

**PRESENTED AT**

Higher Education Taxation Institute Summer Series - I

June 8, 2020

## **Recent Developments in College and University Tax Law**

**Bert Harding, Law Office of Bertrand M. Harding Jr.  
Ed Jennings, University of Michigan**



# **Part One: Higher Education Taxation Institute Summer Series**

**Noon to 1 p.m.  
Monday, June 8, 2020**

## **RECENT DEVELOPMENTS IN COLLEGE AND UNIVERSITY TAX LAW**

### **Presenters:**

Bert Harding, Law Office of Bertrand M. Harding Jr.  
Ed Jennings, University of Michigan

- I. Guidance Related to CARES Act and FFCRA Tax Provisions** **p. 5**
- A. IRS Releases Guidance on Paid Sick and Family Leave Tax Credits
  - B. DOL Guidelines on FFCRA
  - C. Joint Committee Issues Report on CARES Act Tax Provisions
  - D. Employee Retention Credit
  - E. IRS FAQs on Deferring Employment Tax Deposits and Payments
  - F. Impact on Retirement Plan Provisions
  - G. IRS Issues NOL Carryback Guidance
  - H. IRS Says CARES Act Student Payments are Nontaxable
  - I. IRS Provides COVID-19 Emergency Relief to Nonresident Aliens
  - J. IRS Provides COVID-19 Emergency Relief to Individuals Claiming the Section 911 Income Exclusion
  - K. U.S Immigration and Customs Enforcement FAQs on Impact of COVID-19 on Student and Exchange Visitor Program
  - L. IRS Exempt Organization (EO) Guidance on Various COVID-19-Related Tax Issues
  - M. IRS Guidance on Funding with Tax-Exempt Bonds
  - N. Other CARES Tax Provisions
- II. IRS Enforcement** **p. 8**
- A. Leadership
  - B. Staffing and Resources
  - C. Fiscal Year 2020 Compliance Program Tax Exempt/Government Entities (TE/GE)
  - D. Fiscal Year 2019 Accomplishments Letter Issued by TEGE – Publication 5329 (Rev. 3-2020)
  - E. IRS Updates Voluntary Disclosure Rules
- III. Unrelated Business Income Tax Issues** **p. 11**
- A. Section 512(a)(7) Parking Tax Repealed/Refunds Available
  - B. IRS Issues Proposed Regulations on Making “Separate” Business Determinations for Purposes of Section 512(a)(6)
  - C. Tax Court Holds Golf Course Operated with Profit Motive
  - D. Leasing Facilities to Exempt Organization Not a Charitable Activity
- IV. Compensation and Fringe Benefits** **p. 13**
- A. IRS Issues Proposed Regulations on TCJA “All Events Test” Timing Changes
  - B. Updated IRS Guidance for Deductible Business, Charitable, Medical and Moving Expenses
  - C. IRS Guidance on Student Loan Discharge

- D. Student Taxable on Value of Automobile Won in Contest
- E. Court Disallows Professor's Trips Between College's Different Campuses
- F. Tax Treatment of Transit Pass Reimbursements
- G. IRS Proposed Regulations on Vehicle Valuation Rules
- H. IRS Final Regulations on Personal Use of Employer-Provided Vehicles
- I. Proposed Regulations on Wage Withholding
- J. FSA May Not Pay or Reimburse Pre-Employment Dependent Care Expenses
- K. Increased Flexibility in Section 125 Cafeteria Plans
- L. Change in Cafeteria Plan Elections During Period of Plan Coverage
- M. Deferral of Payments under Section 457(b) Plan for Unused Sick Leave
- N. Florida State University Sues IRS Over Employee Classification

**V. International Tax Issues** **p. 16**

- A. IRS Updates Nonresident Alien Income Sourcing Guidance
- B. IRS To Implement Major Form 1042 Review
- C. Tax Court Finds Researcher's Wages to be a "Grant or Allowance" under Article 18 of the U.S.-Russia Tax Treaty
- D. Updated Form on Nonresident Alien Withholding Now Available
- E. IRS Guidance on Making Overwithholding Adjustments on Payments to Foreign Nationals
- F. Determination of Housing Costs Eligible for Section 911 Exclusion

**VI. Retirement Plan Issues** **p. 18**

- A. IRS Issues Final Regulations on Hardship Distributions
- B. IRS Issues 403(b) Plan Correction Guidance
- C. IRS Announces New 2020 Pension Plan Limitations
- D. IRS Extends 403(b) Plan Amendment Deadline

**VII. Section 4960 and Section 4968 Excise Tax Issues** **p. 18**

- A. Informal IRS Guidance on Section 4960 Executive Compensation Excise Tax
- B. Law Review Article on Executive Compensation in the Nonprofit Sector
- C. Using Split-Dollar Life Insurance to Avoid Section 4960 Executive Compensation Excise Tax
- D. IRS Releases Proposed Regulations on Section 4968 Net Investment Income Excise Tax

**VIII. Form 990 and Other Filing Issues** **p. 20**

- A. Proposed Regulations on Form 990 Reporting Requirements
- B. Requirement on Tax-Exempt Organizations to E-file Forms
- C. Treasury and IRS Announce Extended Return Filing Dates
- D. Modifications to Form 990, Return of Organization Exempt from Income Tax, Schedules as Provided in the Instructions

- E. Modifications to Form 990-T, Exempt Organization Business Income Tax Return, for tax years that begin in 2019
- F. IRS releases a draft Form 1099-NEC, Nonemployee Compensation

