

On behalf of Philanthropy Southwest (PSW), an association of grantmakers and philanthropists, and its members we appreciate the opportunity to provide input to the Ways and Means Tax Teams ahead of its efforts to extend parts of the Tax Cuts and Jobs Act and add new provisions to the tax code in 2025.

PSW is a regional association that connects and supports philanthropic organizations across the southwestern United States. Since 1949, we have served as a collaborative platform for funders, nonprofits, and community leaders, fostering dialogue and partnerships to address critical issues and enhance the impact of giving. Through networking events, educational opportunities, and shared resources, PSW aims to strengthen the philanthropic sector and drive meaningful change in the communities it serves. Our network of funders, including private foundations, community foundations, corporate foundations, and philanthropists, is spread across seven states: Arizona, Arkansas, Colorado, New Mexico, Nevada, Oklahoma, and Texas.

PSW recognizes that changes in public policy, whether legislative or regulatory, impact who gives and when, to what organizations they give, and how philanthropic solutions can be scaled to achieve widespread impact. Our goals in public policy, which we hope are reflected in what the committee assembles next year, are to empower philanthropists to create positive community change, recognizing that positive impacts and solutions can vary across our diverse region.

There is always room for improvement in every sector, and PSW provides educational and collaboration opportunities to our members to achieve better outcomes. With that in mind, we encourage public policy changes impacting philanthropy to be backed by data to ensure the tax code doesn’t unintentionally chill giving and the use of effective tools or giving vehicles.

On behalf of our over 200 members, we hope that you will consider these priorities as you work to address the expiring provisions of the TCJA.

**Philanthropy’s Economic Impact Across the Southwest**

PSW members have long understood their grantmaking stimulates local economies, but there have been relatively few attempts to quantify the economic impact of philanthropy in the region. That’s why, in 2022, PSW partnered with Texas A&M’s Bush School of Government and Public Services to analyze the economic impact of foundation giving across the southwest.

*Foundations Serve Communities While Boosting Local Economies*

Our data indicates that foundations generate $11 billion in direct economic impact annually in the Southwest, which is the result of activities such as the purchase of goods and services, via their grantmaking. These direct impacts have cascading effects, supporting another $8.3 billion indirectly by increasing the goods and services purchased and investments in localities. On average, every foundation dollar that is granted to a charity in the region generates $2.28 in economic benefits, with foundations granting over $9.7 billion that has not only advanced philanthropic missions in the region but also boosted local economies. These funds support the nonprofit workforce, and Texas A&M estimated that foundation grantmaking has created over 100,000 jobs in the region.

**Protecting and Enhancing Charitable Funding Streams**

Charitable organizations rely on numerous funding sources to enable them to achieve their missions and help communities that need it most. PSW supports efforts that encourage charitable giving from all individuals and organizations, allowing grantmakers, including our member foundations, to leverage their resources more effectively.

*A Non-Itemizer Charitable Deduction Would Incentivize Charitable Giving*

When you address the expiring TCJA provisions next year, we urge you to include a non-itemizer charitable deduction that provides all taxpayers, not just the under 10 percent who itemize, access to a tax incentive for their generosity. Charities continue to face challenges to raise the funds necessary to carry out their work, and the non-itemizer deduction can help mitigate those challenges. In 2022, charitable giving saw the largest year-over-year decline since Giving USA began tracking giving in 1956, dropping 10.5 percent in inflation adjusted dollars.[[1]](#footnote-1) Last year, giving failed to keep pace with inflation once again, declining by 2.1 percent in real dollars.[[2]](#footnote-2) Both years, the largest year-over-year declines came from individual givers, falling 13.4 percent in 2022 and 2.4 percent in 2023 when adjusted for inflation.

There is bicameral legislation in the 118th Congress to enact a non-itemizer deduction capped at one-third of the standard deduction that has strong bipartisan support in both chambers. The Charitable Act (H.R. 3435, S. 566) has 64 cosponsors (32R, 32D) in the House and 23 (11R, 12D) in the Senate. It was introduced by Ways and Means Committee members Blake Moore (R-Utah), Michelle Steel (R-Calif.), and Danny Davis (D-Ill.) and has the support of 11 other members of the committee (7R, 4D).

Enacting a charitable deduction available to all taxpayers will help all charities in the Southwest, including food banks, women’s shelters, and houses of worship, obtain the resources they need to pursue their charitable missions. This is backed up by data. When a temporary non-itemizer deduction was last in effect during the pandemic in 2021, the IRS found that 47 million households used it for charitable giving, totaling nearly $18 billion.[[3]](#footnote-3) Charitable giving also reached real-dollar record highs that year. That deduction was capped at $300 for individuals and $600 for joint filers. A larger deduction cap, as broadly supported by lawmakers in the Charitable Act, would generate even more generosity.

