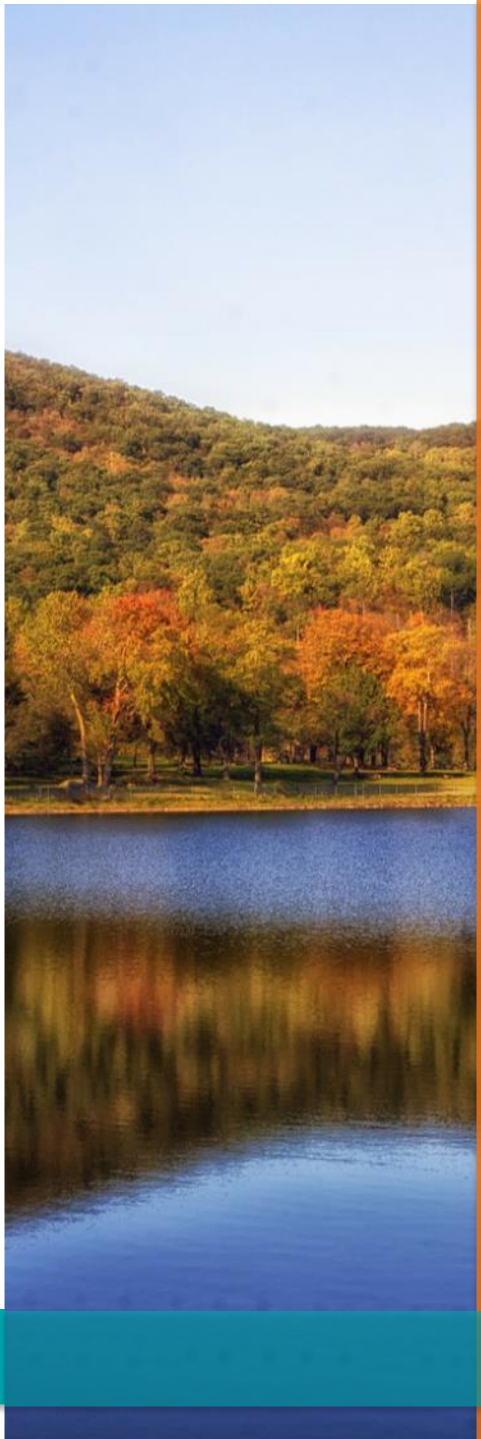
AAFCPAs

Regulatory Update: The Tax Cuts and Jobs Act, and What Nonprofits Need to Know

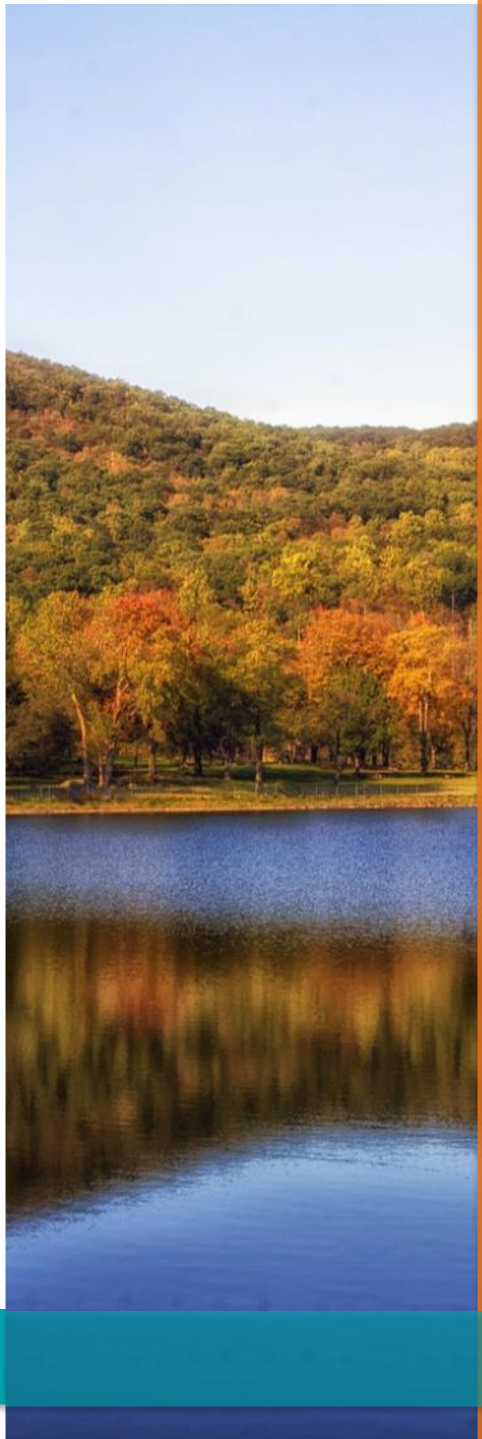
Agenda

- Excise Tax on Executive Compensation
- Unrelated Business Income Tax
- Excise Tax on Endowment
- Individual Tax Law Changes and Charitable Giving



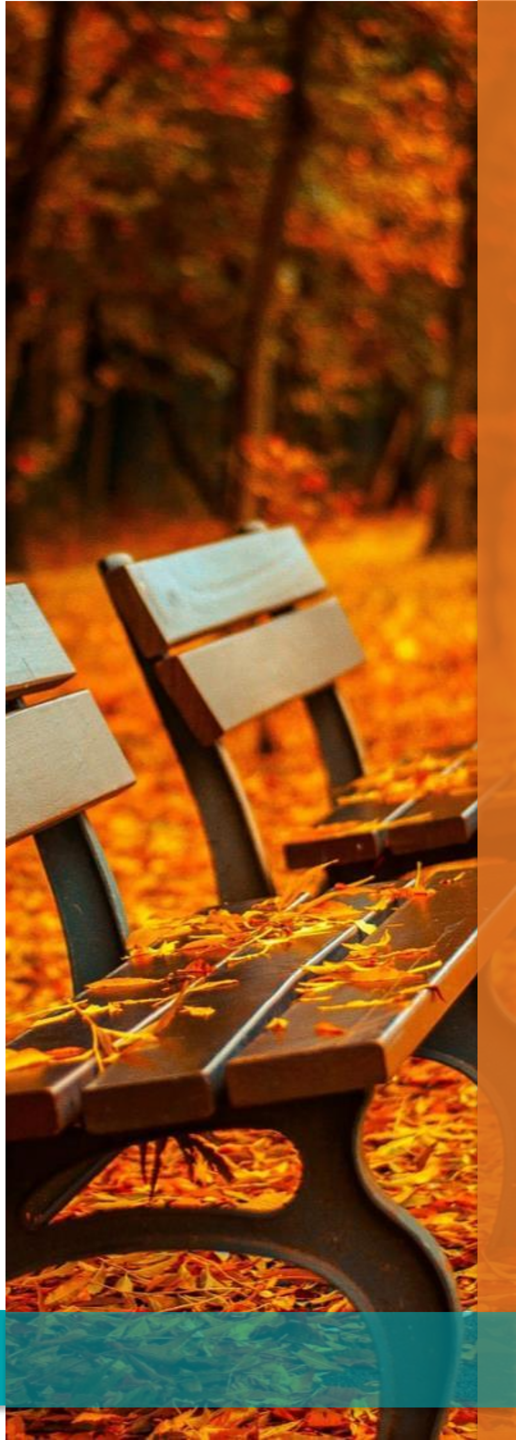
Executive Compensation

- 21% Excise Tax on Nonprofits that pay compensation of $1 million or more to any “covered employee”
- Tax is paid by the organization on all remuneration (including non-cash benefits) except tax-qualified plan amount that are excludible from gross income
- Payments to licensed medical professionals providing such services are excluded
- Payments from related organizations are included
  - Each entity pays their pro-rata share
- Payments made in connection with a termination of employment to any covered employee equal or exceed three times the employee's average earnings over the preceding five years.



