

Charitable Use and Pursuit of Entrepreneurship Activities

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Introduction

- Entrepreneurship is inherently not charitable, but certain approaches can be.
- Among the vehicles increasingly being used for entrepreneurship activity are the following:
 - Incubators
 - Accelerators
 - Investment funds
 - Venture funds
 - Prizes and awards
- Some applications are charitable; Others are not

Incubators and Accelerators - Definitions

- Incubators:
 - For start-ups in their early stages
 - Provide things like office space, guidance, and help with management
 - Some charge fees or rent
- Accelerators:
 - For developing companies (at a later stage than incubators)
 - Provide access to mentoring, networks (including potential investors), and other support
 - Often take an equity interest in the companies

Incubators and Accelerators

- Sparse guidance from the IRS specific to incubators and accelerators.
- Instead, look more generally to legal principles regarding:
 - Charitable/educational purpose(s)
 - Unrelated business income tax (“UBIT”)
 - Private benefit and private inurement
 - Law of joint ventures

Tax Analysis – Charitable Purpose and UBIT

- Will the activity give rise to UBIT?
 - Income derived from:
 - A trade or business that is
 - Regularly carried on and
 - Not substantially related to the organization's exempt purpose.
 - Third prong is key to determining whether activity is charitable

Basis for Relatedness/Charitability – Education

- Education is defined as:
 - instruction and training of individual(s) to develop capabilities; or
 - instruction of the public on subjects useful to individual(s) and beneficial to the community.
- University experiential learning and research opportunities
- *PLR 200010052*

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