

HIGHLIGHTS OF H.R. 1 (THE “TAX BILL”), FORMERLY KNOWN AS THE “TAX CUTS AND JOBS ACT,” PASSED BY CONGRESS AND SIGNED BY THE PRESIDENT

December 25, 2017

By: Mark Wisniewski

On December 22, 2017, the President signed into law the tax bill, an extremely broad and all-encompassing piece of tax reform legislation. The following is a brief synopsis in tabular format of select key provisions contained in the tax bill which generally go into effect on January 1, 2018:

Tax Reform for Individuals

TOPIC	THE TAX BILL
Individual Income Tax Rates	7 tax brackets: 10%, 12%, 22%, 24%, 32%, 35% and 37% through 2025
Long Term Capital Gains Tax Rates	3 tax brackets: 0%, 15% and 20%. In addition, 3.8% net investment income tax
Basic Standard Deduction	Increased to \$24,000 for married couple filing a joint return and \$12,000 for single filers. These amounts apply through 2025. Additional standard deduction for age and blindness retained
Personal Exemption	Reduced to zero through 2025

TOPIC

THE TAX BILL

Alternative Minimum Tax (AMT)

Retained with higher exemption amounts (i.e., \$109,400 for married filers and \$70,900 for single filers), and increased income limitations on the phase-out through 2025

Limitation on Itemized Deductions

Suspension of limitation on itemized deductions through 2025

Personal Casualty and Theft Losses

Suspension of deduction for personal casualty and theft losses incurred in a Federally-declared disaster) through 2025

Mortgage Interest Deduction

Limited to \$750,000 for home acquisition debt incurred after 12/31/2017; limit reverts back to \$1 million regardless of when the debt was incurred for acquisition debt through 2025

Deduction for State and Local Income Taxes, Sales Taxes and Property Taxes

Capped at \$10,000 for all such income, sales and property taxes paid in connection with a trade or business; limitation for any such taxes paid in connection with a trade or business in 2018 or later state and local **income** taxes in 2017 to avoid this limitation

Charitable Deduction

Increases the adjusted gross income limitation on cash contributions to certain private foundations from 50% to 60% through 2025 and thereafter

Miscellaneous Itemized Deductions

Suspension of all miscellaneous itemized deductions subject to the 2% floor through 2025

TOPIC

THE TAX BILL

Medical Expense Deduction

Retained but lowers the threshold for the medical expense deduction to 7.5% of adjusted gross income for 2018 and 2019

Alimony Payments

No longer deductible by payor and no longer taxable to payee if divorce agreement entered into after 2018 and certain modifications entered into after 2018

Expenses Attributable to Trade or Business of Being an Employee

Suspension of all miscellaneous itemized deductions subject to the 2% floor for expenses attributable to the trade or business of being an employee

Estate and Gift Taxes

Estate and gift tax exemption doubled (with inflation adjustments). Bill does not provide for the repeal of estate tax at any time in the future

Generation Skipping Transfer (GST) Tax

GST Tax exemption doubled (with inflation adjustments). The bill does not provide for the repeal of GST tax at any time in the future

Deduction for Qualified Business Income from Sole Proprietorships and Pass-Through Entities

20% deduction for non-corporate taxpayers, including certain trusts, for "qualified business income" (as that term is defined in the Tax Reform Act) from a sole proprietorship or pass-through entity, subject to certain limitations. This 20% deduction cannot exceed the greater of: (i) 50% of the "W-2 wages" (as that term is defined in the Tax Reform Act) paid with respect to the qualified trade or business; or (ii) the sum of 25% of the "W-2 wages" paid with respect to the qualified trade or business plus 2.5% of the "unadjusted taxable income" immediately after acquisition, of all "qualified property" (i.e., tangible property held by a qualified trade or business and used in the production of qualified business income). "Qualified business income" does not include income from service businesses (excluding engineering and architecture) if the taxpayer's average annual income is less than certain amounts

Business Tax Reform

TOPIC

THE TAX BILL

Corporate Tax Rate

21% flat rate effective for tax years beginning after 2017. service corporations

Corporate AMT

Repealed for tax years beginning after 2017

Dividends-Received Deduction

The 80% dividends received deduction is reduced to 65% and deduction is reduced to 50%

Temporary 100% Expensing for Certain Qualifying Business Assets

100% first-year deduction for the adjusted basis of qualified property placed in service after 9/27/17 and before 2023, which percentage is reduced to 60% for qualified property placed in service after 2022 and before 2023, 50% for qualified property placed in service after 2023 and before 2025, (iii) 40% for qualified property placed in service after 2025 and before 2027, and (iv) 20% for qualified property placed in service after 2027 and before 2027

Increased Section 179 Expensing

Increase in the Section 179 expensing limitation to \$1 million for tax years beginning after 2017 and before 2026, and to \$2.5 million (indexed for inflation) for tax years beginning after 2025

Limitation on Business Interest Expense Deduction

The deduction for net interest expenses incurred by a business is limited to 30% of the business' "adjusted taxable income" (as that term is defined in the bill) subject to certain exceptions; for example, businesses with average annual gross receipts of \$25 million or less would generally be exempt from this limitation

TOPIC

Limitation on Net Operating Loss (NOL) Deduction

THE TAX BILL

For losses arising in tax years beginning after 2017, the NOL deduction is limited to 80% of taxable income. In addition, the Tax Bill generally eliminates deductions for net operating losses (NOLs) of farming, mining, and property and casualty insurance companies. Unused NOLs to be carried forward indefinitely.

