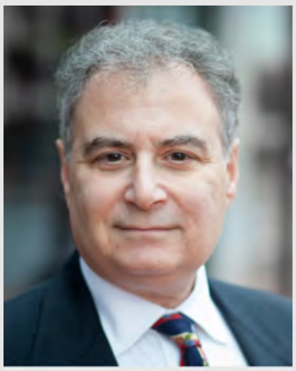
The TCJA and Family Tax Matters Under Federal and Oregon Law

by Larry J. Brant and Steven D. Nofziger



Larry J. Brant

Steven D. Nofziger

Larry J. Brant and Steven D. Nofziger are principals with Garvey Schubert Barer.

In this viewpoint, the authors examine the less obvious provisions of the Tax Cuts and Jobs Act that affect families and individuals — and whether Oregon has adopted the changes in each case.

A prior version of this article was published on www.larrystaxlaw.com.

I. Introduction

The Tax Cuts and Jobs Act (P.L. 115-97) creates the need for tax planning regarding several major life-changing events individuals may encounter — including marriage, divorce, home ownership, casualty losses, medical expenses, and parenting. More specifically, the TCJA significantly changes the existing framework of personal exemptions and itemized deductions, the child tax credit, the tax treatment of alimony and spousal maintenance payments made because of divorce, and the alternative minimum tax.

This article's primary focus is the TCJA provisions that affect families and individuals. Other commentators have reviewed many of these provisions in the past few months. Those instances are briefly reviewed, but the bulk of the discussion is on the less obvious provisions. And in each instance, we reference whether Oregon has adopted the change.

II. Family Matters: Personal Exemptions and Withholding, the Child Tax Credit, and Alimony

A. Overview

This section focuses on several key changes to the IRC that significantly affect families and any related tax planning — including the elimination of personal exemptions, changes to tax withholding, the expanded child tax credit, and modifications to the treatment of alimony and spousal maintenance payments related to divorce.

B. Personal Exemptions and Withholding

1. Background and prior law

Under prior law, a personal exemption deduction (set forth in IRC section 151) was generally available for a taxpayer, his or her spouse, and each dependent child. The amount was set by statute and adjusted annually for inflation. For 2017, the personal exemption was $4,050 for each qualifying person. In general, an individual could calculate his or her taxable income by subtracting from adjusted gross income the applicable personal exemptions (as well as either the standard deduction or applicable itemized deductions). Individuals could use the number of applicable personal exemptions to determine the amount to be withheld from employee wages based on IRS tables.

A similar exemption applied to some trusts and estates, though the amount varied depending on the type of trust or estate.

Table 1. Pre-TCJA Exemptions

Type of Trust/Estate	Amount of Exemption
Estates	$600
Qualified disability trusts	Same as for individuals ($4,050 in 2017)
Trusts required to distribute all their income	$300
All other trusts	$100

2. TCJA

The TCJA eliminates the personal exemption under IRC section 151 for tax years starting after December 31, 2017, and continuing through December 31, 2025. In other words, the personal exemption amount is reduced to zero until 2026, when it returns to life (unless Congress acts).

Despite doing away with the personal exemption (at least until 2026), Congress preserved other references to IRC section 151 in the code. For example, the child tax credit (discussed later) is available to taxpayers who would be allowed a deduction under IRC section 151. Even though that deduction no longer exists, the qualifications in IRC section 151 still apply when determining whether a taxpayer is entitled to the child tax credit.

The TCJA makes corollary changes to the withholding requirements to reflect the fact that personal exemptions no longer exist. Instead of withholding based on personal exemptions, employees now need to withhold based on other criteria, such as eligibility for the child tax credit (discussed later), whether the taxpayer files jointly or individually, and whether the taxpayer itemizes or uses the standard deduction. The IRS recently issued initial guidance — including a withholding calculator[1] — to help taxpayers determine their new withholding obligations under the TCJA. The IRS also issued a revised Form W-4 so taxpayers can calculate and modify their withholding from wages. The IRS encourages all taxpayers to review and adjust their withholding to avoid surprises in early 2019 in the amount of income tax owed for 2018 (plus penalties and interest) because they failed to have adequate amounts withheld from wages.

