

Levin & Brend, P.C.
Attorneys at Law
20 North Wacker Drive · Suite 3200
Chicago, Illinois 60606-3102

Sander D. Levin, JD, CPA (RET)
Jeffrey W. Brend, JD, CPA/ABV, ASA, CFE, CFF, AAML, CDFA
Gregory A. Papiernik, JD, CPA
Jennifer M. Fletchall, JD, CPA, CDFA

Telephone (312) 726-4440
Facsimile (312) 726-0029
L&B@levinbrend.com

John M. Christensen, CFA, CPA/ABV, ASA, CFE, CFF
Tania K. Harvey, JD

Caroline P. Uy, CPA, MAFM
Nicholas J. Battistoni, B.S., Accounting

April 4, 2018

Do you know the Family Law Changes, Ambiguities, Survivors, and Hybrids (C.A.S.H.) of the 2017 Tax Act?

Alimony Changes

1. Did you know that alimony payments are no longer deductible for divorce agreements executed after December 31, 2018?
2. Did you know that the receipt of alimony is no longer includible in gross income effective for divorce agreements executed after December 31, 2018?
3. Did you know that if you modify an agreement that was executed prior to December 31, 2018 that the amounts paid will remain includable and deductible unless the modification expressly provides that it is not to be includable and deductible.

Alimony Hybrids

4. Did you know that alimony and unallocated support payments will still be deductible for divorce agreements executed or modified on or before December 31, 2018?
5. Did you know that the receipt of alimony and unallocated support will still be includible in gross income effective for divorce agreements executed or modified on or before December 31, 2018?
6. Did you know that for divorce agreements executed on or before December 31, 2018, or modified before or after December 31, 2018 that maintenance is not deductible if the parties continue to live in the same residence even if they live on separate floors?
7. Did you know that for divorce agreements executed or modified on or before December 31, 2018, or modified before or after December 31, 2018 that if maintenance decreases by more than \$15,000 per year during the first three years that you will have to recapture the maintenance in the third year on your tax return?

- Page 2

8. Did you know that for divorce agreements executed or modified on or before December 31, 2018, or modified before or after December 31, 2018, that the recapture of maintenance occurs all in the third year?
9. Did you know that for divorce agreements executed modified on or before December 31, 2018, or modified before or after December 31, 2018 unallocated support must not terminate within six months of a contingency related to a child, or it will not be deductible or taxable from the day it was paid?
10. Did you know that for divorce agreements executed or modified on or before December 31, 2018, or modified before or after December 31, 2018 that unallocated support will be reclassified as child support if you violate the one year multiple reduction rule?
11. Did you know that maintenance will still be considered income for purposes of contributing to IRAs effective for divorce agreements executed on or before December 31, 2018, or modified before or after December 31, 2018?

Individual Tax Rate Changes

12. Did you know that the individual income rates have been lowered to 10%, 12%, 22%, 24%, 32%, 35% and 37%?
13. Did you know that the tax reform bill repealed the Affordable Care Act individual mandate, meaning that people who do not buy health insurance will no longer have to pay a tax penalty? This change does not go into effect until 2019 so the Obamacare penalty can still be assessed in 2018.
14. Did you know that the federal estate tax exemption has doubled to \$11,200,000 in 2018?
15. Did you know that the tax breaks that will likely trigger the new AMT are more common to higher income individuals such as incentive stock options, interest from certain municipal bonds and net operating losses?
16. Did you know that the new AMT will affect the filers of about 200,000 returns, while the current one affects about five million because several of the current AMT triggers such as state and local tax deductions, personal exemptions and miscellaneous deduction are being reduced or repealed?

Individual Tax Rate Survivors

17. Did you know that the 3.8% net investment income tax that applied to high income earners remains the same and with the exact same income thresholds?
18. Did you know that the 0% tax rate on long-term capital gains and many qualified dividends will continue to exist?

19. Did you know that in 2018, the 0% tax rate on long-term capital gains and qualified dividends will apply up to \$77,200 of taxable income for married joint filers (\$38,600 for single filers)? The 15% tax rate then takes effect up to \$479,000 for joint filers (\$425,800 for single filers). The 20% tax rate applies for capital gains and dividends above the 15% threshold.

