

TAX CUTS & JOBS ACT (“TCJA”) – 2018

What a Real Estate Agent should know

NOTE: The following items are merely talking points to help promote your Client relationship. Please refer Clients to consult with their own Tax Advisor to address their Individual Income Tax Issues.

Overview of TCJA:

<https://www.thetaxadviser.com/news/2017/dec/tax-reform-bill-changes-for-individuals-201718070.html>

1. **Personal Exemptions** are gone, but the Standard Deduction has almost doubled. Single Taxpayers have a Standard Deduction of \$12,000 and Married Filing Joint (“MFJ”) have a Standard Deduction of \$24,000. So don’t be too alarmed by this change in general. Along with the increase in the Standard Deduction is also an increase in the Child Tax Credit (under 17 years old) to \$2,000 which includes a refundable portion of \$1,400 before income phase-outs.
2. **New Home Mortgage Loan Interest** will be deductible as an Itemized Deduction if the total Acquisition Indebtedness is not more than \$750,000 (reduced from \$1 Million). So it will not matter how many properties are secured under separate loans, as long as the total indebtedness for the Taxpayer is under \$750,000.
3. **No Interest Deduction for Home Equity Loans/Lines** The character of the Home Equity Loan (or Lines of Credit) will depend upon the use of those Loan proceeds by the Taxpayer. The interest on any debt not used for Acquisition or direct improvement to the property, will need to be allocated and re-characterized to what that portion of total debt was used for, such as investment interest or business purposes, or simply personal use. **But if you use a portion of that Debt to “substantially improve the property” the interest portion associated with that debt amount will be still be deductible on Schedule A.**
4. **MIP & PMI** are still deductible as Interest in 2018, subject to the \$100,000 AGI Phase-out Rule.
5. **Excluded Gain on Sale of Principal Residence** has **NOT** changed. Therefore, a \$500,000 Gain for Married Filing Jointly, or \$250,000 for Single, is not taxable and is excluded as long as they lived in the Principal Residence for 2 out of the last 5 years. The phase-out provision for less than 2 years should still be in effect as well.
6. **Discharge of Indebtedness on Principal Residence** has been extended through 2019. If someone had their Principal Residence foreclosed upon, the cancellation of Loan Indebtedness of up to \$2 Million would not be taxable income.
7. **Total Taxes Paid as an Itemized Deduction is limited to \$10,000.** This includes State Income Tax Estimates or Withholding on Wages, as well as Real Estate Taxes and other taxes. Because of this dollar limitation, the higher income phase-out limitation on Itemized Deductions has been removed.
8. **The 2% Miscellaneous Deductions are Repealed.** Those expenses that were allowed, subject to the 2% AGI Floor and all gone. Therefore, for those of you that have Employee related business expenses, work with your Employer to set up a Direct Accounting & Reimbursement Policy, so that any outside expenses that you incur on behalf of your employer is fully reimbursed (I have recommended this option for many years now to avoid dealing with any unreimbursed expenses previously lost by the 2% AGI Floor).

9. **Like-Kind Exchanges** are still in effect for Real Property, but is no longer valid for the trade of personal property (cars & trucks). For a good presentation on Code Section 1031 Exchanges, please visit:

<https://www.slideshare.net/WilliamBryant1/tax-deferred-exchanges>

10. **Moving Expenses are repealed.** No Deduction for Moving Expenses going forward (unless on active duty in the Military). Moving Expenses reimbursed by an Employer are now fully taxable.
11. **Meals & Entertainment:** Going forward, Meals are 50% Deductible. Any entertainment portion is not deductible. So be sure to separate the meal portion from any large entertainment event.
12. **C Corporations:** Are now taxed at a flat tax rate of 21%. These are stand-alone entities that file income taxes.

DISCUSSION OF THE 20% QUALIFIED BUSINESS INCOME DEDUCTION (“QBID”)

13. **Small QBID:** 20% Deduction of Qualified Business Income: Taxpayers may qualify to take this deduction, if their **Taxable Income (not AGI) is less than \$157,500 for Single and \$315,000 for Married Filing Jointly.** It does not matter what type of service or business activity that the taxpayer is engaged in at this income level. The TCJA has a complicated provision for Flow-Thru Entities (Sub-S & Partnerships), but income from these entities are allowed to be included toward the 20% QBID computation for the individual. Also, income from Sole Proprietors (Schedule C), Farmers (Schedule F) and Rental Property Owners (Schedule E), qualify for the QBID. The tax provision allows for a deduction that may be taken that is the **lessor of 20% of either Taxable Income or 20% of the Qualified Business Income.** Note that the QBID does not reduce the Self-Employed Income (Schedule C) for purposes of calculating the Net Self-Employment Tax.
14. **Large QBID:** For Taxable Income greater than \$157,500 Single and \$315,000 Married Filing Joint, there is a new deduction calculation. The new parameter starts with the 20% of Qualified Business Income, then compares that number to the greater of either; **A= 50% of the Wages Paid or B=25% of the Wages Paid plus 2.5% of the Unadjusted Basis (Historical Cost on Books) of Qualified Assets.** Finally, it then takes the overall **lessor of the 20% QBI as compared to the greater of either the A versus B figure. In other words, the qualified QBID deduction will never be greater than 20% of the QBI limit, it can only be equal to that amount or possibly less.** Specified Service Businesses do not qualify for the Large QBID calculation, such professional areas as Law, Health, Accounting, Financial Services and more. However, Real Estate Agents are **NOT** considered a Specified Service Business under this definition. So Agents with higher incomes **can** qualify for the Large QBID Deduction. I will simply refer you to this link for further information about those case scenarios:

<https://www.thetaxadviser.com/issues/2018/apr/understanding-sec-199A-business-income-deduction.html>

DISCLAIMER: TAX LAW IS ALWAYS SUBJECT TO CHANGE AND/OR MODIFICATIONS BY CONGRESS. SO IT IS IMPORTANT THAT EACH PERSON CONSULT THEIR OWN TAX ADVISOR TO ADDRESS THEIR OWN SPECIFIC TAX SITUATION, FACTS AND CIRCUMSTANCE.

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