Memorandum

Date: December 4, 2017

To: AIA Component Staff

From: AIA Advocacy

Subject: Update - Tax Reform Legislation

AIA Overview of Senate-Approved Tax Bill:

The Senate passed the most sweeping tax rewrite in decades early Saturday by a vote of 51-49, as it approved the nearly 500-page bill in the early morning hours after lawmakers received a rewritten version. Only one Republican, Sen. Bob Corker (R-TN), voted against it, and no Democrat voted in favor of the measure. The House moved to approve its version of the tax reform package (a substantially different version than that approved by the Senate) on November 16th by a vote of 227-205.

- **Pass-through companies**: (some) get a new deduction for reducing their tax burden. For partnerships, S corporations and sole proprietorships, the deduction would be limited to 50 percent of the taxpayer's share of "W-2 wages" -- those subject to withholding, elective deferrals, as well as deferred compensation. If a pass-through didn't pay W-2 wages, it couldn't use the deferral. The wage limit wouldn't apply to taxpayers with income of $250,000 or less for individuals, or $500,000 or less for joint filers, indexed for inflation. The limit would phase in for taxpayers with incomes greater than those thresholds. The deduction would be limited for certain professional services businesses, including those in architecture, health, law, engineering, and accounting . It would only be fully available for service businesses with income of $250,000 or less for individuals or $500,000 or less for joint filers (indexed to inflation), and would phase out for incomes greater than those thresholds.

Lower taxes on pass-through business income: Most U.S. businesses are set up as pass-throughs, not corporations. That means their profits are passed through to the owners, shareholders and partners, who pay tax on them on their personal returns under ordinary income tax rates. Both the House and Senate bills lower taxes on the business portion of a filer's pass-through income. The House bill dropped the top income tax rate to 25% from 39.6%, while prohibiting anyone providing professional services (e.g., lawyers and accountants) from taking advantage of the lower rate. It also phases in a lower rate of 9% for businesses that earn less than $75,000. The Senate bill lowers taxes on filers in pass-throughs by letting them deduct 23% of their income, up from 17.4% originally. The 23% deduction would be prohibited for anyone in a service business -- except those with taxable incomes under $500,000 if married ($250,000 if single).

Pass-throughs are basically all the businesses that aren't corporations. There are millions of them, and they include everything from law firms to hedge funds to your neighborhood dry cleaner. They include sole proprietorships (where one person owns a business), partnerships (joint ventures between at least two people) and limited liability companies and S corporations (both of which combine elements of corporations and partnerships). They're called pass-throughs because their income passes through to the owners' individual tax returns, where it's taxed at ordinary income tax rates, rather than being filed on a separate business return like a corporation. Currently, pass-throughs pay taxes topping out at 39.6 percent while corporations pay 35 percent.

Architects are exempted from benefitting from this tax rate - Here is the relevant section of the Internal Revenue Code (IRC) referenced in both bills: 1202(e)(3)(A) Qualified trade or business: For purposes of this subsection, the term "qualified trade or business" means any trade or business other than—
any trade or business involving the performance of services in the fields of health, law, engineering, architecture, accounting, actuarial science, performing arts, consulting, athletics, financial

services, brokerage services, or any trade or business where the principal asset of such trade or business is the reputation or skill of 1 or more of its employees,

- **Historic Tax Preservation Tax Credit:** The federal historic tax credit (HTC) was eliminated in the tax reform bill passed by the House of Representatives, but the Senate approved a version of tax reform that eliminates the 10 percent credit for rehabilitation of any structures built before 1936. The 20 percent credit for certified historic structures would be retained but spread over five years.

  The Senate bill is an improvement over the U.S. House of Representative version of the bill, in the eyes of preservationists, but still falls short of the existing tax credit benefits. The House-approved bill cuts the historic tax credit from the federal tax code altogether.

- **179(D) Energy Efficiency Tax Deduction:** There is no language in either the House or Senate bill which includes a renewal of this tax deduction which expired at the end of 2016 (however, it could still be considered if Congress chooses to have a tax extender package, although that is not likely));

- **Individual Healthcare Coverage Mandate (Not an AIA-specific issue):** The Senate-approved measure would repeal the individual coverage mandate and penalties used to enforce the Affordable Care Act's individual mandate beginning in 2019. There is no similar provision in the House bill, as the House bill keeps the mandate intact.

  The ACA required most individuals to have health insurance or pay a penalty, which consists of a percentage of income or a flat per person fee. The mandate was intended to help offset the risk and costs to insurance companies that were required to cover more people and a wider range of benefits. The provision would increase revenue by $318.4 billion in fiscal 2018 through 2027, which includes $297.7 billion in reduced spending from ACA subsidies and Medicaid spending.

  The number of uninsured people would increase by 4 million in 2019 and 13 million in 2027, according to a joint analysis from JCT and CBO. Nongroup insurance markets would continue to be stable in almost all areas of the country, and average premiums would increase by about 10 percent, CBO said. The effects would be caused by more healthy people choosing not to purchase insurance.

The GOP has not crossed the finish line just yet. Both the Senate and the House have passed tax reform bills that have a number of crucial differences that must be resolved before a final version can be sent to the President's desk for signing. The likelihood of a House-Senate conference on the tax bill is highly likely, due to the number of significant disparities between the two bills. The House is expected to appoint conferees today (Dec. 4, 2017). AIA is actively working on an advocacy plan to target House-Senate conferees when named.