

For *The La Jolla Light*

'Tis The Season For Giving: Make Your Gifts Wisely

By: *Edward P. Schlesier*

This holiday season, many of us will make gifts to family, friends, or charities. As San Diegans continue to demonstrate after the recent wildfires, making gifts to those in need can be a rewarding and beneficial experience for both the donor and recipient. Beyond the altruistic benefits, it is prudent for donors to consider gift and other tax laws.

Congress enacted gift tax to prevent taxpayers from avoiding estate tax by "gifting" property before death. The top marginal rate for gift tax (and estate tax) is currently 45%. The first \$12,000 gifted to a recipient each year, however, is exempt. Also, there is a lifetime gift tax credit equivalent to \$1,000,000. Gift tax credit taken, however, reduces the available estate tax credit (currently \$2,000,000). Some gifts are exempt from gift tax regardless of the value (e.g., gifts to qualified charities or organizations for tuition or medical costs).

If you intend to make a non-exempt gift, consider making gifts over multiple years to take advantage of the \$12,000 annual exclusion. Also consider making a gift of appreciated property to avoid recognizing income tax. If you have property likely to increase significantly in value, consider giving to a Grantor Retained Annuity Trust (GRAT), where you are the initial beneficiary, and after a period of time the intended recipient receives it from the trust. Giving to a GRAT can reduce the tax consequence of a gift to family or friends.

With charitable gifts, determine whether the organization is tax-exempt. One advantage of giving to such a charity is that you can receive an income tax deduction and it is excluded from gift tax. Don't overlook this dual benefit. Also consider your level of involvement with the charity. If the charity is new to you, you may want to start by giving a fraction of the total amount you desire to give to that charity and monitor its use. As the organization demonstrates good stewardship, you can make additional gifts.

Some public charities offer donor advised funds, through which you can make a gift now (and take a tax deduction) and direct where the funds will be used later. This can be a great way to support multiple charities over many years and receive the tax benefit now. An alternative to a donor advised fund is to create a private foundation, but that requires significantly more start up costs and administration.

For a gift that benefits both family (or friends) *and* charity, consider a Charitable Remainder Trust (CRT) or Charitable Lead Trust (CLT). A CRT allows you to retain an annuity and upon death (or other time span) the remaining property is distributed to charity. You receive an income tax deduction when you fund the trust and the property in the CRT is not subject to gift or estate tax. A CLT works like a CRT except an annuity is paid to the charity and the remaining property is distributed to family (or friends). A CLT may reduce gift and estate tax and provide income tax savings.

With a little planning, your gifts can not only benefit those in need, but also your family, friends, and even your bottom line.

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