

TO: Members of the House Ways and Means Committee
Members of the Senate Finance Committee

FROM: The Networks of the National Council of Nonprofits

RE: Tax Policy Priorities of the Charitable Nonprofit Sector

DATE: October 15, 2024

The charitable nonprofits in your communities and across the country are significant employers, economic drivers, and problem solvers on whom your constituents rely. Every day. The networks of the National Council of Nonprofits share this memorandum with the knowledge and concern that the tax policy questions you will be called upon to decide can have a profound impact – either positive or negative – on the ability of your local nonprofits to improve lives, strengthen communities, and advance the public good.

The expiration of key provisions of the 2017 tax law at the end of 2025 sets the stage for one of the most consequential tax debates in a generation. In this memorandum and the accompanying policy papers, we highlight fundamental tax policy proposals that can enhance the abilities of organizations to advance their missions in communities. We also identify adverse policies, including benign proposals with identifiable, but unintended consequences, that we believe Congress should not adopt.

Preserve Nonprofit Nonpartisanship

- 1. First, Do No Harm:** Charitable nonprofits – 501(c)(3) organizations – are steadfastly nonpartisan in law, fact, and purpose, not just because the third proviso of Internal Revenue Code Section 501(c)(3) requires it, but also because nonpartisanship is essential to public trust and organizational impact in communities. Charitable nonprofits call on Congress to preserve that longstanding law, sometimes called the “Johnson Amendment,” without amendment or alteration.

Resource: [Charitable Nonprofits: Nonpartisan in Law, Fact, and Purpose](#) | Preserving the Third Proviso of Sec. 501(c)(3), National Council of Nonprofits, Sept. 9, 2024.

Incentivize Charitable Giving

Charitable nonprofits continue to experience growing demand for their services, yet costs continue to rise due to inflation while private donations and the number of donors are declining. Congress should empower millions more taxpayers to help solve these challenges by enacting tax incentives that encourage donations to the work of charitable organizations in their communities.

2. **Reinstate and Expand a Non-Itemizer Deduction** to ensure all taxpayers, including those taking the standard deduction, can receive a charitable tax incentive for giving back to their communities.

3. **Retain the 60% AGI Cap** on charitable deductions to increase giving by those itemize.

Resource: [Charitable Giving Incentives](#), National Council of Nonprofits, Sept. 23, 2024.

Update Nonprofit Employment Tax Policies

4. **Extend Employment Tax Incentives to Nonprofits:** Most employment tax incentives come in the form of income tax credits that tax-exempt organizations cannot utilize. The result is that it costs more for nonprofit employers to hire and retain staff, denying charitable organizations the ability to compete with for-profit employers on an equal basis. Congress should enable tax-exempt employers to utilize employment tax incentives by converting existing tax credits to direct pay or transferability models.

5. **Allow the Excise Tax on Nonprofit Compensation to Expire** at the end of 2025.

Resource: [Tax Policies Affecting Nonprofit Employment](#), National Council of Nonprofits, Oct. 7, 2024.

Prioritize Natural Disaster Tax Relief

6. **Enact a Permanent Natural Disaster Tax Relief Package**, triggered by a disaster declaration by the President, to generate resources to empower charitable organizations to serve affected communities in the aftermath of natural disasters. The package should include an enhanced non-itemizer deduction (e.g., double the level set in #2, above) and 100% AGI cap for donations to charitable organizations working in areas identified in disaster declarations.

Resource: [Natural Disaster Tax Relief](#), National Council of Nonprofits, Aug. 12, 2024.

Remove Tax Law Impediments to Volunteering

7. **Increase the Charitable Mileage Rate** from the current rate of 14 cents/mile to the Standard Business Rate to remove the cost disincentive to drive on behalf of charitable organizations, particularly in rural areas.

8. **End the Taxation of Education and Service Awards** for volunteers committed to national service.

Resource: [Removing Tax Code Impediments to Volunteering](#), National Council of Nonprofits, Aug. 26, 2024.

This Memorandum does not attempt to address all tax policies affecting all charitable organizations. The debate over which provisions of the 2017 tax law should be extended, modified, or allowed to

expire must also evaluate the impact of the higher **estate tax thresholds**, treatment of **unrelated business income taxes**, excise **taxes on some nonprofit reserves**, and much more.

National Council of Nonprofits

For more than 30 years, the National Council of Nonprofits has mobilized the nation's largest sector-wide network of charitable nonprofits to achieve transformative results. We provide nonprofits with the tools, research, and resources needed to operate more effectively, efficiently, and ethically. In pursuit of a more civil and just society, we embed diversity, equity, and inclusion throughout our organization and the ways we carry out our mission, purposefully and tangibly applying these principles in our internal operations, programs, policies, and leadership. Our collective efforts ensure a connected and powerful nonprofit community equipped to champion the public good.

Charitable Nonprofits: Nonpartisan in Law, Fact, and Purpose

Preserving the Third Proviso of Sec. 501(c)(3)

September 9, 2024

As Congress reevaluates the tax laws and their relationship to the U.S. economy and society, it is essential policymakers and the public recognize charitable nonprofits¹ – 501(c)(3) organizations that are nonpartisan in law, fact, and purpose – as vital service providers, employers, and economic drivers. Charitable organizations exist to serve the public good – providing essential services on which people depend in every community across the country. The current tax-law mandate of charitable nonprofit nonpartisanship is necessary to enabling and maintaining this nonprofit impact.

The indispensable work of nonprofits must be done without a partisan agenda. Nonprofit leaders, workers, board members and volunteers agree that partisan politics, factions, and animosity cannot be allowed to undermine charitable missions. Regrettably, policymakers at times do not fully appreciate the economic and workforce impact of the charitable sector on America’s main streets, working families, and individuals. That impact is only possible because charitable nonprofits are, and must remain, nonpartisan in all of their work in communities.

As the largest network of 501(c)(3) charitable nonprofits in the United States, we embrace this chance to highlight the core beliefs and activities of nonprofit organizations and to correct common misperceptions about the “why” and “how” of charitable operations. The National Council of Nonprofits champions, connects, and informs nonprofits across the country. Our network is committed to, and indeed pioneered, effective trainings and materials on nonpartisan engagement in communities to promote civic engagement. It is from this deep experience and engagement that we lay out overarching principles that guide the approach and thinking of frontline charitable nonprofits about the benefits of current law and seek to avert adverse consequences of policy changes.

