

Not-for-Profit Executive Forum

November 30, 2023

**KNOW
GREATER
VALUE®**

2023 Year in Review:

Legal Updates and Enforcement Trends

Amarah Sedreddine, Esq.
Sedreddine & Whoriskey, LLP

With appreciation to my colleague, Veronica Aksu



Key Themes of 2023

Challenges to Race-Conscious Programs post-SFFA

- June 2023: SCOTUS decided *Students for Fair Admissions v. Harvard*
 - Harvard prohibited from considering race in admissions decisions under Equal Protection Clause (14th Amendment)
- General sentiment – and majority’s language in SFFA – have animated legal challenges in other areas:
 - Big law summer diversity fellowship programs (MoFo, Perkins Coie, Winston & Strawn)
 - Grant-making program for Black women entrepreneurs (Fearless Fund)
 - Legal claims: Violation of Section 1981 (Reconstruction-era law banning discrimination on the basis of race in private contracting)

Fundraising, including California's AB488

- California law regulating charitable fundraising platforms (AB488)
 - Initial implementation began January 2023
 - Verification of recipients' good standing with IRS and California Attorney General
 - Maintain separate accounts for donated funds
 - Required donor disclosures (including recipient entity, length of time to process, platform fees, tax-deductibility, reasons for diversion)
 - Limitation on information for "non-consenting" charities and opt-out option
 - Further revised regulations released November 17, 2023
 - Comment period open through January 2, 2024
- IRS: "Qualified appraisal" required for \$5K+ donations of cryptocurrency (not just exchange reports re: valuation)

Proposed DAF Regulations (Finally!)

- DAF first defined in Pension Protection Act of 2006, through the enactment of Section 4966 of the Internal Revenue Code
 - First proposed regulations thereunder
 - (Back in 2017, issued Notice 2017-73, regarding Section 4967)
- Most contentious issue concerns inclusion of certain investment managers into the definition of “donor-advisor”
- Comment period ending January 16, 2024


Employee Retention Credit (ERC) Fraud



ERC, a refundable payroll tax credit, established as part of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act)



IRS issues numerous warnings about unscrupulous promoters of ERC, featured in “Dirty Dozen” list of tax schemes



IRS announces increased audit and criminal investigation work



IRS imposes moratorium on processing of new claims through at least the end of 2023



IRS announces new process for withdrawing prior ERC claims

Governance Updates

N-PCL Modernization Act (Parts I & II)

- Unanimous decision-making by Boards outside of meetings by any electronic means (not just email)
- Filling of director vacancies through end of relevant term (not just through next annual meeting)
- Recusal of conflicted director during Board deliberations will not impact quorum
- **NEW**: Non-membership organizations can classify Board via bylaws (not only certificate of incorporation)
- Also, beginning **January 1, 2023**, nonprofits can elect to receive notice of service of process electronically (optional; no additional cost)

Employment Updates



New Hires & Onboarding

NYC & NYS: Salary Transparency

- Advertisements must include a **good faith salary range** for every job, promotion, and transfer opportunity advertised (including internal postings)
- Applies to any employer with **four or more employees** (and/or **individual independent contractors**), at least one of whom works in New York
- Covered positions:
 - Jobs that can or will be performed in New York City (including from employee's home)
 - Positions that will be physically performed, at least in part, in New York State
 - Remote positions that will report to supervisor, office or worksite in New York State
- Must also include a job description with postings (if one exists)
- Effective **November 1, 2022** (NYC); **September 17, 2023** (NYS)

NYC: Automated Employment Decision Tools

- NYC employers that use “automated employment decision tools” (machine learning/data analytics/AI process that ranks or rates job candidates automatically) must:
 - Conduct annual, independent “bias audit”
 - Post audit results publicly on website
 - Notify employees/candidates
- Enforcement by DCWP began **July 5, 2023**

NYS & NYC: Protected Class Expansions

- Immigration or citizenship status (NYS)
 - Already covered by NYCHRL
 - Note: Does not preempt other laws requiring verification of work authorization (e.g., I-9)
- **Height or weight** (NYC)
 - Exception if height/weight prevents employee from performing the essential requirements of their job (and there are no other alternatives the employer could reasonably take to allow the person to perform such requirements)
- Gender identity or expression (NYS; interns)
 - Fixing seemingly inadvertent failure to extend gender identity or expression protection to unpaid interns after larger updates to NYS HRL in 2019

NYS: Assignment of Employee Inventions

- Limits employee assignment of inventions to employers
- **Allowed:**
 - Inventions that relate to employer's business or research/development
 - Inventions that result from work performed for employer
- **Not allowed:**
 - Inventions developed on employee's own time without use of employer's equipment, supplies, facilities, or trade secret information
- Effective **September 15, 2023**

Federal: Form I-9 Updates

- All employers required to verify employment eligibility of new hires within 3 business days
- During pandemic, employers allowed to remotely inspect required documents
- Flexibilities ended **July 31, 2023**:
 - Employers required to physically *re-inspect* any remotely inspected documents by **August 30, 2023** and update records
 - Only employers that use e-Verify eligible to continue remote inspections
 - All other employers must resume in-person document inspection for all new hires – even fully remote employees
- Employers must also switch to new version of Form I-9 (exp. 7/31/2026) from **November 1, 2023**





Payroll

NYS: Proposed Increase to Exempt Salary Threshold

- NYS has proposed increasing the minimum salary requirement for executive and administrative exemptions under Minimum Wage Act, to be effective January 1, 2024:
 - NYC/Nassau/Suffolk/Westchester: \$58,500 → **\$62,400**
 - Rest of NYS: \$51,480 → **\$58,458.40**
- Employers should identify any currently exempt employees with salaries below the new salary thresholds and prepare to either:
 - Increase salary to maintain exempt status; or
 - Convert to non-exempt (start tracking hours and paying OT, if applicable)

NYS: Expanded Wage Payment Protections

- NYS employers generally required to:
 - Pay employees at least semi-monthly
 - Get advance written consent to pay employees by direct deposit
- Not applicable to executive, administrative, or professional employees earning statutory minimum:
 - Current: \$900+/week (\$46,800 annualized)
 - **NEW**: \$1,300+/week (\$67,600 annualized)
- Note: This is different than salary threshold for exemption on prior slide
- Effective **March 13, 2024**

NYS: Wage Theft = Criminal Larceny

- Amendment to NYS *Penal* Law to include “wage theft” in the definition of “larceny”
- Unpaid wage amounts can be aggregated across employer’s workforce
 - Petit larceny: up to \$1,000
 - Grand larceny in 4th degree: \$1,000+
 - Grand larceny in 3rd degree: \$3,000+
 - Grand larceny in 2nd degree: \$50,000+
 - Grand larceny in 1st degree: \$1M+
- Fines of up to \$10K for convicted corporate employers
- Effective **September 6, 2023**

