

April 10, 2019

Hon. Richard Neal, Chairman
Committee on Ways & Means
1102 Longworth House Office Building
Washington, D.C. 20515

Hon. Chuck Grassley, Chairman
Committee on Finance
219 Dirksen Senate Office Building
Washington, D.C. 20510

Hon. Kevin Brady, Ranking Member
Committee on Ways & Means
1102 Longworth House Office Building
Washington, D.C. 20515

Hon. Ron Wyden, Ranking Member
Committee on Finance
219 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Chairman Neal, Ranking Member Brady, Chairman Grassley, and Ranking Member Wyden,

As the 2018 tax filing deadlines rapidly approach, thousands of nonprofit, tax-exempt organizations across the United States have been shocked to discover that, they have a new Federal tax liability because they provide their employees with benefits that increase access to transit and parking. This new Tax Cuts and Jobs Act tax on unrelated business taxable income (UBTI) is detrimental to America's essential nonprofit organizations and their employees, and by extension their entire communities.

Every day, over 130,000,000 Americans commute to work on our nation's roads and rails, in cars, buses, vans, trains, bikes, and their own two feet. According to data from Inrix, congestion in the United States costs a combined \$305 billion or more than \$2,300 per commuter. These are real dollars that impact the quality of life of hard working Americans and Congress should be looking for ways to help people get to work, not for ways to make it more expensive.

As members of the Association for Commuter Transportation (ACT), which represents over 1,000 major employers, state and local governments, commuter services organizations, and transportation providers throughout the nation, we urge you and your House and Senate colleagues to repeal this new tax and preserve vital employee transportation benefit programs.

The qualified transportation fringe benefit allows employers to utilize pre-tax dollars to purchase transit passes and vanpool fares for their employees, thus reducing their out-of-pocket expenses for commuting to work. The transportation fringe benefit allows employers to incentivize the use of more efficient and environmentally friendly forms of public transportation and vanpools, thereby removing single-occupancy vehicles from our roads, reducing both congestion and environmental pollution. Traditionally, nonprofit organizations such as public charities, houses of worship, universities, and hospitals were not subject to taxes on employee transportation benefit programs.

The Tax Cuts and Jobs Act of 2017 subjects qualified transportation fringe benefit programs to the Unrelated Business Income Tax (UBIT). Because tax exempt organizations do not generally take tax deductions, Congress also amended the IRS Code to require tax exempt organizations to pay the UBIT on expenses paid for any qualified transportation fringe benefits or parking. These employee transportation benefit programs now have 21 percent tax costing the average charity \$12,000 in 2018, according to a recent survey conducted by Independent Sector.

However, a survey conducted by ACT of university and hospital members found the average impact to these large institutions to be over \$250,000 in new taxes on transit programs alone, with 30% of respondents facilitating the pre-tax purchase or subsidy of transit passes valued at over \$1,000,000 per year.

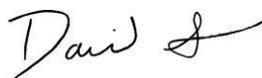
For nonprofit organizations with little or no unrelated business income, subjecting qualified transportation fringe benefits to UBIT will also result in increased administrative expenses, and new reporting requirements. This means already cash-strapped charitable groups will have to divert funds to pay for the new tax burden and either choose to cut their public services or slash employee transit benefits. Either decision will hurt our communities.

It is difficult to understand the rationale behind a law to impose, upon tax-exempt organizations, a tax on an expense rather than on income. To be clear, the 21 percent tax increase on nonprofit organizations hurts everyone. The impacts of this tax go beyond the bottom line of these charities – employees may lose an affordable way to commute to work, all commuters may see increased congestion and commute times, and pollution may increase. Nonprofits are now faced with the decision to cut these programs and become less competitive in attracting and retaining employees that can still receive these benefits from for-profit companies or cut costs elsewhere.

Not all organizations have the option to cut transportation benefit programs. A growing number of municipalities require, by law, that employers of a certain size provide transportation benefits to their employees. This list includes some of America's largest hubs of nonprofit organizations, including: New York City, Washington, D.C., the San Francisco Bay area, Los Angeles and Seattle. The state of New Jersey just passed a statewide transit benefit ordinance in February. The new tax is essentially penalizing organizations in these areas for complying with their local ordinances. Requiring employers to simply provide employees with the ability to purchase their transit pass through pre-tax dollars is a win-win and helps communities increase the efficiency of their transportation infrastructure. Congress should be supporting these efforts, not taxing them.

We strongly urge you to prioritize the repeal of this tax increase and enable exempt organizations to continue to support their employees with affordable transportation options to get to work.

Sincerely,



David Straus
Executive Director
Association for Commuter Transportation (ACT)

Additional Signers: