Comparison of Nonprofit Provisions in Congressional Tax Reform Plans

Revised: December 20, 2017

Issue	House Tax Reform Plan	Senate Tax Reform Plan	Final Tax Reform Plan	The Center's Position
Johnson Amendment	• All 501(c)(3) nonprofits would be given a partial exemption from the prohibition on partisan political intervention under Section 501(c)(3) of the Internal Revenue Code. • The nonpartisan Joint Committee on Taxation (JCT) estimates that the provision would cost the federal government $2.1 billion over a decade because of billions of dollars of tax-deductible political contributions going to churches and charitable nonprofits. • The provision would be effective from 2019 through 2023.	• Preserves nonprofit nonpartisanship.	• **Preserves nonprofit nonpartisanship.**	• The Center strongly opposes the House provision. • It would severely damage the public's trust in 501(c)(3) nonprofits by essentially creating Democratic charities and Republican charities. • It also would divert financial resources away from nonprofits' missions and into partisan politics.
Incentives for charitable giving	• Because the standard deduction would be nearly doubled, only about 6% of taxpayers would itemize their deductions (down from about 30% today). This would reduce charitable giving by between $12 billion and $20 billion per year.	• Because the standard deduction would be nearly doubled, only about 6% of taxpayers would itemize their deductions (down from about 30% today). This would reduce charitable giving by between $12 billion and $20 billion per year. • Limits on cash donations would be increased from 50% of	• **Because the standard deduction would be nearly doubled, only about 6% of taxpayers would itemize their deductions (down from about 30% today). This would reduce charitable giving by between $12 billion and $20 billion per year.** • **Limits on cash donations would be increased from 50%**	• The Center opposes tax policy changes that would result in a reduction in charitable contributions. • While the loosening of the AGI limitations for charitable deductions, repealing limits on itemized deductions, and the elimination of the Pease limitation are welcome, their impact will be limited to the

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	• Limits on cash donations would be increased from 50% of adjusted gross income (AGI) to 60% of AGI. • "Pease limitation" on itemized deductions that limits deductions for high-income individuals would be repealed.	adjusted gross income (AGI) to 60% of AGI. • "Pease limitation" on itemized deductions that limits deductions for high-income individuals would be repealed. • A provision to allow a portion of tuition payments to certain religious education institutions to be treated as deductible charitable contributions was removed from the final version of the bill.	**of adjusted gross income (AGI) to 60% of AGI.** • **"Pease limitation" on itemized deductions that limits deductions for high-income individuals would be repealed.**	few taxpayers who will continue to take advantage of itemized deductions.
Universal deduction for charitable contributions	• Not included in the plan.	• Not included in the plan.	• **Not included in the plan.**	• The Center strongly supports the Universal Charitable Giving Act, introduced by Congressman Mark Walker (R-NC), which would offset the tax reform plans' disincentives for charitable giving and would expand the charitable deduction to all taxpayers. We encourage the House and Senate to amend their tax bills to include Congressman Walker's proposal.
Intermediate sanctions	• Makes no changes.	• Makes no changes. • An earlier Senate version would have imposed a 10% excise tax on nonprofits in some instances when a disqualified person (*e.g.* a board member or nonprofit executive) receives an excess benefit transaction. Under current law, these penalties are only imposed on the disqualified person and/or on board members who approved of the transaction. • The earlier Senate version would have downgraded the "rebuttable presumption of	• **Makes no changes.**	• The Center supports keeping existing intermediate sanctions laws in place. • The Center was concerned that the Senate's proposal would penalize the people served by nonprofits by imposing an excise tax on nonprofit organizations, which are the victims of excise benefit transactions, rather than just the individuals who received excess benefits. • The Center was also concerned that weakening the safe harbors for determining compensation reasonableness

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		reasonableness" with "due diligence procedures", which may make it harder for nonprofits to confidently rely on comparability data in setting executive compensation and establishing the appropriate valuation for transactions with board members. • The earlier Senate version would have eliminated a law that absolves nonprofit boards of liability for intermediate sanctions if they rely on professional advice. • The earlier Senate version would have applied intermediate sanctions rules to investment advisers and athletic coaches.		would create confusion, increase the costs and administrative burdens of compliance (since comparability analyses many no longer be sufficient), and harm board recruitment and retention, since boards could no longer rely on professional advice in determining reasonableness of compensation.
Private activity bonds	• Eliminates all tax-exempt private activity bonds, including qualified 501(c)(3) bonds. • A variety of nonprofits, including schools, hospitals, museums, and affordable housing organizations, use these bonds to finance building and renovation projects.	• Makes no changes.	• **Makes no changes.**	• The Center opposes the House provision, since it would eliminate an important financing option for many 501(c)(3) nonprofits.
Estate tax	• Doubles the exemption from the estate tax (to about $11 million for individuals and about $22 million for couples) for six years. • Repeals the estate tax in 2023. • This change is significant for nonprofits because charitable donations and bequests are exempt from	• Maintains the estate tax, but doubles the exemption to about $11 million for individuals and about $22 million for couples.	• **Maintains the estate tax, but doubles the exemption to about $11 million for individuals and about $22 million for couples.**	• The Center opposes the estate tax repeal and, to a lesser extent, the increased exemption from the estate tax, because it would reduce charitable donations and bequests. It is estimated that the repeal of the estate tax would mean about $4 billion per year less in charitable giving.

