How the Tax Cuts and Jobs Act of 2017 Affects Divorce

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This article highlights recent changes to the Internal Revenue Code that affect Colorado divorce cases.

On December 22, 2017, the Tax Cuts and Jobs Act of 2017[1] (the Act) was signed into law by President Trump. The Act represents one of the most significant overhauls to American tax law in more than 30 years; it significantly changes how individuals, businesses, tax-exempt organizations, and others are taxed. The Act affects every individual taxpayer, from wage earners to business owners, and all business entities.

Although the Act provides benefits for some, it is widely believed that a number of changes will make divorce more difficult and expensive. This article highlights recent tax code changes that affect the evaluation of various financial matters in divorce cases, particularly regarding maintenance. It is imperative that practitioners understand the 2017 changes to the federal tax law so that they can advocate effectively.

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Calculating Maintenance

The most significant tax code change in the divorce context is that maintenance will no longer be tax deductible by the payor, effective for all divorces or separation instruments[2] executed after December 31, 2018. Instead, maintenance must be paid on an after-tax basis. This places a more significant overall tax burden on divorcing parties and makes the determination of appropriate maintenance more difficult.

Under prior law, because maintenance was tax deductible to the person paying maintenance, courts could calculate maintenance using a person's gross income. To assist judges in determining appropriate maintenance awards, in 2013 the Colorado General Assembly enacted a set of advisory maintenance guidelines.[3] Under current law, courts are instructed to consider maintenance that is "equal to forty percent of the higher income party's monthly adjusted gross income less fifty percent of the lower income party's monthly adjusted gross income[.]"[4] Gross income was used to determine a party's maintenance obligation because it is easier to calculate and predict than net income and the tax impact of maintenance payments for each spouse is fairly easy to determine using gross income. The payor-spouse would simply pay the maintenance amount and deduct the maintenance from his or her taxable income, and the payee-spouse would receive the maintenance as gross income and be taxed accordingly. When maintenance is not tax deductible, determining an "appropriate" amount of maintenance is no longer straightforward and cannot be based solely on consideration of a party's gross income, because each taxpayer has different circumstances that affect effective his or her tax rate.

When basing a maintenance award on net income, the maintenance amount has to account for the tax rate of the payor-spouse. The more tax that the payor-spouse pays, the less net income she has available to pay maintenance. As explained elsewhere in this article, under the Act, the source and type of income earned by an individual has an effect on that individual's net income. Accordingly, it may be reasonable for a payee-spouse who is married to a self-employed architect to receive more maintenance than a similarly situated payee-spouse who is married to a W-2 wage earner or a highly compensated attorney, even though the gross incomes of their respective payor-spouses are similar. To implement an equitable maintenance award, practitioners and courts must consider the effective tax rate of the spouse who pays maintenance so that spouse's net income can be properly determined. This is particularly challenging under the new tax code, as individuals and businesses are taxed at drastically different rates depending on what the

individual does for a living or how the business is structured.

Colorado's maintenance statute and child support guideline formula were designed assuming maintenance deductibility. In response to the Act, the Colorado General Assembly is currently considering HB 1385, which (1) adjusts downward the advisory guideline calculation of the maintenance amount where the maintenance awarded is not deductible by the payor-spouse and is not taxable income to the payee-spouse, (2) amends the definitions of "gross income" and "adjusted gross income" to properly reflect the tax implications of maintenance obligations, and (3) adjusts the definitions of "gross income" and "adjusted gross income" in calculating child support obligations to reflect the tax implications of maintenance obligations.[5] The bill was introduced in the House on April 12, 2018 and was introduced into the Senate on April 27, 2018. Most practitioners expect the bill to pass in some form, as some changes are necessary to ensure that courts are adequately prepared to handle the new tax changes.

Individual Tax Brackets and Standard Deductions

The new tax legislation retains seven tax brackets, but the level of income at which each bracket applies and the respective percentage of tax has changed.[6] The following chart indicates the old tax rates along with the new, modified tax rates:

2017 RATES	2018 RATES
10%	10%
15%	12%
25%	22%
28%	24%
33%	32%
35%	35%
39.6%	37%

The overall amount of tax owed by most taxpayers has dropped, because the marginal tax rates have decreased and the level of income at which each marginal tax rate is in effect has increased.[7] Taking the highest income earners as an example, the marginal tax rate has decreased from 39.6% to 37%, and the income at which the highest marginal rate starts has increased from $426,700 to $500,000. Both of these changes affect how much tax an individual must pay, which in this case works to lower the top income earner's taxable income and income tax.

