Tax Policy Changes and Charitable Giving: What Fundraisers Need to Know

By Dominic Pepper, Vice President, CCS and Hannah Yaritz, Vice President, CCS | May 27, 2021

The Biden Administration has begun to move in earnest to draft and pass new tax legislation that could dramatically affect the giving landscape in America. Though we do not expect new legislation to pass until the fall, it is important for fundraisers to pay attention to the proposals. Biden's proposed changes may affect how your donors plan their charitable giving. This article provides an overview of the potential implications of tax reform on charitable giving, along with guidance for fundraisers looking to discuss these matters with their donors.

How Proposed Tax Policy Changes May Affect Donations to Nonprofits

The tax policy proposals contained in President Joe Biden's American Families Plan (April 2021) and his Made in America Tax Plan (April 2021), along with Senator Bernie Sanders' proposed For the 99.5% Act (March 2021) have made headlines in recent weeks. There isn't one quick answer for how these tax proposals will affect donations to nonprofits.

On one hand, higher taxes lead to less cash on hand to donate. The Biden Administration's proposals would raise income and capital gains taxes on American taxpayers making more than $400,000 per year. On the other hand, the incentive to give increases as tax rates rise. When tax rates go up, charitable giving becomes more attractive since it often allows donors to reduce the amount of taxes they will pay. The illustration below demonstrates how charitable giving becomes more tax-efficient or "cheaper" for wealthy donors after an income tax increase.

If Jane is in the top tax bracket, donates $100,000 to charity, and claims a tax deduction...

	Under 37% Tax Rate	Under 39.6% Tax Rate
Gift Amount	$100,000	$100,000
Tax Savings *Tax avoided by claiming a charitable deduction*	$37,000	$39,600
Cost of Gift to Jane *Gift amount minus tax savings*	$63,000	$60,400

...that gift will "cost" less to Jane under a higher tax rate.

Complicating this is the fact that during his 2020 presidential campaign, President Biden expressed support for limiting charitable deductions such that taxpayers making more than $400,000 per year could **only deduct to a rate of 28%** (as opposed to 39.6%). This would mean that in the example above, Jane could only save $28,000 in taxes rather than $39,600.

However, the 28-percent-cap provision did not appear in the White House's American Families Plan released in April 2021. Amid uncertainty as to whether this 28-percent-cap could show up in future legislation, Dan Cardinali, CEO of Independent Sector, stated that the national coalition of charities and foundations "will continue to urge policymakers to exclude the charitable deduction from any future efforts to introduce caps on itemized deductions."

In addition, the estate tax changes proposed in Senator Sanders' For the 99.5% Act would make more estates eligible to be taxed and increase estate tax rates. These measures might encourage donors to give by bequest or deploy other gift planning vehicles to avoid paying new estate taxes.

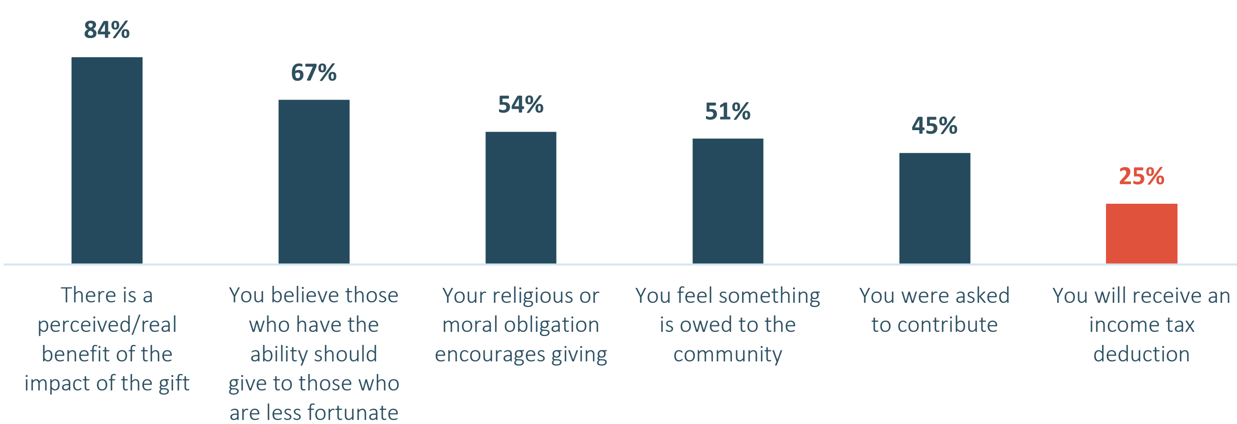
How Big of an Influence Does Tax Policy Have on Giving?

