FEDERAL INCOME TAX UPDATE 2018 FEATURING THE TAX CUTS AND JOBS ACT OF 2017

JOHN D. HOUSTON, CPA

CHATTANOOGA TAX PRACTITIONERS

JANUARY 9, 2019

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JOHN D. HOUSTON, CPA is the founder and principal of John D. Houston CPA, a local Chattanooga CPA firm that is celebrating its 29th anniversary. His more than 40 years of public accounting experience in the Chattanooga area includes 12+ years with two national accounting firms. Mr. Houston's tax consulting and CPA services firm provides tax compliance and consulting services for business clients including manufacturers, wholesalers, retailers, real estate investors and developers, and professional service providers. His individual and fiduciary practice provides tax compliance and consulting services for business owners and executives, professionals, investors, self-employed individuals, and estates and trusts. His tax expertise includes providing clients with income and estate tax compliance and consulting services, tax consulting on business acquisitions and sales, business entity consulting, and client representation before the Internal Revenue Service in cases involving audits, appeals, and collection issues. Mr. Houston is a frequent speaker on Federal income taxation with emphasis on recent tax legislation and current developments. He is active in the Tennessee Society of Certified Public Accountants and a former Chairman and current member of the Federal Taxation Committee. He is a former TSCPA Chattanooga Chapter president and served two terms as a TSCPA board of directors' representative. Mr. Houston has also served as board chairman and treasurer for the Southeast Tennessee Chapter of the American Red Cross and is a past president of The Estate Planning Council of Chattanooga. Mr. Houston is a 1977 highest honors graduate of the University of Tennessee's College of Business Administration where he majored in accounting and management science.

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PRESENTATION OUTLINE

I. INDIVIDUAL AND FIDUCIARY INCOME TAXATION
II. INDIVIDUAL INCOME TAX DEDUCTIONS AND CREDITS
III. CORPORATIONS AND PASSTHROUGH ENTITIES
IV. DEPRECIATION AND EXPENSE DEDUCTIONS
V. BUSINESS INCOME AND DEDUCTIONS
VI. BUSINESS ACCOUNTING AND CREDITS
VII. COMPENSATION, RETIREMENT, EDUCATION AND DISABILITY
VIII. INTERNATIONAL TAX PROVISIONS (OVERVIEW)
IX. EXEMPT ORGANIZATIONS, EXCISE TAXES, & BONDS (OVERVIEW)

TAX CUTS AND JOBS ACT LEGISLATION

I. Title - Tax Cuts and Jobs Act (of 2017) - P.L. 115-97

II. Passage - Signed by the President on December 22, 2017

III. Effective Date - Most Provisions Effective January 1, 2018

IV. Sunset Date - Legislation Expires as of December 31, 2025

V. Outline Short Reference - TCJA 2017

I. A. INDIVIDUAL INCOME TAX RATES – 2018 – SINGLE

SINGLE TAXPAYERS FOR TAX YEARS BEGINNING IN 2018					
If taxable income is:		The tax is:			
Over	but not over				of the amount over
0	9,525	0.00	+	10.00%	0
9,525	38,700	952.50	+	12.00%	9,525
38,700	82,500	4,453.50	+	22.00%	38,700
82,500	157,500	14,089.50	+	24.00%	82,500
157,500	200,000	32,089.50	+	32.00%	157,500
200,000	500,000	45,689.50	+	35.00%	200,000
500,000		150,689.50	+	37.00%	500,000

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I. A. INDIVIDUAL INCOME TAX RATES – 2018 – MARRIED JOINT

MARRIED INDIVIDUALS FILING JOINT RETURNS
AND SURVIVING SPOUSES
FOR TAX YEARS BEGINNING IN 2018

If taxable income is:		The tax is:			
Over	but not over				of the amount over
0	19,050	0.00	+	10.00%	0
19,050	77,400	1,905.00	+	12.00%	19,050
77,400	165,000	8,907.00	+	22.00%	77,400
165,000	315,000	28,179.00	+	24.00%	165,000
315,000	400,000	64,179.00	+	32.00%	315,000
400,000	600,000	91,379.00	+	35.00%	400,000
600,000		161.379.00	+	37.00%	600,000

FEDERAL INCOME TAX UPDATE 2018 FEATURING
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I. A. INDIVIDUAL INCOME TAX RATES – 2018 – HEAD OF HOUSEHOLD

HEADS OF HOUSEHOLD
FOR TAX YEARS BEGINNING IN 2018

If taxable income is:		The tax is:			
Over	but not over				of the amount over
0	13,600	0.00	+	10.00%	0
13,600	51,800	1,360.00	+	12.00%	13,600
51,800	82,500	5,944.00	+	22.00%	51,800
82,500	157,500	12,698.00	+	24.00%	82,500
157,500	200,000	30,698.00	+	32.00%	157,500
200,000	500,000	44,298.00	+	35.00%	200,000
500,000		149,298.00	+	37.00%	500,000

