

Tax News & Views Health Care Edition

IRS advisory committee on tax-exempt and government entities releases its annual report

The IRS's Advisory Committee on Tax Exempt and Governmental Entities (ACT) released its [annual report](#) on June 11, 2014. The ACT is a group of external stakeholders who advise the IRS on operational policy, programs and procedural improvements with respect to employee plans, tax-exempt organizations, tax-exempt bonds, and federal, state, local, and Indian Tribal governments. The ACT also enables the IRS to receive regular input on the development and implementation of IRS policy concerning these communities. This year, the ACT's report focused on the following topics:

- **Employee Plans:** Analysis and Recommendations Regarding the Pre-Approved and Determination Letter Programs
- **Exempt Organizations:** Analysis and Recommendations Regarding Unrelated Business Income Tax Compliance of Colleges and Universities
- **Federal, State, and Local Governments:** The Affordable Care Act and Government Employees
- **Indian Tribal Governments:** IRS Tribal Consultation: A Compliance Audit and Recommendations for Improvement
- **Tax-Exempt Bonds:** Today's Reality: The Increased Reliance on the "Facts and Circumstances" Test in Analyzing Management Contracts for Private Business Use

The Exempt Organizations report focused on unrelated business income, in particular with regard to the results of the IRS's report on the Colleges and Universities Compliance Project. In October 2008, the IRS sent questionnaires to 400 randomly selected colleges and universities. Based on the questionnaire responses, the IRS opened examinations of 34 colleges and universities and focused on issues of unrelated business taxable income, executive compensation, and employment tax. The IRS released an interim report in 2010 summarizing the responses and published its final report in April 2013, which provides a comprehensive view of the responses and examinations. As a result of the examinations, the IRS has stated that it plans to look at UBTI reporting "more broadly," focusing on recurring losses and the allocation of expenses. The increased focus will have impact on the entire nonprofit sector and not just colleges and universities.

In light of the IRS's intention to increase its focus on UBTI reporting for tax-exempt organizations, the ACT selected unrelated business income as the topic for its annual project for calendar year 2014. The focus of the project was to review the existing rules, regulations, and reporting to find the reasons for the significant under reporting of unrelated business income and to recommend specific changes as to the reporting of such income and additional guidance to the sector.

The ACT's specific recommendations are:

1. The IRS Exempt Organizations Division should recommend that Chief Counsel and Treasury Department open a regulation project so that profits from a substantial commercial activity will not preclude exemption under Internal Revenue Code (IRC) § 501(c)(3) as long as an organization's income and its financial resources are used commensurate in scope with its charitable program.
2. The Exempt Organizations Division should work with Chief Counsel and the Treasury Department to provide formal guidance to the field regarding proper methods for allocating indirect costs where facilities and/or personnel are used to carry on exempt activities and to conduct unrelated trade or business.
3. The Exempt Organizations Division should work with the Chief Counsel and the Treasury Department to publish a comprehensive revenue ruling on a range of UBI issues. The ruling should provide categories of activities that will be considered related and unrelated, guidance on preparatory time spent on activities, and scenarios of situations involving the activities frequently reported on the college and university questionnaire, such as facility rentals and dual use properties.
4. The Exempt Organizations Division should expeditiously formalize and adopt a new Form 990-T based upon the proposed format enumerated in the ACT annual report.
5. The Exempt Organizations Division should continue to leverage its use of its electronic database and web-based resources to include communication, education, and training. The IRS should continue to improve, update, and enhance the public and tax professional's access to the IRS materials and information available on its website.

A full copy of the annual report is available on the IRS website.



