Tax Reform Bill Will Require Nonprofits to Refocus Their Donor Conversations on Tax-Efficient Planned Giving Strategies

By Amy Pieper

Starting in 2018, nonprofit organizations will need to consider the changes that donors will face as a result of the recently enacted Tax Cuts and Jobs Act (TCJA) tax reform legislation. As nonprofits strive to maintain their mission and impact within the communities they serve, it will be important for them to have a solid understanding of how conversations with donors may need to change to ensure that long-time supporters remain engaged.

Surveys state that most donors give out of true altruistic motivation to support causes in which they have a personal stake or interest, not to save taxes. But getting the tax deductions that donors have grown accustomed to receiving through their philanthropic activities over the years has certainly helped maintain the steady flow of money into charitable organizations.

The TCJA could impact some of that future dollar flow, or at least alter the tax strategies through which donors might contribute to their favorite charities going forward.

The main reason behind this recent development is that the standard deduction was doubled for individuals in the new tax law, which is likely to greatly reduce the number of filers who previously itemized charitable and other deductions. Although taxpayers do not have to take the standard deduction, it is estimated that with the enactment of TCJA, only 13 million taxpayers will itemize deductions, compared with 46 million under the previous tax law.[1]

As a result, charities have raised the alarm that a reduction in the number of people who itemize charitable deductions would cause a decline in annual fund gifts. Tim DeLaney, president of the National Council of Nonprofits, said TCJA would "damage charitable giving by $13 billion or more annually." A U.S. Tax Policy Center study puts the top range of impact at $20 billion.[2]

For non-itemizers, $100 given to charity has no impact on their taxes, but for itemizers who make around $100,000 annually, Uncle Sam gives them back approximately $25 for every additional $100 they donate. So that type of taxpayer has the ability to make a $100 contribution to his or her favorite church, school, hospital or shelter for only $75, net of taxes.

The full impact remains to be seen as we still live in the most giving nation in the world. Americans seem to have philanthropy built into their DNA and have historically taken an active interest in supporting charities no matter how the tax code reads.

There are, however, strategies to make charitable contributions tax-efficient under the new law despite the anticipated number of taxpayers who will likely take the new standard deduction rather than itemize.

For those prospective donors contemplating contributions, and for those nonprofit organizations who may have to refresh their planned giving marketing game, here are a few observations to consider:

- Nonprofits may consider re-energizing IRA rollover marketing programs. If charities keep existing donors and build increased focus on gifts through IRA charitable rollovers, they may be able to compensate for any drop-off in other types of giving. Donors over 70½ can make a direct transfer from a traditional

IRA to charity of up to $100,000, also known as a qualified charitable distribution (QCD), and exclude the distribution from their taxable income.

- While the IRA rollover or QCD is not a charitable deduction, it can be an appealing planning strategy.
- Because the QCD qualifies to fulfill part or all of the required minimum distribution (RMD), a transfer from the IRA custodian directly to charity may reduce the donor's taxable income. This reduction in income may also help to prevent a taxpayer's Medicare Part B and D premiums from increasing as they are tied to income.
- For individuals over age 70½, the QCD is in effect an "above the line" charitable deduction.

• If individual donors are reticent to contribute large sums to charities because they fear outliving their resources, they can consider giving more emphasis to bequests from their estates or using a charitable remainder trust, a charitable gift annuity, or similar "split interest" gifts.

- While a primary goal of the tax legislation authors was to reduce or repeal itemized deductions, the one exception was an expansion of the charitable deduction for gifts of cash from 50% of Adjusted Gross Income (AGI) to 60%. Charitable deductions for cash gifts are deductible up to 60% of AGI if the recipient is a public charity.

- Nonprofits may consider encouraging gifts of appreciated property, such as publicly-traded securities and real estate.
  - Appreciated gifts of long-term capital gain property to public charities qualify up to the previous 30% of AGI limitation.
  - Conservation gifts continue to qualify for deductions up to 50% of AGI, with a 15-year carry forward.
  - Note that gifts to private foundations are subject to lower AGI limitations.
  - While those who do not itemize would not receive a charitable deduction for the gift, there may still be tax benefit by avoiding capital gains tax that would be recognized if the appreciated assets were sold.

Culture change is hard, but if history is any guide, aggregate giving totals will continue to grow – just under a new tax code. It is estimated that nearly $60 trillion will pass from older to younger generations in the next 50 years, and half of that amount is expected to be donated to charitable causes. For more information about how TCJA may impact your nonprofit organization, please feel free to contact your Commerce Institutional Service Consultant.* If you are not currently a Commerce client, but would like to discuss this topic and its impact, just email Commerce Trust's Director of Nonprofit Services, Amy Pieper at amy.pieper@commercebank.com, or call this toll-free number, 800-892-7100, ext. 1-2883.

[1,2] Tax Policy Center, (http://www.taxpolicycenter.org/taxvox/house-tax-bill-not-very-charitable-nonprofits)

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Amy is the director of nonprofit services for Commerce Trust Company. She and her team are responsible for delivering holistic financial and advisory services that are specific to the unique needs of nonprofit agencies across Commerce Trust's eight state geographic footprint. Amy and her team focus on understanding the unique opportunities and challenges that each nonprofit may face and then providing resources to help them meet their objectives and grow in service to the community. Prior to joining Commerce Trust in 2014, Amy acquired more than 20 years of industry experience. Amy earned her bachelor of science in business administration from University of Missouri and is a graduate of the Cannon Personal Trust School. Amy holds the designation of Certified Trust and Financial Advisor. She currently serves on the Liberty Hospital Foundation Regional Advisory Council, is trustee and secretary for the Watkins Mill Association, is a board member of Support Kansas City, and is a member of the United Way Women's Leadership Council, and the Mid-America Planned Giving Council. Amy formerly served on the board of the American Heart Association, the planned giving committee of Kansas City Hospice & Palliative care, the finance committee at Church of the Annunciation and is a past-president of the Kansas City Chapter of Corporate Fiduciaries.