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House Ways and Means Republicans release sweeping tax relief legislation

House Ways and Means Committee Republicans rolled out a comprehensive tax relief package in two parts, with the first portion released on May 9 and the second portion on May 12. The proposal aims to extend key provisions of the 2017 Tax Cuts and Jobs Act (TCJA, P.L. 115-97), deliver targeted relief for working families and small businesses, and support the administration's broader economic and national security objectives. Among its key provisions are an extension of preferential tax treatment for US-based multinationals, the permanent extension (and increase) of the passthrough business deduction, and the exclusion of some tipped and overtime income from taxation.
URL: https://www.congress.gov/115/plaws/publ97/PLAW-115publ97.htm

Informally dubbed the "One, Big, Beautiful Bill," the House GOP tax package was unveiled by Ways and Means Committee Chairman Jason Smith (R-Mo.), who said the provisions would provide meaningful tax relief to American families and small businesses, while advancing pro-growth reforms aimed at strengthening the economy.

"This bill delivers on what Americans voted for with President Trump's promise to put America First – with tax policies that reward hard work, bring jobs back home, increase opportunity, and rebuild the economy for the working class," Chairman Smith said.

"It puts the interests of low-income, working families ahead of the wealthy by expanding tax relief to those who need it the most – including the President's priorities of no tax on tips and overtime pay and additional relief for America's seniors. Small businesses and family farmers will benefit from the certainty provided so they can invest in their futures and grow jobs," he added.

This write-up provides a consolidated summary of both the May 9 and 12 portions of the tax proposal. (The second portion of the tax bill was released in the form of an Amendment in the Nature of a Substitute.) Accompanying the legislative text is the Ways and Means Committee's section-by-section summary of the proposal. The committee's official website that covers the markup also features a comprehensive set of supporting documents, including the Joint Committee on Taxation's detailed summary-by-summary analysis and distributional analysis. (additional information on the tax bill)
URL: https://waysandmeans.house.gov/wp-content/uploads/2025/05/SMITMO_017_xml.pdf
URL: https://waysandmeans.house.gov/wp-content/uploads/2025/05/The-One-Big-Beautiful-Bill-Section-by-Section.pdf
URL: https://waysandmeans.house.gov/event/full-committee-markup-of-legislative-proposals-to-comply-with-the-reconciliation-directive-included-in-section-2001-of-the-concurrent-resolution-on-the-budget-for-fiscal-year-2025-h-con-res-14/
URL: https://waysandmeans.house.gov/wp-content/uploads/2025/05/JCT-Description-of-AINS-to-WM-Committee-Report-Green-Sheet.pdf
URL: https://www.jct.gov/publications/2025/jcx-23-25/
URL: https://waysandmeans.house.gov/2025reconciliation/

Building on the GOP 'framework'

The bill builds on the tax policy vision outlined in the House-passed budget resolution last month that laid the groundwork for a reconciliation process focused on what the party said would yield a pro-growth, pro-worker tax code, while also advancing Republican priorities on issues such as border enforcement and domestic energy production. While the budget framework set the overall fiscal boundaries – providing committees with targets for the amount of tax relief and spending reductions they could pursue – the new legislation delivers the detailed policy proposals needed to advance the process.

The bill fills in those blanks: it includes permanent income tax rate schedules for individuals; modifications for key business deductions; a small but permanent increase of the estate and gift tax exemption; and an immediate deduction for domestic research or experimental expenditures. It also outlines offsets and base-broadening provisions designed to maintain fiscal responsibility. However, as with previous major tax reform efforts, certain provisions in the bill – such as the revised cap on the state and local tax (SALT) deduction as well as proposed changes to energy tax credit provisions enacted under the Inflation Reduction Act (IRA, P.L. 117-169) – are expected to generate significant debate as the legislation advances through Congress.
URL: https://www.congress.gov/117/plaws/publ169/PLAW-117publ169.pdf

As lawmakers assess the scope of the package, cost remains a central consideration: the JCT has estimated that the House Republicans' tax proposal – covering both parts one and two – would cost approximately $3.8 trillion in lost revenue (JCX-22-25R), slightly below the maximum net tax cut permitted of a $4 trillion ceiling that the budget resolution permits if spending levels achieved by other committees do not generate more than $1.5 trillion in spending cuts. Chairman Smith noted during his May 13 press conference that the bill's projected cost still leaves "a little bit of wiggle room" under that $4 trillion.
URL: https://www.jct.gov/publications/2025/jcx-22-25r/

(For prior coverage of the House Republican's passage of a budget blueprint, see *Tax News & Views*, Vol. 26, No. 14, April 11, 2025.)
URL: https://dhub.deloitte.com/Newsletters/Tax/2025/TNV/250411_1.html

Following a lengthy markup session that began on May 13 and stretched into the early hours of the next morning, the Ways and Means Committee voted to advance its tax proposal, with Republicans supporting and Democrats opposing the measure after a series of Democratic amendments were rejected.

What's here, what's ahead . . .

This special edition of *Tax News & Views* offers an overview of the tax package, makes observations on key provisions, and looks at some of the political and policy challenges ahead as the tax relief process unfolds on Capitol Hill.

Business-related deductions, credits, and other items of note

The House Ways and Means Committee's newly released tax package includes a broad set of provisions impacting corporations and other business entities. Collectively, these measures reflect the GOP's continued hope that this package will contribute to economic expansion, innovation, and long-term fiscal strength.

Deduction of domestic research and experimental expenditures: Section 174(a) currently requires specified research and experimental (SRE) expenditures paid or incurred in taxable years beginning after December 31, 2021 to be capitalized and amortized over ratably over a five-year period for domestic research or 15-year period for foreign research, beginning with the midpoint of the taxable year in which such expenditures are paid or incurred.

Section 174(d) provides if any property with respect to which SRE expenditures are paid or incurred is disposed, retired, or abandoned during the period during which such expenditures are allowed as an amortization deduction, no deduction is allowed with respect to such expenditures on account of such disposition, retirement or abandonment and such amortization deduction continues with respect to such expenditures.

The House proposal would suspend the mandatory capitalization requirement under section 174(a) for domestic research or experimental expenditures paid or incurred in taxable years beginning after December 31, 2024, and before January 1, 2030.

It also adds new section 174A to allow an immediate deduction of domestic research or experimental expenditures paid or incurred by the taxpayer during the tax year. New section 174A permits a taxpayer to elect to capitalize and amortize domestic research or experimental expenditures ratably over a period of not less than 60 months beginning with the midpoint of the tax year in which such expenditures are paid or incurred. The election must be made no later than the due date of the taxpayer's federal income tax return (including extensions) and applies to the tax year for which the election is made and all subsequent tax years unless the taxpayer receive consent to change to a different method or period. A conforming modification to section 59(e)(2)(B) allows a taxpayer to elect to capitalize and recover domestic research or experimental expenditures over ten years beginning in the taxable year such expenditures are paid or incurred.

With respect to current section 174(d) rules that apply to SRE expenditures for foreign research, the proposal would amend the rule such that there is no deduction or reduction to amounts realized with respect to the unamortized balance of the SRE expenditures on account of the disposition, retirement, or abandonment of property with respect to which SRE expenditures are paid or incurred. The amendments apply to property disposed, retired or abandoned after May 12, 2025.

The House proposal would provide coordination between new section 174A and sections 41(d)(1)(A) and 280C(c), that require that a taxpayer reduce the new section 174A deduction by the credit claimed, or alternatively, elect to claim a reduced section 41 research credit.

These amendments generally apply to amounts paid or incurred in taxable years beginning after December 31, 2024, with new section 174A sunsetting for amounts paid or incurred in taxable years beginning after December 31, 2029. The amendments are treated as a change in method of accounting made on a cut-off basis for any research or experimental expenditures paid or incurred in taxable years beginning after December 31, 2024 (or December 31, 2029 for the taxpayer's first taxable year in which new section 174A no longer applies).

Modified calculation of adjusted taxable income for purposes of business interest deduction: Section 163(j) limits the amount of a taxpayer's deduction of business interest expenses paid or incurred for the tax year. This limitation is generally computed as the sum of the taxpayer's business interest income for the tax year, 30 percent of the taxpayer's adjusted taxable income, and the taxpayer's floor plan financing interest. Disallowed interest is carried forward indefinitely.

The adjusted taxable income is the taxable income of the taxpayer computed without regard to certain items, including any deduction allowable for depreciation, amortization or depletion for taxable years beginning before January 1, 2022.

The tax proposal would modify the determination of adjusted taxable income under section 163(j)(8)(A)(v) for purposes of computing the business interest deduction limitation. For tax years beginning after December 31, 2024, and before January 1, 2030, taxpayers can compute adjusted taxable income without regard to the deduction allowable for depreciation, amortization, or depletion. This amendment would reinstate a calculation of adjusted taxable income that corresponds with earnings before interest, taxes, depreciation, and amortization (EBITDA), which has the effect of raising a taxpayer's adjusted taxable income, and consequently, an increased 163(j) interest deduction for many taxpayers.

The proposal would also amend the section 163(j)(9)(C) floor plan financing exception to permanently expand the definition of "motor vehicle" to include any trailer or camper designed to provide temporary living accommodations for recreational, camping or seasonal use, and designed to be towed by a motor vehicle.

The amendment is effective for taxable years beginning after December 31, 2024.

Increased dollar limitations for expensing of certain depreciable business assets: Section 179(a) allows a taxpayer to elect to expense the cost of section 179 property, as defined under section 179(d)(1), instead of depreciating such property under sections 167 and 168. A taxpayer's deduction under section 179 is limited to $1 million of the cost of section 179 property placed in service in the taxable year, reduced by the cost thereof that exceeds $2.5 million. These amounts are indexed for inflation in taxable years beginning after 2018 – and, for taxable years beginning in 2025, the dollar limitation is $1.25 million and the phaseout threshold is $3.13 million.

The proposal would permanently amend sections 179(b)(1) and (2) to increase the dollar limitation to $2.5 million and the phaseout threshold to $4 million. These amounts are indexed for inflation in taxable years beginning after 2025. These amendments apply to property placed in service in taxable years beginning after December 31, 2024.

Limitation on excess business losses on non-corporate taxpayers: Under current law, excess business losses of noncorporate taxpayers are disallowed and carried forward as a net operating loss in the subsequent tax year. While the excess business loss limitation is set to expire for tax years beginning on or after January 1, 2029, this provision would permanently extend the limitation on excess business losses for noncorporate taxpayers. Further, if enacted, this provision would cause excess business losses disallowed in tax years beginning after December 31, 2024, to be includible in the taxpayer's computation of excess business losses in subsequent years. Effectively this will limit the amount of business losses (including amounts carried forward as an NOL) that may offset non-trade or business income in tax years beginning after December 31, 2025.

Treatment of certain qualified sound recording productions: Section 181 provides an election to deduct certain costs of qualified film or television production, and qualified live theatrical production in the taxable year such costs are paid or incurred if such production commences before January 1, 2026. The taxpayer may elect to deduct up to $15 million of production costs on a per production basis. This limit increases to $20 million for production that occurs in a low-income community or distressed area.

If a taxpayer capitalizes and depreciates production costs in lieu of the deduction under section 181, section 168(k) requires a taxpayer to claim bonus depreciation equal to the applicable percentage of the adjusted basis of qualified film or television production, or qualified live theatrical production acquired and placed in service after September 27, 2017, and placed in service before January 1, 2027. Section 168(k) provides a phase down of the applicable percentage for each calendar year, with a sunset to zero percent for property placed in service after December 31, 2026.

The House proposal would amend section 181 to allow a taxpayer to elect to deduct up to $150,000 of the aggregate cost of any qualified sound recording production or the cumulative cost of all such qualified sound recording production in the taxable year incurred if such production commences before January 1, 2026. A "qualified sound recording production" is defined as a sound recording (as defined in 17 USC. sec. 101) produced and recorded in the US

Additionally, it would amend section 168(k) to include qualified sound recording productions placed in service before January 1, 2029, as qualified property eligible for bonus depreciation. A qualified sound recording production is placed in service at the time of initial release or broadcast.

The amendments apply to productions commencing in taxable years ending after the date of the enactment of the House proposal.

Employee retention tax credits: The bill would make several changes to COVID-related employee retention tax credits (ERTC), including potential penalties applicable to ERTC promoters, disallowance of refunds claimed after January 31, 2024, and extension of statute of limitations for certain ERTC claims.

Under the proposal, the penalty for aiding and abetting the understatement of a tax liability would be increased for ERTC promoters to the greater of $200,000 ($10,000 for a natural person), or 75 percent of gross income derived from aid, assistance, or advice related to ERTC claims. In addition, ERTC promoters would be required to comply with certain due diligence requirements related to ERTC claims and would be subject to a penalty of $1,000 for each failure to comply. The bill would also treat ERTC claims as a listed transaction and reportable transaction for any ERTC promoter and treat ERTC promoters as a material advisor for ERTC claims, requiring ERTC promoters to maintain lists of clients and disclose information regarding ERTC claims.

ERTC promoters would include any person who provides aid, assistance, or advice related to ERTC claims who:

- Charges or receives fees based on the amount of ERTC claims and whose gross receipts from such aid, assistance, or advice exceeds 20 percent of gross receipts for the taxable year, or
- Whose aggregate gross receipts from such aid, assistance, or advice for the taxable year or preceding taxable:
    - Exceeds 50 percent of gross receipts for the taxable year, or
    - Exceeds $500,000 and exceeds 20 percent of gross receipts for the taxable year.

