

Tax law twists and turns: Five developments impacting charitable giving



2023 was a busy year! We understand that charitable giving topics may not always be at the top of your reading list. That's why we're here! The team at the Community Foundation is committed to keeping you up-to-date on what you need to know. Here's a recap of five key developments last year that are most certainly worth keeping an eye on in 2024.

1. NIL Collectives

The IRS has had a lot to say lately about NIL collectives. In addition to offering [insights](#) for athlete recipients of NIL (name, image, and likeness) dollars, the IRS has also issued [guidance](#) pertaining to organizations that help develop NIL opportunities for athletes, suggesting that the activities of these entities, known as "collectives," may not qualify as "charitable." This development could be [problematic](#) for your clients who believe that their contributions to NIL collectives will qualify for a charitable tax deduction.

2. Donations of Cryptocurrency

It's still a thing! At least a few of your clients are likely [still invested](#) in cryptocurrency, despite the whirlwind in that industry over the last year or so. You should know that in early 2023, the IRS published [guidance](#) confirming that a taxpayer cannot take a charitable deduction for a gift of cryptocurrency over \$5,000 without submitting a qualified appraisal. Cryptocurrency, in the eyes of the IRS, is treated as property, not cash. And it is not a security, either. Note that the

IRS also said that a price quotation from a cryptocurrency exchange (such as FTX!!) doesn't count; a qualified appraisal is still required.

3. Charitable Act

[Senate Bill 566](#), which is still pending, was introduced in early 2023 to address what is sometimes called the “universal charitable deduction,” meaning that even taxpayers who do not itemize their deductions would be able to claim a charitable deduction, potentially in an amount up to one-third of the taxpayer's standard deduction. Keep an eye on this; the bill enjoys [broad support](#) and, if it becomes law, could be a real perk for both your clients and the charities they care about.

4. Exempt Purpose

It seems that at least once a year, the IRS issues guidance on what it means for an organization to be organized for an [exempt purpose](#) under [Section 501\(c\)\(3\)](#). In [Private Letter Ruling 202349014](#), we are once again reminded that personal activities that have no direct public benefit simply will not be viewed by the IRS as exempt. While private letter rulings are of course not binding, they are nevertheless useful tools to provide to a client to show specific examples of what the IRS considers to be non-exempt. Estate planning attorneys and CPAs tell us that every few months, a client comes to them with an idea for starting a nonprofit, and it's easier to tell a cautionary tale than it is to recite Internal Revenue Code sections!

5. Proposed Regulations

Proposed regulations issued by the IRS are not binding, and often they are revised—or even shelved or canceled entirely—before they go into effect. Still, the team at the Community Foundation is always keeping an eye out for these and other forms of IRS rulemaking that could potentially affect your work with your charitable clients. A recent example of this type of IRS activity is a set of [proposed regulations](#) concerning donor-advised funds, issued in November 2023. The public comment period ends in mid-January 2024, and then the IRS will take time to review the comments, so we won't know anything definitive for quite some time. For those who are interested, we like the detail provided in this [podcast series](#) on the topic. You can take a long winter walk and learn everything you want to know about what's being proposed! And of course, you'll hear from us when (and if) the proposed regulations ever go into effect and what to do about it.