

## Friday, July 30, 2010

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The latest edition of the ACR newsletter is available below or online.

Congress goes into August recess next week, so the ACR newsletter is taking a brief summer vacation. If urgent issues develop, we'll send an update. Otherwise, we'll see you August 27<sup>th</sup>.

## Washington Roundup

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The House of Representatives wraps up their final week of session and the Senate has just one more week before the August recess – which is slightly longer than usual. Both houses will return in the middle of September.

Congress has been busy working on a number of different priorities including a small business tax bill, energy legislation, emergency funding for the wars in Iraq and Afghanistan, and issues relating to the Gulf Coast oil spill. Highlighted below are some important issues affecting the foundation community.

### [H.R. 5533 – The Nonprofit and Community Solutions Act](#)

As we've [reported](#), Congresswoman Betty McCollum (D-MN) introduced the Nonprofit Sector and Community Solutions Act, H.R. 5533. Last week, The Hill published her commentary on the bill. This legislation is not expected to get enacted this year. Rather, Congresswoman McCollum is seeking comment on the legislation. ACR was asked to provide input, and we will meet with the Congresswoman's staff in September. We understand that comments on the legislation will be taken into consideration when preparing the next draft of the legislation, expected to be introduced next year.

### [Excise Tax Update](#)

The Senate is considering a small business tax incentive bill ([H.R. 5297](#)), and Senator Charles Schumer (D-NY) may offer an amendment to include his private foundation excise tax legislation. This measure would set a single rate of 1.39%. It is not likely that Senator Schumer's amendment will prevail. As you will [recall](#), Senator Schumer attempted a similar effort last month as the Senate considered the business tax extenders legislation (H.R. 1250/S. 864). At that time, Senator Grassley objected to the amendment, concerned that there was not enough information available about the need for the legislation or impact on foundation grantmaking.

### [Congressional Hearing on Charitable Efforts in Gulf Coast](#)

Last week, the House Ways and Means Subcommittee on Oversight held a hearing addressing the need for charitable giving in the Gulf Coast region in response to the BP oil spill. Testifying before the committee were representatives from the National Fish and Wildlife Foundation and Catholic Charities USA, who commented on the enormous strain they are under trying to serve the residents and wildlife in the Gulf Coast. Subcommittee Chairman John Lewis (D-GA) expressed concern that the foundation community was not stepping-up to assist in the aftermath of this spill, at least not in a

significant enough way. ACR staff attended the hearing and, in response to the Chairman's concerns, is providing information and resources to Mr. Lewis' staff

### Permanent Estate Tax Repeal Attempt Fails

During a debate last week in the Senate on legislation to extend unemployment benefits, Senator Jim DeMint (R-SC) [introduced](#) an amendment to permanently repeal the estate tax. The amendment failed by a vote of 39 – 59 with two Democrats, Senators Blanche Lincoln (D-AR) and Ben Nelson (D-NE), voting in favor of the amendment. As we've reported, Senators Lincoln and Jon Kyl (R-AZ) have resumed work on their compromise legislation, although it's questionable whether or not Congress will consider any estate tax legislation before the end of the year. As always, ACR staff will continue to watch any developments on the estate tax carefully to ensure that the foundation community is not looked to as a revenue raiser to help pay for changes to the estate tax.

### In the States

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Nearly all state legislatures are in recess. Over the past few months we have been reporting on state efforts to fill budget shortfalls through measures that could impact the charitable community. ACR has also [been active](#) on a coalition of nonprofits in New York opposing a limit to the state's charitable deduction.

The New York Senate went into recess without voting on this legislation ([S. 6610-B/A 9710C](#)). The Senate may take action on this bill in mid-September when it returns from recess. We will keep you posted.

### ACR Staff Announcements

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We are pleased to welcome Anne Urban and William Coughlin to the ACR team. Anne comes to ACR with more than twenty five years of legislative, public policy and government relations experience both on Capitol Hill and in the private sector. Ms. Urban was named one of Washington's Top Ten Tax Lobbyists by Tax Analysts, as well as one of seven "New Lobbyist Power Brokers" in the Democratic Congress by Tax Notes. William comes to us from the office of Congressman Emanuel Cleaver (D-MO) and the non-profit sector, including from the CORO Foundation and the E.M. Kauffman Foundation in Kansas City, Missouri, his hometown.

Please also join us in wishing Amy Takeuchi-Wanlass a fond farewell from the ACR team. Amy will be attending UCLA Law School in the fall. We wish her all the best and thank her for all of her hard work on behalf of ACR.

### Consider This...

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#### Sacrificing "Sacred Cows"

There are various third rails in politics – things politicians don't generally touch for fear of the backlash. Programs like Medicare and Social Security, farm subsidies, and veteran's benefits.

And there are some third rails in the tax world as well. For years, Congress has implemented and extended popular tax deductions and credits for both individuals and institutions that have achieved a "sacred cow" status. The home mortgage interest deduction and the R&D tax credit are just two

such examples. Members of Congress from both sides of the aisle champion these expenditures and they are politically popular with those they benefit. However, the Congressional Joint Committee on Taxation (JCT) calls these tax breaks “tax expenditures” as the government loses out on revenue that would otherwise be collected, absent these tax measures.

Set this against our country’s current fiscal situation. Rising national debt and new public policy priorities already have President Obama and Congress promising to freeze and cut federal spending. Indeed there have been many long nights of desperate searching on Capitol Hill for money to pay for legislation. Suddenly, those sacred cows in tax world aren’t so sacred anymore.

