HBE
CPAs & Consultants | Wealth Management

TAX CUTS AND JOBS ACT

Tax Reform Considerations for Farmers

On December 22, 2017, President Trump signed the Tax Cuts and Jobs Act, resulting in widespread changes to the Internal Revenue Code effective January 1, 2018. Several of these changes specifically affect farmers, and are important items to consider when planning for the 2018 tax year. A couple changes may also affect the 2017 tax year.

Below is a comparison of the key provisions of the prior and new tax law. It is important to keep in mind that some changes are temporary and will expire for years after December 31, 2025.

	Prior Tax Law	New Tax Law *(Effective January 1, 2018)*
Domestic Production Activities Deduction (DPAD) (Section 199 Deduction)	DPAD allowed farmers to take a deduction for producing agricultural products and was limited to 50% of W-2 wages paid to employees.	DPAD has been repealed.
Tax on Business and Pass-Through Income (Section 199A Deduction)	All pass-through and individual farm income was taxed at the taxpayer's individual tax rate.	Generally, farmers can receive a 20% deduction on income from pass-through entities and Schedule F if taxable income is less than $315,000 for married filers ($157,500 for single filers). If taxable income is above those thresholds, then the deduction could be limited and is subject to additional restrictions.
Selling Grain to Cooperatives Deduction (Section 199A Co-op Deduction) **May include crop-sharing agreements** **Special Note: Waiting for IRS Guidance on the Co-op Deduction**	N/A	Generally, instead of taking the above pass-through deduction, if a farmer is a member of and sells grain or dairy to a cooperative, the farmer can take a deduction of 20% of total sales. This deduction cannot reduce taxable income below income from capital gains. This could reduce this benefit for some farmers. Caution is advised in making significant marketing decisions until additional IRS guidance is issued.
Corporate Tax Rate	15%, 25%, 34%, 35%, 38%, and 39%.	Flat rate of 21%.

(Continued)

	Prior Tax Law	New Tax Law *(Effective January 1, 2018)*
Depreciation	Assets currently depreciated using a 150% declining balance. Equipment and machinery are depreciated using a 7- year useful life.	Assets will be depreciated using a 200% declining balance. Equipment and machinery will be depreciated using a 5- year tax life. Both changes accelerate depreciation deductions.
Section 179	Section 179 allowed farmers to expense all or part of assets purchased during the year. Limited to $500,000 and was phased out for farmers with total asset purchases over $2 million in that year.	Section 179 limitations increasing to $1 million - phasing out for farmers with asset purchases over $2.5 million.
Bonus Depreciation	Farmers were allowed a 50% deduction for **new** assets in the year of purchase.	All **new and used** property can be 100% depreciated in the year of purchase. This is retroactive for all assets purchased after September 27, 2017. Phase out starts in 2023.
Net Operating Loss (NOLs)	Farm net operating losses could be carried back 5 years to claim a refund and carried forward 20 years to offset future income.	Farm net operating losses can be carried back 2 years and carried forward indefinitely, but will be limited to 80% of taxable income.
Like-Kind Exchanges	Farmers could defer taxes on gains when trading real estate and personal property of the same kind.	Deferred gains on like-kind exchanges will only be available for real property exchanges and no longer for personal property. Gains will now be recognized when trading in used equipment for new equipment.
Personal Exemptions	$4,150 per dependent.	Personal exemptions are repealed.
Child Tax Credit	$1,000 tax credit per qualified child under the age of 17. (Up to $1,000 refundable)	Increased to $2,000 per qualified child. (Up to $1,400 refundable)
Standard Deduction	$13,000 for married filers $6,500 for single filers	$24,000 for married filers $12,000 for single filers
Itemized Deductions	Medical payments greater than 10% (7.5% effective 2017) of adjusted gross income, state and local taxes, home mortgage interest on loans less than $1 million, charitable contributions, and miscellaneous itemized deductions.	Medical payments greater than 7.5% of adjusted gross income, state and local taxes **(including home real estate taxes)** are limited to $10,000, home mortgage interest on loans less than $750,000, and charitable contributions. Home equity line of credit interest deductibility is removed. Miscellaneous itemized deductions were repealed. Moving forward, will be more difficult for farmers to itemize. ***Deductibility of real estate taxes on business property not affected by new law***
Alternative Minimum Tax (AMT)	AMT exemption was $86,200 for married filers and $55,400 for single filers. The exemption was phased out beginning at income of $164,100 for married filers and $123,100 for single filers.	AMT exemption increased to $109,400 for married filers and $70,300 for single filers. Phase out begins at $1 million for married filers and $500,000 for single filers.
Estate Tax	Approximately $5.5M per taxpayer	Approximately $11M per taxpayer

Other Tax Strategies to Consider

Entity Selection

This is an excellent time for farmers and all business owners to review their entity selection, whether you are taxed as S-corp, C-corp, Partnership, or Sole Proprietor. Every instance should be looked at case by case. Please consult your tax preparer for advice regarding entity evaluation.

