US House, Senate Tax Legislation Bills Advance

The Senate Finance Committee (SFC) has released its version of tax reform while the House Ways and Means Committee (W&M) voted on and passed its amended tax bill. Both versions have similar thrusts—lower corporate taxes and moving toward a territorial tax treatment of international income; lower taxes on middle and lower income households and estates, and a broadening of tax bases by the repealing of various deductions—but there are some important differences that will need to be reconciled. The House and Senate must approve their separate bills—which will involve tough negotiations, modifications and compromises—and then their differences must be reconciled into a single bill and approved by majority votes in each chamber.

Budget considerations will constrain the tax proposals, drive the political negotiations and force trade-offs among the various provisions. Under the Concurrent Resolution on the Budget, the final legislation cannot include deficit increases of more than $1.5 trillion over the 10-year projection period. The Byrd Rule constrains the Senate bill from additional deficits after the 10-year budget projections. The current SFC proposal may be in violation of the Byrd Rule. All of these budget constraints will be based on projections that are conducted by the Joint Tax Committee and Congressional Budget Office.

Despite the differences between the House and Senate versions and the obstacles they face, we continue to expect tax legislation to be enacted. The tax legislation has momentum, but in light of the political and budget obstacles, we expect enactment is most likely in early 2018 rather than by year-end 2017.

In other reports we have assessed the economic impacts of tax policy changes. In a nutshell, we view the pending House and Senate legislative proposals as mixed bags: they include some reforms on corporate taxes that will lift sustainable economic growth, business investment and wages. They also involve some old-fashioned deficit spending fiscal stimulus in early years that will be more temporary. They fall short of pure reform and simplification, and the added deficit spending stimulus at this stage of the elongated economic expansion is unnecessary and unwise, but on the whole the proposals are a positive step forward from the current tax system.

There are numerous differences between the House and Senate versions. The key differences, described in more detail in Table 1, are:

1) Corporate tax rates. Both the W&M and SFC propose permanent reductions to 20%, but the Senate version would delay implementation until 2019.
2) Pass-throughs. The W&M proposes a 25% top rate on pass-through businesses, limits its use and sets profit/wage designations, while the SFC proposes a 17.4% decuction of business income but does not institute a lower rate.
3) International income. Both the W&M and SFC versions move toward a territorial tax system for corporate international income. The W&M imposes an excise tax on some payments made by US corporations to related foreign corporations, while the SFC would require US corporations to include in taxable income its global intangible low-tax income earned by CFCs.
4) Repatriated assets. On cash assets accumulated overseas, the W&M proposes a 14% rate and the SFC a 10% rate; on noncash assets the W&M rate would be

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7% and the SFC's 5%.

5) Individual rates and brackets. The Senate proposes leaving the number of income tax brackets at seven and lowering the top rate to 38.5% from 39.6%, while the House reduces the number of tax brackets to four and leaves the top rate at 39.6%.
6) Credits. The W&M proposes a $300 tax credit for non-child dependents and a $300 credit for each taxpayer who is neither a child nor non-child dependent - both expire after five years. The SFC provides a $500 credit for non-child dependents. Also, the SFC increases the child tax credit by a bit more than the House version.
7) Medical expenses. The Senate preserves the out-of-pocket medical expense deduction (curently for expenses exceeding 10% of adjusted gross income), while the House repeals it.
8) State and local taxes. The SFC proposes a full repeal of state and local tax deductions including property taxes, while the House bill repeals the deductibility of state and local taxes and allows the dectibility of the first $10,000 of property taxes.
9) Estate taxes. Both the W&M and SFC would double the tax exemption to close to $11 million; the House would repeal the estate tax after 2023 while the SFC would not repeal it.

Next steps (as displayed in Figure 1): The House and Senate have to pass the same version of a tax bill for it to be enacted.

The full House must vote on the bill passed by the Ways and Means Committee. House leaders have indicated that the vote may be as soon as next week, before the seven-day House recess for the Thanksgiving holiday. Further amendments to the bill are not expected to be allowed on the House floor.

The SFC will begin mark up of its bill next week and may vote on the bill by the end of next week. The Senate will be on a five-day recess for the Thanksgiving holiday. The amended bill will probably go to the Senate floor for a vote the week after Thanksgiving.

Each of these steps will involve tough negotiations, modifications and compromises. To meet budget constraints, expect more sunsetting provisions. For pure tax reform devotees—those that want clean pro-growth reforms and simplification—it will not be a pretty process or outcome.

After the Senate and House vote on and pass their separate bills, House and Senate GOP leaders will select members to form a conference committee to negotiate and agree upon a unified bill. This unified bill would then be voted upon by the House and the Senate.

