Charitable Giving

Just the FAQs

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Outright Gifts

What is the difference between unrestricted and restricted gifts to charity?

An unrestricted gift is one that a donor makes to a charitable organization that the organization may use or apply to any purpose. By designating or "restricting" the use of a gift, an organization may only use or apply the funds to a particular purpose or project.

What are the federal income tax consequences of outright gifts to charity?

Gifts to charity are generally deductible in computing taxable income but sometimes a donor isn't able to deduct his or her entire gift in the year contributed. Ultimately, the amount a donor may deduct in any one year depends on (1) the amount or value of the property donated, (2) the nature of the donated property, (3) the nature of the charitable recipient (i.e., a "public charity" or a "private foundation"), and (4) the amount of the donor's adjusted gross income.

When is a charitable contribution deductible?

A charitable contribution may be deducted by an individual donor for income tax purposes only in the year in which it is actually paid or delivered to the donee, even if pledged in a prior year. No deduction is allowed a donor who merely pledges to make a charitable contribution, even if the donor delivers a written promissory note to the charity.

Public Charity

What is a public charity?

Organizations classified as public charities are those that (1) are churches, hospitals, qualified medical research organizations affiliated with hospitals, schools, colleges, and universities; (2) have an active program of fundraising and receive contributions from many sources, including the general public, governmental agencies, corporations, private foundations, or other public charities; (3) receive income from the conduct of activities in furtherance of the organization's exempt purposes; or (4) actively function in a supporting relationship to one or more existing public charities.

What qualifies as a "charitable purpose"?

Public charities must be organized and operated exclusively for charitable purposes. Those purposes are broadly defined as religious, educational, artistic, scientific, conservation, social, or other purposes deemed charitable. Generally, relief of the poor, distressed, or underprivileged; advancement of religion, education or science; eliminating prejudice and discrimination; and defending human and civil rights secured by law are considered charitable purposes.

What is the deductibility of contributions to public charities?

Gifts to public charities are deductible up to 50% of the donor's contribution base. However, in general, when long-term capital gain property is donated, lower limits apply; an individual may deduct the value of long-term capital gain property only up to 30% of his or her contribution base.

Private Foundations

What is a private foundation?

A private foundation is a nonprofit trust or corporation organized and operated exclusively for charitable purposes, but that does not qualify as a public charity. Like public charities, private foundations must be organized and operated exclusively for religious, educational, artistic, scientific, conservation, social, or other purposes deemed charitable.

How do private foundations differ from public charities?

Private foundations usually further their charitable purposes by making grants to other charitable organizations. Although some public charities engage in grantmaking activities, most operate charitable programs and offer services which further their charitable purpose. In addition, public charities receive the bulk of their support from the general public, government, and private foundations, and are presumed to be subject to greater public scrutiny, control, and oversight. Private foundations, on the other hand, usually are established, funded, and controlled by one donor (or a small group of donors), and don't receive significant support from the public.

What types of private foundations are there?

A "standard private foundation" generally is the most common type of private foundation. This type of foundation does not carry out any charitable activity itself but simply acts as a holding vehicle and makes grants to individuals or other charities. In contrast, a "private operating foundation" engages in charitable activities directly itself rather than merely making grants to other charitable organizations or individuals. The third type of private foundation is a "conduit foundation." A conduit foundation is a private foundation that distributes substantially all of its funds to charitable entities.

What is the deductibility of contributions to private foundations?

Cash contributions to a standard private foundation generally are deductible up to 30% of the donor's "adjusted gross income" for the year and 50% if contributed to a private operating foundation. However, in general, when long-term capital gain property is donated, lower limits apply: an individual may deduct the value of long-term capital gain property donated to private foundations up to 20% of the donor's contribution base.

Donor Advised Funds

What is a Donor Advised Fund?

An alternative to a private foundation is a "donor-advised fund" or "DAF" established through a community foundation. Although called foundations, community foundations are a special form of public charity organized to channel gifts from individual and corporate donors to a variety of charitable organizations in the local community. A DAF is an endowment established on behalf of the donor, in the donor's name, which the community foundation manages and invests the fund and makes distributions to charitable entities or makes grants as the donor wishes over the years.

How does a Donor Advised Fund work?

Although the community foundation technically owns and controls any such fund in its custody and has the legal right to invest and disburse the funds in any manner its Trustees deem appropriate, the foundation accounts for DAFs separately and agrees to consult with the donor (or surviving family members) on a regular basis concerning charitable grants to be made in the name of the donor's family. Donors recommend that their advised funds make distributions to specific charities or types of charities each year, and may change these recommendations from year to year. The community foundation can be expected to follow such recommendations absent any legal impropriety or other compelling problem.

What is the deductibility of contributions to a Donor Advised Fund?

As a public charity, gifts to community foundations are deductible up to 50% of the donor's contribution base.

Charitable Remainder Trust

What is a charitable remainder trust?

A charitable remainder trust ("CRT") is a trust established for the benefit of the donor (or the donor and a spouse) for life or for a term of up to 20 years. The donor receives a regular income stream during the trust term and at the expiration of the trust term or at the donor's death the remaining trust assets pass to a charity.

What are some types of charitable remainder trusts?

One form of CRT is a charitable remainder annuity trust ("CRAT"). A CRAT pays the noncharitable beneficiary an annuity equal to a specified dollar amount or a specified percentage of the initial trust value. An alternative form of CRT is a charitable remainder unitrust ("CRUT"). A CRUT pays the noncharitable beneficiary a specified percentage of the value of the trust as determined annually.

What are the tax consequences of a charitable remainder trust?

The donor receives an income tax deduction equal to the value of the remainder interest that ultimately will pass to charity. Assets transferred to a CRT are not included in the donor's gross estate for estate tax purposes.

Charitable Lead Trust

What is a charitable lead trust?

A charitable lead trust ("CLT") is a trust established for the benefit of a charity for the life of the donor or for a term of up to 20 years. The charity receives a regular income stream during the trust term and at the expiration of the trust term or at the donor's death the remaining trust assets pass remainder beneficiaries selected by the donor.

What are some types of charitable lead trusts?

One form of CLT is a charitable lead annuity trust ("CLAT"). A CLAT pays the charitable beneficiary an annuity equal to a specified dollar amount or a specified percentage of the initial trust value. An alternative form of CLT is a charitable remainder unitrust ("CLUT"). A CLUT pays the charitable beneficiary a specified percentage of the value of the trust as determined annually.

What are the tax consequences of a charitable lead trust?

If the trust is designed as a "grantor trust", the donor receives an income tax deduction in the year the trust is established equal to the actuarial value of the interest donated to charity. In addition, the donor is deemed to make a gift to the noncharitable beneficiaries equal to the actuarial value of their remainder interest on termination of the trust. The grantor pays the income tax on income accruing to the trust during its term. Assets transferred to a CLT are not included in the donor's gross estate for estate tax purposes.

To learn more, contact our

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