



Tax Reform

What's New for Your Business

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Tax Cuts and Jobs Act: Introduction and Overview

Congress approved major [tax reform](#) in the Tax Cuts and Jobs Act, signed into law on December 22, 2017. This legislation, which affects both individuals and businesses, is commonly referred to as TCJA or the 2017 tax reform legislation.

This electronic publication covers many of the TCJA provisions that are important for small and medium-sized businesses, their owners and tax professionals to understand. Businesses affected by TCJA include corporations, S corporations, partnerships (including limited liability companies or LLCs) and sole proprietorships.

Changes to deductions, depreciation, expensing, credits, fringe benefits and other items may affect your business tax liability and your bottom line. It's important to consider your business structure and accounting methods when applying tax reform to your situation.

The official [IRS.gov](#) website includes a [Tax Reform page](#) that highlights what you need to know about the tax law changes. This page also provides links to news releases, publications, notices, legal guidance and other resources. There's also a dedicated [tax reform page for businesses](#). We update these resources regularly.

Some provisions of TCJA that affect individual taxpayers can also affect business taxes. As a business owner or self-employed individual, you should review [tax reform changes for individuals](#) and determine how these provisions affect your business tax situation.

This publication is intended as a general overview of TCJA changes that may affect your business. For more information, refer to IRS and Treasury guidance such as regulations, revenue rulings, revenue procedures and similar guidance, as well as IRS tax forms, instructions and specialized publications.

Corporate Tax Provisions

Corporate Tax Rate

The TCJA lowers the corporate tax rate to a flat 21 percent of taxable income for tax years beginning after December 31, 2017. Some corporations elect to use a fiscal year end and not a calendar year end for federal income tax reporting purposes. Due to a provision in TCJA, a corporation with a fiscal year that includes January 1, 2018 will pay federal income tax using a blended tax rate and not the flat 21 percent tax rate under TCJA that would generally apply to taxable years beginning after December 31, 2017.

i For more information, see [IRS Notice 2018-38](#).

Corporate Alternative Minimum Tax

TCJA repeals the corporate alternative minimum tax (AMT) for years beginning after December 31, 2017.

Credit for Prior Year Minimum Tax

The Credit for Prior Year Minimum Tax Liability of Corporations allows a refundable credit to offset a taxpayer's tax liability for tax years beginning after 2017 and before 2022. Taxpayers can take 50 percent of the minimum tax credit against their regular tax liability. They're entitled to the full corporation minimum tax credit (100 percent) in tax years beginning in 2021.

i For more information, see [Effect of Sequestration on the Alternative Minimum Tax Credit for Corporations](#).

Qualified Business Income Deduction

Many sole proprietors and self-employed individuals, partners in partnerships, beneficial owners of trusts, and shareholders in S corporations may be eligible for a new deduction - referred to as Section 199A or the deduction for qualified business income - allowing them to deduct up to 20 percent of their qualified business income. The deduction is available for tax years beginning after Dec. 31, 2017. Eligible taxpayers can claim it for the first time on the 2018 federal income tax return they file in 2019.

Qualified business income includes domestic income from a trade or business. It does not include employee wages, capital gain, interest and dividend income.

The deduction is generally available to eligible taxpayers whose 2018 taxable incomes fall below \$315,000 for joint returns and \$157,500 for other taxpayers. It's generally equal to the lesser of:

- 20 percent of their qualified business income plus 20 percent of their qualified real estate investment trust dividends and qualified publicly traded partnership income, or
- 20 percent of taxable income minus net capital gains.

 Deductions for taxpayers above the taxable income thresholds may be limited.

For more information, see the [FAQs on Section 199A – Qualified Business Income Deduction](#).

Depreciation: Sections 168 and 179 Modifications

Temporary 100 Percent Expensing (Bonus Depreciation)

The law increases the bonus depreciation percentage from 50 percent to 100 percent for qualified property acquired and placed in service after September 27, 2017, and before January 1, 2023. The bonus depreciation percentage for qualified property that a taxpayer acquired before September 28, 2017, and placed in service before January 1, 2018, remains at 50 percent. Special rules apply for longer production period property and certain aircraft.

