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Comparison of Current Tax Law and House and Senate Tax Reform Bills, December 4, 2017

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	Current Law	House Bill (Passed by House)	Senate Bill (Passed by Senate)
INSURANCE COMPANIES			
Life Insurance Company Carryforward and Carryback Rules	- Life insurance companies may carryover operations losses up to 15 years and carryback operations losses up to three years.	- The bill would modify IRC § 805 and repeal IRC §§ 810 and 844 to make the operations loss carryover and carryback provisions of IRC § 172 applicable to life insurance companies. Thus, life insurance companies would carry operations losses back up to two (instead of three) years and forward up to 20 (instead of 15) years.	- The operations loss deduction for life insurance companies would be repealed effective for losses arising in taxable years after December 31, 2017, but NOLs would be deductible under IRC § 172. - To calculate the deduction under Section 172, the NOL for any taxable year would be treated as the excess of the life insurance deductions for such taxable year over the life insurance gross income for such taxable year.
Small Life Insurance Company Deduction	- Under IRC § 806, life insurance companies may deduct 60% of their first $3 million of life insurance-related income. This deduction is phased out for life insurance companies with between $3 million and $15 million in income, and is not available for companies with assets of $500 million or more.	- The IRC § 806 small life insurance company deduction would be repealed.	- The IRC § 806 small life insurance company deduction would be repealed.
Computation of Life Insurance Reserves	- Life insurance reserves for any contract are the greater of the net surrender value of the contract or the reserves determined under prescribed tax rules, but may not exceed the statutory reserve with respect to the contract (for regulatory reporting).	- No provision (but see below for "placeholder" surtax)	- Life insurance reserves generally shall be the greater of the net surrender value of such contract or 92.87% of the reserve determined under the tax rules, but may not exceed the statutory reserve with respect to the contract (for regulatory reporting).
Surtax on Life Insurance Company Taxable Income	- None.	- The House legislation includes a "placeholder" provision intended to preserve current tax treatment of deferred acquisition costs, life insurance company reserves, and proration. The placeholder provision also includes an 8% surtax on life insurance company income.	- None.
Change in Computing Life Insurance Company Reserves	- IRC § 807(f) provides that for life insurance companies, a change in computing reserves may be taken into account over ten years (regardless of whether the adjustment reduces or increases taxable income).	- The special rule under IRC § 807(f) for changes in computing life insurance reserves would be eliminated, and generally applicable IRC § 481 change in accounting method rules would apply. Adjustment would be made with the consent of the IRS.	- Income or loss resulting from a change in computation method for life insurance company reserves would be taken into account consistent with IRS procedures (generally ratably over a four-year period).
Dividends Received Deduction for Life Insurance Companies	- Under IRC § 812, deductions related to the receipt of exempt income may be disallowed or limited for life insurance companies. Life	- Rules for proration under IRC § 812 would be modified: effective for taxable years beginning after December 31, 2017, the company portion	- Rules for proration under IRC § 812 would be modified: effective for taxable years beginning after December 31, 2017, the company portion

