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Fifth Annual Higher Education Virtual Conference

March 7, 2023



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Learning Objectives

At the end of this session, you will be able to:

- Recognize Microsoft is not responsible for configuring your M365 environment securely
- Describe key areas of data security concerns in Microsoft 365
- Identify GLBA requirements and how that will impact your preparation
- Identify compliance and risk areas that have an impact on higher education institutions
- Review methods for assessing and prioritizing risks and establishing a compliance plan for your institution
- Identify who needs to be involved outside of the finance and administrative offices to work toward meeting your institution's compliance initiatives
- Describe why it's important to modernize and streamline
- Identify the elements of success – and the challenges
- Identify examples of how institutions are transforming business processes





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M365: Dangers of the Default Configuration and an Update on Gramm-Leach-Bliley Act

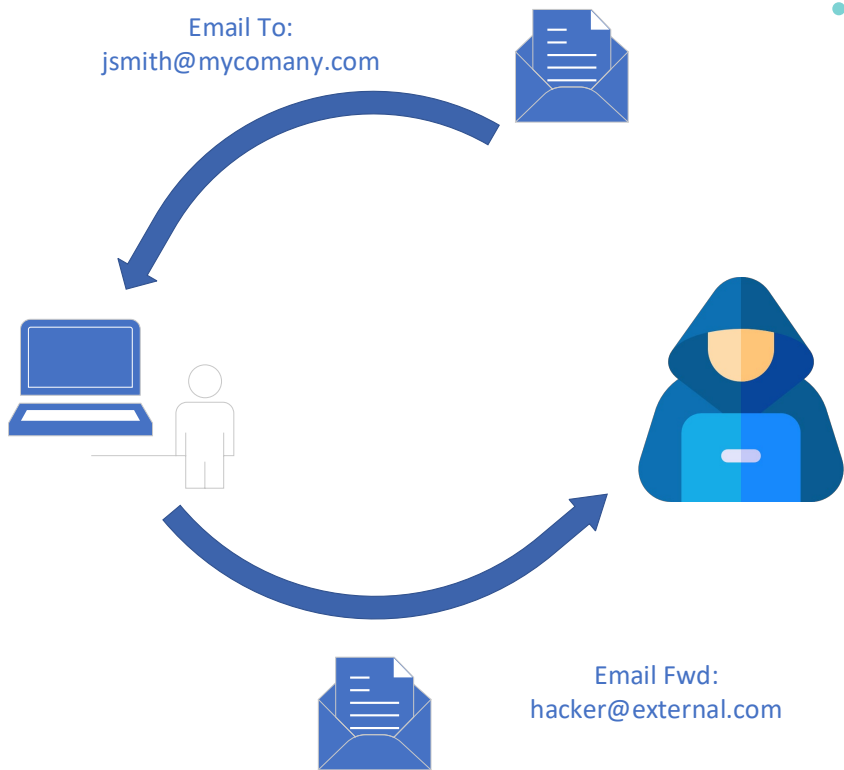
Learning Objectives

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M365: Dangers of the Default Configuration

Dangers of the Default Config

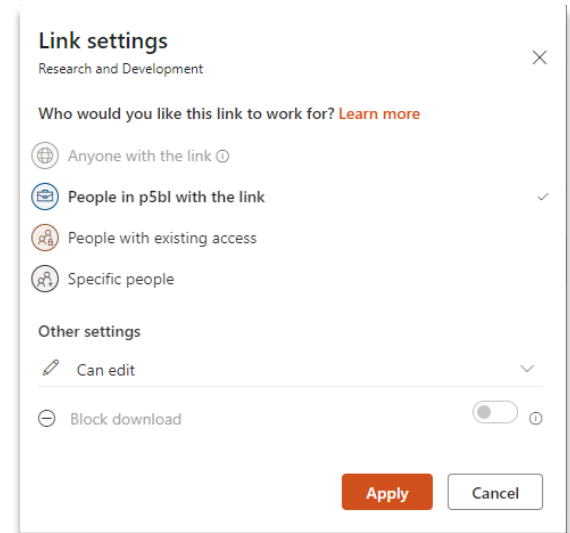


- Microsoft has a history of promoting features over security
 - Legacy Authentication – The Bane of Business Email!
 - Used to bypass MFA enforcement
 - Finally (mostly), removed End of 2022!
 - Most common cause of BEC for several years now.
 - Auto forwarding – Classic Data Exfiltration
 - Used to forward messages to outside domains without end-users knowing
 - Was originally turned on by default



