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November 2018

# Year End Tax Considerations

DIXON HUGHES GOODMAN LLP

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November 20, 2018

Dear Friends,

It is hard to believe that the year is almost over, and the holiday season is upon us. As you put the finishing touches on your year-end plans remember to include a plan for taxes this year. The Tax Cuts and Jobs Act (TCJA), as it is commonly called, was signed into law last December and is the most sweeping tax legislation in the past 30 years. The Internal Revenue Service and the U.S. Treasury continue to issue interpretative guidance on nearly a weekly basis. The guidance currently available is in proposed form, is subject to change, and leaves many unanswered questions. Significant uncertainty exists for the application and implementation of the TCJA.

The majority of changes enacted by the TCJA will first be effective for the 2018 tax year. As a result, this year will be a year of significant change for all taxpayers – individuals and businesses alike. Understanding the impact of these changes on your specific tax situation now and taking proactive steps before year end will ensure that you have a peaceful tax season.

Given the significant change in the tax code, it is particularly important this year that you consult with your DHG tax advisor early and take your time to carefully assess how your tax situation is impacted by the TCJA. You may find in this year of significant change that you need more time to make decisions and evaluate how you are impacted, in which case the prudent decision may be to extend your tax return to allow for adequate time to plan and implement the new provisions of the TCJA.

This letter highlights some of the recent changes as well as some tax planning ideas for you to consider before year end. This letter does not address many of the nuances, detailed calculations and rules of the TCJA that must be carefully evaluated before implementing any provision highlighted herein. In light of all the change, we anticipate that this letter may raise some questions, and we are here to help. Our hope is that it also sparks some ideas and will serve as a starting point from which to identify and explore opportunities with your DHG tax advisor as part of your personal tax plan.

At DHG we strive to help you achieve your goals. We realize that your tax situation is unique and as such you deserve a personalized approach to planning. The intent of this letter is not to replace the one-on-one tax planning with your personal DHG tax advisor.

If you do not already have a planning meeting scheduled and would like a personalized in depth discussion and analysis of your tax situation, please reach out directly to your DHG tax advisor. We look forward to meeting with you soon.

Thank you for allowing us to work with you in planning for the future.

Regards,

Dixon Hughes Goodman LLP

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## INDIVIDUALS

### Tax Rates, Exemptions and Credits

**Ordinary Tax Rates:** The TCJA reduced the regular tax rates at every taxable income level for individuals. However, whether you will actually recognize an increase or a decrease in your tax liability under the new rate structure will ultimately depend on the impact other changes under the TCJA have on your taxable income amount. The new tax rate tables are included at the end of this letter.

**Alternative Minimum Tax (AMT):** In recent years many taxpayers have found themselves paying additional taxes in form of AMT. While the actual AMT tax rates remain unchanged at 26% and 28%, the TCJA increased the amount of the AMT exemption. Perhaps more importantly the TCJA significantly increased the level at which this exemption begins to phase-out. As a result, many more taxpayers will be able to utilize the exemption amount. Other changes in the TCJA also significantly reduced the ability to deduct items for regular tax which are AMT preferences. AMT preference items are added back to taxable income for purposes of calculating the AMT. As a result it is anticipated that most taxpayers will not be subject to AMT.

| Filing Status | Phase-out Threshold | 2018 Exemption Amount |
|---|---|---|
| Married Filing Joint | $1,000,000 | $109,400 |
| Single/Head of Household | $500,000 | $70,300 |
| Married Filing Separate | $500,000 | $54,700 |

While many taxpayers will no longer be subject to AMT taxpayers who own construction companies in either a sole proprietorship or other flow-through entity format may still find AMT to be a significant factor in determining taxable income. While many AMT preferences were effectively eliminated or reduced under the TCJA the preference for long term construction contracts was not. This addback for the difference between recognition of income under the percentage of completion method and more favorable revenue recognition methods such as the completed contract method as of the end of each tax year may be very significant and vary widely from year to year. Construction contractors should work with their advisor to determine the potential impact AMT may have on them. In particular taxpayers who are considering taking advantage of the TCJA's expansion of the availability of favorable long-term construction contract accounting should factor in the potential AMT impacts when making that decision.

**Kiddie Tax:** The TCJA also changed the rate of tax paid on the unearned income of certain children (aka the 'Kiddie Tax'). Under prior law certain children with unearned income in excess of twice the standard deduction for dependents ($2,100 for 2017) were required to pay tax on that income at the marginal tax rate applicable to their parents if that rate was higher than the rate that would otherwise apply. Special rules for determining the parents' marginal tax rate applied in the case of parents with multiple children subject to the Kiddie Tax.

Under the new law the child's tax will no longer be dependent upon the parents' or siblings' tax situation. Instead tax on the child's net unearned income will be taxed at the ordinary and capital tax rates applicable to trusts.

**Exemptions:** Under the new law taxpayers are no longer able to claim an exemption deduction for themselves, their spouses or for any other dependents. While there is no provision in the TCJA that would offset the loss of exemption for the taxpayer and spouse, the favorable changes to the child credit including the allowance of a partial credit for dependents other than qualified children may mitigate the loss of the exemption for dependents.

Under prior law exemptions were subject to phase out based on a taxpayer's adjusted gross income amount. As a result, many taxpayers may not have benefitted from the exemption deduction in prior years and will see little or no impact because of this change.

**Child Tax Credit:** The TCJA doubled the amount of the child tax credit from $1,000 per qualifying child to $2,000 per qualifying child and increased the amount of the credit that is refundable. It also significantly increased the income level at which the credit begins to be phased out. This will make the credit available to many taxpayers who would have been unable to utilize the credit in the past.

| Filing Status | Taxable Income Phase-out Threshold |
|---|---|
| Married Filing Joint | $400,000 |
| Single/Head of Household | $200,000 |
| Married Filing Separate | $200,000 |

Additionally, the TCJA expanded the child tax credit to other dependents who do not meet the definition of a qualifying child but do meet the definition of a dependent. In the case of these other dependents a partial credit of $500 per dependent is provided.

## Standard and Itemized Deductions

**Standard Deduction:** One of the highly publicized changes under the TCJA was a significant increase in the standard deduction amount to an amount that is almost double that allowed under prior law.

| Filing Status | Amount |
|---|---|
| Single | $12,000 |
| Married filing separate | $12,000 |
| Head of household | $18,000 |
| Married filing jointly | $24,000 |

This increase, particularly when considered in conjunction with other TCJA changes that either eliminated or significantly reduced certain itemized deductions, will result in many more taxpayers utilizing the standard deduction.

In the case of taxpayers who will clearly no longer benefit from itemizing deductions, utilization of the standard deduction should be simpler and less burdensome from a record keeping standpoint. However, to the extent that these taxpayers are able to benefit from the standard deduction not because of the increased amount but rather due to the inability to deduct significant types of expenses that were previously allowed to them as itemized deductions, there likely will be a cost to pay in the form of additional taxes.

