2023 Charitable Giving Strategies –

Understanding Your Donor's Intent and Philanthropic Strategy

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For the mass affluent or even the average donor, one of the most meaningful aspects of accumulating wealth is the ability to give back in significant, influential ways. Families and individuals donate for a whole host of reasons, and taking advantage of tax breaks is low on the list of motivations. Still, tax benefits are an important secondary consideration when giving, one that requires a closer look. Families will look at charitable giving strategies and evaluate by taking into consideration their personal goals and circumstances and in consultation with their tax advisor.

Since 1917, individual taxpayers who itemized have been able to receive a tax break on their charitable gifts. However, the enactment of the Tax Cuts and Jobs Act in 2017 has reduced the federal tax benefit for many households. Beginning in 2018, the standard deduction nearly doubled. As a result, far fewer taxpayers are itemizing and receiving an actual tax break for their charitable gifts.

Understanding the factors impacting tax benefits

For itemizing taxpayers, the tax benefits of charitable giving will depend on factors that include:

- The type of asset contributed (e.g., cash, long-term capital gain property, short-term capital gain property, tangible personal property, self-created or intellectual property).
- The basis and fair market value of the assets donated.
- The type of charity to which the gift is donated – a public charity or a private foundation.

- The income level and tax bracket of the taxpayer. As a rule, an individual cannot offset their entire income in a year with a sufficiently large charitable gift. The amount one can deduct for charitable contributions is subject to different AGI limitations. There is a 60% AGI limitation for cash contributions to "50% charities". There are two 50% limitations for aggregate deductible contributions. The deduction may be further limited to 30% or 20% the AGI limit depending on the type of property given and the type of organization that receives it. For large charitable gifts, amounts in excess of those limits can be carried forward for five more years.

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Planned gifts can make it possible for donors to give more than they would otherwise, while providing important tax advantages. Understanding the tax advantages will better prepare your organization for the in-depth conversation with your donors as well as board members, finance committees, and other decision makers within your organization. Below is a high-level outline of what those options may be.

Cash contributions: Above-line deduction

Prior law allowed individuals who did not itemize their deductions the ability to deduct up to $300 ($600 married filing jointly) of cash contributions made to a public charity or certain foundations. Donations to non-operating private foundations, supporting organizations, or donor-advised funds did not qualify for this above-line deduction amount. This above-the-line deduction is no longer available for 2023. However, a bill has been introduced in Congress that would potentially raise the cap for non-itemizers' charitable deductions to approximately $4,500 for individuals ($9,000 for joint filers). It remains to be seen whether this bill passes before the end of 2023.

Gift Appreciated Securities

Some of the most tax-efficient assets to give to charity are marketable securities held 12 months or longer that have appreciated with unrealized capital gains. By donating these directly to the charity, the donor receives a deduction based on the fair market value of the property, and neither the donor nor the charity pays a tax on the capital gains if the security is subsequently sold by the charity.

Donating highly appreciated stock enables a donor to automatically increase gift and tax deductions and save on capital gains taxes.

This is how it works: When a donor donates appreciated assets to charity, they generally take a tax deduction for the full fair market value of the asset rather than their basis. As a result, the value of the gift and the amount of the tax deduction increase, and the donor eliminates their capital gains tax exposure. When the charity later sells the stock, it pays no tax on the gain.

As an example, assume you are debating whether to donate $15,000 of cash, sell $15,000 in stock and donate the cash proceeds, or donate $15,000 worth of stock outright to the charity. What are the net tax savings of the different strategies?

$15,000 Fair Market Value of Stock, $5,000 Cost Basis, Bought 5 Years Ago	Donate $15,000 Stock Outright	Donate $15,000 Cash	Sell $15,000 Stock and Donate Cash Proceeds
Charitable donation	$15,000	$15,000	$15,000
Ordinary income tax savings (assume 37% rate)	$ 5,550	$ 5,550	$ 5,550
Capital gains tax paid (assumes 20% tax on $10,000 gain)	$ 2,000 saved	NA	$ 2,000 paid
Net tax savings	**$ 7,550**	**$ 5,550**	**$ 3,550**

Note: If the stock is worth less than the donor paid for it, it is better to sell the stock first, and then donate the cash so that the donor can take the capital tax loss against current or future capital gains.

To maximize a charitable giving strategy, the donor must have enough deductions to make itemizing worthwhile. Typically a donor will need to have at least $13,850 in deductions for single filers and $27,700 for married couples filing jointly to make it worth it. However, even if the donor takes the standard deduction this year and does not itemize the charitable deduction, they still benefit by eliminating the capital gains tax. This is a win for the charity and a win for the donor.

What is Fair Market Value?

For publicly trading stock, that is the average of the high and low market price on the transfer date. Private company stock requires an appraisal unless the estimated value is less than $10,000.

