Impact of CARES Act on Charitable Giving

The Coronavirus Aid, Relief, and Economic Security (CARES) Act (Act) was passed on March 27, 2020 to help taxpayers, businesses, and nonprofits in the wake of the coronavirus pandemic and economic downturn. Gift planners should be aware of this Act's impact on philanthropy.

Temporary universal charitable deduction for 2020. A reduction in taxable income is available in 2020 for donors who do not itemize their deductions, i.e., an "above-the-line" adjustment to income that will reduce a donor's Adjusted Gross Income (AGI) and consequently taxable income. The adjustment is available for cash gifts up to $300 per taxpayer or $600 for a married couple. The deduction is not available for gifts to private foundations, donor advised funds (DAFs), 509(a)(3) supporting organizations, or for cash deductions carried forward from prior years. Moreover, this deduction is not available for noncash gifts such as appreciated stock. This temporary universal deduction should encourage the great majority of taxpayers who do not itemize to make more cash gifts in 2020.

Assume a donor gives a total of $300 to charity in 2020 and does not itemize deductions. This donor would be able to deduct $300 "above the line" and thus realize an AGI reduction of that amount. While this amount is admittedly modest, the temporary universal charitable deduction will hopefully encourage gifts to charity in response to the COVID-19 pandemic.

Temporary suspension of AGI limit for 2020. A 100 percent AGI limit is available only in 2020 for cash gifts to public charities by those who itemize. This limit does not apply to carry-over deductions from years prior to 2020. Gifts to DAFs, 509(a)(3) supporting organizations, and private foundations are not eligible for this special election. The 100 percent limit is reduced dollar-for-dollar by other itemized charitable deductions. This means that in 2020, a donor who deducts 30 percent of AGI for gifts of long-term appreciated property and elects the 100 percent of AGI limit for qualified cash contributions will be able to also deduct up to 70 percent of her AGI for qualified cash gifts, a total deduction of up to 100 percent of AGI. This provision allows donors who make the 100 percent of AGI election to carry over unused deductions up to five additional years. The carry-over deduction will be subject to the regular 60 percent of AGI limit.

Because federal income tax rates are progressive, it may not always be to a donor's advantage to make the 100 percent of AGI election. Donors in the highest federal tax brackets could generate better overall tax savings by using the 60 percent AGI limit and carrying over the excess deduction to the next year.

Consider the following examples. If Mr. and Mrs. Donor, who file a joint return with AGI of $250,000 (and are in the 24% bracket), make a qualified cash donation of $250,000 and take the 100% AGI election, then they would pay no federal tax (also assuming there are no other deductions). They would realize a tax savings of $48,349 in that year. However, assume the same couple did not take the 100% AGI election but chose the 60% AGI limitation. They would therefore receive a $150,000 charitable contribution deduction and owe $13,717 of federal income tax. The remainder of the gift ($100,000) would be carried over to the next year which would reduce their federal tax for that year from $48,349 to $24,717.

Under the two scenarios over a two-year period of time, the first option (electing 100% AGI in the first year) results in $0 tax in year one and $48,349 tax in year two. The second scenario (choosing the normal 60% AGI limitation and carrying forward the remainder) results in $13,717 tax in year one and $24,717 tax in year two for a total tax of $38,434. Therefore, the second scenario would save donors more federal income tax – approximately $9,915 – over the two year period.

As always, donors should consult their tax advisers to determine whether the 100 percent election is best.

Suspension of RMD. The new law suspends required minimum distributions (RMD) for 2020 from IRAs, 401(k)s, 403(b)s and most other defined contribution plans maintained by an employer for individuals. Minimum distributions that have already started are still required from defined benefit pension plans and some 457 plans. However, required minimum distributions that would have had to start in 2020 do not have to start until 2021, including distributions from defined benefit pension plans and 457 plans.

This change will decrease the tax incentive for a donor to make a qualified charitable distribution (QCD) – an IRA charitable rollover - from an IRA in 2020. However, the change will help retirees who would have had to withdraw a greater percentage of their retirement accounts than expected or face a penalty, given that their RMD calculation for 2020 is based on the retirement account balance as of Dec. 31, 2019 and account values decline with the market.

Limit on cash contributions from corporations increased from 10 percent to 25 percent of taxable income in 2020 for cash gifts to public charities but not to private foundations, DAFs and SOs. The usual 10percent limit still applies to other charitable contributions by corporations, and those contributions reduce the 25 percent limit dollar-for-dollar. Qualified cash contributions more than the 25 percent limit can be carried over for up to five years.

Limit on contributions of food inventory increased from 15 percent to 25 percent in 2020.

Loans of up to $10 million are available for eligible nonprofits with 500 or fewer employees. Nonprofits are also eligible for expedited loans of up to $1 million. The money must be used for salaries and other associated expenses such as health care premiums. Nonprofits that keep their employees on the payroll through June 30 are eligible to have their loans forgiven, essentially turning the loan into a grant.

Whether the provisions of the CARES Act that are destined to sunset at the end of 2020 will be extended into 2021 and beyond remain to be seen. In the meantime, this Act should help nonprofits and gift planning.