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# **Impact of Tax Reform on 501(c)(3) Organizations**

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# **Tax Cuts and Jobs Act of 2017**

# Overview of Implications to Nonprofits

- Changes to charitable giving and deductibility of gifts.
- Unrelated Business Income Tax
- Executive Compensation
- Universities/ Colleges

## Provision:

# Increase in the Standard Deduction

- Nearly doubles the standard deduction for individuals and married couples filing jointly.
- Increase
  - From \$6,350 to \$12,000 for individuals
  - From \$12,700 to \$24,000 for married couples

# Implication for Nonprofits:

## Increase in the Standard Deduction

- An increase in the standard deduction, combined with other new limitations on deductions, will cause fewer individuals to itemize.
- Under prior law, the charitable deduction is only available to the roughly 35% of filers who itemized their tax return.
- Estimates are that between 90%-95% of filers will not itemize their returns, eliminating the charitable deduction for all but 5% to 10% of filers.
- Concern that this may lead to a reduction in overall giving.

# Implication for Nonprofits: Increase in the Standard Deduction

- The Tax Policy Center estimates that charitable giving will decline by between **\$12.3 - \$19.7 billion.**
- A recent study by George Washington University concluded that this new law will result in **a loss of at least 220,000 non-profit sector jobs.**

# Implication for Nonprofits:

## Increase in the Standard Deduction

- According to Independent Sector, this is roughly the equivalent of losing all charitable giving in Vermont, North Dakota, Alaska, South Dakota, Maine, Wyoming, Rhode Island, Delaware, Montana, West Virginia, New Hampshire, Hawaii, New Mexico, Idaho, Nebraska, Nevada, Arkansas, Mississippi, and Kansas combined.

## **Provision:**

# **Increase in the Charitable Contribution Deduction Limit**

- Increases the charitable contribution limit for an individual to 60% of his/her adjusted gross income (AGI)
- Limit under prior law was 50% of AGI



# Implications for Nonprofits: Increase in the Charitable Contribution Deduction Limit

- Appears to be an incentive for high-income donors to give more to charity, as they can claim more of their donations as a charitable deduction.
- Outcome unlikely--
  - population of taxpayers who reach 50% of their AGI is small
  - May not be many more individuals who would give up 60% of their AGI to charity

# Provision:

## Increase the Estate Tax Exemption

- Doubles the gift and estate tax exemptions from \$5M to \$10M per individual
  - Adjusted for inflation - \$11.2M per individual beginning in 2017
- Provision will sunset in 2026, returning the exemptions to current levels.

# Implications for Nonprofits:

## Increase the Estate Tax Exemption

- An increase in the estate tax exemptions could significantly reduce the incentive for people to make charitable contributions, as more property can now be transferred to beneficiaries tax-free.
- Historical evidence:
  - No estate tax in 2010; charitable bequests dropped by 37% from 2009.
  - Estate tax restored in 2011; charitable bequests rose by 92 percent.

# Provision:

## Repeal the “Pease” Limitation

- Named after former Senator Donald Pease, the original intent was to raise tax revenue by increasing the taxable income for high-income earners.
  - Taxable income was increased by limiting the value/benefits of several itemized deductions (including charitable contributions) once a taxpayer’s AGI reached a certain amount
  - \$261,500 for single filers; \$313,800 for married couples filing jointly
- Suspension of this limitation sunsets in 2026.

# Implication for Nonprofits: Repeal the “Pease” Limitation

- Repealing the Pease limitation allows high earning taxpayers to go back to enjoying the full benefits of these itemized deductions
- It is anticipated that this measure could help prompt high earners to donate more to charity

# Implication for Nonprofits: New Charitable Deduction Rules

- Doubling of the standard deduction will limit number of individuals who receive economic tax advantage from philanthropy from 35% to 5-10% of our society.
- Deductibility for such 5-10% individuals has increased with the removal of limitations.

**Will your fundraising change?**

**Will your budgets change?**

**Who is your Donor?**

## **Provision:**

# **Modifications to the Unrelated Business Income Tax (UBIT)**

- Tax reform disallows tax-exempt organizations to deduct unrelated business losses from one economic activity against a different unrelated business activity.
- Tax-exempt organizations can use one year's losses on the same unrelated business activity on a later year's operation of the same unrelated business

# Provision:

## Modifications to the Unrelated Business Income Tax (UBIT)

- New tax on Certain Fringe Benefits provided by nonprofit to employees.
- Unrelated business income of a tax-exempt organization would include employer costs for qualified transportation fringe benefits, parking facilities, and onsite gyms (may include fringe benefits in pension funds)
- UBIT to the nonprofit is increased by these amounts – no way to offset this tax?



# Implications for Nonprofits: Modifications to UBIT

- Many unanswered questions and opportunities for tax planning
- Corporate income tax rate is decreased from 35% to 21%, meaning nonprofits will pay a lower tax rate on UBIT

## Provision:

# Excise Tax on Executive Compensation

- 21% excise tax on the compensation of any “covered employee” in excess of \$1 million
- Covered Employee means any employee (including any former employee) if the employee is:
  - One of the five highest compensated employees
  - Was a covered employee for any taxable year beginning after Dec 31, 2017
- Payment for certain medical services is excluded from compensation calculation.

# Implications for Nonprofits:

## Excise Tax on Executive Compensation

- Nonprofit organization responsible for the tax, not the taxpayer
- The list of “covered employees” is cumulative, so may include more than the current “five highest compensated employees
- Includes compensation from related organizations, due pro rata

# Implications for Nonprofits:

## Excise Tax on Executive Compensation

- “Redefines” reasonable compensation for nonprofit executives??
- Unanticipated New Tax
  - New 2018 Tax not budgeted by nonprofits in 2017!
- 16% of Nonprofit Hospitals estimated to be affected.
- University Presidents, Coaches, and Foundation CEOs significantly affected.

**Provision:**  
**Seating Rights to  
College Athletic Events**

No deduction allowed for any contribution to a college or university if the taxpayer receives (directly or indirectly) the right to purchase athletic seating tickets.

# **Implication for Nonprofits:**

## **Seating Rights to College Athletic Events**

- Repeals the 80/20 rule
- Potential for reduced giving to athletic support organizations
- Affects financing structures of athletic booster clubs (e.g. IPTAY, Gamecock Club) that support athletic and university facilities

# Provision:

## Excise Tax on Endowments of Nonprofit Colleges and Universities

- Excise tax of 1.4% on net investment income of “applicable educational institutions”
- Applicable Educational Institution means:
  - Has at least 500 tuition paying students
  - Aggregate fair market value of assets is at least \$500k per student
  - More than 50% of the tuition paying students located in the US

# Implications for Nonprofits: Excise Tax on Endowments of Nonprofit Colleges and Universities

- Includes some of the nation's largest and wealthiest universities
- Also pulls in certain smaller universities because of their relatively small student bodies
- *Opens the door for more taxing of endowments...*



# Implication for Nonprofits:

- *National Council of Nonprofits*
  - Tax exempt orgs are paying for tax cuts, as entities such as large universities are seeing their exempt status erode.
  - \$1.5 trillion increase in national deficit result in cuts at the state level, including cuts in social programs.

# Tax Reform - Implications for Nonprofits:

- Will these changes be positive or negative to the nonprofit sector?
- What do these changes say about our society?
- What can you do to make a difference?

# Advocate for Change

Universal charitable  
deduction!

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