Conference Committee Reaches Agreement on Tax Reform

Following is a summary of key provisions of the bill.

	CURRENT LAW	CONFERENCE COMMITTEE PROPOSAL
CORPORATE AND BUSINESS TAX		
Tax rate	Top rate of 35 percent.	21 percent flat rate beginning for tax years beginning on or after Jan. 1, 2018. Blended rate for fiscal year corporations under IRC Section 15.
Personal service corporations	35 percent flat rate.	21 percent flat rate.
Alternative minimum tax (AMT) **Credit for prior-year minimum tax**	20 percent rate. Allowable for excess of AMT over regular tax liability.	Repealed. Credit partially refundable in 2018, 2019, 2020, and 2021. Balance of credit refundable in 2022.
Net operating loss (NOL)	Can offset 100 percent of income. Can offset 90 percent of alternative minimum taxable income. Two-year carryback and 20-year carryforward of NOLs.	NOLs generated in 2017 and earlier can offset 100 percent of income. NOLs generated in 2018 and later can offset 80 percent of income. Generally no carryback and unlimited carryforward of NOLs.
Domestic production activities deduction	Deduction of up to 9 percent of taxable income for manufacturers.	Repealed.
Revenue recognition	Taxable income can be recognized later than it is recognized for U.S. generally accepted accounting principles (GAAP).	Codifies Revenue Procedure 2004-34, which provides a one-year deferral of advance payments for services. Conforms tax revenue recognition to GAAP revenue recognition unless a special method of accounting is provided by the code. Does not apply to mortgage servicing rights. Exception for special methods of accounting does not apply to ordinary issue discount (OID). OID provisions apply to tax years beginning in 2019. The remainder of the provisions apply for the 2018 tax year.

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Bonus depreciation	50 percent bonus depreciation.	100 percent bonus depreciation for assets purchased on or after Sept. 28, 2017, through Dec. 31, 2022. Bonus depreciation phases down to zero from 2023 through 2027, with no bonus depreciation available in 2028.
Section 179 expensing	$500,000 with phaseout at $2 million.	Increased to $1 million with phaseout at $2.5 million, indexed for inflation. Expands types of real estate improvements that can qualify for Section 179.
Interest expense	Generally deductible when incurred without limitation.	Deduction limited to 30 percent of adjusted taxable income. Adjusted taxable income is earnings before interest, taxes, depreciation, and amortization (EBITDA) through 2021 and earnings before interest and taxes (EBIT) in subsequent taxable years. Does not apply if the average gross receipts of the business for the prior three years were less than $25 million. Generally applies on an entity-by-entity basis. Does not apply to auto dealers' floor plan financing. Special rules apply to pass-through entities. Unlimited carryforward of disallowed amounts.
Entertainment expenses	Deduction allowed for 50 percent of entertainment expenses.	No deduction will be allowed.
Section 162(m)	Public companies denied a deduction for compensation paid to officers in excess of $1 million unless compensation is performance- or commission-based.	Repeals performance- and commission-based exceptions, effectively limiting public company officer compensation to $1 million per year per employee. Does not apply to written agreements that were in effect on Nov. 2, 2017, and that were not modified in a material way on or after that date. Modifies definition of covered employee to include CEO, CFO, and the next three highest-paid officers. Broadens applicability by including any former officer in any tax year beginning on or after Jan. 1, 2017, in the definition of a covered employee.
Like-kind exchanges	Generally allowed.	Repealed except for real estate not held primarily for sale. Deferred exchanges (forward and reverse) in progress as of Dec. 31, 2017, can be completed as like-kind exchanges.

