March, McMillan & DeJoode, P.C.

Donate and Receive Income Using Charitable Remainder Trusts

If you are considering a gift to Wesley Village or other charity you may be able to receive income from an asset, gain tax advantages and accomplish your intended gift using a charitable remainder trust. As the name implies, a charitable remainder trust is a transfer of assets to a trust which makes payments to an individual or individuals during their lifetime or for a period of time up to 20 years. The donor's selected charity then receives the assets at the expiration of the trust period. This type of trust not only benefits the charity but also provides tax savings for the individual who creates the trust.

There are two types of charitable trusts: (1) charitable remainder unitrusts and (2) charitable remainder annuity trusts. In a unitrust, the beneficiary receives a fixed percentage (not less than five percent) of the value of the trust property each year. This serves as a hedge against inflation because as the trust property goes up in value, the income paid out increases. In a charitable remainder annuity trust, the beneficiary receives a fixed amount of income each year. This type of trust provides certainty because the beneficiary receives the same dollar amount each year regardless of changing interest rates and stock market fluctuations.

If a trust is created during a person's life, the person is entitled to a charitable income tax deduction equal to the value of the charity's remainder interest. In addition, the transferred property will not be subject to federal estate tax. If the trust is established in a Will, the charitable deduction will remove the property from the taxable estate.

There is a further income tax advantage if the assets transferred to the trust have gone up in value. If, for example you bought $10,000.00 of stock 10 years ago and the stock is now worth $100,000.00, a capital gain tax of $13,500.00 would be paid if the shares are sold. If, instead, the stock is transferred to a charitable remainder trust, the trust can sell the stock tax free because it is a tax exempt entity. The capital gains tax that would have been paid by the individual is permanently saved. The fact that the trust is able sell the property tax free maximizes the money available for distributions to the persons who receive income distributions before the charity receives the property.

The unitrust arrangement can also be used as a retirement plan. Although it pays a percentage of the trust's annual value, it can provide that income distributions may not exceed the amount of income actually earned in a given year. Any shortfall in income can then be made up when there is sufficient income. During the property owner's pre-retirement years, the trust can be invested in growth stock that produces little or no income. Upon retirement, those assets can be sold with the proceeds invested in income producing assets that will yield the agreed upon income percentage plus a "make-up" portion to compensate for the earlier short falls. Thus, income distributions from a unitrust can be minimized during the pre-retirement years and then maximized for the retirement years.

It is important to remember that a charitable remainder trust must meet a series of technical requirements and should be prepared only by an experienced professional. Charitable trusts may be the right vehicle to provide benefits to persons seeking to make a gift and to the intended charity, such as Wesley Village.

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