

# ENCOURAGING CHARITABLE GIFTS TO ARTS AND CULTURE

## SUPPORT AMERICA'S NONPROFIT ARTS ORGANIZATIONS

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### ACTIONS NEEDED

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We urge Members of Congress to:

- Enact legislation to reinstate the IRA Charitable Rollover provision, allowing individuals to roll funds from their Individual Retirement Accounts to charity.
- Cosponsor S. 548 or H.R. 1524, the artist fair-market value deduction bill, which allows artists, writers, and composers to take a fair-market value deduction for contributions of their own works to arts organizations (see Artists' Fair-Market Value Deduction Issue Brief).

### TALKING POINTS

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**The Nonprofit Arts Sector:**

- Nonprofit arts organizations improve the quality of life by contributing to lifelong learning, preserving our cultural heritage, and fostering the creative expression that tells the story of our personal and collective histories.
- In communities large and small across the country, nonprofit arts organizations engage the public in a diverse array of cultural and artistic experiences. Arts organizations offer communities a significant number of free events and provide public access to the arts through online resources and distance learning opportunities.
- Ticket sales and admission fees alone do not come close to subsidizing the artistic presentations, educational offerings, and community-based programming of nonprofit arts organizations. A significant percentage of direct financial support for nonprofit arts organizations is derived from charitable giving. Without this support, public access to the arts would be greatly diminished.
- Diverse types of charitable giving comprise support for arts organizations large and small: individual contributions; planned giving; family, business, and corporate foundation grants; in-kind contributions; and gifts of art.
- Nationally, the nonprofit arts and culture industry generates \$166.2 billion in economic activity every year—\$63.1 billion in spending by organizations and an additional \$103.1 billion in related spending by their audiences.

**IRA Rollover:**

- The IRA Charitable Rollover provision permits donors age 70.5 and older to make tax-free charitable gifts directly from their IRAs to charities, up to an annual ceiling of \$100,000. The IRA Rollover was enacted as part of the Pension Protection Act of 2006, but expired on December 31, 2007. The president's FY 2009 budget calls for extending the IRA Rollover.
- The IRA Rollover increases gifts to charity, by providing a new incentive for charitable giving. Beginning at age 70.5, all IRA owners are required to take annual minimum distributions, even if they do not need the income. With the charitable rollover, IRA owners may use the required distribution and other money in their IRAs to support charitable causes, without being taxed on the distribution. No additional tax deduction is taken for an IRA Rollover gift to charity.
- Since its enactment in 2006, the IRA Rollover has spurred millions of dollars in new gifts to all forms of charities.
- Legislation has been introduced that would make the IRA Rollover permanent, remove the arbitrary \$100,000 cap, and reduce the qualifying age to 59.5. The legislation has bipartisan support, with chief sponsors Reps. Earl Pomeroy (D-ND) and Wally Herger (R-CA) and Sens. Byron Dorgan (D-ND) and Olympia Snowe (R-ME), and is supported by a broad coalition of organizations, including the arts, higher education, human services, health, and other nonprofits.

**Artists' Fair-Market Value Deduction Brief:** Please see our separate Issue Brief on this topic.

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## **BACKGROUND**

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The United States supports a robust private charitable sector that provides many public services in fields ranging from education and health care, to arts and culture. Nonprofit organizations provide access to arts and culture in every U.S. Congressional district, and receive crucial—but indirect—government support through tax benefits that encourage charitable gifts by generous individuals.

A charitable contribution is an act of private giving for the public good. The tax deduction for charitable gifts enhances the public good by encouraging contributions to arts programs, museums, libraries, or other nonprofit efforts that serve the public. Private donations range from very small gifts to large donations and are contributed by corporations, foundations, and individuals in support of a myriad of arts programs. It is this process of private giving for the public good that sustains the arts and helps the arts to reach more and more Americans.

Charitable giving keeps access to the arts and humanities affordable for all segments of society, subsidizing thousands of programs and other activities that serve our citizens. The above measures will result in more services to the public as increased charitable giving, including gifts of art as well as cash, strengthen nonprofit arts organizations. They will encourage Americans to be as generous as possible rather than being limited by arbitrary caps and other restrictions.

## **OTHER TAX ISSUES**

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Tax policy has multiple impacts on the arts and humanities at the local, state, and federal levels. Below are descriptions of two arts-specific issues that are also worthy of congressional attention.

**Fractional gifts:** The Pension Protection Act of 2006 included a provision that severely limits donors' ability to give a gift of art over multiple years. This provision has caused major gifts to dry up, and it must be amended. Previously, a generous donor could give a gift in fractions over his or her lifetime, taking a fair-market value deduction for each fraction as it was donated. The recipient institution had the right to take possession of the work for part of each year. The new law requires donors to give the entire gift within ten years and does not allow a fair-market value deduction after the first fraction is given.

By requiring that a gift be completed in ten years and limiting its deductibility, the new law has caused donors to give far fewer works of art to collecting and educational institutions, ultimately depriving the public of the opportunity to enjoy and learn from them. Sens. Charles Schumer (D-NY) and Gordon Smith (R-OR) are working on legislation to amend the more draconian provisions of the new law, as are Reps. Tom Udall (D-NM) and Phil English (R-PA). The arts community strongly endorses their efforts.

**Qualified Performing Artist tax benefit:** Performing artists who satisfy three tests are allowed to deduct their expenses "above the line" on their tax returns, which is more advantageous than treating such expenses as itemized deductions. This tax benefit was originally enacted in 1986 and reflected the fact that many performing artists were poorly paid and that, absent some kind of help, they were unable to maintain themselves as working artists. It further recognized that artists faced significant expenses connected with gaining employment. One of the three tests mentioned above limits their allowable adjusted gross income to no greater than \$16,000. This cap has been static since it was first enacted.

Senator Schumer is working on a bill that would bring the tax code into the 21<sup>st</sup> century by raising the income cap to \$30,000 and indexing it to inflation. Performing artists should not have to live in abject poverty to qualify for this benefit. If this legislation is not enacted, artists will fall even further behind in their struggle to earn a living by their art, and the public will suffer their loss.

**We urge Congress to support efforts to amend the Pension Protection Act fractional gifts provision and to fix the out-of-date Qualified Performing Artist benefit.**