INDEPENDENT SECTOR
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STATEMENT FOR THE RECORD

HOUSE WAYS AND MEANS COMMITTEE
"HEARING ON TAX REFORM
AND CHARITABLE CONTRIBUTIONS"
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Chairman Camp, Representative Levin, and distinguished Members of the Committee, thank you for the opportunity to share the perspectives of America's nonprofit and philanthropic sector as the Committee examines the issue of charitable contributions as part of your preparations to undertake comprehensive tax reform.

I serve as the president and chief executive officer of Independent Sector, a national coalition of approximately 600 public charities, foundations, and corporate giving programs that with their local members and affiliates total tens of thousands of charitable organizations across the country. Our nonpartisan coalition leads, strengthens, and mobilizes the nonprofit and philanthropic community in order to fulfill our vision of a just and inclusive society, as well as a healthy democracy of active citizens, effective institutions, and vibrant communities. We work to ensure that America's 1.3 million charitable organizations are able to help people and improve communities across the country and around the world.

## Importance of the Charitable Sector

Every day, charitable nonprofit organizations, among many other contributions, provide educational and economic opportunities for families in need; work to alleviate poverty and suffering at home and abroad; assist victims of disaster; enhance the cultural and spiritual development of individuals and communities; facilitate scientific advances; and foster worldwide appreciation for the democratic values of justice and individual liberty that are part of the American character.

In Ann Arbor, Michigan, Food Gatherers and its network of volunteers provide 10,000 meals every day and advocate on behalf of the citizens who rely on those meals. Meanwhile, the Sphinx Organization, based in Detroit, offers youth development initiatives that provide classical music education in underserved communities. In collaboration with the League of American Orchestras, they also have provided financial support for 1,500 minority classical musicians.

The United Way of Southwest Louisiana works with partners to deliver nearly 55 programs and services that target community needs centered on the building blocks for a good life: education, income and health, while Catholic Charities Archdiocese of New Orleans has gutted or rebuilt 3,200 homes post-Katrina through its Operation Helping Hands program, and has provided counseling to 900,000 people.

The American Red Cross of Greater Cleveland provides relief to victims of disasters and helps people prevent and prepare for emergencies. In 2011, the chapter responded to over 300 disaster incidents in Northeast Ohio and trained over 87,000 people in CPR and first aid. And each year the Ohio Arts Council, a member of Americans for the Arts, provides funding to support more than 1,000 arts organizations, programs and artists throughout the state.

Mass Audubon, a member of the Land Trust Alliance, works to protect the nature of Massachusetts for people and wildlife. With more than 100,000 members, Mass Audubon cares for 34,000 acres of conservation land in 90 Massachusetts communities and provides educational programs for 225,000 children and adults annually.

The charitable sector is also a critical component of the nation's economy. Nearly one in 10 workers in the United States is employed by a nonprofit organization, and with 13.5 million paid workers, we employ more people than the finance and real estate sectors combined. Further, these organizations pay nearly $670 billion annually in wages and benefits, salaries that support families in communities across America. In 2010, 501(c)(3) organizations paid $35.2 billion in payroll taxes.[1] In addition, 64.3 million Americans contributed more than 7.9 billion hours of volunteer service in a formal organization in 2011, the equivalent of 4 million full-time jobs valued at approximately $171 billion.[2]

The charitable sector's broad community impact and public support is evidenced by the breadth of its funding sources. Millions of Americans make donations each year, collectively providing nearly $300 billion[3] to support the work of charitable nonprofit organizations. But charitable donations are only part of what is needed to ensure that the sector's programs and services can continue. More than 52 percent of revenue across the sector is derived from fees paid for services, ranging from tuition and patient care charges to event admission fees. Nearly one-third of additional nonprofit sector revenue is generated through partnering with all levels of government to deliver programs and services like after-school care, nutrition assistance, and nursing home care for elderly and disabled Americans.[4]

## Impact of the Economic Downturn

The struggling economy and sluggish recovery have made it more difficult for charitable organizations to serve their missions, as America's nonprofits have been hit hard financially in recent years. The Nonprofit Finance Fund, a 501(c)(3) nonprofit community development financial agency, surveyed over 4,500 nonprofit organizations in January 2012, and found merely one quarter of them operating above a break-even point.[5] Fifty-seven percent of organizations only had enough cash on hand to cover three months or less of expenses, and 87 percent of respondents indicated their financial outlook would not improve in 2012.

