Charitable Giving in Tough Times. . . . Do the Rules Change?

For the last few months we have all been reading about market meltdowns, rising unemployment, and declining interest rates. You may have wondered if these conditions should change the way you think about charitable giving. In one sense the answer is no: Americans continue to give almost as generously in bad times as in good. However, in another sense, the answer is yes: economic conditions do have an impact on which giving strategies work best.

Think about gifts of appreciated securities. In good times, when markets are rolling to new highs, folks are advised to give their appreciated securities directly to charity—as opposed to selling the security and giving the proceeds. Gifting the security directly allows you to avoid capital gains tax on the appreciation and entitles you to a charitable deduction on the full fair market value of the security.

In bad times, however, many of us have pitifully few appreciated securities left in our portfolios. What to do? Consider selling your depreciated securities so that you can harvest the loss for use on your personal return. While the deductibility of capital losses is limited, you can use your losses to offset capital gains—a nice feature if you are repositioning your portfolio to respond to changing times. You can then give the cash proceeds to charity.

Let's take another example. When times are flush, folks often feel comfortable making large lifetime gifts to charity. In difficult times, people are more inclined to hold onto their assets and instead leave a significant bequest to charity in their will.

For those of us who like to have the best of both worlds, charitable lead trusts (CLTs) provide an attractive variant on the bequest idea. That is, CLTs allow you to make a significant gift to charity while keeping the assets in your family.

To illustrate, you could direct a portion of your estate into a CLT. The CLT would require that a certain percentage of its assets be paid to charity for a specified period of time; after that, the principal of the trust could be paid out to children, grandchildren or other family members. Your estate would be entitled to a charitable deduction equal to the actuarially determined value of the interest passing to charity. What's more, as an added bonus, the actuarial assumptions used by the IRS assign a heavy value to the charitable interest in times when interest rates are low.

We should end with a note of caution: always check with your tax and financial advisers before putting any planning idea into effect. What may be a good idea "generally" may not work for you because of some unique circumstance.

If you need more information, please contact Gayllis Ward at gward@cato.org or at (202) 218-4631. Please feel free to contact Gayllis with any question about estate or gift planning.