Certified professional employer organizations would not be treated as ERTC promoters.

Upon the bill's enactment, refunds claimed after January 31, 2024, would be disallowed.

Under the bill, the assessment's statute of limitations on ERTC claims would be extended until six years from the later of – the date of filing of the original quarterly return, April 15th of the year following the end of the calendar year, and the date the ERTC claim was made.

Expansion of section 162(m) limits on deductions of certain executive compensation to controlled group: Effective for taxable years beginning after December 31, 2025, in the case of a publicly held corporation that is a member of a controlled group, payments made by all members of the controlled group are aggregated to determine the disallowance of the deduction. Under the proposed rule, payments to "specified covered employees" made by any member of the controlled group would be aggregated and if the aggregate amount exceeds $1 million, then the deduction limitation for any amounts paid in excess of $1 million would be allocated pro rata to each member of the controlled group, based on the percentage of total compensation paid by each member of the controlled group.

A "specified covered employee" with respect to the controlled group means the principal executive officer, principal financial officer, the three most highly compensated officers, and any "once covered, always covered" employees of the publicly held corporation member of the controlled group. In addition, a "specified covered employee", for taxable years beginning after December 31, 2026, includes any employee that is among the 5 highest compensated employees for the taxable year, taking in account all members of the controlled group. The controlled group is determined under sections 414(b), (c), (m), and (o), which generally set forth rules for treating entities as a single employer for employee benefit purposes.

Enhancement of employer-provided child-care credit: The bill amends section 45F by increasing the percentage of qualified childcare expenditures upon which the credit is determined and increases the maximum amount of the allowable credit from $150,000 to $500,000 ($600,000 in the case of an eligible small business), subject to inflation adjustment. The amended provision adds a definition of the new term "eligible small business" and provides that a facility shall not fail to be treated as a qualified child-care facility of the taxpayer merely because the facility is jointly owned or operated by the taxpayer and other persons. The amendment directs the Secretary of the Treasury to issue regulations necessary to carry out the purposes of the amendments, and the amendments will apply to amounts paid or incurred after December 31, 2025.

Extension and enhancement of paid family and medical leave credit: The bill amends section 45S to provide that the paid family and medical leave credit is an amount equal to either the applicable percentage of the amount of wages paid to qualifying employees with respect to any period in which such employees are on family and medical leave, or if such employer has an insurance policy with regards to the provision of paid family and medical leave which is in force during the taxable year, the applicable percentage of the total amount of premiums paid or incurred by such employer during the taxable year with respect to the policy. The employer can elect which amount to use.

For the purpose of determining the credit based on the applicable percentage of total premiums paid, the rate of payment under the insurance policy will be determined without regard to whether any qualifying employees were on family and medical leave during the taxable year. The bill modifies the aggregation rule to determine whether persons are treated as a single employer by changing the reference from section 52(a) and (b) to section 414(b) and (c) and provides an exception to the aggregation rule for any person that establishes a substantial and legitimate business reason for failing to provide a written policy. The bill also modifies the treatment of benefits mandated or paid for by state or local governments, and provides that any leave that is paid by a State or local government or required by State or local law shall be taken into account in determining the amount of paid family and medical leave provided by the employer, but shall not be taken into account in determining the amount of the paid family and medical leave credit under section 45S(a).

The bill also amends section 280C to prohibit a deduction for the portion of premiums paid or incurred for the taxable year that is equal to that portion of the paid family and medical leave credit that is determined for the taxable year under new section 45S(a)(1)(B). The bill also directs the Small Business Administration and the IRS to conduct outreach regarding the section 45S credit. The amendments made to section 45S apply to taxable years beginning after December 31, 2025.

Depreciation

Section 168(k) provides an additional first-year depreciation allowance (commonly referred to as "bonus depreciation") for qualified property, the deduction for which is equal to the applicable percentage of the qualified property's adjusted basis. For qualified property placed in service after September 27, 2017, and before January 1, 2023, or January 1, 2024, for property with longer production periods and plants bearing fruits and nuts ("specified plants"), the applicable percentage is equal to 100 percent, with a 20 percent phase down for each year thereafter.

Extension of bonus depreciation for qualified property: The House bill would amend the definition of "qualified property" under section 168(k)(2)(A)(iii) to include certain property that is placed in service by the taxpayer and specified plants that are planted or grafted before January 1, 2030 (or January 1, 2031, for property with longer production periods). It would also modify the applicable percentage of bonus depreciation for qualified property acquired before January 20, 2025 and placed in service after December 31, 2026 (or December 31, 2027, for property with longer production periods) to 0 percent, and add a new rule to define "applicable percentage" as 100 percent for specified plants that are planted or grafted and qualified property acquired and placed in service after January 19, 2025 and before January 1, 2030 (or January 1, 2031 for property with longer production periods).

Additionally, the proposal provides a conforming amendment to section 460(c)(6)(B), which makes permanent the special rule for allocation of bonus depreciation on property that has a recovery period of 7 years or less, to determine the percentage of completion with respect to a long-term contract.

These amendments would be effective for property acquired and placed in service after January 19, 2025, and specified plants planted or grafted after January 19, 2025.

Energy Credits

The Ways and Means Committee's proposed tax bill would extend, modify, terminate, or phase-out several current-law energy credits including credits and incentives added by the Inflation Reduction Act (IRA), which was enacted in 2022 and was a central piece of the Biden administration's climate agenda. The revisions are projected to generate significant revenue, making them a key component of the GOP's broader effort to keep the package within the net tax cut limit set in the budget resolution. Some of the provisions affected by the proposed changes involve restrictions related to foreign entities.

Restrictions related to prohibited foreign entities (sections 48E, 45Y, 45X, 45Q, 45U, 45Z, and certain geothermal heat pump property under section 48): The bill would add certain restrictions and prohibitions related to foreign entities for taxpayers intending to claim credits under sections 48E, 45Y, 45X, 45Q, 45U, 45Z and certain geothermal heat pump property as described in section 48(a)(3)(A)(iii). Generally, the bill restricts taxpayers who receive material assistance from "prohibited foreign entities" from accessing certain credits beginning one year after the date of enactment of the proposed bill. The bill would add section 7701(a)(51), which defines a "prohibited foreign entity" as (i) a specified foreign entity or (ii) a foreign influenced entity.

Additionally, taxpayers that are "specified foreign entities" may not be eligible for certain credits for tax years beginning after the date of enactment of the bill. The bill would add section 7701(a)(51)(B), which defines" specified foreign entity" as any of the following:

i. A foreign entity of concern described in subparagraph (A), (B), (D), or (E) of section 9901(8) of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021 (Public Law 116 – 283; 15 USC. 4651),
ii. An entity identified as a Chinese military company operating in the United States in accordance with section 1260H of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021 (Public Law 116 – 283; 10 USC. 113 note),

iii. An entity included on a list required by clause (i), (ii), (iv), or (v) of section 2(d)(2)(B) of Public Law 117 – 78 (135 Stat. 1527),
iv. An entity specified under section 154(b) of the National Defense Authorization Act for Fiscal Year 2024 (Public Law 118 – 31; 10 USC. note prec. 4651), or
v. A foreign-controlled entity.

The bill proposes that taxpayers that are considered "foreign-influenced" may not be eligible for certain credits for taxable years beginning after two years after the date of enactment of the bill. The bill would add section 7701(a)(51)(D), which defines "foreign-influenced entity" as an entity:

i. With respect to which, during the taxable year –
    i. A specified foreign entity has the direct or indirect authority to appoint a covered officer of such entity,
    ii. A single specified foreign entity owns at least 10 percent of such entity,
    iii. One or more specified foreign entities own in the aggregate at least 25 percent of such entity, or
    iv. At least 25 percent of the debt of such entity is held in the aggregate by one or more specified foreign entities, or
ii. Which, during the previous taxable year:
    i. Makes a payment of dividends, interest, compensation for services, rentals or royalties, guarantees or any other fixed, determinable, annual, or periodic amount to a specified foreign entity in an amount which is equal to or greater than 10 percent of the total of such payments made by such entity during such taxable year, or
    ii. Makes payments described in subclause (I) to more than 1 specified foreign entity in an amount which, in the aggregate, is equal to or greater than 25 percent of the total of such payments made by such entity during such taxable year.

Clause (ii) applies only if the entity makes the payments knowingly (or has a reason to know).

Additionally, the bill would add section 7701(a)(52) defining the term "material assistance from a prohibited foreign entity" as, with respect to any property,

i. Any component, subcomponent, or applicable critical mineral (as defined in section 45X(c)(6)) included in such property that is extracted, processed, recycled, manufactured, or assembled by a prohibited foreign entity, and
ii. Any design of such property which is based on any copyright or patent held by a prohibited foreign entity or any know-how or trade secret provided by a prohibited foreign entity.

The term does not include any assembly part of constituent material, provided that such part or material is not acquired directly from a prohibited foreign entity. Assembly part means a subcomponent or collection of subcomponents which is:

i. Not uniquely designed for use in the construction of a qualified facility described in section 45Y or 48E or an eligible component described in section 45X, and
ii. Not exclusively or predominantly produced by prohibited foreign entities.

Extension and modification of clean fuel production credit and repeal of transferability of clean fuel production credit: The bill would modify the section 45Z clean fuel production credit and extend it to apply to fuel produced and sold before December 31, 2031. For fuel sold after December 31, 2025, the fuel must be exclusively derived from a feedstock produced or grown in the United States, Mexico, or Canada. The provision also modifies the determination of emissions rates for taxable years beginning after December 31, 2025; specifically, the lifecycle greenhouse gas emissions shall be adjusted to exclude any emissions attributed to indirect land use change, based on regulations or methodologies determined by the Secretary of Treasury, in consultation with the Administrator of the Environmental Protection Agency and the Secretary of Agriculture. Additionally, with respect to transportation fuels derived from animal manure (*e.g.*, renewable natural gas), a distinct emissions rate shall be provided with respect to each of the specific feedstocks used to produce such fuel, including dairy manure, swine manure, poultry manure, and such other sources determined appropriate by the Secretary of Treasury.

The bill would also add restrictions related to prohibited foreign entities. If the bill is enacted, no credit will be allowed for taxable years beginning after the date of enactment if the taxpayer is a specified foreign entity as defined in new paragraph (51)(B) of section 7701(a). For taxable years that begin after the date that is two years after enactment of the bill, no credit shall be allowed if the taxpayer is a foreign-influenced entity as defined in new paragraph (51)(D) of section 7701(a). The bill also repeals transferability under section 6418 of the section 45Z credit for fuel produced after December 31, 2027.

Termination of previously owned clean vehicles credit: Under current law, the section 25E credit is available for vehicles acquired after December 31, 2022, and before December 31, 2032. The bill would terminate the credit with respect to any vehicle acquired after December 31, 2025.

Termination of clean vehicle credit: Under current law, the section 30D credit, as amended by the IRA, is generally available for vehicles placed in service after December 31, 2022, and before December 31, 2032. The bill would terminate the credit with respect to any vehicle acquired after December 31, 2026. The bill includes a special rule for the 2026 tax year: Any vehicle placed in service between January 1, 2026, and December 31, 2026, will not qualify as a new clean vehicle if the manufacturer produced more than 200,000 covered vehicles (*i.e.*, new qualified plug-in electric drive motor vehicles and new clean vehicles) during the period from December 31, 2009, through December 31, 2025. The bill also adds controlled group rules similar to those in section 30B(f)(4) for purposes of the special rule for taxable year 2026.

Termination of qualified commercial clean vehicle credit: Under current law, the section 45W credit is available for commercial clean vehicles acquired after December 31, 2022, and before December 31, 2032. The bill would terminate the credit with respect to any vehicle acquired after December 31, 2025. The bill provides an exception that the new termination date will not apply with respect to commercial clean vehicles placed in service before January 1, 2033 and which were acquired pursuant to a binding written contract entered into before May 12, 2025.

Termination of alternative fuel vehicle refueling property credit: Under current law, the section 30C credit, as amended by the IRA, is available for property placed in service after December 31, 2022 and before December 31, 2032. The bill would terminate the credit with respect to any alternative fuel vehicle refueling property placed in service after December 31, 2025.

Termination of energy efficient home improvement credit: Under current law, the section 25C credit, as amended by the IRA, applies to certain energy efficient home improvement property placed in service after December 31, 2022, and before December 31, 2032. The bill would terminate the credit with respect to property placed in service after December 31, 2025.

Termination of residential clean energy credit: Under current law, the section 25D credit, as amended by the IRA, applies to certain residential clean energy property with respect to expenditures made after December 31, 2021 (after December 31, 2022, in the case of residential qualified battery storage technology expenditures) and before December 31, 2034. The bill would terminate the credit with respect to any property placed in service after December 31, 2025.

Termination of new energy efficient home credit: Under current law, the section 45L credit, as amended by the IRA, applies to qualified new energy efficient homes acquired after December 31, 2022, and before December 31, 2032. The bill would terminate the credit with respect to any qualified new energy efficient home acquired after December 31, 2025 (or December 31, 2026, in the case of any home for which construction began before May 12, 2025).

