Northern California Planned Giving Council Primer Program

Understanding Life Income Plans:

The Basics of Charitable Remainder Trusts and Charitable Gift Annuities

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CHARITABLE REMAINDER TRUSTS

What the Donor Does:

1. Places an asset (cash, stock, real estate, rental property) **irrevocably** into a charitable trust.

2. Retains a lifetime right to the income the asset produces.

How the Donor Benefits:

1. Receives lifetime income.

2. Gets an immediate income tax deduction.

3. Bypasses capital gains tax on sale of appreciated property.

4. Avoids estate tax.

5. Protects principal and controls income flow.

6. Gains diversity

7. Provides for a good cause.

How good causes benefit

1. Receives whatever remains in the trust

How to establish a charitable remainder trust:

1. Review your projected your tax and income flow.

2. Ask lots of questions to make sure your trust fits your particular needs.

3. Consult your own legal counsel and financial advisers.

Variations on the CRT Theme

1. Term-of-years unitrust
   Trust lasts for a specified term, not to exceed 20 years, instead of for lives of income beneficiaries.

2. Unitrust plus term-of-years
   Trust lasts for the life of the income beneficiaries, and then continues for a term-of-years, not to exceed twenty, for their children

3. Unitrust with a lump sum paid up front
   Donor contributes a percentage of an asset, usually real estate. When the real estate is sold, trust gets its percentage in cash, donor gets the rest.

4. Dual Unitrusts
   Asset is contributed partly to one trust to benefit the donors, and partly to another trust to benefit their heirs.

5. Testamentary unitrust
   Charitable trust goes into effect on death of donor with heir(s) aimed as income beneficiary(ies). This results in an estate tax deduction.

6. Charitable trust and insurance trust
   Some of the tax and income benefits from a charitable trust are used by the donor to fund an irrevocable insurance trust benefiting his or her heirs.

7. Pooled Income Fund
   A nonprofit organization sets up its own trust for donors who wish to gain the tax and income benefits of a charitable trust but whose gift ($5,000 to $100,000) is not large enough (in their view) to justify the costs of setting up an individual charitable trust.

8. Charitable Annuity Trust
   Pays a predetermined fixed amount to the income beneficiary rather than variable income.

9. Charitable Gift Annuity (Requires licensing by state)
   Not a trust. A contract between the charity and the donor. Donor makes a gift. Charity pays a fixed amount for life.

A FEW CASE STUDIES

1. Case of the "Pile of Sand"

A woman, age 74, had purchased a lot at Stinson Beach for $15,000 twenty years ago. She did so simply to protect her view, not as an investment. Her friends thought at the time she was extravagant to have paid $15,000 for "a pile of sand" subject to property tax and other fees. The property was now worth almost 18 times the original purchase price. She had moved from Stinson Beach and wanted to sell the lot, but was not enthusiastic about paying the large capital gains tax due. She spoke with her children, and none of them was interested in the property. She also was finding property taxes and other fees on the lot an irritant. She wanted to have a lump sum to distribute to her children and a supplement to her income as a result of the sale. Her Solution: **Unitrust and Sale: 70% to unitrust and 30% kept. Value of lot: $265,000**

Benefits: Cash to her of $80,000
Unitrust amount $185,000 bypasses gain
Unitrust deduction $95,000 (used to offset $75,500 gain built into $80,000 received)
Income to her from $185,000 unitrust
Unitrust principal avoids estate tax
Support an organization she loves

2. Case of the Dual Trusts

Several years ago, a couple, now in their late sixties, moved from their house in Tiburon, purchased several years before for $50,000, to Sonoma. Because they thought they might eventually move back to Tiburon, they rented their former residence. They now realized that Sonoma was their permanent home and they had no intention moving back to Tiburon. They were also tired of being landlords. They wanted to sell, but were told the home would sell for at least $500,000 and they would be faced with a large capital gains tax. They had a daughter, age 37, whom they also wanted to benefit from the sale. They explored the use of insurance to provide a future inheritance for their daughter but wanted to provide her with more immediate benefits. Their solution: **Two Separate Unitrusts.**

Benefits: Immediate income to daughter from her trust
Income to parents from their trust
Tax deductions to parents from both trusts
Capital gain bypassed when home sold
Principal from both trusts escape estate tax
Supports a cause they love
(Parents must report gift to daughter for present value of her projected income flow.)

