In this issue:

Tax reform legislation becomes law

The House and Senate this week approved and President Trump signed into law an amended version of the conference report for H.R. 1, a massive tax reform bill that lowers tax rates on corporations, passthrough entities, individuals, and estates and moves the US toward a participation exemption-style system for taxing foreign-source income of domestic multinational corporations, with some of the cost of that tax relief offset by provisions that scale back or eliminate many longstanding deductions, credits, and incentives for businesses and individuals and the rest of the cost added to the deficit.
URL: https://www.congress.gov/115/bills/hr1/BILLS-115hr1enr.pdf

The president signed the legislation into law on December 22, two days after it cleared the House and Senate. The bill signing took place at the White House – but off camera and with no fanfare. A public ceremony to mark the enactment reportedly is planned for early next year.

In Congress, the third vote's the charm

The voting process on Capitol Hill earlier in the week played out almost entirely along party lines but was not without its hiccups. The House approved the H.R. 1 conference report on December 19 by a vote of 227-203, with all of the chamber's Democrats and 12 Republicans (primarily those representing "blue" states) lining up in the "no" column.

'Byrd bath' in the Senate: Complications arose when the House-passed measure reached the Senate later in the day, after the parliamentarian determined that three provisions – the short title, the requirement that colleges and universities have at least 500 *tuition-paying* students to be subject to the excise tax on endowment income, and the inclusion of homeschooling costs as qualified expenses under the proposal to expand section 529 accounts – violated the chamber's Byrd Rule because they had either no impact or only an incidental impact on the federal budget and would need to be stripped out of the bill unless supporters could produce 60 votes to overcome a point of order. A subsequent effort to waive the point of order failed by a party-line vote of 51-48. (Striking the short title means that the measure is not officially called the *Tax Cuts and Jobs Act* and is now known only by its formal title: *An Act to provide for reconciliation pursuant to titles II and V of the concurrent resolution on the budget for fiscal year 2018*.)

The amended measure cleared the Senate in the early hours of December 20 by a vote of 51-48. Republican Bob Corker of Tennessee, who voted against the Senate version of H.R. 1 earlier this month threw his support behind the conference bill in the days leading up the final vote, as did fence-sitters Susan Collins of Maine and Jeff Flake of Arizona, both of whom had expressed misgivings about specific elements of the legislation.

Corker told reporters earlier in the week that he came to support the bill after asking himself: "If I were the deciding vote on this…is our country better with this or not better with it? And I feel that we are." For her part, Collins stated on the Senate floor December 18 that despite her reservations over the bill's provision to effectively gut the individual mandate under the Patient Protection and Affordable Care Act, "[t]he bottom line is that most Maine households will see their taxes lowered."

Sen. Thad Cochran of Mississippi, who Republican leaders feared might miss the floor vote because of health issues, was on hand to vote "yes" along with his GOP colleagues. Sen. John McCain, who is in his home state of Arizona recovering from treatment for brain cancer, was the only senator not present for the vote.

Back to the House: The amended bill – that is, without the three provisions deemed to have violated the Byrd Rules – was sent back to the House, where a motion to concur with the Senate's changes was approved by a vote of 224-201, with 12 Republicans voting "no" and 3 others not casting votes.

Ways and Means Committee Chairman Kevin Brady, R-Texas, downplayed the one-day delay in clearing the measure, telling reporters that "[i]f we can get to vote twice on cutting taxes for families and small businesses, glad to do it."

JCT releases revenue score, distribution table

In other tax reform developments this week, the Joint Committee on Taxation (JCT) staff released a revenue estimate for the H.R. 1 conference agreement December 18, placing the overall cost of the bill for 2018-2027 at $1.456 trillion, within the parameters of the reconciliation instructions in the fiscal year 2018 budget resolution, which authorized tax legislation that increases the deficit by no more than $1.5 trillion over the 10-year budget window. Changes to the individual portion of the tax code are estimated to lose $1.126 trillion; business tax changes are estimated to cost $653.8 billion; and international tax reform is estimated to raise $324.4 billion.
URL: https://www.jct.gov/publications.html?func=startdown&id=5053

The most expensive individual provisions in the bill are the:

- Changes to income tax rates and brackets (estimated 10-year revenue loss: $1.214 trillion);
- Doubling of the standard deduction ($720.4 billion);
- Increased AMT exemption levels and phase-out thresholds ($637.1 billion); and
- Changes to the child tax credit and the addition of a credit for nonchild dependents ($543.6 billion).

These are offset in part by the elimination of personal exemptions (raising $1.212 trillion), and the repeal or limitation of many itemized deductions (about $681 billion). To comply with a Byrd Rule provision that prohibits reconciliation bills from increasing the deficit outside the 10-year budget window, almost all of the individual tax provisions are scheduled to sunset at the end of 2025.

Lowering the corporate tax rate to 21 percent accounted for the lion's share of the business section's cost, at $1.349 trillion. Key offsets cost include the limitation of interest deductions (raising $253.4 billion), modifications to the net operating loss deduction ($201.1 billion), amortization of research and experimentation expenses ($119.7 billion), and repeal of the domestic manufacturing deduction ($98 billion).

The most significant revenue raisers within the international title are the deemed repatriation transition tax ($338.8 billion), the taxation of global intangible low-taxed income (GILTI) ($112.4 billion), and the base erosion and anti-abuse tax ($149.6 billion). These serve to offset the cost of shifting to a participation exemption system, estimated to decrease federal revenues by $223.6 billion over 10 years.

H.R. 1 was passed by both chambers without a dynamic revenue estimate (accounting for the expected macroeconomic impact on federal revenues). JCT and the Congressional Budget Office (CBO) are required by congressional rules to produce a dynamic score of significant legislation "when practicable." JCT's dynamic score of the version of H.R. 1 that was approved in the House last month showed the measure would increase revenue by about $483 billion (partially offset by $55 billion in increased interest payments on the federal debt) relative to the conventional score. The bill passed by the Senate Finance Committee (which was modified before passage by the full Senate) was scored as losing about $458 billion less than under the conventional estimate (offset by $50 billion more in interest payments).

Distributional impact: JCT also released a distributional analysis of the conference agreement, showing an average tax cut for every income group in calendar year 2019, but an average tax increase for those with income of less than $40,000 by 2025, the final year most of the individual tax changes are scheduled to be in effect. Those with $20,000 to $30,000 in income will receive the largest percentage tax cut in 2019 – 13.5 percent – according to JCT. However, that same group will see the largest tax increases in all subsequent years analyzed: 8.6 percent in 2021, 9.8 percent in 2023, 11 percent in 2025, and 26.6 percent in 2027, after the individual changes generally sunset.
URL: https://www.jct.gov/publications.html?func=startdown&id=5054

Those with income of more than $75,000 will see an average tax cut in each year, including in 2027. For those making more than $1 million, the average cut ranges from 5.9 percent in 2019 to 1 percent in 2027.

Tax reform resources available from Deloitte Tax

A detailed discussion of the provisions in H.R. 1 is available from Deloitte Tax LLP's Washington National Tax practice.
URL: http://newsletters.usdbriefs.com/2017/Tax/TNV/171218_1.html

A discussion of the implications of tax reform for life sciences and health care organizations is available from Deloitte Tax's Life Sciences and Health Care Industry practice.
URL: https://www2.deloitte.com/us/en/pages/life-sciences-and-health-care/articles/health-care-current-december21-2017.html?id=us:2em:3na:tnv:awa:tax:122217#1

— Alex Brosseau, Jacob Puhl, and Storme Sixeas
Tax Policy Group
Deloitte Tax LLP