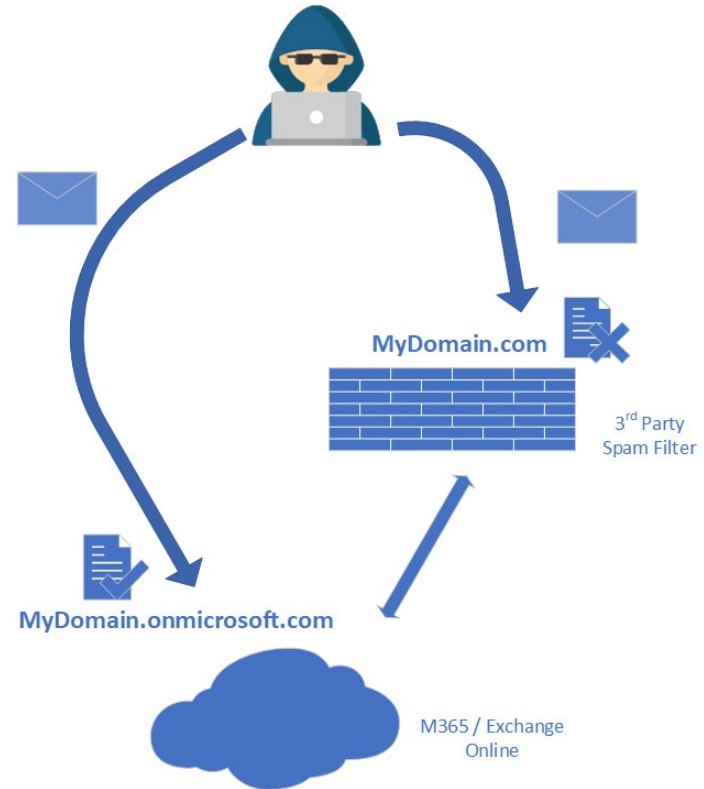
The Cascade of Terribleness (Share Settings)

- Default share settings are a disaster
 - Anonymous link can be sent from OneDrive and SharePoint
 - By default these never expire!
 - Any user can invite any external party as guests
 - Can be abused with anonymous links disabled
 - Guests can then share any times to anyone they choose. Even items they do not own!
 - In short sharing company data is virtually unrestricted!



Beware of 3rd Party Spam Filter bypass

- By Default
{MyDomain}.onmicrosoft.com accepts email directly
 - Even with your
{MyDomain}.edu MX record
points to your Spam Filter!
- Currently one of the most
common high-risk items
found during reviews



Guest Access Confusion

External sharing

Content can be shared with:

SharePoint OneDrive

Most permissive

Sharing

The sharing settings available for this site depend on your organization-level settings. [Learn more about the external sharing settings](#)

More ext

External sharing

Site content can be shared with:

Anyone
Users can share files and folders using links that don't require sign-in.

New and existing guests
Guests must sign in or provide a verification code.

Existing guests only
Only guests already in your organization's directory.

Only people in your organization
No external sharing allowed.

Microsoft 365 Groups

Choose settings for guests and ownerless groups.

Guests

Choose how guests from outside your organization can collaborate with your users in Microsoft 365 Groups. [Learn more about guest access to Microsoft 365 Groups](#)

- Let group owners add people outside your organization to Microsoft 365 Groups as guests
- Let guest group members access group content

If you don't select this, guests will still be listed as members of the group, but they won't receive group emails or be able to access any group content. They'll only be able to access files that were directly shared with them.

...ies and memberships of directory obje

...s and memberships of their own direct

...t users including guests and non-admins (most inclusive)

...fic admin roles can invite guest users including guests with member permissions

...s can invite guest users

...t users including admins (most restrictive)



SharePoint Infected Files

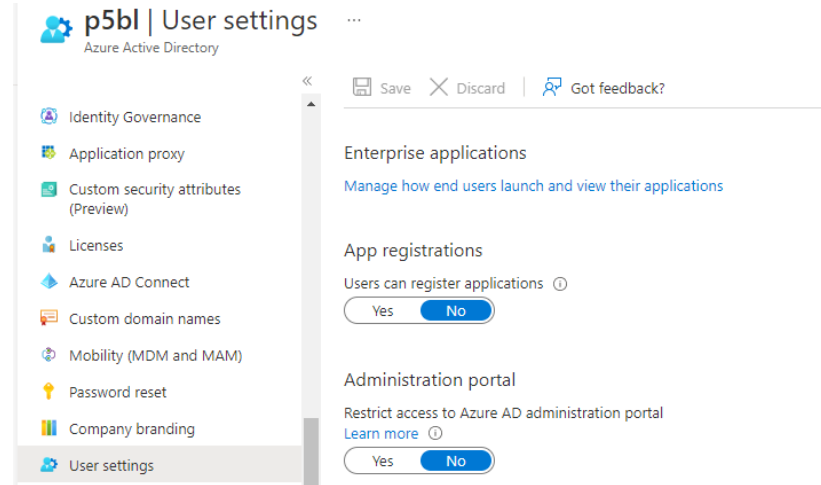
- Microsoft 365 Defender scans SharePoint for infected files
 - With appropriate licensing
- By default it still allows users to download and share these items!



```
PS          Get-SPOTenant | Select DisallowInfectedFileDownload
DisallowInfectedFileDownload
-----
False
```

PowerShell & Admin portal

- Access to PowerShell & the Admin Portal is enabled for every user
- Standard users have little to no reason to use these
 - They probably don't know how!
- With these users can:
 - Enumerate all your users and groups
 - Gain lots of valuable intel including who is registered for MFA!
 - Automate attacks



What the default config is not

- Microsoft's recommendations for securing your environment
- Highly secure configuration leaving tiny residual risk
- All Microsoft's fault
 - Microsoft cannot know business considerations, custom policies, 3rd party tools, and implementation strategies
 - Nearly every environment needs customization to truly be a reasonably secure tenant
 - The default cannot be so complex that businesses and IT can't operate

We use the default since that is Microsoft's security recommendation and they know more than I do!



