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The Changing Climate of Charitable Giving

Helping Your Supporters Make the Most Out of Charitable Giving

October 19, 2021

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Presenter:

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- Joined The Stelter Company in November 2011
- Prior to coming to Stelter, was an associate attorney for 10 years with the Duncan law firm in Des Moines
- Author of *Expert Insights*, a publication that highlights trends and research in planned giving. Published author *Planned Giving Today*.
- Bachelor's degree in economics and communication studies from the University of Iowa and a law degree from the University of South Dakota School of Law
- Board member and past president of the Mid-Iowa Planned Giving Council (2014-present) and vice-chair of the National Association of Charitable Gift Planners' Leadership Institute

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Agenda

SECURE Act	CARES Act	Washington Update	5 Gifts to Make in 2021

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SECURE Act

Setting Every Community Up for
Retirement Enhancement Act

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The SECURE Act

Three main changes that relate to charitable giving

1. Removed age restrictions on IRA contributions
2. Increased age for required minimum distributions
3. Eliminated "stretch" IRA for most non-spousal beneficiaries

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The SECURE Act

1. No Age Restrictions on IRA Contributions

- Additional contributions now available for those 70½ or older
- An IRA contribution can be made only if the taxpayer has compensation such as wages, tips or bonuses
- Current dollar limits are the lesser of:
  - $6,000 for those under 50
  - $7,000 for those 50 and over
  - or your taxable compensation for the year

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The SECURE Act

1. No Age Restrictions on IRA Contributions

What it means for supporters:

- Individuals can continue to make IRA contributions well into their retirement years
- Retirees have more time to save; accounts have more time to grow
- Retirement plan account balances have potential to be larger–great for nonprofits that have been named as a percentage death beneficiary or for future qualified charitable distributions

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The SECURE Act

2. Age Increase for Required Minimum Distributions

- The SECURE Act changed the age an individual must start taking RMDs from their retirement account from 70½ to 72
- Only impacts those who were born July 1, 1949, or later
- If the individual turned 70½ on or after Jan. 1, 2020, they must begin taking RMDs at age 72 to avoid penalty

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The SECURE Act

2. Age Increase for Required Minimum Distributions

What it means for your supporters:

- Retirees now have an extra 1½ years to let their retirement funds grow
- May result in larger account balances, benefiting those nonprofits that have been named as a percentage death beneficiary
- May result in larger qualified charitable distributions
- Results in some confusion with minimum age for qualified charitable distributions, which remains 70½

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The SECURE Act

3. Elimination of "Stretch" IRA for Most Non-Spousal Beneficiaries

- Old law: Beneficiaries could take distributions over their lifetime
- Now: Most non-spousal beneficiaries must withdraw the entire IRA balance by the end of 10 years
- Exceptions include minors, chronically ill and disabled individuals
- Applies to defined contribution retirement plans (IRAs, 401(k)s)

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The SECURE Act

3. Elimination of "Stretch" IRA for Most Non-Spousal Beneficiaries

- Does not apply to retirement accounts inherited by a non-spousal beneficiary as a result of a death occurring on or before Dec. 31, 2019
- A surviving spouse who inherits the retirement account of a deceased spouse will still be permitted to "roll over" those accounts to their own IRA and delay taking RMDs until they turn 72

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The SECURE Act

3. Elimination of "Stretch" IRA for Most Non-Spousal Beneficiaries

What it means for supporters:

- Roth IRAs may be more attractive now. The IRA owner may wish to convert traditional IRA funds into a Roth IRA. The account owner pays income taxes now, but future withdrawals will be tax-free.
- Interest may increase in naming a nonprofit as a death beneficiary and leaving other assets to loved ones
- Charitable individuals with retirement plan accounts may be interested in testamentary life income gifts such as charitable gift annuities or charitable remainder trusts

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The SECURE Act Redefines Charitable Giving

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The SECURE Act

The SECURE Act and Charitable Giving

- Qualified charitable distributions
- Testamentary life-income gifts
  + Charitable gift annuities
  + Charitable remainder trusts

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Qualified Charitable Distributions

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The SECURE Act

Qualified Charitable Distributions

Details of gift:

IRA account holder must be at least 70½ at time of gift

- The distribution must be made directly to the charity
- The gift can be any amount up to $100,000 per year
- The gift must be made to a qualifying public charity (not to a supporting organization or a donor advised fund)

