

Republican Tax Credit Proposal Would Provide New Breaks to Tax Avoiders Like Amazon and Netflix

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While lawmakers of both parties and policy experts discuss various ways to respond to the continuing COVID-19 crisis and resulting economic downturn, Republicans in Congress are offering a new solution. Their idea, which is still being discussed, is to waive existing limits on **business tax credits**. This could benefit corporations that are profitable but that nonetheless pay no taxes or very little in taxes because of the many tax breaks and legal loopholes they already enjoy.

The table below illustrates how Amazon and Netflix both managed to pay little or nothing in federal income taxes over the past two years while both companies are carrying forward unused tax credits from previous years that they could use in the future. The Trump-GOP tax law enacted at the end of 2017 was supposed to offset the cost of its enormous cut in the corporate tax rate by removing special breaks and loopholes that allow profitable companies to avoid income taxes. But, as ITEP has **documented**, this clearly did not happen.

There are several tax credits that are designed, in theory, to encourage companies to engage in some socially productive activity. The most significant is the credit for research. Netflix claims substantial research tax credits each year, and reasonable people can disagree over whether taxpayers should subsidize that company's research efforts.

While no specific proposal has been made public, media reports suggest that the emerging Republican concept could take several different forms that could make companies like Amazon or Netflix more able to use these tax credits.

Amazon and Netflix Carrying Forward Tax Credits and Paying Little or No Taxes in the First Two Years of the Trump-GOP Tax Law

Figures in millions of dollars unless otherwise noted

	Tax Credits Carried From Previous Years as of 2019	U.S. Pre-Tax Profits			U.S. Corporate Income Tax			Effective U.S. Corporate Income Tax Rate		
		2018	2019	2018-2019	2018	2019	2018-2019	2018	2019	2018-2019
Netflix	\$409	\$899	\$1,719	\$2,618	-\$22	\$21	-\$1	-2.5%	1.3%	-0.0%
Amazon.com	\$772	\$10,835	\$13,009	\$23,844	-\$129	\$162	\$33	-1.2%	1.2%	0.1%

SOURCE: Institute on Taxation and Economic Policy analysis of 10K filings

MAKING BUSINESS CREDITS REFUNDABLE

One idea being discussed would make business tax credits refundable for 2020.

Some tax credits for individuals and families, like the Earned Income Tax Credit (EITC) and the Child Tax Credit, are refundable, meaning taxpayers can claim these credits even if the amount exceeds the income tax they would otherwise pay. Refundable tax credits can result in negative income tax liability for individuals, meaning the IRS sends them a check that offsets other more regressive taxes that people pay (like payroll taxes, sales taxes and property taxes.) These refundable tax credits play an important part in making the tax code fair for individuals.

But Congress previously has not made most tax credits for businesses refundable because businesses are obviously different from people. Most businesses, whether publicly traded corporations or privately held companies, are owned predominantly by high-income people who do not need a special break.

Equally important, it is far easier for businesses, particularly large corporations, to have no tax liability even when they have ample pre-tax income. Allowing businesses with no tax liability to take tax credits would not just help companies that are struggling during the pandemic. It would also help companies like Amazon and Netflix that are profiting substantially.

Both companies report that they paid no federal corporate income taxes in 2018, the first year the GOP-Trump tax law was in effect, despite reporting significant pre-tax profits in the U.S. in their public filings with the Securities and Exchange Commission (SEC). In 2019, both companies paid some taxes, but those taxes were just a little more than 1 percent of their pre-tax U.S. profits for the year.

RELAXING LIMITS ON TAX CREDITS FOR BUSINESSES THAT HAVE TAX LIABILITY

Another idea being **discussed** would relax or waive a separate set of rules that limit how much tax credits can be used even for companies that do have tax liability. Under current rules, most business tax credits can be used to offset the first \$25,000 of income tax from a business and then up to 75 percent of the income tax exceeding that amount.

In the case of pass-through businesses (a business not subject to the corporate income tax but only subject to the personal income tax paid by the owners) these limits apply to each taxpayer who owns a business and can claim the business credits. Such individuals are also subject to another limit: The business credits cannot be taken against the Alternative Minimum Tax. (The AMT for corporations was repealed by the GOP-Trump tax law.)

These rules exist because lawmakers and the public reasonably feel that profitable businesses should pay some taxes no matter how many credits they are eligible for. More importantly, relaxing or waiving these rules would not benefit companies that are struggling during the economic downturn but would help companies that are generating profits even now as record numbers of workers and families face unemployment.



ACCELERATING TAX CREDITS CARRIED FORWARD FROM PREVIOUS YEARS

The proposal under discussion is sometimes referred to as “accelerating” tax credits, which, in an extreme form, could mean allowing companies to claim, this year, the tax credits they are carrying forward from previous years, even in excess of their tax liability this year.

The table on page 1 includes the amount of tax credits that Amazon and Netflix report, in their public filings with the SEC, to have carried over from previous years as of 2019. For Netflix the carryover is more than \$400 million, and for Amazon the carryover is more than \$770 million.

It is not clear what portion of these tax credits are for federal or state taxes or even tax credits offered by foreign countries where they do business. But it is likely that most of these credits are for federal taxes. Netflix reports that its credits are for federal and state taxes and federal taxes are usually much more significant for a company than state taxes. Amazon does not provide specifics for its credits but most of its profits are generated in the U.S. where U.S. federal taxes are most significant.

Allowing companies to accelerate tax credits carried from previous years into the present year could potentially provide hundreds of millions of dollars in benefits to some of the biggest tax-avoiding corporations, including both Amazon and Netflix. These are just two companies and there are likely others that would benefit despite not needing any type of aid.

