

THE CONSOLIDATED APPROPRIATIONS ACT INCLUDES SOMETHING FOR EVERYONE IN 2021

In the final days of 2020, Congress enacted a 5,600-page bill containing special temporary tax benefits for donors at every income level.

For the estimated 90 percent of taxpayers who will not itemize deductions, the Consolidated Appropriations Act provides a universal charitable deduction of \$300 per person — which for a taxpayer in a high-tax state like Maryland probably represents only about \$100 in direct tax savings for *all* of their charitable giving. Any tax savings, of course, is better than nothing.

Those who own a traditional IRA can compensate for the loss of charitable deductions by giving directly from their account, through tax-free qualified charitable distributions. For example, a 71-year-old donor who makes \$5,000 in cash gifts but has no other deductions would claim the \$12,550 standard deduction for individuals and lose all but \$300 of the charitable deductions. If instead they made \$5,000 of qualified charitable distributions from an IRA, they would receive the tax benefits of both the full \$5,000 of giving and the \$12,550 standard deduction. (And they still would qualify for the universal charitable deduction of up to \$300 in cash gifts.)

Taxpayers who itemize can deduct charitable gifts at face value, and the act raises the charitable deduction

limitation from 60 percent to 100 percent of adjusted gross income for cash gifts to public charities like the University of Maryland Baltimore Foundation, Inc. (UMBF). This affords some donors a rare opportunity to pay no income tax in 2021 and potentially beyond if the provision becomes permanent, through carefully planned charitable contributions.

The 100 percent deduction also creates an opportunity that is not so obvious on the surface: It effectively allows anyone age 59½ or older to give out of a qualified retirement plan, like a 401(k) or 403(b). Normally IRA owners age 70½ and older can give up to \$100,000 per person per year via qualified charitable contributions, but this option is not available to donors under age 70 or owners of non-IRA retirement plans. In 2021, however, a taxpayer could withdraw the funds from their retirement account to use for charitable gifts and receive deductions that fully offset any tax on the withdrawal.

THE SECURE ACT OF 2020 ELIMINATES THE NON-SPOUSAL STRETCH IRA

Buried among last year's headlines was a tax change that has potentially serious ramifications for owners of traditional IRAs: the elimination of the non-spousal stretch option for inherited IRAs. While a spouse can "stretch" payments from



"Sorry, but under the table donations aren't tax-deductible."

an inherited IRA over a lifetime, a non-spouse must now withdraw and pay tax on the entire account within 10 years. The exceptions are non-spousal heirs less than 10 years younger than the owner, and heirs with disabilities or chronic illness. The problem? For minor heirs, the 10-year withdrawal clock starts on their 18th birthday, potentially creating negative rather than positive consequences for that young person's future.

This problem shines a new light on an old gift vehicle: the testamentary charitable remainder unitrust, a trust that stretches payments over the heir's lifetime and can start at a specific age. Although trusts do not replace stretch IRAs, they are among the dwindling options available to advisors and their clients for inheritance management. They simultaneously allow the benefactor to name an ultimate charitable beneficiary to receive the remainder after all income is paid to heirs. Please get in touch if you would like more information.

EVERYONE ASKS: If I Don't Itemize Deductions, Do I Lose All the Tax Benefits of Giving?

Probably, except for the small universal deduction, unless you give from a traditional IRA.

With the 2021 standard deduction being \$12,550 per individual, the majority of taxpayers will claim the standard deduction, so deductions on giving beyond \$300 will indeed be lost unless the taxpayer itemizes. One solution: Owners of traditional IRAs age 70½ and older can make up to \$100,000 of tax-free charitable distributions, self-restoring the full tax benefit on gift dollars while still being able to take advantage of the larger, more generous standard deduction.

VIA BEQUEST: CHARLES G. SMITH LEAVES A LEGACY TO HIV RESEARCH

“AIDS will leave a legacy. HIV and AIDS research have borrowed from other areas of research, and we hope to give back. We think AIDS research will have a legacy of patient advocacy, also.”

ROBERT GALLO, MD

director and co-founder of the Institute of Human Virology (IHV),
University of Maryland School of Medicine, June 5, 2001

So ended the CNN interview that inspired Charles G. Smith (1965-2019) of Fort Lauderdale, Fla., to change his estate plans, to benefit Dr. Gallo's research at IHV. At the time, Mr. Smith could not have known how the timing of the gift would ultimately advance HIV research.

We now know. In early 2020, UMBF was notified of Mr. Smith's gift of his entire estate totaling more than \$1.5 million.

“Charlie had a vast range of interests. He was a philanthropist and wanted to help so many,” said a longtime friend of Mr. Smith's. “Dr. Gallo had made an impact for Charlie as much as Charlie is now making an impact for Dr. Gallo.”

How can an individual make a measurable difference in battling a decades-long disease that affects all of humanity? Mr. Smith knew Dr. Gallo's research focused on HIV. The gift from him was large enough to make a difference after all of his own lifetime needs were met. While nobody at our institution was able to thank Mr. Smith while he was alive, his legacy in HIV research will be cemented through a new professorship at IHV named in his honor. In the CNN interview 20 years ago, Dr. Gallo said, “We put our money where our voice is.”

This publication is not intended to provide legal, tax investment, or other professional advice, and should not be relied upon for such advice. In advance of any charitable gift plan, we encourage you to seek the advice of legal, tax, and investment professionals.

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