



FEDERAL LEGISLATIVE UPDATE

December 7, 2017

TO: Membership
FROM: Noelle Ellerson Ng, Legislative Liaison
DATE: December 7, 2017
RE: Tax Cuts & Jobs Act: House and Senate Comparison

As the president and Congress move forward with their efforts to overhaul the federal tax code, it is important to have an understanding of how the proposed reforms will affect education. Tax reform and related changes may not affect education as directly as changes in annual federal funding (appropriations), but the potential consequences are significant. That is how we came to be engaged in the current effort to overhaul federal tax code. AESA, in partnership with AASA, efforts in monitoring the tax bill have been focused on specific policies that will impact public education. We provided a summary of these issues in a [memo](#) this summer, and issued various resources with detailed analysis on [the blog](#). This memo is an update on the status of the efforts and the bills that have been adopted.

Both the House and Senate have passed their respective versions of the Tax Cuts & Jobs Act. The bills will now go through the process of conference, where by the chambers will reconcile the differences that exist between the bills and emerge with one final bill that will then need to be adopted by both chambers and then signed into law by the president. Congressional Research Service prepared a white paper on what the conference process involves, which you can access [here](#).

In terms of understanding what will be in play at conference, the contents of the House and Senate bill should be grouped into three categories: items that are the same in both bills; items that are in both bills but are not identical; and items are in one bill, but not the other. The Joint Committee on Taxation issued a [comparison](#) of the two bills which details where the bills address the same provisions identically; where they address the same provision differently; and where one bill (but not both) addresses a provision.

Education Impact: AESA in partnership with AASA has centered our engagement in tax policy on four specific provisions (state and local tax deduction; expansion of 529 plans; changes to school construction finance bond options; and reliance on deficit financing to pay for the tax cuts). Details of our position can be found in our letters of opposition as sent to both the [House](#) and [Senate](#). There are other policies that impact education, some of which are included in the analysis below.

- **State and Local Tax Deduction (SALT-D):** Currently, tax payers can deduct the amount they pay in state and local taxes before calculating their federal income tax. Both the House and Senate bills make changes to how individuals can deduce SAL taxes, but not corporations. The bills allow for

the deduction of property taxes (Capped at \$10,000) and eliminate the deduction for income and personal property taxes).

- 529 College Savings Plans: Currently, tax payers can put money away to pay costs associated with postsecondary education. The benefit associated with these accounts (the accrued/compounded interest) is not taxed when the dollars are drawn down for eligible college expenses, and annual withdrawals are capped at \$2000. Under both the House and Senate bills, the plans would be expanded to allow withdrawals of up to \$10,000 per year and expand the plans to allow the funds to be used for costs associated with public/private elementary/secondary education. The Senate bill also expands the program allows the withdrawals to be used for home-schooling expenses. Both bills permit unborn children to be designated as beneficiaries. This is an unnecessary work around, as an adult could create an account in their name and transfer it to their child (once born). This move is perceived as a play tied more to the pro-life/pro-choice debate.
- Bonds: Currently, school districts have access to a variety of bonds and financing options when it comes to paying for/affording capital and infrastructure projects. These programs include Qualified Zone Academy Bonds (QZABs), advanced refunding, and private activity bonds. (You can read a good explainer on the [blog](#).) The House bill eliminates QZABs, QCEBs, advanced refunding and private activity bonds. The Senate bill does not address tax credit bonds or private activity bonds, but does end advanced refunding effective December 31, 2017. If the changes go through, it would increase the costs incurred by school district association with financing school construction and renovation.
- Lack of Pay Fors: The tax cuts in the bill need to be paid for, and neither the House nor the Senate bill completely offset the costs associated with their plan. Instead, they have authorized themselves to raise the nation's deficit over ten years to pay for the portion they aren't paying for now (and (estimated to be \$1.5 trillion). Our organizations are concerned that should a tax plan that is deficit-financed move forward, Congress will feel pressure to make cuts elsewhere, and that those cuts will fall to education and non-defense discretionary spending. Congress already struggles to avoid deep cuts to important education programs as they work to comply with existing federal funding caps and constraints; a debt-financed tax reform would only exacerbate this tension and the depth of cuts to important education programs.
- Teacher Expenses: Current law allows eligible educators (including teachers) to exclude an amount not to exceed \$250 from income when those dollars were spent on books, supplies, professional development and other classroom expense. The House bill eliminates this exclusion; the Senate bill would double the maximum (to \$500).
- College Affordability: Current law provides a variety of supports and tax incentives that help make higher education affordable. The House bill consolidates the current higher education tax credits, repeals the deduction for interest paid on student loans, repeals the deduction for tuition and related expenses, repeals the exclusion of interest from savings bonds used to pay education expenses, repeals the exclusion of tuition reductions, and repeals the exclusion of employer-provided education assistance. The Senate bill makes none of these changes.
- Child Care Tax Credit: Current law allows an individual to claim a \$1,000 tax credit for a qualifying child under the age of 17. The House bill raises the credit to \$1,600 and phases out at \$230,00 income level (married). The Senate bill raises the credit to \$2,000 and phases out at \$500,000 income level (married).

Charts: The following pages include two charts. The first is a side by side comparison of the major provisions of the overall tax bill; the second is a side by side comparison of specific education-related provisions in the tax bills.

