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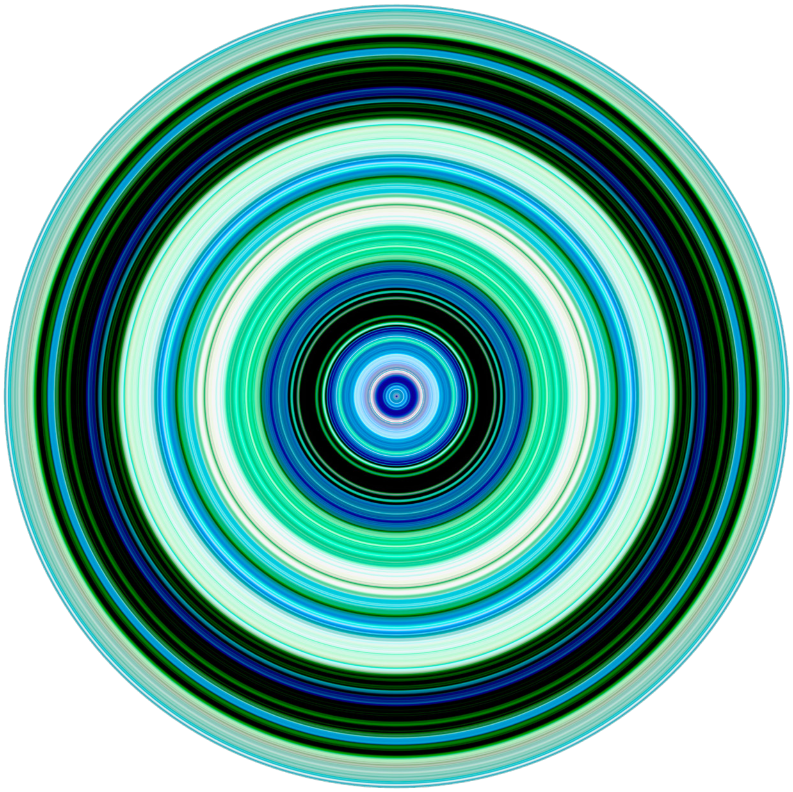

Tax News and Views
Health Care Edition

Find it Fast

Tax Reform

Excise Tax on Executive Compensation

Effective for tax years beginning after December 31, 2017, a 21% excise tax is imposed on (1) compensation in excess of $1M paid to a covered employee and (2) any excess parachute payment (severance) paid to a covered employee. Some organizations have mistakenly overlooked this provision not realizing that the definition of covered employee is the top five highest compensated individuals regardless of whether such person received compensation in excess of $1 million and any employee who was a covered employee in a previous year.

Although organizations who did not pay compensation in excess of $1 million to a covered employee are not subject to the excise tax on compensation in excess of $1 million, the organizations may be subject to the 21% excise tax if a covered employee receives an excess parachute payment.

Transportation Fringe Benefits Taxed as UBI

The increase in unrelated business income (UBI) for amounts paid or incurred for any qualified transportation fringe (as defined in section 132(f)), any parking facility (as defined in section 132(f)(5)(C)), or any on-site athletic facility (as defined in section 132(j)(4)(B)) is effective for costs paid or incurred after December 31, 2017.

Organizations should begin quantifying costs as of January 1, 2018. Organizations with fiscal year ends may need to include these costs on their tax year 2017 (fiscal year ended 2018) Form 990-T.

Excise Tax on the Net Investment Income of Colleges and Universities

The Tax Cuts and Jobs Act imposes of tax of 1.4 percent on net investment income on private colleges and universities defined as applicable institutions. Applicable institution is defined in the TCJA as an educational institution as defined in section 25A(f)(2) that has at least 500 students of which more than 50% are located in the United States that is not a state college or university and has an aggregate fair market value of non-exempt use assets that is at least $500,000 per student. The Bipartisan Budget Act of 2018 changed the definition of applicable institutions by inserting "tuition-paying" in describing the number of students. This changed the definition of eligible institutions to only include institutions that have at least 500 tuition-paying students of which more than 50% are located in the United States.

