2017 Tax Reform Conference Committee Issue Summary

Issue	Bill Alignment	Decided in Conference	Impact on Charities
Johnson Amendment & political activity	There is no alignment across bills on this issue.	In the House bill, **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. The Senate does not weaken or repeal the Johnson Amendment.	The House 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. The Joint Committee on Taxation estimates that the bill will allow $2.1 billion in political contributions to be funneled through the charitable deduction over five years. Weakening the Johnson Amendment threatens the public’s trust in the sector, the charitable deduction, and donor privacy. The provision also sows confusion regarding how to comply with political activity rules, which would discourage charities’ participation in the public policy process.
Standard deduction & charitable giving	Both bills increase the standard deduction to $24,000 for joint filers and $12,000 for individual filers. Both bills also retain taxpayers’ ability to deduct property taxes up to $10,000.	House and Senate bill vary in the extent to which they weaken the deduction for state and local taxes.	Adoption of the House bill will result in only 9% of taxpayers choosing to itemize and able to claim the charitable deduction. This shift will result in a $12-$20 billion decline in charitable giving each year. Adopting the Senate version of the state and local tax provision may result in a slight variation in the number of itemizers and decline in giving, but the sector will see at least an $11 billion decline each year.
Limits on charitable giving	Both bills increase the AGI limits on cash contributions to public charities from 50% to 60% and retain the 5-year carryover. Both bills also repeal the “Pease Limitation”, which would sunset in 2025.	The Senate bill sunsets some of these limitations in 2025.	Increasing AGI limits and repealing the Pease limitation will incentivize the few high-income donors that still itemize to give more to charity, but this increase in giving was factored into recent analyses conclusions that charities will see a net $12-$20 billion decrease in giving. The slightly higher levels of giving will not be enough to offset a final bill’s overall damage to charitable giving.

Estate tax & charitable giving	Both bills significantly weaken the estate tax, by doubling the threshold for triggering the estate tax to $11 million for individuals and $22 million for couples, exempting almost all households from the tax.	The House bill fully repeals the estate tax after 2024, while the Senate proposal would sunset in 2025.	Weakening, and possibly eliminating, the estate tax will further reduce giving to charities. An analysis estimates that the House estate tax provision would result in an additional $4 billion loss in charitable giving. 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.
Limit on executive compensation	Both bills impose a 20 percent excise tax for individual compensation (cash and benefits, except retirement and health) in excess of $1 million for any one of the five highest compensated employees at charities. It also applies to excess parachute payments, even if the remuneration doesn't exceed $1 million.	There are no differences that need to be addressed in conference committee.	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.
Unrelated Business Income Tax (UBIT)	Both bills include provisions that would increase charities' unrelated business income tax, but none of them are aligned.	The House bill expands the activities subject to UBIT to include fringe benefits to employees (such as transportation, athletic memberships) and research that is not made available to the public. The Senate bill will require charities that operate a trade or business to calculate net income for each activity separately, rather than in aggregate, which will result in a tax increase for some charities.	Although there is no alignment across bills regarding expanding UBIT to include more activities, these types of provisions generate revenue that pay for other tax cuts in the bill. Charities should expect some, if not all, of the provisions will be in a final bill.
Volunteer mileage rate	There is no alignment across bills on this issue.	The House bill adjusts for inflation the rate volunteers can claim for driving on behalf of nonprofits.	Adjusting volunteer mileage deductions to inflation helps ensure that future legislation is not needed in order to update the value of the deduction.
Private activity bonds	There is no alignment across bills on this issue.	The House bill eliminates all tax-exempt private activity bonds, including qualified 501(c)(3) bonds.	This House 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.

Private foundation excise tax	There is no alignment across bills on this issue.	The House bill streamlines the private foundation excise tax to be one rate of 1.4%, rather than the current two-tiered structure	This provision streamlines the rules governing private foundations excise tax.
Tax on private college and university endowments	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 from their endowments.	There are no differences that need to be addressed in conference committee.	There are concerns that this policy establishes a precedent, which will enable policymakers to dictate how all charitable organizations distribute their endowments.
Excess business holdings	There is no alignment across bills on this issue.	The House bill includes a relatively narrow provision that allow for-profit businesses or subsidiaries that distribute all profits to charity to be owned by a foundation that meets certain criteria.	This bill would apply to a very small number of private foundations.
Healthcare	There is no alignment across bills on this issue.	The Senate bill repeals this provision in the individual mandate to purchase health insurance. However, it lowers the threshold for households to be eligible to claim the medical expense deduction. The House bill repeals the medical expense deduction for out-of-pocket medical expenses.	The Joint Committee on Taxation estimates that 13 million people will lose their healthcare coverage due to increasing healthcare costs brought on by the repeal of the individual mandate. The medical expense deduction pays for medical expenses that support severely ill patients or individuals in need of long-term care. Eliminating this provision would significantly impact these vulnerable populations.
Low-income housing	There is no alignment across bills on this issue.	The Senate bill makes the low-income housing credit more favorable for housing to veterans and in certain rural areas. This increase is paid for in an offset by reducing the allowance for housing in high-cost areas.	Veterans programs and certain rural areas may see increased access to and support for low-income housing. Meanwhile, urban areas may see a decline in resources for low-income housing.
Student loans	There is no alignment across bills on this issue.	The House bill eliminates the student loan interest deduction; taxes tuition waivers of Ph.D. students; condenses three education credits into one; and eliminates tax-free status of employer tuition reimbursements.	These provisions will negatively impact the nonprofit sector's ability to recruit and retain diverse talent.

Overall impact on individual taxpayers	Although specific provisions vary across the two bills, enough basic elements of the bills are in alignment to determine that the final tax bill will increase burdens on vulnerable populations.		Both the Joint Committee on Taxation and the Congressional Budget Office determined that the Senate bill will increase taxes on households earning below $30,000 within five years and households earning below $75,000 within 10 years.

Summary will be revised as additional information becomes available.