



December 18 Tax Update

The final version of the tax reform bill, which the House and Senate are set to approve this week, does not include the Lankford amendment, which would have allowed non-itemizers to deduct their charitable contributions. As the bill stands, with a doubling of the standard deduction and a reduction of other deductions such as those for mortgage interest and state and local taxes, the number of taxpayers who itemize deductions will drop dramatically. Backers of the bill claim that giving will not drop because a growing economy will allow people to give more, despite credible research that projects a different result. On the positive side, the final bill allows itemizers to deduct up to 60 percent of their income for cash gifts to charity, as opposed to 50 percent under current law.

Also of interest:

Johnson Amendment: the final bill does not include language weakening the Johnson Amendment, which is the provision in current law that forbids charities from taking sides for or against candidates in elections. The House bill had a provision allowing campaign participation so long as it is in the "ordinary course" of a charity carrying out its mission and involves "de minimis expenses." The House provision was dropped from the final bill for technical reasons, and we expect it will resurface in other bills, possibly very soon. In common with most of the charitable sector, AAMD opposes weakening the Johnson Amendment.

Private activity bonds: Private activity bonds are bonds with respect to which the State or local government serves as a conduit providing financing to certain types of organizations, including 501(c)(3) charities. Under current law, interest on these bonds is tax-exempt, making them cheaper for the borrower. The final bill does *not* include a House provision that would have ended tax exemption for interest paid on private activity bonds.

Advance refunding bonds: the final bill ends advance refunding bonds.

Historic tax credit: under current law, a 20-percent credit is provided for qualified rehabilitation expenditures with respect to a certified historic structure; a 10-percent credit is provided for a building that was first placed in service before 1936. The House bill would have repealed the rehabilitation credit entirely. The final bill repeals the 10-percent credit for pre-1936 buildings, but it retains the 20-percent credit for certified historic structures, with some modifications.

Higher education provisions: as has been widely reported in the mainstream press, the final bill removed provisions that would have treated tuition waivers as taxable income and that would have ended the deduction for interest paid on student loans. However, it retains a 1.4 percent excise tax on investment income of private colleges and universities with assets in excess of \$500,000 per student.

Executive compensation at tax-exempt organizations: the final bill includes a tax equal to 21 percent of the amount of individual salaries above \$1 million.

Estate tax: the final bill doubles the threshold for the estate tax, likely causing a drop in bequests.

UBIT: for an organization with more than one unrelated trade or business, the final bill requires that unrelated business taxable income first be computed separately with respect to each trade or business. The result of the provision is that a deduction from one trade or business for a taxable year may not be used to offset income from a different unrelated trade or business.

Private foundation museums: the final bill does *not* include a provision in the House bill that would have subjected private foundations that operate as museum to an excise tax unless the museum was open to the public for at least 1,000 hours per year.

[An explanation of the entire bill can be found here.](#)