

Credit Union Tax Implications

Tanya Medgaarden, CPA, Principal

WEALTH ADVISORY | OUTSOURCING | AUDIT, TAX, AND CONSULTING

Investment advisory services are offered through CliftonLarsonAllen Wealth Advisors, LLC, an SEC-registered investment advisor



Create Opportunities

Disclaimers

The information contained herein is general in nature and is not intended, and should not be construed, as legal, accounting, or tax advice or opinion provided by CliftonLarsonAllen LLP to the user. The user also is cautioned that this material may not be applicable to, or suitable for, the user's specific circumstances or needs, and may require consideration of non-tax and other tax factors if any action is to be contemplated. The user should contact his or her CliftonLarsonAllen LLP or other tax professional prior to taking any action based upon this information. CliftonLarsonAllen LLP assumes no obligation to inform the user of any changes in tax laws or other factors that could affect the information contained herein.





CU Taxation Basics

WEALTH ADVISORY | OUTSOURCING | AUDIT, TAX, AND CONSULTING

Investment advisory services are offered through CliftonLarsonAllen Wealth Advisors, LLC, an SEC-registered investment advisor

Unrelated Business Income Tax (UBIT)

- Federally-chartered credit unions are exempt from filing 990s and 990-Ts.
 - Do not pay tax on UBIT
- State-chartered credit unions are exempt from regular income tax on earnings and profits
 - Taxed related to non-exempt functions
 - Are subject to UBIT



990-T Threshold

- If a state-chartered credit union has \$1,000 or more of unrelated business gross income, they must also file a form 990-T
 - Based on total revenue not net income
 - Filing required even if expenses exceed revenue
- Various states also have 990-T filing requirements



Common Sources of UBIT

- Non-Member ATM Fees
- Automobile Warranties
- Certain Insurance Products
 - AD&D, Life, Health, or Cancer- all sales
 - Credit life or disability- non-members only
 - GAP auto insurance- non-members only
- Income reported on all S Corp K-1s
 - Partnerships K-1s only if not related to exempt function
- Any other income not related to the exempt function





Tax Cuts and Jobs Act (TCJA)

WEALTH ADVISORY | OUTSOURCING | AUDIT, TAX, AND CONSULTING

Investment advisory services are offered through CliftonLarsonAllen Wealth Advisors, LLC, an SEC-registered investment advisor



Trades and Businesses and NOLs

WEALTH ADVISORY | OUTSOURCING | AUDIT, TAX, AND CONSULTING

Investment advisory services are offered through CliftonLarsonAllen Wealth Advisors, LLC, an SEC-registered investment advisor

Trades and Businesses

- Unrelated business taxable income from multiple unrelated trades or businesses is now calculated and reported separately: “Siloed”
 - Previously losses generated by one business could be used to offset income derived from another
 - Now net losses from one activity do not offset net income from another activity.
- \$1,000 threshold for 990-T applies to the combined gross income.



Net Operating Losses (NOLs)

- Pre-2018 NOLs: Net operating losses can be applied to any UBIT activity
 - Not subject to the siloing rules
- 2018 and Future NOLs: Only allowed for the activity where the income loss originated
 - Losses are siloed
 - If there is no future income from that activity, the loss would not be usable
 - Losses can't be carried back to prior years



UBIT Planning Considerations

- More Transparency in Calculations
 - The IRS will be able to see much more clearly because of the new Schedule M the income and expenses related to each activity
 - Could result in an increased risk of audit
- Beware of Perpetual Losses
 - NOLs can not offset other activities
 - IRS assumption that an entity would not continue to engage in an activity in the long run that continually lost money
 - Expenses applied should reflect true economics of the activity



Allocating Expenses

- Any expenses directly connected with the UBI function are fully deductible
 - Example: Commissions paid to employees for selling AD&D insurance product
 - Example: Percent of Brinks fees for ATM cash delivery
 - ATM related direct expenses should be allocated based on % of total non-member transactions processed where a fee is earned
- Indirect expenses for the use of personnel or facilities also used in the organization's exempt function (i.e. other salaries, overhead) must be allocated on a "reasonable basis"





Transportation and Parking Benefits

WEALTH ADVISORY | OUTSOURCING | AUDIT, TAX, AND CONSULTING

Investment advisory services are offered through CliftonLarsonAllen Wealth Advisors, LLC, an SEC-registered investment advisor

UBI 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

Transportation related fringe benefits are no longer tax deductible to for-profit entities.

