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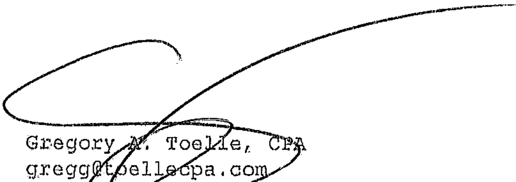
Dear Friends,

Most of this annual "Tax Update" letter provides explanations and interpretations of the new Tax Cuts and Jobs Act (TCJA) passed last year. There is a lot of ground to be covered here, and the the new 20% Sec. 199A Busines Income Deduction is especially complex.

We also included other IRS tax law interpretations, court cases and rulings that occurred during the past year that we think might be valuable to you (or some of you).

After reviewing, please let us know if you have any questions.

Sincerely,



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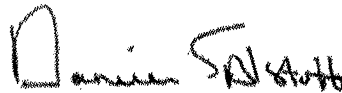

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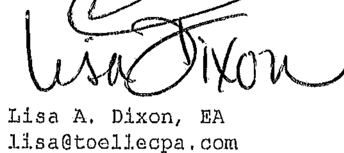

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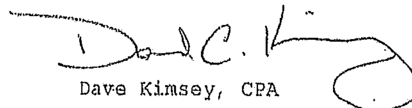

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A. INDIVIDUALS - INCOME

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1. Kiddie Tax - The TCJA simplifies the kiddie tax by applying ordinary and capital gains rates, applicable to trusts and estates, to the unearned income of a child. Unearned income is taxed under the brackets that apply to trusts and estates, and earned income is taxed at rates that apply to unmarried taxpayers.

   - The unearned income threshold remains at $2,100.

2. Stock Options - The TCJA created a new Code Sec. 83(i) election for employees who receive stock options. Generally, Code Sec. 83 requires taxpayers to recognize taxable income when they receive: (a) stock grants, or (b) stock options.

   Stock Grants - The older Code Sec. 83(b) election has allowed taxpayers who receive stock grants, or Restricted Stock Awards (RSA's), to recognize ordinary income currently and convert future gains into capital gains.

   Stock Options - But taxpayers have never been able to use an 83(b) election if they received stock options.

   Now the new Code Sec. 83(i) 5-year deferral election allows taxpayers who receive a Qualified Equity Grant (certain stock options), to delay ordinary income recognition for up to five years beyond the date that substantial vesting occurs; though it does not change the "amount" of ordinary income to be recognized.

   Transactions that are eligible include Employee Stock Purchase Plans (ESPP) and Incentive Stock Options (ISO's).

   To qualify, the 83(i) election must be made no later than 30 days after the first date the employee's rights in the stock are transferable or substantially vested, whichever occurs earlier.

   Four events that accelerate the deferral period are: (1) the stock becomes transferable, (2) the employee becomes an excluded employee, (3) the stock becomes readily tradable on an established market, or (4) the employee revokes the election.

3. IRA Recharacterizations - Taxpayers that make a contribution to a regular IRA, and later convert that IRA to a ROTH IRA, can no longer "unwind" that conversion through a recharacterization.

   - Recharacterizations are still permitted for other contributions.

4. Alimony - The TCJA eliminated the income and deduction recognition for alimony prescribed by divorce or separation agreements executed after 12/31/18

   - That treatment will also apply to divorce or separation agreements "modified" after 12/31/18, if the modification expressly provides that the repeal of Sec. 71 applies to the modification.

B. INDIVIDUALS - DEDUCTIONS AND CREDITS

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1. State & Local Taxes - Several states are proposing laws that will allow taxpayers to "transfer" funds to their state, in return for reduced state and local taxes. This would effectively circumvent the $10,000 state and local tax limit that took affect 1/1/18. But the IRS has indicated they will apply substance-over-form principles regarding such transfers (Notice 2018-54).

   More specifically, IRS proposed regulation (IR 2018-172) will require taxpayers to reduce the amount of any charitable contribution deduction by the amount of any state or local tax credit they receive. These rules would apply to contributions made after 8/27/18.

