



# COMMUNITY FOUNDATION BOULDER COUNTY

INSPIRING IDEAS. IGNITING ACTION.®

I hope this newsletter finds you safe and well.

While 2020 has presented incredible challenges, I am finding delight in some positives:

- Drive-in theatres made a comeback
- Boulderites rushed to adopt and foster pets
- Healthcare and essential workers gained a new level of appreciation
- Homeschooling confirmed that teachers are heroes
- We are reminded that our community is extraordinarily generous



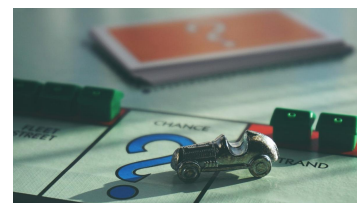
I'm also eager to share some philanthropic insight with you today about taking chances and the possibility that **2020 is the year to maximize giving**, charitable legacies and **what's on tap for bequests**, and **a piece of advice** about seeking clarity in your clients' commitment to the community.

If our team can be of assistance to you and your clients this year-end or anytime, please reach out to me or one of my colleagues. All contact information is provided at the end of this newsletter.

Warmest regards,  
Lynda

## Taking chances: Will hindsight point to 2020 as the year to maximize giving?

The November 3 election left wealth managers, tax professionals, and estate planners with a dilemma: Should advisors counsel their clients to implement planning techniques in anticipation of sweeping changes to the tax laws, or instead assume the status quo will continue and stay the course with clients' current plans?



Here's what's going on and how the proposed changes might affect charitable giving strategies.

Under Joe Biden's **proposed tax plan**, taxpayers making more than \$400,000 per year would be taxed at a top income tax rate of 39.6%, an increase from 37% under current law. That would mean charitable giving would become more tax-efficient under the new law for some taxpayers.

However, a separate provision in Biden's proposed plan would impose a 28% limit on charitable deductions for taxpayers who make more than \$400,000 per year. This would mean that instead of avoiding income tax on charitable gifts at the rate of 39.6% as described above, these taxpayers would escape income tax only at a rate of 28%. (A similar provision was proposed but never enacted during the Obama Administration.)

Biden's tax proposal also calls for increasing--from a maximum rate of 20% to 39.6%--the capital gains and dividend tax rates for taxpayers whose annual earnings exceed \$1 million. For affected taxpayers, this change would create opportunities to avoid significantly more tax than is possible under current law for gifts of appreciated assets.

An increase like this would create a huge incentive for philanthropists to support charitable organizations.

Next, Biden's proposal calls for a 3% reduction of itemized deductions for taxpayers making more than \$400,000 per year. This is reminiscent of the so-called "Pease Amendment" that was repealed in 2018. Although the reinstatement of this rule could have some negative effects on charitable giving, the rule's impact would be blunted for taxpayers for whom the reduction is absorbed by other types of itemized deductions (mortgage interest payments, for instance).

## Charitable legacies: What's on tap for bequests?



Perhaps the component of Biden's proposal with the biggest potential impact on ultra-wealthy philanthropists is Biden's intention to **raise estate taxes and change the way capital assets are taxed after death.**

Currently, the gift and estate tax exemption per person is \$11.58 million and \$23.16 million for a married couple. These amounts are effectively double what they were before the Tax Cuts and Jobs Act of 2017 (TCJA). The TCJA calls for an automatic sunset of these increases on December 31, 2025, at which point the exemption will drop back down to \$5 million per person, as adjusted for inflation. Under Biden's proposed tax plan, though, the estate and gift tax exemption and rates would be restored to the lower levels of more than a decade ago.

In addition, Biden's proposal calls for substantial elimination of the step up in basis from the taxpayer's cost to fair market value at the time of death, further complicating existing estate plans for many families.

Some philanthropists are maximizing gifts to family members in 2020 to take advantage of their remaining exemptions and deferring charitable gifts to 2021 and beyond, under the assumption that tax laws will change dramatically. Others simply are not comfortable with making such large gifts immediately--and thereby significantly reducing their own net worth--when it might end up not mattering.

## Advice to advisors: Seek clarity about clients' commitment to community



The odds of Biden's proposed tax plan becoming law depend on factors that won't be known until Georgia's run-off elections on January 5, which will decide whether the Democrats or the Republicans will control the United States Senate.

