Effect of the 2018 Tax Act on Nonprofits

Under the recently passed Federal Tax Cuts and Jobs acts, nonprofits should expect changes in donations this upcoming year. As of December 22, 2017, the new tax bill was predicted to reduce charitable giving by upwards of several billion dollars.[1] The bill makes it difficult for taxpayers to itemize their taxes. The tax plan, technically, maintains a charitable deduction—however, it essentially doubles the standard deduction, which means fewer taxpayers will itemize their taxes. Some economists estimate that only about 5% of Americans will itemize their taxes in 2018 and years going forward (from about 30% currently).[2] Consequently, taxpayers may be less incentivized to donate. Economists estimate that this change may decrease charitable donations from somewhere between $12 - $20 billion per year. The change may also lead to upwards of 220,000 lost jobs in the nonprofit sector. [3]

Under the new bill, the standard deduction will rise to $12,000 for individuals and $24,000 for married couples. [4] There's some concern that people close to the cutoff may choose to stop donating, as they will no longer receive savings from the donations. It may make more sense for couples to take a standard deduction, as they will no longer receive added tax benefits.[5] People may also choose to "bunch;" that is, they may choose to double up on contributions some years and skip donating the following year. This could very much impact charitable nonprofits that rely heavily on steady and consistent donations.

One way that donors have sidestepped this issue is through donor-advised funds. Donor-advised funds serve sort of like private foundations. The donor contributes enough money to the donor-advised fund to be able to make charitable gifts to the donor's preferred charities over several years. The donor takes a tax deduction in the year of the gift to the donor-advised fund, and because the gift is larger than the donor's usual annual gifts, the donor is likely to be able to deduct the gift. The fund administrator controls the fund, but typically takes "recommendations" from the donor. Thus, each year the donor can tell the administrator how much to give and to whom. The donor gets the tax deduction in the year of the gift to the donor-advised fund and not the year of the gifts from the fund to the charities. Of course, the donor-advised fund strategy only works for taxpayers who are making more significant gifts and have sufficient income or assets to make a large contribution in one year.

Nonetheless, despite their popularity, donor-advised funds remain somewhat controversial. There are no requirements that these funds actually pay out the money within a certain time frame. Additionally, some investment management companies that manage these

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[1] Gwyn Garrison, "Nonprofits need to rally quickly to stave off the worst effects of the new tax law," *National Council of Nonprofits*, last modified January 9, 2018. ttps://www.councilofnonprofits.org/article/nonprofits-need-rally-quickly-stave-the-worst-effects-of-the-new-tax-law.

[2] Dave Heinen, "How New Tax Laws Affect Nonprofits," *North Carolina Center for Nonprofits* (blog), last modified January 12, 2018. https://www.ncnonprofits.org/blog/2018/01/12/how-new-tax-laws-affect-nonprofits.

[3] *Id.*

[4] Ann Carrins, "How to Write Off Donations Under the New Tax Plan: Consider 'Bunching,'" *The New York Times*, December 20, 2017. https://www.nytimes.com/2017/12/20/your-money/tax-plan-donations-charities.html

[5] Abe Ashton, "Triumph, Trouble and Tips: How the 2018 Tax Changes May Affect Retirees," *Forbes*, February 2, 2018. https://www.forbes.com/sites/impactpartners/2018/02/02/triumph-trouble-and-tips-how-the-2018-tax-changes-may-affect-retirees/#13218ebc12e8.

funds charge substantial fees. [6] For the donor, the funds have minimum deposit amounts and minimum amounts for distributions to charities.

Essentially, nonprofits will need to rethink their fundraising strategies in the next year (and beyond.) Given the dis-incentivization for small, private donors, nonprofits will need to reconsider the most effective means of raising funds. Donor-advised funds are one such way; other, more generalized, strategies include marketing targeted towards relationship building. Some strategists suggest steps like focusing on a target audience, telling a relatable story, and building bridges between the organization and potential donors. [7] While it's still currently unknown precisely how this new tax plan will affect the nonprofit sector, it's reasonable to assume that nonprofits will need to reevaluate how to effectively cope with changed incentives.

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[6] *Id.*

[7] Scott Paley, "How Nonprofits Should React to the New Tax Law," *Joan Garry Consulting* (blog), https://www.joangarry.com/new-tax-law/.