ANALYSIS: KOCH BROTHERS COULD GET UP TO $1.4 BILLION TAX CUT FROM LAW THEY HELPED PASS

A new analysis by Americans for Tax Fairness estimates that Charles Koch and David Koch and/or Koch Industries could save between $1 billion and $1.4 billion combined in income taxes each year from the Trump tax law—and that doesn't even count how much the brothers might save in taxes on offshore profits or how much their heirs will benefit from weakening the estate tax.

Last week's FEC filings show that the Kochs made a $500,000 contribution to "Team Ryan"—a joint fundraising committee benefiting Ryan, the National Republican Congressional Committee (NRCC) and a pro-Paul Ryan PAC. On top of that, the Kochs gave an additional quarter million to the NRCC.

The Kochs made securing big tax cuts for themselves and their corporation a key goal for their political network in 2017. The Koch groups spent over $20 million promoting the tax bill that ultimately became law, according to a fact sheet they provided to the Wall Street Journal. Their efforts included town halls, door-to-door canvassing, and television ads—not to mention direct lobbying—in favor of the tax cuts. Now that the bill is law, they've pledged to spend millions more promoting it to the public in an effort to protect the members of Congress who voted for it.

That's not a bad return on investment: what's $20 million when you're looking at a billion or more in tax breaks?

The Koch brothers are tied for 8th richest person in the world, with each worth over $48 billion. They run Koch Industries, the second biggest private corporation in America, a conglomerate they inherited from their father with an estimated $100 billion in annual revenue.

In total, the Kochs are planning to inject $300-400 million into the 2018 elections, seeking to defeat those who opposed their tax cuts.

Several provisions of the tax cuts passed by Congressional Republicans and signed into law by Donald Trump would further enrich the Koch brothers, including:

Estate Tax Savings

- Each brother has estimated net worth of $48.3 billion (Forbes, 2017).

- The increase in the estate tax exemption from $5.5 million to $11 million per person (so from $11 million to $22 million for a couple) means that the heirs of each family can now shield an additional $11 million of both Charles & David Koch's estates from taxes – allowing them to save up to $4.4 million in estate taxes ($11 million times the 40% estate tax rate).

Tax Cuts for Corporations and Pass-Through Businesses

Koch Industries is a private conglomerate of companies in various industries ranging from oil refining to manufacturing to agriculture. Because Koch Industries is a private company, it does not publicly disclose its financial statements, which would include profits and the amount it currently pays in taxes. Additionally, it is unknown how the individual companies that make up the conglomerate are structured for tax purposes. Some of them may be C corporations, which pay taxes at the corporate level, while others may be "pass-through" business entities—such as S corporations or Limited Liability Companies (LLCs).

Companies that are C corporations would have been paying corporate taxes at a top rate of 35% under prior law. For companies that are organized as S corporations, LLCs, or partnerships, the owners are taxed on the business income on their individual tax returns at rates based on their tax brackets. It is safe to assume that billionaires like the Koch brothers would have been paying the top rate of 39.6%, less significant tax deductions. Because we don't know how much of the income from Koch companies is taxed at the corporate level versus the individual level, the following estimates are presented as a range, assuming either that all the income comes from C corporations or that all the income comes from pass-through entities. Additionally, due to the limited public data on Koch Industries' finances, we must rely on several assumptions and simplifications. These estimates are meant to be demonstrative of the potential scope of benefits that Koch Industries and the Koch brothers could get from the GOP tax law.

- **If all Koch Industries' income comes from C corporations:**
  - According to Forbes, Koch Industries had $100 billion in sales in 2016.
  - Some sources have said Koch had a pretax profit margin of 10% in previous years (here and here), so assuming this is still true, their pretax profits could be around $10 billion.
  - Assuming profits of $10 billion, if the business is organized as a C corporation and had been paying the statutory 35% rate, **the reduction in the corporate rate from 35% to 21% could save the company about $1.4 billion per year.** However, most C corporations do not pay the full 35% rate given myriad corporate tax loopholes, especially in the oil and gas sector.

