J.P.Morgan

PRIVATE BANK

PLANNING INSIGHTS

# Your 2022 Tax Guide

## 15 actions to consider taking before year-end

**Are you doing everything you can to enhance your financial well-being—and minimize your 2022 taxes? To help make sure you do, we suggest that you look over this guide, consult your J.P. Morgan team and speak with your tax advisor. Because there are many actions you might take, and timing is extremely important.**

After almost two years of near-constant chatter over potential tax law changes, the Inflation Reduction Act signed into law on August 16 left out virtually all of the measures in earlier versions of the bill that would have directly raised tax rates on individual taxpayers.

With certainty about the tax landscape (until at least the end of the year and likely for a couple of years to come), taxpayers can now plan with a high degree of confidence to minimize, to the greatest extent possible, their 2022 tax liabilities.

Click here to see: **Key Dates for Year-End Planning**, and see below for actions you might consider taking to potentially reduce your 2022 tax bill.

### Which of these techniques might work for you this year?

**Portfolio and Business**

1. Harvest losses and gains thoughtfully before year-end
2. Aggregate business expenses to maximize your pass-through deduction
3. Consider reinvesting capital gains into Opportunity Zones
4. Take advantage of temporary 100% expensing for certain business assets
5. Elect to take a deduction for taxable bond premiums
6. Consider installment sales where applicable
   *Key numbers for high-income earners*
   *Special Consideration: Be aware of mutual fund record dates*

**Compensation and Benefits**

7. Look carefully at your retirement accounts, and take any required minimum distributions by December 30
8. Have deferred compensation elections in place by year-end
9. Establish qualified plans for your business
10. Review stock options

**Giving to Family**

11. Use your annual gift tax exclusion
12. Gift up to—and potentially beyond—your gift tax exclusion amount
13. Review estate plans for tax-basis efficiency
    *Special Consideration: Review trust distributions*

**Giving to Charity**

14. Make full use of the charitable deduction
15. Think about how best to give
    *Time your gifts well*
    *Rules on income tax deductibility of charitable donations*

# Key dates for your year-end tax planning

| Oct 17 | Oct 18 | Nov 1 | Nov 29 | Dec 21 | Dec 30 |
|---|---|---|---|---|---|
| **2021 RETURN "ON EXTENSION" IS DUE** | **REQUEST 2022 "PRO FORMA" TAX RETURNS** | **REVISIT "PRO FORMA" TAX RETURNS** | **LAST DATE TO "DOUBLE UP"** | **CONGRESS RECESSES FOR 2022** | **LAST DAY...** |
| Any incremental amount to be paid must be paid. | Ask your accountant for an approximation of what your 2022 taxes due will be, based on the information to date, for both regular and AMT purposes. This "pro forma" should inform your decisions about whether to accelerate or delay the recognition of deductible items. | Discuss with your advisors what might be prudent for you to do in the last two months of the year to defer or accelerate income or make deductible payments. | This is the last date, without violating the "wash sale rule," on which you can "double up" (buy securities to retain market exposure and still sell other "substantially identical" lots at a loss on December 30). | The Senate's last day in session for 2022 is December 21, and the House's last day is December 15. Significant tax reform is highly unlikely before year-end. In a lame-duck Congressional session, we may see small changes, effective starting in 2023, to retirement plans. Please see our Tax Outlook for more detail. | To harvest losses, including selling "double up" securities. Note: Equity markets close at 4 p.m. ET, and bond markets close at 2 p.m. ET. To make gifts to charity* and receive 2022 deductions. * See "Time your gifts well" on page 10. |

## 1 Harvest losses and gains thoughtfully before year-end

Selling securities at a loss to offset capital gains is a classic year-end tax planning technique.[1] When implementing, be careful not to violate the "wash sale rule," which disallows recognition of any loss if a taxpayer buys or enters into a contract to buy "substantially identical" securities 30 calendar days before or after the loss sale trade date. If you do not want to be out of the market for an entire month, you can "double up" on your position. For example, buy the identical position at the current price—by November 29, wait 30 days, then sell the original loss position on Friday, December 30, and potentially recognize the loss this year.

