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14 Strategic Year-End Charitable Opportunities for the Smart Donor

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Greek philosopher Heraclitus said that the only constant in life is change. Nowhere is that more evident than in technology, but change is also regularly occurring in the economy, international relations, laws, policies, and probably in your personal circumstances. The challenge is to understand and properly respond to what is new. With reference to charitable gift planning, changes in laws and the economy present numerous opportunities to consider by the end of this year.

14 Charitable Opportunities in 2021

1. Using the charitable deduction for non-itemizers
2. Using the deduction for itemizers of cash gifts to public charities* to the extent of 100% of your adjusted gross income (AGI)
3. Making an outright gift of appreciated securities
4. Keeping your securities and reducing future tax on the gain
5. Rebalancing a portfolio without tax cost
6. Freeing investment decisions from tax considerations
7. Receiving fixed payments, favorably taxed
8. Receiving a large deduction and recovering some of your money
9. Saving taxes while continuing to live in your home
10. Taking advantage of the new starting age for required minimum distributions (RMDs)
11. Taking advantage of the decrease in the RMD percentages
12. Responding to the limited period for retirement funds to be paid to non-spousal beneficiaries
13. Making tax-free gifts from an IRA to a charity
14. Using the temporary waiver of RMDs from 2020

This guide suggests some strategies regarding these developments that you may wish to consider as you engage in your year-end planning.

SECTION I
Make Use of Expiring Tax Incentives

The 2020 CARES Act (officially the Coronavirus Aid, Relief, and Economic Security Act) contained two provisions designed to stimulate charitable giving.

OPPORTUNITY 1
Using the charitable deduction for non-itemizers

Individual filers and couples filing a joint return could claim a deduction of up to $300 on their 2020 tax return for cash contributions, even if they took the standard deduction. The American Rescue Plan Act of 2021 extended the non-itemizer deduction through 2021 and provided that couples filing joint returns could deduct up to $600 for cash contributions on their 2021 return. The limit remains at $300 for single filers.

This non-itemizer deduction will expire at the end of 2021, and starting in 2022 only itemizers can claim a charitable deduction on their tax return.

Strategy: If you expect to take the standard deduction rather than itemizing deductions on your 2021 return and you are planning on making some cash gifts to public charities other than a donor-advised fund or supporting organization, it will be advantageous for you to complete those gifts before the end of the year.

Charitable Deduction for Nonitemizers Expires After This Year

	2021	2022
Deduction for individuals who do not itemize	$300	$0
Deduction for couples who do not itemize	$600	$0

OPPORTUNITY 2
Using the deduction for itemizers of cash gifts to public charities* to the extent of 100% of your adjusted gross income (AGI)

Whereas the non-itemizer deduction mostly benefits people who make modest-sized cash gifts, this higher deduction limit benefits high-income individuals capable of making very large charitable gifts.

Strategy: Let's say that a donor whose adjusted gross income (AGI) is $2 million in 2021 wants to contribute $2 million of accumulated cash for construction of a new building at a favorite charity. She is able to deduct her entire gift in 2021 and pays no income tax for that year.

This provision of the CARES Act, like the non-itemizer deduction, will also expire at the end of the year. Beginning in 2022, the per-year deduction limit for cash gifts will again be 60% of adjusted gross income. All donors, whatever the asset contributed, will be able to carry forward any unused deduction for up to five years.

AGI Deduction Percent Reduced After This Year

	2021	2022
Percent of AGI deductible	100%	60%
Adjusted gross income (AGI)	$2 million	$2 million
Amount of donation	$2 million	$2 million
Amount deductible	**$2 million**	**$1.2 million**

**Other than a donor advised fund or a supporting organization*

SECTION II
Take Advantage of Stock Appreciation

In 2021 the Dow Jones and S&P averages reached all-time highs. During the ten-year period ending June 30, 2019, both Dow and S&P stocks had average returns of approximately 15%—and except for a period of time in early 2020 when concern about the pandemic drove markets down, stocks have continued to perform exceedingly well.

While that is good news for investors, it is presenting them with a dilemma. They would like to harvest some of their capital gain and rebalance their portfolios, but they hesitate to incur taxation of their gain. One solution is to use appreciated securities for making charitable gifts as described in the following examples.