The definition of property eligible for 100 percent bonus depreciation was expanded to include used qualified property acquired and placed in service after September 27, 2017, if all the following factors apply:

- The taxpayer or its predecessor didn't use the property at any time before acquiring it.
- The taxpayer didn't acquire the property from a related party.
- The taxpayer didn't acquire the property from a component member of a controlled group of corporations.
- The taxpayer's basis of the used property purchased is not figured in whole or in part by reference to the seller or transferor adjusted basis.
- The taxpayer's basis of the used property is not figured under the provision for deciding basis of property acquired from a decedent.
- Also, the cost of the used property eligible for bonus depreciation doesn't include the basis of property determined by reference to the basis of other property held at any time by the taxpayer (for example, in a like-kind exchange or involuntary conversion).

The law added qualified film, television and live theatrical productions as types of qualified property that may be eligible for 100 percent bonus depreciation. This provision applies to property acquired and placed in service after Sept. 27, 2017.

Under the TCJA, certain types of property are not eligible for bonus depreciation in any taxable year beginning after December 31, 2017.

The law also eliminated qualified improvement property placed in service after December 31, 2017 as a specific category of qualified property.

- ❶ **For more information** and details about property that isn't eligible for bonus depreciation, see [Fact Sheet 2018-9](#) and [FAQs on additional first-year depreciation deduction \(bonus\)](#).
- ❷ **For details** on claiming the deduction or electing out of the deduction, see the instructions to [Form 4562](#), Depreciation and Amortization (Including Information on Listed Property).

Expensing Depreciable Business Assets (Section 179)

Businesses can immediately expense more of their business assets under TCJA. A taxpayer may still elect to expense the cost of any section 179 property and deduct it in the year the property is placed in service. The TCJA increased the maximum deduction from \$500,000 to \$1 million. It also increased the amount at which the deduction begins to phase out from \$2 million to \$2.5 million. For taxable years beginning after 2018, these amounts of \$1 million and \$2.5 million will be adjusted for inflation.

TCJA modifies the definition of section 179 property to allow taxpayers to elect to include certain improvements made to nonresidential real property, including most improvement to a building's interior, plus roofs and systems for heating, air conditioning, security and fire protection.

- ❶ **For more information**, see [IRS Fact Sheet 2018-09](#).

Depreciation Limitations on Luxury Automobiles and Personal Use Property

The TCJA changed depreciation limits for passenger vehicles placed in service after December 31, 2017. If the taxpayer doesn't claim bonus depreciation, the greatest allowable depreciation deduction is:

- \$10,000 for the first year,
- \$16,000 for the second year,
- \$9,600 for the third year, and
- \$5,760 for each later taxable year in the recovery period.

If a taxpayer claims 100 percent bonus depreciation, the greatest allowable depreciation deduction is:

- \$18,000 for the first year,
- \$16,000 for the second year,
- \$9,600 for the third year, and
- \$5,760 for each later taxable year in the recovery period.

The TCJA also removes computer or peripheral equipment from the definition of listed property. This change applies to property placed in service after December 31, 2017.

- ❶ **For more information** on luxury automobile depreciation see the [Tax Reform for Businesses](#) webpage.

Applicable Recovery Period for Real Property

The general depreciation system recovery periods are still 39 years for nonresidential real property and 27.5 years for residential rental property. The alternative depreciation system recovery period for nonresidential real property is still 40 years. However, the TCJA changes the alternative depreciation system recovery period for residential rental property from 40 years to

30 years. Qualified leasehold improvement property, qualified restaurant property and qualified retail improvement property are no longer separately defined and no longer have a 15-year recovery period under the TCJA.

These changes affect property placed in service after December 31, 2017.

Additionally, a real property trade or business that elects out of the business interest deduction limit must use the alternative depreciation system to depreciate nonresidential real property, residential rental property, and qualified improvement property. This change applies to taxable years beginning after December 31, 2017.

i **For more information** on these recovery periods, see [IRS Fact Sheet 2018-09](#). For more information on the business interest deduction limit, see that topic in this publication.

Business Related Losses

Net Operating Loss Deduction

A business may have a net operating loss if its deductions for the year are more than its business income. TCJA limits the NOL deduction to 80 percent of taxable income for the year rather than allowing the loss to offset 100 percent of the deduction of 100 percent of the taxable income.

