TAX IN MOTION

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2023 PRIVATE CLIENT FORUM

Charitable giving: nuances, obstacles and delivering on good intentions

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With you today

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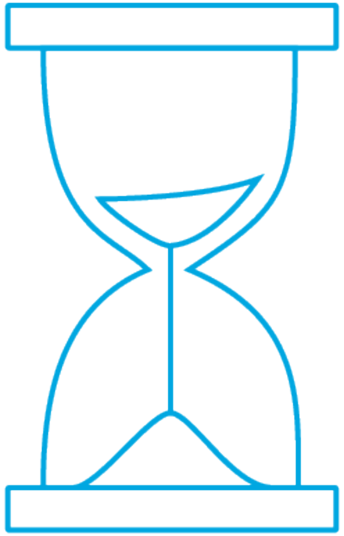
Agenda



- Strategies to satisfy charitable goals
- Timing for charitable giving opportunities
- Private foundations and donor advised funds

Learning objectives

By the end of this presentation, participants will be able to:

- Identify timing for charitable giving opportunities
- Differentiate private foundations from donor advised funds
- Categorize assets for donation to private foundations

Strategies to satisfy charitable goals

Strategies to satisfy charitable goals

- Charitable giving is a powerful way to make a positive impact on society
- Each financial and philanthropic circumstance is unique
- There are many factors in the decision to make a charitable gift
  - Legacy planning
  - Estate planning
  - Supporting important organizations
  - Philanthropic objectives
- Review current plan and legal documents

Pathways to make an impact

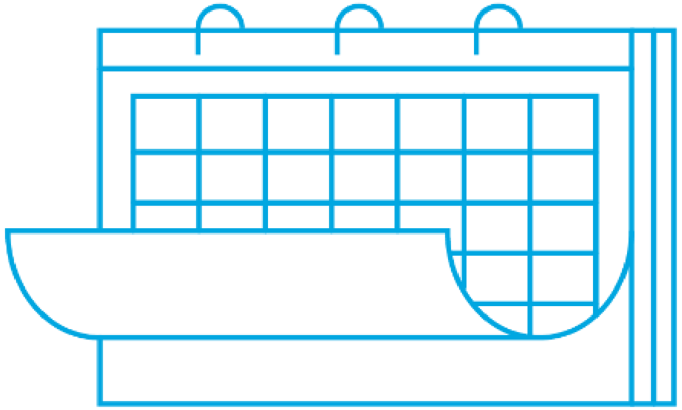
- Donating directly to a charitable organization
- Funding trusts to fulfill charitable goals
- Making qualified charitable distributions from IRAs
- Contributing to a donor-advised fund
- Creating a private foundation
- Designating a charitable beneficiary

Timing for charitable giving opportunities

Gifting during life or through bequests

- Gifting during life
  - Identifying assets and donees
  - Substantiating the donation for income tax purposes
  - Limitations on charitable tax deductions
- Charitable giving through bequests
  - Identifying assets and donees
  - Incorporating the bequest in a legal document such as a will or trust
  - Limitations on a charitable deduction

Liquidity events



- First prioritize objectives
- Pre-liquidity
  - Assignment of income doctrine
  - What asset will be donated?
  - In what year is the contribution most effective?
- Post-liquidity
  - Estate planning
  - Opportunity to off-set high income tax years
  - General philanthropic planning funding

Private foundations and donor advised funds

DAF or PF? Threshold questions

- How much control do you want?
- How important is maximizing tax deductions in your philanthropy?
- Do you intend to give cash, publicly traded securities, or other gifts?
- What is your tolerance for annual tax compliance and reporting by the charitable vehicle?
- How willing are you to create and then manage the legal, tax and accounting support to run the entity?
- Is it important for other generations to be involved in the philanthropy?

Differentiating private foundations from donor advised funds

	Private foundation (PF)	Donor advised fund (DAF)
Legal identity	Nonprofit trust or corporation generally funded by a single or small group of donors	Separate fund or account established at an existing public charity
Charitable contributions	30% or 20% AGI limit Deduction generally limited to basis (other than qualified appreciated stock)	60%, 50% or 30% AGI limit Deduction generally up to FMV
Control	Controlled by a board of directors or trustees	Donor has advisory privileges over investments and distributions
Payout requirements	Generally, 5% of assets	None currently but numerous legislative proposals
Filing requirements	Form 990-PF filed annually with IRS; may have additional state filing obligations	All record-keeping and filings performed by sponsoring organization
Miscellaneous tax items	Numerous excise taxes 1.39% tax on net investment income Unrelated business income tax	Limited excise taxes Unrelated business income tax

Cautionary considerations

- Self-dealing
  - Transactions between private foundation and disqualified persons
- Excess business holdings
  - Limitation on ownership of operating entities
- Jeopardizing investments
  - Diversification of investment portfolio
- Taxable expenditures
  - Grants and expenditures exclusively for charitable purposes

Prohibited transfers to safe transfers

What transfers and assets are prohibited?
- Sales/exchanges with disqualified persons (DPs)
- DP contributions of debt-financed assets

What assets may have time-limited ownership?
Entities with less than 95% passive gross income and greater than 2% PF ownership

What assets may generate taxable income?
- Leveraged assets
- Operating pass-through entities

What assets are generally "safe"?
- Passive, non-leveraged income-producing assets
- Entities with no more than 2% PF ownership

THANK YOU FOR YOUR TIME AND ATTENTION

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QUESTIONS AND ANSWERS

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