Holes in the Logs

- You need to consider whether high value accounts are logged properly!
- MailboxLogin entry is not turned on by Default!
 - This entry ties Exchange sessions to azure ad signins
 - Can be critical information if attacker came from a regular IP!
- Bundles below A5 do not log every email a user views
 - Can make the difference between reporting on 10 or 10,000 emails in a breach
 - Minimum License: Microsoft Purview Audit (Premium)



IT Overload

IT departments often don't have the budget

- Dedicated Security Teams and M365 experts on staff cost significant \$\$
- IT budgets are designed to the systems running and support requests down

IT departments don't have the time

- Microsoft 365 is a constantly changing platform and keeping up is time consuming costing valuable hours
- Settings often change in both availability and meaning
- Locations and names in the Admin Portal often change



Questions to ask Yourself

- Is our current licensing sufficient and are we using the features Microsoft provides?
- Have we performed a review of our current M365 configuration with security in mind?
- Does our staff have the budget & bandwidth to keep up with the latest Microsoft changes and emerging threats?



Gramm-Leach-Bliley Act Update

1999 GLBA Rules

- Three laws covered under the Gramm–Leach–Bliley Act
 - Pretexting Rule
 - Access to information under falls pretense
 - Addressed under the Red Flags rule
 - Privacy Rule
 - Protection of and security of nonpublic information
 - In compliant once IHE is following the Family Educational Rights and Privacy Act (FERPA) regulations
 - Safeguarding Rule
 - Addresses information security policies, risk assessments and controls in place to address the risks identified

Federal Student Aid GLBA Updates

- The Federal Student Aid (FSA) communicated various updates noting its intention to start enforcing the GLBA requirements as part of the annual student financial aid audit
- The updates and communications can be found in the Dear Colleague Letters GEN-15-18 and GEN-16-12 as well as the Dear CPA Letter CPA-19-01
- NIST 800-171 was recommended in December 2020 as a security standard that would help in the compliance of GLBA



Nine Requirements Proposed to be Effective as of December 9, 2022

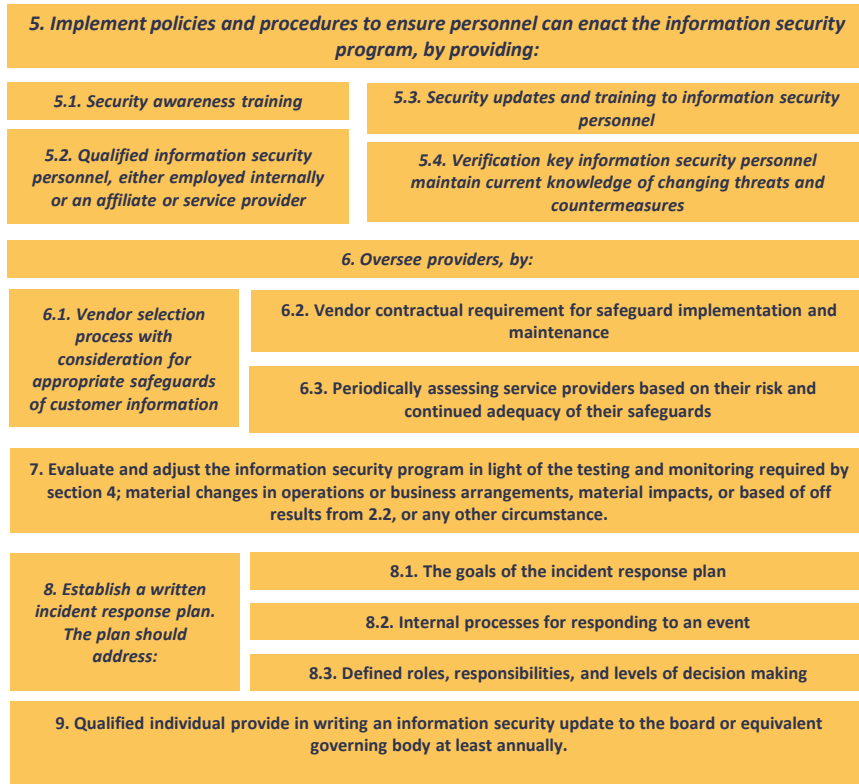
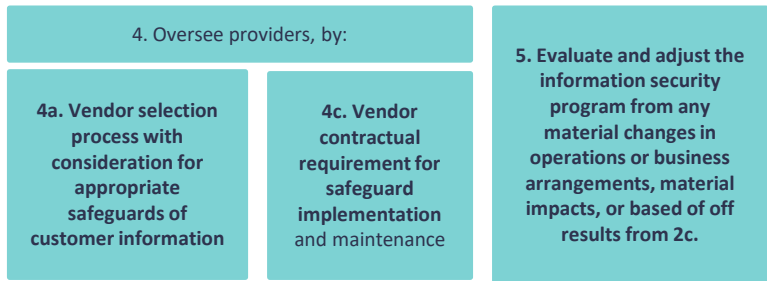
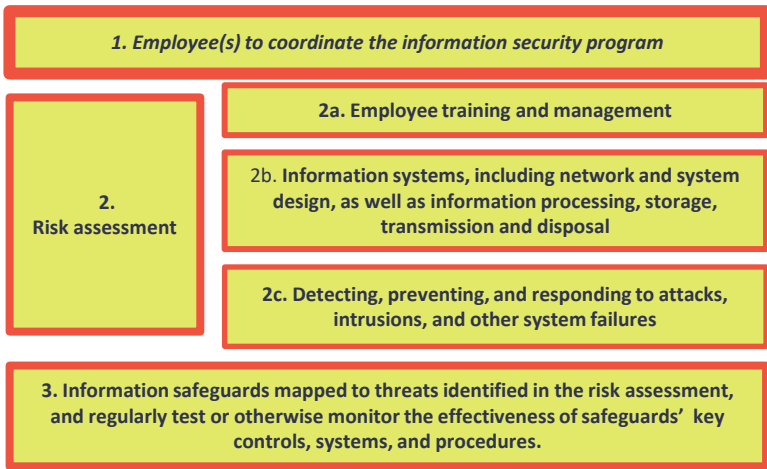
Designate a qualified individual to oversee the information security program;

