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# The Tax Cuts & Jobs Act

### Ten Key Changes that May Impact You

August 2, 2018



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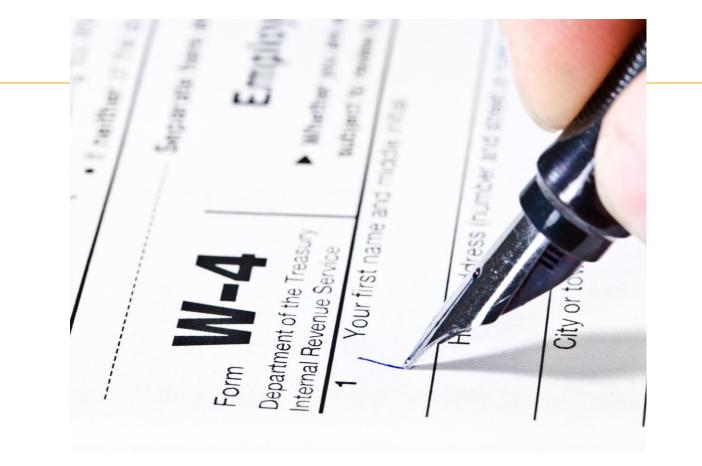
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# **1. MANY CHANGES ARE HERE TODAY, GONE IN 2026.**

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#### **Individual Issues**

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## Lowered Individual Tax Rates

- Most agricultural businesses operate as sole proprietor or pass-through business.
- From 2018 through 2025, the Act lowers individual tax rates across the board.

Old Law	TCJA
Seven brackets at 10, 15, 25, 28, 33, 35, and 39.6%	Maintains seven brackets at 10, 12, 22, 24, 32, 35, and 37%; expires after 2025
Single filer rate schedule: 10% >\$0	Single filer rate schedule: 10% >\$0
15% >\$9,525	12% >\$9,525
25% >\$38,700 28% >\$93,700	22% >\$38,700 24% >\$82,500
33% >\$195,450 35% >\$424,950	32% >\$157,500 35% >\$200,000
39.6% >\$426,700	37% >\$500,000

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## **Increased Standard Deduction**

- Of the roughly 143 million tax filers in the U.S., about 48 million itemize deductions.
  - The Act will *significantly* decrease that number by eliminating many itemized deductions and increasing standard deduction.
  - For 2018 through 2025, the Act increases the standard deduction to \$24,000 for married filing jointly, \$12,000 for single taxpayers, and \$18,000 for head of household.
  - The additional standard deduction for the aged or blind continues at \$1,300 in 2018.

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## **Suspended Personal Exemptions**

- The Act suspends the personal exemption from 2018 through 2025.
  - The personal exemption was \$4,050 for each taxpayer and dependent in 2017.

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## **Eliminated Many Itemized Deductions**

Miscellaneous Itemized Deductions Subject to the 2% Floor, including:

- Unreimbursed employee expenses (including, home office expenses, uniform expenses, travel expenses, meals & entertainment expenses, license fees, tools used for work, and job search expenses)
- Tax preparation expenses
- Safe deposit box rental
- Hobby expenses
- Investment fees and expenses

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## **Unreimbursed Employee Expenses**

- Hits certain types of employees hard:
  - Truckers
  - Salespeople
  - Employees with a home office

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## State & Local Taxes

- Individual taxpayers can now claim as an itemized deduction only an amount up to \$10,000 (\$5,000 for married filing separately) per year for state and local income taxes and/or property taxes paid during tax years 2018 through 2025 (Schedule A).
  - Property taxes incurred in a trade or business continue to be fully deductible on a Schedule C, Schedule E, or Schedule F.

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## **Charitable Contributions**

- Largely unchanged, but with increase in standard deduction and loss of many itemized deductions, many charitable contributions will no longer result in a tax deduction.
  - The Act does *not change* the ability of those over 70 1/2 to make qualified charitable distributions from an IRA, without including those distributions in income.
  - The Act does not change the ability of farmers to make a charitable contribution of commodities without including those distributions in income.

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# 2. YOUR CHILDREN ARE NOW GOLD PLATED.

