



AHP Government Relations Quarterly Update – July 2007

Key Meetings on the Hill in June

On June 4, Kathy and Bill again met with members in the House Ways and Means Committee. AHP met with Karen McAfee, House Ways and Means Tax Counsel and Susan Athy, a fellow for the IRS. AHP also visited Patrice Willoughby, Chief of Staff for Representative Stephanie Tubbs Jones (D-OH/11th). Willoughby is also the Co-Chair for the Congressional Philanthropy Caucus.

Bill noted that by far the most important message they departed with is that these individuals are interested in solutions and guidelines that come from our profession, rather than from the government or a third party. They were interested in information dealing with the annual AHP Report on Giving and AHP's educational programs. They presented the AHP Performance Benchmarking Service as it helps provide the clarity and consistency in reporting that benefit citizens in making informed giving choices, and to the government in terms of accountability.

Comments on the Pension Protection Act of 2006

House Ways and Means Oversight Subcommittee Chair John Lewis (D-GA) revealed that the subcommittee is requesting written comments on provisions in the Pension Protection Act of 2006 relating to tax-exempt organizations. The Subcommittee is particularly interested in how the new provisions on charities and foundations will affect charitable efforts and the difficulties that may arise in implementing these provisions. Despite the new provisions, the American Bar Association Section of Taxation has called for further guidance on the Pension Protection Act. The ABA wants a clearer definition of a donor-advised funds, the definition of a Type III functionally integrated supported organization, and the factors that indicate whether a person directly or indirectly controls a supported organization. The Subcommittee is expected to accept comments on the Pension Protection Act of 2006 until Tuesday, July 31.

Questions dealing with Form 990

Despite the recommended voluntary compliance program, Treasury Secretary Henry Paulson, Senate Finance Committee Chair Max Baucus (D-MT) and Ranking Member Charles Grassley (R-IA) continue to call on the Treasury Department to update Form 990. Senators Baucus and Grassley reiterated their desires to update Form 990 as part of an effort to strengthen transparency on the nonprofit community. They noted that the form "has not kept up with modern practices in the charitable sector." They have urged the Treasury to implement better reporting of various areas including executive compensation, hospitals and universities, joint ventures, charities' endowments, and governance, and requested a response from Secretary Paulson within 30 days. When it comes to hospitals, the Senators have encouraged the IRS to consider using the AHP endorsed Catholic Health Association's supplemental guidelines on charity care and community benefits as a template.

In an IRS news release on June 15, the IRS released a new design to Form 990 with a public comment period scheduled to close September 14. The revised Form 990 should be completed by December. The IRS can take six months longer to make final revisions to the instructions and other written material. However, the IRS must meet the schedule for Form 990 to allow computer programmers enough time to make the necessary changes. By midyear 2008, the computer programmers will switch their attention to a multi year task of updating the programming for the 1040 form, which will take priority. This means that the Form 990 project must be completed by then, or it will be set aside until 2012.

The updated Form 990 is based on three guiding principles: Enhancing transparency to provide the IRS and the public with a realistic picture of the organization; Promoting compliance by accurately reflecting the organizations operations so the IRS may efficiently assess the risk of noncompliance; and to minimize the burden on filing organizations. Kevin Brown, Acting Commissioner of the IRS believes that a change in Form 990 is needed due to the changing environment of the tax-exempt sector. “We need a Form 990 that reflects the way this growing sector operates in the 21st century. The new 990 aims to give both the IRS and the public an improved window into the way tax-exempt organizations go about their vital mission,” said Brown.

Senator Max Baucus, Chairman of the Committee on Finance, and Senator Chuck Grassley, Ranking Member and former chairman, have been pushing the IRS to update Form 990. Grassley and Baucus have been working together to conduct oversight and achieve major legislative reforms of the laws that help to govern tax-exempt organizations. Upon hearing of the changes being made to Form 990, Baucus commented that, “this new form will help the public and the IRS assess whether tax-exempt organizations are staying true to the reasons they were granted exempt status in the first place. We must be assured that the public’s donations are used appropriately. I will continue to value greater transparency and openness as I work with my colleagues to oversee the tax-exempt sector and to maintain public confidence in their work.” Senator Grassley added, “This is good news. The 990 filing is often the public’s only look at a non-profit’s finances. If you’re making a donation, you may want to research what proportion of your money is going to executive salaries rather than helping people in need. With the current form, transparency is lacking. A potential donor might get frustrated and give up. That doesn’t help charities. And the lack of transparency doesn’t serve taxpayers. They deserve accountability for the generous tax breaks the federal government offers to tax-exempt groups. The IRS’ revisions are on the right track. I’m disappointed that the disclosure threshold for salaries is too high. Salaries are a huge expense, and the public needs adequate information. Now I hope the agency keeps moving to analyze public comments and get the final form in place as soon as possible. President Carter was in office the last time the IRS rewrote this form. Let’s open the blinds and let the sunshine in.”

Senator Grassley has urged the Center for Medicare and Medicaid Services to improve how CMS collects Medicare data on uncompensated care provided by hospitals. According to Grassley, reporting by hospitals is inconsistent and unhelpful since CMS instructions for defining and reporting uncompensated care are unclear. Grassley specifically asked CMS to revise the reporting worksheet, the S-10, to include “definitions and detailed guidance on what should not be included when reporting data on uncompensated care.”

AHP will be commenting on the revised Form 990 in the coming days.

Update from Canada

On July 3, 2007, the Canadian Radio-television and Telecommunications Commission (CRTC) set out rules for the creation and operation of a National Do Not Call List. Once the list is made, Canadians who prefer not to receive unsolicited calls will be able to add their numbers to the database at no extra charge. Telemarketers will be prohibited from calling individuals who are registered on the list.

Parliament expressly exempted registered charities from the National Do Not Call List. However, the CRTC decided not to extend such an exemption in its Telemarketing Rules. The CRTC stated that “the Telemarketing Rules will continue to apply to all telemarketers and all types of telemarketing telecommunications made to residential and business consumers, including those exempt from the National DNCL rules.”

The CRTC also added that it’s “definition of solicitation has always specifically included charities that solicit via telemarketing telecommunications for cash donations (i.e. money), donations of goods (i.e. money’s worth) and volunteer time (i.e. money’s worth) as this form of unsolicited telecommunications falls within section 41 of the Act.”

The decision set forth the following statement: “The Commission considers that consumers do not consider telemarketing made by or on behalf of charities to cause any less undue inconvenience and nuisance, or to be less of an invasion of privacy, than telemarketing made by or on behalf of for-profit organizations.”

Questions/Comments

Please let us know if you have any questions, comments, or additional information for this email update. You can reach AHP Government Relations Chair Greg Pope at gpoppe@stthomas.org, AHP Communications Director Kathy Renzetti at kathy@ahp.org, or myself at the contact information below.