



The descriptions contained in the grid below were created using the Tax Cuts and Jobs Act signed by the President on December 22, 2017.

Clients—particularly those in high income tax states or those who will lose deductions under the new law—should contact their tax advisors before year-end to determine if they should take any action such as accelerating deductions and/or income into 2017.

**Bernstein does not provide tax, legal, or accounting advice. In considering this material, you should discuss your individual circumstances with professionals in those areas before making any decisions.**

Provision	New Law Description	Bernstein's Commentary
Income and Short-Term Gain Tax Brackets	<p>Seven brackets: 10%, 12%, 22%, 24%, 32%, 35%, and 37%. Top rate applies at incomes over \$600,000 for married couples, \$500,000 for individuals.</p> <p>Brackets will be inflation-indexed using Chained Consumer Price Index for All Urban Consumers (C-CPI-U).</p> <p>The Act also does not repeal the 3.8% surtax on net investment income at thresholds of \$250,000 for joint filers, \$200,000 for single filers.</p> <p>Expires after December 31, 2025, with the exception of chained CPI-U, which is permanent.</p>	<p>Nominally, not a great deal of change to marginal rates. Impact on effective rates—the tax our clients actually pay—will differ dramatically depending on how they currently take advantage of itemized deductions.</p> <p>Chained CPI-U is a method of calculating inflation that will have the result of lowering the inflation adjustments in the tax code over time. The C-CPI-U is calculated in much the same way as the CPI, but rather than simply accounting for the impact of inflation on the price of goods, it also accounts for consumers' diminished capacity to achieve the same standard of living due to the increase in the price of consumer goods.<sup>1</sup></p>

<sup>1</sup> Source: BLS Handbook of Methods, Chapter 17

Provision	New Law Description	Bernstein's Commentary
Income Taxation of Estates and Trusts	<p>Brackets change to 10%, 24%, 35%, and 37%. Top rate applies over \$12,500.</p> <p>Brackets will be inflation-indexed using Chained Consumer Price Index for All Urban Consumers (C-CPI-U).</p> <p>Expires after December 31, 2025, with the exception of chained CPI-U, which is permanent.</p>	
Kiddie Tax	<p>The Act will apply trust and estate tax rates to unearned income of a child. Currently, unearned income of a minor greater than \$2,100 is taxed at the higher of the child's or the parent's tax rates.</p> <p>Expires after December 31, 2025.</p>	<p>This provision will increase the tax on investments held in custodial accounts for children whose parents are not in the top tax bracket. We expect taxpayers to further reduce the use of UGMA/UTMA accounts for children and instead hold these assets in trust accounts.</p>
Long-Term Capital Gains	<p>Top rate remains at 23.8%, (20% capital gains plus 3.8% net investment income tax). The Act appears to decouple the 20% rate from the top tax bracket. The top rate would then apply to incomes over \$479,000 for married couples filing a joint return, \$425,800 for individuals and \$12,700 for estates and trusts.</p>	<p>With the elimination of the deductions outlined below, the gap between your effective short-term and long-term capital gain rates may rise. For example, a high earner in California may owe as much as 54.1% in federal and state short-term capital gains tax due to the \$10,000 deduction limit on state and local taxes paid. As appropriate, we will increase the tax sensitivity of Bernstein's tax-aware investment services so that our portfolio managers are even less likely to take short-term gains in tax-managed accounts.</p>

<b>Provision</b>	<b>New Law Description</b>	<b>Bernstein's Commentary</b>
<p>Applicable Partnership Interest (Carried Interest)</p>	<p>Under the provision, if one or more “applicable partnership interests” are held by a taxpayer at any time during the tax year, some portion of the taxpayer’s long-term capital gain with respect to those interests will be treated as short-term capital gain. At a high level, the provision would require an asset-holding period of more than three years to obtain long-term capital gain treatment for applicable partnership interests.</p>	<p>An "applicable partnership interest" is any interest in a partnership that is transferred to or held by the taxpayer in connection with the performance of services by the taxpayer or a related person in any applicable trade of business, even if the taxpayer made contributions to the partnership. This provision would primarily impact the managers of hedge funds and some private equity funds whose compensation includes carried interest on the fund’s performance.</p>

