

## Tax News & Views Health Care Edition

### Camp releases comprehensive tax reform discussion draft

On February 26, 2014, House Ways and Means Committee Chairman Dave Camp released a 979-page discussion draft of a tax reform proposal, titled "Tax Reform Act of 2014." Among other things, the proposal would lower the corporate and individual income tax rates and modify the tax treatment of U.S. multinationals, and includes an array of base broadening provisions that would have a significant impact on corporations, pass-through entities, individual taxpayers, and tax-exempt organizations. Although the proposal is not an introduced bill, it does contain legislative language.

The proposal contains a number of provisions that may affect tax-exempt organizations.

#### Unrelated business income (UBI)

- Require UBI to be separately computed for each trade or business activity. A loss from one trade or business for a taxable year may not be used to offset gain from a different unrelated trade or business for the same taxable year. An unused loss from a certain activity may be carried forward to offset gain from that same activity in a future year.
- Treat any sale or licensing by an organization of any name or logo of the organization (including any trademark or copyright related to a name or logo) as an unrelated trade or business. Any royalties paid with respect to such licenses would be subject to UBI tax.
- Limit exclusion of research income from unrelated business taxable income to publicly available research. Only income from such fundamental research, the results of which are freely available to the general public, would be exempt from UBI.
- Modify the charitable deduction percentage limitation for trusts to 10% of its unrelated business taxable income (to be consistent with the current limitation applicable to corporations).
- Increase the specific deduction against unrelated business taxable income from \$1,000 to \$10,000.

- Modify the definition of "qualified sponsorship payment" to exclude from the permitted substantial return benefit the use or acknowledgment of the sponsor's product lines. In other words, if in exchange for a payment from a sponsor the exempt organization uses or acknowledges the sponsor's product lines, the payment is not a qualified sponsorship payment and would be subject to UBI.
- Clarify that dual-status organizations, exempt under both Section 501(a) and Section 115, would be subject to UBI. For example, if an organization is described in Section 401(a) (and thus is exempt from tax under Section 501(a)) and its income also is described in Section 115 (relating to the exclusion from gross income of certain income derived from the exercise of an essential governmental function), its governmental status under Section 115 does not cause it to be exempt from tax on its UBI.

#### Excess benefit transactions and intermediate sanctions

- Impose an entity-level tax of 10% in the event of an excess benefit transaction (in addition to the current excise tax imposed on the disqualified person).
- Eliminate rebuttable presumption of reasonableness contained in the intermediate sanctions regulations and establish due diligence procedures.
- Treat investment advisors and athletic coaches as disqualified persons for purposes of the intermediate sanctions rules.

#### Compensation

- Include any nonqualified deferred compensation in gross income of the service provider as soon as there is no substantial risk of forfeiture of the service provider's rights to such compensation, without regard to continuing risks of forfeiture related to performance or other conditions on receipt of the compensation.
- Impose a 25 percent excise tax on compensation in excess of \$1 million paid to any of the tax-exempt organization's five highest paid employees for the tax year.
- Impose a 25 percent excise tax on any excess parachute payment paid to one of the tax-exempt organization's five highest paid employees.



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### Supporting Organizations

- Repeal Type II and Type III supporting organizations under Section 509(a)(3). Any Type II or III supporting organization existing on the date of enactment would have until the end of 2015 to qualify as a public charity or a Type I supporting organization, or it would be treated as a private foundation.

### Donor-advised funds

- Require contributions to donor-advised funds to be distributed for charitable purposes within five years and impose an excise tax on failure to distribute.

### Penalties

- Increase penalties for annual information returns, including: failure to file, failure to make annual returns available for public inspection, and failure to disclose a reportable transaction.

### Electronic filing

- Impose mandatory e-filing requirement on all tax-exempt organizations required to file statements or returns in the Form 990 series. Allows a two-year transitional period for e-filing of Form 990-T.

### Corporate taxes

- Reduce the top income tax rate for corporations from 35 percent to 25 percent.
- Repeal the corporate alternative minimum tax.

### Employment taxes

- Repeal exemption from Federal Insurance Contributions Act (FICA) taxes for certain students. The student FICA exemption would only be available if the annual wages paid to the student are less than the amount needed to obtain a quarter of Social Security coverage (which would currently translate to \$1,200 of wages per year).
- Repeal exemption from FICA taxes for certain foreign workers. The FICA exemption for nonresident aliens performing services under certain employment visas would be repealed.

