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## Gift Planning Under the New Tax Law



Date: February 1, 2018  
Time: 1:00 – 2:30 Eastern  
Presenter: Jeff Lydenberg  
Vice President, Consulting  
PG Calc



## Agenda

- Background of the new tax law
- What has the new tax law changed?
- Likely impact of new tax law on planned giving
- How to talk about changes in tax policy
- Tax-efficient ways of giving after the new tax law





## Background

- Tax Cuts and Jobs Act? New Tax Law
- “Act to provide for reconciliation pursuant to titles II and V of the concurrent resolution on the budget for fiscal year 2018”
- Signed by President, December 22, 2017
- All changes to tax law effective 1/1/2018
- No provisions retroactive to earlier tax years



## Background

- Changes to personal income tax sunset at end of 2025
- Effective 1/1/2026, laws revert to law in effect 2017
- Business provisions have no expiration date
- Generally lowers individual and business taxes
- Reduces number of individuals who itemize
- Some provisions affect philanthropy



## What Has Changed?

- Reduced individual income tax rates
- Retained 7 brackets

<b>New Rate</b>	<b>New Income Bracket</b>	<b>Old Rate</b>	<b>Old Income Bracket</b>
<b>10%</b>	Up to \$19,050	10%	Up to \$19,050
<b>12%</b>	\$19,050-\$77,400	15%	\$19,050-\$77,400
<b>22%</b>	\$77,400-\$165,000	25%	\$77,400-\$156,150
<b>24%</b>	\$165,000-\$315,000	28%	\$156,150-\$237,950
<b>32%</b>	\$315,000-\$400,000	33%	\$237,950-\$424,950
<b>35%</b>	\$400,000-\$600,000	35%	\$424,950-\$480,050
<b>37%</b>	\$600,000+	39.6%	\$480,050+



## What Has Changed?

### Deductions eliminated

- Tax preparation fees
  - ✓ Could be big loss on certain planned gifts
- Casualty losses
  - ✓ Can only claim a loss if it occurs in a disaster that's declared by the president
- Moving expenses
- Alimony payments



## What Has Changed?

### Deductions eliminated

- Personal exemption
- Home equity loan interest
- Job expenses for license and regulatory fees, required medical tests, and unreimbursed continuing education
- Subsidized parking and transit reimbursement



## What Has Changed?

### Deductions retained

- State and local taxes, but capped at \$10,000
  - ✓ Will impact donors in high tax states
- Mortgage interest
  - ✓ Cap reduced from \$1 million to \$750,000 of debt for MFJ
- Medical expenses
  - ✓ Floor temporarily reduced from 10% of AGI to 7.5% of AGI for 2017 and 2018



## What Has Changed?

- **Income tax charitable deduction**
  - ✓ Available for those whose total deductions exceed the applicable standard deduction
- **AGI limit for cash gifts increased from 50% to 60%**
  - ✓ 30% limit on appreciated property gifts still operates within 50% limit



## What Has Changed?

### Example of how 60% AGI limit on cash gifts works

- Donor with \$100,000 AGI makes outright gifts of \$30,000 in cash and \$30,000 in LTCG
- \$30,000 of cash gifts deductible, but only \$20,000 of LTCG gifts deductible
  - ✓ Cash gifts reduce 50% limit dollar-for-dollar
  - ✓  $\$50,000 - \$30,000 = \$20,000$ , so limit for LTCG gifts is \$20,000 after accounting for cash contributions
  - ✓ \$10,000 of LTCG deduction can be carried forward up to 5 years



## What Has Changed?

### Standard deduction nearly doubled

- \$12,000 for single filers
- \$24,000 for married couples filing jointly
- \$18,000 for heads of households
- Itemized deductions (including charitable deductions) will not reduce income tax unless total exceeds applicable standard deduction amount





## What Has Changed?

### Impact of nearly doubling standard deduction

- Estimated to reduce taxpayers itemizing deductions from 46 million to 13 million
- Estimated reduction in charitable giving?
  - ✓ Indiana University estimates \$11B to \$13B reduction in annual giving per year
  - ✓ Tax Policy Center estimates \$12B and \$20B reduction in giving in 2018
- Depends on relation between tax policy and giving



## What Has Changed?

### Gift Tax, Estate Tax, and Generation Skipping Taxes

- Retains gift tax, estate tax and generation skipping taxes
- Top tax rate unchanged at 40%
- Exemption amounts doubled to \$11.2\* million per individual
  - ✓ \$22.4 million for gift and estate tax for married couples
- Impact on estate giving difficult to predict
- Continues the steepening of the gift pyramid

\* IRS hasn't confirmed amount. Commentators have computed \$11.18 million exemption.