Taxpayers who find that their annual itemized deductions under the new law will only slightly exceed the standard deduction should strongly consider bunching deductions, other than most state and local taxes, by accelerating or delaying their payment to maximize the benefit.

**Itemized Deductions:** Some good news for taxpayers is that under the TCJA the so-called Pease limitation no longer applies. This limitation was an overall limitation on itemized deductions that applied to taxpayers over a certain income amount and served to limit the amount of their total itemized deductions that could be utilized to reduce taxable income.

While this change will benefit many taxpayers, other itemized deduction changes are not as favorable. Many items that were formerly allowed as deductions are no longer allowable; among the deductions eliminated are unreimbursed employee expenses, tax preparation fees, most investment expenses, hobby loss expenses and other miscellaneous itemized deductions.

While not allowed to recognize an overall loss resulting from hobby activities, in prior years taxpayers were at least allowed to offset any income from a hobby by related expenses in calculating their taxable income. Under the TCJA the miscellaneous itemized deduction for hobby expenses is no longer allowed; as a result, taxpayers will now pay tax on any income generated by hobby activities. Whether an activity rises to the level of a trade or business (or is instead a hobby activity) is a question that has regularly been raised by the IRS and is also an area of great contention. This change, as well as other provisions under the TCJA that depend on the nature of an activity as a trade or business, will most likely result in additional scrutiny in this area. Some of the activities that the IRS has regularly challenged as being hobby activities, and that many times produce meaningful gross income amounts, include various types of farming—including horse showing and breeding—car racing and boat charters. Taxpayers with small scale activities in these areas or who have other activities that have historically produced net losses over multiple years should consult with their tax advisor on potential hobby loss issues.

**State and Local Taxes:** Perhaps one of the most impactful changes, and certainly one of the most highly publicized and controversial, has been the limit placed on the itemized deduction for state and local taxes. Under the TCJA an individual taxpayer's deduction for state, local and foreign (if elected) income taxes plus state and local real and personal property taxes is limited to $10,000 annually. Also, under the TCJA, foreign real property taxes are generally no longer deductible.

An exception to the $10,000 cap and the prohibition of the deduction of foreign real property taxes, exists for foreign income taxes and state, local and foreign property taxes paid in carrying on a trade or business, or other activity engaged in for profit as described in code section 212 (commonly referred to as a "212 activity").

Another exception to the $10,000 cap applies in the case of foreign, state and local taxes that are not income, war or excess profits taxes, and are paid in carrying on a trade or business or 212 activity.

Section 212 activities may encompass expenses for managing, conserving or maintaining real property held for investment and not for personal purposes including use in any sport, hobby or recreation. Accordingly, taxpayers who hold real property and believe it may meet the 'held solely for investment' requirement should segregate the property taxes paid on these properties and consult with their tax advisors on deducting these taxes in addition to their other taxes allowed under the $10,000 limit.

Taxpayers with businesses should consider whether state and local taxes paid with respect to that business fall outside the definition of an income tax and may be deducted without regard to the $10,000 cap. Examples of taxes that potentially would not be subject to the cap include franchise taxes, minimum level taxes, business operations and gross receipts taxes. Note that, even if imposed at the entity level, taxes meeting the definition of income taxes are separately stated items and subject to the $10,000 cap on the shareholder or partner's individual tax return.

**Charitable Giving:** The rules for deduction of charitable contributions remain predominately unchanged under the TCJA. As a result many of the planning ideas taxpayers may have considered and employed in prior years continue to be relevant and valuable.

One of the TCJA changes directly impacting deductions for charitable contributions is the disallowance of contributions made to a higher education university where the taxpayer receives a right to purchase tickets or seating at an athletic event. Previously 80% of these contributions were deductible. Now under TCJA none of the contribution is deductible.

Another significant, albeit indirect, impact of the TCJA on charitable contributions is the increase in the standard deduction. As one of the few remaining itemized deductions for which no additional limitations have been imposed under TCJA, the strategic bunching of a taxpayer's charitable contributions into a single tax year may prove to be an especially valuable planning technique. This is especially true when considered in conjunction with the type of assets used for making gifts.

**Make gifts of appreciated long-term capital assets rather than using cash.** By contributing appreciated capital gain property held for at least one year before gifting, you get a deduction for the full value of the stock or other asset without having to recognize taxable gain on the appreciation.

This move works particularly well with appreciated publicly traded stocks and mutual fund shares in conjunction with the regular rebalancing of your investment accounts. If your investment advisor suggests "taking profits" in one asset class and investing in another asset class, strongly consider this move.

On the flip-side, if you want to fund charitable gifts with devalued property, sell it to harvest the tax loss, then contribute the cash proceeds to the charity in order to recognize the maximum tax benefit.

**For larger, multi-year giving, consider a donor-advised fund.** Contributions to donor-advised funds allow for an immediate deduction of the full amount of the contribution, while allowing the actual gifts to charity to be spread out over time, based on your recommendations.

**Consider making qualified charitable distributions from IRAs if you are age 70 ½ or older.** Taxpayers age 70 ½ or older may make tax-free IRA distributions to charities of up to $100,000. While an itemized deduction may not be taken for the contribution there is also no income recognized because of the IRA distribution. Additionally, qualified charitable distributions apply toward satisfaction of an individual's required minimum distribution (RMD) for the year.

The 50% Adjusted Gross Income (AGI) limit for cash contributions to public charities has been increased to 60% of AGI beginning in 2018.

Eligible taxpayers who are taking a distribution solely to meet the RMD rules, or who do not itemize deductions, or who itemize and effectively fund such contributions from retirement fund withdrawals, should consider making charitable contributions directly from their IRA rather than with after-tax dollars. If the amount of an eligible taxpayer's itemized deductions including charitable contributions is close to the standard deduction, they may recognize an additional reduction in their tax liability by making their charitable contributions directly from an IRA and claiming the standard deduction. Additionally, distributions from an IRA to make a charitable contribution are not included in AGI; as a result, this strategy also has a favorable effect on other tax provisions that are dependent on AGI levels.

**Home Mortgage Interest:** Under prior law taxpayers could deduct mortgage interest paid on $1 million ($500,000 if married filing separately) of total acquisition debt for their principal residence and one other residence. Additionally, taxpayers were able to deduct interest on up to another $100,000 of either home equity indebtedness or additional acquisition debt on their primary or secondary residence. The ability to deduct interest on home equity indebtedness was allowed regardless of how the proceeds from the home equity loan were utilized.

Under the TCJA taxpayers are no longer allowed the additional deduction of interest for home equity or additional acquisition debt. Additionally, mortgage interest paid on total acquisition debt is now limited to $750,000 ($325,000 for married filing separately). Exceptions to this new total acquisition debt limit are provided for grandfathered debt and for purchases of principal residences meeting a binding contract exception.