- Specific requirements for a written risk assessments
- Specific safeguards considerations as a result of the risk assessments, including MFA and encryption

- Information systems be tested and continuously monitoring or periodic penetration testing and vulnerability assessments;
- Training and security requirements for personnel
- Periodic assessments of service providers based on identified risks

- Update the information security program based on the various testing results
- Establish a written incident response plan to respond to and recover from security events that could affect the confidentiality, integrity, or availability of student information
- Qualified individual's reports be given in writing, regularly and at least annually, to the board.

Requirements Proposed to be Effective as of December 9, 2022



Requirements Extended to June 9, 2023 Effective Date

- designate a qualified individual to oversee their information security program,
- develop a written risk assessment,
- limit and monitor who can access sensitive customer information,
- encrypt all sensitive information,
- train security personnel,
- develop an incident response plan,
- periodically assess the security practices of service providers, and
- implement multi-factor authentication or another method with equivalent protection for any individual accessing customer information



Exceptions for Institutions with Fewer than 5,000 Customer Information

- Section 314.4(b)(1), (d)(2), (h), and (i)
- The requirement of a documented incident response plan
- Qualified individual report at least annually

Risk of not Being Compliant with GLBA

- The FSA Cybersecurity Team will be informed of the finding reported in the audit report that could result in the request of additional documentation
- The institutions access to the FSA department information system
- And audit with a GLBA finding will be reported to the FTC
- A fine could be enforced if the FSA Cybersecurity Team recommends the institution to the Department's Administrative Actions and Appeals Service Group

Future Updates re GLBA Compliance and NIST

- The FSA will be issuing guidance on the use of NIST 800-171 compliance and encourages it be incorporated in the information security program as required by the GLBA



Resources on your GLBA Journey

- Peer institutions
- FTC.gov website
- FSApartners.ed.gov website
- Educause
- NIST
- Your auditors
- Third party consultants
- Etc.,



Thank you!

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On A Break

We will resume the presentation at 1:10 p.m.

Please note: we are checking in our next speaker, so you may hear us as we check technology!

Thank you!



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Navigating through Higher Education Compliance



Presenter

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Identify compliance and risk areas that have an impact on Higher Education Institutions



Review methods for assessing and prioritizing risks and establishing a compliance plan for your institution



Identify who needs to be involved outside of the finance and administration offices to work toward meeting your institution's compliance initiatives



Overview of Higher Education Tax & Compliance Models



In House Tax
Professional



Co-sourcing /
Strategic
Partnerships



Outsourcing



None



Who needs to be involved
across the institution?



A/P

Student Accounts

Payroll

Facilities

Athletics

Advancement





Compliance Topics & Risk Areas



Tax & Compliance Filings Applicable Within Higher Education

990

990-T

Foreign Filings
(Forms 5471, 926,
8865, 8858)

Information
returns (Forms
1099, 1098, 1095,
1042, W-2)

Federal and State
payroll tax filings
(941, state
unemployment)

Sales tax

Excise tax (Forms
4720, 720)

Report of Cash
Payments Over
\$10,000 (Form
8300)

Tax Treaty Filings
(Forms W-8 series,
8233, 8833)

Property Taxes or
Exemption filings

Payments from
Qualified
Education
Programs (1099-Q)

Others?



