Senate Finance Committee

Tax Reform Working Groups

asae

The Center for Association Leadership

Written Statement for the Record

April 14, 2015

On behalf of America’s association community, thank you for soliciting recommendations from various stakeholders on how best to undertake the first comprehensive overhaul of the nation’s tax code since 1986.

ASAE is a Washington, DC-based 501(c)(6) association representing more than 21,000 association executives and industry partners from nearly 10,000 tax-exempt organizations. Among the services provided by ASAE to its members are education and professional development, credentialing, industry research and advocacy on issues that impact the association and nonprofit communities.

ASAE commends the Senate Finance Committee for its deliberate approach to tax reform and for its commitment to crafting legislation in an inclusive, transparent fashion. Associations and other tax-exempt organizations are important stakeholders in tax reform and we appreciate the opportunity to provide input that informs the working group’s deliberations.

As the group works to produce specific recommendations to achieve the overall goal of a simpler, fairer tax code, ASAE respectfully asks that you consider how potential changes to the tax treatment of associations’ revenue-generating activities would affect their ability to carry out their core purposes.

The tax code contains a number of exclusions and exceptions to the unrelated business income tax (UBIT) statute. Those exceptions exist because there is a nexus between the furtherance of an organization’s tax-exempt purpose and the business activity in question. Any expansion of the UBIT statute to include activities currently excluded from the computation of taxable income could significantly impact any association’s bottom line, directly affecting its ability to carry out its mission.

For example, amid the dozens of policy prescriptions in the tax reform discussion draft released last year by then-Ways and Means Committee Chairman Dave Camp were proposed changes to the tax treatment of associations’ income from royalties and certain qualified sponsorship payments.

Royalties have historically been treated as passive income, meaning the organization has entered into a licensing arrangement for use of its name or logo but is not actively involved in the marketing or administration of the product or service connected with the arrangement. Quality-control provisions permit the tax-exempt organization to review and approve in advance all marketing materials to protect the organization’s intellectual property.

Royalties are a significant source of non-dues revenue for associations that can be reinvested in education, skills training, standard-setting, research and other activities. Royalties also closely resemble other passive income for tax-exempt organizations – such as rent, interest and dividends – which may not be directly mission-related but are excluded from UBIT.

The safe harbor for qualified sponsorship payments is another exception to the unrelated business income tax (UBIT). A qualified sponsorship payment is a payment made by a business sponsor to support an activity or event held by a tax-exempt organization where the business sponsor receives no more than an acknowledgement for that support. The Camp plan proposed to render qualified sponsorship payments taxable if the acknowledgement refers to any of the business sponsor's product lines, and to require organizations receiving more than $25,000 in qualified sponsorship payments for any one activity or event to treat all sponsors' acknowledgements in substantially the same manner.

ASAE strongly believes that qualified sponsorship payments should not be treated as advertising income in cases where there is no more than a "thank you" provided by the tax-exempt organization. There is also a clear expectation that a major sponsor of a program or event would receive greater recognition than other contributors. Requiring that all event sponsors be acknowledged in substantially the same manner is non-intuitive and would discourage sponsorships in general.

Like the rest of the business universe, associations are continually evolving to stay relevant for their members and to continue to churn out innovative programs and services that advance the industries or professions they represent. Organizations in today's world that are wholly reliant on membership dues for income are in danger of becoming obsolete. Non-dues revenue can help associations weather economic downturns when memberships may be the first budgetary items to be cut, and can help keep dues costs down so members feel they are getting good value for their affiliation. The reality is that there is more competition for members' time and financial commitment than ever before, and associations need to continue to create programs and services that enhance the value proposition for their members.

Of course, associations that choose to expand into more entrepreneurial business endeavors should pay taxes on those activities like any other business. That is why the UBIT statute exists in the first place. But there are fundamental reasons why associations are granted a general exemption from federal income taxes, and while their business models and activities may be substantially more complex in the modern era, they remain undeniably enmeshed in the daily patterns of American life and community. In simple terms, associations earn their tax-exempt status by satisfying many of the needs of various industries, professions and the general public that the government would otherwise have to address. Just consider a few of the specific ways that associations benefit society and drive economic growth:

- Associations are the largest source of post-college education and professional development for America's workforce.
- Associations create product and safety standards for everything from children's toys to new building construction.
- Associations define and advance standards for professional certification and codes of ethics in a wide range of professional fields.

- Associations foster volunteerism by organizing community assistance programs and responding in times of greatest need, such as after natural disasters or catastrophic events.
- Associations drive the meetings and conventions industry, which supports nearly 1.8 million jobs and accounts for $280 billion in direct spending by attendees.

Again, thank you for undertaking this important review of our nation's tax code. Please consider ASAE as a resource if you have questions about how any changes to the tax code might impact associations and other types of tax-exempt organizations.

Sincerely,

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