

NONPROFIT INDUSTRY & ACCOUNTING UPDATE

JULY 22, 2021

Presented by:

Mike Barloewen, CPA, CGMA

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Chérie Williams, CPA, MPA



SPEAKERS

MODERATOR



Tom Huey, CPA
Partner, Audit & Assurance

PRESENTERS



Mike Barloewen, CPA, CGMA
Partner – Chairman, Audit & Assurance
Nonprofit Group Practice Leader



Donita Joseph, CPA, MBT
Partner, Tax
Nonprofit Tax Practice Leader



Chérie Williams, CPA, MPA
Senior Manager, Tax

ABOUT WINDES

WINDES BY THE NUMBERS

95
Years

180 Professionals

Best Places to Work
2008-2021

One of the *Top 100*
Accounting firms in
the *Nation*

In the past 12 months, we
have served over **7,000**
clients

3 Offices:
Long Beach, Irvine,
and Los Angeles

FIRM PROFILE



Long Beach



Los Angeles



Irvine

OUR FIRM

- 95 years experience in the public accounting practice
- One of the largest CPA firms in California
- 29 partners and 180 professionals
- Serving over 3,000 businesses and more than 2,000 individuals including privately held businesses, exempt organizations, and high-net-worth individuals
- Three operating offices
- International reach

SERVICES

- Tax
- Audit & Assurance
- Employee Benefits
- Employee Retention Credits
- Cybersecurity
- Human Resources Consulting & Placement
- Mergers & Acquisitions Strategy
- Outsourced Accounting Services
- Paycheck Protection Program (PPP) Loan Forgiveness
- Value Acceleration & Exit Planning

INDUSTRY RECOGNITION

- Acknowledged by **INSIDE Public Accounting** (IPA) as one of the top 25 “Best of the Best” accounting firms in the country
- **Accounting Today** Regional Leader and Firms to Watch
- “Best Places to Work in Los Angeles and Orange Counties” for consecutive years by the **Los Angeles Business Journal** (LABJ) and **Orange County Business Journal** (OCBJ).
- “One of the Largest Accounting Firm in Los Angeles County” by the **LABJ**
- “18th Largest Accounting Firm in Orange County” by the **OCBJ** “2009, 2011, 2012, 2015, 2016, 2017 and 2019 Best Accounting Firms to Work For” in the country by **Accounting Today**
- Recognized by the **OCBJ** and **OneOC** as a “The Civic 50” in Orange County in 2017 and 2018. In 2019, Windes was the Medium Workforce Winner.
- Acknowledged by the **OCBJ** as a “2020 Companies that Care”



ORANGE COUNTY
BUSINESS JOURNAL
BEST PLACES
TO WORK
2 0 2 1



NONPROFIT PRACTICE

RELATED EXPERIENCE – NONPROFIT GROUP

Nonprofit Organization Focus. The Windes Nonprofit Group is dedicated and committed to serving nonprofit organizations. Currently, we are the auditors of record for 125 nonprofit organizations and possess substantial experience in this field. Additionally, the Windes Nonprofit Group provides tax consulting and compliance services to more than 145 nonprofit organizations. **Cumulatively, this represents almost 15% of the firm's total net revenue.**

The nonprofit organizations with which we work range from \$2 million to \$300 million in annual revenue.

Representative Nonprofit Organization Clients. We are proud to offer a diverse nonprofit practice with extensive experience across all types of nonprofit organizations. Our experience includes, but is not limited to:

- Social Service Organizations of all types
- College Foundations
- Cultural Organizations
- Regional Centers
- Private Schools
- Private Foundations
- Religious Organizations
- Arts & Culture Charities
- Property Management
- Low-Income Housing
- Hospitals and Healthcare Facilities, Including Clinics
- Convention and Visitors' Bureaus/Business Associations
- Medical Research Organizations
- Associations

OMB Uniform Guidance Experience. We have a long history of serving organizations with OMB Uniform Guidance audit requirements. Currently, approximately 16 of our clients are required to complete OMB Uniform Guidance audits.