¹ The National Council of Nonprofits typically refers to 501(c)(3) organizations as “charitable nonprofits” to distinguish them from all other forms of 501(c) organizations (that we and others occasionally refer to as “non-charitable nonprofits”). Current law does not prohibit the more than 25 other categories of 501(c) non-charitable nonprofits from engaging in some partisan, election-related activities. For example, groups with tax-exempt status under 501(c)(4) (civic leagues and social welfare organizations), 501(c)(5) (labor unions), and 501(c)(6) (chambers of commerce and trade/professional associations) may engage in partisan politics; 501(c)(3) (charitable, religious, and philanthropic organizations) may not.

Overarching Principles:

1. Nonpartisan, Now and Forever.

Many allegations have been leveled about the politicization of the charitable nonprofit sector, whether through brazen disregard for the law, surreptitious evasion, or claims of uncertainty about what the law proscribes. There must be no doubt about the position of the charitable nonprofit community. The overwhelming majority of 501(c)(3) organizations – frontline charities, churches, and foundations – are nonpartisan in law, fact, and purpose, and are committed to remaining that way to ensure their integrity and impact.

Since 1954, section 501(c)(3) of the tax code has protected charitable, faith-based, and philanthropic organizations from partisan, election-related activities. That is when Congress added the third proviso, sometimes called the “Johnson Amendment,” which reserves tax-exempt status and the ability to receive tax-deductible charitable donations only to organizations that do “not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of (or in opposition to) any candidate for public office.” 26 U.S. Code § 501(c)(3).

With only a few outliers, the 501(c)(3) nonprofit community stands strongly united in support of the federal law requiring nonpartisanship and in opposition to those attempting to politicize the charitable sector in their quest for partisan, personal, and financial gains.² People who donate their money to charitable, religious, and philanthropic organizations do so to support missions important to them and do not want their resources siphoned off for other purposes.³ People who donate their time to serve on governing boards want to – and should – focus on advancing the organization’s mission, not arguing with each other over which candidates for public office in local, state, and federal races up and down each ballot the organization should support (or oppose) and how much money to divert from mission to do that.

2. Greater Enforcement of the Law is Needed.

For at least the past decade, the Internal Revenue Service has not had the resources or will to adequately enforce the law on nonprofit nonpartisanship. This has led to misrepresentations about the viability of the law and allegations of selective enforcement. Neither undermines the

² See, for example, [Should Pastors Endorse Politicians From the Pulpit?](#), May/June Evangelical Leaders Survey, National Association of Evangelicals, July 31, 2024 (98% of evangelical leaders say pastors should not endorse politicians from the pulpit). Learn more about the unified position of the 501(c)(3) community – frontline charities, churches, and foundations – by reviewing the materials posted at [Protecting the Johnson Amendment and Nonprofit Nonpartisanship](#) and [Additional Resources](#).

³ When reporters get too loose with the word “nonprofit” in their stories about 501(c)(4) and 501(c)(6) (chambers of commerce) making partisan campaign expenditures (as non-charitable nonprofits are allowed to do), invariably people post comments to those articles declaring that they’ll “never give to another charity again,” noting that if they’d wanted their money to go to politics, they’d have given to the candidate directly.

fundamental value of the ban on partisan, election-related activities by charities, but both must be clarified and rectified if the sector and the public are to receive the protections they deserve.

The gutting of the IRS budget over the past decade, plus the 2019 termination of required donor disclosures to the IRS for some non-charitable nonprofits, and a Supreme Court decision and recent state laws blocking reasonable access to evidence of fraud have significantly hindered the ability of federal and state law enforcement to detect and stop bad actors seeking to funnel hidden “dark money” to influence partisan elections. Charitable nonprofits are deeply disturbed by efforts – from the left and the right – to misuse them to abuse public trust, violate the law, and stain the goodwill of charitable organizations for partisan purposes.

Charitable nonprofits are not alone in demanding protection and effective enforcement. Strong support comes from state law enforcement officials,⁴ the news media,⁵ and/or the public.

It cannot be stated enough that charitable nonprofits rely on public trust. Earning and retaining the public’s trust requires constant ethical leadership, consistently responsible practices, and ongoing training and reinforcement. That is why charitable organizations devote special attention to complying with all laws and behaving appropriately.⁶ And that’s why it is grievously offensive when partisans try to take, and risk destroying, charitable nonprofits’ well-earned trust.⁷ But charitable

⁴ See, e.g., [National Association of State Charity Officials letter](#) to Congressional leaders “express[ing] deep concern about efforts to repeal or weaken a long-standing provision in federal law – the so-called ‘Johnson Amendment’” – because, among other reasons cited in the letter, doing so “would adversely impact [the states’ law enforcement] abilities to protect the integrity of charitable assets and charitable solicitations.” Aug. 23, 2017.

⁵ In 2019, the *News Tribune* in Missouri’s capital of Jefferson City received [from the Missouri Press Foundation](#) an “honorable mention for an [editorial supporting the Johnson Amendment](#), a federal tax code ban on religious and other nonprofit organizations endorsing/opposing political candidates.” The newspaper’s editorial expressed its view: “Repeal of the Johnson Amendment would allow political organizations/donors to use churches as dark-money pipelines, because they, as 501(c)(3) organizations, don’t have to disclose their donors.” The editorial concluded, “Repealing the Johnson Amendment would be bad for politics, bad for churches and bad for America.”

⁶ See generally, [Ethical Leadership for Nonprofits](#), National Council of Nonprofits, and [Ethics and Accountability for Nonprofits](#), National Council of Nonprofits. Many of our member state associations of nonprofits provide guidance on state-specific legal requirements and promote “best practices” to raise awareness about how ethical, accountable, and transparent practices – including remaining nonpartisan – make nonprofits more effective and trustworthy. See, e.g., Maryland’s [Standards for Excellence®: An Ethics and Accountability Code for the Nonprofit Sector](#) (“In promoting public participation in community affairs, charitable nonprofits must be diligent in assuring they do not participate or intervene in any political campaign on behalf of or in opposition to any candidate for public office”), and Minnesota’s [Principles and Practices for Nonprofit Excellence](#) (“501(c)(3) organizations must not take positions or spend funds to support or oppose a candidate for political office or coordinate their activities with a candidate, political party, or other organization supporting or opposing political candidates”).

