TAX REFORM – INDIVIDUALS

The following chart sets forth some of the provisions affecting individuals in the Tax Reform Act of 2017 (the Act). This chart highlights only some of the key issues and is not intended to address all aspects of the legislation. If you have any questions, please contact your Andersen Tax advisor.

INDIVIDUAL INCOME		
Provision	**Description of Change**	**Comments**
Individual Income – Tax Rates	Like the Senate bill, the Act includes seven brackets, but reduces the highest rate to 37% from 38.5%. The rate brackets are as follows: 10%, 12%, 22%, 24%, 32%, 35%, and 37%. The 37% bracket begins at $600,000 of taxable income for married filing joint taxpayers, $500,000 of taxable income for unmarried individuals and $300,000 married individuals filing separately, as opposed to the Senate thresholds of $1,000,000, $500,000 and $500,000 respectively. 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. The changes to the individual tax rates 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.	At a top rate of 37%, 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 $600,000, the threshold for the top capital gains rate of 20% remains at $479,000 (no change in law).
Individual Income - Tax Rate on Pass-through Business Income	Individuals, trusts, and estates are allowed to deduct 20% 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 or income from a specified service trade or business or the trade or business of performing services as an employee. The amount of the deduction is generally limited to the greater of (i) 50% of the taxpayer's allocable share of W-2 wages or (ii) 25% of the taxpayer's allocable share of W-2 wages plus a capital element (the capital element is 2.5% of the original cost basis of depreciable tangible property used in the business in the current year and placed in service in the past 10 years (or at the end of the recovery period if the recovery period is longer than 10 years)). For example, taxpayer engages in a manufacturing business, operating as a sole proprietorship. The business purchases a machine to be used in its operations for $100,000, which is placed into service in 2020. The business has no employees in 2020. The limitation is the greater of 50% of W-2 wages, or 0, OR the sum of 25% of W-2 wages (0) plus 2.5% of the unadjusted basis of the machine immediately after acquisition: $100,000 x 2.5% = 2,500. The amount of the limitation is $2,500. The W-2 wage limit does not apply to small taxpayers with taxable income not exceeding $315,000 for married filing jointly (MFJ) taxpayers or $157,500 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. The 20% deduction generally does not apply to specified service businesses, unless the taxpayer's taxable income is below the small taxpayer thresholds ($315,000/$157,500).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. A specified service trade or business includes performance of services in the fields of health, law, accounting, actuarial sciences, performing arts, consulting,	In lieu of a change in tax rates, a deduction is allowed for a portion of qualified business income from pass-through entities, similar to the prior domestic production activities deduction under Sec. 199. With a top individual rate of 37%, this provision approximates a top rate of 29.6% for qualifying income. The limitation of the deduction to 50% of W-2 wages or 25% of W-2 plus capital element may be a significant limiter depending on the taxpayer's industry and structure. The addition of the capital element opens up the deduction to the real estate sector, which was largely excluded under the original Senate bill. Specified service businesses generally do not receive any deduction once the $415,000 (MFJ) and $207,500 thresholds are surpassed and the deduction is phased out. Further, only amounts in excess of reasonable compensation qualify. Unlike the Senate bill, the deduction applies to trusts and estates.