In addition to modifying the individual tax brackets, the new law increases the amount of the standard deduction for single individuals from $6,500 to $12,000, and for married couples from $13,000 to $24,000. However, the $4,000 per person personal exemption has been eliminated,[8] so the marginal increase in the standard deduction, after accounting for the loss of exemptions, is only about $1,000 to $2,000 per tax return. For a head of household, the standard deduction has increased from $9,550 to $18,000.[9] Under the Act, maximum savings for a person with head of household status compared to single filing status are now $3,500 instead of $5,000 under the old law.

Itemized Deductions

The Act changes the way many itemized deductions are treated. The most important effect of this change is that fewer taxpayers will itemize deductions. As explained above, the new standard deduction amount has almost doubled, so many taxpayers will be better off claiming the standard deduction rather than itemizing their deductions.

An important change for higher income taxpayers is that itemized deductions will no longer be limited.[10] Under the old law, itemized deductions were limited for single taxpayers earning over $258,250 and married taxpayers earning over $309,900.

Mortgage Interest

A common itemized deduction is mortgage interest. The Act limits the home mortgage interest deduction to indebtedness of an amount up to $750,000—meaning a taxpayer can only claim a deduction on mortgage interest associated with a mortgage of up to $750,000 in mortgage debt.[11] The value of the home itself is irrelevant; what matters is the amount of the indebtedness. However, this provision does not apply to mortgages "incurred on or before December 15, 2017." For many divorcing couples, the marital home is their most valuable asset. When negotiating a separation agreement, practitioners should consider the deductibility of mortgage interest in determining a party's expected net income and how the deduction should be allocated.

State and Local Tax Deductions

Under the Act, individual and married taxpayers can deduct a total of only $10,000 in state and local taxes.[12] The cap on state and local taxes (SALT) was contested in Congress because it has a disproportionate effect on taxpayers in each state. The more SALT taxes a taxpayer pays, the more the cap on this deduction affects the taxpayer. Taxpayers in states with low SALT taxes are primarily unaffected, whereas taxpayers in states with high SALT taxes will be required to pay much more federal tax than before.

Practitioners should consider the amount of available SALT deductions for each party and their expected income after the divorce because the availability (or unavailability) of those deductions will affect each party's net income and ability to meet expenses going forward.

Child Tax Credit

The Act raises the child tax credit from $1,000 to $2,000 and also increases the income limitation for married couples from $110,000 to $400,000.[13] The maximum amount that is refundable is now $1,400.[14] This credit phases out completely at $240,000 for single and $440,000 for married filers.[15] The expansion of the child tax credit was the legislators' way of attempting to compensate families with children for the loss of personal exemptions. For dependents who are not eligible children under the age of 17, there is a $500 non-refundable credit available, also referred to as a "family credit."[16]

The child tax credit is a significant consideration when drafting a separation agreement because of its value to the party entitled to claim the credit on his or her taxes. By increasing

the income limitations, the new adjustments increase the number of divorcing persons who are entitled to claim the credit, and by increasing the amount of the credit, the new adjustments increase the benefit itself. Practitioners should be aware that the child tax credit can be transferred back and forth between parents every year using the same procedures by which dependency exemptions are transferred.

Unreimbursed Medical Expenses and Allowable Employee Business Expenses

Under the Act, unreimbursed medical expenses will be deductible subject to a limitation of 7.5% of the taxpayer's Adjusted Gross Income (AGI) for the 2017 and 2018 tax years.[17] The limitation then increases to 10% of AGI in 2019.[18]

Many business-related expenses historically claimed by employees are also affected. The Act changes which expenses are allowable under the category of tax-free business expenses. Now, instead of allowing the deduction of unreimbursed expenses on the employee's tax return, employers should reimburse employees for business expenses. Under this circumstance, the reimbursement is tax-free to the employee.[19] If the employer elects not to reimburse the employee's claimed business expense, the employee can no longer claim a tax deduction for the expense.

