



March 15, 2021

The Honorable Janet Yellen
Secretary
United States Department of the Treasury
1500 Pennsylvania Avenue, NW
Washington, D.C. 20220

Dear Secretary Yellen,

Independent Sector is writing to offer recommendations to ensure tax policies maintain or increase charitable giving to the many organizations serving on the frontlines of delivering support and relief to individuals to meet their health and economic needs due to COVID-19. We are 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 and helping all people thrive.

We heartily applaud the Biden Administration's commitment to combating systemic inequality and working toward a more equal society, and we hope you will consider us as partners in those efforts. While laws that exacerbate inequality can be found at all levels of government and all areas of federal policy, America's tax code is clearly ripe for action and tax policy can be used to reduce inequality.

Unfortunately, there is one proposal couched in the language of fairness and equality that could have devastating unintended consequences for millions of Americans: the proposed 28% cap on the value of itemized deductions. Unless designed carefully to exclude the charitable deduction, this proposal could deprive millions of Americans of vital services at a critical juncture in our country's history. Unless the charitable deduction is made exempt from this limitation, charitable nonprofits will be negatively impacted and forced to rally intense opposition at a time when our nation needs them to focus on their mission. We respectfully request a meeting to discuss these issues and concerns more deeply.

Charitable Nonprofits Are Essential and Gravely Threatened

Every day, charitable nonprofit organizations provide educational and economic opportunities for families in need; work to alleviate poverty and suffering

Jeffrey L. Bradach, *Chair*
The Bridgespan Group

Fred Blackwell, *Vice Chair*
The San Francisco Foundation

Sonya Camplon, *Secretary*
Campion Advocacy Fund

Jennifer Reedy, *Treasurer*
Bush Foundation

Sarah Kastellec, *At-Large Member*
National Indian Child Welfare Association

Daniel J. Cardinall, *President and CEO*
Independent Sector

Nicole Anderson
AT&T Foundation

Phoebe Boyer
Children's Aid

Antony Chiang

Jim Clark
Boys & Girls Club of America

Marco A. Davis
Congressional Hispanic Caucus Institute

Larry Kramer
The William and Flora Hewlett Foundation

Janine Lee
Southeastern Council of Foundations

Terry Mazany
Community Foundation for Greater Atlanta

Michael McAfee
PolicyLink

Suzanne McCormick
United Way Worldwide

Diane Melley
The Philadelphia Foundation

Stacey D. Stewart
March of Dimes

Henry Timms
Lincoln Center

David Williams
Deloitte LLP

The Honorable
John W. Gardner (1912-2002)
Founding Chair

Brian O'Connell (1930-2011)
Founding President and
President Emeritus

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. For the past year, they have served on the front lines of this pandemic in meeting their communities' most urgent needs. While these organizations by definition exist to fulfill their mission, they also constitute a key component of the nation's economy. Prior to the COVID-19 crisis, nearly one in 10 workers in the United States was employed by a nonprofit organization, and with 12.5 million paid workers, we employed more people than the manufacturing, finance and construction sectors. Further, these organizations pay nearly \$670 billion annually in wages and benefits, salaries that support families in communities across America. Despite historic surges in demand for services, the sector faced extensive economic challenges in 2020 and lost over 1 million jobs. Although some of these jobs may return, the recovery has been deeply uneven and trendlines suggest it will be 2 more years before sector employment recovers fully.ⁱ According to a recently released study by the Center for Disaster Philanthropy and Candid, one in three nonprofits may close due to the financial strains of the pandemic.ⁱⁱ

Capping the Value of the Charitable Deduction Will Decimate Giving and is Not Equitable

Limiting the charitable deduction at 28% for high-income taxpayers – which in 2012 was estimated to reduce annual charitable giving by as much as \$7 billionⁱⁱⁱ – will not achieve more equitable outcomes in our communities. In fact, many of the most vulnerable in our society will be left without the programs and services that are holding our communities together. For example, reducing charitable giving by \$7 billion would exceed the annual contributions received by Feeding America, Goodwill Industries, Habitat for Humanity, Catholic Charities, American Heart Association, March of Dimes, and Feed the Children combined. In the 9 years since that analysis, a declining number of itemizers has forced charitable nonprofits to focus even more on fundraising from a smaller pool of households that would be even more likely to be disincentivized by this limit.

While it is understandable to analyze many tax deductions in the context of their impact on individual tax liability, such an approach for the charitable giving reflects a fundamental misunderstanding of the deduction's impact on the charitable *beneficiary* and its role in American life. Simply put, the charitable deduction is unique because a taxpayer by definition receives no personal tangible benefit. Rather than subsidizing individuals as they amass greater wealth or property as other deductions may do, the charitable deduction encourages people to reduce their own income or give their property for the benefit of others in their communities and across the country.

Limits on the Charitable Deduction Face Opposition and There is Precedent for Exempting It

When a 28% cap on itemized deductions was first offered in 2009 by the Obama Administration as part of its Fiscal Year 2010 budget proposal, much of the charitable sector was caught by surprise, but quickly mobilized in opposition because of the damage such a proposal would do to the communities they serve. This opposition came from organizations spanning the full breadth of the sector, including those representing health, education, religion, disaster response, environmental, arts, and youth development organizations, foundations, and more. While the proposal appeared in subsequent budgets and deficit reduction proposals, it never appeared in introduced legislation. In 2014, 33 senators—17 Republicans and 16 Democrats—wrote to the Chairman and Ranking Member of the Senate Finance Committee, requesting that they preserve “the full scope and value of the charitable deduction” in any comprehensive tax reform legislation.

At a time of immense need, it should come as no surprise that Americans strongly favor *expanding* the charitable deduction, not limiting it. A recent Independent Sector poll found that fully 88% of voters want Congress to raise the cap on the charitable deduction, with a majority strongly supporting it.^{iv}

Subsequent policy proposals have recognized the importance and the uniqueness of the charitable deduction, most notably the Fair Share Tax or “Buffet Rule” as considered by the Senate in 2012^v. The proposal levied an additional tax on taxpayers with adjusted gross incomes of more than \$2 million to ensure that they pay at least 30 percent in federal taxes. However, it recognized this uniqueness by providing a credit against that tax for charitable contributions – the only itemized deduction to receive such a designation.

Conclusion

We once again applaud your focus on reducing inequality and are eager to work with you on these efforts. Unfortunately, subjecting the charitable deduction to a 28% cap would be counterproductive to these efforts because it would do immense damage to civil society and the millions of Americans who receive charitable services. It would inflict this damage at a particularly perilous time, both for those in need and for the nation’s third largest employment sector. For these reasons, the proposal would face strenuous opposition from charities, policymakers, and the American public. We urge you in the strongest possible terms to exempt the charitable deduction from this limitation and request an opportunity to discuss these concerns in greater detail. For questions or follow-up, please do not hesitate to be in touch with me or with Ben Kershaw, director of public policy and government relations at benk@independentsector.org. Thank you for your consideration and your service.

Sincerely,



Daniel J. Cardinali
President and CEO
Independent Sector

ⁱ <http://ccss.jhu.edu/january-2021-jobs/>

ⁱⁱ <https://www.issuelab.org/resources/38039/38039.pdf>

ⁱⁱⁱ <https://www.urban.org/sites/default/files/2015/02/10/cordes.pdf>

^{iv} <https://independentsector.org/news-post/u-s-public-wants-congress-to-give-nonprofits-relief-to-better-serve-communities/>

^v 112th Congress, S.2230 - Paying a Fair Share Act of 2012