## 2 Maximize and confirm your business owner's pass-through deduction

*Owners of qualifying pass-through entities*[2] *may earn a 20% deduction on domestic qualified business income—if all conditions are met (consult a tax advisor).* The rules governing this deduction are complicated but worth exploring.

Currently, taking this deduction does not require owners to itemize deductions on their returns. However, the amount that can be deducted depends (in part) on the pass-through owner's adjusted gross income (AGI). At higher AGI levels, certain limitations phase in. Also, owners of certain types of businesses are eligible for the deduction only if their AGIs are below a certain level.

If you are the owner of a pass-through entity and a cash-basis taxpayer, clustering anticipated business expenses of the entity into one year may reduce your AGI. This way, you may be better positioned to get the full benefit of the pass-through deduction. Also, if your income is above the threshold, you may be able to reduce your taxable income so that you qualify for the deduction.

[1] Please consult your tax advisor to see whether tax-loss harvesting is available with your accounts and how potential buybacks may be done successfully. Taxes should not be the only factor to drive an investment decision.

[2] That is, partnerships, sole proprietorships, Subchapter S corporations and limited liability companies if they are treated as pass-throughs.

## 3 Consider reinvesting capital gains into Opportunity Zones

If you realize a capital gain from the sale or exchange of an asset and reinvest that gain into a qualified opportunity fund (QOF) within 180 days, you may be eligible for preferential tax treatment, including:

- Deferral of capital gains tax on the sale or exchange of the original investment.
- Forgiveness of any NEW gain in the QOF.

In prior years, taxpayers had been able to take advantage of a third benefit from investing in QOFs: forgiveness of as much as 15% of the original gain.

As part of your year-end planning, check to see whether you have any gain realizations that might be reinvested into a QOF this year. Check with your tax advisor, as rules about the timing regarding qualified gains vary depending on the source of the gain realized. It appears that generally gross capital gain from each transaction is eligible for these tax benefits (i.e., there is no need to "net" gains and losses).

For our insights into QOFs, ask your J.P. Morgan team for "Qualified Opportunity Zones: Promises and Pitfalls."

## 4 Take advantage of temporary 100% expensing for certain business assets

In 2022, you can immediately expense 100% of the cost of new and used qualifying business assets that are "placed in service." Starting January 1, 2023, taxpayers can expense only 80% of the cost. Consider whether it makes sense for you, before year-end, to acquire (perhaps through borrowing) such qualified property (e.g., jet aircraft used in a trade or business).

## 5 Elect to take a deduction for taxable bond premiums

Did you acquire a taxable bond at a premium this year? You may want to elect to amortize the premium to create a current income tax deduction that would offset the bond's taxable interest income.

This election (which would be made as part of your Form 1040, filed next year) would apply to all premiums on taxable bonds that you acquire in secondary markets in the current and future years. If you don't make this election, your taxable bond's premium will be considered to be a basis adjustment that will be factored into your gain or loss recognition when the bond is sold or reaches maturity.

For example:

A taxpayer pays $105,000 for a taxable interest-bearing bond having a par value of $100,000. The bond matures in 10 years. Because the interest from the bond is taxable income to the taxpayer, she elects to amortize the $5,000 premium over the remaining life of the bond. One-tenth of the premium, or $500, is allowable as an annual deduction in determining net income.[3]

## 6 Consider installment sales where applicable

Say that a taxpayer sells certain private assets (e.g., private equity or real estate) in return for payments over multiple years represented by a promissory note (or notes). The taxes due on gain from that sale may be deferred until principal payments are received in those later years. Such transactions can be complicated but are worth considering on the sales of certain assets.

