

## SENATE TAX REFORM PROPOSAL – INDIVIDUALS

The following chart sets forth some of the provisions affecting individuals in the Senate’s version of the Tax Cuts and Jobs Act, as approved by the Senate on December 2, 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 December 2, 2017

INDIVIDUAL INCOME		
Provision	Description of Proposed Change	Comments
<b>Individual Income – Tax Rates</b>	<p>Unlike the House bill, which calls for four brackets, The Senate bill has seven brackets: 10%, 12%, 22%, 24%, 32%, 35%, and 38.5%. The 38.5% bracket would begin 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>The changes to the individual tax rates would expire for tax years beginning after December 31, 2025. However, the change to index the brackets to inflation using the chained-CPI will not expire.</p>	<p>At a top rate of 38.5%, 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. Although the threshold for the individual top bracket for married filing joint is increased to \$1 million, the threshold for the top capital gains rate of 20% remains at \$479,000 (same as present law).</p>
<b>Individual Income - Tax Rate on Pass-through Business Income</b>	<p>An individual taxpayer would be allowed to deduct 23% of qualified business income from a partnership, S corporation, or sole proprietorship that is effectively connected with a U.S. trade or business. Qualified business income does not include reasonable compensation or guaranteed payment paid to the taxpayer for services. The amount of the deduction is generally limited to 50% of the taxpayer’s allocable share of W-2 wages. The W-2 wage limit will not apply to a taxpayer with taxable income not exceeding \$500,000 for married filing jointly (MFJ) taxpayers or \$250,000 for all other individual taxpayers. The W-2 limit is then phased in over the next \$100,000 of taxable income for MFJ taxpayers or \$50,000 for all other individual taxpayers.</p> <p>The 23% deduction would generally not apply to specified service businesses, unless the taxpayer’s taxable income is less than \$500,000 for MFJ taxpayers or less than \$250,000 for all other taxpayers. The benefit of the deduction for service businesses is then phased out over the next \$100,000 of taxable income for MFJ taxpayers or \$50,000 for all other taxpayers.</p> <p>The deduction does <u>not</u> apply to trusts and estates.</p> <p>The deduction would be effective for taxable years beginning after December 31, 2017. The deduction would expire after 2025.</p>	<p>In lieu of a change in tax rates, a deduction would be allowed for a portion of qualified business income from pass-through entities, similar to the present law domestic production activities deduction under Sec. 199. With a proposed top individual rate of 38.5%, this provision would approximate a top rate of 29.645% for qualifying income, which is substantially higher than the 25% special rate for qualifying pass-through businesses as proposed in the House bill.</p> <p>The limitation of the deduction to 50% of W-2 wages may be a significant limiter depending on the taxpayer’s industry and structure. Also, service businesses would generally not receive any deduction once the \$600,000 (MFJ) and \$300,000 thresholds are surpassed and the deduction is phased out.</p> <p>The exclusion of trusts would limit many family held businesses from benefiting from the deduction. However, grantor trusts that are taxed as individuals would not be excluded.</p> <p>Dividends from a REIT will be considered qualified items of income. Qualified publicly traded partnership income is also qualified income, a clarification from the original Senate proposal.</p>

