

Tax Reform Implications of the Tax Cuts and Jobs Act

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Learning Objectives

- Understand the general provisions of the Tax Cuts and Jobs Act
- Identify changes that may affect higher education and nonprofit organizations, including charitable giving, executive compensation, unrelated business income tax, higher education endowment income, taxation of fringe benefits, event tickets, and tax-exempt bonds.
- Describe the changes that may affect employers, including new tax credits, treatment of achievement awards, employee meals, tuition benefits, and the repeal of the Affordable Care Act's individual mandate.



What just happened?



Comparison of MFJ Rates: Old 2018 Rates vs. TCJA

Income Range	Former Rate	TCJA Rate
\$1 to \$19,050	10%	10%
\$19,051 to \$77,400	15%	12%
\$77,401 to \$156,150	25%	22%
\$156,151 to \$165,000	28%	22%
\$165,001 to \$237,950	28%	24%
\$237,951 to \$315,000	33%	24%
\$315,001 to \$400,000	33%	32%
\$400,001 to \$424,950	33%	35%
\$424,951 to \$480,050	35%	35%
\$480,051 to \$600,000	39.6%	35%
Over \$600,000	39.6%	37%



Comparison of Corporate Rates: Old 2018 Rates vs. TCJA

2017 Corporate Tax Rates (Graduated)	
Tax Bracket	Taxable Income
15%	50,000
25%	75,000
34%	100,000
39%	335,000
34%	10,000,000
35%	15,000,000
38%	18,333,333
35%	EXCESS
Corporate AMT Tax Rate = 20%	

Corporate Tax Rate Under TCJA:

- Flat 21% Rate, effective for tax years beginning after December 31, 2017*
- 20% Corporate AMT Repealed (*Prior Alternative Minimum Tax (AMT) Credits refundable up to 50% of excess AMT credits > regular tax liability for 2018 – 2020; Remaining AMT credit refunded in 2021*)



Standard Deduction and Exemptions

- 2018
 - MFJ = \$24,000
 - Single = \$12,000
 - H of H = \$18,000
 - Personal Exemption - Repealed
- 2017
 - MFJ = \$12,700
 - Single = \$6,350
 - H of H = \$9,350
 - Personal Exemption \$4,050



Itemized Deductions

- Repeal home equity interest 2018
- Residential acquisition debt: Grandfathered if incurred < 12-15-17
- For new debt incurred after 12-14-17:
 - Home acquisition debt limit of \$750,000 (was \$1M)
 - Retains provision for second home
- Itemized deductions for taxes limited to \$10,000
 - State & local income tax, or in lieu thereof, sales tax, plus
 - U.S. real property tax



Itemized Deductions

- Charitable deductions
 - 50% of AGI limit increased to 60%
 - No change to charity mileage rate – \$.14 per mile
 - IRA to charity rollover still allowable



Itemized Deductions

- Repeals all misc. itemized subject to 2% floor
- Examples include
 - Employee business expenses
 - Educator exp. above amounts allowed on page 1
 - Uniforms and work clothes
 - Tax preparation fees
 - Professional dues
 - Hobby loss expenses
 - Home office for employee
 - Rural mail carrier vehicle expense
 - Tools and supplies for taxpayer's work



Itemized Deductions

- Medical
 - Retain medical exp. with 7.5% floor 2017-18
 - Retroactive change for 2017 (was 10% floor)
- Alimony deduction and income repealed
 - Effective for divorce decrees executed after 2018
- Moving expenses repealed
 - Except for active duty military, pursuant to military order, incident to permanent change of station
- Archer Medical Savings Accounts retained



Child and Family Tax Credits

- Child credit: Increase from \$1,000 to \$2,000
 - No change to “qualifying child” definition: < age 17
- Plus \$500 credit for each taxpayer/spouse dependent not a qualifying child for \$2,000 credit
- Refundable portion increased to \$1,400 & indexed
- Phase-out begins at MFJ of \$400,000 AGI (up from \$110K); Single at \$200,000 (up from \$75K)
- Earned income threshold decreased from \$3,000 to \$2,500



Not Changed

- Capital gains rate
- Principal residence gain exclusion
- Investment expenses limited to investment income