- **If all Koch Industries' income comes from pass-through entities:**
  - Under the new law, the Koch brothers will be able to deduct 20% of their pass-through business income on their individual tax returns. Assuming that Koch Industries has profits of $10 billion, which is equally split between the brothers, this pass-through deduction would reduce their taxable income by $1 billion each, or to $4 billion apiece. Additionally, the tax law reduces the top individual tax rate from 39.6% to 37%. **Taken together, these changes could save each brother about $500 million in income taxes.**

- Note that while 39.6% is the topline rate, the Koch brothers are probably taking advantage of several tax breaks that would reduce their taxable income, so they are likely already paying a lower effective tax rate than 39.6%, and the savings would be smaller than these estimates.

ESTIMATED PASS-THROUGH TAX CUT FOR EACH KOCH BROTHER, 2018		
	Prior Law	**Current Law**
Income	$ 5,000,000,000	$5,000,000,000
20% Pass-through deduction		$1,000,000,000
Taxable Income	$5,000,000,000	$4,000,000,000
Tax liability @ 39.6% & 37%	$1,979,944,144	$1,479,939,379
Tax Cut from Current Law		**$500,004,765**

Note: Prior law tax liability calculated according to the IRS' tax bracket tables for 2018 released in October 2017, and current law tax liability is calculated according to the tax bracket tables in the Tax Cuts and Jobs Act text (p.2).

- Another caveat is that the new pass-through income 20% deduction is limited to either a) 50% of the wages paid through the business or b) 25% of wages plus 2.5% of the original cost of business property. We assume that the Koch brothers can take the full 20% deduction. We believe this is reasonable because, as the 2nd largest private company, Koch Industries employs at least 100,000 people. If we are to assume that the average annual pay for Koch employees is $40,000 a year, this amounts to total wages of $4 billion, so under the first test (the 50% wage limitation), the Kochs could still claim the $2 billion deduction. Additionally, Koch Industries likely has substantial physical assets, since it operates thousands of miles of pipelines as well as manufacturing, refining, and other capital-intensive businesses. This means the Koch brothers might also be eligible for the full deduction under the second test (wages plus capital). However, it is possible that the Koch's deduction could be reduced if they do not meet either of these tests.

Tax Savings on Offshore Profits

Koch Industries likely also stands to gain significant advantages from changes to the law regarding the taxation of offshore profits—both those that have already been accumulated and any new foreign profits they earn.

If Koch Industries' foreign operations are held through one or more foreign entities classified for U.S. tax purposes as a C corporation (which would be standard tax planning for low-taxed foreign operations), the income earned would have been eligible for deferral from U.S. tax until repatriated to a U.S. company. If Koch has a substantial amount of income in these foreign subsidiaries, it will get a large tax break on that income under the new law. Under previous law, corporations could defer taxes on the money they report as earned offshore until that money is "repatriated" to the U.S. shareholder, at which point the corporation would have owed 35% in corporate taxes or 39.6% in federal taxes on that income (less any foreign taxes paid if the U.S. shareholder is a C corporation owning 10% or more of the voting power).

Under the new tax law, existing offshore profits will be taxed at 15.5% (for cash assets) and 8% (non-cash assets). It is not possible to estimate how much Koch would save because we don't know how much of their profits are offshore, thus having benefitted from the deferral of U.S. taxes. But to give a sense of the scale, the Institute on Taxation and Economic Policy estimates that of the $2.6 trillion in untaxed offshore corporate profits, approximately $750 billion is owed at the full 35% rate, less about 6% of foreign taxes paid (or 29%). The new tax rates of 15.5%/8% will only raise $339 billion, handing these companies a $400 billion tax cut.

In addition to the tax savings on existing offshore profits, any future offshore C corporation profits booked by Koch Industries will be subject to taxes at about one-half the 21% tax rate on domestic profits under the new law. The way the international tax provisions are written will provide greater incentives for corporations to move investment and jobs offshore in order to reduce their taxes.