

Deducting Your Legal Fees after Tax Reform

The Tax Cuts and Jobs Act (TCJA), known as tax reform, made it more difficult for you to deduct your legal fees. The new tax reform law suspended (killed is a better word) your legal fees as 2 percent miscellaneous itemized deductions for tax years 2018 through 2025.

This means you need to look for other possible ways to deduct legal fees, such as claiming them as business or rental property expenses. Here are some examples:

- You incur legal fees to sue a client for nonpayment of your invoices. You deduct those legal fees as a business expense.
- You incur legal fees to sue a vendor that did not perform the services you paid them to perform. You deduct those legal fees as a business expense.
- You incur legal fees to sue a vendor that damaged your rental property. You deduct those legal fees as a rental expense.
- You incur legal fees to evict a tenant who stopped paying rent. You deduct those legal fees as a rental expense.

New tax reform exception. The TCJA disallowed all business deductions for settlements or payments and the related legal fees for sexual harassment or abuse claims if the settlement or payment is subject to a nondisclosure agreement.

If you incur legal fees related to the ownership or protection of your property, then you generally capitalize the legal fees and add them to the tax basis of your property.