OSA

CHARITABLE CONTRIBUTION DEDUCTION

EVALUATION SUMMARY | APRIL 2022 | 2022-TE18

TAX TYPE	Income	REVENUE IMPACT (TAX YEAR 2018)	$41.3 million
YEAR ENACTED	2000	NUMBER OF TAXPAYERS) (TAX YEAR 2018)	413,000
REPEAL/EXPIRATION DATE	None		

KEY CONCLUSION: The deduction is effective at equalizing the state-level tax benefit provided to taxpayers who make charitable contributions and claim the federal standard deduction with the benefit provided to taxpayers who itemize their federal deductions. Its usage increased significantly in Tax Year 2018 due to federal legislation, with higher income taxpayers claiming the deduction more frequently.

WHAT DOES THE TAX EXPENDITURE DO?

The Charitable Contribution Deduction [Section 39-22-104(4)(m), C.R.S.] allows an individual to deduct the amount of any charitable contributions over $500 from their state income, if the individual claimed the standard deduction, instead of itemized deductions, on their federal income tax return.

WHAT IS THE PURPOSE OF THE TAX EXPENDITURE?

Statute and the enacting legislation for the Charitable Contribution Deduction do not state its purpose; therefore, we could not definitively determine the General Assembly's original intent. However, based on how the deduction operates and the bill sponsors' legislative testimony, we considered a potential purpose: to provide the benefit of a deduction for charitable contributions to taxpayers who claim the standard deduction on their federal income tax return, similar to the deduction benefit provided to taxpayers who itemize their deductions on their federal return.

WHAT POLICY CONSIDERATIONS DID THE EVALUATION IDENTIFY?

The General Assembly may want to consider:

- Amending statute to establish a statutory purpose and performance measures for the deduction.
- Reviewing the deduction's $500 charitable contribution floor.
- Repealing an obsolete statutory reference to taxpayers contributing to Hunger-Relief organizations.

CHARITABLE CONTRIBUTION DEDUCTION

EVALUATION RESULTS

WHAT IS THE TAX EXPENDITURE?

The Charitable Contribution Deduction [Section 39-22-104(4)(m), C.R.S.] allows an individual to deduct the amount of any charitable contributions over $500 from their state taxable income, if the individual claimed the standard federal deduction instead of itemizing deductions on their federal income tax return. For example, if an individual makes $1,300 in charitable contributions during the year and claims the federal standard deduction, they would be allowed to deduct $800 when calculating their state taxable income. The deduction must be used in the tax year when the individual makes the contributions, and if its value exceeds income tax owed, it cannot be carried forward to future years.

Since 1987, Federal Taxable Income (FTI), which is Adjusted Gross Income (AGI) minus either itemized deductions or the standard deduction, has served as the starting point for calculating Colorado taxable income. Federal law allows taxpayers to deduct charitable contributions from their AGI, which would also reduce their Colorado taxable income. However, taxpayers must itemize their federal deductions to claim a federal charitable contribution deduction. The State's Charitable Contribution Deduction allows taxpayers who use the standard deduction to claim a state-level deduction for charitable contributions. EXHIBIT 1 shows how taxpayers claim federal and state deductions for charitable contributions based on whether they itemize their deductions or claim the standard deduction on their federal tax return.

EXHIBIT 1. CHARITABLE CONTRIBUTION DEDUCTIONS FOR FEDERAL AND STATE INCOME TAXES

Taxpayers itemizing deductions subtract charitable contributions before arriving at federal taxable income, while taxpayers claiming the standard deduction only subtract charitable contributions before arriving at Colorado taxable income.

Taxpayer Itemizing Federal Deductions

Adjusted Gross Income	−	Itemized Deductions Includes charitable contributions	=	Federal Taxable Income	→	+	State Additions	−	State Deductions Charitable Contribution Deduction is not allowed	=	Colorado Taxable Income

Taxpayer Claiming Federal Standard Deduction

Adjusted Gross Income	−	Standard Deduction	=	Federal Taxable Income	→	+	State Additions	−	State Deductions Can claim Charitable Contribution Deduction for amount of contributions over $500	=	Colorado Taxable Income

SOURCE: Office of the State Auditor description of the calculation of net Colorado taxable income when a taxpayer claims their charitable contribution either as an itemized deduction when calculating federal taxable income, or as a state deduction when calculating state taxable income.

In order to qualify for the state Charitable Contribution Deduction, taxpayers must:

- Be a person who can claim the federal standard deduction under Internal Revenue Code 26 USC 63. Individuals claimed as dependents on another return; spouses filing separately if either spouse itemizes deductions; non-resident aliens; and fiduciaries, partnerships, or corporations do not qualify.

- Claim the federal standard deduction when filing their income tax return.

- Make charitable contributions that would qualify for the federal charitable contribution deduction under Internal Revenue Code 26 USC 170. Contributions can include both cash and non-cash contributions (e.g., stock and tangible property).

