



Nonprofit Alert: Congress Repeals “Nonprofit Parking Tax” and Simplifies Private Foundation Excise Tax on Investment Income

December 30, 2019

Effective December 20, 2019, the "Taxpayer Certainty and Disaster Tax Relief Act of 2019" makes two legislative changes of special interest to tax-exempt organizations.

Retroactive Repeal of Nonprofit "Parking Tax"

The "Tax Cuts and Jobs Act" enacted at the end of 2017 made tax-exempt organizations liable for a 21 percent tax on the value of certain transportation benefits provided to employees, including public transit benefits and a space to park in a parking lot. The reaction to this tax — which defied logic by applying to *expenses* rather than *income* — was intensely negative as it imposed unexpected costs, complexity, and reporting requirements on nonprofits. Among other annoyances, it forced many nonprofits to file a Form 990-T (used to report unrelated business income) even though they did not generate any such income and, but for the "parking tax," would only have been obligated to file the standard Form 990 information return. Congress heard the message and repealed the tax as if it never existed. Nonprofits that have already paid the tax may seek a refund by filing an amended 990-T.

Simplification of the Tax on Private Foundations' Investment Income

Private foundations generally must pay a tax on their net investment income (such as interest and dividends). Under prior law, the tax rate on net investment income was generally two percent, but could be reduced to one percent in years in which the foundation's qualifying distributions (such as grants) exceeded the foundation's average historical level of distributions. In some circumstances, the tax discouraged private foundations from increasing grant making to meet urgent needs such as a natural disaster. The new law jettisons this complexity and adopts a uniform 1.39 percent tax on private foundation's net investment income. This provision is effective for tax years beginning after December 20, 2019.

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For more information, contact Gray Plant Mooty's Nonprofit and Tax-Exempt Organizations team.



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