



NACo ANALYSIS OF H.R. 1

THE TAX CUTS AND JOBS ACT

House Tax Reform Plan Would Impact Key County Priorities

On November 2, House Ways and Means Chairman Kevin Brady (R-Texas) introduced H.R. 1, the Tax Cuts and Jobs Act. The introduction of the bill follows a year of work by Chairman Brady and House Republican leadership to craft a comprehensive tax reform package. The 452-page bill would alter nearly every portion of the tax code, including many key county priorities outlined below.

Broadly, the House Republican tax reform plan would lower individual and corporate tax rates and sets a new rate for so-called “pass through businesses,” or businesses that file on the individual side of the tax code. To make up revenue lost by lowering rates and to simplify the code, the package also eliminates or caps dozens of tax deductions and credits. Ultimately, the Joint Committee on Taxation estimates H.R. 1 will result in a roughly \$1.5 trillion increase in the national deficit over the next decade.

Both chambers of Congress intend to move quickly on the legislation, aiming to send a final bill to the president’s desk before Christmas. The House Ways and Means Committee is marking up the legislation November 6-9, with a floor vote expected as soon as November 15 or 16. The Senate is expected to release its version of the bill as early as November 9, with a potential mark-up starting Monday, November 13, and passage following Thanksgiving.

While the initial versions approved by each chamber could differ substantially, ultimately both chambers must agree on the same package before taking a final vote. Republicans plan to use the budget reconciliation process to pass the bill, which only requires a simple majority vote in the Senate but adds additional financial restrictions and rules to the legislation.

Many components of H.R. 1 will impact counties and the services they provide their residents. In addition to key county priorities, a list of other changes is included at the end to provide more context and information about the overall bill.

Here are the issues with the greatest impact on counties and their residents:

State and local tax (SALT) deduction

- **H.R. 1 Proposal:** The Tax Cuts and Jobs Act would retain the deduction for property taxes, capped at \$10,000 per tax filer, and it would fully eliminate the deductions for state and local income and sales taxes. Businesses and pass through filers, however, would still be able to deduct all state and local taxes. The provision would generate \$1.1 trillion in new revenue for the federal government.

- **Current law:** Any individual or family who itemizes their tax returns may deduct either state and local income taxes or state and local sales taxes paid. Any taxpayer who itemizes can also deduct property taxes paid.
- **Impact on counties:** Eliminating or capping the SALT deduction represents a significant revenue shift from state and local governments to the federal government. Additionally, any changes open the door to further cuts and caps by Congress. Homeowners and families are particularly hit hard by the proposal to limit the SALT deduction, since they are the most likely to see their tax rates increase. Additionally, the proposal could remove many home ownership incentives, potentially resulting in a decline in home values and leading to less local revenue generated through property tax assessments. Finally, the bill develops a double standard by denying the SALT deduction to individuals while retaining it for businesses.
- **Take action:** Call your representatives now and urge them to support full preservation of the SALT deduction in tax reform. (Call your senators as well, as the Senate version may repeal the deduction in its entirety.) Visit www.americansagainstdoubletaxation.org to access more information on the deduction, including new data on how the proposal would impact middle-class families.

Municipal bonds

- **H.R. 1 Proposal:** The tax reform package would retain the tax-exemption for municipal bond interest, with one exception: municipal bonds used for professional sports stadiums would no longer be tax-exempt. The proposal would generate \$200 million over ten years.
- **Current law:** Interest earned on all municipal bonds is tax-exempt.
- **Impact on counties:** Some counties own and maintain local professional sports stadiums, while others may consider building new ones. Narrowing the scope of tax-exempt municipal bonds opens the door to future changes to further restrict which types of projects can be supported by municipal bonds.
- **Take action:** Call your representatives and senators now and remind them of the importance of municipal bonds to all types of infrastructure projects.

