under which one depreciation period (generally longer than any other) is prescribed for each class of recovery property.

  Under the new law for property placed in service after Dec. 31, 2017, the separate definitions of qualified leasehold improvement, qualified restaurant, and qualified retail improvement property are eliminated, a general 15-year recovery period and straight-line depreciation are provided for qualified improvement property, and a 20-year ADS recovery period is provided for such property.

  Thus, qualified improvement property placed in service after Dec. 31, 2017, is generally depreciable over 15 years using the straight-line method and half-year convention, without regard to whether the improvements are property subject to a lease, placed in service more than three years after the date the building was first placed in service, or made to a restaurant building. Restaurant building property placed in service after Dec. 31, 2017, that does not meet the definition of qualified improvement property, is depreciable as nonresidential real property, using the straight-line method and the mid-month convention.

For property placed in service after Dec. 31, 2017, the ADS recovery period for residential rental property is shortened from 40 years to 30 years.

For tax years beginning after Dec. 31, 2017, an electing farming business-i.e., a farming business electing out of the limitation on the deduction for interest-must use ADS to depreciate any property with a recovery period of 10 years or more (e.g., a single purpose agricultural or horticultural structures, trees or vines bearing fruit or nuts, farm buildings, and certain land improvements).

- **Work Opportunity Tax Credit Repealed after 2017 -** The Act has repealed the Work Opportunity Credit for tax years after 2017.

- **Increased 179 Expensing after 2017 –** For property placed in service in tax years beginning after Dec. 31, 2017, the maximum amount a taxpayer may expense under Code Sec. 179 is increased to $1 million, and the phase-out threshold amount is increased to $2.5 million. For tax years beginning after 2018, these amounts (as well as the $25,000 sport utility vehicle limitation) are indexed for inflation. Property is not treated as acquired after the date on which a written binding contract is entered into for such acquisition.

  "Qualified real property." The definition of Code Sec. 179 property is expanded to include certain depreciable tangible personal property used predominantly to furnish lodging or in connection with furnishing lodging. The definition of qualified real property eligible for Code Sec. 179 expensing is also expanded to include the following improvements to nonresidential real property after the date such property was first placed in service: roofs; heating, ventilation, and air-conditioning property; fire protection and alarm systems; and security systems.

- **Retirement Plan Changes –** If you are a business owner and due to several law changes and court cases, many company retirement plans need to be updated. Ensure that you have communicated with your plan custodian to find out if your plan needs to be updated. Not doing so could subject you to penalties.

- **New Hire Reporting –** Companies doing business in Indiana are required to report newly hired and re-hired employees to the Indiana New Hire Reporting Center at https://newhire-reporting.com/IN-Newhire/logon.aspx. For each newly hired employee, employers must obtain the following paperwork I-9 and W-4.

- **Qualified Small Employer Health Reimbursement Arrangements –** The "21st Century Cures Act" (the Act) allows small employers to provide Health Reimbursement Arrangements (HRAs) to their employees without facing penalties for failing to satisfy certain Affordable Care Act (ACA) requirements.

  HRAs are arrangements under which an employer agrees to reimburse medical expenses, including health insurance premiums, up to a certain amount per year, with unused amounts available to reimburse medical expenses in future years. The reimbursement is excludable from the employee's income.

  A qualified small employer HRA is one that satisfies the following requirements:
  - It is maintained by an eligible employer. An eligible employer is an employer that is not an i.e., it employs fewer than 50 employees - and does not offer a group health plan to any of its employees,
  - It is provided on the same terms to all eligible employees. An eligible employee is any employee of an eligible employer, except that the arrangement may exclude from consideration employees who haven't completed 90 days of service, employees who haven't attained age 25, part-time or seasonal workers, employees covered in a collective bargaining unit, and certain nonresident aliens,
  - It is funded solely by an eligible employer, and no salary reduction contributions may be made under the HRA,

- It provides, after the employee provides proof of coverage, for the payment of, or reimbursement of, an eligible employee for expenses for medical care incurred by the eligible employee or the eligible employee's family members (as determined under the HRA's terms) and
- For 2017, the amount of payments and reimbursements do not exceed $4,950 ($ 5,050 for 2018) ($10,000 ($ 10,250 for 2018) in the case of an arrangement that also provides for payments or reimbursements for family members of the employee. For any year beginning after 2016, the above dollar amounts are subject to cost of living increases. For employees who are covered by a qualified arrangement for less than an entire year, the above dollar amounts are prorated.

There are also other requirements. This is a complex tax area so be sure to consult your tax advisor before instituting any HRA plans.

