Prairie State Legal Services

PRAIRIE STATE LEGAL SERVICES
Equal Access to Justice

Tax Law Update

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What You Need to Know

- Tax Cuts and Jobs Act of 2017 (TCJA)
- Approved by Congress on December 22, 2017
- Most changes took effect on January 1, 2018
- Some of these changes expire in 2025
  - Increased standard deduction amounts
  - Personal and Dependency Exemptions
  - Child Tax Credit

Standard Deduction Increased

Filing Status	Previous Standard Deduction Amount (Old law)
Single	$6,350
Married Filing Jointly	$12,700
Married Filing Separately	$6,350
Head of Household	$9,350

Filing Status	Standard Deduction Amount for 2019 (New law)
Single	$12,200
Married Filing Jointly	$24,400
Married Filing Separately	$12,200
Head of Household	$18,350

Itemized Deductions Reduced or Eliminated

- Reduced
  - State and local tax deduction, including property taxes, is limited to a combined total of $10,000 ($5,000 for MFS)
  - Interest on a new home mortgage is limited for new mortgages taken out after December 14, 2017
- Eliminated
  - Miscellaneous itemized deductions subject to the 2% floor
    - Unreimbursed employee business expenses
    - Interest on a home equity loan under most circumstances
    - Tax Preparation Fees
    - Personal casualty and theft losses

Dependency Exemptions: Previous Law

- Previous Law
  - Types of Exemptions
    - Personal Exemption
    - Dependency Exemption
- Exemption value in 2017 = $4,050.
  - E.g., a family of 5 will have 5 exemptions, totaling $20,250, which will reduce the taxpayer's taxable income.
- Dependency Exemption
  - Reduced taxable income
  - Made the taxpayer eligible for credits such as Child Tax Credit

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Dependency Exemptions: Previous Law

- Test – must have a "qualifying person"
  - Either a "qualifying child" or a "qualifying relative"

Benefit	Age	Relationship	Residency	Support	Other
Dependency Exemption for Qualifying Child	<19 (or <24 if a full-time student and must be younger than the taxpayer; any age if disabled	Child, stepchild, adopted or foster child, sibling, stepsibling, or descendent of any of them	Lived ½+ year with the taxpayer	Child provided < or = ½ of his or her own support for the year	Child cannot be claimed by another taxpayer as a dependent
Dependency Exemption for Qualifying Relative	Any age	If unrelated, then must have lived with the taxpayer for the entire year		Taxpayer provided >1/2 of the person's total support for the year	Relative's gross income cannot exceed $4,050. Income limited does not apply if dependent is disabled

Personal & Dependency Exemptions: New Law

- New Law
  - Both Personal and Dependency Exemptions are eliminated for tax years 2018-2025
- Exemption value in 2019 = $0.
  - Intended to be offset by the increase in the standard deduction
  - Won't offset the loss of exemption in all cases

Effect on Filing Requirement

- Under the old law, you were not required to file a return if your total income was less than the standard deduction amount applicable to you + your exemptions
- Under the new law you have to file a return if your income is more than the standard deduction amount applicable to you
  - Exemptions are eliminated

Why Should Your Client File Even if Not Required?

- To claim a refund, of course!
- To claim credits
  - Adoption credit
  - Child Tax Credit
  - Earned Income Tax Credit
  - Health Premium Tax Credit
- If the client is applying for financial aid (FAFSA)
- May be a prerequisite for public benefits
  - Circuit Breaker
  - Social Security benefits (if self-employed)
- Can prevent (or uncover) identity theft

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How Do Tax Credits Work?

- Tax credits lower the amount of taxes owed
  - If the credit is non-refundable, it can lower a tax filer's tax bill down to zero
    - E.g. Owe $1000 in taxes and receive a $1500 non-refundable credit equals $0 (no tax due, no refund)
  - If the credit is refundable, a tax filer can receive a refund even if the tax filer owes no taxes
    - E.g. Owe $1000 in taxes and receive a $1500 refundable credit equals a $500 refund

Earned Income Tax Credit

Earned Income and AGI Limits

The tax year 2019 Earned income and adjusted gross income (AGI) must each be less than:

If filing...	Qualifying Children Claimed			
	Zero	One	Two	Three or more
Single, Head of Household or Widowed	$15,570	$41,094	$46,703	$50,162
Married Filing Jointly	$21,370	$46,884	$52,493	$55,952

Investment Income Limit

Investment income must be $3,600 or less for the year.

