

perspectives

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Coplan & Aronoff LLP

MY BENESCH MY TEAM

Trends and topics in not-for-profit management

Not-for-Profit Spotlight



Greenleaf Family Center (Greenleaf) is a not-for-profit social service agency whose mission is to strengthen families in the community through counseling, education and support. The agency's roots date back to early charitable efforts in 1885. It was initially incorporated as The Charity Organization Society of Akron, Ohio, on February 8, 1912, by F. A. Seiberling and Harvey S. Firestone. The agency became Family Services in 1980 and Greenleaf Family Center in 2004.

Greenleaf's current core programming includes:

1. SPARK (Supporting Partnerships to Assure Ready Kids), an evidence-based, in-home early childhood initiative that strives to strengthen families by teaching parents to be their child's first, best teacher (free of charge for Summit county residents within the designated service area).
2. Life Link, a prenatal support program designed to reduce infant mortality in the African American community (also without cost).
3. Community Services for and of the Deaf, (serving Summit, Portage, Medina, Holmes and Wayne counties), which include case management and interpreting services both for agencies serving deaf consumers and for deaf consumers and families in need, as well as sign language classes, community advocacy for the deaf and training for mental health professionals on deaf culture.

(continued on page 3)

Tax Issues Relating to Same-Sex Marriages



Jessica N. Angney

In Revenue Ruling 2013-17, the Internal Revenue Service (IRS) announced that the terms "husband and wife," "husband" and "wife" in the Internal Revenue Code are to be interpreted to include an individual married to a person of the same sex so long as he/she was lawfully married in a state that allows same-sex marriages. This interpretation stands notwithstanding the fact that the same-sex married couple may have been married in, but does not reside in, a state that allows same-sex marriages. However, this does not apply to same-sex partners in civil unions or other relationships that are not marriages under state law.

So what does this mean for employers?

Employers may be eligible for a tax refund.

If an employer provided health coverage for an employee's same-sex spouse and included the value of that coverage in the employee's gross income, the employer may claim a refund, or make an adjustment, with respect to excess social security taxes and Medicare taxes paid (for open tax periods). The employer may also claim a refund or make an adjustment for such excess payroll taxes if the employer sponsored a cafeteria plan that allowed employees to pay premiums for health coverage on a pre-tax basis and the employee paid premiums for health coverage for his/her same-sex spouse on an after-tax basis. The Internal Revenue Service has issued additional guidance regarding the proper procedure for filing such refund claim or adjustment.

Employers need to review benefit plans to ensure proper compliance.

Because all federal tax laws dealing with spouses will include same-sex spouses, employers need to review their benefit plans, equity compensation arrangements, enrollment materials and payroll records to determine if changes are necessary. The employer should also implement a process pursuant to which it can gather information necessary to determine which employees are married and affected by the Revenue Ruling. The entire process of implementing the tax law changes can be cumbersome and confusing. A tax or ERISA attorney at Benesch can assist employers with this process.

Note that the position of the IRS set forth in Revenue Ruling 2013-17 results in conflicts between federal and state tax treatment in jurisdictions, such as Ohio and Indiana, that do not recognize same-sex marriages. For example, certain fringe benefits provided to a same-sex spouse in such jurisdictions may be exempt from federal income tax but be subject to state income tax.

The full impact of the recognition of same-sex marriages for federal tax purposes is unclear. Continuing guidance from the Internal Revenue Service and state tax authorities is expected.

Additional Information

For additional information, please contact [Jessica N. Angney](mailto:jangney@beneschlaw.com) at jangney@beneschlaw.com or 216.363.4620.

IRS Permits Flexible Spending Account Carryover



Lisa M. Kimmel

An employer, at its option, is permitted to amend its § 125 cafeteria plan document to provide for the carryover to the immediately following plan year of up to \$500 of any amount remaining unused as

of the end of the plan year in a health FSA. The carryover of up to \$500 may be used to pay or reimburse medical expenses under the health FSA incurred during the entire plan year to which it is carried over.

For this purpose, the amount remaining unused as of the end of the plan year is the amount unused after medical expenses have been reimbursed at the end of the plan's run-out period for the plan year. In addition to the unused amounts of up to \$500 that a plan may permit an individual to carry over to the next year, the plan may permit the individual to also elect up to the maximum allowed salary reduction amount under § 125(i). Thus, the carryover of up to \$500 does not count against or otherwise affect the indexed \$2,500 salary reduction limit applicable to each plan year.

A plan adopting this carryover provision is not permitted to also provide a grace period with respect to health FSAs. If an employer amends its plan to adopt a carryover, the same carryover limit must apply to all plan participants. The employer can apply the carryover provision to a plan year that began in 2013. For more details see [IRS Notice 2013-71](#).

Additional Information

For additional information, please contact [Lisa M. Kimmel](mailto:lkimmel@beneschlaw.com) at lkimmel@beneschlaw.com or 216.363.4459 or [Jessica N. Angney](mailto:jangney@beneschlaw.com) at jangney@beneschlaw.com or 216.363.4620.

