

THE NEWSLETTER OF THE BDO NONPROFIT & EDUCATION PRACTICE

NONPROFIT STANDARD



HIGHER EDUCATION – MID-YEAR UPDATE

By Tom Gorman, CPA

As June begins to wind down and we face not only the middle of calendar year 2013, but also the end of the fiscal year for the vast majority of colleges and universities, it seems like an appropriate time to check in on recent industry trends, and update thinking on the top issues facing higher education in the coming months.

► THE WEALTH EFFECT

With the steady improvement of the national economy has come an uptick in charitable giving. Consider the headlines in just the past few months alone:

- Stanford University becomes the first institution to collect \$1 billion in a single year.
- According to the Council for Aid to Education, fiscal 2012 contributions nearly

reach record levels previously set in 2008 (\$31 billion in 2012; \$31.6 billion in 2008).

- \$100 million-plus gifts were once the exception; now they appear commonplace.
- Rice University, with a student population of 5,800, recently announces it has reached its multiyear capital campaign goal of \$1 billion.
- Duke receives a \$5 million gift to its athletics program as part of a \$3.25 billion capital campaign.

The sudden influx of revenue and cash comes as a welcome occurrence after several years of depleted reserves, sagging endowments, declining government support and, in some cases, headcount reductions. But what is an administrator to do with this sudden wealth? As my article in the Winter 2012 edition of the *Nonprofit Standard* noted (see *It's Going to Cost HOW Much?*), many boards are now looking to re-energize strategic and capital

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construction plans. But concerns still exist and credit markets continue to be wary of overly ambitious plans. Credit agencies have recently placed a number of schools on credit watch as concerns over enrollment persist. Institutions must remain relevant and provide academic programs that attract students, while being mindful that costly amenities come at a price.

▶PEAKING ENROLLMENT

Conventional wisdom asserts that higher education is countercyclical. As we saw beginning in 2008, the number of students enrolled at community and public colleges steadily rose as displaced workers tried to learn new skills necessary to re-enter the workforce. The trend was also seen at private colleges and universities, although, there, price sensitivity somewhat muted the uptrend.

The growing number of students allowed some schools to easily fill their classes, while others moved up on selectivity. Harvard, MIT and others recently announced record low acceptance rates based on the high number of applications received. Other schools report classes with record high standardized test scores.

That trend may have peaked in 2012. While one year does not make a trend, a recent report from the National Center for Educational Statistics shows declining enrollments in 2012. Further anecdotal evidence is seen in published reports of a number of schools missing their fall 2013 enrollment targets. Schools that are heavily tuition dependent will begin to see increasing pressure to build their classes. Those with limited reserves or endowments will find it increasingly difficult to compete on price and we will begin to once again see downward pressure on net tuition revenue.

▶COST PRESSURES

Although it seems that for now the debate in Washington regarding student loan interest rates is over, it will not be long before the focus once again turns to the cost of higher education. As noted above, during the recession, many schools faced difficult choices and began to take a critical look at their costs. Many institutions froze new hiring, trimmed benefits and, in some cases, reduced

INSTITUTE PROFESSIONAL PROFILE**TOM GORMAN**

Tom is a director in the Northeast Education and Nonprofit practice in the Boston office of BDO USA, LLP, but he serves the entire Northeast. He brings extensive knowledge of the education and nonprofit industries to each engagement as a result of his nearly 25 years of accounting and audit experience. The vast majority of his time has been devoted to working with a wide range of educational institutions, governmental entities and nonprofit organizations.



Tom is responsible for the practice's overall service approach and directing its day-to-day work. He works closely with client management and those charged with governance to ensure the quality of financial and administrative systems to support the organization's efforts to achieve its mission.

Tom's experience also includes the oversight of audits conducted in accordance with OMB Circular A-133. He has experience with a wide range of federal agencies including HHS, NIH, USAID and U.S. Department of Education. Tom has also participated in negotiations with federal granting agencies, worked on audit resolution with offices of inspectors general and served as an instructor on auditing federal financial assistance programs and nonprofit accounting. He is a frequent speaker on a variety of higher education issues at local and regional conferences.

Tom is a graduate of Georgetown University with a bachelor's in Business Administration, with concentrations in accounting and finance. He is a member of the American Institute of Certified Public Accountants, the Vermont Society of Certified Public Accountants and the Association of Government Accountants. In addition, Tom is a member of the Massachusetts Society of Certified Public Accountants and currently sits on the accounting and audit committee of the Massachusetts Society.

headcounts. The federal sequestration also had a chilling effect on many large research enterprises with schools closing labs and scaling back institutional funding.

However, there is a growing sentiment that higher education is bloated with layers of administrators and inefficiencies. There will continue to be a premium placed on those providers who can deliver a quality education, not for the lowest price, but for its perceived value. The race to build bigger, more consumer-friendly student centers and campus amenities came with a price. The larger operating expense base has to be

covered either through net tuition revenue, fees or contributions.

▶COMPETENCY-BASED EDUCATION

Recent developments surrounding competency-based education will likely allow more schools to expand their programs. The decision by the U.S. Department of Education to allow federal financial aid to be offered to students in competency-based programs changes the entire tone of the conversation. Now a whole new segment of the student

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population will be able to more readily access these programs. Time will tell how these evolve, especially in light of improving economic conditions and the disincentive for workers to obtain new skills.

I expect more than a few institutions to use competency-based programs to address what will be a growing class of baby boomers wanting more in their retirement than prior generations. Second careers or simply the desire to learn for the sake of learning will attract more retirees to programs that recognize their prior accomplishments. Those institutions that can satisfy the needs of "second-degree" learners will benefit from a broader alumni base.

►MOOCs: THE TREND CONTINUES

It seems no article about the state of higher education is complete without a reference to Massive Open Online Courses (MOOCs). What was once an interesting experiment has become mainstream, with ever increasing numbers of institutions signing up with well-known platforms from edX, Coursera and others. Details are also emerging on pricing and we can begin to see how schools can monetize their association with MOOCs.

But while momentum is building to push MOOCs out, there is also a growing tension on some campuses. At Amherst College, the faculty recently voted not to permit the use of MOOCs in their programs. Elsewhere, conflicts have arisen between the rights of faculty to develop and sell their courses online, and the institutions' belief that they own the content.

These are interesting times in higher education. While I would not quite call it a crossroads, the pressures being exerted both inward and outward will change the landscape. The pace of change is yet to be determined. That being said, I don't think the pace of change will be glacial. Campus leaders will need to be nimble and recognize the trends and be prepared to lead, follow or get out of the way.

For more information, contact Tom Gorman, director, at tgorman@bdo.com.

