Exempt organization provisions in “One Big Beautiful Bill”

KPMG analysis and observations

Current as of July 6, 2025, reflecting the tax subtitle included in H.R. 1 as passed by the Senate on July 1, 2025, by the House on July 3, 2025, and signed into law by the president on July 4, 2025

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Introduction

The House of Representatives on May 22, 2025, passed H.R. 1 (House bill), the budget reconciliation bill known as the "One Big Beautiful Bill" Act (read *TaxNewsFlash*). On July 1, 2025, the Senate passed its version of H.R. 1 (Senate bill), which made various amendments to the bill, including changes to the tax subtitle that was included in the House bill (read *TaxNewsFlash*). On July 3, 2025, the House passed the Senate bill without amendment, and the bill was signed into law by President Trump on July 4, 2025 (the Act).

The Act generally makes permanent the tax provisions of the TCJA. It also temporarily provides for tax benefits promised by the president for tip income, overtime pay, and auto loan interest, and introduces a host of revenue-raising provisions.

Among the important business provisions of the Act are provisions that:

- Reinstate and make permanent expensing of R&D costs, the higher EBITDA cap on the deduction for interest, and 100% bonus depreciation (the House bill would have extended these provisions five years)
- Make permanent the section 199A deduction for passthrough business income (but at the current 20% rate instead of the higher 23% rate proposed in the House bill)
- Renew and reform the Opportunity Zone program
- Add a 100% first-year depreciation deduction for real property used in a production activity

The Act also includes revenue-raising provisions that:

- Repeal or phase out energy tax credits created by the Inflation Reduction Act (IRA)
- Make extensive reforms to the U.S. international tax regime
- Temporarily increase the $10,000 cap on the state and local tax (SALT) deduction to $40,000, with no significant changes to the treatment of passthrough entity taxes
- Impose a 1% tax on remittances to a recipient outside the United States
- Increase taxes on college endowments (but at lower rates than those of the House bill)
- Bar the IRS from making payment on certain employee retention credit claims filed after January 31, 2024

This report includes initial analysis and observations regarding the provisions in the Act relating to tax-exempt organizations ("exempt organizations" or "EOs") and their donors. This is one of a series of reports that KPMG has prepared on the Act, which can all be found here.

The Joint Committee on Taxation (JCT) has provided a number of documents estimating the revenue effects of the various versions of the bill:

- JCX-26-25R, which estimates the revenue effects of the provisions of the House bill
- JCX-35-25, which estimates the Senate bill using a present law baseline (the same baseline used for the estimates for the House bill) that assumes that tax provisions of current law expire according to their terms
- JCX-34-25, which estimates the Senate bill using a "current policy baseline" as adopted by the Senate, which assumes that tax policies currently in effect (such as the lower Tax Cuts and Jobs Act (TCJA) individual tax rates) are permanent and therefore extending those provisions has no cost.

The revenue (cost) estimates noted in the descriptions below were generally the same using either a present law baseline or current policy baseline. The one exception relates to the extension of the temporary

TCJA provision relating to the increased individual limitation on cash gifts to certain charitable organizations that was made permanent in the Act. For that provision, which was estimated in combination with a new floor for individual charitable contribution deductions, both estimates are provided.

Expanded tax on EO "excess" compensation

Section 70416 amends section 4960, which imposes an excise tax on an applicable tax-exempt organization (ATEO) and entities related to the ATEO if they pay remuneration in excess of $1 million (or an "excess parachute payment") to "covered employees." The amendment significantly expands the definition of "covered employee" to include *any* employee (or former employee employed after 2016) of the ATEO, not just the five highest compensated employees in each year after 2016 as under current law. The excise tax is imposed at the corporate tax rate (currently 21%).

The amendment applies in tax years beginning after December 31, 2025.

The JCT has estimated the provision will increase revenues by approximately $3.8 billion over 10 years.

KPMG observation

This provision will have significant consequences for ATEOs that pay more than five individuals more than $1 million in remuneration or provide certain severance payments to an employee (even one earning significantly less than $1 million). In addition, the expansion of the definition to include all individuals employed by the ATEO in any role, including former employees of the ATEO employed after 2016, could impact organizations that are related to ATEOs. For example, if a company currently employs someone who was previously employed by the company foundation (or for a charity controlled by the company's majority owners) in any capacity after 2016 (even if they were not considered a covered employee at the time), the company could be liable for the excise tax on that employee's current compensation over $1 million unless an exception applies. Certain exceptions in the regulations currently apply "for purposes of determining an ATEO's five highest-compensated employees"; however, it is uncertain whether and how these exceptions apply now that covered employees are not limited to the five-highest compensated employees.

