Proskauer

One Big Beautiful Bill Passed by the House

Tax Talks on **May 27, 2025**

On Thursday May 22, the House of Representatives passed the One Big Beautiful Bill Act (H.R. 1, hereafter the "**Bill**"). The Bill will now be considered by the U.S. Senate.

The following is a summary of some of the key provisions that have been changed from the version that passed the House Ways and Means Committee:

- **The SALT Deduction Cap Has Been Raised.** The Bill raises the SALT cap from $10,000 to $40,000 starting in 2025. The previous version of the Bill would have raised the SALT cap to $30,000. The deduction would be phased out for taxpayers with modified adjusted gross income of over $250,000 for single taxpayers and $500,000 for married taxpayers. For tax years between 2026 and 2033, the limits would be increased by 1% per year, and the cap would remain at the 2033 amount for subsequent tax years after 2033.
- **BEAT Rate.** The Bill increases the base-erosion and anti-abuse tax ("**BEAT**") rate under Section 59A from 10% to 10.1%. The previous version of the Bill repealed the increase to 12.5%.
- **FDII and GILTI.** The Bill lowers the global intangible low-taxed income ("**GILTI**") inclusion deduction amount from 50% (an effective rate of 10.5%) to 49.2% (an effective rate of 10.668%) and the foreign-derived intangible income ("**FDII**") deductions from 37.5% (an effective rate of 13.125%) to 36.5% (an effective rate of 13.335%). The Bill as originally written would have made permanent the reductions under the Tax Cut and Jobs Act of 2017.
- **Itemized Deductions.** In addition to the proposed itemized reduction limits that were in the previous draft of the Bill, the Bill adds a second prong, which effectively imposes an additional 5% tax on income equal to a taxpayer's SALT taxes. The original draft of the Bill repealed the Pease limitation and effectively imposed an additional 39% bracket equal to the taxpayer's itemized deductions in excess of the SALT deduction.
- **Proposed 501(p) Expansion Removed.** The original draft of the Bill would have expanded Section 501(p) of the Code, which permits suspension of the tax-exempt status of an organization, to any organization deemed a "terrorist supporting organizations" (from just "terrorist organizations" under current law). The provision

was not included in the final version of the Bill passed by the House.

- **Royalties Received by Tax-Exempts for Licensing Names/Logos.** The original draft of the Bill would have treated any royalties received by a tax-exempt organization from a sale or license of its name or logo as "unrelated business taxable income," which would be taxable income for the tax-exempt organization. This provision was not included in the final version of the Bill passed by the House.

Key provisions in the final passed Bill include:

Business Provisions:

- **163(j) Deductions.** The definition of "adjusted taxable income" under section 163(j) is based on EBITDA (which is more favorable for taxpayers than EBIT under current law) for taxable years 2025 to 2028.
- **Section 199A.** The deduction for qualified business income under Section 199A is increased to 23% (from 20%) for an effective rate of 28.49% (from 29.6%) and made permanent. Section 199A is also expanded to apply to the portion of dividends representing net interest income paid by a "business development company" ("**BDC**") taxable as a regulated investment company. This expansion will reduce the effective rate of interest income earned through a BDC from 37% to 28.49% and will increase the attractiveness of BDCs as vehicles for credit funds. Dividends from real estate investment trusts ("REITs") have had the benefit of Section 199A deductions.
- **GILTI/FDII Inclusion Deductions Made Permanent.** Global intangible low-taxed income ("**GILTI**") inclusion deduction amount is lowered from 50% (an effective rate of 10.5%) to 49.2% (an effective rate of 10.668%), and the foreign-derived intangible income ("**FDII**") deductions is lowered from 37.5% (an effective rate of 13.125%) to 36.5% (an effective rate of 13.335%).
- **BEAT Made Permanent at Lower Rate.** The current tax rate on the base-erosion and anti-abuse tax ("**BEAT"**) under Section 59A is increased from the current rate of 10% to 10.1% (instead of increasing to 12.5% after 2025).
- **Qualified Production Property Deductions.** Taxpayers can deduct 100% of "qualified production property" costs immediately for certain newly constructed or acquired nonresidential real property in the United States. These properties must be in connection with the manufacturing, agricultural and chemical production, or refining of a qualified product.
- **Limitation for Qualified Depreciable Property Deductions.** The deduction limitation from qualified depreciable property as business assets is increased to $2.5 million (from $1 million). The phase-out threshold is raised from $2.5 million to

$4 million.

