

Tax Cuts and Jobs Act (H.R. 1) | House Tax Reform Bill Summary

| Section | Bill Proposal | Current Law | Proposed Change | Notes |
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| Sector-Wide Provisions | | | | |
| Sec. 1002 | Enhancement of standard deduction | The standard deduction is \$6,350 for single individuals and \$12,700 for married individuals filing jointly | Increases the standard deduction to \$24,000 for joint filers and \$12,000 for individual filers | A similar policy that increased the standard deduction to \$11,000 for individual filers and \$22,000 for married filers would decrease charitable giving by \$11 billion each year. Introducing a universal charitable deduction would recoup this loss and increase giving by almost \$6 billion (Indiana University) |
| Sec. 1306 | Charitable Contributions | A taxpayer may claim an itemized deduction for charitable contributions. The deduction is limited to a percentage of an individual's adjusted gross income and varies based on the type of gift. | The 50% AGI limit on cash contributions to public charities would be increased to 60% and retains the 5-year carryover. Taxpayers also cannot deduct any percentage of a purchase of college athletic tickets | Increasing AGI limits will incentivize high-income donors to give more to charity. Research is required to understand the exact amount of additional giving this provision could generate or the extent to which it may offset losses created by other provisions in tax reform. |
| | | A volunteer is able to deduct 14 cents per mile in mileage on behalf of a charitable organization | The amount deductible for volunteer mileage would be adjusted for inflation. | Adjusting volunteer mileage deductions to inflation helps ensure that future legislation is not needed in order to update the value of the deduction. |
| | | A donee organization can waive the need for a taxpayer to substantiate a gift for tax purposes if the gift is recorded on the organization's return. | Donee returns no longer can be used by a donor to substantiate a gift for federal tax purposes | |
| Sec. 5201 | Churches are permitted to make statements relating political campaign in ordinary course of religious | Tax-exempt 501(c)(3) organizations are prohibited from endorsing or opposing a candidate for public office – a policy known as the Johnson Amendment. | All charities will be allowed to endorse or oppose political candidates, as long as it is in the normal course of action and spends a “de minimus” amount of charitable funds. | This provision opens all charities up to additional scrutiny by the IRS using ambiguous rules as well as risk of becoming an instrument of electoral politics. Any proposals to weaken the Johnson Amendment threatens the public's trust in the sector, the charitable deduction, and donor |

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| | services and activities | | | privacy. The provision also sows confusion regarding how to comply with political activity rules, which would discourage charities' participation in the public policy process. |
| Sec. 1601-1602 | Increase in credit against estate, gift, and generation skipping transfer tax; Repeal of estate and generation skipping transfer tax | Property in an estate is subject to a tax before it passes to beneficiaries. The first \$5 million worth of transferred property is exempt from estate, gift, and generation-skipping taxes. | The threshold for triggering an estate, gift, or generation-skipping tax will be raised to \$10 million beginning in 2017. After 2023, the estate and generation-skipping taxes will be repealed while maintaining the beneficiary's stepped up basis in estate property. | Research shows that the estate tax encourages charitable bequests and investments in the sector. In 2010, when the estate tax was temporarily repealed, gross charitable bequests in IRS tax filings totaled \$7.5 billion – a 37 percent drop from \$11.9 billion the prior year. The tax returned in 2011 and charitable bequests increased by 92 percent, totaling \$14.4 billion. |
| Sec. 3803 | Excise tax on excess tax-exempt organization executive compensation | C corporations are not able to deduct executive compensation over \$1 million for the top 5 employees. A similar type of limitation does not apply to tax-exempt entities. | Tax-exempt organizations would be subject to a 20 percent excise tax for individual compensation (cash and benefits, except retirement and health) in excess of \$1 million for any of the top 5 employees. | This provision limits the ability of communities and volunteer boards to decide how to invest in local solutions. It also may impact charities' ability to attract and retain talent and skills necessary to tackle society's most difficult problems. |
| Sec. 1301 | Repeal of overall limitation on itemized deductions | Certain upper income taxpayers are limited in the total amount of itemized deductions they are able to claim (known as the "Pease limitation") | Overall limitation on itemized deductions would be repealed. | Removing the Pease limitation may incentivize high-income taxpayers to increase their charitable giving. Research is required to understand the exact amount of additional giving this provision could generate or the extent to which it may offset losses created other provisions in tax reform. |
| Sec. 1302 and 1303 | Mortgage interest and Repeal of Deduction for Expenses Not Paid or Accrued by Business | Taxpayers currently are able to deduct on their federal return home mortgage interest and state and local income and property taxes. Taxpayers also can choose to deduct state and local sales tax instead of income tax. | Applies new limitations on the amount of home mortgage interest taxpayers can deduct (lower acquisition indebtedness, limit to principle residence, etc.) Taxpayers cannot deduct state and local income or sales taxes, unless they're related to a trade, business or producing income. Taxpayers would continue to be able to deduct property taxes up to \$10,000. | These changes may cause major shifts in the number of taxpayers that choose to file itemized returns. If the provisions lower the number of people choosing to file itemized returns, there also will be fewer taxpayers incentivized through the tax code to give more to charity. |