FEDERAL INCOME TAX UPDATE 2018 FEATURING THE TAX CUTS AND JOBS ACT OF 2017
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I. A. INDIVIDUAL INCOME TAX RATES – 2018 – MARRIED FILING SEPARATELY

MARRIED INDIVIDUALS FILING SEPARATE RETURNS
FOR TAX YEARS BEGINNING IN 2018

If taxable income is:		The tax is:			
Over	but not over				of the amount over
0	9,525	0.00	+	10.00%	0
9,525	38,700	952.50	+	12.00%	9,525
38,700	82,500	4,453.50	+	22.00%	38,700
82,500	157,500	14,089.50	+	24.00%	82,500
157,500	200,000	32,089.50	+	32.00%	157,500
200,000	300,000	45,689.50	+	35.00%	200,000
300,000		80,689.50	+	37.00%	300,000

I. B. INDIVIDUAL INCOME TAX RATES – 2018 – TRUSTS & ESTATES

TRUSTS AND ESTATES
FOR TAX YEARS BEGINNING IN 2018

If taxable income is:		The tax is:			
Over	but not over				of the amount over
0	2,550	0.00	+	10.00%	0
2,550	9,150	255.00	+	24.00%	2,550
9,150	12,500	1,839.00	+	35.00%	9,150
12,500		3,011.50	+	37.00%	12,500

I. C. INDIVIDUAL INCOME TAX RATES – 2018 – KIDDIE TAX

Tax Liability of a Child or Other Dependent (Kiddie Tax)

1. Applies to children or other dependents who –
   - Are required to file a tax return
   - Do not file a joint return
   - Have more than $2,100 in 2018 investment income
   - Are under age 18
   - Are under age 19 and do not provide > 1/2 earned income support
   - Are under age 24 and a full time student and do not provide > 1/2 earned income support
2. As modified by TCJA 2017, the Kiddie Tax on investment income is calculated using ordinary and capital gains tax rates applicable to Estates and Trusts.
3. If a child's income tax is not paid, a tax assessment can be made against the custodial parent or parents.

I. D. INDIVIDUAL INCOME TAX - 2018 – ACA PENALTY

ACA Individual Health Care Coverage Mandate

1. Individual health healthcare coverage mandate under the Affordable Care Act (ACA) remains in effect through December 31, 2018. The minimum flat dollar amount remains at $695 and the maximum penalty remains at 2.5% of the taxpayer's excess household income as defined.
2. As modified by TCJA 2017, the amount of the ACA individual healthcare coverage mandate penalty is set at zero for months beginning after December 31, 2018.
3. Employers, insurers, and health care providers will continue to issue Forms 1095-A, 1095-B, and 1095-C for the 2018 tax year. The ACA insurance exchanges and the ACA premium tax credit for individuals will continue into the 2019 tax year which will also continue the filing requirements for Forms 1095-A, 1095-B and 1095-C.

FEDERAL INCOME TAX UPDATE 2018 FEATURING
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JOHN D. HOUSTON, CPA

I. E. CAPITAL GAIN & QUALIFIED DIVIDEND RATES – 2018

Individual Maximum CGQD Tax Rates

1. Maximum long term capital gain and qualified dividend tax rates apply to individual taxpayers with taxable income in specified ranges –

a.	0.0% CGDD Rate	$ -0- to $77,199	Married joint
		$ -0- to $38,599	Single
b.	15.00% CGQD Rate	$77,200 to $478,999	Married joint
		$38,600 to $425,799	Single
c.	20.00% CGQD Rate	$479,000 and up	Married joint
		$425,800 and up	Single

2. Maximum long term capital gain and qualified dividend tax rates apply to trusts and estates with taxable income in specified ranges –

a.	0.0% CGDD Rate	$ -0- to $2,599
b.	15.00% CGQD Rate	$2,600 to $12,698
c.	20.00% CGQD Rate	$12,700 and up

3. Pre TCJA 2017 capital gain and qualified dividend tax provisions generally unchanged including > one year holding period definition of long term capital gain, 25.00% IRC Section 1250 special long term capital gain rate, and $3,000 annual limitation for deduction of net individual capital losses against ordinary income.

FEDERAL INCOME TAX UPDATE 2018 FEATURING THE TAX CUTS AND JOBS ACT OF 2017 JOHN D. HOUSTON, CPA

I. F. ALTERNATIVE MINIMUM TAX (AMT) – 2018

Individual Alternative Minimum Tax (AMT)

1. Individual Alternative Minimum Taxable Income (AMTI) tax rates apply to individual taxpayers with AMTI in specified ranges –

   a. 26.00% AMT Rate $ -0- to $191,100 Single, married & HOH
   b. 26.00% AMT Rate $ -0- to $191,100 Single, married & HOH
   c. 28.00% AMT Rate $95,550 and up Married separate

2. CGQD regular tax rates allowed for AMT tax calculation (unchanged)
3. Individual Alternative Minimum Tax (AMT) exemption amounts –

   a. Single & HOH $ 70,300
   b. Married joint $109,400 (Married separate @ 50%)

