

THE TAX CUTS AND JOBS ACT OF 2017: What it Means for Charitable Givers

In light of The Tax Cuts and Jobs Act of 2017, your clients might have questions about how the recent tax code changes affects their charitable giving. The table below highlights these new charitable opportunities and considerations for your clients.

Charitable Opportunities

The Change	What it Means for Charitable Givers
<p>Standard Deduction Doubled (IRC §63)</p> <ul style="list-style-type: none"> • \$24,000 for Married Filing Jointly • \$18,000 for Head of Household • \$12,000 for others 	<p>Charitable giving just got easier for those that will no longer itemize their deductions.</p> <ul style="list-style-type: none"> • The increased standard deduction means givers will receive the same or greater tax benefit as they would have received for their charitable gifts in prior years but without the extra steps necessary to substantiate and claim the deduction on their federal tax return. <p>Planning to take the standard deduction?</p> <ul style="list-style-type: none"> • Gifts of appreciated publicly-traded stock become more important because they avoid the capital gain tax upon sale, thus reducing taxable income the giver would have recognized. • Consider “front-loading” giving into one year, itemizing in that year, and claiming the increased standard deduction in the following years.
<p>Charitable IRA Rollovers (Qualified Charitable Distributions, QCD)</p> <ul style="list-style-type: none"> • No Change 	<p>The Charitable IRA Rollover (QCD) is still available for givers who are subject to Required Minimum Distribution (RMD), but now it will be even more enticing to some givers.</p> <ul style="list-style-type: none"> • Qualifying individuals can opt to distribute up to \$100,000 (annually) from their IRA directly to charity and have the distribution count towards their RMD. • The QCD is reported as non-taxable income on the federal tax return. <ul style="list-style-type: none"> – 1st Benefit: The QCD does not increase AGI where the RMD would have. – 2nd Benefit: The QCD is not an itemized deduction; thus, it’s an additional benefit to both itemizers and those taking the increased standard deduction. • NCF offers designated funds that can accept QCDs, whereas donor-advised funds (DAFs) and supporting organizations cannot.
<p>Increased Charitable Deductions Allowed</p> <ul style="list-style-type: none"> • From 50% to 60% • Cash gifts to public charities deductible up from 50% to 60% of AGI (IRC §170(b)(1)(G)) 	<p>“Front-load” Charitable Giving</p> <ul style="list-style-type: none"> • Big tax event? The 60% deduction limit allows a larger deductible gift to be “front-loaded” into an NCF Giving Fund in one year and then recommend grants to charity over the following years. • Won’t normally itemize? Front-load charitable giving into one year, itemize in that year, and claim the increased standard deduction in the following years.

The Fine Print

With these charitable opportunities in mind, we've identified a few caveats for you and your clients to consider as you navigate the tax code.

The Change	What it Means for Charitable Givers
<p>Net Investment Income Tax (NIIT) Retained (IRC §1411)</p>	<p>Certain taxpayers will continue to be subject to the 3.8% NIIT, whereas public charities are not.</p> <ul style="list-style-type: none"> • Giving appreciated, non-cash assets to your NCF Giving Fund allows a giver to give more to charity, as opposed to selling the asset, paying the associated taxes, and giving the remaining cash.
<p>Certain Intellectual Property (IP) is Not a Capital Asset (IRC §1221(a)(3))</p>	<p>Beware, but there is still opportunity!</p> <ul style="list-style-type: none"> • Assets that are not capital assets are limited to basis for charitable deduction purposes (IRC §170(e)). • A gift of affected IP can still be a good gift for charity, even if it only produces a basis deduction at the time of the gift, when it is licensed in exchange for royalty payments because royalty income allocated to charity is not unrelated business taxable income (UBTI) (IRC §512(b)(2)). <ul style="list-style-type: none"> – Giving IP to NCF removes the givers' income tax burden on income they are going to give anyway. – NCF does not pay the income tax on royalty income that the giver would have paid.
<p>3-Year Holding Period for Carried Interests Before Long-term Capital Gain Treatment (IRC §1061)</p>	<p>Beware when giving a partnership interest with an associated carried interest component. But there is still opportunity!</p> <ul style="list-style-type: none"> • Short-term capital gain treatment in the hands of the giver will limit the charitable deduction to basis for the carried interest (IRC §170(e)). • However, a partnership interest given to NCF is not subject to the 3-year holding period, but avoids tax upon sale regardless of whether the capital gain is short-term or long-term, making the gift of a carried interest an effective asset to increase charitable giving when compared to the giver selling at short-term rates and then giving cash (IRC §1061(c)).
<p>Pease Limitation Suspended (IRC §68(f))</p>	<p>Removing this barrier may provide an incentive for certain taxpayers to make additional charitable gifts annually (or remove a disincentive at the very least).</p> <ul style="list-style-type: none"> • The Pease limitation reduced itemized deductions of high-income taxpayers. The limitation affected givers' charitable deduction if they had low, non-charitable deductions or lived in states with no income tax. For these givers, it was often perceived as a disincentive to increased charitable giving.

For more information or questions, please contact your NCF Relationship Manager or call 800.681.6223.

© 2018, NATIONAL CHRISTIAN FOUNDATION (NCF)

This material and analysis was prepared to provide information in regard to the subject matter covered based solely on the information available to NCF. It was prepared with the understanding that neither NCF, NCF Charitable Trust, nor the authors are engaged in rendering legal, accounting, or other professional service. If legal advice or other expert assistance is required, the services of a competent professional person should be sought. (Adopted from a Declaration of Principles jointly adopted by a committee of the American Bar Association and a committee of Publishers and Associations).