FAITH & GIVING
COALITION

To: The Honorable David Camp, Chairman, Committee on Ways and Means

Copy: Members, Committee on Ways and Means

From: Faith & Giving Coalition

Date: May 22, 2014

Subject: Response to the Tax Reform Act of 2014

We submit these statements to you as a national coalition of faith-based charities and religious organizations whose privately funded endeavors—large and small, religious and non-religious—work together to foster human flourishing and strengthen America's civil society. We rely heavily, if not entirely, on private gifts of cash and property to aid, minister to, educate, and support tens of millions of adults and youth each year. As a result, our organizations are highly susceptible to changes in donor behavior and tax policy, and our collective work depends on tax reform that is committed to preserving and strengthening the freedom to accomplish good in society through private giving.

The proposal you released on February 26, 2014, is a significant contribution to the national tax reform debate. We greatly appreciate the enormous effort that it took to produce the Tax Reform Act of 2014 (TRA of 2014); it represents a defining achievement of your chairmanship. It is with that spirit of respect and recognition that we (1) communicate the following statements, and (2) request an open, thoughtful, ongoing dialogue with you, your colleagues on the Ways and Means Committee, and the Committee's professional staff.

1. Donors make our religious and charitable work possible

Our privately funded religious and charitable work would not be possible without generous support from donors, who give their personal resources in myriad ways—from simple cash donations to more complex gifts of real estate, stocks, and closely-held business interests. Their contributions allow us to carry out our diverse missions, as well as employ hundreds of thousands of men and women nationwide, rally millions of volunteers, and leverage in-kind resources that increase the efficiency and effectiveness of each gift. Unlike tax-exempt organizations that rely on non-private revenue, our heavy reliance on private donations makes our religious and charitable work especially sensitive to changes in donor behavior that result in lower giving.

Giving by donors—including religious individuals—is closely associated with feelings of financial security, meaning charitable giving is not immune to changes in the economy or tax policy.[1] Of the $316.23 billion

[1] *Giving USA Foundation and Indiana University Lilly Family School of Philanthropy, "Giving USA 2013: The Annual Report on Philanthropy for the Year 2012."* (June 18, 2013): www.givingUSAreports.org.

given to charity in 2012, individuals provided $228.93 billion, or 72 percent.[2] And of that sum, donors who itemize accounted for $184.02 billion (80 percent), while non-itemized giving amounted to $43.44 billion (19 percent). As a result, we are concerned that any tax reform that weakens the current mechanisms for deducting charitable contributions would disproportionally harm giving by individuals who itemize. That potential for disruption and, more importantly, its impact on the beneficiaries of our work, is the focus of our particular concern.

2. Faith-based charities and religious organizations are responding to significant human need in every state in the midst of a slow economic recovery

Faith-based organizations educate and mentor children and young adults; care for elderly men and women; provide emergency services to victims of natural disasters; feed, clothe, and house the poor; provide grants to local organizations that make communities healthier; train future community leaders; and perform countless other acts of mercy, care, and justice in every state. The faith community is a daily witness to the human toll the slow recovery from the Great Recession is taking on society—*the needs are enormous and go far beyond the government's capacity to respond*. That is why religious institutions—churches, parishes, synagogues, hospitals, schools, homeless shelters, feeding programs, free health clinics, and many more—continue, as they always have, to do more with less during difficult economic times.

Places of worship act as anchors in communities, making positive social inroads and helping those in need.[3] A 2010 study by the University of Pennsylvania (Penn) and Partners for Sacred Places measured 50 different factors for understanding how congregations impact local economies. They found that 12 Philadelphia congregations with relatively modest budgets contribute $52 million in annual economic value to the city of Philadelphia, for an average of $4.3 million per congregation.[4] Another study by scholars at Penn estimated that churches in large metropolitan communities provide community support equal to one full-time social service employee.[5] Multiply that economic and social value by the number of similar places of worship across America, and the benefits that those religious institutions provide are enormous.

