Tax Law Update 2021

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The U.S. tax code was significantly altered in 2018, 2020 and 2021, substantially increasing complexity. **The Tax Cut and Jobs Act (TCJA)** took effect on January 1, 2018 and produced dramatic tax law changes, particular in business taxes, lowering the corporate rate to 21%, liberalizing depreciation rules, and creating a new Section 199A Qualified Business Income Deduction (QBID) of up to 20% of self-employed income and certain K-1 pass throughs (primarily ordinary income). Individuals received lower rates but the $10,000 limitation on State and Local Taxes (SALT) reduces the benefits of itemized deductions. In 2020, the COVID-19 pandemic led to the **CARES Act** and **Consolidated Appropriations Act 2021** that provided numerous methods of relief to business and individual taxpayers. The Paycheck Protection Program (PPP), Economic Injury Disaster Loans (EIDL), economic impact payments (i.e. stimulus checks), eliminating 2020 retirement plan required minimum distributions and allowing penalty relief for early withdrawals in the case of COVID-19 distributions as well as the ability to spread out the taxable distributions over three years, and several new employer tax credits with complex eligibility rules. The **American Rescue Plan** passed in March 2021 included expanded child tax credit with advanced payments for 2021 only, expanded child and dependent care tax credit and refundable feature, a third round of economic impact payments, an exclusion from gross income of student loan debt forgiven from 2021-2025, exclusion of first $10,200 of unemployment benefits from taxation (2021 only), and expanded Earned Income Tax Credit and $300 a week additional unemployment for six months. Our goal is to provide strategic analysis of all these changes to obtain best outcome.

Major Recent Changes

Individual Tax Law Changes

Child Tax Credit (Expanded with Advance Payments): The child tax credit you may be eligible for is the combination of a base amount from the Tax Cut and Jobs Act starting with 2018 and a temporarily increased amount from the American Rescue Plan starting with 2021. Each has different income phase outs and relevant ages. The child tax credit enacted in 2018 was $2,000 per child under age 17 with phase outs at $200,000 AGI for single filers and $400,000 for married filing jointly.

The American Rescue Plan provided an expanded $1,000 for children under 18 (up from under 17) and $1,600 for children under 6 years old (new provision). So, the new expanded credits are $3,600 for children 6 and $3,000 for children under 19. The INCREASED credit amount phases out faster than the base amount. Expanded child tax credit phases out for taxpayers with incomes over $150,000 for married filing jointly, over $112,500 for heads of household, and $75,000 for others, reducing the expanded portion of the credit by $50 for each $1,000 over those limits. Additionally, the American Rescue Plan provided for an advance payment of the tax credit for the last six months of the year. The IRS plans on sending Letter 6419 to all taxpayers who received advance payments.

Child and Dependent Care Credit Expanded: The American Rescue Plan expanded the Child & Dependent Care Credit to up to $4,000 for one child or up to $8,000 for two or more children. Credit amount is limited by income: up to 50% of $8,000 for taxpayers with AGI under $125,000, with credit gradually declining to 20% of eligible expenses when AGI reaches $183,000, with 20% rate for taxpayers with AGI $183,001-$400,000, then totally phased out. Credit is now "refundable" meaning you get the full value of the credit if your tax liability is less than the credit.

Economic Impact Payments (aka Stimulus checks): There have been three rounds of economic impact payments (aka stimulus checks). ROUND 1: The CARES Act passed in March 2020 provided direct payments up to $1,200 for single and head of household filers and $2,400 married filing jointly, plus $600 for qualified dependents age 17 or less. These were calculated based on 2019 adjusted gross income limits of $75,000 single/HOH (with phase out up to $99,000) and $150,000 married filing jointly (with phase out up to $198,000). ROUND 2: Consolidated Appropriations Act 2021 passed in December 2020 added $600 for single/HOH and $1,200 for MFJ was added at year end. ROUND 3: The American Rescue Plan passed in March 2021 was $1,400 for single and $2,800 for married filing jointly, with an additional $1,400 per qualifying dependent including children, college students and parents claimed as dependents. Round 3 subject to phase out based on AGI: $75,000-$80,000 for single, $112,500-$120,000 for head of household, and $150,000-$160,000 for married filing jointly. The law used 2019 for eligibility unless 2020 return was already filed. If your income decreased, you may retroactively qualify. The IRS plans on sending Letter 6575 indicating how much you actually received.

