The webcast will start at 1 p.m. Eastern

Please note:

- Handout – You can print or download the webcast handout at capincrouse.com/webcast-tax-reform
- CPE – CPE certificates will be emailed to you within the next few weeks. To receive CPE credit you must respond to the polling questions, which are not available on mobile devices. Therefore, in order to receive CPE credit you must log in via a computer.
- Recording – A recording of today's webcast will be available at capincrouse.com. Click **Nonprofit Resources**, and then select **Webcast: Recorded** from the list on the right.

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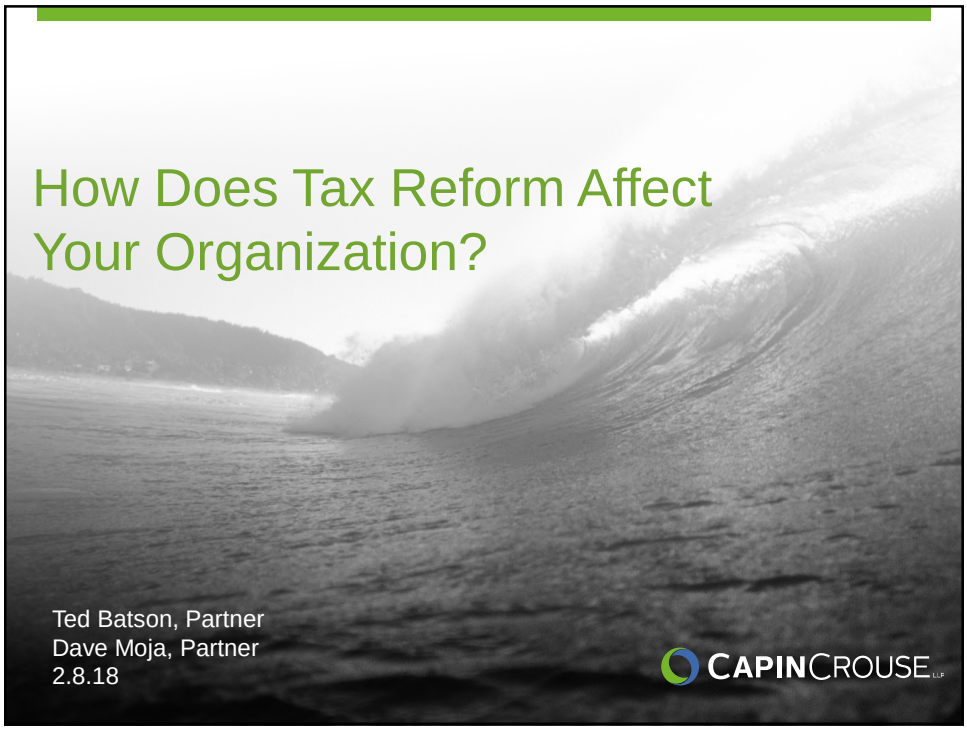

How Does Tax Reform Affect Your Organization?

Ted Batson, Partner
Dave Moja, Partner
2.8.18

CAPINCROUSE LLP

Tax Cuts and Jobs Act Overall

"Today marks the beginning of the end of our nation's broken tax code. The Tax Cuts and Jobs Act will deliver real tax relief to Americans across the country — especially low- and middle-income Americans who have been struggling for far too long to earn a raise and get ahead. Our legislation is focused entirely on growing our economy, bringing jobs back to our local communities, increasing paychecks for our workers, and making sure Americans are able to keep more of the money they earn."

- Chairman Kevin Brady, House Ways & Means Committee

Tax Reform: New Tax Rates

Married Individuals Filing a Joint Return and Surviving Spouses				
If taxable income is:		The tax is:		
Over:	But not over:		Plus	Of the excess over:
$0	$19,050	$0	10%	$0
$19,050	$77,400	$1,905	12%	$19,050
$77,400	$165,000	$8,907	22%	$77,400
$165,000	$315,000	$28,179	24%	$165,000
$315,000	$400,000	$64,179	32%	$315,000
$400,000	$600,000	$91,379	35%	$400,000
$600,000		$161,379	37%	$600,000