Exception to Definition of Business Enterprise for the Excess Business Holding Rules

The Bipartisan Budget Act of 2018 adds an exception to the excess business holding rules by excluding from the definition of business enterprise a business that meets the following four criteria: (1) the voting stock is 100% owned by the private foundation, (2) the interest was acquired by means other than purchase, (3) all of the profits are distributed to charity within 120 days of the close of the tax year, and (4) the business is independently operated.

For more information on these or other provisions of the Tax Cuts and Jobs Act or the Bipartisan Budget Act of 2018, please reach out to your Deloitte contact.

Updated 2017-2018 Priority Guidance Plan Released

On February 7, 2018, the U.S. Department of the Treasury and the Internal Revenue Service (IRS) issued its second quarter update to the 2017–2018 Priority Guidance Plan. The plan includes 18 projects related to the implementation of the Tax Cuts and Jobs Act, 2 of these projects are specifically related to provisions affecting exempt organizations. The plan represents projects that the Treasury and IRS intend to work on actively during the plan year but does not place any deadline on completion of projects. The following are the exempt organization priority projects related to the implementation of the Tax Cuts and Jobs Act:

10. Guidance on computation of unrelated business taxable income for separate trades or businesses under new § 512(a)(6).

18. Guidance on certain issues relating to the excise tax on excess remuneration paid by "applicable tax-exempt organizations" under § 4960.

The plan also includes 10 projects related to exempt organizations that are priorities for the plan year from June 2017 through July 2018. Of the 10 exempt organization projects listed for the current plan year, 9 projects were on the 2016–2017 Priority Guidance Plan. Two of these projects have been completed as of the date of this publication. See the priority guidance plan at the link above for a complete listing of these projects.

Exempt Organization Guidance Requested

Treasury and the IRS have requested comments on the exempt organization provisions of the Tax Cuts and Jobs Act. In addition to those already included in the updated Priority Guidance Plan (see above), Treasury and the IRS would like taxpayers to submit comments on other issues that may require additional guidance was well as suggestions on addressing identified issues. Comments should be sent to Elinor Ramey, attorney-advisor in the Treasury Office of Tax Legislative Counsel, or Stephen LaGarde, benefits tax counsel at Treasury.

IRS Releases 2018 Publication 15, Employer's Tax Guide

The IRS has released 2018 Publication 15, (Circular E), Employer's Tax Guide which has been updated for the provisions of the Tax Cuts and Jobs Act. Publication 15 explains an employer's tax responsibilities as well as the requirements for withholding, depositing, reporting, paying, and correcting employment taxes. The 2018 Publication 15 includes changes to withholding tables, Form W-4 exemptions, withholding allowances, supplemental withholdings rates, backup withholding rates, social security wages base, and disaster tax relief.

IRS Releases Notice 2018-4

On January 28, 2018, the IRS released Notice 2018-4: Guidance on Withholding Rules. This notice: (1) extends the effective period of Forms W-4, Employee's Withholding Allowance Certificate, furnished to claim exemption from income tax withholding under section 3402(n) of the Internal Revenue Code (Code) for 2017 until February 28, 2018, and permits employees to claim exemption from withholding for 2018 by temporarily using the 2017 Form W-4; (2) temporarily suspends the requirement under section 3402(f)(2)(B) that employees must furnish their employers new Forms W-4 within 10 days of changes in status that reduce the withholding allowances they are entitled to claim; (3) provides that the optional withholding rate on supplemental wage payments under Treas. Reg. § 31.3402(g)-1 is 22 percent for 2018 through 2025; and (4) provides that, for 2018, withholding under section 3405(a)(4) on periodic payments when no withholding certificate is in effect is based on treating the payee as a married individual claiming three withholding allowances.

IRS Releases 2017 Form 990, Schedules, and Instructions

The Internal Revenue Service (IRS) has released the 2017 Form 990, Return of Organization Exempt From Income Tax, schedules, and instructions. The Form 990 is used by tax-exempt organizations, nonexempt charitable trusts, and section 527 political organizations to provide the IRS with information regarding the organization's activities for the tax year.

Please see below for a complete list of significant changes to the 2017 Form 990 and schedules.

Form 990, Return of Organization Exempt from Income Tax

1. The general instructions in Section H, "Failure-to-File Penalties," are adjusted for inflation annually under Internal Revenue Code (IRC) Section 6652(c)(1)(A). Organizations with annual gross receipts exceeding $1,028,500 are subject to a penalty of $100 for each day failure continues (with a maximum penalty for any one return of $51,000). The amounts noted reflect the inflation adjustment for 2017.

