



Tax Cuts & Jobs Act of 2017

What Exempt Organizations Need to Know

BKD
CPAs & Advisors

BIG CHANGES AHEAD FOR EXEMPT ORGANIZATIONS

JANUARY 18, 2017

INTRODUCTIONS

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Now Known As

**Tax Reconciliation
Act of 2017**



OBJECTIVE

Develop an awareness of the proposed law changes that will affect tax-exempt organizations

Signed into law on December 22, 2017

Most provisions take effect for tax years beginning after December 31, 2017

Revised instructions and forms may not be available for a while



EXCISE TAX ON EXECUTIVE COMPENSATION

- Excise tax on compensation in excess of \$1M
 - Follows corporate rate (21%)
 - Five highest-paid employees
 - Parachute payments 3x greater than the five-year salary average (excluding retirement benefits)
 - Taxable compensation
 - Excludes medical services



COMPENSATION & EMPLOYEE BENEFITS

- Excise tax
 - Includes nonqualified deferred compensation from ineligible deferred compensation includible when there is not substantial risk of forfeiture (457(f))
 - Exempts not highly compensated employees from the definition of parachute payments
 - Exempts professional medical services
 - Report on Form 4720? Due date?



COMPENSATION & EMPLOYEE BENEFITS

- Increase length of service awards to \$6,000 (\$500 cost-of-living adjustment increments) for bona fide volunteers of state & local government & private, tax-exempt employers
 - Must be tangible personal property and excludes cash, gift cards, tickets, vacations, etc.
- Limit applies to actuarial present value of the aggregate length of service for a defined benefit plan



COMPENSATION & EMPLOYEE BENEFITS

- Exclusion for qualified moving expense reimbursement repealed
- Exception for active duty members of the Armed Forces



EDUCATION TAX CREDITS & INCENTIVES

- Rollovers between qualified tuition programs & qualified ABLÉ programs
- Discharged student debt from death or disability not taxable income



PRIVATE COLLEGE & UNIVERSITY EXCISE TAX

- 1.4% excise tax on net investment income
- Does not include state colleges & universities
- At least 500 tuition-paying students - **removed**
- More than 50% of tuition-paying students are located in the United States - **?**
- Nonrelated assets \$500,000 per full-time student
- Related organization assets included

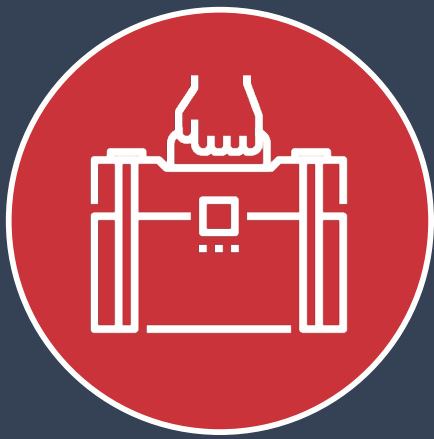


PRIVATE COLLEGE & UNIVERSITY EXCISE TAX

- Regulations
 - Assets used directly in carrying out the educational institutions exempt purpose
 - Computation of net investment income
 - Assets that are intended or available for the use or benefit of the educational institution
 - Should we be concerned over future expansion of this excise tax to other sectors?

FAMILY AND MEDICAL LEAVE CREDIT

- Effective January 1, 2018 - December 31, 2019
- General business credit for 12.5% of the amount of wages paid to qualifying employees on FMLA if payment is 50% of the wages normally paid to the employee
- Employee must make below \$72,000
- Credit is increased by .25% (up to 25%) for each % over 50%
- Refundable Credit? Payroll Credit?



UNRELATED BUSINESS INCOME

- Corporate alternative minimum tax repealed
- 21% flat corporate tax rate effective January 1, 2018
- Bonus depreciation – 100% on both new and used assets placed in service after 9/27/17 through 2022, then scaled back through 2026
- Net interest expense limitation



UNRELATED BUSINESS INCOME

- NOL deduction 80% taxable income
- No entertainment deductions
- Section 179 expensing – \$1M
- UBI increased for certain fringe benefits
 - no deduction allowed for entertainment, amusement, recreation, and club membership dues.
 - Disallows deductions for transportation fringe benefits (reimbursements for commuting, parking). These are disallowed for C Corps but goes a step further on TEOs to make the disallowed amount UBI.



UNRELATED BUSINESS INCOME FOR TRUSTS

- Trust tax rates

Taxable Income	Income Tax
Not over \$2,550	10%
\$2,551–\$9,150	\$255 + 24% of the excess over \$2,550
\$9,151–\$12,500	\$1,839 + 35% of the excess over \$9,150
> \$12,500	\$3,011.50 + 37% of the excess over \$12,500



UNRELATED BUSINESS INCOME

- Pass-through deduction
- Trust vs. corporation considerations
 - Charitable deduction limitations
 - Tax rates
 - Joint venture considerations
- Restructuring needed?



