

| Gifts with Retained Benefit | Summary of Gift Plan | Income Tax Deduction | Capital Gains Consequences | Federal Taxation | Transfer Taxes | Tax Returns | Funding Assets | Special Consideration |
|---|--|--|---|--|--|--|---|---|
| Charitable Remainder Annuity Trust | Donor funds a qualifying trust under Code §664, providing a fixed annuity (minimum 5% of original value of principal, maximum 50%) for one or more individuals. The trust may last for the lifetimes of the beneficiaries or a term of years (maximum 20 years). When the trust ends, principal passes to one or more qualified charities. No additional contributions permitted to trust. | Present value of charity's remainder interest (10% minimum required) deductible, based on ages of income beneficiaries (or a fixed term up to 20 years), applicable federal rate (§7520 rate) and unvarying dollar amount to be paid each year. A 5% probability test limits maximum payouts. | No capital gains recognized upon transfer of appreciated assets to trust, or upon sale by trustee. Part of beneficiary's income may be taxed at low capital gains tax rates under four-tier tax reporting system. | Charitable remainder trusts are tax-exempt except in years where trust has unrelated business taxable income. Payments are taxable to income beneficiaries under four-tier, worst-in-first-out system: (1) any current and accumulated ordinary income (15% dividends considered last); (2) capital gains, beginning with short-term gain, then 28% gain (collectibles), 25% gain (recapture of depreciation), and finally 15% gain; (3) "other" (tax-exempt) income; (4) corpus (tax free). | One-life trust for donor: corpus included in gross estate, but 100% charitable deduction. Two-life trust for donor and spouse: gift and estate tax marital/charitable deductions eliminate tax; adding additional beneficiaries voids marital deduction. Trust for non-spouse creates taxable gift for income interest. Donor can retain right to revoke, by will, income interest of survivor beneficiary, avoiding taxable gift, but survivor's interest taxable in donor's estate. Value of testamentary trust is included in donor's gross estate, but remainder interest gives rise to estate tax charitable deduction. | Donors must file gift tax returns (Form 709) for all lifetime trusts, even where donor is sole income beneficiary [Code §6019(3)]. Form 8283 needed with donor's tax return except for cash transfers. Trustee files Form 5227 and Form 1041-A annually. Form 1041 is required if trust has unrelated business taxable income and Form 4720 if trust is liable for excise taxes. | Appreciated property, generally, and cash. Transfers of debt-encumbered real estate disqualify trust. Unproductive, hard-to-sell assets may be unsuitable for annuity trusts if trustee is unable to make required annuity payments. No S stock. | Annuity trusts are most appealing where income beneficiaries are in their mid-70s and older and prefer the security of a fixed income. Low §7520 rates (AFR) limit deductions and payouts for annuity trusts. |
| Charitable Remainder Unitrust | Beneficiaries receive a fixed percentage (minimum 5%, maximum 50%) of the value of the trust assets as revalued every year (standard unitrust). Alternatively, trust may pay the lesser of the unitrust amount or the trust's actual income (a net-income unitrust); make-up provisions permitted. Additional contributions possible. | Present value of remainder interest (10% minimum), based on ages of income beneficiaries (or a fixed term up to 20 years), §7520 rate and percentage of trust value to be paid each year. Higher payout rates possible than annuity trust because 5% probability test does not apply. | Same capital gains result as annuity trust. Post-contribution long-term capital gain may be treated as "income" and paid out from net-income unitrusts, if trust instrument and state law permit. | Annuity payments are part tax-free return of principal, during annuitant's life expectancy, the rest ordinary income. Capital gain is reportable in part where donor funds annuity with appreciated securities; donor/annuitant may spread such gain ratably over life expectancy. | No transfer tax results from one-life annuity for donor or two-life annuity for donor and spouse. Donor may keep right to revoke annuity established for non-spouse during life, rendering gift incomplete for gift tax purposes except for payments received, but value of annuity included in donor's estate. | Gift tax return required if nonspouse is named current or survivor annuitant and donor has not kept right to revoke. Charity reports annual payments to annuitants on Form 1099-R. Gifts of securities require Form 8283. | Cash gifts ensure maximum tax-free payments. Gifts of securities enable donors to convert stocks to annuities while minimizing capital gains taxes. Many charities do not accept gifts of real estate, closely held stock, or tangible personal property. | Donors are typically in their 70s or older, although deferred payment annuities may be attractive for younger individuals who wish to supplement retirement savings. Most charities accept contributions as low as \$5,000 or \$10,000. |