Contribute to a Donor-advised Fund

A donor-advised fund (DAF) is a contractual arrangement that a donor enters into with a sponsoring charity to establish an account to benefit the donor's chosen charities. If a donor is charitably inclined, they might consider a contribution to a DAF to offset unexpectedly high earnings and year-end bonuses. The basic concept of a DAF is straightforward:

- The donor contributes to the fund and subsequently recommends specific grants to favorite charities when ready.
- Keep in mind that the donor's recommendations are subject to final approval by the administrating organization.
- The donor can claim a tax deduction for the year in which they put assets into a DAF; the amount and timing of any actual grant has no bearing on the tax deduction.
- DAFs are typically invested and grow tax-free. Donor-advised funds also enhance giving flexibility. A donor does not have to identify nonprofit beneficiaries when they make tax-deductible contributions to their donor-advised fund, and they can distribute their contributions and investment gains to recipients over as long a period as they wish.

Private foundations also use DAFs to fulfill their 5% mandatory annual distribution requirement when the foundation is not ready to make a final decision about where to make their grants at the end of the year.

Offsetting the Tax Costs of a Roth IRA Conversion

A charitable gift could save the donor taxes on a Roth conversion. Roth IRAs offer two important tax advantages: (1) Unlike traditional IRAs and employer sponsored plans distributions, qualified Roth IRA distributions are tax free; and (2) Unlike traditional IRAs and employer-sponsored plans, Roth IRAs are not subject to required minimum distribution (RMD) rules that must begin at age 73. A change in the tax law and political developments could result in higher future taxes. If a donor believes their current tax rate is lower than it will be in the years they will be taking distributions from their retirement assets, a Roth conversion can be viewed as insurance against future tax rate increases that would otherwise apply. As a result, more retirement dollars will be available as a tax-free source of income and available to pass to beneficiaries. The bad news is the amount converted from a traditional IRA to a Roth IRA is taxed as ordinary income in the year of conversion and may push the donor into a higher marginal federal income tax bracket. Keep in mind that not all states tax distributions from retirement accounts (the donor should check with their tax preparer to see if state income taxes will apply to the Roth conversion). If the donor is charitably inclined and plans to do a Roth conversion before the end of the year, a large itemized charitable tax deduction can help offset the taxes due to the Roth conversion.

Legislative alert

On June 9, 2021, the Accelerating Charitable Efforts (ACE) Act was introduced in the Senate. The legislation would have heightened the transparency and expedited the pace of resources flowing from DAFs and private foundations to working charities.

The proposed DAF changes attempted to address a timing mismatch perceived between the income tax deduction and the production of charitable goods and services. As an example, contributions to a nonqualified DAF would not not have been allowed a charitable deduction until the sponsoring organization sold the donated property, cash contributions or proceeds from the sale of donated property were distributed to charities, and the amount of the deduction matched that of the distribution.

The proposed legislation introduced several changes that would have also affected private foundations. This included changes relating to calculating compliance with the 5% annual payout requirement and calculating excise tax obligations among other details.

A companion bill was also introduced in the House of Representatives on August 12, 2022.

Both bills were not enacted by the previous Congress. However, it could be re-introduced in a subsequent session of Congress in a new bill. We will continue to monitor legislative developments.

Make Qualified Charitable Distributions

A charitable rollover, also known as a qualified charitable distribution (QCD), can be an effective vehicle for charitable giving. QCDs enable an individual over age 70½ to make tax-advantaged charitable donations of up to $100,000 per year from their IRAs during their lifetime if the distribution is made directly to a charity. QCDs are only allowed from traditional IRAs; they are not allowed from employer-sponsored retirement plans. QCDs are not included in adjusted gross income and for those over their RMD age, the distribution will satisfy or help satisfy your required minimum distribution from an IRA. Any potential income taxes owed on these distributions are eliminated, which makes QCDs beneficial for standard deduction filers.

If a donor has IRAs with nondeductible contributions or multiple IRAs, there are special rules in determining what portion of deductible and nondeductible contributions has been distributed as a QCD and what portion of the remaining IRA is treated as including nondeductible contributions.

Be aware some states may not follow federal tax law and will not allow an exclusion of the QCD from state taxable income. The IRA owner should consult with their tax preparer regarding state taxability of QCDs.

Utilize Split-interest Charitable Trusts

Split-interest trusts are popular due to their dual beneficial interests: They can benefit a qualified charity and a noncharitable beneficiary. For individuals with Federal taxable estates (assets exceeding $12.92 million per individual, $25.84 million per married couple).

As interest rates increase, charitable remainder trusts (CRTs) provide more benefit since the deductible portion is higher. A CRT provides noncharitable beneficiaries with exclusive rights to distributions until their interests terminate; at that time, charitable beneficiaries receive the assets left over in the trust. CRTs have been particularly useful for investors who want to diversify highly appreciated assets but have been concerned about incurring the capital gains tax. The deferral or avoidance of capital gains tax has been a popular feature for funding CRTs with appreciated assets.

Individuals with large retirement accounts should consider naming a CRT as beneficiary, particularly in light of a recent law (The SECURE Act, 2019) that requires retirement account benefits to be distributed within 10 years after the year of the retirement account owner's death. In general, a CRT provides a current income tax charitable deduction and a stream of income to noncharitable beneficiaries, such as the donor's children, for a term of no more than 20 years or the life of one or more of the noncharitable beneficiaries. By using a longer payout term, a CRT can potentially avoid subjecting a beneficiary to a higher tax bracket and the 3.8% surtax on net investment income. When the trust term ends, the remainder passes to a charity or charities.