While statute does not specify a cap on the amount of contributions that can be deducted, Department of Revenue (Department) regulations indicate that the federal charitable contribution deduction limitations set forth in 26 USC 170 also apply to the state deduction [1 CCR 201-2 Rule 39-22-104(4)(m)(2)]. These limitations restrict the amount a taxpayer can deduct to a maximum percentage of the taxpayer's AGI, which varies between 20 and 60 percent of AGI based on the type of organization that the taxpayer contributes to, and the type of contribution (i.e., cash or non-cash). For example, taxpayers making a cash contribution to public charities can claim a deduction of up to 60 percent of their AGI; however, deductions based on cash contributions to veterans' organizations or fraternal societies are limited to 30 percent of the taxpayer's AGI.

Taxpayers claim the Charitable Contribution Deduction on Line 9 of the state Subtraction from Income Schedule (Form DR 0104AD), which they must attach to their Colorado Income Tax Return. Taxpayers enter the total amount of their contribution and then subtract from their state taxable income the contribution amount that is over $500.

The General Assembly originally created the Charitable Contribution Deduction as a Taxpayer's Bill of Rights (TABOR) refund mechanism in 2000 (House Bill 00-1053). In 2010, Senate Bill 10-212 repealed several TABOR refund mechanisms, including the Charitable Contribution Deduction, and made the deduction permanent and available in all years (i.e., taxpayers can claim the deduction even when there is not a TABOR surplus).

While the State has not substantially changed the deduction since 2010, two major federal changes have had an impact on the number of taxpayers that claim the standard deduction, and are therefore eligible for the state deduction, and the total deduction a taxpayer can claim. First, in 2017, the U.S. Congress passed the Tax Cuts and Jobs Act (TCJA), which nearly doubled the amount of the standard deduction through 2025. For example, prior to 2018, the standard deduction for an individual was $6,500; for Tax Years 2018 through 2025, the standard deduction increased to $12,000, adjusted annually for inflation. The TCJA also limited the amount of itemized deductions that taxpayers could claim for other expenses, including mortgage interest and state and local taxes paid. In addition to increasing the standard deduction, the TCJA also temporarily raised the limit on the amount of charitable contribution deductions that a taxpayer can claim. Specifically, for Tax Years 2018 through 2025, the charitable contribution deduction limitation was modified from 50 percent of AGI to 60 percent.

Second, in response to the COVID-19 pandemic, Congress passed bills that modified the AGI limitations for charitable contribution deductions and created a temporary charitable contribution deduction for individuals that make cash contributions, but claim the standard deduction on their federal income tax return:

- In 2020, the Coronavirus Aid, Relief, and Economic Security (CARES) Act created a 1-year charitable contribution deduction of up to $300 for individuals who make a cash contribution and claim the standard deduction. The CARES Act also temporarily raised the limit for cash contributions from 60 percent to 100 percent of AGI.

- In 2020, the Consolidated Appropriations Act (CAA) extended the charitable contribution deduction for taxpayers making cash donations and claiming the standard deduction through 2021. The maximum amount remained at $300 for individual filers, but married taxpayers filing jointly could deduct up to $600. The CAA also extended the CARES Act provision raising the limit for cash contributions to 100 percent of AGI, through 2021.

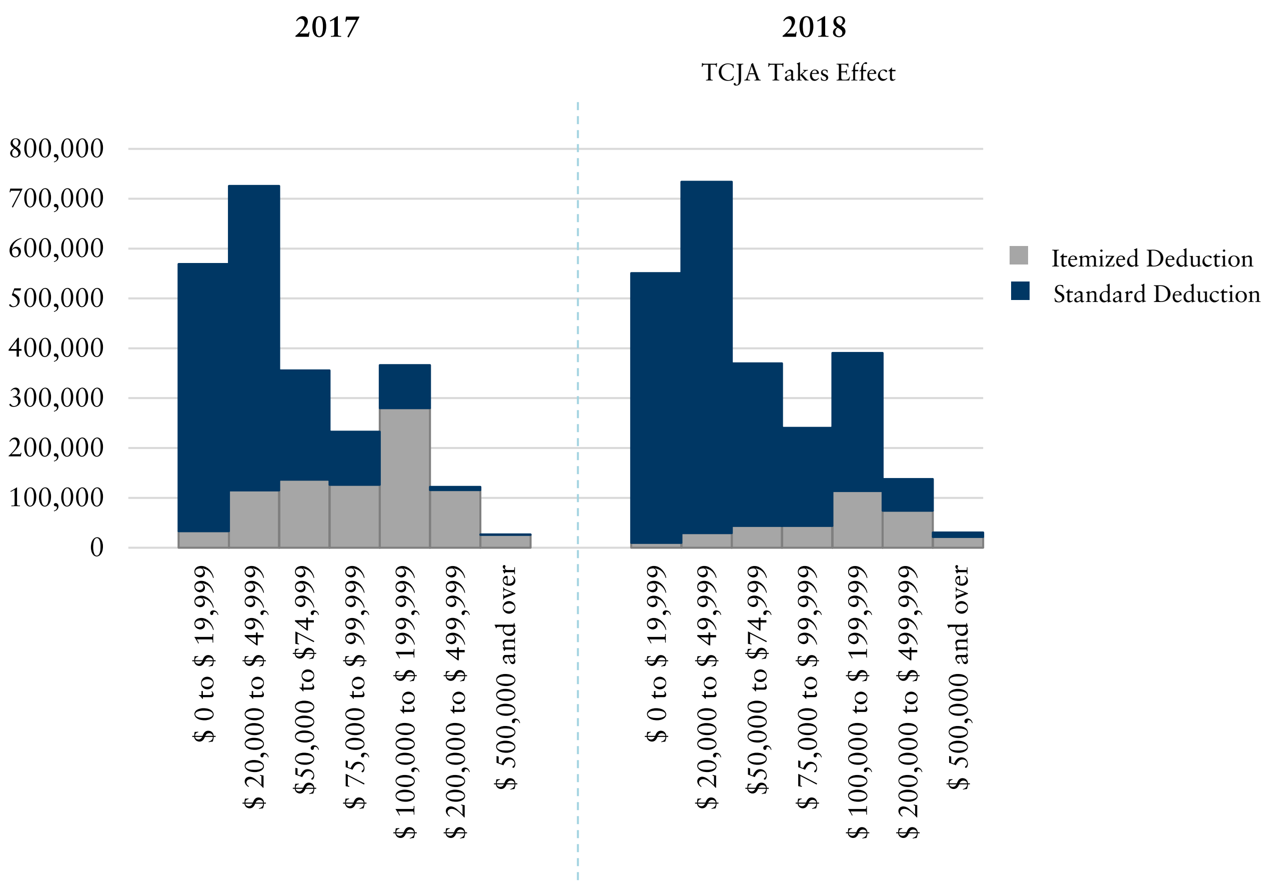
WHO ARE THE INTENDED BENEFICIARIES OF THE TAX EXPENDITURE?