4. Individual Alternative Minimum Tax (AMT) exemption phaseout ranges –

   a. AMT exemption phaseout rate is 25% per dollar of AMTI
   b. Single & HOH $500,000 to $781,200
   c. Married joint $1,000,000 to $1,437,600

I. G. NET INVESTMENT INCOME (NII) TAX – 2018

Net Investment Income (NII) Tax - ACA Enacted

1. Individual and Fiduciary Net Investment Income (NII) tax as enacted by Affordable Care Act (ACA) is not impacted by TCJA 2017.
2. NII tax of 3.80% is applicable to modified adjusted gross income (MAGI) in excess of the following thresholds –

   a. Single & HOH $200,000 (Not subject to inflation indexing)
   b. Married joint $250,000 (Not subject to inflation indexing)
   c. Fiduciary $ 12,500 (Subject to inflation indexing)

3. NII tax is applicable to Net Investment Income (NII) as defined. NII income includes interest, dividends, most rental income, and most annuities. NII income includes passive activity net income and capital gains except from trade or business assets.
4. Administrative and investment expenses generally allowable as NII deductions for fiduciary estate and trust income tax returns
5. NII tax is an "add on" tax in addition to income tax as calculated using regular and special CGQD tax rate schedules.
6. NII tax is calculated and reported on IRS Form 8960.

I. H. ADDL MEDICARE TAX FOR HI TAXPAYERS – 2018

Additional Medicare Tax for HI Taxpayers - ACA Enacted

1. Individual Additional Medicare Tax for Higher Income (HI) Taxpayers as enacted by Affordable Care Act (ACA) is not impacted by TCJA 2017.

2. Additional Medicare tax of 0.90% applies to Medicare taxable income and self-employment income in excess of the following thresholds–

   a. Single & HOH $200,000 (Not subject to inflation indexing)

   b. Married joint $250,000 (Not subject to inflation indexing)

3. Additional Medicare tax is not applicable to trade or business income not classified as self-employment income including S corporation ordinary trade or business income and certain LLC partnership income.

4. Additional Medicare tax is excluded from the 50% SECA AGI deduction.

5. Additional Medicare tax is an "add on" tax in addition to SECA tax.

6. Additional Medicare tax is calculated and reported on IRS Form 8959.

I. I. FICA AND SECA TAXES – 2017 AND 2018

Individual FICA and SECA Taxes - 2017 and 2018

1. Maximum Individual compensation subject to OASDI (Social security) –

   a. 2017 tax year - $127,200
   b. 2018 tax year - $128,400 (0.9% increase)
   c. 2019 tax year - $132,900 (3.5% increase)

2. All individual compensation subject to Medicare tax
3. 50% of self-employment income tax (SECA) remains deductible for AGI income.

II. A. STANDARD DEDUCTION & DEPENDENCY EXEMPTION – 2018

Standard Deductions & Dependency Exemption - 2018

1. Basic Individual Standard Deductions for 2018 –

a.	Single	$12,000
b.	Married joint	$24,000
c.	HOH	$18,000
d.	Married separate	$12,000

2. Additional Individual Standard Deductions (> 65 or blind) for 2018 –

a.	Single	$1,600
b.	Married joint	$1,300
c.	HOH	$1,600
d.	Married separate	$1,300

3. Deduction for Personal Dependency Exemptions Repealed

4. "Peace" 3% Phaseout of Itemized Deductions Repealed

II. B. ITEMIZED DEDUCTIONS ALLOWED – 2018

1. Itemized Deduction for Medical Expenses – 2018

1. An itemized deduction for unreimbursed medical expenses for individual taxpayers is allowed for expenses in excess of following levels of adjusted gross income (AGI) including AMT –

   a. 2018 tax year 7.50%

   b. 2019 and future tax years 10.00%

2. Itemized Deduction for State and Local Taxes – 2018

2. Individual taxpayers receive an itemized deduction for state and local taxes not directly connected with a trade or business or property held for the production of income as follows:

   a. State and local property taxes.

   b. The greater of state and local income taxes or state and local sales taxes.

   c. Certain other types of individual state and local taxes such as intangible taxes and the TN professional privilege tax.

   d. Single and married filing joint taxpayers are now subject to an annual itemized deduction limitation of $10,000 for their total state and local tax deduction.

II. B. ITEMIZED DEDUCTIONS ALLOWED – 2018

3. Itemized Deduction for Home Mortgage Interest – 2018

3. An itemized deduction for home mortgage interest expense for individual taxpayers is allowed with the following modifications from prior law:

   a. The maximum amount of acquisition debt is reduced from $1,000,000 to $750,000.
   b. The separate interest deduction for up to $100,000 in home equity debt is repealed.
   c. The maximum amount of acquisition debt continues to apply for the principal residence plus one secondary (i.e. vacation) home.
   d. The former $1,000,000 acquisition debt limitation is grandfathered for existing home mortgage interest loans including refinancing subject to additional restrictions.