Phase-out and restrictions on clean electricity production credit: The proposed bill would modify the clean electricity production credit under section 45Y by accelerating the phase-out percentage rules and adding restrictions related to prohibited foreign entities. The amendment to the phase-out percentage rules reduces the credit amount to: (1) 80 percent for facilities placed in service in calendar year 2029; (2) 60 percent for facilities placed in service in calendar year 2030; and (3) 40 percent for facilities placed in service in calendar year 2031; and (4) no credit is available for facilities placed in service after calendar year 2031. In addition, the bill adds several restrictions related to prohibited foreign entities. First, the proposed bill provides that the term “qualified facility” does not include any facility for which construction begins one year after the enactment of this proposed bill if the construction includes any material assistance from a prohibited foreign entity as defined under section 7701(a)(52). The proposed bill also provides that for any taxable year beginning after enactment of the proposed bill, no credit is allowed if the taxpayer is a specified foreign entity as defined in section 7701(a)(51)(B). Finally, the proposed bill provides that for taxable years beginning after the date that is two years after enactment of the bill, no credit is allowed if the taxpayer: (1) is a foreign-influenced entity as defined in section 7701(a)(51)(D), or (2) makes fixed, determinable, and annual, or periodic amount payments to one prohibited foreign entity as defined under section 7701(a)(51) that are 5 percent or more of the total payments related to the production of electricity or to more than one prohibited foreign entity if the aggregate payments are 15 percent or more of such total payments.

The proposed bill would eliminate section 45Y from the definition of “eligible credit” for purposes of a transfer election under section 6418 for certain facilities that fail to be safe harbored under a special 2-year transition rule. That 2-year transition rule permits facilities, the construction of which begins before the date that is 2 years after the date of enactment of the proposed bill, to continue to be eligible for transferability provided such facilities are placed in service before or within the phase-out period described above (2029 through 2031). As a result, the clean electricity production credits under section 45Y is expected to remain eligible for transferability for the entirety of the 10-year tax credit period provided construction is begun on such facilities before or within 2 years of the date of enactment of the proposed bill.

Phase-out and restrictions on clean electricity investment credit: The proposed bill would modify the clean electricity investment credit under section 48E by accelerating the phase-out percentage rules and adding restrictions related to prohibited foreign entities. The amendment to the phase-out percentage rules reduces the credit amount to 80 percent, 60 percent, and 40 percent for facilities or energy storage technology placed in service in 2029, 2030, and 2031, respectively and no credit is available for those placed in service after 2031.

In addition, the bill would add several restrictions related to prohibited foreign entities. First, the proposed bill provides that the term “qualified facility” and the term “energy storage technology” does not include any facility or property for which construction begins one year after the enactment of this proposed bill if the construction includes any material assistance from a prohibited foreign entity under section 7701(a)(52). The proposed bill also provides that for any taxable year beginning after enactment of the proposed bill, no credit is allowed if the taxpayer is a specified foreign entity as defined in section 7701(a)(51)(B). Finally, the proposed bill provides that for taxable years beginning after the date that is two years after enactment of the bill, no credit is allowed if the taxpayer (i) is a foreign-influenced entity as defined in section 7701(a)(51)(D) or (ii) makes fixed, determinable, and annual, or periodic amount payments to one prohibited foreign entity as defined under section 7701(a)(51) that are 5 percent or more of the total payments during the taxable year related to the production of electricity or the storage of energy or to more than one prohibited foreign entity if the aggregate payments are 15 percent or more of such total payments.

The proposed bill also would modify certain recapture provisions under section 50(a) by adding restrictions related to payments made by taxpayers to prohibited foreign entities. Generally, the amount of the section 48E credit is fully recaptured if a specified taxpayer makes an applicable payment within 10 years after the facility is placed in service. A “specified taxpayer” is any taxpayer who has been allowed a section 48E credit for any taxable year beginning after the date which is 2 years after the enactment of the proposed bill. An “applicable payment” with respect to any taxable year is defined as a fixed, determinable, and annual, or periodic amount payment to one prohibited foreign entity as defined under section 7701(a)(51) that is 5 percent or more of the total payments related to the production of electricity or the storage of energy or to more than one prohibited foreign entity if the aggregate payments are 15 percent or more of such total payments.

The proposed bill eliminates section 48E from the definition of “eligible credit” for purposes of a transfer election under section 6418 for certain facilities and energy storage technology that fail to be safe harbored under a special 2-year transition rule. That 2-year transition rule permits facilities and energy storage technology, the construction of which begins before the date that is 2 years after the date of enactment of the proposed bill, to continue to be eligible for transferability provided such facilities and energy storage technology are placed in service before or within the phase-out period described above (2029 through 2031). As a result, the clean electricity investment credit under section 48E is expected to remain eligible for transferability for certain facilities and energy storage technology provided construction is begun on such facilities or property before or within 2 years of the date of enactment of the proposed bill.

The proposed bill also eliminates the low-income communities bonus credit program under section 48E(h) after calendar year 2031 and requires all property receiving an allocation under this program to be placed in service no later than 2031, regardless of the date of the allocation, or 4 years after the date of the allocation if such date is earlier than 2031.

Restrictions on carbon oxide sequestration credit: The bill would modify the section 45Q credit by adding restrictions related to prohibited foreign entities, providing that for any taxable year beginning after enactment of the bill, no credit shall be allowed if the taxpayer is a specified foreign entity as defined in new paragraph (51)(B) of section 7701(a). Additionally, for taxable years beginning after the date that is two years after enactment of the bill, no credit shall be allowed if the taxpayer is a foreign-influenced entity as defined in new paragraph (51)(D) of section 7701(a). The bill also amends section 6418(f)(1) so that an election to transfer the section 45Q(a) credit for carbon capture equipment cannot be made where the construction of such property begins more than two years after the date of enactment of the bill.

Phase-out and restrictions on zero-emission nuclear power production credit: The proposed bill would amend the zero-emissions nuclear power production credit under section 45U by adding new phase-out rules and restrictions to prohibited foreign entities. The phase-out rules provide that for any taxable year beginning after December 31, 2028, the amount of the credit shall be equal to the product of the amount of the credit, multiplied by the phase-out percentage. The phase-out percentages are as follows: (1) 80 percent for any taxable year beginning in calendar year 2029; (2) 60 percent for any taxable year beginning in calendar year 2030; (3) 40 percent for any taxable year beginning in calendar year 2031, and (4) no credit is available for any taxable year beginning after December 31, 2031. The addition of the restrictions related to prohibited foreign entities provides that for any taxable year beginning after enactment of the bill, no credit shall be allowed if the taxpayer is a specified foreign entity as defined in new paragraph (51)(B) of section 7701(a). Additionally, for taxable years beginning after the date that is two years after enactment of the bill, no credit shall be allowed if the taxpayer is a foreign-influenced entity as defined in new paragraph (51)(D) of section 7701(a).

Finally, the proposed bill would eliminate section 45U(a) from the definition of "eligible credit" for a transfer election under section 6418. This change is proposed to apply to electricity produced and sold after December 31, 2027.

Termination of clean hydrogen production credit: Under current law, the section 45V credit is available beginning on January 1, 2023, for hydrogen produced during a 10-year period at a clean hydrogen production facility, the construction of which begins before January 1, 2033. The bill would terminate the credit for clean hydrogen production facilities, the construction of which begins after December 31, 2025.

Phase-out and restrictions on advanced manufacturing production credit: The proposed bill would modify the advanced manufacturing production credit under section 45X by accelerating the phase-out percentage rules, replacing section 45X(b)(3)(C), and adding restrictions related to prohibited foreign entities. The amendment to the phase-out percentage rules accelerated the phase-out to i) 75 percent in the case of an eligible component sold during calendar year 2030, ii) 50 percent in the case of an eligible component sold during calendar year 2031, and iii) 0 percent in the case of an eligible component sold after December 31, 2031.

In addition, the proposed bill would modify section 45X(b)(3)(C) and would provide that the advanced manufacturing production credit shall not apply to wind energy component sold after December 31, 2027.

In addition, the restrictions related to prohibited foreign entities provide that in the case of taxable years beginning after the date which is two years after the enactment of this proposed bill, the definition of the term "eligible component" under section 45X(c)(1) shall not include any property which: (1) includes any material assistance from a prohibited foreign entity under section 7701(a)(52), or (2) is produced subject to a licensing agreement with a prohibited foreign entity under section 7701(a)(51) for which the value of such agreement is in excess of $1,000,000.

Additionally, the proposed bill would add to the special rules under section 45X(d) restrictions relating to prohibited foreign entities, providing that no credit shall be allowed for any taxable year beginning after the date of enactment of this proposed bill, if the taxpayer is a specified foreign entity as defined in new paragraph (51)(B) of section 7701(a).

Also, for taxable years beginning after the date that is two years after enactment of the bill, no section 45X credit shall be allowed if the taxpayer is a foreign-influenced entity as defined in new paragraph (51)(D) of section 7701(a).

Moreover, the proposed bill would provide that no section 45X credit shall be determined for any taxable year beginning after the date that is two years after the enactment of this bill, if a taxpayer with respect to a component category (eligible components which are included within each respective clause under section 45X(c)(1)(A)): (1) makes a payment of dividends, interest, compensation for services, rentals or royalties, guarantees or any other fixed, determinable, annual, or periodic amount to a prohibited foreign entity under section 7701(a)(51) in an amount equal or greater than 5 percent of the total of such payments during such taxable year which are related to the production of eligible components included within such eligible component category; or (2) makes the listed payments to more than one prohibited foreign entity in an amount which, in aggregate, is equal to fifteen percent of such payments during such taxable year which are related to the production of eligible components included within such eligible component category.

Finally, the proposed bill would eliminate from the definition of "eligible credit" the advanced manufacturing production credit determined under section 45X and amends cross references to such credit with regards to basis reduction and recapture. These changes are proposed to apply to components sold after December 31, 2027.

Phase-out of credit for certain energy property: The proposed bill accelerates the time limitation for geothermal energy property (equipment which uses the ground or ground water as a thermal energy source to heat a structure or as a thermal energy sink to cool a structure) to qualify for the investment credit under section 48 from “property the construction of which begins before January 1, 2035” to “property the construction of which begins before January 1, 2032”. In addition, the proposed bill accelerates the phase-out rules applicable to geothermal energy property under section 48(a)(7) providing that the energy percentage shall be equal to: (1) 6 percent for property the construction of which begins before January 1, 2030, and which is placed in service after December 31, 2021; (2) 5.2 percent for property the construction of which begins after December 31, 2029, and before January 1, 2031; and (3) 4.4 percent for property which the construction of which begins after December 31, 2030, and before January 1, 2032.

In addition, bill would add restrictions related to prohibited foreign entities, providing that for any taxable year beginning after enactment of the bill, no credit shall be allowed if the taxpayer is a specified foreign entity as defined in new paragraph (51)(B) of section 7701(a). Additionally, for taxable years beginning after the date that is two years after enactment of the bill, no credit shall be allowed if the taxpayer is a foreign-influenced entity as defined in new paragraph (51)(D) of section 7701(a). Finally, the proposed bill amends section 6418(f)(1)(A)(iv), as redesignated by section 112014 of the bill, by inserting “(except so much of the credit as is determined under paragraph (3)(A)(viii) of such section)” after “section 48”. This change would exclude a section 48 credit for geothermal energy property from being an “eligible credit” for purposes of a transferability election. This change is proposed to apply to geothermal energy property the construction begins after the date that is 2 years after the date of enactment of the proposed bill.

Summary of modifications to section 6418 transferability: Various sections of the bill (as described above) propose to repeal certain credits from qualification as “eligible credits”, and therefore, the elective transfer under section 6418, with different effective dates. These rules are summarized in the table below.

Credits	Effective Date
Clean electricity production credit determined under section 45Y.	Proposed to apply to facilities for which construction begins after the date that is 2 years after the date of enactment of the proposed bill.
Clean electricity investment credit determined under section 48E.	Proposed to apply to facilities and energy storage technology for which construction begins after the date that is 2 years after the date of enactment of the proposed bill.
Clean fuel production credit determined under section 45Z.	Proposed to apply to fuel sold after December 31, 2027.
Credit for carbon oxide sequestration determined under section 45Q.	Proposed to apply to carbon capture equipment the construction of which begins after the date that is 2 years after the date of enactment of the proposed bill
Zero-emission nuclear power production credit determined under section 45U.	Proposed to apply to electricity produced and sold after December 31, 2027.

Credits	Effective Date
Advanced manufacturing production credit determined under section 45X.	Proposed to apply to components sold after December 31, 2027.
Investment tax credit under section 48 derived from equipment which uses the ground or ground water as a thermal energy source to heat a structure or as a thermal energy sink to cool a structure.	Proposed to apply to property the construction begins after the date that is 2 years after the date of enactment of the proposed bill.

Income from hydrogen storage, carbon capture added to qualifying income of certain publicly traded partnerships treated as corporations: The proposed bill amends section 7704(d)(1)(E) to provide that income and gains derived from the transportation or storage of liquified hydrogen or compressed hydrogen, or certain carbon capture are included in the definition of "qualifying income" for purposes of determining whether a publicly traded partnership will be treated as a corporation.

Economic development tax credits

The Ways and Means Committee's proposed tax bill includes extensions and enhancements to select economic development tax incentives, such as those related to Opportunity Zones. It does not, however, extend the New Markets Tax Credit or enhance and modify the historic rehabilitation tax credit, both of which are scheduled to expire at the end of this year.