   NOTE - ILLINOIS TAX CREDIT SCHOLARSHIP PROGRAM - It appears that Illinois' new tax credit - donors to the program will receive a 75% Illinois tax credit - will not be allowed to claim that charitable contribution on their Federal income tax return.

2. Home Equity Loans - The TCJA reduced the limit for "home-acquisition' debt from $1,000,000 to $750,000, for loans acquired between January 1, 2018 and December 31, 2025. The TCJA also eliminated the $100,000 loan limit for home equity loans acquired between January 1, 2018 and December 31, 2025.

   However, interest on "new" home equity loans continues to be deducible if the original loan is used to buy, build or substantially improve the home securing the loan, subject to the $750,000 overall limitation.

3. Charitable Contributions - A deduction is no longer allowed for any charitable contribution paid in exchange for the right to purchase tickets at an athletic event.

   - Also, final Regulations under Code Sec. 170, that generally followed proposed regulations originally issued in 2008 with only minor modifications, included the reinforcement that a blank pledge card provided by a donee organization but filled out by the donor does not constitute adequate substantiation.

4. Employee Business Expenses - The Tax Cuts & Jobs Act eliminated the deduction for "all" miscellaneous itemized deductions, otherwise subject to the 2% of AGI limitation. And that disallowance will generally apply to employee business expenses.

   However, taxpayers will be permitted to deduct mileage expenses on line 24 of Form 1040 - an "above-the-line" deduction - if they are:

   - members of a reserve component of the U.S. armed services,
   - state or local government officials paid on a fee basis, or
   - certain performing artists.

5. Moving Expenses - U.S. armed forces members on active duty who move pursuant to a military order and incident to a permanent change of station to whom Sec. 217(g) applies, will still be able to claim a deduction for the standard mileage rate (18 cents per mile for 2018).

6. Qualifying Relative Credit - In order to be eligible for the new $500 qualifying relative tax credit, the dependent's income must be less than the personal exemption amount, adjusted annually for inflation, even though "exemptions" no longer exist.

   - For 2018, that exemption amount will be set at $4,150.

C. The 20% SEC. 199A BUSINESS INCOME DEDUCTION

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1. Qualified Business Income Deduction - Effective January 1, 2018, every taxpayer, except a corporation, is allowed a Qualified Business Income Deduction (QBID) equal to 20% of qualified business income (QBI) earned in a qualified trade or business. The deduction is allowed for sole proprietors, rental properties, S corporations and partnerships.

- Qualified trade or business income must be connected with the conduct of a U.S. trade or business and does not include interest, dividend, capital gain, or other investment income.

- Sec. 1231 gains from depreciable trade or business property held more than one year have always been excluded from the definition of a capital asset. So, even though 1231 gains flow to Sch. D and are eligible for lower capital gains tax rates, many believe 1231 gains should be included as part of Qualified Trade or Business Income and be eligible for the 20% deduction. We need to wait for IRS guidance regarding this matter.

- The 199A deduction does not reduce self-employment tax.

- Qualified trade or business income does not include guaranteed payments to a partner.

- the "combined" QBID is the total of:
  - (a) the sum of the "initial" QBID for each seperate qualified business,
  - (b) 20% of qualified Real Estate Investment Trust (REIT) income, and
  - (c) 20% of qualified Publicly Traded Partnership (PTP) income.

- If the "combined" QBID is less than zero, the amount is carried over to the next year.

- Losses before January 1, 2018, are not taken into account for purposes of computing QBI.

3. "Specified Service Business" Phase-out - The QBI for certain Specified Service Businesses (SSB) begins to phase-out when MFJ taxable income exceeds $315,000 ($157,500 for non-MFJ returns), and is completely phased-put when taxable income exceeds $415,000 ($207,500 for non-MFJ returns).

