

# Charitable Contributions Update under the “Tax Cuts and Jobs Act of 2017”

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JUNE 5, 2018

UNIVERSITY CLUB OF MILWAUKEE

PRESENTED BY: WILLIAM MAYER, CPA



# Charitable Contributions

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- Provide a brief overview of charitable contribution including changes under the new tax act
- 100 years of charitable contributions
- Deductible contributions
- Non-deductible contributions
- Changes under “Tax Cuts & Jobs Act”
- Planning suggestions
- Appeal to one’s charitable nature

# 100 Years of Charitable Contributions

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- Deductible charitable contributions have been around for 100 years!
- Originally enacted on October 3, 1917 as part of the War Income Tax Revenue Act of 1917
- Its purpose was to encourage private philanthropy

# Deductible Contributions

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No changes

- Cash, checks, other monetary gifts
- Property
  - Clothing
  - Household items
  - Vehicles
  - Securities
  - Artwork
- Expenses incurred while volunteering, including 14 cents per mile driven for use of vehicle

# Non-Deductible Contributions

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- Services provided
  - Example: Consulting services
- Time spent volunteering

# Changes under the “Tax & Jobs Act”

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- Limitations on the amount of deduction has increased
- For those who can itemize there are limitations on the amount of contributions that can be deducted on a year by year basis.
  - For donations of cash, clothing and most household items to public charities, the overall deduction is limited to 60% of Adjusted Gross Income (AGI). Up from 50% under the “Tax Act”
  - Any amount exceeding the applicable limitation in a given year can be carried forward for up to 5 years and deducted on future returns
  - This is good news for large donors.

# Changes under the “Tax & Jobs Act”

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## The college athletic seating deduction is out

- Old Law – 80/20 rule. Donors who made contributions in exchange for the right to purchase tickets for an athletic event to treat 80% of the contribution as a charitable contribution. Many colleges and universities have relied on this “80/20” rule to encourage charitable giving.
- New Law – The new law essentially replaces the 80% in the 80/20 rules with 0 percent. As of January 1, 2018, donors who make contributions for the right to purchase athletic tickets can no longer deduct any portion of the contribution.

# Changes under the “Tax & Jobs Act”

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Taxpayers must itemize their deductions to claim charitable contribution deductions. There is no tax benefit if claiming the standard deduction.

- Under the new tax law, many people who once itemized may no longer be eligible. Beginning in 2018, in order to itemize the taxpayers’ deductions must exceed \$24,000 for MFJ.
- There is a very good chance that many taxpayers who previously itemized their deductions, but no longer qualify (under the new tax law) will reduce or completely eliminate the amount of charitable contributions they make.



# Planning Suggestions

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## “Qualified Charitable Distributions” from IRA – QCDs (Not new)

- Individuals age 70 ½ or older can distribute up to \$100,000 from their IRA directly to charitable organizations
  - Must transfer funds from IRA directly to charitable organization
  - Can satisfy required minimum distribution for that year using QCD
  - QCD is excluded from income, and therefore cannot be deducted as charitable contribution
  - Benefits may include reduced taxable social security benefits, a greater amount of medical expenses allowed and increased overall itemized deductions

# Planning Suggestions

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## Donor-advised fund

- Charitable giving vehicle set up to manage charitable contributions
- Typically operated by major financial institutions
- Contributions made to the fund are deductible at time of contribution to DAF
- DAF then makes charitable distributions at the time of the donor's choosing (But they are not deductible when disbursed from the fund)
- Relatively low cost, easy administration
- There might be minimum initial amount to start and minimum recommended annual distribution amount
- Can contribute appreciated stock to DAF and avoid paying tax on capital gains

# Planning Suggestions

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By funding a DAF with a large contribution in a single year may allow the donor to once again itemize and realize an additional tax savings in the year of contribution.

- The donor will also have control on when the funds are disbursed to their charities.

# Appeal to One's Charitable Nature

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Hopefully, people will continue to support various organizations because of their charitable nature and that they feel passionate about a cause. NOT FOR TAX PURPOSES.