Tax Reform: New Tax Rates

Heads of Household				
If taxable income is:		The tax is:		
Over:	But not over:		Plus	Of the excess over:
$0	$13,600	$0	10%	$0
$13,600	$51,800	$1,360	12%	$13,600
$51,800	$82,500	$5,944	22%	$51,800
$82,500	$157,500	$12,698	24%	$82,500
$157,500	$200,000	$30,698	32%	$157,500
$200,000	$500,000	$44,298	35%	$200,000
$500,000		$149,298	37%	$500,000

Tax Reform: New Tax Rates

Single Persons				
If taxable income is:		The tax is:		
Over:	But not over:		Plus	Of the excess over:
$0	$9,525	$0.00	10%	$0
$9,525	$38,700	$952.50	12%	$9,525
$38,700	$82,500	$4,453.50	22%	$38,700
$82,500	$157,500	$14,089.50	24%	$82,500
$157,500	$200,000	$32,089.50	32%	$157,500
$200,000	$500,000	$45,689.50	35%	$200,000
$500,000		$150,689.50	37%	$500,000

Tax Reform: New Tax Rates

Married Persons Filing a Separate Return				
If taxable income is:		The tax is:		
Over:	But not over:		Plus	Of the excess over:
$0	$9,525	$0.00	10%	$0
$9,525	$38,700	$952.50	12%	$9,525
$38,700	$82,500	$4,453.50	22%	$38,700
$82,500	$157,500	$14,089.50	24%	$82,500
$157,500	$200,000	$32,089.50	32%	$157,500
$200,000	$300,000	$45,689.50	35%	$200,000
$300,000		$80,689.50	37%	$300,000

Tax Reform: Increase in the Standard Deduction

For tax years 2018 through 2025, the standard deduction is increased as follows:

	2017	2018*
Married Filing Jointly and Surviving Spouse	$12,700	$24,000
Single	$6,350	$12,000
Head of Household	$9,350	$18,000
Married Filing Separately	$6,350	$12,000

*This amount is indexed for inflation for years after 2018.

Sec. 11021

Tax Reform: Personal Exemption Suspended

For tax years 2018 through 2025, the deduction for the personal exemption is suspended.

For 2018, the personal exemption was set to increase to $4,150. (Rev. Proc. 2017-58)

Sec. 11041

Tax Reform: Increase in Child Tax Credit

- For tax years 2018 through 2025, the **child tax credit is increased from $1,000 to $2,000**.
  - Up to $1,400 of the credit is refundable.
  - This credit is allowed for children aged 16 and under.
  - For married taxpayers filing a joint return whose modified adjusted gross income (MAGI) exceeds $400,000 and for all other taxpayers whose MAGI exceeds $200,000, the credit is phased out. The credit is fully phased out once a taxpayer's MAGI is $40,000 more than the threshold amount.
- A partial credit of $500 is allowed for dependents other than qualifying children.

Sec. 11022

Tax Reform: Corporate Tax Rate Permanently Reduced

- The corporate tax rate is permanently reduced to a flat rate of 21%. This will be the rate paid by nonprofit corporations on unrelated business taxable income.
  - Sec. 13001
- Nonprofit corporations that previously paid a 15% rate because they had less than $50,000 in UBTI will experience an increase in tax due.
- Prior planning led some to create charitable trusts to take advantage of trust tax rates for capital gains.
  - This may be less advantageous under the new law.

Tax Reform: Impact on Itemized Deductions

- Three itemized deductions were retained in modified form
  - Charitable Contribution Deduction
  - Mortgage Interest Deduction
  - State and Local Tax Deduction
- Medical Expense Deduction retained temporarily
- Other itemized deductions suspended through 2025
- More on this below

Tax Reform: Charitable Contribution Deduction

- Charitable contribution deduction preserved
- For tax years 2018 through 2015, the percentage limitation applicable to cash contributions is increased from 50% to 60% of the taxpayer's adjusted gross income
    - Sec. 11023

Tax Reform: Mortgage Interest Deduction

- Mortgage interest deduction for acquisition indebtedness is preserved in slightly modified form
- Acquisition indebtedness is limited to the first $750,000 of a mortgage loan entered into after December 15, 2017 (the previous limit was $1,000,000)
- The deduction from home equity indebtedness is repealed

Tax Reform: State and Local Tax Deduction

For tax years 2018 through 2025, a taxpayer may deduct up to $10,000 of state and local income taxes, sales taxes, and property taxes.

There is no change in this amount for single individuals versus married individuals filing a joint return.