Adjustment to Income for Charitable Donations for Non-Itemizers: Taxpayers who claim the standard deduction can claim an adjustment to income for cash charitable donations up to $300 for single and head of household and $600 for married filing jointly.

Charitable Donation Limits: You can now donate up to 60% of your adjusted gross income to a qualified charity and receive an itemized deduction for the full amount. When donating appreciated assets (such as stock, antiques, fine art) the limit has traditionally been 30% of AGI. We are researching if that has changed for 2020.

Changes to Holding Period for Sale of Principal Residence: TCJA makes it harder to claim capital gain exclusion on sale of principal residence. Prior to January 01, 2018, you could sell your primary residence and avoid capital gains tax (on up to $250,000 in gains for single filers, $500,000 in gains for joint filers) if you held the property as a primary residence for two of the last five years. Under the new law, you must use the property for five years as your primary residence out of past eight years to qualify for the Section 121 capital gain exclusion for sale of primary residence. After tax laws are past, there are IRS rules and regulations issued to interpret law and create examples. One area for clarification is the types of allowable proration when the character of the property changes over time.

Limited Itemized Deductions: The TCJA effective 2018 limited state and local tax (SALT) deduction to $10,000 ($5,000 married filing separately) and eliminated unreimbursed employee business expenses and other miscellaneous itemized deductions.

Alternative Minimum Tax (AMT) Largely Eliminated: TCJA largely eliminated AMT for most taxpayers unless you have very large capital gains taxed at 15% rate. TCJA also allows us to claim credits for AMT paid in prior years.

Qualified Business Income Deduction: In order to reduce the tax rate on ordinary business income for self employed and pass through entities (including investments in REITS and trusts that issue K-1s), the TCJA credited a qualified business income deduction that is 20% of qualified business income from self employment, S corps, partnerships, rental property, etc. This is all subject to some complex formulas and adjustments explained in detail later.

Credit for Sick Leave and Family Leave for Certain Self-Employed Individuals: A new tax credit exists for self-employed taxpayers filing Schedule C to claim sick leave related to COIVD-19 illness. New Form 7202 Credits for Sick Leave and Family Leave for Certain Self-Employed Individuals provides a line to enter "number of days you were unable to perform services as a self-employed individual because of coronavirus-related care you required." The days entered (not to exceed 10) then drive a formula to claim a prorated percentage of your Schedule C net income as a tax credit (not to exceed $510 per day). The same formula can be used for Family Leave Credit where you enter "number of days you were unable to perform services as a self employed individual because of coronavirus care you provided to a son or daughter (Do Not enter more than 50 days)." Please see IRS press release: New IRS form available for self-employed individuals to claim COVID-19 sick and family leave tax credits under FFCRA | Internal Revenue Service

Business Tax Law Changes (including Schedule C & E in some cases)

Qualified Improvement Property: The TCJA created a definition of a "qualified improvements property" which had to be commercial interior renovations and excluded certain aspects such as elevators and heating/cooling systems. However, the TCJA hurt small retailers, bars and restaurants by forcing them to depreciate leasehold improvements over 39 years instead of 15 years under prior law. The CARES Act retroactively changed QIP recovery to a 15 year period instead of 39 years and QIP now qualified for bonus depreciation. Change is effective for tax years beginning in 2018.

Net Operating Losses: The TCJA imposed limitations on net operating loss (NOL) carryforward or carryback to 80% of the taxpayer's taxable income for losses arising in taxable years beginning after December 31, 2017. Additionally, under TCJA (now altered) all carrybacks will be repealed except special two-year carryback in the case of losses incurred in the trade or business of farming, beginning after 2017. These provisions are relevant to small business owner-operators of C corporations who typically drain income at year end to prevent double taxation. NEW RULES UNDER CARES Act. CARES Act relaxes these limitations and now allows businesses to carry back NOLs incurred in 2018, 2019 and 2020 for five years. We believe use of this provision could be a significant audit risk, as multiple years of returns will be scrutinized by the IRS before providing you the tax benefits.