Faith-based charities are also serving local communities in dynamic ways. Last year, for example, the nearly 300 local rescue missions that are members of the 100-year-old Association of Gospel Rescue Missions provided 50 million free meals; 25 million nights of lodging and shelter; 30 million pieces of donated clothing; and addiction-recovery programs for more than 20,000 graduates. Another example is the Council of Christian Colleges and Universities. Its members have provided additional scholarships—largely supported through private giving—during and after the Great Recession to meet rising student needs.

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[2] *Giving USA Foundation and Indiana University Lilly Family School of Philanthropy, "Giving USA 2013: The Annual Report on Philanthropy for the Year 2012."* (June 18, 2013): www.givingUSAreports.org.

[3] Cnaan, Ram. A, with Stephanie C. Boddie, Charlene C. McGrew, and Jennifer J. Kang. 2006. The Other Philadelphia Story: How Local Congregations Support Qualify of Life in Urban America. Philadelphia: University of Pennsylvania Press. Page 291.

[4] Determining the Halo Effect of Historic Congregations (www.sacredplaces.org/what-we-do/research-and-public-policy/halo-effect/).

[5] Cnaan, Ram A., with Robert J. Wineburg and Stephanie C. Boddie. 1999. The Newer Deal: Social Work and Religion in Partnership. New York: Columbia University Press.

3. We rely heavily on private gifts to carry out our religious and charitable work

As much as 95 percent of the annual income of a typical gospel rescue mission, like the ones belonging to the Association of Gospel Rescue Missions, comes from private donations. Many of our other coalition partners also rely heavily on private donations as a significant percentage of their revenue. The National Christian Foundation—the 12th largest charity in the U.S.—receives 100 percent of its revenue from private donations; World Vision—the 16th largest charity in the U.S.—receives 81 percent of its revenue from private donations; Samaritan's Purse—the 40th largest charity in the U.S.—receives 95 percent of its revenue from private donations; and the Jewish Federations of North America—the 69th largest U.S. charity—receives 85 percent of its revenue from private donations.[6]

As a result, we want to ensure that the Committee's estimate that the TRA of 2014 would generate $2.2 billion of benefit for the nonprofit sector as a whole does not undervalue or harm the privately funded services of faith-based charities and religious organizations. If, for example, the Committee's analysis were to use general data from the Urban Institute's National Center for Charitable Statistics, which estimates that only 22 percent of the nonprofit sector's annual revenue comes from "contributions, gifts, and government grants," then its results will underestimate the potentially negative impact of the TRA of 2014 on the local work of privately funded charities.[7] The distinction is important and provides clear policy implications: private giving is the lifeblood of America's faith community. It is our sincere hope that the Committee considers the potential impact of tax reform on all charities, including ones that are privately funded.

4. Nearly three-quarters of all American giving goes to organizations with religious ties

The 2013 *Connected to Give: Faith Communities*[8] report found that: "Nearly three quarters of Americans' charitable giving—73 percent—goes to organizations with religious ties.[9] (Giving is defined as contributions made in cash, assets, or property/goods.) The report divides those organizations into two types: congregations and "religiously identified organizations" that "pursue a wide variety of charitable purposes." Using that typology, American households gave 41 percent of all contributions to local congregations and 32 percent to religiously identified organizations in 2012. We believe this measure more accurately reflects the faith community's enormous contribution to human flourishing and wellbeing in America.

Some studies examine only the primary purpose of a donation when determining levels of giving to religion: is the gift intended for a "religious" purpose or a "secular" purpose? In other words, gifts given to organizations that are religiously identified, but engaged in important social work, such as providing education or health care programs, are not considered "religious" gifts. To illustrate, the 2013 *Connected to*

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[6] Based on the 2013 Philanthropy 400 list compiled by the Chronicle of Philanthropy.
[7] The most recent data from the Urban Institute's National Center for Charitable Statistics (NCCS) shows that only 22 percent of the nonprofit sector's annual revenue comes from "contributions, gifts, and government grants." The NCCS reports that remaining annual revenue comes from "program service revenues, which include government fees and contracts" (73 percent) and "other sources including dues, rental income, special event income, and gains or losses from goods sold" (5 percent). See: www.nccs.urban.org/statistics/quickfacts.cfm.
[8] *Connected to Give* is a collaborative project of a consortium of independent foundations, family foundations, community foundations, and Jewish federations working in partnership with Jumpstart to map the landscape of charitable giving by Americans of different faith traditions.
[9] Melanie A. McKitrick, J. Shawn Landres, Mark Ottoni-Wilhelm, and Amir D. Hayat. 2013. *Connected to Give: Faith Communities.* Los Angeles: Jumpstart.