Tax savings are more of an *incentive* than a *motivator* for charitable giving. Individuals give to charity for complex and unique reasons. Decades of academic studies and historical tax data show that donors respond to incentives like the ability to itemize charitable deductions.[1] Yet research also suggests that donors are primarily motivated to give by an organization's mission and impact.

CCS has interviewed thousands of donors in feasibility studies since 2011. In more than 20,000 of these interviews, CCS asked about the donor's overall motivations for donating to charity. Donors most frequently cited that they are motivated by the impact of their gift and by a belief in helping others. Receiving an income tax deduction was the least frequently cited motivator for giving to charity.

Motivations for Philanthropic Giving

Percentage of donors interviewed in CCS Feasibility Studies citing this factor as a motivation for giving to charity

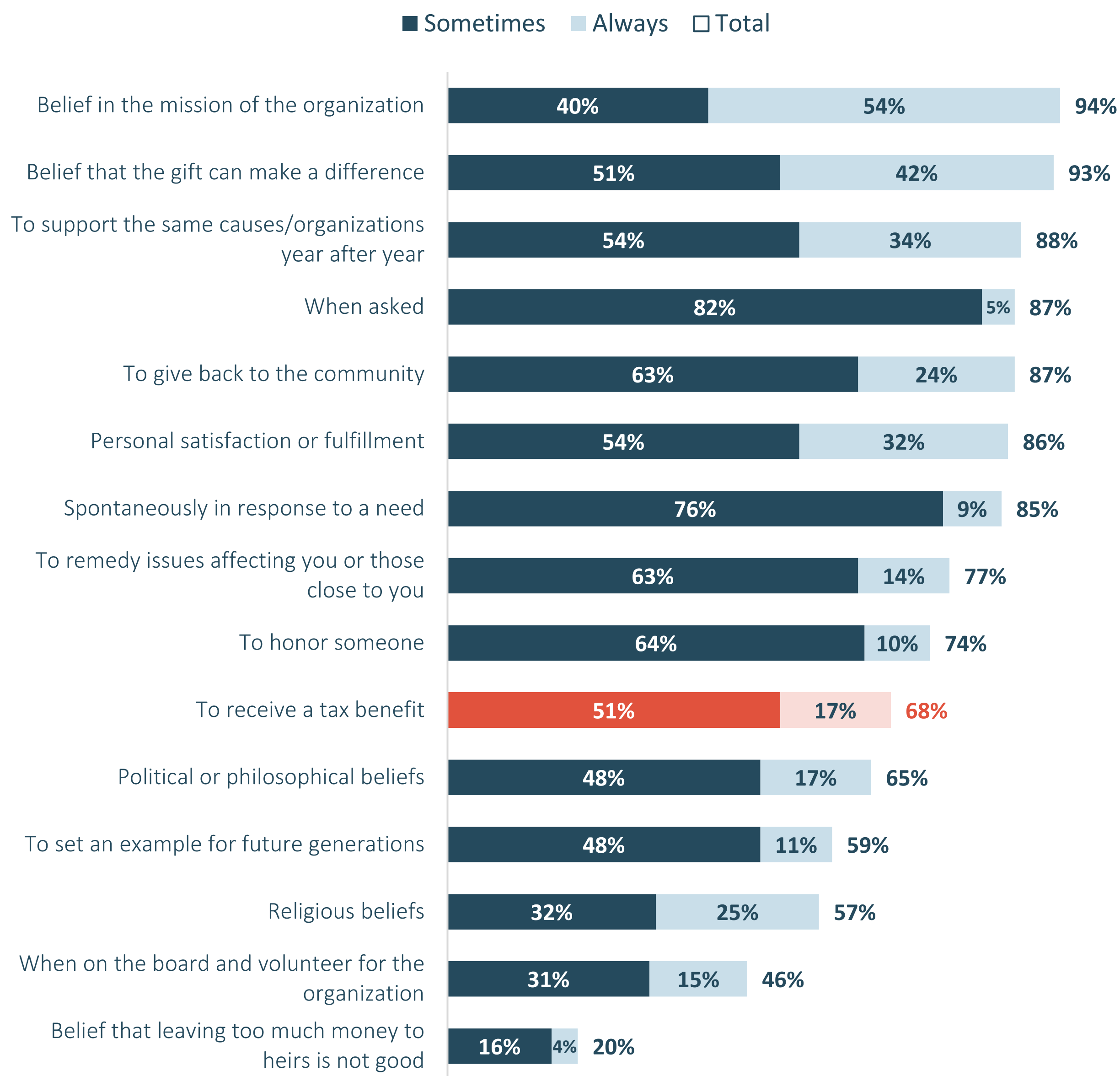


Source: *CCS Fundraising (2011-2021). N=23,115.*

Similarly, the U.S. Trust Study of High Net Worth Philanthropy found that among wealthy donors, tax benefits ranked tenth on a list of 15 factors for making charitable decisions. Only 17% of donors said they always consider tax benefits when making charitable decisions.

How Often Charitable Decisions Are Made Based on Specific Factors

Percentage of affluent donors saying each factor "sometimes" or "always" influences their charitable decisions*



Source: Bank of America and IUPUI Lilly Family School of Philanthropy, U.S. Trust Study of High Net Worth Philanthropy (2018).
**"Affluent" defined as U.S. households with a net worth of $1 million or more (excluding the value of their primary residence) and/or an annual household income of $200,000 or more. N=1,646.*

Going forward, it will be interesting to see how individual giving rates are influenced by the universal charitable deduction of $300 available to all taxpayers in 2020 and 2021 as a result of the CARES Act. For now, we know that tax incentives do influence a sizeable portion of donors, but that they are far from the most common motivator for charitable giving.