IRS FINAL REPORT ON COLLEGES AND UNIVERSITIES

By Laura Kalick, JD and LLM in Tax



At long last, the Internal Revenue Service (IRS) has issued the final report on its Colleges and Universities Compliance Project (CUCP Final Report). The project started in 2008 when the IRS sent a 33-page questionnaire to 400 colleges and universities – public, private, small, large and medium-sized institutions – asking them questions that ranged from the size of the institution to executive compensation practices. An interim report was issued in 2010.

The IRS took a closer examination of 34 selected schools. Upon completion of the examinations, the IRS issued its CUCP Final Report which focuses on two main areas: unrelated business taxable income (UBTI) and compensation practices of the selected organizations. Below are the key findings of the IRS' CUCP Final Report:

►UNRELATED BUSINESS TAXABLE INCOME (UBTI) ISSUES:

Underreporting of UBTI identified by the IRS resulted in an increase in UBTI for the schools examined totaling approximately \$90 million in the aggregate and disallowance of more than \$170 million in losses and net operating losses (NOLs) due to lack of profit

motive, improper expense allocations, errors in computations or substantiation of NOLs, or misclassification of an activity as exempt when it was really unrelated. (For more information about treatment of UBI losses see page 5 for "Don't Let This Happen to You: Disallowed Losses on Form 990-T.")

The main areas that the IRS looked at for UBTI were fitness and recreation centers, sports camps, arenas, golf courses, and advertising and facility rentals. These final two sources of revenue are common to many other exempt organizations. For organizations that engage in these activities, documentation is essential and an unrelated business income tax (UBIT) study could go a long way to ensure proper reporting before the IRS knocks on the door.

►EXECUTIVE COMPENSATION ISSUES:

Compensation of the most highly paid executives and staff was also under the microscope in this study, especially compensation for coaches, investment managers, faculty and other administrators.

In the compensation area, organizations such as colleges and universities cannot pay more than reasonable compensation to

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individuals who can substantially influence the organization or the Intermediate Sanctions provisions could apply (Internal Revenue Code (IRC) Section 4958). Organizations can establish the “rebuttable presumption of reasonableness” that shifts the burden of proof to the IRS to prove that compensation is unreasonable. In order to establish the rebuttable presumption, an authorized independent body must approve compensation decisions based on appropriate comparability data and contemporaneously document the compensation-setting process. The CUCP Final Report indicates that although most of the private institutions attempted to establish the rebuttable presumption, the comparability data fell short of what was required. For more information regarding this issue, see page 6 for the article “IRS Colleges & Universities Compliance Project”.

The IRS also reviewed employment taxes and retirement plans of the colleges and universities selected. As a result of the project, there were wage adjustments totaling approximately \$36 million and resulting in taxes and penalties of \$7 million. Also, with regard to retirement plan adjustments, there were increases in wages of more than \$1 million and the assessment of more than \$200,000 in taxes and penalties.

▶WAYS AND MEANS HEARING

On May 8, 2013, the House Ways and Means Subcommittee on Oversight heard testimony from the Director of the IRS' Exempt Organizations Division, regarding the CUCP Final Report. Representative Charles Boustany (R-La.), the subcommittee chairman, indicated that colleges and universities have been at the forefront of a trend of exempt organizations growing more and more complex in their organizational structure and operations. According to Boustany, higher educational institutions also generate a disproportionate level of tax-exempt revenue and hold a disproportionate amount of assets, since they “represent just 0.5 percent of the tax-exempt sector, but generate more than 11 percent of the revenue of charitable organizations, nearly \$160 billion in annual revenue. And they hold over \$150 billion in assets, which is more than 21 percent of the entire charitable sector's assets.”

UBTI took center stage at the hearing and a number of subcommittee members suggested they could not believe that noncompliance with tax laws could be so widespread and asked whether legislation was needed to address the problem. They also questioned whether similar noncompliance was pervasive throughout the broader exempt organization community.

The IRS responded that it would need to look at a broader segment of the sector before making suggestions for legislative changes and that it is currently examining other organizations that reported substantial gross unrelated business income for three consecutive tax years, but reported no income tax due, in order to determine the scope of the problem.

Several subcommittee members expressed concern about the high salaries highlighted in the CUCP Final Report, particularly as schools continue to raise tuition. For example, the highest paid individuals at colleges and universities included investment managers with an average compensation of \$894,214, sports coaches with \$884,746, department heads with \$753,738 and top management officials with \$623,267.

As part of most organizations' audits, there must be verification that there are no material uncertain income tax positions. Exemption itself is a tax position, as is unrelated business income tax. This accounting requirement, ASC 740-10, previously known as FIN 48, requires an organization look at all tax positions to see whether it is more likely than not that they would prevail upon audit and assumes that tax authorities are examining the organization and all the facts are known. One wonders whether the universities in question had done adequate inventorying and documentation of their tax positions. Documentation and analysis are always important when it comes to taxes. Organizations that think they are at risk should consider having a UBIT study, compensation analysis or even a mock IRS audit done.

For more information, contact Laura Kalick, national director, Nonprofit Tax Consulting, at lkalick@bdo.com.

NONPROFIT FACTS

Did you know?

- Did you know the charitable deduction is one of the 10 largest tax expenditures in the Internal Revenue Code?
- According to Idealist.com, 1 in 12 Americans works in the nonprofit sector.
- There are 1,565,497 tax-exempt organizations operating in the United States according to the National Center for Charitable Statistics (NCCS).
- There is one nonprofit in America for every 175 Americans, according to the Nonprofit Almanac 2012.
- Mobile giving is on the rise: 25 percent of respondents to a new Pew study said they preferred to donate via text message.
- Charitable giving in the U.S. grew 1.7 percent in 2012, due in part to Hurricane Sandy relief efforts.
- Stanford University is the first school to raise over \$1 billion in a single year.
- Gifts to U.S. colleges rose 2.3 percent in 2012, narrowly outpacing inflation.
- Forming a nonprofit audit committee is recommended by the IRS and the AICPA, and provides many benefits to your organization.
- The [2013 eNonprofit Benchmarks Study](#) shows online giving increased by 21 percent in 2012.
- The [2013 Nonprofit Employment Trends Survey](#) says 44 percent of organizations plan to create positions in the year ahead.

DON'T LET THIS HAPPEN TO YOU: DISALLOWED LOSSES ON FORM 990-T

By Sandra Feinsmith, CPA



The IRS recently completed a multiyear compliance project focusing on the college and university sector. (See the article on page 3 entitled "IRS Final Report on Colleges and Universities".) As part of the project, the IRS examined the treatment of losses used to offset unrelated business income (UBI). The IRS found that numerous institutions had incorrectly classified expenses related to UBI on their Form-990-T, resulting in reversals of reported losses.