Basics of 199A, Deduction for Qualified Business Income

- 20% deduction for non-wage portion of pass-through business income
 - Includes sole proprietorships in “pass-through”
- Items connected to trade or business
- Not wages
 - Not S corporation shareholder wages
 - Not guaranteed payments paid to partner



Basics of 199A, Deduction for Qualified Business Income

- All businesses (including personal service businesses) below taxable income threshold allowed the deduction
- Tentative taxable income threshold
 - < \$315,000 jt./\$157,500 single
- Net all business activity
 - Multiply by 20%
 - Subject to overall limitation of 20% of ordinary taxable income



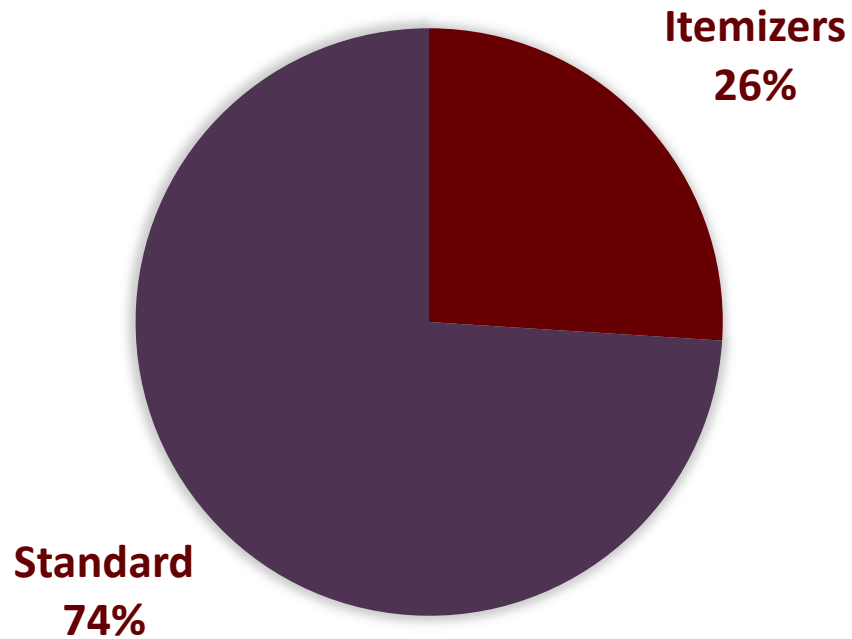
Provisions that May Impact Charitable Giving

- Standard Deduction Increase for Individuals
 - \$12,200 for individuals
 - \$24,400 for married filing jointly
- Other Itemized Deductions Limited or Repealed
 - Home mortgage interest deduction limited to loans of \$750,000 vs. \$1M
 - Secondary home mortgage interest deduction applies to second homes, but not equity lines of credit
 - State and local tax deduction limited to \$10K
 - Miscellaneous itemized deductions subject to 2% floor are repealed
- Estate Tax Exclusion
 - Increased to \$11.2M vs. \$5.6M
- Increase in Charitable Contribution Deduction Limits
 - Individual limit on cash contributions to qualified charities increased to 60% of AGI

