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Report No. 1396

June 7, 2018

The Honorable David J. Kautter
Assistant Secretary (Tax Policy)
Department of the Treasury
1500 Pennsylvania Avenue, NW
Washington, DC 20220

The Honorable David J. Kautter
Acting Commissioner
Internal Revenue Service
1111 Constitution Avenue, NW
Washington, DC 20224

The Honorable William M. Paul
Principal Deputy Chief Counsel and
Deputy Chief Counsel (Technical)
Internal Revenue Service
1111 Constitution Avenue, NW
Washington, DC 20224

Re: *Report No. 1396 on Provisions of the New Tax Law Affecting Tax-Exempt Organizations*

Dear Messrs. Kautter and Paul:

I am pleased to submit Report No. 1396 that addresses several provisions impacting exempt organizations that were added to the Internal Revenue Code of 1986, as amended, by P.L. 115-97 (the "Act") on December 22, 2017. The Report addresses (i) Section 512(a)(6) (concerning the siloing of losses for purposes of calculating unrelated business income tax), (ii) Section 512(a)(7) (which treats certain fringe benefits as unrelated business taxable income ("UBTI")), (iii) certain international provisions of the Act and their impact on the calculation of taxes on net investment income under Sections 4940 and 4968 and the calculation of UBTI, (iv) Section 4960 (which imposes a 21% excise tax on remuneration over \$1 million and "excess parachute payments" paid to certain employees of exempt

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organizations), and (v) Section 4968 (which imposes a 1.4% excise tax on the net investment income of certain colleges and universities).

Each of the new provisions raises interpretive issues on which guidance from the Department of the Treasury and the Internal Revenue Service is needed. The report identifies questions with respect to the new statutory language and makes certain recommendations for guidance.

We appreciate your consideration of our recommendations and requests for guidance. If you have any questions or comments regarding this Report, please feel free to contact us and we will be glad to assist in any way.

Respectfully submitted,

A handwritten signature in black ink that reads "Karen G. Sowell". The signature is written in a cursive, flowing style.

Karen G. Sowell
Chair

Enclosure

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