Increased tax rates on investment income of certain private colleges and universities

Section 70415 significantly amends the excise tax under Code section 4968, which currently imposes a tax on the net investment income of certain private colleges and universities that have at least 500 tuition-paying students, have investment assets of $500,000 or more per student, and meet certain other requirements ("applicable educational institutions" or "AEIs"). Most significantly, the current flat 1.4% rate was replaced with a tiered rate structure based on the size of an AEI's "student adjusted endowment."

The rate structure is as follows:

- 1.4% if the student adjusted endowment is more than $500,000 and not more than $750,000
- 4% if the student adjusted endowment is more than $750,000 and not more than $2 million
- 8% if the student adjusted endowment is more than $2 million

The student adjusted endowment of an institution is the aggregate fair market value of the assets of the institution (determined as of the end of the preceding tax year), other than those assets that are used directly in carrying out the institution's exempt purpose, divided by the number of students of the institution. Although proposals initially advanced by the House and the Senate Finance Committee (SFC) would have excluded foreign students from the computation of the student adjusted endowment, that provision was not included in the Act.

The Act also modifies the definition of AEI. Under the provision, an institution is only an AEI subject to the tax if it had at least 3,000 tuition-paying students in the preceding tax year, a significant increase from the 500 tuition-paying student threshold under current law.

In addition, the amendment specifically includes in net investment income certain interest income from student loans and royalty income from federally-funded research, both of which are currently excluded by the regulations under section 4968.

Finally, the amendment directs the Secretary to prescribe regulations or other guidance to prevent avoidance of the tax (for example, through the "restructuring of endowment funds or other arrangements").

The amendment applies to tax years beginning after December 31, 2025.

The JCT has estimated the provision will increase revenues by approximately $761 million over 10 years.

KPMG observation

Increasing the threshold for AEIs from 500 tuition-paying students to 3,000 tuition-paying schools will significantly decrease the number of schools subject to the tax, as there are several schools that have student adjusted endowments exceeding $500,000 due primarily to their small student body count. Under the current regulations, students are not considered "tuition paying" if their tuition is entirely covered by scholarships or grants provided (or work study programs operated) directly by the educational institution or by the federal government or any state or local government.

Although the House and SFC proposals included an exception from the tax for certain religious institutions and the SFC proposal included an exception for institutions that did not participate in any federal student financial aid programs during the preceding tax year, both exceptions were struck from the enacted bill. In addition, the House bill had four tiered rates of 1.4%, 7%, 14%, and 21%, significantly higher than those eventually approved.

Under current law (and unchanged by the bill), a university's assets generally include assets held by certain related organizations (including supporting organizations to the university and organizations controlled by the university), and a university's net income generally includes investment income derived from those assets. The tax rate differential between tiers is significant; thus small changes in assets or enrollment could push an institution over (or below) a tier threshold, resulting in a significant difference in tax liability. Therefore, institutions and their related organizations will need to closely monitor and coordinate activity to effectively anticipate and mitigate tax exposure.

Direct pay retained for energy credits, but several credits terminated or modified

Section 6417, the elective pay (or "direct pay") provision that currently provides tax-exempt and State, local and Tribal government entities access to a dozen clean energy credits, including the major production and investment tax credits, survived and continues in force. However, amendments sunset or make several material modifications to most of the underlying clean energy tax credit provisions, effectively reducing or eliminating the benefits that tax-exempt organizations (and other taxpayers) have received for making certain investments in clean energy property.

Among the energy credits that will sunset quickly are popular provisions that tax-exempt and government entities have accessed using the direct pay provision:

- Qualified commercial clean vehicle credit (section 45W), for which no credit is available with respect to vehicles acquired after September 30, 2025
- Alternative fuel vehicle refueling property credit (section 30C), which is not available for property placed in service after June 30, 2026.
- Technology neutral clean electricity investment credit (section 48E) for certain wind and solar facilities, which is terminated for property that does not begin construction within one year of enactment (by July 4, 2026) or is not placed in service by December 31, 2027. For other facilities, and for energy storage (battery) technology, the current credit phase-outs that begin in 2032 generally apply (although the potential for a later phase-out was eliminated).

Additional revisions to the section 48E clean electricity investment credit include higher phased in domestic content requirements and new restrictions relating to facilities owned by or receiving assistance from certain foreign entities. However, these amendments contain no provision accelerating the phase out of the investment tax credit available for geothermal energy property under section 48, as was proposed in the House bill.