INDIVIDUAL INCOME		
Provision	**Description of Change**	**Comments**
Individual Income - Tax Rate on Pass-through Business Income (Cont.)	athletics, financial services, brokerage services, investing and investment management, trading or dealing in securities, partnership interest, or commodities, or any trade or business where the principal asset of such trade or business is the reputation or skill of one or more of its employees or owners. Engineering and architecture are not included in the definition of specified services. The deduction is a taken into account in determining taxable income, instead of being an above-the-line deduction to compute adjusted gross income. The deduction is also allowed for alternative minimum tax (AMT) purposes. Qualified business income is reduced in the current year by qualified business losses in determining the amount of the deduction. If the net amount is a loss, the loss is carried forward and reduces qualified business income in the future for purposes of computing the deduction in a future year. The deduction is effective for taxable years beginning after December 31, 2017. The deduction expires after 2025.	Dividends from a REIT and qualified publicly traded partnership income are also qualified income, and are not subject to the wage/capital element limitation.
Tax Rate on Estates and Trusts	The tax rate brackets for estate or trust income are 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 reduced 37% bracket would begin at $12,500. The changes to the estate or trust tax rates expire for tax years beginning after December 31, 2025.	This is a change from prior law because the number of brackets and the tax rates are changed under the provision.
Limitation on Business Losses for Taxpayers Other than Corporations / Net Operating Losses	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. 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. This limitation expires for taxable years beginning after December 31, 2025. NOL carryovers are limited to 80% of taxable income before NOLs for losses incurred in taxable years beginning after December 31, 2017. NOL carrybacks are repealed for NOLs incurred in taxable years ending after December 31, 2017. Special rules apply for farming and insurance businesses. The changes to NOL carryovers and carrybacks do not expire.	This rule is similar to the pre-existing rule limiting passive losses, but it applies 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.
Individual Income – Standard Deduction	The Act follows the Senate proposal and increases the standard deduction to the following amounts: • $24,000 (joint return or a surviving spouse) • $18,000 (unmarried individual with at least one qualifying child) • $12,000 (for single filers)	

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Provision	**Description of Change**	**Comments**
Individual Income – Standard Deduction (Cont.)	The provision retains the enhanced standard deduction for the blind and elderly available under prior law. The enhanced standard deduction amounts expire after December 31, 2025, but standard deduction amounts continue to be indexed for inflation using chained-CPI after December 31, 2025.	
Individual Income – Repeal of Personal Exemption Deduction	The Act follows the Senate bill. The deduction for personal exemptions is repealed effective for tax years beginning after December 31, 2017. Repeal of personal exemptions expires after December 31, 2025, and personal exemptions revert back to the form as they existed before January 1, 2018 at that time. Note that, at its discretion, IRS may administer the withholding rules under pre-existing law, thereby taking personal exemptions into account for those purposes.	
Individual Income – Exclusion of Gain from Sale of a Principal Residence	The Act contains no provision.	
Individual Income – Modification to Alternative Minimum Tax (AMT)	The Act retains the individual alternative minimum tax, and increases the AMT exemption amount to $109,400 for married taxpayers filing jointly, $54,700 for married taxpayers filing separate and $70,300 for all other taxpayers (other than estate and trusts). The phase-out thresholds are increased to $1,000,000 for married taxpayers filing jointly and $500,000 for all over taxpayers (other than estates and trusts). The provision is effective for taxable years from 2018 to 2025.	Since many of the itemized deductions that would cause a taxpayer to be in AMT are eliminated under the Act, taxpayers who were in AMT under prior law may no longer be subject to AMT under the provision.
Individual Income – Investment Income	No change from present top capital gain rate of 20%. The Act maintains present-law retirement plan participation, including 401(k) plans and Individual Retirement Accounts.	No change to the provisions for Qualified Small Business Stock (QSBS) was enacted. The income thresholds for capital gains rate brackets remain unchanged.
Individual Income – Carried Interest	Consistent with the Senate bill, 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 is increased from more than one year to more than three years for gains generated after December 31, 2017.	Under pre-existing law, taxpayers benefit from carried interest at long-term capital gain rates. This provision will 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. This provision requires separate holding period tracking for gains allocated to partners who obtain partnership interests in connection with the performance of services.