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The SECURE Act

Qualified Charitable Distributions

New under the SECURE Act:

- Any QCD will be reduced by the amount of tax-deductible contributions to your IRA
- Effective for QCDs made on or after Jan. 1, 2020

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The SECURE Act

Qualified Charitable Distributions

Example of interplay between IRA contributions and QCDs:

- The QCD is reduced by the total amount of IRA contributions on or after a person reaches age 70½
- Jane, 72, makes a $7,000 contribution to her IRA in 2021. She would also like to make a $50,000 qualified charitable distribution to her favorite charity in the same year
- Jane is allowed to make a tax-free qualified charitable distribution in the amount of $43,000

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The SECURE Act

Qualified Charitable Distributions

For supporters in the 70½-to-72 age range:

- Gift allows them to make a difference today
- Make a gift from the most highly taxed assets
- Gift may not impact current spending
- Gift does not count as income

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Testamentary Life-Income Gifts

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The SECURE Act

Testamentary Life-Income Gifts

Why consider these gifts?

- Under the new retirement plan rules, most non-spousal IRA beneficiaries now have to withdraw the entire account by the end of 10 years
- If your clients prefer that their non-spousal beneficiaries receive their entire retirement plan account proceeds over a lifetime, have them consider naming a charitable gift annuity or a charitable remainder trust as the beneficiary of their retirement plan
- Caution: paying retirement plan benefits to a trust with both charitable and noncharitable beneficiaries may accelerate taxation of benefits in some cases. (This is not an issue with qualified charitable remainder trusts.) "Always consult your advisors before naming a trust as a retirement plan beneficiary."

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The SECURE Act

Testamentary Life-Income Gifts

Donor profiles:

- Retirement plan account owners with high-net-worth accounts
- Retirement plan account owners with younger adult non-spousal beneficiaries who do not wish that their beneficiaries withdraw the entire balance by the end of 10 years
- Retirement plan account owners with non-spousal beneficiaries in high tax brackets (additional large distributions by the end of 10 years could send beneficiaries into even higher tax brackets)
- Retirement plan account owners who are charitable and want to minimize taxes

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CARES Act

Coronavirus Aid, Relief and Economic Security Act

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Two extended changes that relate to charitable giving Set to expire on Dec. 31, 2021

1. Extended universal charitable deduction
2. Lifted cap on cash contributions for those who itemize

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The CARES Act

1. Universal Charitable Deduction

- The extended CARES Act provisions give a $300/$600 above-the-line deduction for 2021
- Does not apply to supporting organizations or donor advised funds

What it means for supporters:

- Great for the 90%+ of taxpayers who take the standard deduction

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The CARES Act

2. Cash Contributions and AGI

- For individuals, the law raises the annual limit on cash gifts for those who itemize, from 60% to 100% of adjusted gross income for 2021
- For corporations, the new law raises the annual limit from 10% to 25% of taxable income for 2021
- Only contributions actually made in 2021 qualify, so excess cash contributions carried over from a prior year and treated as made in 2021 are not eligible
- If a contribution exceeds a donor's AGI, the excess can be carried over to subsequent years but is subject to the percentage limitations in the carryover years
- The increased deduction is not automatic and must be elected
- Does not apply to supporting organizations or donor advised funds

The CARES Act

2. Cash Contributions and AGI

Charitable giving strategies for supporters:

- Increase in cash donations/prepay pledges
- Sell depreciated stock, make cash gift and deduct up to 100% of AGI
- Sell depreciated stock at a loss, offset gain on sale of appreciated assets
- Even if a taxpayer recognizes capital gains, a cash gift of the sale proceeds could eliminate taxation of any ordinary income, leaving only capital gains to be taxed
- A taxpayer can eliminate any income tax this year by making sufficiently large cash charitable contributions
- Minimize taxes on a Roth conversion

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Washington Update

President Biden's Proposed Tax Plan

Income taxes:

- Retain the current income tax rates of 10%, 12%, 22%, 24%, 32% and 35%. Increase the top income tax rate from 37% to 39.6%
- This would apply to income over $452,700 for single and head of household filers and $509,300 for joint filers

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Washington Update

House Ways and Means Approved Tax Plan

Income taxes:

- Increase the top tax bracket to 39.6%
- This would apply to income over $400,000 for single and head of household and $450,000 for joint filers.
- Create a 3% surcharge on modified gross adjusted income above $5 million.

