KPMG

Insurance provisions in Tax Cuts and Jobs Act conference report

December 18, 2017

On December 15, the U.S. House and Senate Republican conferees for H.R. 1, the "Tax Cuts and Jobs Act," reached an agreement on a conference report that reconciles differences between the versions of the tax reform bill passed by the House and passed by the Senate (read ***TaxNewsFlash***).

Some of the changes made during the conference affect the insurance provisions described below.

Documents

- Read the **conference agreement** [PDF 4.25 MB] (1097 pages)
- Read a **joint explanatory statement** [PDF 1.77 MB] (570 pages) of the conference agreement
- Read a **summary** [PDF 160 KB] of highlights of the conference agreement

Major insurance provisions

Modify operations loss deductions of life insurance companies (section 13511 of the conference agreement).

The provision would alter the operations loss carryover and carryback periods for life insurance companies (currently carried back three years and forward 15) by striking Code sections 810 and 844 and conforming these periods to those of other corporations.

The provision also modifies the carryover and carryback rules for all corporations (except for nonlife insurance companies, as discussed below). Generally, all net operating loss carryback provisions are repealed and taxpayers are allowed to carry net operating losses forward indefinitely (except for a special two year carryback in the case of certain losses incurred in the trade or business of farming). Under the proposed provision, taxpayers' ability to deduct a net operating loss carryover (or carryback, under the aforementioned casualty loss provision) would be limited to 80% of the taxpayer's taxable income for tax years beginning after December 31, 2017.

KPMG observation

This proposal would put life insurance companies on the same loss carryback and carryforward schedule as other corporations (other than nonlife insurance companies). The repeal of nearly all carrybacks could have a substantial impact on a life company's deferred tax asset admissibility computation for statutory accounting purposes. The first part of the admissibility test under SSAP 101 would no longer be applicable for ordinary deferred tax assets since it allows insurance companies to use a reversal period that corresponds to the tax loss carryback provisions of the Code.

Retain net operating loss deductions of property and casualty insurance companies (section 13302 of the conference agreement)

This section would preserve present law for net operating losses of property and casualty companies. Under the modification, net operating losses of property and casualty companies may be carried back two years and carried forward 20 years to offset 100 percent of taxable income in such years.

KPMG observation

This proposal would put life insurance companies and non-life insurance companies on different loss carryback and carryforward schedules. Unlike the impact on the life insurance industry, a non-life insurance's company's deferred tax asset admissibility computation for statutory accounting purposes would not change. The first part of the admissibility test under SSAP 101 would still be applicable and would allow the same computations as under current law. The 80% limitation applicable to life insurance companies and other corporations is not applicable to non-life insurance companies. The mismatch of the treatment of NOLs between life and non-life companies will potentially lead to consolidation difficulties and the need to keep detailed schedules for tracking purposes.

Repeal small life insurance company deduction (section 13512 of the conference agreement)

This proposed provision would repeal the Code section 806 special deduction for small life insurance companies, effective for tax years beginning after 2017.

KPMG observation

This proposal is described as eliminating special treatment for a segment of the insurance industry in which "the risk distribution benefits of risk pooling are the weakest." The proposal would not eliminate a similar benefit for small property and casualty insurers.

Repeal Code section 807(f) spread – adjustment for change in computing reserves (section 13513 of the conference agreement)

This section would repeal the special 10-year period for adjustments to take into account changes in a life insurance company's basis for computing reserves. The general rule for tax accounting method adjustments would apply to changes in computing reserves by life insurance companies; generally, income would be includable ratably over a four-year period instead of over a 10-year period. The provision would be effective for tax years beginning after 2017.

KPMG observation

This proposal would put life reserve computation changes on the one-year or four-year spread rules applicable to general changes in methods of accounting. The proposal

appears to provide that changes in life insurance reserve basis would continue to be an automatic adjustment and not require prior approval for such changes.

Repeal special rule for distributions to shareholders from pre-1984 policyholders surplus accounts (section 13514 of the conference agreement)

This proposed measure would repeal rules (originally enacted in 1959) relating to the tax treatment of distributions from policyholders surplus accounts. From 1959 to 1984, half of a life insurer's operating income was taxed only when the company distributed it, and a "policyholders surplus account" kept track of the untaxed income. Legislation enacted in 2004 provided a two-year holiday that permitted tax-free distributions of these balances during 2005 and 2006. During this period, most companies eliminated or significantly reduced their balances.