In closing:

- Promote your mission
- Provide reasons to support your cause with a sound plan and a great dream

# Impact of 2017 Tax Cut and Jobs Act for Nonprofit Organizations

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TUESDAY JUNE 5, 2018

PRESENTED BY KATY SOMMER, CPA



# Tax Cut and Jobs Act - Impact on Nonprofits through Unrelated Business Income Tax (UBIT)

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- UBIT must be computed separately for each trade or business activity
- Disallowed transportation fringe benefits are subject to UBIT
- Excise tax on executive compensation over \$1,000,000
- Excise tax on private college's investment income

# Unrelated Business Activity(ies)

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- New tax law will impose a tax on nonprofits at the new corporate rate of 21% on income from each unrelated business activity separately.
- Previously if a nonprofit had more than one unrelated business activity, the activities could be netted together.
- Important for all nonprofits to carefully track the EXPENSES involved in producing the unrelated business income

# Disallowed Transportation Fringe Benefits are subject to UBIT

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- Effective January 1, 2018, nonprofits are subject to an unrelated business income tax liability to impose a tax on expenses for employee transportation benefits such as commuting/parking expenses.
- Tax bill eliminated the personal deduction for commuting by bicycle
- Even if the employee is using a pre-tax qualified “cafeteria” plan or compensation reduction agreement, the amounts are subject to UBIT



# Disallowed Transportation Fringe Benefits are subject to UBIT

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- The nonprofit organization can either add the parking cost to the employees wages and make it taxable OR
- File the Form 990-T and pay 21% of the parking cost for their employees

# Example of Determining the Cost of making parking taxable to the employee vs. paying UBIT

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Example 1 – Parking Cost is \$80,000 for 2018 and NFP pays 5% on its 401 (k) plan.

|  |              |                                    |            |
|--|--------------|------------------------------------|------------|
| Parking  | \$80,000     | Additional 401 (k) cost on parking | \$80,000   |
| Times FICA   | <u>.0765</u> | 401 (k) %                          | <u>.05</u> |
| Add'l Payroll tax  | \$ 6,120     | Additional Cost to 401 (k) plan    | \$ 4,000   |
| Total Payroll taxes and 401 (k) costs if make the parking costs taxable \$10,120 |              |                                    |            |

Example 2 – Parking Cost is \$80,000 but NFP pays UBIT on the cost

|          |            |  |
|----------|------------|--|
| Parking  | \$80,000   |  |
| Tax Rate | <u>.21</u> |  |
| Tax      | \$16,800   | Tax due quarterly 4/15, 6/15, 9/15 and 12/15 |

# Excise Tax on Executive Compensation

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- Compensation in excess of \$1 million paid by an exempt organization to a “covered employee” is taxed at 21% of the amount over the million.
- Covered employee is an employee or former employee of the organization who is one of its five highest compensated employees for the tax year or was a covered employee of the organization or its predecessor for any preceding tax year beginning after 2016.
- Compensation is Box 1 of W-2 plus any deferred compensation awards that vest in a taxable year.
- Example – Employee is paid \$1.2 million. Tax would be on \$200,000 ( $\$200,000 * 21\%$ ) totaling \$42,000.

# Excise Tax on private college's investment income

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- Applies only to private colleges and universities with at least 500 students, more than half of whom are in the U.S., and with assets of at least \$500,000 per student
- The excise tax rate is 1.4% of the institutions' net investment income
- Number of students is based on a daily average of "full-time equivalent" students
- Net investment income is the institution's gross investment income minus expenses incurred to produce it

# Summary 2017 Tax Cut and Jobs Act

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- Need more guidance from the IRS and Treasury regarding what is meant by “trade or business” and understanding the transportation fringe benefit UBIT.
- AICPA and National Council of Nonprofits have requested a delay in effective date for some of the changes
- Be on the look out for additional clarifications on the implementation of the new tax laws

# Presentation Slides

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Download a copy of this presentation at

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# Questions

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