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Contributions to capital	Section 118 allows tax-free contributions to capital.	Precludes the application of Section 118 to: • Any contribution not made as a shareholder by a government entity or civic group • Any contribution in aid of construction or any other contribution as a customer or potential customer Applies to any capital contribution made after enactment of the tax bill. Some existing agreements are grandfathered.
***Family and Medical Leave Act* (FMLA)**	No credit for wages paid to employees under FMLA.	Allows credit for up to 25 percent of wages paid under FMLA.
PASS-THROUGH ENTITIES		
Pass-through entities	Income included at ordinary rates.	Deduction for 20 percent of pass-through income not to exceed the greater of the following: • 50 percent of wages paid by business • 25 percent of the wages paid by the business plus 2.5 percent of the original tax basis of certain tangible property Service businesses (other than engineers and architects) generally are ineligible for the deduction and increased amount based on basis in property. If individual taxable income is less than $315,000 ($157,500 for a single filer), the individual owner of a service business is eligible for deduction. Phases out between $315,500 and $415,000 ($157,500 and $207,500 for single filers) of taxable income. Trusts and estates are eligible for pass-through deduction. Provision sunsets for tax years beginning on or after Jan. 1, 2026.
Use of pass-through entity and other trade or business losses	Unlimited use of trade or business losses (after application of passive loss rules) to offset other income.	Limits losses that can offset other income to $500,000 for married filers and $250,000 for single filers.
INDIVIDUAL TAX PROVISIONS (Effective through Dec. 31, 2025, unless otherwise noted)		
Tax rate	Top rate of 39.6 percent beginning at $480,050 for married filers and $426,700 for single filers.	Top rate of 37 percent beginning at $600,000 for married filers and $500,000 for single filers.
Standard deduction	$12,700 for married filers and $6,350 for single filers.	$24,000 for married filers and $12,000 for single filers.
Personal exemptions	$4,050 per individual and dependent.	Repealed.

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Child tax credit	Partially refundable credit of $1,000 per child younger than age 17 with a phaseout starting at $110,000 of income for married filers, $55,000 for single filers.	Credit of $2,000 per child younger than age 17 with a phaseout starting at $400,000 of income for married filers, $200,000 for single filers. Up to $1,400 per child is refundable.
Alternative minimum tax (AMT)	28 percent rate, applies if AMT exceeds regular tax liability.	Individual AMT retained. Exemption is raised to $109,400 for married filers and $70,300 for single filers. Exemption does not phase out until income subject to AMT is $1 million for married filers, $500,000 for single filers.
Mortgage interest deduction	Interest deductible on up to $1 million of acquisition indebtedness on primary residence plus one additional residence and $100,000 of home equity indebtedness.	Interest deductible on up to $750,000 of acquisition indebtedness incurred on or after Dec. 15, 2017. Eliminates deduction for home equity interest.
State and local tax deduction	Deduction allowed for state and local taxes.	Itemized deduction for up to $10,000 of state and local taxes.
Charitable contributions	Deduction allowed for charitable contributions. Cash contributions limited to 50 percent of adjusted gross income.	Deduction retained. Limit increased to 60 percent of adjusted gross income for cash contributions.
Casualty losses	Itemized deduction allowed for casualty losses.	Itemized deduction limited to casualty losses from a presidentially declared disaster area.
Unreimbursed employee expenses	Allowed as an itemized deduction.	Repealed.
Deduction for tax preparation services	Allowed as an itemized deduction.	Repealed.
Medical expenses	Deductible if in excess of 10 percent of adjusted gross income.	Retained. Expenses deductible through 2019 if in excess of 7.5 percent of adjusted gross income. Deduction returns to 10 percent threshold in 2020.
***Affordable Care Act* taxes**	3.8 percent tax on net investment income and 0.9 percent tax on wages and self-employment income.	No changes.
Shared responsibility payment (individual mandate penalty)	Penalty imposed on individuals who do not maintain health insurance.	Repealed effective Jan. 1, 2019.
Alimony	Deductible to payer, taxable income to recipient.	No deduction to payer and not taxable income to recipient. Effective for any divorce or separation agreement entered into on or after Jan. 1, 2019. Can elect to have the provisions apply to agreements entered into before Jan. 1, 2019, by modifying the agreement. Permanent change – does not sunset.
Moving expenses	Deductible if incurred in connection with work-related relocation.	Repealed.

