



**OAKS, HARTLINE & DALY**  
Houston • Austin

# 2018 Tax Act



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# 2018 Income & Estate Tax

**What every Financial Advisor should know**

1. Lower Individual tax rates & elimination of deduction will change asset allocation.
2. Charitable planning- stock or cash?
3. Alternate Minimum tax and ISOs.
4. Estate & Gift new ballgame.
5. Business entities new opportunities.
6. New uses for trusts to shift income.

# Personal Income Tax 2018



Rate	SINGLE	MARRIED /JOINT	MFS	HEADH	TRUST
10%	9,525	19,050	9,525	13,600	2,550
12%	38,700	77,400	38,700	51,800	
22%	82,500	165,000	82,500	82,500	
24%	157,500	315,000	157,500	157,500	9,150
32%	200,000	400,000	200,000	200,000	
35%	500,000	600,000	300,000	500,000	12,500
37%					

NOTE: THE TAX CHANGES ONLY APPLY THROUGH DECEMBER 31, 2025,  
THEN REVERT BACK TO 2017 RATES AND EXEMPTIONS.

## Standard Deduction

SINGLE	MARRIED JOINT	MARRIED SEPARATE	HEAD HOUSEHOLD
12,000	24,000	12,000	18,000

1. EXEMPTIONS ELIMINATED AND REPLACED Child and Family Tax Credits.
2. \$2,000 each dependent child.
3. \$500 for non-child dependent (parent, etc.)
4. Phase out for Married filing jointly \$400,000.
5. Refundable amount per child \$1,400.
6. Earned income of children now tax at trust rates.
7. ABLE ACCOUNTS- 529 can be rolled over to ABLE

- Section 529 Plans up to \$10,000 now usable for “qualified expenses” for elementary and high school.
- Student loan forgiveness will not be income if totally disabled or die.
- Homeschool expenses allowed as deduction for book and instruction materials, curriculum and material, educational therapies for students with disabilities, tuition for tutoring or educational classes outside the home if tutor is unrelated, and online educational materials.

# Deductions



- ❧ State And Local Taxes (SALT) Limited \$10,000 (SALT Limits do not apply to taxes on property used in a trade or business).
- ❧ Mortgage interest on new mortgages of \$750,000 & only one home.
- ❧ Charitable Contribution limit 60%, old limit 50%, you can't get 60% unless 100% of contribution in cash, not stocks. Gift of stocks takes it back to old law.
- ❧ Casualty loss- repealed except if declared disaster.
- ❧ All other deductions including return preparation subject to 2% floor are repealed.

# Deductions Continued



- ❧ Moving expenses are repealed.
- ❧ Alimony deduction is repealed after 12/31/2018.
- ❧ Roth Recharacterization. Cannot be used to unwind a Roth conversion, (IRA to Roth can't reverse), but can treat contribution to Roth as made to regular IRA.
- ❧ On separation from Employer, any plan loan now must be repaid by due date of employee tax return rather than 60 day.
- ❧ Repealed ability to rollover of gains into Specialized Small Business Investments (SSBIC).

# Deductions Continued



- ❧ Alternative Minimum Tax – Repealed for Corporation – Individuals modified exemption increased for Married from \$84,500 to \$109,400 with phase out increased to \$1,000,000. This is important if you have ISO credit carryforwards.
- ❧ Personal Casualty Loss – eliminated except for Major Disaster declared by President.
- ❧ ELIMINATES 80% Deduction for University Athletic Seating Rights.
- ❧ Medical expense deduction floor reduced from 10% to 7.5% 2017 and 2018.
- ❧ Moving expense – deduction eliminated except military.
- ❧ Eliminate unreimbursed business expenses.

# Corporate



- ❧ Corporate Tax Rate – **flat rate 21%**.
- ❧ Corporate 80% dividend received deduction to 65%.
- ❧ Unless you have gross receipts of over \$25,000,000 you can use cash method of accounting.
- ❧ If gross receipts of \$25,000,000 or less for 3 years do not have to use percentage of completion method but can use completed contract.



