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Comparison of Current Tax Law, House and Senate Tax Reform Bills, and Conference Report

December 15, 2017

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INSURANCE PROVISIONS				
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and forward up to 20 (instead of 15) years.**	**- The operations loss deduction for life insurance companies would be repealed effective for losses arising in taxable years after December 31, 2017, but NOLs would be deductible under IRC § 172. 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.**	**- House and Senate.** **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	**- The IRC § 806 small life insurance company deduction would be repealed.**	**- The IRC § 806 small life insurance company deduction would be repealed.**	**- House and Senate.**
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 would 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).**	**- Senate, with modification:** **For purposes of calculating the deduction for increases in certain life insurance company reserves, the amount of life insurance reserves for any contract (except for certain variable contracts) is the greater of (1) any net surrender value of the contract, or (2) 92.81% of the amount determined using the tax reserve method otherwise applicable to the contract as of the date the reserve is determined. For a variable contract, the amount of reserves is the sum of (1) the greater of (a) the net surrender value of the contract, or (b) the separate-account reserve amount under IRC § 817 for the contract, plus (2) 92.81% of any excess of the amount determined using the otherwise applicable tax reserve method as of the date the reserve is determined in (1).**
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	**- No surtax on life insurance company income.**	**- Senate.**

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		placeholder provision also includes an 8% surtax on life insurance company income.		
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 ratably 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. Thus, income or loss resulting from a change in method of computing life insurance company reserves would be taken into account pursuant to IRS procedures (i.e., generally ratably over a four-year period).**	**- The special rule under IRC § 807(f) would be repealed. Generally applicable IRC § 481 change in accounting method rules would apply, and thus 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).**	**- House and Senate:** **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 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.	- Not addressed in House bill.	**- The life insurance company proration rule would be modified: effective for taxable years beginning after December 31, 2017, the company portion would be 70% for purposes of IRC § 805(a)(4) and the policyholder portion would be 30%.**	**- Senate.**
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.**	**- House and Senate.**
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,	- 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 insurance contracts; and 7.70% to**	**- Senate, with modifications:** **Like the Senate bill, the conference agreement would extend the amortization period to 180 months, but the specified percentage of net premiums would be 2.09% for annuity contracts; 2.45% for group life insurance contracts; and 9.20% for all other specified insurance contracts.**

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	and 7.7% for all other specified insurance contracts.)		**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.**	**- Senate.** **Under the conference agreement, the top corporate tax rate would be 21% beginning in 2018, so the percentage reduction under the proration rule for P&C insurance companies would be 25%.**
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.	**- House, with modification:** **The conference report would extend the present-law 10-year period for certain long tail lines of business extended for a maximum of 14 more years (rather than the House bill's 15 more years). The election to use a company's historic payment pattern would be repealed.** **The provision would generally apply to taxable years beginning after Dec. 31, 2017. A transition rule would apply for the first taxable year beginning in 2018: Any transition adjustment would be taken into account ratably over eight years.**
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	**- The bill would repeal IRC § 847 and the special estimated tax payment rules related to the difference between discounted and undiscounted reserves. The provision would go**	**- Same as House bill.**	**-House and Senate.**

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	undiscounted basis, so long as the company pays a special estimated tax equal to the tax benefit attributable to the deduction.	**into effect for tax years beginning after December 31, 2017. The taxpayer must include the entire balance of an existing account in income for the first taxable year beginning after 2017, and the total amount of existing special estimated tax payments would be applied against the amount of additional tax arising due to this inclusion.**		
COMPENSATION AND RETIREMENT SAVINGS PROVISIONS				
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 received, and the employer's deduction is postponed until that time. See generally IRC § 409A.	- 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.**	**- Senate, with modification:** **The exception from treatment as a nonqualified deferred compensation plan for purposes of § 409A applies solely with respect to an employee who may receive qualified stock.**
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 commissions, performance-based remuneration, such as stock options, and payments to a tax-qualified retirement plan. Covered employees include the CEO and the four 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.**	**- Senate.**
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.	**- Disallows deduction for entertainment expenses.** **- Applies 50% limitation to expenses for food and beverages and qualifying business meals.** **- Beginning in 2018 and until December 31, 2025, the 50% limitation applies to expenses for food and beverages provided to employees**	**- Senate.**

