

New IRS Tax Rules - 2017

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April 2017

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THE WOLFE LAW GROUP

Gary S. Wolfe has more than 34 years of experience, specializing in IRS tax audits and international tax matters including: international tax planning/tax compliance, and international asset protection.

He has received 27 separate international tax awards from 10 different global expert societies in LONDON/UK. The awards received are as follows:

- 27) Client Care Law Firm of the Year (2017) – ACQ5/Acquisition Finance Magazine
- 26) Gamechanger of the Year, California/US (Gary Wolfe, The Wolfe Law Group)(2017) – ACQ5/Acquisition Finance Magazine
- 25) Real Estate Finance Law Firm of the Year (2017) ACQ5/Acquisition Finance Magazine
- 24) International Asset Protection Law Firm of the Year (2017) – ACQ5/Acquisition Finance Magazine
- 23) International Tax Planning Law Firm of the Year, California/USA (2017) – ACQ5/Acquisition Finance Magazine
- 22) International Tax Planning Law Firm of the Year, USA (2017) – Finance-Monthly Magazine
- 21) International Tax Planning Award 2017 – International Advisory Experts. IAE has 190,000 subscribers to their publication and 33,000 group members (who select recipients).
- 20) International Tax Planning Law Firm of the Year USA (2017) - The Lawyers International Global Awards
- 19) International Tax Planning Law Firm of the Year in California (2017) – Editor's choice of the 2017 Corporate International Magazine Global Award
- 18) International Tax Lawyer of the Year (2017) – Global Business Magazine/Prof. Sector Network (over 200,000 advisors worldwide)
- 17) International Tax Planning Law Firm of the Year, California (USA) – The Lawyer International-Legal 100 (2016). Announced 10/7/16 with 83,472 votes cast.
- 16) International Tax Planning Law Firm of the Year, California, USA (2017) – M&A Today Awards, a UK based global expert society (announced 9/27/16). M&A awards require no less than 18% in votes from the global readership currently in excess of 151,000 votes from over 163 countries globally.
- 15) International Tax Planning Expert in the USA for 2016-2017 – Leaders-in-Law, London, UK based global expert society (announced 9/27/16). Leaders-in-Law profiles the foremost legal practitioners in their specialty areas with a total platform for over 500 of the world's leading private practice lawyers in more than 120 national jurisdictions.
- 14) ACQ5 Global Awards 2016 – CA/US International Tax Planning Law Firm of the Year
- 13) ACQ5 Global Awards 2016 – CA/US – Real Estate Finance Law Firm of the Year
- 12) ACQ5 Global Awards 2016 – CA/US International Asset Protection Law Firm of the Year
- 11) ACQ5 Global Awards 2016 – CA/US Client Care Law Firm of the Year
- 10) Global 100 (2016) (KMH Media Group) – CA/US International Tax Planning Law Firm of the Year (Voted one of the 100 leading world's law firms with votes from over 150,000 voters in over 160 countries.)
- 9) ACQ5/Acquisition Finance Magazine 2016 – CA/US International Tax Planning Law Firm of the Year

- 8) Corporate International Magazine 2016 – CA/US International Tax Planning Law Firm of the Year
- 7) Global Law Experts 2015 – CA/US International Tax Planning Law Firm of the Year
- 6) M&A (Mergers & Acquisitions) Today 2016 – International Tax Planning Law Firm of the Year (USA)
- 5) M&A (Mergers & Acquisitions) Today 2016 – International Asset Protection Law Firm of the Year (USA)
- 4) M&A (Mergers & Acquisitions) Today 2016 – International Real Estate Finance Law Firm of the Year (USA)
- 3) M&A (Mergers & Acquisitions) Today 2015 – International Tax Planning Law Firm of the Year (USA)
- 2) M&A (Mergers & Acquisitions) Today 2015 – International Asset Protection Law Firm of the Year (USA)
- 1) M&A (Mergers & Acquisitions) Today 2015 – International Real Estate Finance Law Firm of the Year (USA)

As of February 2017, I have published [17 books](#) and [100+ articles](#). Please see links.

For more information please visit www.gswlaw.com.

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New IRS Tax Rules (2017)

In IR-2016-139 (10/25/16)

For Tax year 2017 the following new IRS tax rules apply:

1) Standard Deduction:

Singles: \$6,350 (2016: \$6,300)

Married: \$12,700 (2016: \$12,600)

2) Personal Exemption

Singles: \$4050 (2016: same)

This exemption is subject to a phase out and is reduced by 2% for each \$2500 of Adjusted Gross Income over threshold AGI levels, as follows:

Single over \$261,500 (phased out at \$384,000);

Married over \$313,800 (phased out at \$436,300)

The phase out of may add as much as 1.05% to marginal tax rates.

