



Washington Tax Brief

June 6, 2018

More Helpful Hints



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Ask your questions

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About the Washington Tax Brief

Webcast Series to Update You On:

- The regulatory and political environment for tax issues
- AICPA's advocacy efforts to:
 - protect your professional interests
 - support sound tax policy
 - promote effective tax administration
- Open to All AICPA Members
- Open to All State Society Staff and Committee Members



Today's Presenters



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Today's Agenda

01 **Next Phase of Tax Reform**

02 **Key Tax Reform Issues**

03 **Virtual Currency**

04 **IRS Reform**

05 **Other Hot Topics**

06 **Q & A**

Next Phase of Tax Reform

Tax Reform Landscape



One Hundred Fifteenth Congress
of the
United States of America

AT THE FIRST SESSION

*Begun and held at the City of Washington on Tuesday,
the third day of January, two thousand and seventeen*

An Act

To provide for reconciliation pursuant to titles II and V of the concurrent resolution on the budget for fiscal year 2018.

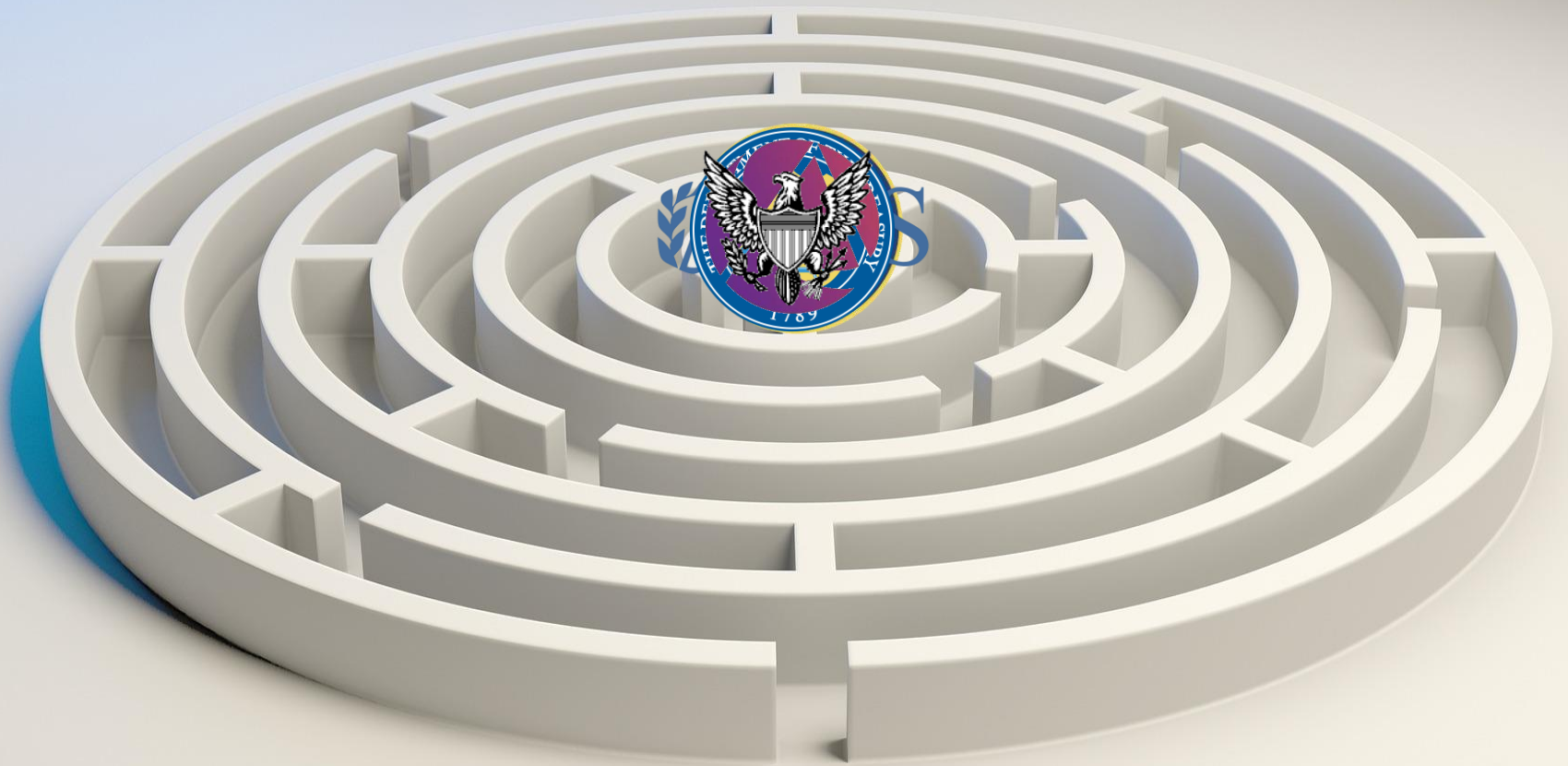
Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I

