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Tax Update

Presented by: Richard Ruvelson, Principal
and Lizbeth Nevarez, Manager

Thursday, June 11, 2015

Legislation

- Tax Increase Prevention Act of 2014 enacted on December 19, 2014
  - Extended the ability of IRA owners 70 and 1/2 to make transfers to charitable organizations through 2014
  - Extended the tax deductions for contributions of food inventory by taxpayers other than C corporations for contributions of food inventory through 2014
  - Extended special rule for contributions of capital gain real property made for conservation easements through 2014
- According to Senator Wyden, this law doesn't have the shelf life of a carton of eggs.

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Proposed Legislation

President's budget proposals

- 28% itemized deduction limitation
- Elimination of deduction for contributions to colleges and universities that are prerequisites for purchasing athletic event tickets
- Modification of conservation easement rules
- Electronic filing of Form 990 and Form 990PF made mandatory
- Private foundation excise tax at 1.35%
- Change in contribution limitations and carryover period
- Permanently extend New Markets tax Credit and reform and expand Low Income Housing credit
- Require any entity issuing scholarship greater than $500 that isn't processed by a college or university to report on Form 1098-T box 5

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A Variety of House and Senate Proposals

- America Gives More Act (HR 644)
  - Permanently extends and expands the enhanced deduction for donating excess food inventory
  - Permanently extends the enhanced deduction for land conservation easements
  - Simplifies the private foundation excise tax on investment income to a rate of 1%
- Many additional proposals in both houses
  - Exception to Excess Business Holdings rule for Certain Philanthropic Business Enterprises
  - Advance notice to nonprofit organizations whose 501(c)(3) status is in jeopardy
  - Revamping of process for determining 501(c)(4) exemption
  - Providing for administrative appeal upon rejection of tax exemption
  - Precluding tax-exempt status for professional sports organizations

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ACT Recommendations

Advisory Committee on Tax Exempt and Government Entities (ACT) 2014 Report

- Recommendations based on College and Universities Compliance Project Final Report and an independent study on UBIT
- EO Division should provide guidance on properly allocating indirect costs (facilities and personnel) to UBI
- Identify Safe Harbor methods that can be used by exempt organizations
- Develop new scenarios of situations of what is considered related and unrelated activities
- Adopt a new Form 990-T that that will simplify preparation, minimize the size of the return, and heighten education

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Tangible Property Regulations

These regulations which apply to both for profit and tax exempt entities apply to taxable years beginning after January 1, 2014

- For tax exempt organizations these regulations have relevance to **operating unrelated business income producing activities** and taxable subsidiaries
  - **They do not apply to investments in partnerships and LLC's**
- The regulations provide guidance with respect to the capitalization of the costs of repairs and maintenance and materials and supplies (not inventory and economic useful life of 12 months or less)
  - Taxpayers meeting certain criteria can elect to expense the costs of applicable tangible property provided a de minimis safe harbor election is made. To qualify under he de minimis election an organization must have a written accounting policy in place on the first day of the tax year calling for expensing amounts paid for property costing less than a specified amount ($5,000 maximum) and/or expensing payment for property with an economic life of 12 months or less.
  - Organizations with audited financial statements may rely on the safe harbor election to expense an item in accordance with the capitalization policy utilized in preparing its financial statements. Organizations without audited financial statements may rely on the de minimis safe harbor as long as amounts don't exceed $500 per item.
  - In order to use the safe harbor election organizations must have the written capitalization policy in place on the first day of their taxable year and the safe harbor election is made with the organization's return for the year.
- Not required to file Form 3115 Application for Change in Accounting Method if assets are below $10 million

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Rulings, Etc.

Tax exempt status

- "Dormant shell" held qualified to remain as exempt charitable organization because of its "specific plan" to resume charitable operations in future (PLR 201448026)
- Exemption denied
  - Operations in substantially commercial manner (many rulings)
  - Failure to operate primarily for exempt purposes (many rulings)
  - Provision of consulting services for fee, with services at or above costs (PLRs 201403017, 201405022)
  - Provision of Internet security services to nongovernmental organizations and other entities; organization held to not be defending human and civil rights secured by law (PLR 201405022)
  - Conduct of raffles, which was ruled to be a commercial business (PLR 201410035).
  - Provision of consulting and travel services to synagogues nationwide in commercial manner (PLR 201411038)
  - Conduct of festival and other events that are more social than charitable (PLR 201411042)
  - Conduct of bingo games as primary activity (PLR 201428019)