The provision would generally be effective for tax years beginning after 2017, and any remaining balances would be subject to tax payable ratably over the first eight taxable years beginning after December 31, 2017.

KPMG observation

This proposal simplifies the determination of life insurance company taxable income.

Modify proration rules for property and casualty (P&C) insurance companies (section 13515 of the conference agreement)

The proposed provision replaces the 15% reduction under present law with a reduction equal to 5.25% divided by the top corporate tax rate. Under the conference agreement, for 2018 the top corporate tax rate is 21%, so the percentage reduction for P&C companies is 25%. The proration percentage will be automatically adjusted in the future if the top corporate tax rate is changed, so that the product of the proration percentage and the top corporate tax rate always equals 5.25%.

The provision would be effective for tax years beginning after 2017.

KPMG observation

The Conference Committee description states that the increase in the haircut within the provision would keep the reduction in the reserve deduction consistent with current law by adjusting the rate proportionally to the decrease in the corporate tax rate. That rationale may not be consistent with the provision's purpose under current law, which is to measure the amount of tax-exempt income credited to reserves (estimated at 15%) in order to eliminate a double benefit. Although the reduction is significant, a rate tied to the product of the proration percentage and top corporate tax rate may still be preferable overall to many insurers as the calculated rate facilitates predictability of after-tax rates of return on tax-exempt bonds and compares those rates to other investments.

Repeal elective deduction and related special estimated tax payment rules (section 13516 of the conference agreement)

This provision would repeal the Code section 847 elective deduction and related special estimated tax payment rules. The entire balance of an existing account is included in income of the taxpayer for the first taxable year beginning after 2017, and the entire amount of existing special estimated tax payments are applied against the amount of additional tax attributable to the inclusion. Any special estimated tax payments in excess of this amount are treated as estimated tax payments under section 6655.

KPMG observation

Code section 847 was originally enacted to provide for the admissibility of deferred tax assets associated with loss reserve discounting under the recognition rules of FAS 96. FAS 109 liberalized these requirements, and, as a result, section 847 is largely unnecessary and administratively burdensome.

Computation of life insurance tax reserves (section 13517 of the conference agreement)

This proposed provision would allow life insurance companies to take into account the amount of the life insurance reserves for any contract, which is calculated as the greater of: (1) the net surrender value of the contract or (2) 92.81% of the reserve computed as required by the National Association of Insurance Commissioners (NAIC) at the time the reserve is determined.

The conference agreement maintains the requirements that tax reserves cannot be less than the contract's cash surrender value, or greater than the statutory reserve for the contract. The conference agreement eliminates the requirement that the reserve method used for tax purposes be the method prescribed by the NAIC in effect on the date of the issuance of the contract. A "no double-counting" rule provides that no amount or item is taken into account more than once in determining a reserve under subchapter L. The Conference report provides several examples of the application of the no double-counting provision. A reporting requirement with respect to the opening and closing balance of reserves and with respect to the method of computing reserves for purposes of determining income is added.

The provision would generally be effective for tax years beginning after 2017. The effect of the provision on computing reserves for contracts issued before the effective date would be taken into account ratably over the succeeding eight tax years.

KPMG observation

The provision generally simplifies the current complex section 807 reserve calculation. The current rules in the Tax Code do not explicitly provide how reserves measured using principle based approaches should be taken into account for tax purposes. The

conference agreement approach largely clarifies how principle based reserves should be treated.

The proposed provision in the conference agreement uses a 7.19% haircut of statutory reserves. The elimination of the current law requirement that the reserve method be set at the time the contract is issued will also eliminate any question about whether changes made by the NAIC to reserve methods should be reflected in the tax reserve.

As under current law, deficiency reserves and asset adequacy reserves cannot be included in reserves computed for federal tax purposes. The provision includes a prohibition on double-counting reserves. The Conference Committee explanation for this provision indicates that it is intended that reserves for each contract be included only once in computing life insurance company taxable income.

Modify rules for life insurance proration for purposes of determining the dividends received deduction (DRD) (section 13518 of the conference agreement)

This section would change the life insurance company proration rules for the DRD in Code section 805(a)(4) by changing the company share to 70% and the policyholder share to 30%.The provision would be effective for tax years beginning after 2017.