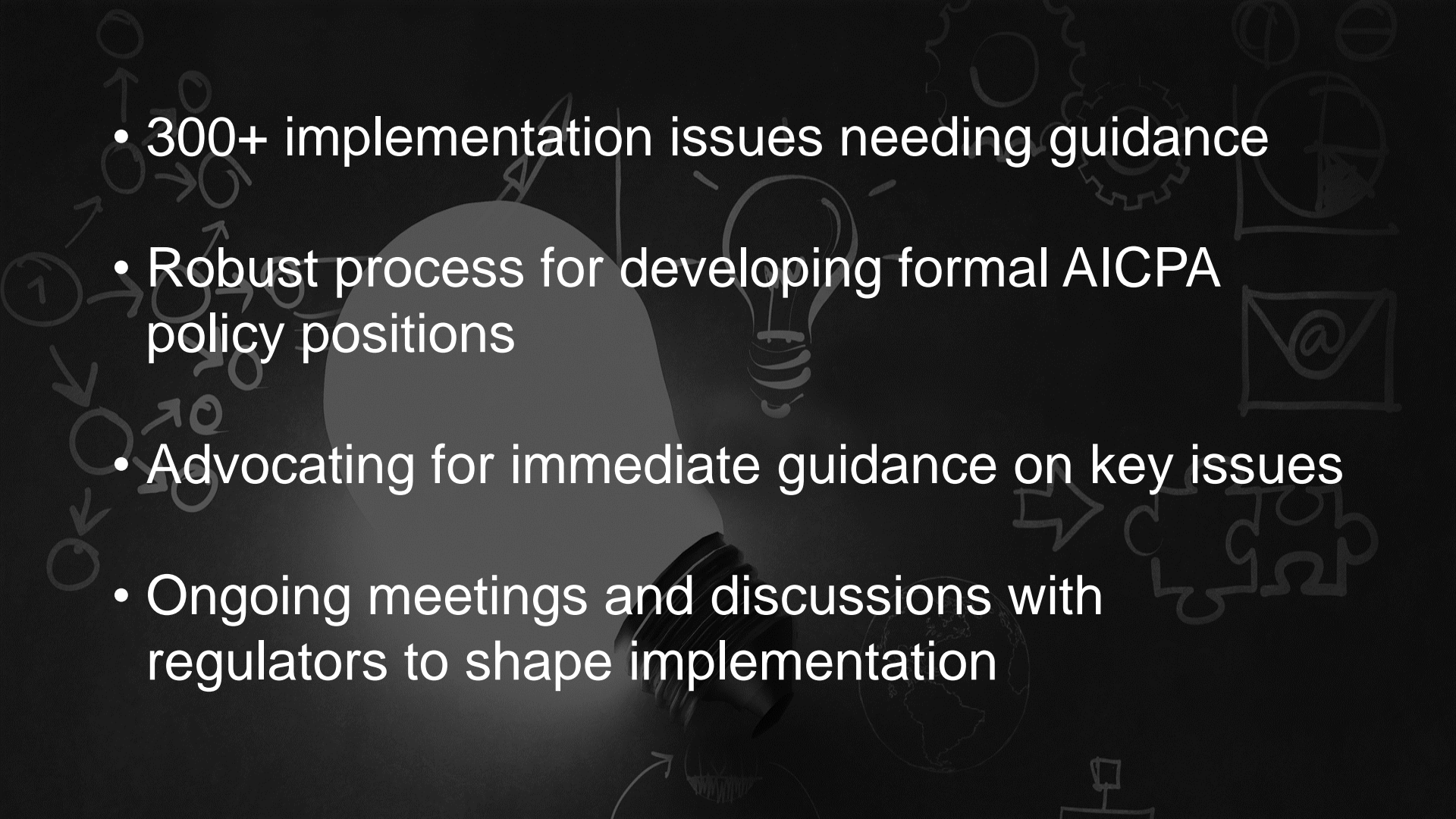
SECTION 11000. SHORT TITLE, ETC.

