Wells Fargo Wealth & Investment Management

Real Estate Gifts

Philanthropic Services offered through Wells Fargo Bank, N.A.

September 20, 2022
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Agenda

- Why consider real estate gifts?
- Where do you start?
- Considerations
- Types of real estate
- Charitable options
- Due diligence
- Case studies

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Why consider real estate gifts?

In our experience, High Net Worth/Ultra High Net Worth donors:

- Generally hold wealth in illiquid assets
- Some of the largest planned gifts (other than bequests) are funded with illiquid assets

Growing a planned giving program:

- Should carefully consider real estate gifts
- Have a method in place for evaluation
- Must have support of organization’s key decision makers
- Planned giving professional should be able to articulate value and cautions

Where do you start?

- Gift acceptance policies
  - Does organization have?
  - What do they say?
  - Do they need to be updated?
- Have buy-in from organization’s decision makers
  - This can be a critical step
  - Real estate gifts are generally long term
- Develop a plan for what type of real estate organization will be willing to accept
- If organization does not have in-house expertise, find external advisors who can help

Considerations

- What is organization's appetite for real estate gifts?
- How financially secure is the organization? (Endowment/unrestricted assets)
- What type of real estate would be acceptable for donation?
- How would real estate title be held? (In name of nonprofit organization, supporting org, related non-profit, LLC)
- Outright gift or for life income gift?
- How is real estate held by donor? (In donor's name, LLC, S Corp, C Corp, trust)
- Debt
- Environmental
- Appraisal and potential minority discount
- Exit strategy

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Types of real estate

- Residential
  - Single family
  - Multi-family
- Commercial
- Raw land
- Timeshare

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Charitable options

- Outright
- Bargain sale
- Donor advised fund or private foundation
- Retained life estate
- Charitable gift annuity
  - Option with retained life estate
- Charitable remainder unitrust or annuity trust

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Outright and bargain sale

- Outright
  - Generally least risk to nonprofit (other than potential environmental issues, which can be mitigated with environmental impact survey)
  - Important to document use of real estate and/or sale proceeds with a gift agreement. Once asset is gifted, donor cannot retain control of asset or continue use.
  - Best practice for donor/client to have own legal/tax professional advisor
- Bargain Sale
  - Allows charity to acquire property for reduced cost
  - Especially helpful if nonprofit will keep/use property (i.e. university housing, office building, parking lot)
  - Cautions – same as those listed above (environmental survey, gift agreement, donor has own professional advisor)

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Bargain Sale

Prepared For Bargain Sale

Property

Value	$1,000,000
Costs*	$100,000
Gain	$900,000

Sale Portion
$700,000

Charity
$300,000

Benefit to Donor

Cash Sale	$700,000
Tax on Gain	$149,940
Taxes Saved	$111,000
Net to Donor	$661,060

Bypass Part of Gain Income Tax Deduction

Gain on Sale Offset by Gift

Cash Plus Net Taxes

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Data assumptions on next slide. Illustration provided by Crescendo Interactive, Inc.

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Bargain Sale

Owner: Bargain Sale	Property Value: $1,000,000	Cost Basis: $100,000
Income Tax %: 37.00%	Capital Gain %: 23.80%	Percent Gifted: 30.00%
Cash Received: $700,000	Taxable Gain: $630,000	Gift Value: $300,000
Extra Deduction: ($330,000) (Gift Less Taxable Gain)		

WORKSHEET --

Property Value (PV)	**$1,000,000**	**GIFT**	**$300,000**
Cost Basis	**$100,000**		
Cash Received (CR)	**$700,000**		
Allocated Basis	**$70,000**	(CR / PV * BASIS)	
Taxable Gain	**$630,000**		
Net Gift Deduction	**($330,000)**	(Gift Less Tax. Gain)	

	No Gift	Sale/Gift 30%	Gift 30%/Sale	Gift 100%
Property Value	$1,000,000	$1,000,000	$1,000,000	$1,000,000
Cost Basis	$100,000	$100,000	$100,000	$100,000
Sale Portion	$1,000,000	$1,000,000	$700,000	$0
Allocated Basis	$100,000	$100,000	$70,000	$0
Net Gain	$900,000	$900,000	$630,000	$0
Tax on Gain	$214,200	$214,200	$149,940	$0
Taxes Saved	$0	$111,000	$111,000	$370,000
Net to Donor	$785,800	$596,800	$661,060	$370,000
Charity	$0	$300,000	$300,000	$1,000,000
Gift Cost	$0	$189,000	$124,740	$415,800

Note: The Income Tax rate is assumed not lowered by the charitable gift.