	Current Law	House Bill (Passed by House)	Senate Bill (Passed by Senate)
	insurance companies must reduce deductions (including dividends-received deductions and reserve deductions) according to a formula that computes the respective shares of net investment income that belong to the company and to the policyholders.	would be 40% and the policyholder portion would be 60%.	would be 70% and the policyholder portion would be 30%.
Distributions to Shareholders from Pre-1984 Policyholders Surplus Account	- Tax rules enacted in 1959 provided that half of a life insurer's operating income was taxed only when distributed by the company, and untaxed income was accounted for in a "policyholders surplus account." This deferral of taxable income was repealed in 1984, but existing policyholders' surplus account balances remained untaxed until they were distributed. A 2004 law created a two-year tax holiday that allowed tax-free distributions of these policyholders' surplus account balances during 2005 and 2006.	- The bill would repeal IRC § 815, which applies to distributions from a stock life insurer's pre-1984 policyholders surplus account. If a company has a remaining balance in such account at the end of the pre-effective date year that balance would be brought into income ratably over eight years.	- The Senate bill is virtually identical to the House bill with respect to this provision. The Senate proposal would repeal IRC § 815. As of December 31, 2017, tax would be imposed on the balance of an existing policyholders surplus account. A life insurance company would be required to pay tax on the balance of the account ratably over eight years.
Capitalization of Policy Acquisition Expenses	- In general, specified insurance company policy acquisition expenses for any taxable year must be capitalized and amortized over ten years. Specified policy acquisition expenses are the lesser of (1) a specified percentage of net premiums received on each of a company's three categories of insurance contracts; or (2) the company's general deductions. (The specified percentage is 1.75% for annuity contracts, 2.05% for group life insurance contracts, and 7.7% for all other specified insurance contracts.)	- Would preserve current tax treatment of deferred acquisition costs.	- Would lengthen the amortization period for specified policy acquisition expenses from 10 years to 15 years. - Would increase the specified percentage of net premiums companies use to calculate policy acquisition costs: from 1.75% to 2.1% for annuity contracts; from 2.05% to 2.46% for group life contracts; and 7.70% to 9.24% for all other specified insurance contracts.
Property and Casualty (P&C) Loss Reserve Deduction Rules	- Under IRC § 832, deductions are limited or disallowed in certain circumstances if they are related to the receipt of exempt income. Under proration rules, property and casualty (P&C) insurance companies must reduce reserve deductions for losses incurred by 15% of (1) the company's tax-exempt interest, (2) the deductible portion of dividends received, and (3) the increase in the cash value of the life insurance, annuity, or endowment contracts owned by the company during the tax year.	- The bill would amend IRC § 832 to increase the amount by which a P&C insurer must reduce its loss reserve deduction. Reserve deductions for losses incurred must be reduced by 26.25% (up from 15% under current law) of (1) the deductible portion of dividends received; (2) tax exempt interest; and (3) the increase for the tax year in the cash value of annuity, endowment, or life insurance contracts owned by the company.	- Like the House bill, the Senate bill would increase the amount by which a P&C insurer must reduce its loss reserve deduction: instead of a 15% reduction, P&C insurers would be required to calculate a reduction equal to 5.25% divided by the top corporate tax rate. Under the Senate bill, the top corporate tax rate would drop from 35% to 20% beginning in 2019. Thus, the reduction percentage for an insurance company's loss reserve deduction would be 15% for 2018, and 26.25% beginning in 2019.

	Current Law	House Bill (Passed by House)	Senate Bill (Passed by Senate)
P&C Insurance Companies Discounting Rules	- Under IRC § 846, a P&C insurance company may deduct unpaid losses that are discounted using mid-term applicable federal rates and based on a loss payment pattern. The loss payment pattern for each line of business is determined by reference to the industry-wide historical loss payment patterns (though companies may elect to use their own company-specific historical loss payment patterns). The payment pattern computation incorporates the assumption that all losses are paid during the accident year and the three following calendar years (or during the accident year and the ten following calendar years for lines of business related to medical malpractice, workers' compensation, international coverage, multiple peril lines, reinsurance, and auto-related or other liability). Long-tail lines of business are subject to a rule that extends the loss payment pattern period and treats the amount of losses which would have been treated as paid in the tenth year following the accident year as paid in the tenth year and in each subsequent year (up to five years) in an amount equal to the amount treated as paid in the ninth year following the accident year.	- The House bill would amend the IRC § 846 discounting rules used to determine discounted unpaid losses. First, the applicable interest rate for determining discounted unpaid losses would be the corporate bond yield curve specified by Treasury, rather than mid-term applicable federal rates. Second, the computational rules for loss payment patterns would be modified by applying the loss payment pattern for long-tailed business lines to all lines of business, but with the five-year limitation on extensions to the payment period increased to 15 years. Additionally, the election to use a company's historic payment pattern would be repealed. Any transition adjustment would be taken into account ratably over eight years.	- Not addressed in Senate bill.
Special Estimated Tax Payments	- IRC § 847 allows an insurance company to elect to claim a deduction equal to the difference between the amount of reserves computed on a discounted basis and the amount computed on an undiscounted basis, so long as the company pays a special estimated tax equal to the tax benefit attributable to the deduction.	- The bill would repeal IRC § 847 and the special estimated tax payment rules related to the difference between discounted and undiscounted reserves.	- Effective for tax years beginning after December 31, 2017, the bill would repeal section 847.

