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wealth & wisdom
from generation
to generation*



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DONATING REAL PROPERTY TO CHARITY

Feel Good and Save a Ton of Taxes

Donation of real estate can be very rewarding and provide many benefits to the giver and the ultimate recipients of your charity. If you wish to make a wonderful contribution to a charity of a piece of real property, there are a few pointers that you may wish to know before you get too far down the path.

This article will highlight some of the issues and provide some pointers for you to discuss with your tax and other financial advisors.

Outright Gift to Charity: Nothing is more appreciated by the charity as a gift of cash or another type of asset so that they have immediate possession and enjoyment. This is obviously the easiest to understand and account for. This will provide you, the taxpayer with the greatest tax write-off. If the contribution is to a public charity (as opposed to a private foundation), then the tax deduction will be based on the full Fair Market Value (FMV) and you will be able to deduct up to 50% of your Adjusted Gross Income (AGI) in the first year and carry-over the unused deduction into the subsequent years (see your tax advisor for the details). If you do not need the cash flow from the real property or the proceeds from the otherwise sale of the real property, then this is the way to go.

Planned Gift to Charity (future gift of real property to charity): A planned gift refers to providing a gift in your Will or a Trust for the benefit of you and the charity, or charities, in the future. This type of gift is often referred to as a split-interest gift. The most common technique is the Charitable Remainder Trust (CRT). The remainder interest passes to the charity upon your death, the death of your spouse, the death of an heir or after a term of years; You get to choose the measuring life. The gift tax deduction is based on when the charity will predictably receive this remainder interest in the real property (i.e., how many years they will have to wait). The sooner they are planning on receiving the property, the larger the gift. There are many variations of planned gifts and it is rewarding and valuable to spend appropriate time and energy reviewing the alternative strategies and tax benefits of each.

Part Gift - Part Sale to Charity: If you need a portion of the funds from the real property, then you can combine a gift of part of the real property with a sale of the other part. In this

case, your tax deduction would be based on the portion of the property gifted to charity. A bargain sale works in a similar fashion; The reduction in sales price to the charity is equal to a gift. Note: Mortgaged property is treated essentially as part gift/part sale. Beware, gifts of mortgaged property to a private foundation will run up against the prohibited transaction rules.

Gift of Remainder Interest in Real Property (you retain the lifetime or term of years use of the property): Like a gift to a CRT, you only get a deduction for the part that passes to the charity on day one that is the remainder portion. The full fair market value is broken up between the value of the life estate retained and the gifted remainder interest. The life estate is based on your age and determined by using the IRS tables.

There is a balance between what you wish to give, what you can afford to give and what is the best tax way to give. It is important to weigh the tax consequences and compare your alternatives. Fortunately, we can benefit from sophisticated tax and financial software designed to illustrate visually and numerically the benefits of each one of these and many other advanced charitable techniques.

As a Charitable Advisor in Philanthropy, the fun is in the design work. Donating real property is just one aspect of planning your legacy. Implementing each handcrafted plan is very fulfilling for all parties involved and making a sustaining and impactful gift is a lifetime achievement.

Visit www.probate-florida.com to read more about this subject and other estate planning matters.

Ed Wollman is a Florida Bar Board certified Attorney specializing in wills, trusts, and estates with over 26 years of experience practicing in the state of Florida.

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