Tax Notes

Federal Tax Reform: Impact on Tax-Exempt Organizations and Their Donors

By Garrett M. Higgins, CPA, Partner

The President signed the Tax Cuts and Jobs Act (TCJA) into law on December 22, 2017. The final law contained provisions from the competing bills proposed by the House and Senate. Although both versions of the House and Senate bills included numerous provisions affecting tax-exempt organizations and their donors, only certain provisions actually made it into law.

New Tax Law Provisions Relating to Tax-Exempt Organizations

- Separate computing of unrelated business income for each trade or business activity.
- Elimination of the two-year net operating loss (NOL) carryback provision. [Indefinite carryforward of NOLs generated by an unrelated business activity established.]
- New unrelated business income tax rates.
- Elimination of corporate alternative minimum tax.
- New excise tax on net investment income of private colleges and universities.
- Creation of an organizational excise tax on excessive compensation paid to the top five highest compensated employees.
- Automatic inclusion of qualified transportation and on premises athletic facility fringe benefits as unrelated business income.
- Repeal of advance refunding and tax credit bonds.
- Increased deductibility of individual donations to 60% of adjusted gross income.
- Elimination of the deduction for college event seating rights.
- Repeal of the donor substantiation exception for contemporaneous written acknowledgement for contributions reported by donees.

TCJA Provisions Not Included in the New Tax Law

The following proposed revisions were not included in the new tax law:

- Establishing limits on the employer-provided housing exclusion.
- Repeal of the exclusion for qualified tuition reduction for colleges and universities.
- Allowing 501(c)(3) organizations to make political statements.
- Enhanced reporting by donor-advised funds.
- Reducing the excise tax that a private foundation pays on its net investment income to 1.4%.
- Exempting philanthropic businesses from the excess business holding rules.
- Imposing an open hour requirement to qualify for private operating foundation status for museums.
- Limiting the UBI exclusion for research organizations.
- Elimination of tax-exempt treatment of private activity bonds.
- Annual inflation adjustment to the charitable mileage rate.

Updating the Tax Code and Regulations

Many provisions in the TCJA affecting tax-exempt organizations take effect for tax years beginning after December 31, 2017 and will now have to be incorporated into the Internal Revenue Code and Treasury Regulations. Through this process, additional information will be provided to clarify the language used in the law. As more guidance is provided, we will continue to keep you informed with future Thought Leadership communications.

Contact Us

If you have questions regarding how tax reform will apply to your tax-exempt organization, please contact partner Garrett M. Higgins, CPA at ghiggins@pkfod.com or a member of your tax-exempt client service team at PKF O’Connor Davies.

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