The TCJA preserves an exemption for trusts and estates, but it changes the amount available to qualified disability trusts from $4,050 in tax year 2017 to $4,150 in tax year 2018, with annual increases for inflation in the future.

Table 2. TCJA Exemptions

Type of Trust/Estate	Amount of Exemption
Estates	$600
Qualified disability trusts	$4,150 in 2018
Trusts required to distribute all their income	$300
All other trusts	$100

3. Tax planning tip

Taxpayers should review and adjust their withholding using the withholding calculator and the revised Form W-4. Given the TCJA changes, that is especially important for taxpayers who itemized deductions in 2017 and prior years because they may no longer be itemizing or their itemized deductions may be substantially reduced because of the TCJA changes (for example, $10,000 aggregate limit on state and local taxes). Nobody wants to be surprised with additional taxes, penalties, and interest resulting from underwithholding. There is no safety net. Caution is advised.

4. Oregon law

Like many states, Oregon bases its tax laws on federal law. When federal tax law changes, Oregon automatically adopts some changes. Other changes require legislative action. In either case, the state legislature must decide which parts of federal law to adopt and which parts to reject while keeping its eye on the fiscal purse.

Subject to adjustments, Oregon's definition of taxable income is continually tied to the federal definition of taxable income (in a manner called the rolling reconnect). Other ties to federal law must be updated, with December 31 being the typical connection date. Under this framework, Oregon automatically adopts any federal law change that affects how taxable income is computed.

[1] Available at: https://www.irs.gov/individuals/irs-withholding-calculator.

Table 3. Pre-TCJA Brackets (for taxes due in 2017 and prior years)

Tax Rate	Individuals	Married Filing Jointly	Married Filing Separately	Head of Household
10%	Up to $9,325	Up to $18,650	Up to $9,325	Up to $13,350
15%	$9,326 to $37,950	$18,651 to $75,900	$9,326 to $37,950	$13,351 to $50,800
25%	$37,951 to $91,900	$75,901 to $153,100	$37,951 to $76,550	$50,801 to $131,200
28%	$91,901 to $191,650	$153,101 to $233,350	$76,551 to $116,675	$131,201 to $212,500
33%	$191,651 to $416,700	$233,351 to $416,700	$116,676 to $208,350	$212,501 to $416,700
35%	$416,701 to $418,400	$416,701 to $470,700	$208,351 to $235,350	$416,701 to $444,550
39.6%	Over $418,400	Over $470,700	Over $235,350	Over $444,550

Changes to the exemption deduction do not affect the federal definition of taxable income and, therefore, do not affect Oregon tax computations. (The amount of any federal exemption was a subsequent subtraction from taxable income. Thus, it came after taxable income was computed.)

C. Child Tax Credit

1. Background and prior law

A tax credit may be available to taxpayers with qualifying children under age 17. The TCJA changes how the credit applies.

Under prior law, the child tax credit was $1,000 per qualifying child under age 17. The credit was phased out by $50 for every $1,000 by which a taxpayer's AGI exceeded specific thresholds: $110,000 for joint filers, $75,000 for heads of household and single filers, and $55,000 for those married filing separately. To claim the credit, a taxpayer needed to provide the child's name and taxpayer identification number on his or her return. Qualifying TINs included a Social Security number, individual taxpayer identification number, or adoption taxpayer identification number (ATIN).

If the $1,000-per-child tax credit exceeded a taxpayer's tax liability, that taxpayer was eligible for a refund up to 15 percent of his or her earned income over $3,000. Neither the $1,000 credit nor the $3,000 earned income limit were adjusted for inflation. For those taxpayers with three or more qualifying children, the amount by which the year's Social Security taxes exceeded the earned income credit was also refundable. The refund, however, was limited to $1,000 per qualifying child.

2. TCJA

For tax years beginning after December 31, 2017, the TCJA modifies the child tax credit. Key changes include:

- doubling the credit amount to $2,000;
- more than doubling the AGI thresholds for phasing out the credit;
- tightening the documentation requirements needed to obtain the credit;
- allowing a partial credit for those who don't qualify for the full credit; and
- changing the refund rules.

Unless Congress acts, those changes will remain effective through December 31, 2025. In 2026 the rules surrounding the credit will revert to pre-TCJA law.

