

# SELECTED PROVISIONS FROM THE 2017 TAX CUTS AND JOBS ACT

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## SELECTED PROVISIONS FROM THE TAX CUTS AND JOBS ACT 2017

### FEDERAL INDIVIDUAL INCOME TAX RATES FOR 2018 UNDER THE CONFERENCE AGREEMENT

#### 2018 UNMARRIED INDIVIDUALS

If taxable income is over--	But not over--	The tax is:
\$0	\$9,525	10% of the amount over \$0
\$9,525	\$38,700	\$952.50 plus 12% of the amount over \$9,525
\$38,700	\$82,500	\$4,453.50 plus 22% of the amount over \$38,700
\$82,500	\$157,500	\$14,089.50 plus 24% of the amount over \$82,500
\$157,500	\$200,000	\$32,089.50 plus 32% of the amount over \$157,500
\$200,000	\$500,000	\$45,689.50 plus 35% of the amount over \$200,000
\$500,000	no limit	\$150,689.50 plus 37% of the amount over \$500,000

#### 2018 HEAD OF HOUSEHOLD

If taxable income is over--	But not over--	The tax is:
\$0	\$13,600	10% of the amount over \$0
\$13,600	\$51,800	\$1,360 plus 12% of the amount over \$13,600
\$51,800	\$82,500	\$5,944 plus 22% of the amount over \$51,800
\$82,500	\$157,500	\$12,698 plus 24% of the amount over \$82,500
\$157,500	\$200,000	\$30,698 plus 32% of the amount over \$157,500
\$200,000	\$500,000	\$44,298 plus 35% of the amount over \$200,000
\$500,000	no limit	\$149,298 plus 37% of the amount over \$500,000

### 2018 MARRIED FILING JOINTLY OR SURVIVING SPOUSE

If taxable income is over--	But not over--	The tax is:
\$0	\$19,050	10% of the amount over \$0
\$19,050	\$77,400	\$1,905 plus 12% of the amount over \$19,050
\$77,400	\$165,000	\$8,907 plus 22% of the amount over \$77,400
\$165,000	\$315,000	\$28,179 plus 24% of the amount over \$165,000
\$315,000	\$400,000	\$64,179 plus 32% of the amount over \$315,000
\$400,000	\$600,000	\$91,379 plus 35% of the amount over \$400,000
\$600,000	no limit	\$161,379 plus 37% of the amount over \$600,000

### 2018 MARRIED FILING SEPARATELY

If taxable income is over--	But not over--	The tax is:
\$0	\$9,525	10% of the amount over \$0
\$9,525	\$38,700	\$952.50 plus 12% of the amount over \$9,525
\$38,700	\$82,500	\$4,453.50 plus 22% of the amount over \$38,700
\$82,500	\$157,500	\$14,089.50 plus 24% of the amount over \$82,500
\$157,500	\$200,000	\$32,089.50 plus 32% of the amount over \$157,500
\$200,000	\$300,000	\$45,689.50 plus 35% of the amount over \$200,000
\$300,000	no limit	\$80,689.50 plus 37% of the amount over \$300,000

### 2018 ESTATES AND TRUSTS

If taxable income is over--	But not over--	The tax is:
\$0	\$2,550	10% of the amount over \$0
\$2,550	\$9,150	\$255 plus 24% of the amount over \$2,550
\$9,150	\$12,500	\$1,839 plus 35% of the amount over \$9,150
\$12,500	no limit	\$3,011.50 plus 37% of the amount over \$12,500

The provision's rate structure does not apply to taxable years beginning after December 31, 2025.

The conference agreement follows the House bill and generally retains present-law maximum rates on net capital gains and qualified dividends.

The conference agreement follows the House bill in simplifying the tax on the unearned income of children. This provision does not apply to taxable years beginning after December 31, 2025.

## **KIDDIE TAX - TEMPORARY SIMPLIFICATION OF TAX ON UNEARNED INCOME OF CHILDREN**

The Senate amendment follows the House bill in applying ordinary and capital gains rates applicable to trusts and estates to the net unearned income of a child, but does not apply these changes to taxable years beginning after December 31, 2025.

## **INCREASE IN STANDARD DEDUCTION (SEC. 1002 OF THE HOUSE BILL, SEC. 11021 OF THE SENATE AMENDMENT, AND SEC. 63 OF THE CODE)**

### *Senate Amendment*

The Senate amendment temporarily increases the basic standard deduction for individuals across all filing statuses. Under the provision, the amount of the standard deduction is temporarily increased to \$24,000 for married individuals filing a joint return, \$18,000 for head-of-household filers, and \$12,000 for all other individuals. The amount of the standard deduction is indexed for inflation using the C-CPI-U for taxable years beginning after December 31, 2018.

### *Conference Agreement*

The conference agreement follows the Senate amendment.

## **REPEAL OF THE DEDUCTION FOR PERSONAL EXEMPTIONS (SEC. 1003 OF THE HOUSE BILL, SEC. 11041 OF THE SENATE AMENDMENT, AND SEC. 151 OF THE CODE)**

### *Conference Agreement*

The conference agreement follows the Senate amendment and suspends the deduction for personal exemptions. The suspension does not apply to taxable years beginning after December 31, 2025.

## **ALTERNATIVE INFLATION ADJUSTMENT (SECS. 1001 AND 1005 OF THE HOUSE BILL, SEC. 11002 OF THE SENATE AMENDMENT, AND SEC. 1 OF THE CODE)**

### *Senate Amendment*

The provision requiring C-CPI-U indexing after 2017 is permanent. Thus, after certain temporary tax parameters sunset, such as bracket thresholds and the increased basic standard deduction, corresponding present law values in the Code are indexed appropriately with the CCPI-U.

### *Conference Agreement*

The conference agreement follows the Senate amendment with modifications.

## **DEDUCTION FOR QUALIFIED BUSINESS INCOME (SEC. 1004 OF THE HOUSE BILL, SEC. 11011 OF THE SENATE AMENDMENT, AND SEC. 119A OF THE CODE)**

### **Deduction Percentage**

Under the conference agreement, the percentage of the deduction allowable under the provision is 20 percent (not 23 percent).

### **Threshold Amount**

The conference agreement reduces the threshold amount above which both the limitation on specified service businesses and the wage limit are phased in. Under the conference agreement, the threshold amount is \$157,500 (twice that amount or \$315,000 in the case of a joint return), indexed. The conferees expect that the reduced threshold amount will serve to deter high-income

taxpayers from attempting to convert wages or other compensation for personal services to income eligible for the 20-percent deduction under the provision.

