Dear Members of the Georgia Congressional Delegation,

On behalf of Georgia’s non-profit sector we write to express significant concerns about challenges that tax-exempt organizations are experiencing in attempting to comply with new Internal Revenue Code Sections 512(a)(6) and 512(a)(7), enacted as part of the Tax Cuts and Jobs Act (Public Law No. 115-97).
Since April 2018, charitable organizations, houses of worship, universities and foundations across Georgia have raised questions and submitted substantive statements to the Department of Treasury and the Internal Revenue Service about the very pressing need for guidance before non-profits can comply with the new requirements. Employing approximately 10% of Georgia’s workforce, these entities run the gamut from small, volunteer-run organizations to the largest non-profits in the state, including the members of the Georgia Independent College Association (Emory, Agnes Scott, Morehouse, Young Harris, Brenau, and more); the Georgia Hospital Association’s tax-exempt member hospitals and health-systems, (from large, urban systems to small rural hospitals across the state); as well as Georgia Center for Nonprofits’ (GCN) membership including entities as large as Woodruff Arts Center, Goodwill, and the Boys and Girls Clubs, as well as local service agencies such as the Greater Augusta Arts Council and the Athens Community Council on Aging. As Treasury works to implement the Tax Cuts and Jobs Act, we ask for your assistance in two areas.

1. **Support legislation that seeks to remove the new taxes on non-profits**

   - Two bills would repeal both the tax on certain fringe benefits and the requirement that unrelated business taxable income be computed separately for each trade or business activity:
     - S. 3317, the Protect Charities and Houses of Worship Act by Senator Ted Cruz (R-Tex.)
     - H.R. 6037, the Nonprofits Support Act, by Rep. Mike Conaway (R-Tex.)
   - Three bills would repeal the tax on certain fringe benefits:
     - S. 3332, the Lessening Impediments from Taxes (LIFT) for Charities Act, by Senator James Lankford (R-Okla.)
     - H.R. 6460, the House companion to the LIFT for Charities Act, by Rep. Mark Walker (R-N.C.)

   **Rationale:** As an unintended consequence of the new IRC subsections 512(a)(6) and (7) contained in the Tax Cuts and Jobs Act, Treasury’s regulatory attempt to create parity among investor-owned companies and non-profits is damaging to the non-profit sector. From education to healthcare and senior services, Georgia’s non-profits are vitally important to providing a sound economic future for our state. Investor-owned companies received significant tax cuts under the Tax Cuts and Jobs Act, but non-profit entities face new or increased taxes on the valuable community services they provide. Every penny non-profits spend on taxes means less tutoring of elementary students, reductions in the number of meals for seniors, and fewer scholarships for enterprising middle- and lower-income students who demonstrate promise-to name a few of the effects.

2. **Ask Treasury for a delay in implementing UBIT**

The unintended consequences of the Tax Cuts and Jobs Act on Georgia’s non-profits is significant, specifically as it relates to Unrelated Business Income Tax (UBIT). The new tax law imposes on charitable non-profits, houses of worship, colleges, foundations, and other non-profits significant new tax liabilities by (1) requiring that UBIT be calculated separately for each “unrelated trade or business” (Section 512(a)(6)) and (2) deeming amounts paid for qualified
transportation benefits provided to employees, such as transit passes and parking, to be treated as unrelated business (Section 512(a)(7). In order to provide time to plan and budget for this new tax on non-profits, we ask for you to urge Treasury to immediately delay implementing those two new UBIT subsections until at least one year after Final Rules are promulgated.

Rationale: The non-profit community has grave concerns about the implementation of new subsections 512(a)(6) and (7) of the Internal Revenue Code and believes that Treasury and the IRS have a duty to the regulated community to provide immediate relief and substantive guidance on these provisions. The 21% UBIT that non-profits are now liable for was not adopted until what is the mid-fiscal year for many non-profits; therefore, those entities were unable to budget for such liabilities, which certainly has a significant and disproportionate impact on the financial stability of smaller non-profits. With the ambiguity of the new law and the short notice, non-profits have not had time to adequately assess the full burden, both fiscal and administrative, of the new law and make appropriate provisions. Many tax-exempt organizations are just now beginning to learn about the changes in the tax law that went into effect at the first of the year. Absent explicit guidance from Treasury and the IRS on these two subsections, tax-exempt filers will continue to be confused and either miss filing deadlines or file inaccurate returns through no fault of their own. Quarterly tax payments are already past due for many non-profits, but no one – not accountants, lawyers, or non-profit leaders – can say with certainty what is and is not covered by the new tax because Treasury and the IRS have not provided necessary guidance. Many tax-exempt organizations are just now beginning to learn about the changes in the tax law that went into effect at the first of the year. Many more non-profits may be unaware of this new tax, and may have never had to file Form 990-T nor pay UBIT; this is especially true for houses of worship – particularly those in urban areas – which pay for clergy and staff parking but have never previously had to file any version of the Form 990 with the IRS. Without a targeted outreach initiative from the IRS, it is unlikely that these organizations will be aware of the need to file Form 990-T or pay UBIT, as a result, some organizations could become liable for failure to file Form 990-T and pay UBIT on expenses that they could not reasonably have been expected to know are taxable.

Thank you for your previous support of the non-profit sector and for your consideration of the issues raised. If the Georgia non-profit community can be of any assistance as Treasury works to create regulatory guidance or Congress continues its work on tax reform, we stand ready to engage. Please let us know if you have any questions.

Sincerely,

Karen F. Beavor, CEO
Georgia Center for Nonprofits

On behalf of:
Georgia Hospital Association
Georgia Independent College Association
Southeastern Council of Foundations