

TAX REFORM

Overview

On November 2, House Republicans released their tax reform bill titled, "Tax Cuts and Jobs Act." Michael Best Strategies' (MBS) tax policy experts, Denise Bode and Anne Canfield, both veterans from the last tax reform overhaul that was passed by Congress in 1986, have been providing constant updates to their tax analysis charts in this tax reform update. As they predicted, the legislation is currently being refined and perfected as it moves through the legislative process. On November 3, House Ways & Means Committee Chairman Kevin Brady released his "Chairman's Mark" which was then marked up in committee this week. During that mark-up, Chairman Brady has offered several Chairman's amendment which have been summarized and included in the House bill column, updating our version from last week. On Thursday, November 9, the Ways & Means Committee voted and passed their revised legislation which will be considered on the House floor sometime the week of November 13.

Also on November 9, the Senate Finance Committee released their tax bill overview also titled, "Tax Cuts and Jobs Act ." The Senate Finance bill is different in many aspects from the Ways & Means' bill and requires a side-by-side analysis, which MBS has provided in this tax reform update (pages 2-5). Unlike the House bill, their summary is not drafted in legislative language so this was supplemented by the Joint Committee on Taxation's description of the Chairman's Mark.

Below are the links to important Senate Finance bill documents and resources. We have also included the House Ways & Means Committee's final bill and other helpful documents that explain the House's version.

President Trump has repeatedly made it clear that he wants to see tax reform wrapped up before the end of the year. With Republicans in dire need for a political 'win' to campaign on in 2018, it appears that the House and Senate leadership is eager to meet the President's timetable. Below is the updated tax reform schedule that the Republicans have put together.

Congressional Republican Timeline

November 2

House GOP released their tax reform legislation.

November 6

Ways & Means Full Committee began their markup of their bill.

November 9

Ways & Means Full Committee passed the bill. Senate Finance Committee released their tax reform plan.

November 13

House expects to consider the bill on the floor sometime this week. Senate to begin markup of their bill.

November 23

The House hopes to pass and send their legislation to the Senate before Thanksgiving.

November 27

The Senate could vote on their tax bill sometime this week.

Between November 27 & December 24

When both chambers complete action, they can either conference the legislation or the House could be asked to pass whatever the Senate can pass because of its slim majority and send to the President for his approval.



Senate Finance Link

[Senate Finance Committee Tax Reform Highlights](#)

Ways & Means Links

[Section-by-Section Summary](#)

[JCT: Description of Substitute Amendment](#)

[JCT: Estimated Revenue Effects of the Substitute Amendment](#)

[JCT: Estimated Revenue Effects of H.R. 1](#)

[Section-by-Section Summary: Chairman's Amendment to the Substitute Amendment](#)

[JCT: Estimated Revenue Effects of the Chairman's Amendment to the Substitute Amendment](#)

[Section-by-Section Summary: Chairman's Amendment 2 to the Substitute Amendment](#)

[JCT: Estimated Revenue Effects of the Chairman's Amendment 2 to the Substitute Amendment](#)

