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Senate Proposes Major Changes to House Tax Bill

The Senate Finance Committee unveiled a new version of the Republican tax bill on June 16, and it breaks from the House-passed bill in important ways. The Senate is proposing both favorable and unfavorable revisions that could meaningfully affect tax planning.

Republicans are racing to enact their reconciliation bill before a self-imposed July 4 deadline, though there are signs that date could be slipping. The House passed its version in a 215 to 214 vote on May 22. The Senate is now considering significant changes as it prepares for a potential floor vote. Negotiations are complicated by the fact that Senate Republicans are simultaneously trying to resolve differences among their own members while crafting a compromise that can pass back through the House.

The new Senate version represents the latest iteration of the bill, but it is far from final. Republicans will continue to negotiate until an actual Senate floor vote.

Key changes from the House bill include:

- Making permanent the provisions restoring 100% bonus depreciation, research expensing, and the more favorable calculation of the interest limit under Section 163(j) while shutting down interest capitalization planning
- Postponing the effective date for the new reciprocal taxes under Section 899 and limiting the total potential tax increases to 15% rather than 20%
- Increasing rates and making major modifications to global intangible low-taxed income (GILTI), foreign-derived intangible income (FDII), and the base erosion and anti-abuse tax (BEAT)
- Enhancing the foreign tax credit (FTC) for tested income by limiting expense apportionment and increasing the FTC gross-up from 80% to 90%
- Making permanent the CFC look-through rule under Section 954(c)(6)
- Making the Section 199A deduction permanent at 20% instead of 23%
- Postponing the phaseouts for many energy tax credits
- Increasing the top tax rate on endowments to 8% instead of 21%
- Making major changes to opportunity zone provisions
- Enhancing the exclusion for the qualified small business stock under Section 1202
- Changing the exception for pass-through workarounds for the cap on state and local tax (SALT) deductions

The Senate bill would generally make the SALT cap permanent at the current $10,000 threshold, but this is largely seen as placeholder language while the Senate negotiates with House holdouts on this issue.

Bicameral negotiations will continue to shape the bill. Senate procedural rules could also play a role. Senate Republicans are attempting to use a current policy baseline that has little precedent. Two related reconciliation rules will also be important: All reconciliation provisions must have a revenue impact that is more than “merely incidental,” and the bill as a whole cannot create an overall net increase in the deficit outside the 10-year budget window. Senate Majority Leader John Thune, R-S.D., has indicated that Republicans intend to respect the Senate parliamentarian's decisions on these rules.

The current policy baseline offers the Senate more room for tax cuts than the House had, where Republicans were working with a $4 trillion cap. The Senate reconciliation instructions incorporate the nearly $4 trillion net cost of extending the TCJA changes into the baseline itself, and then allow $1.5 trillion in additional net tax cuts. The Joint Committee on Taxation has not yet provided a revenue score for the Senate bill.

Increasing the cost of tax cuts could put the bill in jeopardy with deficit hawks in both the House and the Senate. House Republicans could also object to many other Senate changes, and various factions have threatened to block the bill over the SALT cap and the softening of energy credit cutbacks.

The timing for Senate passage and enactment remains fluid. Senate Finance Committee Chair Mike Crapo, R-Idaho, is not planning a committee markup. Instead, Republicans are expected to bring the various titles straight to the floor as substitute amendments when they take up the House-passed bill.

The Senate would likely need to put the bill on the floor by next week to return it to the House in time for a July 4 enactment. Republicans have already discussed delaying the start of the July 4 recess to work on the bill.

The July 4 deadline is self-imposed, and missing it does not create any technical or procedural problems. If negotiations prove difficult, Republicans could come back in July to continue working on the bill, particularly if the Senate passes a version that is unacceptable to the House. Vice President JD Vance offered flexibility on the deadline in comments on June 17, saying that the Senate should pass the bill by July 4, with enactment coming before the August recess. The bill does not need to be completed until Sept. 30 under the reconciliation rules, though Republicans may face pressure to address the debt limit earlier than that.

Takeaway

The tax package is beginning to solidify as Republicans make progress toward enactment. Although further changes are likely, taxpayers should begin assessing the impact and considering planning options both before and after enactment. The following is a more detailed discussion of the changes the Senate is proposing to make to the House version. For a full discussion of the House-passed version, see our prior alert and our table of provisions.