OPPORTUNITY 3
Making an outright gift of appreciated securities

Strategy: From a tax standpoint it is generally better to make your outright gifts with appreciated securities rather than cash because you get two benefits: a deduction for market value (provided you have owned the securities more than one year) and avoidance of tax on the capital gain.

Gift Spotlight: Roger, who is subject to a 32% ordinary income-tax rate and an 18.8% tax rate on capital gain, wants to give $10,000 to a particular charity. He could make the gift with some of his accumulated cash, or he could contribute XYZ shares—for which he paid $2,000 some years ago and which are now valued at $10,000. A gift of cash would result in tax savings of $3,200, causing the net cost of the $10,000 gift to be $6,800.

But instead of writing a check for $10,000, Roger transfers the XYZ shares in order to realize two tax benefits: a deduction for $10,000 resulting in $3,200 of tax savings; and avoidance of a $1,504 tax on the capital gain ($18.8% x $8,000). The result is total tax savings of $4,704.

The cost of giving the $10,000 of XYZ stock, compared to selling it, is only $5,296—and he is able to reduce the equity exposure of his portfolio.

Roger Saves More Taxes by Giving Stock Instead of Cash

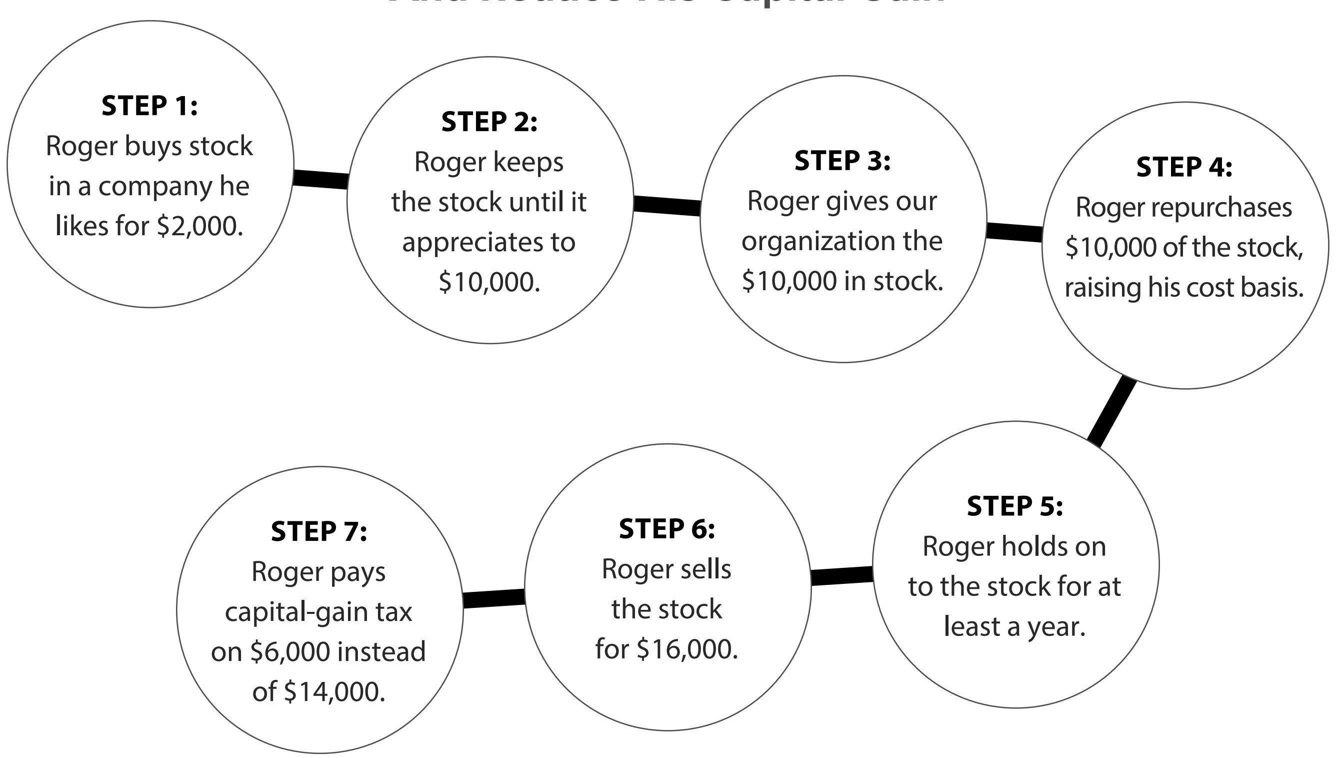
(32% income-tax rate, 18.8% capital-gain tax rate, cost basis $2,000)