Under the TCJA, the credit amount increases from $1,000 to $2,000 per qualifying child under age 17. The new AGI thresholds for phasing out the credit are $400,000 for joint filers (increased from $110,000 under the old law) and $200,000 for all other filers. As before, the credit is reduced by $50 for every $1,000 by which a taxpayer's AGI exceeds those thresholds. Those thresholds are not indexed for inflation.

To claim the credit, each child's SSN is now required. Other forms of taxpayer identification, such as an ITIN or ATIN, no longer suffice. This change is clearly motivated by the current administration's focus on immigration policy. SSNs are only available to U.S. citizens, those who are lawfully admitted into the United States for permanent residence or work, and others who can lawfully work in the United States. Although there is no express requirement that a taxpayer claiming the credit himself or herself be a U.S. citizen or resident, as a practical matter, taxpayers with questionable citizenship or residency status will be hesitant to claim the credit.

The TCJA establishes a new $500 credit for taxpayers with qualifying dependents who are not qualifying children under the foregoing rules. There is no age limit for this credit, but specific dependency tests under IRC section 152 must be met (for example, a nonqualifying child could include a child under age 19, a full-time student under age 24, or a disabled child of any age). Note: Parents of qualifying children who lack SSNs — and therefore cannot receive the full $2,000 credit — may be eligible for the $500 partial credit. However, parents of nonqualifying children can only receive the partial credit if the parents themselves are U.S. citizens, U.S. nationals, or U.S. residents.

The TCJA also made changes to the refund calculations: If the tax credit exceeds a taxpayer's income tax liability, that taxpayer is now eligible for a refund up to 15 percent of earned income more than $2,500 (reduced from $3,000 under prior law). The maximum refundable portion of the credit is now $1,400 (compared with $1,000 under prior law) per qualifying child. Those changes may result in larger refunds. The new $500 credit, however, is not refundable.

3. Tax planning tips

Those taxpayers who qualified for the child tax credit in prior years need to determine whether their children meet the stricter documentation requirements. Taxpayers who previously ignored the credit because their AGI was too high to benefit from it may need to revisit that consideration. The higher AGI threshold means the credit is effectively available to more families. Further, given the loss of the personal exemption (previously $4,050 per spouse and dependent child), the credit may be an even more important tax planning tool for many families.

Those two IRC changes will adversely affect families who have college-age children. Under pre-TCJA law, taxpayers with children in college under age 24 as of the close of the calendar year could continue to take a dependency exemption of $4,050 per qualifying child. The exemption equated to about a $1,000 tax reduction for taxpayers in the 25 percent bracket. Under the TCJA, taxpayers lose the exemption and can only take a $500 credit for dependent children in college who are under age 24. That $500 loss will be a tough pill to swallow for many families during years when the cash outflow for college expenses is significant. Taxpayers need to run the numbers to determine how they will be affected by the changes to the exemptions and child tax credits.

4. Oregon law

The TCJA changes do not affect the federal definition of taxable income and, therefore, do not affect Oregon tax computations. As with the federal exemptions described earlier, the child tax credit is a subsequent adjustment to federal taxable income. Thus, Oregon law is not tied to any changes in this credit.

D. Alimony and Maintenance Payments

1. Background and prior law

Alimony and maintenance payments are usually amounts paid by the higher-earning spouse to the lower-earning spouse under an agreement or decree related to divorce. The payments are meant to limit the unfair economic impact of divorce on the lower-earning spouse by providing him or her with a continuous stream of income. The amount of alimony or maintenance payments is usually negotiated between the two spouses or their attorneys and determined through mediation, settlement negotiations, or court order.

Under prior law, alimony and maintenance payments were treated as deductible expenses to the payer (former IRC section 215(a)). Likewise, those payments were treated as taxable income to the recipient (former IRC sections 71(a) and 61(a)(8)).

