



# Recent Developments

*Updated as of September 7, 2017*

## Capitol Hill

1. **A perfect storm that may cost charities billions.** A perfect storm is brewing in the heart of the nation's capital.

*It's called tax reform. And its impact could be billions of dollars lost in giving to nonprofits every year.*

ECFA recently hosted two of the top experts in charitable giving and tax policy for a 1-hour webinar on all the latest developments. Here are 3 important takeaways from the conversation with our special guests Michael Batts and David Wills:

- **Tax reform is more likely now than it has been in decades.** Leaders across the political spectrum agree something must be done about the growing complexity of the tax law. Since the federal tax code last underwent major changes back in 1986, the code and related regulations have ballooned to over 10 million words. It has been more than 30 years since the last significant reforms because making these changes in the tax law requires close cooperation among different branches of government. With one party now occupying leadership in the House, Senate, and White House, the chances of seeing tax reform pass are much more likely.
- **Changes to the charitable deduction could cost nonprofits billions.** A very important provision in the tax law for nonprofits is the 100-year-old charitable contribution deduction. Studies have shown the charitable deduction is very effective as a matter of tax policy, both influencing when and how much Americans give to nonprofits. Congress is considering multiple changes to the charitable deduction and other tax provisions that would decrease incentives to give and cost charities billions of dollars in giving.
- **You can make a difference.** Tax reform is still a work in progress, and there is time to influence the laws that could impact our churches and ministries for generations to come. There are certain proposals like expanding the current charitable deduction for itemizers to a universal charitable deduction (also known as the above-the-line deduction), which could actually lead to an increase, rather than a decrease, in charitable giving. But to maintain or even strengthen the charitable deduction, Congress and the White House will need

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to be encouraged by real stories of impact from nonprofits that benefit from these important giving incentives.

For more tax reform insights and practical tips from the experts, catch [What to Look for in Charitable Gift Tax Reform](#) – the latest FREE webinar-on-demand from ECFA.

- 2. White House releases overview of tax reform plan.** The White House has released a one-page summary which it calls a “broad brush overview” of President Trump’s tax reform agenda for individuals and corporations. In a joint press conference with Gary Cohn, Director of the National Economic Council and Steven Mnuchin, Secretary of the Treasury, the core principles of the tax plan were outlined: “to make business rates competitive, bring back trillions of dollars to create jobs, simplify personal taxes, and to create a middle-class tax cut.”

The tax reform package, which closely resembles the plan outlined by the Trump campaign in the fall of 2016, includes cutting the corporate tax rate from 35% to 15% in order to help US businesses compete in an increasingly aggressive global economy. On the personal tax side, the plan includes reducing individual income tax brackets from 7 to 3, doubling the standard deduction, and eliminating itemized deductions other than home mortgage interest and charitable deductions.

The Alliance for Charitable Reform (ACR) made the following statement upon the release of the proposal: “We applaud the administration for preserving the charitable deduction and for recognizing that it is a lifeline for millions, not a tax loophole.”

- 3. Bipartisan CHARITY Act introduced in the U.S. Senate.** Two members of the U.S. Senate Finance Committee, John Thune (R-S.D.) and Bob Casey (D-Pa.), have come together to introduce the Charities Helping Americans Regularly Through the Year (CHARITY) Act.

According to a press release from Senator Thune, “[The Act] would encourage charitable giving and make it easier for foundations and other tax-exempt organizations to conduct their charitable mission. The CHARITY Act (S. 1343) builds on several significant Thune-and-Casey-supported charitable tax provisions that were signed into law in 2015, including one that makes permanent a law allowing taxpayers at least 70-and-a-half-years old to make charitable contributions directly from their IRAs. Thune introduced a similar version of the CHARITY Act in the 114th Congress.”

Visit <https://www.thune.senate.gov/public/index.cfm/2016/4/thune-wyden-introduce-bill-to-encourage-year-round-charitable-giving> for the full text and a summary of the CHARITY Act.

- 4. Trump orders religious protection from HHS Mandate.** President Trump recently issued an Executive Order instructing the Department of Health and Human Services and other Federal agencies to “address conscience-based objections” to the preventive care mandate (also known as the HHS mandate or “contraceptive mandate”), in order to protect religious liberty.

The order follows a May 2016 ruling by the US Supreme Court that overturned lower court rulings against the Little Sisters of the Poor, an international Roman Catholic Organization which had been charged with failure to comply with the mandate.

Health and Human Services Secretary, Tom Price issued a statement in response to the Executive Order saying, “Religious liberty is our country’s first freedom. Americans of faith play a vital role in caring for our most vulnerable citizens, including the elderly and the poor. We welcome today’s Executive Order directing the Department of Health and Human Services to reexamine the previous administration’s interpretation of the Affordable Care Act’s preventive services mandate, and commend President Trump for taking a strong stand for religious liberty. We will be taking action in short order to follow the President’s instruction to safeguard the deeply held religious beliefs of Americans who provide health insurance to their employees.”

Read more about the Little Sister case as well as the Executive Order at <http://www.becketlaw.org/case/littlesisters/>.