UNRELATED BUSINESS INCOME

- Silo income/loss by activity
 - Loss from one activity cannot offset income from another
- Effective years beginning after December 31, 2017
- Special transition rule
 - Net operating loss carryforward from before January 1, 2018, are not subject to the rule of the provision



CHARITABLE CONTRIBUTIONS

- Increase limitation from 50% of AGI to 60%
- Standard mileage rate, not adjusted for inflation
- No deduction for payments made in exchange for college athletic seating rights



ITEMIZED DEDUCTIONS

- Increased standard deductions
- \$10,000 limit on state & local tax deduction
- Medical expense deduction
- Impact on charitable giving?



ESTATE TAX

- Increase exclusion to \$10M
 - Inflation adjustment \$11.2M 2018
- Regulations for differences between the basic exclusion amount in effect
 - At the time of decedent's death
 - At the time of any gifts made by the decedent
- Effective for estates of decedents dying & gifts made after December 31, 2017



PRIVATE ACTIVITY BONDS

- Repeal of tax credit bonds
 - Clean renewable energy bonds
 - Qualified energy conservation bonds
 - Qualified zone academy bonds
 - Qualified school construction bonds
 - Direct-pay bonds



TAX-EXEMPT BONDS

- Repeals the exclusion from gross income for interest on advance refunding bonds
 - Restricts refinancing options
 - Refundings cannot be refinanced if they are not yet callable at the time of refunding (typically 10 ½ years after issuance)
 - Current refunding still possible



HOW WILL THIS IMPACT MY ORGANIZATION?

- Decline in charitable giving?
- Unrelated business income
 - 21% rate times profitable activity
 - Nondeductible expenses (entertainment)
 - Fringe benefits inclusions
 - Rate differential
 - AMT



HOW WILL THIS IMPACT MY ORGANIZATION?

- Excise tax
 - Employee compensation greater than \$1M
 - 1.4% tax on university endowments



**GOOD NEWS!
KEY PROVISIONS
THAT DID NOT
MAKE IT**

- Repeal of tax-exempt status for private activity bonds
- Modifications for excess benefit transactions
- Termination of New Markets Tax Credits



WHAT DIDN'T MAKE THE CUT?

- Clarification of unrelated business income tax treatment of entities exempt from tax under section 501(a) (House)
- Exclusion of research income from unrelated business taxable income limited to publicly available research (House)
- Simplification of excise tax on private foundation investment income (House)



WHAT DIDN'T MAKE THE CUT?

- Private operating foundation requirements relating to operation of an art museum (House)
- Exception to the private foundation excess business holdings rules for philanthropic business holdings (House)
- Section 501(c)(3) organizations permitted to make statements relating to political campaign in ordinary course of activities in carrying out exempt purpose (House)



WHAT DIDN'T MAKE THE CUT?

- Additional reporting requirements for donor advised fund sponsoring organizations (House)
- Name & logo treated as unrelated business income (Senate)
- Repeal of tax-exempt status for professional sports leagues (Senate)



WHAT DIDN'T MAKE THE CUT?

- Modification of taxes on excess benefit transactions (intermediate sanctions) (Senate)
- Reduction in minimum age for allowable in-service distributions (House)
- Termination of private activity bond (House)
- No tax-exempt bonds for professional stadiums (House)



WHAT DIDN'T MAKE THE CUT?

- Modification of rules governing hardship distributions (House)
- Modification of rules related to hardship withdrawals from cash or deferred arrangements (Senate)
- Modification of nondiscrimination rules for certain plans providing benefits or contributions to older, longer service participants (House)



WHAT DIDN'T MAKE THE CUT?

- Limitation on exclusion for employer-provided housing (House)
- Repeal of exclusion for employee achievement awards (House)
- Sunset of exclusion for dependent care assistance programs (House)



WHAT DIDN'T MAKE THE CUT?

- Repeal of exclusion for educational assistance programs (House)
- Repeal of exclusion for qualified tuition reductions (House)
- Repeal of exclusion for adoption assistance programs (House)



WHAT DIDN'T MAKE THE CUT?

- Repeal of deduction for student loan interest (House)
- Repeal of deduction for qualified tuition & related expenses (House)
- Repeal of deduction for student loan interest (House)



WHAT DIDN'T MAKE THE CUT?

- Repeal of exclusion for interest on U.S. savings bonds used for higher education expenses (House)
- Termination of New Markets Tax Credit (House)

Questions?

“Tax reform means, ‘Don’t tax you, don’t tax me. Tax that fellow behind the tree’”

– Russell B. Long

Thank You!

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