



April 20, 2020

Dear Member of Congress:

As you know, the nation's nonprofit organizations are facing the same challenges in the current coronavirus crisis as many individuals, families, and small businesses. We thank Congress for including nonprofits in many of the provisions of the recently passed CARES Act (P.L. 116-136), both on the charitable giving side and on the direct relief side. Many of our organizations are supportive of efforts in future legislation to expand the above-the-line deduction and ensure that larger nonprofits are eligible for loans and other financial relief.

There is another issue which the undersigned philanthropic organizations hope will be fixed in the next round of stimulus or financial assistance legislation related to coronavirus. This is a simple fix, but it will be meaningful to many charities on the front lines during this crisis.

The CARES Act included two temporary charitable giving incentives for 2020: a \$300 above-the-line deduction and a suspension of the AGI limitation for individual cash gifts to public charities this year (and an increase in the limitation for corporations). **Both provisions, however, in Sections 2204 and 2205 of the CARES Act, specifically excluded gifts to donor-advised funds (DAFs) and supporting organizations (SOs).** We want to briefly explain why excluding DAFs and SOs, particularly from the AGI limitation provision in Section 2205, will prevent the temporary provisions from being as robust as they might otherwise be in helping the nation's charities address the current crisis. We're asking for your support in striking the language excluding DAFs and SOs from these sections.

A donor-advised fund (DAF) is a giving vehicle established at a public charity. It allows donors to make a charitable contribution, receive an immediate tax deduction, and then recommend grants from the fund over time. Donors may contribute to the fund as frequently as they like, and then recommend grants to their favorite charities from the fund. DAFs are commonly used at community foundations, as well as many national and mission-based charities.

In our current crisis, when so many want to ensure funding is making its way to smaller charities, excluding DAFs from the AGI limitation suspension hurts these charities because DAFs facilitate the ability of a donor to make multiple smaller contributions from a single gift. For example, donors who are still able to make a significant cash gift may wish to respond to a number of fundraising appeals throughout the year and throughout the country, but on the date of the initial gift, they may not have decided on the specific charities they wish to support. Using a DAF simplifies that giving because the donor can make one gift to a sponsor charity and then quickly advise many grants to charities of any size, from the smallest local food bank to the largest

hospital. The DAF sponsor provides the due diligence to ensure that the recipient organizations are qualified charities. Finally, it seems logical that Congress shouldn't exclude any particular philanthropic vehicle now – especially one that proved so resilient in the most recent recession.

A supporting organization is a type of public charity that carries out its exempt purposes by supporting one or more other public charities. SOs have a separate tax identification number and a functioning board of directors. They maintain their status as a public charity because of the oversight the supported charity provides, such as board appointment and tax return preparation, to ensure the organization complies with state and federal law. In addition, many SOs are grantmakers themselves and make grant recommendations on an ongoing basis in consultation with, and under the direction of, their supported public charity.

Because SOs are public charities, and many operate similar to other organizations qualifying for the AGI suspension, donors to SOs may mistakenly believe they are eligible for the expanded charitable deduction in 2020, causing unnecessary confusion. A donor may be surprised at year's end when they discover their generous gifts to the SO are not eligible for the CARES Act provisions. The structural of the underlying charity, which is not immediately apparent to donors, could inadvertently penalize them.

Nearly every community boasts a number of supporting organizations deeply engaged in community responses to COVID-19, providing direct services to families and laid-off workers. Several community foundations, hospitals and health foundations, as well as many organizations serving families and children in all 50 states, are set up as SOs. Donors making gifts to these groups may not be aware of which organizations are supporting organizations, or even what an SO is. Gifts to these organizations should not be excluded.

Therefore, we believe it's important for the temporary charitable incentives – particularly the temporary suspension of the AGI limitation – to treat DAFs and SOs equally with other public charities. We urge Congress to remove these restrictions from the CARES Act and ensure dollars are flowing to *all* charitable organizations helping in this crisis, not just a subset.

Thank you for your consideration. The undersigned groups are willing to respond to whatever questions you may have.

Sincerely,

Alliance for Charitable Reform (Philanthropy Roundtable)

Community Foundation Public Awareness Initiative

Council on Foundations

Jewish Federations of North America

National Philanthropic Trust

United Philanthropy Forum