Statute does not explicitly state the intended beneficiaries of the Charitable Contribution Deduction. However, based on its operation, and testimony from hearings related to the enacting legislation (House Bill 00-1053), we inferred that the intended direct beneficiaries are taxpayers who contribute more than $500 to charities, but claim the standard deduction.

Bill sponsors stated that they intended that the deduction would mainly benefit low- and middle-income taxpayers, who were more likely than higher-income taxpayers to claim the federal standard deduction because their itemizable expenses (e.g., charitable contributions, mortgage interest, medical expenses, and state and local taxes paid) generally do not exceed the standard deduction. Additionally, they indicated that the bill would benefit a smaller number of taxpayers who may have a high income or high net worth, but who do not have itemizable expenses that exceed the standard deduction (e.g., retirees who do not have mortgage payments or significant medical expenses). However, changes under the TCJA have impacted the number and income level of Colorado taxpayers who can potentially benefit from the deduction. Specifically, the standard deduction had only been annually adjusted for inflation since the 1970s through Tax Year 2017, until the TCJA roughly doubled the standard deduction for Tax Years 2018 through 2025, from $6,500 to $12,000 for single filers and from $13,000 to $24,000 for married couples filing jointly. This change significantly increased the number of Coloradans claiming the federal standard deduction, and who could therefore claim the State's Charitable Contribution Deduction, at all income levels. Specifically, for Tax Years 2015 through 2017, about 66 percent of Colorado taxpayers' returns claimed the standard deduction on their federal returns. Then in Tax Year 2018, the first year of the temporary increase in the standard deduction under the TCJA, the proportion of Colorado returns claiming the standard deduction increased to 86 percent. Further, the change in the proportion of taxpayers who claimed the standard deduction was the most significant among taxpayers with AGIs over $75,000. For example, prior to the TCJA about 27 percent of taxpayers with AGI's between $75,000 and $499,000 claimed the standard deduction; whereas, in Tax Year 2018, after the passage of the TCJA, 70 percent of these taxpayers claimed it. EXHIBIT 2 shows the increase in standard deduction filers in Colorado across income levels from Tax Year 2017 to 2018.

EXHIBIT 2. INCREASE IN RETURNS CLAIMING THE STANDARD DEDUCTION, BY AGI

Due to temporary increases in the federal standard deduction under the TCJA there was a large shift of returns claiming the standard deduction instead of itemizing between Tax Years 2017 and 2018.



SOURCE: Office of the State Auditor analysis of Department of Revenue Statistics of Income for Tax Years 2017 through 2018.

In addition to benefiting taxpayers who claim the Charitable Contribution Deduction, bill sponsors stated that the deduction may incentivize taxpayers who claim the standard deduction to make or increase their charitable contributions, thereby benefitting charitable organizations. Therefore, we inferred that the indirect beneficiaries of the deduction include the charities that receive the contributions, and the greater community that is served by charitable organizations receiving contributions.

WHAT IS THE PURPOSE OF THE TAX EXPENDITURE?

