

# Give&Take®

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# Tax Reform and Charitable Estate Planning: The Keys to Future Success

by Robert F. Sharpe, Jr.

Part two in a series on how the *Tax Cuts and Jobs Act of 2017* may impact philanthropy and how to give effectively in light of the new laws.

Last month's article focused on the expected impact, both positive and negative, the *Tax Cuts and Jobs Act of 2017* could have on charitable giving, with an emphasis on current gifts of cash and other property.

This article offers an overview of how changes in federal estate and gift tax laws ushered in by the new legislation may influence the ways individuals incorporate philanthropy into their long-term estate plans going forward.

## Background

For all practical purposes, there have been no federal and very limited state estate tax considerations associated with charitable giving for many years. The new tax law further underscores that reality.

Last year, an individual could leave heirs up to \$5.49 million free of federal estate and gift taxes. A couple could leave up to \$10.98 million.

To put this in perspective, of the 2.7 million people who died in the United States in 2016, only 11,200 had estates worth more than \$5.49 million. That means that 99.6% of Americans who passed away that year were not subject to federal estate tax under prior law. On top of that, some 65% of Americans live in states like California, Texas and Florida where there is no estate or inheritance tax.

While early tax reform proposals called for the complete elimination of federal gift, estate and generation skipping taxes, the final bill kept these taxes in place but doubled the exemption levels to \$11.18 million for individuals and \$22.36 million for couples.<sup>1</sup>

According to the IRS, just 4,142 Americans died in 2016 with estates worth more than \$10 million. This means the federal estate tax should not apply to roughly 99.8% of estates under the new law.

Given this lower tax burden, many individuals who would have faced estate taxes in the past may choose to use all or a portion of these tax savings to increase the amounts they devote to charitable use.

## Why might this be the case?

Consider William, 80, a widower with an estate valued at \$12 million. In 2012, he promised a \$1 million bequest to a charity he has supported over his lifetime—as part of an endowment campaign—in memory of his wife, Mary. His plans leave the balance of his estate to his two children after payment of any estate tax due.

Under prior law, his taxable estate would have been roughly \$5.5 million (\$12 million - \$1 million bequest - \$5.49 million exemption = \$5.51 million). Assuming tax due of approximately \$2.2 million, his children would have received about \$4.4 million each.

Now suppose William passes away in 2018 with an \$11.18 exemption amount. After satisfying the \$1 million charitable bequest, his children would owe no tax on the remaining \$11 million and would receive \$5.5 million each. Why would William remove the charitable bequest when his children will receive an additional \$1.1 million each due to the estate tax reduction? In fact, William could double his intended bequest to \$2 million and both of his children would still receive \$600,000 more.

Surveys of high net worth individuals reveal that 95% would keep their charitable commitments the same or increase them if their estates were not subject to tax. In a broadly circulated *U.S. Trust Survey of High Net Worth Philanthropy*, 72% said they would maintain their current level of giving through their estates, and 23% said they would somewhat or dramatically increase their charitable bequests.<sup>2</sup>

This should come as no surprise to those who have worked closely with high net worth individuals, many of whom decide how much they would like their children or other heirs to receive, make provisions for payment of tax on that amount and leave the rest to charitable interests.

## Golden age of split interest gifts?

Unlike estate taxes, the recent tax law made no changes in the tax treatment of charitable remainder trusts, charitable lead trusts, gift annuities and other so-called “split interest gifts.”

Millions of Baby Boomers are now entering retirement each year with unprecedented amounts of assets; they are becoming increasingly concerned about the long-term preservation and growth of their income and wealth in addition to satisfying philanthropic desires.

Irrevocable gifts completed today that feature immediate income tax benefits, increased income, a tax-free growth environment and other financial benefits may be more appealing to these individuals than gifts through estates that no longer offer tax benefits. Additionally, the irrevocable nature of such gifts can help protect donors in later years by walling off assets from those who may wish to prey on the elderly.

## Help for non-itemizers

Consider the case of a retired couple whose deductible expenses do not meet the new standard deduction threshold of \$25,600 for couples over 65. By periodically creating charitable gift annuities or making additions over time to a charitable remainder unitrust (CRUT), they could largely or completely satisfy their standard deduction requirement and make it possible to itemize other deductible expenditures.

CRUTs can also be structured in ways that result in a portion of annual payments being used to make immediate gifts to charity directly from the trust. For those whose ability to itemize gifts has been reduced, this offers another way to achieve the same practical result as full deductibility, much as in the case of those who are making use of the Charitable IRA provisions. In both instances, this income is not reportable by the donor and is thus comparable to being received and donated on a fully deductible basis.