Give: Faith Communities report states: "gifts to the United Way, Catholic Charities and Jewish Federations, are often viewed as functionally identical…yet an important consideration—that two of these three organizations have religious ties—all too often has been lost."[10] Thus, studies of giving and religion that solely measure the "primary purpose" of an organization underrepresent a large portion of religiously motivated charitable giving.

The same confusion exists in the Giving USA Foundation's well-respected annual philanthropy report, which is produced by Indiana University's (IU) Lilly Family School of Philanthropy. The *Giving USA 2013* report states that 32 percent of all private contributions in 2012 went to religious organizations ($101.54 billion). But that data is misleading. IU uses eleven categories of organizations, or subsectors, to classify a recipient of charitable contributions,[11] and the *Giving USA 2013* report acknowledges the limitations of that methodology for the religion subsector and others: "Contributions to faith-based organizations offering health care, education, or social services, as well as those working internationally, are not included in *Giving USA*'s estimate for giving to religion. Rather, they are categorized within the other subsectors according to purpose."[12] In other words, *the widely used IU data undercounts giving to the religious community in America and underreports on its breadth and depth*. That gives us cause for concern because any tax policy that weakens charitable giving will have much broader consequences for faith-based charities and the religious sector than the current proposal anticipates.

5. Private giving to the faith community encompasses and exceeds the giving of alms and tithes.

When individuals consider private giving, many think of the offering plate passed in church, or the monthly support of a child's education in a developing country. These gifts, while critically important to charitable work, represent a small picture of the generous ways Americans privately give. For example, families donate closely-held business interests worth millions of dollars to donor advised funds, and then spread the benefit of that financial success to charities across the country. Donors also gift appreciated real property for charities to use or sell. Private giving creates and nurtures the diverse institutions that mirror our own diversity and promote human flourishing and wellbeing in our communities through religion, education, human services, health care, and the arts.

According to the latest Evangelical Council for Financial Accountability (ECFA) State of Giving Report, donors contributed nearly $4 billion in non-cash gifts to ECFA-accredited organizations in 2012, representing nearly a quarter of all donated income to these leading charities.[13] These gifts, in addition to cash contributions, are invested in local communities all across the country, benefitting not just the congregants or populations served, but society as a whole.

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[10] Melanie A. McKitrick, J. Shawn Landres, Mark Ottoni-Wilhelm, and Amir D. Hayat. 2013. *Connected to Give: Faith Communities.* Los Angeles: Jumpstart.

[11] Religion, education, human services, gifts to foundations, health, public-society benefit, international affairs, arts/culture/humanities, environmental/animals, unallocated, and gifts to individuals.

[12] Giving USA Foundation and Indiana University Lilly Family School of Philanthropy, "Giving USA 2013: The Annual Report on Philanthropy for the Year 2012." (June 18, 2013): p. 121.

[13] http://www.ecfa.org/Content/2013-ECFA-Fourth-Annual-State-of-Giving-Report

Because religious donors give, in part, as an exercise of their faith, the fact that the TRA of 2014 would incentivize some forms of giving more than others, is concerning. When confronting matters relating to religion and tax policy, Congress has historically created bright boundaries in order to avoid excessive entanglement between church and state and accommodate other constitutional concerns. Policy judgments about how to raise revenue are inherently quantitative and qualitative value judgments. Decisions to curb certain types of contributions, and not others, must be evaluated carefully. We urge Congress to be mindful of these important boundaries as it considers the TRA of 2014 and future tax legislation proposals.