Taxpayers considering refinancing, taking on additional debt or acquiring a new residence, or taxpayers who have already done one or more of these things in 2018 will want to consult with their tax advisor to determine how these rules will impact their after-tax net out of pocket interest cost.

Home equity loan proceeds that were used to acquire, construct or substantially improve a qualified residence will likely meet the definition of acquisition debt. Taxpayers whose mortgages are below the applicable limit and who also have home equity loans used for one of these purposes should discuss with their tax advisor whether some or all of the interest on these home equity loans may still be deducted.

**Casualty Losses:** Under the TCJA personal casualty losses are no longer deductible unless they are attributable to a federally declared disaster.

If a taxpayer recognizes a personal casualty gain during the year, an exception applies that allows the taxpayer to use **any** personal casualty losses incurred to offset the casualty gains.

## New Provisions, Old Planning Techniques and Other Non-Business Changes

**Other Deductions for Individuals:** In addition to changing allowable itemized deductions the TCJA also contained provisions eliminating some of the deductions previously allowed as a direct deduction in computing adjusted gross income. Deductions that are no longer allowed under the new law include the deduction for unreimbursed work-related moving expenses, as well as the tuition and fees deduction.

It is important to note that the exclusion from income for work-related moving expenses reimbursed by an employer under an accountable plan was also eliminated as part of the TCJA.

This change, in combination with the elimination of the deduction for unreimbursed moving expenses, will effectively increase the cost to the employee for an employment related relocation even when the employer provides reimbursement. Taxpayers who are contemplating a work related move should consider negotiating not only reimbursement of moving expenses but also an employer "gross up" of the reimbursement amount to cover any income and employment taxes on the reimbursements.

**Alimony:** Under the new law alimony payments made pursuant to a divorce or separation agreement executed after December 31, 2018 will no longer be tax deductible by the payer. Likewise, these alimony payments are not required to be included in the taxable income by the recipient, including the beneficiary of an alimony trust. Alimony payments paid with respect to agreements executed prior to this date are grandfathered and continue to be subject to the old rules, unless the agreement is modified after 2018 and explicitly provides that the changes made by the TCJA will apply to the modification. Taxpayers currently negotiating agreements should consider the economic impact of this change in the event an agreement is not executed by December 31.

**Planning for Investment and Asset Sales:** The timing of sales of investments and other assets is something over which you generally have a lot of control, and proactive planning for these events can generate significant tax benefits.

**New carried interest rule for capital gains relating to an applicable partnership interest will alter the holding period required for these gains to be treated as long term.** Gains relating to a partnership interest transferred as a result of services performed by the taxpayer, or a related party, in the trade or business of raising or returning capital, could be subject to a three-year holding period rather than a one year holding period for purposes of determining if the gain is long or short term. Taxpayers who believe this rule potentially could apply to them should consult with their tax advisor to determine if their partnership interest would be an "applicable partnership interest" subject to this rule.

**Trigger capital losses to offset capital gains.** Review your investment portfolio for any securities that could be sold at a capital loss before year-end to offset any capital gains that may have been generated during the year. Over and above offsetting any capital gains, net capital losses of up to $3,000 per year ($1,500 if married filing separate) can offset ordinary income in a year, and any excess over that is carried forward to future years. When assessing tax loss positions that you want to eventually retain as part of your portfolio because they are good investments, make sure to consider the wash sales rules – if you sell at a loss, but you purchase a substantially identical position between 30 days before and 30 days after the sale, your loss is deferred and not immediately usable. Also, if you have securities that are almost (but not quite) worthless, and still have a trading market, consider selling those to harvest the loss; otherwise, you will have to wait until they can be considered totally worthless which can be difficult to substantiate.

**Consider an installment sale.** Gain on sale of an asset in which one or more payments are received after the end of the tax year are accounted for on the installment basis unless a taxpayer affirmatively elects out. Under the installment method, the gain, other than the portion due to ordinary income items such as 1245 depreciation recapture, is recognized as payments are received. By structuring the sale as an installment sale, taxpayers may push some of the gain into future tax years.

**Consider a like kind exchange when disposing of real property.** Under the TCJA like kind exchanges are limited to exchanges of real property. Taxpayers who are looking to dispose of one piece of real estate and acquire another may be able to do so without triggering gain by structuring the transactions to qualify as a like kind exchange. On the other hand, if the taxpayer anticipates realizing a loss on the property to be sold, the taxpayer will want to be sure the transactions are structured so they do not qualify as a like kind exchange, thereby allowing the taxpayer to recognize the loss on disposal.

**Consider reinvesting gains in an Opportunity Zone Fund to obtain a current deferral and the possibility of permanent gain exclusions.** Taxpayers may elect to defer recognition of any capital gain from sale of property to an unrelated party to the extent that such gain is reinvested in a qualified opportunity zone fund within 180 days from the date of sale. Reinvested gain is deferred until the earlier of the date the taxpayer disposes of the interest in the opportunity zone fund or December 31, 2026. Taxpayers who continue to hold their interest in the opportunity zone fund for seven years prior to December 31, 2026, may be able to permanently exclude up to as much as 15% of the originally reinvested gain. Taxpayers who continue to hold their interest for 10 years or longer will also be able to permanently exclude gains attributable to the appreciation of the new investment.

**Managing Adjusted Gross Income and Taxable Income to Maximize Tax Benefits:** Currently the applicability of several income tax provisions depends on the amount of a taxpayer's AGI or taxable income. Postponing income and accelerating deductions can allow you to defer paying tax on income until later, while getting the benefit of deductible expenses sooner.

Many of the planning items in this letter are aimed at creating these types of beneficial timing differences. Favorable timing differences at a minimum provide taxpayers with a time value of money benefit allowing them to retain their cash longer by delaying the payment of tax. However, timing differences may also create permanent tax savings to the extent they favorably impact thresholds and phase-outs in such a way as to expand the total lifetime amount of deduction that will be allowed.

Under the TCJA this is especially true for clients who operate sole-proprietorships and/or own one or more interests in a partnership or S-Corporation. The TCJA allows a deduction for up to 20% of a taxpayer's qualified business income from these types of entities. This is commonly referred to as the 199A deduction in reference to the new code section that added it. Several limitations potentially apply to this deduction at the individual owner, partner or shareholder level which may cause the deduction to be less than 20%. These limitations include an overall limit based on the taxpayer's total taxable income less capital gains and limits based on W-2 wages, property base and type of business. The wage, property and business type limits do not apply to all taxpayers; instead, their applicability is phased-in based on the taxpayer's taxable income before the 199A deduction amount.

| Filing Status | Lower Phase-in Range | Upper Phase-in Range |
|---|---|---|
| All Others | $157,500 | $207,500 |
| Married filing jointly | $315,000 | $415,000 |

Since these limits apply annually and do not 'reverse' in following years, taxpayers whose 199A deduction would be restricted by application of these limits may realize a permanent benefit by strategically managing their taxable income to a level that maximizes their 199A deduction for the current year.

