

# Comparison of Previous Law, House and Senate Bills and New Law

As of December 22, 2017

|  | Former Law  | House   | Senate   | New Law  |
|--|---|---|--|--|
| <b>Volume Cap Low-Income Housing Tax Credits (LIHTC)</b> | \$2.35 per capita/\$2.71 million small state minimum (2017)                                       | <b>Retained</b>   | <b>Retained</b>  | <b>Retained</b>  |
| <b>Private Activity Bonds (PAB)</b>                      | \$100 per capita/\$305 million small state minimum (2017)   | All PAB, including residential rental, <b>REPEALED</b> after 2017 | All PAB, including residential rental, <b>retained</b>   | All PAB, including residential rental, <b>retained</b> |
| <b>4 Percent PAB LIHTC</b>                               | \$3-4 billion a year<br>4 percent PAB LIHTC   | <b>4 percent PAB LIHTC REPEALED</b> after 2017                    | <b>4 percent PAB LIHTC retained</b>  | <b>4 percent PAB LIHTC retained</b>                    |
| <b>LIHTC Basis Boost</b>                                 | Maximum basis boost = 30 percent  | <b>No changes</b>   | Basis boost <b>reduced</b> to 25 percent, if PIS after date of enactment, rural developments <b>qualify</b> for 25 percent basis boost | <b>No changes</b>                                      |
| <b>LIHTC – General Public Use Requirement</b>            | <b>No changes</b>   | <b>No changes</b>   | Artist housing safe harbor <b>REPEALED</b> for existing and future housing, Veterans housing exception <b>enacted</b>                  | <b>No changes</b>                                      |
| <b>New Markets Tax Credit (NMTTC)</b>                    | \$3.5 billion annual allocation for 2018 and 2019, 39 percent credit, slated to expire after 2019 | 2017 round <b>retained</b> , 2018 and 2019 rounds <b>REPEALED</b> | 2017, 2018 and 2019 rounds <b>retained</b>   | 2017, 2018 and 2019 rounds <b>retained</b>             |

|   | Former Law  | House  | Senate  | New Law   |
|---|---|--|---|---|
| <b>Investing in Opportunity Act</b>                 | No provision  | No provision   | <b>Creates</b> new incentive to invest capital gains in low-income communities                                | <b>Creates</b> new incentive to invest capital gains in low-income communities                                |
| <b>Historic Rehabilitation Tax Credit (HTC)</b>     | 20 percent credit claimed when certified historic property placed in service  | Subject to transition rules, <b>REPEALED</b> after 2017, subject to transition rules                             | 20 percent credit <b>retained</b> , but <b>claimed over 5 years</b> , after 2017, subject to transition rules | 20 percent credit <b>retained</b> , but <b>claimed over 5 years</b> , after 2017, subject to transition rules |
| <b>Non-Historic Rehabilitation Tax Credit</b>       | 10 percent credit, for nonresidential buildings placed in service before 1936 | <b>REPEALED</b> after 2017, subject to transition rules  | <b>REPEALED</b> after 2017, subject to transition rules   | <b>REPEALED</b> after 2017, subject to transition rules   |
| <b>Renewable Energy Investment Tax Credit (ITC)</b> | 30 percent ITC, phases down after 2019, 10 percent ITC - "Permanent"          | 30 percent ITC, phase down after 2019 <b>retained</b> , 10 percent ITC <b>REPEALED</b>                           | 30 percent ITC, phase down after 2019 <b>retained</b> , 10 percent ITC <b>retained</b>                        | 30 percent ITC, phase down after 2019 <b>retained</b> , 10 percent ITC <b>retained</b>                        |
| <b>Orphan Renewable Energy Technologies</b>         | ITC "Orphan" Renewable Energy Technologies expired after 2016                 | ITC <b>extended</b> for "Orphan" Renewable Energy Technologies as per current 30 percent ITC phase down schedule | ITC "Orphan" Renewable Energy Technologies <b>remain expired</b>  | ITC "Orphan" Renewable Energy Technologies <b>remain expired</b>  |
| <b>Renewable Energy Production Tax Credit (PTC)</b> | PTC phase down starting after 2016, PTC @ 2.4 cents per kWh                   | PTC phase down starting after 2016, <b>REDUCED</b> to 1.5 cents per kWh  | PTC phase down starting after 2016, PTC @ 2.4 cents per kWh <b>retained</b>                                   | PTC phase down starting after 2016, PTC @ 2.4 cents per kWh <b>retained</b>                                   |
| <b>PTC Continuous Construction Requirement</b>      | No continuous construction requirement for projects completed by 2020         | Continuous construction requirement <b>REQUIRED</b> for projects placed in service after 2017                    | No continuous construction requirement for projects completed by 2020 <b>retained</b>                         | No continuous construction requirement for projects completed by 2020 <b>retained</b>                         |