6. State tax reforms that weaken charitable tax incentives cause giving to fall—Congress must not make the same mistake

We cannot make direct comparisons between state and federal tax reform; however, we believe tax reform at the state level provides helpful policy observations that are instructive for Congress. First, federal and state tax reform share similar goals: increase tax revenue, address economic and fiscal challenges, and reform tax systems. These shared federal and state objectives lead to our second observation: reducing incentives for charitable contributions produces a pattern of harmful unintended consequences. Private giving has fallen in every state that has weakened or repealed some or all of their charitable tax incentives as part of tax reform.

Michigan, for example, repealed a popular 50 percent tax credit for single/joint filers who donated at least $200/$400 to certain charities.[14] A February 2013 study found that the amount of $200 and $400 donations to community foundations in Michigan fell by 27.5 percent and 50.8 percent, respectively, resulting in a loss of $1.15 million to the state's community foundations alone.[15] The Food Bank Council of Michigan conducted a similar analysis and found that $200 and $400 donations to seven food banks and missions serving 83 Michigan counties dropped 29 percent and 49 percent, respectively.[16] The negative impact on individual homeless and basic needs charities was even more quantifiable. Chad Audi, chief executive officer of the faith-based Detroit Rescue Mission, attributed a 10 percent decline in fundraising to the repeal of the tax credit—the rescue mission's budget "dropped from $6 million in 2011 to $5.4 million in 2012."[17] Michigan, possibly due to its soaring budget problems, has not yet reinstated the popular tax credits, despite research showing the policies, "encourage greater giving, and do so in a cost-effective manner, meaning that they stimulate greater additional contributions than they cost the state in the form of lost revenue."[18]

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[14] "Governor Snyder unveils recommended budget to provide foundation for Michigan's reinvention," February 17, 2011 (www.michigan.gov/snyder/0,1607,7-277--251733--,00.html).

[15] Dorothy A. Johnson Center for Philanthropy, "Impact on Giving after the Repeal of the Michigan Community Foundation Tax Credit," Grand Valley State University (February 2013), p. 4-6 (www.michiganfoundations.org/resources/impact-giving-after-repeal-michigan-community-foundation-tax-credit).

[16] Sherri Welch, "Survey: Loss of state tax credit hurt donations," *Crain's Detroit Business*, November 3, 2013 (www.crainsdetroit.com/article/20131103/NEWS/311039986/survey-loss-of-state-tax-credit-hurt-donations).

[17] Patricia Montemurri, "Michigan charities take a hit as state scales back tax breaks; are you giving less?" *Detroit Free Press*, April 23, 2013 (www.freep.com/article/20130423/NEWS15/304230019).

[18] Naomi Feldman and James Hines, "Tax Credits and Charitable Contributions in Michigan," University of Michigan, October 2003, p. 21 (www.bus.umich.edu/OTPR/WP2003-7.pdf).

In 2011, Hawaii's legislature passed a hard-dollar cap on all itemized deductions for higher-income taxpayers. The cap was estimated to increase the state's annual revenue by $12.4 million, but studies showed that the limitation on charitable giving would result in an annual loss of $70 million for local charities.[19] Communities in Hawaii strongly felt the negative impact, and state legislators concluded that the minimal increase in state revenue was a bad trade when compared to the significant losses incurred by local communities. In 2013, the state reversed course, passing a bill exempting the charitable deduction from the itemized deduction limit.[20]

Hawaii is not unique. Maine is considering legislation to reverse its own charitable deduction cap as well.[21] Lawmakers in Missouri[22] and Montana[23] recently renewed previously expired charitable tax credits, citing the negative impact on communities. Sensing the potential for harmful unintended consequences, North Carolina,[24] Kansas,[25] and Minnesota[26] wisely rejected limitations on charitable tax incentives. Again, direct comparisons are problematic, but the clear pattern of charitable giving disruption may help answer the following question: what would happen to private giving if Congress enacts tax reform that weakens charitable tax incentives? The likely answer, supplied in data by experimenting states, is that charitable contributions would go down and that communities across the country would be negatively impacted when the cost of giving goes up. We strongly encourage Congress to consider these observations from the state level before enacting policies that could harm charitable tax incentives.