- **Bonus Depreciation for Qualified Property.** The bonus first-year depreciation deduction under Section 168(k) is extended through 2029 (2030 for longer production period property and certain aircrafts). Under the Bill, taxpayers can claim 100% bonus depreciation for qualified property acquired and placed in service after January 19, 2025, and before January 1, 2030 (January 1, 2031, for certain qualified property with a longer production period, as well as certain aircrafts).

- **Opportunity Zones Reestablished.** A second round of Opportunity Zones ("**OZs**") are established for taxable years 2027 through 2033, with similar but modified benefits in temporary deferral of capital gains taxes, basis step-up, and exclusion of taxable income on new gains. The first round of OZs is set to expire in 2026. There is a greater focus on rural areas, such as the offer of higher basis step-up of 30% for investments in qualified rural opportunity funds (as opposed to 10% from the first round of OZs).

- **Deduction for Excessive Employee Compensation.** An aggregation rule is added to the Section 162(m) limitation for executive compensation so that compensation paid by all entities within a covered corporation's "controlled group" is counted for purposes of the $1 million limit.

- **Limitation of Amortization Deductions for Sports.** The 15-year amortization of a professional sports franchise and related intangible assets that are acquired in an acquisition of interest (or assets) of a team is limited to 50% of the adjusted tax basis of those assets. This change is effective for assets acquired after the date of the enactment of the tax legislation. Please see this blog post for more information.

- **Excess Business Losses Extended**. The limitation on excess business losses for noncorporate taxpayers is made permanent. The maximum amount of business loss taken in a year is based on an inflation adjusted threshold, with $313,000 for single filers and $626,000 for joint filers in 2025. The Bill also changes the manner in which the excess business loss is calculated by including prior year's excess business losses in calculating the current year's excess business loss limitations. Under the current rules, excess business losses are treated as net operating losses for future years and are not included in determining the future years' excess business loss limitations. This change further limits a noncorporate taxpayer's ability to use business losses against other income of the taxpayer.

- **Charitable Donation Limitation.** A C corporation's charitable contributions are subject to a 1% floor.

- **Increased Taxes on Residents of Countries Imposing a UTPR.** The individuals, entities, and governments of countries that impose an undertaxed

profits rule ("**UTPR**"), digital services tax, diverted profits tax, and, (subject to regulations) an extraterritorial tax, discriminatory tax, or any other "unfair" foreign tax enacted with a public or stated purpose that the tax will be economically borne, directly or indirectly, disproportionately by U.S. persons are subject to an increased rate of U.S. taxes, generally increased by 5% for each year of the unfair foreign tax up to 20% maximum, and the governments of such countries are denied benefits under Section 892 (which generally exempts eligible government entities from U.S. withholding taxes on certain types of investment income).

- **Clean Energy Credits Rolled Back.** The Bill proposes accelerated termination of clean energy tax incentives put in place under the Inflation Reduction Act. For example, it would terminate clean electricity tax credits for wind, solar and battery storage projects by 2028 and require projects to begin construction within 60 days of the Bill's passage.

- **Taxable REIT Subsidiary Asset Test.** Taxable REIT subsidiaries may represent 25% of the value of the REIT's total assets (rather than 20% under current law).

- **COVID-related Employee Retention Tax Credits ("ERTC").** The Bill increased the penalty for aiding and assisting the tax liability-related understatements by a COVID ERTC promoter. The penalty is the greater of $200,000 ($10,000 in the case of a natural person) or 75% of the gross income derived by such promoter with respect to the aid and assistance of such understatement. A penalty of $1,000 is applied to COVID ERTC promoters that do not comply with due diligence requirements with respect to a taxpayer's COVID ERTC eligibility.

