Some Rules Relating to Donating Capital Assets

When you donate monetary gifts to charity whether in cash, by check, or credit card, you generally can deduct the full amount on your tax return as long as you meet IRS substantiation requirements.

This is not the case when contributions of capital assets are made.

The issue in question is how to treat capital assets that has appreciated in value.

If you are donating property you acquired within the year you can only deduct your basis in the property, or in layman's terms, your cost in acquiring that asset.

If you have held those same capital assets for a year or longer such that the assets (stock, securities, real property such as art) long enough to qualify for long-term capital gains treatment under the Internal Revenue Code you are allowed to deduct the fair market value (FMV) as of the date of the donation without incurring the tax on the appreciation. This is a very powerful tool if planned correctly.

Keep in mind that capital assets given as charitable donations are limited to 30 percent of your adjusted gross income (AGI) for the year in which the donation is made. Any excess is carried forward for up to five years for deduction in each of those years if applicable.

There are other issues to consider when giving a capital asset as a donation. If you donate property that is not used to further the tax-exempt function of the charity, your deduction is limited to the property's basis. This might occur, as an example, if you donate artwork to a museum, but it is never displayed. It is important that one of the conditions of the gift is that it is contingent on the charity using it properly within the realm of the exempt organization's charitable function.

If the property that you are donating has declined substantially in value since you acquired it the deduction is limited to its FMV no matter how long you have held the property. In that instance where that value has declined, if you want to obtain the tax benefit of the loss it might be better if you want to dispose of the asset to sell it, and take the loss rather than donate it depending upon your situation.

Whether or not property has appreciated or depreciated in value, you should obtain an independent appraisal of the current value if not easily ascertainable as it is with stock. The IRS requires independent appraisals for property donations exceeding $5,000.

Keep in mind, for taxpayers with higher taxable income there are overall itemized deduction limitations that may require advance planning to determine if or how much of a benefit you may obtain by making any charitable donations. One must also consider the effect of Alternative Minimum Taxes which also limits the donation benefit.