

COHFA NON-PROFIT SEMINAR

November 9, 2017

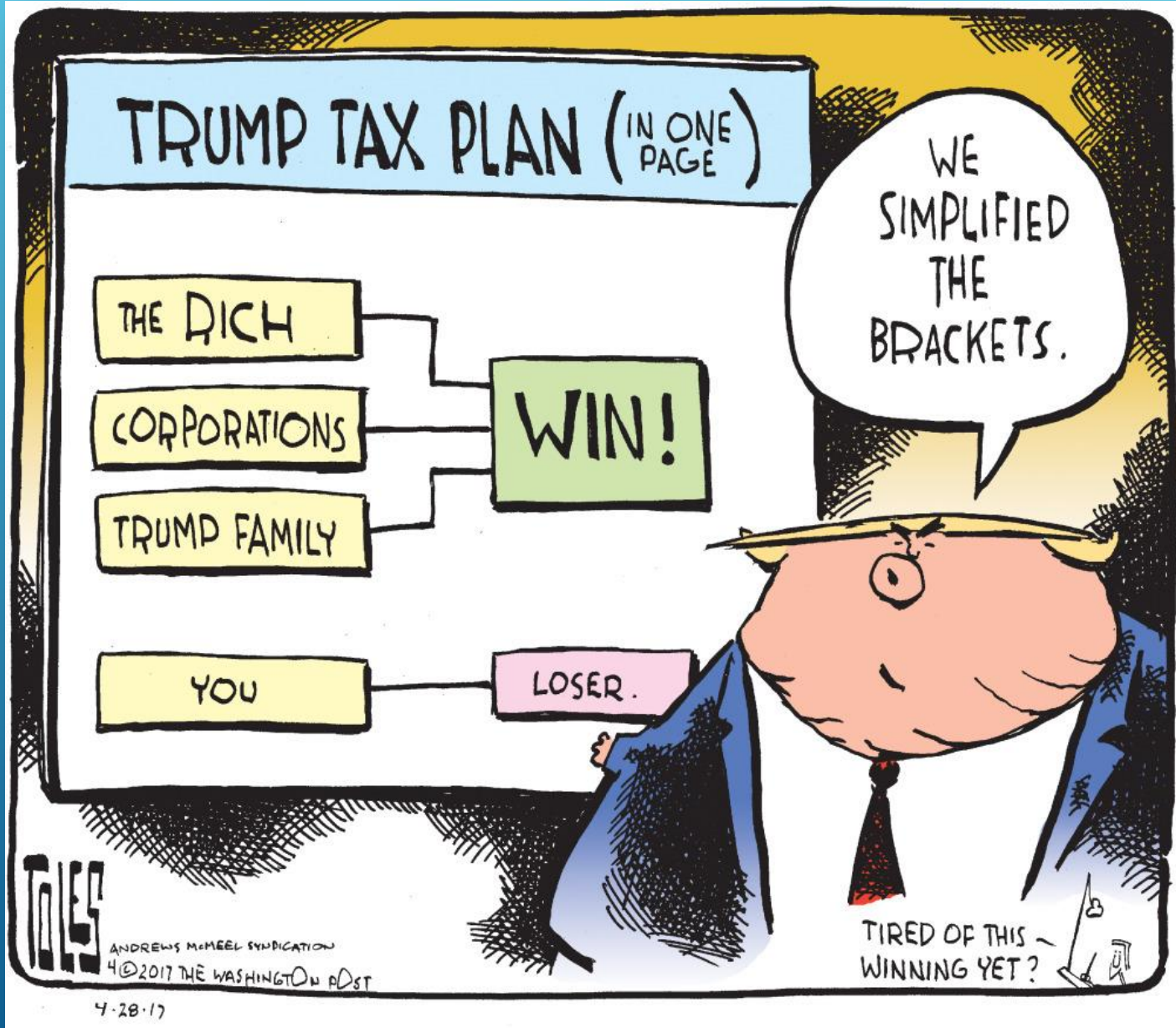


Tax “Reform”: The Threat of Annihilation of Non-Profit Tax Exempt Financing

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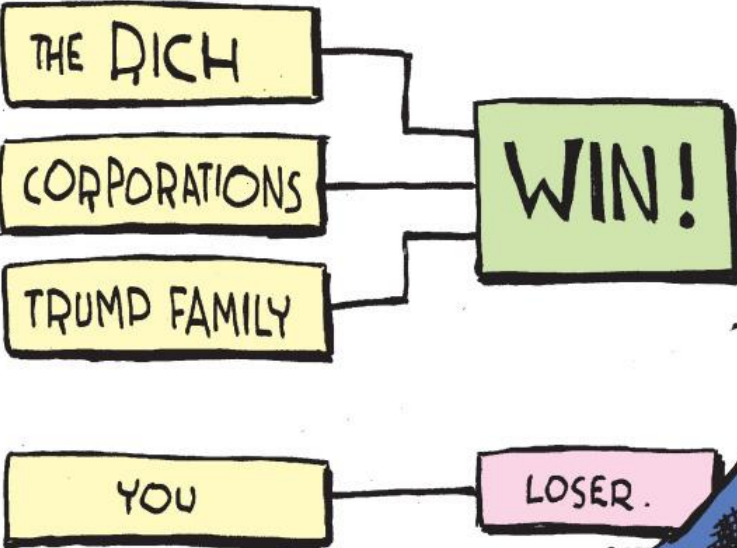
WHAT HAPPENED?

