

Charitable Contribution Planning – And Headaches

by Alexandra O. Mitchell

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In this article, Mitchell examines the One Big Beautiful Bill Act's tax implications for charitable giving in 2026 and beyond.

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With the July 4 enactment of the One Big Beautiful Bill Act (OBBBA, P.L. 119-21), individual and corporate donors have clarity around the tax implications of charitable giving in 2026 and beyond. For the first time, corporate donors and individuals that itemize will encounter a floor, disallowing the amount of charitable contributions that fall below a certain threshold. However, individual donors will benefit from a permanent extension of the 60 percent limit for cash contributions to public charities, and nonitemizers will benefit from the return of the above-the-line charitable contribution deduction.

I. The Charitable Contribution Floor: Lost Deductions

Sections 70425 and 70426 introduce and impose a floor on charitable contribution deductions made by individuals and corporations: 0.5 percent of adjusted gross income and 1 percent of taxable income, respectively. Therefore, for tax years beginning after December 31, 2025, taxpayers may deduct only charitable contributions in excess of these floors.¹

Example: Assume that the charitable contribution floor is \$10,000, and the taxpayer

makes contributions of \$15,000. The new provisions disallow the first \$10,000 and permit a charitable deduction of \$5,000 (subject to continuing AGI and taxable income limitations).

To the extent that the taxpayer has charitable contribution carryforwards from the tax year, the amount disallowed in accordance with the charitable deduction floor will increase the carryforwards. However, if the taxpayer has no current year carryforwards, the taxpayer will permanently lose the deduction for the disallowed amounts.

Example: Assume the charitable contribution limitation is \$50,000, and the taxpayer makes contributions of \$55,000. Because the taxpayer has a \$5,000 carryforward attributable to the current tax year, the charitable contribution floor disallowed amount will increase the carryforward amount. However, if the taxpayer made contributions of \$50,000 or less, there is no carryforward, and the taxpayer will permanently lose the disallowed amount.

A. Added Complexities for Individuals

For individuals with carryforwards, determining the AGI limit affected by the disallowance becomes important, as these amounts will carry forward for up to five additional tax years. According to newly enacted section 170(b)(1)(I), the disallowance applies in the following order (percentages pertain to applicable AGI limit):

1. 20 percent (that is, appreciated property contributed to nonpublic charities);
2. 30 percent capital gain (that is, appreciated property contributed to public charities);
3. 30 percent noncapital gain bucket (that is, cash and other nonappreciated property to nonpublic charities);
4. 50 percent or 100 percent (that is, qualified conservation contributions);

¹ See section 170(b)(1)(I) and 170(b)(2)(A)(i).

5. 50 percent (that is, nonappreciated property to public charities); and
6. 60 percent (that is, cash to public charities).

After determining the allocation of the disallowed deduction, the charitable carryforward with respect to that AGI limit will increase accordingly.

B. Putting It Together

In computing the charitable contribution deduction for individual donors, the steps beginning in 2026 are as follows:

1. Determine the allowable charitable contribution deduction by applying the AGI limits but disregarding the floor.
2. Reduce the deduction by 0.5 percent of AGI.
3. If there are no carryforwards from the current year, stop. If there are carryforwards from the current year, increase the carryforwards by the amount disallowed in step 2 by following the ordering rules described above.

II. 60 Percent AGI Limitation

First introduced in the Tax Cuts and Jobs Act, section 170(b)(1)(G) raises the AGI limit from 50 percent to 60 percent for cash contributions made to public charities. Although originally due to expire for tax years beginning after December 31, 2025, the 60 percent limit is now permanent, providing taxpayers with a permanent increase in the total amount of deductible charitable contributions available annually.²

A. Technical Correction or Déjà Vu?

The new law also attempts to ensure that the 60 percent limit applies after the 50 percent limit, as originally intended by Congress but prevented by a drafting error in 2017. Under current law, the 60 percent limit applies first, effectively limiting donors to 50 percent unless their cash contributions were over 50 percent of AGI.

