



OFFICE OF THE PRESIDENT

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November 6, 2017

The Honorable Kevin McCarthy
Majority Leader
United States House of Representatives
U.S. Capitol Building, Room H-107
Washington, DC 20510

The Honorable Nancy Pelosi
Democratic Leader
United States House of Representatives
U.S. Capitol Building, Room H-204
Washington, DC 20510

The Honorable Devin Nunes
United States House of Representatives
1013 Longworth House Office Building
Washington, DC 20515

The Honorable Mike Thompson
United States House of Representatives
231 Cannon House Office Building
Washington, DC 20515

The Honorable Linda Sánchez
United States House of Representatives
2329 Rayburn House Office Building
Washington, DC 20515

The Honorable Judy Chu
United States House of Representatives
2423 Rayburn House Office Building
Washington, DC 20515

Dear Leader McCarthy, Leader Pelosi, Rep. Nunes, Rep. Thompson, Rep. Sánchez and Rep. Chu:

On behalf of the University of California, I write to share with you a preliminary analysis of H.R. 1, the Tax Cuts and Jobs Act. The university has a significant number of concerns with the legislation and its adverse impact on the university, our students and our faculty and staff.

With more than 264,000 students, 165,000 faculty and staff, and 1.8 million living alumni, the University of California is the largest public research university system in the world. The UC system includes 10 campuses and five medical centers, and is the third largest employer in the state of California.

The university recognizes that these are challenging economic times for our country and that policymakers will need to make important decisions regarding budgetary and tax priorities. As drafted, this legislation would make higher education less affordable and less accessible to

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Californians, and would undermine the university's ability to achieve its education, research, health care and public service missions.

While there are a broad range of issues that would adversely affect the university community, I would like to draw your attention to five areas that the UC is particularly concerned about, including the legislation's impact on charitable giving, unrelated business income taxation, tax-exempt bond financing and higher education tax benefits, as well as a number of employer/employee and other related tax provisions.

As you and your colleagues continue working on tax reform legislation, UC urges you to consider our analysis and the impact it will have on our students, faculty and staff. If you have questions about our analysis or the legislation's further impact on the university, please contact Kamala Lyon (Kamala.Lyon@ucdc.edu or 202-974-6312) or me.

Thank you for your consideration.

Sincerely,

A handwritten signature in cursive script, appearing to read "Christopher Harrington".

Christopher Harrington
Interim Associate Vice President
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Tax Reform: H.R. 1, the Tax Cuts and Jobs Act, and the Impact to the University of California

As Congress works to pass tax reform legislation, the University of California (UC) looks forward to providing feedback and analysis regarding the impact of proposed tax changes on the university. Unfortunately, H.R. 1 includes numerous changes to the U.S. Tax Code that will have a negative impact on UC and its students and their families, as well as UC's employees, which will make it more difficult for UC to continue to operate effectively and make it more expensive for students and their families to afford college.

With more than 264,000 students, 165,000 faculty and staff, and 1.8 million living alumni, the University of California is the largest public research university system in the world. The UC system includes 10 campuses and five medical centers, and is the third largest employer in the state of California.

UC opposes H.R. 1, the Tax Cuts and Jobs Act, in its current form. Please find below UC's preliminary analysis of specific provisions of H.R. 1 of significant concern to the university:

CHARITABLE GIVING:

- **UC urges Congress to retain strong charitable giving tax incentives, which preserve the value of the charitable deduction. UC supports a universal, above-the-line deduction for charitable giving, to allow tax payers to subtract charitable donations from their income, regardless of whether they file itemized returns.**

As the nation's largest public research university, UC depends on charitable giving and the strong charitable giving tax incentives that exist under current law to support the university's research, education, public service and health care missions. Adverse changes to the charitable contribution deduction under the U.S. Tax Code would significantly impact this important support—with the potential for drastically reducing charitable giving. At a time when UC is increasingly reliant on private support, any reduction in charitable giving could be devastating to the university and its students and programs, especially when UC is working to encourage gifts from as broad a donor base as possible.

