NECA Government Affairs

# Refine Federal Tax Policy

## Background:

The Tax Cuts and Jobs Act (H.R.1) was signed into law on December 22, 2017. This legislation is significant for several reasons. It is the first time the tax code has been overhauled in 31 years. It will also be the most significant legislative achievement of the Trump Administration and the 115th Congress to date. NECA has long said that high tax rates and a complex tax code hampers our nation's competitive standing and hinders our economic growth. The time and money NECA contractors spend to comply with our complex tax code could be—and should be—spent on growing their businesses and creating jobs. That is why comprehensive tax reform needed to be tackled.

NECA spent the past several years strongly advocating for a tax reform measure that embraces a few basic principles: 1) it should be comprehensive; 2) it should ensure rate parity between different types of businesses; 3) repeal the estate tax and the alternative minimum tax; and, 4) make permanent long-standing tax provisions scheduled to expire.

It is our analysis that the final conference agreement reflects a series of compromises in multiple areas. Many items will greatly benefit NECA contractors and several others could make tax planning more challenging for others.

NECA will continue to engage with Congress, the Department of Treasury, and the Internal Revenue Service as regulatory guidance is developed to implement HR 1.

## Highlights of the Tax Cuts and Jobs Act (H.R.1):

- Corporate tax rate drops from 35 to 21 percent.
- New 20 percent pass-through tax deduction on domestic qualified business income:
    - Pass-through owners with incomes below $315,000 (married filing jointly)/$157,500 (individual) can claim the 20 percent deduction without limitations.
    - Owners with income between $315,000 and $415,000 for married couples, and between $157,500 and $207,500 for individuals, can claim a partial deduction.
    - Pass-through owners with incomes over those thresholds can claim the deduction subject to a limitation of 50% of W-2 wages, or 25% of W-2 wages plus a measure of capital investment (similar to rules for the former Section 199 deduction).
- Corporate alternative minimum tax (AMT) was repealed.
- Individual AMT is retained with increases in the exemption amount and phaseout threshold.
- The cash method of accounting was preserved; no changes to ESOPs.
- Individual deductibility of state and local taxes is limited to the first $10,000 of property, income, or sales taxes.
- C corporations and pass-through firms can continue to deduct business state and local taxes if they are levied at the entity level.
- Section 199 domestic production activities deduction was eliminated.

NECA Asks:

- *Restore Tax Rate Parity for All Businesses*. Top tax rates on pass-through businesses are nearly 45 percent today, or almost 10 percentage points higher than the top tax rate imposed on C corporations. Tax reform proposals that reduce tax rates for C corporations would only make this disparity worse. Tax reform needs to reduce tax rates and restore rate parity for all employers, regardless of how they are organized.

- *Make the Pass-Through Deduction Permanent to Ensure Certainty and Predictability*. Under the new law the tax rates will sunset at the end of 2025 and revert to previous levels.

- *Make Remaining Tax Extenders Permanent*. In 2015, Congress reinstated, extended, and phased down a range of tax provisions for the 2015-2019 tax years. These so-called "extenders" should be made permanent to reduce uncertainty for businesses that rely on some of these important provisions.

- *Fully Repeal the Estate Tax*. Under H.R.1 the Estate Tax and Generation Skipping Transfer Tax exemptions doubled. Without Congressional action, the exemptions will revert back to their previous levels, indexed for inflation, in 2026. This onerous tax is essentially a penalty that families must pay to the government for the "privilege" of keeping their business in their family. Construction companies are frequently family-owned and are particularly hard hit by the death tax burden. In many cases, the federal estate tax rate is such a burden that families often have to sell their small construction companies in order to pay this tax.

- Co-sponsor the *Death Tax Repeal Act* (H.R. 5422) by Rep. Jason Smith (R-MO).

  Sponsors: Eight total sponsors (7 Republicans, 1 Democrat)

  Rep. Bishop, Sanford D., Jr. (D-GA-2)
  Rep. Noem, Kristi L. (R-SD-At Large)
  Rep. Messer, Luke (R-IN-6)
  Rep. Bishop, Rob (R-UT-1)
  Rep. Wagner, Ann (R-MO-2)
  Rep. Long, Billy (R-MO-7)
  Rep. Rokita, Todd (R-IN-4)
  Rep. Womack, Steve (R-AR-3)