(a) **AMENDMENT OF 1986 CODE.**—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

Subtitle A—Individual Tax Reform
PART I—TAX RATE REFORM





- 
- 300+ implementation issues needing guidance
 - Robust process for developing formal AICPA policy positions
 - Advocating for immediate guidance on key issues
 - Ongoing meetings and discussions with regulators to shape implementation

IRS Tax Reform News Releases

The screenshot shows the top navigation bar of the IRS website. On the left is the IRS logo. To its right is a search bar with the text "Search" and a magnifying glass icon. Further right are links for "Help", "News", and "Language" with a dropdown arrow. Below these are two buttons: "Charities & Nonprofits" and "Tax Pros". Below the navigation bar is a horizontal menu with six items: "File", "Pay", "Refunds", "Credits & Deductions", "Forms & Instructions", and a partially visible "More" option.

[Home](#) > [News](#) > Tax Reform

Tax Reform

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Major [tax reform](#) was approved by Congress in the [Tax Cuts and Jobs Act](#) (TCJA) on December 22, 2017. The IRS is working on implementing this major tax legislation that will affect both individuals and businesses. We will provide information and guidance to taxpayers, businesses and the tax community as it becomes available. Check this page for updates and resources.

IRS News Releases, Fact Sheets & Statements

[IRS offers penalty, filing relief to many subject to new transition tax on foreign earnings](#)

IR-2018-131, June 4, 2018 -- The Internal Revenue Service (IRS) today announced that it will waive certain late-payment penalties relating to the section 965 transition tax, and provided additional information for individuals subject to the section 965 transition tax regarding the due date for relevant elections.

[Law change affects moving, mileage and travel expenses](#)

IR-2018-127, May 25, 2018 -- The Internal Revenue Service today provided information to taxpayers and employers about changes from the Tax Cuts and Jobs Act that affect: move related vehicle expenses; un-reimbursed employee expenses; and, vehicle expensing.

[New law gives individuals and businesses more time to challenge a wrongful IRS levy; newly-revised publication can help](#)

IR-2018-126, May 25, 2018 -- Individuals and businesses have additional time to file an administrative claim or to bring a civil action for wrongful levy or seizure, according to the Internal Revenue Service.

[Two-income families, taxpayers working multiple jobs should check withholding amount](#)

IR-2018-124, May 24, 2018 -- The Internal Revenue Service urges two-income families and those who work multiple jobs to complete a "paycheck checkup" to verify they are having the right amount of tax withheld from their paychecks.

<https://www.irs.gov/newsroom/tax-reform>

Tax Reform Guidance

- [IRS FAQs](#) on Reporting Related to Section 965 on 2017 Tax Returns
 - IR-2018-131, June 4, 2018: [Penalty & Filing Relief](#)
- [IRS FAQs](#), May 4, 2018 - Section 45S Employer Credit for Paid Family and Medical Leave
- [Notice 2018-28](#), April 2, 2018 – Initial Guidance Under Section 163(j) as Applicable to Taxable Years Beginning After December 31, 2017
- [Notice 2018-54](#), May 23, 2018 – Guidance on Certain Payments Made in Exchange for State and Local Tax Credits



Key Tax Reform Issues



Section 199A – Qualified Business Income

02 Aggregation method for calculation of QBI of pass-through businesses

04 Qualification of wages paid by an employee leasing company

06 Availability of deduction for Electing Small Business Trusts (ESBTs)

01

02

03

04

05

06

01 Definition of QBI

03 Deductible amount of QBI for a pass-through entity with business in net loss

05 Application of section 199A to an owner of a fiscal year pass-through entity ending in 2018

DEFINITION OF QBI

1. Guidance that a trade or business is identified at the activity level, rather than entity level, whereby a business composed of multiple types of activities should have the ability to segregate qualified and nonqualified business income from services.

DEFINITION OF QBI

2. Guidance that defines what constitutes a “business where the principal asset of such trade or business is the reputation or skill of one or more of its employees or owners” in the interpretation of section 1202(e)(3)(A).

DEFINITION OF QBI

3. Guidance that provides a gross receipts safe harbor test whereby nonqualified income generated by a trade or business is deemed as QBI for each taxable year if the nonqualified gross receipts are a certain percentage of the total combined qualified and non-qualified gross receipts from the same trade or business.

