Trusts & Estates Practice Group

Planning Your Charitable Legacy

Many donors give annually to their favorite charities, but wish to give more or in different ways than their annual gift. There are several ways to accomplish this goal of increased gift-giving without impacting other goals and values, such as giving in your estate plan or giving a remainder interest in real estate.

Charitable Legacy Planning

Often, donors wish to ensure their custom of charitable giving continues after death. This can be accomplished through charitable legacy planning in wills and trusts. Naming a charity as a beneficiary under your will or trust enables you to continue your charitable legacy while also providing for your loved ones. You can name a charity as an outright beneficiary of your will or trust or you can specify that a percentage of the residue of your estate or trust assets will go to the charity. This method entitles you to a charitable deduction equal to the value of the gift.

Gifts of Real Estate

Real estate often constitutes a substantial portion of an individual's wealth, making it attractive for charitable giving. A gift of real estate may be made outright, accomplished as simply as executing and recording a deed naming the charity as the new owner. You can also gift real estate to a charity through your will or trust. These outright gifts entitle you to a charitable tax deduction.

Suppose, however, that while you see the attractiveness of gifting your home to charity, you wish to remain living in your home. You can still fulfill your charitable goals by entering into a life estate agreement with the charity. This agreement allows you to continue living in your home for as long as you choose while transferring a remainder interest to the charity. You are responsible for the upkeep, maintenance, and taxes associated with the property, but you are entitled to a significant income tax deduction.

When making a gift of real estate, it is important to first consult with the charity regarding their ability to accept your gift.

Charitable Remainder Trust

Many donors wish to retain an income tax stream, while making a gift to their favorite charity. One type of planned giving tool that allows you to do so is the charitable remainder trust. With this charitable vehicle, you establish an irrevocable trust from which you or your loved ones receive annual payments during life or a term of years not to exceed twenty years. At the end of the term, the remaining trust assets will go to the charities you have specified. Use of a charitable remainder trust entitles you to a charitable deduction equal to the value of the charity's interest, determined using IRS tables.

There are two types of charitable remainder trusts:

charitable remainder annuity trusts and charitable remainder unitrusts. In establishing a charitable remainder annuity trust, you select a specific sum of money to be paid to you or your loved ones. This technique ensures that you (or the persons you have selected) receive consistent payments throughout the term of the trust, which can provide stability, but will not increase with the value of the trust assets. Conversely, a charitable remainder unitrust pays a fixed percentage of the fair market value of trust assets to you or your loved ones. The net value of the trust assets is revalued each year and you may contribute additional assets to the charitable remainder unitrust. This means that your distributions may increase or decrease as the trust assets do, but the charitable remainder unitrust lacks the consistency and certainty of the charitable remainder annuity trust.

Charitable Lead Trust

A charitable lead trust accomplishes the same planning goals as the charitable remainder trust, by providing for both your favorite charity and loved ones, but in the reverse order. Like a charitable remainder trust, you contribute property to an irrevocable trust from which a designated charity receives payment of income for a specified term or someone's life. At the end of the term, the remaining trust assets are distributed to your loved ones.

A charitable lead trust may be established during your lifetime or at your death. Again, there are two types of charitable lead trusts, which differ based on the annual payment made to the charity during the trust term. A charitable lead annuity trust distributes a fixed dollar amount to the specified charity, while the charitable lead unitrust pays a unitrust amount revalued annually. Depending on the trust terms, the charitable lead trust may entitle you to a charitable tax deduction, either income or estate.

Conclusion

If you have charitable goals beyond annual or onetime gifts, there are numerous ways to accomplish these objectives. Charitable legacy planning, gifts of real estate, charitable remainder trusts, and charitable lead trusts are merely a few techniques that can meet your needs while ensuring your charitable legacy.

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The Trusts & Estates Practice Group at Greensfelder, Hemker & Gale, P.C., provides sophisticated and personal lifetime, estate and tax planning, and related legal services for family and individual clients. We counsel our clients and their families regarding the preservation of their wealth, the charitable component of their planning, probate process, and trust and estate administration.

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