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# Tax Reform and Its Impact on Nonprofits

Jeff Chapman | Mike Engle  
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Presented by



# Tax Reform and Its Impact on Nonprofits

## Welcome

Dana Knapp | Luann Feehan

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# Washington Update

## Tax Cut and Jobs Act of 2017 – H.R. 1

- Reduced tax rates for individuals

# Individual Income Tax Rates

	MARRIED –	(FILING	JOINTLY)
<b>2017</b>	<b>2017</b>	<b>2018</b>	<b>2018</b>
<b><u>Rate</u></b>	<b><u>Income bracket</u></b>	<b><u>Rate</u></b>	<b><u>Income bracket</u></b>
10%	\$0 – \$ 19,050	10%	\$0 – \$ 19,050
15%	\$19,050 – \$ 77,400	12%	\$19,050 – \$ 77,400
25%	\$77,400 – \$156,150	22%	\$77,400 – \$165,000
28%	\$156,150– \$237,950	24%	\$165,000– \$315,000
33%	\$237,950– \$424,950	32%	\$315,000– \$400,000
35%	\$424,950– \$480,050	35%	\$400,000– \$600,000
39.60%	\$480,050 and up	37%	\$600,000 and up

# Washington Update

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- Reduced tax rates for individuals
- Reduce maximum corporate tax rate from 35% to 21% (flat tax)
- 20% tax deduction on business income earned by pass-through S corps & LLCs and self-employed

*(Self-employed artists, attorneys, etc. are eligible for the 20% tax deduction if income is under \$315,000 (married-joint) or \$157,500 (single))*

# Washington Update

## Tax Cut and Jobs Act of 2017 – H.R. 1

- Reduced tax rates for individuals
- Reduce maximum corporate tax rate from 35% to 21% (flat tax)
- 20% tax deduction on business income earned by pass-through S corps & LLCs and self-employed (Artists, *etc.* are eligible).
- Raise estate tax threshold to \$11.2 million per person
- Charitable deduction: max is 60% of income (up from 50%)
- Double the standard deduction, but eliminate deductions for personal exemptions and dependents
- Eliminate most itemized deductions except (1) home mortgage interest , (2) charitable gifts, (3) medical expenses and (4) up to \$10,000 of state & local income taxes and property taxes

# Increased Standard Deduction

	Single	Married couple – two children
	<u>2017</u>	<u>2017</u>
AGI	\$ S-AGI	\$ M-AGI
* Standard deduction	6,350	12,700
* Personal exemption	<u>4,050</u>	<u>16,200</u>
=Taxable Income	\$ S-TI	\$ M-TI



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*Example: \$20,000 SALT; \$5,000 mortgage & charitable*

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<b>* Itemized deduction</b>		<b>25,000</b>		<b>25,000</b>
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# Increased Standard Deduction

*Example: \$20,000 SALT; \$5,000 mortgage & charitable*

## **Tax Cut and Jobs Act of 2017 – H.R. 1**

Double the standard deduction, but eliminate deductions for personal exemptions and dependents

Eliminate most itemized deductions except:

- (1) home mortgage interest [max debt: \$750,000],
- (2) charitable gifts,
- (3) medical expenses (in excess of 7.5% or AGI), and
- (4) **up to \$10,000 of state & local income taxes and property taxes**

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# **Who Gets Tax Benefits from Charitable Gifts?**

- **Donors who itemize tax deductions  
(who don't take the “standard deduction”)**



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## ***Impact of 2017 tax changes***

- \* Number of returns that itemize is projected to fall from 47 million tax returns to just 19 million
- \* Number of taxpayers who deduct charitable gifts is projected to fall from 36 million to 16 million.

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- \* Number of taxpayers who deduct charitable gifts is projected to fall from 36 million to 16 million.
- \* Will the 20 million change their giving amounts?