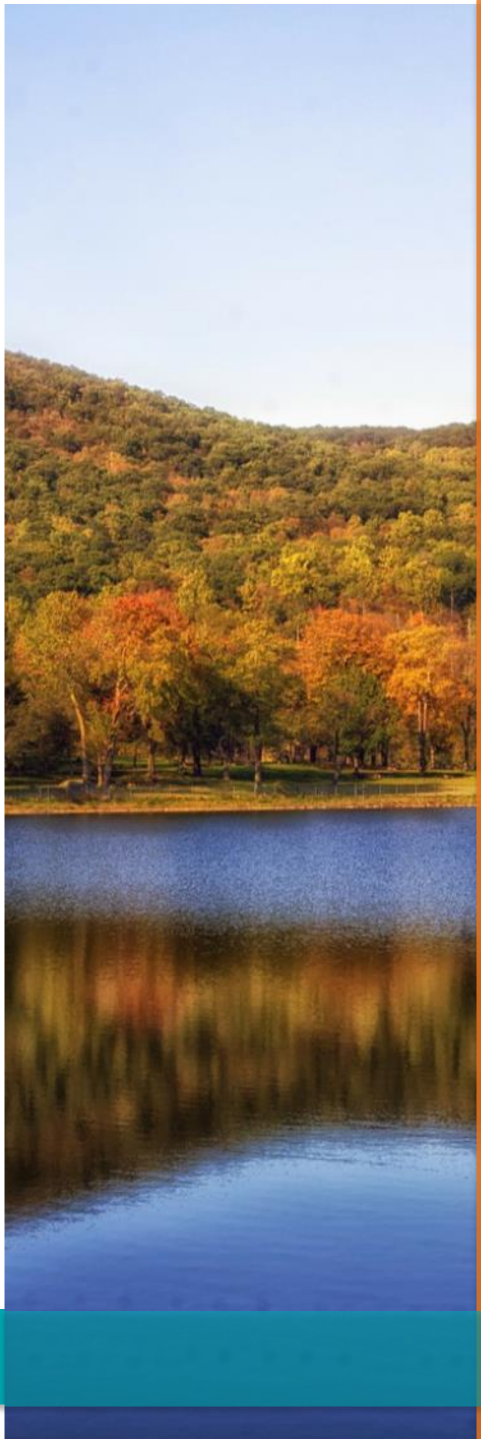
Executive Compensation

- A "covered employee" is any employee (including any former employee) of a tax-exempt organization if the employee:
  a) is one of the five highest compensated employees of the organization for the taxable year, or
  b) was a covered employee of the organization for any preceding taxable year beginning after Dec. 31, 2017
- If an employee qualifies as a "covered employee" for any year, the excise tax applies to compensation in excess of $1 million in any future years
  - Not just top five in any given year
  - Once a covered employee, always a covered employee