RELATED EXPERIENCE – NONPROFIT TAX

Tax Practice. Our relationship with our nonprofit organization clients is a year-round endeavor. Our distinctive expertise in the nonprofit organization area allows deeper involvement with your day-to-day issues, challenges, planning opportunities and questions. Our tax professionals not only satisfy our nonprofit organization clients' compliance needs, but we also offer proactive solutions to our clients' tax and regulatory issues and problems. We have a dedicated and experienced staff of professionals to serve your tax needs. We publish a quarterly Windes Nonprofit Group Advisor newsletter exclusively focused on issues relevant to nonprofit organizations, and we will personally present a draft of your Form 990 to your board before it is filed.

Our team of tax specialists has tremendous experience in providing tax services to many organizations in California. Our experience includes assisting our nonprofit clients with analyzing and reporting activities that have the potential for being highly scrutinized, including, but not limited to:

- Proper reporting of contributions and government grants
- Governance
- Officer compensation
- Sponsorships
- Taxable and nontaxable fringe benefits
- Tax controversy – federal or state audit assistance
- Tax-exempt bond post-issuance compliance
- Organization start-up and reorganization
- Tax and distribution planning for private foundations
- Unrelated business income tax matters

WINDES NONPROFIT NICHE MEMBERS

Our Nonprofit Group is composed of the following individuals who provide nonprofit organizations with high-level tax, regulatory and accounting consulting, tax compliance services, and financial statement audit and assurance services:

- Lance Adams, CPA – *Audit & Assurance Partner*
- Michael Barloewen, CPA, CGMA – *Audit & Assurance Partner - Chairman, Nonprofit Group Practice Leader*
- Therese Cheevers, APA, ERPA – *Employee Benefit Services Partner*
- Tom Huey, CPA – *Audit & Assurance Partner*
- Donita Joseph, CPA, MBT – *Tax Partner, Nonprofit Group Tax Practice Leader*
- Kelly Buck, CPA, MAcct – *Audit & Assurance Senior Manger*
- Ben McKinney, CPA – *Audit and Assurance Senior Manager*
- Jessica Kober, CPA, CFE – *Audit and Assurance Senior Manager*
- Chérie Williams, CPA, MPA – *Tax Senior Manager*

**REDUCED
PRIVATE FOUNDATION
EXCISE TAX**

PRIVATE FOUNDATION EXCISE TAX

New Excise Tax

- Effective for fiscal years beginning after December 20, 2019
- Reduced from 2% to 1.39%
- No reduced 1% tax rate for excess distributions

Public Charity Implications

- Less tax incentive for grantmakers to payout more
 - However, grantmakers responded to Covid-19 with Pledge of Action

CRYPTOCURRENCY TRANSACTIONS

WHAT IS CRYPTOCURRENCY?

IRS Definition

- A digital representation of value, other than a representation of the U.S. dollar or a foreign currency (“real currency”), that functions as a unit of account, a store of value, and a medium of exchange.

IRS Treatment

- Cryptocurrency is treated as property and general tax principles applicable to property transactions apply.

ACCEPTING CRYPTOCURRENCY DONATIONS

Policies

- Does the organization's gift acceptance policy accommodate virtual currency?
 - Who will appraise the gift? Where will it be stored?
- Does the organization's investment acceptance policy accommodate virtual currency?
 - Will the organization sell virtual currency upon receipt?

ACCEPTING CRYPTOCURRENCY DONATIONS

Donor Acknowledgement Responsibilities

- Contemporaneous written acknowledgment if donor is claiming a deduction of \$250 or more.
- A charitable organization is generally required to sign the donor's [Form 8283, Noncash Charitable Contributions](#), acknowledging receipt of charitable deduction property if the donor is claiming a deduction of more than \$5,000.
 - Signature of donee on Form 8283 does not represent concurrence in the appraised value of the contributed property.

REPORTING CRYPTOCURRENCY

Form 990

- Gain or Loss:
 - Statement of Revenue
- Balance Sheet:
 - Fair Market Value
- Schedule A:
 - Large contribution could qualify as excess.
- Schedule B:
 - Donor disclosure might be required.
- Schedule M:
 - Noncash distribution must be disclosed.

Foreign

- FBAR
 - Virtual currency is currently not a reportable account.
- Form 926*
 - Could be triggered for cryptocurrency transfers to foreign entity.
- Form 5471*
 - Could be triggered for cryptocurrency held in foreign corporation.

