NELSON MULLINS

Conference Committee Agreement Reached on Tax Cuts and Jobs Act

On Friday, December 15, 2017, the managers representing the House and the Senate in Conference approved a revised version of H.R. 1, the Tax Cuts and Jobs Act (the Conference Report) resolving the differences between the versions of the legislation passed by the House on November 16 and the Senate on December 2. Over the weekend (Sunday morning), the managers released a Joint Expanatory Statement in explanation of the effect of the action agreed upon by the managers and recommended in the Conference Report. The leadership of the House and Senate plan to schedule votes on the reconciled provisions this week.

The following is a summary of the key provisions of the legislation proposed in the ***Conference Report*** as compared to ***Current Law.*** Unless otherwise noted, the new provisions are effective for 2018. Most of the individual income tax changes will revert to current (2017) law after 2025 unless extended by future legislation.

I. Individual Income Taxes

<table>
<tr><th>Provision</th><th>Current Law</th><th>Conference Report</th></tr>
<tr><td>Individual Income Tax Rates and Brackets</td><td>Seven-bracket progressive rate income tax with a top marginal rate of 39.6%.
<table>
<tr><th>Rate</th><th>Single</th><th>H/HH</th><th>Joint</th></tr>
<tr><td>10% ></td><td>$0</td><td>$0</td><td>$0</td></tr>
<tr><td>15% ></td><td>$9,525</td><td>$13,600</td><td>$19,050</td></tr>
<tr><td>25% ></td><td>$38,700</td><td>$51,800</td><td>$77,400</td></tr>
<tr><td>28% ></td><td>$93,700</td><td>$133,850</td><td>$156,150</td></tr>
<tr><td>33% ></td><td>$195,450</td><td>$216,700</td><td>$237,950</td></tr>
<tr><td>35% ></td><td>$424,950</td><td>$424,950</td><td>$424,950</td></tr>
<tr><td>39.6% ></td><td>$426,700</td><td>$453,350</td><td>$480,050</td></tr>
</table></td><td>Retains seven brackets, but at reduced rates, including a top marginal rate of 37%. Provisions sunset at end of 2025.
<table>
<tr><th>Rate</th><th>Single</th><th>H/HH</th><th>Joint</th></tr>
<tr><td>10% ></td><td>$0</td><td>$0</td><td>$0</td></tr>
<tr><td>12% ></td><td>$9,525</td><td>$13,600</td><td>$19,050</td></tr>
<tr><td>22% ></td><td>$38,700</td><td>$51,800</td><td>$77,400</td></tr>
<tr><td>24% ></td><td>$82,500</td><td>$82,500</td><td>$165,000</td></tr>
<tr><td>32% ></td><td>$157,500</td><td>$157,500</td><td>$315,000</td></tr>
<tr><td>35% ></td><td>$200,000</td><td>$200,000</td><td>$400,000</td></tr>
<tr><td>37% ></td><td>$500,000</td><td>$500,000</td><td>$600,000</td></tr>
</table></td></tr>
<tr><td>Indexing Provisions</td><td>Indexed to the Traditional CPI measure of inflation.</td><td>Indexed to the Chained CPI measure of inflation.</td></tr>
<tr><td>Standard Deduction</td><td>Standard deduction of $6,500 for single filers, $9,550 for heads of household, and $13,000 for joint filers. The current code also offers a $4,150 per-person standard deduction along with an additional standard deduction of $1,300 for the aged or blind ($1,600 if unmarried).</td><td>Increases the standard deduction to $12,000 for single filers, $18,000 for heads of household, and $24,000 for joint filers, while eliminating the additional standard deduction and the personal exemption. Provisions sunset at the end of 2025.</td></tr>
</table>