Statute and the enacting legislation for the Charitable Contribution Deduction do not state its purpose; therefore, we could not definitively determine the General Assembly's original intent. However, based on how the deduction operates and the bill sponsors' legislative testimony, we considered a potential purpose: to provide the benefit of a deduction for charitable contributions to taxpayers who claim the standard deduction, similar to the benefit provided to taxpayers who itemize their deductions. Specifically, because federal taxable income is the starting point for calculating state taxable income, the bill sponsors for the deduction testified that taxpayers who make charitable contributions and itemize their deductions receive a state tax benefit that taxpayers who claim the standard deduction do not receive. The bill sponsors stated that the bill would "remedy an inequity in the law by extending the same benefit to non-itemizing taxpayers that give charitable contributions that is currently enjoyed by itemizing taxpayers." The threshold for the benefit was set at $500 because the bill sponsors believed that the standard deduction already assumes $500 of charitable contributions in its calculation, therefore setting a floor for that amount would prevent a taxpayer from receiving a "double benefit."

IS THE TAX EXPENDITURE MEETING ITS PURPOSE AND WHAT PERFORMANCE MEASURES WERE USED TO MAKE THIS DETERMINATION?

We could not definitively determine if the Charitable Contribution Deduction is meeting its purpose because statute and the enacting legislation do not provide a purpose. However, we found that it is likely meeting the purpose we considered for this evaluation because it is commonly used by taxpayers who make charitable contributions and claim the standard deduction, allowing them to claim a similar benefit as those who make charitable contributions and itemize their deductions.

PERFORMANCE MEASURE: *To what extent is the deduction used by eligible taxpayers?*

RESULT: Overall, we found that the deduction is commonly claimed by taxpayers in Colorado, with about 152,000 returns claiming it in Tax Year 2017, increasing to about 350,000 in Tax Year 2018, following the passage of the TCJA.

Although the deduction is widely used, we lacked data necessary to determine the proportion of eligible taxpayers who claimed the deduction. However, about 17 percent of the 2.1 million Colorado tax returns that claimed the standard deduction in Tax Year 2018 claimed the Charitable Contribution Deduction, which is up from about 10 percent in Tax Year 2017. In comparison, about 50 percent of all U.S. households made charitable contributions of some amount in 2018, including households that itemize deductions, with an average contribution amount of about $1,300, according to research conducted by the University of Indiana, Lilly School of Philanthropy. Therefore, if charitable giving among Colorado standard deduction filers is similar to that of the United States as a whole, it appears that some eligible taxpayers may not have claimed the deduction. It is possible that this is due to a lack of awareness of the deduction, taxpayers making contributions that do not exceed the $500 floor, or because it provides a relatively small tax benefit to taxpayers with contribution amounts that do not substantially exceed $500. For example, a taxpayer with $750 in eligible contributions would see a reduction in tax liability from the deduction of about $11 dollars. Therefore, some taxpayers may not be motivated to keep a record of their charitable giving in order to claim the deduction, if they do not anticipate significant tax savings.

Furthermore, some taxpayers may lack sufficient taxable income to be able to benefit from the deduction. For example, taxpayers who are married and filing jointly and who have a gross income of about $24,000 would have no federal taxable income after deducting the standard deduction and therefore, would not be able to receive a benefit from the Charitable Contribution Deduction.

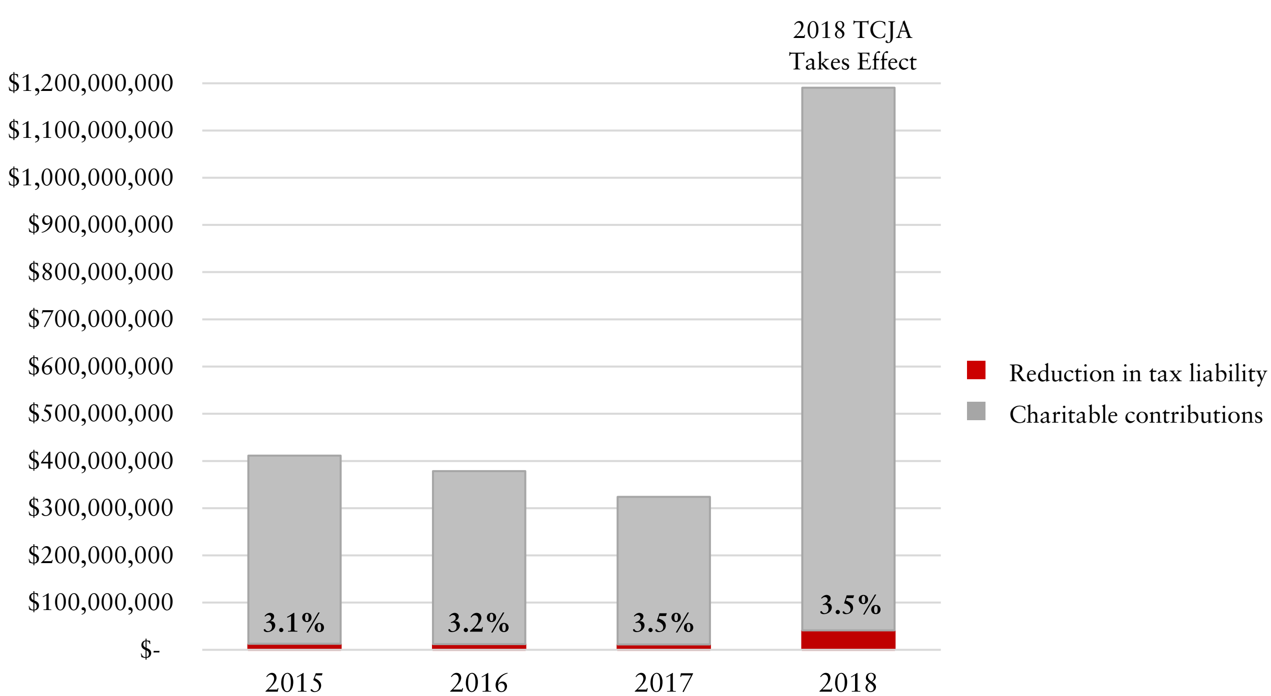
WHAT ARE THE ECONOMIC COSTS AND BENEFITS OF THE TAX EXPENDITURE?

