

**UNIVERSITY OF TEXAS SCHOOL OF LAW  
PHILANTHROPY SOUTHWEST  
37TH ANNUAL  
NONPROFIT ORGANIZATIONS INSTITUTE  
  
YEAR IN REVIEW**

**Treasury and IRS Regulations, Rulings, and Other Pronouncements,  
Court Opinions, Proposed and Enacted Legislation,  
and other Current Developments**

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## **YEAR IN REVIEW**

This outline consists of ten parts: summaries of (1) the Internal Revenue Service's Exempt Organizations Division's FY 2020 Program Letter (2) the Treasury Department-IRS 2019-2020 Priority Guidance Plan; (3) Tax Cuts and Jobs Act guidance; (4) current developments in the law pertaining to tax-exempt organizations in general; (5) current developments in the federal law of particular pertinence to public charities and private foundations; (6) current developments pertaining to unrelated business activities of exempt organizations; (7) current developments relating to the tax law of charitable giving; (8) current developments relating to the law of fundraising; (9) recent legislation; and (10) miscellaneous other current developments in the law concerning nonprofit organizations.

### **I. TE/GE FY 2020 PROGRAM LETTER**

#### **A. Program letter issued on October 16, 2019. Overall elements:**

1. TE/GE Commissioner Tammy Ripperda wrote in cover letter that TE/GE “will continue to pursue the most egregious noncompliance by evolving our technology tools and data analytics.”

2. Program letter summarizes TE/GE compliance platform, which, from an EO standpoint, consists of five “portfolio programs”: compliance strategies; data-driven approaches; referrals, claims, and other casework; compliance contacts; and determinations. Letter states that “[d]ata is used to identify and address existing and emerging high-risk areas of noncompliance and steer the decisions on how to best apply optimal resources.”

3. Compliance strategies are those approved by TE/GE's Compliance Governance Board. Strategies approved by Board so far focus on hospital organizations with unrelated business income where expenses materially exceed gross income, investment and nonmember income received by social clubs, nonexempt charitable trusts that underreport income or overreport charitable contributions, successor entities with respect to for-profit organizations that are seeking exempt charitable recognition, private foundation loans to disqualified persons, and private inurement and benefit issues.

4. As to determinations, TE/GE “continues to expect a large volume of determination application receipts” and “will continue to look at process efficiencies, as well as expect to hire more revenue agents to address the work and offset anticipated attrition losses.”

### **II. TREASURY-IRS 2019-2020 PRIORITY GUIDANCE PLAN PROJECTS (OCTOBER 8, 2019)**

#### **A. Tax-Exempt Organizations Law Projects**

1. Guidance on computation of unrelated business taxable income for separate trades or businesses (IRC § 512(a)(6)) (Notice 2018-67).

2. Guidance on certain issues relating to the excise tax on excess remuneration paid by applicable tax-exempt organizations (IRC § 4960).
3. Regulations on excise tax on net investment income of certain private colleges and universities (IRC § 4968).
4. Guidance concerning qualified transportation fringe benefits, including application of unrelated business taxable income rule (IRC § 512(a)(7)).
5. Guidance regarding methods of allocating expenses relating to dual-use facilities (IRC § 512(a)(1)).
6. Proposed regulations regarding excise taxes on donor-advised funds and fund management in reflection of 2006 statutory law (IRC § 4966); Notice 2017-73 published on Dec 4, 2017.
7. Guidance regarding private foundations' investment in partnership in which disqualified persons are also partners (IRC § 4941).
8. Final regulations concerning church tax inquiries and examinations (IRC § 7611); proposed regulations were issued in 2009.
9. Promulgation of final regulations and additional guidance on supporting organizations (IRC § 509(a)(3)); proposed regulations issued on February 18, 2016.
10. Guidance implementing changes to IRC § 529.
11. Final regulations and other guidance on qualified ABLE programs (IRC § 529A); proposed regulations were published in 2015.
12. Regulations explaining computation of unrelated business taxable income of voluntary employees' beneficiary associations and supplemental unemployment benefit trusts (IRC §§ 501(c)(9), (17), 512); proposed regulations issued in 2014; final regulations issued on December 9, 2019.
13. Final regulations concerning IRS authority to disclose exempt organization information to state officials (IRC § 6104(c)); proposed regulations were published in 2011.
14. Update to Rev. Proc. 92-94 (IRC §§ 4942, 4945).
15. Regulations concerning fractions rule (IRC § 514(c)(9)(E)).
16. Final regulations concerning IRC § 506; temporary and proposed regulations were published in 2016.
17. Revision of the group exemption rules (presently in Rev. Proc. 80-27).

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