Find it Fast

[IRS advisory committee on tax-exempt and government entities releases its annual report](#)

[Relief for certain exempt organizations that fail to file annual returns for three consecutive years while applications pending](#)

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Relief for certain exempt organizations that fail to file annual returns for three consecutive years while applications pending

The IRS Tax Exempt and Government Entities (TEGE) division recently released a memo ([TEGE-07-0414-0010](#)) to the Exempt Organization Determinations Unit (EOD) regarding certain organizations seeking tax-exempt status that have failed to file annual information returns for three consecutive years while their application is pending. Under current law, if a tax-exempt organization fails to file an annual return (Form 990-N, 990-EZ, 990 or 990-PF) for three consecutive years, such organization's tax-exempt status will be revoked. The IRS recognized that due to excess inventory, the EOD has applications from organizations that may have failed to file annual returns for three years while their applications have been pending. In such circumstances, the exempt status of these organizations may be revoked before they have received a ruling from EOD. Therefore, the IRS treats these applications as requests for reinstatement. Under new procedures outlined in the memo, the IRS will now treat the originally filed Form 1023 as an application for reinstatement and will recognize the organization's exemption as reinstated on the same day it was automatically revoked. As a result, the organization will be recognized as tax-exempt continuously from the effective date of exemption (e.g., formation date or post-mark date).

Appeals process for proposed adverse rulings relating to exempt status from exempt organizations technical unit

A memo ([TEGE-07-0514-0012](#)) from the IRS TEGE division to the Exempt Organizations Technical Unit (EOT) clarifies the appeals process for a proposed adverse ruling regarding an application for tax-exempt status. When EOD issues a proposed adverse determination letter, an organization has the opportunity to appeal the determination by requesting Appeals Office consideration within 30 days. Prior to the memo, the EOT process has been different. When EOT issued a proposed adverse ruling on exemption, an organization was advised of its opportunity to file a protest and request a conference with the EOT. Any protest materials submitted by the organization would be reviewed by EOT. If EOT maintained its adverse position, it either issued a final adverse ruling, or if a conference was requested, contacted the organization to schedule a conference. At the end of the conference, EOT either issued a final adverse ruling or a favorable exemption ruling. The organization did not have the right to request review by the Appeals Office.

Due to recent organizational changes in the Exempt Organizations (EO) unit, the EO headquarters moved to Cincinnati, although certain employees in the EO technical unit remain in Washington, D.C. The EOD unit in Cincinnati is responsible for processing nearly all exemption applications going forward. In the past, certain cases with significant regional or national impact, technical advice

cases, and technical assistance cases, were transferred to the EOT unit in Washington for processing. However, due to the re-organization of the EO unit and in the interest of efficient tax administration, the types of cases transferred to EOT is now limited. In accordance with this change, the memo states that an organization that receives a proposed adverse ruling on its tax-exempt status from EOT will have the right to request review of the application from the Appeals Office. This modification applies to any proposed adverse ruling relating to tax-exempt status pending in EOT.

Did you know?

Instructions released for 2014 Form W-8IMY

The IRS has released the [instructions](#) for the 2014 Form W-8IMY, Certificate of Foreign Intermediary, Foreign Flow-Through Entity, or Certain U.S. Branches for United States Tax Withholding and Reporting. The form includes information required by the Foreign Account Tax Compliance Act (FATCA). Organizations making payments to foreign entities may be required to file or obtain such form as part of their withholding and reporting process.

FATCA Foreign Financial Institution list search now available

The Foreign Financial Institution (FFI) [search and download tool](#) is now available on the IRS FATCA website. Users may access the tool to find out if an FFI has registered by downloading an entire list of FFIs or searching for a specific FFI.

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.

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Deloitte Dbriefs

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Financial Executives

From Board Room to War Room – Lessons Learned from Recent Cyber Attacks July 23, 2:00 PM ET

Increasingly sophisticated and agile, the cyber underworld is launching both indiscriminate attacks and ones aimed at the hearts of organizations. How prepared is your organization to respond to this business crisis? We'll discuss:

- Industry-specific cyber threat trends based on real-world incidents, including attacks to retail point-of-sale systems and leakage of intellectual property in high-tech companies.
- Protecting critical assets and containing the costs of a breach.
- Ways to improve your organization's response time following a breach, including quickly mobilizing the diverse resources needed to prepare for an impending or current attack.