Amid negotiations on the House and Senate versions of the tax legislation, the current Continuing Resolution on the Budget expires December 8th. If a spending agreement is not agreed upon before then, a threat of a government shutdown looms.

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Table 1: Difference Between House Ways and Means Committee's and Senate Finance Committee's Tax Proposals

	House Ways and Means Committee	Senate Finance Committee	Comments
CORPORATE TAXES			
Rate	Permanent reduction from 35% to 20% *in 2018.*	Permanent reduction of rate to 20% *delayed until 2019.*	Delaying the lower corporate tax rate for a year would save $100 billion.
Pass-through businesses	Reduction in top business income rate to 25%. *Taxes 70% of income as wages at individual rate and 30% as business income at 25%.* Professional service firms not allowed to use 25% rate. Pass-throughs cannot deduct state and local income taxes, but can deduct sales and certain property taxes. Amendment: a 9% tax rate for the first $37.5k in business income for active owners/shareholders earning under $75k (amounts doubled for married households). Businesses of all types eligible for this 9% rate - will be phased in over five years.	*Lowers effective tax rate by allowing individual taxpayers to deduct 17.4% of domestic qualified business income* from a partnership, S corporation, or sole proprietorship. Deduction does not apply to certain service businesses unless taxpayer income is under $75k for individuals and under $150k for married joint filers.	Both versions aim to lower effective taxes on pass-through businesses, but these are different approaches.
Expensing of new investment	Immediate expensing - would expire after 5 years.	Immediate expensing - would expire after five years (six years for longer production period property and certain aircrafts). Excludes from the definition of qualified property certain public utility property.	The sunsetting reduces the projected budget costs over the 10-year projection. By reducing the tax on new capital, these proposals would stimulate investment and boost eocnomic growth. The sunsetting will lead businesses to frontload investment into the next five years. Whether the expensing will be extended past the sunset periods through future legislation will be debated.
Deductibility of interest costs	*Caps corporate interest deductions to 30% of EBITDA.* Real estate firms and small businesses exempt. Amendment: taxpayers that paid/accrued interest on "floor plan financing indebtedness" (car dealers) would be exempt from the limit, but would no longer be allowed to fully expense.	*Limits the deduction of net interest expense to 30% of adjusted taxable income.* In general this allows less deduction than the House Version. Allows a partner of partnership to deduct additional interest expense (beyond 30%) if certain conditions are met.	Moves toward evening tax treatment of debt and equity financing.
Other deductions	Repeals deduction for business entertainment and local lobbying expenses, and net operating losses.	Repeals deduction for business entertainment, facility used in connection with entertainment, membership dues for certain clubs, only 50% deduction of employer provided food and beverages to employees.	Aim of various provisions is to broaden the tax base , generate revenues and simplify the code.

Source: Ways and Means Committee Majority Tax Staff, Senate Committee on Finance, "Description of the Chairman's Mark on the "Tax Cuts and Jobs Act"", November 9, 2017 and Berenberg Capital Markets

Table 1: **Difference Between House Ways and Means Committee's and Senate Finance Committee's Tax Proposals**

	House Ways and Means Committee	Senate Finance Committee	Comments
Tax Treatment of International Income			
Territorial tax system	*Moves toward territorial.* US corporations would only be taxed on domestic earnings. New 10% tax on "high-profit" foreign subsidiaries of US firms (50% of earnings of foreign subsidiaries in excess of 7% plus the Federal short-term rate would be taxed at the new 20% rate). *A 20% excise tax applied to payments made by US corporations to related foreign corporations.*	*Moves toward territorial* in which US corporations would only be taxed on domestic income with anti-abuse rules and a base erosion minimum tax of the excess of 10% modified taxable income over an amount equal to regular tax liability. U*S corporations would include in taxable income its global intangible low-tax income (GILTI) earned by controlled foreign corporations (CFCs).*	Complex rules designed to deter US corporations from moving production and profits overseas.
One-time tax on accumulated foreign profits	Accumulated profits overseas - Cash: 14%, Non-cash assets: 7%	Accumulated profits overseas - Cash: 10%, Non-cash assets: 5%	Big Treasury tax revenue generator. What will corporations do with repatriated assets?
INDIVIDUAL TAXES			
Brackets and rates	*Seven tax brackets reduced to four (12%, 25%, 35%, 39.6%)* (see Figure 2). *Highest rate: 39.6%*	*Number of tax brackets left at seven* but changed to [7%, 12%, 22.5%, 25%, 32.5%, 35%, 38.5%] from [10%, 15%, 25%, 28%, 33%, 35%, 39.6%] (see Figure 3). *Highest rate: 38.5%*	Top rate in House bill applies to income over $1 milliion and top rate in Senate bill applies to income over $500k.
Standard deduction	Almost doubled for individuals from $6,350 to $12,000, and for married joint filers from $12,700 to $24,000.	Same as House version	Estimated to reduce the portion of tax payers that itemize deductions from one-in-three to under 10%. Simplifies tax code.
Personal exemptions	Repeals the personal exemption for each taxpayer, taxpayer's spouse and dependents. Valued at $4,050 in 2017.	Same as House version	Value of personal exemptions folded into higher standard deduction, but impact varies among taxpayers.
Child tax credit	*Increased from $1,000 to $1,600* and available to more middle income households. *Phaseout begins at taxpayer income of $230,000.*	*Increased from $1,000 to $1,650.* Age limit for qualifying child is increased by one year (to any child under age of 18). *Phaseout begins at taxpayer income of $1 million.*	
Non-child tax credit	A $300 nonrefundable tax credit for non-child dependents and $300 credit for each taxpayer who is neither a child nor non-child dependent. Expires after 2022.	Provides a $500 nonrefundable credit for qualifying non-child dependents.	

