Supplement to J.K. Lasser's Small Business Taxes 2018

By Barbara Weltman

The tax law is not static. Since the publication of this book, the Tax Cuts and Jobs Act of 2017 (TCJA) as well as other legislation have been enacted, impacting 2017 returns. While most of the legislative changes apply beginning in 2018, some affect 2017 returns. In addition, there have been court cases and IRS pronouncements that also affect 2017 returns as well as planning for taxes in 2018.

For small business owners, it is important to take action based on what is known now, and to watch for any tax changes that may affect your business and personal taxes in the future. Pay attention to *what* is new and *when* it goes into effect. A number of changes made by the new law are unclear and require IRS guidance or technical corrections by Congress. The cost-of-living adjustments for 2018 could be revised based on changes to the Chained Consumer Price Index for All Urban Consumers ("C-CPI-U") that the TCJA requires for this purpose. Don't take the numbers I've listed here as fact until the IRS confirms them; any changes will be reflected in a revised Supplement.

The changes presented in this Supplement are tied to the chapters in the book. It should be noted a more complete explanation of the changes made by the Tax Cuts and Jobs Act for 2018 and beyond will be reflected in the 2019 edition of this book.

Introduction

Examples of tax definitions of small business. Starting in 2018, there is a $25 million gross receipts test used for various purposes. The cash method of accounting can be used by businesses with average annual gross receipts of $25 million or less in the 3 prior tax years. Businesses meeting this gross receipts test do not have to account for inventory. Farming C corporations, as well as farming partnerships with a C corporation partner, can also use the cash method if they meet the same gross receipts test. The exemption from the UNICAP rules for small resellers is raised to $25 million (the same gross receipts test); it was $10 million. And there is a new limit on deducting interest payments, but it does not apply for businesses meeting the $25 million gross receipts test.

For 2018, the first-year expense (Section 179 deduction) applies to equipment purchases up to $1 million. However, this dollar limit phases out dollar for dollar when purchases for the year exceed $2.5 million. Thus, no expensing deduction can be claimed if equipment purchases for the year are $3.5 million.

Forms and schedules. When this edition was published, final versions of forms were not yet available. Find final versions of forms and schedules at https://apps.irs.gov/app/picklist/list/formsPublications.html.

Chapter 1—Business Organization

The Tax Cuts and Jobs Act (TCJA) radically changed the taxation of different types of business entities starting in 2018. C corporations have a flat tax rate of 21%, which replaces the graduated tax rates up to 35%. Owners of sole proprietorships, partnerships, limited liability companies, and S corporations continue to pay tax on business income at their personal rates, which have been reduced to 10%, 12%, 22%, 24%, 32%, 35%, and 37%. In addition, there is a new 20% deduction for these pass-through businesses (subject to certain limitations), which is explained in Chapter 21.

Overall, these changes may lead you to reexamine your choice of entity and possibly make a change. For example, if an S corporation wants to become a C corporation for 2018, it can revoke its S election by March 15, 2018. It is essential to review your entity choice with a CPA or other tax advisor to be sure that it works best with all of new law changes.

Chapter 4—Income or Loss from Business Operations

Income from farming. The IRS has extended the livestock replacement period for certain drought-affected areas. Counties for 2017 can be found in Notice 2017-53.

Income earned abroad. The time requirement for the foreign earned income exclusion is waived for certain countries. The list of countries for 2017 has not yet been released.

Chapter 5—Capital Gains and Losses

Tax-free exchanges. Tax-free exchange treatment continues to apply to real property. However, it can no longer be used for exchanges of tangible personal property after 2017.

Chapter 7—Employee Compensation

Achievement awards. Starting in 2018, the deduction for an employee achievement award up to $400 ($1,600 if made under a nondiscriminatory written plan) does not apply cash and cash equivalents (e.g., gift cards). Only awards of tangible personal property are deductible.

Adoption assistance. For planning purposes, the dollar limit on the exclusion for employer assistance for adoption costs in $13,840 for 2018 (up $270 from 2017).

