Proposed regulations on Donor Disclosure Requirements

On September 10, 2019, the IRS published proposed regulations and a notice for penalty relief on donor disclosure requirements for non-501(c)(3) exempt organization. This is in response to Bullock, et al. v. IRS, in which the court determined that the IRS did not follow the notice-and-comment procedures when it drafted the Revenue Procedure 2018-38 and ruled the Revenue Procedure as unlawful.

The proposed regulations follow the guidance that was previously provided in Revenue Procedure 2018-38. The proposed regulations state that exempt organizations other than IRC section 501(c)(3) and IRC section 527 organizations, are no longer required to report names and addresses of any substantial contributor on the Schedule B of their respective form 990 series return. Taxpayers are still required to report amounts of contributions and maintain records with the names and addresses of substantial contributors to provide upon the request of the Internal Revenue Service. The proposed regulations also contain provisions regarding the reporting of information for taxes imposed on lobbying and political expenditure as well as excess benefit transactions. Also, the proposed regulations describe filing and reporting thresholds for both foreign organizations and IRC section 527 organizations. The comments on the proposed regulations must be received by December 9, 2019.
Additionally, Notice 2019-47 was published to provide penalty relief for any exempt organization other than IRC section 501(c)(3) organization that relied on Revenue Procedure 2018-38 and did not report the names and addresses of any substantial contributors on Schedule B of their respective form 990 series return. The Notice provides assurance to non-501(c)(3) taxpayers that filed their tax return without donor names and addresses prior to the court ruling on July 30, 2019.

**Unrelated Business Income State Tax Update**

States have various degrees of conformity with the Tax Cuts and Jobs Act that was passed in 2017. The timing and conformity of the states to the tax reform bill is important to determine tax-exempt organization’s state unrelated business income tax liabilities. This includes conformity with qualified transportation fringe benefits, unrelated business income siloing, Net Operating Loss carryforward limitations and various other tax reform items (IRC section 163(j), GILTI, FDII, etc.). Below is a summary of various state’s conformity with tax reform bills as of September 16, 2019.

**Arkansas**

Arkansas has selective conformity with the Tax Cuts and Jobs Act but has not specifically adopted conformity with IRC section 512(a)(7) in regard to qualified transportation fringe benefit as an increase to unrelated business income.

**California**

California has selective conformity with the Tax Cuts and Jobs Act but has not adopted all provisions and conforms to the Internal Revenue Code as of January 1, 2015 with certain exceptions. California currently does not conform with any unrelated business income tax provision in the Tax Cuts and Jobs Act.

**Florida**

Florida passed legislation that requires taxpayers to submit additional tax information for each Florida corporate income/franchise tax return (Form F-1120) filed for a taxable year that begin between January 1, 2018 and December 31, 2019. Impacted taxpayers with returns yet to be filed for the relevant periods are required to submit the information within 10 days after the return is filed. The information must be submitted online at: [https://floridarevenue.com/taxes/taxesfees/Pages/corp_submit_info.aspx](https://floridarevenue.com/taxes/taxesfees/Pages/corp_submit_info.aspx)

**Hawaii**

Hawaii Code was amended, effective June 7, 2019, to specify that unrelated business taxable income means the same as in the Internal Revenue Code, except that in the computation of unrelated business taxable income, IRC section 512(a)(7) shall not apply. The exclusion of qualified transportation fringe benefits from unrelated business income is applicable for taxable years beginning after December 31, 2018. For taxable years beginning before December 31, 2018, the statute does not provide this exception for qualified transportation fringe benefits.

**Illinois**

An Illinois bill was signed into law on August 23, 2019, modifying the calculation of unrelated business taxable income to exclude an increase in unrelated business income from qualified transportation fringe benefits calculated under IRC section 512(a)(7). This law is effective for tax years beginning on or after January 1, 2019. Qualified transportation fringe benefit is an increase in unrelated business income to the extent included in unrelated business income for tax years beginning before January 1, 2019.

**Iowa**

For tax years beginning before January 1, 2019, Iowa does not incorporate an increase in unrelated business income for qualified transportation fringe benefits into its statute, given its Internal Revenue Code conformity is in effect as of January 1, 2016. For tax years beginning January 1, 2019 or later, Iowa conforms to the Internal Revenue Code as of March 24, 2018 and therefore, will begin to increase qualified transportation fringe benefits as an increase to unrelated business income.

**Minnesota**

A Minnesota bill was signed into law on May 30, 2019, specifying that “amounts included in unrelated business taxable income under section 512(a)(7) of the IRC” should not be taxed. This law is effective for tax years beginning after December 31, 2017. For tax years beginning prior to December 31, 2017, Minnesota conformed to the Internal Revenue Code as of December 12, 2016. As such, qualified transportation fringe benefits are not an increase in unrelated business income for years beginning on or before December 31, 2017.

**New York**

A New York bill was signed by the NYS governor in December 7, 2018, establishing that any income included pursuant to IRC section 512(a)(7) shall be subtracted from federal unrelated business taxable income. This provision is effective for tax years beginning on and after January 1, 2018.

**North Carolina**

North Carolina passed new legislation on June 12, 2018, updating North Carolina’s conformity to the Internal Revenue Code as of February 9, 2018. In addition, the statute provides that tax does not apply to net income derived from “amounts paid or incurred by an organization that is exempt from federal income tax under section 501(c)(3) of the Code for a parking facility that would otherwise be included as unrelated business income under section 512(a)(7) of the Code.” North Carolina’s decoupling for the Internal Revenue Code is effective for tax years beginning on or after January 1, 2018. For tax years beginning prior to January 1, 2018, North Carolina conformed to the Internal Revenue Code as of January 1, 2017. As such, IRC section 512(a)(7) is also not taxable for years beginning prior to January 1, 2018.