The conference agreement provides that the range over which the phase-in of these limitations applies is \$50,000 (\$100,000 in the case of a joint return).

### **Limitation Based on W-2 Wages and Capital**

The conference agreement modifies the wage limit applicable to taxpayers with taxable income above the threshold amount to provide a limit based either on wages paid or on wages paid plus a capital element. Under the conference agreement, the limitation is the greater of (a) 50 percent of the W-2 wages paid with respect to the qualified trade or business, or (b) the sum of 25 percent of the W-2 wages with respect to the qualified trade or business plus 2.5 percent of the unadjusted basis, immediately after acquisition, of all qualified property.

For purposes of the provision, qualified property means tangible property of a character subject to depreciation that is held by, and available for use in, the qualified trade or business at the close of the taxable year, and which is used in the production of qualified business income, and for which the depreciable period has not ended before the close of the taxable year. The depreciable period with respect to qualified property of a taxpayer means the period beginning on the date the property is first placed in service by the taxpayer and ending on the later of (a) the date 10 years after that date, or (b) the last day of the last full year in the applicable recovery period that would apply to the property under section 168 (without regard to section 168(g)).

For example, a taxpayer (who is subject to the limit) does business as a sole proprietorship conducting a widget-making business. The business buys a widget-making machine for \$100,000 and places it in service in 2020. The business has no employees in 2020. The limitation in 2020 is the greater of (a) 50 percent of W-2 wages, or \$0, or (b) the sum of 25 percent of W-2 wages (\$0) plus 2.5 percent of the unadjusted basis of the machine immediately after its acquisition:  $\$100,000 \times 0.025 = \$2,500$ . The amount of the limitation on the taxpayer's deduction is \$2,500.

In the case of property that is sold, for example, the property is no longer available for use in the trade or business and is not taken into account in determining the limitation. The Secretary is required to provide rules for applying the limitation in cases of a short taxable year of where the taxpayer acquires, or disposes of, the major portion of a trade or business or the major portion of a separate unit of a trade or business during the year. The Secretary is required to provide guidance applying rules similar to the rules of section 179(d)(2) to address acquisitions of property from a related party, as well as in a sale-leaseback or other transaction as needed to carry out the purposes of the provision and to provide anti-abuse rules, including under the limitation based on W-2 wages and capital. Similarly, the Secretary shall provide guidance prescribing rules for determining the unadjusted basis immediately after acquisition of qualified property acquired in like-kind exchanges or involuntary conversions as needed to carry out the purposes of the provision and to provide anti-abuse rules, including under the limitation based on W-2 wages and capital.

### **Specified Service Trade or Business**

The conference agreement modifies the definition of a specified service trade or business in several respects. The definition is modified to exclude engineering and architecture services, and to take into account the reputation or skill of owners. A specified service trade or business means any trade

or business involving the performance of services in the fields of health, law, 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 or owners, or which involves the performance of services that consist of investing and investment management trading, or dealing in securities, partnership interests, or commodities. For this purpose a security and a commodity have the meanings provided in the rules for the mark-to-market accounting method for dealers in securities (sections 475(c)(2) and 475(e)(2), respectively).

### **Determination of the Taxpayer's Deduction**

The taxpayer's deduction for qualified business income for the taxable year is equal to the sum of (a) the lesser of the combined qualified business income amount for the taxable year or an amount equal to 20 percent of the excess of taxpayer's taxable income over any net capital gain<sup>1</sup> and qualified cooperative dividends, plus (b) the lesser of 20 percent of qualified cooperative dividends and taxable income (reduced by net capital gain). This sum may not exceed the taxpayer's taxable income for the taxable year (reduced by net capital gain). Under the provision, the 20-percent deduction with respect to qualified cooperative dividends is limited to taxable income (reduced by net capital gain) for the year. The combined qualified business income amount for the taxable year is the sum of the deductible amounts determined for each qualified trade or business carried on by the taxpayer and 20 percent of the taxpayer's qualified REIT dividends and qualified publicly traded partnership income. The deductible amount for each qualified trade or business is the lesser of (a) 20 percent of the taxpayer's qualified business income with respect to the trade or business, or (b) the greater of 50 percent of the W-2 wages with respect to the trade or business or the sum of 25 percent of the W-2 wages with respect to the trade or business and 2.5 percent of the unadjusted basis, immediately after acquisition, of all qualified property.

### **Deduction Against Taxable Income**

The conference agreement clarifies that the 20-percent deduction is not allowed in computing adjusted gross income, and instead is allowed as a deduction reducing taxable income. Thus, for example, the provision does not affect limitations based on adjusted gross income. Similarly the conference agreement clarifies that the deduction is available to both nonitemizers and itemizers.

## **ENHANCEMENT OF CHILD TAX CREDIT AND NEW FAMILY CREDIT (SEC. 1101 OF THE HOUSE BILL, SEC. 11022 OF THE SENATE AMENDMENT, AND SEC. 24 OF THE CODE)**

### ***Conference Agreement***

The conference agreement temporarily increases the child tax credit to \$2,000 per qualifying child. The credit is further modified to temporarily provide for a \$500 nonrefundable credit for qualifying dependents other than qualifying children. The provision generally retains the present-law definition of dependent.

Under the conference agreement, the maximum amount refundable may not exceed \$1,400 per qualifying child.<sup>2</sup> Additionally, the conference agreement provides that, in order to receive the child tax credit (i.e., both the refundable and non-refundable portion), a taxpayer must include a Social Security number for each qualifying child for whom the credit is claimed on the tax return. For

1. Defined in Sec. 1(h).

2. Unlike both the House bill and the Senate amendment, the conference agreement uses an indexing convention that rounds the \$1,400 amount to the next lowest multiple of \$100.

these purposes, a Social Security number must be issued before the due date for the filing of the return for the taxable year. This requirement does not apply to a nonchild dependent for whom the \$500 non-refundable credit is claimed.<sup>1</sup>

Further, the conference agreement retains the present-law age limit for a qualifying child. Thus, a qualifying child is an individual who has not attained age 17 during the taxable year.

Finally, the conference agreement modifies the adjusted gross income phaseout thresholds. Under the conference agreement, the credit begins to phase out for taxpayers with adjusted gross income in excess of \$400,000 (in the case of married taxpayers filing a joint return) and \$200,000 (for all other taxpayers). These phaseout thresholds are not indexed for inflation.

