



# TAX REFORM IMPACT ON NONPROFITS

EXAMINING THE TAX CUTS AND JOBS ACT



McCONNELL & JONES LLP  
CERTIFIED PUBLIC ACCOUNTANTS



## BEFORE WE BEGIN...

- Submitting Questions
  - Type your question(s) in the chat box.
  - All questions will be addressed at the end of the session.
  
- Obtaining CPE Credit
  - Complete the post-webinar survey.
  - Upon completion of the survey you will receive a second email with your CPE certificate.



## ABOUT MCCONNELL & JONES

- Top 20 Accounting Firm in the Southwest  
*(Accounting Today)*
- 100 + Employees Nationwide
- Comprehensive Services
- Veteran Owned Small Business



## PRESENTER



**TENE THOMAS, CPA**

PARTNER, TAX SERVICES

[TThomas@mjlm.com](mailto:TThomas@mjlm.com)

## AGENDA AND TOPICS FOR TODAY

- Unrelated Business Income Tax (UBIT) Related Provisions
- Excise Tax Related Provisions
- Provisions Impacting Charitable Giving



# UNRELATED BUSINESS INCOME TAX (UBIT) PROVISIONS

## UNRELATED BUSINESS INCOME TAX (UBIT) RELATED PROVISIONS

UBIT applies to most organization exempt from taxation under section 501(a), as well as Employee Trust for pensions, profit sharing and other Individual retirement arrangements, and state colleges/universities.

### **UBIT Defined:**

Generally, an activity is an unrelated business (and subject to unrelated business income tax) if it meets three requirements:

1. It is a trade or business,
2. It is regularly carried on, and
3. It is not substantially related to furthering the exempt purpose of the organization.

There are, however, a number of modifications, exclusions, and exceptions to the general definition of unrelated business income.

## UBIT RELATED PROVISIONS CONT'D

- The Tax Cuts and Jobs Act (TCJA) substantially lowered the corporate tax rate to 21%, for UBIT for entities taxed as Corporations
- Corporate AMT repealed
- Net Operating Losses post December 31, 2017 are same as for profit entities
  - No NOL carryback
  - May Carryforward losses indefinitely
  - Limited to 80% taxable income (losses arising post December 31, 2017)

## UBIT RELATED PROVISIONS CONT'D

- Unrelated business taxable income from multiple trades or business must be tracked and reported separately
  - The TCJA requires nonprofits to compute unrelated business taxable income (UBTI) separately for each unrelated business activity and pay tax on any activity with net income.
  - Losses may only be applied against same unrelated activity that generated the loss. Can't use a loss from one unrelated business to offset income from a different unrelated business for the same tax year.

## UBIT RELATED PROVISIONS – EXPENSE ALLOCATIONS

- Directly connected to UBI activity–deduct in full.
  - Must allocate for each unrelated activity
- Dual use expenses–allocate on a “reasonable” basis.
  - (current rule to allocate overhead and other dual-use expenses between related uses and all unrelated uses–Time, space, other)
  - Now will have to allocate multi-use expenses among related uses and each unrelated activity
  - Example dual use facilities, utilities, personnel cost
- Directly related to Exempt activity–do not deduct at all.  
Exceptions apply.

## UBIT RELATED PROVISIONS – FRINGE BENEFITS

- Exempt Organizations that pay or incur amounts for which a deduction is disallowed to provide employees certain fringe benefits, the employer must add such amounts to unrelated business taxable income.
  
- The benefits include payments for:
  - (i) qualified transportation fringe;
  - (ii) a parking facility used in connection with qualified parking; and
  - (iii) on-premises athletic facilities.

