

CHARITABLE GIVING
UNDER THE
NEW TAX LAW



Nick Djuric
Principal and
Fiduciary Counsel

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Thanks to your support...

... in 2024, PBPA accomplished:

320+ NONPROFITS SERVED

1015 VOLUNTEERS

1,206 MATTERS PLACED

40+ LEGAL WORKSHOPS WITH

1,500+ ATTENDEES

\$8 MILLION IN FREE LEGAL SERVICES



Nikola Djuric, Principal and Fiduciary Counsel



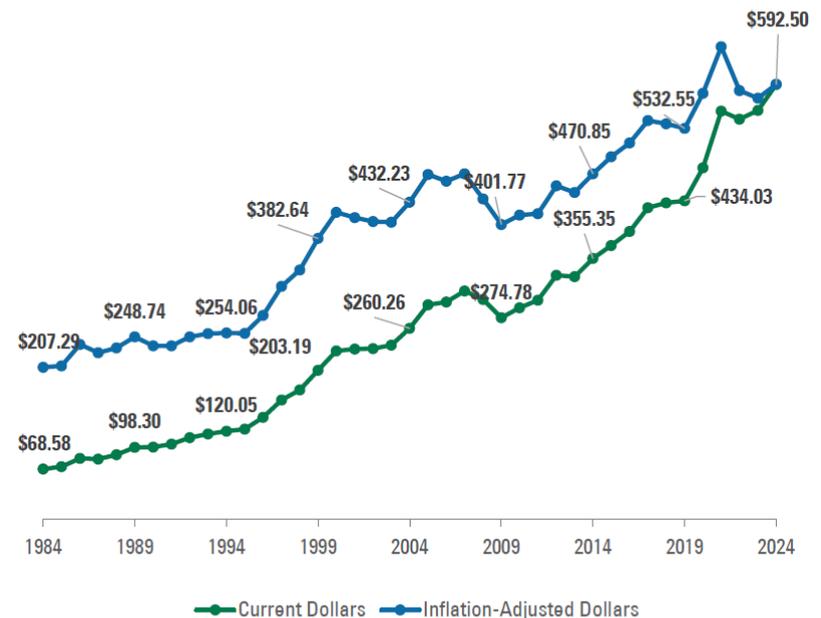
- Mr. Djuric is Principal and Fiduciary Counsel at Bessemer Trust. In this role, he is responsible for working with clients and their advisors to develop practical and efficient wealth transfer plans, and for guiding the firm on fiduciary issues.
- Prior to joining Bessemer in 2025, Nick was a shareholder and Chairman of Djuric Spratt P.A. Before that, he was an associate and partner at Eversheds Sutherland (US) LLP. Previously, he was a law clerk for Chief Judge Gerald Bard Tjoflat of the U.S. Court of Appeals for the Eleventh Circuit.
- He is a Fellow of the American College of Trust and Estate Counsel (ACTEC), where he serves as a member of the State Laws Committee and previously served as Georgia State Chair. He has served as Chair of the State Bar of Georgia Fiduciary Law Section, Chair of the Estate Planning & Probate Section of the Atlanta Bar Association, and President of the Atlanta Estate Planning Council.
- Nick earned a J.D., *cum laude*, from Harvard University and an A.B., *magna cum laude*, in public policy studies and history from Duke University.

Philanthropic Landscape

- Charitable giving remains strong but recently declined, which was the first significant drop in years. Economic factors and tax law changes have affected generosity.
- Most donors (especially affluent households) give due to personal values and causes, not just for tax breaks. Tax incentives matter, but they aren't the sole driver for philanthropy.
- Since the 2017 tax changes, only around 10% of taxpayers itemize deductions. The majority take the standard deduction, meaning many donors currently get no tax benefit for giving.

