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End-of-Year Giving 2020: Public Charities, Get Your (Donor's) Cash Now

While the rest of the world focused on the (now-largely-expired) coronavirus relief provisions of the CARES Act, a handful of tax lawyers and planned giving officers focused on **some subtle changes to the charitable contribution deduction**.

Now, with the end of the year in full swing, it seems like a useful time to remind donors of two provisions focused on cash-giving that are set to expire on December 31, 2020:

1. **\$300 Above-the-Line Charitable Contribution Deduction.** *If, like the author of this post, you are among the roughly 90% of Americans who do not itemize deductions on their tax returns (perhaps as a result of the increased standard deductions and the cap on state and local tax deductions), you have not had much of a tax incentive to give this year (although hopefully you still did anyway). But for 2020 only, you can give up to \$300 and claim an above-the-line deduction—which means, unlike most years, you get the deduction *even if you don't itemize*. So if you have not given \$300 yet this year and you're fortunate enough to be able to spare it, consider calling your favorite charity today (or save them some time and donate on their website). It goes without saying that many need it now more than ever.*
2. **100% AGI Deduction for Cash Gifts.** *If, unlike the author of this post, you have enough cash lying around to give an amount equal to 100% of your adjusted gross income for the year and you want to cancel out and not pay taxes on any of that income, you have less than a few weeks left to write the check to a public charity. Most years, the cap is 60% of AGI for cash gifts to public charities, so this is a significant and temporary change. While this provision will probably go unused by the vast majority of taxpayers, charities should be aware that there are ultra-high-net-worth donors looking to eliminate their taxable income for the year and might be willing to make cash gifts that they would not normally consider.*

But, you ask, aren't these gifts going to be made primarily to donor-advised funds (DAFs), like so much other giving by ultra-high-net-worth donors? Actually, no. Not if they are done correctly, anyway.

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Nonprofit Law Matters looks at legal issues in the nonprofit and tax-exempt organizations world. Written by the attorneys and paralegals of Adler & Colvin, it provides updates and analysis regarding philanthropy, charity, and other exempt organization issues.

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While gifts to DAFs usually enjoy public charity treatment, both the \$300 above-the-line deduction and the 100% AGI provision exclude supporting organizations and donor-advised funds from their definition of public charity. So, there's actually an increased chance that operating charities will get to participate in at least this part of the end-of-year giving surge.

And in case we have not said it enough times—these gifts provisions apply to *cash*. While gifts of appreciated stock to public charities are still highly tax efficient in many other ways, these 2020-only provisions deal with cash gifts only.