Advance Refunding Bonds

- **H.R. 1 Proposal:** The tax reform package would eliminate the tax-exempt status of advance refunding bonds. Interest on current refunding bonds would continue to be tax-exempt. The provision would be effective for advance refunding bonds issued after 2017 and would generate \$17.3 billion over ten years.
- **Current law:** Under current law, governmental bonds – including municipal bonds – are permitted one advance refunding during the lifetime of the bond to refinance the bond. This allows public issuers to take advantage of fluctuations in interest rates to realize considerable savings on debt service, which ultimately benefits taxpayers.
- **Impact on counties:** The ability to advance refund outstanding bonds provides substantial savings to taxpayers and counties throughout the country. In 2016, the advance refunding of more than \$120 billion of municipal securities saved taxpayers at least \$3 billion. Best practices advanced by the Government Finance Officers Association (GFOA) recommend minimum savings thresholds on a present value basis of 3 percent to 5 percent when advance refunding municipal securities. The combined impact of all the bond proposals in H.R. 1

would be an additional \$60 billion in federal revenue at the expense of local governments and infrastructure development.

- **Take action:** Call your representatives and senators and ask them to support advance refunding bonds, a provision rewarding fiscal stewardship and saving taxpayer dollars.

Private Activity Bonds (PABs)

- **H.R. 1 Proposal:** Under the proposal, interest on newly issued PABs would be included as income and thus subject to tax. The provision would be effective for bonds issued after 2017 and would generate \$38.9 billion over the next 10 years.
- **Current law:** Under current law, interest earned on PABs is tax exempt.
- **Impact on counties:** While PABs generally benefit a larger percentage of the private sector than the proceeds of governmental bonds, counties and their local partners often leverage PABs to engage in targeted economic development and build moderate-to-low-income single-family housing, large hospitals, airports, seaports and water and sewer systems. By eliminating PABs, the federal government is dictating to states and local governments the types of financing methods they may use, thereby undermining vital projects that provide essential public services.
- **Take action:** Call your representatives and senators and ask them to support all types of financing for projects vital to local communities.

Cadillac Tax

- **H.R. 1 Proposal:** H.R 1 would not delay or repeal the so-called “Cadillac tax,” a 40 percent excise tax on “high value” employer-sponsored health plans.
- **Current law:** The Affordable Care Act (ACA) levied a 40 percent excise tax on high cost employer-sponsored health coverage. In the omnibus spending package passed in December 2015, Congress included a two-year delay of the implementation of the tax, which is scheduled to take effect in 2020.
- **Impact on counties:** There are 3.6 million county employees that serve over 308 million county residents, and healthcare coverage is one of the primary benefits counties use to attract and maintain a quality workforce. If the excise tax on employer-sponsored health insurance is implemented, counties will face a significant impact on their budgets and workforce.
- **Take action:** Call your representatives and senators and encourage them to include a full repeal of the Cadillac Tax in any comprehensive tax reform package. Health insurance contracts are typically set two years in advance, meaning counties must budget for potential changes well before they go into effect. A full repeal will ensure certainty as counties determine health plans for their employees.

New Markets Tax Credits

- **H.R. 1 Proposal:** The proposal would eliminate any new New Markets Tax Credits (NMTC) after 2017, two years prior to the program’s current expiration date. Credits already allocated may be used over the course of

up to seven years as contemplated by the credit's multi-year timeline. The proposal is estimated to generate \$1.7 billion over the next ten years.

- **Current law:** Under current law, certain qualifying investors may claim credits for developments in qualified community entities when they meet thresholds defined by law. These investments generally serve low- and middle-income families and individuals. The NMTC is currently authorized through 2019.
- **Impact on counties:** Many counties rely on private investment in single-family and multifamily affordable housing to help stimulate neighborhood revitalization. NMTC is one of many tools counties can use to encourage this investment, and losing incentives and private investment will strain county resources.
- **Take action:** Call your representatives and senators and ask them to support key tax code incentives that stimulate private investment in local affordable housing and neighborhood revitalization.