4. Itemized Deduction Charitable Contributions – 2018

4. Individual taxpayers receive an itemized deduction for cash and property charitable contributions to qualified charitable organizations with the following modifications from prior law:

   a. The percentage limitation for cash charitable contributions is increased from 50% to 60% of adjusted gross income (AGI).
   b. The charitable deduction for college athletic seating rights including the right to purchase tickets is no longer allowed.

II. B. ITEMIZED DEDUCTIONS ALLOWED – 2018

5. Itemized Deduction Investment Interest – 2018

5. An itemized deduction for interest paid on investment debt to the extent of investment income (IRC 163(d) is allowed. Disallowed interest can be carried forward to succeeding tax years.

6. Itemized Deduction Casualty & Theft Losses – 2018

6. The itemized deduction for personal casualty and theft losses in excess of 10% of adjusted gross income (AGI) is limited to personal casualty losses attributable to federally declared disaster areas. However, personal casualty losses not attributable to federally declared disaster areas may be used without application of the 10% AGI limitation to offset any personal casualty gains.

7. Itemized Deduction for Gambling Losses – 2018

7. Individual taxpayers may deduct losses from wagering transactions only to the extent of gambling winnings included in gross income.

II. C. DEDUCTIONS & AGI DISALLOWED – 2018

1. Miscellaneous Itemized Deductions Disallowed – 2018

1. The deductibility of miscellaneous itemized deductions for individual taxpayers is repealed. Most of these deductions were previously subject to the 2% of adjusted gross income (AGI) floor. Disallowed miscellaneous itemized deductions include but are not limited to –

   a. Unreimbursed employee expenses.

   b. Expenses paid or incurred for the production of income including investment advisory fees, certain attorney fees, tax preparation & advice fees, and other investment expenses

   c. Professional publications, safe deposit box rental, uniforms, and deductible IRC 183 hobby expenses.

2. Moving Expense AGI Deduction Disallowed – 2018

2. For moving expenses not paid or incurred by a member of the U.S. Armed Forces, no AGI deduction is allowed. In addition, employers are now required to include reimbursements and payments for employee moving expenses in gross wages subject to income and FICA taxes.

II. C. DEDUCTIONS & AGI DISALLOWED – 2018

3. Alimony and Separate Maintenance – 2018

3. For divorce or separation instruments executed or modified after 2018, the adjusted gross income (AGI) deduction for alimony and separate maintenance payments as well as the inclusion of the payments in gross income is repealed.

   For the 2018 tax year, the AGI deduction for alimony and separate maintenance payments as well as the inclusion of the payments in gross income remains in force unless an agreement executed or modified in 2018 specifically provides for the new provisions of TCJA 2017 are to apply.

4. Exclusion of Debt Income from Student Loans – 2018

4. In general, a taxpayer's gross income includes discharge of debt income. Prior law provided for various discharge exclusions including when the debtor works for a certain period of time in certain professions.

   TCJA 2017 expands the exclusion of debt income from student loans to include the discharge of student loans because of the student's death or total and permanent disability.

II. D. PERSONAL TAX CREDITS – 2018

1. Child Tax Credit – 2018

1. The child tax credit which under previous law was $1,000 per qualifying child was increased to $2,000. The child tax credit modified adjusted gross income (MAGI) phaseout ranges for 2018 are as follows:

   a. Married joint $400,000 to $440,000 ($50 per $1,000 MAGI)

   b. Single & HOH $200,000 to $240,000 ($50 per $1,000 MAGI)

   The refundable portion of the child tax credit is limited to $1,400 per qualifying child. A qualifying child is a dependent child who has not attained the age of 17 by the end of the year (i.e., 16 years old or less). For a dependent that is not a qualified child but a qualifying relative or other dependent, a taxpayer may claim a $500 tax credit. To be eligible for the child tax credit, the dependent must be a U.S. citizen with a valid social security number. Taxpayers claiming the additional child tax credit (ACTC) will be required to complete IRS Form 8812.

2. Other Individual Tax Credits and Deductions – 2018

2. In general, most other individual tax credits including the Earned Income Tax Credit (EITC), the American Opportunity (Hope) Tax Credit, and the Retirement Income Tax Credit under prior law remain in effect. In general, certain other individual tax deductions for education incentives including the above the student loan interest (maximum of $2,000) remain in effect for the 2018 tax year only. Unless extended, the deduction for tuition expense (maximum of $4,000) expired after December 31, 2017.

