Dannible & McKee, LLP

Certified Public Accountants and Consultants

Delivering **Confidence**

Trends and Evolution of the Nonprofit Sector

Presented by:
Shannon T. Forkin, CPA, CGMA – Tax Partner
Marissa A. Spring – Tax Senior

Dannible & McKee's Virtual Nonprofit Conference
January 12, 2022

In the past of couple years, the nonprofit sector has had to evolve tremendously to remain impactful. In this session, we will discuss current trends in the Nonprofit sector and how this may impact your financial reporting.

What are we covering today?

- Available credits and funding, including Targeted EIDL Advance, Payroll Protection Program, and Employer Retention Credit.
- Changes and other items to be aware of:
  - Compensation;
  - Charitable contributions;
  - Cryptocurrency;
  - Events during COVID-19;
  - Cybersecurity; and
  - Filing Requirements
- Accelerating Charitable Efforts (ACE) Act – Proposed.
- Board involvement in review of Financials and Form 990.
- Resources.

Targeted EIDL Advance

- The Targeted EIDL Advance provides funds of up to $10,000 to applicants who:
  - Are in a low-income community. To help applicants determine if they are in a low-income community as defined in section 45D(e) of the Internal Revenue Code, a mapping tool (sbaeidl.policymap.com) is available.
  - Can demonstrate more than 30% reduction in revenue during an eight-week period beginning on March 2, 2020, or later. If an applicant meets the low-income community criteria, they will be asked to provide gross monthly revenue (all forms of combined monthly earnings received, such as profits or salaries) to confirm the 30% reduction.
  - Have 300 or fewer employees.

Application deadline was December 31, 2021

Payroll Protection Program (PPP)

- **This program has now ended, and you can no longer receive PPP funds.**
- Don't forget to submit your forgiveness applications if you have not already done so.
- Streamlined forgiveness process for PPP loans of less than $150,000.

Simplified Forgiveness

For PPP loans of up to $150,000, forgiveness is now simplified. Form 3508S:

- Only required to sign and submit a one-page certification. The certification will require the borrower to provide a description of the number of employees that the borrower was able to retain because of the PPP loan, the estimated amount of the PPP loan proceeds spent on payroll costs, and the total PPP loan value. The certification also will include an attestation that the borrower has complied with the requirements of the PPP loan.
- The SBA may review and audit loans that fall within this category. The SBA may also modify the amount of the PPP loan or the amount forgiven if it finds fraud, ineligibility, or other material noncompliance.
- Borrowers of these loans must retain records to prove compliance for four years with respect to employment records, and three years with respect to all other records.

PPP Forgiveness

Forgiveness:

- 60% of loan proceeds must be used for eligible payroll expenses to qualify for forgiveness.
- Borrowers choose a covered period for loan forgiveness purposes. The period selected must begin on the date of the origination and end on such date selected by the borrower that occurs during the period beginning on the date that is 8 weeks to 24 weeks after such origination date.
- Up to 100% of the loan is eligible for forgiveness.
- Unforgiven balances – 5-year term, 1% rate, no collateral, no personal guarantee.

PPP Additional Eligible Expenses

Eligible Expenses:

In addition to using PPP loans for payroll costs (60%), covered mortgage service and rent, and utility payments, PPP loan proceeds can also be used for these categories of expenses:

- *Covered operations expenditures* – payments for business software or cloud computing services that facilitate business operations; product or service delivery, processing, payment, or tracking payroll expenses; human resources, sales, and billing functions; or accounting or tracking or supplies, inventory, records, and expenses.

PPP Additional Eligible Expenses

- *Covered property damage costs* – costs related to property damage, vandalism, or looting from public disturbances during 2020 that were not covered by insurance or other compensation.
- *Covered supplies costs* – expenditures by the borrower to a supplier of good that are (a) essential to the operation of the business at the time of such expenditure; and (b) made pursuant to a contract, order, or purchase order in effect before the borrower's covered period or, in the case of perishable goods, during the borrowers covered period.

