



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



Unrelated Business Tax Law

- IRC 511 applies tax on unrelated business taxable income (UBTI) of exempt organizations
 - $UBTI = \text{Gross income} - \text{deductions}$
 - 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



Net Operating Losses

- 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

- 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



Form 990-T, Schedule M

- New Schedule M –each additional trade or business



Section 13702 Expected Guidance

- [Notice 2018-67](#)
 - Notice of Propose Regulation on Calculation of UBTI under 512(a)(6)
 - Proposed Regulation for Aggregating Investment Income



TCJA Section 13702 Resources

- 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