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Senate Begins Debate on Tax Reform

Tax Advisory Group

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The U.S. Senate voted 52 to 48 on November 29, 2017, to begin floor debate on the Republican tax reform bill. That Senate debate started on November 30 and is limited to 20 hours. Part of the challenge in passing this bill is to keep the tax cut cost over the next 10 years to no more than $1.5 trillion dollars. In the Senate, any amendments to the tax reform legislation that passed the Senate Finance Committee resulting in greater tax cuts will require other changes to pay for any additional tax cut proposals. If the Senate is able to pass their tax legislation, then a Conference Committee of House Representatives and Senators will convene to try to resolve the differences in the two tax legislative bills. Once the Conference Committee reaches an agreement, the bill will need to be approved by both the House and the Senate before going to the President for signature.

At this point, there are only 10 legislative days left in the House and 12 days left in the Senate. If legislation is not passed by both the Senate and the House by the end of 2017, the process is likely to slow down and be more difficult to pass. If the legislation is pushed into 2018, the process will essentially begin again and passage will likely become more difficult.

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The Senate bill contains many of the same proposals as the House bill, but also differs in several significant respects. Here are some of the differences:

- Where the House bill would create four income tax rates for individuals at 12 percent, 25 percent, 35 percent and 39.6 percent, the Senate bill would employ a seven-bracket system, with tax rates of 10 percent, 12 percent, 22.5 percent, 25 percent, 32.5 percent, 35 percent, and 38.5 percent. The 38.5 percent rate would start for single taxpayers with taxable income over $500,000 and for married taxpayers filing jointly with taxable income over $1 million, which are the same thresholds in the House bill.

- The Senate bill would allow individuals to deduct 17.4 percent of “domestic qualified business income” passed through from a partnership, S corporation, or sole proprietorship. The deduction would not apply to specified service businesses, except in the case of a taxpayer whose taxable income does not exceed $150,000 (for married individuals filing jointly; $75,000 for other individuals). The benefit of the deduction for service providers would be phased out for taxable income exceeding $150,000 (for married individuals filing jointly; $75,000 for other individuals). In the case of a taxpayer who has qualified business income from a partnership or S corporation, the amount of the deduction would be limited to 50 percent of the W-2 wages of the taxpayer. The House bill reduces the tax rate on partnership, S corporation, or sole proprietorships to 25 percent. Many pass-through business owners would be eligible for the 25 percent rate on 30 percent of their income, with the balance being taxed as ordinary income and subject to self-employment tax.

- The Senate bill would increase the child tax credit to $2,000, while the House bill caps that deduction at $1,600. The Senate's child tax credit would be modified to allow a $500 nonrefundable credit for qualifying dependents other than children. The Senate bill would also keep the adoption tax credit and the child and dependent care credit, which would be repealed by the House.

- The Senate bill would entirely eliminate the deduction for state and local taxes. The House bill would allow a deduction for state and local real property taxes, up to $10,000.

- The Senate bill would retain the current deduction for medical expenses that exceed 10 percent of a taxpayer's adjusted gross income. In addition, unlike the House bill, the Senate bill would not change the current alimony rules.

- While the House plan would limit the deductibility of mortgage interest to $500,000 of acquisition indebtedness, the Senate bill would retain the current limit of $1 million but would repeal the deduction for interest on home equity indebtedness. The House bill would grandfather mortgages incurred before November 3, 2017.

- The Senate bill would eliminate the individual health care mandate and related subsidies projected to save over $300 billion over 10 years. The House does not propose to eliminate the individual healthcare mandate.

- The Senate bill would lower the corporate tax rate to 20 percent — like the House bill — but would delay that lower rate until 2019. There is pressure to increase the corporate tax rate to 22 percent rather than 20 percent.

- The Senate bill would not repeal the estate tax but would double the exemption amount. Many believe the estate tax will not be repealed after 2023 as in the House bill.

- Some Senators are looking to have a trigger for up to $350 billion in tax increases over 10 years if economic growth does not meet revenue targets. This would increase uncertainty and likely stunt economic growth.

- There are many other differences between the Senate bill and the House bill. We will continue to keep you apprised of developments.

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Jim has been with HBK since 1986 and has extensive experience in personal and estate planning, charitable planning, tax-exempt organizations and individual tax and financial planning. Jim earned a Bachelor of Science degree in Business Administration from the University of Toledo, as well as the Personal Financial Specialist (PFS) designation, which is awarded by the American Institute of Certified Public Accountants to recognize CPAs who provide financial planning service. Jim also has experience in the tax policies, procedures and resources that HBK uses in its tax practices. He provides counsel to high-net-worth individuals throughout HBK. He was the former Tax Advisory Group chairman, is one of the firm's preeminent presenters and specializes in addressing business owners and individuals on topics such as estate and gift planning, charitable giving opportunities, the Affordable Care Act, shale energy planning and exempt organization issues.

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