Side-by-Side Summary of Current Tax Law and the Final Version of the Tax Reform Bill[1]

Corporate Tax Provisions		
Provision	**Current Law**	**Final Tax Reform Bill**
Tax rates	C corporations pay tax on their income based on a graduated rate structure with four income brackets. The top marginal rate is 35%. An additional tax is imposed on a corporation's taxable income in excess of certain thresholds.	Starting in 2018, C corporations will be subject to a flat tax rate of 21%.
Alternative Minimum Tax (AMT)	A corporation that utilizes net operating losses (NOLs) and business credits to reduce its taxable income may be subject to the AMT, a tax that replaces the "regular" corporate tax when a corporation's regular tax liability is less than its "tentative minimum tax." The tentative minimum tax is a flat rate tax of 20% on a corporation's alternative minimum taxable income (AMTI). AMTI is determined by adjusting regular taxable income for certain "preference items." For example, a corporation generally cannot offset more than 90% of its AMTI with NOL carryforwards. Corporations with less than $7.5 million in average gross receipts (based on a 3-year look-back period) are generally exempt from the AMT.	Repeals the corporate AMT. Corporations that previously were subject to the AMT are eligible to a refundable credit (subject to limitations until 2022) against their regular tax liability.
Net Operating Losses (NOLs)	A corporation has a NOL if its deductions exceed its gross income. A NOL can be used to offset taxable income in the prior 2 years (or "carried back") or the following 20 years ("carried forward").	Starting in 2018, the deduction for net operating losses (NOLs) is limited to 80% of a corporation's income. The Final Bill repeals existing NOL carryback rules. Disallowed losses may be carried forward indefinitely.
Interest Deductions	Generally, corporations deduct interest expense when determining taxable income. A complex set of rules known as the "earnings stripping" rules, limit the ability of highly leveraged corporations to deduct interest paid to related persons who won't pay US tax on the interest (*e.g.*, a foreign corporation, to the extent eligible for a reduced rate of withholding under a tax treaty), and interest paid to an	The Final Bill repeals existing "earnings stripping" limitations on interest deductions. The Final Bill imposes a new limitation on all corporations' ability to deduct interest. The new rule limits deductions for net interest expense to 30% of adjusted taxable income (ATI), a proxy for EBITDA. Starting in 2022, the ATI limitation

[1] The official title is, "An Act to provide for reconciliation pursuant to titles II and V of the concurrent resolution on the budget for fiscal year 2018." The short title of a prior version of the Final Bill, "The Tax Cuts and Jobs Act," was changed in order to comply with parliamentary procedures.

	unrelated person if the obligation is guaranteed by a related person and the interest is not subject to a US withholding tax.	will be determined without adding back deductions for depreciation, amortization or depletion (*i.e.*, a proxy for EBIT instead of EBITDA). Disallowed amounts can be carried forward indefinitely. Companies with average gross receipts of $25 million or less during a 3-year look-back period are exempt.
Increased Expensing/ "Bonus Depreciation"	Generally, a taxpayer who buys business assets that will have a useful life of more than one year is required to capitalize the cost of the asset (*i.e.*, take depreciation deductions over the asset's useful life instead of deducting the cost in the year of purchase). Certain assets are eligible to be depreciated under an "accelerated" system, permitting larger depreciation deductions over a shorter period of time. To stimulate investment, an additional first-year depreciation deduction, referred to as "bonus depreciation," is allowed for certain property placed in service during prescribed years. Generally, only new property is eligible for bonus depreciation due to a requirement that the "original use" of the property start with the taxpayer.	100% of the cost of certain new and used business assets may be immediately expensed if placed in service after September 27, 2017, and before 2023. For assets placed in service after 2023, this "bonus" depreciation percentage will phase down from 80% (2023) to 0% (in 2027). Eliminates the "original use" requirement.
"Orphan Drugs" Tax Credit	Eligible taxpayers may claim a 50% tax credit for qualified clinical testing expenses incurred in testing "orphan drugs" (drugs for rare diseases or conditions). Qualified clinical testing expenses are costs incurred to test an orphan drug after the drug has been approved for human testing by the FDA but before the drug has been approved for sale.	The Final Bill reduces the orphan drug credit from 50% to 25%.
Dividends Received Deduction (DRD)	A corporation can deduct a percentage of the dividends it receives from other domestic corporations. The percentage that is deductible increases based on the payee's ownership of the payor. A corporation that owns 20% (by vote and value) of the payor deducts 80% of the dividend received, while dividends within affiliated groups (very generally, corporations connected through 80% stock ownership) deduct 100% of the dividend received. For dividends from less-than-20%-owned subsidiaries, the DRD percentage is 70%.	Starting in 2018, the Final Bill reduces the DRD percentage from 70% to 50% (in the case of less-than-20%-owned subsidiaries), and from 80% to 65% (in the case of less-than-80%-owned subsidiaries).
Domestic production activities deduction	An eligible taxpayer may claim a deduction equal to 9% of its qualifying production activities income, which is equal to its "domestic production gross receipts," net of expenses.	The Final Bill repeals the deduction under Section 199 for qualified production activities income.

