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The New Tax Law, Charitable Giving, and Donor-Advised Funds

With the passage of the Tax Cuts and Jobs Act of 2017 (TCJA), many Americans are reassessing their use of itemized personal deductions. After all, by roughly doubling the standard deduction (for single filers, from $6,500 to $12,000, and for married filing jointly, from $13,000 to $24,000), the new law makes it much less likely that the typical taxpayer will gain any advantage by itemizing deductions. One of Americans' favorite personal deductions is the charitable donation, and many organizations are concerned that with the elimination of the financial incentive, charitable donations will plummet.

However, it is unlikely that most people will cease caring about and supporting the causes that are important to them, just because the tax law has changed. In fact, there are several strategies that you may want to consider in order to both maximize your support for your favorite causes and minimize your tax bill.

Some taxpayers will want to “batch” their contributions; that is, instead of making smaller contributions annually, they may want to accumulate their contributions and make a large donation in a single year. Their itemized deductions would then exceed the standard deduction they would otherwise take. For example, someone who typically contributes $1,000 per year to a particular charity might instead pool the funds for ten years and make a contribution of $10,000. Ideally, this approach, combined with other itemized personal deductions, would give the taxpayer an extra-large deduction schedule for that tax year. Such a “big year” might even give rise to other tax-planning strategies calculated to confer maximum advantage on the taxpayer.

The new tax law has not changed the structure of another way to give—the Donor Advised Fund (DAF). A DAF can be a useful tool for pooling charitable contributions for maximum effect while also retaining a measure of control over the timing of the gift and the receiving charity or charities. When you give to a DAF, you take an immediate tax deduction for the full amount of your gift. Then, either immediately or over a period of time, you can direct part or all of your gift to the charity or charities of your choice.

DAFs were first created in the 1930s, and Congress established their current legal structure in 1969. You can think of a DAF as a charitable investment account to which you can make periodic deposits and then direct grants to specific charities you wish to support. Another advantage of a DAF is that, unlike many individual charities, they are able to receive not only cash gifts, but also appreciated stock, real estate, and, in some cases, private equity and insurance.

This means that you can use a DAF as your “charitable giving bank,” making large donations that are immediately tax-deductible when it makes sense for you, and then directing the funds to be given to various charities of your choosing. Additionally, DAFs invest the assets you give, thus leveraging them for maximum benefit over time.

There are a few caveats that potential donors to DAFs should be aware of. First, gifts to a DAF are irrevocable. Just as you would not make a donation to your favorite charity and then ask for the money to be returned, once you make a donation to a DAF, you can’t later change your mind and reclaim the funds. Also, all DAFs are not created equal. Here are a some considerations to think about when choosing a DAF:

- **Minimums.** The minimum amount required to open an account can vary. Make sure you are considering a DAF that fits your situation and requirements.
- **Fees.** There will be costs associated with administering and investing your funds. Make sure you understand the cost structure before you make a gift.
- **Assets accepted.** Most DAFs will accept in-kind donations of stock, in addition to cash. Some, as mentioned above, will accept real estate and other asset types.
- **Granting policies.** The flexibility of grant-giving policies varies among DAFs. Certain DAFs—typically those sponsored by particular charitable entities—require that a certain percentage of gifts go to their cause. Others may specify gifts to local causes or charities of a certain category. Some may have requirements for minimum or maximum grants or the frequency of grants. Some feature simple-to-use, online interfaces, and others are less automated.
- **Investment policies.** The assets in DAFs are invested so that they can grow over time, and the nature of their investments can vary widely. Some allow more donor control over investment policy, and some permit less or none. Some DAFs will permit your personal wealth advisor to manage the assets you gift to the DAF; others will not.
- **Transfer and liquidation.** Some DAFs allow you to name a successor who will make grants and carry out other activities related to your bequest following your death. Some, however, will distribute any remaining assets at your death according to your past gifts, and others will roll your remaining assets into their general endowment. You may also want to determine whether the DAF will permit you to transfer your gifted assets to another DAF. Some do, and some don't.

Most DAFs fall into three main categories: 1) public charities sponsored by financial providers (e.g., Fidelity, Schwab, and Vanguard); 2) independent national organizations (American Endowment Foundation, National Philanthropic Trust, and others); 3) "single-issue" entities (often religious, educational, or emergency aid organizations). Another benefit of most DAFs is that they routinely perform due diligence to ensure that receiving organizations are properly organized and qualified charitable organizations and that they are operating according to generally accepted best practices. This can offer significant peace of mind, especially when you are considering a gift to a new or unfamiliar organization.

Certainly, some individuals can benefit from more sophisticated planned giving tools that go beyond the capabilities of DAFs. But for many people who want to exercise maximum leverage over the value of their gifts and also to specifically direct where their funds are gifted, DAFs can be a relatively low-cost, low-stress solution—a way to do well while also doing good.

Stay Diversified, Stay YOUR Course!

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