AMERICANS FOR TaxFairness

HOW TRUMP BENEFITS FROM THE NEW TRUMP-GOP TAX LAW

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Despite his false claim that his tax plan would "cost me a fortune," President Trump will undoubtedly be among the very wealthy who will benefit enormously from his tax plan. Several elements will be particular boons to Trump and his family. **Trump's exact tax savings are difficult to estimate since he has refused to release his tax returns unlike every other president over the last 40 years—but it is likely to be at least $11 million a year and perhaps as much as $22 million.**

SUMMARY TABLE

	PRIOR LAW	NEW LAW
TOP INDIVIDUAL TAX RATE	The top individual tax rate was 39.6%.	The top individual tax rate is cut to 37%.
CORPORATE TAX RATE	**Corporations were charged a 35% U.S. tax rate on all their worldwide income.** **Trump Impact:** As a big stock market investor, Trump indirectly paid this tax through his partial ownership of publicly traded corporations. He undoubtedly paid the top individual tax rate.	**Cuts domestic corporate tax rate to 21%. Past and future offshore profits given preferential tax rates.** **Trump Impact:** As a big stock market investor, he will benefit from corporate tax cuts. The reduction in the top individual tax rate should reduce his taxes substantially.
PASS-THROUGH INCOME TAX RATE	**All pass-through business income was taxed at the individual tax rate of the business owner.** **Trump Impact:** Nearly all of Trump's income is generated through pass-throughs. That income was presumably subject to the maximum personal tax rate of 39.6%.	**Allows business owners to deduct 20% of pass-through income from tax, creating an effective top rate of 29.6%.** **Trump Impact:** Based on his 2005 tax return, Trump could have saved as much as $11 million under a 20% tax deduction. Based on his 2016 financial disclosure, the savings could be as much as $22 million. Owners of pass-through businesses of the size and type of Trump's were to be excluded from the new lower tax rate, but loopholes added to the bill allow Trump to get the tax cut.
ESTATE TAX	**Imposed a 40% tax on estates worth over $5.5 million per person and $11 million per couple.** **Trump Impact:** If Trump is worth the $10 billion he claims, his family could have paid up to $4 billion. If he is worth the $2.86 billion estimated by Bloomberg, his family could have paid over $1 billion.	**Doubles amount exempt from tax to $11 million per person and $22 million per couple.** **Trump Impact:** Because Trump's fortune is so much bigger than even the doubled exemption amount, the effect would be modest; Trump's family could still save around $4 million.
REAL ESTATE LOOPHOLES	**The real estate industry enjoyed some of the** biggest loopholes in the tax code. **Trump Impact:** Throughout his career, Trump has benefited mightily from these many special breaks.	**No real estate tax loopholes affecting Trump were closed.** For two business loopholes that were closed—affecting like-kind exchanges and the right to deduct interest payments on loans—special exceptions were made to protect the real estate industry benefitting Trump.

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NOTE: Contrary to decades of tradition and his own promises, Trump has failed to release his tax returns. Therefore, it's impossible to determine with precision how much he personally benefits from the Trump-GOP tax bill. But publicly available information about his personal finances indicate what parts of the new law are particular boons to him and his family.

TOP INDIVIDUAL TAX RATE CUT

Under prior law, next year income above roughly $480,000 for a married couple would be taxed at a top rate of 39.6%. Under the new Trump-GOP tax law, the top rate will fall to 37%, which wouldn't apply to any income below $600,000 for married couples. Since Trump and his wife presumably make many multiples of those income amounts, the combination of lowering the top tax rate and raising the threshold over which it's paid will pay off handsomely for the Trumps if they are not subject to the Alternative Minimum Tax.

CORPORATE TAX RATE CUT

The keystone of the new law is an immediate, permanent cut in the top corporate tax rate from 35% to 21%—a 40% rate cut. The benefits of corporate tax cuts flow overwhelmingly to shareholders. Trump's financial disclosure forms show that he owns millions of dollars in individual stocks and mutual funds, and thus would benefit mightily from the corporate tax cut, but there is no way to estimate the savings

PASS-THROUGH INCOME TAX RATE CUT

Pass-through businesses (which include sole proprietorships, partnerships, LLC's and S corporations) pay no federal income taxes at the corporate level. Instead, profits and losses pass through to business owners, who pay any tax due on their personal returns at individual rates. Though 95% of the nation's businesses are pass-through entities, the field is dominated by a handful of big players: half of all pass-through income goes to the wealthiest 1% of business owners.

President Trump's business is a collection of 500 pass-through entities. The Trump-GOP plan allows pass-through business owners to deduct 20% of their pass-through business income from their taxable income, which will lower the top effective tax rate to as low as 29.6%—7.4 percentage points below the new 37% top marginal tax rate. Based on Trump's 2005 tax return, where he had as much as $110 million in pass-through income (lines 12 and 17), a 20% deduction would have saved Trump nearly $11 million.

According to a New York Times estimate based on a recent government ethics filing, Trump had at least $217 million in LLC revenue in 2016. That could represent a tax savings of as much as $22 million, if all the income was subject to the 29.6% rate rather than the 39.6% rate.

