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## Press reports cite deal on tax reform conference agreement

Although nothing has been announced officially, a number of news agencies, citing comments from congressional aides, reported December 13 that House and Senate conferees have reached an agreement on a tax reform package aimed at lowering tax rates on corporations, passthrough entities, individuals, and estates and moving the US toward a territorial-style system for taxing foreign-source income of domestic multinational corporations.

In comments to reporters shortly before what is expected to be the tax reform conference committee's only public hearing, House Ways and Means Committee Chairman Kevin Brady, R-Texas, did not confirm that a deal is in place, although he did say an agreement "feels very close." (In addition to being the top taxwriter in the House, Brady is also conference committee chairman.)

### Few details so far

Relatively few details of the purported agreement have become public; however, press reports generally indicate that the conference agreement on the Tax Cut and Jobs Act (H.R. 1) will call for:

- Reducing the top corporate tax rate to 21 percent (from 35 percent under current law) effective beginning in 2018. The versions of H.R. 1 approved in the House on November 16 and the Senate on December 2 called for a top corporate rate of 20 percent, although the House provision would have taken effect in 2018 and the Senate proposed an effective date of 2019.

- Allowing passthrough entities a 20 percent deduction on certain qualifying income. The Senate bill proposed a 23 percent deduction while the House measure called for reducing the top rate on qualifying passthrough income to 25 percent (from 39.6 percent under current law). One news agency adds that the provision will be expanded to apply to trusts as well as to individuals.
- Limiting the deduction for net business interest expense by using a test based on 30 percent of EBITDA (included in the House version) for five years and 30 percent of EBIT (included in the Senate version) thereafter. (Rumors of this provision have been swirling among Washington tax circles but have not been reported in the press.)
- Reducing the top income tax rate for individuals to 37 percent, although the income threshold at which this rate would apply is unclear. The House bill proposed to apply the current-law top rate of 39.6 percent to income over $500,000 for single taxpayers and $1 million for joint filers (with an additional 6 percent bubble rate applied to certain high-income taxpayers), and the Senate bill proposed a top rate of 38.5 percent on income over $500,000/$1 million).
- Capping the deduction for mortgage interest at interest paid on principal amounts of up to $750,000. The House bill proposed that the deduction only be available for loan amounts up to $500,000 and limited to primary residences only, while the Senate bill retained the current-law cap of $1 million for primary residences and qualifying secondary residences. Both bills called for grandfathering existing mortgages. It is unclear how the conference agreement would treat interest on qualifying second homes or interest on home-equity debt.
- Providing a deduction of up to $10,000 for state and local property taxes or state and local income taxes. Both bills included a deduction up to $10,000 for state and local property taxes only. Proposals to pare back the deduction have been a source of contention for a number of Republicans in the House who represent constituents living in high-tax jurisdictions.
- Retaining the deduction for unreimbursed medical expenses. The House bill would have repealed the current-law provision that generally allows taxpayers to deduct unreimbursed medical expenses in excess of 10 percent of adjusted gross income (AGI) or 7.5 percent of AGI for those age 65 and older. The Senate bill would retain the deduction but lower the floor for claiming it to 7.5 percent of AGI for all taxpayers for 2017 and 2018.
- Retaining the estate tax but expanding the exemption. The House bill would have retained estate tax at its current rate through 2023 and repealed it beginning in 2024, while the Senate measure called only for expanding the exemption amount to $10 million per taxpayer.
- Repealing the alternative minimum tax (AMT) for corporations but retaining a modified version of the AMT for individuals. The House bill proposed to eliminate both taxes while Senate leaders opted to retain them for revenue reasons.
- Reducing to zero the penalty imposed on individuals who do not comply with the individual mandate under the Patient Protection and Affordable Care Act of 2010. This provision was included in the Senate-passed bill but not in the House package.

## Revenue tweaks?

Many of the reported changes to what was approved by the two chambers have the potential to drive up the cost of the legislation. It remains unclear, however, just what other changes conferees will have to make to base-broadening provisions to ensure that the 10-year cost of the final package stays within the parameters of the fiscal year 2018 congressional budget resolution – that is, a net tax cut of no more than $1.5 trillion – as well as budget reconciliation rules that prohibit the legislation from increasing federal deficits outside the 10-year budget window.

According to estimates from the Joint Committee on Taxation (JCT) staff, the House-passed legislation would reduce federal receipts by $1.44 trillion between 2018 and 2027 (JCX-54-17) while the Senate measure would cost 1.45 trillion over the same period (JCX-63-17).
**URL:** https://www.jct.gov/publications.html?func=startdown&id=5034
**URL:** https://www.jct.gov/publications.html?func=startdown&id=5047

## Next steps

Conference committee leaders could release language of the agreement as early as December 15, after it has been drafted and received a revenue score from the JCT staff. The agreement then will need to be approved in both chambers of Congress. The Senate is likely to vote on the measure early in the week of December 18 with a House vote expected shortly thereafter.

Deloitte Tax LLP will provide additional details on the conference agreement once language is released.

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