7. Private giving is revenue found, not revenue lost

The current deduction for charitable giving is not a drain on federal tax revenue; it is a powerful human and financial engine for good in our society. Private giving is necessary to create the independent institutions that compose the richly textured fabric of our civil society. Reference to charitable tax incentives as "tax expenditures" undermines the full value, efficiency, and impact of private giving and prolongs a lose-lose scenario for government and charities. As Senate Finance Committee Chairman Wyden often says: "the charitable deduction is a lifeline, not a loophole." We agree with that statement and believe the relatively modest amount of federal revenue gained by weakening the charitable deduction and other giving incentives pales in comparison to the full impact of every donated dollar at the state and community level. The charitable deduction is not a loss to the government—it is wise tax policy.

Our faith-based charities and religious organizations not only meet countless needs in our communities each and every day; we do so in an efficient manner that leverages volunteers and in-kind resources and is

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[19] Jenna Blakely, "Hawaii lawmakers restore charitable deduction tax incentive." May 2, 2013 (www.bizjournals.com/pacific/blog/2013/05/hawaii-lawmakers-restore-charitable.html).

[20] Council of Nonprofits, "State Charitable Giving Incentives," (http://www.councilofnonprofits.org/state-charitable-giving-incentives).

[21] Maine Senate Bill 659, Second Regular Session of 2014 (http://www.mainelegislature.org/legis/bills/getPDF.asp?paper=SP0659&item=1&snum=126).

[22] Missouri Senate Bill 20, Session of 2013 (www.senate.mo.gov/13info/BTS_Web/Bill.aspx?SessionType=R&BillID=16944741).

[23] Montana Senate Bill 108, Session of 2013 (http://leg.mt.gov/bills/2013/billpdf/SB0108.pdf).

[24] Barry Smith, "North Carolina Gets Sweeping Tax Reform," *The Tribune*, August 19, 2013 (www.thetribunepapers.com/2013/08/19/north-carolina-gets-sweeping-tax-reform/).

[25] Kansas House Bill 2059 (As amended by Senate Committee of the Whole), Session of 2013 (www.kslegislature.org/li/b2013_14/measures/documents/supp_note_hb2059_03_0000.pdf).

[26] Tim Delaney, "The lab results are in on tax reform," *The Hill,* July 23, 2013 (http://thehill.com/blogs/congress-blog/economy-a-budget/312611-the-lab-results-are-in-on-tax-reform).

fine-tuned to local needs. For example, 64.5 million Americans volunteered nearly 7.9 billion hours in 2012, resulting in an estimated value to society of $175 billion.[27] Much of this valuable work is made possible by America's vibrant and diverse nonprofit sector, the existence of which greatly depends upon federal charitable tax incentives. Moreover, because we are dependent on private giving from year to year, we must carefully manage the funds entrusted to us, or risk losing critical donor support. Our programs, dedicated staff, and faithful volunteers are committed to accomplishing tangible good in the communities we serve while acting as wise stewards of the often limited resources entrusted to us. Therefore, the value to society from these donated dollars is far greater than if the dollars had simply been taxed and spent.

Again, the pattern of unintended harm that some state-level tax reforms have had on private giving should give Congress pause. The rapid repeal in several states of policies harmful to charitable giving demonstrates that charitable tax incentives are a good investment. The hard-dollar cap on charitable deductions enacted by Hawaii in 2011 was expected to raise an additional $12.4 million in state revenue,[28] but the change caused charitable donations to fall an estimated $70 million.[29] State and local governments attempted to make up the difference in funding and services but fell far short. Hawaii wisely reinstated the full charitable deduction in 2013, recognizing the invaluable role the charitable sector plays—*in collaboration with, but separate from, government*.

8. The Tax Reform Act of 2014, if enacted, would weaken charitable tax incentives and has the potential to significantly disrupt private giving

While there are specific provisions in the proposal meant to encourage charitable giving, we feel the proposal's cumulative effect, if enacted in its current form, would be harmful to our faith-based charities and religious organizations for the following reasons.

