Smart Ways to Give to Family and Charity

By Kristi Mathisen

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Did you know that writing a check is not the only way to give? All sorts of assets that have increased in value since you bought them – from stocks to art to houses – can be given away, sometimes with a sizable tax benefit.

Strategizing about what non-cash gifts you make, when, and to whom can have many benefits, including:

- Establishing a legacy
- Maximizing how much your recipients get
- Lowering your tax bill; and
- Making the people and causes you care about feel empowered.

Gifts to Friends and Family

John wants to make a gift of $90,000 to his three grandkids, since he happens to own $90,000 worth of Bon Idée stock that he bought for only $9,000. If John sells the stock and gives the kids cash, he will owe capital gains taxes on the $81,000 gain. Considering his other income, this means a 23.8% tax rate on this sale. Tax bill: over $19,000. And he would also need to report the gift for tax purposes.

SOLUTION: Instead, John gives up to $15,000 of Bon Idée stock to each of his three grandkids – or to anyone else for that matter – with no tax consequences. Since he didn't make a sale, he has no capital gain to report. And thanks to the $15,000 annual gift-tax exclusion, no gifts to report either. It will take him two years to reach his $90,000 gift goal in this income-and-gift-tax-efficient way.

The recipients – in this case John's grandchildren – won't owe tax until they sell the stock. And when they do sell, they're likely to pay a 15% tax rate (or less) on the gain because of their lower incomes.

There are other very good reasons to give assets instead of cash. It's a way to encourage kids or grandkids to invest and to save, instead of to spend. Giving them an actual investment can make them curious about other investments. At a minimum, it will require the kids to do some work if they want to cash out.

Should you give away assets that have lost value? No. You would be better off selling those assets at a loss and giving your beneficiary cash.

Gift recipients are not allowed to claim a loss on gifted property and you can use the loss to offset other gains you may have.

What about the transfer of closely held businesses? Significant stakes in many closely held businesses have been transferred through gifts. A husband and wife can together give up to $30,000 per year to any number of people using just annual exclusions. A married couple with three children could transfer $90,000 of value each year.

Gifts larger than that in any one year are not taxed immediately. Instead, a gift return must be filed to report the gift. Then, if such gifts over a lifetime or at death total more than the allowable lifetime exclusion (now almost $11.2 million per person), the federal gift or estate tax will kick in. Thanks to the 2017 tax law, the federal estate tax exclusion is double what it used be and will remain at these higher levels at least until the end of 2025.

Therefore, the opportunity to gift businesses or other large non-cash assets has vastly expanded. Quite often, though, such businesses limit who can be the new owner(s). In addition, the business may allow transfers only during certain times of year, and most cut off transfers weeks before year-end. You will want to know well in advance if such transfers are feasible – all the more reason to start planning now.

GIFTS MADE EASY

What you can give annually without having to file a gift tax return (IRS Form 709):

1. **Up to $15,000 annually to anyone –** including of course each of your kids and grandkids. Your spouse can give another $15,000. So $30,000 annually per recipient. This annual exclusion is indexed to inflation, so it will rise over time.
2. **Tuition Payments.** As long as you make payments directly to a private school, college or other educational institution, and you pay only for the tuition (not room, board, or supplies), none of your payments are counted in terms of gift taxes.
3. **Medical Expenses.** You can pay any amount in medical expenses for others. The only caveats: Payments must be made directly to the provider — hospital, doctor, pharmacy or insurance company; the service or good must be something the IRS would allow as a medical expense.

Giving To Charity

Giving appreciated assets to charities has more than a few tax advantages. You can deduct the market value of your donation and avoid capital gains taxes. Here's an example:

- John wants to make a $100,000 gift to his alma mater, Worthy College. John also happens to have $100,000 in Bon Idée, Inc. stock he acquired in 2004 for only $10,000. John decides to give Worthy College his stock.

THE BENEFIT TO JOHN: Since John is not selling the stock, he won't be recognizing the $90,000 in gains, avoiding the investment-related taxes. In addition, he can also claim a $100,000 charitable tax deduction for 2018.

What if John thinks Bon Idée is the next Amazon? No problem. He can use the cash he would have given outright to Worthy College to instead buy Bon Idée shares at current market prices, thus greatly raising his cost basis for this stock and reducing his tax bill when he eventually sells.

THE BENEFIT TO WORTHY COLLEGE: The college can opt to hold on to the Bon Idée stock or sell it tax-free, since it's a charity.

Too much of a good thing? What if John's income for the year is $200,000 and he still wants to give $100,000 to Worthy. If he makes the gift in stock, he can only deduct $60,000 in 2018. That's because unlike cash, tax-deductible annual gifts of stock are limited to 30% of income. However, John can carry over the unused portion of his 2018 gift — $40,000 – and claim a tax deduction for it in 2019 or future years.

Impact of the 2017 Tax Law

The new law means you have to be more strategic about charitable giving in any one year. That's because the standard deduction has doubled (to $24,000 for married filing jointly; $12,000 for singles).

What this means: if all your allowable deductions – including charitable gifts – add up to less than $24,000 for the year, there is no direct tax benefit from charitable giving.

WHAT TO DO: Bunch your charitable giving into a single year, so that your itemized deductions are higher than $24,000 for married couples ($12,000 singles). Non-cash gifts are usually worth more and lend themselves to bunching.

4 THINGS TO KNOW ABOUT NON-CASH GIFTS TO CHARITY

1. **You must own the asset at least a year before giving, if you want the full tax benefit.** If less than a year, the gift is valued at how much you paid for it.
2. **When giving assets to charities, the tax deduction is capped at 30% of your adjusted gross income in any one year** (vs. up to 60% for some cash gifts).
3. **For non-financial gifts (publicly traded stocks, bonds) you have to determine the value.** If the value is more than $5,000, tax rules require extra documentation on your tax return.
4. **Plan in advance for the transfer.** For gifts of securities, the transfer must be coordinated between your investment custodian and that of your intended gift recipient. While this is not difficult, it may take from a few days to a few weeks, depending on the security. For real estate and business interests, the transfer could take much longer, requiring the work of attorneys, CPAs and appraisers.

You can give directly to your favorite charity but make sure the charity is prepared to accept a non-cash gift and that the organization understands that you are combining more than one year's gift. You can also make "bunched" gifts of appreciated securities through Donor Advised Funds (DAFs). If you are giving through a DAF, you have an extra step: designating which charities get the annual grants. You have the flexibility to make a gift every year even though you bunched the tax deduction into a single year.

Time to Plan Ahead!

For non-cash gifts to work well, you must plan well in advance — months and perhaps even years. We have been advising individuals and families on intra-generational wealth transfer and gifting strategies for more than 50 years. And we can help you evaluate the options that will work best for everyone involved – you, your family and your favorite charities.

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