As was the case with the Senate amendment, the provision expires for taxable years beginning after December 31, 2025.

Effective date -The provision is effective for taxable years beginning after December 31, 2017.

## **LIMITATION ON LOSSES FOR TAXPAYERS OTHER THAN CORPORATIONS (SEC. 11012 OF THE SENATE AMENDMENT AND SEC. 461(L) OF THE CODE)**

### *Senate Amendment*

For taxable years beginning after December 31, 2017 and before January 1, 2026, excess business losses of a taxpayer other than a corporation are not allowed for the taxable year. Such losses are carried forward and treated as part of the taxpayer's net operating loss ("NOL") carryforward in subsequent taxable years. Under the bill, NOL carryovers generally are allowed for a taxable year up to the lesser of the carryover amount or 90 percent (80 percent for taxable years beginning after December 31, 2022) of taxable income determined without regard to the deduction for NOLs.

An excess business loss for the taxable year is the excess of aggregate deductions of the taxpayer attributable to trades or businesses of the taxpayer (determined without regard to the limitation of the provision), over the sum of aggregate gross income or gain of the taxpayer plus a threshold amount. The threshold amount for a taxable year is \$250,000 (or twice the otherwise applicable threshold amount in the case of a joint return). The threshold amount is indexed for inflation.

In the case of a partnership or S corporation, the provision applies at the partner or shareholder level. Each partner's distributive share and each S corporation shareholder's pro rata share of items of income, gain, deduction, or loss of the partnership or S corporation are taken into account in applying the limitation under the provision for the taxable year of the partner or S corporation shareholder. Regulatory authority is provided to apply the provision to any other passthrough entity to the extent necessary to carry out the provision. Regulatory authority is also provided to require any additional reporting as the Secretary determines is appropriate to carry out the purposes of the provision.

The provision applies after the application of the passive loss rules.<sup>2</sup>

1. Additionally, a qualifying child who is ineligible to receive the child tax credit because that child did not have a Social Security number as the child's taxpayer identification number may nonetheless qualify for the nonrefundable \$500 credit.

2. Sec. 469.

For taxable years beginning after December 31, 2017 and before January 1, 2026, the present-law limitation relating to excess farm losses does not apply.

Effective date.-The provision is effective for taxable years beginning after December 31, 2017.

#### *Conference Agreement*

The conference agreement follows the Senate amendment. Thus, excess business losses not allowed are carried forward and treated as part of the taxpayer's net operating loss ("NOL") carryforward in subsequent taxable years as determined under the NOL rules provided under the conference agreement.

Effective date.-The provision is effective for taxable years beginning after December 31, 2017.

### **CONSOLIDATION AND MODIFICATION OF EDUCATION SAVINGS RULES (SEC. 1202 OF THE HOUSE BILL, SEC. 11033 OF THE SENATE AMENDMENT, AND SECS. 529 AND 530 OF THE CODE)**

#### *Senate Amendment*

The Senate amendment modifies section 529 plans to allow such plans to distribute not more than \$10,000 in expenses for tuition incurred during the taxable year in connection with the enrollment or attendance of the designated beneficiary at a public, private or religious elementary or secondary school. This limitation applies on a per-student basis, rather than a per-account basis. Thus, under the provision, although an individual may be the designated beneficiary of multiple accounts, that individual may receive a maximum of \$10,000 in distributions free of tax, regardless of whether the funds are distributed from multiple accounts. Any excess distributions received by the individual would be treated as a distribution subject to tax under the general rules of section 529.

The provision also modifies the definition of higher education expenses to include certain expenses incurred in connection with a homeschool. Those expenses are (1) curriculum and curricular materials; (2) books or other instructional materials; (3) online educational materials; (4) tuition for tutoring or educational classes outside of the home (but only if the tutor or instructor is not related to the student); (5) dual enrollment in an institution of higher education; and (6) educational therapies for students with disabilities.

Effective date.-The provision applies to distributions made after December 31, 2017.

#### *Conference Agreement*

The conference agreement follows the Senate amendment.

### **ROLLOVERS BETWEEN QUALIFIED TUITION PROGRAMS AND QUALIFIED ABLE PROGRAMS (SEC. 1205 OF THE HOUSE BILL, SEC. 11025 OF THE SENATE AMENDMENT AND SECS. 529 AND 529A OF THE CODE)**

#### *House Bill*

The House bill allows for amounts from qualified tuition programs (also known as 529 accounts) to be rolled over to an ABLE account without penalty, provided that the ABLE account is owned by the designated beneficiary of that 529 account, or a member of such designated beneficiary's

family.<sup>1</sup> Such rolled-over amounts count towards the overall limitation on amounts that can be contributed to an ABLÉ account within a taxable year.<sup>2</sup> Any amount rolled over that is in excess of this limitation shall be includible in the gross income of the distributee in a manner provided by section 72.<sup>3</sup>

Effective date.-The provision applies to distributions after December 31, 2017.

#### *Senate Amendment*

The Senate amendment generally follows the House Bill. Under the Senate amendment, the provision is not effective for distributions after December 31, 2025.

Effective date.-The provision applies to distributions after the date of enactment.

#### *Conference Agreement*

The conference agreement follows the Senate amendment.

### **REPEAL OF OVERALL LIMITATION ON ITEMIZED DEDUCTIONS (SEC. 1301 OF THE HOUSE BILL, SEC. 11046 OF THE SENATE AMENDMENT, AND SEC. 68 OF THE CODE)**

#### *House Bill*

The House bill repeals the overall limitation on itemized deductions.

Effective date.-The provision is effective for taxable years beginning after December 31, 2017.

#### *Senate Amendment*

The Senate amendment follows the House bill. Under the Senate amendment, the suspension of the overall limitation on itemized deductions does not apply to taxable years beginning after December 31, 2025.

#### *Conference Agreement*

The conference agreement follows the Senate amendment.

### **MODIFICATION OF DEDUCTION FOR HOME MORTGAGE INTEREST (SEC. 1302 OF THE HOUSE BILL, SEC. 11043 OF THE SENATE AMENDMENT, AND SEC. 163(H) OF THE CODE)**

#### *Conference Agreement*

The conference agreement provides that, in the case of taxable years beginning after December 31, 2017, and beginning before January 1, 2026, a taxpayer may treat no more than \$750,000 as acquisition indebtedness (\$375,000 in the case of married taxpayers filing separately). In the case of acquisition indebtedness incurred before December 15, 2017<sup>4</sup> this limitation is \$1,000,000 (\$500,000 in the case of married taxpayers filing separately).<sup>5</sup> For taxable years beginning after

1. For these purposes, a member of the family means, with respect to any designated beneficiary, the taxpayer's: (1) spouse; (2) child or descendant of a child; (3) brother, sister, stepbrother or stepsister; (4) father, mother or ancestor of either; (5) stepfather or stepmother; (6) niece or nephew; (7) aunt or uncle; (8) in-law; (9) the spouse of any individual described in (2)-(8); and (10) any first cousin of the designated beneficiary.