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			through an eating facility that meets requirements for de minimis fringes and for the convenience of the employer. After December 31, 2025, such amounts would not be deductible.	
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 deductions 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. - Would repeal the employer-provided child care credit, the exclusion for employer-provided dependent care assistance, and the exclusion for adoption assistance programs.	**- Like the House bill, the Senate bill disallows deductions for transportation fringe benefits. The Senate bill would further disallow deductions for employee commuting expense payments or reimbursements, except as necessary for the safety of the employee. The Senate bill would also repeal the exclusion for bicycle commuting expenses.**	**- Senate.**
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 balance to the IRA, the loan is treated as a distribution subject to a 10% additional tax.	**- 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.	**- 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 allow plans to permit hardship distributions of employer contributions as well as earnings. In addition, the bill would eliminate the requirement that employees take out plan loans before a hardship distribution.	**House and Senate with modification:** **- The conference agreement would eliminate recharacterizations of Roth IRA conversions, but not Roth IRA contributions. Thus, an individual may still make a contribution to a traditional IRA and convert the traditional IRA to a Roth IRA, but the provision would prevent the individual from later unwinding the conversion through a recharacterization.** **- Recharacterization would still be permitted with respect to other contributions (e.g., an individual may make a contribution for a year to a Roth IRA and, before the due date for the individual's income tax return for that year, recharacterize it as a contribution to a traditional IRA).** **-The conference agreement does not adopt the House or Senate provisions modifying the rules governing hardship distributions.**

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		It would also allow plans to permit hardship distributions of employer contributions as well as earnings. In addition, the bill would eliminate the requirement that employees take out plan loans before a hardship distribution. - 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, 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.	**- 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, from 60 days to the due date of the employee's tax return. Under the Senate bill, a qualified plan loan offset amount would be defined as a plan loan offset amount that is treated as distributed from a qualified retirement plan, an IRC § 403(b) plan or a governmental Sec. 457(b) plan solely due to the employee's termination or failure to meet the repayment terms of resulting from the employee's severance.** **- No nondiscrimination provision.**	**- The conference agreement would adopt the Senate bill's provision relating to the extended rollover period for plan loan offset amounts.** **- 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.**	**- Same as House bill.**	**- House and Senate.**
GENERAL BUSINESS PROVISIONS				
Corporate Rate	- Graduated schedule with a 35% top rate.	- 20% flat rate beginning in 2018; 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 in 2019. **Eliminates special rate for personal service corporations.** **- Corresponding reduction to dividends-received deduction (80%→65%; 70%→50%).**	**Senate, with modification:** **21% flat corporate tax rate for tax years beginning in 2018.**

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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.	**- House.**
Deduction Limit on Net Business Interest Expense	- 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, would impose new restrictions on interest deductibility: all businesses, regardless of form, would be subject to a disallowance of deduction for net interest expense in excess of 30% of the business's adjusted taxable income. "Adjusted taxable income" would be computed as EBITDA. - Exempts from the new restriction "real property trades or businesses" (i.e., 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 $25 million or less. - An additional restriction would apply to an "international financial reporting group," i.e., one with at least one foreign corporation with annual gross receipts in excess of $100 million.	- Generally, would impose new restrictions on interest deductibility: all businesses, regardless of form, would be subject to a disallowance of deduction for net interest expense in excess of 30% of the business's adjusted taxable income. "Adjusted taxable income" would be computed as EBIT. - Exempts from the new restriction businesses with average annual gross receipts under $15M during the three preceding years, certain regulated public utilities, and electing real property trades or businesses. - An additional restriction would apply to US corporations that are members of worldwide affiliated groups.	**- Compromise:** **Like the House and Senate bills, the conference agreement would impose new restrictions on interest deductibility: all businesses, regardless of form, would be subject to a disallowance of deduction for net interest expense in excess of 30% of the business's adjusted taxable income. Under the conference agreement, however, "adjusted taxable income" would be computed as EBITDA for taxable years from 2018-2021, and then as EBIT for taxable years after 2021.** **"Adjusted taxable income" would also be calculated without regard to any non-business tax items (e.g., investment-related items), the pass-through QBI deduction, the net operating loss deduction, and any business interest income or expense.** **Disallowed business interest expense could be carried forward indefinitely.** **In the partnership and S corporation contexts, the limitation would be applied at the entity level first and to the partner/shareholder level second.** **The limit would not apply to certain small businesses (three-year average annual gross receipts do not exceed $25 million).** **Interest expense and income from certain businesses are excluded from the limitation, which include the business of being an employee, electing real property businesses, electing farming businesses, and certain energy-**

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				related businesses. **The conference agreement includes neither the House "international financial reporting group" provision nor the Senate "worldwide affiliated group" provision.** **The limitation would sunset after December 31, 2025.**
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 for tax years 2018-2022. This limit would be reduced to 80% of the taxpayer's taxable income for tax years beginning after December 31, 2022.** **- 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.**	**- Senate, with modifications:** **Use of the NOL carryforward would be limited to 80% of the taxpayer's taxable income (determined without regard to the NOL deduction and the 20% QBI deduction) for losses arising in taxable years after 2017.**
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.	- The bill would provide for 100% immediate expensing of qualified property placed in service after September 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.	**- 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.**	**- Senate, with modifications:** **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).** **Like the House bill, the conference agreement would remove the requirement that the original use of qualified property must commence with the taxpayer.**

