

## **Overview of the Tax Cuts & Jobs Act (H.R.1)**

The Tax Cuts and Jobs Act (H.R.1) was approved by Congress on December 20, 2017 and passed largely along party lines. It is expected it be signed by President Trump on January 3, 2018.

This legislation is significant for several reasons. It is the first time the tax code has been overhauled in 31 years. It will also be the most significant legislative achievement of the Trump Administration and the 115<sup>th</sup> Congress to date. NECA has long said that high tax rates and a complex tax code hampers our nation's competitive standing and hinders our economic growth. The time and money NECA contractors spend to comply with our complex tax code could be—and should be—spent on growing their businesses and creating jobs. That is why comprehensive tax reform needed to be tackled.

NECA has spent the past several years strongly advocating for a tax reform measure that embraces a few basic principles: 1) it should be comprehensive; 2) it should ensure rate parity between different types of businesses; 3) repeal the estate tax and the alternative minimum tax; and, 4) make permanent long-standing tax provisions schedule to expire.

It is our analysis that the final conference agreement reflects a series of compromises in multiple areas. Many items will greatly benefit NECA contractors and several others could make tax planning more challenging for others.

The central tenet of the agreement reduces taxes for corporations from 35 percent down to 21 percent. NECA fought to ensure all pass-through businesses of all types would be treated fairly under the new tax code. The final bill will give all pass-through firms, including those organized as trusts, a tax deduction of 20 percent, providing those companies with an effective tax rate of 29.6 percent. NECA also fought to successfully include a provision that would allow companies to deduct up to 30 percent of their annual earnings before interest, taxes, depreciation and amortization. Those are some of the wins NECA contractors all over the country will be able to take advantage of in the coming years. This analysis will provide a detailed overview of all the provisions included in the new law.

### **Key Provisions**

#### Individual Rates:

The Conference Agreement would eliminate several itemized deductions, but tax incentives for home mortgage interest and charitable contributions would be retained (in modified form). The controversial state and local tax deduction would be repealed, except for up to \$10,000 in real estate and income (or sales) taxes. The ACA "shared responsibility payment" (or individual mandate tax penalty) also would be reduced to \$0 beginning in 2019.

The Conference Agreement would repeal many other exemptions, deductions, and credits for individuals in the pursuit of rate reduction, simplicity, and fairness. Significantly, all of the individual tax provisions would expire at the end of 2025 under the Conference Agreement — potentially leaving it up to a future Congress to extend them or make them permanent.

- *Standard Deduction*. Set at \$24,000 for joint returns, and \$12,000 for single filers.
- *Alternative Minimum Tax*. Retained for individuals, but the exemption amount will be increased from \$84,500 to \$109,400 for joint returns and from \$54,300 to \$70,300 for single filers, while the beginning of the phase-out of the exemption will be significantly increased from \$160,000 to \$1,000,000 for joint returns and from \$120,700 to \$500,000 for single filers.
- *Estate, Gift, and Generation-Skipping Taxes*. Remain at the 40 percent rate, but the \$5.6 million per spouse basic exclusion will be doubled and indexed for inflation.
- *Child Tax Credit*. Increased from \$1,000 to \$2,000 (and the age limit for a qualifying child increased by one year to age 18), up to \$1,400 of the child tax credit would be refundable, the earned income threshold for the refundable child tax credit would be reduced from \$3,000 to \$2,500, and a new non-refundable \$500 credit would be available for other dependents.
- *Phase-Outs*. The Conference Agreement will not phase out any of the individual income tax rates for upper-income taxpayers. Furthermore, the phase-out for the child tax credit will be significantly increased from \$75,000 to \$200,000 for single filers and from \$110,000 to \$400,000 for joint filers.
- The Agreement will modify or eliminate several individual income tax deductions, exclusions and credits, including:
  - Reducing the principal cap on deductible *home mortgage interest* for new mortgages (after December 15, 2017) immediately from \$1 million to \$750,000 (reverting to \$1 million after 2025 regardless of when the mortgage was entered into). The deduction is retained for second homes, but no longer available for home equity lines of credit.
  - *Repeal all itemized deductions subject to the two percent floor* (e.g., home office deductions, license and regulatory fees, dues to professional societies, and subscriptions to professional journals and trade magazines)
  - *Repeal deductions for tax preparation, moving expenses, and alimony payments* (after 2018).

