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Charitable Remainder Trusts

Have you been thinking about ways to benefit your favorite charities? Although the economy is improving, you may be hesitant to make a large gift to charity, perhaps fearing that you might need all of your assets so that you can continue to enjoy the lifestyle to which you have grown accustom. What if you donated certain investments to a charity and your other assets declined in value? You would no longer have the donated investment, or the income therefrom, on which to support yourself. Naturally, if you are still working, this might not be an issue; however, in retirement, this could significantly impact your standard of living.

These concerns can be lessened if a Charitable Remainder Trust ("CRT") is used as the vehicle in which to make gifts to charity. Generally, a CRT provides for a fixed or variable annuity to be paid to you for a term of years or until death. At the end of that term, the remaining assets of the CRT, if any, are paid to your charities.

There are two basic types of CRTs, a charitable remainder annuity trust ("CRAT") and a charitable remainder unitrust ("CRUT"), although numerous variations of these two basic types are available. Under the CRAT arrangement, you (or another non-charitable beneficiary) would receive a percentage of the assets, based on the initial value of the trust assets. Under the CRUT arrangement, you (or another non-charitable beneficiary) would receive a percentage of the assets, which are valued each year. The principal difference between these two trusts is that a unitrust pays a varying annuity, depending on the value of the assets on the valuation date.

First, you would receive an immediate income tax deduction for the present value of the remainder interest that will pass to your charities at the end of the term. This deduction would be available to offset your income in the year that the gift is transferred to the CRT, or subsequent years, if you were not able to use the entire amount in that year.

Second, the trustees of the CRT would be able to sell any capital assets without the imposition of capital gains tax. Depending on your cost basis of the assets transferred, this aspect of the CRT could be very advantageous.

Third, if you retain the annuity/unitrust interest during the CRT term, there is no transfer tax upon the formation of the CRT. If the annuity/unitrust interest is paid to other beneficiaries, the amount of transfer tax would be determined based on the difference between the fair market value of the property transferred and the present value of the remainder charitable interest. This type of valuation can result in a significant wealth transfer at a reduced gift or estate tax.

To illustrate this planning option, let's assume that Jane Jones is 65 years old and owns $1,000,000 in a publicly traded stock purchased years ago for $100,000. Let's also assume that this stock does not pay a dividend. Therefore, if Jane retains this stock, she will receive no cash flow from it, unless she sells it. In that event, this would result in capital gains tax liability to Jane when a sale is made.

Alternatively, Jane could transfer this stock to a CRAT, retaining a 5% annuity ($50,000 per year) for the remainder of her lifetime. This would result in an income tax deduction of $380,000 in the year in which Jane transfers the stock in the CRAT. If she cannot use all of this deduction in the first year, she can carry it forward into the future. Plus, when the stock is sold to generate her annual annuity payments, there will be no capital gains tax!

Joshua T. Keleske, P.L. serves families in the Tampa Bay area with their estate planning, estate and trust administration, and business planning needs. If you have questions regarding how we can be of assistance to you and your family, please contact us at anytime at 813-254-0044. We are happy to answer your questions and arrange for an appointment to speak with you.

Please also visit *www.trustedcounselors.com* to learn more about Joshua T. Keleske, P.L.

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