



INDEPENDENT SECTOR

Guiding Principles
for Public Policy on
Charitable Giving

www.IndependentSector.org

*G*uiding Principles for *Public Policy on Charitable Giving*

*Adopted by the
INDEPENDENT SECTOR
Board of Directors
March 2001*

About INDEPENDENT SECTOR

INDEPENDENT SECTOR is a nonprofit nonpartisan coalition of more than 700 national organizations, foundations, and corporate philanthropy programs, collectively representing tens of thousands of charitable groups in every state across the nation. Its mission is to promote, strengthen, and advance the nonprofit and philanthropic community to foster private initiative for the public good.

Guiding Principles for Public Policy on Charitable Giving

INTRODUCTION

INDEPENDENT SECTOR and its members share a common commitment to building a just and inclusive society of active citizens, vibrant communities, a healthy democracy, and effective institutions. We share a core set of values that include altruism, pluralism, inclusiveness, justice, the responsibilities of citizenship, and building community.

As Americans, we must continually balance two impulses fundamental to a free society: the energetic pursuit of individual and private interests and the need to build a community committed to the dignity, worth, and well being of each individual. As representatives of America's charitable and philanthropic community, we affirm the importance of both private and public initiative for the common good. Furthermore, we recognize that both the business sector and the governmental sector share a commitment to the central importance of building community and what it means:

- *Building community begins with the recognition that we have a moral responsibility to be concerned about the welfare of others. It requires a special regard for the least fortunate among us and a commitment to inclusiveness. We must not limit our moral concern only to those who are similar to us, but rather must actively work for the welfare of all persons.*
- *Building community requires each of us, whatever our social status, to assume individual responsibility for making an appropriate commitment of time, talents, and resources for the benefit of others and our communities.*
- *Building community implies that we fulfill our responsibilities as citizens in a democratic society: that we vote, that we inform ourselves, and that we express our views.*
- *Building community encompasses the vast array of activities undertaken by individuals and nonprofit organizations, including educating our youth, providing quality health care, meeting basic human needs, promoting artistic expression, protecting our environment, providing for spiritual experience, and speaking out for causes.*

We believe that charitable giving and volunteering are vital to achieving this vision of a free and democratic society. Charitable giving and volunteering are strongly associated with one another and are clear expressions of private initiative for the public good. Accordingly, we believe that public policy should encourage both of these activities. We address here the principles we believe should guide public policy decision-making with respect to charitable giving.

Core Beliefs on the Important Role of the Independent Sector in Society

- **A strong and healthy independent sector is vital to democracy, America's quality of life, and free society.** The independent sector (also called the voluntary, charitable, and nonprofit sectors) nurtures and sustains two fundamental prerequisites for a free society: an engaged and public-spirited citizenry and a rich network of autonomous communities working to advance the public good. Through its participation in and support of the organizations of the independent sector, the American people give life to some of their most cherished values: freedom of speech, association, and religion; pluralism; the responsibilities of citizenship; the dignity and worth of each and every individual; justice; and building community.
- **Within America's three-sector society, a strong independent sector, a healthy business sector, and an effective governmental sector all play critical roles.** The independent sector sustains a broad range of vital public-benefit activities. Many of these activities are undertaken in partnership with government and business, and the independent sector also plays a role in holding business and government accountable. Through the independent sector, Americans both help to shape government policy and support private initiatives for the public good that complement the essential work of government. America's three-sector society works best when each sector understands, respects, and supports the vital functions of the other sectors.
- **The independent sector depends on a strong base of charitable giving.** Donated resources allow the organizations of the independent sector to sustain public-benefit activities. Without a strong base of charitable support, the independent sector could not perform these vital roles. While earned income and government support are also important revenue sources to nonprofit organizations, donated resources often form the core support of the organizations and allow them the independence so vital to performing their role in society. Thus, society has a fundamental interest in encouraging charitable support.
- **Charitable giving depends on broad-based public trust in the independent sector.** The organizations of the independent sector have earned the public's trust by being effective in their work, accountable to their multiple constituencies, and good stewards of their resources. Americans' generous support of the independent sector depends on this trust, and to preserve this trust independent sector organizations must continually strive to maintain the highest standards of stewardship. Appropriate government regulation is also vital to preserving public trust in the independent sector.
- **As Americans, we aspire to become more generous.** On average, Americans give about 2 percent of their incomes to charities. While this compares favorably to charitable giving in other countries, it surely does not represent the full potential of our generosity. Charitable giving is not only vital to America's nonprofit and philanthropic organizations and the people and causes they serve, but it is also strongly correlated with high rates of volunteering and other forms of civic engagement. Strengthening the commitment to charitable giving is an essential and important step toward more fully realizing our vision of a just, compassionate, and free society.

Guiding Principles for Public Policy on Charitable Giving

Many factors influence charitable giving, and public policy is certainly one of them. While recognizing the importance of broader considerations of economic growth, equity, and efficiency, we believe that the following guiding principles should influence the formulation of tax policy as it affects charitable giving.

I. Encouraging Giving

Because of the important role charities play in giving life to America's most cherished values, our society has a fundamental interest in encouraging charitable giving. Research conducted by INDEPENDENT SECTOR and others has shown conclusively that while the decision *whether* to give is not fundamentally affected by tax policy, the decision about *how much* to give, *how* to give, and *when* to give, is. Tax policy should create appropriate tax-based incentives for charitable giving.

