

Comments for the Record

House Ways and Means Committee Subcommittee on Oversight

Hearing on Public Charity Organizational Issues, Unrelated Business Income Tax, and the Revised Form 990

July 25, 2012, 9:30 AM
1100 Longworth House Office Building

By Michael G. Bindner
Center for Fiscal Equity

Chairman Boustany and Ranking Member Lewis, thank you for the opportunity to submit comments for the record on these issues. We will leave it to others to examine how the current system is working and confine our comments to how our tax reform program would impact these questions. As you know, the Center for Fiscal Equity has a four part proposal for long term tax and health care reform. The key elements are

- A Value Added Tax (VAT) to fund domestic military spending and domestic discretionary spending with a rate between 10% and 13%, which makes sure every American pays something.
- Personal income surtaxes on joint and widowed filers with net annual incomes of \$100,000 and single filers earning \$50,000 per year to fund net interest payments, debt retirement and overseas and strategic military spending and other international spending, with graduated rates between 5% and 25% in either 5% or 10% increments. Heirs would also pay taxes on distributions from estates, but not the assets themselves, with distributions from sales to a qualified ESOP continuing to be exempt.
- Employee contributions to Old Age and Survivors Insurance (OASI) with a lower income cap, which allows for lower payment levels to wealthier retirees without making bend points more progressive.
- A VAT-like Net Business Receipts Tax (NBRT), which is essentially a subtraction VAT with additional tax expenditures for family support, health care and the private delivery of governmental services, to fund entitlement spending and replace income tax filing for most people (including people who file without paying), the corporate income tax, business tax filing through individual income taxes and the employer contribution to OASI, all payroll taxes for hospital insurance, disability insurance, unemployment insurance and survivors under age 60.

We agree that charity has become big business and needs to be taxed accordingly where appropriate. We also agree that charitable organizations deserve special treatment in any tax reform.

Charities that have commercial operations will be subject to a VAT, like any other commercial company, at least to the extent of such commercial operations. This is essential to provide visibility to their customers as to taxes imposed by the entire supply chain, unless sales to charities are also made VAT exempt. As this would turn every business into some form of charitable organization overnight, this would not be advisable. Fiscal conservatism should not be synonymous with empowering tax evasion schemes. The degree to which this needs mention shows the extent to which it has become so.

Whether non-commercial operations are subject to a VAT depends on the extent they are used to fund entitlement spending and payroll taxes versus discretionary government spending. For example, if Social Security or Medicare were to become VAT funded, replacing the payroll tax, than charitable organizations must continue to fund these operations, as they will benefit the employees of these organizations. If, however, entitlement services are funded through our proposed VAT-like NBRT, then there is an argument to leave the non-commercial activities of these entities VAT-exempt and we would urge you to do so.

Political organizations and committees would pay VAT on their payroll and their purchases would not be VAT exempt.

Transferring tax exemption to the VAT will also soften the blow should the charitable contribution be eliminated from flatter individual income surtax rates. The rationale for cancelling such an exemption is that if everyone uses the exemption, it will simply require that the tax rates be set higher to yield the same income. The Center is agnostic as to which option is best, as this depends on how entitlements are funded, although contributions to political organizations should certainly not be tax exempt after reform.

Charitable organization employees will continue to pay the employee contribution to Old Age and Survivors Insurance, assuming it is not subsumed into the NBRT.

Charitable organizations will pay the NBRT because their employees will benefit from the programs funded by this levy or from offsets to it. For example, Catholic Charities employees might designate the Catholic school system as an alternative provider to public schools, which would allow Catholic Charities agencies to take a credit on this levy, which would otherwise be paid against their total value added. Likewise, employees would be paid the same child tax credit as commercial employees – again as an offset to NBRT levies. Health and higher education credits proposed for other enterprises would also be available to charitable organizations, as well as any other applicable credits. Note that because certain payroll and personal income taxes will be eliminated, the gross pay of charitable employees will decline in like manner to those of their commercial counterparts.

On the issue of disclosure, payments of various taxes may or may not be listed on the Revised Form 990, although doing so would serve the function to donors of offering receipt visibility for the VAT. The total amount of NBRT paid may or may not be included, as well as the total amount of credits taken. We are agnostic as to whether the credits taken should be itemized, as privacy concerns should be dealt with in deciding whether to do so on a public form.

Finally, this schema is as applicable to governmental organizations as it is to charitable organizations, with modifications. State governments would be the federal NBRT, while federal organizations would pay the state NBRT, both on the same basis relating to value added through payroll. These organizations would not pay NBRT to themselves, however their personnel systems should contain a similar range of benefits. This schema provides a better explanation of how a FairTax might work on these levels, while also providing a rationale for adjusting government employee salaries and providing for non-governmental performance of services through the same type of alternative NBRT programs.

Thank you again for the opportunity to present our comments. We are always available to discuss them further with members, staff and the general public.

Contact Sheet

Michael Bindner
Center for Fiscal Equity
4 Canterbury Square, Suite 302
Alexandria, Virginia 22304
571-334-6507
fiscalequity@verizon.net

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All submissions must include a list of all clients, persons and/or organizations on whose behalf the witness appears:

This testimony is not submitted on behalf of any client, person or organization other than the Center itself, which is so far unfunded by any donations.