2019 Charitable Giving Updates and Reminders

GRAY PLANT MOOTY

Spring 2019 *Newsletter from the Trust, Estate, and Charitable Planning Practice Group at Gray Plant Mooty*

Donors now filing their 2018 income tax returns will see the effects of the 2018 Tax Act on their charitable giving. With that insight settling in, we want to remind donors about a number of ways they can adjust their charitable giving in 2019 to respond to the changes in the 2018 Tax Act.

Accelerate and Bunch Charitable Gifts. The 2018 Tax Act increased standard deductions and eliminated most itemized deductions. State and local tax (SALT) deductions, such as state income taxes, local income taxes, and real and personal property taxes, are still deductible, but the amount of the deduction is capped under the new law. Mortgage interest deductions are also now capped. Charitable deductions are still permitted, but some donors may not be able to claim their charitable deductions if the aggregate amount of their itemized deductions does not exceed their increased standard deduction under the new tax law. As a result, donors may lose the tax benefit of deducting their charitable gifts. However, many taxpayers have learned that they can instead "bunch" charitable gifts they might have intended to make over a number of years into one tax year in order to exceed the standard deduction for that year. Some donors are choosing to prepay installments on charitable pledges. Others are creating donor advised funds to claim a deduction now but make the actual distributions to their chosen charities in future years.

...we want to remind donors about a number of ways they can adjust their charitable giving in 2019 to respond to the changes in the 2018 Tax Act.

Large Cash Contributions. Cash contributions under the 2018 Tax Act are now deductible up to 60% of a donor's adjusted gross income (AGI). The prior law only allowed deductions for cash contributions up to 50% of the donor's AGI. Any gifts that exceed that cap can be carried over as deductions for the next five years. If property other than cash is gifted or if the donor has carryovers from previous years, rules regarding the ordering and application of deductions and caps are applied.

[continue next page]

2019 Charitable Giving Updates and Reminders (continued)

Consider Non-Cash Gifts. A donor who gives long-term appreciated assets like stock rather than cash to a public charity can claim a fair market value charitable deduction up to a cap on AGI of 30%. So long as there is no "prearranged sale," that donor also avoids recognizing capital gains on the appreciation in the value of the gifted asset, avoiding the capital gains tax that the donor would have incurred if he or she had sold the asset and given the proceeds from the sale to charity.

Make IRA Rollover Gifts. Donors age 70½ or older can make up to $100,000 of distributions to qualified public charities from an IRA each year. No income tax deduction is available, but an IRA rollover distribution counts toward the required minimum distribution and is excluded from the donor's gross income. Utilizing this strategy is a great way to make a gift to a charity and, at the same time, reduce the donor's taxable income. This strategy works even if the donor is unable to itemize income tax deductions for that year.

Substantiation is Important. The IRS has very strict rules about properly documenting charitable gifts and strongly enforces those rules. A qualified appraisal as defined in the Treasury Regulations is required to value most assets other than cash and publicly traded securities.

Timing is Critical. Year-end gifts must actually be delivered to the charity on or before December 31. A check can be mailed by December 31, but a gift of publicly traded securities must actually be received into the account of the charity before the end of the tax year. For IRA rollovers made by writing a check out of the IRA, the same rule as that for publicly traded securities applies. Many brokers and IRA custodians have deadlines well before the end of the year for making transfers to ensure they are completed before the year's end.

In making charitable gifts, donors should consult with their income tax advisors. Please contact an attorney in Gray Plant Mooty's Trust, Estate, and Charitable Planning Practice Group if you have charitable giving questions.

Authored by Sheryl G. Morrison, Principal in the Trust, Estate, and Charitable Planning Practice Group at Gray Plant Mooty. She can be reached at 612-632-3376 or sheryl.morrison@gpmlaw.com.

This newsletter is a periodic publication of Gray Plant Mooty and should not be construed as tax or legal advice or opinion on specific facts or circ
concerning their own situations and specific tax or legal questions.

