



TaxNewsFlash

Exempt Organizations

No. 2020-40
April 24, 2020

KPMG report: Initial impressions of proposed regulations on separately computed UBTI

Proposed regulations published in today's edition of the Federal Register provide guidance on section 512(a)(6), which was added to the Code by the 2017 tax law (Pub. L. No. 115-97—the law that is often referred to as the "Tax Cuts and Jobs Act").

Section 512(a)(6) requires tax-exempt organizations with more than one unrelated trade or business to calculate unrelated business taxable income (UBTI) separately with respect to each trade or business.

The proposed regulations (REG-106864-18) generally follow the approach taken in prior guidance on section 512(a)(6), as provided in Notice 2018-67, although they make a number of modifications in response to comments from tax-exempt organizations on the IRS notice. The proposed regulations would generally treat much investment activity as a single trade or business and would classify most other unrelated business activities by using only the first two digits of the North American Industry Classification System (NAICS) code that most accurately describes the trade or business, rather than the more detailed six-digit NAICS codes proposed in Notice 2018-67.

The proposed regulations provide that in interpreting and applying section 512(a)(6), organizations may rely either on the proposed regulations, in their entirety, on Notice 2018-67, or on a reasonable, good faith interpretation of sections 511 to 514 only until the beginning of the first tax year after final regulations are issued. This suggests that organizations may be expected to implement the final regulations beginning the first taxable year after they are published—which for calendar year taxpayers could be as early as January 1, 2021, if Treasury meets its stated goal of finalizing these regulations before the end of the year. However, if requested, Treasury could in final regulations extend this reliance on the proposed regulations, Notice 2018-67, and other reasonable, good faith interpretations of the statute, to provide organizations with a reasonable period (e.g., one year) to transition to the final regulations.

Read an [April 2020 report](#) [PDF 233 KB] providing initial impressions of the proposed regulations.

For more information, contact a tax professional with KPMG's Washington National Tax practice:

Ruth Madrigal | +1 202 533 8817 | ruthmadrigal@kpmg.com

Preston Quesenberry | +1 202 533 3985 | pquesenberry@kpmg.com

The information contained in TaxNewsFlash 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, as the content of this document is issued for general informational purposes only, is intended to enhance the reader's knowledge on the matters addressed therein, and is not intended to be applied to any specific reader's particular set of facts. Although we endeavor to provide accurate and timely information, there can be no guarantee that such information is accurate as of the date it is received or that it will continue to be accurate in the future. Applicability of the information to specific situations should be determined through consultation with your tax adviser.

KPMG International is a Swiss cooperative that serves as a coordinating entity for a network of independent member firms. KPMG International provides no audit or other client services. Such services are provided solely by member firms in their respective geographic areas. KPMG International and its member firms are legally distinct and separate entities. They are not and nothing contained herein shall be construed to place these entities in the relationship of parents, subsidiaries, agents, partners, or joint venturers. No member firm has any authority (actual, apparent, implied or otherwise) to obligate or bind KPMG International or any member firm in any manner whatsoever.

Direct comments, including requests for subscriptions, to [Washington National Tax](#). For more information, contact KPMG's Federal Tax Legislative and Regulatory Services Group at + 1 202.533.4366, 1801 K Street NW, Washington, DC 20006-1301.

To unsubscribe from TaxNewsFlash-Exempt Organizations, reply to [Washington National Tax](#).

[Privacy](#) | [Legal](#)