

A Forest with Falling Trees: Charitable Planning Update

Third Annual Siesta Key Gathering
The Advanced Wealth Studies Institute, LLC

The Sanderling Clubhouse on Siesta Key
Sarasota, FL

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I. Increased Scrutiny of the Charitable Sector

A. The Internet: Your Friend ... and Your Foe!

1. Guidestar: A public charity that can do the Service's job -- only better



2. Newspaper coverage of philanthropic faux pas

3. Georgetown's 2003 study by Public Policy Institute



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I. Increased Scrutiny of the Charitable Sector (Cont'd)



B. Congressional Hearings and Senator Charles H. (“Chuck”) Grassley



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II. Legislative Efforts: The Good, the Bad & the Ugly!

A. American Jobs Creation Act of 2004

1. Limitations on deductions of intellectual property
2. Limitations on deductions of vehicles



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II. Legislative Efforts: The Good, the Bad & the Ugly! (Cont'd)

B. Katrina Emergency Tax Relief Act of 2005 (KETRA)



1. Temporary suspension of percentage limitations
2. IRA charitable “rollover” finally passes in some form
 - Was part of CARE Act for years
 - Only valid through 12/2005



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II. Legislative Efforts: The Good, the Bad & the Ugly! (Cont'd)

C. Pension Protection Act of 2006 (PPA)

1. IRA charitable rollover gains momentum
 - \$100K in 2006 and/or 2007 if 70.5 years or older and no SOs
2. Improved rules for gifts by subchapter S corps.
 - FMV deduction flows to SHs, but only SH's pro rata share of adjusted inside basis reduces SH's outside basis
3. Charity-owned life insurance ("CHOLI") reporting



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II. Legislative Efforts: The Good, the Bad & the Ugly! (Cont'd)

C. PPA (Cont'd)

4. Limitations on gifts of fractional interests in tangible personal property and appraisal penalties
5. Conservation easements: improved & limited
6. Increased private foundation (PF) excise taxes



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II. Legislative Efforts: The Good, the Bad & the Ugly! (Cont'd)

C. PPA (Cont'd)

7. Donor advised funds (DAFs) and supporting organizations (SOs)
 - PF excise taxes applied (e.g., excess business holdings of DAFs)
 - New excise taxes for DAFs and SOs
 - Taxable distributions: (a) natural person or (b) non-charitable organization (if no expenditure responsibility)
 - Excess benefit transactions
 - » “More than incidental benefit”
 - » Automatic excess benefit transactions



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II. Legislative Efforts: The Good, the Bad & the Ugly! (Cont'd)

D. More Recent Efforts

1. Public Good IRA Rollover Act of 2007 (S 819)
 - Seeks to increase \$100K limit of PPA on permanent basis, reduce 70.5 year old age limit to 59.5, and expand charitable org. recipients/class
2. Personal Philanthropy Account Act of 2007 (HR 2000): <http://www.pgdc.com/usa/item/?itemID=408835>
 - A “mini-DAF” of sorts, but with retirement roots?!
 - Interesting approach in encouraging employer-sponsored philanthropy



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II. Legislative Efforts: The Good, the Bad & the Ugly! (Cont'd)

E. Giving ... or Taking ... in the Future?

1. Study on DAFs and SOs (part of PPA)
2. Future reforms “promised” (or threatened?!)



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III. Best Practices



A. The Donor's Side

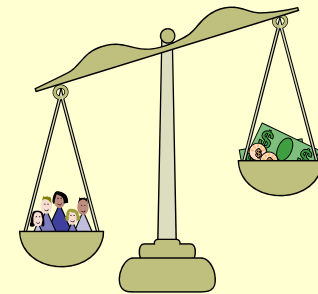


B. The Charity's Side



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IV. Conclusion / Q & A

A. ABA RPPT & Tax sections' joint fall meeting

B. NCPG national conference

C. Heckerling Institute on Estate Planning



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V. A Few Suggested Resources

- Council on Foundations
 - Superb coverage of the PPA (and nearly everything else):
<http://www.cof.org/ppa> (can join Philanthropic Advisor Network)
- Planned Giving Design Center (PGDC)
 - Original and reprinted articles/commentary by well-known experts (lawyers, CPAs, and others): <http://www.pgdc.com/usa/>
- National Committee on Planned Giving (NCPG)
 - Excellent national organization with local PG councils and some online resources:
http://www.ncpg.org/gov_relations/hr4_center.asp?section=8 (HR 4/PPA resource center)



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V. A Few Suggested Resources (Cont'd)

- Crescendo Interactive, Inc.
 - More excellent coverage of the PPA (and other charitable issues/planning): <http://www.crescendointeractive.com> (can access GiftLaw Pro via various local charities -- see http://www.giftlaw.com/glaw_sites.jsp)
- CharitablePlanning.com
 - New site similar to PGDC created by one of PGDC's original principals/founders, Emil Kallina, III, Esq.: <http://www.charitableplanning.com>



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Thank you for your time and attention, as well as the invitation to come and discuss these issues and perspectives with you. I hope that my presentation helps you in some small way to serve your clients well.

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