



# Understanding the Tax Reform Process: FAQ

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## Understanding the Tax Reform Process: Frequently Asked Questions (FAQs)

Is tax reform “on”? It’s looking like it could be. Following the recent elections, key Republicans are gearing up to advance significant tax legislation soon. Although enactment of tax reform legislation in the near future is by no means certain, the odds for reform being enacted soon appear higher than they have been at any other time since the Tax Reform Act of 1986 became law.

This document provides a high-level overview—in question and answer format—of what to expect regarding tax reform based on the state of play as of the date of publication (*i.e.*, December 5, 2016). This document also explains what steps businesses may want to consider taking now to prepare for the possibility of tax reform being enacted.

**CAUTION:** Future developments affecting the prospects, timing, and details of tax reform may occur rapidly. Thus, some information in this document might not be current after December 5, 2016.

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## Prospects for Tax Reform

### 1. How do the election results affect the likelihood of tax reform?

As a result of the recent elections, Republicans are set to maintain their majorities in both the House and the Senate in 2017, but by a narrower margin than in the current Congress. More specifically, there are expected to be: (1) at least 240 Republicans and 194 Democrats in the next House of Representatives (compared to 247 Republicans and 188 Democrats in the current House); (2) at least 51 Republicans and 48 Democrats in the next Senate (compared to 54 Republicans and 46 Democrats in the current Senate). One House race and one Senate race are still undecided.

Given that Republicans also will control the White House as of January 20, 2017, Republicans have the opportunity to show that they can get things done—and tax reform appears to be one of the policy areas in which this might be possible. Both President-elect Trump and congressional Republicans have advocated significant tax law changes and share the same “big picture” goals of reducing tax rates for businesses and individuals. Further, considerable pressure for business tax reform has been building in the last decade and control of the White House and both chambers of Congress by the

same party may make business tax reform—as well as individual tax reform—easier than with divided government.<sup>1</sup>

So, expect legislative consideration of tax reform to heat up as a result of the elections. Indeed, in the relatively short time since the elections, key congressional Republicans already have indicated that tax reform will be high on the legislative agenda early in the Trump Administration.

## 2. Is enactment of tax reform soon a sure thing?

No. Any number of things could derail the process. Without getting into the specifics of any particular tax reform proposal, here are just a few things to keep in mind:

- Even among Republicans, there are different views as to proper size and shape of tax reform, the possible use of tax reform to fund infrastructure spending, and the priority of tax reform relative to other agenda items. Addressing other policies and issues potentially could bog down, or derail, progress on tax reform.
- Putting together tax reform is hard—really hard. Significant changes to the tax law not only can create “winners and losers” but also can have economic repercussions and alter the competitive landscape. Pressures from constituents, industry groups, businesses, lobbyists, and others can make it difficult to craft a politically palatable tax package that achieves distributional, revenue, and policy objectives.
- The Senate generally requires 60 votes to approve legislation, unless special “reconciliation” rules are used that impose procedural hurdles. Thus, moving tax reform through the Senate would require some Democratic support unless reconciliation were used; as discussed in FAQ 6, drafting tax reform to comply with reconciliation requirements can pose vexing problems.

Read the [chart](#) on page 7 of KPMG’s executive presentation [PDF 182 KB] in the related KPMG executive presentation, showing factors that might favor tax reform and those that might act as countervailing factors.

## Process and Timing

### 3. What is the legislative process expected to be?

The process is not yet certain. However, as a general matter, we expect the House Ways and Means Committee will start by marking up a tax reform bill (with input from the new administration), using the House Republican “blueprint” as the starting point. (More on that in FAQ 11.) Amendments to the “chairman’s mark” on tax reform might be made during the markup. After a bill is approved by Ways and Means, the full House is likely

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<sup>1</sup> Read the [KPMG executive presentation](#) [PDF 182 KB] for more information regarding why the pressure for business tax reform has increased in recent years.

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to vote on the Ways and Means Committee bill. Because the House Rules Committee determines what, if any, amendments may be offered on the House floor, floor amendments to tax bills typically tend to be extremely limited in the House.

Unless the tax reform process is derailed, it is expected that the Senate Finance Committee would mark up its version of tax reform legislation at some time after the Ways and Means Committee markup (again with input from the new administration). Amendments to the chairman's mark on tax reform likely would be made during the committee's markup. After the Senate Finance Committee reports its version of legislation, that bill likely would move to the Senate floor where amendments could be added. Numerous changes could be made to the bill on the Senate floor. Further, the Senate bill could end up being quite different from the House bill.

Before legislation could be sent to the president, both the House and Senate would need to pass identical versions of the legislation. Thus, a conference committee composed of members of the House and the Senate might be convened to resolve differences between the House and Senate bills and produce a conference agreement. The House and Senate then would vote on the conference agreement and send the legislation that they pass to the president for his signature or veto.

