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Tax Reform Changes for Businesses & Their Owners

Tax Item	Current Law	Tax Cut & Jobs Act (As Passed by Congress on December 20, 2017)
Business Rates		
C Corporations (Non-Personal Service)	8 Tax Brackets: 15% 25% 34% 39% 34% 35% 38% 35%	Beginning with the 2018 tax year, Taxable income is taxed at a flat 21%.
C Corporations (Personal Service Corporations)	Taxable income is taxed at a flat 35%.	The special tax rate for personal service corporations would be repealed. Taxable income is taxed at a flat 21%.
C Corporations - Alternative Minimum Tax	Certain adjustments are made to taxable income to determine the "Alternative minimum taxable income". This income is then used to determine a "minimum tax". The taxpayer then pays the higher of either (a) the minimum tax or (b) regular tax (as calculated under normal rates and normal taxable income).	Beginning with the 2018 tax year, the Corporate AMT is repealed.
Pass-through (Partnerships, LLCs, and S Corporations)	Taxed at personal ordinary income rates based on owner's taxable income. 7 tax brackets: 10% 15% 25% 28% 33% 35% 39.6%	No change. Pass-through income is taxed at the individual's rate, but is provided a new special deduction. 7 Tax Brackets: 10%, 12%, 22%, 24%, 32%, 35%, and 37%

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Depreciation and Fixed Asset Deductions		
Section 179 Expensing	Up to $500K of qualifying property may be expensed. The deduction begins to be phased out after $2 MM in qualifying purchases. Qualifying property is depreciable tangible personal property that is purchased for use in the active conduct of a trade or business. Qualifying property includes qualifying real property (i.e. qualified leasehold improvement property, restaurant property, and retail improvement property).	Up to $1 MM of qualifying property may be expensed. The deduction would begin to be phased out after $2.5 MM of qualifying purchases. Sec. 179 property definition would be expanded to include certain depreciable property used to furnish lodging. Qualifying Real Property would be expanded to include roofs, heating, ventilation, A/C, fire protection, alarm systems, and security systems. Effective in the 2018 tax year.
Bonus Depreciation	An additional first-year depreciation deduction is allowed equal to 50% of the cost of qualified property. Qualifying property must either be: (1) MACRS depreciable with life of 20 years or less, (2) water utility property, (3) non-Section 197 computer software or (4) qualifying improvement property Further, the property must be new. (I.e. first use by anyone).	100% of the cost of qualifying property may be expensed if placed in service after 9/27/2017 and before 1/1/2024. Qualifying property now includes used property which is first being used by the taxpayer. (i.e. new and used property now qualify) This is phased out in future years as follows: 80% Deduction - 2023 60% Deduction - 2024 40% Deduction - 2025 20% Deduction - 2026 No bonus depreciation after 2026
Qualified Improvement Property	Qualified leasehold improvements made to certain nonresidential property in certain industries was eligible for a shorter 15 year depreciable life.	The definition of qualified improvement property is simplified to include all industries and no longer requires the property to be installed subject to a lease, placed more than 3 years after building was placed in service, or made to a restaurant building.

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Real Property	Nonresidential real property is depreciated using the straight-line method over 39 years. Residential real property is depreciated using the straight-line method for 27.5 years.	No change.
Other Deductions		
Pass-Throughs - New Qualified Business Income Deduction	No special deduction.	Individual may deduct lesser of: (a) "combined qualified business income amount" or (b) 20% of the excess, if any, of the taxable income of the taxpayer for the tax year less net capital gain. Plus, the lesser of: (a) 20% of qualified cooperative dividends or (b) taxable income (reduced by net capital gain) of the taxpayer for year. Combined Qualified Business Income Amount means 20% of the taxpayer's qualified business income, limited to 50% of the W-2 wages paid by taxpayer. Wage limitation would not apply in case of taxpayer with income not exceeding $500,000, if filing jointly, or $250,000, if filing individually. Specified service business (e.g. health, law, etc.) would not be eligible for this deduction, excluding engineering and architecture.