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Donor advised funds

A donor advised fund (DAF) allows donors to:
- Make irrevocable contributions to a qualified public charity
- Receive an immediate tax benefit in the year in which the contribution was made
- Make recommendations for distributions of the funds to qualified nonprofit organizations

Other general characteristics of donor advised funds:
- They consist of a fund or account owned and controlled by a nonprofit, charitable tax-exempt organization known as the sponsoring organization
- The DAF is separately identified by reference to the contributions of the donor(s)
- The donor (or a person appointed or designated by the donor) has or reasonably expects to have advisory privileges over the distribution or investments of the assets in the account

Note: A donor advised fund is **not** a separate charitable entity. It is a fund sponsored and controlled by a section 501(c)(3) qualified public charity. Donor Advised Fund donors do not receive investment returns. The amount ultimately available to the Donor to make grant recommendations may be more or less than the Donor contributions to the Donor Advised Fund. While annual giving is encouraged, the Donor Advised Fund should be viewed as a long-term philanthropic program. Tax benefits depend upon the client's individual circumstances. Clients should consult their Tax Advisor.

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Retained life estate

- An arrangement where the donor transfers personal residence or a farm to nonprofit and retains lifetime use of the property. This arrangement allows a donor to claim a charitable deduction at the present time for the gift of the remainder value of real property donated to charity.
- Can retain use for one life, two lives (or more), or a fixed term of years
  - Nonprofit will want to consider how long it will "wait" for property and options if donor becomes mentally or physically incapacitated
  - Deferred maintenance
- Considerations around maintenance, insurance, and taxes agreement
  - Plan ahead: What happens if donor wants or needs to move?
  - Exception to partial interest rule (I.R.C. § § 170(f)(3)(B)(i), 2055(e)(2) and 2522(c)(2))

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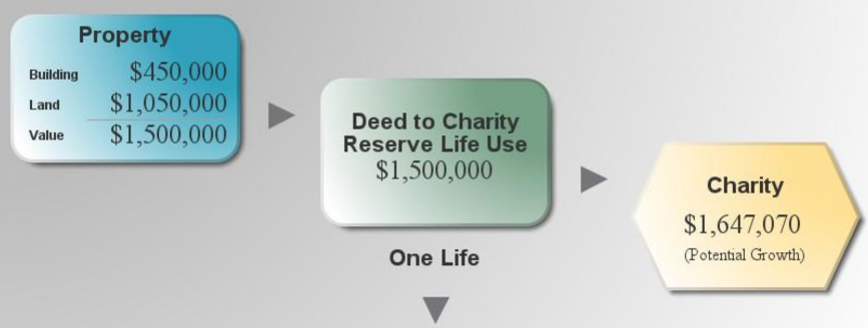
Life Estate

Prepared for John Doe (85)



Transfer deed to charity and reserve right to use property for one life. Owners pay for maintenance, taxes and insurance.

Live in home for one life. Receive a charitable income tax deduction of $1,415,570. Current deduction may save up to $495,449 in income taxes.

After one life, property transferred to charity. Full charitable estate tax deduction.

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Life Reserved

One Life

Donor: John Doe	Gift Amount: $1,500,000.00	Gift Date: 08/02/2020
Beneficiary(ies)		
1st Person: John Doe	Date of Birth: 08/02/1935	Age*: 85
Land Value: $1,050,000.00	Building Value: $450,000.00	Salvage Value: $90,000.00
Useful Life: 45		

* Age calculated to nearest six months

Calculation

(A)	Factor Age 85 AFR of the Month: 0.4% (IRS Pub. 1457, Table R(2))	0.97565	(A)
(B)	Deduction Value of: Land + Salvage (Land + Salvage) x Line (A) (Reg.Sec. 1.170A-12(e))	$1,112,241.00	(B)
(C)	Remainder Interest Factor For Depreciable Property (Buildings) (Reg.Sec. 1.170A-12(e))	0.84258	(C)
(D)	Deduction Value of: Bldg.- Salvage (Bldg. - Salvage) x Line (C) (See Also IRS Pub. 1459)	$303,328.80	(D)
(E)	Total Value of Remainder Interest Line (B) Plus Line (D)	**$1,415,569.80**	(E)

With 1.00% appreciation for 9.4 years, future value after $131,766 sale costs is $1,515,305. Present value at 3.00% is $1,147,705.