Under the installment method, gain from the sale is generally prorated and recognized over the years in which payments are received. As a result, each payment received usually consists of interest, return of basis, and gain on the sale.[4]

[3] The calculation has been simplified for illustrative purposes. The actual amortizable expense is based on a yield to maturity (or call) calculation.

[4] An interest charge is ordinarily imposed on the tax deferred under the installment method on the outstanding amounts of the obligations. However, under a special tax rule in Internal Revenue Code Section 453A, for individual transactions, the interest charge will apply only to the amount of all obligations exceeding $5 million and that arose during, and remain outstanding at the end of, the tax year.

## KEY NUMBERS FOR YOUR YEAR-END TAX PLANNING

**Top U.S. tax rates, inflation-adjusted exclusion and exemption amounts**

| | 2021 | 2022 | 2023 |
|---|---|---|---|
| Earned income tax | 39.35%[5] | 39.35%[5] | 39.35%[5] |
| Unearned income tax | 40.80%[5] | 40.80%[5] | 40.80%[5] |
| Long-term capital gains tax | 23.80%[5] | 23.80%[5] | 23.80%[5] |
| Qualified dividend tax | 23.80%[5] | 23.80%[5] | 23.80%[5] |
| Estate, gift and GST tax | 40.00% | 40.00% | 40.00% |
| Estate and gift tax exclusion amounts | $11.7MM[6] | $12.06MM[6] | $12.92MM[6, 7] |
| GST tax exemption amount | $11.7MM[6] | $12.06MM[6] | $12.92MM[6, 7] |
| Annual exclusion amount | $15,000 | $16,000 | $17,000[7] |
| Annual exclusion amount for gifts to a non-U.S. citizen spouse | $159,000 | $164,000 | $175,000[7] |

[5] Includes Medicare tax.

[6] The 2017 tax act's rough doubling of the gift and estate tax exclusions and the GST exemption is currently scheduled to sunset after 2025. The act directed Treasury to promulgate regulations, which have now been issued in proposed form, instructing taxpayers on how to deal with this mismatch and prevent a "claw-back" of the exclusions in cases where a different exclusion amount applies at the time of a gift versus at death.

[7] Source: Estimate from U.S. Government C-CPI-U table through August 2022.

## SPECIAL CONSIDERATION: BE AWARE OF MUTUAL FUND "RECORD DATES" BEFORE YEAR-END

Mutual funds generally must distribute all of their net realized gains to investors by the end of each year.

But no matter when you purchase mutual funds, if you own a fund on that fund's "record date" (the date on which you are legally entitled to a distribution), you would get that distribution.

You would owe tax on that amount unless you hold the shares in a tax-favored account such as a 401(k) or an IRA.

*It could be years before you neutralize this tax event that you could have avoided simply by purchasing the funds after, rather than before, the year-end record date.*

Here's how this tax event eventually can be neutralized:

- After the record date, the fund price will trade lower by the amount of the taxable gain distribution.
- The tax you pay now would be recouped by reducing the gain (or increasing the loss) you realize when you eventually sell the shares, which, depending on how long you hold the fund, could be years from now.

*Information about record dates and neutralized gain distribution estimates is generally available on each fund's website.*

As a reminder, investors should carefully consider the investment objectives and risks, as well as charges and expenses of the mutual fund, variable annuity or exchange-traded fund before investing. To obtain a prospectus, contact your investment professional or visit the fund company's or insurance company's website. The prospectus contains this and other information about the mutual fund, variable or fixed annuity and/or separately managed accounts underlying product. You should read the prospectus carefully before investing.

# Compensation and benefits

## 7 Take a close look at your retirement accounts

It is critical that you speak with your tax advisor about your retirement accounts every year to see if you want to:

**Roll distributions back into an IRA?** The Internal Revenue Code allows you to avoid taxes on non-RMD IRA withdrawals if you roll the funds back into an IRA within 60 days. But this rollover may be done only once every 12 months.

The once-a-year IRA rollover rule applies on an aggregate basis across all your IRAs.

