

Charitable giving

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Trust UPDATE

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So you want to be a philanthropist?

According to *Giving USA*, a new high-water mark was set in charitable giving in 2016. Some \$390 billion was given to charity that year. From 2006 through 2016, charitable gifts rose by \$93.96 billion, despite a dip during the great recession.

Oddly enough, giving away money productively turns out to be almost as hard as making it and saving it is. Although there is no shortage of worthy charities, finding the right one and making the kind of financial impact that one hopes for requires some research and some planning.

Resources

The Internet is a terrific place to begin learning about philanthropy. Here are three places to try:

- *The Foundation Center* (www.fdncenter.org) is a clearinghouse for both grantmakers and grantseekers. Information on foundations, corporate giving, and related subjects is accumulated, organized, and published. For example, their Foundation Directory Online has information about more than 100,000 grantmakers.

- *BBB Wise Giving Alliance* (www.give.org) monitors and accredits charities so as to provide greater donor confidence. Twenty standards are evaluated for each charity, covering governance, effectiveness, finances, and solicitation and informational materials.

- *Guidestar* (www.guidestar.org) compiles the data from IRS filings (Form 990) by tax-exempt organizations, as well as for thousands of nonprofits that are not required to file. Some 1.8 million tax-exempt organizations are covered. Access may be had to annual reports, balance sheet data, and revenue and expenses for the current year.

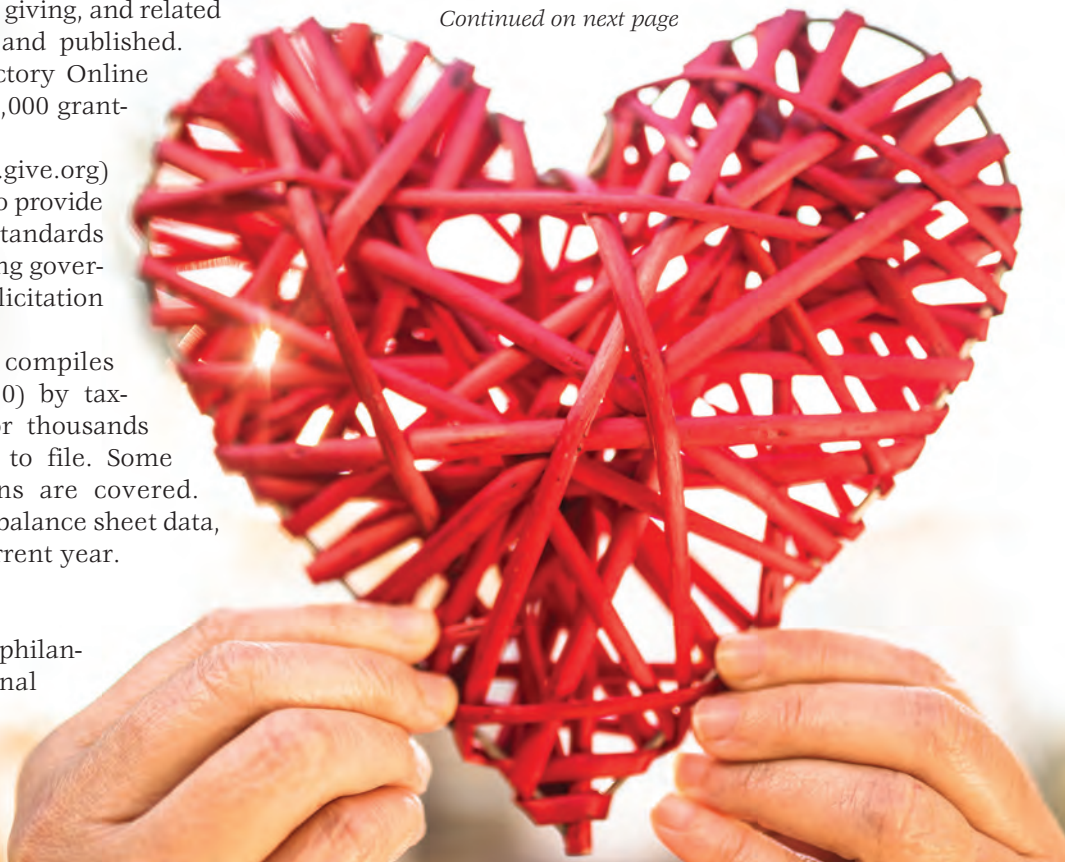
Strategies

When it comes to integrating your philanthropic objectives into your personal financial plan, we're here to help make that process easier.

