

Six Tax Reform Issues Impacting Nonprofit Organizations

1. Internal Revenue Code (IRC) Section 512(a)(7): Certain qualified transportation fringe benefits, including those relating to parking garages, must be reported as unrelated business income (UBI).

All tax-exempt organizations will have to include as unrelated business taxable income (UBTI) any amount paid or incurred for any qualified transportation fringe benefit or any parking facility used in connection with qualified parking.

If an organization has a parking garage that offers free parking to its employees, the new law states that the costs paid or incurred by the organization for providing the parking must be included in its UBTI. However, if its garage is used for parking that is already counted as UBI, such as parking for the general public, then the percentage of those costs attributable to the amount already included in its UBI does not have to be included in the amount treated as UBI under the new provision. The organization may be providing parking in the structure to students, patients, and visitors, and those costs would not count as UBI; as a result, the organization would then have to allocate all the costs of providing the parking to come up with the amount that is included in UBI. The only way an organization can avoid counting the employee parking as UBI is to have employees pay for the parking with their after-tax dollars.

The new provision also taxes certain other transportation fringe benefits, including commuter transportation and transit passes.

This provision was an attempt to put exempt organizations on the same footing as taxable organizations that will no longer be able to deduct these costs. It is effective for amounts paid or incurred after Dec. 31, 2017.