

DON FARMER'S FEDERAL TAX NEWSLETTER

No. 246

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Tax Reform - Tax Cuts And Jobs Act of 2017 (HR 1)

On November 16, 2017, the U.S. House of Representatives passed the Tax Cuts And Jobs Act of 2017 (HR 1). The Bill is about 450 pages in length and probably revises more provisions of the Internal Revenue Code than any legislation since the 1986 Act. Also, on November 16, 2017, the Senate Finance Committee approved a Senate version of the Tax Cuts and Jobs Act of 2017 and released legislative language for their Bill on November 21, 2017. The full Senate is scheduled to take up the Senate Bill the week following Thanksgiving recess. If the Senate approves its Bill, the House and Senate Bills will go to a Conference Committee to reconcile any House and Senate differences. It appears Congress wants to send tax reform legislation to the President before Christmas. However, it will be a challenge to get such massive legislation through both houses of Congress by Christmas. We are monitoring this legislation on a daily basis and will keep you informed along the way. **If Tax Reform legislation is passed by Congress and signed by the President, I will be presenting seminars devoted to the final legislation soon after passage.**

The following is an outline of the portions of these two tax bills that we believe will impact the largest number of individuals and businesses. This outline summarizes the provisions of the House bill in black ink. The provisions of the Senate Finance Committee bill are in red ink. The caption "not addressed" means that the Senate Finance Committee bill does not contain a particular provision of the House bill.

PLEASE NOTE! The "Sec." (i.e., Section) references below are to the "Act" Sections of the House's Bill (HR 1) passed by the House on November 16, 2017. The references below, in red, to "SFC" represent the treatment of the provision under the Senate Finance Committee's (SFC) Bill approved by the Committee on November 16, 2017.

SELECTED CHANGES PRIMARILY IMPACTING INDIVIDUALS

Sec. 1001. Reduction and Simplification of Individual Income Tax Rates (Effective for tax years beginning after 2017) -

Inflation Adjustment. The taxable income thresholds below will be adjusted for inflation after 2018.

Married Individuals Filing Joint Returns and Surviving Spouses

<u>If Taxable Income Is:</u>	<u>The Tax Rate Is:</u>
Not over \$90,000	12%
Over \$90,000 but not over \$260,000	25%
Over \$260,000 but not over \$1,000,000	35%
Over \$1,000,000	39.6%

Heads of Households

<u>If Taxable Income Is:</u>	<u>The Tax Rate Is:</u>
Not over \$67,500	12%
Over \$67,500 but not over \$200,000	25%
Over \$200,000 but not over \$500,000	35%
Over \$500,000	39.6%

Unmarried Individuals (Other than Surviving Spouses and Heads of Households)

<u>If Taxable Income Is:</u>	<u>The Tax Rate Is:</u>
Not over \$45,000	12%
Over \$45,000 but not over \$200,000	25%
Over \$200,000 but not over \$500,000	35%
Over \$500,000	39.6%

Married Individuals Filing Separate Returns

<u>If Taxable Income Is:</u>	<u>The Tax Rate Is:</u>
Not over \$45,000	12%
Over \$45,000 but not over \$130,000	25%
Over \$130,000 but not over \$500,000	35%
Over \$500,000	39.6%

Estates and Trusts

<u>If Taxable Income Is:</u>	<u>The Tax Rate Is:</u>
Not over \$2,550	12%
Over \$2,550 but not over \$9,150	25%
Over \$9,150 but not over \$12,500	35%
Over \$12,500	39.6%

Phase-Out Of 12% Bracket For Certain Higher-Income Individuals. The tax benefit of the 12% bracket would begin phasing out as the taxpayer's AGI exceeds \$1,200,000 (if filing jointly or as a surviving spouse), or exceeds \$1,000,000 (for all other individual filers) - Adds 6% to tax rate during phase out. **SFC - Not addressed**

SFC - Tax Rate Schedules:

Married Filing Jointly and Surviving Spouses

<u>If Taxable Income Is:</u>	<u>The Tax Rate Is:</u>
Not over \$19,050	10%
Over \$19,050 but not over \$77,400	12%
Over \$77,400 but not over \$140,000	22%
Over \$140,000 but not over \$320,000	24%
Over \$320,000 but not over \$400,000	32%
Over \$400,000 but not over \$1,000,000	35%
Over \$1,000,000	38.5%

Heads of Households

<u>If Taxable Income Is:</u>	<u>The Tax Rate Is:</u>
Not over \$13,600	10%
Over \$13,600 but not over \$51,800	12%
Over \$51,800 but not over \$70,000	22%
Over \$70,000 but not over \$160,000	24%
Over \$160,000 but not over \$200,000	32%
Over \$200,000 but not over \$500,000	35%
Over \$500,000	38.5%

Unmarried Individuals (Other than Surviving Spouses and Heads of Households)

<u>If Taxable Income Is:</u>	<u>The Tax Rate Is:</u>
Not over \$9,525	10%
Over \$9,525 but not over \$38,700	12%
Over \$38,700 but not over \$70,000	22%
Over \$70,000 but not over \$160,000	24%
Over \$160,000 but not over \$200,000	32%
Over \$200,000 but not over \$500,000	35%
Over \$500,000	38.5%

Married Individuals Filing Separate Returns

If Taxable Income Is:

The Tax Rate Is:

Not over \$9,525	10%
Over \$9,525 but not over \$38,700	12%
Over \$38,700 but not over \$70,000	22%
Over \$70,000 but not over \$160,000	24%
Over \$160,000 but not over \$200,000	32%
Over \$200,000 but not over \$500,000	35%
Over \$500,000	38.5%

Estates and Trusts

If Taxable Income Is:

The Tax Rate Is:

Not over \$2,550	10%
Over \$2,550 but not over \$9,150	24%
Over \$9,150 but not over \$12,500	35%
Over \$12,500	38.5%

Kiddie Tax. The Act provides for a higher tax rate on the unearned income of children to which the kiddie-tax rules under current law apply. Such unearned income would be taxed at the tax rates for trusts (without the 12% rate). **The child's earned income would be taxed at the rates for single individuals. SFC - Same (but, without the 10% rate)**

Capital-Gain Rates. The Act provides the following rates for long-term capital gains and qualified dividends for tax years beginning after 2017: **SFC - Same**

<u>Tax Rate</u>	<u>Taxable Income</u>				
	<u>Joint</u>	<u>MFS</u>	<u>HOH</u>	<u>Single</u>	<u>Estates & Trusts</u>
0% - Less Than	\$ 77,200	\$ 38,600	\$ 51,700	\$ 38,600	\$ 2,600
15% - At Least	\$ 77,200	\$ 38,600	\$ 51,700	\$ 38,600	\$ 2,600
Less Than	\$479,000	\$239,500	\$452,400	\$425,800	\$12,700
20% - More Than	\$478,999	\$239,499	\$452,399	\$425,799	\$12,699

Sec. 1002. The Standard Deduction (Effective taxable years beginning after 2017) -

Amount of Standard Deduction:

	<u>Joint Return</u>	<u>Single</u>	<u>Unmarried With a "Qualifying Child"</u>
	\$24,400	\$12,200	\$18,300
SFC -	\$24,000	\$12,000	\$18,000
SFC -	Retain additional standard for over age 65 and blind through 2025.		

