



TAX CUTS & JOBS ACT  
& ENTITY CHOICE

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How will it effect you?

# ENTITIES

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## LEGAL ENTITIES (STATE LEVEL)

- Sole Proprietorship
- Partnership (GP, LP, LLP, etc)
- Limited Liability Company (LLC, PLLC)
- Corporation (Inc, Corp, PC)
- Trust

## TAX ENTITIES (IRS/FEDERAL LEVEL)

- Sole Proprietorship
  - Partnership
  - S-Corporation
  - C-Corporation
  - Trust
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# ENTITIES (IN GENERAL)

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LLC

Issue	Sole-Proprietorship	Partnership	S-Corporation	C-Corporation
Administration	Least	Moderate	Moderate	Most
Liability Protection	None	None	Good	Best
Taxes	Most	Most	Least*	Double Taxation
Cost	Least	Low	Moderate	Most

- This is meant in general, every situation is different and needs to be looked at with its own merits and circumstances*

# GETTING READY FOR TAXES

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- Corporations, S & C, Due 3/15/18, automatic extension to 9/15/18
- Partnerships, Due 3/15/18, Used to be 4/15
- Sole Proprietorships, Due 4/17/18
- Extensions, extend filing deadline NOT PAYMENT DEADLINE, pay in with extension if you owe
- Hire professional for your business tax return, then get education from your professional about your taxes and tax situation

# GETTING READY FOR TAXES

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- Keep Accounting Records throughout the year so it is easier at year end to do taxes, & cheaper, Quickbooks, Software, Excel, Manual, Something
- Keep Receipts in case of audit, you spend it on business you can write it off, but in audit can you prove it
- Mileage, Keep mileage log, required to write it off, will lose in audit if you don't have it. MileIQ app
- DON'T Co-mingle Personal and Business, changes the burden of proof to you when you co-mingle. Treat your business like a business not your personal checking account. Assumption is that it is personal and you have to prove every expense



# GETTING READY FOR TAXES

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- Many businesses need to report Balance Sheet items in addition to Income and Expenses
  - Cash, Inventory, Equipment, A/R, A/P, Debt, Loans, Equity
- How are you handling Health Insurance and Costs, HRAs, S-Corp Health Ins
- How are you handling Home Office, Accountable Plan in S-Corp
- How are you handling Vehicles, & Documentation
- Meals & Entertainment Documentation
- Travel for Business

# THE ACT: TAX CUTS AND JOBS ACT

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- Let's Avoid Politics in Our Discussion
- There also will be no Discussion of the 2026 Changes – an exercise that is 2 Presidential Elections Away
- This course is for individuals and small business with <\$25 Million in revenues
- We will not discuss international, publicly traded, insurance, banking or non-profits

# EXPIRED ITEMS AS OF 12/31/16 – NOT RENEWED

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- Cancellation of Debt exclusion – Primary Residence – Extended to 12/31/17 (2/9/18 Act)
- New Home Energy Efficiency Credit
- Geothermal Heat Pump Credit– Extended to 12/31/17 (2/9/18 Act)
- MIP deduction as mortgage interest– Extended to 12/31/17 (2/9/18 Act)
- Personal Residence Energy Efficiency Credit
- Tuition and Fees Deduction– Extended to 12/31/17 (2/9/18 Act)



# ADDED BY THE ACT

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- C corporation 21% flat rate
- Dependent Credit
- Employer Family Leave Credit
- Flow through entity 20% deduction (Qualified Business Income(QBI) Deduction)

# EXTENDED BY THE ACT

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- AMT – Individuals (Much Higher Deduction)
- Bonus Depreciation
- Capital Gains rates
- Cash method of accounting
- Child tax credit for those under age 17
- Estate & Gift Tax
- Luxury car depreciation

# EXTENDED BY THE ACT (2)

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- \*\*Medical deduction
- \*\*Mortgage Interest Deduction
- Section 179
- Standard deduction
- State & Local income, property and sales tax deduction