	Current Law	House Bill	Senate Bill	Conference Agreement
	- 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.	- Increases IRC § 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.	**- 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**	**Also like the House bill, the conference agreement would maintain the existing-law phase-down of bonus depreciation for property acquired before September 28, 2017 and placed in service after September 27, 2017.** **The conference agreement would repeal the election to accelerate AMT credits in lieu of bonus depreciation (as a conforming amendment to the repeal of the corporate AMT).** **For the first taxable year ending after September 27, 2017, a taxpayer would be able to elect to apply a 50% allowance instead of the 100% allowance.**
Like-Kind Exchanges	- 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.	**- Deferral of gain on like-kind exchanges would be limited to exchanges of real property. that is not held primarily for sale** **- Clarifies that real property in the U.S. and real property outside of the U.S. are not properties of a like kind.** **- 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.**	**- Same as House bill.**	**- House and Senate.** **Would apply to tax year 2018 and thereafter.**
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).** Would apply to amounts paid or incurred in taxable years beginning after December 31, 2022.	**- 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.	**- House and Senate, with modification of effective date:** **Would apply to amounts paid or incurred in taxable years beginning after December 31, 2021.**

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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.	**- House.**
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.	- 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.	**- Would repeal the 10% credit for pre-1936 buildings. A taxpayer would be able to claim the 20% credit for qualified expenditures on historic structures ratably over a five-year period, beginning in the tax year when the structure is placed in service. In general, this provision would be effective for amounts paid or incurred in 2018 and thereafter. A transition rule would apply for certain buildings owned or leased by the taxpayer for a statutorily defined time period.**	**- Would follow the Senate provision with respect to the credits for pre-1936 buildings and historic structures, but would incorporate a modified transition rule relating to qualified rehabilitation expenditures under certain phased rehabilitations.**
	- 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 work opportunity tax credit.	**- Does not change the work opportunity tax credit.**	**- 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.	- Repeals the new markets tax credit.	**- Does not change the new markets tax credit.**	**- Does not change the new markets tax credit.**
	- 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 deduction for unused general business credits.	- Repeals the deduction for unused general business credits.	**- Does not repeal the deduction for unused general business credits.**
PASS-THROUGH PROVISIONS				
Tax Relief for Qualified Business Income of Pass-Throughs	- 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%).	- Provides for a maximum 25 percent ordinary income tax rate that would apply to the "qualified business income" ("QBI") of individuals engaged in business activities of sole proprietorships, tax partnerships, and S corporations. Business income not qualifying as such would remain subject to the	**- Allows for an individual taxpayer deduction in an amount equal to 23 percent of domestic qualified business income ("QBI") from sole proprietorships, tax partnerships, and S corporations. Such deduction would automatically sunset after December 31, 2025.**	**- Senate, with modifications:** **Generally allows a taxpayer "other than a corporation" a deduction in an amount equal to the combined qualified business income amount for the taxable year, which is equal to the sum of**