[1] National Center for Charitable Statistics (NCCS), The Urban Institute, The Nonprofit Almanac 2012.
[2] Corporation for National and Community Service, "Volunteering in America," 2012
[3] Giving USA Foundation (2012). Giving USA 2011: The Annual Report on Philanthropy for the Year 2011.
[4] National Center for Charitable Statistics (NCCS), The Urban Institute, The Nonprofit Almanac 2012. Sources of Revenue for Reporting Public Charities: NCCS calculations of IRS Statistics of Income Division Exempt Organizations Sample (2007); NCCS Core Files (2009); American Hospital Association (AHA) 2009 survey; and the National Health Accounts, produced by CMS.
[5] Nonprofit Finance Fund, "2012 State of the Sector Survey," 2012

Like their counterparts in other major sectors of the economy, many charitable nonprofit employers have struggled to meet payroll during recent years, and countless more have been unable to hire additional workers needed to keep pace with an increased demand for services. In 2011 alone, 23 percent of charitable nonprofit organizations reported cutting staff, 21 percent froze or reduced salaries, and 11 percent reduced employee benefits.[6]

These financially challenging times also have seen a significant increase in demand for help from those most in need, as documented in numerous studies. According to the Nonprofit Finance Fund survey, 85 percent of charitable nonprofits experienced an increase in the demand for services in 2011, and 88 percent of respondents expected that demand to increase again in 2012.[7] Additionally, an annual survey conducted by Catholic Charities found that its agencies had served more than 10 million people in 2011, an increase of over 25 percent over 2007.[8]

Many charitable nonprofit organizations have struggled to keep pace with this increased demand in part because they saw revenues fall during the economic downturn. Since 2007, annual charitable giving has declined by almost $13 billion[9] as Americans continue to struggle to navigate a difficult economy. Additionally, federal, state, and local budget cuts, coupled with delayed reimbursements from government for contracted services[10] and a decline in foundation support every year since 2008,[11] have further burdened and diminished the capacity of nonprofits.

## The Incentive Effect of the Charitable Deduction

While almost all Americans are generous contributors to causes they care about, the vast majority of donations come from taxpayers who take the charitable deduction. More than 80 percent of the 46 million Americans who itemized their tax returns in 2009 claimed the charitable deduction. These individuals and families, who represent barely one quarter of all taxpayers, are responsible for more than 76 percent of individual contributions to charitable organizations.[12]

Congress has long recognized the connection between the tax code and its effect on donations to charitable organizations, dating to the inception of the charitable deduction in 1917. The generosity of Americans, further encouraged through tax incentives, has made possible extraordinary contributions of charitable organizations in local communities, large cities, rural areas and those focused abroad all dedicated to improving life for all.

Recognizing the power of the tax incentive to stimulate additional giving, in the days following the devastating January 2010 earthquake in Haiti, legislation was enacted allowing taxpayers to claim a 2009