Some sectors and gift types are more likely to experience volatility with the shifting tax landscape. Dr. Russell James III, a Texas Tech University Professor, found that cash gifts to education are two times more responsive to tax price compared to cash gifts to religion. In addition, **gifts of stocks are ten times more responsive to tax price** than cash gifts to education.

Donor Relations Amid the Uncertainty

Many professional advisors estimate that Congress will finalize tax reform legislation this fall. In preparation for the proposed changes to the tax code, nonprofits can and should begin talking with donors about how the changes affect donors' considerations for making a gift.

In a climate of uncertainty around tax policy changes, we advise fundraising professionals to:

1. **Read**. Tax changes will be well covered by the media. Stay apprised of policy news via nonprofit-focused organizations like the Chronicle of Philanthropy, Independent Sector, and National Council of Nonprofits; national newspapers; and tax policy think tanks.

2. **Consider building a relationship with professional advisors to help with more complex giving situations.** Nonprofit professionals do not need to be tax or legal experts, and in fact, cannot offer direction on either topic. By working with professional advisors like estate attorneys and financial planners, fundraisers can develop a high-level understanding and equip themselves with the vocabulary to recognize and suggest ideas that the donor might bring to their own tax and estate attorneys.

3. **Educate donors on gift planning vehicles**. What assets and which vehicles to use to make a gift matter. Think beyond cash gifts to assets like stocks, real estate, business interests, or giving vehicles such as charitable trusts, annuities, and bequests. You can help a donor save enormous sums of money by pointing them to the correct combinations.

