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Camp's Proposed Deduction Floor Troubles Charities.

A proposed 2 percent floor for charitable deductions in the tax reform plan introduced by House Ways and Means Committee Chair Dave Camp, R-Mich., has charity groups fearing it could cause donations to drop.

For the last five years, federal budget season has been a time of unease for organizations that promote charities and charitable donations, as each year the Obama administration has proposed capping the deduction for charitable contributions at 28 percent for upper-income taxpayers.

Now those groups must contend with another plan to limit the deduction that has been proposed as part of tax reform.

The Tax Reform Act of 2014, released on February 26 as a discussion draft by House Ways and Means Committee Chair Dave Camp, R-Mich., proposes a 2 percent floor on the deduction as well as several other provisions pertaining to charitable giving.

Although the charitable giving community has reacted favorably to some of the proposals, the proposed floor is prompting worry among some groups and outright opposition from others.

The provision would allow taxpayers to deduct their contributions to charity only to the extent the donations exceed 2 percent of the taxpayers' adjusted gross income, according to a Ways and Means staff summary. The reduction would apply first to contributions subject to the 25 percent of AGI limitation, then to qualified conservation contributions, and finally to contributions subject to the 40 percent limitation, the summary explains.

Because charitable giving is linked to the economy's health, the Camp proposal safeguards and encourages donations to charities, according to the bill's executive summary, which predicts charitable giving would rise by $2.2 billion a year because of the charitable reforms under the plan. Because 95 percent of Americans would no longer have to itemize, they would enjoy lower taxes without the complexity of itemizing, while the remaining 5 percent who would continue itemizing could still claim the charitable deduction if their donations were more than 2 percent of their income, the executive summary says.

The executive summary also notes that, unlike the Obama administration's budget proposals, the plan would not cap the amount of the deduction, and it would extend the deadline for making deductible contributions in a tax year to April 15 of the following tax year.

But some observers predict that the impact on the deduction and on charitable giving would be significant. David L. Thompson of the National Council of Nonprofits cited a Congressional Budget Office study that predicted charitable donations would decrease under a 2 percent floor. He also challenged the reality of Ways and Means' estimate of $2.2 billion more in charitable giving, calling it a guess.

Charities depend on charitable giving to carry out the work they do, which is why the deduction should not be tweaked or played with, Thompson said. Limiting the tax break, he said, is "a bullet point on a list of issues in Washington; in the real world, it's scaring donors, it's changing the relationship between the community of nonprofits and government."

Sue Santa of the Council on Foundations (COF) said her group's initial reaction is concern, though she added that the COF is still studying the proposed 2 percent floor to figure out what it would mean. She said the Camp plan is more complex than the Obama administration's proposed 28 percent cap because the reform bill as a whole would cause far more individuals to use the standard deduction.

Other Provisions of Note

The Camp plan also would require all tax-exempt organizations that file Form 990, "Return of Organization Exempt From Income Tax," and related returns to do so electronically. Under current law, e-filing is required only if an organization files at least 250 returns (such as Form W-2 or Form 1099) a year.Santa said the COF supports the concept of mandatory e-filing but added that smaller organizations may need more time and resources before they can file that way. It is important that information that foundations and charities share with the IRS, such as investment data, can be transferred to an electronic filing medium, she added.

"We don't doubt this is achievable; we just want to be sure that this is implemented in a reasonable way so that the foundations and charities can conform," Santa said.

A provision long favored by the philanthropic community would replace the 2 percent excise tax on the net investment income of private foundations (which can drop to 1 percent if a foundation makes greater distributions) with a single flat rate of 1 percent. Santa said her organization is delighted the provision is part of Camp's package, saying that the two-tier system actually creates a disincentive for foundations to distribute more funds in especially difficult times because it makes it more difficult for them to continue to qualify for the lower rate in subsequent years.

Santa also supports extending to April 15 the deadline for making charitable donations for the prior year. "We're really encouraged by any provision that might increase the amount of charitable giving," she said.

What They'd Like to See

Asked what is not in the tax reform plan that should be, Thompson said his organization would like to make permanent the charitable giving extenders that now have to be renewed every year, especially the tax break for food inventory donations. Renewing the extenders in December and making them retroactive does not help people waiting for food donations, he said."You can't retroactively give a truckload of bananas in December that rotted in January," Thompson remarked.

Santa said her organization would like to see the provision permitting tax-free charitable distributions from IRAs expanded and made permanent.

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by Fred Stokeld