

The National Association of Charitable Gift Planners (“CGP”) commends Congressional leaders on recent efforts to craft tax reform legislation that strives to make the tax code simpler, fairer, and more conducive to sustained economic growth. As the momentum for this legislation continues to grow, CGP is working to ensure that any changes made to the tax code preserve and enhance charitable giving in America for many years to come.

Accordingly, as outlined below, CGP has taken formal positions on three matters related to tax reform and charitable giving. They are the charitable tax deduction, the IRA Charitable Rollover, and the Johnson Amendment.

Charitable Tax Deduction

Tax incentives for charitable giving, such as the income tax charitable contribution deduction, have been sending an essential message for 100 years about the core value our society places on voluntary giving and the important role of charitable organizations in meeting critical individual and community needs. Though studies indicate that donors give for many reasons, incentives such as tax deductions are among them. While Americans do not make charitable gifts solely for tax reasons, tax incentives make additional and larger gifts possible and more prevalent.

The charitable deduction is unique, and it is good tax policy. It encourages individuals to give away more of their income, investing it in their communities. As Senate Finance Committee Chairman Orrin Hatch (R-UT) said, “Every charitable gift has one thing in common: The donor is always left worse off financially, but society is made better.” The true beneficiaries of the charitable donation, then, are not only the generous Americans who make charitable gifts, but all citizens whose local communities both within our nation and around the world are made better through the work of the charitable sector.

The charitable deduction is not a matter of providing a reward or something of value to the taxpayer; rather it is a matter of encouraging those with financial means to use their wealth to support charitable causes of their choosing and to help those in need. According to Giving USA, Americans contributed almost \$265 billion to charities in 2015, and this voluntary redistribution of wealth is a cornerstone of America’s philanthropic heritage, which is respected across the world.

CGP opposes any proposal that would limit the full value and scope of the current-law charitable deduction.

While CGP appreciates that an incentive for charitable giving has been a part of recent tax reform proposals, many of these same proposals would significantly reduce tax incentives to give. The House Republican Blueprint and President Trump’s tax plan, for example, propose to vastly increase the number of taxpayers who take the Standard Deduction. Such a change to the tax code would decrease taxpayers who itemize, from about 30 percent to 5 percent, which means the charitable deduction would not be available to 95 percent of all taxpayers. President Trump’s plan also places a hard cap

on itemized deductions (\$100,000 for individual and \$200,000 for couples filing jointly), severely capping the value of the current-law deduction. The nonpartisan Tax Policy Center has estimated the Trump plan would reduce giving by 4.5 to 9 percent. Likewise, American Enterprise Institute estimates the Trump plan could eliminate more than \$17 billion in annual giving.

Other proposals, like former Ways & Means Chairman Dave Camp's Tax Reform Act of 2014, have proposed a floor for the charitable deduction. Floors send a signal that smaller gifts are less valued – a particularly troubling message to middle- and lower-income donors. The Congressional Budget Office indicated that a floor of two percent of Adjusted Gross Income, exactly what was proposed in the Camp draft, would reduce annual charitable giving by \$3 billion. Studies from highly-regarded think tanks and universities, including the Tax Policy Center, Tax Foundation, American Enterprise Institute and Indiana University, find – report after report – that charitable giving will significantly decline if the charitable tax deduction is limited or otherwise constrained.

CGP believes Congress should use tax reform in 2017 to take good tax policy and make it better. Instead of enacting changes that would curtail the charitable deduction, lawmakers should strive to enhance and expand it. Therefore, **CGP encourages Congress to enact a universal charitable deduction that is available to all taxpayers.** Regardless of income level, all American taxpayers should receive an incentive to give to charity, and the tax incentive should not be tied to itemizing deductions. Such an above-the-line deduction would increase giving, in terms of both dollars and donors; increase fairness by treating all taxpayers' contributions equally; and provide modest tax relief to middle- and lower-income taxpayers.

A 2017 study conducted by Indiana University calculated that a universal charitable deduction could increase charitable giving by \$4.8 billion per year. It would also act to simplify the tax code and promote fairness. This idea is also widely popular outside of public policy circles. For example, a 2016 national survey on the issue found that 88 percent of respondents believe Congress should make it easier to deduct charitable contributions from taxes, and 79 percent of respondents believe that all taxpayers should be able to take advantage of the charitable deduction

Simply put, a universal charitable deduction for all American taxpayers will retain and unlock additional charitable giving, helping to keep our charities and the communities they serve strong.

IRA Charitable Rollover

CGP has long advocated in favor of public policy that encourages charitable giving, a position which is based upon the critical role of philanthropy in this country, as outlined above. In this spirit, **CGP supports federal legislation that permits Americans to transfer money from their Individual Retirement Accounts (“IRAs”) directly to nonprofit organizations for charitable purposes, without suffering tax penalties.** This legislation is commonly referred to as the IRA Charitable Rollover.

