



May 10, 2018

The Honorable Steven Mnuchin
Secretary of the Treasury
U.S. Department of the Treasury
1500 Pennsylvania Avenue, NW
Washington, DC 20220

David Kautter
Acting Commissioner
Internal Revenue Service
111 Constitution Avenue, NW
Washington, DC 20224

Re: Urgent Request to Delay Implementation of the New UBIT Provisions in Public Law No. 115-97

Dear Secretary Mnuchin and Commissioner Kautter:

I am writing on behalf of the Maine Association of Nonprofits (MANP) and our members and friends to express significant concerns with the implementation of the new subsections 512(1)(6) and (7) of the Internal Revenue Code. I urge the Department of Treasury and the Internal Revenue Service to provide immediate relief and substantive guidance on these provisions.

MANP's mission is to enrich the quality of community and personal life in Maine by strengthening the leadership, voice, and organizational effectiveness of our state's nonprofits. The organization represents more than 900 nonprofit organizations and 150 corporate supporters from across Maine of all sizes and mission areas.

Since passage of sweeping tax changes in late December of last year, we have been fielding many questions from nonprofits who are confused about the impact of the new law. Nonprofits need more time and more guidance to fully understand our compliance obligations. Absent urgently needed IRS guidance, charitable nonprofits will not be able to file accurate reports, are likely to make insufficient or inaccurate payments, and may suffer other adverse tax consequences that can and will be avoided once Treasury and the IRS provide the nonprofit sector the necessary clarity.

Our members are expressing significant confusion about the new law. We at MANP find the changes hard to follow and we pay close attention to these issues on behalf of our members. For example, we have a small 8-person organization that pays our landlord for six parking spots in addition to our monthly rent. We don't reimburse employees for transportation. And, learning that we have to now pay \$1,250/year on top of parking fees is very discouraging and perplexing for a tightly budgeted nonprofit organization with a \$700k budget.

One of our members indicated that they went through a lot of effort to create a pre-tax Qualified Transportation Account (QTA) last summer, primarily to allow their three staff who commute from far away and park at their building to pay for the parking using pre-tax dollars. They saw the ability of the employee being able to pay the \$95/month with pre-tax as taking some of the sting out of no longer enjoying free parking. To set up the QTA, they had to pay a one-time fee of \$300 to have the paperwork for it drawn up, which they were hoping to recover over 2 or 3 years from FICA savings. Now, instead of recouping the cost, as a result of this surprise tax, they have already accumulated a tax liability of \$239.40 through April. They terminated the QTA after 4/30 and are going back to charging parking post-tax to avoid this, a loss of a benefit to our employees.

Therefore, we ask Treasury and the IRS to postpone the effective date of implementation of the unrelated business income taxes (UBIT) enacted as new Internal Revenue Code Sections 512(a)(6) and (a)(7) until one year after Final Rules are promulgated. This delay is required to provide both the necessary official guidance for compliance and a reasonable transition period for nonprofits to develop the necessary record-keeping systems.

We seek the following relief:

- For legal, policy, and practical reasons, and consistent with established precedent, Treasury and the IRS should immediately delay implementing those two new UBIT subsections until one year after Final Rules are promulgated, to provide both the necessary official guidance for compliance and a reasonable transition period for nonprofits to develop the necessary record-keeping systems;
- To avoid injustice, that delay should be made retroactive to January 1, 2018; and
- Treasury and the IRS should engage the regulated community in identifying not only how the wording of the new provisions are causing great confusion and operational compliance challenges among nonprofits and their professional tax advisors, but also possible solutions.

Thank you for your consideration.

Sincerely,



Jennifer Hutchins
Executive Director

Cc: Senator Susan Collins
Senator Angus King
Representative Chellie Pingree
Representative Bruce Poliquin