Wood LLP Tax Alert

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Supersizing Warren Buffett's $2.8 Billion Tax Deduction

Uber-billionaire Warren Buffett gave $2.6 billion to charity last year. Hardly one to rest on his laurels, this year he upped his giving to $2.8 billion. Big gifts went to the Bill and Melinda Gates Foundation and other charities. Was it cash?

Of course not! The famously savvy CEO of Berkshire Hathaway did it in stock, giving 21.7 million shares of his company's class B stock. Valued at $128.98 per share, it reduced his holdings to $63.1 billion. $2.1 billion worth of shares (16.59 million of them) went to Bill Gates' charity, the Gates Foundation.

Other donees of Mr. Buffett's Berkshire stock included the Susan Thompson Buffett Foundation ($215 million of stock), the Howard G. Buffett Foundation, the Sherwood Foundation and the NoVo Foundation. The latter three charities got $150 million each. Mr. Buffett handed over stock in his company, Berkshire Hathaway.

Warren Buffett is one of the world's richest and most benevolent men. Buffett pledged to give away 99% of his fortune. In 2012, he gave $1.5 billion to the Gates Foundation. In the same year he pledged $3 billion of stock to his children's foundations. Mr. Buffett has now donated more than $13 billion in Berkshire Hathaway shares to the Bill & Melinda Gates Foundation, and over $23 billion overall.

Why donate stock rather than cash? When someone donates stock, the donor gets a charitable contribution deduction based on the *fair market value* of what is given. Value and basis are different things, which can mean a big tax advantage.

By donating at the market value of the shares, Mr. Buffett gets credit for the appreciation in the shares, but doesn't have to pay income tax on his gain. That makes donating the appreciated stock far better than selling the stock, paying tax on the gain, and donating the cash. Giving appreciated property is the kind of wise tax planning you would expect from Mr. Buffett.

Mr. Buffett is not alone. Facebook CEO Mark Zuckerberg has done the same thing. Mr. Zuckerberg donated $500 million of his Facebook stock to the Silicon Valley Community Foundation. Zuckerberg made his donation in the form of 18 million shares, translating to a $500 million tax deduction. The Facebook IPO price was $38 a share. They price dipped below $20 but then rose by more than 25% by the time of Mr. Zuckerberg's December 2012 donation.

Donating appreciated stock is a smart tax move. By donating the stock, the donor avoids paying tax on the gain. The donee organization can hold or sell the stock. But since it is a tax-qualified charity, if it sells the stock it pays no tax regardless of how big the gain.

Big donations yield big tax benefits, but pay attention to the details. Donations go on Schedule A to Form 1040, so you must itemize. You can only take a deduction for up to 50% of your adjusted gross income for most charitable contributions (30% in some cases).

Observe other basic rules too. If your donations entitle you to merchandise, goods or services, you can only deduct the amount *exceeding* the fair market value of the benefits you received. If you pay $500 for a charity dinner ticket but receive a dinner worth $100, you can deduct $400, not the full $500.

Of course, make sure the donee organization is qualified. You cannot deduct contributions to individuals, political organizations or candidates. The IRS maintains a list of all charities. To check whether particular organizations are on the IRS list, click here.

Mr. Buffett may have said that he thinks his own tax rate should be higher. But he has also proven to be careful to plan transactions efficiently so he pays less. Like a long term investment that pays off, perhaps there's something satisfying in arranging a deal that is tax-efficient and that benefits charity. It's unlikely that any of us will make it to Warren Buffett's level. Still, properly planned charitable contributions can be tax efficient and do good works too.

You can reach me at Wood@WoodLLP.com. This discussion is not intended as legal advice, and cannot be relied upon for any purpose without the services of a qualified professional.

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