TLTA
TEXAS LAND TITLE ASSOCIATION

House Republicans Unveil Tax Reform Package – Read the Highlights

By James. E. Hyland, Esq.
The Pennsylvania Avenue Group
TLTA Federal Legislative Counsel
Nov. 8, 2017

On Thursday, Nov. 2, House Ways and Means Committee Chairman Kevin Brady (R-The Woodlands) unveiled the long-anticipated Republican tax reform plan. The bill contains over 420 pages and makes major changes to the U.S. tax code, the biggest rewrite in 30 years. While this is only the first step, many of the core aspects of the bill will likely become law, such as cutting the corporate tax rate, helping small businesses and reducing the number of tax brackets.

Chairman Brady's committee will begin consideration of the bill this week. He expects to complete the consideration later this week and take it to the full U.S. House next week. There will be no floor amendments, he announced, so his committee will produce the bill to be sent to the Senate. The House expects to finish their work before the Thanksgiving break.

There is little margin of error in GOP ranks for failure on this issue. Republicans can lose twenty-two of their own in their caucus in the House and still pass it by a majority. In the Senate, they can stand to lose only three votes. In the Senate, they are using the "reconciliation" process, a special procedure that requires only 50 votes to advance a bill (as opposed to the 60 it typically takes to break a filibuster). Vice President Mike Pence would break any tie vote.

The plan will create three tax brackets: 12 percent, 25 percent and 35 percent. However, it will maintain 39.6 percent for high-income Americans earning more than $1 million. The bill significantly increases the standard deduction from $6,350 to $12,000 for individuals and $12,700 to $24,000 for married couples, but also gets rid of all personal exemptions. It will lower the corporate tax rate to 20 percent, down from 35 percent. It continues the charitable deduction and makes no changes to retirement savings options such as 401(k)s and IRAs. However, the bill would phase out the estate tax and repeal the Alternative Minimum Tax.

Below are some of the key items of interest to the real estate and title industry:

- **A key victory for the title industry was the preservation of like-kind 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. Currently, all types of business property are included. The legislation will remove all other types of business assets, but real property will remain subject to the like-kind exchange favorable tax deferral.

- The bill originally would have removed the deductibility of state and local income taxes; however, in a late compromise, it was changed to continue the write-off of state and local property taxes, but only up to $10,000.
- The bill reduces the home mortgage interest deduction to $500,000 for new mortgages. Existing mortgages would still be subject to the $1 million cap. Going forward, interest on second mortgages would not be deductible. The bill also makes some changes to restrict capital gains deferral on the sale of a home, requiring longer ownership of the home and this benefit once only every five years.
- The two later changes have engendered the opposition of the National Association of Realtors and National Association of Homebuilders. Most expect that both provisions will be modified going forward in the legislative process. The raising of the standard deduction worries these groups as well, because it will reduce the number of people taking the mortgage interest deduction, thereby lessening a tax benefit for homeownership.
- Small businesses will get a lower pass-through tax rate of 25 percent, but there are guardrails around this lower rate that may make it difficult for many businesses to take full advantage of it. This has led the NFIB to express opposition and seek changes. For small businesses that finance themselves with debt, those with less than $25 million in size will still be able to continue to deduct interest costs.
- The bill also retains the low-income housing tax credit to encourages developers to invest in affordable housing.
- Finally, the bill makes changes to make it less costly for American businesses to bring home foreign earnings, which some have speculated could lead to enhanced economic activity and possibly new investments in real estate.

TLTA will be closely monitoring the deliberations in the House and Senate and will be working with the Texas delegation to support the positive aspects of the plan, but also limit any overly negative provisions that could hurt the real estate economy.