



NC Should Decouple from New Tax on Transportation and Parking Benefits

A provision in the Tax Cuts and Jobs Act imposes a new tax on nonprofits that provide transportation and parking benefits to their employees. Nonprofits that provide these benefits are now required to pay unrelated business **income** tax (UBIT) on these **expenses** and must file Form 990-T with the IRS. **Unless the General Assembly decouples on this provision, many nonprofits – including some churches – will also incur new state taxes and filing requirements if they provide parking or transportation benefits.**

Background

- Under the Tax Cuts and Jobs Act, tax-exempt nonprofits are required to pay UBIT on their qualified transportation expenses, which includes payment for employee parking, transit passes, and employer-provided transportation. This new tax is effective beginning on January 1, 2018. This new tax doesn't apply to for-profit firms, although businesses can no longer deduct these expenses.
- The Center has heard that many nonprofits in Charlotte, Raleigh, Durham, Wilmington, and Asheville will be subject to income tax on their parking expenses and that some coastal nonprofits will be subject to tax on the expenses they pay for their employees to commute to work by ferry.
- Nonprofits that provide these benefits – including some churches – will now be required to file Form 990-T with the IRS. Most of these organizations have never previously been required to file this form or pay federal income tax.
- Unless North Carolina decouples on this provision, these same churches and nonprofits will also need to file Form CD-405 with the N.C. Department of Revenue and pay North Carolina corporate income tax on these expenses.
- Several organizations, including the National Council of Nonprofits, the American Institute of CPAs, and the American Society of Association Executives, have asked the IRS to delay implementation of this new tax until it issues guidance to clear up unanswered questions about the applicability of the tax. If North Carolina doesn't decouple from this tax for 2018, it is quite possible that nonprofits will be subject to an onerous new state tax even if the IRS postpones applicability of the federal tax.

Some problems with this new law

1. Nonprofits are (rightly) confused about how (and whether) this tax applies to parking benefits they provide for their employees. The IRS has not issued guidance answering many basic questions about the applicability of the tax, and tax professionals are giving conflicting advice.
2. This creates a new (an unexpected) filing burden for many nonprofits.
3. This sets a bad and counter-intuitive precedent of applying an **income** tax to nonprofits' **expenses**.

Potential solution

- To prevent new taxes and filing requirements for nonprofits, the General Assembly should decouple from Section 512(f) of the Internal Revenue Code, where this new tax is codified, for 2018.

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