

University of California, Santa Barbara

**Republican Presidential Incentives for Charitable Giving: An Examination of the  
1969, 1986, and 2017 Tax Code Revisions**

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## Introduction

Since the creation of the welfare state in the 1930s, Republican presidents have attempted to incentivize charitable giving to public nonprofit organizations to offset the welfare state and minimize big government. Enacted by President Franklin D. Roosevelt, the welfare state, launched through the New Deal, comprised a series of programs to recover the nation from the Great Depression. These programs, such as public works projects and financial reforms, expanded the federal government's role in the American economy beyond what many conservatives viewed as fit. Republican presidents have, instead, encouraged charitable giving. Yet, their support for charity has been primarily through rhetoric. I argue that their calls for giving are not reflected in the tax code, specifically in the revisions of 1969, 1986, and 2017. Republicans have continuously cut funding for welfare programs while simultaneously scaling down the charities they claim to be supporting. Studying three major tax reforms reveals that Republican-imposed policies have impeded, rather than benefited, nonprofit organizations. Through stringent regulations, federal investigations, and reductions in tax incentives to charitable giving, tax reforms have limited the work of public nonprofit organizations.

Nonprofit organizations fall into two categories for the purposes of this thesis: private organizations (philanthropy) and public organizations (charity). The concept of philanthropy arose in the 1920s during a time of postwar growth when some Americans began to possess great amounts of money. Distinctly different from charity, philanthropy can be defined as the effort to create lasting solutions to social problems through research and development. Charity can be defined as a short term, immediate solution to help the needy.<sup>1</sup> The Ford Foundation and

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<sup>1</sup> Oliver Zunz, *Philanthropy in America : A History*. (Princeton, N.J.: Princeton University Press, 2012), 9.

Rockefeller foundation are examples of philanthropies, which are often created by wealthy individuals or corporations. Examples of charities include soup kitchens, homeless shelters, and disaster relief, which all provide direct aid to an individual. Many philanthropies are run by liberal leaning individuals and have also been used throughout history as tax shelters by the wealthy. I argue that charities, rather than philanthropies, are the nonprofit organizations that Republicans choose to support with donations.

In order to argue that Republicans went against their own supportive rhetoric of charity, it is necessary to set forward the core tenets of Republican ideology regarding welfare, charity, religiosity, and the economy. As this thesis spans the scope of 70 years, the defining characteristics of Republicanism and the party itself have shifted considerably in that time. For this reason, the terms “conservative” and “liberal” will be used to help specify the placement of Republicans and Democrats on the ideological spectrum. Republicans generally support states’ rights, a lean federal government, and a limited executive branch -- “all of which became hallmarks of twentieth-century Republicanism.”<sup>2</sup> As America became more polarized in the late 20th century, the party shifted to be more conservative. The values around individualism and self sustenance held strong, as seen in the 1980 Republican Party Platform. The platform encouraged citizens to make their own decisions for themselves and their welfare, instead of “heavy-handed intrusion by the central government into the decision-making process.” Instead of regulation from the government, the Republican Party wanted to revive “the family, the neighborhood, the community, and the workplace as vital alternatives in our national life to ever expanding federal power.”<sup>3</sup>

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<sup>2</sup> Lewis L. Gould *Grand Old Party : A History of the Republicans*. 1st ed. (New York: Random House, 2003), 276.

<sup>3</sup> Donald T. Critchlow, *The Conservative Ascendancy : How the GOP Right Made Political History*. (Cambridge, Mass.: Harvard University Press, 2007), 174.

Self-reliance and the idea of protecting the individual stem from a shared Christian background of many Republicans. The conservative movement, as stated by an editor of the conservative magazine *National Review*, was to uphold “the principles of minimal government and the worth of the individual while recognizing the moral order and the authority of God and truth.”<sup>4</sup> In the eyes of traditional conservatives, God influenced much of society’s laws and formation.<sup>5</sup> The New Deal, and its creation of the welfare state, marked a drastic “movement away from individual self-reliance,” to reliance on the federal government. Republicans thought this shift would weaken citizens’ ability to succeed independently and in accordance with their religious views.<sup>6</sup>

Popular evangelical Reverend Billy Graham criticized Democrats from the pulpit for what he, and other conservatives, viewed as wasteful spending on the welfare state.<sup>7</sup> Christian Republicans disliked the New Deal because of its association with the Social Gospel.<sup>8</sup> The Social Gospel movement originated from earlier in the 19th century, and promoted Christianity as a religion focused on the “public good” instead of “personal salvation.” Most Republicans still held personal salvation to be of utmost importance. The Social Gospel was supportive of Progressive Era Reforms, and President Roosevelt utilized the movement’s rhetoric to support the creation of the welfare state.<sup>9</sup> The Social Gospel was interpreted as putting the collective over the individual, similar to the idea of labor unions, which place the interests of the group over

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<sup>4</sup> Donald T. Critchlow, *The Conservative Ascendancy : How the GOP Right Made Political History*. (Cambridge, Mass.: Harvard University Press, 2007), 23.

<sup>5</sup> *Ibid*, 115.

<sup>6</sup> Lewis L. Gould *Grand Old Party : A History of the Republicans*, 270.

<sup>7</sup> Kevin Michael Kruse. *One Nation under God : How Corporate America Invented Christian America*. (New York: Basic Books, a Member of the Perseus Books Group, 2015), 53.

<sup>8</sup> Oliver Zunz, *Philanthropy in America*, 189.

<sup>9</sup> Kevin Michael Kruse. *One Nation under God : How Corporate America Invented Christian America*, 5.

those of the single person. Because of the positive connection with labor unions, big business disliked the Social Gospel and welfare state too. Republicans in business and those with religious beliefs joined forces in an effort to revert America back to individualism. Republicans have sought to cut back the welfare state because it clashed with their Christian morals of personal salvation and political beliefs of small government.<sup>10</sup>

Much of the political discourse about nonprofit organizations has been centered on Christian views. Charity is highly regarded by Christians, as President Richard Nixon (1969-1974) said, “the Bible tells us that charity is the greatest virtue.” In this same speech, Nixon capitalized on the importance of “the spirit of self-reliance, the spirit of individuality, the spirit of dignity, that is something that is very precious in this country.”<sup>11</sup> Nixon felt that charity went hand in hand with the individual, which should not be overshadowed by government programs. President Ronald Reagan (1981-1989) also expressed the idea that government initiatives should not overpower the individual’s efforts. He said that “the good-hearted actions of individuals, of you and me, promote the public good, the welfare of the Nation as a whole, in ways that government never could.” Reagan furthered this point and said that if America allows the “government take its [the private sector’s] place entirely, we would surely be wasting our most potent resource.”<sup>12</sup> His sentiments on charity also resemble Republican views towards the economy that favor as little government intervention as possible.

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<sup>10</sup> Ibid, 13.

<sup>11</sup> Richard Nixon, Remarks at the Republican Governors Conference in Williamsburg, Virginia. Online by Gerhard Peters and John T. Woolley, The American Presidency Project <https://www.presidency.ucsb.edu/node/239861>

<sup>12</sup> Ronald Reagan, Remarks at a White House Briefing for the United States Delegation to the International Conference on Private Sector Initiatives Online by Gerhard Peters and John T. Woolley, The American Presidency Project <https://www.presidency.ucsb.edu/node/254480>

Republican views on the economy reflect Christian morals of individualism. As such, Republicans disliked the New Deal and its use of government power to create programs like Social Security, support for organized labor, and deficit spending to cover costs.<sup>13</sup> Republicans also frowned upon raising taxes to expand government and economic regulations. Permanent New Deal programs “shifted too much power from the states to Washington.”<sup>14</sup> This, and a litany of other complaints from Republicans, constituted the main issues with Democratic legislation embodied in the New Deal. These Republican values are the starting point from which this thesis examines and analyzes the contradictory policies and practices of charity, paying particular attention to the uses of the tax code to both encourage and discourage individual giving.

Another aspect under consideration in this thesis is the makeup and functioning of Congress during these presidential attempts to alter the tax code. Congress, within tax writing committees, held the majority of power over taxation from 1945 to 1975. The House Ways and Means Committee and Senate Finance Committee were responsible for taxation. After 1975, the tax writing process decentralized as more congressmen were included and the committees held less power.<sup>15</sup> From 1940s to 1970s, taxes were transformed from “a revenue-raising device into a mechanism for earmarking government benefits and for managing economic growth.”<sup>16</sup> Taxation took on a political quality as politicians sought to use it to gain popularity among constituents or promote certain economic activity. Wilbur Mills, a Democratic congressman from Arkansas, for instance, became a policy expert in taxation and dominated the House Ways and Means Committee as chairman from 1958 to 1974. As a fiscal conservative, Mills wanted to limit the

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<sup>13</sup> Lewis L. Gould *Grand Old Party : A History of the Republicans*, 267.

<sup>14</sup> *Ibid*, 272.

<sup>15</sup> Julian E. Zelizer. *Taxing America: Wilbur D. Mills, Congress, and the State, 1945-1975*. (Cambridge, UK: Cambridge University Press, 1998), 7.

<sup>16</sup> *Ibid*, 12.

growth of government but promoted tax reductions to foster economic growth. His opinions, and the fact that Congress was dominated by liberal Democrats, shaped the Tax Reform Act of 1969 significantly, as will be explored.<sup>17</sup>

Mills's influence over the policies of taxation waned after the mid 1970s, and during the subsequent 1986 tax reform, Democrats held political control of the House of Representatives while Republicans held the Senate. Congressional reforms of the 1970s had weakened the standing of the chairman of the House Ways and Means Committee by "enlarging the committee and by establishing subcommittees."<sup>18</sup> The reforms further removed power through "pushing the committee to hold open hearings and markups in order to democratize the policymaking process." Daniel Rostenkowski, chair of the House Ways and Means Committee during the 1986 tax reform, therefore had much less influence than Mills had in the '60s. The arrangement of Congress and its party makeup played a considerable role in the policies and practices of charity and deserve close attention.<sup>19</sup>

All three tax code revisions in 1969, 1986, and 2017 included a raise in the standard deduction, which affects how much of an individual's income is taxable. When filing taxes, there is the option either to itemize their taxes or to use the standard deduction to lower taxable income. The standard deduction is used by people whose taxes would be lower by claiming this standard amount, rather than itemizing specific expenses for a deduction. If donors itemize their taxes, they can enjoy the benefit of a tax deduction for their charitable giving. However, only those who itemize their taxes can reap the benefit of receiving charitable deductions.<sup>20</sup> Since the

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<sup>17</sup> Julian E. Zelizer. *Taxing America: Wilbur D. Mills, Congress, and the State, 1945-1975*, 16.

<sup>18</sup> *Ibid*, 356.

<sup>19</sup> *Ibid*, 356.

<sup>20</sup> Dennis J Ventry Jr. Interview by Author. Phone Call. Isla Vista, November 13, 2019.



creation of the standard deduction in 1944, charities have fought against its implementation because the greater the standard deduction, the more taxpayers were disincentivized to itemize and be eligible to claim the standard deduction.<sup>21</sup> In 1969, 1986, and 2017 the standard deduction was increased which, in turn, reduced the amount of taxpayers who itemize their taxes.<sup>22</sup> This thesis predicts that each increase in the standard deduction will decrease the amount of donations received by nonprofit organizations.

My argument traces the development of opinion towards nonprofit organizations beginning in the 1950s under President Dwight Eisenhower, the first Republican in office following President Franklin Delano Roosevelt (1933-1945), and ends in 2017 with President Donald Trump. There is a striking contrast between the Republican espousal of Christian ideals and those of small government; one seeking good faith and charity; the other, lessened responsibility for societal problems. Religion, the economy, and politics have each shaped the interaction between government and nonprofit organizations in each decade leading up to, and explaining, major tax reform. While Republicans stated their support for wanting to improve society by supporting charitable organizations, the tax revisions reveal that their goal was only partially fulfilled.

Many academic works focus on the nonprofit sector, examining a particular aspect of influence. None, however, combine all factors under consideration in this thesis. This thesis will examine the economic, political, and religious factors in play to explain changes in the tax code and Republican rhetoric. Oliver Zunz's *Philanthropy in America: A History* provides a thorough overview of major historical events predating and shaping public opinion towards nonprofit

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<sup>21</sup> Thorndike, Joe. "The Love-Hate Relationship With the Standard Deduction." *Tax Notes News and Analysis*, Tax History (March 31, 2014): 1394–96.

<sup>22</sup> Dennis J Ventry Jr. Interview by Author. Phone Call. Isla Vista, November 13, 2019.

organizations. Zunz delves into political events and major policy, but does not focus on the tax code itself and what those provisions meant for philanthropy and charitable giving. Kevin Kruse's *One Nation under God: How Corporate America Invented Christian America*, as the title suggests, did not set out to investigate the workings of nonprofit organizations, but is useful in understanding how religion, especially in tandem with the Republican Party, has influenced charitable giving and the perception of charity. Peter Hall's *Inventing the Nonprofit Sector and Other Essays on Philanthropy, Voluntarism, and Nonprofit Organizations* combines many elements included within this thesis, by offering insight into the interaction between taxes and nonprofit organizations. While Hall does nod to the multitude of factors influencing tax revisions, his examination of the tax code does not include the religious component that is important when researching the motives of the Republican Party.

This thesis, in contrast, will synthesize the economic, political, and religious strands of history to understand the Republican grounds for the promotion of charitable giving in rhetoric, but not fully in reality, as reflected in the 1969, 1986, and 2017 tax code revisions. Questions this thesis sets out to answer are: What obstacles did Republicans face in reaching their goal of supporting nonprofit organizations? How do religious and economic motivations affect one's view of philanthropy and its place in America? And finally, how do nonprofit organizations respond to revisions in the tax code?

## **Republicans Seek to Replace the New Deal with Charity, Yet Impose Restrictions with Internal Revenue Code of 1954**

The roots of Republican incentivization of charitable giving are found in the implementation of the New Deal, which launched a debate over how the country should be run. Conservatives wanted public charity to support the nation's needs, while liberals supported the welfare state. President Hoover's insufficient attempt to mend the nation's problems of the Great Depression in the 1930s through "federally directed philanthropy," using existing nonprofit organizations to provide aid, fell far short of meeting the considerable needs and demands of unemployment and poverty.<sup>23</sup> Hoover feared that "direct government support of relief, ...would dry up private charity."<sup>24</sup> When President Roosevelt took office, he ensured that the government would "foot the bill" by implementing federal funding for social programs through the New Deal.<sup>25</sup> Roosevelt focused on populist southern and western farmers, as well as urban workers who needed government aid to lift them out of destitute conditions.<sup>26</sup> Roosevelt's New Deal, which lifted the nation out of the depression, marked an important shift from dependence on charity to provide social services to dependence on the federal government.<sup>27</sup> The American welfare state, which took shape in the 1940s and 1950s, encouraged the growth of a private sector to carry out its social programs. Rather than using a widespread network of government workers and offices to provide welfare programs, pre-existing nonprofit organizations were funded by the government to distribute aid.<sup>28</sup>

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<sup>23</sup> Oliver Zunz, *Philanthropy in America*, 104.