KPMG observation

The current rules are complex and based on an archaic system of life insurance company taxation. This provision would simplify the proration calculation by setting the company share and policyholder share percentages to a fixed amount.

Capitalize certain policy acquisition expenses (DAC) (section 13519 of the conference agreement)

This provision would increase the capitalization rates applicable to specified insurance contracts under Code section 848. The current proxy rates applied to net premiums on “specified insurance contracts” are 1.75% for annuity contracts, 2.05% for group life insurance contracts and 7.7% for individual life insurance, group and individual health insurance, and other insurance contracts. The current provision allows for a 10-year spread.

The proposed capitalization rates are as follows:

- Annuity Contracts (2.09%)
- Group Life Contracts (2.45%)
- All other specified contracts (9.20%)

The proposal extends the amortization period from a 120-month period to the 180-month period beginning with the first month in the second half of the taxable year. The proposal

does not change the special rule providing for the 60-month amortization of the first $5 million (with phase-out).

The provision would be effective for tax years beginning after 2017.

KPMG observation

When section 848 was originally enacted, there was significant debate over the appropriate capitalization percentage and amortization period. Also important to note is that unamortized DAC amounts that exist before the law change becomes effective would not be impacted and the associated amortization would continue over the previous 10 year period.

Tax reporting for life settlement transactions, clarification of tax basis of life insurance contracts, and exception to transfer for valuable consideration rules (sections 13520, 13521, and 13522 of the conference agreement)

Under current law section 101(a)(1) there is an exclusion from federal income tax for amounts received under a life insurance contract paid by reason of the death of the insured. Under section 101(a)(2), under the transfer for value rules, if a life insurance contract is sold or otherwise transferred for valuable consideration, the amount paid by reason of the death of the insured that is excludable is generally limited.

Further, in Revenue Ruling 2009-13, the IRS ruled that income recognized under section 72(e) on surrender to the life insurance company of a life insurance contract with cash value is ordinary income. In the case of a sale of a cash value life insurance contract, the IRS ruled that the insured's (seller's) basis is reduced by the cost of insurance, and the gain on sale of the contract is ordinary income to the extent of the amount that would be recognized as ordinary income if the contract were surrendered (the "inside buildup") and excess is long-term capital gain.

In Revenue Ruling 2009-14, the IRS ruled that under the transfer for value rules, a portion of the death benefit received by a buyer of a life insurance contract on the death of the insured is includable as ordinary income. The portion is the excess of the death benefit over the consideration and other amounts (ex. premiums) paid for the contract. Upon sale of the contract by the purchaser of the contract, the gain is long-term capital gain and in determining the gain, the basis of the contract is not reduced by the cost of insurance.

The conference agreement would impose reporting requirements in the case of the purchase of an existing life insurance contract in a reportable policy sale and imposes reporting requirements on the insurance company issuing the life insurance or annuity contract. Lastly, the provision modifies the transfer for value rules in a transfer of an interest in a life insurance contract in a reportable policy sale.

Reporting requirements for acquisitions of life insurance contracts

The reporting requirement (section 13520 of the conference agreement) applies to every person who acquires a life insurance contract, or any interest in a life insurance contract, in a reportable policy sale during the tax year. A reportable policy sale means the acquisition of an interest in a life insurance contract, directly or indirectly, if the acquirer has no substantial family, business, or financial relationship with the insured (apart from the acquirer's interest in the life insurance contract). An indirect acquisition includes the acquisition of an interest in a partnership, trust, or other entity that holds an interest in the life insurance contract. Under the reporting requirement, the buyer reports information about the purchase to the IRS, to the insurance company that issued the contract, and to the seller. The information reported by the buyer about the purchase is (1) the buyer's name, address, and taxpayer identification number ("TIN"), (2) the name, address, and TIN of each recipient of payment in the reportable policy sale, (3) the date of the sale, and (4) the amount of each payment. The statement the buyer provides to any issuer of a life insurance contract is not required to include the amount of the payment or payments for the purchase of the contract.

Reporting of seller's basis in the life insurance contract

On receipt of a report described above, or on any notice of the transfer of a life insurance contract to a foreign person, the issuer is required to report to the IRS and to the seller (1) the basis of the contract (i.e., the investment in the contract within the meaning of section 72(e)(6)), (2) the name, address, and TIN of the seller or the transferor to a foreign person, and (3) the policy number of the contract. Notice of the transfer of a life insurance contract to a foreign person is intended to include any sort of notice, including information provided for nontax purposes such as change of address notices for purposes of sending statements or for other purposes, or information relating to loans, premiums, or death benefits with respect to the contract.