Due to the complexity of the 199A provision and the way it interacts with other provisions under the code in determining the deduction amount, taxpayers seeking to manage taxable income for this purpose will need to work closely with their tax advisor to develop comprehensive detailed projections.

**Loss Limitations:** Taxpayers who are anticipating a loss in one or more business interests they own may find themselves unable to utilize such losses to offset other types of income due to various loss limitations.

**Passive activity loss planning.** Taxpayers owning rental properties or interests in businesses for which they do not meet the active participation requirements may find themselves limited on the amount of losses they are able to utilize from those activities. Generally, passive losses may only be offset by passive income and may not offset other non-passive income. An exception to this is allowed in the case of passive activities with losses, including carryover losses from prior years, that are fully disposed of during the year.

Taxpayers with passive activity loss carryovers or activities for which they anticipate a current year loss should review their various activities to identify any "loss leaders" that should be disposed or discontinued and consider the potential for accelerating that event into the current year to free up losses. Altering the amount of time spent on various entities to effect classification of certain entities as active or passive is another planning strategy to consider.

Whether a taxpayer is active with respect to an activity is determined by meeting one of the tests provided by the 469 regulations. The tests are based on hours spent by the taxpayer on non-investor type activities and are both specific and mechanical in operation. Taxpayers who meet the test in one year may not meet the test with respect to the same activity in other years. To plan in this area taxpayers need to understand the rules that apply to their specific activities and work with their tax advisor to evaluate which activities will be treated as passive and which will be treated as active.

**Basis and at risk for taking losses.** Taxpayers may only deduct losses from flow-through entities to the extent that they have both basis and at-risk sufficient to absorb the loss. If you are anticipating losses from entities in which your basis or at-risk amount is low, consider taking steps such as contributing capital or making a loan to the entity to bring basis and at-risk amount up to the amount of loss you will be able to take. In partnerships certain guarantees of partnership debt might result in an increase to basis and at-risk as well.

The basis and at-risk rules can be quite complex particularly with respect to partnership interests. Taxpayers who are unsure of their basis or at-risk amounts should work with their tax advisors to determine these amounts and also to ensure any proposed steps you might take to increase these amounts will actually have the intended effect.

**New overall business loss limitation.** Under a new provision enacted as part of the TCJA, taxpayers may no longer deduct excess business losses. Excess business loss is the excess of total aggregate business deductions over total aggregate business income plus $250,000 (or $500,000 in the case of a joint return). Effectively this means that taxpayers may only use $250,000 ($500,000 for MFJ) of their net overall business loss to offset other types of income.

Any excess business loss that is disallowed will be carried forward and treated as a net operating loss in the following tax year.

This loss limitation should be considered when projecting the impact of business losses on your tax situation. In many situations taxpayers with substantial business losses that exceed their total income could still find themselves facing a substantial tax bill in April.

**Retirement and Health Benefits:** There are several actions to consider between now and year-end related to retirement plans and health benefits.

Maximize your 401(k), traditional IRA or self-employed retirement plan contributions for 2018. Adjust your 401(k) contributions for the rest of 2018 to contribute the most you can afford up to the maximum amount allowed based on your age and AGI. This may also allow you to take full advantage of any employer matching funds.

While IRA and self-employed retirement plan contributions can generally be made after the end of the year, start planning now to have the funds set aside to take advantage of these annual opportunities. Also, if you are considering starting a self-employed retirement plan, remember that while Simplified Employee Pension (SEP) plans may be set up as late as the due date of your return including extensions, other types of qualified plans such as Simple IRAs and solo-401(k)s must be set up by the last day of the year for which you intend to make contributions.

Take action on your Flexible Spending Account for this year and next year. If you have a healthcare FSA, make sure to start using up your remaining balance for 2018 by incurring reimbursable expenses before the plan's deadline. Also, you will need to determine your level of contribution for 2019 before year-end if your plan has a calendar year-end.

Taxpayers with Archer Medical Savings Accounts (MSA) and Health Savings Accounts (HSAs) should consider making additional contributions for 2018 to contribute the most they can afford up to the maximum amount allowed, including any catch-up contributions allowable.

**International:** Individuals that own 10% or more of the vote or value of the shares in a controlled foreign corporation (CFC), either directly or indirectly may have an unpleasant surprise at tax time thanks to the new Section 951A Global Intangible Low Taxed Income (GILTI) inclusion rules. Under the new rules, a controlled foreign corporation is deemed to have made a distribution of earnings in excess of a 10% return on the tax basis of assets used in producing the income. These rules not only accelerate the recognition of income, they also can result in tax at ordinary income rates on income that would be taxed at capital gains rates if an actual distribution was made. Taxpayers should consider the impact of the GILTI provision on their 2018 estimated tax liability and evaluate strategies to mitigate the GILTI tax such as making an election under Section 962 to be treated as a corporate shareholder for purposes of the GILTI tax or electing to treat the foreign corporation as a disregarded entity.

Another provision of the TCJA that has already impacted many individuals that own an interest in a CFC is the deemed repatriation of accumulated earnings and profits as of December 31, 2017. CFCs with calendar year-end shareholders had to pay the first installment of the tax with their 2017 tax returns. For CFCs with a fiscal year-end the first installment will be due in 2018. Remaining installments can be paid over seven years, provided the installments are made on a timely basis. Failure to make timely payments will result in the loss of the ability to make remaining payments on the installment basis.

**Estate and Gift:** Planning for the disposition of your assets, and potentially for gift and estate taxes, should be an ongoing process during your lifetime; however, there are certain actions to consider at year-end.

Under the TCJA the estate and gift tax exemption was doubled and indexed for inflation. The 2018 exemption for 2018 is $11.18 million ($22.36 for married couples). This increased exemption will continue to be increased for inflation each year through 2025. Currently, the exemption is set to revert to the pre-TCJA amounts for decedents dying and gifts made after December 31, 2025.

The language in the TCJA does not directly mention generation skipping transfers (GST). However, since the GST exemption amount is based on the basic exclusion amount, generation skipping transfers will also see an increase in exclusion.

Taxpayers should continue to work with their tax advisors to ensure that they have a long-term strategy and an estate plan that meets their non-tax objectives and will continue to be as tax efficient as possible, capitalizing on increased exemption amounts when and while available. While the increased federal exclusion will alleviate estate tax for many individuals dying before 2026, taxpayers should remember to consider state estate taxes in their planning (where applicable).

The current increase in GST may provide an opportunity to address issues within existing irrevocable trusts. Taxpayers who have irrevocable trusts in which the current inclusion ratio is greater than zero and where assets may pass to a skip person, should consider making a late allocation of GST exemption to bring the inclusion ratio to zero.

