“Tax Cuts and Jobs Act”

- Renamed: “An Act to provide for reconciliation pursuant to titles II and V of the concurrent resolution on the budget for fiscal year 2018.”
A recent study by Independent Sector and Indiana University indicates that current tax reform proposals would reduce charitable giving.

- The study finds that doubling the standard deduction and reducing the top rate to 35% could reduce charitable giving by up to $13 billion per year.
- The Independent Sector/Indiana University study also found that when those proposals incorporated an expanded charitable deduction for all taxpayers, including people who do not currently itemize on their taxes, charitable giving would actually increase by an estimated $4.8 billion.
Tax Reform – Higher Education

- Corporate “Flat” Tax Rate of 21%
- Excise Tax on Some Private Colleges & Universities
- Each Unrelated Business Activity Stands Alone with Respect to Profit/Loss
- Excess Compensation Excise Tax
- College Athletic Event Seating Rights
- UBIT on Certain Fringe Benefits
Tax Reform – Higher Education

- Net Operating Losses – No carryback, unlimited carryforward
- Repeal of Advance Refunding Bonds
Tax Reform – Higher Education

• **Whew!** The provision that made “logo and name” licensing fees automatically ("per se") unrelated business income did not make it out of the Senate. Thus, we escaped without this rule in the new law.
Tax Reform: On-premises Athletic Facilities = UBIT

- Section 13703 of the new law contains a provision whereby the market value of providing exercise facilities (and specific other fringes) to staff and faculty would be considered unrelated business income and required to be reported on Form 990-T.
  - But only if the provision of such expenses is rendered nondeductible under Code Sec. 274.
- The House bill would have amended Code Sec. 274 to make on-premises athletic facilities nondeductible.
  - The Senate bill omitted the amendment and was the version adopted.
  - Thus, although new Code Sec. 512(a)(7) references on-premises athletic facilities, this is moot because of the lack of a reference to on-premises athletic facilities in Code Sec. 274.
Tax Reform: New Corporate Tax Rate and UBTI

• TCJA permanently established a new flat corporate tax rate of 21%
• This rate will apply to nonprofit corporations with UBTI
• For small amounts of UBTI, this new rate will result in a tax increase
  • Under the former law, the first $50,000 of UBTI was taxed at 15%, the next $25,000 was taxed at 25%
Tax Reform: Moving expense deductions suspended

Sections 11048 and 11049 of the new law suspend the exclusion from income tax for qualified moving expense reimbursements AND the deduction for moving expenses through December 31, 2025 (except in the case of a member of the Armed Forces of the United States on active duty who moves pursuant to a military).

Thus, I.R.C. Section 217 has been amended by adding at the end the following new subsection:

• “(k) SUSPENSION OF DEDUCTION FOR TAXABLE YEARS 2018 THROUGH 2025.”
Tax Reform: Athletic tickets deduction suspended

**College Athletic Event Seating Rights.** Historically, special rules applied to certain payments to institutions of higher education in exchange for which the donor/payor who met certain criteria received the right to purchase tickets or seating at an athletic event. Specifically, the donor/payor could treat 80 percent of a payment as a charitable contribution. The new law includes a denial of this deduction for periods after December 31, 2017.
Tax Reform: Private college/university endowment excise tax

Excise Tax on some Private Colleges and Universities. There is a 1.4% excise tax on the net investment income (to be defined) of private colleges and universities who are “applicable educational institutions” (AEIs)—generally meaning the school has at least 500 students and 50% of its students are located in the U.S. The “threshold” computation applies to AEIs with an aggregate fair market value of the assets at the end of the preceding taxable year (other than those assets that are used directly in carrying out the institution’s exempt purpose) of at least $500,000 per student.
Excise Tax on Some Private Colleges and Universities

- 1.4% excise tax on the net investment income (to be defined) of private colleges and universities that are “applicable educational institutions” (AEIs)
- An AEI generally means
  - The school has at least 500 tuition-paying students, and
  - 50% of its tuition-paying students are located in the U.S.
- The “threshold” computation applies to AEIs with endowment assets having an aggregate fair market value at the end of the preceding taxable year of at least $500,000 per student
  - Assets used directly in carrying out the institution’s exempt purpose are excluded
- Bipartisan Budget Act of 2018 amended the bill to state that the students must be “tuition-paying” students
### Part V: Statements Regarding Other IRS Filings and Tax Compliance (continued)

