The Arc

For people with intellectual and developmental disabilities

June 19, 2019

The Honorable Richard Neal, Chairman
House Ways and Means Committee
1101 Longworth House Office Building
Washington, DC 20515

Re: Repealing Unrelated Business Income Tax (UBIT) on Nonprofit Transportation Benefits

Dear Chairman Neal,

The Arc greatly appreciates the inclusion of repeal of Section 512(a)(7) of the Tax Cuts and Jobs Act (TCJA) of 2017 in H.R. 3300, the Economic Mobility Act of 2019. In addition to supporting the various provisions to help low income individuals and families living in poverty through the expansion of tax credits, we are particularly pleased that the legislation includes this relief for nonprofit organizations.

The Arc is the largest community-based organization for people with intellectual and developmental disabilities (I/DD). The Arc has a network of over 620 chapters across the country promoting and protecting the human rights of people with I/DD and actively supporting their full inclusion and participation in the community throughout their lifetime.

Section 401 of H.R. 3300 would repeal the new income tax on the expenses nonprofits incur for providing their employees with transportation benefits such as parking and transit passes. In support of your efforts to address this problematic provision, we are sharing the concerns about this misguided new tax in the name of "parity" with for profits that we articulated to Treasury Secretary Mnuchin and Internal Revenue Service Acting Commissioner Kautter in our September 14, 2018 letter.

Section 512(a)(7) of the Tax Cuts and Jobs Act (TCJA) of 2017 uses the structure of unrelated business income tax (UBIT) liability to impose a 21% tax on expenses for certain employee fringe benefits. Since we offer transportation benefits to all of our employees, this new section of the TCJA has resulted in a tax increase to our organization of $8,883 in 2018. The new tax applies not only to our employer contribution to transportation benefits, but to the amounts *employees* voluntarily have deducted from their paychecks and placed into a pre-tax qualified plan. This interpretation, subsequently outlined in interim guidance issued in December of 2018, is resulting in charitable organizations seeing tax increases under the same law that is providing historic tax cuts to large corporations and wealthy individuals.

Further, The Arc's national office is headquartered in Washington, DC, one of a handful of jurisdictions that have enacted ordinances mandating certain employers to provide commuter benefits to some or all of their employees. However, the transportation fringe benefits covered by section 512(a)(7) are by definition voluntary, which is not the case for us in the Nation's capital. We do not believe that mandated commuter benefits should be treated as voluntary fringe benefits subject to the UBIT tax.

As a non-profit organization, having creative benefits and offerings for our staff helps us to compete with the private sector market as it pertains to salary. Presently, over half (55%) of our staff participate in our pre-tax qualified transportation benefit, helping to foster greater employee engagement and retention.

Again, thank you for your leadership in protecting the nation's charitable sector and we look forward to working with you to support the repeal of the transportation benefit tax created by the TCJA.

Sincerely,

Annie Acosta
Director of Fiscal and Family Support Policy