**These forms could be triggered by alternative investments.*

OTHER CRYPTOCURRENCY CONSIDERATIONS

Donor Advised Funds

- An alternative for donors to contribute cryptocurrency.

Unrelated Business Income

- Cryptocurrency mining and other transactions might be considered trade or business.

UMPIFA and Fiduciary Rules

- Confirm cryptocurrency transactions will not violate rules around charitable asset risks.

TREASURY AND IRS
2020-2021
PRIORITY GUIDANCE PLAN

2021 PRIORITY GUIDANCE PLAN

Exempt organization guidance under the Tax Cuts and Jobs Act

Unrelated Business Income

- Final Regulations (11/22/20) on computation of UBTI for separate trades and businesses under Section 512(a)(6)
 - Must identify separate unrelated trades or businesses by using first two digits of the NAICS code
 - Aggregation rules for Qualifying partnership interest, S corporation interest, and certain debt-financed properties

Tax on excess executive compensation

- Final regulations (Proposed regs published 6/11/20) under § 4960 imposes tax at corporate rate on excess remuneration paid to covered employee

2021 PRIORITY GUIDANCE PLAN

Other guidance projects concerning exempt organizations

- Guidance on circumstances under which an LLC can qualify for recognition under § 501(c)(3)
- Final regulations on § 509(a)(3) supporting organizations (proposed regulations 2/19/16)
- Guidance under § 4941 regarding a private foundation's investment in a partnership in which disqualified persons are also partners.
- Regulations regarding the excise taxes on donor advised funds and fund management (Notice 2017-73 12/18/17)

**IMPACT OF BIDEN'S
(AND OTHER DEMOCRATS')
REVENUE PROPOSALS ON
NONPROFIT ORGANIZATIONS**

BIDEN'S PROPOSALS & NONPROFITS

Lifetime Gift and Estate Tax Exemptions

- **Current Law:** The 2021 estate and gift tax exemptions are currently \$11.7 million per taxpayer, with asset values in excess of that amount taxed at 40% before passing to heirs.
- **Sanders' Proposal:** The estate tax exemption will be reduced to \$3.5 million per taxpayer and the lifetime gift tax exemption reduces to \$1 million. Amounts transferred in excess of these amounts will be taxed at 45%.
- **Nonprofit Impact:** Wealthy donors might look to charitable strategies to reduce estate tax.

BIDEN'S PROPOSALS & NONPROFITS

Property Step-Up in Basis

- **Current Law:** The federal income tax basis of an inherited asset is the stepped-up fair market value as of the decedent's date of death.
- **Biden's Proposal:** Either the current step-up basis of the inherited assets will be eliminated; or death will be treated as a realization event and the unrealized appreciation in the decedent's gross estate will be taxed at the applicable long-term capital gain rate.
- **Nonprofit Impact:** Wealthy taxpayers and/or beneficiaries might consider donating property to charity to reduce tax.

BIDEN'S PROPOSALS & NONPROFITS

Corporate Tax Rate

- **Current Law:** Corporations are subject to a single flat tax rate of 21%.
- **Biden's Proposal:** Raise corporate tax rate from 21% to 28% for tax years after December 31, 2021.
- **Nonprofit Impact:** Nonprofits with unrelated business income would be taxed at a higher rate.

BIDEN'S PROPOSALS & NONPROFITS

Individual Income Tax Rate

- ***Current Law:*** The top marginal tax rate for the individual income tax is 37 percent. For taxable years beginning after December 31, 2025, the top marginal tax rate for the individual income tax is 39.6 percent.
- ***Biden's Proposal:*** Increase the top marginal individual income tax rate to 39.6 percent. This rate would be applied to taxable income in excess of the 2017 top bracket threshold, adjusted for inflation.
- ***Nonprofit Impact:*** High-earners might include charitable strategies in their tax plan to reduce income tax.

BIDEN'S PROPOSALS & NONPROFITS

Capital Gains Tax Rate

- **Current Law:** Most realized long-term capital gains and qualified dividends are taxed at graduated rates under the individual income tax, with 20 percent generally being the highest rate.
- **Biden's Proposal:** Long-term capital gains and qualified dividends of taxpayers with AGI of more than \$1M would be taxed at ordinary income tax rates, with 37% generally being the highest rate but only to the extent that the taxpayer's income exceeds \$1M. The effective date would be 4/28/21 eliminating opportunity to sell appreciated property in 2021.
- **Nonprofit Impact:** Investors might donate investment property to limit capital gains tax.