- **Indiana Unemployment Withholding –** Hoosiers drawing unemployment from the Indiana Department of Workforce Development may have both federal and Indiana state taxes withheld from their benefits.

- **Indiana Contractors and Sales Tax –** Effective Jan. 1, 2010 (retroactive), contractors are required to collect sales tax when the contractor: 1) transfers construction material pursuant to a time and material contract; or 2) converts construction material into real property pursuant to a time and material contract.

- **Indiana Contractors and USE Tax -** Effective Jan. 1, 2010 (retroactive), with limited exceptions, contractors are required to pay use tax on the contractor's conversion of construction material into real property if that construction material was purchased by the contractor.

- **Indiana Administrative Dissolution -** The Indiana Secretary of State's office is processing Administrative Dissolutions and Revocations at a faster rate than they have been in the past. Once a business receives the past due notice for failing to file the required business entity report, it will be Administratively Dissolved or Revoked in approximately five (5) months. Once this happens, there is administrative paperwork that must be prepared and filed for re-instatement.

- **Indiana Business Tangible Personal Property Tax Return Changes –** The assessment date for Indiana business tangible personal property is now January 1. The return filing due date is unchanged at May 15, 2018.

- If the taxable assets are $ 20k or less, the business will no longer be required to file an Indiana Business Tangible Personal Property Tax Return (PPT). This is not necessarily as good as it sounds as the business is required to file annually a notarized certification stating that it does not have to file an IN PPT. You will be required to keep track of all of the information needed to prepare and file a PPT. We think there may be some simplification changes coming in the future to fix the "simplification".

- **Indiana Registered Retail Merchant Certificate -** A registered retail merchant's certificate (RRMC) will not be renewed if the merchant is delinquent in remitting withholding taxes or sales taxes.

- **Indiana C Corporation Income Tax Rate -** The Indiana C Corporation adjusted gross income tax rate dropped to 6.00% on July 1 2017. It will drop to 5.75% on July 1, 2018. There are future rate decreases scheduled through July 1, 2021.

Estate, Trust and Gift Taxes -

- **Estate and Gift Tax Exclusion Doubled –** For estates of decedents dying and gifts made after Dec. 31, 2017 and before Jan. 1, 2026, the Act doubles the base estate and gift tax exemption amount from $5 million to $10 million. The $10 amount if indexed for inflation occurring after 2011 and is expected to be approximately $11.2 million in 2018 ($22.4 per married couple).

- **Estate and Trust Tax Rates –** The tax rates for estates and trusts taxable income are:
  - The 10% bracket is $ 0 through $ 2,550.
  - The 24% bracket would end at $ 9,150.
  - The 35% bracket would end at $ 12,500.
  - The 37% bracket would start at $ 12,500.

- **3.8% surtax on investment income & gains** – The net investment income tax generally applies to estates and trusts. Trusts that are treated as business entities, certain state-law trusts, tax-exempt trusts, and grantor trusts are exempt from the tax. For estates and trusts, the tax is 3.8% of the lesser of (1) the undistributed net investment income for the tax year or (2) the excess (if any) of (a) the adjusted gross income for the tax year, over (b) the dollar amount at which the highest tax bracket begins for the tax year ($ 12,500 for 2017 and beyond). It is generally far more tax efficient to distribute the income from estates and trusts and have it taxed at the beneficiary level.

- **Annual Gift Exclusion –** The annual gift exclusion was $ 14k for 2017 and increases to $ 15,000 for 2018. Any annual gifts over the exclusion require the filing of a form 709 (US Gift (and Generation-Skipping Transfer) Tax Return). There are exclusions available for such things as education and medical expenses. There are many other complex rules that apply to gift taxes so please consult with us before making any gifts above the exclusion amount.

- **Non-Resident Beneficiaries of Indiana Estates and Trusts -** Indiana requires income based withholdings be paid to the state for all out of state beneficiaries of estates and trusts. The rules are somewhat complex, so check with your tax advisor for the details of the requirements. Failure to withhold and remit can result in penalties.

- **Estate Tax Portability** - In order for a spouse to pass along his or her unused portion of estate and gift tax exclusion, an estate tax return with an affirmative election must be filed within 9 months of the spouse's death. This increases the amount of estate and gift tax exclusion that the surviving spouse may use in the future. In 2017, the exclusion was $ 5.49 million and for 2018 the exclusion will be $ 11.2 million. If the decedent did not use any of his or her estate and gift tax exclusion then the surviving spouse will be able to double their exclusion.

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