



PRIVATE FOUNDATION TAX SIMPLIFIED -- MAY RESULT IN HIGHER TAXES FOR SOME

December 30, 2019

Private foundations will now be subject to a flat excise tax of 1.39% on their net investment income. As part of the Further Consolidated Appropriations Act, 2020, Public Law No. 116-94, that was passed on December 20, 2019, the new flat rate will be effective for tax years beginning after December 20, 2019.

Prior to the enactment of the flat tax, private foundations were subject to a 2% tax on their net investment income, which could be reduced to a rate of 1% each year that the foundation made qualifying grants that equaled or exceeded the sum of (i) the product of its historic average giving ratio and the fair market value of its investment assets, and (ii) 1% of its net investment income for the year. This two-tier tax system has been repealed, and replaced with a flat tax.

The change in rate is designed to be revenue neutral and will eliminate the need to calculate the two-tier tax each year on a private foundation's Form 990-PF; however, for many foundations, this new flat rate will result in a tax hike if the foundation previously qualified for the 1% rate on an annual basis.