

Credit Union Taxation Update

An Overview of Recent Changes

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IRS Circular 230 Disclosure

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Agenda Overview

- Overview of filing requirements
- Recent developments in credit union taxation
- 2011 Form 990
- Questions

Credit Union Filing Requirements

- State chartered credit unions required to file information and tax returns
- Form 990 – Return of Organization Exempt From Income Tax (**information return**)
- Form 990-T – Income tax return
 - Separate filing
- Most states have a filing equivalent

990 Filing Deadlines

- Form 990 **must be electronically** submitted
 - Penalties apply for failure to comply
- Return is due May 15
- Automatic 3-month extension to August 15
 - Form 8868 – Part I
- Non-automatic second extension to November 15
 - Form 8868 – Part II

Form 990-T

- No electronic filing available
- Return due May 15 (for calendar year)
- Automatic 6-month extension available to Nov. 15
- Not an extension of time to pay tax
- Estimated taxes required if expected tax for year greater than \$500

What is Unrelated Business Income?

- Non-member ATM fees
- Car warranty/buying services
- AD&D – if it does not meet royalty exclusion
- Income from partnerships/joint ventures that cannot be traced back to members
- Shared branching???

Public Disclosure

- Public disclosure requirements
 - Only Form 990
 - 3-year limitation
 - Includes amended forms
- Penalties for non-compliance
 - \$20/day, maximum \$10,000

Public Disclosure (cont.)

- Form should be made available physically or by posting on internet
- Forms generally available on GuideStar.org

Employer-Owned Life Insurance

- Generally, proceeds are not taxable
 - New rules for policies issued after August 17, 2006
- COLI may be used to fund a deferred comp plan

Notice and Consent

- Provide written notification to the employee that employer is insuring the life of the employee
- Provide written notification to the employee that the employer is the beneficiary
- Receive written consent from the employee

Form 8925

- Required to be filed with “tax return”
- Federal CUs do not file information or tax returns
- State-chartered CUs should file with Form 990

Beware the Good Deeds

- Are your employee benefits taxable?
 - CU provided auto
 - Cell phones
 - ◇ No longer an issue
 - Gift card programs
 - Educational reimbursement
 - Loan discounts

Volunteer Pitfalls

- Volunteers
 - Spouses are not “legitimate business expenses”
 - Conferences on cruise ships – avoid foreign ports-of-call
 - Expense reimbursement
 - ◇ Accountable v. Non-accountable plan

Lobbying and Political Activity

- Lobbying – Donations to PAC are subject to 35% excise tax
- Political donations – subject to 35% excise tax
 - Candidate
- In-kind donations – don't pay for dinner

Health Insurance Credit

- Credit up to 25% of premiums paid
- Requirements:
 - Less than 25 FTEs
 - Avg wages < \$50k
 - Maintain qualifying arrangement
- Credit claimed on Form 990-T
- Must also complete Form 8941

Notable Observations from Past Year

- CU no longer exempt?
- Federal to state charter – file for exemption?
- From 1099-K
- Deferred comp reporting

FORM 990

Revisions to 2011 Form 990

- Part IV, Line 14b – Foreign Investments
- Part VI – Governance & Management
 - Line 1a – Delegated authority
 - Line 1b – Independence clarification
 - Line 7b – Any governance decisions reserved to person other than the governing board
 - Line 11a – 990 provided to the governing body prior to filing

Revisions to 2011 Form 990

- Part VII – Compensation
 - Only one position should be checked, unless person is both an officer and director
 - Reportable comp is the higher of Box 1 or 5 of W-2
 - Column F – Deferred comp not to include amounts that will be paid within 2 ½ months of year end (e.g. bonus)
 - Col. F – Include annual increase or decrease in actuarial value of defined benefit plan

Form 990- Parts I & II

- Part I – Summary
 - Activities and governance
 - ◊ Includes disclosure of UBIT
 - Revenue
 - Expenses
 - Net Assets
- Part II – Signature Block

