

JD/DC A Winning Combination

THE DC AND THE CHARITABLE GIFT

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Those of us who work for a living rarely think it beneficial to give our assets away to a charitable institution. Often we think that is for the Donald Trumps of the world.

In my ever-present quest for legitimate tax write-offs, I discovered that there are provisions in the Internal Revenue Code which could enable the DC to realize substantial tax benefits, and at the same time benefit a worthy cause.

There are ways of creating charitable tax deductions which could immediately start to pay income to individuals who are working, and after retirement the payments would continue for life.

There is a method of establishing a charitable donation which could (in the alternative) pay income at retirement to individuals who are now working and wish to supplement their retirement program.

Additionally, there are methods of charitable giving which could pay income for life, immediately to those who are presently retired, or those soon to retire.

With respect to any of the above scenarios, ordinarily the DC would transfer cash or appreciated stock to a charitable institution's "life income plan." It might even be possible to fund the program with appreciated real property, but the charitable institution ordinarily would insist that the property be free and clear. If the property is free and clear and had substantially appreciated, the charity would likely be willing to set up a program where the DC would receive income for life, starting at the present time, or some future date.

Of course, the benefit to the charitable institution is that when the life estate ceases, the assets belong to the charitable institution.

If the gift is correctly structured, the DC should be able to obtain an income tax charitable deduction, at the present time, and an estate tax charitable deduction, at a later time. The normal test is that the income tax deduction is equivalent to the present value of the charity's ultimate right to receive the gift, after taking into account the age of the beneficiaries, less the amount of income to be paid out.

A gift such as this could: increase the yield on an investment; enable the DC to transfer an asset which had substantially appreciated, without the fear of being taxed; reduce his income tax liabilities, and save estate taxes as well.

Of course, there is always the added benefit of knowing that a charitable donation has been made for a worthy purpose.

There is no reason to limit one's thinking to real estate.

Charities have been known to accept almost anything, including art, livestock, bonds, and just

about anything of value.

Let us suppose, hypothetically, that many years ago the DC purchased an exotic sports car at an extremely low price. Over the years, the asset appreciated and if it were sold now, a significant tax liability would be incurred.

It is possible to give such an asset to charity at its maximum appreciated value (but subject to an appraisal). There are complicated appraisal rules which need to be meticulously followed.

Certain other rules apply: If the charity is to immediately liquidate the asset, then it must do so at the full appraised value, or else the Internal Revenue Service can exact an extreme penalty upon the donor of the asset. If the charity retains the asset for a significant period of time, it may later sell the asset for any value without unfavorable tax consequence to the donor.

Needless to say, the appropriate tax professionals should be consulted before entering into a charitable donation. But with thought, creativity, the ownership of the asset, and the cooperation of the charitable institution, often a charitable gift can be arranged which is of significant benefit to the donor, as well as generating a tax benefit to the charitable institution.

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