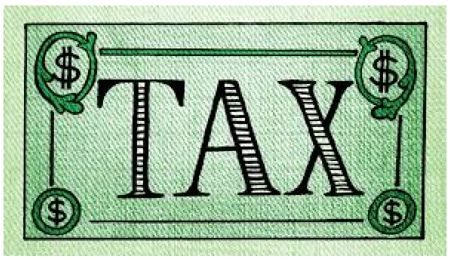
Henderson & Caverly Pum LLP

NONPROFIT ORGANIZATIONS NEWSLETTER
July 2019

FRANCHISE TAX BOARD NEWS:
Exempt organizations and filing enforcement notices



The Franchise Tax Board routinely sends out filing enforcement ("FE") notices to individuals and business entities who may have a filing requirement for a specific tax year but have not filed a return with the FTB.

One of the questions that comes into the FTB's Contact Centers when they send out FE notices to business entities comes from tax-exempt entities or organizations who are asked to file a Form 100 California Corporation Franchise or Income Tax Return when they normally file Form 199 California Exempt Organization Annual Information Return or Form 199N if eligible. The requirement to file Form 199 is generally based on the normal amount of total gross receipts and pledges. Organizations with gross receipts that are normally $50,000 or less may choose to electronically file FTB 199N but may also file Form 199.

There are several reasons why a tax-exempt entity may receive this type of notice. One of the most common reasons is that their exempt status has been revoked due to their failure to file a return or pay an amount due. Alternatively, they have been suspended by the Secretary of State, which can quickly lead to their exempt status being revoked.

Once an entity's exempt status has been revoked, the entity is subject to the franchise tax provisions – including the requirement to pay at least the minimum tax each year. It is for this reason, the FTB sends the request for file Form 100.

FTB's Introduction to Tax Exempt Status (Publication 927) explains what can lead to suspension or forfeiture and possible revocation of an exempt entity and gives the primary requirements to get back into good standing.

If your organization has been suspended by the FTB or its exempt status has been revoked, please contact us.

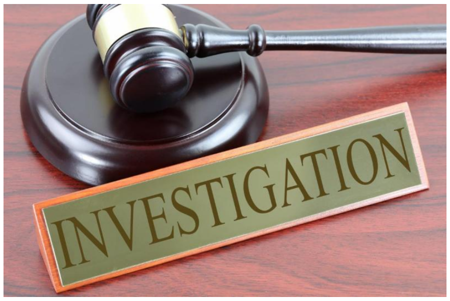
Form 990-T Fiscal Year 2017 Corporate Filers Apply Blended Rate to Unrelated Business Taxable Income (UBTI) for Entire Taxable Year

The IRS reminds Form 990-T Corporate Filers of new tax law provisions that could affect the tax rate applicable to their UBTI. Specifically, fiscal 2017 corporate filers should apply a blended rate to their UBTI for the entire 2017 taxable year, including any UBTI from amounts paid or incurred after December 31, 2017 that increase UBTI under new Section 512(a)(7).

The Tax Cuts and Jobs Act (TCJA) introduced a flat 21 percent corporate tax rate for tax years beginning after December 31, 2017. However, corporations with fiscal tax years beginning in 2017 and ending in 2018 calculate their tax by blending the rates in effect before 2018 with the rate in effect after 2017. An exempt organization that is a corporation with a 2017 fiscal year calculates its tax liability by applying the pre-2018 rate and the post-2017 rate to the corporation's taxable income for the entire tax year. It prorates those amounts based on the number of days in each period relative to the total days in the tax year. The sum of those results yields a blended rate. The blended rate may be greater or less than the corporate tax rate of 21 percent.

The TCJA also added Internal Revenue Code Section 512(a)(7), which increases an exempt organization's UBTI by any amount paid or incurred after December 31, 2017, for any qualified transportation fringe, any parking facility used in connection with qualified parking, or any on-premises athletic facility for which a deduction is not allowable because of Section 274. Organizations with a fiscal tax year beginning in 2017 should enter any such increase in UBTI on line 12 of the 2017 Form 990-T.