Part III – Program Activities

- Mission
- Changes to “program services”
- Exempt purpose achievements

Part IV – Schedules Checklist

- 38 Questions to determine appropriate schedules to complete
 - Schedule C – Political activities
 - Schedule D – Supplemental financial statement data
 - Schedule F – Foreign operations
 - Schedule L – Transactions with officers/directors, etc.
 - Schedule J – Compensation
 - Schedule N – Termination or disposition of assets
 - Schedule R – Related organizations
 - Schedule O – Supplemental information

Schedule R – Related Organizations

- Ownership in:
 - Corporation
 - Partnership
 - Limited liability company (LLC), or
 - Disregarded entity
- Control defined as more than 50%

Transfers

- Information regarding transfers to/from controlled entities
 - Interest
 - Royalty
 - Rent
 - Asset transfers
 - Loans
 - Expense reimbursements

Controlled Entity Transfers

- Specified income from controlled taxable entity (e.g. CUSO)
 - Specified income includes rent, interest, royalties, annuity
 - Deduction allowed for directly related expenses (e.g. depreciation, utilities, etc.)
- NOTE: Specified income reporting deferred for taxable years 2006 - 2008

Part V – IRS Compliance

- UBIT reporting
- Foreign bank account reporting
- Number of W-2s and 1099s filed

Part VI – Governance, Management and Disclosure

- Does the organization have members?
 - Do the members elect the governing board?
- Was 990 reviewed by ALL voting members before filed?
- Comparability or independent study conducted in determining CEO, officer, key employee comp?
- Invest, contribute or participate in a joint venture?
- How is public disclosure requirement met?

Part VII - Compensation

- Directors
- Officers
- Key employees
- Highest compensated employees
- Former D/O/KE/HCE

Part VII - Reporting Summary

1. Director or Officer? If yes, report (regardless of comp levels)
2. Key employee? If comp > \$150k AND position meets definition, report
3. Highly comp'd? If comp > \$100k, report (no more than top 5)

Reportable Information

- Name
- Title
- Average hours devoted
- Compensation
- Other Compensation
 - Deferred comp
 - Nontaxable benefits

Nontaxable Benefits

- Value of housing provided by CU
- Educational assistance
- Health & life insurance
- Medical reimbursement programs
- Disability benefits
- Long-term care insurance
- Adoption assistance

Disregarded Benefits

- Working condition fringe benefits
- Qualified moving expense reimbursement
- Accountable plan reimbursements
- De minimis fringe benefits

Schedule J

- Compensation practices
 - Certain benefits (first-class, companion travel, health club dues, etc.)
 - Written reimbursement policy
 - Procedure for establishing CEO compensation
- Additional compensation reporting items for individuals listed in Part VII

Directors

Position	Current or former	List in Form 990, Part VII, Section A:	List in Schedule J:
Directors and trustees	current	all	if reportable and other compensation > \$150,000 in the aggregate from organization and related organizations (except institutional trustee)
	former	if reportable compensation in capacity as former director or trustee > \$10,000 in the aggregate from organization and related organizations	if listed in Form 990, Part VII, Section A (except institutional trustee)

Officers & Key Employees

Position	Current or former	List in Form 990, Part VII, Section A:	List in Schedule J:
Officers and key employees	current	Key employees if reportable compensation > \$150,000 in the aggregate from organization and related organizations, and all officers	if reportable and other compensation > \$150,000 in the aggregate from organization and related organizations
	former	if reportable compensation > \$100,000 in the aggregate from organization and related organizations	if listed in Form 990, Part VII, Section A

Highest Compensated

Position	Current or former	List in Form 990, Part VII, Section A:	List in Schedule J:
Other five highest compensated employees	current	if reportable compensation > \$100,000 in the aggregate from organization and related organizations	if reportable and other compensation > \$150,000 in the aggregate from organization and related organizations
	former	if reportable compensation > \$100,000 in the aggregate from organization and related organizations	if listed in Form 990, Part VII, Section A

Questions

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