BIDEN'S PROPOSALS & NONPROFITS

1031 Tax Free Exchanges

- **Current Law:** Allows the swap of one investment property for another that allows capital gains taxes to be deferred. Frequently used with real estate investments.
- **Biden's Proposal:** Impose a \$500,000 per person limit (\$1 million in the case of married couples filing a joint return) on the aggregate amount of Section 1031 like-kind exchange gain deferral for each year, with any excess recognized as current capital gain.
- **Nonprofit Impact:** Investors might donate investment property to limit capital gains tax.

GAAP UPDATE

GAAP UPDATE: OVERVIEW

We are in the midst of a busy period of new accounting pronouncements which impact nonprofit organizations.

- Largely adopted at this point
 - Nonprofit financial statement presentation standard (ASU 2016-14)
 - Revenue recognition standards (Topic 606 and ASU 2018-08)
 - Some entities may not have adopted this yet
- Still to be adopted in the future.
 - Gifts-in-Kind (ASU 2020-07) 
 - Operating Leases (Topic 842) 
 - Other items pending and in discussion
- Other matters worth noting.
 - New SAS standards and audit opinion. 

ASU 2020-07 GIFTS-IN-KIND (GIKs)

NOT-FOR-PROFIT REPORTING OF GIFTS-IN-KIND

ASU 2020-07 Project Background

Objective

- Increasing transparency about contributed nonfinancial assets through enhancements to presentation & disclosure

Scope

- Contributions of nonfinancial assets (fixed assets, use of fixed assets, materials & supplies, intangibles, services)

ASU 2020-07 GIFTS-IN-KIND (GIKs)

Why Transparency Is Important

Many NFPs, including smaller NFPs, receive and use significant amounts of gifts-in-kind (GIKs)

The value of GIKs can impact key metrics for not-for-profit (NFP) entities, such as the program expense ratio and liquidity and reserve ratios

It can also have significant implications for the financial/ programmatic sustainability of the NFP

- If the level of GIKs decreases, an NFP must decide whether to (1) spend other resources to make up the difference or (2) pare back the level of its programs.

ASU 2020-07 GIFTS-IN-KIND (GIKs)

When Is Implementation Required?

Effective Date

- Amendments will be effective for annual periods after June 15, 2021 (FY 2021-22 for June year ends; CY 2022 for December year ends) and interim periods within fiscal years after June 15, 2022.
- Early adoption is permitted

Transition

- To improve comparability of financial information, retrospective application is required

ASU 2020-07 GIFTS-IN-KIND (GIKs)

ASU 2020-07: Requirements

Present contributed nonfinancial assets as separate line item in the statement of activities

Disclose a disaggregation by category of nonfinancial asset. For each category, also disclose info about how the assets are used (or monetized), including any associated donor/ grantor restrictions, and how they are valued (at initial recognition).

ASU 2020-07 GIFTS IN KIND (GIKs)

ASU 2020-07

Disclosure Requirements:

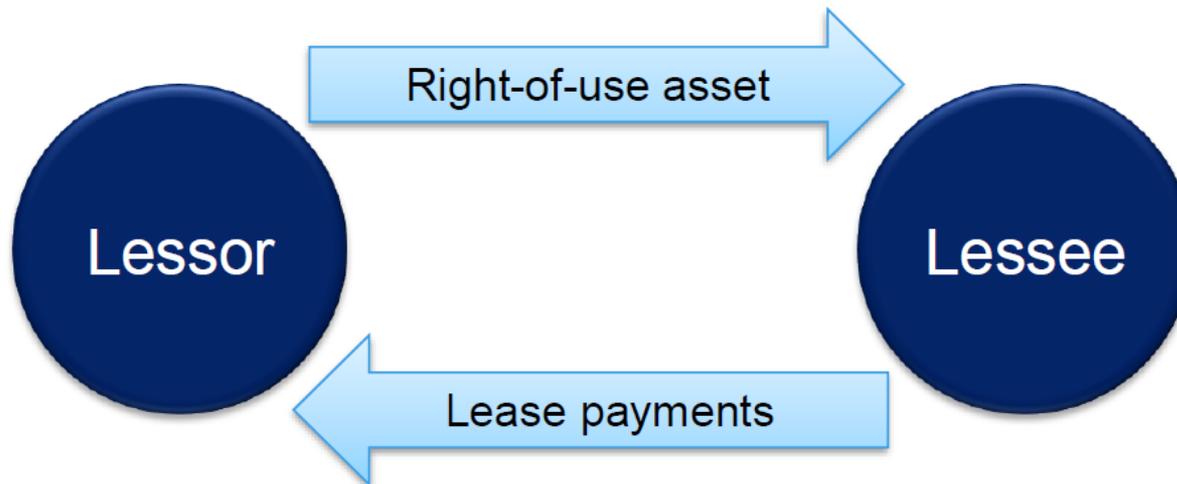
Quantitative: Disaggregation of the amount of contributed nonfinancial assets received **by category**

