NATIONAL ASSOCIATION of
Charitable Gift Planners

Dear Working Families, New Economy, and Community Development Tax Teams,

The National Association of Charitable Gift Planners (CGP) thanks Chairs Brian Fitzpatrick, David Schweikert, and Mike Kelly and the members of the Working Families, New Economy, and Community Development Tax Teams for the opportunity to provide input on tax reform to address the expiration of the individual provisions from the Tax Cuts and Jobs Act (TCJA).

CGP is a national membership organization dedicated to maximizing the impact of planned giving by supporting gift planners. Our members play an impactful role connecting donors and charities, working to help both parties achieve the greatest impact. We represent more than 7,000 members nationwide, spread across every stage of a charitable contribution, and have nearly 85 local councils. CGP members, which include fundraisers at charities, financial advisors, and estate planners, are active in all 50 states and drive charitable funds to thousands of organizations, including hospitals, food banks, houses of worship, and innumerable other charities.

Planned giving is an integral part of the charitable giving ecosystem that helps charities receive the donations they need now and plan for the future. Planned gifts are arranged with the help of a professional gift planner and are usually allocated at a later date, often once the donor has passed. However, our members are at the forefront of promoting blended giving strategies, where a donor makes an immediate gift *and* commits to a future gift. The gift could be in cash, stock, property, or some other type of complex asset.

For our members, we provide educational and professional development resources that help them grow into more effective gift planners. CGP is recognized as a leader in the broader field for its work setting gift planning standards and best practices. We publish standards and guideline documents, assembled with input from members and national experts, that planned giving professionals utilize across their work with donors, advisors, and charitable organizations to maximize the ability of all parties involved to make positive change in their communities.

In an otherwise challenging climate for charitable giving, planned gifts help nonprofits secure the resources needed to carry out their missions. In 2023, bequests were the only source of charitable giving that experienced an inflation-adjusted increase, according to Giving USA. Planned giving projects to increase in the years ahead as baby boomers retire and with the looming Great Wealth Transfer, where some $84 trillion is set to change hands over the next two decades. Charitable gift planners will work to maximize how much of that money reaches charities and the communities they serve, and tax policy will impact their ability to do so.

The tax code has a noticeable impact on charitable giving. It impacts when, what, how, and how much generous Americans give. For that reason, we hope you would consider our more than 7,000 members' priorities to bolster charitable giving in tax reform to extend the TCJA.

CGP's Priorities for Tax Reform

As stewards of charitable giving, CGP supports strong incentives to encourage generosity, abundant and flexible tools to carry out that generosity, and the freedom for donors to give all types of gifts to maximize the resources reaching charities. With that in mind, our priorities for tax reform fall into three buckets.

1. **Enhancing Giving Incentives**

As gift planners, we support protecting and expanding federal charitable giving incentives amid a challenging fundraising environment for nonprofits. Charitable giving experienced the largest year-over-year decline in 2022 since Giving USA began tracking donations in 1956.[1] Last year, giving did not keep pace with inflation, marking the second consecutive year real giving declined.[2] Combined with the increasing prices of goods and services, these declines have made it difficult for all nonprofits to carry out their missions and serve their communities.

Expanding the IRA charitable rollover:

Expanding the IRA charitable rollover when revisiting the tax code next year would help our members work more effectively with retirement-age donors, the most active donor base in the country, leading to more dollars reaching charities.

More and more, donors are looking to their retirement accounts to advance the common good through philanthropy. Congress first allowed IRA owners to make contributions from their retirement funds directly to a charity in 2006. In the intervening years, this IRA charitable rollover, capped at $100,000 annually for IRA owners above 70.5 years old, was consistently extended before Congress made it permanent in 2015. In 2022, lawmakers expanded the IRA charitable rollover in a bipartisan fashion in retirement legislation authored by then Ways and Means Committee Ranking Member Kevin Brady (R-TX) and Chair Richard Neal (D-MA) to index the rollover cap to inflation and allow for one-time contributions of $50,000 into a charitable gift annuity or a charitable remainder trust. CGP strongly supported that legislation, and our members have already found that the allowance of contributions to gift annuities has made it easier to work with more mid-level donors who want to support a charitable cause while ensuring they have the necessary funds available to live out their golden years.

