ANDERSEN TAX

TAX REFORM – TAX-EXEMPT

The following chart sets forth some of the provisions affecting tax-exempt organizations in the Tax Reform Act of 2017 (the Act). This chart highlights only some of the key issues and is not intended to address all aspects of the legislation. If you have any questions, please contact your Andersen Tax advisor.

TAX-EXEMPT ORGANIZATIONS		
Provision	**Description of Change**	**Comments**
Tax-Exempt Organizations – Unrelated Business Taxable Income (UBTI)	Under the Act, organizations that carry on more than one unrelated trade or business must separately calculate UBTI for each trade or business. The provision is effective for taxable years beginning after December 31, 2017. However, if any net operating loss (NOL) arising in a taxable year is carried over to a taxable year beginning after December 31, 2017, UBTI is reduced by the amount of the NOL. Following the House bill, UBTI includes the value of providing transportation fringe benefits and on-premises gyms and other athletic facilities to tax-exempt organization employees. This UBTI is taxed at the corporate rate (21% under the Act). The provision is effective for amounts paid or incurred after December 31, 2017.	Calculating UBTI on a separate trade or business basis effectively prohibits a tax-exempt organization from using deductions from one trade or business to offset income from another. In effect, this treats separate unrelated businesses much like Publicly Traded Partnerships (PTPs), the rules for which prevent netting income and losses from separate PTPs but allow losses to carry into subsequent years to offset income from the same PTP in those years. This provision is intended to mirror changes to the deductibility of fringe benefits for businesses. This provision will likely impact larger operating tax-exempt entities rather than private foundations that may not have direct employees. However, if family office employees also perform services for a family member's foundation(s), a review of any fringe benefits for those employees will be required in connections with the changes made for businesses (i.e., the disallowance will be recorded at the family office business rather than the tax-exempt). The proposal with respect to name and logo royalty treatment as UBTI was not included in the Act.
Tax-Exempt Organizations – Excise Tax on Excess Executive Compensation	Under the Act, a 21% (corporate rate) tax is imposed on certain tax-exempt organizations (organizations exempt from tax under Sec. 501(a), an exempt farmers' cooperative, a federal, state or local government entity with excludible income, or a political organization) for the sum of the compensation paid to a covered employee in excess of $1 million in a tax year and any excess parachute payment paid to such covered employee. A covered employee is one of the five highest compensated employees of the organization. An individual who becomes a covered employee for any taxable year after December 31, 2016 continues to be a covered employee in subsequent years.	This is a new provision as there were no limits to tax-exempt employee compensation under prior law, other than it had to be reasonable for services performed. This provision is designed to bring tax-exempt organizations into alignment with for-profit corporations relating to provisions preventing the deduction of compensation over $1 million for certain employees as well as the deductibility of certain severance-pay arrangements.

TAX-EXEMPT ORGANIZATIONS		
Provision	**Description of Change**	**Comments**
Tax-Exempt Organizations – Excise Tax on Excess Executive Compensation (Cont.)	Compensation includes all compensation paid by the tax-exempt organization and any compensation paid by a related organization. Compensation does not include amounts paid to licensed professionals for medical or veterinary services. An excess parachute payment occurs when the sum of any payment of compensation is contingent on the covered employee's separation from service and such compensation equals or exceeds three times the average of the covered employee's taxable compensation for the five-calendar year period ending before the year of separation from service.	It may impact compensation paid to university executives and athletic coaching staff.
Tax-Exempt Organizations – Excise Tax Based on Investment Income of Private Colleges and Universities	The Act provision imposes a 1.4% excise tax on certain private colleges and universities that have at least 500 students, more than 50% of the students located in the United States, and assets (other than those used directly to meet their exempt purpose) that exceed $500,000 per full-time student, as measured at the close of the preceding tax year. The Act clarifies that endowment assets formally held by organizations related to the college or university otherwise subject to the excise tax are also subject to such tax. The provision applies only to assets held for the educational institution and investment income that relates to such assets. The provision is effective for tax years beginning after December 31, 2017. The Bipartisan Budget Act of 2018 (P.L. 115-123) added an exception from the excise tax on sizeable college endowments for colleges that do not charge tuition to students.	This provision is focused on schools with what are seen as excessive endowments. The provision in the Act is similar to both the proposed Senate and House versions with several modifications, primarily that the asset-per-student threshold is increased from $250,000 to $500,000.
Tax-Exempt Organizations – Exception from Private Foundation Excess Holdings Tax for Independently Operated Philanthropic Business Holdings	Although not included in the final Act, an exception from the excess business holdings rule for independently operated philanthropic business holdings was provided for private foundations meeting certain requirements in the Bipartisan Budget Act of 2018 (P.L. 115-123). Private foundations are exempt from the excess business holdings (generally defined as owning more than a 20% interest) tax if they own a for-profit business AND 1) the foundation owns 100% of the voting stock, 2) it acquired the interest other than by purchase, 3) the for-profit business distributed all of its net operating income for any given year to the foundation within 120 days of the close of the tax year, and 4) the for-profit business directors and executives are not substantial contributors to the foundation nor do they make up a majority of the foundation's board and there is no loan outstanding from the business enterprise to a substantial contributor or their family members. The excess business holdings rule prevents private foundations from owning more than a 20% stake in a for-profit company after the founder's death.	The Senate Parlimentarian removed this provision as a violation of the Senate's Byrd rule. This new exception was championed by the foundation that owns Newman's Own company and will open new opportunities for charitable planning with family controlled businesses.
Repeal of Deduction for Amounts Paid in Exchange for College Athletic Event Seating Rights	No charitable deduction is allowed for a payment to a college or university when a right to purchase tickets or seating at an athletic event is received in connection with the payment. The provision is effective for contributions made in taxable years beginning after December 31, 2017.	

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Provision	**Description of Change**	**Comments**
Tax-Exempt Organizations – Modification of Organizations that may Qualify as a 501(c)(6) Tax-Exempt Entity	The Act does not include any related provision.	
Tax-Exempt Organizations – Additional Reporting Requirements for Donor Advised Funds	The Act does not include any related provision.	
Tax-Exempt Organizations – Private Operating Foundation Requirements Relating to Operation of an Art Museum	The Act does not include any related provision.	
Tax-Exempt Organizations – Excess Benefit Transactions	The Act does not include any related provision.	