

***Estate Planning  
for Financial Planners***

**Chapter 9:  
Charitable Giving**

---

---

---

---

---

---

---

---

***General Issues Regarding  
Charitable Contributions***

- ▶ No transfer tax on charitable contributions during life or at death
- ▶ Lifetime transfer - generally get a charitable income tax deduction
- ▶ A gift tax return is required if there is a split gift between charity and non charitable beneficiary

©2009 Money Education

9-2

---

---

---

---

---

---

---

---

***Qualifying Organizations (1 of 4)***

- ▶ See IRC Section 170(c)
  - Exhibit 9.1, page 306
  - A state, a possession of the United States, or any political subdivision (contribution must be solely for public purposes)
  - A corporation, trust, or community chest, fund, or foundation that is organized in the U.S. and is operated exclusively for:
    - Religious, charitable, scientific, literary, or educational purposes
    - Fostering national or international amateur sports competition

©2009 Money Education

9-3

---

---

---

---

---

---

---

---

## Qualifying Organizations (2 of 4)

- ▶ IRC Section 170(c), continued
  - Preventing cruelty to animals or children
  - A post or organization of war veterans organized in the United States
  - A domestic fraternal society, order, or association, operating under the lodge system, but only if the contribution is to be used for the purposes listed in 2 above
  - A cemetery company (not deductible if the donation is limited to the maintenance of a specific cemetery plot)

©2009 Money Education

9-4

---

---

---

---

---

---

---

---

## Qualifying Organizations (3 of 4)

Generally Charities	Generally NOT Charities
<ul style="list-style-type: none"><li>● Churches, temples, synagogues</li><li>● Public parks</li><li>● Colleges and universities</li><li>● United Way</li><li>● Boy Scouts and Girl Scouts of America</li><li>● Salvation Army</li><li>● American Heart Association</li><li>● American Society for Prevention of Cruelty to Animals</li></ul>	<ul style="list-style-type: none"><li>● Foreign organizations</li><li>● For-profit groups</li><li>● Homeowners' associations</li><li>● Political groups</li><li>● Labor unions</li><li>● Chambers of commerce</li><li>● Social clubs</li><li>● Individuals</li><li>● Civic groups</li></ul>

©2009 Money Education

9-5

---

---

---

---

---

---

---

---

## Qualifying Organizations (4 of 4)

- ▶ IRS Publication 78
  - Lists qualifying organizations
- ▶ Taxpayer has burden of knowing which are qualifying organizations.

©2009 Money Education

9-6

---

---

---

---

---

---

---

---

## ***Types of Charitable Organizations***

- ▶ Public - Receive broad support from the general public
- ▶ Private Foundation
  - Operating - spend at least 85% of their adjusted net income on activities engaged in for the active conduct of the exempt purpose
  - Non-operating - all other private foundations

©2009 Money Education

9-7

---

---

---

---

---

---

---

---

## ***Charitable Gifts During Life*** *(1 of 3)*

- ▶ Gifts of Cash
  - Deduction for amount given less benefit received
- ▶ Gifts of Service
  - Unreimbursed out-of-pocket expenses
- ▶ Gifts of Property (amount of deduction)
  - Ordinary Income Property = lesser of adjusted basis or FMV
  - Capital Gain Property = FMV
    - Except basis if
      - Non-operating foundation - limited to AB
      - Tangible property for unrelated use - limited to AB
- ▶ Adjusted Gross Income Limitations
  - See Exhibit 9.3, page 313

©2009 Money Education

9-8

---

---

---

---

---

---

---

---

## ***Charitable Gifts During Life*** *(2 of 3)*

- ▶ Choosing the adjusted basis over the fair market value (special election)
  - FMV, AB, projected income
- ▶ Valuation, record keeping, and reporting
  - See Exhibit 9.4, page 318
  - Summarized on next slide

©2009 Money Education

9-9

---

---

---

---

---

---

---

---

## *Charitable Gifts During Life*

(3 of 3)

