Chicago Daily Law Bulletin®

Volume 164, No. 225 Serving Chicago's legal community for 164 years

# One way to stay in front of the new tax act and give to charitable causes

A closer examination of the Tax Cuts and Jobs Act opens the door to strategically planned giving for charitable contributions. Under the new law for cash donations made from 2018 to 2025, the applicable charitable contribution limit is 60 percent of the donor's contribution base. However, a taxpayer can carry forward any amount, which exceeds that threshold, for up to five years.

When filing personal federal income tax statements, taxpayers have the option to use the standard deduction or to itemize deductions. No surprise, taxpayers select the option that will reduce their overall tax liability.

The tax act practically doubled the standard deduction allowed but also placed limits on the amount a taxpayer can deduct for state and local taxes and property taxes. Because the standard deduction allowed increased dramatically, fewer taxpayers are expected to itemize their deductions.

However, by donating more than usual to charity in a given year, taxpayers can exceed the standard deduction and itemize their deductions. As a result, the tax act has brought the concept of "bunching" charitable gifts to the center of countless tax planning conversations.

The breakout below summarizes the material thresholds to consider as part of this discussion.

**2018 to 2025 deduction thresholds**

- Single taxpayer — standard deduction, $12,000, maximum deduction for state and local taxes and property taxes, $10,000
- Married taxpayers, filing jointly — standard deduction, $24,000, maximum deduction for state and local taxes and property taxes, $10,000
- Married taxpayers, filing separately — standard deduction, $12,000, maximum deduction for state and local taxes and property taxes,$5,000

**What is bunching?**

Bunching is a way to give more strategically and leverage your tax planning by grouping or "bunching" a few years of charitable gifts in a given year.

Essentially, you make a charitable gift large enough in the current year to itemize your charitable deductions.

Donors wish to spread their charitable contributions over time and many charities depend on loyal donors to make annual contributions. As a result, donor-advised funds are considered one of the most popular tools to meet tax planning and philanthropic goals.

Imagine making a charitable gift this year to a donor-advised fund, which could then serve as a charitable reserve for future years of charitable giving.

**How does a donor-advised fund work?**

This type of fund is a dedicated fund or account for charitable giving. Similar to a private foundation, the donor can select the name of the fund. Unlike a private foundation, there are no start-up costs, no ongoing legal or accounting fees and no requirement to distribute a specific amount annually.

Private family foundations offer tremendous opportunities for clients who value philanthropy and wish for their foundation to serve a specific purpose. With the advent of donor-advised fund and their flexibility of administration, they have become increasingly popular.

Donors contribute cash, publicly traded stock or other assets to the donor-advised fund and the cash or proceeds from the sale of assets are held in an account where they can be invested and earn interest. Then, fundholders, or "donor advisers" recommend that the sponsoring organization, which maintains and operates the fund, make grants to specific charities. The only requirement is that the funds must be distributed to an organization with 501(c)(3) public charity status. As an added bonus, charitable giving is streamlined through simplified recordkeeping.

Donor-advised funds are an incredibly effective way to "bunch" charitable contributions. For example, a married couple could easily reach the $10,000 limit for state and local taxes and property tax deductions. If the couple donates $14,000 to charity this year, they would have made contributions sufficient to equal the standard deduction of $24,000.

If they "bunched" their charitable contributions and donated $28,000 to a donor-advised fund this year, their deductions would be in excess of the standard deduction ($28,000 + $10,000 = $38,000).

They could then advise the fund sponsor to grant $14,000 this year to a public charity (or group of charities) and the balance of the fund would be invested. The following year, they could elect to distribute another $14,000 from the fund to charity and take the standard deduction of $24,000.

Every few years the couple could bunch their charitable contributions and alternate between itemizing deductions and using the standard deduction. The amount which passes to charity remains the same but greater tax savings are realized.

**How to open a donor-advised fund**

Most broker dealers and wealth advisory firms offer these funds as an option for clients. However, many are surprised to learn that nonprofits, such as Chicago Community Trust and the Jewish United Fund of Metropolitan Chicago, also sponsor these fund programs. In reality, charitable organizations were at the forefront of such planning.

Last year I opened a donor-advised fund with Jewish United Fund and my very first clients, my parents, quickly followed suit. Jewish United Fund began its donor-advised fund program in 1971, well before many financial institutions started establishing separate not-for-profit wings through which to house donor-advised fund programs.

Rose Jagust, vice president of donor advised programs with Jewish United Fund said, "JUF has a minimum of only $1,000 to open a DAF, competitive fees and personal service. But in addition to the competitive fees, donors feel strongly that if the funds will be used for philanthropy, it is most appropriate for a nonprofit to manage the fund."

*Continued on next page*

THE BUZZ

**LINDSEY PAIGE MARKUS**

*Lindsey Paige Markus, a shareholder at Chuhak & Tecson P.C., draws on her early career in business, finance and clinically applied neuroscience to communicate with clients and develop creative solutions to fit their estate planning, wealth protection and corporate needs. Lindsey is a dynamic contributor to local news outlets such as NBC 5 Chicago, Fox News Chicago and WCIU, and has been recognized as one of the 40 Illinois Attorneys Under Forty, a Woman Making an Impact in the Law, an Illinois Super Lawyer and a Leading Lawyer. Lindsey is licensed in Illinois and Florida and has a national practice.*

*Copyright © 2018 Law Bulletin Media. All rights reserved. Reprinted with permission from Law Bulletin Media.*

When choosing a such a fund, consider the following:

• Minimum requirement to open a donor-advised fund
• Management fee(s)
• User-friendly portal to make grants
• Ability to name a successor adviser or advisers or several across generations
• Option to recommend investment management
• Accessibility to professionals in philanthropy
• Creative ways to use donor-advised funds

Critics of donor-advised funds express concerns that assets will accumulate in the fund and not be distributed to charity — my experience has been quite different.

Even in instances where clients have allocated money to a donor-advised fund and elected to allow the fund to grow, they still make regular annual charitable contributions.

One family used their donor-advised fund as a tool to pass the donor-advisory role to one of their children. The couple has two successful adult children, David and John. John attained a level of success whereby he valued the ability to direct charitable assets. The clients' estate plan provides that the amount in the fund at the time of the death of both parents would be treated as if it was an "advancement" or part of John's inheritance.

Contemporaneously, John was appointed as the successor adviser over the fund. The family discussed this idea and everyone agreed that the plan provided optimum planning for everyone in line with each beneficiary's respective goals and values.

Even those clients who are not as passionate about philanthropy sit up with attention when they understand the tax implications of retirement plan assets.

Specifically, for clients with taxable gross estates (in excess of the allowable exemption), the federal and state level estate tax and income tax implications of a traditional retirement plan can be in excess of 70 percent.

Therefore, on a $1 million retirement plan, the clients' children might only receive $300,000 net of taxes. In contrast, if the funds went to a donor-advised fund, the fund would receive the entire $1 million. The clients' children could then act as successor donor advisers and carry on the family's specific charitable passions.

"Over the years, we've seen more and more fundholders think about the future of their philanthropy by adding successors to their funds," the Jewish federation's Jagust said. "We're pleased that this allows us to help pass on their family's charitable giving to the next generation."

*Copyright © 2018 Law Bulletin Media. All rights reserved. Reprinted with permission from Law Bulletin Media.*