Primary Contacts

Denise Bode

Partner

dabode@michaelbeststrategies.com

T. 202.844.3804

Anne Canfield

Partner

accanfield@michaelbeststrategies.com

T. 202.747.9570

Business Tax Package

Rule	Current law	House bill	Senate bill
Tax rates	<ul style="list-style-type: none"> • 35% 	<ul style="list-style-type: none"> • 20% flat rate 	<ul style="list-style-type: none"> • 20% rate delayed until 2019 • AMT repealed
Pass-through tax rates	<ul style="list-style-type: none"> • Taxed at individual owners' rates 	<ul style="list-style-type: none"> • The bill would reduce the top rate to 25%-- but places limits on the kind of income that would qualify. • Lowers rates for small business income • "Professional services" -- including doctors, lawyers, accountants and others -- would not qualify for the rate. • Modifies treatment of S corporation conversions into C corporations. • Other business owners could choose one of two options: <ul style="list-style-type: none"> ○ Categorize 70% of their income as wages -- and pay their individual tax rate on it -- and 30% as business income, taxable at the 25% rate. ○ Set the ratio of their wage income to business income based on the level of their capital investment. • The guidelines are aimed at preventing abuse of the 25% rate -- such as high-earning individuals forming themselves into corporations to get a tax cut. 	<ul style="list-style-type: none"> • An individual taxpayer generally may deduct 17.4 percent of domestic qualified business income from a partnership, S corporation, or sole proprietorship. • The proposal expands the limitation on excess farm losses. • Would create a new deduction for pass-through business income which lowers the top tax rate for these businesses from the current 39.6%, but keeps it above 30% • Enhanced cash accounting allowing more businesses to use the simple cash-basis accounting • The proposal expands the exception for small taxpayers from the uniform capitalization rules.
Capital gains/ Dividend paid and received deduction	<ul style="list-style-type: none"> • 0%/15%/20% on capital gains and qualified dividends • 3.8% net investment income tax for highest earners 	<ul style="list-style-type: none"> • The 80-percent dividends received deduction is lowered to 65 percent and the 70-percent dividends received deduction is lowered to 50 percent, preserving the current law effective tax rates on income from such dividends. 	<ul style="list-style-type: none"> • The proposal reduces the 70 percent dividends received deduction to 50 percent and the 80 percent dividends received deduction to 65 percent.
Cost recovery of capital investments	<ul style="list-style-type: none"> • Depreciation deductions over time 	<ul style="list-style-type: none"> • 100% expensing for 5 years 	<ul style="list-style-type: none"> • The proposal increases the maximum amount a taxpayer may expense under section 179 to \$1,000,000, and increases the phase-out threshold amount to \$2,500,000. Thus, the proposal provides that the maximum amount a taxpayer may expense, for taxable years beginning after 2017, is \$1,000,000 of the cost of qualifying property placed in service for the taxable year. The \$1,000,000 amount is reduced (but not below zero) by the amount by which the cost of qualifying property placed in service during the taxable year exceeds \$2,500,000. The \$1,000,000 and \$2,500,000 amounts, as well as the \$25,000 sport utility vehicle limitation, are indexed for inflation for taxable years beginning after 2018. • The proposal shortens the recovery period for determining the depreciation deduction with respect to nonresidential real and residential rental property to 25 years.

Business Tax Package (cont.)

Rule	Current law	House bill	Senate bill
Interest expense	<ul style="list-style-type: none"> Generally deductible, but investments need to be held for 1 year to receive capital gains treatment. 	<ul style="list-style-type: none"> The deduction for business interest shall not exceed the sum of the business interest income of such taxpayer for the year plus 30% of the adjusted taxable income of such taxpayer Certain small businesses are exempt Special exclusion for utilities A special rule that applies to partnerships and S-Corps Any interest amounts disallowed under the provision would be carried forward to the succeeding 5 taxable years and would be an attribute of the business (as opposed to its owners). Investments held for a minimum of 3 years qualify for capital gains treatment. Exclusion from deductibility limit of net business provided for interest for taxpayers that paid or accrued interest on "floor plan financing debt." 	<ul style="list-style-type: none"> In the case of any taxpayer for any taxable year, the deduction for business interest is limited to the sum of business interest income plus 30 percent of the adjusted taxable income of the taxpayer for the taxable year. The amount of any interest not allowed as a deduction for any taxable year may be carried forward indefinitely. The limitation applies at the taxpayer level. In the case of a group of affiliated corporations that file a consolidated return, it applies at the consolidated tax return filing level. Small business may fully deduct interest on loans Tax treatment of carried interest may be dealt with through an amendment¹
Deductions and credits	<ul style="list-style-type: none"> Numerous deductions and credits 	<p>Includes reform of business related exclusions and deductions for deductions such as local lobbying expenses and entertainment expenses</p> <p>Uniform treatment of expenses in contingent fee cases.</p> <p><u>Business Credits</u></p> <ul style="list-style-type: none"> Section 199 repealed Research & Development tax credit preserved but requires certain expenditures to be amortized Repeal of credit for clinical testing expenses Repeal of employer provided childcare credit Repeal of work opportunity Tax Credit Termination of New Markets Tax Credit Termination of Historic Preservation Tax Credit Repeal of Credit for Expenditures to provide access to disabled individuals Modification of employer tip credit <p><u>Energy Credits</u></p> <ul style="list-style-type: none"> Modification of renewable energy tax credit <ul style="list-style-type: none"> Wind production tax credit reduced from 2.6 cents per kwh to 1.5. Ends safe harbor provisions that allow projects under construction but not completed to qualify for credit. Repeals inflation adjustment, effective November 2. Modification of energy investment tax credit Extension and phase out of residential energy efficient property Repeal of enhanced oil recovery credit Repeal of credit for producing oil and gas from marginal wells 	<ul style="list-style-type: none"> Low income housing credit preserved Research and development credit preserved Section 199 repealed Limitation on deduction by employers of expenses for fringe benefits Modification of credit for clinical testing expenses for certain drugs for rare diseases or conditions