III. A. "C" CORPORATIONS – 2018

1. Corporation Tax Rates – 2017 and 2018

1. **Basic corporate tax rate schedule of 2017 and prior years -—**

Taxable Income	**Tax Rate**
First $50,000	15.00%
$50,001 - $75,000	25.00%
$75,001 - $100,000	34.00%
$100,001 - $335,000	39.00%
$335,001 - $10,000,000	34.00% (flat rate on all income)
$10,000,000 - $18,333 333	34.00% - 35% (max rate phase in)
$18,333,333 and up	35.00% (flat rate on all income)

2. **Basic corporate tax rate schedule for tax years beginning on or after January 1, 2018 —**

   21.00% Flat Rate on All Taxable Income

3. **The special 35% flat tax rate for personal service corporations (PSCs)** is repealed for tax years beginning on or after January 1, 2018.
4. **The former IRC Section 1201 alternative tax rate for net capital gains** is repealed for tax years beginning on or after January 1, 2018
5. **The corporate alternative minimum tax (AMT) for large corporations** is repealed for tax years beginning on or after January 1, 2018.

III. B. "C" CORPORATIONS – 2018

2. Other Corporate Tax Changes – 2018

1. Corporate Dividends Received Deduction 2018 –

For tax years beginning on or after January 1, 2018, the dividends received deduction is reduced as follows –

a. The 70% regular corporate dividends received deduction is reduced to 50% (applies to regular E & P dividends)

b. The 80% affiliated group corporate dividends received deduction is reduced to 65% (applies to 20%+ owned C corporations)

2. Corporate Capital Contributions 2018 –

For tax years beginning on or after January 1, 2018, the general rule under IRC Section 118(a) that excludes from corporation gross income any contributions to capital does not include –

a. Any contribution in aid of construction or any other contribution as a customer or potential customer, and

b. Any contribution by any governmental entity or civic group unless the contribution is made by a shareholder.

III. C. PASS THROUGH ENTITIES – 2018

1. Qualified Domestic Production Activities – 2017

Effective for tax years beginning after December 31, 2017, the 9% general rate (6% oil related entities) IRC Section 199 deduction for qualified domestic production activities (QPAI) is repealed.

2. 20% Qualified Business Income Deduction – 2018

A. Effective for tax years beginning on or after January 1, 2018, IRC Section 199A creates a new deduction for Pass Through Qualified Business Income or QBI. Under the general provisions of IRC Section 199A, individuals and trusts and estates can deduct 20% of certain domestic QBI received from the following –

1. Partnerships including limited liabilities companies (LLCs) taxed as partnerships for Federal income tax purposes.
2. S corporations.
3. Sole proprietorships.
4. Specified agricultural or horticultural cooperatives.
5. 20% of aggregate QBI qualified REIT dividends (nonqualified for purposes of the CGQD special tax rate) and 20% of QBI Public Traded Partnership (PTP) qualifying income.

III. C. PASS THROUGH ENTITIES – 2018

2. 20% QBI Deduction – QBI Defined

B. Qualified Business Income (QBI) defined –

1. QBI must be trade or business income effectively connected with a domestic trade or business reduced by deductions and losses.
2. QBI excludes investment income including interest, dividends, and capital gains. If the net amount of QBI is less than zero, the loss is carried over to the next tax year.
3. QBI also excludes the following **–**
   a. Reasonable compensation paid to the taxpayer for services rendered (i.e., Form W-2 reported salaries and wages).
   b. Guaranteed payments to a partner for services rendered.
4. For individual taxpayers, the IRC Section 199A 20% QBI deduction is not deductible in computing adjusted gross income (AGI) and self-employment income (SECA). However, the 20% QBI deduction is allowed for purposes of calculating regular taxable income and alternative minimum taxable income (AMTI).

III. C. PASS THROUGH ENTITIES – 2018

2. 20% QBI Deduction – Professional Services

C. Qualified Business Income (QBI) is limited for specified service trade or business (SSTRB) taxpayers as described in IRC Section 1202©(3)(A) –

1. A specified professional service includes the performance of services in the fields of accounting, actuarial science, athletics, brokerage services, consulting, financial services, health, law, or the performing arts. Engineers and architects are specifically excluded from the IRC Section 199A professional services limitation.
2. A specified professional service also includes any business whose principal asset is the reputation or skill of one or more of its owners or employees.

D. The professional services QBI income limitation applies to the following individual taxpayers –

1. Married filing joint returns – Taxable income of more than $315,000.
2. All other taxpayers – Taxable income of more than $157,500.
3. The QBI income limitation threshold phaseout range is $100,000 for married taxpayers filing joint returns and $50,000 for other taxpayers.

III. C. PASS THROUGH ENTITIES – 2018

2. 20% QBI Deduction – Wage Limitation

E. Wage Limitation on 20% Qualified Business Income (QBI) is the greater of the following –

1. 50% of employee Form W-2 wages with respect to each qualified trade or business, or
2. 25% of employee Form W-2 wages with respect to each qualified trade or business plus 2.5% of the unadjusted basis immediately after acquisition (UBIA) of qualified depreciable tangible property used in the qualified trade or business.

F. Applicability of the Wage Limitation to Various QBI Taxpayers –

1. Taxpayers with taxable income under the QBI limitation thresholds - Wage limitation does not apply.
2. Non professional service taxpayers with taxable income over the QBI limitation thresholds - Wage limitation applies.
3. Professional service taxpayers with taxable income over the QBI limitation thresholds - Except for taxpayers with taxable income in the phaseout ranges ($100,000 and $50,000 and subject to the modified wage limitation), no QBI deduction is allowed.

