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Tax Hot Topics

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Fringe Benefits - The Good (?)

🌀 **First rule of thumb – cash (or its equivalent) paid to employees is always taxable unless it is a reimbursement under an accountable plan**

🌀 ***Specific carve-outs:***

→ **Working condition fringe benefits**

- Benefit must relate to employer's business
- Employee would have been entitled to tax deduction if paid personally and
- Business use must be substantiated with adequate records.

🌀 **Examples: continuing education, license fees, use of employer-provided vehicles, employer-provided cell-phones.**

Fringe Benefits - The Good (?)

→ De Minimis fringe benefits

- Any property or service provided by employer where value is so small that accounting for it would be unreasonable or impractical.
- Frequency with which same benefits provided to other employees is relevant to above.
- Examples: holiday gifts of property with low FMV; occasional use of weight room or pool; use of copy machine; coffee & doughnuts; local telephone calls.

 **No bright line in the sand – each situation must be evaluated**

Travel Expenses – Away from Home

🌀 What can be reimbursed?

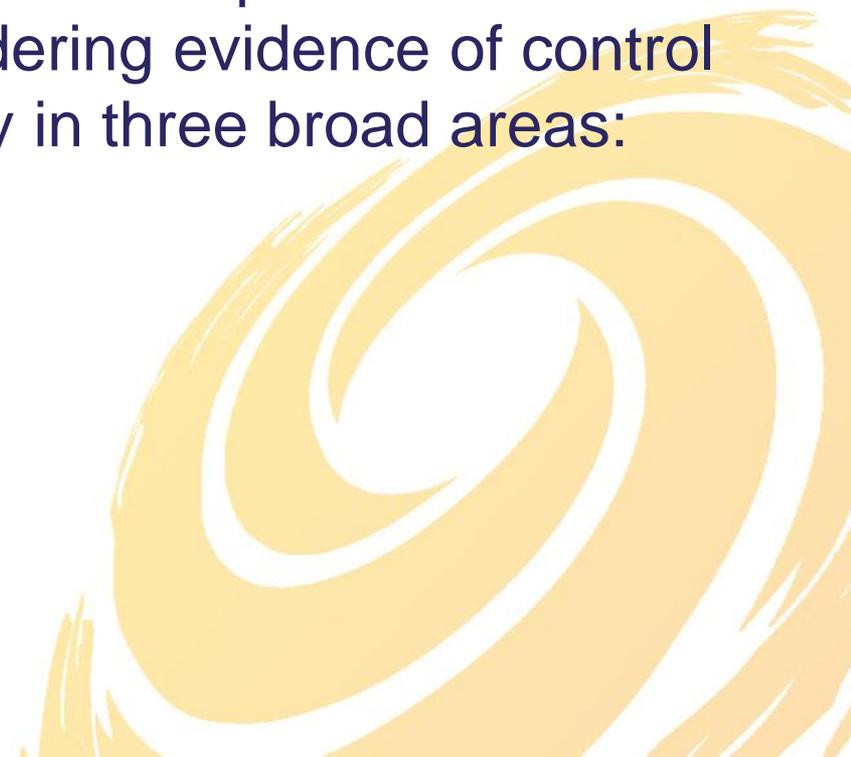
- Costs of travel (e.g. mileage) to/from business destination
- Transportation costs while at the destination (eg. cabs, tolls, etc.)
- Lodging, meals and incidental expenses (including per-diems)
 - Substantiation (who, what, where, why and when) required
- Misc (e.g wifi, laundry, etc)

🌀 In order to be non-taxable travel must be *away from home* and must require either sleep or “substantial rest”. Therefore any travel requiring overnight stay meets this requirement.

