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The Honorable Richard Neal
2309 Rayburn House Office Building
Washington, DC 20515

cc: William Tranghese, Chief of Staff

Dear Representative Neal:

As Chair of the powerful tax-writing Ways and Means Committee, we are writing to ask you to seriously consider lending your support to nonprofits in Massachusetts by helping to repeal Internal Revenue Code Section 512(a)(7), a section of the new tax code which requires these organizations to now pay a burdensome tax on parking and transportation benefits provided to employees. AAFCPAs serves over 400 Massachusetts-based, multi-state, national, and international nonprofits, and we have witnessed first-hand the monumental impact this new tax has had on our clients, their employees, and the vulnerable populations they serve.

Under the Tax Cuts and Jobs Act (TCJA), for-profit businesses are no longer allowed to deduct the costs of providing qualified transportation fringe benefits to employees, such as parking or transit passes. In a misguided effort to even the playing field, Congress instituted an increase in unrelated business taxable income for nonprofits by the amount of these benefits provided to employees. On the face of it, this makes no logical sense: for-profits were deducting these costs against their taxable income, receiving a benefit, but nonprofits do not have taxable income. Essentially, Congress created a new tax for nonprofits, where they were never receiving a benefit in the past.

The effect is best illustrated with an example. A hypothetical nonprofit based in Boston, Massachusetts has been providing its 50 employees with pretax transportation and transit benefits of \$200 total a month in 2018. Under the TCJA, this nonprofit will now be subject to an excise tax on \$120,000 federally and in Massachusetts. The nonprofit now owes tax to the federal government of approximately \$25,000 and approximately \$9,500 to Massachusetts.

The example above illustrates an organization operating in only one state. The tax burden would be compounded if the nonprofit provides transportation benefits in multiple states. Additionally, the amounts above do not include additional costly assessments, tax preparation and consulting fees, or possible underpayment penalties that may arise.

The TCJA applied these changes across the board to all tax-exempt organizations, not just large nonprofits or universities with substantial endowments. The new excise tax on nonprofits also does not just apply to pretax benefits; surprisingly, it applies to owned or leased parking spaces



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that an organization provides onsite, as well. Many smaller nonprofits do not have the funds to pay these taxes and may be forced to make the business and economic choice to eliminate the benefits going forward, which will negatively affect employees who are already operating in a resource-constrained environment.

Organizations are tax-exempt for a reason: to optimize their abilities to benefit society and provide services that the government might otherwise be required to offer. This new tax provides a strain on the finances of these groups and will negatively affect the vulnerable populations they serve. This tax is counterproductive and affects the viability and effectiveness of these organizations.

AAFCPAs, on behalf of the diverse nonprofits we serve, urges you to help repeal Section 512(a)(7) of the TCJA. This provision does not place nonprofits on a level playing field with for-profits, and it disproportionately subjects them to an unjust tax.

The repeal of Section 512(a)(7) is a matter of urgency. Thank you for your time and consideration of this request. Please contact us any time with questions, or for further details on how this section of the new tax code is adversely affecting nonprofits, their employees who want to do good, and the populations they serve.

Sincerely,

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