- 5. Trump issues executive order on religious freedom.**<sup>1</sup> In May 2017, President Trump issued an Executive Order on religious freedom, with special emphasis on political expression by religious organizations. Regarding federal tax law which prohibits churches and nonprofits from endorsing or opposing political candidates, the IRS has taken the position that political remarks made during a church sermon can be a violation of the law, resulting in possible revocation of the church’s tax-exempt status.

Trump’s order calls for the IRS and other federal agencies to take a hands-off approach to this type of political expression and for the federal government to “respect and protect the freedom of persons and organizations to engage in religious and political speech.” The order states that the Department of the Treasury should not take any “adverse action” (such as tax penalties or the denial of tax-exempt status) against organizations exercising their religious freedom through political expression.

Though a step in the right direction, the executive order does not yet indicate a major policy change. Michael Batts, CPA and President of Batts, Morrison, Wales & Lee, says that the executive order basically reflects the current practical stance of the IRS, as there is no publicly-known case in the US of the IRS denying a church’s tax-exempt status in response to comments made during a worship service. Further, Batts asserts that Trump’s order is not a substitute for legislation, since executive orders can be rescinded by future administrations and can only be practiced to the extent permitted by law.

Time will tell as bills currently in the House and Senate seek to create a change in the law that would clearly permit churches and nonprofits to engage in political communications as relevant to their customary exempt activities.

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<sup>1</sup> Michael Batts, CPA. Batts Morrison Wales & Lee Nonprofit Red Alert, May 5, 2017.

- 6. Federal judge halts overtime pay rule – temporary injunction puts implementation in question.**<sup>2</sup> A federal judge has issued a nationwide temporary injunction halting the implementation of a new overtime pay rule scheduled to go into effect on December 1, 2016. The judge, Amos L. Mazzant III – appointed by President Obama – ruled that the Obama administration (specifically, the U.S. Department of Labor) exceeded its legal authority in implementing the new rule. *Consequently, this rule change is on hold for all U.S. employers.*

The rule change would double the minimum threshold salary for employees recognized as "white collar" to be exempt from overtime pay – raising it from \$455 per week to \$913 per week, as we have reported extensively in previous Special Alerts. The court case was brought by 21 states, all challenging the legal validity of this increased salary threshold.

What lies ahead? The injunction applies until Judge Mazzant issues a full ruling on the validity of the new overtime pay regulations. Some observers have reported that they believe it is likely that Mazzant will ultimately rule that the new rule is invalid, based on the legal analysis contained in his 20-page order.

In the meantime, under the Trump administration the Department of Labor has issued a request for information on underlying policy matters of overtime regulations. This may signal that proposed regulations may be forthcoming and that they could impact more than just threshold levels for overtime exemptions.

Employers that have planned to make changes in response to the earlier overtime pay regulation may thus wait until the rule's future is decisively determined. They should remain attentive, however, to legal compliance in other still-applicable areas of overtime rules, such as making sure that the job duties necessary to meet the white-collar exemption are satisfied and that currently non-exempt employees are properly paid overtime. We will provide updates with more information on this critical topic as it becomes available.

- 7. Legislation aims to protect free speech of churches and nonprofits.** The “Free Speech Fairness Act” has been introduced in the U.S. Senate and House of Representatives as a legislative fix to the controversial “Johnson Amendment”—a stipulation added to the tax code in 1954 that prevents nonprofits and churches from exercising their freedoms to speak out on political candidates and, as currently interpreted by the IRS, on important moral or social issues that may be tied to political campaigns.

The legislation introduced by Senator James Lankford (R-OK) and Reps. Steve Scalise (R-LA) and Jody Hice (R-GA) is consistent with the recommendations of the Commission on Accountability and Policy for Religious Organizations.

- 8. Small ministries may qualify to maintain stand-alone health reimbursement arrangements.** A recent change in the law will allow many small ministries to

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<sup>2</sup> Sally Wagenmaker, Esq. and Michael Batts, CPA. Batts Morrison Wales & Lee Nonprofit Red Alert, November 23, 2016.

reimburse employees for individual insurance premiums and medical expenses on a tax-free basis.

The payments to the employee can be made under a small employer health reimbursement arrangement (HRA). Churches must have fewer than 50 full-time employees and cannot offer a group health plan to any of their employees.

The amount of the payments and reimbursements under the HRA cannot exceed \$4,950 or \$10,000 in the case of an arrangement that also provides for payments or reimbursements for family members of the employee). The limitation is subject to annual cost of living adjustments.

For more information on these new HRA provisions, see the [Conner & Winters Client Alert](#). You can also subscribe to their benefits blog by going to [www.benefitslawupdate.com](http://www.benefitslawupdate.com) and entering your e-mail address in the “subscribe to blog” box.

- 9. House bill would expand IRA charitable rollover to include donor advised funds.** The “Grow Philanthropy Act” (H.R. 4907) would amend current law to allow distributions to donor advised funds to qualify for the tax-favored IRA charitable rollover.

The bipartisan bill was introduced in the U.S. House of Representatives back in April and was recently discussed at a hearing of the Ways and Means Committee.

