Comparison of Key Provisions in House/Senate Tax Reform Bills

UPDATED December 15, 2017

ISSUE	HOUSE TAX REFORM BILL (H.R. 1)[1]	SENATE TAX REFORM BILL[2]	HOUSE-SENATE CONFERENCE REPORT[3]	IMPACT ON CHARITABLE NONPROFITS
JOHNSON AMENDMENT (NONPROFIT NONPARTISANSHIP)	• Would politicize the 501(c)(3) community by allowing charitable nonprofits, houses of worship, and foundations to engage in partisan electioneering for or against candidates if such action is "in the ordinary course of the organization's regular and customary activities in carrying out its exempt purpose," and it incurs no more than "de minimis" incremental expenses in doing so. • The provision would be effective from 2019 through 2023. • The nonpartisan Joint Committee on Taxation (JCT) estimates that the provision would cost the federal government $2.1 billion in lost revenue over six years because donors would divert their currently nondeductible political donations to political churches and charitable nonprofits in order to claim charitable tax deductions.	• Preserves nonprofit nonpartisanship by leaving current law intact.	• Preserves nonprofit nonpartisanship by leaving current law intact.	• The language in the House-passed version of H.R. 1 would weaken the existing law, which for 60+ years has protected charitable nonprofits, houses of worship, and foundations so they can work in communities free from partisan pressures, divisions, and interference. • More than 5,600 organizations nationwide, along with thousands of religious leaders, faith organizations, law enforcement, and the vast majority of the general public, oppose weakening the Johnson Amendment. • Visit www.GiveVoice.org for more information.
STANDARD DEDUCTION AND	• Would increase the standard deduction for individuals (to $12,200), couples (to $24,400), and heads of	• Would increase the standard deduction for individuals (to $12,000), couples (to $24,000), and heads of	• Would increase the standard deduction for individuals (to $12,000), couples (to $24,000), and heads of	• Under the House and Senate bills, the charitable deduction would be out of reach of more than 90% of taxpayers. The

[1] House-passed version of the Tax Cuts and Jobs Act, H.R. 1 (passed 11/16/2017)
[2] Senate Manager's modified substitute version of the Tax Cuts and Jobs Act (passed 12/2/2017).
[3] House-Senate Conference Report on the Tax Cuts and Jobs Act, H.R. 1 (approved in committee 12/15/2017).

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INCENTIVES FOR CHARITABLE GIVING	households (to $18,300), resulting in a drop in the number of those who itemize from 30% of taxpayers to only 5% of taxpayers. • Would raise the limit on cash donations for those who itemize deductions to 60% of adjusted gross income (AGI), up from the current 50% of AGI.	households (to $18,000), resulting in a drop in the number of those who itemize from 30% of taxpayers to only 5% of taxpayers. • Would raise the limit on cash donations for those who itemize deductions to 60% of adjusted gross income (AGI), up from the current 50% of AGI. • Would sunset after 2025.	households (to $18,000), resulting in a drop in the number of those who itemize from 30% of taxpayers to less than 10% of taxpayers. • Would raise the limit on cash donations for those who itemize deductions to 60% of adjusted gross income (AGI), up from the current 50% of AGI. • Would sunset after 2025.	Joint Committee on Taxation (JCT) estimates that itemized deductions will drop by $95 billion in 2018. Not all of this would disappear; the change is estimated to ***shrink giving to the work of charitable nonprofits by $13 billion or more each year***. Estimates are that this drop in giving would **cost 220,000 to 264,000 nonprofit jobs**. • While the loosening of the AGI limitations for charitable deductions would be helpful, the impact would be limited to the few taxpayers (<10%) who would continue to itemize deductions.
UNIVERSAL DEDUCTION FOR CHARITABLE CONTRIBUTIONS (ALSO CALLED NON-ITEMIZER OR ABOVE-THE-LINE DEDUCTION)	• No provision to extend charitable giving incentives to non-itemizers was included in the bill.	• No provision to extend charitable giving incentives to non-itemizers has yet been included in the bill.	• No provision to extend charitable giving incentives to non-itemizers has yet been included in the bill.	• Congress failed to include a universal deduction that could have corrected the negative consequences of doubling the standard. • One such proposal is the Universal Charitable Giving Act (H.R. 3988/S.2123), which would allow non-itemizers to deduct up to $4,000/individual and $8,000/couple each year.
STATE AND LOCAL TAX (SALT) DEDUCTIONS	• Would repeal the deductibility of state and local income taxes and would cap property tax deductions at $10,000.	• Would repeal the deductibility of state and local income taxes and would cap property tax deductions at $10,000. (Updated 12/1/17) • Would sunset after 2025.	• Caps at $10,000 the deductibility of state and local income taxes and property taxes, in the aggregate.	• Would pressure state and local governments to enact tax and spending cuts, leading to elimination of programs serving people in need and increasing burdens on charitable nonprofits and foundations to fill the gaps.
ESTATE TAX	• Would double the exemption from the estate tax (to about $11 million for individuals and	• Would maintain the estate tax, but double the exemption to about $11 million for	• Would maintain the estate tax, but temporarily through 2025 double the exemption to about	• The estate tax is an important source of revenue for the work of charitable nonprofits as it

