Impactful Giving is Alive and Well

Charitable Giving Under the New Tax Act

"Thankfully, under the new tax law (the Tax Cuts and Jobs Act) signed into law on December 22, 2017, by President Trump, there is good news for charitable-minded donors - The opportunities are now more prevalent for making a significant tax-favored gift to support your favorite charitable organizations."

- Ed Wollman, J.D., LL.M., Chartered Advisor in Philanthropy
Board Certified Wills, Trusts and Estate Attorney

The following article will highlight many of the changes in the tax law that will positively impact the Community Foundation of Collier County and the amazing charities that we collectively support.

How does the Tax Act impact charitable organizations?

The story is business as usual. For most individual taxpayers who make substantial gifts to charity, the tax picture will most likely be very positive.

- The "Pease" Limitation, which limited the income tax benefits for donating to charity, has been eliminated.
- Additionally, there is an increase in the ability to donate cash (as opposed to other assets) and write off more on your income tax return in the current year.
- Finally, the amount that you can pass to your heirs, gift and estate tax-free, will double. This will provide a great deal more assets in the control of the charitably inclined taxpayer who wants to control the destiny of their social capital.

The good news is that we have a window of opportunity to lock in the benefits of the favorable gift and estate tax revision before the law potentially changes once again.

FRIENDLY DISCLAIMER: The following is a brief sliver of the extensive new tax law. This information is designed to educate, inform and inspire. Please forgive the brevity and excessive use of tax terminology that is unavoidable. Please seek the advice of your professional tax advisors.

What unique opportunities are created for charitable donors?

Bunching of Deductions
It's time to brush up on an old technique. For those taxpayers who do not know if they wish to give up the *Standard Deduction*, they can use the *Standard Deduction* in one year and not another.

Here is an example of how the "bunching" technique works: In year one, 2018, you make as many allowable tax-deductible expenses such as charitable gifts. In year two, 2019, you elect to use the standard deduction and pay as few expenses as possible. This will maximize your tax benefits if you do not have enough itemized deductions to itemize each and every year. Case in point, in early 2018 you make your charitable donations for 2018. In late, 2018, you make your 2019 anticipated charitable contributions to your donor-advised fund at the Community Foundation. In 2019, you advise the Community Foundation that you wish to make the distributions to your favorite charities. This would result in the bunching of deductions in 2018 and the use of the Standard Deduction in 2019. Your CPA should be engaged to run projections.

Cash Contributions to Charity Combined with Tax-Exempt Investments
If you wish to take advantage of the higher allowable Adjusted Gross Income (AGI) limitation for cash contributions to charity (now 60% of your AGI vs. 50%) you can first, lower your AGI with your tax-exempt portfolio investments. Next, you can give away 60% of your AGI to reduce the tax on your taxable income. For example, if you have $100,000 of tax-exempt municipal bond income and $100,000 of taxable investment income, your AGI would be equal to $100,000. If you gift $60,000 (60% of your AGI) then your net taxable income will be $40,000.

Planned Giving
Based on the higher Gift and Estate Tax Exemption and the repeal of the Pease limitation on the use of itemized deductions, this is a great time to set up a planned gift. A few of the vehicles that you may use to implement your planned giving include the Charitable Remainder Trust, Charitable Lead Trust, Charitable Gift Annuity or Pooled Income Fund. The combination of the income-tax savings and the Gift and Estate Tax savings can be very powerful.

As always, before proceeding with any of these advantageous opportunities, it is necessary to run pro forma tax returns to see how the actual activity will play out in your actual situation. Please seek the advice of competent tax counsel.

Glossary of Tax Terms and Law Changes

Standard Deduction - The "Standard Deduction" has essentially been doubled - this means that each taxpayer is given a freebie from paying any taxes on the first income they receive without having to show their expenses. The taxpayer simply uses the "standard" deduction or *tax freebie* if the taxpayer's list of expenses does not exceed the Standard Deduction. The new Standard Deduction amount is $12,200 for individuals and $24,400 for married taxpayers. This will affect the majority of small donors. As stated above, most donors will continue to elect to itemize their deductions.

Itemized Deductions - These are allowable deductions for expenses that individual taxpayers list on their individual tax returns to decrease their taxable income, and they are used instead of the Standard Deduction.

NOTE: You may choose whether to use the Standard Deduction or to itemize your deductions if they are higher.

Miscellaneous Itemized Deductions - All miscellaneous itemized deductions subject to the two-percent floor have been repealed.

Elimination of the Pease Limitations on Itemized Deductions - This rule is repealed. Tax payers with higher income were phased out pursuant the Pease Limitation which eliminated up to eighty (80) percent of their Itemized Deductions (including charitable deductions). The Pease Limitation was named after Rep. Donald Pease who introduced the legislation in 1991. **NOTE: This is one of the biggest tax law changes positively impacting charities.**

Elimination of the Personal Exemptions for Dependents - The exemptions are repealed.

Note: The new higher Standard Deduction took the place of the personal exemptions (in 2017 the personal exemption for each taxpayer and each dependent was $4,100). This reduction in tax benefit is partially offset by the new lower tax rates, new higher tax bracket thresholds and by the new increased Child Care Credit.

Lower Tax Rates and Increased Thresholds for Several Brackets - The new lower tax rates and applicable thresholds for each of the seven brackets is beyond the scope of this article and are readily available online.

Increase to the AGI Limits for Cash Donations - The new tax law increases the charitable income tax deduction for cash contributed to a public charity to sixty (60) percent of the taxpayers AGI from the prior fifty (50) percent limitation. NOTE: This is another huge benefit for charities in general.

Increased Exemptions for Alternative Minimum Tax - The AMT is designed to impose a minimum tax on certain taxpayers with high income - it essentially denies certain deductible items in recalculating your taxable income. The exemption has been greatly increased but the application is very complex and your CPA should be contacted to tell you if you are one of the few individuals that will still be affected by the AMT.

Doubling of the Estate Tax Exemption - The big news for most high net worth donors is that the new Gift, Estate, and Generations Skipping Tax Exemptions are doubled. The new exemptions are increased to approximately $11,200,000 for individuals and $22,400,000 for married taxpayers in 2018, indexed for inflation.

Effective Dates and Expiration of Certain Tax Benefits - The effective date of most of the new tax provisions is January 1, 2018. The party is potentially over at the end of 2025 when many of the favorable tax benefits are set to sunset. The goal of the current administration is to extend these provisions indefinitely.