

Analysis of Tax Reform Plans  
Tax Cuts and Jobs Act  
December 2, 2017

**Individuals**

All of the changes to the law in both bills would be effective for taxable years beginning after 12/31/17

Area	House Bill (JCX-50-17 - as passed)	Senate Bill (JCX-51-17 with modifications - as passed)																																							
Ordinary Income Tax Rates	<p>Changes brackets to 12%, 25%, 35%, and 39.6%</p> <table border="1" style="margin-left: auto; margin-right: auto;"> <thead> <tr> <th style="text-align: center;">MFJ</th> <th style="text-align: center;">HoH</th> <th style="text-align: center;">Single</th> </tr> </thead> <tbody> <tr> <td>12% - \$0</td> <td>12% - \$0</td> <td>12% - \$0</td> </tr> <tr> <td>25% - \$90,000</td> <td>25% - \$67,500</td> <td>25% - \$45,000</td> </tr> <tr> <td>35% - \$260,000</td> <td>35% - \$200,000</td> <td>35% - \$200,000</td> </tr> <tr> <td>39.6% - \$1,000,000</td> <td>39.6% - \$500,000</td> <td>39.6% - \$500,000</td> </tr> </tbody> </table>	MFJ	HoH	Single	12% - \$0	12% - \$0	12% - \$0	25% - \$90,000	25% - \$67,500	25% - \$45,000	35% - \$260,000	35% - \$200,000	35% - \$200,000	39.6% - \$1,000,000	39.6% - \$500,000	39.6% - \$500,000	<p>Retains seven bracket structure with modifications: 10%; 12%; 22%; 24%; 32%; 35%; 38.5%.</p> <table border="1" style="margin-left: auto; margin-right: auto;"> <thead> <tr> <th style="text-align: center;">MFJ</th> <th style="text-align: center;">HoH</th> <th style="text-align: center;">Single</th> </tr> </thead> <tbody> <tr> <td>10% - \$0</td> <td>10% - \$0</td> <td>10% - \$0</td> </tr> <tr> <td>12% - \$19,050</td> <td>12% - \$13,600</td> <td>12% - \$9,525</td> </tr> <tr> <td>22% - \$77,400</td> <td>22% - \$51,800</td> <td>22% - \$38,700</td> </tr> <tr> <td>24% - \$140,000</td> <td>24% - \$70,000</td> <td>24% - \$70,000</td> </tr> <tr> <td>32% - \$320,000</td> <td>32% - \$160,000</td> <td>32% - \$160,000</td> </tr> <tr> <td>35% - \$400,000</td> <td>35% - \$200,000</td> <td>35% - \$200,000</td> </tr> <tr> <td>38.5% - \$1,000,000</td> <td>38.5% - \$500,000</td> <td>38.5% - \$500,000</td> </tr> </tbody> </table>	MFJ	HoH	Single	10% - \$0	10% - \$0	10% - \$0	12% - \$19,050	12% - \$13,600	12% - \$9,525	22% - \$77,400	22% - \$51,800	22% - \$38,700	24% - \$140,000	24% - \$70,000	24% - \$70,000	32% - \$320,000	32% - \$160,000	32% - \$160,000	35% - \$400,000	35% - \$200,000	35% - \$200,000	38.5% - \$1,000,000	38.5% - \$500,000	38.5% - \$500,000
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Capital Gain / Qualified Dividend Rates	Retains the current rate structure except that the threshold levels are now indexed to inflation using the C-CPI-U (see below for a discussion of inflation indexing used throughout the bill)	Same as the House bill except modifies the rules concerning identification of securities sold to make First-In-First-Out sale treatment mandatory																																							
3.8% Net Investment Income Tax	Retained	Retained																																							
Pass-Through Income	<ul style="list-style-type: none"> <li>· Reduces the tax rate for passive investors and the capital portion of income of an active participant in a pass-through entity to 25%.</li> <li>· For active participants it presumes that 70% of pass-through income is attributable to labor and 30% is attributable to capital, although taxpayers may elect to prove higher capital ratio through a facts-and-circumstances determination</li> <li>· Replaces the 12% ordinary bracket with 9% for the first \$75,000 in net business income of an active owner or shareholder earning less than \$150,000 in taxable income through a pass-through</li> <li>· Professional services firms such as lawyers and financial services professionals are not eligible for the 25% rate</li> </ul>	<ul style="list-style-type: none"> <li>· Allows a 23% deduction for domestic qualified business income; deduction is not available for specific service businesses, unless their taxable income is less than \$500,000 for MFJ (\$250,000 for Single)</li> <li>· Publicly traded partnerships, including master limited partnership unit holders, can claim the 23% deduction</li> <li>· Qualified dividends from REIT's are qualified business income eligible for the deduction</li> <li>· Deduction is limited to 50% of "W-2 wages" of taxpayer for high income taxpayers (\$500,000 MFJ; \$250,000 Single). "W-2 wages" includes deferred compensation arrangements.</li> </ul>																																							
Standard Deduction	Increases to: \$24,400 - Married filing jointly \$18,300 - Head-of-household \$12,200 - All other filing statuses	Increases to: \$24,000 - Married filing jointly \$18,000 - Head-of-household \$12,000 - All other filing statuses																																							
Personal Exemptions	Repealed	Repealed																																							
Medical Expense Deduction	Deduction denied	Retains deduction Lowers the floor for deductibility to 7.5% of AGI for taxable years 2017 and 2018																																							
State and Local Taxes & Property Taxes	<ul style="list-style-type: none"> <li>· SALT deduction: deduction denied</li> <li>· Property tax deduction: max of \$10,000 (5,000 MFS)</li> </ul> <p>* these deductions are allowed IN FULL for an income producing activity, such as a rental property on Sch E</p>	Same as the House bill																																							
Casualty Loss Deduction	Deduction denied	Limits deductible personal casualty losses to losses incurred in Presidentially declared disasters																																							