8.1. Reaching the proposal's laudable macroeconomic goals would harm faith-based charities and religious organizations in the process

We believe the following provisions, if enacted, would have a chilling effect on donations: (1) the two-percent AGI floor, (2) the higher standard deduction, (3) the lower AGI limitation for cash contributions, and (4) the repeal or limitation of many widely used deductions and exemptions. Considering that most donors give between two to three percent of their AGI to charity and that only five percent of all taxpayers would itemize under the proposal, the proposed TRA of 2014 limits the charitable deduction to all but the wealthiest taxpayers. Since only five percent of Americans will itemize under the Committee's proposal, only five percent of Americans would benefit from the deduction for charitable contributions.

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[27] Volunteering and Civic Life in America 2013 National, Corporation for National & Community Service (http://www.volunteeringinamerica.gov/). $175 billion estimate based on Independent Sector's estimate of the average value of a volunteer hour.
[28] *See* Testimony in Support of HB 430 (http://www.capitol.hawaii.gov/Session2013/Testimony/HB430_Testimony_FIN_02-13-13_Late.pdf).
[29] *See* Testimony Relating to HB 430 (http://www.capitol.hawaii.gov/Session2013/Testimony/HB430_TESTIMONY_FIN_02-13-13_.PDF).

John Buckley, your Committee's former chief tax counsel, calls this an "effective repeal" of the charitable deduction, explaining: "the larger the pool of itemized deductions, the more likely it is that the taxpayer will receive a tax benefit from the charitable and home mortgage interest deductions. The repeal of virtually all itemized deductions other than the charitable and home mortgage interest deduction…[means] the standard deduction would operate as a floor affecting only the charitable and home mortgage interest deductions," effectively repealing longstanding incentives for charitable giving.[30] This effective repeal means that most donors would lose the tax incentive to give, increasing the "cost" of giving, making the charitable deduction less democratic, and reducing the overall incentive to give.

8.2. The proposal would disrupt donations of property and limit giving options

We applaud the Committee's decision to exempt "inventory contributed solely for the care of the ill, needy, or infants" and "publicly-traded stock" from the proposal to limit the valuation of appreciated property to cost basis. But we are also concerned that such a limitation to basis would harm property donations in which the charity intends to liquidate the property and use the revenue for its charitable purposes. Similarly, we are concerned that the proposal's arbitrary five-year mandatory payout requirement for donor advised funds (DAF) would discourage donors from using DAFs to support charities. Therefore, if fewer donors were to use DAFs, and starting a private foundation was not an option due to the high administrative and reporting costs, then the proposed TRA of 2014 could have the effect of unnecessarily restricting the number of giving vehicles available to donors.

8.3. Faith-based charities and religious organizations in states with high costs of living would be disproportionately harmed

Charitable gifts from discretionary income are made from the "last dollars" at the margin, and are taxed at the marginal rate of the taxpayer's corresponding tax bracket. High-income households give the most to charity and many of those households are concentrated in high-cost areas, such as New York, New Jersey, Connecticut, sections of the Midwest, and California.[31] Under the proposed TRA of 2014, donors living in high-cost areas would have less after-tax discretionary income to give, especially with the repeal of the deduction for state and local taxes and the limitation of certain other tax benefits. These factors, taken together, would likely produce disproportionately larger declines in charitable contributions in high cost-of-living states.[32] But the cumulative effect would be felt beyond wealthy donors. Even dual-income families who occupy the low end of the "high-income" spectrum would be significantly impacted.

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[30] John L. Buckley, "The Hidden Repeal of the Mortgage and Charitable Deductions," *Tax Analysts,* March 10, 2014 (http://www.taxanalysts.com/www/features.nsf/Articles/C56C42AE7FA6DA7E85257C9700646169?OpenDocument).

[31] Howard Husock, "Tax Reform and the Charitable Deduction: The Risk to Blue-State Philanthropy," *Manhattan Institute Report* (Dec. 2013). In addition, the Tax Foundation's *Annual State-Local Tax Burden Ranking FY 2011* found that New York's state and local tax burden, as a percentage of state income, is 12.6 percent and California's state and local tax burden is 11.4 percent. (http://taxfoundation.org/article/annual-state-local-tax-burden-ranking-fy-2011).

