

The Need for Continued Diligence in Washington

The November elections resulted in a major power shift in Washington, and the 110th Congress under Democratic leadership will surely usher in a new legislative agenda. Despite this change in control, the charitable reform debate is likely to continue – in fact, 2007 may be fraught with new challenges, as well as new opportunities, for the charitable community.

In the last Congress, Senator Grassley from Iowa – the former Chairman of the Senate Finance Committee and currently the Senior Republican on the Committee – aggressively tried to root out abuse in the tax-exempt sector, and was successful in passing modified pieces of his charitable regulation agenda. The Alliance for Charitable Reform worked successfully with the Chairman and other congressional allies to make some of these commonsense modifications while staving off the more troubling legislative proposals to foundations and the charities they support. These troubling proposals included accreditation requirements, five-year reviews of tax-exempt status and “one-size-fits-all” governance mandates on foundation boards.

Although Senator Grassley is now in the minority and thus not directly setting the agenda for the Committee, he and the new Chairman of the Senate Finance Committee Max Baucus from Montana have worked closely in a bipartisan manner on many issues. Senator Grassley previewed his priorities for the 110th Congress in an article in The Hill newspaper where he ranked governance and compensation issues at the top of his list. While we do not know for certain the governance and compensation issues that Senator Grassley is most keenly interested in, we do know what his staff has proposed in the past (ie governance and compensation proposals in Grassley’s Staff Discussion Draft of June 2004).

On governance:

- arbitrary limits on the size of governing boards, with no consideration of the needs of particular organizations; and
- specific requirements as to the proportion of the board that must be “independent” and which board members can and cannot be compensated, again with no consideration of the needs of individual charities.

On compensation:

- foundations would be forbidden to compensate the members of their governing boards at all;
- alternatively, governing board members could receive only de minimis compensation, regardless of the work they perform;
- compensation paid to foundation executives would be limited to federal government pay scales, or else would be subject to some ceiling that would trigger additional reporting requirements; and

- foundations would pay processing fees to the IRS to permit review of certain executive compensation decisions.

While poor governance and excessive compensation issues in the charitable community are clear priorities for Senator Grassley to address, the Alliance is mindful that previous proposals, for example on accreditation to maintain tax-exempt status, could be resurrected in the context of legislating on governance and compensation.

This history, coupled with legislators' strong interest in passing additional charitable incentives, keeps the broader issue of charitable reform on the front burner. This is particularly true if the charitable reform measures raise revenue to help pay for charitable incentives, such as the IRS charitable rollover provision that expires at the end of this year.

In the House, the new Chairman of the House Ways and Means Committee Charles Rangel from New York has also made clear that in order to pass Democratic priorities such as eliminating the alternative minimum tax (a cost over hundreds of billions of dollars), "everything has to be on the table," meaning that they will have to look everywhere for revenue raisers to help pay for such legislative changes.

The Alliance strongly believes that the need for an organization in Washington dedicated to protecting the valuable works of the charitable community – particularly from the perspective of smaller nonprofit organizations - is as great as ever. Facing a revenue-hungry Congress this year, we believe the charitable community will continue to be considered as a potential revenue source for legislative priorities. Therefore, the Alliance for Charitable Reform will continue to advocate a balanced approach to charitable legislation, and will continue to remind politicians and their staffs to "first, do no harm."