The Tax Cuts and Jobs Act (the "Act") made a number of significant changes to the Internal Revenue Code ("Code"). One change that has received little analysis, but which could have a meaningful impact on a large percentage of United Methodist churches and other entities, relates to fringe benefits.

To put this change in its proper context, we believe it is helpful to provide a brief overview of fringe benefits. In general, compensation and benefits provided by employers to employees are taxable. There are a number of exceptions to this general rule, including certain fringe benefits outlined in § 132 of the Code. One of the excluded fringe benefits is the "qualified transportation fringe," which, pursuant to § 132(f), includes any of the following:

> (A) Transportation in a commuter highway vehicle if such transportation is in connection with travel between the employee's residence and place of employment.
>
> (B) Any transit pass.
>
> (C) Qualified parking.[1]
>
> (D) Any qualified bicycle commuting reimbursement.

Thus, and in general, if an employer provides any of these particular fringe benefits to its employees, their value would not be treated as taxable income to those employees. In addition, and prior to the implementation of the Act, tax-paying employers could generally treat these benefits as deductible expenses that would decrease those employers' taxable incomes. Going forward, however, the Act added language to § 274(a) of the Code that now precludes tax-paying employers from deducting expenses relating to qualified transportation fringe benefits. (*The Act did not change the nontaxable treatment of these benefits as to the employees who receive them.)*

More importantly, in what appears to be an attempt to treat nonprofit and tax-paying employers equally in this context, the Act also made changes to § 512, which defines "unrelated business taxable income." Specifically, the Act created a new § 512(a)(7), which reads as follows:

> Unrelated business taxable income of an organization shall be increased by any amount for which a deduction is not allowable under this chapter by reason of section 274 and which is paid or incurred by such organization for any qualified transportation fringe (as defined in section 132(f)), any parking facility used in connection with qualified parking (as defined in section 132(f)(5)(C)), or any on-premises athletic facility (as defined in section 132(j)(4)(B)). The preceding sentence shall not apply to the extent the amount paid or incurred is directly connected with an unrelated trade or business which is regularly carried on by the organization. The Secretary shall issue such regulations or other guidance as may be necessary or appropriate to carry out the purposes of this paragraph, including regulations or other guidance providing for the appropriate allocation of

[1] "The term 'qualified parking' means parking 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 by transportation described in subparagraph (A), in a commuter highway vehicle, or by carpool. Such term shall not include any parking on or near property used by the employee for residential purposes." (§ 132(f)(5)(C))

depreciation and other costs with respect to facilities used for parking or for on-premises athletic facilities.

To date, the IRS has not issued any guidance on how this new language will impact nonprofits generally – and, thus, there is no guidance for local churches, districts, conferences, and general agencies, specifically.

GCFA will continue to monitor any developments in this area moving forward, and we will pass along any information made available by the IRS.