

Important Charitable Giving Initiative Launched

12.22.20 | Linda J. Rosenthal, JD



“America’s charities are in a state of crisis” while there are at least 1,120,000,000,000 charitable dollars sitting around untouched.

More precisely, that’s \$1 trillion parked in private foundations and \$120 billion more stored away in donor-advised funds (DAFs). The tax laws, written decades ago, don’t “sufficiently incentivize these philanthropic vehicles to distribute their funds to charities in a timely fashion, even though donors receive tax benefits upfront.”

It’s more than time for a change. And that’s why on Giving Tuesday – December 1, 2020 – a powerhouse coalition of philanthropists, foundations, and academic experts launched the Initiative to Accelerate Charitable Giving.

Initiative’s Coalition

Billionaire philanthropists, major American private foundations and noted charitable-giving scholars joined up to advocate for specific proposals that can break loose more distributions from foundations and DAFs and also encourage more individual donations.

Boston College Law School Professor Ray Madoff, a leading philanthropy-law commentator, along with entrepreneur John Arnold of Arnold Ventures, developed this project.

Professor Madoff has written extensively, often in collaboration with Professor Roger Colinvoux of Catholic University’s Columbus School of Law, about changing the tax laws to pry out much more money from private foundations and DAFs. We must “leverage all available tools,” she argues, “including reforming design flaws in our charitable giving tax laws, which currently provide no assurances that private foundations or donor-advised funds will ever be put to charitable use.

A year ago, they published [an interim proposal](#) designed as a stop-gap measure in advance of a future date when there would be support for a more comprehensive reform plan.

That time is now. The pandemic has revealed the enormity of the need of nonprofits and the communities they serve.

Additional academic experts who have signed on and endorsed the [Initiative to Accelerate Charitable Giving](#) include Professor Colinvaux and Stanford University Professor of Political Science Rob Reich.

Billionaire John Arnold has been an outspoken observer and critic of today's philanthropy trends and practices. He is passionate about the need for fundamental change. "If you're wondering about the disparity between the immense philanthropic wealth in this country and the daily fight most charities have to wage to stay alive," he writes, "look no further than charitable tax laws." These rules "disincentivize philanthropists from giving with any sense of urgency...."

Among other philanthropists signing on are Melanie Lundquist, Kat Taylor, Taj James, Bill Lewis, Jennifer and David Risher (#HalfMyDaf).

Rounding out this coalition from a "[broad spectrum of interests](#) across philanthropy" are major foundations; among them: Ford, Hewlett, and W.K. Kellogg. Hewlett Foundation's President, Larry Kramer, characterizes this Initiative as a "... [thoughtful proposal](#) to update the nation's tax laws and align incentives so that the whole philanthropic sector can meet its dual purpose of providing aid for dire, immediate needs such as COVID relief – and building and sustaining the ideas, institutions, and movements to address society's most pressing and complex long-term problems, from racism to climate change."

Ford Foundation's President Darren Walker agrees that philanthropy must now "...[act with bold leadership and innovation](#) to help frontline advocacy organizations and movements remain strong and resilient in the days and months ahead."

Initiative Proposals

Under the [Initiative to Accelerate Charitable Giving](#), the coalition members "intend to [address this problem head on](#) by "promoting common-sense, non-partisan charitable giving reforms that increase and accelerate resources to working charities, while enhancing the efficacy of the philanthropic sector writ large."

On the Initiative's website, there is a mission declaration along with a "Statement of Principles" as well as clear and crisp [descriptions of the policy proposals](#). For private foundations, they urge closing "loopholes to better ensure that distributions qualifying for the payout requirement are available for use by working charities." They also propose encouraging larger payouts by reforming the excise tax laws.

For DAFs, they want measures adopted that will ensure that "DAF accounts are distributed to working charities within a reasonable period of time." These include alternative proposals they describe as "15-year DAFs" and an "aligned benefit rule."

For individuals, they call for Congress to expand and extend “in a cost-effective way,” the time-limited, non-itemizer, charitable deduction, enacted early in the COVID-19 pandemic and set to expire at the end of this year. Among these goals are: (a) increasing both charitable-giving level and donor ranks and (b) minimizing “the potential for fraud, by incorporating a giving floor, perhaps set at 1-2% of adjusted gross income.” They also want to “continue to exclude donations to DAFs and private foundations and maintain prohibition on non-cash gifts.”

Reaction

The December 1st [press release](#) announcing the launch of the [Initiative to Accelerate Charitable Giving](#) emphasizes that the “work of charities has never been more important” but “as the demand for charitable services has significantly increased, charities’ revenues and resources have decreased, leaving them in urgent need of support.”

So far, there has been lots of enthusiasm and praise for this critical undertaking, but there has been hesitation and criticism from certain quarters as well.

See, for instance: [High-Powered Coalition Advances Plan to Reform Philanthropy](#) (December 2, 2020) Ruth McCambridge, *The Nonprofit Quarterly*. “NPQ welcomes this development among philanthropists,” writes the publication’s editor-in-chief, “who have for many decades taken a highly defensive stance when it comes to actually promoting rather than resisting regulations. Seeing a group like this put out public policy proposals that might not be received universally warmly by institutional peers is a promising change....”

Compare the critique by the President and CEO of the Philanthropy Roundtable: [The Left Wants a Philanthropy of the Few](#) (December 14, 2020) Elise Westhoff, *The Wall Street Journal*. “It takes a fine sense of irony to start the season of giving,” she begins her op-ed, “by trying to limit Americans’ generosity. Yet that would be the outcome of [...this Initiative that would...] stifle Americans who want to support worthy causes but aren’t superrich. It would also further the goals of progressive politicians who seek to punish charitable giving they don’t like and can’t control.”

Conclusion

We’ll follow these and other reactions as they develop. Our report back will, as always, include the vibrant dialogue on Twitter that includes not only philanthropy voices in the field but also our favorite academic experts in law and accounting. The latter group, in particular, always have quite a lot to say.

— Linda J. Rosenthal, J.D., FPLG Information & Research Director