Like-Kind Exchanges of Real Property (§1031)

The Tax Bill limits the deferral of gain on exchange of like-kind property. The exchange must be primarily for sale, subject to certain transition rules.

Entertainment Expenses

Disallowance of deduction for entertainment expenses; deduction for travel expenses associated with operating a trade or business is retained.

Self-Created Property Not Treated as Capital Asset

Gain or loss from disposition of self-created patent, invention, formula or process would be ordinary not capital.

Carried Interest

The Tax Bill imposes a 3-year holding period requirement for capital gain attributable to certain partnership interests received in connection with services to be taxed as long-term capital gain rather than ordinary income.

Tax Reform for Foreign Income and Foreign Persons

TOPIC	THE TAX BILL
100% Deduction for Foreign-Source Portion of Dividends & Repatriation	The Tax Bill provides a 100% deduction for foreign-source p from “specified 10-percent owned foreign corporations” by U subject to a one-year holding periodThe Tax Bill also impose 1986 accumulated foreign earnings held in cash or cash equiv 1986 accumulated foreign earnings held in illiquid assets of 8 pay any resulting liability over an eight-year period
Foreign Tax Credit	The indirect foreign tax credit under IRC §902 is repealed and tax credit under IRC §960 will be on a current-year basisA limitation basket is added for foreign branch income
Subpart F	The definition of U.S. shareholder is expandedThe current tax qualified investments under IRC §955 is repealedThe Tax B company oil related income as Subpart F income under IRC § determining “controlled foreign corporation” status are modifie as constructively owning stock held by its foreign shareholder
Passive Foreign Investment Company (“PFIC”)	PFIC insurance exception would be restricted to foreign corp as an insurance company if they were U.S. corporations and expenses, unearned premiums, and certain reserves exce circumstances) of the foreign corporation’s total assets
Interest Expense Apportionment	Interest expense allocated among members of a U.S. affiliate adjusted tax basis of assets, as opposed to fair market value u

TOPIC

Stock Compensation of Insiders in Expatriated Corporations

THE TAX BILL

Excise tax on stock compensation in a corporate inversion would be 15%

TOPIC

THE TAX BILL

Recharacterization of Certain IRA and Roth IRA Contributions

For tax years beginning after 2017, the rule allowing a contribution to be recharacterized as a contribution to the other type of IRA does not apply to a contribution to a Roth IRA. Thus, recharacterization cannot be used for a Roth IRA conversion.

Deduction for Excessive Employee Remuneration

For tax years beginning after 2017, the exceptions to the deduction for excessive employee remuneration for commissions and performance-based compensation are revised. The definition of “covered employee” is revised to include the principal executive officer, the chief financial officer and the three other highest compensated officers.

Qualified Equity Grants

Creates a new election to defer recognition of gain for up to 10 years for nonpublic companies who are granted stock options or restricted stock awards with their performance of services; certain employees are not eligible for the election.

Affordable Care Act Individual Mandate

For months beginning after 2018, the amount of the individual shared responsibility payment under the Affordable Care Act is reduced to zero.

Tax Reform for Tax-Exempt Organizations

TOPIC

Unrelated Business Taxable Income

THE TAX BILL

Increases unrelated business taxable income by the amount of expenses for which a deduction is disallowed. In addition, organizations with more than one unrelated trade or business must separately calculate unrelated business taxable income for each trade or business, effectively prohibiting using income from one trade or business to offset income from a separate trade or business.

Excise Tax on Tax Exempt Organization Executive Compensation

Imposes a 21% excise tax on compensation in excess of \$1 million for the five highest-paid employees of a tax-exempt organization for the year in which the employee was such an employee in any prior tax year beginning after 2017. The tax is treated as paid when rights to remuneration are no longer subject to substantial forfeiture.

Please note that the above summary is not intended to be a comprehensive summary and analysis of all of the tax reform provisions contained in the Tax Bill but rather is intended to highlight some of the relevant tax reform provisions. Not all of the provisions contained in the Tax Bill are summarized herein. You are encouraged to consult with your own tax advisor regarding these tax reform provisions and the application of these provisions to your own situation.

For more information, please contact authors, Mark Wisniewski, Nick Jovanovich, Mitchell W. Goldberg or William Shaheen on our [Business, Finance and Tax Team](#).

Related Team Member(s)

Mark Wisniewski

Topics

Corporate

Tax Litigation

Taxation