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Tangible Treasures:

Maximizing Your Clients' Philanthopy with Gifts of Collectibles

Although gifts of tangible personal assets such as artwork, jewelry, or coin collections are the most complicated to administer, they can represent a hidden source of philanthropic capital.

For high-net-worth clients and advisors alike, appreciated collectibles are often an overlooked source of charitable assets. "Many advisors don't bring it up because they don't feel comfortable with it," says Laurence C. Zale, president of the New York independent visual arts advisory firm Laurence C. Zale Associates, which advises collectors and public charities, and assists with appraisals. "At the same time," he adds, "many clients don't know the value of their collections, which may have been hanging on walls for years or secreted away in safe deposit boxes."

But Zale and other experts agree that advisors should consider collectibles when evaluating a client's potential sources of charitable capital. Given the soaring value of some collections and the higher capital-gains-tax rate on these assets—28 percent, versus a top rate of 15 percent for long-term liquid investments such as stocks—helping clients donate tangible property can deliver healthy income-tax savings, reduce future exposure to estate taxes and benefit charities.

Fair Market Value and the "Related-Use" Provision

Still, when structuring gifts of tangible personal property it's important to tread carefully. "It's one thing to give 1,000 shares of IBM stock and another to make complex gifts," cautions Philip T. Temple, LL.B., a partner at law firm McCarthy Fingar LLP of White Plains, N.Y., who specializes in taxes and charitable giving. Temple advises collectors to hire an appraiser to determine the fair market value of the asset and an expert who specializes in the disposition of collectibles for philanthropic purposes.

Tangible property can vary widely in value. Gems once owned by celebrities can be especially valuable, and antique cars and aircraft may be worth more or less than market-guide approximations depending on their history, condition, and provenance. At the same time, the rules governing valuation are complicated. For example, an original work of art and its copyright are considered separate property. If clients transfer the artwork to a charity but retain the copyright, they can't claim an income-tax deduction, although they may be entitled to a gift or estate-tax deduction.

Temple adds that such gifts must be donated to a "related-use" public charity in order for your clients to receive a full fair-market-value deduction. For example, boats of historical value might be donated to a nonprofit maritime organization, or artwork to a museum: in both cases the recipient uses the gift to further its charitable mission. However, the related-use rule doesn't help with gifts to private foundations. Clients who transfer tangible property to private foundations (except private operating foundations) receive a tax deduction based on the cost-basis, or original value, of the item—not its fair market value unless the item's market value is less than the donor's cost.

Working with Community Foundations

By their very nature, most community foundations do not qualify as "related-use" organizations. Nonetheless, Zale says many of his clients donate tangible personal assets to community foundations, which can help simplify the process and advise clients on their charitable gifting options. "Many people choose to fund a donor advised fund through a gift of jewelry or artwork," Zale says. "They would only be able to deduct the cost-basis value, but they will have reduced the value of their estate and avoided the exorbitant capital gains."

There are three ways to donate tangible assets to community foundations:

- **Testamentary:** The most popular method—and most frequently recommended by attorneys and financial advisors—is to gift tangible assets at the time of death, when the step-up in basis has already occurred. "These gifts bypass the related-use issue," Temple says. "Your personal tangible assets are appraised at full market value along with everything else in your estate. Clients can make a planned gift to a community foundation, reduce the value of their estate, and still enjoy the collection during their lifetime."

- **Outright Gift:** This option might be advisable for a donor whose original cost basis is not much lower than the current fair market value, or for a donor who is more concerned with a community foundation's mission than his or her income-tax deduction. Keep in mind that new rules limit the deduction for gifts of vehicles not put to a related use to no more than what the charity receives when it sells the vehicle—this amount may be less than the donor's cost.

- **Funding Life-Income Gifts:** Tangibles and collectibles can also fund gift annuities and charitable remainder trusts, both of which provide income for life. Depending on the charitable vehicle in question, your client may have to pay some capital gains tax, so it's important to discuss these considerations with them.

While the valuation rules and considerations governing tangible assets are complex, working with the appropriate experts can help you ensure that your clients' gifts are put to the best use possible and further their charitable intent in a strategically advantageous manner.

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[Optional] Learn more at www.communityfoundations.net.