

“Planned Giving 201”



Greg Abeyounis, CFRE, MA '06

Senior Associate Vice Chancellor for Development

East Carolina University

abeyounisg@ecu.edu

What you will learn...

For each popular “deferred” gift plan,
you will learn –

- features & benefits of each plan,
- when to propose such plan to a prospect,
- how to present such plan,
- & how to document a completed plan.

Revocable Deferred Gift Plans

- Bequest: provision drafted for and included in a
 - Will, or
 - Revocable Trust Agreement (that serves as a Will “substitute”)
- Beneficiary Designation: provision in a special form associated with an
 - IRA (Individual Retirement Account), or
 - other Retirement Plan (such as an employer-sponsored 401(k) plan)
- Beneficiary Designation: provision in a special form associated with a
 - Policy of Permanent Life Insurance, or
 - Annuity Policy with Death Benefit

Irrevocable Deferred Gift Plans

- Charitable Gift Annuity: a **contract** purchased from charity by a donor with a gift, which
 - Pays fixed income to an annuitant (e.g., donor) for life, then
 - Whatever is left over goes to issuing charity
- Charitable Remainder Trust: an **agreement** established by a donor, funded with a gift, and managed by a trustee, which
 - Pays fixed or variable income to a beneficiary (e.g., donor) usually for life, then
 - Whatever is left over goes to charity(ies) named in the trust agreement
- Remainder Interest in Personal Residence or Farm: a **deed** executed by a donor and recorded by charity, in which
 - Donor conveys the title to charity, but
 - Retains a complete and exclusive “life estate” in the property conveyed

Slick Willie Sutton (1901-1980) a notorious bank robber (First FBI 10 Most Wanted List) was asked by a journalist why he robbed banks? He responded, "because that is where the money is."

- You do not have to use all of these deferred gift plans to have a GREAT planned giving program!
- Start with:
 - [1] Create a “Legacy Society.”
 - [2] **Solicit & Document Will Bequests & IRA Beneficiary Designations** – and make them your first Members.
 - [3] Then follow an enthusiastic Stewardship Plan.
 - [4] And make sure they continue to make Annual Gifts, too!

Will Bequest

Will Bequest – features & benefits

- Easy to understand & document
- Revocable – no income tax deduction, but donor retains control of assets during life
- Requires donor to take some action
- Requires an attorney – fees associated with it
- Requires specific language – you need samples
- At death, no gift until/unless Will is probated

Will Bequest – sample provisions

- “Specific” Bequest

- *I give the specific sum of twenty-five thousand dollars (\$25,000.00) to ABC Charity, Inc., tax identification number 56-1239876, to be held and administered by said Charity pursuant to the terms of that endowment agreement dated January 1, 2017, and known as the John and Jane Doe Fund.*

- “Residuary” Bequest

- *I give twenty-five percent (25.00%) of my residuary estate to ABC Charity, Inc., tax identification number 56-1239876, to be held and administered by said Charity pursuant to the terms of that endowment agreement dated January 1, 2017, and known as the John and Jane Doe Fund.*

Will Bequest – sample provisions

- What about this one? [Spousal “Residuary” Bequest]
 - *I give all of my residuary estate **to my Spouse**, should she survive me;*
 - *but if she **does not survive** me, **then** I give twenty-five percent (25.00%) of my residuary estate to ABC Charity, Inc., tax identification number 56-1239876, to be held and administered by said Charity pursuant to the terms of that endowment agreement dated January 1, 2017, and known as the John and Jane Doe Fund.*
 - **IT’S “CONTINGENT.” SO, SHOULD YOU “COUNT” IT?**

- *Have Spouse sign Endowment or other Gift Agreement as **Co-donor**, and*
- *Make sure Spouses have “**mirror-image**” Wills, i.e., same residuary bequest provisions in both Wills.*

Will Bequest – when to propose?

- Cannot/will not make a current major gift
- Cannot/will not make a current transfer of assets under an irrevocable deferred gift plan
- Cannot/will not do a beneficiary designation
- However, makes substantial current annual gifts
- Likes the idea of making a major gift...
- ...and, appears more comfortable with:
 - Retaining complete control over assets during life, and
 - the idea of distribution of assets at death

Will Bequest – how to present?