**Use funds from your bequeathed IRA?** Inherited IRAs are not "retirement funds" within the meaning of the Bankruptcy Code, and so are not entitled to the creditor protection that other retirement funds (including traditional IRAs) have. Therefore, be mindful of the types of deferred income assets from which you (or other family members) benefit, and structure your affairs accordingly. For example, you may want to spend assets that are not creditor-protected before those that are.

**Convert a traditional IRA to a Roth?** If you believe your tax rates may be higher in the future, speak with your tax advisor about whether it makes sense for you to convert your traditional IRA to a Roth IRA before this year-end.

Several bills introduced in Congress in recent years would have limited taxpayers' ability to make the conversion, but those proposals did not pass, leaving the opportunity to convert as viable as ever. For our insights into Roth IRA conversions, ask your J.P. Morgan team for "Is it time for your Roth conversion?"

**Adjust your beneficiary designations in light of the SECURE Act?** It is especially important to review your beneficiary designations, as the SECURE Act passed in December 2019 made it so that most inherited IRAs now have to be distributed by the end of year 10. Keep in mind that naming a trust as beneficiary does not convey the same asset protection features that it previously did.

It is uncertain at present whether the entire distribution may be made in year 10, or whether serial periodic payments are required for certain defined beneficiaries. A Treasury regulation proposal interpreting the SECURE Act would require certain beneficiaries[8] to take annual distributions each year over the 10-year period. This would mean that these beneficiaries would not be able to delay distributions until the end of the 10th year. IRS guidance issued in October 2022 extends the effective date of this proposal until at least 2023. Given the uncertainty that remains about this, you should consult with your tax advisor in determining the most appropriate course of action given your situation.

**Fund your retirement accounts up to the maximum?**
*If you have the opportunity to contribute to a retirement account, we recommend doing so—up to the full amount permissible. The maximum amounts you can contribute to retirement accounts for 2022 are:*

- **IRAs**—*The contribution limit is $6,000 a year. However, if you are 50 or older, it's $7,000.*
- **401(k)s/403(b)s**—*People under 50 years old can save up to $20,500 a year. If you're 50 or older, you can contribute up to $27,000 annually.*

**Take your RMDs on time.** In any case, be sure to take, by December 30, 2022, your required minimum distributions (RMDs). Those amounts were fixed on December 31, 2021, and the accounts from which RMDs must be taken have likely fluctuated, perhaps significantly, in value. When taking your RMDs, be sure that you are taking the right amounts from the right accounts at the right time to avoid a 50% penalty on the required amount not distributed.

## 8 Make sure your elections regarding deferred compensation are made by December 31

Does your employer allow you to defer fixed salary and non-performance based bonuses you'll receive in 2023? Then December 31, 2022, is your deadline to elect to do so (some companies may have an earlier administrative deadline), and at that time, you must select how and when you will receive the compensation. Whatever you decide will be irrevocable.

[8] This rule would apply only to "non-eligible designated beneficiaries," which include any designated beneficiary other than: 1) the decedent's spouse; 2) the decedent's minor children; 3) someone who is chronically ill or disabled; or 4) a person who is more than 10 years younger than the decedent.

The benefit of deferring is that it postpones your income tax liability both on your compensation and on any growth the compensation experiences. One potential downside lurks in the fact that you'd have general creditor exposure to your employer during the deferral period—which includes the entire period during which you are supposed to receive payments. When you do receive a distribution, 100% of what you receive (including any capital appreciation) gets taxed at the ordinary income rate that is applicable to you at the time.[9] Once again, these types of decisions need to be taken considering the current and future income tax rates you expect you would be subject to.

### 9 Establish a qualified plan for your business

Are you the owner of a closely held business or self-employed? Do you want to create a qualified plan to provide yourself (and perhaps your employees) with retirement benefits and tax-deferral opportunities? Then you must establish and nominally fund the plan trust by the end of this tax year. However, employer contributions to that plan may be made up until the due date for filing the return for that year (plus extensions).