For more coverage of The Grow Philanthropy Act, visit the Alliance for Charitable Reform website: <http://acreform.org/blog/grow-philanthropy-act-discussed-at-hearing/>.

- 10. Lawmakers Push Back Against Donor Disclosure with Proposed Legislation.** Legislation has been introduced in the U.S. House of Representatives that, if passed and signed into law, would eliminate the schedule of contributors (Schedule B) currently required on IRS Form 990. Through this schedule on their annual information return to the IRS, nonprofits must report information including the names of major donors and their contribution amounts.

Although Schedule B is not available for public inspection, proponents of “Preventing IRS Abuse and Protecting Free Speech Act” (H.R. 5053) argue the information on the form can be abused by the IRS to target taxpayers and that some state attorneys general are improperly demanding the schedule be included in their charitable solicitation registration process.

For more information and the status of the bill, see “Schedule B Target Of Federal Legislation” from *The NonProfitTimes*.

- 11. The Revised Form I-9 Gets a New Effective Date.**

The revised Form I-9 will be mandatory for employer as of September 17, 2017. The form was originally slated to be effective as of July 17, 2017, but technical glitches in a version of the revised form caused a delay. Employers should ensure they have the latest version from [www.USCIS.gov/i-9](http://www.USCIS.gov/i-9).

## **Church/Clergy**

### **1. Finding hope and help for the overwhelmed church financial manager.**

“Lonely... frustrated... and overwhelmed.” These are just a few of the words that capture how many pastors and church leaders feel when it comes to administering the “business” aspects of the church—areas like budgeting, financial oversight, and seemingly ever-changing laws and regulations.

*But what if things were different? What if there were resources for churches to meet these pressing issues? What if they were clearly communicated and easy to apply? What if the church’s budget for these resources was not a factor?*

This is the bold vision embraced by ECFA (Evangelical Council for Financial Accountability) with the launch of ChurchEXCEL.org—a free portal now updated each month to help church leaders overcome these challenges with confidence and pour their focus into fulfilling the Great Commission.

Through ChurchEXCEL, subscribers can now experience a variety of innovative tools and training, including an online Knowledge Center, Webinars, Courses, Podcasts, and more. Thanks to the generosity of ECFA and a grant from Lilly Endowment, these resources (worth over \$500 per year) are available at no cost to churches.

“These significant resources will instill hope and offer help for thousands of churches as they grapple with governance, financial management, and gift administration issues,” said Dan Busby, ECFA President.

To develop biblical, practical, and relevant resources of the highest quality, ECFA has enlisted a phenomenal advisory committee of 12 leaders across the body of Christ who bring a wealth of expertise and have a passion for the church:

- Erika Cole, Managing Partner, Law Offices of Erika Cole
- Rollie Dimos, Internal Audit Director, General Council of the Assemblies of God
- David Fletcher, Executive Pastor, EvFree Fullerton, and Founder, XPastor.org
- Lisa Fort, Senior Tax Manager, Plante Moran
- Gary Hoag, Generosity Monk
- Jennifer Neal, Director of Finance, College Park Church
- Mark Rennaker, Director of Thrive Financial Initiative, The Wesleyan Church
- Patricia Shelton, Church and Nonprofit Consultant
- Handel Smith, Chief Domestic Officer, Church of God Ministries
- Lisa Stewart, Chief Financial Officer, Celebration Church of Jacksonville
- Emily Ver Steeg, Church Administrator, Crossroads Fellowship Church
- Glenn Wood, Pastor of Administration, Seacoast Church

Word about ChurchEXCEL is spreading quickly as hundreds of churches have already begun enjoying the benefits since the subscription portal launched in April 2017.

For your free subscription or to share this exciting news with a friend, visit ChurchEXCEL.org.

- 2. IRS may be auditing churches, even without final regulations.** For several years now, the Internal Revenue Service has been without final regulations on the proper protocol for initiating church tax audits. But according to a recent federal court case, the lack of approved guidelines may not be stopping the agency from continuing its audits of churches.

In an article reporting on the *Bible Study Time, Inc. vs. United States* case, Attorney Bruce Hopkins observes that the IRS Director of Exempt Organizations approved an audit of the organization in question, even though the Director of EO has not been confirmed in final regulations to be sufficiently high ranking to initiate an audit under the protections of the Church Audit Procedures Act (IRC Section 7611).

Although the IRS eventually pursued a different strategy (bank third-party summonses) to gather information about the organization's finances, the case still raises interesting questions about whether the agency has been attempting to initiate other church tax audits despite no final regulations on who within the Treasury Department has the proper authority to do so.

- 3. Heightened procedures now apply to church employment tax audits.** For decades, federal law has required the Internal Revenue Service (IRS) to follow strict guidelines in the process of auditing churches for compliance with rules related to maintaining their tax-exempt status ("Church Audit Procedures Act," IRC 7611).

Now these heightened audit procedures will also apply in the context of employment tax audits, according to a December 17 internal IRS memo. One practical result of this change may be less church employment tax audits as the IRS has yet to officially revise regulations that have been years in the making to specify who is "an appropriate high-level Treasury official" to approve tax inquiries and examinations.