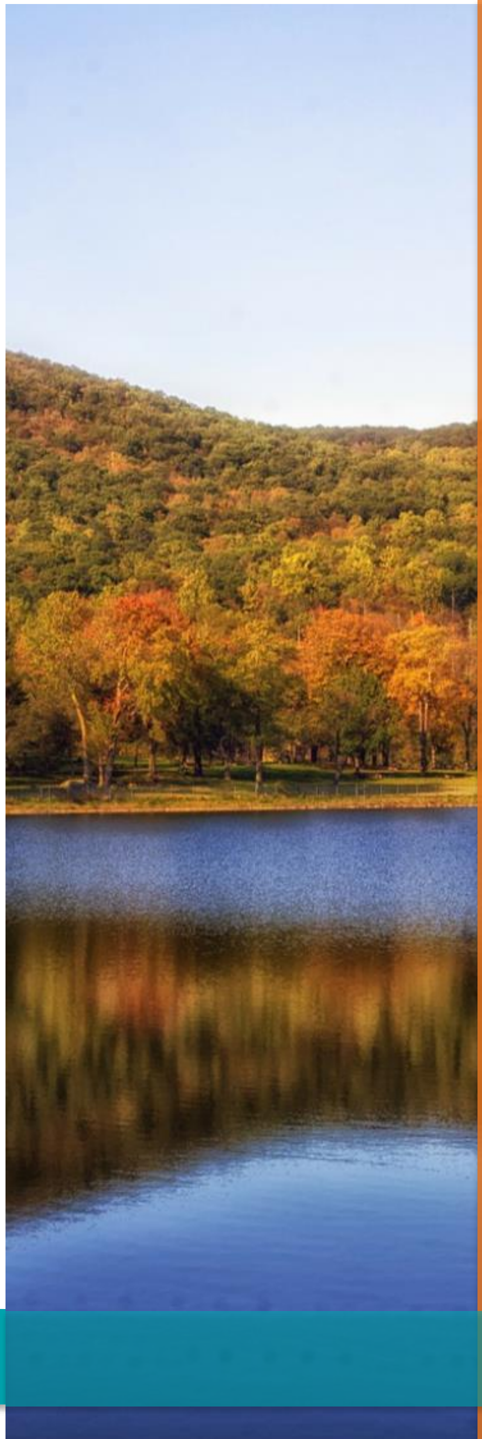
Unrelated Business Income Tax

- Corporate income tax rate lowered to 21%
- Disallows tax-exempt organizations from deducting losses from one economic activity against the income for another economic activity
- Losses from the same economic activity may be carried forward to be used in subsequent years
- Losses from pre-2018 UBIT activities are still deductible across the board
- The new segregation provision may potentially impact the decision of some tax-exempt organizations on whether to use "blocker" corporations.



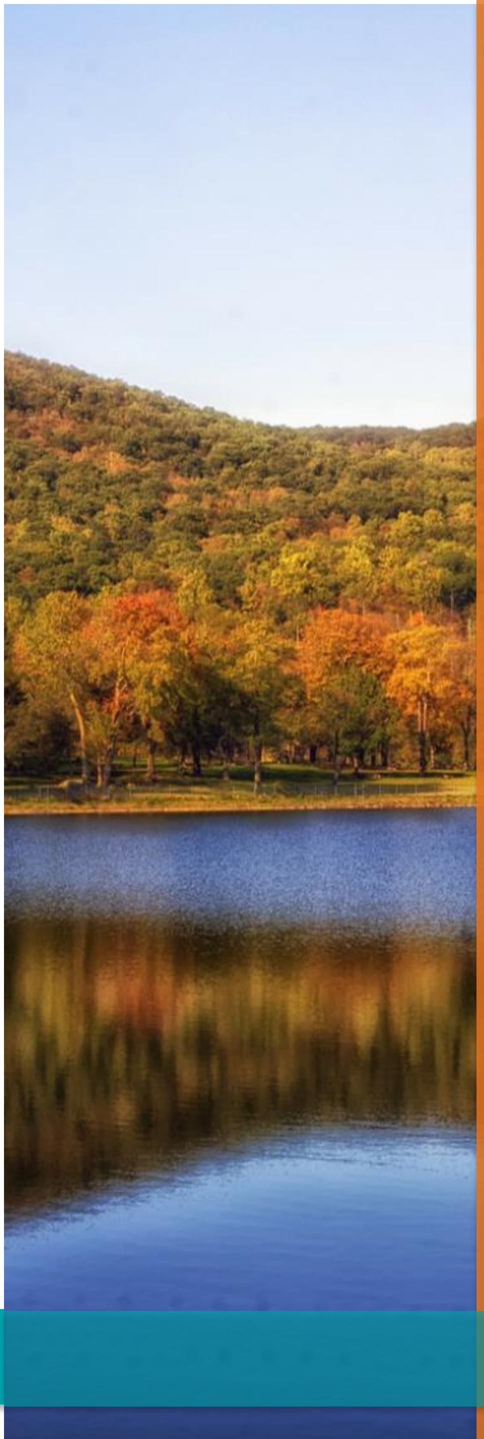
Unrelated Business Income Tax

- Unrelated business income of a tax-exempt organization would include employer costs for qualified transportation fringe benefits, parking facilities, and onsite gyms.
- These provisions were enacted to equalize the treatment between taxable corporations that can no longer deduct these amounts and nonprofits.