Also, most businesses can no longer carry back their NOLs to the prior two tax years as was allowed under prior law. Now, a business may carry forward an NOL indefinitely, rather than expiring after 20 years as was the case under prior law.

Farms and certain insurance companies still have the option to carry back NOLs.

i **To learn more** about net operating losses, see [Publication 536](#), Net Operating Losses (NOLs) for Individuals, Estates, and Trusts.

Limitation on Losses Other than Corporations

Prior to TCJA, individual taxpayers could deduct business losses, without a limit on the amount. They could deduct these losses in the current year.

Starting with tax years ending after December 31, 2017, and before January 1, 2026, the TCJA limits business losses for noncorporate taxpayers. A taxpayer is allowed a deduction for business losses equal to the amount of business gains plus \$250,000 in a tax year – or \$500,000 for taxpayers filing a joint return. These limits will be adjusted for inflation. If a taxpayer's business loss exceeds that limit, the taxpayer has an excess business loss, which the taxpayer can deduct as an NOL carryforward in a subsequent year. Partnerships and S corporations apply these rules at the partner or shareholder level.

Business Related Exclusions and Deductions

Business Interest Expense

TCJA applies a limit on business interest expense. The limit does not apply if a business's average annual gross receipts are \$25 million or less for the 3 prior tax years.

If it does apply, the change is effective for taxable years beginning after December 31, 2017. The business interest deduction limit for the taxable year is the sum of:

- Business interest income,
- 30 percent of the adjusted taxable income, and
- Floor plan financing interest expense, if applicable.

The amount of any business interest expense that is not allowed as a deduction for the taxable year is carried forward to the following year as a disallowed business interest expense carryforward.

A partnership that is subject to the business interest limit applies that limit at the partnership level. The partnership does not carryforward any disallowed business interest expense but allocates the disallowed amount to its partners. A partner may be able to deduct the disallowed carryforward business interest expense in a subsequent year if the partner meets the relevant requirements in the subsequent year.

A taxpayer engaged in a real property trade or business or a farming business may elect not to limit business interest expense. This is an irrevocable election. A business that makes this election is required to use the alternative depreciation system and is not entitled to the special depreciation allowance for that property. For a taxpayer with more than one qualifying business, the election is made for each trade or business. See IRS [Publication 946](#), How to Depreciate Property.

Certain utility trades or businesses are not subject to the business interest expense limitation.

The instructions for the new Form 8990 include definitions related to this topic and can help taxpayers calculate the amount of business interest expense they can deduct and the amount they carry forward to the next year.

Like-Kind Exchanges of Real Property

Generally, if a taxpayer exchanges business or investment property solely for business or investment property of a like or similar kind, they don't need to recognize a gain or loss.

However, TCJA now limits like-kind exchange treatment only to certain exchanges of real property and not to exchanges of personal or intangible property. An exchange of real property held primarily for sale still does not qualify as a like-kind exchange. To qualify as a like-kind exchange, the taxpayer must hold the real property for productive use in a trade or business or for investment.

A transition rule in the TCJA provides that Section 1031 applies to a qualifying exchange of personal or intangible property if the taxpayer disposed of the exchanged property on or before December 31, 2017 or received replacement property on or before that date.

Thus, effective January 1, 2018, exchanges of machinery, equipment, vehicles, artwork, collectibles, patents and other intellectual property and intangible business assets generally do not qualify for non-recognition of gain or loss as like-kind exchanges. However, certain exchanges of mutual ditch, reservoir or irrigation stock are still eligible for non-recognition of gain or loss as like-kind exchanges.



For more information, see [Like-Kind Exchanges – Real Estate Tax Tips](#) on IRS.gov.

Qualified Bicycle Commuting Reimbursement

Under the new tax law, employers can deduct qualified bicycle commuting reimbursements as a business expense for 2018 through 2025.

TCJA suspends the exclusion of qualified bicycle commuting reimbursements from an employee's income for 2018 through 2025. Employers must now include these reimbursements in the employee's wages.

i For more information, see the [Employer Update](#) and [Tax Cuts and Jobs Act: A comparison for businesses with employees](#).

