



Your Guide for 2022 Gift Planning: 4 New Developments You Must Know About Before Making a Year-End Gift

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People make charitable gifts because they care and want to make a difference. However, the amount, timing, and type of their charitable gifts may be influenced by tax consequences, and they certainly will be affected by the donors' financial circumstances.

This guide is about new developments to take into consideration in your year-end planning. Some of these developments have caused certain types of gifts to become more financially appealing. The others pertain to federal tax changes effective in 2022 regarding the tax benefits of various charitable gifts.

# Gift Annuity Rates Increased Effective July 1, 2022

The gift annuity is an exceedingly popular way of giving. An individual or a couple contribute an asset (generally cash or publicly traded securities), and in exchange for this gift receive fixed payments for life. The amount of payments is the annuity rate multiplied by the value of property contributed. A person who receives payments is called the "annuitant." The payments can be made to a single annuitant for life or two annuitants, such as spouses, either concurrently or successively. The rate for one annuitant of a given age, 75 for example, is higher than the rate for two annuitants. Whatever the rate, it does not change. Annuitants can count on receiving for life a fixed amount unaffected by fluctuating stock values or interest rates.

In addition to life payments, the donor receives an income-tax charitable deduction for a portion of the contribution. Also, the payments are taxed favorably. If cash is contributed, a substantial portion of the payments will be tax-free for the duration of the life expectancy of the annuitant(s). If appreciated stock is contributed, the payment will, for the duration of the life expectancy of the annuitant(s), usually be partly tax-free, partly taxed as capital gain, and partly taxed as ordinary income. Payments will continue undiminished following the end-of-life expectancy, but then they will be taxed as ordinary income.

Following is a comparison of the gift annuity rates for sample ages before and after the July 1, 2022, rate increase.

ONE LIFE				
Age	Old Rate	New Rate		
65	4.2%	4.8%		
70	4.7%	5.3%		
75	5.4%	6.0%		
80	6.5%	7.0%		
85	7.6%	8.1%		

TWO LIVES				
Age	Old Rate	New Rate		
65-65	3.8%	4.3%		
70-70	4.2%	4.8%		
75-75	4.6%	5.2%		
80-80	5.4%	5.9%		
85-85	6.5%	6.9%		

## Increased Inflation and Market Volatility

Although your equities may have lost some of their value since January, your portfolio has likely performed very well during the past ten years. If that is the case, you are holding some stocks and mutual funds that have increased significantly in value since you purchased them. Possibly, you have been considering reducing your equity exposure or, at least, altering the composition of your portfolio. However, you have hesitated to take these actions because you would incur significant tax on the capital gain.

Like everyone else, you have been coping with inflation—which earlier this year was the highest it had been since the early 1980s. Inflation probably increased the equity in your home; it may have also raised concerns as to whether projected income can sustain your lifestyle.

The charitable instrument that both avoids current taxation of capital gain and offers the potential of income growth is the charitable remainder unitrust. Unlike the gift annuity, which pays a fixed amount, the unitrust pays to you and/or other beneficiaries a set percentage (at least 5%) of trust assets as revalued each year. In the case of a gift annuity, whatever remains of the original contribution after satisfying the payment obligation can be used by our organization for its charitable purposes. Likewise, remaining trust assets at the termination of the trust, which could be at the end of a beneficiary's life or at the end of a term of years, are distributed to and used by our organization.

**Charitable Strategy:** Bill and Jean purchased stock in a hi-tech company ten years ago for \$50,000. It reached a value of \$500,000 before falling back to \$400,000 this year. They transfer the stock to a charitable remainder trust that will pay them 5% of the value of trust assets as revalued each year. The first full year of the trust they will receive payments totaling \$20,000 (5% x \$400,000). The trustee sells and reinvests the proceeds, and at the beginning of the second year the value of the new investments is \$450,000. Their payments during the second year would be \$22,500 (5% x \$450,000). To the extent the value of the assets held by the trust continue to increase, their payments will also increase. However, it is possible in any given year for payments to decrease, and that is the risk that must be assumed for the potential inflation protection.

Bill and Jean realize two tax benefits. One is capital-gain tax savings. They are not taxed on the capital gain when they transfer the stock to the trust, and the trust is not taxed on the gain when it sells the donated stock. Thus the entire sales proceeds can be reinvested. The payments to Bill and Jean will probably be taxed partly as capital gain and partly as ordinary income. The other tax benefit is an income-tax charitable deduction that can reduce their income tax. This deduction is for the present value of the trust remainder that they are giving to our charitable organization.

