



TAX REFORM UPDATES FOR NONPROFITS



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MEALS ON WHEELS AMERICA

2018 MEALS ON WHEELS ANNUAL CONFERENCE & EXPO



LEARNING OBJECTIVES

- Impact of updated tax law for the organization
- Working knowledge of changes in tax law
- Begin making adjustments to minimize tax burden



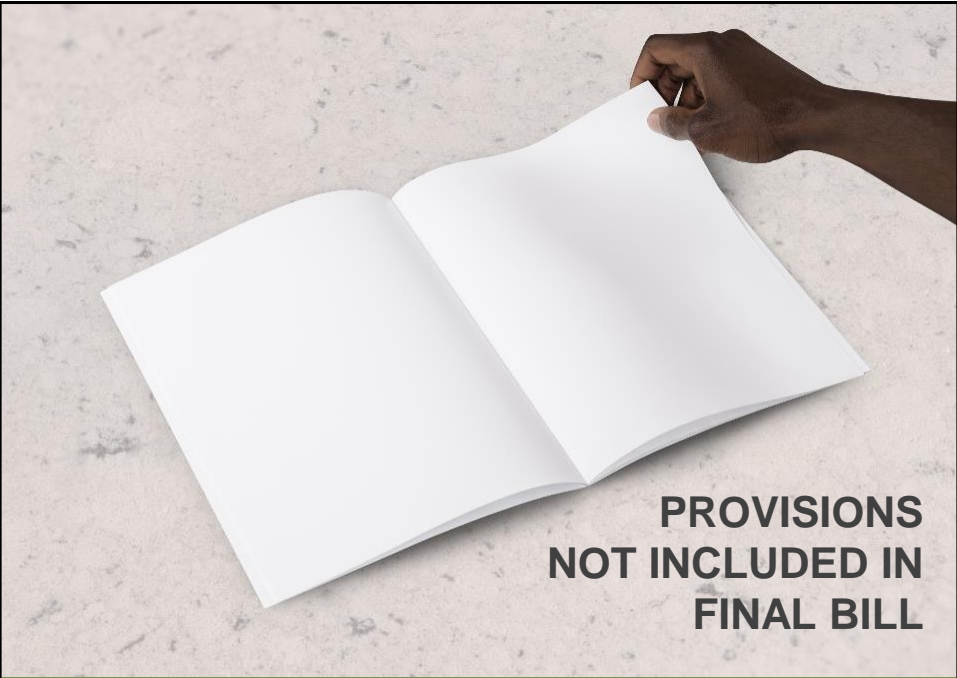
AGENDA

- Background of tax reform
- Provisions not included
- Excise taxes on executive compensation
- Excise taxes on endowments
- Changes to taxability of fringe benefits
- UBI silos
- Net operating losses
- Charitable giving impact
- Modifications to the charitable deductions
- Other EO tax impacts
- Looking forward



BACKGROUND OF TAX REFORM

- “2017 Tax Cuts and Jobs Act”
- Many provisions in the bill from older proposals
- Tax cuts, base broadening, and “pay-fors”
- How IRS studies played a role
- Provisions sunset due to 10 year senate reconciliation rules



**PROVISIONS
NOT INCLUDED IN
FINAL BILL**

EXECUTIVE COMPENSATION

- For employer's tax years beginning after December 31, 2017
- Applicable tax-exempt organizations
- Covered employees – any current or former employee
- Top 5 highest

REMUNERATION

Wages Subject to Federal Income Tax Withholding

- Each employer is subject to their pro rata share of the tax

Excess parachute payments – compensation that is contingent on the employee's separation from employment

REMUNERATION - EXAMPLE

Joe is the Executive Director of a nonprofit with a calendar year. Joe is leaving the organization and his last day is 6/30/18. He vests in his 457(f) plan at termination.

2017 annual salary - \$600,000

457(f) plan balance - \$500,000

Severance package - \$1,000,000

Is Joe a covered employee?

Is the organization subject to excise tax for 2018?

If so, how much?

