Green
Hasson
Janks
&
Nonprofit Tax Law Update

Current Congressional Developments (Federal)

S. 2750 CHARITY Act (Senate):

- "Charities Helping Americans Regularly Through the Year"
- Key Proposals
  - Protect charitable deductions
  - Allow IRA rollovers into DAFs
  - Impose a flat 1% tax
    - Imposition of this tax would cost of BILLION
  - Requires all tax exempt orgs to file 990 electronically
  - Allows alignment for mileage with medical/moving expense deduction
  - Provide an exception for excess business holdings for certain philanthropic enterprise
    - Exclusive ownership requirement are held by the foundation at all times during the years and were acquired at will or trust
    - All profits to charity requirement – business entity must distribute to the foundation an amount equal to its net operating income within 120 days of close
    - Independent operating requirement – prohibits certain relationships with foundation Private Foundation Updates

S. 2648 CREATE Act of 2016 (Senate):

- Notable: Allow artists a FMV deduction for charitable contributions of their created art

H.R. 4907 Grow Philanthropy Act:

- This bill amends the Internal Revenue Code to exclude from the gross income of an individual who is at least 70-1/2 years of age up to $100,000 in distributions from an individual retirement plan to a donor-advised fund.

H.R. 4706 Interest for Others Act:

- Can assign income from small amounts of interest and dividends to charities so that banks don't have to do reporting and individuals don't have to pay tax/take deduction.
- This bill amends the Internal Revenue Code to allow individuals, trusts, or estates to exclude from gross income up to $50 of interest and money market fund dividend income that is contributed to charity using a program adopted by a financial institution or a money market fund.

H.R. 4311 Protecting Charitable Contribution Act:

- This is a reaction to the IRS' proposal for optional information return reporting for charities when its comes to charitable contributions received from donors.
  - The regs have been withdrawn, so its more moot, but this is to protect donors

Congressional Inquiries on College and Universities:

- Colleges and universities that have high endowments amounts – possibly requiring a small payout amount
- With rising tuition, endowments are growing and not being used
- Congress has just sent inquiry letters to 56 private schools re: endowment management, spending, use, donations and COI.

Green
Hasson
Janks
&
Nonprofit Tax Law Update

Current Congressional Developments (California)

AB 2855 – Held in Committee, will not advance (i.e. dead as of 5/27/16):

- Originally created to mandate that charities operating or engaging in charitable solicitations in California to post their administrative overhead expenses or a link to such information on each and every one of their web pages and on the first page of each and every fundraising document.
- Now, the law has been changed to require every charitable organization that seeks donations in California to include :
    - a required prominent link on charities' websites to "the Attorney General's Internet Web site which contains information about consumer rights and protections and charity research resources"; and
    - the Web site address of such Attorney General's Internet Web site on all charities' fundraising documents (including old ones) used to solicit in California.

Green
Hasson
Janks
&
Nonprofit Tax Law Update

Other Developments

UBIT:

- Organizations generating UBIT income through LLCs or Partnership investments generally have state income tax filing requirements
- Voluntary Disclosure Agreements ("VDA") provide opportunities for organizations to come forward for past years
- Benefits of VDA agreements include:
    - Limited look back period for prior years
    - Abatement of all penalties
    - Filing is initiated anonymously
    - Interest is statutory and applies

Public Charities:

- Charity Navigator to adjust financial ratings as of June 1, 2016
    - Advisory panel was created to roll out "CN2"
        - Financial metrics will change
        - Accountability and Transparency to remain the same
    - Highlighted changes
        - Removed "primary revenue growth" as an indicator of financial health
        - Ratings for functional allocation of expenses are averaged over three years
        - Adjusted how administrative expenses are rated
            - Under old system, you could only score perfectly if you had $0 administrative
        - Added ratio of liabilities to assets to flag excessive debt
    - Expected results:
        - 19% of charities will see ratings improve
        - 8% could see decreases in ratings
- Information return reporting for charitable contributions
    - IRS had proposed regs to give charities the option to file information returns with the IRS and donors instead of providing contemporaneous written acknowledgments of charitable donations]
    - In October, the IRS announced they had withdrawn proposed regulations after over 38,000 comments

Green
Hasson
Janks
&
Nonprofit Tax Law Update

Other Developments (Cont.)

Private Foundations:

- Released on February 9, 2016, the President's budget blueprint for Fiscal Year 2017 again would replace the current two-tier (1% or 2%) rate structure for taxing private foundations exempt from federal income tax with a single 1.35 percent excise tax rate.
    - Source: Department of the Treasury's "General Explanations of the Administrations Fiscal Year 2017 Revenue Proposals" (February 2016)
- Final regulations published in September 2015 clarify that, in the case of grants to foreign charities, private foundations cannot solely rely on affidavits from foreign organizations that the entity is equivalent to a domestic 501(c)(3) public charity.
- IRS has issued final regulations that provide 9 additional examples of program related investments
    - Program related investments
        - Investments made primarily for a charitable purpose
        - Currently an excepted in the jeopardizing investments rule
    - What the text does is it shows PRIs can be made for a variety of purposes through different types of vehicles
    - Prior examples
        - Focused on economic development in Urban areas
    - New examples
        - Wider variety of charitable purposes
            - Education
            - Environment
            - Charitable distress
- In September 2015, IRS issued Notice 2015-62 aimed to help facilitate mission related investing by private foundations
    - Notice 2015-62 clarified that MRIs made by private foundations in a manner consistent with the prudence standards contained in UPMIFA should not be considered jeopardizing investments under IRC § 4944. Conformity removes a degree of uncertainty with private foundations
    - Mission Related Investments
        - Similar concept to Program Related Investments
        - Investments that intend to have a return but the return may be lesser or the investment may have more risk. This is due to a strong mission component to the investment
        - No guidance by the IRS until now
            - Investment firms are beginning to offer these types of investments