While death and taxes may be certain, retaining the increased exclusion until its scheduled sunset after 2025 is not as certain. Taxpayers should remember that Congress could enact legislation changing the TCJA prior to this sunset. Consider taking advantage of the increased exclusion amounts now by making appropriate gifts and allocations of GST.

Additionally, be sure to take advantage of each donor's ability to give $15,000 in cash or property to each donee (each year) free of gift taxes. Through the election of gift-splitting, gifts of $30,000 may be given to each donee by one spouse and treated as made half by each spouse, thus keeping the gifts at the $15,000 per donee exclusion amount. If one spouse gives the $30,000 gift, this option requires the filing of a gift tax return to make the gift splitting election.

Make direct gift payments of tuition and medical expenses. Payments of these items directly to the educational institution or medical provider, rather than reimbursing the intended donee, are not considered gifts and do not count against the intended donee's $15,000 annual exclusion limit.

## BUSINESSES

**Corporate Tax Rate:** Perhaps the most significant change made by the TCJA was a reduction in the corporate tax rate. Under prior law the highest corporate tax rate was 35%; currently under the TCJA all corporations are taxed at a flat rate of 21%. This change in rates will have a significantly favorable effect on many corporations. Only those corporations that regularly have taxable income of $50,000 or less will realize an increase in their tax rate (15% to 21%).

**Alternative Minimum Tax (AMT):** The new law removed AMT entirely for corporations. Additionally, corporations may be able to receive a refund of a portion of their existing AMT credits.

**Reduced Rate on Flow-Through Businesses (199A):** The TCJA also sought to provide a comparable rate reduction for businesses not operated as C-corporations. The new law accomplishes this by allowing individuals an additional deduction based on the taxable income of businesses operated as sole-proprietorships, partnerships or S-corporations.

As discussed in the individual section, the deduction is generally equal to 20% of a taxpayer's qualified business income from these types of entities. For an individual in the highest individual income tax bracket of 37%, assuming the full deduction is allowed, it would produce an effective 29.6% federal rate on their business income. However, several limitations potentially apply to this deduction at the individual owner, partner or shareholder level that may cause the deduction to be less than the 20% of qualified business income amount.

**Planning for Specified Service Trades or Businesses (SSTB).** One of these potential limits applies in the case of an SSTB. SSTBs generally involve providing services in the fields of health, law, accounting, actuarial science, performing arts, consulting, athletics, financial services, brokerage services, investing and investment management, trading or dealing in securities, partnership interests or commodities 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 or owners. The IRS has issued proposed guidance that includes more specifics on the types of services covered in these categories and the treatment of businesses with covered services as well as other types of services and products. Taxpayers with businesses that they believe may provide services within the above categories will need to consult with their tax advisors regarding whether this limit will impact them and to what extent. Taxpayers with potential mixed businesses, i.e. covered service plus other services or products, should consider having a 199A study done to identify any opportunities to maximize their 199A deduction.

**Planning for wage and property limitations.** As discussed in the individual section, individuals with taxable income before the 199A deduction above the threshold will be subject to the wage or wage plus property limitation for each business. Taxpayers who believe their 199A deduction may be reduced by the greater of these limits should consider accelerating wage payments, such as bonuses, into the current year to boost the wage base and/or accelerating planned fixed asset purchases to place them in service during the current year.

Under the proposed regulations, taxpayers will be allowed to group trades or businesses that meet specific criteria together for purposes of applying the wage or wage plus property limitations. The grouping is elective, and taxpayers may decide which of the eligible trades or businesses they will group together. However, once the election is made, the taxpayer must continue to group these same activities each year going forward. Taxpayers with multiple businesses will want to identify all the potential allowable groupings and decide on the most optimal groupings as part of their year-end planning.

The 199A rules are multi-leveled and very complex. Taxpayers should work with their tax advisor to navigate these rules as part of their year-end planning and projections.

**Domestic Production Deduction:** The TCJA repealed the Domestic Production Activity Deduction (DPAD). In conducting year-end planning it will be important for businesses formerly taking DPAD to remember that the benefit they will recognize from rate reductions, either directly or indirectly via the 199A deduction, will be less than the actual reduction in tax rates as a result of DPAD repeal.

## New Provisions, Old Planning Techniques and Other Business Changes

**Expensing of Property:** Bonus depreciation permits businesses to deduct in the first year a portion of the cost of eligible property – generally machinery, equipment, furniture and fixtures, land improvements, software and non-building assets. Prior to the TCJA bonus depreciation was limited to the acquisition of new property. The TCJA increased the bonus depreciation amount from 50 percent to 100 percent of the cost of eligible property and expanded the definition of eligible property to include new and used property.

Prior to the TCJA, certain real property assets were eligible for bonus depreciation, particularly qualified leasehold improvements and qualified improvement property. These assets, generally interior improvements to building property, were eligible for bonus depreciation and an accelerated 15-year depreciation period. The TCJA eliminated both definitions as of December 31, 2017. The practical result is that assets placed in service on or before December 31, 2017 were eligible for bonus depreciation and depreciated over 15 years. Those same assets placed in service in 2018 and later years are not eligible for bonus depreciation and depreciated over 39 years. A technical correction is required from Congress to correct this issue.

Considering all the changes made by the TCJA to eligible property and bonus depreciation, taxpayers should consider which assets acquired in 2018 are eligible for bonus depreciation and factor the accelerated deductions in their end of year tax projections and estimated payments.

Bonus depreciation is a significant benefit to the buyer in an asset sale now that previously owned assets are eligible for the deduction. Taxpayer's looking to buy/sell a business should consider the amount of bonus depreciation benefit to the buyer if the transaction is structured as an asset acquisition.

Section 179 is another asset expensing provision available but only to small business taxpayers. It applies to similar types of property as bonus depreciation, generally non-building assets. This deduction is phased out once a taxpayer's annual investment in eligible assets exceeds a threshold. Prior to the TCJA this deduction was limited to $500,000 of eligible property and began to phase-out as the investment in eligible property exceeded $2,000,000. The TCJA increased the amount of the deduction to $1,000,000 on eligible property and increased the phase-out threshold to $2,500,000. The TCJA also expanded the definition of eligible Section 179 property to include the following improvements installed in a building after initial construction (i.e. not new construction): qualified improvement property (same definition as above under bonus depreciation), and certain improvements to non-residential property, including roofs, HVAC property, fire protection and alarm systems and security systems.

In addition to the enhanced bonus depreciation and section 179 asset expensing provisions, the TCJA also increased the depreciation deductions for passenger autos.

**Small Taxpayer Accounting Method Changes:** The TCJA expanded the use of several favorable accounting methods to taxpayers having average annual gross receipts of $25 million or less. The favorable methods allowed by this change include 1) use of the cash method, 2) expensing of inventory under the non-incidental materials and supplies rules or in accordance with other methods if used for books and records, 3) accounting for tax inventory without application of UNICAP, and 4) accounting for long term construction contracts using a method other than the percentage of completion.

