IDEAS IN CHARITABLE ESTATE PLANNING

by

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Charitable giving offers one of the rare win-win arrangements. As a donor, you win because you have helped further the mission of the charity and lowered your income and estate taxes. The charity wins by receiving your gift.

One of the more popular estate planning techniques is the Charitable Remainder Trust. It's one of the best things in the Federal Tax Code and something you should consider including in your estate plan. One of the major incentives for making a charitable gift is the tax deductibility of the gift. If you are contemplating a sizeable gift to a charitable organization, it can be very beneficial to use a Charitable Remainder Trust.

The Charitable Remainder Trust has a major advantage over making an out-right gift during your life time or by your Will. The advantage is the current income tax deduction you can take for what is in effect, a future gift.

Charitable Remainder Trusts (CRTs) are gift arrangements that enable you to contribute to the charity of your choice while providing income for yourself and/or another person. These trusts offer the following important benefits:

- You are entitled to a current income tax charitable deduction
- The income from the CRT, together with your tax savings, usually produces an increase in spendable income for yourself
- By funding a CRT with gifts of appreciated property, capital gains taxes are deferred and, in many instances, avoided entirely
- Donated assets are not subject to gift and estate taxes

A Charitable Remainder Trust is a legal arrangement where by you establish a trust and make an irrevocable contribution of cash, securities, or real estate to the trust. The trustee, reinvests the assets and manages the trust. The trust pays the named income beneficiaries a distribution for life or for a set term of years (the set term can not exceed 20 years). On the death of the last beneficiary, the Trust Principal is distributed to the charity of your choice for the purpose specified in the trust agreement.

When you establish a CRT, you are entitled to an income tax charitable deduction for a portion of the gift value. The size of your deduction equals the value of the "remainder interest" which is calculated using an IRS prescribed formula that takes into account the age and number of income beneficiaries, the payout terms of the trust, and the type of CRT. As a general rule, the older the beneficiary, the lower the rate of the payout, the larger the charitable income tax deduction will be.

There are two forms of Charitable Remainder Trusts: The Unitrust (where the income is variable) and the Annuity Trust (where the income is fixed).

The Unitrust pays to the income beneficiaries an agreed upon percentage of the market value of the trust assets as revalued annually. The payout rate is determined by you, the charity and the trustee. By law, a CRT must have a minimum payout rate of 5%. With the Unitrust, the payout percentage does not change, but the income from the trust will vary to the extent that the trust is principal value fluctuates. An advantage of this arrangement is that income from the Unitrust can increase over time as the trust principal grows in value. However, your distributions from the trust may decline should the market value of the trust drop.

The assets most frequently donated to Unitrust are appreciated securities with yields below 5%. (The median yield of all dividend paying stocks on the New York Stock Exchange is generally between 1.5% and 3%). The trustee can sell these securities and reinvest the proceeds in a balanced portfolio, providing a higher income than the donor could have obtained by selling the securities and reinvesting the proceeds themselves. Plus, the donor avoids some or all of the capital gains taxes and receives a sizable charitable income tax deduction.

In contrast to the Unitrust, an Annuity Trust features a fixed payout, which is a percentage (again, not less than 5%) of the initial fair market value of the assets placed in the trust. Once the payout rate on the Annuity Trust is set, it remains constant for the duration of the trust. An Annuity Trust makes sense if you are seeking the security of a constant return rather that the long term growth potential of a Unitrust.

Determining the best way to make a significant charitable gift and to make the best use of the resulting tax deduction requires you to use your individual judgment and to take into account your total financial situation and philanthropic goals. You should consult with your legal and financial advisors before make any sizable charitable gift.

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