Advisor Insights

News & Resources for Professional Advisors

Hello from Wayne County Community Foundation!

Happy April!

As tax time comes and goes for another year, many of you are beginning to address your clients' charitable giving goals in earnest. With that in mind, our newsletter this month covers three topics that very well could be on your clients' minds as they emerge from winter and tax season.

First, we are addressing the philanthropy issues that seem to be emerging from the flurry of activity (!) earlier this year in banking and tech. There are bright spots!

Second, we know you're tracking tax legislation as it begins to bubble up in Congress. We'll share the highlights and what your charitable clients may want to watch as the legislative session progresses.

Third, we are offering tips and further reading to reinforce just how important it is to pay attention to what the IRS is digging into as it reviews charitable transactions.

Thank you for the opportunity to collaborate! We look forward to talking with you soon!

Turmoil in banking and technology: Optimism for charitable giving?

And, the wild ride continues! It's been three years
since the Covid-19 pandemic swept the globe and wreaked wide-ranging havoc on so many areas of the economy. Then came inflation, rising interest rates, and a volatile stock market. Now, in early 2023, advisors and clients are also dealing with concerns about the health of the banking system in the wake of Silicon Valley Bank's collapse.

Your philanthropic clients may seek your advice on how the recent events in the banking world could impact their approach this year to charitable giving. We're sharing three factors to keep in mind as you counsel charitable individuals and families.

The outlook is chilly for tech start-ups and the venture capital firms who fund them.

"It feels like winter is here," according to **tech sector leadership**. When tech was hot and it sometimes appeared that many start ups **could do no wrong**, you might have noticed an uptick in conversations with entrepreneurs and venture capital clients about planning for pre-IPO gifts of closely-held stock of a tech company or even **investing in tech companies** using philanthropic assets. Right now, though, opportunities like this may be rare. A silver lining may emerge, however. As both the failure of Silicon Valley Bank and the overall tech sector malaise shake out, what may emerge is a "**more sustainable and streamlined asset class**," which, in turn, could lead to more stable future opportunities for your clients to make gifts of highly-appreciated closely-held shares.

Nonprofit organizations should closely examine their reserve funds.

A nonprofit's accounts at a bank are subject to the same FDIC rules as a for-profit company, with a few additional **twists** that could allow a nonprofit to diversify. Many of your clients who serve on the boards of directors of their favorite nonprofits are well aware of this and may be working with fellow directors and nonprofits' executives to ensure that the money is safe. This is an excellent time for any nonprofit to review its reserve funds and consider whether establishing a fund at the Community Foundation might be a wise move to maximize a nonprofit's financial position–whether through a rainy day reserve fund, an endowment, or both–to ensure that the organization can meet community needs for the long term. An Agency Fund at the Community Foundation can be a cost-effective option for a nonprofit to access investment options that might not otherwise be available. Furthermore, WCCF is committed to helping an organization exercise outstanding stewardship of its funds, including honoring donor intent.

Focus on the positive effects of technology on philanthropy.

Indeed, the softening of the tech sector may very well negatively impact tech stocks (and bank stocks!), at least in the short term, and therefore could diminish enthusiasm for your clients to transfer those assets to their Donor Advised Fund, or another type of fund, at the Community Foundation. That said, there is plenty of **evidence** to suggest that technology itself is increasing the opportunity and efficiency of charitable giving overall. In addition, even in the midst of an industry downturn, tech companies have made many people very wealthy, and their charitable giving **stories** are likely just beginning to be told. If your client base includes tech entrepreneurs and executives, it's most certainly appropriate (and likely expected) that you would include charitable giving in your conversations.

As always, Wayne County Community Foundation is here to help. Contact our team anytime to discuss your clients' options for meeting their charitable giving goals, even in today's challenging economic climate.

Proposed legislation: Is better deductibility back on the table?

Charitable deduction legislation ebbs and flows. Proposed reform efforts come and go, resulting in the occasional change to the provisions of the Internal Revenue Code governing charitable giving. At the same time, popular charitable giving techniques evolve and grow over time, frequently creating new opportunities for your clients to support the causes they love.

