



# TaxNewsFlash

## Exempt Organizations

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## KPMG report: Separately computed UBTI, analysis of final regulations

Final regulations (T.D. 9933) published today in 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) or 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 final regulations provide guidance on how to identify separate trades or businesses, as well as how to calculate UBTI when an organization has more than one trade or business.

The final regulations generally follow the approach taken in the proposed regulations (April 2020), although a few modifications were made in response to comments. Like the proposed regulations, the final regulations generally allow organizations to treat much investment activity as a single trade or business, while most other unrelated business activities must be classified by using the first two digits of the North American Industry Classification System (NAICS) code that most accurately describes the trade or business.

The final regulations are applicable to tax years beginning on or after December 2, 2020. For calendar year taxpayers, therefore, there is little time to analyze unrelated activities, identify separate trades and businesses, adopt new allocation methodologies, or implement changes to reporting systems before the final regulations go into effect on January 1, 2021.

For tax years prior to the applicability of the final regulations, tax-exempt organizations may rely on the final regulations, the proposed regulations, Notice 2018-67 (which provided initial guidance prior to the proposed regulations), or a reasonable, good faith interpretation of section 512(a)(6).

Read a [December 2020 report](#) [PDF 266 KB] providing analysis of the final regulations on separately computed UBTI

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