

HOUSE TAX REFORM PROPOSAL – INDIVIDUALS

The following chart sets forth some of the provisions affecting individuals in the House’s version of the Tax Cuts and Jobs Act, as approved by the House on November 16, 2017. This chart highlights only some of the key issues and is not intended to address all aspects of the proposed legislation. If you have any questions, please contact your Andersen Tax advisor.

As of November 16, 2017

INDIVIDUAL INCOME		
Provision	Description of Proposed Change	Comments
Individual Income – Tax Rates	<p>The bill would consolidate and simplify the current seven tax brackets into four tax brackets: 12%, 25%, 35% and 39.6%. The 39.6% bracket threshold would be at \$1 million of taxable income for married filing joint taxpayers and \$500,000 of taxable income for unmarried individuals and married individuals filing separately. The brackets are indexed for inflation using a chained-Consumer Price Index (CPI), which will result in a slower increase in bracket thresholds over time.</p> <p>For high-income taxpayers, the provision would phase out the benefit of the 12% bracket at a rate of \$6 of savings for every \$100 of adjusted gross income (AGI) over \$1 million (single filers) or \$1.2 million (joint filers). In other words, high-income taxpayers would not get the benefits of the 12% “bracket run.” The provision would be effective for tax years after 2017.</p>	At a top rate of 39.6%, many high-income taxpayers may see a net tax increase due to repeal of most itemized deductions. Depending on this and other provisions, it may or may not be prudent to defer income.
Individual Income – Tax Rate on Pass-through Business Income	<p>The tax rate on partnership business income that flows through to its partners would be lowered to as little as 25%, which is more than a third less than the regular maximum individual tax rate of 39.6%. The 25% rate would apply to business income as long as the investor is a passive investor in the partnership as determined under the long-standing passive activity loss rules. If the investor is active then the 25% rate would only apply to 30% of the business income with the remainder taxed at regular tax rates. The bill amendments provide for a 9% tax rate in lieu of the 12% rate for the first \$75,000 (\$37,500 if unmarried and \$56,250 for heads of households) in net business taxable income of an active owner earning less than \$150,000 in taxable income. As taxable income exceeds \$150,000 (\$75,000 if unmarried and 112,500 for heads of households), the 9% rate benefit is phased out at \$225,000 of taxable income. This 9% rate is phased in over a five-year period.</p>	REIT ordinary income distributions should also be eligible for the 25% rate. While capital gains are not eligible for this special rate, the bill does not eliminate the preferential tax rate for long-term capital gains (LTCGs) recognized by individuals. Thus, LTCGS of individuals are taxed at a maximum rate of 20%.
Individual Income – Tax Rate on Estates and Trusts	<p>The tax rate brackets for estate or trust income would be as follows: (1) income under \$2,550 would be subject to a 12% the tax rate; (2) the 25% bracket would begin at \$2,550; (3) the 35% bracket would begin at \$9,150; (4) the 39.6% bracket would begin at \$12,500.</p>	This is a change from prior law because some of the brackets are eliminated under the provision.

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Individual Income – Standard Deduction	The standard deduction would be increased from \$6,350 (in 2017) to \$12,000 for single filers and from \$12,700 (in 2017) to \$24,000 for joint filers and surviving spouses. Single filers with one qualifying child or more could claim an \$18,000 deduction. These amounts are also to be inflation-adjusted. The provision would be effective for tax years after 2017.	With the reduction of itemized deductions it will be beneficial for many more taxpayers to take the standard deduction. The provision would reduce the number of itemizers from 30% of taxpayers to 6% of taxpayers; a significant simplification for many taxpayers.
Individual Income – Repeal of Personal Exemption Deduction	The deduction for personal exemptions would be repealed. The provision would be effective for tax years after 2017.	
Individual Income – Exclusion of Gain from Sale of a Principal Residence	A taxpayer would be required to own and use a home as the primary residence for five of the previous eight years (as opposed to the two out of the previous five years under current law) to qualify for the exclusion. This exclusion could also only be used once every five years. In addition, the exclusion would be phased out by one dollar for every dollar of AGI exceeding \$500,000 (\$250,000 for single filers). This phase out would fully eliminate the exclusion after \$1 million of AGI. The provision would be effective for sales after 2017.	
Individual Income – Repeal of Alternative Minimum Tax (AMT)	This provision would repeal the AMT. If a taxpayer has AMT credit carryovers, the taxpayer would be able to claim a refund of 50% of the remaining credits in years beginning 2019, 2020 and 2021. The remaining credit refund could be claimed in 2022. The election to capitalize and amortize research and other expenses under Sec. 59(e) would be repealed. The bill generally does not incorporate AMT preferences into the regular tax. The provision would be effective for tax years after 2017.	Since many of the itemized deductions that would cause a taxpayer to be in AMT would be eliminated under this bill and the top AMT rate is 28% versus the bill's 39.6% top rate, for many high-income, high-deduction taxpayers, AMT repeal would cause a tax increase of 11.6%. However, deductions that are retained, such as 2% portfolio deductions would be able to be taken by taxpayers who are limited presently under the AMT. Incentive stock options (ISOs) that are subject to AMT when exercised under present law would be tax-free under the proposal.
Individual Income – Investment Income	No change from present top capital gain rate of 20%. The bill would maintain present-law retirement plan participation, including 401(k) plans and Individual Retirement Accounts.	No change to the present law provisions for Qualified Small Business Stock (QSBS) was proposed.