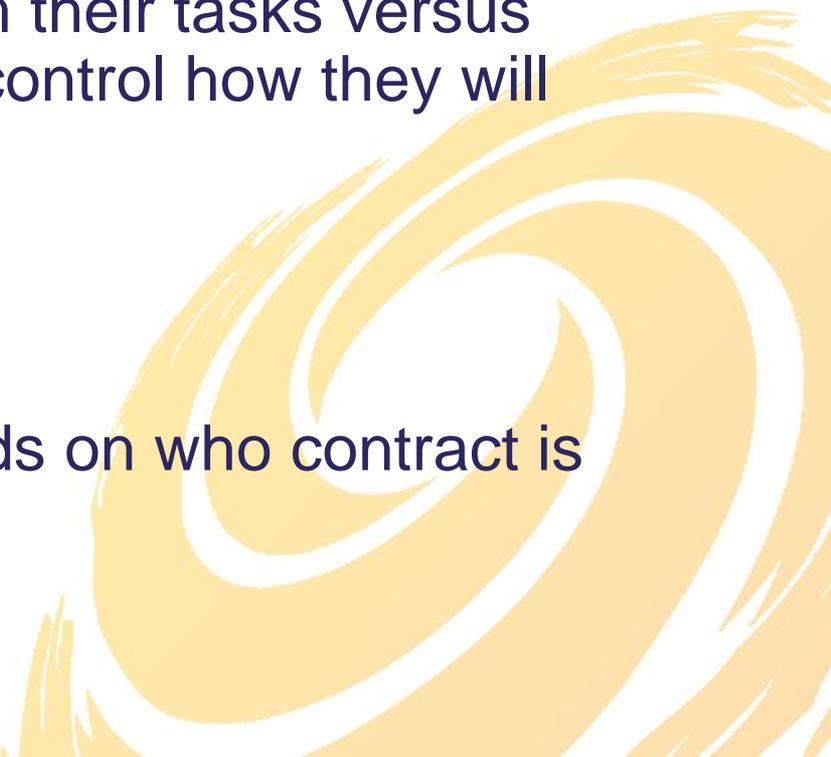
Travel Expenses – Not Away from Home

- ☉ Only certain expenses reimbursable (because allowed under other code sections)
 - Mileage to/from (after adjusting for commuting miles)
 - Tolls/parking fees
 - Meals (ONLY if conducted for valid business purpose)
- ☉ Substantiation still required for each of these categories.
 - Who, what, when, where and why

Employee vs Independent Contractor (The Bad)

- 🌀 Determination of whether a worker is an employee or an independent contractor is based on developed case law and IRS rulings.
 - 🌀 Important to determination is relationship between the worker and the business considering evidence of control and independence. Specifically in three broad areas:
 - Behavioral Control
 - Financial Control
 - Type of Relationship
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Behavioral Control

- 🌀 Covers facts that show whether the business has a right to direct and control how the work is done.
 - 🌀 Employees normally are given instructions on when and where to work, etc. and are provided with the required tools by the employer to perform their tasks versus contractors who have ability to control how they will accomplish and who they use.
 - 🌀 Examples:
 - Athletic coaches – employee
 - Special Duty Police – depends on who contract is with
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Financial Control

- 🌀 Facts that show whether the school district (business) has a right to control the financial and business aspects of the worker's job. *Of primary importance is extent to which worker can realize a profit or incur a loss, existence of unreimbursed business expenses and investment in facilities or equipment being used to perform services.*
- 🌀 Examples: “Tom’s Lawn Service” – you hire Tom to mow grounds each week. Tom uses his own equipment and is free to staff with whomever he wants.

Type of Relationship

☉ Includes

- written contracts describing the relationship the parties intend to create,
- worker's ability to perform same service for other businesses;
- whether any type of “employee benefits” are provided to the worker and
- the permanency of the relationship.

☉ Continuing relationship between a business and a worker is indicative of an employer-employee relationship.

Supplemental Pay

- ☉ There often is confusion as to definition and required method(s) for withholding.
- ☉ Supplemental wages- defined
 - *All wages that are not “regular wages” and include: overtime pay, bonuses, commissions, back pay, lump sum vacation pay, taxable noncash fringe benefits, etc.*
 - *Regular wages - amounts paid at a regular hourly, daily or similar periodic rate for the current payroll period or at predetermined fixed amount for current payroll period.*
- ☉ **Employer has option of treating overtime pay as “regular” pay.**

Supplemental Pay

🌀 Withholding methods:

- If supplemental wages exceed \$1 million during the calendar year.
 - Mandatory flat rate @ top tax rate (currently 37%) on excess over \$1 million.
- If supplemental wages are less than \$1 million during the calendar year are they:
 - Combined with regular wages and thus not separately identified?, OR
 - Separately identified as regular vs supplemental wages and paid either separately or as a part of single payment?