3. Case of the Oil and Water Mix

A man and wife in their early eighties had no further use for a vacation home. If they sold it on their own they would be hit with a harsh capital gains tax. They also wanted dependable unvarying income after the property was sold. They placed the real estate in an annuity trust. This is a blunt, inflexible planned giving instrument. The trustee must come up with income, no matter what at the agreed upon amount. They also wanted monthly income to begin immediately after the trust was established and the vacation home contributed to it. Question: where was the money to come from while the property sat unsold on the market? Solution: The donors contributed $30,000 in cash at the same time the real estate was contributed, giving the trustee the cash needed to make the required annuity payments. Fortunately the property sold quickly and for a good price. If the property had not sold and the trust ran through the $30,000, everyone would have been very unhappy.

Benefits: Fixed income to husband and wife for life
Tax deduction from annuity trust
Capital gain bypassed when home sold
Principal from trust escapes estate tax
Supports a cause they care for
(Trustee suffers anxiety fits until property is sold)

4. Case of the Retiring Angioplasty

A successful banker, now in his mid-fifties, had suffered a heart attack five years ago. He had undergone a successful angioplasty that opened occluded coronary arteries. He now wanted to take early retirement and cash in some $500,000 of highly appreciated stock and reinvest for income. Though he wanted to avoid capital gains tax on his stock, he also wanted to provide an inheritance for his three children. His total estate was currently worth more than $2 million. His solution: **Unitrust with Wealth Replacement Trust**.

Benefits: Unitrust amount $500,000 bypasses gain
Unitrust deduction
Income for life to husband and wife
Unitrust principal avoids estate tax
Supports the American Heart Association.
Tax deduction and increased income allow purchase of insurance policy to restore inheritance to children.

Four keys to success of this strategy:
Donor insurable at reasonable cost
High capital gain bypassed
Vulnerable to estate tax
Higher income from trust than before

5. Case of the Shrewd CPA

A couple, unaccountably, got tired of being landlords in Berkeley. Determined to sell their five unit apartment building, they were appalled at the large capital gain they would face. They liked the bypass of capital gain allowed by a charitable trust, plus they were devoted to an East Bay charity. But what about their three adult children? The husband, a retired CPA, sharpened his pencil and came up with a solution: **Charitable trust with term of years added for children:**

Benefits: Income to parents for life from $450,000
Immediate tax deductions to parents
Capital gain bypassed when apartment sold
Trust continues to pay children for a term of ten years upon death of surviving spouse.
Supports a cause they love
(Trust amount will not be fully deductible for estate tax purposes because of ten-year benefit to children, but a substantial deduction will be allowed.)

6. Case of the Charitable Contract

A woman, age 85, had $50,000 of highly appreciated stock. She wanted to benefit a Hospital that served her, but needed additional income. An individual charitable remainder trust might have worked, but she did not think the trouble and expense of setting up and managing an individual charitable trust was worth it for this amount. Her solution: **A charitable gift annuity**.

Benefits: Guaranteed fixed income for life
Tax deduction from gift annuity.
Simply and swiftly done (full consultation with her attorney, however)
Some tax-free income
Income larger than from trust because keyed to age (the older you are the higher your annuity.)
Supports a cause she cares for

Gifts that pay *you*: Charitable Gift Annuities

Gift annuities are **contracts** between donors and charity:

1. The donor makes an irrevocable transfer to a charity
2. The charity must pay the donor a fixed annual amount for life.
3. The donor receives a charitable income tax deduction
4. The donor may avoid some capital gain and defer some capital gain
5. The payment from the charity is guaranteed by the issuing charity
6. The payment is partially tax-free over the annuitant's life expectancy.
7. Payments may be monthly, quarterly, semiannual or annual.
8. Gift annuity contracts may be on a maximum of two lives
9. Donors can choose to have their payments deferred into the future
10. Charities usually follow the annuity rates recommended by the American Council on Gift Annuities:

A charitable gift annuity provides you with

* Guaranteed fixed payments for life
* An immediate income tax deduction
* Partially tax-free payments and capital gains bypass
* The satisfaction of making a gift to the Franciscans

An Example: Mary Richards, age 75, funds a $10,000 charitable gift annuity contract to benefit San Francisco Theological Seminary. Her annuity payment is 5.8% of her gift, giving her an annual guaranteed payment for life of $580. $476 of her payment is tax-free for twelve years. She also receives an immediate income tax deduction of $4,102.