### Deductions/exclusions affecting employees

- Repeal of Section 117 exclusion from gross income and wages for “qualified tuition reductions” for certain education provided to employees (and their spouses and dependents) of certain educational organizations.
- Repeal of Section 127 exclusion for income attributable to an education assistance program (currently allowable for up to \$5,250).
- Repeal of moving expense deduction (which would make payment of these costs by an employer taxable to employees).
- Repeal of exclusion from income for employee achievement awards.
- Limit the exclusion for employer-provided parking and transit passes to fixed monthly dollar amounts (\$250 for parking and \$130 for transit) that would no longer be inflation adjusted.

### Charitable contribution deduction

- Impose a 2% floor on an individual taxpayer’s charitable contribution deduction. For most individuals, the provision would allow the charitable deduction only for the amount of their charitable contributions that exceed 2 percent of their adjusted gross income (AGI).
- Permit taxpayers to deduct contributions made after the close of their tax year but before the due date of the tax return (generally April 15).
- Combine the 50 percent of AGI limitation for cash contributions and the 30 percent limitation for contributions of capital gain property to public charities and certain private foundations into a single limit of 40 percent.
- Combine the 30 percent of AGI contribution limit for cash contributions and the 20 percent limitation for contributions of capital gain property to organizations not covered by the current 50 percent limit into a single limit of 25 percent.
- Disallow the deduction of payments made to a colleges or universities for the right to purchase tickets to an athletic event.

The release of Chairman Camp’s proposal is a significant marker in the tax reform debate, but it may be premature to view it as a sign that Congress will act on a tax code rewrite this year. Even if no further action is taken on it in 2014, the proposal is likely, at the very least, to greatly influence the content of future tax reform legislation. With that in mind, prudent taxpayers will take the opportunity to examine Camp’s proposal, begin assessing the potential impact of tax reform, and consider how best to position themselves to thrive in a post-reform environment.

### IRS memo extends application of streamlined processing guidelines

The Internal Revenue Service (IRS) Tax-Exempt and Government Entities Division has issued a memorandum (TEGE-07-0214-02) extending a streamlined exemption application process developed using Lean Six Sigma Organization (LSSO) concepts to all cases processed by the IRS’s exempt organizations determinations and quality assurance units. In the memo, the IRS explains that, in June 2013, it conducted an LSSO opportunity assessment to evaluate the effectiveness of the exemption application process and to develop opportunities for process improvement.

The assessment concluded that the current process has high inventory, limited resources, inaccurate forms, outdated Internal Revenue Manuals, continuously changing procedures, multiple touch points, multiple work streams, and nonstandard processes. In addition, inadequate technical tax law training has not equipped the workforce to effectively/efficiently complete the work. The assessment found that there may be opportunities to streamline the physical flow of work. Additionally, opportunities exist to implement a classification process

that efficiently and accurately moves inventory, ensures all resources in the determination process, including the workforce, are developed and deployed appropriately, thereby lessening the burden on employees and facilitating consistent and timely determinations.

Based on the assessment, the determinations unit created a streamlined application process that was piloted in October 2013. The pilot applied the concepts of a developed draft Form 1023-EZ to existing exemption application inventory. The IRS found that Form 1023-EZ drastically reduced the informational burden for both the taxpayer and the IRS through taxpayer assurance of meeting the organizational and operational tests through representational attestations. During the pilot, if additional clarification from the taxpayer was needed, standardized paragraphs and language were used to get attestations and to promote consistency of the determination by the revenue agents. In order to further measure the effectiveness of the streamlined application process, beginning January 6, 2014, the determinations unit began to replicate and expand the pilot by applying the lessons learned and concepts from this initial effort to additional inventory. For additional information regarding the streamlined application pilot and sample standard communications used by the IRS, refer to [Memo TEGE-07-0214-02](#).

### Sample questions regarding application for exemption

Organizations must file Form 1023, *Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code*, to request tax-exempt status under Section 501(c). Applications for exemption and miscellaneous determination requests are assigned to IRS Exempt Organizations specialists for review. If additional information is necessary to make a determination, a specialist will contact the organization for the information. The IRS recently published a list of [sample questions](#) that may be used by a specialist to request additional information. Question topics include: compensation and related-party transactions, financial information and user fees, foundation classification, group ruling, international activities, investments with limited partnerships, and organizational and administrative requirements, among others. Organizations currently applying for exemption may find it helpful to read the list of sample questions prior to filing Form 1023 to better understand the types of information a specialist will look for during review.

