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## Trump unveils recalibrated tax plan

Republican presidential nominee Donald Trump this week released a recalibrated tax and economic plan that includes major revisions and clarifications of many of the business and individual proposals he included in the tax policy platform he unveiled last year – plus a new set of tax breaks specifically targeting families facing child care and elder care expenses.

### An evolving tax plan

Trump's original tax reform plan was released in September 2015, well before he had won the GOP nomination. That plan was criticized by Democrats, as well as some Republicans, for being too costly – the nonpartisan Tax Policy Center estimated the plan could lose nearly $10 trillion in revenue over the next decade – and for targeting its tax reductions primarily at upper-income households.
**URL:** https://assets.donaldjtrump.com/trump-tax-reform.pdf

Trump attempted to address some of those concerns in an August 8 speech at the Detroit Economic Club by, most significantly, announcing that his tax platform now includes a top individual rate of 33 percent (with two other brackets at 12 and 25 percent), rather than the 25 percent top rate included in his original plan. He also announced during his Detroit address that a revised plan was in the works. (For prior coverage of Trump's original tax plan and



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the changes he outlined in his Detroit speech, as well as the tax platform of Democratic presidential nominee Hillary Clinton, see *Tax News & Views*, Vol. 17, No. 27, Sep. 6, 2016.)
**URL:** http://newsletters.usdbriefs.com/2016/Tax/TNV/160906_1.html

A fact sheet released by the Trump campaign on September 15 – in conjunction with a broader economic policy speech delivered by the candidate at the Economic Club of New York – includes several additional policy changes that together represent a significant overhaul of Trump's tax platform and that, in general, appear designed to reduce the original plan's cost and target its benefits on the individual side more toward the middle class.
**URL:** https://www.donaldjtrump.com/positions/tax-reform
**URL:** https://www.donaldjtrump.com/press-releases/trump-delivers-speech-on-jobs-at-new-york-economic-club

**Changes affecting businesses**

Consistent with his original plan, the September 15 fact sheet reiterates Trump's support for reducing the top corporate rate from 35 percent to 15 percent. Although the fact sheet the campaign initially released was unclear on whether the 15 percent corporate rate would also apply to passthrough businesses, an updated version released later on September 15 affirmatively states that the 15 percent rate would be "available to all businesses, both big and small, that want to retain the profits within the business." That clarification, however, has sparked a new debate among commentators over how to interpret the phrase "that want to retain the profits within the business" – an issue that Trump campaign officials had not been able to resolve by press time.

**Expensing of capital investments, deduction for business interest:** Trump's original tax reform plan did not propose to allow full expensing of capital investments in year one. At the same time, that plan proposed to phase in a "reasonable cap" on the deductibility of business interest.

In his Detroit speech on August 8, however, the candidate announced that he did, in fact, support full expensing – thus aligning himself with a policy that is becoming increasingly popular among congressional Republicans and that is included in the House GOP tax reform blueprint unveiled on June 24 by Speaker Paul Ryan of Wisconsin and Ways and Means Committee Chairman Kevin Brady of Texas. (For coverage of the blueprint, see *Tax News & Views*, Vol. 17, No. 23, June 24, 2016.)
**URL:** http://newsletters.usdbriefs.com/2016/Tax/TNV/160624_1.html

The September 15 fact sheet further clarifies – and narrows – Trump's positions on expensing and interest deductibility. According to the document, firms engaged in US manufacturing may elect to deduct the full cost of their capital investments in year one. However, businesses that make the expensing election will lose their ability to deduct interest expense.

**International reform:** The fact sheet reiterates Trump's support for a one-time deemed repatriation of accumulated deferred foreign income at a 10 percent tax rate. Although the document does not specify as much, it is assumed that Trump's original proposal to repeal deferral of US tax on active foreign-source income still stands.

**Research credit, other corporate tax expenditures:** The fact sheet states that Trump's plan would repeal most corporate tax expenditures *except for* the research credit. (Trump's original plan made a similar broad call to repeal most corporate tax preferences, but did not specifically state that the research credit should be retained.)