Qualitative: For each category:

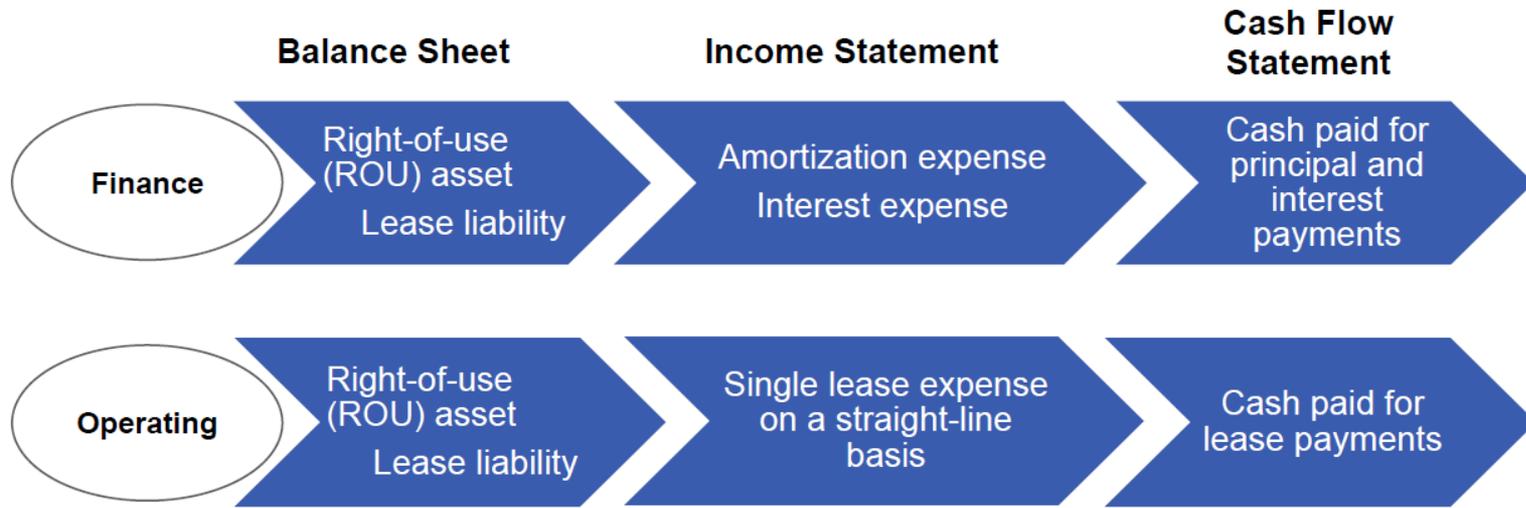
- (a) Information about whether the assets were monetized or utilized during the reporting period. If utilized, a description of the programs or other activities in which those assets were used.
- (b) The NFP's policy (if any) for monetizing rather than utilizing contributed nonfinancial assets
- (c) A description of any associated donor restrictions
- (d) A description of the valuation techniques and inputs used to arrive at a fair value measure, in accordance with paragraph 820-10-50-2-(bbb)(1), at initial recognition
- (e) The principal market (or most advantageous market) used to arrive at a fair value measurement if it is a market in which the recipient NFP is prohibited by donor restrictions from selling or using the contributed nonfinancial asset