Maximum Credit Amounts

The maximum amount of credit for Tax Year 2019 is:

- $6,557 with three or more qualifying children
- $5,828 with two qualifying children
- $3,526 with one qualifying child
- $529 with no qualifying children

Earned Income Tax Credit (Reminder)

Key Features:

- Refundable
- Must file a return to claim EITC
- Must have "earned" income
  - Wages or Self-Employment income
- Cannot file MFS
- Must have SSN
- Must be claimed by the parent with the majority of parenting time

- EITC is a function of: 1) the amount of earned income; 2) filing status; 3) number of "Qualifying Children" up to 3

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Child Tax Credit

- Old law:
  - CTC was worth up to $1,000 per qualifying child under 17
  - Refundable for taxpayers with earned income of at least $3,000
  - Entirely refundable (up to $1,000)
  - Phased out for high income taxpayers
- New law: Changes expire after December 31, 2025
  - CTC is worth up to $2,000 per qualifying child under 17
  - Refundable for taxpayers with earned income of at least $2,500
  - The refundable portion is limited to $1,400
  - Phase out level is significantly higher

Child Tax Credit and Immigrants

- People who work in the U.S. must pay taxes on their income regardless of their immigration status
- Immigrant workers without an SSN file their income tax returns using an “Individual Tax Identification Number” or ITIN
- The IRS also will issue ITINs to dependents who can be claimed on a tax return but who do not qualify for an SSN

Child Tax Credit and Immigrants

- Old law: Taxpayers could claim the Child Tax Credit as long as the child was a U.S. citizen or resident (physically in the U.S.)
  - No SSN required
  - Can claim for child with an ITIN
- New law: Taxpayers cannot claim a child tax credit for a child who does not have an SSN by the due date of the return

Requirements to Claim the Child Tax Credit

Test – must have a "qualifying child"

Benefit	Age	Relationship	Residency	Support	Other
Child Tax Credit (CTC)	Under 17 at the end of the year	Child, stepchild, Adopted or foster child, sibling, stepsibling, or descendent of any of them	Lived ½+ year with the taxpayer (can be released to the parent with less parenting time)	Child provided less than half of his or her own support for the year	*Must be claimed as a dependent No joint tax return for child Child was a U.S. citizen, U.S. national, or a U.S. resident alien

Releasing and Revoking the Release of the Exemption IRC § 152(e), Form 8332

Form **8332**
(Rev. January 2010)
Department of the Treasury
Internal Revenue Service

Release/Revocation of Release of Claim to Exemption for Child by Custodial Parent

▶ Attach a separate form for each child.

OMB No. 1545-0074
Attachment Sequence No. **115**

Name of noncustodial parent | Noncustodial parent's social security number (SSN) ▶

Part I Release of Claim to Exemption for Current Year

I agree not to claim an exemption for ______
Name of child
for the tax year 20___.

Signature of custodial parent releasing claim to exemption | Custodial parent's SSN | Date

Note. If you choose not to claim an exemption for this child for future tax years, also complete Part II.

Part II Release of Claim to Exemption for Future Years (If completed, see **Noncustodial Parent** on page 2.)

I agree not to claim an exemption for ______
Name of child
for the tax year(s) ______.
(Specify. See instructions.)

Signature of custodial parent releasing claim to exemption | Custodial parent's SSN | Date

Part III Revocation of Release of Claim to Exemption for Future Year(s)

Credit for Other Dependents

- Dependents who can't be claimed for the Child Tax Credit may qualify for the Credit for Other Dependents
  - Non-Refundable
  - Up to $500 per qualifying person
  - Qualifying dependent must be a U.S. citizen, U.S. national, or U.S. resident alien
  - Begins to phase out for taxpayers with modified adjusted gross income over $200,000 for individuals ($400,000 for couples filing jointly)

Maintenance

- Under the old law
  - Payor takes a deduction for the amount of maintenance paid
  - Payee reports on tax return and pays income tax on maintenance
- Under the new law
  - No deduction for Payor
  - Not taxable income to Payee
  - EFFECTIVE DATE: any divorce or separation agreement that is
    - Executed after December 31, 2018 or
    - Executed on or before December 31, 2018 and modified after December 31, 2018 if the modification expressly provides that the new law governs

Discussion

- What are your thoughts on how this might impact the way you negotiate settlements for clients?
  - Maintenance is no longer tax deductible for the payor
  - Dependency exemptions are worth $0
    - Could be worth something after 2025
    - Exemption is still needed to claim child-related benefits like the Child Tax Credit
  - The Child Tax Credit is worth $2,000 (up from $1,000)
    - Also, people with higher incomes not qualify for CTC