## **Court Issues**

- 1. Missouri church scores major Supreme Court victory.** The U.S. Supreme Court has just awarded a major victory to Trinity Lutheran Church in Columbia, Missouri. The church which operates a child learning center brought a legal challenge against the state after being denied participation in a state grant program for playground equipment solely due to the church's religious status.

The Court found in a 7-2 decision written by Chief Justice Roberts that, under strict scrutiny review, the church's Free Exercise rights under the First Amendment were violated because there was no compelling interest to justify the state's policy of excluding religious groups. The Court went on to express that this denial from the

state's grant program simply because Trinity Lutheran happens to be a church is "odious to our Constitution . . . and cannot stand."

Attorney Nate Adams (Holland & Knight) writes, "The ruling is likely to impact many types of religious institutions eligible to participate in a variety of social services and educational programs but which are currently barred from doing so because they are religious."

The Alliance Defending Freedom represented the church in the case, and on the same day as the Trinity Lutheran decision, had another important religious freedom case approved by the Court to be heard in its next term – *Masterpiece Cakeshop v. Colorado Civil Rights Commission*.

For more information on these two critical cases involving religious freedom, visit <http://www.adflegal.org/>.

- 2. Housing benefits for ministers are back under attack.** Freedom From Religion Foundation (FFRF) has filed a new lawsuit in federal court challenging the constitutionality of the ministers' housing exclusion.

Under current law (Internal Revenue Code, § 107), qualified ministers may exclude from income tax, within certain limits, the rental value of church-provided housing or housing allowances for ministers owning or renting their homes. FFRF charges the law unconstitutionally provides "preferential and discriminatory tax benefits" and violates equal protection principles.

This attack on the housing exclusion is just the latest attempt by FFRF, a group which describes itself as a promoter of nontheism and separation between religion and government. In 2014, a U.S. Appeals Court denied a similar challenge by FFRF on the procedural ground of standing.

The court concluded FFRF could not proceed with its case at the time because its leadership had not suffered any "concrete and particularized" injury. In other words, FFRF could not sue because its leaders were never actually denied the benefit of a housing allowance from the IRS. The court went on to suggest, though, FFRF may have standing if its leaders were to pay income taxes on a designated housing allowance, claim a refund from the IRS, and then sue if the IRS rejected or failed to act upon their claims.

According to the latest court filings, FFRF appears to have followed the appeals court's roadmap in bringing this suit. It claims standing is now met because its leaders have paid taxes on designated housing allowances and been denied refunds after requesting them from the IRS.

Interestingly, the federal government who has the responsibility for defending this provision of the tax code conceded in its first filing in the case that based on its understanding of the facts FFRF has the legal standing required to challenge the housing allowance exclusion (while maintaining there is no standing to challenge the exclusion for parsonages). While this is simply a procedural update—there has been no decision by the court on the merits—it is an important one. FFRF's previous



attack on the housing allowance was ultimately rejected by the appeals court based on standing.

The good news is that there have been several clergy members allowed to intervene in the case as defendants. These defendants and the Federal Judge hearing the case have both raised standing questions which are currently under review.

Should the court determine that there is sufficient standing by the plaintiffs it will remove an important barrier to allowing FFRF to proceed for the time being with its latest challenge to the housing allowance at the federal district court level.

*What is the immediate impact for ministers and churches?* This lawsuit is still in the early stages. The mere filing of the case and initial briefs by the parties do not have any effect on ministers who are eligible for the housing exclusion under current law.

### **3. ECFA Admonishes GuideStar for Labeling Nonprofits as "Hate Groups"**

ECFA recently sent a letter (Available at: <http://www.ecfa.org/PDF/07-07-17%20GuideStar%20Letter.pdf>) to GuideStar, admonishing them for their recent consideration of labeling certain organizations as "hate groups" at the recommendation of the Southern Poverty Law Center (SPLC).

Many of our members and their donors regularly use GuideStar as a resource for obtaining objective information about specific exempt organizations. GuideStar has become a credible resource, precisely because of its neutral and objective approach to providing information. The practice of labeling any 501(c)(3) organization as a hate group undermines GuideStar's credibility among nonprofit leaders as a neutral, fact-based source of information about the nonprofit sector.

We were pleased that GuideStar apparently reversed its course on the labeling decision, at least to some extent, but we still felt compelled to express our deep concerns regarding GuideStar's consideration of this practice or any kind of similar practice in the future.

ECFA is not alone in our apprehension; more than 40 nonprofits, most falsely labeled by GuideStar, sent separate letters to the organization late last month. One mislabeled nonprofit has even filed a federal lawsuit against GuideStar over the "false and defamatory 'hate group' label." GuideStar then removed the label from the pages of the nonprofits on its site, yet released a statement saying the organization will continue to provide the "hate group" information upon request and is considering other methods of disseminating that information.

It appears there have been at least lawsuits initiated by Guidestar's actions against Christ-centered organizations. ECFA will monitor the situation and alert members of new developments.

### **4. Iowa church victorious in dispute over "public accommodations" law.** "An Iowa church is dismissing its lawsuit against state officials and the city of Des Moines, after a federal judge issued a ruling protecting churches from government censorship and

control. On October 14, a federal district court held that churches are not public accommodations subject to government control and that state officials have no business determining which church activities are ‘religious enough’ and which aren’t.”

Read more on the story from Alliance Defending Freedom at <http://adflegal.org/detailspages/press-release-details/>.

- 5. Supreme Court holds that government must be content-neutral when regulating free speech.** On June 18, 2015, the Supreme Court ruled unanimously in favor of Good News Community Church in the church’s lawsuit which challenged the constitutionality of a signage ordinance enacted in Gilbert, AZ.

The ordinance significantly restricted the church’s ability to utilize small, temporary signs to advertise its worship services, which were conducted at varying, temporary locations in and near the Town of Gilbert. Other types of signs, including “Ideological Signs” and “Political Signs,” had comparatively few restrictions under the ordinance.

The town defended this signage discrimination by stating that political and ideological signs have greater First Amendment importance than religious signs. The town also stated that the ordinance’s sign categories were not content based because they did not discriminate against a specific viewpoint and they were based on the town’s interest in promoting safety and aesthetic appeal, not based on discriminating against certain types of speech. The Ninth Circuit agreed, and upheld the ordinance.

However, the Supreme Court stated in its opinion that an “innocuous justification” cannot excuse a law that facially discriminates on the basis of content. Rather, the Supreme Court held that when **either** the purpose of a law is content based **or** it is content based on its face, it must be subjected to strict scrutiny. In this case, the law did not survive strict scrutiny because the Town of Gilbert did not demonstrate that the categorical discrimination itself furthered a compelling government interest.

This ruling represents a victory for all types of free speech, and emphasizes that the government cannot “play favorites” when it comes to regulating free speech, even if such regulation appears to be well-intended.

More information is available in a news release by Alliance Defending Freedom, which represented Good News Community Church in the lawsuit.

- 6. Court rules on overtime pay for off-duty smartphone use.** The first judicial decision on whether non-exempt employees are owed overtime or other compensation for off-the-clock use of electronic devices has been handed down in a federal district court case *Allen v. City of Chicago*.

The case did not provide much clarity for employers. Attorney Jonathan T. Hyman explains the court applied a two-pronged test to determine whether the employees (of the Chicago Police Department, in this case) were entitled to overtime pay under the Fair Labor Standards Act (FLSA) for off-duty work on their Smartphones:

- Did they (the employees) perform compensable “work” for which they were not paid?
- Did the employer have actual or constructive knowledge that the employees performed work without compensation?

According to Hyman, the court made an important distinction on the first prong between tasks necessary to the employees’ jobs (compensable) and those incidental and non-essential (not compensable). In the final analysis, even though the court found certain off-duty work of the employees’ to be compensable, it ruled that no overtime was due because the employer did not have actual or constructive knowledge of the work being performed.

The case is just the first of many likely to come and may be impacted by guidance expected later this year from the U.S. Department of Labor.

## **Giving/Stewardship**

- 1. Millennials not as selfish as perceived.** Research released in March 2017 by the Evangelical Council for Financial Accountability (ECFA) examines the giving patterns of the largest generation—Millennials. The Generosity Project uncovered a pattern of optimism among young givers who cite feeling hopeful and satisfied after giving, and report being highly engaged and invested with the ministries and organizations they support financially.

*“Understanding the next generation is crucial for nonprofit organizations, and ECFA is pleased to offer insight into this important segment of givers,”* said Dan Busby, ECFA president and CEO. *“Millennials see the world in a whole new way, and gaining access to this lens is the only way organizations will stay relevant. Givers under the age of 35 are passionate about life and connected deeply to causes they care about—an encouraging sign for nonprofit organizations endeavoring to do good work in the world today.”*

Millennials have long been reported as the most conscious generation to date, with a track record of championing health, social, economic and environmental causes, as well as supporting businesses and organizations committed to making a positive difference in the world.

The report is based on an online survey conducted in November 2016 for ECFA by Campbell Rinker and A Work in Progress. It reflects data gathered from 16,800 donors to 17 non-church Christian ministries. Of these respondents, 22 percent were Millennials; givers born before 1982 comprised the remaining 78 percent of participants. With a  $\pm 0.8$  percent margin of error at the 99 percent confidence level, the study provides strong evidence that this generation’s passionate engagement also influences their giving patterns.

## Other significant findings include:

1. **Millennials are optimistic about their giving.** Millennials are significantly more likely to experience a range of positive emotions after giving when compared with older generations—hopeful (69 vs. 60 percent), invested (53 vs. 46 percent), satisfied (48 vs. 42 percent), generous (45 vs. 25 percent) and confident (25 vs. 20 percent).
  - **Millennials are self-motivated.** Fifty-two percent of Millennials reported giving because of who they are, a percentage significantly higher than for previous generations. In contrast, only 21 percent reported giving because of the ministry asking them.
  - **Millennials are inquisitive.** Ninety percent of all givers surveyed reported researching an organization on its website before giving. Millennials are not only more likely to do this than their forebears, but they are also significantly more likely to conduct additional research by asking other people for information about an organization (87 percent) or by checking a third-party website (73 percent) before deciding to give.
  - **Millennial donors put a premium on honesty.** While ninety-nine percent of givers report “honesty in business practices” is a “somewhat” or “very” important quality in a ministry, Millennial givers ranked highest (56 percent) by reporting this is the *most* important quality a ministry can have.
  - **Financial accountability significantly impacts the giving decision.** Ninety-four percent of all givers surveyed consider financial accountability a positive influence on their decision to keep supporting a ministry, and 92 percent agree it is extremely important for ministries to uphold specific standards of financial integrity.
2. **Converting millennials to reliable donors.** Churches and ministries need to understand what drives millennials to support one group over another—know what they are looking for, offering the right kinds of engagement opportunities and speaking their language. Gen Y’s, sometimes also referred to as Donors 3.0, want to support organizations that:
  - **Engages them more deeply than just writing a check.** Millennials want much engagement than just writing a check and sending it to the ministry.
  - **Takes an innovative approach to solving a problem or issue.** Millennials are looking for innovative thinking—new approaches to old problems that haven’t been adequately addressed by the traditional ways of doing things.<sup>3</sup>

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<sup>3</sup> Nonprofit Business Advisor, April 2016.

## **Governance**

- 1. ECFA releases Governance Toolbox Series.** ECFA has announced the release of a new Governance Toolbox Series—DVD-based, multimedia resources to guide organizations in financial governance to recruit nonprofit ministry board members and to train them with the best practices in governance.

Governance is one of the *ECFA Seven Standards of Responsible Stewardship™*. These principles, based on Scripture, form the foundation of financial integrity for accreditation within ECFA. Each organization must be governed by a responsible board that meets specific criteria. The new Toolbox Series assists faith-based nonprofit organizations and churches in achieving effective governance.

The format of the multimedia resource series takes an intentionally quick, to-the-point approach for today's multitasking board members. Each kit is arranged for three potential methodologies, adaptable to each organization's needs and time constraints. In one methodology, a 10-minute DVD presentation plus a 10-minute discussion can equal immediate engagement.

Each Toolbox kit contains one DVD, one facilitator guide with three discussion options and methodologies, and 12 "Read-and-Engage" viewing guides for board members.

Three toolboxes from the series have been released to date: Toolbox No. 1: "Recruiting Board Members: Leveraging the 4 Phases of Board Recruitment," Toolbox No. 2: "Balancing the 3 Hats Every Board Member Must Wear: Governance, Volunteer and Participant," Toolbox No. 3: Conflicts of Interest," and coming this fall Toolbox No. 4: "Succession Planing."

To order, visit [www.ecfa.org/toolbox](http://www.ecfa.org/toolbox). Production is already underway on a fourth toolbox on the topic "Succession Planning, scheduled for release in 2017.

### **2. *Lessons From the Boardroom* soon to be Released**

An October release is planned for a new book, *Lessons From the Nonprofit Boardroom*. Written by ECFA's president, Dan Busby, and long-time board governance consultant, John Pearson, this resource includes 40 short lessons with the goal of focusing on greater effectiveness in boardroom where God's work is being conducted. The book will be available on Amazon and quantities may be purchased directly from ECFA.

## **IRS**

- 1. Possible IRS restructuring.** Comprehensive tax reform is proving to be an important and rare opportunity to look at the role of the IRS in overseeing charities.

According to a recent D.C. conference panel of Marcus Owens, Partner, Loeb & Loeb (Former Director of the IRS Exempt Organizations Division) and Harold Hancock, Partner, McGuire Woods (Former Tax Counsel to the House Ways and

Means Committee) the IRS is, at its core, a collection agency. The oversight of the tax-exempt sector is a regulatory function. Considering these very different tasks, the disproportion between the small amount of taxes collected from the tax-exempt sector and the significant IRS energy and oversight of the sector is proving to be a challenge to the agency

Mr. Owens opined that it might be more appropriate to move the tax-exempt sector oversight role out of the IRS and place it under the domain of the Treasury Department, which is already more accustomed to serving in a regulatory role. Mr. Hancock indicated that if the current congressional blueprint for tax reform is enacted, the IRS will have to restructure its operations. He also indicated that Mr. Owens' recommendation is widely known among Congressional staffers.

ECFA will continue to monitor these discussions and provide further updates as they are available.

- 2. IRS releases 2017 work plan.** The IRS Tax-Exempt and Government Entities (TE/GE) has released its 2017 Work Plan. The plan focuses on the IRS's Future State Strategy, which aims for a gold standard in transparency, efficiency, and effectiveness.

Topics include organizational examinations, rulings and agreements, employee information, customer education and outreach, and coordination between federal, state, and local governments.

- 3. IRS withdraws controversial proposed gift substantiation alternative.** Opposition was overwhelming to a recent IRS proposal related to charitable gift substantiation rules under the tax law.

The proposal introduced earlier this fall would have allowed—but not required—nonprofits to annually file a new form with the IRS as an alternative to providing donors with written charitable gift acknowledgements to substantiate their single contributions of \$250 or more for tax deductibility purposes.

The IRS announced in early January 2016 it would withdraw its proposed gift substantiation alternative after receiving nearly 38,000 public comments.

The primary concerns with the proposal were related to donor privacy and identity theft because the new reporting form would have required nonprofits to keep donor taxpayer identification numbers (social security numbers) on file to report to the federal government.

- 4. Gift Acknowledgement Challenges**

There are an increasing number of major givers whose charitable contribution deductions have been denied due to flaws in their charitable contribution gift acknowledgements, including minor flaws. Organizations should be certain that their gift acknowledgements have all necessary components in order to avoid such concerns for givers. ECFA has a free webinar titled *Acknowledging & Reporting*

## **Nonprofits**

- 1. Changes coming soon to presentation standards for Not-for-Profit Financial Statements.** The Financial Accounting Standards Board (FASB) has just announced the first major changes in over 20 years to its standards governing financial statement presentation by not-for-profits, including churches and ministries.

The stated goal: improving the standards “to provide better information to donors, grantors, creditors, and other users of financial statements.”

Amendments to the standards are focused on four key areas: (1) net asset classification, (2) information about liquidity and availability of resources, (3) information about expenses and investment return, and (4) presentation of operating cash flows.

The changes become effective for GAAP-prepared financial statements for fiscal years beginning after December 15, 2017, and for interim periods within fiscal years beginning after December 15, 2018.

See FASB In Focus - Not-for-Profit Entities (Topic 958) released August 18, 2016 for more details.

- 2. Join the Global Movement: “Partners in Accountability”**

ECFA believes that stewardship and accountability are at the heart of God for ministries around the world. For this reason, we are honored to have the opportunity to partner with internationally-based organizations seeking to promote financial accountability among Christian ministries in their own countries.

Dan Busby, John Van Drunen, and Gary Hoag traveled to Melbourne, Australia to attend the second International Accountability Summit (IAS) on June 4-5, 2017. IAS 2017 was sponsored by ECFA and hosted by CMASC (Christian Ministry Advancement Standards Council), our Australian ministry partner in peer accountability.

IAS 2017 welcomed 64 delegates representing 20 countries around the world: Australia, Canada, Ethiopia, Guatemala, Hong Kong, India, Indonesia, Japan, Kenya, Malaysia, Mexico, Nigeria, Papua New Guinea, Philippines, Singapore, South Africa, South Korea, Uganda, Uruguay, and USA. All 64 delegates traveled to Australia at their own expense and committed time and energy to attend.

“Partners in Accountability” marked the theme of the summit. We gathered with four specific objectives in view: (1) to strengthen relationships with local champions; (2) to share wisdom and resources; (3) to discuss challenges linked to financial transparency in church and ministry settings globally; and, (4) to pray for each other.

**How can you join this global movement?** Here are three specific actions you can take to participate.

1. **Pray** – I often remark that “God cares more about accountability than we do!” Join me in praying that God will continue to raise up national leaders around the world to champion the faithful financial administration of His work. My calendar reminds me each Saturday to pray for these peer groups and this movement.

*Will you join me?*

2. **Network** – If your church or ministry works in one of the 7 nations with peer accountability groups (Australia, Canada, India, Kenya, Philippines, South Korea, US), urge your co-workers in these countries to check out the websites ([listed here](#)) for the organizations in their countries and inquire about becoming an accredited member of that peer accountability group. *Can you spread the word?*

3. **Email** – If you have questions or want more information, email me at [gary@ecfa.org](mailto:gary@ecfa.org). I will respond personally. Also, with your permission, I will add you to an email list, a global network of stewards who value accountability. Feel free to let me know of others as well who may be interested in joining this movement. *Who might join with you?*

**Why join today?** God cares about accountability more than we do because our work with Him has His name on it!

Read more about the global movement on ECFA's Global Network page at <http://www.ecfa.org/Content/GlobalNetwork>.

### ***Is Your Church or Nonprofit Accredited?***

If your church or nonprofit is not accredited, consider joining ECFA today. Givers are increasingly concerned about the accountability of the churches and nonprofits they support. ECFA accreditation increases credibility to the givers who support your organization, leading to increased revenue and Kingdom impact.

Visit [ECFA.org/Content/Join](http://ECFA.org/Content/Join) for more information on joining ECFA.



## Key Federal Tax Limits, Rates, and Other Data

	2016	2017	2018
<b>Standard deductions, exemptions, and exclusions:</b>			
Standard deductions	Married-Joint \$12,600 Head of Household \$9,300 Single \$6,300 Married-Separate \$6,300	Married-Joint \$12,700 Head of Household \$9,350 Single \$6,350 Married-Separate \$6,350	
Personal & dependent exemption amount	\$4,050	\$4,050	
Foreign earned income exclusion	\$100,800	\$102,100	
<b>Social security:</b>			
SECA (OASDI & Medicare) combined rate for employers and employees	15.3% on wages up to \$250,000 married-joint, \$125,000 married-separate, and \$200,000 all others	15.3% on wages up to \$250,000 married-joint, \$125,000 married-separate, and \$200,000 all others	
OASDI maximum compensation base	\$118,500	\$127,200	\$130,500
Social security cost-of-living benefit increase	0.0%	0.3%	
Social security full retirement age (FRA)	66 years	66 years	
Medicare Part B monthly premiums – Basic	\$104.90	\$	
Earnings ceiling for social security (applies to employment before FRA; special formula in FRA year)	Below FRA: \$15,720 Over FRA: None	Below FRA: \$16,920 Over FRA: None	
Earnings limit in year FRA attained	\$41,880	\$44,800	
<b>Benefits and contributions:</b>			
Maximum annual contribution to defined contribution plan	\$53,000	\$54,000	
Maximum salary reduction for 401(k)/403(b)	\$18,000	\$18,000	
401(k) & 403(b) over 50 “catch-up” limit	\$6,000	\$6,000	
Maximum income exclusion for nonqualified plans in 501(c)(3)	\$18,000	\$18,000	
IRA contribution limit – age 49 and below – age 50 and above	\$5,500 \$6,500	\$5,500 \$6,500	
Highly compensated employee limit	\$120,000	\$120,000	
Maximum annual contribution to health flexible spending arrangements	\$2,550	\$2,600	
<b>Per diem and mileage rates and other transportation:</b>			
Standard per diem: Lowest rates in continental USA	Lodging \$89 Meals & Incidentals \$51	Lodging \$91 Meals & Incidentals \$51	
Business auto mileage rate	54 cents per mile	53.5 cents per mile	
Moving & medical auto mileage rate	19 cents per mile	17 cents per mile	
Charitable auto mileage rate	14 cents per mile	14 cents per mile	
Airplane mileage rate <sup>(1)</sup>	\$1.17 per mile	\$1.15 per mile	
Motorcycle mileage rate <sup>(1)</sup>	51 cents per mile	50.5 cents per mile	
Bicycle commuting rate	\$20 per month	\$ per month	
Maximum value of reimbursement of business expenses (other than lodging) without receipt	\$75	\$75	
Luxury automobile value (limit on use of cents-per-mile valuation of company automobile)	\$16,000		
Monthly limit on free parking	\$255	\$255	
Transit passes/token – monthly tax-free limit	\$255	\$255	

<sup>(1)</sup> Privately-owned vehicle mileage rates set by the U.S. General Services Administration

Note: In some instances, the rate for a particular year may apply to a tax return filed in a subsequent year.

*This text is provided with the understanding that ECFA is not rendering legal, accounting, or other professional advice or service. Professional advice on specific issues should be sought from an accountant, lawyer, or other professional.*

	2016	2017	2018
<b>Health savings accounts:</b>			
Contribution limit:			
Individual	\$3,350		
Family	\$6,750		
Maximum annual out of pocket expense:			
Individual	\$6,550		
Family	\$13,100		
Minimum deductible:			
Individual	\$1,300		
Family	\$2,600		
Increase in annual contribution limit – 55 and older	\$1,000		
<b>Earned income credit:</b>			
Taxable and nontaxable earned income of less than (to qualify for the earned income credit):	Single/Married Filing Joint	Single/Married Filing Joint	Single/Married Filing Joint
No qualifying child	\$14,880/\$20,430	\$15,010/\$20,600	
One qualifying child	\$39,296/\$44,846	\$39,617/\$45,207	
Two qualifying children	\$44,648/\$50,198	\$45,007/\$50,597	
Three or more qualifying children	\$47,955/\$53,505	\$48,340/\$53,930	
<b>Long-term care insurance:</b>			
Premiums deductible as medical expense based on the insured's age before close of tax year:			
40 or less	\$390		
41 to 50	\$730		
51 to 60	\$1,460		
61 to 70	\$3,900		
More than 70	\$4,870		
<b>Form 990/990-T/990-N and 1099-MISC threshold:</b>			
Threshold for filing Form 990 (if not otherwise exempt)	Gross receipts ≥ \$200,000 or Total assets ≥ \$500,000	Gross receipts ≥ \$200,000 or Total assets ≥ \$500,000	
Threshold for filing Form 990-EZ	Gross receipts < \$200,000 & Total assets < \$500,000	Gross receipts < \$200,000 & Total assets < \$500,000	
Threshold for filing Form 990 electronically	\$10 million in total assets & 250 information returns	\$10 million in total assets & 250 information returns	
Threshold for required filing Form 990-N	Gross receipts ≤ \$50,000	Gross receipts ≤ \$50,000	
Threshold for required filing Form 990-T	\$1,000 annual gross UBI	\$1,000 annual gross UBI	
Threshold for required filing of Form 1099-MISC (payment for most personal services)	\$600	\$600	
<b>Quid pro quo:</b>			
Minimum contribution and maximum cost of token	Minimum gift: \$53.00 Maximum cost: \$10.60	Minimum gift: \$53.50 Maximum cost: \$10.70	
Maximum value of <i>de minimus</i> benefit	2% of gift, but not more than \$106	2% of gift, but not more than \$107	
Federal minimum wage per hour	\$7.25	\$7.25	
Gift tax annual exclusion	\$14,000	\$14,000	
Estate tax annual exclusion	\$5,450,000	\$5,490,000	

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