III. C. PASS THROUGH ENTITIES – 2018

3. Other Pass through Entity Provisions – 2018

A. The Accuracy-Related Penalty Specifically Applies to the 20% QBI Deduction

B. The Technical Termination of Partnerships Rule is Repealed

The prior law stated that a partnership was terminated for income tax purposes if there was a 50% or more change in partnership interest with a 12-month period.

C. Excess Business Loss Limitation Rules for Individuals

Effective for tax years beginning on or after January 1, 2018, the prior law limitation on excess farm losses is expanded to include excess business losses. An excess business loss is defined as the aggregate trade or business deductions for an individual taxpayer plus a threshold amount of $500,000 for married taxpayers filing jointly and $250,000 for other individuals.

D. Special Rules for S Corporation Conversions to C Corporations

For an eligible S corporation electing to convert to a C corporation on or before December 22, 2019 (2 years from date of enactment), any subsequent shareholder distributions are allocated pro rata between AAA and accumulated earnings and profits. Any increase in tax due to an IRC Section 481(a) adjustment is taken into income ratably over six years beginning with the year of the conversion.

IV. A. DEPRECIATION & EXPENSE DEDUCTIONS – 2018

1. IRC Section 168(k) Bonus Depreciation

A. TCJA 2017 expanded IRC Section 168(k) bonus depreciation –

For property placed in service during the following periods –

After September 27, 2017 and before January 1, 2023	**100.00%**
After January 1, 2023 and before January 1, 2024	**80.00%**
After January 1, 2024 and before January 1, 2025	**60.00%**
After January 1, 2025 and before January 1, 2026	**40.00%**
After January 1, 2026 and before January 1, 2027	**20.00%**
After December 31, 2026	**0.00%**

B. TCJA 2017 further revised bonus depreciation rules as follows –

1. Qualified improvement property placed in service after December 31, 2017 has a MACRS recovery period of 15 years and, therefore, is automatically eligible for bonus depreciation.
2. Effective for property placed in service after September 27, 2017, used property meeting the acquisition requirements now qualifies for bonus depreciation.
3. The prior law IRC Section 168(k)(7) option for taxpayers to elect out of bonus depreciation by property class was retained.

IV. A. DEPRECIATION & EXPENSE DEDUCTIONS – 2018

2. IRC Section 179 Expense Election

A. TCJA 2017 expanded IRC Section 179 expense as follows –

For property placed in service after December 31, 2017 –

1. The IRC Section 179 expensing dollar limitation is increased from $510,000 in 2017 to $1,000,000 in 2018 and future years.
2. The IRC Section 179 investment limitation is increased from $2,030,000 in 2017 to $2,500,000 in 2018 and future years.
3. These IRC Section 179 amounts have been made permanent and subject to annual inflation adjustment.

B. TCJA 2017 further revised IRC Section 179 rules as follows –

1. The definition of qualified improvement property placed in service after December 31, 2017 is expanded and eligible property now allows specified nonresidential property improvements including roofs, HVAC, fire and security systems.
2. IRC Section 1245 property used in connection with residential rental buildings is also eligible for IRC Section 179 expensing.

IV. A. DEPRECIATION & EXPENSE DEDUCTIONS – 2018

3. Other Depreciation and Expense Provisions

A. TCJA 2017 expanded depreciation caps on luxury cars –

For property placed in service after December 31, 2017, the annual depreciation caps for passenger autos increased as follows–

1. First tax year - $10,000 ($18,000 if bonus depreciation claimed)
2. Second tax year - $16,000
3. Third tax year - $9,600
4. Tax years 4 - 6 - $5,760

B. TCJA 2017 made the following additional changes –

1. For property placed in service after December 31, 2017, computers and peripheral equipment are no longer "listed property".
2. A new classification of Qualified Investment Property was created and assigned a MACRS 15-year recovery period. The new classification basically replaces and revises the definition of eligible property and eliminates three former 15-year recovery period property classifications of qualified leasehold property, retail property, and restaurant improvement property
3. For property placed in service after December 31, 2017, the prior law requiring the use of 150% declining balance depreciation for farming business property has been eliminated.

V. A. BUSINESS INCOME AND DEDUCTIONS – 2018

1. Like Kind Exchanges of Real Property – 2018

For IRC Section 1031 like kind exchanges after December 31, 2017, only like-kind exchanges of real property are allowed. Like-kind exchange treatment is no longer allowed for tangible personal property, intangibles, and nondepreciable personal property.

2. Limitations on Deducting Business Interest – 2018

For tax years beginning after December 31, 2017, the deduction of business interest is limited to the sum of the taxpayer's business interest income, floor plan financing, and 30% of adjusted taxable income. Any disallowed business interest may be carried forward indefinitely.