MITIGATION STRATEGIES

- Make use of compensation that doesn't enter the calculation
- Deferred compensation plans - not when cash is paid, but when it vests
- Fiscal year clients – excise tax applies to tax years after 1/1/18
- Rebuttable presumption of reasonableness



EXCISE TAX ON ENDOWMENTS

- 1.4% excise tax on investment income at private colleges
- Which schools are applicable
 - 500+ students
 - Assets valued at \$500,000 per student
 - >50% of students are located in the US



FRINGE BENEFITS TAXABLE

- Effective for amounts paid or incurred after Dec. 31, 2017
- Employers may no longer deduct expenses for providing qualified transportation, parking, and on-premises athletic facilities
- Qualified transportation fringe
- Tax law was passed at end of 2017, still very recent.
- “Wait and see”

UBI LOSSES

PRE-EXISTING LAW:

Tax-exempt organizations conducting more than one unrelated trade or business activities are able to offset losses.

CURRENT LAW:

Such activities must now be treated as separate.

NET OPERATING LOSSES

PRE-EXISTING LAW:

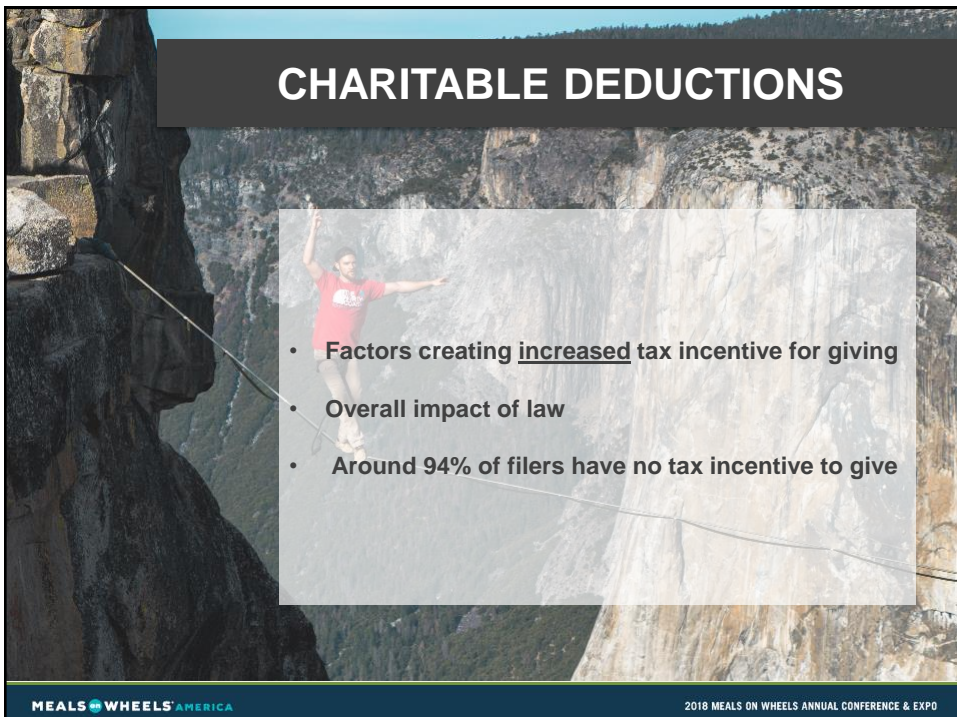
Net operating losses from unrelated business activities are allowed to offset the taxable income of the previous two years.

CURRENT LAW:

Such losses may no longer be carried back but can be carried forward indefinitely.



CHARITABLE GIVING IMPACT



CHARITABLE DEDUCTIONS

- Factors creating increased tax incentive for giving
- Overall impact of law
- Around 94% of filers have no tax incentive to give



OTHER EO MATTERS

- Tax exempt bonds
- Affordable care act mandate
- Employer credit for paid family and medical leave
- Employer must have written policy
- Policy must provide for FT EE's two weeks of paid leave and must provide PT E's proportionate amount of leave



OTHER EO MATTERS

- Credit will be revisited by Congress in two years
- Should be available to nonprofits through the general business credits
- Employee withholding
- Foreign reporting for international investments
- State conformity to law changes

LOOKING FORWARD

- Treasury and IRS guidance
- Technical corrections
- Tax courts
- 10-year sunset
- Early days with tax law, still a lot of uncertainty about how to interpret the law

TO DO

Review
compensation
arrangements

Review
deferred
comp plans

Review
transportation,
parking, athletic
benefit offerings

Determine if
UBI Silos will
have an impact

Determine
impact of NOL
changes

Evaluate
changes in tax
code