INDIVIDUAL PROVISIONS			
	House Version	Senate Version	Final Version
Number of Tax Brackets	Four	Seven	Seven
Tax Rates	Top rate would have remained at 39.6%	Top rate would have been reduced to 38.5%	<ul style="list-style-type: none"> <li>• Seven rates, starting at 10 percent and reaching 37 percent for incomes above \$500,000 for singles and \$600,000 for married, joint filers.</li> <li>• For joint filers: <ul style="list-style-type: none"> <li>○ 10 percent: \$0 to \$19,050</li> <li>○ 12 percent: \$19,050 to \$77,400</li> <li>○ 22 percent: \$77,400 to \$165,000</li> <li>○ 24 percent: \$165,000 to \$315,000</li> <li>○ 32 percent: \$315,000 to \$400,000</li> <li>○ 35 percent: \$400,000 to \$600,000</li> <li>○ 37 percent: \$600,000 and above</li> </ul> </li> <li>• For single filers: <ul style="list-style-type: none"> <li>○ 10 percent: \$0 to \$9,525</li> <li>○ 12 percent: \$9,525 to \$38,700</li> <li>○ 22 percent: \$38,700 to \$82,500</li> <li>○ 24 percent: \$82,500 to \$157,500</li> <li>○ 32 percent: \$157,500 to \$200,000</li> <li>○ 35 percent: \$200,000 to \$500,000</li> <li>○ 37 percent: \$500,000 and above</li> </ul> </li> </ul>
Standard Deduction	Permanently increased to \$24,400 for joint, \$18,300 for unmarried with at least one child, and \$12,200 for single filers.	Increased to \$24,000 for joint, \$18,00 for unmarried with at least one child, and \$12,00 for single filers. These increases would sunset at the end of 2025 and revert to current levels.	Increased to \$24,000 for joint, \$18,00 for unmarried with at least one child, and \$12,00 for single filers. These increases would sunset at the end of 2025 and revert to current levels.
Estate and Generation Skipping Transfer (GST) Tax	Starting in 2018 the estate and GST exemptions would double. In 2025 the estate and GST tax would be permanently repealed.	From 2018 through the end of 2025 estate and GST exemptions would double. In 2026, the exemptions would revert back to their current levels, indexed for inflation.	<b>From 2018 through the end of 2025 estate and GST exemptions will double.</b> In 2026, the exemptions would revert back to their current levels, indexed for inflation.
Gift Tax	Starting in 2018 the gift exemptions would double. Starting in 2025 the gift tax rate would permanently drop from 40% to 35%.	From 2018 through the end of 2025 the gift tax exemption would double. In 2026, the exemption would revert back to their current levels, indexed for inflation.	<b>From 2018 through the end of 2025 the gift tax exemption will double.</b> In 2026, the exemption would revert back to their current levels, indexed for inflation.
Step-Up in Basis	Retained in its current form	Retained in its current form	Retained in its current form
ACA Individual Mandate	No change	Individual mandate repealed	Individual mandate repealed