A limited version of the IRA Charitable Rollover was first enacted into law as part of the Pension Protection Act of 2006 (Public Law 109–280) in August 2006. This provision permitted IRA owners beginning at age 70½ to make outright charitable gifts of up to \$100,000 per year from their IRAs directly to eligible charities for calendar years 2006 and 2007. The donor did not have to report the distribution as taxable income and was not entitled to claim a charitable income tax deduction for the gift. Over the intervening years, the IRA Rollover lapsed several times, only to be retroactively extended, often with just weeks or days left in the calendar year for donors to act. Thankfully, the IRA Rollover provision was made a permanent part of the tax code in December 2015.

CGP is pleased to report the IRA Rollover has generated an enormous amount of new charitable giving and has the potential to facilitate even more giving. For example, CGP has received anecdotal reports of thousands of separate charitable gifts made pursuant to the provision, totaling hundreds of millions of dollars. In addition, reports to CGP show the most common IRA Rollover gift has been \$5,000, with the majority of gifts ranging between \$1,000 and \$10,000, which means the IRA Rollover is allowing older Americans, particularly those individuals who do not itemize their tax deductions and would not otherwise receive any tax benefit for their charitable contributions, to donate relatively modest amounts of money to thousands of nonprofits that work every day to enrich lives and strengthen communities across the country. The IRA Rollover works, and **CGP urges Congress to retain this important provision in any rewrite of the tax code that takes place this year.**

Moreover, **CGP supports legislation which would expand the IRA Charitable Rollover to authorize tax-free IRA rollovers for life-income gifts to benefit both charities and provide taxable retirement income for donors.** This legislation, known as the Legacy IRA Act (H.R. 1337), expands current law by permitting life-income rollovers at age 65 while maintaining direct rollovers beginning at age 70½. Qualified life-income plans include charitable remainder trusts and charitable gift annuities. There is a \$400,000 cap for life-income gifts beginning at age 65, and for individuals 70½ or older, the combined ceiling for direct and life-income transfers is \$400,000 with a \$100,000 cap for direct transfers.

Under the authorized life-income plans, the IRA owners will be taxed on income received at ordinary income tax rates. Because the payouts on these plans are five percent or more, there generally will be more income paid from the charitable life-income plans than under the normal minimum required distribution rules for IRAs. Further, the only authorized income beneficiaries of the life-income plans are the individual IRA owner, his or her spouse, or both. At death, the assets in the plan go directly to the named qualified charity or charities and not to family members.

This change is critical because IRAs and other qualified plans contain trillions of dollars in assets. Many of the owners of these accounts want to make charitable gifts but also need retirement income. Life-income gifts under the Legacy IRA Act are a way for these donors to combine charitable gifts with retirement income. It will allow Americans

of average means (who meet the minimum age requirement), and not just wealthy taxpayers, to benefit charities and the people and communities those charities serve.

According to the Joint Committee on Taxation, the bill's score is \$106 million over 10 years. This is a tiny fraction of the money – potentially billions of dollars in new charitable giving – that charities could receive if the Legacy IRA Act is enacted into law.

Johnson Amendment

CGP opposes efforts that would politicize the charitable nonprofit and philanthropic community by repealing or weakening current federal tax law protections, known as the Johnson Amendment, that prohibit 501(c)(3) organizations from endorsing, opposing, or contributing to political candidates.

Nonpartisanship is a cornerstone principle that has strengthened the public's trust of the charitable community. Under current law, in exchange for enjoying tax-exempt status and the ability to receive tax-deductible contributions, 501(c)(3) organizations, which includes religious organizations, agree to not engage in "any political campaign on behalf of (or in opposition to) any candidate for public office." CGP believes this provision of the law protects the integrity and independence of charitable nonprofits and foundations. It also shields the entire 501(c)(3) community against the rancor of partisan politics so the charitable community can be a safe haven where individuals of all beliefs come together to solve community problems free from partisan divisions. It screens out doubts and suspicions regarding ulterior partisan motives of charitable organizations, as undoubtedly would occur if even just a few charitable organizations engaged in partisan politics. Nonpartisan credibility is also critical to the ability of 501(c)(3) organizations to partner with elected officials of all parties at the local, state, and federal levels to address community needs.

Under current law, charitable nonprofits, including religious organizations, are free to speak on important matters of the day and advocate on public policy issues and legislation. Even private foundations, while barred from most lobbying activities, are free to engage in public debates, promote public education efforts, and fund a wide range of issue-focused activities. The relevant language in Section 501(c)(3) merely prohibits *partisan* campaign intervention, defined to include endorsing or opposing candidates for public office, publishing or distributing statements for or against candidates, or using tax-deductible and other resources to support partisan campaign activities.

Weakening the law by allowing leaders of individual 501(c)(3) organizations to endorse candidates for public office and engage in some partisan electioneering activities would damage the integrity and effectiveness of all charitable organizations and spawn litigation as inventive partisans seek to expand gray areas in the proposed legislation. Repealing the Johnson Amendment would damage the treasury as people take tax deductions for political contributions funneled through public charities, undercut fair elections by providing a loophole to avoid campaign contribution disclosure laws, and

empower politicians to exert pressure for access to foundation assets and charitable funds for their own partisan campaigns rather than for the public good.

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