Bonus Depreciation

Like the House bill, the Senate version would restore 100% bonus depreciation for property acquired and placed in service after Jan. 19, 2025. Unlike the House bill, the Senate version would make the provision permanent.

The Senate bill also includes a House provision creating a new elective 100% depreciation allowance under Section 168(n) for any portion of nonresidential real property that is considered "qualified production property." As in the House bill, this provision would apply if construction began on the property after Jan. 19, 2025, and before Jan. 1, 2029. But the Senate bill would require the property to be placed in service by the end of 2030, two years earlier than the House's 2032 deadline.

The Senate bill would also retain a House provision increasing the Section 179 deduction to $2.5 million with a phaseout threshold of $4 million, indexed to inflation.

Takeaway

Making 100% bonus depreciation permanent is a major priority for Crapo and Thune, though President Trump has argued that a temporary provision provides a better incentive effect. A permanent provision could have a significant cost outside the 10-year budget window, making it more difficult for Republicans to comply with reconciliation rules.

Section 174 Research Expensing

The Senate bill follows the House's lead in restoring the expensing of domestic research costs for tax years beginning after Dec. 31, 2024, but with several differences. For one, the Senate bill would make these changes permanent. The new permanent expensing rules would be created under new Section 174A, while Section 174 would be retained and amended to provide for 15-year amortization of foreign research costs.

The Senate version would also allow taxpayers to elect to claim any unamortized amounts incurred from 2022 to 2024 in either the first tax year beginning after 2024 or ratably over a two-taxable year period beginning with the same tax year. Separate transition rules would be available for eligible small business taxpayers meeting the gross receipts test under Section 448, allowing them to potentially file amended returns.

Takeaway

Unlike the House bill, the Senate version would make the relief somewhat retroactive by allowing the immediate deduction of unamortized amounts from prior years. This treatment would be optional, and the provision also generally offers the prior capitalization options under the former Section 174. Taxpayers would need to analyze the impact of electing to deduct unamortized amounts on their overall tax profile in 2025, including the impact to other calculations such as FDII and GILTI.

Section 163(j) Limit on the Interest Deduction

The Senate bill includes the House provision that reinstates the more favorable calculation of the limit on the interest deduction under Section 163(j) for tax years beginning after Dec. 31, 2024, but it would make the change permanent and amend the provision in important ways.

Section 163(j) generally limits the interest deduction to 30% of adjusted taxable income (ATI). For tax years beginning after 2021, current law requires ATI to include amortization, depreciation, and depletion. The legislation would not only remove amortization, depreciation, and depletion from the ATI calculation, but would also remove income from Subpart F and GILTI inclusions, and Section 78 gross-up.

Under the Senate version, for tax years beginning after 2025, interest capitalized to other assets would be subject to the Section 163(j) limit, except interest capitalized to straddles under Section 263(g) or to certain production property under Section 263A(f). The business interest allowed as a deduction up to the limit would come first from any capitalized interest. Any capitalized interest that is disallowed would be incorporated into the Section 163(j) carryforward and would not be treated as capitalized in future years.

Takeaway

The Senate provision would shut down an important planning strategy for many taxpayers in recent years. The inability to remove interest from the calculation by capitalizing it to other assets could provide a worse result for some taxpayers despite the reinstatement of the more favorable calculation of ATI.

FDII and GILTI

The Senate bill would make significant reforms to GILTI and FDII, including changing the name for GILTI to “net CFC tested income” (the provision is still referred to as GILTI below). The House bill would essentially extend the current effective rates with a very nominal change.

The Senate bill would lower the Section 250 deduction more significantly to create a larger increase in the effective rate. The current deduction is 37.5% for FDII and 50% for GILTI, creating a 13.125% effective rate for FDII and a 10.5% effective rate for GILTI (which can rise to 13.125% because of the 20% FTC haircut).

Without legislation, the Section 250 deduction percentages are set to decrease to 21.875% and 37.5%, creating respective effective rates of 16.4% for FDII and 13.125% for GILTI (or 16.4% after the FTC haircut). The Senate provision would set the deduction amounts at 33.34% for FDII and 40% for GILTI, creating effective rates of 14% for FDII and 12.6% for GILTI. The FTC haircut for GILTI would be reduced from 20% to 10%, resulting an equivalent top effective rate of 14%.

