

IRS Issues Guidance on Prior Year Parking Tax Refunds or Credits for Tax-Exempt Organizations

On January 21, 2020, the Internal Revenue Service (IRS) [released guidance](#) for tax-exempt organizations on how they may obtain a refund or credit for prior year unrelated business income tax (UBIT) incurred for qualified transportation fringe benefits.

Effective for tax years 2017 and 2018 only, Section 512(a)(7) of the Internal Revenue Code included amounts paid or incurred for qualified transportation fringes as unrelated business taxable income (UBTI), including parking provided by a tax-exempt organization to its employees. Section 512(a)(7) led to many tax-exempt organizations incurring an obligation to file a Form 990-T and pay a 21% tax on employee parking expenses, despite not engaging in an unrelated trade or business. Congress repealed Internal Revenue Code Section 512(a)(7) in December of 2019, retroactively eliminating the treatment of qualified transportation fringe as UBTI.

The new IRS guidance explains in detail how tax-exempt organizations that incurred UBIT on qualified transportation fringe benefits in 2017 or 2018 can amend a previously filed Form 990-T to obtain a refund or credit. In short, tax-exempt organizations can claim a refund or credit by filing an amended Form 990-T to remove the qualified transportation fringe amount(s) from a prior year return. If the change to the prior year return results in an overpayment, the organization would then request the overpayment as either a refund or credit and submit the amended return to the IRS.

Finally, the IRS points out that the normal time frames applicable to refund claims apply to an amended Form 990-T (generally, three years from the time the original Form 990-T was filed or two years from the time the UBIT was paid, whichever is later).

More information is available in the [IRS guidance](#). Please reach out to experienced counsel with any questions about how this guidance will affect your organization.

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