Related provisions include –

a. A small business exception is provided for taxpayers who have less than $25 million in gross receipts.

b. Electing real property trade or businesses may elect for their interest expense to not be classified as business interest subject to the limitation.

c. The business interest limitation is calculated at the entity level for pass-through entities with any disallowed interest being allocated to the entity's partners and shareholders.

V. A. BUSINESS INCOME AND DEDUCTIONS – 2018

3. Net Operating Losses (NOLs) – 2018

For net operating losses (NOLs) from tax years beginning after December 31, 2017, a carryback to prior tax years is generally not allowed. A two year carryback period is retained for farming losses and losses by insurance companies except for life insurance companies. NOLs after 2017 will generally have an indefinite carryover period except for a 20-year carryover period for non life insurance companies.

4. Research and Experimental Expenditures – 2018

Research and experimental expenditures paid or incurred after December 31, 2021 generally must be amortized ratably over a five year period. A 15-year amortization period is required for foreign research and experimental expenditures. Any amounts paid or incurred in connection with the development of any software are to be treated as a research and experimental expenditure. Domestic and foreign research and experimental expenditures may continue to be deducted through the 2021 tax year.

5. Business Entertainment Expenditures – 2018

Business expense deductions for most employer entertainment costs, employee commuting and parking benefits, and certain employer provided meal expenses are eliminated after 2017 (2025 for certain employer meals).

V. A. BUSINESS INCOME AND DEDUCTIONS – 2018

6. Limitation on Excessive Employee Compensation – 2018

For tax years beginning on or after December 31, 2017, publically held corporations remain subject to limitation on employee compensation for covered employees as defined. These employees include the principal executive officer, the chief financial officer, and the three other most highly compensated officers. The annual employee deductible compensation limitation is generally $1,000,000.

7. Deduction for Fines, Penalties and Other – 2018

Businesses may generally not deduct fines and penalties paid or incurred after December 31, 2017 due to a violation of a law if a government entity is a complainant or investigator. Exceptions are available in certain cases where the payment is compensation for damages, compliance with the law, paid under a court order where the government is not a party, and payment for taxes due.

8. Deduction for Sexual Harassment Settlements – 2018

Effective for amounts paid or incurred after December 22, 2017, a taxpayer may not claim as an ordinary and necessary business expense any settlement or payment made for sexual harassment or sexual abuse if the payment or settlement is subject to a nondisclosure agreement.

VI. A. BUSINESS ACCOUNTING AND CREDITS – 2018

1. Cash Method of Accounting for Small Businesses – 2018

For tax years beginning on or after December 31, 2017, various restrictions on the ability of qualified small businesses to use the cash method of accounting have been relaxed. The three-year average gross receipts test threshold of $25,000,000 has been indexed for inflation and expanded to allow for qualification of exemption from inventory UNICAP and construction contract rules.

2. Accounting for Deferral of Advance Payments – 2018

For tax years beginning on or after December 31, 2017, the income recognition rules for accrual method taxpayers have been modified. First, amounts are generally recognized as income no later than when revenue is included for financial accounting purposes. Second, accrual method taxpayers can elect to defer inclusion in income of certain advance payments until the tax year following the year in which the payments are received. Advance payments not eligible for deferral include rent, insurance premiums received by insurance companies, financial instrument payments, and third party warranty contract payments.

VI. B. BUSINESS ACCOUNTING AND CREDITS – 2018

1. Employer Credit for Paid Employee Leave – 2018

The Family and Medical Leave Act of 1993 requires employers with 50 or more employees (within a 75 mile radius) to give eligible employees 12 weeks of unpaid leave for births, adoptions, and family illnesses. For the 2018 and 2019 tax years, eligible employers are entitled to claim a tax credit equal to 12.5% of wages paid to an employee on leave as defined in the 1993 Leave Act.

2. Rehabilitation Credit – 2018

For amounts paid or incurred after December 31, 2017, the 20% tax credit for qualified rehabilitation expenditures with respect to certified historic structures is to be claimed ratably over a five-year period.

3. Orphan Drug Credit – 2018

The amount of the elective tax credit for qualified clinical testing expenses that are paid or incurred with respect to low or unprofitable drugs for rare diseases and conditions (i.e., the "orphan drug credit") is reduced to 25%. Employers may elect a reduced credit in lieu of reducing otherwise allowable deductions.

VII. A. COMPENSATION – 2018

1. Qualified Equity Grants – 2018

A qualified employee of a privately held company may elect to defer inclusion in gross income the income attributed to qualified stock transferred to the employee by the employer. This election is an alternative to being taxed in the year the property vests under IRC Section 83(a) or the year it is received under IRC Section 83(b). The maximum deferral period is five years and is not available to high compensated officers and one percent owners of the corporation.

2. Qualified Moving Expense Reimbursement – 2018

Except for members of the U.S. Armed Forces on active duty who move pursuant to a military order and incident to a permanent change of station, the exclusion for qualified moving expenses is repealed.

3. Qualified Bicycle Commuting Reimbursement – 2018

The income exclusion for qualified bicycle commuting reimbursement is repealed.