Schedule D, Supplemental Financial Statements

1. The schedule and instruction for Part II, Conservation Easements, Line 2d now asks for the number of conservation easements included in Line 2c acquired after July 25, 2006. The date was previously August 17, 2006.
2. The instruction for Part II, Conservation Easements, Line 8 now asks if each of the organization's façade easements acquired after July 25, 2006 satisfy the requirements of sections 170(h)(4)(B)(i) and 170(h)(4)(B)(ii). The date was previously August 17, 2006.

Schedule H, Hospitals

1. The instructions for Part I, Financial Assistance and Certain Other Community Benefits at Cost, Lines 7a through 7k now specifically state that organizations should not include bad debt in the amounts reported on Line 7a through 7k. Further the instruction states that "bad debt will be reported in Part III."
2. The instruction for Part V, Facility Information, Section B, Line 3e was added. The instruction reads, "in Part V, Section C, indicate if the significant health needs are a prioritized description of the significant health needs of the community and identified through the CHNA. If not, explain how the health needs identified will be prioritized."
3. The instructions for Part V, Facility Information, Section B, Line 13 through 16 now clarify that an organization should "answer "yes" only if the financial assistance policy applies to all emergency and other medically necessary care provided by the hospital facility, including all such care provided in the hospital facility by a substantially-related entity."

Form 990-T, Exempt Organization Business Income Tax Return

1. The instructions now include Form 8975, Country-by-Country-Report, as an attachment to Form 990-T that is not required to be made available for public inspection.
2. The minimum penalty for a return that is more than 60 days late has been updated to the smaller of tax due or $210.
3. The instructions specify that the alternative tax for organizations with qualified timber gains does not apply for organizations whose tax year began in 2017.
4. The instructions include that Section 179D deductions for the cost of energy efficient commercial building property has terminated and is not allowable for property placed in service after December 31, 2017.
5. The instruction indicate that the American Samoa economic development credit will not apply to taxable years beginning after December 31, 2016.
6. The instructions provide that an employee retention credit is available to employer organizations affected by Hurricane Harvey. See instructions for additional information.
7. The instructions provide details of a temporary suspension of the limitations on charitable contributions for contributions made in support of Hurricane Harvey, Hurricane Irma, or Hurricane Maria. See instructions for additional information.

New Exemption Application No Longer Required for Change in Domicile

In February 2018, the IRS issued Revenue Procedure 2018-15 which updates the guidance on when a new exemption application is required and makes obsolete Revenue Ruling 67-390 and Revenue Ruling 77-469.

Previously, the IRS has specified in forms and publications that a new exemption application is required if an exempt organization changes its legal structure, such as from a trust to a corporation, or if it dissolves in one state and incorporates in another. Revenue Procedure 2018-15 found that requiring a new exemption application after a corporate restructuring is unnecessary and duplicative because of the requirement to report significant organizational changes on the Form 990. Therefore, Revenue Procedure 2018-15 generally eliminates the requirement for domestic entities classified as corporations for federal tax purposes to file a new exemption application after a corporate restructuring if the following conditions are met.

In order for Revenue Procedure 2018-15 to apply, the surviving organization must be: (1) a domestic business entity; (2) classified as a corporation under § 301.7701-2(b)(1) or (2) of the Treasury Regulations; and (3) carrying out the same purposes as the exempt organization that engaged in the corporate restructuring. In addition, all restructuring organizations must be in good standing with the states in which the organizations are incorporated or formed, and the articles of organization of the surviving organization must continue to meet the organization test.

Revenue Procedure 2018-15 does not apply to any corporate restricting in which (1) the restructuring organization or the surviving organization is a disregarded entity, limited liability company, partnership, or foreign business entity; or (2) the surviving organization obtains a new EIN.

IRS Rules that Hospital's Defined Benefit Plans are Church Plans

On January 19, 2018, the IRS issued PLR 201803007 which found a hospital's defined benefit plan was a church plan within the meaning of section 414(e). That ruling was based on the following.

