

Guidance for the Tax Cuts and Jobs Act (Public Law 115-97 (12/22/17))

List is in the order presented in JCX-67-17 (12/18/17) -

<https://www.ict.gov/publications.html?func=startdown&id=5053>

Text of P.L. 115-97 - <https://www.congress.gov/115/bills/hr1/BILLS-115hr1enr.pdf>

Conference Report for H.R. 1 - <https://www.congress.gov/115/crpt/hrpt466/CRPT-115hrpt466.pdf>

Joint Committee on Taxation Bluebook (JCS-1-18 (12/20/18)) -

<https://www.ict.gov/publications.html?func=startdown&id=5152>

Technical Corrections [bill](#) proposed by Rep. Brady 1/2/19 + [JCT Explanation](#) (JCX-1-19; 1/2/19)

IRS Tax Reform Website - <https://www.irs.gov/tax-reform>

TIGTA, [Status of the Office of Chief Counsel’s Issuance of Tax Cuts and Jobs Act Guidance](#), 5/14/19 – lists past and future TCJA guidance projects

FTB Conformity Reports (California does not conform to most TCJA provisions; we are waiting for legislative action to possibly conform to some):

- FTB’s Report on Federal Income Tax Changes – 2017 - <https://www.ftb.ca.gov/law/legis/Federal-Tax-Changes/2017-051618.pdf>
- Additional [information](#) from FTB on non-conformity to change to 708 on technical termination of a partnership (July 2018).
- [FTB information](#) on the TCJA transition tax of Section 965 which California does not conform to.

INDIVIDUALS

- [IRS Pub 5307](#), Tax Reform: Basics for Individuals and Families for 2018
- [New postcard size 1040 and its six new schedules](#) (no 1040A or 1040EZ for 2018) + [link](#) to all forms, instructions and publications; [IRS explanation](#) of new forms for 2018 + [IRS 5 Facts](#) + [IRS summary of the 6 new schedules](#)
- Relief for under-withholding and estimated tax payments for 2018 – [IR-2019-03](#) (1/16/19) and [Notice 2019-11](#) (1/16/19). Per the IRS: “This waiver is limited to individuals whose total withholding and estimated tax payments equal or exceed eighty-five percent of the tax shown on the return for the 2018 taxable year.” (rather than usual 90% threshold) In [Notice 2019-25](#), the IRS lowered the 85% to 80% (also see [IR-2019-55](#) (3/22/19)).
- Relief for farmers and fisherman under 6654, by changing the March 1 filing date to April 15 - [Notice 2019-17](#) (2/28/19) and [IR-2019-24](#) (2/28/19). California will provide similar relief ([FTB](#), 3/8/19); check your state.

#	P.L. 115-97 Provision	Act Section	T or P	Effective Date	Guidance
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Key to following table: # column is just for reference in using this table.

P = Permanent; T = Temporary (generally 2018 through 2025)

Prepared by Annette Nellen; annette.nellen@sjsu.edu.

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1.	<p>10%, 12%, 22%, 24%, 32%, 35%, and 37% income tax rate brackets</p> <p>Changes also made to computation of the kiddie tax to use the estate/trust rates rather than tie to earnings of parents or siblings.</p> <p>Capital gain rates of 15% and 20% start at pre-TCJA levels (rather than 20% rate starting when individual reaches top ordinary rate).</p> <p>IRC §1.¹</p>	11001	T	Tax years beginning after (tyba) 12/31/17	<ul style="list-style-type: none"> • Draft Form 1040 for 2018 including postcard size version – IR-2018-146 (6/29/18) AND Treasury release with more background information. Postcard-size 1040 and six new schedules are intended to replace 1040EZ and 1040A. • Pub 15 (Circular E), Employer’s Tax Guide updated for use in 2018. • IR-2018-93 (4/13/18) – reminder to use updated estimated tax form. • IR-2018-80 (4/2/18) – reminder to do “paycheck checkup” to be tax withholding is correct. Also see IR-2018-73 (3/26/18). • IRS Tax Withholding online calculator updated. Also see IR-2018-36 (2/28/18) which includes tips on doing a paycheck checkup. Also see IRS Tax Reform Tax Tip 2018-48 (3/29/18) on how to update Form W-4. And see Tax Tip 2018-47 (3/28/18) + Tax Tip 2018-46 (3/27/18) for using the withholding calculator. • Notice 2018-14² and Pub 15, Employer’s Tax Guide and

¹ To see how changes affect IRC §1, see track changes at http://www.sjsu.edu/people/annette.nellen/1_AmendedByPL115-97.pdf.

² Per the IRS (1/29/18): “[Notice 2018-14](#): 1) extends the effective period of Forms W-4 furnished to claim exemption from income tax withholding under §3402(n) for 2017 until February 28, 2018 and temporarily permits employees to claim exemption from withholding under § 3402(n) for 2018 by using 2017 Form W-4, (2) suspends the requirement that employees must furnish their employers new Forms W-4 within 10 days of changes of status resulting in fewer withholding allowances, (3) provides that the optional withholding rate on supplemental wage payments is 22% for taxable years 2018 through 2025, and (4) provides that, for 2018, withholding on annuities or similar periodic payments where no withholding certificate is in effect is based on treating the payee as a married individual claiming three withholding allowances under § 3405(a)(4).”

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					<p>Notice 1036 (1/29/18) issued to help employers use the new payroll tax tables; required to start using by 2/15/18.</p> <ul style="list-style-type: none"> • IRS issues FAQs on withholding tables (1/12/18). • W-4 for 2018 • Draft W-4 for 2019: Form + Instructions at 6/5/18. On 9/25/18, the IRS announced it would postpone updating the W-4 and release a new draft more similar to the 2018 version which does not ask employees to provide details on other income, deductions and credits. • Notice 2018-92 (11/26/18) notes that the IRS delayed overhaul of W-4 until 2020. Also, regulations under §3402 and §3405 will be issued that include allowing taxpayers to use the online withholding calculator or Pub 505 rather than the W-4 worksheets. • IRS reminds businesses about backup withholding, now at 24% rate. Pub 1281 has been updated. See IR-2018-205 (10/18/18), Tax Reform Tax Tip 2018-168 910/30/18) and IRS Pub 1281.
2.	Preparer due diligence penalty at §6695(g) expanded to also include returns where client				<ul style="list-style-type: none"> • Proposed regulations under §6695(g) were issued on 7/18/18 (REG-103474-18 (7/18/18)). Final regulations

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	claims head-of-household status and \$500 dependent care credit because that credit is in IRC §24.				<p>were released – TD 9842 911/7/18). Also see IR-2018-216 (11/7/18).</p> <ul style="list-style-type: none"> o Form 8867 + instructions • Updated Paid Preparer Due Diligence Pub 4687 (March 2019) – This explains the preparer due diligence requirements to avoid a preparer penalty under §6695(g) and lists common issues with the various credits and filing status that fall under §6695(g). 															
3.	Increase standard deduction	11021	T	tyba 12/31/17	<table border="1"> <thead> <tr> <th></th> <th>2018</th> <th>2019</th> </tr> </thead> <tbody> <tr> <td>Single</td> <td>\$12,000</td> <td>Single \$12,200</td> </tr> <tr> <td>MFJ</td> <td>\$24,000</td> <td>MFJ \$24,400</td> </tr> <tr> <td>MFS</td> <td>\$12,000</td> <td>MFS \$12,200</td> </tr> <tr> <td>HH</td> <td>\$18,000</td> <td>HH \$18,350</td> </tr> </tbody> </table>		2018	2019	Single	\$12,000	Single \$12,200	MFJ	\$24,000	MFJ \$24,400	MFS	\$12,000	MFS \$12,200	HH	\$18,000	HH \$18,350
	2018	2019																		
Single	\$12,000	Single \$12,200																		
MFJ	\$24,000	MFJ \$24,400																		
MFS	\$12,000	MFS \$12,200																		
HH	\$18,000	HH \$18,350																		
4.	<p>Repeal deduction for personal exemptions</p> <p>Includes changes at §151(d)(5) and §3402(a) on withholding.</p> <p>New \$500 <i>other dependent credit</i> at §24(h); generally if don't qualify for \$2,000 child credit.</p>	11041	T	tyba 12/31/17	<p>Notice 2018-70 (8/28/18) informs individual taxpayers that Treasury and the IRS intend to issue proposed regulations clarifying who is a qualifying relative for the new \$500 credit for dependents and head of household filing status for years in which the exemption amount is zero – taxable years 2018-2025. The notice explains that proposed regulations will provide that the reduction of the personal exemption amount to zero will not be taken into account for purposes of the \$500 credit and head of household filing status. Instead, the exemption amount for the application of</p>															

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					<p>these provisions will be treated as \$4,150, as adjusted for inflation, for years in which the exemption amount is zero. The notice further provides that taxpayers may rely on the rules of this notice prior to the issuance of proposed regulations.”</p> <p>PTC and Personal Exemption Amount after TCJA – Notice 2018-84 (10/18/18) – Regulations under §36B and §5000A refer to individuals whom the taxpayer claims a personal exemption for. Since the TCJA changed the personal exemption to zero, individuals won’t claim this deduction. The IRS will modify the regulations under these provisions to address this change. In the meantime, Notice 2018-84 provides that a taxpayer is considered to have claimed a personal exemption deduction:</p> <ul style="list-style-type: none"> • For himself if he files a return and is not a dependent of another taxpayer. • For another individual if he is allowed a personal exemption deduction and lists that individual’s name and TIN on his Form 1040 or Form 1040NR. <p>IRS Tax Reform Tax Tip 2019-35 (4/3/19) – claiming dependents.</p>
5.	Use of chained CPI rather than CPI for inflation adjusted amounts	11002	P	tyba 12/31/17; but not for 2018 brackets or	<p>Updated amounts for 2018</p> <p>Rev Proc. 2018-18</p> <p>Corrected by Rev. Proc. 2018-22 (also see IR-2018-94 (4/13/18)).</p>

