TEXAS LAND TITLE ASSOCIATION

House and Senate Pass Tax Reform Package – Read the Highlights

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Late on Friday, Dec. 15 the House and Senate agreed to new a tax bill that will become the final bill sent to the President. The full U.S. House passed it 227-203 Tuesday afternoon (and again Wednesday morning with a 224-201 vote). The Senate passed the bill 51-48 in the early morning hours on Wednesday. The bill will now be enrolled and sent to the President in the next few days and become law when he signs it. The title industry has been carefully reviewing provisions impacting real estate and small businesses and is still assessing the full bill.

On issues impacting housing, there will be some significant changes. As previously reported, the Senate bill preserved the home mortgage interest deduction as it stands today at $1 million, but the House bill reduced the deduction to $500,000. The final bill split the difference and retains the mortgage interest deduction at $750,000 for a home mortgage going forward. All current mortgages are grandfathered. The bill, however, will eliminate interest deductions for second mortgages.

In a major victory for the title and real estate industry, proposed restrictions on a capital gain exclusion for a home sale were eliminated from both bills in the Conference report, thus keeping current law. The Senate and House had previously sought to eliminate a capital gains exclusion from a home sale, requiring homeowners to own a home for five years, rather than the current two years to permit the capital gains exclusion. TLTA, ALTA and other housing groups were working very aggressively to change this provision because of concern with mobility in the housing markets. It is estimated that 15 percent of homes in Texas would have fallen in the category of eliminating the capital gains exclusion. Eliminating this from BOTH the House and Senate bills was a major victory for our industry and we think very helpful to a robust housing industry.

The deduction for state and local income taxes is preserved, but capped at $10,000. Late changes broadened the exemption to included property and sales taxes to placate states with higher property taxes, state income taxes or states with sales taxes in lieu of an income tax. In Texas, without a state income tax, taxpayers can use the deduction for both local property and state sales taxes.

On other tax issues, the standard deduction in increased to $24,000 for couples who choose not to itemize. However, personal exemptions are eliminated. There is an increased child tax credit exemption. The estate tax is not eliminated entirely, but estates will get a fuller exemption at $10 million from the current $5 million per individual.

As mentioned in previous articles, the Conference report preserves like-kind (1031) exchanges for real property. Under current tax law, a special tax rule provides that there is no taxable gain for business property that is exchanged for property of a like-kind that is held for productive use in a business. Under current law, all types of business property are included. The legislation will remove all types of business assets, but real property will remain subject to the like-kind exchange favorable tax deferral.

Also of interest to independent title agents, the Conference report makes changes to small business taxes. The final compromise allows owners of so-called “pass-through” businesses to deduct 20 percent of their earnings, and then pay at their personal income tax rate on the remainder of income. To avoid this being abused by professions like doctors, lawyers, accountants, etc. as perceived by some, professional businesses will see this capped at $500,000 (for married couples) and $250,000 (for individuals). There are phase-out rules over the limit of $100,000 (married) and $50,000 (other individuals).

Corporate rates will be reduced to 21 percent (down from 35 percent) beginning in 2018, as opposed to the Senate proposal to begin in 2019.

Businesses will be able to immediately and fully expense new equipment for five years, then the expensing phases out.

Finally, the Conference report will repeal the individual mandate to buy health insurance that was part of Obamacare.

The final legislation numbers over 500 pages, so it is expected that there will continue to be a review of the overall tax ramifications to our industry. We will continue to keep our membership updated on this bill and look forward to educating the membership on the full impact in 2018.