PPP Additional Eligible Expenses

- *Covered worker protection expenditures* – any operating or capital expenditures that facilitate the adaption of the borrower's business activities to comply with The U.S. Department of Health and Human Services ("HHS"), Centers for Disease Control and Prevention ("CDC"), or Occupational Safety and Health Administration ("OSHA") requirements (or equivalent state or local requirements), <u>with respect to COVID-19 during the period beginning March 1, 2020 and ending on the date the national emergency declaration ends</u>. These expenditures include the costs of purchasing, maintaining, or renovating assets that create or expand drive-through window facilities; air or air pressure ventilation or filtration systems; physical barriers like sneeze guards; expansion of additional indoor, outdoor, or combined business spaces; health screening capabilities; or the purchase of certain personal protective equipment ("PPE"). However, the definition excludes residential real property or intangible property.

PPP Planning Points

- It may be easiest to receive forgiveness by submitting only payroll costs for the entire amount of the PPP loan; however, NPO organizations should be mindful of other grant requirements they may have and should not "double dip."
- May want to be able to use payroll costs for other credits such as the Employee Retention Credit (ERC).
- Bookkeeping note: Have separate columns or classes to be able to easily identify the expenses related to each funding source.

Employee Retention Credit (ERC)

Can nonprofit organizations take the Employee Retention Credit?

- Nonprofit organization are deemed to be engaged in a trade or business regarding the entirety of their operation and are therefore eligible for this credit.
- The ERC can be claimed up to three years from the date in which your quarterly payroll return was filed by filing an “amended” Form 941.

Employee Retention Credit (ERC)

What is the Employee Retention Credit?

- The Employee Retention Credit is a fully refundable payroll tax credit for eligible employers based upon eligibility and payment of qualified wages and health plan expenses.
- ERC applies to qualified expenses paid after March 12, 2020, through expiration on September 30, 2021.

Employee Retention Credit – Credit Amount

What is the ERC credit amount for 2020?

- For **2020**, the ERC is **50 percent** of the eligible expenses paid to employees by an eligible employer.
- For **2020**, eligible expenses are limited to $10,000 per employee, or an ERC of $5,000 per employee for 2020.
  - $10,000 x 50% = **$5,000** ERC per employee for 2020 year.

Employee Retention Credit – Credit Amount

What is the ERC credit amount for 2021?

- For **2021**, the ERC is **70 percent*** of the eligible expenses paid to employees by an eligible employer.

  * Taxpayer Certainty and Disaster Tax Relief Act of 2020 (12/27/20) .

- For **2021**, eligible expenses are limited to $10,000 per employee, per quarter, or an ERC of $7,000 per employee, per quarter for 2021 (through September 30, 2021).
  - $10,000 x 70% = **$7,000** ERC per employee, **per quarter** in 2021 (maximum of **$21,000** per employee).

Employee Retention Credit – Credit Amount

2020

- 50% of Qualified Wages.
- Maximum $10,000 of Qualified Wages per employee.
- $5,000 maximum credit per employee from March 13, 2020 through December 31, 2020.

2021

- 70% of Qualified Wages.
- Maximum $10,000 of Qualified Wages per employee.
- $7,000 maximum credit per employee/per quarter (up to $21,000 credit per employee).

Employee Retention Credit – Eligibility

What is an Eligible Employer?

- An eligible employer is any employer carrying on a "trade or business" during the ERC period (March 13, 2020 through September 30, 2021), that **either**:

   a) Fully or partially suspended operation during any calendar quarter during the ERC period due to orders from an appropriate governmental authority limiting commerce, travel, or group meetings, due to COVID-19; **or**

   b) Experience a "significant decline in gross receipts" during the calendar quarter.