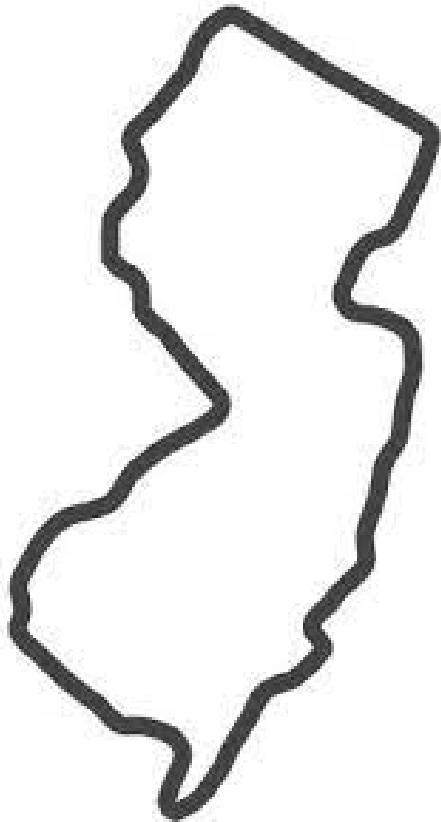
IRS: COLA-Adjusted Benefit Plan Limits

	2023	2024
401(k)/403(b) Contributions	\$22,500	\$23,000
SIMPLE Contributions	\$15,500	\$16,000
Healthcare FSA Contributions	\$3,050	\$3,200
HSA Contributions	\$3,850/\$7,750	\$4,150/\$8,300
Roth IRA Qualified Charitable Distributions	\$100,000	\$105,000


IRS: Retirement Match for Student Loans

- Employers that offer matching retirement contributions to 401(k), 403(b), SIMPLE IRAs can now offer matching contributions
- employees can now expand to employees who are making Employees with student loan debt unable to save for retirement, missing out on employer match programs
- employers able to match employees' "qualified student loan payments" (QSLP) with retirement plan contributions
- Employees can self-certify QSLPs, at least annually
- Must be subject to same rules (rate, vesting, eligibility) as regular retirement matches
- Effective for plan years beginning on/after **December 31, 2023**
 - IRS regulations forthcoming

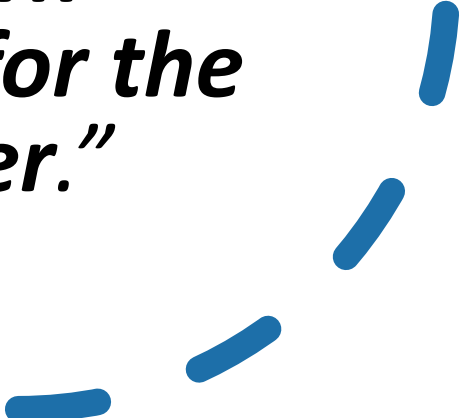
New Jersey: “Convenience of the Employer” Rule



- New income sourcing rule applicable to NJ employers with remote workers in other states
 - Does not apply to **100%** remote employees
- Establishes a reciprocal “convenience of the employer” rule
 - More accurately: “necessity of the employer”
- Retroactive to **January 1, 2023**



*“[A] nonresident taxpayer’s employee compensation from a New Jersey employer for the performance of personal services is sourced to the employer’s location (New Jersey) if the employee is working from an out-of-state location (e.g. at home in their resident state) **for their own convenience rather than for the necessity of their employer.**”*



New Jersey: Convenience of the Employer States

New York

Delaware

Nebraska

Alabama

*Pennsylvania (Reciprocal Agreement)

*Connecticut (reciprocal CON rule)



Leaves

NYC: Paid Sick and Safe Time

Employer Size*	Net Annual Income	Leave Requirement
1-4	Less than \$1M	Up to 40 hours <i>unpaid</i> leave
1-4	\$1M+	Up to 40 hours paid leave
5-99	Any	Up to 40 hours paid leave
100+	Any	Up to 56 hours paid leave

*Highest number of people concurrently employed at any point during calendar year (nation-wide)

NYC: Paid Sick and Safe Time Updates

- Remote employees only covered if they “regularly perform, or are expected to regularly perform” work in NYC
 - N/A to employees who occasionally come to NYC for meetings (e.g., 2x year)
 - Only hours worked *in NYC* count for accruals
- Employees accrue one hour of leave for each 30 hours worked
 - **NOW**: Accruals must account for *all time worked*, even if less than 30-hour increment
 - Employer can round to nearest 5 minutes, .1 or quarter of an hour

NYC: Paid Sick/Safe Time Policy Requirements

- All employers must have written policy describing paid sick/safe leave and how to use it
- Employers' written policies must now include:
 - Any requirement to provide advance notice before using sick/safe time (requirement to provide *plus* method of providing notice)
 - Any requirement to provide supporting documentation for absences of more than 3 days (requirement to provide *plus* types of acceptable documentation *plus* method of submitting)
 - Note: Generally, can't require *before* employee returns to work
 - Statement that employer will not ask employee to provide details and will keep information received confidential

NYS: COVID-19 Leave Requirements

- As of **January 1, 2024**, NYS employers no longer required to provide employees up to 4 hours paid leave for COVID-19 vaccinations, including boosters
- NYS employers still must offer COVID-19 quarantine or isolation leave

Employer Size*	Net Annual Income	Leave Requirement
1-10	\$1M or less	Unpaid leave
1-10	Over \$1M	Up to 5 days paid leave
11-99	Any	Up to 5 days paid leave
100+	Any	Up to 14 days paid leave

NYS: Paid Family Leave Updates

- Covered family members now includes **siblings** (biological or adopted siblings, half-siblings, and stepsiblings)
- Funding: employee payroll deductions, subject to maximum annual contribution
 - 2023 Maximum Contribution: \$399.43
 - 2024 Maximum Contribution: \$333.25 (**-\$66.18**)
- Pay Benefits: 67% of average weekly wage subject to cap based on NYS Average Weekly Wage (NYSAWW)
 - 2023 Weekly Benefit Cap: \$1,131.08
 - 2024 Weekly Benefit Cap: \$1,151.16 (**+\$20.08**)



Day-to-Day Operations

NYS: “Captive Audience” Meetings Banned

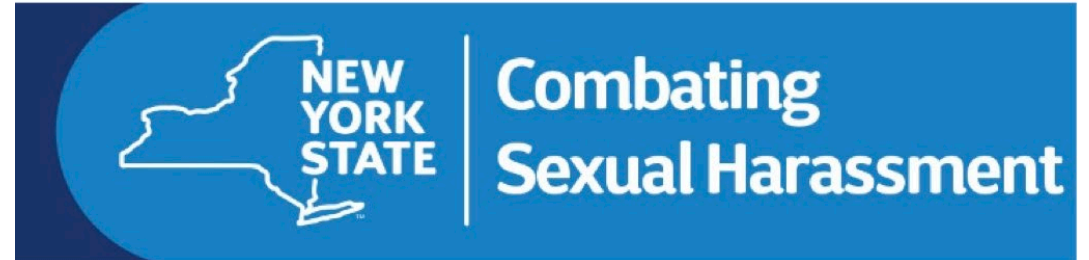
- Can't require employees to join work meetings where primary purpose is to communicate employer's opinion concerning **political** or **religious** matters
- “Political matters”: includes elections for political office, *legislation*, the decision to join or support any political party or political, civic, community, fraternal or *labor organization*
- Employers must post notice of rights
- Effective **September 6, 2023**

NYS: Access to Employee Social Media Accounts

- Limits employer access to private personal social media accounts of applicants or current employees
- Includes personal social media accounts accessed through work devices (e.g., Instagram on work phone)
- Does not apply to:
 - Work-related accounts where employee was notified in advance of employer's access rights
 - Publicly available information **or** information shared by third parties who had access to such information in connection with misconduct investigation
- Effective **March 12, 2024**