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				standard deduction	<p>IR-2018-19 (2/6/18) – TCJA does not affect the 2018 dollar amounts relevant to pension/IRS plans previously announced in Notice 2017-64.</p> <p>Rev. Proc. 2018-27, IRS will allow the HSA HDHP amount originally given (\$6,900) rather than the one released in February 2018 (\$6,850) because of issues of updating systems after the start of the year.</p> <p>Rev. Proc. 2018-11 – inflation adjusted amounts under §1274A for 2018.</p> <p>2019 Inflation Adjustments – Rev. Proc. 2018-57 (11/15/18).</p>
6.	20% QBI deduction for individual owners of businesses (199A)	11011	T	tyba 12/31/17	<p>JCT, Overview of Deduction for Qualified Business Income: Section 199A, 3/13/19</p> <p>[P.L. 115-141 (3/23/18), Sec. 101, fixes the “grain glitch” of §199A. It modifies §199A(a) and adds (g).]</p> <p>Prop Regs – Advance release 8/8/18 (REG-107892-18). Also see Notice 2018-64 (8/8/18) on methods for calculating W-2 wages for §199A purposes. The IRS is requesting comments on specific items. IR-2018-162 (8/8/18).</p> <p>Final and Prop Regs (1/18/19):</p> <ul style="list-style-type: none"> • IR-2019-04 (1/18/19) • TD 9847 (2/8/19) • Rev. Proc. 2019-11 (1/18/19) with guidance on determining

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					<p>W-2 wages for 199A purposes.³</p> <ul style="list-style-type: none"> • Notice 2019-07 (1/18/19) - a proposed revenue procedure on a safe harbor where certain real estate activities are considered a trade or business for §199A purposes. Note: This is a safe harbor meaning if you meet it, no questions asked. But it is not the only way to show that a rental activity is a trade or business so be sure to check on the extensive case law on this which generally finds rentals of real property (other than a triple net lease) to be a trade or business where there is a profit motive and regular and continuous work by the owner.⁴ Read notice in detail. <i>Query:</i> What if a taxpayer makes the safe harbor election (which requires a special signed statement attached to the return), but case law would treat the rentals as a trade or business or owner does something else
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³ IRS Summary: “[Rev. Proc. 2019-11](#) provides methods for calculating W-2 wages, as defined in section 199A(b)(4) and § 1.199A-2 of the Income Tax Regulations, (1) for purposes of section 199A(b)(2) of the Internal Revenue Code (Code) which, for certain taxpayers, provides a limitation based on W-2 wages to the amount of the deduction for qualified business income (QBI); and (2) for purposes of section 199A(b)(7), which, for certain specified agricultural and horticultural cooperative patrons, provides a reduction to the section 199A deduction based on W-2 wages.”

⁴ Summary from IRS: “[Notice 2019-07](#) contains a proposed revenue procedure that provides for a safe harbor under which a rental real estate enterprise will be treated as a trade or business solely for purposes of section 199A of the Internal Revenue Code (Code) and §§ 1.199A-1 through 1.199A-6 of the Income Tax Regulations (Regulations) (26 CFR Part 1), which are being published contemporaneously with this notice. To qualify for treatment as a trade or business under this safe harbor, the rental real estate enterprise must satisfy the requirements of the proposed revenue procedure. If an enterprise fails to satisfy these requirements, the rental real estate enterprise may still be treated as a trade or business for purposes of section 199A if the enterprise otherwise meets the definition of trade or business in § 1.199A-1(b)(14).”

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					<p>indicating the rentals are a trade or business such as perhaps issuing 1099s under §6041 or claiming any §179 depreciation (see §179(d)(1)(C))?</p> <ul style="list-style-type: none"> Proposed regs under §199A – REG-134652-18 (2/8/19) <p>IRS FAQs on §199A</p> <p>IRS Info on Trust Filers and §199A Elected farm income may be used to figure QBI deduction (IRS, 4/19/19).</p> <p>1040 instructions (page 37) include basic information as well as a Simplified Worksheet for individuals with taxable income below the §199A thresholds. For individuals with taxable income above the thresholds, they will find more information in Pub 535.</p> <p>The final 1040 instructions include information clarified by the final regulations that was not in the draft 1040 instructions or the release of the final instructions prior to 1/18/19 (see more below). For example, in “Determining Your Qualified Business Income” the final instructions state that QBI “also includes other deductions attributable to the trade or business including, but not limited to, deductible tax on self-employment income, self-employed health insurance, and contributions to qualified retirement plans.”</p>
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					<p><i>Note:</i> The earlier version of the final 1040 instructions, such as one found from 1/7/19 (using the Wayback Machine), did not state that QBI is reduced by ½ SE tax and the other items now noted in the final regs and the more current final 1040 instructions. So apparently, the final 1040 instructions were updated for the final §199A regulations released on 1/18/19 (and the instructions were not really “final” when published in a form that didn’t say “draft”).⁵</p> <p><i>Note:</i> The preamble of the final regulations includes this for effective date: “These regulations are effective on [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER [2/8/19]]. Sections 1.199A-1 through 1.199A-6 are generally applicable to taxable years ending after [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]. However, taxpayers may rely on the rules set forth in §§1.199A-1 through 1.199A-6, in their entirety, or on the proposed regulations under §§1.199A-1 through 1.199A-6 issued on August 16, 2018, in their entirety, for taxable years ending in calendar year 2018.” There are references in the regs themselves too, which use similar language</p>
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⁵ Observation: The provision at Reg. 1.199A-3(b)(vi) to reduce QBI by the deductions claimed for half of SE tax, self-employed health insurance and qualified retirement contributions, is part of §199A(c) although not as explicitly as in the final reg. In *Argo Sales Company v. Comm’r.*, 105 TC 86 (1995), the court denied a taxpayer’s position that they did not have to follow something in a regulation because it wasn’t effective yet because the court said the rule was in the statute (even though not explicitly as laid out in the regulations); and the statute was effective for the year involved. The 2018 instructions are clear that these QBI reductions apply for 2018. [Also see Nellen’s [blog post of 2/28/19.](#)]

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					<p>except provide that the anti-abuse rules apply to tax years ending after 12/31/17.</p> <p>Taxable income thresholds for 2019: Per Rev. Proc. 2018-57, the inflation adjusted amounts for 2019 are:</p> <ul style="list-style-type: none"> ➤ MFJ \$321,400 ➤ S or HH \$160,725 ➤ MFS \$160,700 <p>On 2/13/19, the IRS released a draft Form 8995, Qualified Business Income Deduction Simplified Computation, for 2019.</p> <p>On 4/15/19, the IRS released a draft Form 8995-A, Qualified Business Income Deduction, apparently for taxpayers with taxable income above the threshold amounts.</p>
7.	Disallow active passthrough losses in excess of \$500,000 for joint filers, \$250,000 for all others (§461(l))	11012	T	tyba 12/31/17 and before 1/1/26	<p>Form 461 and instructions.</p> <p>IR-2018-254 (12/19/18) – the IRS points out that it has a website summarizing this loss limitation rule.</p> <p>The inflation adjusted thresholds for 2019 is (Rev. Proc. 2018-57) \$255,000 (\$510,000 MFJ).</p>
8.	Increase and modify child tax credit from \$1,000 to \$2,000 (up to \$1,400 refundable); \$500 non-refundable credit for non-child dependents (those that don't qualify as child under §24).	11022	T	tyba 12/31/17	<p>IRS Publication 972, Child Tax Credit</p> <p>IRS Interactive Tax Assistant Tool to determine if you qualify for the child credit.</p> <p>IRS Tax Reform Tax Tip 2018-182 (11/27/18).</p>

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9.	Require valid Social Security number to claim \$2,000 child tax credit	11022		tyba 12/31/17	
10.	2017 and 2018 medical expense threshold of 7.5% for regular tax and AMT; 10% thereafter (§213)	11027	P	2017 and 2018	
11.	Limit of \$10,000 deduction for state and local taxes (\$5,000 if MFS) [§164 ⁶] - Prepayment of 2018 Tax Rule and Issue [SALT]	11042	T	tyba 12/31/17	<p>IR-2017-210 (12/27/17) – explains the law on when property taxes are deductible by a cash method taxpayer. The IRS reminds taxpayers that the tax must be both assessed and paid to be deductible by a cash basis taxpayer.</p> <p>Information Letter 2018-0009 (6/29/18) – In response to a request from NJ Attorney General Grewal on deducting 2018 property taxes in 2017 and the effect of Governor Christie’s Exec Order 237 dated 12/27/17, the IRS used the same position of IR-2017-210 (above).</p> <p>Information Letter 2018-22 (9/28/18) encourages taxpayers who prepaid property taxes in 2017 for 2018 to do a “thorough examination of all provisions relevant to the assessment and levy process” in the state to determine if the tax was assessed in 2017.</p> <p>Rev. Rul. 2019-11 (3/29/19) explains the tax benefit rule treatment of a state or local</p>

⁶ For track changes version of §164, see http://www.sjsu.edu/people/annette.nellen/164_AmendedByPL115-97.pdf. This document also includes the pages from the 1944 Cumulative Bulletin that are referenced in footnote 168 of the Committee Report. The links are in the document at the URL in this footnote.