- *Charitable trusts* permit private benefits on the way to meeting charitable goals. A *charitable remainder trust*, for example, can provide a lifetime income for the grantor, a spouse, or a family member before the trust assets pass to charity. The income may be a fixed dollar amount, or a percentage of the trust assets that varies with the investment returns. The *charitable lead trust*, in contrast, pays its income to charitable beneficiaries each year for a specified time period. At the end of the term, the assets return to family members. Each trust planning approach has its own income, estate, and gift tax advantages.

- *Private foundations* also offer tax advantages, but they do not permit private financial interests. The donor, or members of the donor's family, can be active in the foundation and in the grant approval process, guiding the organization as it implements the charitable mission.

Continued on next page



• *Donor-advised funds* have taken off in recent years. Donor-advised funds are structured similarly to community foundations. The donor irrevocably transfers a sum of money to the DAF and secures a tax deduction for the charitable gift in that year. The actual grants to charity occur later, perhaps throughout the donor's life and at his or her death, taking the donor's advice into account. In 2016, donors contributed \$23.27 billion to donor-advised funds, or the equivalent of 8.3% of all individual giving as estimated by *Giving USA*.

Tax effects

With the tax benefits that come with major planned gifts, donors sometimes find that they can accomplish more than they had expected or dared hope. The precise amount of the charitable income and transfer tax deductions will depend upon the structure of the gift and market interest rates at the time that the gift is made. The longer a charity has to wait for its funds, and the greater

the benefit for private beneficiaries, the lower the deduction will be.

A donation of appreciated property avoids taxes on the built-in capital gain, and there's no tax when the charity sells the property. Thus, a charitable remainder trust can be a good way to achieve tax-free portfolio diversification. The strategy is especially appropriate when a portfolio is concentrated in a few highly appreciated assets.

We facilitate philanthropy

Many factors contribute to the success of a philanthropic plan. One is the choice of *fiduciary* for asset management, tax reporting, and trust recordkeeping. That's our business. We know the legal and tax requirements as we do these things every day.

When you decide to move ahead with your major charitable giving, we can provide the service to implement the plan smoothly and effectively.

Give us a call to learn more. □

Year-end tax tip for seniors

Those who are 70½ and older—that is, those who are required to take minimum distributions each year from their IRAs—have the option of arranging for a direct transfer of funds from their IRA to a favorite charity, up to \$100,000 per taxpayer per year. The amount so transferred will *not* be included in taxable income, even though it will satisfy the requirement of removing a minimum amount from the retirement account for the year. Because there is no income inclusion, there is no corresponding charitable deduction.

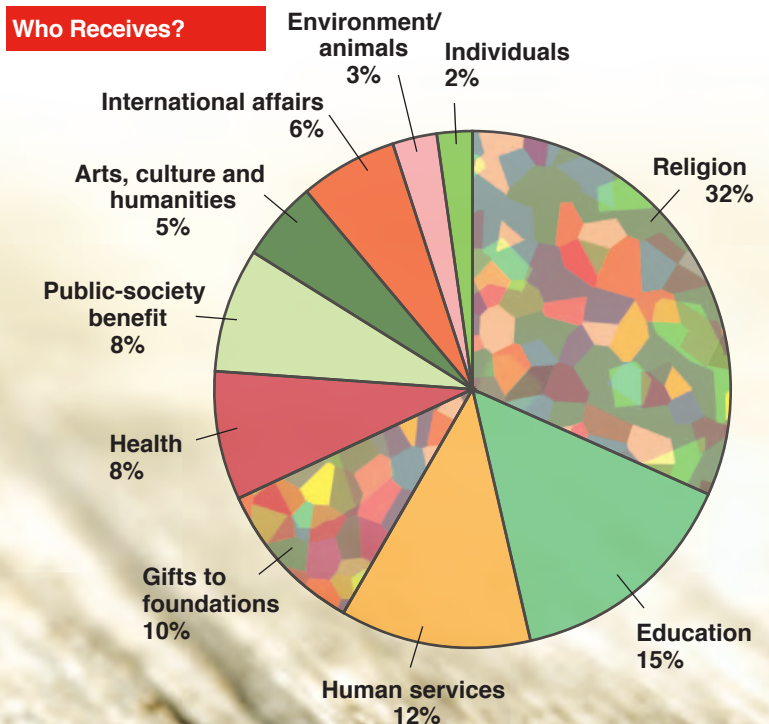
Avoiding more taxable income may have other rewards, in addition to the satisfaction that comes from charitable giving. For example, those who do not itemize get no benefit from the charitable deduction. At some income levels, an increase in taxable income can boost the income tax due on Social Security benefits. Dodging the income inclusion avoids this tax boost.