2. 529A(b)(2)(B).

3. 529(c)(3)(A).



December 31, 2025, a taxpayer may treat up to \$1,000,000 (\$500,000 in the case of married taxpayers filing separately) of indebtedness as acquisition indebtedness, regardless of when the indebtedness was incurred.

Additionally, the conference agreement suspends the deduction for interest on home equity indebtedness. Thus, for taxable years beginning after December 31, 2017, a taxpayer may not claim a deduction for interest on home equity indebtedness. The suspension ends for taxable years beginning after December 31, 2025.

Effective date.-The provision is effective for taxable years beginning after December 31, 2017.

Under the provision, in the case of an individual, State and local income, war profits, and excess profits taxes are not allowable as a deduction.

The provision contains an exception to the above-stated rule. Under the provision a taxpayer may claim an itemized deduction of up to \$10,000 (\$5,000 for married taxpayer filing a separate return) for the aggregate of (i) State and local property taxes not paid or accrued in carrying on a trade or business, or an activity described in section 212, and (ii) State and local income, war profits, and excess profits taxes (or sales taxes in lieu of income, etc. taxes) paid or accrued in the taxable year. Foreign real property taxes may not be deducted under this exception.

The above rules apply to taxable years beginning after December 31, 2017, and beginning before January 1, 2026.

The conference agreement also provides that, in the case of an amount paid in a taxable year beginning before January 1, 2018, with respect to a State or local income tax imposed for a taxable year beginning after December 31, 2017, the payment shall be treated as paid on the last day of the taxable year for which such tax is so imposed for purposes of applying the provision limiting the dollar amount of the deduction. Thus, under the provision, an individual may not claim an itemized deduction in 2017 on a pre-payment of income tax for a future taxable year in order to avoid the dollar limitation applicable for taxable years beginning after 2017.

Effective date.-The provision is effective for taxable years beginning after December 31, 2016.

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4. The conference agreement provides that a taxpayer who has entered into a binding written contract before December 15, 2017 to close on the purchase of a principal residence before January 1, 2018, and who purchases such residence before April 1, 2018, shall be considered to have incurred acquisition indebtedness prior to December 15, 2017 under this provision.
  5. Special rules apply in the case of indebtedness from refinancing existing acquisition indebtedness. Specifically, the \$1,000,000 (\$500,000 in the case of married taxpayers filing separately) limitation continues to apply to any indebtedness incurred on or after December 15, 2017, to refinance qualified residence indebtedness incurred before that date to the extent the amount of the indebtedness resulting from the refinancing does not exceed the amount of the refinanced indebtedness. Thus, the maximum dollar amount that may be treated as principal residence acquisition indebtedness will not decrease by reason of a refinancing.

## **REPEAL OF DEDUCTION FOR PERSONAL CASUALTY AND THEFT LOSSES (SEC. 1304 OF THE HOUSE BILL, SEC. 11044 OF THE SENATE AMENDMENT, AND SEC. 165 OF THE CODE)**

### *Senate Amendment*

The Senate amendment temporarily modifies the deduction for personal casualty and theft losses. Under the provision, a taxpayer may claim a personal casualty loss (subject to the limitations described above) only if such loss was attributable to a disaster declared by the President under section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act.

The above-described limitation does not apply with respect to losses incurred after December 31, 2025.

Effective date.-The provision is effective for losses incurred in taxable years beginning after December 31, 2017.

### *Conference Agreement*

The conference agreement follows the Senate amendment.

## **MODIFICATIONS TO THE DEDUCTION FOR CHARITABLE CONTRIBUTIONS (SEC. 1306 OF THE HOUSE BILL, SECS. 11023, 13703, AND 13704 OF THE SENATE AMENDMENT, AND SEC. 170 OF THE CODE)**

### **Increased percentage limit for contributions of cash to public charities**

The provision increases the income-based percentage limit described in section 170(b)(1)(A) for certain charitable contributions by an individual taxpayer of cash to public charities and certain other organizations from 50 percent to 60 percent.

### **Denial of charitable deduction for college athletic event seating rights**

The provision amends section 170(l) to provide that no charitable deduction shall be allowed for any amount described in paragraph 170(l)(2), generally, a payment to an institution of higher education in exchange for which the payor receives the right to purchase tickets or seating at an athletic event, as described in greater detail above.

### **Repeal of substantiation exception for certain contributions reported by the donee organization**

The provision repeals the section 170(f)(8)(D) exception to the contemporaneous written acknowledgment requirement.

Effective date.-The provision is effective for contributions made in taxable years beginning after December 31, 2017.

### *Senate Amendment*

The Senate amendment includes three of the House bill's four modifications to the present-law charitable contribution rules: (1) the increase in the percentage limit for charitable contributions of cash to public charities; (2) the denial of a charitable deduction for payments made in exchange for college athletic event seating rights; and (3) the repeal of the substantiation exception for certain contributions reported by the donee organization.

The Senate amendment does not include the provision from the House bill that allows the charitable standard mileage rate to be adjusted for inflation.

**Effective date.**—The provisions that increase the charitable contribution percentage limit and deny a deduction for stadium seating payments are effective for contributions made in taxable years beginning after December 31, 2017. The provision that repeals the substantiation exception for certain contributions reported by the donee organization is effective for contributions made in taxable years beginning after December 31, 2016.

#### *Conference Agreement*

The conference agreement follows the Senate amendment.

### **REPEAL OF CERTAIN MISCELLANEOUS ITEMIZED DEDUCTIONS SUBJECT TO THE TWO-PERCENT FLOOR (SECS. 1307 AND 1312 OF THE HOUSE BILL, SEC. 11045 OF THE SENATE AMENDMENT, AND SECS. 62, 67 AND 212 OF THE CODE)**

#### *Senate Amendment*

The Senate amendment suspends all miscellaneous itemized deductions that are subject to the two-percent floor under present law. Thus, under the provision, taxpayers may not claim the above-listed items as itemized deductions for the taxable years to which the suspension applies. The provision does not apply for taxable years beginning after December 31, 2025.