# WHAT TO DO ?

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Most donors give because they believe in the mission of the organization

>> tell your story

# Giving by High Net-Worth Donors \*

## 2017 U.S. Trust Report

Receiving tax benefits only motivated 18% of wealthy donors in 2015 (compared to 34% in 2013)

Personal and altruistic reasons for giving:

- Belief in mission (54%)
- Belief that gift can make a difference (44%)
- Personal satisfaction, enjoyment, or fulfillment (39%)

Volunteering had a big impact on giving. Over 84% made financial gifts to the charities at which they volunteered

*\*Net worth over \$1 million; income over \$200,000 (survey average was \$16 million & \$330,000)  
91% donated to charities and 50% volunteer; average giving \$25,500 (general public: \$2,100)*

[www.ustrust.com/publish/content/application/pdf/GWMOL/USTp\\_ARMCGDN7\\_oct\\_2017.pdf](http://www.ustrust.com/publish/content/application/pdf/GWMOL/USTp_ARMCGDN7_oct_2017.pdf)



# WHAT TO DO ?

## Tax Saving Strategies for Charitable Gifts

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*“Charitable IRA Rollover”*



# WHAT TO DO ?

## Tax Saving Strategies for Charitable Gifts

Most donors over age 70 ½ should make ALL of their charitable gifts from their IRAs.

- “*Charitable IRA Rollover*” will be the best way for donors over age 70 ½ to make charitable gifts. Donors over age 70 ½ can make gifts from IRAs without triggering taxable income

# Charitable IRA Rollover

## -- Lifetime Gifts from IRAs –

- Law Permanent! 2015 PATH Act
- Eligible Donors:
  - Won't report charitable gifts from IRAs as taxable income
  - Not entitled to charitable income tax deduction

# Charitable IRA Rollover

## -- Lifetime Gifts from IRAs --

- IRA owner must be over age 70 ½
- Maximum: \$100,000 per year
- Yes! Charitable gift satisfies required minimum distribution requirement from IRA!

# WHO WINS?

- Donors who do not itemize tax deductions (“standard deduction”)

# WHO WINS ?

- Donors who incur taxes as their income increases
  - social security benefits taxable
  - Medicare “B” premiums
  - 3.8% health tax if  $AGI > \$200,000$

# LEGAL REQUIREMENTS

- Over age 70 1/2
- IRA (only) – not 403(b), 401(k), etc.
- “Directly” from the IRA to charity
  - Checks written from
  - “IRA checkbooks” are OK

# LEGAL REQUIREMENTS

- ELIGIBLE CHARITY – Public charity or private *operating* foundation -- however, a PF, donor advised fund or supporting org is not eligible
- Must qualify for full charitable deduction – no dinners; no CGAs

# LEGAL REQUIREMENTS

- Taxable part of IRA distributions (only)
  - tax-free distributions protected
- Donor must have letter from charity that donor received no goods or services in exchange for the gift



# TECHNICAL ISSUES

- Yes! Charitable IRA gifts can satisfy legally binding pledges!
- Joint return? Up to \$200,000
- No withholding taxes
- Beneficiary of an inherited IRA who is over age 70 1/2 can make charitable gifts of required distributions

# WHAT TO DO ?

## Tax Saving Strategies for Charitable Gifts

- Don't forget the 11% who itemize their tax deductions
- “Bunching” charitable gifts every few years
  - donor advised funds will become more popular
- Most donors over age 70 ½ should make *ALL* of their charitable gifts from their IRAs:  
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# WHAT TO DO ?

Most donors give because they believe in the mission of the organization

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# IMPACT OF TAX REFORM ON NOT-FOR-PROFITS

## Charitable Giving

### What Changed

Standard deduction almost doubles.

Estate tax exemption doubles.

Cash contribution limitation increased from 50 to 60 percent of adjusted gross income.

### Impact

Organizations may see a decline in contributions or a change in their overall cash flow from contributions.

# IMPACT OF TAX REFORM ON NOT-FOR-PROFITS

## Excise Tax on Executive Compensation

Compensation practices need to be reconsidered, including the additional cost of nonqualified deferred compensation plans once vested. Organizations may have a difficult time recruiting & retaining top employees due to possible budget constraints. Severance payments should be evaluated to determine if the additional tax will apply.

### Impact

#### What Changed

21 percent excise tax for certain individuals with taxable wages greater than \$1M.

Taxable wages include amounts paid by related organizations.

21 percent excise tax for highly-compensated employees with termination payments greater than three times their base salary.

(Exception for professional medical services)

# IMPACT OF TAX REFORM ON NOT-FOR-PROFITS

## Computation of Unrelated Business Taxable Income

### What Changed

Net profit computed on an activity basis.

Net operating losses incurred in tax years ending after 12.31.17 have an indefinite carryover (no carryback); NOLs incurred in tax years beginning after 12.31.17 are limited to 80 percent of taxable income.

New flat corporate rate 21 percent.

Corporate alternative minimum tax repealed & AMT credits refundable from 2018–2021.