The deemed return for qualified business asset investment (QBAI) would be repealed for both provisions. For FDII, this would increase the amount of income eligible for the deduction. For GILTI, it would increase the amount of income subject to tax. The provision would provide GILTI relief by allocating only direct expenses to GILTI for FTC purposes and allocating indirect expenses (most notably interest expense and stewardship) to U.S.-source income.

Modifications would also be made to FDII eligible income, including exclusions for income or gain from the disposition of property that gives rise to rents or royalties, and foreign personal holding company income (FPHCI) and passive foreign investment company (PFIC) income for which a qualified electing fund (QEF) election has been made, as well as for income that would have been passive income but is recategorized as general category because of the Section 904 high-tax kickout provisions. Eligible income would be reduced by deductions and taxes directly related to such income.

Takeaway

The changes would be significant and could affect GILTI and FDII calculations in both favorable and unfavorable ways. Taxpayers should assess the impact of the provisions for planning opportunities, including arbitrage opportunities based on rate and rule changes. The provisions are generally effective for tax years beginning after Dec. 31, 2025, except for the changes to FDII eligible income, which would be effective after June 16, 2025.

BEAT

The Senate bill would increase the current BEAT rate to 14%, higher than the current 10% rate, the 10.1% rate in the House bill, and the 12.5% rate that would take effect without legislation. Like the House bill, the Senate version would also repeal an unfavorable change to the BEAT scheduled to take effect in 2026 that would effectively require taxpayers to increase their liability by the sum of all income tax credits. The Senate bill makes several other modifications, including:

- Reducing the base erosion threshold from 3% to 2%
- Creating a high-tax exclusion for payments to related foreign parties subject to a rate of 18.9%, including the authority to issue regulations to address potential situations where a related foreign corporation receiving a payment from the U.S. in turn makes a payment to another related foreign corporation
- Treating capitalized interest as a base erosion payment

- Treating deductions or amortization for property to which interest is capitalized and any reduction in gross receipts with respect to which interest is capitalized as a base erosion tax benefit.

Takeaway

The Senate bill contains BEAT provisions that are both favorable and unfavorable to taxpayers. The BEAT high-tax exclusion, subject to an anti-abuse tracing rule, could provide taxpayers with an opportunity to lower their base erosion percentage. However, the increased BEAT rate, in combination with the lower base erosion percentage threshold, could subject more taxpayers to BEAT at a higher cost. Additionally, the Senate bill takes aim at many of the planning options that taxpayers have previously used to manage their BEAT liability. The provisions are effective for tax years beginning after Dec. 31, 2025.

Reciprocal Tax for "Unfair Foreign Taxes"

The Senate bill makes several changes to the House version of proposed Section 899, which would impose retaliatory taxes on residents of "discriminatory foreign countries" that impose "unfair foreign taxes."

The definition of unfair foreign taxes is reorganized under the Senate bill. The House version included undertaxed profits rules (UTPRs), digital services taxes (DSTs), diverted profits taxes, and to the "extent provided by the Secretary," an "extraterritorial" tax, "discriminatory" tax, or "any other tax with a public or stated purpose indicating the tax will be economically borne, directly or indirectly, disproportionately by United States persons." The Senate bill collapses the definitions into two umbrella categories: extraterritorial and discriminatory taxes. UTPRs would be extraterritorial taxes while DSTs would be discriminatory taxes. DSTs and UTPRs are both still specifically identified as "per se" unfair foreign taxes without any explicit condition, and the definition of extraterritorial and discriminatory taxes are otherwise fairly similar to the House bill.

The Senate bill would apply the increased tax and withholding rates only to resident entities and taxpayers of countries with extraterritorial taxes. The Section 899 BEAT provisions would also apply to resident entities and taxpayers of countries with extraterritorial taxes. Resident entities and taxpayers of countries with discriminatory taxes (and no extraterritorial taxes) would be subject only to the more stringent application of BEAT. The Senate version adds a 0.5% base erosion threshold to the BEAT rules, and clarifies that the BEAT high-tax exception would not apply in the case of a resident entity or taxpayer from an offending foreign country.

