

Private Foundations Special Bulletin

ACE Act Update – Companion Bill Introduced in the House

There has been radio silence from Washington on the Accelerating Charitable Efforts (ACE) Act since it was introduced in the Senate in June 2021, but it has now gained traction. Many in the legal and philanthropic community wondered how much staying power the original Bill would have without a companion piece from Congress. Congresswoman Chellie Pingree (D-ME) and Congressman Tom Reed (R-NY) introduced the ACE Act with Congressman Ro Khanna (D-CA) and Congresswoman Katie Porter (D-CA) in the House on February 3rd, 2022. The Bill introduced in the House is nearly identical in substance to the Bill introduced in the Senate.

Below are the proposed key provisions included in the ACE Act also discussed in our previous article entitled [Accelerating Charitable Efforts \(ACE\) Act – Bill Introduced in Senate](#).

Provisions Affecting Donor-Advised Funds (DAFs)

- Includes additional restrictions and related requirements pertaining to contributions to DAFs from individuals as well as sets maximum value on advisory privileges.
- Proposes an annual minimum payout for DAFs, as well as other timing provisions, for certain types of DAFs and proposes a 50% tax for failure to distribute contributions timely.
- Amends the rules on the treatment of contributions from DAFs for purposes of determining a public charity's public support test; such contributions will be treated as if given from an individual donor rather than the general public which may impact public charities and their public support test.

Provisions Affecting Private Foundations

Payout requirements:

- Prohibits the expenses of certain disqualified persons from being included as part of a private foundation's payout requirement.
- Prohibits private foundations from including contributions to DAFs as part of their annual payout obligation.

Additional reporting:

- Requires additional reporting on a private foundation's IRS Form 990-PF when distributions are made to a DAF.

Incentives to increase charitable giving:

- Provides an exemption from the excise tax for private foundations that make qualifying distributions equal to/or greater than 7% of their non-charitable use assets.
- Provides for an exemption from the excise tax for private foundations with a specified duration in its governing documents.

It is anticipated that this Bill will continue to be fiercely debated. If passed, the ACE Act would include some of the most sweeping tax legislation affecting private foundations and DAFs in decades.

Stand By

We at PKF O'Connor Davies will be monitoring the Bill closely and will provide further updates and guidance as information becomes available.

Contact Us

We welcome the opportunity to answer any questions you may have related to this topic or any other accounting, audit, tax or advisory matters relative to private foundations. Please call 212.286.2600 or email any of the Private Foundation Services team members below:

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