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U.S. Tax Update

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U.S. Tax History

- **Pre-TCJA**
- **Tax Cuts and Jobs Act (TCJA) 2017**
- **Coronavirus Aid, Relief, and Economic Security Act (CARES) Act 2020**

Pre-TCJA vs. TCJA 2017 – Corporations

	Pre-TCJA	TCJA
Corporate income tax rate	Top rate of 35%	Lowered to 21% flat rate
Bonus depreciation (deduction)	50% on qualified property (new)	Increased to 100% and includes used property
Business interest limitation	Debt equity ratio exceeds 1.5:1 and net interest expense exceeds 50% of adjusted taxable income	Limited to 30% of adjusted taxable income
Net operating losses	Carried forward 20 years, carried back 2 years	Carried forward indefinitely but limited to 80% of taxable income, no carry back

Pre-TCJA vs. TCJA 2017 – Individuals

	Pre-TCJA	TCJA
Top marginal tax rate	39.6%	Lowered to 37%
Standard deduction	\$6,300 (single) in 2016	US\$14,600 (single)
Itemized deductions	<ul style="list-style-type: none"> Miscellaneous itemized deductions allowed to the extent they exceed 2% of the individual's adjusted gross income 	<ul style="list-style-type: none"> SALT limited to US\$10,000 Mortgage interest deduction limitations Eliminated most miscellaneous itemized deductions (i.e. investment/advisory fees, tax preparation fees)
Moving expenses	Allowed	Suspended
Estate and gift tax	Under US\$5M in 2016	Over US\$13M

TCJA 2017 – Other

- **Pass-through income deduction**

- 20% deduction on certain qualified business income from pass through entities
- Effective top individual tax rate reduced to 29.6% ($37\% \times 80\%$)
- Attorneys/accountants/doctors and other service providers ineligible

- **One-time deemed repatriation tax**

- One-time tax on earnings and profits of CFCs accumulated after 1986

TCJA 2017 – Other

• **GILTI**

- “Global Intangible Low-Taxed Income”
- Imposes a worldwide minimum tax on foreign earnings
- Deemed amount of income derived from controlled foreign corporations (CFC) when U.S. person is a 10% direct or indirect shareholder
- Where eligible for 50% deduction of the GILTI inclusion, effective tax rate is 10.5% (50% of 21% tax rate)
 - For years after 2025, deduction reduced to 37.5% with effective tax rate of 13.125% (62.5% of 21% tax rate)

CARES Act 2020

- **Net operating losses**

- Losses from 2018, 2019, and 2020 can be carried back up to 5 years
- Losses from 2018, 2019, and 2020 carried forward not limited to 80% taxable income – only effective for tax years that begin after 2020

- **Employee Retention Tax Credit (ERC)**

- Refundable tax credit against payroll taxes
- Eligible if:
 - Experienced a significant COVID-19-related decline in gross receipts
 - Was partially or fully suspended due to COVID-19 orders from an appropriate governmental authority

Expected changes

- **Sunsetting**
- **Not sunsetting**

Sunsetting 2025 – Corporations

- **Bonus depreciation**

- **80%** for property placed in service after Dec. 31, 2022, and before Jan. 1, 2024;
- **60%** for property placed in service after Dec. 31, 2023, and before Jan. 1, 2025;
- **40%** for property placed in service after Dec. 31, 2024, and before Jan. 1, 2026;
- **20%** for property placed in service after Dec. 31, 2025, and before Jan. 1, 2027; and
- **0%** (bonus expires) for property placed in service after Dec. 31, 2026.

- **Pass-through deduction – no longer available**

Sunsetting 2025 – Individuals

- Top marginal rate reverts back to 39.6% (as of January 1, 2026)
- Standard deduction
- Itemized deductions
- Estate and gift tax

Not Sunsetting 2025

- **Federal corporate tax rate 21%**

- **Shift to territorial tax system**

- **Global Intangible Low-Taxed Income (GILTI)** (Section 951A)
- **Subpart F Income Rules** (Section 951)
- **100% Dividends Received Deduction** (Section 245A)

OECD Pillar Two – Global Minimum Tax

What is it?

- From OECD to propose internationally agreed-upon minimum rate of taxes of 15%
- To ensure large multinational enterprises pay a minimum level of tax on their income in each jurisdiction where they operate
- Reduce the incentive for profit shifting and placing a floor on tax competition to stop “race to the bottom” on corporate taxes

OECD Pillar Two – Global Minimum Tax

- **Has not been adopted**
- **Current 21% corporate tax rate is higher than 15% GMT, however does not mean compliant with Pillar Two**
 - U.S. accounting conventions differ from Model Rules
 - GILTI pools all foreign activities together, regardless of country
 - ✓ Can result in netting
 - ✓ Pillar Two would have separate FTC calculations for each country

OECD Pillar Two – Global Minimum Tax vs. GILTI

- **Lower U.S. tax revenues**

- Higher foreign taxes = higher foreign tax credit allowed
- Increase in compliance costs, decrease in corporate taxable income = decrease in amounts distributable/taxable to shareholders

- **Legislative response is necessary to mitigate downsides**

Harris vs. Trump

- **Corporations**
- **Individuals**

Harris vs. Trump – Corporations

	Harris	Trump
Corporate income tax rate	Increase to 28%	Lower to 20% Lower to 15% for companies that make their products in the U.S.
Start-up costs deduction	Increase to \$50,000 (from \$5,000)	No change
Tariffs and Trade	TBD	Universal baseline of 10 to 20% on all US imports (60% on US imports from China)
GILTI (Global Tax)	TBD Biden-Harris Administration - Increase to 21% (from 10.5%)	No change

Harris vs. Trump – Individuals

	Harris	Trump
Income tax	Exempt tips from income tax	Exempt tips from income tax Make expiring TCJA permanent
Medicare tax	Increase to 5% on income >\$400,000	No change
Estate tax	TBD	Make expiring TCJA permanent

U.S. Tax Update



Questions?

If you're watching this as a webinar, you can reach out directly to any of our presenters either by phone at our office or e-mail:

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