

NOT-FOR-PROFIT NEWSFLASH

WINTER 2017



- ▶ **HOW TAX LAW CHANGES MAY IMPACT CHARITABLE GIVING**
- ▶ **A DEEPER DIVE INTO ASU 2016-14 IMPLEMENTATION ISSUES**
- ▶ **INTERNATIONAL TAX ISSUES IMPACTING NONPROFITS, PART 2: FOREIGN INCOME TAX FOR EMPLOYEES**
- ▶ **IRS ISSUES 2017 WORK PLAN FOR TAX EXEMPT ORGANIZATIONS**
- ▶ **WHAT'S THE DIFFERENCE BETWEEN NONPROFIT AND FOR-PROFIT ACCOUNTING, AND HOW DOES IT IMPACT THE FIDUCIARY DUTIES OF BOARD MEMBERS?**
- ▶ **OTHER ITEMS TO NOTE**



HOW TAX LAW CHANGES MAY IMPACT CHARITABLE GIVING



By *Laura Kalick, JD, LLM in Taxation*

Whether we look at the [blueprint](#) for tax reform put forth by Republican House Ways and Means Committee members, the [deliberations](#) of the Senate Finance Committee's bipartisan tax reform working groups or the [tax proposals](#) of President-elect Trump, there is a very real possibility that tax rates will be lowered in the near future. While the Internal Revenue Code (IRC) hasn't seen a major overhaul since 1986, the tax law as we know it today may not be the tax law next year.

What does this mean for America's charitable organizations? In a nutshell, charities should encourage donors to contribute before the end of the year to take advantage of more impactful deductions that may not be available if rates are lowered in the future. Accelerating charitable deductions now could be critical to maximize fundraising if near-term tax reforms include a dollar cap on total itemized deductions like charitable donations. Favorable provisions that now allow fair market value deductions for gifts of appreciated property to charity could come under scrutiny as well, further complicating fundraising potential.

Regardless of what unknown tax code changes are on the horizon, encouraging giving now—while the outcome is predictable—is imperative.

Below are some of the details of tax changes President-elect Trump proposed during his campaign:

Lowering the number of tax brackets for married joint filers from seven to three at the following rates:

- Less Than \$75,000: 12 percent
- More than \$75,000 but less than \$225,000: 25 percent
- More than \$225,000: 33 percent

Capping itemized deductions and increasing the standard deduction:

- President-elect Trump proposed capping itemized deductions at \$200,000 for married joint filers or \$100,000 for single filers. These deductions would include charitable deductions, mortgage interest deductions, state tax deductions and others.

BMSS NOT-FOR-PROFIT PRACTICE GROUP

The most important goal for any not-for-profit organization is to maintain the ability to carry out its mission. To do that, financial stability is a must. As the economy recovers, more and more growth opportunities present themselves to not-for-profit groups.

At Barfield, Murphy, Shank & Smith, our professionals are well-versed in the challenges facing not-for-profit organizations. We are determined to see that not-for-profits in the Greater Birmingham area remain financially sound and operationally efficient. Our engagement team will work closely with your directors and key staff members to focus on areas that are crucial to not-for-profit entities; donor scrutiny, regulatory compliance, funding and investment challenges and strategic planning.

An investment in Barfield, Murphy, Shank & Smith's experience and expertise is a step towards a brighter and more secure future for your organization. Whether you are an advocacy group, professional membership association, private foundation, social service organization or a faith-based group, we will formulate a plan to keep your mission moving forward.

Thought Leaders:



Patrick Bowman, CPA
Member
Pbowman@bmss.com
205.982. 5549



Janet Cooke, CPA
Senior Manager
Jcooke@bmss.com
205.982. 5560

How Tax Law Changes... Continued

- The Trump plan would also increase the standard deduction for joint filers from \$12,600 to \$30,000, and the standard deduction for single filers will be \$15,000. This means fewer people may be itemizing their deductions, and therefore may not be as concerned about generating deductions through charitable contributions.

Estate tax::

- Trump has also proposed eliminating the federal estate tax, currently at 40 percent. Charitable contributions from an estate reduce the overall taxable value of the estate. If there is no estate tax, charitable requests may be significantly reduced.