Exemptions, Itemized and Standard Deduction Changes

20. Did you know that all miscellaneous itemized deductions including tax preparation fees, investment advisory fees, and legal fees are disallowed for tax years beginning after December 31, 2017?
21. Did you know that miscellaneous itemized deductions also include business liability insurance premiums, depreciation on a computer that a taxpayer's employer requires them to use in their work, dues to professional societies, home offices, malpractice insurance premiums, work clothes and uniforms if required and not suitable for everyday use?
22. Did you know that after December 31, 2017, a payee spouse can no longer deduct as a miscellaneous itemized deduction legal fees incurred which are attributable to services rendered in securing alimony?
23. Did you know that only \$10,000 (\$5,000 for married filing separately) of non-business state and local tax deductions (SALT) may be deducted, including state and local real property taxes, personal property taxes and state local taxes?
24. Did you know that spouses cannot split real estate taxes if they file married filing separate in order to get around the SALT limitation?
25. Did you know that you can only deduct mortgage interest related to new loans up to \$750,000 for a first and second home?
26. Did you know that you will not be able to deduct home equity interest, even if it is currently existing?
27. Did you know that the adjusted gross income floor is reduced from 10% to 7.5% for the medical expenses itemized deductions in the 2017 and 2018 tax years?
28. Did you know that you can no longer deduct moving expense as of December 31, 2017 unless you are active duty members of the Armed Forces?
29. Did you know that the standard deduction beginning in 2018 will be \$24,000 for married individuals filing joint returns?

30. Did you know that the standard deduction beginning in 2018 will be \$18,000 for head-of-household?
31. Did you know that the standard deduction beginning in 2018 will be \$12,000 for all other filers?
32. Did you know that beginning in 2018 until 2026 that the personal or dependency exemption value is reduced to zero?
33. Did you know that dependency exemptions are still valuable in Illinois even though they have zero value on federal returns beginning in 2018?
34. Did you know that the child tax credit is increased from \$1,000 to \$2,000, \$1,400 of which is refundable?
35. Did you know that the child tax credit was tied to the personal exemption?
36. Did you know that a non-custodial parent use to be able to qualify for the child tax credit if they had the dependency exemption?
37. Did you know that college tax credits were tied to the personal exemption?
38. Did you know that a non-custodial parent used to be able to qualify for the colleges tax credits if they had the dependency exemption?
39. Did you know that divorced spouses used to be able to allocate the dependency exemption using IRS Form 8332?
40. Did you know that a taxpayer can claim a personal casualty loss only if the loss is attributable to a presidentially declared disaster area?
41. Did you know that individuals may deduct cash contributions up to 60% (previously 50%) of their contribution base for certain charitable contributions.
42. Did you know that the above-the-line deduction for qualified tuition and related expenses has been extended for 2017?
43. Did you know that the treatment of mortgage insurance premiums as qualified residence interest has been extended for 2017?
44. Did you know that the exclusion from gross income of discharge of qualified principal residence indebtedness has been extended for 2017?

Itemized Deduction Hybrid

45. Did you know that taxpayers with existing mortgages can continue to deduct interest on a total of \$1 million of debt for a first and second home?

Individual Tax Deduction and Credit Survivors

46. Did you know that the new tax law keeps the “additional standard deduction” for people age 65 and over of \$1,600 for singles and \$1,300 for each spouse in a married couple in 2018?
47. Did you know that the Lifetime Learning college credit is still in effect?
48. Did you know that teachers will still be able to deduct up \$250 for classroom materials from their taxable income?
49. Did you know that a non-custodial parent cannot qualify for the Earned Income Credit?
50. Did you know that a non-custodial parent cannot qualify for the Child Care Credit?
51. Did you know that a non-custodial parent cannot file as Head of Household?

Individual Tax Deduction and Credit Ambiguities

52. Did you know the child tax credit should still be allocable between parents since the reduction to zero value is not supposed to effect other sections of the IRS code; however, as a practical matter will the exemption still appear on Form 1040 and will Form 8332 still exist?
53. Did you know that the person with the most overnights used to be presumed to have the right to the dependency exemption absent an agreement to the contrary?
54. Did you know it is to be determined if the person with the most overnights will be presumed to have the right to the child tax credit?
55. Did you know it is to be determined if a court order gives each parent half of the parenting time, the IRS will continue to not consider 50/50 custody and the parent with the most overnights will receive the child tax credit?
56. Did you know it is to be determined if the IRS will continue the policy in a leap year (366 days) if each parent has equal overnights, then the parent with the highest income will get the child tax credit?