	Current Law	House Bill	Senate Bill	Conference Agreement
		normal ordinary income tax rate schedule. - The determination of whether income is QBI depends on whether such income is derived from passive or active business activities (determined in accordance with the current section 469 material participation rules). - Income of passive owners would be treated entirely as QBI. A 30/70 rule would apply to income derived from active business activities (30 percent, or the "capital percentage," would be treated as QBI, while the remaining 70 percent would be subject to ordinary income tax rates). - Active business owners may elect to apply a formula based on the facts and circumstances of their business to determine a capital percentage of greater than 30 percent. The formula would measure the capital percentage based on a rate of return (federal short-term rate plus seven percentage points) multiplied by the capital investments of the business that are not debt-financed. The election of this alternative formula would be binding for a five year period. - Certain items, such as income subject to preferential rates (e.g., qualified dividend income and net capital gains) and certain investment income (e.g., short-term capital gains, dividends, and foreign currency gains and hedges unrelated to business needs) would not be eligible to be recharacterized as QBI. - The carryover business loss from the preceding taxable year reduces QBI in the current taxable year. An owner's or shareholder's capital percentage would be limited if actual wages or income treated as received in exchange for services from the pass-through entity (such as a guaranteed payment)	**- QBI is defined, on a business-by-business basis, as the net amount of qualified items of income, gain, deduction, and loss with respect to any qualified trade or business of the taxpayer. If the net amount of such qualified items of income, gain, deduction, and loss with respect to qualified trades or businesses of the taxpayer for any taxable year is less than zero, such amount shall be treated as a loss from a qualified trade or business in the succeeding taxable year.** **- "Qualified items of income, gain, deduction, and loss" generally include all business income other than investment income (generally dividends, investment interest income, short-term capital gains, long-term capital gains, commodities gains, foreign currency gains, etc.). Unlike the House bill, such income is limited only to QBI that is effectively connected with the conduct of a U.S. trade or business.** **- "Qualified trade or business" means any trade or business other than a specified services business or the trade or business of performing services as an employee.** **- QBI does not include any amount paid to the relevant taxpayer (such as from an S corporation) that is treated as reasonable compensation (as determined under current law), nor does it include any amount paid by a partnership that is a guaranteed payment under section 707(c) or a section 707(a) payment for services.** **- The 23% deduction is further limited to 50 percent of the taxpayer's allocable or pro rata share of W-2 wages of the partnership or S corporation, or 50 percent of the W-2 wages of**	**(i) the deductible amounts determined for each qualified trade or business carried on by the taxpayer and (ii) 20 percent of the taxpayer's qualified REIT dividends and qualified publicly traded partnership income.** **The deductible amount for each qualified trade or business is the lesser of (a) 20 percent of the taxpayer's qualified business income (QBI) with respect to the trade or business, or (b) the greater of (x) 50 percent of the W-2 wages with respect to the trade or business or (y) the sum of 25 percent of the W-2 wages with respect to the trade or business and a capital component (2.5 percent of the unadjusted basis, immediately after acquisition, of all qualified property).** **"Qualified property" means tangible depreciable property held by, and available for use in, the qualified trade or business at the close of the taxable year, and which is used in the production of QBI, and for which the "depreciable period" has not ended before the close of the taxable year. The "depreciable period" with respect to qualified property generally means the greater of 10 years or the applicable depreciation period for such property.** **The provision has been expanded from the original House and Senate bills to permit trusts and estates to take the deduction.** **Unlike the original House bill, such income is limited only to QBI that is effectively connected with the conduct of a U.S. trade or business (applying pre-existing international tax rules for such standard).** **The W-2 wage limit does not apply in the case of a taxpayer with taxable income not exceeding**

	Current Law	House Bill	Senate Bill	Conference Agreement
		exceeds the taxpayer's otherwise applicable capital percentage. - The default capital percentage for specified services business would be zero percent. However, such businesses could elect annually to use an alternative capital percentage if otherwise in excess of 10%. Such election is intended to provide some relief to personal service businesses that have significant capital investments. - There would be a special phased-in-over-five-years lower individual income tax rate (9 percent) for active owners of pass-through businesses for up to $75,000 of their net business income, even from specified service businesses (for married filing jointly (MFJ) owners with taxable incomes less than $150,000 and then fully phased out at taxable income of $225,000). Lower thresholds apply to non-MFJ individuals.	**the sole proprietorship. The W-2 wage limit does not apply in the case of a taxpayer with taxable income not exceeding $500,000 for married filing jointly (MFJ) taxpayers or $250,000 for other individuals. The W-2 wage limit is then phased in for individuals with taxable income exceeding $500,000/$250,000 over the next $100,000 of taxable income for MFJ or $50,000 for other individuals.** **- The deduction is generally not available for specified services businesses. However, an exception is provided for taxpayers under a certain income threshold ($500,000 MFJ, $250,000 for other individuals). The exception is phased out for individuals with taxable income exceeding $500,000/$250,000 over the next $100,000 of taxable income for MFJ or $50,000 for other individuals.** **- The deduction can be applied to specified agricultural or horticultural cooperative income and the distributive share of publicly-traded partnership income (and any ordinary income from disposition of units therein).**	**$315,000 for MFJ or $157,500 for all other taxpayers. The W-2 wage limit is then phased in for taxpayers with taxable income exceeding $315,000/$157,500 over the next $100,000 of taxable income for MFJ or $50,000 for all other taxpayers (i.e., full W-2 limitation applies at $415,000/$207,500). For this limit, taxable income is determined without regard to the deduction itself, and the thresholds will be inflation adjusted.** **The deduction is also generally not available for specified service businesses. However, an exception is provided for taxpayers under a certain income threshold ($315,000 MFJ, $157,500 for all other taxpayers). The exception is phased out for taxpayers with taxable income exceeding $315,000/$157,500 over the next $100,000 of taxable income for MFJ or $50,000 for all other taxpayers (i.e., full specified service business limitation applies at $415,000/$207,500). For this limit, taxable income is determined without regard to the deduction itself, and the thresholds will be inflation adjusted.** **The definition of specified service businesses has been modified from both the House and Senate bills. It has been narrowed in that engineering and architectural businesses are not automatically included in such definition. It has been expanded in that the reputation and skill of "owners" (not just "employees") are included in determining whether a business' principal asset is the reputation or skill of one or more persons.** **The definition of specified service businesses now effectively reads: Any trade or business involving the performance of services in the fields of health, law, consulting, athletics,**