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Washington Update

President Biden's Proposed Tax Plan

Capital gains taxes:

- Retain three brackets (0%, 15% and 20%). However, for households with more than $1 million in income, tax capital gains and qualified dividends at the ordinary income tax rate of 39.6%. The new capital gains rate would be retroactive, but the exact date is unclear at this time.
- The result would be a top marginal rate of 43.4% when including the 3.8% Net Investment Income Tax (NIIT)

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Washington Update

President Biden's Proposed Tax Plan

Capital gains taxes:

- Potential negative affect for CRTs.
- Current Treasury Green Book language: "The transfer of appreciated assets to a split-interest trust would generate a taxable capital gain, with an exclusion allowed for the charity's share of the gain based on the charity's share of the value transferred as determined for gift or estate tax purposes."
- There is a lifetime exclusion for the first $1 million of untaxed appreciation
- The effective date of this proposal would be for CRTs funded after Dec. 31, 2021

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Washington Update

House Ways and Means Approved Tax Plan

Capital gains taxes:

- Increase top capital gains tax rate from 20% to 25%.
- This would apply to income over $400,000 for single and head of household and $450,000 for joint filers.

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Washington Update

President Biden's Proposed Tax Plan

Step up in basis:

- Eliminate the step up in basis rule of inherited property at death for gains of $1 million or more ($2 million or more per married couple)

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Washington Update

President Biden's Proposed Tax Plan

Step up in basis–exclusions apply:

- Transfer by a decedent to a U.S. spouse or charity
- Tangible personal property
- Family-owned businesses when transferred to heirs who continue to run the business
- Principal residence ($250,000 per person)

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Washington Update

House and Ways Means Approved Tax Plan

Estate Tax:

- Reduce the estate tax exemption beginning in 2022 (currently scheduled to occur in 2026) to $6,020,000 and make related changes to the unified estate tax credit.

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Washington Update

For the 99.5 Percent Act (S. 994):

Reduces the current estate, gift and generation-skipping tax exemption from $11.7 million to $3.5 million per person. The bill also changes the current flat rate of 40% to:

Estate Amount	Proposed Rate
$3.5M to $10M	45%
$10M to $50M	50%
$50M to $1B	55%
$1B and over	65%

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Washington Update

Universal Giving Pandemic Response & Recovery Act (S. 618)

- Increases the cap on the temporary universal charitable deduction under the CARES Act—from $300 for individuals and $600 for joint filers to one-third of the standard deduction (roughly $4,000 for individuals and $8,000 for joint filers)
- Extends the availability of the deduction through 2022

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Washington Update

Legacy IRA Act (S. 243)

- Expands qualified charitable distributions to include split-interest gifts
- Allows an IRA owner age 65 and older to transfer up to $400,000 to a life-income plan, such as a charitable gift annuity or a charitable remainder trust

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Washington Update

Securing a Strong Retirement Act (SECURE Act 2.0) HR 2954

- Raises the age for required minimum distributions to 75
- Allows for a one-time $50,000 QCD distribution to charities through charitable gift annuities and remainder trusts
- Adjusts the annual IRA qualified charitable distribution limit of $100,000 for inflation

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Washington Update

Accelerating Charitable Efforts Act (ACE Act)

Private foundations:

- Increases the distribution from 5% to 7% for private foundations
- Allows a private foundation distribution to a DAF to be a qualified distribution (QD) to the extent the DAF makes qualifying DAF distributions by the end of the DAF sponsor's tax year
- The current private foundation rules allow administrative expenses that are paid to accomplish the charitable purposes of the foundation to be treated as a QD; the ACE Act would not count these administrative expenses if paid to a disqualified person *other than* trustees, officers or directors of the foundation who are not members of the substantial contributor's family
- These changes, if enacted, would become effective for tax years beginning after Dec. 31, 2021

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Washington Update

Accelerating Charitable Efforts Act (ACE Act)

Donor advised funds—three new categories:

1. 15-Year Qualified DAFs

- Donor receives upfront tax benefits but only if DAF funds are distributed within 15 years of the contribution
- Donor must identify a charity to receive any balance by the end of the period
- For contributions other than cash or marketable securities, no deduction would be allowed until the DAF sponsor sells the contributed asset

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Washington Update

Accelerating Charitable Efforts Act (ACE Act)

Donor advised funds—three new categories:

2. Qualified Community Foundation DAF (QCFDAF)

- These DAFs would be created at a Qualified Community Foundation, organized and operated to serve the needs of a particular *geographic community* no larger than four states
- No deduction would be allowed of assets other than cash or marketable securities until those assets are sold by the DAF

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Washington Update

Accelerating Charitable Efforts Act (ACE Act)

Donor advised funds—three new categories:

3. 50-Year DAFs or Nonqualified DAF

- Donor would not receive income tax deduction until the funds are distributed to the charitable recipient
- All funds must be distributed to charities no later than 50 years after the donation
- Distributions would be treated as made from contributions using first-in/first-out accounting
- Donor receives capital gains/estate tax benefits

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Top 5 Gifts to Make in 2021

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Top 5 Gifts to Make in 2021

- Gift in a will or trust
- Beneficiary designations
- Cash gifts (under CARES Act)
- Appreciated property (stock, real estate, cryptocurrency)
- Qualified charitable distributions

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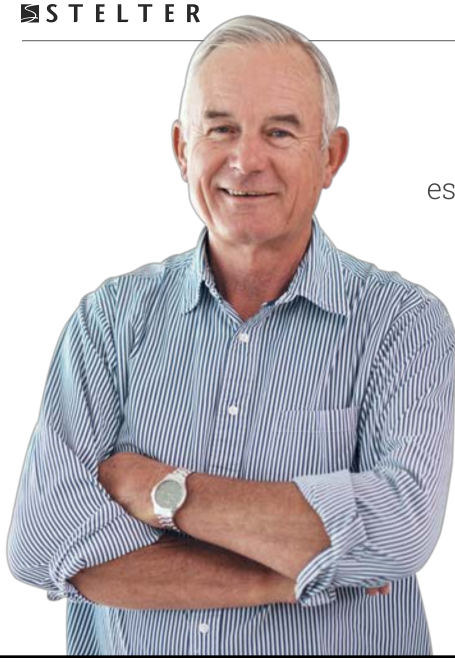

Donor creates will or trust leaving part of estate to heirs and part to your nonprofit.

Bequest

At Your Death

Heirs

Organization

EXAMPLE
Leave a Portion to Family and a Portion to a Charitable Organization

- Barbara has a $1.5 million estate and wants to leave $750,000 to your organization.
- She also wants to leave something to her only daughter, Susan, who is in the 32% federal income tax bracket.

CHOICE 1:
Barbara divides assets equally.

	Susan	Nonprofit
IRA	$375,000	$375,000
Other assets (house, securities, cash, etc.)	$375,000	$375,000
Federal income tax owed	($120,000)	$0
New amount to beneficiary	$630,000	$750,000

CHOICE 2:
Barbara divides assets separately.

	Susan	Nonprofit
IRA	$0	$750,000
Other assets (house, securities, cash, etc.)	$750,000	$0
Federal income tax owed	$0	$0
New amount to beneficiary	$750,000	$750,000

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Qualified Charitable Distributions

Details of gift:

- IRA account holder must be at least 70½ at time of gift
- Distribution must be made directly to qualified charity (not supporting organization, private foundation or DAF)
- Gift can be any amount up to $100,000 per year
- If IRA owner has check writing privileges, distribution must clear account by Dec. 31 to count towards RMD
- Sample language: If you have check-writing features on your IRA, please be aware that your check must clear your account by Dec. 31 to count toward your required minimum distribution for the calendar year.

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Say 'Yes' to the Gift

External resources:

- Community foundations
- Charitable Giving Resource Center
- Charitable Solutions, LLC
- Exit Planning Institute – closely held business interests
- Realty Gift Fund
  - Nearly half of Americans' wealth consists of real estate. Yet less than 3% of charitable giving comes from gifts of real estate — evidence that real estate is too difficult for most charities to accept as gifts.

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Other Items on My Watch List

- CGA rates (American Council on Gift Annuities rates committee meets in November)

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Contact Me

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Questions?

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Thank You!