



## A PRIMER ON TAX ADVANTAGES OF CHARITABLE CONTRIBUTIONS

When we are faced with the myriad of Internal Revenue Service forms and regulations, it is very easy to forget that behind all of this bureaucracy is an attempt by our lawmakers to set social policy. The Taos Land Trust and any other qualifying organization is the beneficiary of this social policy which enables each taxpayer to reduce his or her tax burden by making a charitable contribution.

Charitable contributions can take place in several different forms. The simplest is the outright donation of cash. Next, comes a donation in the form of a noncash asset or a partial or split interest in a noncash asset such as land. As the magnitude of a donation increases, so does the complexity of the rules surrounding the deductibility of the contribution. In our attempt to reduce our tax burden, the IRS imposes more rules and stiffens the acts of compliance.

The IRS allows us to make tax deductible charitable contributions in two important and different ways. The first is to make annual charitable contributions which we can deduct from our sources of income to reduce our taxable income. The second is to make a charitable bequest in our wills which will reduce our taxable estate and thereby lower any estate taxes. The distinction in these two different types of deductions is significant. We can lower our annual income tax burden by making charitable contributions, or we can make a significant reduction in our taxable estate by deciding to make a gift to a charity of part or all of our personal assets.

Most of us are familiar with itemizing deductions on our individual income tax returns. Schedule A of Form 1040 enables us to identify and to deduct, in part, medical costs, taxes, certain types of interest, and charitable and other eligible miscellaneous expenses. The key to making a deductible contribution is to be sure that the recipient of the contribution is a qualified organization. Most qualified organizations are listed in IRS Publication 78, Cumulative List of Organizations. Such deductions are generally limited to 50% of your adjusted gross income, but in some situations limits of 30% and 20% may apply.

The reduced limitations usually apply when a noncash gift of appreciated property is made. As previously mentioned, this is a situation where the complexity of complying with IRS regulations increases in order to make a tax deductible contribution. The IRS simply wants more documentation attached to your income tax return in order to qualify for the deduction. When a taxpayer wants to make a noncash contribution for more than \$500 an additional form, Form 8283, Noncash Charitable Contributions, must be attached to an individual income tax return. When the contribution exceeds \$5,000, additional documentation including the signature of an official of the receiving organization and the signature of an independent appraiser must be added to Form 8283. Noncash contributions can take many forms and, in the case of the Taos Land Trust, a noncash contribution can be in the form of a conservation easement which restricts the use of land.

It is important not to let the complexity of dealing with the documentation overcome the reality of the tax benefits. Depending on your tax bracket, which currently can range from 15-39.6%, the tax savings can be significant. For example, an allowable donation of \$5,000 for a taxpayer in the 39.6% bracket can reduce federal income taxes by \$1,980 and New Mexico income taxes by another \$425. If a contribution is limited by the percentage of your adjusted gross income in any one year, it is important to remember that any unused contribution may be carried over and deducted in the next five succeeding years.

The estate tax savings of making a bequest to a charitable organization can be even greater because the tax rates for the estate tax are much higher. Each taxpayer in the United States is given a \$600,000 estate tax exemption. However, if a taxable estate exceeds \$600,000, the tax rates range from 37% to 55%. A charitable bequest can make a dramatic reduction in calculating a taxable estate. For example, if a gross estate is \$650,000, the estate tax would be \$18,500. If that estate included land or a conservation easement having a market value of \$50,000, and the land or the conservation easement was given to a qualifying organization there would be a reduced taxable estate of \$600,000 and there would be no estate tax due.

With the escalating market value of land in today's market, it is not uncommon to find an estate which is primarily composed of real estate and very little liquid assets available to pay estate taxes. The benefit of making a charitable contribution to reduce a taxable estate is a very important issue to consider when drafting a will.

Once we have met the compliance issues imposed by the IRS, we are able to achieve our goal of minimizing taxes and at the same time we have helped benefit society by improving the economic well-being of a publicly supported charitable organization or, in the case of a land trust, have benefited the public by protecting land that has conservation values. Thus, even though it might have been a rigorous road to follow, we have achieved what our lawmakers set out to accomplish in drafting our tax laws.

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