Flexible spending accounts for medical expenses. For planning purposes, the maximum elective deferral to medical FSAs in 2018 is $2,650, which is $50 more than in 2017.

Employee use of company car. For planning purposes, in valuing employee use of a company car in 2018, the IRS standard mileage rate is 54.5¢ per mile.

The fixed and variable rate allowance (FAVR) in 2018 is limited to a standard automobile cost not exceeding $27,300 ($31,000 for trucks and vans).

Car values taken into account by employers using the cents-per-mile valuation rule or the fleet valuation rule for valuing personal use of a company vehicle in 2018 were not yet announced by the IRS.

Country club and other dues. No deduction can be taken for membership dues for any of the following paid after 2017:

- An activity considered to be entertainment, amusement, or recreation
- A club organized for business, pleasure, recreation, or other social purposes
- A facility or portion of a facility used in connection with any of the above

Moving expenses. Employers cannot deduct reimbursements of moving costs to an employee after 2017.

Certain athletic facilities. Starting in 2018, employers cannot deduct the cost of on-site athletic facilities. However, if they choose to continue providing this benefit, employees can exclude it from gross income.

Qualified transportation fringe benefits. Starting in 2018, employers cannot deduct these fringe benefits. However, if they choose to do so or they permit employees to pay for these costs on a pre-tax basis, employees can exclude up to $260 (up from $255) for free parking, transit passes, and van pooling for 2017. The benefit for bicycle assistance ($20 per month) does not apply for 2018 through 2025.

Frequent flyer miles. To date, the IRS has not taken any action to tax frequent flyer miles.

Employment related tax credits. The following credits, which expired at the end of 2016, have been extended for 2017:

- Empowerment zone employment credit
- Indian employment credit

Employee retention credit. Employers in a disaster zone resulting from Hurricane Harvey, Irma, or Maria, can claim a credit of 40% of the first $6,000 of wages paid to an employee beginning on the date the employer's place of business became inoperable because of the hurricane and ending on the earlier of the date the business resumes significant operations or January 1, 2018. But if the employer claims a work opportunity credit for the employee, the employee retention credit cannot be claimed for the same employee.

Family and medical leave credit. Employers are not required under federal law to pay employees while they are on family and medical leave (only employers with 50 or more employees are required to offer unpaid leave time to their staff). However, there is a new tax credit that can be claimed if an employer pays at least 50% of pre-leave earnings. The credit is 12.5% for paying 50% of pre-leave earnings, or 25% if paying all pre-leave earnings. The credit can only be taken for an employee earning less than $72,000 per year.

Chapter 8—Travel and Entertainment Expenses

Business travel per diem rates. The maximum federal per diem rate for travel starting October 1, 2017, through September 30, 2018, covering lodging and meals and incidental expenses (M&IE) within the continental United States (CONUS) in most locations is $144 per day ($93 for lodging and $51 for M&IE). These rates are higher than the prior 12-month period when the rate was $142 per day ($91 for lodging and $51 for M&IE). The per diem rates for travel to certain areas have been increased. These rates can be found at https://www.gsa.gov/travel/plan-book/per-diem-rates.

The high-low substantiation rates for areas within CONUS for the period October 1, 2017, through September 30, 2018, are $284 for travel to high-cost localities and $191 for travel to all other areas with CONUS. Of these rates, the meal portion is $68 for high-cost areas and $57 for all other areas within CONUS. The list of high-cost areas has been changed (see Notice 2017-54 for details).

Entertainment costs. The new law bars a deduction for entertainment costs after 2017. Thus, taking a customer to a baseball game is not deductible, even if substantial business is discussed. At this time, it is still unclear whether taking clients or customers out for lunch or dinner will be viewed as a non-deductible entertainment cost or a meal cost that remains 50% deductible.