[32] Ibid.

Consider the following scenario: a police captain and nursing supervisor living in New York City earn a combined annual income of $200,000.[33] New York City has the highest cost of living in the U.S. for families—exactly twice as much as Mississippi.[34] In addition, taxpayers in the New York metro area give, on average, 4.6 percent of their AGI to charity.[35] Under the proposed TRA of 2014, this couple's $200,000 income would be taxed at a 25 percent marginal rate, and their standard deduction would be $22,000 as joint filers. Although they own a home and may deduct the interest paid on their loan up to $500,000, the repeal of other exemptions means their deductions would not exceed the new $22,000 threshold.

So if the couple donates 4.6 percent of their income ($9,200), they would have to use after-tax dollars, meaning the cost of their gift is now $11,500, but the charity only receives $9,200. The couple would have to pay $2,300 in taxes on these "last dollars" to give away money they would never use or benefit from, making the gift more expensive and less likely to occur at the same level or as often. Even if the couple's deductions could justify itemization, they would still have to exceed the proposal's two-percent AGI floor to benefit from the charitable tax deduction, placing yet another disincentive between the donor and the beneficiary charity.

8.4. The proposal and its underlying considerations make overly broad assumptions about private giving

On page 22 of the section-by-section summary, the Committee posits that, "Americans typically contribute to churches, community organizations and other public charities out of generosity, not for a tax benefit." We agree that donors' primary motivations for giving are varied, but we disagree that the tax benefit does not enter into donors' giving decisions.

Analyzing panel data of tax returns from 1979-2006, a recent study by Jon Bakija and Bradley T. Heim found compelling evidence suggesting that, "peoples' decisions about how much to donate to charity are influenced significantly by tax incentives."[36] The study observes a common sense, but important empirical truth about the price elasticity of charitable giving: when the price of giving goes up through a permanent change in the tax code, giving goes down. Furthermore, a 2013 Bakija study confirms that tax incentives for charitable giving directly affect donors' decisions to give, particularly among high-income donors.[37] And while the proposed TRA of 2014 would generally increase the price of giving, this effect is particularly stark when considering the implications of the two-percent AGI floor.

As aforementioned, most donors give around 2.5 percent of their AGI to charity. If a donor with an AGI of $100,000 gives $2,500 (2.5 percent of his or her AGI) to charity under the proposed TRA of 2014, that

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[33] Hypothetical couple facts developed by Robert Sharpe, Sharpe Group (www.sharpenet.com).
[34] Ginger Adams Otis, "New York City has highest cost of living in U.S. for families: report," *New York Daily News*, July 5, 2013 (http://www.nydailynews.com/new-york/nyc-tops-new-living-expenses-article-1.1390134).
[35] *How America Gives,* The Chronicle of Philanthropy (August 20, 2012).
[36] Jon Bakija and Bradley T. Heim, *How Does Charitable Giving Respond to Incentives and Income? New Estimates from Panel Data,* National Tax Journal, Jun 615-650 (June 2011).
[37] Jon Bakija, *Tax Policy and Philanthropy: A Primer on the Empirical Evidence from the United States and Its Implications*, Social Research, Vol. 80 No. 2 (Summer 2013).

donor would be required to pay taxes on the first $2,000 of that charitable contribution before receiving a small deduction for the .5 percent ($500) given above the two-percent floor. Thus, the price of giving under the proposed TRA of 2014 would go up dramatically, meaning donors would give less.

The proposal is designed, like most federal policy, to encourage or discourage certain behaviors. In the case of charitable giving, we believe the TRA of 2014 would negatively impact when, how, and how much donors give. Moreover, we believe the proposal's estimated increase in charitable giving ($2.2 billion) is overly optimistic given the likely cumulative effect of the provisions limiting charitable tax incentives. Any proposal to reform the tax code must do more than rely on economic growth alone to encourage public and private generosity. Assuming for a moment that enacting the TRA of 2014 caused charitable giving to increase by the estimated amount, it is unlikely that the benefit would occur uniformly across donors and types of charities, meaning giving to certain types of charities or charities in certain regions would be disrupted more than others.

