



# TaxNewsFlash

## United States

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### **Notice 2018-38: Fiscal year U.S. corporations to pay “blended” income tax rate under new tax law**

The IRS today released an advance version of Notice 2018-38 as guidance for fiscal year corporate taxpayers concerning the federal income tax rates available under the new tax law (Pub. L. No. 115-97). The IRS noted that many U.S. corporations that use a fiscal year (and not a calendar year) for federal income tax purposes will pay a “blended” rate of federal income tax under the new tax law.

#### **Notice 2018-38**

Under the new tax law, the rate of corporate income tax was reduced to a flat rate of 21%, effective for tax years beginning after December 31, 2017. The new law also repealed the application of the alternative minimum tax (AMT) imposed under section 55 to corporations, effective for tax years beginning after December 31, 2017.

[Notice 2018-38](#) [PDF 22 KB] addresses the income tax rates under section 11(b) and the AMT for corporations under section 55 as well as the application of section 15 in determining the federal income tax (including the AMT) of a corporation with a fiscal or tax year that begins before January 1, 2018, and ends after December 31, 2017. The IRS notice explains that a corporation with a tax year that includes but does not start on January 1, 2018, must apply section 15(a) to determine the amount of federal income tax imposed under section 11 for that tax year. The notice further explains that certain taxpayers—e.g., life insurance companies and regulated investment companies—are not subject to the tax imposed under section 11(a), but are taxed under other Code provisions that use the rates of tax set forth in section 11(b). Examples are provided in the IRS notice to illustrate application of these measures.

A related IRS release—[IR-2018-99](#)—notes that with the new tax law, fiscal year corporate taxpayers will determine their federal income tax for fiscal years that include January 1, 2018, by:

- First calculating their income tax for the entire tax year using the tax rates in effect before the new tax law
- Second calculating their tax using the new 21% rate
- Next assigning the portion of each tax amount based on the number of days in the tax year during which the different rates were in effect
- Finally adding the sum of these two amounts to determine the corporation's federal income tax for the fiscal year that includes January 1, 2018

The IRS release states that fiscal year taxpayers that already filed their federal income tax returns for the tax year that includes January 1, 2018, and that did not show the blended rate, may want to consider filing an amended return.

As noted in the IRS release, the federal sequester law remains in effect for the 2018 fiscal year, and corporations need to be mindful how these rules may affect their tax credits and refunds. Read an [IRS release](#) on the effect of sequestration on the alternative minimum tax credit for corporations.

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