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MEMORANDUM

To: ASTS

From: Peggy Tighe, Peter Thomas, Leif Brierley, and Jill O'Brien

Date: November 30, 2017

Re: Tax Reform Update – November 30

Summary

On Thursday, November 16, the House passed H.R. 1, The Tax Cuts and Jobs Act, its version of tax reform legislation. Meanwhile, the Senate Finance Committee marked up and reported out their version of the bill late last week, and yesterday, voted to begin debate on the Senate version of tax reform legislation. Congress began work on this major tax legislation in recent weeks, operating under the budget resolution passed by the House and Senate on October 26. That resolution, H. Con. Res. 71, serves as a federal fiscal year (FY) 2018 budget resolution that will allow Congressional Republicans to advance tax reform legislation with a simple majority vote (51).

The House tax reform bill passed by a vote of 227-205, with thirteen Republicans opposed to the bill, several of whom stated that their opposition was because the bill would eliminate state and local tax deductions important for their constituents. The bill now goes to the Senate for consideration.

The Senate is currently considering tax reform legislation and in the midst of 20 hours of debate on the bill, which is expected to be followed by a series of votes on amendments and changes to the bill before an eventual passage vote. However, several Republican Senators have expressed reservations about particular aspects of the current Senate legislation. Senator Susan Collins (R-ME) said that she opposed inclusion of a provision to repeal the "individual mandate" to purchase health insurance, an Affordable Care Act (ACA) policy that has long drawn the ire of Republicans. Senator Bob Corker (R-TN) expressed concerns about the bill's expected impact on the federal deficit; the bill is estimated by the Congressional Budget Office (CBO) to increase the federal deficit by about $1.5 trillion. Senator Ron Johnson (R-WI) was the only Republican outright opposed to the bill, citing concerns regarding the tax treatment of certain pass through entities.

Process and Anticipated Timeline

Senate Republicans are hoping to finish work on their bill this week, with a scheduled vote on its legislation as soon as early Friday morning. However, several hurdles remain. First, Senate Republicans will have to reconcile the differences in their caucus, as some members have expressed doubts and even opposition to some provisions of the current bill. Senate Republicans can only afford two defections and still pass a bill with the help of Vice President Mike Pence to break an assumed tie of 50-50. Second, assuming Senate Republicans pass a version of their

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legislation, the House and Senate bills would then go to conference committee, where House and Senate appointed Members will negotiate the differences between the two pieces of legislation and produce a final bill. That final bill would then need approval from each chamber before being signed into law by the President.

Congressional Republicans are facing an additional, self-imposed challenge – in this case, timing. President Trump and senior members of the Republican Party have called for the tax reform legislation to be completed prior to the holiday recess in December. Senate Republicans will need to forge unity on a final policy proposal while under significant time pressure. Should that bill advance, conference committee negotiators will need to work quickly as well.

Meanwhile, funding for the federal government is set to expire December 8, so Congress will need to act to prevent a government shutdown quickly. Some political analysts are anticipating that Congress will simply extend the current continuing resolution, or agreement to continue funding at previous levels, for an additional few months, which may frustrate some Republicans who had hoped to finalize a budget under Republican leadership for the first time in many years.

The current situation is fluid and will continue to evolve. We anticipate providing further updates as they emerge. The following is a brief overview of the tax reform legislation, key policies included in the House and Senate versions as of this writing, and an anticipated timeline for the legislative process surrounding this effort.

Overview of Congressional Tax Reform Proposals

The House and Senate have released different versions of tax reform legislation. The following chart provides and overview of several key differences and similarities between the two bills.

House (Passed 11/16/17)	Senate
Preserves the individual mandate	Eliminates the individual mandate
Eliminates medical expense deduction	Retains medical expense deduction
Consolidates income tax brackets into four brackets	Maintains seven income tax brackets, but changes rates on taxable income
Eliminates state and local income tax deduction, but retains deduction for up to $10,000 in property tax	Eliminates state and local income tax deduction
Repeals estate tax	Preserves estate tax, but creates new exemptions
Approximately doubles standard deduction for individuals	Approximately doubles standard deduction for individuals; provision expires after 2025
Expand child tax credit to $1,600 per child, $300 per non-child dependent; $300 “family flexibility” credit	Expands child tax credit to $2000 per child, $500 for non-child dependents; provision expires after 2025

Key Policies Included in the House and Senate Versions
The following sections provide brief summaries of several important policies that have been included in the legislation.

Individual Mandate
The Senate tax reform bill, as currently drafted, would eliminate the individual mandate— the tax penalty for individuals who do not enroll in health insurance. According to a report from the Congressional Budget Office (CBO), repealing the mandate would reduce the federal budget deficit by over $330 billion between 2018 and 2027. The report projected that 13 million fewer people would be enrolled in health insurance plans by 2027 and average premiums in the non-group markets would rise by about 10 percent each year compared to CBO's current projections.