VII. B. RETIREMENT PLANS AND BENEFITS – 2018

1. Recharacterization of IRA Contributions – 2018

The special rules that allowed for a contribution to one type of Individual Retirement Account (IRA) to another type of IRA account will no longer apply to a conversion contribution to a Roth IRA account. Accordingly, recharacterization of Roth IRA account conversions is no longer permitted. Recharacterizations of other types of IRA accounts is still permitted.

2. Rollovers of Plan Loan Offset Amounts – 2018

A participant in a qualified plan whose employment or plan terminates while having a plan loan outstanding now has until the due date of filing their tax return for that year to contribute the loan balance to an IRA account in order to avoid have the plan loan balance outstanding taxed as a plan distribution.

FEDERAL INCOME TAX UPDATE 2018 FEATURING THE TAX CUTS AND JOBS ACT OF 2017
JOHN D. HOUSTON, CPA

VII. C. RETIREMENT PLANS AND BENEFITS – 2018

Cost of Living Adjustments for Retirement Plans

Description	2019	2018	2017
IRA Contribution Limit	6,000	5,500	5,500
Additional IRA > Age 50	1,000	1,000	1,000
Elective Deferral Limits -			
401(k), 403(b), etc Plans	19,000	18,500	18,000
Additional Deferral > Age 50	6,000	6,000	6,000
SIMPLE Plans	13,000	12,500	12,500
Additional Deferral > Age 50	3,000	3,000	3,000
Annual Compensation Limit	280,000	275,000	275,000
Highly Compensate Employee	125,000	120,000	120,000
Social Security Wage Base	132,900	128,400	127,200
% Increase from Prior Year	3.50%	0.95%	7.34%

VIII. INTERNATIONAL TAX PROVISIONS (OVERVIEW) – 2018

1. Taxation of Foreign Income – 2018

A. Transition to Territorial Income Tax System

1. Dividends Received Deduction –

   The TCJA 2017 provides for a 100% dividends received deduction for the foreign source portion of dividends received from specified 10% or more foreign corporations owned by U.S. shareholder corporations.

2. Deferred Foreign Income Upon Transition

   Currently untaxed foreign earnings will be subject to an immediate tax. The TCJA 2017 provides for an effective 15.50% (liquid assets) and 8.00% (other assets) transition tax rate to apply to this deferred foreign income. The foreign transition tax can be paid in installments over eight years.

3. Cash Repatriation Incentive

   Since accumulated foreign earnings will be taxed under a more competitive U.S. corporate income tax rate structure, there will no longer be a significant tax incentive to keep cash from the earnings of foreign affiliates offshore.

VIII. INTERNATIONAL TAX PROVISIONS (OVERVIEW) – 2018

2. Other International Tax Provisions – 2018

B. Earnings from Low Tax Foreign Jurisdictions

The TCJA 2017 includes a very complex set of rules designed to insure that U.S. domestic corporations do not have excess untaxed returns on earnings from foreign affiliates in low tax jurisdictions.

C. Subpart F Effectively Connected Foreign Income

The TCJA 2017 eliminates the requirement that a foreign corporation must be a Controlled Foreign Corporation (CFC) for an uninterrupted period of 30 days for Subpart F to apply.

D. Modification of Definition of U.S. Shareholder

The TCJA 2017 modifies the definition of a U.S. shareholder to include any U.S. person who owns 10% or more of the total value of a foreign corporation as opposed to 10% or more of the voting shares.

IX. EXEMPT ORGANIZATIONS, BONDS & EXCISE TAXES – 2018

1. Tax Exempt Organizations

A. Unrelated Taxable Income (UTI)

Exempt organizations with more than one unrelated business are now required to separately calculate unrelated business taxable income for each unrelated trade or business. Disallowed meal and entertainment expenses are now treated as UTI.

B. Excise Tax on Excess Tax-Exempt Executive Compensation

A 21.00 % excise tax (equal to the corporate tax rate) applies to remuneration of covered employees in excess of $1,000,000 not including any excess parachute payments.

C. Excise Tax on Private University Investment Income

A 1.40% excess tax is imposed on the net investment income of certain private colleges and universities. The definition of an applicable educational institution is defined as having at least 500 students during the prior year, being a private educational institution, and having endowment fund type assets with an aggregate fair value of at least $500,000 per student. For example, a 5,000 student private university would need to have an endowment fund of $2.5 billion for the excise tax to apply.

IX. EXEMPT ORGANIZATIONS, BONDS & EXCISE TAXES – 2018

2. Tax Exempt State and Local Government Bonds

A. Advance Refunding Bonds

Interest paid on advance refunding bonds issued after December 31, 2017 is no longer excludible from gross income as interest paid on state and local government bonds.

B. Tax Credit Bonds

Under prior law, state and local governments and other entities could issue various types of tax credit bonds to finance specific types of projects. After December 31, 2017, new tax credit bonds cannot be issued. Holders and issuers of existing bonds will continue to receive tax credits and payments for tax credit bonds previously issued.