	Domestic production gross receipts are the gross receipts from the manufacture and production of qualifying production property, which includes (among other things) computer software and tangible personal property.	
Timing rules; Deferred Revenue	Most C corporations are accrual method taxpayers. Generally, an accrual method taxpayer is required to include an item in income when all the events have occurred that fix the right to receive the income and the amount can be determined with reasonable accuracy. However, there are exceptions that permit a corporation to receive a payment (such as an advance payment for goods or services) in one year, but wait to include part or all of that amount in a later year's tax return. For example, assume a company receives a payment in Q3 of Year 1 for an annual subscription from a customer. Under IRS guidance (Rev. Proc. 2004-34), to the extent the company books part of the payment for financial accounting purposes in Year 2 (*i.e.*, because the payment will be credited to revenue as services are provided), the company is also permitted to defer including that amount into income for tax purposes.	The Final Bill requires an accrual method taxpayer subject to the all events test for an item of gross income to recognize such income for tax purposes no later than the tax year in which that item is taken into revenue in an applicable financial statement (*e.g.*, a 10-K or an audited financial statement prepared for a substantial nontax purpose) or an alternative financial statement as provided in the Treasury Regulations. The Final Bill also codifies Rev. Proc. 2004-34 (described at left).

Individual Tax Provisions

Provision	Current Law	Final Tax Reform Bill
Tax Rates	Individuals pay tax on their ordinary income based on a graduated rate structure with seven income brackets. The amount of income in each bracket differs base on filing status. The top marginal rate is 39.6% on income in excess of $418,400 (single taxpayers) or $470,700 (married taxpayers filing joint returns).	Retains current graduated rate structure and seven brackets. Lowers the maximum rate from 39.6% to 37% for income in excess of $500,000 (single taxpayers) or $600,000 (married taxpayers filing joint returns). Tax cuts sunset at the end of 2025.
Standard Deduction & Personal Exemptions	Individuals who do not elect to itemize deductions on their personal income tax return reduce their adjusted gross income (AGI) by the basic standard deduction (and, if applicable, the additional standard deduction). The amount of the basic standard deduction varies depending upon filing status. For 2017, the amount of the basic standard deduction	Increases the standard deduction to $12,000 for single taxpayers and $24,000 for married taxpayers filing joint returns. Eliminates the personal exemption and the additional standard deduction. Provision sunsets at the end of 2025.

	is $6,300 for single taxpayers and $12,700 for married taxpayers filing joint returns. An individual also reduces his or her AGI by any personal exemption deductions, which are generally allowed for the taxpayer, his or her spouse, and any dependents. For 2017, each personal exemption deduction is equal to $4,050. The personal exemption amount is phased out for certain high earners.	
Deduction for State & Local Taxes (SALT)	Individuals are generally permitted to deduct state and local income taxes (or state and local general sales taxes in lieu of income taxes), including property taxes, on their federal income tax return.	Itemized deduction for SALT would be generally repealed. However, a taxpayer may claim an itemized deduction of up to $10,000 ($5,000 for single taxpayer) for a combination of state and local property, income and sales taxes. Provisions sunset at the end of 2025.
Individual Alternative Minimum Tax (AMT)	Certain high earning individuals that elect to itemize deductions (such as SALT deductions) to reduce AGI may be subject to the AMT, a tax that replaces the “regular” corporate tax when an individual’s regular tax liability is less than his or her “tentative minimum tax.” The AMT is based on the amount by which an individual’s alternative minimum taxable income (AMTI) exceeds certain exemption amounts. In 2017, the exemption amount is $54,300 in the case of unmarried individuals ($84,500 for married individuals filing joint returns). The exemption amounts are phased out by any amount equal to 25% of the amount by which the individual’s AMTI exceeds $120,700 in the case of unmarried individuals ($160,900 for married individuals filing joint returns). AMTI is determined by disallowing or limiting certain deductions that are allowed in computing an individual’s regular income tax liability.	Individual AMT is retained. The Final Bill would increase the AMT exemption to $109,400 and substantially raise the phaseout threshold to $1 million for married taxpayers filing jointly, with additional changes to exemptions and phaseouts for single taxpayers and married taxpayers filing separately. Amounts would also be indexed for inflation after 2018. This provision sunsets at the end of 2025.
Capital Asset Treatment of Patents	Certain self-created intangibles (*e.g.*, copyrights) are ineligible for capital gain treatment. Therefore, if a taxpayer sells a copyright, any gain will be taxed at ordinary income rates. However, under a special rule the sale of self-created patents, inventions, or trade secrets are eligible for capital gain treatment.	The Final Bill eliminates capital gain treatment for the sale of a self-created patent (or invention or trade secret). Sale of such assets will now generate ordinary income (similar to current law’s treatment of copyrights) to the extent sold by the person who created the patent or who has a transferred basis from the person who created the patent).

