Tax reform: what is the impact on charities?

And some comments on the impact of COVID-19

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Presenter

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Objectives:

- To understand the impact the Tax Reform Act of 2017 has had on charitable contributions in subsequent years

- To learn about the charitable contribution incentives included in the Coronavirus Aid, Relief, and Economic Security Act (CARES act)

- To identify non-cash alternatives to charitable giving
TCJA provisions impacting charitable contributions
Potential impact on charitable contributions

- Married couples had a standard deduction of $24,000 for 2018, and $24,400 for 2019
- State tax deduction capped at $10,000

The “anti-sweet spot”:

- In 2018, $14,000 worth of other deductions need to be generated before the value of itemizing starts

Will people give less under these circumstances?
Potential impact on charitable contributions

Projected decline in giving of 4.5% – 9% (as much as $26 billion)
Survey says:

Americans slashed their charitable deductions by $54 billion after Republican tax-code overhaul

The donation drain: tax reform is sapping charitable giving, leaders say

But what is the real story?
Contributions in 2018 and 2019

Charitable giving: 2017 tax returns versus 2018*

- Individual giving decreased 1.1%
  - $54 billion decrease.
  - Does not contemplate the impact of 14.6 million extensions of 2018 individual income tax returns – largest number of extensions ever

- Corporate giving increased 5.4%

- Foundation giving increased 7.3%

Contributions in 2018 and 2019

- What has been the charitable contribution impact on your organization since TRA 2017 was passed?
  
  a. Contributions have increased
  
  b. Contributions have decreased
  
  c. Contributions have been consistent year over year

Please enter your letter response in the “chat box”
“Bunching” charitable contributions in a given year to take advantage of standard deduction in the off year

Support potential tax law changes that could have a positive impact on giving

- Increase “above the line” charitable contribution deduction
- Charitable contribution tax credit
### “BUNCHING” example

<table>
<thead>
<tr>
<th>Year 1</th>
<th>Contribution</th>
<th>$50,000</th>
</tr>
</thead>
<tbody>
<tr>
<td>Year 3</td>
<td>Contribution</td>
<td>$50,000</td>
</tr>
<tr>
<td>Years 1-4</td>
<td></td>
<td>$25,000 per year</td>
</tr>
<tr>
<td></td>
<td><strong>Bunching</strong></td>
<td><strong>Typical</strong></td>
</tr>
<tr>
<td>Total Contribution</td>
<td>$100,000</td>
<td>$100,000</td>
</tr>
<tr>
<td>Itemized</td>
<td>$&lt;28,000&gt;</td>
<td>(14,000 x 2)</td>
</tr>
<tr>
<td>Deduction</td>
<td>$72,000</td>
<td>$44,000</td>
</tr>
</tbody>
</table>

Can you spread the contributions over more than 4 years?
Strategies under the new tax law (continued)

**Bunching**

- Donor establishes a donor advised fund at the local community foundation
- Charity establishes a segregated fund to hold donor restricted funds to be used over multiple years
- Donor gives one large non-cash gift to a donor advised fund enabling multiple gifts of cash in subsequent years
CARES Act

Charitable contribution changes*

– All non-itemizers can deduct up to $300 of charitable contributions made during 2020

– Individuals can deduct certain cash charitable contributions up to 100% of Adjusted Gross Income on their 2020 individual income tax returns

– Corporations can deduct up to 25% of modified taxable income on their 2020 corporate income tax returns

– The limitation on deductions for contributions of food inventory is increased to 25% for 2020

*Contributions to a supporting organization or a donor-advised fund do not qualify for any of these limit changes
What are organizations doing as a result of the coronavirus and “shelter at home” rules?

Virtual fundraisers
- Pay to stay home
- Virtual galas
- Stay at home participatory events – e.g. cumulative stair climbing

Fundraising generally
- Focus on mission
- Video “asks”, “thank you”, and stories
- Donors tend to become more people centric in difficult times
AUDIENCE PARTICIPATION

Is your organization doing anything fun or unique for fundraising as a result of the coronavirus and ‘shelter at home’ rules?

Please enter a short comment in the ‘chat’ box
Most important step in charitable planning:

Listen to your donors

- What are their charitable goals?
- How involved do they want to be in future administration of the funds?
- Do they want to see the fruits of their donation now?
- What are their cash flow needs?
- What are their asset holdings that could be good options for charitable giving?
Charitable distributions from individual retirement accounts
Qualified Charitable Distributions (QCD) from IRAs

- IRA owners and beneficiaries must be age 70½
- The individual must direct the IRA trustee to transfer funds of the IRA directly to a qualified charity
- Maximum annual amount for QCDs is $100,000 per spouse (from their own accounts).
- The amount transferred counts towards the Required Minimum Distribution (RMD) for that year
- This does not affect the IRA owner’s adjusted gross income (AGI)
- No charitable deduction permitted
Qualified Charitable Distributions (QCD) from IRAs

- Must be a direct transfer to a qualifying public charity
  - Can’t be to:
    - Donor advised fund
    - Supporting organization
    - Private grant making foundation split-interest gifts
    - Charitable gift annuities

- Must have charitable substantiation documentation
Do’s and don’ts of direct non-cash gifts to public charities
Direct non-cash gifts to a public charity

- Private company stock
  - S corporations
  - C corporations
- Restricted stock
- Limited Liability Company and Limited Partnership Interests
- Real estate
- Personal property (artwork, collectibles, etc.)
- Other
Charitable planning with S corporation stock

- A public charity is a qualifying shareholder of an S corporation

- All S corporation income is unrelated business taxable income to a tax-exempt organization
  - Allocable Schedule K-1 income, and
  - Gain on the sale of the S corporation stock
Substantiation of charitable contributions

**IRS Form 8283 for noncash contributions**

- **Section A**
  - Charitable contributions of more than $500 and publicly traded security contributions of more than $5,000
  - Form 1098-C is necessary for vehicles, boats, and airplanes
- **Section B**
  - Charitable contributions of more than $5,000
  - For donations of other than publicly traded securities, the donor must complete Section B of Form 8283, and obtain a qualified appraisal
Substantiation of charitable contributions

What is a qualified appraisal?

