DESCRIPTION OF H.R. 6760, THE "PROTECTING FAMILY AND SMALL BUSINESS TAX CUTS ACT OF 2018"

Scheduled for Markup
by the
HOUSE COMMITTEE ON WAYS AND MEANS
on September 13, 2018

Prepared by the Staff
of the
JOINT COMMITTEE ON TAXATION



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INTRODUCTION

The House Committee on Ways and Means has scheduled a markup on September 13, 2018, of H.R. 6760, the "Protecting Family and Small Business Tax Cuts Act of 2018." This document,[1] prepared by the staff of the Joint Committee on Taxation, provides a description of the bill.

[1] This document may be cited as follows: Joint Committee on Taxation, *Description of H.R. 6760, the "Protecting Family and Small Business Tax Cuts Act of 2018,"* (JCX-69-18), September 12, 2018. This document can also be found on the Joint Committee on Taxation website at www.jct.gov. All section references herein are to the Internal Revenue Code of 1986, as amended, unless otherwise indicated.

TITLES I AND II− INDIVIDUAL REFORM MADE PERMANENT AND INCREASED EXEMPTION FOR ALTERNATIVE MINIMUM TAX MADE PERMANENT

Present Law

On December 22, 2017, Public Law 115-97[2] ("the Act") was enacted into law. The Act made numerous changes to the individual income tax system, many of which expire for taxable years beginning after December 31, 2025. These temporary provisions include the following:

1. The Act modifies the tax rates and tax bracket breakpoints in order to provide tax relief to individuals.[3] For taxable years beginning after December 31, 2025, the tax rates and brackets revert to their inflation-adjusted levels based on the law as in existence in 2017.[4]

2. The Act modifies the tax on unearned income of a minor child (known as the "kiddie tax") such that the tax is generally imposed using the tax brackets applicable to trusts and estates, rather than with reference to the child's parents' tax situation.[5]

3. The Act creates a deduction for qualified business income, generally equaling up to 20-percent of non-wage income for qualified individuals.[6]

4. The Act limits the deduction for business losses to $500,000 for joint filers and $250,000 for other individuals.[7]

5. The Act increases the standard deduction to $24,000 for married taxpayers filing jointly and surviving spouses, $18,000 for heads of household, and $12,000 for all other

[2] 31 Stat. 2054.

[3] Sec. 11001 of the Act and sec. 1 of the Code.

[4] Because the Act modified the method used to index dollar amounts in the Code, switching the measurement of inflation from the Consumer Price Index ("CPI") to the Chained Consumer Price Index ("C-CPI-U") the C-CPI-U, and because this switch does not expire, the actual tax bracket breakpoints are projected to be lower in 2026 than they would have been had the Act not been enacted.

[5] Sec. 11001 of the Act and sec. 1 of the Code.

[6] Sec. 11011 of the Act and new sec. 199A of the Code. Note that the treatment of income relating to cooperatives under section 199A (as originally enacted on December 22, 2017) was modified by the Consolidated Appropriations Act, 2018, Pub. L. No. 115-141, enacted on March 23, 2018. For a description of the modification, see Joint Committee on Taxation, *Technical Explanation of the Revenue Provisions of the House Amendment to the Senate Amendment to H.R. 1625 (Rules Committee Print 115-66)*, JCX-6-18, March 22, 2018, pp. 5-27.

[7] Sec. 11012 of the Act and sec. 461 of the Code.

taxpayers.[8] These amounts are indexed for inflation. For taxable years beginning after December 31, 2025, the standard deduction reverts to its inflation-adjusted 2017 levels.

6. The Act increases the child tax credit from $1,000 to $2,000, and increases the phaseout thresholds to $400,000 for married couples filing a joint return ($200,000 for all other taxpayers).[9] Additionally, the Act provides for a $500 non-refundable credit for non-child dependents. The refundable child tax credit is modified by lowering the earned income threshold from $3,000 to $2,500, and increasing the maximum value of the refundable credit to $1,400 (indexed). Finally, the Act modifies the identification requirements applicable to a child on whose behalf the credit is claimed, requiring that the child's taxpayer identification number be a Social Security number issued by the due date of the return in order to qualify for the $2,000 credit.

7. The Act increases the charitable contribution percentage limit from 50 percent to 60 percent of the contribution base (generally, adjusted gross income) for contributions of cash to organizations described in section 170(b)(1)(A) (generally, public charities and certain private foundations that are not nonoperating private foundations).[10]

8. The Act allows ABLE account owners to make contributions of earned income, but not in excess of the Federal poverty line, to their ABLE accounts, in addition to the limitations imposed on other contributions made to such accounts.[11] Additionally the Act allows individuals who make such contributions to be eligible for the saver's credit. These modifications do not apply for contributions made to ABLE accounts after December 31, 2025.