## SENATE TAX REFORM PROPOSAL – INDIVIDUALS

INDIVIDUAL INCOME		
Provision	Description of Proposed Change	Comments
<b>Tax Rate on Estates and Trusts</b>	<p>The tax rate brackets for estate or trust income would be as follows: (1) income under \$2,550 would be subject to a 10% the tax rate; (2) the 24% bracket would begin at \$2,550; (3) the 35% bracket would begin at \$9,150; (4) the 38.5% bracket would begin at \$12,500.</p> <p>The changes to the estate or trust tax rates would expire for tax years beginning after December 31, 2025.</p>	This is a change from prior law because the number of brackets and the tax rates are changed under the provision.
<b>Limitation on Business Losses for Taxpayers Other than Corporations</b>	<p>After the application of the passive loss limitation regime under Sec. 469, excess business losses of a taxpayer (other than a C corporation) are deferred and carried forward as a part of the taxpayer's net operating loss (NOL) carryforward. NOL carryovers are limited to 90% of taxable income before NOLs. An excess business loss is the net business loss from all trades or businesses of the taxpayer, plus \$500,000 (MFJ) or \$250,000 (single). For trades or businesses that are partnerships or S corporations, the limitation applies at the partner or shareholder level, and excess business loss is determined by looking at the partner's allocable share or shareholder's pro rata share of items from the partnership or S corporation.</p> <p>This limitation would expire for taxable years beginning after December 31, 2025.</p>	This rule is similar to the existing rule that limits passive losses, but it would apply to active business losses. Under this new rule, total net business losses could not offset non-trade or business income including portfolio income or compensation to the extent the loss exceeds the \$500,000 or \$250,000 threshold. However, because the disallowed loss becomes an NOL carryforward, it can be used in future years other than the year incurred to offset other income.
<b>Individual Income – Standard Deduction</b>	<p>The Senate proposal would increase the standard deduction to the following amounts:</p> <ul style="list-style-type: none"> <li>• \$24,000 (joint return or a surviving spouse)</li> <li>• \$18,000 (unmarried individual with at least one qualifying child)</li> <li>• \$12,000 (for single filers)</li> </ul> <p>The proposal would retain the enhanced standard deduction for the blind and elderly that is available under current law.</p> <p>The enhanced standard deduction amounts would expire after December 31, 2025, but standard deduction amounts would continue to be indexed for inflation using chained-CPI after December 31, 2025.</p>	
<b>Individual Income – Repeal of Personal Exemption Deduction</b>	<p>The deduction for personal exemptions would be repealed effective for tax years beginning after December 31, 2017.</p> <p>Repeal of personal exemptions would expire after December 31, 2025, and that personal exemptions would revert back to their form as they existed before January 1, 2018 at that time.</p>	

## SENATE TAX REFORM PROPOSAL – INDIVIDUALS

INDIVIDUAL INCOME		
Provision	Description of Proposed Change	Comments
<b>Individual Income – Exclusion of Gain from Sale of a Principal Residence</b>	<p>The proposal would provide that the exclusion be available only if the taxpayer has owned and used the residence as a principal residence for at least five of the eight years with an exception for taxpayers that change places of employment, health, or unforeseen circumstances (equal to a fraction of the \$250,000, or \$500,000 if married filing a joint return). The proposal would limit the ability of taxpayer's to one use every five years.</p> <p>Modifications to the exclusion of gain from sale of principal residence would expire December 31, 2025, and would revert back to the form that existed before January 1, 2018 at that time.</p>	
<b>Individual Income – Modification to Alternative Minimum Tax (AMT)</b>	The proposal retains the individual alternative minimum tax, and increases the thresholds to which it applies between for taxable years from 2018 to 2025.	Since many of the itemized deductions that would cause a taxpayer to be in AMT would be eliminated under this bill, taxpayers who are in AMT under present law may no longer be subject to AMT under the proposal.
<b>Individual Income – Investment Income</b>	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.
<b>Individual Income – Carried Interest</b>	With respect to a partnership interest transferred in connection with the performance of services by the taxpayer, the holding period for long-term capital gain treatment for underlying assets would be increased from more than one year to more than three years for gains generated after December 31, 2017.	Currently, taxpayers benefit from carried interest at long-term capital gain rates. This proposal would have a negligible impact to carried-interest holders in private equity firms, which tend to hold onto assets for a longer period of time, but may impact such holders in hedge funds or real estate depending on the turnover of the underlying assets and holding period. A more substantial carried interest proposal could arise through further amendments. This provision would require separate holding period tracking for gains allocated to partners who obtain partnership interests in connection with the performance of services.