OVERVIEW OF NEW LEASES STANDARD (TOPIC 842)

A lease is a contract, **or part of a contract**, that conveys the right to control the use of identified property, plant or equipment (an identified asset) for a period of time in exchange for consideration



OVERVIEW OF NEW LEASES STANDARD (TOPIC 842)



Recognition and measurement exemption for short-term leases (12 months)

Other than public business entities may use risk-free rates for measurement of all lease liabilities

OVERVIEW OF NEW LEASES STANDARD (TOPIC 842)

NOTE 9 – Commitments and Contingencies (Continued)

Leases (Continued)

The following is a schedule of the future minimum lease payments under the operating leases:

<u>Year Ending</u> <u>June 30,</u>	
2020	\$ 1,811,630
2021	1,429,811
2022	273,041
2023	192,001
2024	190,052
Thereafter	<u>514,800</u>
	<u>\$ 4,411,335</u>

- Current accounting is to just disclose commitments (as above)
- When the new standard is adopted, there will be a necessary gross-up of assets (right-to-use) and liabilities (payment commitments) on the Statement of Financial Position. New accounting necessary to track each of these over the life of the loans. New disclosures necessary.

OVERVIEW OF NEW LEASES STANDARD (TOPIC 842)

Leases—Discount Rate for Lessees That Are Not Public Business Entities

Objective

- To reconsider the risk-free discount rate accounting policy election afforded to lessees that are not public business entities

Scope

- Lessees that are not public business entities, including all not-for-profit entities and employee benefit plans

Tentative Board Decisions:

- Level of accounting policy election
- Discount rate specified in accounting policy election
- Interaction between the rate implicit in the lease and the accounting policy election

OVERVIEW OF NEW LEASES STANDARD (TOPIC 842)

Effective (for nonpublic companies) for fiscal year-ends beginning after December 15, 2021 (Covid-19 deferral)

- This would mean fiscal year-ends of December 31, 2022, June 30, 2023, etc.
- Early adoption permitted for all organizations

WINDES CAN CONSULT ON YOUR LEASE IMPLEMENTATION (SEE ONE SHEET)

Windes has a team of accounting professionals trained in all technical aspects of ASC 842 implementation and compliance. The Windes team can assist with:

- Accounting transition
- Lease classification
- Expense recognition
- Disclosure requirements
- Policy elections
- Process implementation
- Hosting calculations
- Post-issuance compliance

Services & Expertise

- Accounting policy development
- Process implementation/outsourcing
- Finance and operating lease analysis
- ROU and lease liability calculations
- Technical training for lessees and lessors
- Embedded lease review
- Lease component analysis and allocating contract consideration
- Sale-leaseback guidance
- IFRS 16 compliance
- Transition and recognition practical expedients
- COVID-19 lease concessions

OTHER TOPICS ON THE HORIZON

Goodwill & Intangibles (ASU 2019-06)

- Extends existing Private Company Alternatives to NFPs, as a package:
 - Amortize Goodwill over 10 years (or less)
 - Subsume certain Customer Related Intangibles, all Noncompete Agreements into Goodwill, and amortize
 - Test Goodwill for impairment upon triggering event, instead of annually
 - Option to do impairment test at entity level, instead of reporting unit level

- Similar open-ended effective date as private companies – one-time ability to elect without having to demonstrate preferability.

OTHER TOPICS ON THE HORIZON

Feedback from NFP Stakeholders (NAC) on Potential Topics

Define intermediate operating measures for NFPs

Improve the NFP consolidations model

Make targeted improvements to accounting for government grants

Provide additional guidance on the valuation of nonfinancial assets

Provide additional guidance on MD&A for NFPs

OTHER MATTERS TO NOTE

Effective for calendar 2021 audits (12/31/21 year-end) there are new Statements of Auditing Standards (SAS) that go into effect.

- In the United States, Statements on Auditing Standards provide guidance to external auditors on generally accepted auditing standards (abbreviated as GAAS) in regard to auditing a non-public company and issuing a report. They are promulgated by the Auditing Standards Board of the American Institute of Certified Public Accountants (AICPA), which holds all copyright on the Standards. They are commonly abbreviated as "SAS" followed by their respective number and title.