4. Specified Service Business (SSB) - SSBs are activities in the fields of health, law, actuarial science, accounting, the performing arts, athletics, consulting services, financial services, brokerage services, investing, investment management, investment trading, dealing in securities, dealing in partnership interests or dealing in commodities, or any other trade or business where the principal asset is the reputation or skill of one or more employees or owners.

   - A business receives income because of an employee or owner's reputation or skill only when the business is engaged in:

     1. Endorsing products or services,

     2. licensing or receiving income for use of an individual's image, name, trademark, etc.; or

     3. receiving appearance fees.

   - Engineering and architecture were specifically excluded from SSB treatment.

4. Specified Service Business (SSB) - Continued

- The rules about which businesses are subject to the Code Sec. 199A limitations originate with the Code Sec. 1202 definitions. A couple Sec. 1202 IRS letter rulings, and a temporary regulation, should give us insight in that regard:

  1. LR 201717010 - A business developed a tool to provide information to health care providers including analyzing test results and preparing lab reports. The IRS determined they were "not" in the health care business.

  2. LR 201436001 - A business's activities included pharmaceutical research, development, and manufacturing. The IRS determined they were "not" in health care.

  3. IRS Temp. Regs. Sec. 1.448-1T(e)(4)(ii) clarifies that the performance of services in the field of health does not include the provision of services not directly related to the medical field, even if the services relate to the health of the service recipient. So health clubs and spas are "not" considered to be in the field of health.

- De Minimus Exception - IRS Notice 2018-64 gives us two de de minimus exceptions:

  1. If sales are $25 million or less, and gross receipts from services are less than 10%, the business will "not" be considered an SSB, and

  2. If sales are $25 million or more, and gross receipts from services are less than 5%, the business will not be considered an SSB.

- Anti-abuse Rules - The proposed regulations "try to limit attempts to spin-off parts of a service business into independent qualified businesses" as follows:

  1. A business that provides 80% or more of its property or services to a related (*) service business, is part of that service business, or

  2. The portion of property or services that a business provides to a related service business - at least 50% common owenrship - is treated as a service business.

5. W-2 Limitation - For each trade or business, whenever MFJ QBI exceeds $315,000 ($157,500 for non-MFJ), whether the business is an SSB or not, the otherwise allowable QBID is further limited to the greater of:

   (a) 50% of W-2 wages, or

   (b) 25% of W-2 wages, plus 2.5% of the unadjusted basis immediately after acquisition (UBIA) of the trade or business.

   - UBIA - UBIA qualified property is "tangible, depreciable property held and available for use in the qualified trade or business at the close of the tax year, which is used at any point during the year in the production of QBI, and the depreciable period for which has not ended before the close of the tax year."

     - UBIA is not reduced by any bonus depreciation or Code Sec 179 expensing.

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5. W-2 Limitation (Continued)

- UBIA - The basis of property considered, including rental property, is its unadjusted basis determined "immediately after acquisition," and does not include the basis of raw land or inventory. It is not clear if capitalized leasehold improvements qualify. It is also not clear if a Code Sec. 754 partnership basis step-up qualifies.

- WAGES - Wages are total wages subject to withholding including elective deferrals and deferred compensation. The wages must be included on a return filed with the Social Security Administration on or before the 60th day after the due date for the return (including extensions). Notice 2018-64 contains three methods for calculating W-2 wages:

  1. Unmodified method - Lesser of Form W-2, Box 1 or Box 5 - Medicare wages,

  2. Modified Box 1 method - Box 1, less amounts that are not wages for income tax withholding, plus Box 12 deferrals, or

  3. The tracking method - Tracks total wages subject to income tax.

6. Overall Limit - The final limitation to the QBID is the Overall Taxable Income Limitation that further limits the QBID to:

   (a) the excess of taxable income over,

   (b) net capital gains & qualified cooperative distributions.

7. Aggregation - The IRS agreed that some level of aggregation should be permitted to allow taxpayers the benefit of combining trades or businesses for applying the W-2 wage limitation. And under Proposed Reg 1.199A-4 aggregation is allowed, but not required. To qualify, the business must:

   1. qualify as a trade or business,
   2. have common ownership,
   3. not be a SSTB, and
   4. demonstrate that the businesses are part of a larger, integrated trade or business.