# REPEALED BY THE ACT

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- Alimony deduction & income – 2019
- AMT – C Corporations
- DPAD
- Entertainment deduction
- Employee Business Expenses
- Casualty Losses – Presidentially declared exception
- Commuter fringe benefits

# REPEALED BY THE ACT (2)

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- Interest deduction for home equity debt
- Investment expenses
- Individual health insurance mandate – 2019
- Miscellaneous 2% deduction
- Moving Expenses
- Personal Exemptions
- Recharacterization of Roth Conversion



# UNMODIFIED BY THE ACT

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- ACA TAXES
  - Medicare .9% Surtax
  - Net Investment Income 3.8% Surcharge
- Additional amount for blind/elderly standard deduction
- Gain on sale of home AND holding period
- Lifetime Learning credit
- Retirement Plans
- Self-employment rates and application
- Student Loan Interest and Teacher's \$250 deduction

# TAX RATES

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## 2017 RATES

- 1. 10%
- 2. 15%
- 3. 25%
- 4. 28%
- 5. 33%
- 6. 35%
- 7. 39.6%

## 2018 RATES

- 1. 10%
- 2. 12%
- 3. 22%
- 4. 24%
- 5. 32%
- 6. 35%
- 7. 37%



# STANDARD DEDUCTION VS ITEMIZED DEDUCTION

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- Standard Deduction
  - Standard Deduction is \$12,700 MFJ, \$6,350 Single, \$9,550 HoH
  - 2018 Standard Deduction is \$24,000 MFJ, \$12,000 Single, \$18,000 HoH
- Itemized Changes
  - State Taxes now capped at \$10,000
  - Medical reverts to 7.5% limit instead of 10% limit
- Fewer people will itemize in the future, currently 30% itemize, estimates are that only 12% will itemize

# PERSONAL EXEMPTIONS

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- Personal Exemption Eliminated
  - Would have been \$4,150 in 2018
- Replaced with
  - Doubling of standard deduction
  - Doubling of child tax credit <17, \$1,400 is refundable, phaseout now \$400,000/\$200,000 instead of \$110,000/\$75,000
  - Adding new \$500 dependent credit for >17 dependents

# CAPITAL GAIN AND DIVIDEND RATES

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- 0, 15%, and 20% rates retained
- Uses the old 25% and 39.6% rate breakpoints to establish when rates apply

<b>Filing Status</b>	<b>Top of the 0%</b>	<b>Top of the 15%</b>
Single	\$38,600	\$425,800
MFJ	\$77,200	\$479,000
HoH	\$51,700	\$452,400
MFS	\$38,600	\$239,500
Estates & Trusts	\$2,600	\$12,700



# CAPITAL GAINS RATES

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- 8 capital gains rates in 2018 (plus 3.8% NII tax)
  - 0%
  - 15%
  - 20%
  - 25% (unrecaptured 1250 gains) Real Property
  - 28% (collectibles)
  - 32% (ordinary rate gains)
  - 35% (ordinary rate gains)
  - 37% (ordinary rate gains)

# HOW WILL IT EFFECT YOU

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- Moving Expenses For Job Change No Longer Deductible
- For all but 12% of Taxpayers, Itemized deductions are no longer a benefit
  - Mortgage Interest will no longer be a benefit
  - Property Taxes no longer a benefit
    - Business Related Taxes still deductible on related schedule (Sch C/E/F)
  - Charitable Donations no longer a benefit
  - State Tax Credits still good

## HOW WILL IT EFFECT YOU (2)

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- Property Tax paid by individuals on closing statements must be carefully allocated and negotiated!
  - Delinquent tax paid by buyer is added to property basis, not written off.
  - If taxpayer has hit their \$10,000 tax limit, better to add to property basis than lose it
  - For Land only, taxpayer may elect to capitalize property taxes into basis of property rather than write of taxes. Sec. 266 Annual election.

