

United States Senate

WASHINGTON, DC 20510

January 17, 2018

The Honorable Mitch McConnell
Senate Majority Leader
S-230 U.S. Capitol
Washington, D.C. 20510

The Honorable Charles E. Schumer
Senate Minority Leader
S-221 U.S. Capitol
Washington, D.C. 20510

The Honorable Orrin Hatch
Chairman
Senate Committee on Finance
219 Dirksen Senate Office Building
Washington, D.C. 20510

The Honorable Ron Wyden
Ranking Member
Senate Committee on Finance
219 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Leader McConnell, Leader Schumer, Chairman Hatch, and Ranking Member Wyden,

As negotiations continue for Fiscal Year 2018 (FY2018) priorities, we strongly urge you to include Section 8 of S. 1343, the Charities Helping Americans Regularly Throughout the Year (CHARITY) Act at the first legislative opportunity, including in any spending agreement. Urgent action is needed to preserve the work of Newman's Own Foundation and similar philanthropic organizations, which have supported and sustained thousands of charities across the country and around the globe.

Section 8 of the CHARITY Act, would amend Section 4943 of the Internal Revenue Code of 1986 (26 U.S.C. §4943) to provide clarity and immediate relief for the growing number of businesses that do good by giving away their profits to improve our communities. This language is vital to support and sustain the work of Paul Newman and his non-profit charity, Newman's Own Foundation, headquartered in Westport, Connecticut, which owns the household food brand company Newman's Own. Although the Newman's Own model was unique at its inception, the number of similarly modeled companies in the United States is growing. While many of these companies are young, this legislative fix will help them to grow into the future and aid communities across the country, just as Newman's Own has done for over 35 years. Philanthropic enterprises that innovate, create jobs, compete with other businesses, pay taxes, stimulate economic growth, and give back to society by supporting charity should not be penalized.

Paul Newman and Newman's Own have donated every single cent of profits, after taxes, to charity, since the company's founding. Upon his death in 2008, Mr. Newman left the company to a private foundation in order to allow the organization to continue its charitable work. To date, Newman's Own has donated more than \$512 million¹ to an array of charitable organizations that work on consequential issues related to nutrition, veterans', pediatric cancer, assistance for low-income students and families, and many more. Last year alone, Newman's Own contributed \$30 million² in paid donations, not including a special commitment of \$1.2 million in response to natural disasters in Houston, Puerto Rico, U.S. Virgin Islands, and California.

¹ <https://ctmirror.org/2017/12/21/tax-bill-glitch-endangers-future-of-newmans-own-and-actors-foundation/>

² <http://newmansownfoundation.org/about-us/total-giving/>

However, the very mission and charitable work of Newman's Own Foundation is currently jeopardized by a punitive provision in the tax code, which stipulates that it is not permissible for a private foundation to own more than twenty percent, and in certain instances thirty-five percent, of a for-profit company for more than five years³

As such, Newman's Own Foundation will be forced to divest at least 80 percent of its ownership of the Newman's Own food company, or face an immediate 10 percent excise tax⁴ on the value of the food company above its permitted ownership stake and will be subject to an additional two-hundred percent⁵ excise tax on the same excess value – taxes that would in effect cripple Newman's Own Foundation and destroy its ability to continue its philanthropic work. Barring Congressional intervention, this tax will automatically hit the foundation in November 2018, when a previously granted grace period by the Internal Revenue Service is set to expire, potentially resulting in its sale or complete demise. This provision is not a tax break; it is simply permission to continue their important work in their current structure.

We appreciate your leadership and efforts to complete outstanding priorities during the ongoing negotiations for FY18. As such, we respectfully ask that you prioritize charitable giving, such as that pioneered by the tremendous Paul Newman, who to this day continues to positively contribute to our society, by including Section 8 of the CHARITY Act in any measure enacted.

Sincerely,



RICHARD BLUMENTHAL
United States Senator



CHRISTOPHER S. MURPHY
United States Senator

³ 26 U.S.C. § 4943 (b)(B)

⁴ <https://www.natlawreview.com/article/new-rules-tax-exempt-organizations-tax-cuts-and-jobs-act>

⁵ <https://ctmirror.org/2017/12/21/tax-bill-glitch-endangers-future-of-newmans-own-and-actors-foundation/>