



VIEW*S* & VISIONS

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Whiplash: A Century of Change in 12 Days! Philanthropy Navigating a New Environment

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Daugherty is an active board member and volunteer with several organizations, including the United Philanthropy Forum, National Public Policy Committee of the Forum and Leadership West Virginia. He is co-founder of the West Virginia Nonprofit Association.

As co-founder of Generation West Virginia, the Governor's Council for Young Talent and Young Emerging Leaders of the Mid-Ohio Valley, Daugherty has established numerous programs to engage young professionals in West Virginia.

Daugherty is the first West Virginian to become an Independent Sector's American Express NGen Fellow (2016-2017). He is also the recipient of the 2017 National Association of Secretaries of State Award for Extraordinary Efforts to Advance Charitable & Philanthropic Endeavors.

A graduate of West Virginia Wesleyan College, where he was a Bonner Scholar, Daugherty earned the school's Young Alumni Achievement Award in 2014. He is a Leadership West Virginia graduate, a *West Virginia Executive Magazine* Young Gun (2014) and a member of *The State Journal's* Generation Next: 40 Under 40 (2009).

Whiplash is defined as “a sudden jerk or jolt.” When a 100-year tradition experiences major change in a matter of 12 days, it can cause lots of people, organizations, experts and others to experience whiplash.

We experienced such a case last December when the U.S. Congress and the president, respectively, passed and enacted tax reform that stimulated various levels of change for our country. The tax reforms have had a mixed bag of impacts, with effects ranging from positive (more money in our pockets) to negative (decreasing the access by Americans to the itemized charitable deduction).

Whether you like the changes or not, philanthropy and nonprofit organizations must now navigate a new environment since the legislation went into effect 12 days following passage.

A Brief History of Philanthropy & Tax

The relationship between taxes, charitable giving and the evolution of organized philanthropy goes back over 100 years. A brief summary includes:

- 1914: The creation of the first Community Foundation in the World (Cleveland, Ohio)
- 1917: Federal Tax Deduction Implemented for Charitable Giving (providing a tax deduction for donations made to nonprofit organizations by taxpayers who itemize their tax returns)
- 1950: First Regulations on Foundations (implemented during the Truman Administration)
- 1969: Tax Reform Act (established the controlling legislation for private and public foundations that currently rule the sector)
- 1986: Reagan Era Tax Reforms (tax cuts, consolidated brackets and simplified tax codes)



- 2017: Tax Cuts & Jobs Act (doubled the standard deduction and increased charitable thresholds)

Our tax code historically recognizes the critical importance of individual citizens gifting their hard-earned dollars to the nonprofit, tax-exempt organizations and causes of their choice. Our commitment to give as a nation is rooted in our democracy and shines as an example to the world. Providing the opportunity for all Americans to access the charitable deduction and accelerate the work of nonprofit organizations is critical to ensure we have thriving communities for all our citizens. Taxpayers who receive a deduction for their contributions give more to charities than those that do not receive a deduction, regardless of income level.

The State of Philanthropy: Nationally and Statewide

Philanthropy originates from the generosity of individuals from all walks of life, incomes, ethnicities and ages. In Giving USA's 2018 report, the overall picture of charitable giving in our nation from individuals, estates, foundations and corporations exceeded \$410 billion. The report breaks down the four primary areas of giving as:

- 1) Individuals: 70 percent
- 2) Estates: 9 percent
- 3) Foundations: 16 percent
- 4) Corporations: 5 percent

In looking at our state's level of giving, Philanthropy West Virginia uses resources from the IRS and the Foundation Center to report that overall itemized charitable giving from private individuals is \$507.3 million and approximately \$70 million from foundations. Surprisingly, the bulk of West Virginians who itemize charitable deductions in our state come from the IRS's identified income categories of middle and low income. In 2015, they collectively donated over \$329.1 million (64.9 percent of overall itemized charitable giving). West Virginians are a great example of the significant level of all citizens who donate to the causes, organizations and programs that make our communities vibrant. When monetary resources are already limited due to state and federal cuts, we need to ensure that charitable giving continues to grow in order to build a stronger civil society in West Virginia.

Navigating a New Environment

So, what does all of this change mean for philanthropy? The projected impacts on nonprofits were bundled in a whiplash-paced change that was not completely planned out and fully understood. In particular, the fast pace of drafting, passing and enacting the legislation has resulted in confusion on the impact it is having on nonprofits and philanthropy. For example:

- Doubling the standard deduction now makes the itemized charitable deduction only accessible to individuals making \$200,000 or more.
- Unrelated Business Income Tax (UBIT) changes are unclear and challenging for both the IRS to monitor and for nonprofits to manage, creating new expenses for nonprofits.
- Projected decreases in overall charitable giving, especially for those from middle- and low-income families who cannot access the charitable deduction.

- While the legislation did not include it, there were attacks on the historically valued Johnson Amendment, which keeps nonprofits nonpartisan to focus on improving communities and our state.

Now that tax reform is being implemented, the results will continue to unfold over the next few years. It's true that individuals may see more money in their pockets, but the changes in itemized charitable giving, the new UBIT and continued attacks on the nonpartisan nature of nonprofits will impact West Virginia's nonprofit community for months and years to come. Additionally, as many tax professionals have shared, we truly will not see an understanding of the tax

policy changes until April 16, 2019 – the day after Tax Day.

Our value, ethic and commitment to philanthropy and charitable giving truly exemplifies West Virginia's – and the nation's – great example of freedom. While tax reform has brought about change, now is the time to soothe the whiplash and ensure nonprofits can continue to serve our citizens and communities without major hurdles. *W*

Author's Disclaimer: The expertise of tax lawyers and CPAs will provide greater in-depth detail of the law and codes, and I advise you to consult your legal counsel and/or accounting advisors if interested in learning more.