Sometime in 2022 the IRS is expected to finalize and publish new mortality tables that must be used to calculate the charitable deduction allowed for charitable remainder unitrusts and certain other types of gifts. Until then, the deductions can be based either on those tables or the ones that have been in effect for more than a decade. The differential is not very large; but if you are considering establishing a charitable remainder trust, you may want to create it while you can still use the old tables because they will result in a larger deduction. Please consult our office to learn the date after which the new tables must be used. The new tables are based on the 2010 census, and the good news is that life expectancies, at least at the time of the 2010 census, had increased. Our office can provide a financial illustration showing the amount of the deduction and other factors to help you make an informed decision.

## **New Law Affects Retirement Planning**

Recent legislation pertaining to retirement funds have two consequences, one to make it more likely that funds will last to the end of the owner's life and the other to force distributions to non-spousal beneficiaries to occur more quickly. The changes would make account owners and their spouses more secure during retirement but limit the retention of inherited retirement funds in tax-exempt accounts.

#### Why Retirement Accounts May Last Longer

**Delay of Starting Age for Required Mandatory Distributions (RMD).** For many years the RMD from an IRA and certain other retirement plans had to begin when the account owner attained the age of 70½, but the Secure Act of 2019 raised that age to 72. A follow-up act, known as SECURE Act 2.0, would raise the mandatory age to 73 beginning in 2023, to 74 beginning in 2030, and to 75 beginning in 2033. If the legislation is enacted, individuals who don't need retirement distributions now will have more time to accumulate funds.

**Reduction in Percentage of Fund That Must Be Distributed Each Year.** Effective in 2022, RMDs will be based on a new life expectancy table issued by the IRS. Because the new table is based on longer life expectancies, distributions are presumed to occur over more years—and thus the percentage of the account balance during each year is lower. Following is an example of the change in the percentage of a fund that must be distributed at certain ages:

Age	<b>RMD Percentage</b> Per 2021 Table	<b>RMD Percentage</b> Per 2022 Table	
72	3.91%	3.65%	
75	4.37%	4.07%	
80	5.35%	4.96%	
85	6.76%	6.25%	

If a person withdraws only the mandatory amount each year, the balance will be larger than it would have been before issuance of the new table. In the early years, when total return may exceed the mandatory withdrawal percentage, the fund balance may actually grow. In later years, if total return is less than the withdrawal percentage, the fund balance would decrease but at a slower rate.

- **The Charitable Strategy:** Two tax-advantaged ways to make charitable gifts with retirement funds:
- 1. The Qualified Charitable Distribution (QCD) or IRA Charitable Rollover: If you anticipate that you will not need all of your retirement funds for living expenses or family support, you are over the age of 70½, and you have a regular IRA, you can instruct your IRA administrator to transfer up to \$100,000 each year to charity. These transfers are not included in your taxable income, and they count towards your mandatory distributions—which, as noted, currently begin at the age of 72. Such transfers, known as qualified charitable distributions (QCDs), have been possible for a number of years and are growing in popularity. They are particularly appealing to non-itemizers because they are equivalent to a deduction. They may be more feasible for you if the developments mentioned above cause your retirement-fund balance to be larger than anticipated.
- 2. It's more tax-advantageous to use retirement funds instead of other assets for charitable gifts: If you are planning to make an-end-of life charitable gift along with legacies to heirs, retirement funds may be the best source of the charitable gift. Your heirs would pay income tax on retirement funds (other than a Roth plan) they receive as beneficiaries of your account, but they will not pay tax on the gain in investments, such as real estate and securities, which accrued during your lifetime. A charity will be taxed on neither. Therefore, it can make sense to make your charitable gifts with retirement funds, such as a regular IRA, 401(k), or 403(b), and to give other assets to heirs. This planning device, like lifetime transfers from regular IRAs, has been available for a number of years, but it is likely to become a more common way to make legacy gifts as the remaining balances in retirement accounts become larger.