¹ Information on the Senate bill's rule on Interest expense provided by Senator Chuck Grassley (R-IA)

Business Tax Package (cont.)

Rule	Current law	House bill	Senate bill
Tax Exempt Bonds	<ul style="list-style-type: none"> • Tax exempt bonds allowed for professional stadiums • Private-activity bonds are tax exempt • Advanced refunding bonds are allowed under certain conditions • State and local governments and other entities may issue various categories of tax credit bonds for specific projects under certain conditions 	<u>Bond Reforms</u> <ul style="list-style-type: none"> • No tax exempt bonds for professional stadiums • Makes all new-issue private-activity bonds (including bonds for 501(c)3 organizations) taxable • Prohibits all tax-exempt advanced refunds • Repeals the authorization for tax credit bonds (e.g. Qualified Zone Academy Bonds and Qualified Clean Energy Bonds) 	<ul style="list-style-type: none"> • Keeps tax exemption for certain private activity bonds • Repeal of advance refunding bonds • Modification of rehabilitation credit
NOLs	<ul style="list-style-type: none"> • NOLs carried back 2 years and forward 20 years 	<ul style="list-style-type: none"> • Repeal of NOL carrybacks other than 1 year carryback of eligible disaster losses • NOLs limited to 90% of taxable income 	<p>The proposal limits the NOL deduction to 90 percent of taxable income (determined without regard to the deduction). Carryovers to other years are adjusted to take account of this limitation, and may be carried forward indefinitely.</p>
Tax Exempt Entities	<ul style="list-style-type: none"> • No special tax imposed 	<ul style="list-style-type: none"> • Taxes large university endowment income at 1.4%. Would apply to schools with assets of more than \$250,000 per student. It would exempt small schools. Also, ensures that endowment assets of a private university that are formally held by organizations related to the university, and not merely those that are directly held by the university, are subject to the 1.4-percent excise tax on net investment income. • More rigorous accountability for tax-exempt organizations. • Churches permitted to make statements relating to political campaign in ordinary course of religious services and activities. 	<ul style="list-style-type: none"> • Repeal of tax-exempt status for professional sports leagues • Taxes large university endowment income at 1.4%. Would apply to schools with assets of more than \$250,000 per student. It would exempt small schools. Also, ensures that endowment assets of a private university that are formally held by organizations related to the university, and not merely those that are directly held by the university, are subject to the 1.4-percent excise tax on net investment income. • Excise tax on excess tax-exempt organization executive compensation
Imports/exports	<ul style="list-style-type: none"> • Included in corporate tax base if company is subject to US tax 	<ul style="list-style-type: none"> • No border adjustment tax 	<ul style="list-style-type: none"> • No border adjustment tax