As Gavin pronounced in the 1989 movie *The War of the Roses* about divorce: "There is no winning! Only degrees of losing!" The tax treatment of alimony and maintenance payments under prior law clearly had Gavin's statement in mind as IRC sections 215(a), 61(a)(8), and 71(a) were aimed at facilitating prompt and fair settlement agreements between divorcing couples by creating as much of a win-win situation as possible: The higher-earning spouse received a tax benefit proportional to the amount paid to the lower-earning spouse, encouraging cooperation and generosity. At the same time, the lower-earning spouse generally fell into a lower income tax bracket and enjoyed lower tax rates, mitigating the tax burden of the alimony income on that spouse. Essentially, the government subsidized the alimony.

2. TCJA

The TCJA eliminates those code provisions. Consequently, for any divorce or separation agreement or judgment finalized after December 31, 2018, alimony and maintenance payments are no longer deductible by the payer. Also, those payments are no longer taxable to the recipient.

These changes do not affect divorced couples or any couple who finalizes their divorce before December 31, 2018 — unless they modify their divorce agreements to specifically state that the TCJA's treatment of alimony and maintenance now applies.

Also, the TCJA does not change the preexisting rules for child support — that is, that child support is not deductible by the payer and is not income to the recipient.

3. Tax planning tips and guidelines

If a divorce is on the table, any taxpayer who may end up paying his or her soon-to-be-former spouse alimony or maintenance should swiftly finalize the resolution before the end of 2018. Again, treating the alimony and maintenance payments as deductible by the payer and taxable to the recipient can benefit both parties. The payer may be willing to pay the former spouse more than he or she would be willing to pay next year when the law changes, thereby facilitating a swifter conclusion to a divorce. Note: This option is only available through the end of 2018.

For taxpayers paying alimony or maintenance: If a divorce occurs after 2018 or if the alimony or maintenance payments are otherwise subject to TCJA treatment because of a modification of the governing divorce documents after 2018, taxpayers need to pay close attention to how the amount of the payments is determined. The amounts paid for alimony or maintenance will need to factor in the taxes that the payer will owe on the income generated to pay the payee. Likewise, both the payer and payee need to take into consideration that the payee will receive the payments free of federal income tax.

If a taxpayer modifies after December 31, 2018, a divorce decree or settlement agreement entered before the end of 2018, caution is advised. If the taxpayer, in these situations, wants the TCJA rules to apply to the pre-2019 decree or agreement, consider adding this language to the modification document: "The parties hereto expressly desire that the applicable provisions of the Internal Revenue Code, as modified by the Tax Cuts and Jobs Act, apply to all alimony or maintenance payments made on or after the date hereof, and shall report the payments for income tax purposes accordingly."

If, on the other hand, the taxpayer wants the pre-TCJA rules to apply to the pre-2019 decree or agreement, consider adding this to the modification document: "The parties hereto expressly desire that the applicable provisions of the Internal Revenue Code existing immediately preceding the enactment of the Tax Cuts and Jobs Act apply to all alimony or maintenance payments made hereunder." Note: Taxpayers have no ability to select the tax treatment relative to alimony or maintenance made under an original decree or agreement entered after 2018. Those payments are nondeductible by the payer and are nontaxable to the payee because of the TCJA.

4. Oregon law

States and localities may or may not adopt this TCJA change — hence state and local taxation may differ. Oregon has automatically adopted the federal changes because the changes are taken into account in computing federal taxable income. In the future, the loss of the federal alimony deduction will increase the payer's federal taxable income and, therefore, the payer's Oregon taxable income. Similarly, since payees will no longer include alimony received in their federal taxable income, alimony received will also be excluded from their Oregon taxable income.

Every divorce unfolds differently. Even couples who share good intentions of proceeding amicably should prepare for alternative scenarios. They should not delay in engaging a trusted family law attorney as well as a trusted tax adviser for particularized advice and representation on how to minimize the financial harm of parting ways.