OPPORTUNITY 4
Keeping your securities and reducing future tax on the gain

Strategy: You can reduce the future tax on the gain by giving the stock to charity and then repurchasing it with other funds.

Gift Spotlight: Let's say that Roger, in the previous example, acknowledges the tax benefits of giving the XYZ stock—but he says, "That stock has performed very well in the past, and I think it will rise still more. Therefore, I think I will just give cash." Such a gift would, of course, be welcome—but there is an alternative that Roger might consider. The alternative is to give the stock and then use $10,000 of his cash to repurchase the stock. His new basis in the stock is $10,000. If he holds it and sells it when the price has risen to $16,000, he will be taxed on only $6,000 of capital gain instead of $14,000 of capital gain—which would have been the case if he had retained the stock for which he originally paid $2,000.

How Roger Can Give Stock and Keep It Too—And Reduce His Capital Gain



OPPORTUNITY 5
Rebalancing a portfolio without tax cost

Strategy: You can give the most highly appreciated securities to charity and sell the rest, with the deduction from the gift offsetting the capital gain.

Gift Spotlight: Because of good returns, the percentage of equities in Louise's portfolio is above the target recommended by her financial advisor, so she would like to rebalance her account by decreasing the equity component. She would also like to contribute $100,000 to the campaign of a favorite charity. She identifies $200,000 of securities that she believes prudent to remove from her portfolio. Then she selects $100,000 of these securities—the most highly appreciated—and gives them to the charity. Next, she sells the remaining $100,000 of the targeted securities. The capital gain in the securities given to charity are not taxed, and the deduction from the charitable gift offsets a substantial portion of her taxable income and gain. She makes her intended gift, reduces the equity portion of her portfolio, and minimizes the tax she pays.

OPPORTUNITY 6
Freeing investment decisions from tax considerations

Strategy:
You can establish a charitable remainder trust.

Gift Spotlight: Anne and her husband Richard would like to make a substantial future gift—but in the meantime they want to receive income from all of their assets. They also wish to have an instrument where investment decisions can just be made on the merits of the investments. They establish a charitable remainder trust, initially transferring to it $200,000 of appreciated stocks that they think should be sold. Over time, they expect to make additional contributions to the trust. They are not taxed on the stock at the time they transfer it to the trust—and the trust, being tax-exempt, is not taxed on the capital gain when trust assets are sold. Thus buy and sell decisions can be made without concern about the tax on the gain. They could name themselves as trustee—if they want to make these investment decisions—or they could offload responsibility by appointing a financial institution or possibly the charity as trustee (assuming that the charity is willing to serve in that capacity).

The amount of income paid to them by the trust will be a percentage (at least 5%) of trust assets as revalued annually. If the trustee achieves growth in trust assets, their income will correspondingly increase. Their income will be taxed, depending on its source, but the gain realized by the trust will not taxed to it—as they would be in a brokerage account. Upon termination of the trust at the death of the survivor of Anne and Richard, the assets will be paid to the charitable beneficiary.

SECTION III
Turn to Your Advantage Historically Low Interest Rates on Investments

The great performance of stocks in recent years have been accompanied by historically low interest rates on fixed-income investments. That fact has made certain charitable gifts particularly attractive. Following are three of them. As the year comes to a close, you might consider whether any of them would be appropriate for you.

OPPORTUNITY 7
Receiving fixed payments, favorably taxed

Strategy:
The charitable instrument that offers this is a gift annuity.

Gift Spotlight: Based on an interest rate in effect earlier this year, an individual aged 75 who contributed $25,000 for a gift annuity would receive $1,350 per year for life—and for the duration of life expectancy, $1,123 of this amount would be tax-free. In addition, the individual would receive an income-tax charitable deduction of $11,071.

