‘Tis the Season for Giving: How Nonprofits Benefit
The holiday season is in full swing. It’s the time of year that highlights the important role community nonprofits play and signals the last chance for taxpayers to take advantage of charitable tax benefits before year-end. Not only is it typically a critical fundraising season for nonprofits and charities, but their community services are especially noteworthy for families in need. Policymakers, preparing for the new session, have a chance to reflect on the status of nonprofits and consider legislative actions.

The nonprofit sector plays an important role in the U.S. economy. Nonprofits traditionally provide community services unfilled by the government and private sector. According to data from the Bureau of Labor Statistics, nonprofit organizations are the third largest employer, with 12.5 million employees in 2017, up from 12.3 million in 2016. This made up more than 10% of total private sector employment in 2016. Employment in the sector translates to $45 billion in payroll tax revenue. Nonprofit employment made up at least 10% of total private sector employment in 24 states. Maine, New York, and Vermont had the highest percentage.

Charitable Donations

Public charities made up two-thirds of all registered nonprofit organizations. Donating to charitable nonprofits has two main benefits: supporting the organization’s mission and a tax deduction. In addition, strong charitable giving incentives support nonprofits through difficult times.

As the case with most sectors, the COVID-19 pandemic halted nonprofit growth. Revenue raising was tougher due to shutdowns, increased service gaps and caseloads. Employment in the sector also suffered. The Johns Hopkins Center for Civil Society Studies project job losses from just March to May 2020 was over $1.6 million workers.

The federal Tax Cuts and Jobs Act (TCJA) of 2017 law increased the standard deduction, which reduced the number of taxpayers who itemized deductions, from 30% to 11%. In the two years after the standard deduction was raised, charities experienced a 70% gap in individual charitable donations.

The 2020 Coronavirus Aid, Relief, and Economic Security (CARES) Act provided relief for charitable organizations. The CARES Act created a $300 non-itemized deduction for donations made to charitable organizations in 2020. At least 29 states fully conformed to the CARES Act provision in 2020, which lowered the cost of charitable giving. The bill also lifted existing caps on annual contributions and raised the annual limit for corporations. The Taxpayer Certainty and Disaster Tax Relief Act of 2020 extended the temporary tax benefits through the end of 2021.

The CARES Act provisions appears impactful. Despite financial strains on nonprofits, Giving USA reports Americans gave an estimated $471 billion to charities in 2020, a 5.1% increase from the previous year. More than two-thirds came from individuals.

States may treat their charitable giving incentives differently from federal tax law. State charitable solicitation regulations require charitable nonprofits soliciting donations to register or renew registration with the state before fundraising activities kick off. At least 41 states and the District of Columbia require some form of charitable fundraising registration.

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1 The Bureau of Labor Statistics has not routinely updated employment and wage data for the nonprofit sector. The last update was made in 2017.

**Nonprofit Legislation**

The nonprofit sector encompasses a wide range of entities that vary greatly in size and scope. As a result, there is a lot of legislation impacting these organizations in each legislative session. Bills vary widely on their topic, from amending specific details in nonprofit corporation laws to charitable donation regulation. Nonprofit legislation in 2021 legislation sessions was typical, with many bills looking at taxation, contribution incentives, charitable donation regulations, charitable gaming, business liability, unemployment insurance protections, emergency appropriations or measures, and minor amendments to nonprofit corporation laws. Below are a few specific enactments from the 2021 legislative session that stand out from general trends:

**Arkansas S.B. 535: Personal Privacy Protection**

Creates the Government Interaction with Nonprofit Entities Act, regulating public agency interaction with a nonprofit entity. The act amends a law concerning disclosure of information maintained by nonprofit entities and creates a misdemeanor offense for the disclosure of private information of a nonprofit entity.

**Arizona S.B. 1828: Non-Itemizer Charitable Deduction**

Increases the cap on the charitable contribution by the rate of inflation each year.

**California S.B. 87: Small Business COVID-19 Relief Grant Program**

Administers three rounds of grants of up to $25,000 to qualified small businesses, including small nonprofits; appropriates $2.075 billion for small business COVID-19 relief grants, including $50 million for nonprofit cultural institutions.

**Colorado S.B. 242: Housing Development Grants Hotels Tenancy Support**

Concerns the expansion of the allowable uses of the housing development grant fund; relates to grants and loans to local governments and nonprofit organizations for the rental, acquisition, or renovation of underutilized hotels, motels, and other properties to provide non-congregate sheltering or affordable housing for people experiencing homelessness.

**Hawaii S.B. 244: Food Donations**

Expands liability protection for donors to include donations of food and similar donations made to needy persons by organizations. The act authorizes the donation of expired food when the donor reasonably believes in good faith that the food remains fit for human consumption.

**Maryland H.B. 908: Unemployment Insurance Protections**

Permits contributing employers and reimbursing nonprofits with fewer than 50 employees to defer unemployment insurance contributions for the first three quarters of 2021 without filing an extension or paying interest.

**New Jersey A.B. 3996: Pandemic Public Contracts Modifications**
Provides for the modification of contract terms on public contracts between non-profit organizations and state agencies for the inability to perform due to the COVID-19 Public Health Emergency and State of Emergency.

**South Dakota H.B. 1079: Limited Actions Against Nonprofits and Charitable Trusts**
An executive branch agency, bureau, department, division, board, commission, officer, or official may not require any annual filing or reporting of a nonprofit corporation or charitable trust that is more stringent, restrictive, or expansive than that required by state or federal law.

**Tennessee H.B. 697: Tort Liability Reform**
Broadens the definition of governmental entity under the Tennessee Governmental Tort Liability Act to include certain nonprofit property owners associations that, among other requirements, own and operate a water or sewer distribution service.

**West Virginia S.B. 263: Online Raffles and Bingo**
Authorizes charitable and public service organizations to raise funds by conducting charitable raffles and bingo virtually over the Internet.

Additionally, because of the ongoing Covid-19 pandemic, nonprofits were eligible to receive aid under pandemic federal stimulus packages, such as state and local flexible aid and Small Business Administration programs like the Paycheck Protection Program, Economic Injury Disaster Loans, and Main Street Lending Programs.

Legislative efforts to support nonprofits are building momentum. Maryland Senator Cheryl Kagan (D), in consultation with NCSL and the National Council of Nonprofits established the National Nonprofit Legislative Caucus. The bipartisan, bicameral group of legislators is dedicated to supporting charitable nonprofits and their communicates. Legislators are invited to join the caucus to share ideas, proposed legislation and talk with nonprofit leaders.

It is no surprise the pandemic has shed light on the impact of nonprofits in improving the quality of life for individuals, communities and governments at all levels. To support their endeavors, legislators are taking note to make their small business operations less restrictive and more inclusive of incentives. Without a significant push during the holiday giving season, combined with expanded temporary contribution incentives, the spectrum of services provided by nonprofits would be challenging to execute.

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