Dependents. The standard deduction of someone who is a dependent of another is limited to the **greater of 1) \$500, or 2) \$250 plus the individuals earned income. SFC - Not addressed**

Sec.1003. Repeal of Deduction for Personal Exemptions (Effective taxable years beginning after 2017) -

The Personal Exemption would be repealed. **SFC - Same**

Sec. 1101. Enhancement of Child Tax Credit and New Family Tax Credit (Effective tax years beginning after 2017) -

- "Child Credit" increased to \$1,600** for a "Qualifying Child" < 17 (up from \$1,000 per child). **SFC - \$2,000 (child <18)**
- New nonrefundable credit of \$300** for taxpayer (each spouse on a joint return) and each dependent other than a "Qualifying Child," for taxable years beginning before 2023. **SFC - \$500 only for dependent other than "qualifying child" - not for taxpayers.**

3. **Phase out of combined credits** (1 & 2 above) would begin at **\$230,000 for joint filers** (currently \$110,000) and **\$115,000 for single filers** (currently \$75,000). **SFC - Phase-out begins at \$500,000 for all taxpayers.**
4. **Refundable Child Credit** still limited to **\$1,000.** **SFC - Same**

Sec. 1102. Repeal of Various Nonrefundable Credits (Generally effective tax years beginning after 2017) - The Act would repeal the following individual tax credits: **1) 15% Credit for Individuals over Age 65 or Who Have Retired on Disability;** **2) Tax Credit Associated with Mortgage Credit Certificates,** and **3) Credit for Plug-In Electric Drive Motor Vehicles** of up to \$7,500 (the repeal of the credit for electric plug-in vehicles would be effective for **vehicles placed-in-service** in tax years **beginning after 2017**). **SFC - Not addressed**

Sec. 1103. Refundable Credit Program Integrity (Effective tax years beginning after 2017) - To claim the **refundable portion** of the **Child Tax Credit**, the taxpayer would be required to provide a valid Social Security number on his or her return. Also, **to claim an American Opportunity Tax Credit**, the Taxpayer must provide a valid **Social Security Number** by the due date of the tax return claiming the credit and the taxpayer must provide a valid **Social Security Number** for the student by the due date of such tax return. In addition, to claim the **Earned Income Credit**, the taxpayer would be required to furnish a **work-eligible Social Security Number.** **SFC - Not addressed**

SIMPLIFICATION AND REFORM OF EDUCATION INCENTIVES

Sec. 1201. The American Opportunity Credit (Effective tax years beginning after 2017) -

1. **The Current AOTC Provisions Would Remain.** The Act **would retain** the current **maximum \$2,500 American Opportunity Tax Credit** (AOTC), equal to: **1) 100%** of the first \$2,000 of qualifying higher education expenses, and **2) 25%** of the next \$2,000 of such expenses. The **current AGI phase-out thresholds** remain and the provision allowing a **refundable credit of up to 40%** of the AOTC would continue. **SFC - Same**
2. **One-Half Regular AOTC Would Be Available For 5th Year.** The Act would allow the AOTC for up to 5 years of postsecondary education. However, once the full credit has been taken for a student for 4 preceding years, the credit for the 5th year would be one-half the normal credit amount with the refundable portion equal to 40% of this reduced credit. **SFC - Not addressed**

Sec. 1201. Hope and Lifetime Learning Credit - Would be **repealed for tax years beginning after 2017.**
SFC - Not addressed

Sec. 1202. Consolidation of Education Savings Rules (Effective for contributions and distributions after 2017) -

1. The Act would **prohibit new contributions** to **Coverdell Education Savings Accounts after 2017** (except rollover contributions), but **tax-free rollovers from Coverdell Accounts** into **Section 529 Plans would be allowed.**
SFC - Not addressed
2. **Elementary and High School Expenses** of **up to \$10,000 per year** could be paid from a **Section 529 Plan.**
SFC - Not addressed
3. **Expenses associated with apprenticeship programs** could be paid from a **Section 529 Plan.** **SFC - Not addressed**
4. An **unborn child** could be a **designated beneficiary** under a **Section 529 Plan.** **SFC - Same**
5. **Rollovers From 529 Plan To ABLE Account (Effective for distributions after 2017).** The Act would allow amounts in a 529 plan to be rolled over into an ABLE account provided the ABLE account is owned by the designated beneficiary of the 529 account or a member of such designated beneficiary's family. Any amounts rolled over count toward ABLE contribution limit for the year. Any excess contributions would be included in the distributee's income. **SFC - Same**
6. **SFC - "For AGI" Educator Expense Deduction.** **SFC Bill would increase from \$250 to \$500 after 2017.** **House Bill - Not addressed**

Sec. 1203. Reforms To Discharge Of Certain Student Loan Indebtedness - Any income resulting from the **discharge of student debt** on account of the **death or total disability** of the student would be **excluded from taxable income for discharges after 2017.** The Act would also exclude from income repayment of a taxpayer's loans pursuant to the Indian Health Service Loan Repayment Program **effective for amounts received in taxable years beginning after 2017.**
SFC - Same

Sec. 1204. Repeal Of Other Provisions Relating To Education (Generally effective tax years beginning after 2017) - The Act would repeal 1) The ***Deduction for Interest on Education Loans***, 2) The ***Deduction*** (of up to \$4,000) for ***Qualified Tuition and Related Expenses*** which expired after 2016, 3) The ***Exclusion for Interest*** on United States savings bonds used to pay qualified higher education expenses, 4) The ***Exclusion for Qualified Tuition Reduction Programs***, and 5) The ***Exclusion*** (of up to \$5,250) for ***Employer-Provided Education Assistance Programs*** (**Note!** The exclusion for education assistance programs would be ***effective for amounts paid or incurred after 2017***). **SFC - Not addressed**

SIMPLIFICATION AND REFORM INDIVIDUAL DEDUCTIONS

Sec. 1301. Repeal 3% Of AGI Phase Out Of Itemized Deductions (Effective for tax years after 2017) - Repeal the §68 3% of AGI phase-out rule as an individual's AGI exceeds certain thresholds. **SFC - Same**

SFC - 2% Miscellaneous Itemized Deductions. SFC Bill would eliminate all Miscellaneous Itemized Deductions subject to 2% of AGI subtraction. House Bill - Essentially the same.