The maximum rate increase under the Senate version would be 15% of the statutory rate (or any rate applicable in lieu of the statutory rate) rather than the 20% of the statutory rate in the House bill, and the Senate version clarifies that the increased rates do not apply to portfolio interest and certain original issue discount.

The Senate bill also delays the effective date of proposed Section 899. The provision would be effective for tax years beginning after the later of one year after the date of enactment (as opposed to 90 days under the House bill), 180 days after a foreign country enacts an “unfair” foreign tax, or when the “unfair” foreign tax begins to apply. For calendar year taxpayers, this would generally delay the provision from 2026 to 2027.

Takeaway

The Senate has significantly softened this provision, but it could still give rise to harsh results if the rest of the world is unwilling to completely bend to U.S. demands. The delayed effective date will offer more time for negotiations, but it is not clear how much room there will be for compromise. Treasury has some discretion to provide exceptions and shape definitions, but some of the unfavorable results still appear self-executing based on specific taxes potentially meeting explicit statutory definitions. The business community is split on the provision. Proponents argue that it gives the administration a much-needed to tool to prevent other countries from unfairly targeting U.S. multinationals. Detractors have warned it could have a chilling effect on inbound investment and hurt companies’ ability to operate efficiently across borders.

Other International Provisions

The Senate bill also adds several international provisions not in the House version, including:

- Making the CFC look-through under Section 954(c)(6) permanent
- Restoring the exception from downward attribution rules under Section 958(b)(4) that was repealed under the TCJA, while adding a narrower rule under Section 951B that more closely aligns to the TCJA’s intent
- Amending the FTC rules to treat inventory produced in the U.S. and sold through foreign branches as foreign-source income, capped at 50%, likely only for branch category purposes
- Amending the pro rata rules under GILTI and Subpart F

Takeaway

These changes are generally favorable to taxpayers. The permanent extension of the CFC look-through rule under Section 954(c)(6) is a welcome addition to the proposal. This important exception for Subpart F income is scheduled to sunset at the end of 2025. The restoration of Section 958(b)(4) could simplify reporting obligations for certain taxpayers. However, Section 951B gives Treasury the authority to provide guidance on reporting for foreign controlled U.S. shareholders. The inventory sourcing rule could result in additional foreign-source income for foreign tax credit purposes when compared to the current rule, which sources based on production activities. Finally, the pro rata share rules would require a U.S. shareholder of a CFC to include its pro rata share of Subpart F or GILTI income if it owned stock in the CFC at any time during the foreign corporation's taxable year in which it was a CFC. This provision removes the requirement that the U.S. shareholder own stock of the CFC on the last day on which the foreign corporation was a CFC. The proposal provides Treasury with authority to issue regulations allowing taxpayers to make a closing of the taxable year election if there is a disposition of a CFC. The provisions are generally effective for tax years beginning after Dec. 31, 2025.

Energy Credits

The Senate bill would significantly change the energy credit phaseouts from the House bill. While the House bill generally repealed the following credits at the end 2025, the Senate bill would repeal them based on varying effective dates:

- Previously owned clean vehicle credit under Section 25E repealed for vehicles acquired more than 90 days after enactment
- Clean vehicle credit under Section 30D repealed for vehicles acquired more than 180 days after enactment
- Commercial clean vehicle credit under Section 45W repealed for vehicles acquired more than 180 days after enactment (with mineral and battery sourcing restrictions applying immediately on vehicles under 14,000 pounds)
- Alternative fuel refueling property credit under Section 30C repealed for property placed in service more than 12 months after enactment
- Energy-efficient home improvement credit under Section 25C repealed for property placed in service more than 180 days after enactment
- Residential clean energy credit under Section 25D repealed for expenditures made more than 180 days after enactment
- New energy-efficient home credit under Section 45L repealed for property acquired 180 days after enactment.

The bill would also repeal the five-year depreciable life of qualified energy property. The Section 179D deduction would be repealed for construction beginning more than 12 months after enactment. Neither provision was in the House bill.