   - IRS Notice 2018-64 indicates we can't use the Code Sec. 469 passive activity grouping rules to group multiple activities into a single trade or business. However, we may aggregate trades or businesses if;

     1. each trade or business is itself a trade or business,

     2. the same person or group owns a majority interest in each business aggregated,

     3. none of the aggregated businesses are a SSB,

     4. the trades or businesses meet at least two of three factors that demonstrate they are in fact part of a larger integrated trade or business.

   - A pass-through with multiple trades or business must allocate items of QBI to such trades or businesses based on a reasonable and consistent method that clearly reflects income and expenses. The pass-through may use a different reasonable method for different items of income, gain, deduction and loss. Also, the books must be consistent with allocations under the chosen method,"

   - Proposed regulations provide that a SSTB includes any business with 50 percent common ownership (direct or indirect) that provides 80 percent of more of its property or services to an excluded trade or business.

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7. Aggregation (Continued)

- "Also, if a trade or business shares 50 percent of more common ownership with an SSTB, to the extent that trade or business provides property or services to the commonly owned SSTB, the portion of the property or services provided to the SSTB will be treated as an SSTB.

  As an example, if a dentist rents half the building to his dental practice and half to an unrelated party; the half rented to the dental practice will be considered an SSTB.

- The rental or licensing of tangible or intangible property to a related trade or business is treated as a trade or business if the rental or licensing and the other trade or business are commonly controlled."

8. Disregarded Trusts - The use of multiple non-grantor trusts to avoid the income threshold limitations is circumvented by a proposed regulation that provides that two or more trusts "will be aggregated and treated as a single trust if such trusts have substantially the same grantor(s) and substantially the same primary beneficiary(s) "unless there is a significant non-tax purpose that could not have been achieved without the creation of the trusts."

9. Trade or Business - Though the term "trade or business" is used throughout the IRS Code; it is largely undefined. The Supreme Court indicates an activity is a trade or business if the taxpayer is "involved in the activity with continuity and regularity" with a "primary purpose ... for income or profit." But questions arise when trade or business activities run through different entities. There are several matters to consider:

   1. Separate accounting methods - Under Sec. 446, a taxpayer with multiple trades or businesses may use a separate accepting method for each separate trade or business.

   2. Not considered separate trade or business activities - In Peterson Produce Co., the taxpayer was not allowed to use different accounting methods for their feed and hatchery operations (accrual basis) and their broiler operations (cash basis) because the "original and daily" accounting entries could not be separated.

   3. New entity creates separate activity - But in Rocco, Inc., where the corporate taxpayer formed a new corporation to run its broiler operations separately, separate accounting methods were allowed.

   4. New entity causes capitalization of expenditures - However, though the Madison Gas and Electric Co. wanted a new taxable entity to be considered an "extension" of the preexisting entity so certain expenditures would be tax deductible; the Tax Court held that the new separate entity that was created, should capitalize those expenditures.

   5. New entity allowed to deduct expenditures - But in Baltimore Aircoil Co., and Playboy Clubs International, Inc., the formation of the new entity was considered a continuation of the preexisting entity, which in turn allowed the expenditures to be deducted.

   Which in a very round-about-way gets us to the idea that taxpayers can treat activities in one entity as part of a larger trade or business activity.

9. Trade or Business (Continued)

Similar to At-Risk Loss Aggregation Rules - Some compelling situations

Generally, under Sec. 465, losses are allowed only to the extent a taxpayer is "at-risk" in an activity. Sec. 465(c)(3)(B) allows taxpayers to aggregate activities for purposes of the at-risk rules. "However, the IRS historically has not allowed taxpayers to aggregate the activities conducted through different partnerships."