Supplemental Pay

- ☉ Supplement wages that are paid concurrently with regular wages and **not separately identified**:
 - Withhold using W-4 on file as if were a single payment for a regular payroll period.
 - ☉ Otherwise if you withheld tax from regular wages for employee during current or immediately preceding calendar year use either:
 - Aggregate procedure, **or**
 - ***Optional*** flat-rate withholding (22%)
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Supplemental Pay

- Supplemental wages paid to employee where income tax was not withheld from regular wages...

Optional flat-rate withholding @ 22% **NOT ALLOWED!**

→ **Must use aggregate withholding procedure**

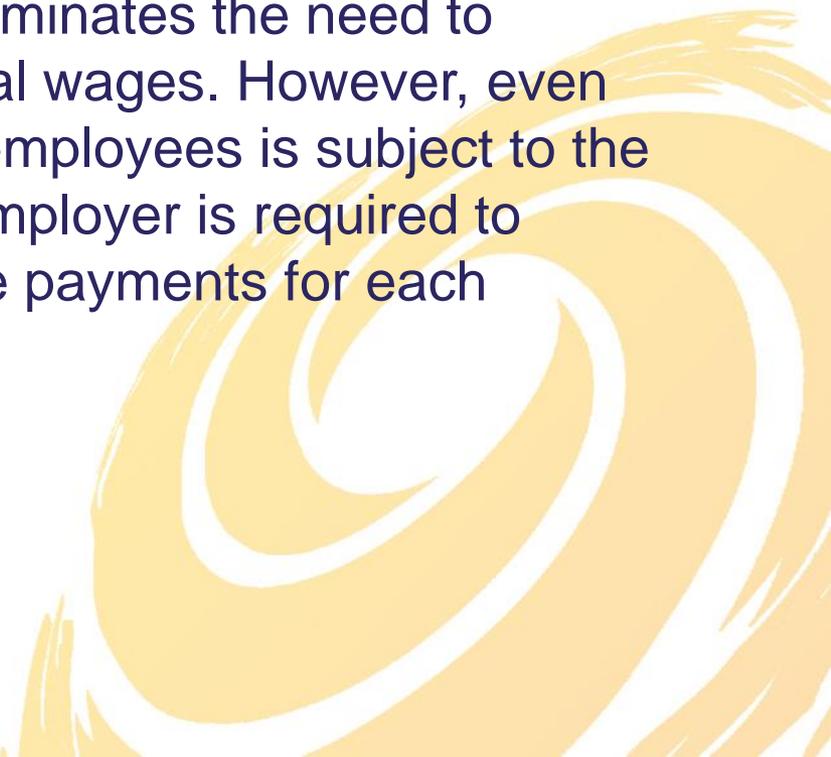
- *IRS Publication 15 has specifics on how to calculate*

- Note: withholding allowances claimed by an employee that reduce tax withholding to zero will trigger above rule.

Supplemental Pay

Observation:

Many employers have traditionally used the aggregate procedure for supplemental wages (i.e., they add supplemental wages to regular wages and withhold as if the total were a single payment), which generally eliminates the need to distinguish regular and supplemental wages. However, even though only a small percentage of employees is subject to the maximum withholding rate, every employer is required to separately track supplemental wage payments for each employee.