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					<p>income tax refund received by an individual who itemized deductions in the prior year. Basically, consider what the tax effect would have been if the actual income tax amount were known when the prior year return was filed to determine if a benefit is received. The ruling provides four examples. Also see IR-2019-59 (3/29/19) and IRS Pub 525.</p> <p>PMTA 2019-01 (12/7/18) - Interplay between the \$10,000 limitation of §164(b)(6) and §280A(b). Per the IRS, if the taxpayer claims the standard deduction or has SALT of \$10K or more, none of the state and local taxes for business use of the home are included as expenses under 280A(b). This is also noted in IRS Pub 587 and Form 8829.</p> <p>TIGTA, Review of the Issuance Process for Notice 2018-54 (2/22/19) – click here for heavily redacted version. Click here for unredacted version released by Congressman Neal, chair of the House Ways and Means Committee.</p>
	Limit of \$10,000 deduction for state and local taxes (\$5,000 if MFS) [§164 ⁷] -	11042	T	tyba 12/31/17	Notice 2018-54 (5/23/18) – The IRS intends to issue proposed regs on federal income tax treatment of certain payments made by

⁷ For track changes version of §164, see http://www.sjsu.edu/people/annette.nellen/164_AmendedByPL115-97.pdf. This document also includes the pages from the 1944 Cumulative Bulletin that are referenced in footnote 168 of the Committee Report. The links are in the document at the URL in this footnote.

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	Cap and SALT Workaround Issues [SALT]				<p>taxpayers that generate a credit against state or local taxes, while yielding a charitable contribution deduction for federal purposes. Per the notice, these regs “will make clear that the requirements of the Internal Revenue Code, informed by substance-over-form principles, govern the federal income tax treatment of such transfers. The proposed regulations will assist taxpayers in understanding the relationship between the federal charitable contribution deduction and the new statutory limitation on the deduction for state and local tax payments.”</p> <p>Also see IR-2018-122 (5/23/18).</p> <p>Proposed regulations - REG-112176-18 (8/27/18) & IR-2018-172 (8/23/18) – basically requires the donation to be reduced by the state tax credit claimed or available unless that credit was 15% or less of the amount transferred to the state or local government. Applies to donations after 8/27/18. Applies beyond the “SALT workaround” legislation enacted after the TCJA in some states. Also applies to charitable donation/state tax credit programs that existed prior to the TCJA.</p> <p>Treasury Secretary Mnuchin also issued a press release on 8/23 about the regulations and intent.</p> <p>About one week later, the IRS issued IR-2018-178 (9/5/18) to</p>
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					<p>clarify that business taxpayers making business-related payments to charities or governments for which they receive a state or local tax credit can “generally deduct the payments as business expenses.”</p> <p>Also see FAQs and Information Letter 2018-0030 (9/28/18) related to IR-2018-178.</p> <p>Rev. Proc. 2019-12 (12/28/18) clarifies IR-2018-178. It provides a safe harbor for business entities that make payment to a tax-exempt entity and receive a state or local tax credit. Under the safe harbor, the credit received is deemed to be a §162 deduction. If the credit amount is not 100%, the balance of the payment is not covered by the revenue procedure and facts and circumstances determine its treatment (generally it should fall under §170 or under §162 if the business received a benefit commensurate with that amount). While the safe harbor applies to all types of business entities, it only helps owners of passthrough entities “workaround” the \$10,000 SALT cap if the tax credit is against a tax imposed directly upon the entity, such as an excise tax or property tax. The guidance applies to payments made on or after 1/1/18.</p> <p>Rev. Rul. 2019-11 (3/29/19) explains the tax benefit rule treatment of a state or local</p>
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					<p>income tax refund received by an individual who itemized deductions in the prior year. Basically, consider what the tax effect would have been if the actual income tax amount were known when the prior year return was filed to determine if a benefit is received. The ruling provides four examples.* Also see IR-2019-59 (3/29/19) and IRS Pub 525.</p> <p>PMTA 2019-01 (12/7/18) - Interplay between the \$10,000 limitation of §164(b)(6) and §280A(b). Per the IRS, if the taxpayer claims the standard deduction or has SALT of \$10K or more, none of the state and local taxes for business use of the home are included as expenses under 280A(b). This is also noted in IRS Pub 587 and Form 8829.</p> <p><i>Query:</i> Is this correct? Why wouldn't a portion of the property taxes be treated as a direct tax of the Schedule C business?</p> <p>Notice 2018-63 (8/3/18) – Per IRS: “extends application of HFA Hardest Hit Fund safe harbor to homeowners who may be affected by the \$10,000 limitation on deductible property taxes. Under modified safe harbor, participating homeowners may allocate mortgage payments actually made first to deductible mortgage interest, and thereafter use any reasonable method to allocate remaining balance of payments made to real property</p>
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					taxes, mortgage insurance premiums, home insurance premiums and principal.”
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* Examples from Rev. Rul. 2019-11:

Example	Non-income taxes	State income taxes	Other itemized deductions	State income tax refund	How much is taxable in 2019	Explanation
1	\$4,000	\$5,000	\$5,000	\$1,500	\$1,500	Actual tax less than \$10,000 so rec'd benefit of entire deduction. So, entire refund taxable.
2	\$5,000	\$7,000	\$5,000	\$750	\$0	Actual tax of \$11,250; no benefit for \$1,250 which exceeds refund.
3	\$5,000	\$6,000	\$5,000	\$1,500	\$500	Total actual tax of \$9,500. So \$500 provided benefit relative to \$10K originally claimed.
4	\$4,250	\$6,000	\$2,500	\$1,000	\$500	If state income taxes only \$5,000, would have claimed std deduction

12.	Limit acquisition debt to \$750,000 with grandfathering provision (§163(h))	11043	T	tyba 12/31/17	IR-2018-32 (2/21/18)
13.	Home equity debt interest expense not treated as qualified residence interest (§163(h)) ⁸	11043	T	tyba 12/31/17	IR-2018-32 (2/21/18) with three examples to help illustrate that if home equity debt was used for substantial improvements on the taxpayer's principal or second residence, it likely remains as

⁸ See track changes version of §163 at http://www.sjsu.edu/people/annette.nellen/163_AmendedByPL115-97.pdf.

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					deductible qualified residence interest.
14.	Personal casualty and theft limited to federal-declared disaster	11044	T	tyba 12/31/17	
15.	No deduction for miscellaneous itemized deductions subject to 2% AGI floor	11045	T	tyba 12/31/17	<p>Notice 2018-42 “updates Notice 2018-03, 2018-2 I.R.B. 285 (released to the Public Dec. 14, 2017), in light of the Tax Cuts and Jobs Act (Public Law 115-97 (Dec. 22, 2017)), which made amendments to §§ 67 and 217 of the Internal Revenue Code. This notice updates Notice 2018-03 providing current information as to the optional 2018 standard mileage rates for taxpayers to use in computing the deductible costs of operating an automobile for business, charitable, medical, or moving expense purposes.”</p> <p>Also see IR-2018-127 (5/25/18).</p> <p>IRS guidance on application to estates and non-grantor trusts – Notice 2018-61 (7/13/18) “announces that the Treasury Department and the IRS intend to issue regulations providing clarification of the effect of section 67(g), enacted on December 22, 2017, by [the TCJA], on the deductibility of certain expenses described in section 67(b) and (e) that are incurred by estates and non-grantor trusts. These regulations will clarify that estates and non-grantor trusts may continue to deduct each expense that is described in section 67(e)(1) or is allowable under section 642(b),</p>

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					<p>651 or 661, in determining the estate or non-grantor trust's adjusted gross income for all taxable years, even while the application of section 67(a) is suspended pursuant to section 67(g)."</p> <p>IRS website on the effect of the repeal on state legislators – "Under prior law, state legislators could deduct travel expenses while away from their district on legislative days if their residence was more than 50 miles from the state capitol. This deduction was one of several miscellaneous itemized deductions that taxpayers could claim on Form 1040, Schedule A.</p> <p>The TCJA suspended this and other miscellaneous itemized deductions for taxable years 2018 through 2025. Beginning Jan. 1, 2018, state legislators' travel expenses will not be deductible."</p>
16.	<p>Increase taxable income limit for cash contributions from 50% to 60%⁹</p> <p>[note – despite reference to taxable income, the §170 limitations apply to a "contribution base" of AGI]</p>	11023	T	tyba 12/31/17 and before 1/1/26	
17.	Repeal limit on overall itemized deduction	11046	T	tyba 12/31/17	

⁹ Note that a technical correction is likely needed to meet the intended effect of this change. See AICPA letter of 2/22/18 - <https://www.aicpa.org/content/dam/aicpa/advocacy/tax/downloadabledocuments/20180222-aicpa-on-tcja-technical-corrections.pdf>.

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18.	Repeal exclusion for employer-provided bicycle commuter fringe benefit (§132(f))	11047	T	tyba 12/31/17	
19.	Repeal exclusion for employer-provided qualified moving expense reimbursements (other than members of the Armed Forces on active duty) [§132(a)(6) and §132(g)]	11048	T	tyba 12/31/17	<p>Notice 2018-75 (9/21/18) “provides that reimbursements an employer pays to an employee in 2018 for qualified moving expenses incurred in a prior year are not subject to federal income or employment taxes. The same is true if the employer pays a moving company in 2018 for qualified moving services provided to an employee prior to 2018.”</p> <p>Also see IR-2018-190 (9/21/18).</p> <p>Clarification on Code P Box 12 Reporting on 2018 W-2 from IRS (3/19/19)</p> <p>IRS Tax Reform Tax Tip 2018-192 (12/12/18) summarizes the change.</p>
20.	Repeal of deduction for moving expenses (other than members of the Armed Forces) [§217]	11049	T	tyba 12/31/17	See above.
21.	Limitation on wagering losses (related expenses not deductible if, along with losses, exceed winnings)	11050	T	tyba 12/31/17	
22.	Repeal of special rule permitting recharacterization of Roth conversions (§408A(d)(6)(B))	13611	P	tyba 12/31/17	<p>IRS FAQs</p> <p>Also see Pub 590-A.</p>
23.	Change length of service awards for public safety volunteers (§457(e)(11)(B))	13612	P	tyba 12/31/17	

