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Giving COUNSEL

SPRING 2009

How The Dallas Foundation can Help with Non-Cash Assets

Giving complex assets during a donor's lifetime can simplify estates, lessen tax liability in business owner exit strategies, and give donors options for charitable giving beyond what they could comfortably manage with cash.

Many people hold their most significant wealth in non-cash assets such as real estate, IRAs, closely held stock, antique collections, art, annuities, and oil and gas interests, just to name a few. With the proceeds from a sale of non-cash assets, The Dallas Foundation can help create a fund that will turn one gift of property into many gifts to charity. Gifts can also be structured to provide lifetime income, retain use of residential property, or provide ongoing involvement in giving.

There are as many possible scenarios as there are donors and clients, so we welcome the opportunity to help you structure your client's giving. Many of our relationships begin with a single question or discussion of options. Even if these efforts do not result in a gift, we want to hear from you.

FOR MORE INFORMATION ABOUT

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Bryan Clontz is president of Charitable Solutions, LLC, a charitable gift annuity risk management, gift annuity reinsurance brokerage and non-cash asset consulting firm. Mr. Clontz spoke to professional advisors at The Dallas Foundation's 12th Annual Charitable Planning Seminar on January 15, 2009, on the subject of Creative Charitable Planning with Non-Cash Assets.

Outright charitable gifts of non-cash assets may always be a tax advisor's dream and a charity's nightmare. From the donor's tax perspective, cash is usually the worst gift option, appreciated stock is usually next best, and some form of real estate might be the best. You've probably heard the statistics: Privately held, non-cash assets represent approximately four to six times the entire value of the stock market, yet over 80 percent of these gifts are estimated to be initially declined by charities. The non-cash gifts that are accepted represent about three to five percent of all giving.

Why do charities frequently decline non-cash assets?

Non-cash gifts are frequently declined because they can carry risks and complications. In general terms, non-cash assets include all forms of real estate, closely held C and S-Corp stock, limited partnerships, artwork and collectibles, and other assets. All of these have distinct and inherent risks. For real estate, the risks are more obvious: environmental issues, liquidation concerns, property management functions, etc. For limited partnerships, the risks might be more subtle: ongoing UBIT (unrelated business income tax) liability or increased annual audit discussions, etc.

How to help clients give non-cash gifts directly to charity

When a client shows interest in donating a non-cash item to charity, professional advisors must determine whether a charity has the ability to accept the particular gift. Most relatively sophisticated charities have gift acceptance policies. These are policy and procedure manuals that set forth what assets will be accepted, in what form and in what way. These documents also should describe strategies for reducing the risk of accepting non-cash gifts, such as requiring environmental appraisals for real estate donations or legal reviews of partnership agreements.

Professional advisors can help smooth and speed the transaction by thinking through the questions any wise nonprofit executive would ask about a non-cash gift:

1. What is the asset and what is its fair market value?
2. Who/what owns the asset?

3. Is it a gift of a partial or entire interest?
4. Does it have any debt?
5. What are the donor's goals – outright gift, life income gift or testamentary gift?
6. Is it a capital asset or ordinary income asset?
7. Are there any tax implications to the donor or the charity?
8. Are there any potential buyers and, if so, how far along are the discussions?
9. What is the expected holding period and what management issues should be addressed?
10. When does the donor wish to make the transfer?

Advisors should be aware that some charities may be wary of non-cash donations, because they usually require more staff time and research than simple gifts of cash or public stock.

And even the most eager nonprofits, with the most exhaustive gift acceptance policies, will not be able to handle all the non-cash gifts they're offered. One of the most common reasons for a charity declining or losing non-cash assets is the lack of decision-making speed. Many donors will call on Monday and want an answer by Tuesday, and nonprofits can rarely act with such haste. When this occurs, professional advisors should be aware of other options.

Helping clients give through charitable intermediaries

If your client's favorite charity cannot accept a non-cash asset directly, advisors should consider using a charitable intermediary to give indirectly.

(Creative Charitable Planning continued on back)



Additional resources about non-cash giving

Mr. Clontz has provided a list of additional resources about non-cash giving that is available from The Dallas Foundation.

Mr. Clontz also recommends *Professional Advisors' Guide to Planned Giving* by Kathryn W. Miree, which can be purchased at www.aspenpublishers.com.

SAVE the DATE

13TH ANNUAL
CHARITABLE PLANNING SEMINAR
THURSDAY, JANUARY 14, 2010
7:30 – 10:30 A.M.
TOPIC:
TEN CHARITABLE PLANNING IDEAS
FOR A DIFFICULT ECONOMIC
ENVIRONMENT



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Creative Charitable Planning

(Continued from front)

Community foundations such as The Dallas Foundation have long served an important role in accepting complex assets on behalf of other charities. Generally, they take on all the risks of accepting the gift, then manage the assets and liquidate the property. The proceeds are typically added to a fund in the charity's name with a spending policy defining what income interest will be granted annually. The community foundation will also allow the proceeds to be deposited in a donor advised fund with the donor retaining the ability to advise or recommend future grants.

Examples of non-cash assets that The Dallas Foundation can accept:

- Appreciated stock
- Art and collectables
- Mineral rights
- Real estate
- Privately held C corporations
- S corporations
- LLCs
- Limited partnerships
- Life insurance
- IRAs and annuities

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