ATTORNEY GENERAL CRACKS DOWN ON VETERAN CHARITY, SECURES $1.8 MILLION IN RESTITUTION FOR CHARITIES



California Attorney General Xavier Becerra and the Federal Trade Commission led a coalition of five Attorneys General in securing a $1.8 million settlement against a deceptive veteran charity, Help the Vets, Inc., and its founder, Neil G. Paulson. During a four-year period, Help the Vets used multiple fictitious names and solicited $20 million in donations nationwide by misleading donors about its cause. The sham charity claimed to help veterans receive grants, medical assistance, suicide prevention assistance, and family retreats when, in fact, little to none of the funds raised went toward this assistance.

"Defrauding generous Americans by lying about providing services to our courageous veterans is outrageous and an insult to our service members," said Attorney General Becerra. "Californians deserve to trust that their charitable donations are going toward legitimate organizations that have actual charitable programs. My office is committed to bringing to justice all dishonest charitable organizations who claim to help our veterans only to line their own pockets.

On July 18, 2018, Attorney General Becerra, along with the Federal Trade Commission and five other state Attorneys General, filed a complaint and settlement in federal court against Help the Vets. On November 21, 2018, the court approved the settlement and Help the Vets and Mr. Paulson were ordered to pay over $1.8 million dollars. Further, to ensure the money is used for the purposes Help the Vets claimed, the Attorneys General and other states received court approval to distribute $911,906.37 each to two veteran charities, the Injured Marine Semper Fi Fund and Hope for the Warriors.

The complaint also charged that Help the Vets improperly inflated how much it spent on some of its illusory programs, such as the family retreat program. In IRS filings, Help the Vets reported it spent more than $12 million dollars on this program by distributing time share vouchers based on their supposed fair market value, even though it paid nothing for the vouchers and virtually no veterans used them. The filing of the complaint also followed a cease and desist order issued by Attorney General Becerra that prohibited Help the Vets from operating and soliciting in California and assessed penalties. The cease and desist order found that Help the Vets misrepresented its fundraising and program service expenses in its annual reports filed with the Attorney General's Registry of Charitable Trusts and also failed to disclose a self-dealing transaction with Mr. Paulson, among other law violations. Help the Vets and Mr. Paulson are also banned from soliciting charitable contributions, and Mr. Paulson is banned from engaging in other activities involving charitable organizations.

Attorney General Becerra and the Federal Trade Commission led the Attorneys General of Florida, Maryland, Minnesota, Ohio, and Oregon in securing the settlement, which can be found here.

VIDEO TIPS FOR BUSINESSES FROM THE IRS

The following video tips from the IRS for businesses are now available:

- Meals and Entertainment
- Employee Qualified Transportation

You may subscribe to the IRS YouTube channels for short, informative videos on tax related topics. The videos are available in English, Spanish and ASL.

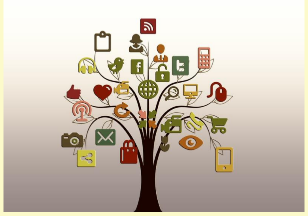
In addition, the IRS Video Portal contains video and audio presentations on topics of interest to small businesses, individuals and tax professionals. The portal includes information for charities and nonprofits. You will find video clips of tax topics, archived versions of live panel discussions and webinars.

TAX REPORM PROVISIONS THAT AFFECT RETIREMENT PLANS, TAX EXEMPT ORGANIZATIONS AND GOVERNMENTS

As the IRS implements this major tax legislation, be sure to check the IRS' website for updates and resources to learn how the Tax Cuts and Jobs Act (TCJA) affects retirement plans, tax exempt organizations and governments.

The IRS provides resources for tax exempt organizations regarding unrelated business taxable income, excise tax on investment income of private colleges and universities and excise tax on excess tax-exempt organization executive compensation.

If you have questions regarding how the TCJA affects your nonprofit organization, please contact us.



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