COMPENSATION AND RETIREMENT SAVINGS			
Nonqualified Deferred Compensation	- Compensation generally is taxable to an employee and deductible by an employer in the year earned. However, for non-qualified deferred compensation, the employee generally does not take such compensation into income until the year	- No repeal of § 409A. The House originally proposed to repeal § 409A, but this was removed in the manager's amendment.	- No repeal of § 409A. The Senate originally proposed to repeal § 409A, but this was removed in the Chairman's Modification.

	received, and the employer's deduction is postponed until that time. *See generally* IRC § 409A.		
Deduction for Executive Compensation	- For publicly traded corporations, the deduction for compensation paid or accrued with respect to covered employees is limited to no more than $1 million per year, subject to certain exceptions, including commissioner, performance-based remuneration, such as stock options, and payments to a tax-qualified retirement plan. Covered employees include the CEO and 4 most highly compensated officers other than the CEO.	- The $1 million deduction cap on executive compensation would be changed to include commissions and performance-based compensation. The provision would also change the definition of covered employee to include the CEO, the CFO, and the three other highest paid employees.	- The Senate bill would make the same amendments as the House bill, with a transition rule for existing arrangements. - In addition, the applicability of the limitation would be expanded to include all domestic publicly traded corporations, foreign companies publicly traded through ADRs, and certain additional corporations not publicly traded.
Deduction of entertainment expenses	- No deduction is allowed with respect to entertainment, amusement, or recreation activities or facilities (including membership dues), unless the taxpayer establishes that they were directly related to the taxpayer's trade or business, in which case, the taxpayer may deduct up to 50%.	- Disallows deduction for entertainment expenses. - Applies 50% limitation to expenses for food or beverages and qualifying business meals.	- Same as House.
Fringe benefits	- A taxpayer may deduct the cost of certain fringe benefits provided to employees (*e.g.*, employee discounts, working conditions, and transportation fringe benefits), even though the benefits are excluded from the employee's income.	- Disallows deduction for transportation fringe benefits, on-premises gyms and other athletic facilities, or for amenities provided to an employee that are primarily personal in nature, unless such benefits are treated as taxable compensation to the employee.	- Disallows deductions for transportation fringe benefits, except as necessary for the safety of the employee.
Retirement Plans	- A special rule allows an individual to elect to recharacterize a contribution to a traditional IRA as a contribution to a Roth IRA and vice versa. - As an exception to the rule that defined contribution plans are not permitted to made in-service distributions, employees may receive hardship distributions. Hardship distributions are limited to the amounts actually contributed by the employer. Under IRS guidance, 401(k) plans that allow employees to take hardship distributions must require the employee to suspend making contributions for six months. - Employees may take a loan from a defined contribution plan. But if an employee terminates his or her employment, rolls over the remaining account balance, and does not contribute the loan	- The bill would repeal the rule that allows an individual to re-characterize a contribution to a traditional IRA as a contribution to a Roth IRA (and vice versa). - The bill would modify the rules governing hardship distributions by requiring the IRS to change its guidance to allow employees who receive hardship distributions to continue to make plan contributions, without waiting the six months. It would also allow plans to permit hardship distributions of employer contributions as well as earnings. - The bill would extend the period of time during which a plan participant may rollover a plan loan in the event the employee separates from service, or the plan terminates, while a loan is outstanding,	- The bill would repeal the rule that allows an individual to re-characterize a contribution to a traditional IRA as a contribution to a Roth IRA (and vice versa). - No hardship provision - The proposal would extend the period of time during which a plan participant may rollover a plan loan in the event the employee separates from service, or the plan terminates, while a loan

