



Tax Cuts & Jobs Act

BKD
CPAs & Advisors

WHAT BUSINESSES & INDIVIDUALS NEED TO KNOW

FEBRUARY 21, 2018



WHAT WE'LL COVER TODAY

1

Business & individual provisions of the
Tax Cuts and Jobs Act (TCJA)

2

Choice of entity considerations after TCJA

3

Approach to planning after the TCJA



CORPORATE TAX RATE

Effective 01/01/2018

- Overall permanent rate reduction

Taxable Income	Previous law	TCJA
\$0 - \$50,000	15%	21%
\$50,001 - \$75,000	25%	
\$75,001 - \$100,000	34%	
\$100,001 - \$335,000	39%	
\$335,001 - \$10,000,000	34%	
\$10,000,001 - \$15,000,000	35%	
\$15,000,001 - \$18,333,333	38%	
Over \$18,333,333	35%	

- **Permanent repeal**

Previous Law	TCJA
20%	Repealed

- **Remaining AMT credits refundable**

- 2018–2020 tax years
 - Reduce regular tax liability by any available AMT credit carryforward
 - 50 percent of any excess AMT credit is refundable
- 2021 tax year
 - Any remaining AMT credit carryforward is refundable



ALTERNATIVE MINIMUM TAX

Effective 01/01/2018



OTHER CORPORATE TAX RATES

Effective 01/01/2018

- **Personal Service Corporations**

Previous law	TCJA
Flat 35%	Flat 21%

- **Personal Holding Company (PHC)**
 - Imposed on undistributed PHC income

Previous law	TCJA
20%	20%

- **Accumulated Earnings Tax**
 - Not self-assessed

Previous law	TCJA
20%	20%

- **Deduction limited**
 - 80 percent of taxable income
 - Applies to losses arising in tax years beginning after December 31, 2017
- **No carryback**
 - Applies to losses arising in tax years ending after December 31, 2017
 - Except
 - Property/casualty insurance companies
 - Certain farm losses
- **Carried forward indefinitely**
 - Applies to losses arising in tax years ending after December 31, 2017



NET OPERATING LOSS (NOL)



COST RECOVERY PROVISIONS

Enhanced Bonus Depreciation

- Now available for both new & used assets

September 27, 2017 – December 31, 2022	100%
2023	80%
2024	60%
2025	40%
2026	20%

Expanded Section 179

- Up to \$1 million; phaseout beginning at \$2.5 million of assets placed in service

Various Other Provisions Modified



BUSINESS INTEREST EXPENSE DEDUCTION

- Deduction generally limited to sum of
 - Business interest income
 - Floor plan financing interest
 - 30 percent of “adjusted taxable income”

Taxable income

+/-	Items of income, gain, deduction or loss not properly allocable to trade/business
+	Business interest expense
-	Business interest income
+	Net operating loss
+	Pass-through business deduction
+	Depletion, depreciation & amortization (taxable years beginning <u>before</u> January 1, 2022, only)



BUSINESS INTEREST EXPENSE DEDUCTION

- Excess carried forward indefinitely
- Limit does *not* apply to
 - ✓ Businesses with average annual gross receipts \leq \$25 million (affiliated group basis)
 - ✓ Regulated public utility business (including electric cooperatives)
 - ✓ Following businesses may elect not to be subject to limitation provided they use ADS method for depreciation
 - Real property businesses
 - Farming businesses (including agricultural & horticultural cooperatives)



BUSINESS PROVISIONS

International

Untaxed Accumulated Foreign Earnings

- 15.5 percent for cash & cash equivalents
- 8 percent otherwise
- Payable over eight years

(Previously not addressed)

Future Foreign Earnings

- Territorial system with base erosion provisions
- 100 percent of foreign-sourced portion of dividends paid by foreign corporation to U.S. corporate shareholder owning 10 percent or more of foreign corporation's stock is exempt from U.S. taxation
- No foreign tax credit or deduction allowed for any foreign taxed paid or accrued with respect to any exempt dividend

(Previously worldwide income tax based on residence & source)



