Tangible Personal Property Gifts: Planning Considerations

Gifts of collectibles and other personal property (disregarding intangible assets such as stocks, bonds and real estate) can be attractive, but they need careful planning, both from a practical and a tax standpoint. The most important tax rule, as stated earlier, is that deductions cannot exceed the donor's cost basis if the charitable organization does not put gift items to a use that is related to its mission. Related use may not be important, however, where the gift item is not highly appreciated or has gone down in value.

For contributions after September 1, 2006, the donor may have to repay charitable deductions for tax benefits if tangible personal property is disposed of by charity within three years. If a charity does not certify that an item valued at more than $5,000 is a related use asset and disposes of the property in the year of the gift, the donor's deduction is limited to basis. If the property is disposed of within three years, the donor must include, as ordinary income in the year of disposition, the difference between the basis and the amount originally claimed. The deduction limitation or recapture will not apply if charity certifies in a written statement to the IRS that either (1) the property's use was substantially related to the donee's exempt purpose, describing how the property was used and furthered the exempt purpose or (2) at the time of the gift, it was intended that the property would be used in a related manner, describing how such use became impossible or infeasible to implement.

Valuation poses potential pitfalls for donors who make gifts to charity of paintings, antiques, boats, etc. – and is a constant bone of contention between taxpayers and IRS agents who are seeking to boost the tax bills of donors, both living and dead. The IRS Art Advisory Panel, a 22-member group of art museum directors, curators and art dealers, assists the IRS in valuation of artworks valued at more than $20,000. Evaluations are based largely on 8 x 10-inch photographs. When a donor and the IRS cannot agree on the value of a particular artistic work, the piece must be appraised by the panel.

The IRS has a special publication (Pub. 561) on the valuation of gifts of property, including extensive guidelines on collections, household goods, used clothing, jewelry, paintings, antiques, works of art, boats, aircraft, motor vehicles and inventory. Qualified appraisals are required where deductions claimed exceed $5,000.

Gifts of Collectibles to Charitable Remainder Unitrusts

One attractive gift technique involves the liquidation of highly appreciated items within a charitable remainder unitrust.

Example: Gerald has collected rare books for most of his life – quite successfully, in fact. He's invested $100,000 over the years, and the collection has grown in value to $600,000. Gerald is retiring soon and wants to sell his collection to augment his retirement income. His accountant tells him, however, that his $500,000 profit will be subject to a 28% tax, taking away $140,000 from his nest egg. Gerald can avoid that tax, however, by transferring the books to a charitable remainder unitrust that pays him a 5% income for life, with eventual benefit for the Church. After the trustee sells the books, Gerald will be entitled to a partial charitable deduction. More important, he can receive income from the full $600,000, not the $460,000 he would have kept had he sold the books himself.

Gerald's unitrust typically would be structured as a so-called flip unitrust, which would not make any income payments until the year after the rare books are sold by the trustee.

Special Rules for Certain Tangible Assets

Cars, boats and airplanes. Under the American Jobs Creation Act of 2004, a donor's vehicle deduction will be charity's sale price, unless the charity chooses to keep the vehicle. Exception: The deduction claimed is $500 or less. The donor's receipt must show the amount charity received for the car at auction. Note, however, that most Americans do not itemize, and may still donate cars out of pure generosity!

Inventory. Business owners often have inventory that can be contributed to charitable organizations. In general, the maximum deduction for inventory gifts is the owner's cost basis (or fair market value, if less). Deductions may be increased, however, to the donor's basis plus 50% (maximum of twice the donor's basis) for corporation gifts of medicines and medical equipment, book inventory (to schools) and food contributed to charities that assist the ill, needy or infants. Enhanced deductions also are available for manufacturers' gifts of computers and research equipment to colleges. These deduction enhancements sometimes have "sunset" provisions but are usually renewed annually by Congress.

How to Proceed

If you are interested in making a gift of tangible personal property to the Church, please e-mail, call or write our office.

We are pleased to advise you:

1. Our correct legal name, for use by your attorney in drafting deeds of gift or other transfer documents

2. The approximate income tax and capital gains tax savings available from your gift
3. Appraisal and environmental issues for gifts of tangible personal property
4. Details of the transfer and gift acceptance process

You will need to share with us:

1. The type of asset you propose to contribute and an estimate of its current value
2. Your basis in the item
3. Whether a sale of the item is currently pending
4. Whether you wish to reserve lifetime income for a family member from your gift

You can contact our office at philanthropy@csps.com, by phone at 1-800-288-7155, extension 3288, or write to us at the address below. We look forward to hearing from you.

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