



Fiscal Cliff Update January 4, 2013

Short-Term Cliff Deal Reinstates IRA Rollover and "Pease" Provision and Estate Tax Extended

The tax deal passed by Congress on Tuesday has encouraging but mixed results for charitable giving, and leaves much work to be done throughout the coming year. The "American Taxpayer Relief Act of 2012" includes some good news – there was no percent or dollar cap placed on the charitable deduction that had been under consideration – and it reinstates the IRA Charitable Rollover provision (more good news!). But, it also includes reinstatement of a more modest limit to all deductions for higher-income earners (the bad news). Because the deal is a short-term fix to the fiscal cliff, we can expect further advocacy needed in the months ahead as Congress deals with the unfinished business of mandatory spending cuts and comprehensive tax reform.

Charitable Giving Incentives:

The cliff package does not include a flat percentage cap or dollar cap on charitable giving incentives as had been hotly debated in the final weeks of 2012. It does, however, reinstate the so-called "Pease" limitation on all itemized deductions for families earning over \$300,000 per year (\$250,000 for individuals). The provision first took effect in 1991 as a federal revenue generator, but was gradually phased out in the 2006-10 tax years due to its complexity. TCG and the broader nonprofit community had called on Congress to exempt charitable donations from the Pease provision. See Independent Sector's Letter referencing the "Pease" limitation:

http://independentsector.org/uploads/Policy_PDFs/BufettRule_Letter_IS_Whitehouse.pdf

However, beginning with the 2013 tax year, the provision will reduce all tax deductions by 3% of the amount that the adjusted gross income exceeds the \$300,000/\$250,000 thresholds - with the reduction capped at up to 80% of the total value of all deductions. The return of the Pease provision has been on the table as a revenue generator throughout the fiscal cliff negotiations as it was included in the President's FY13 budget request, in the "Buffet Rule" proposals that were in play in the House and Senate in 2012, and in a tax package passed by the Senate last summer. Implementation of the Pease provision is complicated, so please see this Performing Arts Alliance Update for more details: http://theperformingartsalliance.org/site/MessageViewer?em_id=3581.0

IRA Charitable Rollover Reinstated:

The IRA Charitable Rollover provision was also reinstated for 2012 and 2013 in the tax deal Congress passed on Tuesday. The IRA Rollover provision has proven to generate new and increased charitable donations. It permits donors age 70 1/2 and older to make tax-free gifts directly from their IRAs, up to an annual ceiling of \$100,000, but had expired at the end of 2011. Under the bill passed on Tuesday:



- The IRA Charitable Rollover is reinstated retroactively for 2012, and is available through 2013;
- IRA Rollover gifts made through January 31, 2013 will count as 2012 contributions;
- Qualifying personal IRA distributions taken in the month of December 2012 can be counted as a "charitable rollover" if contributed to a charity as cash by January 31, 2013.

Estate Tax:

Congress adopted a compromise extension of the federal estate tax, maintaining the current (2012) individual exemption of \$5.12 million (\$10.24 million for a couple), both of which numbers are indexed for inflation, and setting the rate of taxation at 40 percent (ATRA Sec. 101(c)). The tax is a compromise between the 2012 rate of 35 percent and the rate of 45 percent in effect in 2009 and sought by President Obama.

Thank You - and Prepare for More in 2013!

Members of the Performing Arts Alliance sent nearly 2,000 communications to Congress urging protection against caps on charitable giving incentives and immediate reinstatement of the IRA Charitable Rollover provision. TCG, in coalition with the Performing Arts Alliance will continue to amplify your voice in Washington as budget negotiations and tax reform debates continue. Please continue to participate in this process – your voices made a huge difference in the Fiscal Cliff outcome and how it affects nonprofits!