

## **ENCOURAGING CHARITABLE GIVING AND SUPPORTING PUBLIC ACCESS TO THE ARTS**

*Supporting the Work of America's Nonprofit Community*

Like thousands of nonprofit arts, education, human services, and other community organizations, more than 1,600 American orchestras are classified as 501(c)(3) tax-exempt organizations. This exemption and the tax incentive to give private donations are essential for orchestras and other charitable organizations to serve community needs.

### **ACTION NEEDED**

*We urge Congress to:*

- *Restore and expand the full value and scope of charitable giving incentives for all taxpayers through enacting a universal charitable deduction.*
- *Support further policies that will strengthen the nonprofit arts community by passing the Legacy IRA Act, H.R. 3832 and S. 1257, and preserving the Johnson Amendment's protections from partisanship.*

### **TALKING POINTS**

- **Orchestras and other nonprofit arts organizations are an essential part of the broader community of approximately 1.4 million nonprofit 501(c)(3) organizations, working alongside hospitals, educational institutions, food assistance programs, and the full array of charitable organizations.** In recognition of their benefit to the public good, contributions made to 501(c)(3) nonprofits have been tax-deductible since 1917.
- **Tax policy changes directly impact nonprofit services and U.S. jobs.** With essential support from charitable donations, the nonprofit sector boosts local economies and employs roughly 10 percent of America's workforce. The nonprofit sector contributes \$1.6 trillion in services every year and supports 11.4 million jobs.
- **Ticket sales and admission fees alone do not come close to subsidizing the artistic presentations, educational offerings, and community-based programming of orchestras.** On average, 40% of financial support for orchestras is derived from charitable giving.
- **Orchestras and other arts nonprofits rely on charitable gifts from donors across the economic spectrum.** Donations of all sizes add up to an essential investment that enables nonprofit arts organizations to respond to public needs and form community partnerships through education, artistry, economic development, and social service programs.
- **Under comprehensive tax reform legislation enacted in 2017, taxpayers claiming the charitable deduction have declined, reducing incentives for charitable giving.** The drop in the number of taxpayers eligible to claim the charitable deduction is accelerating an already troubling trend of fewer Americans making charitable donations. At a time when the U.S. economy is growing at a healthy rate, charitable giving should also be growing or at least keeping pace. Instead, *GivingUSA* found that charitable giving by individuals dropped an inflation-adjusted 3.4 percent in 2018.
- **Congress can support increased charitable giving by enacting a Universal Charitable Deduction, available to all taxpayers, whether or not they itemize their returns.** While the initial charitable impulse

to give comes “from the heart,” history has shown that tax law impacts what, when, and how much donors give.

- **Giving can further grow by building on the success of the IRA Charitable Rollover provision.** The IRA Charitable Rollover provision allows individuals to make direct tax-free charitable gifts up to \$100,000 from their IRA starting at age 70 ½. The Legacy IRA Act would allow seniors starting at age 65 to make tax-free IRA rollovers to charities through charitable gift annuities or charitable remainder trusts.
- **Nonprofit 501(c)(3) organizations should remain protected from partisanship.** Repealing the Johnson Amendment would pressure charitable organizations to take sides in partisan political campaigns and would erode the public trust in organizations that exist to serve community needs.
- **The nonprofit sector is committed to high standards of governance and accountability, and it should be protected from unnecessary requirements that divert resources from essential nonprofit services.** As further tax policies are crafted, Congress must ensure that provisions related to nonprofit administration and reporting requirements do not inhibit service to communities.

## BACKGROUND

**Reaching the Full Potential of the Charitable Deduction:** While the comprehensive tax reform law enacted in 2017 preserves the charitable deduction for those who itemize their tax returns, the number of itemizers has fallen dramatically as the standard deduction was nearly doubled under tax reform. Providing giving incentives for all taxpayers is critically important given recent declines in the number of donors in the U.S. Indiana University’s Lilly Family School of Philanthropy found that the percentage of Americans who give fell from 67 percent in 2002 to just 56 percent in 2014. According to the Fundraising Effectiveness Project, the total number of donors dropped by 5.8 percent in the first half of 2019. Several bills have been introduced to allow donors to deduct charitable contributions, whether or not they itemize their tax returns, including HR 651, introduced by Rep. Henry Cuellar (D-TX) and Rep. Chris Smith (R-NJ), HR 1260, introduced by House Ways and Means Committee member Rep. Danny Davis (D-IL), and HR 5293, introduced by Rep. Mark Walker (R-NC). Nonprofit arts organizations, along with the broader nonprofit and philanthropic communities, join together in urging Congress to reinstate and expand tax incentives for charitable giving by creating a universal charitable deduction, available to those who do not itemize their tax returns.

**Unrelated Business Income Tax:** In December 2019, Congress repealed the Unrelated Business Income Tax (UBIT) on employee parking and commuting benefits that was included in the Tax Cuts and Jobs Act. This unprecedented 21% tax on nonprofit expenditures diverted funds away from the capacity of charitable organizations to serve their communities. The U.S. Department of the Treasury has released guidelines for nonprofits to pursue refunds for taxes paid.

**Growing Giving through the Legacy IRA Act:** The Legacy IRA Act would expand the IRA Charitable Rollover to allow seniors aged 65 and older to make tax-free distributions to charities through life-income plans. This would provide a guaranteed income for the senior for life and supports charities without negatively affecting federal tax payments since the senior’s annual retirement income from the life-income plan is fully taxed. Congress can easily increase charitable giving from middle-income seniors by passing the Legacy IRA bill.

**Maintaining Nonprofit Nonpartisanship:** Some in Congress have proposed allowing nonprofits supported by tax-deductible contributions to endorse candidates for office, removing the protection in law (called the Johnson Amendment) that prevents nonprofits from being pressured into partisan activity. While repeal was not included in the final tax reform bill in 2017, the threat still remains as similar repeal efforts surface in the context of appropriations bills. The broad charitable, religious, and philanthropic communities have come out in strong opposition to repeal of the Johnson Amendment.