Legal Fees Associated with Seeking Maintenance

Another change under the Act is that divorce legal fees related to maintenance are no longer tax deductible.[20] Previously, a spouse who paid an attorney to obtain maintenance could sometimes deduct the attorney fees expended for that purpose.

Deductions for Meals and Entertainment Expenses

Most tax deductions concerning business-related entertainment expenses have been abolished. Businesses can no longer deduct entertainment, amusement, recreation, club membership dues, or other social-purpose-related expenses—even if the expenses are directly related to conducting a trade or business.[21] Although there have been many limitations placed on these deductions, an employer is still generally able to fully deduct expenses for goods, services, or facilities that are treated as W-2 wages to the employee.[22] An employer can also fully deduct expenses paid to reimburse an employee using a qualifying expense allowance arrangement. This reimbursment can be treated as tax-free to the employee under the accountable plan rules.[23] To successfully achieve this, the employer must have an accountable plan and the employees must provide regular expense reimbursement reports.

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While entertainment expenses are largely gone, business meals are likely still deductible at 50%.[24] In addition, meals that are provided to a company's staff for the convenience of the employer are now deductible at 50%, down from 100% under the old law.[25] The Act does allow for office holiday parties to continue to be 100% deductible.[26] What constitutes a "holiday party" is unclear, but examples might include an office Memorial Day party, Labor Day party, summer party, or year-end party.

The changes to meal and entertainment deductions will have a substantial effect on businesses that spend lavishly on clients. Practitioners should be aware of this effect because inappropriate expenditures may result in large, unexpected tax bills related to business expenses that are not fully deductible. In negotiating separation agreements, it is important to understand the risks associated with any agreement regarding tax refunds or shortfalls because of potential tax liability.

Tax-Free Employee Achievement Awards

The tax code currently permits an employer to make a tax-free award of tangible personal property to an employee, either for safety achievement or length of service, subject to various conditions and dollar limits.[27] The Act states that tangible personal property does not include gifts such as cash, cash equivalents, gift cards, gift coupons, or gift certificates.[28] It also notes that tangible personal property does not include gifting vacations, meals, lodging, tickets to theater or sporting events, stocks, bonds, other securities, and other similar items to employees.[29] However, it is still possible for employers to reward their employees with a gift of tangible personal property. Businesses are allowed to give certain types of tangible personal property, and such a gift would still be tax deductible to the employer and not taxable to the employee.[30]

Section 529 Plans

The Act changes the term "qualified higher education expenses" to include tuition and certain expenses associated with public, private, or religious elementary and secondary schools.[31] Elementary and secondary school education expenses are eligible for tax-free distributions, although the amount is limited to $10,000 per year, per student.[32] This new provision goes into effect for distributions made after 2017 and does not sunset after 2025 like many other provisions of the Act.[33]

Miscellaneous Itemized Deductions

The Act suspends the deduction for all miscellaneous itemized deductions subject to a limitation of 2% of AGI.[34] This suspension of the ability to deduct for miscellaneous itemized deductions includes deductions for employee business expenses, investment fees and expenses, employee travel expenses, and tax preparation fees and expenses.[35] The Act also repeals deductions for moving expenses[36] and the exclusion from gross income for qualified moving expense reimbursements, apart from an exception for active duty military members.[37]

Other Miscellaneous Changes

Beginning in 2019, the tax penalty associated with choosing not to carry minimum qualifying health coverage is reduced to zero.[38]

With regard to estate, gift, and generation skipping tax, the Act doubles the basic exclusion amount available to each individual from $5 million to $10 million (before indexing).[39] For 2018, the indexed basic exclusion amount is expected to be approximately $11.2 million. This is another temporary provision that sunsets after 2025.[40]

The Taxability of Maintenance

The Act repeals 26 USC §§ 71 and 215 concerning the taxability of maintenance payments. However, the changes do not affect a maintenance obligation arising by decree entered by a court or a separation instrument[41] executed[42] by the parties before December 31, 2018.[43] Moreover, the new law does not affect modifications to pre-2019 decrees or separation instruments made *after* December 31, 2018, unless the parties expressly provide that the modifications are to be governed under the new tax rules.[44] Practitioners modifying a separation instrument after December 31, 2018 are advised to expressly state that all modifications and amendments are to be governed by the law in effect before the Act concerning the tax deductibility of maintenance.