The IRA charitable rollover has driven hundreds of millions of dollars to charity since it was enacted, and it could prove even more effective if Congress expands it in tax reform. We would encourage you to do so

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[1] Giving USA 2023 Report – Indiana University Lilly Family School of Philanthropy
[2] Giving USA 2024 Report – Indiana University Lilly Family School of Philanthropy

by enacting some of the provisions from the Legacy IRA Act (S. 243 - 117th), which was broadly supported by the charitable sector, that weren't incorporated into the Brady-Neal retirement bill:

- Increase the annual charitable rollover cap for direct contributions to charity from $100,000 to $130,000; and,
- Allow Americans, beginning at age 65, to make tax-free contributions to charitable gift annuities and remainder trusts capped at $400,000.

Additionally, IRA holders are currently prohibited from making rollover gifts into donor-advised funds (DAFs). Expanding the IRA rollover to gifts to DAFs in tax reform would streamline charitable giving for retirees and allow for more resources to go to charitable causes by reducing administrative expenses. CGP and our members support allowing IRA charitable rollovers to DAFs, which, as you will see below, more and more Americans are choosing as the tool for their generosity.

Americans have over $10 trillion in their IRAs.[3] Our members are hearing more and more from donors who are interested in supporting a charity through a direct contribution, a contribution to a DAF, or the creation of a gift annuity through their retirement accounts. In 2021, researchers found that the average age of charitable donors in America was 65, up from 62 in 2015.[4] As our members look to meet donors where they are, having additional tools to direct assets in retirement accounts to charity will lead to additional dollars ending up at nonprofits serving our communities.

All of these reforms would help our members work more effectively with the largest donor base in the country and lead to additional dollars flowing to charity.

Enacting a non-itemizer charitable deduction:

Enacting a permanent non-itemizer charitable deduction when revisiting the tax code next year, ensuring all taxpayers have access to a tax benefit for their generosity regardless of whether they itemize their returns, will encourage more Americans to give to charity, and give more when they do.

Currently, just 7.5 percent of taxpayers itemize and have access to a tax deduction for their generosity.[5] Aside from helping to ensure charities have the resources they need to best serve their communities, enacting a non-itemizer deduction would send a signal that charitable gifts from all taxpayers, no matter their income level, are important and valued. A recent analysis from the National Bureau of Economic Research estimated that the decline in itemizers alone has resulted in a permanent $16 billion annual decline in charitable giving.[6]

A non-itemizer charitable deduction would help address limited access to the charitable deduction and declining donations without requiring Congress to lower the standard deduction, which we know helps countless Americans save time and money on their taxes. The widespread bipartisan support in both chambers for this non-itemizer deduction speaks for itself. The Charitable Act (H.R. 3435, S. 566) has 64

[3] U.S. Retirement Assets: Data in Brief – Congressional Research Service
[4] Blackbaud 2021 Charitable Giving Report – The Curtis Group
[5] How the 2017 Tax Law Made Itemized Charitable Giving a Luxury Good – American Enterprise Institute
[6] Tax Incentives for Charitable Giving: New Findings from the TCJA – National Bureau of Economic Research

cosponsors (32R, 32D) in the House and 23 (12D, 11R) in the Senate. It was introduced by a bipartisan group of taxwriters, including Reps. Blake Moore (R-UT), Michelle Steel (R-CA), and Danny Davis (D-IL), and it has the support of seven additional Republicans and four Democrats on the Ways and Means Committee.

Data indicates that the non-itemizer charitable deduction was effective in driving dollars to nonprofit organizations when a temporary version was in place for 2020 and 2021 as enacted by the CARES Act. According to the Fundraising Effectiveness Project, charitable gifts of $300 - the cap of the temporary deduction in 2020 - increased by 28 percent on the last day of the year.[7] In 2021, preliminary Internal Revenue Service data found that 47 million households used the non-itemizer charitable deduction (capped at $300 for individuals & $600 for joint filers) for charitable giving totaling around $18 billion.[8] A higher deduction cap, as included in the Charitable Act, would encourage generous Americans to give even more.