Reporting with respect to reportable death benefits

When a reportable death benefit is paid under a life insurance contract, the payor insurance company is required to report information about the payment to the IRS and to the payee. Under this reporting requirement, the payor reports (1) the gross amount of the payment; (2) the taxpayer identification number of the payee; and (3) the payor's estimate of the buyer's basis in the contract. A reportable death benefit means an amount paid by reason of the death of the insured under a life insurance contract that has been transferred in a reportable policy sale. For purposes of these reporting requirements, a payment means the amount of cash and the fair market value of any consideration transferred in a reportable policy sale.

Determination of basis

The provision (section 13521 of the conference agreement) provides that in determining the basis of a life insurance or annuity contract, no adjustment is made for mortality, expense, or other reasonable charges incurred under the contract (known as "cost of

insurance"). This reverses the position of the IRS in Revenue Ruling 2009-13 that on sale of a cash value life insurance contract, the insured's (seller's) basis is reduced by the cost of insurance.

Scope of transfer for value rules

The provision (section 13522 of the conference agreement) provides that the exceptions to the transfer for value rules do not apply in the case of a transfer of a life insurance contract, or any interest in a life insurance contract, in a reportable policy sale. Thus, some portion of the death benefit ultimately payable under such a contract may be includable in income.

Under the provision, the reporting requirement is effective for reportable policy sales occurring after December 31, 2017, and reportable death benefits paid after December 31, 2017. The clarification of the basis rules for life insurance and annuity contracts is effective for transactions entered into after August 25, 2009. The modification of exception to the transfer for value rules is effective for transfers occurring after December 31, 2017.

KPMG observation

The provision would add to the insurer's reporting responsibilities by requiring it to identify and report seller information to the IRS. In addition, the reversal of the IRS's position in Rev. Rul. 2009-13 simplifies the insurer's reporting responsibilities by eliminating the bifurcated basis and investment in the contract calculations for contracts surrender at a gain vs. contracts surrendered at a loss. Whether or not to reduce a seller's basis by the cost of insurance has been a controversial issue, and the provision provides clarity to this situation.

Modify discounting rules for property and casualty (P&C) insurance companies (section 13523 of the conference agreement)

This provision would require P&C insurance companies to use a higher rate—the corporate bond yield curve (as specified by Treasury)—to discount their unpaid losses under Code section 846, instead of using the applicable mid-term federal rate. The corporate bond yield curve is defined by section 430(h)(2)(D)(i), but a 60-month period is substituted for a 24-month period. The corporate bond yield curve means, with respect to any month, a yield curve that reflects the average, for the preceding 60-month period of monthly yields on investment grade corporate bonds with varying maturities and that in the top three quality levels available.

The provision would also repeal the election in section 846(e) to use company-specific, rather than industry wide, historical loss payment patterns.

The present-law three-year period for discounting certain lines of business other than long-tail lines of business is not modified under the conference agreement.

The special rule that extends the loss payment pattern period for long-tail lines of business remains (but with the five-year limitation on the extended period increased to 14 years) so that:

- The amount of losses which would have been treated as paid in the 10th year after the accident year shall be treated as paid in such 10th year and each subsequent year in an amount equal to the amount of the average of the losses treated as paid in the 7th, 8th, and 9th years after the accident year (or, if lesser, the portion of the unpaid losses not therefore taken into account).

- To the extent such unpaid losses have not been treated as paid before the 24th year after the accident year, they shall be treated as paid in the 24th year.

The provision generally would be effective for tax years beginning after 2017, with a transition rule that would spread adjustments relating to pre-effective date losses and expenses over such tax year and the succeeding seven tax years.

KPMG observation

This provision was included in the House's version of H.R. 1, but was not included in the Senate's version. The conference report reintroduces this amendment to the loss reserve discounting rules. The change in loss payment patterns may provide simplification, but will shorten or lengthen the pattern for different lines of business, which may or may not correspond more closely with actual loss payment patterns in the industry.

Elimination of the section 846(e) election will provide simplification, but will affect some insurers more significantly than others.