# HOW WILL IT EFFECT YOU (3)

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- Mortgage Interest Deduction – 2 big changes
  - Interest paid on home equity debt no longer deductible as of January 1, 2018
  - Maximum mortgage capped at \$750,000 for acquisition debt
    - For principal residence plus one other home
  - Acquisition debt vs. Equity Debt
  - Grandfathered loans
    - Loans entered into prior to 12/15/17 still up to \$1,000,000
    - Refinanced after 12/15/17 for no additional amount borrowed still up to \$1,000,000
      - Be careful of fees wrapped into refinance extra amount is equity not acquisition and drops limit to \$750,000
      - If you extend the loan term, also changes limit to \$750,000, 5 years into loan term means 25 years left, if you refinance to 30 year loan, it extends to the loan and the new limit is in force.

# HOW WILL IT EFFECT YOU (4)

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- Interest Expense – Default is that it is always non-deductible Personal interest
- There are 5 exceptions
  1. Investment Interest
  2. Mortgage Interest paid on acquisition debt (buy, build, or improve)
  3. Equity mortgage interest – non-acquisition debt secured by primary residence
    - \$100k limit for 2017 and prior years (gone in 2018)
  4. Student Loan Interest
  5. Business Interest – money borrowed and used in a business or rental activity



# 1031 EXCHANGES

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- Now only available for Real Estate
- Personal Property, no longer eligible or required to do 1031 Exchange
  - What is the most common personal property 1031 Exchange
- More Defined Language that Flippers not allowed to use 1031 Exchanges
  - Never allowed, but stronger language that states they cannot use 1031
  - Recommend, if you want to use 1031 exchange, that the property is rented for a year before you sell and try to use 1031

# DEPRECIATION

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- Sec 179 now eligible for personal property in rental real estate property (big change)
- Non-Residential improvements or additions for:
  - Roofs
  - HVAC
  - Fire Protection Systems
  - Alarm Systems
  - Security Systems
- Qualified Improvement Property, non-residential property only

# DEPRECIATION (2)

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- Heavy SUV Sec 179
  - Limited to \$25,000
- Pickup Trucks over 6,000 GVWR with 6+ bed, Sec 179
  - Entire Purchase Price
- Bonus Depreciation, placed in service after 9/27/17 Required (can elect out)
  - 100% writeoff
  - No change to luxury autos
  - Phases out from 2022-2026 20% each year
  - All assets in 3, 5, 7, 10, 15, and 20 year classes
    - Rental Furnishings & appliances, parking lots, landscaping

# HOW WILL IT EFFECT YOU

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- Home Office (W-2, Schedule C/F, partners with Regular and Exclusive use;
  - Principal Place of Business, or
  - Place to meet or deal with clients in normal course of business, or
  - Separate, non-attached structure, or
  - For storage of inventory/samples, or
  - Daycare (must be licensed)
- NO benefits for employees unless used for “convenience of employer” and reimbursed under accountable plan. Gone in 2018 anyway.

# HOW IT WILL EFFECT YOU (2)

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- Shareholder Home Offices (S-Corp, whether PC or PLLC)
  - Utilize accountable plan
  - Establish valid “convenience of employer” conditions
  - Reimburse allocable utilities, insurance, repairs, direct expenses, taxes
    - DO NOT reimburse for depreciation
    - DO NOT reimburse for mortgage principal payments



# ENTERTAINMENT

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- NO LONGER DEDUCTIBLE
  - Athletic events, ticket, shows, concerts
  - Dues for Clubs organized for the same
  - Facilities used in connection with entertainment
  - The old "directly related to business conducted before, during or after" rule no longer valid
  - Includes travel to such events as well

# MEALS

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- 50% meal deduction still allowed for work related travel
- Convenience of employer on employer premises no longer deductible – (2/9/18 Act Reversed this, Still deductible)
- Meals with Clients or Prospective Clients NOT DEDUCTIBLE
- Example:
  - Sue, Real Estate Professional sold a home to Janet & Ken about a month ago. Sue takes Janet & Ken to dinner with the purpose of asking for referrals and to ask about the sales process.
  - 2017 Deductible, 2018 NOT Deductible