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[6] Ibid
[7] Ibid
[8] Catholic Charities USA, 2011 Annual Survey Final Report, Center for Applied Research in the Apostolate, Georgetown University, Washington, DC, August 2012.
https://www8.georgetown.edu/centers/cara/ccusa11_report/CCUSA_2011_Annual_Survey_Report.pdf
[9] Giving USA Foundation (2012). Giving USA 2011: The Annual Report on Philanthropy for the Year 2011.
[10] A 2010 survey by Urban Institute on states and government contracting showed that Michigan and Ohio ranked near the bottom in late reimbursement payments to nonprofits. http://www.urban.org/uploadedpdf/412227-National-Study-of-Nonprofit-Government.pdf
[11] Giving USA Foundation (2012). Giving USA 2011: The Annual Report on Philanthropy for the Year 2011.
[12] Source: IRS Statistics of Income data for 2008. Does not include bequests and estates.

deduction for donations made to Haiti relief efforts between the date of the earthquake and March 1, 2010. Similar extensions were enacted following the Southeast Asia tsunami of 2004, Hurricane Katrina in 2005, and storms in the American Midwest in 2008.

Moreover, the power of the incentive can be seen in the timing of charitable gifts. Between 2003 and 2009, charitable organizations in the U.S. received $281 million in online donations. More than 22 percent of those donations are made on December 30 and 31 each year, underscoring the extent to which donors are aware of, and influenced by, the tax implications of their giving.[13]

## Fairness of the Charitable Deduction

The American people understand the positive impact of the charitable deduction on their communities. An April 2011 Gallup Poll found that 62 percent of Americans *who do not claim the deduction* support its preservation as an incentive for giving. This tax incentive to stimulate giving likely enjoys such broad support because Americans recognize it is policy in which donors' generosity is matched by government tax subsidy, all with the noble intent of making life better for others.

While some advocates of changing the charitable deduction believe it disproportionately benefits high-income taxpayers, this is *not* the case. The current tax code treats every taxpayer who claims the deduction equitably; regardless of the rate at which their income is taxed, people are not required to pay taxes on the portion of their earnings donated to charity.

A related criticism is that the charitable deduction disproportionately benefits those charities favored by wealthier donors. Specifically, it is suggested by some that donors claiming the charitable tax deduction primarily support the arts, universities, and other organizations perceived to be well-financed at the expense of charities that provide direct service to needy individuals and families. In fact, reducing the value of the charitable deduction for higher-income taxpayers will diminish the impact of services across the sector. A 2012 study by the Center on Philanthropy at Indiana University found that 79.3 percent of high-net-worth households,[14] those defined as having annual income greater than $200,000, donated to basic needs charities in 2011, with their average gift to basic needs organizations increasing by 17.5 percent since 2009.[15] The reality is that Americans in every income bracket give generously to all types of charitable organizations, and reducing incentives to give will hurt all charities and the causes they serve.

It is also important to keep in mind the unique nature of the charitable deduction. Unlike incentives to save for retirement or purchase a home, for example, the charitable deduction encourages behavior for which a taxpayer receives no direct tangible benefit. The charitable deduction does not subsidize personal consumption or underwrite the accumulation of personal wealth. It simply and effectively encourages taxpayers to give away a portion of their income to benefit others.

[13] "Online Giving Study: Donations Driven by Donor Experience, Year-End Gifts and Large-Scale Disasters." Network for Good and True Sense Marketing, Dec. 2010, reported in Philanthropy News Digest, Dec. 15, 2010.
[14] Households with annual income greater than $200,000 and/or personal wealth of at least $1,000,000.
[15] "The 2012 Study of High Net Worth Philanthropy," Center on Philanthropy at Indiana University, November 2012

*Furthermore, this tax incentive is not about who benefits from giving, it is about who benefits from the gift.* Limiting the deduction imposes a sacrifice not on those who can most easily afford it, as proponents of limiting the deduction maintain, but rather on those in our society with the greatest need for a helping hand. Donors could very easily maintain the out-of-pocket costs associated with their giving by adjusting the size of their charitable gifts to account for the decreased level of deductibility.

## Cost-effectiveness of the Charitable Deduction

This charitable tax incentive is also an extremely efficient way for the federal government to spur investment in communities. When an individual in the highest tax bracket donates $1,000 to charity, the government foregoes just under $400 in tax revenue. However, communities benefit from the entire $1,000 gift. The government is unlikely to find another vehicle that can leverage private spending for community services at better than a 2.5-to-1 ratio.