## SENATE TAX REFORM PROPOSAL – INDIVIDUALS

INDIVIDUAL INCOME		
Provision	Description of Proposed Change	Comments
<b>Individual Income – Cost Basis of Specified Securities</b>	The Senate proposal would require that the cost of any specified security sold, exchanged or otherwise disposed of on or after January 1, 2018, be determined on a first-in first-out (FIFO) basis except to the extent the average basis method is otherwise allowed, as in the case of stock of a Regulated Investment Company (RIC). The bill would restrict a broker’s basis reporting method to the FIFO method in the case of the sale of any stock for which the average basis method is not permitted.	The provision would prevent investors from minimizing taxes by choosing the specific shares that are being sold when they sell part of a position. Investors would instead be required to sell their oldest shares first. It would also affect a taxpayer’s ability to maximize the tax deduction for charitable donations of appreciated securities.
<b>Individual Income – Affordable Care Act</b>	No change would be made to the 3.8% net investment income tax (NIIT) or other taxes imposed as a part of the Affordable Care Act, except with respect to the individual mandate penalty.  As part of the Senate proposal, the amount of the individual mandate penalty enacted as part of the Affordable Care Act would be reduced to zero, effectively repealing the mandate.	Any revisions to the NIIT or other taxes imposed under the Affordable Care Act would likely be a part of more significant healthcare legislation which is currently stalled in the Senate.
<b>Individual Income – Repeal of Overall Itemized Deduction Limitations</b>	The “Pease” limitation on otherwise allowable itemized deductions would be eliminated. The provision would be effective for tax years after 2017.  The elimination of the overall limitation on itemized deductions expires after December 31, 2024, and the limitation would revert back to its form as it existed before January 1, 2018 at that time. The repeal of the limitation sunsets a year earlier than the other individual measures, in an amended to the original legislation that was approved by the Senate Finance Committee.	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.
<b>Individual Income – Repeal of Miscellaneous Itemized Deductions Subject to 2% Floor</b>	The bill would repeal all miscellaneous itemized deductions that are subject to the 2% floor, unless otherwise specified effective for tax years beginning after December 31, 2017.  As part of the modifications to the Senate proposal, the provision would increase the limit for the above-the-line deduction of certain educator expenses to \$500.  These changes would expire after December 31, 2025, and miscellaneous itemized deductions would revert back to their form as they existed before January 1, 2018 at that time.	The House bill would have left the miscellaneous itemized deduction subject to the 2% floor in place. The repeal of the 2% portfolio deductions is a significant issue for many high income individuals and is a significant difference between the House and Senate bills. If the AMT is retained rather than repealed, this may no longer be a significant item for taxpayers who would be limited by the AMT.
<b>Individual Income – Medical Expense Deduction</b>	The bill would preserve the itemized deduction for medical expenses. However, the reduction of the threshold to 7.5% that exists under present law would be extended for two additional years.	The House bill would repeal the itemized deduction for medical expenses.
<b>Individual Income – Charitable Contributions</b>	The bill would increase the AGI itemized deduction limitation on charitable cash contributions from 50% to 60%. The bill does not address the standard mileage rate for charitable use of an automobile. The changes would apply to contributions made in tax years beginning after 2017 and would expire for contributions made after December 31, 2025.	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.