Key Republicans have indicated that they plan to address both individual and business tax reform as part of the same process. However, it is also possible (although less likely) that they might end up moving business reform separately from individual reform. If the latter approach were pursued, the process could play out twice—once for each tax reform bill. See FAQ 7, below.

It also is not clear if Republicans would use special “budget reconciliation” procedures to address tax reform. Use of these procedures could affect both the timing and design of tax reform. See FAQ 6, below.

#### 4. What is the likely timing?

With the election just barely in the rear view mirror, House Republicans are looking to move tax reform quickly. At an event sponsored by Bloomberg BNA and KPMG on November 15, 2016, Kevin Brady (R-TX), the Chairman of the House Ways and Means Committee, suggested that reforming the tax code could be addressed early in the Trump Administration. Thus, it is possible that Ways and Means may begin to mark up tax reform legislation fairly early in 2017. If so, technical details and statutory language for a Ways and Means bill might be available in winter or spring of 2017.

Timing of action in the Senate and in a possible conference committee is unclear. How quickly or slowly the process moves may turn on a number of factors, including what other legislative items are priorities for the administration and Congress. Further, unlike the House Republicans, the Senate Republicans do not have their own “blueprint” to serve as the starting point for their version of tax reform and can be expected to address the complex issues associated with tax reform in a collaborative and deliberate process. Therefore, there could be considerable delay between House and Senate action.

The time frame for House, Senate, and conference committee action in the lead-up to enactment of the Tax Reform Act of 1986 (the “1986 Act”) may—or may not—be instructive. That bill was put together with a divided government (Republican president, Democratic House, and Republican Senate) and the process almost collapsed at certain points. In the case of the 1986 Act:

- The Ways and Means Committee conducted 26 days of markup of tax reform; this markup began on September 18, 1985, included some breaks, and did not end until December 3, 1985. The House passed the bill about two weeks after the markup concluded (on December 17, 1985).
- The Senate Finance Committee reported its tax reform bill approximately four and one-half months after the House passed its version of tax reform. The Senate Finance Committee conducted 17 days of markup; its markup began on March 19, 1986, included some breaks, and concluded on May 6, 1986.
- After the Senate Finance Committee filed its report for its bill on May 29, 1986, the full Senate deliberated for a little under a month before passing its bill, with amendments, on June 24, 1986.
- The conference committee approved a conference agreement about two months after Senate passage and filed its report another month later (on September 18, 1986)
- The House and Senate then each passed the conference agreement, which was signed into law by President Reagan a few weeks later (on October 22, 1986).

Total time elapsed between Ways and Means beginning its markup and enactment of the 1986 Act: About 13 months.

## 5. How involved are congressional Democrats likely to be in the tax reform process?

It is too soon to tell what role congressional Democrats might play in the tax reform process. Both Democrats and Republicans themselves are still trying to figure out their strategies in the coming Congress.

Very generally, since the elections, some Democrats have been kicking around whether they should try to work with Republicans on some issues and fight Republicans on others. Similarly, some Republicans have been wrestling whether they should work with Democrats on some issues where there is common ground, even though they may end up having to compromise on some details and include some provisions demanded by Democrats. Both parties are likely to continue to struggle with the issue of when to work together—and when to fight for different priorities—as they figure out their strategies for particular pieces of legislation. The legislative dynamic on other matters also may affect the parties' willingness to work together on tax reform.

*Business* tax reform is one of the areas in which there is common ground between some Republicans and some Democrats. Some Democrats (including Senator Schumer, who will be minority leader in the next Senate) agree that the rules applicable to multinational businesses need to be changed and have expressed a willingness to work with Republicans on business tax reform. Thus, at least some Democrats may want to “play” in the tax reform process in the Senate—particularly if business tax reform can be used to fund infrastructure.

In addition, some Republicans may view working with Democrats on business tax reform as preferable to moving such legislation with only Republican support given the significance of the issues involved and the possibility of antagonizing those constituents who might perceive themselves as “losers” in the tax reform process. Moreover, some Republicans may want to get at least some Democrats on board in the Senate because, without any Democratic support, Republicans would need to use budget reconciliation procedures to move tax reform forward in that chamber. As explained in FAQ 6, below, using reconciliation can negatively affect the design of tax reform.

## 6. What is budget reconciliation and how could it affect tax reform?

In the Senate, it typically takes 60 votes to avoid a filibuster. Although the Republicans will control the next Senate, they will not hold 60 seats. Thus, as a general rule, at least some Democratic Senators may need to support legislation to thwart a filibuster so that legislation can move forward in the Senate.