The enactment of a non-itemizer deduction can also help reverse the decades-long decline in the number of Americans giving to charity. Back in 2000, nearly two-thirds of American households gave to charity. By 2018, that number had fallen to less than half.[[4]](#footnote-4) Polling last year found that 53 percent of respondents would give more to charity if they were able to claim a charitable deduction.[[5]](#footnote-5) Reengaging these donors to support the broad collection of charities across our country will lead to more consistent and democratic support of local organizations working to achieve lasting impact.

*Allowing IRAs to Give Directly to DAFs Unleashes the Generosity of Retirees*

PSW and our members support the expansion of the IRA charitable rollover. For nearly two decades, the tax code has allowed generous Americans to make contributions directly to charities from their IRAs. Former Ways and Means Committee Ranking Member Kevin Brady (R-Texas) and current Ranking Member Richard Neal (D-Mass.) expanded the IRA charitable rollover in bipartisan retirement legislation in 2022 to index the $100,000 contribution cap to inflation and allow for one-time IRA charitable rollover contributions to fund charitable gift annuities.

To maximize the impact of the IRA charitable rollover, PSW supports expanding the rollover to gifts to donor-advised funds (DAFs). DAFs are the fastest-growing charitable giving vehicle in America, with the amount of grantmaking out of DAFs consistently increasing year over year.[[6]](#footnote-6) Unfortunately, donors are currently prohibited from making an IRA charitable rollover contribution to a DAF. Changing this, and allowing IRA charitable rollover contributions to the fastest-growing giving vehicle would enable more resources to reach charities in our region and reduce the administrative burden of generosity.

*Higher AGI Limits Unlock Greater Funding for Nonprofits and Communities*

In addition to the enactment of a non-itemizer deduction, PSW supports the extension of the increased AGI limit on the charitable deduction. The TCJA increased the AGI limit on the charitable deduction to 60 percent, which encouraged generous Americans to give away more of their income to charity and made it easier for the nonprofits in our region to raise the funds they needed. Without action, that limit will revert back to 50 percent. In light of declining real donations and waning participation in philanthropy, we encourage you to extend the increased AGI limit in next year to continue incentivizing donors to give away more of their money to charitable causes.

Enhancing giving incentives through enacting a non-itemizer charitable deduction and expanding the IRA charitable rollover, along with protecting the increased AGI limit on the charitable deduction, would only make it easier for the charities in our region to secure the funds they need to best serve their communities. For our member foundations, this would enable them to be more strategic and effective in their grantmaking as mores resources would be unlocked to address growing needs across the Southwest.

**Private Foundations**

The Southwest comprises diverse communities and needs, many of which are supported by endowed philanthropic gifts to ensure local nonprofits, especially in rural communities, receive sustainable support to continue to advance their missions. Public policy changes should not penalize endowed assets that undergird this critical stability in our region. PSW supports current policy that allows foundations to exist in perpetuity, and we urge you to steer clear of efforts to increase payout requirements or private foundation excise taxes that would eliminate the ability of foundations to provide long-term support to grantees in your communities.

*Previous Budget Proposals Include Provisions that Would Hurt Philanthropy*

In two recent budget proposals, the Biden Administration has proposed limiting how private foundations carry out their work through prescriptive policy proposals that would unnecessarily target family foundations, as well as curtail the use of philanthropic tools. If these policies were to be advanced, it would lead to less effective philanthropy and likely reduce giving overall.

Specifically, the administration’s budgets have proposed barring private foundation grants to DAFs from counting toward their 5 percent minimum payout requirement unless funds are granted out from the DAF before the end of the following year. DAF sponsoring charities are 501(c)(3) public charities, and by singling out DAF sponsoring charities as a prohibited recipient, these proposals create arbitrary distinctions between “good” and “bad” charities that private foundations “should” and “shouldn’t” be incentivized to give to.

The Biden administration has also proposed arbitrarily penalizing family foundations and their expenses. Under current law, reasonable and necessary administrative expenses to further the charitable purpose of a foundation are considered a qualified distribution and count toward the distribution requirement. However, this proposal would exclude administrative expenses related to staff and officers who are also family members from counting toward that requirement. Family foundations often employ family members who want to take an active role in their family’s philanthropic mission. Their compensation cannot be “excessive” and must be “reasonable and necessary to carry out the foundation’s exempt purposes” under current law.[[7]](#footnote-7) On average, family foundation expenses are often lower than non-family foundations.[[8]](#footnote-8)

Both of these proposals were also included in legislation proposed in the 117th Congress that took unnecessary aim at private philanthropy. PSW urges the committee to oppose attempts like these to needlessly restrict effective philanthropy when considering changes to the tax code next year.