The only proposed *expansion* of a corporate tax preference mentioned in the fact sheet is the section 45F tax credit for employer-provided child care facilities, which Trump proposes to increase from $150,000 per year to $500,000 per year of qualified expenses. (See additional details in the discussion of family tax relief below.)

**Changes affecting individuals**

The latest campaign document reiterates Trump's support for three rate brackets of 12 percent, 25 percent, and 33 percent for individual taxpayers which he proposed in his Detroit speech last month. However, the fact sheet also elaborates on the income thresholds at which those brackets would apply. Specifically, for married taxpayers filing jointly, the fact sheet notes that the 12 percent bracket would apply to taxable income up to $75,000, the 25 percent bracket would apply to taxable income between $75,000 and $225,000, and the 33 percent bracket would apply to taxable income over $225,000. For single filers, the bracket thresholds would be half of these amounts.


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**Standard deduction:** In a change from his original plan, Trump now proposes to increase the standard deduction for single and joint filers to $15,000 and $30,000, respectively. His original plan called for significantly larger standard deductions of $25,000 and $50,000.

The fact sheet also states that Trump's plan would eliminate personal exemptions and the head-of-household filing status.

**Itemized deductions:** Another significant change from his original plan calls for capping itemized deductions at $200,000 for joint filers and $100,000 for single filers. Trump's original plan proposed to phase out most itemized deductions, tighten the so-called "Pease" limitation, and keep the deductions for mortgage interest and charitable giving unchanged for all taxpayers.

**Capital gains:** Consistent with his original plan, the fact sheet calls for a top capital gains rate of 20 percent and repeal of the 3.8 percent net investment income tax. The document also reiterates Trump's proposal to treat income from carried interests as ordinary in character.

**Alternative minimum tax:** Consistent with his original plan, the fact sheet proposes to repeal the alternative minimum tax for both individuals and corporations.

**Estate tax:** The fact sheet reiterates Trump's support for repealing the estate tax. However, in a significant change from the original plan, the document now states that Trump would tax capital gains on appreciated assets held at death to the extent such gains exceed $10 million. (The fact sheet does not specify whether the $10 million threshold would apply per person or per couple.) Without elaborating, the document also states that, in order to prevent abuse, "contributions of appreciated assets into a private charity established by the decedent or the decedent's relatives will be disallowed."

### Family tax provisions

Trump's proposed new family tax benefits, which he unveiled at a speech in Philadelphia on September 13, include a new above-the line deduction for taxpayers facing child care and elder care expenses, a new tax-preferred savings account to encourage families to set aside funds for caregiving expenses, and expanded incentives for employers who offer on-site child care to their employees.

**Deduction for child care/elder care expenses:** According to a position paper released in conjunction with the Philadelphia speech, the proposal would provide an above-the-line deduction for child care expenses for up to four children per family, from birth to age 13, with the deduction amount capped at "the average cost of child care in the state of residence for the age of the child." The deduction would be available to itemizers and non-itemizers, and would apply to families that use paid child care providers as well as families that rely on a stay-at-home parent or an unpaid relative to meet their child care needs.
**URL:** https://www.donaldjtrump.com/positions/child-care-reforms-that-will-make-america-great-again

A separate fact sheet provided by the campaign states that the deduction would be limited to couples earning up to $500,000 a year and individuals earning up to $250,000. To assist families with no income tax liability, the proposal calls for a "boost" in the Earned Income Tax Credit of "half of the payroll taxes paid by the lower-earning parent," subject to an income limitation of $31,200 for individuals and $62,400 for joint filers.
**URL:** https://assets.donaldjtrump.com/CHILD_CARE_FACT_SHEET.pdf

A similar above-the-line deduction would be available to families who incur expenses for home care or adult day care for an elderly dependent relative. The deduction would be capped at $5,000 a year, indexed annually for inflation.