Source: Ways and Means Committee Majority Tax Staff, Senate Committee on Finance, "Description of the Chairman's Mark on the "Tax Cuts and Jobs Act"", November 9, 2017 and Berenberg Capital Markets

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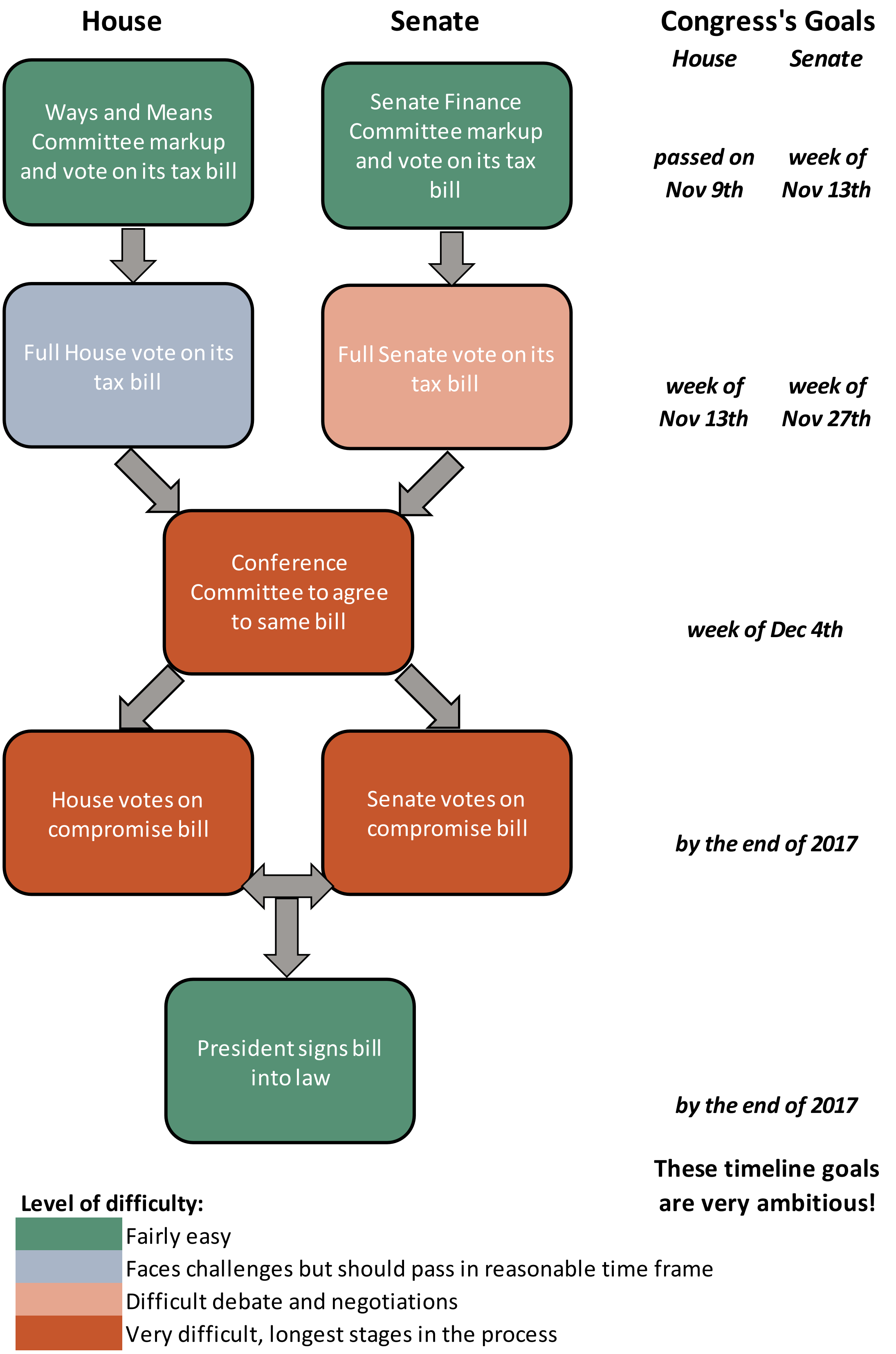
	House Ways and Means Committee	Senate Finance Committee	Comments
Deductions			
State and local taxes	State and local income and sales tax deduction repealed. *Property tax deduction preserved but capped at $10,000.*	*State and local income, sales and property tax deduction fully repealed.*	Major sticking point for House Republicans in high-tax states.
Mortgage interest	Mortgage interest deduction for existing mortgages maintained, *but deduction for newly purchased primary residence reduced to $500k* (from current: $1 million) and disallowed for newly purchased second homes.	*Preserves the mortgage interest deduction cap at $1 million.* Repeals deduction of interest on home equity debt.	Proposed $500k limit is well-above median new home price; but along with raising the standard deduction and not allowing the deduction of state and local income and sales taxes, use and value of mortgage deduction will be diminished.
Medical expenses	*Itemized deduction for out-of-pocket medical expenses of taxpayer, spouse or dependent repealed;* currently, only medical expenses in excess of 10% of AGI are deductible.	*Preserved - medical expenses in excess of 10% of AGI are deductible.*	
Earned income tax credit	Preserved	Preserved	
Charitable contributions	The 50% of AGI limitation for cash contributions increased to 60%. Other minor modifications to disallow deduction of certain charitable contributions.	Increases income-based percentage limit for certain charitable contributions to public charities and other organizations from 50% to 60%.	
Retirement savings	Pre-tax contribution limit to 401k savings plans left unchanged.	Pre-tax contribution limit to 401k savings plans left unchanged.	
Other Individual			
Alternative Minimum Tax	Repealed	Repealed	In its current form, affects (increases) the taxes of around 4 million households.
Estate tax	Burden reduced by doubling the exemption to $11 million and *repealing after 2023*	Burden reduced by doubling the exemption to $11 million, but *does not repeal*	Source of contention between certain House and Senate members. Big Treasury tax receipt loss -- benefits concentrated among high-wealth households.

