
CHAPTER 1

Introduction: Joint Ventures Involving Exempt Organizations

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§ 1.4 UNIVERSITY JOINT VENTURES

p. 11. Add the following new paragraph at the end of this section:

There is continued congressional focus on university endowments in light of the soaring cost of tuition and the perceived relatively low rate of financial assistance provided by colleges and universities with substantial endowments. See Chapter 14 for a discussion on policy changes that are being proposed, including imposing an annual payout requirement on endowment funds, among others.

§ 1.5 LOW-INCOME HOUSING AND NEW MARKETS TAX CREDIT JOINT VENTURES

pp. 13–14. Delete the last paragraph on p. 13 and replace with the following:

The CDFI Fund has made 1,032 awards totaling \$50.5 billion in allocation authority since the NMTC Program's inception. Through January 2017, CDEs disbursed a total of \$42.8 billion in QEI proceeds

to more than 4,224 qualified active low-income community businesses (QALICBs).

§ 1.6 CONSERVATION JOINT VENTURES

p. 15. Add the following to the last paragraph of this section:

In January 2014, Treasury and the IRS issued Revenue Procedure 2014-12, 2014-3 I.R.B. 414, which established a safe harbor for federal historic tax credit investments made within a single tier through a master lease pass-through structure. The guidance was issued in response to the *Historic Boardwalk* decision referenced earlier.

§ 1.8 REV. RUL. 98-15 AND JOINT VENTURE STRUCTURE (NEW)

p. 18. Add the following to the end of footnote 65:

PLR 201744019 (revocation of exemption of a § 501(c)(3) exempt hospital that was not operated exclusively for § 501(c)(3) purposes because it lacked ability to require for-profit manager to operate for charitable purposes.)

§ 1.10 ANCILLARY JOINT VENTURES: REV. RUL. 2004-51

p. 21. Add the following new paragraph to the end of this section:

In section 4.10, there is an analysis of a virtual joint venture hypothetical, as to which a similar rationale should apply in a case in which the IRS proposes the revocation of an existing 501(c)(3) organization, alleging impermissible private benefit following an examination of its relationship with a for-profit entity. This commentator believes that the rationale should apply, notwithstanding the fact that no formal joint venture arrangement exists between the parties.

§ 1.14 THE EXEMPT ORGANIZATION AS A LENDER OR GROUND LESSOR

p. 28. Insert the following new paragraph at the end of this section:

The Internal Revenue Service recently issued final guidance for private foundations that updates examples that relate to program-related investments that pass muster under § 4944(c). The rules (T.D. 9762) provide changes and examples that were first provided in the 2012 Proposed Regulations. See § 6.5(b) for a detailed discussion of the new examples.

§ 1.17 USE OF A SUBSIDIARY AS A PARTICIPANT IN A JOINT VENTURE

In April 2016 the IRS issued final guidance for private foundations that updates a number of examples of program-related investments that won't trigger excise taxes. Final Rules (T.D. 9762) illustrate changes to the examples provided in the 2012 Proposed Rules. In one change involving Example 11, a private foundation that invested in a drug company subsidiary developing a vaccine for disease predominantly affecting poor people in developing countries recognizes that, in addition to distributing the vaccine at affordable prices, the subsidiary is allowed to sell the vaccine to those who can afford it at fair market value prices. In Chapter 6, each of the examples and its revised Treasury guidelines are set forth.

§ 1.15 PARTNERSHIP TAXATION

(a) Overview

p. 30. *Add the following new paragraph to the end of this subsection:*

In the Bipartisan Budget Act of 2015, the partnership audit rules have been revised, the effect of which is that adjustments of income, gain, loss, deduction, or credit are to be determined at the partnership level and the taxes attributable thereto will be assessed and collected at the partnership level. The new rules are effective beginning taxable years after December 31, 2018, although small partnerships may opt out before then. See Chapter 3 for a discussion of the application of the new rules.

(b) Bargain Sale Including "Like Kind" Exchange

p. 30. *Add the following to the end of footnote 101:*

See discussions regarding contribution of LLC/partnership interests to charity in § 2.11(f) (new), *infra*, and § 3.11, Sale or Other Disposition of Assets or Interests.

§ 1.17 USE OF A SUBSIDIARY AS A PARTICIPANT IN A JOINT VENTURE

p. 34. *Add the following paragraph after the first full paragraph on this page:*

In September 2015, National Geographic Society formed a joint venture with 21st Century Fox, called the National Geographic Partners, a for-profit media joint venture. In this new venture, Fox contributed a substantial amount of cash to National Geographic, which increased its endowment to nearly \$1 billion, in exchange for the contribution of significant assets, including its television channels and related digital and social media platforms. See § 6.3(b)(iv) for an analysis of the structure.

§ 1.22 LIMITATION ON PRIVATE FOUNDATION'S ACTIVITIES THAT LIMIT EXCESS BUSINESS HOLDINGS

p. 45. *Add the following footnote to the end of this section:*

^{163.1}See discussion regarding the contribution of LLC/partnership interests to charity in § 2.11(f).

§ 1.24 OTHER DEVELOPMENTS

p. 47. *Add the following as footnote 175 to the last sentence of this section:*

¹⁷⁵In *Burwell v. Hobby Lobby Stores, Inc.*, the Supreme Court cited p. 555 in this book, which described Google.org advancing its charitable goals while operating as a for-profit corporation. See footnote 24 of the *Hobby Lobby* decision, 134 S.Ct. 2751 (2014). The court recognized that while operating as a for-profit corporation, it is able to invest in for-profit endeavors, do lobbying, and tap Google's innovative technology and workforce. It acknowledged that states have increasingly adopted laws formally recognizing hybrid corporate forms.