<i>Donation</i>	<i>Cash</i>	<i>Property</i>
Under \$250	Canceled check	Receipt with donee name, date, description of property
\$250-\$500	Contemporaneous acknowledgment from organization	Contemporaneous acknowledgment from organization
Over \$500, but no more than \$5,000	Same as above	Same as above plus maintain records of how and when property was acquired, its adjusted taxable basis and file Form 8283.
Over \$5,000 (\$10,000 for non-publicly traded stock)	Same as above	Same as above plus must obtain qualified appraisal and attach appraisal to the return

---

---

---

---

---

---

---

---

---

---

## *Other Outright Gifts to Charity*

(1 of 2)

- ▶ Bargain Sales of Property to Charities
  - Charitable Contribution = Difference between FMV and Purchase Price
- ▶ Bargain Sales of Appreciated Property to Charities
  - Capital gain treatment for portion of sale
- ▶ Charitable Annuity
  - Inter vivos transfer where charity agrees to pay annuity to donor

©2009 Money Education

9-11

---

---

---

---

---

---

---

---

---

---

## *Other Outright Gifts to Charity*

(2 of 2)

- ▶ Gifts of life insurance to charities
  - The deduction is equal to the lesser of FMV or adjusted basis of the policy.
- ▶ Group term life insurance
  - Avoid income tax on coverage over 50K if irrevocably make charity the beneficiary.

©2009 Money Education

9-12

---

---

---

---

---

---

---

---

---

---

### **Charitable Gifts of a Split Interest (1 of 3)**

- ▶ Pooled Income Funds (PIF)
  - Contributions are pooled in a trust maintained by the charity
  - Income for life to donor
  - Remainder to charity
  - Good for small gifts

©2009 Money Education

9-13

---

---

---

---

---

---

---

---

### **Charitable Gifts of a Split Interest (2 of 3)**

- ▶ Charitable Remainder Annuity Trust (CRAT)
  - Less flexible
  - Fixed annuity  $\geq$  to 5% initial FMV
  - Annuity must be paid annually
  - Life or term (term cannot be more than 20 years)
  - Donor can change charitable beneficiary
  - No contributions after inception
  - Remainder interest  $\geq$  10% of initial fair market value

©2009 Money Education

9-14

---

---

---

---

---

---

---

---

### **Charitable Gifts of a Split Interest (3 of 3)**

- ▶ Charitable Remainder UniTrust (CRUT)
  - More flexible
  - Fixed percentage of at least 5% of the annual FMV
  - Annual valuation
  - Donor can contribute after inception
  - Catch up provisions allowed if only distribute income if less than stated %
  - Remainder Interest  $\geq$  10% of initial value

©2009 Money Education

9-15

---

---

---

---

---

---

---

---

### **Charitable Gifts of a Split Interest (4 of 5)**

- ▶ Calculation of the Gift and Remainder Interest
  - CRAT
    - Multiply annuity by IRS table to get income interest
    - Deduct income interest from FMV to get remainder
  - CRUT
    - Complex calculation
- ▶ Non-Trust Split Interest Charitable Gifts
  - Donate the property but retain the right to use it
  - Similar to a QPRT
  - Personal residence or farm

©2009 Money Education

9-16

---

---

---

---

---

---

---

---

### **Charitable Gifts of a Split Interest (5 of 5)**

- ▶ Charitable Lead Trusts
  - Charity receives income, remainder to noncharitable beneficiary
  - Used by high net worth individuals who do not need current income
  - Use appreciating assets!
  - Must be grantor trust to receive charitable income tax deduction

©2009 Money Education

9-17

---

---

---

---

---

---

---

---

### **Testamentary Giving to Charities**

- ▶ No deduction for income tax purposes
- ▶ For estate deduction
  - Must be mandatory
  - Amount must be certain and included in the gross estate
- ▶ Some items are more beneficial at death
  - Papers of political figures
    - During life - Limited to AB which is low
    - At Death - Step-to FMV/Deduction of FMV
    - Potentially Better: Get step-up, give to an heir and let heir donate and get higher income tax deduction

©2009 Money Education

9-18

---

---

---

---

---

---

---

---

## *Advanced Financial and Estate Planning Topics*

- ▶ Tangible Personal Property
  - Unrelated use - contract where they have to use it in a related use for a few years
- ▶ Community Property
  - May have issues if no unlimited marital deduction for state inheritance tax purposes

©2009 Money Education

9-19

---

---

---

---

---

---

---

---