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Charitable gift annuities (CGAs)

- Donor transfers property to charity in exchange for fixed payments for one or two lives. Donor is entitled to a charitable deduction for the present value of the remainder interest of the CGA.
- Presents some risk to nonprofit as follows:
  - Donor outlives life expectancy – charity could end up paying more to annuitant(s) than value of property received
  - Home is unsold for many months/years after contribution – charity must make CGA payments as outlined in CGA agreement
  - Significant drop in property value after donation – charity is obligated to payments based on value used in CGA contract; therefore, could end up making payments on larger value than received
  - Major repair/maintenance after donation and before sale – once charity accepts property, it is obligated for upkeep and maintenance unless agreement otherwise
  - Property taxes – after donation, charity responsible for taxes
  - If nonprofit is required to fund reserve account (some states regulate CGAs – see www.acga-web.org for state requirements), must determine where such funds will come from to maintain adequate reserve fund value (cannot fund reserve with real estate)

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Charitable gift annuities (CGAs)

- Mitigating risk
  - Don't accept
  - Require percent of real estate to be gifted outright and remainder for gift annuity
  - Discount real estate
  - Apply discount to CGA rate (in CA, requires document signed by donor)
  - Defer first annuity payment for one year or more

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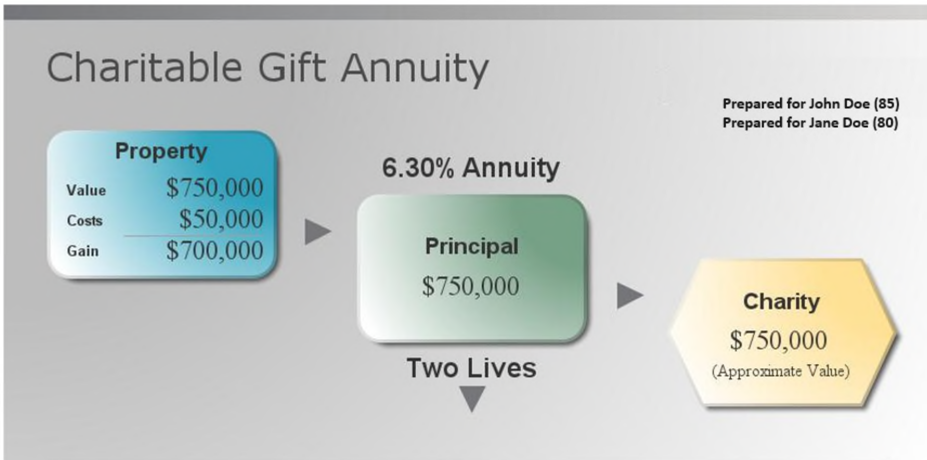

1. Gift property to charity. Partial bypass $700,000 gain may save $80,807. Income tax deduction of $363,779 may save $134,598.

2. Annuity of $47,250.00 for two lives. Tax-free amount $34,161.75. Estimated two lives payout of $685,125. Effective payout rate 10.9%.

3. Quarterly payments for two lives. Property passes to charity with no probate fees. There are also no estate taxes, if married.

