



税务快讯之美国税改系列 对个人及公司国际派遣计划的影响



Making another century of impact
德勤百年庆 开创新纪元

背景

美国参议院于 12 月 2 日凌晨最终以 51 票比 49 票通过了《减税和就业法案》（“参议院法案”）。为了获得关键性选票以确保法案得以通过，参议院法案在最后一刻进行了几项重大修改。众议院是在 11 月 16 日以 227 票比 205 票通过了众议院法案（H.R.1；“众议院法案”）。

税改时间表及下一步动向

参议院法案将通过协调委员会程序与众议院达成一致，该委员会将由众议院和参议院的主要成员组成。众议院的共和党领导人表示将会举行一个正式协调会议，并已告知议员们将在 12 月 4 日这周投票同意开始协调会议。特朗普政府仍希望在 2017 年年底前税改法案能获得通过。

参众两院提案对于个人纳税人、公司全球人才流动和奖励机制等方面的影响

参众两院的提案不仅会对个人纳税人而且会对公司的国际雇员派遣和激励计划产生影响，下表是对相关内容的总结。涉及公司、穿透实体、以及免税实体的税务影响不在本次快讯中讨论。

	现行法规	众议院提案	参议院提案
个人所得税率	七级税率为 10%、15%、25%、28%、33%、35% 以及 39.6%。	个人所得税率简化为 4 个等级：12%、25%、35% 和 39.6%，较低等级税率适用的起征点提高。	七级税率调整为 10%、12%、22%、24%、32%、35% 以及 38.5%。
个人免税额	2017 年每人的免税额为 4,050 美元。	取消所有个人免税额。	取消所有个人免税额。
标准免税额	单身人士的标准免税额为 6,300 美元，联合申报的标准免税额为 12,600 美元。	单身人士的标准免税额为 12,000 美元，联合申报的标准免税额为 24,000 美元。	单身人士的标准免税额为 12,000 美元，联合申报的标准免税额为 24,000 美元。
房屋贷款利息的减免	主要住房和第二套房子的贷款利息可以作为分项抵扣项目。可作为分项抵扣的房屋贷款利息限于 100 万美元住宅购置贷款和 10 万美元住宅权益贷款上支付的贷款利息。	只有主要住房可以享受贷款利息的分项扣除。且贷款利息扣除额度上限降为 50 万美元的住宅购置贷款上面缴纳的贷款利息。住宅权益贷款产生的利息不允许扣除。	和现行法规相比，仅仅取消住房权益贷款的利息扣除。
其他逐项扣除	逐项扣除项包括：医疗费用，州税和地方所得税，房产税，慈善捐赠等。超过调整后总收入的 10% 的医疗费用才可以扣除。扣除额会因为收入超过一定的额度而受到限制。	取消逐项扣除的整体限制。仅保留州与地方政府房产税扣除和慈善捐款扣除。房产税扣除限额为 1 万美元。慈善捐款限额从调整后总收入的 50% 提高到 60%。	取消逐项扣除额的整体限制。仅保留州与地方政府房产税扣除，慈善捐款扣除和医疗费用扣除。房产税扣除限额为 1 万美元。可以扣除的医疗费用从超出调整后总收入的 10% 降低为 7.5%。
最低限额税	个人所得税的最低限额税，与一般所得税相互独立存在，取两者高值交税。	取消。	保留。增加最低限额税个人免税额的金额。
遗产税	对超过 549 万美金的应纳税遗产征收 40% 的遗产税（2017 年）。	双倍的免税额。到 2024 年会取消遗产税。	双倍的免税额。2025 年后免税额将回归到税改前的标准。
子女税优惠	17 岁以下每位合格的子女可使用的子女税优惠是 1,000 美元。联合申报下，当调整后的总收入达到 11 万美元时，子女税优惠开始降低。	子女税优惠提高为 1,600 美元，并将提供每个成人 US\$300 的税收优惠。联合申报下，当调整后的总收入达到 23 万美元时，这些税收优惠开始降低。	子女税优惠提高为 2000 美元。联合申报下，当调整后的总收入达到 50 万美元时，子女税优惠开始降低。
奥巴马医改	包括 3.8% 的净投资所得税，个人强制医保罚款和 0.9% 的额外的医疗保险税。	没有改变。	取消个人强制医保罚款。