### Impact

Identify activities & compute the tax effect without the offset of losses. Be mindful that each K-1 may constitute a separate activity. Organizations with net operating losses may have taxable income. Change in tax on income-based on rate differential.

# IMPACT OF TAX REFORM ON NOT-FOR-PROFITS

## Unrelated Business Income Includes Certain Fringe Benefits

### What Changed

The amount paid or incurred for nontaxable fringe benefits offered to employees for qualified transportation, qualified parking & on-premises athletic facilities increases unrelated business income.

### Impact

Organizations will need to evaluate their parking facilities & wellness centers plus fringe benefits in this area. Organizations will need to assess whether to include the benefits in an employee's taxable wages or include the benefits on Form 990-T.

## **Disclaimer:**

These discussions and conclusions are based on the facts as stated and existing authorities as of the date of this document. Our advice could change as a result of changes in the applicable laws and regulations. We are under no obligation to update this document if such changes occur. Our advice is based on your unique facts and circumstances as you communicated them to us and should not be used or relied on by anyone else. This advice is not intended or written to be used, and it cannot be used, for the purpose of avoiding penalties that may be imposed.



# Charitable Giving Trends Resulting From Tax Reform

*Corey Ziegler*

*Vice President and Corporate Counsel*

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# 2017 was a record year

- We saw a 99% increase in new donor-advised funds (DAF's) opened in 2017 (363 total) - 182 new DAF's opened in December alone
- One-half of those new funds started with less than \$50,000
- We saw a 32% increase in the number of stock gifts

# What do we expect in 2018?

With the increase in the standard deduction (\$24,000 for married couples filing jointly), the number of individual donors who itemize their deductions is forecasted to decrease.

If donors do not itemize their deductions, they may be less motivated to make charitable gifts in 2018.

With the increased estate tax exemption (over \$11 million per person), charitable bequests may also decrease.

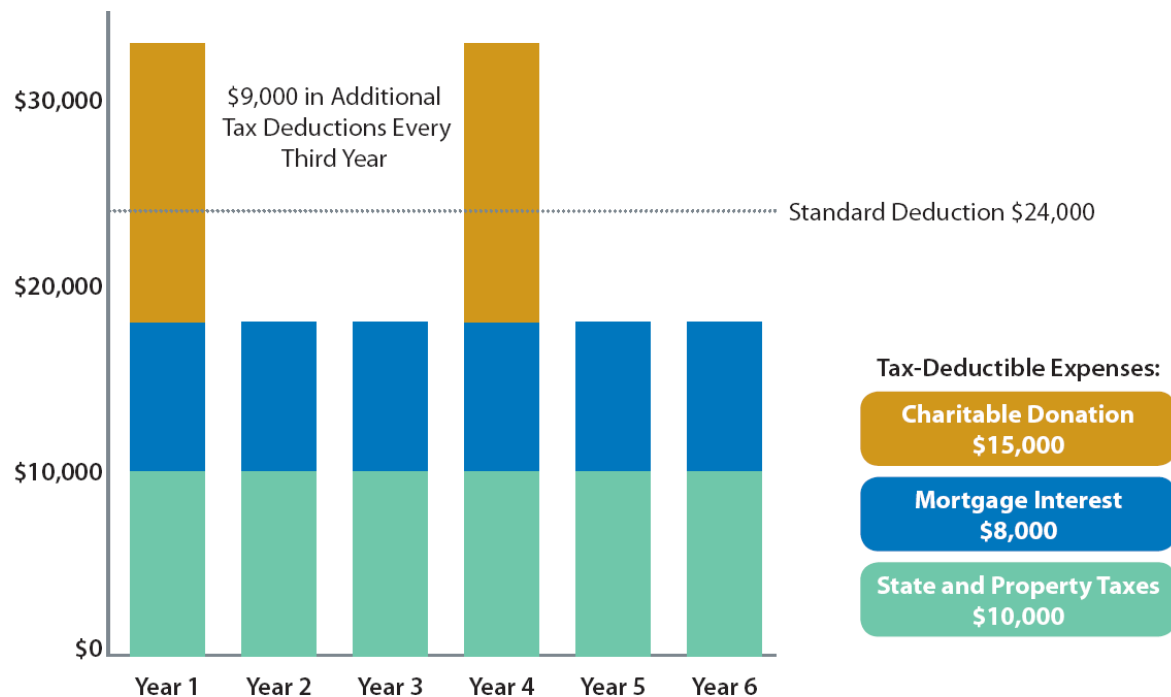
**HOWEVER, for many donors charitable giving is  
NOT ALL ABOUT TAXES!**

# What do we expect in 2018?

- **Bunching of gifts into DAF's**
  - Donors may combine two or three years of charitable contributions in one calendar year in order to exceed the standard deduction in that year.
  - Donors will use the assets in their DAF to consistently support their favorite charities, even in years when they take the standard deduction.

