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United States Senate

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June 9, 2010

The Honorable Steve Gunderson
President and CEO
Council on Foundations
2121 Crystal Drive, Suite 700
Arlington, VA 22202

Dear Mr. Gunderson:

I am writing in response to your request for me to support Schumer-Stabenow-Isaakson-Chambliss amendment #4310 to the Extenders bill currently being debated in the Senate. As you are aware from our conversations, I do support simplification of the private foundation investment income excise tax. The former Administration included similar proposals in its annual budget for eight years in a row. However, such changes would be better addressed in the context of larger reform and it is questionable whether enacting such changes on the Extenders bill, without hearings or any formal study of the issue, is the best approach.

As you know, the private foundation excise tax was enacted in 1969 to fund what was then the new office of Exempt Organizations at the Internal Revenue Service. There is agreement that the tax is not serving its purpose since the funds are not – and never have been - dedicated to that office. Congress acknowledged this by reducing the rate from original rate. I understand that the current 2%/1% hybrid rate was enacted at the recommendation of the private foundation community but I am not aware how this impacted private foundation giving.

Similarly, while some claim that simplifying and flattening the rate will increase pay out, it is not clear to me that will be the actual result. For those foundations eligible for the 1% rate because they increase or maintain the same payout level every year, their payout to charities may decrease because they may be paying more in taxes. Also, there is no mandate that organizations actually increase their pay out to charities or even pay out the tax savings resulting from this legislation. Thus, it seems that flattening the rate may benefit those foundations which have historically chosen to only pay out the minimum required by law, while hurting those that have chosen to do the right thing by paying out more.

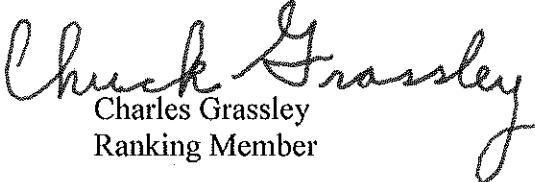
As a result, I would appreciate your providing the following information so that I, and my colleagues, can make an informed decision regarding the amendment in question.

1. How many private foundations actually pay the investment income excise tax?
2. For those subject to the tax, how many were subject to the 2% rate and 1% rate for the past five years? Please indicate the number of large and small foundations paying each rate as well as the gross amounts paid under the 2% and 1% rates.

3. If the rate is reduced to a single, flat rate, what incentive remains for private foundations to pay out more than the statutorily mandated 5%?

Thank you in advance for your attention to these questions.

Sincerely,


Charles Grassley
Ranking Member

cc: The Honorable Max Baucus
The Honorable Chuck Schumer
The Honorable Debbie Stabenow
The Honorable Johnny Isakson
The Honorable Saxby Chambliss