

SUMMARY OF SELECT EMPLOYEE BENEFITS CHANGES IN THE TAX CUTS AND JOBS ACT (H.R. 1)¹

Provision (Code Section)	Current Law	New Law (Bill Section)
HEALTH & WELFARE BENEFITS		
Individual Health Insurance Mandate (Code Section 5000A)	The Affordable Care Act imposes a tax penalty on individuals for any calendar month in which they are not covered by health insurance providing “minimum essential coverage.” For 2018, the annual individual mandate penalty amount per adult is \$695 or 2.5% of household income in excess of tax filing thresholds, whichever is higher.	The individual mandate penalty is reduced to zero . <i>Effective Date: Beginning January 1, 2019</i> (Section 11081)
Medical Expense Deduction Threshold (Code Section 213)	Individuals are allowed a deduction for unreimbursed medical care expenses to the extent that their expenses exceed 10% of AGI.	The medical expense deduction would be reduced to allow a deduction for unreimbursed medical care expenses that exceed 7.5% of AGI for all taxpayers. <i>Effective Date: 2017 and 2018 only</i> (thereafter, the provision would sunset and the limit would return to 10% of AGI for all taxpayers) (Section 11027)

¹ This summary is not an exhaustive list of all changes in the Tax Cuts and Jobs Act (H.R. 1). It only covers select employee benefit changes. It is provided for educational and informational purposes only and does not contain legal advice. You should not act on any information provided without consulting legal counsel.

Provision (Code Section)	Current Law	New Law (Bill Section)
HEALTH & WELFARE BENEFITS		
<p>Employer Credit for Paid Family and Medical Leave</p> <p>(No Current Code Section; Bill creates new Code Section 45S)</p>	<p>The Family and Medical Leave Act (FMLA) entitles certain employees of covered employers to take twelve weeks of unpaid, job-protected leave annually for specified family and medical reasons (e.g., the birth of a child, to care for an employee's spouse, child, or parent who has a serious health condition, or for a serious health condition that makes the employee unable to perform the essential functions of his or her job).</p> <p>No current law allows employers to claim a credit for compensation paid to employee on family and medical leave.</p>	<p>New general business tax credit for employers that pay employees on family and medical leave, as described by the FMLA.</p> <p>An employer must allow all "qualifying" full-time employees not less than two weeks of annual paid family and medical leave (and a commensurate amount of leave on a pro rata basis for less-than-full-time employees). The leave program must provide for at least 50% of the wages normally paid to an employee.</p> <p>Vacation leave, personal leave, or other medical or sick leave would not be considered family and medical leave. Leave paid for or mandated by a state or local government is not taken into account.</p> <p>A "qualifying" employee is an employee who has been employed by the employer for one year or more, and who for the preceding year, had compensation not in excess of 60% of the compensation threshold for highly-compensated employees (\$120,000 for 2018).</p> <p>The credit would be equal to 12.5% of the amount of wages paid, increased by 0.25% for each percentage point by which the rate of payment exceeds 50% (but not to exceed 25% of the wages paid). The maximum amount of family and medical leave that may be taken into account with respect to any employee for any taxable year is 12 weeks.</p> <p><i>Effective Date: For wages paid in 2018 and 2019 (provision sunsets after 2019)</i></p> <p>(Section 13403)</p>

Provision (Code Section)	Current Law	New Law (Bill Section)
HEALTH & WELFARE BENEFITS		
CPI-U for Tax Code Indexing for Health FSAs, HSAs, transit and parking limits, "Cadillac Tax" (Code Section 1(f))	Various Tax Code dollar thresholds/maximum contribution limits are adjusted for inflation based upon annual changes in the standard DOL-published Consumer Price Index for all Urban Consumers (CPI-U).	<p>Replaces the use of the CPI-U as the inflation adjustment with what is commonly referred to as the "Chained CPI-U." Use of the Chained-CPIU is expected to result in relatively reduced inflation adjustments when compared to the standard CPIU-U. It is expected that statutory maximum contribution limits applicable to HSAs and health FSAs, among others, would increase at a slower rate than if CPI-U continued to apply. Similarly, for purposes of indexing the dollar thresholds for coverage that triggers the Cadillac Tax under Code Section 4980I would also increase at a slower rate.</p> <p><i>Effective Date: Taxable Years Beginning After December 31, 2017 (no sunset)</i></p> <p>(Section 11002)</p>