Based on the findings of the project, it would be beneficial to consider several areas of particular interest to the IRS when looking at losses on Form 990-T:

1. Profit motive of the activity
2. Characterization of expenses
3. Dual use facility expense allocations

►PROFIT MOTIVE OF THE ACTIVITY

One of the areas that the IRS is looking at when examining the large losses reported on the 990-T is the profit motive of the activity. The "Profit Motive Test" came from rulings and case law that occurred in the 1980s and

1990s. When applied, this test eliminates deductions for losses from activities that lack a profit motive.

IRS Code Section 512(a)(1) defines unrelated business taxable income as "gross income derived by an organization from any unrelated trade or business regularly carried on by it, less the deductions which are directly connected with the carrying on of such trade or business." This section of the Code allows organizations to offset the income and gains from one unrelated activity against the losses generated by another unrelated activity.

However, as noted in the definition, the losses must be generated by a trade or business, which is defined as an activity that is carried on for the production of income and has the other traits of a for-profit organization. In other words, an organization must engage in the activity with the primary goal of generating a profit.

Organizations reporting large losses on their Form 990-T are at risk of the IRS applying the profit motive test to their activities. This may result in the losses from the activity being disallowed due to the IRS' assertion that the

organization did not engage in the activity with the primary purpose of generating income or profit.

In looking at these losses, the IRS has adopted a facts and circumstances approach to determine whether or not an activity is a trade or business. Various areas that might indicate to the IRS that an activity does not have a profit motive include:

1. No formal business plan or contracts for the activity
2. Expenses almost always exceed any income from the activity
3. Many years of losses
4. No adjustments to cost, expenses or pricing to lower the losses

Another item to be aware of is the IRS' treatment of offsetting losses from one set of unrelated activities against the income from other unrelated activities. It has been the IRS' approach to look at each one of these activities as its own separate trade or business and make the determination whether or not each one of these has or does not have a profit motive. Using this methodology, the IRS has taxed profitable activities while disallowing the ones with losses.

►CHARACTERIZATION OF EXPENSES

When looking at expenses to offset unrelated business income, the expenses should be put into three baskets: the first basket is expenses that are related solely to the exempt activity and those cannot be used at all; the second basket has expenses that are solely related to the unrelated activity and those can be used in full. An example would be an individual whose only job is to procure advertising customers. The third basket has the expenses that involve both the related and the unrelated activities and those expenses are called "dual use expenses."

►DUAL USE FACILITY EXPENSE ALLOCATIONS

Another area of focus by the IRS regarding losses reported on Form 990-T involves the expense allocation and deductions for the dual use of facilities and personnel. Under IRS Regulations 1.512(a) – (1)(a) (the Regulations), an organization is allowed to deduct an expense that is directly connected to an unrelated trade or business if it has a

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DISALLOWED LOSSES ON FORM 990-T

“proximate and primary relationship” to that unrelated trade or business. The Regulations further discuss this relationship regarding expenses directly related to unrelated business activities and expenses from the dual use of facilities or personnel.

The Regulations state that the expense allocation between the dual uses must be “reasonable”. However, “reasonable” has been subject to interpretation and litigation. Some guidance may be found in *Rensselaer Polytechnic Institute (RPI) v. Commissioner of Internal Revenue (1983/1984)*. In this case, RPI interpreted “reasonable” to mean that fixed costs as well as depreciation and overhead expenses that could not be associated directly with exempt student uses nor non-exempt commercial for-profit uses should be allocated based on the percentage of total use, ignoring periods when the facility was idle. RPI prevailed. However, the Commissioner, to this day, contends that the basis of allocation should have been all time the facility was available for use, which would substantially reduce the amount of expenses and losses that could be used to offset unrelated business income.

With the lack of clarity on the issue, it is up to the organization and the IRS to come to some type of negotiated settlement on their own regarding such matters should the issue be brought to light during an audit.

▶CONCLUSION

With the marked increased level of scrutiny by the IRS in this area, organizations with unrelated business activities generating losses on their Form 990-T should look closely at the following areas:

- Look at each of your activities' profit motive. Document why the activity is generating losses (i.e., startup mode, meant to run a loss, etc.)
- For dual use of facilities' expense allocations, look at and document the methodology used in the calculation. Is it reasonable? Is it consistent with relevant tax court rulings or the IRS' interpretation?
- Documentation is key, so keep good records in case the IRS knocks on the door.

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IRS COLLEGES & UNIVERSITIES COMPLIANCE PROJECT

The Results Are In – “See me after class.....”

By Mike Conover



I HAVE TO CONFESS THAT MORE THAN ONCE IN COLLEGE, I RECEIVED THAT INVITATION FOR AN AFTER-CLASS TETE-A-TETE WITH A PROFESSOR.

Regrettably, I don't recall that any of these meetings were requested to compliment me on my class participation. In nearly every case, the meeting was held to offer me advice, a mid-course correction, to get me back on track for successful performance.

After reading the IRS *Colleges and Universities Compliance Project* final report, particularly the compensation-related portions, I believe there are several takeaways that might help some institutions examine their pay practices and get back on track. In the balance of this short article I will share them along with some advice in terms of steps to take to address them.

For those of you not familiar with the report, the *Colleges and Universities Compliance Project* was a random examination of 400 institutions conducted over a four-year period.

Detailed questionnaires were sent to all 400 schools and, among the responses submitted, 34 with potential non-compliance issues were selected for examinations. From these 34, several areas were highlighted for special attention and, in some cases, resulted in significant additional tax and penalties.

Surprisingly, at least to me, issues related to incomplete or improper reporting of wages were major problem areas, specifically:

- Failure to include some items that should be treated as income to the executives and graduate student recipients (e.g., personal use of automobiles, club memberships, housing, tuition waivers, reimbursements, etc.)
- Improperly classifying employees as independent contractors (a major IRS focus recently for all types of employers)

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- Social Security and Medicare taxes not withheld for non-resident aliens

About one-third of the institutions selected for examination had these problems. In total, \$35 million in increased compensation was discovered generating \$7 million in taxes and penalties.

In my opinion, these are very basic payroll management/processing issues. Most should be handled with little or no difficulty by a capable payroll manager. Any unusual matters can readily be addressed by consulting qualified specialists or tax advisors. Admittedly, the 34 institutions selected for examination were not necessarily representative of all colleges and universities. However, even among this group, finding almost a third with basic payroll issues suggests a need for some attention here. At least annually, I believe it would be advisable for all institutions to complete a careful review of payroll records to identify and address any of these issues.