12

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## Child/Dependent Tax Credit

- Through 2025, increases child tax credit to \$2,000 (up from \$1,000).
  - Applies to children under 17 years.
    - New: \$500 nonrefundable credit for other qualifying dependents.
- Qualifying income amounts are significantly increased (\$400,000 for MFJ instead of \$110,000 to begin phase-out).
- \$1,400 is refundable

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# **3. THE NEW LAW DID NOT FIX THE HEALTH CARE PROBLEM.**

14

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## Healthcare Mandate

- The Act sets the Individual Shared Responsibility Payment to \$0, beginning in 2019, meaning that individuals who do not have health insurance in 2019 and later will not be liable for the penalty.
- The penalty remains in place for tax years 2017 and 2018.

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## 4. THE ESTATE PLANNING LANDSCAPE HAS CHANGED...AGAIN...FOR NOW.

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## **Estate Tax Provisions**

- Doubled the basic exclusion to \$11,180,000 per person for estate and gift and generation skipping tax.
- \$15,000 annual exclusion retained.
- Portability Retained
- Basis Adjustment Retained
- Basic exclusion amounts reset to pre-Act levels in 2026.

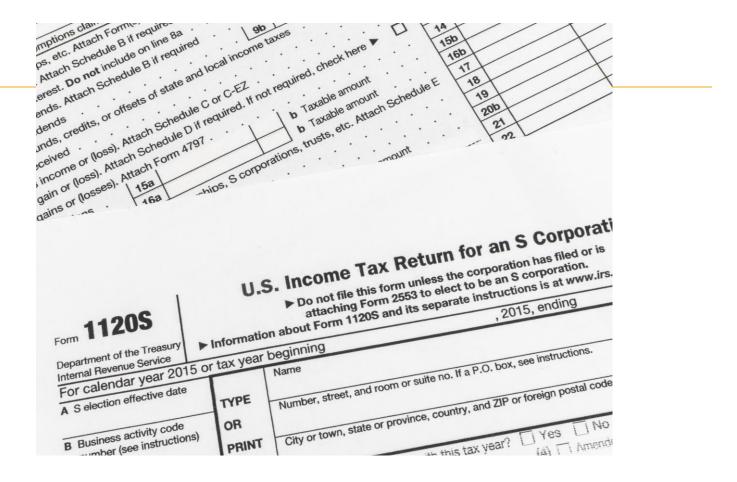
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## Estate Tax & Generation Skipping Tax

- In 2016, there were 5,219 estate tax returns filed for taxable estates.
  - Only 682 taxable estates had any farm property in 2016 (2% of total taxable assets)
- Now estimated that number will be around 1,800.
- Still need to plan for disability, farm transition, capital gain tax, etc. And increased exclusion is not permanent.
  - GST planning necessary

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#### **Key Business Provisions**

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# 5. IT'S NOT A RATE CUT FOR EVERYONE.

20

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## **Corporate Income Tax Rate**

- *Permanently* lowers the *maximum* corporate tax rate from 35% to 21%, beginning in 2018.
- Fiscal year C corps apply a blended rate (between old rate and new rate), based upon IRC §15.
  - Confirmed by IRS Notice 2018-38 (4/16/2018)

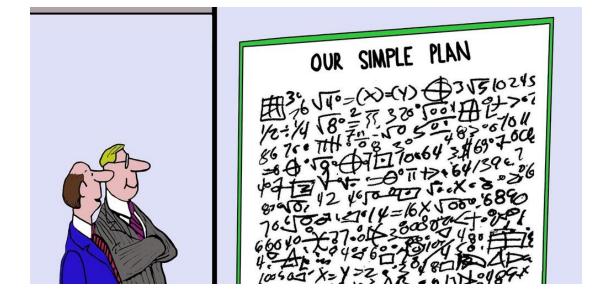
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## Corporate Tax Rate – Now a Flat Rate

- Small corporations may consider conversion to S Corporation in light of new law.
- Many see a rate increase.
  - Old Rates:

Taxable Income	Tax rate (percent)
Not over \$50,000	15
Over \$50,000 but not over \$75,000	25
Over \$75,000 but not over \$10,000,000	34
Over \$10,000,000	35

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## NEW IRC $\S$ 199A DEDUCTION

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## 6. THERE'S NOTHING SIMPLE ABOUT IT.