Employee Retention Credit – Eligibility

Fully or partially suspended operations

- A fully or partially suspended operation during any calendar quarter means that an employer's trade or business operations are fully or partially suspended due to a **governmental order**, which include:
  - An order from the city's mayor stating that all non-essential businesses must close for a specified period.
  - A state's emergency proclamation that residents must shelter in place for a specified period, other than residents who are employed by an essential business and who may travel to and work at the workplace location.
  - An order from a local official imposing a curfew on residents that impacts the operating hours of a trade or business for a specified period.
  - An order from a local health department mandating a workplace closure for cleaning and disinfecting.

Employee Retention Credit – Eligibility

Fully or partially suspended operations

- IRS Notice 2020-21 provides that "orders, proclamations, or decrees from the Federal government or any state or local government may be taken into account by an employer as "orders from an appropriate governmental authority" only if they limit "commerce, travel, or group meetings (for commercial, social, religious, or other purposes) due to the coronavirus disease 2019 (COVID-19)" and relate to the suspension of an employer's operation of its trade or business."
- IRS Notice 2020-21 also provides that a "state of emergency" declaration is not sufficient to raise to the level of a government order if it does not limit commerce, travel, or group meetings in any manner.

Employee Retention Credit – Eligibility

<u>Fully or partially suspended operations</u>

- The IRS posted additional guidance on the suspension of operations in their COVID-19 resources. In the guidance, the following may result in eligibility:
  - Government order causes suppliers to suspend their operations, which may result in suspended operations of operating business due to facts and circumstances.
  - A business forced to close some operations but may remain open for limited purposes (example - restaurant able to do take-out only with no dine-in services, is considered having partially suspended operations).
  - Business forced to reduce business hours due to governmental order.
  - Business with multiple locations is forced to close one location (others remain open) is considered having partially suspended operations for <u>all</u> locations.

Employee Retention Credit – Eligibility

A "Significant Decline in Gross Receipts" for 2020

- For **2020**, the eligibility based on a "significant decline in gross receipts" is governed by the CARES Act rules.
- For **2020** eligibility, a business is considered to have a significant decline in a 2020 calendar quarter for which:
  - Gross receipts in the 2020 calendar quarter are less than 50% of gross receipts from the same calendar quarter in 2019.
    - 2020 Q1 (January – March) gross receipts vs. 2019 Q1 (January – March) gross receipts.
    - Gross receipts use "tax basis" rules (IRC Section 448(c)).

Employee Retention Credit – Eligibility

A "Significant Decline in Gross Receipts" for 2020

- For **2020**, once determined eligible under the 50% test, eligibility will end with the earlier of:
  - January 1, 2021; or
  - The end of the next calendar quarter for which gross receipts are greater than 80% of gross receipts for the same quarter in 2019.
    - **Example**: Eligibility is met in 2020 Q2 (50% test). Eligibility will continue until the end of 2020 Q3, and if gross receipts in 2020 Q3 are greater than 80 percent of 2019 Q3 gross receipts, eligibility will end on September 30, 2020 (end of Q3), or else continue through 2020 Q4.

Employee Retention Credit – Eligibility

- **A "Significant Decline in Gross Receipts" for 2021**
- For **2021**, the eligibility based on a "significant decline in gross receipts" is governed by the Taxpayer Certainty and Disaster Tax Relief Act of 2020 rules.
- For **2021** eligibility, a business is considered to have a significant decline in a 2021 calendar quarter for which:
  - Gross receipts in the 2021 calendar quarter are less than 80% of gross receipts from the same calendar quarter in **2019** (not 2020).
    - 2021 Q1 (January – March) gross receipts vs. 2019 Q1 (January – March) gross receipts.
    - Businesses may also elect to measure the decline in gross receipts using the immediately preceding calendar quarter compared to the same quarter in 2019 ("Alternative Quarter Election").