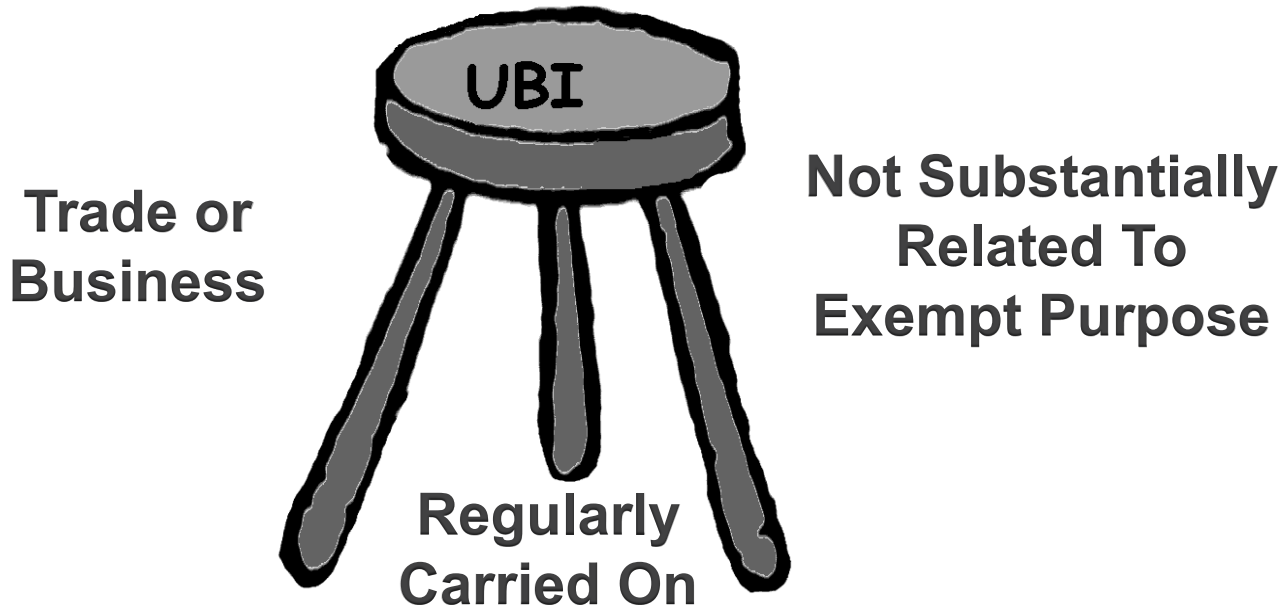
Higher Education Specific 990 Topics

- **Part V, Line 1a**
 - Enter the number reported in Box 3 of Form 1096.
- **Part V, Lines 15 and 16**
 - Is the organization subject to the section 4960 tax on payment(s) of more than \$1,000,000 in remuneration or excess parachute payment(s) during the year?
 - Is the organization an educational institution subject to the section 4968 excise tax on net investment income?
- **Part IX, lines 2 & 3 and Schedules I & F**
 - Grants and assistance to domestic and foreign individuals.
 - Generally netted with revenue on audited financials, but should be broken out for 990
- **Schedule A, line 2**
 - Proof of public support is not required however many schools complete Part II so they can apply the 1st special rule on Sch B.
- **Schedule E** – Need to confirm nondiscriminatory policy is in organizational documents and published in accordance with the guidance in the instructions, and record keeping requirements are being met.



Unrelated Business Income (UBI) Defined

IRC § 512(a)(1)



Common Sources of UBI in Higher Education – Both Public and Private Schools

Advertising (Qualified sponsorship payments are not UBI)

Exclusivity contract (exclusive sponsor vs. exclusive provider)

Alternative investments (Partnerships and S-Corp interests)

Public use of facilities - Fitness centers, ice rinks, swimming pools, golf courses, cafeteria, childcare, etc.

Teaching Hospital – Research, labs and pharmaceuticals

Bookstores and museum gift shops

Personal property or mixed rental income

Food Service

Artistic, Entertainment and Theatrical Events

Parking

Summer athletic camps

Royalties



UBI – Who needs to be involved



Finance office



Athletics



Advancement / Development



Athletics



Event planning



Alternative Investments

Related Risks

- Is there an investment policy related to alternative investments and does board understand additional compliance related to alternative investments?
- Are alternative investments being monitored for changes in the level of ownership?
- 990-T classification as a Qualified Partnership Interest (QPI) or stand alone “silo”
- Foreign filings

Who needs to be involved?

- Investment Manager (internal and external)
- CPA
- Internal staff responsible for tax filings
- Board – More awareness than involvement



Multi-State Compliance



Nexus – physical vs. economic nexus

Multi-State Payroll - Out-of-state employees

Internet Sales

Off campus programs and research

Solicitations and fundraising events



Outcome

Business registrations

Employer registrations and filings

Charitable solicitation filings

Sales tax compliance



Who needs to be involved?