Another surprising area identified among the selected institutions was related to qualified retirement plans/deferred compensation. Like the payroll areas mentioned previously, most of the issues were largely administrative in nature, specifically:

- Deferrals/additions and loans related to 403(b) plans exceeded allowable limits
- Failure to structure conditions that ensure substantial risk of forfeiture requirements are satisfied in deferred compensation arrangements to prevent a current tax liability for participants on amounts deferred

Again, I believe these are very straightforward matters for any knowledgeable plan administrator to properly address. Unusual issues can readily be addressed by a benefits plan specialist or tax advisor. At least annually, I would recommend that all qualified plan participants and individuals participating in deferred compensation arrangements should have all aspects of their transactions within the plan reviewed to ensure compliance.

The remaining areas pertaining to compensation that were included in the report focused broadly on the oversight of compensation for officers, directors, trustees and key employees (IRS acronym "ODTKEs").

While most every institution did take the required steps to satisfy the conditions for the rebuttable presumption of reasonableness of Internal Revenue Code (IRC) section 4958, there were some questions as to whether or not the external compensation data used to assess competitiveness were truly comparable to the institutions in question. The specific concerns centered on the following:

- Failure to select organizations that matched the subject institution in terms of size/scope (e.g., annual revenue, student enrollment, assets, selectivity, etc.) and location
- Absence of any formal criteria used by the subject institution for selection of the 'peers' viewed as comparable for compensation purposes
- Use of independently sponsored compensation surveys that included schools not viewed as comparable to the subject institution and/or reported compensation data without differentiating direct compensation (e.g., salary and bonus) from other forms of compensation (e.g., retirement contributions, benefits, etc.)

It is worth spending some time on these points. They are not as straightforward and easily dealt with as some of the administrative areas mentioned previously. Actually, these are core aspects of compensation program governance that we have covered in past articles on many occasions. They are critically important. They involve the underlying factors used as the fundamental basis for the determination of reasonableness from an IRC section 4958 perspective and competitiveness from a compensation governance point of view.

The selection of 'comparables' and criteria used to designate them are clearly very important factors to the IRS in its determinations and that factor alone ought to underscore their importance to your institution to properly oversee its pay practices. Let's take a closer look at this issue of comparables.

On a most simplistic basis, comparability would be based solely on the old Joe Friday, Dragnet criteria "Just the facts, ma'am." Selection would simply be a matter of same revenue, same student body, same assets, same, same, etc. Of course, this is completely impractical because the only institution that

can simultaneously satisfy all the factors is yours.

On the other hand, a 'peer group' of institutions cannot be created simply on an arbitrary or perfunctory basis (e.g., the schools we've always used; schools we admire, schools that make us look good, etc.). Without a selection rationale and specific criteria associated with it, one person's list is as good as another depending on the criteria they choose to use for the creation of the list they call 'comparables.' That is exactly what happened when the IRS had its agent create or modify a list of 'comparables' for those institutions that did not have a satisfactory group. It was their list.

The advice I'd offer is that development of a compensation philosophy/policy/guiding principles, call it what you will, is an excellent way to develop and apply specific criteria for the institutions selected as your comparables. The factors you select and the weight assigned to each are yours to determine, and should be based on a defensible rationale (e.g., competitors for leadership talent, similar academic offerings/competitors for students, similar size, etc.). There will likely be multiple factors and it may not be possible to have a single organization selected as a peer that will satisfy each one. However, these criteria will identify the candidates and help determine the proper consideration/weighting of each in your peer group. The Intermediate Sanctions stipulate that external comparisons must be reasonable and relevant, with these criteria properly developed and adopted, and must become the basis for that determination. I would strongly advise any institution that has not yet done so to develop a rationale for identifying its comparables and the criteria that will be used to select them. Once developed, they should be formally adopted. Those that have done so should review them regularly to ensure that they continue to be current and useful.

The last compensation topic raised in the IRS report dealt with concerns over the controls in, and quality of, some of the external compensation data sources used by the institutions examined. Apparently, some surveys or data sources included information from institutions that were not viewed as comparable to the institution in question.

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This is directly related to the points we've just discussed. The institutions used for competitive comparisons must satisfy the criteria of relevance and reasonableness. For this reason, any surveys or data sources should be carefully reviewed to ensure that only those portions of the data applicable to the institution in question are used. Even the most respected surveys could be called into question if they are viewed as presumptuous or irrelevant comparisons for compensation governance purposes. Simply having access to a survey or data source is not a sufficient rationale for its use.

It is also important to know exactly what data a survey or data source is presenting. Better quality sources go to great lengths to verify the accuracy of the data collected and fully detail exactly what portion(s) of compensation are being presented. The new Form 990 and Schedule J provide much more detail than their predecessors as well. There are a variety of good sources for use and the rationale/criteria for identification of your comparables will guide you to the proper data. I would advise institutions to periodically examine their surveys and data sources to ensure that they are consistent with their peer selection rationale/criteria; timely/current in terms of the data reported; and presenting well-defined data ensuring pay component comparisons that are identical to one another.

The IRS *College and University Compliance Project* report is one in a series of special reviews that have taken place over the past few years including Intermediate Sanctions Compliance, hospitals, etc. The findings are, as the report points out, not necessarily representative of colleges and universities overall. However, the report does point out some areas that institutions would be well-advised to review and it provides additional insight into how the IRS approaches the critical aspect of comparables for determination of reasonable compensation.

That's it. Hurry along; I don't want you to be late for your next class.

For more information, contact Michael Conover, senior director, Specialized Tax Services – Compensation and Benefits, at wconover@bdo.com.

501(c)(4) ORGANIZATIONS AND THE IRS: A *Little Background on the Controversy*

By R. Michael Sorrells, CPA

AS EVERYBODY NOW KNOWS, THE IRS EXEMPT ORGANIZATIONS GROUP (EO) HAS ADMITTED TO AT LEAST SOME INAPPROPRIATE TARGETING OF POLITICALLY CONSERVATIVE SECTION 501(c)(4) ORGANIZATIONS IN THE EXEMPTION APPLICATION PROCESS.

We have already seen the resignation of the IRS Acting Commissioner and the head of EO being placed on administrative leave and pleading the Fifth before Congress. In this article, we will discuss why the IRS is so interested in 501(c)(4)s with political agendas.

501(c)(4) organizations are defined in the Internal Revenue Code as "civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare." This is a fairly broad definition and has been used by a wide variety of organizations with a very wide range of agendas for "social welfare." The primary differences between these organizations and charitable organizations are important: (1) Donations to 501(c)(4) organizations are not deductible as charitable organizations; (2) 501(c)(4)s can engage in unlimited lobbying activities (charities are limited); and (3) 501(c)(4) organizations may engage in political activity as long as it is *not their primary purpose*. 501(c)(3)s, on the other hand, are strictly prohibited from any level of political activity.