Employee Retention Credit – Eligibility

Employer Size and Employee Eligibility

- Employers of any size are eligible to claim Employee Retention Credits.
- However, employer size does impact the calculation of the ERC and determination of which employee wages are eligible for the ERC.
- For **2021**, a "large eligible employer" is an employer averaging over 500 full-time employees during the **2019** calendar year.
- **Note**: Only full-time employees are considered with the 100/500 employee test, and part-time employees are excluded from the test. For ERC purposes, a full-time employee works on average at least 30 hours per week.

Employee Retention Credit – Eligibility

Employer Size and Employee Eligibility

- For a "large eligible employer" (over the 100/500 FT employee test), qualified wages for the ERC are wages paid to an employee (full-time or part-time) that are not performing services.
  - Employees not performing services are those employees that are being kept on the payroll but are not working.
- For a "small eligible employer" (under the 100/500 FT employee test), the eligible wages paid to **all employees*** may be used in determining the ERC.
  - Employees are eligible whether they are providing services or not providing services to the employer.

Employee Retention Credit – Qualified Wages

- Qualified wages are defined as wage compensation (IRC Section 3121(a)) paid by an eligible employer.
    - Tips are also treated as wages paid by the employer.
- Qualified wages also includes an eligible employer's qualified health plan expenses for employees (generally employer paid health insurance premiums).
- Coordination with other benefits must be analyzed.

Employee Retention Credit – Qualified Wages

<u>Coordination with PPP Loan Forgiveness</u>

- For PPP loan forgiveness, the PPP forgiveness application is important when coordinating with the ERC.
- Maximize allowable "other" PPP expenses (do not claim only wages on PPP forgiveness application).
    - Wages used for PPP forgiveness are <u>not</u> "qualified wages" for ERC.

Employee Retention Credit – Qualified Wages

Coordination with PPP Loan Forgiveness – Example

- Employer PPP Loan of $200,000.
- Employer paid $200,000 of qualified wages.
- PPP forgiveness filed with only $200,000 of wages, despite having additional $70,000 of eligible costs.
- Employer must use $200,000 of wages allocable to PPP when determining ERC wages.
    - Loss of $70,000 in potential ERC wages for a potential ERC of up to **$49,000.**

Employee Retention Credit – Qualified Wages

Coordination with PPP Loan Forgiveness - Example

- Employer PPP loan of $200,000.
- Employer paid $200,000 of qualified wages.
- PPP forgiveness filed with $200,000 of wages and additional $70,000 of eligible costs.
- Employer can reduce PPP wages to $130,000 when determining ERC wages ($70,000 ERC wages).

Employee Retention Credit – Example

2021 ERC Calculation – Example (One Quarter)

	A	B	A+B	$10,000 Limit	70% Credit
Employee	Gross Wages	Employer Health Costs	Subtotal - Payroll Costs	Allowable ERC Wages	ERC
Employee A	$ 12,000	$ 1,800	$ 13,800	$ 10,000	$ 7,000
Employee B	8,500	2,700	11,200	10,000	7,000
Employee C	6,000	-	6,000	6,000	4,200
Employee D	7,500	1,800	9,300	9,300	6,510
Employee E	6,000	-	6,000	6,000	4,200
	$ 40,000	$ 6,300	$ 46,300	$ 41,300	**$ 28,910**

Employee Retention Credit – Reporting

- Tax-exempt organizations generally follow the same method of accounting used for their financial statements.
- If following GAAP, the ERC would be reported as contribution revenue rather than a reduction to wage expense.
  - Statement of Activities – should be reflected gross, in the unrestricted operating revenues as either contribution, grant, or other income.
  - Statement of Financial Position – a current receivable should be recorded for the ERC amount (if the ERC was not taken as credit on the Form 941).
  - Notes – discloses details about the nature of the ERC in either revenues or the A/R footnote

Employee Retention Credit – Reporting

The IRS has provided no guidance on how the ERC should be reported on its Form 990 or Form 990-PF filing.

- On Form 990, ERC reporting may or may not match the financial statements.
- If reported as income, will impact public support test.
- If reported as a reduction in expenses, will impact functional expense allocation.

