O'CONNOR DAVIES

PKF

AUDIT | TAX | CONSULTING

SPECIAL BULLETIN
March 2014

Private Foundation Newsletter

A Flat Tax at Last? Just one of the proposals in the latest attempt at tax simplification

Contact:

New York, NY
212.286.2600
212.867.8000

Harrison, NY
914.381.8900

Stamford, CT
203.323.2400

Paramus, NJ
201.712.9800

Cranford, NJ
908.272.6200

New Windsor, NY
845.220.2400

Wethersfield, CT
860.257.1870

On February 26, 2014, the House Ways and Means Chairman Dave Camp released a discussion draft for the committee's comprehensive tax reform bill. While many in Washington believe that the bill has little chance of passing in its current form, we believe that it is meaningful to understand what the current thoughts are in our nation's capital. Below we have summarized the proposals which we believe would be of the greatest interest to our clients and friends in the private foundation community.

Excise Taxes

If the bill were to pass, the current dual rate excise tax on net investment income of 1 or 2% would be reduced to a flat rate of 1%. Washington insiders and the private foundation community alike had discussed a flat tax for a number of years and expected a revenue neutral tax of 1.38% or even a slightly higher revenue raising tax. Certain private universities could be "picking up the tab" for this implied tax simplification for private foundations, as the bill also proposes a 1% excise tax on the net investment income on these private university endowments.

With a continued focus on compensation levels, a provision in the bill states that tax-exempt organizations and private foundations alike will have to pay a steep 25% excise tax on any compensation paid to any one of the top five highest salaried employees in excess of $1 million.

The proposed bill also closes the gap on one of the major differences between donor advised funds ("DAFs") and private foundations. A former advantage of a DAF was that there was no annual spending requirement. However, under the proposed bill, DAFs will have to distribute contributions within 5 years, and a failure to distribute would result in a 20% excise tax for the charitable organization sponsoring the DAF.

Unrelated Business Income Tax

The discussion draft also contains new unrelated business income tax (UBIT) provisions that are more stringent and will make it more challenging for foundations and other tax-exempt organizations to carry out any commercial activities without being taxed on them.

Charitable Deductions

There has been much discussion in recent years regarding the charitable deduction for individuals. While the deduction would be maintained for all income brackets but with stricter limitations dependent upon adjusted gross income. These limitations would reduce the deductibility of charitable gifts for those affected from 50% down to 40% for gifts to public charities. Another significant change is that contributions of property, in most cases, would be limited to the donor's basis, rather than the fair market value at the date of donation.

Private Foundations will have to wait and see, along with the rest of the country, if the bill will pass and/or be modified. Please be on the lookout for future O'Connor Davies bulletins on the matter in the coming months.

If you have any questions about this newsletter or the House Ways and Means tax reform discussion draft, please contact Tom Blaney, CPA, CFE tblaney@odpkf.com or Chris Petermann, CPA cpetermann@odpkf.com, Co-Directors of the Private Foundation practice at O'Connor Davies.

About Our Practice:

O'Connor Davies, LLP is a full service Certified Public Accounting and consulting firm that has a long history of serving clients both domestically and internationally and providing specialized professional services of the highest quality. With roots tracing to 1891, seven offices located in New York, New Jersey and Connecticut, and approximately 500 professionals including 84 partners, the Firm provides a complete range of accounting, auditing, tax and management advisory services. O'Connor Davies is ranked as number 36 in Accounting Today's 2013 "Top 100 Firms" in the United States. The Firm is also within the 20 largest accounting firms in the New York Metropolitan area according to Crain's New York Business
and the Westchester and Fairfield County Business Journals. O'Connor Davies is dedicated to serving the not-for-profit sector and serves more than 1,400 not-for profit clients.

O'Connor Davies, LLP is a member firm of the PKF International Limited network of legally independent firms and does not accept any responsibility or liability for the actions or inactions on the part of any other individual member firm or firms.