<table>
<thead>
<tr>
<th>Question</th>
<th>Yes</th>
<th>No</th>
</tr>
</thead>
<tbody>
<tr>
<td>2a. Enter the number of employees reported on Form W-2, Transmittal of Wages and Tax Statements, for the calendar year ending with or within the year covered by this return</td>
<td></td>
<td></td>
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<tr>
<td>b. If at least one is reported on line 2a, did the organization file all required federal employment tax returns?</td>
<td></td>
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<tr>
<td>c. Note. If the sum of lines 1a and 2b is greater than 250, you may be required to e-file (see instructions)</td>
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<tr>
<td>d. If the organization has unrelated business income of $1,000,000 or more during the year...</td>
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<tr>
<td>e. If &quot;Yes,&quot; has it filed a Form 990-T for this year? If &quot;No,&quot; provide an explanation in Schedule O.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>4a. At any time during the calendar year, did the organization have an interest in, or a signature or a discharge authority over, a financial account in a foreign country, such as a bank account, securities account, or other financial account?</td>
<td></td>
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</tr>
<tr>
<td>b. If &quot;Yes,&quot; enter the name of the foreign country. See instructions for filing requirements for FinCEN Form T14, Report of Foreign Bank and Financial Accounts (FBAR).</td>
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<tr>
<td>5a. The organization was a party to a prohibited tax shelter transaction at any time during the taxable year?</td>
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<tr>
<td>b. Did any taxable party notify the organization that it was or is a party to a prohibited tax shelter transaction?</td>
<td></td>
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<tr>
<td>c. If &quot;Yes,&quot; line 5a or 5b, did the organization file Form 8886-T?</td>
<td></td>
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<tr>
<td>d. Did the organization file written gross receipts that are normally greater than $100,000, and did the organization solicit any contributions that were not tax deductible as charitable contributions?</td>
<td></td>
<td></td>
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<tr>
<td>b. If &quot;Yes,&quot; did the organization include with every solicitation an express statement that such contributions or gifts were not tax deductible?</td>
<td></td>
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<tr>
<td>7. Organizations that may receive deductible contributions under section 170(c).</td>
<td></td>
<td></td>
</tr>
<tr>
<td>a. Did the organization receive payment in excess of $50,000 in any one dealings with a common or affiliated organization?</td>
<td></td>
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<tr>
<td>b. If &quot;Yes,&quot; did the organization notify the donor of the value of the goods or services provided?</td>
<td></td>
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<tr>
<td>c. Did the organization sell, exchange, or otherwise dispose of tangible personal property for which it was required to file Form 8282?</td>
<td></td>
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<tr>
<td>d. If &quot;Yes,&quot; indicate the number of Forms 8282 filed during the year.</td>
<td></td>
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<tr>
<td>e. Did the organization receive any funds, directly or indirectly, to pay premiums on a personal benefit contract?</td>
<td></td>
<td></td>
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<tr>
<td>f. Did the organization, during the taxable year, pay premiums, directly or indirectly, on a personal benefit contract?</td>
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<tr>
<td>g. If the organization received a contribution of qualified intellectual property, did the organization file Form 8939 as required?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>h. If the organization received a contribution of cars, boats, airplanes, or other vehicles, did the organization file Form 8938-C?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>8. Sponsoring organizations maintaining donor advised funds. Did a donor advised fund maintained by the sponsoring organization have excess business holdings at any time during the year?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>9. Sponsoring organizations maintaining donor advised funds.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>a. Did the sponsoring organization make any taxable distributions under section 4900?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>b. Did the sponsoring organization make a distribution to a donor, donor advisor, or related person?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>10. Section 501(c)(7) organizations. Enter:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>a. Gross receipts, included on Form 990, Part VIII, line 12 for public use of club facilities</td>
<td></td>
<td></td>
</tr>
<tr>
<td>11. Section 501(c)(12) organizations. Enter:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>a. Gross income from members or shareholding</td>
<td></td>
<td></td>
</tr>
<tr>
<td>b. Gross income from other sources (if not net amounts due or paid to other sources against amounts due or received from them)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>12a. Section 4047(a)(1) non-exempt charitable trusts. Is the organization filing Form 990 in lieu of Form 1041?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>b. If &quot;Yes,&quot; enter the amount of tax-exempt interest received or accrued during the year</td>
<td></td>
<td></td>
</tr>
<tr>
<td>13. Section 501(c)(9) qualified nonprofit health insurance issuers.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>a. Is the organization licensed to issue qualified health plans in more than one state?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>b. Enter the amount of reserves the organization is required to maintain in states in which the organization is licensed to issue qualified health plans</td>
<td></td>
<td></td>
</tr>
<tr>
<td>c. Enter the amount of reserves on hand</td>
<td></td>
<td></td>
</tr>
<tr>
<td>d. Did the organization receive or provide payments to or from an organization that is not an employer under section 4951?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>b. If &quot;Yes,&quot; has the organization filed Form 720 to report these payments? If &quot;No,&quot; provide an explanation in Schedule O.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>15. Is the organization subject to the section 4906 tax on payments of more than $1,000,000 in remuneration or excess parachute payments during the year?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>16. Is the organization an educational institution subject to the section 403(b) excess tax on net investment income? If &quot;Yes,&quot; complete Form 4720, Schedule O.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
**Tax Reform: What did not make it in?**