Area	House Bill (JCX-50-17 - as passed)	Senate Bill (JCX-51-17 with modifications - as passed)
Mortgage Interest Deduction	<ul style="list-style-type: none"> <li>Reduces deductibility of interest to mortgages with a principal amount of up to \$500,000 (before limitation)</li> <li>Deduction of home equity debt is repealed</li> <li>Limited to one residence</li> <li>* only applies to mortgages taken after November 2, 2017</li> </ul>	<ul style="list-style-type: none"> <li>Deduction of home equity debt is repealed.</li> <li>No other changes are made - keeps the deduction of interest on mortgages with a principal amount of up to \$1,000,000 (before limitation)</li> </ul>
Charitable Contribution Deduction	Limitation on deductability of cash contributions raised from 50% to 60% of adjusted gross income	Limitation on deductability of cash contributions raised from 50% to 60% of adjusted gross income (same as House bill)
Limitation on Wagering Losses	Modified for clarity to specify what is an expense	Modified for clarity to specify what is an expense (same as House bill)
Miscellaneous Itemized Deductions (2% of AGI Limited)	Most deductions denied	Most deductions denied (same as House bill)
Overall Limitation on Itemized Deductions	Repealed	Repealed
Gain Exclusion on the Sale of a Primary Residence	<ul style="list-style-type: none"> <li>Extends the time a taxpayer must own and use a residence to qualify for the exclusion to five of the last eight years, ending on the date of the sale.</li> <li>The maximum gain exclusion is kept at \$500k (MFJ); \$250K (all others)</li> <li>A dollar-for-dollar phase-out is added to begin at \$500k AGI (MFJ); \$250K (all others)*</li> <li>For purposes of the phase-out AGI is averaged for the current year and the two previous years</li> <li>Exclusion applies to only one residence every five years</li> <li>* so if married taxpayers had a 3-year average AGI of \$1 million or more they would not be able to exclude any gain</li> </ul>	<ul style="list-style-type: none"> <li>Extends the time a taxpayer must own and use a residence to qualify for the exclusion to five of the last eight years, ending on the date of the sale.</li> <li>No phase out</li> <li>Exclusion applies to only one residence every five years</li> </ul>
Exclusion for Employer Provided Housing	Limited to \$50,000 (\$25,000 MFS) and is phased out by \$1 for every \$2 earned above the indexed compensation threshold (\$120,000 in 2017).	Retained
Exclusion of Moving Expense Reimbursement	Denied	Denied
Deduction for Moving Expenses	Denied (except for military)	Denied (except for military)
Retirement Savings	Roth IRA and 401(k) rules are generally retained	<ul style="list-style-type: none"> <li>Roth IRA and 401(k) rules are generally retained</li> <li>Catch-up contributions for taxpayer's over 50 years of age would not be allowed if income is over \$500k in the preceding year</li> </ul>
Deduction for Alimony	Payments are no longer deductible for the payor and not includable in income for the payee	Retained intact
Student Loan Interest Deduction	Deduction denied	Retained
Individual Alternative Minimum Tax (AMT)	Repealed	<ul style="list-style-type: none"> <li>Retains the AMT</li> <li>Increases the AMT exemption amount to \$109,400 for MFJ taxpayers (\$70,300 for all other filing statuses)</li> <li>Increases the exemption amount phaseout threshold to \$208,400 for MFJ taxpayers (\$156,300 for all other filing statuses)</li> </ul>
Child tax credit	<ul style="list-style-type: none"> <li>Increased to \$1,600 per qualifying child</li> <li>\$300 nonrefundable credit for other qualifying dependents</li> </ul>	<ul style="list-style-type: none"> <li>Increased to \$2,000 per qualifying child</li> <li>Increases qualifying age to under 18</li> <li>\$500 refundable credit for other qualifying dependents</li> <li>Increases income threshold for limitation to \$1 M (MFJ) or \$500k (all others)</li> </ul>
Adoption Credit	Retained	Retained
Child and Dependent Care Credit	Denied	Retained
Education Credit	Combined into one credit, allows portion of credit for 5th year	Retained

