Legislative Affairs Report

NEAHP Board of Directors Meeting of June 9, 2017

Submitted by Richard P. Solomon, CFRE

1. GOP Tax Plan Would Reduce Giving by $13 Billion, Study Finds (from Chronicle of Philanthropy, 5.18.17, by Alex Daniels)

Led by Ways and Means chairman Kevin Brady, House Republicans released a tax proposal last June that would reduce charitable giving by as much as 4.6 percent, according to an Independent Sector and Indiana University analysis. Proposed changes to the tax code circulating on Capitol Hill would suppress charitable giving by 4.6 percent, or $13.1 billion, according to an analysis released Thursday.

Conducted by the Indiana University Lilly Family School of Philanthropy and commissioned by Independent Sector, a nonprofit lobbying group fighting to keep the charitable deduction intact, the study comes as a key House committee prepares to delve into a comprehensive tax overhaul. The groundwork is being laid now, said Dan Cardinali, president of Independent Sector, adding that he expects legislation to be near completion in the fall.

While the major tax proposals under consideration in Congress keep the charitable deduction, Mr. Cardinali warned that other changes, such as reductions in marginal rates or changes to the standard deduction, could negatively affect charitable giving. "When you start moving these pieces around, there are serious unintended consequences that need to be accounted for," he said. "It's a Rubik's Cube."

In preparation for a rewrite of the country's tax code, the White House last month released a one-page policy outline. House Republicans, led by Ways and Means chairman Kevin Brady, produced a tax blueprint last June. Each proposal would reduce charitable giving by households — which are expected to contribute $284 billion this year — by about 4.6 percent, the study found. The analysis published Tuesday also found that allowing all taxpayers to claim a charitable deduction even if they don't itemize their tax returns — a policy championed by Independent Sector and others representing nonprofits — would result in a $4.8 billion increase in charitable giving.

Though the House GOP plan might reduce charitable gifts, nothing is written in stone. Speaking at a Bloomberg BNA lunch shortly after the election, Mr. Brady seemed open to continuing to use the tax code to provide an incentive for charitable gifts. The tax panel, he said, was "looking to see if there's a way to unlock more charitable giving."

Fewer Could Itemize

To estimate how those two proposals would affect charitable giving, researchers used as a model tax legislation proposed in 2014 by then House Ways and Means Committee Chairman Dave Camp (R-Mich.). The Camp proposal differs from the current House plan and the direction offered by the White House. But aspects of it are similar enough to estimate how the policies now under consideration would change charitable giving, according to Independent Sector. For instance, all three proposals would nearly double the standard deduction, and each plan would reduce the number of tax brackets and lower income-tax rates.

Many nonprofit groups say the write-off is a key incentive for making gifts to nonprofits. But currently only about 30 percent of taxpayers, concentrated in higher-income brackets, itemize their tax returns. If the standard deduction were doubled, Independent Sector and other nonprofit advocacy groups maintain, the incentive to give would be significantly reduced. The House plan envisions that about 5 percent of taxpayers would itemize with the higher standard deduction.

Investing in the Community

The study provides ammunition for a key Independent Sector priority: allowing all taxpayers to claim deductions for charitable gifts even if they don't itemize them separately. Doing so would place charitable gifts "above the line" on tax returns, allowing taxpayers to deduct charitable gifts from gross income in the same place as other nonitemized deductions, such as tuition expenses and retirement-account contributions.

As the tax debate heats up, policy makers will hunt for all the revenue they can. Nonprofit leaders are hoping to protect policies designed to spur charitable gifts.

"The charitable deduction is unique because it's not actually a direct benefit to the tax payer," said Allison Grayson, director of policy development and analysis at Independent Sector. "This is an investment into the community. We want to make sure we aren't seen as the same as every other tax incentive."

To calculate their findings, the Lilly School researchers used the school's Philanthropy Panel Study, which tracks the charitable habits of the same families over time, and the Panel Study of Income Dynamics, a long-running study of income data from 9,000 households.

2. CGC: Congress Can Enact a Tax Provision that Would Expand Charitable Giving (from Association of Fundraising Professionals, 5.25.17

WASHINGTON, D.C.— Tomorrow, as the Senate Finance Committee conducts a hearing on Tax Reform with Treasury Secretary Steven Mnuchin, the Charitable Giving Coalition (CGC) strongly urges committee members and the Secretary to consider a universal charitable deduction that would be available to all taxpayers.