- “Do you have a Will, or will you have one drafted?”
 - Comment on Wills & Codicils...
 - Comment on Revocable Trust Agreements & Amendments...
- “Give this suggested language to your attorney.”
 - Proper legal name of charity (and mailing address)
 - Tax Identification Number of charity
 - If for specific Endowment (or purpose), attorney may want to reference the “title” of that agreement in the bequest
- “Your bequest can be either a specific dollar amount or a percentage of the residue of your estate.”
- “And this is a great way to ‘endow’ your annual gift!”

Will Bequest – how to document?

DEFERRED GIFT CONFIRMATION form:

- Type of testamentary plan specified
- Current value of gift stated by donor(s)
- Specific purpose, if any, documented by charity
- Permission to list name in “donor rolls”
- Signed by donor(s)

WILL PROVISION copy:

- Important! Insures donor took necessary next step
- If Spouses with “mirror-image” Wills, get copies of both
- Review the language to make sure correct

ENDOWMENT (or other **GIFT AGREEMENT**) copy:

- Cross-reference this Will Bequest in that agreement, if possible
- Signed by donor(s)



Leaving a Legacy

WHEN MAKING YOUR ESTATE PLANS, PLACE EAST CAROLINA UNIVERSITY* AMONG YOUR LOVED ONES.

WE ALL HOPE TO LEAVE OUR LEGACY through our family, friends, and loved ones. Ultimately, we hope to leave behind our precious, gained lifetime assets to those who are most important to us. East Carolina* always encourages families to take care of themselves first, but if there are other assets remaining after you satisfy those goals, please think of leaving your perpetual legacy at the university.

A bequest provision is among the simplest yet most effective ways to make a long-lasting impact at ECU. By naming any of the four ECU foundations—the ECU Foundation Inc., the ECU Alumni Association, the ECU Medical & Health Sciences Foundation Inc., and/or the ECU Educational Foundation Inc. (Pirate Club)—as a beneficiary of a percentage or specific dollar amount from your estate, you are investing in the future of young people for generations to come. Thank you for considering giving deserving students educational support and the opportunity for an outstanding future.

A bequest provision can bring you the following benefits.

- Your gift is deferred until after your lifetime and/or the lifetime of your spouse.
- Your donation is exempt from federal estate taxation.
- You have control of your assets and your legacy.

Membership in the Leo W. Jenkins Society

Benefits include a Leo W. Jenkins medallion, membership certificate, lapel pins, membership decals, and invitations to special campus events at ECU.

Bequest Sample Language: "I give, devise, and bequeath to the East Carolina University Foundation Inc. (tax ID # 56-6093187), a nonprofit, charitable educational corporation in Greenville, North Carolina ...

- a) the sum of \$ _____; or
- b) _____ % of my estate; or
- c) all the rest, remainder, and residue of my estate, including property over which I shall have power of appointment at my passing, after all debts, taxes, expenses, and other bequests have been satisfied ..."

*These monies will be paired with an ECU Foundation Inc. fund agreement designating the exact project purpose and manner of distribution for these future funds. This agreement is not legally binding to the donor and can be altered in the future if your plans, circumstances, or interests change. This does ensure, however, that your wishes for your money will be followed exactly by the ECU Foundation Inc.

Will Bequest – final thoughts...

- Cost to donor involved – attorney fees
- Probate required – if Will not probated, no gift
- Possibility of no “growth” – amount bequeathed may not “appreciate” over donor’s lifetime
 - Especially if bequest of specific dollar amount
- No income tax deduction
- “Counting”: Face value vs. discounted present value
- Make an informational “flyer” for your charity

Beneficiary Designation – IRA or other Retirement Account

IRA Bene Desig – features & benefits

- Easy to understand & document
- Most donors already have an IRA or 401(k)
 - Rollover of 401(k) into IRA upon separation from employment
- Revocable – no income tax deduction, but donor retains control of assets during life
- Requires donor to take some action
- Does not require an attorney – no fees associated with it
- Simple “Change of Beneficiary” form from Plan Provider
 - May not require “specific” language – but you need samples
- At death, gift over to charity is “automatic” – no probate

IRA Bene Desig – sample provisions

EXAMPLE: “PRIMARY” BENEFICIARY DESIGNATION

[charity sure to receive gift at donor’s death]