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	about $22 million for couples) for six years, and fully repeal the estate tax after 2024. • The Joint Committee on Taxation estimates that the House change would cost the Treasury an estimated $151 billion over 10 years.	individuals and about $22 million for couples. • The Joint Committee on Taxation estimates that the House change would cost the Treasury an estimated $94 billion over 10 years.	$11 million for individuals and about $22 million for couples.;	encourages donors to address future needs in their communities through estate planning. • Doubling the exemption is estimated to reduce federal revenues by nearly $100 billion over ten years and lower charitable giving by $4 billion per year.
AFFORDABLE CARE ACT INDIVIDUAL	• No change in current law.	• Repeals the individual mandate by reducing the penalties to $0.	• Repeals the individual mandate by reducing the penalties to $0.	• Raises about $318 billion which is used to offset other tax cuts in the bill.
PRIVATE ACTIVITY BONDS	• Would eliminate all tax-exempt private activity bonds, including qualified 501(c)(3) bonds.	• Makes no changes to current law.	• Makes no changes to current law.	• A variety of nonprofits, including schools, hospitals, museums, and affordable housing organizations, use these bonds to finance building and renovation projects.
UNRELATED BUSINESS INCOME TAX (UBIT)	• Would limit the research exemption from unrelated business income tax (UBIT) to apply only to income from research that is made freely available to the public. • Would require nonprofits to pay UBIT on transportation fringe benefits to employees and employee access to on-site gyms and athletic facilities. • Some nonprofits with greater resources would pay a lower UBIT tax rate, since the House plan would lower the maximum corporate income tax rate from 35% to 20%.	• Would require unrelated business income tax (UBIT) to be calculated on each trade or business and not aggregated. • Some nonprofits with greater resources would pay a lower UBIT tax rate, since the House plan would lower the maximum corporate income tax rate from 35% to 20%.	• Would require unrelated business income tax (UBIT) to be calculated on each trade or business and not aggregated. • Some nonprofits with greater resources would pay a lower UBIT tax rate, since the House plan would lower the maximum corporate income tax rate from 35% to 20%.	• Only the first $1,000 of unrelated business income is exempt from taxation under current law, so the proposed changes would affect many organizations of varying sizes. • These changes to UBIT could result in increased taxes on nonprofits, taking revenue away from nonprofits' mission-related programs and services. • A provision to treat income from licensing a nonprofit's name or logo as unrelated business income that is subject to UBIT deleted from Senate version prior to enactment.
DONOR ADVISED FUNDS	• Would require nonprofits with donor advised funds (DAFs) to disclose annually their policies on inactive DAFs and the	• Makes no changes to current law.	• Makes no changes to current law.	• Neither bill includes new payout requirements for DAFs, which was a concern of some

