The Nonprofit Relief Act introduced by Congresswoman Carolyn B. Maloney (D-NY) addresses new and longstanding tax law policies that adversely affect the ability of charitable nonprofits to advance their missions. The legislation would repeal the new tax that requires nonprofits to treat every unrelated business revenue stream as a separate “trade or business” that may not be aggregated with other profits and losses to reduce tax liabilities. The bill also extends the paid leave tax credit to tax-exempt organizations and changes the tax treatment of mileage reimbursements to volunteers so they are not subject to federal and state income taxation.

1. Tax on Separate “Trade or Business”: The legislation repeals Internal Revenue Code Section 512(a)(6) that prevents nonprofits from aggregating profits and losses of all unrelated businesses activities. The Tax Code currently requires nonprofits, but not for-profit businesses, to break down their expenses and revenues into separate silos for each “trade or business.” The law still lets for-profit businesses use losses in one business unit to cancel out profits in another, thereby reducing their tax bills. Nonprofits, however, are now denied this standard accounting practice and must pay 21 cents on every dollar of “profit” brought in through advertising in newsletters, a small beverage stand in the lobby, a tiny gift shop, etc., even when they suffer losses on entrepreneurial business activities intended to generate revenue to support their missions in communities.

2. Paid Leave Tax Credit: Through an oversight, the 2017 tax law failed to extend the paid leave tax credit to tax-exempt organizations. The Nonprofit Relief Act corrects this by allowing tax-exempt organizations to apply the credit to non-income taxes that they pay, including payroll taxes. Internal Revenue Code Section 45S provides a tax credit for employers who provide paid family and medical leave to their employees. An eligible employer may claim a 12.5 percent income tax credit if it covers 50 percent of an employee’s salary when taking family and medical leave for things like the birth and care for a child, care for the employee’s spouse, child, or parent who has a serious health condition, or personal illness. The income credit increases on a graduated scale to 25 percent for providing 100 percent of salary. The legislation enables nonprofit employers and employees to benefit from the new tax policy enacted in the Tax Cuts and Jobs Act.

3. Volunteer Mileage Reimbursement: The Nonprofit Relief Act also fixes a longstanding disparity in the tax treatment of reimbursements that volunteers receive for the mileage they drive on behalf of charitable organizations. Under current law, employees of nonprofit and for-profit entities may be reimbursed for the work-related use of their vehicles at the standard business rate (currently 58¢/mile) with no tax consequence to the individual. The tax treatment of volunteers is different. First, they may only deduct as a charitable donation their mileage at a rate fixed in statute at 14¢/mile. Second, in the occasional instance when nonprofits reimburse volunteers for their mileage, tax law treats every penny above the 14¢ volunteer mileage rate as taxable income, putting the volunteer in a worse position than if the nonprofit had hired workers to perform the same services. The legislation corrects this unfair treatment by establishing that any mileage reimbursement to volunteers up to the business mileage rate shall not be considered income to the volunteer, and thus not taxable.

The Ask: Will you cosponsor the Nonprofit Relief Act that corrects new and longstanding tax provisions that undermine the ability of charitable nonprofits to advance their missions?

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About Nonprofit Connect

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