⁷ See [Nonprofit Impact Matters](#), National Council of Nonprofits, Fall 2019, at 11: “Nonprofits can promote civic engagement such as voting, but they must always avoid endorsing or opposing any candidates for public office or using charitable assets for partisan campaign activity. Remaining nonpartisan is both the law and common sense. **People trust nonprofits as problem-solvers because they know nonprofits are working for the common good rather than a political party.**” (Emphasis added.)

nonprofits cannot completely police ourselves from bad actors seeking to profit and/or politicize the sector for personal gain; we need more help from federal and state officials.

3. Conflation Breeds Confusion.

In the field of nonprofit law, words matter. When vague, undefined terms are bandied about, like “political advocacy” and “political nonprofits,” which understandably confuses the public. It compounds the confusion when the news media, politicians, and activists mislabel organizations using terms that suggest violations of the law that, if labeled more correctly, would lead to accuracy and understanding. For example, some people may see issues like abortion, immigration, and climate change as “political,” but at their core these are *public policy* issues that may or may not happen to align with specific political parties at any given time.⁸ Taking a position on a public policy issue should not be confused as a form of improper partisan activity, and it is harmful and disingenuous to imply otherwise.

The distinction between the types of nonprofits also matters. Federal law has long recognized the fundamental distinction for charitable nonprofits between partisan political electioneering (which is expressly forbidden) and permissible nonprofit advocacy, which comes in many forms, including lobbying, engaging in ballot measures (such as initiatives, referenda, and public bonding issues, which the law technically treats as lobbying), and promoting public engagement through nonpartisan election-related activities. While charitable nonprofits can, do, and should advance their missions through advocacy, charitable nonprofits must remain entirely nonpartisan.

4. Charitable nonprofits and civic engagement are synonymous.

Charitable nonprofits operate in local communities throughout America. They feed, heal, shelter, educate, inspire, enlighten, and nurture people of every age, gender, race, and socioeconomic status, and they foster civic engagement and leadership development, drive economic growth, and strengthen the fabric of our communities. Every single day. Their particular missions may appear divergent when looking at the individual subsectors, such as the arts and culture, education, environment and animals, faith-based, health care, human services, philanthropy, and so much more, but collectively they share common broader missions of improving lives, strengthening communities, and often advancing cherished American values of individual freedoms of expression and beliefs.

⁸ For example, the [campaign by the Catholic Church](#) of Ohio to oppose an abortion-rights amendment to the Ohio constitution is within its advocacy rights, as clearly articulated by the IRS, to raise and spend money on the ballot measure because that is considered lobbying on a public policy issue rather than engaging in partisan, election-related activities.

As Alexis de Tocqueville observed in 1840, the American spirit is manifested in “associations,” his term for what today are known as charities.⁹ As with their work on the census, social services, and community healing after tragic events, charitable nonprofits have the closest connection to the people in communities, serving as trusted partners. When there is a deficit in democracy, as in large populations of eligible voters remaining unregistered and disengaged, it is logical for the groups in their communities to connect and engage.

We call on politicians from across the political spectrum to reject the premise that an organization must be biased and/or partisan for focusing on registering low-income people or other demographic groups. Quite the contrary, it should be a bedrock principle for all that every person eligible to vote in our democracy should be registered and encouraged to get to the polls.¹⁰ It’s a basic civic virtue that’s been espoused by chambers of commerce, faith-based groups, community leaders, and charitable nonprofits that traces back to the Athenian Oath. A major charitable organization in the U.S. requires all beneficiaries of its services to register and vote when they become eligible. This is based on their mission of helping to bring disadvantaged persons into the mainstream of American life, and like paying taxes, voting is about as mainstream as a person can get. Some people need more help than others. Helping people is what charitable nonprofits do.

While we recognize that the rough and tumble of partisan politics may cause some to discourage voting by perceived opponents, we in the charitable nonprofit world continue to hold true to the long-respected virtue of full voter participation.

A Special Note on “Political Campaign Intervention”

Before concluding, we feel it is important to address confusion – real or manufactured – over what constitutes improper “political campaign intervention” as compared to legitimate civic engagement and issue advocacy.

From the perspective of the vast majority of charitable organizations, the rules on what is and is not partisan, election-related activities are readily apparent to frontline 501(c)(3) organizations and the ordinary reasonable person. No additional legislation by Congress or rulemaking by the IRS is needed to provide clarity to aid charitable organizations as they effectively engage in their communities. Charitable nonprofits already have ready access to information and assistance for remaining nonpartisan as they engage in election-related activities.

⁹ *Democracy in America*, Alexis de Tocqueville, 1840. It is noteworthy that De Tocqueville also appears to have been an ardent supporter of nonpartisanship: "I have a passionate love for liberty, law, and respect for rights." he wrote. "I am neither of the revolutionary party nor of the conservative. [...] Liberty is my foremost passion."

¹⁰ See [Nonprofit Nonpartisan Voter Engagement Guide](#), National Council of Nonprofits and Nonprofit VOTE, July 2024; [Keeping Our Republic: The Roles of Charitable Nonprofits](#), *Nonprofit Champion*, July 24, 2022. See also, IRS Exempt Organization CPE texts for “[Election Year Issues](#)” (1993-N, 91 pages) and “[Political Campaign Prohibition](#)” (1996-O, 18 pages).

This clarity is provided in the form of the definition of “political campaign activity” on the Form 990.¹¹ Also, the IRS already provides sufficient formal guidance,¹² including drawing distinctions between appropriate “issue advocacy” vs. banned “political campaign intervention.”¹³ Further, the networks of the National Council of Nonprofits, and in particular our member state associations of nonprofits, have developed, often in conjunction with [Nonprofit VOTE](#), extensive educational materials, checklists, and how-to guides, and regularly provide trainings for charitable organizations and professionals.¹⁴

Conclusion

In September 2023, the National Council of Nonprofits informed the House Ways and Means Committee¹⁵ of the following in response to questions about nonpartisanship and perceptions of illegality: “based on our personal and extensive, near-daily involvement with charitable nonprofits over the past few decades, we have not seen and we do not believe there is systemic or widespread abuses by 501(c)(3) nonprofit organizations engaging in prohibited activities to influence partisan elections.” The same remains true today; it is essential that nonpartisanship in the sector remains protected.

