

Charitable Giving in 2025

Quick-Take: While the One Big Beautiful Bill Act is getting a lot of press these days, don't make the mistake of assuming all of the Act's new charitable giving rules on deductions are applicable this year. But knowing what those rules will be in 2026 provides a 'heads up' on charitable planning decisions for the future.

Warning: 'Snarky' George is back with this missive. My patience is admittedly running thin these days when it comes to any confidence in either Congress or our President.

Background: The One Big *Beautiful* Bill Act (OBBBA, oh how I tire typing that acronym, so I'll use *the Act* in its place in this missive!) makes changes to an individual's ability to deduct charitable contributions from their income tax. Some of the important changes follow along with a couple of examples of how the rules may impact future philanthropy.

Above-the-Line \$1,000 Charitable Gift: Starting in 2026, **not in 2025**, the Act allows a non-itemizing individual, who claims the standard deduction, to claim a charitable contribution deduction of cash to a qualified charity (*qualified*, means an organization that qualifies under IRC 170(b)(1)(A).) This new opportunity excludes, however, much like qualified charitable distributions from a traditional IRA, cash gifts to donor advised funds and supporting organizations. If married filing jointly, each spouse can claim this \$1,000 charitable deduction.

Cash Charitable Gifts: The Act makes *permanent* an individual's ability to deduct **cash** contributions to a public charity up to 60% of that individual's adjusted gross income. This provision would have expired in 2026. Any excess charitable cash contributions caused by this percentage limitation can be 'carried over' to the next five calendar years. This is good news for individuals who make large charitable gifts using cash in **2025 which will continue to be deductible, with any excess charitable gift amount carried over and deducted in future calendar years.**

Two-Thirty-Seventh Deduction Limitation: The 2017 Tax Act had suspended miscellaneous itemized deductions, which were set to return in 2026. The Act made that

suspension *permanent*, if you believe anything is permanent these days when it comes to this Congress (other than performative optics for which Congress is adroit!)

The Act also repealed Section E of IRC 68, such that non-itemized deductions of estates and non-grantor trusts are now subject, **starting in 2026**, to the Act's reduction of two-thirty-sevenths of the lesser of itemized deductions otherwise allowed, excluding miscellaneous deductions which are disallowed, or the amount of taxable income that is subject to which the 37% marginal income tax bracket applies. In short, the same as for individuals, an irrevocable non-grantor trust, or an estate is limited in how much it can deduct for distributions of income to qualified charities.

Example: Charlie died in June of 2025 with a taxable estate. Charlie's estate is currently in open administration before assets are poured-over to Charlie's now irrevocable trust. Charlie's estate administrators should perhaps file an election under IRC 645 in 2025 to 'consolidate' the reporting of the trust and estate's income for income tax reporting purposes with a fiscal year ending on November 30, 2025. The IRC 645 with a 2025 fiscal year subjects the existing deductible expenses to the current tax deduction rules (without any limitation) as opposed to waiting until 2026 to claim the deductions when the limit on deductions applies.

Alternatively, Charlie's estate deductible administration expenses might be more effectively used, e.g., trustee fees; appraisal fees, by applying those deductible expenses against Charlie's federal estate tax liability, where there is no such deduction limitation that would otherwise be the case if the administrative expenses were deducted against Charlie's estate's income in 2026.

.50% Floor for Itemized Charitable Deductions: Starting in 2026, **not in 2025**, the Act also makes changes to the charitable income tax deduction for itemizers. For individuals who itemize their income tax deductions, they will be allowed to deduct their charitable contributions **but only** to the extent that the deductible amount of the contributions exceeds 0.50% of the individual's adjusted gross income, what the Act calls the donor's 'contribution base.' This 'floor' applies before the IRC 170(b)(1) percentage limits. The 'floor' does not apply to some private foundation gifts. Carryovers of unused deductions from

post-2025 years will be subject to this ‘floor;’ pre-2026 charitable gift carryovers to future years are not subject to the ‘floor.’

Example: Ted’s adjusted gross income is \$1.0 million in 2026. Ted gives \$100,000 to the local hospital as part of its capital building campaign. The first \$5,000 of Ted’s 2026 charitable contribution will not be deductible by him. Ted might consider accelerating his pledge to the fund-raising campaign into 2025 to obtain the full benefit of the charitable deduction amount.