57. Did you know the college tax credit should still be allocable between parents since the reduction to zero value is not supposed to effect other sections of the IRS code; however, as a practical matter will the exemption still appears on form 1040 and will form 8332 still exist?
58. Did you know it is to be determined if the person with the most overnights will be presumed to have the right to the child tax credit?
59. Did you know it is to be determined if a court order gives each parent half of the parenting time, the IRS will continue to not consider 50/50 custody and the parent with the most overnights will receive the college tax credits?
60. Did you know it is to be determined if the IRS will continue the policy in a leap year (366 days) if each parent has equal over nights, then the parent with the highest income will get the college tax credits?

Individual Miscellaneous Changes

61. Did you know that distributions of up to \$10,000 are now allowed to be made from Section 529 plans for elementary or secondary public, private or religious school?
62. Did you know that a distribution from Section 529 plan for elementary or secondary public, private or religious schools in Illinois is a taxable event?
63. Did you know that the discharge of student debt because of death or disability is now excludible from taxable income?
64. Did you know that the unearned income by a child will now be taxed at the estate and trust tax rates instead of at the parents tax rates?
65. Did you know that beginning December 22, 2017 until December 31, 2025, a designated beneficiary of the ABLE account may make additional contributions after the \$15,000 annual limit is reached?
66. Did you know that the maximum additional annual contribution amount to an ABLE account is the lesser of the federal poverty line for a 1-person household, or the designated beneficiary's compensation for the year?

Business Tax Changes

67. Did you know the corporate tax rate has been reduced to 21% for tax years beginning after December 31, 2017?
68. Did you know that carrybacks of business net operating losses arising in years after 2017 are disallowed, subject to minor exceptions?
69. Did you know that taxpayers will only be able to deduct a business NOL carryover to the extent of 80% of taxable income?

70. Did you know that the new tax bill allows taxpayers to use the cash method of accounting if the entities annual average gross receipts do not exceed \$25 million for the three prior tax years?
71. Did you know that the new tax bill removes the incentive for employers to offer their workers transportation benefits - like parking, transit passes, or reimbursements for bicyclists by no longer allowing those expenses to be tax deductible?
72. Did you know that entertainment expenses paid or incurred after December 31, 2017 are no longer deductible, this includes activities generally considered to be entertainment, amusement or recreation, membership dues with respect to any club or organization for business, pleasure or recreation?
73. Did you know that married filing separate might reduce overall tax liability because of the phase-outs on qualified business expense deduction?
74. Did you know that businesses can immediately expense 100% of the cost of bonus depreciation in qualified property acquired and placed in service before January 1, 2023?
75. Did you know that the qualified property definition is expanded to include both original and acquired property if it is the taxpayer's first use; however, property used in a real property trade or business will be excluded?
76. Did you know that the maximum annual depreciation amounts for passenger automobiles placed in service after December 31, 2017, for which bonus depreciation is not claimed is \$10,000 for the first year placed in service?
77. Did you know section 179 small business expensing limitation increased to \$1 million, with the phase-out threshold also being increased to \$2.5 million?
78. Did you know Section 179 property was expanded to include certain depreciable tangible personal property used to furnish lodging and to include certain nonresidential real property improvements?
79. Did you know that Section 179 property now includes roofs, fire protection alarm systems, security systems, and heating, ventilation, and air conditioner property?
80. Did you know, generally, no deduction is allowed for interest expense in excess of 30% of adjusted taxable income?
81. Did you know that effective tax years beginning after December 31, 2017 the deduction for business interest for certain business taxpayers is limited to the sum of business interest income, plus 30% of the adjusted taxable income of the tax payer for the taxable year, plus the floor plan financing interest of the taxpayer for the taxable year?

