

# Charitable Giving Opportunities Under the 2020 CARES Act



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The government's massive COVID-19 and economic relief package — the CARES Act, which was signed into law in March — contained some significant measures to encourage immediate charitable giving to nonprofits. These included revisions to the Internal Revenue Code intended to provide additional tax benefits to taxpayers supporting charities.

Specifically, the CARES Act permits individuals to deduct cash gifts made directly to charities up to 100% of their 2020 adjusted gross income (AGI). To get this treatment, the charitable gift must be a qualified contribution, which generally means a donation paid in cash during calendar year 2020 to a charity, not to a donor advised fund or a supporting organization. The intent of the law is to get cash to public charities that they can use right away. The key change it introduces is to allow individual donors to elect treatment temporarily removing the 60%-of-AGI

limit on the deduction for cash gifts made directly to charity. This election is only available in 2020. Because gifts to "holding-tank" entities like private foundations, donor advised funds and supporting organizations may not reach the end charities immediately, the law does not affect the deduction limits for gifts made to those organizations.

Here are some examples of how changes under the new law may be applied in 2020:

## **Gift 1: Cash Gift Using Tax-Deferred IRA Dollars**

Let's say Alex, who is 60 years old, distributes \$500,000 from her IRA on July 1, 2020, and writes a \$500,000 check to a public charity on Dec. 1, 2020. Her 2020 AGI is \$600,000. Because the AGI limit for charitable gifts of cash is 100% in 2020, Alex deducts \$500,000 from her \$600,000 AGI at tax time. The fact that the cash gift is not a Qualified Charitable Distribution (QCD) made directly to the charity from her IRA, as well as that she is younger than 70½, does not preclude her from effectively deducting a large gift indirectly made with IRA dollars.

## **Gift 2: Endowment Cash**

Susie has 2020 AGI of \$100,000. Susie donates \$100,000 to a public charity on Oct. 1, 2020, for a permanent scholarship fund. Susie can deduct the full \$100,000 on her 2020 Form 1040. That the gift is designated for a permanent scholarship fund (endowment) doesn't change the tax result. Without the special CARES Act rules raising the limit for deducting cash gifts made to charities in 2020 to 100% of AGI, Susie would be restricted to a \$60,000 deduction, or 60% of her \$100,000 AGI in 2020. Susie may want to consider not making the special election, as she may benefit more from a partial deduction in 2020 and carrying forward the charitable deduction for up to five years.

## **Gift 3: Charitable Gift Annuity**

David makes a \$100,000 gift to a public charity on Dec. 1, 2020, in exchange for a lifetime annuity worth \$60,000 according to IRS valuation guidelines. David deducts \$40,000 on his 2020 Form 1040. Assume

David's AGI is \$40,000. Without the rule change allowing the special election to increase the cash gift deduction to 100% of AGI, he would otherwise be limited to a deduction of 60% of his AGI, or \$24,000.

#### **Gift 4: Cash Gift**

Adam donates a \$300 check to a public charity on May 1, 2020. When he files his 2020 taxes, Adam does not itemize his deductions (he takes a standard deduction). Under the CARES Act, Adam can deduct \$300 in determining his 2020 AGI. Without the special rule for 2020, there would be no deduction for a taxpayer who takes a standard deduction and does not itemize.

Aside from the charities and causes they're designed to support, the CARES Act rules for 2020 may most benefit:

- Donors making substantial gifts from tax-deferred IRAs.
- Donors who make gifts so large as to be above the combined income limits for both 2020 and each of the following five years. This typically arises when the donor is making, has made, or will make large gifts while having little taxable income.

Given the new legislation, its intent, and the temporary nature of its provisions — as well as the growing needs of charities amid this global health crisis — 2020 may present compelling planning opportunities to make immediate gifts of cash at a time when they are sorely needed.

The CARES Act offers room for families to consider and implement enhanced, multi-year strategies to minimize long-term income tax liability, potentially improve asset protection, and make an immediate philanthropic impact. These strategies may involve a modified long-term approach to charitable giving that contemplates immediate cash gifts as well as the use of QCDs, strategic Roth conversions, and gifts of appreciated securities to donor advised funds and family foundations.

When rule changes are effective just for the remainder of a calendar year, as is the case with 2020, there is often little procedural guidance from the IRS. So, we'd always recommend reviewing tax and charitable giving strategies with your planning team, including your wealth advisor, CPA and attorney.

But caveats aside, many families may have a unique and perhaps fleeting occasion in 2020 to meet important giving and wealth planning goals.