- **No Carried Interest Provision.** There is no provision affecting carried interest.

Tax-Exempt Provisions:

- **Increased Excise Tax on Private University Endowments and Private Foundations.** The current 1.4% excise tax on net investment income of private colleges and universities is replaced with a tiered system based on an institution's "student-adjusted endowment". For such schools with a student-adjusted endowment of more than $2 million, the excise tax is increased to 21%. The scope of "net investment income" would also be expanded. Additionally, the current 1.39% excise tax on private foundations is replaced with a tiered system based on the foundation's total size of assets. For purposes of calculating a private foundation's assets for purposes of this test, the assets of certain related organizations are treated as assets of the private foundation. The excise tax rate would be 5% for private foundations with gross assets of at least $250 million but less than $5 billion, and 10% for private foundations with gross assets equal to or more than $5 billion.

- **UBTI for qualified transportation fringe benefits.** UBTI is increase by any amount incurred for any qualified transportation fringe benefit or any parking facility that is not directly connected to any unrelated trade or business that is regularly carried on by the organization.
- **Tax on Excessive Employee Compensation.** The $1 million limit applies to any employee or former employee of a tax-exempt organization, and for purposes of determining the $1 million limit, all compensation paid to a related person (including a related taxable entity) is included. The change applies to taxable years beginning after December 31, 2025.

Individual Provisions:

- **Ordinary Income Tax Rates.** The maximum rate of 37% for individuals is made permanent.
- **Standard Deductions.** For tax years of 2025 to 2028, the standard deduction is increased to $26,000 for joint filers (from $24,000), to $19,500 for head of household filers (from $18,000), and to $13,000 for all other filers (from $12,000).
- **Personal Exemption Elimination.** The personal exemption is repealed permanently.
- **Section 199A.** As mentioned above, the deduction for qualified business income is increased to 23% for an effective rate of 28.49% and made permanent. Individuals may also benefit from these lowered effective rates for dividends representing net interest income from BDCs.
- **Itemized Deduction Limits.** Itemized deductions (which were disallowed under the TCJA) are allowed and made permanent. The Bill repeals the Pease limitation and creates a two-pronged reduction. The allowable itemized deduction is reduced by 5/37 of the lesser of (i) the amount of the taxpayer's SALT taxes or (ii) so much of the taxable income of the taxpayer for the year (without regard to the proposal and increased by the amount of otherwise allowed itemized deductions) as exceeds that dollar amount at which the 37% tax rate bracket starts for such taxpayer. The effect of this change is to impose an additional 5% tax on income equal to a taxpayer's SALT taxes. The itemized deduction is secondly reduced by 2/37 of the lesser of the (i) amount of itemized deductions otherwise allowed for the year that exceeds the allowed SALT deduction or (ii) so much of the taxable income of the taxpayer for the year (without regard to the proposal and increased by the amount of otherwise allowed itemized deductions) as exceeds that dollar amount at which the 37% tax rate bracket starts for such taxpayer. The effect of this second prong is to impose an additional 39% bracket equal to the taxpayer's itemized deductions in excess of the SALT deduction.