In many instances use of these methods will result in acceleration of deductions and deferral of revenues thereby resulting in a favorable timing difference for the taxpayer. Additionally, for some taxpayers, use of these methods may result in a decreased administrative burden for tax compliance. In planning for year-end, taxpayers should consider whether they may qualify for use of these methods and work with their tax advisor to quantify what the value proposition to making the change would be in their particular situation.

**Revenue Recognition Changes:** Generally, revenue is recognized in taxable income under the accrual method of accounting when "all events" have occurred fixing the taxpayer's right to receive the income, and the amount can be determined with reasonable accuracy. Prior to the TCJA the "all events test" was the earlier of when an amount is received, taxpayer has a right to bill an amount, or the amount is earned. The TCJA modified the "all events test" to require that an amount must be recognized in taxable income if the amount is recognized in the taxpayer's applicable financial statements (generally, audited financial statements). This change will require taxpayers to accelerate the recognition of revenue for tax purposes in certain instances. For example, if a taxpayer, in coordination with the implementation of the new GAAP revenue recognition standard (ASC 606) in its applicable financial statements accelerates the recognition of volume discounts or purchasing rebates, these amounts may be required to be recognized in taxable income because the amounts are recognized in its applicable financial statements.

Prior to the TCJA taxpayers were permitted to defer the recognition of advance payments in taxable income over either a 1-year or 2-year period. The TCJA changed the recognition criteria for advance payments requiring that an advance payment must be recognized in taxable income no later than the tax year following the year of receipt. That is, the 2-year deferral option is no longer available.

Taxpayers should review their revenue recognition in their applicable financial statements and make sure that they are not recognizing revenue for tax purposes any later than in their audited financial statements. Taxpayers should also review when they recognize advance payments in taxable income for conformity with the changes made by the TCJA for recognizing revenue in taxable income. Changes to either of these provisions may require filing a Form 3115, *Application for Change in Accounting Method*.

**Interest expense limitations:** One of the less favorable changes enacted by the TCJA was the imposition of a limitation on the amount of deductible business interest. Under the new law, interest expense generally may not exceed 30% of taxable business income before depreciation, interest expense and amortization. In tax years beginning after 2022 this limitation becomes even more restrictive as the limitation will no longer be applied before the deduction for depreciation. Taxpayers should not only consider the impact the interest may have for the current tax year but should consider what plans they may need to start implementing now to have their debt level appropriately structured under the more restrictive limits post-2022.

In the case of corporations, partnerships and S-corporations, the limitation is applied at each entity level. In the case of tiered entities, or where considering having individual partners or shareholders incur debt to acquire an interest or make a capital contribution, taxpayers will want to consider the impact placement within or outside of a particular entity might have on the limitation and evaluate whether a restructuring could be beneficial.

Taxpayers will also want to consider whether they qualify for one of the exceptions provided and, in the case of exclusions that may be electively applied, whether they wish to make the election. Under the new law businesses with $25 million or less in average annual gross receipts are excluded from the interest expense limitation. However, when planning it is important to be aware that aggregation rules may apply in determining gross receipts in the case of certain related business entities.

The TCJA provides another exception in the case of interest on floor plan financing of certain taxpayers. Taxpayers falling into this special category may recognize a benefit by being allowed to exclude the floor plan interest from their limitation. However, they may also recognize a cost in the form of prohibitions on claiming bonus depreciation for certain assets used in that trade or business. This exclusion is not elective.

Certain regulated public utility companies are also excluded if the rates for the furnishing or sale of electrical energy, water, sewage disposal, gas or steam through a local distribution center, or transportation of gas or steam by pipeline have been approved by certain stipulated governing bodies. These businesses are also excluded from claiming bonus depreciation on assets used in these businesses.

The TCJA also provides elective exclusions for some industries. These include real property trades or businesses, farming businesses and specified agricultural or horticultural cooperatives. Taxpayers who make one of these exclusion elections will generally be required to depreciate their longer-lived property using the alternative depreciation system.

Lastly, taxpayers with rental properties will need to give consideration as to whether the activity rises to the level of a trade or business or whether it would instead be a 212 activity as previously described in the individual section on state and local taxes. Many rentals, particularly rentals under a triple net lease arrangement, will be 212 activities rather than trades or businesses. The interest expense limitation only applies in the case of trade or business activities. As such, 212 activities may benefit by being able to claim interest expense in excess of the 30% limitation while continuing to utilize normal depreciation rules for their long-lived property. It is worth noting that 212 activities are also not eligible for the 199A deduction since—like the interest limitation—that provision only applies to trades or businesses. Classification as either is not elective but based on the facts and circumstances relating to the activity. Likewise, whether inclusion or exclusion from these provisions is overall favorable or unfavorable to a taxpayer will depend on the specific facts relating to the activity. However, in all instances, taxpayers will want to determine appropriate classifications now while working on year-end projections and planning to avoid any unexpected surprises at tax time.

**Entertainment and Fringe Benefits:** Under the TCJA the rules for deducting business meals and entertainment were significantly changed. Previously, deductions for entertainment were limited to 50%. In contrast, under the new rules, with very limited exceptions, no deduction is allowed for business entertainment expenses. Similarly, expenses for meals that were formerly fully deductible, such as those provided by an in-house cafeteria or otherwise provided on site for the convenience of the employer, are now subject to the 50% limitation. Coffee, drinks, snacks and other food items previously treated as de minimis employee fringe benefits are now also subject to the 50% limit.

The new law provides some narrow exceptions to the entertainment limitation in the case of certain recreational events for employees, such as holiday parties.

Taxpayers will want to make sure they have separated their expenses into the various buckets as year end approaches to ensure that expenses are deducted at the fullest allowable amounts. Taxpayers will also want to consider how best to approach any new contracts for events that involve both entertainment and food. By segregating and separately pricing the entertainment and food portions of contracts, taxpayers may recognize a significant tax savings. For a comparison of old and new law for various types of meals, entertainment and travel expenses see this article.

**Aircraft:** The new law made sweeping changes affecting the normal use of non-commercial aircraft.

Since the TCJA makes a broad disallowance of all entertainment expenditures, business entertainment flights are no longer deductible. Therefore, business flights must now be bifurcated into entertainment and non-entertainment categories. Failure to bifurcate flights and properly account for the non-deductible entertainment costs now may result in an expense disallowance for all flights since, in the case of deductions, the burden is on the taxpayer to prove deductibility. Taxpayers will want to proactively develop a plan now for how they will track all of the needed elements to account for and prove categorization of each flight going forward if they have not already done so.

The new law clarified the long-held assumption that Code section 4261, pertaining to the transportation excise tax ('ticket tax'), did not apply to owner (or lessee) flights on managed aircraft. Specifically, these flights are subject to the non-commercial fuel tax rather than the FET ticket tax.

