

THE TAX CUTS & JOBS ACT: IMPLICATIONS FOR SPOUSAL SUPPORT, CLAIMING CHILDREN AS DEPENDENTS, AND VALUING PRE- TAX ASSETS

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Married Filing Joint Tax Brackets

Prior Law	2018	TCJA	2018
Taxable income	Rate	Taxable Income	Rate
\$0 – 19,050	10%	\$0 – 19,050	10%
\$19,051 – 77,400	15%	\$19,051 – 77,400	12%
\$77,401 – 156,150	25%	\$77,401 – 165,000	22%
\$156,151 – 237,950	28%	\$165,001 – 315,000	24%
\$237,951 – 424,950	33%	\$315,001 – 400,000	32%
\$424,951 – 480,050	35%	\$400,001 - \$600,000	35%
Over 480,050	39.6%	Over \$600,000	37%

Head of Household Tax Brackets

Prior Law	2018	TCJA	2018
Taxable income	Rate	Taxable Income	Rate
\$0 – 13,600	10%	\$0 – 13,600	10%
\$13,600 – 51,850	15%	\$13,601 – 51,800	12%
\$51,850 – 133,850	25%	\$51,801 – 82,500	22%
\$133,850 – 216,700	28%	\$82,501 – 157,500	24%
\$216,700 – 424,950	33%	\$157,501 – 200,000	32%
\$424,950 – 480,050	35%	\$200,001 – 500,000	35%
Over 480,050	39.6%	Over \$500,000	37%

- All dependency criteria met + >50% overnights, household & support requirements still apply!
- The TCJA did not do away with reference to IRC §152 (definition of a dependent) for the HOH, child tax credit, etc.

Single Tax Brackets

Prior Law	2018	TCJA	2018
Taxable income	Rate	Taxable Income	Rate
\$0 – 9,525	10%	\$0 – 9,525	10%
\$9,526 – 38,700	15%	\$9,526 – 38,700	12%
\$38,701 – 93,700	25%	\$38,701 – 82,500	22%
\$93,701 – 195,450	28%	\$82,501 – 157,500	24%
\$195,451 – 424,950	33%	\$157,501 – 200,000	32%
\$424,951 – 480,050	35%	\$200,001 – 500,000	35%
Over 480,050	39.6%	Over \$500,000	37%

Comparative: Single & Head of Household Tax Brackets-Post TCJA

Single	2018	HOH	2018
Taxable income	Rate	Taxable Income	Rate
\$0 – 9,525	10%	\$0 – 13,600	10%
\$9,526 – 38,700	12%	\$13,601 – 51,800	12%
\$38,701 – 82,500	22%	\$51,801 – 82,500	22%
\$82,501 – 157,500	24%	\$82,501 – 157,500	24%
\$157,501 – 200,000	32%	\$157,501 – 200,000	32%
\$200,000 – 500,000	35%	\$200,001 – 500,000	35%
Over 500,000	37%	Over \$500,000	37%

- All dependency criteria met + >50% overnights, household & support requirements still apply!
- The TCJA in IRC §2 did not do away with reference to IRC §152 (definition of a dependent) for the HOH, child tax credit, etc.

Standard Deduction and Personal Exemption

Prior Law	2018	TCJA
Single	\$6,500	\$12,000
Head of Household	\$9,550	\$18,000
Joint	\$13,000	\$24,000
Dependent	\$1,050	\$1,050
Increase: Elderly or Blind		
Single	\$1,600	\$1,600
Married (each)	\$1,300	\$1,300
Personal Exemption	\$4,150	\$0 / N/A

Increase in child tax credit and a new family tax credit

	2018 AGI Phase-out*	Maximum Credit	TCJA AGI Phase-out*	Maximum Credit
Joint Tax Return	\$110,000 – \$130,000	\$1,000	\$400,000 – \$???	\$2,000
All Others	\$75,000 – \$95,000	\$1,000	\$200,000 – \$???	\$2,000

- All credits subject to phase-out of \$50 for every \$1,000 of AGI exceeding phase-out beginning range;
- Maximum credit **per qualifying child** = \$2,000
- Refundable child tax credit increased from \$1,000 to \$1,400
- Refundable portion = 15% of earned income > \$2,500
- + **NEW \$500 non-refundable credit for non-child dependents**

Kiddie Tax Brackets

Prior Law	2018	TCJA	2018
<u>Taxable Unearned income</u>	<u>Rate</u>	<u>Taxable Unearned Income</u>	<u>Rate</u>
\$0 – 2,100	Child's Rate	\$0 – 2,550	10%
Over 2,100	Parent's Rate	\$2,550 – 9,150	24%
		\$9,150 – 12,500	35%
		Over 12,500	37%

- Gone are the days of using the parent's tax rate for (18 yrs. and younger) child's unearned income;
- Trust tax rates are now required for child's unearned income.

