

**Tax Reform Legislation  
Issues of Concern to ECFC Member and their Clients**

Issue	Current Law	ECFC Position	House Bill1 as introduced 11/2/17	House Bill as marked up by Ways & Means Committee 11/9/17	House Bill as passed by House 11/16/17	Senate Bill as introduced 11/9/17 <sup>2</sup>	Senate Bill as marked up by Finance Committee 11/17/17	Senate Bill as passed by Senate 12/2/17	Conference Committee report
Tax treatment of employer-provided health care benefits	Employees do not recognize income for employer-provided health benefits.	Supports the current law exclusion	No provision			No provision			
Tax treatment of employee contributions to defined contribution retirement plans (401(k), 403(b) and 457 plans)	Employee’s income is reduced by the deferrals made to these plans (unless they elect to make after-tax contributions)	Supports the current law	No provision			Places additional contribution limits on elective deferral to conform contribution limits among various defined contribution retirement plans. This provision raises 1.7 billion over 10 years.	Modification of the Chairman’s Mark eliminates the provision prohibiting employees with wages over \$500,000 from making a catch-up contribution.	Provision Stricken	

<sup>1</sup> The Tax Cuts and Jobs Act (H.R. 1)

<sup>2</sup> The Tax Cuts and Jobs Act [H.R. 1]

						Employees who have compensation of more than \$500,000 in the prior year cannot make a catch-up contribution. This provision raises .5 billion over 10 years. Provisions are effective for tax years beginning after 12/31/17.			
Tax provisions included in the Affordable Care Act (ACA)	<p>Taxes include:</p> <ul style="list-style-type: none"> <li>• Individual and employer mandate</li> <li>• Excise tax on high cost health plans ("Cadillac Tax")</li> <li>• Cap on employee contributions to health FSAs</li> <li>• OTC drugs cannot be reimbursed</li> </ul>	ECFC supports the repeal of all these taxes, particularly the Cadillac Tax	No provisions			No provision	Modification of the Chairman's Mark eliminates the individual mandate for months beginning after 12/31/18.	No changes	

	<ul style="list-style-type: none"> <li>Increase in tax penalty for disqualified distributions from an HSA</li> </ul>								
Dependent Care Assistance FSAs	Employees can reduce salary and receive reimbursements from an FSA for qualified dependent care assistance expenses	ECFC supports the continued maintenance of dependent care assistance FSAs	<p><b>§1404</b> Employer-provided dependent care assistance will no longer be tax exempt; consequently, dependent care assistance FSA will no longer be permitted. Revenue raised is \$3 billion over 10 years</p>	<p><b>Chairman's Amendment #1 - 11/6/17</b> The effective date of this provision will be delayed until 2023.</p>		No provision			
Transportation fringe benefits	Employers that provide qualified transportation fringe benefits can deduct those expenses as a business expense. This benefit is tax exempt to employees	ECFC supports the continued tax treatment of all transportation fringe benefits	<p><b>§§3307 and 3308</b> Employers can no longer deduct expenses for fringe benefits, including transportation fringe benefits; tax exempt employers will</p>			Employers can no longer deduct expenses for fringe benefits, including qualified transportation fringe benefits effective for tax years beginning after	No changes	No changes	

			<p>be subject to unrelated business income tax on any qualified transportation fringe benefits provided to employees. These benefits, however, will continue to be tax exempt to employees. Effective for amounts paid or incurred after 2017. Revenue raised is \$33.8 billion over 10 years.</p>			<p>12/31/17. This provision raises 6.1 billion over 10 years. Qualified bicycle commuting expenses will no longer be tax exempt to employees effective for tax years beginning after 12/31/17. This provision will raise less than 50 million over 10 years. Other qualified transportation fringe benefits continue to be tax exempt to employees.</p>			
Adoption Assistance Programs	<p>Payments of qualified adoption expenses by an employer-provided adoption assistance program is</p>	<p>ECFC supports the continued tax treatment of adoption assistance programs.</p>	<p><b>§1406</b> The exclusion for adoption assistance programs will be repealed effective in 2018. Revenue</p>			<p>No provision</p>			

	excluded from the employee's income.		raised is less than \$50 million over 10 years.						
Employer-provided education assistance	Employer-provided education assistance is excluded from the employee's income. The exclusion is limited to \$5,250 per year applying to both graduate and undergraduate courses. The education assistance must come from a written plan that does not discriminate in favor of highly compensated employees.	ECFC supports the continued tax treatment of employer-provided education assistance programs.	<b>§1204</b> The exclusion for education assistance programs will be repealed effective in 2018. Revenue raised by elimination of various education-related tax provisions is \$47.5 billion over 10 years.			No provision			
Health savings accounts ("HSAs")	Individuals with a high deductible health plan can make tax deductible contributions to a HSA.	ECFC supports HSAs and advocates for legislation increasing the amount that can be contributed	No provision. <sup>3</sup>			No provision			

<sup>3</sup> On November 1, 2017, House Ways and Means Chairman Brady and Senate Finance Chairman Hatch officially introduced the Healthcare Market Certainty and Mandate Relief Act (H.R.4200/ S. 2052) which increases HSA contribution limits to the out-of-pocket maximums imposed by the ACA.

		and other provisions making HSAs more consumer friendly							
Archer Medical Savings Accounts	Individuals with a high deductible health plan can make tax deductible contributions to an Archer MSA. Archer MSAs have essentially been superseded by the later enacted HSAs	Since Archer MSAs have essentially been superseded by HSAs, ECFC does not have a position regarding them	<b>§1311</b> Deductions will no longer be permitted for Archer MSAs. This provision will have negligible revenue impact.			No provision			
Itemized deduction for qualified medical expenses	Taxpayers can deduct qualified medical expenses that exceed 10% of the taxpayer's adjusted gross income. This code provision provides the definition of what is a qualified medical expense, which is used in determining what amounts can be ay or reimbursed from employer-provided health plans.	No position	<b>§1308</b> The itemized deduction for qualified medical expenses is eliminated. The definition of what is a qualified medical expense remains the same, however, the provision is now included in the section of the Code which			No provision			

