

March 25, 2014

The Honorable John Cornyn
517 Hart Senate Office Building
Washington, DC 20510

RE: Improving the IRA Charitable Rollover

Dear Senator Cornyn:

As leaders of community foundations across your state, we request your help in fixing a policy issue within the IRA Charitable Rollover that affects our ability to create and grow community philanthropy in Texas. The matter is of some urgency, given that the tax extenders bill (which includes the IRA Rollover) could be marked up by the Senate Finance Committee in early April.

Our ask is that you work with other Committee members to end the prohibition for donor-advised funds in the IRA Charitable Rollover. This should be an easy fix in the context of the extenders package, because it would simply involve removing one line from current law. It would not require a wholesale redrafting of the provision.

As you may know, public charity community foundations and their donors frequently use a charitable tool called a donor-advised fund (DAF), which also is used by donors to other types of charitable organizations. During consideration of the Pension Protection Act (PPA) of 2006, Senator Grassley had concerns about isolated abuses by some DAFs, and he authored a number of reforms that were approved as part of the PPA with bipartisan support. For example, since the PPA was enacted, a donor cannot use a DAF to recommend grants to individuals, private foundations, or for non-charitable purposes. A donor cannot recommend a DAF grant that provides more than an incidental benefit to the donor-advisor. And, DAF administrators must generally liquidate any closely-held business interests within five years.

Now, eight years later, these reforms have been a success. They have allowed the donor-advised fund to flourish as an efficient, cost-effective tool for smart charitable giving in Texas and around the country.

Through the community foundations in Texas, it is likely that more than \$200 million in charitable grants will be awarded this year. A huge number of those grants will come from DAFs, which democratize philanthropy for thousands of donors as an easy way to invest in their communities. DAFs are a cheaper, more flexible alternative to creating a private foundation and they promote generous charitable giving. They also help people be less reactive and more thoughtful about their charitable giving, increasing the bottom-line impact of those charitable dollars in the community. They fund everything from early childhood programs that prepare more kids for being ready to learn, to museums

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that support cultural enrichment and attract economic development, to filling backpacks with food for hungry kids to take home from school on Friday afternoons when there likely will be no other food for them over the weekend. DAFs are a major part of the philanthropy in our state.

The Pension Protection Act required the Treasury Department to conduct a study on DAFs. The study found that the PPA provides a structure to address potentially abusive practices without creating new opportunities for abuse. The study also confirmed that average DAF annual payouts are nearly twice what is required of private foundations, and that payout is even higher from DAFs at most community foundations.

This is the key point about which we are writing to you today: Treasury has said that since the avenues for abuse have been closed, DAFs should now be subject to the same rules as other public charity vehicles. Yet, under the IRA Rollover, they are not.

The IRA Charitable Rollover was also started in the PPA. But, since the reforms described above had not yet taken effect, the original IRA Rollover language said a taxpayer could not make a gift from their IRA to a DAF. Under the law applicable through 2013, a donor could use the IRA Rollover to give to a university endowment, or to the endowment of a local hospital or art museum – but they couldn't build *community* endowment by contributing to a donor-advised fund at their local community foundation, despite the fact that DAFs usually have higher average payouts than other forms of endowment.

In short, this prohibition may have made sense in 2006, but it is no longer needed today. The current rule hurts the ability of the more than 20 community foundations in Texas to grow community philanthropy. Every community foundation can give examples of how they lose donations each year because a potential donor, upon learning that they cannot use the IRA Rollover to open a DAF, struggles with how to use that gift for their philanthropy – or doesn't give at all.

Fixing this single provision when the IRA Charitable Rollover is extended in the Finance Committee would have a positive impact in communities all across Texas. It is one of the top policy priorities for the roughly 750 community foundations in the country. Removing the prohibition will help promote community philanthropy at a time the charitable sector is being asked to do more to help those in need.

Donor-advised funds are powerful tools – both for average people who want to make lasting commitments to their communities, as well as those with significant financial resources who are looking for an alternative to a private foundation. Rarely does an opportunity come along to do so much good for communities across Texas by enacting such a simple, straightforward policy change – and one with hardly any revenue cost.

Thank you very much for your attention to this matter, and we all stand ready to answer any questions that you or your staff may have.

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We hope that you will work with other Finance Committee members to fix this provision during the extenders markup.

Sincerely,



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Austin Community Foundation



Stephen Maislin, President & CEO
Greater Houston Community Foundation



Karen W. Selim, President & CEO
Coastal Bend Community Foundation



Guy McCrary, President & CEO
Permian Basin Area Foundation



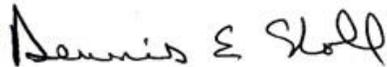
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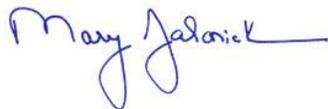
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