Between Tax Years 2015 and 2017, the revenue impact of the Charitable Contribution Deduction was an average of $12.2 million annually. In Tax Year 2018, when the TCJA changes nearly doubled the federal standard deduction, many taxpayers who had been itemizing and claiming the federal charitable contribution deduction, shifted to claiming the federal standard deduction and were then able to claim the state Charitable Contribution Deduction instead. Because of this shift, there was a decrease in the amount claimed by Colorado taxpayers on their federal income tax return for itemized charitable contributions, but an increase in the revenue impact to the State for the Charitable Contribution Deduction. Specifically, the amount claimed by taxpayers for itemized charitable contributions on their federal income tax return dropped about $55.3 million, from $223.5 million in Tax Year 2017 to $168.2 million in Tax Year 2018, while the revenue impact to the State for the Charitable Contribution Deduction increased by about $29.9 million, from $11.4 million in Tax Year 2017 to $41.3 million in Tax Year 2018. However, for taxpayers who switched to claiming the federal standard deduction and then the state Charitable Contribution Deduction, their charitable contribution deductions were reduced by $500 due to the Charitable Contribution Deduction's $500 floor.

In addition, economic research indicates that tax benefits can encourage individuals to make charitable contributions by lowering the net cost of the contribution. Therefore, to the extent that the Charitable Contribution Deduction encourages taxpayers to make charitable contributions, it also provides a benefit to the organizations that receive the contributions. However, because the Charitable Contribution Deduction provides a relatively small reduction in tax liability, its impact on donation amounts is also likely small. Specifically, because it is structured as a deduction, the benefit it provides taxpayers is equivalent to the deduction amount multiplied by the state income tax rate (4.55 percent). Further, because the deduction excludes the first $500 in contributions and is limited to, at most 60 percent of taxpayers' AGI, taxpayers cannot deduct the full value of their contributions. Based on Department data, we found that between Tax Years 2015 through 2018, taxpayers who claimed the deduction received a reduction in tax liability equivalent to between 3.1 and 3.5 percent of their charitable contributions for the year. Exhibit 3 shows the reduction in tax liability as a portion of contribution amounts for taxpayers who claimed the deduction.

EXHIBIT 3. TOTAL CONTRIBUTIONS AND REDUCTION IN TAX LIABILITY

For Tax Years 2015 through 2018, taxpayers reduced their tax liability by a small percentage of their total contributions.



SOURCE: Office of the State Auditor analysis of Department of Revenue tax data for the Charitable Contribution Deduction for Tax Years 2015 to 2018.

Additionally, research from the Congressional Research Service, the Indiana University Lilly School of Philanthropy, the American Institute of Certified Professional Accountants (AICPA), and other organizations, finds that the driving factors for charitable contributions include believing in an organization's mission, having a personal connection to the cause or organization, a desire to contribute to the community, religious beliefs, and other non-financial incentives. Further, a Colorado Non-Profit Association survey of Colorado donors from 2014 found that only 38 percent of respondents said that tax benefits are a "very or somewhat important reason for giving," suggesting that most donors would have donated regardless of the deduction.

However, stakeholders we spoke with also reported that while people often make a decision to contribute to charity based on these non-financial incentives, they often increase their contributions, including giving more at the end of the tax year, in order to benefit from a tax deduction. Further, charitable organizations often use the availability of a deduction as a marketing tool to encourage donations and reported that the presence of a deduction, regardless of the level of financial benefit to the taxpayer, can have a positive impact on charitable contributions because it shows that philanthropic behavior is valued. Therefore, the deduction may increase charitable giving in the state to some extent. However, this economic impact likely is not confined to Colorado because taxpayers are not required to contribute to Colorado-based organizations. We did not have access to data on which nonprofits received these contributions and therefore, we could not estimate the economic benefit that was specific to Colorado.