Above the Line Deductions	Certain deductions can be claimed "above-the-line," regardless of whether a filer itemizes deductions.	Repeals the moving expense deduction (except for active duty military personnel) and eliminates the alimony deduction effective 2019 (though those receiving alimony no longer count it as income). Retains other above-the-line deductions, including educator expenses and student loan interest.
Itemized Deductions	Itemized deductions may be claimed in lieu of the standard deduction. The mortgage interest deduction is currently limited to $1 million in mortgage debt and $100,000 in home equity debt.	Retains the charitable contribution and increases the deduction limitation to 60% of AGI for contributions of cash to public charities, denies charitable deduction for payments made in exchange for college athletic event seating rights; and repeals the substantiation exception for certain contributions reported by the donee organization. Retains the mortgage interest deduction for acquisition, but limited (for purchases after December 5, 2017) to $750,000 in mortgage debt, while eliminating the deduction for home equity debt. Caps the state and local tax deduction at $10,000 (property plus choice of income or sales taxes, as under current law), except for property and sales taxes paid or accrued in carrying on a trade or business. The medical expense deduction threshold is lowered to 7.5% for 2018, and reverts to 10% thereafter. Eliminates all other itemized deductions.

Child and Family Tax Credits	Partially refundable $1,000 child tax credit for the first two children, with a less generous Additional Child Credit for third and subsequent children.	Increases the child tax credit to $2,000. Of this, $1,400 would be refundable, with the refundable portion indexed to inflation. All dependents ineligible for the child tax credit are eligible for a new $500 per-person family tax credit. Provisions begin to phase out at $400,000 ($200,000 for single filers). Social Security Numbers required for portions of the above. All provisions sunset at the end of 2025.
Alternative Minimum Tax	Imposes a two-rate alternative minimum tax (AMT) with an $86,200 exemption and a $164,100 exemption phaseout for joint filers. (Other exemptions and phaseout thresholds exist for single filers and married filing separately.) Under the AMT, the standard deduction, personal exemption, and state and local tax deduction are disallowed (among others), the mortgage interest deduction is limited to first and second residences, and certain other deductions (including the medical expense deduction) are limited.	Increases the exemption to $109,400 and raises the phaseout threshold to $1 million for joint filers. (Other exemptions and phaseout thresholds exist for single filers and married filing separately, and are also adjusted.)
529 Deduction	Allows a deduction for deposits into a 529 account for college tuition and expenses.	Expands the use of 529 accounts to cover tuition for students in K-12 private schools and homeschooling costs.
Like-kind Exchanges	No gain or loss is recognized if property held for productive use in a trade or business or for investment is exchanged for property of a "like kind" which is to be held for productive use in a trade or business or for investment.	Limits the nonrecognition of gain for like-kind exchanges to real property that is not held primarily for sale. New limitation applies to exchanges completed after Dec. 31, 2017, with an exception for any exchange if either the property being exchanged or the property received is exchanged or received on or before December 31, 2017 (i.e., the first leg of a deferred exchange transaction).

II. Corporate and Business Taxes

Provision	Current Law	Conference Report
Corporate Tax Rate	Multi-bracket corporate income tax structure with a top marginal rate of 35% and a "bubble" rate of 39%.	Single-rate 21% corporate income tax.
Treatment of Pass-Through Income	Subject to individual income tax rates and brackets.	Adopts a 20% deduction for qualifying business income (QBI) for sole proprietors and interests in pass-through entities (S corporations, partnerships, and LLCs), limited to the greater of (a) 50% of wage income or (b) 25% of wage income plus 2.5% of the cost of tangible depreciable property for qualifying businesses, including publicly traded partnerships but not including certain service providers (including the fields of health, law, accounting, actuarial science, performing arts, consulting, athletics, financial services, brokerage services, including investing and investment management, trading, or dealing in securities, partnership interests, or commodities, and any trade or business where the principal asset of such trade or business is the reputation or skill of the owners or employees (but excluding engineering or architecture services)). QBI would be defined as all domestic business income other than investment income (e.g., dividends (other than qualified REIT dividends and cooperative dividends, which are per se QBI), investment interest income, short-term capital gains, long-term capital gains, commodities gains, foreign currency gains, etc. Limitations on the QBI deduction (both caps and exclusions) do not apply for those with incomes below $315,000 (joint), and phase out over a $100,000 range.