Increasing numbers of Americans view the polarizing nature of politics today as being too toxic. Charitable nonprofits work hard to earn and retain the public’s trust to advance their mission every day. To have partisan political operatives leach off that goodwill ultimately undermines the trust earned by charitable nonprofits and thus hurts the public in local communities throughout the county as nonprofits lose donations and can no longer meet the public’s needs.

The networks of the National Council of Nonprofits remain steadfastly committed to assisting Congress, the IRS, state law enforcement, and the public in identifying challenges and solutions that

¹¹ The Glossary in the [instructions to the Form 990](#) completed annually by 501(c) organizations defines “political campaign activities” in a way that, we believe, clearly delineates what charitable nonprofits can and cannot do. It warns against “All activities that support or oppose candidates for elective federal, state, or local public office. It doesn't matter whether the candidate is elected. A candidate is one who offers himself or herself or is proposed by others for public office. Political campaign activity doesn't include any activity to encourage participation in the electoral process, such as voter registration or voter education, provided that the activity doesn't directly or indirectly support or oppose any candidate.”

¹² See, e.g., [IRS Fact Sheet FS-2006-17](#) (February 2006); [IRS Revenue Ruling 2007-41](#) (June 2007); and generally, [The Restriction of Political Campaign Intervention by Section 501\(c\)\(3\) Tax-Exempt Organizations](#), Internal Revenue Service, last updated on June 9, 2023.

¹³ [IRS Revenue Ruling 2007-41](#); [501\(c\)\(3\) Tax Guide for Churches and Religious Organizations](#), Internal Revenue Service, Publication 1828 (Rev. 8-2015), pp. 8-9.

¹⁴ See generally, [Nonprofit Nonpartisan Voter Engagement Guide](#). See also [In Praise of Nonpartisan Electioneering](#), *Nonprofit Champion*, May 2, 2022, highlighting nonpartisan activities in Arizona, Connecticut, Kentucky, and Minnesota; [Nonprofits Promoting Democracy and Nonpartisan Engagement](#), *Nonprofit Champion*, Sept. 5, 2022, highlighting similar nonpartisan activities in Maine, Massachusetts, New York, and North Carolina.

¹⁵ [National Council of Nonprofits Response](#) to House Ways and Means Committee Request for Information, Sept. 5, 2024.

will help ensure the charitable sector remains a safe haven from caustic, partisan politics that Congress has intended it to be and the American people want it to be.

Charitable Giving Tax Incentives

September 23, 2024

Charitable nonprofits continue to experience growing demand for their services, yet costs continue to rise due to inflation while private donations and the number of donors are declining. The needs in our communities are far greater than the ability of governments to address alone. Congress should empower millions more taxpayers to help solve these challenges by enacting tax incentives that encourage donations to the work of charitable organizations in their communities.

Current Law

The 2017 tax law made numerous temporary adjustments to tax policies that have had both direct and indirect effects on charitable giving. Each is set to expire at the end of 2025.

- The **standard deduction** was raised from \$6,300 to \$12,000 for individuals, from \$12,600 to \$24,000 for couples, and from \$9,300 to \$18,000 for heads of households. The 2017 law adjusted these amounts for inflation, with current levels for 2024 of \$14,600 for individuals, \$29,200 for couples, and \$21,900.¹⁶
- The **limit on cash donations** for those who itemize deductions was raised from 50% to 60% of adjusted gross income (AGI).
- The **Pease limitation** on itemized deductions for upper-income individuals was suspended.¹⁷
- The **estate tax exemption** was doubled from \$5.6 million to \$11.2 million, indexed for inflation.

As a result of the tax policy changes affecting taxpayers and what they claim on their tax filings, incentives to give to charitable nonprofits have declined. In particular, the charitable deduction is no longer accessible for the majority of taxpayers because they now claim the standard deduction rather than itemizing. While the loosening of the AGI limitations for charitable deductions and eliminations on limitations on itemized deductions for upper-income taxpayers under the Pease limitation repeal are helpful, those benefits only apply to approximately one-tenth of taxpayers.

¹⁶ [IRS provides tax inflation adjustments for tax year 2024](#), IR-2023-208, Internal Revenue Service, Nov. 9, 2023.

¹⁷ [Options for Reducing the Deficit, 2023 to 2032, Volume I: Larger Reductions](#) at 78, Congressional Budget Office, December 2022.

The Challenge

It is not a partisan statement to say that the 2017 tax law did not live up to the prediction that charitable giving would increase because individuals would have more money in their pockets thanks to the tax cuts. An analysis by the American Enterprise Institute found that the 2017 tax law did not generate greater charitable giving among upper-income taxpayers as promised; in fact, charitable giving went down after its enactment.¹⁸ In 2022, charitable giving suffered a 13.4% inflation-adjusted decline in individual donations, the largest recorded year-over-year drop.¹⁹ Subsequently, there was a 2.1% decline in total giving in 2023 compared to 2022 when adjusted for inflation.²⁰

Legislative Solutions

Reinstate a Non-itemizer Charitable Deduction

Congress can help alleviate some of the adverse funding difficulties in the charitable sector by enacting a non-itemizer deduction that all taxpayers, including those taking the standard deduction, can claim.

This non-itemizer deduction, also known as a Universal Charitable Deduction, has proven to be an incentive for charitable giving by individuals and couples. A previous short-term non-itemizer deduction allowed taxpayers to claim a deduction of up to \$300 for cash gifts in 2020. Congress extended this special deduction for 2021 and increased it for joint filers to claim up to \$600. The IRS reported that 42.2 million households generated \$10.9 billion in charitable giving in 2020 alone.²¹ One fifth (21.3%) of those donations came from taxpayers with adjusted gross income of less than \$30,000.²² Data show an increase of 7.5% in individual gifts of \$300 in both 2020 and 2021, and donations of \$600 increased 5% in 2021, compared to 2019.²³ The deduction expired after 2021.