8.5. A simpler tax code will not benefit everyone

The proposal would eliminate approximately 25 percent of the tax code—an impressive achievement considering the Internal Revenue Code's complexity and breadth. Simplicity, however, may not always translate into positive outcomes for all privately funded faith-based charities and religious organizations. The proposal is simpler, but not fairer, as it would significantly narrow the base of people who may benefit from the charitable deduction by placing both a higher floor and a lower ceiling on private giving. For example, the proposal conflates the 50-percent AGI limitation on cash contributions and the 30-percent limitation for appreciated capital gain property into one 40-percent AGI limitation. While simpler, this provision would lower the cash contribution limitation by one-fifth of its current value, adversely impacting the most generous donors. We urge you not to sacrifice provisions that are vitally important to the charitable community for the sake of simplicity.

8.6. Regulating charities to "reduce overvaluing" has damaged donations in the past

The steep decline in vehicle donations that occurred after Congress passed the American Jobs Creation Act of 2004 (PL 108-357) is particularly instructive. Before 2005, a taxpayer could deduct the fair market value (FMV) of vehicles donated to charity as long as the FMV was under $5,000. The American Jobs Creation Act of 2004 changed the rules so that donors could only deduct FMV if the charity keeps and uses the car, rather than selling it for revenue. If the charity sells the car for revenue, deductions over $500 are limited to the proceeds of the eventual sale of the vehicle by the charity, regardless of the appraised value. The uncertainty created by this provision made it very difficult for donors to know the timing or the amount of their deduction for the vehicle donation. A seemingly minor and well-meaning change in law severed the "relational transaction" that is essential to a trusting donor-charity relationship and crippled vehicle donations nationwide.

During debate over this provision, proponents argued that the changes would not add new burdens to charities or adversely impact charitable giving. Senator Hatch, in a prescient floor statement, expressed concern over the creation of unintended consequences: "I am concerned that these changes will result in far fewer used vehicles being donated to charities … a chilling effect on the donation of these used cars could leave many worthy charities short of vital funds needed to perform their invaluable services to needy citizens in Utah and elsewhere."[38] In May 2008, the IRS concluded that the number of vehicles donated nationally in 2005, the first year after the rules took effect, decreased by *67 percent*.[39]

We can assume that this rule did deter some improperly inflated vehicle valuations, yet the law's greatest impact was to significantly discourage the donation of vehicles to charity by creating uncertainty and administrative burdens for donors and charities. In other words, the cure was far worse than the perceived illness and charities and the people they serve suffered most. We believe that the TRA of 2014, in proposing to curb important charitable tax incentives, would likely result in similar unintended negative consequences that outweigh the estimated economic benefits.

9. Congress must preserve and strengthen the freedom to accomplish good

Comprehensive tax reform occurs once in a generation, so we urge Congress to consider all of the relevant information and myriad factors involved when regulating faith-based charities and religious organizations. Our organizations are highly susceptible to changes in donor behavior and tax policy. Every decrease in giving comes with a human cost: one less free meal for a hungry family; one less scholarship for a hard-working student struggling to afford college; one less night of safe shelter for a homeless mother and her children; and one less counselor, mentor, or teacher. The faith community is a daily witness to the staggering human need throughout our society—*it is enormous and goes far beyond the government's capacity to respond*. Thus, the proposed TRA of 2014 has important moral implications that transcend its financial impact. Our collective work, the communities we serve, and the millions of Americans who benefit from a vibrant faith community and charitable sector, depend on your thoughtful legislation.

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[38] Senator Hatch (UT). "Unanimous-Consent Agreement—S. 2845" *Congressional Record* (October 9, 2004) p. S10975.
[39] *See* Individual Noncash Contributions, 2005, *available at* http://www.irs.gov/pub/irs-soi/05incontribul.pdf.