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24.	Extended rollover period for certain plan loan offsets (§402(c))	13613	P	tyba 12/31/17	<p>Notice 2018-74 (9/18/18) – Per the IRS: “Notice 2018-74 modifies the two safe harbor explanations in Notice 2014-74, 2014-50 I.R.B. 937, that may be used to satisfy the requirement under § 402(f) of the Internal Revenue Code that certain information be provided to recipients of eligible rollover distributions. The safe harbor explanations as modified by this notice take into consideration certain legislative changes and recent guidance, including changes related to qualified plan loan offsets (as defined in section 13613 of the Tax Cuts and Jobs Act of 2017, P.L. 115-97) and guidance issued on self-certification of eligibility for a waiver of the deadline for completing a rollover (described in Rev. Proc. 2016-47, 2016-37 I.R.B. 346), and include other clarifying changes.”</p>
25.	Double Estate, Gift, and GST Tax Exemption Amount (§2001 & §2010)	11061	T	tyba 12/31/17	<p>IRS website on “what’s new” for estate and gift tax.</p> <p>Prop. Regs (REG-106706-18 (11/23/18)) were issued to address the TCJA requirement for the IRS to address issues that arise when the increase gift and estate tax exclusion drops after 2025 (“clawback” issue). Per IR-2018-229 (11/20/18):</p> <p>“The Treasury Department and the IRS issued proposed regulations which implement changes made by the 2017 Tax Cuts and Jobs Act (TCJA). As a result, individuals planning to</p>

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					<p>make large gifts between 2018 and 2025 can do so without concern that they will lose the tax benefit of the higher exclusion level once it decreases after 2025.” ...</p> <p>“To address concerns that an estate tax could apply to gifts exempt from gift tax by the increased BEA, the proposed regulations provide a special rule that allows the estate to compute its estate tax credit using the higher of the BEA applicable to gifts made during life or the BEA applicable on the date of death.”</p>
26.	Increase the Individual AMT Exemption Amounts and Phase-out Thresholds (§55)	12003	T	tyba 12/31/17	
27.	Reduce ACA Individual Shared Responsibility Payment Amount to Zero (§5000A)	11081	P	Months beginning after 12/31/18	
28.	Allow for increased contributions to ABLE accounts; allow Saver's Credit for ABLE contributions (§529A)	11024	T	tyba 12/31/17	<p>IR-2018-139 (6/15/18)</p> <p>Notice 2018-62 (8/3/18) – Per the IRS: Proposed regs will be issued “providing clarification regarding the new rules increasing the contribution limits to ABLE accounts from certain designated beneficiaries. In addition to the annual gift tax exclusion, a designated beneficiary who works may also contribute up to the lesser of these amounts: (1) the designated beneficiary’s compensation for the tax year, or (2) the poverty line for a one-person household in the state in which the designated beneficiary</p>

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					lives. An employed designated beneficiary is not eligible for the increased contribution limit for the taxable year if any contribution is made on behalf of the employee to a 401(a) defined contribution plan or 403(a) annuity contract, a 403(b) annuity contract, or a 457(b) eligible deferred compensation plan.”
29.	Allow rollovers from 529 accounts to ABLE accounts	11025	T	tyba 12/31/17	Notice 2018-58 – see below at #32. IRS Tax Tip 2018-136 (8/30/18) – Tax reform and ABLE accounts and more. IR-2018-239 (12/4/18) – reminders about benefits of ABLE accounts.
30.	Extend time limit for contesting IRS levy (IRC §6343(b) and §6532(c))	11071	P	Levies final after 12/22/17	IR-2018-126 (5/25/18) with overview and link to relevant IRS publications. Tax Reform Tax Tip 2018-123 (8/9/18); includes links to information on levies and collection rights.
31.	Treatment of certain individuals performing services in the Sinai Peninsula of Egypt	11026	T	Retroactive to 6/9/2015	IR-2018-95 (4/13/18) Pub 3, Armed Forces’ Tax Guide
32.	Treatment of student loans discharged on account of death or disability (§108)	11031	T	Discharges after 12/31/17	
33.	Allow 529 withdrawals up to \$10,000 for primary and secondary education	11032	P	Distributions made after 12/31/17	Notice 2018-58 - “Treasury and the IRS intend to issue regulations providing clarification regarding (1) the special rules for contributions of refunded qualified higher education expenses to a qualified tuition

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					<p>program [PATH Act change]; (2) the new rules permitting a rollover from a qualified tuition program to an ABLÉ account under IRC § 529A; and (3) the new rules treating certain elementary or secondary school expenses as qualified higher education expenses.” Prior to issuance, taxpayers may rely on rules in sections III, IV, and V of Notice 2018-58.</p> <p>Also see IR-2018-156 (7/30/18).</p>
34.	Retirement plan and casualty loss relief for any area with respect to which a major disaster has been declared by the President under section 401 of the Robert T. Stafford Relief and Emergency Assistance Act during 2016	11028	P	Various, generally retroactive for 2016 disasters	
35.	Repeal of deduction for alimony payments and generally corresponding inclusion in income	11051	P	Divorce or separate instruments executed after 12/31/2018	Notice 2018-37 (4/13/18) – IRS to issue regs on application of effective date regarding trust income payable to former spouse.

BUSINESS

IRS [Fact Sheet 2018-17](#) (Oct 2018) + [Fact Sheet 2019-3](#) (March 2019) - summarizing change for businesses.

IRS [TCJA: A comparison for businesses](#) – tables comparing Pre-TCJA and TCJA rules relevant for businesses

IRS [Pub 5318, What’s New for Your Business](#)

IRS [Tax Reform Tax Tip 2018-169](#) (10/31/18) – How tax reform affects farmers and ranchers + [“What’s new for farmers in 2018?”](#)

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36.	Repeal of Alternative Minimum Tax on Corporations (§§53, 55-59)	12001 12002	P	tyba 12/31/17 + provisions to allow use of minimum tax credit carryover by 2022	<p>Notice 2018-38 on how blended rate of §15 applies.</p> <p>IR-2018-99 (4/16/18) – blended rate rule of §15 applies</p> <p>Per IRS: For tyba 12/31/17, “refund payments and credit elect and refund offset transactions due to refundable minimum tax credits under section 53(e) will not be subject to sequestration.” [per IRS website updated 1/14/19]</p>
37.	21 Percent Corporate Tax Rate (§11) + change in dividends received deduction percentage	13001 13002	P	tyba 12/1/17; IRC §15 applies to fiscal year C corps	<p>Notice 2018-38 on how blended rate of §15 applies.</p> <p>IRS website on 2017 fiscal year filers and blended corporate rate.</p> <p>IR-2018-99 (4/16/18) – blended rate rule of §15 applies.</p> <p>IRS Tax Reform Tax Tip 2018-179 (11/20/18) – Some S corporations may want to convert to C corporations.</p>
38.	Increase section 179 expensing to \$1 million with a phaseout range beginning at \$2.5 million and expand definition of qualified property	13101	P	Property placed in service in tyba 12/31/17	<p>FS-2018-9 (April 2018)</p> <p>Rev. Proc. 2019-08 (12/21/18) provides guidance on elections, eligibility, optional depreciation table for residential rental property, and more, regarding the TCJA depreciation changes including §179, the change in ADS from 40 to 30 years for residential rental property, and more. Also see IR-2018-257 (12/21/18).</p> <p>2019 Inflation adjusted amounts per Rev. Proc. 2018-57 are \$1,020,000 and phase-out starts at \$2,550,000. SUV limit under §179 is \$25,500.</p>

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39.	<p>Simplified accounting for small business (small means average annual gross receipts in prior 3-year period of \$25 million or less (but not a tax shelter);¹⁰ no need to use accrual, account for inventory, use §263A or use percentage of completion for certain construction contracts).</p> <p>§448 §263A(i) §471(c) §460(e)</p>	13102	P	Generally tyba 12/31/17	<p>Rev. Proc. 2018-40 (8/3/18) explains how eligible small businesses change from accrual to cash (§448) and/or to no longer use unicap (§263A) or to not account for inventory as such (§471(c)) or for certain construction contracts (§460(e)) for the tyba 12/31/17. An abbreviated Form 3115 is allowed, and it is ok to report all TCJA small business changes on a single Form 3115 (other than the construction contract one). Rev. Proc. 2018-40 modifies Rev. Proc. 2018-31 and references Rev. Proc. 2015-13 that covers the general rules on method changes.</p> <p>Rev. Proc. 2018-40 reminds filers of Rev. Proc. 2015-13, §6.03(1)(b) on concurrent changes. The details of each change including the §481(a) adjustment must be separately shown on the Form 3115 (and picked up separately as required for positive (4 year spread) and negative (report all in year of change) §481(a) adjustments.</p> <p>For the inventory changes under §471(c), the IRS notes that automatic change consent under Rev. Proc. 2018-40 and 2018-31 “is not a determination by the Commissioner that the proposed inventory method of accounting is permissible, and does not create any presumption that the proposed method is a permissible method of accounting under a</p>

¹⁰ For track changes version of §448, see http://www.sjsu.edu/people/annette.nellen/448_AmendedByPL115-97.pdf.

