2017 Tax Reform
House and Senate Comparison

Provisions:	H.R. 1, Tax Cuts and Jobs Act	Senate Proposal, Tax Cuts and Jobs Act
Employer-Provided Retirement Plans		
SHRM Position: SHRM believes that a bedrock of sound fiscal and savings policy is ensuring that every American employee is given the opportunity to save and plan for retirement and protect his or her family's health. Public-policy efforts at both the federal and state levels should focus on expansion of and access to benefits, including retirement accounts, health care and employer-provided education assistance. Instead of taxing these valuable benefits, lawmakers should continue to allow employers the ability to provide tax-free benefits to their workforces.		
Defined Contribution Retirement Plans	Preserves the current tax treatment of employer-provided plans	
Defined Contribution Retirement Plan Loans	Changes repayment time frame on retirement plan loans from 60 days after separation of employment to end of the federal taxable year. Effective for plan years after 2017.	Changes repayment options for 457 and 403(b) plans to allow rollovers or loan repayment to take place by the end of the federal taxable year. Effective for tax years after 2017.
Defined Benefit Pension Plan Non-Discrimination Clarity	Provides relief for defined benefit pension plans that are soft-frozen. Allows cross-testing of participants in order to not violate non-discrimination testing limits. Effective upon date of enactment.	Proposal does not contain this provision.
In-Service Distributions for Defined Contribution Plans	Would allow all defined benefit plans as well as state and local government defined contribution plans to make in-service	Proposal does not contain this provision.

	distributions beginning at age 59½. Effective for plan years after 2017.	
Defined Benefit Retirement Plan Contributions After Hardship Withdrawal	IRS would be required within one year of the date of enactment to change its guidance to allow employees taking hardship distributions to continue making contributions to the plan. Effective for plan years after 2017.	Proposal does not contain this provision.
Defined Benefit Retirement Plan Hardship Withdrawals	Employers who choose to allow hardship distributions could also include employer contributions as part of the amount eligible for withdrawal. Effective for plan years after 2017.	Proposal does not contain this provision.
Executive Compensation		
SHRM Position: No official position		
Compensation	Removes the exemption of certain forms of compensation for highly compensated employees. Commissions, performance-based remuneration, stock options, payments to a tax-qualified retirement plan and amounts that are excludable from the executive's gross income will be taxable. Expands the scope of covered individuals to include an organization's CEO, CFO and three highest-paid employees. Effective for tax years after 2017.	Modifies the definition of what is included as compensation for highly compensated employees to include commission- and performance-based compensation. Expands the scope of covered individuals to include an organization's CEO, CFO and three highest-paid employees. Applies provision to any compensation arrangement entered into after November 3, 2017.
Excise Tax on Highly Compensated Employees at Non-Profits	Creates a 20 percent excise tax for non-profits (including 501(c)(3), 501(c)(6)) on the compensation of the five highest-paid employees who earn more than $1 million. Effective for tax years after 2017.	
Employer-Provided Benefits		

SHRM Position: SHRM believes that a comprehensive and flexible benefits package is an essential tool in recruiting and retaining talented employees. Employers utilize a wide variety of benefits that fit the needs of their employees and federal policies should not seek to impair an employer's ability to offer such benefits. Specifically related to employer-provided education assistance (Section 127), SHRM strongly supports maintaining and strengthening Section 127 for associate, undergraduate and graduate degrees and is urging the House to restore the tax treatment of employer-provided education assistance in H.R. 1. Additionally, SHRM supports efforts that not only preserve, but expand the monetary limits and scope of Section 127 benefits.		
Education Assistance (Section 127)	Eliminates the tax exclusion that allows employers to provide up to $5,250 of education assistance per year tax-free to their employees at the undergraduate, graduate or certificate level. Benefit would be taxable to both the employer and the employee. Effective for tax years after 2017.	Proposal does not contain this provision.
Tuition Reduction (Section 117)	Eliminates the tax exclusion for educational assistance for employees, their spouse or dependents at educational institutions. Benefit would be taxable to both the employer and the employee. Effective for tax years after 2017.	Proposal does not contain this provision.
Dependent Care Accounts	Eliminates the tax treatment of dependent care flexible spending accounts of up to $5,000 per year under Section 129. Effective after 2022.	Proposal does not contain this provision.
Moving Expenses	Eliminates the tax exclusion *and* the deduction related to moving expenses. Value of the benefit will be included as taxable income and the deduction will be eliminated for individual taxpayers. Effective for tax years after 2017.	Suspends the tax exclusion *and* the deduction related to moving expenses until 2025. Value of the benefit will be included as taxable income, and the deduction will be eliminated for individual taxpayers.
Biking Benefit	Bill does not contain this provision.	Eliminates the tax exclusion on the benefit. Value of the benefit will be included as taxable income. Exclusion will be sunset in December 2025.

***Proposals as of December 6, 2017 – Updated as Policy Develops**

Adoption Assistance	Eliminates the tax exclusion on the benefit. Value of the benefit will be included as taxable income for individual taxpayers. Effective for tax years after 2017.	Proposal does not contain this provision.
Achievement Awards	Value of the benefit will be included as taxable income for individual taxpayers. Effective for tax years after 2017.	Creates a new category related to employee achievement awards entitled “tangible personal property.” Employees would not be able to exclude from taxable income and employers cannot qualify as a business expense, cash, cash equivalents, gift cards, gift certificates, vacations, meals, lodging or tickets to theater or sporting events. Effective for tax years after 2017.
Child Care Facilities	Repeals the tax credit equal to 25 percent of qualified expenses for employee child care and 10 percent of qualified expenses for child care resource and referral services. Effective for tax years after 2017.	Proposal does not contain this provision.
Fringe Benefits (Transportation, Meals, Gyms)	Repeals deduction for qualified transportation benefits, qualified parking and on-premise athletic facilities. Effective for tax years after 2017.	Repeals the deduction for expenses related to employee meals and transportation. Allows employee to continue to exclude the benefit from income. Repealed deductions related to an onsite food facility are effective after December 31, 2017. Repealed deductions related to employer-provided meals are effective after December 31, 2025.
Fringe Benefits Parity	Taxes tax-exempt entities on the values of providing their employees with transportation fringe benefits, on-premises gyms and other athletic facilities by treating the funds used to pay for such benefits as unrelated business taxable income, thus subjecting the values of those employee benefits to a tax equal to the corporate tax	Proposal does not contain this provision.

	rate. Value of the benefit will be included as taxable income. Effective for tax years after 2017.	
Medical Savings Accounts (MSAs)	Repeals the tax exclusion for contributions to Archer MSAs. Existing Archer MSA balances, however, could continue to be rolled over on a tax-free basis to an HSA. Effective for tax years after 2017.	Proposal does not contain this provision.
Other Related Provisions		
SHRM Position: No official position		
Work Opportunity Tax Credit	Repeals the 40 percent tax credit for employers who hired individuals from certain targeted groups. Effective for tax years after 2017.	Proposal does not contain this provision.
FICA Tip Credit Tax	Modifies the calculation that affects the amount employers pay on taxable wages of their tipped employees. Creates a new reporting requirement. Effective for tax years after 2017.	Proposal does not contain this provision.
Repeal of the Individual Mandate Penalty Under the Affordable Care Act	Bill does not contain this provision.	Reduces the individual mandate penalty to zero. Effective for tax years after 2018.
Family and Medical Leave Act (FMLA) Credit for Employers	Bill does not contain this provision.	Provides an employer a credit of 12.5 – 25 percent of the wages paid to a qualified employee utilizing FMLA. Effective for tax years after 2017.