| Charitable Gift Annuity | Donor transfers cash or securities in exchange for charity's promise to pay a fixed annuity to one or two individuals for life. The present value of the annuity is less than the amount transferred, creating a gift to charity. Most charities pay annuities based on the rates recommended by the American Council on Gift Annuities. | Amount transferred to charity, less the present value of lifetime annuity retained for one or two persons. Deductions identical to those afforded by charitable remainder annuity trust, but much lower amounts needed to fund gift. Higher deductions if first payment deferred for several years. | Partial capital gains avoidance for gifts of appreciated assets. Remaining gain can be reported ratably over annuitant's life expectancy, if the donor is annuitant. | Pooled income fund is a taxable trust but is not taxed on long-term capital gains added to principal. Income received by beneficiaries is generally reportable as ordinary income (any dividend income is currently taxed at maximum 15% rate). | In general, same rules as charitable remainder trusts. No gift tax liability where donor and/or donor's spouse are sole income beneficiaries; at donor's death, spouse's income interest is a qualified terminable interest and qualifies for marital deduction, but QTIP election must be made. | Donors must file gift tax returns in all cases and Form 8283 where gifts are funded with noncash assets. Trustees must file Forms 1041 and 5227 and 4720 if trust is liable for excise taxes. | Appreciated securities, generally, and cash. Tax-exempt securities may not be contributed, and most charities will not accept real estate gifts to their pooled income funds. | Pooled income funds also accept gifts as low as \$5,000 and offer a hedge against inflation and capital gains tax avoidance that may appeal to younger donors or beneficiaries. |
| Pooled Income Fund | Donor irrevocably contributes cash or securities to an organization's pooled income fund, where it is invested and commingled with gifts made by other contributors. Participants receive pro-rata share of fund's annual earnings until death, when the charity removes donor's gift from the fund. | Present value of remainder interest in amount transferred, based on ages of beneficiaries and fund's highest payout rate for the last three years. Funds less than three years old assume payout rate tied to §7520 average rates for prior three years. | No capital gains recognized upon transfer of appreciated assets to pooled income fund. Capital gains allocated to principal are deductible by pooled income fund. | Trustee takes donor's basis and trust is taxable on net gains realized, unless structured as a grantor trust, in which case the donor is taxed. Testamentary lead trust receives stepped-up basis. | Trust income of a grantor lead trust is taxed to the donor; at death, trust becomes subject to tax as a complex trust. Nongrantor trusts, including testamentary trusts, are taxed as complex trusts but allowed deductions under Code §642(c) for amounts paid to charity. | Donors must file gift tax returns for lifetime trusts. Trustees file Forms 1041, 1041-A (in general) and Form 5227 annually. Form 4720 must be filed if trust owes excise tax. | Appreciated property may be less suitable for inter vivos lead trusts, if sale and reinvestment by the trustee is anticipated, because trusts are not tax-exempt. Transfers of income-producing assets may be more manageable. Testamentary lead trusts receive a step-up in basis. | Lead trusts help donors who wish to stretch the protection of the gift or estate tax credits, or the exemption for GST tax. Intentionally defective grantor trusts can provide donors with both transfer tax and income tax charitable deductions. |