"In Technical Advice Memorandum 9035005, the IRS rejected the taxpayer's argument that Secs. 465(c)(2)(B) and 465(c)(3)(B) allowed him to aggregate the activities of an oil partnership and a restaurant partnership, because the aggregation provision only allowed aggregation within a 'SINGLE trade or business,' and the two partnerships were separate businesses because they kept a separate set of books and records and used a different accounting method."

The IRS repeated that treatment in CCA 201805013, but acknowledged "there could be compelling cases where the facts and circumstances indicate the activities conducted through separate entities do constitute a single integrated trade or business for Sec. 465 purposes."

Hobby or business - Another compelling situation

In Campbell, the IRS disallowed losses for an airplane leasing activity. But the Sixth Circuit thought the profits earned by a related medical corporation were enhanced by their use of the airplane leasing business, and considered the airplane leasing activity a separate trade or business.

D. OTHER BUSINESS MATTERS

1. Income All-events Test - In the past, under Code Sec. 451, taxable income has generally been recognized in the taxable year when all the events have occurred that fix the right to receive an item of income and the amount of that income can be determined with reasonable accuracy.

   At the same time, financial statements prepared by the taxpayer, could recognize income earlier than their company's tax recognition.

   But new TCJA rules that became effective January 1, 2018 now require that "an accrual-method taxpayer may not treat the all-events test as being met ... any later than when that item is taken into account" in an applicable financial statement.

2. Partnership Carried Interests - The 2017 Tax Cuts & Jobs Act requires that a "carried interest" in a partnership must be held for 3 years to qualify for capital gain treatment.

   Carried interest - An Applicable Partnership Interest (API) in a partnership that shares in the net profits. Carried interests are commonly obtained in connection with the performance of substantial services for the partnership.

   But because the IRS Code Sec. 1061(c)(4)(A) that defines a Carried Interest includes the rule that an API does not include any interest in a partnership held by a corporation; taxpayers could simply elect S Corporation treatment and avoid the new 3-year holding period.

   IRS Notice 2018-18 indicates the IRS intends to issue regulations to clarify that the "corporation" indicated in the Sec. 1061(c)(4)(A) rule, does not include an S corporation.

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3. Meals & entertainment - On Wednesday October 3, 2018 the IRS issued Notice 2018-76 providing new guidance regarding the changes to "meal and entertainment" expenses created by the Tax Cuts & Jobs Act. According to this new IRS interpretation, those changes:

   - specifically disallow any deduction for entertainment, amusement, or recreation,

   - but will continue to allow a 50% deduction for business meals (food and beverages) if:

     1. the expense is an ordinary and necessary business expense,

     2. the expense is not lavish or extravagant under the circumstances,

     3. the taxpayer, or an employee of the taxpayer, is present when the food or beverage are furnished,

     4. the food or beverages are provided to a current or potential customer, client, consultant, or similar business contact, and

     5. if the food or beverage is purchased at an entertainment activity, they are purchased separately from the entertainment, or the cost of the food or beverages is stated separately.

4. Business interest expense - Effective January 1, 2018, the deduction for business interest expense is "generally limited to the taxpayer's business interest income plus 30% of the taxpayer's adjusted taxable income.

   - The limitations does not apply if annual gross receipts for the past three years do not exceed $25,000,000.

   - Any disallowed interest is carried forward indefinitely, with certain restrictions for partnerships.

   - A real property trade or business, including businesses that are conducted in connection with designing, building, managing, operating, or maintaining of certain core infrastructure projects for purposes of private activity bonds, can "elect out" of these rules; but is then required to use the Alternative Depreciation System (ADS) to depreciate its nonresidential, residential rental property, and qualified improvement property.

5. No Rental Loss To Daughter - In Okonkwo (No. 16-71020 - 9th Cir. 7/31/17), the taxpayers were not allowed to claim deductions in excess of rent income for a second home they rented to their daughter at below-market rates. The taxpayer's argument that the daughter paid cash rent, and additional rent in services, was rejected.

6. Bonus Depreciation - Used property now qualifies for the 100% Bonus Depreciation; but the property must be acquired by purchase. So inherited property and property acquired through like-kind-exchanges won't qualify.