<sup>24</sup> *Ibid*, 122

<sup>25</sup> *Ibid*, 126

<sup>26</sup> Peter Dobkin Hall. *Inventing the Nonprofit Sector and Other Essays on Philanthropy, Voluntarism, and Nonprofit Organizations*. (Baltimore: Johns Hopkins University Press, 1992), 59.

<sup>27</sup> Oliver Zunz, *Philanthropy in America*, 126.

<sup>28</sup> *Ibid*, 63-65.

As early as the 1930s, conservative Republicans positioned themselves in opposition to the New Deal, as it conflicted with their basic principles of individualism and small government. In conjunction with the election of President Dwight Eisenhower, a Republican, in 1953, those on the right launched into a fight against the welfare state.<sup>29</sup>

### Religiosity Supports Giving in Rhetoric During the Cold War

In response to “godless” communism abroad and the Cold War, Republicans promoted charitable work that embraced their Christian ideals. Religiosity in America skyrocketed in the 1950s and conservatives seized the moment to use religion to spread their agenda of anti-communism and anti-New Deal sentiment.<sup>30</sup> They argued that individualism was the Christian way of life and rallied preachers to spread their anti-New Deal campaign throughout the country.<sup>31</sup> The New Deal was a perceived threat to individualism because of its extensive social programs, and some, like wealthy businessman Howard Pew, thought welfare programs bordered on communism itself. Conservatives, who were deeply anti-communist, argued that the New Deal verged on socialism because welfare was aimed at helping the collective good. Pew, who held strong Presbyterian beliefs, worked with ministers to communicate his conservative message to Christians throughout America.<sup>32</sup> Pew helped to fund Reverend Billy Graham’s popular evangelical crusades which converted many Americans to conservative beliefs like his

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<sup>29</sup> Peter Hall. “The Welfare State and the Careers of Public and Private Institutions Since 1945.” In *Charity, Philanthropy, and Civility in American History*, ed by Friedman. (New York: Cambridge University Press, 2003), 374.

<sup>30</sup> The Cold War began after 1945, and lasted until the 1990s, between the Soviet Union (U.S.S.R.) and the United States. In a series of proxy wars around the world, the U.S. sought to prevent the expansion of communism. Communism advertised itself as secular and anti-religious so America, in an effort to contrast themselves with communism, wanted to embrace religiosity.

<sup>31</sup> Kevin Kruse. *One Nation under God*, 13.

<sup>32</sup> Oliver Zunz, *Philanthropy in America*, 189.

own. The crusades were part of the “the postwar effort to build a more Christian America.”<sup>33</sup>

Graham promoted charitable giving to conservative philanthropies which spread anti-communist, anti-New Deal sentiment.<sup>34</sup> Through donations to private organizations, the big business and the Christian coalition believed they could stall the growth of government, which they perceived as possessing “socialist tendencies” after 1936.<sup>35</sup>

Spiritual Mobilization, created by Reverend James Fifiield, was another organization that swept the nation and its preachers to its cause with support from Republicans in big business.<sup>36</sup> Unlike Pew who was a businessman, as a preacher Fifiield was able to effectively spread conservative ideology because people were less wary of his motives. Fifiield argued that “the welfare state was not a means to implement Christ’s teachings about caring for the poor and the needy, but rather a perversion of Christian doctrine.” A system inspired by God’s teachings would revolve around the “salvation of the individual” therefore, a capitalist, free market system was more fitting for America.<sup>37</sup> The work of these American reverends played a critical role in tying in the country’s commitment to Christianity with big business, and labor unions and the New Deal to communism. Graham preached that with God’s help, America could defeat communism and defend itself from the New Deal.<sup>38</sup>

Eisenhower’s election in 1953 ensured fulfillment of the mission of “American spiritualism” as carried out by ministers and their organizations. As a Republican who held similar Christian beliefs, Eisenhower worked closely with ministers such as Graham to revive the

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<sup>33</sup> Oliver Zunz, *Philanthropy in America*, 199.

<sup>34</sup> *Ibid.*

<sup>35</sup> Peter Dobkin Hall. *Inventing the Nonprofit Sector and Other Essays on Philanthropy, Voluntarism, and Nonprofit Organizations*, 61-62.

<sup>36</sup> Kevin Kruse. *One Nation under God*, 14.

<sup>37</sup> *Ibid.*, 7.

<sup>38</sup> *Ibid.*, 36-38.

nation's spirituality.<sup>39</sup> He declared a day of National Prayer on July 4, 1953, to "let us pray for God's help in solving the grave problems which confront us, and render thanks to Him for watching over our Nation throughout its history."<sup>40</sup> Later, upon the addition of "In God we Trust" on the American currency, Eisenhower said he was grateful for "a Nation whose greatness is based on a firm unshakeable belief that all of us mere mortals are dependent upon the mercy of a Superior Being."<sup>41</sup> His outwardly religious Christian identity signaled to religious leaders his cooperation with their efforts.

#### The Impact of the Internal Revenue Code of 1954

Republicans sought to promote the work of charity, but not that of philanthropy. While charity included homeless shelters and soup kitchens, philanthropies included large foundations, such as the Ford Foundation or Rockefeller Foundation, which were often hotspots of liberal wealth and ideology. The mid-century was deemed "the golden age of mass fundraising" thanks to tax code revisions in the 1950s which made it more affordable for middle and upper class citizens to make donations to charity.<sup>42</sup> While Republicans viewed increased charitable giving to public nonprofit organizations in line with their views, the Internal Revenue Code of 1954 revealed an attempt to limit the scope of private nonprofit organizations.

The Internal Revenue Code of 1954 curtailed the work of nonprofit organizations through an attempt to regulate their activity. However, the code also encouraged charitable giving

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<sup>39</sup> Kevin Kruse. *One Nation under God*, 64.

<sup>40</sup> Dwight D. Eisenhower, Proclamation 3023—National Day of Prayer, 1953 Online by Gerhard Peters and John T. Woolley, The American Presidency Project <https://www.presidency.ucsb.edu/node/308105>

<sup>41</sup> Dwight D. Eisenhower, Remarks at Luncheon Meeting of the National Conference of Republican Women. Online by Gerhard Peters and John T. Woolley, The American Presidency Project <https://www.presidency.ucsb.edu/node/233688>

<sup>42</sup> Oliver Zunz, *Philanthropy in America*, 175-6.

through an even greater availability of tax deductibles for donations. The new code gave organizations 501(c)(3) status if they promoted charitable, educational, or religious causes and exempted them from corporate income taxes. All donations to their organizations, in turn, became deductible. Although tax-exempt status had been available to nonprofit organizations since 1917, the creation of a new designation under 501(c)(3) expanded the network of organizations which could claim tax-exempt status.<sup>43</sup> As Republicans had hoped, complete exemption from income taxes encouraged charitable activity. The Internal Revenue Code, however, also expanded regulation of the private sector. The extension of government oversight into the nonprofit sector seems contrary to Republican beliefs of free enterprise and individualism.<sup>44</sup> However, the 1954 congressional elections, in which Democrats won back control over Congress, can account for this attempt to limit foundations.<sup>45</sup> Democratic intervention can provide an explanation for the aspects of the Internal Revenue Code of 1954 that don't line up with Republican ideology.

From 1953 to 1955, Republicans held a slim majority in Congress. Understanding the political and economic situation of the time provides context and an explanation for the tax reform. Fiscal conservatives from the New Deal to the 1970s, were in favor of using “moderate tax reductions to stimulate economic growth” while they “still dedicated themselves to restraining the long-term growth of government through the power of the purse.”<sup>46</sup> A Treasury

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<sup>43</sup> Peter Hall. “The Welfare State and the Careers of Public and Private Institutions Since 1945,” 368-370.; Kerr, Anne Marie: Files OA 13760 Tax Reform (1)-(3) “Nonprofit Groups Try to Make the Case that Charity Should Begin in the House” Tax Report, National Journal 9/28/85. Page 2194. Ronald Regan Presidential Library.

<sup>44</sup> Peter Hall. “The Welfare State and the Careers of Public and Private Institutions Since 1945.” In *Charity, Philanthropy, and Civility in American History*, ed by Friedman. (New York: Cambridge University Press, 2003), 369.

<sup>45</sup> Lewis L. Gould *Grand Old Party : A History of the Republicans*. 1st ed. (New York: Random House, 200), 336.

<sup>46</sup> Julian E. Zelizer. *Taxing America: Wilbur D. Mills, Congress, and the State, 1945-1975*, 16-17.

economist of the time believed that tax breaks and deductions, used to favor “influential interest groups and voting constituencies,” would “erode the base of the income tax, to create gross inequities, and to impair the morale of the larger body of taxpayers.”<sup>47</sup> Democrats, the minority party in Congress at the time, disliked the recodification in 1954 for its increased complexity, creation of a deficit, and offer of the most relief to those in high-income tax brackets.<sup>48</sup>

Wilbur Mills, later to be the Chairman of the House Ways and Means Committee, wanted to simplify the code and lower taxes instead of offering tax breaks to those in high tax brackets. However, Eisenhower was against those who fought for “liberalized rates of exemptions for low-income workers.” Eisenhower felt that low-income workers still needed to pay their taxes and not receive a break.<sup>49</sup> Mills’ and Eisenhower’s differing views on taxation, even though both were fiscally conservative, reveal the underlying variance regarding Republican and Democratic views on taxation. Mills was more willing to ease the tax burden on the lower tax brackets, while Eisenhower wanted to ensure they paid their fair share. However, both shared some views on welfare in that “Mills hoped to curtail public assistance expenditures that encouraged “dependency” and “government centralization.”<sup>50</sup>

Although Republicans did not favor expansion of federal regulation in the 1930s, or the taxation to create funds for such, high tax rates provided an incentive for wealthy Americans to donate to charitable organizations, which was viewed as the Christian thing to do. High taxes also spurred the creation of more “charitable” organizations that the wealthy used as tax shelters.

<sup>51</sup> The Internal Revenue Code loosely defined what constituted as “charitable” activity, allowing

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<sup>47</sup> *Ibid*, 88-89.

<sup>48</sup> *Ibid*, 93-94.

<sup>49</sup> *Ibid*, 94.

<sup>50</sup> *Ibid*, 114.

<sup>51</sup> Peter Hall. “The Welfare State and the Careers of Public and Private Institutions Since 1945,” 371.



for illegitimate nonprofit organizations that engaged in illegal activity or were tax shelters to persist. No supervision was implemented to rein in self dealing and other abuses common among charities.<sup>52</sup> Tax firms and other rich donors spread the word to high-bracket taxpayers that they could reduce their taxes greatly by making a charitable donation. By “donating” property, securities, or trusts to a charitable organization, the wealthy could avoid taxation and receive a charitable deduction.<sup>53</sup>

The design of the income tax made deductions and tax cuts most valuable to the rich. In the postwar years, the government relied on tax expenditures, which promote certain ventures or groups of taxpayers, to garner support for taxes. Deductions, such as the charitable deduction, allow the taxpayer to decrease income subject to taxation. Such deductions favor the wealthy who are in higher tax brackets because the deduction is more valuable at higher rates.<sup>54</sup> The recodification of 1954 included an increase in “the amount of income that could be deducted as charitable donations.”<sup>55</sup>

The vague definition of 501(c)(3) in the Internal Revenue Code allowed for illegitimate foundations to persist. New tax breaks, which amounted to \$1.5 billion or \$14 billion in today's dollars, were implemented for special interest groups who “needed to be protected from an excessive tax burden.”<sup>56</sup> The Republican majority regarded the reform as a way “to distribute tax breaks to interest groups by way of the law.”<sup>57</sup> Organizations were still engaged in the misuse of

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<sup>52</sup> *Ibid*, 368.

<sup>53</sup> Howard W. Rea, "Changes in the Internal Revenue Code of 1954 Affecting Charitable Organizations," *Rocky Mountain Law Review* 27, no. 3 (April 1955), 275.

<sup>54</sup> “What Are Tax Expenditures and How Are They Structured?” Tax Policy Center. Accessed January 5, 2020. <https://www.taxpolicycenter.org/briefing-book/what-are-tax-expenditures-and-how-are-they-structured>.

<sup>55</sup> Julian E. Zelizer. *Taxing America: Wilbur D. Mills, Congress, and the State, 1945-1975*, 93.

<sup>56</sup> *Ibid*, 91-93.

<sup>57</sup> *Ibid*, 93.

donations for non-charitable purposes, involved in unrelated business interests, or had donors holding high positions of power within the foundation. There were no rules governing unnecessary foundational control over property or delay in the use of funds towards the stated charitable purpose.<sup>58</sup> Prior to its passage, however, Democrats “mounted a stinging attack on the bill” for its prioritizing tax relief to those in the uppermost brackets, probably in relation to tax shelters, and its embrace of the creation of deficits.<sup>59</sup>

Despite disagreements from the Democrats regarding tax breaks, a number of foundational abuses were reined in by the new code. One loophole that existed before the 1954 Internal Revenue Code enabled donors to give a charitable organization a 10 year trust or security, which would be returned to them after the designated period. By “donating” the trust or security, taxpayers could enjoy the benefits of not paying income tax on it while receiving a charitable deduction. In effect, they would actually be making money by donating the trust. The 1954 code slightly resolved this loophole by disallowing the charitable deduction for donors if they had any type of financial interest in the donation. The Treasury and Democrats hoped to restore confidence for middle and lower class taxpayers by eliminating loopholes like the donations of trusts and securities.<sup>60</sup>

Although Eisenhower never attempted to dismantle the welfare state, disagreement between Republicans and Democrats continued over the capacity of private charity to carry out the social services necessary for the country. Eisenhower said, “I have heard too often the word ‘charity’ disparaged in public discussions, people saying there should be no need for charity and we should have none of it.” He felt that “when our country has lost the spirit of charity, then our

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<sup>58</sup> Howard W. Rea, “Changes in the Internal Revenue Code of 1954 Affecting Charitable Organizations,” 275.