Renewal and enhancement of Qualified Opportunity Zone Program: The TCJA, together with the Bipartisan Budget Act of 2018 (P.L. 115-123), created 8,764 qualified opportunity zone ("QOZ") census tracts, nominated by chief executive officers ("CEOs") of each of the 50 states, the District of Columbia, and five territories (each, a "state"). Through their CEOs (governors, or mayor in the case of the District of Columbia), each of those sub-national governments nominated a limited number of low-income communities ("LICs"), as defined by section 45D(e), and certain non-LIC contiguous tracts for designation as QOZs by the US Treasury Secretary. State CEOs were generally given between 90 and 120 days after the 2017 tax legislation's enactment to nominate eligible census tracts, including 25 percent of each state's LICs, or 25 census tracts for states with fewer than 100 LICs. For this purpose, an LIC was generally defined as a census tract with (1) a poverty rate of at least 20 percent or (2) a median family income that does not exceed 80 percent of the statewide median family income (or, if greater, for census tracts located in metropolitan areas, 80 percent of the median family income within that metropolitan area). Non-LIC tracts could be designated under the original QOZ program along with LIC QOZs if the median family income did not exceed 125 percent of the median family income of the LIC QOZ with which it was contiguous.
URL: https://www.congress.gov/bill/115th-congress/house-bill/1892/text

The QOZ program offers three incentives for taxpayers investing in QOZs through a Qualified Opportunity Fund ("QOF") under section 1400Z-2(a) through (c). First, a taxpayer may defer federal income tax on eligible capital gains realized on a sale or exchange of property with an unrelated person before 2027 (using a 20 percent standard for relatedness under section 1400Z-2(e)(2)), which are timely rolled over within 180 days into an investment in a QOF, until December 31, 2026, unless the QOF investment is sold before then (the "deferral benefit"). In addition, a step-up in basis for deferred gains reinvested in a QOF was available to a taxpayer on the fifth and seventh anniversary of the QOF investment, which allowed taxpayers that invested in QOFs by 2019 and 2021, to respectively exclude up to 15 or 10 percent of the originally deferred gain from taxation when realized at the end of 2026 (the "front-end basis step-up" and together with the deferral benefit, the "front-end incentives"). Finally, after recognizing any remaining amount of the original deferred gain (less excluded amounts) on December 31, 2026, a taxpayer who holds an investment in a QOF for at least 10 years before selling it may elect to permanently exclude any additional gains realized on the sale or exchange of the QOF investment by stepping up the basis of the QOF investment to fair market value immediately before such sale or exchange (the "back-end basis step-up"). The temporary deferral election and 10 – 15 percent front-end basis step-up apply to a taxpayer's gain reinvested in a QOF, while the permanent exclusion election only applies to gain on the sale or exchange of a QOF investment accrued since the taxpayer acquired the investment.

To avoid penalties, the QOF must invest 90 percent of its assets in QOZ property, including QOZ business property ("QOZBP") or a QOZ partnership interest or QOZ stock in a QOZ business ("QOZB"), substantially all of the tangible property of which consists of QOZBP. QOZBP is generally defined as tangible business property acquired by purchase from an unrelated person after 2017, which is either originally used by the business within a QOZ or substantially improved by the QOZB (or QOF), provided that substantially all of the use of the property is within a QOZ. For this purpose, non-original-use tangible property is considered substantially improved if, within a 30-month period, the QOZB (or QOF) makes additions to the property's basis exceeding its basis at the beginning of such period (*i.e.*, the "100 percent substantial-improvement threshold").

New QOZ designations and sunset of current QOZs: The bill would create a second round of QOZ designations, with certain modifications designed to narrow the range of census tracts eligible for designation by state CEOs as QOZs and increase the number of QOZs in rural areas. First, state CEOs will not be allowed to nominate any non-LIC contiguous tracts as part of the second round of QOZs, which will occur during the 90-to-120-day period following enactment of the proposed bill. Second, for purposes of this second round of QOZ designations, section 45D(e)'s definition of LIC will be modified so that only census tracts with a poverty rate of at least 20 percent or a median family income that does not exceed 70 percent (rather than 80 percent) of the applicable area median family income will be eligible for designation as QOZs and, for census tracts eligible for designation based on a 20-percent poverty rate, no census tract will be eligible for designation as a QOZ if the tract's median family income is at least 125 percent of the statewide median family income (or, in the case of metropolitan tracts, 125 percent of the metropolitan area median family income). Third, state CEOs will be required to designate at least 33 percent of their second-round QOZs within "rural areas," as defined in section 343(a)(13)(A) of the *Consolidated Farm and Rural Development Act* ("rural QOZ"). If fewer than 33 percent of a state's eligible QOZs are rural QOZs, all of that state's rural QOZs must be designated as QOZs as part of its second round of QOZ designation.

The second round of designated tracts will be treated as QOZs between 2027 and 2033, with all previously designated QOZs sunsetting after 2026. Presumably, this will preclude new investments in census tracts designated as QOZs in 2018 from being eligible for QOZ tax benefits with respect to investments made there after 2026.

Enhanced QOZ incentives for post-2026 and rural QOF investments: The bill would further simplify the front-end incentives for taxpayers investing, through QOFs, into QOZs after 2026. Under the bill, taxpayers that made or make investments in a QOF before 2027 would be subject to the QOZ program's rules under the 2017 Tax Act. Thus, taxpayers that invested in a QOF between 2022 and 2026 would not be eligible for any front-end basis step-up and would be subject to a mandatory end of the deferral benefit on December 31, 2026. However, taxpayers that make investments in a QOF after 2027 would be eligible for deferral of eligible gain through December 31, 2033, and would receive a single front-end basis step-up of 10 percent if the QOF investment is held for at least five years. Furthermore, a taxpayer that invests in a newly defined "qualified rural opportunity fund" would be eligible for a front-end basis step-up of 30 percent when the QOF investment is held for at least five years. For this purpose, a "qualified rural opportunity fund" is defined as a QOF that holds at least 90 percent of its assets in either (a) QOZBP substantially all of the use of which, during substantially all of the QOF's holding period, is in a rural QOZ, or (b) QOZ stock or a QOZ partnership interest in a QOZB, substantially all of the tangible property owned or leased of which is QOZBP substantially all of the use of which is in a rural QOZ. To further stimulate investments in rural QOZs, the bill provides a special rule that lowers the 100 percent substantial-improvement threshold for non-original-use QOZBP owned by a QOZB (or QOF) to 50 percent in the case of tangible property located in a rural QOZ.

In addition, the bill includes a provision that would allow taxpayers to invest up to $10,000 of previously taxed ordinary income, rather than eligible capital gain, into a QOF or qualified rural opportunity fund. While such QOF investments would not be eligible for any of the front-end incentives of the QOZ program, including the deferral benefit and front-end basis step-up, the taxpayer would potentially be eligible for the QOZ program's back-end basis step-up to fair market value of a QOF investment attributable to such ordinary income when the QOF investment is held for at least 10 years.

Finally, the bill proposes to add reporting requirements for QOFs and qualified rural opportunity funds, including, but not limited to, information on the aggregate value of QOZ property held by each such QOF on its semiannual testing dates and the number of full-time equivalent employees for the year of the trades or businesses of such QOF. Note that, even though these QOZ reporting rules are generally bipartisan in nature, similar reporting measures originally proposed by the House were struck from the 2017 TCJA's QOZ program under the Senate's Byrd Rule as extraneous and therefore ineligible for reconciliation, meaning it is unclear how these provisions would survive this reconciliation process this year.

Modifications to Low-Income Housing Credit: The bill would increase the state housing credit ceiling for allocation of the 9 percent low-income housing tax credit ("LIHTC") by 12.5 percent for calendar years 2026 through 2029, and would increase the availability of the 4 percent low-income housing tax credit for projects financed with tax-exempt private activity bonds by reducing the tax-exempt bond financing threshold from at least 50 percent of the aggregate basis of the building and land to 25 percent for tax-exempt private activity bonds issued between 2026 and 2029.

The bill would treat buildings placed in service between January 1, 2026, and December 31, 2029, in certain Indian areas and rural areas as being in "difficult development areas" for which taxpayers may be eligible for a

30 percent increase in the LIHTC for new buildings and existing buildings treated as separate buildings for purposes of the LIHTC.

International provisions

The House Ways and Means Committee's tax proposal includes several significant international tax provisions that build on the framework established by the TCJA. In addition, the proposal introduces a new enforcement mechanism – proposed section 899 – aimed at countering what lawmakers view as discriminatory foreign tax regimes.

Extension of deduction for Global Intangible Low-Taxed Income ("GILTI") and Foreign-Derived Intangible Income ("FDII"): The bill would permanently extend the current percentage deductions related to a taxpayer's GILTI inclusion (and related section 78 gross-up) and FDII. The deduction related to GILTI (and the related section 78 gross-up) would continue to be 50 percent for taxable years after 2025, and the deduction related to FDII would continue to be 37.5 percent.

The bill would also exclude from the definition of "tested income" any gross income related to certain services performed by individuals in the US Virgin Islands for purposes of computing a GILTI inclusion of an individual, trust, estate, and certain closely held C corporations.

Extension of Base Erosion Minimum Tax ("BEAT") amount: The bill would permanently extend the existing 10 percent BEAT rate (other than as provided for under proposed section 899 – see below) as well as the preferential treatment for a portion of a taxpayer's section 38 credits and section 41 research credit.

Section 899 enforcement of remedies against unfair foreign taxes: The bill would add proposed section 899, which would increase tax rates on certain foreign persons in jurisdictions that are determined to impose an unfair foreign tax. The bill would impact investors from foreign countries that have enacted such taxes. It would also be expected to both increase the number of corporations subject to the BEAT and increase the amount due under BEAT for certain taxpayers. For purposes of proposed section 899, an unfair foreign tax generally includes an undertaxed profits rule (UTPR), a digital services tax (DST) and certain other foreign taxes.

Proposed section 899 would generally increase tax rates applicable to fixed, determinable, annual, or periodical (FDAP) income; effectively connected income (ECI); the branch profits tax; and the tax imposed by section 4948(a) of certain foreign persons in 5 percentage point increments per year, not to exceed 20 percentage points. The percentage point increases in the tax rates would apply on top of the current statutory rate or the rate afforded under an applicable tax treaty. However, for foreign individuals, the tax increase on ECI is limited to such persons' Foreign Investment in Real Property Tax Act (FIRPTA) gains. With respect to withholding taxes, the bill would similarly increase rates of withholding by 5 percentage points per year under each of section 1441 (other than the 14 percent rate specified in section 1441(a)), section 1442, and section 1445. The impact of these changes is unclear with respect to the portfolio interest exemption in section 871(h) and the exception for qualified foreign pension funds in section 897(l).

Considering the delayed effective date of these provisions (see below), taxpayers that can control when they make FDAP payments will want to consider making any such payments within their control to affected foreign persons prior to the application of section 899.

Proposed section 899 would apply to "applicable persons," which includes (i) governments of discriminatory foreign countries, (ii) certain individual tax residents of discriminatory foreign countries, (iii) certain foreign corporations tax resident in discriminatory foreign countries, (iv) private foundations created or organized in discriminatory foreign countries, and (v) certain trusts. The section does not apply to US citizens or residents or certain foreign corporations owned 50 percent or more by United States persons as described in section 904(h)(6).

The tax increases on foreign persons (other than withholding taxes) in proposed section 899 would apply as of the first day of the first calendar year beginning on or after the latest of three dates: (i) 90 days after enactment of proposed section 899, (ii) 180 days after enactment of an unfair foreign tax, or (iii) the first date that an unfair foreign tax begins to apply. The application of the rate increases for withholding agents appears to be limited in many cases until the Treasury Department publishes a list of counties imposing an unfair foreign tax.

New section 899 would also modify the applicability application of BEAT to certain corporations in which more than 50 percent of the total combined voting and total value of their stock is owned (within the meaning of section 958(a)) by applicable persons (defined above). Such corporations (1) are deemed to satisfy the base erosion percentage and gross receipts tests; (2) are subject to an increased 12.5 percent BEAT rate; (3) do not benefit from the favorable treatment of section 41 credits and applicable section 38 credits, (4) cannot apply exceptions for amounts qualifying for the services costs method ("SCM") or subject to US withholding tax; and (5) must treat amounts capitalized that (a) are not the purchase price of depreciable or amortizable property or inventory, and (b) that otherwise are treated as base erosion payments (BEPs) as deductions for purposes of calculating BEPs and base erosion tax benefits (BETBs).

Passthrough entities

The House proposal permanently extends and enhances the passthrough business deduction – a key provision originally enacted under the TCJA.

Extension of deduction for qualified business income and permanent enhancement: Under current law, section 199A generally provides for a potential deduction to an individual, estate, or trust of up to 20 percent of the qualified business income (QBI) from certain domestic trades or businesses operated as a sole proprietorship or through a partnership, S corporation, trust, or estate subject to certain limitations, as well as a deduction of up to 20 percent of the aggregate real estate investment trust (REIT) dividends and qualified publicly traded partnership (PTP) income (Combined QBI). The Combined QBI deduction cannot exceed 20 percent of taxable income less net capital gain. In addition, section 199A is available to certain patrons of cooperatives, however, special rules are provided for specified agricultural or horticultural cooperatives and their patrons.

For taxpayers above certain taxable income thresholds, the section 199A deduction may be limited based on the W-2 wages and/or the unadjusted basis immediately after acquisition of qualified property (W-2 and Basis limitation). Above those income thresholds, the deduction is phased out if the business is a specified services trade or business (SSTB). Section 199A applies to taxable years beginning after December 31, 2017, and is scheduled to expire for taxable years beginning after December 31, 2025.