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Individual Income – Carried Interest	An amendment offered by Chairman Brady would require that interests be held for a three-year period to qualify for long-term capital gains treatment.	This proposal would have a negligible impact on many taxpayers who currently benefit from carried interest at capital gains rates.
Individual Income – Net Investment Income Tax (NIIT)	No change.	Any revisions to the NIIT would be a part of separate healthcare legislation which is currently stalled in the Senate.
Individual Income – Repeal of Overall Itemized Deduction Limitations	The “Pease” limitation on otherwise allowable itemized deductions would be eliminated. The provision would be effective for tax years after 2017.	This provision would only apply to itemized deductions not eliminated by other provisions of the bill and when taken along with those other provisions may result in a net increase or decrease in tax, depending on the mix of a particular taxpayer’s deductions.
Individual Income – Repeal of Medical Expense Deduction	The itemized deduction for medical expenses would be eliminated. The provision would be effective for tax years after 2017.	
Individual Income – Charitable Contributions	The bill would increase the AGI itemized deduction limitation on charitable cash contributions from 50 to 60%. The 80% deduction for contributions made for university athletic seating rights would be repealed. The standard mileage rate for charitable use of an automobile would be revised to take into account the variable cost of operating rather than the current 14-cents per mile. The changes would apply to contributions made in tax years beginning after 2017.	Taxpayers should consider taking advantage of the increase in allowed deduction if charitably inclined, or if they have significant carryover from charitable gifts made in previous years.
Individual Income – Mortgage Interest and Investment Interest	The itemized deduction for mortgage interest would be retained, with modifications. For debt incurred after November 2, 2017, the \$1 million acquisition indebtedness limitation would be reduced to \$500,000. Interest would only be deductible on a principal residence. Interest on home equity indebtedness incurred after the above date would NOT be deductible. Refinancing of debt (regardless of when the refinancing occurred) incurred before the effective date would be treated as incurred before November 2, 2017. If a taxpayer enters into a written binding contract before November 2, 2017, such related debt would be treated as incurred before November 2, 2017. The itemized deduction for investment interest expense would be retained under the proposal; however, new limitations would be placed on business interest.	The effective date of this provision if enacted would prevent any planning to avoid the provision’s new \$500,000 cap on a principal residence that the taxpayer did not own as of November 2, 2017.

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Individual Income – Repeal of State and Local Tax (SALT) Deduction	The deduction for state and local income taxes (SALT) would be eliminated. Also, the deduction for real estate taxes would be capped at \$10,000. The provision would be effective for tax years after 2017.	<p>The repeal of the SALT itemized deduction continues to be a hot issue and further revisions to this policy are possible. However, consideration should be given to prepaying both state and local income tax and real estate tax before year-end.</p> <p>It is our understanding that the initial description of the bill provided with respect to an exception for trade or business or portfolio income was incorrect and the bill will ultimately disallow any SALT deduction other than a maximum of \$10,000 real property tax.</p>
Individual Income – Repeal of Deduction for Tax Preparation Expenses	The deduction for tax preparation expenses would be eliminated. The provision would be effective for tax years after 2017.	Consider whether tax preparation fees can be deducted not as itemized deduction, but expenses taken directly against business income. Consider whether our clients could prepay tax preparation fees in 2017 and take advantage of a tax deduction in 2017.
Individual Income – Repeal of Deduction for Alimony Payments	Alimony payments would neither be deductible by the payer nor included as income by the payee. The provision would be effective for divorce decrees OR separation agreements entered into or modified after 2017.	
Individual Income – Repeal of Personal Casualty Losses	The deduction for personal casualty losses would be eliminated other than those associated with special disaster relief legislation. The provision would be effective for tax years after 2017.	