Business Interest Deduction: TCJA imposed limitations for business interest deduction for businesses that exceeded $25 million in revenue. CARE Act relaxes those limitations. We have seen this impact owners of REITS, where the K-1s for 2020 showed retroactive claiming of previously limited business interest deduction.

Various Employer Credits: The IRS summarizes various new employer credits in Publication 5419 New Employer Tax Credits: Publication 5419 (Rev. 12-2020) (irs.gov)

Paid Sick Leave Credit & Paid Family Leave Credit: These credits are available for eligible employers who pay qualified sick leave wages and or qualified family leave wages from 4/1/2020 through 12/31/2020 and have fewer than 500 employees. The credits are equal to two-thirds of the employee's regular rate of pay, capped at $200 per day and $10,000 total. This credit is claimed on Form 941 Quarterly Payroll Tax return, not on your income tax return. Please discuss this with your payroll processor. Please see IRS press release: [New IRS form available for self-employed individuals to claim COVID-19 sick and family leave tax credits under FFCRA | Internal Revenue Service]

Employee Retention Credit: Under the original CARES Act, businesses that were forced to shut down by government order or had a 50% revenue decrease from same quarter last year and continued to pay employees qualified for a refundable credit equal to 50% of up to $10,000 in qualified wages and health insurance paid to employees after March 12, 2020 and before January 1, 2021. Businesses that obtained PPP loans were ineligible for employer retention credit under original law. However, the Consolidated Appropriations Act 2021 retroactively created eligibility for PPP loan recipients (but must spend payroll dollars in different period than PPP funds) and created a new credit calculated with different formula, for period January 1 – July 1, 2021. American Rescue Plan extended through December 2021. This credit is claimed on Form 941 Quarterly Payroll Tax return, not on your income tax return. Please discuss this with your payroll processor. Please see IRS press release: [New IRS form available for self-employed individuals to claim COVID-19 sick and family leave tax credits under FFCRA | Internal Revenue Service]

Capital Gains Tax

Capital gains tax rates remain unchanged. Short-term capital gains are for property held under one year and are taxed at ordinary income rates (see income tax rate charts at end of this article). Long-term capital gains rates apply for holding periods over one year. Long term rates vary by income level, with lower income persons enjoying a zero percent rate on a limited portion and the wealthy paying more. The table below illustrates. Net investment income tax can apply. See rules below.

Long Term Capital Gains Tax Rates 2021

	Single	Married Filing Jointly	Married Filing Separately	Head of Household
Long Term Rate	Your Income	Your Income	Your Income	Your Income
0%	$0-$40,400	$0-$80,800	$0-$40,400	$0-$54,100
15%	$40,401-445,850	$80,801-$501,600	$40,401-$250.800	$54,101-$473,750
20%	$445,851 or more	$501,601 or more	$250,801 or more	$473,751 or more

Long Term Capital Gains Tax Rates 2022

	Single	Married Filing Jointly	Married Filing Separately	Head of Household
Long Term Rate	Your Income	Your Income	Your Income	Your Income
0%	$0-$41,675	$0-$83,350	$0-$41,675	$0-$54,100
15%	$41,676-$459,750	$83,351-517,200	$41,676-258,600	$54,101-$473,750
20%	$459,751 or more	$517,201 or more	$258,601 or more	$473,751 or more

Rule Exceptions: Not all assets qualify for these rates. For example, collectables such as fine art, antiques, rare coins, and precious metals are typically tax at 28%. Qualified Small Business Stock (IRC Section 1202) where you received an exemption on portion you sold (often half or all), the remainder is typically taxed at 28% to prevent and double tax break. Deprecation recapture on property is taxed at 25%.

Tax minimization strategy is to try to offset capital gains with capital losses by timing sales. Additionally, if your income is down in a particular year, you may want to realize some capital gains to make use of the lower brackets.

Virtual Currency/Cryptocurrency Sales: The IRS considers sale of cryptocurrency like Bitcoin sale of property and taxes it as a capital gain. Technically, every time you spend Bitcoin or similar cryptocurrencies for goods and services you are creating a sale. For example, if you have a Coinbase account and a Swift Card attached, every time you buy something, the federal government considers it a sale subject to capital gains. It is very important to keep accurate records as the IRS is increasing its scrutiny of the ownership, sales and transactions in virtual currencies, including Yes/No checkbox made under penalties of perjury.

