KPMG

GMS Flash Alert

2017-168 | November 17, 2017

United States - Senate Finance Committee Approves Tax Reform Bill

On November 16, 2017, the U.S. Senate Finance Committee completed its markup of a tax reform bill and approved the bill. The bill now moves to procedurally required consideration by the Budget Committee, followed by consideration by the full Senate. The bill as approved by the Finance Committee ("the SFC bill") incorporates a number of changes from the original reform proposal (the "Chairman's mark") considered by the Finance Committee.[1] These changes were introduced via a Chairman's modified mark and a manager's amendment.

Also on November 16, 2017, the U.S. House of Representatives voted to approve its version of H.R. 1, the *Tax Cuts and Jobs Act* ("the House bill").[2]

As regards the procedure to be followed from this point, the full Senate may vote on its bill after the Thanksgiving recess (November 20-24). If the Senate approves a version of the SFC bill, then both houses of Congress are likely to meet in a conference committee to try to reach agreement on a unified tax bill. It is also possible that the House will vote to approve the same bill as the Senate with no modifications. Once the identical bill has been approved by both houses of Congress, it can be signed into law by the President.

WHY THIS MATTERS

These developments in the U.S. Senate and House of Representatives represent a major step towards the possible passage of tax reform legislation. This reform would represent the most significant overhaul of the U.S. Internal Revenue Code for over 30 years and would introduce major changes for individuals and businesses.

This GMS *Flash Alert* discusses the changes and additions proposed by the SFC bill as compared to the original Chairman's mark and highlights certain differences between the SFC bill and the House bill.

Proposals Stricken

The SFC bill deletes the following proposals which were included in the Chairman's mark:

- proposed changes to nonqualified deferred compensation;
- proposed worker classification safe harbor;
- ten percent tax on early withdrawal from section 457(b) plans; and
- elimination of retirement plan catch-up contributions for employees earning over $500,000.

Modified Proposals

Introduction of Expiration Date

The SFC bill would make most of the proposed reform proposals for individual tax temporary, whereas the original Chairman's mark and the House bill would have made most of them permanent. The SFC bill does this by adding an expiration date to the individual tax reform proposals, with the result that they would expire after December 31, 2025. This expiration date would not apply to the proposal to require use of chained CPI to index certain tax thresholds currently indexed using ordinary CPI, or to the proposal to reduce the Affordable Care Act (ACA) individual shared responsibility payment (the "individual mandate") to zero. The proposed repeal of the Alternative Minimum Tax (AMT) would also expire after December 31, 2025.

As a result, for 2026 and subsequent tax years, the Code provisions would revert to their 2017 form, save to the extent that indexed values had been adjusted for inflation during intervening years, or the repeal of the ACA individual mandate.

Ordinary Income Tax Rates

The SFC bill changes the individual income rate structure from that proposed in the original Chairman's mark. The modified version retains the seven-rate structure but slightly reduces three of these rates: the 22.5-percent rate is reduced to 22-percent; the 25-percent rate is reduced to 24 percent; and the 32.5-percent rate is reduced to 32 percent. In addition, certain of the thresholds at which the rates apply are adjusted.

The table below illustrates the differences between the SFC bill and the House bill, and also compares these to the rates under current law:

2018 Current Law		House Bill		SFC Bill	
	Single		**Single**		**Single**
Tax Rate	**If taxable income is:**	**Tax Rate**	**If taxable income is:**	**Tax Rate**	**If taxable income is:**
10%	$0 to $9,525	12%	$0 to $45,000	10%	$0 to $9,525
15%	$9,526 to $38,700			12%	$9,526 to $38,700
25%	$38,701 to $93,700	25%	$45,001 to $200,000	22%	$38,701 to $70,000
28%	$93,701 to $195,450			24%	$70,001 to $160,000
33%	$195,451 to $424,950	35%	$200,001 to $500,000	32%	$160,001 to $200,000
35%	$424,951 to $426,700			35%	$200,001 to $500,000
39.6%	$426,701 or more	39.6%	$500,001 or more	38.5%	$500,001 or more

2018 Current Law		House Bill		SFC Bill	
	Married Filing Joint		Married Filing Joint		Married Filing Joint
Tax Rate	If taxable income is:	Tax Rate	If taxable income is:	Tax Rate	If taxable income is:
10%	$0 to $19,050	12%	$0 to $90,000	10%	$0 to $19,050
15%	$19,051 to $77,400			12%	$19,051 to $77,400
25%	$77,401 to $156,150	25%	$90,001 to $260,000	22%	$77,401 to $140,000
28%	$156,151 to $237,950			24%	$140,001 to $320,000
33%	$237,951 to $424,950	35%	$260,001 to $1,000,000	32%	$320,001 to $400,000
35%	$424,951 to $480,050			35%	$400,001 to $1,000,000