24

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## New IRC § 199A Deduction

**20 percent deduction** (subject to many limitations)

- Applies to "qualified business income" received by an individual from a pass-through business:
  - LLC (not taxed as a C corporation)
  - S Corporation
  - Partnership
  - Sole Proprietorship
  - ALSO APPLIES TO TRUSTS
- Tries to even the playing field for pass-throughs, making the **highest effective rate 29.6%.**

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## New IRC § 199A Deduction

 Unlike corporate tax rate provision, IRC § 199A deduction is in effect only from 2018 through 2025.

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## **Qualified Business Income**

- The net amount of qualified items of income, gain, deduction, and loss with respect to any qualified trade or business of the taxpayer.
- QBI does not include wages, reasonable compensation, guaranteed payments, non-business interest income, non-business annuity income, dividend income, or capital gain. IRC § 199A(e)(4).
  - To extent provided in regs, any IRC §707(a) payment to a partner outside of his partner capacity for services rendered.

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## **Qualified Business Income**

- Must be effectively connected with a U.S. trade or business.
- There is a separate calculation for each "qualified trade or business."
  - Calculated at entity level or activity level?
    Grouping elections apply?
    - GUIDANCE NEEDED

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## **Qualified Business Income**

- What about IRC §1231 gain?
  - Committee report says, "any item taken into account in determining net long-term capital gain..."
  - Need guidance, but most likely not QBI

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## Qualified Business Income Generally = Net Income – Capital Gain

Appears to equal:

- Net Schedule F income
  - Form 4797 recapture appears to be gain that fits the definition, but guidance must confirm
- Net Schedule C Income
- Net Schedule E Income (need guidance to confirm)
- Capital Gain is excluded

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## 6A. THERE'S SO MUCH WE DON'T KNOW.

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## Rental Income

Seems to fit Congressional Intent for QBI, but NEED GUIDANCE.

- Must rise to the level of *trade or business*.
  - Could keep cash rent and some crop shares from qualifying. Too early to know.
- "Trade or business" not well defined throughout tax law.
  - Seems to be differently applied based upon provision in which it's used.
- No legislative requirement for active or material participation.

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## Calculating the QBI Deduction

- If your taxable income is below \$315,000 for MFJ or \$157,500 for singles:
  - the new 199A deduction for QBI is the LESSER of:
    - 20 percent of QBI OR
    - 20 percent of (taxable income capital gain)

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## **Income Below Threshold**

- James, single
- Taxable income = \$100,000 (\$44,000 wages, \$68,000 in QBI from farming operation, minus \$12,000 standard deduction)

## **199A Deduction** =

- Lesser of:
  - .20 \* \$68,000 = \$13,600 OR
  - .20 \* \$100,000 = \$20,000
  - = \$13,600

James' taxable income will be \$86,400.

34

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# 6B. DID I SAY THIS GETS VERY COMPLICATED?

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## Wages/Capital Limitation

Taxpayers with taxable income (not counting the new 199A deduction) exceeding \$157,500 (single) or \$315,000 (married filing jointly) are subject to a **W-2** wages/capital limitation. :

- 50 percent of W-2 wages for the trade or business **OR**
- the sum of (25 percent of W-2 wages PLUS 2.5 percent of the unadjusted basis immediately after acquisition of all qualified property)]
  - Later of:
    - 10 years
    - Depreciable period

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# What are W-2 Wages?

- "The amounts described in [IRC § 6051(a)(3), (8)] paid by such person with respect to employment of employees by such person during the calendar year ending during such taxable year."
  - Does not include commodity wages.
  - Does not includes wages paid to children under 18 years old.
  - Does not include guaranteed payments.