HR / Payroll

Admissions / Recruiting

Athletics

Department Heads

Person approving travel



Foreign Activities

Nexus

- Faculty research abroad
- Foreign employees including contractors
- Study abroad programs
- Importing or exporting into/out of a foreign country

Requirements

- Visa requirements for staff traveling/working abroad
- General business compliance with foreign laws
- Foreign employer compliance, registrations and filings
- Professional Employment Organization (PEO) / Employer of Record

Who needs to be involved

- HR / Payroll
- Recruiting
- Admissions
- Student Accounts
- Department Heads
- Person approving travel

Income classification and processing

Type of income

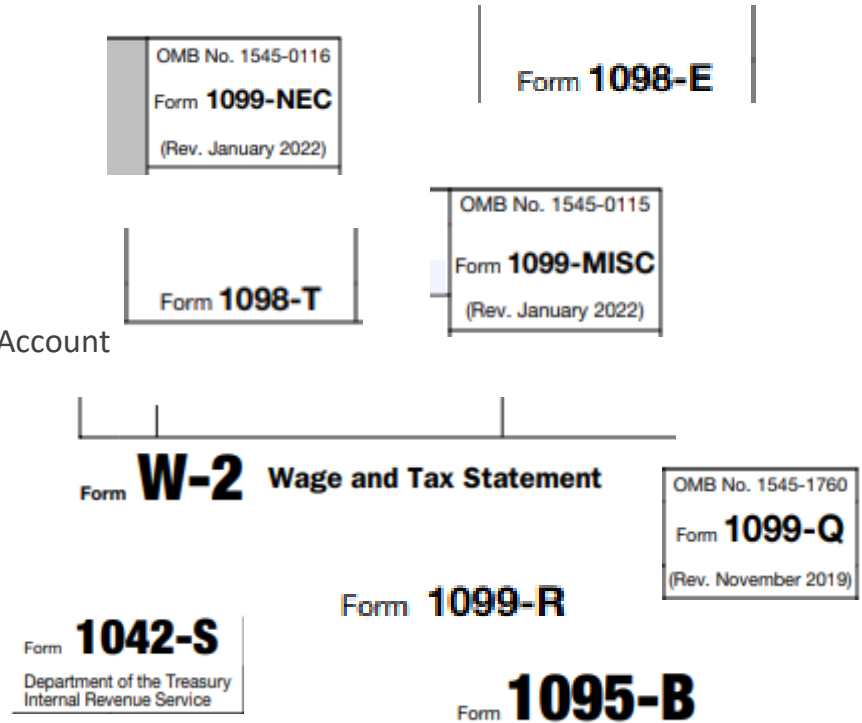
- “Stipends”
- Employee pay outside of standard job duties
- Separation agreements
- Scholarships
- Rent or Royalties
- Vendor payments
- Student loan interest or Qualified Education Savings Account
- Retirement plan distributions
- Health care reporting

Type of Payee

- Faculty & Staff
- Student
- Vendor

Tax Status and income source

- US Citizen / Resident Alien or Nonresident Alien
 - *US Source or Foreign source makes a difference for nonresident alien payees



Employee / Independent Contractor determination

Who is being paid?

What service is being provided?

Who is providing the service?

- Student, faculty / staff, unrelated third party

Are there others in similar employment roles providing a similar service?

Who is determining fee or wage?

Is the payee economically dependent on your institution?

Who needs to be involved?

- Anyone with the ability to process or approve payments
- General Council
- Department administration

Nonresident Alien Taxation

Are payments to nonresident aliens being identified?

- W-9 versus W-8BEN Series collection
- Are tax treaties administered?
- Is withholding collected and deposited according to 1042 withholding regulations?

Related Risks

- Incorrect withholding and reporting
- \$600 threshold does not apply for nonresident aliens. No de minimis amount.
- Withholding Agent (our client) can be held liable for any tax plus penalties and interest that is not withheld under IRC Sections 1461 and 1463

Who needs to be involved?

- Anyone with the ability to process or approve payments
- Department administration
- International students' office
- Admissions and Financial Aid



Student FICA Exemptions

Applicable to all students

- Students that work for the school where they are enrolled and regularly attend classes are exempt
- If they work over a break while not attending classes FICA needs to be withheld during that period.

Applicable to nonresident alien students

- Individuals on F,J, M or Q student visas are exempt from FICA tax during any period they are deemed a nonresident alien for tax purposes



Taxation of Fringe Benefits

- Are taxable fringe benefits being appropriately reported / taxed?
 - Gift Cards
 - Campus apparel
 - Membership dues
 - Companion travel
 - Housing and personal use of vehicles
 - Educational Benefits
- Employer can be held liable for taxes, penalties and interest if withholding is not administered correctly.
- Accountable plan for expense reimbursements
 - Expenses must have a business connection or purpose
 - Student travel generally does not qualify for tax free reimbursement under accountable plan
- Who needs to be involved
 - Anyone who makes or approves payments



Tuition Remission

IRC section 117(d) - Educational institutions offering a full reduction of tuition to employees, their spouses and dependent children for **undergraduate** coursework may exclude the value of this education from their employees' taxable wages. **The exclusion under this section does not extend to graduate coursework or domestic partners and children of domestic partners.**

IRC Section 127 – Applies to all employers who provide their employees with educational assistance for both undergraduate and graduate work. Employers may provide each employee with up to \$5,250 of educational assistance per year on a tax-free basis. **The exclusion under this section does not extend to spouses, dependents, domestic partners and children of domestic partners.**

IRC Sections 132(d) and 162 describe working condition fringe benefits and business expenses and apply to the **employee** only. These Code Sections may be applied if an employee receives tuition remission for graduate courses over \$5,250 and the class was required as a condition of employment or would maintain or improve skills needed for the employee's current position and will not qualify the employee for a new trade or position.