Table 4. TCJA Brackets (for taxes due in 2018 through 2025)

Tax Rate	Individuals	Married Filing Jointly	Married Filing Separately	Head of Household
10%	Up to $9,525	Up to $19,050	Up to $9,525	Up to $13,600
12%	$9,526 to $38,700	$19,051 to $77,400	$9,526 to $38,700	$13,601 to $50,800
22%	$38,701 to $82,500	$77,401 to $165,000	$38,701 to $82,500	$50,801 to $82,500
24%	$82,501 to $157,500	$165,001 to $315,000	$82,501 to $157,500	$82,501 to $157,500
32%	$157,501 to $200,000	$315,001 to $400,000	$157,501 to $200,000	$157,501 to $200,000
35%	$200,001 to $500,000	$400,001 to $600,000	$200,001 to $300,000	$200,001 to $500,000
37%	Over $500,000	Over $600,000	Over $300,000	Over $500,000

III. Major Life Events: Changes to Tax Rates, the Existing Deduction Framework, and Key Itemized Deductions Affecting Major Life Events

A. Overview

A logical discussion about TCJA changes to key itemized deductions can only occur in the context of related changes to individual tax rates and the standard deduction. As part of the TCJA, Congress modified the entire framework of itemized deductions to intentionally broaden the tax base and lower individual income tax rates. The result is fewer itemized deductions — and many of the former itemized deductions were important to some taxpayers. Some deductions provided relief for taxpayers undergoing hard times (for example, substantial medical expenses or casualty losses). Others — such as the mortgage interest and state income tax deduction — were advantageous to many taxpayers. Not all the changes will affect every taxpayer, but for many, the changes will have a substantial impact. Thus a summary of the new framework is warranted.

B. Individual Tax Rates and Brackets

1. Background and prior law

Under pre-TCJA law, there were seven different marginal tax rates as seen in Table 3.

These brackets were adjusted for inflation annually based on the change in the Consumer Price Index for All Urban Consumers (CPI-U).

2. TCJA

Under the TCJA, the seven marginal tax rates are changed as seen in Table 4.

The new tax rates and brackets are in effect for tax years 2018 through 2025. Thereafter, we revert to the pre-TCJA structure.

The TCJA generally lowers tax rates across the board and increases the upper taxable income limit for each bracket, resulting in lower marginal tax rates to greater income. The TCJA also uses a different method of inflation indexing than we had under prior law. The tax brackets are adjusted for inflation annually based on the change in the chained CPI-U, which considers consumers' ability to alter their consumption patterns by substituting for lower priced goods. The chained CPI-U generally rises at a slower rate than the CPI-U. Thus, this change will ultimately result in more bracket creep to the extent that wages increase faster than the chained CPI-U. The chained CPI-U method does not sunset and will continue as the inflation indexing method after the pre-TCJA tax rates and brackets spring back into effect in 2026.

3. Oregon law

Oregon tax rates remain static and have not been affected by the TCJA. They remain as seen in Table 5.

Table 5. Oregon Tax Rates

Tax Rate	Individuals and Married Filing Separately
5%	Up to $2,000
7%	$2,001 to $5,000
9%	$5,001 to $125,000
9.9%	Over $125,000

For taxpayers filing as married filing jointly, head of household, or widow or widower with dependent child, taxes are calculated as twice the tax that would be imposed under the foregoing rate structure if the taxable income were cut in half. Taxpayers who have non-passive income attributable to a partnership, S corporation, or sole proprietorship are eligible to elect to be taxed at slightly reduced rates on that income.

C. The Standard Deduction

1. Background and prior law

Taxpayers can take the standard deduction or itemize their deductions, whichever is greater. Under pre-TCJA law, the standard deduction in 2017 was $6,350 for individuals and married persons filing separately, $12,700 for married taxpayers filing jointly, and $9,350 for heads of household. Those amounts were indexed for inflation based on annual changes in the CPI-U. Taxpayers who are blind or age 65 or older are eligible for an additional amount of standard deduction.

2. TCJA

The TCJA retains the option to itemize or claim the standard deduction, but nearly doubles it to $12,000 for individuals and married couples filing separately, $24,000 for married couples filing jointly, and $18,000 for heads of household. Those amounts remain in effect through December 31, 2025. The standard deduction will be indexed for inflation in tax years beginning after 2018 using the chained CPI-U. The additional amount of the standard deduction for taxpayers who are blind or age 65 or older continues.

The expanded standard deduction means that more taxpayers will rely on it and fewer taxpayers will itemize. This change may significantly benefit taxpayers who did not historically itemize or whose itemized deductions tended to be less than the new standard deduction. However, for taxpayers that previously itemized and had substantial deductions, this change — combined with the new limitations on itemized deductions (discussed later) — may mean those taxpayers may face a lower overall amount of deductions.