The legislation makes five modifications to section 199A. The first modification makes permanent the deduction for QBI (including the deduction for REIT dividends and qualified PTP income) and the deduction for income attributable to certain activities of specified agricultural or horticultural cooperatives. The second modification increases the percentage used to calculate the deduction for QBI from 20 percent to 23 percent, including the percentage of the aggregate amount of the taxpayer's qualified REIT dividends and qualified PTP income for the taxable year used to calculate the Combined QBI amount. The third modification adjusts the phase-in of limitations by replacing the existing phase-in of the W-2 and Basis limitation and SSTB limitation with a two-step process for taxpayers whose taxable income exceeds the threshold amount. Specifically, instead of phasing in these limitations based on taxable income, these limitations phase in at a fixed rate. The fourth modification allows a taxpayer to include qualified BDC (business development company) interest dividends, which are generally any dividend received from a business development company that has elected to be treated as a regulated investment company to the extent the net interest income is attributable to a qualified trade or business, in the aggregated qualified REIT dividends and qualified PTP income used to calculate the Combined QBI amount. The fifth modification indexes the threshold amounts for inflation for taxable years beginning after 2025.

The modifications to section 199A, as discussed above, apply to taxable years beginning after December 31, 2025.

Passthrough entity tax: The House proposal would make changes to the treatment of the passthrough entity tax (PTET) and other state and local tax (SALT) cap workaround regimes. The proposal would be effective for tax years beginning after December 31, 2025.

The proposal would reverse Notice 2020-75, which had approved the use of PTET workarounds, and would put in place a variety of provisions designed to ensure that partners and S corporation shareholders cannot achieve deductibility for most state and local taxes ("specified taxes") by causing their partnerships or S corporations to pay them. The proposal would permit passthrough entities operating a trade or business to continue to deduct certain state and local taxes ("excepted taxes") under a narrow set of circumstances. Notably, that exception would not apply to most services businesses (defined by cross-reference to section 199A), including investment management businesses. In addition, the proposal would treat "substitute payments" as specified taxes subject to the limitation (apparently targeting the charitable contribution workarounds disallowed by regulations issued in 2019).

The proposal would amend section 702 to require any state, local, and foreign tax expenses to be separately stated by partnerships and would modify section 703 to provide that such taxes are not deductible at the partnership level (other than property taxes incurred in a trade or business and "excepted taxes" as noted above). In addition, the proposal would subject state, local, and foreign tax deductions or credits to the basis limitation rule of section 704(d). Similar rules would apply to S corporations and their shareholders. The proposal would also prohibit capitalization of state and local tax expenses.

Finally, the House proposal would establish new section 6659, which would impose a tax on partners benefitting from a "state and local tax allocation mismatch." A mismatch would arise whenever a partnership pays state and local taxes with disparate effect to its partners. The JCT description of the proposal illustrates this provision by describing a partnership in which one partner is an individual that benefits from the partnership's PTET election, while another partner is a C corporation that does not. The partnership's allocation of the PTET expense solely to the C corporation is identified as a "mismatch" to the extent that the individual partner's allocation is disproportionate to the individual partner's sharing percentage in partnership items generally.

Exclusion of interest on loans secured by rural or agricultural real property

Under current law, interest income is included in gross income, however, the taxwriting committee's proposal would exclude 25 percent of the interest received by a qualified lender on a qualified real estate loan from gross income. For this purpose, a qualified lender means (1) a bank or savings association the deposits of which are insured under the Federal Deposit Insurance Act, (2) any state or federally regulated insurance company, (3) any entity wholly-owned by a banking company under section 8 of the International Banking Act of 1978 that is organized and has its principal place of business in the United States, (4) any entity wholly-owned by a state insurance holding company that is organized and has its principal place of business in the United States, or (5) any federally chartered instrumentality of the United States established under section 8.1(a) of the Farm Credit Act of 1971.

A qualified real estate loan is any loan secured by rural or agricultural real estate or a leasehold mortgage on rural or agricultural real estate. The loan must be made to a person other than a specified foreign entity (as defined in section 7701(a)(51)) after the date that this provision is enacted, but prior to January 1, 2029. The exclusion from income would not apply to interest from a loan to the extent proceeds are used to refinance loans that existed prior to the enactment of this provision.

A qualified real estate loan is treated as a tax-exempt obligation for purposes of disallowing interest deductions on indebtedness incurred by qualified lenders to purchase or carry such loan.

These amendments apply to taxable years ending after the date of enactment.

Ordinary income tax rates for individuals

The TCJA made temporary changes to the ordinary income tax rates for individuals, estates and trusts, including a decrease in the top tax bracket from 39.6 percent to 37 percent. The House bill would make those changes permanent. Thus, the top ordinary income tax bracket would continue to be 37 percent.

Under current law, the ordinary income tax brackets are subject to a cost-of-living adjustment to account for inflation. The Ways and Means tax package would generally modify the indexing for inflation for bracket thresholds by providing one additional year of inflation in the cost-of-living adjustment. However, under the bill, the dollar amount at which the 37 percent rate bracket begins, and the 35 percent-rate bracket ends would not be provided this additional year of inflation in the cost-of-living adjustment.

This chart prepared by the Joint Committee on Taxation illustrates the projected individual, estate, and trust income tax rate schedules starting in 2026 under the House bill.
URL: https://dhub.deloitte.com/Newsletters/Tax/2025/TNV/250512_1_suppA.pdf

Individual deductions, personal exemptions, and other items to note

The House proposal would not only make several existing tax relief provisions permanent but also introduces new measures aimed at reducing the tax burden on certain American families and workers.

Standard Deductions: The House bill would repeal the expiration of (and thus permanently extend) the temporary increase to the standard deduction amounts that were enacted under the TCJA. In addition, the House bill would temporarily increase the amount of the standard deduction by $2,000 in the case of married individuals filing a joint return and a surviving spouse, $1,500 in the case of a head of household, and $1,000 in any other case for taxable years beginning after December 31, 2024, and before January 1, 2029. These temporary amounts are not indexed for inflation.

Special added deduction for seniors: The House bill provides for a temporary bonus standard deduction of $4,000 for senior citizens who have reached age 65 for taxable years beginning after December 31, 2024, and before January 1, 2029 (“the senior bonus amount”). The senior bonus amount is phased out for taxpayers with modified adjusted gross income (MAGI) that exceeds $150,000 for taxpayers filing jointly or $75,000 for all other taxpayers. The senior bonus amount is phased out by 4% of the amount that exceeds the indicated MAGI thresholds.

Home Mortgage Interest: The House bill would also make permanent two temporary restrictions on the deduction for home mortgage interest which were enacted under the TCJA. Specifically, under the bill, the $750,000 ($375,000 in the case of a married individual filing separately) limitation on acquisition indebtedness would be made permanent, as would the exclusion of interest on home equity indebtedness from the definition of qualified residence interest. The House bill would retain the existing $1 million limitation for acquisition indebtedness incurred before December 15, 2017, including the refinancing of such indebtedness provided that the refinanced indebtedness does not exceed the principal amount of the refinanced debt.

Personal Casualty Losses: The House bill would also make permanent a temporary restriction enacted under the TCJA with respect to itemized deductions for personal casualty losses (*i.e.*, losses of property not connected with a trade or business or a transaction entered into for profit, if such losses arise from fire, storm, shipwreck, or other casualty, or from theft). Based upon this restriction, any personal casualty loss would continue to be deductible only to the extent it is attributable to a Federally declared disaster.

Miscellaneous itemized deductions: Under the TCJA, miscellaneous itemized deductions (*e.g.*, investment expenses, certain legal fees, and unreimbursed employee business expenses) were temporarily repealed. The House bill would make the repeal permanent.

Itemized deduction limitation: Prior to the TCJA, the amount of certain otherwise allowable itemized deductions of a high-income taxpayer, including charitable contributions, was subject to an itemized deduction phase-out (*i.e.*, the so-called "Pease limitation"). The TCJA temporarily repealed the Pease limitation, and the House bill would make that repeal permanent. However, the House bill would introduce a new limitation whereby itemized deductions would be reduced by 2/37 of the lesser of (1) such amount of itemized deductions, or (2), or so much of the taxpayer's taxable income for the year (determined without regard to this new limitation and increased by the amount of otherwise allowable itemized deductions) as exceeds that dollar amount at which the 37 percent rate bracket begins in respect of the taxpayer.

Personal exemptions: The House bill would permanently extend the TCJA's temporary repeal of the deduction for personal exemptions.

State and local tax deduction: The cap on the SALT deduction has long been a source of tension, particularly among lawmakers from high-tax states. While the Ways and Means Committee has released a proposal to revise the $10,000 cap on the SALT deduction cap, the changes appear unlikely to win over enough members from high-tax states – raising questions about whether there is sufficient support to pass the broader tax package in the House if it is not further amended.

The proposal, which would be effective for tax years beginning after December 31, 2025, would make the cap on the SALT deduction permanent by enacting new section 275(b). Although the provision would increase the SALT cap from $10,000 to $30,000 in the case of married taxpayers filing jointly, the increase to $30,000 is phased out for modified adjusted gross income in excess of $400,000 by 20 percent of the excess. A married taxpayer filing jointly, with modified adjusted gross income of $500,000 would therefore have a SALT cap of $10,000 ($30,000 cap minus 20 percent of the $100,000 amount in excess of $400,000, or $20,000, for a net cap of $10,000). However, the SALT cap cannot go below $10,000 for a married individual filing jointly ($5,000 for married filing separately) regardless of the filer's modified adjusted gross income.

AMT: The TCJA enacted temporary increases to the alternative minimum tax (AMT) exemption amounts for individuals, as well as temporary increases to the income thresholds at which those exemption amounts are phased out. The House bill would repeal the expiration of (and thus permanently extend) those increased AMT exemptions and phase-out thresholds.

No tax on tips: This provision introduces a new above-the-line deduction for individuals during tax years 2025 through 2028 who receive qualified tips in an occupation which traditionally and customarily received tips. A "qualified tip" is an amount that is paid voluntarily without any consequence in the event of nonpayment, is not the subject of negotiation, and is determined by the payor. Qualified tips do not include amounts received by the individual in the course of a specified service trade or business (as defined in section 199A(d)(2)) or as a highly compensated employee (as defined in section 414(q)(1)). A work-eligible Social Security number is required in order to claim the deduction. Certain payors must include qualified tips in statements furnished to the Secretary.

Additionally, this provision would expand the FICA tip tax credit for a portion of the employer-paid Social Security taxes for employee cash tips to include beauty service establishments. The credit applies to tips received in connection with providing beauty services to a customer or client if tipping employees who provide the service is customary. Beauty services include barbering and hair care, nail care, esthetics, and body and spa treatments. A list of "occupations traditionally receiving tips" will be published within 90 days of enactment, if this section is enacted in its current form.

New reporting information for tipped income: The proposal modifies sections 6041, 6041A, and 6050W to require a payor making payment of compensation for services reportable on either Forms 1099-K, 1099-MISC, or 1099-NEC to report both the amounts of the compensation (if amounts exceed the reporting thresholds) but also to (1) separately report the portion of the payments that constitute tips and (2) indicate whether such tips are earned in an occupation described in the new section 224(c)(1) added by the House bill.

No tax on overtime: This provision introduces a new above-the-line deduction for individuals who receive "qualified overtime compensation" during tax years 2025 through 2028. The provision excludes qualified tips (as defined in proposed section 224(c) and amounts received as a highly compensated employee (as defined in section 414(q)(1)). "Qualified overtime compensation" is overtime compensation paid to an individual under Section 7 of the Fair Labor Standards Act of 1938 that is in excess of the regular rate at which such individual is employed. A work-eligible Social Security number is required in order to claim the deduction. Payors must include the total amount of qualified overtime compensation on Form W-2.

Deductibility of car loan interest: This provision creates an above-the-line deduction of up to $10,000 for qualified passenger vehicle loan interest during a given taxable year. This deduction, which begins to be phased out when the taxpayer's modified adjusted gross income exceeds $100,000 ($200,000 in the case of a joint return), is available for interest paid from tax year 2025 through 2028. This provision is expansive and includes numerous types of personal and recreational vehicles within the definition of a qualified passenger vehicle. In addition to specific language dictating which vehicles are considered a qualified passenger vehicle, the provision also establishes that this deduction is only available for vehicles of which final assembly occurs in the United States.

Wagering losses: Losses sustained during a taxable year on wagering transactions are allowed as a deduction only to the extent of the gains during the taxable year from such transactions. The TCJA enacted a temporary provision, described in the legislative history as a “clarification,” that the scope of the term “losses from wagering transactions” includes any deduction allowable under chapter 1 of the Internal Revenue Code. Thus, the limitation on losses from wagering transactions applies not only to the actual costs of wagers but also to other expenses incurred in connection with gambling activity (such as the otherwise deductible costs of travel to and from a casino). The House bill would make this provision permanent.

Moving expenses: The TCJA temporarily repealed the above-the-line deduction for moving expenses paid or incurred in connection with the commencement of work at a new principal place of work. The temporary repeal does not apply to certain members of the Armed Forces on active duty. Similarly, TCJA temporarily repealed the exclusion from gross income and wages for qualified moving expense reimbursements received from an employer, except in the case of certain members of the Armed Forces on active duty. The House bill would permanently repeal the deduction for moving expenses and the corresponding exclusion from gross income for reimbursements from an employer. As under current law, the repeal of these provisions would not apply to certain members of the Armed Forces.