As gift planners, we know that once a donor starts to support a cause or an organization, they are much more likely to continue giving in the future, no matter how small their initial contribution is. Those early and smaller donations instill a habit of philanthropy that culminates in more robust planned giving down the line, all the while driving dollars to charities to serve their community.

Over the last two decades, our members have confronted declining participation in philanthropy. From 2000 to 2018, the number of American households that gave to charity fell from nearly two-thirds to less than half.[9] Providing every taxpayer with a tax benefit for their generosity, not just the wealthier that tend to itemize, could help to reverse this long-standing trend as younger donors start participating more in philanthropy.

For those reasons and more, CGP and our members strongly support enacting a permanent non-itemizer charitable deduction in tax reform next year.

<u>Extending the increased AGI limit:</u>

In addition to enacting a non-itemizer deduction, CGP and our members support extending the increased AGI limit on the itemized charitable deduction in tax reform next year. The TCJA allowed generous Americans to deduct up to 60 percent of their adjusted gross income for charitable contributions of cash. The increased AGI limit is set to expire next year and revert to 50 percent. This increased limit encourages donors to give away more of their money to charity. Our members have found this increased limit helpful for donors who are looking to make a large impact with their gifts, and we would encourage you to extend the increased limit when you revisit the tax code next year.

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[7] Fundraising Effectiveness Project March 2021 Release - Association of Fundraising Professionals

[8] 2021 SOI Tax Stats – Internal Revenue Service

[9] The Giving Environment: Understanding Pre-Pandemic Trends in Charitable Giving – Indiana University Lilly Family School of Philanthropy

2. Protecting Giving Tools

CGP supports the protection of the ways donors give their money to achieve impact now and at their death. We support policies that maintain the value and efficacy of charitable giving tools, including donor-advised funds, and those that protect endowed philanthropy, which provides a durable funding stream for philanthropic organizations.

Donor-Advised Funds (DAFs):

When renewing provisions in the Tax Cuts and Jobs Act, we urge your committee to oppose any new policies that would restrict the use of DAFs through the enactment of provisions like those included in the 2021 Accelerating Charitable Efforts (ACE) Act. As gift planners, our members seek to meet donors where they are to increase the likelihood and ease of their philanthropic support, and donors are choosing DAFs. Our members hear several reasons why donors like using DAFs, including that it centralizes all of their charitable giving in one place, and it makes it easier for consistent support of an organization as donors can easily reference past giving. Additionally, having money earmarked for charitable purposes makes it easy to mobilize funds in the event of a natural disaster or other calamity they feel compelled to respond to.

New research from one sponsoring organization found their grantmaking far exceeded historical averages in times of crisis, including Russia's invasion of Ukraine, the onset of the COVID-19 pandemic, and in response to the Maui wildfires.[10] In addition to their responsiveness, another reason charities appreciate donors who give through DAFs is that their grantmaking is more spread out through the year, rather than isolated in the traditional year-end giving season, providing more consistent support for the charity's work.[11]

Each year, more and more Americans choose DAFs as the preferred tool for their generosity. They are the fastest-growing charitable giving vehicle by far, with nearly two million DAF accounts as of 2022, more than double the number in 2018. DAF grantmaking has also grown rapidly, increasing every year since 2009 and more than doubling since 2017. In 2022, DAFs granted out over $52.16 billion to charity, representing a 9 percent year-over-year increase.[12] In addition to the impactful topline figure, that year-over-year increase is especially astounding when you consider overall giving saw the largest annual decline since 1956 that year.

Despite the demonstrable benefits of DAFs for charitable organizations, donors, and gift planners, some advocates and academics have put forward proposals that would limit their use. A common push among critics, as incorporated in the 2021 ACE Act (H.R. 6595 - 117th), is to impose a payout requirement on DAFs similar to 5 percent private foundations payout requirement. Doing so could actually reduce the amount of charitable dollars coming out of the vehicle, given DAFs had a 22.5 percent average payout rate in 2022.[13] Our members find that payout requirements imposed to be a floor can often become a

[10] Why Giving Matters Report – Vanguard Charitable
[11] The National Study on Donor Advised Funds – Dorothy A. Johnson Center for Philanthropy
[12] 2023 DAF Report – National Philanthropic Trust
[13] Ibid

ceiling. Additional requirements on DAF holders could also dissuade donors from using them going forward, which would only impair the positive trajectory of the giving tool that is injecting tens of billions each year into organizations at the front lines of serving their communities.