DEFINITION OF QBI

4. Guidance that rental real estate is included in the definition of qualified trade or business under section 199A.

DEFINITION OF QBI

5. Guidance on what activities are included in the definition of specified service trade or business under section 199A. Specifically, ask IRS and Treasury to specify that precedents established in section 448 apply to section 1202(e)(3)(A), where appropriate.

AGGREGATION METHOD

Treasury and IRS should permit pass-throughs to aggregate business entities when claiming the new 20 percent tax deduction. This guidance is necessary because it is common for businesses to separate back-office functions like real estate or payroll in different entities from its operations.

Meals, Entertainment & Transportation Fringe Benefits

01

Client-Related Business Meals

02

Employer-Provided Business Meals

03

Employer-Provided Snacks & Other Food Products

04

Employer-Hosted Recreational Social & Similar Activities

05

Advertising or Charitable Contributions When an Element of Entertainment is Present

06

Transportation & Commuting Benefits

Section 163(j) - Business Interest Expense Limitation

“Old” Section 163(j) disallowed a deduction for disqualified interest paid or accrued by a corporation if these 2 threshold tests were met:

01

The payor's debt-to-equity ratio > 1.5 to 1.0; and

02

The payor's net interest expense exceeded 50% of its adjusted taxable income

“OLD” SECTION 163(j)

Section 163(j) - Business Interest Expense Limitation

Disqualified interest under “Old” Section 163(j) included interest paid or accrued to the following:

01

Related parties when no tax was imposed regarding the interest

02

Unrelated parties in certain cases where a related party guaranteed the debt

03

A real estate investment trust (REIT) by a taxable REIT subsidiary of the trust

“OLD” SECTION 163(j)

Section 163(j) - Business Interest Expense Limitation

Under “Old” Section 163(j) :

01

Any disallowed interest could be carried forward indefinitely

02

Any excess limitation could be carried forward 3 years

03

Still applies for tax years beginning on or before December 31, 2017

“OLD” SECTION 163(j)

Section 163(j) - Business Interest Expense Limitation

“New” 163(j) limits a taxpayer’s (taxpayers can be entities other than corporations) annual deduction for business interest to an amount not exceeding the sum of the following for the taxable year:

01

**Business
interest
income**

02

**30% of the
adjusted
taxable
income**

03

**Floor plan
financing
interest**

“NEW” SECTION 163(j)

Section 163(j) - Business Interest Expense Limitation

“New” Section 163(j) exceptions and other pertinent information

01

Exceptions – does not apply if:

- Total annual gross receipts < \$25M
- Regulated utilities trade or business
- Real property trade or business

02

Disallowed interest can be carried forward indefinitely

03

No carryover of excess limitation

04

Applies to tax years beginning after Dec. 31, 2017

“NEW” SECTION 163(j)

Section 163(j) - Business Interest Expense Limitation

[Notice 2018-28](#) provides interim guidance on:

01

Treatment of disqualified interest disallowed under “old” 163(j)

02

Application to consolidated groups

03

Application to partners & partnerships

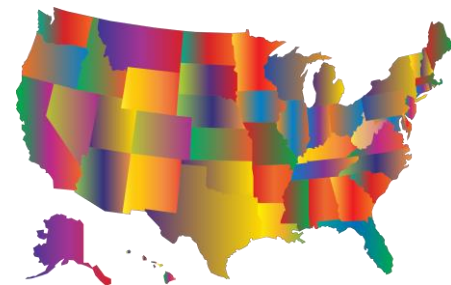
04

All interest paid or accrued by a corporation is considered business interest (even investment interest)

“NEW” SECTION 163(j)

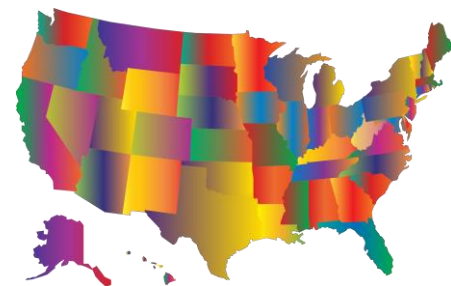
State Impact of Federal Tax Reform

- Conformity to Federal Rules
- Supreme Court Case: South Dakota v. Wayfair
 - AICPA plans to testify on MTC model rule on sales and use tax notification & reporting requirements



State Impact of Federal Tax Reform

- [Notice 2018-54](#) – Guidance on Certain Payments Made in Exchange for State and Local Tax Credits
- 3 Current Workaround Approaches for SALT Deduction:
 1. Payroll Tax (NY)
 2. Entity Level Tax (CT)
 3. Contributions to State Charitable Public Purpose Funds (Various States)



Virtual Currency



What Is Virtual Currency?