The structure to meet this exception is easily achieved with proper planning and execution. Taxpayers will need to exercise care when structuring payments for the aircraft management services paid for by the owner or the lessee of the aircraft. It is important to note that for FET purposes, disregarded entities for income tax purposes (single-member LLCs, qualified subchapter S subsidiaries, etc.) are regarded. Therefore, it is easy for a payment for aircraft management services to be made from an entity that is not the owner or lessee, and that payment would not meet the new exception.

A third area for aircraft planning relates to use of a single aircraft in multiple trades or businesses. We have seen many examinations of aircrafts owned by a single member LLC that resulted in proposed adjustments to reclassify the aircraft operations for their other business entities to employee business expenses on Schedule A. Under the old law, this subjected these operations to the 2% floor for miscellaneous itemized deductions, reducing the deductibility of these expenses. The new law eliminated these miscellaneous itemized deductions so the same proposed adjustment in an exam will now have the result of making the airplane expenses fully non-deductible.

For most taxpayers, some planning may allow an alternative arrangement utilizing one or more entities to house the aircraft operations. Alternatively, if Schedule A was the place that the aircraft operations should have been deducted in the first place, you should consider an accountable plan arrangement, as those arrangements were not changed under the new law.

We continue to advocate that taxpayers work with a tax advisor with specific experience in the taxation of non-commercial aircraft when undertaking planning in this area.

**Excess Compensation – 162(m):** The TCJA contained several key changes to the 162(m) compensation limit. First, it expanded the corporations subject to this limit so that it now includes any corporation that is required to file reports under section 15(d) of the Exchange Act. Section 15(d) of the Exchange Act imposes reporting obligations on an issuer that filed a registration statement for debt or equity securities under the Securities Act of 1933 even though the securities are not listed on an exchange. The expanded definition may include certain corporations that are not publicly traded, such as large private C or S-corporations.

Second, the TCJA significantly expanded the definition of a covered employee. Under the revised definition both the Principal Executive Officer (PEO) and the Principal Financial Officer (PFO), or anyone acting in those capacities at any time during the year, is a covered employee. Additionally, under the new law, once someone is a covered employee in a tax year that began after December 31, 2016, they continue to be a covered employee for all future years, including years in which the individual is no longer employed and after the individual's death (impacting compensation paid to beneficiaries).

Lastly, there is no longer an exception from the definition of applicable employee remuneration for performance-based compensation and commissions.

Under a transition rule, the changes made by the TCJA will not apply to remuneration paid pursuant to a written binding contract in effect on November 2, 2017 and that was not modified in any material respect on or after that date.

The 162(m) changes will have significant impact on bonuses, non-qualified deferred compensation plans and record keeping requirements. Additionally, the "once a covered employee always a covered employee" rule will likely be an area of concern in the case of acquisitions. Taxpayers subject to 162(m) will want to review their bonus and deferred compensation considering these new rules.

**Deferral of Employee Income Recognition and Employer Compensation Deduction for Certain Stock Option and Restricted Stock Units (RSU) Plans:** Employees receiving incentive stock options or RSUs under plans of non-publicly traded corporations may find that they do not have the cash to pay the taxes due on the income recognized when they become fully vested. To provide some relief for this problem Congress enacted a new section 83(i) which allows employees receiving stock options or RSUs under plans for certain non-publicly traded corporations (including S-corporations) to elect to defer recognition of the income for up to five years.

The new 83(i) rules apply to options exercised or RSUs settled after December 31, 2017. Under the new law employers transferring qualified stock to an employee must provide a notice to the employee at that time, or within a reasonable period before, of any amount attributable to the stock that would be includable in the employee's income. Corporations failing to provide such notice are subject to a penalty for each such failure. Additionally, failure to provide notification may result in a non-tax based risk in the case of employees who would have qualified to make an 83(i) election but failed to do so because they did not receive notification certifying the receipt as qualified stock. Employers should review prior years' issuances of options and RSUs to determine if they will result in qualified stock and be prepared to issue the required notices when required.

Beyond the notification requirements the new 83(i) election will have other significant impacts on the employer. Perhaps one of the most notable is that, if the employee elects to defer income recognition, this will also defer the employer's ability to take a compensation deduction. Another key impact for consideration by employers is that income tax withholding is required to be calculated at the highest tax rate, rather than applying the applicable graduated rate, and will be due on the date the stock is treated as wages received (i.e. when income recognition is triggered under the election). It is important to remember that under IRC 3402 and the related regulations employers are directly liable for payment of withholding tax regardless of whether the tax is actually collected from the employee, although this liability may be relieved if the employer can prove that the tax has already been paid directly by the employee. In the case of a 83(i) election, these rules pose a significant risk to the employer with respect to any employee who has left employment during the deferral period.

In light of the withholding and other hazards posed to employers under the 83(i) regime, groups of effected taxpayers have requested that in issuing guidance Treasury provide that stock meeting the definition for 'qualified stock' is only treated as such if elected by the employer. In support of this request these taxpayers have pointed out that several disqualifying criteria are within the employers' control and that employers could therefore effectively elect out by planning for disqualification. It is currently unclear whether such an allowance is within the statutory authority of the Treasury under the statute. Until any such guidance for making 83(i) status elective is actually issued, taxpayers should evaluate potential exposure and consider whether they want to take specific actions to ensure disqualification of options or RSUs issued during the current tax year.

**Partnership Audit Rules:** The new rules for partnership audit changes were not enacted as part of tax reform, but they will also first have an impact on taxpayers in the 2018 tax year. These rules significantly change the rights of partners with respect to tax liabilities and could have substantial economic impacts. To avoid unpleasant surprises in the future because of these new rules, partnerships should review and consider revisions to their operation agreements now.

Partnerships will be required to make binding elections and designations with respect to these rules beginning with their 2018 partnership tax return filing. For more information about these rules visit DHG's FAQs page here.

**State and Local Tax:** Due to a sales tax case that was recently decided at the Supreme Court (South Dakota vs Wayfair, Inc.) taxpayers will need to re-evaluate the states in which they collect sales tax on products or services. In making its ruling the court departed from the previous bright line nexus standard of prior cases which required a physical presence. Under the new economic standard recognized by the Supreme Court, taxpayers may now need to register and collect sales tax in new states. This change will certainly impact businesses selling products to customers in other states. However, it may also impact service businesses where the customer is located in another state. When considering year-end planning, it is highly recommended that taxpayers consider the impact of this important court case on their operations and develop a plan to address 1) any current exposure in states that already had economic nexus laws in place and 2) to adapt their current processes to properly collect and remit sales tax as other states begin to enact economic nexus based laws. Read more on this landmark Supreme Court Case here.