Who gives?

	% of total	% annual increase in 2016
Individuals	72%	3.90%
Foundations	15%	3.50%
Bequests	8%	-9.00%
Corporations	5%	3.50%

Source: *Giving USA 2017*



Source: *Giving USA 2017*

Notes on the federal estate tax

The modern federal estate tax dates to 1916. The exemption that year was \$50,000, roughly equivalent to \$1 million today. The top rate of 10% applied to estates of \$5 million and more.

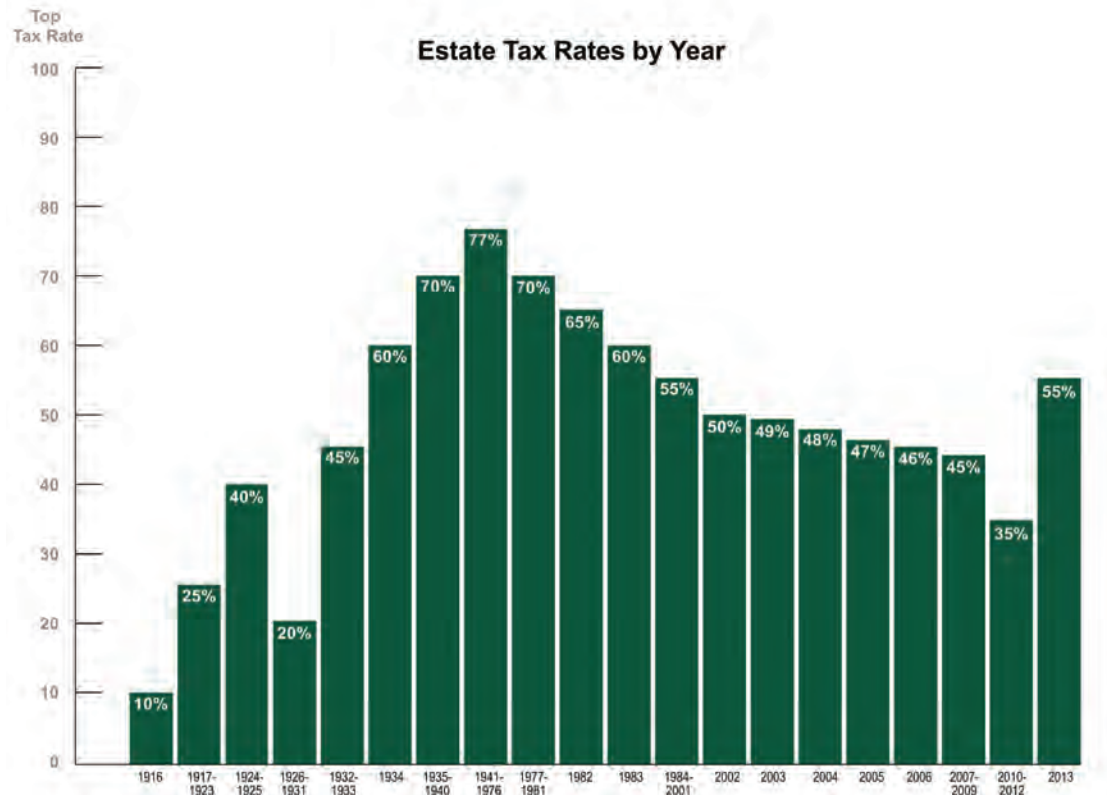
The top tax rate went up over the years, reaching 77% in 1941. The rate was not lowered to 70% until 1977. See the graph for the changing estate tax rates over the years.

In 1981, there was a major overhaul of the federal estate tax, with the amount exempt from tax rising to \$600,000. More importantly, the limits on the marital deduction were removed, so no estate or gift tax would be imposed on most transfers between a husband and a wife. For the first time, a married couple would be treated as a single economic unit for transfer tax purposes, as they already were for the income tax.

Another retargeting of the estate tax is under consideration as part of the tax reform being debated this month. The House bill goes even further, following up the retargeting with full repeal of the federal estate tax in 2025 and later years. Both the House and Senate bills would double the amount exempt from federal estate and gift tax in 2018, to \$10 million plus inflation adjustments. That translates to \$11.2 million per person, \$22.4 million per couple in 2018. The federal gift tax would be retained after 2025, but with a reduced top tax rate of 35%.