In an April letter concerning problematic proposed Biden Administration regulations impacting DAFs, 33 members of the Ways and Means Committee, including 21 Republicans, wrote to Treasury echoing much of the positive benefits of DAFs discussed above.[14] In their closing paragraph, those lawmakers wrote, "For these reasons, future regulations should not impede the success of this thriving and flexible charitable tool." We wholeheartedly agree with that view and hope no proposals that would impede the success of DAFs are considered in tax reform next year.

Endowments

CGP and our members oppose increasing taxes on endowments that would redirect charitable funds away from communities and to government coffers. Endowments are crucial funding streams that serve philanthropic institutions', and therefore the communities', current and future needs. Endowments are not savings accounts or rainy-day funds, rather a durable and long-term funding stream that consistently supports an organization's charitable mission. Our members find that some donors prioritize the sustained or cross-generational impact in their charitable giving, which endowed philanthropy enables.

At foundations, DAFs, and other charities, our members have found that endowed funds play a critical role in supporting charitable activities in rural or smaller communities with a limited donor base. The ability to invest these endowed funds allows some organizations with endowments to deploy dollars into the community without touching much of the corpus, ensuring the organization can continue to work toward benefiting the public well into the future.

Imposing new or higher taxes on endowments would divert dollars from grantees and other beneficiaries to the government, leaving the organizations serving our communities with fewer dollars to carry out their important missions.

3. Upholding Americans Freedom to Give Complex Assets

CGP supports protecting generous Americans' freedom to donate a wide range of complex assets, including private stock, real estate, and business interests, among the many other assets charitable gift planners help steward into charitable impact.

CGP opposes any effort to restrict the type of assets generous Americans can give away. In recent years, our members have found more and more donors looking to give away a complex asset, like real estate or private business interests, to charity instead of cash. For the many charities now equipped to receive complex asset gifts, these gifts have provided a significant and sometimes ongoing funding source in the case of intellectual property or royalty income donations. Amid a challenging fundraising period for

[14] Ways and Means DAF Letter – Rep. Vern Buchanan's Office

charities, any effort to restrict what type of assets willing donors can devote to the public good would be misguided and hamper charities' ability to best serve their communities.

Yet, these factors have not stopped academics and a few lawmakers from proposing such ideas. For example, the Accelerating Charitable Efforts (ACE) Act mentioned above would not allow a donor to receive a tax deduction for donating a non-cash asset to a DAF until the DAF sponsor sells the asset *and* grants the value to a non-DAF charity. This type of proposal would undoubtedly dissuade donors from donating often lucrative non-cash assets that can make a huge difference to the recipient charity. Another ACE Act proposal would similarly dictate that a tax deduction is only made available once a non-publicly traded asset is sold, with the deduction mirroring the sale value. There are multiple reasons why a DAF sponsor or another nonprofit may wait to sell a complex asset, namely to allow the asset to appreciate in value, creating more philanthropic resources. Not offering the deduction at the value determined by a professional appraiser at the time of the gift would again dissuade donors from gifting their assets to charity.

Academics have proposed a myriad of other bad policy ideas targeting complex assets that would make it more difficult or costly for donors to give them away and nonprofits to accept them.[15] We believe that such ideas would only result in fewer dollars reaching our communities and serving those in need.

Given the growing interest in donating non-cash assets at a time when charitable donations are declining in real dollars, CGP and our members would strongly oppose any efforts to restrict Americans' freedom to donate any asset of their choosing or policies that would discourage such generosity.

Once again, and on behalf of our over 7,000 members, CGP greatly appreciates this opportunity to provide input with the Tax Teams as you prepare to address the expiring provisions in the TCJA. We stand ready to work with you into next year on tax reform legislation that strengthens our members' ability to shepherd dollars to charities serving our communities every day.

Sincerely,

Michael Kenyon

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[15] Policy Proposals for Charitable Reform – Institute for Policy Studies