### Did you know?

#### IRS releases final FATCA forms and instructions for 2014

The IRS has released certain final, revised [Foreign Account Tax Compliance Act \(FATCA\)](#) forms and instructions, including Forms 1042, 1042-S, 8966, W-8BEN, and W-8ECI. Organizations making payments to foreign individuals or foreign entities may be required to file or obtain such forms as part of their withholding and reporting process.

#### Final Form 8963 released for health insurance providers

The IRS has released the final [Form 8963, Report of Health Insurance Provider Information](#), for health insurance providers to report net premiums written for health insurance of U.S. health risks. Form 8963 must be filed by April 15, 2014, and will be used by the IRS to calculate each health insurance provider's annual fee which is due by September 30, 2014.

### Deloitte Thoughtware

Health Reform. The health reform bills (HR3590 and HR4872) are now law and will trigger sweeping changes and disruptions – some rather quickly and some over many years. The industry is asking, “What now?” At Deloitte, we continue to explore and debate the specific questions facing the industry, and we look forward to helping our clients find and implement the appropriate answers for their organizations. To learn more, visit [Health Care Solutions](#) on the Deloitte website.

Health Care Regulation. With quality in the spotlight on a national level, hospitals across the country are renewing their commitment to confirming that their services meet the core measures for quality set by the government and that internal controls are in place to help determine that the collection and reporting of quality data is accurate, complete, and compliant with government reporting requirements. The financial and operational impacts of regulation and legislative oversight in the life sciences and health care industries are pervasive and constantly changing. [@Regulatory](#) is a monthly publication that apprises readers of the latest regulatory, legislative, and other public policy developments affecting life sciences and health care organizations. Visit [@Regulatory](#) on the Deloitte website.

## 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.



### Financial Executives

#### ***The CFO Agenda: What is Top of Mind for CFOs in 2014?*** April 16, 3:00 PM ET

Businesses today face a growing array of internal and external challenges, many of which have financial and operational implications. How are CFOs of larger businesses responding? We'll discuss:

- CFOs' assessments of business conditions and their most worrisome risks as they look ahead.
- Where companies and their CFOs are focusing efforts in response to their issues, including plans to improve revenue and profitability.
- How finance organizations and CFOs are adapting and adding value, including serving as strategists and catalysts within their organizations.

Gain insights from leaders of Deloitte's CFO Program to learn how CFOs of leading companies are addressing today's dynamic business environment.

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#### ***Data Analytics and Workforce Strategies: New Insights for Tax Efficiency and Performance Improvement*** May 5, 2:00 PM ET

Organizations are finding new ways to apply data analytics for informed decision making to drive desired business outcomes. How can finance executives use analytics in global talent, rewards, and employment tax programs to create value across the business? We'll discuss:

- Ways analytics may drive effective decision-making and new insights into an organization.
- Leveraging analytics to identify, manage, and mitigate tax risks, including effective ways to understand and view potential tax exposures.
- Identifying potential tax efficiencies through tax planning and compliance associated with global talent, rewards, and employment tax programs.

Learn how leading organizations are deploying data analytics to create value in their workforce strategies

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#### ***Data Analytics and Corporate Investigations: The Evolution from Magnifying Glass to Digital Laboratory*** May 14, 2:00 PM ET

Virtually all crime scenes contain physical evidence – or fragments of the story – that skilled investigators can piece together to tell the story and help bring justice. A potential risk to businesses is that these crimes – or financial frauds and corruption – are increasingly being committed with advanced technologies within an ever-increasing sea of data. We'll discuss:

- How the evolving landscape of big data, social media, mobile computing, and the cloud can impact corporate investigations.
- Application of advanced analytics, tools, and techniques to help reconstruct events.
- Case studies and application demonstrations from the field.

Learn how data analytics tools can be used to conduct effective corporate investigations in the digital era.

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#### ***Risk Intelligent Social Business: Governing Social Media to Protect Reputation*** May 22, 2:00 PM ET

As companies increase their use of social media, it's important to identify and monitor potential risks. Where should executives focus when assessing organizational risks tied to social media activities, and what oversight is needed as use of social media tools grow? We'll discuss:

- How to identify risks such as data leakage, reputation damage, and regulatory issues.
- Effective practices for social media governance, including leveraging internal audit capabilities.
- Consequences of ineffective or incomplete social media monitoring, including brand-damaging negative publicity or regulatory violations.

Learn more about the top areas of social media risk and real strategies you can put in place to mitigate potential issues.

