Eight Charitable Strategies Using the CARES Act

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The CARES Act was signed into law on March 27, 2020, and includes a wide range of provisions to assist those affected by the COVID-19 pandemic.

Recognizing the heightened importance of charitable giving and the need to maximize support of nonprofits providing critical relief and response services, the CARES Act includes key provisions designed to encourage increased charitable giving in 2020 and beyond.

To help advance philanthropic discussions with your clients, this article highlights three key CARES Act impacts related to charitable giving and proposes eight giving strategies that may be beneficial to certain clients.

Disclaimer: The CARES Act, as with any new law, is subject to additional guidance, corrections, and interpretations when being implemented. We are expecting the Internal Revenue Service (IRS) will provide guidance on provisions within the law. This article may be updated as new guidance, corrections, and interpretations are provided.

This information is not intended to replace individualized tax or legal advice. Clients should consult with a tax or legal advisor when advice is necessary or appropriate.

Charitable Giving Impacts from the CARES Act

1. There is a new charitable deduction for those who take the standard deduction.

Clients who take the standard deduction in 2020 may claim an above-the-line deduction of up to $300 per taxpayer for cash donations to qualifying public charities, as defined by Internal Revenue Code (IRC) section 170(b)(1)(A). Cash donations to donor-advised funds, supporting organizations, and private foundations do not qualify for this federal income tax deduction. Pending further IRS guidance, it is possible the deduction option may extend to future tax years.

2. The charitable giving deduction limit increased to 100% of AGI on certain cash donations.

For 2020 only, donors may elect to receive a federal income tax deduction for charitable contributions of up to 100% of their Adjusted Gross Income (AGI). However, this deduction may not be honored by each state's taxing authority.

To be eligible for this deduction, donations must be in the form of cash and made during calendar year 2020. In addition, donations must be made to qualifying public charities, as defined by IRC section 170(b)(1)(A). This means that cash donations to donor-advised funds, supporting organizations, and private foundations do not qualify for the 100% of AGI deduction limit.

Note: At this time, it is unclear whether cash donations and non-cash donations (such as publicly traded stock) can be combined to reach the 100% of AGI limit. Additional guidance from the IRS will be required to clarify this issue. For now, if a client wishes to use the entire limit, we recommend donating cash.

3. Qualified Charitable Distributions (QCDs) are still an option.

The CARES Act did not change the rules for QCDs. And while required minimum distributions (RMDs) for 2020 were waived, QCD rules are not governed by RMD rules. Therefore, the impact of the CARES Act is that QCDs are still allowed for 2020 (and beyond) up to $100,000 per year for those age 70½ and older (note: the SECURE Act did not change the QCD starting age to 72).

While not deductible, QCDs are not subject to income tax and provide a simple and tax-smart way to deliver financial support to nonprofits. At this time, QCDs cannot be utilized for donations to donor-advised funds, supporting organizations, and private foundations.

Possible Charitable Giving Strategies

1. **Donate cash directly to charities in a manner consistent with a donor-advised fund account's granting history.**

   Clients who traditionally utilize their donor-advised fund accounts to help a charity may find it more beneficial, from a tax standpoint, to donate cash directly to a public charity in 2020. To receive the higher-limit deduction (100% of AGI), clients must itemize their deductions and make the proper election.

   > **Note:** If the client is going to give less than 50% or 60% of their AGI, then the increased deduction limit will not benefit them and they may wish to continue donating to their donor-advised fund or other giving vehicle under the current IRS rules.

2. **Donate cash from a sale of appreciated, non-cash assets.**

   Clients who are interested in donating up to the 100% of AGI limit through a combination of cash and non-cash assets may consider selling long-term held assets, paying capital gains taxes on the appreciation, and making a cash-only donation to qualifying public charities to ensure they receive the full 100% deduction. (Note: these clients must itemize deductions and make the proper election.)

3. **Sell depreciated, non-cash assets and donate the cash proceeds.**

   For some clients who itemize deductions, selling an investment at a capital loss and using the cash to take advantage of the higher deduction limit for 2020 may be an option to consider. In addition to the potential for a higher than normal deduction (100% versus 60% of AGI), clients may be able to use the capital loss against capital gains and potentially offset up to $3,000 of their ordinary income.

4. **Donate cash up to the 100% of AGI limit and decline the 100% deduction (carry over excess).**

   Clients who are in the highest federal income tax brackets (e.g., 32%, 35%, or 37%), itemize deductions, and plan to make large cash gifts in 2020, may decline to elect the higher deduction limit. It is possible that larger tax savings are generated across multiple tax years by claiming deductions at the normal 50% or 60% of AGI limit and carrying over the excess into future tax years.

5. **Make a QCD of Individual Retirement Account (IRA) assets.**

   Whether itemizing or claiming the standard deduction, clients age 70½ and older may direct up to $100,000 to qualifying public charities tax-free, even though RMDs are waived in 2020 under the CARES Act. This strategy may reduce a client's taxable estate and limit tax liability for IRA beneficiaries. In addition, if a client normally takes the standard deduction, this strategy may provide a larger tax break.

6. **Withdraw retirement assets and offset the tax liability with a cash donation up to the higher deduction limit.**

   Clients over age 59½ who take withdrawals from retirement plan accounts in 2020 may donate cash up to the 100% of AGI limit to offset income tax liability on the withdrawals. As with above, this strategy may reduce a client's taxable estate and limit tax liability for account beneficiaries.

7. **Convert to a Roth IRA and offset taxes with a cash donation up to the 100% of AGI deduction limit.**

   Clients age 59½ and older who have a qualified retirement plan account, itemize deductions, and plan to make substantial charitable donations in 2020, may use the higher deduction limit for cash donations to completely offset tax liability on the Roth IRA conversion.

   For some clients, now may be an ideal time to consider converting an account to a Roth IRA because RMDs are waived for 2020. The primary benefits of a Roth IRA are tax-free growth, no RMDs, and the potential for no tax liability to beneficiaries (depending on the timing).

8. **Donate cash to fund a charitable gift annuity (CGA) with a qualified charity.**

   CGAs provide fixed income payments in exchange for a donation. For example, your client donates $100,000 cash to a public charity in 2020 and in return receives $60,000 of lifetime income, according to IRS valuation guidelines, and the deduction is valued at $40,000.

   > **Note:** The CARES Act does not clarify whether the higher deduction limit on cash donations is available for outright cash gifts only or also for cash gifts that fund charitable gift annuities. Without further IRS guidance, we recommend clients consult their tax and legal advisors for an answer to this question. Cash donations to charitable remainder trusts do not qualify.

Clients considering any of the above strategies should consult with their tax and legal advisors before taking action. These consultations should confirm the strategies' viability, suitability, and interplay with clients' financial plans, estate plans, and desired deductions from other charitable donations.

WHAT YOU CAN DO NEXT

The CARES Act provides a timely opportunity to engage in a relevant, meaningful dialogue with your clients: strategic charitable planning and giving in response to the COVID-19 economic and social crises.

For clients wondering where to start with support of COVID-19 relief efforts, you may direct them to Schwab Charitable's website, which has educational resources to help them maximize their charitable impact. When they are ready to give, the website also has categorized lists of nonprofits recommended by the Center for Disaster Philanthropy, a list of COVID-19 relief funds, and a tool for finding their nearest community foundation.

Please also know that Schwab Charitable's relationship managers are available to answer your questions and participate in philanthropic conversations you have with your clients.

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Giving wisely
is great.

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