INDIVIDUAL PROVISIONS

Tax brackets: single

Bracket	2018 Ordinary Rates		2018 Capital Gains Rates	
	Previous Tax Law*	New Tax Law*^	Previous Tax Law*	New Tax Law*^
\$0–\$9,525	10%	10%	0%	0%
9,526–38,600	15%	12%	0%	0%
38,601–38,700	15%	12%	0%	15%
38,701–82,500	25%	22%	15%	15%
82,501–93,700	25%	24%	15%	15%
93,701–157,500	28%	24%	15%	15%
157,501–195,450	28%	32%	15%	15%
195,451–200,000	33%	32%	15%	15%
200,001–424,950	33%	35%	15%	15%
424,951–425,800	35%	35%	15%	15%
425,801–426,700	35%	35%	15%	20%
426,701–500,000	39.6%	35%	20%	20%
More than 500,000	39.6%	37%	20%	20%

*Plus 3.8 percent net investment income tax on unearned income when modified adjusted gross income exceeds \$200,000 (\$250,000)

^Expires after December 31, 2025



INDIVIDUAL PROVISIONS

Tax brackets: married filing jointly

Bracket	2018 Ordinary Rates		2018 Capital Gains Rates	
	Current Law*	Conference Agreement*^	Current Law*	Conference Agreement*^
\$0–\$19,050	10%	10%	0%	0%
19,051–77,200	15%	12%	0%	0%
77,201–77,400	15%	12%	0%	15%
77,401–156,150	25%	22%	15%	15%
156,151–165,000	28%	22%	15%	15%
165,001–237,950	28%	24%	15%	15%
237,951–315,000	33%	24%	15%	15%
315,001–400,000	33%	32%	15%	15%
400,001–424,950	33%	35%	15%	15%
424,951–479,000	35%	35%	15%	15%
479,001–480,050	35%	35%	15%	20%
480,051–600,000	39.6%	35%	20%	20%
More than 600,000	39.6%	37%	20%	20%

*Plus 3.8 percent net investment income tax on unearned income when modified adjusted gross income exceeds \$200,000 (\$250,000)

^Expires after December 31, 2025

Alternative Minimum Tax

- 28 percent top rate
- Exemption of \$70,300 single (\$109,400 MFJ)
- Phaseout begins at \$500,000 single (\$1 million MFJ)
- Sunsets December 31, 2025

(Previously 28 percent top rate; exemption of \$55,400 single (\$86,200 MFJ); exemption amounts begin phaseout at \$123,100 & \$164,100, respectively)



INDIVIDUAL PROVISIONS

INDIVIDUAL PROVISIONS

Itemized deductions

SCHEDULE A (Form 1040)		Itemized Deductions				OMB No. 1545-0074	
Department of the Treasury Internal Revenue Service (99)		<p>▶ Go to www.irs.gov/ScheduleA for instructions and the latest information.</p> <p>▶ Attach to Form 1040.</p> <p>Caution: If you are claiming a net qualified disaster loss on Form 4684, see the instructions for line 28.</p>				<p>2017</p> <p>Attachment Sequence No. 07</p>	
Name(s) shown on Form 1040						Your social security number	
Medical and Dental Expenses	Caution: Do not include expenses reimbursed or paid by others.						
	1 Medical and dental expenses (see instructions)				1		
	2 Enter amount from Form 1040, line 38	2					
	3 Multiply line 2 by 7.5% (0.075)				3		
4 Subtract line 3 from line 1. If line 3 is more than line 1, enter -0-					4		
Taxes You Paid	5 State and local (check only one box):				5		
	a <input type="checkbox"/> Income taxes, or	}					
	b <input type="checkbox"/> General sales taxes						
	6 Real estate taxes (see instructions)				6		
	7 Personal property taxes				7		
8 Other taxes. List type and amount ▶				8			
9 Add lines 5 through 8					9		