| Charitable Lead Trust | Reverse of the charitable remainder trust. The lead trust pays either an annuity or a unitrust amount to one or more charities during the trust term, remainder to donor or named beneficiary. Lead trusts can be set up during life (either as grantor or nongrantor trusts) or at death. | Present value of income interest, if donor is considered owner of the trust under grantor trust rules, having retained reversionary interest or certain other powers. Deduction is based on length of trust term or age of measuring life, §7520 rate and annual payments, which can be an annuity or unitrust amount. | Trustee takes donor's basis and trust is taxable on net gains realized, unless structured as a grantor trust, in which case the donor is taxed. Testamentary lead trust receives stepped-up basis. | Capital gains avoided unless property is subject to indebtedness, which brings bargain sale rules into play. For principal residences, \$250,000 exclusion may offset gain from bargain sale. | No change in taxation of life tenant following contribution on income realized from property. | Value of property is included in donor's gross estate, but 100% estate tax charitable deduction avoids tax. Gift tax and estate tax marital deductions shelter transfers to spouse; other transfers subject to gift tax or estate tax. | Donors file gift tax returns in all cases. Form 8283 must be filed with donor's tax return for year of gift. | Any residence occupied by the donor: principal residence, vacation property, condominium, etc. Farm property includes land and improvements used for the production of crops, fruits, or livestock. Donors may give remainders in undivided fractional interests. |
| Remainder Interests in Residences and Farms | Donor deeds personal residence or agricultural property to charity and retains a life estate for one or more individuals or for a fixed term of years. A residence need not be the donor's primary residence. Transfer is not made in trust and may not include personal property. | Present value of charity's remainder interest in depreciable and nondepreciable portions of property, using remainder interest factor for one or two lives or term of years, based on §7520 rate, and taking into account estimated useful life of depreciable property and "salvage value." | None for donor, but estates and trusts may deduct income distributed to charities under Code §642(c), including income in respect of a decedent (IRD), if authorized under the donor's will or trust. | Capital gains taxes avoided 100%. | No change in taxation of donor on income from assets revocably designated for charity. But bequests of income in respect of a decedent (IRD), such as US savings bonds and retirement accounts, avoid income taxes for donor's estate or heirs. | Form 706 for estates subject to federal estate tax. | Any assets, including cash or property, but ideally IRD assets such as IRAs and other retirement accounts, savings bonds, accounts receivable, renewal commissions of insurance agents, deferred compensation, stock options, and installment obligations. | Testamentary transfers can be shared between charity and family members through any of the gift techniques described on this page. Partial estate tax deductions reduce taxes on the estate. |
| Charitable Bequests and Beneficiary Designations | Donor designates charity to receive specific, general, percentage, or residuary bequest from will or revocable living trust, or names charity to receive part or all of life insurance proceeds or remaining principal in retirement, brokerage, or financial accounts. | None for donor, but estates and trusts may deduct income distributed to charities under Code §642(c), including income in respect of a decedent (IRD), if authorized under the donor's will or trust. | Capital gains taxes avoided 100%. | No change in taxation of donor on income from assets revocably designated for charity. But bequests of income in respect of a decedent (IRD), such as US savings bonds and retirement accounts, avoid income taxes for donor's estate or heirs. | Value of property is included in donor's gross estate, but 100% estate tax charitable deduction shelters bequests of any amount. | Form 706 for estates subject to federal estate tax. | Any assets, including cash or property, but ideally IRD assets such as IRAs and other retirement accounts, savings bonds, accounts receivable, renewal commissions of insurance agents, deferred compensation, stock options, and installment obligations. | Testamentary transfers can be shared between charity and family members through any of the gift techniques described on this page. Partial estate tax deductions reduce taxes on the estate. |

| Outright Contributions | Income Tax Deduction | Capital Gains Considerations | Date Gift Is Effective | Method of Transfer | Valuation of Gift Assets | Substantiation Requirements | Special Considerations |