## SENATE TAX REFORM PROPOSAL – INDIVIDUALS

INDIVIDUAL INCOME		
Provision	Description of Proposed Change	Comments
<b>Individual Income – Mortgage Interest and Investment Interest</b>	<p>The itemized deduction for mortgage interest would be retained, with modifications. The bill would repeal the mortgage interest deduction on home equity loans; however the bill would retain the deduction for interest on acquisition indebtedness of up to \$1 million (\$500,000 for a married person filing a separate return). The itemized deduction for investment interest expense would be retained under the proposal; however, new limitations would be placed on business interest.</p> <p>The repeal of the mortgage interest deduction with respect to interest on home equity indebtedness expires after December 31, 2025, and that the mortgage interest deduction would revert back to its form as it existed before January 1, 2018 at that time.</p>	<p>The House bill would provide additional curtailment of the home mortgage interest deduction. This is a significant difference between the two bills.</p>
<b>Individual Income – Repeal of State and Local Tax (SALT) Deduction</b>	<p>The bill would eliminate the itemized deduction for all state and local taxes paid by individuals (i.e., the deduction taken on Schedule A), except for up to \$10,000 of real estate taxes. This includes both the deduction for state and local income taxes as well as the deduction for state and local real estate taxes.</p> <p>The bill would allow a deduction for state and local taxes paid or accrued in carrying on a trade or business, i.e., deductions taken on Schedule E, Schedule F, Schedule C, etc. The bill would allow a deduction for state and local property taxes imposed on business assets.</p> <p>The provision would be effective for tax years after 2017.</p> <p>These changes expire after December 31, 2025, and the state and local tax deduction would revert back to its form as it existed before January 1, 2018 at that time.</p>	<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. The Senate provision, as amended, is the same as the provision in the House bill.</p>
<b>Individual Income – Repeal of Deduction for Tax Preparation Expenses</b>	<p>The deduction for tax preparation expenses would be eliminated. The provision would be effective for tax years after 2017.</p> <p>The elimination of the itemized deduction for tax preparation services expire after December 31, 2025, and that the tax preparation services deduction would revert back to its form as it existed before January 1, 2018 at that time.</p>	<p>Consider whether tax preparation fees can be deducted not as itemized deduction, but expenses taken directly against business income. Consider whether individual taxpayers could prepay tax preparation fees in 2017 and take advantage of a tax deduction in 2017 (given impact of 2% floor and AMT).</p>
<b>Individual Income – Repeal of Deduction for Alimony Payments</b>	<p>Alimony payments are not addressed in the bill.</p>	<p>The House bill would repeal the deduction for alimony payments.</p>

## SENATE TAX REFORM PROPOSAL – INDIVIDUALS

INDIVIDUAL INCOME		
Provision	Description of Proposed Change	Comments
<b>Individual Income – Repeal of Personal Casualty Losses</b>	<p>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.</p> <p>The repeal expires after December 31, 2025, and the deduction would revert back to its form as it existed before January 1, 2018 at that time.</p>	
<b>Individual Income – Repeal of Wagering Losses</b>	<p>The deduction for losses from wagering transactions would be repealed for tax years after 2017.</p> <p>The repeal expires after December 31, 2025, and the deduction would revert back to its form as it existed before January 1, 2018 at that time.</p>	
<b>Individual Income – Enhancement of Child Tax Credit and New Family Credit</b>	<p>This provision would increase the per-child credit from \$1,000 to \$2,000. In addition, the bill would increase the age limit for a qualifying child by one year so that a taxpayer could claim the credit for any qualifying child under the age of 18.</p> <p>Alternatively, a \$500 credit would be allowed for non-child dependents.</p> <p>The plan would increase the phase-out threshold for the child tax credit to \$500,000 for all taxpayers (the threshold for married filing joint was reduced from \$1M as part of the modifications to the Senate proposal). These amounts are not indexed for inflation. The plan would lower the refundable portion of the credit threshold to \$2,500. The plan would index the maximum amount refundable (\$1,000) for inflation with a base year of 2017, rounding up to the nearest \$100 (the threshold in 2018 would be \$1,100).</p> <p>Additionally, the bill would require that a taxpayer provide the social security number of each qualifying child that is claimed on the tax return in order to receive the refundable portion of the child tax credit.</p> <p>As part of the modifications to the Senate proposal, the changes to the child tax credit would be effective for tax years after December 31, 2017 and would expire after December 31, 2025, and the child tax credit would revert back to its form as it existed on January 1, 2018 at that time.</p>	
<b>Individual Income – Other Non-refundable Credits</b>	<p>This provision would preserve the current adoption tax credit.</p>	<p>The bill does not mention other nonrefundable credits.</p>
<b>Individual Income – American Opportunity Tax Credit (AOTC)</b>	<p>Under the bill, the AOTC would provide educational relief for graduate students.</p>	<p>This was mentioned in the Senate policy highlights only.</p>