A recent study commissioned by Independent Sector and conducted by Indiana University Lilly Family School of Philanthropy* calculated that a universal charitable deduction could increase charitable giving by $4.8 billion per year. A universal charitable deduction would allow any taxpayer to claim a charitable deduction, whether they itemize or take the standard deduction. It simplifies the tax code and promotes fairness.

"A universal charitable deduction simplifies the tax code and promotes fairness," stated Brian W. Walsh, executive director of the Faith & Giving Coalition.

"This commonsense tax policy change would ensure that we preserve America's longstanding tradition of philanthropic giving in the context of tax reform during a year when we are celebrating the 100th anniversary of the charitable deduction," noted Steve Taylor, senior vice president and counsel for public policy of the United Way.

Enacting the universal charitable deduction is vital as the study analyzed the current tax reform plans from both Congress and the Administration and determined that these plans would significantly diminish charitable giving. According to the study, the current tax reform proposals would significantly decrease charitable giving by as much as $13.1 billion (4.6 percent). This decrease may be an unintended consequence of proposals to simplify individual income tax provisions with an increased standard deduction and a decreased top marginal rate. Nevertheless, the loss of over $13 billion in charitable giving will undoubtedly cause a crisis for America's communities as the resources for services provided by charities decline.

The CGC supports efforts to make the tax code simpler and more efficient. However, it is concerned that there could be unintended consequences for charities if the number of taxpayers who itemize – and can take a charitable deduction – is reduced and giving declines. In response to that consequence, CGC proposes enacting (or expanding) a charitable deduction for all American taxpayers, whether they continue to itemize or take the standard deduction. Simply preserving the existing charitable deduction for itemizers is not enough. By most calculations, an expanded standard deduction will reduce the number of itemizers from one-third of taxpayers to only 5 percent. That translates to nearly 30 million taxpayers who will no longer have the charitable deduction. Because the deduction is a powerful motivator that often prompts larger charitable contributions, this dramatic decline in itemizers translates to a dramatic decline in giving.

Earlier this year, the Charitable Giving Coalition was motivated to propose a revised charitable deduction in response to Ways & Means Committee Chairman Kevin Brady's (R-TX) call for tax reform ideas:

"We're looking at ideas for how we can unlock more charitable giving. We are looking at ways we can encourage more small givers in charities, continue to encourage current givers, continue to unlock more charitable giving just throughout the economy" (Chairman Kevin Brady, January 25, 2017, Financial Services Roundtable)

The 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.

Our country has a long and proud history of charitable organizations building and supporting communities, and of individuals channeling their concerns, interests and passions to the causes they care about most. Charitable giving allows Americans to create, fund, and operate the institutions that are the fabric of our civil society. It supports nearly every facet of life in our communities: education, research, health services, housing and shelter, job training, arts, culture, environmental protection, historic preservation, civil rights, civic engagement and more.

The Charitable Giving Coalition is a unique, unified voice representing a broad cross-section of nonprofit organizations from across the country. Chaired by the Association of Fundraising Professionals, the coalition is comprised of more than 175 organizations, including individual nonprofit organizations, large national and international charities, faith-based organizations and several associations and umbrella groups that represent the charitable sector. It is dedicated to preserving a charitable giving incentive that ensures that our nation's charities receive the funds necessary to fulfill their essential philanthropic missions.

Tax Policy and Charitable Giving, Results, May 2017, Indiana University Lilly Family School of Philanthropy Study commissioned by Independent Sector.* ***https://www.independentsector.org/wp-content/uploads/2017/05/tax-policy-charitable-giving-finalmay2017-1.pdf*

3. New Tool Outlines Changes to States' Charity Regulations (from Chronicle of Philanthropy, 5.18.17, by Eden Stiffman)

At the state level, charity regulation can be challenging to navigate. While most states require nonprofits to register if they want to engage in fundraising, each state charity office has its own structure, staffing pattern, and set of responsibilities for overseeing issues like registration and fundraising.

An annual survey by the Giving USA Foundation of laws regulating charitable solicitations covers the legal landscape state by state, detailing which regulatory agencies oversee charities, their registration requirements (such as cost and frequency), and the types of disclosures they demand from paid fundraisers.

Failure to properly register can lead to an organization being barred from soliciting in a particular state, as was the case with the Donald J. Trump Foundation in New York. Nonprofits should refer to this document as an introduction to the regulatory landscape before engaging in fundraising activities — but keep in mind that requirements change frequently and it's wise to consult an attorney to ensure full compliance. The report is available for purchase online *[at Giving USA]*.