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Gift Planning Under the New Tax Law




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

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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




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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


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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

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What Has Changed?

- Reduced individual income tax rates
- Retained 7 brackets

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

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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

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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

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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

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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

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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


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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



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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

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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.

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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



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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


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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

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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

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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

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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

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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.”

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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

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




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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

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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

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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

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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

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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

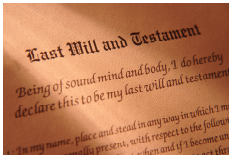
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Tax Efficient Ways to Give Under the New Tax Law

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




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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


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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

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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.



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Still Have a Question?

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