Modify insurance exception to the passive foreign investment company rules (section 14501 of the conference agreement)

The conference agreement modifies a current law exception from passive income that prevents certain investment income derived from the active conduct of an insurance business from causing a foreign corporation to be a passive foreign investment company (PFIC). Section 14501 of the conference agreement would amend this exception in the PFIC rules to apply only to a foreign corporation whose applicable insurance liabilities constitute more than 25% of its total assets as reported on the corporation's applicable financial statement for the last year ending with or within the tax year (the new 25% test). Applicable liabilities of any property and casualty or life insurance business include loss and loss adjustment expenses and certain reserves, but do not include unearned premium reserves.

An applicable financial statement is a statement for financial reporting purposes that is made on the basis of generally accepted accounting principles (GAAP), on the basis of international financial reporting standards (IFRS) if no GAAP statement is available, or, "except as otherwise provided by the Secretary in regulations," on the basis of the annual statement required to be filed with the applicable insurance regulatory body, but only if

neither a GAAP nor IFRS statement is available. Unless otherwise provided in regulations, GAAP means U.S. GAAP.

Section 14501 of the conference agreement provides potential relief to a foreign corporation that cannot meet the new 25% test by giving the Secretary regulatory authority to allow a U.S. person owning stock of such a foreign corporation to elect to treat it as a qualifying insurance company if (1) its applicable liabilities equal at least 10% of its assets, and, (2) (a) the foreign corporation is predominantly engaged in an insurance business, and (b) the failure to satisfy the greater than 25% threshold is due solely to run-off-related or rating-related circumstances involving such insurance business.

Section 14501 of the conference agreement would apply to tax years (presumably of foreign corporations being tested for PFIC status) beginning after December 31, 2017.

KPMG observation

This provision largely tracks prior legislative proposals that were described as addressing a perceived abuse whereby some insurance activities were used to shelter large investments. The change may also have impacts on non-U.S. insurance companies that insure long-tail and catastrophic risks.

U.S. persons owning stock of a corporation treated as a PFIC because it is ineligible for the active insurance exception in Code section 1297(b)(2)(B) would be required to begin filing Form 8621, Return by a Shareholder of a Passive Foreign Investment Company or Qualified Electing Fund, and to consider available PFIC-related elections.

Under current law (Code section 6501(c)(8)), a U.S. person that fails to file Form 8621 for a year generally would have the statute of limitations for its tax return for that year kept open until three years after the U.S person furnishes the required information to the IRS.

This provision also could require the Department of the Treasury to issue new regulations, and the IRS to amend Form 8621, for taxpayers to take advantage of the election it would provide to U.S. shareholders of certain affected foreign corporations that fail the new 25% test.

Limitation on the deduction of net business interest expense (section 13301 of the conference agreement)

The conference agreement would amend section 163(j) to disallow a deduction for net business interest expense of any taxpayer in excess of 30% of a business's adjusted taxable income plus floor plan financing interest. The explanatory statement indicates that the section 163(j) limitation should be applied after other interest disallowance, deferral, capitalization or other limitation provisions. Thus, the provision would apply to interest deductions that are deferred in the taxable year in which such deductions are deferred, capitalized, or disallowed.

Adjusted taxable income generally would be a business's taxable income computed without regard to: (1) any item of interest, gain, deduction, or loss that is not properly allocable to a trade or business; (2) business interest or business interest income; (3) the amount of any net operating loss deduction; (4) the 20% deduction for certain passthrough income, and (5) in the case of taxable years beginning before January 1, 2022, any deduction allowable for depreciation, amortization, or depletion. The proposal would permit the Secretary to provide other adjustments to the computation of adjusted taxable income. A business's adjusted taxable income may not be less than zero for purposes of the limitation.

Business interest would be defined as any interest paid or accrued on indebtedness properly allocable to a trade or business. Any amount treated as interest for tax purposes would be treated as "interest" for purposes of this proposal. The term "business interest" would not include investment interest within the meaning of section 163(d).

Subject to the exclusions or those business that may elect out, the provision would apply to all businesses, regardless of form, and any disallowance or excess limitation would generally be determined at the filer level (e.g., at the partnership level instead of the partner level). For a group of affiliated corporations that file a consolidated return, it applies at the consolidated tax return filing level. Subject to the special rules for partnerships, any business interest disallowed would be carried forward indefinitely. Carryover amounts would be taken into account in the case of certain corporate acquisitions described in section 381 and would be subject to limitation under section 382.