## UBIT RELATED PROVISIONS – FRINGE BENEFITS CONT'D

- Benefits paid that are directly connected with an unrelated trade or business that the organization regularly carries on are not added to the unrelated business taxable income.
  - If you already report UBI on Form 990T and pay benefits directly connected with that trade or business, then this doesn't apply.
- While the costs paid or incurred for providing fringe benefits to an exempt organization's employees are added to UBTI, they are not considered to be gross income, and furthermore, providing fringe benefits does not constitute a separate unrelated trade or business. Thus, fringe benefits are not subject to **§512(a)(6)**, but are added to the aggregated UBTI of unrelated business.



→ **EXCISE  
TAX PROVISIONS**

## EXCESSIVE EXECUTIVE COMPENSATION EXCISE TAX

- Tax-exempt organizations that pay an executive considered a “covered employee” more than \$1 million will be subject to a 21 percent tax on the excess amount over \$1 million
- A covered employee is any current or former employee of a tax-exempt organization who is either
  - (a) one of the five highest compensated employees in the organization for the tax year, or
  - (b) was a covered employee of the organization, or any predecessor of the organization, for any tax year after December 31, 2016
  - Once an individual is a covered employee, he or she is always considered a covered employee

## EXCESSIVE PARACHUTE PAYMENT EXCISE TAX

**The effective  
date of this  
provision  
is for all tax  
years beginning  
after Dec. 31,  
2017**

### **Excessive Parachute Payments Excise Tax:**

- In addition, the new provision imposes the same tax on certain parachute payments (which may be less than \$1 million).
- This provision applies not only to typical 501(c) tax-exempt organizations, but to all organizations that derive their income tax exemption from Internal Revenue Code section 501(a), including pension trusts. It also applies to non-501(c) exempt organizations, such as state and local government entities, which includes state colleges.

## EXCESS PARACHUTE PAYMENT DEFINED

- Payment of compensation that is contingent on the employee's separation from employment, and
- Other aggregate present value of the payments equals or exceeds 3 times the employee's base amount

### **Does not include payments:**

- From qualified retirement, 403(b) or 457(b) plans
- To licensed medical professionals for medical services
- To an individual who is not a highly compensated employee as defined in IRC Sec. 414(q) earning \$120,000 for the year

## PRIVATE COLLEGES & UNIVERSITIES EXCISE TAX ON INVESTMENT INCOME

- The new law imposes a 1.4 percent excise tax on the net investment income of certain private colleges and universities and their related organizations.
- This provision applies only to private institutions:
  - that have more than 500 students,
  - have at least 50 percent of their students located in the United States,
  - and have assets of at least \$500,000 per full-time student (not including assets used directly by the institution in carrying out the institution's educational purpose).

## PRIVATE COLLEGES & UNIVERSITIES EXCISE TAX ON INVESTMENT INCOME CONT'D

- “*Net investment income*” is determined under rules similar to the rules of **IRC Sec. 4940(c)**
  - Net investment income generally includes interest, dividends, rents, royalties (and income from similar sources), and capital gain net income.
  - Reduced by expenses incurred to earn this income.
  - A college or university’s assets include the assets and net investment income of “*related organizations*”.



PROVISIONS IMPACTING  
CHARITABLE GIVING

## PROVISIONS REDUCING INCENTIVES FOR CHARITABLE GIVING

- Doubled the Standard Deduction to \$12,200 (all others) and \$24,400 (MFJ)
- Capped the State and Local Tax Deduction to \$10,000
- Doubled Estate Tax Exemptions
- Repealed miscellaneous itemized deductions

## PROVISIONS INCREASING THE INCENTIVE FOR CHARITABLE GIVING

- Repealed the overall limitation on itemized deductions through 2025
- Increased the Charitable Contribution Deduction Limit

MJ

# Q&A

## KEEP UP WITH WHAT'S NEXT...

McConnell & Jones' Resource Center



[www.mcconnelljones.com](http://www.mcconnelljones.com)

Follow Us Online



[https://twitter.com/mj\\_cpa](https://twitter.com/mj_cpa)



<https://www.linkedin.com/company/1222367/>



<https://www.facebook.com/mcconnellandjonesllp/>