TAX YEAR
2018

Tax Cuts and Jobs Act
Employers

JLZ Business Services, Inc.
830 E. Santa Clara Street
Ventura, CA 93001
(805) 643-3295
mbigelow@jlzinc.com
www.jlzinc.com

JLZ BUSINESS SERVICES, INC
PROFESSIONAL. PRECISE. PERSONABLE.

The Tax Cuts and Jobs Act is the biggest federal tax law change in over 30 years. Below are some significant changes affecting employers. ***Note:*** Except where noted, the changes are effective for tax years 2018–2025.

Certain Fringe Benefits Modified

Prior Law. Generally, a deduction has been allowed for an activity (or facility used in connection with the activity) considered to be entertainment, amusement, or recreation that was directly related to the active conduct of an employer's business when the expense was included in an employee's gross income as taxable wages, or otherwise excludable as a fringe benefit.

For example, the cost of employer-provided qualified transportation fringe benefits, such as parking, transit passes, and vanpool benefits was deductible by the employer and excluded from the employee's W-2 wages.

Another example applies to meals furnished to an employee for the convenience of the employer that are provided on the employer's business premises. Such costs are deductible by the employer and excluded from the employee's W-2 income.

Entertainment Expense Deduction

The new law provides that no deduction is allowed with respect to:

- An activity generally considered to be entertainment, amusement or recreation,
- Membership dues with respect to any club organized for business, pleasure, recreation or other social purposes, or
- A facility or portion thereof used in connection with any of the above items.

The new law does not apply to certain exceptions including expenses for recreational, social, or similar activities primarily for the benefit of employees (other than highly-compensated employees).

Transportation Benefits

The new law disallows a deduction for expenses associated with providing any qualified transportation fringe benefit to employees of the taxpayer, and except as necessary for ensuring the safety of an employee, any expense incurred for providing transportation (or any payment or reimbursement) for commuting between the employee's residence and place of employment.

Meals

Employers may still generally deduct 50% of the food and beverage expenses associated with operating their trade or business (e.g., meals consumed by employees on work travel). The new law expands this 50% limitation to expenses of the employer associated with providing food and beverages to employees through an eating facility that meets requirements for de minimis fringes and for the convenience of the employer (such as an in-house cafeteria).

Bicycle Commuting Reimbursement

Prior Law. Qualified bicycle commuting reimbursements of up to $20 per month were excludible from an employee's gross income. Bicycle commuting expenses are those incurred for the purchase of a bicycle and bicycle improvements, repair, and storage, if the bicycle is regularly used for travel between the employee's residence and place of employment.

New Law. The bicycle commuting reimbursement exclusion is repealed. Any reimbursements are taxable to the employee.

Tax Cuts and Jobs Act

Employers

Employee Achievement Awards

Prior Law. Generally, an employer's deduction for the cost of an employee achievement award was limited and excludible from an employee's gross income (and for employment tax purposes). An employee achievement award is an item of tangible personal property given to an employee in recognition of either length of service or safety achievement and presented as part of a meaningful presentation.

New Law. The new law clarifies items that may not be deductible as achievement awards. Tangible personal property shall not include cash, cash equivalents, gift cards, gift coupons or gift certificates (other than arrangements conferring only the right to select and receive tangible personal property from a limited array of items pre-selected or pre-approved by the employer), or vacations, meals, lodging, tickets to theater or sporting events, stocks, bonds, other securities, and other similar items.

Other Deductions Modified

Sexual Harassment or Sexual Abuse Settlements

A taxpayer generally is allowed a deduction for ordinary and necessary expenses paid or incurred in carrying on any trade or business. However, certain exceptions apply. No deduction is allowed for:

- Any charitable contribution or gift that would be allowable as a deduction were it not for the percentage limitations, the dollar limitations, or the requirements as to the time of payment,
- Any illegal bribe, illegal kickback, or other illegal payment,
- Certain lobbying and political expenditures,
- Any fine or similar penalty paid to a government for the violation of any law,
- Two-thirds of treble damage payments under the antitrust laws,
- Certain foreign advertising expenses,
- Certain amounts paid or incurred by a corporation in connection with the reacquisition of its stock or of the stock of any related person, or
- Certain applicable employee remuneration.

The new law adds the following to the list of non-deductible expenses:

- No deduction is allowed for any settlement, payout, or attorney fees related to sexual harassment or sexual abuse if such payments are subject to a nondisclosure agreement.

New Credit

New Credit for Paid Family and Medical Leave

The new law allows eligible employers to claim a general business credit equal to 12.5% of the amount of wages paid to qualifying employees during any period in which such employees are on family and medical leave if the rate of payment under the program is at least 50% of the wages normally paid to an employee. The credit is increased by 0.25 percentage points (but not above 25%) for each percentage point by which the rate of payment exceeds 50%. The maximum amount of family and medical leave that may be taken into account with respect to any employee for any tax year is 12 weeks.

An eligible employer is one who has in place a written policy that allows all qualifying full-time employees not less than two weeks of annual paid family and medical leave, and who allows all less-than-full-time qualifying employees a commensurate amount of leave on a pro rata basis. For purposes of this requirement, leave paid for by a state or local government is not taken into account.

A qualifying employee means any employee who has been employed by the employer for one year or more, and who for the preceding year, had compensation not in excess of 60% of the compensation threshold for highly compensated employees ($120,000 for 2018 × 60% = $72,000).

If an employer provides paid leave as vacation leave, personal leave, or other medical or sick leave, this paid leave would not be considered to be family and medical leave. The credit does not apply to wages paid in tax years beginning after 2019.

Contact Us

There are many events that occur during the year that can affect your tax situation. Preparation of your tax return involves summarizing transactions and events that occurred during the prior year. In most situations, treatment is firmly established at the time the transaction occurs. However, negative tax effects can be avoided by proper planning. Please contact us in advance if you have questions about the tax effects of a transaction or event, including the following:

- Pension or IRA distributions.
- Significant change in income or deductions.
- Job change.
- Marriage.
- Attainment of age 59½ or 70½.
- Sale or purchase of a business.
- Sale or purchase of a residence or other real estate.
- Retirement.
- Notice from IRS or other revenue department.
- Divorce or separation.
- Self-employment.
- Charitable contributions of property in excess of $5,000.

This brochure contains general information for taxpayers and should not be relied upon as the only source of authority. Taxpayers should seek professional tax advice for more information.

Copyright © 2018 Tax Materials, Inc.
All Rights Reserved