

Tax Reform Act of 2014: Implications for Charities and Ministries

On February 26, 2014, House Ways and Means Committee Chairman David Camp (R-MI) released the most comprehensive federal tax reform plan since the Tax Reform Act of 1986. The 979-page proposal is the product of 30 congressional hearings, 11 working groups, 14,000 public comments, and countless hours of behind-the-scenes work over the past three years.

The Camp Proposal would significantly restructure our nation's tax system and dramatically alter existing charitable tax incentives. Here are some of the proposed changes that would have a significant impact on donors and privately funded exempt organizations, if the proposal were to become law.

Proposed Individual Tax Provisions

The proposal would consolidate the current seven-bracket rate structure into three brackets—10 percent, 25 percent, and 35 percent (25 percent plus a 10-percent surtax on high-income earners); place a 25-percent cap on certain deductions, except charitable contributions; and raise the standard deduction for joint filers from \$12,200 to \$22,000. The chairman's overarching goal is to simplify the number of tax brackets and decrease the number of taxpayers who itemize from the current 33 percent of taxpayers to 5 percent of taxpayers. At the same time, many current deductions and credits would be eliminated, including the deduction for state and local taxes, adoption expenses, health care costs, education expenses, and more.

Select Provisions That Would Affect Charitable Donations

Noteworthy among the many provisions that would likely affect charitable donations to tax exempt organizations are: (1) the proposal's 2-percent of adjusted gross income (AGI) "floor" on charitable contribution deductions; (2) the lower AGI limitations on cash contributions (the AGI limits would drop from 50 to 40 percent for contributions to public charities and 30 to 25 percent for contributions to non-operating private foundations); (3) the limitation of valuation of contributions of appreciated property to cost basis; and (4) the extension of the deduction for charitable contributions to April 15.

Implications for Charities and Ministries:

Considering most Americans give between 2.5 to 3 percent of their AGI (even in the faith community), the 2-percent AGI floor paired with the increased standard deduction would effectively eliminate the charitable deduction for all but the highest-income taxpayers.

New analysis by the Urban-Brookings Tax Policy Center shows that the *cumulative effect* of the Camp Proposal's proposed 2-percent AGI floor and its changes to the rate structure, standard deduction/personal exemptions, and itemized deductions would cause charitable contributions to

fall by *\$15 billion* to *\$30 billion* (in 2012 dollars) annually, depending on donors' reactions to the changes.

Furthermore, under current law, a taxpayer may generally deduct the full fair market value of long-term capital gain property contributed to charity (e.g., real estate). The Camp Proposal would limit the amount of a charitable deduction to the basis (donee's cost) of the contributed property, rather than its fair market value, resulting in a smaller deduction for the donee for property that has appreciated. Notably, "inventory contributed solely for the care of the ill, needy, or infants" and "publicly-traded stock" are exempt from the proposed basis-valuation limitation. When considered with the Urban-Brookings analysis, the proposed property valuation limits and the 40-percent AGI limitation on contributions mean the losses experienced by charities would be presumably far greater.

Select Provisions That Would Affect Exempt Organizations

Additional provisions would also affect how certain exempt organizations operate. The Camp Proposal would (1) clarify the taxation of unrelated business income (UBIT) by requiring separate UBIT computation for each business activity; (2) impose a new 20-percent excise tax on donor advised funds that fail to distribute contributions within 5 years on a first-in, first-out basis; (3) impose a new 10-percent excise tax on the tax-exempt organization when a disqualified person engages in an excess benefit transaction; (4) replace the "rebuttable presumption of reasonableness" procedures for disqualified person compensation arrangements and property transfers with minimum standards of due diligence; and (5) require mandatory electronic filing of Form 990s.

The Future of Tax Reform

The general consensus in Washington, DC is that Chairman Camp's proposal will not become law in its current form, but it has become the new center of gravity for the national tax reform debate. And although Chairman Camp announced that he is retiring from Congress at the end of 2014, his tax proposal will heavily influence his successor's plan for future tax reform.

Forewarned Is Forearmed

Being informed about tax-related policy challenges is a positive first step, but more charities and ministries must be proactive to shape the debate now and in the future. Fortunately, there is a convenient way to learn more and educate federal lawmakers: the Faith & Giving Coalition.

Faith & Giving Coalition

Gammon & Grange, P.C.'s consulting arm, Gammon & Grange Consulting, LLC, convenes the Faith & Giving Coalition, which represents a diverse, national coalition of more than 30 faith-based charities and religious organizations that are committed to preserving and strengthening charitable tax incentives, private giving, and philanthropic freedom. The coalition exists to (1) mobilize faith-based charities and religious organizations; (2) raise awareness in the faith community; and (3) educate lawmakers. Through the Faith & Giving Coalition, coalition

partners gain an understanding of the complex, multi-year tax reform process, collaborate with like-minded leaders on tax policy, and learn how to leverage their organization's challenges and successes under existing tax law to influence policymakers.

The Faith & Giving Coalition is a resource for the faith community to understand and respond to the myriad tax reform proposals that have been put forward, and to navigate the changing political landscape to effectively educate lawmakers. Please contact Natalie Maki, the coalition's Tax Policy Fellow, at fgc.fellow@gmail.com if you are interested in learning about how to partner with the Faith & Giving Coalition.

Gammon & Grange Consulting, LLC

Tax reform is not the only policy issue weighing on the minds of nonprofit and ministry executives. That is why Gammon & Grange recently launched Gammon & Grange Consulting, LLC, a consulting company that helps clients (1) better understand how seemingly unrelated public policies can impact their tax-exempt and ministry purposes; (2) think and act proactively toward public policy; and (3) advance timely, thoughtful, principled solutions to a variety of concerns facing nonprofit organizations. Our consulting arm provides everything from tailored policy information and analysis to full-service government relations. Please contact Rhett Butler at rtb@gg-consult.com to find out more about how Gammon & Grange Consulting can serve you.

Online Resources: Tax Reform Act of 2014

[Text](#) of the proposed 979-page Tax Reform Act of 2014

Ways and Means Committee's [section-by-section](#) summary

Joint Committee on Taxation's [technical explanation](#)

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