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Earned Income Tax Credit	Retained	Retained
Estate / Gift / GST	<ul style="list-style-type: none"> <li>· Doubles the exclusion amount to \$10 million</li> <li>· The estate &amp; GST taxes are repealed and the top gift tax rate is reduced to 35% for activity after December 31, 2024.</li> </ul>	<ul style="list-style-type: none"> <li>· Doubles the exclusion amount to \$10 million</li> <li>· No repeal / rate reduction</li> </ul>

**Businesses**

**\*\* The first two provisions of the Senate bill would be effective for taxable years beginning after 12/31/18**

**The rest of the provisions for both bills would be effective for taxable years beginning after 12/31/17**

Area	House Bill (JCX-50-17 - as passed)	Senate Bill (JCX-51-17 with modifications - as passed)
Corporate Income Tax Rates	<ul style="list-style-type: none"> <li>· Graduated tax brackets replaced with a single rate of 20%</li> <li>· Tax rate on Personal Service Corporations is lowered to 25%</li> <li>· Repeals the corporate Alternative Minimum Tax</li> </ul>	<ul style="list-style-type: none"> <li>· Graduated tax brackets replaced with a single rate of 20%</li> <li>· Eliminates the special rate of Personal Service Corporations</li> <li>· Retains the corporate Alternative Minimum Tax</li> </ul> <p>**</p>
Dividends Received Deduction	The 70% deduction is reduced to 50% and the 80% deduction is reduced to 65%	The 70% deduction is reduced to 50% and the 80% deduction is reduced to 65%
Bonus Depreciation	<ul style="list-style-type: none"> <li>· 100% expensing until 12/31/2022 (through 12/31/2023 for longer production period property)</li> <li>· 100% expensing is allowed for property acquired and placed in service after September 27, 2017, and before January 1, 2023 (January 1, 2024, for longer production period property)</li> <li>· Removes the requirement that the original use of qualified property must commence with the taxpayer but applies only to property purchased in an arm's-length transaction</li> </ul>	<ul style="list-style-type: none"> <li>· 100% expensing until 12/31/2022 (through 12/31/2023 for longer production period property)</li> <li>· 100% expensing is allowed for property acquired and placed in service after September 27, 2017, and before January 1, 2023 (January 1, 2024, for longer production period property)</li> <li>· DOES NOT modify the law to extend Bonus Depreciation to used assets (like the House proposal)</li> </ul>
Sec. 179 Expensing	<ul style="list-style-type: none"> <li>· Maximum expense increased to \$5 million *</li> <li>· Phase-out threshold increased to \$20 million *</li> </ul> <p>* for years beginning after 12/31/2017 and before 1/1/2023</p> <ul style="list-style-type: none"> <li>· Expands the definition of qualified real property eligible for 179 expensing to include qualified energy efficient heating and air-conditioning property</li> </ul>	<ul style="list-style-type: none"> <li>· Maximum expense increased to \$1 million</li> <li>· Phase-out threshold increased to \$2.5 million</li> <li>· Expands definition of Sec. 179 property to include certain depreciable tangible personal property</li> <li>· Expands the definition of qualified real property eligible for 179 expensing to include some improvements to nonresidential real property</li> </ul>
Gross Receipts Test for using Cash Method of Accounting	<ul style="list-style-type: none"> <li>· Expands test to allow taxpayer's to qualify as long as their average gross receipts for the last three years are \$25 million or less, indexed to inflation for taxable years beginning after 2018 (the \$25 million gross receipts test).</li> <li>· Taxpayers that meet the \$25 million gross receipts test are not required to account for inventories under section 471 and instead may use an inventory method that treats inventories as non-incidental materials and supplies or conforms to their GAAP treatment of inventories</li> </ul>	<ul style="list-style-type: none"> <li>· Expands test to allow taxpayer's to qualify as long as their average gross receipts for the last three years are \$15 million or less, indexed to inflation for taxable years beginning after 2018 (the \$15 million gross receipts test).</li> <li>· Taxpayers that meet the \$15 million gross receipts test are not required to account for inventories under section 471 and instead may use an inventory method that treats inventories as non-incidental materials and supplies or conforms to their GAAP treatment of inventories</li> </ul>
Interest Deduction	<ul style="list-style-type: none"> <li>· The deduction for business interest is limited to the sum of business interest income plus 30 percent of the adjusted taxable income of the taxpayer for the taxable year</li> <li>· May be carried forward on a first-in, first-out basis for 5 years</li> <li>· The limitation applies at the taxpayer level</li> <li>· In the case consolidated group it applies at the consolidated level.</li> <li>· In the case of a partnership the limitation applies at the partnership level.</li> </ul>	<ul style="list-style-type: none"> <li>· The deduction for business interest is limited to the sum of business interest income plus 30 percent of the adjusted taxable income of the taxpayer for the taxable year</li> <li>· May be carried forward on a first-in, first-out basis INDEFINITELY</li> <li>· The limitation applies at the taxpayer level</li> <li>· In the case consolidated group it applies at the consolidated level.</li> <li>· In the case of a partnership the limitation applies at the partnership level.</li> </ul>
Certain Self-Created Property Not Treated as a Capital Asset	<ul style="list-style-type: none"> <li>· Excludes patents, inventions, models or designs from the definition of a capital asset</li> <li>· Repeals the election to treat gains or losses from the sale or exchange of musical compositions and copyrights in musical works as sales of capital property</li> </ul>	Silent