**Effective date.**—The provision is effective for taxable years beginning after December 31, 2017.

#### *Conference Agreement*

The conference agreement follows the Senate amendment.

### **REPEAL OF DEDUCTION FOR MEDICAL EXPENSES (SEC. 1308 OF THE HOUSE BILL, SEC. 11028 OF THE SENATE AMENDMENT AND SEC. 213 OF THE CODE)**

#### *Senate Amendment*

The Senate amendment provides that, for taxable years beginning after December 31, 2016 and ending before January 1, 2019, the threshold for deducting medical expenses shall be 7.5-percent for all taxpayers. For these years, this threshold applies for purposes of the AMT in addition to the regular tax.

**Effective date.**—The provision is effective for taxable years beginning after December 31, 2016.

#### *Conference Agreement*

The conference agreement follows the Senate amendment.

### **REPEAL OF DEDUCTION FOR ALIMONY PAYMENTS AND CORRESPONDING INCLUSION IN GROSS INCOME (SEC. 1309 OF THE HOUSE BILL AND SECS. 61, 71, AND 215 OF THE CODE)**

#### *House Bill*

Under the House bill, alimony and separate maintenance payments are not deductible by the payor spouse. The House bill repeals the Code provisions that specify that alimony and separate

maintenance payments are included in income. Thus, the intent of the provision is to follow the rule of the United States Supreme Court's holding in *Gould v. Gould*,<sup>1</sup> in which the Court held that such payments are not income to the recipient. Income used for alimony payments is taxed at the rates applicable to the payor spouse rather than the recipient spouse. The treatment of child support is not changed.

**Effective date.**-The provision is effective for any divorce or separation instrument executed after December 31, 2017, or for any divorce or separation instrument executed on or before December 31, 2017, and modified after that date, if the modification expressly provides that the amendments made by this section apply to such modification.

#### *Conference Agreement*

The conference agreement generally follows the House bill. However, the conference agreement delays the effective date of the provision by one year. Thus, the conference agreement is effective for any divorce or separation instrument executed after December 31, 2018, or for any divorce or separation instrument executed on or before December 31, 2018, and modified after that date, if the modification expressly provides that the amendments made by this section apply to such modification.

### **REPEAL OF DEDUCTION FOR MOVING EXPENSES (SEC. 1310 OF THE HOUSE BILL, SEC. 11050 OF THE SENATE AMENDMENT, AND SEC. 217 OF THE CODE)**

#### *Senate Amendment*

The Senate amendment generally suspends the deduction for moving expenses for taxable years 2018 through 2025. However, during that suspension period, the provision retains the deduction for moving expenses and the rules providing for exclusions of amounts attributable to in-kind moving and storage expenses (and reimbursements or allowances for these expenses) for members of the Armed Forces (or their spouse or dependents) on active duty that move pursuant to a military order and incident to a permanent change of station.

The suspension of the deduction for moving expenses does not apply to taxable years beginning after December 31, 2025.

**Effective date.**-The provision is effective for taxable years beginning after December 31, 2017.

#### *Conference Agreement*

The conference agreement follows the Senate amendment.

### **SUSPENSION OF EXCLUSION FOR QUALIFIED BICYCLE COMMUTING REIMBURSEMENT (SEC. 11048 OF THE SENATE AMENDMENT AND SECS. 132(F) OF THE CODE)**

#### *Senate Amendment*

The provision suspends the exclusion from gross income and wages for qualified bicycle commuting reimbursements. The exclusion does not apply to taxable years beginning after December 31, 2017 and before January 1, 2026.

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1. 245 U.S. 151 (1917).

Effective date.-The provision is effective for taxable years beginning after December 31, 2017.

### *Conference Agreement*

The conference agreement follows the Senate amendment.

## **REPEAL OF EXCLUSION FOR QUALIFIED MOVING EXPENSE REIMBURSEMENT (SEC. 1405 OF THE HOUSE BILL, SEC. 11049 OF THE SENATE AMENDMENT, AND SEC. 132(G) OF THE CODE)**

### *House Bill*

The provision repeals the exclusion from gross income and wages for qualified moving expense reimbursements except in the case of a member of the Armed Forces of the United States on active duty who moves pursuant to a military order.

Effective date.-The provision is effective for taxable years beginning after December 31, 2017.

### *Conference Agreement*

The conference agreement follows the Senate amendment.

## **REPEAL OF SPECIAL RULE PERMITTING RECHARACTERIZATION OF IRA CONTRIBUTIONS (SEC. 1501 OF THE HOUSE BILL, SEC. 13611 OF THE SENATE AMENDMENT, AND SEC. 408A OF THE CODE)**

### *House Bill*

The House bill repeals the special rule that allows IRA contributions to one type of IRA (either traditional or Roth) to be recharacterized as a contribution to the other type of IRA. Thus, for example, under the provision, a conversion contribution establishing a Roth IRA during a taxable year can no longer be recharacterized as a contribution to a traditional IRA (thereby unwinding the conversion).<sup>1</sup>

Effective date.-The provision is effective for taxable years beginning after December 31, 2017.

### *Conference Agreement*

The conference agreement follows the House bill and the Senate amendment with a modification. Under the provision, the special rule that allows a contribution to one type of IRA to be recharacterized as a contribution to the other type of IRA does not apply to a conversion contribution to a Roth IRA. Thus, recharacterization cannot be used to unwind a Roth conversion. However, recharacterization is still permitted with respect to other contributions. For example, an individual may make a contribution for a year to a Roth IRA and, before the due date for the individual's income tax return for that year, recharacterize it as a contribution to a traditional IRA.<sup>2</sup>

Effective date.-The provision is effective for taxable years beginning after December 31, 2017.

1. The provision does not preclude an individual from making a contribution to a traditional IRA and converting the traditional IRA to a Roth IRA. Rather, the provision would preclude the individual from later unwinding the conversion through a recharacterization.
2. In addition, an individual may still make a contribution to a traditional IRA and convert the traditional IRA to a Roth IRA, but the provision precludes the individual from later unwinding the conversion through a recharacterization.