Lately, plenty of folks on and off of Capitol Hill have suggested cutting or eliminating some or all of these tax expenditures to control our sky-rocketing national debt. And given the size of these tax expenditures – Joint Tax estimates that they will “cost” the government \$1 trillion this year – they certainly pose a tempting target. Economist Len Burman [suggested earlier this year that](#) simply capping tax expenditures at their 2012 levels for 3 years, and indexing them for inflation after that, would reduce the federal deficit by \$3.5 trillion. Even more recently, economist Martin Feldstein noted in a Wall Street Journal [opinion piece](#) that, “cutting tax expenditures is really the best way to reduce government spending.”

On the Hill, the President’s deficit commission has let it be known that restrictions on federal tax expenditures are definitely on their radar screen. The most senior Republican on the Ways and Means Committee, Dave Camp (R-MI), told the press, “clearly (tax expenditures) is something we should look at” and fellow Ways and Means Committee Member, Xavier Becerra (D-CA), said, “there may be things we have to do with any number of these tax expenditures.” Though both recognized the value of certain tax breaks for the public, it seems very likely that the deficit commission will recommend at least some sort of restriction on tax expenditures.

Nonprofits are not immune from this debate – the charitable deduction is considered a tax expenditure, and it’s one that President Obama has targeted in his FY 2010 and FY 2011 budget proposals. If such popular tax breaks like the charitable deduction and the home mortgage interest deduction are being brought up as potential revenue raisers, it stands to reason that there are few “sacred cows” left in D.C. anymore. Look for calls for “tax expenditure reform” more often, as the search for ways to combat America’s record deficit and debt levels continues.

## Making Headlines

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Here are recent headlines you may find interesting:

### Federal

Estate tax - Additional reporting on the impact of no estate tax in 2010.

- 7/21 Rubin, Robertson, Disney Urge Congress to Resurrect Estate Tax, Bloomberg  
<http://www.bloomberg.com/news/2010-07-21/rubin-robertson-disney-urge-congress-to-resurrect-estate-tax-that-lapsed.html>
- 7/16 Heirs of the Wealthy Escape Taxes, Los Angeles Times  
<http://articles.latimes.com/2010/jul/16/nation/la-na-estate-tax-20100717>

Bush tax cuts - Predictions of a heated battle in Congress are beginning to emerge over whether to renew the Bush tax cuts that are set to expire at the end of 2010.

- 7/25 Next Big Battle in Washington: Bush's Tax Cuts, New York Times  
[http://www.nytimes.com/2010/07/25/us/politics/25tax.html?\\_r=1&th&emc=th](http://www.nytimes.com/2010/07/25/us/politics/25tax.html?_r=1&th&emc=th)
- 7/23 Would Raising Taxes on Rich Kill Their Spending? Wall Street Journal  
<http://blogs.wsj.com/wealth/2010/07/23/would-raising-taxes-on-rich-kill-their-spending/>

7/28 Bill on Political Ad Disclosures Falls a Little Short in Senate, Washington Post  
<http://www.washingtonpost.com/wp-dyn/content/article/2010/07/27/AR2010072704656.html>

The Post reports that the DISCLOSE act failed to pass the Senate and provides background on this bill which required fuller disclosure of funding behind political advertising with exemptions.

7/26 IRS Offers Small Charities 'One-Time Relief' Through Extended Deadline, Chronicle of Philanthropy

[http://philanthropy.com/article/IRS-Extends-Key-Deadline-for/123688/?sid=&utm\\_source=&utm\\_medium=en](http://philanthropy.com/article/IRS-Extends-Key-Deadline-for/123688/?sid=&utm_source=&utm_medium=en)

Chronicle reports on a newly announced grace period through October 15, 2010 that the IRS is granting to all nonprofits at risk of losing their exemptions because they didn't file by the May 17 deadline.

### Nonprofit Executive Compensation

Executive compensation at nonprofit organization are beginning to come under fire at the state and federal level. New Jersey, New Hampshire and Vermont, for example, seek to set limits on compensation of charity executives if the organization receives government funding.

7/27 Lawmakers Seeking Cuts Look at Nonprofit Salaries Well, New York Times  
<http://www.nytimes.com/2010/07/27/us/27nonprofit.html?pagewanted=1&ref=us>

- 7/27 Are Non-Profit CEO Salaries Too High?, Atlantic Wire  
<http://www.theatlanticwire.com/opinions/view/opinion/Are-Non-Profit-CEO-Salaries-Too-High-4475/>

### Social Innovation Fund (SIF)

Recipients of the Social Innovation Fund's first round of grants totaling \$50 million have been announced, generating discussion in the nonprofit world.

- 7/23 Wise Picks? Commentators Weigh In on the Social Innovation Fund Grants, Chronicle of Philanthropy  
[http://philanthropy.com/blogPost/Wise-Picks-Commentators-Weigh/25751/?sid=&utm\\_source=&utm\\_medium=en](http://philanthropy.com/blogPost/Wise-Picks-Commentators-Weigh/25751/?sid=&utm_source=&utm_medium=en)
- 7/22 Federal Government Awards \$50-Million in First Set of Innovation Grants, Chronicle of Philanthropy  
[http://philanthropy.com/article/Federal-Government-Awards/123648/?sid=&utm\\_source=&utm\\_medium=en](http://philanthropy.com/article/Federal-Government-Awards/123648/?sid=&utm_source=&utm_medium=en)

## REGISTER NOW

2010 Philanthropy Roundtable Annual Meeting

[Explore, Dream, Discover: The Power of Philanthropy](#)

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Peter H. Diamandis, chairman and CEO, X Prize Foundation

John Fisher, Doris & Donald Fisher Fund

Karen Mathis, president and CEO, Big Brothers Big Sisters of America

Robert J. Mazzuca, chief scout executive, Boy Scouts of America

[Register now](http://www.philanthropyroundtable.org) ([www.philanthropyroundtable.org](http://www.philanthropyroundtable.org))

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