NYS: Sexual Harassment Prevention Policy

- All NYS employers required to have sexual harassment prevention policy including complaint form
- NYS released updated model policy:
 - Gender diversity
 - Remote work
 - Bystander intervention
- Available from NYS DOL



Reminder: Employers must also provide annual training to employees

NYS: Expanded Lactation Room Requirements

- All NYS employers (regardless of size) must provide lactation rooms with certain furnishing and privacy standards, subject to undue hardship
 - Chair, flat working surface, electrical outlet, nearby access to clean running water
 - Close proximity to work area, well-lit, shielded from view, free from intrusions
 - Cannot be a bathroom
- **NEW** lactation accommodation policy distribution requirements:
 - Upon hire;
 - Annually thereafter; *plus*
 - Specifically provided to employees returning to work post-birth

The image features a teal background with a large white circle in the center. The word "Separations" is written in black text inside the white circle. On the left side of the white circle, there is a dashed blue arc. On the bottom right edge of the white circle, there is a solid blue circle.

Separations

NLRA: Non-Supervisor Severance Agreements

- NLRB decision limits terms of severance agreements that can be offered to ***non-supervisory*** employees (union *and* non-union)
- Mere offer of severance agreement with certain clauses violates National Labor Relations Act:
 - **Confidentiality** (terms of separation agreement)
 - **Non-Disclosure** (any non-public information learned through employment)
 - **Non-Disparagement** (employer, officers, directors, and related entities)
- Certain narrowly tailored clauses may be permissible

NYS: Notice of Unemployment

- Employer must notify employees of right to file for unemployment at:
 - Separation of employment (permanent, indefinite, or temporary)
 - ***Reduction in hours***
 - **Note:** DOL form limited to reductions “to 30 or less [hours] each week”
 - ***Any other interruption resulting in total or partial unemployment***
- Notice made using Form IA 12.3 (Record of Employment) from NYS DOL
- Effective **November 13, 2023**

Trends in Enforcement



Thank you!

Amarah Sedreddine, Esq.
Sedreddine & Whoriskey, LLP
One Pierrepont Plaza, 12th Floor
Brooklyn, NY 11201 (646) 567-1186
amarah@sedwho.com | www.sedwho.com
[linkedin.com/in/amarahsedreddine](https://www.linkedin.com/in/amarahsedreddine)



The ERC – What Not-for-Profits Should Know

Elisha Brestovansky, CPA

November 30, 2023

Introduction

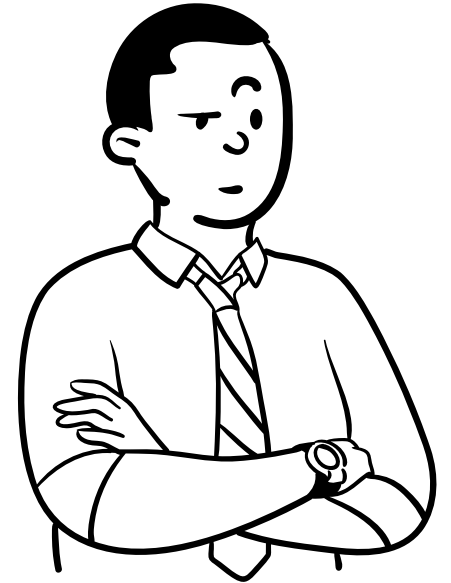
WHY... are we covering this topic NOW?

- The Employee Retention Tax Credit (“ERC”) is still a hot topic
- The IRS has paused processing new claims through 12/31
 - The ERC is not “over” - the law was not repealed. The IRS will still have a responsibility to process tax returns received before the amended return deadline.
- What do we do with ERC receivables as we await processing?
- What do I do if I’m no longer sure I qualify?
- The statute of limitations for filing is approaching.
 - April 15, 2024 for 2020 claims
 - April 15, 2025 for 2021 claims

ERC Basics

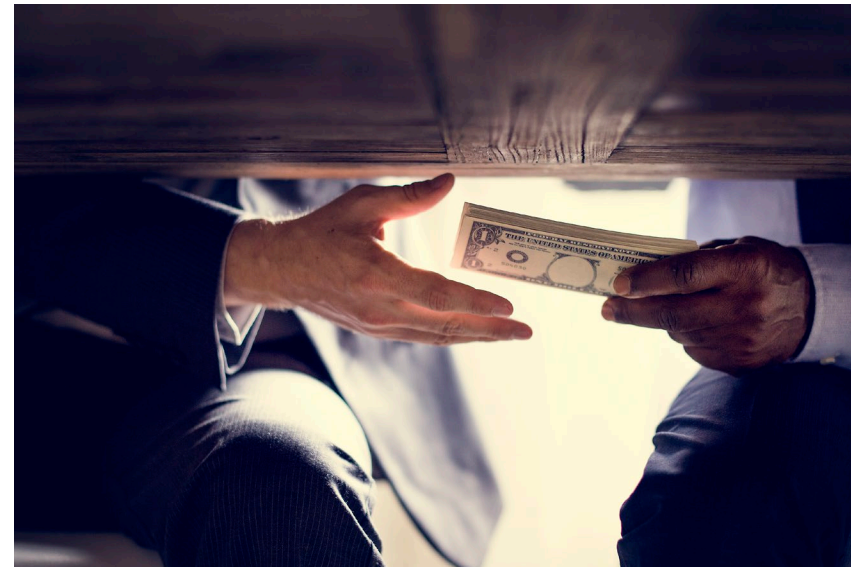
ERC Background

- **WHAT** is the ERC??
 - Refundable payroll tax credit established by the CARES Act
 - Used by few businesses in 2020 because its use was prohibited for those receiving a PPP loan
 - Later legislative acts:
 - Removed the prohibition for PPP borrowers, and
 - Extended and expanded ERC through Q3 2021
 - (Q4 2021 only applies for “recovery startup businesses” – must have started after 2/15/20)
- **HOW** does a business claim the ERC?
 - Amending quarterly payroll tax filings (Form 941-X)



ERC Background

- Promoters are telling organizations they qualify with very aggressive positions
- Taking large percentages (usually about 20-30%) of an inflated credit
- Tactic: “Your business may be eligible for up to \$26,000 per employee!”
- \$26K/employee is best case scenario and very rare



Deadlines and Current Events

IRS Pauses Processing New ERC Claims

- September 14th, 2023: the IRS indicated major changes to its processing of the ERC:
 - In IR-2023-169, the IRS announced that it will
 - stop processing new amended payroll tax returns with ERC claims until “at least” the beginning of 2024 and
 - slow the processing of claims currently in process.
- **Observation:** this does not change the deadline to filed amended returns.
- As a result of unscrupulous promoters, the IRS believes that up to 95% of recent ERC claims may be ineligible.
- IRS concern about small businesses being charged contingent fees that they will not be able to recover after unsuccessful audits.