> *Example:* In 2018, John and Sue pay $8,000 in state and local income taxes, $4,000 in property taxes for their residence, and $500 in tangible personal property taxes for their automobiles. This amount totals $12,500.
>
> Of this amount, John and Sue can deduct $10,000. The $2,500 excess is forfeited.

Sec. 11042

Tax Reform: Medical Expense Deduction

- The itemized deduction for medical expenses is preserved through 2018
- For tax years 2013 to 2018, the adjusted gross income floor is reduced from 10% to 7.5% in the following situations:
  - Retroactively for tax years 2013 through 2016 where a taxpayer or the taxpayer's spouse attained age 65 before the end of the tax year; and
  - For 2017 and 2018, for all taxpayers
- For older taxpayers, this will necessitate an amended return
- For tax year 2018, the itemized medical deduction is not a preference item for purposes of the alternative minimum tax

Sec. 11027

Tax Reform: Pease Limitation Suspended

The so-called “Pease Limit” 3% limit on itemized deductions is suspended for tax years 2018 through 2025.

Sec. 11046

Tax Reform: Suspension of Deduction for Miscellaneous Itemized Deductions

For tax years 2018 through 2025, all miscellaneous itemized deductions are suspended.

This includes such items as union dues, uniforms, **tax preparation fees** paid by individuals, **unreimbursed employee expenses**, safety deposit box rental fees, and other similar expenses.

Sec. 11045

Tax Reform: Limitation on Casualty Losses

For tax years 2018 through 2025, personal casualty losses are limited to losses incurred in federally declared disaster areas.

Sec. 11044

Tax Reform: Alimony Deduction Suspended

The deduction for alimony paid allowed under section 215 is repealed, as is the corresponding provision under section 61 requiring the inclusion in income of alimony payments received.

Sec. 11051

Tax Reform: Individual Alternative Minimum Tax Exemption Increased

For tax years 2018 through 2025, the exemption for married taxpayers filing jointly and surviving spouses is increased from $78,750 to $109,400, and for all other individual taxpayers is increased from $50,600 to $70,300.

The phaseout of the individual AMT exemption now begins at $1,000,000 instead of $150,000.

Sec. 12003

Tax Reform: Gift Tax and Estate Tax Exemption Increased

For tax years 2018 through 2025, the gift and estate tax exemption is increased from $5,000,000 to $10,000,000.

Because this amount is subject to an inflation adjustment factor retroactively to 2010, the amount in effect for 2018 is $11,200,000.

Sec. 11061

Tax Reform: Affordable Care Act Individual Mandate Effectively Repealed

Beginning with tax year 2019, individuals will no longer be subject to a tax for failing to purchase insurance with minimum essential coverage as that term is defined in the Affordable Care Act.

Sec. 11081

Tax Reform: Other Items of Interest

- **Minister's Housing Allowance**
  - No change
  - Appeal in 2017 decision pending

Tax Reform: Entertainment Expense Deduction

- The deduction for entertainment expenses under Sec. 274 is **repealed**
- This does not appear to make the payment or reimbursement of such expenses incurred by an employee of a nonprofit organization as an "ordinary and necessary" business expense taxable to the employee
  - Unlike other provisions (e.g., payment or reimbursement of qualified transportation expenses), payment or reimbursement of entertainment expenses is not UBTI to the organization
  - Unlike the requirement that moving expenses paid by the employer be included in the taxable income of the employee, there is not comparable provision for entertainment expenses
- This provision does not appear to apply to meals that are not otherwise part of an entertainment activity

Sec. 13304

Tax Reform: Moving Expense Deductions Suspended

Sections 11048 and 11049 of the new law suspend the exclusion from income tax for qualified moving expense reimbursements **AND** the deduction for moving expenses under Sec. 217 through December 31, 2025 (except in the case of a member of the Armed Forces of the United States on active duty who moves pursuant to a military).

This change doesn't prohibit employers from paying moving expenses, but it does make such payments taxable to the employee.

The change clearly covers the cost of moving household furnishings and the transportation costs of children and non-employee spouses. Transportation cost of an employee should remain payable as an ordinary and necessary business expense.

Effects on Nonprofits

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Perceived Effects on Charitable Giving

For 100 years, our tax code has been a powerful tool to encourage and empower Americans to support their communities through charitable giving.