Individual Tax Package

Rule	Current law	House bill	Senate bill
Standard Deduction	Individuals: <ul style="list-style-type: none"> • \$6.35k Joint Filers: <ul style="list-style-type: none"> • \$12.7k 	<ul style="list-style-type: none"> • Personal exemption is eliminated Individuals: <ul style="list-style-type: none"> • \$12K Joint Filers: <ul style="list-style-type: none"> • \$24K 	<ul style="list-style-type: none"> • Same as House bill • For single parents, the standard deduction will increase from \$9.3K to \$18K
Rates	Individual: <ul style="list-style-type: none"> • Up to \$9.325k – 10% • \$9.325k to \$37.950k – 15% • \$37.950k to \$91.9k – 25% • \$91.9k to \$191.65k – 28% • \$191.65k to \$416.7k – 33% • \$416.7k to \$418.4k – 35% • Over \$418,401 – 39.6% Joint Filers: <ul style="list-style-type: none"> • Up to \$18.650k – 10% • \$18.650k to \$75.9k – 15% • \$75.9k to \$153.1k – 25% • \$153.1k to \$233.35k – 28% • \$233.35k to \$416.7k – 33% • \$416.7k to \$470k – 35% • Over \$470,001 – 39.6% 	Individual: <ul style="list-style-type: none"> • Up to \$45k – 12% • \$45k to \$200k – 25% • \$200k to \$500k – 35% • Over \$500,001 – 39.6% Joint Filers: <ul style="list-style-type: none"> • Up to \$90k – 12% • \$90k to \$260k – 25% • \$260k to \$1M – 35% • Over \$1,000,001 – 39.6% Wealthy Bubble Tax: <ul style="list-style-type: none"> • Individuals: <ul style="list-style-type: none"> • \$1M to \$1.2M – 45.6% • Joint filers: <ul style="list-style-type: none"> • \$1.2M to \$1.4M – 45.6% 	Individual: <ul style="list-style-type: none"> • Up to \$9,525–10% • \$9,525 to \$38,700 – 12% • \$37,870 to \$60,000 – 22.5% • \$60,000 to \$170,000 – 25% • \$170,000 to \$200,00 – 32.5% • \$200,000 to \$500,000 – 35% • Over \$500,000 – 38.5% Joint Filers: <ul style="list-style-type: none"> • Up to \$19,050 – 7% • \$19,050 to \$77,400 – 12% • \$77,400 to \$120,000 – 22.5% • \$120,000 to \$290,000 – 25% • \$290,000 to \$390,000 – 32.5% • \$390,000 to \$1,000,00 – 35% • Over \$1,000,000 – 38.5%
Alternative Minimum Tax (AMT)	<ul style="list-style-type: none"> • Separate tax calculations on some returns 	<ul style="list-style-type: none"> • Corporate and Individual AMT Repealed 	<ul style="list-style-type: none"> • Repeals the Alternative Minimum Tax
Retirement and Compensation	<ul style="list-style-type: none"> • For defined benefit or defined contribution pension plans, the employee defers taxation until income is distributed from the plan – i.e. tax deferral is limited to \$18,000 for 2017 	<ul style="list-style-type: none"> • Retains Individual Retirement Accounts and 401(k)s • Retains current law on Nonqualified deferred compensation 	<ul style="list-style-type: none"> • Continues 401(k) and Individual Retirement Account programs • Nonqualified deferred compensation • Modification of limitation on excessive employee remuneration • Elimination of catch-up contributions for high-wage employees

Individual Tax Package (cont.)

