Not Much Senate Action Expected On Charitable Giving Bill

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Despite having strong bipartisan support, legislation to expand tax incentives for charitable giving may not make much progress in the Senate this year, according to two Senate staffers.

The Charities Helping Americans Regularly Throughout the Year (CHARITY) Act (S. 2750) was introduced April 6 by Senate Finance Committee member John Thune, R-S.D., and ranking minority member Ron Wyden, D-Ore. (Prior coverage: *Tax Notes*, Apr. 11, 2016, p. 190.) However, Paul Poteet, a senior policy adviser and tax and trade counsel to Thune, said April 28 that getting the bill through the Senate in 2016 could be difficult because there will be few vehicles it can be attached to.

Poteet, speaking in Washington at a program cosponsored by the Georgetown University Law Center and Independent Sector, said that although the Finance Committee has marked up a few bills recently and could do more markups in the coming months, "it's pretty limited, I think, what the committee is going to do."

A complicating factor is the election and this summer's presidential nominating conventions, said Poteet, who spoke on his own behalf. "As we get closer to the political conventions, which will be in July this year, there just isn't going to be much of a window to do much," he said. "So even if the committee could mark this up . . . it's going to be difficult for anything that's marked up out of the Finance Committee to get across the line."

Tiffany Smith, senior tax counsel for Finance Committee Democrats, noted that the congressional work period this summer will be shorter than usual because of the timing of the conventions. The August congressional recess will actually begin in mid-July, after which Congress will return to work before heading home again in October for the elections, she said. When Congress is in session, "we don't know that there will be a lot of tax [bills] on the Senate floor," she said, also speaking on her own behalf.

No one knows what will happen in the post-election lame-duck session, Poteet said, adding that it will depend in part on the election results. "Is the Senate changing? Who's coming in as president? All those things factor into how much business actually gets done during lame-duck," he said.

Corporate Integration

Panel moderator Alexander L. Reid of Morgan, Lewis & Bockius LLP noted one issue of interest to tax-exempt organizations regarding the corporate integration bill being developed by Finance Committee Chair Orrin G. Hatch, R-Utah, that will seek to eliminate the double taxation of corporate earnings.

If U.S. corporations can deduct dividends and interest paid to exempt shareholders, business profits can escape taxation, Reid said. Because the resulting revenue loss creates an impediment to doing corporate integration, most corporate integration proposals include a provision that would impose tax on exempt organizations that receive dividends, interest, and perhaps other types of income, he explained.

Poteet suggested that a corporate integration proposal could include a dividends paid deduction that would encourage companies to pay out more dividends, which could offset a portion of any tax on the exempt entity.

There is interest among Finance Committee members in a corporate integration proposal, although no one expects it to become law this year, Poteet said. ■