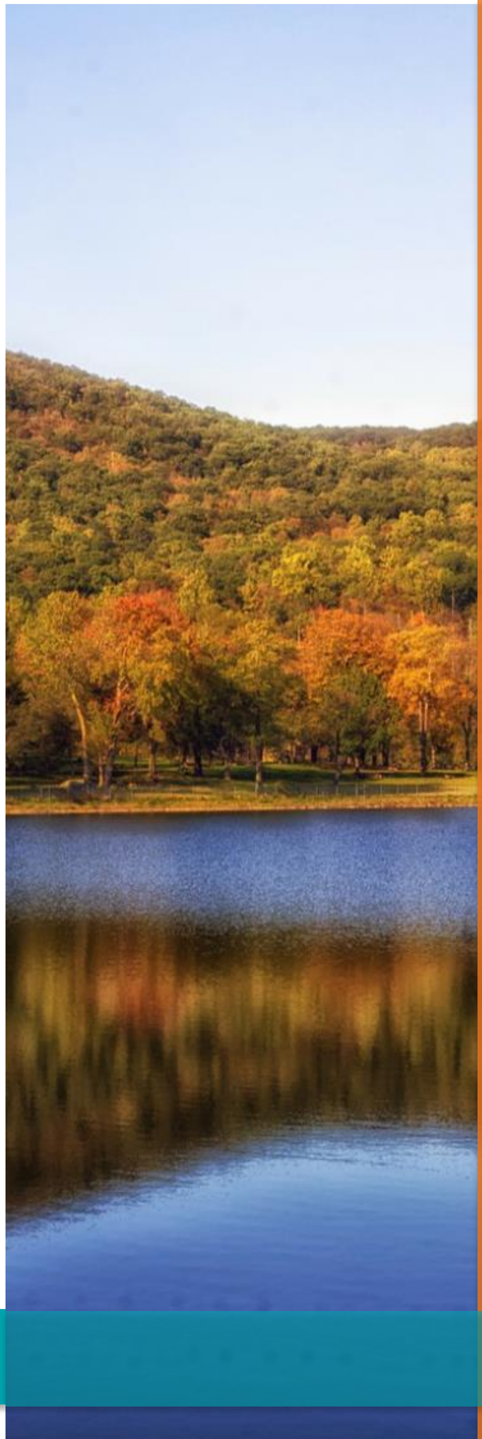
Unrelated Business Income Tax

- Qualified transportation fringe is considered any of the following provided by an employer or employee:
  - Commuter transportation between the employee's home and place of employment in a commuter highway vehicle.
  - Transit passes—any pass, token, fare card, voucher
  - Qualified parking provided to an employee on or near the business premises of the employer
  - Qualified bicycle commuting reimbursement.