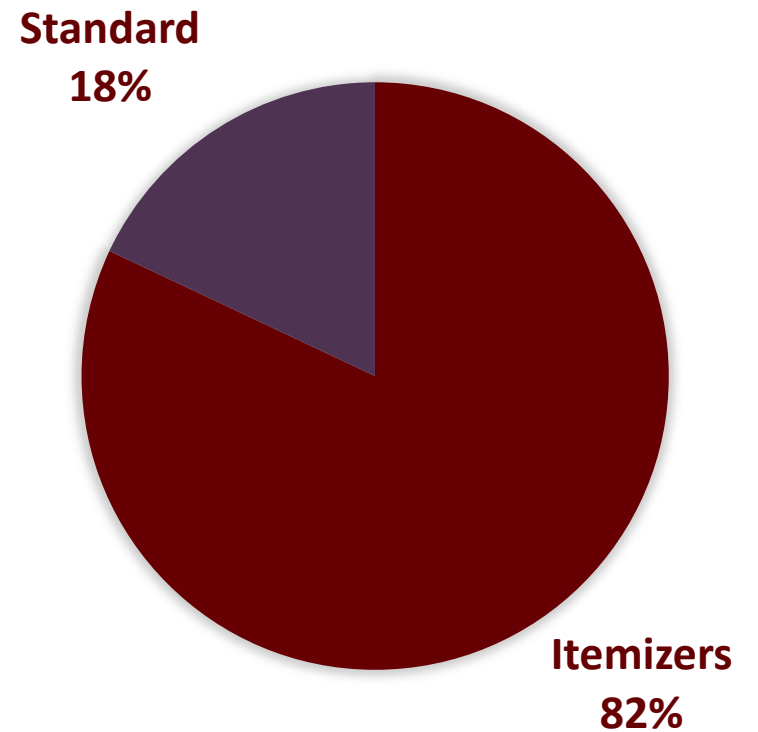


Impact on Charitable Giving

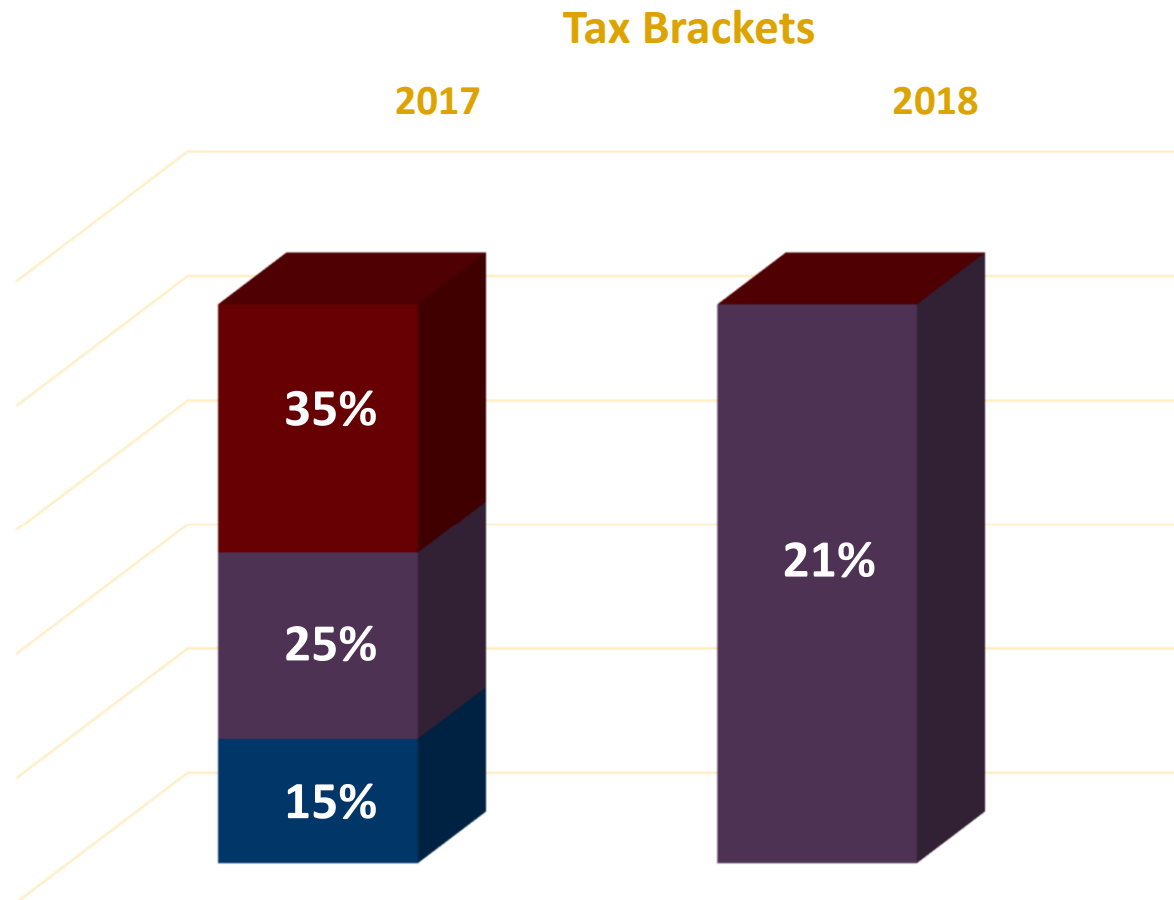
2017 FILERS



CHARITABLE DONATIONS



UBIT Related Provisions



UBIT Related Provisions

Reporting Separate Unrelated Activities

- Unrelated business taxable income from multiple unrelated trades or businesses is calculated and reported separately
 - Net losses from one activity do not offset net income from another activity
- The \$1,000 standard deduction applies to the combined net taxable income
- NOTE: The separate line of business computations only applies to tax exempt organizations