2018 Current Law		House Bill		SFC Bill	
	Married Filing Separate		Married Filing Separate		Married Filing Separate
Tax Rate	If taxable income is:	Tax Rate	If taxable income is:	Tax Rate	If taxable income is:
10%	$0 to $9,525	12%	$0 to $45,000	10%	$0 to $9,525
15%	$9,526 to $38,700			12%	$9,526 to $38,700
25%	$38,701 to $78,075	25%	$45,001 to $130,000	22%	$38,701 to $70,000
28%	$78,076 to $118,975			24%	$70,001 to $160,000
33%	$118,976 to $212,475	35%	$130,001 to $500,000	32%	$160,001 to $200,000
35%	$212,476 to $240,025			35%	$200,001 to $500,000
39.6%	$240,026 or more	39.6%	$500,001 or more	38.5%	$500,001 or more

2018 Current Law		House Bill		SFC Bill	
	Head of Household		Head of Household		Head of Household
Tax Rate	If taxable income is:	Tax Rate	If taxable income is:	Tax Rate	If taxable income is:
10%	$0 to $13,600	12%	$0 to $67,500	10%	$0 to $13,600
15%	$13,601 to $51,850			12%	$13,601 to $51,800
25%	$51,851 to $133,850	25%	$67,501 to $200,00	22%	$51,801 to $70,000
28%	$133,851 to $216,700			24%	$70,001 to $160,000
33%	$216,701 to $424,950	35%	$200,001 to $500,000	32%	$160,001 to $200,000
35%	$424,951 to $453,350			35%	$200,001 to $500,000
39.6%	$453,351 or more	39.6%	$500,001 or more	38.5%	$500,001 or more

KPMG NOTE

One of the effects of the changes to the individual income tax structure introduced by the SFC bill is to eliminate the "marriage penalty" in relation to ordinary income tax rates by making the tax rates for married couples filing jointly double those of single individuals at all levels of taxable income. Under current law and under the House bill, when two spouses have similar levels of income, they can pay more tax as a married couple than they would as two single individuals.

Child Tax Credit

The SFC bill would increase the child tax credit to $2,000 (from $1,650 in the original Chairman's mark). It would also reduce the threshold of income at which the credit starts to phase out for married taxpayers filing jointly from $1,000,000 to $500,000 – the same threshold that would apply to single taxpayers. The House bill proposed to increase the child tax credit to $1,600.

KPMG NOTE

The increase proposed by the SFC bill to the income threshold at which the child tax credit begins to phase out (from $110,000 for married taxpayers under current law to $500,000) would substantially increase the number of taxpayers eligible for the credit.

Recovery Period for Real Property

The SFC bill would shorten the alternative depreciation system recovery period for residential rental property from 40 years to 30 years (25 years in the original Chairman's mark), effective for property placed in service after December 31, 2017. This recovery period would apply to rental properties in a foreign country.

New Proposals

The SFC bill includes a number of new tax reform proposals that were not included in the original Chairman's mark. These new proposals include:

- a permanent repeal of the "individual mandate" whereby a penalty can be imposed for failure to maintain minimum essential coverage as currently required under the ACA. This repeal is achieved by reducing the shared responsibility payment to zero;
- increased contributions permitted to ABLE programs for the benefit of disabled individuals;
- the allowance of rollovers from qualified tuition programs (i.e. 529 accounts) to ABLE accounts (similar to the treatment provided in the House bill);
- an exclusion from gross income for certain student loans discharged on account of the death or disability of the student (similar to the treatment provided in the House bill);

- simplified filing requirements for individuals over 65 years of age;
- similar treatment to the House bill to allow deferral on certain stock settled stock options or RSUs;
- repeal of the rule allowing recharacterization of IRA contributions;
- disallowance of an employer deduction for meals provided on the employer's premises for the convenience of the employer (effective for tax years after December 31, 2025);
- creation of an employer credit for paid family and medical leave.

House versus SFC Comparison Chart

	House	SFC
Expiration of provisions	Only a few of the provisions expire as noted in the chart below.	Most individual tax proposals in the SFC bill are temporary and would expire after December 31, 2025.
Ordinary Income Tax Rate	Reduced brackets to four 12%; 25%; 35%; 39.6% Significantly expanded income level for top tax bracket but added a phase-out of the 12% bracket for high-income taxpayers	Retained seven bracket structure with some modifications to rates. 10%; 12%; 22%; 24%; 32%; 35%; 38.5% Significantly expanded income level for top tax bracket
Capital gain / Qualified Dividend rate	Retained. Breakpoints for the 15% and 20% rates are the same as current law, except the breakpoints would be adjusted for inflation after 2017.	Same as House proposal.
3.8% Net Investment Income Tax	Retained	Retained
Standard Deduction	Almost doubled amount of standard deduction $24,400 Married Filing Jointly $12,200 Single $18,300 Head of Household	Almost doubled amount of standard deduction $24,000 Married Filing Jointly $12,000 Single $18,000 Head of Household Additional standard deduction for blind and elderly retained.
Personal Exemption	Repealed	Repealed