3. Oregon law

Oregon allows taxpayers to claim the larger of their itemized deductions or their Oregon standard deduction. Those deductions are subtractions from Oregon taxable income. As will be discussed, Oregon's itemized deductions are affected by the TCJA because they are tied to federal itemized deductions.

D. Key Itemized Deduction Changes

As noted, taxpayers generally may claim the larger of the standard deduction or their itemized deductions. Before the TCJA, numerous itemized deductions were available. A complete review of those deductions is outside the scope of this article, but it's worth discussing some of the most commonly claimed and financially important ones and the major changes brought by the TCJA to the itemized deduction framework.

1. Mortgage interest deduction

Under prior law, taxpayers who were married filing jointly could deduct interest regarding acquisition indebtedness — indebtedness incurred to purchase, construct, or improve their primary or secondary residence and secured by the residence — up to $1 million ($500,000 for taxpayers who were single or married filing separately). Taxpayers who were married filing jointly were also allowed a separate deduction for interest on up to $100,000 ($50,000 for single or married filing separately) of "home equity indebtedness." Home equity indebtedness is indebtedness, other than acquisition indebtedness, secured by a qualified residence, and it typically takes the form of a home equity loan or line of credit (for example, a home equity line of credit (HELOC) or second mortgage).

The TCJA lowers the mortgage interest deduction limit for acquisition indebtedness to $750,000 (joint returns) and $375,000 (single and married filing separately). Loans predating the TCJA over those limits are grandfathered in (that is, up to $1 million under prior law). Refinancings of preexisting acquisition indebtedness are likewise grandfathered in up to the pre-TCJA limits so long as the amount of the refinance does not exceed preexisting debt. The TCJA eliminates the prior deduction for interest on home equity indebtedness.

There was initially a fair bit of confusion surrounding those changes, as many believed that interest on all home equity indebtedness was no longer deductible. The IRS recently clarified that the elimination of the deduction for home equity indebtedness does not, however, eliminate the deduction for all HELOC or second mortgage interest. Rather, the key is still the purpose for which the loan proceeds are used. There's no longer a deduction for HELOCs or second mortgages that constitute home equity indebtedness — that is, because the proceeds are not used to acquire, construct, or improve the home (for example, borrowing to pay for college, a car, or a boat).

However, if the HELOC or second mortgage is used to purchase, construct, or improve a first or second home, and therefore qualifies as acquisition indebtedness, interest remains deductible to the extent the funds are so used. Thus, borrowing on a HELOC to renovate a house or purchase a second home should still qualify for the interest deduction, subject to the new overall limits on total acquisition indebtedness described above. Borrowing on a HELOC to pay for other expenses, such as a child's college expenses, is no longer deductible.

2. State and local tax deduction

Under prior law, individual taxpayers were allowed to deduct personal (that is, nonbusiness or non-investment) state, local, and foreign income taxes; state, local, and foreign real property taxes; and state and local (but not foreign) personal property taxes. In lieu of the deduction for state and local income taxes, taxpayers could elect to deduct state and local sales taxes.

Under the TCJA, taxpayers may no longer deduct personal (that is, nonbusiness or non-investment) foreign real property taxes. The TCJA also limits the aggregate annual deduction for state and local income taxes (or sales taxes, if elected), foreign income taxes, and state and local real and personal property taxes to a maximum of $10,000 for married filing jointly and single filers ($5,000 for married taxpayers filing separately). This change is effective for tax years after December 31, 2017, and before January 1, 2026.

3. Casualty losses

Under prior law, individuals were allowed, subject to limitations, a deduction for personal (that is, nonbusiness) losses of property that resulted from fire, storm, shipwreck, other casualty, or theft.

Under the TCJA, personal casualty losses are only deductible to the extent they arise or are attributable to a federally declared disaster. This change is effective for tax years after December 31, 2017, and before January 1, 2026. These losses are still only deductible to the extent they exceed $100 per casualty and 10 percent of AGI, as was the case under prior law. Note: The deduction for losses from theft appears to be unchanged.

