

## 2018 Tax Law Checklist

### New Federal Tax Law - Now What for Nonprofit Board and Staff Members?

Updated April 17, 2018

If your nonprofit...	What has changed relating to employment:	Learn more here
Withholds income tax from employees' paychecks	The IRS posted an updated <a href="#">Withholding Calculator for individuals</a> and directs individuals who would like to adjust their withholdings to submit a <a href="#">new W-4 form</a> . <i>(Employers have 60 days to implement changes on revised W-4s.)</i>	<a href="#">IRS withholding calculator</a> <a href="#">FAQs on tax withholdings (IRS)</a> <a href="#">IRS Publication 15, Employer's Tax Guide (for 2018)</a> <a href="#">IRS Statement – Withholding for 2018</a>
Provides health insurance for employees and pays some or all of the premiums	The tax bill repeals the individual mandate to purchase health insurance, effective as of 2019. Predictions are that health insurance premiums in both the individual and employer group markets will go up, making it more expensive for employers to provide health insurance for employees.	<a href="#">Repealing the Individual Health Insurance Mandate: An Updated Estimate</a> (Congressional Budget Office)  This issue is one for board and staff members to keep an eye on, since increased health insurance costs will impact the nonprofit's overall budget.
Compensates employees over \$1 million	Nonprofits that pay high compensation will pay an excise tax (penalty) of 21% on compensation over \$1 million of the top 5 highest paid employees. <i>(This provision of the tax law was intended to bring tax-exempts into parity with for-profits that may not deduct salaries of some employees in excess of \$1 million.)</i>	<a href="#">H.R. 1 Sec. 13602</a>  New IRC Sec. 4960  (Look for guidance from the IRS)
Pays for transportation fringe benefits	The new tax law imposes an unrelated business income tax (UBIT) penalty on the amount tax-exempt employers pay for employees' transportation benefits, such as commuting/parking expenses. <i>(This provision parallels the limit on deductibility by for-profits.)</i> Tax-exempt employers may still	<a href="#">Publication 15-B Employer's Tax Guide to Fringe Benefits</a>  <a href="#">H.R. 1 Sec. 13703</a>

	subsidize employees' commuting/parking expenses through a bona fide reimbursement arrangement, pre-tax qualified "cafeteria" plans, or compensation reduction agreements, so that the payments are excluded from the employees' W-2s, but nonprofit employers will have to pay UBIT on those amounts. [BTW – The tax bill also eliminated the personal <a href="#">deduction for commuting by bicycle</a> .]	New IRC Sec. 512(a)(7)
<b>If your nonprofit...</b>	<b>What has changed relating to employment:</b>	<b>Learn more here</b>
<b>Has employees</b> who would appreciate a heads up about individual tax law changes	Many previously widely claimed deductions will not be allowed in 2018, so employers (including nonprofits) may want to manage their employees' expectations about deductions for work-related expenses when they file their individual tax returns. <i>Examples:</i> No more deductions for: <ul style="list-style-type: none"> <li>• <b>moving expenses</b> to change jobs;</li> <li>• <b>unreimbursed business expenses</b> for licenses for certain jobs, medical tests required by employers, uniforms, equipment, or supplies used at work;</li> <li>• costs for <b>professional development</b> or <b>continuing education</b>, such as books, tuition, conference registrations.</li> </ul> <p><b>Exception:</b> Teachers will be able to continue to deduct up to \$250 in unreimbursed expenses for supplies they purchase and use in their classrooms.</p>	<a href="#">These 9 tax deductions are going away in 2018</a> (The Motley Fool)  <a href="#">What your itemized deductions on Schedule A will look like after tax reform</a> (Forbes)
Employs employees who work <b>remotely</b>	Employees (for-profit and nonprofit) will no longer be able to take an individual deduction for home office expenses.	<a href="#">Attention, teachers: You can keep your deduction for classroom supplies</a> (CNN Money)  Stay tuned for more information from the IRS such as an updated Publication 587, "Business use of your home." ( <a href="#">Current IRS guidance</a> is now outdated.)
Has employees with <b>student loans</b>	Employees (for-profit and nonprofit) will be able to continue to deduct up to \$2,500 per year on interest paid for student loans.	Current law unchanged
Gives employees <b>"Achievement Awards"</b>	Employer awards given to employees (for-profit and nonprofit) to recognize their performance (referred to by the IRS as "Achievement Awards") must	<a href="#">H.R. 1</a> Sec. 13310