Chapter 9—Car Expenses

Section 179 deduction and bonus depreciation. For 2018, the first-year expense (Section 179 deduction) applies to equipment purchases (e.g., new vehicles) up to $1 million. However, this dollar limit phases out dollar for dollar when purchases for the year exceed $2.5 million. Thus, no expensing deduction can be claimed if equipment purchases for the year are $3.5 million.

However, passenger cars, light trucks, and vans are subject to dollar limit. They may qualify for an additional first-year allowance of $8,000. The first-year dollar limits for passenger cars placed in service after 2017 are:

- First year: $10,000 ($18,000 if bonus depreciation applies)
- Second year: $16,000
- Third year: $9,600
- Fourth and succeeding years: $5,760

The IRS has not yet announced the dollar limits for light trucks and vans placed in service after 2017. These limits are based on those for passenger cars, but with a special adjustment.

Heavy SUVs are not subject to the dollar limits, but the first-year expense deduction is limited to $25,000 in 2018. This dollar limit, as well as those above, will be indexed for inflation after 2018.

Also, starting in 2018, vehicles are no longer considered to be "listed property," so that even if business use drops below 50%, there are no adverse tax results.

Standard mileage rate. The IRS announced the standard mileage rate, used in lieu of deducting the actual costs of business driving; for 2018 it is 54.5¢ per mile (up from 53.5¢ per mile in 2017).

Those who own their vehicles and use the standard mileage rate for 2018 must reduce the vehicle's basis by 25¢ per mile (the same as in 2017).

Credit for electric vehicles. The credit for 2-wheeled electric vehicles, which expired at the end of 2016, has been extended for 2017.

Chapter 10—Repairs, Maintenance, and Energy Improvements

Certain tax breaks that expired at the end of 2016 have been extended for 2017:

- ***Deduction for energy-efficient commercial buildings.*** The $1.80 per square foot deduction for commercial buildings that achieve at 50% energy-saving target.
- ***Alternative fuel vehicle refueling property credit.***

Chapter 13—Taxes and Interest

Self-employment tax. The Social Security wage base limit, which applies for self-employment taxes, is $128,400 in 2018 (up from $127,200). The tax rate for the Social Security portion of self-employment tax is 12.4% on net earnings up to this dollar limit. The tax rate for the Medicare portion of self-employment tax is 2.9% on all net earnings. The tax deduction is limited to one-half of the self-employment tax.

For those with net earnings over the applicable threshold amount of $200,000 for singles and $250,000 for joint filers (these dollar limits are not adjusted annually for inflation), there is also a Medicare surtax of 0.9% on excess earnings. This applies only to the so-called employee portion, so it is *not* deductible.

Employment taxes—FICA. The wage base limit for the Social Security portion of FICA in 2018 is $128,400. The rate for the employee's Social Security portion of FICA is 6.2%.

Employment taxes—FUTA tax. The Department of Labor has released its list of 2017 FUTA "credit reduction states." There is only one state for 2017: California (2.1%).

> **Example:** The basic FUTA tax is $42 per employee ($7,000 x [6.0% basic FUTA rate – 5.4% credit for state employment taxes]). Employers in California pay $189 per employee for 2017 ($7,000 x [6.0% - (5.4% -2.1%)]). The FUTA tax is fully deductible.

Interest payments. Starting in 2018, business interest is not deductible for net interest expense over 30% of adjusted taxable income. This net interest disallowance rule applies at the owner level for pass-through entities, but there is a special rule that applies at the entity level. However, there is an exemption from the interest limit for small businesses, which are those with average annual gross receipts for the 3 prior years not exceeding $25 million.

Chapter 14—First-Year Expensing, Depreciation, Amortization, and Depletion

First-year expensing. The expensing limit for 2018 is $1 million. The limit phases out when purchases for the year exceed $2.5 million. Thus, no expensing can be used if purchases for the year exceed $3.5 million.

The additional first-year expensing for property in empowerment zones, which expired at the end of 2016, has been extended for 2017.