## Estate gifts from IRAs

In addition to current tax benefits from direct IRA gifts to charity, more donors of all ages may be expected to make gifts at death from their IRA and other tax-favored retirement plans (401k(s), 403(b)s and others). Whether or not a taxable estate exceeds new exemption levels, making charitable dispositions from retirement accounts while leaving other assets that will be received free of income tax to heirs will continue to be a tax-wise way to leave funds from one's estate to charity.

## Charitable lead trusts

Charitable lead trusts also offer a way for those who do not itemize due to higher standard deductions or Adjusted Gross Income limits to make significant gifts over an extended period in a way that is essentially the same as making fully deductible gifts. Again, this is because donors are not receiving the funds that are directed for charitable use from the lead trust.

While gift and estate tax considerations may not be as important when considering the use of lead trusts, the ability to make tax-free current gifts, combined with the desire to delay inheritances and make wise use of gift and estate tax exemption amounts, will continue to make this vehicle very attractive to certain donors.

## More later or sooner

In summary, for many people, especially those with a lifelong history of philanthropic involvement, the recent changes in the law will result in more after-tax assets in their estates to be divided between heirs and charitable interests.

Others may find that accelerating bequests may result in immediate tax benefits and increased economic security in their later years.

In any event, donors may benefit from looking at the philanthropic aspect of their estate and financial plans through a more broadly focused lens following this latest tax legislation. ■

<sup>1</sup>See Treasury notice of final inflation-adjusted amount in Rev. Proc. 2018-18, [www.irs.gov/irb/2018-10\\_IRB](http://www.irs.gov/irb/2018-10_IRB).

<sup>2</sup>The 2016 U.S. Trust Study of High Net Worth Philanthropy (October 2016), [www.ustrust.com/publish/content/application/pdf/GWMOL/USTp-ARMC-GDN7\\_oct\\_2017.pdf](http://www.ustrust.com/publish/content/application/pdf/GWMOL/USTp-ARMC-GDN7_oct_2017.pdf), at p. 81.

## Sharpe Group on the Road

Aviva Shiff Boedecker, Sharpe Group Senior Consultant, will present "Planned Giving When That's Not All You Do" at the **AFP International Conference** in New Orleans, April 15-17, 2018, and will be joined by Sharpe Group Chief Operating Officer Barlow Mann.

Managing Consultant Joe Chickey will present "Ethical Challenges in Gift Planning—Black and White or Shades of Gray" for the **Chicago Council on Planned Giving** inaugural After-Hours Event on April 18, 2018.

Robert Sharpe will be a plenary speaker at the closing breakfast at **American Council on Gift Annuities (ACGA)** biennial conference in Seattle, April 25-27, 2018. He will present "The Brave New World of Gift Planning—Where Do We Go From Here?"

On May 4, 2018, Sharpe Group's COO Barlow Mann will attend the annual conference of the **Northern California Planned Giving Council** at which Senior Consultant Aviva Shiff Boedecker will be presented with the "Phil Hoffmire Service Award." Barlow will present "Managing the Donor Downgrade" at an afternoon breakout session. Senior Consultant and Senior Vice President John Jensen will also be in attendance.

## Sharpe Group Speakers Bureau

Since 1963, Sharpe Group has been a leader in the field of major gift planning. In addition to our popular seminar series, Sharpe consultants frequently speak to groups of all sizes and at national and professional conferences. For more information, visit [www.SHARPEnet.com/speakers-bureau](http://www.SHARPEnet.com/speakers-bureau). ■



Robert Sharpe is  
Chairman  
of Sharpe Group.

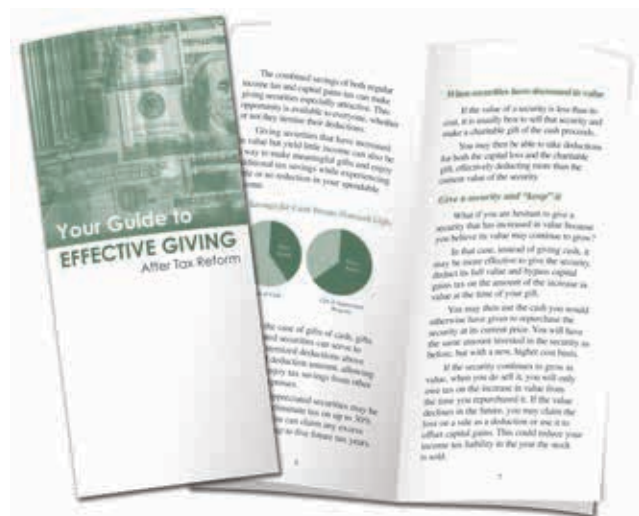
# Booklets of the Month: What Donors and Advisors **Need to Know About Tax Reform**

April is tax season, and taxpayers and advisors have been filing their final income tax returns under the pre-*Tax Cuts and Jobs Act* tax law. Many have had little time to consider what the implications of the new law will be and how it may affect charitable giving in 2018 (see Page 2 for more on this topic).