Net Investment Income Tax

In addition to capital gains tax and income taxes on dividends and interest, there is a Net Investment Income Tax (NIIT) at a rate of 3.8% that applies to certain investment income of individuals, estates and trusts that have modified adjusted gross income above the following statutory threshold amounts:

Filing Status	**Modified AGI Threshold Amount**
Single	$200,000
Married Filing Jointly	$250,000
Married Filing Separately	$125,000
Head of Household (with qualifying person)	$200,000
Qualifying Widow(er) with dependent child	$250,000

These threshold amounts are NOT indexed for inflation.

In general, investment income subject to NIIT includes capital gains, dividends, interest, rental and royalty income, non-qualified annuities, income from businesses involved in traded of financial instruments or commodities, and businesses that are passive activities to the taxpayers. Excluded from NIIT are active income such as wages, operating income from an active trader business, tax-exempt interest and Alaska Permanent Fund Dividends.

Retirement Funding Limits 2021

Traditional IRA Roth IRA	$6,000 contribution limit plus $1,000 catch up contribution if you are over age 50. Traditional IRA contributions can be limited if you or your spouse is covered by a retirement plan at work. Roth IRA contribution is subject to income limits: single and head of household $125,000 with reduced amount up to $138,500; married filing jointly $198,000 with reduced amount up to $207,000, and $0-$10,000 for married filing separately when living with spouse.
401(k), 403(b), 457(b)	$19,500 elective deferral limit plus catch up contribution of $6,500 if you are over age 50.
Maximum Defined Contribution Limit	The overall defined contribution limit from all qualified plans is $58,000. This is most relevant to self-employed **SEP/IRA** who are funding based on percentage of profit up to this limit.
SIMPLE IRA	$13,500 elective deferral plus $3,000 catch up contribution if you are over age 50 with option for employer to match another $3,000.

Retirement Funding Limits 2022

Traditional IRA Roth IRA	$6,000 contribution limit plus $1,000 catch up contribution if you are over age 50. Traditional IRA contributions can be limited if you or your spouse is covered by a retirement plan at work. Roth IRA contribution is subject to income limits: single and head of household under $129,000 with reduced amount up to $142,500; married filing jointly under $204,000 with reduced amount up to $213,000, and $0-$10,000 for married filing separately when living with spouse.
401(k), 403(b), 457(b)	$20,500 elective deferral limit plus catch up contribution of $6,500 if you are over age 50.
Maximum Defined Contribution Limit	The overall defined contribution limit from all qualified plans is $61,000. This is most relevant to self-employed **SEP/IRA** who are funding based on percentage of profit up to this limit.
SIMPLE IRA	$14,000 elective deferral plus $3,000 catch up contribution if you are over age 50 with option for employer to match another $3,000.

SECURE ACT 2021: Raises age for Required Minimum Distribution (RMD) to 75, but this is phased in over several years from 72 to 75. Increases catch up contributions for ages 62, 63 and 64 to $10,000 for participants in 401(k) and 403(b) and $5,000 for SIMPLE. Catch up contributions indexed to inflation starting in 2023. New employer option to creating matching program to help employees pay off student loans.

SECURE Act of 2019: Raises age for Required Minimum Distributions (RMD) to 72. Repeals the 70 ½ age limit for making contributions to Traditional IRA starting in 2020. Accelerates the RMD for non-spousal inherited IRAs to not exceed 10 years. Creates some new limitations on Qualified Charitable Distributions from IRA.

Tax Optimization Considerations

Tax law changes 2018-2021 added layers of complexity that offer new, creative ways of structuring your businesses, investments and income that will require very detailed analysis to identify optimal structure. We offer Tax Restructuring Services to help guide clients through adopting the ideal business structure that lawfully minimizes taxes.

