



## UNRELATED BUSINESS INCOME TAX (UBIT)

Independent Sector urges Congress:

- Repeal sections 512(a)(6) and 512(a)(7) of the tax code, which increase taxes on nonprofit organizations.
- Delay implementation of these tax increases until clear guidance has been released.

### Background

Charitable nonprofits are permitted to engage in some business activity outside of their exempt purpose, but they have been required since 1950 to pay Unrelated Business Income Tax (UBIT) on that income. The 2017 tax law created two new sections of the tax code that increase taxes on charities:

- Section 512(a)(6) prohibits organizations from using losses in one unrelated trade or business to offset profits in another. They must now calculate UBIT separately for each trade or business.
- Section 512(a)(7) requires organizations to pay UBIT on the cost of any transportation fringe benefits that they provide to their employees, such as parking or transit benefits.

### UBIT Not Meant to Tax Expenses

For over 60 years, UBIT has been a tax on certain *income* brought in by charities. Applying UBIT to an *expenditure*, like transportation benefits, is a gross misapplication of the law's purpose.

### Increase Burdens on Vulnerable Organizations & People

Diverting charitable funds into federal coffers through these two provisions creates profound financial and administrative burdens on charities and the people they serve.

- The country's 3<sup>rd</sup> largest employment sector, already facing a negative impact on charitable giving, also must pay more in taxes.
- Small nonprofits that never engaged in unrelated business activity will be required to pay UBIT, because they offer employee parking or pre-tax transit benefits.
- Houses of worship, which have long been exempt from filing Form 990 with the IRS, may be required to file for the first time.
- For many nonprofits, transportation benefits are mandated by local law rather than an optional fringe benefit. They now will be taxed on a locally mandated expense.

### Lack of Guidance Hurts Charities

Charities need the Treasury Department to answer fundamental questions to comply with these new laws. Either Congress or the Treasury must delay implementation of these taxes until nonprofits have the basic guidance that they require.

### Only Congress Can Lift This Burden

Regardless of Treasury guidance, these tax increases remain a misguided diversion of charitable resources that should be repealed through a number of bills: H.R. 6037 and S. 3317 repeal both provisions, while H.R. 6460, H.R. 6504, and S. 3332 repeal only the fringe benefit tax.