

**Charitable Sector Sign-On Letter Regarding
Administration's Proposal on Split-Interest Gifts**

August 2021

The Honorable Ron Wyden
Chairman
Committee on Finance
United States Senate
219 Dirksen Senate Office Building
Washington, D.C. 20510

The Honorable Mike Crapo
Ranking Member
Committee on Finance
United States Senate
219 Dirksen Senate Office Building
Washington, D.C. 20510

The Honorable Richard Neal
Chairman
Committee on Ways & Means
United States House of Representatives
1102 Longworth House Office Building
Washington D.C. 20515

The Honorable Kevin Brady
Ranking Member
Committee on Ways & means
United States House of Representatives
1139 Longworth House Office Building
Washington, D.C. 2051

Dear Chairman Wyden, Ranking Member Crapo, Chairman Neal, and Ranking Member Brady,

We, the undersigned organizations, write to request that you act to protect charitable giving in America as you undertake the process of drafting budget reconciliation legislation over the coming weeks. Of particular concern is a proposal included in the Administration's fiscal year 2022 budget request to Congress that would have a significant negative impact on charitable giving, effectively eliminating the benefits of split-interest gifts for taxpayers, potentially resulting in the loss of hundreds of millions of dollars, if not more, to our nation's charities.

This new proposal, detailed on pages 61 to 64 of the Treasury Department's "General Explanations of the Administration's Revenue Proposals" (the "Green Book"), would treat transfers of appreciated assets – including donations to a split-interest trust – as "realization events." Under current law, donors of transfers of appreciated assets are not taxed on the appreciation at the time of the transfer. The White House proposal, however, would tax the difference between the asset's fair market value on the date of the transfer and the asset's adjusted basis. If the asset appreciated over its basis, this would be treated as taxable gain. While there is an exclusion allowed for the charity's share of the gain, gain allocable to the non-charitable portion would be taxed to the donor at the time of the transfer. This is directly contrary to long-standing Congressional intent to encourage charitable giving. If enacted, charitable Americans would lose significant tax benefits in funding split interest gifts, which in turn would dry up an enormous pipeline of charitable gifts, ultimately leaving less money to flow to charities and the communities they serve.

For over fifty years, split-interest gifts such as charitable remainder trusts and pooled income funds have been a critically important component of charitable gift planning and funding for nonprofits. These types of gifts allow average Americans to receive some stream of income while still assigning a significant portion of their gift to charity. According to the latest available IRS data, trustees of split-interest trusts reported approximately \$4.3 billion in charitable distributions in one year alone.

We firmly believe federal tax law should encourage rather than discourage charitable giving. Such “pro-charity” policies send an essential message about the value society places on voluntary giving and the important role charitable organizations play in meeting critical individual and community needs. Further, tax policy that favors charitable giving is not a matter of providing a reward or something of value to the taxpayer; rather, it encourages those with financial means, however modest, to use their resources to support charitable causes of their choosing in order to help others. The true beneficiaries of federal tax policies that encourage charitable giving are not the generous Americans who make charitable gifts, but all of those whose communities both within this country and throughout the world are made better through the work of the charitable sector.

We therefore oppose the Administration’s new proposal to tax gifts of appreciated property and treat donations to split interest trusts as realization events, and we urge you to reject the inclusion of this proposal in the budget reconciliation legislation drafted by your committees. Thank you for your consideration.

Sincerely,

National Association of Charitable Gift Planners

This sign-on letter is open to all nonprofits, including state and local organizations.