Charitable contributions serve a critical role in all aspects of UC's operations, including helping to ensure that UC students receive the financial support they need to attend UC, and that UC remains accessible regardless of a student's financial resources. The 2017 fiscal year was a strong fundraising year for the University of California with the university raising slightly over \$2 billion. Consistent with prior years, this philanthropic support is impacting virtually every aspect of the university – ranging from student financial aid and research to departmental support to financing capital facilities, UC receives this support from a broad base of donors – well over 300,000 individuals, corporations and foundations. While the base is broad, and many small donations are made, a significant amount of support comes to UC in gifts of \$1 million or more. The experience at UC is generally consistent with national data reflecting the impact of economic conditions on charitable giving by taxpayers. As a result, UC would anticipate that any adverse change in the

charitable income tax deduction would negatively impact charitable giving. While difficult to quantify, the timing and the extent of charitable giving is significantly influenced by tax and financial considerations.

Student support has always been a focal point for philanthropic support – at UC as well as colleges and universities across the country. UC has a deep and longstanding commitment to ensuring that financial aid is available for students and their families. This commitment is met through federal aid (Pell Grants), state aid (Cal Grants), UC’s commitment of its own resources, and increasingly, privately funded scholarships and fellowships. In recent years, nearly 28,000 students received privately funded scholarships and fellowships — totaling over \$150 million each year. These awards consist of almost equal parts current use gifts and payout from endowment funds. In 2016-17, just over \$191 million of gifts received by UC were designated for student support. This total number represents the sum total of a wide spectrum of gifts designated by donors for scholarships, fellowships, awards and prizes.

In addition to providing financial support to UC students, charitable giving supports UC’s ability to drive innovation through cutting edge research, including advancing scientific breakthroughs, finding cures to diseases, and supporting cancer research and precision medicine activities. Charitable giving also supports UC’s health sciences and medicine programs; our ability to provide medical care to patients; the training of medical students and the next generation of health science professionals; and plays a critical role in supporting UC’s faculty, academic departments, museums and libraries. Charitable giving also provides funding to assist with making critical infrastructure improvements, such as to assist with the construction and renovation of student housing and facilities to support scientific discovery.

Impact of H.R. 1 on Charitable Giving:

UC is concerned that H.R. 1 will have a significant negative impact on charitable giving to the university. Specifically, the bill increases the standard deduction for tax filers, which is predicted to reduce charitable giving, since fewer tax filers would choose to file itemized returns, which is necessary to claim the charitable deduction. A [report](#) issued in May of 2017 by the Independent Sector and Indiana University’s Lilly Family School of Philanthropy, *Tax Policy and Charitable Giving Results*, predicted that charitable giving could drop significantly as a result of increasing the standard deduction, due to the resulting drop that would occur in the number of itemizers. To help minimize the negative impact on charitable giving because of fewer tax filers choosing to file itemized returns, UC supports enactment of a universal, above the line charitable deduction, which would allow tax payers to subtract their charitable contributions from their taxes, before choosing whether to file itemized or non-itemized returns.

UC is pleased that Rep. Mark Walker (R-NC) introduced H.R. 3988, the Universal Charitable Giving Act of 2017, which takes steps to adopt a universal-above-the-line deduction for charitable contributions for individuals regardless of whether they file itemized returns. However, H.R. 3988, would only apply to amounts up to “1/3” of the “standard deduction,” which limits the usefulness of the deduction.

UC recommends that H.R. 1 be amended to include the text of H.R. 3988, without the “1/3” of the “standard deduction” limitation, to promote charitable giving and to retain the value of the charitable deduction.

UC is concerned about the negative impact on charitable giving that could result due to the estate tax changes in Subtitle G, Estate and Generation-skipping Transfer Taxes of H.R. 1, since fewer individuals may choose to make charitable bequests as part of their estate planning because of the

language. UC joins with the larger charitable community in encouraging further examination of the potential impact on charitable giving before proposing such dramatic changes to the current tax law, which could result because of the estate tax language. This is an issue that warrants further examination.