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# "Specified service trade or business"

- services in the fields of health, law, engineering, architecture, accounting, actuarial science, performing arts, consulting, athletics, financial services, brokerage services, or any trade or business where the principal asset of such trade or business is the reputation or skill of the owner or 1 or more of its employees....IRC § 1202(e)(3)(A)
- Plus: investing and investment management, trading, or dealing in securities ..., partnership interests, or commodities...
- No Deduction unless income below income threshold (with phase-out) (\$157,500, single and \$315,000, MFJ) (phased out over next \$50K or \$100K)

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# 7. THE COOP DEDUCTION PUT IOWA ON THE MAP FOR A WHILE. ③

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- Implemented in 2005, the IRC § 199 deduction climbed to 9 percent for tax years 2010 and later.
- Deduction was lesser of:
  - 9 percent of taxable income from qualified production activities income (QPAI) or
  - 50 percent of W-2 wages or
  - 9 percent of taxable income
- Corporations and individuals qualified for DPAD.

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# **DPAD and Cooperatives**

- Beginning with some favorable private letter rulings in 2008, coops began characterizing patrons' sales as per unit retains paid in money (PURPIM).
- Patron would get a 1099-PATR reporting the sale.
- Cooperatives could include PURPIM in calculating its own DPAD and choose to pass through whatever percentage it chose.
  - Helpful for farmers without wages
  - Many cooperatives passed through

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# **DPAD** Repealed

- IRC § 199 was permanently repealed beginning in 2018.
- Congress said it was no longer needed in light of lower corporate tax rates and new 199A deduction.

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# **Qualified Cooperative Dividends**

- Cooperatives were not happy.
- Special provision was added into the law at the last hour.

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# **Qualified Cooperative Dividend**

- As written, significantly favored sales to cooperatives by members over sales to noncoops or sales by non-patrons. (20 percent of gross, rather than 20 percent of net).
  - Extent of discrepancy was unintentional.
  - Lack of understanding.

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# **Qualified Cooperative Dividends**

### Non Coop

- \$200K sales
- <u>\$150K expenses</u>
  \$50K net income

Deduction is lesser of:

20 percent of \$50K = \$10K OR (2) 20 percent of \$50K-\$12K = \$38K \*.20 = **\$7,600** 

# Final Taxable Income = \$30,400

## **Coop Sale by Member**

- \$200K sales
- <u>\$150K expenses</u>
  \$50K net income
  Deduction is lesser of:

