# New or revised deductions for businesses

- **Qualified business income deduction.** Many taxpayers may be eligible for a new deduction for qualified business income (QBI) from a qualified trade or business operated directly or through a pass-through entity.

  The deduction has two components.

1. Eligible taxpayers may be entitled to deduct up to 20 percent of their qualified business income (QBI) from a domestic business operated as a sole proprietorship or through a partnership, S corporation, trust or estate. For taxpayers with taxable income that exceeds $315,000 for a married couple filing a joint return, or $157,500 for all other taxpayers, the deduction is subject to limitations such as the type of trade or business, the taxpayer's taxable income, the amount of W-2 wages paid by the qualified trade or business and the unadjusted basis immediately after acquisition (UBIA) of qualified property held by the trade or business. Income earned through a C corporation or by providing services as an employee is not eligible for the deduction.

2. Eligible taxpayers may be entitled to deduct 20 percent of their combined qualified real estate investment trust (REIT) dividends and qualified publicly traded partnership (PTP) income. This component of the section 199A deduction is not limited by W-2 wages or the UBIA of qualified property.

   The sum of these two amounts is referred to as the combined qualified business income amount. Generally, this deduction is the lesser of the combined qualified business income amount and an amount equal to 20 percent of the taxable income minus the taxpayer's net capital gain.

   The deduction is available for tax years beginning after Dec. 31, 2017. Most eligible taxpayers can claim it for the first time when they file their 2018 federal income tax return in 2019. The deduction is available regardless of whether an individual itemizes their deductions on Schedule A or takes the standard deduction.

   For more information, see the FAQs on the Deduction for Qualified Business Income.

- **Excess business losses.** Noncorporate taxpayers may be subject to excess business loss limitations. The at-risk limits and the passive activity limits are applied before calculating the amount of any excess business loss. An excess business loss is the amount by which the total deductions attributable to all of your trades or businesses exceed your total gross income and gains attributable to those trades or businesses plus $250,000 (or $500,000 in the case of a joint return). A “trade or business” can include, but is not limited to, Schedule F and Schedule C activities, the activity of being an employee, an activity reported on Form 4835, and other business activities reported on Schedule E. Business gains and losses reported on Form 4797 and Form 8949 can be included in the excess business loss calculation. They also include pass-thru income and losses attributable to a trade or business. This includes farming losses from casualty losses or losses by reason of disease or drought. Excess business losses that are disallowed are treated as a net operating loss carryover to the following taxable year. See Form 461 and instructions for details.

- **Net operating losses.** Most taxpayers no longer have the option to carryback a net operating loss (NOL). For most taxpayers, NOLs arising in tax years ending after 2017 can only be carried forward. The 2-year carryback rule in effect before 2018, generally, does not apply to NOLs arising in tax years ending after December 31, 2017. Exceptions apply to certain farming losses and NOLs of insurance companies other than a life insurance company. Also, for losses arising in taxable years beginning after Dec. 31, 2017, the net operating loss deduction is limited to 80% of taxable income (determined without regard to the deduction).

- **Meal and entertainment expenses.** The new law generally eliminated the deduction for any expenses related to activities generally considered entertainment, amusement or recreation. However, under the new law, taxpayers can continue to deduct 50 percent of the cost of business meals if the taxpayer - or an employee of the taxpayer - is present and the food or beverages are not considered lavish or extravagant. The meals may be provided to a current or potential business customer, client, consultant or similar business contact. Food and beverages that are purchased or consumed during entertainment events will not be considered entertainment if purchased separately from the entertainment, or if the cost is stated separately from the entertainment on one or more bills, invoices or receipts.

- **Fines and penalties paid to a government.** Taxpayers can’t deduct certain fines and penalties for violation of the law. See Notice 2018-23 for more details.

- **Payments made in sexual harassment or sexual abuse cases.** Taxpayers can’t deduct certain payments made in sexual harassment or sexual abuse cases.

- **Payments under state or local tax credit programs.** Business taxpayers who make business-related payments to charities or government entities for which the taxpayers receive state or local tax credits can generally deduct the payments as business expenses.

Source: irs.gov

- The business expense deduction is available to any business taxpayer, regardless of whether it's doing business as a sole proprietor, partnership or corporation, as long as the payment qualifies as an ordinary and necessary business expense.

## Changes to fringe benefit deductions

There are important changes to fringe benefit deductions that employers need to know about. These changes can affect a business's bottom line and its employee' deductions.