1. Account Owner: __JOHN DOE__
2. Account Number: __XXX-XX-XXX-XXXX__
3. Primary Beneficiaries:

<p>Name: __MARY DOE__</p> <p>SSN/other Tax ID: __XXX-XX-XXXX__</p>	<p>Type of Beneficiary: __SPOUSE__</p> <p>Date of Birth: __1/1/1946__</p> <p>Share Percentage: __80__%</p>
<p>Name: __ABC Charity, Inc.__</p> <p>SSN/other Tax ID: __XX-XXXXXXXX__</p>	<p>Type of Beneficiary: __CHARITY__</p> <p>Date of Birth: __N/A__</p> <p>Share Percentage: __20__%</p>
4. Contingent Beneficiaries:

<p>Name: __JANE DOE SMITH__</p> <p>SSN/other Tax ID: __XXX-XX-XXXX__</p>	<p>Type of Beneficiary: __CHILD__</p> <p>Date of Birth: __2/1/1971__</p> <p>Share Percentage: __50__%</p>
<p>Name: __JAMES DOE__</p> <p>SSN/other Tax ID: __XXX-XX-XXXX__</p>	<p>Type of Beneficiary: __CHILD__</p> <p>Date of Birth: __3/1/1975__</p> <p>Share Percentage: __50__%</p>

**Memorandum of Understanding
December 18, 2019
Nelly Donor Memorial Endowment**

It is the revocable intent currently for the donor Elizabeth W. Donor, if predeceased by her husband Hershel C. Donor, to make the East Carolina University Medical & Health Sciences Foundation, Inc. (Tax ID 23-7138921) beneficiary of his qualified IRA (Odyssey Plus Fixed Annuity ODPxxxxxxx) remainder amount. This future planned gift will be added to the already established Nellie Sutton Wells Endowed Scholarship which is managed under the fund agreement in the East Carolina University Medical & Health Sciences Foundation, Inc.

Mrs. Elizabeth W. Johnson

Dr. Mark A Notestine, President
East Carolina University Medical & Health Sciences Foundation, Inc.

IRA Bene Desig – when to propose?

- Cannot/will not make a current major gift
- Cannot/will not make a current transfer of assets under an irrevocable deferred gift plan
- Prefers no attorney fees associated with making gift
- Has an IRA or 401(k) Plan!
- However, makes substantial current annual gifts
- As with a Will Bequest, would like to make a major gift, and appears more comfortable:
 - Retaining complete control over assets during life, and
 - With the idea of distribution of assets at death

IRA Bene Desig – how to present?

- “Do you have an IRA or 401(k)?”
- “No attorney needed.” (no fees!)
- “And later, no probate through court required.” (unlike a Will!)
- “Just get a standard Change of Beneficiary form from your Plan Provider.” (easier to do than a Will revision!)
- “A gift of IRA assets to charity totally avoids income taxes due.” (If left to family, income taxes due!)
- “Here’s all the information you’ll need.”
 - Proper legal name of charity (and mailing address)
 - Tax Identification Number of charity
 - If for specific Endowment (or purpose), donor may be able to reference that on the form
- “And this is a great way to ‘endow’ your annual gift!”
- **PS to charity**: Gift of a “percentage” of an “invested” fund may appreciate!

IRA Bene Desig – how to document?

DEFERRED GIFT

CONFIRMATION form:

- Type of testamentary plan specified
- Current value of gift stated by donor(s)
- Specific purpose, if any, documented by charity
- Permission to list name in “donor rolls”
- Signed by donor(s)

COMPLETED CHANGE OF BENEFICIARY form

– copy:

- Important!
Insures donor(s) took necessary next step
- Review the language to make sure correct

ENDOWMENT or other **GIFT AGREEMENT** copy:

- Cross-reference this Beneficiary Designation in that agreement, if possible
- Signed by donor(s)

IRA Beneficiary Designation – final thoughts...