   - Property acquired from another member of a controlled group will qualify if the common stock ownership is less than 50%.

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7. Section 179 Expense Election - The TCJA expands the definition of qualified real property, eligible for the Code Sec. 179 expense election, to include improvements to the interior of any nonresidential real property (QIP). QIP also includes roofs, HVAC property, fire alarm and security systems.

   QIP does not include enlargements or improvements to elevators, escalators, or the internal structural framework of a building.

   15-year recovery property has been eliminated for the following QIP: (a) Leasehold Improvement Property, (b) Retail Improvement Property, and (c) Restaurant Property. However, the conference agreement included 15-year recovery property as QIP, though the final law erroneously omitted that provision. So, a technical correction to fix that error may be forthcoming.

8. Maximum allowable automobile cost - The Tax Cuts & Jobs Act increased the "allowable" maximum standard automobile cost from $27,300 for 2018 vehicles (and $31,000 for trucks and vans) to $50,000.

9. LLCs and Self-employment Tax - The rules that control whether partnership income is subject to self-employment tax have been in place for a long time. Generally, distributions to general partners are subject to self-employment tax. However, Code Sec. 1402(a)(13) allows that distributions to limited partners are not subject to self-employment tax.

   Ever since the first LLC was created in 1977, many taxpayers have erroneously taken the position that payments to LLC members are not subject to self-employment tax. Or, that payments were only subject to self-employment tax if the LLC member was a manager.

   Proposed regulations in 1997 added that income from an LLC is not subject to self-employment tax unless the member had (a) personal liability for LLC debt, (b) authority to contract, or (c) spent more then 500 hours on the activity during the year. But those regulations were never finalized.

   And now, several recent court cases suggest the IRS will be more aggressive against taxpayers who continue to treat LLC member's income as "not" subject to the self-employment tax. In general, those court cases have indicated a judicial intent that LLC members who "provide services to a business, who have management authority, or who possess other characteristics inconsistent with those of traditional limited partners should be subject to self-employment tax. These cases include:

   1. Renkemeyer, Campbell & Weaver, LLP, 136 TC 137 (2011) - These attorneys split their ownership interests into "management" shares subject to self-employment tax and "investing" shares not subject to self-employment tax. The tax court rejected their approach.

   2. Riether, 919 F. Supp.2d 1140 - D.N.M. 2012) - A husband and wife paid themselves W-2 wages and wanted to treat the remainder as not subject to self-employment tax. The court disagreed.

   3. Castigliolia, TC Memo 2017-62) - Law partners paid themselves guaranteed payments and then excluded the remainder as not subject to self-employment tax. The court disagreed.

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10. Prior Net Operating Losses - NOLs from years prior to 2018 are deducted against 100% of taxable income in the carryover year "before" any of the NOLs generated in years after 2017 (which are limited to 80%).

11. Excess Business Losses - Losses in excess of $500,000 are not allowed, but are carried forward and are may be allowable the next year.

12. Partnership liabilities - "The IRS has proposed regulations concerning how partnership liabilities are allocated for disguised sale purposes. The new Code Sec. 707 regulations would provide:

    1. when determining a partner's share of liabilities for disguised sale purposes, there are separate rules for:

       - a partnership's recourse liability, and
       - a partnership's nonrecourse liability.

    2. a partner's share of a partnership's recourse liability equals the partner's share of liabilities under Code Sec. 752,

    3. a partner's share of a partnership's nonrecourse liability equals the partner's share of their "excess nonrecourse liability under Regs. 1.752(a)(3),

    4. a partner's share of an excess nonrecourse liability for disguised sale purposes is determined only in accordance with the partner's share of partnership profits, and by taking into account all facts and circumstances relating to the economic arrangement of the partners,

    5. a partnership liability is a recourse or nonrecourse liability to the extent that the obligation would be a recourse liability under Reg. 1.752(a)(1) or a nonrecourse liability under Reg. 1.752(a)(2) respectively, if the liability was treated as a partnership liability for purposes of Code Sec. 752.