*Endowments Remain Key Assets for Philanthropy and Communities*

Many of our member organizations were established with endowments to ensure they can sustain their impact now and into the future. Endowed philanthropy recognizes that while we must work to address today’s problems, sustainable support is necessary to address them and others in the future. Many of these endowments were established years or even decades ago precisely because a donor suspected there would be future community needs that they hoped to address with their original endowed gift.

Policies that place additional taxes or restrict the use of endowed philanthropy can represent an existential threat to this charitable funding stream. If endowed philanthropy isn’t a tool, or a useful tool, a donor can use to realize a charitable strategy that includes making an everlasting positive impact, then some will decide not to give at all. In addition, using the tax code to redirect dollars from endowments to the federal government results in less funding for charities, making it more difficult for the philanthropic sector to address community needs that the government or private sector cannot or should not.

**Community Foundations**

Community foundations are essential resources across the Southwest, helping donors achieve impact through donor-advised funds, giving circles, field-of-interest funds, and other philanthropic vehicles, as well as serving as a community’s brain trust on nonprofit and charitable programs. Tax policy should enable these organizations and the philanthropic tools they offer to thrive, building up our communities and advancing the needs of those we serve. PSW supports tax efforts that encourage giving through these tools, and we urge you to oppose efforts to restrict them, which would lead to fewer resources in our communities.

*Donor-Advised Funds Are Driving Greater Giving and Should be Protected*

When you address expiring tax cuts next year, PSW urges you to oppose any policy changes that would restrict the use of donor advised funds (DAFs) or limit their effectiveness. DAFs are a flexible giving tool that more and more donors are choosing as the vehicle for their generosity. Total grantmaking through DAFs has exploded in recent years, nearly doubling from $23.87 billion in 2018 to $52.16 billion in 2022.[[9]](#footnote-9) DAFs have proven to be a durable funding stream in otherwise difficult fundraising environments for charities. As mentioned above, charitable giving fell precipitously in 2022, declining by 10.5 percent in inflation-adjusted dollars.[[10]](#footnote-10) In that same year, DAF grantmaking increased by 9 percent compared to 2021.[[11]](#footnote-11)

Most of our community foundation members offer DAFs to their donors. In a rural region of the country with less concentrated wealth than other regions, DAFs offer a durable funding stream that helps our charities during good and bad economic times to secure the funds they need to serve our communities. And this funding stream is only growing. At community foundations specifically, DAF grantmaking increased by 27.1 percent in 2022 to nearly $12 billion. On average, annual grantmaking by DAFs at community foundations grew by 16.5 percent from 2018 to 2022.[[12]](#footnote-12)

Despite all of the good that DAFs do for disaster relief organizations, community resources, local schools, and economic development projects, among countless other nonprofits, academics and some policymakers have still put forward proposals that would restrict their use. Last Congress, a few lawmakers introduced legislation informed by academics eager to see philanthropic reforms - the Accelerating Charitable Efforts (ACE) Act (H.R. 6595 - 117th).

The ACE Act would create three new types of DAFs with varied regulatory structures that would limit their use and effectiveness. For some DAFs categorized as “qualified,” there would be an arbitrary 15-year payout requirement that would impose a punitive 50 percent excise tax on DAF funds should it not be met. For DAFs at community foundations under $1 million, there would be a 5-percent annual payout requirement if they want to avoid the aforementioned 50 percent penalty. “Nonqualified DAFs” would eliminate the charitable deduction for gifts made into the DAF sponsoring charity, delaying its availability (and usefulness) to a donor until the money is granted to a different non-DAF charity.

None of these requirements would apply to existing DAFs, meaning there would be four different types of DAFs community foundations would be required to administer, diverting resources away from community impact and toward unnecessary administrative burden. Furthermore, putting unnecessary restrictions and uncoupling the timing of the charitable deduction from when the charitable gift is made would create tax administration complexity, increase the likelihood of unintentional noncompliance, and reduce the donations going to our communities.

Given all of the good DAF sponsoring charities and their donors do to support nonprofit organizations in our region, PSW and our members urge you to strongly oppose any policy changes like those included in the ACE Act that would restrict the use of DAFs.

