



INDEPENDENT SECTOR
A vital voice for us all

**Oral Testimony of Diana Aviv
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Before the Senate Committee on Finance
April 3, 2008**

Chairman Baucus, Ranking Member Grassley, and distinguished Members of the Committee, thank you for your invitation to talk about how the estate tax supports the services provided by charitable organizations and how we might work together to prevent abuses of our laws regarding the estate tax and charitable giving. I serve as the CEO of Independent Sector, a national coalition of 600 members that collectively represents tens of thousands of public charities, private foundations, and corporate giving programs.

America's 1.5 million charities and foundations are substantially aided by people who give their time and resources to help individuals and communities. Americans are motivated to contribute for many reasons, but research shows that tax policy has a considerable impact on *when, to whom, and how much* they give.

The estate tax has been critical in motivating Americans to give back even more to the causes they support. The Congressional Budget Office found that the estate tax leads affluent people to donate greater amounts than they otherwise would, because such donations—whether made during life or as bequests—sharply reduce estate tax liability. The CBO estimated that if the estate tax had not existed in 2000, contributions to charities would have been reduced by between \$13 and \$25 billion, which added up to more than the total donations made by all corporations that year.

The President's budget estimates that eliminating the estate tax would result in the loss of nearly \$522 billion in federal revenues over the next ten years, marking the end of countless programs that serve all Americans and help strengthen communities.

In seeing the estate tax as a vehicle to ensure that every citizen begins life with an equal opportunity to succeed, President Theodore Roosevelt endorsed the inheritance tax and stated in 1906, "The man of great wealth owes a particular obligation to the State because he derives special advantages from the mere existence of government." Like other Americans, the very wealthy benefit from government investments in areas such as defense, security, national parks, and infrastructure, and they rely on the government's protection of individual property rights. America has had a long-standing expectation that people who prosper the most in this society have an obligation to help preserve it for future generations.

As with any tax system, the estate tax can be manipulated by unscrupulous individuals to provide inappropriate financial benefits to themselves and their family. Independent Sector

has stood should to shoulder with this Committee to support the identification and punishment of those who abuse charitable resources for personal gain and to encourage charitable organizations to institute practices to prevent such abuses.

We have recently become aware of ways in which the estate-planning device known as a “charitable lead trust” makes possible tax deductions to donors and their heirs without providing the promised returns to charity. Used properly, the charitable lead trust has helped to generate considerable contributions that have generated substantial benefits for individuals and communities. However, the current statutory formula and timing for calculating tax liability creates the potential for *overstated* charitable deductions and *understated* tax liability for beneficiaries.

There are three specific ways Congress can help to deter abuses associated with estate planning and charitable organizations.

First, Congress should ensure that the IRS has sufficient resources to maintain a strong oversight, enforcement, and education program to enhance compliance by all taxpayers.

Second, Congress should pass legislation permitting the IRS to require electronic filing of nonprofits’ annual information returns and of estate tax returns. Electronic filing would increase compliance by providing immediate feedback on incomplete and potentially inaccurate information. It would also permit federal and state regulators to devote more resources to oversight, education, and enforcement, instead of cumbersome manual processing of paper returns.

Third, Congress should make necessary adjustments to the statutory formula and timing for calculating tax liability for charitable lead trusts, to help ensure that tax deductions are not taken for promised donations that never materialize, and that there is a more reasonable calculation of the projected value of any remaining amount at the end of the trust period.

Reforms of the estate tax must not benefit the few at the expense of the many. A robust estate tax would ensure adequate federal revenues and encourage charitable contributions to help nonprofits provide services vital to our communities. We urge you to protect individual legacies while safeguarding the promise of a better future for all.