Executive Compensation

Form 990, Part VII and Schedule J is where executive compensation is reported.

Due to Covid 19, this may be a more heavily scrutinized area by outside sources as many organizations faced lay-offs or cut backs.

Be prepared with explanations of your compensation practices

- How is compensation structured?
- Do salaries in this industry need to be competitive?
- What are comparable salary rates?
- Does this tie in with the organization’s mission?

Compensation

As for-profit Industries compete to attract talent, will nonprofit organizations be able to compete?

- Limited budgets have always been an area of concern
- Forced to look towards alternative sources (i.e. grants) to cover payroll
- What are other areas an organization can emphasize to stand out among candidates?

Charitable Contribution Deductions

The CARES Act changes to deducting charitable contributions. These expired the end of 2021, will they be extended to 2022 and beyond?

- Charitable contributions were previously only deductible if taxpayers itemized their deductions.
- Under the CARES Act, taxpayers who do not itemize their deductions can deduct up to $300 or $600 married filing joint for cash contributions made in 2021.

Charitable Contribution Deductions

The CARES Act also temporarily suspended the limits on charitable contributions made in 2021.

- For individuals, deductible contributions increased from 60% to 100% of their AGI.
- For corporations, deductible contributions increased from 10% to 25% of taxable income.
- The enhanced deduction limit for businesses donating food inventory for the care of the ill, needy, and infants increased from 15% to 25%.

Required Minimum Distributions

The CARES Act allowed individuals to forego taking a Required Minimum Distribution (RMD) in 2020. The RMD requirement returns in 2021.

Individuals have the opportunity to give through a Qualified Charitable Distribution (QCD):

- Must be given to a 501(c)(3) organization eligible to receive tax deductible contributions
- Direct transfer of funds from IRA custodian to a qualified charity; which satisfies the RMD for the year.
- The QCD excludes the amount donated from the individual's taxable income (unlike regular withdrawals from an IRA)
- Maximum QCD is $100k/person, can be split between multiple charities

Cryptocurrency

New trend is for nonprofit organizations to accept donations of cryptocurrency. Consider updating Gift acceptance policy.

- Donations of cryptocurrency are treated similarly to gifts of stock. Donating cryptocurrency, is a nontaxable event. Donors don't have to recognize capital gains and, if they itemize deductions, could potentially deduct up to the fair market value of the donated asset.
- Accepting cryptocurrency can give your organization the opportunity to engage new donors for your nonprofit. A study by Fidelity Charitable found crypto owners to be more charitable than the typical investor, but 46% of these donors noted it was difficult to find nonprofits that accept cryptocurrency donations.

Cryptocurrency

How to accept donations of cryptocurrency.

- **Use an intermediary 501(c)(3) such as a donor advised fund (DAF) to minimize legal, accounting, and administrative burdens.** With this method you are not taking custody of cryptocurrency, the intermediary is responsible for all reporting and converting to cash.
- **Use a crypto donation processor to receive crypto directly.**
- **Use an embeddable checkout experience through a crypto exchange.** For minimal fees, crypto exchanges offer checkout experiences that nonprofits can embed into their websites.
- **Use your own crypto wallets and receive donations without any intermediary**.

Events During COVID-19

Revenue when Cancelling or Postponing Events

Postponed Events.

- If the event has been postponed to a later date, then there should not be a change in tax treatment.

Cancelled Events.

- If the event is cancelled, pre-sold ticket revenues will need to be addressed.
- If ticket holders agree to donate the ticket cost rather than be refunded, they should be recorded as contributions, not event revenue as they previously would have been.
- If ticket holders want a refund, the ticket cost should be taken out of revenue.
- Organizations should consider sending an acknowledgement letter to doners informing them that the refunded contribution is now no longer deductible.

Events During COVID-19

Virtual Events.

