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Private Foundations Special Bulletin

Accelerating Charitable Efforts (ACE) Act – Bill Introduced in Senate

This week a bill was introduced on the Senate floor by United States Senators King (I-ME) and Grassley (R-IA) titled the Accelerating Charitable Efforts (ACE) Act. While the bill is likely to face many hurdles and while it is primarily focused on donor-advised funds (DAFs), there are also significant provisions in the bill that, if passed, would directly impact private foundations as well.

Below are some of the proposed key provisions included in the ACE Act:

- Prohibits private foundations from including contributions to DAFs as part of their annual payout obligation.
- Requires additional reporting on a private foundation's IRS Form 990-PF when distributions are made to a DAF.
- Prohibits the expenses of certain disqualified persons from being included as part of a private foundation's payout requirement.
- Provides an exemption from the excise tax for private foundations that make qualifying distributions equal to/or greater than 7% of their non-charitable use assets.
- Provides for an exemption from the excise tax for private foundations with a specified duration in its governing documents.
- Includes additional restrictions and related requirements pertaining to contributions to DAFs from individuals as well as sets maximum value on advisory privileges.
- Proposes an annual minimum payout for DAFs, as well as other timing provisions, for certain types of DAFs and proposes a 50% tax for failure to distribute contributions timely.
- Amends the rules on the treatment of contributions from DAFs for purposes of determining a public charity's public support test; such contributions will be treated as if given from an individual donor rather than the general public which may impact public charities and their public support test.

It is anticipated that this bill will be fiercely debated. If passed, the ACE Act would include some of the most sweeping tax legislation affecting private foundations and DAFs in decades.

We at PKF O'Connor Davies will be monitoring the bill closely and will provide further updates and guidance as information becomes available.

Contact Us

We welcome the opportunity to answer any questions you may have related to this topic or any other accounting, audit, tax or advisory matters relative to private foundations. Please call 212.286.2600 or email any of the Private Foundation Services team members below:

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