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December 10, 2018

Department of the Treasury
1500 Pennsylvania Avenue, NW
Washington, DC 20220

Notice.Comments@irs.counsel.treas.gov

Re: Request for Guidance Regarding IRC Section 4960 — Tax on Excess Tax-Exempt Organization
Executive Compensation (Pub. L. No. 115-97, title I, § 13602(a))

Dear Mr. LaGarde and Ms. Ramey:

On behalf of the Credit Union National Association (CUNA), I am writing in support of ASAE's letter to you dated December 3, 2018, regarding the new excise tax on executive compensation (Internal Revenue Code Section 4960). CUNA represents America's credit unions and their 110 million members. Credit unions are Americans' best option for financial services, and the credit union tax status represents one of the best investments that the government makes in its citizens.

The importance of having not-for-profit credit unions as vibrant and viable alternatives in the financial services marketplace is as significant today as it has ever been. Credit unions provide accessible and affordable basic financial services to people of all means and encourage the equitable distribution of capital among individuals, families, communities, and small businesses. Credit unions elevate the competition of the financial marketplace through multiple and diverse business models. They help keep financial services accessible – and affordable – for all consumers, whether a credit union member or not. As such, credit unions must compete for qualified executive talent in the labor pool and thus must pay what the market will bear.

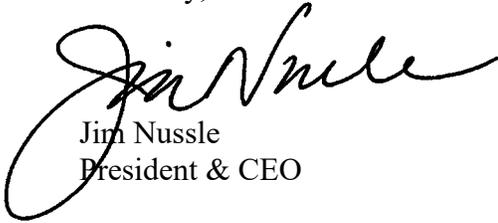
The Tax Cuts and Jobs Act of 2017 (TCJA) imposes an excise tax on certain executive compensation provided by tax-exempt organizations. Credit unions and other not-for-profit employers are concerned about the lack of parity between existing for-profit and not-for-profit employee contracts regarding the not-for-profit 21 percent excise tax and the deductibility of corporate executive compensation. The TCJA exempts from deductibility limits existing corporate executive compensation contracts by "grandfathering" in for-profit executive contracts in effect on or before November 2, 2017. No such provision was included for not-for-profit employee contracts. This amounts to a retroactive tax on the not-for-profit sector as these contracts were agreed upon with certain tax considerations assumed. We urge you to provide parity by using your regulatory authority and grandfathering not-for-profit employer contracts in effect on or before November 2, 2017.

As ASAE requested in the aforementioned letter, CUNA also requests that the Treasury Department, in the absence of a grandfather rule, issue guidance permitting an allocation of benefit amounts over the life of a 457(f) nonqualified deferred compensation plan. For the purposes of applying the excise tax, the Section 457(f) plan benefit should be allocated on a ratable basis to each of the years included in the vesting period, which better reflects the way the plans are funded by the employer. In addition, CUNA supports ASAE's request that Treasury issue guidance confirming that Section 457(f) plan benefits that vested on or before

Dec. 31, 2017 (in other words, before the effective date of the TCJA and the excise tax) are exempt from the excise tax, even if the benefits are paid on or after January 1, 2018. In the absence of this requested Treasury guidance, a retroactive tax will be imposed on employee retirement amounts that have been accumulated and vested over many years.

On behalf of America's credit unions and their 110 million members, thank you very much for your consideration of our views.

Sincerely,

A handwritten signature in black ink, appearing to read "Jim Nussle". The signature is fluid and cursive, with a large initial "J" and "N".

Jim Nussle
President & CEO