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THE HOUSE TAX BILL SAYS WHAT?

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The House Ways and Means Committee has finally released a copy of the proposed tax bill called the **Tax Cuts and Jobs Act**. While this will surely undergo some changes in the next couple of days, the House of Representatives is expected to vote on the bill in the two next weeks before they go on Thanksgiving break. At 429 pages long, there is a lot going on so we have summarized some of the more important provisions.

INDIVIDUAL HIGHLIGHTS

The individual rates will be reduced to 4 brackets (12%, 25%, 35%, and 39.6%) and 3 filing statuses (Married Filing Joint, Head of Household, and Single). Those who make more than $400,000 ($450,000 joint) will lose the benefit of the 12% bracket through a phase out.

The standard deductions will increase substantially to $12,200 single, $18,300 head of household, and $24,400 joint. All other standard deductions and the personal exemptions will be eliminated.

While the limitation on itemized deductions will be removed, the only itemized deductions available will be mortgage interest (limited on new mortgages to principal of $500,000 or less), property taxes capped at $10,000, charitable donations, and gambling losses. All of the other itemized deductions, such as medical, state income and sales taxes, most casualty losses, tax preparation, and employee business expense will be disallowed.

Other income deductions and exclusions like the educator expense, moving expense, tuition expense, student loan interest, alimony, and employer dependent care assistance will be eliminated.

Quite a few types of employer benefits will no longer be excludible from income. Items such as Medical Savings Account contributions, educational assistance, moving allowance, and adoption assistance will become taxable.

Substantial changes will be made to the exclusion of gain from the sale of a principle residence rules. A portion of the gain would become taxable for those with gross income over $250,000 ($500,000 joint). The residency requirement will be increased to 5 years from 2 years.

The child tax credit will be increased to $1,600 from $1,000 with a lot more families qualifying as the phaseout threshold doubles. A new non-refundable credit of $300 for other dependents will be available for 5 years, also subject to an income phaseout.

Other nonrefundable credits such as the adoption, electric vehicle, hope and lifetime learning credits will be removed.

The Alternative Minimum Tax will be repealed. Any remaining AMT credits would qualify for a refund of 50% in 2019 to 2021, and 100% in 2022.

A doubling of the estate tax exemption from $5 million to $10 million (indexed for inflation) is intended to be an interim step to the final repeal after 6 years. The generation skipping tax would also be repealed beginning in 2024. Beneficiaries would still be allowed to step up the basis of their inherited property.

BUSINESS HIGHLIGHTS

The corporate tax rate would be reduced to a flat 20%, with personal service corporations subject to a flat 25%. Pass-through businesses get a maximum 25% rate, subject to some very complicated anti-abuse rules where you may have to “prove out” a business earnings versus compensation split. Passive activity income is included in the new rate. However, service-type pass-through businesses are mostly excluded from the new rate.

A five year immediate deduction will be available on short lived capital investments similar to the bonus depreciation rules. Section 179 expensing will be increased from $500,000 to $5 million with a corresponding increase in the phaseout threshold increased to $20 million, also for 5 years.

Businesses with gross receipts of $25 million or more will be limited in the amount of interest expense they can deduct on any new loans to 30% of their earnings before interest, taxes and depreciation (EBITDA). Additional interest expense can be carried forward a maximum of 5 years. Public utilities and real estate are exempt.

Net Operating Losses will no longer be allowed as a carryback except for certain disaster situations. The NOL carryforward period will no longer be limited and the amounts carried forward will be increased by certain inflation and return of capital factors. In the year of deduction, NOLs will be limited to 90 percent of current taxable income (replacing the previous 100% deduction).

Quite a few deductions, credits, and exemptions will be eliminated. The Section 199 manufacturing (DPAD) deduction, entertainment deduction, transportation fringe benefits, credits for orphan drugs, private activity bonds, work opportunity, employer-provided child care, rehabilitation, New Market, and certain energy credits are just a few. Like-kind exchanges for anything other than real property will no longer be tax free.

The Alternative Minimum Tax will be repealed under the same rules as for individuals.

Taxation on international income for US corporations will move to a territorial system with foreign-source dividends and profits being exempt from US tax upon repatriation. Numerous changes have been proposed with some limitations for CFCs and outgoing payments to related foreign corporations.

Currently deferred foreign profits will be deemed repatriated at a rate of 12% for cash and cash equivalents profits and 5% for reinvested foreign earnings.

As the Senate is expected to create their own version of this tax legislation based on the President’s Tax Framework, it may or may not closely resemble the House bill. The details of the tax law may undergo a substantial change before it passes both the House and the Senate in its final version.

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Victoria has over 25 years of experience in providing tax consulting, compliance and tax audit representation to closely held businesses, delivering a full range of tax services in federal and multi-state laws and regulations for partnerships, S and C corporations, and individuals.

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