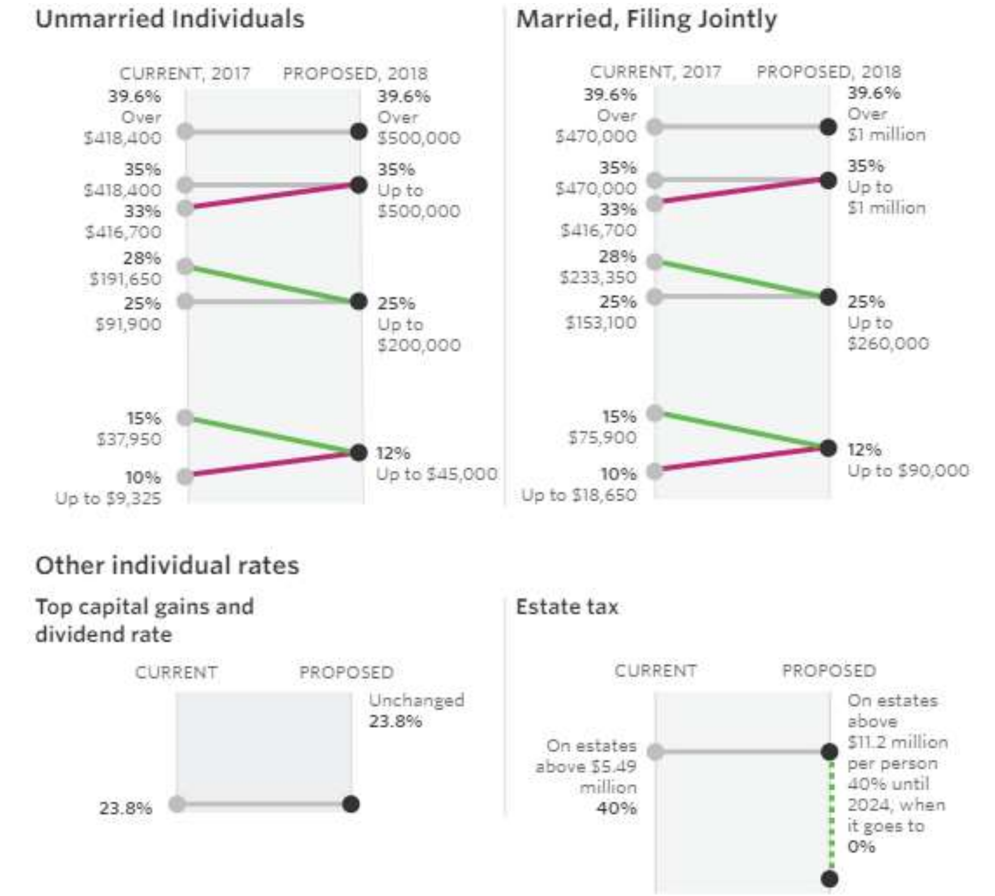
Source: Ways and Means Committee Majority Tax Staff, Senate Committee on Finance, "Description of the Chairman's Mark on the "Tax Cuts and Jobs Act"", November 9, 2017 and Berenberg Capital Markets