	Current Law	House Bill	Senate Bill	Conference Agreement
				financial services, brokerage services, 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, or which involves the performance of services that consist of investing and investment management trading, or dealing in securities, partnership interests, or commodities. **In the partnership and S corporation context, the rules generally apply at the partner and shareholder levels.** **The deduction applies to publicly-traded partnership income (and any ordinary income from disposition of units therein), with the added benefit that the W-2 wage limits do not apply in this respect. The specified service business limit continues to apply however.** **The deduction also applies generally with respect to specified agricultural or horticultural cooperative income.** **The deduction does not reduce adjusted gross income, and it can be taken by taxpayers, regardless of whether they itemize or take the standard deduction. However, the deduction cannot exceed the taxable income of the taxpayer (after reduction for qualified capital gain).** **The deduction is not added back for purposes of the individual AMT.** **The deduction sunsets after December 31, 2025.**
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.	**- 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**	**- No change to current law.**	**- House and Senate:** **No change to current law.**

	Current Law	House Bill	Senate Bill	Conference Agreement
	- S corporation shareholders that perform services for the S corporation are considered employees and are subject to employment taxes on their reasonable compensation.	**subject to the self-employment tax. However, this provision was eliminated in the manager's amendment.**		
Carried Interest	- A one-year holding period for qualification as long-term capital gain applies with respect to certain partnership interests received in connection with the performance of services.	**- Would impose a three-year holding period requirement for qualification as long-term capital gain with respect to certain partnership interests received in connection with the performance of services.**	**- Would impose a three-year holding period requirement for qualification as long-term capital gain with respect to certain partnership interests received in connection with the performance of services.** **- The provision applies regardless of the application of IRC § 83.**	**- House and Senate, with clarifications:** **Would impose a three-year holding period requirement for qualification as long-term capital gain with respect to certain partnership interests received in connection with the performance of investment-related services.** **Special disposition rule applies to related-party dispositions of such interests in a manner analogous to the "hot asset rules."** **The loss of long-term capital gain treatment under this rule causes such gain to be classified as short-term capital gain. Such re-classification does not cause such gain to be subject to self-employment tax.** **The provision applies regardless of the application of IRC § 83 (e.g., regardless of whether a recipient of such interest included income upon receipt under Section 83(a) or otherwise filed a Section 83(b) election with respect to such interest).** **Applies to tax year 2018 and thereafter.**
Limitation on Losses for Taxpayers Other Than Corporations	- Deductions and credits taken by individuals, estates, trusts, and closely held corporations that are attributable to passive trade or business activities are subject to limitation rules: To the extent they exceed income from passive activities, such deductions and credits may not be used to offset other income. Rather, such deductions and credits are suspended, carried forward, and treated as passive-activity deductions and credits in the next tax year.	- Not addressed in House bill.	**- For taxable years beginning after December 31, 2017 and before January 1, 2026, "excess business losses" of a taxpayer other than a C corporation are not allowed for the taxable year, but rather are carried forward and treated as part of the taxpayer's net operating loss (NOL) carryforward in subsequent taxable years. Essentially disallows excess active net business losses, effectively extending the current treatment of net passive activity losses to active**	**- Senate.** **The conference agreement's NOL rules would govern the carryforward determination in subsequent taxable years.**

	Current Law	House Bill	Senate Bill	Conference Agreement
	- When a taxpayer disposes of his or her full interest in the passive activity to an unrelated person, the suspended losses are allowed. - Similar rules apply specifically to excess farm losses.		**losses.** **- An excess business loss is the excess of aggregate deductions of the taxpayer attributable to trades or businesses of the taxpayer, over the sum of aggregate gross income or gain of the taxpayer with respect to such trades or businesses plus a threshold amount. Such threshold is $500,000 MFJ and $250,000 for other individuals.** **- In the case of a partnership or S corporation, the proposal applies at the partner or shareholder level.**	
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.	**- Would overrule *Grecian Magnesite Mining v. Comm'r* and codify Revenue Ruling 91-32, such that gain or loss from the sale or exchange of a partnership interest is effectively connected with a U.S. trade or business to the extent that the transferor would have had effectively connected gain or loss had the partnership sold all of its assets at fair market value as of the date of the sale or exchange.** **- Any gain or loss from the hypothetical asset sale would be allocated to interests in the partnership in the same manner as non-separately stated income and loss.** **- The transferee of a partnership interest must withhold 10 percent of the amount realized on the sale or exchange of a partnership interest unless the transferor certifies that the transferor is not a nonresident alien or foreign corporation; similar to the current FIRPTA withholding/reporting regime.**	**- Senate, with clarifications:** **- Gain or loss from the sale or exchange of a partnership interest would be effectively connected with a U.S. trade or business to the extent that the transferor would have had effectively connected gain or loss had the partnership sold all of its assets at fair market value as of the date of the sale or exchange (excluding real property gain already classified as effectively connected under FIRPTA).** **- If the transferee fails to withhold, the relevant partnership must withhold the deficient amount from the transferee partner.** **- Regulations are contemplated that will address common nonrecognition transactions.**