In 2010, the Supreme Court, in its decision in *Citizens United v. Federal Election Commission* struck down provisions of the McCain-Feingold Act which prohibited corporations (including nonprofit corporations) from making independent expenditures and electioneering communications. It was quickly realized that 501(c)(4) organizations would be

ideal vehicles for politically motivated groups to utilize for fundraising and to engage in a variety of political activities including political advertising in print and television. This activity is not regulated by the Federal Election Commission, an agency with many rules and public disclosure requirements for traditional political organizations such as political parties, election committees and political action committees (PACs). A key disclosure avoided by 501(c)(4)s is any public disclosure of donor identities. Although these organizations have to list donors on their Form 990, these lists are redacted on public disclosure copies. Corporations and individuals can give unlimited amounts to these organizations without being identified as supporters.

So it did not take long for hundreds of new 501(c)(4) organizations to sprout up. These entities came from across the political spectrum – from extremely conservative to extremely liberal. It appears that significant political expenditures were made by these organizations in subsequent national, state and local campaigns.

These new 501(c)(4)s caused a lot of concern at the IRS. A couple of obvious issues were the basis of this concern: (1) was political activity the primary purpose of these organizations; and (2) were they organized to primarily benefit a private party (such as a candidate or election committee), something which is prohibited for 501(c)(4) organizations.

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501(c)(4) ORGANIZATIONS AND THE IRS

The IRS, in several announcements and speeches by EO leadership, expressed these concerns and said that it would be taking a hard look at exemption applications by these organizations as well as examining a number of them through the audit process. The Form 1024 exemption application filed by non-charitable organizations requires a significant amount of information about the organization including programs and activities, lobbying and political activity, officers, board members and key employees, sources of support and prospective financial information.

Thus, it should have been no surprise that exemption applications from politically connected 501(c)(4) organizations received a significant amount of scrutiny from IRS reviewers. It is not uncommon for any exemption application to be delayed by the IRS until the government has gotten enough information from the organization to be assured that the organization does indeed qualify for exempt status. Since the IRS had expressed concerns about these organizations, significant correspondence from the IRS about the applications should have been expected.

However, if conservative organizations were targeted with increased scrutiny and liberal organizations were not, then an obvious bias was being shown by the IRS. If there was a bias, it is unclear as from where the bias was originating. Congress will be digging into this with a series of hearings and some answers should be forthcoming.

We will have to wait and see what emerges from testimony at the hearings. One thing is certain: this has caused a serious shake up with the IRS EO group and how it comes out of the situation will be interesting to see. It is likely that more oversight will be forthcoming in the exemption application process and that an already lengthy process will take even longer.

Stay tuned!

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THE IMPORTANCE AND STRUGGLES OF NONPROFIT NEWS ORGANIZATIONS – NONPROFIT MEDIA GROUP RELEASES FINDINGS

By Joyce Underwood, CPA



RECENT CHANGES IN THE WAYS PEOPLE OBTAIN NEWS ARE HAVING A CRIPPLING EFFECT ON COMMERCIAL AND NONPROFIT NEWS ORGANIZATIONS.

Many media outlets struggle to obtain revenue and have had to lay off workers and cut back on local and investigative journalism, which eliminates vital news coverage. Similar to brick-and-mortar businesses they must adapt and change or cease to exist. New nonprofit news organizations are being created, and some for-profit news organizations are considering a change in status to become tax-exempt organizations to obtain access to public funding. Exemption is not an easy solution since nonprofit news organizations have a further burden in that they must show that they operate under outdated exemption

guidelines of the Internal Revenue Service (IRS). These guidelines predate structural changes and technological advances in the delivery of news. New nonprofit news organizations struggle to become designated as tax-exempt organizations trying to fit into a nonprofit journalism model that no longer exists.

Many media organizations seek public charity status to receive public support. A Section 501(c)(3) organization must be organized and operated exclusively for one or more exempt purposes, and can be either a private foundation or public charity. Many

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NONPROFIT NEWS ORGANIZATIONS

organizations establish public charity status by either receiving broad-based support (contributions) or from a combination of public support and exempt activity income. The most likely exemption category for a media organization applicant is that of educational organization. Journalism is not itself an exempt purpose. To be educational the operations must include “the instruction of the public on subjects useful to the individual and beneficial to the community.”¹

Revenue Ruling 67-4 explains that a publication will qualify as “educational” if its content and operations satisfy four criteria:

1. Content must be educational (such as contribute to general knowledge by informing the public and not advocating a particular position)
2. Method of publication must be educational (where the content is selected for educational purposes rather than for popular/commercial appeal)
3. Distribution must advance the organization’s exempt purposes (where the news distribution itself provides public benefit)
4. Manner of distribution must differ from commercial publications (although advertising is allowed, a lack of profit motive is seen as important to establishing educational purposes)

After the Federal Communications Commission issued a 2011 report describing the contraction of accountability reporting and its resulting dire consequences, the Council on Foundations (the Council), supported by a generous grant from the John S. and James L. Knight Foundation, formed a Nonprofit Media Group to study these issues and provide recommendations. On May 4, 2013, the Council on Foundations and the Knight Foundation released their report accompanied by a panel discussion by journalists and legal and nonprofit leaders. (Information on the release and report are at <http://www.cof.org/templates/5.cfm?ItemNumber=18708>.)

As detailed in the “Report Summary,” the problem areas of the IRS’ current approach are that applications for tax-exempt status are processed inconsistently and

take too long; confusion may be inhibiting nonprofit entrepreneurs trying to address the information needs of communities; and the IRS approach appears to undervalue journalism, inhibit the long-term sustainability of tax-exempt media organizations, and does not sufficiently recognize the changing nature of digital media.

Their specific recommendations are:

- The IRS methodology for analyzing whether a media organization qualifies for exemption should not take into account irrelevant operational similarities to for-profits.
- The IRS should focus on whether the media organization is engaged primarily in educational activities that provide a community benefit, as opposed to advancing private interests, and whether it is organized and managed as a nonprofit, tax-exempt organization.
- News and journalism should count as “educational” under the tax-exempt rules.
- The IRS should maintain the key structural requirements for being a tax-exempt media organization that properly distinguish it from a commercial enterprise, such as: it cannot have shareholders or investors, it must have a governing board that is independent of private interests, and it cannot endorse candidates or lobby lawmakers.

Nonprofit news organizations play an important role in providing local news and investigative journalism, as they are funded by public contributions rather than paid advertisers who may influence reporting. They currently obtain exemption by virtue of being educational, rather than for producing journalism, with news organizations defined as educational based on their instructing the public on matters beneficial to the community. It should be noted that in some instances the IRS has taken the position that journalism activities are not educational, which seems to contradict the federal tax regulations which consider the instruction of the public on subjects useful to the individual and beneficial to the community to be educational.