- No cost to donor involved
- No probate through court at death required
- Possibility of “growth” – gift is a percentage of an account that’s usually “invested”
- No income tax deduction
- “Counting”: Face value vs. discounted present value
- Make an informational “flyer” for your charity

Beneficiary Designation – Life Insurance or Annuity Policy

LI/AP Bene Desig – features & benefits

- Easy to understand & document
- Donor can gift all the death benefit, or just a percentage
- Allow only:
 - Permanent Life Insurance, such as Whole, Universal, or Variable life – policies that have **cash value** and **no termination date** (i.e., no Term insurance)
 - Annuity Contracts that have Death Benefits
- Revocable – no income tax deduction, but donor retains control of assets during life
- Requires donor to take some action
- Does not require an attorney – no fees associated with it
- Simple “Change of Beneficiary” form from Insurance Agent
 - May not allow “specific” language – but you need samples
- At death, gift over to charity is “automatic” – no probate

LI/AP Bene Desig – sample provisions

- *Very similar to information allowed on Change of Beneficiary forms for IRA Beneficiary Designations...*
- *However, Life Insurance policies do not have same “Spousal” ramifications as do Will Bequests & IRA Beneficiary Designations...*
- Thus your informational “flyer” should contain:
 - Proper legal name of charity (and mailing address)
 - Tax Identification Number of charity
 - If for specific Endowment (or purpose), donor may be able to reference that on the form

LI/AP Bene Desig – when to propose?

- Cannot/will not make a current major gift
- Cannot/will not make a current transfer of assets under an irrevocable deferred gift plan
- Prefers no attorney fees associated with making gift
- Has a Policy of Permanent Life Insurance or an Annuity Policy with Death Benefits!
- Has been making substantial current annual gifts
- Wants to make a major gift, and appears more comfortable:
 - Retaining complete control over assets during life, and
 - With the idea of distribution of assets at death

LI/AP Bene Desig – how to present?

- “Do you have a policy of Permanent Life Insurance, or a commercial Annuity contract that carries a Death Benefit?”
- “No attorney needed.” (no fees!)
- “And later, no probate through court required.” (unlike a Will!)
- “Just get a standard Change of Beneficiary form from your Insurance Agent.” (easier to do than a Will revision!)
- “Here’s all the information you’ll need.”
 - Proper legal name of charity (and mailing address)
 - Tax Identification Number of charity
 - If for specific Endowment (or purpose), donor may be able to reference that on the form
- “And this is a great way to ‘endow’ your annual gift!”

LI/AP Bene Desig – how to document?

DEFERRED GIFT CONFIRMATION form:

- Type of testamentary plan specified
- Current value of gift stated by donor – **based on Death Benefit**
- Specific purpose, if any, documented by charity
- Permission to list name in “donor rolls”
- Signed by donor

COMPLETED CHANGE OF BENEFICIARY form – copy:

- Important!
Insures donor(s) took necessary next step
- Review the language to make sure correct

ENDOWMENT or other GIFT AGREEMENT copy:

- Cross-reference this Beneficiary Designation in that agreement, if possible
- Signed by donor

LI/AP Beneficiary Designation – final thoughts...

- Should you count “contingent” designations?
- Donor owning Permanent Life Insurance policy becoming “rare”
- Like a Will Bequest, gift does not “appreciate”
 - *unless* Permanent Life Insurance policy contains a “growth option” rider...
 - Look at In-Force Illustration, go to age of Insured, look at *current* Death Benefit
- No income tax deduction
- “Counting”: Face value vs. discounted present value

A word about current gifts of Permanent Life Insurance policies...

- A “current gift” of an asset that has “cash value”
- How it’s done:
 - 1st, on a form donor transfers ownership of policy to charity
 - 2nd, on a form charity changes beneficiary to itself
- Donor receives:
 - deduction for current cash value (donor will need Form 712 Valuation from insurer)
 - and donor’s annual premiums are now deductible
- So charity then contacts donor each year for “gift” of premium
 - When the “excitement” of making a current major gift wears off...
 - When it feels like a “collection notice” or “due bill” to the donor...
 - When the donor quits gifting the annual premium...
 - Paid-up policies (dividend pays premium) **vs.** Insurer loans annual premium against cash value
- **Practice Tip:** Use a “Memorandum of Understanding”
- **Practice Tip:** Receiving a gift of a policy of Permanent Life Insurance and immediately surrendering it for cash value!

Let's compare...