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Charitable Gift Annuity

Donor:	Gift Amount:	Gift Date:
John & Jane Doe	$750,000.00	08/29/2022
Beneficiary(ies)		
1st Person:	Date of Birth:	Age*
John Doe	08/29/1937	85
2nd Person:	Date of Birth:	Age*
Jane Doe	08/29/1942	80
Cost Basis:	Payment Frequency:	Date of First Annuity Payment:
$50,000.00	Quarterly	09/30/2022
Income Tax %:	Capital Gain %:	Current Return %:
37.00%	23.80%	0.00%
Rate Month:	Annuity %:	Amount to Charity:
3.8% August	6.3%	$750,000
Annual Payment:		
$47,250.00		
Gift Annuity Options		
Recipient:		
Donor and Another Person Annuity		
Gain Taxed:		
Gain Reported Over Two Lives		
GA Gain:		
100.00% Long Term Gain / 0.00% Short Term Gain / 0.00% Ordinary Gain		
Pro Rata Payment:		
Standard Payment		
Property Title:	End Value:	GA for Home:
Joint Property	$750,000	Yes-500K Exclusion
Reinsure GA:	State Credit:	
No	None	

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Charitable remainder trust (CRT)

- Donor transfers appreciated real estate to trustee of CRT; asset sold by trustee without capital gains tax owed; donor (or other designated persons) receives payments for life or a fixed term of up to 20 years. Donor entitled to charitable deduction for present value of remainder interest of CRT.
- Trust selections – unitrust, annuity trust, Net Income with Makeup Charitable Remainder Unitrust (NIMCRUT), Net-Income Charitable Remainder Unitrust (NICRUT), Flip
- Risk factors
  - When are CRT payments required to start? Some CRT types require payments to be made in first year of trust, which could be an issue if property does not sell and no liquid assets in CRT.
  - Type of CRT payment – as mentioned above, type of CRT (standard, NIMCRUT, NICRUT, or flip) payout selection is important to ensure payments can be made timely.
  - Trustee – acts as a fiduciary and responsible for carrying out CRT requirements. Important to select competent person who can fulfill duties.
  - Liquidity for expenses before property sells – need to ensure expenses related to real estate (upkeep, maintenance, taxes) are paid and therefore, need some liquid assets in CRT to fulfill obligations prior to sale
  - CRTs are subject to private foundation rules – see I.R.C. § 508, 4941, 4943, 4944, 4945, and 4947(b)(3)(B)
  - Debt encumbered property may trigger capital gains tax to donor and may cause tax to charity due to debt-financed income.

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Potential donor example

- Mary Hernandez owns a home across the street from the university where you are a fundraiser. The university has a goal to acquire more real estate adjacent to the campus for several reasons including housing for faculty and staff, to serve as a buffer between the university and other residents, and for potential further expansion of the campus. Mary attends many university events and has given small amounts for several years. At a recent event, you overhear Mary telling another attendee that she just turned 70 and is considering moving closer to her daughter who lives in another state. She also mentions that she bought the house so long ago, she is afraid of the taxes she will owe if she sells.

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Potential donor example

- Jack Green owns a five unit apartment building in Texas. The building has been fully depreciated and there is a small mortgage on the property. Jack is looking to sell while the real estate market is still hot. He purchased the property as an investment years ago, but has gotten tired of being a landlord. He does have charitable intent. The income from his “day job” as an accountant puts him in the highest income tax bracket. Jack has asked you for suggestions on how he might reduce his tax burden if he decides to sell.

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Disclosures

Real estate investments carry unique risks including lack of liquidity and potential complex tax consequences and may not be appropriate for all investors.

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WELLS FARGO Wealth & Investment Management

Thank you

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PRACTICAL PLANNED GIVING CONFERENCE
SPEAKER EVALUATION

Date: ___________________ **Speaker:** ____

Name (optional): ____

Please rate the following:

	Excellent	Good	Neutral	Fair	Poor
I. OVERALL	5	4	3	2	1

Were your major objectives for this session met? Was the content of the session vital, timely, substantive?
Comments:____
____
____

II. RELEVANCE	5	4	3	2	1

Was the subject matter directly related to the requirements of your job?
Comments:____
____
____

III. VALUE	5	4	3	2	1

Do you believe the benefits of this session were worth the time, effort and cost?
Comments:____
____
____

IV. SPEAKER	5	4	3	2	1

How was their presentation style? Did the session move along at the right pace? Did they have appropriate knowledge on the topic?
Comments:____
____
____

V. MATERIALS	5	4	3	2	1

Were the materials clear and organized and appropriately helpful for the session?
Comments:____
____
____

Vi. What did you like the most about the session?
____
____

VI. Any suggestions to improve future sessions?
____
____

XII. How many years of gift planning experience do you have? _______