## Impact of Proposed Changes to the Charitable Deduction

Despite the universal popularity of this tax incentive, during the past couple of years the voices considering limits on the charitable deduction have included administration officials, other public officials from both parties, and various fiscal commissions tasked with charting a course to long-term economic stability.

These proposals have included imposing a hard dollar cap on all itemized deductions, implementing a percentage-based reduction, and introducing a partial tax credit available to taxpayers whose charitable giving exceeds some arbitrary threshold.[16] Their impact would range from decreasing the value of the charitable deduction to effectively eliminating it entirely for many taxpayers.

The most active proposal to reduce the value of the charitable deduction has been the Obama Administration's effort to limit itemized deductions for taxpayers earning more than $200,000 per year at 28 percent. When top marginal rates were 35 percent, experts predicted this proposal would cause charitable giving to decline by anywhere between $1.7 billion[17] and $7 billion[18] per year. With top marginal tax rates now at 39.6 percent, capping the charitable deduction at 28 percent would likely cause an even more drastic decline in giving.

The fact is that decoupling – for the first time since the deduction's inception – a taxpayer's ability to deduct his or her charitable donations from the rate at which he or she is taxed will reduce annual charitable giving. Further, the tax incentive, no longer anchored to a taxpayer's marginal rate, down the road will be vulnerable to additional cuts as policymakers continue to look for sources of revenue. There is nothing sacred about the 28 percent level currently being proposed, and the same arguments we hear now may well be advanced in the future to reduce this important incentive even further. Beyond depriving the charitable sector of much-needed revenue, this proposal also threatens to undermine the fundamental

[16] Both the National Commission on Fiscal Responsibility and Reform, also known as the Simpson-Bowles Commission, as well as the Debt Reduction Task Force, chaired by former Senator Pete Domenici and former OMB Director Alice Rivlin, called for replacing the charitable deduction with a credit.
[17] "Impact of The Obama Administration's Proposed Tax Policy Changes on Itemized Charitable Giving." The Center on Philanthropy at Indiana University, October 2011.

[18] "An Anti-Charity Tax, at the Worst Time." Martin Feldstein, *Washington Post*, March 25, 2009

value long embraced by our government and our society of encouraging people to give generously to the causes and missions they value.

Another proposal that received some attention was an aggregate hard dollar cap on itemized deductions. In response to Governor Romney's suggestion during the 2012 presidential campaign that a hard cap could be set at $17,000,[19] the National Association of Home Builders analyzed tax data from 2009 and found that of the $20,464 in itemized deductions claimed by the average married, joint-filing taxpayer, $17,329 of these deductions were consumed by home mortgage interest ($10,365), state and local income taxes ($3,667), and real estate taxes ($3,287).

This effectively would have eliminated the charitable deduction for millions of taxpayers, and regardless of where an aggregate cap is set, even at $50,000 as has since been suggested,[20] the result would force taxpayers to choose between the charitable deduction and those itemized deductions from which they directly benefit. For those taxpayers whose mortgage interest, local tax, and other similar deductions meet or exceed the cap, the charitable deduction will simply not be available to them altogether. And according to a 2012 Indiana University survey, more than two-thirds of high-net-worth donors said they would decrease their giving if they did not receive a deduction for donations.[21] In fact, it has been estimated that with no charitable deduction at all, giving would decline by 36 percent.[22] This would have resulted in a $78 billion decline in individual charitable giving in 2011.

Given the increased demand for services and decreased sector revenues outlined above, now is not the time to consider proposals that will cause charitable giving to decline. In fact, I would urge the Committee to explore options to enhance the incentive effect of the deduction and spur more charitable giving.