9. The Act allows amounts in qualified tuition programs (known as 529 accounts) to be rolled over into ABLE accounts, subject to the overall contribution limits on ABLE accounts.[12] This provision does not apply to rollovers made after December 31, 2025.

10. The Act grants combat zone tax benefits to those members of the Armed Forces serving in the Sinai Peninsula of Egypt.[13]

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[8] Sec. 11021 of the Act and sec. 63 of the Code.

[9] Sec. 11022 of the Act and sec. 24 of the Code.

[10] Sec. 11023 of the Act and sec. 170(b)(1)(G) of the Code.

[11] Sec. 11024 of the Act and sec. 529A of the Code.

[12] Sec. 11025 of the Act and secs. 529 and 529A of the Code.

[13] Sec. 11026 of the Act, affecting various Code sections.

11. The Act reduces the threshold above which unreimbursed medical expenses may be deducted from 10 percent to 7.5 percent of adjusted gross income ("AGI") for taxable years beginning after December 31, 2016 and ending before January 1, 2019.[14]

12. The Act provides that certain student loans that are discharged on account of the death or disability of the borrower are excluded from gross income.[15] This exclusion does not apply for student loans discharged after December 31, 2025.

13. The Act reduces the amount of the personal exemption deduction to zero.[16] For taxable years beginning after December 31, 2025, the personal exemption deduction reverts to its inflation-adjusted 2017 level.

14. The Act limits the itemized deduction for State and local property taxes (other than paid or accrued in carrying on a trade or business, or an activity described in section 212) and State and local income, war profits, and excess profits taxes (or sales taxes in lieu of income taxes) to $10,000 for all taxpayers other than married taxpayers filing separate returns, for whom the limit is $5,000.[17] The Act also repeals the deduction for foreign real property taxes (other than paid or accrued in carrying on a trade or business, or an activity described in section 212).

15. The Act reduces the $1 million limitation of acquisition indebtedness with respect to which interest is deductible to $750,000 ($375,000 in the case of married taxpayers filing a separate return) in the case of acquisition indebtedness incurred on or after December 15, 2017.[18] Additionally, under the Act, home equity interest is not deductible.

16. The Act suspends the deduction for a personal casualty loss, or for theft, unless such casualty loss or theft is attributable to a disaster declared by the President under section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act.[19]

17. The Act suspends the deduction for miscellaneous itemized deductions.[20]

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[14] Sec. 11027 of the Act and sec. 213 of the Code.

[15] Sec. 11031 of the Act and sec. 108 of the Code.

[16] Sec. 11041 of the Act and sec. 151 of the Code.

[17] Sec. 11042 of the Act and sec. 164 of the Code.

[18] Sec. 11043 of the Act and sec. 163 of the Code.

[19] Sec. 11044 of the Act and sec. 165 of the Code.

[20] Sec. 11045 of the Act and sec. 67 of the Code.

18. The Act suspends the overall limitation on itemized deductions (commonly referred to as the "Pease limitation").[21]

19. The Act suspends the exclusion from gross income and wages for qualified bicycle commuting reimbursements.[22]

20. The Act suspends the exclusion from gross income and wages for qualified moving expense reimbursements for all taxpayers other than members of the Armed Forces of the United States on active duty who move pursuant to a military order and incident to a permanent change of station.[23]

21. The Act suspends the above-the-line deduction for moving expenses incurred in connection with the relocation of a taxpayer for a new principal place of work for all taxpayers other than members of the Armed Forces of the United States on active duty who move pursuant to a military order and incident to a permanent change of station.[24]

22. The Act provides that wagering losses, and the limitations applicable to those losses, include expenses incurred in connection with the conduct of such individual's gambling activity (and not only the actual costs of the wagers incurred by such individual).[25]

23. The Act doubles the estate and gift tax exemption amounts, such that for 2018 the exemption amount is $11.2 million per individual.[26] For estates of decedents dying and gifts made after December 31, 2025, the exemption amount reverts to its inflation-adjusted 2017 amount.

