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BLOG POST

NOVEMBER 30, 2020

Unrelated Business Income Tax (“UBIT”) Silos

The Department of Treasury has now finalized the **regulations on UBIT silos**.

At the end of 2017, Congress amended the UBIT rules to include new Section 512(a)(6). Prior to 2018, exempt organizations could offset all of their unrelated business income against all of their losses from unrelated business activities and pay tax only on the overall net gain, if any. The silo rules were designed to isolate each unrelated business activity and prohibit an organization from using losses from one activity against gains from another.

As is often the case with tax law, however, the devil is in the details. The IRS released interim guidance in Notice 2018-67 in August 2018 and proposed regulations in April 2020. For those of you who have been tracking the guidance, the final regulations adopt most, but not all, of the proposed regulations. For example, an exempt organization’s unrelated activities will be classified based on two-digit **NAICS codes**. The regulations also provide special rules for investments in partnerships and limited liability companies, where the income from the partnership or LLC is reported back up to the exempt organization and taxable to it.

A more detailed analysis of the extensive regulations is beyond the scope of this post, but the message for our friends and clients is this: if you have unrelated business income activities or significant investments in partnerships, talk to your tax return preparer or attorney now so that you can be prepared for how to track and report under these new regulations.

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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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