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Business Interest	No general limitation, but specific limitations in certain situations.	Deductible interest would be limited to the sum of business interest income plus 30% of adjusted taxable income for the tax year. This does <u>not</u> apply to taxpayers who do not have average receipts exceeding $25 MM. For example, Business interest income = $100K Adjusted Taxable Income = $500K Deductible Interest Limited to = $180K = ($500K + 100K) x 30%
Meals & Entertainment	50% of meals, entertainment, or amusement are deductible if taxpayer establishes that item was directly related to taxpayer's trade or business or directly preceding or following a substantial and bona fide business discussion.	For amounts paid or incurred after 12/31/2017, 50% of food and beverage expenses remain deductible. 50% limitation is expanded to include meals provided on premises of employer. <u>No</u> entertainment or amusement expenses are deductible.
Domestic Production Activities Deduction	IRC § 199 provides a deduction equal to 9% of lesser of: Qualified production activities income, or Taxable Income	Repealed.
Net Operating Loss Deduction	Net Operating Loss (NOL) may be carried back two years and carried over 20 years to offset taxable income.	For NOLs arising in tax years ending after 12/31/2017, the two year carryback provisions are repealed. Further, the NOL deduction is limited to 80% of taxable income, but can be carried forward indefinitely.
Special Business Related Exclusions		
Like-Kind Exchanges	Currently property-for-property exchanges may be tax free under IRC § 1031. This includes both real and personal property.	Only real property for real property exchanges will qualify. Personal property will no longer qualify as "like-kind property". Effective 2018.

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Business Credits		
Worker's Opportunity Tax Credit (WOTC)	A federal tax credit is available to employers for hiring from certain target groups. Numerous restrictions apply.	No change.
Tip Credit for Portion of Employer Social Security Taxes.	A credit of 7.65% is provided for Tips reported in excess of federal minimum wage. Only restaurants with 10 employees or more are required to report.	No change.
Employer-Paid Family & Medical Leave	No credit.	New Credit provided for Employer-Paid Family & Medical Leave. A credit is provided for wages paid to employees on family and medical leave, equating to: If wages paid are < 50% of employees wages, then no credit. If wages paid are = 50% of employees wages, then 12.5% of the total wages paid to employee during FMLA. For every percentage point over 50% of normal wages, the credit % is increased by 0.25%. If wages paid are = 100% of employees normal wages, then credit of 25% of wages paid.
Other Credit changes		- Rehabilitation credit has new limitations - Orphan drug credit is modified
Other Miscellaneous Accounting Changes		
Cash Method of Accounting	Corporations may only use cash method of accounting if average gross receipts do not exceed $5 MM for all prior years.	Corporations may only use cash method of accounting if average gross receipts do not exceed $25 MM for the three prior tax years.

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Accounting for Inventories	Cash method can not be used for corporations with average gross receipts of more than $1 MM *and* the business has inventory.	A business with average annual gross receipts of $25 MM or less may use cash method, regardless of the use of inventory. In other words, a cash method business with average annual gross receipts of $25 MM or less may deduct the cost of inventory in the year paid.
UNICAP	Certain direct and indirect costs are required to be capitalized into inventory for taxpayers who are resellers with $10 MM or move average gross receipts.	Additional costs will not need to be capitalized unless producer or reseller has $25 MM or more in average gross receipts.
Partnership Technical Termination	If more than 50% of the capital or profits interest in a partnership interest was transferred within a 12 month period, then the partnership was technically terminated and a deemed liquidation would occur.	Repealed. A partnership will now only terminate upon an actual termination of the partnership, either through acquisition by a single owner or through the actual liquidation of the company.
Loss Limitations for Non-Corporate Taxpayers	Pass-through Losses are currently limited under Passive Activity Loss Rules, At-Risk Rules, and overall Basis Limitations.	No change appears to be made to current loss limitations, but a new "Excess Business Loss" limitation is added. "Excess business Losses" would not be allowed for tax year, but would need to be carried forward and treated as Taxpayer's NOL carryforward in subsequent tax years. The annual limitation equals the excess of trade or business deductions, over aggregate gross income plus either $500,000, if filing jointly, or $250,000, if filing individually.