Home Mortgage Interest	Home mortgage interest deduction limited to $500,000 of acquisition debt for loans entered into after November 2, 2017. Prior home acquisition loans up to $1 million grandfathered. No deduction for interest paid on 2nd home mortgage. Repeals deduction on home equity debt for loans entered into after November 2, 2017.	Home mortgage interest deduction retained at $1 million of acquisition debt. Retained deduction for interest paid on 2nd home mortgage. Repealed deduction on home equity debt.
State and Local Property Tax Deduction	Limited to $10,000 of taxes paid U.S. property taxes only (foreign real property taxes no longer deductible).	No property tax deduction
Charitable Contributions	Generally retained. Deduction limit increased to 60% of AGI instead of 50% for cash contributions	Generally retained. Deduction limit increased to 60% of AGI instead of 50% for cash contributions
Medical Expense Deduction	Repealed	Retained
Other Itemized Deductions	Eliminates most other itemized deductions such as state and local income tax, state and local sales tax, employee business expenses, non-disaster casualty losses and tax preparation expenses. (Deductions for casualty losses from some recent hurricanes would be retained.)	Eliminates most other itemized deductions such as state and local income tax, state and local sales tax, employee business expenses, non-disaster casualty losses and tax preparation expenses. (Deductions for federally-declared disasters would be retained).
Alimony	Repeals deduction for payor and inclusion of income for recipient	Current treatment remains - payor gets deduction, recipient pays tax
Limitation on Itemized Deductions	Repealed	Repealed
Exclusion of Gain on Sale of Residence	Increases time period of ownership and use from 2 out of 5 years to 5 out of 8 years. Available once every 5 years. Phased out for joint filers at $500,000 AGI.	Increases time period of ownership and use from 2 out of 5 years to 5 out of 8 years. Available once every 5 years. No phase-out.

Child Tax Credit	Increases the credit to $1,600 per child. Adds a $300 credit for non-child dependents which sunsets after 2023. Adds a $300 "family flexibility" credit which applies to taxpayer and spouse and sunsets after 2023.	Increases the credit to $2,000 per child. Increases age limit of qualifying child to 18. Raises income limits allowing more taxpayers to qualify. Adds a $500 nonrefundable credit for other dependents. Requires a Social Security Number for each qualifying child.
Earned Income Tax Credit	Retained	Retained
Adoption Credit	Retained via manager's amendment	Retained
Child and Dependent Care Credit	Repealed	Retained
Education Credit	Combined to one credit, allows portion of credit for 5th year	No changes to current education credits
Student Loan Interest Deduction	Repealed	Retained
Individual AMT	Repealed	Repealed
Estate Tax / GST	Increased exemption to about $11 million. Repeal after 2023.	Increased exemption to about $11 million. No repeal after 2023.
Exclusion for Employer Provided Moving Expense Reimbursement (other than military)	Repealed	Repealed
Moving Expense Deduction (other than military)	Repealed	Repealed
Exclusion for Employer Provided Housing	Limited to $50,000 annually ($25,000 for married individuals filing separate). Subject to phase-out for "highly compensated employees" (i.e. with wages over $120,000).	Retained
Retirement Savings	Current rules for 401(k) and Roth IRAs generally retained.	Current rules for 401(k) and Roth IRAs generally retained.
Affordable Care Act Individual Mandate	Retained	Permanently repealed by reducing the shared responsibility payment to zero.

FOOTNOTES:

1 See the text of the Chairman's Modified Mark, the Manager's Amendment, and the original Chairman's Mark.

For discussion of the Chairman's mark, see the following issues of GMS *Flash Alert:* 2017-164 (November 10, 2017) and 2017-165 (November 13, 2017).

2 For discussion and analysis of the House bill, see the following issues of GMS *Flash Alert:* 2017-157 (November 2, 2017), 2017-161 (November 7, 2017), and 2017-162 (November 9, 2017).

* * * *

Join KPMG LLP's Global Mobility Services practice for a webinar December 12, 2017

KPMG LLP's Global Mobility Services practice will be hosting a webinar on Tuesday, December 12, 2017 at 2 pm EST (GMT -5): *Tax Reform – Potential Implications for a Globally Mobile Workforce.*

To register, please click here.

The above information is not intended to be "written advice concerning one or more Federal tax matters" subject to the requirements of section 10.37(a)(2) of Treasury Department Circular 230 as the content of this document is issued for general informational purposes only.

The information contained in this newsletter was submitted by the KPMG International member firm in the United States.

www.kpmg.com

kpmg.com/socialmedia

Flash Alert is a GMS publication of KPMG LLP's Washington National Tax practice. To view this publication or recent prior issues online, please click here. To learn more about our GMS practice, please visit us on the Internet: click here or go to http://www.kpmg.com.