

A View of the Sector One Year Later: Revisiting Tax Reform and Other Legislative Developments for Tax- Exempt Organizations

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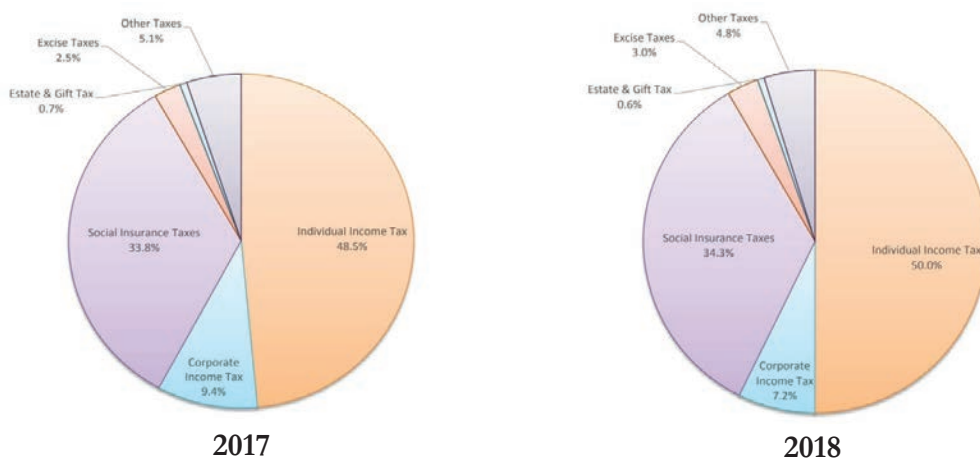
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Legislative Update

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Effect of Tax Cuts and Jobs Act: individuals pay more, corporations less



See Joint Committee on Taxation, Overview of the Federal Tax System in Effect for 2017 and 2018, JCX-17-17 and JCX-3-18

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Effect on nonprofits

- Major loss to charitable sector
 - Charities estimated to lose \$17.2 billion in donations in 2018 alone per American Enterprise Institute estimate
 - 21 million taxpayers will lose ability to claim a deduction
 - Charitable deduction now limited to top 9% of taxpayers
 - Most of loss attributable to combined effect of doubled standard deduction, \$10,000 state and local tax (SALT) cap, reduced mortgage interest deduction
 - Some of loss also due to increased estate tax exemption
- Longevity of charitable deduction in doubt as an incentive for high-income donors only

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JCT Bluebook on the TCJA

- The Joint Committee on Taxation has published a comprehensive technical explanation of the Tax Cuts and Jobs Act (Bluebook).
- The explanation clarifies certain ambiguities in the text.
- The Bluebook is nonbinding but instructive to Treasury when writing implementing regulations and is often cited in legal opinions.
- Ambiguities that can't be clarified through technical explanations may be added to the list of technical corrections for inclusion in future tax legislation.

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JCT Bluebook on the TCJA

- Section 4960 – Excess executive compensation
 - An applicable organization is intended to include state colleges and universities. A technical correction may be necessary.
 - Related organization rules are intended to apply to excess parachute payments and to determining covered employees. A technical correction may be necessary.
 - Remuneration paid to a licensed medical professional for medical services is not taken into account in determining covered employees.
 - “Medical services” are intended to include “direct medical services” but not teaching, research, or management or administrative activity of medical professionals
 - The liability for the excise tax on excess parachute payments is intended to be treated the same as the liability for the excise tax on remuneration. A technical correction may be necessary.

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JCT Bluebook on the TCJA

- Section 4968 – Excise tax on net investment income of private universities
 - Notes that if the assets of a related organization are earmarked or restricted for the educational institution, then they would be treated as assets of the educational institution.
 - If the assets of the related organization are held for unrelated purposes then the assets are disregarded.
 - Unless the assets are held by a controlled organization or supporting organization of the educational institution, in which case they are treated as assets of the educational institution
 - States that it is intended for the Secretary to issue regulations that describe: (1) assets that are used directly in carrying out the educational institution’s exempt purpose; (2) the computation of net investment income; and (3) assets that are intended or available for the use or benefit of the educational institution.

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