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Increase in Standard Mileage Rate for Certain Charitable Work

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Focus on Tax Policy: An Introduction

By: Professor Annette Nellen
SJSU MST Program Director

This section of *The Contemporary Tax Journal* includes tax policy work of SJSU MST students. We offer it here and on the journal website to showcase the range of tax knowledge students gain from the program and to provide a public service. We think the analysis of existing tax rules and proposals using objective tax policy criteria will be of interest to lawmakers, staff and individuals interested in better understanding taxation.

One of the learning objectives of the SJSU MST Program is:

To develop an appreciation for tax policy issues that underpin our tax laws.

Students learn about principles of good tax policy starting in their first MST class - Tax Research and Decision-making. The AICPA's tax policy tool, issued in 2001,⁵⁶ which lays out ten principles of good tax policy, is used to analyze existing tax rules as well as proposals for change.

Beyond their initial tax course, SJSU MST students work on tax policy in the capstone course. In other courses, such as corporate taxation and accounting methods, students learn the policy underlying the rules and concepts of the technical subject matter in order to better understand the rules and to learn more about the structure and design theory of tax systems. The MST Program also has an elective course - Tax Policy and Tax Reform.⁵⁷

Two tax policy analyses are included in this section and join the growing archive of such analyses on the journal website (under "Focus on Tax Policy").

- 1) Increase in Standard Mileage Rate for Certain Charitable Work (next page)
- 2) Election by Certain Individuals to Have Their Income Tax Return Prepared by the IRS (here)



⁵⁶ AICPA, *Tax Policy Concept Statement 1 – Guiding Principles of Good Tax Policy: A Framework for Evaluating Tax Proposals*, 2001; available at <http://www.aicpa.org/INTERESTAREAS/TAX/RESOURCES/TAXLEGISLATIONPOLICY/Pages/TaxReform.aspx>.

Professor Nellen was the lead author of this AICPA document.

⁵⁷ Information on this MST course (BUS 225R) can be found at http://www.cob.sjsu.edu/nellen_a/bus225R_reading.html.

Increase in Standard Mileage Rate for Certain Charitable Work

By: MST Students in Spring 2012 BUS 223A Tax Research, and BUS 225R Tax Policy and Tax Reform

IRC Section 170(i) allows taxpayers to claim a mileage deduction equal to 14 cents per mile driven in a passenger automobile⁵⁸ for work performed for a charitable organization. As with other charitable contributions, individuals must itemize their deductions to be able to claim the mileage deduction. H.R. 499 (112th Congress) proposes to increase this rate to 51 cents "in the case of the delivery of meals to homebound individuals who are elderly, disabled, frail or at risk." The higher rate would apply starting on the date the legislation is enacted.

The tax law allows for use of an optional standard mileage rate for certain travel in lieu of maintaining records to compute the actual costs of gas and related automobile expenses. For business, medical and moving related miles, the IRS sets and periodically adjusts the rates. The rate for charitable miles is the only one of the mileage rates set by statutory provision.

For 2012, per Notice 2012-1, the mileage rate for business travel is 55.5 cents per mile and for medical and moving mileage is 23 cents per mile.⁵⁹

The policy analysis below uses the ten principles of good tax policy outlined in the AICPA Statement #1, *Guiding Principles of Good Tax Policy: A Framework for Evaluating Tax Proposal*, to analyze H.R. 499.

Principles of Good Tax Policy Evaluation

| Principle | Application | Rating |
|--|--|--------|
| <p>Equity and Fairness. Similarly situated taxpayers treated similarly.</p> | <p>This proposal singles out one type of charity for different treatment. While the type of charitable work covered by H.R. 499 involves more driving than most types of charitable work, the costs per mile of any charitable work are the same. Thus, is inequitable to treat similar driving dissimilarly.</p> <p>The mileage rate for charitable driving is different than for moving or medical driving because the charitable rate is set in statute. The rate would be higher than 14 cents per mile if the IRS were allowed to adjust that rate to reflect changes in the costs of driving.</p> <p>A 51 cents per mile rate for charitable driving would be similar to the 2012 rate for business driving. The rates should not be the same though because the business rate includes depreciation. No</p> | -- |

⁵⁸ Per Revenue Procedure 2010-51, the standard mileage rate also applies to vans, pickups, or panel trucks.

⁵⁹ For details on the mileage rates and the IRS adjustments, see Revenue Procedure 2010-51.

