Testimony of John A. Berry
Chief Executive Officer, Society of St. Vincent de Paul Georgia
Before the Committee on Ways and Means
United States House of Representatives
On Charitable Vehicle Donations
February 14, 2013

Thank you for the opportunity to testify before you today. I am John A. Berry, Chief Executive Officer of the Society of St. Vincent de Paul (SVdP) Georgia, which last year provided financial, material, educational and spiritual support to over 200,000 people in need across the State of Georgia. Over 146,000 volunteers carry out the work of the Society in all parts of the country.

I wear two hats related to charitable vehicle donation, on which our services heavily depend. Since 2009, I have chaired SVdP USA's vehicle donation program which supports the work of more than 4,500 local offices. I also co-chair a national charity coalition working to stem the sharp decline in vehicle donations across the country.

Let me start by saying that like many witnesses before you today, we strongly support retention of the overall charitable deduction in the federal tax code. Our organization receives over 83 percent of its revenue from individual donations. To change the tax treatment of those individual donations would undermine the capacity of charitable organizations to serve the community. But my testimony to you today focuses specifically on the vehicle donation charitable tax deduction.

Over 5,000 charities, particularly small non-profits, rely on vehicle donations to underwrite their services to the needy. Often the nonprofit and faith-based sectors now deliver these services instead of the government. In these times of budgetary challenges at the federal, state and local level, we fill gaps to ensure those in need are helped. Revenue from vehicle donations is a vital part of the charity funding model. Many charities, like ours, receive little or no government funding and rely on the generosity of private citizens, including donations of non-cash assets, especially vehicle donations.

Since a 2004 change in the tax treatment of vehicle donations, there has been a sharp decline in the volume and value of those donations, with a staggering impact on income and thus charitable services in all 50 states. Congress changed the valuation method as part of a package of reforms to address abuses in the vehicle donation process under the rules that then existed. While the prevalence of these abuses was not quantified, there was congressional consensus that the rules that governed vehicle donation invited abuse. The rest of the changes, which strengthened reporting and enforcement, were excellent. The valuation provision was also well-intended, but seriously misjudged the psyche of the donor. The changes were meant to eliminate abuse but have had the effect of chasing away donors altogether. From our perspective, it is a federal mechanism that unnecessarily undermines private philanthropy.

This is a problem that we have been working with Congress to address for a number of years, and I am also here to thank you, because most of you and your colleagues already agree that this tax treatment of donated vehicles should be changed. I say that because last session, legislation to address the problem, HR 860, attracted 333 House cosponsors, including 26 of the current members of the Ways & Means Committee.

Sitting in this hearing room, this problem may seem like a small matter. But for charities like ours, the impact is enormous.

To share our own experience: in 2004, St. Vincent de Paul Georgia, just in metropolitan Atlanta, received 533 donated vehicles, the sale of which yielded $237,091 in revenue. In 2005, the first year the new rule took effect, donations dropped to 382 vehicles yielding $143,430. By 2012, the numbers were down to 94 cars for $66,125. That is an 82 percent decline in volume and a 72 percent decline in revenue.

Those dollars literally make the difference between families having food to put on their table or a roof to put over their heads. For the services that we provide at SVdP Georgia, $100 can feed a family of four for a week; $100 can provide heat and light for a month.

We operate a food recovery and distribution program in Georgia that partners with local retail food chains to collect food that is beyond its store shelf date but is perfectly good to eat. That program today collects and redistributes over ten tons of food per month through the 38 food pantries we operate. The lost vehicle donation revenue each year since 2005 would have more than fully funded this program – with money left over for other programs that help less fortunate Georgians achieve stability and self-sufficiency.

You can hear similar testimonials from Ronald McDonald House in Columbus, OH to the Washington Council for the Blind in Seattle; from the American Lung Association in Springfield, MA to Veterans Plus in Houston, TX; from Volunteers of America in Michigan to Habitat for Humanity in Montana; from Songs of Love Foundation in New York to Opportunity Village in Nevada; from Melwood in Maryland to Rawhide Boys Ranch in Wisconsin to Polly Klaas Foundation in California.

