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Why the Nonprofit Sector Should Care About Transfer Tax Reform

Presentation Description *

In recent years, the nonprofit sector has been vocal in advocating for and against a handful of tax proposals.

Due in large part to these efforts, the so-called charitable IRA "rollover" has now been made permanent -- but the sector continues to lobby to lift the dollar limit, to allow "rollover" transfers to donor advised funds or even private foundations, and to allow younger taxpayers to make "rollover" transfers to split interest trusts or in exchange for gift annuities.

In opposing proposed ceilings or floors on the income tax charitable deduction, the sector has insisted any weakening of the incentive in roughly its present form will cause a significant drop in contributions. The sector has not extended this logic to proposals to increase marginal rates or to restore the estate and gift tax exemptions and marginal rates to 2009 levels.

In this session, we will talk about the public policies that inform transfer taxes as well as the policy rationale for allowing a deduction for transfers to what are broadly called "charities."

We will focus particular attention on a proposal to limit the interval over which a trust may be exempted from the generation-skipping transfer tax to ninety years.

Since the enactment of the GST tax in its present form in 1986, more than two dozen states have abrogated the common law rule against perpetuities, allowing settlors to remove large pools of assets permanently from the transfer tax system -- and from the reach of beneficiaries' creditors. Abrogating the rule will have far-reaching effects on the stability of the experiment in representative democracy launched here only a couple of hundred years ago.

By positioning itself as an advocate for a narrow range of tax breaks for higher income donors while remaining silent on other, deeply regressive features of the tax code, the sector not only runs the risk of being perceived as beholden to the what has been called "the one percent," but also fails the opportunity to participate in correcting the trend toward more extreme wealth inequality.

Session Type *

Specialized