Charities Closely Watching Tax Reform

Tax reform is on the mind of Congress, and charities are concerned that "reform" really means reduction or removal when it comes to the tax deduction for contributions. Being proactive, a group of representatives from not-for-profit and charitable organizations met with House and Senate lawmakers on November 20 to attempt to convince lawmakers not to reduce or eliminate the charitable deduction. The Giving Coalition, which represents about 60 not-for-profit organizations, sponsored a briefing for congressional staff and followed it with meetings with lawmakers. The goal was to explain the negative consequences of a cap on the tax deduction for charitable giving.

The coalition efforts were strengthened by a letter from two members of the Senate Finance Committee, John Thune, R-S.D., and Ron Wyden, D-Ore., asking that the current deduction be protected during debate over comprehensive tax reform. The letter was sent to Senator Max Baucus, chair of the committee, and to ranking member Orrin Hatch, R-Utah, and stated in part "*Analysis has repeatedly shown that proposals to cut, cap, or limit the charitable deduction could cause charitable donations to decline by billions of dollars annually. Worse yet, weakening the charitable deduction would most hurt the adults and children who receive vital charitable services from organizations like soup kitchens, after-school programs, and medical research projects, just to name a few.*"

In a related matter, Senate Finance Committee Chairman Max Baucus (D-MT) released three tax reform discussion drafts in November. Included in the tax administration draft is a proposal to mandate that all tax-exempt organizations required to file a Form 990-series return do so electronically, and the IRS would be required to make the information on the forms available to the public in a machine-readable format as soon as practicable. A waiver of the e-filing requirement would be permitted if there is limited or no access to the technology to file the returns electronically, as well as transitional relief in the form of a delayed effective date of up to three years if the requirement presents a hardship. The draft legislation and a summary can be found [here](#). Feedback on the tax administration discussion draft is requested by **January 17, 2014**, and comments can be sent to: Tax_Reform@Finance.Senate.gov.

Gift Substantiation

It is the time of year when taxpayers look at their finances, decide about additional charitable gifts and begin to gather the substantiation documents they will need to support tax deductions. While most charities understand how to substantiate contributions, a refresher is always good. While written substantiation is required for gifts of \$250 or more, it is a good practice to substantiate all gifts to charities. The written acknowledgment required to substantiate a charitable contribution of \$250 or more can be sent by letter or email and must contain the following information:

- Name of the organization
- Amount of cash contribution
- Description (but not value) of non-cash contribution
- Statement that no goods or services were provided by the organization, if that is the case
- Description and good faith estimate of the value of goods or services, if any, that organization provided in return for the contribution
- Statement that goods or services, if any, that the organization provided in return for the contribution consisted entirely of intangible religious benefits, if that was the case

Please click [here](#) for the 2013 versions of the IRS publication on the subject. Keep in mind that, while the rules remain the same, the dollar amounts for the size of the gift and the value of low-cost items that you can give to donors without reducing the deductible amount of the gift change with inflation every year. The IRS will issue a notice early in 2014 indicating what the inflation increase is for those items.

If you have received or anticipate receiving gifts of property, there are rules and guidance for valuing these donations. They can be found in [IRS Publication 561](#). If the property is worth more than \$5000, you may need to see an appraisal before you can substantiate the contribution. The donor is responsible for obtaining the appraisal and getting the Form 8283 completed. While the charity is not responsible for appraising or even approving the appraisal, the charity should not substantiate a gift if it believes the appraisal is seriously flawed.

Some Tips from a Donor: How to Get My Gift

A Short Rant from the Editor



Marty Sweterlitsch

'Tis the season for giving—and for the constant drone of the telephone or the ping of the email from charities and causes who seem to think they can persuade me, as someone who has never (or almost never) given to their cause, to part with cash in a year-end frenzy to save taxes. I know your marketing people have deluged you with information about the “return” on cold calls and direct mail. I know you think if you could just tell me your story, I would melt into tears and write a check. NEWS FLASH—I will not. And here are some tips that may help you better focus your efforts.

1. I do not answer my landline (or my cell for that matter) if I do not recognize the caller. If it is really important, the caller will leave a message.
2. If I do not answer or I never call you back, please take me off your list! I get 12–20 calls per day this time of year on my landline from organizations who think I will give. I will not, not that way. My voicemail message tells you as much, so please listen to it.
3. Just because you got a random check with my name on it three years ago, that does not mean I will put you in my will. The next time a friend participates in your walkathon, I might write another check to support them, but please do not pursue me continually in the hope I will become a supporter. No means no.
4. Direct mail, or even email, works if I know the organization and want to support its efforts. To get on my list of organizations or causes, have someone I know make the ask.

In conclusion, I am not Scrooge and, like most others, I give to support those causes that I think are important. You need to make me understand why what you do is important before you even begin to ask me for a gift.