*Laws Should be Precise to Avoid Regulatory Overreach*

When making changes to the tax code, PSW supports the Ways and Means Committee writing statute in a fashion that does not grant Treasury excessive authority to regulate the tax-exempt sector as they deem fit. Seemingly out of nowhere last fall, our community foundations were confronted with burdensome proposed regulations from the Treasury Department that stemmed from the 2006 Pension Protection Act. These proposed regulations were overly broad and expanded the definition of DAFs beyond what was put in statute in 2006. Through these regulations, other philanthropic tools stewarded by community foundations, such as giving circles, field of interest funds, and other funds with advisory committees, would be treated as DAFs and subject to additional limitations and penalties that would reduce their use and impact. Furthermore, the proposed regulations seek to expand the definition of a donor advisor, an expansion which in practice would bar local financial advisors from providing professional expertise to DAF sponsoring organizations by imposing penalties on charities and the financial advisors.

These regulations, if finalized as proposed, would dramatically chill the use of those giving circles and field of interest funds along with DAFs, which are crucial for supporting local initiatives at community foundations.

Our sector has followed the proper channels to make our concerns with these proposed regulations heard. We were so thrilled in April to see your committee elevate our concerns in a bipartisan letter to the Treasury Department signed by 33 members of the panel.[[13]](#footnote-13) That letter echoed our concerns with the proposed regulations and encouraged regulators to take our feedback into account before promulgating final rules. PSW and our members are grateful that the committee weighed in.

Further, policy changes and regulations impacting DAFs should be written in response to real, documented abuses and be based on data-backed and proven solutions. Beyond the proposed regulations above, the Treasury Department also issued a Notice in 2017 seeking feedback on regulations they intend to propose, at an unknown point in the future, regarding how DAFs can be used to fulfill pledges, meet the public support test, meet the private foundation payout requirement, and be bifurcated to support fundraising events for charities.[[14]](#footnote-14) Not only has there been no directive from Congress for Treasury to propose regulations of this nature, but the potential solutions suggested in the Notice would also reduce the efficient flow of resources to local charities. As of now, these regulations have yet to be proposed, and regulators have not indicated when they may act.

Still, our members seek to avoid any similar episodes in the future when law is written in a way that allows regulators to impose burdensome regulations on philanthropy that could reduce charitable giving.

When making adjustments to the tax code next year and in future years, we encourage the committee to be mindful of how regulators may interpret the legislation to preclude government agencies from imposing rules that are beyond their intended authority and impair our members' philanthropic missions.

We sincerely thank you for your consideration of our priorities and stand ready to assist and provide insights on any philanthropic policy proposals under consideration next year and in future tax reform efforts.

1. <https://philanthropy.indianapolis.iu.edu/news-events/news/_news/2023/giving-usa-total-us-charitable-giving-declined-in-2022-to-49933-billion-following-two-years-of-record-generosity.html#:~> [↑](#footnote-ref-1)
2. <https://philanthropy.indianapolis.iu.edu/news-events/news/_news/2024/giving-usa-us-charitable-giving-totaled-557.16-billion-in-2023.html#:~:text=Giving%20USA%20%E2%84%A2.,to%20U.S.%20charities%20in%202023.> [↑](#footnote-ref-2)
3. <https://www.irs.gov/statistics/soi-tax-stats-individual-income-tax-returns> [↑](#footnote-ref-3)
4. <https://scholarworks.indianapolis.iu.edu/server/api/core/bitstreams/f5f188c8-285e-4ddd-ab10-6da930d82c6f/content> [↑](#footnote-ref-4)
5. <https://independentsector.org/resource/new-poll-overwhelming-support-for-nonprofit-policy-priorities-and-public-engagement/> [↑](#footnote-ref-5)
6. <https://www.nptrust.org/reports/daf-report/> [↑](#footnote-ref-6)
7. <https://www.irs.gov/charities-non-profits/private-foundations/paying-compensation> [↑](#footnote-ref-7)
8. <https://www.philanthropyroundtable.org/resource/no-evidence-family-foundations-claim-higher-expenses/> [↑](#footnote-ref-8)
9. <https://www.nptrust.org/reports/daf-report/> [↑](#footnote-ref-9)
10. <https://philanthropy.indianapolis.iu.edu/news-events/news/_news/2023/giving-usa-total-us-charitable-giving-declined-in-2022-to-49933-billion-following-two-years-of-record-generosity.html#:~> [↑](#footnote-ref-10)
11. <https://www.nptrust.org/reports/daf-report/> [↑](#footnote-ref-11)
12. Ibid [↑](#footnote-ref-12)
13. <https://buchanan.house.gov/_cache/files/f/7/f70481ef-c276-4203-bdbe-e35caaa0b1b5/E0D55AE94FE018695E50EB70FCB42EB5.2024.04.19-letter-treasury-dafs.pdf> [↑](#footnote-ref-13)
14. https://www.irs.gov/pub/irs-drop/n-17-73.pdf [↑](#footnote-ref-14)