The benefit of an itemized charitable deduction is limited to 35%, even for those individuals who are in the 37% marginal federal income tax bracket.

Example: Polly has income over \$1.0 million in 2026. Polly makes a gift of \$100,000 to her church. Polly’s \$100,000 donation will receive only a \$35,000 income tax benefit by virtue of the charitable deduction limitation to the 35% marginal income tax bracket in 2026. If Polly’s gift to her church had been made in 2025, an income tax benefit of \$370,000 would have been available to Polly.

Circular Algebraic Computation: The charitable income tax deduction under IRC 642(c) for trusts and estates is a non-miscellaneous deduction. Accordingly, after the Act, the IRC 642(c) charitable income tax deduction by an estate or trust will also be subject to the two-thirty-seventh ($2/37^{\text{th}}$) deduction limitation. This means that a trust or an estate that is entirely payable to a charity will now owe income taxes. What those income taxes are will require a circular computation (which, I am confident, few in Congress understood when they voted for the Act at 2 am on July 4 to meet the President’s artificial deadline.)

Example: A non-grantor trust has taxable income of \$370,000, income that is in excess of the ‘run up’ of the lower income tax brackets. All this income is directed to be paid to charity. The Act’s $2/37^{\text{th}}$ limitation on income tax deductions in the highest marginal income tax bracket will disallow the trust a deduction of \$20,000. Not only will the trust now owe federal income tax, but the dollars the trustee then uses to pay the trust’s income tax liability will reduce what is otherwise supposed to be distributed to the charity-beneficiary, which results in even more income tax due, thus requiring the use of more dollars that

would otherwise go to charity to be used to pay the trust's income tax liability. [I strongly suspect no one in Congress gave this a second thought, giving them the credit that they actually read the provision before voting on it!]

Charitable Planning: Because of these new charitable giving rules and limitations, consider:

Make Large Charitable Gifts in 2025: Individuals who itemize their income tax deductions should make a large gift to charity before the end of the year or accelerate their outstanding charitable pledges. The 0.5% 'floor' on charitable gifts and the limitation of charitable deductions to the 35% marginal income tax rates are not effective in 2025.

DAFs: Similarly, a large gift to a donor advised fund (DAF) in 2025 makes sense to implement future charitable giving by the donor.

Timing Future Large Gifts: After 2025, donors who itemize their income taxes should make gifts to charity only in years in which they have lower adjustable gross income (AGI) in order to depress the 0.5% 'floor' on their charitable income tax deductions.

Bunching Gifts: Individuals who do not itemize their income tax deductions should consider 'bunching' their charitable gifts into one year, so that they can claim the higher charitable income tax deduction by itemizing. Funding a DAF in one year with a large one-time charitable contribution is an easy way to 'bunch' future charitable contributions into a single year. Non-itemizers should make these charitable gifts after 2025 when the Act is then in effect.

Plan to Exploit the \$1,000 Above the Line Charitable Gift: Starting in 2026, individuals who claim the standard deduction (about 90% of all taxpayers) will then be able to deduct *cash* contributions to public charities other than to DAFs or to supporting organizations up to \$1,000 per individual (\$2,000 for a married couple who file jointly.) This year this \$1,000 charitable giving opportunity does not exist. Consequently, perhaps a non-itemizer might

hold off make a 'smaller' cash gift to their favorite charity until January 2026 so that their gift can be more impactful to the donor's ultimate income tax liability in 2026.

University Endowments: For donors who make large gifts to college and university endowment funds, they should be made aware of the new excise tax the Act places on endowment investment earnings. The tax rates range from 1.4% to 8%, and the highest rate applies to college and university endowments with above \$2 million in endowment assets per student. Note, for purposes of this excise tax, the definition of 'net investment income' departs substantially from the IRS's current definition. A college with fewer than 3,000 tuition paying students [Hillsdale!] are exempt from this excise tax, which ultimately means that only about 56 colleges and universities are actually subject to this new excise tax, but I would imagine that as Trump's 'Final Retribution Tour' continues apace even more higher education institutions will be exposed to this penalty-tax.

Conclusion: Charitable planning for the future will require more thought and less impulse if tax deductions are part of the motivation for a donor's philanthropy. Perhaps even more tax law changes will appear over the next 18 months as performative politics enters the world of philanthropy.

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