NCN supports the bipartisan *Charitable Act* ([H.R. 3435/S.566](#)), which would create a new non-itemizer deduction that would provide a charitable contribution deduction of roughly \$4,800 for individuals and \$9,600 for couples when they give to the work of charitable organizations and claim the standard deduction. This would empower taxpayers to give back to their communities, allow for

¹⁸ [The Tax Cuts and Jobs Act and Charitable Giving by Select High-Income Households](#), American Enterprise Institute, April 2022.

¹⁹ [Giving USA](#), Indiana University Lilly Family School of Philanthropy, June 20, 2023.

²⁰ [Giving USA](#), Indiana University Lilly Family School of Philanthropy, June 25, 2024.

²¹ [Individual Income Tax Returns, Preliminary Data, Tax Year 2020](#), Statistics of Income Bulletin, Internal Revenue Service, Spring 2022.

²² [SOI tax stats - Individual income tax returns](#), Internal Revenue Service.

²³ [AFP Supports Charitable Act to Incentivize Giving](#), Association of Fundraising Professionals, Mar. 2, 2023.

greater giving to the work of nonprofits that individuals care about, and effectively reduce demands on governments.²⁴

A Special Note on Alternative Approaches to the Charitable Deduction

We strongly recommend against shifting to new approaches suggested by economists and others outside of the charitable, such as tax credits in place of deductions, or imposing arbitrary floors or caps. Our recommendation applies equally to the current itemized deduction and any non-itemizer that may be considered.

Our position is grounded in practical and economic realities. The charitable deduction has existed since 1917²⁵ and more than a century of philanthropic and cultural alignment have been built around the current deduction model. Changes would cause wholesale disruption that – as seen with the 2017 tax law – can lead to unintended consequences that harm real people and the charitable organizations that serve them.

Further, while economic models can attempt to predict the impact of a floor or cap on giving tax incentives, they can only suggest behaviors in the aggregate. Simply stated, different restrictions affect organizations differently. A requirement that a donor must give more than a certain amount – whether a dollar floor or a percentage of the person’s adjusted gross income – would reduce small donations, harming organizations with broad bases of support from many donors giving relatively small gifts. An upper limit (cap) on giving, on the other hand, would harm organizations that receive larger donations from fewer donors. Imposition of both limits, of course, would exponentially harm the work of charitable organizations.

Additional Issues Affecting Charitable Giving Incentives

AGI caps for individuals and corporations

The limit on cash donations for those who itemize deductions will return to 50% of adjusted gross income (AGI) after 2025. We recommend making permanent the increased cap to 60% to increase charitable giving by itemizers. During times of natural disasters, we recommend lifting any ceiling for deductions for amounts devoted directly to disaster relief and recover efforts. See our [Natural Disaster Tax Relief](#) policy paper for more information.

Pease Limitation

The Pease limitation will be reinstated after 2025. The provision reduces the overall value of certain itemized deductions taxpayers whose AGI exceeds a specified threshold. Depending on the

²⁴ The cost of this, and all other tax incentives, is a factor of great significance now, and will be during the 2025 tax debate. One way to "pay for" the cost of restoring and improving the non-itemizer deduction would be to adjust the standard deduction downward to accommodate for some of the costs.

²⁵ [The Charitable Deduction for Individuals: A Brief Legislative History](#), Congressional Research Service, Updated June 26, 2020.

taxpayer's income, this reduction can be up to 80%.²⁶ The reinstatement could significantly reduce the amount of itemized deductions permitted by higher income taxpayers.²⁷

Estate Tax

The estate tax is an important source of revenue for the federal government, regularly generating between \$20 and \$30 billion per year.²⁸ It also serves as an incentive for giving to the work of charitable nonprofits by excluding donations of cash and assets from taxable estates. The estate tax exemption amount in 2024, indexed for inflation, is \$13.6 million.²⁹ That threshold will revert back to the pre-2017 tax law level in 2026 unless Congress maintains some or all of the higher level. The National Council of Nonprofits does not recommend a specific estate tax exemption threshold going forward, but does urge caution in making adjustments that could disrupt long-term planning by individuals who have engaged in estate planning. We ask that Congress be mindful that many taxpayers have planned ahead for their deaths and will need time to make adjustments to any changes that result from the 2025 tax debate.

²⁶ [Options for Reducing the Deficit, 2023 to 2032, Volume I: Larger Reductions](#) at 78, Congressional Budget Office, December 2022.

²⁷ [Preparing for the tax cuts and jobs act sunset](#), Elliott Davis, Jan. 5, 2024.

²⁸ [How much revenue has the U.S. government collected this year?](#), Federal Revenue Trends Over Time, FiscalData, U.S. Department of Treasury.

²⁹ [Estate tax](#), Internal Revenue Service, visited Sept. 23, 2024.

Tax Policies Affecting Nonprofit Employment

October 7, 2024

The ongoing nonprofit workforce shortage crisis³⁰ is a clear indication that labor market economics are not working for the benefit of people served by charitable organizations throughout the country. Data show that charitable nonprofits often cannot afford to pay wages and benefits that are commensurate with similar jobs in the for-profit and government sectors. The most direct impact frequently manifests in longer waiting lines and reduced services for individuals. All sectors suffer, however, when nonprofit child care providers are unable to pay enough to attract and retain staff to care for the children of employees of for-profit, governmental, and nonprofit employers. Nonprofit workforce shortages, therefore, are not mere inconveniences, but challenges for all residents of the United States. Congress can alleviate some of these challenges by removing existing tax policy impediments and extending to nonprofits many of the tax incentives enjoyed by businesses.

Much More Than a Sector of Volunteers

Contrary to common misperceptions, the charitable sector does not operate with an all-volunteer workforce. Rather, Bureau of Labor Statistics data for 2022 show that more than 300,000 nonprofit establishments accounted for 12.8 million compensated jobs, or 9.9 percent of all private-sector jobs.³¹ In several states, including Maine, Massachusetts, New York, Pennsylvania, Rhode Island, and Vermont, employment at charitable organizations exceeds 15% of the private workforce.³² Nonprofit organizations are involved in all industry sectors, with nearly 2 out of every 3 nonprofit jobs in the health care and social assistance sector (66.3%) and educational services comprising 16.4%. Although nonprofits generally do not pay any income taxes, estimates are that they contribute almost \$65 billion annually in payroll taxes.³³

³⁰ [2023 Nonprofit Workforce Survey Results: Communities Suffer as Nonprofit Workforce Shortage Crisis Continues](#), National Council of Nonprofits, August 2023.

