Gift of grain can aid charity, farm

Legal Issues

By ERIN HERBOLD-SWALWELL

EACH year, around the time many farmers are meeting with their tax preparers to conduct end-of-year tax planning, we receive questions from readers regarding charitable gifting and the options available to farmers. There are several options that offer significant tax savings to charitably inclined farmers.

Many farmers make routine gifts of cash to tax-exempt organizations. However, other options are available such as grain gifting programs established by some of Iowa's most well-known, farm-related charitable organizations.

■ **Cash gifts.** If a farmer decides to donate cash to a charitable organization, the IRS allows a deduction for the charitable contribution equal to the amount of cash donated, assuming the farmer itemizes deductions on his or her personal return and doesn't take the standard deduction. The benefit to the farmer is that the charitable deduction reduces his or her taxable income, thus saving on income tax.

The one drawback is that the cash gift doesn't reduce taxable income for self-employment tax purposes. For instance, if a farmer sells grain and converts it to cash and then makes the gift, the farmer would have to pay self-employment tax on the value of the grain. If you are a farmer looking for a way to reduce self-employment tax, you might consider non-cash gifts, such as raised grain.

■ **Non-cash gifts.** Another option for charitable gifting that allows taxpayers a tax deduction, in most cases, is the gift of specific property, including financial assets such as stocks and bonds, securities, or mutual funds or tangible property such as farm real estate, livestock, farm collectibles, or even raised grain.

One often overlooked avenue for cash basis farmers considering charitable gifting is the gift of raised grain. Several charitable organizations in the state have established grain gifting programs, such as the Iowa FFA Foundation, the Iowa 4-H Foundation and Iowa State University.

Giving grain as a gift

Gifting grain directly, as opposed to selling the grain and then making a cash gift may offer farmers more tax savings. When a farmer donates raised grain, he or she avoids the income from the sale of the grain, and the costs of producing the grain may still be deductible. Thus, by gifting grain, a farmer may be able to reduce self-employment tax liability because the grain was never sold and reduce the amount of adjusted gross income for the tax year.

For more information on charitable gifting of grain, the Iowa State University Foundation has a story at *www.foundation.iastate.edu/s/1463/index.aspx?sid=1463&gid=1&sitebuilder=1&pgid=835*, and makes an important point: Grain farmers must annually certify and document production bushels with USDA's Farm Service Agency for purposes of enrolling in FSA farm programs. Thus, farmers should complete the FSA certification prior to making a gift of grain to an organization.

The article also says the gift of grain may take some coordination on the farmer's part. Generally, the farmer would deliver the grain to the elevator or co-op, stating that he or she wishes to "transfer ownership" of the grain to the charity. The farmer should then request a grain storage receipt showing the charity as the owner and notify the charitable organization that accepts gifts of grain that the transfer was made.

Part of estate planning

It's never a bad time of year to consider incorporating charitable gifting into the family estate plan. Some farm families, especially those without an on-farm heir, often consider contributing gifts of real estate to charitable organizations. Usually, farmers who use this option work with their estate planning attorney to create a charitable remainder trust.

Simply put, a charitable remainder unitrust (often referred to as a CRUT, or a charitable remainder annuity trust, or CRAT) once established would distribute a fixed percentage of the value of the assets to a non-charitable beneficiary (often the farmer acting as settlor of the trust). At the expiration of a certain time period, usually the death of the farmer, the remaining balance of the CRUT's or CRAT's assets are distributed to the charitable organization.

Generally, the CRUT provides the donor a yearly payment computed as a percent of the trust assets' market value (determined annually). The CRAT provides a yearly payment to the donor of either a fixed amount or a percent of the initial trust's value. The assets are valued annually and the annuity amount is determined at that time. To qualify as "charity" for tax purposes, the amount projected to pass to the charitable organization at the end of the CRUT or CRAT must be at least 10% of the original value of the assets.

CRUT and CRAT are options for structuring a charitable gift to an organization while still retaining life use of the assets. Farmers considering this option will want to seek out the guidance of an experienced estate planning attorney.

As always, consult with your farm tax preparer, financial adviser or attorney to understand the tax impact of charitable gifts for purposes of year-end tax planning and estate planning. Farmers also need to investigate the charitable organizations they are making gifts to. It goes without saying that if farmers are looking into charitable gifting in the context of tax planning, they should make sure the charitable entity they donate to is exempt from taxes in the eyes of the IRS. As with other aspects of tax planning, good recordkeeping is key.

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