

Attorney Timothy P. Crawford, CPA, CELA*
wanted to share this information with you.

Gifts You Can Give Now

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There are many different ways to make charitable donations. The variety of options makes it easier to find a means of giving that best fits your personal goals and financial situation. This article covers the different ways that you can give during your lifetime by making outright gifts of cash, appreciated property, or real estate.

First, it is important to note that aside from the personal satisfaction derived from altruistic giving to worthy causes, many of these options also present the donor with several tax benefits, some quite substantial. If taking advantage of the tax benefits of charitable giving is desirable to you, it is important that you have a plan in place before the donation is made so that you can take full advantage of any available tax deductions. It is recommended that, prior to making any sizeable donation, you speak to a professional advisor and the charity and have a plan in place before you actually make the donation. This will help to ensure that both your chosen charitable organization and you will derive the full benefit of your generosity.

The easiest and most common form of charitable giving is an outright gift of cash, normally done by check or credit card. Charitable organizations can then easily use the money for a purpose it designates. Cash gifts can also be given for a use that you designate, but, as a general rule, if you want your donation to be used only for a particular purpose, you must get a prior commitment from the organization that this is acceptable. Cash gifts also provide donors with two tax benefits to reduce the overall net cost of giving. First, they can provide an estate tax deduction (if your estate is subject to estate tax) by removing assets from your estate upon making the donation thereby lowering the value of your estate.

Secondly, cash gifts also provide donors with a charitable gift income tax deduction. Donors who itemize their deductions can receive a deduction of up to 50% of their Adjusted Gross Income (AGI) for a cash donation every year. In the

event that your donation exceeds 50% of your AGI in a given year, the deduction can be rolled over and used on a subsequent tax filing for up to five years. It is important to remember to get a receipt from the organization for any gift by check exceeding \$250 or any gift of cash as proof of your donation.

Another option for charitable giving that can be made now is an outright gift of appreciated property. This typically includes gifts of appreciated securities (stocks, mutual funds, etc.) that have been owned for more than one year, real estate, or appreciated personal property such as art, antiques, or collectibles. The key advantage to gifts of appreciated property is that it enables you to enjoy not only an income tax benefit of up to 30% of your AGI, but it also allows you to avoid paying capital gains tax on the amount that the property or securities have appreciated since you have owned it. Generally, capital gains are calculated by taking the value of the property now and subtracting the value of the property when you purchased it. Simply put, as the value of the property such as stocks increases, so do the federal capital gains taxes, which are normally assessed at 15% of the appreciated value. Although the rest of this section deals with securities, remember that securities are not the only property that can be donated. Some appreciated personal property can also make a useful gift, and can generate tax deductions based on the property's appraised fair market value. When dealing with other forms of personal property, it is especially important to coordinate with the organization first to make sure that both the charity and you benefit from the donation.

When dealing with securities that have increased in value, if you were to sell your securities yourself, you would be assessed the capital gains tax. If you were to donate securities that you have owned for more than one year, however, to a charitable organization, you would receive an income tax deduction of the full fair market value of the securities and the organization would be able to enjoy the entire value of the securities. Though appreciated property only qualifies for a 30% of your AGI deduction, any unused excess deduction can be used for up to five subsequent years. Given today's market conditions, however, many people hold stock that has depreciated in value since the time that it was purchased. This presents a different giving possibility that is also beneficial to both the charitable organization and you as the donor. When dealing with stock that has lost value since the time it was purchased, you can sell the stock yourself, thereby allowing you to take a capital loss tax deduction, and then donate the proceeds of the sale to the charity to generate an additional income tax deduction.

Another possible donation option that can be gifted now is real property, which is also appreciated property that is subject to capital gains tax when it is sold. Although federal tax law allows a sizeable exclusion from capital gains tax of the property's appreciated value if the property has been used as your primary residence for two of the last five years, other real property such as a vacation home or additional land that you might own will be subject to the full capital gains tax. If you choose to donate that land to a charitable organization, however, you obtain an income tax deduction of the fair market value of the property and avoid capital

gains tax on the property's appreciation. Your deduction for a gift of appreciated real property that has been owned for more than one year is generally limited to 30% of your AGI in any one year, with a five-year carryover of the unused deduction. For real property you have held for less than a year, your charitable deduction is limited to the property's cost basis, but there is no tax on the appreciation. The deduction may then be claimed up to 50% of your AGI, again with a five-year carryover for any excess value. As mentioned above, if you are considering this option, then you should consult with a financial professional and the charity prior to making the gift both to ensure that the charity can accept the gift and also to coordinate the donation to the current tax year to make sure that the full tax benefit can be realized.

**“Those Who Plan Ahead Win.
Those Who Don’t Plan Ahead Lose.”**

This article is not intended as legal advice. It is basic information. I would recommend that you call Attorney Timothy P. Crawford for a free conference to discuss your situation in more detail. Attorney Timothy P. Crawford can be reached toll-free at 1-888-634-6675. When you call in, please mention the fact that you have read this article.

*Attorney Timothy P. Crawford is a Board Certified Elder Law Attorney(CELA). He has been Board Certified by the National Elder Law Foundation which has been approved as the Sole Certifying Organization for Elder Law Attorneys by the American Bar Association.

**Timothy P. Crawford was invited to join the Council of Advanced Practitioners of the National Academy of Elder Law Attorneys (NAELA) in August of 2005. The Council of Advanced Practitioners (CAP) is a small group of premier elder law attorneys, all of whom have been members of NAELA for at least 10 years, are certified as elder law attorneys by the National Elder Law Foundation, and are AV rated the top in the nation by Martindale Hubbell. A Service that provides an independent rating of the quality of attorneys.

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“A majority of text has come from an article prepared by Attorney Andy Hook, friend of Attorney Timothy P. Crawford, is used here with permission.”