- For non-profits, this creates UBI under the TCJA.
- Reported on a new line on the Form 990-T

Taxable Fringe Benefits

- “Qualified parking” includes the following 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
- “On-premises athletic facility includes any gym or athletic facility (pool, tennis court, or golf course) that:
 - Is located on the premises of the employer;
 - Is operated by the employer; and
 - Substantially all the use of which is by employees, their spouses and dependent children.



Parking Calculations

- IRS issued Notice 2018-99, which clarifies the amount of parking expenses subject to tax.
- Taxable benefits include parking facilities owned or leased by the employer, as well as situations where the employer pays a third party for the employee parking spaces.
- Calculation is based on the cost of the parking or parking facility, not its value. Costs that may include:
 - Repairs, maintenance, utilities, insurance, property taxes, interest, snow and ice removal, trash removal, cleaning, landscape costs, parking lot attendant expenses, security, and rent.
 - Depreciation is not required to be included.



Public Parking and Reserved Parking

- Leased Spots:
 - Always included in UBI
 - The limit on an employee's monthly exclusion for qualified parking expenses in 2018 is \$260. Parking benefits in excess of that amount must be reported as taxable compensation to the employee.
- Reserved Spots:
 - The cost of reserved employee parking spaces are always included in UBI
 - Do have option to remove reserved signs to eliminate the UBIT
- Testing Remaining Spots:
 - If, after removing any reserved parking spaces, more than 50% of the remaining spaces are to provide parking to the general public (non-employee), then *all* of the costs of the remaining spaces are excluded from taxable transportation fringe benefits.

Example

CLA can provide templates to help with the calculations involved with these new UBI items.

Location Name	CORPORATE	CORPORATE NORTH
TOTAL NUMBER OF EMPLOYEES AT LOCATION	118	9
Total Number of Spots Available at Location	116	30
Primary Use of Unreserved Parking Spots	Not Public Parking	Public Parking
Step 5: Expenses for Parking Lots Owned or Leased		
Repairs		
Maintenance		
Utilities	\$ 1,317	
Insurance	\$ 3,000	
Property taxes	\$ 3,951	
Snow/ice removal	\$ 8,158	
Cleaning		
Landscaping		
Lease/rent	\$ 28,320	
Other		
Total parking facility expenses	\$ 44,747	\$ -
Step 6: Non-Deductible Amount of Parking Related Expenses		
Individually Leased Spaces- Annual Amount	\$ -	\$ -
Reserved Spaces- Annual Amount	\$ -	\$ -
Non-Reserved Spaces- Annual Amount	\$ 45,518	\$ -
Total Non-Deductible Amount	\$ 45,518	\$ -



Executive Compensation

WEALTH ADVISORY | OUTSOURCING | AUDIT, TAX, AND CONSULTING

Investment advisory services are offered through CliftonLarsonAllen Wealth Advisors, LLC, an SEC-registered investment advisor

Excise Tax

- Applies to both federally-chartered and state-chartered credit unions
- Reported on Form 4720, Schedule N.
- Due date is May 15.
- Calculation is done annually based on compensation paid each year



Excise Tax

- 21% Excise Tax applied to compensation in excess of \$1 million paid to covered employees:
 - CEO
 - CFO
 - Next Highest Paid 3 individuals
 - Prior covered employees
- Includes commissions and bonuses
- Includes nonqualified deferred compensation when there is no substantial risk of forfeiture
- Very similar to public company rules starting in 2018



Golden Parachute Payments

- 21% excise tax applied on golden parachute payments in excess of three times the individuals average salary for the previous 5 years:
 - Employees paid over \$120,000
- Golden parachute is triggered on a change in control event such as a merger
- Includes deferred compensation plans, bonuses, and most other compensation



CLAconnect.com

Tanya Medgaarden, CPA
Principal
(507) 434-7027
tanya.Medgaarden@CLAconnect.com