Mortgage Interest Deduction	Taxpayers may deduct the interest paid on mortgage debt up to $1 million, which cap may cover multiple homes. Up to $100,000 in interest on a home-equity loan or line of credit is also deductible.	For mortgages incurred after December 31, 2017, taxpayers may only deduct interest on up to $750,000 of principal mortgage debt, and no deductions are available for home-equity loan or line of credit. This provision sunsets at the end of 2025.
Miscellaneous Itemized Deductions	Individuals may deduct certain miscellaneous expenses (*i.e.*, "Section 212 deductions") if the aggregate of all such expenses exceeds 2% of the individual's AGI. The categories of these expenses include expenses for the production or collection of income (*e.g.*, investment fees), tax preparation expenses, and unreimbursed expenses incurred by an employee (*e.g.*, business liability insurance premiums, dues to professional societies).	Individuals may no longer deduct miscellaneous itemized deductions, regardless of the "2% floor." This provision sunsets at the end of 2025.
Estate Tax	A 40% estate tax is imposed on inherited property above $5.49 million, adjusted annually for inflation. When property is transferred at death, the beneficiary takes a stepped-up basis in the property (*i.e.*, equal to fair market value at the time the decedent dies).	Doubles the basic exclusion amount (*i.e.*, the amount that isn't subject to estate tax) to $10 million, and will be continue to be indexed for inflation. Step-up in basis provisions retained. Provision sunsets at the end of 2025.
Like-kind Exchanges	Generally, an exchange of property is a fully taxable transaction. However, no gain or loss is recognized if certain business or investment property is exchange for similar property which is also to be held for business or investment purposes. This non-recognition provision (Section 1031) does not apply to inventory, securities, partnership interests, and certain other types of properties.	Limits the scope of Section 1031 to exchanges of real property that is not held primarily for sale.
Affordable Care Act Individual Mandate	Imposes a penalty tax of $695 or 2.5% of income, whichever is higher, to those who fail to buy a qualifying health insurance plan.	Reduces the individual mandate tax penalty to zero. Applies after 2018.