Tax and Jobs Act

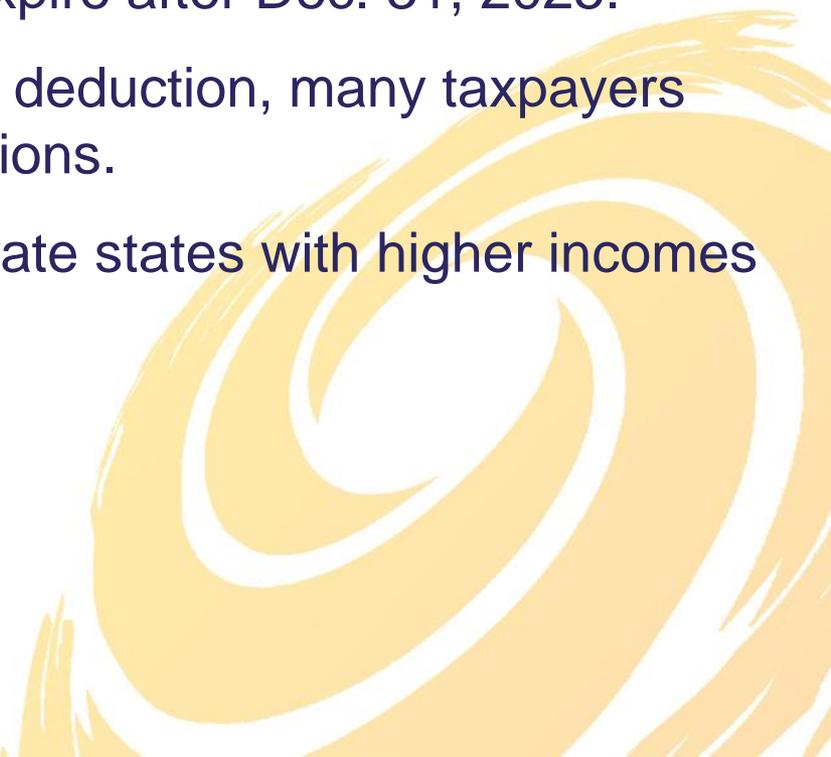
High-level Summary of
Individual Provisions



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Key Individual Provisions - Overview

- 🌀 Changes under the new tax law, the Tax Cuts and Jobs Act (TCJA) impact on individual taxation:
 - Generally effective for the 2018 tax year
 - Most are temporary and due to expire after Dec. 31, 2025.
 - With the changes to the standard deduction, many taxpayers will now opt not to itemize deductions.
 - Overall, individuals in higher tax rate states with higher incomes will see higher taxes.
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Tax Rate Changes

- 🌀 Retained 7 individual tax rates - 10, 12, 22, 24, 32, 35 and 37% (expires after 2025)
 - Rates generally 2% to 4% lower than under prior law
 - Income range within tax brackets generally wider than under prior law
 - Marriage penalty preserved for 35% and 37% rate brackets
- 🌀 Capital gains and qualified dividends retain present-law maximum rates of 15% and 20%.
 - 3.8% surtax on investment income still applies when applicable

Standard Deduction

🌀 The standard deduction is increasing across the board for the filing statuses and is indexed for inflation for years after Dec. 31, 2018. The additional deduction for the elderly and the blind, remains intact. The increased standard deduction amounts are set to sunset after 12/31/25 and are effective beginning after 12/31/17.

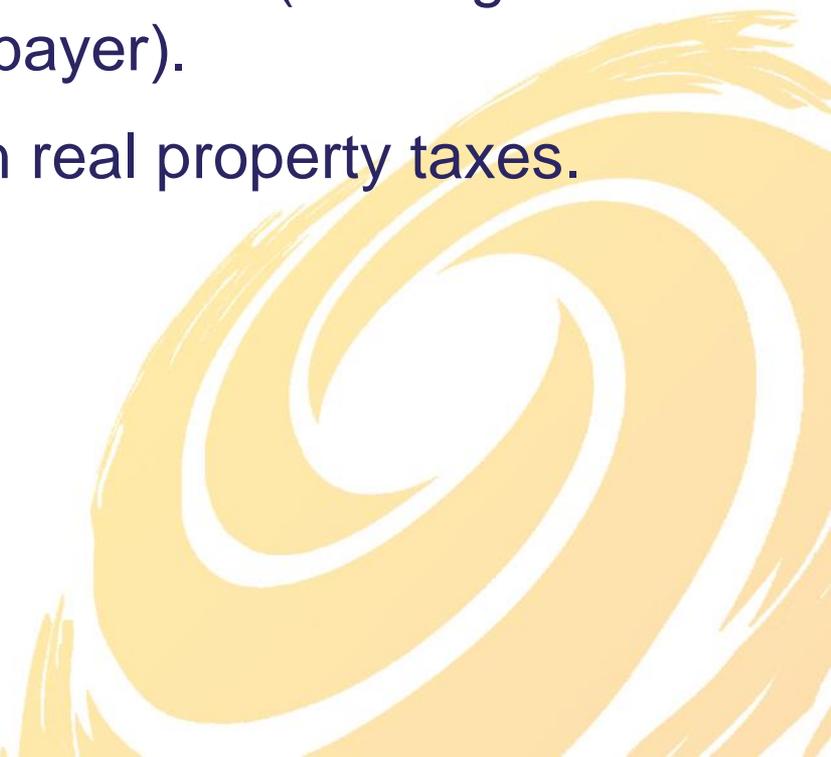
- Married Filing Joint (MFJ) - \$24,000
- Head of Household (HOH) - \$18,000
- Single - \$12,000

