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Type III Supporting Organizations Face PPA Changes From Proposed IRS Regulations

Recent changes to the Form 990, the tax return required to be filed by many not-for-profit organizations, have made an organization's operation more transparent to any person seeking information, including the Internal Revenue Service. For those organizations whose reason for public charity status is dependent upon receiving more than 33 1/3% of its support from contributions, membership fees, and gross receipts from activities related to its exempt functions, the public support calculation has become extremely transparent as compared to the old Form 990, Schedule A.

Before the change in the Form 990 and Schedule A, many organizations simply attached a written explanation to their Form 990, explaining why the public support test was not met. Even though they failed the public support test, these entities would continue to file the Form 990, rather than the Form 990-PF.

With the introduction of the new Form 990 and Schedule A, any organization that fails to maintain its public-charity status is classified as a private foundation as of the beginning of the tax year in which it failed to retain its status. In these instances, the organization may no longer file Form 990, Form 990-EZ or Schedule A and must instead file Form 990-PF. This change in status can also have state implications.

There are several issues that could arise if a public charity is forced to file a Form 990-PF. First, private foundations are required to pay an excise tax each tax year on their net investment income. Secondly, an additional excise tax can be imposed on acts of self-dealing between private foundations and disqualified persons. The definitions of self-dealing and disqualified persons are fairly extensive. Please contact your trusted advisor at Lane Gorman Trubitt, L.L.P. for more information on these rules.

In order to combat this potential hazard, we recommend that all organizations who are subjected to the public support test prepare pro forma Schedule A's on a quarterly basis. Analyzing an entity's public

support percentage on a quarterly basis may help to detect and resolve any issues in achieving “public charity” status well before the preparation of the Form 990 and Schedule A.

Like all changes, these new requirements may present new concerns. If you have any questions, please do not hesitate to contact your trusted advisors at Lane Gorman Trubitt, L.L.P. You can reach Anna Sosolik, Not-For-Profit Tax Manager at her direct line (214) 461-1445 or by email at asosolik@lgt-cpa.com.