- **SALT Deduction Cap Increased; SALT Denied for Various Service Professionals.** The SALT deduction cap is made permanent and raised to $40,000, going down to $10,000 at a rate of 20% beginning at income of $250,000 for single filers and $500,000 for joint filers. For tax years between 2026 and 2033, the limits would be increased by 1% per year, and the cap would remain at the 2033 amount for subsequent tax years after 2033. Pass-through entity tax ("**PTET**") deductions are denied for individuals who perform services in the fields of health, law, accounting actuarial science, performing arts, consulting, athletics, financial services, brokerage services, investing services, investment management services, and trading or dealing in securities, partnership interests, or commodities, 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. Therefore, under the Bill, asset managers who are partners in partnerships will not be permitted to deduct their share of state and local taxes. In addition, the Bill disallows deductions for taxes imposed on partnerships and S corporations (such as the New York City unincorporated business tax).
- **Deductions for Tips.** Taxpayers earning $160,000 or less in 2025 (adjusted in the future for inflation) are permitted a deduction for cash tips from an occupation that "traditionally and customarily received tips" to the extent the gross receipts of the taxpayer from the trade or business of receiving the tips exceeds the sum of the cost of goods sold allocable to the receipts and other expenses, losses, or deductions properly allocable to those receipts. This deduction is allowed for tax years 2025 through 2028.
- **Overtime Compensation Deductions.** Deductions are allowed for overtime compensation for itemizers and non-itemizers for tax years 2025 through 2028.
- **Deductions for Car Loan Interest.** Deductions (up to $10,000) of interest payments on car loans from 2025 through 2028. These deductions are allowed for itemizers and non-itemizers. The deduction phases out for single taxpayers earning $100,000 ($200,000 for joint returns).
- **Expansion of Childcare Credits.** Employer-provided childcare credits are further expanded from 25% to 40% (and up to 50% for eligible small businesses). The maximum annual credit is also increased from $150,000 to $500,000 for employers (up to $600,000 for eligible small businesses).
- **Family and Medical Leave Credits Expanded.** Employer-provided paid family and medical leave credits are expanded by giving employers the option to choose between credit paid for wages paid during the employee's leave or credit for insurance premiums paid on policies that provide paid leave. The family and medical leave cannot be already mandatory from state and local laws.

- **Adoption Tax Credits.** Up to $5,000 of adoption tax credits are refundable, which makes the credit available to lower-income families who do not earn sufficient income to pay tax.
- **Scholarship-Granting Tax Credits.** Tax credits are allowed for contributions by individuals to scholarship-granting organizations. The credits may not exceed the greater of 10% of the taxpayer's adjusted gross income for the taxable year, or $5,000.
- **Expansion of Qualified Tuition Programs.** Qualified tuition programs that are exempt from federal tax (i.e., "529 accounts") are expanded to include tuition and material expenses for elementary, secondary, and home school expenses. Qualified higher education expenses are also expanded to include tuition and expenses in connection with a recognized postsecondary credential program.
- **Extension of Increased Alternative Minimum Tax Exemption from TCJA.** The increased exemptions and increased exemption phase-outs from the individual alternative minimum tax are made permanent.
- **The $750,000 Limitation on Qualified Residence Interest Deduction Is Made Permanent.** The $750,000 limitation on deductions for qualified residence interest is made permanent.
- **Personal Casualty Loss Relief Further Extended.** The requirement that personal casualty loss deductions exceed 10% of adjusted gross income for taxpayers to benefit from deductions is waived for qualified disasters that occurred between December 2019 until 2025 (extended from 2020) and allows taxpayers to claim both a standard deduction and qualified disaster-related personal casualty losses.
- **Qualified Bicycle Commuting Reimbursements Are Taxable.** Reimbursements of bicycle commuting expenses are subject to income tax. Before the TCJA, the reimbursements were not taxable.
- **Reimbursements for Personal Work-Related Moving Expenses Are Taxable.** Before the TCJA, deductions were given to certain personal moving expenses for employment purposes and gross income did not include qualified moving expense reimbursements from employers. The deductions are permanently repealed, and the reimbursements are permanently taxable.
- **Student Loan Discharged on Death or Disability Made Tax-Free Permanently.** Discharged student loans on the account of death or disability is not being taxable is made permanent.
- **Child Tax Credits Made Permanent.** The child tax credit is made permanent, and the maximum child tax credit is temporarily increased to $2,500 (from $2,000)

from 2025 to 2028 (subsequent years will be $2,000). Social security numbers for the child will be required to qualify for child tax credit benefits.

- **Creation of "Trump" Accounts.** Trump accounts are tax-exempt trust accounts that can be created for U.S. citizens under age 18. The funds from the Trump accounts can be used for qualified expenses of the beneficiary such as higher education and first-time home purchases. The Bill provides a one-time $1,000 federal credit per eligible child born between 2025 and 2028, which will be deposited directly into the child's Trump account.

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