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for New York

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UJA Federation
NEW YORK

Subject: S.8831 (Ranzenhofer)
An act to amend the tax law, in relation to unrelated business taxable income of a taxpayer
Position: Strongly Support
Date: May 30, 2018

Memorandum in Support

Our organizations, which collectively represent thousands of nonprofit organizations throughout New York, listed below, wish to express our strong support for passage of S.8831 this session. The bill addresses the pressing need to amend the New York State Tax Law to correct an unintended new tax which was inadvertently created by recent changes made in the Federal Internal Revenue Code. Without such a correction, nonprofits may be subject to millions of dollars in taxes in 2018, diverting critical funds from the services nonprofits provide to communities throughout New York. The new State tax will strip nonprofits of resources that should be used for soup kitchens, community centers and other charitable activities.

The federal Tax Cut and Jobs Act of 2017 imposes federal Unrelated Business Income Tax (UBIT) on any amount a nonprofit employer has “paid or incurred” for commuter benefits such as a Buffalo NFTA Metro Pass, NYC Metrocard, Rochester RTS Pass, or employee parking.¹ New York law imposes a state UBIT whenever federal law does so. As a result, NY will automatically follow the new federal statute, imposing an additional 9% tax effective January 1, 2018.² If the nonprofit pays for all or part of the employee’s commuter benefits, it will have to pay both the federal tax and the 9% NY tax. This will add up quickly. If the employer subsidizes the maximum allowable benefit of \$260/month, it will owe state tax of \$280 for each employee each year. For an organization of 40 employees, that totals more than \$11,000 per year. With more than 1.3 million nonprofit employees statewide³, the tax could divert millions of dollars from the nonprofit sector each year.

The State should not impose this new tax. The revenue that will be diverted to the State from nonprofits was unintentional, and these funds were not considered in the SFY 2018-19 Budget. The work performed by not-for-profit employees, and the compensation paid to them, including transportation benefits, certainly advances the purposes and mission of the not-for-profit. S.8831 amends the New York State tax law to decouple the federal and state laws and allow nonprofits to subtract these costs from federal unrelated business taxable income. Our organizations strongly support S.8831 and urge its passage.

Signed:

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¹ Internal Revenue Code § 512(a)(7).

² NY Tax Law § 13-292.

³ NYS Comptroller, Profile of Nonprofit Organizations in New York State (2016), p. 3.