

TAX EXEMPTS AND TAX OVERHAUL: THE YEAR AHEAD

**Foundation and
Institutional Advisors**
January 16, 2018

Philanthropic and educational institutions understand that tax law drives behavior. Their good works are closely intertwined with the tax code, and the recent tax overhaul has implications for the nonprofit sector.

On December 22, 2017, the President signed the tax bill known informally as the Tax Cuts and Jobs Act (the “Act”) into law. This piece summarizes the Act with an eye to preparing our foundation and institutional clients for the changes to come.

SUZANNE SHIER
Chief Wealth Planning and Tax
Strategist/Tax Counsel

DIANA MYERS
Associate Tax Counsel and
Wealth Planner

IF YOU ARE...	2017 LAW	THE ACT	EFFECTIVE DATES AND EXPIRATION DATES	IMPACT OF CHANGE
<p>A nonprofit organization that has or could have unrelated business taxable income (“UBTI”)</p>	<p>UBTI is subject to rates similar to those imposed on non-exempt entities. It varies with the type of entity (trust vs. nonprofit corporation) and type of charity (state colleges and universities plus certain government sponsored corporations have special rules).</p> <p>Losses of all unrelated business activities of the tax exempt organization offset aggregated gains from all of its unrelated business activities.</p>	<p>UBTI rates are lower in accordance with the rate reductions for taxable corporations and trusts. The top trust rate is now 37% and the top corporate rate is now only 21%, making for a significant difference to the cost of UBTI for a charitable trust versus a nonprofit corporation.</p> <p>Losses can only offset gains from the same unrelated business activity.</p>	<p>Effective January 1, 2018</p> <p>No expiration date</p>	<p>Significant</p>

IF YOU ARE...	2017 LAW	THE ACT	EFFECTIVE DATES AND EXPIRATION DATES	IMPACT OF CHANGE
<p>A private college or university with a large endowment</p>	<p>Private university endowments do not pay an excise tax on net investment income.</p>	<p>Private colleges and universities with at least 500 tuition paying students, more than half of whom are in the U.S., must pay a 1.4% excise tax on net investment income if their endowment assets not used for charitable purposes reach or exceed \$500,000 per student at the end of the prior year.</p>	<p>Effective January 1, 2018 No expiration date</p>	<p>Significant</p>
<p>A nonprofit organization that provides transportation benefits (public transit passes, parking passes, etc.) or free gym access to its employees (“fringe benefits”)</p>	<p>No tax consequences for fringe benefits; the nonprofit organization does not get a deduction or penalty.</p>	<p>The nonprofit organization’s UBTI includes all or part of the value of the fringe benefits.</p>	<p>Effective January 1, 2018 No expiration date</p>	<p>Significant</p>
<p>A nonprofit organization or a state or local government with an employee who makes more than \$1 million per year</p>	<p>No special tax consequences for paying over \$1 million of compensation.</p>	<p>The nonprofit organization or state or local government owes a 21% excise tax on compensation over \$1 million, if the compensation is paid to any of its five highest paid employees.</p>	<p>Effective January 1, 2018 No expiration date</p>	<p>Significant</p>

IF YOU ARE...	2017 LAW	THE ACT	EFFECTIVE DATES AND EXPIRATION DATES	IMPACT OF CHANGE
The issuer or holder of tax credit bonds or direct-pay bonds (new clean energy, qualified energy conservation, qualified zone academy, qualified school construction bonds)	The holder of a tax credit bond receives a federal tax credit in lieu of interest on the bond.	Tax credit bonds are no longer authorized.	Effective January 1, 2018 No expiration date	Significant
The issuer or holder of municipal bonds	Interest on qualified bonds issued to retire outstanding debt is tax-exempt.	Advance refunding bond interest now is taxable.	Effective January 1, 2018 No expiration date	Moderate
A nonprofit organization that conducts research	Income from research activities of nonprofits (such as universities, hospitals, and certain research organizations) is not subject to UBTI.	No change from current law.	Not applicable	No change
A nonprofit organization that would like to be politically active	A nonprofit organization cannot participate or intervene in any political campaigns.	No change from current law.	Not applicable	No change

IF YOU ARE...	2017 LAW	THE ACT	EFFECTIVE DATES AND EXPIRATION DATES	IMPACT OF CHANGE
<p>The sponsor of a donor advised fund (“DAF”)</p>	<p>The DAF sponsor is required to file an annual tax return, disclosing the value of the assets in the DAF(s) it runs, as well as the contributions to and grants from the DAF(s).</p>	<p>No change from current law.</p>	<p>Not applicable</p>	<p>No change</p>
<p>A private foundation with net investment income</p>	<p>Private non-operating foundations and certain operating foundations pay a 2% excise tax on their net investment income.</p> <p>This tax can be reduced to 1% if the foundation meets certain distribution requirements, which are based on the amount it historically has distributed.</p>	<p>No change from current law.</p>	<p>Not applicable</p>	<p>No change</p>

