KEY INDIVIDUAL PROVISIONS

Rule	Present Law (2018 Rate Schedule)	H.R. 1	Senate Finance Committee (SFC)	Differences and Observations
Rates – Single Filers	10% (under $9,525) 15% (under $38,700) 25% (under $93,700) 28% (under $195,450) 33% (under $424,950) 35% (under $426,700) 39.6% (above $426,700)	12% (under $45,000) 25% (under $200,000) 35% (under $500,000) 39.6% (over $500,000)	10% (under $9,525) 12% (under $38,700) 22% (under $70,000) 24% (under $160,000) 32% (under $200,000) 35% (under $500,000) 38.5% (over $500,000) Rates sunset after 12/31/2025	• Top rate of 39.6% (HR1) vs. 38.5% (SFC) for income above 500K • 4 rates (HR 1) vs. 7 rates (SFC) • SFC rates sunset after 2025 • SFC rates more beneficial for incomes under 160K
Rates – Joint Filers	10% (under $19,050) 15% (under $77,400) 25% (under $156,150) 28% (under 237,950) 33% (under $424,950) 35% (under $480,050) 39.6% (over $480,050)	12% (under 90,000) 25% (under $260,000) 35% (under $1 million) 39.6% (over $1 million)	10% (under $19,050) 12% (under $77,400) 22% (under $140,000) 24% (under $320,000) 32% (under $400,000) 35% (under $1 million) 38.5% (over $1 million) Rates sunset after 12/31/2025	• Top rate of 39.6% (HR1) vs. 38.5% (SFC) for income above $1 million • 4 rates (HR 1) vs. 7 rates (SFC) • SFC rates sunset after 2025 • SFC rates more beneficial for incomes under 400K
Alternative Minimum Tax	AMT imposed when minimum tax exceeds regular income tax	Repeals AMT	Repeals AMT (sunsets Jan. 1, 2026)	• SFC repeal sunsets after 2025
Standard Deduction	$6,500 for individuals and $13,000 for joint filers	$12,200 for individuals and $24,400 for joint filers	$12,000 for individuals and $24,000 for joint filers	• HR 1 slightly more advantageous
Personal Exemption	$4,150 for each person, spouse, and dependents	Repeals standard deduction	Repeals standard deduction	N/A
Estate Tax	$5.6 million exemption amount, transfers in excess subject to 40% rate	Increases exemption to $10 million in 2018, repeals in 2024 (while retaining step-up in basis). Gift tax rate is 35%	Increases exemption to $11 million beginning in 2018 (sunsets 1/2026)	• HR 1 repeal vs. SFC doubling exemption • SFC increase sunsets after 2025 • HR 1 is $67.7 billion more costly
Child Tax Credit	$1,050 per child	$1,600 per child ($1,000 refundable) and a $300 credit for non-child dependents	$2,000 per child ($1,000 refundable) and $500 for non-child dependents	• SFC more generous on credit and phase out rules
Mortgage Interest (MI) Deduction	MI deduction limited to acquisition debt of $1 million and home equity debt of $100K on a principal and second home	Retained for existing mortgages, curtailed to $500,000 for newly purchased homes, no longer applicable to a second home	Retains current law but repeals interest on home equity indebtedness	• HR 1 significantly more limiting • Even with 10K property tax deduction (discussed next), HR 1 raises $283.6 billion more than SFC
State and Local Tax Deduction	State and local taxes are deductible as an itemized deduction	Deduction for state and local income and sales taxes eliminated, deduction for property taxes limited to $10,000	Repeals deduction for state and local taxes	• SFC fully repeals property tax deduction, while HR 1 maintains deduction up to 10K
Individual Mandate	ACA requires individuals be covered by health insurance or pay “penalty” (tax)	No proposal	Reduces the penalty to $0 (repealing the individual mandate) effective 2019	• A fundamental difference between HR 1 and SFC • Estimated to raise $318.4 billion