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	average amount of grants made from their DAFs.			nonprofits and community foundations.
PRIVATE FOUNDATION EXCISE TAX	• Would establish a streamlined private foundation excise tax of 1.4%, which is between the two current rates of 2% and 1%.	• Makes no changes to current law.	• Makes no changes to current law.	• The Joint Committee on Taxation estimates that the House provision would raise about $500 million in revenue over a decade, which means that it is a tax increase on private foundations, and will result in fewer or smaller grants to the work of charitable nonprofits.
NONPROFIT COLLEGE AND UNIVERSITY ENDOWMENTS	• Would create a new 1.4% excise tax on net investment income of nonprofit colleges and universities with assets of at least $250,000 per full-time student and more than 500 full-time students.	• Would create a new 1.4% excise tax on net investment income of nonprofit colleges and universities with assets of at least $500,000 per full-time student and more than 500 full-time students.	• Would create a new 1.4% excise tax on net investment income of nonprofit colleges and universities with assets of at least $500,000 per full-time student and more than 500 full-time students. • Limited to institutions with more than 50% of students in U.S.	• The provision should be of concern to all charitable nonprofits because it represents an invasion of nonprofit independence, replacing the political will of elected officials with the fiduciary judgment of organizational trustees.
VOLUNTEER MILEAGE RATE	• The rate that volunteers can claim for driving on behalf of nonprofits would be adjustable for inflation, rather than fixed in law at 14 cents per mile.	• Makes no changes to current law.	• Makes no changes to current law.	• For years, this rate has been fixed in statute at 14 cents per mile, which is far below the standard mileage rate for paid employees and the actual cost volunteers incur when they drive their vehicles on behalf of nonprofits. • Adjusting the rate for inflation could decrease the cost of volunteering at certain types of nonprofits and would prevent the further erosion of the value of the incentive over time.
HIGHLY-COMPENSATED NONPROFIT EMPLOYEES	• Would impose a new 20% excise tax on nonprofits that pay compensation of $1 million or more to any of their five highest-paid employees.	• Would impose a new 20% excise tax on nonprofits that pay compensation of $1 million or more to any of their five highest-paid employees.	• Would impose a new 21% excise tax on nonprofits that pay compensation of $1 million or more to any of their five highest-paid employees.	• The excise tax is in lieu of denying tax deductions for salaries, according to JCT. The change is proposed to bring nonprofit pay rules in line with

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				the for-profit cap on compensation.
ART MUSEUMS	• Would require art museums that are private operating foundations to be open to the public for at least 1,000 hours per year.	• Makes no changes to current law.	• Makes no changes to current law.	• Converting museums to private foundations would subject them to payout requirements and affect AGI restrictions on a donor's contributions to art museum – 30% limit for foundations or the higher limit for donations to public charities.
DONOR ACKNOWLEDGMENT REQUIREMENTS SUBSTANTIATION	• Would repeal an unused provision in tax code that allows the IRS to create an optional tax return that nonprofits could file in lieu of providing donors with written acknowledgment of contributions.	• Would repeal an unused provision in tax code that allows the IRS to create an optional tax return that nonprofits could file in lieu of providing donors with written acknowledgment of contributions.	• Would repeal an unused provision in tax code that allows the IRS to create an optional tax return that nonprofits could file in lieu of providing donors with written acknowledgment of contributions.	• The provision is a needed "cleanup" measure designed to block the IRS from requiring charities to collect and report donors' Social Security numbers or other sensitive personal information to substantiate charitable contributions.
INTERMEDIATE SANCTIONS	• Makes no changes to current law.	• Makes no changes to current law.	• Makes no changes to current law.	• An earlier draft of the House bill would have imposed an excise tax on the organization, rather than (or in addition to) its managers or the recipient of the excess benefit would effectively penalize the organization, which is the victim of the excess benefit transaction, as well as those who rely on the organization for services. • The deleted language also would have removed or weakened the safe harbors for determining compensation reasonableness.

Adapted with permission from analyses prepared by the North Carolina Center *for* Nonprofits and the Center for Non-Profits in New Jersey.

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