

# Higher Education Tax Institute

June 5, 2017, Austin, Texas

## Recent Developments in College and University Tax Law

8:30 to 9:30 a.m.

**Bertrand M. Harding, Jr.**

Law Offices of Bertrand M. Harding Jr. - Alexandria, VA

**Edward J. Jennings**

University of Michigan, Ann Arbor, MI

## Agenda

- Legislative Developments
- IRS Enforcement Initiatives
- Compensation, Fringe Benefits, Deferred Compensation and Retirement Plans
- Reporting Requirements
- Unrelated Business Income Tax
- Charitable Giving
- Bonds, International Matters & Other

# Legislative Developments



**"Today we are introducing a new simplified tax code:  
Send us all of your money and we'll send back  
whatever we don't use."**

## Proposals from the House, Senate and President Trump

- The House Passed the American Health Care Act (AHCA)
- The Proposed Tax Blueprints
  - Need for Change
  - Affect on the Deficit
  - Funding
  - Impact to Higher Education

| Proposal                                                                | Revenue Increase |
|-------------------------------------------------------------------------|------------------|
| 1. Repeal of Exemption from FICA Taxes for Certain Students             | \$13.0B          |
| 2. Repeal of Exclusion for Education Assistance Programs                | \$10.5B          |
| 3. Unrelated Business Income Tax measures                               | \$ 5.8B          |
| 4. Excise Tax on Excess of \$1M of Executive Compensation               | \$ 4.0B          |
| 5. Repeal of Exclusion for Qualified Tuition Reductions                 | \$ 2.5B          |
| 6. Excise Tax on Investment Income of Private Colleges and Universities | \$ 1.7B          |
| TOTAL                                                                   | \$37.5B          |

# Executive Orders and Endowments

- **Executive Order Requiring Review of Tax Regulations**
- **Executive Order to Loosen Restrictions on Political Speech by Religious Entities**
  - On May 4, 2017, President Trump signed an Executive Order that directs federal agencies generally, and the Treasury Department in particular, to take "no adverse action" against any individual, house of worship or religious organization that "speaks or has spoken about moral or political issues from a religious perspective," to the extent permitted by law.
    - **The Executive Order does not preclude the IRS from enforcing the prohibition on Section 501(c)(3) organizations supporting or opposing a candidate for public office.**
  - Some commentary has suggested that this "no adverse action" directive should also apply to political activities conducted by non-religious Section 501(c)(3) organizations (such as colleges and universities).
    - **While such an interpretation is unclear from the text, the IRS could have difficulty in creating one standard for religious organizations and another for other section 501(c)(3)s.**
- **Legislative Scrutiny on Endowments**

# IRS Enforcement Initiatives

- **Press Report on IRS Audit of University of Louisville**
  - As a general rule, IRS audits of colleges and universities are conducted outside the scope of any scrutiny by the press or others.
  - However, through an 'open records' request, the *Insider Louisville* published an article that describes a recent employment tax audit of the University of Louisville (UL) that focused on coaches' contracts among other items.
- **Issues included the following:**
  - **An assessment of taxes in the amount of \$84,000 for clothing provided by a sponsor, Adidas, as freebies to staffers in the Athletics department. The clothing did not meet the exception to taxable income.**
  - **An assessment of taxes in the amount of \$12,000 for club dues for four employees. The school did not report unsubstantiated amount as wages.**
  - **An assessment of tickets to athletic coaches as part of their contracts and away games which did not establish a 'clear business connection'.**

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 \(utcle.org/elibrary\)](http://utcle.org/elibrary)

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

Also available as part of the eCourse

[2017 Higher Education Taxation eConference](#)

First appeared as part of the conference materials for the  
5<sup>th</sup> Annual Higher Education Taxation Institute session  
"Recent Developments in College and University Tax Law"