Sec. 1302. Mortgage Interest - The Act would generally retain the home mortgage interest deduction, with the following changes ***effective for debt incurred after November 2, 2017***:

1. \$1 million limitation for home acquisition indebtedness ***would be reduced to \$500,000***. **SFC - Not addressed**
2. Interest would be ***deductible only on a taxpayer's principal residence***. **SFC - Not addressed**
3. ***Interest on home equity indebtedness*** would ***not be deductible***. **SFC - Same**
4. For the ***refinancing of debt incurred on or before November 2, 2017***: 1) The refinanced debt generally would be treated as incurred on the same date that the original debt was incurred for purposes of determining the limitation amount applicable to the refinanced debt, and 2) In the case of a taxpayer who enters into a written binding contract before November 2, 2017 to close on a residence before 2018, the related debt generally would be treated as being incurred prior to November 2, 2017. **SFC - Not addressed**

Sec. 1303. Repeal Of Deduction For Certain State And Local Taxes (Effective for tax years beginning after 2017) - The Act would:

1. ***Eliminate*** the itemized deduction for ***State and local income or sales taxes***. **SFC - Same**
2. ***Continue the deduction for State and local property and sales taxes*** paid or accrued in ***carrying on a trade or business*** or producing income. **SFC - Same**
3. ***Continue*** the itemized deduction for ***real property taxes*** paid ***up to \$10,000***. **SFC - No itemized deduction for property taxes**

Sec. 1304. Repeal Of Deduction For Personal Casualty Losses (Effective tax years beginning after 2017) - Although the Act would ***repeal the deduction for personal casualty losses***, the deduction for personal casualty losses associated with the 2017 special disaster relief legislation would not be affected. **SFC - Same except would allow personal casualty losses incurred as a result of federally-declared disaster.**

Sec. 1305. Limitation On Gambling Losses And Deductions (Effective for tax years beginning after 2017) - The Act limits the deduction for gambling losses (i.e., wagering losses) ***as well as any other deduction related to gambling*** (e.g., travel expenses of a professional gambler and costs of wagers) ***to gambling winnings***. **SFC - Same**

Sec. 1306. Charitable Contributions (Effective for contributions in tax years beginning after 2017) - The Act would retain the charitable contribution itemized deduction but make several changes, including:

1. The 50% limitation for cash contributions to public charities and certain private foundations would be increased to 60%. **SFC- Same**
2. The 5-year carryover period would be retained to the extent that the contribution amount exceeds 60% of the donor's AGI. **SFC- Same**
3. The charitable deduction of 80% of the amount paid for the right to purchase tickets for athletic events would be repealed. **SFC- Same**
4. The amount deductible per mile driven in service to a charitable organization would be adjustable for inflation. **SFC - N/A**

Sec. 1307. Repeal Itemized Deduction For Tax Preparation Expenses (Effective for tax years beginning after 2017) - The Act would *repeal* the itemized deduction for *tax preparation expenses*. **SFC- Same**

Sec. 1308. Repeal Of Medical Expense Deduction (Effective for tax years beginning after 2017) - The Act would *repeal* the itemized deduction for *medical expenses*. **SFC - Would retain current deduction for medical expenses.**

Sec. 1309. Repeal Of Deduction For Alimony Payments (Effective for decrees after and agreements executed after 2017) - The Act would *eliminate the deduction* for *alimony payments* and the payments *would not be includible in the income of the payee*, effective for any divorce decree or separation agreement *executed after 2017* and to *any divorce or separation instrument modified after 2017* which provides that this repeal applies to the modification. **SFC - Not addressed**

Sec. 1310. Repeal Of Deduction For Moving Expenses (Effective tax years beginning after 2017) - The Act would *repeal* the deduction for moving expenses *except for members of the armed services*. **SFC - Same**

Sec. 1311. Termination Of Deduction And Exclusions For Contributions To Medical Savings Accounts (Effective for tax years beginning after 2017) - No deduction would be allowed for contributions *to an Archer MSA*, and employer contributions to an Archer MSA would not be excluded from income. Existing Archer MSA balances, however, could continue to be rolled over on a tax-free basis to an HSA. The Act would not repeal Health Savings Accounts (HSAs). **SFC - Not addressed**

Sec. 1312. Denial Of Deduction For Expenses Attributable To The Trade Or Business Of Being An Employee (Effective tax years beginning after 2017) - An individual would *not be allowed an itemized deduction* for expenses attributable to the *trade or business of performing services as an employee*. Individuals would *not be allowed a “for AGI” deduction for performing artists, government officials, and teachers*. In addition, the *only above-the-line deductions allowed* for expenses attributable to the trade or business of being an employee would be: **1) Reimbursed expenses, and 2) Certain expenses of members of the U.S. military reserves allowed under §62(a)(2)(E).**

SFC - As noted earlier, the SFC Bill would eliminate all Miscellaneous Itemized Deductions subject to the 2% of AGI deduction

SIMPLIFICATION AND REFORM OF EXCLUSIONS AND TAXABLE COMPENSATION

Sec. 1401. Limitation On Exclusion For Employer-Provided Housing (Effective tax years beginning after 2017) -

The Act would:

1. Limit the *exclusion for housing* under §119 *provided* for the *convenience of the employer* and for *employees of educational institutions* to **\$50,000** (\$25,000 if married filing a separate return). **SFC - Not addressed**
2. **Reduce** the \$50,000 exclusion for 50% of *income over \$120,000* (as indexed). **SFC - Not addressed**
3. Limit the exclusion to **one residence**. **SFC - Not addressed**
4. **Deny the exclusion** altogether for a *more-than-5-percent owner*. **SFC - Not addressed**

Sec. 1402. Modification Of Exclusion For Gain From Sale Of Principal Residence (Effective for sales and exchanges after 2017) - The Act would:

1. Require an individual to own and use a home as the individual's principal residence for **5 out of the previous 8 years** (instead of 2 out of the previous 5 years) to qualify for the up to \$500,000 or \$250,000 home-sale exclusion under §121. **SFC - Same**
2. Allow the taxpayer to use the home-sale exclusion **only once every five years** (instead of once every two years). **SFC - Same**
3. **Reduce the exclusion** for each dollar of an individual's **average AGI** (average of the current and prior two years) in **excess of \$500,000** (\$250,000 for single filers). **SFC - Not addressed**

Sec. 1403. Repeal Exclusion For Employee Achievement Awards (Effective for tax years beginning after 2017) - The Act would: **1) Repeal the income exclusion** for *employee achievement awards* under §74, and **2) Repeal the restrictions** on *employer deductions* under §274 for such awards (i.e., the employer's deduction would not be restricted because the awards would be treated as taxable compensation). **SFC - Not addressed**