<b>Mortgage Interest Deduction</b>	Deduction limit reduced from \$1 million to \$500k and limited to debt incurred on the principal residence. Taxpayers could continue to exclude sale proceeds from the sale of a principal residence but only if taxpayers lived in the home 5 out of the last 8 years. Exclusion would phase out for joint filers with over \$500k and single filers with over \$250k. These changes would be permanent.	Deduction limit reduced from \$1 million to \$500,000k and limited to debt incurred on the principal residence. No deduction for home equity loans. Taxpayers could continue to exclude sale proceeds from the sale of a principal residence but only if taxpayers lived in the home 5 out of the last 8 years unless certain exceptions apply. Exclusion would phase out for joint filers with over \$500k and single filers with over \$250k. This change would sunset in 2025.	Deduction limit reduced from \$1 million to <b>\$750,000k</b> and limited to debt incurred on the principal residence or a second home. <b>Beginning in 2018, no deduction will be allowed for interest on home equity loans.</b> These changes are set to <b>sunset in 2025</b> . Taxpayers could continue to exclude sale proceeds from the sale of a principal residence as under current law.
<b>Graduate and Undergraduate Tuition Waivers</b>	Would require tuition waivers or assistance to be reported as part of student's taxable income.	No change	No change
<b>Personal Exemptions</b>	Eliminated	Eliminated until 2025.	Eliminated until 2025.
<b>Child Tax Credit</b>	Increased from \$1,000 to \$1,600, with increased phase out threshold at \$115,000 for single taxpayers and \$230 for married.	Increased to \$2,000 with an increased phase-out of up to \$500,00 for married taxpayers. These provisions would sunset at the end of 2025.	Increased to \$2,000 with an increased phase-out of up to \$400,00 for married taxpayers. Increases the amount of the credit that is refundable from \$1,000 to \$1,400. These provisions would sunset at the end of 2025.
<b>Non-Dependent Credit</b>	Added \$300 credit for children over 17 or non-child dependents. This credit would sunset in 2022.	Added \$500 credit for dependents other children until the end of 2025.	Added \$500 credit for dependents other children until the end of 2025.
<b>Family Flexibility Credit</b>	Added \$300 credit for taxpayer who is neither a child or non-child dependent. This credit would sunset in 2022.	No added provision	No added provision
<b>Dependent Care Flexible Savings Accounts</b>	No change	No change	No change

### Corporate Rates:

The legislation provides the cleanest and simplest tax code changes for companies organized as C Corporations. The corporate rate will be reduced from 35 percent to 21 percent effective January 1, 2018.

- *Corporate AMT.* The corporate Alternative Minimum Tax (AMT) will be repealed. Taxpayers with an AMT credit can use the credit to offset regular tax liability. Taxpayers would be able to claim a refund of 50 percent (100 percent for years beginning in 2021) of the remaining credits (to the extent the credits exceed regular tax for the year) in tax years beginning before 2022. The provision will apply to tax years beginning after 2017.
- *Dividends Received Deduction ("DRD").* The amount of deduction allowable against the dividends received from a domestic corporation will be reduced from 70 percent to 50 percent. Dividends received from 20 percent owned corporations would be reduced from 80 percent to 65 percent.

### Pass-Through Rate:

The legislation includes the NECA-supported provision that provides individuals with a 20 percent deduction of domestic "qualified business income" (QBI) from a partnership, S corporation, or sole proprietorship ("qualified businesses"), subject to certain limitations and thresholds. In a significant victory advocated by NECA, trusts and estates are eligible for the deduction.

The 20 percent deduction applies to the first \$315,000 of joint income (subject to phase-out) earned from businesses organized as S corporations, partnerships, LLCs, and sole proprietorships. Limitations based on W-2 wages and capital apply above those amounts and for "specified service businesses." It is our estimate that at the top tax rate of 37 percent, if a taxpayer's sole income source is domestic QBI and the application of the deduction is not limited, then the effective tax rate on the domestic QBI will be 29.6 percent. The deduction is not allowed against Adjusted Gross Income, but instead is a deduction to reduce taxable income.

- *Qualified Business Income.* In determining qualified items of income, gain, deduction, and loss, items are taken into account only to the extent included or allowed in the determination of taxable income for the year. QBI does not include reasonable compensation of an S corporation shareholder, amounts allocated or distributed to a partner who is acting other than in his/her capacity as a partner for services, and guaranteed payments in the nature of remuneration for services. It also does not include certain investment-related items and contains limitations based on "W-2 wages." If the QBI results in a loss for a tax year, the amount of the loss is carried forward and treated as a loss from a qualified business in the next taxable year.
- *Limit Based on Wages and Capital.* For taxpayers whose taxable income does not exceed \$157,500 for individuals (\$315,000 if married filing jointly) there are no limitations. Above those thresholds, the amount of the deduction is limited to the greater of 50 percent of the W-2 wages, or the sum of 25 percent of the W-2 wages plus 2.5 percent of the unadjusted basis of all qualified property. Only those wages that are properly allocable to qualified business income are taken into account. Qualified property includes depreciable tangible property.
- *State and Local Tax Deduction.* Pass-through entities retain the ability to deduct entity-level state and local tax deductions.