Modified accelerated cost recovery system—recovery periods. The 3-year recovery period for all race horses, which expired at the end of 2016, has been extended for 2017.

The 7-year recovery period for motorsports entertainment complexes, which expired at the end of 2016, has been extended for 2017.

Bonus depreciation. Bonus depreciation had been set at 50% for 2017. However, for property placed in service after September 27, 2017, and before January 1, 2023, the percentage is 100%. The percentage is set to scale down as follows:

- 80% for property placed in service after December 31, 2022, and before January 1, 2024
- 60% for property placed in service after December 31, 2023, and before January 1, 2025
- 40% for property placed in service after December 31, 2024, and before January 1, 2026
- 20% for property placed in service after December 31, 2025, and before January 1, 2027

Certain property with longer production periods have an additional year for each of the dates listed above. Bonus depreciation ends after 2026 unless Congress changes the law.

Film, television, and theatrical production costs qualify for 100% bonus depreciation. This applies to productions placed in service after September 27, 2017. (Costs up to $15 million can be expensed for 2017.) Similarly, the 100% rate applies for certain plants bearing fruit or nuts planted or grafted after September 27, 2017.

Businesses can opt to use 50% bonus depreciation instead of the 100% allowance for the first tax year ending after September 27, 2017.

Chapter 16—Retirement Plans

Contribution limits. Various limits have been increased for 2018, although some are unchanged from 2017:

- 401(k) plan elective deferrals: $18,500 (up $500), plus $6,000 for those who are age 50 and older by December 31, 2018 (unchanged).

- Savings incentive match plan for employees (SIMPLE) elective deferrals: $12,500 (plus $3,000 for those who are age 50 and older by December 31, 2018) (unchanged).
- Defined contribution plans (profit-sharing plans and simplified employee pension plans [SEPs]) is $55,000 (up from $54,000 in 2017).
- Defined benefit (pension) plans: the limit is $220,000 (up from $215,000 in 2017).
- Compensation taken into account in figuring contributions and benefits: the limit is $275,000 (up from $270,000 in 2017).
- IRAs: the contribution limits are unchanged for 2018 at $5,500 (plus $1,000 for those age 50 or older by December 31, 2018) (unchanged). However, the adjusted gross income limits for making deductible contributions for those who are active participants in qualified retirement plans have been increased slightly.

PBGC premiums. For planning purposes, in 2018 the flat-rate premium for each participant is $74 (up from $69 in 2017). The variable rate premium for underfunded plans is $38 per $1,000 of unfunded benefits per employee, with a cap of $523 per participant.

State-sponsored plans for the private sector. California, Connecticut, Illinois, Maryland, Massachusetts, and Oregon created state-run mandatory retirement plans for employers lacking their own retirement plans (very small employers are exempt). New Jersey and Washington has state-run voluntary plans. On August 25, 2016, the U.S. Department of Labor issued a final rule (found at https://www.dol.gov/newsroom/releases/ebsa/ebsa20160825), which permitted the states to go forward with their plans. However, Congress nullified the DOL rule, leaving the status of these plans in limbo.

Special disaster relief. Under the Disaster Tax Relief and Airport and Airway Extension Act of 2017, various retirement plan rules have been modified. Essentially, the new law changes the rules for hardship distributions and plan loans.

Chapter 17—Casualty and Theft Losses

The Disaster Tax Relief and Airport and Airway Extension Act of 2017 made a number of changes impacting those affected by Hurricanes Harvey, Irma, and Maria. However, the new law did not change how businesses deduct their disaster losses.

The Tax Cuts and Jobs Act of 2017 made changes to the rules for deducting *personal* casualty and theft losses. The new law did not change how businesses deduct these losses.

Disaster losses. Find a list of all federal disaster areas for 2017 from FEMA at https://www.fema.gov/disasters/grid/year/2017.

Chapter 19—Medical Expenses

Overview. The Tax Cuts and Jobs Act of 2017 did not make any changes in the employer mandate. However, Congress may still repeal this mandate in future legislation, so stay alert to this possibility. This new law eliminated the individual shared responsibility payment, but not until 2019.