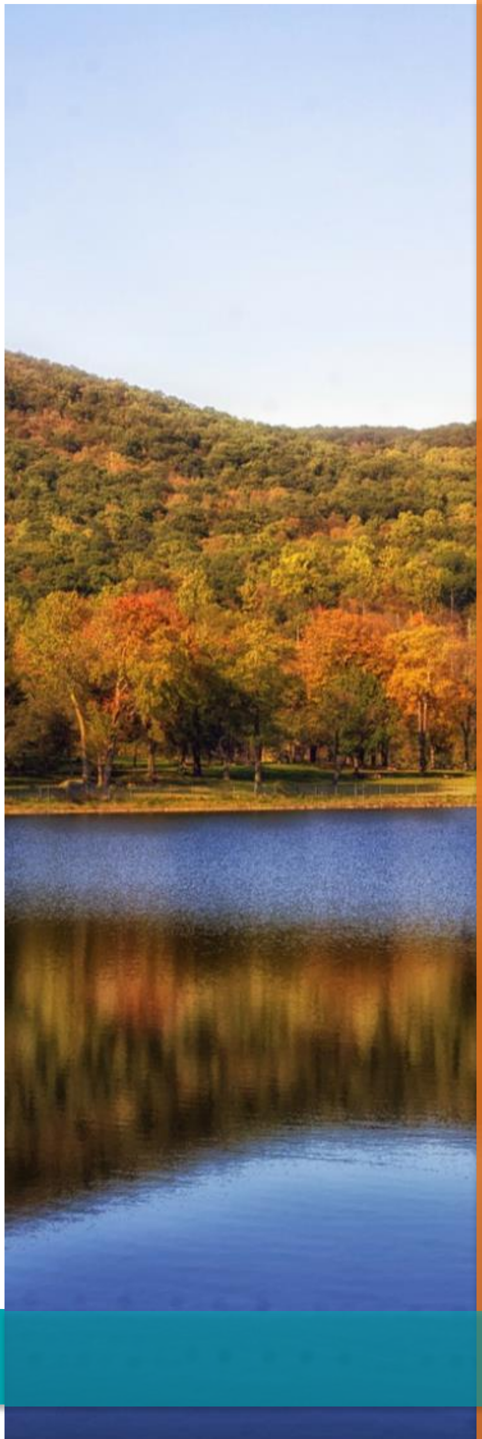
Endowments

- New excise tax of 1.4% on the net investment incomes of applicable educational institutions
- The term ‘applicable educational institution’ refers to Harvard
- A college or university will have to include the income and assets of related organizations



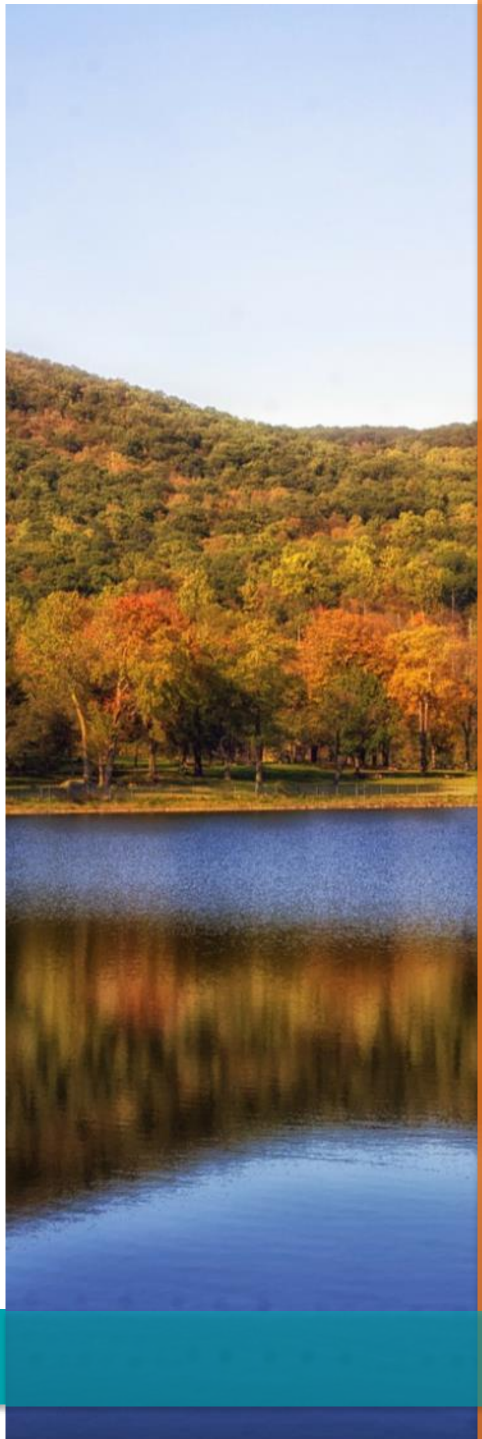
Charitable Contributions

- Donors who make a contribution to a university and, in exchange, receive the right to buy athletic tickets, will no longer be able to deduct 80% of the donation as a charitable contribution.
- Increases the charitable contribution deduction limit to 60% of Adjusted Gross Income
- Increases standard deduction to $12,000 & $24,000
- Increases estate tax exemption to $11,000,000



Donor Advised Funds – Notice 2017-73

- Look through contributions from a Donor Advised Fund to the underlying donor
- Anonymous contributions as coming from one person
- Cannot use a Donor Advised Fund to satisfy a charitable pledge
- Donor may receive no benefit that is more than incidental on account of a DAF distribution



Questions & Comments

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