

The KLR logo consists of the letters 'KLR' in a bold, green, serif font. Below the letters are two horizontal brown bars of equal length, stacked one above the other.

KLR

# The Impact of Tax Reform on Not-for-Profits



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Presented by  
**SANDY F. ROSS, CPA, CFE**

I work closely with clients to help them achieve their business and programmatic goals through strategic planning.



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Presented by  
**PATRICK MARTIN, CPA**

I help clients with complex organizational transactions, due diligence services and compliance matters.

# Tax Reform Overview

- Signed into law on December 22, 2017
- Largest tax reform bill since 1986
- Profound impact on charitable giving expected

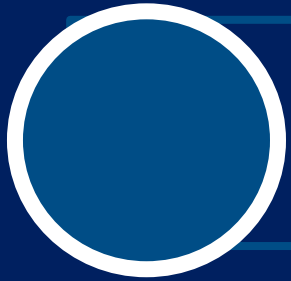


## Objectives

1. Tax reform and its impact on tax-exempt organizations
2. How could the new law impact charitable giving?
3. What strategies can nonprofits implement to help mitigate any potential risks?

# Individual Giving





# Individual Taxation

- Ordinary income tax rates
- Changes to standard deduction
- Changes to itemized deductions
- Estate and gift taxes: exemption for estate and gift taxes is increased to \$11,200,000 per taxpayer (indexed for inflation)



# Individual Taxation

## Standard Deduction Increased:

	Pre-Act Law	Under TCJA 2018-2025
Single	\$ 6,500	\$12,000
HOH	\$ 9,550	\$18,000
MFJ	\$13,000	\$24,000
Addition for blind and age 65+	\$ 1,300 MFJ \$ 1,600 Single	\$ 1,300 MFJ \$ 1,600 Single



# Estate and Gift Tax Changes

## Lifetime Exemption (indexed for inflation)

	<b>Pre-Act Law</b>	<b>Under TCJA 2018-2025</b>
<b>Individual</b>	\$ 5,600,000	\$11,200,000
<b>Married Couple</b>	\$11,200,000	\$22,400,000



Annual gift exclusion was not changed under TCJA. However, in 2018, the exclusion does increase from \$14,000 per person to \$15,000 per person.



# Charitable Contributions

- Cash contributions to public charities 60 % AGI limitation (previously it was 50 percent).
- Repeal of charitable deduction for payments made in exchange for athletic seating (previously able to deduct 80 percent of amounts paid).
- Removal of substantiation exception
- “Pease” Limitation Repealed. The overall limitation on itemized deductions removed through 2025.



# Individual Taxation - Itemized Deduction Changes

## **State and Local Tax Deduction**

limited to \$10,000 unless incurred when carrying on a trade of business or for the production of income. Foreign property taxes excluded entirely.



# Endowment Tax





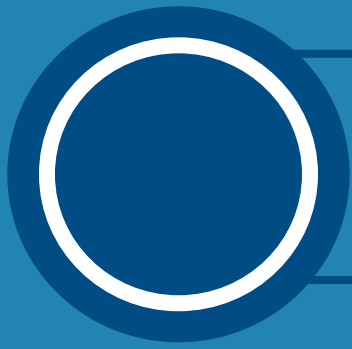
# College and University Endowment Tax

**1.4 percent tax on  
the NII** of a private  
college or university



# Excise Tax on Executive Compensation

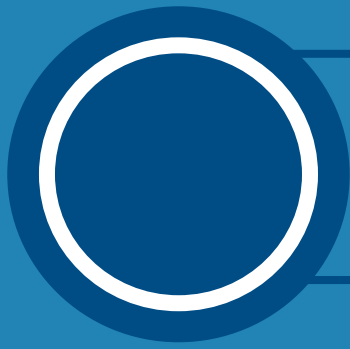




# Executive Compensation Excise Tax

21%

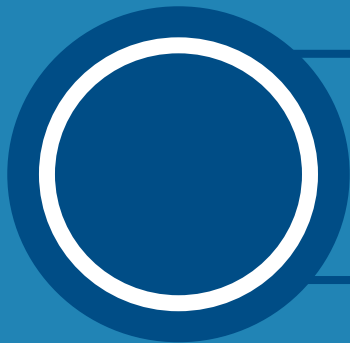
Excise tax equal to 21 percent (highest corporate rate) on: Dec 31, 2017