OTHER MATTERS TO NOTE

Effective for calendar 2021 audits (12/31/21 year end)

Auditor Reporting Standards

SAS No.	Topic	AU- C Sec.
134	Auditor reporting, including key audit matters	700, 701(new), 705, 706
135	Omnibus SAS addressing related party transactions and significant unusual transactions	260, 550
136	EBP ERISA audits	703 (new)
137	Other information	720
138	Description of materiality	
139-140	Conforming amendments to other AU-C sections with reporting requirements	720, 725, 800, 805, 810, 930, 935, 940

SIGNIFICANT CHANGES TO THE AUDITOR'S REPORT (SAS 134)

- Opinion section first
- “Basis for Opinion” section second and includes a statement that
 - the auditor is required to be independent of the entity and to meet the auditor’s other ethical responsibilities, in accordance with the relevant ethical requirements relating to the audit
- Key Audit Matters section (New AU-C section 701) 
 - Not Mandatory: only include if engaged to include (agreed in terms of engagement that report will include KAMs)
 - If included, requirements apply
 - “What keeps the auditor up at night”
 - Selected from matters communicated with TCWG

SIGNIFICANT CHANGES TO THE AUDITOR'S REPORT (SAS 134)

- Expanded descriptions of the responsibilities of
 - management relating to going concern evaluation, when required by the applicable financial reporting framework
 - the auditor, including relating to
 - professional judgment and professional skepticism
 - going concern
 - communications with those charged with governance

QUESTIONS?

DISCLAIMER

The topics covered in this presentation do not constitute tax or legal advice.
You should always consult your tax, legal, or financial advisor for
direction regarding your specific situation.

Contact Information



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PRESENTER BIOS

MICHAEL BARLOEWEN

Mike joined Windes in 2015 and is Chairman of the firm's Audit & Assurance Services department. He has over 20 years of experience working with nonprofit organizations, public companies, and entrepreneur-owned and investor-backed private companies.

Mike leads the firm's nonprofit practice and his extensive nonprofit experience includes museums, educational institutions, social service organizations, foundations, health care clinics, associations, relief organizations and housing and urban development groups. He also has extensive experience with OMB "Uniform Guidance" (formerly A-133) compliance audits and has a long history of performing these audits for organizations that receive federal funding.

Mike's overall professional experience encompasses a wide range of industries, which include the commercial real estate, oil and gas, media and entertainment, manufacturing and distribution, software development, and nonprofit sectors.

Mike is an active presenter, who conducts seminars and workshops targeted to nonprofit management, board members, and audit committees.

Education

Bachelor of Arts, Economics with an emphasis in Accounting
University of California, Santa Barbara



MICHAEL BARLOEWEN, CPA, CGMA
Partner - Chairman
Audit & Assurance
Nonprofit Group Practice Leader

DONITA JOSEPH

Donita has more than 30 years of experience in taxation issues involving estate and trust tax planning and is responsible for the firm's Estate & Trust practice. As a partner in the firm's Tax department, she also services the needs of privately held companies and individuals.

Donita's expertise includes preparation of estate tax, gift tax, and fiduciary income tax returns, estate planning, postmortem planning, charitable trust planning and compliance, trust and estate administration, trust and estate accounting, and income tax planning for individuals.

Donita also has extensive experience with compliance, planning, and governance issues of nonprofit organizations, including private foundations, and leads the firm's nonprofit organization tax practice group.

Education

Bachelor of Science, Business Administration, Accounting
Rockhurst College, Kansas City, Missouri

Master of Business Taxation
University of Southern California



DONITA JOSEPH, CPA, MBT
Partner, Tax
Nonprofit Tax Practice Leader

CHÉRIE WILLIAMS

Chérie joined Windes in 2011 and is a senior manager in the firm's Tax department. She focuses on tax planning, compliance, preparation and consulting for public charities, private foundations, and other exempt organizations, as well as tax compliance for estates, trusts, and individuals.

Education

Bachelor of Science, Business Administration

University of California, Berkeley

Master of Public Administration

University of Southern California

Certificate in Nonprofit Management and Policy

University of Southern California

Not-for-Profit II Certificate

Association of International Certified Professional Accountants



CHÉRIE WILLIAMS, CPA, MPA
Senior Manager, Tax