INDEPENDENT SECTOR
A vital voice for us all

August 16, 2018

The Honorable Steven Mnuchin
Secretary of the Treasury
U.S. Department of the Treasury
1500 Pennsylvania Avenue NW
Washington, DC 20500

RE: Indexing of Capital Gains for Inflation

Dear Secretary Mnuchin:

Independent Sector is writing to express its concern about reports that the Department of the Treasury is contemplating regulatory action to index capital gains for inflation. As you consider this decision, we urge you to factor in the impact that such a change could have on charitable giving nationwide, especially given the negative projected impact from the December 2017 tax law.

Independent Sector is a national coalition of nonprofits, foundations, and corporations whose members represent tens of thousands of organizations and individuals locally, nationally and globally who are committed to advancing the common good in America and around the world. Every day, charitable nonprofit organizations, among many other contributions to society, provide educational and economic opportunities for families in need; work to alleviate poverty and suffering at home and abroad; assist victims of disaster; enhance the cultural and spiritual development of individuals and communities; facilitate scientific advances; and foster worldwide appreciation for the democratic values of justice and individual liberty that are part of the American character. These organizations rely on the generosity of their community to meet these missions—a generosity that has been encouraged for over 100 years by tax incentives for charitable donations.

Unfortunately, many of the changes made to the tax code in 2017 will have a negative impact on charitable giving. A recent study by the American Enterprise Institute projects that 27 million taxpayers will lose the ability to deduct their giving in 2018, leading to a $17.2 billion reduction in annual giving. Current data supports this concern, with the Fundraising Effectiveness Project reporting a 2 percent decline in giving during the first quarter of 2018. This negative impact could also increase as more Americans discover that they will no longer be itemizing their deductions. Recent polling commissioned by our organization found that an alarming 35 percent of those who currently itemize would reduce their giving without the charitable deduction.

In addition to reducing charitable giving, we are deeply concerned that this legislation will exacerbate a decades-long decline in the number of Americans making those donations. Over the past two decades, the share of Americans who report giving to charity has dropped by 11 percent. This concentration could profoundly damage the health of our civil society, as well as encourage nonprofit organizations to focus their fundraising efforts more heavily on the wealthy.

Capital gains tax can often serve as a motivator for those Americans in the higher income distributions to make or increase donations to charity. These taxpayers also overlap significantly with the roughly 10 percent households that are still incentivized through the charitable deduction to invest in their communities. Many charities also rely on gifts of appreciated property either to raise funding for their mission or in direct service of their mission itself. Rather than paying taxes on capital gains, taxpayers are incentivized to give cash or assets to charity. These gifts to schools, hospitals, human services, and the arts contribute to meeting critical needs in every state and district.

According to multiple press reports and statements by the Secretary, you are considering allowing taxpayers to consider inflation when determining the initial “cost” of an asset for the purposes of calculating capital gains tax. According to the Penn Wharton Budget Model, this would eliminate over $100 billion in tax liability over the next decade. Americans surely will continue to give to charitable organizations, but experts agree that tax policy plays a critical role in the timing and size of charitable gifts. Given the massive scale of this potential adjustment, even a comparatively minor adjustment in giving behavior could significantly damage one of the last reliable revenue streams supporting charities and communities across the country.

With our sector already confronting significant headwinds from the 2017 tax law, we urge you to consider the potential negative impact that this change could have on charitable organizations nationwide and the millions of Americans who they serve. We appreciate the opportunity to share this perspective, and we are happy to work with the Treasury as you continue to develop policies that impact the nonprofit sector. For additional information, please contact Ben Kershaw at benk@independentsector.org.

Thank you for your consideration.

Sincerely,

Dan Cardinali
President and CEO
Independent Sector