# Remuneration

**GENERALLY** “remuneration” is considered to be wages subject to federal income tax withholding.

Payments by a related party



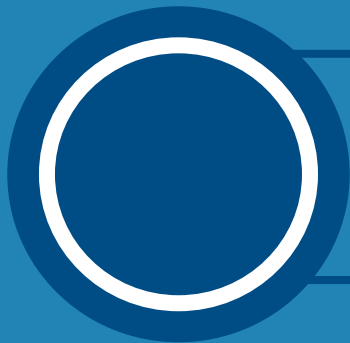
# Executive Compensation Excise Tax



## Exceptions

Organizations that are subject to the excise tax:

- Section 501(c) and (d) Organizations
- Political organizations under 527(e)(1)
- Organizations whose income is excluded under IRC Section 155(1)



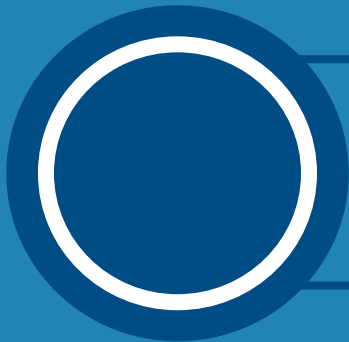
# Executive Compensation Excise Tax

## Covered Employees

One of the five highest compensated employees of the organization for the tax year, or

A covered employee of the organization, or any predecessor of the organization, for any tax year after Dec. 31, 2016.





# Excess Parachute Payments

Payment of compensation that is contingent on the employee's separation from employment, and

Does not include payments:

- From qualified retirement, 403(b) or 457(b) plans
- To licensed medical professionals for medical services
- To an individual who is not a highly compensated employee as defined in IRC Sec. 414(q) earning \$120,000 for the year



# Excess Parachute Payments



Base amount equals:

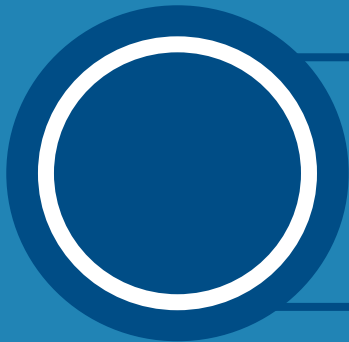
Average of Form W-2 (and Form 1099 compensation) in five (5) calendar years prior to the severance.



## Inclusion of Certain Fringe Benefits in UBTI

A tax-exempt organization includes as UBTI any amount

1. for which a deduction is not allowed under IRC Sec. 274, and
2. which is paid by the organization for any qualified transportation fringe, any parking facility used in connection with qualified parking, or any on-premises athletic facility.



## Inclusion of Certain Fringe Benefits in UBTI

“Qualified transportation fringe” is:

- a) commuter transportation
- b) transit passes;
- c) qualified parking;
- d) qualified bicycle benefit (may not create UBI)

Effective for amounts paid or incurred after Dec. 31, 2017



# Qualified Transportation Benefits

## Changes for employees

- \$20 monthly benefit for qualified bicycle commuting reimbursement

**No change** (benefits still excludible from employee's income)

- Transportation to and from work \$260 maximum monthly benefit in 2018
- Qualified parking \$260 maximum monthly benefit in 2018

# Unrelated Business Income



# Unrelated Trade or Business Income Losses

- The Act disallows tax-exempt organizations from taking the business losses from one unrelated trade or business and deducting them from the income of another unrelated trade or business.
- Organizations could, however, carryforward losses from an unrelated business to reduce income from another year's operation of the same unrelated business.



# Unrelated Business Income Example #1

	OLD	NEW
Advertising Income	\$ 2,000,000	\$ 2,000,000
Debt-Financed Rental Loss	(\$ 1,000,000)	(\$ 1,000,000)
Net	\$ 1,000,000	N/A
Tax Rate	35%	21%
Tax Expense	\$ 350,000	\$ 420,000



## Unrelated Business Income Example #2

	OLD	NEW
Advertising Income	\$ 1,000,000	\$ 1,000,000
Debt-Financed Rental Loss	(\$ 300,000)	(\$ 300,000)
Net	\$ 700,000	N/A
Tax Rate	35%	21%
Tax Expense	\$ 245,000	\$ 210,000



# Unrelated Trade or Business Income Losses

## **Unanswered questions:**

- What constitutes “one unrelated trade or business”?
- Are passive activities that generate unrelated business income one trade or business?
- Is trade or business grouped by geography, activity, or management?

