

Higher Education Tax Institute

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Recent Developments in College and University Tax Law

Bertrand M. Harding, Jr.

Law Offices of Bertrand M. Harding Jr. -
Alexandria, VA

Edward J. Jennings

University of Michigan, Ann Arbor, MI

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I. LEGISLATIVE DEVELOPMENTS

A. The House Passed the American Health Care Act (AHCA)

On May 4, 2017, the House of Representatives, by a vote of 217-213, approved the AHCA (H.R. 1628) which would repeal a significant portion of the Affordable Care Act (ACA), including the repeal of many tax provisions, effective in 2017. The vote was 217-213.

The Act, brought forth by Rep. Tom MacArthur (R-NJ), allows states to apply for a waiver through Health and Human Services (HHS) if they establish a high-risk pool to cover individuals with high-cost health conditions. These state waivers permit each state to modify the essential health benefits (EHBs) offered and to allow for underwriting based on health status and age.

Also, included was an amendment by Rep. Fred Upton (R-MI) to add \$8 billion to fund or subsidize coverage costs for people with high-cost conditions who are affected by the health insurance premium or out-of-pocket cost increases as a result of this potential state waiver action. The Congressional Budget Office (CBO) has not yet published an estimate of the total cost and coverage of the revised bill.

The AHCA includes nearly \$1 trillion in tax cuts over 10 years. Most of the ACA tax provisions would be repealed effective beginning in 2017, including the 3.8% net investment income tax, the medical device excise tax, the tax on prescription medications and the health insurance tax. Whereas implementation of the Cadillac tax would be delayed until 2026 and repeal of the .9% Medicare surcharge tax on individuals annually earning over \$200,000 is effective beginning in 2023.

The Senate is expected to make significant changes.

B. The Proposed Tax Blueprints

President Trump	House GOP	Senate Finance Committee
▪15% corporate tax rate (with a 15% tax imposed on small flow-	▪20% corporate tax rate, with 25% rate	▪Senate Finance Committee

through businesses) ▪100% expensing for US manufacturing (elective), with no deduction for net business interest expense ▪Switch from a world-wide tax system to a territorial system ▪Impose a one-time tax on more than a trillion dollars held overseas ▪Eliminate the alternative minimum tax (AMT)	for pass-through businesses ▪100% expensing for equipment and real property ▪No deduction for business net interest expense ▪Border-adjustable destination-based cash-flow system ▪100% territorial dividend exemption ▪Deemed repatriation tax: 8.75% cash / 3.5% other	Chairman Orrin Hatch (R-UT) and his staff have been working on a detailed corporate integration proposal that could be considered as part of reform efforts. ▪Senator Wyden also is working on legislation to address corporate ‘inversions’
▪Three classes of tax rates for individuals of 10%, 25%, and 35% ▪20% top capital gains tax rate, with repeal of ACA 3.8% net investment tax ▪Double the standard deduction ▪Eliminate itemized deductions but for the mortgage and charitable gift tax deductions ▪Repeal the estate tax ▪Expand tax credits for child and dependent care expenses	▪Three classes of tax rates for individual of 12%, 25% and 33% ▪50% exclusion for capital gains, dividends and interest (16.5% top rate)	

At this point in time, the blueprint is limited to outlining high-level tax principles which are subject to change as the House and Senate review and provide their own proposals. Further, no details have been discussed about what specific benefits are affected and who is impacted.

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