

Subject Nonprofit unrelated business income tax (UBIT)

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Date February 18, 2019

Overview

Nonprofit organizations that operate a trade or business that is unrelated to the mission that is the basis for their tax exemption must pay federal and state “unrelated business income tax,” commonly known as UBIT. Minnesota’s UBIT uses federal unrelated business taxable income as the starting point for the state UBIT—the state rate is equal to the corporate franchise tax rate (9.80%). There is a \$1,000 de minimis exemption.

H.F. 1154 proposes nonconformity to two changes to the UBIT made by the 2017 Tax Cuts and Jobs Act (TCJA).

1. **The TCJA’s rule for organizations with more than one unrelated trade or business (IRC Sec. 512(a)(6)):** The TCJA changed the method of calculating unrelated business taxable income for nonprofits that operate multiple unrelated trades or businesses.

Prior to TCJA, nonprofits could use losses from one unrelated business activity to offset gains in another unrelated business activity. The TCJA requires nonprofits to calculate the income of each trade or business separately and sum together the income for all the businesses. TCJA stipulated that when nonprofits sum together their income from all their unrelated businesses, the income for each business may not be less than zero. This effectively prevents nonprofits from using a loss from one business to offset the gain in another business.

H.F. 1154 proposes not conforming to this change for the purposes of the state UBIT.

2. **Disallowed fringe benefits (IRC Sec. 512(a)(7)):** The TCJA required nonprofits to include in unrelated business taxable income the organization’s expenses related to providing its employees certain fringe benefits. The law subjects to the UBIT expenses related to providing their employees with the following fringe benefits:
 - a. Qualified transportation fringe benefits such as transit passes, tolls, shuttles.

- b. Parking on or near the organization's premises.
- c. On-premises athletic facilities.

H.F. 1154 proposes exempting these expenses from the state UBIT.



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