Advanced Planning Alert

Tax reform update: SALT relief and limitations on large retirement accounts proposed

By Brad Dillon
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On November 3, 2021, the House Rules Committee released yet another revised version of the Democrats' budget reconciliation bill, the tax provisions of which closely resemble the version released on October 28, with two notable changes discussed below. A day later, the committee released a managers' amendment, which would further change one of those changes. The major revenue raisers from the October 28 iteration survived, including the 15% corporate alternative minimum tax , the 1% tax on stock buybacks, the 5% and 3% surcharges on individuals, trusts, and estates with modified adjusted gross incomes in excess of certain amounts, the expansion of the net investment income tax, the limitation on qualified small business stock, the expansion of the wash sale rule, and the limitation on excess business losses.[1] There are bound to be additional revisions in the future, as Democrats

[1] See Brad Dillon, *Tax Reform in the Build Back Better Act: Democrats Are Maybe Almost Possibly There*, October 29, 2021 (a publication of the UBS Advanced Planning Group).

continue to negotiate the overall spending and tax provisions of the bill. In short, things remain somewhat in flux, though it appears that the Democrats are getting closer to the finish line.

The first notable change in this revision is a proposal that provides some much-anticipated relief from the current $10,000 limitation on the deductibility of state and local taxes (SALT). As revised by the amendment (if adopted), the proposal raises the limitation to $80,000 ($40,000 for an estate, trust, or married individual filing separately) for tax years 2021 through 2030, after which point it will decrease to $10,000 again for 2031.[2] The UBS US Office of Public Policy expects there to be some relief from the current limitation, but the amount of the limitation and the timeline may change in a subsequent iteration or final bill. Further, the current proposal does not contain any income limitation. Progressive Democrats continue to pursue such a modification.

The second notable change in this latest round resurrects a number (but not all) of the modifications to large retirement plans that were first proposed in the House Ways and Means proposal from September[3] but which were subsequently dropped from the version that came out of the House Rules Committee on October 28. One significant change from the September version is that most of the proposals related to retirement plans wouldn't take effect for many years, with the notable exception of the proposal to prohibit all employee after-tax contributions from being converted to Roth accounts, regardless of the account owner's income level, which would take effect in 2022. The complete prohibition on Roth conversions for high-income earners wouldn't take effect until 2032. Other proposals would both halt the ability of high-income earners to continue making contributions to IRA or Roth accounts if those contributions would cause the value of that individual's IRA and defined contribution plans to exceed $10 million and would require new minimum distribution rules for those accounts in excess of $10 million, but neither proposal would take effect until 2029. The latest version of the bill does not include provisions from the September version that would have prohibited certain kinds of investments in retirement accounts. The UBS US Office of Public Policy notes that these provisions remains fluid, but expects a version of them to be in the final bill.

Still absent from the revised bill are changes to the estate and gift tax exemption amount, changes to grantor trusts, or changes to valuation discounts. As noted in a prior alert, most estate planning transactions should continue unabated, especially given the evident out-again, in-again nature of some of these proposals.[4]

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2 The November 3 version would increase the cap to $72,500 ($36,500 for an estate, trust, or married individual filing separately) through 2031. As noted, the managers' amendment would change the limit and time period.

3 For a discussion of that version of the bill (including a more in-depth discussion of the changes affecting retirement accounts), see Brad Dillon and Benjamin Trayes, *House Democrats Move One Step Closer to Tax Increases, Offering Details and Dates*, September 14, 2021 (a publication of the UBS Advanced Planning Group).

4 See note 1.

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