

The Latest in Tax Policy for Artists, Organizations, and Philanthropy

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#ARTSADVOCACY





- COVID-19 Relief Packages**
- 116th Congressional Asks**
- Tax-Writing Committees**

CARES Act Highlights

- **Paycheck Protection Program** forgivable loans administered by local lenders for nonprofit employers with up to 500 employees.
- **Mid-Size Business Loan Program** to implement a program to support nonprofit employers with between 500 and 10,000 employees, including loan-forgiveness and other provisions.
- **Enhanced Charitable Giving Incentives**, including a 2019 non-itemizer deduction for cash gifts of up to \$300 and a removal of AGI limits on deductible donations.

COVID-19 Relief: Encourage Charitable Giving

We Urge Congress To:

- Expand the above-the-line tax incentive for non-itemizers to give more by removing the \$300 cap and allowing all taxpayers to claim the deduction on both 2019 and 2020 tax returns.
- When Congress turns to provisions affecting 2021 and beyond, it should renew the CARES Act removal of the Adjusted Gross Income limitation on deductibility of charitable gifts.

COVID-19 Relief: Forgivable Loans

- Increase funding for the **Paycheck Protection Program** and eliminate the 500-employee cap for 501(c)(3) nonprofit organizations. Provide dedicated funding available to nonprofit organizations.
- **Mid-Size Business Loan Program:** Adjust CARES Act Section 4003(c)(3)(D)(i) to implement a program to support nonprofit employers with between 500 and 10,000 employees, including loan-forgiveness and other provisions. Ensure nonprofit eligibility for the Main Street Lending Program.

COVID-19 Relief:

- **Treat Self-Funded Nonprofits Fairly** by increasing the federal unemployment insurance reimbursement for self-funded nonprofits to 100% of costs. As currently written Section 2103 of the CARES Act will subject nonprofits throughout the country to crippling payments to their state unemployment systems later this year, while other employers will likely experience little or no additional costs resulting from mass COVID-19-related layoffs.

Encourage Charitable Giving

We Urge Congress To:

- Restore and expand the full value and scope of charitable giving incentives for all taxpayers through enacting a universal charitable deduction (UCD).
 - Permanently extend the UCD included in the CARES Act and raise the \$300 cap for non-itemizers
- Support further policies that will strengthen the nonprofit arts community by passing the Legacy IRA Act (H.R. 3832 and S. 1257) and preserving the Johnson Amendment's protections from partisanship.

Grow Giving through Enacting a Universal Charitable Deduction

- Nonprofit arts organizations are an essential part of the broader community of approximately 1.4 million nonprofit 501(c)(3) organizations, working alongside hospitals, educational institutions, food assistance programs, and the full array of charitable organizations
- Under comprehensive tax reform legislation enacted in 2017, taxpayers claiming the charitable deduction have declined, reducing incentives for charitable giving.
- Congress should support increased charitable giving by enacting a Universal Charitable Deduction, available to all taxpayers, whether or not they itemize their tax returns.

Grow Giving through the Legacy IRA Act (H.R. 3832 and S. 1257)

- The Legacy IRA Act would expand the IRA Charitable Rollover to allow seniors aged 65 and older to make tax-free distributions to charities through life-income plans
- This would provide a guaranteed income for the senior for life and supports charities without negatively affecting federal tax payments since the senior's annual retirement income from the life-income plan is fully taxed.
- Congress can easily increase charitable giving from middle-income seniors by passing the Legacy IRA bill.

Maintaining Nonprofit Nonpartisanship

- Preserve the Johnson Amendment and protect 501(c)(3)s from partisanship.
- Some in Congress have proposed allowing nonprofits supported by tax-deductible contributions to endorse candidates for office, removing the protection in law (called the Johnson Amendment) that prevents nonprofits from being pressured into partisan activity
- The broad charitable, religious, and philanthropic communities have come out in strong opposition to repeal of the Johnson Amendment.

Supporting Tax Fairness for Artists and Writers

We urge Congress to:

- Enact the Artist-Museum Partnership Act (HR 1793) which would allow artists to deduct the fair market value of their work when they donate it to charitable collecting institutions.
- Update the qualified performing artist tax deduction by supporting the Performing Artists Tax Parity Act of 2019 (HR 3121) and reinstate deductions for unreimbursed employee business expenses.
- Maintain artist eligibility in the Low-Income Housing Tax Credit program, the income tax exemption for Private Activity Bonds, and the Historic Tax Credit.