UBIT Related Provisions

Reporting Separate Unrelated Activities

- Unknown whether “unrelated trades or businesses” will be analyzed by category or individual activity
 - IRS regulations required
- Planning consideration of whether to create a for-profit entity to hold unrelated business activities
 - Activity-by-activity reporting is not required on Form 1120
 - Controlled entity reporting of passive income
 - Creates additional filings and organizational complexity



Net Operating Losses

**Rental Income
from Debt-
Financed Property
(Sch E)**

**Net Income:
\$5,000**

**Website Ads
(Sch I)**

**Net Loss:
(\$1,000)**

**Periodical
Advertising
(Sch J)**

**Net Loss:
(\$10,000)**

What is the UBTI in 2017? In 2018?



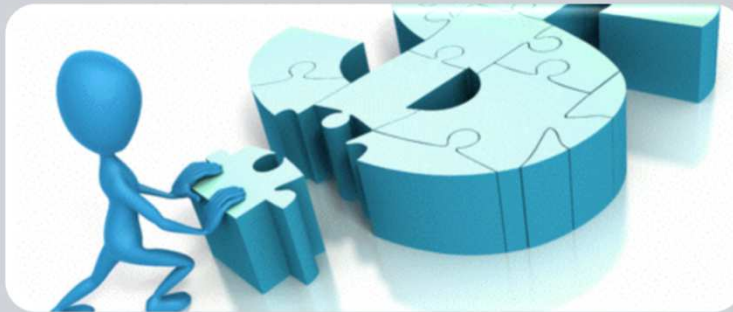
Net Operating Losses

Planning Consideration: Create a for-profit subsidiary to hold unrelated business activities

- Activity-by-activity reporting is not required on Form 1120
- Creates additional filings and organizational complexity
- May create UBI issues if the nonprofit parent receives certain income from its taxable sub
 - ◇ Interest
 - ◇ Annuities
 - ◇ Royalties
 - ◇ Rent

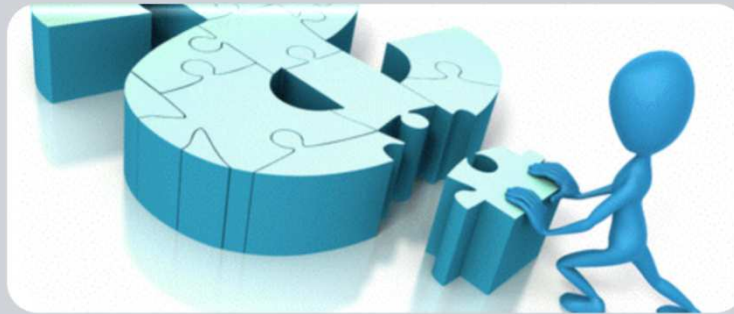


UBIT on Fringe Benefits



Employers could deduct qualified transportation fringe benefits from taxable income

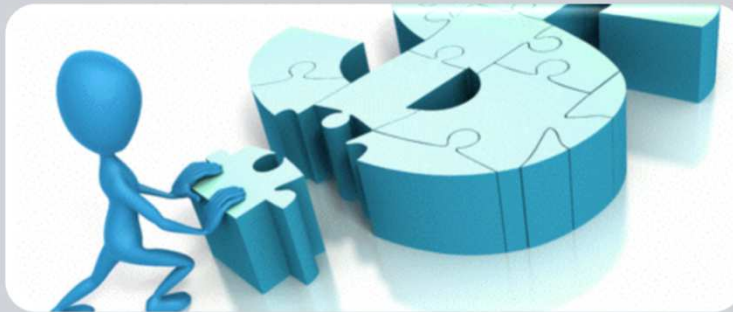
AND



Employees could exclude qualified transportation fringe benefits from taxable compensation