主要住房的销售所得	对于在过去 5 年中拥有和使用超过 2 年的主要住房，联合申报者的出售收入免税额是 50 万美元，单独申报者则为 25 万美元。该免税额每 2 年可以使用一次。	保留。纳税人必须在过去 8 年内的 5 年拥有和使用该房产。相应的免税额每 5 年可以使用一次。且免税额在调整后的收入达到 50 万美元（25 万美元，如果是单独申报者）时开始降低。	保留。纳税人必须在过去 8 年内的 5 年拥有和使用该房产。相应的免税额每 5 年可以使用一次。免税额不随着收入降低。
搬家费	符合条件的和工作相关的搬家费可以做税前抵扣。雇主报销的符合条件的员工搬家费可以被视为免税福利。	取消搬家费的抵扣；公司报销的搬家费要记为收入。	取消搬家费的抵扣；公司报销的搬家费要记为收入。

德勤观察

- 在两院提案下，税负平衡政策下的税收补偿成本将根据派遣方向（从美国到别国或是从别国到美国）和目的地国家的税率高低等因素而变化。由于中国和美国个人所得税税率差进一步增大，从美国被派遣到中国的美国员工将可能期望和要求公司提供税收平衡政策。另一方面，被派遣到美国的中国员工在他们的中国个人所得税表上可以使用的美国税款抵扣将有可能降低。在现阶段，公司可以考虑规划税率等级变动和税率降低对税负平衡成本带来的影响。
- 从2018年开始，个人纳税人缴纳的州税和房产税将可能不被允许（或者被限制）作为联邦税的逐项扣除。因此，个人纳税人可以考虑在2017年底之前提前支付本应该在2018年初缴纳的季度州税预估税和房产税。
- 由于非美国税收居民和双重税收居民身份的个人纳税人在申报美国税时不被允许使用标准扣除额，因此取消州税在联邦税上的逐项抵扣和个人免税额将可能会提高这部分纳税人的美国税税负，并进一步提高将其派遣（包含长期派遣和商务访问）到美国的中国公司的税务合规和补偿成本。
- 限制逐项扣除额将提高个人纳税人的税负成本，故而公司应该考虑如何处理由此对国际派遣员工现在和未来产生的额外税负。
- 雇主为雇员报销的搬家费在新的税改法案下将变为应税所得。如果雇主为雇员支付该费用相关的美国个人所得税，公司的成本将进一步增加。
- 为了能够享受主要住房销售所得免税福利，纳税人需要在该住所居住更长的时间。另外，高收入人群的免税部分还将可能进一步被降低。这些限制将降低可以全额享受住房销售所得免税福利的纳税人数。从公司层面，这些限制也可能降低员工接受海外派遣的意愿，而公司也需要考虑这些限制对公司税负报销政策带来的影响。
- 应税遗产基本扣除额的提高将对目前和未来的遗产规划产生很大的影响。纳税人应该关注最终立法关于遗产税的改革方案。

- 根据现在的提案，参议院在税率、税收抵免、收入扣除额和遗产税等方面的改革方案将于2025年底到期。到期之后，如果没有其他修改方案，相关的法规可能将变回目前的法规。从长期来讲，这类“到期作废”的提案给纳税人可享受的税收优惠带来一定的不确定性。而公司在考虑未来人才流动成本时也需要将政策的长期变动作为一个考量因素。

重要事项

由于当前众议院法案和参议院法案草稿均长达400多页，因此值得注意的是以上概述只是对一些复杂性问题的摘要。若上述税改提案被实施，我们强烈建议纳税人向专业美国税务顾问进行咨询，以了解这些和其他提案对现有或未来公司国际雇员派遣和激励计划所产生的影响。

联系方式

如果您需要了解美国税改的最新动态，对您个人、公司全球人才流动影响以及所需要的应对措施，欢迎联系德勤中国的美国税改专项服务小组成员：

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往期回顾

或将深刻改变美国及国际税收领域规则的美国税改进程如何？对赴美投资及跨境经营有何影响？【德勤税务快讯之美国税改系列】将及时与您分享我们的专业解读。点击浏览往期内容，并请关注更多后续进展。