### 10 Review stock options

If you are an executive, you may want to exercise some of your options in 2022. Which ones? Good candidates generally include those options that: (1) are deep-in-the-money options, (2) are on high-dividend-paying stocks, or (3) have a short time to expiry. Although fewer taxpayers are subject to the alternative minimum tax (AMT) now, some executives who still are may benefit from exercising nonqualified stock options this year. That way, they can have their option incomes taxed at the lower AMT rate—until the AMT and regular tax calculations equal one another. If you have incentive stock options (ISOs) that are not subject to AMT, consider exercising them to start the long-term capital gains clock—but not so many that you tip into AMT.

With the market volatility that's been experienced this year, if you anticipate a rebound on the position, it can be a more complicated decision. Reach out to your J.P. Morgan team for an options breakeven analysis.

## Giving to family

### 11 Use your annual gift tax exclusion

Making annual exclusion gifts is one of the easiest ways to maximize tax-efficient wealth transfer to future generations and others. In 2022, individuals may gift up to $16,000 (married couples up to $32,000) to as many people as they wish without triggering any gift or generation-skipping transfer (GST) tax. You're also allowed to use most types of assets (including cash) for these annual exclusion gifts.

One common way to use annual exclusion gifts is to contribute to a 529 account, such as the J.P. Morgan-managed New York 529 Advisor-Guided College Savings Program. Funds in such accounts can be used to educate children or grandchildren.[10] Previously, that was restricted to college-level expenses. But the 2017 tax act expanded 529 plans to cover up to $10,000 per year of elementary and secondary school tuition expenses.[11] Be careful though: Owners of 529 plans should review the beneficiary designations for these plans if students graduate or other life changes have occurred.

Also, be advised that while you may be able to use up to $10,000 a year for primary education, you may not want to, as it's generally best to leave funds in the tax-preferred plan for as long as possible.

Another way to help your family tax-free: There are unlimited exclusions from U.S. transfer taxes when, on behalf of someone else, you pay tuition directly to a school, or pay medical expenses directly to a medical provider.

### 12 Gift up to—and potentially beyond—your gift tax exclusion amount

**Your exclusion amount**

Do you have a taxable estate and the capacity to gift? Have you yet to use your lifetime gift and estate tax exclusion? Then you may want to do so now. The 2017 tax act roughly doubled the amount you may gift, free of transfer taxes, during your lifetime. The current gift and estate tax exclusion amount is $12.06 million per individual and $24.12 million per couple.

[9] Regardless of your deferral elections, payroll taxes must be paid in the year income is earned (in this example, 2022). Note that elections to defer performance-based bonuses must be made by June 30 in the year these bonuses are awarded.

[10] Five years' worth of the annual exclusion gifts may be made in a single year if the gift is made to a 529 account. But in this case, annual exclusion gifts cannot be made to that recipient for the next four years.

[11] State-level treatment of 529 plan withdrawals for K-12 tuition vary by state.

This is an all-time high and is not scheduled to last. The provision that doubled the exclusion amount is scheduled to sunset after 2025. We do not anticipate any material changes to the current exclusion amount in the next couple of years. The Build Back Better bill proposed to have the exclusion revert to the $5 million level in 2022, but this provision did not pass.

**Beyond your exclusion amount**

Even after you have used your full gift tax exclusion, it may still be tax-efficient to make additional gifts and pay the tax. That is particularly true with assets that have a high tax-cost basis.