One such option would be for Congress to extend until April 15 the deadline for taxpayers to deduct charitable donations from their previous year's tax return. Given the rate at which Americans donate to charity on the last two days of the calendar year, it would seem that having the deadline for making donations coincide with the filing of tax returns might encourage even greater giving. Furthermore, as outlined above, Congress has on multiple occasions extended the deadline for claiming the charitable deduction in order to encourage giving.

I also encourage the Committee to support the creation of a commission, panel or some other vehicle with the purpose of working to ensure the charitable sector is adequately capitalized. Such a vehicle would enable charitable organizations to look at better use of existing funding streams, identify new potential streams of capital, explore obstacles to the flow of cash and non-cash contributions to these organizations and review existing governmental structures and vehicles that might be of use in this effort. This may provide an opportunity both to enlarge the pie and ensure that capital is flowing to charitable organizations in the most efficient and effective way possible.

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[19] Mr. Romney subsequently suggested $25,000 might be an appropriate level at which to set an aggregate cap on itemized deductions.
[20] Sen. Rob Corker (R-TN) proposed a deficit reduction package in November 2012 that would have imposed a $50k cap on all deductions.
[21] The 2012 Study of High Net Worth Philanthropy, Center on Philanthropy at Indiana University, November 2012
[22] "Charitable Giving, Income, and Taxes: An Analysis of Panel Data" Gerald E. Auten, Holger Sieg and Charles T. Clotfelter. *The American Economic Review*. March 2002.

## Charitable Tax Extenders

In addition to preserving the individual tax incentive to encourage charitable donations, Congress might help charitable organizations secure the support they need to deliver much-needed programs and services by extending permanently the charitable giving incentives included in the annual tax extenders package. It is difficult to overstate the benefit for our community, and the people we serve, of extending permanently the IRA charitable rollover and the enhanced incentives for the donations of food inventory and land conservation easements.

### IRA charitable rollover

The individual retirement account (IRA) charitable rollover tax incentive, first enacted in the Pension Protection Act of 2006, encourages older adults to make gifts to charities by enabling individuals age 70½ to donate up to $100,000 to a qualifying public charity directly from his or her IRA without incurring tax on the withdrawal.

While previous lapses of this provision have made data difficult to compile, according to the nonprofit Partnership for Philanthropic Planning,[23] during the first two years the IRA charitable rollover option was available, it prompted more than $140 million in charitable donations, with the median gift just under $4,500.[24] Beneficiaries have included social service providers, religious organizations, cultural institutions and schools – organizations that benefit communities and improve lives every day.

### Enhanced deduction for contributions of food inventory

Since Section 170 of the Internal Revenue Code was enacted by Congress in 1976, our nation's tax system has encouraged donations of food inventory by allowing C Corporations to earn a tax deduction for donating surplus wholesome food that has been safely handled and donated to an approved public charity.

Under this provision, the allowable deduction is the donor's basis in the donated food plus one-half of the ordinary income that would have been realized had the food been sold at fair market value (capped at twice the donor's basis in the donated inventory). Congress made this enhanced tax incentive available to all business entities as part of the Katrina Emergency Tax Relief Act in 2005.

The expanded incentive has been vital, as community food pantries and other meal providers attempt to keep pace with the growing number of Americans who go to bed hungry every night.

### Special rules for the contributions of capital gain real property for conservation purposes

First enacted as part of the Pension Protection Act of 2006, the enhanced deduction for donation of a conservation easement increases the maximum deduction a donor can take for donating a conservation easement from 30 percent of adjusted gross income (AGI) in any year to 50 percent

[23] Formerly the National Committee on Planned Giving
[24] National Committee on Planned Giving. "Survey of IRA Distributions to Charity." March 24, 2008.

of AGI. It also allows qualified farmers and ranchers to deduct up to 100 percent of AGI, and permits taxpayers to carry forward excess contributions for up to 15 years.