Sec. 1404. Repeal Exclusion For Dependent Care Assistance Programs (Effective tax years beginning after 2022) - The Act would *repeal the \$5,000/\$2,500 exclusion* under §129 for *employer-provided dependent care assistance*. **SFC - Not addressed**

Sec. 1405. Repeal Exclusion For Qualified Moving Expense Reimbursements (Effective tax years beginning after 2017) - The Act would *repeal the exclusion* under §132(a)(6) for an *employer's reimbursement of moving expenses*. **SFC - Same**

Sec. 1406. Repeal Exclusion For Adoption Assistance Programs (Effective tax years beginning after 2017) - The Act would *repeal the up to \$13,570 (for 2017) exclusion* under §137 for *employer-provided adoption assistance*. **SFC - Not addressed**

SIMPLIFICATION AND REFORM OF SAVINGS, PENSIONS, RETIREMENT

Sec. 1501. Repeal Rule Permitting Recharacterization Of IRA Contributions (Effective tax years beginning after 2017) - The Act would **not allow recharacterizations** of contributions to traditional IRAs as contributions to Roth IRAs, or vice versa. **Practice Alert!** This change would prevent an individual from recharacterizing a conversion of a traditional IRA to a Roth IRA by October 15th of the following calendar year. **SFC - Same**

Sec. 1502. Reduction In Minimum Age For Allowable In-Service Distributions (Effective plan years beginning after 2017) - The Act would allow defined benefit plans as well as §457 plans sponsored by State and local governments to make **in-service distributions after reaching age 59½**. **Note!** This change would make the in-service distribution rules for §457 plans sponsored by state and local governments and defined benefit plans the same as those for defined contribution plans. **SFC - Not addressed**

Sec. 1503. Modification Of Rules Governing Hardship Distributions - The Act would require the IRS to issue guidance **within one year of date of enactment** to allow an employee taking a hardship distribution to continue making contributions to the plan. Currently, employees must wait 6 months after taking a hardship distribution before making contributions. **SFC - Not addressed**

Sec. 1504. Modification Of Rules Relating To Hardship Withdrawals From Cash Or Deferred Arrangements (Effective plan years beginning after 2017) - Under the Act, plan sponsors would be permitted to allow hardship distributions from a §401(k) plan of account earnings, employer contributions, and employee contributions (instead of limiting the hardship distributions to only amounts contributed by the employee). In addition, a distribution would not fail to be a hardship distribution solely because the employee did not take any available loan under the plan before taking the distribution. **SFC - Not addressed**

Sec. 1505. Extended Rollover Period For The Rollover Of Plan Loan Offset Amounts In Certain Cases (Effective tax years beginning after 2017) - Under the Act, employees whose plan terminates or who separate from employment while they have plan loans outstanding would have **until the due date for filing their tax return for that year, including extensions** (instead of the current 60 days), to contribute the loan balance to an IRA to avoid taxation on the loan amount. **SFC - Same**

Sec. 1506. Modification Of Nondiscrimination Rules To Protect Older, Longer Service Participants (Effective date of enactment) - The Act would generally allow employers sponsoring closed or frozen defined benefit plans to more easily meet applicable nondiscrimination requirements by expanding cross-testing between an employer's defined benefit and defined contribution plans. **SFC - Not addressed**

SFC Provisions Not In House Bill (Effective Tax Years Beginning After 2017) -

- 1. Single Aggregate Limit For Participants In Both §457 Plans And §401(k) or §403(b) Plans Of Same Employer.** The SFC Bill would apply a single aggregate limit to contributions for an employee to a §457 governmental plan and **elective deferrals for the same employee** under a §401(k) plan or §403(b) plan of the same employer.
- 2. Repeal Additional Elective Deferrals And Catch-Up Contributions For §403(b) And §457(b) Plans.** The SFC Bill would repeal rules allowing additional elective deferrals and catch-up contributions under §403(b) plans and governmental §457(b) plans. Thus, the same limits apply to elective deferrals and catch-up contributions under Section 401(k) plans, Section 403(b) plans, and governmental Section 457(b) plans.
- 3. Eliminate Employer Contributions To §403(b) For Up To 5 Years After Termination Of Employment.** The SFC Bill would repeal the rule allowing employer contributions to §403(b) plans for up to five years after termination of employment.

4. **Only One Allocation Limit For Participants In Defined Contribution, §403(b) And §457 Plans Sponsored By Same Employer.** The SFC Bill would revise the limit on aggregate contributions to a qualified defined contribution plan or a §403(b) plan (that is, the lesser of 1) \$54,000 (for 2017), and 2) The employee's compensation). As revised, a **single aggregate limit would apply to contributions for an employee to any defined contribution plans, any §403(b) plans, and any governmental §457(b) plans maintained by the same employer, including any members of a controlled group or affiliated service group.**

ESTATE AND GENERATION-SKIPPING TRANSFER TAXES

Sec. 1601 & 1602. Increase The Basic Unified Exclusion Amount For Estate, Gift, And Generation-Skipping Transfer Tax (Effective for individuals dying and gifts and generation-skipping transfers made after 2017) - The Act would double the basic unified exclusion amount for gift and estate tax purposes to **\$10,000,000** (as indexed for inflation [i.e., **\$11,200,000** for 2018]), *effective for individuals dying and gifts made after 2017*. The current basic unified exclusion amount for 2018 is \$5,600,000. In addition, the Act would increase the **exemption amount for generation-skipping transfers made after 2017 to \$10,000,000** (as indexed for inflation [i.e., **\$11,200,000** for 2018]). **SFC - Same, except the SFC Bill would provide that the increased unified exclusion amount would expire for individuals dying and gifts made after 2025, and would revert back to the amount provided before Jan. 1, 2018.**

Section 1602. Repeal The Federal Estate Tax And The Generation-Skipping Tax And Lower The Gift Tax Rate To 35% (Effective for estates of individuals dying after 2024, generation-skipping transfers after 2024, and for gifts made after 2024) - The Act would repeal the estate tax for individuals dying after 2024 and would repeal the tax on generation-skipping transfers made after 2024. In addition, the Act would **lower the Federal Gift Tax Rate from 40% to 35%**, effective for gifts made after 2024. **SFC - Not addressed**

Practice Alert! It appears the Act would continue to allow an income tax basis for property received from a deceased individual equal to the fair market value of the property at the decedent's death.