- Tax reform provides a unique opportunity to explore policies that could increase charitable investment in local communities.
- The charitable deduction has been included in current tax reform proposals, but efforts to increase the standard deduction and lower rates have the unintended consequences of limiting the effect of the charitable deduction and reducing giving.

Perceived Effects on Charitable Giving

A recent study by Independent Sector and Indiana University indicates that current tax reform proposals would reduce charitable giving.

- The study finds that doubling the standard deduction and reducing the top rate to 35% could reduce charitable giving by up to $13 billion per year.
- The Independent Sector/Indiana University study also found that when those proposals incorporated an expanded charitable deduction for all taxpayers, including people who do not currently itemize on their taxes, charitable giving would actually increase by an estimated $4.8 billion.

Tax Reform Major Points – Exempt Organizations

- Each unrelated business activity stands alone with respect to profit/loss
- Excess compensation excise tax
- UBIT on certain fringe benefits
- Excise tax on some private colleges & universities
- Moving expense deduction suspended
- Entertainment expense deduction repealed
- 21% corporate “flat” tax rate

Tax Reform: What did not make it in?

Political Campaign Activity – The current "Johnson Amendment," which prohibits any political activity by 501(c)(3) organizations, is not affected.

Private Foundation Taxes – The current 1% or 2% structure for taxes on investment income of private foundations is not changed from current law.

Tuition Reduction/Remission Rules Not Affected – Qualified tuition reductions will remain non-taxable.

Employer-Provided Educational Assistance Intact – The Section 127 provision for the non-taxability of certain employer educational assistance is not repealed.

Tax Reform: What did not make it in?

Housing for the Convenience of the Employer – The House bill contained a provision to provide limits on the amount that could be excluded from an employee's income for employer-provided housing. This provision is not in the final bill.

UBIT on Research Activities – The House bill included a modification that subjected income from research activities whose results were not publicly available to unrelated business income taxes. The final bill does not include this provision.

Donor-Advised Fund Reporting – The final bill does not incorporate the House provision to increase reporting and disclosure of donor-advised funds.

Tax Reform: What did not make it in?

Private Activity Bonds – The House bill included a provision to make interest on private activity bonds taxable. This provision is not included in the final bill.

Inflation Adjustment for Charitable Mileage Deduction – The House proposed a provision to repeal the statutory charitable mileage rate and instead provide that the standard mileage rate used for determining the charitable contribution deduction shall be a rate which takes into account the variable costs of operating an automobile. This is not included in the final bill.

Student Loan Interest – The House bill proposed eliminating the deduction for student loan interest. This provision is not included in the final bill.

Tax Reform – Higher Education

- **Whew!** The provision that made “logo and name” licensing fees automatically (“per se”) unrelated business income did not make it out of the Senate. Thus, we escaped without this rule in the new law.

Tax Reform: On-premises Athletic Facilities = UBIT

- Section 13703 of the new law contains a provision whereby the market value of providing exercise facilities (and specific other fringes) to staff and faculty would be considered unrelated business income and required to be reported on Form 990-T

Tax Reform: On-premises Athletic Facilities = UBIT

- "Unrelated business taxable income of an organization shall be increased by any amount for which a deduction is not allowable under this chapter by reason of section 274 and which is paid or incurred by such organization for any qualified transportation fringe (as defined in section 132(f)), any parking facility used in connection with qualified parking (as defined in section 132(f)(5)(C)), or any on-premises athletic facility (as defined in section 132(j)(4)(B))."
- "The Secretary shall issue such regulations or other guidance as may be necessary or appropriate to carry out the purposes of this paragraph, including regulations or other guidance providing for the appropriate allocation of depreciation and other costs with respect to facilities used for parking or for on-premises athletic facilities."

Tax Reform: On-premises Athletic Facilities = UBIT

- On-premises athletic facility. For purposes of this paragraph, the term “on-premises athletic facility” means any gym or other athletic facility—

  (i) which is located on the premises of the employer,

  (ii) which is operated by the employer, and

  (iii) substantially all the use of which is by employees of the employer, their spouses, and their dependent children

- Includes swimming pools, tennis courts, golf courses, etc.

Tax Reform: Qualified Parking

- IRC Section 132(f)(5)(C):

  Qualified parking. The term “qualified parking” means parking provided to an employee on or near the business premises of the employer or on or near a location from which the employee commutes to work by transportation described in subparagraph A, in a commuter highway vehicle, or by carpool. Such term shall not include any parking on or near property used by the employee for residential purposes.