Provision (Code Section)	Current Law	New Law (Bill Section)
FRINGE BENEFITS		
Deduction for Entertainment, Amusement, Recreation Expenses (Code Section 274)	Employers may deduct only 50% of otherwise deductible expenses for entertainment, amusement, recreational activities, and membership dues if the expenses directly relate to their business.	Employer deduction eliminated (unless an exception applies). <i>Effective Date: Amounts paid or incurred after 2017</i> (Section 13304)
Deduction for Meals, Food and Beverages (Code Section 274)	<p>Employers may deduct for ordinary and necessary business expenses for meals, food, and beverages.</p> <p>Any deduction for meals, whether entertainment or not, is subject to a 50% limit, unless an exception applies.</p> <p>Food and beverages that can be excluded from an employee's income as a de minimis fringe benefit, including expenses for an employee cafeteria located on or near the employer's business premises, can be fully deducted.</p>	<p>Employer deduction eliminated for meals, food, or beverages, to the extent that such expenses are entertainment, amusement, or recreation (unless an exception applies).</p> <p>For amounts incurred and paid after December 31, 2017 and until December 31, 2025, employer expenses associated with providing food and beverages to employees through an on-premises eating facility that meets requirements are subject to 50% limitation.</p> <p>Beginning in 2026, any deduction for employee cafeterias would be completely eliminated, as would any deduction for meals furnished for the convenience of the employer on the business premises of the employer.</p> <p><i>Effective Date: Generally, amounts incurred and paid after December 31, 2017</i></p> <p>(Section 13304)</p>

Provision (Code Section)	Current Law	New Law (Bill Section)
FRINGE BENEFITS		
Deduction for Qualified Transportation Fringe Benefits (Code Section 274)	A taxpayer may deduct the cost of certain fringe benefits provided to employees, including transportation fringe benefits, even though such benefits are excluded from the employee's income. Qualified transportation fringes include parking, transit passes, and vanpools.	<p>Employers can no longer take a deduction for providing qualified transportation fringes or for expenses incurred for providing transportation for commuting between an employee's residence and place of employment, except for ensuring the safety of an employee.</p> <p>The tax exclusion for qualified transportation fringe benefits is generally preserved for employees.</p> <p><i>Effective Date: Amounts paid or incurred after 2017</i></p> <p>(Section 13304)</p>
Qualified Bicycle Commuting Reimbursement (Code Section 132(f))	Employees may exclude from their income qualified bicycle commuting reimbursements of up to \$20 per month. These amounts are also excluded from wages for employment tax purposes.	<p>Repeal the exclusion for qualified bicycle commuting reimbursements.</p> <p><i>Effective Date: For taxable years beginning after 2017 and before 2026 (provision sunsets after 2025)</i></p> <p>(Section 11047)</p>