<p>Pass-Through Entities (example: LLCs, S-Corps)</p>	<p>An individual may deduct 20% of domestic qualified business income from a pass-through entity. However, the deduction is limited for taxpayers whose income exceeds \$315,000 (joint) or \$157,500 (single) to the greater of (1) 50% of the W-2 wages paid by the business to its employees during the calendar year and (2) the sum of 25% of the W-2 wages paid plus 2.5% of the unadjusted basis of certain tangible property used in the business.</p> <p>The benefit of the deduction for “specified service businesses” is phased out for taxpayers whose income exceeds \$315,000 (joint) or \$157,500 (single). A “specified service business” is any trade or business that involves the performance of services in the fields of accounting, actuarial science, athletics, brokerage services, consulting, financial services, health, law, or the performing arts; or that involves the performance of services consisting of investing and investment management, trading, or dealing in securities, partnership interests, or commodities; or whose principal asset is the reputation or skill of one or more of its employees or owners. Excluded from this definition is architecture and engineering.</p> <p>The provision allows 20% of the aggregate amount of the qualified REIT dividends and qualified publicly traded partnership income of the taxpayer for the taxable year to be included as qualified business income.</p> <p>Expires after December 31, 2025.</p>	<p>The provision extends the pass-through deduction to trusts and estates. The phase-outs and limitations are intended to prevent wealthy individuals from becoming “businesses” and obtaining a lower tax rate on their wage income.</p>
---	--	---

Provision	New Law Description	Bernstein's Commentary
Standard Deduction and Personal Exemption	<p>The basic standard deduction increases to \$12,000 for single taxpayers and \$24,000 for married couples filing jointly. These amounts would be indexed for inflation. Expires after December 31, 2025.</p> <p>The personal exemption deduction is temporarily repealed for tax years 2018 through 2025.</p>	<p>The large standard deduction effectively creates a 0% bracket for earners who don't itemize deductions. But the elimination of personal exemptions may subject more income to tax for families &gt;3 persons.</p>
State and Local Tax Deduction (aka "SALT")	<p>Property taxes and/or state and local income taxes may be deducted up to a limit of \$10,000 for filers who itemize.</p> <p>Expires after December 31, 2025.</p>	<p>For filers who itemize deductions, state and local taxes are often one of the largest items. The new limit placed on the SALT deduction will likely cause us to revise our trading algorithms that account for the tax cost of every trade we make. The resulting increase in the combined state, local, and federal rates will raise our estimates of tax costs for trading and make us less willing to take capital gains in our tax-aware portfolios and more likely to defer gains when possible.</p>
Mortgage Interest Deduction	<p>Repeals the deduction for home equity lines, but keeps the mortgage interest deduction limit on existing mortgages, acquired on or prior to December 15, 2017 at \$1 million.</p> <p>For new mortgages, acquired after December 15, 2017, interest is deductible up to \$750,000 on new indebtedness.</p> <p>Expires after December 31, 2025.</p>	<p>This provision could impact how our clients choose to finance home purchases going forward.</p> <p>Refinancing existing indebtedness is allowed up to the old limits.</p>

<b>Provision</b>	<b>New Law Description</b>	<b>Bernstein's Commentary</b>
Charitable Contribution Deductions	<p>Deductions for charitable contributions are largely unchanged with one exception: cash contributions to public charities and private foundations other than non-operating private foundations, currently deductible up to 50% of Adjusted Gross Income ("AGI"), will be deductible up to 60% of AGI under the Act.</p> <p>Expires after December 31, 2025.</p>	This is helpful to large donors whose ability to deduct charitable contributions was limited in the past.