Gain insight into cyber threat trends from real-world cyber incidents, and learn why most organizations are vulnerable

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Wizards and Trolls: Accelerating Technologies, Patent Reform, and the New Era of IP July 31, 2:00 PM ET

Accelerating technological advancement and a quickly evolving patent environment are a few ingredients of patent wars between innovating Wizards, patent aggregating Trolls, and unprepared incumbents. How can intellectual property (IP) strategy and management help companies address far-reaching effects of the battle? We'll discuss:

- The confluence of technological advancement and patent reform.
- The increase in patent activity due to accelerating technology advancement and potential implications for non-technology sectors impacted by that technology.
- Developing a new lens through which to view IP strategy and management.

Hear from leading IP specialists to understand the converging forces that are raising the urgency on IP management and to explore options for responding

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2014 Mid-year Outlook: Driving Growth in the Age of Global Uncertainty August 27, 2:00 PM ET

While the U.S. economy appears to be stabilizing, there is increasing uncertainty about economic events elsewhere. What is the current forecast for companies engaging in transactions or facing critical business events? We'll discuss:

- Economic and market conditions outside the U.S. that might impact current and future M&A activity and business performance.
- The outlook for transactions activity and several factors impacting key industries, including energy, financial services, and consumer business.
- Current indicators of the slowdown in emerging markets and potential implications for the long-term.

Gain new insights into the fiscal and regulatory environments, uncertainties that still lie ahead, and factors that could potentially help your business drive growth.

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Finding Evidence in an Online World: Trends and Challenges in Computer Forensics September 29, 2:00 PM ET

Securing and analyzing electronic evidence is central to combating cyber intrusions, identity theft, and industrial espionage, as well as addressing civil investigations. Does your organization have the appropriate tools and processes in place to preserve, collect, and identify critical information? We'll discuss:

- How private sector companies can leverage computer forensics in suspected criminal and administrative matters.
- How computer forensics can help identify vulnerabilities in your computer network and assess your exposure to losses from cyber intrusions.
- Examples of how and where computer forensics has been used to prevent and defend against cyber events.

Gain insight into ways that computer forensics can help protect you and your organization.

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Financial Executives (cont'd)

Quarterly Accounting Roundup: An Update on Important Developments September 30, 2:00 – 3:30 PM ET

Do you know what issues the standard-setters and regulators have been addressing lately? We've been monitoring their projects and will discuss:

- Latest status on classification and measurement, impairment, and leases.
- Accounting, standard setting, and reporting developments for the quarter.
- Recent positions on accounting and reporting of the FASB, IASB, SEC, and PCAOB.
- Other hot topics.

Join us to hear about the latest developments

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Industries

mHealth, eHealth, and Telehealth: Converting Disruption into Opportunity July 15, 1:00 PM ET

New technologies offer the potential to lower costs, reduce utilization, generate revenue, and increase operational efficiency on the business side, while supporting care coordination and delivering better outcomes on the clinical side. How can virtual health be leveraged to transform an industry? We'll discuss:

- The changing landscape of the health IT industry.
- The four dimensions of effective mobile health – people, places, payment, and purpose.
- How virtual health could create a transformational culture while bending the cost curve.
- Regulatory issues associated with these new technologies.

Explore the changing world of health care from physical office spaces to the world of virtual health care.

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Navigating the Rapidly Evolving Social Media Landscape in Health Care August 12, 1:00 PM ET

Social media has changed the way health care organizations connect with consumers and other stakeholders. But as health care organizations pursue social media-related opportunities for disease state awareness and prevention, patient engagement, and gathering insights through social listening, what types of reputational, compliance, and regulatory risks arise? We'll discuss:

- The evolution and lifecycle of social media in health care.
- Levels of engagement and considerations for growing a social media culture.
- Practical insights for successfully balancing social media opportunities and risks.