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Alternative Minimum Tax for Individuals

The Act did not alter provisions regarding the individual Alternative Minimum Tax (AMT). But the AMT will affect fewer taxpayers overall, because the Act raises the exemption on the AMT from $86,200[45] to $109,400 for married filers, and increases the phaseout threshold to $1 million.[46] Because the AMT depends on the amount of deductions taken by a taxpayer, and because income and property taxes cannot be deducted in excess of $10,000 starting in 2018 (see the SALT tax changes discussed above), the AMT should not be an issue for the vast majority of filers with incomes between $200,000 and $500,000. Previously, this group was hit hardest by AMT.

What Did Not Change for Individuals

Although the Act is a major modification to American tax law, there are quite a few provisions of the tax code that remain unaltered. For example, the top tax rate of 20% for long-term capital gains and qualified dividend income remains in place, as does the 3.8% tax on net investment income.[47] In addition, the following provisions were not amended:

- capital gains tax rates,
- absence of requirement that oldest stock must be sold,
- education credits,
- deductibility of student loan interest,
- tax-free treatment of savings bond interest used for education,
- free education provided by colleges to their employees,
- electric vehicle credit,
- employer education expense exclusion,
- personal residence sale exclusion,
- dependent care benefits exclusion,
- adoption credit,
- solar credit,
- earned income credit, and
- employer-provided housing rules.

Business Taxation

Perhaps the single most-talked-about provision of the Act is the reduction in the corporate tax rates. For the 2018 tax year going forward, corporations will now be taxed at a flat rate of 21%.[48] Unlike many other provisions in the Act, this change is permanent and affects all C corporations. And unlike past tax laws, there is no special rate for personal service corporations.

TAXABLE INCOME	SPECIFIED SERVICE TRADES OR BUSINESSES	ALL OTHER TRADES/ BUSINESSES
Under $157,500 (single) Under $315,000 (married)	20% deduction fully available on eligible income	20% deduction fully available on eligible income
Between $157,500 and $207,500 (single) Between $315,000 and $415,000 (married)	20% deduction on eligible income phases out (a complex calculation not covered in this article)	Wages and capital limitation phases in
Over $207,500 (single) Over $415,000 (married)	No deduction available	Wages and capital limitation fully applies

This means that personal service corporations such as attorneys, doctors, and accountants are not penalized if they choose to structure their company as a C corporation rather than as a pass-through entity. The tax advantages of pass-through entities compared to C corporations has narrowed significantly, and family law practitioners might start encountering many more C corporations in the coming years. Closely held C corporations should be carefully analyzed in a divorce, as such corporations are not detectible by reviewing a personal tax return unless the corporation is somehow distributing funds to the party. Because C corporations do not issue K-1s, such corporations are much easier to conceal in the divorce process. However, income from such corporations must be considered when determining the parties' income for maintenance and child support. Because the new tax law will likely increase the number of C corporations that are incorporated due to favorable tax treatment, practitioners are advised to exercise more care in monitoring and tracking down potentially undisclosed C corporations.

New Section 199A and Pass-Through Businesses

New section 199A provides a 20% deduction on Qualified Business Income (QBI).[49] It is one of the most important and most confusing changes in the Act. The deduction is applied to arrive at taxable income on individual income tax returns. This deduction is generally 20% of a taxpayer's QBI from LLCs, partnerships, S corporations, or sole proprietorships. It is effective for tax years beginning after December 31, 2017 and before January 1, 2026.

The deduction does not affect AGI and cannot be more than 20% of a taxpayer's taxable income.[50] As a result of section 199A, a taxpayer whose sole source of income is from QBI could see the highest marginal tax rate drop from 37% to just under 30%. The QBI deduction was designed to assist pass-through businesses that will not benefit from the cut in the top corporate tax rate from 35% to 21%.

It is crucial that family law attorneys are able to identify QBI, as it will have a significant effect on after-tax income for many divorcing couples. Income taxes for two business owners with the same gross income could differ by 20% if one business falls under the definition of QBI and the other does not.

What is Qualified Business Income?