#### How to Make Payments to Loved Ones for Life: The Charitable Remainder Trust as an Alternative to the Now Obsolete "Stretch IRA"

Prior to enactment of the SECURE Act in December 2019, if an adult child was named as beneficiary of an IRA or certain other retirement plans, the payments to that person could be made over his or her life expectancy. Thus the beneficiary could have the benefit of a tax-exempt account for a long time. However, the SECURE Act, with certain exceptions, requires that retirement funds given to non-spousal beneficiaries must be fully distributed within ten years. Because the distribution period to a non-spousal beneficiary will now be shorter, the distributions will be larger and thus likely taxed at a higher rate.

**Charitable Strategy:** Assume, for example, that \$800,000 remains in John's IRA at the time of his death. John's wife died two years ago, so he names his daughter Lisa as beneficiary of the IRA. Although she would like to keep the IRA funds in a tax-exempt account and stretch the payments over her lifetime, she is required to empty the account within ten years. (If her father died before his required beginning date, Lisa is not required to take annual distributions each year—but the account must be emptied by the end of the tenth year. If her farther died after his minimum payments had begun, Lisa would have to take distributions each year and again empty the account by the end of the tenth year.)

An alternative for John is to make a charitable remainder trust the beneficiary of the IRA, name his daughter as income beneficiary of the trust for life, and leave the trust remainder to a charity at Lisa's death. If Lisa were to turn 60 during the year of her father's death, she could count on payments for the rest of her life. Without the trust, payments to her from the IRA account would terminate at the age of 70. Using the trust to extend payments not only provides lifetime security but also provides a legacy gift that memorializes the family.

## New 2022 Tax Inflation Adjustments

Every year the Internal Revenue Service (IRS) announces tax inflation adjustments pertaining to such things as income-tax brackets, capital-gain tax rates, and various exemptions. Following are some of the more important adjustments affecting individuals.

#### Marginal Income-Tax Brackets

The top income-tax rate for individuals remains at 37%, but the brackets are changed. For example, in 2021 a married couple filing jointly paid a rate of 24% on taxable income between \$172,751 and \$329,850. In 2022, the 24% tax rate applies to taxable income between \$178,150 and \$340,100. The brackets for different categories of filers and different tax rates have been similarly adjusted. Those whose taxable income in 2022 is the same as in 2021 will pay somewhat less tax in 2022. However, if their income increases at the inflation rate, their situation will remain essentially the same.

**Charitable Strategy:** Individuals in higher tax brackets who itemize deductions receive a larger tax benefit from a charitable gift than itemizers in lower tax brackets. For instance, a person in a 37% federal tax bracket saves \$3,700 in taxes from a \$10,000 cash gift, while the tax savings for a person in a 24% tax bracket who makes such a gift would be \$2,400. Thus, if you are expecting an abnormally high level of income this year, it could be the right time to make the larger gift you may have been contemplating.

#### Capital-Gain Tax Rates

There are basically three capital-gain tax rates—0%, 15%, and 20%—but there is an additional 3.8% surtax on net investment income that a person has to pay if single with a modified adjusted gross income over \$200,000 or married and filing jointly with a modified adjusted gross income over \$250,00. (Net investment income includes such things as dividends, interest, capital gain, and net rents, and the surtax was to help cover the costs of the Affordable Care Act.) In 2021 the 15% federal capital-gain tax rate applied to married couples filing jointly if their taxable income was between \$80,801 and \$501,600, but in 2022 the 15% rate applies if their income is between \$83,350 and \$517,200. There have been similar adjustments for other categories of filers. Some of those subject to the 15% rate will also have to pay the 3.8% surtax, resulting in a total federal tax rate on capital gain of 18.8%. High income individuals would pay 23.8% tax on the gain (20% rate plus the 3.8% surtax). *Note:* A higher maximum capital-gain tax rate applies to depreciated real estate and to tangible personal property such as collectibles.

**Charitable Strategy:** As in the past, donors who contribute long-term appreciated property, such as securities and real estate, will not be taxed on the capital gain. The amount of capital-gain tax savings depends on the applicable rate. Contributions of long-term appreciated property will continue to be popular because of the double tax benefit—a charitable deduction for fair-market value and avoidance of tax on the capital gain.

Suppose, for instance, that Sam and Ellen, who are subject to the highest income- and capital-gain tax rates, think it is time to divest themselves of a stock currently valued at \$50,000 for which they paid \$10,000 a number of years ago. If they sell the stock, they will pay capital-gain tax of \$9,520 (23.8% x \$40,000), leaving net proceeds of \$40,480. If they give the stock, they will reduce their income tax by \$18,500 (\$50,000 x 37%). The difference between after-tax proceeds from a sale and the tax reduction resulting from a gift is \$40,480 - \$18,500 = \$21,980. This is the net cost of giving the stock rather than selling it.