- **Transportation fringe benefits**. The new law disallows deductions for expenses associated with qualified transportation fringe benefits or expenses incurred providing transportation for commuting (except as necessary for employee safety).

- **Bicycle commuting reimbursements.** Under the new tax law, employers can deduct qualified bicycle commuting reimbursements as a business expense for 2018 through 2025. The new tax law suspends the exclusion of qualified bicycle commuting reimbursements from an employee's income for 2018 through 2025. Employers must now include these reimbursements in the employee's wages.

- **Moving expenses.** Employers must now include moving expense reimbursements in employees' wages. The new tax law suspends the former exclusion for qualified moving expense reimbursements. One exception: Active duty members of the U.S. Armed Forces can still exclude moving expenses from their income. Notice 2018-75 provides guidance on 2018 reimbursements for employees' 2017 moves. Generally, reimbursements in this situation are not taxed.

- **Achievement awards.** Special rules allow an employee to exclude achievement awards from wages if the awards are tangible personal property. An employer also may deduct awards that are tangible personal property, subject to certain deduction limits. The new law clarifies the definition of tangible personal property.

See the Employer Update on IRS.gov for more details.

## Changes to depreciation and expensing for businesses

The Tax Cuts and Job Act changed some laws regarding depreciation and expensing. These changes can affect a business's tax situation. Here are the highlights:

- Businesses can immediately expense more under the new law.
- Temporary 100 percent expensing for certain business assets (first year bonus depreciation).
- Changes to depreciation limitations on luxury automobiles and personal use property.
- The treatment of certain farm property changed.

Source: irs.gov

- Applicable recovery period for real property.
- Use of alternative depreciation system for farming businesses.

More details are in FS-2018-9, New rules and limitations for depreciation and expensing under the Tax Cuts and Jobs Act.

## New and revised tax credits for businesses

- **New employer credit for paid family and medical leave.** This general business credit is a percentage of the amount of wages paid to a qualifying employee while on family and medical leave for up to 12 weeks per taxable year. The credit is generally effective for wages paid in taxable years beginning after Dec. 31, 2017, and before Jan. 1, 2020. For more information, see the Frequently Asked Questions about the Employer Credit for Paid Family and Medical Leave and Notice 2018-71.

- **Rehabilitation tax credit.** The new law affects the rehabilitation tax credit for amounts that taxpayers pay or incur for qualified expenditures after Dec. 31, 2017. It repeals the 10 percent credit for buildings placed in service before 1936. It keeps the 20 percent credit for expenses to rehabilitate a certified historic structure, but requires taxpayers to prorate the 20 percent credit over five years instead of in the year they placed the building into service.

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

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

## Other changes

### Accounting methods

**Small businesses.** The new tax law allows small business taxpayers with average annual gross receipts of $25 million or less in the prior three-year period to use the cash method of accounting. The law expands the number of small business taxpayers eligible to use the cash method of accounting and also exempts these small businesses from certain accounting rules for inventories, cost capitalization and long-term contracts. As a result, more small business taxpayers are allowed to change to the cash method of accounting starting after Dec. 31, 2017.

Source: irs.gov

**S corporation to C corporation.** An eligible terminated S corporation that is required to change from the overall cash method to an overall accrual method of accounting because of a revocation of its S corporation election that makes this method change for the C corporation's first taxable year after such revocation must use a 6-year section 481(a) adjustment period. See Revenue Procedure 2018-44 for details.

**Like-kind exchanges.** Under the new law, deferral of gain or loss now applies only to exchanges of real property and not to exchanges of personal or intangible property. An exchange of real property held primarily for sale still does not qualify as a like-kind exchange. To qualify as a like-kind exchange, a taxpayer must hold the real property for productive use in a trade or business or for investment. Real property held for sale does not qualify. A transition rule in the new law provides that an exchange of personal or intangible property may qualify as a like kind exchange if the taxpayer began the exchange by transferring property or receiving replacement property on or before Dec. 31, 2017. See more details on the Like-Kind Exchanges – Real Estate Tax Tips page on IRS.gov.

## International business

The Tax Cuts and Jobs Act changed some things related to international businesses. Learn more on the tax reform page for international taxpayers and businesses.

## Wrongful IRS levy

Individuals and businesses have more time to file an administrative claim or to bring a civil action for wrongful levy or seizure. The new law extended the time limit for filing an administrative claim and for bringing a suit for wrongful levy from nine months to two years. For more information, see news release 2018-126.

Source: irs.gov