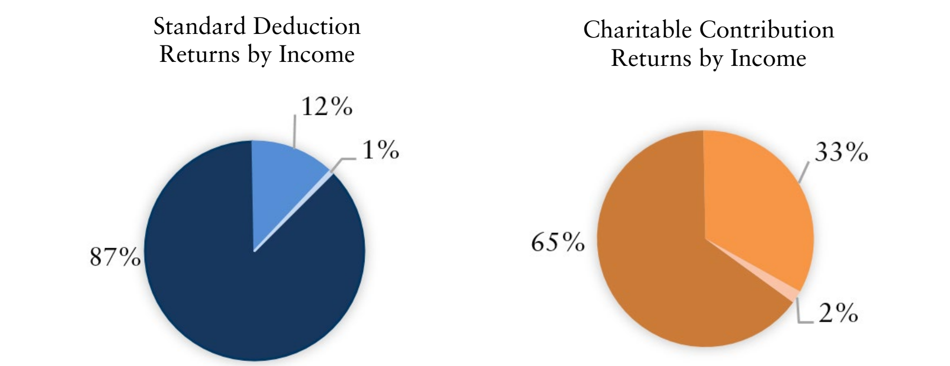
We also evaluated the extent to which the deduction benefits taxpayers across income levels and found that the TCJA's changes to the standard deduction in Tax Year 2018 caused more higher-income taxpayers to claim the standard deduction and also the Charitable Contribution Deduction. Specifically, in Tax Year 2017, taxpayer returns with an AGI of less than $75,000 made up 87 percent of returns claiming the standard deduction and 65 percent of returns claiming the Charitable Contribution Deduction. However, in 2018, taxpayer returns with an

AGI of less than $75,000 decreased to 74 percent of returns claiming the standard deduction, and 41 percent of returns claiming the Charitable Contribution Deduction. Therefore, while the deduction continues to benefit taxpayers with low and middle incomes, it also benefits a larger proportion of taxpayers with higher incomes. EXHIBIT 4 shows the shift in income levels for taxpayers claiming the standard deduction and Charitable Contribution Deduction between Tax Year 2017 and 2018.

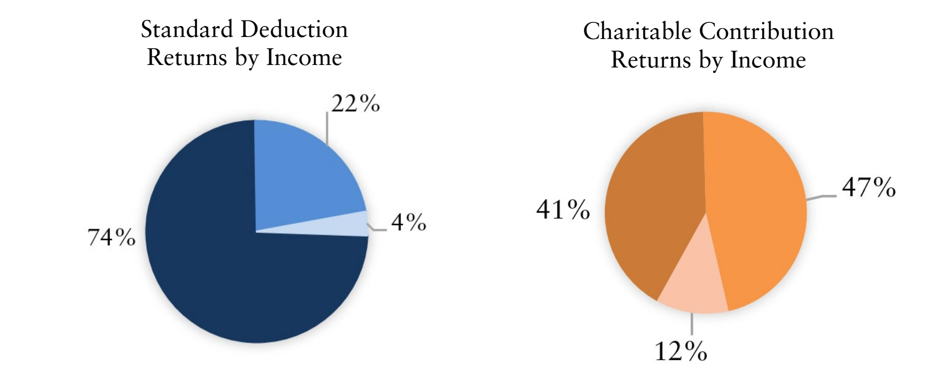
EXHIBIT 4. INCREASE IN RETURNS CLAIMING THE STANDARD DEDUCTION AND CHARITABLE CONTRIBUTION DEDUCTION, BY AGI

Due to temporary increases in the federal standard deduction under the TCJA there was a large shift in higher income taxpayers claiming the standard deduction and the Charitable Contribution Deduction between Tax Years 2017 and 2018.

TAX YEAR 2017



TAX YEAR 2018



SOURCE: Office of the State Auditor analysis of Department of Revenue Statistics of Income for Tax Years 2017 through 2018.