However, special budget reconciliation rules allow legislation to be moved forward in the Senate with only a majority of votes. These rules include a number of procedural bells and whistles. For example:

- There can be only a limited number of reconciliation bills in a year. If reconciliation is used to repeal healthcare legislation early in 2017, Republicans might not be able to use the reconciliation process again to move tax reform in the Senate until late in 2017.
- Under reconciliation, legislation generally cannot create a deficit outside the 10-year budget window. Thus, if reconciliation is used to move tax reform, phase-outs and other mechanisms may need to be used to comply with reconciliation requirements. (This procedure was used to enact the “Bush tax cuts,” which is why those cuts were enacted initially only for a 10-year period.) Phasing out reforms to the tax rules after 10 years is not optimal from a policy perspective and likely would reduce significantly the estimated effect of tax reform on growth in the economy.

## 7. Is tax reform likely to address both individual and business tax reform, or just business tax reform?

Both congressional Republicans and President-elect Trump generally support comprehensive tax reform that includes lowering business and individual rates. Thus, it seems likely that Republicans will try to address both business and individual tax reform at some point in the next Congress. Indeed, it is difficult to structure business tax reform without addressing individual tax reform—both because of the substantial number of owners of passthrough entities who pay tax at the individual rates and because of political pressure from individual constituents.

The question, however, is whether both business and individual tax reform would be addressed together at the same time or whether they might be moved separately. Key Republicans have indicated that they would like to address both business and individual tax reform at the same time. However, how tax reform moves ultimately could turn, in part, on whether a sufficient number of Democratic Senators would support a comprehensive tax reform package that includes a cut in the top individual tax rates so that a filibuster could be avoided. There appear to be at least three possibilities:

- *One Republican bill:* If Republicans use reconciliation procedures, they would not need to work with Democrats in the Senate and could move both business and individual tax reform in the same package (albeit subject to phase-outs and other restrictions imposed by reconciliation procedures).
- *One bi-partisan bill:* It is possible that a sufficient number of Democrats in the Senate might be willing to vote for a comprehensive tax reform bill that includes lower top individual rates if the bill addresses other significant priorities for Democrats (such as, for example, use of revenue for infrastructure and expanding the earned income tax and child credits) and includes other features and provisions they support. In this case, it also might be possible to move both business and individual tax reform in the same package without having to deal with the limitations imposed by reconciliation
- *Two bills - One bipartisan bill and another Republican bill:* If Republicans and some Democrats can agree on business tax reform in the Senate, but cannot agree on individual tax reform, Republicans might use budget reconciliation procedures to address individual tax reform (obviating the need for Democratic support) but move business tax reform on a bi-partisan basis in separate legislation (obviating the need to phase-out business reforms to meet reconciliation requirements).

## 8. Would tax reform be permanent or temporary?

It depends on whether budget reconciliation procedures are used. If they are, tax cuts might need to be drafted as temporary to avoid increasing the deficit beyond the 10-year window. In theory, it might be possible to craft a version of tax reform that would not increase the deficit outside the 10-year window, so that Congress could make tax reform permanent even using the budget reconciliation process. In reality, however, balancing the books in that way would be extremely complex.

If reconciliation procedures are not used, tax reforms in all likelihood would be drafted as permanent. See FAQs 6 and 7, above.

## Key Players

### 9. Who are the key administration and congressional players likely to be?

It is not clear how engaged president-elect Trump will be in the details of tax reform once he takes office. The president-elect has announced his intention to nominate Steve Mnuchin to serve as his Treasury Secretary; the Treasury Secretary can be expected to play a major role in the tax reform process. However, it is not yet clear who other key players in the administration will be with respect to tax reform. The Chair of the Council

of Economic Advisors has not yet been appointed, and numerous tax policy positions in Treasury will need to be filled after current position holders resign (including, for example, the Assistant Secretary for Tax Policy, the Assistant Secretary for Legislative Affairs, the Deputy Assistant Secretary for International Tax Affairs, and the Deputy Assistant Secretary for Tax Policy).

In the House, Paul Ryan (R-WI) and Kevin Brady (R-TX) are likely to be key players in putting together tax reform. Paul Ryan, the current Speaker of the House, is likely to be re-elected Speaker in the next Congress; he has been a strong proponent of tax reform. Kevin Brady, the current chairman of the Ways and Means Committee, is expected to continue as chairman in the next Congress. Chairman Brady was the head of the task force that put together the House Republican blueprint for tax reform, which is likely to be the starting point for tax reform efforts in the next Congress. (See FAQ 11 below). It is not clear what role House Democrats might play in the process given the limited role the minority party typically plays in the House.