- 12月4日 — [【德勤税务快讯之美国税改系列】中国企业赴美投资的税务影响](#)
- 12月2日 — [【德勤税务快讯之美国税改系列】最新出炉：参议院通过其税改提案](#)
- 11月29日 — [【德勤税务快讯之美国税改系列】美国税改法案近期快讯](#)

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Tax Newsflash on US Tax Reform

Impacts on individual taxpayers and employer global mobility and rewards program



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Background

In the early morning of December 2, the U.S. Senate passed its version of the Tax Cuts and Jobs Act (the "Senate Act") by a vote of 51-49. In order to achieve the votes needed for passage, several last-minute and significant modifications were made to prior versions of the Senate Act. On November 16, the U.S. House of Representatives passed its version of the bill (H.R. 1; the "House Act") by a vote of 227-205.

Timing and next steps

The Senate Act must now be reconciled with the House Act through the process of a conference committee, which will consist of a small working group of key members from both the House of Representatives and the Senate. Republican leaders from the House of Representatives insist there will be a formal conference and have told members they will vote to initiate the conference in the week of December 4. The Trump Administration remains committed to enacting tax reform by the end of 2017.

Summary of key provisions of both proposals impacting individual taxpayers as well as company's mobility and rewards programs

The below alert summarizes the key provisions of both the Senate Act and the House Act could have implications to the individual taxpayers, as well as the company's mobility and rewards programs. Tax proposals relating to corporate, pass-through entities, tax-exempt entities are not the subject of this alert.

	Current law	House of Representatives Tax Bill H.R.1	Senate Tax Cuts and Jobs Act
Individual Income Tax Rates	Seven rate brackets (10%, 15%, 25%, 28%, 33%, 35%, and 39.6%).	Reduces number of tax brackets into four, 12%, 25%, 35%, and 39.6%, and increases income thresholds applicable at the lower levels.	Adjusts tax rates and brackets as 10%, 12%, 22%, 24%, 32%, 35%, and 38.5%.
Personal Exemptions	US\$4,050 for each person, spouse and dependents (2017).	Repeal all personal exemptions.	Repeal all personal exemptions.
Standard Deduction	US\$6,300 for single individuals, US\$12,600 for joint filers.	Increases standard deduction to US\$12,000 for single individuals and US\$24,000 for joint filers.	Increases standard deduction to US\$12,000 for single individuals and US\$24,000 for joint filers.
Mortgage Interest Deduction	Itemized deduction for mortgage interest paid to a principal residence and one other residence is allowed. The deductible amount is limited to US\$1 million in acquisition indebtedness and up to US\$100,000 in home equity indebtedness.	Limits the mortgage interest deduction on acquisition debt of US\$500,000 for only principal residence. Interest on home equity indebtedness is not deductible.	Only eliminates the interest deduction for home equity indebtedness.
Other Itemized Deductions	Itemized deduction includes medical and dental expense, state and local income taxes, real estate Tax, charitable donation, etc. Medical and dental expense which exceeds 10% of adjusted gross income ("AGI") is deductible. Those deductions are subject to phase out if income meets certain threshold.	Repeal of overall limitation on itemized deductions. Retains state and local property tax deduction and charitable donation deduction. Property tax deduction is capped at US\$10,000, while the AGI limit for charitable donation deduction would be increased from 50% to 60%.	Repeal of overall limitation on itemized deductions. Only allows state and local property tax deduction, charitable donation deduction and medical expense deduction. Property tax deduction is capped at US\$10,000. The AGI limit for medical expense reduces from 10% to 7.5%.
Alternative Minimum Tax	Two different tax calculation methods: regular income tax and the alternative minimum tax (AMT), and the tax liability is equal to the greater of regular income tax liability or AMT liability.	Repealed.	Retained. Raises AMT individual exemption threshold.