11/9/2017



WE SIMPLIFIED THE BRACKETS.

TRUMP TAX PLAN (IN ONE PAGE)



TIRED OF THIS - WINNING YET?

T.M.S.
ANDREW'S McMEEL SYNDICATION
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CONTEXT: JCT ESTIMATED TAX REVENUE LOSSES AND GAINS OF HR 1

Selected Tax Revenue Losses

Corporate Tax Reduction	\$1.4 trillion
Individual tax bracket changes	\$1.1 trillion
Increased standard deduction	\$0.9 trillion
AMT Repeal	\$0.7 trillion
25% pass-through rate	\$0.45 trillion

Selected Tax Revenue Gains

Repeal of PAB Tax Exemption	\$38.9 billion
Repeal of Advance Refundings	\$17.3 billion
Repeal of Stadium Bonds	\$0.2 billion
Repeal of Tax Credit Bonds	\$0.5 billion

IMPACT ON MUNICIPAL BONDS

HR1 Provisions Relevant to Municipal Bonds

Provision	Impact
PABs Repeal	20% of Bond Volume
501(c)(3) Repeal (included)	6% of Bond Volume
AR Repeal	10-20% of Bond Volume
AMT Repeal	Some enhancement of value of existing non-501(c)(3) PABs
SALT Deduction Repeal	Enhancement of value of munis
Tax Bracket Shifting	Some diminution of value of munis
No Transition Rule	Unnecessary PABs current refunding cutoff
1/1/18 Effective Date	Pre-enactment PAB/AR cutoff as of 1/1/18

PAB CATEGORIES

- Qualified 501 (c)(3) bonds
- Qualified student loan bonds
- Qualified mortgage bonds (single family housing)
- Qualified veterans' mortgage bonds
- Qualified small issue bonds (manufacturing facilities)
- Qualified redevelopment bonds

PAB CATEGORIES CONT.

- Exempt facility bonds

- airports
- docks and wharves,
- mass commuting facilities,
- facilities for the furnishing of water,
- sewage facilities,
- solid waste disposal facilities,
- qualified residential rental projects (mixed income housing),
- facilities for the local furnishing of electric energy or gas
- local district heating or cooling facilities,
- qualified hazardous waste facilities,
- high-speed intercity rail facilities,
- environmental enhancements of hydroelectric generating facilities,
- qualified public educational facilities,
- qualified green building and sustainable design projects
- qualified highway or surface freight transfer facilities
- Midwestern disaster area
- Liberty
- Gulf opportunity
- Recovery zone facility
- Enterprise zone facility

EVOLUTION OF 501(C)(3) BONDS

- Prior to 1986 Tax Reform Act, 501(c)(3) issuers treated as “exempt persons”, same as state and local government issuers
- 1986 Tax Reform Act reclassified 501(c)(3) bonds as PABs, albeit a favored class of PABs
 - ▶ Not subject to volume cap
 - ▶ Not subject to AMT
- JCT Report on 1986 Tax Reform Act:
- “Congress recognized that section 501(c)(3) organizations in many cases perform functions which government would otherwise have to undertake. The use of the term private activity bond to classify obligations for section 501(c)(3) organizations in the Internal Revenue Code of 1986 in no way connotes any absence of public purpose associated with their issuance. Accordingly, the Act requires that any future change in legislation applicable to private activity bonds generally shall apply to qualified 501(c)(3) bonds only if expressly provided in such legislation.”

OTHER PROVISIONS

- 20% excise tax on employee comp above \$1 million at all non-profits
- Apply to 5 highest paid employees

HOW DID THIS HAPPEN?

TRUMP AIMING TO MATCH REAGAN'S 1986 TAX REFORM SUCCESS



11/9/2017

PROPONENTS OF TAX REFORM ARE OPTIMISTIC

- GOP desperately needs a win.
- Health care was emotional – tax reform is intellectual. (Is that true?)
- Controversial Border Adjustment Tax (BAT) nixed.
- Broad bipartisan agreement that tax code needs updating.

But significant challenges remain....

- Tax reform is hard.
- Limited legislative days left in 2017.
- Can the White House lead?

HOW DID THIS HAPPEN?

- Compromises on BAT, SALT, 401K, and mortgage interest deduction caused last minute need to find revenue provisions
- Camp draft and long-time JCT option papers propose eliminating PABs and advanced refundings
- At last minute White House decided not to object

WHAT HAPPENS NEXT?

- Ways and Means markup and House consideration
- Possibility of House amendment
- Unveiling of Senate bill and Senate Finance mark-up
- House-Senate conference process
- Timing
- Thursday Update

HOW IS THE BOND AND NON-PROFIT COMMUNITY MOBILIZING?

- Action by coalitions and state and local government groups
- Grassroots advocacy by non-profits and charities
- Need to reverse media misunderstanding of provisions

COLORADO

- Senators Bennet and Gardner
- House Delegation

WHAT ARE OUR PROSPECTS FOR SUCCESS?

- Much too early for compromise, **BUT...**
- Effective date and transition rules

QUESTIONS?