Renewable Energy Tax Credits

- **H.R. 1 Proposal:** The tax reform bill would alter some energy tax credits while leaving others unchanged. For example, the value of the wind energy tax credit would be reduced by from 2.3 cents per kilowatt hour to 1.5 cents per kilowatt hour, but the tax credit for the solar industry would remain unchanged until its expiration in 2022.
- **Current law:** Under current law, wind energy tax credits are extended at their current level through 2020, while solar credits are extended through 2022.
- **Impact on counties:** Many counties work to attract renewable energy development within their borders. Eliminating renewable energy credits could reduce incentives for companies to build new facilities, which generate new property taxes and create local jobs.
- **Take action:** NACo policy supports industry tax incentives for a wide range of renewable energy technologies. Ask your representatives and senators to treat renewable energy tax credits equally.

Below are some additional changes in the bill:

Medical Expense Deduction

- **H.R. 1 Proposal:** The proposal would eliminate the deduction for medical expenses and raise the standard deduction.
- **Current law:** Under current law, medical expenses that exceed 10 percent of an individual's adjusted gross income (AGI) may be deducted. While this provision impacts relatively few households (8.8 million filers in 2015), it assists filers with significant out-of-pocket medical costs, including nursing home costs, long term care insurance premiums, and other medical bills.
- **County impact:** Known as the "nursing home deduction," the Medical Expense Deduction is most commonly used by elderly and disabled patients in nursing homes. The elimination of the deduction could shift costs from private insurers to public sector programs like Medicaid, which many counties help finance, and increase uncompensated care in county-owned hospitals and nursing homes.

Mortgage Interest Deduction

- **H.R. 1 Proposal:** H.R. 1 would cap the mortgage interest deduction at \$500,000 and limit it to only one home.
- **Current law:** Under current law, individuals may use the mortgage interest deduction up to \$1 million for both their principal residence and one additional home.
- **County impact:** Many counties, especially in rural areas, rely on secondary home owners for seasonal residency and tourism. These secondary homes often generate substantial property tax revenues from non-residents supporting local schools, essential local government services and significant local employment through construction, upkeep and services.

Charitable Giving Deduction

- **H.R. 1 Proposal:** The proposed legislation would not alter the charitable deduction. However, estimates from the Joint Committee on Taxation (JCT) show the number of itemizers would be substantially reduced under the new plan, which could create a disincentive for giving.
- **Current law:** Under current law, individuals and families who itemize their tax returns may deduct their charitable contributions from their federally taxable income.
- **County impact:** County governments often rely on nonprofit charities for extensive partnerships and services, especially related to protective services for children and the elderly, substance and drug abuse services, disaster response and recovery, homelessness and workforce retraining services. As incentives for charitable giving are reduced, a projected decline in public giving for charitable services could increase demand and costs for county government services.

Deductions for Expenses Attributable to Being an Employee

- **H.R. 1 Proposal:** Under this provision, a taxpayer would not be allowed an itemized deduction for expenses attributable to being an employee. This includes those for certain expenses of state and local government officials, as well as school teachers and reserve components of the U.S. military.
- **Current law:** Under current law, taxpayers generally may claim expenses relating to the trade or business of being an employee only if they itemize deductions. Certain expenses attributable to the trade or business of being an employee, however, are allowed as above-the-line deductions, including those listed above.

Excise Tax on Private Colleges and Universities

- **H.R. 1 Proposal:** Under H.R. 1, certain private colleges and universities would be subject to a 1.4 percent excise tax on net investment income. The provision would only apply to private colleges and universities that have at least 500 students and assets (other than those used directly in carrying out the institution's educational purposes) valued at the close of the preceding tax year of at least \$250,000 per full-time student.

- **Current law:** Under current law, private foundations and certain charitable trusts are subject to an excise tax of up to 2 percent on their net investment income. However, this excise tax on net investment income does not apply to public charities, including colleges and universities.