IRS Announces New ERC Withdrawal Program

- October 19th, 2023: the IRS announced a new program allowing employers to withdraw ERC claims.
- Which Employers Can Use the Withdrawal Program?
 - All of the following must apply:
 - They made the claim on an amended employment tax return (i.e. Form 941-X),
 - They filed the amended return only to claim the ERC,
 - They want to withdraw the entire amount of the ERC claim,
 - The IRS has not paid the claim, or the IRS has paid the claim but the employer hasn't cashed or deposited the refund check.
 - Taxpayers under audit may still withdraw their claims.
 - Different program expected for those who have cashed checks.

Takeaways

- If you filed a legitimate claim, do not be concerned!
 - Trust tax professional
 - Well-documented and supportable eligibility workpapers
 - ***This should not affect the eventual collectability of ERC receivables – no need for an allowance***
- However, if you did not work with a trusted tax professional:
 - Now is the time to review your eligibility and credit calculation with a trusted tax advisor – it will likely come up on audit if the amount is material
 - Identifying and withdrawing an improper claim can provide significant savings in penalties and interest

ERC Eligibility

Qualification

- Operations were fully or partially suspended on orders from a governmental authority due to COVID-19 (COVID-19 Shutdown).
 - Business no longer qualifies when the relevant order is lifted
 - For example, in New York, many schools no longer qualify after being allowed to reopen in September 2020

or

- Business experienced a significant decline in **gross receipts** for a calendar quarter
 - Compared to the same calendar quarter in 2019
 - **20%** decline required for 2021 eligibility (50% in 2020 to start qualification – last quarter of eligibility is when business has a decline of less than 20%)

What Government Orders Qualify?

- **Business deemed essential and had no restrictions placed on it** - can qualify only if a government order shut down its suppliers.
- **Government order closes an employer's workplace** – were they able to transition to telework effectively and thus were not truly shut down by the order?
 - Factors
 1. Employer's telework capabilities – did employer have adequate support, IT and otherwise?
 2. Portability of employees' work – how much work could be performed remotely?
 3. Need for presence in employee's physical workspace – how essential is the physical space to what an employer does?
 4. Transitioning to telework operations – if employer did not previously allow telework (or only minimal), was there a significant transition period?

What Government Orders Qualify?

- IRS guidance
 - Government order closes non-essential part of a business, but some part is essential (i.e. hospital that cannot perform elective surgery)
 - Do the restrictions have an effect on operations which is more than nominal, and thus constitute a partial shut down?
 - Must reduce gross receipts or hours worked by 10%
 - Government order allows use of workplace with restrictions (i.e. nursing home with capacity restrictions)
 - *Restrictions must reduce an employer's ability to provide goods or services in the normal course of business by at least 10%*

What Government Orders Qualify?

- Do all organizations qualify for the ERC? No.
- Do general stay at home orders qualify an organization? No.
- Do CDC and OSHA guidelines qualify an organization? No.
- Do restrictions that limited demand for services qualify an organization? No.
- Do “issues” with the supply chain qualify a business? No.
 - Further discussion of supply chain later in this presentation.

Gross Receipts Test

- If you're using the gross receipts test:
 - For 2021, business must qualify for each quarter you seek to take the credit
 - Qualification is based on a decline in gross receipts, either for the current quarter, or the immediately preceding quarter
 - To qualify in Q1 2021, business would need a 20% decline in gross receipts when comparing
 - Q1 2021 to Q1 2019 **or**
 - Q4 2020 to Q4 2019
 - Thus, a decline in Q1 or Q2 of 2021 will lead to eligibility in multiple quarters
 - Consider across legal entity; if separate entities owned by same group, consider across the group entities
 - ***If you have multiple entities owned by the same person, you cannot consider one entity alone***

Gross Receipts Test

- Gross receipts follow the tax return
 - **For a not-for-profit, this means grant income on an accrual basis and gross sales of securities**
- Consider across legal entity; if separate entities owned by same group, consider across the group entities
 - ***If you have multiple entities controlled by the same organization, you cannot consider one entity alone***
 - ***Consider board overlap / related organizations (Schedule R of Form 990)***

Calculating the ERC

How Is the Credit Determined?

2020

- ERC = 50% of an employee's qualified wages
 - Maximum qualified wages = \$10,000 per employee, **for the year**
 - Maximum credit per employee = \$5,000 for the year

2021

- ERC = 70% of an employee's qualified wages
 - Maximum qualified wages = \$10,000 per employee, **per quarter**
 - Maximum credit per employee = \$7,000 per quarter, totaling \$21,000
 - Recovery Startup Businesses can also claim up to \$7,000 per employee in Q4 2021 (see later slides)

Eligibility Requirements: # of Employees

- To be eligible, businesses must assess the number of employees (across aggregated group, if relevant)
 - **For 2020**
 - If <100 employees, the credit applies to all employees
 - If >100 employees, the credit only applies to employees not providing services
 - **For 2021**
 - If <500 employees, the credit applies to all employees
 - If >500 employees, the credit only applies to employees not providing services
 - “Number of employees” is based on 2019 average monthly full-time employees (>30 hours)
 - This means that raw employee totals should be vetted especially for seasonal employers

PPP Interaction

- No “double-dipping”: wages cannot be used for PPP forgiveness and the ERC
- Many businesses filed forgiveness applications before the ERC became available to them
- What if business had a \$100,000 PPP loan but claimed \$200,000 in wages on the PPP forgiveness application? Are any of those wages available for the ERC?
 - Yes. Wages in excess of the amount required for full forgiveness can be used for the ERC, even if they were in the PPP covered period and listed on the application.
- What if business had allowable non-payroll PPP expenses of \$40,000?
 - *If those were claimed on the PPP forgiveness application, they reduce the amount of wages needed for PPP forgiveness. Thus, \$140,000 of wages would be available for the ERC:*
 - \$200,000 of wages less \$60,000 of wages used for PPP forgiveness

Supply Chain Disruptions

ERC and Supply Chain Disruptions

- On July 21, 2023, the IRS issued a Generic Legal Advice Memo (AM 2023-005) to provide further clarification on supply chain disruptions with 5 specific examples on eligibility for ERC.

Example 1:

The Employer was not subject to any government shutdowns at any time due to COVID-19 and continued to operate on a surplus of goods from its supplier. However, the Employer did experience shipping delays from its supplier, to which the supplier vaguely claimed that the delay was caused by COVID-19 but did not provide a government order and was unable to locate one.

IRS FINDING: NOT AN ELIGIBLE EMPLOYER

ERC and Supply Chain Disruptions

Example 2:

The Employer was not subject to any government shutdowns at any time due to COVID-19; however, critical goods were stuck at a port in another state. The employer assumed that the delay was due to COVID-19 and could not identify any government orders that caused the hold-up. The supplier stated that there was a truck driver shortage and news media outlets broadcasted several reasons for the delay including COVID-19, increases in consumer spending and infrastructure.

IRS FINDING: NOT AN ELIGIBLE EMPLOYER

ERC and Supply Chain Disruptions

Example 3:

Both Employer and supplier had government orders suspending both their business operations for April 2020. The orders were lifted in May 2020; however, the Employer had a delay in receiving critical goods from the supplier for the remainder of 2020 and for 2021. The supplier did not provide a reason for the delay.

IRS FINDING: ELIGIBLE EMPLOYER FOR APRIL 2020 ONLY

ERC and Supply Chain Disruptions

Example 4:

The Employer was not subject to any government shutdowns at any time due to COVID-19. The Employer could not obtain critical supplies during 2020 and 2021 from its supplier, however, was able to obtain its critical supplies from another supplier at a 35% markup and was able to operate its business.