|  | Former Law   | House   | Senate  | New Law  |
|--|--|---|---|--|
| <b>Corporate Rate</b>  | Top corporate rate of 35 percent   | Top corporate rate of <b>20 percent</b> tax years beginning after December 31, <b>2017</b>  | Top corporate rate of <b>20 percent</b> tax years beginning after December 31, <b>2018</b>  | Top corporate rate of <b>21 percent</b> tax years beginning after December 31, <b>2017</b>   |
| <b>Business Income Taxation (Individuals) (Pass-throughs and Schedule C)</b> | Subject to individual income tax rates                                   | Business income tax rate of <b>25 percent</b> , business income presumption of <b>30 percent</b>  | Individuals may deduct <b>23 percent</b> of qualified business income (until December 31, 2025)   | Individuals may deduct <b>20 percent</b> of qualified business income (until December 31, 2025)  |
| <b>Business Interest Expense Deduction</b>                                   | No limit   | <b>Limited to 30 percent</b> of business adjusted taxable income, real estate businesses <b>exempted</b>  | <b>Limited to 30 percent</b> of business adjusted taxable income, real estate businesses <b>can elect out</b>   | <b>Limited to 30 percent</b> of business adjusted taxable income, real estate businesses <b>can elect out</b>  |
| <b>Expensing</b>   | 50 percent bonus depreciation, phased down through 2019 for new property | <b>100 percent expensing</b> for new and used property investments made after Sept. 27, 2017, through Dec. 31, 2022, buildings not eligible, real estate businesses <b>not eligible</b> | <b>100 percent expensing</b> for new property investments made after Sept. 27, 2017, through Dec. 31, 2022, phases down through Dec. 31, 2026, buildings not eligible, real estate businesses <b>are eligible</b> | <b>100 percent expensing</b> for new and used property investments made after Sept. 27, 2017, through Dec. 31, 2022, phases down through Dec. 31, 2026, buildings not eligible, real estate businesses <b>are eligible</b> |

|                               | Former Law   | House  | Senate   | New Law   |
|-------------------------------|--|--|--|---|
| <b>Property Depreciation</b>  | <p>Modified Accelerated Cost Recovery System (MACRS): residential rental real property - 27.5 years; site improvements – 15 years; personal property – 5 years;</p> <p>Alternative Depreciation System (ADS): real property – 40 years</p> | <b>No Changes</b>  | <p>MACRS - Residential and nonresidential real <b>property depreciation</b> life reduced to <b>25 years</b></p> <p>ADS– <b>30 year</b> cost recovery for real property if elect out of business interest expense deduction limitations</p> | <p>MACRS - Residential and nonresidential real <b>property depreciation</b> life <b>unchanged</b></p> <p>ADS– <b>30 year</b> for residential and 40 year for nonresidential real property if elect out of business interest expense deduction limitations</p> |
| <b>Interest Deductibility</b> | <p>No limit</p> <p>ADS - 40 year cost recovery for real property</p>   | <p>See interest expense deduction</p> <p>ADS - 40 year cost recovery for real property</p> | <p>Real estate businesses can elect out of limitation on <b>interest deductibility.</b></p> <p><b>But</b>, ADS as modified to 30 year cost recovery for real property would apply.</p>   | <p>Real estate businesses can elect out of limitation on <b>interest deductibility.</b></p> <p><b>But</b>, ADS as modified to 30 year cost recovery for residential real property and 40 year cost recovery for nonresidential real property would apply.</p> |
| <b>Inflation Factor</b>       | Consumer Price Index for all Urban Consumers (CPI-U)   | Changes to “ <b>chained CPI</b> ”, future 9 percent LIHTC allocations <b>REDUCED</b>       | Changes to “ <b>chained CPI</b> ”, future 9 percent LIHTC allocations and volume cap for tax-exempt private activity bonds <b>REDUCED</b>  | Changes to “ <b>chained CPI</b> ”, future 9 percent LIHTC allocations and volume cap for tax-exempt private activity bonds <b>REDUCED</b>   |

|   | Former Law  | House  | Senate   | New Law  |
|---|---|--|--|--|
| <b>Base Erosion and Anti-Abuse Tax (BEAT)</b> | N/A   | N/A  | 10 percent/12.5 percent tax rate; LIHTC, NMTC, HTC, ITC and PTC <b>do not offset</b> BEAT  | 5-6 percent - 2018, then 10-11 percent - 2019, then 12.5-13.5 percent tax rate after 2025; Corporations generally benefit from at least 80 percent of LIHTC, ITC, and PTC until 2026. NMTC and HTC cannot offset BEAT liability                          |
| <b>Alternative Minimum Tax (AMT)</b>          | 20 percent for corporations<br>28 percent for individuals | <b>Repealed</b> for corporations and individuals | <b>RETAINED</b> for corporations;<br><b>Increased</b> exemption and phase-out thresholds for individuals until Dec. 31, 2025<br>Note: LIHTC, HTC and ITC <b>can</b> be taken against AMT liability, but NMTC and years 5 through 10 of PTC <b>cannot</b> | <b>Repealed</b> for corporations<br><b>Increased</b> exemption and phase-out thresholds for individuals until Dec. 31, 2025<br>Note: LIHTC, HTC, and ITC <b>can</b> be taken against AMT liability, but NMTC and years 5 through 10 of PTC <b>cannot</b> |