

## ¶230 Charitable Deduction Modifications

### NEW LAW EXPLAINED

**Percentage limit for cash charitable contributions by individuals temporarily increased.**—The income-based percentage limit is temporarily increased from 50 percent to 60 percent for an individual taxpayer's cash charitable contributions to public charities, private foundations other than nonoperating private foundations, and certain governmental units (i.e., "50% organizations"). The 60-percent contribution base limit applies to qualifying cash contributions made in any tax year beginning after December 31, 2017, and before January 1, 2026 (Code Sec. 170(b)(1)(G)(i), as added by the Tax Cuts and Jobs Act). The individual may carry forward for five years any qualifying cash contributions that exceed the 60-percent ceiling for the tax year of the contribution (Code Sec. 170(b)(1)(G)(ii), as added by the 2017 Tax Cuts Act).

Cash contributions that qualify for the 60-percent limit are not taken into account in determining contributions that are allowed under the 50-percent limit of Code Sec. 170(b)(1)(A) (Code Sec. 170(b)(1)(G)(iii)(I), as added by the 2017 Tax Cuts Act). For each tax year beginning after December 31, 2017, and before January 1, 2026, and for each tax year to which any 60-percent cash contribution is carried over, the aggregate contribution limitation allowed under Code Sec. 170(b)(1)(A) must be reduced (but not below zero) by the total contributions allowed under the 60-percent limit provision. Further, in determining allowable contributions under Code Sec. 170(b)(1)(B) for donations of cash or nonappreciated property to nonoperating private foundations or "for the use of" 50% organizations, any references to the 50-percent limit determination under Code Sec. 170(b)(1)(A) must also include the 60-percent limit determination under Code Sec. 170(b)(1)(G) (Code Sec. 170(b)(1)(G)(iii)(II), as added by the 2017 Tax Cuts Act)

#### COMMENT

The 60-percent limit for cash contributions to public charities is intended to "encourage taxpayers to provide essential monetary support to front-line charities," because "a robust charitable sector is vital to our economy" and "charitable giving is critical to ensuring that the sector thrives" (Report of the House Ways and Means Committee on H.R. 1, Tax Cuts and Jobs Act, H. Rept. 115-409, p. 177). However, the Urban-Brookings Tax Policy Center believes that the increased standard deduction amount (see ¶205) and the scaling back of many individual itemized deductions will substantially reduce the number of taxpayers who elect to itemize, and significantly reduce the tax incentive to donate. The Tax Policy Center estimates that individual giving will decline by between \$12 billion and \$20 billion in 2018 (i.e., between four and five percent), with similar effects in the long run (see "The House Tax Bill Is Not Very Charitable to Nonprofits," at <http://www.taxpolicycenter.org/taxvox/house-tax-bill-not-very-charitable-nonprofits>).

**Charitable deduction for college athletic seating rights payments repealed.** A charitable deduction is not allowed for any payment to a college or university in exchange for which the payer receives the right to purchase tickets or seating at an athletic event (Code Sec. 170(l), as amended by the 2017 Tax Cuts Act). Thus, the charitable deduction for amounts paid for college athletic seating rights has been effectively repealed.

#### COMMENT

This charitable deduction has been eliminated because "taxpayers should only be permitted a charitable deduction commensurate with the value of assets given to charity" (Report of the House Ways and Means Committee on H.R. 1, Tax Cuts and Jobs Act, H. Rept. 115-409, p. 177).

**Substantiation exception for donee-reported contributions repealed.** The provision relieving a donor from the requirement to obtain a contemporaneous written acknowledgment for any charitable contribution of \$250 or more if the donee organization reports the required information to the IRS has been repealed (Code Sec. 170(f)(8)(D), as stricken by the 2017 Tax Cuts Act). A donor who makes a contribution of \$250 or more in the 2017 tax year and later is not allowed a charitable deduction unless the donor substantiates the donation with a contemporaneous written acknowledgment by the donee (Code Sec. 170(f)(8); Reg. §1.170A-13(f)).

**Effective date.** In general, the amendments apply to contributions made in tax years beginning after December 31, 2017 (Act Secs. 11023(b) and 13704(b) of the Tax Cuts and Jobs Act). The repeal of the exception to the contemporaneous written acknowledgment requirements applies to contributions made in tax years beginning after December 31, 2016 (Act Sec. 13705(b) of the 2017 Tax Cuts Act).

**Expiration date.** The increase to the income-based percentage limit from 50 percent to 60 percent for charitable contributions of cash by an individual taxpayer to public charities and certain other organizations does not apply to contributions for any tax year beginning after December 31, 2025 (Code Sec. 170(b)(1)(G)(i), as added by the Tax Cuts and Jobs Act).