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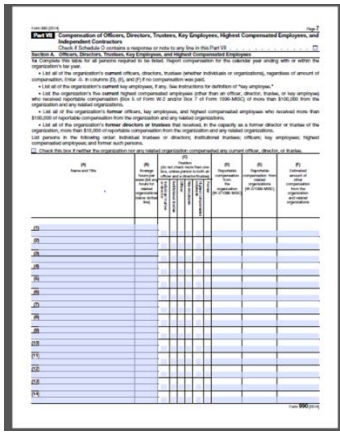
Changes To Form 990- Effective for Years Beg. 2014

In Part VII, Section A. Officers, Directors, Trustees, Key Employees, and Highest Compensated Employees

- Clarification of reportable compensation should not be treated as deferred if deferred from the calendar year ending with or within the tax year to a date that is not more than 2 ½ months after the end of the calendar year ending with or within the tax year.



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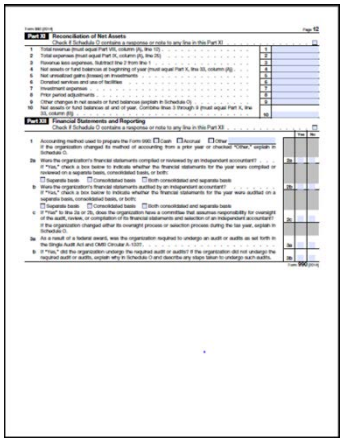
Changes To Form 990- Effective for Years Beg. 2014

In Part XI, Reconciliation of Net Assets, new instructions are provided for lines 5, 6, and 8.

- Line 5 Report net unrealized gain/losses on investments reported on audited financials statements. Change in market value of investments not sold during the tax year.



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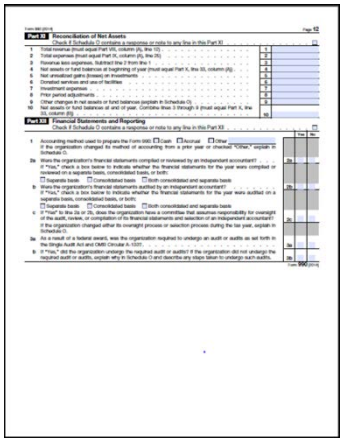
Changes To Form 990- Effective for Years Beg. 2014

In Part XI, Reconciliation of Net Assets, new instructions are provided for lines 5, 6, and 8.

- Line 6 Report the net value of services or use of facilities donated by the organization that were reported as income or expense on financial statements.



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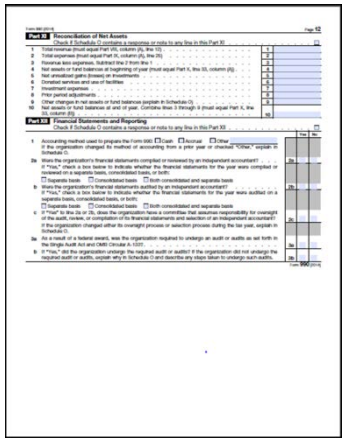

- Line 8 Report prior period adjustments during the tax year reported in the financial statements.
  - Corrections of errors
  - Changes in accounting principles applied to such years.

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Form 990, Schedule A and B

- Schedule A
  - 509(1) organizations can complete Part II of Schedule A Public Charity Status and Public Support Schedule.
  - If they meet the public support percentage of 331/3% they qualify for one of the Special Rules on Schedule B.
- Schedule B
  - Special Rule – List donors that contributed 2% of Form 990, Part VII, Line 1h or Form 990-EZ, line 1 need to be included in Schedule B

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Headlines

- “Clintons’ foundation has raised nearly $2 billion — and some key questions”, The Washington Post, 2/18/2015
- “Updated: Timeline OF IRS Tax Exempt Organization Scandal”, Forbes, 3/02/2015
- “Blue Shield of California’s State Tax-Exempt Status Revoked”, Los Angeles Times, 3/18/2015
- “Supreme Court refuses to shield names of donors to political advocacy groups”, Los Angeles Times, 5/18/2015

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State VDA Agreements

- Organizations generating UBIT income through LLCs or Partnership investments generally have state income tax filing requirements
- Voluntary Disclosure Agreements ("VDA") provide opportunities for organizations to come forward for past years
- Benefits of VDA agreements include:
  - Limited look back period for prior years
  - Abatement of all penalties
  - Filing is initiated anonymously
  - Interest is statutory and applies

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