Student Organizations

How are student organizations structured?

- Component unit of the college or organization
- Affiliated or stand-alone nonprofit organization
- Affiliated local chapter of a national nonprofit

Who needs to be involved?

- Student government liaisons
- Faculty advisors
- Finance office

Related Risks

- Who is responsible for any related filings?
- Ongoing governance when students graduate and transition.
- Related reputational risk



Sales Tax

Is sales tax being collected according to each jurisdiction's regulations?

- Which departments on campus have sales activities subject to sales tax?
- Does institution have a pulse on the states and cities where sales are occurring?
- Are out of state and internet sales being monitored?
- Are fundraising and auctions subject to sales tax in their jurisdiction?

Related Risks

- Nonreporting and underpayment of taxes
- Trickle down registration

Who needs to be involved?

- Departments and student organizations selling goods or services
- Revenue accountants
- Fundraising



Excise Tax on Compensation

An “Applicable Tax-Exempt Organization” (ATEO) is subject to a 21% excise tax on

- Remuneration over \$1 million paid to a covered employee **OR**
- Excess parachute payments paid to a covered employee
- Remuneration for purposes of the excise tax is defined as:
 - Generally Federal taxable wages (box 1) of applicable calendar year or calendar year ending within fiscal year.
 - Includes any portion of a 457(f) that vested during the applicable year
 - Does not include amounts paid to licensed medical professionals

ATEO includes related 501(c)(3) organizations

- Excludes state colleges or universities without an IRS determination letter



Excess Parachute Payments



Compensatory payment to a covered employee if:

The payment is contingent on an employee separation from employment with the employer
and

Aggregate present value of the payment exceeds three times the base amount, which is the average annual compensation over the preceding 5-years



Notice 2019-9

Payment is deemed to be a parachute payment only if the payment is contingent on involuntary separation from service.

IRC Section 4968: College Endowment Excise Tax



Final regulations issued September 18th, 2020



Applies to private colleges and universities



At least 500 tuition-paying students



Aggregate FMV assets of
at least \$500k per student

Excludes assets used
directly in exempt purpose



Includes assets and Net Investment Income of
certain related organizations



IRC Section 4968: College Endowment Excise Tax

1.4% excise tax on net investment income:

- Gross interest, dividends, rents, royalty income
 - excludes student loan interest
 - excludes rental income from student housing
 - excludes rental for faculty/staff required housing
 - excludes royalty from assets resulted from work of students or faculty, but not from other intangibles
- Capital gains



IRC Section 4968: College Endowment Excise Tax

Allowable expenses to arrive at net investment income:

- Deduct ordinary and necessary investment expenses
- Can allocate internal operating expenses
- Depreciation, straight-line method, is allowed
- Do not deduct charitable contributions, NOLs, etc.
- Do not deduct the net investment excise tax



Reporting the Excise Taxes

- Additional filing (Form 4720) is required
- Same due date as Form 990
- **Separate extension is required**
- Potential tax liability must be paid with extension



Department of Education Reporting

Are foreign gifts being reported as required under Section 117 of the Higher Education Act of 1965 to the Department of Education?

Do you have a system in place to track and report foreign gifts > \$250,000 within a calendar year?

Related Risks

Fines, limitations, suspensions or termination of Title IV participation

Reputational risk / bad press due to audit results being published

Who needs to be involved / aware of these regulations?

Advancement or Development team members

Revenue accountants

Internal staff responsible for tax filings



Employee Retention Credit Overview

	2020	2021
Covered Dates (payroll paid during period)	3/13/20 – 12/31/20	1/1/21 – 9/30/21
Employer size-based restrictions*	Over 100 fulltime employees can only include paid but not working	Over 500 fulltime employees can only include paid but not working
Quarterly Revenue Decline vs. same quarter 2019 <i>OR</i>	>50%	>20%
Partial or full government shut-down	Actual dates organization was shut-down by government order	
Maximum eligible wages + healthcare cost per employee	\$10,000/year	\$10,000/quarter
% wages + healthcare eligible for credit	50%	70%
Maximum annual credit/employee	\$5,000	\$21,000

*Fulltime employee measured by Calendar 2019 according to ACA definition of fulltime employee (130 hrs+/mo = 1.0; < = 0.0)



Name, Image, Likeness (NIL)



ARE YOU EDUCATING YOUR
STUDENT ATHLETES ON NIL?