Rule	Current law	House bill	Senate bill
Credits and Deductions	<ul style="list-style-type: none"> SALT deductions are an itemized deduction for taxes paid \$1,000 per child tax credit Deduct up to \$1M in mortgage principal 	<ul style="list-style-type: none"> State and local tax deductions limited only to state and local <i>property</i> tax deductions <i>up to \$10k</i> Expands the Child Tax Credit from \$1,000 to \$1,600 and provides a credit of \$300 for each parent and non-child dependent Preserves the Earned Income Tax Credit Retain for existing mortgages; \$1M cap reduced to \$500,000; deduction allowed for principal residences only HELOC loan interest deduction disallowed Existing mortgage interest deductions for principal residence retained at the limit of up to \$1M Eliminates overall limitation on itemized deductions <u>Eliminates most itemized deductions;</u> Repeal of deduction for tax preparation expenses. Repeals moving expenses except for the military Repeal of medical expense deduction. Repeal of deduction for alimony payments. Exclusion of gain from sale of a principal residence 	<ul style="list-style-type: none"> Full repeal of state/local tax deductions, <i>including the property tax (saved in the House bill)</i> Protects the home mortgage interest deduction for existing mortgages and maintains the deduction for newly purchased homes up to \$1M. Preserves the low-income housing credit Preserves the adoption tax credit Expanding the child tax credit from \$1K to \$1,650, <i>up from \$1,600 in the House proposal</i> Preserves the child and dependent care tax credit Preserves Electric Vehicle tax credit Preserves Earned Income Tax Credit Preserves the medical expense deduction Repeal of deduction for taxes not paid or accrued in a trade or business Modification of deduction for home mortgage interest Modification of deduction for personal casualty and theft losses Repeal of deduction for tax preparation expenses Repeal of miscellaneous itemized deductions subject to the two-percent floor Increase percentage limit for charitable contributions of cash to public charities Repeal of overall limitation on itemized deductions Modification of exclusion of gain from sale of a principal residence Repeal of exclusion for qualified bicycle commuting reimbursement Repeal of exclusion for qualified moving expense reimbursement Repeal of deduction for moving expenses Modification to the limitation on wagering losses
Credits and Deductions (cont'd)	<ul style="list-style-type: none"> SALT deductions are an itemized deduction for taxes paid \$1,000 per child tax credit Deduct up to \$1M in mortgage principal 	<ul style="list-style-type: none"> Repeal of exclusion, etc., for employee achievement awards. Repeal of exclusion for dependent care assistance programs. Repeal of exclusion for qualified moving expense reimbursement. Repeal of exclusion for adoption assistance programs. Repeal of deduction for moving expenses. Termination of deduction and exclusions for contributions to medical savings accounts. Low-income housing credits retained Eliminates medical expense deduction Eliminates property casualty loss deduction Repeals Electric Vehicle tax credit 	

Individual Tax Package (cont.)

Rule	Current law	House bill	Senate bill
Capital gains/ Dividend paid and received deduction	<ul style="list-style-type: none"> 0%/15%/20% on capital gains and qualified dividends 23.8% net investment income tax for highest earners 	<ul style="list-style-type: none"> Unchanged – remains at 23.8% 	<p>The proposal generally retains the present-law maximum rates on net capital gain and qualified dividends. The breakpoints between the zero- and 15-percent rates (“15-percent breakpoint”) and the 15- and 20-percent rates (“20-percent breakpoint”) are the same amounts as the breakpoints under present law, except the breakpoints are indexed using the C-CPI-U in taxable years beginning after 2017.</p>
Estate, Gift, and Generation-Skipping Transfer (GST) tax	<ul style="list-style-type: none"> Basic exclusion amount of \$5.49M per taxpayer in 2017; portability of unused exclusion to spouse; top tax rate of 40% on transfers in excess of \$1,000,001 	<ul style="list-style-type: none"> Doubles the basic exclusion amount per taxpayer (\$10M in 2011 dollars, so \$10.98M per taxpayer in 2017); Estate and GST repealed in 2024, but gift tax remains with top rate of 35%; maintains “step-up basis” and portability Delays implementation of state and gift tax reform for one year. 	<ul style="list-style-type: none"> Preserve the estate tax while doubling the current \$5.49M exemption for individuals to \$11.98M