



MEMO

From: Americans for the Arts, Government & Public Affairs
Date: October 25, 2011
Re: Update on Charitable Deduction and Congress

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BACKGROUND

For three consecutive years, the Obama Administration has proposed capping the value of charitable deductions to 28 percent for those taxpayers who itemize. Currently, the value of the deduction is tied to the marginal income tax rate the donor pays; 35% for the highest earning families. The administration has used this proposal to help close revenue gaps for everything from the newly enacted health care law to federal deficit reduction. Each time, Congress has passed on seriously considering the cap.

The nonprofit community has remained vigilant in opposition to itemized deduction changes. Most analysis, including a recent Congressional Budget Office study, show charitable giving would drop if the tax incentive's value were to be reduced. Urban Institute research shows that charitable giving to the arts would be among the most affected by this kind of tax change. To that end, Americans for the Arts has been working closely with nonprofit sector advocacy groups like Independent Sector, recently signing a letter addressed to Congress and the Administration that was published in POLITICO, urging that the charitable deduction be taken off the table as a possible revenue raiser.

SENATE FINANCE HEARING ON CHARITABLE DEDUCTION

The U.S. Senate Finance Committee held a hearing on October 18, 2011 on possible reforms to the Charitable Deduction in response to the Obama Administration's persistent call to propose limiting the value of itemized deductions. The administration's latest attempt to cap the deduction was to raise revenues for the *American Jobs Act* which seeks to provide small business tax breaks, hiring incentives and infrastructure investment in an effort to spur sagging employment. The cap was recently removed from the jobs bill in large part due to the lack of support in using it as a "pay-for."

The Senate Finance committee took the opportunity to nearly unanimously reject the president's plan to limit the charitable deduction. In their opening statements, Finance Chairman Max Baucus (D-MT) and Ranking Member Orrin Hatch (R-UT) both praised nonprofit charities and their missions especially as they are a critical lifeline for goods and services during these hard economic times. Senator Hatch went even further in defense of charitable incentives in his statement saying "*As state and local governments grapple with budget deficits and revenue shortfalls, Americans in crisis are turning for help in ever greater numbers*

to churches, charities, shelters, and other social welfare groups. Charitable donations are the lifeblood of charities and the last thing Congress should do is interrupt the blood supply.”

Testimony at the hearing consisted of various organizations such as the United Way and Church of Latter Day Saints along with the Congressional Budget Office and Urban Institute. The panelists had varying opinions on how best to preserve and administer the charitable deduction. Some were in favor of major reforms while most believed that it needed little amending and is the model for charitable giving around the world. Even the most critical voices expressed with some certainty that the proposed cap would impact giving negatively, but as to how much was disputed.

What became abundantly clear is that the panel and the senators almost unanimously agreed about the social value and worth of the arts and their importance in shaping, building and preserving communities. Often the arts have been maligned as patronage and not sometimes worthy of the same treatment under the tax code as direct social services provided by such organizations as the Catholic Charities and the United Way. In fact, United Way President and CEO Brian Gallagher directly refuted this misperception by praising the arts as “a huge part of community development - as part of the common good; I have seen the crossover between the arts and human services. We should not parse between the different nonprofits.” Ranking Member Hatch said resolutely, “Congress has wisely chosen not to prefer one charity over another” when talking about the charitable deduction. Senator Hatch added that he hears criticism of charitable contributions to the arts but cited the importance of helping the sick and the underprivileged through use of the arts, demonstrating their public good. He himself came from an underprivileged background and acknowledged how the arts had aided his development.

Elder Dallin Oaks of the Church of Latter Day Saints sternly warned against government making the decision of what is a charity and commenting that it should be left to the “marketplace of donations.”

LOOKING FORWARD

It has become evident that the charitable deduction enjoys broad, popular and bipartisan support. Any attempt to devalue the deduction, to this point, has been met with extreme prejudice by the majority of Congress. The larger question becomes how the deduction fits into the entire tax reform effort that has become a prominent ancillary of recent deficit reduction negotiations. It is clear tinkering with it to pay for other programming is highly controversial. But with momentum building for sweeping, comprehensive reform of the tax code, the charitable deduction will be part of a larger conversation to find more government revenue to address the national debt while still preserving the traditional role and treatment of nonprofit charities.

Questions? Please contact Americans for the Arts Associate Director of Federal Affairs Gladstone Payton at gpayton@artsusa.org.

Senate hearing materials online <http://finance.senate.gov/hearings/hearing/?id=915d5477-5056-a032-524b-feac6e9e3321>