## What Has Changed in Planned Giving?

- Almost nothing!!
- Made no changes to split interest gifts
  - ✓ Charitable gift annuities
  - ✓ Charitable remainder trusts
  - ✓ Charitable lead trusts
  - ✓ Retained life estates
  - ✓ Pooled income funds
- Some donors won't itemize
  - ✓ They might not have itemized under prior law!
  - ✓ Large planned gift probably will allow them to itemize





## What Will be the Likely Impact on Giving?

### The Impact Of Tax Reform On Charitable Giving: A 1989 Perspective 1986 Tax Reform

- Top tax rate lowered from 50% to 38.5%/ 33%/ 28%
- Increased standard deduction
- “It is really going to be devastating to charitable giving.”
- What happened?
  - ✓ \$80 billion to charity in 1985
  - ✓ \$98 billion to charity in 1987
  - ✓ \$104 billion to charity in 1988



## What Will be the Likely Impact on Giving?

- Hysteria of reduced giving based on worst case scenarios in press reports
  - ✓ Indiana University low estimate \$11B, high estimate \$13B
  - ✓ How responsive are taxpayers to changes in tax policy?
- Annual fund is traditional planned giving pipeline
- Some donors may reduce size of annual fund gift
- Nonetheless, these donors still in annual fund pipeline



## What Will be the Likely Impact on Giving?

Income tax charitable deduction and the mid to low level annual donor

- Couple makes total annual gifts of \$1,000 to church, university and food bank
- Under prior law, assume effective tax rate of 25%
  - ✓ Tax on \$1,000 of earned income was \$250
  - ✓ Reduction in taxes if gifts itemized was \$250
- Why did they support their church, university and food bank?
- It wasn't likely to be the \$250 tax savings



## What Will be the Likely Impact on Giving?

### Gift and estate tax changes

- U.S. Trust 2016 high net worth survey: 72.3% would maintain estate gift even if estate tax was eliminated
- In 2010 charitable bequests totaled \$7.49 billion, a 37% drop from 2009
  - ✓ Estate tax was temporarily repealed in 2010
- In 2011 charitable bequests increased to \$14.36 billion
  - ✓ Estate tax returned in 2011



## What Will be the Likely Impact on Giving?

### Impact of tax changes on economy

- Center-right Tax Foundation estimates:
  - ✓ Tax changes would increase long-run GDP 1.7%
  - ✓ Would spur \$600 billion in federal revenues from economic growth
- Center-left Tax Policy Center estimates:
  - ✓ Will boost GDP 0.8 percent in 2018
  - ✓ Little effect on GDP after 2025
  - ✓ \$186 billion increase in federal revenue from economic growth



## How To Talk About Changes in Tax Policy

### For high-income donors (itemizers)

- “The new tax law may not have changed the tax benefits you have always enjoyed.”
- “At your level of giving, you will probably continue to itemize.”
- “You will still enjoy the tax benefits of avoiding capital gain, of an income tax deduction, and of estate tax savings for major and principal gifts.”
- “Be sure to check with your tax advisor to be sure how your philanthropy may be affected.”



## How To Talk About Changes in Tax Policy

### For non-itemizers

- “There are tax efficient ways to give even if you don’t (always) itemize.”
- “Here are some projects that have gone unfunded or underfunded.”
  - ✓ “Would you be interested in supporting any of these?”
- “Tell me why you support our organization?”
  - ✓ Tap into emotional connection to your charity



## Tax Efficient Ways to Give Under the New Tax Law

### Gifts of appreciated property, publicly-traded securities and real estate

- Gifts of appreciated property to charity still avoid capital gain income to the donor
- Large enough gift to charity may allow donors to itemize under the new law
- Double tax benefit with itemized deduction of appreciated property
  - ✓ Capital gain tax avoided
  - ✓ Income tax saved on fair market value charitable deduction



## Tax Efficient Ways to Give Under the New Tax Law

### Cash Gift vs Stock Gift

	Cash Gift	Stock Gift
<b>a. Gift Value</b>	\$10,000	\$10,000
<b>b. Income tax deduction</b>	\$10,000	\$10,000
<b>c. Income tax saved (at 37.0% rate)*</b>	\$3,700	\$3,700
<b>d. Purchase price</b>	-	\$1,000
<b>e. Increase in value (a - d)</b>	-	\$9,000
<b>f. Tax avoided on gain (at 20% rate)</b>	-	\$1,800
<b>g. Total tax savings (c + f)*</b>	\$3,700	\$5,500
<b>h. Net cost of gift</b>	\$6,300	\$4,500