Research and Development Tax Credits (R&D)

Farmers already receive a deduction for their inputs. In addition to taking the normal deductions, there are additional tax credits available if you perform certain activity based on your expenses. A few examples of items that could potentially qualify include the following:

- Development of new strains of crops, plants, or livestock
- Creating improved breeding practices
- Researching genetics to improve breeding herd traits
- Experimentation with new or different fertilizers (organic, etc.)
- Development of new disease resistant crops or livestock

Nebraska State Tax Incentives

- Beginning Farmer Tax Credit – tax credits available to farmers when renting agricultural assets (land, facilities, breeding stock, equipment, etc.) to a new farmer.
- NE Advantage Rural Development Act – refundable tax credits available for new farm investment of over $50,000.

Estate & Inheritance Tax

Farmers may have high net worth estates with land values. The increase of the estate exemption will prevent estates with value less than $22 million (if married) from being taxable. However, while a farmer's estate may not be taxed by the federal government, it is important to remember that Nebraska has an inheritance tax, which is a tax on property transfers after the time of one's death. The Nebraska inheritance tax has varying rates depending on who inherits the property. Estate planning is necessary to adequately prepare for all scenarios.

It may be necessary to revisit estate planning strategies based on the increases and the sunset provisions in 2025.

Gifting of Grain to Children

If grain is gifted to children and held for greater than one year from the time of harvest, the child can receive capital gain rates on sale. Kiddie tax rules apply.

Gifting of Grain to Charity

Grain gifted to a charity can be excluded from income even though the cost of growing the crop is deducted. Many farmers who may not itemize use this tool as a way to benefit a charity and lower their taxable income.

Qualified Distribution from IRA to Charity

A taxpayer is allowed to contribute directly from an IRA to a charity ($100,000 limit) if age 70½ or older. This strategy will lower your AGI and be beneficial to your chosen charity.

Self-Rental Income Strategy

You may be able to limit self-employment tax by holding your farmland outside of your operating entity. Special rules apply to take advantage of this option.

Ordinary Income Tax Rates

Under the Tax Cuts and Jobs Act, the seven tax bracket system was retained, though the brackets were generally reduced by 2-4%, which should save taxpayer money.

SINGLE				MARRIED FILING JOINTLY			
Prior Tax Law		**New Tax Law**		*Prior Tax Law*		**New Tax Law**	
10%	*$0-$9,525*	**10%**	**$0-$9,525**	*10%*	*$0-$19,050*	**10%**	**$0-$19,050**
15%	*$9,525-$38,700*	**12%**	**$9,525-$38,700**	*15%*	*$19,050-$77,400*	**12%**	**$19,050-$77,400**
25%	*$38,700-$93,700*	**22%**	**$38,700-$82,500**	*25%*	*$77,400-$156,150*	**22%**	**$77,400-$165,000**
28%	*$93,700-$195,450*	**24%**	**$82,500-$157,500**	*28%*	*$156,150-$237,950*	**24%**	**$165,000-$315,000**
33%	*$195,450-$424,950*	**32%**	**$157,500- 200,000**	*33%*	*$237,950-$424,950*	**32%**	**$315,000-$400,000**
35%	*$424,950-$426,700*	**35%**	**$200,000- 500,000**	*35%*	*$424,950-$480,050*	**35%**	**$400,000-$600,000**
39.6%	*$426,700 +*	**37%**	**$500,000 +**	*39.6%*	*$480,050 +*	**37%**	**$600,000 +**

Conclusion

Now is the time to begin planning ahead for the changes brought from the new tax reform bill. For more assistance, or to discuss questions you may have related to these or other issues, please contact any one of HBE's trusted advisors. We're here to help you make the most of your tax planning strategies and position you for a successful 2018 and beyond.

As always, thank you for choosing HBE for your accounting and tax needs. We appreciate the opportunity to serve you.