Deducting Mortgage Loan Interest under the New Tax Law

Under prior law, if you itemize your deductions, you could deduct qualifying mortgage interest for purchases of a home up to $1,000,000 plus an additional $100,000 for equity debt.

Under the 2018 Tax Cuts and Jobs Act, the amount of home mortgage allowable for purposes of the deduction is now limited to $750,000 ($375,000 for married filing separately) for new mortgages. Existing mortgages were grandfathered, and there are limitations on home equity debt. The limits apply to the *combined amount of loans* used to buy, build or substantially improve the taxpayer's main home and second home.

The IRS has now clarified that "despite newly-enacted restrictions on home mortgages, taxpayers can often still deduct interest on a home equity loan, home equity line of credit (HELOC) or second mortgage, regardless of how the loan is labelled." Specifically, the new law eliminates the deduction for interest paid on home equity loans and lines of credit (through 2026) "unless they are used to buy, build or substantially improve the taxpayer's home that secures the loan."

The new law allows taxpayers to continue to deduct "acquisition indebtedness." Acquisition includes any indebtedness secured by the residence which is "incurred in acquiring, constructing, or substantially improving any qualified residence of the taxpayer." The law goes on to state that "such term also includes any indebtedness secured by such residence resulting from the refinancing of indebtedness; but only to the extent the amount of the indebtedness resulting from such refinancing does not exceed the amount of the refinanced indebtedness."

In other words, interest on a re-fi which is secured by your home (qualified residence) *and* which does not exceed the cost of your home *and* which is used to substantially improve your home will continue to be deductible so long as it meets the other criteria - like the new dollar limit.

So, to recap, interest on a re-fi used to re-roof your home would be deductible as long as you otherwise meet the criteria. The same is true for interest on a re-fi to build an addition. But a re-fi used to pay off credit cards is not deductible. Similarly, there's no deduction for re-fi interest on a loan used to pay for college, take a vacation, or pay for medical expenses. Also, borrowing against a primary home to acquire, build, or substantially improve a second residence is *not* treated as acquisition indebtedness.

Although the release (2018-32 dated 02/22/18) does not address these rules, there still may be an opportunity to deduct the interest if incurred on a HELOC or other mortgage loan and used for investment purposes such as for rental real estate or investment in S corporation stock via the tracing rules. We are awaiting further guidance on this matter.

For IRS release 2018-32 and Examples, follow this link: https://www.irs.gov/newsroom/interest-on-home-equity-loans-often-still-deductible-under-new-law

Client Questionnaire for New Mortgages Originating in 2018

If you had more than one mortgage loan origination in 2018, please complete a separate questionnaire for each loan.

Please also provide us with the settlement statement or closing disclosure from any loans originated in 2018.

Client Name: ____

Mortgage Lender: _______________________________________

Loan Origination Date: _________________________

Amount of Loan: ____________________________

Type of Loan (circle any that apply): New Loan

Re-Finance Existing Loan

Home Equity Line of Credit

Home Equity Loan

What is the address of the property that secures this loan?

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What is the type of property that secures this loan? Circle one:

Personal Residence Second Home (personal use)

Investment Property Other (Describe) ______________________________

Please be specific in describing how the loan funds were used (for example, to purchase a new personal residence, to purchase a second personal residence, to improve the property for which the loan is secured, to improve a different property not secured by the loan, to purchase an investment property, to pay off credit cards, to take a trip, to pay for college expenses, to re-finance an existing loan, or any other situation you may have). If you re-financed an existing loan be sure to disclose if any re-fi funds were in excess of the original loan amount and how those funds were used:

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What is the combined amount of loans used to buy, build or substantially improve your main home and/or second home? $ _____________________

Taxpayer Signature: _______________________________________

Taxpayer Printed Name: _____________________________________

Date: _________________