Area	House Bill (JCX-50-17 - as passed)	Senate Bill (JCX-51-17 with modifications - as passed)
Repeal of Special Rule for Sale or Exchange of Patents	· Repeals section 1235 - the holder of a patented invention may no longer transfer his or her rights to the patent and treat amounts received as proceeds from the sale of a capital asset	Retained
Repeal of Technical Termination of Partnerships	· Repeals section 708(b)(1)(B) that states a partnership shall be considered as terminated if within a 12-month period there is a sale or exchange of 50 percent or more of the total interest in partnership capital and profits	Retained
Nonqualified Deferred Compensation	· Compensation deferred under a nonqualified deferred compensation plan is includible in gross income of the individual when there is no substantial risk of forfeiture of the individual's rights to such compensation · Substantial risk of forfeiture means the rights to the income are conditioned on the future performance of substantial services by any individual · Any condition related to a purpose of the compensation other than the future performance of substantial services does not create a substantial risk of forfeiture	Same as House bill
Modification of Limitation on Excessive Employee Remuneration	· Revises the definition of covered employee to include both the CEO and CFO · Also it modifies the definition of a covered employee to include three most highly compensated officers for the taxable year other than the CEO and CFO · In addition, once the person is identified as a covered employee in one year they are a covered employee forever with respect to compensation paid from the corporation (even after death) · The proposal eliminates the exceptions for commissions and performance-based compensation from the definition of compensation subject to the \$1 million deduction limit	Same as House bill
Net Operating Losses (NOL's)	· Limits the NOL deduction to 90% of taxable income · NOL's maybe carried forward indefinitely but NOT carried back at all* *Under normal circumstances, it does allow a one-year carryback in the case of certain disaster losses incurred in the trade or business of farming, or by certain small businesses	· Limits the NOL deduction with respect to losses arising in taxable years after December 31, 2017 to 90 percent of taxable income and to 80 percent of taxable income in taxable years beginning after December 31, 2022 · NOL's maybe carried forward indefinitely but NOT carried back at all* *Under normal circumstances, it does allow a TWO-year carryback in the case of certain disaster losses incurred in the trade or business of farming
Like-kind Exchanges	· Limits application of like-kind exchanges to real property that is not held primarily for sale	Same as House bill
Recovery Period for Real Property	Silent	· Shortens the depreciation period of nonresidential real and residential rental property to 25 years · Eliminates separate definitions for qualified leasehold improvement, qualified restaurant, and qualified retail improvement property, and provides a general 10-year depreciation period for qualified improvement property
Domestic Production Activities Deduction	Deduction denied	Deduction denied
Local Lobbying Expenses Deduction	Deduction denied	Deduction denied

Area	House Bill (JCX-50-17 - as passed)	Senate Bill (JCX-51-17 with modifications - as passed)
Entertainment Expenses Deduction	<ul style="list-style-type: none"> <li>· Disallows deduction for expenses associated with entertainment activities, membership dues, and facilities associated with any of these</li> <li>· Also denies the deduction of 50% of the cost of recreational, social, or similar activities primarily for the benefit of employees.</li> </ul>	Disallows deduction for expenses associated with entertainment activities, membership dues, and facilities associated with any of these
Credit for Clinical Testing Expenses of Certain Drugs	Credit denied	<ul style="list-style-type: none"> <li>· Limits the orphan drug credit to 50 percent of so much of qualified clinical testing expenses for the taxable year as exceeds 50 percent of the average qualified clinical testing expenses for the three taxable years preceding the taxable year for which the credit is being determined</li> <li>· Reduces orphan drug credit rate to 27.5 percent</li> </ul>