QBI means the net amount of qualified items of income, gain, deduction, and loss with respect to any qualified trade or business.[51] QBI does not include investment income[52] such as dividends, investment interest income,[53] or short- and long-term capital gains.[54] It also does not include non-U.S. income,[55] reasonable compensation paid to the taxpayer for services rendered with respect to the trade or business,[56] or guaranteed payments paid to a partner.[57]

For taxpayers whose individual taxable income is at least $207,500 or $415,000 for joint filers, the deduction for QBI cannot exceed the greater of two thresholds. It cannot exceed either 50% of the allocable share of the W-2 wages paid related to a qualified trade or business, or the sum of 25% of such wages plus 2.5% of the unadjusted basis after the acquisition of tangible depreciable property used by the business (also referred to as the "wage and capital limitation"). All of this information will be reported on a partner's or shareholder's K-1 because the 20% deduction will be computed at the individual income tax return level.

What is a Specified Service Trade or Business?

The Act defines a "qualified trade or business" as any trade or business where the principal asset is the reputation or skill of one or more of its owners or employees.[58] Specific examples include service professions such as doctors, attorneys, accountants, actuaries, and consultants.[59] The Act also lists performing artists, professional athletes, and nearly everyone who works in the financial services or brokerage industry.[60] At the last minute, the Act specifically exempted engineers and architects from the category of Specified Service Business.[61]

The Act divides businesses into qualified trades and businesses and then all other businesses. The 20% deduction relating to specified service trade or business income only applies in full if the taxpayer's income is $157,500 or lower for single filers, and $315,000 or lower for joint filers.[62] The 20% deduction phases out for single filers with income between $157,500 and $207,500, and income between $315,000 and $415,000 for joint filers.

Specified Service Trade or Business Examples

QBI is extremely complex, so an example may help illustrate how it works. Assume an attorney files as a married person and has a total taxable income of $200,000 comprising:

- $100,000 QBI from a law firm that files as an S corporation;
- $130,000 wages from the law practice; and
- $30,000 in itemized deductions (mortgage interest, taxes, charity).

The deduction is 20% of QBI, or $20,000. The deduction is not limited because the taxpayer's taxable income is under $315,000.

Assume another attorney files as a single person and has taxable income of $150,000 comprising:

- $200,000 sole proprietor Schedule C income from his law practice; and
- $50,000 of itemized deductions.

The deduction is the lower of 20% of QBI ($200,000 x 20% = $40,000), or 20% of taxable income ($150,000 x 20% = $30,000). The deduction is $30,000. The deduction is not limited because the taxpayer's taxable income is under $157,500.

Is Real Estate Rental Income QBI?

It is unclear whether rental real estate constitutes a "trade or business" under section 199A and whether such income will qualify for the 20% deduction. What appears to be reasonably certain at this point is that real estate income derived by real estate professionals will qualify as a trade or business under section 199A. Real estate professionals whose primary business is real estate, and who spend at least 750 hours in development, redevelopment, construction, reconstruction, acquisition, conversion, rental, operation, management, leasing, or brokerage activities, stand to benefit from the 20% deduction. However, it is far from clear whether individuals who invest in real estate but who are not real estate professionals will qualify for the deduction. Tax practitioners are eagerly awaiting guidance from the IRS in 2018 to resolve this question and other uncertain areas of the Act.

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Other Tax Provisions Affecting Businesses

In addition to the reduction in corporate tax brackets, the Act makes a number of other changes that will affect corporations going forward. Of note are the changes to how net operating losses, employer credits for paid family and medical leave, and depreciation work under the Act.

Net Operating Losses

For all tax years beginning after December 31, 2017, businesses are not allowed to carry back their losses. Net Operating Loss (NOL) can now be carried forward indefinitely; however, the loss that is carried forward can only be used to reduce 80% of the taxpayer's taxable income.[63] With this limitation, taxpayers can reduce their tax burden, but not eliminate it altogether.

In previous economic downturns, the ability to carry back NOLs helped businesses in volatile industries such as oil and gas, construction, and manufacturing survive difficult times. A business of this nature could generate significant tax refund checks, which would help it cope with the downturn. By eliminating the ability to carry back net operating losses, it is possible that the next economic downturn will have a more significant effect on volatile and cyclical businesses.