If you take just a moment to search online for "car donation" in any community in your own congressional district, the volume of nonprofits that pop up may surprise you. Their missions vary but they share the same problem. The plunge in vehicle donations has made it much harder to stock food bank shelves, care for adopted children and provide shelter to homeless veterans – at the very time that demand for these services has spiked.

The national totals are staggering. This conclusion was documented in the annual Internal Revenue Service Statistics of Income data on non-cash charitable contributions. According to the IRS, in 2004 charities received 970,516 donated vehicles with a total value of $2,626,695,000; and in 2005, the charities received 325,372 vehicles with a value of $610,316,000. That is, the volume of vehicle donations declined by 67 percent and their overall value declined by 77 percent.

The IRS data show that the situation has not improved over the years since. After the initial steep decline, the numbers have remained at that low level since. Over the last nine years, the volume or value has edged slightly up or down in response to other factors, such as demand from the Cash for Clunkers program or downturns in the national economy. For 2009, the most recent year for which the IRS data is available, charities received 213,833 donated vehicles with a value of $384,715,000. That constitutes a decline since 2004 of 78 percent in volume and 85 percent in value.

Today, thousands of charities sponsor vehicle donation programs to help underwrite the costs of a wide variety of missions, from medical research to job training, often defraying costs that otherwise fall to the public. Most vehicles are donated locally and the resulting revenue is spent locally; even for national charities, regional or state chapters typically run car programs. Vehicle donation is a particularly important fundraising tool for small community non-profits such as churches or youth sports programs. These causes may lack the capacity for staff resources, galas or direct mail programs, but can initiate a car program without investment or risk.

Vehicle donation is an unusual form of charitable giving. Unlike gifts of money or smaller non-cash contributions, even committed donors can give a vehicle only every few years. However, even a modest number of donated cars can be enough to feed hungry or help shelter local poor families. In addition, the goodwill of a successful car program can also yield other gifts of money, goods and donor time, as well as additional vehicles in the future. To establish this lifelong relationship, it is critical that the process appears sensible and efficient to the potential donor.

We do not seek repeal of the 2004 reforms, which have worked well to curb tax abuses. We do not seek to inflate the donor's deduction. Charities have no desire to restore the "black eye" that vehicle donation had earned prior to the changes. Our goal is to restore the timing of the valuation to the beginning of the donation process so prospective donors can make an informed decision about the gift.

The deduction for vehicle donation was originally established in the 1986 comprehensive tax reform measure, with the explicit statutory goal of promoting charitable giving. Under this provision, the Internal Revenue Code treated donated vehicles the same as any other non-cash charitable contribution. Donations of vehicles worth more than $5,000 required a certified appraisal. It was left to donors themselves to calculate the value of donated vehicles below that threshold, based on IRS guidance that many considered vague and loose. Without requirements for charities to report on these transactions, the IRS had no way verify the vehicle donation, much less its actual value.

During the debate, proponents reassured non-profits that the changes would not undermine charitable donations. When the new rules took effect the following year, however, charities uniformly experienced a precipitous and sustained decline in vehicle donations. The corresponding impact on charitable services across the nation has been breathtaking.

An objective of the 2004 reforms was to address the potential for overvaluation of donated vehicles. The debate focused particularly on vehicles worth less than $500, which constituted over half of all car donations. The concern was that donors could claim deductions in the thousands of dollars for these very-low-value cars, many of which were no longer even operable. The reforms solved that problem by limiting Fair Market Value (FMV) deductions to a maximum of $500.

The reform package contained two other key elements:

- Charities were required to report transaction details to the donor and also electronically to the IRS, so the transaction could later be tracked full-circle; and

- A new enforcement regime provided for penalties of up to $5,000 per donation for misrepresentation of the donation or the value of the donated vehicle.

These changes have worked well to curb tax abuses. Non-profits today are fully accustomed to the new requirements and understand that the reforms helped restore public confidence in the integrity of their car donation programs.

However, the reform measure inadvertently created an entirely new problem. Today, valuation of donated vehicles over the $500 threshold is based on the gross sales price. This method scares away droves of donations, particularly of better-value cars from which charities benefit the most.

