

March X, 2019

The Honorable Richard Neal, Chairman  
U.S. House Committee on Ways & Means  
1102 Longworth House Office Building  
Washington, D.C. 20515

The Honorable Chuck Grassley, Chairman  
U.S. Senate Committee on Finance  
219 Dirksen Senate Office Building  
Washington, D.C. 20515

The Honorable Kevin Brady, Ranking Member  
U.S. House Committee on Ways & Means  
1102 Longworth House Office Building  
Washington, D.C. 20510

The Honorable Ron Wyden, Ranking Member  
U.S. Senate Committee on Finance  
219 Dirksen Senate Office Building  
Washington, D.C. 20510

***Re: Unrelated Business Income Tax on Qualified Transportation Fringe Benefits in Section 512(a)(7)***

Dear Chairmen Neal and Grassley, and Ranking Members Brady and Wyden:

Tax-exempt organizations have limited resources to devote to their missions and need your immediate leadership to provide relief from a significant new tax burden created by the 2017 Tax Cuts and Jobs Act (TCJA). Without your swift action, these tax-exempt entities upon which Americans rely will be forced to divert their time and resources away from their missions to calculate and then pay the new 21-percent unrelated business income tax (UBIT) the TCJA imposed on qualified transportation and parking benefits that tax-exempt groups provide to their employees. Not only do these organizations now have to pay a hefty tax on these benefits, but they must put a value on the benefit offerings as well, which can be difficult when there is no clearly defined valuation method. Although the IRS issued some interim guidance in late 2018, it is incomplete and raises more questions for tax-exempt organizations that struggle to comply.

Administratively, the new tax is excessively burdensome. This new requirement forces many tax-exempt employers, including churches and other places of worship, to file federal Form 990-T for the first time, irrespective of their engagement in unrelated business activity. Many organizations have already misfiled Form 990-T or missed filing deadlines altogether. A study commissioned by Independent Sector reveals that 156 organizations reporting UBIT for the first time will incur an estimated \$200,000 in administrative expenses.<sup>1</sup> Those nonprofits responding to the survey also estimated that they will see an average of nearly \$12,000 diverted from their mission in order to meet this increased tax and administrative burden. Many large organizations will be forced to divert even larger sums from their missions to pay the new tax while smaller nonprofits are likely to pay more in accounting and legal fees spent trying to interpret and comply with the law than they actually pay in taxes.

To be clear, subjecting the tax-exempt sector to UBIT on transportation and parking benefits has and will continue to divert funds otherwise designated for valuable mission-related services.

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<sup>1</sup> How the TCJA's New UBIT Provisions Will Affect Nonprofits: A Tax on Transportation Fringe Benefits and Separate Reporting of Unrelated Business Income Streams, Urban Institute, January 2019. Available at <https://independentsector.org/resource/research-on-ubit-provisions-in-2017-tax-cuts-and-jobs-act/>

Additionally, many localities require tax-exempts of a certain size to provide transportation fringe benefits to employees, meaning many organizations are subject to the tax simply for complying to local mandates. Moreover, several states couple their state laws to federal law, thus exposing churches and charities to additional tax liability. As noted above, time is of the essence, because tax-exempt organizations must compute and make tax payments on or before April 15.

For these reasons, **the undersigned organizations urge you to take action immediately to fully repeal this undue and burdensome UBIT on tax-exempts**. Thank you for your attention to this critical matter. We look forward to working with you to support the productive, dynamic and mission-driven tax-exempt sector. If you have questions, please contact Mary Kate Cunningham, CAE, Vice President of Public Policy for the American Society for Association Executives ([mcunningham@asaecenter.org](mailto:mcunningham@asaecenter.org)).

CC:

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The Honorable Kevin McCarthy, Leader  
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2468 Rayburn House Office Building  
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The Honorable Mitch McConnell, Leader  
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317 Russell Senate Office Building  
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The Honorable Chuck Schumer, Leader  
U.S. Senate  
322 Hart Senate Office Building  
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Signatories