Congress Needs to Include Relief for Charitable Nonprofits in Disaster Relief Legislation

By: David L. Thompson

In the past two months, Americans across the country have suffered devastating hurricanes, landslides, fires, tornadoes, and more. While the crises raged and long afterwards, charitable nonprofits have been on the scene helping their fellow residents as they also deal with the impact of the disasters on their own families and organizations. All can hope Congress immediately turns to disaster relief legislation when it returns after the elections; this time clear and consistent relief for the work of charitable organizations needs to be included.

Rather than a one-off relief bill, as has been enacted after most disasters since Hurricane Katrina in 2005, we ask that Congress enact a permanent law that guarantees temporary relief, triggered by a natural disaster declaration. Such a package should 1) help charitable organizations secure the resources they need during and after the crisis; 2) enable them to keep as many employees as possible on the payroll; and 3) remove policies that discourage people from volunteering.

Properly crafted, such a package could accelerate the cleanup from devastating storms, floods, and wildfires; help individuals, nonprofits, and for-profit businesses recover; and include permanent incentives that enable charitable organizations to continue to be the problem-solvers in their communities. Here are three core components to consider:

Enhancing charitable giving

Natural disaster relief legislation must include a supplemental temporary, targeted non-itemizer deduction. Each natural disaster prompts the need for greater resources. Disaster tax packages normally incentivize greater giving in the aftermath by removing the cap on the charitable contribution deduction of 60 percent of Adjusted Gross Income. This approach, however, is limited to the 1 in 13 taxpayers who currently itemize their deductions. Extraordinary circumstances call for more help from more people.

An above-the-line charitable deduction that is temporary (e.g., for six months after the disaster declaration) and targeted (i.e., available for donations to charitable organizations impacted by the disaster and/or engaged in relief and recovery activities in the designated disaster area) would enable all taxpayers to support their fellow nonprofits and communities in an immediate and responsible way.

Help keep nonprofit employees employed

Natural disaster tax relief legislation must also include a provision granting usable tax credits to employers that maintain employee pay during disaster-related shutdowns. Prior to the CARES Act in 2020, charitable nonprofits – which employ nearly 10% of America’s private workforce – generally were unable to utilize tax credits enacted in disaster bills because they are exempt from the income taxes to which the credits applied. The Employee Retention Tax Credit (ERTC) solved this problem by authorizing refundable payroll tax credits to all employers in recognition that direct relief, especially for charitable nonprofits, was needed to help keep people employed.

While the ERTC was the appropriate solution, it was clearly abused by unscrupulous agents and fraudsters who flooded the Internal Revenue Service with bogus claims, resulting in significant delays for legitimate employers with legitimate claims. With modifications and better oversight, a version of the ERTC, perhaps limited to charitable organizations, could be established that would help keep employees on the payroll and better able to support recovery efforts.

Incentivize, don’t discourage, volunteering

Federal policy actually discourages individuals from using their cars when volunteering. First, the charitable mileage rate – the amount per mile (14 cents) that individuals can claim as itemized deductions – has been fixed in law since the price of gasoline was $1.23 per gallon. The standard business rate, by contrast, is currently 67 cents per mile. That disparity in rates must be corrected.

Second, making matters worse, the federal government and some states require volunteer drivers to pay income taxes on expense reimbursements from nonprofits that exceed the charitable mileage rate. This means that if nonprofits – to attract and keep volunteer drivers – offer to reimburse them for mileage at the standard business rate, drivers can be taxed on the 53 cents/mile above the 14 cents/mile they could otherwise deduct.

Particularly in areas needing disaster relief, recovery, and cleanup, these policies should be reversed so individuals can help their follow residents without suffering tax consequences. Congress should raise the charitable mileage rate and ensure that mileage reimbursements up to the standard business rate are not taxable as income.

It is time for Congress to enact a reliable package of tax incentives and relief that is only triggered by a natural disaster declaration and narrowly tailored to disaster areas, so that charitable organizations can contribute more effectively to relief, recovery, and restoration of community wellbeing.

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