AMT

- Alternative Minimum Tax (enacted in 1969) has drawn in an ever-increasing number of taxpayers, due many years of the AMT exemption having not been indexed for inflation;
- The AMT is an alternative tax structure which exists in a parallel universe to the ordinary tax system. AMT Income is calculated by adding a portion of deductions (up to 100%), such as home mortgage interest, state and local income and property taxes, and net operating losses, back to taxable income to arrive at AMTI. Then, tax payers pay the higher of AMT (26% or 28% tax rate) or ordinary tax;
- Under TCJA, AMT Phase-out thresholds and exemptions are indexed for inflation until 2025.

AMT

	2018 Pre-TCJA	TCJA
Joint		
Exemption	\$86,200	\$109,400
Phase-in threshold	\$164,100	\$1,000,000
Single/HOH		
Exemption	\$70,300	\$70,300
Phase-in threshold	\$123,100	\$500,000
Married Separate		
Exemption	\$43,100	\$54,700
Phase-in threshold	\$82,050	\$500,000

Other Tax Deductions

- **Alimony**

- Alimony payments no longer deductible;
- The recipient will no longer have taxable income;
- Effective for divorce agreements executed after December 31, 2018;
- Effective for agreements before Dec 31, 2018 and modified after that date, **when an election to apply TCJA law is made.**

	Spousal Support: \$ 2,000 per month		NON-DEDUCTIBLE SPOUSAL SUPPORT	
	DEDUCTIBLE SPOUSAL SUPPORT			
	<u>Ms. Smith</u>	<u>Mr. Smith</u>	<u>Ms. Smith</u>	<u>Mr. Smith</u>
Tax Filing Status	Head of Household	Head of Household	Head of Household	Head of Household
Tax Deductions	Standard	Standard	Standard	Standard
Tax Personal Exemptions	3	3	3	3
<u>Income</u>				
Wages*	80,440	204,187	80,440	204,187
Pensions & Annuities	-	16,486	-	16,486
Spousal Support	24,000	-	-	-
Total Income	104,440	220,672	80,440	220,672
<u>Above The Line Deductions</u>				
Non-taxable Annuity	-	3,133	-	3,133
Spousal Support*	-	24,000	-	-
Federal Standard Deduction	18,000	18,000	18,000	18,000
Total Deductions	18,000	45,133	18,000	21,133
Federal Net Taxable Income	86,440	175,539	62,440	199,539
Federal Income Tax	13,307	35,718	8,282	44,151
Oregon Income Tax	7,432	14,857	5,472	17,338
Social Security Taxes	4,987	7,979	4,987	7,979
Medicare Taxes	1,166	2,961	1,166	2,961
Medicare Surcharge Tax	-	38	-	38
Federal Tax Credits	(4,000)	(4,000)	(4,000)	(3,100)
Total Taxes*	22,893	57,553	15,908	69,367
Spousal Support	-	-	24,000	(24,000)
Net Yearly Cash Flow	\$ 81,547	\$ 139,119	\$ 88,532	\$ 127,305
Net Monthly Cash Flow	\$ 6,796	\$ 11,593	\$ 7,378	\$ 10,609
TOTAL:	\$18,388.89		\$17,986.47	