IRS FINDING: NOT AN ELIGIBLE EMPLOYER

Example 5:

The Employer operates a large retail business selling a wide range of products and was not subject to any government shutdowns at any time due to COVID-19 in 2021. The Employer was not able to stock a number of products and was forced to raise prices on other products in short supply. The product shortage did not prevent the employer from being fully operational in 2021.

IRS FINDING: NOT AN ELIGIBLE EMPLOYER

ERC and Supply Chain Disruptions

Key Takeaways:

1. Entities must show that a government order shut down a supplier- without proof of shutdown, there is no qualification.
2. The business must have stopped or significantly limited its operations because it was unable to obtain critical goods from its supplier or an alternate.
3. Residual delays after lifting a government order do not qualify; qualification is only permitted during the period in which the government order exists
4. Experiencing higher costs for critical goods does not mean a business experienced a full or partial shutdown of operations.

Q&A

Contact Us

Christopher Migliaccio
Partner, ERC Services Leader
cmigliaccio@pkfod.com

Elisha Brestovansky
Senior Manager
ebrestovansky@pkfod.com

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Artificial Intelligence Adopt, Integrate, Regulate

Suma Chander
Lead Partner, Technology Consulting Advisory

Thomas J. DeMayo
Partner

Agenda



Introduction to AI



AI Technologies



AI in Business



Ethical Considerations



Policies and frameworks

Introduction

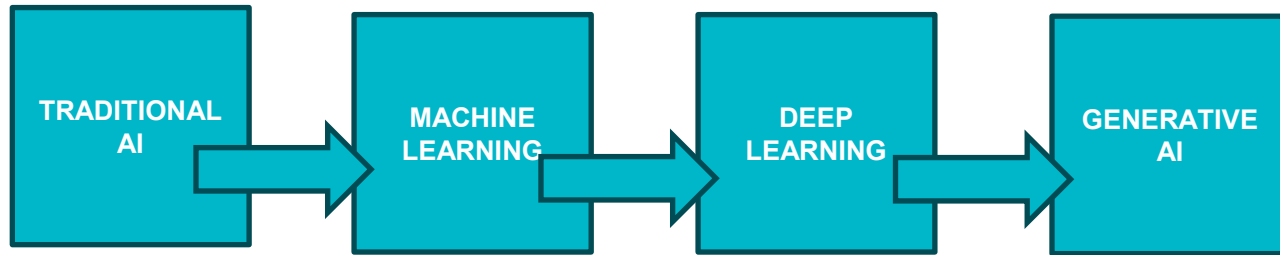


The field of AI originated in 1956 in Dartmouth



<https://akin-agunbiade.medium.com/the-first-wave-of-ai-1956-1973-f10860a807f9>

Evolution



HUMANS GIVING IF-THEN RULES TO THE MACHINE TO PERFORM TASKS. PROGRAM THE RULES INTO THE SYSTEM BASED ON THE REQUIRED OUTPUT



AUTOMATION OF PERCEPTUAL TASKS – SEEING, RECOGNIZING, CLASSIFYING, HEARING

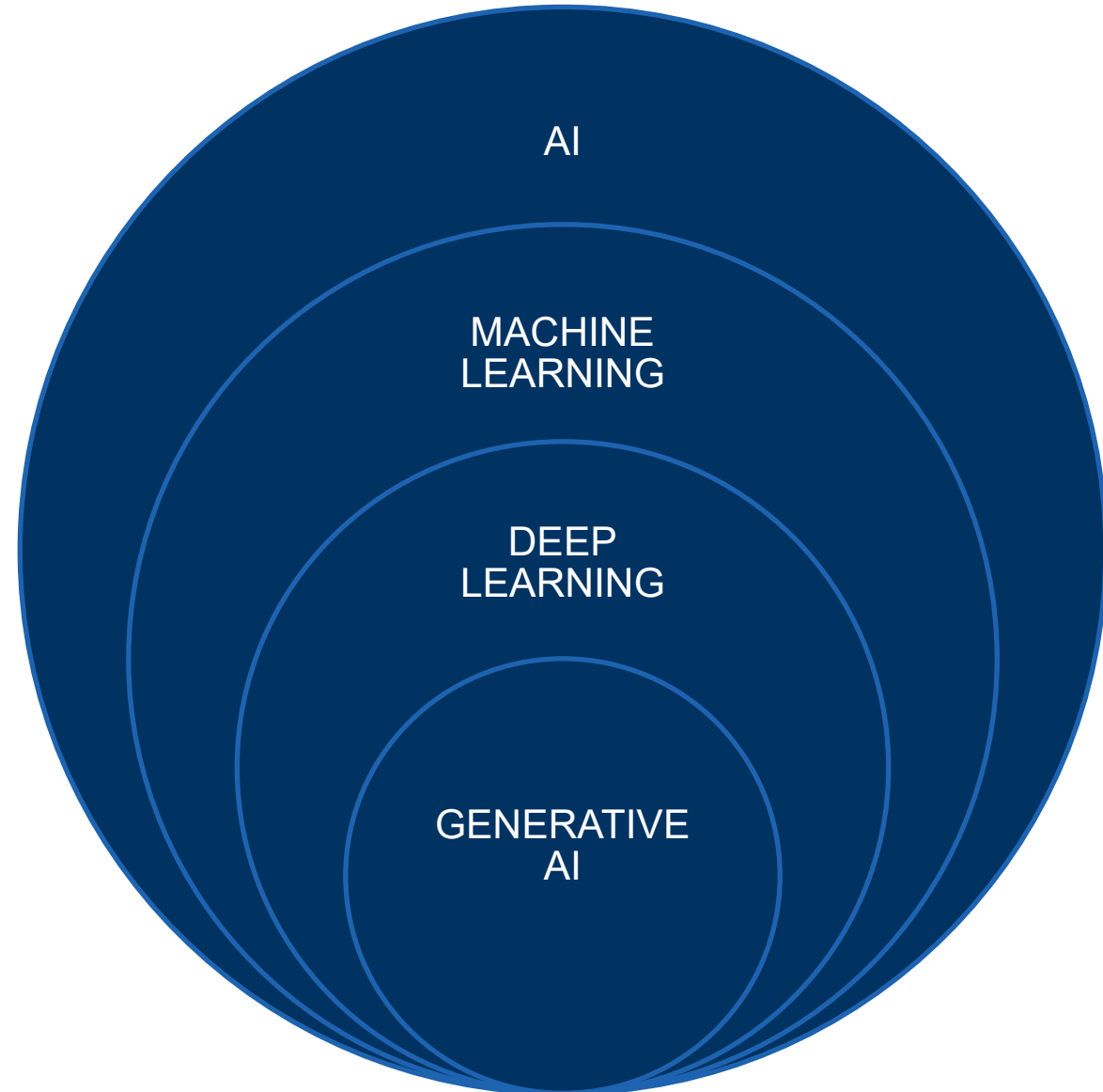


DEEP LEARNING – WE CAN PREDICT/GENERATE STRUCTURED OUTPUTS TAKING IN BOTH STRUCTURED AND UNSTRUCTURED INPUT



DEEP LEARNING HOWEVER CANNOT PRODUCE GOOD UNSTRUCTURED OUTPUT (IMAGES) – THIS IS CHANGING TOO

Field of AI – Its Components



Generative AI – How Does It Work?