Various provisions of the new pass-through tax rules are supposed to prevent certain types of businesses from sharing in the lower effective rates: those that receive mostly "passive" income, for instance, or that consist of a single person or small group. **But surgically precise exemptions were written into the new law that allow Trump and other real estate owners and investors to enjoy all the benefits of the new lower rate.**

For instance: while passive income like interest and dividends is ineligible for the new low rate, rent, royalties and licensing fees are eligible. Those are all three types of income that Trump's pass-through businesses likely receive a lot of, given their specialization in real estate, sales of Trump books, and licensing of Trump's name.

To try to ensure that larger pass-through businesses enjoying the lower pass-through rate actually employ workers (who are supposed to share in the benefits), the bill ties eligibility for the deduction to the amount of W-2 wages the business pays. If the business doesn't pay enough in wages, it can't claim the full deduction.

But at the last minute in House-Senate negotiations over the final bill, a second qualifier for getting the full deduction was slipped in. That is the value of certain capital investments that highly favors established real-estate investors like Trump.

ESTATE TAX EXEMPTION

The estate tax, paid now by just the richest one in 500 families, is the only federal curb on the accumulation of dynastic wealth. The new law doubles the amount excluded from the tax, from roughly $5.5 million for individuals and $11 million for couples, to about $11 million and $22 million, respectively. Because the Trump family fortune is so much higher than the new exemption amount, this change would make relatively little difference to his heirs, though they would still save around $4 million in estate taxes, assuming the estate pays at the 40% rate.

SPECIAL EXCEPTIONS FOR REAL ESTATE UNDER NEWLY CLOSED TAX LOOPHOLES

The real estate industry will continue to enjoy some of the biggest loopholes in the tax code under the Trump-GOP tax law (see next section). However, when crafting the measure at least two special exceptions were made for the real estate industry when a loophole was closed, or certain types of businesses or income were excluded from a new tax break:

1. **Like-Kind Exchanges (Section 1031 Exchanges).** Capital gains taxes are usually due when an asset is sold for more than it cost. But under current law, investors in tangible items can indefinitely delay paying if they keep reinvesting the proceeds in another item—what's called a "like-kind exchange." If these gains are continuously rolled over until the taxpayer dies, they are never taxed at all. The Trump-GOP tax plan closes the like-kind-exchange loophole for real property—except for real estate investors such as Trump, who get to keep this handy way of avoiding taxes on their gains.

2. **Limiting Interest Deductions.** The Trump-GOP plan required almost all businesses to accept new limitations on their right to deduct interest payments on their loans. All businesses, that is, except for those involved in real estate investments, such as Donald Trump's. He's called himself the "king of debt"—some observers estimate his business loans exceed $1 billion.

UNCLOSED REAL ESTATE LOOPHOLES
The Trump-GOP tax law failed to close these major loopholes enjoyed by real estate investors like Donald Trump:

1. **Depreciation**. Businesses can write off, or "depreciate," the cost of certain property over time, reflecting gradual wear and tear that reduces value. But unlike, say, trucks and machinery, real estate often *gains* value over the years. Yet real estate professionals like Trump are still allowed to depreciate commercial properties that are actually rising in market price, cutting their taxes even as their wealth grows.

   Real estate owners must give back some of the benefit of depreciation when they sell their property by paying a higher tax rate on the profit from the sale than they normally would. But for wealthy taxpayers like Trump, that special "recapture" rate is far below the size of the depreciation deductions taken over the years they owned the property. Trump has called depreciation "a wonderful charge" ("I love depreciation."). He's admitted that "a lot" of a $916 million loss he claimed on his 2005 tax return—a loss that could have wiped out 20 years of tax liability—came from depreciation.

2. **At-Risk Rule.** Most taxpayers can only claim losses from businesses in which their own money is at risk. The "at-risk" rule prevents investing in a business with a loan secured by that business (a mortgage), then claiming the tax benefit if the business loses money. But real estate investors like Trump have a special exception, allowing them to reap tax-saving losses from properties they bought mostly with borrowed money—money they can avoid ever having to repay simply by walking away from the property.

3. **Capital Loss Deductions.** Businesses can suffer two kinds of losses. An "operating loss" occurs when expenses exceed income—there's more cash going out than coming in. A "capital loss" comes from selling an asset for less than what it cost. Generally, when figuring taxable income, capital losses can only be subtracted from capital gains (which are sales of assets above their original purchase price). But real estate investors like Trump can subtract capital losses from regular income, which is a better deal because regular income is taxed at higher rates than capital gains.

4. **Tax-Free Cancelled Debt:** In most cases, cancelled debt is considered taxable income because the forgiven debtor has received an economic benefit. But cancelled debt related to commercial real estate is an exception. Trump borrowed billions of dollars in the 1980s, then convinced his lenders to forgive much of that debt when his businesses began to fail in the early 1990s. Because of real estate's loophole, he didn't need to report the forgiven debt as income. And while he carried the debt, he was able to deduct the interest payments, further reducing his taxable income.

5. **Passive Losses.** Tax reform in 1986 abolished "tax shelters": investments intended to lose money to reduce taxable income. Such "passive losses" could no longer be subtracted from "active" income generated by a trade or profession. In 1993, after heavy lobbying by the real estate industry—including a personal appeal from Trump—Congress allowed real estate professionals to once again use passive rental losses to shrink active income, and it did not close this loophole.