Now may be an ideal time to inform and educate donors and advisors about various provisions of the new law. Sharpe Group offers two booklets that may be particularly useful in this regard: "Your Guide to Effective Giving After Tax Reform" and the "2018 Federal Tax Pocket Guide."

## **Your Guide to Effective Giving After Tax Reform**

Sharpe created this booklet primarily to help individuals understand how the law did and did not affect their charitable giving. The content is directed to those who deduct their gifts and are likely to continue to do so. It also includes a number of strategies to help donors who may not otherwise itemize under the new law discover ways to restore tax benefits for their gifts.



## **2018 Federal Tax Pocket Guide**

In association with R&R Newkirk, Sharpe is also pleased to offer the "Federal Tax Pocket Guide." This publication is available in our combined offerings for advisors. Income tax and estate tax figures have all been updated to reflect inflation adjustments. This reference guide is ideal for advisors and more sophisticated donors. Imprinted with your organization's name and logo and your own name and contact information, the "Pocket Guide" is an effective tool for keeping your organization top of mind with the professional advisors and estate planners in your community and building goodwill among your top donors and prospects.

Visit [www.SHARPEnet.com/giving-after-tax-reform](http://www.SHARPEnet.com/giving-after-tax-reform) to view the booklets and/or to place an order. If you have any questions or need assistance, contact us at [info@SHARPEnet.com](mailto:info@SHARPEnet.com) or call 901.680.5300 for more information. ■





**"The combination of information, case studies and real-life experiences from each presenter was very helpful. I already feel more confident in my ability to work with donors on planned giving. Thank you!"**

**—Liz LaCorte**

Director of Development,  
Chesapeake Bay Maritime  
Museum



## Upcoming Sharpe Group Seminars

### An Introduction to Planned Giving

#### Discover how to build your planned giving program.

Learn the keys to effective communications with your donors. Examine the donor lifecycle and explore how you can help donors make larger gifts today and plan gifts through bequests, trusts, gift annuities and other vehicles. Learn to work effectively with those 65 and older who may comprise much of your donor base—or soon will. This seminar is appropriate for those who are new to planned giving or responsible for finding ways to enhance an existing program.

Chicago July 9-10, 2018  
Washington, DC September 10-11, 2018

### Structuring Blended Gifts

#### Explore ways donors can give using a blend of current and deferred gifts.

This seminar explains how blended gifts can make it feasible for those balancing multiple financial priorities to make larger gifts than they thought possible. In the days ahead, donors and advisors will increasingly turn to blended gifts to reap both current and future benefits. Note that new tax law changes will be incorporated throughout the presentation. Make sure you're informed so your organization doesn't miss out on this growing trend.

Chicago June 14-15, 2018

### Integrating Major and Planned Gifts

#### Learn how major and planned giving can work together.

Discover how to help donors make the best gifts based on their age, wealth and other factors, while meeting your current, capital and endowment needs. Learn to listen for clues to assist donors in the best giving options for their circumstances so they can make charitable gifts that might not otherwise be possible. This seminar is for you if your organization has both departments and would like to bring everyone together, or if you or others are responsible for both major and planned gifts.

Chicago October 4-5, 2018  
Washington, DC November 6-7, 2018

See full agendas and register at [www.SHARPEnet.com/seminars](http://www.SHARPEnet.com/seminars) or call **901.680.5300** with questions.

# Are You Getting Your Share(s)?

Why an emphasis on gifts of securities is important for many fundraising programs.



Gifts of securities have risen along with stock market values in recent years. According to the latest IRS reports, gifts of corporate stock, mutual funds and other investments accounted for more than half of the \$60.4 billion reported on form 8283 for tax year 2014 (the latest year for which data is available). \$33.2 billion in securities was donated that year. To put this amount in perspective, the total amount of bequest income that year was \$31 billion. The average gift of stock was \$81,631, while mutual fund donations averaged \$66,420.