- While a virtual event still holds value, it is less than an in-person event.
- The change in fair market value would increase the contribution portion of the ticket.
- Organizations can consider either increasing the donor's contribution or refunding the fair market value of what they are not receiving, such as food and entertainment.

Events During COVID-19

Virtual Events Can Trigger UBIT.

The IRS puts emphasis on the networking, trade, and educational components that are usually connected to in-person trade shows. Essentially, if the networking, trade, and educational components are missing from the trade show or event, the organization could be subject to UBIT.

Factors to consider whether a virtual trade show would be excluded from UBIT. The event should:

- Relate to the organization’s exempt purpose.
- Stimulate interest in and demand for the products and services of the industry.
- Educate attendees on new developments, products, and services related to the organization’s exempt purpose.
- Include networking, trade, and educational components.
- Have limited time availability so that it can be interpreted to be a "specific event" similar to how it would be with an in-person event.
- Look and feel as close to an in-person event as possible.

Cybersecurity

Be cautious if your organization:

1. Handles transactions through its website, such as processing donations or event registrations
2. Stores and transfers (such as by sending to the cloud) “personally identifiable information,” Examples include: donors' information; employee records, including drivers’ licenses, addresses, and social security numbers.
3. Collects information on preferences and habits of donors, patrons, newsletter subscribers, etc

Cybersecurity

What can your organization do:

1. Assess and identify your risk
2. Make decisions to mitigate risk
3. Establish procedures in the event of data risk
4. Cyber liability insurance

E-Filing IRS forms

Exempt organizations can e-file

- Form 990, Return of Organization Exempt from Income Tax; (July 31, 2020);
- Form 990-EZ, Short Form Return of Organization Exempt from Income Tax; (July 31, 2021);
- Form 990-PF, Return of Private Foundation or Section 4947(a)(1) Trust Treated as a Private Foundation; (July 31, 2020);
- Form 990-N (e-Postcard) (December 2006);
- Form 990-T, Exempt Organization Business Income Tax Return (December 2020);
- Form 1120-POL, U.S. Income Tax Return for Certain Political Organizations;
- Form 4720, Return of Certain Excise Taxes Under Chapters 41 and 42 of the IRC (December 2020);
- Form 8868, Application for Extension of Time to File an Exempt Organization Return; and
- Form 7004, Application for Automatic 6-Month Extension of Time To File Certain Business Income Tax, Information, and Other Returns (the extension form associated with the 1120-POL.

Note that certain large tax-exempt organizations were subject to e-filing Form 990 and 990-PF even prior. (July 1, 2019)

Electronic Filing for CHAR500

- New York State Charities Bureau has recently revamped their online filing through their website – much simpler:

  https://www.charitiesnys.com/annual_filing.html

- Step-by-Step Checklist to ensure you have everything ready to complete online filing.
- Returning Users can check filing status online.

Filing Requirements with NYS Department of State

Beginning January 1, 2021, an organization is subject to the new requirement to file its CHAR500 annual report with the Department of State if it:

1. Is registered with the Charities Bureau under Article 7-A of the New York Executive Law to solicit charitable contributions in New York State;
2. Annually files Form CHAR500 with the Charities Bureau; and
3. Has more than $250,000 of total annual revenue and support.

This was repealed November 12, 2021

New York State Private Foundation Notice

- Private Foundations are required by New York State 26 USCA § 6104(d) to make available for public inspection its annual return and shall publish notice of the availability of such return for inspection.
- Notice shall be published no later than the due date of the return (including extension), in a newspaper designated by the clerk of the county in which the principal office of the private foundation is located.
- Notice shall state the annual return is available at its principal office for inspection during regular business hours for any citizen who requests it within 180 days after date of publication. Include the address, phone number and name of principal manager.