20 percent of \$200K = \$40K OR

100 percent of taxable

```
income = $38K
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Final Taxable Income = \$0

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# Consolidated Appropriations Act, 2018 Provided Fix (March 2018)

 Those not selling to cooperatives continue to calculate 20% QBI deduction (net income)(limited to 20 percent of taxable income minus capital gain).

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# DPAD is Reintroduced (Without the Name)

- Patrons selling to cooperatives must calculate 20% QBI deduction, then subtract lesser of:
  - 9% of net income attributable to coop sale or
  - 50 percent W-2 wages attributable to sale
    - Note if they pay no wages, there is no reduction (20% QBI deduction)
    - Those who pay wages typically get only an 11% QBI deduction

# • BUT ALSO ....

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# Coops Can Take "New DPAD"

- IRC § 199A(g) reintroduces DPAD, although it's not called that.
- This allows coops to take a deduction equal to 9 percent of qualified production activities income (income-expenses). This deduction, however, is limited to 50 percent of W-2 wages paid.

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# "New DPAD"

- Cooperative can choose to pass some or all of their deduction through to patrons (just like old DPAD).
- This 199A(g) deduction for patrons is limited by 100% of taxable income (not subtracting capital gain).
- If cooperative passes through deduction (may be up to 9% of QPAI), some farmers will get greater than 20 percent 199A deduction.
  - If not, some will be stuck with 11%.

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# Example – No Wages Paid

- \$50,000 QBI (\$250K grain sales \$200K expenses)
- Farmer has \$75,000 in taxable income because of off-farm job.
- Farmer's final 199A deduction for 2018 is \$10,000 (QBI) (no reduction because no W-2 wages)
- + \$2,500 (199(g)) =
- \$12,500

# (This farmer receives a 199A deduction = 25 percent of QBI)

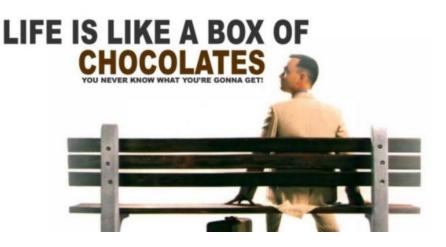
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# Wages Paid

- Same facts, except farmer pays \$25,000 in wages.
- Farmer must subtract \$4,500 (9% of QBI) from \$10,000 tentative deduction for a final QBI deduction of \$5,500.
- Farmer thus gets only an 11 percent QBI deduction in this example. However, farmer also gets to take his \$2,500 199A(g) pass-through deduction from Coop, for a final 199A deduction of \$8,000 (16 percent of QBI).

# **Bottom Line**

Overall deduction may be less, more or the same if you sell to a cooperative as opposed to a noncooperative, depending upon your individual situation. (Intended to be a bit unclear so as not to excessively influence marketing decisions).



53

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# **Corporate Patrons**

- The 199A deduction, including the new 199A(g) does not apply to taxpayers that are C Corporations.
- Section199A(g)(A) deduction is now restricted to "eligible taxpayers," which are taxpayers "other than a corporation." 199A(g)(2)(D).
- Likewise, 199A(g)(2)(C) limits the cooperatives' own deduction only by qualified payments attributed to "eligible taxpayers."
  - What will happen with allocation?

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# 8. JUST BECAUSE YOU CAN DOESN'T MEAN YOU SHOULD.

55

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# **COST RECOVERY**

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# **Bonus Depreciation**

- 100 percent bonus depreciation through 2022, beginning with:
  - Qualifying property acquired and placed into service after September 27, 2017
    - Also, can elect no bonus (elections cannot be revoked without IRS consent)
- Act provides that additional first-year depreciation (bonus) will apply to *used*, as well as new property.

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# **Bonus Depreciation**

- Phase-out is as follows:
  - 2023: 80 percent bonus,
  - 2024: 60 percent bonus,
  - 2025: 40 percent bonus, and
  - 2026: 20 percent bonus.
  - After that time, bonus depreciation ends.
  - No Bonus in Iowa.

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# Section 179

- Beginning in 2018, the Act expanded Section • 179 to provide an immediate \$1 million deduction (up from \$510,000 in 2017) with a \$2.5 million phase-out threshold (up from \$2,030,000 in 2017).
- These amounts are indexed for inflation beginning in 2019.
- They are permanent.
- Iowa: \$70,000/\$280,000 for individuals in 2018 \$100,000/\$400,000 for all in 2019. Couples with federal in 2020 forward (we'll see!) IOWA STATE UNIVERSITY

59

