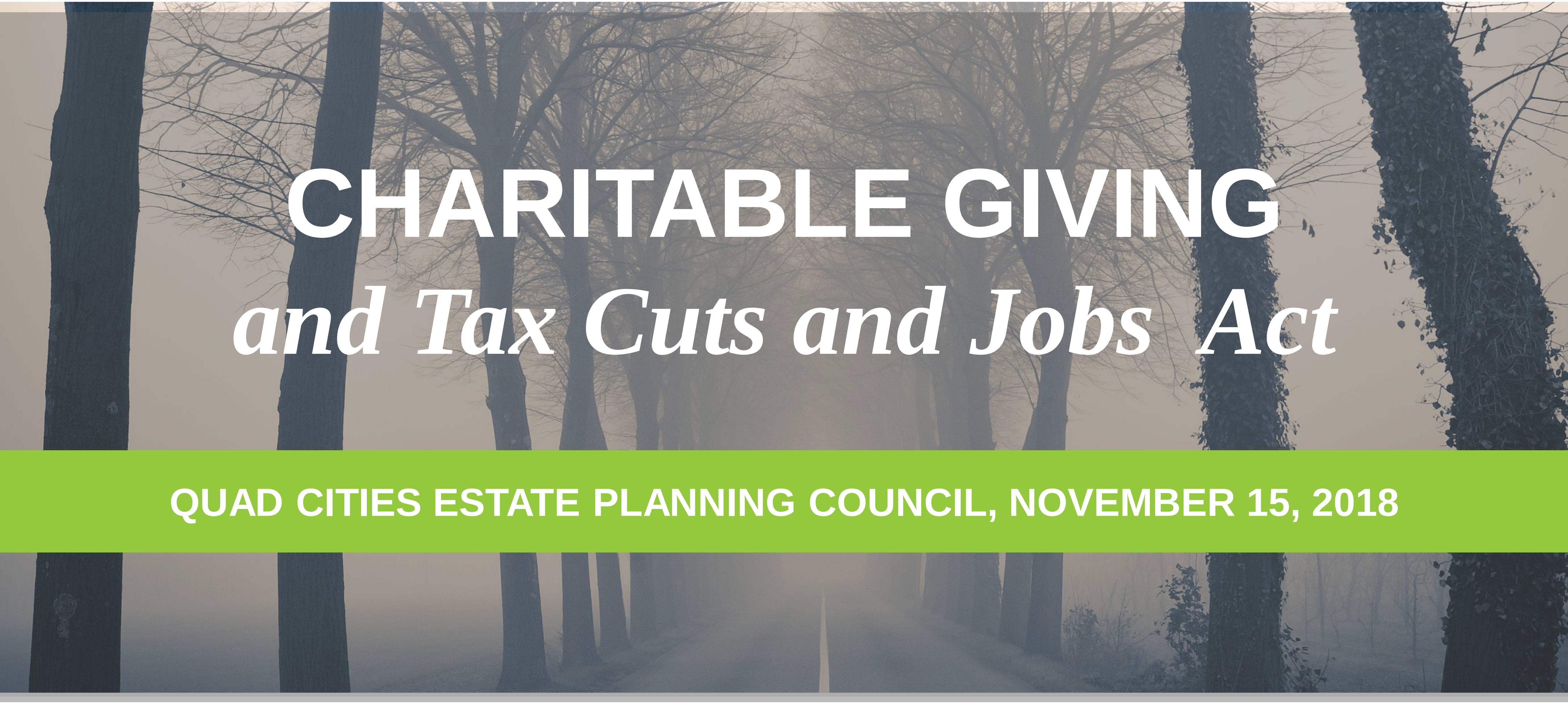
GORDON FISCHER LAW FIRM



CHARITABLE GIVING
and Tax Cuts and Jobs Act

QUAD CITIES ESTATE PLANNING COUNCIL, NOVEMBER 15, 2018

GORDON FISCHER LAW FIRM

Mission of

GORDON FISCHER LAW FIRM

To promote and maximize charitable giving in Iowa

I Provide 5 Core Services

1. Wills, trusts, estates, and ***estate planning***
2. ***Training of nonprofit boards and staff*** about charitable giving tools and techniques
3. ***Employment law guidance*** for nonprofits including advice about hiring and firing, and drafting of policies & procedures
4. Handling ***compliance issues***, like starting a nonprofit
5. Working with nonprofit and donors on ***complex gifts***


