



TaxNewsFlash

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Initial impressions: Ways and Means Committee approves tax reform bill

The House Ways and Means Committee today approved, by a party-line vote of 24 to 16, H.R. 1, the “Tax Cuts and Jobs Creation Act,” and ordered the bill to be reported.

The committee’s bill reflects two amendments to the initial Chairman’s “mark” that were approved by party-line votes: an amendment offered by Chairman Brady the evening of November 6 (read [TaxNewsFlash](#)), and a “manager’s amendment” that was voted on shortly before the conclusion of the markup (read [TaxNewsFlash](#)). Very generally, some of the amendments to the mark include:

- Modifying the proposed excise tax on certain payments made by a domestic company to a foreign affiliate
- Changing the “mandatory repatriation rates” to 7% for “illiquid” earnings and 14% for “liquid” earnings
- Eliminating the nonqualified deferred compensation provision that was in the initial Chairman’s mark
- Requiring certain research or experimental expenditures to be capitalized or amortized over five years (or 15 years in the case of research conducted outside the United States)
- Reducing the dividends received deduction
- Providing an exclusion from the limits on deductibility of net business interest for certain “floor plan financing indebtedness” (and no longer allowing expensing for trade or business with that kind of indebtedness)

- Imposing a three-year “holding period” requirement for long-term capital gain treatment in the case of certain partnership interests received in connection with the performance of services
- Modifying the passthrough rate structure, eliminating the self-employment tax provisions that were included in the initial Chairman’s mark, and changing certain rules relevant to corporations that convert from C corporation to S corporation status
- Modifying the proposed excise tax on investment income of private colleges and universities
- Delaying the repeal of the estate tax

KPMG will be issuing a report soon with initial observations and analysis on H.R. 1, as approved by Ways and Means.

Background

On November 2, Ways and Means Chairman Kevin Brady (R-TX) released H.R. 1, the “Tax Cuts and Jobs Act,” as well as a section-by-section summary (summary) of the proposed tax reform legislation.

On November 3, Brady released amended legislative text of H.R. 1, which revised the text released on November 2, and constituted the so-called “Chairman’s mark.” The Chairman’s mark served as the starting point for consideration of the legislation by the Ways and Means Committee.

On November 6, Chairman Brady offered an amendment in the nature of a substitute, which was approved by the committee by a party-line vote.

On November 9, Chairman Brady offered a “manager’s amendment,” which was approved by the committee on a party-line vote shortly before the committee voted to approve H.R.1, as amended, and report it to the House floor.

Documents

Background documents

- Chairman’s modified mark (released November 6) – read [TaxNewsFlash](#)
- [Chairman’s mark](#) [PDF 934 KB] (425 pages)
- [JCX-50-17](#) - Description of H.R. 1, the “Tax Cuts And Jobs Act” prepared by the Joint Committee on Taxation
- [JCX-49-17](#) - Distribution effects of Chairman’s mark

- [JCX-48-17](#) - Description of changes in Chairman's mark
- [JCX-47-17](#) - Revenue estimate of Chairman's mark
- [Section-by-section summary](#) [PDF 643 KB] of H.R. 1 prepared by the Ways and Means Committee

What is next?

Now that the Ways and Means Committee has approved the bill and ordered it to be reported, the bill proceeds to the House Rules Committee. The Rules Committee determines the rules for considering bills on the House floor, including the time allocated for debate. House Majority Leader Kevin McCarthy (R-CA) has announced that the full House would vote on the tax bill next week.

As for the Senate, Finance Committee Chairman Orrin Hatch (R-UT) released his mark this evening. His mark differs from the Ways and Means bill in significant respects. KPMG will be releasing a separate report with preliminary analysis and observations on Chairman Hatch's mark shortly, including observations regarding how it differs from the Ways and Means bill.

Finance Committee action is expected to begin next week. During the Finance Committee's markup, it is possible (if not likely) that amendments might be made. After the Senate Finance Committee finishes its markup, it would vote on its bill and, if approved, order the bill to be reported. During consideration by the full Senate, it is possible (if not likely) that amendments would be adopted on the Senate floor. It is not yet certain when Senate floor action would commence or when a vote on final passage would take place. The Senate bill potentially could be very different from the House bill.

For tax reform to become law, the House and the Senate ultimately would have to pass identical legislation and send it to the president. There are different mechanisms by which this could be accomplished. It is possible that a conference committee might be convened to work out the differences between the two bills (as was done in the 1986 Act). However, other approaches might be employed. For example, House and Senate policymakers might negotiate behind the scenes before final Senate passage in an effort to produce a final amendment that would result in a bill that could pass the Senate and then pass the House. Regardless of the mechanism used, finalizing a bill that could pass both the House and the Senate could be challenging. The often-stated goal of Republican congressional leadership is to pass a bill and send it the president for his signature prior to the end of 2017. The aggressive schedule outlined by House and Senate leaders is aimed at meeting this deadline. Significant hiccups at any of the many junctures along the path to enactment could derail this tight timeline and push the process over into 2018 or lead to the demise of the bill.

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