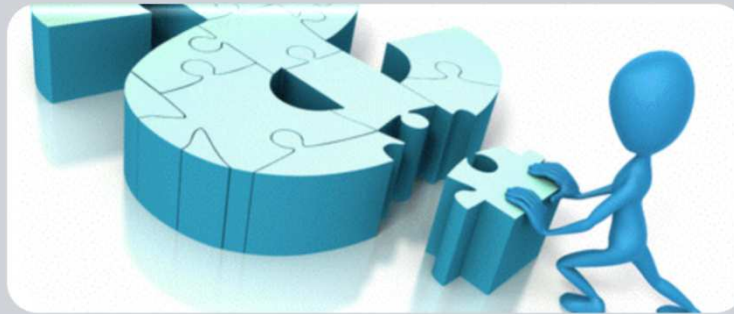


UBIT on Fringe Benefits



Employers can deduct qualified transportation fringe benefits from taxable income

OR



Employees can exclude qualified transportation fringe benefits from taxable compensation



UBIT on Fringe Benefits

Van Pools and similar transportation in a commuter highway vehicle

Transit passes

Free Parking in employer lot or commuter lot if paid for by employer

Parking reimbursements for employer lot or commuter lot

Bicycle commuting reimbursement

On-premise gym, pool, tennis court, golf course, or other athletic facility



UBIT on Fringe Benefits

In 2018, employer provides \$5,000 of transportation fringe benefits to employees and incurs \$10,000 of expense operating an on-premise gym

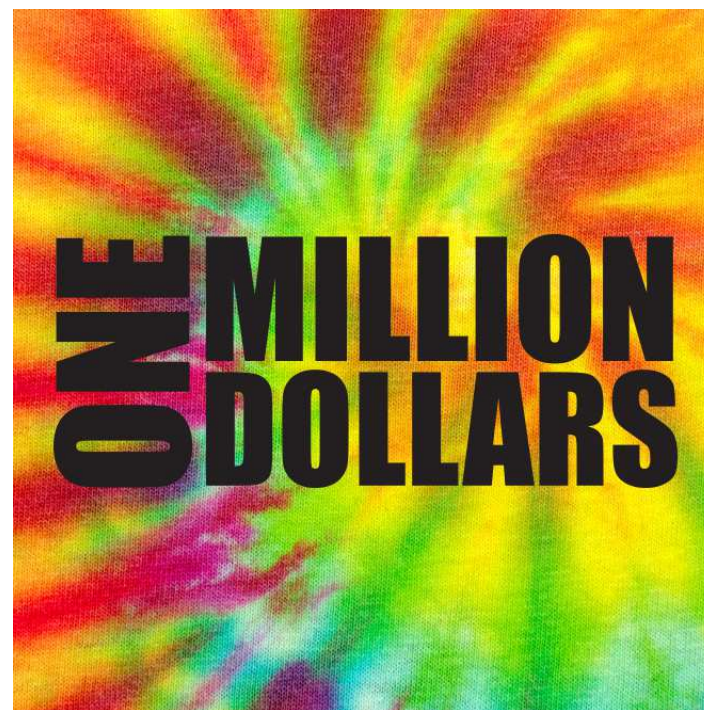
For Profit Employer
\$50,000 Net Income
\$15,000 Disallowed Benefits
\$65,000 Taxable Income

For Nonprofit Employer
\$0 Unrelated Business Income
\$15,000 Disallowed Benefits
\$15,000 Taxable Income

UBI on Excessive Compensation

21% excise tax applied to compensation in excess of \$1M paid to covered employees:

- CEO
- CFO
- Next Hi-3
- Prior covered employees
- Excludes licensed medical professionals



UBI on Excessive Compensation

21% excise tax applied to parachute payments in excess of three times the individual's average salary for the previous five years:

- Employees paid over \$120,000
- 5% owners
- Excludes:
 - Amounts paid to 403(b)(3) or 457(b)
 - Licensed medical professionals



