

GMS Flash Alert

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United States - Tax Reform Conference Agreement Unveiled

On December 15, 2017, the joint House-Senate tax reform conference committee unveiled its conference agreement on the Tax Cuts and Jobs Act.¹ The conference agreement resolves differences between the House and Senate tax reform bills, and is a significant step forward in the GOP's promise to have a tax reform package on the President's desk before the end of the year.

WHY THIS MATTERS

Congress still has to vote on the proposal and the President must sign the legislation, but reports indicate that Republicans have enough votes in the House and Senate to pass the conference agreement, and President Trump has expressed support for the legislation. Thus it is likely that this conference agreement will be enacted before the end of the year and will take effect on January 1, 2018.

As this would represent the most comprehensive reform to the U.S. tax code in over thirty years, global mobility program managers will want to begin reviewing their assignment policies to determine how to manage the anticipated changes, and begin communicating with other stakeholders.

Conference Agreement

The conference agreement would enact far-reaching changes to the rules governing the taxation of individuals, including a number of provisions that affect individual assignees. Similar to the Senate tax reform bill, many of the individual tax provisions will sunset after December 31, 2025. All items discussed below expire at that time, unless otherwise noted.

Individual Income Tax Rates

The conference agreement would maintain the seven-rate structure under current law, but would modify the rates at which an individual's income is taxed and the thresholds at which the rates apply. The threshold for the top tax bracket would be significantly raised but the top tax rate would be lowered from 39.6% to 37%. The so-called "marriage

penalty" is eliminated for all but those in the top tax brackets. The following table compares the conference agreement to the rates that would apply for 2018 under current law:

2018 Current Law		Conference Agreement	
	Single		Single
Tax Rate	If taxable income is:	Tax Rate	If taxable income is:
10%	\$0 to \$9,525	10%	\$0 to \$9,525
15%	\$9,526 to \$38,700	12%	\$9,526 to \$38,700
25%	\$38,701 to \$93,700	22%	\$38,701 to \$82,500
28%	\$93,701 to \$195,450	24%	\$82,501 to \$157,500
33%	\$195,451 to \$424,950	32%	\$157,501 to \$200,000
35%	\$424,951 to \$426,700	35%	\$200,001 to \$500,000
39.6%	\$426,701 or more	37%	\$500,001 or more

2018 Current Law		Conference Agreement	
	Married Filing Joint		Married Filing Joint
Tax Rate	If taxable income is:	Tax Rate	If taxable income is:
10%	\$0 to \$19,050	10%	\$0 to \$19,050
15%	\$19,051 to \$77,400	12%	\$19,051 to \$77,400
25%	\$77,401 to \$156,150	22%	\$77,401 to \$165,000
28%	\$156,151 to \$237,950	24%	\$165,001 to \$315,000
33%	\$237,951 to \$424,950	32%	\$315,001 to \$400,000
35%	\$424,951 to \$480,050	35%	\$400,001 to \$600,000
39.6%	\$480,051 or more	37%	\$600,001 or more

2018 Current Law		Conference Agreement	
	Married Filing Separate		Married Filing Separate
Tax Rate	If taxable income is:	Tax Rate	If taxable income is:
10%	\$0 to \$9,525	10%	\$0 to \$9,525
15%	\$9,526 to \$38,700	12%	\$9,526 to \$38,700
25%	\$38,701 to \$78,075	22%	\$38,701 to \$82,500
28%	\$78,076 to \$118,975	24%	\$82,501 to \$157,500
33%	\$118,976 to \$212,475	32%	\$157,501 to \$200,000
35%	\$212,476 to \$240,025	35%	\$200,001 to \$300,000
39.6%	\$240,026 or more	37%	\$300,001 or more

2018 Current Law		Conference Agreement	
	Head of Household		Head of Household
Tax Rate	If taxable income is:	Tax Rate	If taxable income is:
10%	\$0 to \$13,600	10%	\$0 to \$13,600
15%	\$13,601 to \$51,850	12%	\$13,601 to \$51,800
25%	\$51,851 to \$133,850	22%	\$51,801 to \$82,500
28%	\$133,851 to \$216,700	24%	\$82,501 to \$157,500
33%	\$216,701 to \$424,950	32%	\$157,501 to \$200,000
35%	\$424,951 to \$453,350	35%	\$200,001 to \$500,000
39.6%	\$453,351 or more	37%	\$500,001 or more

Tax Rate for Long-Term Capital Gains and Qualified Dividends

Under current law, long-term capital gains and qualified dividends are taxed at special rates of 0, 15 and 20 percent, depending on the taxpayer's level of taxable income. The conference agreement would maintain those rates and the levels of taxable income at which they apply, as under current law. These levels would be adjusted for inflation in future years.

Standard Deduction and Personal Exemption

The conference agreement would roughly double the standard deduction:

- \$24,000 Married Filing Jointly
- \$12,000 Single and Married Filing Separately
- \$18,000 Head of Household

However, the conference agreement would suspend the personal exemption.

