

TAX POLICY

ENCOURAGING CHARITABLE GIVING AND SUPPORTING PUBLIC ACCESS TO THE ARTS

ACTION NEEDED

We urge Congress to:

- **Restore and expand the full value and scope of charitable giving incentives for all taxpayers through enacting a universal charitable deduction and further policies that will strengthen the nonprofit community.**
- **Take action to repeal the new tax on nonprofit expenses, strengthen the capacity of the arts sector to support communities, and protect nonprofit nonpartisanship.**

TALKING POINTS

- **Nonprofit arts organizations are an essential part of the broader community of approximately 1.4 million nonprofit 501(c)(3) organizations, working alongside hospitals, educational institutions, food assistance programs, and the full array of charitable organizations.** In recognition of their benefit to the public good, contributions made to 501(c)(3) nonprofits have been tax-deductible since 1917.
- **Tax policy changes directly impact nonprofit services and U.S. jobs.** With essential support from charitable donations, the nonprofit sector boosts local economies and employs roughly 10 percent of America's workforce. The nonprofit sector contributes \$1.6 trillion in services every year and supports 11.4 million jobs.
- **Ticket sales and admission fees alone do not come close to subsidizing the artistic presentations, educational offerings, and community-based programming of nonprofit arts organizations.** Approximately 40 percent of financial support for nonprofit performing arts organizations is derived from charitable giving.
- **The nonprofit arts sector relies on charitable gifts from donors across the economic spectrum.** Donations of all sizes add up to an essential investment that enables nonprofit arts organizations to respond to public needs and form community partnerships through education, artistry, economic development, and social service programs.
- **Under comprehensive tax reform legislation enacted in 2017, taxpayers claiming the charitable deduction are expected to fall by more than half, reducing incentives for charitable giving.** The projected drop in the number of taxpayers eligible to claim the charitable deduction will accelerate an already troubling trend of fewer Americans making charitable donations.
- **Congress can support increased charitable giving by enacting a Universal Charitable Deduction, available to all taxpayers, whether or not they itemize their returns.** While the initial charitable impulse to give comes "from the heart," history has shown that tax law impacts what, when, and how much donors give.
- **Giving can further grow by building on the success of the IRA Charitable Rollover provision.** The Legacy IRA Act would expand the IRA Charitable Rollover to allow seniors starting at age 65 to make tax-free IRA rollovers to charities through life-income plans (charitable gift annuities or charitable remainder trusts).
- **Congress should repeal the Unrelated Business Income Tax (UBIT) on employee parking and commuting benefits that was included in the Tax Cuts and Jobs Act.** This unprecedented 21% tax on nonprofit expenditures diverts funds away from the capacity of charitable organizations to serve their communities.
- **Donated works of art are critical to building and maintaining collections at our nation's art institutions.** Deductions for gifts of property worth over \$5,000 require an independent appraisal to ensure proper valuation. Tax reform bills written in both the 113th and the 115th Congresses did not propose any changes to the existing deduction, or the model enforcement system administered by the IRS.

- **Nonprofit 501(c)(3) organizations should remain protected from partisanship.** Repealing the Johnson Amendment would pressure charitable organizations to take sides in partisan political campaigns and would erode the public trust in organizations that exist to serve community needs.
- **The nonprofit sector is committed to high standards of governance and accountability and should be protected from unnecessary requirements that divert resources from essential nonprofit services.** As further tax policies are crafted, Congress must ensure that provisions related to nonprofit administration and reporting requirements do not inhibit service to communities.

BACKGROUND

Reaching the Full Potential of the Charitable Deduction: While the comprehensive tax reform law enacted in 2017 preserves the charitable deduction for those who itemize their tax returns, the number of itemizers is expected to fall dramatically as the standard deduction is nearly doubled under tax reform. Charitable giving has been projected to decline by up to \$13 billion per year if only 5% of taxpayers itemize their returns, prompting advocates to seek a "universal charitable deduction" available to non-itemizers. The House and Senate tax reform bills did not include such a provision to safeguard against potential drops in giving, despite interest in both chambers. On January 17, 2019, Reps. Henry Cuellar (D-TX) and Chris Smith (R-NJ) introduced H.R. 651, the Charitable Giving Tax Deduction Act, which would allow donors to deduct charitable contributions, whether or not they itemize their tax returns. Nonprofit arts organizations, along with the broader nonprofit and philanthropic communities, join together in urging Congress to reinstate and expand tax incentives for charitable giving by creating a universal charitable deduction, available to those who do not itemize their tax returns.

Unrelated Business Income Tax (UBIT): The comprehensive tax reform provisions signed into law in December 2017 included a new requirement for nonprofits to pay UBIT equal to 21% of the value of commuting and parking benefits provided to employees. On January 21, Independent Sector released a report, produced by the Urban Institute and based on a November 2018 survey, explaining that organizations are reporting an average new transportation tax payment of \$10,456 with additional administrative costs of \$1,346 per organization. There has been bipartisan support for repealing this provision, and a legislative vehicle is urgently needed.

Maintaining Nonprofit Nonpartisanship: Some in Congress are proposing to allow nonprofits supported by tax-deductible contributions to endorse candidates for office, removing the protection in law (called the Johnson Amendment) that prevents nonprofits from being pressured into partisan activity. While repeal was not included in the final tax reform bill, the threat still remains as similar repeal efforts surface in the context of appropriations bills. The broad charitable, religious, and philanthropic communities have strongly opposed any weakening or repeal of the Johnson Amendment.

Protecting the Public Value of the Arts: Some have suggested that gifts to education, research, cause-related organizations, (e.g., the environment, animal welfare, etc.) and the arts should receive different treatment than gifts to human service organizations. Setting a hierarchy of charitable causes is detrimental and discriminatory to the arts and is not supported by the broader nonprofit sector. "The current tax deduction for charitable giving should either be preserved or modified only in ways that will: strengthen incentives to give; respect the freedom of individuals to determine the causes and organizations they participate in and support and treat those choices equitably; and encourage all individuals to give more to communities and causes through charitable organizations." (Independent Sector, 2012.) The nonprofit arts have always been eligible for the charitable deduction in keeping with this nation's more than 100-year old tradition of incentivizing taxpayers to give to charitable causes they believe will benefit the public good.