Pass-Through Entity Tax Provisions (Partnerships, LLCs Taxable as Partnerships, and S Corporations)		
Provision	**Current Law**	**Final Tax Reform Bill**
Pass-through Taxation Generally	Pass-through entities generally are not subject to entity-level tax. Instead, items of income, gain, loss, deduction and credit of the pass-through entity pass through to its owners' (*i.e.*, its partners, members or shareholders) tax returns. For instance, individual partners pay tax (at the individual rates applicable to them, based on their aggregate income) on their distributive share of income derived at the partnership level.	Starting in 2018, individuals may generally deduct up to 20% of qualified business income earned through a pass-through vehicle. The deduction is generally subject to a limitation based on the W-2 wages and capital of the pass-through business. The deduction is available to non-itemizers and would expire after 2025. *Exception:* Individuals with taxable income in excess of the threshold amount plus $50,000 ($100,000 for a joint return) are ineligible to claim the deduction for income from most service partnerships (*e.g.*, law firms, accounting firms, medical practices, etc.).
Carried Interests	If properly structured, the receipt of a carried interest in a partnership or a LLC taxed as a partnership (a tax partnership) in exchange for the performance of services is not a taxable event. A carried interest is a share of future profits of the tax partnership. Gains allocated in respect of a carried interest are eligible for tax at preferential long-term capital gain rates, subject to a one year holding period for the investment generating the gains.	The Final Bill imposes a three-year holding period for gains realized in respect of a carried interest (including gain from the sale of a carried interest) to be taxed at long-term capital gains rates. Otherwise, carried interest would be taxed as short-term capital gains at a top marginal rate of 37%. The new rules generally should not apply to "profits interests" granted to service providers to LLCs and partnerships where they are employed by a separate, related entity.
Look-through Rule for Gain on Sale of Partnership Interest	When a foreign person sells its interest in a tax partnership that is conducting an active business within the United States (*i.e.*, the tax partnership operates an active business rather than serving as a holding company for businesses operated in corporate form), the IRS has historically taken the position that the foreign person is subject to US federal income tax on the portion of its gain that is attributable to the trade or business conducted by the tax partnership within the United States. Foreign persons who incur such "effectively connected income" (as well as effectively connected income arising from operations of the tax partnership) are also required to file US federal income tax returns. However, a 2017 Tax Court decision held that generally, gain on the sale by a foreign person of an interest in a tax partnership that is actively conducting a US trade or business was not subject to US tax.	For sales on or after November 27, 2017, non-US sellers of interests in pass-through vehicles conducting business in the US must pay tax on the portion of the seller's gain which is deemed to be connected with the vehicle's US trade or business. The Final Bill authorizes Treasury to issue regulations for application of this rule to tax-free exchanges and reorganizations. Starting in 2018, the buyer is required to withhold 10% of the amount realized on the sale or exchange unless the seller certifies it is not a non-US person. The pass-through vehicle is required to withhold from distributions to the buyer to the extent the buyer fails to withhold the correct amount from a non-certifying seller.

Executive Compensation		
Provision	**Current Law**	**Final Tax Reform Bill**
Deferred Compensation	Section 409A regulates "nonqualified deferred compensation," which is compensation that is earned or vests in one year, but will or may be paid in a later year.	No change.
Income Tax Deferral Election for Private Company Equity Awards	Employees often owe income taxes, and are subject to withholding taxes, when they exercise a qualified stock option (NSO) or receive shares on settlement of a restricted stock unit (RSU). The amount of income recognized is generally the fair market value of the stock as of the issuance date, less the exercise price. No income taxes arise on the exercise of an incentive stock option (ISO), and no withholding taxes are due. However, an employee may still end up owing taxes due to an AMT adjustment for the year of an ISO exercise.	Creates a new Section 83(i) and permits eligible employees of a private corporation to elect to delay federal income taxes arising on an option exercise or RSU settlement for up to 5 years, subject to early acceleration on certain triggering events. "Excluded employees" who are ineligible from using this election include CEOs and CFOs, and individuals who are or were 1% owners or one of the top four highest paid officers at any time during the last 10 years. The company must have a written plan under which, in the applicable year, at least 80% of the company's US employees received options or RSUs with the same rights and privileges. Rules for meeting the 80% test would be similar to those for ESPPs and a limited transition rule will apply for awards granted prior to January 1, 2018. Certain notice rules will apply. Applies to option exercises and RSU settlements after December 31, 2017.
Deduction Limit on Executive for Compensation Paid by Public Companies	An employer generally may deduct reasonable compensation for personal services as an ordinary and necessary business expense. Section 162(m) provides an explicit limitation on the deductibility of compensation expenses paid to a "covered employee" of publicly traded corporate employers equal to no more than $1 million per year. Commissions, and performance-based compensation that meets certain requirements, are exempt from the $1 million deductibility limit.	Repeals exemptions for commissions and performance-based compensation from the Section 162(m) deductibility limit. Expands definition of covered employee to include the CFO, and provides for continued limitation on deductions for long as the individual (or any beneficiaries) receives any compensation, even if the individual no longer falls within the definition of a covered employee. Applies to tax years beginning after December 31, 2017. However, a transition rule would grandfather tax treatment of binding contracts in effect on November 2, 2017, as long as they are not materially modified on or after such date.

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<tr><th colspan="3">International Tax Provisions</th></tr>
<tr><th>Provision</th><th>Current Law</th><th>Final Tax Reform Bill</th></tr>
<tr><td>Participation Exemption System for Foreign Dividends</td><td rowspan="3">The international tax provisions of the Final Bill are such a departure from current law that a side by side comparison of the provisions would not be useful (since in many cases there are no provisions under existing law that are comparable to the new provisions). Instead, below is a high-level summary of existing law applicable to the taxation of the operations and profits of foreign subsidiaries of US corporations and other shareholders.