ENDOWMENTS:

- **UC opposes the inclusion of provisions in tax reform proposals that negatively impact the tax treatment of endowments.**

Endowments assist higher education institutions in achieving their missions by providing a stable source of revenue for student financial aid, teaching, research, other operating expenses, and capital improvements. At colleges and universities across the nation, endowment funds provide critical support for today's faculty and students, and endowments established today will provide support for future generations. While the language in Section 5103 of H.R. 1, which imposes a 1.4 percent excise tax on the endowment income of certain private universities does not apply to UC as a public institution, the university remains concerned about the inclusion of any language in tax reform legislation that negatively impacts the tax treatment of endowments. The creation of new excise tax liabilities on university endowments sets a bad precedent given the critical role endowments play in helping colleges and universities provide financial aid to their students as well as support for faculty.

UNRELATED BUSINESS INCOME TAXATION (UBIT):

- **UC objects to the inclusion in tax reform legislation of UBIT provisions, which would substantially increase tax burdens for tax-exempt organizations, like UC.**
 - **UC opposes the inclusion in H.R. 1 of Section 5001. Clarification of unrelated business income tax treatment of entities treated as exempt from taxation under section 501(a)**, which would repeal the UBIT exemption for income derived from the public pension plans of government-sponsored entities, such as the University of California's Retirement Plan (UCRP), and treat certain investment income of UCRP as subject to UBIT. Under current law, Section 115 exempts UCRP investment income from UBIT. Making UCRP subject to UBIT will significantly reduce the assets held by UCRP for distribution as pension benefits to UC employees. Specifically, UCRP would be subject to new tax liabilities, costing millions of dollars each year, which will have a drastic impact on UC's pension funds, and will negatively impact both the ability of UC to provide pension benefits to retirees and existing employees, and also to recruit the best faculty and staff. The provision of pension benefits to the employees of an instrumentality of the state (UCRP) is an essential government service. UC urges Congress to reject the inclusion of Section 5001 as tax reform moves forward.
 - **UC opposes the inclusion in H.R. 1 of Section 5002. Exclusion of research income limited to publicly available research**, which would eliminate the current exemption from UBIT for income derived from research performed at UC campuses, to allow for an exclusion from UBIT of research income to be available only if the results of which are freely made available to the public. This provision does not provide a definition for what would be considered publicly available research results, which means that it could be difficult to determine which research income would be subject to UBIT. This provision would create new tax liabilities for universities such as UC, which would negatively impact UC's ability to conduct research and to re-invest any proceeds relating to research activities into

conducting additional research on UC campuses. UC urges Congress to preserve the fundamental research exemption from UBIT, which exists under current law.

TAX EXEMPT BOND FINANCING:

- **UC urges Congress to preserve tax-exempt bond financing options, which are critical to financing capital projects, and to reject the changes made in Subtitle G-Bond Reforms, including Section 3601. Termination of private activity bonds; and Section 3602. Repeal of advance refunding bonds, which will severely impact UC's ability to continue to fund capital and infrastructure projects on UC campuses.**

The University of California increasingly relies on financing to fund capital projects in the environment of less state funding. The university currently has approximately \$19 billion in bonds issued by or for the benefit of the university outstanding, approximately \$13 billion of which is tax-exempt debt. UC benefits from tax-exempt financing rates, which are lower than taxable financing rates. If UC's ability to issue tax-exempt financing is taken away, UC would be faced with the options of issuing taxable financing at a higher rate, placing an increased operating burden on campuses and medical centers; finding other sources of funding, options for which are very limited; or foregoing certain projects. Tax-exempt financing has helped finance a variety of academic, student housing, hospital, and other projects across all campuses and medical centers. These projects are investments in the university's facilities and infrastructure, which are critical for the university to meet its mission of teaching, research, health care and public service. Some recent examples of tax-exempt bond financed projects include: the Clinical Sciences Building seismic retrofit at UC San Francisco, the Coastal Biology Building at UC Santa Cruz, the Tercero Student Housing project at UC Davis, and the Jacobs Medical Center at UC San Diego.