- *Carried Interest.* Certain partnership interests held in connection with the performance of some services will have a three-year holding period to treat capital gain as long-term capital gain. The provision is effective for taxable years beginning after December 31, 2017.
- *Effective Date and Sunset.* The pass-through provisions are effective for taxable years beginning January 1, 2018 and are set to expire December 31, 2025.
- *Repeal of Partnership Technical Terminations Caused by the Sale or Exchange of a 50 Percent or More Interest in the Capital and Profits of a Partnership.* Under section 708(b)(1)(B) of current law, a sale or exchange of 50 percent or more of interests in partnership capital and profits within a 12-month period will cause a "technical termination" of the partnership. The conference agreement repeals section 708(b)(1)(B) for partnership taxable years beginning after December 31, 2017.
- *Loss Limitation Rules Applicable to Individuals.* Excess business losses of a taxpayer, other than a C corporation, will not be allowed for the taxable year, but will be carried forward. An excess business loss will be the excess of aggregate deductions of the taxpayer attributable to trades or businesses, over the sum of aggregate gross income or gain of the taxpayer plus a threshold amount of \$500,000 for married individuals filing jointly and \$250,000 for other individuals. For a partnership or S corporation, the agreement will apply at the partner or shareholder level. Each partner's or S corporation shareholder's share of items of income, gain, deduction, or loss of the partnership or S corporation will be taken into account in applying the limitation. The provision is effective beginning after December 31, 2017 and before January 1, 2026.
- *Mandatory Basis Adjustments for Sales of Partnership Interests with Built-In Losses.* The agreement requires a partnership to adjust the basis in its assets upon the sale of a partnership interest if the partnership has a built-in loss of more than \$250,000 in its assets (as under current law), or if the partner selling a partnership interest will be allocated a loss of more than \$250,000 upon a hypothetical taxable disposition by the partnership of all of the partnership's assets for cash equal to the assets' fair market value, immediately after the transfer of the partnership interest. This provision expands the application of mandatory downward basis adjustments on transfers of partnership interests by taking into account gain and loss allocations to the transferee. The provision is effective for transfers of partnership interests after December 31, 2017.

BUSINESS PROVISIONS			
	House Version	Senate Version	Final Version
<b>C Corp Rates</b>	20% for most C corps, 25% for personal service corps. These rates would be permanent and immediate.	20% for C corps and personal service corps. This rate would be effective for tax years after 2018 and would be permanent.	<b>21% for C corps and personal service corps. This rate will be effective for tax years after 2017 and will be permanent.</b> Reduces the 80% dividends received deduction to 65% and the 70% dividends received deduction to 50%.
<b>Pass Through Provisions</b>	For owners of a pass-through entity who actually work in the business, the default provision would be that 30% of the income generated by the business is deemed to be attributable to the capital of the business and thus taxed at a new 25% tax rate while the remaining 70% is subject to the normal income tax rates. Alternatively, business owners would be able to apply a facts and circumstances test to show that more than 30% of the income from the business is attributable to capital they have invested and have that amount taxed at the 25% tax rate.	For individual making \$250,000 or less (or \$500,000 or less in the case of a joint return) the individual taxpayer would receive a 23% deduction on "qualified business income" from a partnership, S corporation or sole proprietorship. Provisions would all sunset in 2025.	<b>If the individual makes \$157,500 or less (or \$315,000 or less in the case of a joint return), indexed, the individual taxpayer would receive a 20% deduction on "qualified business income" from a partnership, S corporation or sole proprietorship. Trusts and estates would be eligible for the 20% deduction. These provisions would all sunset in 2025.</b>
<b>Bonus Depreciation</b>	Companies would be able to immediately write off the full cost of investments in their businesses, starting with assets purchased and placed in service after September 27, 2017 and before January 1, 2023. In 2024, the provisions would revert back to current law.	For the first five years companies would be able to immediately write off the full cost of investments in their businesses. Thereafter, the deduction will phase out by 20% each year through 2026.	<b>Companies would be able to immediately write off the full cost of investments in their businesses, starting with assets purchased and placed in service after September 27, 2017 and before January 1, 2023. Thereafter, the deduction will phase out by 20% each year through 2026.</b>
<b>Section 179</b>	For tax years 2018 through 2022, the Section 179 deduction would be increased from \$500,000 to \$5 million with an increased phase-out threshold at \$20 million. After 2022, the provision would revert back to existing law.	Section 179 deduction would be increased from \$500,000 to \$1 million with an increased phase-out threshold at \$2.5 million. The definition of qualified real property would also be expanded to include improvements made to nonresidential real property including roofs, heating and air-conditioning property.	<b>Section 179 deduction would be increased from \$500,000 to \$1 million with an increased phase-out threshold at \$2.5 million.</b> These amounts will be indexed for inflation starting in 2019. The definition of qualified real property would also be expanded to include improvements made to nonresidential real property including roofs, heating and air-conditioning property.
<b>Research and Development Credit</b>	Retained in its current form	Retained in its current form	Retained in its current form