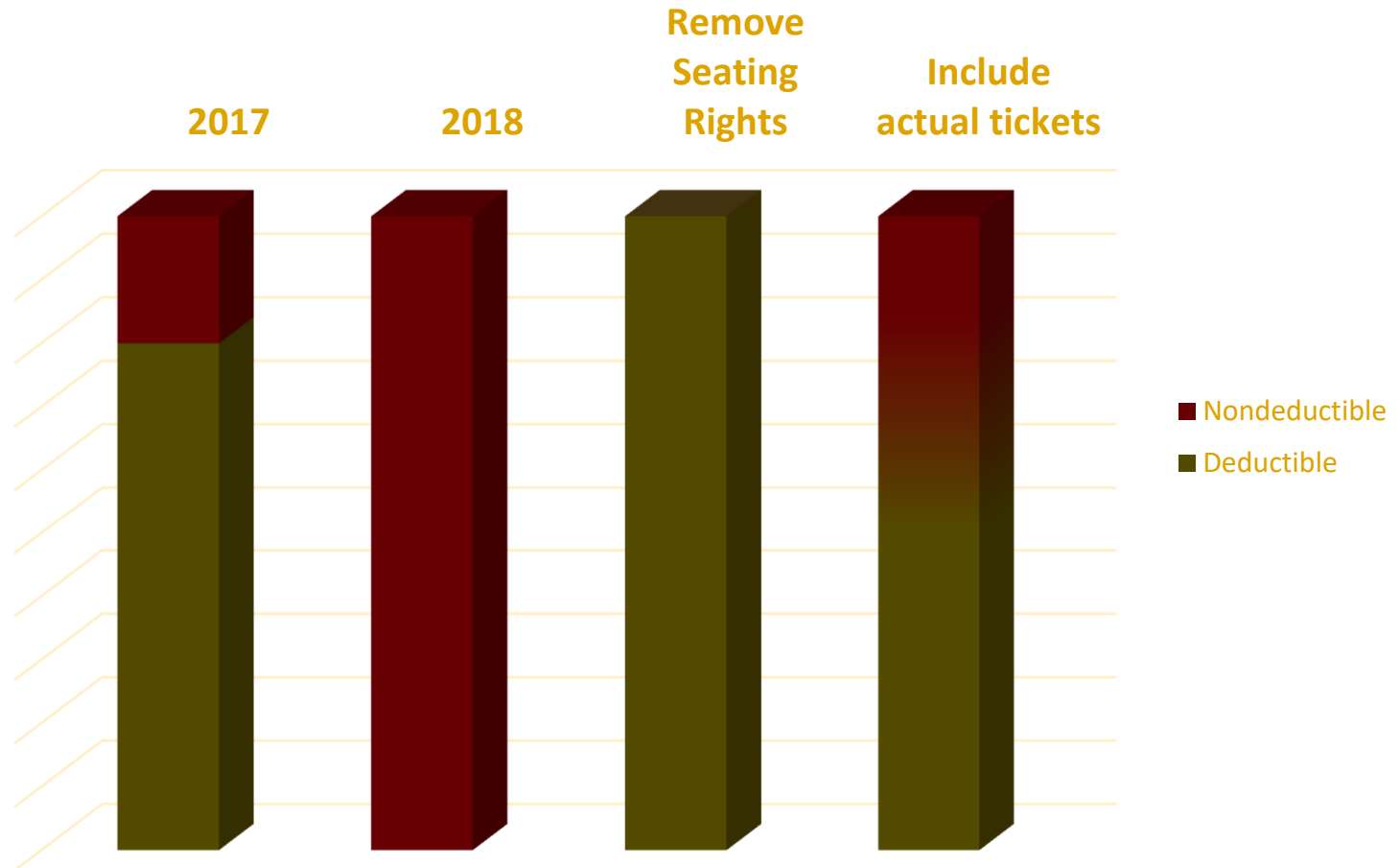
Provisions That Affect Employers

- Temporary family and medical leave
- Employee loans from retirement plans
- Exclusion of awards from taxable income
- Employer entertainment expenses
- Onsite eating facilities
- ACA individual mandate
- Computers and peripherals
- Moving expenses
- K-12 education now eligible for 529 plans



