



MISSISSIPPI DEPARTMENT OF REVENUE

Income Tax Bureau Notice 80-19-001 January 28, 2019

Tax Effects From The Tax Cuts and Jobs Act (TCJA) – PL 115-97

President Trump signed the Tax Cuts and Jobs Act (TCJA) on December 22, 2017. The legislation provided reduced tax rates for individuals and corporations, increased standard deduction for individuals and provided for repatriation of foreign income. Many of the aspects of the federal legislation will not affect Mississippi taxpayers as Mississippi has its own statutory provisions for many of the changes. Therefore, the impact on Mississippi revenues will not be as significant as many other states.

Impact on Individual Income Taxes

The TCJA made the most significant changes to the individual income tax structure. The legislation doubled the standard deduction and eliminated the personal exemption. Neither of these changes affects Mississippi, as our statutes are specific to these items.

The TCJA allows an individual taxpayer a **20% deduction of qualified business income** from a pass-through entity (partnership, S corporation, or sole proprietorship). Mississippi does not have a statutory provision for this deduction so it will not be an allowable deduction on the Mississippi return.

The federal law change repeals the deduction for **alimony payments** and the inclusion in income of the alimony payments to the recipient effective for divorce and separation agreements entered into or modified after December 31, 2018. Mississippi follows the federal rules for inclusion and deductions of alimony payments as provided in Sections 27-7-15(2)(e) and 27-7-18.

Moving expenses will no longer be deductible except for active duty members of the military based on military orders. Section 27-7-18(2) provides the deduction from Mississippi income taxes in accordance with federal provisions.

The federal provisions extends the exclusion of **cancellation of debt (COD)** from student debt from gross income to include discharges due to death or disability of the student. This does not affect Mississippi, as we do not follow federal provisions for cancellation of debt. All COD is included in gross income for state purposes with the exception of debt discharged through bankruptcy as provided in 11 USC Section 346(j)(1).



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The most significant state impact is due to the change in **itemized deductions**. Mississippi law provides that taxpayers are allowed the same individual non-business itemized deductions with exceptions for state income taxes paid, or other taxes allowed in lieu of state income taxes, gaming losses, and amounts withheld on gaming winnings per Sections 27-7-901 and 27-7-903.

Medical expenses that exceed 7.5% of AGI are allowable as an itemized deduction for 2017 and 2018 tax years. The law had previously increased the threshold to 10% of AGI for those under the age of 65.

State and local taxes are limited to \$10,000.

The **mortgage interest deduction** is limited to the interest on \$1,000,000 of acquisition indebtedness on loans that originated on or before December 15, 2017 and limited to \$750,000 of acquisition indebtedness on loans that originated after that date. It allows the deduction on second homes but it is included in the lower cap of indebtedness. Interest on **home equity loans** is no longer deductible unless the loan proceeds are used to buy, build or substantially improve the taxpayer's main home or second home.

The limitation on the amount of cash contributions allowable as a **charitable contribution** has increased from 50% to 60%.

Casualty and theft losses are only allowable for losses attributable to federally declared disaster areas.

Mississippi law provides that any casualty loss is computed in accordance with the Internal Revenue Code not in direct conflict with Mississippi Income Tax Law. However, a special rule applies to net casualty loss which results when the itemized deductions, including the original casualty loss, exceed gross income. There are some modifications to the calculation of the loss as provided in Section 27-7-20. The net casualty loss is allowed to be carried back to each of the three (3) years preceding the tax year of the casualty loss and forward seven (7) years.

The TCJA limits the deductibility of **excess business losses** that exceed \$250,000 for Single taxpayers and \$500,000 for Joint filers. Mississippi has no statutory provision to follow this. A loss is deductible in the year the loss is generated as long as it meets the statutory and regulatory provisions of ordinary and necessary business expenses.



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Miscellaneous itemized deductions subject to two percent (2%) of adjusted gross income (AGI) are suspended for tax years 2018 through 2025. These amounts include, but are not limited to, unreimbursed employee business expenses, tax preparation fees, investment expenses, safe deposit box, etc.

The overall limitation on itemized deductions (the **Pease Limitation**) is suspended until 2025.

Qualified education expenses for purposes of 529 plans are no longer limited to higher education but will also include elementary or secondary public, private, home schools or religious school expenses, up to \$10,000 per year. Section 37-155-113 allows a deduction from taxable income for the amounts contributed to the Mississippi 529 plans.