Small employer health care credit. Small employers that pay more than half the cost of employees' medical insurance may be eligible for a tax credit, provided they obtain coverage through the Small Business Health Insurance Option (SHOP) (government exchanges). The credit is reduced if premiums are more than the average premiums for the small group market in your state. The IRS has released the average premiums for small group markets in states for 2017 on a county by county basis. These average premium amounts can be found in the instructions to the 2017 Form 8941 (https://www.irs.gov/pub/irs-pdf/i8941.pdf).

Note: For tax years beginning after 2013, the credit is allowed only for two consecutive tax years, so if the small employer health care credit is claimed for 2015 and 2016, no credit will be allowed for 2017, even if other requirements for the credit are met.

For 2018, a small employer can take the credit only if average annual payroll is below a set amount. This has been adjusted for inflation so that the full credit applies if the average annual payroll in 2018 is $26,700. No credit can be claimed for 2018 if the average annual payroll is $53,400 or more. Again, the IRS may revisit these dollar limits in view of changes to the CPI as explained at the start of this Supplement.

Health savings accounts. The contribution limit for 2018 increased to $3,450 for self-only coverage; the limit for family coverage remains at $6,900. Those who are age 55 or older by the end of 2018 can add another $1,000 for the year (this additional contribution limit is unchanged).

To contribute to a health savings account, the person must be covered by a high-deductible health plan. For 2018, this means that the plan has a minimum deductible of $1,350 for self-only coverage and $2,700 for family coverage. The cap on annual out-of-pocket expenses (deductibles, co-payments, and other amounts) cannot exceed $6,650 for self-only coverage and $13,300 for family coverage. These amounts are unchanged.

Note: Before 2017, the bronze plan on the government Marketplace generally amounted to a high-deductible health plan, which is the prerequisite for having a health savings account (HSA). In 2018, the bronze plans on the federal Marketplace are not HDHPs. Some of the state Marketplaces still have the requisite HDHP plans.

Qualified small employer health reimbursement arrangements (QSEHRAs). These reimbursement plans, which started at the beginning of 2017, are a way for small employers to help employees pay for the cost of health coverage. The IRS released extensive guidance on QSEHRAs in question-and-answer format in Notice 2017-67.

Flexible spending arrangements. The maximum amount that employees can add to a medical FSA in 2018 is $2,650 (up $50 over the 2017 limit).

Reporting health coverage on W-2s. As yet, the IRS has not changed the reporting requirements, so employers that issued fewer than 250 in the previous year do not have to report health coverage.

Reporting health coverage on 1095s. The deadlines for filing Form 1095-C for applicable large employers and Form 1095-B for small employers with self-insured plans mirror the deadlines for W-2s, so that 2017 forms to employees were due on January 31, 2017. The IRS extended this due date for 30 days, to March 2, 2018 (just as it did in the previous year); this extension is automatic. However, the due date for transmittals of these forms to the IRS has not been changed. Paper returns are due on February 28, 2018; those filed electronically are due on April 2, 2018.

Chapter 20—Deductions for Farmers

Depreciation. The law setting the recovery period for all race horses at 3 years, which expired at the end of 2016, has been extended for 2017.

Chapter 21—Domestic Production Activities Deduction

Domestic production activities deduction. This deduction of 9% of qualified domestic production activities income applies only through 2017. It has been repealed for 2018 and beyond.

20% deduction for pass-throughs. Starting in 2018, there is a new deduction for pass-through businesses that qualify to use it. It's called the "qualified business income deduction." Like the domestic production activities deduction, there is no extra outlay required to enjoy the deduction; you claim it if you are eligible. Here is a brief explanation of the new deduction. It will take IRS guidance to flesh out many of the details.