3) Itemized Deductions

These deductions are reduced by 3% of Adjusted Gross Income (AGI) over \$287,650 for singles, \$313,800 for married couples filing jointly and are fully phased out for Single Taxpayers at \$418,400 (2016: \$415,050) and Married Taxpayers at \$470,700 (2016: \$466,950).

The itemized deductions are reduced by 3% of adjusted gross income not to exceed 80% of total itemizations (medical expenses, investment interest deductions, and casualty losses are all exempt).

The phase-out in itemized deductions is based on the amount of AGI and net taxable income (ie. what is left after itemized deductions).

The phase-out in itemized deductions may add up to 1.19% to marginal tax rates.

4) Alternative Minimum Tax Exemption

Single: \$54,300 (phase out begins at \$120,700)

Married: \$84,500 (phase out begins at \$160,900)

5) Foreign Earned Income Exclusion:

Single \$102,100 (up from \$101,300/2016)

6) Estates

Decedents who die during 2017 basic exclusion amount is \$5.49m/Husband and Wife \$10.98m (up from \$5.45m/\$10.90m/2016)

In addition Federal Payroll Tax planning (FICA/Medicare) has become more complex as these tax rates continue to increase.

In 2017, the Social Security Tax ("FICA") aka Old Age, Survivors and Disability Insurance (OASDI), taxable wage base (on which the 7.65% tax is computed i.e. FICA 6.2%/Medicare 1.45%) increased from \$118,500 (2016) to \$127,200 (2017). This \$8700 increase in the taxable wage base is more than double most previous wage base increases.

The maximum 2017 OASDI portion of the Federal Insurance Contributions Act (FICA) tax is payable by each employee and is \$7886 (6.2% of \$127,200/2017 taxable wage base); the Medicare tax is 1.45% (with no wage tax base ceiling). In tax year 2017, the first \$127,200 would have a Medicare tax of \$1884.

For 2017, the total payroll tax for employees (FICA/Medicare) is \$9730. For employers of closely held companies who pay themselves a salary the Employer/Employee combined tax is \$19,460.

The taxable wage base in excess of \$127,200 remain subjects to an unlimited 1.45% Medicare tax on wages. For taxpayers whose wages

are over threshold amounts (\$200k/individual & \$250k husband and wife) there is an additional 0.9% Medicare tax on earned income (which is in addition to 3.8% Medicare tax on investment income); the tax is then 2.35% so high earners who have closely held companies pay an additional combined 4.7% tax.

TAX PLANNING STRATEGY (Closely Held Companies)

To the extent possible, investment income (as compared to wages/earned income) should not be paid out as wages (by the owners of closely held companies). Otherwise the wages are subject to \$19,460 in Social Security Taxes (Employer/Employee share) and Medicare taxes up to 2.35% (4.7% Employer/Employee share).

Instead, consider segregating investment assets into a CA limited liability company owned 99% by an S-Corporation, which is also the Manager (and 1% by a California Revocable Trust, which trust owns the S-Corporation /100%).

In this scenario, the LLC receives the investment earnings, distributes net income (after expenses) to the S-Corporation (99% Member/Manager). The S-Corporation may allocate a portion to salary, fund a profit sharing or defined benefit plan creating a “tax-shelter for the investment earnings” or make a net distribution (after payment of a reasonable salary to officers) as S-Corporation income to the S-Corporation Shareholders (S-distributions do not have payroll taxes due).

This tax planning has both income tax and asset protection benefits as follows:

1. Unlike an LLC, S-Corporation distributions do not have payroll taxes imposed, which saves \$19,460 on \$127,200 of S-distribution (as well as a combined 4.7% on distributions received by S-shareholders in excess of the \$127,200);
2. The S-Corporation may shelter LLC distributions from tax by making profit-sharing plan/pension contributions in allowable amounts based on salaries (with the excess over salary available as an S-Distribution);

3. Tax audit risk is reduced eg. IRS audit risk is approx. 1% for all taxpayers (and higher for taxpayers who earn more income). The IRS audit risk for S-Corporations is approx. 4/10 of 1% so an S-Corporation has a much lower risk of audit. At the highest income levels i.e. over \$1m IRS audit risk is over 10%, over \$5m is nearly 20%, over \$10m is nearly 35%.

In addition the California/US Income tax “blended tax rates for wage earners is nearly 52% (Federal Tax Rate 44.3% with Medicare taxes; California tax rate: 13.3%); this 51.7% tax rate applies to wage earners.

For investors, the top rate on net investment income is 50.92% (Federal Tax Rate: 43.4%; California Tax Rate: 13.3%).

For taxpayers the phase-outs for personal exemptions and itemized deductions may increase the “blended tax rates” to up to 55%.