Discharges of student loans: The TCJA included a temporary provision which provided an exclusion from gross income for an otherwise includible amount from the discharge of certain education loans on account of a student’s death or total and permanent disability. The American Rescue Plan Act of 2021 (ARPA, P.L. 117-2) temporarily expanded this exclusion to make it applicable irrespective of whether the discharge is because of a student’s death or total and permanent disability. The House bill would make permanent the temporary exclusion under TCJA for an otherwise includible amount from the discharge of a qualifying loan on account of a student’s death or total and permanent disability. The House bill’s exclusion from gross income is permitted in respect of a discharge during a taxable year only if the taxpayer includes on the tax return for the year the taxpayer’s social security number and, if the taxpayer is married, the social security number of the taxpayer’s spouse.
URL: https://www.congress.gov/117/plaws/publ2/PLAW-117publ2.pdf

Bicycle commuting reimbursement: Before the TCJA, qualified bicycle commuting reimbursements of up to $20 per qualifying bicycle commuting month in a calendar year were excludible from an employee’s gross income. The TCJA temporarily repealed that exclusion from gross income, and the House bill would make that repeal permanent.
Hazardous duty area for members of the Armed Forces: The TCJA provides that a qualified hazardous duty area is temporarily treated in the same manner as a combat zone for purposes of determining eligibility for certain tax benefits available to members of the Armed Forces. The House bill would make that provision permanent. In addition, the House bill would modify the definition of a qualified hazardous duty area to include the Sinai Peninsula of Egypt, Kenya, Mali, Burkina Faso, and Chad, in certain circumstances.

Achieving a Better Life Experience (ABLE) account enhancements: Pre-TCJA law created tax-preferred savings accounts for payments of qualified disability expenses of a designated beneficiary, with contributions subject to various limitations. The TCJA temporarily enhanced the account provisions to make contributions eligible for the nonrefundable “savers credit,” permit nontaxable rollovers from qualified tuition programs, and permit account beneficiaries who work and earn income to contribute above the ABLE contribution limit. The House bill makes the enhancements to the ABLE account provisions permanent.

Increase in penalties for unauthorized disclosures of taxpayer information: Currently, the maximum fine for an unauthorized disclosure of taxpayer information under section 6103 is $5,000, and the maximum term of imprisonment upon conviction is five years. The provision would increase the maximum fine to $250,000, and it would also increase the maximum term of imprisonment upon conviction to 10 years. The proposal also clarifies that a willful unauthorized disclosure involving the returns or return information of multiple taxpayers are separate violations for each such taxpayer.

Restriction on regulation of contingency fees with respect to tax returns, etc.: Treasury Department Circular No. 230 (Regulations Governing Practice Before the IRS) currently provide rules on when a practitioner may charge a contingency fee with respect to matters before the IRS, and the Treasury Department and the IRS issued proposed regulations last year to modify such rules. The provision prohibits the Treasury Department from regulating, prohibiting, or restricting the use of contingency fees with respect to tax returns, claims for refund, or related documents prepared on behalf of a taxpayer.

School expenses for 529 accounts: Cash distributions from a qualified tuition program (also known as a section 529 plan) that are attributable to earnings on contributions to the account are included in the account beneficiary's income only to the extent that total cash distributions during the taxable year exceed the amount of qualified higher education expenses of the account beneficiary during that year. The amount of cash distributions from all qualified tuition programs related to elementary or secondary schools are limited to $10,000 per beneficiary per taxable year. This provision expands the definition of qualified higher education expenses related to elementary or secondary schools to include not only tuition, but also curriculum and curricular materials, books or instructional materials, certain tutoring expenses, standardized achievement test fees, and certain educational therapies for students with disabilities.

Credentialing expenses / 529 accounts: This proposal adds a new category of "postsecondary credentialing expenses" to the definition of "qualified higher education expenses" under section 529. "Qualified postsecondary credentialing expenses" include a broad category of tuition and other expenses related to certain approved postsecondary programs, such as vocational training.

Reinstatement of partial deduction for charitable contributions of individuals who do not elect to itemize: Under current law, only taxpayers who itemize are able to deduct their charitable contributions. This provision includes an above-the-line deduction of up to $150 ($300 for married filed jointly) for cash contributions to public charities (not including supporting organizations or donor advised funds) made during tax years 2025-2028 for individual taxpayers who do not itemize deductions. Charitable contribution carryovers from prior years do not qualify for this deduction.

Qualified disaster losses: Personal casualty losses meeting the definition of qualified disaster losses are afforded special taxpayer favorable treatment. Most notably, taxpayers qualifying to use these special rules are not required to reduce their casualty loss deduction by 10 percent of their adjusted gross income. Under current law, these special rules only apply to a major disaster declared by the President before February 11, 2025, the incident period must have started before December 12, 2024, and such incident period must have ended by January 11, 2025. Under the House bill the special rules related to qualified disaster losses would be extended as the applicable end dates would coincide with the date the bill is signed into law. If this bill becomes law, certain disasters that occurred near the end of 2024 or the beginning of 2025 would now appear to meet the definition of qualified disaster losses.

Individual credits

Child tax credit: The TCJA temporarily increased the child tax credit from $1,000 to $2,000 per qualifying child. The House bill would permanently extend the expanded child tax credit and provide further enhancements. The House bill would temporarily increase the maximum credit amount to $2,500, for tax years beginning after December 31, 2024, and before December 31, 2028. For tax years beginning after 2028, the credit will revert to a permanent amount of $2,000, indexed for inflation. The House bill would make permanent the maximum refundable portion of the credit, $1,400 per qualifying child, indexed for inflation ($1,700 in 2025). The TCJA phase-out thresholds of $400,000 for taxpayers filing jointly and $200,000 for all other taxpayers would be made permanent under the House bill. The House bill also makes permanent the $500 non-refundable child tax credit for each dependent of the taxpayer who is not a qualifying child of the taxpayer.

Enhancement of adoption credit: Existing law allows eligible taxpayers to claim a nonrefundable credit, up to an annually adjusted maximum amount and subject to AGI limitations, for qualified adoption expenses. The enhancement would make the adoption tax credit partially refundable up to $5,000 (indexed for inflation) beginning in tax years starting after December 31, 2024. The refundable portion of the credit cannot be carried forward.

Recognizing Indian tribal governments for purposes of determining whether a child has special needs for purposes of the adoption credit: Under current law, state governments can determine whether a child has “special needs” for purposes of the adoption tax credit. This provision provides Indian tribal governments the same ability as state governments to determine whether a child has special needs for the purposes of the adoption tax credit.

Social security number requirement for American Opportunity and Lifetime Learning Credits: Under current law, a taxpayer is permitted the American Opportunity Tax Credit or Lifetime Learning Credit in a taxable year in respect of the education of an individual only if (among other requirements) the taxpayer includes on the taxpayer’s tax return for that year the taxpayer identification number (“TIN”) of that individual. The House bill replaces the present law TIN requirement with a rule that a taxpayer is allowed the American Opportunity Tax Credit or Lifetime Learning Credit in a taxable year only if the taxpayer includes on the tax return for that year (1) the taxpayer’s social security number, (2) in the case of a joint return, the taxpayer’s spouse’s social security number, and (3) in respect of qualified tuition and related expenses of an individual other than the taxpayer or the taxpayer’s spouse (for example, a dependent child of a taxpayer parent), that individual’s name and social security number.

Updates to Earned Income Tax Credit ('EITC"): The House bill would require the Secretary of the Treasury to establish a program under which the Secretary is required to issue, in response to a taxpayer's application with respect to a child, an EITC certificate to establish a child's status as a qualifying child only of the taxpayer for a taxable year. The House bill would also increase the credit amount for specified Purple Heart recipients.

Tax credit for contributions of individuals to scholarship granting organizations: The House proposal adds new section 25F, Qualified Elementary and Secondary Education Scholarships, to the Code, and adds new section 4969, Failure to Distribute Receipts (as well as new Subchapter I under Subtitle D, Chapter 42). Section 25F is a new credit in an amount equal to the aggregate amount of qualified contributions made by the taxpayer during the taxable year. The credit shall not exceed an amount equal to the greater of 10 percent of the adjusted gross income of the taxpayer for the taxable year, or $5,000. The credit allowed to any taxpayer for the taxable year cannot exceed the amount of the volume cap allocated by the Secretary of the Treasury to the taxpayer with respect to qualified contributions made by the taxpayer during the taxable year. The volume cap is $5,000,000,000 for each calendar year 2026 through 2029, and zero for calendar years thereafter. Of the volume cap amount, 10 percent is divided evenly among the States and shall be available with respect to individual residing in such States. The remaining amount is allocated by the Secretary on a first-come, first-serve basis, determined based on the time during the calendar year at which the taxpayer made the qualified contribution with respect to which the allocation is made. The Secretary shall develop a system to track the amount of qualified contributions made during the calendar year, with the information to be updated in real time. The annual volume cap may be increased for a calendar year following a "high-use calendar year," which is any calendar year for which 90 percent or more of the volume cap in effect for the calendar year is allocated to taxpayers.

The amount allowed as a credit is reduced by the amount allowed as a credit on any state tax return of the taxpayer for qualified contributions made by the taxpayer during the taxable year. A "qualified contribution" means a charitable contribution (as defined in section 170(c)) to a scholarship granting organization in the form of cash or marketable securities. The new section 25F also defines the terms "scholarship granting organization," "qualified elementary or secondary education expense," and "eligible student." Any qualified contribution for which a credit is allowed under new section 25F shall not be taken into account as a charitable contribution for purposes of section 170. If the credit allowable under section 25F(a) exceeds the limitation imposed by section 26(a) for the taxable year, reduced by the sum of credits allowable under sections 25F, 23, and 25D, the excess shall be carried to the succeeding taxable year and added to the credit allowable under section 25F(a) for such taxable year.

The bill also adds new section 4969, Failure to Distribute Receipts, to the Code. In the case of any scholarship granting organization, as defined in new section 25F, that the Secretary determines has failed to distribute the required distribution amount before the distribution deadline, any contribution made to such organization during the first taxable year beginning after the date of such determination shall not be treated as a qualified contribution for purposes of section 25F. The required distribution amount with respect to a taxable year is equal to 100 percent of the total receipts of the scholarship granting organization for such taxable year, reduced by receipts that are retained for reasonable administrative expenses for the taxable year or are carried to the succeeding taxable year, and increased by the amount of the carryover from the preceding taxable year. New section 4969 provides a safe harbor for reasonable administrative expenses, where if 10 percent or less of the total receipts of a scholarship granting organization for a taxable year are used for administrative purposes, such expenses shall be deemed to be reasonable.

The proposal is effective from January 1, 2026.

Disallowing premium tax credit in case of certain coverage enrolled in during special enrollment period: The proposed bill amends section 36B to prohibit an individual taxpayer from receiving a premium tax credit if that individual enrolls in health insurance coverage through a Health Insurance Marketplace (also known as an Exchange) during a special enrollment period available to individuals with an expected household income no greater than 150 percent of the federal poverty line. This disallowance of the premium tax credit would apply to plans enrolled in during calendar months beginning after the third calendar month after the bill's enactment.

Eliminating limitations on recapture of advance payment of premium tax credit: The proposed bill also strikes section 36B(f)(2)(B)'s limitations on the recapture (repayment) of excess advance payments of the premium tax credit for taxpayers whose household income is less than 400 percent of the poverty line for the size of the family involved for the taxable year. Pursuant to this change, the bill would require all affected individuals who misstate their projected income and benefit from a more generous advance payment of the premium tax credit than they actually qualified for to reimburse the IRS for the full amount of the excess tax credit received. This provision would be applicable beginning in 2026.

Money account for growth and advancement: This proposal would create a new type of tax-preferred account, a money account for growth and advancement ("MAGA account"), effective for account contributions made on or after January 1, 2026. MAGA accounts would function similarly to section 529 plans (explained above) but are subject to different qualifications and distribution rules. An individual may generally only be named as the account beneficiary of one MAGA account, except for certain rollover accounts.

A MAGA account could only be created for an account beneficiary under age eight on the date such account is created. Cash contributions to a MAGA account would be limited to $5,000 annually (indexed for inflation) and could only be made while the account beneficiary is under age 18. Excess contributions would be subject to a 6 percent excise tax. These accounts would be subject to certain trustee and investment requirements, and trustees of these accounts would be subject to information reporting requirements.

MAGA account distributions would begin only after the account beneficiary reached age 18. Distributions of up to one-half the cash equivalent value of the account as of the date the beneficiary turned 18 could be made when the beneficiary is between ages 18 and 25. Upon attaining age 31, the account would cease to be a MAGA account and would be considered distributed to the account beneficiary.

Distributions from a MAGA account used for qualified expenses would be taxable as capital gains. Other distributions would be includible in income and subject to an additional tax of 10 percent if made to a beneficiary under age 30. In the case of any distribution, the portion attributable to the investment in the contract is not includible in gross income. Qualified expenses would include qualified higher education expenses, qualified post-secondary credentialing expenses, amounts paid or incurred with respect to any small business which the beneficiary has obtained through a small business loan, small farm loan, or similar loan under regulations provided by the Treasury Secretary, and amounts used for the purchase of a principal residence of an account-beneficiary who is a first-time homebuyer.