Generally, income earned directly by a US person from the conduct of a foreign business is taxed on a current basis. In addition, dividends received by a US taxpayer from a foreign corporation are subject to current tax when distributed.

However, a US person that owns equity in a foreign corporation generally is not subject to tax on the undistributed earnings of the foreign corporation. An exception to this rule applies to “US Shareholders” (defined at the bottom of this chart) of “controlled foreign corporations” (CFCs) who are taxed currently on certain categories of the undistributed income of “controlled foreign corporations”.

A CFC is any foreign corporation if US Shareholders own more than 50% of the corporation’s stock (measured by vote or value). The type of income that passes through to US Shareholders of CFCs (subpart F income) generally includes passive income and other income that is readily moveable from one taxing jurisdiction to another (such as dividends, interest, royalties, and income from certain business operations).

Consequently, unless income of a CFC is “subpart F income”, the US owners of the CFC are not subject to tax on the CFC’s earnings until the CFC distributes (or is deemed to distribute) such earnings to its shareholders.</td><td>Starting in 2018, a 100% dividends received deduction (DRD) applies to the foreign-source portion of dividends paid by certain foreign corporations to US corporate shareholders.

No DRD is allowed for “hybrid dividends” – generally, dividends where the foreign corporation received a deduction (or other tax benefit) with respect to taxes imposed by any foreign country.

No foreign tax credit is allowed for any taxes paid with respect to the portion of a dividend that qualifies for the DRD.</td></tr>
<tr><td>Deemed repatriation of Foreign Earnings and Profits</td><td>The Final Bill imposes a one-time tax on US shareholders of certain foreign corporations. The tax is assessed on the US shareholder’s share of the foreign corporation’s accumulated foreign earnings that have not previously been taxed.

Earnings in the form of cash and cash equivalents will be taxed at a rate of 15.5%; all other earnings will be taxed as 8%. The tax can be paid in installments over 8 years.</td></tr>
<tr><td>Minimum Tax on Passive/Mobile Undistributed Income of CFCs</td><td>Similar to current law’s subpart F regime, under a new provision, US shareholders of a CFC will be taxed currently on their shares of what the Final Bill refers to as “global intangible low-taxed income” (GILTI).

GILTI is generally the US shareholder’s pro rata share of the CFC’s aggregate net income, minus a deemed 10% return on the CFC’s aggregate basis in depreciable tangible property. Certain income (e.g., subpart F income) is excluded from the determination of (i) in the above formula. A US corporation with foreign-derived intangible income (FDII) may deduct 37.5% of its FDII and 50% of its GILTI (if any).

At a high level, FDII is the portion of a US corporation’s intangible income derived from serving non-US markets. Given the Final Bill’s reduction of the corporate tax rate, this results in an effective tax rate of 13.125% on FDII and an effective US tax rate on GILTI (with respect to the US corporate shareholder) of 10.5%. These effective rates are set to increase in 2026.</td></tr>
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		Certain individual US Shareholders of a CFC will be subject to tax on GILTI at regular individual marginal rates (up to 37%).
Base Erosion Minimum Tax		Applicable corporations will be subject to a new tax equal to their “base erosion minimum tax amount.” The formula for determining this tax is complex, but at a high level, is equal to 10% of the US corporation’s modified taxable income (modified by adding back deductible payments to related foreign persons), minus the US corporation’s regular tax liability (where the income base is reduced by deductible payments to related foreign persons, and the tax liability itself is reduced by certain credits). The base erosion minimum tax generally applies to C corporations with average annual gross receipts of at least $500 million (based on a 3-year look-back period) and a “base erosion percentage” of at least 3%. Very generally, a corporation’s base erosion percentage is equal to the deductions from payments made to related foreign persons divided by the aggregate deductions allowable (with some exceptions) to the US corporation for the taxable year. The applicable US corporation and certain related persons will be treated as one person for purposes of this provision.
Modification of US Shareholder Rules for CFCs	A “US Shareholder” is any “United States person” who owns (or is treated as owning) at least 10% of the total combined voting power of all classes of voting stock of a CFC.	Starting in 2018, the definition of “US Shareholder” is expanded to include any US person who owns 10% or more of the total value (instead of only voting power) of shares of all classes of stock of a foreign corporation.