

Time-Share Use as a Charitable Contribution

Article Highlights:

- Charity Auction
- Time-Share Donation
- Use of Property as a Donation
- Time-Share Maintenance Fees
- Taxpayer-Rendered Services

If you have ever attended a charity auction, it is not uncommon to see a week's use of a time-share included in the items donated for auction. The time-share owners who donate these weeks generally do so in anticipation of being able to take charitable donation deduction on their tax returns.

How does one determine how much one can deduct for such a donation? The answer may come as a surprise. Per an IRS revenue ruling⁽¹⁾, the use of a property, or the permission to use and occupy a property, does not constitute a gift of property. In addition, the Internal Revenue Code does not allow a charitable deduction for a gift of a partial interest in a property unless this is done in trust⁽²⁾. Therefore, no charitable contribution deduction is allowed for the use of a time-share property.

Time-share owners are generally required to pay an annual maintenance fee that covers the pro rata upkeep of the resort itself, plus housekeeping services. The question arises: Can the time-share owner deduct the maintenance fee for the week donated?

IRS regulations⁽³⁾ allow deductions for expenses incurred in connection with personally rendered services to a qualified organization. However, services provided by others, even if paid for by the taxpayer, are not personally rendered to the charity and thus are not deductible. Since this includes the services provided by the time-share management company that are paid for with the taxpayer's maintenance fees, the time-share's maintenance fees for the donated period are not deductible.

However, if the taxpayer incurred other expenses in connection with the donated use of the time-share, such as driving to the time-share property to let the winning bidder into the unit, a deduction for those expenses would be allowed under IRS regulations⁽³⁾. This is because the time-share owner would be performing the service directly for the charitable organization; a mileage deduction at the rate of 14 cents per mile would be allowed.

As a bottom line, the donation of the use of a time-share does not constitute a charitable contribution. If you have questions related to charitable contributions please give this office a call.