## SENATE TAX REFORM PROPOSAL – INDIVIDUALS

INDIVIDUAL INCOME		
Provision	Description of Proposed Change	Comments
<b>Individual Income – 529 Accounts</b>	Funds from tax-preferred 529 accounts that can currently be used for college expenses would be available for costs associated with elementary and secondary education, including homeschooling.	This was a new provision added in an amendment proposed by Senator Cruz.
<b>Individual Income – Consolidation of Education Savings Rules</b>	<p>The bill would specify that an unborn child may qualify as a designated beneficiary for Sec. 529 plans, effective for contributions made after December 31, 2017. This provision would sunset after December 31, 2025 and revert back to its form as it existed before January 1, 2018.</p> <p>The bill would increase the contribution limit to ABLE accounts under certain circumstances. Once the overall limitation on contributions is reached, the designated beneficiary would be able to contribute an additional amount, up to the lesser of the federal poverty line for a one-person household, or the individual’s compensation for the tax year. The bill would also permit the designated beneficiary to claim the saver’s credit for contributions made to his or her ABLE account.</p> <p>The plan would further permit taxpayers to rollover amounts from Sec. 529 accounts to ABLE accounts without penalty, but only if the designated beneficiary (or member of the beneficiary’s family) of the qualified tuition plan owns the ABLE account. Such amounts would count toward the overall limitation on contributions to an ABLE account within a tax year, and any amount in excess would be included in the distributee’s gross income.</p> <p>The provisions addressing ABLE contributions would be effective for tax years beginning after the date of enactment, with a sunset after December 31, 2025.</p>	
<b>Individual Income – Repeal of Moving Expense Deduction</b>	<p>This provision would generally repeal the deduction for moving expenses. The deduction would still be available in the case of a member of the armed forces for amounts attributable to certain expenses (in-kind moving and storage expenses).</p> <p>The modifications to the moving expense deduction would expire after December 31, 2025 and would revert back to its form as it existed before January 1, 2018 at that time.</p>	
<b>Individual Income – Repeal of Qualified Moving Expense Reimbursement Exclusion</b>	The bill would eliminate the income exclusion for qualified moving expense reimbursement. The modification would expire after December 31, 2025 (with treatment of qualified moving expense reimbursements reverting back to the form that existed before January 1, 2018 at that time).	
<b>Individual Income – Filing Requirements for Individuals Over Age 65</b>	The bill would require IRS to provide a simplified tax return (Form 1065SR) for use by persons who are age 65 or older. This requirement would be effective for tax years beginning after December 31, 2017.	Not addressed in House bill.

## SENATE TAX REFORM PROPOSAL – INDIVIDUALS

INDIVIDUAL INCOME		
Provision	Description of Proposed Change	Comments
<b>IRS Levy</b>	As part of the modifications to the Senate proposal, the bill would extend the period of time IRS has to return monetary proceeds from the sale of property that has been wrongfully levied upon to two years. The bill would also extend the time period for bringing a civil action for wrongful levy to two years. The changes would be effective for levies made after the date of enactment, and levies made on or before the date of enactment provided that the nine-month period has not expired as of the date of enactment.	Not addressed in House bill.

The opinions and analyses expressed herein are subject to change at any time. Any suggestions contained herein are general, and do not take into account an individual's or entity's specific circumstances or applicable governing law, which may vary from jurisdiction to jurisdiction and be subject to change. No warranty or representation, express or implied, is made by Andersen Tax, nor does Andersen Tax accept any liability with respect to the information and data set forth herein. Distribution hereof does not constitute legal, tax, accounting, investment or other professional advice. Recipients should consult their professional advisors prior to acting on the information set forth herein. No part of this chart may be reproduced, stored in a retrieval system, or transmitted, on any form or by any means, electronic, mechanical, photocopying, recording, or otherwise, without the prior written permission of Andersen Tax LLC. ©2017 ANDERSEN TAX LLC. All rights reserved.