

Ask the CFO

TAX CUTS AND JOBS ACT

Entertainment Expenses, Capital Expenditures, FMLA Tax Credit

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Q. I heard entertainment expenses are no longer deductible. Is that true?

A. President Trump signed into law the Tax Cuts and Jobs Act (TCJA) on December 22, 2017. It affected many different areas of the tax code. Section 199A allows a 20 percent deduction of “qualified business income,” otherwise known as “pass-through” income, i.e., partnerships, S corporations, LLCs, and sole proprietorships. The change in the law related to the deduction of entertainment expenses has gotten less attention.

The law before TCJA allowed for a deduction of 50 percent of expenses for meals and entertainment if it was established that the expense was directly related to or associated with the active conduct of the taxpayer’s trade or business or income-producing activity. The previous law also allowed a deduction for a club membership if it was established that the facility was used primarily for the furtherance of the taxpayer’s trade or business and that the item was directly related to the active conduct of that trade or business.

Under the new law, no deduction is allowed for: activity considered to be entertainment, amusement, or recreation; membership dues for any club organized for business, pleasure, recreation, or social purposes; and a facility used in connection with the above.

Q. What changes were made in the new tax law allowing capital expenditures to be deducted in the year they are made?

A. Section 179 of the Internal Revenue Code (IRC) allows for deduction of certain capital expenditures in the year they are placed in service rather than for depreciation over the life of the assets. Prior to 2018, there was a limit of \$500,000 on the deduction. The new law increases the annual limit to \$1 million.

The IRC also allows for “bonus depreciation.” Before the TCJA, taxpayers were allowed to deduct in the year that an asset was placed in service 50 percent of the cost of most new tangible property. Before the new law, the 50 percent was scheduled to be reduced to 0 percent by 2020. However, for property placed in service and acquired after September 27, 2017 (with no written binding contract for acquisition in effect on September 27, 2017), the TCJA has raised the 50 percent rate to 100 percent. Like many other provisions in the TCJA, the 100 percent will be reduced in 2023 and phase down to 0 percent by 2027.

Q. Is there a new tax credit related to the Family and Medical Leave Act (FMLA)?

A. The new law introduces a new component credit for paid family and medical leave, i.e., the paid family and medical leave credit, which is available to eligible employers for wages paid to qualifying employees on family and medical leave. The credit is available as long as the amount paid to employees

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on leave is at least 50 percent of their normal wages and the leave payments are made in employer tax years beginning in 2018 and 2019. The new credit is temporary and won't be available for employer tax years beginning in 2020 or later unless Congress extends it further.

For leave payments of 50 percent of normal wage payments, the credit amount is 12.5 percent of wages paid on leave. If the leave payment is more than 50 percent of normal wages, then the credit is raised by .25 percent for each 1 percent by which the rate is more than 50 percent of normal wages. If the leave payment rate is 100 percent—equal to—the normal rate, the credit is raised to 25 percent of the on-leave payment rate. The maximum leave allowed for any employee for any tax year is 12 weeks.

Eligible employers are those with a written policy in place allowing qualifying full-time employees at least two weeks of paid family and medical leave a year and less than full-time employees a pro-rated amount of leave. Qualifying employees are those who have been employed by the employer for one year or more and who, in the preceding year, had compensation not above 60 percent of the compensation threshold for highly compensated employees. Paid leave provided as vacation leave, personal leave, or other medical or sick leave is not considered family and medical leave.

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