



April 28, 2020

Charting a New Course for Charitable Giving in 2020

“Self-Interest Rightly Understood”

“The Americans...are fond of explaining almost all the actions of their lives by the principle of interest rightly understood; they show...how an enlightened regard for themselves constantly prompts them to assist each other, and inclines them willingly to sacrifice a portion of their time and property to the welfare of the state.

– Alexis de Tocqueville in “Democracy In America”

The 19th century French diplomat and political scientist Alexis de Tocqueville wrote about the Americans’ desire to associate and to further the interests of the common good as an extension of their own individual interests. de Tocqueville would see his thoughts alive today in this extraordinary time in our country and our world. The case for individuals and businesses to help others through philanthropy has never been stronger, and has direct links to de Tocqueville’s concepts of enlightened self-interest. Below are a few key points to keep in mind when charting a course for helping others under the current circumstances.

Tax Incentives Encourage Charitable Giving in 2020

In earlier alerts, we outlined the changes to the Internal Revenue Code intended to enable increased charitable giving under the Coronavirus Aid, Relief, and Economic Security Act (the CARES Act) signed into law on March 27, 2020. See [The CARES Act and Nonprofits](#). As is further discussed below, there is every reason to be generous with charitable support this year. At its core, the most effective charitable giving stems from a desire to benefit a cause or program. However, from a tax perspective, there are special incentives during 2020 and planning opportunities. For example, there may be an advantage for taxpayers in the highest brackets to stagger major gifts over 2020 and 2021 so they reduce income otherwise taxed at the highest marginal rates. Donors may want to consult their tax advisors on the best way to structure their giving over the next two years.





A highlight of incentives include the following:

- **Universal Charitable Deduction:** The CARES Act temporarily provides for an “above-the-line” income tax deduction of up to \$300 for non-itemizers making gifts in 2020 to public charities (other than supporting organizations and donor advised funds). Almost all taxpayers now can receive a tax benefit from a charitable gift in 2020.
- **Increase in AGI Limitations:**
 - For charitable gifts made in 2020, individuals who affirmatively elect to do so may effectively deduct up to 100% of their adjusted gross income (AGI) for cash gifts to any public charity (other than a supporting organization or donor advised fund) or private operating foundation.
 - Taxpayers may offset their entire taxable income by charitable giving, a big incentive for making major gifts in 2020.
 - Cash gifts made in 2020 can be combined with qualifying gifts of appreciated property without compromising the donor’s ability to deduct the full amount of the cash gift. Thus, a donor who deducts 30% of his or her AGI in charitable contributions of long-term appreciated property and elects the 100% of AGI limit for qualified cash contributions will be able to deduct 100% of any such cash contributions to the extent of his or her remaining AGI (rather than the 50% effective limit that applied prior to the CARES Act). Thus, by supporting public charities and their vital missions this year, a donor can eliminate his or her entire 2020 federal income tax.
 - Corporations may deduct up to 25% of their taxable income for cash gifts to public charities made in calendar year 2020, subject to somewhat similar terms as are applicable to individuals.
 - The CARES Act increases the deductibility limit for contributions of food inventory from 15% to 25% of taxable income for C corporations (and of aggregate net income for other taxpayers) for the taxable year.

Effective Giving Strategies in the Current Economic Environment

The CARES Act changes to the tax code are only one data point affecting the current landscape for charitable giving. Other considerations include the following:

- Both fiscal and monetary policy makers have adopted an unprecedented aggressive response to the economic standstill caused by the efforts to contain the virus. Interest rates are at historic lows and governmental policies are aimed at bolstering markets and asset values as well as getting needed funds into the hands of individuals. When economic activity will return to pre-pandemic levels is uncertain,



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but it seems reasonable to assume that, with the government stimulus and pent-up demand, asset values will increase in the long, if not the intermediate, term.

- For those who have the means to make significant charitable gifts in 2020, vehicles such as **charitable lead trusts** and **grantor retained annuity trusts with terminal charitable beneficiaries** make sense in a low interest rate/high growth environment. Setting aside funds to grow for charitable purposes in tax-exempt private foundations and donor-advised funds may be attractive options as well.
- It is also still the case that **gifts of long-term appreciated securities** and, for those eligible, **qualified charitable distributions from individual retirement accounts**, are very tax wise ways to support a favored program.
- Making cash gifts for endowment and other special purposes when markets are depressed is an effective way to seed funds for needed and preferred purposes.