**Dependent Care Savings Accounts:** In addition to the new deduction, Trump proposes the creation of tax-preferred Dependent Care Savings Accounts (DCSAs) to allow families to "set aside extra money to foster their children's development and offset elder care for their parents or adult dependents." The fact sheet indicates the accounts would be "available to everyone" and would "allow both tax-deductible contributions and tax-free appreciation year to year."

DCSAs would be established for the benefit of specific individuals. Those established for a minor child – including an unborn child – could "be applied to traditional child care, after-school enrichment programs, and school tuition."


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Accounts established for an elderly dependent could “cover a variety of services, including in-home nursing and home care.”

Contributions to a DCSA would be capped at $2,000 a year from all sources, which according to the campaign would include the parents of a minor child, the individual establishing an elder care account, immediate family members of the account owner, and the employer of the account owner. Rollovers of accumulated account balances would be permitted from year to year. Contributions to a DCSA established for a child would not be permitted once the child reaches age 18; however, any funds remaining in the account when the child reaches 18 could be used to pay for education expenses.

Lower-income parents who open a DCSA for a minor child would receive a government match for 50 percent of the first $1,000 deposited per year. The campaign also notes that parents who qualify for the Earned Income Tax Credit would be able to “check a box [on their tax returns] to directly deposit any portion of their EITC into their child care savings account.”

**Paid maternity leave:** A proposal to provide six weeks of paid maternity leave for new mothers would operate outside of the tax code, with benefits provided through the unemployment insurance program and costs offset through savings within the program (for example, by reducing improper payments).

**Incentives for employer-provided child care:** Under current law, employers are eligible for a tax credit equal to 25 percent of qualified expenses for providing on-site employee child care and 10 percent of qualified expenses for child care resource and referral services, up to a maximum of $150,000 per year. A portion of credits taken for the expenses of acquiring, constructing, rehabilitating, or expanding a qualified child care facility is subject to recapture if the facility is closed within the first 10 years after being placed in service. According to the fact sheet the campaign released in conjunction with his September 15 economic address, Trump would increase the cap to $500,000 and shorten the recapture period to five years. The campaign has also indicated – without elaboration – that Trump intends to “devise ways for companies to pool resources in order to make the credit more attractive.”

### Cost

Trump’s revised tax plan is not yet detailed enough to allow for a reliable estimate of its impact on the federal budget. Trump said during his New York speech, however, that his economic advisors have pegged the 10-year cost of his plan – including the new package of family benefits – at $4.4 trillion under a traditional “static” model and $2.6 trillion under a “dynamic” model that takes into account the impact of economic growth. According to Trump, “the growth-induced savings from trade, energy and regulation reform will shave at least another $1.8 trillion off of the remaining cost.” The remaining $800 billion, he contended, could be recouped through savings in spending programs excluding defense and entitlements.

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## House OKs lower floor for claiming medical expense deduction

House Republicans this week advanced their September tax legislative agenda as the chamber approved a measure expanding the itemized deduction for medical expenses and the Ways and Means Committee approved an assortment of targeted tax relief bills.

### Medical expense deduction

The House voted 261-147 on September 13 to pass legislation (H.R. 3590) sponsored by Rep. Martha McSally, R-Ariz., that would reduce the threshold for claiming the itemized deduction for medical expenses to 7.5 percent of adjusted gross income (AGI) for all taxpayers, effective for taxable years beginning after December 31, 2015. The final tally fell largely along party lines, with 236 Republicans and 25 Democrats voting in favor of the measure and 145 Democrats and 2 Republicans voting against it.


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The legislation would reverse a provision in the Patient Protection and Affordable Care Act of 2010 (PPACA) that increased the threshold for claiming the deduction to 10 percent of AGI. The 10 percent threshold took effect for tax years beginning in 2013 for taxpayers under 65 and is scheduled to become effective beginning in 2017 for taxpayers age 65 and older.