KEY BUSINESS PROVISIONS

Rule	Present Law	H.R. 1	Senate Finance Committee (SFC)	Differences and Observations
Rates	Graduated corporate rate structure, top rate of 35%, personal service corporations taxed at 35%	Rate permanently reduced to 20% in 2018, personal service corporations taxed at 25%	Rate permanently reduced to 20% beginning in 2019 (no special rate for personal service corporations)	• 1-year delay in 20% corporate rate reduces the cost by $127 billion
Alternative Minimum Tax	Imposed to the extent a corporation's minimum tax exceeds its regular tax	Repealed with AMT credits refundable from 2019 through 2022	Repealed with AMT credits refundable from 2018 through 2021	• Similar but for the 1-year acceleration in SFC, which adds $10B to cost in 2018 and 2019
Pass-Throughs	Income attributable to a pass-through (partnership, LLC, S corporation) generally taxed at the owner's individual rate	Pass-through rate of 25%, lower 9% for small businesses, capital percentage election (70% wage income and 30% business income) with higher percentage for qualified capital income	17.4% deduction for qualified business income (s/t 50% of wage income), service income eligible (for income under 250K or 500K for joint filers); provision sunsets after 2025	• A fundamental difference between the 2 bills • NFIB favors the SFC approach
Limitation on Losses for Pass-Through Entities	Owners of pass-throughs can deduct active losses from a trade or business	No proposal	Beginning Jan. 2018, owners of pass-through businesses cannot deduct more than $250k ($500k for joint filers) of active losses from the pass-through, disallowed losses carried forward as NOLs (sunsets Dec. 31, 2025)	• For the first time would limit active losses from a pass-through business • Estimated to raise $137.4 billion over 10-year period
Capital Expensing and Cost Recovery for Real Estate	Costs of business property recovered over time via depreciation deductions (39 years for nonresidential real and 27.5 year for residential rental)	Immediate expensing of 100% of qualified property (tangible personal property) through 2022 (placed in service after Sept. 27, 2017)	Immediate expensing of 100% of qualified property (tangible personal property plus film, TV and theatre) through 2022 (placed in service after Sept. 27, 2017); 25-year period for residential rental and nonresidential real property and 10 years for improvement property	• SFC immediate expensing proposal includes entertainment property • SFC cost recovery proposal more beneficial to the real estate industry
Business Interest Deduction	Deduction for business interest paid or accrued	Caps net interest deduction at 30% of earnings before interest, taxes, depreciation, and amortization (EBITDA); disallowed interest carried forward 5 years	Caps net interest deduction at 30% of earnings before interest and taxes (EBIT); disallowed interest carried forward indefinitely	• HR 1 provides a more favorable "thin cap" formula; SFC provides more favorable carry forward period • SFC proposal raises $136.4 billion more than HR 1 approach
Net Operating Loss Deduction	NOLs may be carried back 2 years and carried forward 20 years to offset taxable income	NOL deduction limited to 90% of taxable income with indefinite carryforward, carrybacks generally eliminated	NOL deduction limited to 90% of taxable income (80% after 2022) with indefinite carryforward, carrybacks generally eliminated	• SFC imposes greater limits than HR 1 (80% vs. 90%) beginning in 2023
Like-Kind Property	Allows deferral of gain from an exchange of "like-kind" property	Retained for real property but eliminated for all other property	Retained for real property but eliminated for all other property	N/A
Research and Development Credit	Research and development expenditures subject to a tax credit	R&D expenditures must be capitalized and amortized over a 5-year period for expenditures paid or incurred after 2023 (15 years for foreign expenditures)	R&D expenditures must be capitalized and amortized over a 5-year period for expenditures paid or incurred after 2025 (15 years for foreign expenditures)	• The 2-year difference (2023 vs. 2025) equates to $46.5 billion in revenue

KEY INTERNATIONAL PROVISIONS

Rule	Present Law	H.R. 1	Senate Finance Committee (SFC)	Differences and Observations
Tax Regime	Worldwide tax regime (corporations headquartered in U.S. generally pay U.S. income tax on worldwide income with exceptions)	Adoption of a territorial tax regime (foreign business income earned by 10% U.S. corporate shareholders exempt from U.S. tax)	Territorial tax regime (foreign business income earned by 10% U.S. corporate shareholders exempt from U.S. tax)	N/A
Repatriation Rate	No provision	Deemed repatriation of deferred foreign profits, 14% for cash assets and 7% for non-cash assets	Deemed repatriation of deferred foreign profits, 10% for cash assets and 5% for non-cash assets	• HR 1 raises $108.6 billion more than SFC approach
Current Year Inclusion of Passive and Mobile Income	Current U.S. tax paid on pro rata share of CFC income, with transfer pricing rules to determine proper allocations of cross-border income and deductions	50% of a U.S. shareholder's "foreign high return income" of a CFC (excess of net income over [7% plus Federal short-term rate]) is subject to current U.S. tax (an effective 10% minimum tax); FTC limited to 80% of foreign tax paid (and subject to a separate FTC limitation)	50% (reduced to 37.5% after 2025) of a U.S. shareholder's "global intangible low-taxed income" (excess of aggregate income over 10% of its share of depreciable tangible property) is subject current U.S. tax (an effective 10% minimum tax); FTC limited to 80% of foreign tax paid (and subject to a separate FTC limitation)	• SFC approach must be considered in tandem with the deduction for foreign-derived intangible income (discussed next)
Deduction for Certain Foreign Intangible Income	No provision	No provision	Allows a 37.5% deduction (21.875% after 2025) for a U.S. corporation's "foreign-derived intangible income" (determined in a similar manner as global intangible low-taxed income) earned in the United States	• This proposal is designed to incent corporations to keep (or bring back) IP in the United States
Inbound Base Erosion	No provision	A domestic corporation that makes related-party outbound payments (for companies with over $100 million in outbound payments) that are deductible, includible in COGS, or capitalized, would be subject to a non-deductible 20% excise tax. Alternatively, the foreign affiliate may elect to treat the payment as effectively connected income ("ECI election") with a U.S. trade or business (subjecting to tax on a net basis the income attributable to the cross-border payment)	A domestic corporation (with annual gross receipts in excess of $500 million) that makes deductible foreign related-party payments would be subject to a minimum tax to the extent that 10% (12.5% beginning in 2026) of the deductible foreign-related party payments (excluding COGS) exceeds the corporation's regular tax. De minimis exception applies if the foreign-related party payments are less than 4% of the corporation's total expenses	• The HR 1 proposal is structured to encourage the ECI election • The HR 1 proposal is estimated to raise $94.5 billion; the SFC proposal $137.6 billion
Look-through Rule	"Look-though" rule provides that a U.S. parent can exclude passive income received by 1 CFC from a related CFC (expires after 2019)	Makes permanent the "look-through" rule	Makes permanent the "look-through" rule	N/A