The overall recovery in charitable giving since 2009 has largely been driven by increases in gifts of corporate stock and mutual funds. There were nearly 400,000 contributions of stock and mutual funds in 2014 alone.

## Getting your “share”

Some organizations routinely receive gifts of securities while others rarely, if ever, do. While most charities have policies and procedures in place to accept gifts of securities, they do little to promote or market such gifts. As in the case of bequests, those who proactively ask for these types of gifts are more likely to receive them than those who do not. Imagine the growth that could

be possible if even a fraction of the amount of resources devoted to encouraging bequests and other estate gifts were devoted to making donors aware of the advantages of giving securities and other appreciated assets.

Virtually all nonprofits have donors who own these types of assets. They are most likely to be found among middle-aged and older donors who regularly give larger amounts or those making large capital gift commitments.

According to the IRS, 90% of tax returns reporting this type of gift were from individuals 45 and older, and almost 50% were 65 and older. As a result, an age-based strategy may be especially effective when communicating the advantages of such gifts.

## A boom in stock gifts?

A combination of economic, demographic and tax factors may be creating an environment today that will result in a surge in gifts of stocks and other investments.

Investment market growth over the past few years combined with volatility in recent months may actually increase interest in gifts of securities as a strategy to create offsetting deductions for recent sales, or to obtain tax-

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favorable payments and tax-free diversification from over-concentrated investments.

Consider that the Dow Jones Industrial Average is up over 2800% since 1981. Household wealth and the number of millionaires are also at record levels. From a demographic standpoint, the population as a whole is getting older. The number of people turning 65 and 70 is expected to grow dramatically as Baby Boomers swell the ranks of those most likely to make gifts of securities.

Additionally, there are important tax motivations that may propel a rise in gifts of securities. In spite of dire predictions about the impact of the new tax act on charitable giving, the benefits of the charitable deduction were actually enhanced in some ways with the increase in the overall Adjusted Gross Income limitations, the elimination of the limit on itemized deductions for higher income taxpayers and the preservation of the full fair market value deduction for gifts of stocks and other capital assets held longer than 12 months.

It is important to note that even those who do not itemize can benefit by making gifts that include appreciation that has never been taxed. That is because any capital gain is bypassed whether or not a donor itemizes the gift. Gifts of certain shares received as part of corporate spinoffs can also help simplify tax reporting and financial paperwork. In the final analysis, however, the bulk of securities gifts will come from the estimated 16 million taxpayers who will continue to itemize their deductions. For these individuals, the charitable deduction may have a much more important role from a tax and financial planning standpoint.

With the elimination or reduction in most other itemized deductions, the charitable deduction now occupies a more vital position in the policies underlying a tax code that is designed to minimize taxes on funds that are voluntarily redirected for charitable purposes. In addition, with the estate tax deduction removed from consideration for all but one-tenth of one percent of estates each year, income tax planning takes on even greater importance for the itemizers who will still provide the bulk of the dollar value of all gifts from individuals.

In addition to outright gifts of appreciated property that can provide up to six years of income tax savings, your donors should consider the possible benefits of funding charitable remainder trusts or gift annuities with highly appreciated, low-yielding stock. Not only will they see potential income tax savings for up to six years, but income in many cases may be taxed at the 0% capital gains tax rate.

## The bottom line

If you do not ask the right people for the right types of gifts at the right time in their lives, you will not be as successful as those who do. If you need assistance, Sharpe Group can provide consulting, marketing, training or data services to enhance your program. If you are interested in learning more about gifts of stock, please feel free to review a copy of our booklet *Giving Securities* and learn about other tools at [www.SHARPE.net/giving-securities](http://www.SHARPE.net/giving-securities) or contact us at [info@SHARPE.net](mailto:info@SHARPE.net) or 901.680.5300.

## Giving Securities

*Giving Securities* is a 16-page informational booklet designed to inform donors about the benefits of and how to make charitable gifts from appreciated stocks. It addresses gifts of property in general with an emphasis on stocks, bonds, mutual funds and other securities—the most common forms for noncash gifts. Major donors and prospects will appreciate the up-to-date examples of proven benefits when giving securities.

These booklets are helpful to use in mailings, at special events, or on donor visits. Sharpe can personalize publications with your contact information and logo on the front and/or back cover. If you prefer something more distinctive to your brand, ask about additional customization options.

To download a preview and to learn about other tools to encourage gifts of securities, visit [www.SHARPE.net/giving-securities](http://www.SHARPE.net/giving-securities). ■



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