

“GIVING EVERYDAY”

Black Friday, Cyber Monday are now followed by Giving Tuesday. This somewhat new “named” day is being used to draw attention to the importance of charitable giving amid people’s year-end rush to the stores or online websites to buy more stuff, even if they are for Christmas or other holiday presents to give to others.

So why is Giving Tuesday on the Tuesday after the other two days, when presumably everyone’s pocket book/wallet have been sufficiently drained? We are thankful on Thursday (Thanksgiving), but then turn around and wait until after the two largest shopping days to take action on our thankfulness. Seems a bit illogical, but at least there is a day to acknowledge the importance of charitable giving.

Charitable Giving can and probably should take place year round, but for those who like to procrastinate and wait until year end, certainly now is the time to take action. Since some may be reading this after Giving Tuesday, let the spirit of that day carry forth through the rest of the year. AND to help along the way, there are a few great ways to make an impact without necessarily writing a check.

1. **Make a gift of your required minimum distribution amount from your IRA (up to \$100,000).**

It is called in some vernaculars as a charitable IRA rollover and the law behind it was finally made permanent just a few years ago. Assuming you have no need for your required minimum distribution from your IRA this year (and you are over the age of 70 ½ of course) you can elect to have it transferred (directly from your IRA) to a qualified 501(c)(3) charitable organization instead (not including your donor advised fund or private foundation, however).

Electing to have your RMD paid directly to charity will not provide a charitable deduction on your income tax return. However, the portion of your RMD that is donated will not be counted as taxable income to you either. Doing the math, you should find that doing the charitable IRA rollover is far better than taking your RMD out (taxable income to you) and then making a charitable contribution of cash or some other item that may be deducted against the income stemming from all sources.

2. **Donate Tangible Personal Property (clothing, furniture, etc.)**

Donate your old unused or lightly worn items to make room for all of the new things this year. Make sure you know the rules if you are planning on taking a deduction for these items however. First, get a receipt showing the items donated. The IRS has a publication online at IRS.GOV that you can follow (<https://www.irs.gov/pub/irs-pdf/p526.pdf>), but here are some general rules which can be found in the IRS Publication.

- If the item you are donating is in excess of \$500 (or you think it is), get an appraisal to support the claim for the deduction.
- While items you may have received as an inheritance can of course be later donated to charity, your deduction may be limited depending on your basis in the item which is generally the basis determined as of the date of death of the decedent.
- Generally, items must be in good condition or better.
- IRS Publication 561 <https://www.irs.gov/pub/irs-pdf/p561.pdf> explains in detail the rules regarding determining fair market value of donated items.

- For donations in excess of \$5,000 it is necessary to file IRS Form 8283 with your return. Single items or groups of items in excess of \$5,000 (i.e., a grandfather clock, stamp collection, books, non-publicly traded stock, land or buildings) must be appraised by a qualified appraiser, which doesn't necessarily need to be included with the return. However, if the donations are of art in excess of \$20,000 or items in excess of \$500,000, the appraisal must be attached with the income tax return and accompanying IRS Form 8283.

3. Gifts of Low Basis Stock/Marketable Securities

If you are planning on a larger gift perhaps, including one that will require a liquidation of stock or other potentially low basis assets, rather than selling the asset and then donating cash, donate the security(ies) directly to the Charitable Organization or consider establishing a Charitable Trust. There are some important limitations and timing issues, so speak to an advisor about your options, especially before you get too close to consummating a sale (i.e., if planning on selling a business).

4. Research the Charitable Organization(s)

There are some great internet-based tools for researching Charitable Organizations. GuideStar® (www.guidestar.org) and Charity Navigator® (www.charitynavigator.org) are just a couple that can help you determine whether the charity you are thinking of donating to is a good steward of the funds.

“TWENTY-TWENTY”

With all the focus on the upcoming presidential election, many seem to be ignoring the congressional races. When it comes to real tax legislation, the legislature usually has the final say, even though presidents have veto power and can try to push their agenda...Along those lines, with respect to estate and gift taxes, they are always part of a presidential candidate's talking points. However, in reality, estate and gift tax revenue are a very small piece of the overall budget. Thus, while many presidential candidates on the left will call for supersized reduction in the exemptions and those on the right will call for repeal of the estate and gift tax altogether, any drastic change will likely only come about if the president, senate and house all shift to one side or the other. But stay tuned and keep an eye on the changing tides. For now, the 2020 exemptions are as follows:

Annual Exclusion Gifts (gifts made directly to an individual)	\$15,000
Estate/Gift/GST Tax Lifetime Exemption	\$11,580,000

The above aside, **IF** we have 5 more years of a stalemate on the issue, then the current exemptions and much of the 2017 Tax Act resets to the prior levels (albeit indexed to inflation). Meaning without a literal act of congress, in 2026 we can expect the above lifetime exemption amount to drop back down to around \$6,000,000 - \$6,500,000. For those individuals with estates above \$5,000,000 and couples with estates in excess of \$10,000,000, they should continue to monitor whether lifetime gift strategies should be used before that time. The IRS recently issued final regulations in IR-2019-189 and TD 9884, confirming that those who use the exemption prior to the end of 2025 will not have the risk of a claw back of gift taxes based on a future lowering of the exemption. In short, if a taxpayer uses their entire \$11,580,000 exemption prior to 1/1/2026, when (and if) the exemptions go back down, the taxpayer will not be penalized by having to pay a retroactive gift tax on the amounts previously given. However, from that point forward every gift that taxpayer makes (above the annual exclusion amount) would trigger a gift tax. Further, anything left in

the taxpayer's estate will also be subject to estate tax at death since their entire lifetime exemption will have been used. In summary, however, the differential between the lower exemption and the higher exemption (current amount) will be lost if not used and the exemptions drop back to the prior levels.