	balance to the IRA, the loan is treated as a distribution subject to a 10% additional tax.	from 60 days to the due date of the employee's tax return. - Certain nondiscrimination rules would be modified in order to protect older, longer service participants by expanding an employer's ability to cross-test between defined benefit and defined contribution plans.	is outstanding, from 60 days to the due date of the employee's tax return. - No nondiscrimination provision.
401(k) Plans	- 401(k) plan participants may voluntarily contribute up to $18,000 per year (plus an additional $6,000 if they are age 50 or over) on a pre-tax basis.	- Current 401(k) limits would remain unchanged.	- Current 401(k) limits would remain unchanged.
BUSINESSES - GENERAL			
Corporate Rate	- Graduated schedule with a 35% top rate.	- 20% flat rate after 2017; 25% flat rate for personal service corporations. - Corresponding reduction to dividends-received deduction (DRD): the 80% DRD would be reduced to 65% and the 70% DRD would be reduced to 50%.	- 20% flat rate for tax years beginning after 2018; eliminates special rate for personal service corporations. - Corresponding reduction to dividends-received deduction (80%→65%; 70%→50%).
Corporate AMT	- Corporations are generally subject to an alternative minimum tax (AMT) imposed at a flat rate of 20% on a broad tax base. - Certain small corporations are exempt.	- The corporate AMT would be repealed.	- The corporate AMT would NOT be repealed.
Interest Deduction	- Business interest generally may be deducted in the tax year in which the interest is paid or accrued, subject to various limitations, including those in IRC § 163(j).	- Generally, imposes a new restriction on interest deductibility (all businesses, regardless of form, subject to a disallowance of deduction for net interest expense in excess of 30% of the business's adjusted taxable income), but carves out "real property trades or businesses"--any real property development, redevelopment, construction, reconstruction, acquisition, conversion, rental, operation, management, leasing, or brokerage trade or business--and businesses with average gross receipts of $25M or less from the new restriction. - An additional restriction would apply to an "international financial reporting group," i.e., one	- Generally, imposes a new restriction on interest deductibility (all businesses, regardless of form, subject to a disallowance of deduction for net interest expense in excess of 30% of the business's adjusted taxable income); exempts businesses with average annual gross receipts under $15M during the three preceding years, certain regulated public utilities, and electing real property trades or businesses.

		with at least one foreign corporation with annual gross receipts in excess of $100 million.	- An additional restriction would apply to US corporations that are members of worldwide affiliated groups.
Net Operating Losses	- Businesses generally may carry a net operating loss (NOL) back for two years and forward for 20 years.	-The bill would repeal carrybacks (except for special one-year carryback for small businesses and farms in the case of certain casualty and disaster losses). - The bill would allow indefinite carryforward of NOLs, increased by an interest factor. - Use of NOL carryforward would be limited to 90% of the taxpayer's taxable income.	-The bill would repeal carrybacks (except for certain farming losses). - The bill would allow indefinite carryforward of NOLs (no mention of interest factor). - Use of NOL carryforward would be limited to 90% of the taxpayer's taxable income. This limit would be reduced to 80% of the taxpayer's taxable income starting in 2024. - Would preserve current tax law treatment of NOLs for property and casualty (P&C) insurance companies. P&C insurance company NOLs may be carried back two years and carried forward 20 years, and may offset 100% of taxable income in such years.
Depreciation and Expensing	- Current law provides for "bonus depreciation" equal to 50% of the cost of qualified property placed in service, phasing down through 2019 (plus one year for certain longer production property); qualified property generally includes property with a life of 20 years or less, off-the-shelf computer software, water utility property, and qualified improvement property (i.e., interior improvement in nonresidential buildings); in addition, original use of property must begin with the taxpayer. - Small businesses may immediately expense up to $500,000 of § 179 property (i.e., tangible personal property with a recovery period of 20 years or less, off-the-shelf computer software, qualified leasehold improvements, and qualified restaurant or retail improvement property); phases out for property placed in service of more than $2 million.	- The bill would provide for 100% immediate expensing of qualified property placed in service after 9/27/2017 through 2022 (plus one year for certain longer production property); does not apply to certain regulated public utilities, real property trades or businesses, and "floor plan financing indebtedness" applicable to certain car dealerships; repeals requirement that original use must begin with the taxpayer. - Increases § 179 expensing limit to $5 million and phase-out amount to $20 million and indexes both for inflation; expands § 179 property to include qualified energy efficient heating and air-conditioning property.	- Bonus depreciation would be extended for property placed in service after 9/27/2017 through 2022 (plus one year for certain longer production property) and increased to 100%; does not apply to certain regulated public utilities. Bonus depreciation is phased down to 80% for property placed in service in 2023, 60% for property placed in service in 2024, 40% for property placed in service in 2025, and 20% for property placed in service in 2026. - Increases § 179 expensing limit to $1 million and phase-out amount to $2.5 million and indexes both for inflation; expands § 179 property to include certain tangible depreciable property used predominantly to furnish lodging, and certain improvements to nonresidential buildings.

