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Proposed regulations: Deductions allowed estates, non-grantor trusts

The U.S. Treasury Department and IRS this afternoon released for publication in the Federal Register proposed regulations (REG-113295-18) clarifying that certain deductions allowed to an estate or non-grantor trust are not miscellaneous itemized deductions.

The **proposed regulations** [PDF 329 KB] implement measures enacted as part of the 2017 tax law (commonly referred to as the "Tax Cuts and Jobs Act" (TCJA)).

The proposed regulations clarify the following deductions allowed to an estate or non-grantor trust are not miscellaneous itemized deductions:

- Costs paid or incurred in connection with the administration of an estate or non-grantor trust that would not have been incurred if the property were not held in the estate or trust
- The personal exemption of an estate or non-grantor trust
- The distribution deduction for trusts distributing current income
- The distribution deduction for estates and trusts accumulating income

As noted in the preamble, these deductions are not affected by the suspension of the deductibility of miscellaneous itemized deductions for tax years beginning after December 31, 2017, and before January 1, 2026.

The proposed regulations also provide guidance on determining the character, amount, and allocation of deductions in excess of gross income succeeded to by a beneficiary on the termination of an estate or non-grantor trust; and affect estates, non-grantor trusts (including the S portion of an electing small business trust), and their beneficiaries.

The purpose of this edition of *TaxNewsFlash* is to provide text of the proposed regulations.

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