THE VIEW FROM WASHINGTON

PUBLIC POLICY
& COMMUNICATIONS UPDATE

CF United
March 21, 2018

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The President signed the Tax Cuts and Jobs Act on December 22, 2017. The bill includes numerous provisions that will affect the work of the nonprofit and philanthropic sector.

There could be fallout for the sector in how it handled various aspects of the bill – but first let’s discuss the potential impact on donors and donees.

The overall picture is a mixed bag – maybe some exaggeration on charitable sector’s part, but we have to wait and see. Not so bad for community foundations.
Increased Standard Deduction & Income Limitations

- This is the big one you’ve been reading about: The new law increases the standard deduction for individuals (to $12,000), couples (to $24,000), and heads of households (to $18,000).

- Congress also raised the limit on cash donations for those who itemize deductions to 60 percent of AGI, up from the current 50 percent.

- Repeals the “Pease limitation” on itemized deductions for upper-income individuals. This will partially offset the reduced giving incentives from lower marginal rates at the top (i.e., top rate now 37 percent).
What Does This Mean for Charitable Giving?

- Projections are that only 5-10 percent of taxpayers will now take the charitable deduction, down from about 30 percent. Charitable itemized deductions could drop by $100 billion.

- Estimated reduction in giving of $13-20 billion and a loss of more than 200,000 jobs – but tough to know the real impact for a few years because of the acceleration of gifts at the end of 2017.

- The incentives for the people who give to many community foundations, particularly in higher-income areas, won’t be dramatically changed because most of those donors will still itemize.

- Compare this to the type of charity relying on $100, $250, $500 gifts, etc. People give to different things depending on income level.
Distribution of Giving to Charitable Causes By AGI

Figure 2: Mix of Charitable Giving by Income

- Religious
- Combined Purpose
- Basic Needs
- Health
- Education
- Arts
- Other
Estate Tax

- The new law keeps the estate tax, but doubles the exemption to $11 million for individuals and $22 million for couples. This will expire after 2025.

- Keeping an estate tax at some level is essential for transformational charitable giving. In 2010, the one year with no estate tax, charitable bequests declined by 37 percent, and then rose by more than 90 percent the following year.

- This is one change that will surely impact community foundations, since many of you work with estate planners, but we can’t assess the impact yet.

- Doubling the exemption is estimated to reduce federal revenues by nearly $100 billion over ten years and lower charitable giving by $4 billion per year.
Statistics on Big Charitable Gifts

- From 2005 through the middle of 2017, there were 8,435 publicly reported charitable gifts of $1 million or more, averaging nearly $20 million per gift!
- We used these statistics with the National Committee for Responsive Philanthropy.
- Obviously some states had way more than others – CA, NY, TX, PA, FL, IL, MA, OH had more than 300; AK, DE, ID, NM, WY had fewer than 20 – but we went to offices with “Top 40” lists of actual gifts.
- You could see the glimmers of recognition with the staff. It showed the importance of making advocacy personal and local.
Donor-Advised Funds

- Sometimes, not getting the bad thing is a victory. Thankfully, the new tax law doesn’t change anything related to DAFs. Nothing on payout requirements or additional reporting. Our community foundations group very engaged here.

- The House bill contained provisions related to reporting of inactive fund policies, but this was dropped from the final bill.

- Having no DAF payout provisions, or changes to the tax treatment of appreciated property, are significant victories for community foundations.

- We haven’t taken a victory lap because of the sector’s overall position, and because we know the growth of commercial funds creates challenges.
Nonprofit College and University Endowments

- Creates a new 1.4 percent excise tax on net investment income of nonprofit colleges and universities with assets of at least $500,000 per full-time student and more than 500 full-time students.
- This provision is concerning to all nonprofits because it replaces the fiduciary judgment of trustees with the political will of elected officials.
- Obviously, this doesn’t impact community foundations directly. But what does this mean for other public endowments down the road?
The final version of the tax bill does NOT include language to repeal or weaken the Johnson Amendment, the longstanding protection that prevents candidates for public office and their donors from asking charities, houses of worship, or foundations for endorsements and other political campaign engagement.

This was the one big victory for the nonprofit sector, although they are taking it with a grain of salt because it was struck over Byrd rule concerns. Keeping it in would have required 60 votes.

Still an active issue; community foundations group may send sign-on letter this week.
Big Issues for Further Thought

EFFECTIVENESS OF THE SECTOR OVERALL

• Let’s put some things into context. We just passed a $1.5 trillion rewrite of the nation’s tax laws, and the nonprofit sector basically got nothing. We didn’t get the big thing, and we didn’t get the little things. We can’t overlook this or understate the importance of it.

• Essentially, the big membership groups gambled, asked for a big thing they were likely never to get, and then came out hard against the bill. Was this the right strategic play?

• Would we all have been better off to give in on the number of itemizers and ask for other enhancements?

