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News & Alerts

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Tax Cuts and Jobs Act of 2017: A Look at the Proposed Bill

Proposed legislation released late last week by the House Ways & Means Committee titled the Tax Cuts and Jobs Act of 2017 (H.R. 1) would, if enacted, alter much of the Internal Revenue Code of 1986, as amended. As one of the largest and most serious tax reform efforts in decades, the bill incorporates myriad amendments with significant implications for businesses and individuals. Presented below are highlights of the proposed changes, including changes in tax rates and brackets and the elimination or simplification of many deductions and credits.

This alert is only a summary of some of the more salient points raised in the proposed legislation affecting businesses and individuals. We expect to provide more in depth analysis on specific provisions of the bill as the legislation moves through Congress. It is important to remember that H.R. 1 is only a starting point and that it will inevitably be amended, perhaps significantly, prior to possible enactment into law. For example, as this alert goes to press, the House Ways & Means Committee is considering revisions to various provisions of H.R. 1. We will provide a comprehensive review of any final legislation that is passed by Congress and signed by the president.

Businesses

- **Corporate Tax Rate:** The corporate tax rate would be reduced to a flat 20% and a flat 25% for qualified professional service corporations in 2018.
- **Pass-through Rate:** A new 25% tax rate applicable to certain pass-through income would be created, subject to certain classification and industry limitations beginning in 2018.
- **Alternative Minimum Tax:** The alternative minimum tax would be repealed after 2017, but AMT credit carryforwards are retained with some limitations.
- **Cash Method of Accounting:** The gross receipts threshold against using the cash method would be increased from $5 million to $25 million beginning after 2017.
- **Capital Contributions:** Beginning with the date of enactment, a corporation's gross income would include capital contributions, except to the extent a contribution is in exchange for equity interest (i.e., stock). The same rule would apply for contributions to capital of a partnership, except to the extent a contribution is in exchange for a partnership interest. In both instances, contributions in excess of the fair market value of the equity or partnership interest issued would be include in income by the corporation or partnership.

- **Depreciation Deduction:** An immediate 100% deduction would be allowed on bonus depreciation to certain qualified property when placed in service after September 27, 2017 and before January 1, 2023.
- **Business Interest Deduction:** After 2017, the deduction for net interest expenses would be capped at 30% of the business's adjusted taxable income, except that this cap would not apply to small businesses with gross receipts of $25 million or less.
- **NOL Deduction:** The NOL deduction would be capped at 90% of taxable income in tax years beginning after 2017. Carrybacks would be limited to 1 year for eligible disaster losses for small businesses and farming businesses, but carryforwards would be unlimited.
- **Entertainment Deduction:** After 2017, the deductions for entertainment, amusement, or recreation, as well as fringe benefits except to the extent such benefits are treated as taxable compensation would be repealed. The business meals deduction is largely preserved.
- **Section 179 Expensing:** The bill increases the business expensing limitation to $5 million and increases the phase out to $20 million for tax years 2018 through 2022.
- **1031 Exchanges:** Like-kind exchanges would be limited to real property after 2017.
- **Tax Credits Repealed:** A number of tax credits would be repealed beginning in 2018, including the employer-provided child care credit, the rehabilitation tax credit, the work opportunity tax credit, the new markets tax credit, the credit for expenditures for disabled individuals, and tax credits bonds. However, the research and development credit and the low-income housing credit are explicitly preserved.

Individuals

- **Tax Brackets:** For tax years after 2017, there would be a reduction from seven (7) to four (4) tax brackets: 12%, 25%, 35%, and 39.6%. The new 12% bracket would be phased out beginning at income over $1 million. As under current law each bracket has different income levels depending on the filing status of the taxpayer.
- **Capital Gains:** The capital gains tax rates are preserved.
- **Standard Deduction:** Increased to $24,400 for married couples filing jointly or a surviving spouse, $12,200 for single filers and $18,300 for head of household filers.
- **Personal Exemptions:** The bill repeals personal exemptions after December 31, 2017.
- **Alternative Minimum Tax:** Repeals the AMT after December 31, 2017.
- **Earned Income Tax Credit:** Preserves the EITC, but is limited to U.S. citizens or aliens eligible for employment in the U.S.

- **Itemized Deductions Limitation:** Repeals the income limitations on itemized deductions, however a number of itemized deductions as discussed below would be repealed or limited as to the amount that may be deducted.
- **Mortgage Interest Deduction:** The bill reduces the limit for the deductibility of interest on mortgage loans to debt of $500,000 or less (the previous limit was $1 million) incurred after November 2, 2017. In addition, interest would only be deductible on a taxpayer's principal residence and the interest deduction for home equity lines of credit would be repealed.
- **State and Local Tax Deduction:** Repeals the itemized deduction for state and local income and sales taxes, however, up to $10,000 of state and local property taxes would be deductible.
- **Other Deductions:** The following deductions would be eliminated beginning after 2017: the medical expense deduction, the tax preparation deduction, the moving expense deduction, the deduction for alimony payments, and deductions for certain expenses attributable to a trade or business of performing services as an employee.
- **Child Tax Credit and Family Credit:** Beginning after 2017, the child tax credit would be increased to $1,600 per qualifying child and a $300 credit for non-child dependents would be created. In addition, a family credit of $300 for a taxpayer (and also for a spouse for a joint return) who is neither a child nor a non-child dependent is created. Phase outs for these credits would occur at $230,000 for joint filers and $115,000 for single filers.
- **Nonrefundable Credits:** Certain nonrefundable credits, including the adoption credit, deduction for the elderly, and mortgage credit certificates would be repealed after 2017.
- **Education Credits:** The American Opportunity Credit, Hope Scholarship Credit, and Lifetime Learning Credit are merged into a single education credit for the first five (5) years of postsecondary education for tax years after 2017.
- **Education Expenses:** The deduction for student loan interest would be repealed. The exclusion for employer-provided education assistance programs, the exclusion for qualified tuition reduction programs, and the exclusion for interest on U.S. savings bond used for qualified higher education expenses would also be repealed.
- **Education Savings:** The Coverdell ESA is terminated under the bill with permitted rollovers to 529 Plans. Elementary and secondary expenses of up to $10,000 could be paid with Section 529 Plan funds.
- **Charitable Contributions:** The deduction for charitable contributions is preserved with some modifications.
- **Gain from Sale of Home:** Exclusion from income of up to $500,000 for married couples filing jointly ($250,000 for single filers) from the sale of a principal residence is maintained but the taxpayer must have owned and used the home as a principal residence for five (5) of the eight (8) previous years. The exclusion could only be used once every five years

and would phase out dollar for dollar on gross income of $250,000 ($500,000 for joint filers).

Going Forward

In addition to the items identified above, the bill modifies the international tax structure, moving toward a territorial approach to taxation; makes meaningful alterations to rules surrounding executive compensation and employee benefits, including Section 409A; amends rules related to tax-exempt organizations; and repeals, over time, the estate and gift tax, after almost doubling the current estate tax exclusion. Future alerts will address some of these provisions in more detail.

Contact a member of the Hirschler Fleischer tax team to discuss how the proposed changes may affect you or your organization's particular circumstances.

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