| | | |
|---|--|-----|
| | depreciation is allowed for charitable driving because the car is not used in a trade or business. | |
| <p>Certainty The tax rules should clearly specify when the tax is to be paid, how it is to be paid, and how the amount to be paid is to be determined.</p> | <p>The proposal seems narrowly tailored, but the definitions of the "elderly, disabled, frail and at risk" may not be clear.</p> <p>Individuals who drive for more than one charitable organization will have added recordkeeping to determine 51 cents per mile versus 14 cents per mile.</p> <p>Some issues can arise. For example, if meals are delivered to a home where one recipient meets the H.R. 499 definition but another does not, would the higher mileage rate still apply?</p> | +/- |
| <p>Convenience of Payment A tax should be due at a time or in a manner that is most likely to be convenient for the taxpayer.</p> | H.R. 499 does not provide funds for gasoline to volunteers when they need it. That is, the benefit of the higher mileage rate will be derived when the volunteer files his tax return, rather than when it might actually be needed (when they purchase the gasoline). | -- |
| <p>Economy in Collection The costs to collect a tax should be kept to a minimum for both the government and taxpayers.</p> | <p>The IRS will need to provide definitions of the "elderly, disabled, frail and at risk." IRS audit costs will likely be low because this deduction is only claimed by itemizers (about one-third of individuals) and the number of individuals engaged in this kind of specific charitable work is likely low.</p> <p>Consideration should be given to modifying the applicable language to tie to existing definitions, such as at IRC Section 170(e)(3) and Reg. §1.170A-4A for certain donations of inventory and other property to the "ill, the needy, or infants."</p> | +/- |
| <p>Simplicity The tax law should be simple so that taxpayers can understand the rules and comply with them correctly and in a cost-efficient manner.</p> | <p>There could be some confusion on the definitions of "elderly, disabled, frail and at risk." There could also be some complexity for volunteers needing to keep records to separate charitable driving covered by H.R. 499 from other charitable driving.</p> <p>While volunteers could calculate actual expenses rather than use 14 cents per mile, it is simpler to have a standard mileage amount.</p> | +/- |
| <p>Neutrality The effect of the tax law on a taxpayer's decisions as to how to carry out a particular transaction or whether</p> | H.R. 499 may affect taxpayer behavior. Volunteers may be more willing to volunteer for organizations addressed by H.R. 499 if the mileage rate were higher. It is likely though, that many volunteers do not consider the costs in taking on the work of the charities covered by H.R. 499. | -- |

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|--|--|-----|
| to engage in a transaction should be kept to a minimum. | The impact is unlikely to be significant because H.R. 499 will only benefit volunteers who itemize deductions and keep adequate records to claim the mileage deduction. As gasoline prices go up, the change by H.R. 499 likely becomes less of an incentive because the 51 cents per mile is not adjustable by the IRS to reflect changes in costs of driving. | |
| Economic Growth and Efficiency The tax system should not impede or reduce the productive capacity of the economy. | Likely no effect. | n/a |
| Transparency and Visibility Taxpayers should know that a tax exists and how and when it is imposed upon them and others. | The eligible charities will likely inform volunteers of the law changes. Tax preparers and tax prep software will make the change obvious as a new question will need to be asked as to how many charitable miles are eligible for 51 cents per mile rather than 14 cents per mile. | + |
| Minimum Tax Gap A tax should be structured to minimize non-compliance. | There is likely only a minimal effect on the tax gap because the current deduction is not well known and people do not always keep records on their mileage. Also, the deduction is only available to individuals who itemize their deductions. | n/a |
| Appropriate Government Revenues The tax system should enable the government to determine how much tax revenue will likely be collected and when. | It may be difficult for the government to determine from 1040 data how many miles are driven for the type of charitable work covered by H.R. 499. The charitable organization likely has data on how many miles are driven, but it may not be easily accessible and it would not be known how many of the volunteers itemize deductions and for those who itemize, how many even bother to claim 14 cents per mile versus claim actual expenses versus do not bother to claim. | -- |

Conclusion

Based on the application of principles of good tax policy, H.R. 499 would benefit from modification. It appears that the rationale for this proposal is to address the fact that the type of charitable work referred to in the proposal requires significant driving by volunteers. With increased costs of gasoline and Section 170(i) fixing the mileage rate at 14 cents per mile, individuals may opt not to engage in this type of volunteer work.

However, because the law also allows volunteers to compute the actual costs of driving, the law change is not critical. Of course, use of a standard mileage rate is simpler than calculating actual expenses.

The inequity of singling out one type of charitable work for a higher mileage rate could be addressed by allowing the IRS to adjust the mileage rate for all charitable driving as it is allowed to do for medical, moving and business driving. This would result in an increase from 14 cents per mile.

To help identify which charities meet the H.R. 499 definition, the IRS could require eligible charitable organizations to note on Form 990 that their work involves having volunteers deliver meals to the elderly, disabled, frail and at risk. This information could also be included on the IRS website for verifying the status of organizations (Exempt Organizations Select Check - <http://www.irs.gov/charities/article/0,,id=249767,00.html>).

Simplification and administration would also be enhanced by using terms already used in the law, such as IRC Section 170(e)(3) and Reg. §1.170A-4A for certain donations of inventory and other property to the "ill, the needy, or infants."

H.R. 499 does not appear to be well targeted to address its intended purpose. Because the mileage rate is only allowed for individuals who itemize deductions, not all volunteers will benefit. Thus, it does not help the charities get more volunteers. An alternative, outside of the tax law, would be to allocate funds for the affected charities to which they could apply. The charities awarded the mileage grants could use the money to reimburse volunteers for their gasoline purchases. Consideration would also need to be made as to whether the volunteers should be given the option of taking the gasoline money and foregoing any mileage deduction or still being allowed to claim 14 cents per mile.