#### Standard Deduction for Non-Itemizers

The standard deduction for non-itemizers increases in 2022 as follows:

	2021	2022
Single individual	\$12,500	\$12,950
Married couple, filing jointly	\$25,100	\$25,900
Head of household	\$18,800	\$19,400

In 2022 a single individual over the age of 65 can add \$1,750 for a total of \$14,700, and a married couple, both over the age of 65 and filing jointly, can add \$1,400 apiece for a total of \$28,700.

As a result of the increase in the standard deduction, some people who previously itemized may decide that it is no longer worthwhile to do so. On the other hand, there may be those who continue or start to itemize because inflation has driven the value of itemizable deductions beyond the size of the standard deduction.

**Charitable Strategy:** It is estimated that only about 10% of taxpayers now itemize their deductions. That means that only 10% of individuals who make charitable contributions now derive any tax savings from them. Of course, most of those who make larger charitable gifts will itemize and will realize tax benefits.

If your itemizable deductions are just below the standard deduction, you might consider bunching some of your charitable gifts so that they can be claimed in a single year. You itemize deductions on your return for the year they are bunched and claim the standard deduction for other years.

#### **Estate- and Gift-Tax Exemption**

The estates of individuals who die in 2022 will be entitled to a combined federal gift- and estate-tax exemption of \$12,060,000, which is up from the 2021 exemption of \$11,700,000. Spouses who die in 2022 can exempt a combined amount of \$24,120,000.

The estate-tax exemption, like federal income-tax brackets, is indexed for inflation, and it will continue to rise through 2025—but at the end of 2025, the current law pertaining to the gift- and estate-tax exemption sunsets. And beginning in 2026, the exemption will be only about one-half of the 2025 level. Of course, in the meantime Congress could vote to extend the higher exemption.

Because of the high exemptions that have been in effect in recent years, only about .1% (one out of 1,000) estates have owed federal estate tax. Thus only quite high-net-worth individuals need to be concerned about the federal estate tax when they consider gifts and bequests to individuals, although in some instances their estates might be subject to state estate tax even if not to the federal tax. To the extent their taxable estate exceeds the exemption, the excess is subject to a 40% tax.

Charitable Strategy: An unlimited gift- and estate-tax exemption is allowed for charitable gifts. However, inasmuch as the estates of most people would not be subject to federal estate tax, whether or not they make bequests to charity, a charitable bequest does not save taxes. In most cases that is not a factor in their decision, which is rather based on a desire to leave a legacy that expresses their values. Nevertheless, they may be interested in ways to structure a gift so that it does save taxes and thereby enlarge the amount available to family and charity. Here, briefly, are three ways to do that:

**First**, if you do not need all of the earnings on your investments, make an outright gift now rather than through your will. It will be deductible on your income-tax return and can reduce the income tax you are paying. Also, you would have the satisfaction of seeing your gift in action now.

**Second**, if you do need all of the income from your investments, make your gift now but for a life-income plan rather than outright. With a charitable remainder trust or a gift annuity, you can transfer what would have been given by bequest, and you, or you and another person, can receive payments for life and an income-tax deduction to reduce current income tax. The deduction will be less than from an outright gift, but often the cash flow from the trust or annuity will be larger than what you had been receiving from the contributed assets.

**Third**, instead of making your charitable gift via a bequest in your will, name the charity as a beneficiary of remaining funds in your IRA or other retirement plan and make family gifts with other assets. The retirement funds (except a Roth plan) would have been taxed if given to heirs, but the funds will not be taxed if given to charity because the charity is tax-exempt. By making your charitable gift with remaining retirement funds rather than with general estate assets, you increase the net amount that heirs receive. See above for further comments on this strategy.

#### **Annual Gift-Tax Exclusion**

Each year the IRS sets the annual gift-tax exclusion, which allows the recipient of a gift to receive a certain amount that does not count towards the donor's lifetime gift and estate-tax exemption and which does not have to be reported on a gift-tax return (Form 709). For the past four years the excludable amount has been \$15,000, but in 2022 it increases to \$16,000. Like the items described above, this number is indexed for inflation—but it increases at \$1,000 increments. Only when yearly inflation adjustments accumulate to \$1,000 is a change announced.

