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July 12, 2019

Hon. Charles P. Rettig  
Commissioner  
Internal Revenue Service  
1111 Constitution Avenue, NW  
Washington, DC 20224

Re: Comments on Section 4960, Notice 2019-9 and Volunteers Providing Services to  
Tax-Exempt Organizations

Dear Commissioner Rettig:

Enclosed please find comments in response to the request in Notice 2019-9 with respect to section 4960 of the Internal Revenue Code, specifically focusing on examples of volunteers providing services to tax-exempt organizations. These comments are submitted on behalf of the Section of Taxation and have not been approved by the House of Delegates or the Board of Governors of the American Bar Association. Accordingly, they should not be construed as representing the position of the American Bar Association.

The Section of Taxation would be pleased to discuss these comments with you or your staff.

Sincerely,

Eric Solomon  
Chair, Section of Taxation

Enclosure

cc: Hon. David Kautter, Assistant Secretary (Tax Policy), Department of the Treasury  
Krishna P. Vallabhaneni, Tax Legislative Counsel, Department of the Treasury  
Carol Weiser, Benefits Tax Counsel, Department of the Treasury  
Elinor Ramey, Attorney Advisor, Department of the Treasury  
Amber Salotto, Attorney Advisor, Department of the Treasury  
Hon. Michael Desmond, Chief Counsel, Internal Revenue Service  
William M. Paul, Deputy Chief Counsel (Technical), Internal Revenue Service  
Victoria A. Judson, Associate Chief Counsel, Employee Benefits, Exempt  
Organizations and Employment Taxes, Internal Revenue Service  
Janine Cook, Deputy Associate Chief Counsel, Employee Benefits, Exempt  
Organizations and Employment Taxes, Internal Revenue Service  
Stephen B. Tackney, Deputy Associate Chief Counsel, Employee Benefits, Exempt  
Organizations and Employment Taxes, Internal Revenue Service  
William L. McNally, Attorney, Employee Benefits, Exempt Organizations and  
Employment Taxes, Internal Revenue Service

**ABA SECTION OF TAXATION  
COMMENTS ON SECTION 4960, NOTICE 2019-9  
AND VOLUNTEERS PROVIDING SERVICES  
TO TAX-EXEMPT ORGANIZATIONS**

These comments (“Comments”) are submitted on behalf of the American Bar Association Section of Taxation (the “Section of Taxation”) and have not been approved by the House of Delegates or Board of Governors of the American Bar Association. Accordingly, they should not be construed as representing the position of the American Bar Association.

Principal responsibility for preparing these Comments was exercised by Gil J. Ghatan, Catherine E. Livingston, Alexander L. Reid, David A. Shevlin, and Maura L. Whelan of the Exempt Organizations Committee, and Kurt L. Lawson and Helen H. Morrison of the Employee Benefits Committee of the Section of Taxation. The Comments were reviewed by Morey Ward, Chair of the Exempt Organizations Committee, and Martha N. Steinman, Chair of the Employee Benefits Committee. The Comments were further reviewed by Ellen P. Aprill of the Section’s Committee on Government Submissions, and by Melissa Wiley, Council Director for the Exempt Organizations Committee.

Although the members of the Section of Taxation who participated in preparing these Comments have clients who might be affected by the federal income tax principles addressed by these Comments, no such member or the firm or organization to which such member belongs has been engaged by a client to make a government submission with respect to, or otherwise to influence the development or outcome of, the specific subject matter of these Comments.

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Date: July 12, 2019

## **EXECUTIVE SUMMARY**

These comments (“Comments”) are submitted in response to a request in Notice 2019-9<sup>1</sup> (the “Notice”) by the Department of the Treasury (“Treasury”) and the Internal Revenue Service (the “Service”) for comments on topics addressed in the Notice and on any other issues arising under section 4960,<sup>2</sup> as added to the Internal Revenue Code by Public Law Number 115-97 (the “Act”). These Comments are not intended to provide technical analysis of the topics addressed in the Notice. Rather, these Comments respond to public requests made by representatives of Treasury and the Service for fact patterns involving exempt organizations potentially affected by section 4960 that could inform their analysis of the section. We anticipate that the Section of Taxation will provide more extensive analysis in response to proposed regulations issued under section 4960.

We thank Treasury and the Service for the time and attention that has already gone into implementing section 4960. The Notice provides a significant amount of information about the operation of the statute and the interpretative issues that Treasury and the Service expect to address in regulations. The Notice has also been helpful in prompting further thought about the reach of section 4960 and its potential to create tax liability for for-profit taxable companies.

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<sup>1</sup> Notice 2019-9, 2019-4 I.R.B. 403.

<sup>2</sup> References to a “section” are to a section of the Internal Revenue Code of 1986, as amended (the “Code” or “I.R.C.”), unless otherwise indicated.

Also available as part of the eCourse

[2020 Nonprofit Organizations eConference](#)

First appeared as part of the conference materials for the  
37<sup>th</sup> Annual Nonprofit Organizations Institute session

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