# Tax Exempt Bonds

COMPUTER

E-MAIL

Business Strategy  
Innovation  
Branding  
Solution  
Marketing  
Analysis  
Sales  
Success  
Management

SECURITY

ONLINE SHOPPING

SOCIAL

GLOBAL

NETWORK

SEARCH  
WWW.

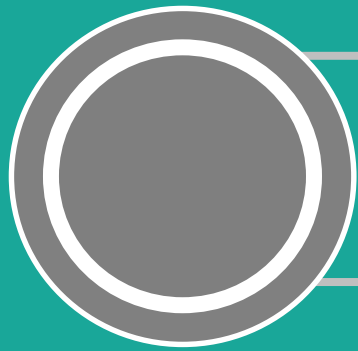
@ SYMBOL

WORKSTATION

SMART PHONE

KLR

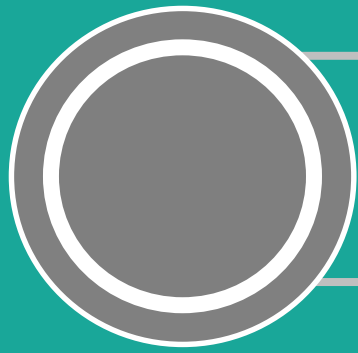
BACKUP



# Tax Exempt Bonds



- ✓ The Act repeals the exclusion from gross income of interest on a bond issued to advance refund on another bond
- ✓ Prior to the change each tax-exempt bond issue was permitted to be advance refunded once
- ✓ The ability to currently refund bonds remains in place

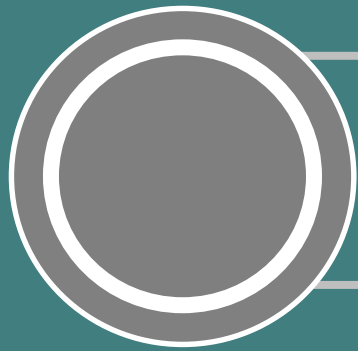


# Tax Exempt Bonds

- ✓ Change is effective for advance refunding bonds issued after December 31, 2017
- ✓ May result in changes to how tax-exempt bond issues are structured

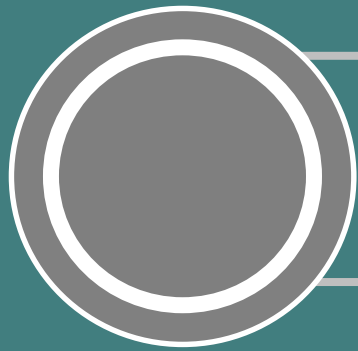
A person in a suit is signing a document with a pen. The image is overlaid with a semi-transparent dark red rectangle. The text "Other Provisions" is centered in white.

# Other Provisions



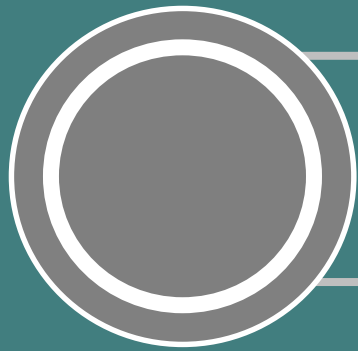
# Employers and Employees

- ✓ Achievement Awards
- ✓ Qualified bicycle commuting reimbursements
- ✓ Qualified moving expenses (employer-paid)
- ✓ Suspends exclusion for 1/1/2018 –12/31/2026
- ✓ Denial of deduction for dues with respect to membership in any club organized for business, pleasure, recreation or other social purposes



# Impact of Tax Cuts and Jobs Act on Not-for-Profit Organizations

- ✓ Focus on donor engagement and stewardship
- ✓ Review compensation arrangements (including related organizations)
- ✓ Review transportation benefits
- ✓ Separate different unrelated activities and establish system of tracking expenses



## What to Watch Out For

- ✓ IRS Technical Guidance
- ✓ Simplified Excise Tax Rate for Private Foundations
- ✓ Johnson Amendment
- ✓ Universal Charitable Deduction

# Let's Connect



sross@KahnLitwin.com



pmartin@KahnLitwin.com



888-KLR-8557

[KahnLitwin.com](http://KahnLitwin.com)



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