Additional Information

For additional information from our editor and Not-for-Profit Team chair, [Marty Sweterlitsch](#), please contact her at msweterlitsch@beneschlaw.com or 614.223.9367.

Various Tax, Pension and 401k Limits for 2014

	2014 value	2013 value	2012 value	2011 value
Social Security wage base	117,000	113,700	110,100	106,800
401(k) Elective deferrals	17,500	17,500	17,000	16,500
401(k) Catch-up contribution (age 50 & up)	5,500	5,500	5,500	5,500
Defined contribution limit	52,000	51,000	50,000	49,000
Annual compensation for benefit limit	260,000	255,000	250,000	245,000
Definition of highly compensated employee	115,000	115,000	115,000	110,000
Social Security monthly payments	up 1.5%	up 1.7%		



Not-for-Profit Spotlight

(continued from page 1)

4. Behavioral Health Services, including individual counseling, couples counseling and family and group counseling for children, adolescents and adults.
5. Employee Assistance Program (EAP), which provides employees and their dependents with confidential counseling and employee solutions that go beyond what is included in typical employee health benefits packages, ultimately improving job performance and creating solutions for employers. What singles out Greenleaf Family Center from other EAPs is the local, personal touch with client companies.

Greenleaf is nationally accredited by the Council on Accreditation and accepts Medicaid, private pay and sliding fees for most of the services for which it must charge a fee. The organization has 31 staff members and an annual budget of \$2.7 million.* It receives funding from the United Way of Summit County, United Way of Wooster, United Way of Orville, federal and state agencies and individual donations along with numerous grant and foundation dollars. For additional information about Greenleaf, please check out its [website](#).

**Does not include behavioral health fee for service staff*

Events

Benesch and Blue & Co.'s 2013 Exempt Organization Conference

Please join Benesch and Blue & Co. for an in-depth look at issues affecting exempt organizations today. In addition to a variety of sessions (including health care specific topics and basic, intermediate and advanced topic areas), the conference will also include separate panel discussions for both general exempt organizations and health care organizations.

For a schedule of available sessions and speaker bios, please click [here](#).

For downloadable session presentations, please click [here](#).

Date: December 2, 2013

Time: 7:30 A.M.—Registration and continental breakfast; 8:30 A.M.—4:30 P.M.—Program sessions

Location: The Medallion Club, 5000 Club Drive, Westerville, OH

Cost: \$50 for eight hours of CPE; a session catalog will be sent upon receipt of your RSVP

Registration: Please click [here](#) for more information and registration.

Association of Fundraising Professionals Events

Indiana Chapter Brown Bag Series: Major Gifts

Date: December 4, 2013

Location: College Ave. Branch Library, 4180 N. College Ave., Indianapolis, IN

Cost and Registration: Please contact afpic@nashams.com for more information.

Central Ohio Chapter Holiday Reception and Annual Meeting: Penelope Burk Returns to Columbus

Date: December 10, 2014

Time: 5:30–7:30 P.M.

Cost: Free

Location: The Columbus Foundation, Davis Hall, 1234 E. Broad St., Columbus, OH

RSVP: Please click [here](#) to RSVP.

Howard Wershbaile & Co., in Partnership with Benesch, Presents *The Executive's Guide to Not-for-Profit Success Seminar*

The challenges for not-for-profits are continually shifting. With government budget cuts and limited resources, not-for-profits must work even harder to navigate and survive this new reality. Join us as we explore practical tips and strategies necessary for the success of your not-for-profit organization.

This program is complimentary for not-for-profit organizations and their respective representatives and qualifies for the following credit hours: One credit hour, accounting & auditing; seven credit hours, specialized knowledge.

COLUMBUS

Date: January 21, 2014

Time: 8:00 A.M.—4:00 P.M.

Location: Quest Conference Center, 8405 Pulsar Place, Columbus, OH

Cost and Registration: Please click [here](#) for more information and registration.

CLEVELAND

Date: January 23, 2014

Time: 8:00 A.M.—4:00 P.M.

Location: Benjamin Rose Institute, 11890 Fairhill Road, Cleveland, OH

Cost and Registration: Please click [here](#) for more information and registration.

Webinars for Exempt Organizations

Free webinars featuring IRS employees discussing exempt organizations topics.

The [IRS video portal](#) has an archive of past webinars and phone forums, including:

- Starting off Right—What New NON-501(c)(3) Organizations Need to Know (February 24, 2011)
- Starting off Right—What New 501(c)(3) Organizations Need to Know (April 28, 2011)
- International Activities of Domestic Charitable Organizations (August 4, 2011)
- Starting and Operating Charities for Disaster Relief (May 30, 2012)
- Gaming in Tax-Exempt Organizations (July 18, 2012)
- Churches and Religious Organizations (July 25, 2012)

The video portal also features short videos on topics of interest including:

- Car Donations
- Fundraising Guidelines for Charities
- Information Resources for Charities and Not-for-profits
- Social Security Numbers
- State Tuition Organizations

Additional information: Exempt organization educational opportunities are available any time by clicking [here](#).



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