

 S T E L T E R

New Tax Law

WHAT IT MEANS FOR YOUR NONPROFIT
AND YOUR DONORS



PRESENTER

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Senior Technical Consultant
The Stelter Company

- + Joined The Stelter Company in December 2011
- + Prior to coming to Stelter, Lynn worked as an associate attorney for 10 years with Duncan, Green, Brown & Langeness, P.C., a law firm in Des Moines, Iowa, specializing in estate planning, charitable planning, probate, guardianships, conservatorships, real estate and business planning
- + Bachelor of Arts degree in economics and communication studies from the University of Iowa and a law degree from the University of South Dakota School of Law
- + President-elect and board member of the Mid-Iowa Planned Giving Council (2014–present) and member of the National Association of Charitable Gift Planners' Leadership Institute

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- + Nationally known authority on estate planning and planned giving and frequent speaker around the country to professional groups
- + Appears annually on several American Law Institute estate planning programs and has spoken at many other national tax institutes, including the Notre Dame Tax Institute, the University of Miami Heckerling Estate Planning Institute and the Southern Federal Tax Institute
- + Former chair of the American Bar Association Tax Section Fiduciary Income Tax Committee
- + Active member of The American College of Trust and Estate Counsel
- + Creator of Tiger Tables actuarial software, which is widely used by tax lawyers and accountants.

Agenda

TAX CUTS AND JOBS ACT
TOP GIFTS IN 2018
NEW STRATEGIES IN 2018
BEST PRACTICES FOR TALKING TO YOUR DONORS
SUMMARY AND NEXT STEPS
QUESTIONS



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Key dates:

- » Dec. 22, 2017: The bill is signed into law.
- » Jan. 1, 2018: Most provisions took effect.
- » Dec. 31, 2025: A majority of individual tax provisions expire.

TAX CUTS AND
JOBS ACT

Income Tax Rates and Brackets for Single Filers

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2018 Rate	2018 Income Bracket	2017 Rate	2017 Income Bracket
10%	Up to \$9,525	10%	Up to \$9,325
12%	\$9,526-\$38,700	15%	\$9,326-\$37,950
22%	\$38,701-\$82,500	25%	\$37,951-\$91,900
24%	\$82,501-\$157,500	28%	\$91,901-\$191,650
32%	\$157,501-\$200,000	33%	\$191,651-\$416,700
35%	\$200,001-\$500,000	35%	\$416,701-\$418,400
37%	\$500,001+	39.6%	\$418,401+

TAX CUTS AND JOBS ACT

Individual Income Tax Rates and Brackets for Those Married Filing Jointly

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2018 Rate	2018 Income Bracket	2017 Rate	2017 Income Bracket
10%	Up to \$19,050	10%	Up to \$18,650
12%	\$19,051-\$77,400	15%	\$18,651-\$75,900
22%	\$77,401-\$165,000	25%	\$75,901-\$153,100
24%	\$165,001-\$315,000	28%	\$153,101-\$233,350
32%	\$315,001-\$400,000	33%	\$233,351-\$416,700
35%	\$400,001-\$600,000	35%	\$416,701-\$470,700
37%	\$600,001+	39.6%	\$470,701+

TAX CUTS AND JOBS ACT

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New Income Tax Brackets

What it means for nonprofits and your donors

Many taxpayers will find themselves with more disposable income due to lower brackets. They may now have an opportunity to give more to the charitable organizations they care about.

TAX CUTS AND
JOBS ACT

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Standard Deduction

Nearly doubles the standard deduction

	2018	2017
Single	\$12,000	\$6,350
Heads of Household	\$18,000	\$9,350
Married Filing Jointly	\$24,000	\$12,700

TAX CUTS AND
JOBS ACT

Standard Deduction

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What this means for nonprofits and your donors

- + This change will be most apparent to taxpayers who itemize their deductions and give small to moderate amounts to charity. This group will likely find that the increased standard deduction will lower their tax bill more than itemizing would, and they will end up not taking the charitable deduction.

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TAX CUTS AND
JOBS ACT

Standard Deduction (cont.)

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What this means for nonprofits and your donors

- + Donors may have an incentive to give more to charity in one particular year over another to exceed the standard deduction and itemize their deductions.
- + Increased interest in donor advised funds.
- + Increased interest in IRA charitable rollover gifts.

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TAX CUTS AND
JOBS ACT

Personal Exemption

- + Eliminates the personal exemption.
- + Expands the child tax credit from \$1,000 to \$2,000, while increasing the phaseout from \$110,000 to \$400,000 for married couples.

TAX CUTS AND
JOBS ACT

Itemized Deductions

- + Retains the charitable contribution deduction.
- + Limits the mortgage interest deduction to the first \$750,000 in principal value.
- + Limits the state and local tax deduction to a combined \$10,000 for income, sales and property taxes.