In the Senate, Mitch McConnell (R-KY), Orrin Hatch (R-UT), Mike Enzi (R-WY), Chuck Schumer (D-NY), and Ron Wyden (D-OR) all might play key roles in the process. Senator McConnell, the Senate Majority Leader, has been selected to continue in that role in the next Senate, while Senator Hatch is expected to remain Chairman of the Senate Finance Committee. (See FAQ 12 for information about the focus of Senator Hatch's tax reform efforts thus far.) Mike Enzi, the expected Chairman of the Budget Committee, largely would be responsible for ruling on the long-term budgetary effects of a reconciliation tax reform bill—which could affect whether tax reform is drafted as permanent or temporary. See FAQ 8, above.

On the Democratic side, Senator Schumer will be the Senate Minority Leader; he is known as a “dealmaker” and has a strong interest in international tax reform (and finding funds for infrastructure). Senator Wyden is expected to be the ranking Democrat on the Senate Finance Committee; he has done a lot of groundwork on business tax reform and has issued discussion drafts on several tax reform topics.

## The Substance of Tax Reform: Likely Starting Points

### 10. What is the president-elect's position on tax reform?

At various points in his election campaign, President-elect Trump advocated among the following tax law changes:

- Provide a 15% business rate for “all businesses, both small and large, that want to retain the profits within the business”

- Allow firms engaged in manufacturing in the United States to elect to expense capital investment and lose the deductibility of corporate interest expense
- Eliminate most business “tax expenditures,” but not the research credit
- Immediate taxation of controlled foreign corporation (CFC) profits (at a 15% rate), with foreign tax credits
- Provide tax incentives for investment in infrastructure
- Repatriate accumulated offshore earnings at a one-time 10% rate
- Change the individual ordinary income rate structure to 12% / 25% / 33% but retain 20% maximum capital gains rate
- Repeal the net investment income tax
- Cap itemized deductions (\$200,000 for joint filers)
- Tax carried interest as ordinary income
- Repeal the estate tax, but tax certain capital gains over \$10 million at death
- Repeal both the corporate and individual alternative minimum tax (“AMT”).

Technical details regarding these proposals are not yet available. It also is not clear how committed the president-elect may be to the specific proposals made during the campaign or what additional tax proposals he might push for once he takes office. (For a more complete list of the president-elect’s proposals, read [KPMG Report: Comparison of House Republican “Blueprint” and Trump’s Tax Proposals](#).) These questions might not be answered until the new president releases his first budget (and tax proposals) in spring of next year.

## 11. What is the likely House starting point for tax reform?

The starting point for tax reform in the House—and for the larger tax reform process—is likely to be a fleshed out version of the blueprint released by House Republicans on June 24, 2016. Read the blueprint on the Ways and Means [website](#). As released in June, the blueprint is a high-level conceptual document. Ways and Means Republican staff have been working on the details behind the scenes. As indicated in FAQ 4, we may see technical details and statutory language as soon as early next year.

Very generally, the blueprint proposes to reduce tax rates for businesses and for individuals and to move the U.S. tax system closer to a consumption-based tax system through reforms of the income tax rules (without providing a value added tax (VAT) or national sales tax). The blueprint was one of six proposals released as part of House Speaker Paul Ryan’s “A Better Way” initiative and was developed by Ways and Means

Chairman Kevin Brady, with input from the broader House Republican caucus. The blueprint includes among the following proposals:

- Lower the C corporation tax rate to a flat rate of 20%
- Allow businesses to fully and immediately expense the cost of investments in tangible property (such as equipment and buildings) and intangible assets (such as intellectual property), but not land
- Allow businesses to deduct interest expense against interest income, with any net interest expense not being deductible but being carried forward indefinitely to use against future net interest income (and with Ways and Means working to develop special rules for financial services companies that would take into account the role of interest income and expense in their business models)
- Allow net operating losses (NOLs) to be carried forward indefinitely and to be increased by an interest factor that compensates for inflation and a real return on capital, although NOLs would not be allowed to be carried back and the deduction with respect to NOL carryforwards would be limited to 90% of the net taxable amount for the year determined without regard to the carryforward
- Eliminate various “special-interest deductions and credits” that are designed to encourage particular business activities (such as the section 199 domestic manufacturing deduction and other unspecified incentives)
- Move towards a destination-based tax system under which the taxing jurisdiction for business income would be based on the location of consumption (i.e., where goods are sold or services are performed) rather than the location of production; this new system (1) would replace the current system of taxing U.S. persons on their worldwide income with a territorial tax system, and (2) would provide for “border adjustments” exempting exports and taxing imports
- Change the individual ordinary income rate structure to 12% / 25% / 33%, but cap the tax rate applicable to “active business income” from sole proprietorships and passthrough entities at 25%, except to the extent of an owner-operator’s “reasonable compensation” for services (which would be subject to the general ordinary rate structure)
- Allow individuals to deduct half of their net capital gains, dividends, **and interest** income (leading to basic rates of 6% / 12.5% / 16.5% on such income depending on the applicable rate bracket)
- Repeal the net investment income tax (possibly as part of separate health care reform legislation)