In addition, the transferable deduction for installation of certain energy efficient property in buildings owned by certain government or tax-exempt entities (section 179D) is no longer available for property beginning construction after June 30, 2026.

More information about the bill's provisions relating to the clean energy credits can be found in the Incentives and Credits report on KPMG's dedicated webpage.

Provisions relating to charitable giving

1% floor on deduction of charitable contributions by corporations

Section 70426 amends Code section 170(b)(2)(A) to permit a corporation to claim a deduction for charitable contributions only if, and to the extent that, the aggregate of such contributions exceeds 1% of the corporation's taxable income (as defined in section 170(b)(2)(D)). Total deductions for charitable contributions by the corporation continue to be limited to 10% of taxable income, with the excess (as well as the contributions disallowed by the 1% floor) carried forward up to five years. However, if aggregate corporate contributions do not exceed 10% of taxable income, there is no carryforward of contributions disallowed due to the 1% floor. The provision does *not* modify the current treatment of qualified conservation contributions by certain corporate farmers and ranchers or by Native Corporations.

The amendment applies to tax years beginning after December 31, 2025.

The JCT has estimated the provision will increase revenues by approximately $16.6 billion over 10 years.

0.5% floor on deduction of charitable contributions by individuals

Section 70425(a) amends Code section 170(b)(1) to permit an individual to claim a deduction for charitable contributions only if, and to the extent that, the aggregate of such contributions exceeds 0.5% of the individual's adjusted gross income (AGI). Total deductions for charitable contributions by an individual continue to be subject to the current limitations (which depend upon the type of contribution and recipient), with the excess (as well as the contributions disallowed by the 0.5% floor) carried forward up to five years. However, if the individual's aggregate contributions do not result in a carryover, there is no carryover of contributions disallowed due to the 0.5% floor.

The change applies to tax years beginning after December 31, 2025.

The JCT has estimated that this amendment, together with the extension of the 60% limit described immediately below, will increase revenues by approximately $63.1 billion over 10 years relative to present law and $64.9 billion relative to the current policy baseline.

Making permanent the 60% limitation on individual charitable contribution deductions

Section 70425(b) makes permanent the current deduction limitation of 60% of AGI (the "60% limit") for charitable contributions of cash made by individuals to public charities (as well as certain private foundations described in section 170(b)(1)(F)) (together, "public charities"), which was enacted as part of the TCJA and would have expired at the end of 2025 absent the extension. The provision also amends the application of the 60% limit, potentially allowing individuals to deduct up to 60% of AGI even when they make aggregate cash contributions to public charities that are less than 60% of AGI and also make charitable contributions of noncash property and/or cash to eligible donees that are not public charities.

The provision applies to tax years beginning after December 31, 2025.

KPMG observation

Under current law, the provision containing the 60% limit appears to allow individual donors to take charitable contribution deductions up to the 60% limit only when and to the extent that they make aggregate cash contributions to public charities that equal or exceed that limit. When donors make cash contributions to public charities that are less than the 60% limit, they do not appear to be able to reach the 60% limit by combining those cash contributions with noncash contributions and contributions to eligible donees other than public charities (which are subject to limits of 50%, 30%, and 20% of AGI, depending up on the type of property and type of donee). Commentators expressed concern about this inability to combine various kinds of contributions to reach the 60% limit shortly after the provision was enacted as part of the TCJA. In 2018, the JCT indicated that it was not

Congress's intent to prevent the combination of various kinds of contributions to reach the 60% limit, stating that "the 60-percent limit for cash contributions is intended to be applied after (and reduced by) the amount of noncash contributions" to public charities. Congress appears to be trying to amend the statutory language to allow the 60% limit to be applied when donors give cash to public charities in addition to other kinds of charitable gifts. However, it is not entirely clear the amendments achieve this result.

Reinstatement of nonitemizer partial deduction for charitable contributions

Section 70424 modifies and permanently reinstates the partial deduction for charitable contributions for individuals who do not itemize their deductions (previously a temporary provision in the Coronavirus Aid, Relief, and Economic Security (CARES) Act). The maximum deduction amount is increased to $2,000 for married taxpayers filing jointly (previously $600) and $1,000 for all other taxpayers (previously $300). As in the previous iteration, the deduction is only available for contributions made in cash to certain charitable organizations and does not include contributions of noncash property or contributions to supporting organizations, donor advised funds, or most private (non-operating) foundations. Contributions carried forward to the tax year in question are not eligible for this deduction.

The provision is effective for tax years beginning after December 31, 2025.

The JCT has estimated this provision will have a revenue cost of approximately $73.8 billion.