## **EXTENDED ROLLOVER PERIOD FOR THE ROLLOVER OF PLAN LOAN OFFSET AMOUNTS IN CERTAIN CASES (SEC. 1505 OF THE BILL, SEC. 13613 OF THE SENATE AMENDMENT, AND SEC. 402 OF THE CODE)**

### *House Bill*

Under the House bill, the period during which a qualified plan loan offset amount may be contributed to an eligible retirement plan as a rollover contribution is extended from 60 days after the date of the offset to the due date (including extensions) for filing the Federal income tax return for the taxable year in which the plan loan offset occurs, that is, the taxable year in which the amount is treated as distributed from the plan. Under the provision, a qualified plan loan offset amount is a plan loan offset amount that is treated as distributed from a qualified retirement plan, a section 403(b) plan or a governmental section 457(b) plan solely by reason of the termination of the plan or the failure to meet the repayment terms of the loan because of the employee's separation from service, whether due to layoff, cessation of business, termination of employment, or otherwise. As under present law, a loan offset amount under the provision is the amount by which an employee's account balance under the plan is reduced to repay a loan from the plan.

Effective date.-The provision is effective for taxable years beginning after December 31, 2017.

### *Senate Amendment*

The Senate amendment is the same as the House bill, except that a qualified plan loan offset amount is a plan loan offset amount that is treated as distributed from a qualified retirement plan, a section 403(b) plan or a governmental section 457(b) plan solely by reason of the termination of the plan or the failure to meet the repayment terms of the loan because of the employee's severance from employment.

Effective date.-The provision is effective for plan loan offset amounts treated as distributed in taxable years beginning after December 31, 2017.

### *Conference Agreement*

The conference agreement follows the Senate amendment.

## **MODIFICATION OF RULES APPLICABLE TO LENGTH OF SERVICE AWARD PROGRAMS FOR BONA FIDE PUBLIC SAFETY VOLUNTEERS (SEC. 13612 OF THE SENATE AMENDMENT AND SEC. 457(E) OF THE CODE)**

### *Senate Amendment*

The Senate amendment increases the aggregate amount of length of service awards that may accrue for a bona fide volunteer with respect to any year of service to \$6,000 and adjusts that amount in \$500 increments to reflect changes in cost-of-living for years after the first year the provision is effective. In addition, under the provision, if the plan is a defined benefit plan, the limit applies to the actuarial present value of the aggregate amount of length of service awards accruing with respect to any year of service. Actuarial present value is to be calculated using reasonable actuarial assumptions and methods, assuming payment will be made under the most valuable form of payment under the plan with payment commencing at the later of the earliest age at which unreduced benefits are payable under the plan or the participant's age at the time of the calculation.

Effective date.-The provision is effective for taxable years beginning after December 31, 2017.

### *Conference Agreement*

The conference agreement follows the Senate amendment.

## **MODIFICATIONS TO ESTATE, GIFT, AND GENERATION-SKIPPING TRANSFERS TAXES (SECS. 1601 AND 1602 OF THE HOUSE BILL, SEC. 11061 OF THE SENATE AMENDMENT, AND SECS. 2001 AND 2010 OF THE CODE)**

### *Senate Amendment*

The provision doubles the estate and gift tax exemption for estates of decedents dying and gifts made after December 31, 2017, and before January 1, 2026. This is accomplished by increasing the basic exclusion amount provided in section 2010(c)(3) of the Code from \$5 million to \$10 million. The \$10 million amount is indexed for inflation occurring after 2011.

As a conforming amendment to section 2010(g) (regarding computation of estate tax), the provision provides that the Secretary shall prescribe regulations as may be necessary or appropriate to carry out the purposes of the section with respect to differences between the basic exclusion amount in effect: (1) at the time of the decedent's death; and (2) at the time of any gifts made by the decedent.

Effective date.-The provision is effective for estates of decedents dying and gifts made after December 31, 2017.

### *Conference Agreement*

The conference agreement follows the Senate amendment.

## **ALTERNATIVE MINIMUM TAX (SEC. 2001 OF THE HOUSE BILL, SEC. 12001 OF THE SENATE AMENDMENT, AND SECS. 53 AND 55-59 OF THE CODE)**

### *Conference Agreement*

The conference agreement temporarily increases both the exemption amount and the exemption amount phaseout thresholds for the individual AMT. Under the provision, for taxable years beginning after December 31, 2017, and beginning before January 1, 2026, the AMT exemption amount is increased to \$109,400 for married taxpayers filing a joint return (half this amount for married taxpayers filing a separate return), and \$70,300 for all other taxpayers (other than estates and trusts). The phaseout thresholds are increased to \$1,000,000 for married taxpayers filing a joint return, and \$500,000 for all other taxpayers (other than estates and trusts). These amounts are indexed for inflation.

The conference agreement follows the House bill in repealing the corporate alternative minimum tax.

Effective date.-The provisions are effective for taxable years beginning after December 31, 2017.

## **ELIMINATION OF SHARED RESPONSIBILITY PAYMENT FOR INDIVIDUALS FAILING TO MAINTAIN MINIMAL ESSENTIAL COVERAGE (SEC. 11081 OF THE SENATE AMENDMENT AND SEC. 5000A OF THE CODE)**

### *Senate Amendment*

The Senate amendment reduces the amount of the individual responsibility payment, enacted as part of the Affordable Care Act, to zero.

Effective date.-The provision is effective with respect to health coverage status for months beginning after December 31, 2018.

### *Conference Agreement*

The conference agreement follows the Senate amendment.

## **TEMPORARILY ALLOW INCREASED CONTRIBUTIONS TO ABLE ACCOUNTS, AND ALLOW CONTRIBUTIONS TO BE ELIGIBLE FOR SAVER'S CREDIT (SEC. 11024 OF THE SENATE AMENDMENT AND SEC. 529A OF THE CODE)**

### *Senate Amendment*

The Senate amendment temporarily increases the contribution limitation to ABLE accounts under certain circumstances. While the general overall limitation on contributions (the per-donee annual gift tax exclusion (\$14,000 for 2017)) remains the same, the limitation is temporarily increased with respect to contributions made by the designated beneficiary of the ABLE account. Under the temporary provision, after the overall limitation on contributions is reached, an ABLE account's designated beneficiary may contribute an additional amount, up to the lesser of (a) the Federal poverty line for a one-person household; or (b) the individual's compensation for the taxable year.

Additionally, the provision temporarily allows a designated beneficiary of an ABLE account to claim the saver's credit for contributions made to his or her ABLE account.

The provision does not apply to taxable years after December 31, 2025.

Effective date. • The provision is effective for taxable years beginning after the date of enactment.

### *Conference Agreement*

The conference agreement follows the Senate amendment.

Effective date. • The provision is effective for taxable years beginning after the date of enactment of this Act.