General rules. The deduction does not require any cash outlay. You claim it if you are eligible for it. The deduction is not a business write-off on Schedule C, E, or F; and it is not a reduction of gross income to reduce adjusted gross income. The deduction is taken into account in figuring taxable income on which your applicable tax rate applies. It can be taken whether or not you itemize personal deductions. It can be taken whether or not the owner itemizes personal deductions.

The 20% deduction is figured on "qualified business income." This is income from a business in the U.S. (including Puerto Rico). Qualified business income is determined for each of an owner's separate businesses. Only items of income, gain, deduction, and loss allowed in determining taxable income are taken into account for qualified business income.

> **Example:** An S corporation with one shareholder has $100,000 of ordinary income from inventory sales, and makes an expenditure of $25,000 that must be capitalized and amortized over 5 years under applicable tax rules. Qualified business income is $95,000 ($100,000 minus $5,000, which is the current-year ordinary amortization deduction). Qualified business income is not reduced by the entire amount of the capital expenditure, only by the amount deductible in determining the business' net income for the year.

QBI does not include amounts paid by an S corporation treated as reasonable compensation to the owner. So if an S corporation has income of $100,000 and pays out $40,000 as salary to the owner, only $60,000 is treated as QBI. Similarly QBI does not include guaranteed payments by partnerships/LLCs for services rendered by an owner.

Income threshold. If your taxable income (not just business income) is over $315,000 on a joint return, or $157,500 on any other type of return, then limitations apply. (These dollar amounts will be indexed for inflation after 2018.) The stated purpose of the threshold: "to deter high-income taxpayers from attempting to convert wages or other compensation for personal services to income eligible for the 20% deduction under the provision."

W-2 limitation. For those with taxable income over the thresholds noted above, the deduction is limited to the *lesser* of (1) 20% of qualified business income, or (2) the greater of (a) 50% of W-2 wages, or (b) 25% of W-2 wages *plus* 2.5% of the unadjusted basis after the acquisition of qualified property (there are time limits on what property can be taken into account). This is referred to as the "W-2 limitation."

Specified service businesses. There's another rule that effectively limits or bars the 20% deduction for specified service businesses, which are those involved the performance of services in the fields of health, law, consulting, athletics, financial services, brokerage services, or any business where its principal asset is the reputation or skill of one or more of its owners or employees. When taxable income exceeds the threshold ($315,000 or $157,500) the amount of QBI that can be taken into account phases out over the next $100,000 for joint filers or $50,000 for other filers. In other words, for owners of these service businesses with taxable income within the phase-out range, only a percentage of taxable income can be used to figure the W-2 limitation.

> **Example:** If a consultant who files a joint return has taxable income of $375,000 so that excess taxable income is $60,000 ($375,000- $315,000 threshold for joint filers), he'd be able to figure the deduction by applying the W-2 limitation but using only 40% of qualified business income; the other 60% cannot be taken into account ($60,000 excess/ $100,000 phase-out range). The deduction is lost entirely by those in a specified service business when taxable income exceeds $415,000 for joint filers or $207,500 for others; all qualified business income is disregarded.

Other limitations. Even after you jump through all of these hoops, the deduction cannot be more than 20% of taxable income minus net capital gains. And if an owner has a loss from one or more businesses, it's carried forward to the following year, and any 20% deduction allowed in the following year is reduced by the carryover loss.

Chapter 22—Miscellaneous Business Deductions

Moving expenses. No deduction can be taken for moving expenses starting in 2018.

Personal education incentives for 2018:

- ***American opportunity credit.*** The basic credit amount and modified adjusted gross income limit on eligibility are unchanged.
- ***Lifetime learning credit.*** The modified adjusted gross income limit on eligibility for the credit increases to $57,000 to $67,000 ($114,000 to $129,000 on a joint return).
- ***Above-the-line deduction for tuition and fees.*** This break, which expired at the end of 2016, has been extended to 2017.
- ***Student loan interest.*** The 2018 modified adjusted gross income rate over which the deduction limit of up to $2,500 of interest is phased out is $135,000 to $165,000 on a joint return (up $5,000); for singles it is $65,000 to $80,000. There have been no increases in the MAGI limits.

