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New tax legislation impacts individuals, businesses

by GARY R. GEHLBACH

The recently enacted Tax Cuts and Jobs Act is a sweeping tax package. Many of the important elements of the new law described in this article impact individuals. Unless otherwise noted, the changes are effective for tax years beginning in 2018 through 2025.

■ **Tax rates.** The new law imposes a new tax rate structure with seven tax brackets: 10%, 12%, 22%, 24%, 32%, 35% and 37%. The top rate was reduced from 39.6% to 37% and applies to taxable income above \$500,000 for single taxpayers, and \$600,000 for married couples filing jointly. The rates applicable to net capital gains and qualified dividends were not changed.



■ **Standard deduction.** The new law increases the standard deduction to \$24,000 for joint filers, \$18,000 for heads of household and \$12,000 for singles and married taxpayers filing separately. Given these increases, many taxpayers will no longer itemize deductions. These figures will be indexed for inflation after 2018.

■ **Exemptions.** The new law suspends the deduction for personal exemptions. Thus, starting in 2018, taxpayers can no longer claim personal or dependency exemptions. The rules for withholding income tax on wages will be adjusted to reflect this change, but the IRS was given the discretion to leave the withholding unchanged for 2018. This provision will impact most heavily on families with multiple minor children.

■ **New deduction for "qualified business income."** Starting in 2018, taxpayers are allowed a deduction equal to 20% of "qualified business income," otherwise known as "pass-through" income, i.e., income from partner-

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Court rules that ADA does not require extended leaves of absence

by DOUGLAS E. LEE

In a significant win for employers, the U.S. Seventh Circuit Court of Appeals ruled last year that a "multi-month leave of absence" is not a reasonable accommodation under the Americans with Disabilities Act.

In the case, *Severson v. Heartland Woodcraft, Inc.*, a long-time employee suffered a back injury at home and requested and received family medical leave from his employer. After the employee exhausted his 12 weeks of medical leave, he requested an additional two months of leave. The employer refused the request for additional leave, terminated the employee's employment when he did not return to work and encouraged the employee to re-apply when his condition improved.

Instead of re-applying, the employee filed a federal discrimination charge, claiming the employer violated the ADA by not reasonably accommodating his back injury.

In the federal court, the employer argued that the requested leave of absence was not a reasonable accommodation under the ADA. The trial court agreed and dismissed the case. With the support of the Equal Employment Opportunity Commission, the employee appealed.

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Illinois bill adopts bill of rights to protect student borrowers

by COURTNEY E. KENNEDY

A student loan bill of rights, officially known as the Illinois Student Loan Servicing Rights Act, will take effect Dec. 31, 2018, after the Illinois House of Representatives overrode a veto by Gov. Bruce Rauner last November.

Drafted by the Office of the Illinois Attorney General, the bill endeavors to prevent student-borrowers from being misled or ignored by tightening regulations on those who provide loans. Attorney General Lisa Madigan pushed for the Act as student loan debt is the largest form of unsecured consumer debt in the U.S., with one in four student-borrowers behind on payments or in default.

The Act, among other things, makes it unlawful for a person or company to operate as a student loan servicer in Illinois without first obtaining a license with the state's Department of Financial and Professional Regulation and requires that those servicers be supervised by the



Secretary of Financial and Professional Regulation.

The Act defines "student loan" to include federal and private student loans and loans to refinance a student debt, but excludes loans made by federal or state chartered banks, open-end credit and loans secured by real estate.

The Act prohibits a servicer from engaging in any unfair or deceptive practice, misrepresenting or omitting any material information in connection with servicing a loan and misapplying payments to the loan balance.

A servicer may only charge late fees that are reasonable and proportionate to the cost it incurs relating to the late payment and may not charge a borrower or

cosigner for modifying, deferring, forbearing, renewing, extending or amending a loan. Servicers must regularly communicate with borrowers who have disputes and send complaints to other employees for review if they remain unsolved.

Additionally, a servicer's website must describe any alternative repayment plan offered by the servicer, and the servicer must establish and implement policies and procedures for evaluating private student loan alternative repayment arrangement requests

The Act also creates the position of the Student Loan Ombudsman within the Attorney General's Office to provide timely assistance to student loan borrowers. The Ombudsman is tasked with sorting out complaints and attempting to reach a resolution of those complaints.