Taxable gifts remove from your estate any future appreciation on the assets you transfer and make them available to other family members. Also, these gifts are also almost always more tax-efficient than testamentary bequests because:

- Gift tax is "tax exclusive," while estate tax is "tax inclusive": "Tax exclusive" means the gift tax is computed solely on the amount the beneficiary receives. For example, if you give $100 at a 40% gift tax rate, the gift tax paid would be $40, costing you $140. In contrast, the estate tax is "tax inclusive." For your heirs to receive the same $100 through a bequest at a 40% estate tax rate, you would need an estate of $167 (40% of $167 = $67). This tax-exclusive benefit applies only if the donor survives the gift by three years.[12]
- Many states have a state-level estate tax but do not levy a state-level gift tax: 17 states and the District of Columbia have inheritance or estate taxes, but none except Connecticut impose a tax on lifetime gifts.[13]

**Other considerations**

Often, gifting illiquid assets can be a highly tax-efficient way to transfer wealth because of the discounts applied to the value of the asset transferred, owing to the asset's lack of marketability and what is referred to as "lack of control." A practical problem arises if you are trying to make a gift by year-end: It can take time to get proper appraisals of the asset to be gifted. A potential solution: Fund an irrevocable grantor trust up to the annual exclusion amount with cash now and, subject to possible law change, substitute the other assets for the cash later.

If you are hesitant to make gifts that would require the payment of gift tax, you may take advantage of transactions that transfer wealth without generating a significant amount of gift tax (e.g., zeroed-out Grantor Retained Annuity Trusts, or GRATs).

Some hesitate to make gifts because they fear losing access to assets. An analysis of your current and future spending needs is therefore appropriate before making such gifts. There is also a popular planning technique, known as a Spousal Lifetime Access Trust (SLAT), that many married couples rely on to transfer wealth off their balance sheets and yet still indirectly retain, through distributions by an independent trustee to a beneficiary spouse, the possibility of having access to that wealth should their lifestyle needs demand it.

If you gift now, any subsequent appreciation is available for your beneficiaries free of transfer taxes, potentially at the loss of an income tax basis step-up at death. Basis, more and more, is an important consideration, given that there is a smaller difference now among the tax rates on long-term gains, ordinary income and taxable transfers.[14]

[12] In determining your gifting strategies, income tax basis should be taken into consideration to further maximize tax efficiency. For example, if you make a gift of low-basis assets, the basis generally will carry over. With interest rates so low, taking a loan against a low-basis asset and gifting the loan proceeds may be better than transferring the asset itself. Alternatively, some gifts may involve the use of an irrevocable grantor trust, which, under current law, may allow for the later tax-free substitution of cash or high-basis assets.

[13] State estate taxes paid are deductible against U.S. estate taxes due; accordingly, the New York estate tax rate is often expressed as an effective 9.6% rate (16%-(40% * 16%) = 9.6%). States that have an estate or inheritance tax but not a gift tax include Hawaii, Illinois, Iowa, Kentucky, Maine, Maryland, Massachusetts, Minnesota, Nebraska, New Jersey, New York, Oregon, Pennsylvania, Rhode Island, Vermont and Washington, as well as the District of Columbia. Effective January 1, 2018, the New Jersey estate tax was repealed; however, the New Jersey inheritance tax still exists and is imposed on distant relatives and non-family members.

[14] "Basis" is the actual or constructive cost of property to a taxpayer, but includes more than just cost (e.g., sales tax and expenses connected with the purchase). Basis helps determine the gain or loss the taxpayer realizes on the sale or other disposition of the property.

## SPECIAL CONSIDERATION: YEAR-END TRUST DISTRIBUTIONS

Trust beneficiaries may want to discuss “distributable net income,” or DNI, with their trustees before year-end.

DNI is the maximum amount of a trust’s income for tax purposes that can be distributed to the income beneficiary in a year.

With many trusts, this distribution decision is made by state law or the trust’s governing agreement.

But with other trusts, it is up to the trustee, who must weigh a variety of factors, including:

- The trust’s objectives.
- The trust’s distribution provisions.
- The tax impact of distributions on the beneficiary and the trust.

An estate or trust with discretion over income distributions (“complex trust”) can elect annually to treat any distribution or any portion of a distribution to a beneficiary made within the first 65 days following the end of a tax year as having been distributed in the prior year.

