The Tax Cut and Jobs Act

Expenses and deductions

Interest deduction limitation: Under the act, the deduction for business interest is limited to the sum of (1) business interest income; (2) 30% of the taxpayer's adjusted taxable income for the tax year; and (3) the taxpayer's floor plan financing interest for the tax year. Any disallowed business interest deduction can be carried forward indefinitely (with certain restrictions for partnerships).

Any taxpayer that meets the $25 million gross-receipts test is exempt from the interest deduction limitation. The limitation will also not apply to any real property development, redevelopment, construction, reconstruction, acquisition, conversion, rental, operation, management, leasing, or brokerage trade or business. Farming businesses are allowed to elect out of the limitation.

For these purposes, business interest means any interest paid or accrued on indebtedness properly allocable to a trade or business. Business interest income means the amount of interest includible in the taxpayer's gross income for the tax year that is properly allocable to a trade or business. However, business interest does not include investment interest, and business interest income does not include investment income, within the meaning of Sec. 163(d).

Floor plan financing interest means interest paid or accrued on indebtedness used to finance the acquisition of motor vehicles held for sale or lease to retail customers and secured by the inventory so acquired.

Net operating losses: The act limits the deduction for net operating losses (NOLs) to 80% of taxable income (determined without regard to the deduction) for losses. (Property and casualty insurance companies are exempt from this limitation.)

Taxpayers are allowed to carry NOLs forward indefinitely. The two-year carryback and special NOL carryback provisions were repealed. However, farming businesses are still allowed a two-year NOL carryback.

Like-kind exchanges: Under the act, like-kind exchanges under Sec. 1031 will be limited to exchanges of real property that is not primarily held for sale. This provision generally applies to exchanges completed after Dec. 31, 2017. However, an exception is provided for any exchange if the property disposed of by the taxpayer in the exchange was disposed of on or before Dec. 31, 2017, or the property received by the taxpayer in the exchange was received on or before that date.

Domestic production activities: The act repealed the Sec. 199 domestic production activities deduction.

Entertainment expenses: The act disallows a deduction with respect to (1) an activity generally considered to be entertainment, amusement, or recreation; (2) membership dues for any club organized for business, pleasure, recreation, or other social purposes; or (3) a facility or portion thereof used in connection with any of the above items.

Qualified transportation fringe benefits: The act disallows a deduction for expenses associated with providing any qualified transportation fringe to employees of the taxpayer and, except as necessary for ensuring the safety of an employee, any expense incurred for providing transportation (or any payment or reimbursement) for commuting between the employee's residence and place of employment.

Meals: Under the act, taxpayers are still generally able to deduct 50% of the food and beverage expenses associated with operating their trade or business (e.g., meals consumed by employees on work travel). For amounts incurred and paid after Dec. 31, 2017, and until Dec. 31, 2025, the act expands this 50% limitation to expenses of the employer associated with providing food and beverages to employees through an eating facility that meets requirements for *de minimis* fringes and for the convenience of the employer. Such amounts incurred and paid after Dec. 31, 2025, will not be deductible.

Partnership technical terminations: The act repealed the Sec. 708(b)(1)(B) rule providing for technical terminations of partnerships under specified circumstances. The provision does not change the rule of Sec. 708(b)(1)(A) that a partnership is considered to be terminated if no part of any business, financial operation, or venture of the partnership continues to be carried on by any of its partners in a partnership.

Carried interests: The act provides for a three-year holding period in the case of certain net long-term capital gain with respect to any applicable partnership interest held by the taxpayer. It treats as short-term capital gain taxed at ordinary income rates the amount of a taxpayer's net long-term capital gain with respect to an applicable partnership interest if the partnership interest has been held for less than three years.

The conference report for the act clarified that the three-year holding requirement applies notwithstanding the rules of Sec. 83 or any election in effect under Sec. 83(b).

Amortization of research and experimental expenditures: Under the act, amounts defined as specified research or experimental expenditures must be capitalized and amortized ratably over a five-year period. Specified research or experimental expenditures that are attributable to research that is conducted outside of the United States must be capitalized and amortized ratably over a 15-year period.

Year of inclusion: The act requires accrual-method taxpayers subject to the all-events test to recognize items of gross income for tax purposes in the year in which they recognize the income on their applicable financial statement (or another financial statement under rules to be specified by the IRS). The act provides an exception for taxpayers without an applicable or other specified financial statement.

Grandparents Caring for Grandchildren Should Check Their Eligibility for EITC

Grandparents who work and are also raising grandchildren might benefit from the earned income tax credit. The IRS encourages these grandparents to find out, not guess, if they qualify for this credit. This is important because grandparents who care for children are often not aware that they could claim these children for the EITC.

The EITC is a refundable tax credit. This means that those who qualify and claim the credit could pay less federal tax, pay no tax, or even get a tax refund. Grandparents who are the primary caretakers of their grandchildren should remember these facts about the credit:

- A grandparent who is working and has a grandchild living with them may qualify for the EITC, even if the grandparent is 65 years of age or older.
- Generally, to be a qualified child for EITC purposes, the grandchild must meet the dependency and qualifying child requirements for EITC.
- The rules for grandparents claiming the EITC are the same for parents claiming the EITC.
- Special rules and restrictions apply if the child's parents or other family members also qualify for the EITC.
- There are also special rules for individuals receiving disability benefits and members of the military.
- To qualify for the EITC, the grandparent must have earned income either from a job or self-employment and meet basic rules.
- The IRS recommends using the EITC Assistant, available in English or Spanish, on IRS.gov, to determine eligibility and estimate the amount of credit.
- Eligible grandparents must file a tax return, even if they don't owe any tax or aren't required to file.

Qualified taxpayers should consider filing electronically. It's the fastest and most secure way to file a tax return and get a refund.

By law, the IRS cannot issue refunds before mid-February for tax returns that claim the EITC or the additional child tax credit. The law requires the IRS to hold the entire refund — even the portion not associated with the EITC or ACTC. The IRS expects the earliest EITC/ACTC related refunds to be available in taxpayer bank accounts or on debit cards starting Feb. 27, 2018, if these taxpayers choose direct deposit and there are no other issues with their tax return.