The annuity rate in this example is 5.4% ($5.4% x $25,000 = $1,350). If the annuitant (the person receiving payments) were older at the time the annuity was established, the life payments would be larger. A gift annuity can be a great option for those who have reached the stage of life when they would like the security of some predictable income and also want to arrange a charitable gift. When interest rates are low, as they are now, a larger component of the payments will be tax-free.

How a 75-Year-Old Benefits from a Gift Annuity	
Age of annuitant:	75
Gift annuity:	$25,000
Gift annuity rate:	5.4%
Annual payment for life:	$1,350
Percent of payment tax-free:	$1,123
Charitable deduction in year of gift:	$11,071

OPPORTUNITY 8
Receiving a large deduction and recovering some of your money

Strategy: The instrument that enables you to do this is called a grantor charitable lead annuity trust. Very simply, you contribute assets to a trust that will pay a fixed amount to a charity for a certain period, and then whatever principal that remains will be returned to you. Such a gift is particularly appealing when interest rates are low because the charitable deduction will be larger.

Gift Spotlight: Suppose that David would like to make a $1 million gift for his charity's capital campaign and do it in a way that maximizes his financial benefit. He contributes the $1 million to the lead trust and stipulates that at the end of each of the next eight years, the trust pay $125,000 to the charity. Based on an IRS interest rate effective in the spring of this year, he receives a charitable deduction of $956,460—almost as large as if he had simply given the $1 million outright. Depending on the return on invested trust assets, a substantial portion of the $1 million could be returned to him in eight years. Although the earnings on the trust are taxable to him, he has the benefit of substantial up-front tax savings—which he can invest. In this low-interest environment, a grantor charitable lead annuity trust can be one of the most cost-effective ways to make a large campaign gift.

OPPORTUNITY 9
Saving taxes while continuing to live in your home

Strategy: Some people who have no children, or who have otherwise provided for them, are leaving their residence to a charity by bequest in their will or living trust. They are delaying the gift until the end of life because they want to continue living in their home. They could transfer title to a charity now while retaining life use of the property. Thereby, they receive a large charitable deduction without changing their lifestyle.

Gift Spotlight: Martha, aged 78, whose home is valued at $700,000, enters into an arrangement to give her home to charity but continue living there. Based on an IRS interest rate effective last spring and based on certain information about the values of the land and building, she receives an income-tax charitable deduction of $573,818—which she uses this year and during her five carry-forward years. The income-tax deduction is quite large when interest rates are low, so the gift arrangement is particularly appealing at this time.

The one thing that these three gift arrangements have in common is that all are more advantageous when interest rates are low. We would be pleased to prepare a financial illustration, based on your situation, for any of them—as well as for other gift arrangements discussed in this guide.

SECTION IV
Make the Most of Recent Changes Regarding Retirement Funds

OPPORTUNITY 10
Taking advantage of the new starting age for required minimum distributions (RMDs)

For many years the RMD from an IRA (and certain other retirement plans) had to begin when the account owner attained age 70½. The SECURE Act (an acronym for the Setting Every Community up for Retirement Enhancement Act of 2019) raised that age to 72 for those individuals who did not reach the age of 70½ by the end of 2019.

It should be noted that retirement-fund owners may start distributions earlier if they wish. In fact, many people start withdrawing money sooner—especially if they retire earlier than the mandatory distribution age. However, if they make withdrawals before attaining the age of 59½—other than for certain allowable exceptions—they will pay a penalty tax in addition to having the distributions included in taxable income.

Those who had not reached 70½ by the end of 2019 and who can afford to delay or minimize distributions until age 72 now have more time to build their retirement fund.

OPPORTUNITY 11
Taking advantage of the decrease in the RMD percentages

Beginning in 2022, another change that affects the required withdrawals will become effective. A new life expectancy table for calculating required minimum distributions (RMDs) will take effect. After reviewing improvements in mortality (meaning longer life expectancies) since the table was last updated in 2002, the IRS issued a new table that will modestly decrease the percent of a retirement fund that must be distributed each year. The new table allows more to be retained in the retirement fund, defers taxes a little longer, and provides more future retirement income.