Self-Employed Taxpayers

- Generally, you are self-employed if:
  - You carry on a trade or business as a sole proprietor or independent contractor
  - You earn any income that is not reported on a W-2 by your employer, including cash income
- Reporting Requirements:
  - All income earned in your trade or business
  - Most expenses incurred in your trade or business can be deducted against self-employment income
  - If you have net business income of over $400, you are required to file a tax return
  - This activity is reported on Schedule C or C-EZ

Self-Employed Taxpayers

- Once you have calculated your net self-employment income on Schedule C, taxes are calculated
    - Income tax is due on the amount of net income
    - Self-employment tax is calculated separately on the amount of net income
    - Self-employment tax is the equivalent to the portion of Medicare and Social Security taxes that are withheld from an employee's paycheck and the portion that is paid by the employer
    - Self-employed people are considered the employer and the employee and are responsible for paying both portions

Changes for Self-Employed Taxpayers

- Under the new tax law, self-employed taxpayers can deduct up to 20% of self-employment income
  - The new 20% deduction will reduce taxable income for self-employed taxpayers for federal income tax purposes
  - It will not affect the amount of taxable income for state income tax purposes

IRS's Broad Collection Powers

- The Bad
  - No judgment needed
  - SSA, and Unemployment can be levied up to 15%
  - All wages, less exempt income can be garnished
    - IRS will exempt a certain amount based on filing status and exemptions (see Pub 1494)
- The Good
  - In many cases, collections can be avoided through collection alternatives. Doing nothing is the worst thing you can do.
    - Hardship status (Currently Not Collectible or CNC status)
    - Installment agreement (Payment Plan)
    - Offer in Compromise

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Amount of Wages Exempt from Levy

- IRS can deduct from you wages for back taxes without a court judgment.
  - The amount that can be garnished depends on how many dependents you have and your standard deduction rate.
  - IRS is not subject to other state & federal garnishment limitations.
- Old Law: IRS could only levy income above a certain amount
  - Standard deduction + personal/dependency exemptions @ $4,050 each divided by the payroll period (e.g. 52 weeks if paid weekly)
- New Law: the amount exempt from an IRS levy is higher
  - Standard deduction (which is higher under the new law) + $4,150 for each dependent divided by the payroll period (e.g. 52 weeks if paid weekly)

Amount of Wages Exempt from Levy (cont')

- The new law does not affect other property which is exempt from an IRS levy:
  - Unemployment
  - Worker's compensation
  - Certain armed forces pensions
  - Tools/books used for work
  - Necessary clothing

Premium Tax Credit

- Premium Tax Credit – Not impacted by tax reform
  - This is a refundable credit that helps individuals & families with low to moderate income afford health insurance purchased through the Marketplace (Exchange)
    - For people who do not qualify for Medicaid/Medicare and are not eligible for insurance through their employer
    - Credit helps make health insurance premiums affordable by providing a subsidy based on income
    - Can get the credit in advance (Advance Premium Tax Credit) to pay for monthly health insurance premiums

Individual Shared Responsibility Provision

- Affordable Care Act (ACA) requires everyone to have health insurance or pay a Shared Responsibility Penalty on their tax return
- ACA Tax Penalty Eliminated after December 31, 2018
    - New tax law zeros out both the dollar amount and percentage of income penalties imposed by the individual mandate
    - Taxpayers will continue to receive form 1095-A and B from your healthcare provider
- Penalty was still in affect for 2017 & 2018 tax returns
    - If uninsured at any point in 2018 and not eligible for any exceptions to the penalty

Upcoming Filing Season

- Filing Season begins at the end of January 2020
- Filing deadline is April 15, 2020.
- As part of Tax Reform, the IRS will hold refunds claiming certain “refundable” credits
  - This change gives the IRS more time to prevent and detect fraud
  - The refunds for returns claiming the Earned Income Tax Credit and the Additional Child Tax Credit will not be released until after mid-February.

Filing Issues

- Where’s my refund?
  - For current year refunds: https://www.irs.gov/refunds
- Call the IRS at 800-829-1040 when:
  - 21 days or more since you e-filed
  - 6 weeks or more since you mailed your return, or
  - When “Where’s my refund” tells you to contact the IRS
- Refer client to the Tax Clinic if:
  - Someone else received your refund
  - Financial hardship
  - The IRS states there is a problem with the return

END

Questions / Comments?

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