\* Assumes donor itemizes income tax charitable deductions



## Tax Efficient Ways to Give Under the New Tax Law

### Gifts to charity using the charitable IRA rollover

- Known to tax professionals as a qualified charitable distribution (QCD)
- A charitable IRA rollover gives the same tax benefit as itemized deductions, even if the donor doesn't itemize
- The rollover reduces the donor's tax by satisfying the donor's minimum required distribution





## Tax Efficient Ways to Give Under the New Tax Law

### Gifts to charity using the charitable IRA rollover

- Donor must be 70½ at the time of the gift
- In year donor turns 70½ must be after birthday
- Can only come from traditional or Roth IRA
- Roth IRA?
- Total charitable IRA rollover gifts in any year is \$100,000



## Tax Efficient Ways to Give Under the New Tax Law

### Gifts to charity using the charitable IRA rollover

- Rollover distribution must go directly from IRA administrator to the charity
- Check payable to charity sent to donor OK
- Donor not entitled to an income tax charitable deduction
- Remember donor never paid tax on the IRA, so there is no offsetting tax deduction



## Tax Efficient Ways to Give Under the New Tax Law

How would a charitable IRA rollover save taxes?

- Single donor, age 79, \$1 million balance in her IRA
- Distribution factor is 19.5 for 79 year-old
- $\$1 \text{ million} / 19.5 = \$51,282$  RMD for 2018
- \$51,282 of taxable income in 2018
- Lives modestly and has other sources of income
- Makes gifts of \$20,000 via charitable IRA rollover
- Reduces RMD to  $\$51,282 - \$20,000 = \$31,282$
- Reduces income subject to tax to \$31,282



## Tax Efficient Ways to Give Under the New Tax Law

### Accelerate a pledge to charity

- Donors with outstanding pledges may find their pledge payments don't generate sufficient deduction to itemize
- Encourage donors to accelerate one or more future pledge payments to allow them to itemize
- Donors whose contributions put them close to the standard exemption should consider larger gifts to enjoy a greater tax benefit by itemizing



## Tax Efficient Ways to Give Under the New Tax Law

### Encourage bequests and beneficiary designations

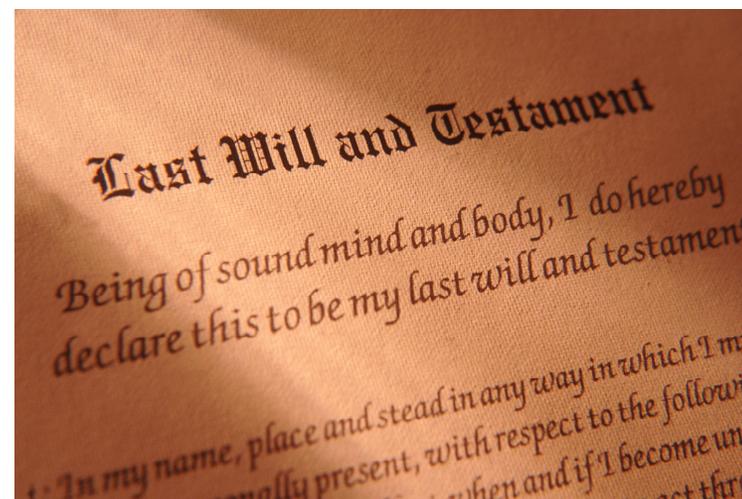
- Donors discouraged at not being able to itemize may reduce current giving
- Encourage these donors to consider an estate gift to make up for smaller lifetime gifts



## Tax Efficient Ways to Give Under the New Tax Law

### Encourage bequests and beneficiary designations

- “Have you ever considered endowing your annual gift?”
  - ✓ \$1,000 annual donor, 5% endowment spending rate
  - ✓ A \$20,000 bequest would distribute \$1,000 perpetually





## Conclusion

- Significantly fewer donors will itemize income tax charitable deductions beginning in 2018
- Lack of deductibility will negatively influence giving from some donors
- Tax benefits influence the size and timing of a gift
- Primary impetus for charitable giving is affinity for the work of the non-profits donors support



## Conclusion

- Describe why to give with specific examples of how philanthropy has strengthened your charity
- Feature demonstrable, measurable impact that giving has on your charitable mission
- Demonstrate how your charity is an expression of your donor's values and life story



## Questions?

- To ask a question:
  - On the right of your screen, click “+” next to “Questions” to expand the “Questions” pane.
  - Type your question in the “Enter a question for staff” box.
  - Click Send.





## Still Have a Question?

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