INPUT
THE DOG IS
THE MAN IS
SHAKESPEARE IS A



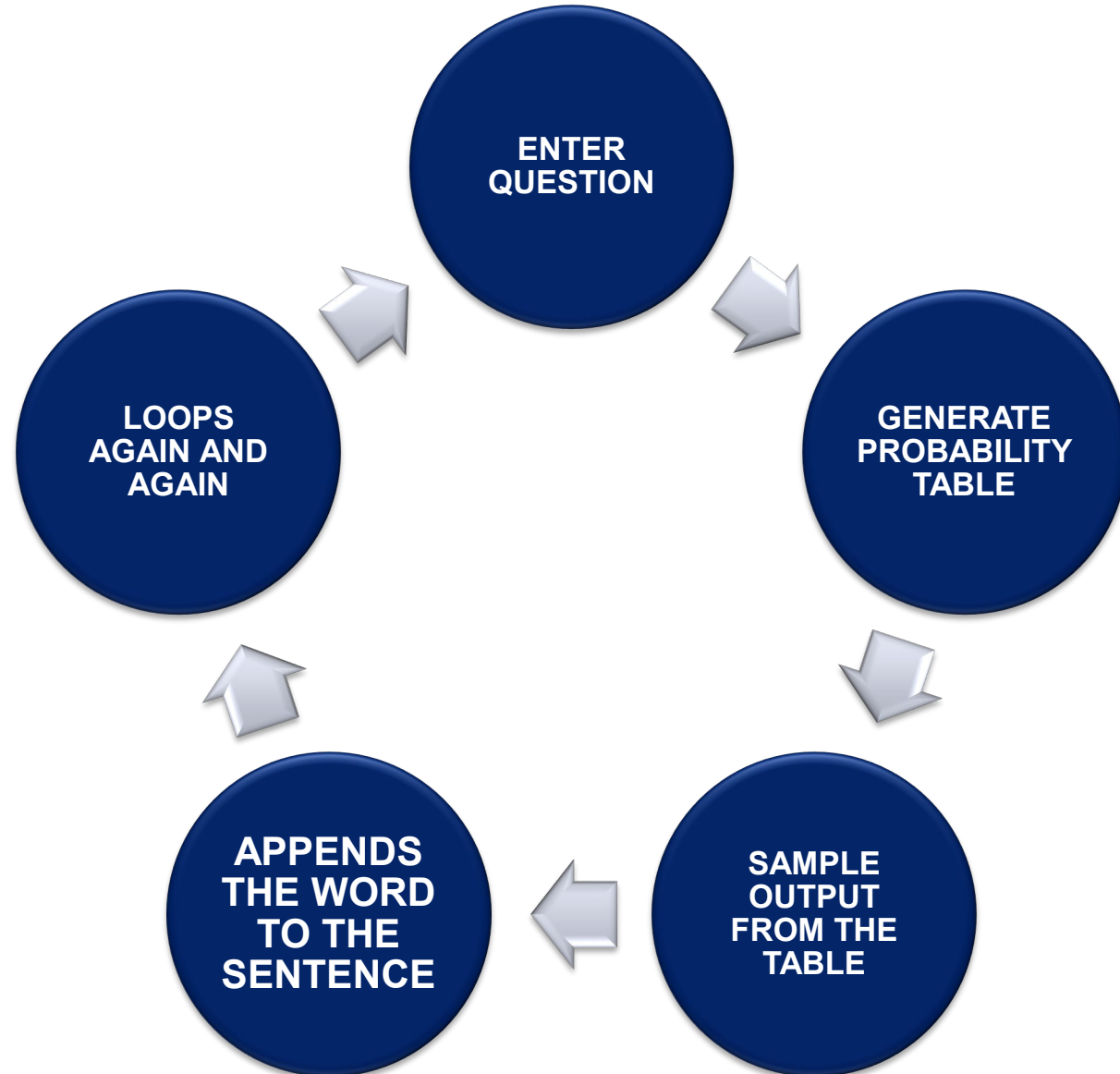
OUTPUT
BARKING
RUNNING
A WRITER

Probability of the Next Word

THE SENTENCE IS FED BACK INTO THE CHAT TRANSFORMER AND BASED ON THE PROBABILITY OF THE NEXT WORD, IT GENERATES THE OUTPUT. THIS IS A CONTINUOUS LOOP TILL TASK IS COMPLETED

NEXT WORD	PROBABILITY	SCORE
BARKING	0.5	HIGHEST
SITTING	0.01	
EATING	0.1	
SLEEPING	0	

Feedback Loop



Prompt Engineering



PERSONA



CONTEXT



TASK



EXEMPLAR



FORMAT



TONE



USE OF AI IN THE NFP SECTOR

1. **Data Analysis and Insights:**
 - **Donor Behavior Prediction:** AI can analyze donor data to predict behavior, helping organizations tailor their outreach strategies.
 - **Impact Assessment:** AI tools can assist in assessing the impact of non-profit initiatives by analyzing large sets of data to identify trends and measure outcomes.
2. **Fundraising and Resource Allocation:**
 - **Predictive Analytics:** AI can predict potential funding sources and optimize resource allocation for better fundraising outcomes.
 - **Automated Fundraising:** Chatbots and automated systems powered by AI can handle donor inquiries and streamline the donation process.
3. **Personalized Communication:**
 - **Chatbots and Virtual Assistants:** AI-powered chatbots can provide personalized assistance to donors, volunteers, and beneficiaries, improving communication and engagement.
 - **Personalized Campaigns:** Generative AI tools can help in creating personalized content for campaigns, making them more compelling and targeted.
4. **Efficient Operations:**
 - **Process Automation:** AI can automate routine tasks, allowing non-profits to focus on more strategic initiatives and reducing operational costs.
 - **Supply Chain Optimization:** AI can be used to optimize the supply chain for organizations involved in providing goods or services.
5. **Data Security and Privacy:**
 - **AI for Cybersecurity:** Non-profits can leverage AI for enhanced cybersecurity, protecting sensitive donor and beneficiary information.
6. **Accessibility and Inclusion:**
 - **Natural Language Processing (NLP):** AI technologies, such as NLP, can be used to improve accessibility by creating content in multiple languages or facilitating communication with diverse audiences.

Implementation of Generative AI Tools:

1. **Content Creation:**
 - Use generative AI tools to create engaging content for marketing, storytelling, and awareness campaigns.
2. **Chatbots for Engagement:**
 - Implement chatbots powered by generative AI to enhance communication with donors, volunteers, and beneficiaries.
3. **Predictive Analytics:**
 - Utilize generative AI models for predictive analytics to forecast donation patterns and identify potential areas for campaign improvement.
4. **Training and Capacity Building:**
 - Employ generative AI for developing training materials and capacity-building programs for staff and volunteers.
5. **Collaboration and Coordination:**
 - Use AI tools to optimize project management and collaboration among team members, ensuring efficient workflow.

Tools Available

Impact Measurement and Evaluation:

Tool: Impact measurement platforms like Vera Solutions, Salesforce Impact Cloud, or Socialsuite.

Cybersecurity:

Tool: AI-powered cybersecurity solutions such as Darktrace, Cylance, or Symantec.