According to estimates from the Joint Committee on Taxation (JCT) staff, reinstating the 7.5 percent threshold would reduce federal revenues by $32.7 billion over 10 years.
**URL:** https://www.jct.gov/publications.html?func=startdown&id=4930

In remarks on the House floor ahead of the vote, Ways and Means Committee Chairman Kevin Brady, R-Texas, argued that the current-law 10 percent threshold for claiming the medical expense deduction "makes paying for [health] care even more difficult for individuals, families, and seniors who may already be struggling to afford the care they need." Returning the threshold to its prior-law level, he said, would advance GOP efforts to "make health care more affordable and accessible for the American people."

The measure is not expected to be taken up in the Senate and would face a likely veto if it were to reach President Obama's desk.

The White House contended in a September 13 statement of administration policy that although it was "willing to work with the Congress on fiscally responsible ways to further improve health care affordability and the Affordable Care Act., ...H.R. 3590 would be a step in the wrong direction because it would increase health care spending and increase the federal deficit, while doing little to improve the affordability of health care for middle-class families."
**URL:** https://www.whitehouse.gov/sites/default/files/omb/legislative/sap/114/saphr3590h_20160913.pdf

## Stock options, citrus plants, Olympic medals

For its part, the House Ways and Means Committee on September 14 approved separate bills that would allow rank-and-file employees at start-up companies and privately held companies to defer recognition of certain stock options, make it easier for citrus growers to deduct costs associated with replanting citrus crops that have sustained damage from "greening," and exempt certain awards to Olympic and Paralympic athletes from income.

**Empowering Employees through Stock Ownership Act (H.R. 5719):** The bill, sponsored by Ways and Means Committee member Erik Paulsen, R-Minn., and approved by voice vote, aims to incentivize start-up businesses to give employees equity in the company as compensation.

Paulsen explained at the mark-up that stock options are a "good means of attracting top talent to a business that is not yet profitable and does not have the ability to pay higher salaries that you might find at larger, more established companies." But he noted that many employees do not take advantage of the offered stock options because of their current-law tax treatment which requires income to be recognized for the taxable year in which the right to the stock is substantially vested – something that can cause liquidity problems for employees in smaller, privately held companies. Ways and Means member Joseph Crowley of New York, who co-sponsored the bill, noted that employees are "forced to pay taxes on phantom income of the fair market value of the stock at the time it was acquired. If the company is successful, the value of the stock and therefore the tax, could be pretty high."

H.R. 5719 provides that qualified employees of an eligible corporation (generally, one whose stock is not readily tradeable on an open securities market and that grants stock options to at least 80 percent of its employees) may elect to delay taxation of exercised options until the taxable year that includes the earliest of:

- The first date the qualified stock becomes transferable, including transferable to the employer.
- The date the employee first becomes an excluded employee – that is, one of a class of employees that includes certain owners, officers, and directors of the company; family members of those individuals; or certain highly compensated employees of the company. (Under the proposal, a company's excluded employees would not be eligible to take advantage of the deferral.)
- The first date on which any stock of the employer becomes readily tradable on an established securities market.
- The date seven years after the date the employee's right to the stock becomes substantially vested.
- The date on which the employee revokes his or her inclusion deferral election.


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The proposal generally would apply with respect to stock attributable to options exercised or restricted stock units settled after December 31, 2016.

The JCT staff estimates that the bill – which does not include offsets – would reduce federal receipts by just over $1 billion between 2017 and 2026. An amendment offered at the mark-up by Democratic co-sponsor Joseph Crowley that would have paid for the bill in full by increasing the oil spill trust fund excise tax by 2 cents per barrel starting in 2017 was rejected as not germane.

An identical Senate companion bill is sponsored by Finance Committee members Mark Warner, D-Va., and Dean Heller, R-Nev.

**Emergency Citrus Disease Response Act (H.R. 3597):** This bill, introduced by Ways and Means member Vern Buchanan, R-Fla., is a response to an outbreak of citrus greening, a bacterial infection affecting the vast majority of Florida citrus groves which is expected to wipe out 26 percent of the orange crop this year.

