

Reforming Charitable Giving Laws to Unlock Funds for Charities in Need

Loopholes in the nation's tax laws are contributing to a widening gap between tax deductible charitable giving and giving to working charities. While charitable giving has hovered around 2% of disposable income for the past 40 years, almost 30% of all individual giving is going to intermediaries rather than working charities via private foundations and donor-advised funds (DAFs). As a result, more than \$1.2 trillion in charitable gifts is sitting on the sidelines in private foundations and DAFs at a time of immense need. A broad coalition of philanthropists, leaders of major foundations, charities and non-profits formed the Initiative to Accelerate Charitable Giving to close these loopholes in the tax code and enact reforms to ensure charitable giving actually results in giving to charity, as Congress intended.

Momentum for reforms to close these loopholes is growing in Congress and across the philanthropic sector. Bipartisan legislation – the ACE Act – has been introduced in the House and Senate, and the Administration included a new proposal in its FY2023 budget blueprint to close one particularly egregious gap.

DONOR-ADVISED FUND REFORMS

Donor-advised funds (DAFs) are intermediary charitable accounts that allow individuals to take a charitable deduction immediately while retaining indefinite advisory privileges regarding investment and distribution of the donations in their account. In fact, there are no rules today about how long charitable donations can remain in DAFs – giving a donor immediate tax benefits with no requirement for working charities to ever receive the funds. Today, over \$140 billion has been set aside for future charitable gifts in DAFs.

DAFs can and should continue to play an important role in charitable giving, but Congress needs to close loopholes in the tax code to ensure funds donated to DAFs are made available to working charities within a reasonable period of time. For example, under current law:

- **DAFs provide an immediate deduction** despite having no time requirement to distribute donations to charities because under our tax code, DAFs themselves are considered public charities.

- **Private foundations can meet their annual payout requirement to public charities** by shifting money over to a DAF established by the same donor.
- **Donors can get a charitable deduction** for the fair market value of stock in a private business donated to a DAF even if the DAF sponsor continues to hold the stock and vote the owner's interests.

PRIVATE FOUNDATION REFORMS

With over \$1 trillion in assets, private foundations are a tremendous resource to help address the immense and immediate needs facing charities across the country. To maintain their tax status, they are required to pay out 5% of their funds each year – but loopholes have emerged over time that have enabled private foundations to meet this requirement without moving funds to working charities. Reforms to the tax code are needed to ensure private foundations meet their annual payout requirements by moving charitable funds to working charities.