Fair Market Deduction for Artists' Donations

Problem

- Museums, libraries and archives receive new works primarily through donations
- Unlike collectors, artists can only claim a tax deduction for the value of the materials, not the value of the art
- Virtually no incentive at all to donate

Solution

- Legislation to permit a Fair Market Value deduction for work donated by its creator

Fair Market Deduction for Artists' Donations

- A report prepared for Congress by the National Endowment for the Arts at the request of Sen. Patrick Leahy (D-VT) and former Sen. Robert Bennett (R-UT) demonstrates how current law impacts artists and writers and undermines the ability of cultural organizations to preserve our nation's heritage.

SIEGEL: But to clarify this - if I, as the artist in my hypothetical wood carving - if I sold that to a collector for \$100,000 and the collector then donated it to the museum...

Sen. LEAHY: Oh, the collector - he could deduct \$100,000, I mean, that's the irony of the whole thing. If you made a piece of art that cost you \$20 in material, you donate it to museum. You get the \$20. You sold it for \$100,000 to somebody, they in turn or their estate gives it to the museum, they deduct the \$100,000. It just doesn't seem to make a great deal of sense.

Tax Deductions for Artists' Expenses

- Tax reform signed into law in 2017 (P.L. 115-97) preserved the long-standing “above the line” tax deduction for job-related expenses of performing artists who work for two or more employers and have related expenses that are more than 10% of their performing arts income.
- Last June, Reps. Judy Chu (D-CA) and Vern Buchanan (R-FL) introduced the Performing Artist Tax Parity Act of 2019 (H.R. 3121) which would raise the income ceiling to \$100,000 for individual filers and \$200,000 for joint filers.
- Across occupations, the tax code overhaul eliminated the opportunity to deduct unreimbursed employee business expenses that exceed 2% of adjusted gross income. For artists who are employees, this means that the costs of supplies, instruments, professional dues, and other expenses essential to employment are no longer tax-deductible.

Low-Income Housing Tax Credit (LIHTC)

- The LIHTC program has preserved existing affordable housing and built new affordable housing nationwide, including almost 3 million new housing units.
- Some of this housing brings artists into city-centers to preserve and support the cultural community, and helps address vacant industrial properties, restores community access, and promotes economic growth. The LIHTC was preserved in tax reform.



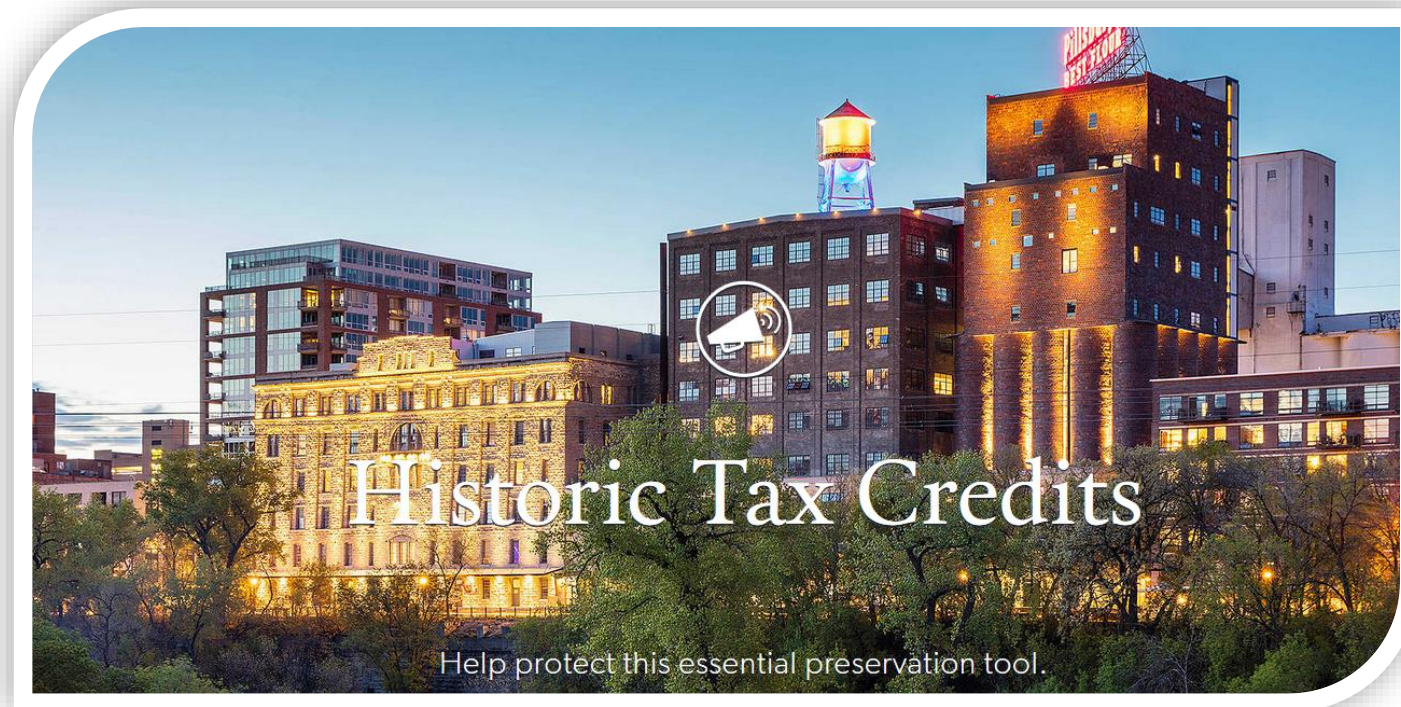
Pittsburgh's Spinning Plate Artist Lofts opened in 1998 with the support of Low Income Housing Tax Credits. // Action Housing

