

Practical Planned Giving: A Sarasotan's Guide

FICPA Gulf Coast Chapter

February 3, 2015

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WILLIAMS PARKER

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Gifts of Art



Frank Stella 'Hampton Roads, New Madrid, Delaware Crossing, Sabine Pass, Palmito Ranch and Island No. 10' 1962

The Holding Period

A donor attends Art Basel Miami with The John and Mable Ringling Museum of Art on December 5, 2014. At Art Basel, the executive director of The Ringling indicates he liked a piece of art work and thought it would be a good acquisition into the Museum collection. The donor purchases the piece for \$10,000 with the intent of donating it to the Museum. Because of the popularity of this artist at the art fair, prices soar over the next two months and the piece of art work is now worth \$50,000.



Nick Cave

Charitable Contribution Ceilings

A donor's adjusted gross income is \$100,000. The donor purchased a piece of art work several years ago for \$98,000 and the fair market value today is \$100,000. The donor wishes to gift the art work to The Ringling this year.

30% Ceiling

- Year 1: \$30,000
- Year 2: \$30,000
- Year 3: \$30,000
- Year 4: \$10,000

Total: \$100,000

50% Ceiling

- Year 1: \$50,000
- Year 2: \$48,000

Total: \$98,000

Charitable Contribution Ceilings, continued

Practical solutions when an income tax deduction cannot be exhausted within the 5 year carryover period:

- Work with the donor and the non-profit to structure the gift as a pledge
- Work with legal counsel to include the items not gifted outright in the donor's estate plans for the benefit of the non-profit

Use of Property by the Charity



Substantiation Requirements

Form 8283
(Rev. December 2012)
Department of the Treasury
Internal Revenue Service

Noncash Charitable Contributions

▶ Attach to your tax return if you claimed a total deduction of over \$500 for all contributed property.

▶ Information about Form 8283 and its separate instructions is at www.irs.gov.

Name(s) shown on your income tax return

Note. Figure the amount of your contribution deduction before completing this form. See your tax return for more information.

Section A. Donated Property of \$5,000 or Less and Certain Publicly Traded Securities. Items (or groups of similar items) for which you claimed a deduction of over \$5,000 (see instructions for more information).

Part I Information on Donated Property—If you need more space, attach a statement.

- For non-cash gifts over \$500, IRS Form 8283 must be completed.
- If the deduction is more than \$5,000, you should obtain a qualified appraisal of your work by an unrelated qualified appraiser, no earlier than 60 days prior to the date of gift and no later than the end of the calendar year.

Practical Considerations

- What can a donor expect when gifting art to an institution?
- What is the Institution's role
- How should timing work?
- What are the gift acceptance policies of the institution?

Retained Life Estates



- Make an irrevocable gift to an organization;
- Receive a current income tax deduction for the property's discounted value; and
- Continue to enjoy the use of the property as usual.

Life Estate Example

- An 80 year old widow owns a winter home valued at \$500,000, with a cost basis of \$200,000. The house (depreciable portion) is valued at \$250,000 and has an estimated useful life of 45 years, at the end of which the salvage value is \$62,500. She has owned this winter home for a long time. The donor wants to contribute the home to a local non-profit, reserving a life estate for her life.

Life Estate Example continued

Deduction: \$392,018.13

Age: 80

Gift Amount: \$500,000

Land Value: \$250,000

Building Value: \$250,000

Salvage Value: \$62,500

Estimated Life: 45 years

Gift Date: 2/3/2015

IRS Discount Rate: 2.2% (January 2015)

Practical Considerations

Due Diligence

- Appraisal
- Inspections
- Title Insurance



Practical Considerations continued

- **Life Estate Agreement**
 - Fires, floods, natural disasters
 - Insurance, taxes
 - Major repairs or remodel
 - Subtenants
 - Procedures for selling the property during tenancy and dividing the proceeds
 - Procedures for removal of personal property upon end of tenancy
 - Unforeseen circumstances
 - A comprehensive dispute resolution process