82. Did you know adjusted taxable income for the interest expense calculation will be determined without factoring in business interest expense, business interest income, net operating losses, the 20% deduction for certain pass-through income?
83. Did you know interest disallowed is treated as paid or accrued in the following year and may be carried forward indefinitely?
84. Did you know the tax-free treatment of like-kind exchanges is repealed except for those relating to the like-kind exchange of real property?
85. Did you know that an individual can take a deduction of 20% of domestic “qualified business income” earned from a pass-through entity?
86. Did you know the pass-through deduction is calculated for professional service businesses as 20% of the *lesser of* the qualifying business income (after deductible expenses) or the taxpayer’s total taxable income (less capital gains)?
87. Did you know there is a phase out of the pass-through business deduction for certain professional service businesses, such as lawyers, accountants and consultants?
88. Did you know that single taxpayers with \$157,500 to \$207,500 of taxable income (subject to other restrictions) are phased out of the pass-through deduction?
89. Did you know that joint tax return taxpayers with \$315,000 to \$415,000 of taxable income (subject to other restrictions) are phased out of the pass-through deduction?
90. Did you know that the individual’s wages, reasonable compensation, guaranteed payments and investment income of the pass-through business do not count as part of the business income base used for calculating the 20% pass-through deduction?
91. Did you know if the professional services business taxable income falls in the phase out ranges, then additional restrictions apply to the deduction?
92. Did you know if the taxpayer is in the phase out range then pass-through deduction cannot exceed the *greater of* 50% of the taxpayer’s share of wages paid by the professional services business, or 25% of such wages plus 2.5% of the taxpayer’s share of the costs of qualified depreciable property of the professional services business?
93. Did you know if the wage and depreciable property limits are less than 20% of the professional services business income, then the difference will reduce the available pass-through deduction ratably for taxable income in the phase out ranges?
94. Did you know that if an individual is a partner in a professional services business, has \$189,500 of pass-through income and \$32,000 of allowable itemized deductions for medical expenses, state & local taxes, and charitable contributions the taxable income will be \$157,500 (\$189,500 - \$32,000) creating an allowable pass-through deduction of

\$31,500 (20% x \$157,500) and reducing the taxable income to \$126,000 (\$157,500-\$31,500)?

95. Did you know that if the same individual has no itemized deductions and instead takes the \$12,000 standard deduction the taxable income becomes \$177,500 (\$189,500-\$12,000) thereby qualifying for only 60% of the pass-through deduction [$177,500 - 157,500 = 20,000$ (40% of the \$50,000 phase-out range)] creating an allowable pass-through deduction of \$21,300 (20% x \$177,500 x 60%) and reducing the taxable income to \$156,200 (\$177,500-\$21,300)?
96. Did you know that the same calculation occurs for a joint tax return utilizing the phase-out range of \$100,000 (\$315,000 - \$415,000)?
97. Did you know that for the last tax year before January 1, 2018, U.S. Shareholders are subject to a mandatory repatriation tax on overseas income of specified foreign corporate subsidiaries?
98. Did you know that taxpayers can elect to pay the net repatriation tax due over an 8-year period?

Individual Tax Survivors

99. Did you know that the student interest deduction is still deductible up to \$2,500 per year?
100. Did you know that the exclusion for graduate school tuition waivers survives as well?
101. Did you know that if a single person sells their home they are entitled to a \$250,000 exclusion from capital gain providing they owned and used the property two out of the five years?
102. Did you know that if a couple sells their home, he or she may qualify to exclude up to \$250,000 of capital gains from the sale of his or her home provided they owned and used that property two out of the last five years as their primary residence?
103. Did you know that the exclusion from capital gains tax from the sale of a principal residence is allowed for one sale every two years?
104. Did you know that if one of the couple moves out of the house pursuant to a court order that person is treated as using the residence during the period that the other party uses the residence so long as they remain on title to the residence?
105. Did you know that the two-year requirement of selling a residence is waived if the seller changes employment, has health issues, or experiences “unforeseen circumstances”?