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					<p>provision of the Code. The director will ascertain whether the proposed method is permissible under the Code.” The IRS is seeking comments on “how ‘books and records of the taxpayer prepared in accordance with the taxpayer’s accounting procedures’ should be interpreted in §471(c)(1)(B).”</p> <p>Designated accounting method change numbers (DCN):</p> <p>Accrual to cash = 233</p> <p>Unicap = 234</p> <p>Inventory = 235</p> <p>Certain construction contracts = 236 (Note: This change is required to be reported using the cut-off method (no §481(a) adjustment)).</p> <p>Also see IR-2018-160 (8/3/18).</p> <p>The inflation-adjusted gross receipts thresholds for 2019 is \$26 million per Rev. Proc. 2018-57.</p>
40.	Extension, expansion, and phase down of bonus depreciation (§168(k))	13201	T		<p>FS-2018-9 (April 2018) – note it includes some errors such as stating that qualified improvement property has a 15-year life (need a technical correction for this to be true). Or, can the IRS “accept” congressional intent on 15 years (unlikely, but odd that IRS would say 15 years on its fact sheet)? (not likely)</p> <p>Notice 2018-30 modifies §338 and §1374 approaches for determining recognized built-in gains or losses under §382(h), to provide that hypothetical cost recovery</p>

#	P.L. 115-97 Provision	Act Section	T or P	Effective Date	Guidance
					<p>deductions allowable had a §338 election been made or asset purchased at FMV are determined without regard to bonus depreciation §168(k).</p> <p>Proposed regs (REG-104397-18 (8/8/18)) + IR-2018-159 (8/3/18).</p> <p>Form 4562 and instructions – 2017 and 2018.</p> <p>Pub 946, How To Depreciate Property, updated 2/28/18.</p> <p>IRS Tax Reform Tax Tip 2018-170 (11/1/18) – Depreciation changes for farmers.</p> <p>IRS IR-2018-223 (11/15/18) – Small business and bonus and §179 expensing change summary.</p> <p>IRS Tax Reform Tax Tip 2018-177 (11/15/18) - §280F changes summary.</p>
41.	Limit net interest deductions to 30 percent of adjusted taxable income, carryforward of denied deduction (§163(j)) ¹¹	13301	P	Effective for tax years beginning after 12/31/2017	<p>JCT, Overview of Limitation of Business Interest: Section 163(j), 3/28/19</p> <p>Notice 2018-28 (4/2/18) (also see IR-2018-82 (4/2/18)) – interim guidance and request for comments by 5/31/18.</p> <p>Prop regs (REG-106089-18 (12/28/18)) of 439 pages (double-spaced) (121 pages in the Federal Register). Also see IR-2018-233 (11/26/18).</p> <p>Rev. Proc. 2018-59 (11/26/18) – “safe harbor that allows taxpayers to treat certain infrastructure trades or businesses as real property trades or businesses</p>

¹¹ See track changes version of §163 at http://www.sjsu.edu/people/annette.nellen/163_AmendedByPL115-97.pdf.

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					<p>solely for purposes of qualifying as an electing real property trade or business under §163(j)(7)(B).”</p> <p>Rev. Proc. 2019-08 (12/21/18) provides guidance on elections, eligibility, optional depreciation table for residential rental property, and more, regarding the TCJA depreciation changes including §179, the change in ADS from 40 to 30 years for residential rental property, and more. Also see IR-2018-257 (12/21/18).</p> <p>Form 8990 – form + instructions</p>
42.	Modify treatment of S corporation conversions into C corporations (§481(d), §1371(f))	13543	P	12/22/17	<p>Rev. Proc. 2018-44 (8/22/18) – “modifies Rev. Proc. 2018-31 to provide that an eligible terminated S corporation, as defined in §481(d)(2), that is required to change from the overall cash method to an overall accrual method of accounting as a result of a revocation of its S corporation election, and that makes this method change for the C corporation’s first taxable year after such revocation, takes into account the resulting § 481(a) adjustment ratably during the six-year period beginning with the year of change. This revenue procedure also provides that an eligible terminated S corporation that is permitted to continue to use the cash method after the revocation of its S corporation election and that changes to an overall accrual method for the C corporation’s first taxable year after such revocation, may take into account the resulting § 481(a)</p>

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					<p>adjustment ratably during the six-year period beginning with the year of change.”</p> <p>IRS Tax Reform Tax Tip 2018-179 (11/20/18) – Some S corporations may want to convert to C corporations.</p>
43.	Modifications to depreciation limitations on luxury automobiles and personal use property (§280F)	13202	P	property placed in service after 12/31/17	<p>FS-2018-9 (April 2018)</p> <p>Rev. Proc. 2018-25 – §280F amounts for 2018.</p> <p>Rev. Proc. 2019-13 (2/13/19) – “provides a safe harbor method of accounting for determining depreciation deductions for passenger automobiles that qualify for the 100-percent additional first year depreciation deduction under § 168(k), as amended by §13201 of the TCJA, and that are subject to the depreciation limitations under §280F(a), as amended by §13202(a)(1) of the Act.” Also see IR-2019-14 (2/13/19).</p>
44.	Modifications of treatment of certain farm property (§168)	13203 13205	P	property placed in service after 12/31/17	<p>FS-2018-9 (April 2018)</p> <p>Rev. Proc. 2019-08 (12/21/18) provides guidance on elections, eligibility, optional depreciation table for residential rental property, and more, regarding the TCJA depreciation changes including §179, the change in ADS from 40 to 30 years for residential rental property, and more. Also see IR-2018-257 (12/21/18).</p>
45.	Modification of net operating loss deduction (§172). For most taxpayers, there is no more carryback but there	13302	P	NOL limitation – losses arising in tyba 12/31/17	<p>IR-2018-254 (12/19/18) – the IRS points out that it has a website summarizing NOL changes.</p>

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	is unlimited carryforward. When used in a future year, the NOL can't reduce taxable income for that year by more than 80%.			NOL carryover – NOLs arising in ty ending after 12/31/17 ¹²	
46.	Like-kind exchanges limited to real property (§1031)	13303	P	Exchanges completed after 12/31/17. Exception applies if property is disposed of on or before 12/31/17, or property received on or before 12/31/17.	Rev. Proc. 2019-18 (4/11/19) – provides safe harbor to treat certain player and staff contracts and draft picks as having zero value in measuring recognized gain or loss for player or draft trades. Previously, such trades generally fell under §1031. Also see IR-2019-70 (4/11/19).
47.	Applicable recovery period for real property (§168)	13204	P	Property placed in service after 12/31/17.	Rev. Proc. 2019-08 (12/21/18) provides guidance on elections, eligibility, optional depreciation table for residential rental property, and more, regarding the TCJA depreciation changes including §179, the change in ADS from 40 to 30 years for residential rental property, and more. Also see IR-2018-257 (12/21/18).
48.	Amortization of research and experimental expenditures (rather than expensing) starting for tyba 12/31/21 (§174)	13206	P	Starting for tyba 12/31/21	
49.	Expensing of certain costs of replacing citrus plants	13207	T	amounts paid or incurred	Rev. Proc. 2018-35 (6/19/18) “provides a new automatic method change for certain taxpayers to change their method of accounting

¹² Note: A technical correction is needed for the effective dates as committee report does not tie to statutory language. See AICPA letter of 2/22/18 - <https://www.aicpa.org/content/dam/aicpa/advocacy/tax/downloadabledocuments/20180222-aicpa-on-tcja-technical-corrections.pdf>

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	lost by reason of a casualty (§263A(d))			after 12/22/17	from applying section 263A to citrus plant replanting costs to not applying section 263A to those costs, pursuant to section 263A(d)(2)(C). Section 263A(d)(2)(C) provides that section 263A does not apply to certain costs that are paid or incurred by certain taxpayers for replanting citrus plants after the loss or damage of citrus plants. This revenue procedure modifies Rev. Proc. 2018-31 to provide procedures for obtaining automatic consent of the Commissioner.”
50.	Repeal of deduction for income attributable to domestic production activities (§199)	13305	P	tyba 12/31/17	LB&I Division Memo of 11/21/18 on a new “campaign to evaluate claims filed for additional Domestic Production Activity Deduction (DPAD) under IRC § 199 to address compliance risk associated with the repeal of the DPAD.”
51.	Limitation on deduction by employers of expenses for fringe benefits: (§274) ¹³ a. Meals and entertainment expenses, including meals for the convenience of the employer	13304	P	Generally, to amounts paid or incurred after 12/31/17.	Notice 2018-76 (10/3/18) – “provides transitional guidance on the deductibility of expenses for certain business meals under §274. Section 274 was amended by the Tax Cuts and Jobs Act, Pub. L. No. 115-97, § 13304, 131 Stat. 2054, 2123 (2017) (the Act). As amended by the Act, § 274 generally disallows a deduction for expenses with respect to entertainment, amusement, or recreation. However, the Act does not specifically address the deductibility of expenses for business meals.” The notice

¹³ To see how changes affect IRC 274, see track changes at http://www.sjsu.edu/people/annette.nellen/274_AmendedByPL115-97.pdf.

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					<p>provides guidance that can be relied upon prior to the issuance of proposed regs. The IRS is seeking comments by 12/2/18.</p> <p>“Under this notice, taxpayers may deduct 50 percent of an otherwise allowable business meal expense if:</p> <ol style="list-style-type: none"> 1. The expense is an ordinary and necessary expense under § 162(a) paid or incurred during the taxable year in carrying on any trade or business; 2. The expense is not lavish or extravagant under the circumstances; 3. The taxpayer, or an employee of the taxpayer, is present at the furnishing of the food or beverages; 4. The food and beverages are provided to a current or potential business customer, client, consultant, or similar business contact; and 5. In the case of food and beverages provided during or at an entertainment activity, the food and beverages are purchased separately from the entertainment, or the cost of the food and beverages is stated separately from the cost of the entertainment on one or more bills, invoices, or receipts. The entertainment disallowance rule may not be circumvented through inflating the amount charged for food and beverages.”
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					The notice includes 3 examples. Also see IR-2018-195 (10/3/18).
52.	<p>Limitation on deduction by employers of expenses for fringe benefits: (§274)¹⁴</p> <p>Repeal deduction for qualified transportation fringes (QTF), including commuting except as necessary for employee's safety.</p>	13304	P	Generally, to amounts paid or incurred after 12/31/17.	<ul style="list-style-type: none"> • Pub 15-B, Employer's Tax Guide to Fringe Benefits, updated for 2018. "Tip" notes no deduction for qualified transportation benefits whether provided directly by employer, through a bona fide reimbursement arrangement, or through a compensation reduction agreement. (page 21). Also see tip on meals on page 17. • Notice 2018-99 (12/10/18) provides interim guidance for 2018 on determining an employer's non-deductible parking expense if this QTF is offered. If parking is acquired from a third party, use that cost. For a parking area(s) owned or leased by the taxpayer, a reasonable method of splitting employee and other parking is allowed. The IRS provides a 4-step approach that is deemed to be a reasonable method. Under this 4-step approach, first determine the percent of spaces reserved for employees. The expenses attributed to this percent of the parking costs are not deductible by the employer. Next, for the balance of the spaces, the employer

¹⁴ To see how changes affect IRC 274, see track changes at http://www.sjsu.edu/people/annette.nellen/274_AmendedByPL115-97.pdf.