Explore the opportunities and obstacles that exist in the new social health landscape

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Round 2: How Will 2015 HIX Open Enrollment Play Out? September 24, 1:00 PM ET

As the health care industry prepares for 2015 open enrollment, what can be learned from the first year of health insurance exchanges (HIXs)? What challenges have arisen since the end of 2014 open enrollment? We'll discuss:

- How many individuals have enrolled due to qualifying events since 2014 open enrollment ended.
- What is known about how HIX enrollees' health status and behaviors are impacting the risk pool.
- What the competitive landscape of insurance carriers could look like in 2015.
- Strategies that worked in the past year and how this year's strategies might differ.

Explore these pressing issues and findings from Deloitte's recent survey of young adults enrolling in health care.

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HR Executives

Corporate Learning Redefined: Preparing for a Revolution July 9, 2:00 PM ET

Today's learning leaders are required to develop more people at an accelerated pace and with greater personalization of learning for diverse audiences. Yet at the same time, they are asked to do those things in a just-in-time mode while also being compelled to do more with less. How are leading organizations tackling these challenges? We'll discuss:

- Increased use of mobile learning and the introduction of social learning.
- Use of data to personalize learning.
- The shift from custom content to off-the-shelf content.
- Transformation of the learning organization.

Discover how leading companies are addressing new opportunities to develop today's and tomorrow's workforce.

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Performance Management: Replacing Rank and Yank with Feedback, Coaching, and Development September 10, 2:00 PM ET

Today's pervasive ranking- and ratings-based performance management is widely considered to be outdated and possibly even damaging. What could the next evolution of performance management look like? We'll discuss:

- Managers as coaches rather than evaluators – the imperative to separate feedback provided to employees from compensation decisions.
- Decoupling compensation from evaluations to encourage coaching relationships, and considerations for new parameters around compensation decisions.
- Practical starting points, including leadership involvement, development of flexible performance conversations, improving feedback processes, simplified coaching and evaluation processes, and providing coaching to all employees.

Explore ways to shift focus from employee evaluation to employee development and performance improvement.

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Technology Executives

The Boardroom Imperative: Tackling Cyber Risk September 4, 2:00 PM ET

While emerging technologies are critical to many corporate strategies, they may also create significant risk. How can boards and the C-suite adjust their risk governance approach to not only embrace the cyber risk dimension, but also make it a driver for continued business performance? We'll discuss:

- The evolving nature and sophistication of today's security threats and limitations of a narrow defensive approach.
- The need to transform traditional security programs to executive-led cyber risk management programs.
- How technology executives can act as change agents, including enhancing cyber risk awareness and associated business impacts and building advanced cyber risk defense capabilities.

Explore strategies to broaden the organization's approach to cyber threat management.

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Tax Executives

Life Cycle of an IRS Examination and Potential Impacts on Financial Statements July 22, 2:00 PM ET

The impact of an IRS examination on a company's financial statement can be difficult to analyze. What do you need to know to properly account for and disclose the potential impact of any tax authority examination? We'll discuss:

- The stages of an IRS examination and related information your external auditor may request, such as Information Document Requests (IDRs), Notice of Proposed Assessments (NOPAs), and Revenue Agent Reports (RARs).
- Effectively settled – events that may lead to this determination and events that typically don't.
- SEC comments – how and when to disclose in financial statements.

Learn how IRS examinations should be considered in financial reporting – two separate yet related areas

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Tax Executives (cont'd)

Employment Tax Credits and Incentives: Putting America Back to Work August 5, 2:00 PM ET

Federal, state, and local governments offer various economic incentives encouraging businesses to hire and train Americans, especially from groups who face barriers to employment. Is your company leveraging available opportunities? We'll discuss:

- Current trends and leading practices in veteran hiring, retention, and advancement.
- Growing trend to provide tax credits for hiring individuals in certain qualified categories, such as veterans, long-term unemployed, and public assistance recipients.
- Training incentives, including federal and state grants, state tax credits, and state-sponsored programs through community colleges.
- Leveraging incentives as part of a holistic employment lifecycle.

Learn ways to cost-effectively hire and train a 21st Century workforce through economic incentives, and hear insights from Brig. Gen. Michael P. Fleming on veteran hiring, retention, and advancement.

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