- **UC opposes the inclusion in H.R. 1 of Section 3601. Termination of private activity bonds:** The termination of tax-exemption on private activity bonds would have a significant negative impact on UC's ability to finance capital projects. The university has benefited from the issuance of tax-exempt private activity bonds to finance numerous capital projects and intends to utilize tax-exempt private activity bonds in the future for additional capital projects, such as student housing. This provision would impact the university's cost and ultimately its ability to finance these projects.
- **UC opposes the inclusion in H.R. 1 of Section 3602. Repeal of advance refunding bonds:** The repeal of the ability to advance refund bonds on a tax-exempt basis would have a significant negative impact on UC's ability to finance capital projects. The university issues advance refunding bonds when interest rates are low for interest rate savings (similar to refinancing a home mortgage), and this provision would negatively impact the university's ability to achieve interest cost savings in a low interest rate environment.

UC urges Congress not to include changes to tax exempt bond financing mechanisms as part of tax reform legislation.

HIGHER EDUCATION TAX BENEFITS:

- **UC supports retaining and enhancing higher education related tax benefits and opposes the repeal of many of the higher education tax benefits included in H.R. 1.**

UC supports retaining and enhancing education tax benefits, which help UC students and their families afford to pay for college and repay student loans. These provisions help keep college affordable and ensure college is accessible. UC opposes the changes to higher education tax

benefits in Subtitle C - Simplification and Reform of Education Incentives, which eliminates critical existing tax benefits, and makes the cost of attending college more expensive for students and their families. UC estimates that at least 30 percent of UC students and their families rely heavily on the current law's tax provisions. H.R. 1 will hurt UC students and their families who are just out of reach of need-based financial aid programs, but still struggle with the cost of attending college, most of which are living expenses such as housing, food, books and supplies. UC's views on specific changes to education tax benefits in H.R. 1 are outlined below.

Section 1201. American Opportunity Tax Credit (AOTC):

- **American Opportunity Tax Credit (AOTC):** H.R. 1 retains the AOTC, and would expand the time limit available to use the AOTC to five years, instead of four years, but in the 5th year, the benefit is reduced by half. It is positive that H.R. 1 retains the AOTC, but most other important higher education tax benefits would be repealed.
- **Lifetime Learning Credit (LLC):** UC opposes the repeal of the LLC, which is an especially important credit available to students since the LLC is currently available for an unlimited number of years. In particular, the elimination of the LLC would harm many graduate and non-traditional students, including transfer and re-entry students.
- **Hope Scholarship Credit:** UC opposes the repeal of the Hope Scholarship Credit, which provides an education tax benefit that allows taxpayers a credit of up to \$2,500 (per student, per year) if they paid qualified tuition and related expenses for the first four years of postsecondary education. This tax credit is another useful tool for our middle-income households that live in a high-cost state.

Section 1202. Consolidation of education savings rules:

- **Coverdell Education Savings Accounts:** Section 1202 prohibits new contributions to Coverdell Education Savings Accounts after 2017. UC encourages families to save for college to the extent that they are able. Reducing the opportunities or tools that promote savings, such as eliminating Coverdell Education Savings Accounts, will make college expenses more difficult to manage.

Section 1203. Reforms to discharge of certain student loan indebtedness:

- Section 1203 would exclude from taxable income any income resulting from the discharge of student debt on account of death or total disability of a student. This change would be positive.

Section 1204. Repeal of other provisions relating to education:

UC opposes the repeal of the education benefits listed under Section 1204, including:

- **Interest Payments on Qualified Education Loans (Student Loan Interest Deduction):** UC opposes the repeal of the Student Loan Interest Deduction, which is an important tax incentive currently available to help students pay their loan costs, which provides for a deduction for interest payments on educational loans.
- **Deduction for Qualified Tuition and Related Fees:** UC opposes the repeal of the deduction for Qualified Tuition and Related Fees, which is another helpful tax incentive currently available that helps students.
- **Interest on United States Savings Bonds:** UC encourages families to save for college to the extent they are able. H.R. 1 repeals the current law's exclusion from income interest on United

States savings bonds, if used to pay for qualified education expenses, which will reduce available savings options.