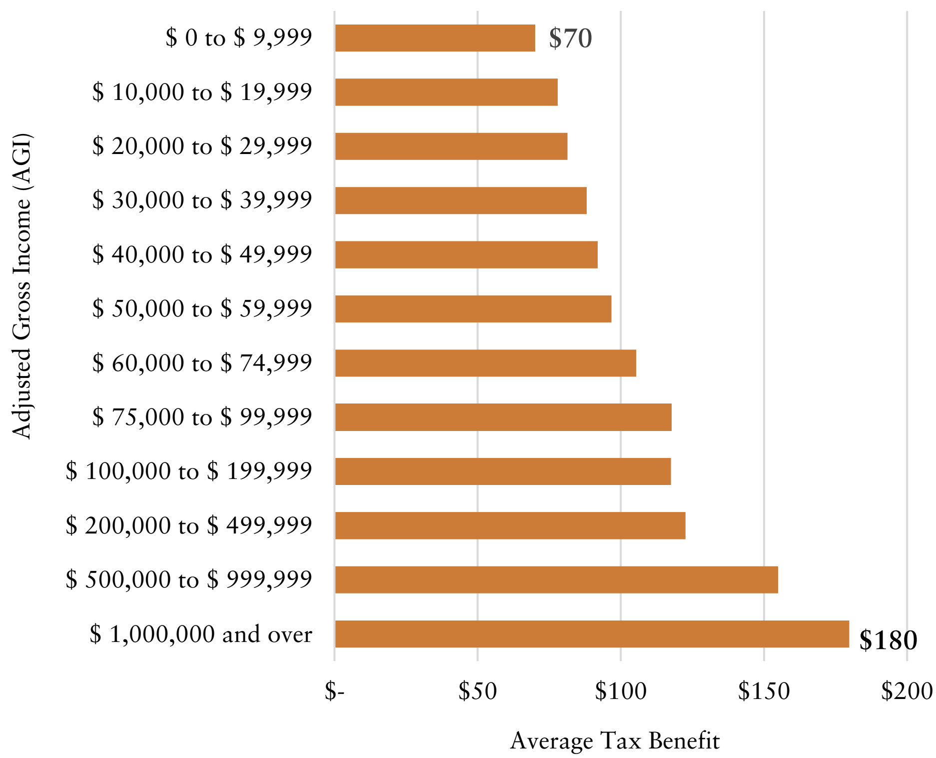
WHAT IMPACT WOULD ELIMINATING THE TAX EXPENDITURE HAVE ON BENEFICIARIES?

If the deduction was eliminated, taxpayers who claim the federal standard deduction and make charitable contributions would no longer receive a state tax benefit for their contributions. The specific benefit is unique to each taxpayers' contribution amount and income taxes owed. For example, if a hypothetical taxpayer with a charitable contribution of $2,000 itemizes their deductions on their federal tax return, they can deduct the full $2,000 from their federal taxable income. Since federal taxable income is the starting point for calculating state taxable income, the taxpayer would receive a corresponding state tax benefit of about $91. If the taxpayer claims the federal standard deduction, they would be able to deduct up to $1,500 from their state taxable income, and would receive a tax benefit of about $68. However, if the Charitable Contribution Deduction was eliminated, the taxpayer claiming the standard deduction and making charitable contributions would no longer receive that tax benefit.

According to Department data, for Tax Year 2018, the median Charitable Contribution Deduction was $1,290. Therefore, if the deduction was repealed, assuming taxpayers still make the same contributions, taxpayers who make the median contribution amount would owe about $59 more in income taxes. However, some taxpayers could see a more significant impact if their deductions are above the median. For example, while less than 3 percent of Tax Year 2018 returns claimed a deduction that exceeded $10,000, this deduction amount currently provides a tax benefit of over $455, which would no longer be available.

Additionally, because contribution amounts tend to increase as taxpayers' AGI increases, the monetary impact of repealing the expenditure increases as AGI increases. EXHIBIT 5 shows that for Tax Year 2018, average tax benefits for each AGI level ranged from about $70 to $180, with taxpayers at the highest AGI level receiving the largest tax benefit, which would no longer be available if the deduction was repealed. However, taxpayers with lower- and middle-income AGIs would be more impacted by a repeal of the deduction, as a proportion of their income.

EXHIBIT 5. AVERAGE TAX BENEFIT BY TAXPAYER AGI, TAX YEAR 2018



SOURCE: Office of the State Auditor analysis of Department of Revenue data for returns claiming the Charitable Contribution deduction for Tax Year 2018.

In addition to increasing the tax liability of taxpayers who currently claim the deduction, because the deduction may incentivize some taxpayers to make charitable contributions, charitable organizations may experience a decrease in donations if the deduction was no longer available. As discussed, stakeholders indicated that the deduction encourages taxpayers to make contributions, in particular, providing them with an incentive to make larger contributions due to their tax advantaged status. Further, due to the TCJA, many higher income taxpayers can no longer benefit at the federal level by claiming an itemized deduction for their charitable contributions, meaning that the State's Charitable Contribution Deduction is the only tax benefit available for most taxpayers who make contributions. However, because the typical reduction in tax liability provided by the deduction is equivalent to about 3.1 to 3.5 percent of the contribution amount, it may not currently be providing a strong incentive to make charitable contributions and so the impact to charitable organizations may be limited. Further, because taxpayers who make very large charitable contributions, for example those over $30,000, would likely still benefit from itemizing their federal tax deductions, they would continue to have incentives at both the federal and state level for making charitable contributions.

Finally, stakeholders reported that they often rely on the contributions and deductions the Department reports to understand charitable giving in Colorado. If the Charitable Contribution Deduction were repealed, the Department, and therefore stakeholders, would no longer have this information.

ARE THERE SIMILAR TAX EXPENDITURES IN OTHER STATES?

There are four states (Idaho, North Dakota, Oregon, and South Carolina), other than Colorado, that base their state taxable income off of FTI, and therefore, include either itemized deductions or the standard deduction amount when determining the starting amount of taxable income. Three of these states (Idaho, Oregon, and South Carolina) offer taxpayers a charitable contribution deduction, however, these states differ from Colorado because they do not specify that the deduction is only for taxpayers who claim the federal standard deduction and they offer deductions for charitable contributions to specific industries or organizations located within their states.