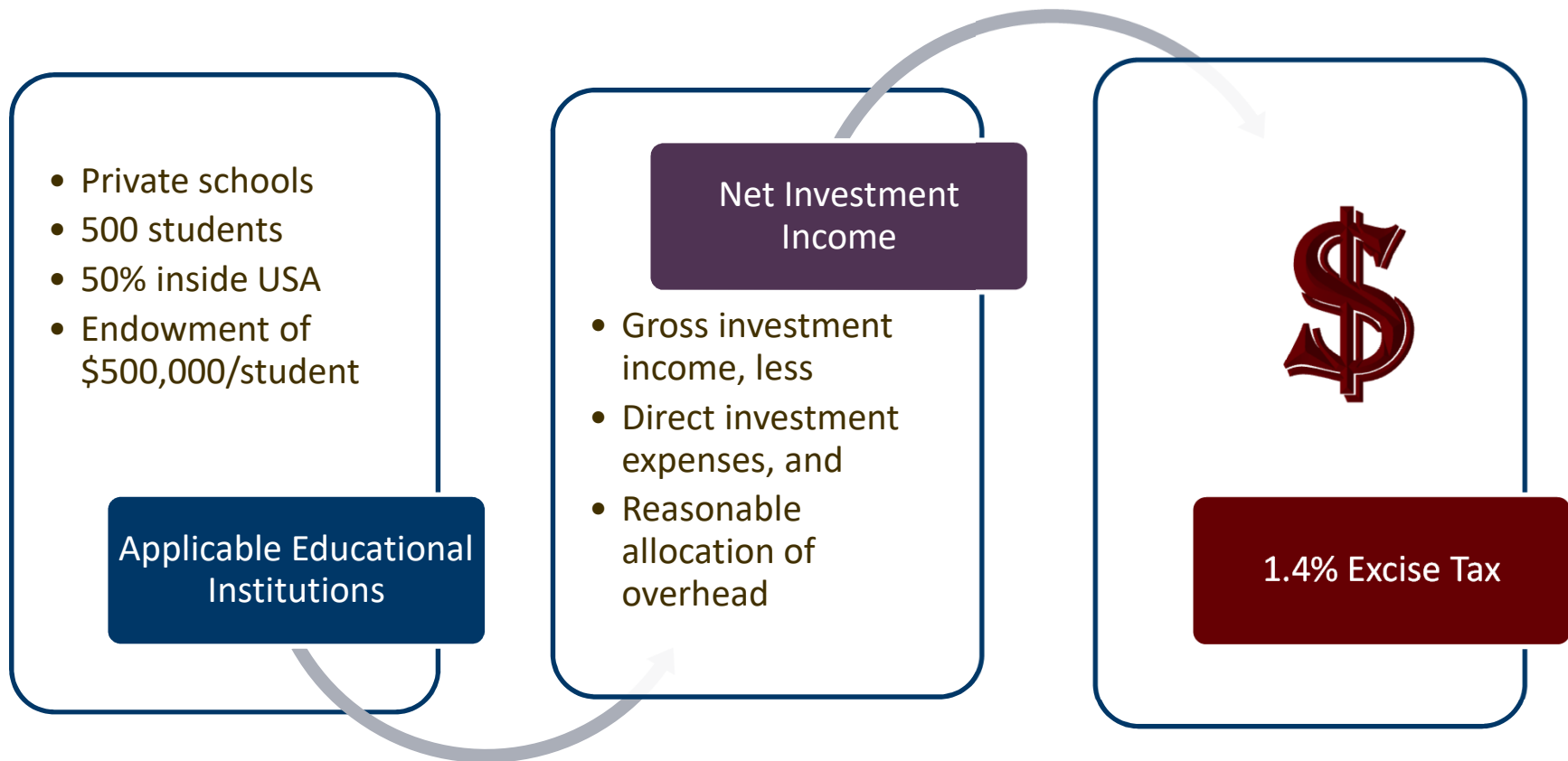
Other Provisions – Educational Institutions

Contributions with Seating Rights



Other Provisions – Educational Institutions

Excise Tax on Large Endowments



Other Provisions – General

Advance Refunding Bond Interest

Interest on advance refunding bonds is no longer tax-exempt

- Advance refunding bond is issued more than 90 days prior to the redemption of the prior bond
 - Applies to advance refunding bonds issued after December 31, 2017
 - Current refunding bonds (issued 90 days or less before the redemption of the prior bond) are unaffected
- Authority to issue new tax-credit bonds is repealed after December 31, 2017



Questions?

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