According to the IRS *Statistics of Income*, in 2016 there were 12,411 federal estate tax returns filed, of which only 5,219 were taxable. The 2,402 taxable returns in the \$5 million to \$10 million category represented almost half of the taxable filers but only 15% of the collected revenue. The 5.7% of taxable returns larger than \$50 million paid over 41% of the total estate tax. Thus, doubling the exemption keeps most of the revenue while further narrowing the number of families affected by the estate tax.

The federal estate tax has been repealed before. Tax legislation enacted in 2001 gradually increased the amount exempt from federal estate tax and repealed the tax entirely in 2010. However, that repeal was for that one year only, with the law reverting to its 2001 status at the end of the year. In the event, Congress retroactively restored the estate tax in 2010 on an elective basis. Any estate that chose to pay the estate tax would get the benefit of full basis step-up to fair market value; assets



from estates that chose not to pay it had a carryover basis. In effect, it was a trade-off between a tax on capital gains and a tax on the entire estate.

Postponements of planned changes to the estate tax laws is not new. In 1981 the Economic Recovery Tax Act called for dropping the top estate tax rate from 70% to 50% over four years. Three steps occurred on schedule, but the last step, from 55% to 50%, didn't happen until 2002.

Given the past history of attempts to repeal the estate tax, there is some skepticism about the current efforts and whether they will stick even if enacted. Accordingly, if the federal exempt amount does double, those with estates larger than \$10 million may want to consider locking in tax-free transfers while they can.

Similarly, if there is a window beginning in 2025 in which the generation-skipping transfer tax does not apply, there could be a flurry of new dynasty trusts. Presumably, they would be grandfathered should the GST tax be brought back at some point. □

According to a *Time/CNN* poll conducted in 2000, 39% of Americans believe that they are or will be in the top 1% of wealth holders. Rather like Lake Wobegon, where all the children are above average.

Legal elder abuse?

The October 9, 2017, issue of *The New Yorker* included a shocking article titled "The Takeover." The article is available online, with the title "How the Elderly Lose Their Rights," at www.newyorker.com/magazine/2017/10/09/how-the-elderly-lose-their-rights. The author, Rachel Aviv, was interviewed by National Public Radio. This article should be read carefully by everyone who is 65 or older, and by everyone who has a relative who is 65 or older. In short, it should be read by everyone.

The short answer to the article's title is that the elderly can lose their rights through involuntary guardianship. A pervasive system is described in which professional guardians obtain legal control over elderly persons. These are not just people who have no family and need help, but folks who are self-sufficient and who have family nearby, but who are not capable of fighting the legal system. The case studies described in the article, of guardians liquidating the property of the elderly prematurely and getting rich from their "profession" are heartbreaking. A few of the striking details concerning the case of Rudy and Renee North, who had been placed under the supervision of a guardian:

- At a court hearing to make the guardianship permanent, the guardian was represented by a lawyer who charged \$400 per hour. Her fee was paid by the Norths' estate.

- The Norths' property was sold without their consent at sacrifice prices.

- Renee asked the guardian if she could get some additional clothing. No, she was told by the guardian, you're on a very tight budget. The guardian charged the Norths' estate \$180 for that meeting, and that refusal.

- The Norths' daughter was refused access to her parents.

- The guardian took advantage of medical privacy laws to hide information from the families of her wards.

The Norths' daughter eventually got in touch with a local newspaper, which conducted some investigative journalism. Some of the sordid details became public. At a hearing for the Norths, their guardian was removed, and a trial for her misconduct has been scheduled for the spring. But there is more housecleaning to be done.

There are an estimated 1.5 million adults under the care of a guardian in the U.S., and they have an estimated \$373 billion in assets. That data comes from an auditor for a guardianship fraud program in Palm Beach County, Florida. Unfortunately, states do not have uniform oversight of guardianships, and in some jurisdictions the guardianship records are sealed anyway.

One important benefit of *revocable living trusts* is that they remove the need to have a guardian appointed to handle financial affairs. The trustee, who is already known to the family, has complete legal authority over the finances. That should prove one defense against these modern bounty hunters. □

Season's Greetings!



Lasting financial security for generations is possible with trusts.

See one of our investment and trust professionals to learn more, today.



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