ASK MORE
QUESTIONS

Gifts of Stock

Appreciated publicly traded stock,
held for more than one year,
may be *the* ideal charitable gift:

1. Double tax benefit – deduction and avoiding capital gains
2. Endow Iowa Tax Credit eligible
3. Simple!
4. Valuation – also simple!
5. If gift > $5,000 no “qualified appraisal” by “qualified appraiser” needed

Research: Charitable Bequests

A scientifically-conducted research study had three groups involving lawyers and clients writing wills:

- ***Control Group/Baseline:*** Lawyers who provided no reminder to clients about possibly benefiting charity in will.
- ***Test Group 1:*** Lawyers asked clients, "Would you like to leave any money to a charity in your will?"
- ***Test Group 2:*** Lawyers said, "Many of our clients like to leave money to a charity in their will. Are there causes you are passionate about?"

**Behavioural Insights Team (2013), 'Applying behavioural insights to charitable giving'. Cabinet Office/Remember a Charity.*

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Research: Charitable Bequests

Control Group

Lawyers who provided no reminder to clients about possibly benefiting charity in estate plan, resulted in **4.9% of their clients including a charity in will.**

***Test* Group 1**

Lawyers who asked their clients, “Would you like to leave any money to a charity in your will?,” resulted in **10.8% of their clients including a charity in will.**

Test Group 2

Lawyers who said, “Many of our clients like to leave money to a charity in their will. Are there causes you are passionate about?,” resulted in **15.4 percent of their clients including a charity in will**.

**Behavioural Insights Team (2013), ‘Applying behavioural insights to charitable giving’. Cabinet Office/Remember a Charity.*

Research: Charitable Bequests

GROUP	AVG. BEQUEST AMOUNT
Control	$5,000
T1	$4,800
T2	$10,200

*Behavioural Insights Team (2013), 'Applying behavioural insights to charitable giving'. Cabinet Office/Remember a Charity.

Research: Charitable Bequests

There were 1,000 people in each of the three control groups. That means that "Test Group Two" raised over $1 million more than the control group!

Professional advisors have the power to ***triple*** the number of charitable bequests that take place.

Professional advisors can ***double*** the value of those bequests for **SIX TIMES the impact.**

**Behavioural Insights Team (2013), 'Applying behavioural insights to charitable giving'. Cabinet Office/Remember a Charity.*

Standard Deduction

Tax Cuts and Jobs Act almost doubled the standard deduction.

	2018	**2017**
Single	$12,000	$6,350
Heads of Household	$18,000	$9,350
Married Filing Jointly	$24,000	$12,700

What does this mean for nonprofits & the donors that fund them?

- Changes most apparent to taxpayers who itemize deductions & give small to medium amounts to nonprofits

- Such taxpayers will see **increased** standard deductions which will (likely) lower their tax bill more than itemizing would.

- They will now refrain from taking the charitable deduction

Donation Tactics Under TCJA

- Bunching charitable gifts
- Donor advised funds
- Endow Iowa
- IRA charitable rollover & other gifts through retirement benefit plans

Bunching Deductions

Donors may bunch gifts for 2-3 years to get over standard deduction

Bunching Deductions Hypo

What does this mean for nonprofits & the donors that fund them?

