CHARITABLE GIVING: NOW MAY BE THE TIME!

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Americans have historically been extremely charitable and, given the potential sweeping income tax changes being considered by the United States Congress at this time, the normal year end decision-making regarding donations to nonprofit charitable organizations has suddenly become more critical.

In prior years, the decision of how much and to whom to give donations centered around three primary issues: 1) dollars available to donate, 2) tax results of such gifts and 3) the needs and legitimacy of various organizations needing support.

This year, however, there may also be a need to review carefully any tax law changes that may be taking effect in 2018. For instance, one of the promoted potential income tax law changes is the doubling of the standard deduction for non-corporate taxpayers in future years and, at the same time, the elimination or limiting of some of the itemized deductions which have been allowed in previous years: the state and local sales tax, income tax and property tax deduction, the miscellaneous itemized deduction, and the home mortgage interest deduction. (Interestingly, if one is able to itemize deductions, charitable deductions may be deducted up to 60% of adjusted gross income in 2018, which is up from 50% for 2017 and prior years. (Again, this may be helpful ONLY if one can still itemize deductions.)

Either because of the increased standard deduction and/or the elimination of some of the itemized deductions, many taxpayers may find they can no longer use itemized deductions. If that is the case for 2018 or a future year, it may very well be that individual donors need to consider *bunching* charitable donations every other year after 2017 to get the tax benefit that might be otherwise lost after 2017. Bunching just means making two or more years' worth of donations all in one year to make sure itemized deductions exceed the standard deduction for that year. In the year no charitable deductions (or minimal charitable deductions) are made, the taxpayer can then use the now increased standard deduction. Giving to a donor advised fund which can later distribute funds to a taxpayer's favored nonprofits may also accomplish the "bunching" of deductions and still spread the funding over more than one year, at the taxpayer's discretion.

As an aside, a new tax law provision that has not been well marketed is that taxpayer personal exemptions, currently at $4050 per taxpayer and dependents, will be eliminated in future years. Hence, a married taxpayer with two children and who cannot claim the child tax credit will lose 4 personal exemptions totaling $16,200 but also see their standard deduction increase from $12,000 to $24,000, an increase of $12,000, leaving a net increase in taxable income. If their taxable income is not over $77,400, their tax rate will decrease 3%, but still leave the family with an income tax *increase*, not a decrease as universally promoted.

Also, for those taxpayers and donors who are over 70 ½ and eligible to make a direct IRA distribution (called a QCD or qualifying charitable distribution) to a charitable entity, now may be the time to consider that. QCD's allow a taxpayer to avoid reporting a retirement distribution from an IRA in his or her reportable income and avoid deducting the charitable deduction as well. If the taxpayer can no longer itemize his deductions, then the charitable donation deduction may no longer be tax beneficial, so avoiding the income reporting through the QCD makes perfect sense. Current law allows each individual over 70 ½ to make total annual QCD's of any amount up to $100,000 per year, and several entities can receive the donation as long as the grand total is not more than $100,000 per taxpayer per year and the donations are paid *directly* from the IRA to the charity.

An interesting tax advantage may also be available to heirs of taxpayers if IRAs, rather than other assets, are used to fund charitable giving. If, for instance a taxpayer has a savings account of $100,000 and also has an IRA of $100,000 and the taxpayer dies having previously gifted the $100,000 of savings to charity leaving the $100,000 in the IRA to his or her heirs, the heirs will potentially pay income tax on the $100,000 IRA as it is distributed. Alternatively, if the taxpayer gifts the IRA to charity via the QCD, leaving the $100,000 in the savings account to his or her heirs, the taxpayer avoids any income tax on the QCD and also the heirs take the $100,000 in the savings account without further individual income tax.

Because a qualifying charitable distribution from an IRA does not have to be reported in income, a taxpayer's adjusted gross income is, obviously lower, and this could mean that future Medicare premiums, the amount of which is determined by a prior year's "modified adjusted gross income," might be considerably lower. Also, since some itemized deductions are allowed to the extent they exceed a percentage of the adjusted gross income, if the adjusted gross income and the modified adjusted gross income are lower, more of the itemized deduction may be allowed if deductions can be itemized. Also, fewer social security receipts may be taxable as adjusted gross income declines; in addition, state income tax returns, if required of the taxpayer, can be beneficially affected with lower federal income reporting. Finally, the alternative minimum income tax could also be advantageously affected with lower reportable income.

Taxpayers should consult their tax advisors before making charitable gifts to ensure that tax savings are maximized and that the QCD can be accepted by the chosen charity. Not all not for profit organizations can accept charitable distributions from IRAs or donor advised funds.

Now is a critical time to consider the timeliness of effective and tax beneficial charitable donations so that the philanthropy, for which Americans have always been known, continues.