The distribution can reduce or eliminate the income taxes the trust pays. But the tax burden shifts to the beneficiaries. Still, the total tax bill may be considerably less if the beneficiary pays. For 2022, the highest marginal U.S. income tax rate applies to all trust income in excess of $13,450. But the highest marginal rate for a married trust income beneficiary who is filing jointly applies to income in excess of $647,850.

Similarly, the 3.8% Medicare surtax on net investment income applies to trust investment income in excess of $13,450. But the taxable threshold amount for a married trust beneficiary filing a joint return is investment income in excess of $250,000. So a trustee should consider distributing trust income to beneficiaries if doing so would minimize the overall tax impact on trust earnings.

## 13 Review estate plans for tax-basis efficiency

Under current law, the 2017 tax act’s doubling of the exclusion amount made considering income tax basis important when planning to mitigate transfer taxes. That’s because the higher lifetime exclusion amount causes fewer taxpayers to be subject to the estate tax. Because those taxpayers are not likely to be subject to the estate tax, it may not be in their best interests to gift assets in an attempt to remove such assets from their estates. Gifted assets would forgo the step-up in basis estate assets otherwise get at death, and retain the carryover basis of the decedent.

# Giving to charity

## 14 Make full use of the charitable deduction

Charitable deductions are still very valuable.

Some donors may think the deduction is no longer available to them. The 2017 tax act's increase in the standard deduction (plus limitations or suspensions of several itemized deductions)[15] reduces the likelihood many taxpayers will itemize and therefore claim a charitable deduction.[16]

But you can preserve your ability to itemize—and take the charitable deduction—by "clustering" your donations. For example, rather than give 1X every year for five years, if you cluster all of your intended giving for the next five years into one year in which you give 5X, your itemized deductions are more likely to exceed your standard deduction such that you incrementally benefit from your ability to take a charitable deduction.

Also, gifting certain long-term appreciated assets to select charities may provide more "bang for the buck": You not only may get an income tax deduction based on the fair market value of the donated asset, but also would not have to pay capital gains tax on that asset's unrealized appreciation.

On the subject of timing: Keep in mind that some assets can take more time to transfer than others. See "Time your gifts well" on page 10 for considerations around effective dates of contributions for various means of donating, as well as typical processing times for various types of assets.

Note that, with donations of illiquid assets to donor-advised funds, the public charity sponsoring the donor-advised fund needs time to conduct due diligence on the asset. With donations to a charitable lead annuity trust (CLAT), allow time for drafting trust documents.

But you also may want to look into donating:

- **If you live in a state with low or no income taxes**—The suspension of the so-called "Pease limitations," which before 2018 reduced a portion of high-income taxpayers' itemized deductions, may make it more attractive for those in low- or no-income-tax states to make charitable donations.
- **If you are no longer subject to the AMT**—The lower likelihood of being subject to the AMT may mean the benefit of any charitable deduction is more likely to be worth 37% under the regular tax system than 28% under the AMT system.

## 15 Think about how you might best give

Some common vehicles for charitable giving include:

- **Charitable IRA qualified distributions**—If you are older than 70½ years, you may want to consider the benefits of a qualified charitable distribution (QCD). A QCD allows you to make a direct transfer of up to $100,000 from an IRA to qualified charities (not including private foundations or donor-advised funds) and count those donations toward your required minimum distributions. These distributions are not includible in a taxpayer's income and therefore are not considered charitable contributions for tax purposes.
- **Donor-advised funds**—Many timing issues can be eased by using a donor-advised fund, such as the Charitable Giving Fund at J.P. Morgan.[17] Gifts to donor-advised funds provide an immediate deduction while allowing you to defer recommendations about the ultimate charitable recipients and the timing of future distributions. This deferral ability may make it more palatable for you to cluster several years' worth of charitable donations into one year.
- **Charitable lead annuity trust**—While interest rates have risen significantly this past year, they are still relatively low on a historical basis. For that reason, CLATs remain a good planning tool to consider using. A CLAT is a trust you can create to benefit both charity and your heirs. The charities you name receive a fixed amount annually for the trust's term. At the end of the term, the trust ends and in many instances any assets remaining typically pass to family members (or into trusts benefiting them) without any gift tax imposed.