Q-1:

How is virtual currency treated for federal tax purposes?

A-1:

For federal tax purposes, virtual currency is treated as property. General tax principles applicable to property transactions apply to transactions using virtual currency.

Notice 2014-21

IRS Virtual Currency Guidance

Notice 2014-21

SECTION 1. PURPOSE

This notice describes how existing general tax principles apply to transactions using virtual currency. The notice provides this guidance in the form of answers to frequently asked questions.

AICPA Letter Addresses:

1. Expenses of Obtaining Virtual Currency
2. Acceptable Valuation and Documentation
3. Computation of Gains and Losses
4. Need for a *De Minimis* Election
5. Valuation for Charitable Contribution Purposes
6. Virtual Currency Events
7. Virtual Currency Held and Used by a Dealer
8. Traders and Dealers of Virtual Currency
9. Treatment under Section 1031
10. Treatment under Section 453
11. Holding Virtual Currency in a Retirement Account
12. Foreign Reporting Requirements for Virtual Currency

IRS Reform



House Approves IRS Reform Bills

- April 18, 2018 – House passed bipartisan legislation to modernize the IRS
- Practitioner's Service Division
 - Engage with the Tax Professional Community
 - Liaise with All Major IRS Operating Divisions
 - Offer Robust Practitioner Hotlines
 - Create an Online Tax Professional Account
 - Establish a Learning Consortium

Other Hot Topics



International Tax Reform



Small Business Method Changes



Partnership Audit Regulations



Excess Business Loss Limitation



IRS Security Changes



Form 706 Transcript

AICPA Comment Letters

February 21, 2018 - [AICPA Comment Letter Request for Immediate Guidance Regarding IRC Section 199A](#)

April 2, 2018 - [AICPA Request for Immediate Guidance Regarding IRC Section 274 – Disallowance of Certain Entertainment, Etc., Expenses \(Pub. L. No. 115-97, Sec. 13304\)](#)

May 16, 2018 - [AICPA Proposed Regulations Regarding the Centralized Partnership Audit Regime: Adjusting Tax Attributes \(REG-118067-17\)](#)

May 30, 2018 - [AICPA Comment Letter on Notice 2014-21 Virtual Currency](#)

QUESTIONS



[AICPA Tax Policy and Advocacy - Website](#)

[AICPA Tax Advocacy Comment Letters - Website](#)

[AICPA Tax Practitioner LinkedIn Group](#)

Upcoming AICPA Webcasts/Courses

- Getting to the Heart of Tax Reform: Individual Tax and Estate Planning Strategies
 - [Webcast – June 14th @ 1PM ET \(4 CPE credits\)](#)
- Tax Reform: The New Qualified Business Income (QBI) Deduction
 - [Video Webcast – June 18th @ 1PM ET \(2 CPE credits\)](#)
- Tax Reform Readiness: Effectively Hold a Client Tax Planning Meeting
 - [Webcast – June 19th @ 1PM ET \(2 CPE credits\)](#)
- Tax Reform Readiness: Reevaluating Clients' Choice of Entity
 - [Webcast – June 27th @ 1PM ET \(2 CPE credits\)](#)
- Live group training also available

aicpa.org/taxreform

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Tax Reform Resource Center

The AICPA Tax Reform Resource Center is your home for comprehensive coverage on tax reform. This page is your go-to for news, resources, videos, podcasts, learning, and AICPA advocacy positions. Bookmark this page and visit often for updates.

AICPA Response to the Tax Legislation

While several provisions are welcome changes, the AICPA is disappointed by CPAs not being included in the new treatment of pass-throughs.

AICPA Comments for Conference Committee

On Dec. 8, 2017, the AICPA submitted comments to the Conference of the House and Senate-passed versions of the Tax Cuts and Jobs Act. [Learn more.](#) JCT, HVMC and SFC documents.

Exclusive Tax Reform Webcasts

Individual Income Tax Changes and Planning Strategies (1/3, 1/12, 1/23), International Business (1/5, 1/17, 1/25), Corporations and Pass-Through Entities (1/9, 1/18, 1/30)

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aicpa.org/advocacy/tax/washingtontaxbrief.html

AICPA Washington Tax Brief

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October 24, 2018



Thank you