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| Sec. 5002 | Exclusion of research income limited to publicly available research | Research is exempt from UBIT if: 1) performed for U.S./state government; 2) performed by college, university or hospital; and 3) performed by a research organization with results available to the public | Only fundamental research with publicly available findings remains exempt from UBIT | Additional information is needed to understand how this provision may impact mission-related research for the charitable community. In particular, charities may want to consider how this provision may impact financing of health research and research that could help governments and charities make evidence-based or data-driven decisions |
| Sec. 5101 | Simplification of excise tax on private investment income | Private foundations are subject to an excise tax rate (either 2 percent or 1 percent) on net investment income that is determined by the organizations' prior distributions. | Private foundations would be subject to a flat excise tax rate of 1.4 percent. | This provision streamlines the rules governing private foundations excise tax. |
| Sec. 5103 | Excise tax based on investment income of private colleges and universities | Private foundations must pay an excise tax on net investment income. This requirement does not apply to public charities, including colleges and universities. | Colleges and universities meeting certain student and asset criteria will be required to pay an excise tax of 1.4 percent on net investment income. | There are questions whether this policy establishes a precedent that will enable policymakers to dictate how all charitable organizations distribute and expend their endowments. |
| Sec. 5001 | Clarification of UBIT treatment of entities exempt from taxation under 501(a) | It is unclear if entities under both section 115(1) and 501(a) are subject to UBIT rules. | All entities under 501(a) would be subject to UBIT | The provision clarifies (and possibly expands) the entities required to comply with UBIT rules. |
| Sec. 5104 | Private foundation excess business holding tax for philanthropic business holdings | A private foundation may not own more than a 20 percent interest in a nonprofit. If it violates this rule, the foundation is subject to a 200 percent excise tax. | Private foundations will be exempt from this provision if: 1) the foundation owns all for-profit voting stock; 2) the interest was not acquired through purchase; 3) the for-profit distributes all profits to the foundation in 120 days; 4) for-profit executives are not substantial contributors to the foundation. | This is a relatively narrow provision designed to allow for-profit businesses or subsidiaries that distribute all profits to charity to be owned by a foundation that meets certain criteria. Policymakers have attempted to protect the original purpose of current law, which is to ensure charities will not be misused by corporations to circumvent tax law. |
| Sec. 5102 | Private operating foundation requirements related to | Private operating foundations may use tax-free donations to fund their work and are exempt from a 30 percent excise tax on undistributed earnings | Art museums must be open to the public at least 1,000 hours per year to qualify for private operating foundation status and benefits | |

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| | operation of art museum | | | |
| Sec. 5202 | Additional reporting requirements for donor advised fund sponsoring organizations | The public charities that manage donor advised funds are not required to distribute the funds on any particular timeframe. | Charities that sponsor donor advised funds would be required to annually disclose their policies to address inactive DAFs and the average amount of grants made from their DAFs. | This policy is less burdensome on DAF sponsoring organizations than past proposals. |
| Sec. 3307 | Entertainment, etc. expenses | Taxpayers may deduct up to 50% of entertainment, amusement, or recreational activity expenses if they are directly related to the taxpayer's trade or business. Taxpayers also can deduct the cost of fringe benefits like transportation and employee discounts, reimbursed expenses, etc. | No deduction would be allowed for entertainment, amusement or recreational activities or membership dues relating to such activities. This extends to fringe benefits not directly related to the employer's trade or business. 50% limitation would apply to food and beverage expenses. | This provision may impose an unrelated business income tax on charity if it provides a transportation benefit, gym facilities, etc. It also could have a negative impact on both commercial and nonprofit arts organizations. |
| Sec. 3601 | Termination of private activity bonds | Interest from government bonds that fund public goods like parks and schools are excluded from gross income (i.e. tax exempt). Some private activity bond interest, like 501(c)(3) bonds, also qualify for this benefit. | New private activity bonds, including 501(c)(3) bonds, issued after 2017 will be subject to taxation. | This provision removes one of the few mechanisms available to finance nonprofit capital projects, such as the creation of an affordable housing development, health clinic, etc. |