			- Shortens the recovery period for determining the depreciation deduction with respect to nonresidential real and residential rental property to 25 years
Like-Kind Exchanges	- No gain or loss is recognized to the extent that property held for investment or for use in a trade or business is exchanged for like-kind property to be held for investment or use in a trade or business; applies to a wide range of real and personal property; does not apply to inventory, stocks, bonds, partnership interests, certificates of trust or beneficial interest, evidences of indebtedness, livestock, or foreign property.	- Like-kind exchanges would be limited to exchanges of real property. - A transition rule would allow like-kind exchanges for personal property to be completed if the taxpayer has either disposed of the relinquished property or acquired the replacement property before Dec. 17, 2017.	- Like-kind exchanges would be limited to exchanges of real property not held primarily for sale. - A transition rule would allow like-kind exchanges for personal property to be completed if the taxpayer has either disposed of the relinquished property or acquired the replacement property before Dec. 17, 2017.
Research and Experimentation	- Under current IRC § 41, taxpayers are allowed a credit equal to 20% of the increase in qualified research expenses for a taxable year over a base amount; taxpayers may elect an alternative simplified computation at a credit rate of 14%. - Under current IRC § 174, taxpayers are allowed a deduction for research and experimental (R&E) expenditures, with certain narrow exceptions.	- No change to R&E credit. - Would require capitalization and amortization of R&E expenses ratably over 5 years (15 years for foreign research expenditures).	- No change to R&E credit. - Would require capitalization and amortization of R&E expenses ratably over 5 years (15 years for foreign research expenditures). This provision would apply on a cutoff basis to R&E expenses paid or incurred starting in 2026.
Domestic Production Deduction	- Under current IRC § 199, taxpayers are allowed a deduction equal to 9% of their qualified production activities income (generally income from the disposition of property manufactured, produced, grown, or extracted in the US).	- Repeals the domestic production deduction effective in 2018.	- Repeals the domestic production deduction effective in 2019.
Business Credits	- Current IRC § 47 allows two types of rehabilitation credits: 20% credit for certified historic structures and 10% credit for qualified rehabilitated buildings placed in service before 1936. - An employer may claim a work opportunity tax credit equal to 40% of qualified first-year wages of employees belonging to targeted groups.	- Repeals the rehabilitation credit; under a transition rule, the credit would continue to apply to expenditures incurred for a 2-year period, which would have to begin within 180 days after 1/1/2018. - Repeals the work opportunity tax credit.	- Repeals 10% credit for pre-1936 buildings and reduces 20% credit to 10%. - Does not change the work opportunity tax credit.

	- Qualifying taxpayers may claim a new markets tax credit equal to 5% per year for the first 3 years and 6% per year for the next 4 years for investments in qualified community development entities. - Unused general business credits may be carried back one year and forward 20 years; if the credits are unused after the carryover period, the unused credit may generally be deducted.	- Repeals the new markets tax credit. - Repeals the deduction for unused general business credits.	- Does not change the new markets tax credit. - Repeals the deduction for unused general business credits.
PASS-THROUGH ENTITIES			
Pass-through Rate	- Net income earned by an individual owner or shareholder of a sole proprietorship, partnership, LLC, or S corporation is reported on the owner or shareholder's individual income tax return and subject to ordinary income tax rates (up to the top individual marginal rate of 39.6%).	- The bill would create a special maximum 25% ordinary income tax rate that applies to "qualified business income" of individuals doing business through sole proprietorships, tax partnerships, and S corporations; business income that is not "qualified" would remain subject to ordinary income tax rates. - All income from passive business activities (as defined in current IRC § 469) would be treated as qualified business income. - Income from active business activities would be subject to one of two rules, based on taxpayer election: (1) a 30/70 rule under which 30% of such business income would be treated as qualified, while the remaining 70% would be subject to ordinary income tax rates; or (2) a formula based on the facts and circumstances of the business to determine a capital percentage greater than 30%. - Special rate not applicable to investment income (e.g., net capital gains and qualified dividend income). - The default capital percentage for certain personal services businesses (e.g., law, accounting, consulting, engineering, financial services, or performing arts) would be zero, but such businesses also could elect to use the	- The Senate bill would generally allow an individual taxpayer to deduct 23% of domestic "qualified business income" (QBI) from a partnership, S corporation, or sole proprietorship; deduction limited to 50% of the W-2 wages of taxpayer with qualified business income from partnership or S corporation. The 50% limit would not apply to the extent an individual has taxable income less than or equal to $500,000 (married filing jointly). The 50% limit would phase in gradually as taxable income increases from $500,000 to $600,000 (married filing jointly). - "Qualified business income" would generally mean net income from a trade or business. It does not include: specified service businesses (except in the case of individuals earning less than $500,000 (married filing jointly); the specified service business limitation would phase in gradually as taxable income increases from $500,000 to $600,000 (married filing jointly)); any amount paid by an S corporation that is treated as "reasonable compensation"; amounts allocated to a partner acting other than in his or her capacity as a partner for services (IRC § 707(a) service payments); guaranteed payments to a partner for services rendered (IRC § 707(c) service payments); or investment income.