Provision	New Law Description	Bernstein's Commentary
<p>Other Deductions and Exclusions</p>	<p>Eliminates deductions for moving expenses, tax preparation expenses, investment management fees, certain business expenses through December 31, 2025.</p> <p>Repeals the deduction for alimony and maintenance payments for divorce decrees and separation agreements executed or modified after 2018.</p> <p>Individuals would be allowed to deduct qualified medical expenses in excess of 7.5% of Adjusted Gross Income (AGI) for tax years 2017 and 2018. Prior to the Act, the deduction was limited to medical expenses in excess of 10% of (AGI); beginning in 2019 the 10% AGI threshold would be applicable.</p> <p>Deduction of personal casualty losses is allowed, provided the loss was incurred in a federally-declared disaster.</p> <p>Exclusions for employer-funded education assistance, dependent care assistance programs, and adoption assistance programs are preserved.</p> <p>Only members of US Armed Forces on active duty moving pursuant to a military order and incident to a permanent change of station are allowed an exclusion for qualified moving expense reimbursement.</p>	<p>For divorces and separations after 2018, alimony payments will be treated the same as child support for tax purposes: they are not deductible by the payor and not income for the payee.</p>

Provision	New Law Description	Bernstein's Commentary
Exclusion on Sale of Primary Residence	No change.	
Limitation on Itemized Deductions (aka "Pease Limitation")	<p>The overall limitation on itemized deductions is suspended for tax years 2018 through 2025.</p> <p>Currently, the total amount of itemized deductions is reduced by up to 3% of AGI (capped at 80% of all itemized deductions) for joint filers with greater than \$313,800 in AGI, or individuals with greater than \$261,500 in AGI.</p>	While the limitation on deductions is eliminated, it may have a minimal impact because many deductions are eliminated entirely.
Alternative Minimum Tax ("AMT")	<p>The new Act does not repeal the AMT, but does increase the AMT exemption and phase out thresholds.</p> <p>AMT exemptions and phase-outs would return to current levels after December 31, 2025.</p>	With the Act eliminating or capping many popular deductions that are disallowed under the AMT, the formal elimination of the AMT is not necessarily a tax-saving provision. For example, a CA taxpayer who is currently in AMT does not receive a state income tax deduction, but pays a top federal rate of 28% on income. Under either plan, this taxpayer would lose the state income tax deduction but may pay a higher federal income tax rate.

Provision	New Law Description	Bernstein's Commentary
Retirement Accounts	<p>Ability to recharacterize a Roth contribution or conversion is eliminated after 2017.</p> <p>No other major change to structure or contribution limits for 401(k), IRA, Roth, and other retirement plans.</p>	The popular “do-over” provision for Roth recharacterization is being eliminated.
Education Savings Accounts	<p>Elementary and high school expenses of up to \$10,000 per year, per beneficiary, would now be qualified education expenses.</p> <p>529 plans may be rolled into ABLE accounts for individuals with special needs.</p>	Provides expansion of the benefits and flexibility of section 529 plans.
Foundations and Endowments	A 1.4% excise tax is imposed on the net investment income of private universities, colleges, and related organizations if the “applicable educational institution” has at least 500 students and the aggregate fair market value of the assets is at least \$500,000 per student.	

Provision	New Law Description	Bernstein's Commentary
Estate, Gift, and Generation-Skipping Tax	<p>Increases the basic exclusion amount from \$5 million to \$10 million in 2018, indexed with inflation. For 2018, this equals \$11.2 million per individual. This increase in the estate, gift and GST exemptions is set to expire in 2026, when the basic exclusion would revert back to \$5 million.</p> <p>The basic exclusion will adjust with C-CPI-U. In addition, the base year for the adjustment is changed from 2010 to 2016.</p>	<p>Changing the inflation adjustment to C-CPI-U will reduce the growth rate of the exclusion over time compared to using CPI. Furthermore, the change in base year from 2010 to 2016 will result in a reduced exclusion in 2026 compared to the prior law. Given the "sunset" provision embedded in the Act, there is a window of opportunity to pursue making gifts. Bernstein can help evaluate how much more clients can give without impacting lifestyle.</p> <p>We are encouraging clients to continue to pursue wealth transfer strategies, especially those that rely on low interest rates, because they are likely to be far more beneficial if adopted today than if adopted a year or more from now. The trick is to adopt a plan that is flexible or could be canceled at little or no cost, if need be. Even if the estate tax were eventually repealed, lifetime wealth transfers in trust may provide substantial creditor protection and other non-tax benefits that would not be available to assets retained on one's personal balance sheet.</p>