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BLOG POST

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Impact of the Coronavirus Aid, Relief, and Economic Security (CARES) Act on Charitable Giving

Given everything happening in the world at the moment, the availability of the charitable contribution deduction to U.S. taxpayers is low on the country's collective list of priorities. For that reason, of everything in the CARES Act, Sections 2204 and 2205 will likely be among the least-covered; in relation to a $2 trillion bill, their economic impact is relatively minimal.

But, for charities desperate for cash to combat COVID-19, provide a safety net for a vastly-expanded population in need, or just keep their staff and programs afloat through a crisis threatening their existence, Sections 2204 and 2205 provide donors with some additional (if slight) incentive to give, and charities some hope that the **adverse impact of the 2017 Tax Cuts and Jobs Act (TCJA)** might be lessened in the future.

BACKGROUND

The TCJA greatly reduced the percentage of taxpayers with a tax incentive to give to charity. As a result, charities relying on gifts from many lower- and middle-income donors (often, charities providing direct services in the community) face an existential threat, and those that survive are more dependent on their wealthiest donors.

In response, since the TCJA passed, the nonprofit sector has sought to create a new "above-the-line" charitable contribution deduction (i.e., even taxpayers who take the standard deduction can claim it) to motivate more taxpayers to give.

Those efforts stalled, until the arrival of COVID-19 and the immense pressure it has exerted on charities on the front-line of the crisis, and on the Senate's willingness to spend on social welfare. The CARES Act is a step in the right direction.

AN ABOVE-THE-LINE CHARITABLE CONTRIBUTION DEDUCTION, CAPPED AT $300

Section 2204 adds an above-the-line deduction capped at $300 for charitable contributions made:

- in cash;
- to a public charity other than a supporting organization or a donor-advised fund;
- in a tax year that starts during calendar year 2020 (as drafted, this is a one-year-only benefit and carryovers of unused deductions from prior years do not count); and
- by a taxpayer that is not seeking to deduct itemized charitable contributions.

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Nonprofit Law Matters looks at legal issues in the nonprofit and tax-exempt organizations world. Written by the attorneys and paralegals of Adler & Colvin, it provides updates and analysis regarding philanthropy, charity, and other exempt organization issues.

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This provision seeks to create a new donor base (lower- and middle-income households that do not itemize) with a tax incentive to give up to $300 when charities need it most.

RELIEF FROM AGI LIMITATIONS FOR CHARITABLE CONTRIBUTIONS IN CASH

For tax years that begin in calendar year 2020, Section 2205 temporarily adjusts the standard Adjusted Gross Income (AGI) and taxable income limitations that would otherwise apply.

In general, these limitations prevent a donor from claiming more than a percentage of AGI (or taxable income in the case of corporations) in charitable contribution deductions (the percentage ranges from 10-60% depending on the type of gift, type of donor, and type of recipient). Section 2205 makes the following favorable changes to these rules:

- Individuals giving cash to public charities (other than a supporting organization or donor-advised fund) can claim a deduction of up to the individual's full AGI for those gifts.
- Corporations can deduct cash gifts up to 25% of taxable income (as opposed to the usual 10% limitation for corporations), subject to the same recipient restrictions.
- Any taxpayer giving food can make a qualifying charitable contribution of food up to 25% of AGI (this is increased from the usual 15% limitation for qualifying gifts of food).

CONCLUSION

Whether the CARES Act will have a big impact on charitable giving depends on the extent to which relatively small tax incentives drive small donations. At the level of $300 gifts or less, one might reasonably be skeptical about whether these incentives make much difference in comparison with the desire of individuals to support their communities during a crisis.

Nonetheless, the CARES Act provides a bit of a silver lining for the charitable sector at a time when many organizations are facing existential threats. It could even generate momentum for a permanent and broader above-the-line deduction for charitable contributions, which might result in a meaningful increase in donations from the 90% of the population that does not itemize.

That's small comfort for the charities struggling right now but, in the long run, perhaps it provides hope for more substantial improvements later.

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