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					<p>determines the primary purpose – customers or employees. Primary means over 50%. If over 50% of the spaces are for customers, there are no other disallowed parking expenses. If the primary purpose is employee parking, the employer next (step 3) allocates a portion of the costs of these spaces to any that are reserved for customer use (this amount is deductible). The, step 4, any reasonable method is used to allocate expenses of the remainder of the spaces between deductible customer use and non-deductible employee use based on normal business hours. Employers have until 3/31/19 to change the number of spaces reserved for employees, if desired, with such change treated as made 1/1/18. Depreciation is not considered a parking expense. Several examples are provided.</p> <ul style="list-style-type: none"> • Also see IR-2018-247 (12/10/18)
53.	Limitation on deduction by employers of expenses for fringe benefits: c. Clarification of tangible personal property deductible as employee	13310	P	Generally, to amounts paid or incurred after 12/31/17.	Tax Reform Tax Tip 2018-190 (12/10/18) – tips on the employee achievement award change.

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	achievement award (§274(j)) ¹⁵				
54.	Eliminate deduction for member of Congress living expenses (§162)	13311	P	tyba 12/22/17	
55.	UBTI increased by amount of certain fringe benefit expenses for which deduction is disallowed including qualified transportation fringe (QTF) benefits and on-premises athletic facilities.	13703	P	Amounts paid or incurred after 12/31/17	<ul style="list-style-type: none"> • Notice 2018-99 (12/10/18) provides interim guidance for 2018 on determining an entity's expense for parking offered to employees as a QTF. For parking acquired from a third party, use that as the cost. For parking area owned or leased by the taxpayer, a reasonable method is allowed. The notice provides a 4-step approach that is deemed to be a reasonable method. Under this approach, first determine the percent of spaces reserved for employees. The expenses attributed to this percent of the parking costs is UBTI. Next, for the balance of the spaces, the employer determines the primary purpose – customers or employees. Primary means over 50%. If over 50% of the spaces are for customers, there are no other UBTI. If the primary purpose is employee parking, the employer next (step 3) allocates a portion of the costs of these spaces to any that are reserved for customer use (this amount is not UBTI). Step 4 - any reasonable method is used to allocate expenses of the

¹⁵ To see how changes affect IRC 274, see track changes at http://www.sjsu.edu/people/annette.nellen/274_AmendedByPL115-97.pdf.

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					<p>remainder of the spaces between non-UBTI customer use and UBIT employee use based on normal business hours. Employers have until 3/31/19 to change the number of spaces reserved for employees, if desired, with such change treated as made 1/1/18.</p> <ul style="list-style-type: none"> • If the UBTI from the parking QTF along with gross income from other unrelated trades or businesses is \$1,000 or less, the entity is not required to file a Form 990-T for the year. • Several examples are provided. • Notice 2018-100 (12/10/18) provides “estimated tax penalty relief in 2018 to tax-exempt organizations that offer these benefits and were not required to file a Form 990-T last filing season. [for underpayment of estimated income tax payments required to be made on or before 12/17/18.] Additionally, some tax-exempt organizations will not exceed the \$1,000 threshold below which an organization is not required to file a Form 990-T or pay the unrelated business income tax.” [IR-2018-247] “To claim the waiver under this notice, the tax-exempt organization must write “Notice 2018-100” on the top of its Form 990-T.” [Notice 2018-100]
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					Also see IR-2018-247 (12/10/18)
56.	Repeal of rollover of publicly traded securities gain into specialized small business investment companies (IRC §1044)	13313	P	Sales after 12/31/17	
57.	Certain self-created property not treated as a capital asset under §1221(a)(3) (but retains §1235)	13314	P	Sales after 12/31/17	
58.	Certain special rules for taxable year of inclusion (in general) §451(b) ¹⁶ [Generally, accrual method taxpayers report income no later than is done on their applicable financial statement (AFS) or such other financial statement specified by the IRS. Exceptions exist including for special methods such as the installment method.]	13221	P	tyba 12/31/17	JCT, Overview of Modifications to Income Recognition under Section 451 by Public Law 115-97 (April 2019). Notice 2018-35 – transitional guidance for Rev. Proc. 2004-34 in light of it mostly being codified at revised 451(c). Taxpayers may continue to rely on Rev. Proc. 2004-34 until additional guidance is issued. The IRS also seeks particular comments for this guidance; due by 5/14/18.
59.	Certain special rules for taxable year of inclusion (related to original issue discount and other similar items) §451(c)	13221	P	tyba 12/31/17	Rev. Proc. 2018-29 – automatic method changes for taxpayers early adopting FASB ASC 606. Also requests comments on future guidance related to changes under new §451(b) and (c) for accrual method taxpayers. Notice 2018-80 (9/27/18) – “announces that the Treasury Department and the IRS intend to issue proposed regulations providing that market discount is not includible in income under

¹⁶ See track changes version of §451 at http://www.sjsu.edu/people/annette.nellen/451_as_AmendedByHR1_115th.pdf.

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					<p>section 451(b), as added by section 13221 of the TCJA. Section 451(b) provides that the all events test is met with respect to an item of gross income no later than when the taxpayer takes that item of gross income into account as revenue for financial accounting purposes in an ‘applicable financial statement.’”</p> <p>REG-104872-18 (10/15/18) – propose to repeal Reg. 1.451-5 on advance payments for goods in light of the addition of 451(c) and footnote 880 in the committee report suggesting the regulation is no longer needed (see text of fn 880 in column to the right).</p> <p>Rev. Proc. 2018-60 (12/7/18) modifies Rev. Proc. 2018-31 to provide automatic and streamlined method change procedures for accrual method taxpayer conforming to the new income timing rule of §451(b).</p>
60.	Modification of credit for clinical testing expenses for certain drugs for rare diseases or conditions (§45C)	13401	P	tyba 12/31/17	
61.	Modify rehabilitation credit to provide 20 percent historic credit ratably over 5 years, repeal credit for pre-1936 property (§47)	13402	P	Amounts paid or incurred after 12/31/17; see transition rule.	IRS Tax Reform Tax Tip 2018-161 (10/17/18)
62.	Provide a tax credit to certain employers who	13403	T	Generally, to amounts	IRS FAQs

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	provide family and medical leave (§45S)			paid or incurred after 12/31/17; available for two years	<p>IRS Tax Reform Tax Tip 2018-69 (5/4/18)</p> <p>IRS Tax Reform Tax Tip 2018-149 (9/25/18)</p> <p>Tax Reform Tax Tip 2018-183 (11/28/18)</p> <p>Notice 2018-71 (9/24/18) “provides guidance on the employer credit for paid family and medical leave under Code section 45S. The credit may be claimed by eligible employers and is equal to a percentage of wages paid to qualifying employees while they are on family and medical leave. The credit generally is effective only for wages paid in taxable years of the employer beginning after December 31, 2017, and before January 1, 2020. The notice provides guidance on issues arising under section 45S, including the requirements an employer must satisfy to be an eligible employer, the types of leave that are family and medical leave under section 45S, the minimum paid leave requirements, the calculation of the credit, and the impact of state-mandated leave on the availability and calculation of the credit.”</p> <p>Also see IR-2018-191 (9/24/18).</p> <p>Form 8994, Employer Credit for Paid Family and Medical Leave [instructions].</p>
63.	Limitation on deduction for FDIC premiums (§162)	13531	P	tyba 12/31/17	

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64.	Repeal of advance refunding bonds	13532	P	Bonds issued after 12/31/17	
65.	Repeal of tax credit bonds	13404	P	Bonds issued after 12/31/17	Rev. Proc. 2018-26 Notice 2018-15 – new clean renewable energy bonds Information on IRS website .
66.	Modification of limitation on excessive employee remuneration, with transition rule (§162(m))	13601	P	tyba 12/31/17; binding contract exception for those in effect on 11/2/17 and not materially modified thereafter	Notice 2018-68 (8/21/18) – “provides initial guidance on the application of § 162(m), as amended by [TCJA]. Section 162(m)(1) generally limits the allowable deduction for a taxable year for remuneration by any publicly held corporation paid with respect to a covered employee. The Act made significant amendments to §162(m), and also provided a transition rule applicable to certain outstanding arrangements (commonly referred to as the grandfather rule). The notice provides guidance on the amended rules for identifying covered employees and the operation of the grandfather rule.”
67.	21-percent excise tax on excess tax-exempt organization executive compensation (certain exceptions provided to non-highly compensated employees, and for certain medical services) (new §4960)	13602	P	tyba 12/31/17	Notice 2019-09 – interim guidance; 92 pages long.
68.	Treatment of qualified equity grants (IRC §83(i), 3401, 6051)	13603	P	Generally applies to stock	Notice 2018-97 (12/7/18) and IR-2018-246 (12/7/18). Summary per IRS: “provides guidance to

