House/Senate/Conference Tax Reform Comparison Guide
Preliminary Staff Analysis
American Bankers Association
December 16, 2017

Business Tax Rates

C corp 21 percent, effective 2018; pass-through entities are given a 20 percent deduction (based on business income), effective 2018, that (coupled with a decrease in the top individual rate to 37 percent) drops the top effective rate to roughly 30 percent. No distinction between active and passive shareholders. The deduction now applies to trusts. Similar to the individual tax provisions, the pass-through deduction is subject to a 2025 sunset.

Interest Expense

Deductions for net business interest expense will be restricted. Banks as taxpayers should not be affected by this restriction. Businesses with gross receipts of $25 million or less are exempt. For other business taxpayers, the limitation will be based on the amount that net business interest expense exceeds 30 percent of adjusted income. Important exceptions are also provided for real estate, agriculture and other selected businesses. Effective 2018.

Tax Credits

R&D, low income housing and new market and other credits appear to be continued. Some restrictions on historic credits.

Capital Expensing

Generally similar to the House, although there is now a phase out of the 100 percent expensing after the 5 years in 20 percent increments through 2026.

Net Operating Losses

Net operating loss carrybacks are eliminated; 80 percent limitation effective immediately.

FDIC Premiums

The deduction for FDIC premiums is eliminated for banks with assets over $50 billion. For banks with assets between $10 billion and $50 billion, the deduction is eliminated proportionally based on asset size.

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Deferred Compensation

No change from existing law.

Credit Unions and Farm Credit System

Unfortunately, the proposals and final bill do not address the historic inequality of taxation between business entities providing the same services.

Tax Accounting

The proposal modifies the rules for recognition of income by requiring a taxpayer to recognize income no later than the tax year in which such income is recognized for financial reporting purposes. For banks, this provision would appear to impact current deferrals of credit card fee income under the OID rules. The bill defers the effective date for OID related items to 2019 and allows a company to apply a six-year "Section 481" adjustment period. In addition, there was originally uncertainty as to the potential application of the rule to mortgage servicing rights. A technical correction has been made to make it clear the provision does not apply to MSRs. For remaining items that might be impacted, the rule applies to taxable years after 2017 with an apparent mandatory change in accounting method.

Corporate AMT

AMT repealed.

International Taxation

The law provides for the establishment of a territorial system of international taxation. To address base erosion concerns, a variety of provisions are proposed. For previously untaxed deferred foreign income, there is a deemed repatriation and taxable event. There is a two tier tax rate structure: 15.5 percent for taxpayers with cash and cash equivalents; and 8 percent for taxpayers with earnings invested in property, plant and equipment.

Municipal Securities

Only advance refunding bonds are eliminated.

Other Issues of Particular Concern to Banks

- **BOLI / COLI**: No apparent change.
- **FIFO basis calculations:** No change to current treatment.

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Selected Individual Provisions

Individual brackets of 10 percent, 12 percent, 22 percent, 24 percent, 32 percent, 35 percent and 37 percent. Top rate of 37 percent applies to AGI (MFJ) of $600,000 or more. Doubling of standard deductions, elimination of personal exemptions, child tax credits expanded and additional amounts made refundable. Mortgage interest (new cap of $750,000 for total first and second homes); existing mortgages grandfathered. No deduction for HELOCs. Appears to apply to new and existing HELOC debt. Charitable deductions retained. State tax (income, property, sales) deductions allowed with a cap of $10,000. Individual AMT is retained with an increase in exemption amounts and phaseouts. Federal estate tax applicable exclusion amount is doubled to $10 million, indexed for inflation. Retirement savings benefits substantially retained. All individual provisions are subject to a 2025 sunset.

Questions? Contact ABA's John Kinsella or Curtis Dubay for more information.

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