	<p>be treated as regular income, that employees will have to pay tax on. Be aware that cash, gift cards, or the value of meals and entertainment given to employees <i>in recognition of the employee's performance</i> will be taxable just like a cash bonus.</p>	<p>Look for an Amendment to IRC Sec. 274(j)(3)  (Look for guidance from the IRS)</p>
<p>Pays its workers while they are out on <b>family/medical leave</b></p>	<p>A new provision of the law gives <b>for-profits</b> a tax credit that will range between 12.5% - 25% of the cost of wages paid to qualifying employees who are out on family/medical leave and receiving compensation pursuant to a written policy. To receive the credit, employers will need to provide at least 2 weeks of paid family-medical leave and compensate workers at least 50% of their regular earnings. Employers can only apply the credit towards workers (either full or part time) who have been employed at least one year and were paid no more than \$72,000 for 2017. This credit will expire 12/31/2019.</p> <p><b>NB: It is UNCLEAR whether this provision will apply to tax-exempt organizations.</b></p>	<p><a href="#">H.R. 1</a> Sec. 13403 New Section 45S(e)(1)</p> <p>If available to tax-exempt organizations, this “credit” could be applied to the nonprofit’s payroll withholdings.</p> <p>(Look for guidance from the IRS)</p>
<p><b>If your nonprofit...</b></p>	<p><b>What has changed relating to operations and taxes</b></p>	<p><b>Learn more here</b></p>
<p><b>Has income or losses from “unrelated business activity(ies)”</b></p>	<p>The new tax law will impose a tax on nonprofits at the new corporate rate (21%) on income from each unrelated business activity <i>separately</i>. Therefore, it is expected that income/losses from individual business activities will need to be <b>reported* separately</b>, and losses from one may not be used to offset income from other business activities. This means that it is important for all nonprofits with UBI to carefully track the EXPENSES involved in producing the particular UBI, so that those expenses can be used to offset any gains from that particular activity. Note that losses resulting from one type of activity that produces UBI won’t be available to offset gains from a different type of activity that produces UBI. Also, the 15% tax rate on the initial \$50,000 or taxable income is eliminated, resulting in higher UBI tax overall for organizations reporting UBIT of certain amounts.</p>	<p><a href="#">H.R. 1</a> Sec. 13702 New IRC Sec. 512 (a)(6) (Look for guidance from the IRS)</p> <p>Background on <a href="#">unrelated business income taxation</a></p> <p>IRS rules for “<a href="#">unrelated business income taxation</a>,” often referred to as “UBIT.”</p> <p>This provision is discussed at page 96 of <a href="#">The New Tax Law H.R. 1: Initial Observations</a> (KPMG)</p>

	<p>*Final IRS guidance will determine how nonprofits will report income/losses from “separate business lines,” so until the guidance is available, nonprofits should carefully document the sources of all UBI.</p>	
<b>Has net operating loss carryovers</b>	The new tax law limits net operating losses up to 80% of the taxpayer’s taxable income (for tax-exempt organizations this means 80% of UBI). It eliminates carryback of net operating losses and allows carryforwards indefinitely.	<p><a href="#">H.R. 1</a> Sec. 13302</p> <p>Amendment to IRC Sec. 172(a)</p> <p>(Look for IRS guidance)</p>
<b>Issues tax exempt bonds</b>	The new law eliminates (“repeals”) advance refunding bonds, so refinancing outstanding/existing tax-exempt debt and future capital projects is likely to be more expensive. This provision will also affect state, local, and municipal bond financing.	<p><a href="#">H.R. 1</a> Sec. 13532</p> <p>Amendment to IRC Sec. 149(d)(1)</p> <p>(Look for IRS guidance)</p>
<b>Specializes in a particular activity</b>	Other provisions of the new federal tax law may apply. (For example, a few colleges and universities now must pay an excise tax on their investment earnings.)	It depends on the type of activity.
<b>If your nonprofit...</b>	<b>What has changed relating to resource development:</b>	<b>Learn more here</b>
<b>Fundraises</b>	Most analysts predict that overall donations to charitable nonprofits will be lower because of four changes in the new tax law: (1) individual income tax rates will be lower, which reduces the value of all deductions; (2) state and local tax deductions are capped at \$10K, which will reduce the number of taxpayers who itemize; (3) the law doubles the standard deduction, which also reduces the number of itemizers; and (4) the new law doubles the exemption on estate taxes, which may make the tax-advantages of some bequests less attractive. Simply by doubling the standard deduction, the	<p><a href="#">H.R. 1</a> Secs. 11001, 11021, 11023, 11042, and 11061</p> <p><a href="#">21 million taxpayers will stop taking charitable deductions under the new tax law (Forbes)</a></p> <p><a href="#">The GOP tax reform will devastate charitable giving (LA Times)</a></p>

	<p>new tax law prevents individuals from itemizing unless their deductions exceed the (now doubled) standard deduction. This change alone is expected to reduce the number of people who will itemize deductions to only five percent of taxpayers, removing the tax incentive for charitable giving for 95% of taxpayers.</p> <p>The tax bill also raises the giving limits for taxpayers who itemize deductions from the current cap of 50% of adjusted gross income (AGI) to 60% of AGI. This change will enable upper-income taxpayers to contribute and deduct more to the work of charitable nonprofits.</p>	<p><a href="#">New tax law scales back reward for giving, local charities concerned (Asheville (NC) Citizen Times)</a></p> <p><a href="#">Analysis: GOP tax bill could reduce charitable giving by up to 24 Billion (The Hill)</a></p>
<p><b>Provides “Gift Acknowledgements”</b> (receipts for donors’ contributions)</p>	<p>The new federal tax law does not affect the way nonprofits acknowledge contributions. This means that nonprofits should continue to provide donors with <a href="#">gift acknowledgements</a>. Even those donors who do not itemize (and therefore who will not need to substantiate their gifts) will also expect to receive a ‘thank you’ from nonprofits to acknowledge their gifts. Since the nonprofit will not know which donors itemize and which do not, nonprofits should continue as before.</p>	<p><a href="#">H.R. 1 Sec. 13705</a></p>
<p><b>Provides tickets or seats for college athletic events in exchange for charitable donations</b></p>	<p>Donors are no longer entitled to deduct payments made to a college or college athletic department in exchange for college athletic event tickets or seating rights at a stadium.</p>	<p><a href="#">H.R. 1 Sec. 13704</a></p>