## BUSINESS TAX REFORM

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### TAX RATES

#### REDUCTION IN CORPORATE TAX RATE (SEC. 3001 OF THE HOUSE BILL, SECS. 13001 AND 13002 OF THE SENATE AMENDMENT, AND SECS. 11 AND 243 OF THE CODE)

##### *Conference Agreement*

The conference agreement follows the Senate amendment, but provides for a 21-percent corporate rate effective for taxable years beginning after December 31, 2017.

### COST RECOVERY

#### INCREASED EXPENSING (SEC. 3101 OF THE HOUSE BILL, SECS. 13201 AND 13311 OF THE SENATE AMENDMENT, AND SEC. 168(K) OF THE CODE)

##### *Conference Agreement*

The conference agreement follows the Senate amendment but also includes the House bill's removal of the requirement that the original use of qualified property must commence with the taxpayer (i.e., it allows the additional first-year depreciation deduction for new and used property).

In addition, the conference agreement also follows the House bill's application of the present-law phase-down of bonus depreciation to property acquired before September 28, 2017, and placed in service after September 27, 2017, as well as the present-law phase-down of the section 280F increase amount in the limitation on the depreciation deductions allowed with respect to certain passenger automobiles acquired before September 28, 2017, and placed in service after September 27, 2017. Under the conference agreement, the bonus depreciation rates are as follows.

Placed in Service Year	Bonus Depreciation	
	Qualified Property in General / Specified Plants	Longer Production Period Property and Certain Aircraft
<b>Portion of Basis of Qualified Property Acquired Before September 28, 2017</b>		
Sept. 28, 2017 - Dec. 31, 2017	50%	50%
2018	40%	50%
2019	30%	40%
2020	None	30% <sup>1</sup>
2021 and thereafter	None	None
<b>Portion of Basis of Qualified Property Acquired After September 28, 2017</b>		
Sept. 28, 2017 - Dec. 31, 2022	100%	100%
2023	80%	100%
2024	60%	80%
2025	40%	60%
2026	20%	40%
2027	None	20% <sup>2</sup>
2028	None	None

1. Thirty percent applies to the adjusted basis attributable to manufacture, construction, or production before January 1, 2020, and the remaining adjusted basis does not qualify for bonus depreciation. Thirty percent applies to the entire adjusted basis of certain aircraft described in section 168(k)(2)(C) and placed in service in 2020.
2. Twenty percent applies to the adjusted basis attributable to manufacture, construction, or production before January 1, 2027, and the remaining adjusted basis does not qualify for bonus depreciation. Twenty percent applies to the entire adjusted basis of certain aircraft described in section 168(k)(2)(C) and placed in service in 2027.

Effective date.-The provision generally applies to property acquired and placed in service after September 27, 2017, and to specified plants planted or grafted after such date.

#### *Senate Amendment*

The provision increases the depreciation limitations under section 280F that apply to listed property. For passenger automobiles placed in service after December 31, 2017, and for which the additional first-year depreciation deduction under section 168(k) is not claimed, the maximum amount of allowable depreciation is \$10,000 for the year in which the vehicle is placed in service, \$16,000 for the second year, \$9,600 for the third year, and \$5,760 for the fourth and later years in the recovery period.<sup>1</sup> The limitations are indexed for inflation for passenger automobiles placed in service after 2018.

The provision removes computer or peripheral equipment from the definition of listed property. Such property is therefore not subject to the heightened substantiation requirements that apply to listed property.

Effective date.-The provision is effective for property placed in service after December 31, 2017, in taxable years ending after such date.

#### *Conference Agreement*

The conference agreement follows the Senate amendment.

### **SMALL BUSINESS REFORMS (ONLY SELECTED SECTIONS)**

#### **EXPANSION OF SECTION 179 EXPENSING (SEC. 3201 OF THE HOUSE BILL, SEC. 13101 OF THE SENATE AMENDMENT, AND SEC. 179 OF THE CODE)**

##### *Senate Amendment*

The provision increases the maximum amount a taxpayer may expense under section 179 to \$1,000,000, and increases the phase-out threshold amount to \$2,500,000. Thus, the provision provides that the maximum amount a taxpayer may expense, for taxable years beginning after 2017, is \$1,000,000 of the cost of qualifying property placed in service for the taxable year. The \$1,000,000 amount is reduced (but not below zero) by the amount by which the cost of qualifying property placed in service during the taxable year exceeds \$2,500,000. The \$1,000,000 and

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1. Rev. Proc. 2017-29, Table 3, 2017-14 I.R.B. 1065.

\$2,500,000 amounts, as well as the \$25,000 sport utility vehicle limitation, are indexed for inflation for taxable years beginning after 2018.

The provision expands the definition of section 179 property to include certain depreciable tangible personal property used predominantly to furnish lodging or in connection with furnishing lodging.<sup>1</sup> The provision also expands the definition of qualified real property eligible for section 179 expensing to include any of the following improvements to nonresidential real property placed in service after the date such property was first placed in service: roofs; heating, ventilation, and air-conditioning property; fire protection and alarm systems; and security systems.

Effective date.-The provision applies to property placed in service in taxable years beginning after December 31, 2017.

### *Conference Agreement*

The conference agreement follows the Senate amendment.

## **MODIFICATION OF NET OPERATING LOSS DEDUCTION (SEC. 3302 OF THE HOUSE BILL, SEC. 13302 OF THE SENATE AMENDMENT, AND SEC. 172 OF THE CODE)**

### *Senate Amendment*

The Senate amendment follows the House bill, with the following modifications. First, provision limits the NOL deduction to 80 percent of taxable income (determined without regard to the deduction), for losses arising in taxable years beginning after December 31, 2022. The limitation does not apply to a property and casualty insurance company.

The provision repeals the two-year carryback and the special carryback provisions, but provides a two-year carryback in the case of certain losses incurred in the trade or business of farming. In addition, the Senate amendment provides a two-year carryback and 20-year carryforward for NOLs of a property and casualty insurance company (defined in section 816(a)) as an insurance company other than a life insurance company).

The provision does not increase NOL carryovers.

Effective date.-The provision allowing indefinite carryovers and modifying carrybacks applies to losses arising in taxable years beginning after December 31, 2017.

The provision limiting the NOL deduction applies to losses arising in taxable years beginning after December 31, 2017.

### *Conference Agreement*

The conference agreement follows the Senate amendment, except that the provision limits the NOL deduction to 80 percent of taxable income (determined without regard to the deduction) for losses arising in taxable years beginning after December 31, 2017.

