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Trump delivers a tax break that will help Amazon

By Brian Faler

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President Donald Trump has railed against Amazon, accusing it of exploiting the Postal Service, but his tax-code rewrite will give many of the online retailer's package deliverers a big tax advantage over the government's own letter carriers.

People who sign up for a new Amazon program to help them set up their own businesses delivering the company's packages will likely be eligible for a new tax break allowing them to skip paying taxes on 20 percent of their income.

But federal employees delivering packages for the post office — including, as Trump has complained, ones ordered from Amazon — are out of luck.

That's because the tax provision is reserved for so-called pass-through businesses like the independent contractors Amazon wants to hire. People who are ordinary employees are not eligible for the break.

The provision is designed to boost the economy, by rewarding job creators, and it can save taxpayers thousands annually. But it will also mean people who earn similar amounts of money doing similar jobs will be treated very differently on their taxes.

"You're going to have taxpayers doing the same thing having sharply different tax rates," said John Buckley, a former head of the Joint Committee on Taxation. "It's a fairness issues."

There will likely be divides across a number of industries.

Uber drivers will qualify for the break but cab drivers who work for someone else will not. A staff writer working for a magazine won't qualify but someone freelancing for the same publication would. A plumber who works for an employer won't get the break but a plumber who goes into business for herself would.

Experts predict that will push many people to seek to join the millions of Americans who are already independent contractors, in order to get the break.

But not just anyone can change their status.

There are legal restrictions on who may be considered an employee and who is a contractor, and some jobs lend themselves to making the switch more than others.

Even with the break, some workers may not want to become contractors, regardless of whether they're able. Contractors typically don't get the same benefits, such as health insurance, and they don't enjoy as many legal protections.

So while it may be a great deal for some, it wouldn't make sense for others.

All of that could be a formula for confusion and unhappiness, while also putting a spotlight on the arcane legal distinctions between employers and contractors.

Lawmakers created the break, for which Treasury is now developing regulations, to cut taxes on unincorporated businesses since they also reduced them for big corporations.

But it also creates for the first time a major difference in how traditional employees and contractors are taxed.

For someone earning \$250,000, being able to skip paying taxes on \$40,000 in income would mean annual savings of around \$12,000. (They'd also have to pay their own payroll taxes, though economists say ordinary employees also effectively pay that in the form of lower wages).

A growing share of Americans will likely qualify for the deduction. The proportion of people working in "alternative work arrangements" — such as temporary workers and contractors — grew to 16 percent of workers in 2015, up from 10 percent in 2005, according to a study by Harvard University economist Lawrence Katz and Princeton University economist Alan Krueger.

But many who might want to make the switch will be disappointed.

"I can't wake up in the morning and decide I'm going to be an independent contractor any more than I can wake up in the morning and decide I'm going to be Brad Pitt," said Robert Kerr, executive vice president at the National Association of Enrolled Agents.

There are a number of rules, focused on things like how much control an employer has over a worker — like whether she can tell him where to be and when — and businesses can face state and federal penalties for misclassifying workers.

And for some employees, the prospect of losing employer-sponsored health insurance and retirement benefits may be enough to scare them away.

"Even with the first 20 percent of their profits taxed at zero, I think they still lose," said Bernard Kiely, a financial adviser in New Jersey. "I really don't see an awful lot of employees becoming independent contractors."

Republicans also included provisions in the law designed to prevent the wealthiest people from gaming the break. Couples earning in the neighborhood of \$340,000 are subject to various restrictions, including a [ban](#) on people working in certain professions from taking the deduction.

But others see plenty of potential for people to move.

"I think a lot of people will want to convert," said Adam Looney, a senior fellow at the Brookings Institution who was a top tax aide at the Treasury Department. "There are barriers but there a lot of reasons why it can make sense."

"It's just worth so much money," Looney said.

Some people will be able to get health insurance through a spouse, he notes, and the Affordable Care Act makes it much easier for the self-employed to get coverage on their own.

To Trump's consternation, expressed in numerous presidential Twitter posts, Amazon has long relied on the Postal Service to help deliver its packages, at bargain prices, according to Trump. But the company announced in June that it would help people set up their own delivery businesses, complete with Amazon-branded trucks — an idea the new tax break will make more attractive.

"Trump may be angry at him, but he just granted Jeff Bezos an enormous prize," said Buckley.

Amazon declined comment.

Some argue against making too close a comparison between contractors and employees even though they may do similar work, saying they are not in analogous economic situations because ordinary employees enjoy those various benefits and legal protections.

And unlike ordinary employees, independent contractors may go on to hire other people, as they expand their businesses, said Keith Hall, head of the National Association for the Self-Employed.

"If someone, because of the tax law, changes from being an employee, starts their own business and five years from now, they've created five new jobs, then this tax cut has done exactly what is was designed to do," said Hall.

"Now if someone wants to just change their working relationship, and doesn't create new jobs, then that kind of defeats the purpose, and that part would be somewhat unfair."