The future of charitable giving incentives

The charitable deduction is one of the ten largest tax expenditures in the IRC and has long been subject to proposed modifications, including extensive hearings held in 2013, which we [covered here](#) in the Nonprofit Standard blog. Proposals to limit the deduction have included dollar caps, floors below which contributions may not be deducted, credits instead of deductions and more. In addition to

monetary contributions, many hearings have even included debate on whether the treatment of gifts of property to charities should be revisited. Every time changes are proposed, the nonprofit industry seeks to analyze how the proposals would raise revenue and impact charities.

Not all tax code changes negatively impact charities, however. Last year, Senators John Thune (R-S.D.) and Ron Wyden (D-Ore.) introduced the Charities Helping Americans Regularly Throughout the Year (CHARITY) Act. Among the provisions in the CHARITY Act, the Senate asserted that the promotion of charitable giving should be one of the goals of comprehensive tax reform. The House Tax Reform Blueprint would also provide incentives for charitable giving.

As charities make one final fundraising push to end 2016, they should encourage donors to make gifts now while the tax outcome is certain, rather than waiting until next year when the rules may be changed in a way that negatively affects their bottom line. Despite the interplay

between tax deductions and charitable giving, the [2014 U.S. Trust Study of High Net Worth Philanthropy](#) found that a desire to make a difference (73.5 percent) and personal satisfaction (73.1 percent) were the main motivators in giving, while tax benefit was cited by just 34.4 percent of respondents. In looking at those statistics, it's clear that conveying a compelling mission is key to attracting and retaining donors.

There is enormous competition for charitable donations. It's essential to make your organization's mission emotionally compelling and relevant to take advantage of current favorable giving arrangements that may not last.

Article reprinted from the BDO Nonprofit Standard blog. Copyright © 2016 BDO USA, LLP. All rights reserved. www.bdo.com

A DEEPER DIVE INTO ASU 2016-14 IMPLEMENTATION ISSUES

By Tammy Ricciardella, CPA

The Fall [Nonprofit Standard Newsletter](#) outlined the financial reporting areas for nonprofits that will be impacted by the Financial Accounting Standards Board (FASB) Accounting Standards Update (ASU) 2016-14, *Not-for-Profit Entities (Topic 958): Presentation of Financial Statements of Not-for-Profit Entities*.

As organizations look to implement ASU 2014-16 and meet its requirements, they must account for how these changes may impact how they collect information. This article will highlight three of these areas:

Investment Expenses

As we have noted, the ASU now requires

the netting of investment expenses against investment return; in addition, only the net amount of the investment return is required to be presented in the statement of activities. The investment expenses that should be netted against the investment return are both internal and external. To comply with this presentation, organizations need to fully understand the definitions of these terms and then consider how to appropriately and accurately capture this information.

The ASU states that investment returns related to total return investing and not programmatic investing should be reported net of external and direct internal investment expenses.

Programmatic investing is defined as "the activity of making loans or other investments that are directed at carrying out a not-for-profit entity's purpose for existence rather than investing in the general production of income or appreciation of an asset." An example of programmatic investing is a loan made to lower-income individuals to promote home ownership.

External investment expenses are those that are reported to the organization by the external money managers and other external investment management firms related to the management of the investment portfolio. This information will be

Continued...

How Tax Law Changes... Continued

obtained from the external investment firms based on what they have charged.

Direct internal investment expenses are defined in the ASU as those that involve the direct conduct or supervision of the strategic and tactical activities involved in generating investment return. These include, but are not limited to, the following:

- Salaries, benefits, travel and other costs associated with the officer and staff responsible for the development and execution of investment strategy, and
- Allocable costs associated with internal investment management and supervising, selecting, and monitoring of external investment management firms.

Direct internal investment expenses do not include items that are not associated with generating investment return. For example, the accounting staff costs associated with reconciling accounts, recording transactions, maintaining the unitization of pooled investment accounts and other such clerical staff time are not direct internal investment expenses, so they would not be included.