	Current Law	House Bill	Senate Bill	Conference Agreement
				- The general provision applies to dispositions occurring on or after Nov. 27, 2017; however, the withholding requirements apply to dispositions occurring on or after Jan. 1, 2018.
Modification of the Definition of Substantial Built-In Loss in the Case of Transfer of a Partnership Interest	- Under IRC § 743(d), a partnership has a substantial built-in loss if the partnership's adjusted basis in its property exceeds its fair market value by more than $250,000.	- Not addressed in House bill.	**- Would expand the definition of a substantial built-in loss for purposes of IRC § 743(d).** **- Under current law, a substantial built-in loss exists if the partnership's adjusted basis in its property exceeds by more than $250,000 the fair market value of the partnership property.** **- The bill would provide that a substantial built-in loss also exists if the transferee would be allocated a net loss in excess of $250,000 upon a hypothetical disposition by the partnership of all the partnership's assets in a fully taxable transaction for cash equal to the assets' fair market value, immediately after the transfer of the partnership interest.**	**- Senate.** **Would apply to transfers occurring in tax year 2018 and thereafter.**
Modification of Section 704(d) Outside Basis Limitation on Partner Losses	Under IRC § 704(d), a partner's deduction for partnership losses is limited to the adjusted basis of the partner's interest in the partnership.	- Not addressed in House bill.	**- Would expand the section 704(d) outside basis limitation on partner losses to provide that generally a partner's distributive share of charitable contributions (based on tax basis of contributed property) and foreign tax expenditures are allowed only to the extent of the partner's outside basis at the end of the partnership taxable year in which the expenditure occurs.**	**- Senate.**
Partnership Technical Terminations	A partnership is treated as terminated if there is a sale or exchange of 50% or more of the total interest in partnership profits and capital within any 12-month period. This is known as a technical termination.	**- Would repeal the partnership technical termination rule. Thus, a partnership would be treated as continuing even if more than 50% of the total capital and profits interests of the partnership are sold or exchanged within a year, which would prevent partnerships from being required or being permitted to make new elections for various accounting methods, depreciation lives, and other purposes.**	- No provision.	**- House.** **Would apply to tax year 2018 and thereafter.**

	Current Law	House Bill	Senate Bill	Conference Agreement
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.	**- Would provide that, in the case of a distribution of money by an eligible terminated S corporation after the post-termination transition period, the accumulated adjustments account (AAA) shall be allocated to such distribution, and the distribution shall be chargeable to accumulated earnings and profits, in the same ratio as the amount of such AAA bears to the amount of such accumulated earnings and profits.** **- An "eligible terminated S corporation" means any C corporation which (i) was an S corporation on the day before the date of the enactment of the tax reform legislation and made a revocation of its S corporation election in the 2-year period following such date, and (ii) the owners of the stock of such corporation on the date of the revocation of the S corporation election are the same owners (and in identical proportions) as on the date of the enactment of the tax reform legislation.** **- Would also provide that, in the case of an eligible terminated S corporation, any taxable income adjustment arising from such a conversion under section 481 would be taken into account ratably over 6 years (e.g., from having to switch from the cash method to the accrual method of accounting).**	**- Same as House bill.**	**- House and Senate.** **The modified rule would essentially expand pre-existing tax relief offered to shareholders of a corporation that terminates its S election for generally one year after such termination so that it would apply to all periods thereafter as well, to the extent of any remaining undistributed AAA.** **Would apply to tax year 2018 and thereafter.**
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	- 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).**	**- Senate.** **Would apply to tax year 2018 and thereafter.**