Allocating One's Charitable Dollar

The fabric of our society depends on individual choice and support of the myriad charitable causes that add to our lives and those of others. However, because the effects of the pandemic are so widespread, it can be challenging to determine how best to make an impact. Donors are giving through many vehicles – as individuals, through foundations and charitable trusts, and through donor advised funds. As noted above, gifts to donor-advised funds are not eligible for the temporarily higher AGI limitations under the CARES Act. However, donor-advised funds are being widely used to fund various relief efforts. For example, Fidelity Charitable has reported over \$100 million in COVID-19 grants from its donor advised funds. Community foundations which hold donor advised funds have seen a similarly large number of grants being recommended from DAFs.

There are many worthy options. Many donors are stepping up to meet emergency needs, both by directly supporting organizations about which they care deeply, as well as supporting nonprofits on the front lines of the emergency response to COVID-19. In addition, cities, states, local community foundations, and the United Way have all mobilized quickly to deploy emergency response funds to meet the staggering needs of individuals, families, nonprofits, and local businesses. See [Direct Impact - Establishing an Emergency COVID-19 Relief Fund](#).

- In response to the pandemic, Massachusetts and the City of Boston have called on the business community and individual donors to address urgent needs. The response to date has been timely and enthusiastic. The [Massachusetts COVID-19 Relief Fund](#) is targeting the needs of first responders and health professionals, immigrants and undocumented residents, people with disabilities and households disproportionately affected by the impact of the virus, among others. The [Boston Resiliency Fund](#) has, among its goals, funding food programs for the elderly and





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children, supplying technology for remote learning, and supporting first responders and health care workers within Boston. As of this writing, the Resiliency Fund has raised \$25 million, half of which has already been deployed to organizations working to meet those goals.

- Some foundations and corporations are also creating emergency relief programs to help the large numbers of unemployed and/or displaced individuals impacted by the effects of the virus. The demand on programs addressing hunger and food insecurity has never been greater.
- This crisis has had a direct impact on the stability of nonprofits of all sizes and issue areas. Nonprofits particularly hard hit include those working in education and youth services providing continued support to young people at a distance; health care institutions and providers; cultural organizations, especially those whose business model depends on ticket sales, admissions, and gate revenue; and human services, particularly food banks/food shelves and homelessness providers.
- The needed response to the virus, social distancing, and the economic standstill have raised significant mental health concerns. Institutions that create community – libraries, faith-based organizations, museums, arts organizations, youth cultural and athletic programs and others – are in great need as they try to reach and support their communities and those in need remotely.

The appropriate gift for each person will embody his or her individual values, taking into account the targeted charities' needs and ability to respond in these challenging times. Collaboration with other donors, as well as the public sector, will be essential. Flexibility will be key, and many institutional donors have loosened restrictions on current grants and reduced the administrative burden on nonprofits seeking support.

In addition to the emergency response funding being provided by generous individuals and institutions, there will be mid- and longer-term needs that continue to emerge from this crisis. The return to "normal" will likely be a slow return, and what a new normal looks like is uncertain. Many nonprofit organizations have begun significant planning efforts to address the demands that will face them in the months and year ahead. Donors should not only consider immediate relief, but what will likely be continued needs for recovery and ultimately resilience.

"Self-Interest Rightly Understood"

While de Tocqueville's observations are nearly 200 years old, his ideas still have resonance today. In a world of quarantines and social distancing, connecting with others through philanthropy can be a boon to the giver as well as to those in great need. Hemenway & Barnes' attorneys, tax, investment and philanthropy professionals would be pleased to share their expertise and recent experience to help you further your goals.



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Additional Resources

- [COVID-19 and Presidential Election Have Significant Effect on Estate Planning](#) (April 15)
- [The CARES Act and Nonprofits](#) (March 31)
- [Endowments in the Time of Coronavirus](#) (March 27)
- [Philanthropic Community Responds to Nonprofit Needs During COVID-19 Crisis](#) (March 25)
- [Direct Impact - Establishing an Emergency COVID-19 Relief Fund](#) (March 20)

Please visit our [COVID-19 Resource Page](#) for additional resources related to COVID-19.

Contact Us

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