The Senate bill would generally begin to phase out the production tax credit under Section 45Y and the investment tax credit under Section 48E for projects beginning construction after 2033 (as opposed to 60 days after enactment in the House bill). However, for wind and solar projects, the credits would be reduced to 60% of their value for projects beginning construction in 2026, 20% in 2027, and completely repealed for projects beginning construction in 2028 or later. The Senate bill would generally retain the House's restrictions for prohibited foreign entities, but the ban on material assistance from these entities would be based on a cost ratio for eligible components. The Senate bill would also tighten domestic sourcing requirements. The Senate bill would retain a provision denying a credit for leasing arrangements of solar and wind property if the lessee could claim a residential credit under Section 25D.

Like the House bill, the Senate bill would repeal the hydrogen production credit under Section 45V for projects beginning construction after Dec. 31, 2025. The advanced manufacturing credit under Section 45X would be repealed for wind energy components sold after 2027 but would otherwise be extended to allow a 75% credit for components sold in 2031, 50% for 2032, 25% for 2033, and fully repealed for 2034 or later. Material assistance rules for prohibited foreign entities would also apply.

The Senate bill includes a House provision extending the clean fuel production credit under Section 45Z through 2031. The Senate bill also includes a House provision excluding indirect land use changes from the calculation of greenhouse gas emissions, but would impose a 20% haircut for credits produced from feedstocks produced or grown outside the U.S.

The legislation would generally leave in place the transferability rules.

Takeaway

The energy credit phaseouts were postponed significantly by the Senate, but negotiations may not be over on this issue. The House Republicans who won steeper cuts in last-minute House negotiations are again threatening to block the bill over this issue. Taxpayers planning projects should assess how the new restrictions and phaseouts could affect those projects.

Section 199A

Both the House and Senate bills would make the deduction for pass-through income under Section 199A permanent, but the Senate bill omits the House bill's increase in the rate from 20% to 23%. Like the House bill, the Senate bill would favorably adjust the phaseout of the deduction for taxpayers who do not meet the wage expense and capital investment requirements or who participate in a disqualified "specified trade or business," but in a slightly different way. The Senate bill would also create minimum deduction of $400 for taxpayers with at least $1,000 of qualifying income. The Senate bill does not include a provision allowing dividends from business development companies to qualify for the deduction.

SALT Cap

The Senate bill would make the SALT cap permanent at the current $10,000 threshold, significantly below the House compromise that would raise the cap to $40,000.

The Senate bill would also make major modifications to the provision designed to shut down state law pass-through entity tax (PTET) regimes that allow "workarounds" to the SALT cap. The state laws generally allow pass-through entities to pay tax at the entity level where it can be deducted on federal pass-through returns, and then provide a credit or exclusion to the business owners so the income is not taxed again by the state at the individual level.

Both bills would deny partnerships and S corporations the ability to deduct specified taxes limited under the SALT cap, and instead would require the taxes to be passed through to owners as separately stated items. The separately stated taxes would generally be subject to the cap at the individual level as “substitute payments” if made in exchange for tax benefits provided to individual owners.

The House bill provided an exception for income taxes paid by a partnership or S corporation if at least 75% of the gross receipts are derived from a qualified trade or business under Section 199A. The Senate bill does not include this exception, but instead allows taxpayers to deduct up to 50% of the taxes passed through under the PTET regime (or $40,000 if greater).

Takeaway

The SALT cap remains one of the major hurdles to enactment. The $10,000 cap is largely considered a placeholder. The staff summary released with the Senate bill specifically acknowledged that negotiations are ongoing. There is little interest among Senate Republicans in providing SALT cap relief, but House Republicans have been warning them not to undermine the delicate compromise reached over the SALT cap in the House. Several House Republicans have threatened to block the bill if Senate changes erode the House SALT cap relief.

Opportunity Zones

The Senate bill would extend the opportunity zone program in a much different way than the House bill. The House bill would create one additional round of investments from 2027 through 2033, with rules similar to those for the current program and an updated process for designating zones. The Senate bill would make the program permanent in rolling 10-year designation periods, with the next one beginning on Jan. 1, 2027. Both the House and Senate provisions would make similar changes to the designation process and create “rural” opportunity zones with enhanced benefits.

The Senate version would have a slightly different mechanism for providing a basis step-up for the deferred gain, which would also generally be required to be recognized seven years after the opening of the investment window. The Senate bill would not allow $10,000 of their aggregate investments to offset ordinary income. Both versions would impose new reporting requirements on taxpayers making investments.