<sup>59</sup> Julian E. Zelizer. *Taxing America: Wilbur D. Mills, Congress, and the State, 1945-1975*, 94.

<sup>60</sup> Howard W. Rea, “Changes in the Internal Revenue Code of 1954 Affecting Charitable Organizations,” 275.

government and our form of life will be changed for the worse.”<sup>61</sup> Eisenhower’s statement in 1960, during the last year of his presidency, highlighted the difference in opinion about the capability of charity and its place in American life. When Eisenhower said that “‘charity’ [is] disparaged in public discussions,” he alluded to Democratic and liberal rhetoric of the time: charity was insufficient for providing for national welfare and only the welfare state could do the job.<sup>62</sup> Republicans and conservatives therefore sought to lower taxes and reduce funding to the welfare state while bolstering charitable organizations. To many in the Republican party, however, Eisenhower was not conservative enough. He resisted removing many facets of the New Deal which he realized were vastly popular.<sup>63</sup> Instead, Eisenhower expanded the Social Security program, agricultural subsidies for farmers, public housing, and other welfare programs.<sup>64</sup> Still, Eisenhower and conservatives alike were in favor of charity as an alternative to welfare. The Internal Revenue Code continued to foster charity through tax breaks. The revised code gave more organizations tax-exempt status for charitable work.

The Internal Revenue Code of 1954 also allowed some abuse of foundations by donors to persist, which Republicans probably thought was an acceptable tax break as it encouraged charitable giving by the wealthy. Allowing the continuance of expenditures helped the government “stimulate private investment through tax breaks that exempted certain types of income from the high tax burden; these laws provided a strong incentive for particular forms of investment.”<sup>65</sup> However, the code also closed some loopholes that were previously used to evade

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<sup>61</sup> Dwight D. Eisenhower, "Address at the Golden Jubilee Dinner of the National Conference of Catholic Charities, New York City - September 26, 1960," *Public Papers of the Presidents of the United States 1960* (1960): 728-732.

<sup>62</sup> Oliver Zunz, *Philanthropy in America*, 18.

<sup>63</sup> Lewis L. Gould *Grand Old Party : A History of the Republicans*, 327.

<sup>64</sup> Donald T. Critchlow, *The Conservative Ascendancy : How the GOP Right Made Political History*, 40.

<sup>65</sup> Julian E. Zelizer. *Taxing America: Wilbur D. Mills, Congress, and the State, 1945-1975*. (Cambridge, UK: Cambridge University Press, 1998), 117.

taxes and therefore went against Republican support of charity. Working with a heavily Democratic Congress confined Eisenhower's ability to support charity more strongly in the tax code. However, the Tax Reform Acts of 1969 and 1986 similarly hurt nonprofit organizations instead of supporting them, as Republican presidents stated they would.

### **Harmful Investigations Into Nonprofit Activity During Three Decades of Tax Reform**

From the 1950s to the 1980s, congress conducted various intrusive investigations into the work of nonprofit organizations. Republicans, who declared their Christian morals in support of charity and helping the poor, often held distrustful motives towards those same private foundations and charities. These investigations reveal, like the tax code reforms, how Republican's professed support for charity was solely in rhetoric and not in reality.

In light of the Red Scare permeating American society, some deeply anti-communist Republicans feared that government funding for nonprofit organizations was actually being used for subversive communist activities, despite the positive link between charity to Christian faith and good works.<sup>66</sup> These suspected foundations often held liberal political alignments and their philanthropic work extended far beyond the regular means of charity. Whereas charities included soup kitchens, homeless shelters, and community chests, foundations were granting money to such charities and other organizations. Members of Congress were unaware of the exact work foundations engaged in and were apprehensive of the large size and great wealth foundations held.<sup>67</sup> Anti-communism provided the perfect excuse for conservatives to attack liberals and their foundations, as the Cox Committee did in 1952.<sup>68</sup>

The Cox Committee was launched to investigate whether foundations' tax exempt status was used for the purposes stated. Senator Eugene Cox (D- Georgia) was a Southern Democrat who shared the concern among the right, or conservatives, that foundations were simply covers

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<sup>66</sup> The Red Scare is a term used to describe heightened paranoia that many communists were residing in American society. During this time in the 1950s, individuals suspected of being agents of the Kremlin were investigated and often lost their jobs or reputation.

<sup>67</sup> Peter Hall. "The Welfare State and the Careers of Public and Private Institutions Since 1945," 367.

<sup>68</sup> Oliver Zunz, *Philanthropy in America*, 193.

for “anti-American” activities sympathetic to communists.<sup>69</sup> Under the guise of anti-communism, the Cox Committee attempted to take down liberal institutions. Despite the committee’s efforts, however, it found nothing to report.<sup>70</sup> Two years later, in 1954, the House formed the Special Committee to Investigate Tax-Exempt Foundations and Comparable Organizations. Known as the Reece committee, it was initiated by Congressman B. Carroll Reece (R- Tennessee), who was displeased with the Cox Committee’s findings and embarked on a far more intrusive investigation. Reece examined how foundations were used to evade taxes, retain control of family inheritances, and influence society. The committee concluded that foundations wielded too much power in their ability to brainwash society with liberal beliefs through the funding of educational and general foundations. This drastic, overdrawn, and politically-motivated conclusion cost Reece and the report their credibility that led the public to discount their findings.<sup>71</sup>

Furthermore, by the time the Reece Committee’s findings and conclusions came to light, Senator McCarthy had been censured and, although still present, “McCarthyism” mania had significantly decreased.<sup>72</sup> The findings of the Reece Committee were disregarded as part of the anti-communist false hysteria of McCarthyism, so foundations suffered no consequences. Yet, the sense of suspicion towards foundations lingered as concerns about their work and trustworthiness were left unaddressed.

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<sup>69</sup> Ibid, 193.

<sup>70</sup> Peter Dobkin Hall. *Inventing the Nonprofit Sector and Other Essays on Philanthropy, Voluntarism, and Nonprofit Organizations*, 67-68.

<sup>71</sup> Oliver Zunz, *Philanthropy in America*, 195.

<sup>72</sup> Peter Dobkin Hall. *Inventing the Nonprofit Sector and Other Essays on Philanthropy, Voluntarism, and Nonprofit Organizations*, 68-69.

Both the Cox and Reece investigations were connected to the growing animosity between political parties that began during the New Deal. Conflicting World War II views of internationalism and isolationism strategies further strengthened animosities between liberals and conservatives, which spilled into the Cold War.<sup>73</sup> The investigations were meant to attack the liberals who ran foundations which propagated progressive ideology. Political partisanship increased with the blossoming of religiosity in America in the 1950s. Conservatives used religiosity, in turn, to propagate their own ideology, as liberals had with foundations. Religion, specifically Christianity, constituted a driving force in charitable giving during the Cold War.<sup>74</sup>

As powerful foundations and organizations of the left became recipients of federal funding and American tax dollars under the Great Society, the right took a heightened interest in their activity. Hunting for vulnerabilities in such dominant foundations, the Patman investigation, led by Congressman Patman (D-Texas), determined that nonprofit organizations held far too much money and were most likely engaged in self dealing or other illegal actions. As an ardent supporter of the New Deal, he viewed foundations as too engaged in society's well being when that was the government's responsibility. As a Southern Democrat, his motivation to investigate philanthropies stemmed from his segregationist viewpoint and dislike for the civil rights work foundations engaged in. He believed foundations were being used not only for tax evasion, but possibly to avoid antitrust laws and unfairly influence public opinion.<sup>75</sup>

Patman investigated these abuses throughout the 1960s and, in 1964, the Treasury Department also began its own investigations as requested by the House Ways and Means Committee and the Senate Finance Committee. The 1965 Treasury Report emphasized the

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<sup>73</sup> Ibid, 66-67.

<sup>74</sup> Oliver Zunz, *Philanthropy in America*, 189-191.

<sup>75</sup> Ibid, 202-4.

persistent issues within foundations and brought them to the attention of Congress, setting the stage for the Tax Reform Act of 1969. The Treasury Department shared few of Patman's extreme beliefs, but agreed that some foundations were taking advantage of their tax exempt status.<sup>76</sup> The Treasury found that small foundations and businessmen, not the large foundations, were exploiting the law by self dealing, giving themselves loans without adequate interest, and not expending funds to the stated charitable purpose in a reasonable amount of time.<sup>77</sup> The published 1965 Treasury Report stated that foundations overall were good for the country, yet had "fiscal and fiduciary abuses" --- a sweeping generalization placed on all organizations.<sup>78</sup> Both the Congressman's and the Treasury's investigations reveal the ongoing unrest and debate surrounding the work and credibility of foundations that the Tax Reform Act of 1969 aimed to resolve.

Congressional investigations, many of which were carried out by Republicans or Southern Democrats, were motivated by shared conservative views. I argue that these investigations, which were targeted towards liberal powerful philanthropies, also hurt public charities. By questioning the integrity of one part of the nonprofit sector, these investigations planted doubt in public nonprofit organizations as well, costing them donations and support.

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<sup>76</sup> Oliver Zunz, *Philanthropy in America*, 204.

<sup>77</sup> *Ibid*, 205.

<sup>78</sup> John G. Simon. "The Regulation of American Foundations: Looking Backward at the Tax Reform Act of 1969." *Voluntas: International Journal of Voluntary and Nonprofit Organizations* 6, no. 3 (1995): 243-54. 245.



### **The Tax Reform Act of 1969 Cracked Down on Nonprofit Organizations**

President Johnson Augmented the Nonprofit Sector, Republicans then Shaped to Meet Political Ends

President Lyndon B. Johnson's Great Society utilized the nonprofit sector to carry out its welfare programs to the dismay of Republicans, who supported nonprofit organizations, if their purposes lined up with their values. The Great Society was a series of domestic programs that set out to eliminate poverty and reduce the effects of racism. Republicans disliked the expansion of charitable organizations under the Great Society because their efforts were shifted to accomplish liberal goals. Many programs were carried out by the nonprofit sector, which received federal funding to do so.<sup>79</sup> To the dismay of the right, nonprofit organizations helped with civil rights matters such as voter education, preventing racist literacy tests, and voter suppression.<sup>80</sup> The Social Security Act of 1962 and 1967 further increased federal funding to the nonprofit sector through matching grants.<sup>81</sup> These were the same charitable organizations conservatives had hoped to support as an alternative to the welfare state. In response, Southern Democrats slashed funds for federal initiatives they felt went against their conservative values, especially those around civil rights.<sup>82</sup>

Conservatives saw the Great Society as an overreach of government, especially its funding to the nonprofit sector, and sought to limit its effects. Within this period, some Democrats were "Southern Democrats," who held conservative views and sided with Republicans on issues such as civil rights. Spearheading the effort against Johnson's Great

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<sup>79</sup> Oliver Zunz, *Philanthropy in America*, 214.

<sup>80</sup> *Ibid*, 208.

<sup>81</sup> *Ibid*, 215.

<sup>82</sup> W. Elliot Brownlee. *Federal Taxation in America*, 151.

Society was chairman of the House Ways and Means Committee, Wilbur Mills (D- Arkansas), who provided a strong voice for Southern Democrats and the direction of the House.<sup>83</sup> In the early 1960s, Mills concentrated the House's tax writing committee by eliminating sub-committees and closing off the final edits of tax legislation to only those within the committee. With control over programs such as Social Security and Medicare, the Ways and Means Committee led by Mills had considerable power over government funds.<sup>84</sup>

Making Johnson choose between guns or butter (the Vietnam War or Great Society programs), Mills pressured the Democratic administration to choose the former.<sup>85</sup> With the Democratic Party losing 47 House seats in the election of 1966, Mills pushed Johnson away from the tax surcharge the president wanted. The surcharge was meant to reduce the budget deficit and increase consumer demand, however, its predicted effects were uncertain and it received poor support from the House.<sup>86</sup> Johnson also feared that in revenge for raising taxes, Mills would further reduce funding for Great Society programming.<sup>87</sup> As Johnson continued to push for the surcharge, his relationship with Mills turned sour. Mills stated that "the paved road of tax reduction ends in the Vietnam jungle."<sup>88</sup> By this, he meant that the surcharge would restrain future tax revisions and could possibly lead the government to continually increase taxes.<sup>89</sup> Rising inflation and retribution from conservatives ultimately thwarted Johnson's ability to change the tax code.<sup>90</sup> The Democratic incorporation of the nonprofit sector into the Great

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<sup>83</sup> W. Elliot Brownlee. *Federal Taxation in America : A History*. Third ed. (New York, NY: Cambridge University Press, 2016), 151.

<sup>84</sup> Julian E. Zelizer. *Taxing America*, 130.

<sup>85</sup> *Ibid*, 263.

<sup>86</sup> *Ibid*, 259.

<sup>87</sup> W. Elliot Brownlee. *Federal Taxation in America*, 158.

<sup>88</sup> Julian E. Zelizer. *Taxing America*, 263.

<sup>89</sup> *Ibid*.

<sup>90</sup> W. Elliot Brownlee. *Federal Taxation in America*, 158.

Society undermined Republicans, who had wanted to support the nonprofit sector as an alternative to welfare.

Richard Nixon's election in 1969 reinvigorated the right, which had been wrestling with the Great Society and a liberal Democratic administration since 1960. Nixon stated that charity was a virtue of the Bible, but "it is not charity to maintain a system which permits or encourages human beings to let die within themselves the energies, the dignity, the drive that gives meaning and satisfaction to life itself."<sup>91</sup> Like many Republicans, Nixon declared welfare to be limiting the capacity of citizens to act on their own and creating dependency on the federal government. During Nixon's presidency, Republicans restrained the nonprofit sector through the use of block grants and in the Tax Reform Act of 1969, which implemented a new system of checks. They further hurt donations, instead of incentivizing them, through an increase in the standard deduction.

