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**Congress Should Urge IRS to Delay Implementation of New Taxes on Nonprofits**

Two provisions in the Tax Cuts and Jobs Act impose new unrelated business income taxes (UBIT) on certain charitable nonprofits, effective on January 1, 2018. Because there are many unanswered questions about these provisions, nonprofits and tax professionals are unable to say with certainty what activities are or are not covered by these new taxes, since the IRS has not yet issued guidance. ***Nonprofits are asking Congress to urge Treasury and the IRS to delay implementation of these two new taxes on nonprofits until one year after promulgation of Final Rules that provide clear guidance.***

**New Unrelated Business Income Taxes**

* New Section 512(a)(6) taxes each “trade or business” of a nonprofit independently, disallowing aggregation of profits and losses.
* New Section 512(a)(7) imposes UBIT on expenses for transportation benefits, including payments for employee parking and transit passes.

**What are nonprofits’ questions and concerns about these new taxes?**

* North Carolina nonprofits have expressed questions and concerns about both new UBIT provisions. The new ***income*** tax on parking and transportation ***expenses*** is particularly problematic for many North Carolina nonprofits. Many organizations in Charlotte, Raleigh, Durham, Wilmington, Asheville, and other urban areas will be subject to UBIT on their parking expenses.
* Nonprofits that provide parking and transit benefits for their employees – including some churches – will now be required to file Form 990-T with the IRS. Most of these organizations have never previously paid federal income tax, and many are unaware of the new filing and tax requirements.
* Many questions about these new taxes remain unanswered without IRS guidance. For example: Are two similar revenue streams – such as print and online advertising or sales of similar goods by a social enterprise – treated as the same “trade or business” for purposes of Section 512(a)(6)? How do nonprofits determine the value of “free parking” that is included in their rent? Are nonprofits taxed differently if they reimburse their staff for parking rather than paying directly for parking?
* Nonprofits report that attorneys and CPAs are giving conflicting advice on the applicability of these two new taxes to a variety of situations.
* As a result of these unanswered questions, nonprofits are unsure how they need to change their accounting systems, bookkeeping software, and workplace reporting practices and whether it would be best to eliminate certain employee benefits and/or adjust the terms of their leases.

**What can Congress do to address this problem?**

* **Members of Congress can join with the Center and other associations of nonprofits and tax professionals in urging the IRS to delay implementation of Sections 512(a)(6) and 512(a)(7) until it issues guidance to clear up unanswered questions about the applicability of these new provisions.**

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