Employer Credit for Paid Family and Medical Leave

For the 2018 and 2019 tax years, employers may claim a general business credit equal to 12.5% of the amount of wages paid to qualifying employees for any period in which such employees are on family and medical leave.[64] This is only true when the rate of payment is at least 50% of the employee's normal wages and family and medical leave is not required by applicable state and local laws. Credit is increased by 0.25%, but not above 25%, for each percentage point by which the rate of payment exceeds 50%.[65] It is important to note that a qualifying employee's compensation for 2018 cannot exceed $72,000,[66] which is a significant limitation to the credit. As such, if an employee's annual compensation is $70,000 and the employer pays 100% of the compensation for family or medical leave, the

employer would be eligible for a 25% tax credit on the amount of family leave paid.

Depreciation

In recent years, depreciation provisions have increasingly been evolving toward expensing 100% of the asset acquisition price in the initial year of service. Internal Revenue Code Section 179 now allows 100% expensing to taxpayers on $1 million of the assets placed in service. However, Section 179 is not available to large businesses that place over $3.5 million of assets in service in one year.

Under the Act, 100% bonus depreciation is available to both large and small businesses.[67] It is also available for both new and used business equipment as well as for certain improvements to internal portions of nonresidential buildings.[68]

The Act makes the depreciation of business vehicles more helpful to business owners than ever. The ability to expense 100% of new and used SUVs over 6,000 pounds is now available, subject to personal use limitations.[69] Smaller business vehicles under 6,000 pounds also receive much more generous depreciation starting 2018.[70]

The current Colorado Child Support Guideline requires depreciation to be calculated using straight-line depreciation. It is increasingly important to pay attention to depreciation when reviewing business or personal tax returns because the practice of expensing 100% of the asset in the first year is becoming ubiquitous. When reviewing tax returns, attorneys should pay special attention to the depreciation schedules attached to tax returns to get a better sense of the cash flow available to the taxpayer in question.

Business Valuations

As demonstrated throughout this article, the Act introduced extensive changes to the way businesses are taxed. The rules concerning taxation have changed, so the valuations of those businesses must change as well. Businesses that are generating more after-tax income because they are paying less tax will be more valuable. Conversely, businesses that pay more tax, or heavily rely on industries that pay more tax, will be less valuable. Adding to the complexity of business valuation is the fact that many of the Act's changes sunset in 2025. Business valuations will have to consider the effect of the changes to the tax code once the temporary provisions are no longer in effect. And impending tax changes will have a more significant effect over time; changes that will occur in 2025 are not yet upon us, but business valuations performed in 2020 or 2022 will need to consider provisions scheduled to sunset in 2025 more closely.

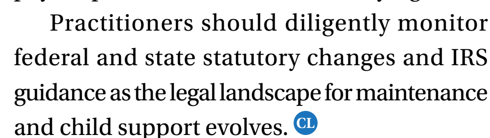
Because C corporations received a substantial tax cut starting in 2018, the values of most closely held C corporations have increased. Business valuation professionals typically value businesses based on projected after-tax cash flows; as such, lower taxes yield higher cash flows translating to greater values. Pass-through businesses are also beneficiaries of the tax overhaul, although not nearly as much as the C corporations. Valuations for pass-through businesses, especially non-specified service businesses, have also increased due to lower income taxes. For valuation purposes, it will be critical to distinguish between C corporations, pass-through entities qualifying as specified service businesses, and pass-through entities that are not specified service businesses.

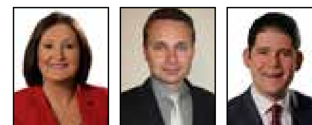
Further, because the 20% QBI deduction sunsets in 2025, business valuation professionals need to be careful in factoring the time horizon of the business into their analyses. One conventional approach to valuing closely held businesses is the market approach, which relies on historical transactions. Applying the market approach has become more difficult with the changes under the Act, particularly because historical multiples were generated using the previous tax code. Accordingly, an adjustment may be warranted to the market approach when applying it to today's tax environment.

Conclusion

The Act's changes to the tax code have wide-ranging implications for divorcing couples. Because net income will now be used to determine the amount of maintenance, domestic relations attorneys must be more proficient at tax law. Understanding the manner in which the parties are taxed is essential to understanding how the parties' net income is derived, and consequently what constitutes an equitable maintenance award. Domestic relations attorneys may even need to perform some level of tax forecasting because maintenance payments will be made over an extended period of time in which the payor-spouse could be taxed at varying rates.