[15] For example, the capping of the deduction for state and local taxes at $10,000 and capping mortgage deduction to the interest on $750,000 of new qualified residence mortgage indebtedness.

[16] Charitable deductions are itemized deductions. Generally, taxpayers opt to deduct the larger of their standard deductions (currently $25,900 for married filing jointly taxpayers) or their itemized deductions.

[17] The J.P. Morgan Charitable Giving Fund is offered under an agreement between J.P. Morgan and National Philanthropic Trust, a public charity incorporated in Pennsylvania.

## TIME YOUR GIFTS WELL

| GIFTS | EFFECTIVE DATE OF GIFT[18] |
|---|---|
| To charity by check | Check is mailed |
| To non-charity donees by check | Check clears |
| Of stock by certificate form to charity[19, 20] | Transfer occurs according to issuer's records |
| Of stock by electronic transfer to charity[21] (e.g., through Depository Trust Company) | Stock is received according to issuer's records |
| Of stock by electronic transfer to non-charity donees[21] | Transfer occurs on books of corporation |
| By credit card | Charge is made to the card |

| GIFTS | TYPICAL PROCESSING TIME (IN BUSINESS DAYS)[21] |
|---|---|
| Cash | 2 |
| Sale of securities and donation of proceeds | 3 |
| Electronic transfer to brokerage firm | 3 |
| Physical re-registration and delivery to donee | 20 |
| Mutual funds | 20 |

[18] Treasury regulations and revenue rulings as of 2022.

[19] Depends on local law; check with your tax advisor.

[20] While these are common outcomes, they may not apply in all situations. Please consult your tax advisor with your fact pattern to see when your gift would be effective.

[21] Estimates not intended to guarantee processing times or represent industry standards.

## RULES ON INCOME TAX DEDUCTIBILITY OF CHARITABLE DONATIONS

| AMOUNT DEDUCTIBLE | | | AGI LIMITATION[22] | |
|---|---|---|---|---|
| Type of property | Public charities/ donor-advised funds | Private foundations[23] | Public charities/ donor-advised funds | Private foundations[23] |
| Cash | FMV | FMV | 60%[24] | 30% |
| Qualified appreciated stock (unrestricted publicly traded stock held long-term) | FMV[25] | FMV[25] | 30% | 20% |
| Long-term capital gain property[25] (other than qualified appreciated stock) | FMV[25] | Cost[26] | 30%[25] | 20% |
| Ordinary income and short-term capital gain property | Cost[26] | Cost[26] | 50% | 30% |
| Unrelated-use tangible personal property | Cost[26] | Cost[26] | 50% | 20% |
| Related-use tangible personal property[27] | FMV[25] | Cost[26] | 30%[25] | 20% |

[22] AGI: Adjusted gross income. Contributions in excess of percentage limitation may be carried forward for use in the taxpayer's next five tax years. Non-operating foundations are grantmaking organizations that do not actively operate their own charitable programs.

[23] Non-operating foundations only. Non-operating foundations are grantmaking organizations that do not actively operate their own charitable programs.

[24] The 60% AGI limitation applies to tax years 2018-2025. Beginning in 2026, the AGI limitation on gifts of cash to a public charity will again be 50%, which was applicable law prior to 2018.

[25] Taxpayers may make a "step-down election" such that long-term capital gain property donated to a public charity is deductible up to cost basis and up to 50% of AGI, but this election would apply to all contributions of this type of property in the same tax year.

[26] Lesser of cost or fair market value.

[27] Property must be related to the exempt purpose that is the basis of the donee organization's exemption under §501 (e.g., gift of artwork to a museum). The property must have been held for more than a year, otherwise the rules for unrelated-use tangible personal property would apply.

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