# BUNCHING ILLUSTRATION

A married couple, filing jointly, who typically gives \$5,000 a year to charity can benefit from bunching their charitable contributions into a \$15,000 donation to a DAF every three years, giving them an additional \$18,000 in tax deductions over six years.



*We do not provide tax, legal or accounting advice. This is for informational purposes only.*

# What do we expect in 2018?

- **Donors who itemize deductions may give even more**
  - “Pease” limitation on itemized deductions repealed so they get the maximum benefit of the deduction
  - AGI limit for cash donations raised to 60%
- **Corporations may be motivated to implement matching gift programs for employees**
- **Corporations will pay less in taxes and may have more to give away**
- **Increase in use of IRA’s to make qualified charitable distributions by donors who are at least age 70 ½**

# IRS Notice 2017-73

**DAF's can now pay a donor's personal pledge to a charity as long as:**

- (i) the DAF sponsoring organization makes no reference to the existence of a charitable pledge when making the DAF distribution;
- (ii) no Donor/Advisor receives, directly or indirectly, any other benefit that is more than incidental...on account of the DAF distribution; and
- (iii) a Donor/Advisor does not attempt to claim a charitable contribution deduction under § 170(a) with respect to the DAF distribution.

# IRS Notice 2017-73

**Bifurcated grants** (where a DAF would pay the deductible portion of ticket or table at a charitable event and the donor would pay the non-deductible portion personally) are not allowed from DAF's.

DAF's cannot pay for any portion of a ticket or a table at a charitable event, even the deductible portion.



# IRS Notice 2017-73

**Public support test for charities receiving DAF grants:** The IRS is considering treating grants from DAF's as a donation from the donor, not from the community foundation/sponsoring organization.

- The donation would be subject to the 2% limitation (and not treated as 100% public support) for purposes of the charity's public support test.
- Anonymous DAF grants would also be treated as coming from one donor.

# IRS Notice 2017-73

**IRS is also asking how private foundations are using DAF's**

**Comments were due March 5** – We and many other community foundations and commercial gift funds submitted comments

# **Tax Reform and Its Impact on Nonprofits**

Tax reform's impact on:

- 1) Annual fund strategy
- 2) Major gift fundraising strategy
- 3) Planned giving strategy

# Fundraising 101

## **Gift Pyramid**

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# ***Tax reform's impact on:***

## **Gift Pyramid**

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1) *Annual fund strategy*

# ***Tax reform's impact on:***

## **Gift Pyramid**

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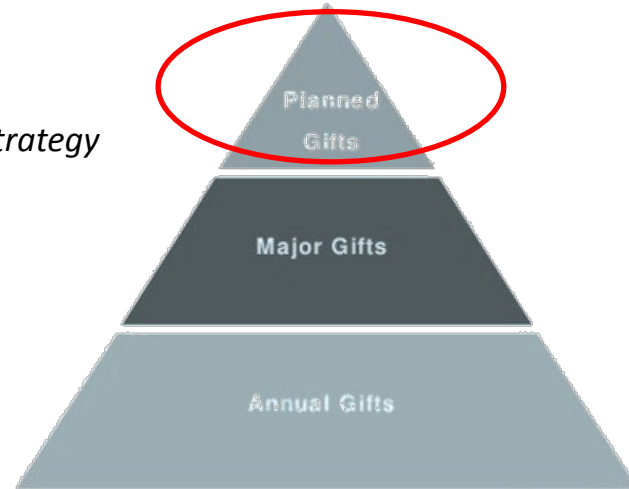
*2) Major gift fundraising strategy*

# ***Tax reform's impact on:***

## **Gift Pyramid**

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*3) Planned giving strategy*



***Tax reform's impact on:***

# Collegiate Athletics



## Summary

- Unite donors goals and passions with nonprofit's priorities
- Stewardship, Stewardship, Stewardship
- Time will tell
- Prediction – Tax laws will change in the future

# Tax Reform and Its Impact on Nonprofits

## Discussion & Questions

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# Tax Reform and Its Impact on Nonprofits

## Conclusion & Thanks

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