TAX CUTS AND
JOBS ACT

Itemized Deductions *(cont.)*

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Limits or eliminates a number of other deductions:

- + **Medical and Dental Expenses.** These remain in place with a lower floor. Under tax reform, you may deduct only the amount of your total medical expenses that exceeds 7.5 percent of your AGI. The 7.5 percent floor is in place for two years beginning January 1, 2017—that means that it applies to the 2017 tax year.
- + **Casualty and Theft Losses.** Repealed for tax years 2018-2025 (except for those losses attributable to a federal disaster as declared by the president).
- + **Job Expenses and Miscellaneous Deductions Subject to 2 percent floor.** Miscellaneous deductions which exceed 2 percent of your AGI will be eliminated for the tax years 2018 through 2025.

TAX CUTS AND
JOBS ACT

Cash Contributions

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The limit for cash contributions is now 60 percent of AGI, up from 50.

What it means for nonprofits and your donors

This may encourage higher income donors to increase their cash gifts.

TAX CUTS AND
JOBS ACT

Estate Tax Exemption

Doubles the estate tax exemption

	2018	2017
Individuals	\$11.18 million	\$5.49 million
Married Couples	\$22.36 million	\$10.98 million

The exemption will increase with inflation

TAX CUTS AND
JOBS ACT

Estate Tax Exemption

What it means for nonprofits and your donors

- + Only those with very high net worth will be subject to estate tax under the new law.
- + Those high net-worth donors who no longer anticipate being subject to estate tax may have an incentive to make large gifts during their lifetimes to obtain an income tax charitable deduction instead of waiting until after their lifetimes.
- + Non-tax benefits become more important to your donors.

TAX CUTS AND
JOBS ACT

Pease Limitation

Repeals Pease limitation, which reduced itemized deductions by the lesser of 3 percent of adjusted gross income over the threshold amount or 80 percent of total deductions.

What it means for nonprofits and your donors

Higher income donors may have an increased incentive to give.

TAX CUTS AND
JOBS ACT

Example of Pease Limitation:

Let's take a look at the same gift in 2017 and 2018.

Georgia receives \$750,000 in adjusted gross income and makes a \$25,000 gift to your organization.

\$750,000 income
<u>(\$261,500) 2017 Pease limitation threshold, single filers</u>
\$488,500
<u> x 3%</u>
\$14,655

In 2017, Georgia is able to take an income tax charitable deduction of \$10,345 (\$25,000 gift - \$14,655).

In 2018, Georgia is able to take a deduction for the full value of the gift, or \$25,000.



TAX CUTS AND
JOBS ACT

Endowments

Creates a new 1.4 percent excise tax on investment income at some private colleges and universities with more than 500 students with assets of at least \$500,000 per full-time student.

Limited to institutions with more than 50 percent of students in U.S.

TAX CUTS AND
JOBS ACT

Miscellaneous Provisions Impacting Charitable Organizations

Colleges and Universities: Eliminates the ability for athletic boosters to take a tax deduction on the donation related to their season tickets. Previously, fans could deduct 80 percent of the donation that is necessary to get prime seats.

Highly Compensated Nonprofit Employees: Imposes a new 21 percent excise tax on nonprofits that pay compensation of \$1 million or more to any of their five highest-paid employees.

TAX CUTS AND
JOBS ACT



Gifts of Appreciated Stock/Property

Outright Gift | CGA | CRT

Reasoning

- + Stock market is at or near all-time highs.
- + Many real estate markets are experiencing strong growth.
- + Capital gains tax remains unchanged at 0, 15 and 20 percent.

Note: For both types of capital gains, it's worth noting that the 3.8 percent net investment income that applies to certain high earners will stay in place, with the exact same income thresholds. This is part of the Affordable Care Act, which, as of this writing, Congress has not repealed or replaced, so this tax remains.

TOP GIFTS
IN 2018



MARKETING IDEAS:

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The number of individuals taking the income tax charitable deduction is expected to decrease dramatically and yet the capital gains tax rate remains intact. Focus your messaging on these positive economic opportunities:

Gifts of stock: With the stock market at or near all-time highs, the opportunity to give appreciated stocks to nonprofits is more beneficial than ever. Additionally, funding charitable gift annuities with appreciated stock is a tax-wise choice.

Gifts of real estate: Many real estate markets are enjoying gains. Appreciated real estate may be subject to capital gains tax unless donated to charity.



MARKETING IDEAS:

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Focus on ways to increase income rather than tax benefits.

Charitable gift annuities: Funding charitable gift annuities with appreciated property is a tax-wise choice.