Some major tax planning challenges are:

1. Proper structuring of business income and active real estate investing to qualify for new Section 199A deduction of 20% of qualified business income. This includes assessment of benefits of being LLC vs S corporation vs C corporation from the vantage point of all taxes and deductions, including income vs. FICA tax and deductions for QBID and retirement funding. Additionally, there are partial capital gain exclusions for sale of small business C corporation that do not apply to pass through entities (Section 1202). Therefore, careful long-term planning and optimization is recommended. Non-SSTB businesses may do better as LLC than S corp due to QBID.

2. Long term planning to see if it makes sense to claim Section 179 and bonus depreciation to the limit, which could create net operating losses which can only offset 80% of future income in a particular year. In many cases, especially start-ups, it makes sense to slow down the depreciation so it is claimed more evenly across years when profit is being earned.

3. Home ownership benefits are reduced by limiting state and local tax deductions. Benefits of rental property increase with new Section 199A QBI deduction under the assumption of net income from rental activities (most rental property operate at a loss given depreciation required). As a result, some clients have asked us to analyze if it makes more sense to not own a primary residence and to concentrate their real estate holdings into rental properties instead of homes. This could produce current year tax savings, but you would forfeit capital gain exclusions of $500,000 ($250,000 if single owner).

4. If you are an employee, you are no longer able to deduct unreimbursed employee business expenses. You are better off negotiating expense reimbursement plan with employer as part of your compensation.

Section 199A QBID: 20% Deduction for Pass Through Income

Section 199A Qualified Business Income Deduction (QBID) is a complex formula to provide tax relief to unincorporated business owners and investors in qualified real estate investment trusts (REITs) and partnerships by excluding up to 20% of the qualified business income from taxation. While Congress sold this as a method to provide tax relief to small business owners organized as sole proprietors, LLCs, partnerships and S corporations as a companion to lowering C corporation tax rate to 21%, the Section 199A QBID is a complicated set of calculations to limit the deduction.

Section 199A taxes different professions and industries at different tax rates. Professionals in accounting, law, medicine, brokerage, investment advising, athletics, performing arts and consulting (producing advice instead of tangible deliverables) are deemed "specialized service trade of business" (SSTB) that are subject to income phase outs presented below. Architects, engineers and real estate professionals are specifically excluded from the SSTB income limitations by statute.

Non-service businesses, such as rental property, hotels/resorts, and K-1 ordinary income from publicly traded partnerships, are subject to a wage and capital tests, which provide advantages to capital intensive businesses, including commercial real estate.

The QBID is limited by income tests for SSTB service businesses, a wage and capital test for non-service businesses, and overall limitations based on taxable income (total income less adjustments to income such as retirement contributions, less either standard deduction or itemized deductions).

1. Taxable income limits apply to specialized service trade of businesses (SSTB) claiming Section 199A QBI deduction.
   - Single/HOH/MFS filer starts phasing out at $164,925 ($170,050 in 2022) and is completely phase out at $214,925.
   - Married filing jointly (MFJ) filers start phasing out at $329,800 and completely phased out at $429,800
   - If taxable income is greater than $164,295/$329,800 but less than $214,925/$429,800, then a partial deduction is available based on wage and capital test applicable to non-service businesses.

2. Income from non-service pass through businesses is limited by your share of wages paid and unadjusted cost basis of property once your taxable income exceeds SSTB limits:
   - Taxpayer either claims 50% of employer wages paid or 25% of wages plus 2.5% of the value of qualified property purchased and compare it to 20% of the taxpayer's qualified business income. You can claim the lower amount of the adjustment.

3. Overall limitation that applies to all scenarios is that QBID cannot exceed 20% of taxable income, which is income after adjustments to income and standard or itemized deductions. Suppose taxpayer is Schedule C with $100,000 net profit, fully funds SEP/IRA at $20,000, has self-employed health insurance premiums of $6,000, can automatically claim half self-employment tax ($7,500) and claims standard deduction of $12,200. That results in taxable income of $54,300. While 20% of QBI is $20,000, 20% of taxable income is $10,860, so you can only claim the lower amount of $10,860 as the QBID deduction. These numbers would flow a bit differently on a S corporation.

4. QBID losses carryforward so if you are self-employed or have qualified rental property that lost $10,000 in 2018 but made $15,000 in 2019, your qualified business income for 2019 decreases to $5,000 due to loss carryforward.