# Like-Kind Exchange

- The Act retained IRC § 1031 like-kind exchange treatment for real property, but permanently eliminated it for personal property, beginning with exchanges occurring after December 31, 2017.
  - Treated as a taxable sale and a purchase.
- While increased expensing and depreciation options may offset impact, there are significant distinctions.
  - State distinctives (lowa retains 1031 this year)
  - SE tax/retirement considerations

60

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# NEW DEPRECIATION PROVISION

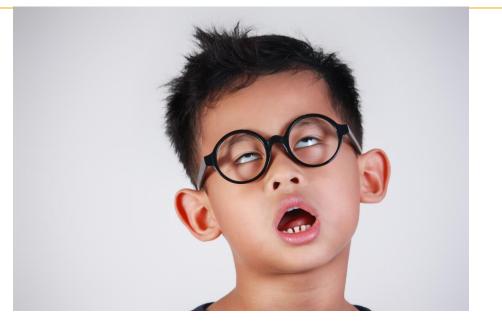
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# Farm Depreciation

- Beginning in 2018, the Act requires *new* farm equipment to be depreciated over a period of five years, instead of seven years.
- It also removes the requirement that this property is depreciated using the 150 percent declining balance method (except for 15 or 20year property).
  - Farmers will use 200 percent declining balance method (unless elect out).
- These provisions apply to property placed in service after December 31, 2017.

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# 9. SOME PROVISIONS MAKE YOUR EYES GLAZE OVER, BUT THEY'RE STILL IMPORTANT.

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# **Net Operating Losses**

- Beginning in 2018, the Act eliminates the twoyear carryback of net operating losses (fiveyears for farming businesses), but allows a twoyear carryback of net operating losses in the case of losses incurred in the trade or business of farming.
- It also limits the net operating loss deduction to 80 percent of taxable income for losses incurred after December 31, 2017.
- Unlimited carryforward.

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# Excess Business Loss Disallowance

- The TCJA implements an excess business loss rule that replaces (and expands upon) the excess farm loss rule (through 2025).
  - Old rule: non-corporate farmers' losses (if they received an applicable subsidy) were limited to a threshold amount of \$300,000 (\$150,000 for married filing separately).
- Now: Non-corporate excess business loss exceeds \$500,000 (MFJ)/\$250,000 (single)
- Excess is treated as NOL.

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# **Business Interest Limitation**

- Although the Act restricts business interest deductions generally to 30 percent of adjusted gross income (beginning in 2018), those restrictions do not apply to businesses with cash receipts below \$25 million.
- The Act also allows a farming business (as defined in IRC § 263A(e)(4)) and agricultural cooperatives to elect not to be subject to the business interest limitation. Such farming businesses, however, would then be required to use ADS for assets with recovery period of 10 years or more.

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# **Other Provisions**

- Expanded Cash Accounting (\$25 million gross receipts for C corporations)
  - Partnerships with such C corporations as partners not required to use accrual method.
     Farming S Corporations continue to be wholly excluded from accrual requirement, regardless of gross receipts
- Eliminated corporate AMT, but retained individual AMT (increased exemption amounts and phase-out thresholds)

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# **10. EXPECT TO PAY MORE FOR TAX ASSISTANCE THIS YEAR.**

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#### **CALT Resources**

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Iowa Court Upholds Intentional Interference with a **Bequest Judgment** 

Provisions to Watch During Farm Bill Debate



Моге

with tax reform guidance, including a review of notices issued this month, look at the

status of the farm bill debate, review new lowa laws, and much more! Edit Feature

Aug 2, 2018 Webinar: Form 4797

Aug 8, 2018 Tax Cuts and Jobs Act – Small Business Provisions

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#### "Fix" to Grain Glitch is Now Law - Examples Included

March 22, 2018 Kristine A. Tidgren

President Trump signed the <u>Consolidated Appropriations Act, 2018</u>, H.R. 1625, on March 23, 2018. At the end of the 2,232-page legislation, Congress included a section written to <u>"fix" the "grain glitch."</u> This is, of course, the provision in the Tax Cuts and Jobs Act that provided significantly higher tax deductions (in most cases) to patrons who sold commodities to cooperatives rather than to non-cooperatives. You can read more detail about the original provision <u>here</u>.

The <u>17-page \*fix</u>, while attempting to level the playing field, adds even more complexity to an already convoluted section of the new tax law, IRC § 199A. The fix retroactively takes effect, beginning January 1, 2018. This wipes from existence the provision giving cooperative patrons a 20-percent deduction based upon *gross* sales.