The IRS examined the control a religious order has over the hospital. Members of a religious order make up at least 6 members of the hospital's board. Members of the religious order have two-thirds control over the hospital's controlling entity and thus two-thirds control over the hospital. In addition, the hospital's bylaws provide that it is to operate under the sponsorship of the religious order and in accord with the religious order's ideals. Finally, both the hospital and its controlling entity are listed in the church's directory and upon dissolution their assets revert to the religious order. For these reasons, the IRS concluded that the hospital is associated with the church for purposes of section 414(e).

Because the hospital is associated with the church, the IRS further concluded that the employees of the hospital are deemed to be employees of a church or a convention or association of churches by virtue of being employees of an organization which is exempt from tax under section 501 and which is controlled by or associated with a church or convention or association of churches.

The committee that is the administrator of the plan consists of a majority of the member which are members of the church and is chaired by a member of the religious order. The committee's charter provided that it will act in accordance with the mission, vision, and values of the religious order. Therefore, the IRS ruled that the committee is associated with the church.

Did you know?

ACA Taxes Suspended

On January 22, H.R. 195 became law ending the government shutdown and suspending several Affordable Care Act taxes. The "Cadillac" tax is delayed for an additional two years such that it will now apply to tax years beginning after December 31, 2021. The medical device excise tax is delayed for an additional two years such that it will now apply to sales after December 31, 2019. The annual fee on health insurance providers is suspended for 2019 although it remains in effect for 2018.

IRS Releases Notice 2018-13

On January 19, 2018, the IRS released Notice 2018-13, Additional Guidance Under Section 965 and Guidance Under Sections 863 and 6038 in Connection with the Repeal of Section 958(b)(4). The notice provides additional guidance for determining amounts included in gross income by a United States shareholder under section 951(a)(1) by reason of section 965 of the Internal Revenue Code as amended by "An Act to provide for reconciliation pursuant to titles II and V of the concurrent resolution on the budget for fiscal year 2018", P.L. 115-97, which was enacted on December 22, 2017.

Form 1024-A Guidance and Instructions Issued

The IRS has issued Revenue Procedure 2018-10 which modifies Rev. Proc. 2018-5 by applying the procedures for Exempt Organizations determination letters to new Form 1024-A, Application for Recognition of Exemption Under Section 501(c)(4) of the Internal Revenue Code. In addition, the IRS has also released the instructions to Form 1024-A.

Deloitte Dbriefs

Deloitte Dbriefs are live webcasts that give you valuable insights on important developments affecting your business. Register for the following webcasts or view archived recordings by clicking on the respective hyperlinked button below.

Multistate Tax

Multistate tax planning and compliance in a digital world

March 6 | 2 p.m. ET | 19:00 GMT

In an increasingly digital economy, state tax professionals face an array of challenges to their planning and compliance activities. What technologies, existing and emerging, can help address risk and add value? Participants will explore state tax implications of doing business in a digital world and technologies that can address uncertainties in an increasingly dynamic environment.

Register

Life Sciences and Health Care

Reimagining the core in life sciences and health care

March 13 | 1 p.m. ET | 17:00 GMT

Technology is transforming core functions across the life sciences and health care (LSHC) industry, enabling organizations. How is this helping LSHC companies become more nimble, efficient, and dynamic? Participants will learn how creating a digitized core can advance an organization's strategy and ultimately deliver on the mission to advance the journey of care.

Register

Tax Accounting & Provisions

Financial accounting and reporting for income taxes: Important updates

March 15 | 2 p.m. ET | 18:00 GMT

The financial accounting rules applicable to accounting for income taxes in interim periods are different than the rules applicable to annual periods. Tax legislation and standard-setting developments can potentially impact a company's financial accounting and reporting of income taxes in both interim and annual periods. What are the latest changes that may be important to consider and what do you need to know to prepare for the complexities of interim financial reporting? Participants will gain valuable insights on the latest developments and areas of complexity related to interim financial reporting for taxes.

Register

Transfer Pricing

Special Edition | Transfer pricing and global tax reforms: Emerging hot topics

March 28 | 12 p.m. ET | 16:00 GMT

With tax reforms taking place in the US and other countries, multinational corporations face significant changes. What recent developments should tax executives consider? Participants will learn about recent changes affecting intercompany transactions.

Register

Contact

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