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ARTICLE: "Why the Buffet-Gates Giving Pledge Requires Limitation of the Estate Tax Charitable Deduction," *Fla. Tax Rev.*, Vol. 16, No. 7 (2014)

In the thought-provoking article, "Why the Buffet-Gates Giving Pledge Requires Limitation of the Estate Tax Charitable Deduction," author Edward A. Zelinsky, after profound analysis, argues that just as there are percentage limitations on the federal income tax charitable deduction, so too should there be limitations on the federal estate tax charitable deduction. He explains that the positive publicity surrounding the noble Buffett-Gates Giving Pledge, under which billionaires leave the majority of their estates to charity, obfuscates the fact that the estate tax base is eroded and the government loses revenue. This erosion is because, unlike the charitable income tax deduction, which is capped at different thresholds and involves payment of some income tax, the unlimited estate tax charitable deduction may potentially provide no revenue to the government. Due to this economic and philosophical inconsistency, the author reasons that the Buffett-Gates Giving Pledge should be a catalyst for estate tax reform to place constraints on the federal estate tax charitable deduction, which should no longer be unlimited.

### Five Parts

Structurally, the article is divided into five interesting parts: (1) the history and current limitations of the federal income tax charitable deduction; (2) a contrast of the unlimited federal estate tax charitable deduction against the limitations of the federal income tax charitable

deduction; (3) a comprehensive analysis of the federal income tax charitable deduction and the inherent compromises embedded within it; (4) the arguments for and against the estate tax; and (5) the contention that similar to the limitations on the federal income tax charitable deduction, which is a compromise of sorts, Congress should enact rules for the federal estate tax charitable deduction to ensure that large estates pay at least some death taxes.

The article raises interesting issues regarding the policy, theory and history behind the charitable deduction and the estate tax.

While the article's central theme is to argue that the federal estate tax charitable deduction should be limited, it's so much more in terms of its depth and content, delving into the theories and policies behind the charitable deduction and the estate tax.

Professors, students, estate and tax professionals, politicians, Buffett, Gates and others who signed up for the Buffett-Gates Giving Pledge, as well as the media that publicizes it, will find the article raises interesting issues regarding the policy, theory and history behind the charitable deduction and the estate tax. It's also very well written, structured and enjoyable to read.

### Reason Behind Tax

One point of contention, which the article mentions, but, in my opinion, doesn't adequately address, is that with the estate tax now affecting a small percentage of the population and producing minimal government revenue, the tax isn't meant to raise revenue. Instead, the reason for

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the tax, rooted in socio-economic theory, is to serve as an equalizer of wealth in society. This dilution of prosperity and equalization of wealth is accomplished whether a significant part of the estate is left to charity or to the government. The author argues however, that accumulating significant wealth in charitable organizations, including certain dynastic foundations, wields great political and economic power to the family and doesn't achieve this equalization goal in the way that leaving it to the government in tax revenue does. Though the author discusses this equalization of wealth aspect, I would have liked to see more focus and emphasis on this point, which is crucial to the author's argument. I believe that leaving more of the estate to charity and less to the government, even though it may not be as much of a dilution of power or consumption if still held in a family foundation, may in fact be a greater equalization of wealth, depending on how charities use the funds for the benefit of society versus how the government uses the tax revenues.

### Endnotes

1. The Giving Pledge, <http://givingpledge.org>.
2. Frequently Asked Questions, The Giving Pledge, <http://givingpledge.org/faq.aspx>.

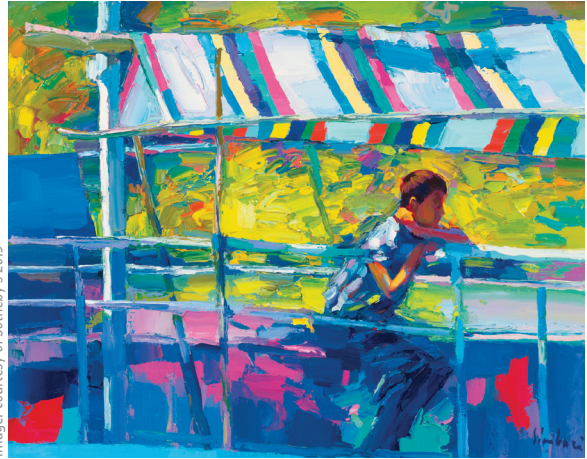


Image: Courtesy of Sotheby's 2015

## SPOT LIGHT

### Lost in Thought

"Gennarino" (31½ in. by 39¼ in.) by Nicola Simbari, sold for \$21,250 at Sotheby's recent Impressionist & Modern Art auction in New York on May 28, 2015. With its brilliant tones, Simbari's work conveys his sense of energy and enthusiasm for life and is greatly influenced by the Mediterranean setting.

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