January 5, 2019

Charitable Giving - Gifts of Appreciated Property

Tax complications, apart from questions of proof, do not ordinarily arise when you make a cash gift to a charity. However, complications can and do arise when you make a gift of appreciated property.

Appreciated property is property that has a current fair market value that is higher than your tax basis in the property. Basis is the yardstick for measuring gain or loss and usually is the original amount you paid for the property. However, special basis rules apply for inherited property, property acquired by gift, and property for which depreciation deductions are allowable, such as property used in a trade or business.

Your charitable deduction will depend on whether the appreciated property is ordinary income property or capital gain property. Ordinary income property includes business inventory and a capital asset, for example stock held for investment, that you owned for one year or less. Capital gain property includes capital assets that you owned for more than one year as well as certain real and depreciable property used in a business.

In general, your deduction for ordinary income property is limited to your basis. For example, you bought stock five months ago for $5,000. It's now worth $8,000. An immediate contribution of the stock would give you a deduction of $5,000, not $8,000. Now suppose you bought the stock more than one year ago for $5,000 and again contribute it when it's worth $8,000. Here, you normally would be able to deduct the full $8,000. In either case, you would not be taxed on the $3,000 in appreciation. That is a far better result than if you sold the stock, paid tax on the gain, and contributed the remaining proceeds to charity.

Unfortunately, not all contributions of appreciated capital gain property give you a deduction for the full value of the property even if held for more than one year. Your deduction is limited to basis when you contribute tangible personal property that is put to an unrelated use by the charity. For example, if you contributed a painting to a hospital and the hospital used it for display, the use of the painting would be unrelated to the hospital's charitable purpose and your deduction would be limited to basis. On the other hand, a painting contributed to a museum and used for display by it would not be an unrelated use and your deduction would not be limited.

Special percentage limitations also come into play. If the property qualifies as capital gain property and it is real estate or stock, your deduction generally is limited to 30 percent of your adjusted gross income unless you make a special election.

As you can see, contributions of appreciated property to charities are a bit more complicated than run-of-the-mill cash contributions. Also, the rules for contributions to private charities are somewhat different. Nonetheless, contributions of appreciated property have the potential to provide multiple tax benefits – tax deductions and avoidance of capital gains tax (had you decided to sell the property instead of gifting it to charity). If you have any questions about a contemplated contribution of appreciated property, please do not hesitate to call us so that we might help you to maximize the tax benefits of your generosity.

Very truly,

Miller*Searles*, LLC