<b>Availability of Cash Method of Accounting</b>	The average gross receipts threshold for using the cash method would be permanently increased from \$5 million to \$25 million.	The average gross receipts threshold for using the cash method would be permanently increased from \$5 million to \$15 million.	The average gross receipts threshold for using the cash method would be <b>permanently increased from \$5 million to \$25 million.</b>
<b>Employer Credit for Paid FMLA</b>	No provision	A new credit would be added for 2018 and 2019 for wages paid to employees on FMLA if certain conditions are met.	A new credit would be added for 2018 and 2019 for wages paid to employees on FMLA under certain conditions.
<b>Deduction of Business Interest</b>	Businesses would only be able to deduct net interest expenses up to 30% of their adjusted taxable income. Businesses with annual gross receipts of \$25 million or less would not be subject to the 30% limit.	Businesses would only be able to deduct net interest expenses up to 30% of their adjusted taxable income. Businesses with annual gross receipts of \$15 million or less would not be subject to the 30% limit.	<b>Businesses will only be able to deduct net interest expenses up to 30% of their adjusted taxable income.</b> For taxable years beginning after December 31, 2017 and before January 1, 2022, adjusted taxable income is computed without regard to deductions allowable for depreciation, amortization, or depletion or the Section 199 deduction (domestic manufacturing deduction which is repealed in the bill). <b>Businesses with annual gross receipts of \$25 million or less would not be subject to the 30% limit.</b>
<b>Qualified Retirement Plans</b>	Generally not impacted - though it appears unless language is fixed, retirement plan contributions will not be as advantageous because contribution would be against the active business income tranche which would have a lower tax rate than the personal income tax rate, but when taken out of the plan would be subject to the higher personal income tax rates.	Generally not impacted - though it appears unless language is fixed, retirement plan contributions will not be as advantageous because contribution would be against qualified business income which would have a lower tax rate than the personal income tax rate, but when taken out of the plan would be subject to the higher personal income tax rates.	Generally not impacted - though some concern that unless language is fixed in technical corrections, retirement plan contributions for pass-throughs may not be as advantageous because contribution would be against the qualified business income which would have a lower tax rate than the personal income tax rate, but when taken out of the plan would be subject to the higher personal income tax rates.
<b>Capital Gains and Dividends Rates</b>	No change	No change	No change
<b>Non-qualified Deferred Compensation (409A)</b>	No change	No change	No change



<p><b>Contributions to Capital</b></p>	<p>Added provision requiring contributions in excess of fair market value of the interest received to be included in gross income.</p>	<p>No provision</p>	<p>Added provision providing that capital contributions aren't excludable from taxable income unless they are made by a shareholder, potential customer, or government entity. Provision in House bill dealing with the inclusion in gross income of contributions to capital of a partnership in excess of fair market value of interest received is <b>not</b> included in final bill</p>
<p><b>Technical Termination of Partnership</b></p>	<p>Technical termination rule would be repealed. Partnership would be treated as continuing even if more than 50% of the total capital and profit interests of partnership were sold or exchanged.</p>	<p>No provision</p>	<p>Technical termination rule would be repealed. Partnership would be treated as continuing even if more than 50% of the total capital and profit interests of partnership were sold or exchanged.</p>

Expensing:

