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Nonprofit

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Attention Charity CFO's: Eliminate Liability and Risk Management from Donations of Property in Exchange for a Steady Income Stream

A long-standing reliable donor happily announces that she's going to donate to your charity her beloved father's strip mall on 15 acres. You thank her, but ask yourself, "What in the world am I going to do with that?"

Donations of land and buildings are often an unwelcome gift – or should be. The donor with the best of intentions, may be transferring not only the property, but the headache of assessing its value, maintaining it, operating any business on the property, protecting it from vandalism, listing and preparing it for sale, finding a buyer, and aligning the sale and legal documents so that the proceeds are not taxed as UBIT. Because most nonprofits are not in the real estate business, gifts of property can become a liability, may linger on the books, or be sold below market.
What if you could avoid that hassle and risk management, and instead offer an alternative to your highly-motivated donor that gives her more flexibility and options, defers all capital gains taxes, obtains the charitable gift deduction, and creates a steady stream of income for your charity? This alternative is a DST/1031 Exchange.

The DST/1031 Exchange is governed by the 1988 Delaware Statutory Trust Act and Section 1031 of the Internal Revenue Service Code. A DST/1031 Exchange allows an owner of real estate to sell her original property and defer all capital gains taxes, if the sale proceeds are timely used to purchase a qualifying DST interest within the 1031 time frame. Depending on the property, the DST typically generates monthly or quarterly income in the annual 5% to 7% range. All taxes on the sale of the property are deferred until the owner sells the Trust. Meanwhile, the Trust generates a steady stream of income to the owner for as long as she holds it. And that income can be made fully tax-free, as well, by donating it to a tax exempt charity.

In other words, instead of donors giving real property that can burden the charity with significant operational and risk-management duties, they can place the value of their property into a DST and donate some or all of the income stream to your charity.

A key benefit for most DST/1031 donors is the deferral of 100% of taxes on the sale of the property for as long as the donor holds the DST. While the investment span of most DSTs is 5 to 10 years, tax-deferral can continue as long as the proceeds of each maturing DST are timely reinvested in a new DST. Meanwhile, the donor retains complete control over the DST income stream. For example, a donor might direct half of the income to her grandchildren and the other half to her favorite nonprofit. She can change the recipients or reallocate the DST income at any time with a phone call.

A key benefit to the charity is gaining a steady stream of income without the management hassle and expense of maintaining or selling real estate.

While DST/1031s are still largely a best-kept secret, more charities are beginning to educate their boards and largest stakeholders on the benefits of the DST/1031 Exchange. Gammon & Grange Consulting Group, LLC can explain how the DST/1031 Exchange offers control, flexibility, and deferral of taxes to your donors that own real estate. A future issue of the G&G Alert, will outline the essential elements and practical steps for guiding prospective property donors to the comparative benefits of the DST/1031. Or, if you or a supporter of your charity would like immediate and personalized information, please contact Steve West at 703.761.5024; srw@gg-consult.net.

Attorney Spotlight

Steve West

For over 25 years, Mr. West's legal practice has focused on construction law and commercial real estate development. He provides expert advice to clients on acquisition and disposition of commercial properties, site planning and development, project financing, leasing, and DST/1031 Exchanges.