4. Medical expense deduction

Under prior law, individuals were allowed a deduction for unreimbursed medical care expenses (as defined under IRC section 213(d)) for themselves and their spouses and dependents to the extent that such expenses exceeded 10 percent of AGI. For tax years between December 31, 2012, and January 1, 2017, the threshold was reduced to 7.5 percent of AGI if the taxpayer or spouse was age 65 or older.

The TCJA temporarily (and retroactively) expands the medical expense deduction. For tax years beginning after December 31, 2016, and before January 1, 2019, any taxpayer, regardless of age, may deduct unreimbursed medical expenses more than 7.5 percent of AGI.

5. Other changes

Finally, taxpayers were also allowed numerous other miscellaneous itemized deductions subject to a 2 percent AGI threshold, and higher income taxpayers were subject to an overall limit (that is, the Pease limitation) on their itemized deductions, which reduced itemized deductions by 3 percent of the amount by which the taxpayer's AGI exceeded a specified threshold (but not by more than 80 percent overall).

The TCJA suspends all miscellaneous itemized deductions and the Pease limitation for tax years beginning after December 31, 2017, and before January 1, 2026.

6. Oregon law

As noted, Oregon allows taxpayers to claim the larger of their itemized deductions or their Oregon standard deduction. The state allows taxpayers who don't itemize for federal purposes to itemize for Oregon purposes by filing a pro forma Schedule A. The TCJA's changes to the allowed federal itemized deduction framework will directly affect taxpayers who itemize for Oregon purposes. The limitations on mortgage interest and casualty losses will adversely affect some taxpayers caught by the limitations, while the expanded medical expense deduction may benefit other taxpayers.

The federal limitation for state and local taxes will have only a minor impact on Oregon taxpayers, since those who itemize are required to add back the amount of Oregon income taxes deducted for federal purposes. Thus, while the federal (and Oregon) deduction may be smaller, the addback will also be smaller. Oregon will likely lose revenue from the resulting lower taxpayer income because of the federal higher standard deduction and the decreased addback to Oregon income for those taxpayers who itemize.

E. Individual AMT Changes

1. Background and prior law

Under pre-TCJA law, taxpayers were subject to an AMT, which was a separate tax regime that effectively eliminated most deductions and tax preference items and subjected the resulting alternative minimum taxable income to tax using tax brackets of 26 percent and 28 percent. Taxpayers paid the higher of their regular tax liability or the AMT liability.

The AMT framework contained an income exemption that was indexed for inflation. In 2017 the exemption amounts were:

- $54,300 for unmarried individuals;
- $84,500 for married individuals filing a joint return;
- $42,250 for married individuals filing separate returns; and
- $24,100 for an estate or trust.

For tax years beginning in 2017, the exemption amounts were phased out by an amount equal to 25 percent of the amount by which the individual's AMT income exceeded:

- $120,700 for unmarried individuals;
- $160,900 for married individuals filing a joint return; and
- $80,450 for married individuals filing separate returns, estates, and trusts.

2. TCJA

The TCJA temporarily increases both the individual AMT exemption amount and the exemption amount phaseout thresholds for tax years beginning after December 31, 2017, and before January 1, 2026. During those years, the AMT exemption amount is increased to:

- $109,400 for married taxpayers filing a joint return;
- $54,700 for married taxpayers filing a separate return; and
- $70,300 for all other taxpayers (other than estates and trusts).

The exemption phaseout thresholds are increased to $1 million for married taxpayers filing a joint return and $500,000 for all other taxpayers (other than estates and trusts). Those amounts are indexed for inflation.

The changes will likely result in fewer individuals being subject to the AMT.

3. Oregon law

Oregon has no version of the AMT. Further, the federal AMT is calculated after federal taxable income is determined; thus, the federal changes do not affect Oregon tax liability.

IV. Conclusion

Family matters such as marriage, divorce, home ownership, and parenting are rife with complexity even outside the context of taxes.

Nonetheless, the TCJA has penetrated those aspects of taxpayers' lives and its impact should not be ignored. A proactive approach to planning can alleviate some uncertainty and free up more time to focus on those relationships that matter most.

You cannot only focus on the federal tax laws. That is especially true after the TCJA. Many states, including Oregon, are picking and choosing which provisions to conform to and which to decouple from. ■