The provision would be effective for tax years beginning after 2017.

KPMG observation

The conference agreement clarifies that the terms "investment interest" and "investment income" are used within the meaning of section 163(d). Since section 163(d) does not apply to corporations, a corporation has neither investment interest or investment income for purposes of this section. As such, under this provision, an insurance company's interest income and interest expense would be allocable to a trade or business and therefore includible in the calculation of net business interest expense (unless specifically excluded in another provision). As a result, an insurance company holding a large portfolio of bonds or other interest-producing investments would be able to significantly reduce the amount of its interest expense subject to the 163(j) limitation.

Tax on base erosion payments (section 14401 of the conference agreement)

This provision establishes a base-erosion-focused minimum tax (the "base erosion and anti-abuse tax" or "BEAT") that in many cases will significantly curtail the U.S. tax benefit of cross-border related-party payments made by large multinationals.

The BEAT applies to domestic corporations that are not taxed on a flow-through basis (that is, not S Corps, RICs, or REITs), are part of a group with at least $500 million of

annual domestic (including effectively connected amounts earned by foreign affiliates) gross receipts (over a three-year averaging period), and which have a "base erosion percentage" (discussed below) of 3% or higher for the tax year (or 2% for certain banks and securities dealers, which are also subject to a higher BEAT rate, as discussed below). The provision also applies to foreign corporations engaged in a U.S. trade or business for purposes of determining their effectively connected income tax liability.

The targeted base erosion payments generally are amounts paid or incurred by the taxpayer to foreign related parties for which a deduction is allowable, and also include amounts paid in connection with the acquisition of depreciable or amortizable property from the foreign related party. The Conference Bill also specifically includes cross-border reinsurance payments as base erosion payments. Such category includes any premium or other consideration paid that is taken into account as a reduction in either life insurance gross income under section 803(a)(1)(B) or insurance company taxable income under section 832(b)(4)(A). Finally, for taxpayers that after November 9, 2017 become part of an "inverted" group, determined by reference to section 7874, base erosion payments also include "any amount that constitutes reductions in gross receipts" of the taxpayer when paid to the surrogate foreign corporation or any member of its expanded affiliated group.

There are two main exceptions to the provision's scope for otherwise deductible payments. The first is for any "amount" paid or incurred for services that qualify "for use of the services cost method under section 482 (determined without regard to the requirement that the services not contribute significantly to fundamental risks of business success or failure)" and that reflects the total cost of the services without markup. The second is for "qualified derivative payments" for taxpayers that annually recognize ordinary gain or loss (e.g., mark to market) on such instruments, and subject to several exceptions.

The definition of a foreign related party is drawn from current section 6038A and includes any 25% foreign shareholder of the taxpayer, related persons thereto, and any other person related to the taxpayer under the section 482 rules.

The tax liability increase is determined through a multi-step formula used to derive the base erosion minimum tax amount. This amount equals the excess of 10% of the taxpayer's modified taxable income ("MTI") for the year (5% for 2018), over an amount equal to the pre-credit regular income tax liability reduced (but not below zero) by any credits, other than the research credit and a certain amount of "applicable section 38 credits" that include the low-income housing credit, renewable energy production credit, and energy credits allowed in that year. Applicable section 38 credits are only included to the extent of 80% of the lesser of the credits or the base erosion tax amount otherwise computed.

MTI is the taxpayer's taxable income, with the base erosion tax benefit amount (including the base erosion percentage of an NOL deduction) added back.

The BEAT computation is modified to raise additional revenue for tax years beginning after December 31, 2025 through the following changes which take effect in such years: (i) the 10% of MTI input will increase to 12.5% of MTI; and (ii) the tax liability against which 12.5% of MTI is compared is simply regular income tax liability minus all credits, which appears to remove the previously retained benefit of the research credit and qualifying section 38 credits.

The provision would introduce new reporting requirements under the existing Code section 6038A regime (Form 5472) to collect information regarding applicable taxpayers' base erosion payments. The provision would also increase that reporting regime's existing $10,000 penalty to $25,000.

The provision applies to payments paid or accrued in tax years beginning after December 31, 2017.

KPMG observation

The conference report added specific language related to the impact of the BEAT on insurance and reinsurance. The inclusion of related-party cross border reinsurance, which is very common within the insurance industry, will significantly impact large segments of the insurance market.

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