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**Agenda for May 2018 Public Policy Call**

May 30, 2018, 12:00 PM to 1:00 PM

https://washingtonnonprofits.adobeconnect.com/publicpolicy/

OR (877) 226-9607, Conference Code 8048965927

*See Page 2 for Issue Briefs and Discussion Questions*

**Introductions and Announcements 12:00-12:05 PM**

* Next call will be September 5, 2018

**State Public Policy Update and Action Items 12:05-12:15 PM**

* Executive, Administrative, and Professional Overtime Exemption
	+ ***Discussion:*** What would the impact of raising the state overtime pay exemption threshold from $250 per week/$13,000 annually mean for your organization?
* DISCLOSE Act Rulemaking
	+ ***Discussion:*** What information should be conveyed to the PDC during rulemaking?

**Federal Public Policy Update and Action Items 12:15-12:35 PM**

* Census 2020: Video and Postcard Campaign
	+ ***Discussion:*** What are your organization’s concerns about the census?
		- How can Washington Nonprofits be helpful to you?
		- What is your organization currently seeing?
* Potential “Public Charge” Regulations
	+ ***Discussion:*** What are your key concerns about this issue?
		- What impacts are you already seeing?
		- What information should be conveyed through the rulemaking process?
* UBIT Charge on Employee Transit Benefits
	+ ***Discussion:*** What advice have you received from your financial staff or accountants on this issue?
		- How is your organization adapting?
		- Are there concerns that we can convey to federal policymakers?
* Universal Deduction
	+ ***Discussion:*** Strategy suggestions?

**Discussion: Messages for DC** **12:35-12:50 PM**

* Washington Nonprofits’ Director of Public Policy and Advocacy David Streeter will be traveling to Washington, DC in early June to participate in the National Council of Nonprofits’ Annual Confab. As part of the conference, David will be visiting Capitol Hill for Nonprofit Lobby Day. Issues on the agenda for Lobby Day include:
	+ Nonprofit Nonpartisanship (Johnson Amendment)
	+ Effects of the New Tax Law (technical corrections and UBIT)
	+ Non-Itemizer (Universal) Deduction
	+ Census 2020
	+ Public Service Loan Forgiveness
* To help David prepare, please consider and submit an answer to this question:
	+ **What messages or information would you like David to convey to our state’s congressional delegation?**

**New Business and Action Items**  **12:50-1:00 PM**

**Issue Briefs and Discussion Questions**

**State**

**WA Considering Updates to Executive, Administrative, and Professional Exemptions to Minimum Wage Act**

The Washington State Department of Labor and Industry is working on an update to the state’s Minimum Wage Act’s overtime regulations. The intent of the proposed update is to raise the exemption threshold for executive, administrative, and professional employees so that more employees will be eligible for overtime pay. According to the Department of Labor and Industry:

Most employees covered by the Washington Minimum Wage Act (MWA) must be provided a minimum wage (currently $11.50 per hour), overtime for working above forty hours in a seven-day workweek, and paid sick leave. The MWA exempts certain kinds of covered employees from its requirements, including bona fide Executive, Administrative, and Professional (“EAP”) workers, as well as Outside Salespersons. … The EAP exemption swere largely intended to exempt “white collar” workers who often enjoy more economic security and relative bargaining power than lower wage earners. The department last updated its rules on the EAP exemptions in 1976. The 1976 rules require most workers to meet a duties test and be paid a minimum salary of at least $250/week to qualify for these exemptions, which equates to a minimum yearly salary of $13,000. Because salary levels have not been updated, the rules governing these exemptions are out of date, and the duties tests may not accurately reflect current expectations of exempt professionals. As a result, the department is initiating rulemaking to update these rules.

Washington Nonprofits submitted comments to the rulemaking process that are available to download [here](https://lni.us.engagementhq.com/1664/documents/1771). The next round of public comments closes May 29, 2018. If your organization would like to learn more and submit feedback to inform the rulemaking process, you can do so [here](https://lni.us.engagementhq.com/).

***Discussion Question:*** What would the impact of raising the state overtime pay exemption threshold from $250 per week/$13,000 annually mean for your organization?

**DISCLOSE Act Rulemaking**

Under the 2018 DISCLOSE Act (which takes effect January 1, 2019), all types of nonprofit organizations that expect to spend above $25,000 on ballot measure campaigns (or independent political expenditures in the case of 501(c)(4)’s) in a given year must register as an “Incidental Committee” with the Public Disclosure Commission. The law requires that Incidental Committees disclose their top ten donors above $10,000 to the Public Disclosure Commission. The disclosure applies to any donor to the organization that meets the giving threshold, regardless of whether the money was earmarked for a specific nonpolitical purpose. Contributions to a nonprofit from private foundations are exempt from the reporting requirements unless they were given specifically for political spending. The disclosure requirements also apply to all types of nonprofit organizations that provide $25,000 or more to a 501(c)(4) or PAC for ballot measure advocacy and to 501(c)(4) organizations that provide $10,000 to PACs for political spending in a given year. The PDC will begin its rulemaking process this summer.

***Discussion Question:*** What information should be conveyed to the PDC during rulemaking?

**Federal**

**2020 Census**

The federal government is currently making preparations for the constitutionally required 2020 Census. Unfortunately, obstacles such as previous funding shortfalls, planned reliance on online responses, insufficient testing, and a proposed citizenship question may compromise a successful count. With nearly $14 billion at stake for communities across Washington State, Washington Nonprofits and its members are calling on Congress to do what it takes to ensure an accurate count in 2020. This means supporting full funding for the census and omitting the proposed citizenship question.

***Discussion Questions:*** What are your organization’s concerns about the 2020 Census?

How can Washington Nonprofits be helpful to you?