- Eliminate or modify various unspecified exemptions, deductions, and credits for individuals
- Eliminate all itemized deductions except the mortgage interest deduction and charitable contribution deduction (which might be modified)
- Repeal estate and generation-skipping transfer taxes
- Repeal both the individual and corporate AMT
- Change the structure of the IRS

The blueprint also indicates that, while the blueprint would preserve the last-in-first-out (LIFO) method of accounting and a credit to encourage research and development, Ways and Means will continue to evaluate options for making both the treatment of inventory and the research credit more effective and efficient in the context of the blueprint's tax system.

For a more complete list of the blueprint's proposals and for observations and analysis of the blueprint, read KPMG's [initial report](#) released shortly after the blueprint was issued in June 2016.

Also, see [H.R. 4377](#), a bill introduced by Rep. Nunes, that is conceptually similar to the blueprint for some indication of how details of the blueprint might be fleshed out – although keep in mind that details could differ. And, see [Chapter 7 of Final Report of the President's Advisory Panel on Federal Tax Reform](#) from 2005 (the "2005 Advisory Panel Report"), for more information on a "growth and investment tax plan for businesses" with features similar to that of the blueprint.<sup>2</sup>

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<sup>2</sup> See also Alan J. Auerbach, University of California, Berkeley, "A Modern Corporate Tax," jointly released by The Center for American Progress and The Hamilton Project (December 2010); and Alan J. Auerbach and Douglas Holtz-Eakin, "The Role of Border Adjustments in International Taxation," American Action Forum, November 30, 2016.

a. [How does the blueprint propose to move from a worldwide tax system to a territorial system?](#)

The blueprint would move from the current worldwide system—which permits deferral of the U.S. tax on foreign active business earnings until those earnings are repatriated—to a “territorial” system. It would exempt foreign active business income by providing a 100% exemption for dividends received from foreign subsidiaries. The blueprint notes that the 100% exemption is designed both to increase the competitiveness of U.S.-based companies vis-à-vis foreign based multinationals and to eliminate the “lock-out effect” of current law (i.e., the disincentive to repatriate earnings due to residual U.S. taxation). The 100% rate is more generous than some prior proposals for an exemption system, which would impose a small (~5%) “haircut” as a proxy for not disallowing domestically incurred expenses attributable to the exempt foreign income.

Although the blueprint provides little detail on the mechanics of the new system, it proposes to repeal most of the current “subpart F” regime that subjects certain income of controlled foreign corporations (CFCs) to current U.S. taxation. The blueprint specifically focuses on the foreign base company income rules and notes that the bulk of the subpart F rules, which were intended to discourage U.S.-based multinationals from conducting certain activities overseas, would no longer be needed because the move towards a consumption tax system would eliminate the tax incentives to locate business activities outside the United States.

The blueprint would retain the foreign personal holding company income rules, however, that generally focus on passive foreign income, such as dividends, interest, and royalties. As part of the shift to a territorial system, the blueprint would impose a one-time tax on accumulated foreign earnings. The blueprint would impose an 8.75% tax on accumulated foreign earnings held in cash or cash equivalents and a 3.5% tax on all other accumulated foreign earnings (with companies able to pay the repatriation tax over an eight-year period).

b. [How does the blueprint move to a consumption-based tax system?](#)

In its current form, the blueprint’s primary mechanism for moving to a consumption-based tax system is the provision allowing businesses to fully and immediately expense the costs of investments in tangible property and intangible assets (but not land). With this feature, the proposed system could be viewed as economically equivalent to a “subtraction method” VAT (albeit with a deduction for labor costs if current deductibility of compensation is retained).

### c. What are the proposed border adjustments?

The details and structure of the blueprint's "border adjustments" are not yet entirely clear. The blueprint explains that the intended result is that products, services, and intangibles that are exported outside the United States are intended to be exempt from U.S. income tax, while products, services, and intangibles that are imported into the United States would be subject to U.S. tax, regardless where they are produced. The border adjustments appear intended to increase domestic growth by encouraging companies to locate in the United States and to use domestically produced input.

Although it is not certain, it appears that the border adjustments might include denying deductions for all or part of imported input, while exempting income from exports from tax. If expenses for imports are not deductible, businesses that sell products largely domestically but that rely heavily on imported input could end up paying tax on a broader base (albeit at a lower corporate rate) than under current law. Conversely, businesses that are net exporters could end up benefiting from possible border adjustments. Because the United States is a net importer (i.e., imports exceed exports), the blueprint's border adjustments can be expected to provide significant revenue to reduce or offset costs of other aspects of tax reform; they also might contribute to positive macroeconomic growth effects.