Conservation easements create a legally enforceable land preservation agreement between a landowner and a government agency or a qualified land protection organization (land trust) for the purposes of conservation. Such easements are cost-effective and voluntary, and the enhanced charitable incentive makes it possible for modest-income farmers, ranchers and other property owners to make such gifts.

Within its first two years, the enhanced incentive helped America's land trusts increase the amount of land conservation by at least 535,000 acres.[25] The nonprofit Land Trust Alliance also estimates that the provision has helped America's land trusts work with farmers, ranchers and other modest-income landowners to increase the pace of conservation by one-third, to over a million acres per year.

## The Need for Permanent Extension

Members of the Ways and Means Committee have demonstrated their understanding of the enormous positive impact these charitable provisions have on individuals, families, and communities in every state across this country. In fact, current Committee members have in the past joined together to introduce bipartisan legislation not simply to extend, but make permanent and expand, three of these charitable giving incentives.

We deeply appreciate past efforts of current Committee members who sponsored legislation to expand, enhance and/or make permanent these key incentives. Specifically, Rep. Earl Blumenauer (D-OR) was the lead cosponsor on legislation in the 112th Congress to encourage donations from individual retirement accounts through the IRA charitable rollover (H.R. 2502), Rep. Jim Gerlach (R-PA) and Rep. Mike Thompson (D-CA) introduced a measure to increase the donation of land conservation easements (H.R. 1964), and Rep. Sander Levin (D-MI) was the lead cosponsor on a bill to boost donations of food inventory (H.R. 3729).

Permanent enactment of these incentives will end the ambiguity and uncertainty caused by repeated lapses and subsequent re-enactments that have made it extremely difficult for donors and financial advisors to develop charitable giving plans, impeding the transfer of gifts that support much-needed services. The charitable giving incentives in the tax extenders package have encouraged individuals, large corporations, and small businesses actively to support the development and sustainability of their communities. They have spurred contributions, for example, to build cancer centers, develop counseling programs for at-risk youth, provide housing for homeless families, conserve wilderness areas, and offer art therapy for people with developmental disabilities.

*We urge you to extend permanently these invaluable charitable giving incentives before they expire once again at the end of this year.*

[25] Land Trust Alliance. "The Enhanced Easement Incentive." http://www.landtrustalliance.org/policy/tax-matters/campaigns/how-the-easement-incentive-works

## Conclusion

Independent Sector recognizes and supports our collective imperative to put America on a sustainable fiscal path and spur economic growth. Indeed, the nonprofit sector, with our sizable workforce and significant investment in communities across America, can be a powerful partner in Congress's efforts to fuel recovery. As you consider proposals to improve our economy and reduce the debt we urge you to consider both the short-term and the long-term consequences of all proposals before you. One such idea we believe should have no place in these deliberations is reducing or eliminating the charitable deduction. Over the years this provision has encouraged millions of Americans to step up and do precisely what we need them to continue doing now – give generously to improve their communities and build a better society.

As the Committee looks ahead and prepares for tax reform, it may also be instructive to look back to the Tariff Act of 1894, which first exempted from federal income tax organizations operated for charitable purposes, and the Revenue Act of 1917, which first made donations to charitable organizations tax deductible. In both instances, Congress embraced the entire range of social purposes and important causes that citizens – individually or collectively – might choose to pursue through charitable organizations. Whether focused on the arts, social services, scientific research, or spiritual matters, this great American tradition has sparked innovation, saved lives, and enriched our communities. Through the wisdom of these decisions, Congress established century-old policies that have stimulated charitable giving and made it clear that our government and our society value the contributions made by every charitable organization.

The charitable deduction is a crucial incentive that gets people to give, and give more generously than they otherwise would. It speaks to Congress's commitment to encouraging this uniquely American activity. It unites people of different faiths, ideologies and purposes and makes it possible for us to improve life in our communities and elsewhere.

Thank you for the opportunity to share with the Committee this testimony.