E. IRS PENALTIES

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1. Head Of Household - Effective for 2018 tax returns, the IRS has increased the tax preparer due diligence requirements to include the Head of Household filing status. In the past Form 8867 - Paid Preparer's Checklist was only required for:

   - the Earned Income Credit (EIC),
   - the Child Tax Credit (CTC) & Additional Child Tax Credit, &
   - the American Opportunity Tax credit (AOTC).

   Now, Form 8867 is also required for claiming Head of Household filing status. There is a $520 penalty for each failure to comply.

2. First-Time Penalty Abatement - The First-time Abatement (FTA) penalty waiver policy has been around since 2010 and, upon "request," allows taxpayers to avoid avoid penalties if:

   1. all required returns have been filed,
   2. all taxes have been paid, and
   3. has not been assessed a penalty in the last 3 years.

   And now, Office of Chief Counsel memorandum PMTA-2018-2, indicates the IRS grant all taxpayers who meet the FTA requirements will be granted the penalty waiver "automatically."

F. TRUSTS

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1. New Trust Tax Rules - The 2017 Tax Cuts & Jobs Act will change the Income Distribution Deduction (IDD) for trusts. For simple trusts, the IDD has always been the lesser of:

   - Distributable Net Income (DNI) - All expenses allowed for DNI, or

   - Fiduciary Accounting Income (FAI) - Some expense allocated to principal.

   But now that trusts are losing (i) miscellaneous itemized deductions, (ii) the deduction for taxes over $10,000, and (iii) personal exemptions, trust taxable income may increase.

   $250,000 Business Loss Limitation - The new law limits business losses in excess of business income to $250,000 per year. Any excess is carried over to future years.

G. SALES TAX - MULTI-STATE & INTERSTATE COMMERCE

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1. Nexus - The Wayfair Case - Wayfair was an Internet retailer without a physical presence in South Dakota who challenged a 2016 South Dakota law that required out-of-state sellers to collect sales tax and submit them for payment to South Dakota if:

   (a) the seller annually delivers more than $100,000 of goods or services into the state, or

   (b) engages in 200 or more separate transactions for the delivery of goods or services into the state.

   Back in 1967 the "Bellas Hess" case established the rules that a seller must have a physical presence in a given state, before that state could require sales tax payments.

   Later, in 1992, the "Quill" case allowed that mail-order solicitations were enough to establish a minimum connection under Due Process; but also reaffirmed much of Bellas Hess.

   Then, on 6/21/18, the U.S. Supreme Court ruled that for sales tax purposes, a physical presence in a state is not necessary for a seller to have nexus with a state.

   The Wayfair Case "overturned 50 years of precedent" and "is the most significant state tax case in the past 25 years."

H. FARMERS

1. Consolidated Appropriations Act - Passed by Congress on March 23, 2018, it includes IRS funding, some changes to the new centralized partnership audit regime, and a reduction of the special 20% deduction for FARMERS who sell grain to agricultural cooperatives under Sec. 199A (as created by TCJA), to 9%.

   - The QBID for a specified agricultural or horticultural cooperative is the least of:

     1. 9% of QPAI (*) of the cooperative,
     2. 9% of the cooperative's taxable income of the year, or
     3. 50% of the W-2 wages paid by the cooperative.

     (*) QPAI is the old Qualified Production Activities Income.

2. Net Operating Losses - The TCJA provides a 2-year carryback for certain losses incurred in farming.

3. Farm depreciation - The TCJA shortens the depreciable life for farm machinery & equipment from seven to five years.

I. TAX-EXEMPT/NOT-FOR-PROFIT ORGANIZATIONS

1. Unrelated Business Income - The 2017 Tax Cuts & Jobs Act (TCJA) "made several significant changes to the definition and structure" of federal Unrelated Business Income (UBI), effective for tax years beginning after December 31, 2017, including:

   - Separate activity - Exempt organizations must now track the income and expenses from each "separate" unrelated trade or business, and losses from one activity can't be used to offset income from another activity [Sec. 512(a)(6)].

