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Twass the Night After Christmas -- and Before the New Year

By: Claudia Jacobs – December 20th, 2012

If the End of Days doesn't arrive on December 21st, there are so many critical questions we need to ask about charitable deductions. One would think, with all that is whirling around the media about this benefit possibly going over the fiscal cliff, we would have more definitive answers by now. The usual suspects are for and against. The non-profit sector, fiercely behind holding onto to the deduction as it is, cites a recent survey in 2010 from Indiana University. Survey says: wealthy philanthropists, 31 percent of whom feel that the tax benefit is an important part of their giving, maybe not the sole motivation but right up there as a reason, do give it importance. The counterargument is that people give what they give no matter what, about 2 percent of GDP, says Daniel J. Mitchell, Senior Fellow at the Cato Institute in Washington, D.C. in the Wall Street Journal. Back to the other side, Diana Aviv, Executive Director of the Washington, D.C. based, Independent Sector argues that the incentive of having the tax deduction is so motivating that the same Indiana University study reports that 2/3 of high net worth donors would decrease their giving if that incentive didn't exist.

Now, I consider myself a progressive so I should be strongly in the camp of those vehemently arguing to maintain the charitable deduction. And my knee jerk response is of course I would come down on that side, but something has always given me pause and the recent debate over the charitable deduction has raised that specter. Given that government bestows the charitable deduction, taking that money (\$39.6 billion) out of the public coffers and allocating a benefit to those who give, that money becomes "public money." Yet, we have no say in how Gates, Buffett or the Koch brothers spend their charitable dollars. At that level of wealth and giving, they become like the kings of small countries allocating budgets without representation. And their deductions actually increase the tax that the less wealthy will pay.

It's true as an ordinary citizen I don't really have much to say about Social Security going over the cliff or Medicare to which I will be eligible in a few short months, even though those are presumably my tax dollars at work. But I feel my congressional representatives are in there fighting for these programs into which I put many dollars through payroll taxes. So it feels I have a real dog in that race. It's we the people. We might not always get our own way, but that is why a democracy functions; there are checks and balances installed that at least make me sleep a little better.

But what would the Koch brothers do if I wrote them a letter advocating that they put less money into union busting, climate change denial or into Americans for Prosperity? Would Bill Gates or Warren Buffett answer my pleas to execute their philanthropy slightly differently? A little less into solving the global AIDS problem, and more into

economic development, or family planning? Although they receive a generous tax deduction for their charitable works which seemingly gives it a public taint, I doubt I would get even a response. Have any of them ever sent out a ballot asking what we think they should do with their philanthropy?

I have never tried to find out if any philanthropists have volunteered not to take the charitable deduction but I think we know the answer. Warren Buffett argues that he should pay a higher percentage of taxes than his secretary, and rightly so, why should he pay a lower percentage? I get that and admire him greatly for advocating vocally for that position, clearly against his own self-interest. But has he ever just not taken the charitable deduction?

Would the government regaining that \$39.6 billion allow greater capacity to help put people back to work? A job is the best social program, in my estimation. Would that money save the entitlement programs in any significant way? Or would it hurt charities by affecting the 50 percent of the donating public, the people who like me, itemize deductions, and do make sure every December that we gave enough to earn that deduction -- upping our giving in that last month to meet the standard -- the not so rich, but the generous who still constitute a substantial percentage of givers. Or could we tinker with the charitable deduction and improve it without killing the incentive to give? Could we more sharply define, donating to the public good, the difference between a seat on a prestigious museum board and housing the homeless? Could we tinker with the deduction making it a fairer deduction across income levels?

Between Christmas and New Years, I'll be pondering these questions while choosing the remaining charities I want to support.