Personal Exemptions

- 🌀 Personal exemptions are repealed and the filing threshold requirements for filing are modified so you don't need to file until your gross income for the year exceeds the standard deduction. This change is effective for tax years beginning after 12/31/17 and before 12/31/25.



Itemized Deductions-Taxes

- 🌀 Combined state and local taxes, real estate taxes, and personal property taxes are now limited to \$10,000 (\$5,000 for MFS) in total.
 - 🌀 Sales tax is still allowed as an alternative (although typically don't see with Ohio taxpayer).
 - 🌀 No deduction allowed for foreign real property taxes.
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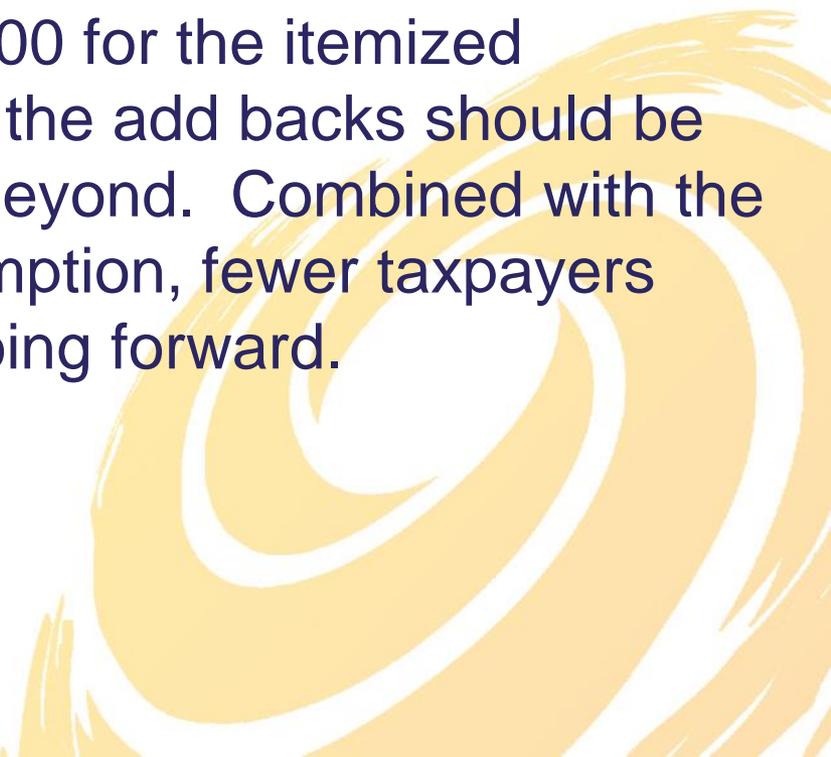
Itemized Deductions-Home Mortgage Interest

- Only mortgage interest to acquire, construct or substantially improve a principal residence or second home is included in the calculation of the deduction. The acquisition indebtedness is limited to no more than \$750,000 (\$375,000 MFS). This is in effect for acquisition indebtedness after 12/15/17.
 - Limitation reverts back to \$1 million after 2025
 - Watch re-finance of existing mortgages after 12/15/17
- Home equity loans: interest may or may not be deductible beginning 1/1/18.
 - Depends on whether used for home improvements vs. personal exp
 - Reverts back to being deductible after 2025

Itemized Deductions-Other Changes

- 🌀 Medical Expenses – Retained as a deduction for 2017 and 2018 only @ 7.5% floor
- 🌀 Charitable Contributions –
 - increased AGI limitation on deductibility from 50% to 60%
 - Contribution deduction safe harbor for college athletic ticket rights no longer deductible
- 🌀 Casualty Losses – only losses suffered in Presidentially declared disaster areas are deductible
- 🌀 Misc. itemized deductions and unreimbursed employee business expenses – repealed