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#### ***CFOs and Globalization: The Call for Chief Frontier Officers*** June 18, 3:00 PM ET

Globalization is adding new complexities as companies extend beyond low-cost manufacturing locations into new consumer markets. Why are CFOs emerging as point leaders, what are realities of their new role, and what skills will make them effective Chief Frontier Officers? We'll discuss:

- Translating global ambitions into practical realities – extending the finance function to address financing, investment, operations, and valuation.
- Capabilities CFOs can leverage in this new role, including oversight of enterprise data, insights into investment decisions, analytics, and enterprise performance management.
- Enhanced skills CFOs need, including curiosity, capacity for surprise, courage, character, and collaboration.

Learn about the expanding role of CFOs as the nature of globalization evolves.

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## Financial Executives (cont'd)

### *Cyber-resilience Enterprises: Insuring a Virtual Reality* June 19, 2:00 PM ET

Cyber-insurance is a key cyber-defense employed by many businesses to help assure stakeholders that the company is addressing certain compliance risks. What are important considerations when you purchase such insurance? We'll discuss:

- Considerations for linking cyber threats back to insurance coverage and understanding the nature of likely financial losses.
- Strategies for quantifying potential financial exposures and probable losses based on recent data breach experiences.
- Cyber Incident Response – what to look for in this table stakes coverage and Cyber Incident Response's importance as part of an enterprise's cyber resiliency.

Learn about the role of cyber-insurance in addressing cyber-risk and how to become a more cyber-resilient organization.

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### *Compliance Leading Practices and Insights* June 26, 2:00 PM ET

In an era of increasing regulatory scrutiny in the U.S. and other countries, corporate compliance programs and activities are rapidly evolving. What emerging risks and trends are compliance executives focused on today?

We'll discuss:

- New trends related to companies' compliance structures, their cultures, and their key emerging compliance risks.
- Operations-related challenges, including the use of performance metrics and compliance tools and technologies.
- Insights from CCOs and other compliance executives into unique aspects of their compliance programs and other risk mitigation initiatives.

Hear results from a recent Compliance Week compliance survey and learn ways to help refresh your company's compliance program and activities.

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## Industries

### *Interoperability: Breaking Down Barriers in Health Information Technology* April 8, 1:00 PM ET

As the health care industry moves forward with breakthroughs in health information technology, interoperability is becoming top of mind to optimize care. How can collaborative technology promote a connected health experience and support patient engagement? We'll discuss:

- What health care companies can learn from other industries that have addressed the technical and business challenges of systems communications.
- How industry and technology standards impact innovation and business development in health information technology.
- Considerations and smart steps towards interoperability in the health care industry.

Explore potential impacts that interoperability could have in improving health information exchange and realizing meaningful use of electronic health records

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### *The Journey to High-Quality Health Care: New Business Models Emerge* June 10, 1:00 PM ET

With high-quality patient and family experiences a central focus of health reform, business models across the industry are changing. How can health care consumers benefit from the shift to innovation and value in the health care industry? We'll discuss:

- How consumers are helping drive the health care industry's pursuit of new innovations in care delivery.
- New ways in which employers are sharing costs with employees and providing incentives to encourage cost-saving decisions.
- Retail capabilities that could drive the health plan and provider markets of the future.

Explore the move away from traditional health care business models toward innovative approaches that focus high-quality care tailored to consumers

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**Business Traveler Management and Tax Compliance: Data Analytics Can Lighten the Load** May 12, 2:00 PM ET

HR department use of workforce analytics is growing, but it can be hard to prioritize where to apply it. Could management of business traveler populations be a particularly ripe opportunity? We'll discuss:

- An overview of workforce analytics and an end-to-end look at where businesses can potentially leverage it.
- Common tax-related challenges of business travel and how analytics may help identify, track, and manage tax compliance requirements.
- Obstacles to getting started, including issues with travel policies, collecting traveler data, predicting potential travel-related tax costs, and documentation for tax examinations.

Learn how workforce analytics may help you proactively manage your business traveler population and related tax obligations.

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**Collaboration Agreements: Do They Make Good Business Sense For Your Company?** May 13, 2:00 PM ET

Collaboration agreements are used for many purposes, including joining two or more parties for shared knowledge or to leverage a distribution area for added revenue from an existing business. What exactly is a collaboration agreement and what potential considerations and risks could a resulting tax partnership pose for your company? We'll discuss:

- The factors that may create a tax partnership, such as profit sharing and management control.
- IRS administrative guidance in this area.
- The potential federal, state, and international tax consequences of being classified as a tax partnership.

Learn how your business might benefit from entering into a collaboration agreement.

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