# Corporate Continued



- ❧ 179 limit raised to \$1,000,000 and phase out \$2,500,000.
- ❧ Bonus depreciation 2017-2022 is 100% and includes Used Property as well as New that is put in service.
- ❧ Like Kind Exchanges limited to real property only.
- ❧ Business with over \$25,000,000 receipts interest deduction limited to 30% of Adjusted taxable income.
- ❧ NOL – limits carryforward to 80% of NOL and eliminates 2 year carryback, They carry forward indefinitely.

# Corporate Continued



- ❧ New Section 461 Excess Business Loss, must be carried forward and cannot exceed \$500,000 (not carried back two years).
- ❧ ESBT now allows nonresident alien to be beneficiary, charitable deduction based on individual levels – 60% cash, etc.
- ❧ Acquisition of an existing Insurance contract by person with no insurable interest in the policy. Person and Insurance company must file a report with IRS. Also report the payment of proceeds. This is an exception to transfer for value rule thus proceeds taxable.

# Pass Through Entities



- ❧ Individuals that are taxed by ownership in Pass-through entities – S Corporations, Partnerships, LLC and sole proprietors that have “qualified business income” (QBI) may have a deduction from taxable income. Individuals with income over \$415,000 (MFJ) the deduction is limited to the LESSER of:
- ❧ Greater of 50% of W-2 Wages or 25% of W-2 Wages plus 2.5% of qualified property before depreciation.
- ❧  $QBI \times 20\%$
- ❧ 20% of total taxable income of the taxpayer – capital gains. (This is all taxable income, not just QBI).

# Pass Through Entities Continued



- ❧ Unavailable for Specific Service Business: “any trade or business involved in performance of services in fields of health, law, accounting, actuarial science, brokerage services, or any trade or business where the principal asset of such trade or business is the reputation or skill of one or more of its employees”.
- ❧ Note: Neither this specific business limitation or the W-2 limitation apply if the individual's income is under \$315,000 (MFJ) or \$157,500 (Single).
- ❧ Can be used for Trusts and Estates.
- ❧ Note: Architects & Engineers specifically excluded from the classification as a Specific Service Business, and eligible for the deduction.



QBI is the net amount of all domestic business income other than investment income (e.g. dividends, investment interest income, short term capital gains, commodities, foreign currency gains etc.)

# 2018 Estate & Gift Tax



- ❧ **Basic Exclusion Amount: \$11,200,000 per person or \$22,400,000 for Married Couple.**
- ❧ Annual exemption is \$15,000 per one person and \$30,000 for married couple.
- ❧ The estate tax rules are the same but planning has changed for individuals under the exclusion amount.

# Things To Consider:



- ❧ Estate tax rate is 40%, but if under exclusion it's 0%.
- ❧ Capital gains rates are still 20%.
- ❧ Word of the wise: Estate Tax exemption reverts to \$5,600,000 in 2026 and Congress could change it's mind in the meantime.
- ❧ Property that is included in the estate steps-up in basis to fair market value at the date of death.
- ❧ Property given away takes the donor's basis for the purpose of gain and for loss the lesser of donor's basis or fair market value at time of gift.

# Planning Opportunities:



- ❧ Make maximum gifts for married individual over \$22,400,000 (\$11,200,000 single), because it may not be available down the line after 2026. Some worry about drawback.
- ❧ Portability election in all estates at first death.
- ❧ Changing estate plans so that trusts for surviving spouse may be included in the second-to-die's estate, to get basis step-up. Certain Marital Trusts allow executor to elect whether or have them included in the 2<sup>nd</sup> estate or not. Marital Trusts are still important from concept of remarriage and asset protection.
- ❧ SLAT – Spousal Access Trust, out of your estate but spouse is beneficiary.



# Planning Opportunities Continued



- ❧ Since no gift tax until you exceed \$22,400,000, easy to shift income to children through outright gifts or through trusts.
- ❧ Even in estate where there are existing grandfathered bypass trusts, consider modification to include them in beneficiaries estates.

# Questions & Answers

