

# 4960 A Closer Look

HIGHER EDUCATION TAXATION INSTITUTE



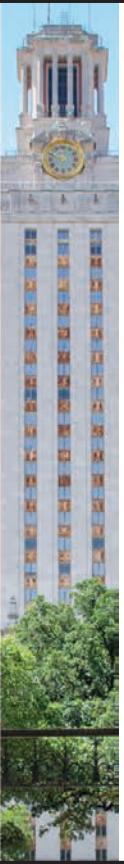
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## Notice

The following information is not intended to be “written advice concerning one or more Federal tax matters” subject to the requirements of section 10.37(a)(2) of Treasury Department Circular 230.

The information contained herein is of a general nature and based on authorities that are subject to change. Applicability of the information to specific situations should be determined through consultation with your tax adviser.

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# Section 4960: Excise Tax on Excess Compensation

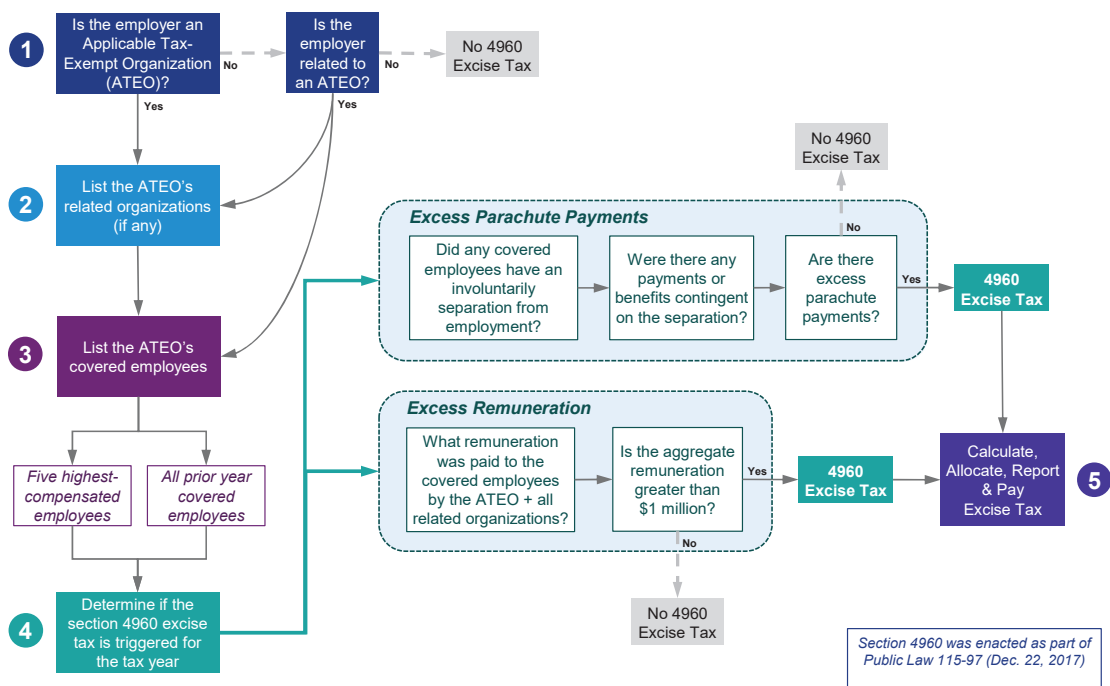
- Section 4960 imposes an excise tax equal to the corporate tax rate (21%) on:
  - **Remuneration in Excess of \$1 million per tax year**
    - Paid by an **applicable tax-exempt organization (ATEO)** or **related organizations** with respect to employment of a **covered employee**; and
  - **“Excess” Parachute Payments**
    - Paid by an **ATEO** or **related organizations** to a **covered employee**
- Effective for taxable years of the employer beginning after December 31, 2017.
  - Note: Final regulations effective for tax years beginning after December 31, 2021.



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## Section 4960 – Excise Tax on Compensation

Section 4960 imposes an excise tax equal to the corporate tax rate (21% as of 2022) on two types of compensation paid to covered employees of an applicable tax-exempt organization (“ATEO”): (i) excess remuneration; and (ii) excess parachute payments.



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Section 4960 was enacted as part of Public Law 115-97 (Dec. 22, 2017)

# Applicable Tax Exempt Organization (ATEO)

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## What is an ATEO?

- An applicable tax-exempt organization (“ATEO”) includes:
  - Organizations exempt from tax under section 501(a)
  - Exempt farmers’ cooperatives (section 521(b)(1))
  - Political organizations (section 527(e)(1))
  - Organizations that have income excluded from gross income under section 115(1)
  
- ATEO does not include:
  - Some state universities
  - Some state and local governments
  - Certain foreign organizations

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