		alternative formula if they have significant capital investments. - The manager's amendment included a new lower individual income tax rate (9%, to be phased in over 5 years) for active owners of passthrough businesses for up to $75,000 of their net business income (for owners with taxable incomes less than $150,000 and then fully phased out at taxable income of $225,000).	
Employment Taxes for Pass-through Owners	- Owners that provide services to a partnership are not considered employees for federal tax purposes, but income of partners providing services can be subject to self-employment taxes. This rule doesn't apply to limited partners. - S corporation shareholders that perform services for the S corporation are considered employees and are subject to employment taxes on their reasonable compensation.	- The bill initially proposed to eliminate the preferential self-employment tax treatment for shareholders of S corporations and limited partners of partnerships by treating a "labor percentage" of pass-through income as earnings subject to the self-employment tax. However, this provision was eliminated in the manager's amendment.	- No change to current law.
Carried Interest	- No gain or loss is recognized to the extent that property held for investment purposes or for productive use in a taxpayer's trade or business is exchanged for property of a like-kind that is also held for investment purposes or for productive use in the taxpayer's trade or business. The like-kind exchange rules under IRC § 1031 apply to tangible real and personal property and certain intangible property.	- Carried interests would be subject to a three-year (rather than one-year) holding period requirement for long-term capital gains tax treatment.	- Carried interests would be subject to a three-year (rather than one-year) holding period requirement for long-term capital gains tax treatment.
Gain or Loss on a Sale or Exchange by a Foreign Person of an Interest in a Tax Partnership Engaged in a US Trade or Business	In *Grecian Magnesite Mining v. Comm'r*, the Tax Court concluded that gain or loss on a sale or exchange by a foreign person of an interest in a tax partnership that is engaged in a US trade or business would generally be treated as foreign-source and thus not effectively connected income (ECI).	- No change to current law.	- The Senate proposal would overrule *Grecian Magnesite*: gain or loss from the sale or exchange of a partnership interest would be ECI to the extent that the transferor would have had ECI had the partnership sold all of its assets at fair market value as of the date of the sale or exchange; the transferee of a partnership interest would be required to withhold 10% of the amount realized on the sale or exchange of a partnership interest unless the transferor certifies that the transferor is not a foreign person (similar to the current FIRPTA regime).