The 20% Section 199A QBID can be tremendous tax benefit if properly structured. If you earn $100,000 of income from pass-thru business, rental real estate or estate/trust, you are receiving a $20,000 tax deduction before the limitations listed above are applied. When multiplied against a 22% marginal tax rate, that's $4,400 in federal tax savings.

IRS regulations are still ambiguous and largely untested in certain areas. IRS Reg 107892-18 and Publication 535 Business Expenses (with new QBID section and expanded clarifications of SSTB) are the current guidance.

We can speculate on how the IRS will develop audit programs for QBID and exhibit extreme care in reporting to minimize audit risk.

Tax Planning Tips to Maximize QBID Benefits and Avoid Limitations

The S corporation is now a more powerful tax savings tool. As before, the pass-through income from an S corporation is not subject to FICA tax (15.3% for self-employed). The new 20% net qualified business income deduction of 20% has additional value (the QBI deduction amount times your marginal tax rate which is about 5 cents on the dollar for 24% marginal tax rate).

Should everyone seek to become an S corporation? Not so fast. There are a lot of rules on different entities that have unforeseen effects. Most professionals do well under S corporation. S corporation audit risk is higher because of ambiguous rule that officer-owners must pay themselves "reasonable compensation" (i.e. wages). If your company is to be sold for a large capital gain at least five years out, then a domestic C corporation is needed to qualify for Section 1202 qualified small business stock gain exclusion (can be 50% to 100% based on timing and aggregate amount). Also, a non-SSTB like real estate agent would generate more QBID as LLC (Schedule C) than S corporation, but QBI is phased out when income is too high. Planning and calculations are necessary to optimize.

Some may seek to form multiple entities to create maximum flexibility. One example could be owner of rental real estate who also performs their own property management, opportunities exist to have separate entities own the real estate who in turns hires the management company (an S-corporation that will pay W-2 wages). If your business has revenues streams from specified trade or business and non-SSTB, then you likely want to separate those income streams into separate business entities. Additionally, if you have business activities that are SSTB and others that are non-SSTB, separating them into separate legal entities is likely advisable.

If you are a real estate investor, in order to qualify you must be able to demonstrate you are actively operating a real estate business, instead of merely a passive investment, by proving you are spending substantial time actually engaged with the real estate. There are some separate rules (not fully written) that will apply to what is required for income from publicly traded REITS and partnerships to qualify.

Most of our clients with rental property, however, are probably in the passive income category but since most of those rental properties operate at a loss (after depreciation is considered) we do not see much impact on the QBI deduction. However, as always, we will be vigilant in claiming what you are legally able to.

Businesses Tax Law Changes

COVID related business tax credits (summarized above) include the Employee Retention Credit, Paid Sick Leave Credit and Paid Family Leave Credit. The IRS summarizes various new employer credits in Publication 5419 New Employer Tax Credits: [Publication 5419 (Rev. 12-2020) (irs.gov)](). Most of the information below relates to TCJA implemented in 2018 but there were 2020 changes to rules for depreciation, net operating losses and business interest deductions.

The TCJA made very significant changes to business taxation (including self employed income on Schedule C and K-1 and rental income on Schedule E). The CARES Act reversed some of the provisions designed to increase revenue to offset lower rates. The most significant changes in TCJA with 2020 revisions and summarized below.

Lower Corporate Tax Rate: New corporate income tax rate (C corporations) for 2018 and beyond is 21% flat tax, down from graduated rates structure with 35% top rate also served as flat rate for all qualified personal service corporations. This is designed to make the USA competitive with the rest of the world which averages 22.5%. While owner-operators of C corporations typically drain income as salary and retirement plan contributions to avoid double taxation, larger enterprises cannot do so and will substantially benefit from rate reduction. Accumulated Earnings Tax still applies to prevent businesses from hoarding income beyond the reasonable needs of the business (a complicated subject and subjective standard that will not apply to most C corporation small business owners).

Personal Tax Deduction for 20% of Pass Through Qualified Business Income: There continues to be a "below the line" (i.e. after calculation of adjusted gross income) equal to 20% of qualified business income from a pass-through entity such as a sole proprietorship, S Corp. or partnership (Section 199A).