	DEDUCTIBLE SPOUSAL SUPPORT		NON-DEDUCTIBLE SPOUSAL SUPPORT	
	<u>Ms. Smith</u>	<u>Mr. Smith</u>	<u>Ms. Smith</u>	<u>Mr. Smith</u>
	Head of Household	Head of Household	Head of Household	Head of Household
	Standard	Standard	Standard	Standard
	3	3	3	3
Spousal Support: \$	5,000 per month			
Tax Filing Status				
Tax Deductions				
Tax Personal Exemptions				
<u>Income</u>				
Wages*	80,440	204,187	80,440	204,187
Pensions & Annuities	-	16,486	-	16,486
Spousal Support	60,000	-	-	-
Total Income	140,440	220,672	80,440	220,672
<u>Above The Line Deductions</u>				
Non-taxable Annuity	-	3,133	-	3,133
Spousal Support*	-	60,000	-	-
Federal Standard Deduction	18,000	18,000	18,000	18,000
Total Deductions	18,000	81,133	18,000	21,133
Federal Net Taxable Income	122,440	139,539	62,440	199,539
Federal Income Tax	21,947	26,051	8,282	44,151
Oregon Income Tax	10,672	11,347	5,472	17,338
Social Security Taxes	4,987	7,979	4,987	7,979
Medicare Taxes	1,166	2,961	1,166	2,961
Medicare Surcharge Tax	-	38	-	38
Federal Tax Credits	(4,000)	(4,000)	(4,000)	(3,100)
Total Taxes*	34,773	44,376	15,908	69,367
Spousal Support	-	-	60,000	(60,000)
Net Yearly Cash Flow	\$ 105,667	\$ 116,296	\$ 124,532	\$ 91,305
Net Monthly Cash Flow	\$ 8,806	\$ 9,691	\$ 10,378	\$ 7,609
TOTAL:	\$18,496.97		\$17,986.47	

Pre-Tax Assets Tax Discount

EXAMPLE 1

<u>Income (W/O IRA Distributions)</u>		<u>Federal Tax</u>	<u>Oregon Tax</u>
Interest	\$ 6,000		
Dividends	\$ 7,500		
Social Security	\$ 1,186		
Standard deduction	\$ 12,000		
Taxable Income	\$ 2,686	\$ 269	\$ 363

<u>Income with IRA RMD (Required Minimum Distribution)</u>			
Interest	\$ 6,000		
Dividends	\$ 7,500		
Social Security	\$ 23,582		
RMD	\$ 59,799		
Standard deduction	\$ 12,000		
Taxable Income	\$ 84,881	\$ 14,661	\$ 5,286

Tax attributable to IRA Distributions	\$ 14,392	\$ 4,923
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Federal and Oregon combined tax rate on IRA Distributions	32.299%
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<u>Federal Tax Rates (Single)</u>	<u>Tax Rates</u>	<u>Oregon Tax Rates (Single)</u>	<u>Tax Rates</u>
<u>Taxable Income</u>		<u>Taxable Income</u>	
\$0 – 9,525	10%	\$0 - 3,350	5%
\$9,526 – 38,700	12%	\$3,351 - 8,700	7%
\$38,701 – 82,500	22%	\$8,701 - 125,000	9%
\$82,501 – 157,500	24%	Over \$125,000	9.9%

Pre-Tax Assets Tax Discount

EXAMPLE 2

<u>Income (W/O IRA Distributions)</u>		<u>Federal Tax</u>	<u>Oregon Tax</u>
Interest	\$ 6,000		
Dividends	\$ 7,500		
Rental	\$ 20,000		
Social Security	\$ 15,866		
Standard deduction	\$ 12,000		
Taxable Income	\$ 37,366	\$ 4,295	\$ 1,982

Income with IRA RMD (Required Minimum Distribution)

Interest	\$ 6,000		
Dividends	\$ 7,500		
Rental	\$ 20,000		
Social Security	\$ 23,582		
RMD	\$ 59,799		
Standard deduction	\$ 12,000		
Taxable Income	\$ 104,881	\$ 19,461	\$ 7,356

Tax attributable to IRA Distributions	\$ 15,166	\$ 5,374
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Federal and Oregon combined tax rate on IRA Distributions	34.348%
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<u>Federal Tax Rates (Single)</u>	<u>Tax Rates</u>	<u>Oregon Tax Rates (Single)</u>	<u>Tax Rates</u>
<u>Taxable Income</u>		<u>Taxable Income</u>	
\$0 – 9,525	10%	\$0 - 3,350	5%
\$9,526 – 38,700	12%	\$3,351 - 8,700	7%
\$38,701 – 82,500	22%	\$8,701 - 125,000	9%
\$82,501 – 157,500	24%	Over \$125,000	9.9%

Pre-Tax Assets Tax Discount

EXAMPLE 3

<u>Income (W/O IRA Distributions)</u>		<u>Federal Tax</u>	<u>Oregon Tax</u>
Interest	\$ -		
Dividends	\$ -		
Rental	\$ -		
Social Security	\$ -		
Standard deduction	\$ 12,000		
Taxable Income	\$ (12,000)	\$ -	\$ -