³¹ [Nonprofits accounted for 12.8 million jobs, 9.9 percent of private-sector employment, in 2022](#), Bureau of Labor Statistics, Aug. 16, 2024.

³² [State Nonprofit Data & Reports](#), Nonprofit Impact Matters, August 2019.

³³ Calculation provided by the National Center for Charitable Statistics at the Urban Institute.

Employment Tax Incentives

Congress occasionally gets it right, but more often than not the enthusiasm behind creating employment tax incentives has focused almost exclusively on for-profit employers. This has served as a detriment to nonprofit employers, their employees, and the people they serve.

As Congress revisits many of the provisions of the 2017 tax law set to expire at the end of 2025, it will examine some of the business tax incentives or benefits, often in the form of tax credits, that currently subsidize employment. At present, many of these income-tax based incentives are not available to nonprofit employers since they are generally exempt from federal income taxes.

The following is a list of the most commonly discussed tax credits to which nonprofit access is limited or which charitable organizations cannot utilize:

- **Expenditures to provide access to disabled individuals:** An income tax credit is available for expenditures by small businesses to enable compliance with the requirements of the Americans with Disabilities Act (ADA).³⁴
- **Retirement Savings:** Employers may be able to claim an income tax credit of up to \$5,000, for three years, for the ordinary and necessary costs of starting a qualified pension plan. In addition, Code Section 45T provides a three-year tax credit for employers that offer automatic enrollment in pension plans.³⁵ We note favorably that legislation introduced in late summer 2024 would extend both of these important tax incentive to small nonprofit employers by applying the tax credit to payroll taxes they pay.³⁶
- **Child Care Facilities:** Employers can qualify for an income tax credit up to \$150,000 per year to offset 25% of qualified childcare facility expenditures and 10% of qualified childcare resource and referral expenditures.³⁷
- **Family and Medical Leave:** Employers who provide paid family and medical leave to their employees may claim an income tax credit, which is equal to a percentage of wages they pay to qualifying employees while they're on family and medical leave. This tax credit is scheduled to expire at the end of 2025.³⁸
- **The Work Opportunity Tax Credit (WOTC)** is available for employers who hire individuals who are members of “targeted groups.” An employer must obtain certification that an individual is a member of a targeted group before it may claim the income tax credit

³⁴ ³⁴ 26 U.S. Code § 44.

³⁵ ³⁵ 26 U.S. Code § 45E.

³⁶ [S. 4965](#), the Small Nonprofit Retirement Security Act of 2024, introduced Aug. 1, 2024 by Senators James Lankford and Cortez Masto.

³⁷ 26 U.S. Code § 45F.

³⁸ 26 U.S. Code § 45S.

of up to \$2,400. WOTC targeted groups include: 1) Qualified IV-A ("TANF") recipient; 2) Qualified Veteran; 3) Qualified Ex-Felon; 4) Designated Community Resident; 5) Vocational Rehabilitation Referral; 6) Summer Youth Employee; 7) Supplemental Nutrition Assistance Program (SNAP or "food stamps") recipient; 8) Supplemental Security Income (SSI) recipient; 9) Long-term Family Assistance (Long-term TANF) recipient; and 10) Qualified Long-term Unemployment recipient.³⁹

All of these tax incentives advance policy priorities deemed important by Congress for the U.S. economy and society. Yet, the sector most dedicated to improving lives and communities – the charitable nonprofit sector – is excluded from utilizing the incentives. The result is that it actually costs more for nonprofit employers to hire and retain staff – leading to their inability to compete with for-profit employers on an equal basis. The current exclusionary policy must be corrected.

Emerging Solutions

Over the past 15 years, Congress has turned to tax credits applied to payroll taxes as a means for providing tax supports for nonprofits. For example, the Affordable Care Act contains a tax credit against payroll taxes for small nonprofits that provide health insurance to their employees.³ More recently, the CARES Act provided a refundable tax credit to both for-profit and nonprofit employers against payroll taxes equal to qualified wages.⁴ And perhaps most significantly, the Inflation Reduction Act of 2022 (IRA) made numerous energy-saving related tax credits available to nonprofits through a reimbursement system. Under the IRA nonprofit and other tax-exempt entities can benefit from the energy tax credits through so-called “elective pay” in which the organization can receive the full value of the credit in the form of a direct payment from the IRS. Alternatively, organizations can transfer all or a portion of the tax credit to a third-party buyer in exchange for cash or an adjustment on the contract price of the property.⁵

Recommendation: Enable tax-exempt employers to utilize employment tax incentives by converting income tax credits to direct pay or transferability.

The Internal Revenue Service has provided extensive guidance in the form of regulations and other guidance regarding both elective pay and transferability. Information on eligibility and election requirements as well as filing requirements is readily available and includes procedures regarding registration to receive direct payments from the federal government.⁶ Congress should consider adapting either the elective pay or credit transfer mechanisms so that several income tax credits currently available to for-profit employers could also be made available to nonprofits.

³⁹ 26 U.S. Code § 51; Rules for Computing Work Opportunity Credit.

Employment Excise Tax on Nonprofit Employers

Effective for taxable years beginning after December 31, 2017, the 2017 tax law imposes an excise tax at the corporate tax rate (currently at 21%) on certain remuneration in excess of \$1 million and on certain separation pay (“excess parachute payments”). Separation pay to covered employees can trigger the “parachute payment” tax even if the individual’s compensation never reaches \$1 million. In general, the parachute tax is triggered if separation pay equals or exceeds 3 times a covered employee’s “base amount. The excise tax is extended to “applicable tax-exempt entities” (“ATEOs”) and related organizations. The stated intent at the time of passage was to impose the same economic effect as a for-profit corporation losing a tax deduction.

We challenge the rationale for the excise tax given the nature of work at charitable nonprofits and existing regulatory structures. Nonprofit executive compensation is already on top of the list of issues the IRS scrutinizes effectively. Recent statistical data released by the IRS show that 516 tax-exempt organizations filed and paid excise taxes of approximately \$210 million cumulatively during the calendar year 2021 for providing compensation that the IRS deemed excessive. In 2020, 302 tax-exempt organizations filed and paid excise tax of approximately \$96 million. The IRS states that there continues to be a high volume of exempt organizations that paid compensation of over \$1 million to at least one covered employee but did not report an excise tax on Form 4720, Return of Certain Excise Taxes Under Chapters 41 and 42 of the Internal Revenue Code.

