

## THE PPC

## NONPROFIT UPDATE

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## AICPA Releases 2019 Nonprofit Risk Alert



This year's AICPA Audit Risk Alert (Alert), *Not-for-Profit Entities Industry Developments—2019*, has been released, and much of the information is helpful to auditors and nonprofit organization managers alike. This article summarizes key features of the 2019 edition.

### Economic and Industry Developments

This section provides information about key economic indicators and how nonprofit organizations fit into the economy. Specific factors to consider include:

**Current Economic Indicators.** The Bureau of Economic Analysis reports an estimated overall increase in GDP, which measures output of goods and services by labor and property within the U.S., of 3.4% for 2018 (an increase from the rate of 2.3% in 2017) and an unemployment rate of 3.9%, including a dip to 3.7% in the third quarter of 2018, which is the lowest unemployment rate since 1969.

The rate of unemployment at the end of 2018 represents approximately 6.3 million people out of work, excluding the 4.7 million part-time workers unable to find full-time work in 2018 (4.9 million in 2017), as well as the 1.6 million (also 1.6 million in 2017) people who have given up looking for work altogether. Additionally, 2018 was marked by escalating trade disputes between the United States and China and exports contracted for the first time in two years. The Federal Reserve raised the federal funds rate four times during 2018, with additional federal fund rate increases expected in 2019 (at press date for the Alert).

**State of Nonprofit Organizations.** There are currently over 1.5 million IRS-registered nonprofit organizations receiving more than \$400 billion in contributions in 2017 (the first time ever over this mark). In 2017, the amount of contributions for all nonprofit sectors increased 5.2%, with donor-advised funds continuing to become increasingly popular, growing

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## Assurance at a Price

Under some circumstances, prudence may dictate that advance approval is secured from the IRS before a proposed change is implemented.

**Request for Miscellaneous Determination.** Form 8940 provides a simplified means for a charitable organization to get assurance from the IRS on several matters. For public charities, these include the following:

- A request for exemption from the Form 990 filing requirements (e.g., because the organization has become affiliated with a church or a convention or association of churches).
- A request for advance approval that a potential grant or contribution will be an *unusual grant* and, therefore, will not jeopardize an organization's public charity status.
- A change in the type of a Section 509(a)(3) organization.

The user fee is \$400 for each of the three examples cited but is higher for other types of determination requests using Form 8940 (Appendix A of Rev. Proc. 2019-5, 2019-1 IRB 230).

**Letter Ruling.** When Form 8940 cannot be used to request IRS approval of a proposed activity, an organization's alternative is to request a ruling. For example, an organization may want IRS assurance that a proposed revenue-producing activity will not be deemed

an unrelated trade or business and will seek a ruling to that effect.

### Practical Consideration:

An expansion into new activities or a curtailment of existing exempt purpose activities can jeopardize an organization's exemption. Whenever a proposed change is more than inconsequential, the narrative description of activities in the exemption application should be reviewed to determine whether and how the IRS should be apprised of the change.



## Tax Brief

**DONOR DISCLOSURE DEVELOPMENTS.** In the September 2018 issue of *The PPC Nonprofit Update*, we discussed Rev. Proc. 2018-38 (2018-31 IRB 280), which relaxed the Form 990, Schedule B donor disclosure requirements. New York and New Jersey have recently sued the IRS and Treasury in federal district court to force them to turn over records concerning the development and decision making behind the relaxed rules. Stay tuned for further Schedule B developments.