Upcoming Change in the Required Minimum Distribution That Must Be Distributed at Certain Ages

Age	RMD Percentage Per 2021 Table	RMD Percentage Per 2022 Table
72	3.91%	3.65%
75	4.37%	4.07%
80	5.35%	4.96%
85	6.76%	6.25%

Note: The amount that must be withdrawn in a given year is the account balance at the end of the preceding calendar year divided by the age factor in the IRS's Unform Lifetime Table.

Gift Spotlight: Suppose an account owner is 72 and the account balance at the end of 2021 is $1,000,000. The factor in the new 2022 Unform Lifetime Table for a person aged 72 is 27.4, but in the previous table it was 25.6. The RMD for 2022 will be $1,000,000 ÷ 27.4 = $36,496, which is 3.65% of the $1,000,000 account balance. Per the previous table, the RMD would have been $1,000,000 ÷ 25.6 = $39,063, which is 3.91% of the $1,000,000. Because of the new table, the RMD is reduced from $39,093 to $36,496. NOTE: In certain circumstances a different table is used.

OPPORTUNITY 12
Responding to the limited period for retirement funds to be paid to non-spousal beneficiaries

Previously, if an adult child was named as the beneficiary of your IRA or certain other retirement plans, the payments to that person could be made over his or her life expectancy. Thus the beneficiary could have the benefit of a tax-exempt account for a long time. However, the SECURE Act (with certain exceptions) requires that retirement funds given to non-spousal beneficiaries must be fully distributed within ten years. An example of an exception would be a beneficiary who is a minor or disabled child. Because the distribution period to a non-spousal beneficiary will now be shorter, the distributions will be larger and thus likely taxed at a higher rate.

Strategy: If you had planned for an adult child to receive payments from your remaining retirement funds over that child's life expectancy but discover that the CARES Act now prevents you from doing so, you may still accomplish your objective by making a charitable remainder trust the beneficiary of the retirement fund and naming your child as the life beneficiary of the trust.

Gift Spotlight: Assume that $500,000 remains in the IRA of a donor named John at the end of his life. That $500,000 funds a charitable remainder unitrust that will pay 5% of the value of trust assets, as redetermined each year, to his daughter Jane—who is 60 at the time the trust is created. Her initial payment will be $25,000, and that will increase if trust assets grow in value. The payments will continue for the duration of the Jane's life, however long that may be.

If John had named his daughter as beneficiary of the retirement fund, the entire amount would have had to be paid to her by the time she was 70—and the distributions would likely have been taxed at a higher rate. The trust provides not only lifetime security but also a future gift because the remaining trust assets will be distributed to a charity at the end of Jane's life.

OPPORTUNITY 13
Making tax-free gifts from an IRA to a charity

One thing that was not changed by recent legislation was the possibility of a direct gift from your IRA that you can make by advising your IRA administrator to make a transfer of IRA funds to a charity. You must be aged 70½ or older, and the gift must be to one or more public charities—except donor-advised funds and supporting organizations. The total amount transferred to charities cannot exceed $100,000 in any one year, and you may not receive any material benefit. Gifts that meet these conditions are known as qualified charitable distributions (QCD) and are nicknamed the IRA charitable rollover. They are not included in your taxable income, and they count towards your required minimum distribution (RMD).

Strategy: This is an increasingly popular way for persons over aged 70½ to make charitable gifts, and it is especially appealing if your RMD for the year exceeds what you need for living expenses. That is often the case for those who have experienced good returns on their IRA assets and who have substantial other assets.

Making a Direct Gift from Your IRA Can Reduce Your Taxes

	INDIVIDUAL A (Married, both 65+)	**INDIVIDUAL B** (Married, both 65+)
$50,000 RMD	Receives it and gives it	Gives it directly
Counted as income	$50,000	$0
Itemizing	Yes	No
Deduction for gift	$50,000	$0
Other itemized deductions	$20,000	$0
Deduction total	$70,000	$27,800
Reduction in income subject to tax	**$20,000** ($70,000–$50,000)	**$27,800** (Standard deduction for senior couple)

Gift Spotlight: Suppose that your RMD for the year will be $50,000 and you itemize various deductions totaling $30,000 and suppose further that you don't need the RMD and would like to make a $50,000 charitable gift. If you take a cash distribution of $50,000 from your IRA and then donate it, you add $50,000 to your income and then can deduct $50,000—provided you are able to use the entire deduction. If you transfer $50,000 directly to charity, you cannot claim a deduction for it but it is not included in your taxable income—so it is equivalent to a deduction.