- *100 Percent Expensing.* Bonus depreciation will be increased from 50 percent to 100 percent for "qualified property" placed in service after September 27, 2017 and before 2023. The increased expensing would phase-down starting in 2023 by 20 percentage points for each of the five following years.
- *Computer or Peripheral Equipment Expensing.* Increases the depreciation limitations for listed property and removes computer or peripheral equipment from the definition of listed property. The changes are effective for property placed in service after December 31, 2017, in taxable years ending after such date.
- *Qualified Property Expensing.* Section 179 expensing is increased to \$1 million for "qualified property" (i.e., tangible personal property used in a trade or business) placed in service in tax years beginning after 2017, with a phase-out beginning at \$2.5 million; additionally, the term "qualified property" is expanded to include certain depreciable personal property used to furnish lodging, and improvements to nonresidential real property (such as roofs, heating, and property protection systems).
- *Net Operating Losses (NOL).* The NOL deduction would be limited to 80 percent of taxable income for losses arising in tax years beginning after 2017. The carryback provisions are repealed, except for losses incurred in a farming trade or business that would be allowed a two-year carryback and NOLs of a property and casualty company that would continue to be subject to a two-year carryback and 20-year carryforward. For others, an indefinite carryforward would be allowed.
- *Like-Kind Exchanges.* The non-recognition of gain in the case of like-kind exchanges would be limited to those involving real property only. Current law continues to apply for like-kind exchanges if the property disposed of by the taxpayer in the exchange is disposed of on or before December 31, 2017, or the property received by the taxpayer in the exchange is received on or before December 31, 2017. Otherwise, the limitation is effective for exchanges completed after 2017.

- *Contributions to Capital.* Section 118 would be retained and continue to apply only to corporations. Thus, contributions to capital would be excluded from the corporation's gross income but new rules would clarify that such contributions do not include any contribution in aid of construction, any other contribution made by non-shareholders (such as a customer or potential customer), and any contribution made by any governmental entity or civic group. The clarification would generally apply

#### Deductions:

- *Research and Experimental (R&E) Amortization.* R&E expenses will be required to be amortized over a five-year period, while R&E conducted outside the U.S. will be required to be amortized over a 15-year period. R&E specifically includes expenses for software development. Amortization would be required for expenses incurred in tax years after 2021. The research and development ("R&D") tax credit is preserved.
- *Repeal Section 199.* The domestic production deduction relating to deductions for qualifying receipts derived from certain activities performed in the U.S. is repealed for tax years after 2017.
- *Real Property Cost Recovery.* The recovery period for real property remains the same. Nonresidential real property will continue to be recovered over 39 years and residential rental property is recovered over 27.5 years with a 15-year recovery period for "qualified improvement property" and a 20-year Alternative Depreciation System (ADS) recovery period. The provision applies to property placed in service after 2017.
- *Employer Deductions.* Expenses paid for (1) entertainment activities and membership dues, and (2) transportation or commuting expenses of employees will no longer be deductible after 2017. Expenses for meals and beverages will continue to be deductible at 50 percent and be expanded temporarily (until 2026) to cover expenses incurred for food and beverages offered for the employer's convenience. Employee awards provided in cash or via gift cards would not qualify as an expense eligible for a deduction by the employer.
- *Deduction for Unused Business Credits.* The final bill preserves the deduction for unused business credits.

#### Credits:

- *Housing Credits.* No changes were made to the low-income housing tax credit; unfortunately, rehabilitation credits for old and/or historic buildings are changed. The credit for pre-1936 buildings is repealed and the credit for certified historic structures is reduced from 20 percent to 10 percent for amounts paid or incurred after 2017, with transition rules to be applied in the case of property owned or leased by the taxpayer on or after 2018.
- *Family and Medical Leave Act (FMLA) Credit.* Employers that pay wages to employees on FMLA would receive a general business credit equal to 12.5 percent of those wages. To be eligible, employers must allow (among other requirements) for at least two weeks of leave and offer the leave to full time and non-full-time employees. The FMLA credit would be available for wages paid in 2018 and 2019.