	Current Law	House Bill	Senate Bill	Conference Agreement
	more restrictive than those applicable to individuals.			
INTERNATIONAL PROVISIONS				
Dividend-Exemption System – Territorial Rules	- In general, foreign income earned by a US corporation's foreign subsidiary is not subject to US tax until it is distributed as a dividend to its US parent company. - Corporations can earn credits for foreign taxes paid, which can offset the US tax owed on their foreign income and minimize double taxation. As an alternative to claiming a foreign tax credit, a US taxpayer can elect to deduct foreign income taxes paid.	- For distributions made after December 31, 2017, would provide a 100% deduction for the foreign-source portion of dividends paid by a foreign corporation to a 10% US corporate shareholder, subject to a six-month holding period. - No foreign tax credit or deduction would be permitted for any foreign taxes (including withholding taxes) with respect to any exempt dividend.	**- For distributions made after December 31, 2017, would provide a 100% deduction for the foreign-source portion of dividends paid by a foreign corporation to a 10% US corporate shareholder, subject to a one-year holding period.** **- No foreign tax credit or deduction would be permitted for any foreign taxes with respect to any exempt dividend. Also, no deduction would be permitted for hybrid dividends.**	**- Senate, with modifications:** **The 100% deduction for the foreign-source portion of dividends paid by foreign corporation to a 10% US corporate shareholder would only be available to C corporations that are not RICs or REITs.**
Transition Tax on Deferred Foreign Income	- All corporate income is subject to the 35% US corporate tax no matter where it is earned. However, income earned by a foreign subsidiary of a US corporation usually is not taxed until the foreign subsidiary distributes its earnings to the US parent in the form of a dividend.	- Each US shareholder of a 10% US-owned foreign corporation would include in income for the last tax year beginning before 2018 its pro rata share of the foreign corporation's previously untaxed net post-1986 foreign earnings and profits (E&P). - E&P retained in cash or cash equivalents would be taxed at a 14% rate. All other E&P would be taxed at 7%. A taxpayer may elect to pay the one-time tax over eight years, in annual installments of 12.5% of the total tax liability.	**- Each US shareholder of a 10% US-owned foreign corporation would include in income for the last tax year beginning before 2018 its pro rata share of the foreign corporation's previously untaxed net post-1986 foreign earnings and profits (E&P).** - E&P retained in cash or cash equivalents would be taxed at 14.5%. All other E&P would be taxed at 7.5%. A taxpayer may elect to pay the one-time tax over an eight-year period, in installments of 8% per year for each of the first five years, then payments of 15%, 20% and 25% for the last three years.	**Senate, with modification:** **- E&P retained in cash or cash equivalents would be taxed at 15.5%. All other E&P would be taxed at 8%.**
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	- 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	**- 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**	**- The conference agreement follows the Senate bill with respect to the base erosion minimum tax, with some modifications:** **The base erosion minimum tax amount would be the excess of:** **• 10% (5 percent for taxable years beginning in 2018) of the taxpayer's modified taxable income for the taxable year** **over**

	Current Law	House Bill	Senate Bill	Conference Agreement
	that is fixed or determinable, annual or periodical (FDAP).	financial reporting groups (IFRGs) with annual payments from US corporations to their foreign affiliates of at least $100 million.	**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.**	**• an amount equal to the taxpayer's regular tax liability (as defined in IRC § 26(b)) for the taxable year** **<u>reduced by</u>** **• the excess (if any) of (A) the credit allowed under IRC § 38 for the taxable year properly allocable to the IRC § 41(a) research credit, plus (B) the portion of the applicable § 38 credits not in excess of 80% of the lesser of** **• the amount of such credits** **<u>or</u>** **• the base erosion minimum tax amount (determined without regard to (B)).**
		- Global thin capitalization rule looking at overall worldwide leverage.	**- Global thin capitalization rule looking at overall worldwide leverage.**	**- The conference agreement includes neither the House "international financial reporting group" provision nor the Senate "worldwide affiliated group" provision, which would have further limited deductions for interest.**
		- 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 (FDII).**	**- The conference agreement would follow the Senate bill with respect to the 20% tax on GILTI of a US parent's CFCs, but clarifies certain aspects of (1) the exclusions from deduction eligible income and (2) the definition of deemed tangible income return. The conference agreement would also include the following modifications:** **The deduction for GILTI and FDII would only be available to C corporations that are not RICs or REITs.** **The deduction for GILTI would apply to amounts treated as dividends received by domestic corporations under IRC § 78 that are attributable to the corporations' GILTI amount under new IRC § 951A.** **- The conference agreement generally follows**

	Current Law	House Bill	Senate Bill	Conference Agreement
		- 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.**	**the Senate bill with respect to limitations on income shifting through intangible property transfers. It would revise the definition of intangible property under IRC § 936(h)(3)(B) to include workforce in place, goodwill, and going concern value. The conference agreement would also confirm the authority to require certain valuation methods. 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**	**- The conference agreement adopts the Senate bill's provision denying deductions for disqualified related party amounts paid or accrued pursuant to a hybrid transaction or by, or to, a hybrid entity, with some modifications:** **"Disqualified related party amount" is defined as any interest or royalty paid or accrued to a related party to the extent that: (1) there is no corresponding inclusion to the related party under the tax law of the country of which such related party is a resident for tax purposes, or (2) such related party is allowed a deduction with respect to such amount under the tax law of such country. Excluded from the definition of disqualified related party amount is any payment to the extent such payment is included in the gross income of a US shareholder under IRC § 951(a). For these purposes, a related party is generally determined under the rules of IRC § 954(d)(3).**
		- 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 §**	**- The conference agreement adopts the Senate provision regarding dividends from "surrogate foreign corporations" but adds that the provision would apply to dividends received from foreign corporations that first become surrogate foreign corporations after the date of enactment.**