### d. How might the WTO view the proposed border adjustments?

The United States is one of the few developed nations that does not impose a national-level VAT. The blueprint notes that VAT systems allow countries to make border adjustments to exports and imports that reduce the costs borne by exported products and increase the costs borne by imported products. Although the net effect of these border adjustments should be neutral when both the exporting and importing countries employ VAT systems, the blueprint notes that World Trade Organization (WTO) restrictions have created an imbalance for the United States because the WTO prevents border adjustments for exports with respect to traditional corporate income tax systems. These restrictions do not apply to VAT systems and other "indirect" taxes. As a result, exports from the United States implicitly bear the cost of the U.S. income tax while imports into the United States do not bear any U.S. income tax.

The blueprint explains that the move toward a consumption-based tax approach would make the U.S. cross-border system more "indirect" and thereby allow the United States to counter this imbalance by incorporating border adjustments in a new tax system that is consistent with WTO rules. It remains to be seen, however, whether tax reform legislation that includes border adjustments, once fully structured, would in fact be viewed as compliant with WTO rules. That might turn not only on whether the WTO views the new tax system taken as a whole (once tax reform is enacted) as sufficiently "indirect" to allow for border adjustments, but also on the structure of those adjustments.

## 12. What is the likely Senate starting point for tax reform?

Although both Democratic and Republican members of the Senate Finance Committee have studied tax reform extensively over the course of recent years, the Senate Finance Committee has not produced a document similar to the House tax reform blueprint.<sup>3</sup> Thus, given that the tax reform process is likely to start in the House, the most likely starting point for the Senate Finance Committee appears to be the bill that is passed by the House (assuming the process does not break down before this point). The Senate then could well make modifications (perhaps significant) of its own.

For at least the past couple years, Senate Finance Committee Chairman Hatch has been exploring the possibility of achieving business tax reform at least in part through corporate integration—likely through allowing C corporations deductions for dividends paid. It is possible that Chairman Hatch’s approach also might involve withholding on payments of dividends and interest.<sup>4</sup> Depending upon how structured, this approach might equalize the treatment of debt and equity and increase multinational competitiveness by lowering the effective corporate rate. Also, in a period of dividend government, such approach might be more politically feasible than lowering the statutory rates applicable to corporate and passthrough businesses (given the political difficulties associated with lowering rates on upper income individuals).

It is not clear how extensively Chairman Hatch might continue to pursue corporate integration given that Republicans will control both the White House and Congress next year and may be able to change both the corporate and individual rate structures. Nonetheless, it is possible that some elements of an integration approach might be integrated into tax reform legislation.

## 13. What are the key similarities and differences between the blueprint and the president-elect’s plans?

President-elect Trump’s proposals during the campaign changed over time. The most recent campaign proposals borrowed heavily from some of the blueprint’s concepts, suggesting at least some consensus between the incoming administration and House Republicans. Although the president-elect’s specific tax policy positions might not be certain until his administration releases its first budget or other official proposals, areas in which the campaign’s proposals and the blueprint overlapped include:

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<sup>3</sup> See, e.g., [Recommendations for Tax Reform in Reports of Finance Committee Working Groups](#).

<sup>4</sup> See, e.g., [Senate Finance hearing on corporate integration](#), [Finance Committee hearing on debt vs. equity, corporate integration](#), and [“Comprehensive Tax Reform for 2015 and Beyond,”](#) prepared by the Republican staff of the Senate Finance Committee (December 2014).

- The campaign’s most recent iteration of the individual rate structure mirrors that proposed in the blueprint.
- Both the campaign and the blueprint proposed lower C corporation rates; however, the campaign proposed a lower rate than the blueprint (15% versus 20%).
- Both the campaign and the blueprint proposed a lower rate on business income of owners of passthrough entities in some cases; however, the rate proposed by the campaign is lower than under the blueprint (15% versus 25%) and the details as to when this rate might apply still appear to be evolving.
- Both the campaign and the blueprint propose eliminating unspecified tax expenditures and incentives.

There are, however, some noteworthy differences between the campaign’s proposals and the blueprint. For example, although the blueprint generally proposes full and immediate expensing, as well as limits on net interest expense deductions, the campaign proposed *elective* expensing and interest expense disallowance for some businesses. In addition, in the international tax realm, the campaign at least initially favored a worldwide taxation regime (at the 15% corporate tax rate and including foreign tax credits). Throughout the campaign, however, candidate Trump made a number of speeches outlining a policy that may be consistent with border adjustability. Finally, President-elect Trump has advocated using tax reform to raise revenue for infrastructure—a feature not included in the blueprint.