ARE THERE OTHER TAX EXPENDITURES OR PROGRAMS WITH A SIMILAR PURPOSE AVAILABLE IN THE STATE?

As discussed, taxpayers who make charitable contributions and itemize their federal deductions can claim a federal deduction for charitable contributions under Internal Revenue Code 26 USC 170. The federal deduction is limited to between 20 and 60 percent of a taxpayer's adjusted gross income depending on the type of organizations they contribute to and the type of contributions (i.e., cash versus non-cash). Because Colorado uses federal taxable income as the starting point for Colorado taxable income, taxpayers who claim the federal deduction automatically receive a benefit for state tax purposes. However, in 2021, the Generally Assembly passed House Bill 21-1311, which capped the amount of charitable contributions high-income taxpayers can deduct. Specifically, beginning in 2022, taxpayers with an AGI of $400,000 or more must add back itemized deductions that exceed the cap ($30,000 for single filers and $60,000 for joint filers) to their Colorado taxable income.

WHAT DATA CONSTRAINTS IMPACTED OUR ABILITY TO EVALUATE THE TAX EXPENDITURE?

We did not encounter any data constraints that impacted our ability to evaluate the deduction.

WHAT POLICY CONSIDERATIONS DID THE EVALUATION IDENTIFY?

THE GENERAL ASSEMBLY MAY WANT TO CONSIDER AMENDING STATUTE TO ESTABLISH A STATUTORY PURPOSE AND PERFORMANCE MEASURES FOR THE CHARITABLE CONTRIBUTION DEDUCTION. As discussed, statute and the enacting legislation for the deduction do not state its purpose or provide performance measures for evaluating its effectiveness. Therefore, for the purposes of our evaluation, we considered a potential purpose for the deduction: to provide the benefit of a deduction on charitable contributions for taxpayers who claim the standard deduction, similar to the deduction benefit provided to taxpayers who itemize their deductions. We identified this purpose based on how the deduction operates and bill sponsor testimony from hearings for the enacting legislation (House Bill 00-1053). We also developed a performance measure to assess the extent to which the deduction is meeting this potential purpose. However, the General Assembly may want to clarify its intent for the deduction by providing a purpose statement and corresponding performance measure(s) in statute. This would eliminate potential uncertainty regarding the deduction's purpose and allow our office to more definitively assess the extent to which the deduction is accomplishing its intended goal(s).

THE GENERAL ASSEMBLY MAY WANT TO REVIEW THE DEDUCTION'S $500 CHARITABLE CONTRIBUTION FLOOR. Based on our review of committee testimony at the time the deduction was created, bill sponsors included the requirement that taxpayers can only deduct charitable contributions that are over $500 because they believed that the federal standard deduction was already structured to include about $500 of charitable giving, and therefore, this "floor" would prevent a taxpayer from receiving a double benefit (i.e., effectively receiving $500 of the standard deduction based on charitable giving, and then deducting this amount again from state taxable income by claiming the Charitable Contribution Deduction). However, based on our review of academic and economic publications regarding the basis of the standard deduction amount, it is not clear that the standard deduction amount was structured to include charitable giving, or, if it was, that $500 represents typical giving for taxpayers claiming the standard deduction. Specifically, while some sources indicate that the standard deduction is meant to simplify tax filing by providing a deduction amount that is equivalent to itemized deductions that would be available to the typical taxpayer, others indicate that it is meant to provide a more progressive tax system by establishing a base of untaxed income. Additionally, since 2000, when the Charitable Contribution Deduction was established, the standard deduction amount has increased substantially due to both adjustments for inflation and changes under the TCJA, however the $500 floor has not been modified. Specifically, the standard deduction for single filers increased from $4,400 in Tax Year 2000 to $12,550 in Tax Year 2021. Further, a review of Congressional testimony for the

TCJA did not indicate whether or not the standard deduction amounts that were established were intended to account for itemizable expenses.

Therefore, the General Assembly may wish to review the $500 floor to determine whether it continues to meet its intent for the deduction. Generally, increasing the floor to account for significant changes to the standard deduction would reduce the benefit provided to taxpayers and, therefore, reduce the revenue impact to the State. On the other hand, decreasing or eliminating the floor would make the deduction available to taxpayers who make smaller contributions, which tends to include lower income taxpayers; increase the revenue impact to the State; and may better align the deduction with the view of the standard deduction as a mechanism to make the federal tax code more progressive.

THE GENERAL ASSEMBLY MAY WANT TO CONSIDER REPEALING AN OBSOLETE STATUTORY REFERENCE TO TAXPAYERS CONTRIBUTING TO HUNGER-RELIEF ORGANIZATIONS. Statute [Section 39-22-104(4)(m)(VII), C.R.S.] states that a taxpayer cannot claim the Charitable Contribution Deduction for contributions for which they also claim the Food Contributions to Hunger-Relief Charitable Organizations Credit. This credit expired January 1, 2020, so the General Assembly may want to consider repealing this provision.