As a result of outdated methods and inconsistency in the application of criteria, many news organizations seeking exemption

remain in limbo. Delays make it difficult to get funding and establish operations, with some startups having to shut down before they can be recognized as exempt. Perhaps that can be excused as a result of an increase in nonprofit news organizations seeking exemption causing the IRS to take a harder look at them, given the difficulty in applying outdated criteria to existing methodologies. However getting a response on the timing and status of exemption can be difficult, and recent revelations about the potential targeting of 501(c)(4) organizations by the IRS (see article on page 8) have some wondering if the IRS is also showing bias towards nonprofit news organizations seeking exemption.

The biggest problem with many news organizations seeking Section 501(c)(3) status may be their lack of understanding of the IRS’ criteria for media organizations. Rather than identifying themselves as journalism organizations they should understand and focus on the criteria to establish the educational aspects of their operations. Organizations need to show how journalism is the purpose or method for carrying out their educational purpose. They also need to show how they are supported through noncommercial methods, such as membership and foundation support, in lieu of subscription and advertising revenue, which are seen as commercial in nature.

A strong and healthy news media is important to ensuring accountability and creating an informed public. The IRS should modernize its evaluation of media organizations to recognize the value of these important communicators and to help facilitate an up-to-date and expedited approval process so the nonprofit media can address the information needs of their communities while allowing them to operate in a manner that ensures their long-term sustainability in the ever-changing marketplace.

¹ Treas. Reg. § 1.501(c)(3)-1(d)(3).

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NEW GASB PRONOUNCEMENTS

By Patricia Duperron, CPA

THE GOVERNMENTAL ACCOUNTING STANDARDS BOARD (GASB) HAS SEVERAL NEW PRONOUNCEMENTS THAT WILL BE EFFECTIVE IN THE CURRENT YEAR AND FUTURE YEARS AS FOLLOWS:

GASB Statement No. 60, *Accounting and Financial Reporting for Service Concession Arrangements (SCA)* will apply to governments that have another entity operating a public asset. An SCA is an arrangement between a transferor (a government) and an operator (governmental or nongovernmental entity) in which (1) the transferor conveys to an operator the right and related obligation to provide services through the use of infrastructure or another public asset, (2) the operator collects fees from third parties and is compensated by fees; (3) the transferor determines what services the operator is required to provide, to whom and at what price; and (4) the transferor is entitled to significant residual interest in the service utility of the asset at the end of the agreement. Examples include toll roads, convention facilities or a parking garage.

The transferor will continue to report the facility as its capital asset. If a new facility is created, it is reported by the transferor at fair value along with a liability for any contractual obligations. A deferred inflow of resources is also recorded equal to the difference between the asset and liability and amortized over the term of the agreement. Examples of contractual obligations are obligations for capital improvements or required maintenance or a requirement to maintain a specific level of service. If the arrangement requires the operator to return the facility in original condition, the transferor government will not depreciate the asset. If up-front payments are required, an asset and deferred inflow will be reported with revenue recognized as the deferred inflow is reduced.

For governments that are operators of a facility, an intangible asset will be reported and amortized over the term of the

agreement. Disclosures are required about the objectives, associated assets, liabilities, rights granted and rights retained. The pronouncement is effective for years ended Dec. 31, 2012.

GASB Statement No. 61, *The Financial Reporting Entity: Omnibus* amends GASB Statements No. 14 and 34 regarding the assessment of potential component units to be included in the reporting entity. Certain organizations are required to be included as component units because they are fiscally dependent on the primary government. In addition to fiscal dependency, the pronouncement now requires that a financial benefit or burden be present between the primary government and the potential component unit in order for it to be included in the reporting entity of the primary government. Just because an organization is fiscally dependent on the primary government doesn't necessarily imply there is a financial benefit or burden to the primary government. Also, there exists the potential for dual inclusion as an organization may be fiscally dependent on more than one government. The inclusion of this second requirement could cause some current component units to be disassociated with the primary government, although I haven't seen this.

The pronouncement also adds new criteria for determining whether a component unit should be blended or discretely presented. The new rules specify that when a component unit has debt (including leases) outstanding that will be repaid by the primary government it must be included as a blended component unit. The criteria for determining major component units have been changed so that you no longer have to consider each component unit's significance to the other component units.

This pronouncement will be effective for years ending on or after June 30, 2013.

GASB Statement No. 62, *Codification of Accounting and Financial Reporting Guidance Contained in Pre-November 30, 1989 FASB and AICPA Pronouncements* incorporates into the GASB's authoritative literature certain accounting and reporting guidance that is included in original (excludes subsequent amendments) FASB, APB and ARB pronouncements that were issued on or before Nov. 30, 1989, which does not conflict with or contradict GASB pronouncements.

This Statement also eliminates the election provided in paragraph 7 of GASB Statement No. 20 for enterprise funds and business-type activities to apply post-Nov. 30, 1989 FASB Statements and Interpretations that do not conflict with or contradict GASB pronouncements. In practice, this option was seldom elected. The pronouncement is 600 pages long and is effective for years ended Dec. 31, 2012.

GASB Statement No. 63, *Financial Reporting of Deferred Outflows of Resources, Deferred Inflows of Resources, and Net Position* expands on the two new concepts that were introduced in GASB Concepts Statement No. 4. Deferred outflows are consumptions of net assets that are applicable to a future reporting period (these are not assets). Deferred inflows are acquisitions of net assets that are applicable to a future reporting period (these are not liabilities). Prepaid rent and deferred revenue are not considered deferred inflows or outflows because net assets have not been consumed or acquired.

This pronouncement introduces the concept of *net position* which replaces net assets and represents the difference between all other elements (assets plus deferred inflows and liabilities plus deferred outflows). Net assets invested in capital assets should include deferred outflows/inflows attributable to those assets. When the pronouncement was issued, there were only two examples: changes in fair value of qualified hedging derivatives (GASB No. 53) and qualifying SCA

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arrangements (GASB No. 60). However, GASB Statement No. 65 (see below) added several more items. The pronouncement is effective for years ended Dec. 31, 2012.

