

## New law would impact Leavitts

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WASHINGTON - Changes to charitable-organization rules approved in a major pension-reform bill now on its way to the White House may affect how the Leavitt family does business through its charities.

Recent media reports have uncovered questionable - although not illegal - activity by the family of Health and Human Services Secretary and former Utah Gov. Mike Leavitt through the Dixie and Anne Leavitt Foundation, which supports the Southern Utah Foundation and other charities.

According to Internal Revenue Service documents, the Leavitt Foundation made donations to Southern Utah University for housing scholarships that put students in apartments owned by Cedar Development Co., which is also owned by the Leavitt family. The foundation also donated to the family's genealogy society, while getting tax deductions for charitable contributions.

"Just because it's legal doesn't mean it is right," said Rick Cohen, executive director of the National Committee for Responsive Philanthropy, who has reviewed the foundation's tax returns.

The family has maintained it has done nothing wrong, but Cohen has taken issue with the practice, and lawmakers have used the publicity to highlight pending reforms in Congress.

Dane Leavitt, chief executive officer of Leavitt Group, sent a memo Thursday to "associates and friends," saying that "Mike Leavitt's public prominence makes our foundation an attractive focus

for those seeking to change the law" that applies to these types of foundations. The memo came in response to several media stories.

"This arrangement helps many, hurts no one and is consistent with the law," the memo said.

"The perspective initially forwarded in media coverage of the Dixie and Anne Leavitt Foundation arose from those wanting to focus on abuses in Type III supporting organizations," the memo said. "Their goal was to rally public sentiment toward change."

Charities use Type III supporting organizations like the Dixie and Anne Leavitt Foundation to avoid a private-foundation classification by the IRS. That classification carries stricter federal regulation than a public charity, according to the IRS.

Bruce Hopkins, a lawyer in Kansas City, Mo., said there are more incentives to be a public charity than to be a private foundation.

Cohen explained that private foundations have to pay taxes, and contributions are not as attractive as those to public charities.

But the IRS has identified Type III supporting organizations as among what it calls "Dirty Dozen" schemes, and the Senate Finance Committee has been examining these and other charities for two years under the direction of the committee's chairman, Sen. Charles Grassley, R-Iowa.

The Leavitt memo states that "should changes in the law arise from this debate, the Foundation will comply with the changes."

The changes have arrived.

The Senate approved the pension-reform bill late Thursday, which contained numerous provisions affecting charity-tax rules and operations. The House had already approved its legislation, and Thursday's bill was a compromise between the two. The president supports the bill and the White House released a statement Friday saying it will be signed "soon."

According to a summary of the bill by the Council on Foundations, which represents more than 2,000 grant-making foundations foundation and giving programs, foundations that fall into the same category as the Dixie and Anne Leavitt Foundation can no longer make grants, loans, compensation or similar payment to the organization's substantial contributor, the contributor's family or businesses they control.

The new law also prohibits loans to foundation managers or other "disqualified persons" as outlined in the law.

The exact effect the law will have on the Leavitt foundation is not clear yet, as many tax lawyers are still deciphering what Congress ultimately passed.

"We will carefully study and timely comply with the changes adopted by Congress," said Dane Leavitt on Friday, when provided with a summary of the change by the Deseret Morning News.

He said the foundation will need to examine if any of the loans it has made need to be restructured, and if so, he said he didn't expect it to be a problem to find a bank to take over the loans.

Luis Maldonado, the Council on Foundations' director of government relations and public policy, said that under the reforms, the Leavitt Foundation would no longer be allowed to make contributions like the SUU deal. Maldonado said it is important to watch where the money "leaks back into the community," which is the whole point of the charitable giving. He said the new law will place better controls on who can give a gift to a person in charge of an organization and the number of organizations with which one supporting organization can be associated.

The measure splits Type III supporting organizations into those that are "functionally integrated"

and those that are not. Maldonado described a functionally integrated Type III supporting organization as one that completes a task the organization it supports would have to do itself instead of just providing grants to the supported charity.

Dane Leavitt said he was unable to comment yet on which of the new classifications the family's foundation would fall under.

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