Content Generation:

Tool: Generative AI models like OpenAI's GPT or chatbot-specific frameworks. Multilanguage communication becomes very easy for outreach.

Fundraising Optimization:

Tool: Donor management platforms like Blackbaud, NeonCRM

Chatbots and Virtual Assistants:

Tool: Chatbot platforms such as Dialogflow, Microsoft Bot Framework, or IBM Watson Assistant.

Big Data and Biases

INSIGHTS

- Building fair and equitable machine learning systems.
- Bias can creep into algorithms in several ways. AI systems learn to make decisions based on training data, which can include biased human decisions or reflect historical or social inequities, even if sensitive variables such as gender, race, or sexual orientation are removed
- Comprehensive data collection is critical

EXAMPLES

Amazon stopped using a hiring algorithm after finding it favored applicants based on words like “executed” or “captured” that were more commonly found on men’s resumes, for example. Another source of bias is flawed data sampling, in which groups are over- or underrepresented in the training data. For example, Joy Buolamwini at MIT working with Timnit Gebru found that facial analysis technologies had higher error rates for minorities and particularly minority women, potentially due to unrepresentative training data.

Bias is all of our responsibility. It hurts those discriminated against, of course, and it also hurts everyone by reducing people’s ability to participate in the economy and society. It reduces the potential of AI for business and society by encouraging mistrust and producing distorted results.

Business and organizational leaders need to ensure that the AI systems they use improve on human decision-making, and they have a responsibility to encourage progress on research and standards that will reduce bias in AI. We encourage companies to seek advice from experts on matters related to AI policy, implementation and regulation.

How to Think About Risks

AI Ethics - Policies
and procedures

Data governance

Data collection

Model development

Transparency around
implementation and
usage

Ongoing auditing
and monitoring

Adherence to
compliance with
regulations around AI

Cyber policies

Employee education

3rd party tools and
vendor product
dependencies on AI
and indirect impact
assessments

Review of the
policies on a periodic
basis as evolution is
rapid

Cybersecurity Considerations

- Will be leveraged heavily in attack generation
 - Specifically in social engineering
- Will be critical to defend against modern attacks.
 - Computer vs Computer



Cybersecurity Considerations


Pages: [1]

Mark unread Notify Reply


Chat GPT Fraud Bot | Bot without limitations, rules, boundaries

0 Replies


CanadianKingpin



Newcomer



2



Chat GPT Fraud Bot | Bot without limitations, rules, boundaries
on: July 22, 2023, 08:23:06 pm

Like (0) Comment (0)

NEW & EXCLUSIVE bot designed for fraudsters | hackers | spammers | like-minded individuals

If your looking for a Chat GPT alternative designed to provide a wide range of exclusive tools, features and capabilities tailored to anyone's individual needs with no boundaries then look no further!

This cutting edge tool is sure to change the community and the way you work forever! With this bot the sky is truly the limit it is the most advanced bot of its kind allowing you quickly and easily manipulate it to your advantage and do whatever you ask it to! As you can see in the video

Video Proof available on marketplace(s) and tele group @ [REDACTED]

- Write malicious code
- Create undetectable malware
- Find non vbv bins
- Create phishing pages
- Create hacking tools
- Find groups, sites, markets
- Write scam pages / letters
- Find leaks, vulnerabilities
- Learn to code | hack
- Find cardable sites
- And much more | sky is the limit
- Escrow available 24/7
- 3,000+ confirmed sales / reviews

Cybersecurity Considerations

Fast & stable

Unlimited characters

Privacy focus

Save results to TXT

Updates every 1-2 weeks

Different AI models

PRICES

1 Month = \$200

3 Months = \$450

6 Months = \$1000

12 months = \$1700

The first 20 people to purchase a subscription will get 1 additional month for free

Contact @ [redacted] or purchase from @ [redacted]

Disclaimer: A reminder that while away on vacation, my old telegram account ([redacted]) auto-deleted and my PGP key expired. This allowed scammers & imposters to claim my old username and group names. To ensure your safety & guarantee a legitimate transaction, only contact me directly @ [redacted]

Welcome to the DeepFake



Cybersecurity Considerations

- Establish an AI policy.
- Protect these accounts no different than any other sensitive account.
 - Multi-Factor Authentication
 - Disable storing of history and training (if possible)
- Never put any confidential information into a Generative AI engine or tool not explicitly approved.
- Keep in mind:
 - AI can be manipulated if data is poisoned.
 - AI can be biased if the data set used to train is biased.
 - AI can hallucinate and produce false results not supported by its data as facts.



Key Takeaways

- Embrace the change
- Education is critical about the innovative technologies
- Staying current is staying competitive in the marketplace
- Understand reality versus hype
- Understand the risks. Keep up with policies and current regulation
- Implement the necessary structure to mitigate the risks
- Work with the right experts and advisors for your business



What is the Future of AI

Emerging trends in AI

Predictions of the impact of AI in the next decade



- An AI startup that has raised \$230 million will launch presales tomorrow for a Siri pin with eyeballs

Recent News in AI

Contact Us

Suma Chander
Partner, Technology Advisor
schander@pkfod.com

Thomas J. DeMayo
Partner
tdemayo@pkfod.com

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Not-for-Profit 2023 Tax Updates

Garrett M. Higgins, CPA
Eva Mruk, CPA, EA

November 30, 2023

Agenda and Objectives

- Recent IRS pronouncements, tax court cases, and other tax changes
 - Supporting organizations
 - Donor-Advised Funds
- Tax-exempt sectors in the news:
 - Hospitals
 - Educational
 - Sports leagues
 - Political activity
- What is on the IRS Priority Guidance Plan and tax subjects to watch
- Discern what your organization should do to prepare for the future

Guidance for Supporting Organizations

IRC Section 509(a)(3)

- Provides guidance on the prohibition of some gifts or contributions to Type I and Type III supporting organizations from individuals in control of a supported organization;
- Adopts the definition of control in the proposed regs with minor changes. Control exists if one or more persons holds 50 percent or more of the voting power of the governing body or has the right to exercise veto power over the governing body's actions;
- Covers the responsiveness test, including requiring a supporting organization to respond to the needs and demands of each of its supported organizations;
- Covers the integral part test which says a Type III supporting organization must be significantly involved in the operations of one or more supported organizations and provide support that the supported organizations depend on.

Guidance for Donor-Advised Funds

- Proposed Regulations (REG-142338-07) issued on excise taxes on taxable distributions made by a sponsoring organization from a donor-advised fund and on the agreement of certain fund managers to the making of those distributions
- Proposed a three-pronged approach for defining a DAF under section 4966:
 - it must be separately identified by reference to contributions of the donors;
 - it must be owned and controlled by a sponsoring organization; and
 - at least one donor or donor adviser must have the reasonable expectation of advisory privileges for the distributions of investments.
- Proposed Regulations would provide that an excise tax equal to 20 percent of the amount of the taxable distribution is imposed on each taxable distribution from a DAF. The excise tax is paid by the sponsoring organization of the DAF.