Recent Trend: Charitable Giving Experiencing Modest Rebound

1984-2024 Total Giving (in Billions of Dollars)



Source: Giving USA 2025 Report

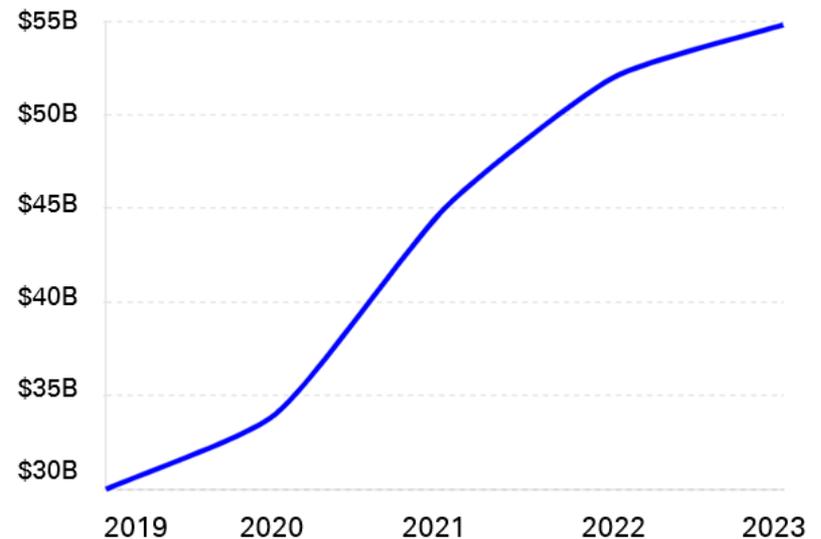
Audience Question

How do you typically make charitable contributions?

- Direct donations to nonprofits
- Donor-advised fund (DAF)
- Private/family foundation
- Other

Continued Rise of Donor Advised Funds

- Donor Advised Funds (DAFs) are the fastest-growing charitable vehicle. Thousands of new DAF accounts open each year, holding billions in charitable assets for future grants.
- A DAF is a “charitable investment account.” Donors contribute to the fund (and get an immediate tax deduction), then recommend grants to charities over time at their convenience.
- DAFs offer flexibility and privacy. The DAF provider handles all grant paperwork and compliance
- DAFs are widely available through community foundations and financial institutions.



Total DAF Grants by Year
(USD)

OBBBA Changes— 0.5% AGI Floor for Contributions

- Starting in 2026, if you itemize, the first 0.5% of your income given to charity is not deductible. Only contributions above that 0.5% of adjusted gross income (AGI) will count for a deduction.
- **Example:** With an AGI of \$1,000,000, the first \$5,000 of donations is not deductible; only giving beyond \$5,000 is deductible. Smaller gifts may not surpass this floor, effectively nullifying their tax benefit for itemizers.

OBBBA Changes— Reduction for Top-Bracket Donors

- Top-bracket donors (37% tax bracket) will see a reduction in deduction value. Charitable deductions are capped at a 35% benefit, even if you're in the 37% bracket.
- **Example:** Currently, a \$1,000 gift saves \$370 in taxes for a donor in the 37% bracket. In 2026, that same gift will save only \$350. This 2/37th reduction (roughly 5%) means slightly less tax benefit for high-income donors.
- Both this and the 0.5% AGI floor shrink the tax benefits of charitable giving for wealthier donors. High-income philanthropists will still give, but each dollar donated yields a smaller deduction than before.

OBBBA Changes—Above-the-Line Deduction for Non-Itemizers

- Beginning in 2026, taxpayers who don't itemize can claim a small above-the-line charitable deduction. This lets everyone get a tax benefit for charitable giving.
- Up to \$1,000 for single filers (or \$2,000 for married couples) can be deducted directly from gross income for cash gifts to charity. This reduces taxable income even if the filer takes the standard deduction.
- This deduction is only for cash donations to public charities. Gifts to DAFs, private foundations, or supporting organizations do not qualify. The \$1,000/\$2,000 cap is not adjusted for inflation.
- With the standard deduction rising to \$16,100 (\$32,200 for married filing jointly), over 85% of taxpayers won't itemize. The above-the-line deduction gives non-itemizers a modest incentive to give by rewarding moderate givers who would otherwise get no deduction.