Child Tax Credit

Currently, taxpayers are allowed a tax credit of \$1,000 for each dependent under age 17. The benefit of this credit is phased out for those with adjusted gross income in excess of \$110,000 for a married couple filing jointly, \$55,000 for married individuals filing separate returns, and \$75,000 for single taxpayers. The conference agreement would double the amount of the child tax credit to \$2,000, and allow an additional nonrefundable credit of \$500 for each of the taxpayer's dependents other than qualifying children. The benefit of the increased child tax credit would be phased out for married couples filing jointly with adjusted gross income in excess of \$400,000, and \$200,000 for single taxpayers.

A new provision would be added by the conference agreement, limiting the child tax credit to dependents with a social security number. This requirement would cause many resident aliens to no longer be eligible to claim this credit.

Itemized Deductions

Although the conference agreement would suspend most itemized deductions, certain itemized deductions would be significantly modified, as noted below.

State and Local Taxes

The conference agreement would generally not permit a deduction for state, local or foreign property taxes; state and local income taxes; or state and local sales taxes, except for those incurred in carrying on a trade or business or in relation to assets held for the production of income. However, an exception would apply whereby state and local (but not foreign) property taxes and state and local income taxes (or state and local sales taxes) up to an aggregate of \$10,000 could be deducted.

Note that the conference agreement would completely suspend the deduction for foreign real property taxes. It also includes a provision whereby an individual may not claim an itemized deduction in 2017 on a pre-payment of state or local income tax for a future taxable year in order to avoid the dollar limitation applicable for taxable years beginning after 2017.

KPMG NOTE

The suspension of the foreign real property tax deduction may increase assignment costs for U.S. taxpayers who have previously been allowed the deduction, such as an inbound U.S. assignee under a tax equalized program where the employer is responsible for all U.S. taxes.

Mortgage Interest and Home Equity Deduction

Under the conference agreement, the home mortgage interest deduction would be limited to \$750,000 of acquisition indebtedness and the separate deduction for interest on home equity debt would be suspended. This lower cap would only apply to mortgages incurred after December 15, 2017. The mortgage interest deduction for acquisition indebtedness entered into prior to December 15, 2017 would be grandfathered up to the current limitation of \$1,000,000.

KPMG NOTE

The reduction in the mortgage interest debt limitation may create reluctance on the part of some employees to relocate if relocation would necessitate a home sale, since mortgage interest on a home purchased in the future may be more limited than that of their current home.

Medical Expenses

The conference agreement would lower the threshold for deduction of medical expenses from 10 percent of adjusted gross income (AGI) to 7.5 percent of adjusted gross income for tax years 2017 and 2018. For tax years after 2018, the threshold would once again be 10 percent (as under current law).

Charitable Contributions

The conference agreement would retain the deduction for charitable contributions and increase the income-based percentage limitation for cash contributions by an individual to public charities and certain other qualifying organizations from 50 to 60 percent of the taxpayer's AGI.

Casualty Losses

The conference agreement would repeal the deduction for casualty losses except for those arising as a result of certain disasters designated by the federal government that occurred during 2016 and 2017. Such losses, provided they exceed \$500 per casualty, could be claimed in addition to the standard deduction.

Moving Expenses

No deduction for qualified moving expenses would be permitted under the conference agreement, and employer reimbursements of such expenses would no longer be excludable from compensation. These provisions would expire after tax year 2025.

KPMG NOTE

The proposed change could have significant implications for assignment costs. Elimination of the tax deduction for moving expenses may result in these costs being grossed up. Given the cost of international moves, this additional tax expense could be quite significant.

Other Individual Income Tax Items

Individual AMT

The conference agreement would retain the individual alternative minimum tax (AMT), but would raise the amount of the exemption in order to subject fewer individuals to this tax. The conference agreement would increase the AMT exemption amount to \$109,400 for married taxpayers filing jointly from its current level of \$86,200 and to \$70,300 for other taxpayers from its current level of \$55,400 (the exemption amount for married individuals filing separately is half that for those filing jointly). The phase-out levels would be significantly increased to \$1,000,000 for married taxpayers filing jointly and to \$500,000 for other taxpayers (from their current levels of \$164,100 and \$123,100 respectively).

Sale of Principal Residence

Notably, although both the House and Senate bills included proposals to limit the exclusion for gain on sale of a primary residence, the conference agreement does not propose to change current law in this regard.

Basis of Securities Sold

The Senate bill included a proposal whereby the cost of securities (other than U.S. mutual fund holdings) sold or exchanged would generally be determined on a first-in-first-out basis, as opposed to specific identification or some other method of establishing basis. The conference agreement does not include this proposal.

Alimony

The conference agreement would repeal the above-the-line deduction for alimony and separate maintenance payments. As a result of this provision, such payments would not be deductible by the payor spouse and would not be includable in the income of the payee spouse. This provision would be effective for any divorce or separation agreement executed after December 31, 2018, and for any such agreement executed before but modified after that date if the modification expressly provides that that this new provision applies to such modification.

FOOTNOTES:

1 For the text of the conference report (1097 pages), [click here](#). For a joint explanatory statement of the conference report, [click here](#).

For prior coverage of the global mobility implications of the House bill, see GMS *Flash Alerts* [2017-157](#) and [2017-162](#); for the Senate bill see GMS *Flash Alerts* [2017-177](#) and [2017-178](#); for a comparison of key features of the two bills see GMS *Flash Alerts* [2017-165](#) and [2017-166](#). See this [index](#) for a complete index of coverage of this and other news related to global mobility.

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