INDIVIDUAL PROVISIONS

Itemized deductions

Interest You Paid Note: Your mortgage interest deduction may be limited (see instructions).	10	Home mortgage interest and points reported to you on Form 1098	10			
	11	Home mortgage interest not reported to you on Form 1098. If paid to the person from whom you bought the home, see instructions and show that person's name, identifying no., and address				
	12	Points not reported to you on Form 1098. See instructions for special rules	12			
	13	Reserved for future use	13			
	14	Investment interest. Attach Form 4952 if required. See instructions	14			
	15	Add lines 10 through 14				15
Gifts to Charity If you made a gift and got a benefit for it, see instructions.	16	Gifts by cash or check. If you made any gift of \$250 or more, see instructions	16			
	17	Other than by cash or check. If any gift of \$250 or more, see instructions. You must attach Form 8283 if over \$500	17			
	18	Carryover from prior year	18			
	19	Add lines 16 through 18				19

INDIVIDUAL PROVISIONS

Itemized deductions

Job Expenses and Certain Miscellaneous Deductions	21	Unreimbursed employee expenses—job travel, union dues, job education, etc. Attach Form 2106 or 2106-EZ if required.				
		See instructions. ▶	21			
	22	Tax preparation fees	22			
	23	Other expenses—investment, safe deposit box, etc. List type and amount ▶				
			23			
	24	Add lines 21 through 23	24			
	25	Enter amount from Form 1040, line 38	25			
	26	Multiply line 25 by 2% (0.02)	26			
	27	Subtract line 26 from line 24. If line 26 is more than line 24, enter -0-			27	
Other Miscellaneous Deductions	28	Other—from list in instructions. List type and amount ▶			28	
Total Itemized Deductions	29	Is Form 1040, line 38, over \$156,900? <input type="checkbox"/> No. Your deduction is not limited. Add the amounts in the far right column for lines 4 through 28. Also, enter this amount on Form 1040, line 40. <input type="checkbox"/> Yes. Your deduction may be limited. See the Itemized Deductions Worksheet in the instructions to figure the amount to enter.			29	
	30	If you elect to itemize deductions even though they are less than your standard deduction, check here				

PASS-THROUGH BUSINESS DEDUCTION

Noncorporate taxpayer?

YES

Domestic income?

YES

Qualified business income (QBI)?

YES

Taxable income < threshold?⁽¹⁾

NO

YES

NO

NO

NO

NO

Specified service trade/business?

NO

Taxable income > full phaseout?⁽²⁾

YES

Taxable income > full phaseout?⁽²⁾

YES

YES

NO

NO DEDUCTION

REDUCED DEDUCTION

DEDUCTION⁽³⁾ =

20% QBI

+

20% QUAL REIT DIVS.
20% QUAL PTP INCOME
20% QUAL CO-OP DIVS ⁽⁴⁾

DEDUCTION⁽³⁾ =

LESSER OF

20% QBI

OR

GREATER OF

50% W-2 WAGES

OR

25% W-2 WAGES
+ 2.5% QUAL PROPERTY

+

20% QUAL REIT DIVS.
20% QUAL PTP INCOME
20% QUAL CO-OP DIVS ⁽⁴⁾

(1) \$157,500 (single) | \$315,000 (married filing jointly (MFJ)), indexed

(2) \$207,000 (single) | \$415,000 (MFJ), indexed

(3) Limited to 20 percent of excess of taxable income over the sum of any net capital gain

(4) Limited to taxable income less net capital gain



PASS- THROUGH BUSINESS DEDUCTION

Sunsets
12/31/2025

- **Domestic:** effectively connected with conduct of trade/business within U.S. + Puerto Rico
- **Qualified business income:** net amount of items of income, gain, deduction & loss with respect to any qualified trade or business, except
 - Reasonable compensation
 - Guaranteed payments
 - Investment income
 - Short-term & long-term capital gain/loss
 - Dividend income
 - Interest income

(Note overall loss treated as loss for purposes of calculation in subsequent year)



PASS- THROUGH BUSINESS DEDUCTION

Sunsets
12/31/2025

- **Specified service business:** Any trade or business involving performance of services in fields of
 - Health
 - Law
 - Accounting
 - Actuarial science
 - Performance arts
 - Investing & investment management, trading or dealing in securities, partnership interests or commodities
 - Consulting
 - Athletics
 - Financial services
 - Brokerage service
 - Principal asset is reputation or skill of one or more of its employees or owners