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| Cash | Amount of cash transferred in year of gift, up to 50% of donor's adjusted gross income (AGI), for gifts to public (50%) charities; limitation is 30% of AGI for gifts to private foundations (30% charities). Five-year carryover allowed for deductions that exceed ceilings. | None | Date of unconditional delivery of cash, check, or electronic transfer of funds to charity or charity's agent. Gifts by check are considered made when they are mailed (postmark date governs); credit card gifts are completed on date charge is made. Pledges and promissory notes are deductible when paid. | Checks or other cash equivalent, including credit card charges, electronic transfers, and physical delivery of cash. | Amount of cash | Gifts under \$250, canceled check, or other bank record. Gifts of \$250 or more, written receipt from charity describing gift and stating whether goods and services were received by donor (quid pro quo statement), issued prior to filing of donor's tax return. | Cash gifts are deducted first when donor gives both cash and noncash assets during the year; carried over deductions from cash gifts are considered before carryovers of property gifts. Gifts also may save gift and estate taxes. |
| Marketable Securities • Common & Preferred Stock • Corporate Bonds • Government Securities • Mutual Funds | Current value of appreciated securities held long-term (more than one year) transferred to 50% charity, up to 30% of AGI with five-year carryover for excess deductions. Ceiling is 20% of AGI for 30% charities, with five-year carryover. Securities with short-term gain deductible at cost basis up to 50% of AGI (30% for private foundations). | No gain reportable when donors give appreciated securities, which is advantageous even for taxpayers who do not "itemize" deductions. | Date of delivery of certificates in negotiable form to charity or its agent (postmark date if certificates are mailed). If securities are held in "street name," date the transfer is noted on charity's account. If new certificate is issued in name of charity, date is when security is transferred on the books of the transfer agent. | Donors who hold certificates endorse securities or sign stock power and deliver to charity or its agent. Where securities are held in street name, transfer can be made to charity's account or be delivered to charity's agent in negotiable form. | Value is the mean between high and low or bid and ask on date of gift, based on published figures or quotes from securities dealers. Gifts of mutual funds are measured by "net asset value" or bid on date of delivery of certificates in negotiable form or date of transfer on books of transfer agent. | Securities worth \$250 to \$500, receipt from charity, with quid pro quo statement. Gift of securities worth more than \$500 requires receipt from charity and completion of Section A of Form 8283. | Donors of appreciated securities can qualify for the 50%-of-AGI ceiling by electing to reduce their contribution deductions by 100% of the gain present in the property. Strategy may be attractive where long-term capital gain is insubstantial. |
| Real Property | Current value of appreciated real estate held long-term, less any indebtedness, transferred to 50% charity, up to 30% of AGI, with five-year carryover for excess deductions. Transfers to 30% charities deductible at cost basis only, up to 20% of AGI, with five-year carryover. Realty with short-term gain deductible at cost basis. | No gain reportable. Deduction is not reduced for prior depreciation deductions, unless the donor took accelerated depreciation that would have resulted in recapture of ordinary income upon a sale. Gain must be reported from any bargain sale, including gifts of mortgaged realty. | Gift is made on date an executed deed is delivered to charity or its agent. If deed is mailed, postmark determines the date of the gift. In some jurisdictions, date of gift may be when deed is recorded. | Transfer of title of contributed realty is generally made by a quit-claim deed, unless a warranty deed is deemed necessary by either of the parties. | Value is established by independent appraisal. Comparable selling prices for similar properties may be the best evidence of value. Indebtedness reduces value. | Receipt from charity with quid pro quo statement. For deductions exceeding \$5,000, donors also need qualified appraisals and completed Sections A and B of Form 8283, including declaration of appraiser and donee acknowledgment. | Charities generally require Level 1 environmental assessment. Title should be checked for liens and defects. Charity may incur taxable income if mortgaged realty was owned by donor less than five years and mortgage is less than five years old. |