106. Did you know that an “unforeseen circumstance” can be death?
107. Did you know that an “unforeseen circumstance” can be divorce or legal separation?
108. Did you know that an “unforeseen circumstance” can be becoming eligible for unemployment?
109. Did you know that an “unforeseen circumstance” can be multiple births resulting from the same pregnancy?
110. Did you know that an “unforeseen circumstance” can be damage to the residency resulting from a natural or man-made disaster?
111. Did you know that divorced taxpayers may tack on the use of their residence by their former spouse?
112. Did you know that to qualify for head of household the child has to live with a person for more than half the year?
113. Did you know that only the custodial parent can claim the childcare credit for the expenses that he or she pays?
114. Did you know that there is an exception to the 10% early withdrawal penalty for distributions from a qualified plan for employees who retire, quit, or are fired from their job during or after the calendar year in which the participant reached age 55?
115. Did you know that Section 1041 of the IRS code permits tax-free transfers to spouses or ex-spouses?
116. Did you know that if one party transfers property to another under Section 1041 they obtain the tax basis of the transferor’s tax basis?
117. Did you know that if one party transfers property to another under Section 1041 the transfer must supply the transferee with records sufficient to determine the adjusted basis and holding period of the property?
118. Did you know that a transfer of property to a former spouse within six years of a divorce is a taxable transfer if not in accordance with the divorce decree?
119. Did you know that there is a presumption that transfers after six years are not incident to a divorce and therefore may not qualify as Section 1041 exchanges?
120. Did you know that assignment of ordinary income (vs property) is often a taxable transfer despite Section 1041?

121. Did you know that when an S-Corp transfers under Section 1041, the disallowed losses due to previous at risk or basis limitations are transferred to the transferee spouse?
122. Did you know that certain alimony deductions taken against income in previous years may be recaptured and reported as income in a later tax year?
123. Did you know that the termination of maintenance due to cohabitation is not one of the exceptions to the alimony recapture rules?
124. Did you know that if an employer plan permits in-kind distribution to non-employee spouse of stock options or deferred compensation, the transfer of vested options or deferred compensation will qualify as a 1041 exchange?
125. Did you know that temporary spousal support prior to the entry of the judgment support is one of the exceptions to the recapture rules?
126. Did you know that if personal expenses by the C Corp are disallowed by the IRS, it creates a double tax effect; first, it adds additional income to the C Corp and second dividend income to shareholders?
127. Did you know that an individual has 60 days to complete an IRA rollover, if the transfer was not done via a trustee-to-trustee, to avoid paying taxes on the transaction?
128. Did you know that the IRA transfer rules apply to the transfer of Medical Savings accounts? (A copy of the divorce decree would need to be provided to the administrator in order to divide the medical savings account.)
129. Did you know that if an individual is obligated to pay off a mortgage on a jointly held residence, the individual can deduct half of the principal and interest payments as spousal support and the other half of the mortgage interest payment as an itemized deduction?
130. Did you know that an individual's marital status is determined for the tax year based on his or her marital status as of December 31st?
131. Did you know that a Qualified Domestic Relations Order is used to divide qualified retirement assets?
132. Did you know that a qualified domestic relations order permits a 401(k) to be transferred to an alternate payee?
133. Did you know that an IRA is not considered a qualified plan?
134. Did you know that you cannot QDRO an IRA?

135. Did you know that an IRA trustee is not required to withhold any taxes for income tax purposes upon distribution?
136. Did you know that the Married Filing Separate status has the highest marginal tax rates?
137. Did you know that a taxpayer using the filing status of Married Filing Separate cannot claim the Child and Dependent Care Credit?
138. Did you know that a taxpayer using the filing status of Married Filing Separate cannot deduct college tuition and fees from his or her income?
139. Did you know that a taxpayer using the filing status of Married Filing Separate cannot deduct student loan interest from his or her income?
140. Did you know that a taxpayer using the filing status of Married Filing Separate cannot exclude tax-free interest earned from his or her U.S. bonds?
141. Did you know that a taxpayer using the filing status of Married Filing Separate cannot exclude from their income the tax-free benefits that he or she received from Social Security?
142. Did you know that a taxpayer using the filing status of Married Filing Separate cannot claim the Elderly and Disabled Credit?
143. Did you know that a taxpayer using the filing status of Married Filing Separate cannot claim the Earned Income Credit?
144. Did you know that a taxpayer using the filing status of Married Filing Separate cannot claim various education credits?
145. Did you know that the Earned Income Credit is a refundable credit?
146. Did you know that using the filing status of Married Filing Joint creates joint and several liability?
147. Did you know that using the filing status of Married Filing Joint puts the both the Taxpayer and Spouse at risk for the accuracy-related, fraud, and erroneous claim for refund or credit penalties?
148. Did you know that you cannot amend your Federal income tax return from Married Filing Joint to Married Filing Separate after the due date of the return for that year?
149. Did you know that a taxpayer whose equitable relief request was previously denied solely due to the two-year limit may reapply if the collection statute of limitations for the tax years involved has not expired?