Lee County moves deadline for leasehold exemption applications

by DOUGLAS E. LEE

Landlords and tenants in Lee County now must file their Leasehold Exemption Applications by July 1.

Last month, Lee County Chief Assessment Officer Wendy Ryerson announced that her office moved the application deadline to July 1 from year end to allow more time for processing and review of applications. If a landlord or tenant does not timely file an application for a residence, that residence will be ineligible for the leasehold exemption from real estate taxes in

the 2018 tax year.

Mrs. Ryerson also announced that her office no longer will provide landlords written notification of application denials. Instead, approval of an application can be determined at the "Property Tax" link at www.countyoflee.com. If a timely application is not approved, a revised application can be submitted before Dec. 31 of the tax year.



ADA...

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In the appeal, the EEOC argued – consistent with guidance it published in 2016 – that a multi-month leave of absence was a reasonable accommodation if it was definite, limited, requested

in advance and likely to enable the employee to return to work.

The Seventh Circuit panel disagreed, holding that the ADA is "an antidiscrimination statute, not a medical-leave entitlement" and rejecting the notion that an employee who cannot work is protected

by the ADA.

The court also rejected the employee's alternative argument that the ADA required the employer to create a light duty position for him.



Tax act . . .

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ships, S corporations, LLCs and sole proprietorships. The income must be from a trade or business within the U.S. Investment income does not qualify, nor do amounts received from an S corporation as reasonable compensation or from a partnership as a guaranteed payment for services provided to the trade or business. The deduction is not used in computing adjusted gross income, just taxable income. For taxpayers with taxable income above \$157,500 (\$315,000 for joint filers), (a) a limitation based on W-2 wages paid by the business and depreciable tangible property used in the business is phased in and (b) income from the following trades or businesses is phased out of qualified business income: health, law, consulting, athletics, financial or brokerage services or where the principal asset is the reputation or skill of one or more employees or owners.

- **Child and family tax credit.** The new law increases the credit for qualifying children under 17 to \$2,000 from \$1,000, and increases to \$1,400 the refundable portion of the credit. It also introduces a new \$500 credit for a taxpayer's dependents who are not qualifying children. The adjusted gross income level at which the credits begin to be phased out has been increased to \$200,000 (\$400,000 for joint filers).
- **State and local taxes.** The itemized deduction for state and local income and property taxes is limited to a total of \$10,000 starting in 2018.
- **Mortgage interest.** Under the new law, mortgage interest on loans used to acquire a principal residence and a second home is only deductible on debt up to \$750,000 (down from \$1 million), starting with loans taken out in 2018. Interest on home equity loans can no longer be deducted, regardless of when the debt was incurred.
- **Miscellaneous itemized deductions.** There is no longer a deduction for miscellaneous itemized deductions that were formerly deductible to the extent they exceeded 2% of adjusted gross income. This category included items such as tax preparation costs, investment expenses, union dues and unreimbursed employee expenses.
- **Medical expenses.** Under the new law, for 2017 and 2018, medical expenses are deductible to the extent they exceed 7.5% of adjusted gross income for all taxpayers. Previously, the AGI "floor" was 10% for most taxpayers.
- **Casualty and theft losses.** The itemized deduction for casualty and theft losses has been suspended except for losses incurred in a federally declared disaster.
- **Overall limitation on itemized deductions.** The new law suspends the overall limitation on itemized deductions that formerly applied to taxpayers whose adjusted gross income exceeded specified thresholds. The itemized deductions of such taxpayers were reduced by 3% of the amount by which AGI exceeded the applicable threshold, but the reduction could not exceed 80% of the total itemized deductions, and certain items were exempt from the limitation.
- **Moving expenses.** The deduction for job-related moving expenses has been eliminated, except for certain military personnel. The exclusion for moving expense reimbursements has also been suspended.
- **Alimony.** For divorce decrees and separation agreements beginning in 2019, alimony will not be deductible by the paying spouse and will not be taxable to the receiving spouse.
- **Healthcare "individual mandate."** Starting in 2019, there is no longer a penalty for individuals who fail to obtain minimum essential health coverage.
- **Estate and gift tax exemption.** Effective for decedents dying and gifts made in 2018, the estate and gift tax exemption has been increased to roughly \$11.2 million (\$22.4 million for married couples). However, the Illinois estate tax exemption remains \$4 million.
- **ABLE Accounts.** For tax years beginning after Dec. 22, 2017, and before Jan. 1, 2026, the ABLE account contribution limitation for contributions made by the designated beneficiary is increased. (ABLE accounts – Achieving a Better Life Experience – are tax-advantaged savings accounts for individuals with disabilities and their families.) After the overall limitation on contributions is reached (which, for contributions in 2018, is \$15,000, the federal gift tax exclusion), an ABLE account's designated beneficiary can contribute an additional amount up to the lesser of (a) the federal poverty line for a one-person household or (b) the individual's compensation for the year.
- **Alternative minimum tax (AMT) exemption.** The AMT has been retained for individuals by the new law, but the exemption has been increased to \$109,400 for joint filers (\$54,700 for married taxpayers filing separately) and \$70,300 for unmarried taxpayers. The exemption is phased out for taxpayers with alternative minimum taxable income over \$1 million for joint filers, and over \$500,000 for all others.