PASS- THROUGH BUSINESS DEDUCTION

Sunsets
12/31/2025

- **Limitations:** Apply when taxable income exceeds \$157,500 single (\$315,000 MFJ) & phase out over next \$50,000 (\$100,000) of taxable income
 - 1) Wage limitation: Greater of
 - 50 percent of W-2 wages paid with respect to business
OR
 - 25 percent of W-2 wages paid plus 2.5 percent of unadjusted basis (immediately after acquisition) of all qualified property
 - 2) Not allowed for “specified service trade or businesses” once income exceeds threshold amounts



PASS- THROUGH BUSINESS DEDUCTION

Sunsets
12/31/2025

- Need further guidance in several areas
 - Definition qualified trade or business
 - Application of grouping elections
 - Clarification on how definition of specified service trade or business applies
 - Whether wages paid by an affiliated management company count for purposes of wage limitation
- Possible technical corrections
 - Deduction for sales to farm cooperatives
 - Impact on choice of entity



PASS- THROUGH BUSINESS DEDUCTION

Example 1

Facts

- Sole proprietorship
- Filing status is single
- Manufacturer of widgets
- No employees
- For tax year ending December 31, 2018
 - Taxable income of \$100,000
 - Compensation to owner: \$0
 - Qualified business income of \$100,000
 - Purchased widget-making machine for \$100,000

Qualified business income deduction = \$20,000

- 20 percent of QBI \$20,000
- 50 percent of W-2 wages \$0 ($\$0 \times .50 = \0)
- 25 percent of W-2 wages + 2.5 percent of unadjusted basis of qualified property \$2,500 ($\$100,000 \times .025 = \$2,500$)



PASS- THROUGH BUSINESS DEDUCTION

Example 2

Facts

- Sole proprietorship
- Filing status is single
- Manufacturer of widgets
- No employees
- For tax year ending December 31, 2018
 - Taxable income of \$1,000,000
 - Compensation to owner: \$0
 - Qualified business income of \$1,000,000
 - Purchased widget-making machine for \$1,000,000

Qualified business income deduction = \$25,000

- 20 percent of QBI \$200,000
- 50 percent of W-2 wages \$0 ($\$0 \times .50 = \0)
- 25 percent of W-2 wages + 2.5 percent of unadjusted basis of qualified property \$25,000 ($\$1,000,000 \times .025 = \$25,000$)



PASS- THROUGH BUSINESS DEDUCTION

Example 3

Facts

- S corporation
- Filing status is single
- Manufacturer of widgets
- No employees other than owner
- For tax year ending December 31, 2018
 - Taxable income of \$1,000,000
 - Compensation to owner: \$100,000
 - Qualified business income of \$900,000
 - Purchased widget-making machine for \$1,000,000

Qualified business income deduction = \$50,000

- 20 percent of QBI \$180,000
- 50 percent of W-2 wages \$50,000 ($\$100,000 \times .50 = \$50,000$)
- 25 percent of W-2 wages + 2.5 percent of unadjusted basis of qualified property \$50,000 ($(\$100,000 \times .25) + (\$1,000,000 \times .025) = \$50,000$)



LIMITATIONS ON LOSSES

Net Operating Loss (NOL)

- Deduction limited to 80 percent of taxable income⁽¹⁾
- No carryback (except property/casualty insurance companies & certain farm losses)⁽²⁾
- Carried forward indefinitely⁽²⁾

Excess business loss limitation

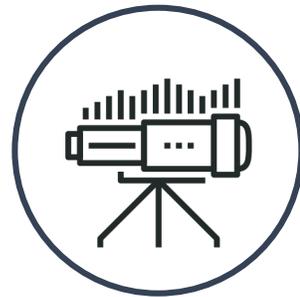
- Aggregate deductions attributable to trades or businesses over aggregate gross income and gain limited to \$250,000 single / \$500,000 MFJ
- Excess loss treated as NOL
- Sunsets December 31, 2025