#### Nixon Increased Domestic Spending but Diverted it from the Neediest Nonprofits

Nixon's "Remarks at the Annual Meeting of the United States Chamber of Commerce" in 1971 detail his beliefs towards welfare and self-reliance. "The dignity of work," he stated, "which is so much a part of the character of the American people, is not about to be replaced by the indignity of welfare in the United States."<sup>92</sup> Despite his beliefs towards welfare, Nixon supported the nonprofit sector's work and increased domestic spending. However, Nixon expanded social spending through the use of block grants, which were an effective way to avoid

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<sup>91</sup> Richard Nixon, Remarks at the Republican Governors Conference in Williamsburg, Virginia. Online by Gerhard Peters and John T. Woolley, The American Presidency Project <https://www.presidency.ucsb.edu/node/239861>

<sup>92</sup> Richard Nixon, Remarks at the Annual Meeting of the United States Chamber of Commerce: "The Right To Be Confident." Online by Gerhard Peters and John T. Woolley, The American Presidency Project <https://www.presidency.ucsb.edu/node/239896>

giving government funding to the neediest organizations in inner city locations. Instead, states and local governments administered funding to nonprofit organizations in small towns and localities where middle class Americans, who supported Nixon, lived. There was little oversight of the grants to ensure their appropriate allocation. Conservatives did not support the federal government having a large role in providing public assistance to the needy, opting to divert the responsibility to organizations that operated on a local and state level. Nixon's block grants made government funding unreliable to some organizations, while it privileged those that supported his voter constituency, as intended.<sup>93</sup>

During Nixon's presidency, Congress was heavily Democratic and liberal. To many in the Republican Party, Nixon was not a true conservative. The liberal leaning domestic policy he and the Democratic congress put forth, which further developed the welfare state, disappointed many on the right leaning side of the Republican party.<sup>94</sup> However, how realistic was the possibility for Nixon to have passed conservative legislation with an all Democratic Congress? Rather predictably then, the Tax Reform Act of 1969 was not in line with many Republican's views.<sup>95</sup>

#### The Tax Reform of 1969 Restricts and Limits Nonprofit Organizations

In a Special Message to Congress on Reform of the Federal Tax System, President Richard Nixon said that "exempt organizations, including private foundations, would come under much stricter surveillance." Additionally, "the rules affecting charitable deductions would be tightened--but only to screen out the unreasonable and not stop those which help legitimate

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<sup>93</sup> Oliver Zunz, *Philanthropy in America*, 233-236.

<sup>94</sup> Donald T. Critchlow, *The Conservative Ascendancy : How the GOP Right Made Political History*, 91.

<sup>95</sup> Julian E. Zelizer. *Taxing America*, 309.

charities and therefore the nation.”<sup>96</sup> Nixon only wanted charitable activity from the church and conservative organizations to persist. Otherwise, he found it permissible to restrain charitable organizations that furthered civil rights efforts, like that of the large liberal foundations.

With Nixon in office, conservatives hoped to enact regulations that would address their concerns about liberal foundation activity and inflation. The distinction between private and public nonprofit organizations is important here for it was private organizations, like the Ford Foundation, that came under fire by Republicans. Public organizations, which provided emergency relief or food for the needy, were no threat. The charitable deduction, which benefitted private foundations and cost the Treasury millions each year, came under scrutiny by Democrats in the 1969 Treasury revenue bill hearings.<sup>97</sup> The hearings presented an opportunity for segregationists to raise civil rights issues that intersected with the work of private foundations, and attack civil rights agendas and liberal foundations at the same time.<sup>98</sup> Senator Herman Talmadge (D-Georgia) commented that “Some of them [foundations] are subsidizing research in school busing, birth control, and one foundation even went to the extent of subsidizing a former Senator’s staff in a trip around the world. Why should the taxpayers of our country subsidize these questionable activities?”<sup>99</sup> Talmadge’s question resonated with conservative senators and congressmen alike who felt that taxpayer dollars should not support activities, or rather an ideology, that they did not.

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<sup>96</sup> Richard Nixon, Special Message to the Congress on Reform of the Federal Tax System, April 21, 1969. Online by Gerhard Peters and John T. Woolley, The American Presidency Project <https://www.presidency.ucsb.edu/node/238893>

<sup>97</sup> Peter Dobkin Hall. *Inventing the Nonprofit Sector and Other Essays on Philanthropy, Voluntarism, and Nonprofit Organizations*, 71.

<sup>98</sup> Oliver Zunz, *Philanthropy in America*, 224-5.

<sup>99</sup> *Ibid*, 226.

Mills, while working with President Johnson, had garnered great power as chairman of the House Ways and Means Committee by the mid 1960s. He was so powerful that “policy experts, interest groups, and congressional representatives argued that if Mills opposed a bill it ““would be dead.””<sup>100</sup> His influence on the House bill is undoubtable, and although he was a Democrat, he shared some Republican ideals. Since Johnson’s presidency, liberal beliefs shifted “from the concept of opportunity toward one of entitlement. In doing so they championed an idea that was anathema to Mills- namely, that the poor had an unconditional right to a guaranteed income from government.”<sup>101</sup> That notion, that the poor had a right to public assistance, planted Mills in the opposite camp, in which he “earned the wrath of the New Left activists in his battle to reduce welfare.”<sup>102</sup> Although Congress was Democratic, Mills’s conservative views were reflected in the tax reform which eliminated much of the tax-break system that could no longer be justified economically or politically.<sup>103</sup> Mills argued that the overabundance of tax breaks de-legitimized those with true intentions who wanted to stimulate economic growth. For example, nonprofit foundations, whose donors received tax breaks, were subjected to public suspicion because of the widespread pervasiveness of unjustified tax breaks elsewhere.<sup>104</sup>

Some Republicans disagreed with Mills’s opinion. They viewed tax breaks not as a loophole, but an effective means for the government to promote investment. George Bush (R-Texas), for example, stated, “I favor tax credits and tax incentives as the way to answer many of our problems as opposed to direct Government subsidy or starting some new bureau on the

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<sup>100</sup> Julian E. Zelizer. *Taxing America*, 209.

<sup>101</sup> *Ibid*, 262.

<sup>102</sup> *Ibid*, 280.

<sup>103</sup> *Ibid*, 284.

<sup>104</sup> *Ibid*, 290.

Potomac to try to solve all the Nation's problems.”<sup>105</sup> Bush's call reflected traditional Republican rhetoric of small government and individualism. With Mills holding the powerful chair of the House Ways and Means Committee, Republican voices were mostly silenced and the tax reform centered around elimination of tax breaks.<sup>106</sup>

While discussing the tax breaks that were plaguing America's tax system, Mills advocated the restriction of foundational tax-exempt status. Foundations should be regulated, in Mills's view, “since the federal government had taken over activities in areas such as education and scientific research, the tax privileges for foundations had become outdated.”<sup>107</sup> Abuse of tax exempt status brought the charitable deduction to the forefront of discussion. Issues such as “self-dealing,” when donors used the foundations they contributed to for the use of private transactions, made a strong case for the revoking of tax-exempt status.<sup>108</sup> It was critical to ensure that “foundations used their huge wealth for the purposes for which they had secured a tax exemption.”<sup>109</sup> Mills wanted money, including funds which had been kept in tax shelters to evade taxes, to be returned to the rightful, honest taxpayer in the Tax Reform Act of 1969.<sup>110</sup>

The House bill, H.R. 13270, The Tax Reform Act of 1969, placed many regulations on private foundations which were much harsher than anything the Treasury ended up adopting in the final bill. At this time, the Secretary of the Treasury was David M. Kennedy (R-Utah), who espoused conservative ideals of a balanced budget and limiting rising inflation.<sup>111</sup> Kennedy likely

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<sup>105</sup> Quote cited in, Julian E. Zelizer. *Taxing America*, 309.

<sup>106</sup> Julian E. Zelizer. *Taxing America*, 310.

<sup>107</sup> *Ibid*, 301.

<sup>108</sup> *Ibid*, 301.

<sup>109</sup> *Ibid*, 307.

<sup>110</sup> *Ibid*, 305.

<sup>111</sup> “U.S. Department of the Treasury.” David M. Kennedy (1969 - 1971), January 16, 2020. <https://www.treasury.gov/about/history/pages/dmkennedy.aspx>.

wanted to ensure the preservation of nonprofit organizations within the tax reform. Documents from Nixon's special assistant to the president for urban affairs, John R. Price, reveal that the House and the Treasury debated many of the proposed tax reform act amendments. Where the House consistently took a bolder, more restrictive policy position, the Treasury dialed back such measures in nearly every instance. For example, the House wanted to eliminate the charitable deduction for gifts of a trust or estate if it was to be set aside or used later for charity because this was often used as a loophole to evade taxes. In this scenario, the deduction would only be granted in cases where the trust or estate was donated to charity directly. The Treasury altered this by continuing to allow a deduction for estates set aside for charity. For trusts, the Treasury made the provision only apply for taxable years after 1969.<sup>112</sup>

The final tax reform bill distinguished between private foundations and public charities, placing many more regulations on the former. Republicans and conservative Democrats, such as Senator Talmadge, disliked the private foundations which engaged in liberal activity related to civil rights.<sup>113</sup> The annual tax audit, created by the new tax reform and carried out by the Internal Revenue Service (IRS), would ensure organizations were in compliance with the regulations. To pay for IRS monitoring, a 2% tax on net investment income was implemented. In addition, there was now a tax on unrelated business income (UBIT) which constituted any income made by an organization that was not directly related to their tax-exempt status. Donations collected for charitable activity had to be distributed within a year or there was the threat of "loss of

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<sup>112</sup> Highlights of Proposed Tax Reform Act of 1969 -- HR 13270. White House Central Files: Staff Member and Office Files, John R. Price, Box 71. Richard Nixon Presidential Library.

<sup>113</sup> Oliver Zunz, *Philanthropy in America*, 224-5.



exemption.”<sup>114</sup> The penalty for holding funds for more than a year was a tax of 15% of the undistributed amount. A tax of 100% was imposed if distribution was not made during the correction period. In other words, they wanted to ensure nonprofits were not holding onto funds longer than necessary which could be used for ventures unrelated to their exempt status.

Appreciated property, property donated by an individual who then receives a deduction of the amount on that property, was still permitted.<sup>115</sup> Appreciated property, as defined for the purposes of this thesis, is “real property with a fair market value in excess of the donor’s basis in the property.”<sup>116</sup> However, appreciated property had to be of use to the foundation for its exempt purpose in some way, eliminating a previous loophole used to evade taxes. Similarly, charitable contributions by estates and trusts were formerly allowed for an amount paid or set aside for charity. The new law regarding estates and trusts no longer gave a deduction for any amount set aside for charity, instead requiring it to be paid to the charity directly to claim the deduction.<sup>117</sup> These stipulations were put in place to prevent avoidance of taxes through donation of appreciated property, estates, and trusts which could gain value and later be reclaimed by the donor.

The charitable contribution allowance was increased from 30% of one’s adjusted gross income (AGI) to 50%, but the unlimited deduction was removed, as advocated by Mills.<sup>118</sup> The

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<sup>114</sup> Highlights of Proposed Tax Reform Act of 1969 -- HR 13270. White House Central Files: Staff Member and Office Files, John R. Price, Box 71. Richard Nixon Presidential Library.

<sup>115</sup> *Ibid.*

<sup>116</sup> Konrad J. Liegel, "Impact of the Tax Reform Act of 1986 on Lifetime Transfers of Appreciated Property for Conservation Purposes," *Cornell Law Review* 74, no. 4 (1988-1989): 742-798

<sup>117</sup> Highlights of Proposed Tax Reform Act of 1969 -- HR 13270. White House Central Files: Staff Member and Office Files, John R. Price, Box 71. Richard Nixon Presidential Library.

<sup>118</sup> Highlights of Proposed Tax Reform Act of 1969 -- HR 13270. White House Central Files: Staff Member and Office Files, John R. Price, Box 71. Richard Nixon Presidential Library.; Julian E. Zelizer. *Taxing America*, 295.

unlimited deduction had been introduced in 1959 and allowed taxpayers “who gave a certain portion of their income to exempt organizations to entirely avoid paying income taxes.”<sup>119</sup> The charitable contribution deduction reduced an individual’s taxable income significantly, and many who claimed the deduction were wealthy and therefore in the highest tax bracket. This aspect of the reform nodded to the underlying motives of Nixon: to garner support from the wealthy by appealing to them through a generous charitable deduction.<sup>120</sup> It was well known to those who dealt with taxes that “the government could also stimulate private investment through tax breaks that exempted certain types of income from the high tax burden; these laws provided a strong incentive for particular forms of investment.”<sup>121</sup> The Tax Reform Act of 1969 responded to such sentiments by continuing tax-breaks for wealthy individuals who could help the president achieve his political goals.

Along with the laundry-list of new regulations, the standard deduction was increased. In 1969, the standard deduction minimum was raised from \$300 plus \$100 per capita (to a maximum of \$1000) to \$1000. In today's dollars, this is a raise from \$2,089.84 plus \$696.61 to \$6,966.13, a considerable sum.<sup>122</sup> Raising the standard deduction disincentivized charitable giving because only those who itemize can receive a deduction. If the standard deduction was raised, there would usually be a decrease in those who itemize their taxes. Only the upper middle class and wealthy, who have enough income to necessitate itemizing their taxes, can then claim the charitable

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<sup>119</sup> Peter Hall. “The Welfare State and the Careers of Public and Private Institutions Since 1945,” 371.

<sup>120</sup> Highlights of Proposed Tax Reform Act of 1969 -- HR 13270. White House Central Files: Staff Member and Office Files, John R. Price, Box 71. Richard Nixon Presidential Library.

<sup>121</sup> Julian E. Zelizer. *Taxing America*, 117.

<sup>122</sup> “Major Enacted Tax Legislation, 1960-1969.” Tax Policy Center. Accessed January 14, 2020. <https://www.taxpolicycenter.org/laws-proposals/major-enacted-tax-legislation-1960-1969#tax-reform-act-of-1969>.

deduction. Nixon stated that he wanted to raise the standard deduction to ease taxes for many who would no longer need to individually list deductions.<sup>123</sup> The raise in the standard deduction certainly simplified the tax system, a goal which Nixon shared with Mills.<sup>124</sup> Nonprofit organizations suspected the raise in the standard deduction and the new rules would hamper donations and their capacity to operate.