Qualified Moving Expense Reimbursement

For 2018 through 2025, employers must include moving expense reimbursements in employees' wages. TCJA suspends the exclusion for qualified moving expense reimbursements.

One exception: Members of the U.S. Armed Forces can still exclude qualified moving expense reimbursements from their income if:

- They are on active duty
- They move pursuant to a military order and incident to a permanent change of station
- The moving expenses would qualify as a deduction if the employee didn't get a reimbursement

Employer payments or reimbursements in 2018 for employees' moving expenses incurred prior to 2018 are excluded from the employee's wages for income and employment tax purposes.

i For more information, see the [Employer Update](#) and [Tax Cuts and Jobs Act: A comparison for businesses with employees](#).

Employee Achievement Awards

Special rules allow an employee to exclude certain achievement awards from their wages if the awards are tangible personal property. An employer also may deduct awards that are tangible personal property, subject to certain deduction limits.

TCJA clarifies that tangible personal property doesn't include cash, cash equivalents, gift cards, gift coupons, certain gift certificates, tickets to theater or sporting events, vacations, meals, lodging, stocks, bonds, securities, and other similar items.

i For more information, see the [Employer Update](#) and [Tax Cuts and Jobs Act: A comparison for businesses with employees](#).

Meals and Entertainment Deduction

TCJA generally eliminated the deduction for any expenses related to activities generally considered entertainment, amusement or recreation.

Taxpayers may continue to deduct 50 percent of the cost of business meals if the taxpayer (or an employee of the taxpayer) is present and the food or beverages are not considered lavish or extravagant. The meals may be provided to a current or potential business customer, client, consultant or similar business contact.

Food and beverages that are provided during entertainment events will not be considered entertainment if purchased separately from the entertainment, if the cost is stated separately from the entertainment on one or more bills, invoices or receipts.

Prior to 2018, a business could deduct up to 50 percent of entertainment expenses directly related to the active conduct of a trade or business or, if incurred immediately before or after a bona fide business discussion, associated with the active conduct of a trade or business.

i For more information, see the [Employer Update](#) and [Tax Cuts and Jobs Act: A comparison for businesses with employees](#).

Business Credits

Rehabilitation Tax Credit

TCJA changed the tax credit for amounts paid or incurred after December 31, 2017, to rehabilitate certified historic structures and buildings placed in service before 1936. Now taxpayers may take the 20 percent credit ratably over five years instead of in the year they placed the building into service. TCJA also eliminates the 10 percent rehabilitation credit for the pre-1936 buildings. This provision is effective for amounts that taxpayers pay or incur for qualified expenditures after December 31, 2017.

A transition rule provides relief to owners of either a certified historic structure or a pre-1936 building by allowing owners to use the prior law if the project meets these two conditions:

- The taxpayer owns or leases the building on January 1, 2018 and at all times thereafter
- The 24- or 60-month period selected for the substantial rehabilitation test begins by June 20, 2018

i For detailed information, see the [Rehabilitation Tax Credit - Real Estate Tips](#) page.

Employer Credit for Paid Family and Medical Leave

TCJA added a new employer credit for paid family and medical leave. This is a general business credit that qualified employers may claim, based on wages paid to qualifying employees on family and medical leave, subject to certain conditions.

Employers must have a written policy in place that meets certain requirements, including providing:

- At least two weeks of paid family and medical leave (annually) to all qualifying employees who work full time (prorated for employees who work part time), and
- The paid leave is not less than 50 percent of the employee wages.

The credit applies to wages paid in taxable years beginning after December 31, 2017, and before January 1, 2020.

Only paid family and medical leave provided to employees whose prior-year compensation was at or below a certain amount qualify for the credit. Generally, for tax year 2018, the employee's 2017 compensation from the employer must have been \$72,000 or less.

i For information on this credit, see the [Employer Credit for Paid Family and Medical Leave FAQs](#).

S Corporations

Expansion of Qualifying Beneficiaries of Electing Small Business Trusts

Individuals who are neither U.S. citizens nor permanent residents are referred to as nonresident aliens under the Internal Revenue Code. Previously, nonresident aliens were not permitted as S corporation shareholders. However, effective January 1, 2018, TCJA allows nonresident aliens to be potential beneficiaries of an electing small business trust.

i For general information on these topics, see [S corporations](#) and small business trusts.