Carried Interest	The receipt of a profits interest in a partnership (sometimes referred to as a carried interest) in exchange for the performance of services is not taxed to the recipient. The partner thereafter includes in income the partner's distributive share (whether or not actually distributed) of partnership items of income and gain, including capital gain eligible for the lower tax rates.	Transfers of applicable partnership interests held for less than three years would be treated as short-term capital gain. This treatment would affect partnership in connection with the performance of substantial services to businesses that consist of engaging in capital market transactions or other specified investments. Certain equity interests and interests held by corporations would be exempt. The application of these rules will be subject to Regulations.
Capital Investment	In relevant part, allows 50% bonus depreciation of short-lived capital investment, such as machinery and equipment, through 2020, and offers Section 179 small business expensing with a cap of $500,000 and a phaseout beginning at $2 million.	Allows full (100%) expensing of short-lived capital investment, such as machinery and equipment, for five years, then phases out the provision over the subsequent five, and raises Section 179 small business expensing cap to $1 million with a phaseout starting at $2.5 million.
Alternative Minimum Tax	Applies a 20% tax rate to a more broadly defined alternative definition of income.	Corporate AMT is repealed.
Tax Treatment of Business Interest	Allows a full deduction for business interest paid (with no cap).	Caps net interest deduction at 30% of earnings before interest, taxes, depreciation, and amortization (EBITDA) for four years, and 30% of earnings before interest and taxes (EBIT) thereafter.
Net Operating Loss (NOL) Provisions	Generally, net operating losses can be carried back two years or forward twenty years, with no limits with regard to taxable income.	Eliminates net operating loss carrybacks while providing indefinite net operating loss carryforwards, limited to 80% of taxable income.
Cash Accounting	Businesses with less than $5 million in income may elect to use the cash method of accounting.	Increases eligibility to businesses with up to $25 million in income.

Business Credits and Deductions	Provides a range of business credits and deductions.	Modifies, but does not eliminate, the rehabilitation credit and the orphan drug credit, while limiting the deduction for FDIC premiums. Amortizes the Research & Experimentation Credit after 2021.
Foreign Income	Imposes a worldwide system of taxation.	Moves to a territorial system with anti-abuse rules and a base erosion anti-abuse tax (BEAT) at a standard rate of 5% of modified taxable income over an amount equal to regular tax liability for the first year, then 10% through 2025 and 12.5% thereafter, with higher rates for banks.

III. Other Taxes

Provision	Current Law	Conference Report
Estate, Gift, and Generation Skipping Tax	$5.6 million estate, gift, and generation skipping tax exemption ($11.2 million for married couples, adjusted annually for inflation.	Doubles the estate, gift, and generation skipping tax exemption in 2018 to $11.2 million ($22.4 million for married couples, adjusted for inflation, now Chained CPI.
Individual Mandate Penalty	Imposes a penalty of $695 or 2.5% of income (with a deduction), whichever is higher, to those who do not obtain minimum health insurance coverage (the individual mandate).	Reduces the individual mandate penalty to $0 in 2019, effectively repealing it.
Tax on College Endowment Income	Private colleges and universities generally are treated as public charities rather than private foundations and thus are not subject to the private foundation excise tax on net investment income.	Imposes an excise tax on an applicable educational institution for each taxable year equal to 1.4% of the net investment income for the taxable year. An applicable educational institution is an institution that has at least 500 full time equivalent, tuition paying students during the preceding taxable year, more than 50% of which are located in the US, provided the aggregate fair market value of the assets of which at the end of the preceding taxable year (other than those assets that are used directly in carrying out the institution's exempt purpose) is at least $500,000 per student.