- A qualified appraisal is an appraisal document that:
  - Is made signed, and dated by a qualified appraiser in accordance with generally accepted appraisal standards
  - Relates to an appraisal made not earlier than 60 days before the date of contribution of the appraised property
  - Does not involve a prohibited appraisal fee
  - Includes certain information (detailed in IRS Publication 561)
Substantiation of charitable contributions

- If the taxpayer fails to obtain written acknowledgment, the charitable contribution may be disallowed in its entirety.

- In December, 2016, the tax court ruled in favor of the IRS and held that a taxpayer’s substantiation requirements for a charitable contribution deduction were not met:
  - Contemporaneous written acknowledgement was not received from the donee with the specified requirements.
  - A $64.5 million charitable deduction was denied.
Contribution of appreciated property

- Frieda is the founder of Frieda’s Fries
- She owns $10 million worth of shares with zero tax basis
- Frieda’s Fries as been approached by several buyers to acquire the company
- Frieda is a philanthropic person and goes to her advisor for advice
Option 1

Frieda sells all $10 million worth of shares as part of the larger sale of Frieda’s Fries and donates after-tax proceeds to charity

- Capital gains tax (assuming a combined federal and state rate of 20%) = $2 million

- With her remaining $8 million, Frieda contributes $2 million in cash to her favorite charity

- Frieda is left with a net of $6 million and a $2 million charitable contribution deduction
Frieda contributes $2 million worth of Frieda’s Fries shares to a donor-advised fund (at a public charity) prior to the sale of Frieda’s Fries to a third-party buyer

- Frieda sells her remaining $8 million in shares and pays a capital gains tax of $1.6 million (assuming a combined federal and state rate of 20%)
- The public charity sells its shares but pays no capital gains tax
- Frieda is left with a net of $6.4 million and her charitable contribution deduction. Assuming an 8% discount rate (due to minority interest) as part of qualified appraisal of the stock, she would be eligible for a charitable contribution deduction of $1.84 million.
Considerations

- Give to one charity or a Donor Advised Fund?
- Is the contribution an anticipatory assignment of income?
- Are there transfer restrictions with respect to the stock?
- Ensure that the charitable contribution is properly substantiated.
## Do / Don’t

<table>
<thead>
<tr>
<th><strong>DO</strong></th>
<th><strong>DON’T</strong></th>
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<tbody>
<tr>
<td>- Part of overall plan</td>
<td>- Piecemeal</td>
</tr>
<tr>
<td>- Discuss strategy</td>
<td>- Convince them this is the way to go</td>
</tr>
<tr>
<td>- Ask early, ask often</td>
<td>- Confuse with terminology</td>
</tr>
<tr>
<td>- Educate</td>
<td>- “Wing it” or rely solely on the charity to get it right</td>
</tr>
<tr>
<td>- Know the rules or work with someone who does</td>
<td>- Wait until the last minute to discuss gifting of appreciated property</td>
</tr>
<tr>
<td>- Know when to get an appraisal</td>
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</tbody>
</table>
Summary of charitable deductions & limits

<table>
<thead>
<tr>
<th>Asset Description</th>
<th>Public Charity Donor Advised Fund</th>
</tr>
</thead>
<tbody>
<tr>
<td>Publically traded securities</td>
<td>FMV 30% of AGI</td>
</tr>
<tr>
<td>Closely held stock</td>
<td>FMV 30% of AGI</td>
</tr>
<tr>
<td>Other capital assets</td>
<td>FMV 30% of AGI</td>
</tr>
<tr>
<td>Asset with ordinary gain or held less than 1 year</td>
<td>Basis 30% of AGI</td>
</tr>
<tr>
<td>Cash</td>
<td>FMV 60% of AGI*</td>
</tr>
</tbody>
</table>

*100% for 2020, but only for public charities that aren’t supporting organizations or DAFs
Resources

- Charitable contributions
  - IRS Publication 526 – Charitable Contributions
  - IRS Publication 561 – Determining the Value of Donated Property
Our not-for-profit professionals have developed a collection of resources to help organizations prioritize and navigate through this challenging time.

**ADDITIONAL RESOURCES**

**Not-for-profit coronavirus resource center**

COVID-19 emergency funding programs available

CARES Act: A guide for small businesses and not-for-profits

How not-for-profits may be impacted by the Families First Coronavirus Response Act

SBA issues regulations on Paycheck Protection Program

[bakertilly.com/specialties/not-for-profit-coronavirus-resources](http://bakertilly.com/specialties/not-for-profit-coronavirus-resources)
“I’m starting to think this world is just a place for us to learn that we need each other more than we admit”

Smile Anyway
by Richelle E. Goodrich

Book of Original Quotes, Poetry, and Short Stories