

December 17, 2018

The Honorable Paul Ryan  
Speaker  
United States House of Representatives  
Washington, DC 20515

The Honorable Mitch McConnell  
Majority Leader  
United States Senate  
Washington, DC 20510

The Honorable Nancy Pelosi  
Democratic Leader  
United States House of Representatives  
Washington, DC 20515

The Honorable Chuck Schumer  
Democratic Leader  
United States Senate  
Washington, DC 20510

**RE: Repeal of Tax on Nonprofit Transportation Benefits**  
Internal Revenue Code Section 512(a)(7)

Dear Speaker Ryan and Leaders McConnell, Pelosi, and Schumer:

Because time is of the essence, the undersigned organizations take the unusual move of writing you collectively this late in the 115<sup>th</sup> Congress to request immediate action by Congress to stop injustice against charitable, religious, and philanthropic organizations across our country. On behalf of charitable nonprofits in your states and throughout the country, we ask that you take action to ensure that a repeal of the new tax on nonprofit transportation benefits is included in any piece of legislation that Congress enacts and sends to the President before year end.

A provision of the Tax Cuts and Jobs Act, now codified as Internal Revenue Code Section 512(a)(7), imposes a 21-percent unrelated business **income** tax on the **expenses** that **tax-exempt** nonprofits incur for providing transportation fringe benefits to their employees, such as parking and transit passes. Charitable organizations, houses of worship, foundations, and other nonprofits became liable for the tax on January 1, 2018 and have had to submit three quarterly estimated payments. Until Monday, Treasury and the IRS had provided no guidance on how to calculate this new tax, putting nonprofits in the untenable position of having to guess about how to comply with the unknown, putting them unfairly at risk of filing inaccurate reports, making insufficient or inaccurate payments, and suffering other adverse consequences. The notices they issued on December 10 provide complex instructions for determining some tax liabilities, including a four-step calculus that will vary for each organization, and can vary from month to month. Further, the guidance relieves some organizations of penalties that are the result of the IRS's own delay, while completely ignoring the imposition of the new taxes on transit benefits, benefits that are mandated for some employers in various cities. Repeal of the section is the only reasonable response.

Section 512(a)(7) is terrible tax policy and there is no support in the House or the Senate for retaining it. House Ways and Means Committee Chairman Brady, the person responsible for including the provision in the tax law, now recognizes that it should be repealed. See [Manager's Amendment](#) and Section 405 of the [latest version of the House year-end tax bill](#). Representatives and Senators from both sides of the aisle support immediate repeal of the provision, as demonstrated by the introduction of the LIFT for Charities Act (H.R. 6460/S. 3332), the Nonprofits Support Act (H.R. 6037/S. 3317), and the Stop the Tax Hike on Charities and Places of Worship Act (H.R. 6504). See also this recent letter [from Senators James Lankford \(R-OK\) and Chris Coons \(D-DE\) to Treasury Secretary Mnuchin](#) calling out the unfairness of the tax and urging the government to delay its implementation.

This request to repeal the nonprofit transportation tax is both timely and appropriate. Charitable and faith-based organizations in all areas of the country devastated by natural disasters this year have

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stepped forward to provide relief and support to their fellow residents. Many of these same nonprofits have also suffered devastating losses due to the hurricanes, tornadoes, fires, and earthquakes and are likewise working to rebuild their organizations while they simultaneously focus on their communities. The expenses of that rebuilding will subject them in some instances to the new 21-percent unrelated business income tax on these expenses they pay, essentially diverting money away from community, mission, and local support, and instead to paying a tax bill that no one believes is just. Indeed, every dollar paid by a nonprofit to this unfair and unjustifiable tax is a dollar that is not going back into the communities served.

We – on behalf of the charitable nonprofits in your states and throughout the country – ask you to put aside the frustrations of 2018 and the ambitions for 2019, and do this one thing: repeal Internal Revenue Code Section 512(a)(7) for the sake of our communities, your constituents, and the well-being of the country.

In making this request, we are mindful of the many policies and legislative proposals in play at the end of the session. We want to be abundantly clear that we as a network – the nation’s largest network of charitable nonprofits – and speaking in unison with virtually all charitable nonprofits, houses of worship, and foundations (see [www.GiveVoice.org](http://www.GiveVoice.org)), are unalterably opposed to any and all changes to the Johnson Amendment, the longstanding law that for decades has protected 501(c)(3) organizations from demands for endorsements for candidates for public office and prevented efforts to divert charitable assets to fund partisan campaigns. Considering the Johnson Amendment essential to the wellbeing and effectiveness of charitable organizations, we do and will oppose any legislation that undermines this vital protection, regardless of what bill it may be attached to.

Like all of the charitable organizations assisting their fellow Americans every day, the undersigned organizations stand ready to assist in this vital effort.

Sincerely,

**National Council of Nonprofits**



**Alaska**

**Foraker Group**



**Arizona**

**Alliance of Arizona Nonprofits**



**California**

**California Association of Nonprofits**



**Colorado**

**Colorado Nonprofit Association**



**Connecticut**

**CT Community Nonprofit Alliance**



**Delaware**

Delaware Alliance for Nonprofit Advancement



**District of Columbia**

Center for Nonprofit Advancement



**Florida**

Florida Nonprofit Alliance



**Hawai`i**

Hawai`i Alliance of Nonprofit Organizations



**Idaho**

Idaho Nonprofit Center



**Illinois**

Forefront



**Iowa**

Nonprofit Association of the Midlands



**Kentucky**

Kentucky Nonprofit Network



**Louisiana**

Louisiana Association of Nonprofit Organizations



**Maine**

Maine Association of Nonprofits



**Maryland**

Maryland Nonprofits



**Massachusetts**

Massachusetts Nonprofit Network



Providers' Council



**Michigan**

Michigan Nonprofit Association



**Minnesota**

Minnesota Council of Nonprofits



**Mississippi**

Mississippi Center for Nonprofits



**Missouri**

Nonprofit Missouri



**Montana**

Montana Nonprofit Association



**Nebraska**

Nonprofit Association of the Midlands



**Nevada**

Alliance for Nevada Nonprofits



**New Hampshire**

New Hampshire Center for Nonprofits



**New Jersey**

Center for Non-Profits



**New Mexico**

New Mexico Thrives



**New York**

New York Council of Nonprofits



Nonprofit Coordinating Committee of New York



**North Carolina**

North Carolina Center for Nonprofits



**North Dakota**

North Dakota Association of Nonprofit Organizations



**Oklahoma**

Oklahoma Center for Nonprofits



**Oregon**

Nonprofit Association of Oregon



**Pennsylvania**

Pennsylvania Association of Nonprofit Organizations



**South Carolina**

Together SC



**Tennessee**

Momentum Nonprofit Partners



**Utah**

Utah Nonprofits Association



**Vermont**

Common Good Vermont



**Virginia**

Center for Nonprofit Advancement



**Washington**

Washington Nonprofits



**West Virginia**

West Virginia Nonprofit Association



**Wyoming**

Wyoming Nonprofit Network