Low-Income Housing Tax Credit (LIHTC)

Developers in Baltimore, Minneapolis, Harlem, Houston, Pittsburgh, and scores of other places have used federal tax credits to build affordable lofts and studios exclusively for artists whose income falls below median levels. Such efforts have been lauded as a critical way to help preserve and support a city's cultural community, especially in cities like New York that are experiencing an affordability crisis. Cities often use artists' housing as a development tool, to rejuvenate abandoned or vacant industrial properties.

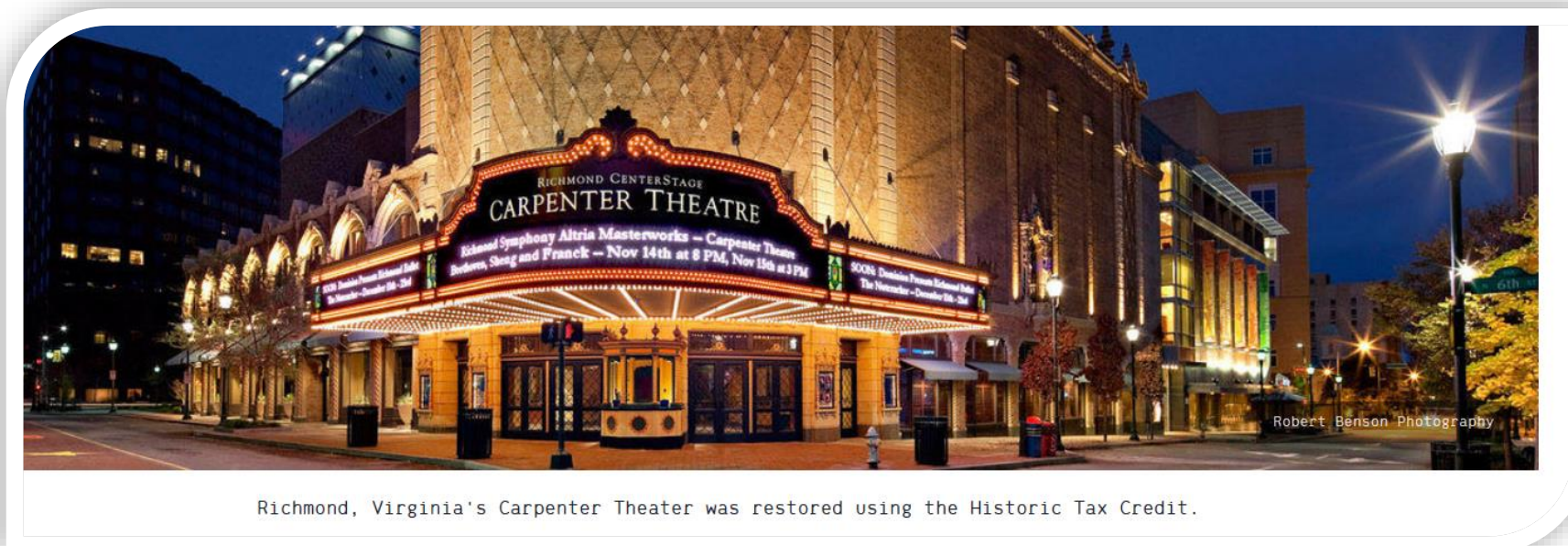
Historic Tax Credit (HTC)

- For over three decades, the HTC has been a widely used redevelopment tool for cities, towns, and rural communities across the country. It has a proven track record of stimulating



Historic Tax Credit (HTC)

- Through the life of the program, the HTC has preserved more than 42,000 buildings, expanding cultural access and preserving American heritage.
- Tax reform preserved the 20 percent credit but eliminated the 10 percent credit for pre-1936 buildings.