#### Response from the Foundations: Attempts to Lessen the Harmful Effects of Tax Reform

Although Republicans supported charity in rhetoric, some regulations of the Tax Reform Act of 1969 imperiled the ability of nonprofits to carry out their work. Fear of the proposed 7.5% tax on investment income or a set lifetime on foundations, for example, pushed foundations to seek protection through lobbying efforts and reports to prove their merit. Worried by the impending tax reform, John D. Rockefeller commissioned a survey of various segments of the public to gauge their feelings towards foundations. The compiled data argued against the harsh regulations, including a lifetime on foundations, taxed investment income by 7.5%, and repealed unlimited donations, enacted by the House bill for the tax reform.<sup>125</sup> Rockefeller hoped the report would influence the Senate so the final bill would be less harsh than the House bill. Rockefeller commissioned the report by Peter G. Peterson, Chairman and Chief Executive Officer of Bell & Howell Company to create “an objective study of foundations and private philanthropy and issue a public report of its analysis and recommendations.” The 1969 report discussed three topics: the role of private philanthropy in America, the role of foundations as a part of American

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<sup>123</sup> Richard Nixon, Statement on Signing the Tax Reform Act of 1969. Online by Gerhard Peters and John T. Woolley, The American Presidency Project <https://www.presidency.ucsb.edu/node/240457>

<sup>124</sup> Julian E. Zelizer. *Taxing America*, 288-289.

<sup>125</sup> Putting a “lifetime” on foundations would mean limiting their existence to a certain number of years up to which point they would be required to dissolve. This was thought to be a solution to foundations amassing too much wealth and power.

philanthropy, and the regulation and control of foundations to increase the likelihood that their activities were in the public interest.<sup>126</sup> The Peterson report stated:

“Foundations, because of these privileges, have a public character; yet, they are a private institution. Other “public-private” institutions often have mechanisms that “evaluate” their contribution. The market in the case of business, the voter in the case of elected officials, the client and the American Bar Association in the case of lawyers, etc. The question, of course, is: What do you substitute for this process in the case of foundations?”

This quotation raises a key issue for nonprofits in the eyes of both liberals and conservatives: foundations possessed too much wealth to go unmonitored. As Rockefeller, a notable philanthropist, commissioned this study, the main concern revolved around the new tax reform bill and its effects on philanthropies and public opinion. The tax reform’s new regulations on the nonprofit sector could have potentially added credibility to their work. By requiring foundations to publish financial statements, the public would be reassured that foundations were solely operating for charitable means. However, Rockefeller was concerned that the new rules would have limited the ability of donors to contribute or severely restrained the scope of foundations. Motivated by the fear of severe regulations that would hamper their work, the report hoped to convince Congress with real findings that foundations were indispensable to society.<sup>127</sup>

Large foundations, such as the Ford Foundation, lobbied extensively to ensure that the tax reform would not embody many of the extreme aspects of the House bill, HR 13270. The Ford Foundation sent a memorandum on Sept. 18, 1969 to Daniel Moynihan, who was the assistant to the president for urban affairs, stating that “while some provisions of the section on foundations are aimed correctly and squarely at flagrant

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<sup>126</sup> Background of the Commission on Foundations Private Philanthropy from Peter G. Peterson to Daniel Patrick Moynihan. White House Central Files: Staff Member and Office Files, Daniel Patrick Moynihan. Commission on Foundations and Private Philanthropy [1 of 3]. Richard Nixon Presidential Library.

<sup>127</sup> *Ibid.*

financial abuses by a minority of foundations, the thrust of the bill seems excessively punitive and hostile to foundation philanthropy in general.” The Ford Foundation argued that “... there is no side-stepping the fact that passage of the bill in its present form could damage and even destroy some of the most important work supported by foundations over the years. This is what we will be trying to change in the weeks ahead.”<sup>128</sup> Their language takes on a sort of dire immediacy, and painted the tax reform as a dangerous threat to the life of their organization.

A plethora of organizations voiced their concerns, displaying the wide scope of organizations affected by the tax reform. For example, John Voss, Executive Officer from American Academy of Arts and Sciences, which conducted policy research on topics ranging from science to social matters, sent Moynihan a letter in which he confessed that, “If the bill passes in its present form, it is questionable -- and I am not exaggerating --whether a number of organizations can survive. They include the American Academy, Brookings, Resources for the Future, the Social Science Research Council, the American Council of Learned Societies, and even the Institute for Advanced Study.”<sup>129</sup> After the passage of the tax reform, analysis by scholars questioned the potentially detrimental impact on nonprofit organizations, commenting that “...one can only wonder in considering the severity, the enormous complexity and the pervasiveness of the new rules governing private foundations whether Congress has not thrown out the

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<sup>128</sup> Memorandum for: Trustees, Officers and Staff From: J. A. Stratton and McGeorge Bundy [from the Ford Foundation] sent on Sept. 18, 1969. White House Central Files: Staff Member and Office Files, Daniel Patrick Moynihan. Box 53: Foundation and the Tax Bill [1 of 4]. Richard Nixon Presidential Library.

<sup>129</sup> Letter from The American Academy of Arts and Sciences to Daniel Moynihan on October 7, 1969. White House Central Files: Staff Member and Office Files, Daniel Patrick Moynihan. Box 53: Foundation and the Tax Bill [1 of 4]. Richard Nixon Presidential Library.; “American Academy of Arts & Sciences.” American Academy of Arts and Sciences, March 6, 2020. <https://www.amacad.org/>.

charitable baby with the dirty bathwater.”<sup>130</sup> Surely Congress had not meant to rid the country of all nonprofit organizations, but the ferocity at which it came at private foundations shocked more than just those immediately concerned.

Private foundations and the nonprofit sector were nowhere near giving up their role in providing services to better America. Nonprofits, which were often specialized and local, helped in personal ways in which the government could not. In the 1960s, a group of tax lawyers and officials from major organizations formed the 501(c)(3) Group to discuss the tax code and the impact of the charitable deduction on giving.<sup>131</sup> In 1973, the 501(c)(3) Group hired economist Martin S. Feldstein, who confirmed that the charitable deduction was crucial for foundational work and “it is effective in producing more revenues for charity than is ‘lost’ by government.”<sup>132</sup> This finding, and others like the Rockefeller report *Giving in America*, contributed to the effort to bolster the reputation of nonprofits in the wake of the restrictive tax reform.

In 1973, Rockefeller organized the Commission on Private Philanthropy and Public Needs, which produced a three volume report titled *Giving in America*, which focused on the monetary issues of nonprofits and their credibility in the public’s eye.<sup>133</sup> One main concern of the report focused on “the [private nonprofit] sector’s economic durability.”<sup>134</sup> Many of the nonprofit sector’s organizations were experiencing financial struggles that, if left unaddressed, would

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<sup>130</sup> Nathaniel L. Goldstein and Donald L. Sharpe. "Private Charitable Foundations After Tax Reform." *American Bar Association Journal* 56, no. 5 (1970): 447-52. 452.

<sup>131</sup> Peter Dobkin Hall. *Inventing the Nonprofit Sector and Other Essays on Philanthropy, Voluntarism, and Nonprofit Organizations*, 75-76.

<sup>132</sup> *Ibid*, 77.

<sup>133</sup> Oliver Zunz, *Philanthropy in America*, 237.

<sup>134</sup> *Giving in America Toward a Stronger Voluntary Sector*. Washington: Commission on Private Philanthropy and Public Needs, 1975. 3.

ultimately lead to the demise of such organizations. The report addressed the Tax Reform Act of 1969 hearings and admitted that deficiencies within the sector, namely within private foundations and charitable tax deductions, were rightfully exposed and in need of change.<sup>135</sup> The report argued that, despite such shortcomings, the role the nonprofit sector played in America was pivotal to the nation's success and should not be dismissed or allowed to die out.<sup>136</sup> The report blamed federal funding for placing nonprofits in the line of criticism from the public. Nonprofit organizations had relinquished their private work for the public good at the behest of the federal government.<sup>137</sup>

*Giving in America* alleged that the standard deduction was the source of foundational issues regarding donations. The report stated that “the problem of tax-exempt organizations was not excessive government influence limiting their autonomy but insufficient private contributions to balance government's role.”<sup>138</sup> Private contributions were “eroded by expansion of the standard deduction.”<sup>139</sup> The standard deduction increased from \$1000 for a couple in 1970 to \$2,600 in 1975, which affected itemizers to the extent that, in 1975, only a third of taxpayers were expected to claim the charitable deduction. Such figures, which in today's dollars would be \$6,589.10 to \$12,355.17, bring to light why these revisions cost nonprofit organizations so heavily in donations. The raise in standard deduction spurred on the existing controversy that donors to foundations, and therefore those who could influence foundations, were mostly the wealthy. The raised standard deduction made it appear that nonprofits favored the wealthy in the highest income brackets who continued to itemize their taxes and claim the charitable deduction.

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<sup>135</sup> *Giving in America Toward a Stronger Voluntary Sector*, 1-3.

<sup>136</sup> *Ibid*, 11.

<sup>137</sup> *Ibid*, 17.

<sup>138</sup> Oliver Zunz, *Philanthropy in America*, 238.

<sup>139</sup> *Giving in America Toward a Stronger Voluntary Sector*, 17.

Further, those in the higher tax brackets received a greater deduction and therefore exerted more influence on nonprofits. The increase in the standard deduction heightened the belief that donating to nonprofit organizations was only benefiting the wealthy.<sup>140</sup>

While the *Giving in America* Report and 501(c)(3) Group stressed concerns for private and public nonprofit organizations, it appears that public nonprofits, or at least the donations they received, were not negatively affected by the tax reform. The Columbia Missouri Area United Way, Inc., for example, actually experienced an increase in giving from \$188,010.00 in 1969 before the reform, and \$209,726.97 in 1970. Few other public organizations, however, have their annual financial reports from the 1970s available, which greatly limits the analysis possible. Furthermore, while private foundation financial reports are available to the public, they are not easily understood by the average person. Although an evaluation by an accountant would be necessary to discern how the tax reform increased operational or administrative costs, the intense private foundations' campaign against the reform can lead one to safely assume that the new rules came at a high cost. The tax reform forced both types of organizations to adhere to new regulations, which incited fear for further punitive action from the government.

The Great Society created persistent issues whose scope reached well beyond the 1960s. Johnson's distribution of federal funds to nonprofit organizations was considered a gross enlargement of the federal government to conservatives. Working with a Democratic Congress, Nixon struggled to enact legislation on par with Republican beliefs. Instead, public charities along with the private foundations, which were disliked by Republicans, were hurt in the tax reform. Private charities were useful for the wealthy as tax shelters which allowed them to evade

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<sup>140</sup> Giving in America Toward a Stronger Voluntary Sector, 18.



taxes that would have contributed to growth in domestic programs and the federal government. However, liberal minded congressmen greatly dismantled private charities through tax reform, which closed many loopholes and restricted acceptable uses of foundations. While Nixon struggled to work with a Democratic Congress, President Reagan had to work with a split Congress. Reagan's tax reform also posed a threat to foundations through the increased standard deduction which triggered an outcry from the nonprofit sector.

## **Reaganism: Federal Funds Withdrawn from Nonprofits and Religious Resurgence**

### The Call for Tax Reform and a Shift in Conservative Strategy

President Jimmy Carter and the chair of the House Ways and Means Committee Al Ullman (D- Oregon) failed to enact meaningful tax change amidst stagflation, a combination of inflation and stagnation. Carter's inability to produce effective policy led to hostility towards New Deal liberalism and federal attempts to fix social issues.<sup>141</sup> Major inflation in the 1970s and through to the 1980s led many to call for a tax reform. In the late 1970s, increasing oil prices instituted by the Organization of Petroleum Exporting Countries (OPEC) slowed economic growth. In 1979, the Iranian Revolution resulted in a new regime which was far less friendly towards America and imposed another oil embargo. The oil crisis of 1979 further exacerbated the country's economy as it led to hiked up prices and short supplies of oil.<sup>142</sup> Inflation then led to a phenomenon known as bracket creep: taxpayers, who were not actually making more money, were pushed to a higher tax bracket because of the artificially elevated value of money.<sup>143</sup> Stagflation created another incentive for tax reform as the weak economy produced "a weak base for income taxation."<sup>144</sup>

Carter's lack of success to enact tax reform left open an opportunity for Reagan, once elected president, to affect a tax change that would be vastly popular. Reagan was given another sign that change was desired when, in 1978, he watched as California taxpayers revolted to pass Proposition 13. The proposition limited California's property tax rate to 1% of market value and

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<sup>141</sup> W. Elliot Brownlee. *Federal Taxation in America*, 181.

<sup>142</sup> Kevin Michael Kruse and Julian E. Zelizer. *Fault Lines: a History of the United States since 1974*. (New York, NY: W.W. Norton & Company, 2019), 39.

<sup>143</sup> W. Elliot Brownlee. *Federal Taxation in America*, 172.

<sup>144</sup> *Ibid*, 173.

required two thirds majority to implement new taxes. He was inspired by the people's want for tax reform to reduce the federal government.<sup>145</sup> The Republican Party chose Reagan as their presidential candidate in 1980 because he was considered a true conservative who would shrink big government and instill his Christian values. Many conservatives viewed Nixon's administration as too leftist in relation to nonprofits, and sought the need "to separate real conservatives from pragmatic Republicans."<sup>146</sup>

Conservatives did not want government funded programs and blamed poverty on one's own choices and behavior. The Christian ideal of individualism, that one is responsible for oneself, played into this notion.<sup>147</sup> To many, the welfare state exacerbated poverty by increasing dependency on aid. Although these beliefs remained strong, by the late 1970s, the conservative strategy towards foundations shifted. Conservatives began to establish nonprofit organizations to serve their own agenda: keep government small and divert funding from liberal organizations.<sup>148</sup> While the liberal nonprofit sector worked within the Social Gospel and churches to continue the Great Society, the right sought out churches as their battleground to stop the progression of the Great Society.<sup>149</sup> This shift can be seen in the Reagan administration's efforts to emphasize volunteerism and the voluntary nonprofit sector in policy initiatives and tax reforms.<sup>150</sup>

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<sup>145</sup> W. Elliot Brownlee. *Federal Taxation in America*, 178- 9.

<sup>146</sup> Oliver Zunz, *Philanthropy in America*, 248.

<sup>147</sup> *Ibid*, 189.

<sup>148</sup> *Ibid*, 248.

<sup>149</sup> *Ibid*, 255.

<sup>150</sup> Kerr, Anne Marie: Files OA 13760 Tax Reform (1)-(3) "Nonprofit Groups Try to Make the Case that Charity Should Begin in the House" Tax Report, National Journal 9/28/85. Ronald Regan Presidential Library.

