What does the 2017 Tax Cuts and Jobs Act mean to Not-For-Profit Organizations?

The 2017 Tax Cuts and Jobs Act, was passed on December 22, 2017 and includes several provisions that impact Exempt Organizations. See below for details summarizing these changes.

- A separate computation for each unrelated trade or business activity that an exempt organization operates is now required to be maintained. This also includes a separate determination of the net operating loss realized from each activity. The unrelated business income of an organization with more than one unrelated activity will be the sum of the income from each separate activity, less the specific deduction allowed. For organizations with more than one unrelated trade or business activity, the gain from one activity can no longer be reduced by a loss from a separate activity. There are transition rules for any net operating losses that arose prior to January 1, 2018. If this is the case, we can provide guidance with this.

- For years beginning on or after January 1, 2018, Net Operating Loss deductions will be limited to 80% of the taxable income. Additionally, Net Operating Loss carrybacks are eliminated and are to be carried forward only.

- Unrelated Business Taxable Income is increased by any amount of a deduction for a fringe benefit provided to an employee that was disallowed by changes to Internal Revenue Code Section 274 when paid or incurred by the organization for any qualified transportation fringe benefit, any parking facility used in connection with qualified parking or any on-premises athletic facility. If the fringe is used in connection with an unrelated business activity, this change does not apply. This section is applicable for amounts paid or incurred after 12/31/2017.

- The corporate tax rate has been adjusted to 21% of taxable income, from a graduated rate ranging from 15% - 35%. Organizations whose net unrelated business taxable income was under approximately $90,000 previously will see a higher rate of tax as a result.

- A tax on compensation paid to specified employees will be assessed when compensation exceeds $1,000,000. Included is any current or former employee who is one of the 5 highest compensated employees for the taxable year. Compensation paid by any related organization is included in the computation. The tax is assessed at a rate of 21% on the amount over $1,000,000.

- The income based limitation for cash contributions to public charities and certain private foundations has increased from 50% to 60% of the donor's adjusted gross income.

- An excise tax will be imposed on the Net Investment Income of private colleges and universities that meet certain criteria. When the value of certain assets of the college/university reaches specified levels on a per student basis ($500,000) the tax is assessed at a rate of tax is 1.4% of the assets above the $500,000 amount. Assets directly related to the carrying out of the organization's exempt activities are excluded in the computation (classroom building, physical facilities, equipment and administrative assets used by employees).

- A deduction for amounts paid in exchange for college athletic seating rights has been repealed effective for taxable years beginning after 12/31/2017.

- The exception to providing acknowledgements to donors whose contributions were $250 or more when the organization filed a report with the IRS containing the same information has been repealed. Contemporaneous written acknowledgements are now required in order for the deduction to be taken on the donor's Schedule A. This is effective for contributions made in taxable years beginning after December 31, 2016.

If you have any questions or need further clarification, please contact our office.

Written by:
Rhona Foster, CPA
Cheryl D. Finkelstein, CPA
Bert L. Swain, CPA