- **Section 127 Employer-Provided Education Assistance:** UC opposes the repeal in H.R. 1 of Section 127 Employer-Provided Education Assistance, which is an important tax benefit under existing law which allows employers to provide tax-free tuition assistance to their employees, of up to \$5,250 annually, to cover educational expenses, which can be excluded from an employee's taxable income. Repealing this provision will reduce the opportunities for employees to attend college. This provision has provided assistance to UC students, as well as UC graduates, and UC urges Congress not to repeal Section 127 benefits.
- **Section 117 Qualified Scholarships:** UC opposes the repeal of Section 117, including Section 117(d) Qualified Tuition Reductions, which allows for qualified tuition reductions provided by educational institutions to their employees, to be excluded from income for the employee. Repealing Section 117(d) will have a significant negative impact on UC's graduate students, who serve as research assistants, teaching assistants, readers, or tutors, and under the terms of their employment, may be eligible for Qualified Tuition Reductions under 117(d). Over 23,000 graduate students—more than 40 percent of UC's graduate students—received over \$250 million in tuition and fee remission in 2015-16, which was treated as a Qualified Tuition Reduction under 117(d). An unknown number of additional UC employees have also been able to take advantage of qualified tuition reductions. Repealing Section 117(d) will result in a significant increase in income tax liability for UC's graduate students, since payment of income taxes will be required on any tuition reductions limiting these students' financial resources and increasing their graduate student loan burden.

EMPLOYER/EMPLOYEE AND OTHER TAX ISSUES OF CONCERN TO THE UNIVERSITY

Below are additional provisions in H.R. 1 that would have a negative impact, including, but not limited to:

- **Section 1003. Repeal of deduction for personal exemptions:** UC is concerned that the elimination of personal exemptions under H.R. 1 could increase tax liabilities for the families of UC students, since parents would no longer be able to take a deduction for any dependents, such as their children who are college students and for students who are independent tax filers, such as many graduate students, would no longer be able to take any personal exemptions;
- **Section 3803. Excise tax on excess tax-exempt organization executive compensation:** UC opposes the 20 percent excise tax on the compensation in excess of \$1 million paid by tax-exempt organizations to any of its five highest paid employees per year. Section 3803 will impose new excise tax liabilities on UC, which may impact UC's ability to recruit top level coaches and medical professionals;
- **Section 1401. Limitation on exclusion for employer-provided housing:** UC is concerned that Section 1401 limits the exclusion for employer-provided housing under Section 119, which will impact certain employees who reside in UC-provided housing;
- **Section 1306. Charitable Contributions:** UC is concerned that H.R. 1 repeals the special rule for College Athletic Seating Rights that allows donors to take a charitable deduction for 80 percent of the amount paid for the right to purchase seating for college athletic events;
- **Section 1310. Repeal of deduction for moving expenses:** UC is concerned that H.R. 1 repeals the deduction for qualified moving expenses, such as payments received from an employer incurred in conjunction with starting a new job. Repealing this provision may negatively impact UC's ability to attract faculty and staff to work at UC;
- **Section 1308. Repeal of medical expenses deduction:** H.R. 1 repeals the taxpayer deduction for out-of-pocket medical expenses of the taxpayer, a spouse or a dependent. The

inclusion of this provision may harm UC employees and our patients incurring medical expenses;

- **Section 3308. Unrelated business taxable income increased by amount of certain fringe expenses for which deduction is disallowed:** UC is concerned that Section 3308 repeals 132(f) Qualified Transportation benefits, which allows employees to pay for certain transportation expenses on a pre-tax basis, such as to help defray costs for the use of van pools, public transportation or for certain parking expenses. The availability of 132(f) benefits has been an important benefit available to UC's employees to help defray transportation costs. UC urges Congress to retain 132(f) benefits.