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Individual Income – Cost Basis of Specified Securities	The Act drops the Senate bill FIFO proposals.	There is no change to current law.
Individual Income – Affordable Care Act	No change is 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. Consistent with the Senate proposal, the amount of the individual mandate penalty enacted as part of the Affordable Care Act is 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.
Individual Income – Repeal of Overall Itemized Deduction Limitations	The “Pease” limitation on otherwise allowable itemized deductions is eliminated. The provision is effective for tax years after 2017. The elimination of the overall limitation on itemized deductions expires after December 31, 2025, and the limitation reverts back to its form as it existed before January 1, 2018 at that time.	This provision only applies to itemized deductions not eliminated by other provisions of the Act 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 Miscellaneous Itemized Deductions Subject to 2% Floor	Consistent with the Senate bill, the Act repeals all miscellaneous itemized deductions that are subject to the 2% floor, unless otherwise specified effective for tax years beginning after December 31, 2017. The Act maintains the current law allowing above-the-line deductions of certain educator expenses, not exceeding $250. These changes expire after December 31, 2025, and miscellaneous itemized deductions 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.
Individual Income – Medical Expense Deduction	The Act preserves the itemized deduction for medical expenses. However, the reduction of the threshold from 10% to 7.5% that existed under prior law is extended for two additional years (2018 and 2019).	
Individual Income – Charitable Contributions	Consistent with the Senate bill, the Act increases the AGI itemized deduction limitation on charitable cash contributions from 50% to 60%. The Act does not address the standard mileage rate for charitable use of an automobile. The changes apply to contributions made in tax years beginning after 2017 and expire for contributions made after December 31, 2025. No charitable deduction is allowed for a payment to a college or university when a right to purchase tickets or seating at an athletic event is received in connection with the payment. The provision is effective for contributions made in taxable years beginning after December 31, 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. Taxpayers should consider prepaying charitable contributions in 2017 with respect to athletic tickets or seating rights.

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Provision	**Description of Change**	**Comments**
Individual Income – Mortgage Interest and Investment Interest	The itemized deduction for mortgage interest is retained, with modifications. The Act repeals the mortgage interest deduction on home equity loans effective for taxable years beginning after December 31, 2017. In addition, the Act retains the deduction for interest on acquisition indebtedness, but only up to $750,000 ($375,000 for a married person filing a separate return). The reduced limitation on indebtedness applies to mortgages on homes acquired after December 31, 2017. A grandfather rule is provided for mortgages with respect to homes that a taxpayer already owns. The itemized deduction for investment interest expense is retained under the provision; however, new limitations are placed on business interest. The repeal of the mortgage interest deduction with respect to interest on home equity indebtedness expires after December 31, 2025, and the mortgage interest deduction reverts back to its form as it existed before January 1, 2018 at that time.	The provision does not repeal the mortgage interest deduction for second homes, but the $750,000 limitation applies for second homes acquired after December 31, 2017.
Individual Income – Repeal of State and Local Tax (SALT) Deduction	The Act eliminates the itemized deduction for all state and local taxes paid by individuals (i.e., the deduction taken on Schedule A), except for up to the aggregate of $10,000 ($5,000 for married taxpayers filing separately) of real estate and income taxes. This includes both the deduction for state and local income taxes as well as the deduction for state and local real estate taxes. The Act allows 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. A deduction for state and local property taxes imposed on business assets would continue to be allowed as under pre-existing law. The Act specifically disallows any deduction for pre-paying state and local taxes that are imposed for a year beginning after 2017. By reference to §641(b), the Act also makes clear this repeal applies to trusts and estates as well. The provision is effective for tax years after 2017. These changes expire after December 31, 2025, and the state and local tax deduction reverts back to its form as it existed before January 1, 2018 at that time.	Taxpayers should prepay income taxes related to the 2017 taxable year by December 31 that are not due until 2018 (e.g., 2017 extension payment). In addition, consideration should be given to prepaying real estate tax due in 2018 before the December 31, 2017 calendar year-end if the lien occurs prior to January 1, 2018.
Individual Income – Repeal of Deduction for Tax Preparation Expenses	Consistent with the Senate bill, the deduction for tax preparation expenses is eliminated. The provision is effective for tax years after 2017. The elimination of the itemized deduction for tax preparation services expires after December 31, 2025, and the tax preparation services deduction reverts back to its form as it existed before January 1, 2018 at that time.	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).