In a statement, Mitch McConnell said that eliminating the individual mandate would provide tax relief to middle and working class families across the United States. Senate Minority Leader Chuck Schumer, who proposed a modest revision of the individual mandate in 2009, called repeal of the mandate an "absurd" idea that would boot 13 million people off of insurance rolls and cause premiums to skyrocket. By including the individual mandate in the tax reform bill, Republicans run the risk of losing important swing votes, those who voted against the ACA repeal bill, in particular, and also Members on the far right. Sen. Sue Collins (R-ME) and Jerry Moran (R-KS) have made statements in opposition to the individual mandate repeal. Sen. John McCain (R-AZ) and Senator Flake (R-AZ) remain "undecided." Senators Sen. Lisa Murkowski (R-AK) has stated her support for the repeal but voted against repeal and replace the ACA earlier this year. Other Senators to watch include Senators Ron Johnson (R-WI) and Rand Paul (R-KY) both of whom have said they would vote no on the legislation in its present form. The White House has said that it would not oppose removing the individual mandate repeal provision from the tax bill if it becomes an impediment to passing the broader bill.

Hospitals
The House version of the bill would remove tax exemptions for private activity bonds, which many nonprofit hospitals use to fund infrastructure developments. The House bill would also add a 20 percent excise tax on tax-exempt organizations, including nonprofit hospitals, assessing the penalty to those entities for each organization's top five highest-paid employees with salaries in excess of $1 million. Some analysts are predicting that if these changes are passed, some nonprofit hospitals may consider switching to for-profit status.

Impact on Medicare
Congressional Republican's efforts to cut taxes by $1.5 trillion could lead to a $25 million cut to the Medicaid program in FY2018. In the Budget Control Act (BCA) of 2010, Congress created the Pay-As-You-Go Act (PAY-GO) rules which, generally, prevent Congress from passing legislation that would collectively increase projected budget deficits. Under this rule, Congress is required to finance cuts to revenue with mandatory spending cuts to mandatory programs, including Medicare. Inversely, if Congress wanted to increase funds to entitlement programs, they would have to increase taxes. Such cuts are effectuated through an automatic process called sequestration that was intended to force Congress to make budget cuts.

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According to a statement from CBO, if Congressional Republicans pass their current tax bills and no other legislation is passed to offset the impact of the tax cuts on the national deficit, the Office of Management and Budget (OMB) will issue a sequestration order across mandatory spending programs to reduce the deficit by $136 billion for FY2018 within 15 days of passage of the end of the current session of Congress. Under this rule, Medicare could be cut by about $25 billion in FY2018 to finance the tax cuts.

Congress could circumvent the projected cuts under the PAYGO rule by passing legislation to offset the impact on the deficit, waiving the bills recordation on the PAYGO scorecard, or eliminating the requirement of the PAYGO rule all together. In its simplest form, the Senate could vote to waive PAYGO rules for the bill. However, doing so would require a minimum of 60 votes in favor of waiving the PAYGO rules, per Senate procedures, meaning at least eight Democrats would have to vote to waive the rules. Democrats are highly unlikely to cooperate with Republicans on such a vote. It remains unclear what the implications for Medicare are moving forward.

Impact on Medicaid
On Friday, November 17, the CBO and the Joint Committee on Taxation (JCT) released an analysis of the distributional effects of the Senate tax plan. The report found that on average, federal spending allocated to people with incomes less than $50,000 would be lower than CBO's baseline projections, stemming largely from reductions in Medicaid spending on those people. For example, in calendar year 2021, the report projects that under the Senate plan, the federal government would spend $18 billion less on Medicaid than current levels.

Select Policies Impacting Health Care
The House bill eliminates several key tax credits for individuals and businesses that benefit people with disabilities and chronic conditions. The bill eliminates tax deductions for medical expenses. Under current law, individuals can deduct medical expenses that exceed 10 percent of their adjusted gross income for the year. Eliminating this deduction may hurt people with chronic conditions who typically face high medical expenses. The bill would also eliminate tax credits that businesses receive for hiring an individual with a disability, including the Workers Opportunity Credit (WOTC), which gives businesses that hire an individual with disabilities a $2,100 tax credit. Proponents of this program say that the tax credits incentivize employers to hire more people with disabilities. Other provisions in the bill may also make it more difficult for individuals to receive a tax break for donations to non-profit agencies, which frequently provide support for people with disabilities and their families.

One change included in both the House and Senate tax bills would change how inflation rates for tax brackets are calculated, possibly pushing some low and middle-income workers into higher tax brackets. The technical change, from the current CPI-U (consumer price index for all urban consumers) index to 'chained CPI-U,' would effectively force American workers into higher tax brackets more quickly, as tax brackets would increase at a slower rate than general inflation. As a result, Americans could end up paying over $100 billion more in taxes. However, the real concern is that chained CPI-U could be later used to undermine Social Security and retirement benefits for millions of Americans.

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