KPMG observation

The House bill would have only temporarily reinstated the partial deduction for charitable contributions for individuals who do not itemize and would have set the maximum deduction amount at $300 for married taxpayers filing jointly and $150 for all other taxpayers.

Tax credit for contributions of individuals to scholarship granting organizations

Section 70411 creates a new, nonrefundable tax credit for certain charitable contributions of cash to organizations described in section 501(c)(3) that are not private foundations and that spend not less than 90% of their income on scholarships for eligible educational expenses of elementary and secondary school students solely within the states that have identified them as eligible organizations (scholarship granting organizations). Students eligible to benefit from the scholarships must be members of households with incomes not greater than 300% of the area median gross income. The credit allowed to a taxpayer for a tax year is limited to $1,700 (with the potential for a five-year carryover). The credit must be taken in lieu of a charitable contribution deduction and is reduced by any amount allowed as a credit on a state tax return.

In addition, any amount provided by a scholarship granting organization for eligible expenses of an eligible student is excluded from the gross income of the student or individual claiming the student as a dependent.

The provision is effective for tax years ending after December 31, 2026.

The JCT estimated the provision will have a revenue cost of approximately $25.9 billion over 10 years.

KPMG observation

The enacted version of the amendment differs from both the House bill and the legislative text initially released by the Senate Finance Committee (SFC) in several significant respects. First, the credit is permanent; the House bill proposed a temporary credit available only for four years. Second, the House bill and the SFC legislative text would have allowed a credit of up to 10% of AGI (or $5,000 if greater), rather than the $1,700 limit in the enacted version. Third, the enacted version does not contain any aggregate volume cap on the total amount of credits to be issued in a year. By contrast, the House bill set an aggregate volume cap on the total amount of credits at $5 billion per calendar year from 2026 through 2029, while the volume cap in the legislative text released by the SFC was $4 billion per year, starting in 2027. In each case, the Treasury Secretary would have been charged with administration of the volume cap. In the enacted version, participating States must identify the scholarship granting organizations operating in their states that meet the requirements to receive contributions and file a list of eligible organizations with the Treasury Secretary annually. Finally, in defining the educational expenses that may be excluded from gross income, the enacted version cross-references the definition of qualified elementary and secondary education expenses in section 530(b)(3)(A) (relating to Coverdell educational savings accounts), while the House bill contained its own detailed definition, which included certain homeschool and other expenses.

Blocking ERTC credit or refund claims filed in 2024

Section 70605 bars the IRS from allowing employee retention tax credits (ERTC) under section 3134 of the Code, or issuing any refund with respect to such ERTCs, after the date of enactment, unless a claim for such credit or refund was filed on or before January 31, 2024. The provision also extends the assessment period for the ERTC. More information about the amendments relating to the ERTC can be found in the Practice, Procedure and Administration report on KPMG's dedicated webpage.

The JCT has estimated the provision will increase revenues by approximately $1.6 billion over 10 years.

KPMG observation

This provision will have a retroactive, adverse impact on tax-exempt entities (as well as other taxpayers) that filed ERTC refund claims after January 31, 2024. Many tax-exempt entities filed refund claims for the ERTC in 2023 and 2024, as it took longer for many of them to become aware of the credits. In addition, certain public universities and hospitals did not become eligible to file ERTC claims until 2021.

Other provisions

Provisions relating to certain economic development and housing programs

Section 70421 creates a permanent qualified opportunity zone (QOZ) program that, among other things, allows the Secretary to designate new QOZs every 10 years and requires enhanced reporting. Section 70422 enhances the low-income housing tax credit (LIHTC) program by permanently increasing the state housing credit ceiling and making certain other changes to the LIHTC program rules. Finally, section 70423 permanently extends the new markets tax credit (NMTC) program, allowing allocation of $5 billion of NMTCs each year going forward and providing a five-year carryforward for any NMTCs that are not allocated in a given year. More information regarding any of these provisions can be found in the Incentives and Credits report on KPMG's dedicated webpage.

Excluded provisions

The enacted version of the legislation does not include several provisions included in the House bill that would have impacted tax-exempt organizations. For example, the enacted version does not include a provision of the House bill that would have reinstated the "parking tax," requiring expenses for employee qualified transportation fringe benefits provided by tax-exempt organizations to be included in unrelated business taxable income (UBTI). The enacted legislation also does not include the provision in the House bill that would have increased the rate of tax on the net investment income of private foundations. Finally, it does not include the provision in the House bill that would have narrowed the exclusion from UBTI for income from research done by certain research organizations to encompass only fundamental research, the results of which are publicly available.

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