IRS Oversight of Hospital Tax-Exempt Status

- Bipartisan group of senators to tax commissioners ramp up scrutiny on nonprofit hospitals' charity care spending.
- Calls for a revision of federal auditing standards over concerns that hospitals abuse their tax-exempt status to avoid providing free and discounted care to communities and low-income populations.
- Examples raise serious concerns that nonprofit hospitals may not be fulfilling their required obligation to provide reduced or free care to their most vulnerable patients.
- IRS has implemented several Government Accountability Office recommendations to help ensure that exempt hospitals fulfill their community benefit obligations, including creating a process to identify hospitals at risk of noncompliance with the community benefit standard.

Mayo Clinic, IRS Appeals 2022 Ruling

- A precedent-setting \$11.5 million tax legal battle is going into its seventh year. The IRS is appealing the 2022 ruling that Mayo Clinic operated exclusively for educational purposes.
- In its appeal, the IRS is challenging whether Mayo Clinic can be an educational organization "even if it has substantial noneducational purposes and activities" and whether "primary" merely means "substantial."
- The case centers on whether Mayo Clinic is primarily an educational organization or a healthcare system and whether the revenue generated by debt-financed real-estate investments is unrelated business income.

Higher Education

- Endowment Tax Opposition
 - 1.4 percent excise on the net investment income private colleges and universities with more than 500 tuition-paying students and nonexempt assets worth at least \$500,000 per student
- Employer-Provided Assistance
 - Improving employer-provided education assistance under section 127 that allows employers to provide employees with annual-free amounts that can be used tuition assistance or student loan repayment. That expansion is scheduled to expire in 2025

NIL Collectives

- The IRS issued guidance addressing organizations that develop paid name, image and likeness (NIL) opportunities for college student-athletes.
- The purpose of this IRS guidance was to outline that in many cases NIL collectives would not qualify for tax exemption under Section 501(c)(3) because the private benefit they confer to student-athletes is not incidental to any exempt purpose or public interest.
- The IRS outlined its concern that many NIL collectives do not operate exclusively for an exempt purpose.
- The paid NIL opportunities they provide for student-athletes serve non-incidental private interests because student-athletes are not a recognized charitable class, compensation does not further educational purposes, and opportunities are not awarded based on financial need.

Sports Leagues

- "Properly Reducing Overexemptions for Act" or the "PRO Act"
- To amend the Internal Revenue Code of 1986 to exclude major professional from qualifying as tax-exempt organizations.
- IRC Section 501(c)(6) is for groups looking to promote a "common business interest and not to engage in a regular business of a kind ordinarily carried on for profit".
- According to the Internal Revenue Service, businesses that conduct operations for profit on a "cooperative basis" should not qualify for tax-exempt treatment under IRC section 501(c)(6).
- The National Hockey League (NHL), PGA Tour, and Ladies Professional Golf Association (LPGA).

Political Activity and Donor Disclosure

- American Confidence in Elections (ACE) Act
- Don't Weaponize the IRS Act
- NAACP v. Alabama ex rel. Patterson, 357 U.S. 449 (1958)
- Americans for Prosperity Foundation v. Bonta, 141 S. Ct. 2332 (2021)
- The Buckeye Institute

Substantiation of Cryptocurrency Charitable Donations

- IRS published guidance confirming that no charitable deduction for donations of cryptocurrency over \$5,000 will be allowed unless substantiated by qualified appraisal. Cryptocurrency is treated as property, not cash, and does not meet the definition of a security.
- Price quotation from a cryptocurrency exchange (such as FTX) is not sufficient without a qualified appraisal, to determine the value of the donation.
- The IRS will not grant relief on the basis of reasonable cause for noncompliance with the qualified appraisal requirement.

IRS Memorandum Number: 202302012, Release Date 1/13/2023

Clean Energy Tax Incentives

- Tax-exempt organizations are eligible for clean energy tax credits for “qualifying energy projects.”
- Certain taxpayers will have access to “elective pay” tax credits (direct payments).
- Elective pay is only effective for taxable years beginning after December 31, 2022.
- The deadline for filing to claim elective pay is the due date (including extensions of time) for the tax return for the taxable year for which the election is made.
- Credits will be paid similar to payments of IRS refunds (Proposed Regulations were issued in June 2023).
- File Form 990-T to claim elective pay.
- Tax credits are earned in the year in which the project is placed into service.
- Twenty different incentives grouped into five general buckets:
 - Energy generation and carbon capture
 - Clean energy related manufacturing
 - Clean vehicles
 - Clean fuels, and
 - Energy efficiency

IRS TE/GE Division Staffing

- Inflation Reduction Act funding.
- In fiscal year 2022, the IRS Tax Exempt and Government Entities Division hired additional staffing (183 people) and ended the fiscal year with 1,513 permanent staff members.
- IRS anticipates hiring more staff in FY 2023.
- The additional staffing continues to be necessary to process the large number of initial applications for recognition as a tax-exempt organization described in Internal Revenue Code Section 501, public charity and private foundation status determinations, and private foundations' advance approval of scholarship grant procedures.
- Throughout the fiscal year, the IRS closed 136,708 determinations, including 119,928 approvals. Of those, 115,506 were for approvals of Section 501(c)(3) exempt status.

Exempt Organization IRS Examinations

- Inconsistent or incomplete returns
- IRC Section 501(r) compliance for hospitals
- Referrals (complaint from the public or a regulatory agency)
- IRS-wide examination initiative
- Data matching (e.g., Forms W-2 and 1099)
- Refund or abatement claim verification
- Form 1023-EZ filers (verification)
- Over \$1 million compensation and no filing of Form 4720
- Failure to file (no Form 990-T)
- Large, unusual or questionable items
- Foreign activities
- Employer retention credit (ERC) claims

IRS Hot Tax Areas to Watch...

- For-profit successors
- Private benefit and inurement
- IRC Section 501(c)(7) entities
- Hospital organizations with unrelated business income
- Worker classification
- Small, exempt organizations that sponsor retirement plans
- Form 990-N filers/gross receipts model
- Excise tax on excess compensation
- IRC Section 509(a)(3) organizations misfiling form 990-N

On the IRS Priority List...

- Regulations under IRC Section 512 regarding the allocation of expenses in computing unrelated business taxable income and addressing how changes made to IRC Section 172 net operating losses by Section 2303(b) of the Coronavirus Aid, Relief, and Economic Security (CARES) Act apply for purposes of IRC Section 512(a)(6).
- Guidance revising Rev. Proc. 80-27 regarding group exemption letters. Notice 2020-36 was published on May 18, 2020.
- Regulations under IRC Sections 119 and 132 regarding employer-provided meals.

Taxpayer First Act Provision

- Electronic filing by exempt organizations (IRC Section 3101), the Act extends the requirement to e-file to all tax-exempt organizations required to file statements or returns in the Form 990 series or Form 8872 (Political Organization Report of Contributions and Expenditures). Forms 990, 990-PF, 990-T and 4720.
- As of September 1, 2023, Forms 1023, 1023-EZ, 1024-A, 1024 and 8940 must be filed online through www.pay.gov.
- Organizations that intend to operate as social welfare organizations under IRC Section 501(c)(4) must electronically file a notice (Form 8976) with the IRS within 60 days of formation.

Contact Us

Garrett M. Higgins, CPA
Partner-In-Charge, Exempt Organizations and Advisory Tax Practice
ghiggins@pkfod.com | (914) 421-5655

Eva Mruk, CPA, EA
Partner
emruk@pkfod.com | (914) 341-7042

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November 30, 2023

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