**Political Campaign Activity.** The current “Johnson Amendment,” which prohibits any political activity by 501(c)(3) organizations, is not affected.

**Private Foundation Taxes.** The current 1% or 2% structure for taxes on investment income of private foundations is not changed from current law.

**Tuition Reduction/Remission Rules Not Affected.** Qualified tuition reductions will remain non-taxable.

**Employer-Provided Educational Assistance Intact.** The Section 127 provision for the non-taxability of certain employer educational assistance is not repealed.
Tax Reform: What did not make it in?

Housing for the Convenience of the Employer. The House bill contained a provision to provide limits on the amount that could be excluded from an employee’s income for employer-provided housing. This provision is not in the final bill.

UBIT on Research Activities. The House bill included a modification that subjected income from research activities whose results were not publicly available to unrelated business income taxes. The final bill does not include this provision.

Donor-Advised Fund Reporting. The final bill does not incorporate the House provision to increase reporting and disclosure of donor-advised funds.
Tax Reform: What did not make it in?

**Private Activity Bonds.** The House bill included a provision to make interest on private activity bonds taxable. This provision is not included in the final bill.

**Inflation Adjustment for Charitable Mileage Deduction.** The House proposed a provision to repeal the statutory charitable mileage rate and provide instead that the standard mileage rate used for determining the charitable contribution deduction shall be a rate which takes into account the variable costs of operating an automobile. This is not included in the final bill.
IRS ”Case Selection Model”

- "Data-Driven Decision Making"
- Over 250 "Queries"
- R.A.A.S. (Research, Applied Analytics & Statistics)
- 2017 – 6,100 Examinations
- College & University Compliance Program
- Employment Tax Audits
MORTGAGES AND UBIT

Issue

• Not reporting unrelated business income when real property is encumbered by a mortgage (reportable on Line 23) and is generating rental income

Recommendation

• Analyze whether there is an exception which the organization can take advantage of to avoid imposition of the unrelated business income tax
Tax Reform: New Corporate Tax Rate and UBTI

• TCJA permanently established a new flat corporate tax rate of 21%
• This rate will apply to nonprofit corporations with UBTI
• For small amounts of UBTI, this new rate will result in a tax increase
  • Under the former law, the first $50,000 of UBTI was taxed at 15%, the next $25,000 was taxed at 25%
Form 990-T
Exempt Organization Business Income Tax Return
(and proxy tax under section 6033(e))

For calendar year 2018 or other tax year beginning ______ and ending ______ 20__.

Go to www.irs.gov/Form990T for instructions and the latest information.

Do not enter SSN numbers on this form as it may be made public if your organization is a 501(c)(3).

Name of organization: _______________________ (Check box if name changed and see instructions.)

Employer identification number: (Employer's tax, see instructions.)

Purpose or Type: _________________________ (Check box if name changed and see instructions.)