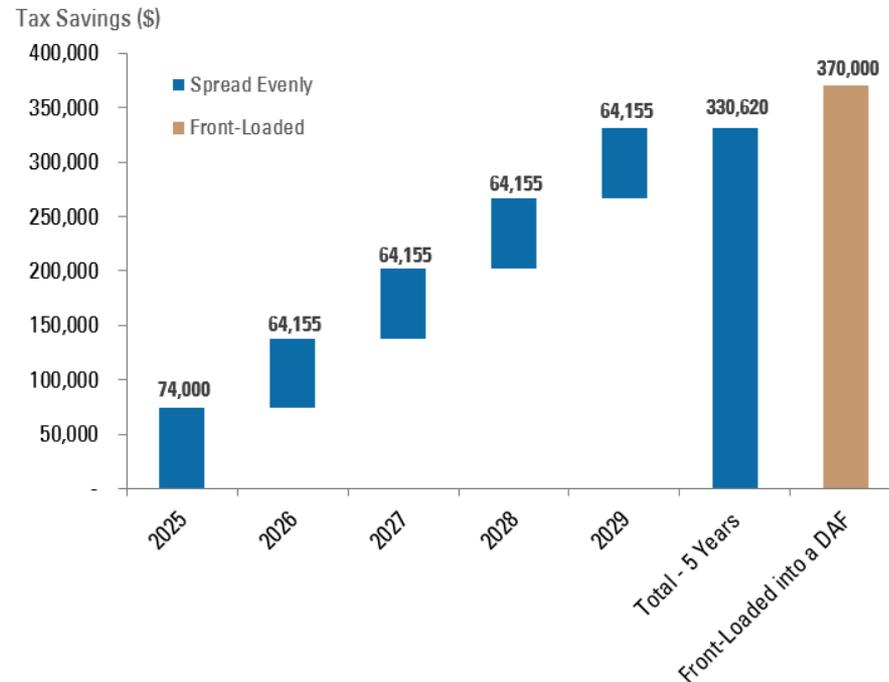
Front-Loading Gifts Before 2026

- This is last year without the new floors and caps on charitable deductions, so donors may want to accelerate planned giving into 2025 to take advantage of the current rules.
- Donors who are not ready to make large gifts to charities immediately can contribute to a DAF in 2025, which locks in the deduction under the current tax law, but allows making grants to charities in future years.

Case Study:

A family with an annual AGI of \$3.34 million plans to give \$1 million to charity.

- If the entire \$1 million is donated in 2025, the tax savings is **\$370,000**.
- If the \$1 million contribution is spread evenly over five years, the total tax savings is only **\$330,620**, due to future limitations on charitable contributions and overall itemized deductions.



Bunching Charitable Contributions

- “Bunching” means combining multiple years’ worth of donations into one year to exceed the standard deduction threshold. You itemize in the year of a big gift, then take the standard deduction in future years.
- **Example:** Instead of giving, say, \$5,000 each year for four years (which might be under the standard deduction each year), a donor could give \$20,000 in one year and nothing in the next three. Ther \$20,000 gift lets the donor itemize in year one and use the standard deduction in following years.
- Bunching increases the overall tax savings. A donor receives a tax benefit from the large contribution in the bunch year—instead of no tax benefit from four years of smaller contributions—while still donating the same total amount.
- To make the most of the strategy, it’s best to bunch in a high-income year or a year with fewer other deductions. (For example, a donor could coordinate a large charitable contribution with the conversion of a traditional IRA into a Roth IRA.)

Using Donor Advised Funds with Bunching

- As it is with front-loading in 2025, a DAF is the perfect companion to the bunching strategy. It allows a donor to make a large charitable contribution in the bunch year while spreading out the grants to charities over future years.
- By using a DAF, the donor ensures that charities to which the donor gives annually (or to which the donor made a multi-year pledge) still receive support on whatever schedule is appropriate.
- Note that the 60% of AGI limit for cash gifts to public charities (including DAFs) was previously set to drop to 50%, but remains at 60% under OBBBA. This will help some donors make a very large gift in one year.

Giving Appreciated Assets

- As always, contributing appreciated property (for example, stocks, mutual funds, or real estate that have increased in value) is one of the most tax-efficient ways to give.
- If a donor sells an asset that has gone up in value, the donor would owe capital gains tax on the appreciation. If a donor gives the asset directly to a charity, the donor can deduct the full fair market value of the asset, and the charity can sell the asset without tax. This means a bigger deduction than if the donor had given the charity only the after-tax proceeds of the sale.
- **Example:** A donor bought stock for \$1,000 years ago, and now it's worth \$5,000. If the donor sells, he or she might pay tax on the \$4,000 gain. If the donor gives the stock directly to a charity, the donor deducts the full \$5,000 value. The charity pays no tax on the gain and gets the full \$5,000. No one pays any tax.