(1) Applies to losses arising in tax years beginning after December 31, 2017

(2) Applies to losses arising in tax years ending after December 31, 2017

CHOICE OF ENTITY CONSIDERATIONS

Factors to consider under the new tax law



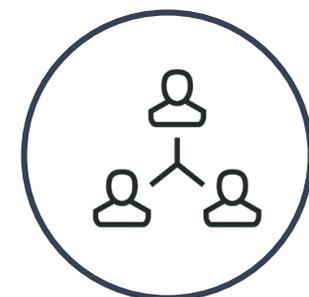
Future tax
rates



Accounting
methods



Employee
benefits



Ownership &
succession

Effective Tax Rate: Pass-Throughs

Seven brackets for individuals | Four brackets for trusts/estates | Top rate of 37 percent |

Alternative minimum tax | 20 percent of QBI deduction | Self-employment tax |

Limitation on SALT deduction | Limitations on losses | Built-in gains tax | Distributions to owners

CHOICE OF ENTITY CONSIDERATIONS

Factors to consider under the new tax law



Future tax
rates



Accounting
methods



Employee
benefits



Ownership &
succession

Effective Tax Rate: Corporations

Flat rate of 21 percent | Top rate of 23.8 percent on qualified dividends (double taxation) |

Accumulated earnings tax (20 percent) | Personal holding company rules |

Full/partial gain exclusion on qualified small business stock



EFFECTIVE TAX RATE

Illustration 1

	Corporation	Pass-through
Taxable income	\$100,000	\$100,000
20 percent of QBI deduction	- -	(20,000)
State income tax deduction*	- -	- -
Adjusted taxable income	100,000	80,000
Tax (21% 37%)	(21,000)	(29,600)
Cash distributed to owner	79,000	70,400
Tax on distribution (23.8% 0%)	18,802	- -
Net cash to owner	\$60,198	\$70,400
Effective tax rate	39.80%	29.60%

**Assumes individual cap on individual state & local tax deduction not reached*



EFFECTIVE TAX RATE

Illustration 2

	Corporation	Pass-through
Taxable income	\$100,000	\$100,000
20 percent of QBI deduction	--	--
State income tax deduction*	--	6,000
Adjusted taxable income	100,000	106,000
Tax (21% 37%)	(21,000)	(39,220)
Cash distributed to owner	79,000	60,780
Tax on distribution (23.8% 0%)	18,802	--
Net cash to owner	\$60,198	\$60,780
Effective tax rate	39.80%	39.22%

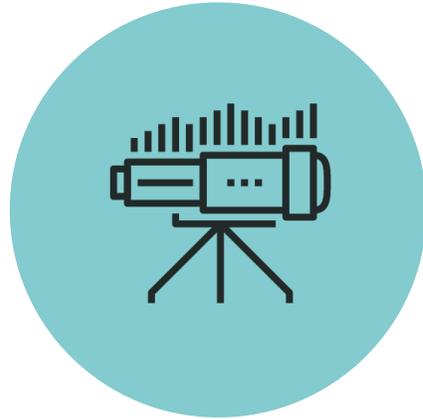
**Assumes individual cap on individual state & local tax deduction already reached*

CHOICE OF ENTITY CONSIDERATIONS

Factors to consider under the new tax law



Effective tax rates



Accounting methods



Employee benefits



Ownership & succession

Future Tax Rates

Projected taxable income | Individual provisions sunset December 31, 2025 |

“Permanent” corporate/qualified dividend tax rate can be changed with further legislation

CHOICE OF ENTITY CONSIDERATIONS

Factors to consider under the new tax law



Effective tax rates



Future tax rates



Employee benefits



Ownership & succession

Accounting Methods

Expanded availability of cash method of accounting for C corporations |

Increased threshold for requirement to use uniform capitalization rules for inventory & percentage-of-completion method for long-term contracts