The following are some single life annuity rates:*

Age	Current Rates
65	4.7%
70	5.1%
75	5.8%
80	6.8%
85	7.8%
90+	9.0%

*Rates in force as of July 1, 2013
Rates differ for two-life annuities.

Sample Gift Annuity Cover Letter
For donor looking for general information)

Dear ,

I am pleased to send you information on charitable gift annuities..

The gift annuity program is managed by (our charity or name of nonprofit entity managing the annuity for the benefit of our charity). A charitable gift annuity allows donors to receive an immediate income tax deduction, fixed payments for life, and the satisfaction of making a future gift to our organization. If you have any questions about the gift annuities, please me at (number). I will be happy to answer any questions you may have about the nature of annuities. I can also provide you with an estimate of the amount of your annuity payments, the percentage of the payment that will be tax-free, and the charitable deduction you will receive from your gift.

Our charity appreciates your considering a contribution to our cause through a gift annuity.

THE CHARITY'S GIFT ANNUITY PROGRAM

A Summary

Here are some highlights of Our Gift Annuity Program:

1. A gift annuity is a contract whereby a donor transfers cash or securities to (our charity or name of nonprofit entity managing the annuity for the benefit of our charity). The contract requires the charity to pay the donor lifetime annual income of a fixed amount.

2. The payment to the donor is determined by the age of the life income beneficiary. Our annuity program follows the rates recommended by the American Council on Gift Annuities. Payments remained fixed. For an estimate of your annuity payment, call ….

3. One or two persons can be designated to receive the annuity payments. In the case of two-life agreements, payments are made either to one for life and then to the survivor, or made jointly to both and then to the survivor.

4. Gift annuity contracts provide a charitable deduction for those who itemize for that part of the annuity that is considered a gift. If the deduction is not used fully in the year of the gift, it may be carried over up to five additional years.

5. Part of your annuity payment will be tax-free. If you live beyond your life-expectancy, however, the entire payment becomes taxable as ordinary income. .

6. The Gift Annuity Fund is a segregated fund which is conservatively and prudently invested under the auspices of the (name of contracting organization).

7. There is no direct fee levied against the donor. A modest administrative fee is charged each year against the total assets in the gift Annuity Fund.

8. The minimum Gift Annuity is ($ amount).

9. A Deferred Payment Gift Annuity allows the donor to make a gift now, enjoy a deduction, and delay income. This annuity provides annual income beginning at a pre-determined date in the future.

10. To find out your estimated annuity amount, your charitable tax deduction, the percentage of your annuity payment that would be tax-free and the answers to other questions you might have about charitable gift annuities, call ….

March 15, 2010

Mary Edwards
123 Main Street
Little Place, CA

Dear Mrs. Edwards,

I appreciate your interest in making a gift to Our Organization through our annuity program. This annuity is an agreement between you and Our Organization. In exchange for your value of $10,000, you will receive fixed payments of 6.3% Fixed quarterly payments of $157.50 will be sent to you for your lifetime. Your yearly annuity is $630. $450.45 of this annual amount is tax free until the year 2021. You also will receive an income tax deduction of $4,416.

Depending upon your tax bracket, this deduction could reduce your income taxes. Our Organization and I strongly encourage you to talk with your own tax advisor about your actual tax savings.

Again, these numbers assume a March 31, 2010 gift date and may be somewhat different if the gift is made later. This letter and the accompanying materials are for educational purposes only and are not meant as financial or legal advice. Our Organization and I encourage you to seek independent counsel in this matter and to examine the enclosed disclosure statement about the investment of your gift annuity funds.