Gift Planning Summary of Outright Charitable Contributions – 2023

Outright Contribution	Income Tax Deduction	Capital Gain Considerations	Method of Transfer	Special Considerations
Cash	Amount of cash, up to 60% of donors' AGI for gifts to public charities (50% charities); up to 30% of AGI for gifts to private foundations. Five-year carryover allowed for excess deductions.	None	Checks or other cash equivalents including credit card charges, electronic transfer, and physical delivery of cash.	Carried-over deductions from cash gifts are considered before carryovers of property gifts.
Marketable Securities	Current market value if long-term transferred to a 50% charity, up to 30% AGI or long-term transferred to a 30% charity, up to 20% of AGI. Limited to cost basis if short-term gain up to 50% of AGI (30% for private foundations). Five-year carryover for excess.	No gain reportable when donor gives appreciated securities.	Transfer can be made to charity's account or be delivered to charity's agent in negotiable form.	Donors or appreciated securities can qualify for the 50% AGI ceiling by electing to reduce their contribution deductions by 100% of the gain. Strategy could be effective where long-term capital gain is insubstantial.
Donor Advised Funds (DAF)	Donor receives charitable deduction when contributions are made to a DAF. No additional deduction allowed when DAF makes transfer to a recipient charity.	No gain reportable if donor gives appreciated assets to a DAF.	Account owner can make recommendations of gifts to individual charities, but DAF retains ownership and control over distributions.	Good if donor does not have individual charities identified yet, but still wants current year tax deduction. Currently no minimum annual distribution required by a DAF account.
Real Property	Current value of appreciated real estate held long-term, less any indebtedness transferred to a 50% charity, up to 30% of AGI with 5-year carryover for excess deduction. Transfer to 30% charity is deductible at cost basis only, up to 20% of AGI with five-year carryover.	No gain reportable by donor.	Transfer of title of contributed realty is generally made by quit-claim deed.	Verify charity's policy on accepting real estate gifts.
Closely Held Securities	Current value of appreciated closely held securities if long-term transferred to a 50% charity, up to 30% AGI with five-year carryover of excess deduction. Transfer to 30% charity deductible at cost basis only, up to 20% of AGI.	No gain reportable by donor.	Delivery of securities in negotiable form to charity or agent by transfer of certificate into charity's name.	Gifts of closely held securities are often negotiated with anticipation of corporate redemption of charity's stock. Gifts may also be attractive where sale of corporation is anticipated. Be aware of pre-arranged sales that could cause the gain to be recognized by donor.
Life Insurance	FMV of policy (interpolated terminal reserve value) or donor's costs basis, whichever is less, subject to 50% of AGI ceiling (30% for private foundations.) Policy loans reduce deductions. No deduction for term policies.	Ordinary income property. Generally, no recognition of gain unless policy is subject to a loan.	Ownership of policy is transferred to charity by an endorsement by the donor on forms supplied by the insurance company and accompanied by delivery of the insurance policy.	If the donor continues to pay the policy premium, donor receives a charitable income tax deduction.
Qualified Charitable Distributions from IRAs (QCDs)	No deduction. But, qualified donors (IRA owners age 70½ and older) do not include the distribution (up to $100,000) in income. Also counts toward RMD requirement.	None	IRA owner can request trustee or custodian of account to make a QCD to a qualified charity (does not include a DAF or supporting organization).	Currently, employer sponsored retirement plans are ineligible for QCDs. A CRT or CGA can be a qualified charity, however the distribution amount is limited to $50,000 and it is a once-in-a-lifetime gift.

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Encourage donors to consider making gifts to your organization this year, and advise them to consult with their advisor and their legal or tax advisor to determine which strategy could help maximize the benefits for them, their family, and their chosen charitable causes.

For more information, please contact your advisor.

About the Author

As the National Director of Philanthropic Advice, Cindy is responsible for introducing KeyBank's full suite of sophisticated planning solutions to nonprofit and institutional clients, which includes growth strategies, the development of advice, thought leadership, and education on critical topics such as planned giving, fund accounting, charitable trusts, donor advised funds, and other products and services that support endowments, Foundations, and pooled special needs trusts.

Cindy joined KeyCorp in 1992 and is dedicated to her profession. Her credentials include earning her CTFA through Cannon Financial Institute and attending the New York State Bankers Association and the New York State Bankers Estate and Administration School. She earned her B.S. in Business Management with a minor in finance at Plattsburgh State College.

She continues her education by attending Cannon Financial Institute, where she participates in the Advanced Trust Topics seminar annually in addition to attending multiple National Special Needs Pooled Trust Conferences. In addition, Cindy is currently studying for her ChSNC®.

Cindy is also committed to serving the community and volunteers at New Vocations, a national nonprofit focusing on rehabilitating, retraining, and rehoming retired racehorses through adoption as well as helping to educate about racehorse aftercare.

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