| Closely Held Securities | Current value of appreciated closely held securities held long-term transferred to 50% charity, up to 30% of AGI with five-year carryover for excess deductions. Transfers to 30% charities deductible at cost basis only, up to 20% of AGI, with five-year carryover. Securities with short-term gain deductible at cost basis. | No gain reportable when donors give closely held securities, which is advantageous even for taxpayers who are unable to itemize deductions. | Date of gift is date of delivery of securities in negotiable form to charity or its agent. If certificates are transferred into charity's name, gift is made on date securities are transferred on books of transfer agent; normally the date of the certificate. | Delivery of securities in negotiable form to charity or agent, or by transfer of certificates into charity's name. | Value is established by independent appraisal, applying IRS rules. Factors considered in valuing closely held stock include corporate assets, earnings and future earning power, dividend policy, prospects of company, and sales of stock near the contribution date. | Deductions of \$5,000 or less, receipt from charity and Section A of Form 8283. From \$5,001 to \$10,000 of deduction, Section A and Parts I and II of Section B of Form 8283 are also required. Above \$10,000, receipts, qualified appraisals, and completed Sections A and B of Form 8283. | Gifts of closely held securities are often negotiated with anticipation of corporate redemption of charity's stock. A new certificate of stock should be obtained. Gifts may also be attractive where sale of corporation is anticipated. |
| Life Insurance | Fair market value of policy or donor's cost basis, whichever is less, when donor transfers all rights of ownership in policy; subject to 50% of AGI ceiling (30% for private foundations). Policy loans reduce deductions. No deductions where charity merely named death beneficiary. | Ordinary income property. Generally no recognition of gain unless policy is subject to a loan. | Generally, gift is complete on the date the policy is delivered to charity accompanied by an endorsement from the company. | Ownership of policy is transferred to charity by an endorsement by the donor on forms supplied by the insurance company and accompanied by delivery of the insurance policy. | Value of a paid-up policy is its replacement cost; value of a non-paid-up policy is the interpolated terminal reserve plus any unearned premium and accrued dividends, less any policy loans as of the date of the gift. | Gifts under \$250, canceled check, or other bank record. Gifts of \$250 or more, written receipt from charity. Gifts over \$500 require Section A of Form 8283, and some commentators suggest qualified appraisals are necessary where deduction claimed for a policy exceeds \$5,000 (Section B of 8283). | Rather than contribute a policy or make charity the death beneficiary, donors may employ life insurance in a wealth replacement plan, often employing an irrevocable life insurance trust, to replace in their estates assets contributed to a charitable remainder trust or other gift arrangement. |
| Tangible Personal Property | Fair market value of long-term capital gain property if transferred to a public charity that can put item to a use related to its purposes; 30% of AGI ceiling applies. Unrelated use limits deduction to cost basis, but 50% ceiling applies; same reduction if item is artwork transferred by artist who created it. Gifts to 30% charities limited to cost basis. | No gain reportable when donors give "collectibles" or other tangible personal property, which is advantageous even for taxpayers who cannot itemize deductions. | Date of gift is the date of delivery of property to charity or its agent, including the gift of a fractional interest. For subsequent gifts of fractional interests in the same asset, deductions will be based on the asset's value on the date of the original contribution. | Transfer is generally made by delivery of property. A deed of gift or bill of sale is advisable. | Appraisal is generally required. Donors must send photos of artworks to IRS advisory panels that value contributions of art over \$20,000. Donors can request "Statement of Value" from IRS for artwork valued at more than \$50,000. | Single item worth \$250 to \$500, receipt from charity. Single item worth \$501 to \$5,000, Section A, Form 8283 also required. Single item over \$5,000 (or multiple "similar items" exceeding \$5,000), Section B, Form 8283, required as well, with qualified appraisal. | Sale of tangible personal property by a charity is by itself an unrelated use, even where sale proceeds are used for the charity's programs. Gifts of future interests in tangible personal property are not deductible until any intervening interest ends. |

Charitable Gift Planning Guidelines

Options and Strategies for . . .

- Charitable Remainder Trusts
- Charitable Gift Annuities
- Pooled Income Funds
- Charitable Lead Trusts
- Remainder Interests
- Charitable Bequests
- Cash Contributions
- Marketable Securities
- Real Estate
- Closely Held Securities
- Life Insurance
- Tangible Personal Property