Accounting for investment expenses and the related allocation of costs is a process that organizations will have to develop to properly present these investment costs under the provisions of the ASU. The complexity of this will depend on the type of organization and the amount and nature of their investments. For example, the management of a large foundation that handles the strategic aspects of investing their assets internally will have to analyze and establish an allocation methodology for the salaries, benefits and travel related to the total return investing. Entities will need to identify all personnel who participate in the investment process and determine if they have a strategic role or not. In addition, entities may need to develop a process and make modifications to timesheets or other



tracking methodologies to capture the time spent aiding the identification and allocation of these costs.

Liquidity and Availability Disclosures

Under the ASU, specific quantitative and qualitative information related to the new liquidity and availability requirements is required to be disclosed. Organizations should assess how they manage their liquid resources to ensure they can meet their cash needs for general expenditures as of and within one year, respectively, of the statement of financial position date. In addition, organizations will need to evaluate their financial assets to determine their availability to meet cash needs; consider the nature of the assets; examine the external limits imposed by donors, laws, and contracts; and account for any internal limits imposed by governing board decisions. These limitations need to be analyzed and tracked so the organization can identify its available financial assets and provide the necessary disclosures. Other qualitative issues including special borrowing arrangements or instances whereby the entity has not maintained appropriate amounts of cash as required by donor-imposed restrictions and limitations that result from contractual agreements with suppliers, creditors, loan covenants and other sources need to be identified and evaluated

to prepare the appropriate disclosures.

Internal Net Asset Designations

Under ASU 2016-14, the accounting treatment for internally designated net assets hasn't changed; however, the presentation of these amounts and the disclosures have. These changes require entities to properly track these amounts and their related purpose so they can meet the ASU's disclosure requirements.

As we have noted in the past, organizations should review the ASU now and take these items and others into consideration when developing their implementation plan. Though the ASU does not have to be implemented until calendar year 2018 or fiscal year 2019 year ends, preparing for it takes careful planning, so organizations would be well advised to begin the process as soon as possible.

This article originally appeared in BDO USA, LLP's "Nonprofit Standard" newsletter (Winter 2016). Copyright © 2016 BDO USA, LLP. All rights reserved. www.bdo.com

INTERNATIONAL TAX ISSUES IMPACTING NONPROFITS, PART 2: FOREIGN INCOME TAX FOR EMPLOYEES



By Jeffrey Schragg, J.D., CPA; Brad Veltkamp, CPA; Katherine “KC” Reeves, CPA

We provided guidance for nonprofits awarding grants abroad in the first article of our international series in the Fall [Nonprofit Standard Newsletter](#). Now, we turn our attention to nonprofits with employees temporarily working or based on foreign soil.

If your organization employs anyone working outside of their home country, a variety of complex tax issues come into play for those individuals. With individual income tax rates exceeding 50 percent in some nations, it is vital that nonprofit leaders are fully aware of international income taxes that employees may be subject to, so they can educate their employees accordingly. To aid this process, we've outlined five key international income tax issues to address as one or more of your nonprofit's U.S. employees transition overseas:

1. Identify what obligations your employee may have in the foreign jurisdiction.

Potential obligations to the foreign jurisdiction range from adhering to documentation procedures to tax compliance. Employees may need to obtain the proper work authorization

forms to work in their host country. To comply with income taxation in some foreign countries, employees may need to file for and pay the tax themselves. Alternatively, organizations may arrange or be required to pay or deposit the tax on their employees' behalf. Employees may also be required to file a tax return to determine their actual foreign tax liability. In addition, they will need a foreign country return or other adequate documentation to claim a U.S. tax credit for the foreign taxes that they have paid.

2. Determine whether your employee will be subject to, or exempt from, income tax in the host country.

The U.S. has entered income tax treaties with many countries (approximately 75) that may offer exemptions or reduced rates to many U.S. individuals working abroad. But not all treaties function the same—each country has different goals and objectives. As a first step, you and your employees should identify whether the nation they will be based in has established a tax treaty with the U.S. Then familiarize yourselves with its specific terms. Most tax treaties have specific terms for income tax exemption, such as the length of time an individual can spend in the foreign country and/or the amount of money they can earn for services working in the foreign country.

