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‘Diversity’ regulation threatens to politicize philanthropy

By Daniel J. Popeo, Examiner Contributor
- | 2/19/09 8:24 AM According to a study by The Chronicle of Philanthropy, charitable foundations’ assets declined an average of 28% in 2008. The nonprofit organizations they fund are struggling to survive.

Given these dire circumstances, one would think we would be empowering citizens to create new charities and helping philanthropists give more. Instead, some ideologues think now is the ideal time to impose additional government regulations, and even quotas, on the philanthropic community.

Ideas to siphon off foundations’ revenues through higher excise taxes or by reducing their tax deduction have been circulating for some time, as has the notion that government should compel foundations to donate a greater percentage of their assets. A newer, and far more radical, proposal surfaced last year, not surprisingly, in California.

There, community activists hatched a social engineering scheme to divert charitable money to preferred organizations and causes. These activists and their legislative allies believe that private foundations poorly serve minorities and other “disadvantaged” groups, and thus must be “encouraged” to better target their money.

The proposed bill, its supporters alleged, merely sought to gather information on whether foundations, their grantmaking, and the recipients of their donations are sufficiently “diverse.”

But rather than seek general information about the racial or ethnic make-up of the boards, staffs, and donations of California-based foundations and their grantees, the bill demanded specific information from each foundation.

And ironically, the bill’s proponents did not want to know all the ethnicities of the boards and staffs of the foundations and their grantees; they cared only about seven. The last census reported 126 different racial and ethnic groups exist in the U.S.

The specificity, and politically-charged nature, of the information sought provided those with an ideological ax to grind prime opportunities to shake down philanthropies. The bill passed the California Assembly, but sponsors withdrew it from the state senate when some foundations pledged $30 million for diversity causes.

Energized by this result, the community activists have taken their effort on the road, advancing the idea in states like Texas, Florida, and Pennsylvania, and even finding a friendly reception from several key members of Congress.

A broad spectrum of respected foundations and charities, many of which already grant and devote millions to serving the disadvantaged, see this for what it is – just the beginning of a larger effort where a chosen few can dictate how millions are donated and government can further intrude into private groups' decisionmaking.

When a Pennsylvania state representative demanded "diversity" information from eight of the state's foundations, one of the most prominent, the Heinz Endowment, refused. A foundation official noted, "Reducing an important issue, and a complex one, to a single data point is shallow methodology."

Charities and current beneficiaries should be insulted by the notion that only certain programs and funds specifically targeted at an allegedly underserved part of society are in the public's interest.

As an official for the United Way said, "We try to help society at large, not just poor people – for example by the cutting school dropout rate in half." The broad benefits of foundations and their charitable giving cannot be denied.

A study by The Philanthropic Collaborative reveals that the $43 billion foundations distributed in 2007 generated identifiable social and economic benefits of $368 billion and $512 billion of taxable household income.

Activists and their political patrons, however, are unmoved by such evidence. One U.S. representative derisively refers to the tax exemption charities receive as a "$32 billion earmark," and other critics argue that the exemption makes the foundation's money "public" and therefore subject to greater regulation.

This is a truly stunning leap of law and logic. Tax exemption in America has never been conditioned on embracing a particular policy agenda. All the way back in 1819, the U.S. Supreme Court confirmed this fact in Trustees of Dartmouth College v. Woodward.

There, Justice Joseph Story, writing in a concurrence, argued that equating charitable, tax-exempt dollars with public money "would extinguish all future eleemosynary (i.e. beneficent) endowments."

The greatness of American philanthropy lies in the inherent diversity of thousands of worthy charities, including environmental organizations, hospitals, medical research centers, libraries, churches, colleges, senior citizen centers, and museums.

Donor intent is a fundamental freedom that protects our right to choose. Americans are profoundly generous, but they don't like to be told what to do. Whatever your philosophical beliefs may be, one thing is certain: if charitable giving becomes a philanthropy-by-the-numbers game and ceases to be completely voluntary, everyone, especially those in the most need, will lose out.

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