Now suppose that your various itemized deductions would be $20,000 but that the standard deduction for you and your spouse would be $27,800, since you are both over the age of 65. Making the gift directly from your IRA has a better result than taking a $50,000 cash distribution and then contributing it because the $50,000 IRA gift is not included in taxable income and the $27,800 standard deduction is subtracted from income.

Aside from the potentially better tax results from the IRA gift, the direct transfer is much simpler because it requires only a directive to your IRA administrator.

OPPORTUNITY 14
Using the temporary waiver of RMDs from 2020

In early 2020, when stock values plunged in response to the appearance and spread of COVID-19, there was a concern about retirement security. Accordingly, the CARES Act waived required minimum distributions (RMDs) for the year 2020—whatever the age of the account owner. Forcing distributions at the very time that values of securities held in retirement accounts had dropped would have made it difficult for those accounts to recover.

Many people who did not depend on the distributions for living expenses took advantage of the temporary waiver and in 2020 either took no distributions or took less than the required amount. Consequently, they had more retirement-plan assets to benefit from the recovery of stock values.

But the waiver was for one year only. The RMD requirement has resumed for 2021, and fund owners must arrange to take their distribution by year's end to avoid a penalty.

Strategy: Because of the temporary waiver of RMD last year and because the new IRS table will reduce the percentage of your account balance that has to be withdrawn each year and because of recent returns on equity investments, you are more likely to have a substantial balance in your retirement fund at the end of your life. This is good, for it means that you are less likely to run out of money during your retirement years—and there may be more money available for your beneficiaries.

From a tax standpoint, it can be advantageous to make charitable gifts with remaining retirement funds and to give family members appreciated assets such as securities and real estate. Payments to individuals from a retirement fund (except a Roth IRA) are taxed as ordinary income, but individual heirs are not taxed on the capital gain in property that accrued prior to their benefactor's death. A charity is not taxed on retirement funds it receives because it is tax-exempt.

SECTION V
Stay on Top of Tax-Law Changes Coming from the New Administration

It is highly probable that legislation pertaining to infrastructure and other matters will be enacted this year, and the legislation will almost certainly contain some new tax provisions. However, it could be late in the year before the legislation is signed into law, and many of the provisions may not become effective until 2022. To the extent you learn what the changes will be before completing your normal year-end planning, you will, of course, want to incorporate them. Below is a summary of some tax changes currently under consideration that could affect your charitable giving.

Increase in the top federal income-tax bracket from 37% to 39.6%

High-income donors would realize somewhat larger tax savings from charitable gifts, and that could influence the decision as to whether to make those gifts this year or next year.

Increase in capital-gain tax rates

The net cost of contributing an appreciated asset compared to selling it would be less. Thus the incentive to make gifts of appreciated property would be even greater. Some investors might choose to sell appreciated assets prior to the effective date of the higher capital-gain tax rates.

Increase in corporate tax rates

The top rate would probably be higher than the current 21% maximum rate but lower than the previous 35% maximum. The result would be an increased tax savings from gifts by corporations, but how this would affect corporate giving in general is not clear.

Eliminating or limiting a step-up in basis of assets that occurs at the death of the owner

This could have a significant impact on estate planning; depending on how the law is written, it could result in some estate assets being subject to capital-gain tax as well as estate tax. It might also affect which estate assets should be designated for charitable gifts.

Possible expansion of qualified charitable distributions from an IRA to allow for gift annuities as well as outright gifts

This would make IRA gifts possible for those individuals who can afford them only if they can receive income from all of their IRA assets.

What may emerge from the negotiations on these matters is unknown at the time of this writing, and there may be other non-anticipated changes. We will monitor them, and in our publications offer gift-planning situations that you might apply to your situation.

Please Let Us Be of Service

There are many strategies and ideas regarding charitable giving discussed in this guide. Some may not apply to you, but some likely do.

Please contact us if we may be of service to your financial, charitable, and personal planning as we approach year-end.