## The Economic Recovery Act of 1981: Encouragement to the Nonprofit Sector

President Reagan shared his positive views of voluntarism at the various charitable galas and banquets he attended. At the benefit ball for the Multiple Sclerosis Society, he said, “The Bible talks of faith, hope, and charity, and the greatest of these is charity.” Similar to Nixon, he placed charity in the utmost important caliber to society. His reference to the Bible was meant to resonate with his presumably Christian audience. Reagan’s speech continued, “For too long the American people have been told that they are relieved of responsibility for helping their fellow man because government's taken over the job. Now, we don't believe in totally eliminating government's role in humanitarian efforts, but we are trying to recapture that spirit of generosity that suffocates under heavy taxation and bureaucratic red tape.” Reagan’s statement expressed his desire to promote the nonprofit sector and what he viewed as “a vast under-used resource—human compassion.”<sup>151</sup> A major goal of his presidency was “to re-ignite that spirit of direct involvement, to recapture the energy that comes when people are helping because that's what they want to do, and to encourage people to care about each other.”<sup>152</sup> Reagan’s rhetoric in this speech, and many others, led the nonprofit sector to conclude that he would be an advocate for them and promote their interests. In reality, while some of his actions were supportive, most disappointed the nonprofit sector.

President Reagan’s speech, with clearly religious overtones, especially gratified his pious base of followers. His connection with major Christian groups and figures, namely the Moral

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<sup>151</sup> Ronald Reagan, Remarks at the Annual Ambassadors Ball To Benefit the Multiple Sclerosis Society Online by Gerhard Peters and John T. Woolley, The American Presidency Project <https://www.presidency.ucsb.edu/node/247622>

<sup>152</sup> *Ibid.*

Majority and Jerry Falwell, brought about his electoral success.<sup>153</sup> Christians constituted a large role in the Republican National Committee and many of their religious principles, such as self-salvation, were included in the party platform.<sup>154</sup> Reagan was accepted as someone who would help accomplish their religious, conservative goals. Upon election, Reagan hoped to shrink the federal government which he characterized as “a parasitic usurper of the private sector” and to cut the budget on many federal programs.<sup>155</sup> Under his “New Federalism,” Reagan dialed back the role of the federal government in local and state related matters, including the provision of social welfare services. While simultaneously shifting to give more power to local nonprofit organizations, the Reagan administration reduced or entirely revoked federal funding.<sup>156</sup> Reagan explained that decreasing domestic social spending allowed or even gave power to private groups and nonprofit organizations to fill the role of the government in providing social services. The president’s justification for reducing federal funding reversed the traditional opinion of the right, which opposed many of the “liberal” organizations Reagan claimed to now support.<sup>157</sup>

Conservatives themselves contributed to the growth of the nonprofit sector by seeking to privatize public services.<sup>158</sup> Like Nixon’s block grants, Reagan diverted nonprofit services from the neediest Americans. Instead, Reagan gave tax breaks to the middle class to purchase social services, leaving the poor without assistance. Expanded purchasing power increased the

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<sup>153</sup> Kevin Kruse. *One Nation under God*, 281.; The Moral Majority was a conservative, religious political group in the 1970s which formed to lobby for issues they cared about such as abortion.

<sup>154</sup> Kevin Kruse. *One Nation under God*, 285.

<sup>155</sup> Peter Dobkin Hall. *Inventing the Nonprofit Sector and Other Essays on Philanthropy, Voluntarism, and Nonprofit Organizations*, 88.

<sup>156</sup> Seth M. Hendon. "The Possibility of Tax Incentives for Lending to Charitable Organizations." *Yale Law & Policy Review* 8, no. 2 (1990): 414-35. Accessed January 12, 2020. [www.jstor.org/stable/40239341](http://www.jstor.org/stable/40239341), 415.

<sup>157</sup> Peter Hall. “The Welfare State and the Careers of Public and Private Institutions Since 1945.” 378.

<sup>158</sup> Peter Dobkin Hall. *Inventing the Nonprofit Sector and Other Essays on Philanthropy, Voluntarism, and Nonprofit Organizations*, 80.

necessity of nonprofit organizations in America.<sup>159</sup> Although Reagan elevated the nonprofit sector to be more essential in this sense, he still cut taxes, which disincentivized charitable giving.<sup>160</sup>

The Economic Recovery Act of 1981, a tax code revision Reagan signed in his first term, aimed to fill the financial gap that resulted from cuts in federal funding to nonprofit organizations. Unlike Nixon's detrimental tax reform, this act displayed Reagan's clear commitment to charity. Corporate deductions for charity were increased from 5% to 10%, however, this incentive did not make a big impact on companies' charitable giving. Because of the poor economy, many companies were reluctant to contribute.<sup>161</sup> Although charitable contributions from companies were still limited, the 1981 act introduced a charitable deduction for non-itemizers that was set to expire in 1986.<sup>162</sup> Allowing non-itemizers to claim the deduction increased donations and won nonprofits applause. Nonprofits had lobbied extensively for the passage of this crucial provision.<sup>163</sup> The popular non-itemizer provision was repealed in the Tax Reform Act of 1986, suggesting that its origins were likely political in nature, rather than for concern of the livelihood of nonprofit organizations. It became a major point of contention between President Reagan and the nonprofit sector.

In addition to the Economic Recovery Act, in 1981, the Reagan administration created the Task Force on Private Sector Initiatives. The task force was formed to produce policy

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<sup>159</sup> Oliver Zunz, *Philanthropy in America*, 254.

<sup>160</sup> Peter Dobkin Hall. *Inventing the Nonprofit Sector and Other Essays on Philanthropy, Voluntarism, and Nonprofit Organizations*, 80.

<sup>161</sup> *Ibid*, 89.

<sup>162</sup> Steuerle Boris, etc. *Nonprofits & Government : Collaboration & Conflict. Nonprofits & Government : Collaboration & Conflict*. 2nd ed. Washington, D.C.: Urban Institute Press, 2006, 130.

<sup>163</sup> Kerr, Anne Marie: Files OA 13760 Tax Reform (1)-(3) "Nonprofit Groups Try to Make the Case that Charity Should Begin in the House" Tax Report, National Journal 9/28/85. Ronald Regan Presidential Library.

towards nonprofits which would foster more support for their work. However, the administration never solidified its policy towards nonprofits. The Task Force continued to support nonprofits in rhetoric, while removing incentives to donate in tax policy.<sup>164</sup> During Reagan's second term as president, the Tax Reform Act of 1986 addressed this lack of policy towards the nonprofit sector.

#### Lobbying Efforts to Rescue the Nonprofit Sector from the Damaging Tax Reform

Various organizations launched lobbying campaigns against the proposed Tax Reform Act of 1986 because of distress over the adverse effects to donations. Charitable contributions were already in decline before the Tax Reform Act of 1986, as those taxpayers with \$1 million were donating 55% less between 1980-87 from \$207,087 to \$93,297.<sup>165</sup> In a 1985 article titled "Nonprofit Groups Try to Make the Case that Charity Should Begin in the House," foundations and nonprofits made their fear of Reagan's proposed tax reform apparent. Concerned about changes in the tax incentives relied upon for donations, nonprofit organizations kicked off a massive lobbying campaign under the guidance of the Independent Sector, a large organization that supervised the nonprofit sector as a whole and boasted hundreds of members.<sup>166</sup>

In their lobbying efforts against the tax reform of 1986, nonprofits placed great importance on the expiration of the 1981 provision which had allowed non-itemizers, in addition to itemizers, to claim a charitable deduction. Nonprofits had fought for this provision which allowed all taxpayers to claim the charitable deduction for over a decade, and were infuriated by the prospect of its removal. The number of itemizers, and therefore those who would receive a

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<sup>164</sup> Peter Dobkin Hall. *Inventing the Nonprofit Sector and Other Essays on Philanthropy, Voluntarism, and Nonprofit Organizations*, 89.

<sup>165</sup> Seth M. Hendon. "The Possibility of Tax Incentives for Lending to Charitable Organizations," 417.

<sup>166</sup> Kerr, Anne Marie: Files OA 13760 Tax Reform (1)-(3) "Nonprofit Groups Try to Make the Case that Charity Should Begin in the House" Tax Report, National Journal 9/28/85. Ronald Regan Presidential Library.

charitable deduction, would constitute a smaller group of taxpayers because of the increased standard deduction Reagan wanted to implement. The decreased tax rates provided another disincentive to give. Nonprofits feared that with the number of itemizers decreasing and the charitable deduction affecting so few taxpayers, the charitable deduction itself would be removed.<sup>167</sup>

Organizations accused Reagan of going against his word in favor of voluntarism and the nonprofit sector. The article charged “that the Reagan Administration should mount the first serious attack on charitable deductions does not seem entirely in character. Reagan, after all, often talks about the importance of self-reliance and voluntary activity, has appointed two groups to encourage ‘private sector initiatives’ and is about to appoint a third.” Independent Sector President Brian O’Connell, who also testified before the House regarding the tax reform, stated that the tax revision is “dishearteningly contradictory to all he [Reagan] says about voluntary initiative and the importance of voluntary institutions in this society.” Although in his first term Reagan’s initiatives towards foundations seemed supportive of nonprofit work, his tax reform in 1986 retreated all advances made and contradicted his rhetoric.<sup>168</sup>

Reagan faced challenges from those within the nonprofit sector who disapproved of his proposed tax reform. On July 8, 1985 O’Connell presented testimony to the House Ways and Means Committee on the detrimental impact of the president’s tax proposals on charities.<sup>169</sup> He

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<sup>167</sup> Kerr, Anne Marie: Files OA 13760 Tax Reform (1)-(3) “Nonprofit Groups Try to Make the Case that Charity Should Begin in the House” Tax Report, National Journal 9/28/85. Ronald Reagan Presidential Library.

<sup>168</sup> Kerr, Anne Marie: Files OA 13760 Tax Reform (1)-(3) “Nonprofit Groups Try to Make the Case that Charity Should Begin in the House” Tax Report, National Journal 9/28/85. Ronald Reagan Presidential Library.

<sup>169</sup> Anderson, Carl: Files OA 17954 [Tax Reform] – Charitable Contributions (1)(2); July 8, 1985 Summary of Brian O’Connell (Pres of Independent Sector) testimony to House Ways and Means Committee on The Impact of the President’s Tax Proposals on Charities. Ronald Reagan Presidential Library.



said that, “The new tax plan offered by President Reagan acknowledges the vital role played by giving and volunteering in our society. Unfortunately, that same tax plan threatens to narrow the support for services provided by charitable organizations by abandoning the principle that the tax laws should treat all gifts to charity the same, regardless of the size of the gift or the wealth of the donor.” O’Connell argued that the deduction did not influence giving, but the size of gifts given. He stated, “Giving and volunteering in this country are universal virtues. Charity is everyone’s concern and everyone’s responsibility. The new plan undermines this principle by making tax distinctions between those who give a lot and those who can give only a little.”<sup>170</sup> O’Connell felt the reform was unfairly skewed to the wealthy, instead of promoting all Americans to be charitable with a deduction for everyone. Under the new tax revision, only “those who give a lot” to nonprofits continued to do so, instead of claiming the increased standard deduction. “Those who can only give a little” were worse off after the reform because the expiration of the charitable deduction for non-itemizers removed their deduction for giving.

The larger issue at hand was not primarily donations, but the viability of the nonprofit sector to subsist in America. O’Connell stated that “The President’s recommendations contradict totally this Administration’s call for volunteers and voluntary organizations to play a larger role in helping people deal with human problems, community needs, and national aspirations.”<sup>171</sup> O’Connell’s comment succinctly highlights the argument of this thesis: while Republicans

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<sup>170</sup> Anderson, Carl: Files OA 17954 [Tax Reform] – Charitable Contributions (1)(2); July 8, 1985 Summary of Brian O’Connell (Pres of Independent Sector) testimony to House Ways and Means Committee on The Impact of the President’s Tax Proposals on Charities. Ronald Reagan Presidential Library.

<sup>171</sup> Anderson, Carl: Files OA 17954 [Tax Reform] – Charitable Contributions (1)(2); July 8, 1985 Summary of Brian O’Connell (Pres of Independent Sector) testimony to House Ways and Means Committee on The Impact of the President’s Tax Proposals on Charities. Ronald Reagan Presidential Library.

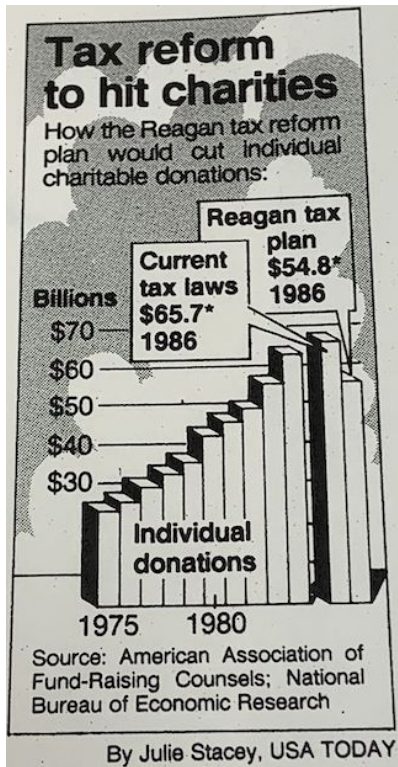
sought to support the nonprofit sector and promote giving, their actions disappointed the nonprofit sector.

Republicans overlooked the adverse effects of the tax reform on nonprofit organizations in light of the perceived positive benefits. “First Monday,” The Republican News Magazine issue from July 1985 included a large spread regarding the tax reform of 1986, propagating what Republicans viewed the tax reform as accomplishing. Within the issue, Chairman Frank F. Fahrenkopf Jr. of the Republican National Committee authored “America’s Tax Plan Needs Your Support” in which he boasted the tax reform to be pro-family, pro-growth, pro-simplification, and more fair to the everyday taxpayer. Fahrenkopf stated that, “for too long, some individuals and corporations have abused the system, paying little or no taxes.” The article included a quote of Reagan stating that “free rides are over.” Another article in the issue quoted Reagan saying that he wanted to “close loopholes that benefit a privileged few.”<sup>172</sup> The magazine glossed over the fact that the closure of loopholes commonly implied the charitable deduction-- which would stifle Reagan’s ongoing voluntary efforts since 1981. Further, the standard deduction placed nonprofits at risk for less donations, as fewer taxpayers would itemize and be eligible to claim the deduction.

Nonprofits challenged the tax reform by calling on those within Congress to alter the bill before passage. *USA Today* published an article titled “Tax Writers asked to be Charitable” on July 9th which outlined the nonprofits’ arguments against the tax reform. The main topic at issue was the removal of the provision that allowed non-itemizers to claim a charitable deduction.

