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**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 Report on FY 2019 Priorities; (2) the Treasury Department-IRS 2018-2019 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 2019 PROGRAM LETTER

#### A. Program letter issued on October 3, 2018. Overall elements:

1. Acting TE/GE Commissioner David Horton and Acting TE/GE Deputy Commissioner Robert Choi discuss in this letter the Division's efforts in "executing compliance strategies, building better processes," and providing guidance on Tax Cuts and Jobs Act provisions.

2. The letter focuses on the TE/GE compliance program. A Compliance Governance Board is prioritizing and allocating TE/GE resources. Data-driven approaches continue to be used to identify the "highest risk areas of noncompliance." Compliance checks and soft letters also are continuing in use. The Division expects increases in the filing of applications for recognition of exemption and is concentrating on identifying "new strategies for reducing filing burden and case processing time." About 40 revenue agents are being hired to process these applications.

3. Issue areas for the Division include loans by private foundations to disqualified persons, "conversions" of for-profit entities to exempt charitable organizations, the receipt of nonmember income by exempt social clubs, underreporting of income or overreporting of charitable contributions by nonexempt charitable trusts, and worker classification matters.

4. The IRS continues to pursue referrals alleging noncompliance by exempt organizations, following up on recognitions of exemptions received by filers of the streamlined application, and to review exempt hospitals that are not complying with the § 501(r) rules, exempt social clubs with investment income that are not filing Form 990-T, mutual or cooperative companies that may not be meeting the 85-percent-member-income test, and supporting organizations that are filing Form 990-N.

## **II. TREASURY-IRS 2018-2019 PRIORITY GUIDANCE PLAN (NOVEMBER 8, 2018) PROJECTS**

### **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 (IRC §§ 501(c)(9), 512); proposed regulations issued in 2014.
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)).

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