Charitable contributions. The Disaster Tax Relief Act (mentioned earlier) suspends the 50%-of AGI limit for individuals and 10%-of-taxable-income limit for C corporations making cash donations before January 1, 2018, for hurricane disaster relief.

Starting in 2018, the 50%-of AGI limit for individuals increases to 60%.

Legal and professional fees. If you win a dispute with the IRS in which the government was not substantially justified, you may be able to recover costs up to a set dollar amount. For 2017, the dollar amount is $200 per hour (unchanged from 2017).

Meal costs for day care providers. For 2018, the rates for standard meals and snack rates have decreased slightly for Hawaii; they are unchanged for Alaska and the other 48 states:

Breakfast:

- States other than Alaska and Hawaii: $1.31
- Alaska: $2.09
- Hawaii: $1.52

Lunch and dinner:

- States other than Alaska and Hawaii: $2.46
- Alaska: $3.99
- Hawaii: $2.88

Snacks:

- States other than Alaska and Hawaii: $0.73
- Alaska: $1.19
- Hawaii: $0.85

Chapter 23—Roundup of Tax Credits

Some credits, which expired at the end of 2016, have been to 2017. These credits include all of the following:

Employment-related credits:

- *Empowerment zone employment credit.*
- *Indian employment credit.*

Capital construction-related credits:

- *Energy-efficient home credit.*

Other tax credits:

- *Alternative fuel vehicle refueling property credit.*

Employee retention credit. As a result of the Disaster Relief Act of 2017, some employers may qualify for a temporary tax credit. The credit is 40% of wages (up to a maximum of $6,000) paid from the date the business became in operable because of Hurricane Harvey, Irma, or Maria, and through the earlier of the date the business resumes "significant operations, or January 1, 2018.

If you claim a work opportunity credit for a worker for whom you could also claim the employee retention credit, only the work opportunity credit can be claimed.

Family and medical leave credit. Federal law does not require employers to pay for family and medical leave, even if they have 50 or more employees so that they must give time off. However, under the Tax Cuts and Jobs Act of 2017, employers that choose to offer pay may be eligible for a new tax credit that applies only for 2018 and 2019. The credit can be claimed if (1) you give at least 2 weeks of family and medical leave (not merely sick, personal, or vacation days) under a written policy and (2) pay at least 50% of regular earnings. The amount of the credit ranges from 12.5% to 25% of the paid leave, depending on the percentage of pre-leave wages being paid. The credit can only be claimed for an employee earning up to $72,000 in 2018 (this may change for 2019).

Chapter 24—Income and Deduction Strategies

List of IRS publication. Table 24.2 should be updated to reflect the deletion of the following IRS Publications:

1244	Employee's Daily Record of Tips and Report to Employer
4285	SEP Checklist
4334	SIMPLE-IRA Plans for Small Businesses
4587	Payroll Deduction IRAs for Small Businesses
4674	Automatic Enrollment 401(k) Plans for Small Businesses
4806	Profit-Sharing Plans for Small Businesses
4854	Employee Tax Compliance Message

Chapter 25—Strategies for Opening or Closing a Business

Debt versus equity financing. In informal guidance, the IRS clarified the tax treatment of crowdfunding. Crowdfunding that constitute loans, contributions to capital ("equity crowdfunding"), or gifts (without any quid pro quo) are not taxable to the business. However, amounts received through a crowdfunding portal for services rendered or gains from the sale of property are taxable.

Equity crowdfunding. Table 25.1 is updated to reflect the addition of the following states:

- Arkansas
- North Carolina

Chapter 28—Alternative Minimum Tax

Exemption amounts. The AMT exemption amounts for 2018 are:

Filing status	2018 exemption
Married filing jointly/surviving spouse	$109,400
Single/head of household	$70,300
Married filing separately	$54,700

Exemption phase-out. The exemption amounts for 2018 start to phase out when alternative minimum taxable income (AMTI) exceeds $1 million for married filing jointly and surviving spouses and $500,000 for other filers.