CHOICE OF ENTITY CONSIDERATIONS

Factors to consider under the new tax law



Effective tax rates



Future tax rates



Accounting methods



Ownership & succession

Employee Benefits & Owner Compensation

Fringe benefits | Retirement plans | Reasonable compensation | Excessive compensation

CHOICE OF ENTITY CONSIDERATIONS

Factors to consider under the new tax law



Effective tax rates



Future tax rates



Accounting methods



Employee benefits



Ownership & Succession

Distribution requirements | Classes of stock | Preferred return | Succession plan | Exit strategy



APPROACH TO PLANNING AFTER TCJA

Step 1

Review your
current income
tax situation

Step 2

Understand how
tax changes affect
you & your
business in 2017
& beyond

Step 3

Evaluate accounting
methods & possibility
of future guidance
before filing 2017 tax
returns



APPROACH TO PLANNING AFTER TCJA

Step 4

Consider how
tax law changes
affect 2018
estimated tax
payments

Step 5

Review choice
of entity
considerations
under new tax
law

Step 6

Evaluate other
strategies to
plan for new
tax law



More Clarity Ahead

1. **Resource Center**
 - [bkd.com/taxreform](https://www.bkd.com/taxreform)
2. **Simply Tax Podcast**
 - [bkd.com/simplytax](https://www.bkd.com/simplytax)
3. **BKD Thoughtware®**
 - [bkd.com](https://www.bkd.com)

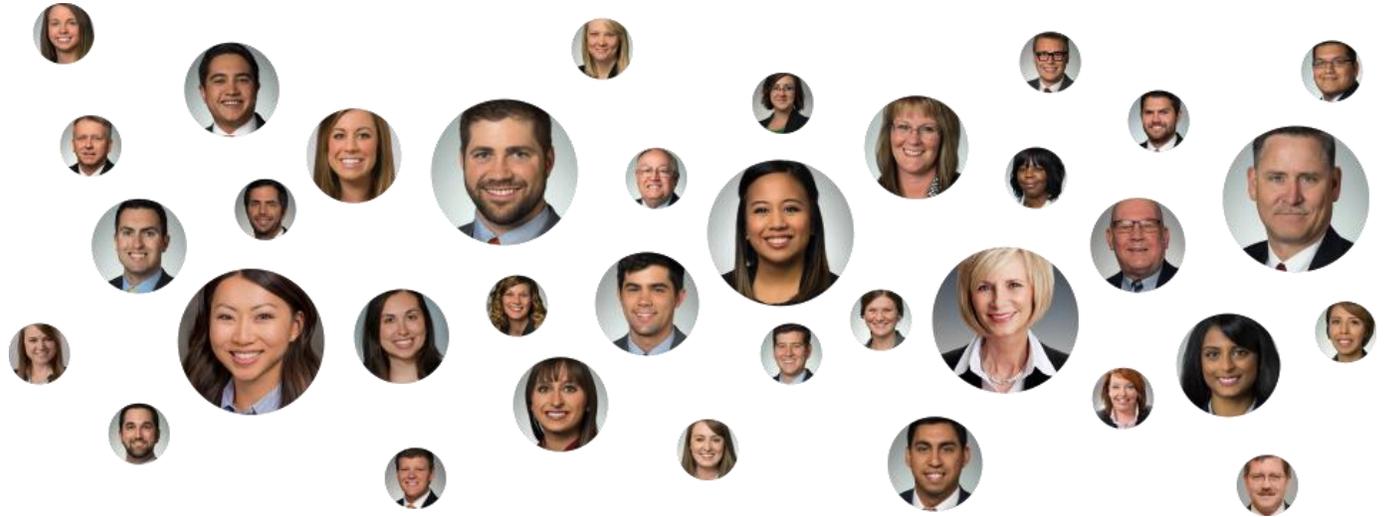
Questions?

Thank You!