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ESTATE AND GIFT TAX		
Lifetime exclusion	$5 million per person.	$11.2 million per person for estates of decedents dying and gifts made after Dec. 31, 2017, and through Dec. 31, 2025. Returns to $5 million per person indexed for post 2011 inflation on Jan. 1, 2026. No changes to estate and gift tax rates.
INTERNATIONAL TAX		
Dividends received by domestic corporations from foreign subsidiaries	Included in income with a credit for foreign taxes paid.	Adopts a modified territorial system with 100 percent dividends received deduction (DRD) if the domestic corporation owns at least 10 percent of the foreign subsidiary paying the dividend. No foreign tax credit or deduction allowed with respect to the foreign dividend. Territorial benefits not available to: • Income from branches and foreign partnerships • S corporations • Partnerships
Deemed repatriation income inclusion	No provision.	Would require deemed repatriation income inclusion of post-1986 foreign subsidiary earnings and profits as of Nov. 2 or Dec. 31, 2017, by U.S. shareholders owning at least 10 percent. Inclusion treated as Subpart F income with a pro rata credit or deduction for underlying foreign taxes. 15.5 percent tax rate on foreign earnings and profits held in liquid assets and 8 percent for the remainder. Tax payable on due date of 2017 return with an election to defer payment over eight years. Deemed repatriation applies to S corporations, partnerships and individuals, and estates and trusts, even though these entities do not receive territorial benefits. Default rule would use available NOLs to offset deemed repatriation. Entities can elect not to use NOLs to offset deemed repatriation.

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Global intangible low-taxed income (GILTI)	No current provision.	Creates new anti-deferral rules to tax-imputed intangible income of a controlled foreign corporation (CFC) (income in excess of routine return on CFC tangible assets) at a 10.5 percent minimum U.S. or foreign tax rate beginning in 2018 (13.125 percent after 2025).
Foreign-derived intangible income (FDII) deduction	No current provision.	Provides a tax incentive for U.S. companies to sell goods and services abroad by taxing the income at a reduced tax rate of 13.125 percent beginning in 2018 (16.4 percent after 2025), accomplished by means of a deduction.
Base erosion anti-abuse tax (BEAT) minimum tax	No current provision.	Tax due if BEAT exceeds U.S. tax liability. BEAT rates are: • 5 percent in 2018 • 10 percent from 2019 through 2025 • 12.5 percent starting in 2026 BEAT is imposed on modified taxable income, which is taxable income determined without regard to a base erosion payment deduction. Applies to U.S. corporations with average annual gross receipts of at least $500 million for the last three-year period and a base erosion percentage of at least 3 percent for the year. Base erosion percentage is base erosion tax deductions divided by the total amount of tax deductions.
Domestic international sales corporations	Provides export benefits.	Retained.
EXEMPT ORGANIZATIONS		
Excise tax on excess executive compensation	No current provision.	Tax-exempt organizations are subject to 21 percent excise tax on remuneration paid in excess of $1 million to any of its five highest-paid employees (as determined by their status during the current or preceding tax years). Remuneration is treated as paid when there is no substantial risk of forfeiture. Also applies to certain excess parachute payments paid by the organization. Remuneration paid to a licensed medical professional (for services in such capacity) is not taken into account.

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Unrelated business taxable income separately computed for each activity	An organization may use a deduction from one unrelated trade or business to offset income from another.	Unrelated business taxable income must be computed separately with respect to each trade or business. An NOL deduction from one trade or business can't offset the income of a different trade or business.
Excise tax based on investment income of private colleges and universities	Private colleges and universities are treated as public charities and thus are not subject to the private foundation excise tax on net investment income.	Imposes an excise tax on an applicable educational institution equal to 1.4 percent of the net investment income of the institution. The institution must have at least 500 tuition-paying students, more than 50 percent of whom are located in the U.S., and its asset-per-student threshold must be at least $500,000.
Modifications to the deduction for charitable contributions	Favorable deductibility rules apply to certain payments to institutions of higher education in exchange for college athletic event seating rights.	Repealed.
Repeal of advance refunding bonds	The exclusion from income for interest on state and local bonds applies to refunding bonds, including, subject to certain limits, advance refunding bonds.	The exclusion from gross income for interest on a bond issued to advance refund another bond is repealed.