On Dec. 20, 2017, Congress passed sweeping changes to the tax law under the Tax Cuts and Jobs Act (the Act), which is expected to be signed into law shortly by President Trump. The summary below addresses the major business, international and individual tax provisions contained in the Act.

Individual provisions

Unless otherwise noted, these provisions apply as of Jan. 1, 2018, and expire (sunset) at the end of 2025.

- **Tax brackets** – The law provides for seven individual tax brackets – 10, 12, 22, 24, 32, 35 and 37 percent. The top individual rate of 37 percent will apply for individuals earning $500,000 and above and joint filers earning at least $600,000.
- **Individual AMT** – The individual AMT is retained, albeit with a higher exemption ($70,300 for individuals and $109,400 for married taxpayers filing jointly) and a higher phase-out threshold ($500,000 for individuals and $1 million for married taxpayers filing jointly.)
- **Standard deduction and personal exemptions** – The standard deduction is doubled to $12,000 for individuals and $24,000 for married couples, and the additional deduction for the elderly and the blind is retained. The deduction for personal exemptions is repealed.
- **Home mortgage interest deduction** – The deduction for home mortgage interest will be limited to interest on $750,000 of acquisition indebtedness incurred on newly purchased principal and second residences after Dec. 15, 2017, and a deduction for interest on any home equity loans will not be allowed, regardless of when the loan was obtained.
- **State tax deduction** – A deduction of up to $10,000 for state and local property, income or sales taxes is allowed. However, the Act precludes taxpayers from pre-paying 2018 state and local income taxes in 2017 in order to get the deduction before the $10,000 cap is imposed after 2017.
- **Alimony** – Alimony paid pursuant to divorce after Dec. 31, 2018, will not be deductible (or includible in the income of the recipient). Modifications to existing agreements will be impacted.
- **Medical expenses** – Medical expenses exceeding 7.5 percent of adjusted gross income (AGI) will be deductible for 2017 and 2018, and the AMT preference for medical expense deductions is eliminated for 2017 and 2018.
- **AGI limitations** – The 3 percent of AGI limitation on deductions is suspended, and a reduction for miscellaneous deductions that exceed 2 percent of AGI is eliminated (including investment management fees, tax preparation fees and unreimbursed business expenses).
- **Charitable contributions** – The deduction for charitable contributions is preserved, with an increase in the AGI limitation for cash contributions to public charities and certain private foundations from 50 percent to 60 percent.
- **529 plans** – Up to $10,000 of 529 savings plans can be used per student for public, private and religious elementary and secondary schools.
- **Individual Retirement Accounts (IRAs)** – A conversion of a traditional IRA to a Roth IRA cannot be recharacterized as a contribution to a traditional IRA. This does not prevent conversion of a traditional IRA into a Roth IRA, only the reversal of such a conversion is barred.

Business provisions

All provisions are effective for tax years beginning after Dec. 31, 2017, unless otherwise noted.

- **Corporate tax rate** – Rates are reduced from a top rate of 35 percent to 21 percent.
- **Corporate alternative minimum tax (AMT)** – The corporate AMT is repealed.
- **Pass-through businesses** – Pass-through businesses are allowed a deduction tantamount to excluding 20 percent of the business income of many pass-through entities and sole proprietors. For owners otherwise subject to the top 37 percent individual tax rate, the effective tax rate on qualified income will be reduced to 29.6 percent.
  - Pass-through owners whose taxable income exceeds $315,000 for a joint return (or lower amounts for single filers) are subject to restrictions on the deduction in situations where the business did not have a specified level of wage payments or a specified amount of tangible, depreciable assets used in the business. In addition, restrictions on the deduction apply to certain service businesses and other businesses described in the new law.
  - Trusts and estates are eligible for the 20 percent deduction.
  - A new restriction limits an owner's ability to deduct active business losses against non-business income.
- **Carried interests** – The Act creates a new three-year holding period that must be satisfied to enjoy long-term

capital gains rates with respect to certain carried interests in certain investment or real estate funds.

- **Capital expensing** – The legislation provides for immediate expensing (i.e., 100 percent bonus depreciation) for certain qualified assets acquired and placed in service after Sept. 27, 2017. The 100 percent bonus depreciation benefit will begin to phase out in 2023. The Act also increased the expensing allowance under section 179 to $1 million, also subject to a phase-out.
- **Business interest** – The deduction for net business interest of corporations and many pass-through businesses is limited under a formula. Generally speaking, deductions cannot exceed 30 percent of EBITDA (earnings before interest, taxes, depreciation and amortization) for the next four years. After that period, interest deductions may not exceed 30 percent of EBIT (earnings before interest and taxes). Disallowed interest deductions can generally be carried forward indefinitely, but may be subject to certain limitations applicable to partnerships. Certain taxpayers are exempted from these rules, including taxpayers with average gross receipts of $25 million or less for the three years immediately preceding the effective date of this provision, as well as taxpayers involved in certain real estate activities.
- **Net operating losses (NOLs)** – The Act limits the NOL deduction to 80 percent of taxable income. Carrybacks are generally eliminated, but unused losses can be carried forward indefinitely.
- **Domestic manufacturing deduction** – The section 199 domestic production deduction is repealed.
- **Research credits and expenses** – The legislation retains the research and development credit and requires capitalization and amortization of research and experimental expenses over a five-year period. The capitalization provisions apply to amounts paid or incurred in tax years beginning after Dec. 31, 2021.
- **Overall methods of accounting** – The Act increases the gross receipts threshold above which C corporations and partnerships with C corporation partners must generally use the accrual method of accounting from $5 million to $25 million.
- **Like-kind exchanges** – Like-kind exchanges under section 1031 are limited to real property that is not held primarily for sale. Personal property no longer qualifies for tax-deferred treatment.

Estate, gift and generation-skipping transfer (GST) tax

- The estate, gift and generation-skipping transfer (GST) tax exemptions are doubled to approximately $11 million, effective January 2018.
- The estate, gift and GST rates remain the same as existing law.

Key provisions of current law that were undisturbed by the bill:

- Income tax
  - The 3.8 percent tax on investment income under section 1411 and the 0.9 percent Medicare tax on compensation
  - Tax rates on capital gains and qualified dividends
  - Exclusion of gain on sale of a residence
  - Ability to identify the securities that an investor is deemed to sell (i.e., the Senate's proposal for a 'first-in, first out' method is not included in the Act)
  - Pre-tax contribution limits (including catch-ups) for 401(k) plans
  - Ability for beneficiaries to 'stretch' IRA withdrawals out over their lifetimes

- Estate, gift and GST tax
  - The gift tax and the rate of tax imposed for estate, gift and GST tax
  - Step-up in basis for inherited assets (other than items of income in respect of decedent)
  - Current design flexibility of grantor retained annuity trusts (GRATs) and rules for 'defective' grantor trusts