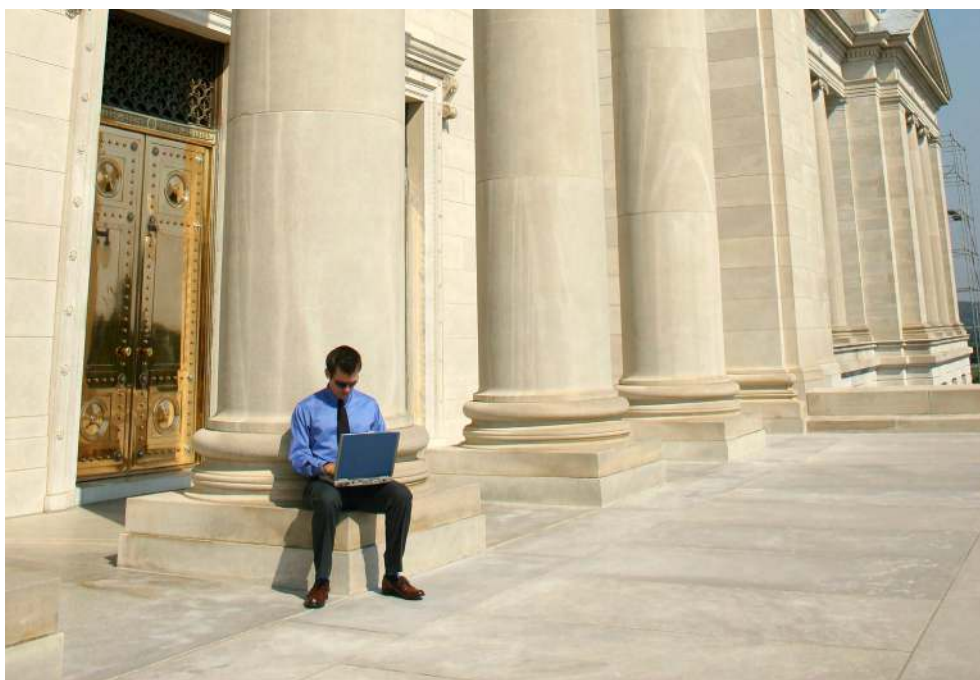
GASB Statement No. 65, *Items Previously Reported as Assets and Liabilities* requires certain items that are currently reported as assets or liabilities to be reclassified as deferred outflows, deferred inflows, revenues or expenses. Based on the definitions in Concepts Statement No. 4, the GASB reevaluated certain assets, liabilities, revenues and expenditures and reclassified several items.

For debt refunding, the difference between the reacquisition price and the net carrying value of the old debt should be reported as a deferred outflow or deferred inflow and recognized as a component of interest expense over the shorter of the life of the old or new debt. This is currently reported as an asset or liability in full accrual statements. However, issue costs (except prepaid insurance), which are currently capitalized will be expensed and will require an adjustment to net assets when the pronouncement is first implemented.

Property taxes received before the levy period will be classified as deferred inflows, instead of the current reporting of deferred revenue (liability). The sale of future revenues will be reported as deferred inflows. Loan origination fees should be recognized as revenue in the period received, while points received will be reported as deferred inflows.

In addition, the term “deferred revenue” can no longer be used in the financial statements. The use of the term “deferred” is limited to items that qualify as deferred inflows or deferred outflows. There are other items related to leases and lending activities that were also reclassified by the pronouncement, which will be effective for years ending on or after Dec. 31, 2013.

GASB Statement No. 66, *Technical Corrections 2012 – an amendment of GASB Statements No. 10 and 62* amends Statement No. 10 by removing the provision that limits fund-based reporting of an entity's risk financing activities to the general fund and internal service fund types. Risk financing activities can now be reported in any fund



type based on the nature of the activity to be reported. Some states authorize local governments to assess a dedicated tax levy for tort liabilities, which would qualify this activity to be reported in a special revenue fund.

The pronouncement amends Statement No. 62 by modifying the guidance on accounting for operating lease payments that vary from straight-line and clarifies how to apply Statement No. 13. The pronouncement also amends paragraph 442 of Statement 62 to specify that a purchased loan or group of loans should include the amount paid to the seller plus any fees paid or less any fees received.

Paragraph 460 of Statement 62 is amended related to service fees to remove the provision that the sales price should be adjusted, for purposes of determining any gain or loss on the sale, to provide for the recognition of a normal servicing fee in each subsequent year. This eliminates the conflict with GASB 48. The pronouncement will be effective for years ending on or after Dec. 31, 2013.

GASB Statement No. 67, *Financial Reporting for Pension Plans* addresses reporting for state and local government pension plans that are administered through trusts and replaces GASB Statement No. 25 for those plans. While the financial statements will be very similar to current statements, the

pronouncement provides for enhanced note disclosures and new Required Supplementary Information (RSI) schedules. The new RSI consists of (1) schedule of changes in net pension liability and related ratios; (2) schedule of employer contributions (if actuarially determined); and (3) schedule of investment returns. Each schedule should be for the most recent 10 years.

The pronouncement also requires that the net pension liability be measured as the total pension liability less the amount of the plan's net position and specifies the approach to measuring the liability (entry age normal as a level percent of pay). The discount rate will be the long-term rate to the extent there is a plan net position and the bond rate once net position is depleted. However, one blended rate is used. To do this, governments will need to project future revenues and payments. The pronouncement will be effective for years ending on or after June 30, 2014.

GASB Statement No. 68, *Accounting and Financial Reporting for Pensions* establishes requirements for governments that provide their employees with pensions through a trust and replaces GASB Statement No. 27 for those government employers. The most significant change is that governments will now be required to recognize their net pension liability (NPL), which is the difference between

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NEW GASB PRONOUNCEMENTS

the total pension liability (the portion of the present value of projected benefit payments that is attributed to past periods) and the value of pension assets available to pay pension benefits. Additional note disclosure and the first two RSI schedules from GASB 67 will be required. This requirement also applies to cost sharing multiple-employer plans and will be a significant change for those plans. The statement requires immediate recognition of more pension expense than is currently required. Most changes in the NPL will be included in current period expense. Other components, such as changes in economic assumptions, will be recognized over a closed (not open) period equal to the expected remaining service lives of all employees who are provided benefits. Differences between expected and actual investment rate of return will be recognized in expense over a closed five year period.

All governments must use the entry age, as a level percent of payroll allocation method. The discount rate will continue to be based on the long-term expected rate of return but only to the extent that the projected plan net position exceeds the projected cash payments. Once the assets are depleted, governments must use the 20-year tax exempt AA or higher municipal bond rate. The pronouncement will be effective for years ending on or after June 30, 2015.

GASB Statement No. 69, *Government Combinations and Disposals of Government Operations* applies to mergers, acquisitions or transfers of operations but doesn't apply to an acquisition of another organization that continues to exist as a separate entity or acquisition of an equity interest in a separate entity.

A government merger is a combination of legally separate entities where no significant consideration is exchanged and either two or more governments cease to exist as legally separate entities and are combined to form one new government, or one or more legally separate governments cease to exist and their operations are absorbed into one or more continuing governments. If a new government is created the assets, liabilities and deferred inflows/outflows are measured at the carrying values of the merging entities. Continuing governments will report carrying

values as if the combination occurred at the beginning of the continuing government's fiscal year. Adjustments might be needed to bring accounting principles into alignment and capital asset impairment should be considered.

