

Senate Finance Committee Tax Reform Working Groups Reports

Business Working Group

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Background

The Senate Finance Committee Tax Reform Working Groups released reports on July 8, 2015. The Working Groups were convened in January by Senate Finance Committee Chairman Orrin Hatch (R-UT) and Ranking Member Ron Wyden (D-OR), and were charged with exploring their assigned portions of the tax code with an eye towards reform options.

Policies that impact charitable organizations are included in the [Business](#) and [Individual](#) Working Group reports, which you can read in their entirety online. The foreword in each report explains the Working Group's process for arriving at the contents. It is important to note that the reports contain policy *options*, rather than specific proposals or recommendations.

The Council submitted letters to both the [Business](#) and [Individual](#) Working Groups this spring urging them to consider proposals we've long promoted such as simplifying the private foundation excise tax and making permanent the IRA charitable rollover, both of which were included in the reports and in the America Gives More Act (H.R. 644) earlier this year. The Council also met with Individual Working Group staffers to discuss specific charitable giving incentives such as the IRA charitable rollover.

Business Working Group Options

Private Foundation Excise Tax Simplification (pgs. A-70-71). The report lists the option of simplifying the excise tax to a flat rate of one percent, consistent with the provision in the America Gives More Act (H.R. 644). It maintains the exemption from the excise tax for exempt private operating foundations.

Mandatory Form 990 E-Filing (pgs. A-65-66). The report puts forth the option of making electronic filing mandatory for all tax-exempt organizations that are required to file returns. It would also require the IRS to make the information publicly available in a machine-readable format, in a timely manner. Treasury would determine circumstances for transitional relief for small organizations or those organizations for which e-filing would otherwise be an undue hardship.

Expanded Declaratory Relief for 501(c) Entities (pgs. A-67-69). The report puts forth the option of extending the availability of declaratory relief—when the IRS denies an application for tax-exemption or fails to act—to all 501(c) and 501(d) organizations.

Make Permanent the Enhanced Deduction for Food Inventory Donations (pg. 57). The report puts forth the option of making permanent in its enhanced version (increasing the maximum deductible percentage of total business income to 15 percent). This provision included in the America Gives More Act (H.R. 644).

Disaster Relief (pg. 57). The report explains that emergency provisions enacted to encourage charitable contributions or provide relief for individual and businesses affected by disaster are often not timely. Without offering specifics, it suggests that permanent tax incentives for disaster relief could help facilitate efficient relief efforts.

Individual Working Group Options

Make Permanent and Expand the IRA Charitable Rollover (pgs. 10-12). The report reiterates previous extension and reform options that have been forth in the America Gives More Act (H.R. 644) and the Public Good IRA Rollover Act (S. 1159), specifically: making the IRA charitable rollover permanent; extending it to include distributions to DAFs—just community foundations or all DAF providers—supporting organizations, private foundations, and charitable split-interest entities; and removing the \$100,000 cap.

The report includes interesting language expressing concern about the delay between when a donor makes a contribution to a DAF, supporting organization, or private foundation and receives a tax benefit, and when the funds are granted to a public charity. However, it also acknowledges that these organizations are recognized as charitable under Section 501(c)(3) of the code and that “there is no reason to treat these organizations differently” for purposes of the IRA charitable rollover.

Make Permanent the Enhanced Deduction for Conservation Easement Donations (pgs. 18-20). The report considers making this giving incentive permanent in its enhanced version (increased charitable percentage limits and extended carry forward period) as an option. This provision is included in the America Gives More Act (H.R. 644).

Contributions of Property (pgs. 19-20). The report language states that “the determination of fair market value creates a significant opportunity for error or abuse by taxpayers making charitable contributions of property.” The report explains that Congress has implemented several provisions in recent years to respond to these concerns, such as imposing new standards for qualified appraisers and appraisals and new requirements for deducting contributions of clothing or household items. However, it does not list any additional reform options.