Group exemption number (See instructions):

Check organization type: □ 501(c) corporation □ 501(c) trust □ 4947(a) trust □ Other trust

Enter the number of the organization's unrelated trades or businesses:

Describe the only or first unrelated trade or business here. If only one, complete Parts I-V. If more than one, describe the first in the blank space at the end of the previous sentence, complete Parts I and II, complete a Schedule M for each additional trade or business, then complete Parts III-V.

During the tax year, was the corporation a subsidiary in an affiliated group or a parent-subsidiary controlled group? □ Yes □ No If “Yes,” enter the name and identifying number of the parent corporation.

Part I: Unrelated Trade or Business Income

<table>
<thead>
<tr>
<th>A</th>
<th>Income</th>
<th>B</th>
<th>Expenses</th>
<th>C</th>
<th>Net</th>
</tr>
</thead>
<tbody>
<tr>
<td>1a</td>
<td>Gross receipts or sales</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1b</td>
<td>Less returns and allowances</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1c</td>
<td>Balance</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2</td>
<td>Cost of goods sold (Schedule A, line 7)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>3</td>
<td>Gross profit. Subtract line 2 from line 1c</td>
<td></td>
<td></td>
<td></td>
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</tr>
<tr>
<td>4a</td>
<td>Capital gain net income (attach Schedule D)</td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>4b</td>
<td>Net gain (loss) (Form 4797, Part II, line 17) (attach Form 4797)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>4c</td>
<td>Capital loss deduction for trusts</td>
<td></td>
<td></td>
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<tr>
<td>5</td>
<td>Income (loss) from a partnership or an S corporation (attach statement)</td>
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<tr>
<td>6</td>
<td>Rent income (Schedule G)</td>
<td></td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>7</td>
<td>Unrelated debt-financed income (Schedule E)</td>
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<tr>
<td>8</td>
<td>Interest, annuities, royalties, and rents from a controlled organization (Schedule F)</td>
<td></td>
<td></td>
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</tr>
<tr>
<td>9</td>
<td>Investment income of a section 501(c)(9), (6), or (17) organization (Schedule G)</td>
<td></td>
<td></td>
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<td></td>
</tr>
<tr>
<td>10</td>
<td>Exploited exempt activity income (Schedule I)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>11</td>
<td>Advertising income (Schedule J)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>12</td>
<td>Other income (See instructions; attach schedule)</td>
<td></td>
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<tr>
<td>13</td>
<td>Total. Combine lines 3 through 12</td>
<td></td>
<td></td>
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<td></td>
</tr>
</tbody>
</table>

Part II: Deductions Not Taken Elsewhere (See instructions for limitations on deductions.) (Except for contributions, deductions must be directly connected with the unrelated business income.)

| 14 | Compensation of officers, directors, and trustees (Schedule K) |
| 15 | Salaries and wages |
| 16 | Repairs and maintenance |
| 17 | Bad debts |
| 18 | Interest (attach schedule) (see instructions) |
| 19 | Taxes and licenses |
| 20 | Charitable contributions (See instructions for limitation rules) |
| 21 | Depreciation (attach Form 4562) |
| 22 | Less depreciation claimed on Schedule A and elsewhere on return |
| 22a | 22b |
| 23 | Depletion |
| 24 | Contributions to deferred compensation plans |
| 25 | Employee benefit programs |
| 26 | Excess exempt expenses (Schedule I) |
| 27 | Excess readership costs (Schedule J) |
| 28 | Other deductions (attach schedule) |
| 29 | Total deductions. Add lines 14 through 28 |
| 30 | Unrelated business taxable income before net operating loss deduction. Subtract line 29 from line 13 |
| 31 | Deduction for net operating loss arising in tax years beginning on or after January 1, 2018 (see instructions) |
| 32 | Unrelated business taxable income. Subtract line 31 from line 30 |

For Paperwork Reduction Act Notice, see instructions.