To accomplish correction, the amended provision requires calculating the 50 percent allowance first and then reducing the 60 percent

limit by that amount.³ Other amendments help ensure that regardless of the type of contribution or donee organization, a taxpayer with cash contributions to a public charity can deduct up to 60 percent of AGI.⁴

However, it appears that the law failed to fix a separate drafting error: simultaneously requiring the 50 percent limit to be reduced by the amount of deductions claimed under the 60 percent limit.⁵ A taxpayer simply cannot calculate both limits when each refers to the other. Not only is this result at odds with the statute's purpose, but it also creates an absurd result.

Canons of statutory construction may provide a solution until Congress fixes the error or Treasury and the IRS issue guidance that provides a reasonable interpretation. The amended provision that requires calculating 50 percent contributions before the 60 percent limit clearly follows congressional intent, as explained by the Joint Committee on Taxation.⁶ Although Congress removed part of the coordination provision, the remaining portion is what creates the absurd outcome.⁷ Moreover, even on a stand-alone basis, this provision would not serve to accomplish any purpose or close any actual or perceived loophole.

Therefore, a reasonable interpretation of the statute, relying in part on the rule against absurdity, would be to read subparagraph (G) in order and disregard any later provisions that yield an absurd or impossible result when applied to earlier provisions. Following this reasoning, the 60 percent limit will apply after and be reduced by 50 percent noncash contributions.

Example: Assume a taxpayer's AGI is \$100,000. Further assume the taxpayer donates unappreciated stock with a \$40,000 basis and \$20,000 in cash to a public charity. If the gifts are made in 2025, the taxpayer can deduct \$50,000 and will carryforward \$10,000 of unappreciated stock. If the gifts are made in 2026, the taxpayer

³ See section 170(b)(1)(G)(i), as amended by OBBBA (section 70425(b)(1)).

⁴ See section 170(b)(1)(B), as amended by OBBBA (section 70425(b)(2)(B)).

⁵ See section 170(b)(1)(G)(iii)(II).

⁶ See JCT, "General Explanation of Public Law 115-97," JCS-1-18 (Dec. 2018).

⁷ See section 170(b)(1)(G)(iii)(II), as amended by OBBBA (section 70425(b)(2)(A)).

² See section 70425(b)(1).

can deduct \$60,000, before applying the 0.5 percent floor (\$500 disallowance).

III. One More Thing: Itemized Deduction Limitation

The tax impact of the charitable contribution deduction may be further limited by an overall limitation on itemized deductions, which returns for 2026.

Before 2018, the Pease limitation imposed limits on the overall itemized deductions claimed by high-income taxpayers. The TCJA suspended this provision through 2025, but the OBBBA reinstates a limit on itemized deductions.⁸ However, the new limit differs from the Pease limitation. Beginning in 2026, itemized deductions will be reduced by $\frac{2}{37}$ (approximately 5.4 percent) of the lesser of the amount of itemized deductions or the taxable income that exceeds the 37 percent rate bracket, effectively limiting the benefit of itemized deductions to 35 percent.

⁸ See section 68, as amended by OBBBA (section 70111).

IV. Charitable Deductions for Nonitemizers

Nonitemizers that make cash contributions to public charities, other than donor-advised funds and supporting organizations, will have a tax benefit associated with those contributions beginning in 2026. Such donors can claim up to \$1,000 (\$2,000 for married taxpayers filing jointly) in charitable contribution deductions in addition to claiming the standard deduction.

V. Strategic Charitable Planning Ahead

The OBBBA marks a significant shift in charitable contribution planning. The introduction of contribution floors for both individual and corporate donors, alongside the reestablishment of overall itemized deduction limitations, means that traditional approaches may no longer yield the same tax efficiencies. While the permanent 60 percent cash contribution limit offers consistency, the complexities, particularly the lingering drafting errors, underscore the need for careful navigation. Successful charitable giving will now hinge on comprehensive planning. It is critical to analyze the interplay of these new rules, assess their personalized impact, and develop strategies that optimize deductions while fulfilling philanthropic objectives. ■