ALTERNATIVE MINIMUM TAX REPEAL

Sec. 2001. Repeal Of Alternative Minimum Tax (Generally effective tax years beginning after 2017) - The Act would:

1. **Repeal the Alternative Minimum Tax (AMT).** The individual and corporate AMT would be repealed after 2017. **SFC - Same**
2. **Provide Refundable Credit For AMT Credit Carryovers.** A taxpayer would be allowed a **refundable credit** for each of the **tax years beginning in 2019, 2020, and 2021** equal to **50 percent** of unused AMT credit carryovers to those respective years in excess of the tax for those years. A **refundable credit of 100% of the AMT credit carryovers** to the **tax year beginning in 2022** in excess of the regular tax for that year, would be allowed for that tax year. **SFC - Same except 50% credit in 2018, 2019, 2020, and 100% in 2021.**

SELECTED CHANGES PRIMARILY IMPACTING BUSINESSES

Sec. 3001. Reduction In Corporate Tax Rate (Effective tax years beginning after 2017) - The Act would generally establish a flat 20% tax rate for "C" corporations. **SFC - 20% rate not effective until tax years beginning after 2018.**

Personal Service Corporations (PSCs). Act would provide a **flat 25% rate.** **SFC - 20% flat rate would apply to PSCs.**

Dividends Received Deduction. After 2017, the Act would reduce the 80% corporate dividends received deduction to 65% and would reduce the 70% dividends received deduction to 50%. **SFC - Effective after 2018 - Otherwise same**

Sec. 1004. Maximum 25% Tax Rate On Business Income Of Proprietorships, Partnerships, and S Corporations (Effective For Tax Years Beginning After 2017) - The provisions in the Act discussed in this segment are designed to ensure that "*qualified business income*" (generally excluding personal service income) that is otherwise reported on an individual's income tax return will not be taxed at rate higher than 25%. Therefore, these provisions generally apply to Individuals who are Self-Employed, Individuals who are S Corporation Shareholders, and Individuals who are Partners in a Partnership. Apparently, the provision is, in theory, designed to tax the income from the "capital investment" in a business at the 25% rate. **Practice Alert!** From discussions with a member of the Ways and Means Committee, the House is not satisfied with this provision as written and it will most likely be changed during conference with the Senate.

1. **25% Maximum Rate.** The Act would tax "**Qualified Business Income**" at a **maximum rate of 25%** rather than 39.6%.

2. **Lower Rate For Active Business Income Of Small Businesses.** The Act provides a **9% tax rate** (in lieu of 12%) for the **first \$75,000** (\$37,500 for singles, \$56,250 for heads-of-household) of **“Qualified Business Income”** of **“active” owners**. The amount taxed at the lower rate is **reduced for each dollar of taxable income in excess of \$150,000** (\$75,000 singles, \$112,500 heads-of-household). The 9% rate would be phased in - **11% for 2018 & 2019, 10% for 2020 & 2021 and 9% for later years.**
3. **“Qualified Business Income.”** “Qualified Business Income” would generally include **1) “Net Business Income”** derived from a passive activity as defined in §469 (without regard to §469(c)(3) and §469(c)(6)(B)), **Plus 2) The “Capital Percentage”** of “Net Business Income” from any active business activity. An “active business activity” would be any activity that is not a passive activity under §469.
4. **“Net Business Income” Of A Business Activity May Include Wages, Guaranteed Payments, And Directors’ Fees.** “Net Business Income” would include wages, guaranteed payments and director’s fees allocable to a business activity.
5. **“Capital Percentage.”** “Capital Percentage” for businesses other than personal service businesses, means either **1) 30%, or 2) At the election of the taxpayer, an “Applicable Percentage”** for capital intensive businesses.
6. **“Applicable Percentage.”** The “Applicable Percentage” for a taxable year equals the “Rate of Return on Capital” for the taxable year divided by the “Net Business Income” from the business activity for the year.
7. **“Rate of Return on Capital.”** The “Rate of Return on Capital” is equal to the Federal short-term rate plus 7%, times the adjusted basis of the property used in the business at the end of the taxable year (the adjusted basis is determined without subtracting the §179 deduction and §168(k) depreciation).
8. **“Capital Percentage” For “Personal Service Businesses.”** The “Capital Percentage” for a personal service business means either **1) 0%, or 2) The “Applicable Percentage”** for a capital intensive personal service business if the business’s “Applicable Percentage” is at least 10%.
9. **“Personal Service Business.”** A personal service business includes any trade or business involving the performance of services in the fields of health, law, engineering, architecture, accounting, actuarial science, performing arts, consulting, athletics, financial services, brokerage services, any trade or business where the principal asset of such trade or business is the reputation or skill of 1 or more of its employees, or a trade or business involving investing, trading, or dealing in securities, partnership interests, or commodities.

SFC - Proprietors, Partners, and S Corporation Shareholders Would Deduct 17.4% Of “Qualified Business Income” (Effective for tax years beginning after 2017) -

1. **General Rule.** Proprietors, partners and S corporation shareholders, except for *“Specified Service Trades or Businesses,”* would be allowed to deduct 17.4% of their “Domestic Qualified Business Income.”
2. **Special Rule For Owner Of “Specified Service Trade Or Business” Where Taxable Income Is \$600,000/\$300,000 Or Less.** The 17.4% deduction would be allowed for a specified service trade or business only for owners whose **taxable income** does not exceed \$500,000 if married and filing jointly (\$250,000 for others). The deduction is **phased-out** as an owner’s **taxable income** goes from **\$500,001 to \$600,000** on a joint return (**\$250,001 to \$300,000** for others).

Specified Service Trade Or Business. A “specified service trade or business” means any trade or business activity involving the performance of services in the fields of health, law, engineering, architecture, accounting, actuarial science, performing arts, consulting, athletics, financial services, brokerage services, or any trade or business where the principal asset of such trade or business is the reputation or skill of one or more of its employees.

3. **50% Of Wages Limitation If Taxable Income More Than \$500,000/\$250,000.** The deduction would generally be limited to 50% of an owner’s **allocable share of W-2 wages of a partnership or S corporation or 50% of the W-2 wages of a proprietorship.** The W-2 wage limitation does not apply to owners whose taxable income does not exceed \$500,000 if married and filing jointly (\$250,000 for others). The application of the wage limitation is phased-in as an owner’s taxable income goes from **\$500,001 to \$600,000** on a joint return (**\$250,001 to \$300,000** for others).
4. **“Domestic Qualified Business Income.”** “Domestic Qualified Business Income” would mean the net amount of domestic qualified items of income, gain, deduction, and loss with respect to the taxpayer’s qualified businesses which are included or allowed in determining taxable income. Qualified business income **does not include any amount paid by an S corporation that is treated as reasonable compensation of the taxpayer.** Similarly, qualified business income does not include any amount allocated or distributed by a partnership to a partner who is acting other than in his or her capacity as a partner for services, and does not include **any amount that is a guaranteed payment for services actually rendered** to or on behalf of a partnership. Qualified business income or loss does not include certain investment-related income, gain, deductions, or loss.