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Individual Income – Repeal of Deduction for Alimony Payments	Following the House bill, alimony payments are neither deductible by the payer nor included as income by the payee. Under the Act, however, the provision is effective for divorced or separation agreement either entered into or modified after December 31, 2018.	
Individual Income – Repeal of Personal Casualty and Theft Losses	The deduction for personal casualty losses is eliminated other than those associated with special disaster relief legislation. The provision is effective for tax years after 2017. This provision is consistent to the Senate bill. The repeal expires after December 31, 2025, and the deduction reverts back to its form as it existed before January 1, 2018 at that time.	
Individual Income – Repeal of Wagering Losses	The provision clarifies the definition of "losses from wagering transactions" to include any deduction otherwise allowable incurred in carrying on any wagering transaction. This provision is effective beginning in years after 2017 and expires after December 31, 2025.	
Individual Income – Enhancement of Child Tax Credit and New Family Credit	This provision increases the per-child credit from $1,000 to $2,000. The Act retains the current age limit for a qualifying child so that a taxpayer could claim the credit for any qualifying child under the age of 17. The maximum amount refundable is $1,400 per child, indexed for inflation. A $500 nonrefundable credit is allowed for non-child dependents. The Act also reduces the Senate bill phase-out threshold for the child tax credit to $400,000 for married taxpayers filing jointly and $200,000 for all other taxpayers. These amounts are not indexed for inflation. Additionally, the Act requires that a taxpayer provide the social security number of each qualifying child in order to qualify for the $2,000 credit. If the child is ineligible for the credit because of failure to provide a social security number the child may nonetheless qualify for the $500 credit. Similar to the Senate proposal, the changes to the child tax credit are effective for tax years after December 31, 2017 and expire after December 31, 2025, and the child tax credit reverts back to its form as it existed on January 1, 2018 at that time.	
Individual Income – Other Non-refundable Credits	This provision preserves the current adoption tax credit.	The Act does not mention other nonrefundable credits.
Individual Income – American Opportunity Tax Credit (AOTC)	Remains unchanged from current law.	

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Provision	**Description of Change**	**Comments**
Individual Income – 529 Accounts	Funds from tax-preferred 529 accounts that can currently be used for college expenses are available for costs associated with elementary and secondary education. This amount cannot exceed $10,000.	
Individual Income – Consolidation of Education Savings Rules	Like the Senate bill, the Act specifies that an unborn child may qualify as a designated beneficiary for Sec. 529 plans, effective for contributions made after December 31, 2017. This provision sunsets after December 31, 2025 and reverts back to its form as it existed before January 1, 2018. The Act increases the contribution limit to ABLE accounts under certain circumstances. Once the overall limitation on contributions is reached, the designated beneficiary is 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 Act also permits the designated beneficiary to claim the saver's credit for contributions made to his or her ABLE account. The Act further permits 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 count toward the overall limitation on contributions to an ABLE account within a tax year, and any amount in excess is included in the distributee's gross income. The provisions addressing ABLE contributions are effective for tax years beginning after the date of enactment, with a sunset after December 31, 2025.	
Individual Income – Repeal of Moving Expense Deduction	This provision generally repeals the deduction for moving expenses. The deduction is still available in the case of a member of the armed forces for amounts attributable to certain expenses (in-kind moving and storage expenses). The modifications to the moving expense deduction expires after December 31, 2025 and reverts back to its form as it existed before January 1, 2018 at that time.	
Individual Income – Repeal of Qualified Moving Expense Reimbursement Exclusion	The provision eliminates the income exclusion for qualified moving expense reimbursement. The modification expires 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).	
Individual Income –Filing Requirements for Individuals Over Age 65	The Act requires IRS to provide a simplified tax return (Form 1065SR) for use by persons who are age 65 or older. This requirement is effective for tax years beginning after December 31, 2017.	

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Provision	**Description of Change**	**Comments**
IRS Levy	Consistent with the Senate bill, the Act extends 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 Act also extends the time period for bringing a civil action for wrongful levy to two years. The changes are 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.	
Self-Created Property Not Treated as a Capital Asset	Gain or loss from the disposition of a self-created intangible property is ordinary in character. The election to treat musical compositions and copyrights in musical works as a capital asset is retained under the Act. Additionally, the special rule treating the transfer of a patent prior to its commercial exploitation as long-term capital gain is repealed. The provisions are effective for dispositions of such property after 2017.	Taxpayers contemplating a future disposition of self-created intangibles should consider whether the disposition can be accelerated into 2017 if a built-in gain exists.