What is your organization currently seeing?

**Trump Administration Considering Expansion of “Public Charge” Criteria for Immigrants**

Under current immigration regulations, immigrants seeking U.S. citizenship who use a specific set of public support programs are deemed a “public charge.” This is a negative classification that typically leads to a denial of their citizenship request as well as possible denial of entry into the U.S. or deportation. The Trump Administration has signaled its intent to expand the list of services to include many programs and services that are administered by nonprofit organizations. According to [CLASP](https://www.clasp.org/sites/default/files/publications/2018/04/2018.04.24%20PIF%20Public%20Charge%20Fact%20Sheet.pdf), the programs impacted could include:

* Earned Income Tax Credit (EITC)
* Non-emergency Medicaid
* Children’s Health Insurance Program (CHIP)
* Subsidies provided through the Affordable Care Act
* Supplemental Nutrition Assistance Program (SNAP)
* Special Supplemental Nutrition Program for Women, Infants, and Children (WIC)
* Housing assistance, such as Section 8 housing vouchers
* Low-Income Home Energy Assistance Program (LIHEAP)
* Comparable state and local programs

The effect of such a change is that many immigrants will cease to use those programs because they are fearful of being deemed a “public charge.” In fact, we’ve heard from several Washington Nonprofits members that this effect is already happening based on the uncertainty surrounding the regulations. The Trump Administration’s rules are likely to be released in July 2018 and Washington Nonprofits will respond accordingly. In the meantime, you can learn more about the possible changes by downloading the fact sheet [here](https://www.clasp.org/sites/default/files/publications/2018/04/2018.04.24%20PIF%20Public%20Charge%20Fact%20Sheet.pdf). Additionally, our friends at the Children’s Alliance are circulating a petition against the possible changes that you can sign [here](https://p2a.co/4Zqcwct).

***Discussion Questions:*** What are your key concerns about this issue?

What impacts are you already seeing?

What information should be conveyed through the rulemaking process?

**New UBIT Charge on Employee Transit Benefits**

One result of the Tax Cuts and Jobs Act passes by Congress is that employee transportation benefits are now considered as Unrelated Business Income that is subject to taxes paid by the nonprofit organization or the employee. As the National Council of Nonprofits [illustrates](https://www.councilofnonprofits.org/civicrm/mailing/view?reset=1&id=1333):

So, your nonprofit wants to encourage employees to take public transportation because it’s good for the environment, perhaps even mission-critical. Or maybe it’s a recruitment tool because job candidates in your area expect that benefit from the best places to work, like yours. As a result, let’s say your nonprofit has in the past provided financial assistance to make it easier for employees to commute to work (such as contributing to the cost of a mass-transit pass or parking). Guess what? Because of the new federal tax law, your nonprofit must now pay a penalty tax ([UBIT](https://www.councilofnonprofits.org/sites/all/modules/civicrm/extern/url.php?u=66877&qid=2059323)) for providing those incentives, even if employees pay for them through pre-tax contributions via a qualified plan. This [short article](https://www.councilofnonprofits.org/sites/all/modules/civicrm/extern/url.php?u=66878&qid=2059323) and [podcast](https://www.councilofnonprofits.org/sites/all/modules/civicrm/extern/url.php?u=66879&qid=2059323) will give you the background and explain the new tax treatment that is effective right now — regardless of when your nonprofit’s tax year starts.

This new development is highly problematic for nonprofit organizations and their employees. Washington Nonprofits has joined with the National Council of Nonprofits to urge the IRS to delay implementation and study this issue further in the hope of removing this new burden from organizations. We encourage you to analyze what this changes means for your organization and join us in [filing comments](https://www.councilofnonprofits.org/sites/all/modules/civicrm/extern/url.php?u=66881&qid=2059323)to the IRS explaining how this new tax will impact your nonprofit and its workforce. ([See our comments here](https://washingtonnonprofits.org/comments-on-new-employee-transit-benefits-tax/)) You can also use this as a template:

[Your organization] is requesting that the IRS postpone the effective date of implementation of the unrelated business income tax (UBIT) rules enacted new Internal Revenue Code Section 512 (a)(6) and (a)(7) until the Service issues guidance clarifying the new tax liability triggered by new those sections. Absent urgently needed IRS guidance, charitable nonprofits will not be able to file accurate reports, are likely to make insufficient or inaccurate payments, and suffer other adverse tax consequences that can and will be avoided once the IRS provides the nonprofit sector the necessary clarity.

***Discussion Questions:*** What advice have you received from your financial staff or accountants on this issue?

How is your organization adapting?

Are there concerns that we can convey to federal policymakers?

**New Universal Deduction Bill Proposed in U.S. House**

A new bipartisan bill, [H.R. 5771](https://www.congress.gov/bill/115th-congress/house-bill/5771?r=1), was introduced in the U.S. House on May 10, 2018 that would provide a charitable deduction to all taxpayers regardless of whether they itemize their tax return. This is an important development because the [Tax Cuts and Jobs Act](https://washingtonnonprofits.org/wp-content/uploads/2018/03/Tax-Reform-One-Pager.pdf) passed at the end of 2017 significantly limited the number of taxpayers eligible to receive a tax deduction for their charitable contributions. The bill, introduced by Representatives Chris Smith (R-NJ) and Henry Cuellar (D-TX), is currently in the House Ways and Means Committee and has no additional sponsors beyond Smith and Cuellar. However, you can help it gain cosponsors by calling your Representative and asking them to cosponsor the bill. Click [here](https://www.house.gov/) to find your Representative. We will also provide updates and opportunities for action during the summer so that we can help elevate this issue in Congress.

***Discussion Question***: Do you have strategy suggestions for this issue?