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				attributable to options exercised, or restricted stock units settled, after 12/31/17	taxpayers on (1) application of requirement in §83(i)(2)(C)(i)(II) that grants be made to 80% of employer's employees, (2) application of income tax withholding to deferred income related to qualified stock, and (3) manner in which an employer may opt out of permitting employees to elect deferred tax treatment even if the requirements under §83(i) are otherwise met. Section 83 generally provides for federal tax treatment of property transferred in connection with performance of services. Section 83(i) allows certain employees to elect to defer income that would otherwise be included under § 83(a) upon the exercise of a stock option or settlement of a stock-settled restricted stock unit. Income subject to such an election may be deferred for up to 5 years, subject to certain limitations."
69.	Increase the excise tax on stock compensation in an inversion from 15 percent to 20 percent	13604	P		
70.	Net operating losses of life insurance companies	13511	P		
71.	Repeal of small life insurance company deduction	13512	P		
72.	Adjustment for change in computing reserves	13513	P		Method change guidance: Per the IRS (12/13/18): " Revenue Procedure 2019-10 modifies Revenue Procedure 2018-31 to provide procedures for an insurance company to obtain automatic consent of the

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					Commissioner to change its method of accounting to comply with section 807(f), as amended by section 13513 of the TCJA. This revenue procedure also modifies Revenue Ruling 94-74 and Revenue Ruling 2002-6.”
73.	Repeal of special rule for distributions to shareholders from pre-1984 policyholders surplus account	13514	P		
74.	Modification of proration rules for property and casualty insurance companies		P		
75.	Repeal of special estimated tax payments (for insurance companies)	13516	P		
76.	Computation of life insurance reserves	13517	P		
77.	Modification of rules for life insurance proration	13515	P		
78.	Capitalization of certain policy acquisition expenses		P		
79.	Tax reporting for certain life insurance contract transactions (new IRC §6050Y)	13520	P	Generally after 12/31/17	<p>Notice 2018-41 (4/26/18) – reporting not required until final regs issued. Additional time to report will be given.</p> <p>IR-2018-104 (4/26/18)</p> <p>Form 1099-LS, Reportable Life Insurance Sale + instructions – required to be filed by acquirer of a life insurance contract, or any interest in a life insurance contract in a reportable policy sale.</p>

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					Prop regs (REG-103083-18 (3/25/19)) + IR-2019-54 (3/22/19).
80.	Clarification of tax basis of life insurance contracts (§1016(a)(1))	13521	P	Transactions entered into after 8/25/09	
81.	Exception to transfer for valuable consideration rules (modification to §101(a))	13522	P	Transfers after 12/31/17	
82.	Modification of property and casualty insurance company discounting rules	13523	P	tyba 12/31/17	
83.	Tax gain on the sale of a partnership interest on look-thru basis (§864(c) and §1446)	13501	P	Effectively connected change (§864(c)) effective to sales, exchanges, and dispositions on or after 11/27/17. Withholding changes to §1446 effective for sales, exchanges, and dispositions after 12/31/17.	Notice 2018-08 provides temporary relief for disposition of certain publicly traded p/s interests. Notice 2018-29 (4/2/18) (also see IR-2018-81 (4/2/18)) – preliminary guidance and request for comments. REG-113604-18 (12/27/18). REG-105476-18 (5/13/19)
84.	Expand the definition of substantial built-in loss for purposes of partnership loss transfers (§743)	13502	P	tyba 12/31/17	

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85.	Charitable contributions and foreign taxes taken into account in determining limitation on allowance of partner's share of loss	13503	P	tyba 12/31/17	
86.	Repeal of technical termination of partnerships (§708)	13504	P	Partnership tax years beginning after 12/31/17	
87.	Excise tax of 1.4% based on the net investment income of private colleges and universities with endowment per student of at least \$500,000 (new §4968)	13701	P	tyba 12/31/17	<p>[P.L. 115-123 (2/9/18), Sec. 41109, adds "tuition-paying" to modify student. This was in the original TCJA but removed at the last minute under the Byrd rules.]</p> <p>Notice 2018-55 (6/8/18) – proposed regs will be issued including covering calculation of net investment income for purposes of the tax. The regs will include how gain or loss on a property disposition affects NII. Per the notice: "Similar to the rules found in section 4940(c), the Treasury Department and the IRS intend to propose regulations stating that, in the case of property held by an applicable educational institution on December 31, 2017, and continuously thereafter to the date of its disposition, basis of such property for determining gain shall be deemed to be not less than the fair market value of such property on December 31, 2017, plus or minus all adjustments after December 31, 2017, and before the date of disposition consistent with the regulations under section 4940(c).</p>

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					<p>In addition, for purposes of determining loss, basis rules that are consistent with the regulations under section 4940(c) will apply.”</p> <p>Also see IR-2018-134 (6/8/18).</p>
88.	Unrelated business taxable income separately computed generally for each trade or business activity (IRC 512)	13702	P	Generally tyba 12/31/17	<p>Notice 2018-67 (8/21/18) – “solicits comments regarding the application of new § 512(a)(6), which was added by section 13702 of [TCJA]. Section 512(a)(6) requires an organization subject to the unrelated business income tax under §511 with more than one unrelated trade or business to calculate unrelated business taxable income (“UBTI”) separately with respect to each trade or business. The notice requests comments [by 12/3/18] on various topics, including possible methods for separating trades or businesses and the treatment of activities in the nature of investments and income from fringe benefits required to be included in UBTI under §512(a)(7) for purposes of §512(a)(6). The notice also sets forth interim and transition rules under §512(a)(6) with respect to aggregating gross income and directly connected deductions of certain activities in the nature of investments.”</p> <p>For tyba 12/31/17, entities may rely on methods provided in the notice. They “may rely on a reasonable, good-faith interpretation of §§511 through 514 taking into account all the</p>

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					facts and circumstances when determining whether an exempt org has more than one unrelated trade or business for purposes of §512(a)(6)."
89.	Charitable deduction not allowed for amounts paid in exchange for college athletic event seating rights	13704	P	tyba 12/31/17	
90.	Repeal substantiation exception for charitable contributions reported by donee organization (§170(f)(8)(D) repealed)	13705	P	tyba 12/31/16	
91.	Modify tax treatment of Alaska Native Corporations and Settlement Trusts [IRC §6039H, new §139G and §247]	13821	P	tyba 12/31/16	IR-2018-16 (1/30/18) CCA 201822026 (6/1/18) – Q&As on the tax
92.	Expansion of qualifying beneficiaries of an electing small business trust, and modify charitable contribution deduction for electing small business trusts (IRC 1361 and 641)	13541 13542	P	1/1/18 Tyba 12/31/17	
93.	Craft beverage modernization and tax reform (§263A(f) and excise tax rates	13801 13802 13803 13804 13805 13806 13807 13808	T	§263A(f) change applies to interest costs paid or accrued beginning after 12/31/17, but does not apply after 12/31/19	

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94.	Exempt amounts paid for aircraft management services from the excise taxes imposed on transportation by air [§4261(e)]	13822	P	Amounts paid after 12/22/17	Information on IRS website .
95.	Create qualified opportunity zones assisting areas in need and providing investors in the Qualified Opportunity Funds gain deferral and possibly partial exclusion (IRC 1400Z-1 and -2)	13823	T	12/22/17	<p>IRS FAQs – explains how to become certified as a Qualified Opportunity Fund and how to claim the benefits.</p> <p>Information from Treasury Dept.</p> <p>Rev. Proc. 2018-16 – procedure for designating a population census tract as a Qualified Opportunity Zone.</p> <p>Notice 2018-48 (6/20/18) – lists the population census tracts designated by Treasury as qualified opportunity zones.</p> <p>Rev. Rul. 2018-29 (10/19/18) – “guidance for taxpayers on the “original use” requirement for land purchased after 2017 in qualified opportunity zones.”</p> <p>Form 8996, Qualified Opportunity Fund [instructions] – used by investment vehicles to self-certify as QOFs.</p> <p>Form 8949, Sales and other Dispositions of Capital Assets, is used to make the election to defer the gain.</p> <p>Prop regs (REG-115420-18 (10/29/18)) explain what gains qualify for deferral, qualified opportunity funds, and more. Also see IR-2018-206 (10/19/18).</p>

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					Additional prop regs (REG-120186-18 ; released 4/17/19) [169 pages] [IR-2019-75 ; 4/17/19] Tax Reform Tax Tip 2018-191 (12/11/18) includes a brief summary.
96.	Deny deduction for settlements subject to a nondisclosure agreement paid in connection with sexual harassment (new §162(q))	13307	P	Amounts paid or incurred after 12/22/17	Information on IRS website . IRS FAQ stating that person receiving a settlement might be able to deduct legal fees. Note that this appears to require a technical correction. Also, section 62 likely disallows a deduction as it is very limited as to what personal legal fees are deductible for AGI. The technical corrections bill that Congressman Brady released on the last day of the 115 th Congress included a technical correction to get the result the IRS has in its FAQ (see page 31). Similarly, the JCT's Bluebook (page 195) indicates that a technical correction may be needed to reach this intended result: "Any attorney's fees incurred by the beneficiary of the settlement or recipient of the payment are not subject to this rule." ⁹⁸¹ Footnote 981 provides: "A technical correction may be necessary to reflect this intent." ¹⁷

¹⁷ *Observation:* FAQs are not binding guidance. They are not listed as "authority" at Reg. 1.6662-4(d). Also, per [Reg. 601.601\(d\)\(2\)\(ii\)\(a\)](#) the Internal Revenue Bulletin (IRB) is the authoritative instrument of the IRS and where official rulings and procedures are published. Also, the [IRM at 4.10.7.2.4](#) reminds IRS employees that they must follow items published in the IRB and taxpayers may also rely on such items. However, certain items such as FAQs are not published in the IRB and "are not legal authority and should not be used to sustain a position unless the items (e.g., FAQs) explicitly indicate otherwise or the IRS indicates otherwise by press release or by notice or announcement published in the Bulletin."