Giving Business Interests— Assignment of Income Risk

- Many donors consider gifting shares of a privately held business to charity (including a DAF) before selling the business. As with giving any appreciated asset, this can save on taxes. But timing is important.
- If a sale of a business is already in motion (for example, a buyer has been lined up or there is a signed letter of intent) and the seller donates shares to charity, the IRS may argue that this is an “assignment of income.” Essentially, the seller is treated as having sold the stock and then given the cash to the charity rather than having made a gift to charity before the sale.
- In some recent cases (e.g., *Hoensheid*, *Keefer*), donors who gave business interests to a charity before a sale were hit with tax because the courts decided the sale was essentially a done deal. A charitable deduction was allowed, but it didn’t save the donor from the tax on the gain.
- Plan as far ahead as possible when donating an interest in a business to charity. Ideally, the gift should be completed well before any sale agreement is in place. Always consult tax advisors to structure these gifts correctly.

Qualified Charitable Distributions from IRAs

- A qualified charitable distribution (QCD) is a direct transfer from an IRA to a charity. Donors age 70½ or older may donate up to \$108,000 in 2025 (indexed for inflation, so \$115,000 in 2026) from a traditional IRA tax-free.
- Unlike a regular withdrawal from an IRA, a QCD is excluded from taxable income, so even a non-itemizer receives a tax benefit. QCDs do not increase a donor's adjusted gross income, which can help prevent things like higher Medicare premiums or more tax on Social Security benefits. Obviously, a donor cannot also take a charitable deduction for a QCD.
- QCDs count toward a donor's required minimum distributions from retirement plans for the year.
- QCDs can only go to public charities—no DAFs or private foundations.
- For donors with substantial IRA balances who no longer itemize, QCDs allow very tax-efficient giving after age 70½.

Strict Substantiation Rules for Donations

- This is not new, but rather a reminder: The IRS requires proper documentation for charitable contributions, and enforcement seems to have tightened. To claim a deduction, donors must follow the substantiation rules.
- For any single donation of \$250 or more, the donor must obtain a written acknowledgment from the charity before the deadline for filing the income tax return claiming the deduction. The letter/receipt should include the amount (or a description of the assets) given by the donor and a statement of the value of any goods or services the donor received in return (it should confirm “no goods or services were provided” if it was a pure gift).
- In recent tax cases, donors have been denied large charitable deductions because donors lacked a proper acknowledgment letter, or because the letter was missing certain information.
- Always save donation letters/receipts. For significant gifts (especially non-cash assets over \$5,000), donors must also obtain any required appraisals and complete IRS Form 8283.

Audience Question

Which donor types have been impacted by OBBBA?

- Just individual donors
- Both individual and corporate donors
- I'm not sure, that's why I'm here.

OBBBA Changes— Corporate Giving Floor

- Beginning in 2026, a corporation will only be able to deduct charitable contributions that exceed 1% of its taxable income.
- Corporations are also still subject to a 10% of taxable income ceiling on charitable deductions (although amounts above that can be carried forward to future years).
- **Example:** A corporation has \$10 million in taxable income. The first \$100,000 of its charitable donations will produce no income tax deduction. Only giving beyond \$100,000 will be deductible (subject to the 10% of taxable income ceiling).
- Smaller corporations may need to adjust their philanthropy programs to ensure tax-effective giving.

OBBBA Changes— K–12 Scholarship Tax Credit

- Beginning in 2027, donors will be eligible for a federal tax credit for donations to K–12 scholarship organizations. This is designed to encourage support for school scholarship funds.
- The maximum credit will be \$1,700 per year for individuals. Unlike a deduction, which reduces taxable income, a credit is a dollar-for-dollar reduction of tax. So a \$1,700 credit is equivalent to a much larger charitable deduction.
- There is no charitable deduction for the donation, but the credit can be taken in addition to the \$1,000/\$2,000 above-the-line deduction for non-itemizers.
- The credit is nonrefundable—it can reduce tax owed to zero but won't produce a refund if there is no tax liability.
- To qualify, contributions must be made to approved scholarship-granting organizations. Many details about this program are yet to come, including how it will interact with existing state scholarship tax credit programs.

Thanks for your support!

Pro Bono Partnership of Atlanta

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