Practitioners should diligently monitor federal and state statutory changes and IRS guidance as the legal landscape for maintenance and child support evolves. CL





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NOTES

1. An Act to Provide for Reconciliation Pursuant to Titles II and V of the Concurrent Resolution on the Budget for Fiscal Year 2018, Pub. L. No. 115–97, 131 Stat. 2054 (2017).
2. The term "Divorce or Separation Instrument" means "(i) a decree of divorce or separate maintenance or a written instrument incident to such a decree, (ii) a written separation agreement, or (iii) a decree (not described in clause (i)) requiring a spouse to make payments for the support or maintenance of the other spouse." 26 USC § 121(d)(3)(C).
3. CRS § 14-10-114.
4. CRS § 14-10-114(3)(b)(1).
5. *See* http://leg.colorado.gov/bills/hb18-1385.
6. 26 USC §§ 1(j) et seq.
7. *Id.*
8. 26 USC § 151(d)(5)(A) ("The term 'exemption amount' means zero").
9. 26 USC § 63(b)(7)(A).
10. 26 USC § 68(f).

11. 26 USC § 163(h)(3)(F)(II).
12. 26 USC § 164(b)(6)(B).
13. 26 USC § 24(h)(2) and (3).
14. 26 USC § 24(h)(5)(A).
15. 26 USC § 24(b) and (h)(3).
16. 26 USC § 24(h)(4)(A).
17. 26 USC § 213(a) and (f).
18. 26 USC § 213(f).
19. 26 USC § 67(g).
20. 26 USC § 215(a).
21. 26 USC § 274(a)(1) to (3).
22. 26 USC § 274(e)(2)(A).
23. 26 USC § 274(e)(3).
24. 26 USC § 274(n)(1).
25. *Id.*
26. 26 USC § 274(e)(4).
27. 26 USC § 274(j)(3)(A)(i)(I) and (II), (j)(4)(C).
28. 26 USC § 274(j)(3)(A)(ii)(I).
29. 26 USC § 274(j)(3)(A)(ii)(II).
30. 26 USC § 274(j)(3)(A)(ii)(I).
31. 26 USC § 529(c)(7).
32. 26 USC § 529(e)(3)(A)(iii).
33. H.R. 1, 115th Cong. § 11032 (2018).
34. 26 USC § 67(a).
35. 26 USC § 67(b).
36. 26 USC § 217.
37. 26 USC § 132(g)(1) and (2).
38. 26 USC § 5000A(c)(2)(B)(iii).
39. 26 USC § 2010(c)(3)(C).
40. *Id.*
41. *See* note 1.
42. The separation instrument need only be executed by the parties by December 31, 2018 rather than executed and also incorporated into a decree of divorce by a court.
43. H.R. 1, 115th Cong. § 11051 (2018).
44. *Id.*
45. The exemption amount reflected in the statute is $78,750 but the inflation-adjusted amount is $86,200. *See* Rev. Proc. 2017-58.10.
46. 26 USC § 55(d)(4)(A)(i)(I); 26 USC § 55(d)(4)(A)(ii)(I).
47. 26 USC § 1411(a)(1).
48. 26 USC § 11(b).
49. *See* Koch and DiManna, "The New 20% Pass-Through Tax Deduction," 47 *Colorado Lawyer* 52 (May 2018).
50. 26 USC § 199A(b)(2)(A).
51. 26 USC § 199A(c)(1).
52. 26 USC § 199A(c)(3)(B)(ii).
53. *Id.*
54. 26 USC § 199A(c)(3)(B)(i).
55. 26 USC § 199A(c)(3)(A)(i).
56. 26 USC § 199A(c)(4)(A).
57. 26 USC § 199A(c)(4)(C).
58. 26 USC § 1202(e)(3)(A).
59. *Id.*
60. *Id.*
61. 26 USC § 199A(d)(2)(A).
62. 26 USC § 199A(e)(2)(A).
63. 26 USC § 172(a)(2).
64. 25 USC § 45S(a)(2).
65. *Id.*
66. 26 USC § 45S(d)(2).
67. 26 USC § 168(k)(6)(B)(i).
68. 26 USC § 168(e)(6)(B)(iii).
69. 26 USC § 280F(d)(5)(A)(ii).
70. 26 USC § 280F(d)(5).

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