While it is best practice to review each treaty carefully, keeping the length of assignment under 183 days might enable employees to avoid taxation in the host country altogether. For employees exceeding that threshold, the length of the assignment will often have a direct impact on the type and amount of taxation the individual may become subject to. If at the beginning of a foreign assignment, an employee is reasonably expected to work abroad for less than one year, the organization may cover many travel expenses, like housing, cars and per diems, without any additional U.S. income to the U.S. employee. Similar rules allowing for the exclusion of certain company-provided benefits, based on time and intent, typically exist in other countries as well. It is imperative that you engage local tax counsel for in-country tax compliance. Beyond tax treaties, bilateral or status of forces agreements may offer additional exemptions.

3. Assess compensation and benefit options for employees based abroad.

Even if payroll reporting is required in the host country, an internationally-based U.S. employee must also remain on U.S. payroll to receive a Form W-2 to report their total income (both U.S. or foreign sourced) to the IRS. You may wish to also treat them as a U.S. employee for fringe benefits. This course of action will allow the employee to maintain the ability to participate in certain benefit programs, such as a 403(b) or pension plans. From a procedural perspective, it's important to obtain new payroll documentation, including a new Form W-4 and Form 673, from the individual before departure. It's likely that more payroll or other registration documentation will need to be gathered in the host country location. Both of these documents allow the nonprofit employer to reduce or eliminate the U.S. tax withholding while the U.S. individual is abroad.

*International Tax... Continued***4. Review the host country's social security system to understand employees' obligations.**

If the host location has a social security system, the individual may be required to contribute to it in addition to the U.S. Social Security system. In some countries, the employee's required contribution rate to social security can be higher than the income tax rate. The U.S. has worked to mitigate this by entering into Totalization Agreements with 25 countries. Prior to an employee moving overseas, nonprofits should determine whether the host country has entered a Totalization Agreement with the U.S., which serves to eliminate double liability for social security taxes.

5. Do research early to avoid costly penalties for noncompliance.

Managing international employees is important on several levels. Unpaid tax obligations are generally compounded by interest and penalties to effectively double or triple by the time they are noted by the taxing authority. To avoid costly surprises down the line, it is critical to proactively educate your employees about their income tax obligations when based abroad. It is best practice to establish a written policy regarding international income tax obligations to advise employees of their responsibility to minimize risk and the cost of noncompliance. Individuals subject to unexpected foreign taxes will look to their employer for assistance should the above issues not be addressed prior to sending them overseas.

For nonprofits planning to transfer employees abroad on an ongoing basis, establishing a defined relocation policy and developing educational resources on an employee's international income tax obligations is best practice to help ensure a smoother process in the future.

Interested in more tips for nonprofits navigating the international tax landscape? Keep an eye out for part three of our series to learn more about tax considerations for nonprofits with more expansive operations based overseas.

Article reprinted from the BDO Nonprofit Standard blog. Copyright © 2016 BDO USA, LLP. All rights reserved. www.bdo.com

IRS ISSUES 2017 WORK PLAN FOR TAX EXEMPT ORGANIZATIONS

By *Laura Kalick, JD, LL.M. in Taxation*

The Tax Exempt and Government Entities division of the IRS issued its [FY 2017 Work Plan](#) at the end of September 2016, which builds upon the agency's 2016 priorities and its mission to work smarter with fewer resources.

This idea of "working smarter" includes targeting audit initiatives so the IRS can focus on organizations where they will be more likely to find noncompliance, as well as provide more information to organizations so they can be compliant. The work plan can also serve as a helpful resource for nonprofits as they begin planning for the new fiscal year. Nonprofits can review the work plan to determine key strategic actions they should take now to prepare for the possibility of an IRS audit.

In 2016, the IRS launched an effort to use data gathered from the Form 990 series to identify existing and emerging high risk areas of noncompliance. With this initiative, the IRS achieved a change rate of 90 percent when conducting audits in 2016. In other words, 90 percent of its audits identified a discrepancy, and as a result, the organization had to change a position it took on its initial return, which often resulted in additional tax dollars paid to the IRS. Based on the 2016 results, the IRS will continue to utilize data analytics from Form 990 in fiscal year 2017.