MAGA accounts contribution pilot: This section provides for a pilot program for a government-funded one-time credit of $1,000 to the MAGA account of each qualifying child of a taxpayer who is a child born after December 31, 2024, and before January 1, 2029, who is a United States citizen at birth.

Estate and gift tax provisions

Under the provisions of the House bill, the existing transfer tax architecture (the estate, gift and generation-skipping transfer taxes) would be retained, with one modification: the basic exclusion amount (*i.e.*, the amount that each citizen and US domiciled person is entitled to transfer either during life or, if otherwise unused, at death without incurring a current tax) and the generation-skipping transfer tax (GST) exemption (*i.e.*, the amount that may be transferred to skip persons outright or in trust without giving rise to a present or future GST tax) would be increased to $15 million from its existing $10 million (before adjustment for inflation) for transfers occurring after December 31, 2025. The $15 million threshold would be indexed for inflation in years after 2026. Unlike the increase to the basic exclusion amount under current law, the $15 million amount is permanent and thus is not scheduled to revert to a lesser amount in the future.

Filing updates

Task force on termination of Direct file: This proposal terminates the Direct File program, which currently allows the IRS to prepare and file tax returns online for free for certain qualifying taxpayers in participating states. Instead, the Department of the Treasury will establish a task force that will report to Congress on the cost of a new public-private partnership to provide for free tax filing for up to 70 percent of all taxpayers. The report will also provide taxpayer opinions and preferences regarding such a partnership in addition to an assessment of the feasibility and costs needed.

Postponement of tax deadlines for hostages and individuals wrongfully detained abroad: There is no current Internal Revenue Code section postponing tax deadlines for hostages and persons wrongfully detained abroad. Under this provision, the IRS would disregard certain time limits for the period when a person was held hostage or wrongfully detained, consistent with the current rules in section 7508 concerning persons serving in a combat zone. Such relief would be extended to the spouse and additionally include special rules on applicability of penalties and interest of such impacted persons.

Backup withholding and reporting

TCJA extension and backup withholding: When a payor makes a payment of a kind that would be reported on a Form 1099, they are generally required to obtain the US Taxpayer Identification Number (TIN) of the payee, however, if the payee does not provide their TIN, the payee is required to withhold a certain amount from the payment (backup withholding) for purposes of section 3406. The amount required to be withheld is the fourth lowest rate of tax under section 1(c). The TCJA modified this rate to 24 percent through calendar year 2025 (section 1(j)). The proposed bill would extend the TCJA rates indefinitely, thereby cementing the 24 percent backup withholding rate past calendar year 2025.

Form 1099-K reporting and backup withholding thresholds: Reporting of payments on Form 1099-K is required for third-party settlement organizations (TPSOs) making payments of reportable payment transactions to participating payees under section 6050W. When originally enacted, no reporting was required by TPSOs on payments to participating payees if the payee had engaged in 200 or fewer transactions and received $20,000 or less in payments in a calendar year. The ARPA lowered this threshold, under which reporting is required for payments made to participating payees in excess of $600, with no transaction threshold. The Ways and Means proposal reverts the threshold from $600 back to the original threshold of $20,000 and 200 transactions, retroactively effective prior to the ARPA amendment.

There is also a corresponding backup withholding rule. When a TPSO has not received the TIN of the participating payee, it is only required to backup withhold once the amount of payments to the participating payee exceed $20,000 and 200 transactions. However, if the TPSO was required to backup withhold on the participating payee in the prior year, it will still be required to backup withhold in the current year if no TIN has been obtained.

Form 1099-MISC/NEC reporting and backup withholding thresholds: Reporting of payments on Form 1099-MISC is required for payors making payment of a variety of fixed or determinable gains, profits, and income under section 6041. Currently, no reporting is required where the aggregate of such payments in the calendar year is less than $600. The House bill raises the threshold in section 6041 to only require reporting where aggregate payments are $2,000 or more for calendar year 2026. For years after 2026, the $2,000 threshold will rise with inflation, using the cost-of-living calculation in existing section 1(f)(3) rounded to the nearest $100.

Payments of compensation to persons who are not employees (*e.g.*, independent contractors), are reported on Form 1099-NEC in the same manner as Form 1099-MISC for purposes of section 6041A. The current reporting threshold similarly is $600, while the Ways and Means proposal would modify the reporting threshold for such payments to reference the new threshold in section 6041.

The House bill also provides a corresponding backup withholding rule. A payor would only be required to backup withhold on payments that would be reportable under sections 6041 and 6041A if the amount is equal to or greater than the $2,000 (plus inflation for years after 2026) threshold in section 6041.

Excise Taxes

The bill adds a new excise tax on remittance transfers and modifies and repeals other excise taxes.

Excise tax on Remittance transfers: The proposal adds new section 4475 to the Code (as well as new Subchapter C under Subtitle D, Chapter 36) incorporating a new excise tax on certain remittance transfers. The excise tax is equal to 5 percent of the amount of any "remittance transfer." The "sender" of the remittance is required to pay the tax, but the amount of the tax is collected by the "remittance transfer provider." The remittance transfer provider must remit such collected taxes quarterly. If the tax is not paid at the time the remittance transfer is made, to the extent that the tax is not collected, the remittance transfer provider becomes liable for the tax. Terms related to remittances are defined by reference to existing 15 USC. 1693o-1 (the Electronic Fund Transfer Act). Remittance transfers that violate the anti-conduit rules of section 7701(l) can be recharacterized as financing transactions. However, any remittance transfer made by a "verified United States sender" through a "qualified remittance transfer provider" will not be subject to the excise tax. A qualified remittance transfer provider is any provider who has entered into an agreement with the Secretary of the Treasury to verify the status of senders as citizens or nationals of the US (and grants the Secretary the right to specify procedures outlining such agreement). A verified United States sender is any sender who has been verified by a qualified remittance transfer provider, pursuant to the agreement between the provider and the Secretary of the Treasury, as being a citizen or national of the US

Also added is new section 36C to the Code, which would allow any individual to claim a credit for the amount collected and remitted to the Treasury on remittance transfers paid by such individual. The individual must provide their Social Security Number (and their spouse's Social Security Number, if married).

Finally, the proposal adds new section 6050AA, which would require a remittance transfer provider to file an information return with the Treasury. The information return must include the number of remittance transfers for which no excise tax was collected because the provider was a qualified remittance transfer provider and the transfer(s) were made by verified United States senders. For transfers for which tax was collected and the sender has indicated a desire to claim the credit under section 36C, the return must include the name, address, and Social Security Number of the sender, the amount of tax paid by the sender, and the amount of the collected tax remitted by the provider. For all other remittance transfers, the return must indicate the aggregate amount of tax paid with respect to those transfers and the aggregate amount remitted to the Treasury by the provider. The provider is also required to provide an information return to any sender of a remittance transfer that includes the name and address of the provider, and the name, address, and Social Security Number of the sender. Various penalty provisions regarding information returns have been updated to account for the new return requirement.

The House proposal is effective from January 1, 2026.

Indoor tanning tax: Under current law, an excise tax is imposed on indoor tanning services. The house bill would repeal the excise tax effective for any tanning services performed after the date of enactment.

Repeal of excise tax on firearms silencers: The House proposal would amend section 5811 of the Code to remove the firearm excise tax imposed on the transfer of any firearm that is a silencer (as defined in section 921 of title 18, United States Code). This amendment would apply to transfers of firearms silencers made after the date of enactment of the bill.

Employer-provided benefits

Educational assistance for student loan payments: Section 127 permits an employer to maintain an educational assistance program for the benefit of its employees. Under such a program, an employer can provide educational assistance (subject to certain qualification requirements related to the program) to its employees on a tax-free basis, up to a limit of $5,250 per year. The Coronavirus Aid, Relief , and Economic Security Act (CARES Act, P.L. 116-36) added a temporary provision to section 127 (section 127(c)(2)(B)) – to allow an employer to make payments on an employee's qualified educational loan, taken out by the employee for the employee's own education, on a tax-free basis. This particular provision was set to expire at the end of 2025, however, the tax proposal would amend section 127 to make this provision permanent.
URL: https://www.govinfo.gov/content/pkg/PLAW-116publ36/pdf/PLAW-116publ36.pdf

Section 127(a)(2) imposes an annual limit of $5,250 that can be provided tax free under an educational assistance program. The proposal would also provide for annual inflation indexation of this amount, beginning in years after 2026.

Tax-exempt organizations

One percent floor on deduction of charitable contributions made by corporations: Section 170 permits taxpayers to deduct charitable contributions made to qualified organizations. Contributions may be in the form of cash or property. Specifically, under section 170(b)(2), a corporate taxpayer's charitable contribution in any taxable year may not exceed 10 percent of its taxable income. Contributions over the 10 percent limit in any taxable year can be carried forward to the next five taxable years.

The Ways and Means proposal would amend section 170(b)(2)(A) to include a minimum threshold of charitable contribution for which corporations must meet in order to take a charitable contribution deduction. Under newly modified section 170(b)(2)(A), a corporation is generally allowed a deduction for charitable contribution only to the extent the aggregate charitable contributions exceeds one percent of a taxpayer's taxable income and does not exceed 10 percent of the taxable income. The proposal would change section 170(d)(2) so that the charitable contributions that are in excess of 10 percent of the taxpayer's taxable income can be carried forward. The carried forward charitable contribution may be allowed as a deduction for a subsequent year (5 year carryforward period) when the aggregate charitable contributions for such year exceeds one percent of the taxpayer's taxable income and does not exceed ten percent of the taxpayer's taxable income.

The amendments apply to taxable years beginning after December 31, 2025.

Tax credit for contributions of individuals to scholarship granting organizations: This provision adds new section 4969 to Chapter 42 of the IRC setting parameters for the distribution requirements for an organization to be treated as a scholarship granting organization for purposes of this credit.

Expanding application of tax on excess compensation within tax-exempt organizations: This proposal would remove limitations to and expands the definition of "Covered Employee" under section 4960(c)(2). The provision removes the application of the definition to only the five highest compensated employees, removes the extension to covered employees in a prior taxable year to only taxable years beginning after December 31, 2016, and extends the definition to include any employee (current or former) of any related person or governmental entity. As a result, a covered employee includes any employee of an applicable tax-exempt organization that receives remuneration in excess of $1 million.

Modification of excise tax on investment income of certain private colleges and universities: This provision would amend the current 1.4 percent excise tax on net investment income framework for certain private colleges and universities under section 4968 with a tiered system ranging from 1.4 percent to 21 percent based on an institution's student-adjusted endowment. For purposes of calculating an institution's student-adjusted endowment, this section amends such calculation by excluding students who are not either US citizens or other allowable individuals. This section also extends the exemption from being considered an applicable educational institution, which previously only applied to state colleges and universities to institutions that meet certain requirements related to being a qualified religious institution. Additionally, this section increases a school's net investment income by the amount of student loan interest income and certain royalty income.

Increase in rate of tax on net investment income of certain private foundations: This provision would amend the current 1.39 percent excise tax on private foundation net investment income with a tiered system based on the fair market value of the private foundation's assets as of the close of the taxable year (without reduction for any liabilities). Assets of related organizations will be aggregated in certain circumstances. This provision maintains the current excise tax rate for private foundations with less than $50 million in total assets but applies higher excise tax rates of up to 10 percent on private foundations reporting $5 billion or more in total assets. This provision would apply to taxable years beginning after date of enactment (that is, this could impact fiscal year organizations for tax years beginning in 2025).

Certain purchases of employee-owned stock disregarded for purposes of foundation tax on excess business holdings: This provision would amend section 4943 and states that shares of stock repurchased on or after January 1, 2020, by a company from a retiring employee who participated in the company's Employee Stock Ownership Plan (ESOP) are treated as outstanding for purposes of calculating the share of that company owned by a private foundation. The proposal excludes stock repurchased from an ESOP within the first 10 years of the plan and stock that would allow for the holdings by a private foundation and all disqualified persons to exceed 49 percent of the voting stock (calculated without inclusion of the repurchased ESOP stock). This provision would apply to taxable years beginning after date of enactment and to purchases by a business enterprise of voting stock in taxable years beginning after December 31, 2019. That is, this could impact fiscal year organizations for tax years beginning in 2025.

Unrelated business taxable income increased by amount of certain fringe benefit expenses for which deduction is disallowed: This provision would reflect the original legislative intent to require the inclusion in unrelated business taxable income of amounts disallowed under section 274 for qualified transportation fringe benefits, including parking facilities associated with those benefits, even though the requirement was never technically in effect. If the costs are allocable to an unrelated business income (UBI) activity and are disallowed under section 274 then the UBI treatment is not applicable. This treatment is also not applicable if employees are taxed on the benefit and does not apply to church organizations that meet certain provisions of IRC section 6033(a)(3).

Name and logo royalties treated as unrelated business taxable income: This provision would amend sections 512 and 513 to increase the unrelated business taxable income of a tax-exempt organization by including the income from any sale or licensing by an organization of its name or logo.

Exclusion of research income limited to publicly available research: This provision would amend section 512 to increase the unrelated business taxable income of a tax-exempt organization whose tax-exempt purpose is to provide publicly available research by including the income generated from research that is not freely available to the general public in the organization's UBI.