COST RECOVERY

Sec. 3101. 100% §168(k) Depreciation Deduction (Generally effective for qualified property acquired and placed-in-service after September 27, 2017 and before January 1, 2023 [with an additional year for certain qualified property]) -

The Act would make the following changes to the current 50% immediate write-off for qualified §168(k) property:

- 1. 100% 168(k) Deduction.** Taxpayers would generally be able to expense **100% (instead of 50%)** of the cost of qualified 168(k) property **acquired & placed-in-service after September 27, 2017 and before January 1, 2023** (with an additional year for certain qualified property). **Practice Alert!** Qualifying property “acquired” before September 28, 2017 and placed-in-service after September 27, 2017 would be subject to the pre-Act 50% limitation and phase outs. **SFC - Same**
- 2. Increase The First-Year Depreciation Cap For Passenger Autos.** The Act would generally increase the amount added to the normal first-year depreciation cap under §280F for qualifying passenger automobiles **from \$8,000 to \$16,000.**
SFC - Retains \$8,000 amount under §280F. However, for property placed-in-service after 2017, the SFC Bill would increase the §280F luxury auto depreciation limits (without regard to §168(k)) to \$10,000 - 1st year; \$16,000 - 2nd year; \$9,600 - 3rd year; and \$5,760 - fourth and subsequent years. The SFC Bill would also remove computer or peripheral equipment from the definition of listed property.
- 3. Application To Used Property.** In addition to allowing the §168(k) deduction for new property (as under current law), under the Act, **property would also generally be eligible** for the 168(k) additional depreciation **if it is the taxpayer’s first use** of the property. **Caution!** Property, other than new property, would not qualify for the §168(k) deduction if acquired from certain related parties, or through certain non-recognition transactions. **SFC - Not addressed**
- 4. Limitation On NOL Carrybacks.** For any **taxable year which includes any portion of the period beginning on September 28, 2017 and ending on December 31, 2017**, the amount of any net operating loss for such year which may be treated as an NOL carryback shall be determined without regard to the changes to the §168(k) deduction made by the Act. **SFC - Not addressed**
- 5. Otherwise Qualifying Property Excluded From §168(k).** Qualified **§168(k) property would not include 1)** Any property used by certain **regulated public utility companies**; **2)** Any property used in **real property trades or businesses** as defined in §469(c)(7)(C) - any real property development, redevelopment, construction, reconstruction, acquisition, conversion, rental, operation, management, leasing, or brokerage trade or business; **or 3)** Property used in a trade or business that has **floor plan financing indebtedness** (i.e., indebtedness used to finance the acquisition of motor vehicles for sale to retail customers and secured by such vehicles).

SFC - Would not exclude from §168(k) property used in real property trades or businesses or trades or businesses that have floor plan financing indebtedness. However, would allow §168(k) depreciation deduction for cost of qualified film, television and live theatrical productions, effective for productions placed-in-service after September 27, 2017, and before 2023. A production would be deemed placed-in-service at time of first commercial exhibition, broadcast, or live stage performance.

SMALL BUSINESS REFORMS

Sec. 3201. Expansion Of Section 179 Expensing - The Act would make the following changes to the Section 179 deduction:

- 1. Increase In §179 Deduction Caps.** Effective for **tax years beginning after 2017 and before 2023**, the Act would **increase the expensing limitation** under Section 179 to **\$5,000,000** (up from \$510,000 for 2017) and increase the **phase-out threshold** to **\$20,000,000** up from \$2,030,000 for 2017). These caps would be indexed for inflation after 2018. **SFC - Increase the expensing limitation to \$1,000,000 and the phase-out threshold to \$2,500,000.**
- 2. Section 179 “Qualified Real Property” Expanded.** Effective for **property acquired and placed-in-service after November 2, 2017**, the definition of “Qualified Real Property” under §179(f) would be expanded to Include “Qualified Energy Efficient Heating and Air-conditioning Property,” with no expiration date. “Qualified Energy Efficient Heating and Air-Conditioning Property” is defined as heating and air-conditioning property meeting Standard 90.1-2007 of the American Society of Heating, Refrigerating and Air-Conditioning Engineers and the Illuminating Engineering Society of North America. **SFC - Not addressed**

SFC - Modifications To Definition Of Qualifying §179 Property - Not In House Bill (Effective for property placed-in-service in tax years beginning after 2017) -

- 1. Qualified Real Property Under §179(f) Would Include Qualified Improvement Property.** For property placed-in-service

in tax years beginning after 2017, Qualified Improvement Property would qualify for the §179 deduction and Qualified Leasehold Improvement Property (QLIP), Qualified Restaurant Property (QRP), and Qualified Retail Improvement Property (QRIP) would no longer qualify for the §179 deduction unless the property qualifies as Qualified Improvement Property (QIP). Therefore, restaurant property placed-in-service in tax years beginning after 2017 that does not meet the definition of Qualified Improvement Property, would not be eligible for the §179 deduction. **Practice Pointer!** Under the SFC Bill, **Qualified Improvement Property would qualify for §179, §168(k), and a 10-year recovery period.**

- 2. Improvements To Nonresidential Real Property Placed-In-Service After Property First Placed-In- Service.** Section 179 property would include roofs; heating, ventilation, and air-conditioning property; fire protection and alarm systems; and security systems; which are improvements to nonresidential real property placed-in-service after the nonresidential real property is placed-in-service.
- 3. Property Used In Connection With Furnishing Lodging.** §179 property would include depreciable tangible personal property used to furnish lodging or in connection with furnishing lodging.

SFC - Modifications To Recovery Period Of Certain Depreciable Property - Not In House Bill (For property placed-in-service in tax years beginning after 2017) - The Senate Finance Committee Bill would:

- 1. Shorten the recovery period for machinery or equipment used in a farming business from 7 to 5 years** for property placed-in-service after 2017. Also, would **repeal requirement** that property used in farming business use the **150% declining balance depreciation method.**
- 2. Shorten the recovery period for nonresidential real property and residential rental property to 25 years.**
- 3. Shorten the recovery period for Qualified Improvement Property to 10 years.**

Sec. 3202. Small Business Accounting Method Reform And Simplification (Generally effective for tax years beginning after 2017) - The Act would make the following changes relating to tax accounting methods:

- 1. \$5 Million Average Gross Receipts Safe Harbor Increased To \$25 Million Under §448.** The current \$5 million average gross receipts safe harbor for regular “C” corporations to use the cash method of accounting would be **increased to \$25 million** and the requirement that such businesses satisfy the requirement for all prior years would be repealed (Note: the increased \$25 million threshold would be extended to farm C corporations and farm partnerships with C corporation partners). Also, the average gross receipts test would be indexed to inflation. **SFC - Same, except increases safe harbor to \$15 Million.**

