

**PARKING/UBIT**

# Tax Reform Reminders

- **Changed the corporate income tax rate to a flat 21%**
  - This is also the UBIT rate
- **Added a “silo rule” for calculating UBIT**
  - Each trade or business must be calculated separately
  - In other words, losses from one trade or business cannot be used to offset profits from another
- **Amount of UBIT paid must now be increased by the value of any disallowed fringe benefit**

# Qualified Parking

- **Qualified transportation fringe includes “qualified parking”**
- **Per § 132(f)(5)(C):**

The term “qualified parking” means parking provided to an employee on or near the business premises of the employer or on or near a location from which the employee commutes to work by transportation described in subparagraph (A), in a commuter highway vehicle, or by carpool. Such term shall not include any parking on or near property used by the employee for residential purposes.

## **Now What?**

- **The IRS has issued interim guidance on how to implement this change, which applies to churches**
- **2 scenarios**
  - **Church pays a third party for its employees to have access to parking**
  - **The church owns or leases its parking**

## **Paying a 3rd Party for Parking**

- **The amount by which taxable income would be increased would be “calculated as the taxpayer’s total annual cost of employee parking paid to the third party.”**
- **However, if that amount exceeds the monthly cap on what can be excluded from an employee’s taxable income, any such excess would not increase nonprofit’s taxable income. (\$265/per month/per employee in 2019)**
  - **The excess is taxable income to the employee.**

# Church Owned/Leased Parking

**First the church must determine its parking costs. Then:**

## **1. Determine percentage of reserved spaces for employees**

- **The percentage is applied to the overall parking costs. This is the amount that taxable income is increased for these spots.**

# Church Owned/Leased Parking

## 2. Determine “primary use” of remaining spots

- “Primary use” – defined as “greater than 50 percent of actual or estimated usage of the parking spots in the parking facility” as tested “during the normal hours of the [church’s] activities on a typical day.”
- If the primary use of these remaining spots is for the general public the costs of these spaces do not increase taxable income.

## **Church Owned/Leased Parking**

- **If the primary use of remaining parking spaces is not providing parking to the general public, the church must move to steps 3 and 4.**



# Church Owned/Leased Parking

## **3. Reserved spaces for nonemployees**

- **The church calculates the percentage of the total spaces reserved for nonemployees, then applies that percentage to the total parking expenses incurred. The result is the amount by which taxable income is not increased in relation to such reserved spaces.**

## **Church Owned/Leased Parking**

### **4. Spots not already categorized by the above**

- **If a church determines that more than 50% of it's primary use in step 2 was for employees, it must determine what percentage of that parking is primarily for employees. You do not have taxable income on the amount that is not for employees.**

# Church Owned/Leased Parking

- **Example**

- Taxpayer E, a manufacturer, owns a surface parking lot adjacent to its plant. E incurs \$10,000 of total parking expenses. E's parking lot has 500 spots that are used by its visitors and employees. E has 50 spots reserved for management and has approximately 400 employees parking in the lot in non-reserved spots during normal business hours on a typical business day. Additionally, E has 10 reserved nonemployee spots for visitors.

# Church Owned/Leased Parking

- **Example**

**Step 1.** Because E has 50 reserved spots for management, \$1,000  $((50/500) \times \$10,000 = \$1,000)$  is the amount of total parking expenses that is nondeductible for reserved employee spots under § 274(a)(4).

# Church Owned/Leased Parking

- **Example**

**Step 2. The primary use of the remainder of E's parking lot is not to provide parking to the general public because 89% ( $400/450 = 89\%$ ) of the remaining parking spots in the lot are used by its employees. Thus, expenses allocable to these spots are not excepted from the § 274(a) disallowance by § 274(e)(7) under the primary use test.**

# Church Owned/Leased Parking

- **Example**

**Step 3. Because 2% ( $10/450 = 2.22\%$ ) of E's remaining parking lot spots are reserved nonemployee spots, the \$200 allocable to those spots ( $\$10,000 \times 2\%$ ) is not subject to the § 274(a)(4) disallowance and continues to be deductible.**

# Church Owned/Leased Parking

- **Example**

**Step 4. E must reasonably determine the employee use of the remaining parking spots during normal business hours on a typical business day and the expenses allocable to employee parking spots.**

# Church Owned/Leased Parking

- **Example**

**Taxpayer C, a big box retailer, owns a surface parking lot adjacent to its store. C incurs \$10,000 of total parking expenses. C's parking lot has 500 spots that are used by its customers and employees. C usually has approximately 50 employees parking in the lot in non-reserved spots during normal business hours on a typical business day. C usually has approximately 300 non-reserved parking spots that are empty during normal business hours on a typical business day.**



# Church Owned/Leased Parking

- **Example**

**Step 1. Because none of C's parking spots are exclusively reserved for employees, there is no amount to be specifically allocated to reserved employee spots.**

# Church Owned/Leased Parking

- **Example**

**Step 2. The primary use of C's parking lot is to provide parking to the general public because 90% ( $450/500 = 90\%$ ) of the lot is used by the public. The 300 empty non-reserved parking spots are treated as provided to the general public. Thus, expenses allocable to these spots are excepted from the § 274(a) disallowance by § 274(e)(7). Because the primary use of the parking lot is to provide parking to the general public, none of the \$10,000 is subject to the § 274(a)(4) disallowance.**

## **What if I have to file now?**

- **The church does not have to file Form 990-T if its gross income (plus any increase due to disallowed fringes) is below \$1,000**
- **If it has to file, there is a \$1,000 standard deduction**