Examination Focus

The 2016 priorities put forward five key issues of examination focus, which will continue in FY 2017. They are:

- 1. Exemption:** Non-exempt purpose activity and private inurement
- 2. Protection of Assets:** Self-dealing, excess benefit transactions, and loans to disqualified persons
- 3. Tax Gap:** Employment tax and unrelated business income tax (UBIT) liability

4. International Operations:

Oversight on funds spent outside of the U.S., exempt organizations operating as foreign conduits and requirements under the *Report of Foreign Bank and Financial Accounts* (FBAR)

5. Emerging Issues: Non-exempt charitable trusts and IRC 501(r)

Of those five key issue areas, the tax gap was one of the most prevalent in the past year. In 2016, the IRS conducted almost 5,000 exams, and their statistics show a large portion of those exams encompassed the tax gap items listed above. So, as organizations look at their tax positions, they need to examine tax gap concerns such as:

► Unrelated Business Income:

Gaming, non-member income, expense allocation issues, net operating loss adjustments, rental activity, advertising, debt financed property rentals and investment income

► Employment Tax Issues:

Unreported compensation, tips, accountable plans, worker reclassifications and noncompliance with FICA, FUTA and backup withholding requirements

In addition to tax gap concerns, there are several issue areas which are always under scrutiny for section 501(c)(3) organizations, such as private inurement, private benefit, political activity and more than insubstantial lobbying activities.

Other potential audit triggers include:

- Inconsistent or incomplete information on a filed return
- Diversion of assets
- A claim for refund or a request for abatement that requires further review

In addition, the IRS also relies on public sources of information, including

IRS Issues... Continued

complaints or referrals from a federal or state regulatory agency or referrals from the public. [Form 13909](#) is the referral form for exempt organizations and [Form 211](#) is the Application for Reward for Original Information form. Informants can keep their anonymity.

FY 2017 Initiatives

In FY 2017, the IRS will continue to build its knowledge base for its agents and the public by hosting continuing professional education events and preparing issue snapshots. Streamlining processes also remains a key priority for the IRS, for example, making the determination letter process more efficient by returning applications that do not have the required documentation. The IRS lowered the user fee for organizations to apply for section 501(c)(3) status using Form 1023-EZ, in hopes that more organizations use the short form.

To prevent surprise revocations for an organization's failure to file a return

for three years in a row, the IRS has implemented a warning system prior to revocation. This should also reduce the determination letter inventories resulting from automatic revocations.

The IRS has also introduced Form 8976, which 501(c)(4) organizations will now be required to file to indicate their intent to operate as a 501(c)(4). These organizations are also still required to file Form 990. The new form is not a substitute for filing a Form 1024, Application for Exemption; however, the application is still not required, as 501(c)(4) organizations may be "self-declared" as exempt. But with the new notification the IRS may be taking a closer look at the new organizations.

Best Practices

Now that the IRS work plan is out, it gives organizations insight on how they can prepare for the year ahead. As part of an organization's annual financial audit, it should determine whether or not there are any material uncertain income tax positions. Even if your organization goes

through this exercise annually, it may be good to get a fresh look and even conduct a "mock" IRS audit—it's better to identify any potential issues in the mock audit rather than a real one.

After the analysis of tax positions, organizations would be wise to document, document, document. In a routine audit, the IRS typically examines the three-year open tax period. Under certain circumstances, organizations need to produce documentation for years prior. For example, net operating losses can be carried forward 20 years. If an organization is using a loss that was generated two decades ago to offset current income, the IRS can request documentation from the year the loss was incurred. If an organization does not have documentation to support its position, it may be difficult to prevail on an issue.

Article reprinted from the BDO Nonprofit Standard blog. Copyright © 2016 BDO USA, LLP. All rights reserved. www.bdo.com

WHAT'S THE DIFFERENCE BETWEEN NONPROFIT AND FOR-PROFIT ACCOUNTING, AND HOW DOES IT IMPACT THE FIDUCIARY DUTIES OF BOARD MEMBERS?