- 2. Special Rules For Businesses With Average Gross Receipts Of \$25 Million Or Less.** **SFC - \$15 Million or less.**

May Use Cash Method Of Accounting. Businesses with average gross receipts of \$25 million or less would be permitted to use the cash method of accounting even if the business has inventories. **SFC - \$15 Million or less.**

Inventory Rules of §471 Would Not Apply. The Act would allow a business with average gross receipts of \$25 million or less to account for its inventories **1) As non-incidentals materials and supplies, or 2) Using its method of accounting for inventories as reflected in its “applicable financial statement” or if there is no “applicable financial statement,” its books and records.** **SFC - \$15 Million or less.**

UNICAP Not Required. Businesses with average gross receipts of \$25 million or less would be fully exempt from the UNICAP rules. **SFC - \$15 Million or less.**

Percentage-Of-Completion Method For Long-Term Contracts. The \$10 million average gross receipts exception to the percentage-of completion method for contracts to be completed within 2 years would be **increased to \$25 million.** **SFC - \$15 Million or less.**

- 3. Definition Of “Average Gross Receipts.”** For purposes of the above rules for corporations and other businesses discussed above, “Average Gross Receipts” is as defined under §448(c). Under §448(c), “Average Gross Receipts” generally means the **average gross receipts for the three taxable years preceding the current year.** **SFC - Same**

Sec. 3204. Treatment Of S Corp Converting To C Corp Within 2 Years Of Enactment - For an S corporation that revokes its S election during the two-year period beginning on the enactment date and has the same owners on both the enactment date and the revocation date, any distributions from the terminated S corporation would be treated as paid pro-rata from its accumulated adjustment account and from its earnings and profits. In addition, any §481(a) adjustments would be accounted for over a six-year period. **SFC - Not addressed**

REFORM OF BUSINESS-RELATED EXCLUSIONS, DEDUCTIONS, ETC.

Sec. 3301. Limits On Business Interest (Effective for taxable years beginning after 2017) - Generally, the Act would provide that every business, regardless of its form, could not deduct interest expense for a taxable year in excess of **1) Interest income, Plus 2) 30 percent of the business's adjusted taxable income.** Any excess would **carryover for 5 years.** For partnerships and S corporations, the deduction limitation would be determined at the partner or shareholder level.

SFC - Same, except:

- 1. Unlimited carryover period (rather than 5-year limitation).**
- 2. Allows farming business to elect out of business interest limitation by using alternative depreciation system for any property used in the farming business with a recovery period of 10 years or more.**

Adjusted Taxable Income. Generally, "adjusted taxable income" is defined as **taxable income without regard to 1) Any item of income, gain, deduction, or loss not properly allocable to a trade or business, 2) Any business interest, 3) Any net operating loss, and 4) Any deduction for depreciation, or amortization.**

SFC - "Adjusted Taxable Income" is defined as **taxable income without regard to 1) Any item of income, gain, deduction, or loss not properly allocable to a trade or business, 2) Any business interest, 3) Any net operating loss, and 4) The 17.4% deduction for pass-through business income.**

Exceptions. The Act would provide exceptions for: **1) Businesses with average gross receipts of \$25 million or less, and 2) Certain regulated public utilities, 3) Real property trades or businesses (as defined in §469(c)(7)(C) - i.e., any real property development, redevelopment, construction, reconstruction, acquisition, conversion, rental, operation, management, leasing, or brokerage trade or business), and 4) Floor plan financing interest (i.e., interest on indebtedness used to finance the acquisition of motor vehicles for sale to retail customers and secured by such vehicles).**

SFC - Exceptions. The Bill would provide exceptions for: **1) Businesses with average gross receipts of \$15 million or less, 2) Certain regulated public utilities, and 3) At the election of the taxpayer, real property trades or businesses (as defined in §469(c)(7)(C) - i.e., any real property development, redevelopment, construction, reconstruction, acquisition, conversion, rental, operation, management, leasing, or brokerage trade or business).**

Sec. 3302. Modification Of NOL Deduction (Generally effective for losses incurred in tax years after 2017) - The Act would make the following changes to the NOL deduction:

- 1. Elimination Of 20-Year Limitation On NOL Carryovers (Effective for NOLs arising in tax years after 2017).** There would be no limitation on the number of years to which an NOL could be carried forward for tax years beginning after 2017.

SFC - Same

- 2. Generally, NOL Carrybacks Not Allowed (Effective for NOLs arising in tax years beginning after 2017).** Generally, NOLs could not be carried back for NOLs arising in tax years beginning after 2017. **SFC - Same**

1-Year Carryback For Certain Business Disaster Losses. The portion of an NOL allocable to a disaster loss incurred in the trade or business of farming or in a trade or business with average gross receipts of \$5 Million or less could be carried back to the prior tax year. **SFC - Provides 2-year carryback only for certain farm losses.**

- 3. NOLs May Not Offset More Than 90% Of Taxable Income (Effective for tax years beginning after 2017).** The NOLs carried to a taxable year beginning after 2017, may not offset more than 90% of taxable income before the NOL deduction. **SFC - Same, except for tax years beginning after 2022, may only offset 80% (instead of 90%) of taxable income before NOL deduction.**

- 4. NOL Carryovers Increased By An "Interest Factor" (Effective for amounts carried to tax years beginning after 2017).** The Act provides for an increase in NOL carryforwards by an interest factor for tax years beginning after 2017. **SFC - Not addressed**

Sec. 3303. Changes To §1031 Like-Kind Exchanges Generally, effective for exchanges completed after 2017) - The Act would allow §1031 like-kind exchanges **only with respect to real property** that is not held primarily for sale. However, the Act would provide a **transition rule** to allow **like-kind exchanges of personal property to be completed** if the taxpayer has either **disposed of the relinquished property or acquired the replacement property on or before December 31, 2017.** **SFC - Same**

Sec. 3306. Repeal Of §199 Deduction For Income Attributable to Domestic Production Activities (Effective for tax years beginning after 2017) - The Act would *repeal the §199 deduction* for domestic production activities.

SFC - Repeals deduction for tax years beginning after 2018.

Sec. 3313. Repeal Of Technical Termination Of Partnerships (Effective for partnership tax years beginning after 2017) -

The Act would repeal the partnership *“technical termination”* rule; therefore, the *partnership would be treated as continuing* even if **50% or more** of the total *capital and profits interests* of the partnership **are sold or exchanged**, and *new elections would not be required or permitted*. **SFC - Not addressed**

Sec. 3314. Carried Interest - Three-Year Holding Period For Partnership Interest Held In Connection With Performance Of Investment Services (Effective for taxable years beginning after 2017) - The Act would require partners to hold an interest in a partnership received for performing services for **more than 3 years** to qualify for long-term capital gain treatment.