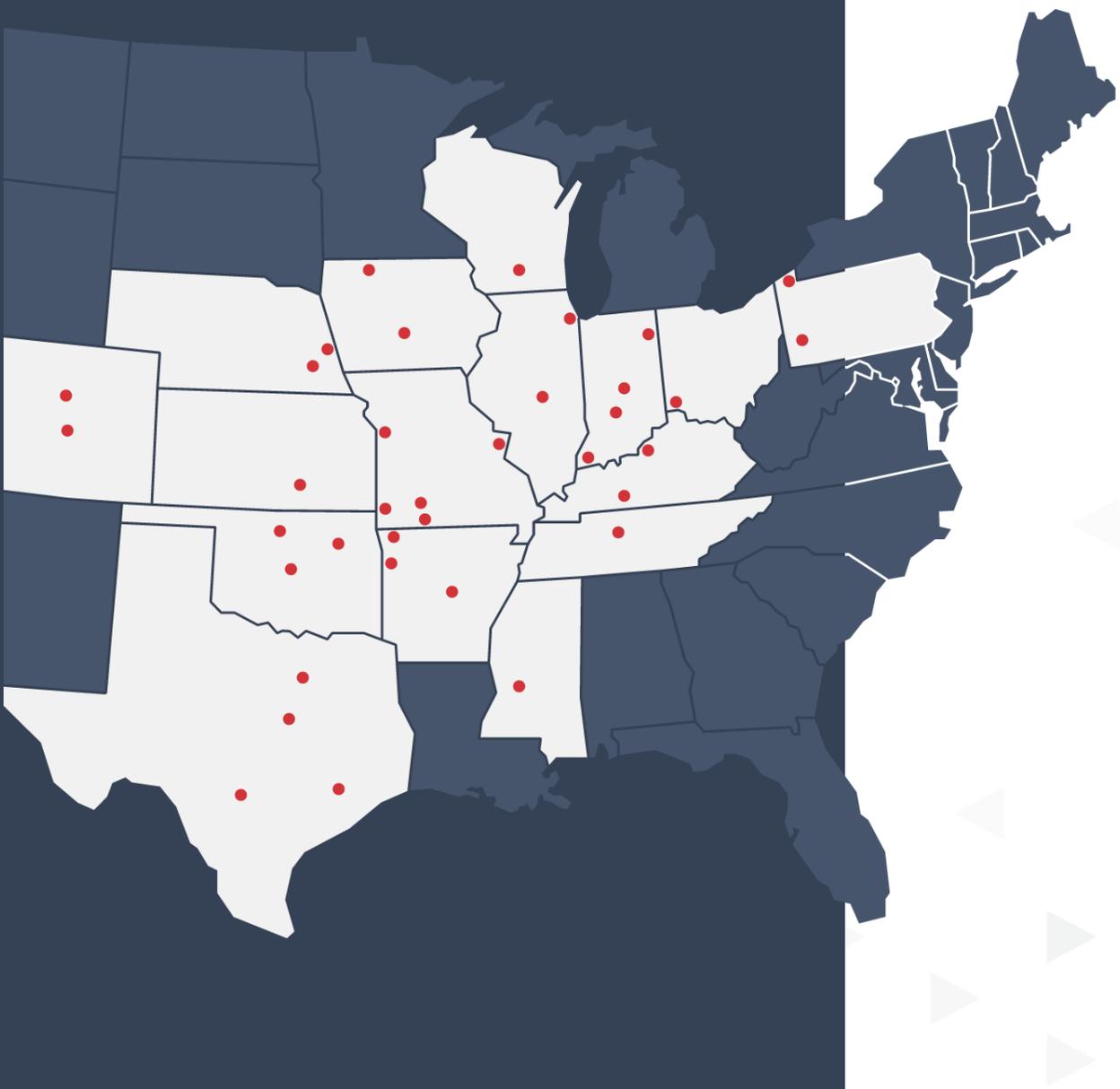
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ABOUT BKD



BKD now has more than 2,600 CPAs, advisors & dedicated staff members working together to serve you. Our expertise goes well beyond the standard accounting services to include risk management, forensic & valuation services, technology & wealth management



Personalized Service with a Global Reach

Our trusted advisors offer solutions for clients in all 50 states & internationally. With 36 offices in 16 states, BKD & its subsidiaries combine the insight & ideas of multiple disciplines to provide solutions in a wide range of industries