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1. As defined in section 50(b)(2). Property used predominantly to furnish lodging or in connection with furnishing lodging generally includes, e.g., beds and other furniture, refrigerators, ranges, and other equipment used in the living quarters of a lodging facility such as an apartment house, dormitory, or any other facility (or part of a facility) where sleeping accommodations are provided and let. See Treas. Reg. sec. 1.48-1(h).

## **LIKE-KIND EXCHANGES OF REAL PROPERTY (SEC. 3303 OF THE HOUSE BILL, AND SEC. 13303 OF THE SENATE AMENDMENT, AND SEC. 1031 OF THE CODE)**

### *House Bill*

The provision modifies the provision providing for nonrecognition of gain in the case of like-kind exchanges by limiting its application to real property that is not held primarily for sale.<sup>1</sup>

### *Senate Amendment*

The Senate amendment follows the House bill.

### *Conference Agreement*

The conference agreement follows the Senate amendment.

## **ENTERTAINMENT, ETC. EXPENSES (SEC. 3307 OF THE HOUSE BILL, SEC. 13304 OF THE SENATE AMENDMENT, AND SEC. 274 OF THE CODE)**

### *Senate Amendment*

The provision provides that no deduction is allowed with respect to (1) an activity generally considered to be entertainment, amusement or recreation, (2) membership dues with respect to any club organized for business, pleasure, recreation or other social purposes, or (3) a facility or portion thereof used in connection with any of the above items. Thus, the provision repeals the present-law exception to the deduction disallowance for entertainment, amusement, or recreation that is directly related to (or, in certain cases, associated with) the active conduct of the taxpayer's trade or business (and the related rule applying a 50 percent limit to such deductions).

In addition, the provision disallows a deduction for expenses associated with providing any qualified transportation fringe to employees of the taxpayer, and except as necessary for ensuring the safety of an employee, any expense incurred for providing transportation (or any payment or reimbursement) for commuting between the employee's residence and place of employment.

Taxpayers may still generally deduct 50 percent of the food and beverage expenses associated with operating their trade or business (e.g., meals consumed by employees on work travel). For amounts incurred and paid after December 31, 2017 and until December 31, 2025, the provision expands this 50 percent limitation to expenses of the employer associated with providing food and beverages to employees through an eating facility that meets requirements for de minimis fringes and for the convenience of the employer. Such amounts incurred and paid after December 31, 2025 are not deductible.

**Effective date.**—The provision generally applies to amounts paid or incurred after December 31, 2017. However, for expenses of the employer associated with providing food and beverages to employees through an eating facility that meets requirements for de minimis fringes and for the convenience of the employer, amounts paid or incurred after December 31, 2025 are not deductible.

1. It is intended that real property eligible for like-kind exchange treatment under present law will continue to be eligible for like-kind exchange treatment under the provision. For example, a like-kind exchange of real property includes an exchange of shares in a mutual ditch, reservoir, or irrigation company described in section 501(c)(12)(A) if at the time of the exchange such shares have been recognized by the highest court or statute of the State in which the company is organized as constituting or representing real property or an interest in real property. Similarly, improved real estate and unimproved real estate are generally considered to be property of a like kind. See Treas. Reg. sec. 1.1031(a)-1(b).

### *Conference Agreement*

The conference agreement follows the Senate amendment.

## **DENIAL OF DEDUCTION FOR CERTAIN FINES, PENALTIES, AND OTHER AMOUNTS (SEC. 13306 OF THE SENATE AMENDMENT AND SEC. 162(F) AND NEW SEC. 6050X OF THE CODE)**

### *Senate Amendment*

The provision denies deductibility for any otherwise deductible amount paid or incurred (whether by suit, agreement, or otherwise) to or at the direction of a government or specified nongovernmental entity in relation to the violation of any law or the investigation or inquiry by such government or entity into the potential violation of any law. An exception applies to payments that the taxpayer establishes are either restitution (including remediation of property) or amounts required to come into compliance with any law that was violated or involved in the investigation or inquiry, that are identified in the court order or settlement agreement as restitution, remediation, or required to come into compliance. In the case of any amount of restitution for failure to pay any tax and assessed as restitution under the Code, such restitution is deductible only to the extent it would have been allowed as a deduction if it had been timely paid. The IRS remains free to challenge the characterization of an amount so identified; however, no deduction is allowed unless the identification is made. Restitution or included remediation of property does not include reimbursement of government investigative or litigation costs.

The provision applies only where a government (or other entity treated in a manner similar to a government under the provision) is a complainant or investigator with respect to the violation or potential violation of any law.<sup>1</sup> An exception also applies to any amount paid or incurred as taxes due.

The provision requires government agencies (or entities treated as such agencies under the provision) to report to the IRS and to the taxpayer the amount of each settlement agreement or order entered into where the aggregate amount required to be paid or incurred to or at the direction of the government is at least \$600 (or such other amount as may be specified by the Secretary of the Treasury as necessary to ensure the efficient administration of the Internal Revenue laws). The report must separately identify any amounts that are for restitution or remediation of property, or correction of noncompliance. The report must be made at the time the agreement is entered into, as determined by the Secretary of the Treasury.

Effective date.-The provision denying the deduction and the reporting provision are effective for amounts paid or incurred on or after the date of enactment, except that it would not apply to amounts paid or incurred under any binding order or agreement entered into before such date. Such exception does not apply to an order or agreement requiring court approval unless the approval was obtained before such date.

### *Conference Agreement*

The conference agreement follows the Senate amendment.

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1. Thus, for example, the provision does not apply to payments made by one private party to another in a lawsuit between private parties, merely because a judge or jury acting in the capacity as a court directs the payment to be made. The mere fact that a court enters a judgment or directs a result in a private dispute does not cause the payment to be made "at the direction of a government" for purposes of the provision.

**DENIAL OF DEDUCTION FOR SETTLEMENTS SUBJECT TO NONDISCLOSURE AGREEMENTS PAID IN CONNECTION WITH SEXUAL HARASSMENT OR SEXUAL ABUSE (SEC. 13307 OF THE SENATE AMENDMENT AND NEW SEC. 162(Q) OF THE CODE)**

*Senate Amendment*

Under the provision, no deduction is allowed for any settlement, payout, or attorney fees related to sexual harassment or sexual abuse if such payments are subject to a nondisclosure agreement.

Effective date.-The provision is effective for amounts paid or incurred after the date of enactment.

*Conference Agreement*

The conference agreement follows the Senate amendment.



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