The provision would generally apply if the partnership interest is transferred in connection with the performance of substantial services in a trade or business activity involving the raising of capital, investing in assets or developing assets. **SFC - Same**

Sec. 3316. Disallow Deduction For Litigation Costs Advanced By Attorney To Client In Contingent Fee Litigation Until Litigation Resolved (Effective for expenses and costs paid or incurred in tax years beginning after the date of enactment) - The Act would not allow a deduction for litigation costs advanced by an attorney to a client in contingent fee litigation until the contingency is resolved. **SFC - Same**

SFC - Same

Other Miscellaneous Business Reform Changes - The following are other selected business provisions that would be modified or repealed by the Act (the Act Section precedes each of the provisions followed by a brief description of the change):

Sec. 3304. Revision of Treatment of Contributions to Capital; **Sec. 3305.** Repeal Deductions for Local Lobbying Expenses; **Sec. 3307.** Repeal Deductions for Certain Entertainment Expenses, Transportation Fringes, On-Premises Gyms, Etc; **Sec. 3310.** Repeal Rollover of Publicly Traded Securities Gain into Specialized Small Business Investment Companies; **Sec. 3311.** Certain Self-Created Property, Except Musical Works, Not Treated as a Capital Asset; **Sec. 3312.** Repeal Special Rule Allowing Capital Gains Treatment for Sale or Exchange of Patents. **Please see the legislation for details.**

SFC - Does Not Address - Treatment of Contributions to Capital; Repeal of Rollover of Publicly Traded Securities Gain into Specialized Small Business Investment Companies; Certain Self-Created Property, Except Musical Works, Not Treated as a Capital Asset; Repeal of Special Rule Allowing Capital Gains Treatment for Sale or Exchange of Patents.

SFC - Selected Provisions In SFC Bill Not In House Bill -

- 1. Repeal ACA Individual Mandate (Effective for months beginning after 2018)** - The SFC Bill would eliminate the penalty under §5000A for individuals failing to have medical coverage for months beginning after **December 31, 2018**.
- 2. Credit For Paid Family Leave (Effective for wages paid in tax years beginning after 2017 and before 2020)** - The SFC Bill would provide a credit for employers that allow at least two weeks annual paid family and medical leave to full-time employees. The credit would equal 12.5% of the wages paid during qualified family or medical leave if the employee receives at least 50% of normal pay during the leave.
- 3. No Deduction For Meals Provided On Employer’s Premises (Effective tax years beginning after 2025)** - The SFC Bill would not allow a deduction for an employer’s expenses associated with meals provided for the convenience of the employer on the employer’s premises.
- 4. FIFO Stock Identification (Effective for specified securities sold, exchanged, or otherwise disposed of on or after Jan. 1, 2018)** - The SFC Bill would require the cost of any specified security sold, exchanged, or otherwise disposed of to be determined on a first-in first-out (FIFO) basis except to the extent the average basis method is otherwise allowed (as in the case of stock of a RIC). Would restrict a broker’s basis reporting method to the FIFO method in the case of the sale of any stock for which the average basis method is not permitted.
- 5. Disallowance Of Deductions Related To Certain Sexual Harassment Claims (Effective for amounts paid or incurred after the date of enactment)**. The SFC Bill would disallow a deduction for any settlement, payout, or attorney fees related to sexual harassment or sexual abuse if the payments are subject to a nondisclosure agreement.

REFORM OF BUSINESS CREDITS

Sec. 3408. Modification Of Credit Under §45B For Portion Of Employer Social Security Taxes Paid With Respect To Employee Tips (Effective for tax years beginning after 2017) - The Act would modify the credit to align with the current minimum wage. In addition, the Act would require all restaurants claiming the credit to report to the IRS tip allocations at no

less than 10% (currently 8%) of gross receipts per tipped employee. **SFC - Not addressed**

VARIOUS CREDITS WOULD BE REPEALED (Effective tax years beginning after 2017, unless stated otherwise)

1. **Sec. 3401** - Repeal the Credit under §45C for **Clinical Testing Expenses** for Certain Drugs for Rare Diseases or Conditions. **SFC - Limit but not repeal**
2. **Sec. 3402** - Repeal **Employer-Provided Child Care Credit** under §45F. **SFC - Not addressed**
3. **Sec. 3403** - Repeal **Rehabilitation Credit** under §47 (Effective for amounts paid or incurred after 2017). **SFC - Modify but not repeal**
4. **Sec. 3404** - Repeal **Work Opportunity Tax Credit** under §51 (Effective for wages paid or incurred to individuals who begin work after 2017). **SFC - Not addressed**
5. **Sec. 3405** - Repeal **Deduction for Certain Unused Business Credits**. See §196. **SFC - Same**
6. **Sec. 3406** - Termination of **New Markets Tax Credit** under §45D (No additional new markets tax credits would be allocated after 2017; however, credits that have already been allocated could be carried to years beginning before 2023). **SFC - Not addressed**
7. **Sec. 3407** - Repeal **Credit for Expenditures to Provide Access to Disabled Individuals** under §44. **SFC - Not addressed**

Note! Both the House and SFC Bills would preserve the Research and Development Credit and the Low Income Housing Credit (However, the SFC Bill would make several modifications to the Low Income Housing Credit).

ENERGY CREDITS

The following identifies other selected energy credits that would be either modified or repealed by the Act (the Act Section precedes each of the following provisions followed by a brief description of the change): **Sec. 3501.** Modifications to Credit for Electricity Produced from Certain Renewable Resources (§45); **Sec. 3502.** Modification of the Energy Investment Tax Credit (§48); **Sec. 3503.** Extension and Phaseout of Residential Energy Efficient Property (§25D); **Sec. 3504.** Repeal of Enhanced Oil Recovery Credit (§43); **Sec. 3505.** Repeal of Credit for Producing Oil and Gas from Marginal Wells (§45I); And, **Sec. 3506.** Modifications of Credit for Production from Advanced Nuclear Power Facilities (§45J). Please see the legislation for details. **SFC - Not addressed**

SELECTED PROVISIONS OF ACT NOT ADDRESSED IN THIS SUMMARY

The Act would make various changes to several targeted areas and industries that are beyond the scope of this Summary. For example, the Act would make certain changes that would impact the following: Governmental and Private Activity Bonds; The Insurance Industry; Taxation of Foreign Income and Foreign Persons (Including Repatriation of Foreign Profits At 14% for Liquid Assets And 7% For Illiquid Assets, **SFC - 10% and 5%, respectively**); Certain Tax-Exempt Organizations; and A 1.4% Excise Tax On The Net Investment Income Of a Private Educational Institution With At Least 500 Students And Investment Assets Of At Least \$250,000 Per Student.

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