In 2018 Abe & Betty (a married couple):

- Are claiming the mix real estate and state income tax deduction = $10,000
- Paid $6,000 in mortgage interest
- Need at least $8,000 of charitable giving to reach & exceed the $24,000 standard deduction threshold

Abe & Betty typically give $4,000 to charity annually

They can accelerate their giving by “bunching” 2-3 years of contributions into 1 tax year

Abe & Betty will be able to itemize their 2018 taxes & claim an increased deduction by bunching in a couple of years of contributions into 1 tax year

They’ll take the standard deduction the next year(s)

Estate Tax Exemption

Tax Cuts & Jobs Act doubled estate tax exemption

	2018	2017
Individual	$11.18 million	$5.49 million
Married Couples	$22.36 million	$10.98 million

Estate Tax Exemption

What does this mean for nonprofits & the donors that fund them?

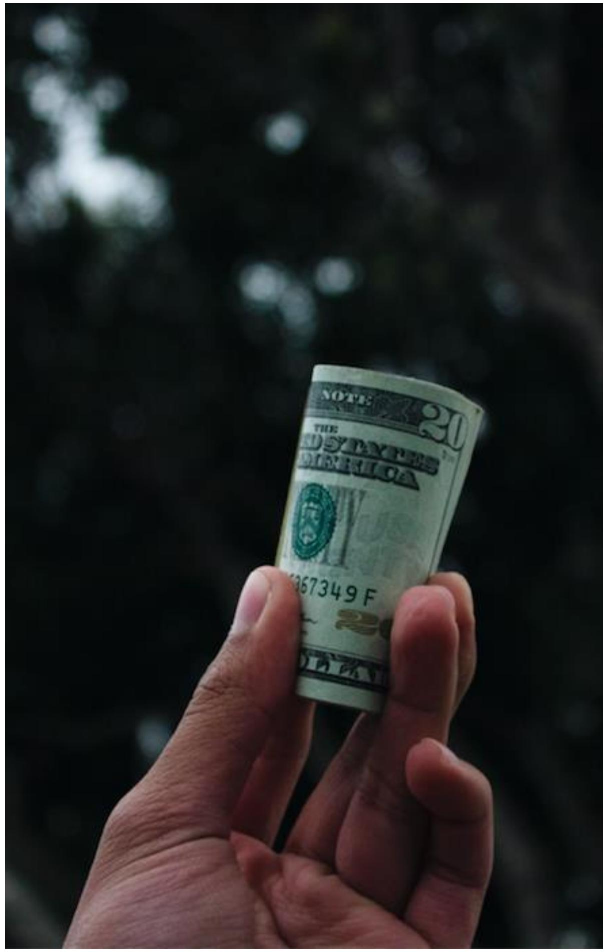
- Only people with a *very, very, very* high net worth (HNW) will be subject to estate tax

- HNW donors who no longer expect to be subject to estate taxes may be open to making large lifetime gifts income tax charitable deduction (in lieu of waiting to make testamentary gifts)

- Benefits beyond taxes may become more important to your donors

Cash Contributions

- Limit for cash contributions now = 60% of AGI (up from 50%)
- May boost cash gifts from higher income donors



Donation Tactics Under TCJA

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Endow Iowa

25%

STATE TAX

CREDIT

Endow Iowa

3 Requirements:

1. Held by community foundation
2. Iowa charitable causes
3. No more than 5% spending per year

Endow Iowa

Then donors can be eligible for:

25%

STATE TAX CREDIT

Endow Iowa Caps

- Individual
  - $300,000 per individual gift of $1.2 million
  - $600,000 per couple for gift of $2.4 million
- Statewide
  - first-come, first-served until yearly appropriated limit
  - if all awarded, qualified donors first in line for eligibility for subsequent year

Donation Tactics Under TCJA

- Bunching charitable gifts
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IRA Charitable Rollover

Federal law allows donors over 70½ years to make direct distributions of up to $100,000 per year to Nonprofit.

Note: This law applies only to traditional & Roth IRAS

Note also: Several other good options exist for charitable giving with retirement assets

NON-RMDs

Individuals over 59½ may generally withdraw funds from retirement plans without penalty, make a gift with these funds, and then claim an offsetting deduction. In most cases, a gift made in this manner with be ***tax neutral***.

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What About Required Minimum Distributions (RMDs)?

Generally, an account holder must start taking required minimum distributions (RMDs) after age 70½.