While Wayfair was a sales tax case, more aggressive states may argue it opens the door to establishing income and franchise tax nexus. If a business is not otherwise protected by Public Law 86-272, there may be new income and franchise tax issues to consider. Certainly, in the wake of Wayfair many states will be closely scrutinizing businesses selling in to their state. As part of their year-end planning taxpayers selling into another state should consider either doing or revising a nexus study.

## International

**Section 965 Deemed Repatriation:** For owners of 10% or more of the vote or value of the shares in a CFC that have a fiscal year-end will need to consider the impact of the deemed repatriation of foreign earnings and profits as of December 31, 2017. The tax associated with the repatriation can be paid in eight installments. However, failure to make an installment payment on a timely basis can terminate the installment election. Also, any overpayments of income tax will be applied to the outstanding repatriation tax liability before being refunded or applied against next year's estimated income tax.

S Corporation shareholders with an indirect ownership of a CFC can elect to defer the repatriation tax until a "triggering event" occurs. A shareholder must begin making the installment payments in the year in which a triggering event (such as the termination of the "S" election or sale or transfer of shares) occurs.

**GILTI Regime:** Corporations that own 10% or more of the vote or value of the shares in a CFC, either directly or indirectly, may be subject to the new Section 951A Global Intangible Low Taxed Income (GILTI) inclusion rules. Under the GILTI rules, a controlled foreign corporation is deemed to have made a distribution of earnings in excess of a 10% return on the tax basis of assets used in producing the income. The GILTI inclusion amount is subject to tax at the 21% corporate tax rate. However, corporate taxpayers can claim a foreign tax credit for up to 80% of current year foreign taxes paid on the income. Taxpayers should consider the impact of the GILTI provision on 2018 estimated tax liability and evaluate strategies to mitigate the GILTI tax such as creating high taxed Subpart F income (Subpart F income that is subject to a foreign country tax at a rate of 18.9% or more) or electing to treat the foreign corporation as a disregarded entity.

**FDII Deduction:** Starting in 2018, corporations can claim a deduction for a portion of income generated from sales of goods or services for foreign use under the new Foreign Derived Intangible income (FDII) regime. The deduction is 37.5% of the FDII amount resulting in an effective tax rate on FDII of 13.125%. To be eligible for the deduction, property must be sold, leased or licensed to a non-US person for use outside of the US. In addition, services must be provided to foreign persons or must be provided with respect to property located outside the US.

**BEAT:** U.S. Corporations with revenues in excess of $500 million should consider the impact of the new Base Erosion Anti-Abuse Tax (BEAT) which imposes a minimum tax on corporations with base erosion payments equal to 3% or more of total deductible expenses. A base erosion payment is defined as any deductible payment to a foreign related person excluding amounts paid for cost of goods sold or eligible low value services. The tax is equal to 5% of modified taxable income (taxable income less base erosion payments and base erosion percentage of any NOL allowed) in 2018, and increases to 10% in 2019 and to 12.5% in 2026.

## APPENDIX – TAX RATES AND INCOME RANGE BRACKETS

### Individual taxpayers

| Income Range | | 2017 Marginal Tax Rate | 2018 Marginal Tax Rate |
|---|---|---|---|
| - | 9,325 | 10.0% | 10.0% |
| 9,326 | 9,525 | 15.0% | 10.0% |
| 9,526 | 37,950 | 15.0% | 12.0% |
| 37,951 | 38,700 | 25.0% | 12.0% |
| 38,701 | 82,500 | 25.0% | 22.0% |
| 82,501 | 91,900 | 25.0% | 24.0% |
| 91,901 | 157,500 | 28.0% | 24.0% |
| 157,501 | 191,650 | 28.0% | 32.0% |
| 191,651 | 200,000 | 33.0% | 32.0% |
| 200,001 | 416,700 | 33.0% | 35.0% |
| 416,701 | 418,400 | 35.0% | 35.0% |
| 418,401 | 500,000 | 39.6% | 35.0% |
| 500,001 | | 39.6% | 37.0% |

### Married filing joint taxpayers

| Income Range | | 2017 Marginal Tax Rate | 2018 Marginal Tax Rate |
|---|---|---|---|
| - | 18,650 | 10.0% | 10.0% |
| 18,651 | 19,050 | 15.0% | 10.0% |
| 19,051 | 75,900 | 15.0% | 12.0% |
| 75,901 | 77,400 | 25.0% | 12.0% |
| 77,401 | 153,100 | 25.0% | 22.0% |
| 153,101 | 165,000 | 28.0% | 22.0% |
| 165,001 | 233,350 | 28.0% | 24.0% |
| 233,351 | 315,000 | 33.0% | 24.0% |
| 315,001 | 400,000 | 33.0% | 32.0% |
| 400,001 | 416,700 | 33.0% | 35.0% |
| 416,701 | 470,700 | 35.0% | 35.0% |
| 470,701 | 600,000 | 39.6% | 35.0% |
| 600,001 | | 39.6% | 37.0% |

| Married filing separate taxpayers | | | |
|---|---|---|---|
| Income Range | | 2017 Marginal Tax Rate | 2018 Marginal Tax Rate |
| - | 9,325 | 10.0% | 10.0% |
| 9,326 | 9,525 | 15.0% | 10.0% |
| 9,526 | 37,950 | 15.0% | 12.0% |
| 37,951 | 38,700 | 25.0% | 12.0% |
| 38,701 | 76,550 | 25.0% | 22.0% |
| 76,551 | 82,500 | 28.0% | 22.0% |
| 82,501 | 116,675 | 28.0% | 24.0% |
| 116,676 | 157,500 | 33.0% | 24.0% |
| 157,501 | 200,000 | 33.0% | 32.0% |
| 200,001 | 208,350 | 33.0% | 35.0% |
| 208,351 | 235,350 | 35.0% | 35.0% |
| 235,351 | 300,000 | 39.6% | 35.0% |
| 300,001 | | 39.6% | 37.0% |

| Head of household taxpayers | | | |
|---|---|---|---|
| Income Range | | 2017 Marginal Tax Rate | 2018 Marginal Tax Rate |
| - | 13,350 | 10.0% | 10.0% |
| 13,351 | 13,600 | 15.0% | 10.0% |
| 13,601 | 50,800 | 15.0% | 12.0% |
| 50,801 | 51,800 | 25.0% | 12.0% |
| 51,801 | 82,500 | 25.0% | 22.0% |
| 82,501 | 131,200 | 25.0% | 24.0% |
| 131,201 | 157,500 | 28.0% | 24.0% |
| 157,501 | 200,000 | 28.0% | 32.0% |
| 200,001 | 212,500 | 28.0% | 35.0% |
| 212,501 | 416,700 | 33.0% | 35.0% |
| 416,701 | 444,550 | 35.0% | 35.0% |
| 444,551 | 500,000 | 39.6% | 35.0% |
| 500,001 | | 39.6% | 37.0% |