Initiative to
→Accelerate
Charitable
Giving

Now is the Time for Philanthropy to Accelerate Their Efforts to Address Unprecedented Needs

Charities are in a state of crisis. Congress has taken some steps to help them, but government cannot do it all. There is currently more than $1 trillion set aside in private foundations and donor-advised funds, yet current law provides insufficient incentives to ensure this funding is used for its intended purpose, to support operating charities and the beneficiaries they serve.

Now is the time to support reforms to charitable giving laws to ensure that funds set aside for charitable giving reach those in need in a timely way. The Initiative to Accelerate Charitable Giving believes that the following common sense measures will increase the flow of resources to working charities of all kinds, a need especially dire now as millions of Americans wrestle with the effects of the COVID-19 crisis and seek to address issues of racial justice.

Ensure that Donor-Advised Funds Fulfill Their Charitable Purpose
Donor-advised funds (DAFs) now have over $120 billion set aside for future charitable gifts. The problem is that current rules fail to provide any incentives or requirements for DAFs to <u>*ever*</u> *distribute their money. DAFs can and should continue to play an important role in charitable giving, but there need to be rules to ensure that funds donated to DAFs are made available to working charities within a reasonable period of time. Congress should enact reforms that ensure that payout occurs by allowing donors to choose one of two regimes for their DAF donations:*

- <u>15-year DAFs</u>: Congress should create a new form of DAFs under which a donor would get upfront tax benefits (as under current law), but only if DAF funds are distributed (or advisory privileges are released) no later than 15 years from the year of the donation to the DAF. To avoid overvaluations, the income tax deduction for complex assets – such as closely-held or restricted stock – would be the amount of cash made available in DAF accounts as a result of the sale of the asset (instead of the appraised value).

- <u>Aligned Benefit Rule</u>: As an alternative, donors who want more than 15 years to distribute their DAF funds should be allowed to elect an "aligned benefit rule." Under this rule a DAF donor would continue to receive capital gains and estate tax benefits upon donation but would not receive the income tax deduction until the donated funds are distributed to the charitable recipient. This rule would create an incentive for donors to get donations to charities sooner. Current law has no such incentive, thereby making it possible for funds to sit in DAFs indefinitely. All funds would be required to be distributed outright to charities no later than 10 years after the death of the donor.

To support the place-based, mission-driven model of America's community foundations, the Initiative to Accelerate Charitable Giving is in ongoing talks with community foundation leaders about how charitable reform proposals can recognize their unique role and reinforce this important sector within philanthropy.

Private Foundation Reforms

With over $1 trillion in assets, private foundations are a tremendous resource to help address the immense needs arising from COVID-19 and racial inequality. Although private foundations are subject to a 5% payout rule enacted to ensure a regular flow of dollars to working charities, the purpose of this rule can be easily avoided. At a time when every dollar counts, Congress should ensure that existing rules are reformed to fulfill their purpose by stipulating that:

- Private foundations cannot meet their payout obligations by paying salaries or travel expenses of foundation family members.
- Private foundations cannot meet their payout obligations by making distributions to donor-advised funds.
- Donors cannot avoid private foundation status (with its attendant rules) by funding their entities through DAFs.

Congress should also enact incentives and reforms to ensure that private foundations continue to play a pivotal role in the charitable ecosystem by distributing more of their assets to operating charities, such as:

- Reduce to zero the private foundation excise tax for any year in which the private foundation's payout is 7% or more.
- Eliminate the excise tax for any newly created, time-limited private foundation with a life of 25 years or less.

Strengthen and Expand the Non-Itemizer Deduction

While a majority of Americans donate to charity, almost 90% receive no tax benefit for their charitable giving. Congress took a step forward in the CARES Act by creating an above-the-line charitable deduction for non-itemizers for 2020. Congress should build on this first step by considering options to expand and extend the new non-itemizer charitable deduction. Such an approach should strive to meet the following objectives:

- Increase both the amount of charitable giving and number of donors.
- Be cost-effective and minimize the potential for fraud, by incorporating a giving floor, perhaps set at 1-2% of adjusted gross income (AGI).

- Be administrable by the IRS, such as by enacting new enforcement and reporting requirements.
- Continue to exclude donations to DAFs and private foundations and maintain prohibition on non-cash gifts.