A government acquisition is a combination in which one government acquires another (or the operations of another) in exchange for significant consideration. The acquired entity becomes part of the acquiring government and is measured at acquisition value, except for compensated absences, OPEB, pensions, termination benefit obligations, landfill closure costs and derivatives, which must follow GASB standards. Acquisition value is a market-based entry price defined as one based on an orderly transaction and represents the price that would be paid for acquiring similar assets at the acquisition date. The acquiring government cannot recognize acquired goodwill. Consideration may be financial and nonfinancial and may exceed the net position acquired, in which case the difference is reported as deferred outflow and amortized in a rational systematic manner. If consideration is less than the net position acquired, the acquisition values of noncurrent assets are reduced. A contribution can be recognized when the seller intends to accept a lower price to provide economic aid to the acquiring government. Acquisition costs are expensed.

A transfer of operations is a government combination involving the operations of a government with no significant consideration being exchanged. The transfer of operations could be through annexation, redistricting or shared service arrangements (for example – public safety). It could be a transfer of operations to a new government, such as formation of a library district or governments combining operations and transferring assets and liabilities to a new government. The transferee government reports net fund balance received as a special item in the statement of revenue, expenditures and changes in fund balance. An example of an operation would be an entire fire department but not a single truck. The transferred operation must continue to provide essentially the same services as prior to the transfer.

For disposals of government operations the disposing government recognizes a

gain or loss as a special item. Only costs directly associated with the disposal are included in the calculation. There are several examples in Appendix C of Statement 69. The pronouncement will be effective for years ending on or after Dec. 31, 2014.

GASB Statement No. 70, *Accounting and Financial Reporting for Nonexchange Financial Guarantees* requires a liability to be recognized for certain guarantees. A nonexchange financial guarantee is a guarantee of an obligation of a legally separate entity, including component units, which requires the guarantor to indemnify a third-party holder under specified conditions. It does not apply to special assessment debt. A government will be required to recognize a liability when there are qualitative factors that make it more likely than not (more than 50 percent) that the government will make a payment on the guarantee. The term "more likely than not" differs from GASB 62 and FASB 5 definitions with regard to contingencies which require a liability if it's "probable" that a liability has been incurred.

Some qualitative factors to consider include entering into bankruptcy, failure to meet debt covenants or financial difficulty such as making late payments, drawing on a reserve fund to make debt payments or loss of a major revenue source.

The amount recognized is the best estimate of the present value of future outflows. If only a range is available, the minimum amount of the range should be used. The government will recognize expense and a liability in full accrual statements but is subject to expenditure recognition criteria in modified accrual statements (must be due and payable).

There are several examples in Appendix C of Statement 70 and the pronouncement will be effective for years ending on or after June 30, 2014.

For more information, contact Patricia Duperron, director, at pduperron@bdo.com.

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BDO professionals are requested to speak on a regular basis at various conferences due to their recognized experience in the industry. The following is a list of some of the upcoming events where you can hear BDO professionals speaking. In addition to these external venues, BDO offers both live and local seminars, as well as webinars, on such topics as nonprofit tax and accounting updates, international accounting and business issues, executive compensation and charitable solicitation registration. Please check BDO's website at www.bdo.com for upcoming local events and webinars.

JULY

Patty Brickett will be presenting a session entitled "Two Worlds Collide – Immigration Meets Tax – Issues for Not-for-Profits" at the Inside NGO Annual Conference being held on July 30 – Aug. 1 in Washington, D.C.

AUGUST

Mike Sorrells will be teaching an all day AICPA 990 course on Aug. 9 in Virginia Beach, Va.

SEPTEMBER

Brickett will also be presenting at the Inside NGO San Francisco Roundtable on Sept. 19 from 1 p.m. to 5 p.m. in San Francisco, Calif. The topic she will be presenting at this event is "Key International Tax Considerations for Not-for-Profits."

Sorrells will also be presenting the all day AICPA 990 course on Sept. 24 in New Jersey.

OTHER ITEMS TO NOTE....

Marketplace Fairness Act

The U.S. Senate passed the Marketplace Fairness Act of 2013 (the Act) by a vote of 69-27. This Act approves an Internet sales tax and is a culmination of more than 10 years of legislative efforts by state and local government officials and traditional retailers. This bill would allow a state to require certain remote sellers to collect sales and use tax on sales made to customers in the state. The bill provides an exception for businesses with annual remote sales of \$1 million or less. The Act now moves on to the House of Representatives. While the fate of the Act is uncertain, it is definitely something to keep an eye on.

ASU 2013-06, Services Received from Personnel of an Affiliate

The amendments in this Accounting Standards Update (ASU) require a recipient nonprofit entity to recognize all services received from personnel of an affiliate that directly benefit the recipient nonprofit entity. The ASU covers those services that are provided by an affiliated entity without charging the recipient for these services. The ASU was issued to address diversity in practice with regard to how these contributed services are being recorded. These services should be measured at the

cost recognized by the affiliate for the personnel providing these services. The amendments in this ASU will be effective prospectively for fiscal years beginning after June 15, 2014. A recipient nonprofit entity may apply the amendments using a modified retrospective approach where all prior periods presented upon the date of adoption are adjusted but there is no adjustment made to the beginning balance of net assets. The ASU may be adopted early.

Changes to the Data Collection Form

The Data Collection Form (DCF) summarizes the results of the single audit and must be submitted to the Federal Audit Clearinghouse (FAC) along with the single audit reporting package. There have been proposed changes to the DCF for years 2013, 2014 and 2015 and they are available for public comment until July 8, 2013. As a result of this process, the final 2013 DCF may not be issued prior to the completion of 2013 single audits. The OMB has recently issued the following guidance for these situations.

"If a single audit for a fiscal period ending in 2013 is due before the 2013 form is available, auditees will not be able to

meet the 30 day deadline for submission prescribed in OMB Circular A-133, section .320(a). Therefore, OMB has granted an extension until Sept. 30, 2013, for reporting packages due to the FAC before that date. The extension is automatic and there is no approval required. The extension applies only to single audits for the fiscal periods ending in 2013."

Other proposed changes to the DCF include a requirement that each auditee will need to establish an individual account by creating a profile with user information, a valid e-mail address as the user name, and a password. In addition, the reporting package will need to be 85 percent searchable. The goal is to obtain more transparency by providing public access to all items in the reporting package submitted to the FAC. Auditees will have to be careful not to include any personally identifiable information in their submissions.

The draft DCF, instructions and a full summary of the proposed changes can be found under "Recent News" at www.whitehouse.gov/omb/financial_default.

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The Institute offers both live and local seminars, as well as webinars, on a variety of topics of interest to nonprofit organizations and educational institutions. Please check BDO's web site at www.bdo.com for upcoming local events and webinars.

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