Scholar Calls for 'Distributive Justice' in Charitable Tax Reform

by Luca Gattoni-Celli

Tax subsidies for charitable giving need to be reformed with an eye toward "distributive justice," a tax law professor said at a conference on tax reform on January 17.

Miranda Perry Fleischer of the University of San Diego School of Law said the activities of charitable organizations should be examined to ensure they are benefiting the economically disadvantaged.

The discussion was part of a tax reform symposium in Malibu, Calif., organized by Pepperdine University School of Law and cosponsored by Tax Analysts. The conversation largely centered on how disadvantaged groups could benefit from tailoring the scope of tax breaks for bequests and charitable contributions.

Arguing that charitable tax subsidies are "inherently redistributive," Fleischer suggested that any discussion of reforming those subsidies should consider who is redistributing what to whom. "Any change [in laws governing charitable tax subsidies] would cause giving patterns to change, and we need a way to evaluate whether this new pattern of winners and losers of charitable dollars is acceptable or not," she said.

Fleischer said one way to ensure that low-income people benefit more from charitable donations would be to require more charitable organizations to allocate some portion of their distributions to free services to low-income individuals.

Emory Law School professor Dorothy Brown cited research suggesting that racial
minorities are adversely affected by the tax system. Pivoting from a study of her own that compared the Obamas’ tax returns from 2000 through 2004 with tax return data from white taxpayers earning similar incomes, Brown focused on racial disparities in tax outcomes, saying middle-income African-Americans pay higher taxes on average than their economic peers. Minorities’ relatively modest exposure to investment income, particularly from the stock market, was offered as a possible explanation. She concluded by suggesting that policymakers formally analyze the impact of tax proposals on various racial groups.

"Right now we have this myth of colorblindness [in the tax system], and it's not working that way in reality," Brown said.

President Obama has made income inequality a major priority in his second term. The White House recently unveiled a plan to create "Promise Zones" of public-private partnerships and special tax credits to address poverty in five municipalities across the country. Incoming Senate Finance Committee Chair Ron Wyden, D-Ore., told reporters January 7 that tax reform has an important role to play in the income inequality debate. (Prior coverage.)