Cat. No. 11291J
Form 990-T (2018)
2018 DRAFT Form 990-T Instructions
“Tax Cuts and Jobs Act”
“Tax Cuts and Jobs Act”

• Renamed: “An Act to provide for reconciliation pursuant to titles II and V of the concurrent resolution on the budget for fiscal year 2018.”
UBIT Changes in the “TCJA”

- I.R.C. Section 512(a)(6) - Each Unrelated Business Activity Stands Alone with Respect to Profit/Loss. For tax years beginning after December 31, 2017 a deduction from one trade or business for a taxable year may not be used to offset income from a different unrelated trade or business for the same taxable year. For an organization with more than one unrelated trade or business, the provision requires that unrelated business taxable income first be computed separately with respect to each trade or business and without regard to the specific deduction. There is a transition rule that says net operating losses arising in a taxable year before January 1, 2018 that are carried forward to a future taxable year are not subject to this rule.
Special rule for organization with more than 1 unrelated trade or business. In the case of any organization with more than 1 unrelated trade or business:

- (A) unrelated business taxable income, including for purposes of determining any net operating loss deduction, shall be computed separately with respect to each such trade or business and without regard to subsection (b)(12),

- (B) the unrelated business taxable income of such organization shall be the sum of the unrelated business taxable income so computed with respect to each such trade or business, less a specific deduction under subsection (b)(12), and

- (C) for purposes of subparagraph (B), unrelated business taxable income with respect to any such trade or business shall not be less than zero.
Then we spoke to several parties about possible, logical line items for Form 990-T (redesign) Part I. These conversations resulted in the expansion of the activities as follows:

1. Income from unrelated sales of goods
2. Income from unrelated services
3. Capital gain income
4. Income from partnerships and S corporations
5. Income from real property (including dual-use)
6. Income from personal property leased with real property
7. Unrelated debt-financed income
8. Investment income
9. Investment income from section 501(c)(7), section 501(c)(9), and section 501(c)(17) organizations
10. Income from controlled organizations
11. Exploited exempt activity income (except advertising)
12. Advertising income
13. Periodical advertising income
14. Other income

It should be mentioned that the 2014 House Ways and Means Committee (Republican) Tax Reform proposal includes a codicil that, “Tax-exempt organizations would be required to calculate separately the net unrelated taxable income of each unrelated trade or business.” We believe the proposed lines of Form 990-T (redesign) Part I would facilitate this proposal – if it is voted into law.
IRS Notice 2018-67

First silo-ing rule guidance (Notice 2018-67)

- Activities with a common North American Industry Classification System (NAICS) code would be deemed to be related activities.
- Losses within the same NAICS code could net against income from an activity with the same NAICS code.
- IRS has requested comments on the application of sec. 512(a)(6) to income from unrelated debt-financed activities.
- Investment partnerships in which the entity has a 2% or less profits interest and capital interest are aggregated as an activity per the Schedule K-1.
- Aggregation rule: Related interests in the same partnership must be combined.
- Sec. 512(a)(7) “income” is not subject to the silo-ing rule.
IRS Notice 2018-67

The Notice proposes that the use of NAICS codes to categorize trades or businesses is a “reasonable good faith effort to comply” and requests comments on how many digits to use in a permanent rule.

- Six-digit codes: 1057
- Five-digit codes: 709 buckets
- Four-digit codes (Industry Groups): 311 buckets
- Three-digit codes (Subsectors): 99
"Tax Cuts and Jobs Act" - Section 512(a)(7)

Unrelated business taxable income of an organization shall be increased by any amount for which a deduction is not allowable under this chapter by reason of section 274 and which is paid or incurred by such organization for any qualified transportation fringe (as defined in section 132(f)), any parking facility used in connection with qualified parking (as defined in section 132(f)(5)(C)), or any on-premises athletic facility (as defined in section 132(j)(4)(B)). The preceding sentence shall not apply to the extent the amount paid or incurred is directly connected with an unrelated trade or business which is regularly carried on by the organization. The Secretary shall issue such regulations or other guidance as may be necessary or appropriate to carry out the purposes of this paragraph, including regulations or other guidance providing for the appropriate allocation of depreciation and other costs with respect to facilities used for parking or for on-premises athletic facilities. [Italics added.]
“Going forward, things that we are currently working on, we are currently working on guidance under 512(a)(7) and the rules for qualified transportation fringe benefits. We’ve heard lots of comments and the impact on small organizations. We’re considering whether penalty relief is appropriate and working to get this out as soon as possible.” [underline added]
“The thing I can comment on is that the section 512(a)(7) provision is tied incredibly closely to the section 274 provision, which is the for-profit provision. I just want to note that 274 is what 512(a)(7) is based on, whether something is deductible under 274. We are working on getting guidance on what is not deductible. Section 512(a)(7) is based on whether it's not deductible under 274 and so we are working on getting guidance but just recognize that those two are incredibly closely tied to each other and the 274 provision is the provision for for-profit entities. I think that that's probably the best we can say, that 274 deals with expenses and so that's where the starting point is for us.”
If the combined amount of an organization's gross investment income and other unrelated business taxable income, including any addition to UBTI attributable to expenses for a qualified transportation fringe required by section 512(a)(7), is $1,000 or more, the organization must report the investment income, other unrelated business income, and the expenses paid or incurred for a qualified transportation fringe on Form 990-T. [Underline added.]
"Tax Cuts and Jobs Act" - Section 512(a)(7)

