

The Federal Tax Cuts and Jobs Act of 2017 (the "Act") reduced corporate tax rates (C corporation) and allowed for a deduction of certain income from pass-through entities. These changes create opportunities for business owners to reduce taxes with good planning. Every business owner should reassess whether to be taxed as a C corporation, a pass-through entity (S corporation or partnership) or combination thereof.

For the Wisconsin business owner, the re-assessment takes heightened importance because Wisconsin rejected one of the major benefits of the Act - the Section 199A deduction of certain pass-through income. By losing the Section 199A deduction for Wisconsin income tax purposes, the Wisconsin taxpayer may find that a C corporation has significant tax benefits.

It is all the more important for a Wisconsin taxpayer to assess the entirety of their situation under the new tax law.

Wisconsin's Approach:

Calculation of a taxpayer's Wisconsin income tax begins with the taxpayer's Federal adjusted gross income. However, Wisconsin does not adopt all items comprising Federal adjusted gross income. The State of Wisconsin has enacted legislation in response to the Act, adopting some provisions of the Act and not adopting other provisions of the Act for purposes of calculating Wisconsin individual income tax.

Tax Deferred Exchange (Wisconsin limited adoption):

The Act limited the application of Section 1031 to real property. Prior to the Act, gain or loss on the sale of property (including real, personal or intangible property) could be deferred where property was exchanged for like kind property. Wisconsin adopted the limitation of Section 1031 exchanges to real property.

Pass-Through Entity 20% Deduction (Wisconsin rejected):

Among the provisions which will not be allowed for purposes of calculating Wisconsin income tax is the new Section 199A deduction for qualified business income. Section 199A allows owners of pass-through entities and sole proprietorships to deduct 20% of their "qualified business income" subject to certain limitations. Any deduction taken under Section 199A for purposes of Federal income tax will be disregarded for purposes of Wisconsin income tax.

Bonus Depreciation (Wisconsin rejected):

Wisconsin will continue to disallow the Section 168(k) 100% expense deduction for certain business assets placed in service after September 27, 2017 and before January 1, 2023 (with decreasing percentage allowances through December 31, 2026). Wisconsin did not adopt the prior version of Section 168(k).

Business Interest Limitation (Wisconsin rejected):

Wisconsin did not adopt the Section 163(j) limitation on business interest deduction. Section 163(j) was substantially revised by the Act to limit deductible interest in excess of 30% of the "adjusted taxable income" of a business. The Act defines adjusted taxable income and provides an exemption for certain taxpayers, both of which are beyond the subject of this article.

Alimony No Longer Deductible in 2019 (Wisconsin adopted):

The Act repealed the deduction for alimony payments previously allowed under Section 215. Prior to the Act, alimony payments reduced a taxpayer's adjusted gross income. The repeal applies to divorce or separation agreements entered into after December 31, 2018. Wisconsin adopted the repeal of alimony payments as a deduction.

Closing Comments:

There are many other provisions of the Act that are and are not adopted for Wisconsin purposes. A chart prepared by the Wisconsin Department of Revenue which lists the provisions of the Act adopted and not adopted can be found [here](#).¹

Other states have already passed or will pass similar legislation adopting or rejecting provisions of the Act for calculating state income tax liabilities. If you pay taxes in a state other than Wisconsin, consider the legislative changes for your particular taxing state.

von Briesen & Roper, s.c. has developed a model that aids in determining the best tax structure for each situation. For more information on how this model might assist you or on the Tax Cuts and Jobs Act generally, please contact Ben LaFrombois or any member of von Briesen's Tax Team.

¹ Wisconsin Department of Revenue, *IRC Provisions in the Federal Tax Cuts and Jobs Act of 2017 Adopted by Wisconsin in 2017 WI Act 231 For Taxable Years Beginning After December 31, 2017, Except for Retroactive Provisions Noted*, WISCONSIN DEPARTMENT OF REVENUE available at:

<http://www.revenue.wi.gov/pages/taxpro/2018/federaltaxcutsandjobsactof2017.aspx>