More generally, as indicated in question 14, the president-elect’s campaign tax proposals might be expected to lose more revenue taken as a whole than the blueprint’s proposals, even taking into account possible growth in the economy resulting from tax reform.

Read [KPMG report: Comparison of House Republican “blueprint” and Trump’s tax proposals](#) for more information regarding similarities and differences between president-elect Trump’s campaign’s tax proposals and the House Republican blueprint.

## Revenue Considerations

### 14. How might the blueprint and the president-elect’s tax proposals affect revenue?

The Joint Committee on Taxation (JCT) provides the official revenue score of tax legislation for the Congress. The JCT has not yet released a score of either the blueprint or the president-elect’s campaign tax proposals. Therefore, it is impossible to answer this question with certainty at this time. However, some general observations can be made.

First, the JCT can be expected to provide a “conventional” score of tax reform legislation before such legislation is marked up by the tax-writing committees in the House and the Senate and at certain other points in the process. This score would take into account expected behavioral changes resulting from the legislation, but not growth in overall GDP. However, the JCT also can be expected to provide an additional “macroeconomic” estimate of the impact of the legislation that takes into account expected growth in the economy.

Second, some outside groups have done their own revenue estimates of the blueprint and the president-elect’s campaign proposals. These estimates use different models and make various assumptions about the technical details of specific proposals. The models used may differ from the models the JCT uses in its official estimate. In addition, some of the assumptions made could turn out to be inaccurate when more details about the proposals are released.

Nonetheless, estimates from outside groups may be useful at a high level in getting a sense of the relative magnitude of the proposals. For example, estimates from both the Tax Foundation and the Tax Policy Institute suggest that the president-elect’s tax proposals, taken as a whole, would reflect a larger overall net tax cut and may increase the deficit significantly more than the blueprint, even taking into account expected macroeconomic growth. The following summarizes the estimates contained in the Tax Policy Center’s “An Analysis of the House GOP Tax Plan”<sup>5</sup> and “An Analysis of Donald Trump’s Revised Tax Plan”;<sup>6</sup> and the Tax Foundation’s “Details and Analysis of the 2016 House Republican Tax Reform Plan”<sup>7</sup> and “Details and Analysis of the Donald Trump Tax Reform Plan, September 2016”:<sup>8</sup>

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<sup>5</sup> Authored by Jim Nunns, Len Burman, Ben Page, Jeff Rohaly, and Joe Rosenberg, and published on September 16, 2016.

<sup>6</sup> Authored by Jim Nunns, Len Burman, Ben Page, Jeff Rohaly, and Joe Rosenberg, and published on October 18, 2016.

<sup>7</sup> Authored by Kyle Pomerleau and published on July 5, 2016.

<sup>8</sup> Authored by Alan Cole and published on September 19, 2016.

	<b>Blueprint</b>	<b>Trump Campaign Proposals</b>
<b>Tax Policy Center</b>	\$3.1 trillion revenue cost to government over first 10 years, without accounting for added interest costs and macroeconomic growth. With these facts, federal debt would rise by at least \$3 trillion over the first 10 years.	\$6.2 trillion revenue cost to government over first 10 years, without accounting for added interest costs and macroeconomic growth. With these facts, federal debt would rise by at least \$7 trillion over the first 10 years.
<b>Tax Foundation</b>	\$2.4 trillion over the first 10 years on a “static” basis. Taking into account the larger economy and the broader tax base, however, the plan would reduce revenue by \$191 billion over the first 10 years.	Between \$4.4 trillion and \$5.9 trillion over the first 10 years on a “static” basis (depending upon how passthrough business income is taxed). Taking into account the larger economy and the broader tax base, however, the plan would reduce revenue by between \$2.6 trillion and \$3.9 trillion over the first 10 years.

## 15. How might revenue costs affect the design of tax reform?

Revenue considerations can be expected to play a big role in the design of tax reform. Even if cuts in taxes are scored as increasing economic growth, it is expected that significant revenue raising provisions would still need to be included.

For example, provisions that move towards a consumption-based system and allow for border adjustments could contribute to meeting revenue goals—both on a conventional scoring basis and taking into account growth in GDP. Nonetheless, even with these provisions, other significant revenue raisers likely would be needed. As indicated, neither the blueprint nor the president-elect’s campaign proposals specify all the incentives and other “tax expenditures” that may be considered as potential revenue raisers. Any revenue raisers that have been included in past reform proposals—as well as new proposals—potentially could be on the table.<sup>9</sup>

## Winners and Losers

### 16. Could tax reform result in winners and losers?

Even if a tax reform bill is “revenue neutral” in the aggregate, any given taxpayer, depending on its facts, could end up paying more, or less tax, than it does under current law.