Under this provision, a potential donor of a vehicle worth more than $500 cannot determine the tax advantages of a donation until after the charity sells the car. This can take weeks or even months – requiring the donor to hand over car, keys and title without any idea how the donation will ultimately be valued. Every other option for disposal of the vehicle, from trade-in to private sale, offers the donor certainty up-front about the value. Within moments, a donor can access hundreds of legitimate websites and obtain a guaranteed vehicle purchase price; or visit any Car Max in the country and walk out an hour later with a check in hand. Only charitable donation carries uncertainty for the donor.

The high point for car donations, like all philanthropy, is November and December. When prospective end-of-year donors understand they will not know the vehicle valuation until the next tax year, they go away – usually perplexed at the charity. Many tax planners no longer even recommend vehicle donation because, in the most literal sense, the donor cannot plan for it.

Even the most altruistic donor is reluctant to play roulette with the tax ramifications of the donation, particularly with a vehicle of significant value. In this age of the informed consumer, donors need to know the valuation *before* committing to the gift. According to the IRS, vehicle donors are decidedly middle-class taxpayers, for whom the amount of the valuation may decide whether to proceed with the gift. Even for others, the process itself is so confusing they often give up on the donation.

Data from scores of individual charities across the country, large and small, reflect the same trend. Nearly every charity that had a vehicle donation program in 2004 has suffered a severe decrease in vehicle donation revenue. Among the few exceptions are charities that attempted to compensate by investing significantly more in advertising, thus reducing their net profit; and charities that were forced to abandon their vehicle donation programs altogether, with especially heartbreaking consequences for services.

While debate on the 2004 package was limited, it did include prophetic warnings about the impact on charitable services. Following is an excerpt from remarks by Senator Hatch, now Ranking Member on the Senate Finance Committee:

While this may appear a reasonable requirement . . . I am concerned that these changes will result in far fewer used vehicles being donated to charities . . . A chilling effect on the donation of these used cars could leave many worthy charities short of vital funds needed to perform their invaluable services to needy citizens in Utah and elsewhere. I will keep a watchful eye over the implementation of this change in the law, to make certain it does not harm the charities that have relied on donated vehicles for funding.

While I agree that we should preclude any real abuse of the law, I do not think we should create a burdensome new requirement that would discourage charitable giving. It may well be that we need to revisit this area of the law in the future. [S10975-6, Congressional Record 10/9/04]

There were similar admonitions from former Representative Bono Mack during House consideration of the Conference Report on HR 4250:

. . . I believe that the language of the conference report will have serious ramifications, burdening charitable organizations and precluding taxpayers from donating their used automobiles to said organizations. The Conference Committee chose to adopt the Senate proposal, which requires donors to wait until the vehicle is sold and then deduct only the amount of the sale. This is burdensome not only to the donor but also to the charity . . . by altering this provision, Congress will be placing unreasonable new burdens on taxpayers, discouraging charitable donations, and hindering charitable organizations from providing much-needed benefits to their recipients. [E1917, Congressional Record 10/11/04]

In the 112th Congress, Reps. Reichert and Larson introduced legislation, HR 860, to solve the problem. HR 860 would have left intact the tracking and enforcement reforms enacted in 2004 that went to the heart of the identified abuses. However, the bill would have amended the timing and method of vehicle valuation to restore clarity up-front to the process. This would allow a potential donor to make an informed decision, encouraging more and better-quality donations.

The bill would have permitted FMV deductions up to $2,500 and over that threshold require certified appraisals. The further intention is that the IRS would publish new guidance on precisely how to determine FMV for the lower-value cars, perhaps similar to valuation methods currently used commercially.

We were encouraged that so many of you and your colleagues recognized the problem last session by cosponsoring HR 860. For someone like me whose focus is on the streets of Atlanta more than the hallways of Congress, it sends a powerful message that 13 Republicans and 13 Democrats on this Committee cosponsored the bill, including both of my own delegation's Ways & Means members, Reps. Price and Lewis. To all of you, once again, I want to express my appreciation.

HR 860 was one solution to the problem and we realize there may be other approaches. We were gratified that the overwhelming bipartisan support last session underscored the seriousness of the problem – and that it can be fixed. It is our hope by appearing before you today that we can reengage the effort to solve it during the 113^{th} Congress.

Thank you very much.