Proposed – Accelerating Charitable Efforts (ACE) Act

Proposed Legislation (June 2021) to reform Donor Advised Fund (DAF) regulation:

- seeks to resolve the timing mismatch between when the donor receives a tax deduction for funding a DAF or Private Foundation (PF) versus when the operating charitable organization receives the funds.
- Second, it seeks to resolve the perceived issue of donor control in perpetuity.

Does this legislation achieve the outcomes it set to achieve?

What parts will be passed as written?

Proposed – Accelerating Charitable Efforts (ACE) Act

Public Support Test

- A 501(c)(3) organization must meet certain financial tests to be considered a public charity. Generally, the public support test requires a public charity to demonstrate that one-third of the grants that it receives comes from donors who give less than 2% of its overall support.
- Under the ACE Act, grants received by an organization from organizations that are DAF-sponsoring organizations will no longer be treated as coming from a public charity. Instead, distributions from a sponsoring organization to a recipient charitable organization will be treated as support received from one person, thereby limiting how much of the grant may be used to determine if the recipient organization qualifies as a public charity.
- If the recipient organization wishes to count each grant from a DAF as an individual grant, the sponsoring organization must identify the donor to the DAF making the distribution.

Proposed – Accelerating Charitable Efforts (ACE) Act

Perpetuity

- Passing a PF or DAF from generation to generation to transfer values, a sense of community and generosity has long been a goal for many families.
- The ACE Act seeks to set a time limit on family legacies, based on the belief that perpetual giving may hinder the flow of funds to charitable organizations and communities in need now.

Proposed – Accelerating Charitable Efforts (ACE) Act

Timing Mismatch

- By forcing maximum time horizons on DAFs and PFs, donors simply may wait until the expiration of the permitted holding period, thereby forcing charitable organizations to wait for grants for the maximum amount of time allowed (15, 25 or even 50 years).
- It is not unreasonable to expect a rush to create and fund PFs and DAFs prior to enactment of the ACE Act, thereby "locking in" the rules that exist today. This rush to lock in the old rules could draw increased funds into DAFs and PFs that would otherwise be distributed to operating charitable organizations now.

Proposed – Accelerating Charitable Efforts (ACE) Act

- Under current law, distributing funds to a DAF from a PF counts towards the PF's annual distribution requirement (generally, 5% of the value of the PF's assets, subject to certain reductions and exclusions).
- The ACE Act would no longer allow distributions to DAFs from PFs to count towards the PF's required annual distribution unless the DAF acts as a true conduit to the ultimate grant recipient.
- Grant monies received by a DAF from a PF would have to be distributed from the DAF by the close of the first taxable year after the grant was received.

Proposed – Accelerating Charitable Efforts (ACE) Act

- Under current law reasonable and necessary administrative expenses of a PF count toward its annual distribution requirement.
- Under the ACE Act, salary, travel and other administrative expenses paid to family members of (i) a substantial contributor to the foundation or (ii) an owner of more than 20% of the total combined voting power of a corporation, the profits interest of a partnership, or the beneficial interest of a trust or unincorporated enterprise, which is a substantial contributor to the foundation would not count toward the annual distribution requirement.
- Administrative expenses paid to a foundation manager who is not a family member described above would continue to count toward the annual distribution requirement.

Proposed – Accelerating Charitable Efforts (ACE) Act

- Under current law, a grant-making PF (as opposed to an operating PF) must pay a 1.39% excise tax on its net investment income.
- The ACE Act would encourage PFs to make larger qualifying distributions (generally grants to charitable organizations) by waiving the tax on net investment income for PFs that distribute at least 7% of the value of the PF's assets (excluding assets used for the PF's exempt purposes).

Be Involved and Understand the Financials and Form 990

- All board members should strive to understand their organization’s financial results and actively participate in the review of the Financial Statements and Form 990.
- COVID has increased the risk of error and fraud as controls have had to be changed, new programs and rules implemented, virtual and hybrid work environments adapted to in addition to staffing issues and personal health and financial pressures.
- These increased risks make it even more important for organizations to closely evaluate their financial reports.