150. Did you know that the plan administrator of a qualified retirement plan or tax-sheltered annuity must withhold 20% for taxes?
151. Did you know that the plan administrator of survivor benefits from a pension plan will assume that the participant is taking the single life option unless instructed otherwise?
152. Did you know that some pension plans will permit the alternate payee to begin receiving benefits at the participant's earliest retirement age even if the participant has not retired?
153. Did you know that although a person may remarry several times and each marriage lasts 10 years or longer they may only receive benefits from one Social Security account?
154. Did you know that an employer having 20 or more employees must provide COBRA coverage to the non-employee spouse for up to 36 months?
155. Did you know that the IRS determines whether a spouse has been "abused" in Innocent Spouse Relief cases?
156. Did you know that a spouse, who would have obtained a refund but for the other spouse's debts, may be an "injured spouse" and may receive the refund they were entitled to?
157. Did you know that tax refunds can be withheld for unpaid federal taxes?
158. Did you know that tax refunds can be withheld for debts owed to a federal agency?
159. Did you know that tax refunds can be withheld for past due child support or maintenance?
160. Did you know that tax refunds can be withheld for unpaid state income taxes?
161. Did you know that that the IRS will treat taxes paid as coming from the party paying them?
162. Did you know that once established, the irrevocable life insurance trust cannot be altered or amended?
163. Did you know that taxpayers who have entered into a civil union and applied to have their union converted to a marriage must amend their previous returns to the year the civil union was established?

164. Did you know that a court decree of annulment holds that no valid marriage ever existed? Taxpayers who obtain annulments are considered unmarried for the entire period that the marriage purportedly existed.
165. Did you know that if a couple who obtained an annulment filed joint returns for earlier years, they must file amended returns to use the single or head of household status for all tax years that are affected by the annulment?
166. Did you know that if a taxpayer's spouse died during the year, the deceased person and the survivor are considered to have been married for the whole year for tax filing purposes?
167. Did you know that couples in civil unions, registered domestic partnership, and similar relationships are not treated as married for Federal income tax purposes?
168. Did you know that marijuana growers can only deduct cost of goods sold and no other business expense for Federal income tax purposes?
169. Did you know that the penalty for not having health insurance has been eliminated?
170. Did you know that up to \$100,000 in IRA distributions can be made beginning at 70 ½ directly to a charitable organization, can be excluded from taxpayer's income, and count toward the taxpayer's RMD?
171. Did you know that passive losses can offset passive gains indefinitely?
172. Did you know that there are several tax carry forwards that may offset future income?
173. Did you know that a NOL can be carried forward to offset future taxable income for 20 years?
174. Did you know that if a taxpayer carries back a NOL to a year in which he or she was previously married, he or she can apply that loss only to the income reported on the joint return that was related to his or her taxable income?
175. Did you know that a capital loss can offset capital gains indefinitely?
176. Did you know that a capital loss can offset up to \$3,000 of ordinary income a year?
177. Did you know that capital loss carry forwards are allocated based on the separate capital gains and losses of each spouse as if they had filed tax returns separately?
178. Did you know that you can allocate the capital gains and losses between the taxpayer and spouse if they are reported on a return where they file Married Filing Joint?

179. Did you know that gains and losses from jointly owned accounts or assets are split equally?



LEVIN & BREND, P.C.
20 NORTH WACKER DRIVE
Suite 3200
CHICAGO, ILLINOIS 60606
T (312) 726-4440
F (312) 726-0029
E l&b@levinbrend.com
© www.levinbrend.com

Collaborative Law · Business Valuation · Forensic Accounting · Divorce Litigation



ATTORNEYS AT LAW