Tax Exempt & Government Entities

Tax Cuts and Jobs Act – EO Provision

Unrelated Business Taxable Income Computed Separately for Each Trade or Business – “Siloing”

IRC Section 511 – Provision 13702

Training based on TCJA guidance issued through September 30, 2018
• IRC 511 applies tax on unrelated business taxable income (UBTI) of exempt organizations
  • UBTI = Gross income – deductions
  • IRC 512(a)(1)
• Added IRC 512(a)(6)

• For organizations with more than 1 unrelated trade or business
  • For each unrelated trade or business, compute:
    • UBTI separately
    • NOLs separately
    • Without regard to $1,000 specific deduction (IRC 512(b)(12))

• Applies to taxable years beginning after 12/31/17
• Is the sum of:
  • The UBTI computed for each such trade or business
  • less $1,000 specific deduction
• UBTI cannot be less than zero
Specific Deduction

- The $1,000 specific deduction is taken from total UBTI
- Only 1 specific deduction per organization
• IRC 512(a)(6) doesn’t apply to NOLs arising in taxable years beginning before 1/1/2018
• Pre-2018 NOLs are carried over
• **Obsolete**: Treas. Reg. 1.512(a)-1(a) – aggregation of gross income
NOL Carryover

- Audit tip: verify NOL carryover losses
- Taxpayer must be able to substantiate prior year losses carried over as NOLs
Form 990-T Changes

• Revised Form 990-T for 2018
• Calculate each trade or business separately
• New Part III – UBTI and deductions of all trades or businesses
• New Schedule M – each additional trade or business
• **Notice 2018-67**
  - Notice of Propose Regulation on Calculation of UBTI under 512(a)(6)
  - Proposed Regulation for Aggregating Investment Income
• FAQs – IRS.gov
• Pub. 598, Tax on Unrelated Business Income of Exempt Organizations
• Exempt organizations operating unrelated business’ are subject to tax on the net income

• For tax years beginning after 12/31/2017:
  • Calculate net income of each business separately
  • NOL Carrybacks are no longer allowed
  • Net income is then aggregated
  • The special $1,000 deduction is applied just once
  • Form 990-T is modified to reflect these changes