Figure 1: Legislative Path to Tax Reform Enactment



Source: Berenberg Capital Markets

Figure **2: House Ways and Means Committee's** proposed changes in income tax brackets



Source: House Ways and Means Committee Majority Tax Staff

Figure **3: Senate Finance Committee's Proposed changes in income tax brackets**

If taxable income is:	Then income tax equals:
Single Individuals	
Not over $9,525	10% of the taxable income
Over $9,525 but not over $38,700	$952.50 plus 12% of the excess over $9,525
Over $38,700 but not over $60,000	$4,453.50 plus 22.5% of the excess over $38,700
Over $60,000 but not over $170,000	$9,246 plus 25% of the excess over $60,000
Over $170,000 but not over $200,000	$36,746 plus 32.5% of the excess over $170,000
Over $200,000 but not over $500,000	$46,496 plus 35% of the excess over $200,000
Over $500,000	$151,496 plus 38.5% of the excess over $500,000
Heads of Households	
Not over $13,600	10% of the taxable income
Over $13,600 but not over $51,800	$1,360 plus 12% of the excess over $13,600
Over $51,800 but not over $60,000	$5,944 plus 22.5% of the excess over $51,800
Over $60,000 but not over $170,000	$7,789 plus 25% of the excess over $60,000
Over $170,000 but not over $200,000	$35,289 plus 32.5% of the excess over $170,000
Over $200,000 but not over $500,000	$45,039 plus 35% of the excess over $200,000
Over $500,000	$150,039 plus 38.5% of the excess over $500,000
Married Individuals Filing Joint Returns and Surviving Spouses	
Not over $19,050	10% of the taxable income
Over $19,050 but not over $77,400	$1,905 plus 12% of the excess over $19,050
Over $77,400 but not over $120,000	$8,907 plus 22.5% of the excess over $77,400
Over $120,000 but not over $290,000	$18,492 plus 25% of the excess over $120,000
Over $290,000 but not over $390,000	$60,992 plus 32.5% of the excess over $290,000
Over $390,000 but not over $1,000,000	$93,492 plus 35% of the excess over $390,000
Over $1,000,000	$306,992 plus 38.5% of the excess over $1,000,000
Married Individuals Filing Separate Returns	
Not over $9,525	10% of the taxable income
Over $9,525 but not over $38,700	$952.50 plus 12% of the excess over $9,525
Over $38,700 but not over $60,000	$4,453.50 plus 22.5% of the excess over $38,700
Over $60,000 but not over $145,000	$9,246 plus 25% of the excess over $60,000
Over $145,000 but not over $195,000	$30,496 plus 32.5% of the excess over $145,000
Over $195,000 but not over $500,000	$46,746 plus 35% of the excess over $195,000
Over $500,000	$153,496 plus 38.5% of the excess over $500,000
Estates and Trusts	
Not over $2,550	10% of the taxable income
Over $2,550 but not over $9,150	$255 plus 25% of the excess over $2,550
Over $9,150 but not over $12,500	$1,905 plus 35% of the excess over $9,150
Over $12,500	$3,077.50 plus 38.5% of the excess over $12,500

Source: Senate Committee on Finance, "Description of the Chairman's Mark on the "Tax Cuts and Jobs Act"", November 9, 2017

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