24. The Act increases the alternative minimum exemption tax amount to $109,400 for joint returns and surviving spouses (half this amount for married taxpayers filing a separate return) and $70,300 for all other taxpayers (other than trusts and estates). Additionally the phaseout thresholds for the exemption amount are increased to $1,000,000 for married taxpayers filing a joint return and $500,000 for all other taxpayers (other than trusts and estates).[27]

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[21] Sec. 11046 of the Act and sec. 68 of the Code.

[22] Sec. 11047 of the Act and sec. 132(f) of the Code.

[23] Sec. 11048 of the Act and sec. 132(g) of the Code.

[24] Sec. 11049 of the Act and sec. 217 of the Code.

[25] Sec. 11050 of the Act and sec. 165(d) of the Code.

[26] Sec. 11061 of the Act and sec. 2010 of the Code.

[27] Sec. 12001 of the Act and sec. 55 of the Code.

Description of Proposal

For all of the above-described provisions except the reduction of the unreimbursed medical expense threshold, the proposal repeals the December 31, 2025 expiration date. Thus, under the proposal, these described provisions, which otherwise would expire for taxable years beginning after December 31, 2025, are made permanent.

The provision extends the reduction of the threshold above which unreimbursed medical expenses may be deducted, so that this reduction in the threshold from 10 percent to 7.5 percent of AGI applies to taxable years beginning after December 31, 2016 and ending before January 1, 2021.

Other modifications contained in the proposal

The proposal makes other modifications to certain provisions relating to the Act.

Modification to capital gains bracket breakpoints

The proposal modifies the breakpoints between the zero and 15-percent rate on long-term capital gains and qualified dividends, conforming the breakpoints to the maximum ordinary income amounts taxed at rates below the 22-percent bracket breakpoint on ordinary income. This modification assures that taxpayers cannot have long-term capital gains income taxed at a higher rate of tax than ordinary income would be taxed. The capital gains breakpoints applicable to trusts and estates are not modified under this provision.

Modification of return requirement

The proposal modifies the tax filing requirement so that a married taxpayer does not need to file an income tax return if the combined gross income of the taxpayer (individual and spouse) is less than the applicable standard deduction, even if the individual and spouse do not have the same household as their home at the close of the taxable year. [28]

Modification to section 15

Section 15 provides a rule for the computation of tax in the event of a tax rate change (or a repeal of a tax) for a taxable year beginning on a date other than the first date of a taxpayer's taxable year. This provision does not apply to changes due to individual inflation adjustments or to changes in the individual tax rates made by the various tax Acts enacted in recent years. The proposal modifies section 15 to apply only to changes in corporate tax rates.

[28] Sec. 6012(a)(1)(A)(iv).

Technical and clerical modifications contained in the proposal

Modification of rules related to rounding of income tax brackets

The proposal modifies the rounding rule applicable to the income tax brackets applicable to heads of household, so as to conform those rules to those that apply to the tax brackets applicable to unmarried individuals. Under the proposal the income tax brackets for heads of household, unmarried individuals, and married individuals filing separately all round to the next lowest multiple of $25.

ITIN requirement for non-child dependents

The proposal clarifies that a taxpayer identification number is necessary with respect to any non-child dependent for whom the $500 non-refundable credit is claimed. The taxpayer identification number may be either a Social Security number or an individual taxpayer identification number.

Gross income requirement for non-child dependent

The proposal makes a technical change to provide that, as under 2017 law, an individual other than a child may qualify as a dependent of another taxpayer if such individual has gross income not in excess of $4,150. This amount is indexed for inflation.

Increased limitation for certain charitable contributions

The proposal provides that the 60-percent limit for cash contributions is applied after (and reduced by) the amount of noncash contributions to organizations described in section 170(b)(1)(A). For example, assume an individual with a contribution base of $100,000 for the taxable year makes a contribution of unappreciated property with a fair market value of $50,000 and a contribution of $10,000 cash to a qualified public charity. Under the proposal, the cash contribution limit is determined after accounting for noncash contributions. Thus, in the above example, the $50,000 contribution of unappreciated property is accounted for first, using up the entire 50-percent contribution limit described in section 170(b)(1)(A), but leaving $10,000 in allowable cash contributions under the 60-percent limit.

Limitation on deduction for State and local, etc. taxes

The proposal makes a technical change to clarify that the $10,000 limitation on the itemized deduction for State and local property taxes (other than paid or accrued in carrying on a trade or business, or an activity described in section 212) and State and local income, war profits and excess profits taxes (or sales taxes in lieu of income taxes) applies with respect to all such State and local taxes otherwise deducible under chapter 1 of the Internal Revenue Code.

Effective Date

The proposal is generally effective for taxable years beginning after December 31, 2017.