First, we are ultimately awaiting guidance on “qualified parking” from Treasury and IRS.

Second, without getting too technical, we’ve heard much talk about “qualified parking” under I.R.C. Section 132(f)(5)(C) not being included for purposes of the new I.R.C. Section 512(a)(7) because Congress did not properly exclude I.R.C. Section 132(f)(5)(C) from I.R.C. Section 274. However, at a meeting last week, government representatives stated that “qualified parking” is also included as a “qualified transportation fringe” under I.R.C. Section 132(f) and that 132(f)(5)(C) is a “subset” of 132(f). I.R.C. Section 132(f) is included in Section 274.
"Tax Cuts and Jobs Act" - Section 512(a)(7)

Third, the taxes under this section are effective at 1/1/18 – not for tax years ending in 2018. Thus any college, seminary, or university with taxable qualified parking began incurring “imputed” UBI beginning January 1, 2018.

Finally, it appears that section 512(a)(7) – with respect to “qualified transportation fringes” – is concerned with the “cost” of providing “qualified parking” rather than the “value” of this now “non-deductible employee fringe.” This means that even if the value of the parking is zero dollars (i.e., no one would park there), the cost of maintaining the parking facility or lot would form the basis for computing the imputed UBI.
Saltwater Christian College (SCC) is a private college exempt under Internal Revenue Code section 501(c)(3) and 170(b)(1)(A)(ii). They are required to file Form 990 annually.

In meetings with SCC’s accounting team, we had a discussion about potential unrelated business income “imputed” on the “qualified parking” expenditures they make. SCC has three types of employee parking:

• SCC rents 25 parking spaces in a church parking lot adjacent to campus. This parking is for faculty and staff only.

• They rent office space in a business park for a satellite campus 40 miles away from their main campus. The lease includes 30 parking spaces to be used for students, visitors, and employees. There are 6 faculty and staff assigned to this campus.

• SCC maintains campus-wide parking at their main campus for faculty, students, staff, volunteers, visitors, etc. All parking is by permit except for limited spaces for visitors.
Basket 1: Reimbursements of employees for qualified parking (up to $260 per month for 2018) and payments to third parties for employee parking spaces. Amounts paid/expended for these types of expenses are generally going to be included in unrelated business income for amounts paid after December 31, 2017. It does not matter whether an institution makes these items taxable to the employee. They are UBI.

Basket 2: Amounts paid to provide or maintain “employee only” parking spaces. Herein lies a conundrum. As we await IRS/Treasury guidance, it would appear likely that these expenses might be included as UBI under section 512(a)(7).
Basket 3: All parking provided on campus where employees are allowed to park – including lots that are utilized by students, employees, visitors, volunteers, etc. It is our sincere hope that forthcoming guidance specifically excludes this general/overall parking from the UBIT rules of section 512(a)(7). However – and this would be a colossal, gargantuan, silly administrative burden – we may end up having to invent an allocation methodology for employee parking percentages and then track expenditures (including depreciation) to impute “qualified parking” UBI.
Tax Reform: Qualified Transportation Expenses

- The qualified transportation expense deduction is suspended.
- Nonprofit organizations that provide this benefit must include its value in unrelated business taxable income (Sec. 512(a)(7)).
- New **IRS Publication 15-B** states:
  - "While you may no longer deduct payments for qualified transportation benefits, the fringe benefit exclusion rules still apply and the payments may be excluded from your employee’s wages . . . ."
  - "no deduction is allowed for qualified transportation benefits (whether provided directly by you, through a bona fide reimbursement arrangement, or through a compensation reduction agreement) incurred or paid after December 31, 2017.”
- This will affect organizations in urban areas that provide their employees with transit passes or commuter transportation benefits.
Marathon Bible College – UBIT #2