     - However, as of June 2018, no definition of what constitutes a separate activity has been provided.

     - Net Operating Losses (NOL's) incurred through 2017 may still be carried forward to offset aggregate UBI. But losses incurred in 2018 and thereafter must be separately tracked.

2. Excise Tax - The TCJA imposed a new 1.4% excise tax on the investment income of certain private schools that have more than 500 tuition-paying students - 50% or more of whom are located in the U.S. - and assets of at least $500,000 per student.

   - The TCJA also imposed a new 21% excise tax on compensation paid in excess of $1 million, including the present value of separation payments and benefits, to certain tax-exempt organizations current and former five highest-paid employees. The tax applies to Sec. 501(a) organizations, farmers' cooperatives, some state and local governments, political organizations, and related entities.

J. MISCELLANEOUS TAX FACTS

	2016	2017	2018	2019
Personal exemption	4,050	4,050	Gone	Gone
Standard deduction - Single	6,300	6,350	12,000	12,200
- Married filing joint	12,600	12,700	24,000	24,400
- Married filing separate	6,300	6,350	6,500	12,200
- Head of Household	9,300	9,350	9,550	18,350
- Dependent	1,050	1,050	1,050	1,100
Additional amount for Blindness or Age (65)	1,250	1,250	1,300	1,300
- if unmarried & not a surviving spouse	1,550	1,550	1,600	1,650
Taxable Social Security (FICA) wage base	118,500	127,200	128,400	132,900
IRA & Roth IRAs - Maximum contribution	5,500	5,500	5,500	6,000
- Additional if 50 or older	1,000	1,000	1,000	1,000
IRA contribution - Limited if income exceeds:				
- and both spouses covered by retirement plan	98,000	99,000	101,000	103,000
- only one spouse covered by retirement plan	184,000	186,000	189,000	193,000
Roth IRA contribution - Limited if income over:				
- Single & Head of household	117,000	118,000	120,000	122,000
- Married filing joint	184,000	186,000	189,000	193,000
401(k) 403(b) & 457(b) - Maximum Elect. Deferral	18,000	18,000	18,500	19,000
- Add'l if 50 or older	6,000	6,000	6,000	6,000
SIMPLE - Maximum Elective Deferral	12,500	12,500	12,500	13,000
- Additional if 50 or older	3,000	3,000	3,000	3,000
Defined Contribution - Max. annual contribution	53,000	54,000	55,000	56,000
Social Security - Earnings limit if under Normal Retirement age	15,720	16,920	17,040	17,640
QBI Phase-out threshold for the 199A Deduction			315,000	321,400
HSA - Self-only - Annual contribution limit	3,350	3,400	3,450	3,500
- Minimum deductible	1,300	1,300	1,350	1,350
- Maximum out-of-pocket	6,550	6,550	6,650	6,750
- Family - Annual contribution limit	6,750	6,750	6,900	7,000
- Minimum deductible	2,600	2,600	2,700	2,700
- Maximum out-of-pocket	13,100	13,100	13,300	13,500
Standard Mileage Rates - Business rate (per mile)	.54	.535	.545	.58
- Medical & Moving rate	.19	.17	.18	.20
- Charitable rate	.14	.14	.14	.14

Per Diem Rates - Beginning	Oct 1, 2015	Oct 1, 2016	Oct 1, 2017	Oct 1, 2018
- For Lodging (low-cost locality)	$128	$132	$134	$134
- For Meals & Incidentals (low-cost locality)	$57	$57	$57	$57
- Meals & Incid. (low-cost transport. industry)	$63	$63		$66

Estate & Gift Taxes

	2016	2017	2018	2019
Estate & gift tax applicable exclusion amount	5,450,000	5,490,000	11,180,000	11,400,000
Illinois estate tax applicable exclusion amount	4,000,000	4,000,000	4,000,000	4,000,000
Annual gift tax exclusion	14,000	14,000	15,000	15,000