Richmond, Virginia's Carpenter Theater was restored using the Historic Tax Credit.

Private Activity Bonds

- State and local governments use private activity bonds to provide financing at lower borrowing costs, enabling construction of cultural infrastructure projects like museums and concert halls, as well as also hospitals, port authorities, and housing projects.
- Nonprofits have used tax-exempt private activity bonds to obtain lower-cost financing for such projects that provide a benefit to the public.

Congressional Tax-Writing Committees

- The House Ways and Means Committee is controlled by the Democrats, who have the House majority
- The Senate Finance Committee is controlled by Republicans, who have the Senate majority

Congressional Tax-Writing Committees

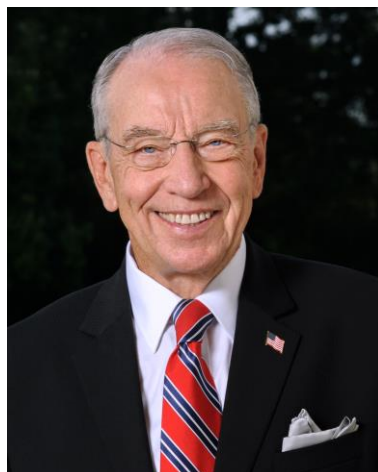
1. House Ways and Means Leadership

- Chairman—Rep. Richie Neal (D-MA)
- Ranking Member—Rep. Kevin Brady (R-TX)



2. Senate Finance Leadership

- Chairman—Sen. Chuck Grassley (R-IA)
- Ranking Member—Sen. Ron Wyden (D-OR)



House Ways and Means Committee

Democrats (25):

Richard Neal (MA-01) – Chair

John Lewis (GA-05)

Lloyd Doggett (TX-35)

Mike Thompson (CA-05)

John Larson (CT-01)

Earl Blumenauer (OR-03)

Ron Kind (WI-03)

Bill Pascrell (NJ-09)

Danny Davis (IL-07)

Linda Sanchez (CA-38)

Brian Higgins (NY-26)

Teri Sewell (AL-07)

Suzan DelBene (WA-01)

Judy Chu (CA-27)

Gwen Moore (WI-04)

Dan Kildee (MI-05)

Brendan Boyle (PA-02)

Don Beyer (VA-08)

Dwight Evans (PA-03)

Brad Schneider (IL-10)

Tom Suozzi (NY-03)

Jimmy Panetta (CA-20)

Stephanie Murphy (FL-07)

Jimmy Gomez (CA-34)

Steven Horsford (NV-04)

Republicans (17):

Kevin Brady (TX-08) – Ranking Member

Devin Nunes (CA-22)

Vern Buchanan (FL-16)

Adrian Smith (NE-03)

Kenny Marchant (TX-24)

Tom Reed (NY-23)

Mike Kelly (PA-16)

George Holding (NC-02)

Jason Smith (MO-08)

Tom Rice (SC-07)

David Schweikert (AZ-06)

Jackie Walorski (IN-02)

Darin LaHood (IL-18)

Brad Wenstrup (OH-02)

Jodey Arrington (TX-19)

Drew Ferguson (GA-03)

Ron Estes (KS-04)

Senate Finance Committee

Republicans (15):

Chuck Grassley (IA) – Chairman

Mike Crapo (ID)

Pat Roberts (KS)

Mike Enzi (WY)

John Cornyn (TX)

John Thune (SD)

Richard Burr (NC)

Johnny Isakson (GA)

Rob Portman (OH)

Pat Toomey (PA)

Tim Scott (SC)

Bill Cassidy (LA)

James Lankford (OK)

Steve Daines (MT)

Todd Young (IN)

Ben Sasse (R-NE)

Democrats (13):

Ron Wyden (OR) – Ranking Member

Debbie Stabenow (MI)

Maria Cantwell (WA)

Bob Menendez (NJ)

Tom Carper (DE)

Ben Cardin (MD)

Sherrod Brown (OH)

Michael Bennet (CO)

Bob Casey (PA)

Mark Warner (VA)

Sheldon Whitehouse (RI)

Maggie Hassan (NH)

Catherine Cortez Masto (NV)



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