This would seemingly be a good source for charitable gifts, subject to the potential obstacles just discussed above.

Gifts At Death Via Beneficiary Designation

Donors considering leaving a charitable bequest may not realize they can also make a meaningful gift by naming Nonprofit as beneficiary of IRA, 401k, 403b, or other plan

This is simple and does not require drafting will or testamentary trusts.

Note: if account holder is married, spouse should be informed and may have to consent to gift.

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The Tale of Retirement Benefit Plans, Charitable Giving, & Heirs

Old man Lear had 4 daughters:
Cordelia, Goneril, Regan, & Ashlee

No fool, Lear engages in estate planning, wanting to help each of his daughters in the future.

The Tale of

Retirement Benefit Plans, Charitable Giving, & Heirs

Lear has 4 major assets:

- A house worth $100,003; Lear purchased it for only $20,000
- Stock in Acme Company, valued at $100,002; Lear bought the stock for just $50,000
- A famous painting of a castle. It’s valued at $100,009, although he purchased it for merely $35,000
- Lear has dutifully paid into an IRA—it’s now worth $100,020

The Tale of

Retirement Benefit Plans, Charitable Giving, & Heirs

Lear divvies up the four assets to each daughter.

Do all four daughters get more or less the same deal?

The Tale of

Retirement Benefit Plans, Charitable Giving, & Heirs

Before deciding the question of the 4 daughters,
we need to consider three important tax/legal concepts:

1. Inheritance as income
2. Income in respect of a decedent (IRD)
3. Step-up in basis (also called, stepped-up basis)

The Tale of

Retirement Benefit Plans, Charitable Giving, & Heirs

Income in respect of a decedent (IRD)

Most inherited property passes tax-free, but not all. IRD is income that the deceased was entitled to, but had not yet received, at time of death. Such as:

- Unpaid salary, fees, commissions, and/or bonuses;
- Deferred compensation benefits;
- Accrued but unpaid interest, dividends, and rent; and
- Distributions from retirement benefit plans

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The Tale of

Retirement Benefit Plans, Charitable Giving, & Heirs

Income in respect of a decedent (IRD)

Retirement benefit plans are IRD.

Federal tax law provides for IRD to be taxed when it's distributed to the deceased's beneficiaries. IRD retains the character it would have had in the deceased's hands.

The Tale of

Retirement Benefit Plans, Charitable Giving, & Heirs

Step-up in basis

This is essential for our clients to understand.

With a step-up in basis, the value of the asset is determined to be the fair market value of the asset *at the time of inheritance*, and *not* the value at which the original party purchased the asset.

The Tale of

Retirement Benefit Plans, Charitable Giving, & Heirs

Asset #1- House

Cordelia inherits the house. No federal tax on this inheritance.

Cordelia sells the house for $100,003.

Due to step-up in basis, Cordelia's basis is $100,003, the FMV of the house. Since she sells it for $100,003, there's nothing to tax.

The Tale of

Retirement Benefit Plans, Charitable Giving, & Heirs

Asset #2- Stocks

Goneril inherits the Acme stock. No federal tax on this inheritance.

Goneril sells the stocks for $100,002.

Due to step-up in basis, Goneril's basis is $100,002, the FMV of the stocks. Since she sells it for $100,002, there's nothing to tax.

The Tale of

Retirement Benefit Plans, Charitable Giving, & Heirs

Asset #3- Painting

Regan inherits the painting. No federal tax on this inheritance.

Regan sells the painting for $100,009.

Due to step-up in basis, Regan's basis is $100,009, the FMV of the painting. Since she sells it for $100,009, there's nothing to tax.

The Tale of

Retirement Benefit Plans, Charitable Giving, & Heirs

Asset #4- IRA

How about Ashlee and the IRA?

If Ashlee withdraws money from the IRA, it's a different story.

Ashlee will have to pay federal income tax of up to 37%.
(It is true that Ashlee could defer withdrawals from the IRA for a long time, and of course such deferral reduces the impact of taxes.)

The Tale of

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