4. **Always keep your mission front and center**. Tax incentives influence donors' giving plans and can drive urgency and action when policy changes are on the horizon. Still, it is important to keep in mind that donors give for many interconnected reasons and tax benefits are often not their primary motivator. Center the giving conversation on the difference that the donor's gift will make to your mission.

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[1] For historical information on tax incentives' influence on charitable giving, see these resources recommended by the Giving USA Foundation: Charles Clotfelter, Federal Tax Policy and Charitable Giving, University of Chicago Press, 1985; Charles Clotfelter, "The Impact of Tax Reform on Charitable Giving: A 1989 Perspective," National Bureau of Economic Research Working Papers, 3273, https://ideas.repec.org/p/nbr/nberwo/3273.html; John Peloza and Piers Steel, "The price elasticities of charitable contributions: a meta-analysis," Journal of Public Policy & Marketing, 2005, 24(2), 260-272; Gerald E. Auten, Holger Sieg, and Charles T. Clotfelter, "Charitable Giving, income, and taxes: An analysis of panel data," The American Economic Review, 2002, 92(1), 371-382; Richard Steinberg, "Taxes and giving: New findings," Voluntas: International Journal of Voluntary and Nonprofit Organizations, 1990, 1(2), 61-79; Christoper Duquette, Is charitable giving by nonitemizers responsive to tax incentives? New evidence," National Tax Journal, 1999, 195-206; Nicholas Duquette, "Do tax incentives affect charitable contributions? Evidence from public charities' reported revenues. Journal of public economics, 2016, 137, 51-69.

About the Authors

Dominic Pepper is a Vice President with CCS Fundraising. His practice area at the firm includes large, multi-lateral non-governmental organizations and federated model nonprofits. He also leads CCS's subject matter expert group on Gift Planning, with a focus on tax and estate giving vehicles. Prior to CCS, Dominic advised family office philanthropy at a Trusts and Estates firm awarded the Society of Trust and Estate Practitioners' International Boutique Firm of the Year. He has been published for his writing on estate planning and has spoken about planned giving at industry conferences and international organizations.

Hannah Yaritz partners with nonprofits across all sectors to plan, strategize, and launch transformative fundraising initiatives. A Vice President with CCS, her expertise includes major gift fundraising, strategic campaigns, gift planning, and an emphasis on building sustainable cultures of philanthropy. Hannah leads CCS's Gift Planning group, focusing on professional development within the firm and with nonprofit partners. She is on the board of the Colorado Planned Giving Roundtable and is the recent past chair of the organization's regional gift planning conference.

Sources

We are grateful to the following sources used to inform this article and the accompanying briefing.

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Though no new legislation has been passed on these measures as of May 27, 2021, tax policy proposals may affect how your donors plan gifts to your organization. This briefing summarizes a selection of current tax reform proposals that may have the most significant impact on charitable giving.

Proposal	What Would Change	Potential Impact on Charitable Giving
Increase top income tax rate *Appears in the American Families Plan (April 2021)*	Taxpayers making more than $400,000 per year would pay a top income tax rate of 39.6%. The current rate is 37%. Of note, under the 2017 Tax Cuts and Jobs Act (TCJA), the top individual income tax rate is currently scheduled to go back to 39.6% in 2025.	Some argue that this provision could decrease charitable giving since it can decrease income of the highest earners. Others counter that this measure would increase charitable giving. This measure may encourage charitable giving because when income tax rates go up, charitable giving becomes more tax efficient or "cheaper." For example, if a donor in the top tax bracket donates $100,000 to charity and claims a tax deduction for the gift, she will avoid $37,000 in taxes at a 37% maximum tax rate and $39,600 at a 39.6% maximum tax rate. The higher the tax rate, the cheaper the $100,000 gift is to the donor: the gift essentially costs the donor $60,400 if she saved $39,600 in taxes, while it costs $63,000 if she saved only $37,000 in taxes.
Increase capital gains and dividend tax rates *Appears in the American Families Plan (April 2021)*	Taxpayers earning more than $1 million per year would pay a maximum rate of 39.6% on assets that have appreciated in value. In other words, capital gains would be taxed as ordinary income. The current maximum rate is 20%. To note, under this proposal there would be exemptions for a primary residence and for the first $1 million ($2.5 million for married couples).	As in the income tax example, this measure could encourage charitable giving because it allows a donor to capture the full value of an appreciated asset through a tax deduction and avoid paying gains taxes on the asset. In particular, this change would make gifts via charitable remainder trusts and gift annuities more appealing.

