

Higher Education Tax Institute

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Recent Developments in College and University Tax Law

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TABLE OF CONTENTS

I.	LEGISLATIVE DEVELOPMENTS	p.	4
	A. The House Passed the American Health Care Act (AHCA)		
	B. The Proposed Tax Blueprints		
	C. Executive Order Requiring Review of Tax Regulations		
	D. Executive Order to Loosen Restrictions on Political Speech by Religious Entities		
	E. Legislative Scrutiny on Endowments		
	F. Senators' Letter Addresses Graduate Student Health Insurance Issue		
II.	IRS ENFORCEMENT INITIATIVES	p.	9
	A. Press Report on IRS Audit of University of Louisville		
	B. Universal Availability Major Audit Issue for 403(b) Plans		
	C. Tax Exempt and Government Entities/FY 2017 Work Plan (September 28, 2016; As amended March 8, 2017)		
	D. TE/GE "Snapshot" Guidance		
III.	COMPENSATION, FRINGE BENEFITS, DEFERRED COMPENSATION and RETIREMENT PLANS	p.	13
	A. Section 457 Proposed Regulations		
	B. Section 409A Proposed Regulations		
	C. Employer Matching Contribution Treated as Subject to Substantial Risk of Forfeiture		
	D. IRS Allows Three Years to Correct 403(b) Plans		
	E. LLC Employees Able to Participate in Section 403(b) and 457(b) Plans		
	F. Tax Court Addresses Deduction of MBA-Related Educational Expenses		
	G. Accountant Not Entitled to Deduct Law School Expenses		
	H. Wellness Program Cash Payment Rewards Treated as Wages		
	I. Tax Aspects of Federal Student Loan Forgiveness and Loan Repayment Programs Explained		
	J. IRS Changes its Position on Ruling Fellowship Grants as NonCompensatory		
	K. Tax Court Guidance on Settlement Payments		
	L. IRS Describes Tax Consequences of Settlement Payments to Government Employees		
	M. IRS Releases Publication on Taxability of Settlements		
IV.	REPORTING REQUIREMENTS	p.	21
	A. IRS Issues Proposed Regulations on Form 1098-Tuition Statement		
	B. IRS Hearing on Form 1098-T Proposed Regulations		

C.	IRS Extends Form 1098-T Penalty Relief to 2017		
D.	Tax Court Determines Proper Timing of Education Credit		
E.	IRS Indefinitely Extends Graduate Student Health Life Insurance Plan Relief		
F.	NLRB Says College Football Players are Employees		
G.	IRS Issues Final Regulations Defining Marital Status		
H.	Court Sides with IRS in Determining Amount of Additional Interest on FICA Refunds		
I.	Court Refuses to Certify Class Action for Interest on FICA Tax Refunds		
J.	Court Dismisses Hospital Suit Against Government for Medical Resident Claims		
K.	Short-Week Benefits are Not Supplemental Unemployment Benefits		
L.	IRS Guidance on New Penalty Safe Harbor		
M.	IRS Makes Electronically Filed Form 990 Data Available		
N.	IRS Advice on Qualified Transportation Fringe Benefits		
V.	UNRELATED BUSINESS INCOME TAX	p.	26
A.	Definition		
B.	Trade or Business		
C.	Substantially Related		
D.	Exceptions		
E.	Advertising		
F.	Attribution of UBIT of Wholly-owned Subsidiary to Exempt Parent		
VI.	CHARITABLE GIVING	p.	31
A.	Tax Court Rules on Aspect of Charitable Gift Acknowledgement Form Rules		
B.	IRS Issues Rulings Allowing CRUT to Invest in College's Endowment		
C.	IRS Modifies Position on Investments By CRUTs in University Endowments		
D.	IRS Releases Sample Provision for Charitable Remainder Annuity Trust		
VII.	BONDS	p.	33
A.	IRS Issues New Private Business Use Safe Harbor for Management Contracts		
B.	IRS Says Management Contracts Not PBU		
VIII.	INTERNATIONAL MATTERS	p.	34
A.	Form 1042S		
B.	ITIN Applications		
C.	Treaties		

IX. OTHER

p. 36

- A. Organization Denied Exempt Status Because of Political Activities
- B. IRS Holds LLC Does Not Qualify Under Section 501(c)(3)

I. LEGISLATIVE DEVELOPMENTS

A. The House Passed the American Health Care Act (AHCA)

On May 4, 2017, the House of Representatives, by a vote of 217-213, approved the AHCA (H.R. 1628) which would repeal a significant portion of the Affordable Care Act (ACA), including the repeal of many tax provisions, effective in 2017. The vote was 217-213.

The Act, brought forth by Rep. Tom MacArthur (R-NJ), allows states to apply for a waiver through Health and Human Services (HHS) if they establish a high-risk pool to cover individuals with high-cost health conditions. These state waivers permit each state to modify the essential health benefits (EHBs) offered and to allow for underwriting based on health status and age.

Also, included was an amendment by Rep. Fred Upton (R-MI) to add \$8 billion to fund or subsidize coverage costs for people with high-cost conditions who are affected by the health insurance premium or out-of-pocket cost increases as a result of this potential state waiver action. The Congressional Budget Office (CBO) has not yet published an estimate of the total cost and coverage of the revised bill.

The AHCA includes nearly \$1 trillion in tax cuts over 10 years. Most of the ACA tax provisions would be repealed effective beginning in 2017, including the 3.8% net investment income tax, the medical device excise tax, the tax on prescription medications and the health insurance tax. Whereas implementation of the Cadillac tax would be delayed until 2026 and repeal of the .9% Medicare surcharge tax on individuals annually earning over \$200,000 is effective beginning in 2023.

The Senate is expected to make significant changes.

B. The Proposed Tax Blueprints

President Trump	House GOP	Senate Finance Committee
▪15% corporate tax rate (with a 15% tax imposed on small flow-	▪20% corporate tax rate, with 25% rate	▪Senate Finance Committee

<p>through businesses)</p> <ul style="list-style-type: none"> ▪100% expensing for US manufacturing (elective), with no deduction for net business interest expense ▪Switch from a world-wide tax system to a territorial system ▪Impose a one-time tax on more than a trillion dollars held overseas ▪Eliminate the alternative minimum tax (AMT) 	<p>for pass-through businesses</p> <ul style="list-style-type: none"> ▪100% expensing for equipment and real property ▪No deduction for business net interest expense ▪Border-adjustable destination-based cash-flow system ▪100% territorial dividend exemption ▪Deemed repatriation tax: 8.75% cash / 3.5% other 	<p>Chairman Orrin Hatch (R-UT) and his staff have been working on a detailed corporate integration proposal that could be considered as part of reform efforts.</p> <p>▪Senator Wyden also is working on legislation to address corporate ‘inversions’</p>
<ul style="list-style-type: none"> ▪Three classes of tax rates for individuals of 10%, 25%, and 35% ▪20% top capital gains tax rate, with repeal of ACA 3.8% net investment tax ▪Double the standard deduction ▪Eliminate itemized deductions but for the mortgage and charitable gift tax deductions ▪Repeal the estate tax ▪Expand tax credits for child and dependent care expenses 	<ul style="list-style-type: none"> ▪Three classes of tax rates for individual of 12%, 25% and 33% ▪50% exclusion for capital gains, dividends and interest (16.5% top rate) 	

At this point in time, the blueprint is limited to outlining high-level tax principles which are subject to change as the House and Senate review and provide their own proposals. Further, no details have been discussed about what specific benefits are affected and who is impacted.

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