Qualified Small Business Stock

The Senate bill adds provisions enhancing the exclusion on gain for small business stock under Section 1202:

- In addition to the existing 100% exclusion for qualified stock held for five years, taxpayers could qualify for a 50% exclusion after three years and a 75% exclusion after four years.
- The current limit on the exclusion (the greater of $10 million or 10 times basis) would be increased to $15 million, indexed to inflation beginning in 2027.
- The limit on gross assets at the time stock is issued would be increased from $50 million to $75 million, indexed to inflation beginning in 2027.

The provisions would be effective for stock issued after the date of enactment.

Tax-Exempt Entities

The Senate bill removes and dials back several unfavorable provisions in the House bill aimed at tax-exempt entities. The House bill would replace the 1.4% endowment tax rate with graduated brackets based on the size of the endowment per student, reaching a top rate of 21% (while providing a new exception to the tax for certain religious universities). The Senate bill would instead increase the top rate to just 8%.

The Senate bill would retain a House provision that would expand the excise tax on executive compensation exceeding $1 million to include all current and former employees.

The Senate bill removes House bill provisions that would:

- Replace the 1.39% excise tax on private foundations with graduated brackets based on assets, reaching a top rate of 10%
- Include qualified transportation fringe benefits such as parking and transit in unrelated business taxable income (UBTI)
- Narrow the exception from UBTI for research income so it applies only to research freely available to the general public.

Takeaway

The return of the “parking tax” was heavily criticized and its removal in the Senate bill will be a relief to many tax exempts. The expansion of the excise tax on compensation over $1 million to all employees could be painful for large and sophisticated organizations that compete with the private sector to attract and retain top talent.

New Trump Tax Cuts

- The Senate bill largely follows the House provisions meant to fulfill President Trump's pledge to eliminate tax on tips, overtime, Social Security payments, and auto loan interest, but with some key modifications:
- Tip deduction: The Senate provision would cap the deduction at $25,000 (the House bill had no cap), and phase it out once modified adjusted gross income exceeds $150,000 for single filers or $300,000 for joint filers. The House bill provided a cliff that fully denied the deduction for employees with income exceeding the threshold of a highly compensated employee under Section 414 ($160,000 in 2025).
- Overtime deduction: The Senate provision would cap the deduction at $12,500 for single filers and $25,000 for joint filers (the House bill had no cap) and phase it out once modified adjusted gross income exceeds $150,000 for single filers or $300,000 for joint filers. The House bill provided a cliff that fully denied the deduction for highly compensated employees as defined under Section 414 ($160,000 of income in 2025).
- Seniors: The Senate bill would increase the House's $4,000 deduction for taxpayers aged 65 and older to $6,000 and change where it is applied on the return. The Senate would retain the House deduction phaseout for taxpayers with modified adjusted gross income exceeding $150,000 for joint filers and $75,000 for all other taxpayers.
- Auto deduction: The $10,000 auto loan deduction in both bills is substantially similar.

Individual TCJA Extensions

Both the House and Senate bills would largely extend the individual TCJA provisions, though with important and sometimes different modifications. Both bills would make permanent the individual rate cuts and bracket adjustments, with slightly different changes to the inflation adjustments. Both bills would make permanent:

- The repeal of personal exemptions
- Limits on the deductions for mortgage interest, personal casualty losses, and moving expenses
- The repeal of miscellaneous itemized deduction
- The exclusion for bicycle commuting reimbursements

The Senate bill would restore the itemized deduction for wagering losses against up to 90% of wagering income. Both bills would make permanent the increased AMT exemption and phaseout thresholds, but with slightly different changes to the inflation adjustment that claws back recent inflation increases.

Both bills would permanently repeal the Pease limitation on itemized deductions that was suspended by the TCJA through 2025, but would create a new limit. The new provision would essentially cap the value of itemized deductions. In the House bill, the maximum benefit achievable for the deductions would be equivalent to offsetting income taxed at a top rate of 32% rather than offsetting income taxed at the higher individual marginal rates of 35% and 37%. The Senate bill would cap the value at the 35% bracket.