Avoiding Probate Pitfalls with Charitable Giving

Minnesotans have a well-deserved reputation for charitable giving. According to a recent report by WalletHub, Minnesota ranks first in the nation on 18 key indicators of charitability. For many Minnesotans, charitable giving continues at or after death in the form of distributions to charitable organizations under a will or trust document.

Recent changes to probate rules in Hennepin County potentially add significant unexpected costs to making charitable distributions from the residue of a will at death. To understand why requires a little background in the probate process.

In Minnesota, probates generally fall into one of three categories: “informal,” “formal unsupervised,” and “formal supervised.” The vast majority of wills are probated informally, which is usually the least expensive and most convenient option, generally involving no court appearances. At the opposite end of the spectrum are formal supervised administrations, which require court oversight and approval of many actions taken by the personal representative of the estate. The cost of a formal supervised administration is usually significantly higher than the cost of the other two options, because of court appearances and additional court paperwork.

Hennepin County recently declared that all wills that contain gifts to charities based on a percentage of or all of the residue of the estate (the distribution of the remaining assets after debts, taxes, administration expenses, and specific gifts have been made) must be put through a formal supervised administration, and the personal representative must post a bond. The goal is to ensure that the charities are protected from the possibility that they may not get the gifts to which they are entitled. Nonetheless, the added financial burden to family members of the decedent could be significant.

What can you do to avoid these additional costs if you reside in Hennepin County and have a will-based plan with charitable gifts in the residue? First, consider instead making a distribution of a specific asset or dollar amount to a charity in the will. Second, consider switching to a revocable trust-based plan, which, if properly structured, is not subject to a probate proceeding.

We recommend that you contact an attorney in Gray Plant Mooty’s Trust, Estate, and Charitable Planning Practice Group if you have any questions regarding the structure of your estate plan

Authored by James R. “Jim” Thomson, Associate in the Trust, Estate, and Charitable Planning Practice Group at Gray Plant Mooty. He can be reached at 612-632-3251 or james.thomson@gpmlaw.com.

cumstances. The contents are intended for general information purposes only, and readers are urged to consult with an attorney

www.gpmlaw.com

Minneapolis
80 S. Eighth Street
500 IDS Center
Minneapolis, MN 55402

St. Cloud
1010 W. St. Germain
Suite 500
St. Cloud, MN 56301

Washington, D.C.
600 New Hampshire Avenue N.W.
The Watergate - Suite 700
Washington, D.C. 20037

Fargo
210 Broadway Street
Suite 401D
Fargo, ND 58102

Get to Know Gray Plant Mooty's Newest Trust, Estate, and Charitable Planning Attorney

Beth T. Morrison

Beth joined the Gray Plant Mooty Trust, Estate, and Charitable Planning Practice Group in January 2019. Based in Minneapolis, Beth works with clients to implement tax-efficient estate plans that achieve their personal and financial goals. With a passion for helping people, she also guides families through the estate settlement and administration process after they have lost a loved one. More information about Beth and the entire team is below and also available online at www.gpmlaw.com.

Trust, Estate, and Charitable Planning Attorneys:

Benjamin O. Bonestroo	612.632.3244
Ann B. Burns	612.632.3402
Julie A. Frommelt	612.632.3068
Kara P. Gray	612.632.3245
Sally Stolen Grossman	612.632.3007
Lee W. Hanson	320.202.5313
Robert E. Harding	612.632.3091
James D. Lamm	612.632.3404
Karen E. McMahon	612.632.3254
Richard A. Moore, Jr.	612.632.3265
Beth T. Morrison	612.632.3322
Sheryl G. Morrison	612.632.3376
Amy E. Papenhausen	612.632.3480
Marya P. Robben	612.632.3010
Matthew J. Shea	612.632.3428
Paul W. Steil	320.202.5305
James R. Thomson	612.632.3251
Edward H. Tully	612.632.3445