---

**Did you know?**

**IRS releases Draft 2019 Form 990-T and other schedules**

The Internal Revenue Service has released a [2019 Draft Form 990-T](https://www.irs.gov/forms-pubs/comment-on-tax-forms-and-publications). The IRS has published a series of other draft forms and instructions for schedules of the Form 990. The draft Form 990-T moved charitable deductions from Part II, Line 20 of the Form 990-T to Part III, Line 34. This moved the charitable contributions reporting to after the aggregation of the separate trades or businesses.

Any comments about draft or final forms, instructions or publications can be submitted at [https://www.irs.gov/forms-pubs/comment-on-tax-forms-and-publications](https://www.irs.gov/forms-pubs/comment-on-tax-forms-and-publications).
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.

**Tax Technology**

**Tax in the Cloud: Discover your possible**

*Oct 8 | 2 p.m. ET | 18:00 GMT*

With evolving business models and increasing legislative demands around global direct and indirect tax, cloud technology and ERP modernizations represent a unique chance for tax departments to “go digital” and address significant data and reporting challenges. Cloud provides opportunities to augment high value features in current ERP platforms, as well as resolve historical temporary measures put in place to address ineffective processes. Discover how you can help position your tax department as a key stakeholder and beneficiary of these implementations.

Register

**Transfer Pricing**

**Update: Advanced pricing agreements and mutual agreement procedures**

*Oct 10 | 1 p.m. ET | 17:00 GMT*

After several years of tax reform in the United States and other countries, transfer pricing controversies still abound. Should multinational businesses still consider Advanced Pricing Agreements (APAs) and Mutual Agreement Procedures (MAPs) as strategies for mitigating the risk of transfer pricing controversies and double taxation? Participants will hear from the Director of the IRS APMA program about transfer pricing, APA, and MAP developments, and identify the related impacts to their organization.

Register

**Multistate Tax**

**Recent developments in state legislation and the US Supreme Court**

*Oct 15 | 1 p.m. ET | 17:00 GMT*

As the US Treasury issues substantial guidance on tax reform topics prompted by 2017 federal changes, states continue to respond with legislation and rule-making in 2019. What recent, important developments should you be aware of? Participants will explore recent state and local tax developments and discover ways their organizations might be affected.

Register

**Tax Operations**

**Data wrangling: The new frontier in tax department automation**

*Oct 17 | 1 p.m. ET | 17:00 GMT*

Historically, tax professionals may have had to wait for the data needed to perform their work while finance, IT, or other functions enhanced processes or optimized systems. How can tax departments use data-wrangling technologies to eliminate much of the repetitive, time-intensive data manipulation required in the past? Participants will identify data-wrangling technologies that may already be in use within their companies, identify key functions of these tools, and relate those functions to tax data management challenges.

Register

**Federal Tax**

**Debt-related fees: Tax considerations for borrowers and lenders**

*Oct 24 | 2 p.m. ET | 18:00 GMT*

In addition to interest payments, borrowers often pay various fees associated with debt instrument issuance and while it’s outstanding. The tax treatment generally depends on the true nature of such fees rather than the name or label given to a particular fee. Participants will examine the tax treatment of various debt-related fees and identify other issues concerning this important aspect of financing transactions.

Register
Contact Information

Please contact your local Deloitte Tax LLP provider for more information on our services.

Rachel Becker—Milwaukee
rbecker@deloitte.com
+1 414 977 2567

Joan McMahon—San Francisco
jmcmahon@deloitte.com
+1 415 783 5568

Fran Bedard—Nashville
fbedard@deloitte.com
+1 615 259 1811

Kristina Rasmussen—Minneapolis
krasmussen@deloitte.com
+1 612 397 4178

Lori Boyce—Detroit
lboyce@deloitte.com
+1 313 396 3324

Mary Rauschenberg—Chicago and Washington National Tax
mrauschenberg@deloitte.com
+1 312 486 9544

Jeff Frank—Indianapolis
jdfrank@deloitte.com
+1 317 656 6921

Steve Rovner—Tampa
srovner@deloitte.com
+1 813 273 8355

Alicia Janisch—Detroit
ajanisch@deloitte.com
+1 313 324 1442

John W. Sadoff, Jr.—Costa Mesa
jsadoff@deloitte.com
+1 714 913 1281

Christine Kawecki—New York and Boston
ckawecki@deloitte.com
+1 516 918 7138

Jim Sowar—Cincinnati
jsowar@deloitte.com
+1 513 784 7242

The information contained in Tax News & Views: Health Care Edition is for general purposes only and Deloitte is not, by means of this newsletter, rendering accounting, business, financial investment, legal, tax, or other professional advice or services. This material is not a substitute for such professional advice or services, nor should it be used as a basis for any decision or action that may affect your business. Before making any decision or taking any action that may affect your business, you should consult a qualified professional adviser. Deloitte shall not be responsible for any loss sustained by any person who relies on this newsletter. If you have questions about the content of Tax News & Views: Health Care Edition, contact Mary Rauschenberg at +1 312 486 9544 or at mrauschenberg@deloitte.com.


Copyright © 2019 Deloitte Development LLC. All rights reserved.