For instance, Donor Advised Funds (DAFs) were first deployed as a charitable giving technique in the 1930s—long before their popularity ascended in the 1990s—and recently reached **record highs**.

Similarly, Qualified Charitable Contributions (QCDs) **were codified in 2006** through legislation that initially approved the technique for just about a year, followed by several legislative extensions before QCDs were made permanent by the Consolidated Appropriations Act of 2016. And while QCD annual limits ($100,000 per person and $200,000 for couples) have remained constant in the past, those will change when indexed for inflation under the **new laws** passed at the end of last year.

Now, like then, legislation pending in Washington—if realized—may influence the techniques your clients deploy to meet their charitable goals.

Donor Advised Funds and private foundations

Currently, contributions to Donor Advised Funds by private foundations fall under the same rules as contributions to Donor Advised Funds by individuals, in that the funds are not subject to any particular timing requirements to be distributed to charities. Despite the lack of a formal pay-out requirement, however, the 10-year average aggregate pay-out rate from all Donor Advised Funds is **a whopping 22.2%**, and the 2021 aggregate pay-out rate was **a record 27.3%**.

In contrast, private foundations are subject to a **5% annual distribution rule**. Under proposed legislation (see page 139 of the **Treasury's explanation document**), while it would not affect contributions to Donor Advised Funds by individuals, **contributions to Donor Advised Funds by private foundations** would need to be distributed "by the end of the following taxable year," and documented as such, to qualify for the 5% private foundation distribution requirement. Time will tell whether these proposed changes make it into law.

Beyond the standard deduction

Tax deductibility of donations has changed with the times, and another piece of in-process legislation, if passed, would again reward charitable-minded tax filers who do not itemize, at least for tax years 2023 and 2024.

The Charitable Act, as it is known, would allow deductions of up to one-third of the applicable standard deduction for non-itemizers. As background, under the higher standard deduction passed as part of the Tax Cuts and Jobs Act of 2017, many donors who'd previously deducted their charitable donations lost that ability. Indeed, to the dismay of many nonprofits, tens of millions **fewer households** itemized their deductions in the years following the increased standard deduction, removing part of the incentive to make charitable gifts. The Charitable Act would strive to alleviate some of the negative impact on charities.

Recent history shows that **taxpayers respond positively to deductibility opportunities,** with 42 million taxpayers taking advantage of the $300 "universal" charitable deduction offered in 2020, and 24% of those having gross income of less than $30,000. That opportunity was extended in 2021 but discontinued for 2022. Notably, **polling has shown** strong support for restoring the universal charitable deduction.

With potential restored deductibility in the works—and again, it's early in the process and not yet law—keep in mind that the Community Foundation is here to help your clients organize their charitable giving through a Donor Advised or other type of fund.

As the tradition of change continues for charitable giving, the Community Foundation will continue to be your source of smart, efficient and secure gifting.

Tax tips to keep you on your toes

Charitable deductions and the vehicles that
generate them continue to land on the IRS's radar. For instance:

- The IRS is really, really picky about requiring a charitable deduction to be calculatable as a true "sum certain," as the taxpayer in a recent **tax court case** found out the hard way.
- The IRS appears to be doubling down on **exempt purpose requirements** for 501(c)(3) organizations. Keep these rules in mind, especially as you counsel clients who are involved with starting a new charity.
- The IRS is taking a close look at sketchy charitable remainder trusts in conjunction with its **Dirty Dozen** focus areas. As always, if a tax structure seems too good to be true, watch carefully for red flags and do your homework on the IRS's positions.

Wayne Community Foundation is here to help! We are always tracking the latest news and trends with charitable giving and our team is happy to help you as you serve your charitable clients.

The team at Wayne County Community Foundation is a resource and sounding board as you serve your philanthropic clients. We understand the charitable side of the equation and are happy to serve as a secondary source as you manage the primary relationship with your clients. This newsletter is provided for informational purposes only. It is not intended as legal, accounting, or financial planning advice.