The Senate bill would create a new 0.5% haircut on individual itemized charitable deductions. Both bills would reinstate a charitable deduction for non-itemizers, with the House allowing up to $300 for joint filers and $150 for other taxpayers for tax years 2025 through 2028. The Senate bill would create a permanent deduction of $2,000 for joint filers and $1,000 for other taxpayers.

Both bills would make permanent the increased standard deduction and child tax credit. The House bill would further increase the standard deduction by $1,000 for single filers and $2,000 for joint filers from 2025 to 2028. The House bill would also increase the child tax credit by $500 from 2025 to 2028, while the Senate bill would increase it by $200 permanently.

Common Provisions

The Senate bill largely retains many House tax provisions in essentially the same form, including provisions:

- Expanding and clarifying the controlled group aggregation rules for $1 million limit on deducting the compensation of covered employees of a public company under Section 162(m).
- Setting the lifetime exemptions for the gift, estate, and generation-skipping transfer taxes at $15 million for 2026, and indexing them for inflation thereafter.
- Making the active loss limit under Section 461(l) permanent, and requiring taxpayers to separately track and carry forward disallowed losses to be applied in calculating the Section 461(l) limit in subsequent years.
- Tightening enforcement of employee retention credit claims and barring unpaid refunds filed after Jan. 31, 2024
- Imposing a 3.5% excise tax on remittances that could have broad implications for payment processors and financial accounts
- Creating a 1% floor for charitable deductions for corporations by providing that a deduction is allowed only to the extent it exceeds 1% of taxable income (up to the current 10% cap) for tax years beginning after 2025
- Creating new tax-preferred accounts for children, with a pilot program offering a $1,000 contributory credit for qualifying children
- Changing the explicit regulatory mandate for disguised sale rules under Section 707(a)(2) to clarify that they are self-executing without regulations
- Reinstating the 200 transaction and $20,000 threshold for reporting third-party payment network transactions on Form 1099-K
- Increasing the threshold for reporting payments under Sections 6041 and 6041A on Forms 1099-MISC and 1099-NEC from $600 to $2,000 in 2026, indexing that figure to inflation in future years

- Providing an exception to the restriction on deducting meals provided at the convenience of an employer that is scheduled to take effect in 2026, so that it would not apply to meals sold by the taxpayer in a bona fide transaction for adequate and full consideration (the Senate version would also add an exception for certain fishing vessels and facilities)

Omitted Provisions

The Senate bill omits several House business tax provisions:

- Increasing the threshold for certain taxpayers to use the cash method of accounting and other favorable accounting rules from $25 million in gross receipts to $80 million
- Raising the percentage of allowable assets a REIT may have in a qualified REIT subsidiary from 20% to 25% effective for tax years beginning after 2025
- Allowing taxpayers purchasing professional sports franchises to amortize only 50% of intangibles under Section 197

Provisions Added by Senate

The Senate bill adds a number of business provisions not in the House bill:

- Making permanent increases to the low-income housing tax credit (the House version increased and modified it for 2026 through 2029)
- Increasing the Section 48D credit for semiconductor manufacturing facilities from 25% to 30%
- Making permanent the new markets tax credit
- Imposing a new tax on litigation proceeds received through certain investments to fund litigation

Takeaway

The inclusion of the new markets tax credit and the CFC look-through rule, which are both scheduled to expire at the end of 2025, indicates that Senate Republicans do not have much hope for another tax bill this year. House Ways and Means Committee Chair Jason Smith, R-Mo., left the provisions off the House bill, saying he hoped to address them in a bipartisan extenders bill. Republicans have also discussed moving a second reconciliation bill, though that may be a negotiating ploy to appease members whose priorities are not addressed in this bill.

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Next Steps

There are still many hurdles to enactment, and bicameral negotiations will force changes. But the shape of the tax bill is coming into focus and momentum is building. Taxpayers should assess the potential impact of major provisions when considering the tax efficiency of transactions and investments. There may be planning opportunities that should be considered now, such as accelerating or abandoning energy credit projects or investments and modeling the impact of changes to the limit on the interest deduction under Section 163(j), bonus depreciation, and research expensing under Section 174. Changes to opportunity zone rules could affect the timing for triggering capital gains and making investments. International changes may present arbitrage opportunities to capitalize on favorable changes or mitigate the impact of unfavorable changes.