ARE YOU AWARE OF THE
LIMITATIONS ON THE
INSTITUTION'S INVOLVEMENT
IN NIL ACTIVITIES?



Inflation Reduction Act Credit Opportunities

- IRA of 2022 created and modified several green energy credits
- IRC Section 6417 provides a “direct pay” option for tax-exempts and certain governmental entities
- Many credits have prevailing wage requirements that increase credit, in most cases from 6% to 30%
- Applies to tax years beginning after Dec. 31, 2022
- Unique opportunity for NFPs to get cash refunds from the federal government for green energy investments



Section 6417 Direct Pay Credits

§30C Alternative fuel vehicle refueling property credit

§45 Electricity produced from certain renewable resources, etc.

§45Q Credit for carbon oxide sequestration

§45U Zero-emission nuclear power production credit

§45V Credit for production of clean hydrogen

§45W Credit for qualified commercial clean vehicles

§45X Advanced manufacturing production credit

§45Y Clean electricity production credit

§45Z Clean fuel production credit

§48 Energy credit

§48C Advanced energy project credit

§48E Clean electricity investment credit





Risk Assessment

What is a Heat Map?

- Steps in using a heat map
 1. Identify organizational risks and rate via heat map
 2. Determine risk threshold of organization
 3. Determine key people to train and involve
 4. Address risks above threshold and in order of heat map rating

Heat Map

	<u>Probability or Likelihood of Risk Occurrence</u>				
	<u>Seldom</u>	<u>Unlikely</u>	<u>50/50</u>	<u>Likely</u>	<u>Guaranteed</u>
<u>Substantial</u>	5	10	15	20	25
<u>High</u>	4	8	12	16	20
<u>Medium</u>	3	6	9	12	15
<u>Low</u>	2	4	6	8	10
<u>Minimal</u>	1	2	3	4	5



Heat Map Example

Risk	Heat Map Level of Consequence	Heat Map Probability	Heat Map Rating	Education Focus Areas	Who do I need to talk to / educate to assist in compliance ?	Potential Action or Control to be Implemented
Determination of foreign payee status / collection of W-9's and W-8BEN's	Medium	50/50	9	Is payee a U.S. person / business or a foreign person / business ? . Educate the appropriate individuals on how to determine whether a foreign payee is a resident alien or nonresident alien, and how to determine whether the income is US source or foreign source.	Accounts payable and accounting staff	Establish a system to obtain a W-9 or W-8BEN from all new payees if a system is not already in place. Establish a system for determination of resident alien vs. nonresident alien status of payee. Implement a numbering system for your vendor numbers so that all foreign vendors start with a particular letter or number sequence, so they are easily identifiable. Are any existing payees foreign and subject to nonresident alien withholding regulations
Contract review and employee versus independent contractor determinations	Medium	Likely	12	Understanding the employee / independent contractor tests instituted by the IRS (Behavioral Control, Financial Control and Relationship) and the DOL (Economic Dependence). Regardless of contract language, the facts and circumstances are going to be the deciding factors.	General council, department administrators, accounts payable staff	Establish a dollar threshold where the individual involved in tax compliance reviews contracts for employee/independent contractor considerations, or train someone in the office of the general council to include this evaluation in their review and route the payment appropriately (accounts payable or payroll).
Alternative Investments	Substantial	Likely	20	Educate investment accountant on risks related to alternative investments including unrelated business income and foreign reporting.	Investment Accountant or manager	Provide a list to the individual responsible for tax reporting of all new alternative investments each year which includes type of entity and legal domicile, or other relevant categories.



FIN 48 Assessment

FASB Statement 109 - Requires organizations to measure and assess uncertain tax positions

- Recognition - Determine if the tax position is “more likely than not” (MLTN) to remain if audited based on the technical merits of the position.
- Measurement – If the position is “more likely than not” to be sustained, the amount of tax benefit or liability needs to be recognized in the financial statements (deferred tax asset or liability)

This covers all tax and compliance areas

- 990-T / UBI
- Sales tax
- Property taxes including exemptions
- Excise taxes
- Foreign Filings
- Reportable transactions
- Missed foreign filings

FIN 48 Assessment

- Internal
- Provider service



Summary and Key Points

Summary and Key Points



There is a significant amount of compliance beyond the 990 in higher education.



Help is needed outside of Finance & Administration: Identifying, training and educating those who have the potential to have an impact on compliance efforts is key.



Ask questions and assess risk and risk tolerance and establish a compliance plan and understand it is a marathon and not a sprint.



Questions





Thank you!

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We'll get you there.

CPAs | CONSULTANTS | WEALTH ADVISORS

On A Break

We will resume the presentation at 2:05 p.m.

Please note: we are checking in our next speakers, so you may hear us as we check technology!

Thank you!



Transforming Business Processes in Higher Education

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Learning Objectives

In the end of this session, you will be able to:

- Describe why it's important to modernize and streamline
- Identify the elements of success and challenges
- Identify examples of how institutions are transforming business processes



Thank you!

CLA exists to
create opportunities —
for our clients, our people,
and our communities.