RSM

House-Senate agreement sets the stage for major tax law changes

Many provisions of the proposal will challenge traditional planning

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On Friday, Dec. 15, the House and Senate conferees agreed on a final version of the proposed Tax Cuts and Jobs Act and issued a *Joint Explanatory Statement* that explains the final bill. The bill will likely be voted on by the House and Senate early this week and, if approved, will then go to the President for his signature.

Here is a summary of some of the key provisions of the bill that will affect individual taxpayers. Unless noted otherwise, these provisions would apply as of Jan. 1, 2018, and expire (sunset) at the end of 2025.

Income Tax

- Seven tax brackets—10, 12, 22, 24, 32, 35, and 37 percent. The top individual rate of 37 percent will apply to individuals earning $500,000 and above, and joint filers earning at least $600,000
- Permanent adoption of the "chained consumer price index" for measuring increases in bracket amounts and generally all inflation-adjusted dollar amounts in the Code. This will result in a slower increase in inflation adjusted amounts
- The individual Alternative Minimum Tax (AMT) is retained, albeit with a higher exemption and a higher phase-out threshold. The exemptions will be increased to $70,300 for individuals and $109,400 for married taxpayers filing jointly. The phase-out of exemption would be increased to $500,000 for individuals and $1,000,000 for married taxpayers filing jointly
- The deduction for personal exemptions is repealed
- The standard deduction is doubled to $12,000 for individuals and $24,000 for married couples. The additional deduction for the elderly is retained
- The deduction for home mortgage interest will be limited to interest on $750,000 of indebtedness on newly purchased principal and second residences after Dec. 15, 2017, but will not be allowed for interest on any home equity loans. The mortgage interest limitation would

not apply to debt incurred on or before Dec. 15, 2017. There is an exception for binding contracts entered into prior to Dec. 15, 2017

- A deduction of up to $10,000 for state and local property, income or sales taxes would be allowed. However, "an amount paid in a taxable year beginning before Jan. 1, 2018, with respect to a state or local income tax imposed for a taxable year beginning after Dec. 31, 2017, shall be treated as paid on the last day of the taxable year for which such tax is so imposed." This provision is apparently intended to preclude taxpayers from pre-paying 2018 state and local income taxes this year in order to get the deduction before the $10,000 cap is imposed after 2017
- Deductions for casualty and theft losses would be limited to those incurred in a Presidentially-declared disaster area
- Alimony paid pursuant to divorce after Dec. 31, 2018, will not be deductible after 2018 (or includible in the income of the recipient). Modifications to existing agreements will be impacted
- Medical expenses exceeding 7.5 percent of Adjusted Gross Income (AGI) would be deductible for 2017 and 2018. Eliminate AMT preference for medical expense deductions for 2017 and 2018
- The 3 percent of AGI limitation on deductions is suspended
- Miscellaneous deductions that exceed 2 percent of AGI will be eliminated (including investment management fees, tax prep fees, unreimbursed business expenses)
- The deduction for charitable contributions is preserved, with an increase in the AGI limitation for cash contributions to public charities and certain private foundations from 50 percent to 60 percent
- Up to $10,000 of 529 savings plans can be used per student for public, private and religious elementary and secondary schools, as well as home school students.
- A conversion of a traditional IRA to a Roth IRA cannot be recharacterized as a contribution to a traditional IRA. This does not prevent conversion of a traditional IRA into a Roth IRA, only the reversal of such a conversion is barred

Estate, gift and generation-skipping transfer (GST) tax

- The estate, gift and generation-skipping transfer (GST) tax exemptions are doubled to approximately $11 million, effective January 2018. The estate, gift and GST rates remain the same as existing law
- The estate tax will not be repealed

Key provisions of current law that are unchanged by the proposed bill

- Income tax

    - The 3.8 percent tax on investment income under Section 1411 and the .9 percent Medicare tax on compensation
    - Tax rates on capital gains and qualified dividends
    - Exclusion of gain on sale of a residence
    - Ability to identify the securities that an investor is deemed to sell, i.e., the Senate's proposal for a first-in, first out method not included in the final bill
    - Pre-tax contribution limits (including catch-ups) for 401(k) plans
    - Ability for beneficiary to stretch IRA withdrawals out over their lifetimes
    - Student loan interest deductions, adoption assistance programs, dependent care accounts, tuition waivers, employer paid tuition, teacher supplies deduction, and Archer medical savings accounts, among other deductions, were preserved

- Estate, gift and GST tax

    - The gift tax and the rate of tax imposed for estate, gift & GST
    - Step-up in basis for inherited assets (other than items of income in respect of decedent) was retained
    - Current design flexibility of grantor retained annuity trusts (GRATs) and rules for defective grantor trusts

The conference committee report (legislative text and Joint Committee on Taxation estimate) and the Joint Explanatory Statement are available for download.

Please see our additional tax alerts for details regarding the domestic business, pass-through, and international aspects of the conference agreement on the final proposed legislation.

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