The IRS’s Tax Exempt & Government Entities (TE/GE) Division released its compliance and priorities for fiscal year 2024 and supporting examinations of exempt organization executive compensation was among them.⁴⁰ In fiscal year 2022, the IRS commenced 842 compliance checks with respect to compliance with the excise tax; of those checks, approximately 100 of those cases were referred for examination.⁷

Recommendation: Congress should allow Section 13602 of the 2017 tax law (IRC Section 4960) to sunset, as scheduled on December 31, 2025.

⁴⁰ [Tax Exempt & Government Entities – Compliance Program and Priorities](#), Internal Revenue Service.

Natural Disaster Tax Relief

August 12, 2024

Days after Hurricane Debby ravaged the south and in recognition of the one-year anniversary of wildfires that devastated Maui, it is undeniable that natural disasters are a fact of life in the 21st Century, affecting large segments of the United States population every year. Yet, it frequently takes an act of Congress or decree of the President to determine whether and to what level of support government and private resources can be dedicated to relief and recovery efforts in communities ravaged by the forces of nature. That should change with enactment of a package of targeted and temporary tax provisions that would only be triggered by a natural disaster declaration by the President of the United States.

The networks of the National Council of Nonprofits call on Congress to better utilize the federal tax code to relieve suffering and promote recovery efforts after natural disasters strike. The following four-point proposal provides recommendations based on real-world experiences of charitable organizations in dealing with disaster relief and recovery activities across the country. Combined, the four common-sense recommendations will eliminate uncertainty and remove barriers to nonprofit success in helping our fellow residents rebuild their lives and assisting our communities to come together to develop local solutions.

Before addressing the four recommendations, we highlight that while natural disasters are typically regional in scope, they occur throughout the United States in many different forms. The Atlantic and Gulf Coast states have extensive experiences dealing with the aftermath of hurricanes. The Midwest has tornadoes and floods. Western states deal with the ravages of wildfires, mudslides, earthquakes, and even tsunamis and volcanic eruptions.

The positive news for individuals and communities whose lives have been disrupted by natural disasters is that wherever disasters strike, charitable nonprofits respond. They help people through and beyond the trauma and provide a platform for those wanting to help. Federal and state money may be slow in arriving, but nonprofits wade in immediately (and often literally) to provide relief. More lasting assistance may be coming, but the charitable organizations in the community already know the recovery needs of their neighbors, take action right away, and continue doing so for the long term. Charitable nonprofits often serve as connectors and conveners of other nonprofits in the immediate hours of a disaster, as well as down the line as the full impact of loss is understood.

Tax Policy Proposal: Congress should enact a package of disaster tax relief and recovery provisions to enable tax policy to truly support victims of disasters and the vital work of charitable organizations in times of great need.

Upon the declaration of a natural disaster by the President, the following proposals should automatically go into effect without the need for additional legislation, executive order, or other governmental action:

- 1. IRS Filing Deadlines:** Any disaster relief and recovery tax package should include language granting automatic extensions for tax filing deadlines for nonprofit organizations, other businesses, and individuals without requiring an express statement from the IRS or Congress. Nonprofits engaged in immediate disaster-relief work shouldn't have to divert attention and personnel from the crisis at hand to scour reports to determine if a deadline has been extended.
- 2. Disaster Relief and Recovery:** Any disaster relief tax package should also ensure that incentives apply not just to immediate disaster "relief" efforts, but also to disaster "recovery" activities. This matters because the housing and feeding of victims of disaster may extend for many months or even years after the event. Likewise, many nonprofits find their own facilities destroyed, "under water," or otherwise unusable as a result of the disaster and must commence their own recovery efforts while simultaneously providing immediate relief in their communities.
- 3. Employer Tax Credits:** Dating back to the congressional response to Hurricane Katrina and consistently thereafter, Congress has crafted disaster tax relief packages that include a provision granting *income* tax credits to employers that maintain employee income during disaster-related shutdowns. Prior to the [CARES Act in 2020](#), charitable nonprofits, which represent 10% of America's private workforce, generally were unable to utilize these tax credits enacted in disaster bills because they are exempt from the income taxes to which the credits apply.

The CARES Act, at Section 2301, established the Employee Retention Tax Credit (ERTC) which authorized refundable payroll tax credits to all employers. It was drafted in recognition that employers needed immediate help in maintaining payrolls during shutdowns ordered by governments due to the pandemic, and provided direct relief, particularly for charitable organizations and businesses without profits that would have been left out of the traditional income tax credit approach.

The ERTC was the right solution but was clearly abused by bad actors. As made clear during a [congressional hearing in summer 2023](#), the ERTC as written in the CARES Act and subsequent laws was recognized as extremely effective in securing relief for truly eligible employers keeping their millions of employees on the payroll during the depths of the

pandemic. Lawmakers and witnesses at that hearing also agreed that the way the law was structured opened the door to widespread fraud by unscrupulous agents and profit-seekers who flooded the IRS with bogus claims, resulting in significant delays in relief checks and profound doubt about the viability of the tax credit program going forward. Reform of the ERTC was the consensus of the participants.

A solution to the challenge going forward is to include a provision in a disaster tax relief and recovery package that would require organizations promoting the credit to sign, under penalty of perjury, as preparers or some other type of attestation that accompanies the Form 941-X claiming the relief. Congress should also consider outlawing in any future relief and recovery programs finders fees or contingency fees, a practice that appears to have spawned misleading radio and television advertising, unscrupulous telemarketing, and other aggressive tactics. The key point here is that the Employee Retention Tax Credit, with modifications, can and should be utilized as a tool for keeping employees off unemployment and helping to move communities from disaster to recovery.

- 4. Temporary Universal or Non-Itemizer Charitable Contribution Deduction:** Finally, with each natural disaster comes the need for greater resources. Disaster tax packages normally incentivize greater giving in the aftermath of disasters by removing the cap on the charitable contribution deduction of 60 percent of Adjusted Gross Income. This approach, however, is limited to the 1 in 13 taxpayers who currently itemize their deductions. More help from more people is needed in extraordinary circumstances.