Be Involved and Understand the Financials and Form 990

Some questions to ask while reviewing the Financials:

– What has changed or hasn't changed from last year?
– What is debt being used for?
– Can the organization pay its current bills?
– Are net assets increasing or decreasing?
– What are the restrictions on net assets?
– Are there any new sources of revenue?
– Is cash generated or used by operating activities?
– Do the functional expenses show a focus on programs?

Be Involved and Understand the Financials and Form 990

- Board members should review Form 990 before it is filed
- Do not review it all at once – break it into sections
- Highlight anything you do not understand while reviewing it
- Ask your financial professional questions
- Look at Form 990 Part VI for policies that could be put in place

Be Involved and Understand the Financials and Form 990

Statement of Revenue

- Part VIII of Form 990
- Presents an organization's sources of revenue
- Common errors to look for:
  - Some direct expenses to be net with related revenue
  - Improper reporting of fundraising activities
  - Misclassification of types of revenue (4 columns)
  - Allocation of membership fees between contributions and program service fees

Be Involved and Understand the Financials and Form 990

Statement of Functional Expenses

- Part IX of Form 990
- Reports expenses in 4 columns: total expenses, program service expenses, management and general expenses, and fundraising expenses
- Common errors to look for:
  - Reporting of contribution revenue and no fundraising expenses or special events
  - No management and general expenses reported
  - Improper allocation of specific costs or expenses (4 columns)

Be Involved and Understand the Financials and Form 990

Balance Sheet

- Part X of Form 990
- Reports comparative BOY and EOY balances of Assets, Liabilities and Net Assets
- Assets: Cash, Accounts Receivable, Pledges, Notes, Loans Receivable, Prepaid Expenses, PP&E, Investments, Intangible Assets
- Liabilities: Accounts Payable, Accrued Expenses, Grants Payable, Deferred Revenue, Tax Exempt Bond Liabilities, Secured Mortgages and Notes Payable, Unsecured Notes and Loans Payable
- Net Assets: Unrestricted Net Assets without Donor Restrictions, Net Assets with Donor Restrictions

Be Involved and Understand the Financials and Form 990

Reconciliation of Net Assets

- Part XI of Form 990
- Reconciles revenue and expenses on the Financials to the revenue and expenses reported on Form 990
- Reconciling items:
  - Unrealized gain/loss on investments
  - Donated services
  - Use of facilities

Be Involved and Understand the Financials and Form 990

Policies

- Part VI of Form 990
- Conflict of interest
- Whistleblower
- Document retention and destruction
- Governance of chapters, affiliates and branches
- Committee responsibility for compilations, reviews and audits
- Governing body review of Form 990
- Executive compensation

Nonprofit Resources

TechSoup – www.techsoup.org

- Offer discounted services to implement and manage your organization's technology.
- It can help reduce computer software expenses (i.e., QuickBooks).

GuideStar – www.guidestar.org

- Providing nonprofit organizations with up-to-date data.
- How does your organization compare to similar organizations?

Nonprofit Resources

IRS Website

https://www.irs.gov/charities-non-profits/tax-exempt-organization-search

- Verify that you are eligible to receive tax-deductible charitable contributions.

New York State Charities Bureau

https://www.charitiesnys.com/RegistrySearch/search_charities.jsp.

- Verify registration status.
- Find prior filings and documents.

Questions

Shannon T. Forkin, CPA, CGMA
Tax Partner

Email: sforkin@dmcpas.com

Web: www.dmcpas.com

Address:
Mohawk Harbor
220 Harborside Drive
Suite 201
Schenectady, NY 12305

Phone: (518) 836-5661, ext. 151

Scan to add Shannon to your contacts.

Marissa A. Spring
Tax Senior

Email: mspring@dmcpas.com

Web: www.dmcpas.com

Address:
DM Financial Plaza
221 South Warren Street
Syracuse, NY 13202

Phone: (315) 472-9127, ext. 128

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