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<sup>172</sup> Anderson, Carl: Files OA 17954 [Tax Reform] – Tax Reform - News Articles. First Monday, The Republican News Magazine. Issue on July 1985. Ronald Reagan Presidential Library.



Originally set to expire in 1986, the tax reform proposal was to end the provision a year early in 1985. Many nonprofits had hoped that instead of its expiring, it would be renewed. The chart from the article, (Figure A), demonstrated the effect of the tax reform on individual donations. It predicted a significant drop in individual giving from \$65.7 billion to \$54.8 billion, a drop of \$10.9 billion or a decrease by 16.5 percent.<sup>173</sup>

In response to dire predictions about a significant drop in donations, nonprofits desperately worked to prevent tax reform. The Washington Post published “Charities Plead to Keep Tax Code Provision” in 1985 which mentioned that Reagan’s plan was less harsh than the Treasury’s.

However, the repeal of the non-itemizer deduction, reduction in tax rates,

and removal of gifts of property eligible for donation would cost nonprofits greatly in charitable contributions. Reducing tax rates lessened the motivation to give because the government demanded less tax on income, so people were less likely to seek out ways to lower taxable income, such as through the charitable deduction. They projected an \$11 billion loss to “universities, museums, foundations, and philanthropic groups.” Jack Moskowitz, senior vice president of United Way of America, said the bill was “discriminating against the vast majority of Americans: those who do not itemize their tax returns.”<sup>174</sup> Moskowitz expressed concern that foundations would grow reliant on wealthy donors, and therefore more attuned to their desires and wishes towards the use of funds. Deductions remained most valuable to high-bracket tax

<sup>173</sup> Kerr, Anne Marie: Files OA 13760 Tax Reform (1)-(3) “Tax writers asked to be charitable” by Mark Rohner, USA Today 7/9/85. Ronald Regan Presidential Library.

<sup>174</sup> Kerr, Anne Marie: Files OA 13760 Tax Reform (1)-(3) “Charities Plead to Keep Tax Code Provision” by Anne Swardson, Washington Post 7/9/85. Ronald Regan Presidential Library.

payers who itemized, and therefore excluded less affluent taxpayers who claimed the standard deduction.

The nonprofit sector banded together to argue that the tax reform would be detrimental across the U.S. in every type of organization. In “Charities Establish Network to Fight Reagan Tax Plan,” Robert Furlow outlined the mobilization of nonprofit organizations across America to lobby against the tax reform. John Schwartz, president of the American Association of Fund-Raising Counsel, predicted that the proposed tax reform would remove the tax incentive to give for 80% of taxpayers. Independent Sector also led a coalition to fight the legislation. It mounted a strong fight based on the predicted loss of \$6 billion per year in donations. The lack of charitable gifts would put extra strain on foundations which were already dealing “with increased needs because of cutbacks in federal social programs.” Further, “general lowering of tax brackets could cost charities another \$4 billion a year” and the loss of donations of appreciated property could equate to another loss of \$1 billion a year.<sup>175</sup> These dire predictions explain the increased lobbying efforts to prevent the passage of the tax reform in its then current state.

Even the Church, a long standing institution of charitable work which Reagan said he would uphold, felt endangered by the impending tax reform. Bishop Anthony J. Bevilacqua, the Diocese of Pittsburgh, received a letter in response to one sent to Carl Anderson’s office, who worked in the White House Public Liaison Office. The Bishop's letter pleaded for reconsideration of the tax bill. However, Bevilacqua’s letter was met with little consolation from

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<sup>175</sup> Anderson, Carl: Files OA 17954 [Tax Reform] – Charitable Contributions (1)(2); June 21, 1985 “Charities Establish Network to Fight Reagan Tax Plan” by Robert Furlow, Lexis Nexis. Ronald Reagan Presidential Library.

Anderson who confirmed that non-itemizers would lose their deduction and “that any adverse effect of the proposal on charitable giving will not be substantial, particularly in relation to the proposal’s effect on tax revenues.”<sup>176</sup> The personal letters, news articles, and testimony before the House, prove how detrimental the reform was thought to be to the nonprofit sector. Reagan’s promotion of the nonprofit sector through the Economic Recovery Act of 1981 and the Task Force on Private Sector Initiatives had falsely misled organizations to believe the administration supported their work.

Although there was much negative speculation regarding the tax reform, a financial report from the Columbia Missouri Area United Way, Inc. demonstrates that charitable giving rose after the tax reform of 1986. In 1986, before the reform, the Missouri chapter of United Way raised \$773,132. In 1987, after the reform, they raised \$814,368.<sup>177</sup> This example contradicts the argument of this thesis. However, other factors, such as the economic growth or inflation, that are not related to tax policy could have contributed to increased donations. Few other public organizations have their annual financial reports from the 1980s available, which greatly limits the data analysis. It is not possible to understand if Missouri Area United Way represents the outlier, or the trend for nonprofits fundraising at the time.

Further, nonprofit lobbying efforts in 1985 were directed by public organizations. Large private foundations lobbied extensively during the 1969 reform because it contained provisions that would directly affect their operations and activity. Private foundations lobbied less in 1986,

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<sup>176</sup> Anderson, Carl: Files OA 17954 [Tax Reform] – Charitable Contributions (1)(2); September 10, 1985 Carl Anderson letter to Bishop Anthony J. Bevilacqua. Ronald Reagan Presidential Library.

<sup>177</sup> “Columbia Area United Way Annual Report 1986.” Heart of Missouri United Way . Accessed March 20, 2020. [https://www.uwheartmo.org/sites/uwheartmo.org/files/1987 Annual Report.pdf](https://www.uwheartmo.org/sites/uwheartmo.org/files/1987%20Annual%20Report.pdf).

because, as grant-making institutions, they were not reliant on donations from individuals as public organizations were. The raised standard deduction and removal of the above the line deduction would not disturb their work.

#### Tax Reform Act of 1986, A Reversal in Republican Assistance

While the Tax Reform of 1969 specifically targeted private nonprofit foundations for regulation, the Tax Reform Act of 1986 did not contain provisions that directly modified the organization or functioning of the nonprofit sector. Nonetheless, provisions of the tax reform affected nonprofits through the charitable deduction.<sup>178</sup> Several provisions of the tax code reform deterred tax payers from contributing to charity by decreasing the value of the deduction. Decreased tax rates minimized the value of the deduction because lowered tax rates lessened the total amount deductible. The reform removed the favored 1981 provision that allowed nonitemizers to claim the charitable deduction.<sup>179</sup> Revoking this highly coveted provision was vastly unpopular among nonprofit organizations that lobbied the Reagan administration heavily, arguing that this was fatal to their organizations.

The implementation of the new alternative minimum tax (AMT) obstructed tax evasion and hindered charitable giving. The AMT established a second tax base with its own tax rates that prevented Americans from avoiding taxes through shelters and other means.<sup>180</sup> Unrealized capital gains on gifts of appreciated property were incorporated into this new AMT.<sup>181</sup> This affected charitable giving because appreciated property could no longer be donated without

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<sup>178</sup> Seth M. Hendon. "The Possibility of Tax Incentives for Lending to Charitable Organizations," 416.

<sup>179</sup> Steuerle Boris, et al. *Nonprofits & Government : Collaboration & Conflict*, 130.

<sup>180</sup> *Ibid*, 124.

<sup>181</sup> Seth M Hendon. "The Possibility of Tax Incentives for Lending to Charitable Organizations," 416.

paying income tax on the given property. Before the AMT was introduced, there was a double deduction loophole for taxpayers for gifts of appreciated property. Taxpayers could claim the charitable deduction and income on unrealized capital gains, which usually went untaxed. Although gifts of appreciated property no longer constituted a legal tax shelter, some argued that the reform may have added appeal to the charitable deduction as a remaining strategy to avoid taxation for the wealthy.<sup>182</sup> Even if the implementation of the AMT pushed some taxpayers to claim the charitable deduction, it likely cost nonprofits donations.

The reduction in charitable giving during the 1980s, in combination with the AMT and raised standard deduction, forced nonprofits to pursue revenue producing ventures. Such ventures put organizations at risk for loss of tax-exempt status, but were necessary to maintain their work.<sup>183</sup> Entrepreneurial endeavors also required that more professional businesspeople be integrated into the management and activity of nonprofit organizations. Nonprofits also began to shift to targeting greater amounts of corporate giving as a source of large scale funding.<sup>184</sup> However, the reduced tax rate for corporations, from 46% to 34%, removed another incentive to donate to charity. Because of the raised standard deduction, fewer taxpayers found reason to itemize their taxes and claim the charitable deduction.<sup>185</sup>

Prior to resorting to new methods of funding, the nonprofit sector heavily lobbied Congress to alter the tax reform before its passage. Had the reform been perceived as beneficial to the nonprofit sector as Reagan had advocated, there would have been no cause to raise objections. Leaders of the nonprofit sector directly addressed the variance in Reagan's rhetoric,

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<sup>182</sup> Steuerle Boris, et al. *Nonprofits & Government : Collaboration & Conflict*, 124.

<sup>183</sup> Seth M. Hendon. "The Possibility of Tax Incentives for Lending to Charitable Organizations," 417.

<sup>184</sup> Peter Dobkin Hall. *Inventing the Nonprofit Sector and Other Essays on Philanthropy, Voluntarism, and Nonprofit Organizations*, 80-81.

<sup>185</sup> Steuerle Boris, et al. *Nonprofits & Government : Collaboration & Conflict*, 130.

which championed the voluntary sector, and his tax reform, which was thought to hamper donations. President Trump's actions towards nonprofits resemble that of Reagan's in that he advanced the nonprofit sector in policy and rhetoric, but jeopardized donations through his tax reform.



### **Trump's Final Blow to Charitable Giving: Tax Cuts and Jobs Act of 2017**

In Executive Order 13828, Reducing Poverty in America by Promoting Opportunity and Economic Mobility, President Trump described how “self-sufficiency” was limited by an individual’s ability to release oneself from the “delayed economic dependence” and “trap” in which the welfare system can snarl one. His executive order set out to “empower the private sector, as well as local communities, to develop and apply locally based solutions to poverty.” Additionally, the order stated that “...policies should allow the private sector, including community and faith-based organizations, to create solutions that alleviate the need for welfare assistance, promote personal responsibility, and reduce reliance on government intervention and resources.”<sup>186</sup> This executive order shifted the responsibility from federal programs to local charities to supply welfare services. Despite the extra reliance upon the private sector and community organizations, Trump’s 2017 tax cut, known as Tax Cuts and Jobs Act (TCJA), hurt rather than helped these organizations by reducing the incentive to give and the value of the charitable deduction.

#### **Raise in Standard Deductions and Shrinking Donations**

In his tax cut, President Trump severely harmed the charitable organizations that play a great role in providing social services to America. These organizations rely upon federal funding and the generosity of donors. In 2017, Trump significantly raised the standard deduction which, in turn, reduced the amount of taxpayers who itemize their taxes.<sup>187</sup> Fewer itemizers, and

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<sup>186</sup> Donald J. Trump, Executive Order 13828—Reducing Poverty in America by Promoting Opportunity and Economic Mobility Online by Gerhard Peters and John T. Woolley, The American Presidency Project <https://www.presidency.ucsb.edu/node/332972>

<sup>187</sup> Dennis J Ventry Jr. Interview by Author. Phone Call. Isla Vista, November 13, 2019.

therefore fewer taxpayers able to claim the charitable deduction, led to less donations for nonprofit organizations in 2018 after the tax reform. For individual filers, the standard deduction was raised from \$6,500 to \$12,000. For heads of households, the deduction was raised from \$9,550 to \$18,000. For joint returns, the deduction was raised from \$13,000 to \$24,000.<sup>188</sup> These alterations in the standard deduction cost nonprofit organizations in donations as Americans itemized \$54 billion less in 2018 because of Trump's tax cuts.<sup>189</sup>

Across the board, giving has fallen by 1.7% or \$427.7 billion since the new tax bill in 2017. Individuals rates of giving fell by 3.4%, a significant drop considering they comprise two thirds of all charitable giving. From 2016 to 2018, the number of itemizers decreased from 46.5 million to 18 million. In other terms, 88% of taxpayers now claim the standard deduction. That leaves only 12% of taxpayers as itemizers who are therefore eligible to claim the charitable deduction. A bill has been proposed by House member Chris Smith (R-New Jersey), much like the provision of Reagan's Economic Recovery Act of 1981, to make all taxpayers eligible to claim the charitable deduction. This would make the deduction "above-the-line," meaning that one wouldn't need to itemize to be allowed to take the charitable deduction. However, the likelihood of this bill passing is slim, as it would cost "as much as \$515 billion over a decade, according to estimates from the Tax Foundation."<sup>190</sup>

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<sup>188</sup> "How Did the TCJA Change the Standard Deduction and Itemized Deductions?" Tax Policy Center. Accessed January 4, 2020.

<https://www.taxpolicycenter.org/briefing-book/how-did-tcja-change-standard-deduction-and-itemized-deductions>.

<sup>189</sup> Nicole Goodkind. "Experts Say Trump's Tax Plan Cost Charities \$54 Billion in Donations as Incentives Disappeared." *Newsweek*, July 9, 2019.

<https://www.newsweek.com/trump-tax-plan-cost-charity-donations-1448391>.

<sup>190</sup> Laura Davison. "Trump's Tax Law Has Made Americans Less Generous, Charities Say." *Time*, June 18, 2019. <https://time.com/5609173/americans-giving-to-charity-trump-tax-law/>.

The proposal of such a bill suggests that TCJA produced issues for the nonprofit sector, just as other tax reforms have, and is contrary to Republican ideals of charity. Smith, who authored the bill HR 5771 in May of 2018, saw it necessary to rectify the damage done to nonprofits under Trump's bill. As a fellow Republican, Smith's bill underscored Trump's inconsistency towards wanting to rely on the nonprofit sector as lined out in his Executive Order 13828, while weakening their donor base. Smith stated a primary reason for his bill:

“Many Americans want to give generously to charities, but they may not be able to afford to do so now with the changes implemented...My legislation would fix this problem, protecting taxpayers while encouraging continued support to charities. Charitable organizations—churches, synagogues, homeless shelters, soup kitchens, job training programs, and all other groups that do heroic work helping the vulnerable among us every single day—depend on the generosity of taxpayers, and they could once again benefit under this bill.”<sup>191</sup>

Supporters of the bill include Brian W. Walsh, Executive Director of the Faith & Giving Coalition, which represents faith-based organizations. He emphasized the importance of promoting fairness in the tax code so the wealthy are not the only ones who can receive a write-off for their charitable giving.<sup>192</sup> Walsh's concerns, in regards to the fairness of a charitable deduction for only non-itemizers, bear a resemblance to the comments of Brian O'Connell, president of Independent Sector. O'Connell, in 1986, spoke out against the tax reform and the exclusion of non-itemizers from the deduction.