Chapter 29—Other Taxes

Social Security and Medicare taxes. The 2018 wage base limit for the Social Security tax portion of FICA and self-employment tax is $128,400 (up from $127,200 in 2017).

Limited liability company members. While the issue of whether net earnings of LLC members are subject in whole or in part to self-employment tax remains on the IRS's Priority Guidance Plan for 2017-2018 at https://www.irs.gov/pub/irs-utl/2017-2018_pgp_initial.pdf. As yet, no guidance has been issued.

Sales taxes. At the time this Supplement was prepared, the U.S. Supreme Court was reviewing a case that impacts online sellers' obligations to collect sales tax on remote sales. A decision may not be given until June 2018.

Chapter 32—Working with CPAs and Other Tax Professionals

Professional Employer Organizations (PEOs). They can receive IRS certification to become certified employer organizations (CPEOs) and be listed in an IRS directory upon completing a certification process. As yet, there is no directory posted on the IRS website.

Appendix B—Tax Penalties

Failure to file a tax return or pay tax. The penalty for tax years beginning in 2017 is $210 (up $5 over the amount in 2016) or 100% of the amount required to be shown on the return.

Failure of a partnership to file a return. For tax years beginning in 2017, the penalty is $200 (up from $195 in the prior year). The penalty is per month (or part-month) that the return is late, up to a maximum of 12 months, and is multiplied by the number of partners during any part of the year.

Failure of an S corporation to file a return. For tax years beginning in 2017, the penalty is $200 (up from $195 in the prior year). The penalty is per month (or part-month) that the return is late, up to a maximum of 12 months, and is multiplied by the number of shareholders during any part of the year.

Administrative waivers. To date there have been no developments on an SB/SE Division program for self-correcting errors.

Appendix D—Dollar Limits and Amounts Adjusted for Inflation

Items Adjusted Annually for Inflation. The following adjustments apply for 2018 (and do not factor into the preparation of 2017 returns). The cost-of-living adjustments for 2018 could be revised based on changes to the Chained Consumer Price Index for All Urban Consumers ("C-CPI-U") that the TCJA requires for this purpose. Don't take the numbers I've listed here as fact until the IRS confirms them; any changes will be reflected in a revised Supplement.

> ***Adoption assistance--***excludable employer-provided adoption assistance for employees ($13,840 for 2018).
>
> ***First-year expensing (Sec. 179 deduction)--*** the dollar limit on the deduction, as well as the phase-out on property placed in service. For 2018, the limits are $1 million and $2.5 million, respectively.
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> ***Medical flexible spending accounts (FSAs)***—the most that employees can add annually on a pretax basis is capped at $2,650 for 2018.
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> ***Shared responsibility payment***—there is no penalty if the cost of employer health coverage is deemed to be unaffordable, which in 2017, is 8.16% of household income.
>
> ***Small employer health insurance credit***—the amount of average compensation, originally fixed at $25,000, is $26,700 for 2018.

Social Security wage base—the amount that is used to figure the Social Security portion of FICA and self-employment tax ($128,400 for 2018).

Transportation fringe benefits—the amount excludable for free parking, and the aggregate amount excludable for transit passes or van pooling, remains at $260 per month in 2018 (although employers cannot deduct this fringe benefit in 2018).

Items Set by the IRS. The following adjustments apply for 2018 (and do not factor into the preparation of 2017 returns):

Deemed depreciation for business vehicles—if the deduction for expenses for business use of a personal vehicle owned by the taxpayer is figured using the IRS's standard mileage allowance, then the basis of the vehicle is reduced by a set amount per mile (e.g., 25¢ per mile in 2018).

Mileage allowance—the rate per mile used to determine the deduction for business use of a personal vehicle instead of deducting the actual costs is 54.5¢ per mile in 2018.