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New Law Changes Affect Exempt Organizations

On December 20, 2019, the President signed into law the Taxpayer Certainty and Disaster Tax Relief Act, which made some important changes relevant to exempt organizations:

1. It temporarily and retroactively suspended the deduction limitations for cash donations to public charities working to relieve qualified disasters. Deductions for cash contributions to public charities are ordinarily limited to 60% of an individual donor's adjusted gross income (10% for corporate donors). These limits are lifted for qualifying disaster relief contributions made in 2018, 2019, and before February 18, 2020. The limits are not lifted for contributions made to supporting organizations or to donor-advised funds.
2. It simplified the Section 4940 private foundation excise tax on net investment income. A simplified 4940 tax had been discussed off and on for many years, so its passage is a welcome surprise. Previously, the tax was 2% but could be reduced to 1% for a given year if the foundation sufficiently exceeded its prior 5-year average annual distributions. Now the excise tax will be 1.39% for all private foundations, every year. The simplified tax eliminates the ability (or need) to plan by waving distributions up and down year to year to qualify for the lower tax in some years. For calendar-year reporters, the new tax is already in effect; for foundations that are not calendar-year reporters (with tax years ending June 30, for example), the old law still applies until the end of their current tax year. Those foundations may have a last-chance opportunity to get the 1% tax, or to accelerate or delay taxable investment transactions in order to minimize tax.
3. Third, and most happily, it repealed the terrible, horrible, no good, very bad "parking tax" that was introduced in the 2017 Tax Cuts and Jobs Act. That Act imposed unrelated business income tax on organizations that provided their employees with certain transportation, parking, or gym facilities as fringe benefits. The new law repealed this tax as of its date of original enactment, as though it had never existed, meaning organizations that previously paid the tax can now apply for a refund. The IRS tells you how [here](#).

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ABOUT OUR BLOG

Nonprofit Law Matters looks at legal issues in the nonprofit and tax-exempt organizations world. Written by the attorneys and paralegals of Adler & Colvin, it provides updates and analysis regarding philanthropy, charity, and other exempt organization issues.

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