In addition to expanding the non-itemizer deduction via legislation such as the Charitable Act (S. 566/H.R. 3435), the networks of the National Council of Nonprofit call for the creation of a supplemental **temporary, targeted non-itemizer deduction that would enable all taxpayers to receive a charitable giving tax incentive when they donate to disaster relief and recovery efforts of charitable organizations in the affected areas.**

The increase in the standard deduction in the 2017 tax law means that now only 7.5% of taxpayers who itemize receive a tax incentive when they contribute to the work of charitable nonprofits. Many more people experience a desire to give to these efforts and make small donations via their phone or online. The lack of a tax incentive for those who do not itemize means that most of these donations will remain very small or will not be made at all. We believe that an above-the-line charitable deduction that is **temporary** (e.g., for six months after the disaster declaration) and **targeted** (i.e., available for donations to the charitable organizations engaged in relief and recovery activities in the designated disaster area) would enable all taxpayers to support their fellow Americans throughout the country in an immediate and responsible way.

We note, and fully endorse, advocacy and interest dedicated to the creation of a permanent non-itemizer deduction. To the extent those efforts are successful in establishing a deduction for those taxpayers claiming the standard deduction, it is possible that some form of ceiling or cap on the deductibility of donations may be included. For example, the bipartisan Charitable Act (S. 566/H.R. 3435) sets a ceiling at a third of the standard deduction. Natural disasters require extraordinary assistance; for that reason, we recommend that whatever ceiling, if any, Congress adopts, the automatic disaster relief and recovery tax package should provide an added, targeted incentive. As with the elimination of the AGI cap that has typically been included in past disaster tax packages, **we recommend lifting any ceiling for non-itemizer deductions for amounts devoted directly to disaster relief and recovery efforts.**

Removing Tax Code Impediments to Volunteering

August 26, 2024

A unique feature of the charitable sector is its ability to tap into the support of dedicated volunteers to address community needs and challenges. The importance of volunteers to the charitable sector cannot be overstated; the [value of volunteer hours](#) amounts to half the charitable contributions every year. The connection between volunteerism and positive [civic engagement](#) also cannot be underestimated. With services ranging from board membership to meal deliveries and community clean-up assignments, and much more, volunteers help charitable nonprofits advance their missions and strengthen communities.

However, volunteer rates are declining. A biennial [study from AmeriCorps](#) found that formal volunteering dropped more than 23% percent, from 30% of the public in 2019 to 23.2% in 2021. Further, nearly 70% percent of nonprofits report that they were [still using fewer volunteers](#) than normal in 2022.

Nonprofits facing [increases in demand for services](#), [staff shortages](#), and [drops in revenue sources](#) turn to volunteers to support their missions and create a meaningful experience for them. Yet, there are many barriers to volunteering, such as costs, that nonprofits cannot address alone. Federal tax policy actually discourages volunteerism in significant ways that must be redressed to reverse the trends in volunteering.

Tax Policy Proposals

Congress can promote the ability of nonprofits to recruit and support volunteers who wish to dedicate their time to missions and communities by removing current disincentives in tax policy.

1. Charitable Mileage Rate

Individuals often point to high gas prices and poor tax incentives as the main reasons they cannot donate their time in rural communities and transit deserts. Volunteers who use their vehicles in service of a charitable organization – most often through delivery of meals to shut-in seniors and driving patients from their homes to doctor appointments – are allowed to claim their mileage as an itemized deduction. The [volunteer mileage rate](#), however, has not been adjusted since it was set in 1997; it is fixed at 14 cents/mile. The standard business rate, on the other hand, is adjusted at least annually, with the most recent rate set at 67 cents/mile.

To make matters worse, the federal government and some states require volunteer drivers to pay income taxes on expense reimbursements from nonprofits that exceed the charitable mileage rate. This means that if nonprofits – to attract and keep volunteer drivers – offer to reimburse them for mileage at the standard business rate (currently 67 cents/mile), drivers can be taxed on the 53 cents/mile above the 14 cents/mile they could otherwise deduct. With higher gas prices and fewer volunteers, the costs of driving long distances to deliver meals or taking individuals to medical appointments is prohibitive for many.

The networks of the National Council of Nonprofits call for increasing the charitable mileage rate to at least match the standard business rate. Congress should ensure tax fairness by approving legislation, such as the bipartisan **Volunteer Driver Tax Appreciation Act of 2023** ([S. 3020/ H.R. 3032](#)). That bill would raise the charitable mileage rate from 14 cents per mile to the standard business rate for volunteers who drive their vehicles on behalf of charitable nonprofits to transport property or individuals. Notably, this is a narrower standard than current law for the smaller itemized deduction in that it applies primarily to deliveries rather than driving to and from charitable meetings and events.

The legislation would also eliminate the income taxation on mileage reimbursements up to the standard business rate. Charitable nonprofits would not be required to reimburse volunteer drivers, but their volunteers would no longer be penalized when they do.

These long-needed reforms would reduce impediments to volunteering for many taxpayers, leading to greater engagement and impact in communities.

2. Education and Service Awards

Another challenge arises from the taxation of stipends received to defray the costs of volunteers. Thousands of individuals participate in AmeriCorps programs every year and are eligible for specific awards, such as the Segal AmeriCorps Education Award, once their term of service is complete. However, they can be taxed on the benefits they are promised when signing up. For those completing their term by serving at a nonprofit, the award and taxation can influence whether they would pursue a career in the sector after they finish their volunteer service.

We support legislation that ensures governments do not tax the benefits provided to those who dedicate their time to nonprofit missions. The **Segal AmeriCorps Education Award Tax Relief Act of 2023** ([S. 3487/ H.R. 6759](#)) would end the taxation of the Education Awards. The **Action for National Service Act** ([S. 779/H.R. 1588](#)) would, among other things, ensure that expanded educational benefits and living allowances are exempt from federal taxes.

No one is profiting financially from participating in AmeriCorps volunteer programs; the true rewards for participants comes through character-building work experiences, a mission-driven mindset, and the value of contributing to their communities. Governments should not

discourage these investments in individuals' futures by taxing stipends designed to defray the costs of volunteering in communities.