MBC is a small college in the Florida Keys. They have a “faculty & staff only” dirt (well, sand and crushed oyster shell) parking lot that has room for 22 vehicles. Three times a year, due to heavy rains, MBC has this parking lot graded to ensure proper drainage (akin to snow removal in other climes). The cost is $800 per grading.
We are awaiting guidance on this important issue, but it would appear that – for MBC and their “faculty & staff only” lot – $2,400 ($800 x 3 gradings) plus any other amounts expended on the “dirt lot” would need to be reported on Form 990-T, Part I, Line 12. At present, it appears that the $1,000 “specific deduction” (Form 990-T, Part II, Line 33) could be deducted from this “imputed UBI.” Also, charitable contributions made by MBC (Form 990-T, Part II, Line 20) might be deductible (but with regard to the “10% taxable income limit”).
**Part III: Total Unrelated Business Taxable Income**

- **33** Total of unrelated business taxable income computed from all unrelated trades or businesses (see instructions).
- **34** Amounts paid for disallowed fringes.
- **35** Deduction for net operating loss arising in tax years beginning before January 1, 2018 (see instructions).
- **36** Total of unrelated business taxable income before specific deduction. Subtract line 35 from the sum of lines 33 and 34.
- **37** Specific deduction (generally $1,000, but see line 37 instructions for exceptions).
- **38** Unrelated business taxable income. Subtract line 37 from line 36. If line 37 is greater than line 36, enter the smaller of zero or line 36.

**Part IV: Tax Computation**

- **39** Organizations Taxable as Corporations. Multiply line 38 by 28% (0.28).
- **40** Trusts Taxable at Trust Rates. See instructions for tax computation. Income tax on the amount on line 40 from [Tax table higher or Schedule D (Form 1041)].
- **41** Proxy tax. See instructions.
- **42** Alternative minimum tax (trusts only).
- **43** Tax on Noncompliant Facility Income. See instructions.
- **44** Total, add lines 41, 42, and 43 to line 39 of 40, whichever applies.

**Part V: Tax and Payments**

- **45a** Foreign tax (corporations attach Form 1118; trusts attach Form 1116).
- **45b** Other credits (see instructions).
- **45c** General business credit. Attach Form 3800 (see instructions).
- **45d** Credit for prior year minimum tax (attach Form 8801 or 8827).
- **45e** Total credits. Add lines 45a through 45d.
- **46** Subtract line 45e from line 44.
- **47** Other taxes. Check if from: [Form 4255] [Form 8611] [Form 8697] [Form 8866] [Other (attach schedule)].
- **48** Total tax. Add lines 46 and 47 (see instructions).
- **49** 2018 net 965 tax liability paid from Form 965-B, Part II, column (k), line 2.

**Part VI: Statements Regarding Certain Activities and Other Information**

- **50a** Payments: 2017 overpayment credited to 2018.
- **50b** 2018 estimated tax payments.
- **50c** Tax deposited with Form 8868.
- **50d** Foreign organizations: Tax paid or withheld at source (see instructions).
- **50e** Backup withholding (see instructions).
- **50f** Credit for small employer health insurance premiums (attach Form 8941). (Check box: [Form 4136] [Other] [Total].)
- **50g** Other credits, adjustments, and payments: [Form 2439].
- **51** Total payments. Add lines 50a through 50g.
- **52** Estimated tax penalty (see instructions). Check if Form 2220 is attached.
- **53** Tax due. If line 51 is less than the total of lines 48, 49, and 52, enter amount owed.
- **54** Overpayment. If line 51 is larger than the total of lines 48, 49, and 52, enter amount overpaid.
- **55** Enter the amount of line 54 you want: Credited to 2019 estimated tax [Refunded].

**Sign Here**

Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete. Declaration of preparer (other than taxpayer) is based on all information of which preparer has any knowledge.

May the IRS discuss this return with the preparer shown below (see instructions)? [Yes] [No].

**Paid Preparer Use Only**

Print/Type preparer’s name. Preparer’s signature. Date. Check if self-employed. PTP. Firm’s name. Firm’s EIN. Firm’s address. Phone no.
Thank you.

Dave Moja, Partner
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