

Repeal of Unrelated Business Income Tax on Qualified Transportation Fringe Benefits

Article By:

Amanda H Nussbaum

Amy Zelcer

Late on Friday, December 20, 2019, President Trump signed into law government funding legislation for the 2020 fiscal year that includes a provision repealing Section 512(a)(7), commonly referred to as the “parking tax.”^[1]

Section 512(a)(7) was enacted pursuant to the 2017 U.S. tax legislation known as the “Tax Cuts and Jobs Act.” The provision required tax-exempt employers to increase their unrelated business taxable income (“UBTI”) by amounts paid or incurred for qualified transportation fringe benefits provided to employees, including the provision of parking and public transportation benefits. Despite certain [guidance](#) passed at the end of 2018, the provision caused concern amongst tax-exempt organizations because of the prospect of increased tax liability, the lack of clarity for determining the taxable amount of such benefits, and the additional administrative burdens triggered for certain organizations.

Pursuant to the new legislation, Section 512(a)(7) was repealed with retroactive effect to the date of its enactment. As a result, organizations should file an amended Form 990-T to claim a refund for any taxes paid related to such qualified transportation fringe benefits. Organizations are encouraged to consult their own tax advisors as to whether a state tax refund is available as well.^[2]

^[1] See Division Q of [H.R. 1865](#), the “Further Consolidated Appropriations Act, 2020.”

^[2] In New York State, amounts paid or incurred by tax-exempt organizations for qualified transportation benefits were not subject to tax, as the New York State tax code was decoupled from the changes made to the federal UBTI rules at the end of 2018. Thus, no New York State tax would have been due with respect to these amounts.

Source URL: <https://natlawreview.com/article/repeal-unrelated-business-income-tax-qualified-transportation-fringe-benefits>