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	the estate tax. A higher exemption will mean that fewer estates will make large bequests to nonprofits (or create new foundations) for tax purposes.			
Unrelated business income tax (UBIT)	• Limits the research exemption from unrelated business income tax (UBIT) to apply only to income from research that is made freely available to the public. • Requires nonprofits to pay UBIT on transportation fringe benefits to employees and employee access to on-site gyms and athletic facilities. • Nonprofits would also pay a lower tax rate on UBIT, since the House plan would lower the maximum corporate income tax rate from 35% to 20%.	• Treats each business activity of a nonprofit separately for UBIT purposes, which could result in more UBIT liability for some nonprofits because there would be less opportunity to offset income with related expenses. • Nonprofits would also pay a lower tax rate on UBIT, since the House plan would lower the maximum corporate income tax rate from 35% to 20%. • An earlier Senate version would have treated income from licensing a nonprofit's name or logo as unrelated business income that is subject to UBIT.	• **Treats each business activity of a nonprofit separately for UBIT purposes, which could result in more UBIT liability for some nonprofits because there would be less opportunity to offset income with related expenses.** • **Nonprofits would also pay a lower tax rate on UBIT, since the House plan would lower the maximum corporate income tax rate from 35% to 21%.**	• The Center is concerned that these changes to UBIT may result in increased taxes on nonprofits, taking earned income revenue away from nonprofits' mission-related programs and services. • Only the first $1,000 of unrelated business income is exempt from taxation, so the proposed changes would affect many nonprofits of varying sizes.
Affordable Care Act individual mandate	• Makes no changes.	• Effectively repeals the individual mandate.	• **Effectively repeals the individual mandate, effective in 2019.**	• Repealing the individual mandate will likely mean that more North Carolinians don't have health insurance, leading to more need for the services of health care organizations and other nonprofits. It also will likely lead to an increase in health care premiums for nonprofits that provide health coverage for their employees.
Donor advised funds	• Requires nonprofits with donor advised funds (DAFs) to disclose annually their policies on inactive DAFs and the average amount of	• Makes no changes.	• **Makes no changes.**	• The Center does not have a position on this provision.

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	grants made from their DAFs. • Does not include new payout requirements for DAFs, which was a concern of some nonprofits and community foundations.			
Private foundation excise tax	• Establishes a streamlined private foundation excise tax of 1.4%, which is between the two current rates of 2% and 1%. • The Joint Committee on Taxation estimates that this will raise about $500 million in revenue over a decade, which means that it is an overall tax increase on private foundations.	• Makes no changes.	• **Makes no changes.**	• The Center has concerns that the House provision will reduce overall private foundation assets, which will lead to fewer and small grants to charitable nonprofits.
Nonprofit colleges and universities	• Creates 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.	• Creates 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. • The final version removed a provision that would have exempted one private college from the tax because it does not receive federal funding.	• **Creates 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, more than 500 full-time students, and more than 50% of their students in the United States.**	• The Center opposes this provision because it creates a new tax on certain 501(c)(3) profits, taking money away from these schools' tax-exempt missions and creating a new tax on donations to these institutions. • This sets a precedent of taxing nonprofit endowments and could ultimately open the door to taxing endowments of other 501(c)(3) organizations.
Volunteer mileage rate	• The rate that volunteers can claim for driving on behalf of nonprofits would be adjusted for inflation. For years, this rate has been fixed in statute at 14 cents per mile, which is far below the standard mileage rate and the actual cost volunteers incur when they	• Makes no changes.	• **Makes no changes.**	• The Center supports adjusting the volunteer mileage rate for inflation. This could decrease the cost of volunteering for certain types of 501(c)(3) nonprofits (*e.g.* Meals on Wheels) and sends the message the volunteers time and expenses are valued.

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	drive their vehicles on behalf of nonprofits.			
Highly-compensated nonprofit employees	• Imposes a new 20% excise tax on nonprofits that provide compensation of $1 million or more to any of their five highest-paid employees.	• Imposes a new 20% excise tax on nonprofits that provide compensation of $1 million or more to any of their five highest-paid employees.	• **Imposes a new 21% excise tax on nonprofits that provide compensation of $1 million or more to any of their five highest-paid employees.**	• The Center does not have a position on this provision.
Art museums	• Requires art museums that are private operating foundations to be open to the public for at least 1,000 hours per year.	• Makes no changes.	• **Makes no changes.**	• The Center does not have a position on this provision.
Donor acknowledgment requirements	• Repeals a tax law that exempts nonprofit donors from having a written acknowledgment from a nonprofit if the nonprofit provides the IRS with information about the contribution in its tax filings.	• Repeals a tax law that exempts nonprofit donors from having a written acknowledgment from a nonprofit if the nonprofit provides the IRS with information about the contribution in its tax filings.	• **Repeals a tax law that exempts nonprofit donors from having a written acknowledgment from a nonprofit if the nonprofit provides the IRS with information about the contribution in its tax filings.**	• The Center supports this change, since it could prevent future IRS regulations on gift substantiation that could create operational and risk management concerns for nonprofits.
Qualified tuition reductions and employer-provided tuition assistance	• Repeals current laws that exclude from income tuition benefits that nonprofit schools provide to family members of faculty and staff and that employers pay to undergraduate and graduate students who work for them.	• Makes no changes.	• **Makes no changes.**	• The Center does not have a position on these provisions.

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