Each spouse is entitled to the exclusion, so in 2022 two spouses together could exclude up to \$32,000 of gifts to each donee. If they have three children and seven grandchildren, they could give them \$32,000 each, \$320,000 total, without having to report the gifts. By regularly taking advantage of the annual gift-tax exclusion, individuals can increase the total amount they can transfer to heirs and other individuals free of gift and estate tax.

**Charitable Strategy:** Since all charitable gifts, whatever the amount, are exempted from gift and estate tax, this inflationary adjustment should have little effect on charitable giving. It does slightly increase the total amount that individuals can give gift-tax free to a combination of heirs and charities.

## Gift Strategies That Remain Possible in 2022

With only a few exceptions, previous gift strategies continue to be available in 2022, and such adjustments as have been made open some new opportunities. Below, for your consideration, is a summary of how various objectives can be realized under current tax law.

## OBJECTIVE #1 Outright Gifts: Benefit a charity now and maximize tax savings

Make an outright gift of cash or other property to the charity. Since you retain no economic interest in the donated asset, the charity is free to use it now for the purpose you have designated. Provided you itemize your deductions, you will save income tax. If you contribute an asset, such as securities or real estate, that you have owned more than a year, you realize a double tax benefit: a deduction for market value and no tax on the capital gain. The maximum deduction that you can use in any year if you give cash to a public charity is 60% of your adjusted gross income (See above about possible higher limit). The maximum deduction for gifts of appreciated property owned over a year is 30% of adjusted gross income. In both cases, you have the year of the gift plus up to five carryover years to use the deduction. The same carryover rule applies to the other types of gifts described below.

## OBJECTIVE #2 Bequests: Arrange a future gift but reserve the right to modify it if your circumstances change

One way to do this is to include a charitable bequest in your will for a specific amount, a particular property, or a percentage of your residual estate. Another way to do it is to name the charity as beneficiary of a life insurance policy, a retirement fund, or a bank, or brokerage account.

In all of these instances, you can make changes or even cancel the gift. If the gift is actually paid to the charity, you receive an estate-tax charitable deduction—which, depending on the size of your estate, can save estate tax.

As explained above, even if you would not save estate tax because the size of your estate is less than the exempted amount, you may reduce the income tax payable by family beneficiaries by giving charity some of your retirement funds and family members other assets.

## OBJECTIVE #3 Gifts that pay income: Save current income tax while preserving and possibly enhancing cash flow

Gifts that accomplish this objective are commonly called "life-income plans."

One is a charitable remainder trust, and there are two variations of this: the charitable remainder annuity trust and the charitable remainder unitrust. The former pays to the donor and/or other beneficiaries a fixed amount each year for the lifetime of the income beneficiaries or for a term of years. The latter pays a variable amount, which is a percentage of the value of trust assets as redetermined at the beginning of each year. When either of these types of trusts terminates, the remaining assets are paid to the charity the donor has named as beneficiary. The primary tax benefits are an income-tax charitable deduction for the present value of what will be distributed to charity and no capital-gain tax to the donor when appreciated property is contributed nor to the trust when it sells appreciated property. The unitrust is especially appealing to those who own appreciated securities and seek a potential hedge against inflation.

The oldest and most popular "life-income plan" is the gift annuity, which pays to the donor and/or another beneficiary a fixed amount based on the ages of the beneficiary(ies) when the annuity is established. Like the charitable remainder trust, a gift annuity generates an income-tax charitable deduction—which can save taxes for donors who itemize. Another tax benefit is the fact that some portion of payments may be tax-free. People are particularly attracted to the gift annuity because of the simplicity and the security of fixed payments for life. Gift annuities just became more attractive because rates were increased.

### Please Let Us Be of Service

There are many strategies and ideas regarding charitable giving discussed in this guide. Some may not apply to you, but some likely do.

Please contact us if we may be of service to your financial, charitable, and personal planning as we approach year-end.

The information contained herein is offered for general informational and educational purposes. The figures cited in the examples and illustrations are accurate at the time of writing and are based on federal law as well as IRS discount rates that change monthly.

State law may affect the results illustrated. You should seek the advice of an attorney for applicability to your own situation.

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