By Lee Klumpp, CPA, CGMA

There are many opinions on what the fiduciary responsibilities of nonprofit board members are. The National Council for Nonprofits discusses that boards should:

a) Take care of the nonprofit by ensuring prudent use of all assets, including facility, people and goodwill; and provide oversight for all activities that advance the nonprofit's effectiveness and sustainability. (Legal term: "Duty of due care")

b) Make decisions in the best interest of the nonprofit corporation; not in his or her self-interest. (Legal term: "Duty of loyalty")

c) Ensure that the nonprofit obeys applicable laws and acts in accordance with ethical practices; that the nonprofit adheres to its stated corporate purposes, and that its activities advance its mission. (Legal term:



"Duty of obedience")

In light of several nonprofit failures in recent years, it has become even more vital for members of nonprofit boards to exercise the duty of due care as described above by understanding how their organization communicates its financial results and operations. Members of nonprofit boards tend to come from the for-profit world,

where financial reporting is quite different. Below, we have highlighted some of the financial reporting differences between nonprofit and for-profit entities to help board members understand and fulfill their fiduciary responsibilities.

First, look at the spectrum of nonprofits to determine where the

What's The Difference... Continued

organization you serve falls.
Some nonprofits might land at one end of the continuum



or the other depending on their mission, strategic plan or business model. You might even determine a nonprofit's position on the continuum based on how they generate revenue—for instance, a nonprofit that raises most of its funds from fees for services might be a more business-like nonprofit (i.e., nonprofit hospital). Whereas a nonprofit that raises most of its revenue through fundraising or contributions might be a more charity-like nonprofit (i.e., homeless shelter). A college or university might fall in the

middle of the continuum depending on its business model.

Most of the time when we talk about the difference between nonprofits and for-profits, we consider the differences between the two; however, it's also important to account for similarities. The following are just a few of the similarities:

- Both types of organizations can grow, transform, merge or fail. Success isn't guaranteed for either.
- Cash is crucial.
- Good management and leadership really matter. Delivering quality service, motivating and inspiring staff and conceiving new areas for growth are vital.
- Planning, budgeting and performance measurement systems are crucial.
- Both add value to society via job creation and buying and selling goods and services in the market.

Some of the structural differences between nonprofits and for-profits are listed below:

Nonprofits	For-Profits
▶ No shareholders/investors	▶ Initial capital from shareholders/investors
▶ Provide benefits to their members or the public through their services	▶ Provide a return on investment to stockholders
▶ Focus on maintaining excess revenue over expenses to maintain and expand services to their constituency	▶ Sell goods and services to drive market share to increase profits that either create return on investment and/or invest in expansion
▶ Regulated by the Internal Revenue Service; in the case of charities, also regulated by the states attorney's office. Others have to follow state and local laws that apply to charities and businesses	▶ Public companies are regulated by the Securities and Exchange Commission. Private companies are not generally regulated but have to follow state and local laws that apply to both charities and businesses

The Goals of Financial Reporting:

Due to the differences between nonprofit and for-profit entities, they also have differing financial reporting goals:

Nonprofits:

- Meet their obligation to communicate to the public and their donors how they acquired, managed and allocated financial resources to accomplish their mission.

- Present financial statements that are informative, transparent, reliable and adequately communicate financial position, results and accomplishments to stakeholders.

For-Profits:

- Report profitability and cash flows so that shareholders and investors can project future dividends and return on investment.

Financial reporting differences between nonprofits and for-profits are:

Nonprofits	For-Profits
▶ Statement of Financial Position	▶ Balance Sheet
▶ Statement of Activities	▶ Income Statement
▶ Statement of Functional Expenses (only required for some NFPs)	▶ (Generally no for-profit comparison)
▶ Statement of Cash Flows	▶ Statement of Cash Flows
▶ Statement of Net Assets	▶ Statement of Owners' Equity

What's The Difference... Continued

When Reviewing Nonprofit Financial Statements, Remember...

- Present net assets versus retained earnings;
- Present net assets as unrestricted, meaning no restrictions are placed by donors; or temporarily or permanently restricted, meaning restrictions are placed on these funds by donors;
- Show contribution revenue, which is a nonreciprocal transaction where the donor does not expect a good or service of similar value;
- Present quantitative information on how a nonprofit manages

and deploys its resources through the statement of activities, statement of functional expenses (if required), and footnotes.

Understanding the differences between nonprofits and for-profits will aid board members in fulfilling their fiduciary responsibilities by allowing them to analyze the financial statements of nonprofit entities and improve their value as a member of the team driving the organization's success.