Other aspects of the TCJA, namely unrelated business income and transportation benefits, similarly contradicted the notion that Trump supported charitable activity. At a rally in Charlotte, North Carolina in 2016, Trump said “Our supporters are some of the most honest,

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<sup>191</sup> “Smith Reintroduces Bill to Protect Charitable Giving.” Chris Smith, January 17, 2019. <https://chrissmith.house.gov/news/documentsingle.aspx?DocumentID=401680>.

<sup>192</sup> “Smith Reintroduces Bill to Protect Charitable Giving.” Chris Smith, January 17, 2019. <https://chrissmith.house.gov/news/documentsingle.aspx?DocumentID=401680>.

wonderful, like you-- principled, hard-working, patriotic people on the face of God's Earth. They pay their taxes, follow our laws, care for their neighbors, go to church and contribute to charity, and they are loyal to our country.”<sup>193</sup> Despite his affection for those who “contribute to charity,” he raised the standard deduction and altered the law such that tax exempt organizations had to apply unrelated business income tax (UBIT) for every business or trade separately. Before TCJA, nonprofit organizations did not pay taxes for activities “substantially related to their exempt purposes” and only paid for “regularly conducted business that is not substantially related to their missions.”<sup>194</sup> Nonprofits were able to offset the costs from one activity with the gains from another. Now, with the new 21% tax on transportation benefits to employees, that cost can not be offset by another cost. Instead, the income tax has to be paid for under new UBIT regulations. The tax on transportation covers commuter-subsidy payments for employees or volunteers. Typically, these subsidies are used to help employees who go to work on public transportation or “to enable more people to volunteer their services to help the young, the aging, the sick and the needy.” This tax places a great burden on nonprofits, averaging over \$10,000 cost per year, as calculated by a survey of 200 nonprofit organizations in Washington D.C.<sup>195</sup>

Under the TCJA, nonprofit organizations have faced new financial obstacles which have limited their capacity to work towards their stated goals.<sup>196</sup> In addition to Smith’s bill, HR 5771, other congressional bills have been proposed to remedy the situation. Representative James

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<sup>193</sup>Donald J. Trump, Remarks at a "Make America Great Again" Rally, Charlotte, North Carolina Online by Gerhard Peters and John T. Woolley, The American Presidency Project.

<sup>194</sup> Joyce Beebe. “Charitable Contributions and the Tax Cuts and Jobs Act of 2017 .” *Rice University’s Baker Institute for Public Policy Issue Brief*, March 30, 2018.

<sup>195</sup> Carolyn Maloney.Vice Chair. The Economic Impact on Charities of the 2017 Tax Act, Joint Economic Committee. 4-6.

<sup>196</sup> Carolyn Maloney.Vice Chair. The Economic Impact on Charities of the 2017 Tax Act, Joint Economic Committee. 1.

Clyburn (D-South Carolina) proposed bill H.R. 1223, Stop the Tax Hike on Charities and Places of Worship Act, that “repeals the transportation benefits and parking tax.” Senator James Lankford (R-Oklahoma) and co-sponsor Senator Christopher Coons (D-Delaware) also introduced S. 632, “Lessen Impediments from Taxes for Charities Act” which “urged ending the commuter-and-parking tax, which was a burden for religious institutions.”<sup>197</sup> The various congressional attempts to alter the tax bill, including from some Republicans, reveals concern about the survival of nonprofit organizations in America after TCJA.

Trump’s tax reform, as expected, was decidedly political and played into Republican ideals for the country. Starting with the name, Tax Cuts and Jobs Act, the reform sought popularity by striking a cord with those who agree with its goals.<sup>198</sup> Since Reagan’s time as president, Republicans have learned that they can escape blame regarding the creation of large deficits without political consequences. The TCJA is no different. Deficits conveniently “will either be the excuse for cutting social program spending (which Republicans are now projecting) or will occur on the Democrats’ watch, which will fuel a whole new generation of complaints about Democrats raising taxes.”<sup>199</sup> Republicans argue that deficits stimulate the economy and pay for themselves. However, deficits make it virtually impossible for Democratic reforms because less funds are available to pay for welfare programs. To raise revenue, Democrats would need to raise taxes, which would only be possible under a Democratic administration. Regardless, the political strategy employed in the tax cut continues to produce positive political results as

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<sup>197</sup> Carolyn Maloney, Vice Chair. The Economic Impact on Charities of the 2017 Tax Act, Joint Economic Committee. 8.

<sup>198</sup> Jasper L. Cummings. “The Political Calculus of the 2017 Act.” TaxNotes, October 22, 2018, 468.

<sup>199</sup> Jasper L. Cummings. “The Political Calculus of the 2017 Act.” TaxNotes, October 22, 2018, 469.

American taxpayers tend to favor lower taxes and a raised standard deduction which simplifies the tax code.

Beyond the partisan efforts to sell the tax reform to the Republican base, the tax reform uncovered Trump's true feelings towards charity. In TCJA, "... the changes [to the charitable deduction] suggest that Republicans really don't care about 'a thousand points of light,' except to the extent the donors are wealthy. Of course, that is smart politics because charities don't vote or give to candidates (normally)."<sup>200</sup> A thousand points of light was a campaign directed under President George H.W. Bush (1989-1993) which sought to increase volunteerism and charity within America.<sup>201</sup> As the quote suggests, the A Thousand Points of Light initiative was unsuccessful in generating meaningful reform. Similarly, Trump expressed wishes to strengthen and broaden the nonprofit sector in America in his executive order, but his tax reform was more orientated to tax write-offs for the wealthy and political wins for his supporters. Trump can afford to maltreat the nonprofit sector without major ramifications because, as 501(c)3 organizations, they are strictly prohibited from engaging in any sort of political activity.

#### Trump's Own Foundation Engaged in Illegal Activity

In 2016, the Donald J. Trump Foundation illegally engaged in political activity related to the president's campaign. Tax-exempt entities are supposed to refrain from all political activity, or risk loss of their exempt status. The investigation into the Trump Foundation's activity began under Attorney General of New York, Barbara Underwood. She uncovered the misuse of funds for Trump's presidential campaign and to pay off business debt. The foundation, which was

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<sup>200</sup> Ibid, 472.

<sup>201</sup> Jon Meacham. *Destiny and Power: the American Odyssey of George Herbert Walker Bush*. (New York: Random House, 2016), 525-526.

founded in 1987, has since been dissolved.<sup>202</sup> The charges centered around a campaign event in Iowa for veterans, which raised \$2.82 million to be distributed to charities. Although some funds were distributed, a significant portion was not. The settlement for the lawsuit included the payment of \$2 million to 8 nonprofit organizations.<sup>203</sup> Additionally, Trump's three children, who acted as officers for the foundation, had to undergo compulsory training on the correct operations of foundations to prevent illegal action in the future.<sup>204</sup>

In response to the lawsuit and ensuing settlement, Trump tweeted the following on November 7, 2019:<sup>205</sup>

STATEMENT FROM PRESIDENT DONALD J. TRUMP

I am the only person I know, perhaps the only person in history, who can give major money to charity (\$19M), charge no expense, and be attacked by the political hacks in New York State. No wonder why we are all leaving!

Every penny of the \$19 million raised by the Trump Foundation went to hundreds of great charitable causes with almost no expenses.

The New York Attorney General is deliberately mischaracterizing this settlement for political purposes.

The tweet mentions that Trump may be “perhaps the only person in history, who can give major money to charity (\$19M).” This statement grossly overlooks philanthropists such as John D. Rockefeller, whose foundation, since its founding in 1913, has given over \$17 billion to countless organizations and individuals around the world.<sup>206</sup> Andrew Carnegie created the

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<sup>202</sup> Luis Ferre-Sadurni. “Trump Pays \$2 Million to 8 Charities For Misuse of Foundation .” *The New York Times*, December 10, 2019.

<sup>203</sup> Kennedy , Merrit. “Judge Says Trump Must Pay \$2 Million Over Misuse Of Foundation Funds.” *NPR*, November 7, 2019.

<sup>204</sup> Luis Ferre-Sadurni. “Trump Pays \$2 Million to 8 Charities For Misuse of Foundation .” *The New York Times*, December 10, 2019.

<sup>205</sup> Donald J. Trump. “Statement From President Donald J. Trump Pic.twitter.com/EktztHfLk6.” Twitter, November 8, 2019. <https://twitter.com/realDonaldTrump/status/1192594646691729408>.

<sup>206</sup> “Our History.” The Rockefeller Foundation. Accessed March 18, 2020. <https://www.rockefellerfoundation.org/about-us/our-history/>.

Carnegie Foundation For the Advancement of Teaching in 1905, which has worked to advance higher education in medicine, engineering, dentistry, law, and more. Carnegie also established the Carnegie Foundation of New York in 1911 which makes grants to organizations which promote democracy, education, and international peace. Carnegie gifted \$3 billion in today's dollars to launch the Carnegie Foundation of New York.<sup>207</sup> In 1907, Russell Sage's wife donated \$26 million in today's dollars to create the Russell Sage Foundation to alleviate poverty. Through research of societal issues, the foundation strives to produce meaningful policy or other solutions.<sup>208</sup> These are just a few of the many foundations and nonprofit organizations that play a pivotal role in American life, which is why the charitable deduction should be kept and expanded upon through new policy.

#### Future of Foundations in America: Policy Recommendations

The rightful place of charity within tax reform has been a hotly contested issue in America that has involved actors with political, economic, and religious agendas. The makeup of Congress, specifically the House Ways and Means Committee, worked to stifle or promote the president's tax policy goals. Economic fluctuation helped or undermined in achieving national approval for tax reform. Religious actors influenced politics, as they did within the Republican Party, to have their wishes met through tax incentives. Tax policy is considered a form of politics, whose true motives are quite complicated due to the many variable factors.

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<sup>207</sup> "The Carnegie Corporation Turns 100." Philanthropy Roundtable. Accessed March 18, 2020. <https://www.philanthropyroundtable.org/home/resources/donor-intent/donor-intent-resource-library/the-carnegie-corporation-turns-100>.

<sup>208</sup> "What We Do." What We Do | RSF. Accessed March 18, 2020. <https://www.russellsage.org/about/what-we-do>.



The underlying politics of taxes have placed the credibility of tax-exempt organizations into question at times. Members of Congress and the public were uncertain that such organizations were truly operating for their stated purpose in the 1940s into the 1960s. Trump's own foundation engaged in illegal activity, tying in the legacy of foundational mistrust. If even the president's foundation has abused its tax-exempt status, how are the rest to be trusted?

Debates over how to regulate the nonprofit sector and who should be allowed to claim the charitable deduction persist today. How should organizations, which are capable of great benefit to society, be treated in the tax code? Tax-exempt status should not be taken lightly. Examining three tax reforms has shown how difficult it is for policy makers, even those supportive of nonprofit endeavors, to address a sector of society which wields great wealth and the power to influence America. Increases in the standard deduction, heightened regulations, and continued mistrust of charitable work has tethered nonprofits to government funding to survive. As financial support fluctuates depending on the current administration, nonprofits attempt in various ways to find alternate sources of funding.

Policy makers should strive to mold America into a nation with dependable, well funded social services for all, provided through a strong welfare state. Although it may seem contradictory to bolstering the nonprofit sector, both the welfare state and nonprofit organizations can work effectively in tandem. If America's social services were sufficient, nonprofit organizations could turn their focus to niche communities or issues that most federal assistance does not reach. Nonprofits would be able to receive greater donations from donors if the public no longer felt compelled to give to the most necessary causes, which would be amply provided for by the government. These proposals hinge on higher taxes, not tax cuts or an

increase in the standard deduction, to empower the nation's welfare programs. Then, the nonprofit sector can truly carry out its charitable work to strengthen America as it has been trying to for over 100 years.

Increased corporate giving could compensate for the lack of individual donations due to decreased tax rates and the raised standard deduction. Corporations should have to make a mandatory donation of 2-3% of their revenue to nonprofit organizations of their choosing. For example, in 2019 alone, Google made \$160.74 billion.<sup>209</sup> Although Google does donate large portions of its revenue, compulsory rules would ensure all corporations share their profits. In turn, a stronger community supported by nonprofit organizations could produce a stronger economy for business.

Foundations and nonprofit organizations should certainly still benefit from the charitable deduction. While making the deduction available for all taxpayers is probably not feasible, perhaps a provision could be implemented allowing non-itemizers to claim up to \$100 for their donations. Although \$100 may seem like a small amount, if the 28 million taxpayers who now claim the standard deduction under TCJA could all donate \$100 to nonprofits, it would total \$2.8 billion to the nonprofit sector.

I have witnessed firsthand the benefit of nonprofit organizations that target niche populations. While the government may support cancer patients, their children are beyond governmental consideration for aid. Camp Kesem is a nonprofit organization which provides a free week-long summer camp to children whose parents are affected by cancer. This special camp gives these children a place to bond with others inflicted with the same difficulties.

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<sup>209</sup> Clement, J. "Google: Revenue 2018." Statista, February 5, 2020.  
<https://www.statista.com/statistics/266206/googles-annual-global-revenue/>.

Without tax exempt 501(c)(3) status and the support of donors, Camp Kesem would be unable to make camp free for its campers. Nonprofit organizations that target underserved populations, such as Camp Kesem and children whose parents have cancer, are the reason why the charitable deduction should persist.

Trends of the last 50 years of tax reform affecting nonprofit organizations have continued into the present day, and, if anything, have worsened. The Republican Party platform for 2020 states: “We oppose tax policies that deliberately divide Americans or promote class warfare. Because of the vital role of religious organizations, charities, and fraternal benevolent societies in fostering generosity and patriotism, they should not be subject to taxation and donations to them should remain deductible.”<sup>210</sup> Trump’s 2017 tax cuts, however, did subject such organizations to taxation under new UBIT regulations and a 21% tax on transportation benefits to employees. President Trump, or the next president, should heed the calls from senators and congressmen to reform laws to benefit tax-exempt organizations. Otherwise, Trump and the Republican Party should consider shifting their rhetoric and proposed policy to prevent misleading the nonprofit sector of their support.

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<sup>210</sup> “Republican National Committee.” GOP. Accessed March 22, 2020.  
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