Provision (Code Section)	Current Law	New Law (Bill Section)
FRINGE BENEFITS		
Deduction for Qualified Moving Expense Reimbursements	Employees may exclude employer-provided moving expense reimbursements from gross income and wages for employment tax purposes.	<p>Employees will not be able to exclude qualified moving expense reimbursements from income or deduct moving expenses, but provides an exception for certain members of the Armed Forces on active duty who move pursuant to a military order.</p> <p><i>Effective Date: Amounts paid or incurred after 2017 and before 2026 (provision sunsets after 2025)</i></p> <p>(Section 11048)</p>
Employee Achievement Awards (Code Sections 74(c) and 274(j))	Employee achievement awards for length of service or safety achievements up to a certain amount are excluded from employees' income if certain conditions are met and are also excludible from an employee's gross income and wages for employment tax purposes.	<p>The deductibility of employee achievement awards is limited by a new definition of "tangible personal property" that denies the deduction for cash, cash equivalents, and gift cards, coupons, or certificates, vacations, meals, lodging, tickets to sporting or theater events, securities, and "other similar items," except when employees can only choose from a limited array of pre-selected or pre-approved items by the employer.</p> <p><i>Effective Date: Taxable years beginning after December 31, 2017</i></p> <p>(Section 13310)</p>

Provision (Code Section)	Current Law	New Law (Bill Section)
RETIREMENT BENEFITS		
Extended Rollover Period for Plan Loan Offset Amounts (Code Section 402(c))	<p>Retirement plan loans are generally immediately due and payable when the plan terminates, or the participant terminates employment. If the loan is not repaid (i.e., defaults), the participant is deemed to have received a taxable distribution to “offset” the outstanding unpaid loan balance. Because this “offset” amount is treated like an ordinary distribution, the participant could make a tax-free rollover contribution to another retirement plan or an IRA so long as the individual does so within 60 days of the distribution.</p>	<p>Extends the 60-day deadline until the due date (including extensions) for the participant's tax return for the year in which the amount is treated as distributed. Plan loan offset amounts qualifying for this extended deadline are limited to loan amounts that are treated as distributed solely by reason of either termination of the plan or failure to meet the loan's repayment terms because of a severance from employment.</p> <p>The extension applies to plan loans provided by tax-qualified retirement plans including, Section 401(k), Section 403(b) and Section 457(b) governmental plans.</p> <p><i>Effective Date: Applies to loan offset amounts that are treated as distributions in taxable years beginning after December 31, 2017</i></p> <p>(Section 13613)</p>
Special Relief for 2016 Disaster Victims	<p>Distributions from 401(k), 403(b), 457(b) plans, and IRAs are generally included in income for the year distributed. Additionally, such distributions received before age 59½ are subject to a 10% early withdrawal tax. If eligible, a distribution from a 401(k), 403(b) plan, 457(b) plan, or IRA may be rolled over tax-free to another eligible retirement plan within 60 days.</p>	<p>The Bill provides tax relief for certain retirement plan and IRA distributions taken on or after January 1, 2016, and before January 1, 2018, by individuals: (1) whose principal place of abode was located in a presidentially declared disaster area at any time during 2016, and (2) who sustained an economic loss by reason of the events giving rise to the disaster declaration.</p> <p>The relief is similar to the retirement related tax relief enacted after Hurricanes Katrina, Wilma, and Rita in 2005, and Hurricanes Harvey, Irma, and Maria in 2017.</p>

Provision (Code Section)	Current Law	New Law (Bill Section)
RETIREMENT BENEFITS		
Special Relief for 2016 Disaster Victims (continued)		<p>The aggregate distributions from all eligible retirement plans eligible for tax relief is \$100,000. The tax relief includes:</p> <ul style="list-style-type: none"> • relief from the 10% early withdrawal tax and from the 20% mandatory income tax withholding; • the distribution will be exempt from certain statutory limitations, such as 401(k) plan restrictions on taking distributions of pre-tax deferrals before age 59-1/2; • taxable income from the distribution may be spread out ratably over three years; and • any portion of the distribution may be recontributed as a “rollover” to any eligible retirement plan to which a rollover can be made within a three-year period from the year of the distributions. <p>Any retroactive plan amendments made to adopt the tax relief provided by the Bill (or by a regulation issued thereunder) may be made by the last day of the first plan year beginning after Dec. 31, 2017 (i.e., December 31, 2018 for calendar year plans).</p> <p><i>Effective Date: Immediate</i></p> <p>(Section 11028)</p>