Businesses Can Immediately Expense More Property Under New Tax Law: Under accounting standards, when businesses acquire assets, they recognize the cost over the useful life of the asset, not upon purchase. We call this depreciation and amortization. Tax law seeks to accelerate the speed of write off through **Section 179** immediate expensing and **Bonus Depreciation** rules to encourage more fixed investments. Not all states recognize federal rules.

Section 179 limit is increased to $1 million for 2018 and $2.5 million thereafter. Bonus Depreciation percentage is increased from 50% to 100% for certain qualified property acquired and placed in service after September 27, 2017 and before January 1, 2023. After 2022, the allowable bonus depreciation percentage decreases by 20 percent per year.

For bonus depreciation the "new property" requirement is removed and replaced with taxpayer's first use. Bonus depreciation applies to eligible personal property under section 1245 of tax code, generally considered movable property such as equipment and furniture. Special rules and limitations apply to vehicles. To qualify for 100 percent bonus depreciation, all of the following conditions must be met: (i) taxpayer or its predecessor did not use the property at any time before acquiring it; (ii) the taxpayer did not acquire the property from a related party; (iii) the taxpayer did not acquire the property from a component member of a controlled group of corporations; (iv) the taxpayer's basis of the used property is not figured in whole or in party by reference to the adjusted basis of the property in the hands of the seller or transferor; (v) the taxpayer's basis of the used property is not figured under the provision for deciding basis of property acquired from a decedent; and (vi) the cost of the used property eligible for bonus depreciation does not include basis of property determined by reference to the basis of other property held at any time by the taxpayer (e.g. in a like-kind exchange or involuntary conversion).

As a result of these provisions, new investments of qualified property, plant and equipment (excluding real estate) can be immediately expensed when taxpayer first use is after September 27, 2017 and before January 1, 2023.

Nonresidential Real Estate – New Rules for Qualified Improvement Property: Depreciation for real estate has several components. First you must separate out the value of land and are prohibited from depreciating land. Next, residential real estate is depreciated over 27.5 years and nonresidential real estate over 39 years. No changes in new tax law to these rules. What has changed is what qualifies for bonus depreciation (see above) and how you treat nonresidential leasehold improvements.

TCJA has new term **"Qualified Improvement Property"** which consists of improvements to interior of nonresidential real property. These improvements must have been placed in service after the building was first placed in service. Qualified improvement property excludes enlargements to the building, a building's elevators and escalators, changes the internal structural framework of the building, roofs, HVAC, fire protection systems, alarm systems and security systems. Qualified Improvement Property is generally eligible for Section 179 expensing up to $1 million and Bonus Depreciation, meaning depreciation of 100% in current year if placed in service after September 27, 2017 and before January 1, 2023. Portion not qualified for 179 or bonus depreciation is expensed over 15 years (CARES Act changed from 39 in TCJA back to 15 pre-TCJA).

Individual Tax Rates for 2021 and 2022

Tax brackets are inflation adjusted every year. Below please find two tables for 2021 and 2022 brackets and tax rates for each filing status.

Individual Tax Rates for 2021

Single Filers Individual Tax Rates 2021

Tax Rate	Taxable Income Bracket	Tax Owed
10%	$0 to $9,950	10% of taxable income
12%	$9,951 to $40,525	$995 plus 12% of the amount over $9,950
22%	$40,526 to $86,375	$4,664 plus 22% of the amount over $40,525
24%	$86,376 to $164,925	$14,751 plus 24% of the amount over $86,375
32%	$164,926 to $209,425	$33,603 plus 32% of the amount over $164,925
35%	$209,426 to $523,600	$47,843 plus 35% of the amount over $209,425
37%	$523,601 or more	$157,604 plus 37% of the amount over $523,600

Married Filing Jointly Individual Tax Rates 2021

Tax Rate	Taxable Income Bracket	Tax Owed
10%	$0 to $19,900	10% of taxable income
12%	$19,901 to $81,050	$1,990 plus 12% of the amount over $19,900
22%	$81,051 to $172.750	$9,328 plus 22% of the amount over $81,050
24%	$171,751 to $329,850	$29,502 plus 24% of the amount over $172,750
32%	$329,851 to $418,850	$67,206 plus 32% of the amount over $329,850
35%	$418,851 to $628,300	$95,686 plus 35% of the amount over $418,850
37%	$628,301 or more	$168,994 plus 37% of the amount over $628,300