Charitable Contributions Deduction for Electing Small Business Trusts

For tax years beginning after December 31, 2017, the charitable contribution deduction of an electing small business trust (ESBT) is no longer determined by the rules generally applicable to a trust. An ESBT figures the deduction using the rules that apply to individuals. To figure the deduction, an ESBT must calculate its adjusted gross income (AGI) limit. They do this in the same manner as an individual, except that deductions are allowed for costs related to the administration of the ESBT and are costs the trust would not have incurred if the property was not held in the ESBT.

S Corporation Conversion to C Corporation

Some S corporations may find it beneficial to convert to C corporations because of the new, flat 21 percent C corporation tax rate. The recent changes make two modifications to existing law for a C corporation that:

1. was an S corporation on Dec. 21, 2017,
2. revokes its S corporation election after December 21, 2017, but before December 22, 2019, and
3. has the same owners of stock in identical proportions, on the date of revocation and on December 22, 2017.

The following modifications apply to these entities:

- The period for including net adjustments that are required by law (Section 481(a) (2)) and attributable to the revocation of the S corporation election (e.g., a change from the cash method to an accrual method required as a result of the revocation of the S corporation election) is changed to six years. This six-year period applies to net adjustments that decrease taxable income as well as net adjustments that increase taxable income.
- Distributions of cash following the post-termination transition period are treated as coming out of the corporation's accumulated adjustments account and earnings and profits proportionally.

i **For more information**, see the Corporate Methods of Accounting topic on the [Tax Reform – Businesses page](#).

Farm Provisions

Treatment of Certain Farm Property

TCJA shortens the depreciable recovery period of new machinery or equipment that is placed in service after December 31, 2017 and is used in a farming business. The depreciable period is shortened from seven years to five years for this property. However, certain farm property (grain bins, cotton ginning assets, fences and other land improvements) do not qualify for this provision.

i **For more information**, see [IRS Fact Sheet 2018-09](#).

Alternative Depreciation System for Electing Farming Business

Farming businesses that elect out of the interest deduction limit must use the alternative depreciation system to depreciate any property with a recovery period of 10 years or more, such as single purpose agricultural or horticultural structures, trees or vines bearing fruit or nuts, farm buildings and certain land improvements. This provision applies to taxable years beginning after December 31, 2017.

Property used in a farming business and placed in service after December 31, 2017, is not required to use the 150 percent declining balance method. However, if the property is 15-year or 20-year property, the taxpayer must continue to use the 150 percent declining balance method.

i For more information, see [IRS Fact Sheet 2018-09](#).

Miscellaneous Provisions

Opportunity Zones

Opportunity Zones are an economic development tool to spur tax-favored investments in distressed communities throughout the country and in U.S. territories. Recently enacted provision (Section 1400Z-2) provides certain benefits for investment in these opportunity zones through investment in qualified opportunity funds. Qualified Opportunity Funds must be either a partnership or corporation organized for the purpose of investing in eligible property located in a designated Qualified Opportunity Zone.

After investing capital gains in a Qualified Opportunity Fund (QOF), investors realize these benefits:

- Defer recognition of those gains invested in a QOF until the date the investment is sold or exchanged, or December 31, 2026.
- Through basis step-up, a 10 percent exclusion of the deferred gain after five years, which grows to 15 percent after seven years.
- Elimination of tax on a gain from the sale of the investment if held for at least 10 years.

To maintain eligibility as a Qualified Opportunity Fund and avoid penalties, the corporation or partnership that sets up as a QOF must meet recordkeeping requirements to provide proof of basis and eligibility for the exclusion of the deferred gain. Investors also have recordkeeping requirements to which they must adhere.

See Opportunity Zone [FAQs](#) for more information and Notice 2018-48 for a list of [designated Qualified Opportunity Zones](#).

Contesting IRS Levy

Individuals and businesses have additional time to file an administrative claim or to bring a civil action for wrongful levy or seizure. TCJA extended the time limit for filing an administrative claim and for bringing a suit for wrongful levy from nine months to two years.

i For more information, see [filing a wrongful levy claim](#).