Non-Coon Sales

72

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# THE AG DOCKET

Perspective on Current Agricultural Law Issues

#### Looking at Vehicle Depreciation and Expensing under the New Tax Law

February 25, 2018 Kristine A. Tidgren

The Tax Cuts and Jobs Act (TCJA) made significant changes impacting the depreciation and expensing of vehicles used in a trade or business.[] In this post, we review the current law.

#### 2017 Limits for "Passenger Automobiles"

IRC §280F(a) imposes dollar limitations on the depreciation and IRC § 179 expensing deductions that can be taken for passenger automobiles. This limitation is often referred to as the "luxury automobile depreciation limitation," even though it applies to vehicles not commonly considered "luxury automobiles." Passenger automobiles, by definition, weigh 6,000 pounds gross vehicle weight or less. Cars, trucks and vans falling within these weight limits are subject to the 280F limitation. SUVs are treated as trucks for the purpose of applying the limitation. The 280F limitation is indexed for inflation, and IRS has traditionally applied a different inflation adjustment for cars than for those vehicles on a truck chassis, including light-duty trucks and vans. Consequently, two tables have emerged for the IRC §280F(a) limitation. IRS Rev. Proc. 2017-29 set the 2017 limits as follows.

Limits for light-duty trucks and vans placed in service in 2017 for which bonus does not apply:

- 1st Tax Year \$ 3,560
- 2nd Tax Year \$5,700
- 3rd Tax Year \$ 3,450
- Each Succeeding Year \$2,075

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# Email micki@iastate.edu



#### Edit View

#### September 2017

#### Archive

#### Dicamba Drift: What are the Legal Remedies?

As the reports of damages stemming from dicamba drift increase, questions swirl. Just what is the problem? Who's responsible? What can be done to prevent future damage? While there are no clear answers to many of these questions, it may be useful to review the general legal principles that apply to herbicide drift and discuss how they apply to the current problem. Continue reading here.



Plaintiff Wins \$70,100 after **Neighbor's Trail** Encroached upon Her Land

The Iowa Court of Appeals





Tax Court Rules that Farm **Couple's Rent** from Its S **Corporation Not** Subject to SE Tax On September 27, the U.S. Tax

Court ruled that a Texas farm couple was not liable to pay self-

employment tax on rents they received from the S corporation through which they conducted a poultry growing operation. The decision in Martin v. Commissioner, 149 T.C. 12 (Sept. 27, 2017), adopted the analysis of McNamara v. Commissioner, 236 F.3d 410 (8th Cir. 2000), and comes 14 years after the IRS announced its non-acquiescence with that key 8th Circuit case.

The taxpayers, who were husband and wife, acted as contract poultry growers for Sanderson Farms, Inc. Although they originally signed their broiler production agreement with Sanderson Farms as individuals, they later formed an S corporation and assigned their responsibilities under the agreement to that entity. The S corporation, CL Farms, Inc., employed the wife to provide bookkeeping services and the husband to provide labor and management services. Nothing in the agreement required the taxpayers to personally perform the duties of grower, and the company hired additional employees.

The taxpayers then entered into a five-year agreement under which CL Farms would rent from the taxpayers their farm, including 176,000 square feet of poultry houses and equipment, in exchange for \$1.3 million. This was fair market rent and was consistent with amounts paid by other Sanderson Farm growers for the use of similar premises. IOWA STATE UNIVERSITY Center for A



#### It's Time to Register for Tax School!

We had a great time at the September Seminars. Thanks to all who participated, either in person or online! We've now turned our attention to preparing for the 44th Annual Federal Income Tax Schools. We have a great slate of locations and speakers, and we're looking forward to seeing you around the state! Reserve your spot today.

November 2-3, 2017 - Maguoketa, Iowa - Centerstone Inn and Suites

November 6-7, 2017 - Le Mars, Iowa - Le Mars Convention Center

November 8-9, 2017 - Atlantic, Iowa - Cass County Community Center

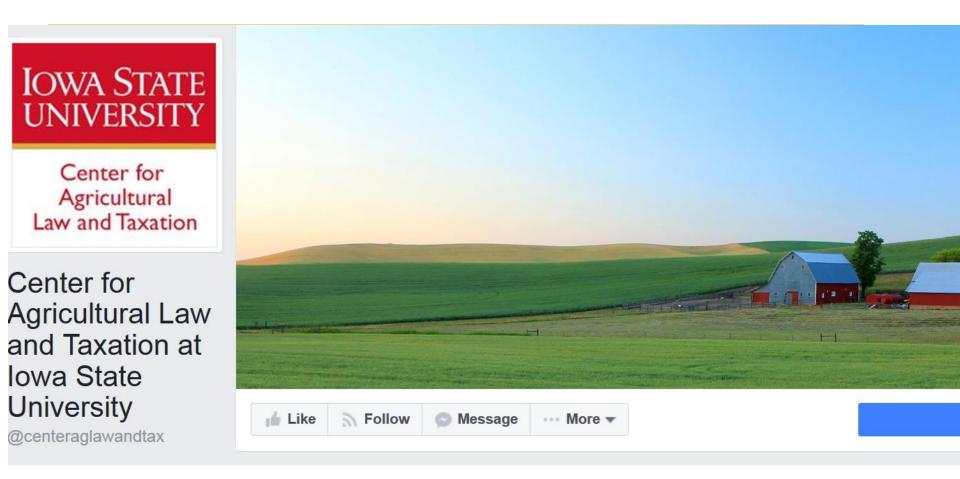
November 9-10, 2017 - Mason City, Center for Agricultural Law & Taxation

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76

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#### 77

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