Conversions of S Corporations into C Corporations	- Any distributions of earnings would be subject to the C corporation rules and, thus, treated as taxable dividends to the extent of the corporation's earnings and profits.	- Includes relief for S corporations converting to a C corporation within two years of the enactment of H.R. 1: (1) any income adjustments that arise from such a conversion under IRC § 481 would be taken into account ratably over 6 years; (2) cash distributions from the converted S corporations would continue to be treated, generally for one year after conversion, as tax-free returns to the extent of the S corporation's accumulated adjustments account (AAA), and thereafter, as partially nontaxable in proportion to any remaining AAA compared to accumulated earnings and profits.	- For an entity that converted from an S corporation during the 2-year period beginning on the date of enactment, the accumulated adjustments account (AAA) will be allocated to a distribution of money by an eligible terminated S corporation
Electing Small Business Trusts	- An "electing small business trust" (ESBT) is a type of trust that may be a shareholder of an S corporation. In general, IRC § 1361(b)(1)(C) allows individuals, estates, and certain charitable organizations—but not nonresident aliens—to hold S corporation stock directly. A nonresident alien also may not be a potential current beneficiary of an EBST under IRC § 1361(c)(2)(B)(v). In addition, charitable deductions taken by ESBTs are governed by rules applicable to trusts, which are more restrictive than those applicable to individuals.	- Not addressed in House bill.	- The bill includes two new provisions that would (1) permit foreign individuals to be potential current beneficiaries of ESBTs, and (2) expand the ability of ESBTs to take charitable contribution deductions by providing that ESBT charitable contribution deductions would be determined under rules applicable to individuals (rather than rules applicable to trusts).
INTERNATIONAL			
Anti-Base Erosion Provisions	- Active income earned by foreign subsidiaries of US companies is generally not subject to US tax until repatriated - Foreign corporations are generally subject to US tax on a net basis on effectively connected income (ECI) under IRC § 882; foreign corporations are also subject to 30% US tax (unless reduced by treaty) on certain gross US source non-ECI income that is fixed or determinable, annual or periodical (FDAP).	- Non-interest payments from certain US corporations to a related foreign corporation that are deductible, includible in costs of goods sold, or includible in the basis of a depreciable or amortizable asset would generally be subject to a 20% excise tax, unless the related foreign corporation elected to treat the payments as ECI; foreign corporation electing ECI treatment may take certain deemed deductions and credit certain foreign taxes; would apply only to international financial reporting groups (IFRGs) with annual payments from US corporations to their foreign affiliates of at least $100 million.	- Generally, certain US corporations would be required to pay a base erosion minimum tax amount, which is generally the excess of 12.5% of the modified taxable income of the taxpayer (generally, taxable income adding back deductible payments to foreign affiliates, to the extent not subject to full withholding) for the taxable year over an amount equal to the regular tax liability of the taxpayer (as defined in section 26(b)) starting in 2026. An amount paid or incurred for services that meet the requirements for the services cost method under IRC § 482 (excluding the requirement that the services not contribute significantly to fundamental risks of business success or failure), if such amount is the total

			services cost with no markup, would be excluded starting in 2018. Special rules, including an increased tax rate and certain exceptions, would apply to certain banks and securities dealers.
		-Global thin capitalization rule looking at overall worldwide leverage.	-Global thin capitalization rule looking at overall worldwide leverage.
		- Would subject a US parent of one or more foreign subsidiaries to current US tax on 50% of the US parent's "foreign high returns," the excess of the US parent's foreign subsidiaries' aggregate net income over a routine return (seven percent plus the federal short-term rate) on the foreign subsidiaries' aggregate adjusted bases in depreciable tangible property, adjusted downward for interest expense.	- Would impose a 20% tax on global intangible low-tax income (GILTI) of a US parent's controlled foreign corporations (CFCs); would provide deduction for foreign-derived intangible income
		- No provision addressing definition of intangible or transfer pricing valuation methods	-Would revise the definition of intangible property under IRC § 936(h)(3)(B) to include workforce in place, goodwill, and going concern value. The basic approach of the existing transfer pricing rules with respect to income from intangible property would stay the same.
		- No provision addressing transactions involving hybrids	- Certain rules denying a deduction in the case of certain transactions involving hybrids
		- No provision addressing dividends from surrogate foreign corporations (i.e., inverted companies)	- A shareholder who receives a dividend from a "surrogate foreign corporation" as defined under IRC § 7874(a)(2)(B) (provided it is not treated as a domestic corporation under IRC § 7874(b)) is not entitled to lower rates on qualified dividends provided in IRC § 1(h).
ESTATE TAX			
Estate Tax	- The exemption for the estate, gift, and generation-skipping transfer taxes is $5 million per individual ($5.49 million per individual in 2017, adjusted for inflation retroactively to 2011). The estate tax rate is 40%.	- Would double the exemption from the estate tax from $5 million to $10 million ($11.2 million in 2018, adjusted for inflation retroactively to 2011) and would repeal the estate tax completely on January 1, 2024. The basic exclusion amount for gift and generation-skipping transfers would also increase to $10 million ($11.2 million adjusted for inflation).	- Would double the estate, gift and generation-skipping transfer tax exemption from $5 million to $10 million (adjusted for inflation occurring after 2011) for estates of decedents dying, generation-skipping transfers, and gifts made after December 31, 2017.

		- The basis step up under IRC § 1014 for property received from a decedent at death would be retained even after the estate and generation skipping transfer taxes are repealed.	- Would maintain the current law basis step up under IRC § 1014 for property received from a decedent. - Does not include any provision for ultimate repeal of the estate, gift or generation-skipping transfer taxes.