COUNCIL on FOUNDATIONS

ISSUE PAPER

Preserve the Full Value of the Charitable Deduction

Position

The Council strongly supports maintaining the current law, which permits full deductibility of itemized charitable deductions.

For more information, contact the
Council's Public Policy and Legal Affairs Department
at
govt@cof.org

Visit our website to access our issue papers,
www.cof.org/public-policy.

Current Law

Individuals can reduce their taxable income by the amount of the charitable contributions they make if they itemize their deductions. As a result, taxpayers generally are not subject to federal income taxes on money they give away to charities. Some limits may apply depending on the type of gift (cash, stocks, and real property, for example) and the type of organization receiving the gift.

Tax Reform Act of 2014 (H.R. 1)

On February 26, 2014, former House Ways and Means Chairman Dave Camp released a comprehensive tax reform discussion draft. In December of 2014, he formally introduced the bill as H.R. 1. Under the Chairman's proposal, an individual's charitable contributions would be deductible only to the extent that they exceed 2 percent of an individual's adjusted gross income. The Council is opposed to any change to the charitable deduction that would reduce the value of the charitable deduction for donors. The Chairman's proposal, however, would also allow individual taxpayers to deduct charitable gifts made after the close of a tax year but before April 15th, the calendar year deadline for the filing of tax returns. This will give donors more flexibility in planning their charitable contributions throughout the tax year, and the Council is supportive of this proposal.

Obama Administration Budgets

The Obama Administration released its fiscal year 2014 budget proposal which would have reduced the value of the charitable deduction for certain individuals, effectively subjecting them to pay taxes on money that they give to charity. Specifically in this budget and in each budget since 2010, the administration proposed capping the value of the charitable deduction at 28 percent. Under this cap, individuals subject to the two highest tax rates—would see the tax benefit of their charitable deductions reduced. The fiscal year 2015 budget is expected to be released on March 4, 2014, and will likely repeat the proposed 28 percent cap.

Threat to Charitable Giving

The Council is concerned that proposals to cap deductions would adversely affect charitable giving by reducing donor incentive. This would likely result in a decrease in the amount of money available to support worthy nonprofits across the country. According to a 2011 study by the Center on Philanthropy at Indiana University, "Impact of the Obama Administration's Proposed Tax Policy Changes on Itemized Charitable Giving," giving by households with $200,000 or more in income would have decreased by $820 million in 2009 and by $2.43 billion in 2010 had the administration's proposal been in effect then. These households constitute just 3 percent of taxpayers but provide 36 percent of all charitable contributions. A recent study by the American Enterprise Institute says that limiting the charitable deduction would reduce giving as much as $9.4 billion in the first year alone. Combined with the slow recovery from the recession and government funding cuts, even modest changes to the charitable deduction could negatively affect charities.

Unlike the mortgage interest deduction or incentives that encourage retirement savings, the charitable deduction rewards voluntary gifts that benefit communities and society as a whole—not individuals. Given the current economic climate, now is not the time to undermine charitable giving. Doing so will place additional strains on the nonprofit sector and inhibit its invaluable service to the public good.

Proposals to Limit the Charitable Deduction—Rationale

Limited impact on giving. A study of high-net-worth individuals conducted by Bank of America suggests that charitable giving by households with income greater than $200,000 or net worth greater than $1 million is not highly sensitive to changes in the tax rate. Because that figure represents 65–75 percent of individual gifts, a significant reduction in giving is unlikely.

> ***Response.*** Though charitable giving would continue even with a cap on deductions, every independent study—most notably Indiana University's—has estimated that a cap would result in a loss of billions to the philanthropic sector and the communities it serves.

Tax policy equity. For the same amount given to charity, individuals with lower incomes receive less of a tax benefit than high-income taxpayers. Thus, a middle-class taxpayer with a marginal tax rate of 24 percent who gives $100 to charity receives a tax benefit of $24. A wealthy taxpayer subject to a marginal rate of 35 percent would receive a tax benefit of $35 (or $11 more for the same gift).

> ***Response.*** Each taxpayer receives the same benefit from charitable deductions—itemized deductions are not included in taxable income. The fact that some taxpayers pay taxes at a higher rate is a burden, not a benefit, even if there is a corresponding effect on their tax liabilities if taxable income is reduced. High-income taxpayers are already subject to phased-out reductions in the value of their itemized deductions. However, because those phase-outs do not generally reduce the value of marginal dollars donated to charities, they have less effect on donations than a proposed cap.

Status of Legislation

Congress has not voted upon any proposed limits on the charitable deduction. Yet, Congress may seek to limit the charitable deduction and other "tax expenditures" in an effort to look for new revenue to address the country's fiscal issues.

Chairman Camp's *Tax Reform Act of 2014* (H.R. 1) has not been voted upon, nor is it expected to be taken up in full by the 114th Congress. It is nonetheless incredibly significant as it will form the starting point for any future tax reform efforts.

How You Can Support Philanthropy (Ask)

Ask Congress to protect the full value of the charitable deduction. Any changes to current law could have significant consequences for nonprofits and those they serve.