**IX. Miscellaneous Tax Issues****p. 23**

- A. Court Holds Mayo Clinic is “Educational Organization”
- B. Ruling Raises Doubts on Shared Services Agreements
- C. Court Holds Nonprofits are Corporations for Purposes of Interest Paid on Tax Refunds
- D. Grassley Presses Medical Center for Debt Collection-Related Information
- E. Article on Federal Tax Treatment of States and Political Subdivisions
- F. Court Addresses Intentional Disregard Penalty and Reasonable Cause Defense
- G. New IRS Guidance Videos
- H. IRS Rules on Various Charitable Lead Annuity Trust Issues
- I. IRS Issues Proposed Regulations on Charitable Contribution Deductions
- J. Take Care in Entering into Certain Conservation Easement Arrangements
- K. Making Grants to Non-Section 501(c)(3) Entities
- L. IRS Updates Voluntary Disclosure Rules

## I. **Guidance Related to CARES Act and FFCRA Tax Provisions**

On March 18, the President signed into law the Families First Coronavirus Response Act (“FFCRA”), which provides for, among other things, employer tax credits and tax exemptions. And on March 27, he signed into law the Coronavirus Aid, Relief, and Economic Security Act (“CARES Act”), which contains a number of other individual, business, and miscellaneous tax provisions.

The text of the FFCRA can be found at <https://www.congress.gov/bill/116th-congress/house-bill/6201/text>, and the text of the CARES Act is at <https://www.congress.gov/bill/116th-congress/house-bill/748/text?loclr=bloglaw>.

A detailed discussion of the tax and other impact of these two statutory provisions on higher education and nonprofit organizations can be found at:

- <https://www.nacubo.org/News/2020/3/What-the-Coronavirus-Stimulus-Means-for-Higher-Education-Tax-Compliance>
- <https://www.natlawreview.com/article/ffcra-and-cares-act-key-provisions-affecting-nonprofit-organizations>
- <https://www.mcguirewoods.com/client-resources/Alerts/2020/4/covid-19-pandemic-tax-relief-affecting-nonprofits>

Much guidance has been issued by the IRS and others regarding these new tax provisions, and much more is certainly on the way. Here are the most significant guidance items as of the date of this outline:

### A. **IRS Releases Guidance on Paid Sick and Family Leave Tax Credits**

The FFCRA provides tax credits to reimburse employers for the costs of providing paid sick leave and paid family and medical leave to employees unable to work because of COVID-19. These credits are refundable, which means that if the amount of the credit exceeds the amount of tax owed, the remainder is refunded to the business or organization. The IRS has released a Fact Sheet 2020-06 describing this new tax credit. Link: <https://www.irs.gov/newsroom/new-credits-fund-employers-for-coronavirus-related-paid-leave>

The IRS has issued an updated set of FAQs on these tax credits. Link: <https://www.irs.gov/newsroom/covid-19-related-tax-credits-for-required-paid-leave-provided-by-small-and-midsize-businesses-faqs>.

**B. DOL Guidelines on FFCRA**

The Department of Labor has issued question-and-answer compliance assistance to employers and employees on their responsibilities and rights under the FFCRA. Link: <https://www.dol.gov/agencies/whd/pandemic/ffcra-questions>.

**C. Joint Committee Issues Report on CARES Act Tax Provisions**

The Joint Committee on Taxation has issued a report (JCX-12-20) describing the tax provisions of the Coronavirus Aid, Relief, and Economic Security (CARES) Act. The report pertains to Division A of the Act, which includes the direct tax assistance provisions for individuals and businesses, aid to educational and healthcare institutions, and the suspension of certain excise taxes. Link: <https://www.jct.gov/publications.html?func=startdown&id=5256>.

**D. Employee Retention Credit**

The Senate Finance Committee staff has released a set of “frequently asked questions” about the CARES Act employee retention credit, which is a refundable payroll credit based on wages paid by an eligible employer whose business has been financially affected by COVID-19. Link: <https://www.finance.senate.gov/chairmans-news/cares-act-employee-retention-credit-faq>. And the IRS has issued Fact Sheet 2020-5 with a detailed explanation of how this credit mechanism works. Link: <https://www.irs.gov/newsroom/new-employee-retention-credit-helps-employers-keep-employees-on-payroll>. See also a set of IRS FAQs on this credit at <https://www.irs.gov/newsroom/faqs-employee-retention-credit-under-the-cares-act>.

**E. IRS FAQs on Deferring Employment Tax Deposits and Payments**

The CARES Act allows employers to defer the deposit and payment of the employer's share of social security taxes, and the IRS has issued a set of frequently asked questions related to such deferrals. The IRS says that these FAQs will be updated to address additional questions as they arise. Link: <https://www.irs.gov/newsroom/deferral-of-employment-tax-deposits-and-payments-through-december-31-2020>.

**F. Impact on Retirement Plan Provisions**

Senate Finance Chair, Chuck Grassley (R-IA), has released a set of frequently asked questions on the retirement plan provisions in the CARES Act, clarifying the handling of withdrawals, types of plans covered, loans, and required minimum distributions. Link: <https://www.finance.senate.gov/chairmans-news/cares-act-retirement-provisions-faq>.

**G. IRS Issues NOL Carryback Guidance**

The CARES Act made changes to the net operating loss rules, and the IRS has issued Rev. Proc. 2020-24, which provides guidance to taxpayers with net operating losses that

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## Title search: Recent Developments in College and University Tax Law

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