I enclose an application for a Charitable Gift Annuity Agreement. Please complete the application. Once you are ready to make your gift, please sign and date the application and return it to Our Organization using the enclosed envelop along with a check, payable to Our Organization. If you would like your annuity payments directly deposited, please fill out the enclosed Authorization Agreement for Direct Deposits form.

Please sign the two tax forms (IRS form W-4P and California form DE-4P) which allows you to elect **not** to have tax withheld from your annuity payments.

Upon receipt of your application, Our Organization will provide you with an Annuity Contract to sign. Our Organization will also provide you with a revised calculation of your financial benefits. This calculation will reflect the actual numbers rather than the estimated amounts on the proposal. Once Our Organization has received the signed contract from you and it is approved, Our Organization will deliver the contract to you.

If you have any questions, please do not hesitate to call me at (number). I would be pleased to meet with personally and review these materials with you if you would find that helpful.

Thank you again for your support of Our Organization appreciated.

Sincerely,

Enclosures:

Gift Annuity Resources

Resources for Gift Annuity Programs

American Council on Gift Annuities
Partnership for Philanthropic Planning
www.acga-web.org
www.pppnet.org
233 McCrea Street, Suite 400
Indianapolis, IN 46225
317-269-6271 acga 317-269-6274 ppp

Experienced local legal resources include: Erik Dryburgh, Adler & Colvin, Russ Building, Suite 1120, 935 Montgomery Street, San Francisco, CA 94104, 415-421-7555
Robert L. Hobson, Hobson and Hobson, 332 Pine Street - Suite 200, San Francisco, CA 94104
If your board decides the risk involved in managing a gift annuity program is too great, you still can provide your donors with the opportunity to use a gift annuity to benefit your organization. The Silicon Valley Community Foundation and the Comerica Legacy Foundation are willing to work with you in providing your donors with gift annuities if you open an account with them. Other Community Foundations (Sacramento, Santa Cruz, California) are willing to do gift annuities to benefit nonprofit organizations, but only for nonprofits based in their territory. (The California Community Foundation serves the greater Los Angeles area).

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Silicon Valley Community Foundation Gift Annuity policies
Charitable Gift Annuities: http://www.siliconvalleycf.org/content/charitable-gift-annuity-service

- Minimum gift to establish a CGA at SVCF: $25,000
- Set-up Fee: $200
- In exchange for an irrevocable gift to Silicon Valley Community Foundation, SVCF pays a fixed dollar amount to you and/or a designated family member or friend for life. The amount you and/or your loved one receive is determined by the size of your gift and the age(s) of the person(s) receiving the payments. The income is guaranteed, regardless of market fluctuations. In addition to receiving a charitable deduction for a portion of the gift at the time it is established, a portion of your gift annuity income may also be income-tax-free. A gift will be provided to SVCF at the end of the contract's term; you also have the option of supporting one other charity in addition to

SVCF.

- Updates to the breakout at the end of the contract's term:
  - 60% of the contract's residuum can be an outright gift to a nonprofit of the donor's choosing
  - 40% of the contract's residuum will come to Silicon Valley Community Foundation
    - Note: Of the 40% that comes to SVCF, if it meets the minimum funding requirement of $10,000.00 it can be used to open a Nonprofit Endowment Fund here at SVCF. This fund can be designated to make grants (payout rates are aligned with our own community endowment fund) to a nonprofit in perpetuity.

Gregory A. Schupra, Vice President and Group Manager
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Comerica Gift Annuity Policies:
The minimum contribution is $10,000. Comerica charges a management fee, currently about 0.7% annually, for its gift annuity services. Upon the death of the annuitant, 100% of what remain in the account passes to the charity or charities named by the annuitant in the contract, unless the annuitant has indicated they wish Comerica to continue to manage the funds for the annuitant's named charities. In exchange for an irrevocable gift the Comerica Legacy Foundation, the Foundation pays a fixed dollar amount to you and/or a designated family member or friend for life. The amount you and/or your loved one receive is determined by the size of your gift and the age(s) of the person(s) receiving the payments. The income is guaranteed, regardless of market fluctuations. In addition to receiving a charitable deduction for a portion of the gift at the time it is established, a portion of your gift annuity income may also be income-tax-free.