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U.S. House of Representatives Ways and Means Committee Holds Marathon Session on Charitable Contribution Tax Deduction

Nonprofit Alert

Yesterday, the U.S. House of Representatives Ways and Means Committee (the "Committee") held an **extensive hearing** to address the itemized deduction for charitable contributions under the Internal Revenue Code (the "Code"). The session featured testimony from over 40 witnesses and lasted approximately seven hours. The hearing was described as being part of the Committee's work on comprehensive tax reform, and rather than focusing on any current legislative proposal, the Committee sought to give stakeholders an opportunity to testify generally on the charitable deduction, the effect the charitable deduction has on the organizations' work, and any suggestions to modify the deduction.

At the beginning of the hearing, **Chairman Dave Camp** (R-MI) explained that the Committee had granted all requests for testimony following the announcement of the hearing just ten days before. **Chairman Camp** said that holding such a hearing was in line with tradition; a similarly comprehensive hearing was held before the 1986 Tax Reform Act to gather stakeholder input.

The witnesses at yesterday's hearing consisted mostly of representatives from large nonprofit organizations including the Council on Foundations, Meals on Wheels, Independent Sector, Children's National Medical Center, Volunteers of America, and Jewish Federations of America. The United Way system was also heavily represented with representatives of 12 local United Way organizations testifying.

Much of the hearing consisted of nonprofits relaying to the Committee the importance of the charitable contribution deduction to the work of the nonprofit community, and included several illustrative presentations. **Kevin Murphy**, Chair of the Board of Council on Foundations, slowly unpacked a backpack of grocery items as he described a program in Berks County, Pennsylvania that delivers backpacks to school children every Friday to ensure that they have food over the weekend. **LaKisha Bryant** of the United Way of Southwest Georgia described how she was herself a beneficiary of a United Way after-school program which she credited with allowing her to reach her current level of professional achievement.

Members of the Committee also pushed witnesses to offer any suggestions for reform of the Code that would increase charitable giving. **Roger Colinvaux** of the Catholic University Columbus School of Law (formerly a high-level official in the IRS' Exempt Organizations Division) suggested that the Committee consider implementing a floor on charitable contributions whereby contributions must be of a certain level before they are eligible to be deducted from federal income taxes. **Eugene Tempel**, Dean of the Indiana University School of Philanthropy, and others suggested that the charitable contribution deduction be extended to non-itemizers. Another witness, **Eugene Steurele**, Fellow and Richard B. Fisher Chair of the Urban Institute, proposed that donors be permitted to deduct contributions made up until April 15th of the following tax year to increase charitable contributions.

As a common theme, witness after witness implored the Committee not to institute any additional caps on the charitable contribution deduction. Under Section 170 of the Code, individuals who itemize deductions may receive deductions for charitable contributions made to certain organizations in an amount up to 50% of their income and have the ability to carry over contributions for future years; corporations may deduct up to 10% of taxable income with the carry over possibility.

Other items discussed during the hearing included substantiation and valuation measures under the current Code for noncash contributions such as vehicle donations, enforcement of provisions on unrelated business income taxation, and incentives to encourage volunteering, such as an increased mileage reimbursement rate. One witness, **John Palatiello** of the Business Coalition for Fair Competition, also suggested that Congress should examine the ways in which tax-exempt

organizations currently compete with for-profit businesses, an item which **Rep. Dave Reichert** (R-WA) indicated might be a future consideration of the Committee.

The hearing concluded with **Rep. Reichert**, who with **Rep. John Lewis** (D-GA) is co-chairing a new Charitable Organization Working Group of the Committee, stating that the process for consideration of potential federal tax reform will continue to be “very open,” with consideration given to views of the tax-exempt community.

Although yesterday’s hearing was of a general nature, Venable will continue to monitor and report on the movement of any specific legislative proposals for tax reform affecting the tax-exempt community.

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