MAJOR NEW HOUSE TAX BILL WOULD RESURRECT THE NONPROFIT PARKING TAX (WITH NEW EXEMPTIONS)

INCLUDES OTHER SIGNIFICANT PROPOSED CHANGES IMPACTING NONPROFITS

By Mike Batts, CPA

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Major New House Tax Bill Would Resurrect the Nonprofit Parking Tax (with New Exemptions)

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Like a scene in a horror movie…just when we thought the infamous "nonprofit parking tax" was dead…we see its eyes open and its body start to move. Congress originally passed the nonprofit parking tax into law as part of the 2017 Tax Cuts and Jobs Act (TCJA). It was later repealed due to heavy criticism of it by nonprofit leaders. And now, despite the major blowback from the nonprofit community that arose after Congress passed it the first time, the US House of Representatives is considering major tax legislation that would include its resurrection. The nonprofit parking tax in the TCJA required tax-exempt organizations to treat the cost of parking provided to their employees as unrelated business income subject to federal (and sometimes state) income tax…with limited exceptions and exclusions. (Yes, the cost of providing parking to employees was treated as taxable income.) I vocally opposed the tax at the time…publicly referring to it as "absurd." I still hold that view. I was quoted in a 2018 POLITICO article entitled "A holy mess: Churches, other nonprofits confront parking tax," describing the fact that applying the tax was not simple.[1]

Nevertheless, the latest major tax legislation floated out by the US House of Representatives would reinstate the nonprofit parking tax…with some new exclusions.

Specifically, the draft legislation would exempt from the tax churches, associations of churches, integrated auxiliaries of churches, and certain other church-affiliated entities that are exempt from filing Form 990.

The legislation states that the Treasury Department will provide regulations providing guidance on specific issues surrounding the implementation of the tax.

Accordingly, many tax-exempt organizations may soon find themselves once again calculating the cost of providing employee parking and adding that to their Forms 990-T as federal taxable income.

Other Provisions in the Draft Legislation Relevant to Nonprofits

Other provisions in the draft legislation that should be of interest to nonprofit organizations include, but are not limited to, the following:

- An increase in the excise tax rate applicable to net investment income for larger private foundations
- A 1% floor (1% of taxable income before the charitable deduction) applicable to deductions by corporations for charitable contributions
- A provision allowing for the revocation of the tax-exempt status of an organization determined by the IRS to be a terrorist-supporting organization
- An expansion of the excise tax on "excess remuneration" (generally, a tax on compensation in excess of $1 million paid within a year to a nonprofit employee) and "excess parachute payments" made to employees by tax-exempt organizations
- An expansion and increase of taxes on the investment income of private college and university endowments
- A change to the statutory exclusion for royalty income from the tax on unrelated business income, such that royalty income from licensing the use of a tax-exempt organization's name or logo would be considered unrelated business income

[1] Source: https://www.politico.com/story/2018/12/16/congress-tax-reform-irs-churches-parking-1027598

- A curtailment of claims for the Employee Retention Credit (ERC)…disallowing claims made after January 31, 2024

- An extension of the statute of limitations for IRS examinations of ERC claims

- An increase in the standard deduction for taxpayers such that a married couple filing jointly would have a standard deduction in 2025 of $32,000, and the standard deduction would increase annually afterwards

- A new reduction in itemized deductions for taxpayers whose taxable income exceeds certain thresholds

- A permanent repeal of the exclusion for employer reimbursement of qualified moving expenses

- A new deduction for employees (other than "highly compensated" employees) for overtime pay received, with the objective of applying "no tax on overtime"

- A new deduction for certain employees who receive tips (other than "highly compensated" employees) for tip income received, with the objective of applying "no tax on tips"

- A new tax credit for contributions by individuals to certain scholarship-granting organizations

- An expansion of the definition of qualified expenses from Section 529 plans in the areas of elementary, secondary, and home schools

- A deduction for non-itemizers for charitable contributions up to $150 for individuals and $300 for married couples filing jointly

- An expansion of allowable catch-up contributions to HSAs by married couples

- An increase in the threshold amount for reporting remuneration paid to non-employees, generally from $600 to $2,000 for 2026, with inflation adjustments beginning after 2026

- Significant reductions and curtailments of "clean energy" tax benefits and incentives

Congress continues to deliberate the provisions of the tax legislation. We expect the final version of the tax legislation to be determined by the summer of 2025. Adopting major tax legislation is a very time-sensitive matter, as many significant provisions of current federal tax law expire at the end of this year (2025).

We will keep our clients posted on new significant developments in this area, and as more certainty develops around the proposed legislation, we will provide additional clarifying details to the extent possible.

