Insight on Charitable Giving After the CARES Act

By Nathan S. Catanese / Jul 28, 2020

With all the economic uncertainty caused by COVID-19 this year, charitable organizations are facing financial shortfalls, just as some families and businesses also continue to struggle. Many donors may be looking to financially help charities during these difficult times. Similarly, many individual and corporate taxpayers – who just completed the marathon of preparing their 2019 tax returns – may be looking for ways to reduce their 2020 tax liability. Fortunately, recent tax law changes have provided additional incentives to individual and corporate taxpayers for charitable giving in 2020 by providing new and increased tax deductions. Earlier this year, Congress enacted the Coronavirus Aid, Relief, and Economic Security Act (also known as the "CARES Act"). Changes to the tax laws contained in the CARES Act provide planning opportunities to reduce tax liability and ways for nonprofits to engage their donors.

The CARES Act provides three big changes that relate to charitable giving. First, it creates a new universal charitable deduction. Second, the Act lifts the cap on cash contributions for taxpayers who itemize. Finally, the legislation suspends required minimum distributions for 2020. These legislative changes allow for various tax strategies to reduce tax liability.

Regarding the new universal charitable deduction for individuals, taxpayers who do not itemize their taxes will be able to take an above-the-line deduction of up to $300 on their 2020 federal income tax return. In other words, all taxpayers, including the almost 90% of taxpayers who do not itemize, will be able to take a deduction for charitable giving on their 2020 taxes. The new above-the-line deduction is available for cash contributions to public charities (other than supporting organizations and donor-advised funds).

In addition, the CARES Act increases the charitable contribution deduction for taxpayers who itemize their deductions. Previously, taxpayers who itemized could claim charitable contribution deductions for cash gifts to public charities up to 60% of adjusted gross income (AGI). However, the CARES Act eliminates the 60% limitation for cash donations to public charities (other than supporting organizations and donor-advised funds) for contributions made in 2020. Deductions above 100% of AGI can be rolled over for future years.

Corporations also can take advantage of recent changes in tax law. Before the enactment of the CARES Act, corporations were limited to deducting 10% of AGI for qualified gifts. The CARES Act increased the limit to 25% of a corporation's AGI for 2020. Also, the legislation increased the charitable contribution deduction limitation applicable to contributions of food inventory by C-corporations and non-C-corporations, from 15% to 25% of taxable income or net trade or business income, respectively.

When it comes to required minimum distributions (RMDs) from retirement accounts, the consequences for taxpayers and charities are not as obvious. The CARES Act suspended RMDs for the tax year 2020. On its face, it may seem as though the temporary suspension of RMDs would reduce the likelihood that retirees will donate to charities this year, given that many choose to donate directly from their retirement accounts to satisfy the RMD requirement and avoid tax on those distributions. Because RMDs have been suspended, there will be time for donors to regain value in their portfolios before distributions have to be made. Some donors who choose to donate from their retirement accounts may choose to wait until 2021, to let their assets in their accounts grow.

However, 2020 presents a unique planning opportunity for large charitable gifts. Retirees who are required to take RMDs may make qualified charitable distributions of up to $100,000 per year. However, given the above-discussed lifting of the AGI deduction cap, donors can actually give more this calendar year. Many donors may be able to receive cash distributions from their qualified retirement accounts and then distribute the proceeds to charities, and take an offsetting income tax deduction for the full amount, up to 100% of AGI. Donors who are interested in pursuing this strategy should speak with their attorneys or other tax professionals to ensure that they can take advantage of these tax benefits.

For more information regarding planned charitable giving, tax incentives, or estate planning, please contact Nathan S. Catanese at ncatanese@clarkhill.com or 412-394-2318 or any member of Clark Hill's Tax & Estate Planning Business Unit.