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97.	Expand provision relating to the non-deductibility of fines and penalties (§162(f) and new §6050X)	13306	P	Amounts paid or incurred on or after 12/22/17	Notice 2018-23 (3/27/18) – IRS to issue proposed regs and request comments by 5/18/18. Request also published in the Federal Register on 9/4/18 with comments due by 11/5/18. Form 1098-F , Fines, Penalties, and Other Amounts + instructions .
98.	Repeal of deduction for local lobbying expenses (§162(e))	13308	P	Amounts paid or incurred after 12/22/17	
99.	Revision of treatment of contributions to capital (IRC §118)	13312	P	Contributions after 12/22/17	
100.	Recharacterization of certain gains on property held for fewer than 3 years in the case of partnership profits interest held in connection with performance of investment services [carried interest provision – adds IRC §1061]	13309	P	Tyba 12/31/17	Notice 2018-18 (3/1/18) – IRS to issue regs and they will include that “that the term "applicable partnership interest" for purposes of section 1061 includes a partnership interest directly or indirectly held by an S corporation.” IR-2018-37 (3/1/18)
INTERNATIONAL					
Helpful reports: <ul style="list-style-type: none"> Congressional Research Service, Issues in International Corporate Taxation: The 2017 Revision (P.L. 115-97), 5/1/18 					
101.	Establishment of Participation Exemption System for Taxation of Foreign Income 1. Deduction for foreign-source portion of dividends received by domestic corporations from specified 10-	14101 14102 14103	P	tyba 12/31/17	IR-2018-131 (6/4/18) – penalty and filing relief via three new FAQs . Pub 5292, How to Calculate Section 965 Amounts and Elections Available to Taxpayers , for 2017 returns. Notice 2018-26 (4/2/18) – guidance on the transition tax on

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	<p>percent owned foreign corporations [new §245A and other changes]</p> <p>2. Special rules relating to sales or transfers involving specified 10-percent owned foreign corporations [new §91 and other changes]</p> <p>3. Treatment of deferred foreign income upon transition to participation exemption system of taxation and mandatory inclusion at two-tier rate (8% rate for illiquid assets, 15.5% rate for liquid assets) [§956 and others]</p> <p>IRC §91 (new), §245A (new), §246, §367, §904, §956, §961(d) (new), §964(e)(4) (new), §965, §1248(j) (new)</p>				<p>foreign earnings. Also see IR-2018-79 (4/2/18).</p> <p>FAQs on the transition tax and reporting it on 2017 returns. Also see IR-2018-53 (3/13/18).</p> <p>PMTA 2018-16 (8/2/18) – explanation of why IRS cannot issue a refund if an overpayment of tax was applied to the transition tax.</p> <p>8/16/18 – National Taxpayer Advocate blog post asking IRS for relief on the application of regular tax overpayments to the 965 liability.</p> <p>Rev. Proc. 2018-17 (2/13/18) and IR-2018-25 (2/13/18) on accounting period change procedures related to the transition tax. Per the IRS, the Rev. Proc. “prevents changes to the annual accounting periods of certain foreign corporations in 2017 under either the existing automatic or general procedures if such change could result in the avoidance, reduction, or delay of the transition tax.” Also see Prop. Reg. 1.965-4(c).</p> <p>Notice 2018-13 (1/19/18) (31 pages) and IR-2018-09 (1/19/18) with guidance on the transition tax.</p> <p>Notice 2018-07 (22 pages) and IR-2017-212 (12/29/17) with guidance under §965 to determine the amount includible in gross income.</p>

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					<p>Proposed regulations (REG-104226-18; 8/9/18) and IR-2018-158 (8/1/18).</p> <p>Final regs issued - TD 9846 (2/5/19).</p> <p>RICS – Rev. Proc. 2018-47 (9/6/18) “provides excise tax relief for certain regulated investment companies that have inclusions under §951(a)(1) by reason of §965 for the excise tax year ended on Dec. 31, 2017.”</p> <p>Notice 2018-78 (10/1/18) – Per IRS: “The notice of proposed rulemaking providing rules under section 965 published in the Federal Register on August 9, 2018 [REG-104226-18 (8/9/18)], provided, among other things, for a basis election to be made by United States shareholders in certain circumstances. It also provided rules concerning the determination of the aggregate foreign cash position of a United States shareholder that is a member of a consolidated group, which were inconsistent with the more taxpayer-favorable rule announced in Notice 2018-07.</p> <p>This Notice 2018-78 announces that the due date for the basis election that would otherwise be required to be made before the final regulations are published will be extended to 90 days after the publication of the final regulations. Further, elections made in the interim will be revocable. The notice also</p>
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					<p>announces that the rules concerning the determination of the aggregate foreign cash position will be revised to be consistent with Notice 2018-07. Finally, Notice 2018-78 provides a postponement for taxpayers affected by Hurricane Florence to make elections, and file transfer agreements, related to section 965.” Also see REG-104226-18 (10/10/18).</p> <p>Prop regs – REG-114540-18 (11/5/18) - “reducing the amount determined under section 956 for certain domestic corporations that own (or are treated as owning) stock in controlled foreign corporations (CFCs).” Also see IR-2018-210 (10/31/18).</p> <p>Notice 2019-01 (12/14/18) Per the IRS: “the Treasury Department and the IRS intend to issue regulations addressing certain issues arising from the enactment of the Tax Cuts and Jobs Act, Pub. L. 115-97 (2017) on December 22, 2017, with respect to foreign corporations with previously taxed earnings and profits (“PTEP”). The notice describes regulations that the Treasury Department intend to issue including (i) rules relating to the maintenance of PTEP in annual accounts and within certain groups; (ii) rules relating to the ordering of PTEP upon distribution and reclassification; and (iii) rules relating to the</p>
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					adjustment required when an income inclusion exceeds the earnings and profits of a foreign corporation. It is anticipated that the regulations announced in the notice will apply to taxable years of U.S. shareholders ending after the date of release of the notice and to taxable years of foreign corporations ending with or within such taxable years.”
102.	<p>Rules Related to Passive and Mobile Income</p> <p>1. Current year inclusion of global intangible low-taxed income by United States shareholders [GILTI, new §951A]</p> <p>2. Deduction for foreign-derived intangible income and global intangible low-taxed income [new §250]</p> <p>§1, §59A (new) [BEAT], §163, §250 (new), §267A (new), §367, §482, §882, §936, §951A, §960(d)</p>	14201 14202	P		<p>Prop Regs on GILTI – IR-2018-186 (9/13/18) – REG-104390-18 (10/10/18).</p> <p>Form 8992, U.S. Shareholder Calculation of Global Intangible Low-Taxed Income (GILTI).</p> <p>JCT, presentation file on BEAT (April 2019).</p> <p>REITs – “Revenue Procedure 2018-48 provides guidance for real estate investment trusts regarding the treatment of certain foreign income inclusions, including inclusions under section 951A, for purposes of the 95 percent gross income qualification test of section 856(c)(2).”</p> <p>Proposed regulations on FTC after TCJA - REG-105600-18 + IR-2018-235 (11/28/18).</p> <p>Prop regs on Certain Hybrid Arrangements - REG-104352-18 (12/28/18).</p> <p>Prop regs (REG-104464-18 (3/6/19)) under §250 on FDII and GILTI. Also see IR-2019-27 (3/5/19). The preamble explains that while individuals are not allowed a</p>

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					<p>deduction for GILTI, if an election to be treated as a corporation under §962 is made, a deduction is allowed.</p> <p>Form 8993, Section 250 Deduction for Foreign-Derived Intangible Income (FDII) and Global Intangible Low-Taxed Income (GILTI).</p> <p>JCT, Overview of the Base Erosion and Anti-Abuse Tax: Section 59A, 4/11/19.</p>
103.	<p>Other Modifications of Subpart F Provisions</p> <ol style="list-style-type: none"> 1. Elimination of inclusion of foreign base company oil related income 2. Repeal of inclusion based on withdrawal of previously excluded subpart F income from qualified investment 3. Modification of stock attribution rules for determining status as a controlled foreign corporation [repeal of §958(b)(4)] 4. Modification of definition of United States shareholder 5. Elimination of requirement that corporation must be controlled for 30 days before subpart F inclusions apply <p style="text-align: center;">§951, §954, §955</p>	<p>14211 14212 14213 14214 14215</p>	P		

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104.	Prevention of Base Erosion 1. Limitation on income shifting through intangible property transfers 2. Certain related party amounts paid or accrued in hybrid transactions or with hybrid entities (§267A (new)) 3. Shareholders of surrogate foreign corporations not eligible for reduced rate on dividends §936, §367(d)(2)(D), §482, §267A (new), §1(h)	14221 14222 14223	P		
105.	Modifications Related to Foreign Tax Credit System 1. Repeal of section 902 indirect foreign tax credits; determination of section 960 credit on current year basis 2. Separate foreign tax credit limitation basket for foreign branch income 3. Source of income from sales of inventory determined solely on basis of production activities 4. Election to increase percentage of domestic taxable income offset by overall domestic loss	14301 14302 14303 14304	P		

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	<p>treated as foreign source</p> <p>§902, §960, §78, §904, §863(b),</p>				
106.	<p>Inbound Provisions</p> <p>1. Base erosion and anti-abuse tax (new §59A)</p> <p>§59A (new), §6038A</p>	14401	P		<p>Proposed regulations (REG-104259-18; 12/21/18). Also see IR-2018-250 (12/13/18) which notes that these rules “primarily affect corporate taxpayers with gross receipts averaging more than \$500 million over a three-year period who make deductible payments to foreign related parties.”</p> <p>Form 8991, Tax on Base Erosion Payments of Taxpayers With Substantial Gross Receipts - draft</p>
107.	<p>Other Provisions</p> <p>1. Restriction on insurance business exception to passive foreign investment company rules</p> <p>2. Repeal of fair market value method of interest expense apportionment</p> <p>§1297, §864(e)</p>	14501 14502	P		