Given that the blueprint is the likely starting point for tax reform, businesses might want to start modeling at a high level now how features of the blueprint might affect them. Because technical details of the blueprint have not yet been released, businesses may need to make reasonable assumptions about how tax reform modeled on the blueprint ultimately would be drafted. Although such models would need to take into account specific facts and circumstances, some of the factors that generally might contribute to a more favorable result under the blueprint than current law might include:

- Business has a high number of domestic suppliers relative to foreign suppliers and a high number of foreign customers relative to U.S. customers
- Business is asset-intensive
- Business does not use much leverage
- Business’s tax burden under current law is mainly determined by the tax rate (not by using deductions and incentives to lower the tax base)

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<sup>9</sup> See KPMG Report: [Tax Reform Proposals of W&M Chairman](#) for a discussion of revenue raisers that were included in a tax reform bill introduced in 2014 by Dave Camp (R-MI), then-chairman of the Ways and Means Committee.

- Business does not depend on particular tax incentives to be viable.

Conversely, some of the factors that generally might contribute to a less favorable result than under current law might include:

- Business has a high number of foreign suppliers relative to domestic suppliers and a high number of U.S. customers relative to foreign customers
- Business has multi-national operations and significant cross-border financing
- Business is highly leveraged
- Business's tax base under current law is significantly reduced by incentives and deductions
- Business model depends on particular tax incentives to be viable.

More generally, if tax reform is enacted, whether a business views itself as a “winner” or “loser” also may be affected by how tax reform might affect its business model, its product and service offerings, and the competitive landscape, and how associated changes in the U.S. economy and global financial and tax systems might affect its sales and operations.

## Effective Dates and Transition Rules

### 17. Any idea what effective dates may be and whether transition relief would be provided?

It is simply too soon to tell what the effective dates of particular provisions in tax reform legislation might be, assuming tax reform ultimately is enacted. Some effective dates could turn on when tax reform legislation ultimately is “finalized.” For example, if a conference agreement that reduces rates is finalized towards the end of a calendar year, it is possible (although not certain) that taxwriters might decide not to make those reductions effective until the beginning of the next year.

Revenue and policy considerations also could affect effective dates. For example, taxwriters might consider whether some “favorable” provisions should be retroactive to when the legislative process begins to discourage taxpayers from delaying desirable economic activities. They also might consider phasing in some favorable provisions to achieve revenue goals. Conversely, taxwriters might consider whether some revenue-raising provisions should be effective immediately (or even retroactively, perhaps to discourage certain activities) or should be effective prospectively or on a phased-in basis (to alleviate possible economic and political impact of tax law changes).

Note that the blueprint explicitly indicates that transition rules are on the table, given the significance of the changes contemplated. Specifically, the blueprint indicates that

taxwriters “will craft clear rules to serve as an appropriate bridge from the current tax system to the new system, with particular attention given to comments received from stakeholders.”

Businesses and industries should begin considering whether transition relief may be needed early in the legislative process.

## Preparing for Tax Reform

### 18. What can businesses do to prepare for the possibility of tax reform?

Given the increased likelihood that tax reform may move forward in the next couple of years, businesses may want to develop strategies for (1) monitoring tax reform proposals and developments, (2) assessing how proposals might affect them, (3) incorporating the possibility of significant tax law changes into current planning, and (4) communicating with Congress on significant issues.

More specifically, given that the blueprint is likely to be the starting point for tax reform, businesses may want to do the following:

- Read the [blueprint](#) and [KPMG’s initial observations](#) regarding the blueprint
- Consider how the blueprint might apply to their particular facts and circumstances—and identify areas in which technical details are not sufficiently clear
- Look to H.R. 4377 and to the 2005 Advisory Panel Report for ideas as to how some details might be fleshed out (keeping in mind that these are just reference points and the details of tax reform might differ)<sup>10</sup>
- Consider how planning might be affected by proposals in the blueprint (keeping in mind that enactment is not a certainty)
- Develop a high level economic model of the possible effects of tax reform on the specific business, using reasonable assumptions or alternative scenarios in situations in which details of blueprint are not clear
- Discuss the potential impact of tax reform with the “C suite,” considering the potential impact on the business’s tax burden as well as broader effects on a company’s products, business model, the competitive landscape, and the economy
- Develop strategy for monitoring ongoing legislative developments

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<sup>10</sup> See also the papers referenced in note 2, *supra*.

- For areas of significant concern, identify potential allies (trade associations, industry groups, etc.)
- Consider advocacy priorities and reasonable legislative options, including possible carve-outs
- Develop appropriate transition rule proposals.

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