TAX BILL: MAJOR PROVISIONS			
Provision	Current Law	House Bill	Senate Bill
Individual Tax Rates	Seven Brackets (10%, 15% 25%, 28%, 33%, 35%, and 39.6%)	Four Brackets (12%, 25%, 35%, and 39.6%)	Seven Brackets (10%, 12%, 22%, 24%, 32%, 35%, and 38.5%)
Standard Deduction	Single (\$6,350) Married (\$12,700)	Single (\$12,000) Married (\$24,000)	Single (\$12,000) Married (\$24,000)
State and Local Tax Deduction	Income or sales and property SALTs are fully deductible for itemizers	Repeals SALT deduction for income and sales tax; caps property tax deduction at \$10k	Repeals SALT deduction for income and sales tax; caps property tax deduction at \$10k
Pass Through Tax Treatment	"Pass-through" income taxed at personal income tax rates	Maximum rate capped at 25%, 9% rate on first \$75k; income over 25% threshold subject to special rules that effectively raise the tax rate	Deduction allowed for 23% of qualifying 'pass-through' income; no other preferential rate
Corporate Tax Rate	Federal corporate tax rate of 35%	Permanent and immediate tax rate reduction to 20%	Permanent tax rate reduction to 20% in 2019
Expensing	Business expenses are deducted over multiple years	Five years of expensing for new equipment	Five years of expensing for new equipment; phased out after year five, and shorter depreciation for buildings
Child Tax Credit	\$1,000 credit for each child; credit phased out at \$110k (married)	\$1,600 credit; \$300 credit for each parent and non-child dependent; credit phased out at \$230k (married)	\$2,000 credit; \$500 credit for non-minor child dependents; credits phased out at \$500k (married)
International Tax Rules	Taxes worldwide corporate profits, which can be deferred minus taxes paid elsewhere	Moves toward territorial system that only taxes domestic profits; imposes a 10% international minimum tax and a 20% excise tax on certain	Moves toward territorial system that only taxes domestic profits; imposes a 10% tax on low-tax intangible income and certain

		transactions with foreign subsidiaries	transactions with foreign subsidiaries
Repatriation Tax	N/A	14% on liquid assets, 7% on physical assets	14.49% on liquid assets, 7.49% on physical assets
Obamacare Taxes	3.8% new investment income tax; individual mandate tax penalty; .9% Medicare payroll tax	No change	Repeals individual mandate
Estate Tax	40% tax on assets over \$5.49 million per person	Immediately doubles the basic exclusion and repeals the tax after 2024	Immediately doubles the basic exclusion; does not repeal the tax
Education	Two different education savings plans and seven other education incentives	Expanded 529 plans to include private and public K12 expenses; consolidates other education incentives into one expanded tax credit	Expanded savings plan to include private and public K12 expenses; consolidates other incentives into one expanded tax credit
Alternative Minimum Tax	Second, parallel tax system for certain business and individuals	Repeals both individual and corporate AMT	Retains both AMTs; raises individual exemption threshold

Source: goo.gl/zyuRDz

TAX BILL: MAJOR EDUCATION PROVISIONS			
Provision	Current Law	House Bill	Senate Bill
State and Local Tax Deduction	Income or sales and property SALTs are fully deductible for itemizers	Repeals SALT deduction for income and sales tax for individuals; caps property tax deduction at \$10k; preserves full SALT for corporations	Repeals SALT deduction for income and sales tax for individuals; caps property tax deduction at \$10k; preserves full SALT for corporations
Child Tax Credit	\$1,000 credit for each child; credit phased out at \$110k (married)	\$1,600 credit; \$300 credit for each parent and non-child dependent; credit phased out at \$230k (married)	\$2,000 credit; \$500 credit for non-minor child dependents; credits phased out at \$500k (married)
Tuition Waivers	Graduate students who work as research or teaching assistants are exempt from income tax on tuition waivers	Eliminated	Unchanged
Student Loan Interest Deduction	Allows taxpayers to deduct interest payments on student loans	Eliminated	Unchanged
Higher Education Tax Credits	Allows taxpayers to claim credit for expenses related to post secondary education	Combines existing credits into one (American Opportunity Tax Credit)	Unchanged
College Endowment Tax	N/A	Imposes an excise tax of 1.4% on investment income at private colleges with endowments of \$250,000/student (estimated to hit 65 to 70 colleges)	Imposes an excise tax of 1.4% on investment income at private colleges with endowments of at least \$500,000/student (Expected to impact 25-30 colleges)

529 education savings plans	Allows individuals to put money aside to pay for expenses related to post-secondary expenses, which they can draw down at \$2,000/year	Expanded 529 plans to include private and public K12 expenses, raises cap to \$10,000/year	Expanded 529 plans to include private and public K12 expenses, raises cap to \$10,000/year
Qualified Zone Academy Bonds (QZABs)	Allows public agencies (including districts) to use bonds that can be used for school renovation/repair	Eliminated	Unchanged
Advance Refunding Bonds	Allows states and localities to issue tax-exempt ARBs to refinance debt at lower interest rates	Eliminated	Eliminated
Private Activity Bonds	Allows states and municipalities to issue/back tax-exempt bonds	Eliminates the tax exemption for PABs	Unchanged