Issue-Specific Provisions

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| Sec. 1101 | Enhancement of child tax credit and new family tax credit | Taxpayers can claim \$1,000 credit per child, but the aggregate amount is phased out as AGI increases. The child tax credit is refundable equal to 15% of earned income over \$3,000. | Child tax credit would increase to \$1,600 and a new \$300 credit for non-child dependents would be added. A \$300 family flexibility credit is available for each individual that isn't a child or dependent. The credits will be phased out based on income thresholds and eliminate the marriage penalty in current law. | |
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| | | Filers do not have to provide a SSN to claim the refundable credit | Filers must provide a SSN to claim the refundable portion of the credit | |
| Sec. 1103 | Refundable credit program integrity | Refundable tax credits require taxpayers to file different types of authenticating information | Taxpayers must file a “work-eligible SSN” for the refundable portion of the child tax credit and American Opportunity Tax Credit. A similar requirement would apply to the EITC. | |
| Sec. 1308 | Repeal of medical expense deduction | Taxpayer can claim an itemized deduction for out-of-pocket medical expenses | Repeal the itemized deduction for medical expenses | |
| Sec. 3311 | Certain self-created property not treated as capital asset | Current law provides parameters around the tax treatment of creative products, like music | The bill changes tax treatment of creative products and property. | This provision is relevant to members of the arts and culture community |
| Sec. 3406 | Termination of new markets tax credits | New Market Tax Credits incentivize businesses and real estate investment in low-income communities. | No new tax credits will be issued after 2017 | The idea for a New Market Tax Credit originated with foundations and think tanks seeking to use market-driven solutions to help disadvantaged communities. |
| Sec. 3407 | Repeal of credit for expenditures to provide access to disabled individuals | Small-businesses can claim a tax credit for expenditures incurred when providing access to disabled individuals | The tax credit would be repealed | |
| Subtitle C | Simplification and reform of education incentives | <p>Current law has 15 different tax benefits related to education.</p> <p>The American Opportunity Tax Credit provides a maximum credit of \$2,500. Taxpayers may choose to claim the Hope Scholarship Credit and Lifetime Learning Credits, which use different criteria.</p> <p>Contributions to Cloverdell education savings accounts are exempt from tax, but they are not deductible and may not</p> | <p>These three credits will be combined into a single credit for 100% of the first \$2,000 in expenses and a 25% credit for the next \$2,000 in expenses. It would be available for a fifth year at half the rate as the first four years. The ability for students to claim a Lifetime Learning Credit without limits on the number of years it takes to earn a degree will be eliminated.</p> <p>Cloverdell education savings accounts after 2017 would be</p> | |

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| | | <p>exceed \$2,000 per beneficiary per year. Distributions from an account are excludable from gross income of the beneficiary if use to pay for qualified education expenses (K-Higher Education)</p> <p>Any debt that is forgiven, including student loans, become income – even on account of death or disability.</p> <p>Current education provisions also include deduction of interest payments on qualified education loans and tuition related expenses. It also allows tax exclusions for interest on U.S. savings bonds, qualified tuition reductions, and employer-provided education assistance.</p> | <p>prohibited, but tax-free rollovers from Cloverdell accounts to 529 plans would be allowed. Expenses for elementary and high school expenses up to \$10K would be qualified 529 expenses.</p> <p>Any income from discharging student loan debt on account of death or total disability of the student would be excluded from taxable income (excluding income repayment of a taxpayer's loans pursuant to the Indian Health Service Loan Repayment Program).</p> <p>All of these provisions would be repealed.</p> | |
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