This article originally appeared in BDO USA, LLP's "Nonprofit Standard" newsletter (Winter 2016). Copyright © 2016 BDO USA, LLP. All rights reserved. www.bdo.com

OTHER ITEMS TO NOTE

Department of Labor's New Overtime Rule is Delayed

On Nov. 22, a federal district court judge issued a [nationwide preliminary injunction](#) against the implementation of the U.S. Department of Labor's (DOL) Overtime Rule. The new overtime rule was slated to go into effect on December 1, 2016. This new overtime rule extends the eligibility to earn overtime to workers who were not previously subject to overtime rules because of their compensation levels.

The injunction is likely to remain in effect until the case is decided which may take months. The injunction preserves the status quo until the court can determine whether the DOL has the authority to establish the overtime rule as well as determine the overtime rule's validity.

This court decision is only temporary so stayed tuned for updates on this issue.

FASB Proposes a Clarification to Nonprofit ASU

On October 27, the Financial Accounting Standards Board (FASB) issued a proposed technical correction to ASU No. 2016-14, *Not-for-Profit Entities (Topic 958): Presentation of Financial Statements for Not-for-Profit Entities*. The proposed correction aims to clarify the minimum requirements for the reconciliation that a not-for-profit entity (NFP) is required to disclose if it has endowment funds. The current wording in the ASU includes the wording "that contain no purpose restrictions" when the disclosure requirements are being discussed. This technical correction would maintain the legacy disclosure requirement and clarify that all funds appropriated for expenditures from an endowment fund should continue to be disclosed in the footnotes when showing the changes in the endowment net assets during the financial period being reported. Thus, the removal of the words "that contain no purpose restrictions" in the ASU should be removed to support the intent of the required minimum disclosure of the endowment activity.

The proposed amendment would not require transition guidance and would be incorporated in the final Accounting Standards Update. Additional details are available via the FASB website [here](#).

Rejections of Uniform Guidance Audit Reports

Certain federal agency field offices located throughout the country have erroneously been rejecting auditor reports that refer to the *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* at 2 CFR 200 (Uniform Guidance) as the source of governmental audit requirements. The rejections are a result of the federal agency field offices being unaware that the auditor's report has changed because of the implementation of the Uniform Guidance. The field offices have been rejecting the reports because the reports failed to reference Office of Management and Budget (OMB) Circular A-133, Audits of States, Local Governments, and Non-Profit Organizations, as required in the past.

If your organization's Uniform Guidance reports are rejected, you and your auditor should contact the federal agency single audit coordinator identified in Appendix III, "Federal Agency Single Audit, Key Management Liaison and Program Contacts" of the 2016 OMB Compliance Supplement. It would not be appropriate to reissue the reports and refer to OMB Circular A-133 as field offices have been requesting.

FASB Clarifies Restricted Cash Presentation

In November the FASB issued ASU 2016-18, *Statement of Cash Flows (Topic 230): Restricted Cash* to clarify the presentation of restricted cash in the statement of cash flows. This ASU was issued to address diversity in practice due to a lack of guidance on how to classify and present changes in restricted cash or restricted cash equivalents in the statement of cash flows. The ASU does not define restricted cash and there is no intent to change

practice for what an entity reports as restricted cash.

The amendments require that a statement of cash flows explain the change during the period in restricted cash or restricted cash equivalents, in addition to changes in cash and cash equivalents. That is, restricted cash and restricted cash equivalents should be included with cash and cash equivalents when reconciling the beginning-of-period and end-of-period total amounts shown on the statement of cash flows. Consequently, transfers between cash and restricted cash will not be presented as a separate line item in the operating, investing or financing sections of the cash flow statement. The ASU includes examples of the revised presentation guidance.

The amendments require an entity to disclose information about the nature of the restrictions and amounts described as restricted cash and restricted cash equivalents. Further, when cash, cash equivalents, restricted cash and restricted cash equivalents are presented in more than one line item on the balance sheet, an entity must reconcile these amounts to the total shown on the statement of cash flows, either in narrative or tabular format. This information should be provided on the face of the cash flow statement or in the notes to the financial statements.

The ASU is effective for nonprofit organizations for fiscal years beginning after December 15, 2019. The provisions of the ASU should be applied retrospectively to each period presented in the financial statements. Early adoption is permitted.



1121 Riverchase Office Road
Birmingham, AL 35244
205.982.5500 | www.BMSS.com