

April 24, 2018

The Honorable David Kautter  
Acting Assistant Secretary for Tax Policy  
Department of the Treasury  
1500 Pennsylvania Avenue, NW  
Washington, DC 20220

Mr. William M. Paul  
Acting Chief Counsel  
Internal Revenue Service  
1111 Constitution Avenue, NW  
Washington, DC 20224

RE: Request for Delay in Effective Date of IRC Section 512(a)(6), Unrelated Business Taxable Income Separately Computed for Each Trade or Business Activity (Public Law No. 115-97, Sec. 13702)

Dear Messrs. Kautter and Paul:

The Tax Cuts and Jobs Act (Public Law No. 115-97) establishes a new requirement that tax-exempt organizations conducting more than one unrelated trade or business calculate UBI separately for each unrelated trade or business. Previously, exempt organizations could report their UBI from all activities, deduct the related expenses and pay tax on the resulting net taxable income. The Tax Cuts and Jobs Act establishes this new requirement to be effective for tax years beginning after December 31, 2017.

On behalf of the American Society of Association Executives' (ASAE) 40,000 members, we respectfully request that the Treasury Department and the Internal Revenue Service (IRS) delay the implementation of this provision (Sec. 512(a)(6)) for one year, changing the effective date to tax years beginning after December 31, 2018.

Additional guidance is urgently needed to assist tax-exempt organizations in determining with certainty what, in the administration's interpretation, makes up a separate unrelated trade or business. Absent specific guidance, it is extremely difficult for tax-exempt organizations to keep appropriate records and report UBI accurately in compliance with this provision.

We are aware that IRS recently updated its 2017-2018 Priority Guidance Plan to include this particular issue as a "near-term priority," but we echo [comments](#) submitted by the American Institute of CPAs (AICPA) that the lack of guidance currently affects tax practitioners who are unable to accurately and consistently advise tax-exempt organizations on the calculation of estimated tax payments for 2018. Even if proposed regulations are issued soon, there will presumably be the standard 90-day comment period and public hearing, meaning it is conceivable that three quarterly estimated tax payment deadlines in 2018 will have passed by the time guidance is finalized.

Given the substantial recordkeeping changes this provision demands of tax-exempt organizations, a one-year delay in the effective date of Section 512(a)(6) is more than warranted to allow tax-exempt organizations time to determine how to comply with the new reporting requirements.

Thank you for your careful attention to this letter, and we stand ready to discuss this matter further should you have additional questions about the concerns we have raised. If you have any questions, please contact Jim Clarke, ASAE's senior vice president of public policy, at 202-626-2703 or [jclarke@asaecenter.org](mailto:jclarke@asaecenter.org).

Sincerely,



John H. Graham IV, FASAE, CAE  
President and CEO