Charitable remainder trusts: Higher net worth donors would benefit from funding CRTs with appreciated property to avoid capital gains taxes.

Retirement Plan Assets

Commercial Annuities

Savings Bonds

Reasoning

Tax-deferred assets are still taxed when distributions are made or transferred.

TOP GIFTS
IN 2018



MARKETING IDEA:

Retirement plan assets: These assets remain taxable when distributed to a beneficiary and are tax-free when given to a charity.

IRA Charitable Rollover

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 annually.
- + The gift must be made to a qualifying public charity.



TOP GIFTS
IN 2018

IRA Charitable Rollover *(cont.)*

Reasoning

- + Gifts are excluded from gross income and count toward donors' required minimum distributions.
- + Beneficial regardless of whether the donor itemizes their taxes.



TOP GIFTS
IN 2018



MARKETING IDEA:

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IRA charitable rollover: For those 70½ or older on your list, this gift is beneficial regardless of the taxpayer's choice to itemize. This can help taxpayers fulfill their required minimum distribution, and this distribution will not be considered taxable income.

Donor Advised Funds

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Reasoning

- + Donors may wish to make larger contributions to a single fund (and exceed the standard deduction) in one year, then take the standard deduction in the following year.
- + Allows donors to make distributions when they are ready.

TOP GIFTS
IN 2018

Grantor Charitable Lead Trust

Reasoning

- + With the estate tax exemption increased to \$11.18 million per person and \$22.36 million per couple, high income donors may be looking for income tax relief as opposed to estate tax relief.
- + With interest rates expected to rise, you may wish to explore this opportunity with your higher net worth donors sooner rather than later.

TOP GIFTS
IN 2018

Grantor Charitable Lead Trust vs. Non Grantor Lead Trust

Grantor charitable lead trust: Grantor can take an immediate income tax charitable deduction for the present value of the future payments that will be made to the charitable beneficiary.

Non grantor lead trust: The trust—and not the grantor—is considered the owner of the trust assets. Accordingly, the grantor is not eligible to take an income tax deduction for the present value of the lead interest to charity. Grantor is not taxed on income.

TOP GIFTS IN 2018

Example of Grantor Charitable Lead Trust:

George expects a windfall of income for 2018. His estate is worth approximately \$10 million. He is looking for an income tax deduction and a way to benefit your organization.

George meets with his attorney, who recommends a 10-year term grantor charitable lead annuity trust with a 5 percent payout. He funds the trust with assets worth \$2.5 million. He is in the 37 percent tax bracket.

**Benefits:**

- Your organization receives \$125,000 each year for 10 years, or \$1,250,000.
- George receives a \$1,099,675 income tax deduction.*
- At the end of the trust's term, the trust's principal is approximately \$2,829,520, assuming percent growth.

*Assuming a 2.4 percent CMFR

TOP GIFTS
IN 2018

**MARKETING IDEA:**

Grantor charitable lead trusts: This trust may become more popular for higher income donors:

- + who expect a large spike in income.
- + seek an income tax charitable deduction.

Note: If the grantor dies during the trust term, part of the deduction is recaptured.



Charitable Gift Annuities

Under the new tax laws, **more taxpayers will take the standard deduction.** They may not need a higher charitable deduction.

NEW
STRATEGIES
FOR 2018

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Charitable Gift Annuities

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- + Donor selects the rate for the month of the transfer or either of the two prior months.
- + Traditionally: Donors have selected the highest Section 7520 rate for split-interest gifts which produces a higher income tax deduction.
- + Now: Ask your donor if they intend to take the standard deduction or itemize.
- + It will be beneficial to select a lower Section 7520 rate which will result in more of each payment being excludable from income.

NEW
STRATEGIES
FOR 2018

Charitable Gift Annuities (cont.)

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Mary, 72, makes a cash gift of \$25,000 in exchange for the purchase of a charitable gift annuity. Mary chooses annual payments and can select from the following Section 7520 rates: 2.2, 2.4 or 2.6 percent.

Section 7520 Rate	2.2%	2.6%
ACGA Rate	5.4%	5.4%
Charitable Deduction	\$10,496	\$10,952
Annual Payment	\$1,350	\$1,350
Tax-Free Portion	\$1,029	\$996
Ordinary Income	\$321	\$354

NEW STRATEGIES FOR 2018

Charitable Gift Annuities (cont.)

The higher standard deduction may impact donors' choice in whether they choose an immediate or deferred CGA.

NEW
STRATEGIES
FOR 2018

Charitable Gift Annuities (cont.)

Robert, age 75, is considering a cash gift of \$20,000 to fund either an immediate and deferred charitable gift annuity. Robert selects annual payments and a 2.6 percent CMFR.