Estate Tax	A top tax rate of 40% on taxable estate exceeding US\$5.49 million (for 2017).	Doubles basic exclusion amounts until repeal of estate tax in 2024.	Doubles basic exclusion amounts. Sunsets after 2025.
Child Tax Credit	US\$1,000 for each qualifying child under the age of 17. Phase-out begins when AGI reaches US\$110,000 for joint filers.	Increase to US\$1,600 per child, US\$300 for non-child dependents and taxpayers. Phase-out begins when AGI reaches to US\$230,000 (for joint filers).	Increases to US\$2,000 per child. Phase-out begins when AGI reaches to US\$500,000 (for joint filers).
Obamacare Taxes	3.8% net investment income tax; individual mandate tax penalty; 0.9% Medicare payroll tax.	No change.	Repeals individual mandate penalty.
Gain from Sale of a Principal Residence	Allows individuals to exclude up to US\$500,000 for joint filer (US\$250,000 for single filer) from the sale of a principal residence who own and use a house for 2 of the previous 5 years. The exclusion can be used once every 2 years.	Retained. An individual would have to own and use a home as the principal residence for 5 out of the previous 8 years and the exclusion would only be available once every five years. Finally, the exclusion would begin to phase out when a taxpayer's AGI exceeds US\$500,000 (US\$250,000 for single filers).	Retained. An individual would have to own and use a home as the principal residence for 5 out of the previous 8 years and the exclusion would only be available once every five years. No phase-out is applied.
Moving Expenses	Moving expenses in connection with jobs are deductible provided that certain requirements are met. Qualified employee moving expenses, if reimbursed by employer, can be treated as nontaxable fringe benefit.	Repeal moving expense deduction and exclusion for qualified moving expense reimbursements.	Repeal moving expense deduction and exclusion for qualified moving expense reimbursements.

Observations

- Under both proposals, tax reimbursement costs for tax equalized assignment could change, depending on the mix of assignees inbound and outbound to the U.S., and also to the high or low-tax countries. U.S. employees who will be assigned to work in China likely will expect to be tax equalized as the tax rate differences between

two countries become larger. On the other hand, Chinese employees working in the U.S. on assignments will have reduced foreign tax credits can be claimed against their China individual income tax. Companies may consider projecting the overall impact of this compression of brackets and lowering of rates on their projected tax reimbursement costs.

- Individual taxpayers may consider accelerating making the payments for quarterly state and local estimate tax payments and property tax which will be due in early 2018 before end of 2017 as the deductions for these payments may be eliminated or limited on the 2018 return.
- The exclusion of state and local income taxes from the itemized deductions and the repeal of personal exemptions may result in increased tax reimbursement costs for Chinese companies sending employees on business travels or assignments to the U.S. as U.S. non-resident or dual-status resident taxpayers are not entitled to claim standard deduction on their U.S. individual income tax returns. As a result, more foreign individuals traveling or working in the U.S. would be required to file a U.S. tax return and will be taxable on the first dollar earned in the U.S. Companies with increasing U.S. investments should consider the impact of any additional tax reimbursement and compliance costs on their global mobility program.
- The limitation on certain itemized deduction items will increase the tax bills of the individual taxpayers and company should consider how to handle these additional tax costs for their current and future international employees.
- Moving expense reimbursements paid by an employer to an employee that in the past were not taxable to the employee would now be taxable. Companies may see an increased tax cost relating to the gross-up of these reimbursements.
- The modification on gain from sale of a principal residence would require taxpayers to live in their homes for a longer period in order to exclude gain, and additional provisions may lower the benefit of this exclusion. As a result, fewer taxpayers would qualify to exclude the full gain on the sale of their home. Companies should recognize that this provision may impact an employee's decision on whether to accept a global assignment and may need to review their tax reimbursement policies to address this situation.
- The increase on basic exclusion of taxable estate would have great impact on the current and future planning and structuring on estate. Attention shall be paid to the final tax law and regulation on estate tax.

- The current version of the Senate Act on reduction of marginal rates and changes to credits, deductions, estate tax would expire after 2025 and then the individual tax rules may revert back to the current law if no further modifications in later years. These "sunset" provisions create uncertainty to the benefits that may bring to the individual taxpayers in the long run. Also, companies may wish to take this into account when projecting their future mobility costs.

Important note

As currently drafted, each of House Act and Senate Act is over 400 pages in length. As such, it is important to note that the overview provided above is a summary of some fairly complex issues and, as such, taxpayers are strongly advised to consult with a qualified U.S. tax advisor as to how these (and other) provisions, if and when enacted, could impact existing or future mobility and reward programs in the United States.

Contact list

Please contact any of Deloitte China's US Reform Task Force members below for more information, and how it may impact yourself, or your company's mobility programs and what you should be doing now.

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