# QUALIFIED BUSINESS INCOME 20% DEDUCTION

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- Sec 199A
- Deduction allowed for 20% of “Qualified Business Income” from pass through entities at the individual level
- Includes income from
  - Partnerships
  - S Corporations
  - Sole proprietorships (Sch C, F, and E)
  - REIT Dividends
  - PTPs
  - Coop Dividends

# QBI DEDUCTION

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- Lesser of
  1. 20% of qualified trade or business income,, or
  2. 20% of taxable income less capital gains and co-op dividends
- Plus, lessor of
  1. 20% of co-op dividends, or
  2. Taxable income less capital gains

# QBI DEDUCTION EXAMPLE

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- Joe's Sch. C income is \$100,000, Taxable Income is \$88,000
- Deduction is Calculated
  - Lessor of
    - \$20,000 or \$17,600, plus
    - \$0
  - Joe's Sec 199A (QBI) Deduction is \$17,600
- Not always going to be what you think it will be



# QBI DEDUCTION EXAMPLE (VARIATION)

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- Joe's Sch C income is \$100,000, taxable income is \$138,000, with \$10,000 capital gains
- Deduction is Calculated
  - Lessor of
    - \$20,000 or \$25,600 ( $\$138,000 - \$10,000$ )  $\times$  20%, plus
    - \$0
  - Joe's Sec 199A (QBI) Deduction is \$20,000

# QBI DEDUCTION EXAMPLE VARIATION

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- Joe's Schedule C loss is \$25,000, Taxable income is \$23,000
- Deduction is calculated
  - Lessor of
    - \$0 or \$4,600 ( $\$23,000 \times 20\%$ ), plus
    - \$0
  - Joe's Sec 199A (QBI) Deduction is \$0
  - Joe has to carry the \$23,000 loss forward to next year to offset QBI in the next year

# QBI DEDUCTION EXAMPLE VARIATION

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- Joe has Sch C income of \$100,000, Sch E loss of \$10,000, K-1 of \$3,000 loss, taxable income of \$110,000.
- Deduction is Calculated
  - Lessor of
    - \$17,400  $((\$100,000 - \$10,000 - \$3,000) \times 20\%)$  or \$22,000  $(\$110,000 \times 20\%)$ , plus
    - \$0
  - Joe's Sec 199A (QBI) Deduction is \$17,400
  - Rental losses and K-1 losses reduce QBI Deduction

# QBI LIMITATIONS

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- “High” Income taxpayers have two additional limitations to take into account
  - Wage and capital limitation
  - Specified service trade or business limitation
- Only applies if above the thresholds
- Taken at Individual Level, not Business Level
- MFJ Threshold \$315,000, Service business phased out at \$415,000
- Single/HoH/MFS Threshold \$157,500, Service Business phased out at \$207,500

# WAGE AND CAPITAL LIMITATION

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- Greater of
  - 50% of all wages paid (W-2 box 5 wages) in qualified trade or business, or
  - Sum of
    - 25% of wages paid, plus
    - 2.5% of unadjusted basis in qualified property



# SPECIFIED SERVICE BUSINESS

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- Health
- Law
- Consulting
- Accounting
- Performing Arts
- Actuarial
- Athletics
- Financial Services and Brokerage
- Any other trade or business where the owner or employee reputations or skill is the primary asset (Realtors)

# QBI DEDUCTION DISCUSSION

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- If you are Single and have QBI more than \$157,500 or MFJ and have income above \$315,000, you will lose some of the 20% deduction.
- It is completely phased out at \$207,500 for Single and \$415,000 for MFJ.
- Don't go saying, I don't want to make money because I will lose the 20 % write-off
  - You will be in the 37% bracket, the 20% deduction loss results in 7.4% more tax on that income (and just that income).
  - Make the money, just plan for a little more in taxes.

# THANK YOU !

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- Questions?