

A View of the Sector: Implementing Tax Reform for Tax-Exempt Organizations

Alexander L. Reid, Morgan, Lewis & Bockius LLP, Washington, DC

Carolyn O. "Morey" Ward, Ropes & Gray LLP, Washington, DC

January 23, 2020

37th Annual Nonprofit Organizations Institute

The University of Texas School of Law [Continuing Legal Education](#)

AGENDA

- Recent Legislation
- Update on TCJA Exempt Organizations Provisions
- Congressional Tax Leadership
- Possible TCJA Changes/Technical Corrections and other Congressional Priorities
- IRS/Treasury and Judicial Developments

Recent Legislation

Repeal of the Hated Parking Tax

- As part of a year-end consolidated appropriations act signed on 12/20/19, Congress acquiesced to heavy criticism and retroactively repealed section 512(a)(7)
- 512(a)(7) subjected tax-exempt employers to taxation on costs incurred to provide employees with qualified parking and other qualified transportation fringe benefits by treating such expenses as unrelated business taxable income (“UBTI”)
- Repeal is effective retroactive to 12/22/17
 - This means that any organization that incurred UBTI as a result of section 512(a)(7) should be eligible to seek a refund
 - Unclear at the moment is whether the IRS will establish a separate, consolidated refund process for claims attributable to section 512(a)(7)

Recent Legislation

Bonus: Simplification of Section 4940 Excise Tax

- The year-end act also simplifies the excise tax on private foundation net investment income under Section 4940
- Effective for taxable years beginning after 12/20/19, a new single-tier excise tax of 1.39% percent of net investment income replaces the existing two-tier structure: 2% tax on net investment income which could be reduced to 1% if the private foundation met certain distribution requirements during a five-year measuring period

Recent Legislation SECURE Act

- Also enacted as part of a year-end consolidated appropriations act
- Individual investors will be able to continue to contribute to traditional IRAs after age 70 ½
- Retirees won't have to take required minimum distributions until age 72. Current threshold is 70 ½
- The stretch IRA is no more. Beneficiaries of an IRA will have to draw down the account– and pay taxes on their withdrawals–over 10 years instead of over their lifetimes
- Provisions could encourage employers to include annuities in their retirement plans

5

Recent Legislation Taxpayer First Act of 2019

- Enacted July 1, 2019
- EO provisions:
 - Mandatory e-filing by exempt organizations of Form 990 and Form 990-T
 - Notice provision: requires IRS to provide notice after the second failure to file a Form 990 series return or notice about the consequences of a third failure. Does not allow automatic reinstatement.

6

Find the full text of this and thousands of other resources from leading experts in dozens of legal practice areas in the [UT Law CLE eLibrary \(utcle.org/elibrary\)](https://utcle.org/elibrary)

Title search: A View of the Sector: Implementing Tax Reform for Tax-Exempt Organizations

Also available as part of the eCourse

[A View of the Nonprofit Sector \(2020\): Tax Reform and Other Legislative Developments](#)

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

"A View of the Sector: Implementing Tax Reform for Tax-Exempt Organizations"