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# For the Fourth Year in a Row, White House Budget Includes "Charity Tax"

Yesterday, the White House submitted President Obama's proposed budget for FY 2014. For the fourth year in a row, the President has proposed a cap on itemized deductions at 28 percent, a measure that most believe would significantly reduce contributions to charities.[1] Many in the charitable community refer to this proposal as a "charity tax" and it has been widely opposed. The President's budget projects that limiting tax deductions will result in $529 billion dollars in additional tax revenue over the next ten years.

As reported in a prior G&G Law *Alert*, Congress began limiting the charitable deduction when it reinstated the "Pease" limitation on itemized deductions earlier this year. But, as detrimental as the Pease Limitation is to charitable contributions, the "charity tax" would be more harmful. When the top marginal rate was 35 percent, experts predicted that reducing the value of the charitable deduction by limiting itemized deductions to 28 percent would cause charitable giving to decline by billions annually.[2] Now that the top marginal tax rate is 39.6 percent, capping the charitable deduction at 28 percent would cause an even greater decline. As Forbes describes it:

> Think of it this way: the White House proposal would raise the cost of giving to charity from 60 cents per dollar to 72 cents per dollar. **That's a 20 percent increase in what can be called the "charity tax."**

Charities that oppose deduction limitations note that the charitable deduction plays a crucial role in the health and wellbeing of our society. Since the inception of the income tax in 1917, Congress has recognized the connection between taxable income and donations to charitable organizations. According to Giving USA, in 2011 individuals from 117 million U.S. households donated nearly $218 billion to charity. And the overwhelming majority of donations come from taxpayers who claim a charitable deduction. More than 80 percent of Americans who itemized their deductions in 2009 claimed charitable contribution deductions. These individuals, while representing only one-quarter of all taxpayers, are responsible for more than 76 percent of individual contributions to charitable organizations.[3]

Charities also argue that the charitable deduction is a bargain basement investment on the government's part. If an individual in the highest tax bracket donates $1,000 to charity, the government gives up roughly $400 in taxes. But, the local community gets the benefit of the entire $1,000 donation. It is difficult to imagine a better vehicle by which the government can leverage a 2.5-to-1 rate of return in providing housing to the homeless and food to the hungry.

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[1] The President's budget tacitly recognizes the cap will reduce donations to charities because it exempts charitable donations from its proposed Fair Share Tax (formerly known as the "Buffet Rule"). The Fair Share Tax is a proposal that taxpayers with adjusted gross income in excess of $1 million pay an effective tax rate of no less than 30 percent.

[2] For more recent estimates of projected decreases in charitable giving from the charity tax see: Doug Donovan, *Obama to Renew Call to Limit Charitable Deduction*, Chronicle of Philanthropy (April 8, 2013) at http://philanthropy.com/article/Obama-to-Renew-Call-to-Limit/138425/. Citing possible reductions, in charitable giving as high as $9 billion annually.

[3] Internal Revenue Service Statistics of Income data for 2008.

Charities further contend that the charitable deduction is unique and should be considered separately from other tax benefits. Unlike incentives to save for retirement or purchase a home, the charitable deduction encourages behavior for which a taxpayer receives no direct tangible benefit. It is the only tax benefit that encourages individuals to give away their income without personal financial gain. It does not subsidize personal consumption or underwrite the accumulation of personal wealth. The charitable deduction simply encourages taxpayers to give away a portion of their income to benefit others.

**For more information on the provisions of the President's FY 2014 Budget or other developments on Capitol Hill, please contact Gammon & Grange attorney Patrick Purtill.**