

February 14, 2013

The Honorable Congressman Dave Camp
Chairman, Committee on Ways and Means
U.S. House of Representatives
1100 Longworth House Office Building
Washington, DC 20515

Re: Hearing on Tax Reform and Charitable Contributions

Mr. Chairman and Members of the Committee:

Thank you for this opportunity to submit comments in support of altering provisions of the Charitable Deduction within tax reform.

As President and CEO of NAEIR, I can say with conviction that along with hundreds of thousands of other charitable organizations throughout the United States, we rely on the continued existence and enduring vitality of the Charitable Deduction.

Further - as the oldest and leading gifts-in-kind charity in the country, NAEIR supports tax legislation that...

"helps those served by charities and promotes parity for the small business community through IRC 170."

Within the Charitable Deduction our nation's small businesses, specifically S-Corps must be accorded parity with larger corporations as this Committee pursues the critical work of Tax Reform. When this goal is achieved, the small business community will be able to more effectively compete on an equal footing with larger corporations and contribute through significantly increased charitable giving to addressing the needs of the nonprofit sector.

Located in Galesburg, Illinois, NAEIR is a 501(c) (3) nonprofit organization with about 75 employees, a 450,000 square foot warehouse/distribution center and a charitable membership nationally in excess of 12,000 nonprofits, churches and schools.

Since our founding in 1977, NAEIR has received donations of a wide variety of inventory from well over 8,000 American companies. This is product – everything from school supplies to clothing and bathroom sinks to personal care products – material that many of the charities that constitute our membership depend on. Although these may often be goods that, for a number of reasons, companies simply choose to discontinue selling, they are of great value to social service organizations, churches and schools with considerably limited resources; organizations that are otherwise generally unable to purchase these goods outright.

NAEIR is a gifts-in-kind organization. Gifts-in-kind organizations in turn, represent a subset of nonprofits that effectively serve as repositories for literally billions of dollars in excess inventory that too often remains in warehouses collecting dust or that is eventually hauled away and sent to landfills. Because of the Charitable Deduction, many companies instead donate this inventory to NAEIR and other similar types of organizations. In the case of NAEIR, this material is then redistributed to thousands of deserving charities across the country.

As a result of the Charitable Deduction and more specifically, the Tax Reform Act of 1976, legislation was introduced allowing American corporations to take advantage of an above-cost deduction on donations of excess, slow-moving inventory. This particular “giving” incentive has, in the case of NAEIR, resulted in over \$3 billion dollars of inventory donated and redistributed to charities across the U.S. over the lifetime of our organization; a great boon to thousands of charitable organizations and the millions of struggling Americans from coast to coast they serve.

During the 112th Congress, Congressman Schock (R-IL) sponsored The Charitable Contribution Parity & Enhancement Act – H.R. 2592.

If passed, this bill would provide tax incentives to over 3 million of the nation’s small businesses – most of which are S Corporations - to donate their excess inventory to struggling charities throughout the country. This legislation would make available hundreds of millions of dollars of excess inventory to charities across the U.S.

These same incentives already exist for C-Corps and a change such as this would level the playing field between businesses large and small and be consistent with the Chairman's intentions of simplifying the tax code while eliminating its provisions which pick winners and losers.

S Corporations were much less prevalent in 1976 than today. According to the IRS Statistics of Income for 2007, S Corporations at that time, made up over 66% of the nation's corporations. The number of S Corporations alone is now even greater. **S Corporations are now the nation's predominant form of small business and given that the legislative history reveals no reason as to why efforts to establish greater parity for S corporations and other small businesses should be further postponed, we feel strongly that extending the above-cost tax benefits related to the donation of excess inventory to S Corporations should be addressed as this committee begins its work in the area of Tax Reform legislation.**

Since 2007 we've been in a predicament similar to that of tens of thousands of charities across the country. The difficult economic realities that plagued many of our nation's businesses over the past few years translated into fewer donations of inventory along with both a decline in our membership base and a dip in member requests for donated materials. While our members look to us for much needed product donations, we look to our members to provide us with the revenue we require to meet our day to day expenses. The past several years have been very challenging for NAEIR, as well as our donors and members.

Our country's economic downturn, of course, translated into fewer profitable companies that were more focused on improving their cash situation. Many were not in a position to take advantage of a charitable deduction. Even so, many donor companies continued to donate because they believed it was the right thing to do and perhaps because they needed the warehouse space and didn't want the product to wind up in a landfill.

Since then, although we've more recently been experiencing a degree of recovery through the hard work and creativity of our employees and do see some indications that

suggest a gradual turn for the better, we're well aware that we're not entirely out of the woods just yet.

In addition to our having had to institute cuts in a number of areas of our operation, a couple of years ago, we were also forced to enact layoffs – something we'd never previously done in the history of our organization. We realize that we're not alone in having had to establish a number of austerity measures in order to continue as an organization. There are of course hundreds of thousands of businesses, nonprofit organizations and indeed millions of Americans that continue to sacrifice.

At the same time, along with thousands of other charities and businesses across the country, we're sensitive to any interventions on the part of federal policy makers in general and in particular in the area of the Charitable Deduction that may upset or worse – do damage to the progress we and thousands of organizations like us, are currently making.

For this reason, we ask that policymakers temper their zeal to find new government revenue with a careful examination of the significant benefits of the Charitable Deduction.

Since its inception in 1917, the Charitable Deduction has strongly encouraged Americans to give back to their communities. It encourages behavior for which taxpayers receive no personal tangible benefit and continues to generate broad support among Americans. A recent (2011) Gallop poll found that 7 in 10 Americans oppose its elimination.

It remains a compelling incentive to give and is an efficient way for the federal government to foster investment in our nation's communities. Independent Sector and other reputable sources cite that if not for the Charitable Deduction, annual giving would drop by 25 to 36 percent and the proposed cap could cost charities between \$7 and \$10 billion a year in contributions. These are dark and sobering forecasts.

The power of the tax incentive directly related to the Charitable Deduction is illustrated by the fact that in our own case, NAEIR receives approximately 35% of all its donations of inventory during the month of December. On a national level during the days of December 30th and 31st, about 20% of giving online occurs.

The powerful impact the Charitable Deduction has on the U.S. economy may be further underscored in that one in 10 American workers - work for a nonprofit, and with 13 million employees, the sector is larger than the finance and real estate sectors combined.

Also, the federal government certainly stands to gain in that the continued existence of the Charitable Deduction in its current form will mean the continued collection of taxes from nonprofit employees who annually pay nearly \$670 billion in wages and benefits.

In summary, Mr. Chairman, the various proposals currently being considered to remove or cap the Charitable Deduction would be ill-advised. The result of the adoption of any one of these, in whole or in part, would only serve to weaken our nation's charities, jeopardizing the very existence of American society's safety net as represented by the nonprofit sector. Additionally, it is of equal importance that we continue to look for ways to harmonize the differences that exist in the tax code when it comes to charitable incentives for larger corporations versus those of smaller businesses.

Thank you, Mr. Chairman and committee members, for the opportunity to submit these comments.

I would like to make myself available to respond to any questions you may have.

Respectfully,

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