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Individual Income – Enhancement of Child Tax Credit and New Family Credit	<p>This provision would increase the per-child credit from \$1,000 to \$1,600. Alternatively, a \$300 credit would be allowed for non-child dependents. In addition, a new “family flexibility credit” of \$300 would be allowed with respect to the taxpayer (each spouse in the case of joint filers) for an individual who is neither a child nor a non-child dependent.</p> <p>The refundable portion of the child credit would be limited to \$1,000, but would be indexed for inflation and over time rise to match (but not exceed) the new \$1,600 child credit. The non-child dependent and family flexibility credits would both be non-refundable.</p> <p>The phase-out for these combined credits would be increased from \$75,000 to \$115,000 for single filers and from \$110,000 to \$230,000 for joint filers. The provisions would be effective for tax years after 2017 (although the family flexibility and non-child dependent credit sunset on December 31, 2022).</p>	
Individual Income – Repeal of Credit for Plug-in Electric Drive Motor Vehicles	<p>The credit for plug-in electric drive motor vehicles would be repealed with respect to vehicles placed in service during tax years after 2017.</p>	
Individual Income – Repeal of Other Non-refundable Credits	<p>This provision would repeal the credit for individuals over age 65 or who have retired on disability and the tax credit associated with mortgage credit certificates. Under bill amendments, current law adoption credit is preserved. The other credit repeal provisions would be effective for tax years after 2017.</p>	
Individual Income – Refundable Credit Program Integrity	<p>Taxpayers would be required to provide a work-eligible social security number to claim refundable portions of the child tax credit or the American Opportunities Tax Credit. The bill amendment expands the provision and requires the social security number to be provided to claim any of the credit, not just the refundable portion.</p>	<p>This provision is seen as an anti-fraud based measure.</p>
Individual Income – American Opportunity Tax Credit (AOTC)	<p>Under the bill, the three existing higher education tax credits (American Opportunity Tax Credit (AOTC), Hope Scholarship Credit (HSC), and Lifetime Learning Credit (LLC)) would be consolidated into a new, enhanced AOTC. The new AOTC, like the current AOTC, would provide a 100% tax credit for the first \$2,000 of certain higher education expenses and a 25% tax credit for the next \$2,000 of such expenses.</p> <p>The AOTC would also be available for a fifth year of post-secondary education at half the rate as the first four years, with up to \$500 of such credit being refundable. The provision would be effective for tax years beginning after 2017.</p>	

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Individual Income – Consolidation of Education Savings Rules	This provision would prevent new contributions to Coverdell education saving accounts after 2017 but tax-free rollovers from Coverdell accounts to Sec. 529 plans would be permitted. Also, elementary and high-school expenses up to \$10,000 per year would be included as qualified expenses under Sec. 529. Under the bill amendment, rollovers would be permitted from 529 plans to ABLE programs. The provision would be effective for contributions and distributions made after 2017.	As is true under current law, consideration must be given to whether it would be more beneficial to fund these types of education savings plans or take advantage of the gift-tax free payment of tuition under Sec. 2053.
Individual Income – Student Loans and Other Education Assistance Programs	The provisions relating to student loans would prevent income recognition resulting from discharge of student debt in the case of death or total disability of the student. In addition, these provisions would repeal deductions on education loan interest and qualified tuition and related expenses. Also, the exclusion for interest on US savings bonds used to pay qualified higher education expenses, the exclusion for qualified tuition reduction programs and the exclusion for employer-provided education assistance programs would be repealed. The exclusion for education assistance programs would be effective for amounts paid or incurred after 2017. All other provisions would be effective for tax years after 2017.	
Individual Income – Repeal of Moving Expense Deduction	This provision would eliminate the deduction for moving expenses incurred in connection with starting a new job. Under the bill amendment the deduction would be available in the case of a member of the armed forces on active duty who moves pursuant to a military order. The provision would be effective for tax years after 2017.	
Individual Income – Repeal of Income Exclusion	These provisions would eliminate the income exclusion for employee achievement awards, dependent care assistance programs, qualified moving expense reimbursement, and adoption assistance programs. These provisions would be effective for tax years after 2017.	

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