UT LAW CLE

Continuing Legal Education

Part Two: Higher Education Taxation Institute Summer Series

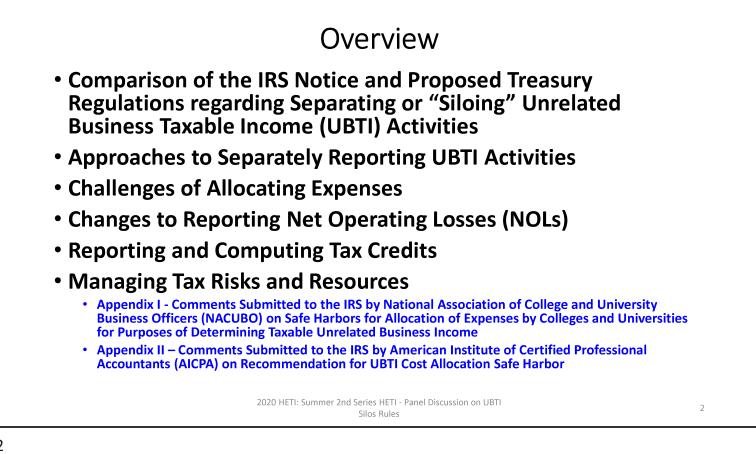
2:15 p.m. to 3:45 p.m. Friday, August 7, 2020

Solving the Next Rubrik's Cube: A Panel Discussion of Best Practices on Reporting UBTI Activities in Silos on the Form 990-T and Managing Related Risks

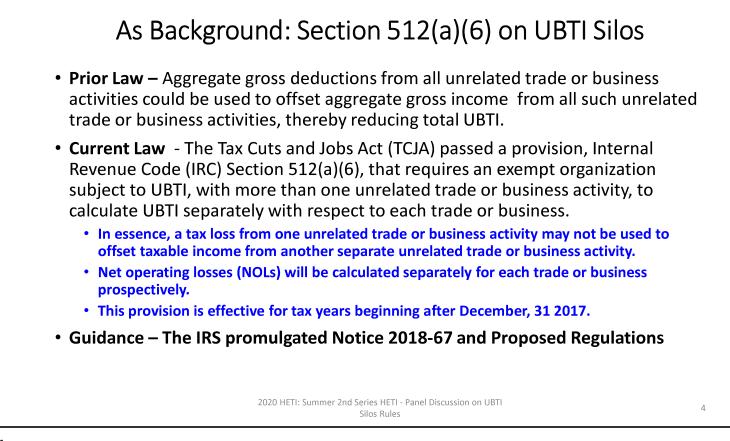
Presenters:

John Barrett, Manager of Tax Services with the University of California System Susan Clark, Director of Tax with Emory University Preston Quesenberry, Managing Director in the National Tax-Exempt Organizations Group with KPMG <u>Moderator:</u> Ed Jennings, Director of Tax with the University of Michigan

1



"The taxpayer: that's som	e IRS Notice and Proposed Reg neone who works for the federal government, a civil service examination."— Ronald Reagan	
Notice 2018-67 and th	nt differences between the IRS pronound e proposed regulations?	cements,
 Use of NAICS codes? 		
 Reporting an activity, s and concessions, recret 	such as golf course, into functions, such as cart r ation, etc.?	entals, food
	d from unrelated debt financed rules under Sect nts received from controlled entities (imputed in	
Reporting an investme	ent activity in a partnership?	
Allocating Expenses to		
2	2020 HETI: Summer 2nd Series HETI - Panel Discussion on UBTI Silos Rules	3
	Silos Nules	



IRS Notice 2018-67 (August 2018)

- Interim Criteria Exempt entities may rely on a reasonable, good-faith interpretation of UBTI tax law, Sections 511 through 514, by considering all the facts and circumstances, when determining whether they have more than one unrelated trade or business activity for purposes of Section 512(a)(6).
- NAICS Codes A reasonable, good-faith interpretation includes using the North American Industry Classification System (NAICS) 6-digit Codes.
 - This system groups together similar economic activities from the U.S., Canada and Mexico into defined industries that are identified using a 6-digit coding system.
 - The NAICS is used by federal agencies to collect, analyze, and publish statistical data related to the U.S. business economy. It provides over 1,000 6-digit codes.
- Request for Comments The IRS requested further comments on how best to segment or silo certain UBTI activities, including unrelated debt financed income (UDFI) under Section 514 and specified payments received from controlled entities (imputed income) under Section 513(b)(13).
- Investments in Partnerships The notice provided specific rules to treat as qualified partnership investments (QPI) those investments made by endowments in limited partnerships or limited liability companies (LLC).

2020 HETI: Summer 2nd Series HETI - Panel Discussion on UBTI Silos Rules

5

6



- NAICS Codes
 - Use of 2-digit codes (from more than 1,000 to 20 codes)
 - Once assigned a code it cannot be changed unless due to unintentional error
 - Code cannot describe the organization's exempt activities, such as "education services"
 - Unclear whether the fragmentation rule requires reporting by activity or by function

UDFI and Imputed Income

- Report all UDFI as QPI
- Each controlled entity under Section 512(b)(13) is treated as a single separate trade or business regardless of whether it engages in more than one unrelated trade or business or makes more than one type of specific payment to the organization
- Partnership Investments
 - Look through rule under the de minimis test
 - Reduction on combining limited interests
 - Transition rule expires once the proposed regulations are finalized

Find the full text of this and thousands of other resources from leading experts in dozens of legal practice areas in the <u>UT Law CLE eLibrary (utcle.org/elibrary)</u>

Title search: Solving the Next Rubrik's Cube: A Panel Discussion of Best Practices on Reporting UBTI in Silos on the Form 990-T and Managing Related Risks

Also available as part of the eCourse <u>Higher Education Taxation Institute - Summer Series II</u>

First appeared as part of the conference materials for the 2020 Higher Education Taxation Institute - Summer Series II session "Solving the Next Rubrik's Cube: A Panel Discussion of Best Practices on Reporting UBTI in Silos on the Form 990-T and Managing Related Risks"