BUSINESS AND PERSONAL PROVISIONS			
	House Version	Senate Version	Final Version
<b>AMT - Alternative Minimum Tax</b>	Permanently repealed for individuals and corporations	Maintains the AMT for corporations and individuals but increases the exemption amount and phase-out threshold for individuals.	<b>Corporate AMT repealed. Individual AMT retained with a higher AMT exemption (starting at \$109,400 for joint and \$70,300 for single) for the years 2018 through 2025. Phase-out of exemption amounts would be increased to \$1m for married taxpayers filing jointly and \$500,000 for single taxpayers.</b> The increase in the individual AMT exemption sunsets in 2025. The repeal of the corporate AMT is permanent.
<b>State and Local Tax (SALT) Deduction</b>	Deduction for state and local income and sales tax permanently eliminated. Deduction of up to \$10,000 for state and local property tax.	Deduction for state and local income and sales tax permanently eliminated. Deduction of up to \$10,000 for state and local property tax.	<b>Deduction for state and local income, sales and/or property taxes capped at \$10,000. This provision sunsets in 2025. Cannot pre-pay income tax for 2018 in 2017. Not clear if property taxes can be prepaid in 2017 for 2018. State and local tax deduction maintained for corporations and pass throughs.</b>

## Additional Issues of Concern to NECA Contractors

### Bonding:

- *Private Activity Bonds.* The final bill retains the exclusion from gross income for interest on qualified private activity bonds.

### Energy:

- *Electric Plug-In Vehicles.* The final bill retains the tax credit for new, four-wheeled, battery powered electric vehicles.
- *Renewable Electricity Production Tax Credit (PTC).* The final bill rejected language that would extend the PTC inflation adjustment factor, revisit the rules defining beginning of construction of renewable energy facilities, or terminate the permanent 10 percent investment tax credit available for geothermal and solar technologies.
- *Renewables Extender Items.* The Conference Agreement does not:
  - Extend incentives for certain renewable electricity technologies (fiber-optic solar property, fuel cells, microturbines, combined heat and power systems, thermal energy property and small wind systems).
  - Address credits for residential energy efficiency property (qualified geothermal heat pump property, qualified small wind property and qualified fuel cell power plants).
  - Extend a number of other temporary tax incentives for renewable electricity, including expired credits for production of hydropower; biomass and waste to energy.
  - Extend expired fuel tax incentives for biodiesel; renewable diesel; second generation biofuels, alternative fuels, and alternative fuels mixtures. The nuclear production tax incentives modification, featured in the House bill, also was not included in the Conference Agreement.
  - NOTE: Congress is considering, however, addressing this backlog of expired provisions by moving a separate tax extenders bill attached to a government spending bill either in late December or mid-January.

### Education:

- *529s for Apprenticeships.* NECA championed an effort to include legislation that would allow construction apprentices to use 529 plans to cover costs related to their apprenticeships. Current law allows the use of 529 plans to cover certain equipment purchases related to vocational school expenses. These purchases can be equated to the computers and books that are so often associated with higher-education learning and are known as "peripheral expenditures" under current IRS code. U.S. Department of Labor-approved trade schools typically require apprentices to purchase tools, equipment, and other materials needed to safely and effectively learn their trade. However, construction apprentices indentured in a traditional apprenticeship program do not have access to these funds to help offset these costs. While this language was included in the House-passed version of the bill, it ultimately did not survive the conference committee deliberations. The legislation will continue to remain under consideration throughout the 115th Congress.

### Pension Reform:

The measure does not address multiemployer pension reform.

### Cadillac Tax:

The measure does not address delay or repeal of the Cadillac Tax.

### Associations:

- *Taxation of Royalty Income.* The final agreement will not make passive income from royalties subject to the Unrelated Business Income Tax (UBIT). NECA fought against attempts to repeal this provision as royalties are a significant source of non-dues revenue or non-contributed revenue that can be reinvested in education, skills training, standard-setting, research and other activities critical to the mission of a tax-exempt entity.
- *Deferred Compensation Plans.* The final bill removes a provision that would have eliminated 457 Plans for associations and other nonprofit employers.
- *Intermediate Sanctions.* Another anti-association provision removed from the final bill would have applied intermediate sanction rules to 501(c)(6) groups and eliminated the "presumption of reasonableness" for nonprofit organizations that practice due diligence in setting compensation arrangements.