	Immediate	Deferred for one year
Annuity Rate	5.8%	6.2%
Charitable Deduction	\$9,403	\$9,858
Annuity	\$1,160	\$1,240
Tax-Free portion	\$883	\$889

NEW STRATEGIES FOR 2018



The **higher standard deduction** may influence how donors give.

NEW STRATEGIES FOR 2018



Donors may **bunch gifts** for **2-3 years** to get over standard deduction.

NEW STRATEGIES FOR 2018

Bunching Gifts Example:

In 2018, Don and Kristi will claim the maximum state income tax deduction of \$10,000. The couple will also pay approximately \$8,000 in mortgage interest this year. They will need at least \$6,000 of charitable gifts in order to meet and exceed the \$24,000 standard deduction threshold.

Don and Kristi normally give about \$4,000 to charity on an annual basis. They plan to accelerate their giving in 2018 and give two years of donations in one tax year.

Don and Kristi decide to make \$8,000 of charitable contributions in 2018 and itemize their deductions and are able to take a tax deduction a year earlier.

They plan to take the standard deduction in 2019.



NEW
STRATEGIES
FOR 2018

Estate tax exemption increases to \$11.18 million per person in 2018 and \$22.36 million for married couples

This may encourage more lifetime gifts for higher income donors.

NEW
STRATEGIES
FOR 2018

Economic Outlook

- + Interest rates are currently at low levels but expected to climb.
- + This may encourage donors to think about retained life estates and charitable lead annuity trusts while the interest rates are still low.

NEW
STRATEGIES
FOR 2018

This scenario shows the impact of rising interest rates on a retained life estate.

Vanessa, 72, has been considering a gift of a retained life estate since the fall of 2017. Her home is valued at approximately \$250,000. The CMFR was 2.2 percent in October 2017. The CMFR is 2.6 percent in January 2018. The following example shows how Vanessa's charitable deduction decreases when the CMFR increases.



CMFR	2.2%	2.6%
Value of Home	\$250,000	\$250,000
Charitable Deduction	\$165,810	\$158,785

NEW
STRATEGIES
FOR 2018



8 Best Practices for Talking to Your Donors

8 BEST PRACTICES ⁴⁷

1

Understand what it is about your organization that is important to your donors.

2

Listen to how your donors want to make an impact.

3

Ask open-ended questions about how new law impacts donor.

- + What are your thoughts on the new tax reform?
- + How is tax reform going to impact you?

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8 BEST PRACTICES

4

Many of your donors will have increased disposable income. Ask if they would consider donating all or a portion to charity.

5

The stock market is at or near all-time highs. Ask your donors to consider giving a gift of stock to minimize capital gains taxes.

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8 BEST PRACTICES

6

With the increase in standard deduction, ask your donors to consider giving a gift that exceeds that amount.

7

If the donor is considering a CGA, ask questions regarding standard/itemized deductions. It might be better to select a lower CMFR rate or defer for a year.

8 BEST PRACTICES

8

No matter what gift your donor may be considering, start your gift conversation by asking if there was someone important in the donor's life who influenced him or her on your mission or organization. This is important because:

- + Stelter's research* shows that when it comes to types of planned gifts, donors to all nonprofit sectors prefer honor and tribute gifts by a statistically significant margin.
- + Making an emotional connection between the gift and the donor's family members or another important individual can improve your chances of closing that gift.

*2017 NMI Healthy Aging Database® study

A photograph of a person rappelling down a rock face over a river. The person is wearing a dark shirt, dark pants, and yellow shoes. The background is a lush, green forest with a river flowing through it. The image has a reddish-orange tint.

Summary and Next Steps

The Tax Cuts and Jobs Act is already influencing behavior.... in a good way.

Individual Giving

Charitable giving was up in December 2017 (compared with December 2016) for many organizations.

Corporate America

- + Year-end bonuses for employees
- + Increased minimum wage
- + Increased pledge commitments
- + Wells Fargo pledged to give \$400 million to nonprofits and community foundations in 2018, an increase of approximately 40 percent from 2017.

The Tax Cuts and Jobs Act is designed to:

Grow the economy
 Reduce taxes = Increase disposable income
 Increase wages = Increase disposable income
 Create jobs

All good news for charities!

You and your donors should feel, as we at Stelter do, that the **opportunity for planned gifts remains unchanged**. Through every study that Stelter and others have commissioned, the primary reason for making a planned gift has been rooted in **the love and passion for your mission**—tax incentives have always been at the bottom of the list.

SUMMARY
AND NEXT
STEPS



With that being said, your donors will undoubtedly have questions. **Here is some homework:**

- + **Understand** how the tax laws impact your organization and donors.
- + **Review** marketing and collateral material for outdated provisions.

SUMMARY
AND NEXT
STEPS

Questions?



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Thank You!