EMPLOYER-EMPLOYEE RELATED

Rule	Present Law	H.R. 1	Senate Finance	Differences and Observations
Moving Expense Deduction	Deduction for qualified moving expenses	Repealed, except for members of the Armed Forces	Repealed, except for members of the Armed Forces	N/A
Exclusion of Moving Expense Reimbursement	Reimbursements for employer-provided qualified moving expenses are excluded from income	Repealed	Repealed	N/A
Deduction for Employee Expenses	Employee business expenses may be claimed as an itemized deduction above certain thresholds	Repealed	Repealed	N/A
Fringe Benefit Deduction	Employers may deduct 50% of the cost of certain fringe benefits and other amenities, including transportation and membership dues	Repealed	Repealed	N/A
Entertainment/Meal Deduction	Employers may deduct the 50% of the cost of business-related entertainment and meals	Eliminates the deduction for entertainment expenses but preserves the deduction for meals	Eliminates the deduction for entertainment expenses but preserves the deduction for meals; after 2025, repeals the deduction for meals provided for employer's convenience	N/A
Exclusion for Dependent Care Programs	Up to $5,000 may be excluded from AGI for employer-provided dependent care programs	Provision sunsets at the end of 2022	No provision	• Dependent care exclusion sunsets in HR 1 but not SFC
Employer Credit for Family/Medical Leave	No credit for employers for compensation paid to employees while on leave	No proposal	Employers may claim a general business credit equal to 12.5% of wages paid to qualifying employees while they are on family and medical leave if the rate of payment is 50% of the wages normally paid to the employee (an increased credit for higher wage payments) sunsets after 2019	• An important proposal for the Trump administration
Other Business Incentives	Present law allows various business incentives, including a 9% deduction for domestic production income (section 199), a Work Opportunity Tax Credit (WOTC), a New Markets Tax Credit (NMTC), and a Historic Rehabilitation Credit (among others)	HR 1 repeals • The section 199 deduction • WOTC • NMTC • The Historic Rehabilitation Credit	SFC • Repeals the section 199 deduction • Modifies the Historic Rehabilitation credit	• The section 199 deduction was viewed as a proxy for a 3 percentage point reduction in the corporate rate • SFC retains more of the industry-specific incentives

COMPENSATION AND EXEMPT ORGANIZATIONS				
Rule	**Present Law**	**H.R. 1**	**Senate Finance**	**Differences and Observations**
Excessive Employee Compensation for Covered Officials (CEO + Three Highest)	$1 million cap on deduction for corporate salaries of "covered officials" with exceptions for performance based compensation	All compensation paid by publicly traded entities to executives would be subject to a $1 million deduction limit (repeals the performance-based exception)	All compensation paid by publicly traded entities to executives would be subject to a $1 million deduction limit (repeals the performance-based exception)	N/A
Excise Tax for Tax-Exempt Organization Excessive Compensation	Limits on the deduction for executive compensation do not affect a tax-exempt organization	The tax-exempt employer is liable for an excise tax of 20% on compensation in excess of $1 million	The tax-exempt employer is liable for an excise tax of 20% on compensation in excess of $1 million	• Aligns the rules for tax-exempt organizations with for-profit entities
Non-qualified Deferred Compensation (NQDC)	Compensation may be received currently or may be deferred. NQDC is taxed when the right to the income vests and when it is actually/constructively paid	No proposal	No proposal	• HR 1 and SFC proposals originally included proposals that would have limited NQDC – but both were stricken in Chairman's Amendments
Higher Education Excise Tax	Private foundations that are exempt from Federal Income Tax are subject to a 2% excise tax on net investment income, universities and colleges are treated as public charities rather than private foundations and thus are not subject to the excise tax	1.4% excise tax on net investment income of an applicable educational institution	1.4% excise tax on net investment income of an applicable educational institution	N/A
Carried Interest	Must hold an asset for 1 year to be eligible for the long-term capital gains top rate of 20%	Extends the holding period to 3 years	Extends the holding period to 3 years	N/A

Have Questions? Contact our Tax and Wealth Planning Group to discuss the legislation in greater detail.

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