Alternative Minimum Tax

- 🌀 The “rules” for the calculation of the individual AMT are for the most part unchanged from prior law.
 - 🌀 What changed are the exemption amounts and thresholds for phase-out.
 - 🌀 With the new threshold of \$10,000 for the itemized deduction for the tax deduction, the add backs should be significantly lower in 2018 and beyond. Combined with the increased threshold for the exemption, fewer taxpayers should be subject to the AMT going forward.
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Tax Credits Update

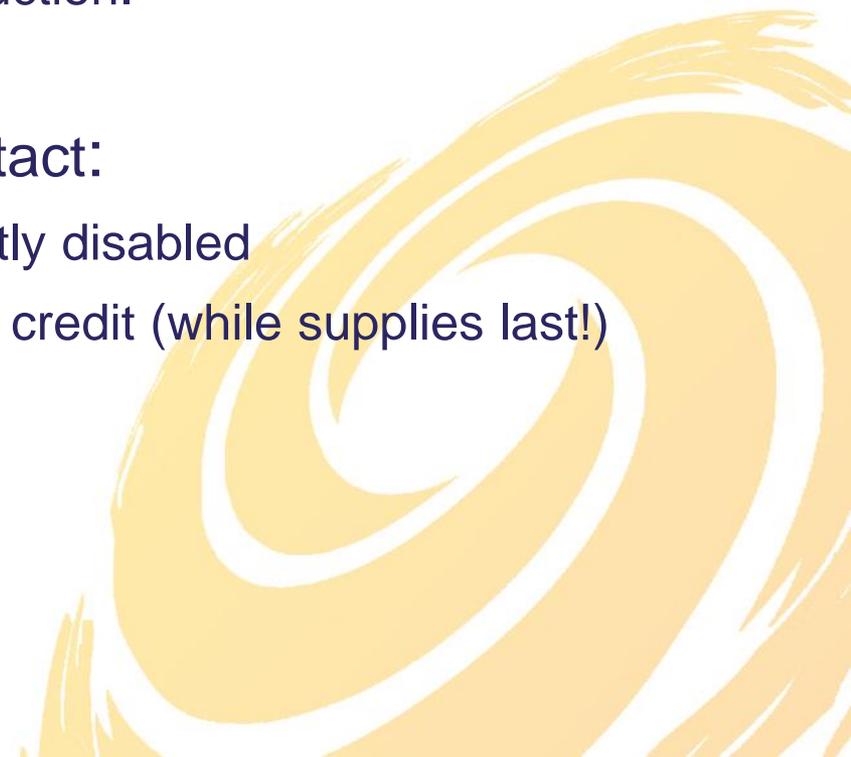
The Child Tax Credit

	<u>Pre 2018</u>	<u>Post 2017</u>
Child Tax Credit	\$1000 per child (Up to \$1,000 refundable)	\$2,000 per child (Up to \$1,400 refundable)
Other Dependents	No credit	\$500 per dependent

- The phase-out threshold has been increased. For 2017, the Child Tax Credit begins to phase out (decrease in value) at an adjusted gross income of \$75,000 for Single Filers and Head of Household, \$110,000 if Married Filing Joint, and \$55,000 if Married Filing Separate. **The thresholds are increased to \$400,000 MFJ and \$200,000 for all other taxpayers for years beginning after Dec. 31, 2017.**

Miscellaneous Individual Provisions

- 🌀 The following deductions were eliminated:
 - Alimony payments effective for any divorce or separation agreement **executed or modified after Dec. 31, 2018.**
 - Alimony Income is also non-taxable to the recipient
 - Domestic Production Activities Deduction.

 - 🌀 Additional tax credits remaining intact:
 - Credit for the elderly and permanently disabled
 - Plug-in electric drive motor vehicles credit (while supplies last!)
 - American Opportunity Credit
 - Lifetime Learning Credit
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Miscellaneous Individual Provisions

529 Savings Plans

→ Up to \$10,000/year for elementary/secondary tuition

Estate Tax Exclusion

→ 2018 exclusion increases to \$11.18 million per person

→ Compares to \$5.49 million per person for 2017

Annual Gift Exclusion

→ \$15,000 per person in 2018 (\$30,000 for married couples)



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