Married Filing Separately Individual Tax Rates 2021

Tax Rate	Taxable Income Bracket	Tax Owed
10%	$0 to $9,950	10% of taxable income
12%	$9,951 to $40,525	$995 plus 12% of the amount over $9,950
22%	$40,526 to $86,375	$4,664 plus 22% of the amount over $40,525
24%	$86,376 to $164,925	$14,751 plus 24% of the amount over $86,375
32%	$164,926 to $209,425	$33,603 plus 32% of the amount over $164,925
35%	$209,426 to $314,150	$47,843 plus 35% of the amount over $209,425
37%	$314,151 or more	$84,497 plus 37% of the amount over $314,150

House of Household Individual Tax Rates 2021

Tax Rate	Taxable Income Bracket	Tax Owed
10%	$0 to $14,200	10% of taxable income
12%	$14,201 to $54,200	$1,420 plus 12% of the amount over $14,200
22%	$54,201 to $86,350	$6,220 plus 22% of the amount over $54,200
24%	$86,351 to $164,900	$13,293 plus 24% of the amount over $86,350
32%	$164,901 to $209,400	$32,145 plus 32% of the amount over $163,301
35%	$209,401 to $523,600	$46,385 plus 35% of the amount over $209,400
37%	$523,601 or more	$156,355 plus 37% of the amount over $523,600

Individual Tax Rates for 2022

Single Filers Individual Tax Rates 2022

Tax Rate	Taxable Income Bracket	Tax Owed
10%	$0 to $10,275	10% of taxable income
12%	$10,276 to $41,775	$1,028 plus 12% of the amount over $10,275
22%	$41,776 to $89,075	$4,808 plus 22% of the amount over $41,775
24%	$89,076 to $170,050	$15,214 plus 24% of the amount over $89,075
32%	$170,051 to $215,950	$34,648 plus 32% of the amount over $170,050
35%	$215,951 to $539,900	$49,336 plus 35% of the amount over $215,950
37%	$539,901 or more	$162,718 plus 37% of the amount over $539,900

Married Filing Jointly Individual Tax Rates 2022

Tax Rate	Taxable Income Bracket	Tax Owed
10%	$0 to $20,500	10% of taxable income
12%	$20,550 to $83,350	$2,055 plus 12% of the amount over $20,550
22%	$83,551 to $178,150	$9,615 plus 22% of the amount over $83,550
24%	$178,151 to $340,100	$30,427 plus 24% of the amount over $178,150
32%	$340,101 to $431,918	$69,295 plus 32% of the amount over $340,100
35%	$431,901 to $647,850	$98,671 plus 35% of the amount over $431,900
37%	$647,851 or more	$174,254 plus 37% of the amount over $647,850

Married Filing Separately Individual Tax Rates 2022

Tax Rate	Taxable Income Bracket	Tax Owed
10%	$0 to $10,275	10% of taxable income
12%	$10,276 to $41,775	$1,028 plus 12% of the amount over $10,275
22%	$41,776 to $89,075	$4,808 plus 22% of the amount over $41,775
24%	$89,076 to $170,050	$15,214 plus 24% of the amount over $89,075
32%	$170,051 to $215,950	$34,648 plus 32% of the amount over $170,050
35%	$215,951 to $323,925	$49,336 plus 35% of the amount over $215,950
37%	$323,925 or more	$87,127 plus 37% of the amount over $539,900

House of Household Individual Tax Rates 2022

Tax Rate	Taxable Income Bracket	Tax Owed
10%	$0 to $14,650	10% of taxable income
12%	$14,651 to $55,900	$1,465 plus 12% of the amount over $14,200
22%	$55,901 to $89,050	$6,415plus 22% of the amount over $55,900
24%	$89.051 to $170,050	$13,708 plus 24% of the amount over $89,050
32%	$170,051 to $215,950	$33,148 plus 32% of the amount over $170,050
35%	$215,951 to $539,900	$47,836 plus 35% of the amount over $215,950
37%	$539,901 or more	$161,219 plus 37% of the amount over $539,900