Income with IRA RMD (Required Minimum Distribution)

Interest	\$ -		
Dividends	\$ -		
Rental	\$ -		
Social Security	\$ 23,582		
RMD	\$ 59,799		
Standard deduction	\$ 12,000		
Taxable Income	\$ 71,381	\$ 19,461	\$ 7,356

Tax attributable to IRA Distributions	\$ 19,461	\$ 7,356
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Federal and Oregon combined tax rate on IRA Distributions	44.845%
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<u>Federal Tax Rates (Single)</u>	<u>Tax Rates</u>	<u>Oregon Tax Rates (Single)</u>	<u>Tax Rates</u>
<u>Taxable Income</u>		<u>Taxable Income</u>	
\$0 – 9,525	10%	\$0 - 3,350	5%
\$9,526 – 38,700	12%	\$3,351 - 8,700	7%
\$38,701 – 82,500	22%	\$8,701 - 125,000	9%
\$82,501 – 157,500	24%	Over \$125,000	9.9%

NEW (Up To) 20% Qualified Business Income Deduction

- Generally a deduction of 20% of qualified domestic business income from a sole proprietorship, partnership or S corporation
- The deduction reduces taxable income but not AGI
- The deduction is limited by the greater of:
 - 50% of W2 wages paid by the qualifying business or
 - 25% of W2 wages paid plus 2.5% of unadjusted basis of all qualified property
- The limitation does not apply if taxable income on the 1040 is less than \$157,500 (\$315,000 on a joint return)
- The limitation phases in as taxable income increases by \$50,000 (\$100,000 joint) over the above thresholds as follows:

20% Qualified Business Income Deduction (Continued...)

	Joint Return*	All Others*
Deduct 20% of income - No W2 limitation	\$0 – 315,000	\$0 – 157,500
W-2 limitation phased in	\$315,000 – 415,000	\$157,500 – 207,500
Deduction limited to 50% of W2	Over \$415,000	Over \$207,500

* Taxable Income

20% Qualified Business Income Deduction (Continued...)

- Specified service business
 - Fields of health, law, consulting, athletics, financial services, brokerage services, or any trade or business where principal asset is the reputation or skill of one or more employees or owners
- Specified service businesses are subject to two limitations:
 - Limited to 50% of W2 wages or 25% of W2 wages plus 2.5% of unadjusted basis of property (same as all businesses)
 - Limited as taxable income on 1040 exceeds the threshold \$157,500 (\$315,000 joint returns)

Other Business Deductions and Modifications

- Business losses for non-corporate taxpayers limited to \$500,000 joint (\$250,000 for others) in any given year: excess are treated as an NOL carryover;
- NOL carryover or carry back will be limited to 80% of taxable income;
- Losses carried forward will no longer be limited to 20 years;
- No carryback allowed after 2017:
 - Except for a one-year carryback for small business in the case of casualty or disaster losses and a two- year carryback for farmers
- Increased bonus depreciation to 100% and increase section 179 to \$1,000,000;
- Cash method of accounting allowed for businesses with gross receipts of \$25 million or less;
- Only real property is qualified for §1031 like-kind exchanges;
- Meals & entertainment deductions significantly curtailed:
 - 50% limitation for travel and employer convenience meals: no deduction for other business meals and no deduction for any entertainment.

Other Business Deductions and Modifications (Continued...)

- **New credit for employer paid family and medical leave**
 - A business credit of 12.5% of wages paid for family or medical leave if employee receives at least 50% of normal pay
 - The credit increases (to not more than 25%) if employees receive more than 50% of normal pay
 - All qualifying employees would have to receive at least two weeks of family and medical leave. Part time employees would receive a pro rata amount of time off
 - Maximum leave for calculating the credit is 12 weeks

Concluding Thoughts

- Tax rules and regulations have increased in complexity;
- Make plans to avoid Kiddie Tax;
- The Head of Household filing status is not as lucrative as in the past;
- For some, tax liabilities will increase, for others, their tax liabilities will decrease—the “tax cuts” will not be realized by some;
- AMT concern has been greatly reduced;
- For post-2018 divorces, no need to worry about alimony recapture;
- Monthly spousal support amounts will likely see decreases from historical (tax-deductible) amounts