Charitable Giving

BY GREGORY KEEFE, ESQ.

Giving to others certainly helps those in need, but it also can provide personal advantages for a giver, his family and heirs, such as income streams and tax benefits. Charitable giving, where a person or organization donates funds or other assets to a charity, nonprofit or private foundation, offers several ways to help those in need while benefiting givers.

Perhaps that's why giving is on the rise. Figures from the *Giving USA 2016: The Annual Report on Philanthropy for the Year 2015*, (https://givingusa.org/giving-usa-2016/), showed that a record-breaking $373.25 billion was donated by individuals, estates, foundations and corporations in 2015, surpassing 2014's overall figure by 4.1 percent. Included among the increases in contributions were donations made to religious groups, educational institutions, public-society benefit organizations, human services, health initiatives, arts/culture/humanities groups, international affairs and environment/animal causes. In all, the report found, two-thirds of the year's charitable giving was made by individuals, with the group upping their donations by 3.8 percent, while donations from grants through independent, community and operating foundations, rose 6.5 percent, the highest of any other category.

Depending on how the charitable giving is done, including whether it happens during a giver's lifetime, as an established trust or foundation, or as part of a retirement plan, insurance policy or estate planning, philanthropic contributions can allow for income tax deductions, the avoidance of capital gains tax, and reductions on taxes owed on one's estate upon death.

Direct donation

One type of charitable giving is an outright donation to a sole charity, in which the gift is available for immediate use by that organization. Giving through a direct donation allows contributors to receive income and gift tax deductions, as long as the money goes to an IRS-qualified charity and written records of the monetary or property transaction are maintained.

Charitable trusts

Another option is to give through a charitable trust, charitable lead trust or charitable remainder trust. All three deliver ways to manage your capital gain taxes and your gift and estate taxes on highly appreciated assets while providing for charitable giving.

With a charitable trust, givers can forward benefits to a single charity or split them among a named nonprofit and a non-charitable recipient. Partial gifts often are done in one of two ways. The first is a charitable lead trust, where, for a specified number of years a selected charity receives income from the trust. Once the predetermined time-period is up, the principal of the trust is reverted to the giver, his family or other heirs. In this way, an asset can be held in a family (with heirs eventually receiving the trust's assets, tax-free), while realizing discounted gift taxes, even as the trust helps support a charity.

The second type of charitable trust that allows for partial gifts is a charitable remainder trust, which works in reverse of a charitable lead trust. Here, benefits from the trust first go to its founder, family members or heir for a predetermined period, after which the benefits are paid to a named charity. Aside from contributing to a charity, as with a charitable lead trust, this option can supplement a household's income for some time, and, as a tax-exempt entity, avoids the incursion of capital gains, gift or estate taxes on transferred assets. A charitable donation is recognized by the donor at the time the trust is established and can be used to reduce their income taxes for up to five years.

Private family foundation

A different type of charitable giving can be done through a private family foundation. In this way, a giver transfers assets to a foundation that he establishes through his family to provide grants to a selected charity or charities. As a private family foundation, it is upheld through subsequent generations that determine which charities are its beneficiaries, as long as adequate funds are maintained. Charitable giving through a private family foundation allows families to support chosen nonprofits while securing the benefit of a charitable -donation, which can be used to reduce their taxable income for up to five years.

Likewise, giving by contributing to a community foundation benefits select charities, although, unlike a private family foundation, a community foundation encompasses funds from various individual sources to advance a community's charitable needs, as led by an expert body. This gives people a less involved way to support their community's most demanding needs, as it provides the benefit of a charitable donation, which can be used to reduce their taxable income for up to five years.

Donor-advised fund

Another option for charitable giving is a donor-advised fund, where donated contributions are tied to a specific account within a nonprofit. With this alternative, assets are transferred into a charity's account through the donor-advised fund and become the nonprofit's property for use at the discretion of the organization's directors, although givers can advise the nonprofit on how to use the funds. A donor-advised fund provides the means for givers to support a chosen charity with assets as well as their counsel. It also allows for the benefit of a charitable donation for up to five years at the time of funding.

More information on charitable giving can be found online at www.usa.gov/donate-to-charity. Among the site's offerings are tips on researching an organization's background, scam avoidance, Federal tax deductions, record keeping (which may be required for tax purposes) and types of donations, such as monetary, goods and personal property, vehicles, art, real estate, stocks and other items.

Whether a giver's interest is in a direct donation, charitable trust, private foundation or donor-advised fund, with the varied options available for charitable giving, donors can comfortably contribute to those in need while ensuring the security of their portfolio and long-term goals of their estate.

Source: www.irs.gov/uac/newsroom/irs-offers-tips-for-year-end-giving-2013

Reminders for charitable giving

- Contributions are deductible in the year made.
- Donations to eligible organizations, only, are tax-deductible, including most churches, synagogues, temples, mosques and government agencies. Visit www.irs.gov/charities-non-profits/exempt-organizations-select-check for a searchable, online database that lists most other organizations eligible to receive deductible contributions.
- For individuals, only taxpayers who itemize their deductions on Form 1040 Schedule A can claim deductions for charitable contributions, with the tax savings dependent on whether the total of the itemized deductions exceeds the standard deduction.
- For all donations of property, including clothing and household items, givers should request a receipt from the receiving charity that includes the name of the charity, date of the contribution, and a reasonably-detailed description of the donated property. For donations left at an unattended drop site, givers should keep a written record of the donation that includes the above information, plus the fair market value of the property when it was donated and how that value was determined. Additional rules apply for a contribution of $250 or more.
- The deduction for a car, boat or airplane donated to charity is usually limited to the gross proceeds from its sale, if the claimed value is more than $500.
- Taxpayer deductions for all non-cash contributions made for more than $500, require a properly-completed Form 8283 to be submitted with their tax return.

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