The increase to the allowable contributions to an **Achieving a Better Life Experience (ABLE)** account will apply to Mississippi.

Impact on Business Taxes

The TCJA increases the **bonus depreciation** allowance from 50% to 100% for property placed in service after September 27, 2017, and before January 1, 2023. It also allows bonus depreciation on purchase of used property removing the requirement that the original use had to be with the taxpayer.

Mississippi does not follow the bonus depreciation provisions. Section 27-7-17(1)(f) provides that a "reasonable allowance for exhaustion, wear and tear of property" is allowable as a depreciation expense. The additional amount of depreciation is deemed not to be a reasonable allowance per our regulation, Title 35, Part III, Subpart 5, and Chapter 04. As the increase in the allowable depreciation amount for luxury automobiles is a form of bonus depreciation, Mississippi will not follow the increase.

The TCJA increases the **Section 179 expensing** to \$1,000,000 from \$500,000. Per our regulation, we follow the federal provisions for Section 179 property.

Net operating losses (NOL) are amended under the TCJA to remove the carryback provisions and allow the losses to be carried forward only. The losses are limited to 80% of taxable income without regard to the NOL. Mississippi has its own provisions for NOLs, which require a carryback period of two (2) years and forward of 20 years. We will not follow the federal provisions.



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Mississippi does not follow the federal law in relation to the definition of a **charitable contribution** or the allowable amount. The deduction is limited to twenty percent (20%) of taxable income, computed without regard to the deduction for the charitable contributions.

The TCJA limits the amount of **business interest deduction** to 30% of taxable income with the balance of the interest carried forward indefinitely. Section 27-7-17(1)(b) allows a business interest deduction for Mississippi with no limitation, therefore, we will not follow the federal provision. The additional amount of interest deduction will be an adjustment on the Mississippi return.

The TCJA eliminates the deduction for **entertainment, amusement and recreation expenses** even when directly related to taxpayer's trade or business. Prior law allowed a deduction of 50% of expenses associated with entertainment activities if related to the active conduct of the employer's trade or business. Meals may continue to be 50% deductible if the taxpayer is present and the food or beverage is not considered lavish or extravagant.

Mississippi will follow the federal provisions per Section 27-7-17(1)(a) which states that we shall conform to the provisions of the IRC of 1986.

Mississippi will follow the other provisions related to food and beverage expense, transportation fringe benefits, fines, penalties and research and experimental expenditures per Title 35, Part III, Subpart 05, and Chapter 08.

The TCJA amends the provisions for exclusion of gains for **Section 1031 exchanges** and limits these to only apply to real property not held primarily for sale. Mississippi follows this provision for an exchange of Mississippi real property for real property located outside of Mississippi. However, Section 27-7-9(f)(1)(A) also provides an exclusion of gain for Mississippi property and this is not limited to real property not held primarily for sale.

There are several changes for small businesses. The **change in accounting method** allows taxpayers with average gross receipts less than \$25 million for the previous years to elect to use the cash method of accounting. Taxpayers will be required to file a change in accounting method with the IRS. We will follow federal provisions for the change in method of accounting for cash basis taxpayers per regulation



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Title 35, Part III, Subpart 01, and Chapter 02. A copy of the federal form 3115 is required to be attached to the Mississippi income tax return.

Contractors with average gross receipts less than \$25 million for the previous three (3) tax years are exempt from the requirement to use the percentage of completion for contracts to be completed within two (2) years. Taxpayers will be allowed to use the **completed contract method**.

Certain **self-created property such as dispositions** of "patents, inventions, model or design, a secret formula or process" is not a capital asset for dispositions after December 31, 2017. The definition of capital asset provided in Section 27-7-99 does not include the items in the TCJA.

IRC Section 965 **repatriation dividends** are non-business income as foreign sourced dividends for Mississippi purposes per Title 35, Part III, Subpart 08, Chapter 06, Section 302.01(5)(b). The dividends will be allocated to Mississippi under non-business allocation rules if applicable.

IRC Section 951A provision for global intangible low taxed income (**GILTI**) requires U.S. shareholders owning at least 10% in one or more controlled foreign corporation(s) to include GILTI in its current taxable income. In general, Mississippi considers foreign sourced income to be non-business income.