Termination of tax-exempt status of terrorist supporting organizations: This proposal would grant the Secretary of the Treasury authority to suspend the tax-exempt status of any tax-exempt organization that, during the three years prior to designation, provided more than a minor amount of material support or resources to a listed terrorist organization (as defined in section 501(p)). The provision allows suspensions to be lifted only when the supported terrorist organization is de-listed as a terrorist organization. This proposal would apply to designations made after the date of enactment to taxable years ending after such date. That is, this could impact fiscal year organizations for tax years beginning in 2025.

Health reimbursement arrangements and savings accounts

This bill would make various changes to the tax rules governing health reimbursement arrangement (HRAs) and health savings accounts (HSAs).

An HRA is an employer-funded arrangement that reimburses employees and their families for certain medical expenses and is subject to various restrictions and limitations. An HSA is a custodial or trust account that is similar to an Individual Retirement Account (IRA) that can be used to pay healthcare expenses. Generally, eligible individuals and their employers can make tax-favored contributions to HSAs up to certain limits but only if the individual is covered by a high deductible health plan (HDHP) and is not covered under any other health plan. An HDHP is a health plan that meets certain annual deductible and out-of-pocket expense limits.

HRAs: The proposal would codify 2019 final tax and other regulations permitting employers to offer individual coverage HRAs without violating group health plan requirements. Individual coverage of HRAs would be renamed Custom Health Option and Individual Care Expense arrangements, referred to as CHOICE arrangements.

Under the current rules, employers cannot reimburse employees for the cost of insurance purchased on a marketplace healthcare exchange ("Exchange") through an HRA if any of the premiums can be paid through a salary reduction arrangement, such as a cafeteria plan. The bill would permit employees covered by a CHOICE arrangement to pay for Exchange coverage through a salary reduction arrangement.

The bill would provide a new tax credit for small employers with fewer than 50 employees that offer a CHOICE arrangement for the first time. The credit would be $100 per employee per month in the first year and $50 per employee per month in the second year.

HSAs: Generally, an individual is not eligible for tax-favored contributions to an HSA if the individual has coverage under Medicare Part A. The bill would provide that coverage under Medicare Part A does not disqualify an individual from making or receiving tax-favored HSA contributions.

An individual is not eligible for tax-favored contributions to an HSA if the individual is enrolled in a direct primary care (DPC) arrangement (for example, a concierge medical practice), and HSA funds cannot be used to pay DPC fees. The bill would provide that certain coverage under certain DPC arrangements would not disqualify an individual from making or receiving contributions under an HSA and would allow HSA funds to be used to pay for such DPC fees. The bill would limit the amount that can be used for this purpose to $150 per month for individuals or $300 per month for families, adjusted annually for inflation.

Catastrophic health plans (that is, health plans that generally cover only protect against catastrophic medical conditions) and some bronze-level plans offered on an Exchange are not currently considered HDHPs because they do not meet the applicable out-of-pocket expense limits. The bill would make these plans HDHPs for purposes of the HSA rules.

Generally, an individual is not eligible for tax-favored contributions to an HSA if the individual has access to employer provided on-site medical clinics that provide significant medical benefits. The bill would provide that an individual can receive certain specified services (including preventive care for chronic conditions) at an employer-provided on-site medical clinic without being disqualified from making or receiving tax-favored HSA contributions.

HSA funds generally cannot be used to pay for sports and fitness expenses because they are not considered medical expenses for tax purposes. The bill provides that the certain sports and fitness expenses, including gym memberships, would be treated as medical expenses and, therefore, reimbursable under an HSA. It also would limit the annual amount that can be used for this purpose to $500 for a single taxpayer, or $1000 for taxpayers filing jointly or as head of household.

Within limits, contributions to an HSA made by or behalf of an eligible individual (with the exception of contributions by an individual’s employer) are deductible by the individual. The House bill would provide that if both spouses of a married couple are eligible for catch-up contributions (meaning both spouses are at least age 55) and either spouse has family coverage under a HDHP as of the first day of any month, the annual contribution limit that can be allocated between them includes the catch-up contributions amounts of both spouses. For example, the spouses may agree to have their combined basic and catch-up contribution amounts allocated to one spouse to be contributed to that spouse’s HSA.

Amounts remaining in an FSA and account balances in HRAs currently cannot be contributed to an HSA. The bill would change these rules and permit transfers from FSAs and HRAs to HSAs under certain circumstances. Generally, an HSA can only reimburse medical expenses incurred after an HSA is established. The bill would allow HSAs to reimburse medical expenses incurred up to 60 days before an HSA is established.

Generally, an individual is not eligible for tax-favored contributions to an HSA if the individual's spouse has coverage under a flexible spending account (FSA), which is an arrangement under which an employee can set aside pre-tax amounts to pay for certain medical expenses. The bill would provide that an individual is not disqualified from making or receiving tax-favored HSA contributions even if the individual's spouse has coverage under an FSA, subject to certain limits.

Annual contributions to HSAs are currently limited to $4,300 for individual coverage and $8,500 for family coverage, indexed for inflation. The bill would increase the limit for employee contributions by an additional $4,300 for individual coverage and $8,500 family coverage if the individual makes less than $75,000 ($100,000 for families). The contribution increases phase out for individuals making $100,000 ($200,000 for families).

Regulatory authority: The House bill would authorize the Secretaries of the Treasury Department and the Department of Health and Human Services to issue rules and other guidance as necessary or appropriate to carry out the changes outlined in this section made by the Bill.

Accounting Methods

Increased gross receipts threshold for small manufacturing businesses: Section 448(a) provides that, in general, a taxpayer that is a C corporation, a partnership which has a C corporation as a partner, or a tax shelter must use an accrual method of accounting. Section 448(b)(3) provides an exception to the general rule and allows a C corporation or a partnership with a C corporation as a partner to use the cash method of accounting if such entity meets the gross receipts test of section 448(c). The gross receipts test under section 448(c) is satisfied if the average annual gross receipts of such entity for the 3-taxable-year period ending with the taxable year which precedes such taxable year does not exceed $25 million, as adjusted for inflation. For tax years beginning in 2025, the inflation adjusted average annual gross receipts amount is $31 million.
The House proposal would amend section 448(c) by increasing the average annual gross receipts test for a manufacturing taxpayer from $25 million to $80 million, adjusted for inflation. A manufacturing taxpayer means a corporation or partnership substantially all the gross receipts of which during the 3-taxable-year period ending with the taxable year which precedes the current taxable year are derived from the lease, rental, license, sale, exchange, or other disposition of qualified products. A qualified product is a tangible personal property which is not a food or beverage prepared in the same building that sells a similar property to the public and is produced or manufactured in a manner that results in a substantial transformation of the property comprising the product.

The amendments apply to taxable years beginning after December 31, 2025.

Limitation on amortization of certain sports franchises: Section 197(a) generally allows a taxpayer to amortize the adjusted basis of certain acquired intangibles (*i.e.*, a "section 197 intangible) ratably over a 15-year period beginning with the month in which such asset is acquired. A section 197 intangible includes: goodwill; going concern value; workforce; an information base; a patent, copyright, formula, process, design, pattern, know-how, format, or similar item; a customer-based intangible; a supplier-based intangible; a license, permit or other right granted by a governmental unit or agency; a covenant not to compete that is entered into in connection with the acquisition of an interest in all or a substantial part of a trade or business; and, a franchise, trademark, or trade name.

The House proposal from the Ways and Means Committee would add new section 197(g) to exclude 50 percent of a taxpayer's amortization on specified sports franchise intangibles. New section 197(g)(3) defines "specified sports franchise intangibles" as any amortizable section 197 intangibles that is a franchise to engage in professional football, basketball, baseball, hockey, soccer, or other professional sport, or acquired in connection with such franchise.

This amendment applies to property acquired after the date of the enactment of the House proposal.

State tax considerations

Many state income tax regimes are affected by federal tax law changes because states conform to the Internal Revenue Code for purposes of administrative ease by either incorporating the IRC in whole or in part, or by using federal taxable income as the starting point. Generally, states that incorporate the IRC either: (1) conform to the IRC as of a specific date ("Fixed Date Conformity"); or (2) automatically follow the version of the IRC in effect for the current tax year ("Rolling Conformity"). However, some states, like California, only selectively conform to specific IRC provisions ("Selective Conformity").

While Rolling Conformity states may choose to later decouple from any IRC provisions enacted by Congress through state legislative action, the Fixed Date Conformity states would continue to use a version of the IRC prior to the amendments in the tax bill unless and until they updated their conformity date. These differences can lead to different tax outcomes at the state level when compared to federal.

Specific provisions with potential state nonconformity: Provisions which may create a federal/state disconnect in Fixed Date Conformity states include (but are not limited to) the following.

- GILTI/FDII: Certain states may continue to follow the lower deduction percentages prescribed in section 250 for years 2026 and later instead of the permanent 50 percent and 37.5 percent deduction amounts for GILTI and FDII respectively (ex., Arizona, Georgia, Minnesota). This will depend largely on how each affected state views whether adopting the IRC "in effect" as of a certain date includes future operative provisions contained in the IRC as of that fixed date. States have historically taken differing views.
- Section 163(j): Certain states may continue to require the computation of adjusted taxable income without additions for depreciation, amortization, and depletion (ex. Florida, North Carolina for corporate taxpayers and Massachusetts, New Jersey, and Pennsylvania for non-corporate taxpayers).

- Section 174: Certain states may continue to require amortization for domestic research expenditures during the period that they are not required to do so for federal tax purposes (ex. North Carolina, Georgia).
- Section 168(n): Certain states may not allow the full expensing of “qualified production property” under new 168(n) (ex. all fixed date states).

As was the case after the passage of the TCJA, it is also anticipated that many Rolling Conformity states may decouple from some of these provisions, further complicating the conformity map.

Additionally, with the tax bill’s potential to provide differing tax treatment based on whether activities are foreign or domestic, it is anticipated that certain provisions may be the subject of future US Constitutional challenges if enacted. The Supreme Court has held that states are generally precluded from treating domestic taxpayers more favorably than foreign taxpayers even if the state’s treatment is based on administrative convenience/general conformity to federal tax law.

State passthrough entity tax: In response to the SALT Cap enacted as part of TCJA, a majority of states in the past few years have enacted Passthrough Entity Tax (“PTET”) regimes where passthrough entities could elect to pay tax at the entity level on income that would be allowed as a credit against the owner’s state personal income tax liability. While each state’s regime has its own nuances, it is anticipated that all state PTETs may be affected by the new sections highlighted above aimed at the ability of taxpayers to take credits for amounts paid under a PTET regime.

Financial Statement Considerations

Pursuant to US generally accepted accounting principles (US GAAP), the tax effects of new tax legislation are accounted for in the reporting period in which a tax law is enacted. In the US, the enactment date generally is defined as the day the president signs the legislation into law. Accordingly, because the proposed bill has not been enacted, it should not directly impact financial statements at this time. It may be prudent, however, for companies to start to analyze the impact the proposed bill may have on their tax accounts and disclosures, if enacted.

If the proposed bill or a derivation thereof is enacted subsequent to the balance sheet date, but prior to the issuance of financial statements, the change in tax law would be considered a nonrecognized subsequent event. In that instance, companies would still need to determine whether they would need to disclose the change in law and provide an estimate of its effect in order to keep their financial statements from being misleading.

To the extent potential tax code changes could materially affect the company or its business, SEC registrants should also consider possible disclosure requirements under Risk Factors and Management’s discussion and analysis of financial condition and results of operations.

Next Steps: House floor consideration

The Ways and Means Committee began marking up the tax package on May 13, with amendment discussions continuing into the following day before ultimately advancing the bill. Chairman Smith emphasized that the legislation reflects the long-standing work and priorities of Committee Republicans and serves as a cornerstone of a pro-family, pro-worker tax agenda aligned with the Trump administration's economic vision.

Ahead of the markup, Chairman Smith held a press conference where he emphasized that the legislation is designed to lock in the pro-growth policies of the TCJA, while delivering additional tax relief aimed at strengthening the economy, creating jobs, and raising wages for American families, farmers, workers, and small businesses. Democrats, in the extended debate in Committee were quick to cast the proposed legislation as giving large tax breaks to the wealthy while only pennies to the poor and middle class.

The May 16 edition of *Tax News & Views* will feature in-depth analysis of the House Ways and Means Committee's markup of the tax package, including a review of key amendments offered during the proceedings and their potential implications for the broader legislative effort.

With the legislation approved by the Ways and Means Committee, it will now make a brief procedural stop at the Budget Committee before proceeding to the full House for consideration and a vote.

And then to the Senate…

Assuming the measure clears the House (something that is far from guaranteed given the House's small margins and the wide number of issues that members have identified as problematic), attention will shift to the Senate, where Finance Committee Republicans are expected to unveil their own version of the tax package in the coming weeks. Like the House bill, the Senate's effort is advancing under budget reconciliation rules, which allow legislation that meets specific procedural requirements to pass both chambers with a simple majority vote – bypassing the 60-vote threshold typically required to overcome a filibuster.

Still, navigating the reconciliation process in the Senate presents its own set of challenges. With Republicans holding only a narrow three-seat majority and few, if any, Democrats expected to be united in opposition to the GOP-led tax and spending package, the margin for error remains slim. As seen in past legislative efforts, crafting a bill that satisfies the complex procedural rules for reconciliation (which are more binding on that chamber than they are in the House) and diverse policy priorities within the Republican conference – particularly on issues like the SALT deduction, business incentives, and the overall deficit impact – will require careful negotiation and coordination.

— This report was prepared by the tax professionals in Deloitte Tax LLP's Washington National Tax practice.

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