Tax Reform: Athletic Tickets Deduction Suspended

College Athletic Event Seating Rights – Historically, special rules applied to certain payments to institutions of higher education in exchange for which the donor/payor who met certain criteria received the right to purchase tickets or seating at an athletic event. Specifically, the donor/payor could treat 80% of a payment as a charitable contribution. The new law includes a denial of this deduction for periods after December 31, 2017.

Tax Reform: Private College/University Endowment Excise Tax

Excise Tax on Some Private Colleges and Universities – There is a 1.4% excise tax on the net investment income (to be defined) of private colleges and universities that are "applicable educational institutions" (AEIs) — generally meaning the school has at least 500 students and 50% of its students are located in the U.S. The "threshold" computation applies to AEIs with an aggregate fair market value of the assets at the end of the preceding taxable year (other than those assets that are used directly in carrying out the institution's exempt purpose) of at least $500,000 per student.

Tax Reform: Section 529 Accounts

Up to $10,000 of Sec. 529 account distributions may now be used to pay for primary and secondary school tuition.

The language of the statute appears to limit this to tuition, but stay tuned to see if IRS guidance expands this to include the range of expenses allowed to college students.

Sec. 11032

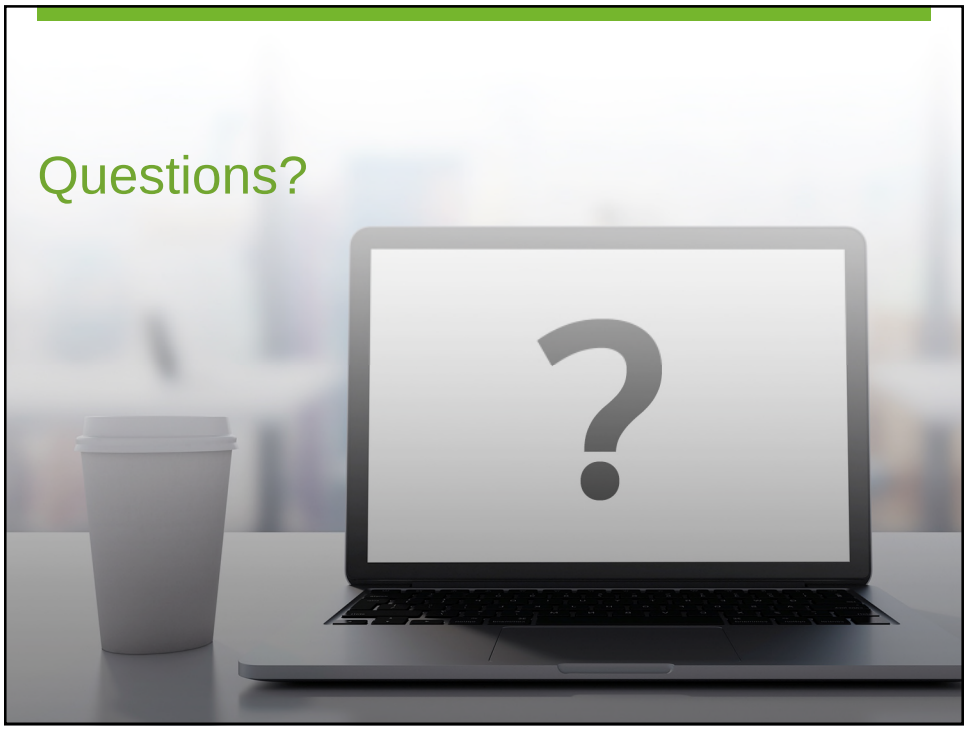
Standard Deduction – “Bunching”

- Charitable contributions every other year?
- Property tax (and other SALT) every other year?
- Do we set up “Donor Advised Funds?”

2018 Standard Mileage Rates

The 2018 optional mileage rates are as follows:

Type	Rate
Business travel	54.5¢ per mile
Medical & moving travel	18¢ per mile
Charitable mileage travel	14¢ per mile**



Upcoming Webcasts

Please join us! Learn more at capincrouse.com

2018 Nonprofit Accounting and Reporting Update
February 22
1 p.m. Eastern
Presented by: Frank Brown and Frank Jakosz

Acquiring Top Talent for Your Nonprofit Organization
March 22
1 p.m. Eastern
Presented by: Heather Mausz

Thank you.

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