- A. **Public policy, including tax policy, should encourage giving by all Americans.**
Current tax law does not provide such a universal incentive for giving; only the roughly 30 percent of taxpayers who itemize their deductions can deduct charitable contributions from their taxable income. The vast majority of Americans who do not itemize receive no incentive for charitable giving.
- B. **Charitable contributions should not be included in an individual's tax base.**
Individuals giving to charity are foregoing private consumption and voluntarily committing the donated resources to the public good. For income tax purposes, the donor's income net of the gift—that is, the income available for private consumption—represents a much fairer basis than pre-gift income for determining the donor's tax obligation. As such, charitable giving should not be considered as part of an individual's tax base.
- C. **Individuals of substantial means have a special leadership responsibility in charitable giving, and tax policy should encourage them to meet this responsibility.** The interaction of the charitable deduction with the federal income tax's progressive rate structure gives donors in higher tax brackets a stronger tax incentive to give than those in lower brackets. This is not a social inequity, but rather a reasonable byproduct of the appropriate treatment of charitable contributions within a progressive tax system. It also targets the strongest tax incentives on those potential donors with the greatest ability and responsibility to give. The current favorable tax rule for charitable contributions of appreciated property and the deductibility of charitable contributions in determining liability for estate and gift taxes are also proven and important means of encouraging leadership giving by those of substantial means.
- D. **Do no harm.** Given the importance to society of charitable giving, policymakers considering possible tax law changes should give great weight to potential adverse effects on charitable giving. While other issues will, and undoubtedly should, be given high priority when assessing tax policy, the effect of any policy change on charitable giving should be taken into consideration.

- E. **Tax incentives for charitable giving should be structured to optimize their economic efficiency, equity, ease of administration, and simplicity, consistent with providing appropriately strong encouragement for giving.** Efficiency (in this context, stimulating increased charitable giving with as little tax revenue loss to the Treasury as possible), equity, ease of administration, and simplicity are desirable attributes of all tax rules, including the tax rules on charitable giving. These values should be advanced whenever this can be done without unduly compromising other more fundamental principles including, most importantly, the concern noted above that money given to charity should not be included in the tax base in determining a person's tax liability.

II. Affirming Pluralism

While government collects and allocates resources based on majority will, the great strength of America's charities is that they allow individuals and groups voluntarily to commit their time, money, and creativity to advancing their own vision of the greater good. As a society, we have a profound interest in sustaining this rich diversity of the charitable sector.

- A. **Public policy should continue to preserve the broad concept of charity, as it is currently defined.** America's charitable sector is strong and vibrant in large part because the legal framework has encouraged a broad range of private initiatives for the public good, allowing individuals to form and support tax-favored charities for a wide variety of purposes that advance the public good. This broad concept of charity should be preserved.
- B. **Government tax policy should not influence donors to favor a particular type of charitable activity.** One of the great strengths of the charitable sector is that resources are allocated by the autonomous decisions of individual donors. Government should not undermine that donor autonomy by singling out particular charitable activities as deserving greater tax support. While government does influence giving in some measure by determining what organizations qualify for receiving tax-deductible contributions and by certain other rules that set percentage-of-income deduction limits, it should preserve private choice in giving and not try to direct private charitable giving by creating greater tax incentives for certain types of charitable activity.
- C. **Government should recognize the importance of preserving charities' independence and the importance of encouraging a strong base of contributed support as essential to achieving this end.** From this perspective, a major strength of the charitable deduction, as compared with charitable tax credits or direct government funding of charities, is that the deduction is best understood (for the reasons noted above) as primarily an appropriate adjustment in defining the tax base rather than as a government subsidy. Accordingly, government should not impose restrictions on the receipt of charitable contributions that undermine the appropriate autonomy of charities, including the ability of charities to advocate public policy positions or to control their internal affairs.

III. Earning the Public Trust

Individuals will continue to give their time and money to charity only if they are confident that charities will be good stewards of these resources. Ensuring this result requires both a strong commitment by charities to self-regulation and effective oversight by government.

- A. **Subject to appropriate protection of First Amendment rights, government should require charities to publicly report sufficient operational and financial information to enable the public to make an informed judgment about the quality of their activities.** In implementing this principle, government should strike a balance between adequate public disclosure to maintain public trust, on the one hand, and imposing excessively burdensome or intrusive regulations on nonprofit organizations, on the other hand.
- B. **Federal and state governments should recognize the importance of their role in maintaining effective and efficient oversight of charities and charitable solicitation.** Providing clear guidance to nonprofit organizations on the interpretation of laws and regulations is particularly important. Governmental entities charged with the oversight of charities need adequate funding and effective leadership in order to be able to carry out their functions that ultimately benefit the nonprofit sector as a whole.
- C. **The charitable and philanthropic community has a critical role to play in self-regulation that serves to complement the equally important role of governmental oversight and regulation.** The nonprofit sector supports an array of watchdog groups, management support groups, and infrastructure organizations that collectively serve to increase accountability, build capacity, and promote excellence within nonprofit organizations. These organizations play a critical role in going beyond the minimum standards of the law to achieve high standards of conduct, quality, and what INDEPENDENT SECTOR has called "Obedience to the Unenforceable."

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We would like to thank the members of the Task Force on Tax Policy for their valuable contribution to this statement. INDEPENDENT SECTOR, however, bears full responsibility for the statement.

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