This uncertainty prevents advisors from having confidence in advising clients on whether to implement planning strategies that would take advantage of the potential window of opportunity at the end of 2020 before new laws take effect. Should clients act now, betting that significant changes to the tax law are in store for 2021, or, betting on status quo in 2021, hold off on taking action now but potentially trigger significant tax hits if tax laws do wind up changing?

Despite the uncertainty about exactly what might happen with the tax laws in 2021 and beyond, there are still opportunities for you to advise your charitable clients with conviction that they are doing the right thing for themselves and for the causes they care about.

To that end, keep in mind that the CARES Act includes charitable giving incentives for 2020:

- Even for taxpayers who take the standard deduction, **a reduction in adjusted gross income** is available for charitable contributions up to \$300 per taxpayer. Donations to donor-advised funds don't count; nonetheless, this deduction is a great way for clients to help their favorite organizations in this challenging year.
- Individuals who itemize deductions can elect to deduct donations up to 100% of their 2020 adjusted gross income instead of being capped at 60%. For

corporations, the CARES Act increased the cap from 10% to 25% of taxable income. (Again, contributions to donor-advised funds and private foundations are not eligible.)

As always, remember that Community Foundation Boulder County can help you develop your clients' future plans. A donor-advised fund is a powerful estate planning tool. A client can execute wills and trusts that leave a specific bequest or remainder interest to a donor-advised fund at your community foundation. This bequest triggers all the tax benefits of a direct bequest to a charity because the community foundation, and therefore the donor-advised fund, qualifies as a 501(c)(3) organization.

Here are three key takeaways:

- Your client may already have established a donor-advised fund that the client is using to make annual gifts to charity. This donor-advised fund can be the recipient of a charitable bequest.
- Even if your client is not actively using a donor-advised fund currently, the client can still set up what is known as a "shell fund" now to receive a bequest later. A shell fund is governed by a donor-advised fund document, but the fund itself does not contain any assets until the client passes away and the bequest is activated.
- A client can adjust the terms of the donor-advised fund anytime before the client's death. This gives your client maximum flexibility to adjust charitable beneficiaries without the need to amend a will or trust.

Please contact our team for assistance with the proper language for designating a donor-advised fund at the Foundation as a bequest recipient. Our team also will work with you on the terms of the donor-advised fund itself. For example:

- Your client can use the donor-advised fund as a way to keep the next generation--or generations--involved with the family's philanthropy to carry on the family's legacy of community support. Surviving family members can serve as advisors to the fund and make decisions about which causes and organizations to support.
- It's also possible to create several donor-advised funds--one for each grandchild, for example--so that each beneficiary has their own charitable giving account.

## Meet *Your* Community Foundation Team

We're pleased to work with professional advisors around Boulder County to ensure your clients receive stellar service and a personalized approach to actualizing their philanthropic goals and related tax savings. With our practice of working in partnership, knowledge of local issues and the philanthropic landscape, and commitment to impact, we're your best resource for donor-advised funds and planned giving. Please contact us to learn how we can assist you and your clients now and into next year.

Members of our Philanthropic Services Team:

- [Lynda Ricketson, Vice President of Philanthropic Services](#)
- [Peggy Driscoll, Philanthropic Services Officer](#)
- [Brooke Kahl, Philanthropic Services Associate](#)
- [Caroline Landry, Philanthropic Services Officer](#)
- [Matt Zwiebel, Director, Pledge 1% Colorado](#)

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## Statement of Affirmation

Community Foundation Boulder County is committed to being a *community catalyst* for good, alongside donors and partners like you. We believe our community is stronger when all people - women and men, children, older adults, immigrants, people of color, GLBTQ individuals, those with varying abilities and from all faiths - are respected, welcomed, and invited to share their assets and contributions in community building.

We stand with others, in Boulder County and beyond, who courageously strive to build more inclusive communities rather than walls of division. We remain wholeheartedly committed to social justice for our most marginalized and vulnerable people and for the care of threatened environments. We believe in the power of art and music to improve our lives and community. Now, more than ever, we seek opportunities for local action and invite you to join us in our **ongoing leadership work** that includes grantmaking, outreach, and advocacy. We accomplish more together than we do alone.

***Donating to your Community Foundation makes a local impact. Get inspired. Donate here.***