Past, current servicemembers benefit from new Illinois court law

by DANA M. CONSIDINE

On Jan. 1, Illinois courts became required to provide a program dedicated to current servicemembers and veterans charged with a criminal offense. Under the program, servicemembers and veterans who plead guilty to a crime and receive probation are entitled to a VA eligibility screening and risk assessment, frequent court visits and mental health or substance abuse treatment. After completing the probation, the defendant can apply to have his or her record expunged.

To be eligible for the program, the servicemember or veteran must have



been honorably discharged.

Whether every community has the resources – or the need – for the program has been questioned. Therefore, the law provides that if a drug court or mental health court is already in place, the veterans' program may operate under that program.

The law, called the Veterans and Servicemembers Court Treatment Act, is intended to provide courts flexibility in dealing with veterans who suffer from post-traumatic stress disorder, traumatic brain injuries, depression, drug and alcohol dependency or a combination thereof. The opening preamble of the statute recognized that “[t]here is a critical need for the criminal justice system to recognize these veterans, provide accountability for their wrongdoing, provide for the safety of the public and provide for the treatment of our veterans.”



In Print and At the Podium

Mr. Gehlbach recently completed his term as chair of the Illinois State Bar Association's Trusts and Estates Section Council and is now an *ex officio* member of the group. The Council sponsors and monitors legislation affecting estate planning and administration, provides continuing legal education for Illinois attorneys and publishes a monthly newsletter on estate planning and administration issues . . . **Mrs. Considine** was a member of Amboy's 272 Kids Committee, which provided information to voters in advance of the bond request to fund a school addition . . . **Mr. Lee** is serving the second year of a two-year term as chair of KSB Hospital's board of directors. As

chair, **Mr. Lee** is joining a group of KSB professionals making a medical mission trip to Cusco, Peru . . . **Mrs. Foulker** recently was named the United Way of Lee County's 2017 Volunteer of the Year . . . **Mr. Gehlbach** recently crafted a bill that revised and clarified a provision for adult dependent children in a parent's estate and shepherded the bill through the Illinois General Assembly. **Mr. Gehlbach** is helping draft other legislation, including a bill that addresses the disposition of life insurance proceeds payable to a former spouse after a divorce . . . **Mrs. Foulker** was chosen as a 2017 Emerging Lawyer by the Leading Lawyers Organization.



Deals and Decisions

Mr. Lee has represented four different wind farm companies in various projects. In one, the client obtained a special use permit to remove and then rebuild a wind farm, the first such project in Illinois. In another, the client obtained extensions of special use permits in Lee and Whiteside counties. In another, litigation against the client was dismissed and the project proceeded to construction . . . **Mrs. Kennedy** successfully defended the right of an agent under a health care power of attorney to determine who may and may not visit the principal . . . **Mr. Gehlbach** has represented several real estate developers in projects slated for Lee and Ogle counties . . . In a contested hearing, **Mrs. Considine** persuaded a local court to rule that her

client could move to another state with the client's minor children . . . **Mr. Lee** represented a client in successfully resolving a matter pending before the Illinois Department of Human Rights . . . **Mrs. Considine** obtained a favorable settlement for a business that was deceived by an individual who fraudulently provided documents to a local financial institution while trying to avoid paying a debt due to the business . . . **Mr. Lee** recently assisted several clients in buying and selling businesses and large pieces of commercial real estate . . . **Mrs. Considine** successfully represented a client in a hearing concerning the meaning of a divorce judgment, saving the client thousands of dollars.



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