Buchanan explained that his proposal would allow farmers to bring in investors to underwrite the cost of replacement trees without losing the ability to immediately deduct those costs as long as they remain majority owners. The bill operates by modestly relaxing the current uniform capitalization (UNICAP) rules to allow new passive investors to deduct rather than capitalize the cost of replacement citrus trees.

Under section 263A as currently written, a grower can deduct the full cost of replacement trees but must personally bear that cost, as only costs incurred by the taxpayer are deductible. In response to questioning by Ways and Means Committee Democrat Jim McDermott of Washington, JCT Chief of Staff Thomas Barthold said the main change here is that passive investors would now be able to deduct the cost of replacement trees like an active investor rather than having to capitalize those costs and depreciate them over the productive life of the trees. Barthold added that he believed the intent is to encourage "existing owners, including minority owners, or a totally new owner to come in and put in the money necessary to replant the orchard. …The legislation would say you do not have to be an active participant to get the benefit of the speed-up of the recovery of costs that expensing provides."

Some on the committee expressed concerns about the proposal. Ranking Democrat Sander Levin of Michigan said the committee needed to understand the possible ramifications of extending the deduction for replanting costs to passive investors, commenting that "we may well be setting a precedent, as this is not likely to be unique."

In response to a question from Democratic taxwriter Ron Kind of Wisconsin about how the bill might affect existing programs designed to help farmers pay for replanting, such as insurance and the USDA's Tree Assistance Program, Barthold explained that taxpayers can only expense replacement costs in excess of what an insurance company pays.

But other Democrats were more vocal of their support of the proposal. Democratic taxwriter Mike Thompson of California, for example, contended that it was "not bad [for the committee] to set a precedent…and strongly support agricultural communities."

H.R. 3597 would be effective for all costs paid or incurred after enactment and would expire at the end of 2025. The JCT estimates it would reduce federal receipts by $30 million between 2017 and 2026.

**United States Appreciation for Olympians and Paralympians Act (H.R. 5946):** This measure, sponsored by Ways and Means member Bob Dold, R-Ill., would modify section 74 of the Internal Revenue Code to exclude from income any prizes or awards received by Olympic and Paralympic athletes from the United States Olympic Committee. The bill – which would not affect endorsement or sponsorship income earned by athletes – would be retroactive to December of 2015, making the benefit available to all US participants in the 2016 Rio games.

To help ensure that the exclusion would apply only to amateur athletes and not highly compensated professionals, the measure as approved includes an amendment offered by Democratic taxwriter Bill Pascrell of New Jersey that would limit the income exclusion to athletes earning less than $1 million in the taxable year.

The bill, like a substantially similar measure that cleared the Senate in July, has received broad bipartisan support and Ways and Means Chairman Brady has indicated that he would help ensure it receives a vote on the House floor.


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### College and university endowments

Also this week, the Ways and Means Oversight Subcommittee held a hearing September 13 to consider how colleges and universities can use their tax-exempt endowment funds to help students and their parents deal with the rising tuition costs.

Subcommittee member Tom Reed, R-N.Y., praised institutions that manage their endowment funds with an eye toward benefitting students, specifically citing Berea College in Kentucky, which allows students to attend tuition-free. But he criticized other institutions that pay multimillion-dollar salaries to administrators, nonacademic staff, and investment fund managers, and incur significant expenses for nonessential infrastructure improvements. Those expenditures, he suggested, are not reasonable in a not-for-profit environment. He also noted that it can be difficult to glean how colleges and institutions manage their endowments based on the information currently required to be reported on Form 990.

Reed said he intends to introduce legislation this year that would require institutions with endowment funds over $1 billion to direct a percentage of their earnings to providing tuition relief for working class families. He told reporters after the hearing that he may expand the bill to include new Form 990 disclosure requirements to enhance transparency.

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