IF YOU ARE...	2017 LAW	THE ACT	EFFECTIVE DATES AND EXPIRATION DATES	IMPACT OF CHANGE
<p>A private foundation that owns more than 20% of a business</p>	<p>A private foundation generally may not own more than 20% of the voting stock of a for-profit business.</p> <p>Foundations generally have a five year period to dispose of excess business holdings.</p> <p>There is a 10% excise tax on the value of any holdings in excess of 20%.</p> <p>If the foundation does not reduce its holding to 20% by the close of the taxable year, there is a punitive 200% excise tax on the value of the excess holding.</p>	<p>No change from current law.</p>	<p>Not applicable</p>	<p>No change</p>
<p>A private art museum</p>	<p>Private foundations that operate private art museums are subject to the same qualifying criteria as other types of operating foundations.</p>	<p>No change from current law.</p>	<p>Not applicable</p>	<p>No change</p>
<p>A philanthropist who makes cash contributions to public charities</p>	<p>Cash contributions to public charities are deductible up to 50% of adjusted gross income ("AGI").</p>	<p>Cash contributions to public charities are deductible up to 60% of AGI.</p>	<p>Effective January 1, 2018</p> <p>Expires December 31, 2025</p>	<p>Moderate</p>

IF YOU ARE...	2017 LAW	THE ACT	EFFECTIVE DATES AND EXPIRATION DATES	IMPACT OF CHANGE
<p>A philanthropist who supports college athletics</p>	<p>A donor can donate to a college or university in exchange for the right to buy tickets to sporting events.</p> <p>The donor can deduct 80% of the amount paid for the ticket rights as a charitable contribution.</p>	<p>There is no charitable contribution deduction for people who buy ticket rights to sporting events.</p>	<p>Effective January 1, 2018</p> <p>No expiration date</p>	<p>Significant</p>
<p>A volunteer who drives to and from a volunteer site</p>	<p>A volunteer can take a charitable contribution deduction for the cost of miles driven.</p> <p>The standard mileage rate is 14 cents per mile.</p>	<p>No change from current law.</p>	<p>Not applicable</p>	<p>No change</p>
<p>A graduate student who receives a tuition waiver in exchange for teaching or conducting research</p>	<p>The amount of a tuition reduction or waiver is not included as gross income.</p> <p>For example, if a graduate student receives \$10,000 of “free” tuition each year in exchange for his work, he does not owe income tax on the \$10,000 of non-cash benefit that he receives.</p>	<p>No change from current law.</p>	<p>Not applicable</p>	<p>No change</p>

IF YOU ARE...	2017 LAW	THE ACT	EFFECTIVE DATES AND EXPIRATION DATES	IMPACT OF CHANGE
<p>A school or university employee who is receiving free or reduced tuition benefits for himself or his family</p>	<p>An employee at an educational institution who receives reduced (non-graduate) tuition for himself or his family does not have to include the reduction in gross income.</p> <p>For example, if a university employee does not have to pay \$42,000 for his daughter to attend college, the \$42,000 waiver is not taxed to the employee.</p>	<p>No change from current law.</p>	<p>Not applicable</p>	<p>No change</p>
<p>An employee, and your employer is paying your tuition</p>	<p>An employee can receive up to \$5,250 each year tax-free from an employer’s educational assistance program.</p>	<p>No change from current law.</p>	<p>Not applicable</p>	<p>No change</p>
<p>A parent or student paying student loan interest</p>	<p>\$2,500 of student loan interest is deductible each year, although taxpayers with more than \$80,000 of income (\$165,000 for married taxpayers) cannot take the deduction.</p>	<p>No change from current law.</p>	<p>Not applicable</p>	<p>No change</p>

CONCLUSION

Private foundations, educational institutions, public charities and philanthropists alike are grappling with the broader ramifications of the tax overhaul. Charitable giving, local government funding for K-12 education, and university attendance likely will be impacted by these changes in tax law. The charts above are only a high-level summary. There are many associated details and nuances. Readers are encouraged to consult with their legal and tax advisors regarding their particular circumstances.

We will continue to monitor developments affecting tax exempt organizations under the Act.

The charts above are only a high-level summary. There are many associated details and nuances.

FOR MORE INFORMATION

To help meet your investment and advisory needs, Foundation and Institutional Advisors (FIA), is Northern Trust's national practice that exclusively serves foundations, endowments and other nonprofit institutional investors as either a dedicated investment advisor or as a fully outsourced chief investment officer. The practice is consultative and advice-driven, providing holistic solutions that combine sophisticated advisory expertise with a spectrum of value-added services.

To learn more about how we can put our experience, expertise and resources to work for your organization, contact Darius A. Gill, CFA, National Practice Executive, at 312-444-7153 or DAG9@ntrs.com. You may also visit northerntrust.com/FIA. We are ready to help you achieve your mission.

© 2018, Northern Trust Corporation. All Rights Reserved.

LEGAL, INVESTMENT AND TAX NOTICE: This information is not intended to be and should not be treated as legal advice, investment advice or tax advice and is for informational purposes only. Readers, including professionals, should under no circumstances rely upon this information as a substitute for their own research or for obtaining specific legal or tax advice from their own counsel. All information discussed herein is current only as of the date appearing in this material and is subject to change at any time without notice. This information, including any information regarding specific investment products or strategies, does not take into account the reader's individual needs and circumstances and should not be construed as an offer, solicitation or recommendation to enter into any transaction or to utilize a specific investment product or strategy. Opinions and forecasts discussed are those of the author(s) and do not necessarily reflect the views of Northern Trust.