	Current Law	House Bill	Senate Bill	Conference Agreement
			7874(b)) is not entitled to lower rates on qualified dividends provided in IRC § 1(h).	
INDIVIDUAL PROVISIONS				
Individual Rates and Standard Deduction	- Individual income tax brackets (joint filers): 10% under $18,650 15% $18,650 25% $75,900 28% $153,100 33% $233,350 35% $416,700 39.6% $470,701+ Standard deduction: $6,350 (individuals) $12,700 (joint filers)	- Individual income tax brackets (joint filers): 12% $24,000 25% $90,000 35% $260,000 39.6% $1,000,000+ **Standard deduction:** **$12,000 (individuals)** **$24,000 (joint filers)**	- Individual income tax brackets (joint filers): 10% under $19,050 12% $19,050 22.5% $77,400 25% $120,000 32.5% $290,000 35% $390,000 38.6% $1,000,000+ **Standard deduction:** **$12,000 (individuals)** **$24,000 (joint filers)**	**Individual income tax brackets (joint filers):** **10% under $19,050** **12% $19,050** **22% $77,400** **24% $165,000** **32% $315,000** **35% $400,000** **37% $600,000+** **Standard deduction:** **$12,000 (individuals)** **$24,000 (joint filers)**
Top Rates for Long-Term Capital Gains, Qualified Dividends, and Net Investment Income	- For non-corporate taxpayers, long-term capital gains and qualified dividends are taxed at a top rate of 20%. Net investment income is taxed at 3.8% of the lesser of the taxpayer's net investment income or the excess of the taxpayer's modified adjusted gross income over a threshold amount.	**- Generally no change to existing law.**	**- Generally no change to existing law.**	**- Generally no change to existing law.**
State and Local Tax Deduction	- Taxpayers who itemize deductions may claim deduct state and local income and property taxes paid during the tax year. Alternatively, an itemizing taxpayer may choose to claim an itemized deduction for state and local sales taxes paid.	- The deduction for state and local income taxes would be eliminated. - Would allow a limited deduction for state and local property taxes up to $10,000.	- The deduction for state and local income taxes would be eliminated. - Would allow a limited deduction for state and local property taxes up to $10,000. - This provision would expire and revert to current law for taxable years beginning after 2025.	**-House and Senate, with modifications:** **For taxable years beginning after December 31, 2017 and before January 1, 2026, a taxpayer would be allowed to deduct up to $10,000 of any combination of state and local property, income, and sales taxes.** **No 2017 pre-payments of future state and local tax: For purposes of applying the $10,000 state and local tax deduction limit, an amount paid before January 1, 2018 with respect to state or local income tax imposed for a taxable year beginning after December 31, 2017 would be treated as paid on the last day of the taxable year for which such state or local income tax is imposed.**

	Current Law	House Bill	Senate Bill	Conference Agreement
Mortgage Interest Deduction	- An itemizing taxpayer may deduct interest paid on the mortgage for a principal residence and one other residence. Interest payments on up to $1 million in acquisition indebtedness and $100,000 in home equity indebtedness may be deducted.	- For mortgage debt incurred after November 2, 2017, the current loan limit of $1 million for deductible interest is reduced to $500,000. - Mortgage interest would be deductible only on a mortgage of a principal residence.	- Would suspend the mortgage interest deduction with respect to home equity indebtedness, but would preserve the deduction for interest on acquisition indebtedness of up to $1,000,000 ($500,000 for a married person filing separately)	**- Compromise:** **Under the conference agreement, a married taxpayer filing jointly would be able to deduct mortgage interest on up to a total of $750,000 in acquisition indebtedness for a first and second home. (The limit would be $375,000 for a married taxpayer filing separately).** **For taxable years beginning after Dec. 31, 2025, interest payments on up to $1,000,000 in acquisition indebtedness may be deducted, regardless of when the indebtedness was incurred.** **"Grandfathering" provision: Mortgage interest deduction limits under existing law (up to $1,000,000 for joint filers, $500,000 for separate) would apply with respect to interest on home acquisition indebtedness incurred prior to Dec. 15, 2017.** **For taxable years beginning after Dec. 31, 2017 and before Jan. 1, 2026, the conference agreement would suspend the mortgage interest deduction with respect to home equity indebtedness.**
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). - 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 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 and before January 1, 2026.** **- Would maintain the current law basis step up under IRC § 1014 for property received from a decedent.**	**- Senate.**

Current Law		House Bill	Senate Bill	Conference Agreement
			- Does NOT include any provision for ultimate repeal of the estate, gift or generation-skipping transfer taxes.	