

Estate tax reform/repeal: What's a charity to do?

By Jeffrey A. Baskies

Many of us are actively involved with a wide range of charitable institutions. One question that arises in the current climate is: what should charities do or say with respect to the estate tax repeal/reform debate?

On the one hand, estate tax repeal (or significant reform) would seem to create a huge decrease in charitable giving. Many believe that a great deal of philanthropy would be lost if donors no longer needed the huge tax benefits currently afforded.

On the other hand, because the wealthiest donors would be saving the most by the elimination (or significant reform) of the estate tax, theoretically they would have more wealth to give to charity as a result.

Further (I've run out of hands), it is assumed that many of the wealthiest philanthropists (including many who sit on charitable boards) want to repeal the estate tax (or significantly reform it). However, some of the wealthiest Americans have already come out publicly in support of the estate tax - think of the Gates and Buffett families.

Although the recent Democratic takeover of Congress may make outright repeal less likely, significant reform could still occur. So the question remains: what should the country's charities do?

Argue vs. wait and see

As noted above, there are at least two ways - and probably many more - to look at the role charities can play in this debate. One is to argue vociferously against repeal (or significant reform) of the estate tax. The other is to watch quietly as the process unfolds.

It has been reported that some charities have already been admonished by key donors for speaking out too loudly. For example, Bloomberg News has reported that Loews chairman James Tisch wasn't happy when the New York Jewish Council for Public Affairs came out publicly against repealing the estate tax. He was reportedly concerned that it would not look good for charities to vocally argue against repeal when doing so might alienate some of their wealthiest donors.

On the other hand, if charities sit by too quietly, it could cost them untold billions in lost revenue. Will their wealthiest donors - those aided by estate tax repeal - make up for that lost revenue? Nobody seems to know.

CBO report

Back in July 2004, the Congressional Budget Office published a report that quantified the impact of estate tax repeal/reform on charities, and that impact seemed significant. (The CBO assists Congress in the budget process and provides in-depth analysis to support investigations into particular issues and public policy discussions.)

According to the July 2004 report, reforming or repealing the estate tax would have a significant impact on anticipated charitable bequests. Here is a table reproduced from that report:

We are not talking about an insignificant amount of money. The same CBO report estimated that the total charitable giving in 2000 was about \$196 billion, of which about \$16 billion came from charitable bequests.

Based on those numbers and the estimated decrease in charitable bequests if the estate tax were permanently repealed, that would be an actual diminishment of about \$2.5-4.5 billion in charitable bequests, annually. Carry that out over a long enough period of time, and the zeroes really start to add up.

Conclusion

The CBO report demonstrates the likelihood of a huge impact on charities if the estate tax is repealed (or significantly reformed). Indeed, the total impact appears to be much more than charities are likely to gain from any added "good will" from wealthy donors if charities sit out this debate.

Charities are a very important part of our country's moral and civic character. They are also an important aspect of the lives of many estate planners, both personally and professionally. Many of us have leadership positions in and/or represent public and private charities. A great deal of our time and effort is impacted by the myriad tax implications of planned charitable giving. So we are all concerned about the welfare of the charities of this country and the impact a major change in the estate tax would have on them.

What should we do? Should we encourage our friends in the charitable sector to speak out loudly in opposition to estate tax repeal/reform, even if it risks potentially alienating some key givers? The CBO numbers seem to indicate charities need to get out in front of this debate and work to shape it. But we all understand how important it is for charities to keep their key donors happy.

I don't know the answer, but the question is worthy of further thought and discussion.

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