Proposal	What Would Change	Potential Impact on Charitable Giving
Cap on charitable deductions *Appeared in President Biden's proposals during the 2020 presidential campaign (October 2020)*	For taxpayers making more than $400,000 per year, Biden has previously stated that he supports capping charitable giving deductions at 28%. This means that a donor who pays taxes at a maximum rate of 39.6% would only be able to save $28,000 in taxes by making a $100,000 gift instead of $39,600. This change would be a stark departure from the CARES Act's authorization of deducting up to 100% of one's adjusted gross income (AGI) in 2020 and 2021 for cash gifts to public charities. This proposal did not appear in the summary of the American Families Plan released in April 2021 but has the possibility to appear in future proposals.	This policy could deter giving because donors would save less money in taxes when they give a charitable gift.
Eliminate the stepped-up cost basis *Appears in the American Families Plan (April 2021)*	This proposal would eliminate the stepped-up cost basis for inherited property, meaning heirs would have to pay capital gains taxes on any growth in value of the asset over the original purchase price. Currently, if an individual passes down assets to heirs that have appreciated over time, the value of the asset is adjusted up to the current fair market value on the day of the decedent's death. For example, if your mother bought a house in 1990 for $100,000 that is now worth $400,000, and she passed away leaving you the house, currently you would be able to claim a "cost basis" of $400,000. This is because today, the property's "cost basis"—the baseline for determining appreciation and capital gains taxes due—gets reset to the current market value.	This proposal could make taxpayers more interested in giving highly appreciated assets to charity in their estates.

Proposal	What Would Change	Potential Impact on Charitable Giving
Reduce estate tax exemption and increase estate tax rate *Appears in Senator Sanders' For the 99.5% Act (March 2021)*	Currently, only estates exceeding $11.7 million per person or $23.4 million per couple are subject to federal estate tax (these thresholds are indexed for inflation and will continue to rise). Estates exceeding those thresholds face a 40% federal tax. These exemptions are set to expire in 2025. Senator Sander's proposal would lower the exemption threshold, meaning estates of $3.5 million per person ($7 million per couple) would be taxed. The proposal would also raise the applicable tax rate from 40% to 45% for estates from $3.5 million-$10 million, 50% from $10 million-$50 million, 55% from $50 million-$1 billion, and 65% for estates over $1 billion.	This measure could make giving by bequest more popular. Charitable bequests are not subject to federal estate tax. Since more estates would be taxed and they would be taxed at a higher rate, donating a portion of one's estate to charity would become more appealing.

Existing Charitable Giving Incentives in COVID-19 Relief Legislation

The changes described in this briefing cover proposals that may come into effect in 2022. COVID-19 relief legislation has extended tax incentives for charitable donations into the 2021 tax year:

- In 2021, individuals who itemize their deductions can deduct up to 100% of their adjusted gross income (AGI) in cash donations to charity, compared to the typical 60% limit.
- In 2021, all taxpayers (regardless of whether or not they itemize deductions) can deduct up to $300 individually or $600 as a couple in cash donations to charity.
- In 2021, corporations can receive up to a 25% credit against their taxable income by donating cash or food to charity. Typically, corporations can receive up to a 10% credit for cash donations and 15% for food donations.