• Does it call into question the overall effectiveness of the groups, or does it mean we all have to do a better job as individual organizations?
Big Issues for Further Thought

STRATEGY GOING FORWARD

• Is the sector better off continuing to push for the universal deduction, or waiting 2-3 years until we have really good data to prove our point?

• Should “foundations” and “charities” feel obligated to always be on the same side of the same issues?

• How can the nonprofit sector develop champions that will go the mat for charities the same way they do for private-sector interests? Everyone’s third choice, etc. Get board members and big donors engaged?

• Here’s a big elephant in the room: “Big Philanthropy” needs to do a much better job talking about what they do, and not just relying on membership groups to speak for them. Think like the private sector.
Big Issues for Further Thought

DONOR-ADVISED FUNDS

- DAFs continue to get a lot of attention, much of it focused on the commercial funds. They become a more important tool to the extent “bunching” donations in alternate years is widely adopted.

- What’s the right strategy for community foundations and/or other charitable providers? Can you “define” a CF when different foundations use different strategies to attract donors and make grants?

- Senate folks are with us; House is more uncertain.

- Treasury regulatory process is important and we are building relationships there. We have weighed in on pledges, bifurcation, public support test, and PF-to-DAF grants.
Quick Summary of Treasury Comments

• **PLEDGES**: We’re glad with the steps Treasury is taking, but we urge them to go a step further and just say pledges are OK, period. We don’t like the “don’t ask, don’t tell” burden placed on sponsoring organizations.

• **BIFURCATION**: Looks like Treasury is determined on this, so a softer ask: Most community foundations don’t do it, but here’s an argument why Treasury should allow it. No harm in making the case.

• **PUBLIC SUPPORT**: We generally support their view that DAF distributions should “count” as coming from the original donors, but have concerns about how they regulate anonymous gifts.

• **PF-to-DAF GRANTS**: We want Treasury to understand the many ways these grants further charitable intent.
Other Charity Issues to Watch

• Gifts of appreciated property (i.e., keeping fair market value rules for all gifts) remains an important issue to watch because it raises money that could be used to offset further changes.

• Will Congressional attention to university endowments, and their perceived impact on college tuition, bleed into an effort to address all types of endowments, including public foundations?

• Opportunity Zones and community foundations – working on memo with Suzanne Friday at CoF.

• With the new tax law, the IRA charitable rollover becomes an even more important tool because many elderly might use their IRAs for their regular giving. Still a high priority for us.
The 2020 Census will determine the allocation of $450 billion in federal assistance to state and local governments.

Census data is used to inform the allocation of federal dollars for programs including: Medicaid, highway planning, state education grants, Title 1 grants to education agencies, individuals with disabilities, TANF, section 8, CDBG, federal transit grants, CHIP, etc.

Also used for state and local rebuilding and recovery efforts for areas impacted by recent natural disasters, and to monitor and enforce several federal laws.

We are looking to engage on Census funding and also potentially the citizenship question.
National Communications for Community Foundations

- National-level media relations and outreach
- Online
- Social Media
- Information sharing
Media Relations

Wall Street Journal: Feb. 1, 2018

New York Times: Nov. 7, 2017

Chief Executive: August 2017
On June 15, Amazon founder Jeff Bezos made the unusual move of tweeting a "request for ideas" about how to direct his charitable giving. "I’m thinking I want much of my philanthropic activity to be helping people in the here and now—short term—at the intersection of urgent need and lasting impact," wrote one of the world's wealthiest men. "If you have ideas, just reply to this tweet with the idea (and if you think this approach is wrong, would love to hear that too)."

The tweet received ample media coverage and more than 40,000 replies on Twitter.

In this open letter, leaders of 18 community foundations from around the United States respond:

**Maislin: Change to donor tax rule could hurt charities**

Houston nonprofits rely heavily on the generosity of individuals and families to help them address some of our most challenging problems. These donors are responsible for supporting programs that feed the hungry, provide educational opportunities for children, fight deadly diseases and support faith-based communities in every corner of our region.

And while we typically think of giving as something that happens through the church collection plate, at fundraising events, or in response to appeals, we often overlook an important but underutilized vehicle that is responsible for a large portion of giving in our community.

Donor-advised funds (DAFs) are used by thousands of Houston donors who are working to address urgent and long-term issues. In past years, more than $100 million in grants to 5,759 grantees (a large majority in Houston) was provided through DAFs at Greater Houston Community Foundation.

At a time when nonprofits are facing increased need and new financial pressures, this money is vital to our community's well-being. DAFs provide important flexibility for donors, who can quickly set up and disburse funds and, in some cases, build funds for a future charitable use.
Community Foundations Website

- Media Room: News releases, statements, links to press coverage, info for reporters
- Blog: News, information & perspectives about and by community foundations
- Case studies: Community foundations in action
- Community Foundations Public Awareness Initiative info: Who we are and what we do
- Private portal: Position statements, talking points, & more
Social Media

@CommFoundations
Information sharing

- Crowdsourcing information
- Trends and tactics
- Private meet ups
- Informal polls
Contact us

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