	Will Bequest	IRA Bene Desig	LI/AP Bene Desig
Ease of execution	Attorney fees – Cost to donor!	DIY form – No cost to donor!	DIY form – No cost to donor!
How gift made	Specific \$, Specific asset, or % Residue	All, or Percentage %	All, or Percentage %
Ease of receipt	Probate required!	Automatic	Automatic
Growth of Pledged gift	None if Specific \$	Possible	None
Documentation	Confirm Form Copy of Will Gift Agreement	Confirm Form Copy of Designation Gift Agreement	Confirm Form Copy of Designation Gift Agreement
Income tax deduction	None	None [but taxes on IRA avoided!]	None

Irrevocable Deferred Gift Plans

- Professional manuals:
 - The Complete Guide to Planned Giving by Debra Ashton
 - The Harvard Manual on Tax Aspects of Charitable Giving
 - Portable Planned Giving Manual by Conrad Teitell
- Commercial Software:
 - Crescendo Interactive Pro/Plus/Presents *Calculates payments & income tax deduction for you*
 - PG Calc Planned Giving Manager
- Sample Documents – in all of these resources...
- Brochures:
 - Sharpe Brochures from Sharpe Group at sharpenet.com
 - R&R Newkirk Brochures at rrnewkirk.com

Charitable Gift Annuity (CGA)

Contract purchased from charity by a donor with a gift, which:

- *Pays fixed income to an annuitant (e.g., donor) for life, then*
- *Whatever is left over goes to issuing charity (can be for purpose designated by donor)*

CGA – annuity rates

- Provided by the **American Council on Gift Annuities** [www.acga-web.org]
- Reviewed annually by ACGA – last revisions effective July 1, 2020:

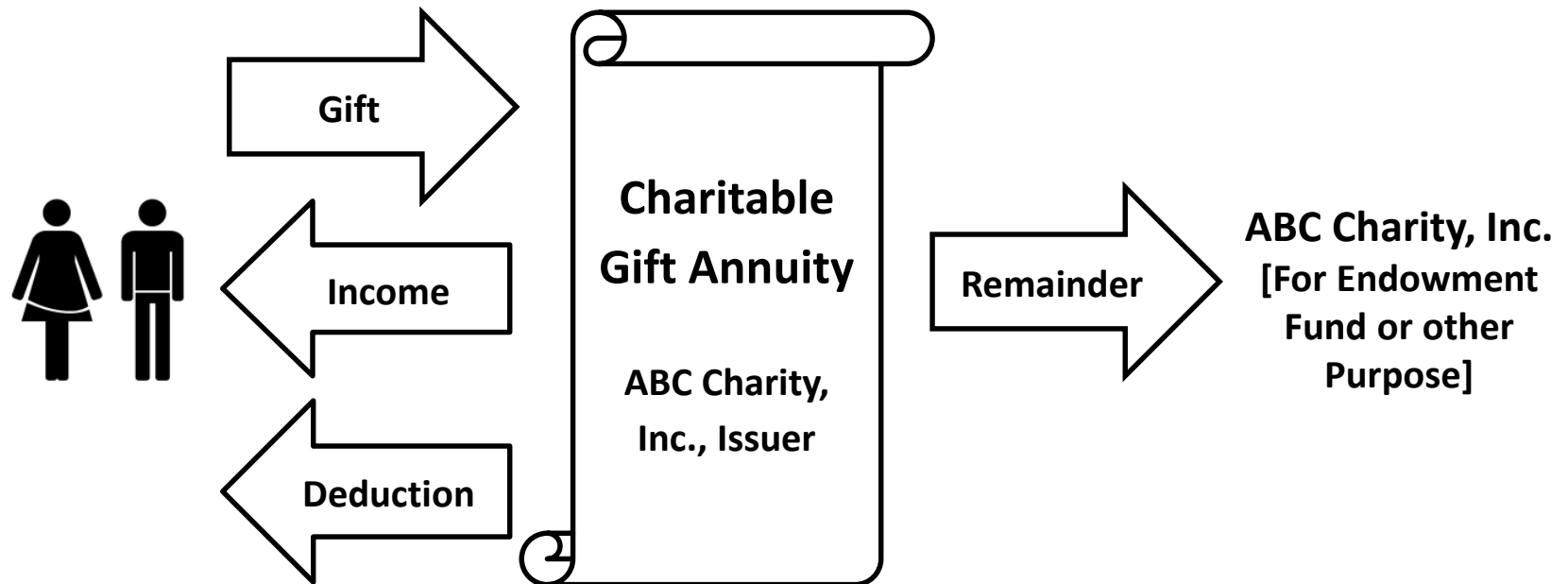
ONE-LIFE GIFT ANNUITY RATES:

55 – 3.7%	65 – 4.2%	75 – 5.4%	84+ – 7.4%
60 – 3.9%	70 – 4.7%	80 – 6.5%	

TWO-LIFE GIFT ANNUITY RATES:

55/55 – 3.1%	65/65 – 3.8%	75/75 – 4.6%	85/85 – 6.5%
60/60 – 3.6%	70/70 – 4.2%	80/80 – 5.4%	87/87+ – 7.1%

CGA – how it works



Gift – cash, appreciated stock or mutual funds

Income – pays fixed amount based on age(s), to one or two persons, for life (or lives)

Income Tax Deduction – Gift value minus present value of annuity = present value of remainder

CGA – features & benefits

- FIXED INCOME –
 - gift provides fixed income for one or two persons for rest of entire natural life(lives)
 - Good rates when compared to money market, CDs, US Treasury bond funds
- GUARANTEED PAYMENTS –
 - by general assets of issuing charity
- TAX-FREE INCOME –
 - significant part of annual income tax-free for remaining “life expectancy”
- INCOME TAX DEDUCTION –
 - Gift value – present annuity value = present value of remainder (= deduction)
 - Deduction less than entire value gifted for annuity contract, but still good
- CAPITAL GAINS SHELTER –
 - part of gains avoided, taxation of rest of gains spread over remaining actuarial life expectancy and simply taxed each year as part of income received

CGA – sample contract

- Body of Contract (a fairly “standard” form)
 - Covers the identity of the parties, gift made, annuity amount and terms of payment, and other basic matters
- NC Law provision
 - “This annuity is not issued by an insurance company, is not subject to regulation by the State of NC, and is not protected or otherwise guaranteed by any government agency or insurance guaranty fund.”
- Federal Law provision – Philanthropy Protection Act of 1995
 - How annuity was calculated and how gift made in exchange for annuity will be invested
- Schedule A – specifics of gift and receipt by Charity
- Schedule B – how Charity is to apply gift remainder

Commercial Software will actually produce the basic contract for you to print!

CGA – when to propose?

- Rule of Thumb = age 62+
- For donors 50-62, consider proposing **Deferred Gift Annuity**
- Donor who has excess capital not needed for purposes other than producing income
 - In money market account, CDs, bonds – even stocks (2% dividend)
- Need for additional income for self...
 - Or another, such as a parent or sibling (gift tax implications)
- Has already made a current major gift, or many consecutive substantial current annual gifts

CGA – how to present?

- Features & benefits – just the “sizzle”!
 - “High rate of fixed income paid each month/qtr, at a rate better than money market, CDs, or stock dividends”
 - “Payments guaranteed for life”
 - “No market risk”
 - “Plus tax-free income”
 - “Plus a good income tax deduction”
 - “Gift planning that’s also good financial & retirement planning”
 - Can be a fixed income “component” in your financial plan
 - Better income than you’re currently earning
 - If gifting appreciated stock, a great capital gains shelter
 - “After protecting you with an annuity for life, the remainder of your gift applied for purpose you designate”

CGA – how to document?

CGA ILLUSTRATIONS

(generated by commercial software) – **CALCULATES:**

- ✓ **PAYMENT,**
- ✓ **INCOME TAX DEDUCTION, &**
- ✓ **PERMANENT INCOME TAXATION SCHEDULE**

- Original to donor, copy to charity, **copy to CPA**
- Make sure numbers produced accurately reflected in contract

CHARITABLE GIFT ANNUITY contract:

- Signed by donor and charity
- One original to donor, one to charity, **copy to CPA**

ENDOWMENT or other GIFT AGREEMENT copy:

- Cross-reference this Gift Annuity contract in that agreement, if possible
- Signed by donor

Charitable Gift Annuity – final thoughts...

- Donor cannot reach principal!
 - Once gift made in exchange for annuity, donor has only the fixed income produced – cannot ever get the principal back!
- May need larger amount to fund CGA...
 - About 70-80% of original gift preserved – depends on annual payout & return)
 - So you may want to require amount larger than “minimum major gift amount” – especially if funding an “endowment” at death
[e.g., if \$25,000 minimum, then require \$35,000 to purchase a CGA]
- “Counting”: Face value vs. tax deduction value

Charitable Gift Annuity – final thoughts...

Investment management & administration

- Where are your “endowment funds”? Where is your bank account?
- Your bank or local trust company may open a “Gift Annuity Reserve” account for you!
 - Put all gift annuities in it, and just “fund account” it each month
 - Bank/trust will invest, make payments, and may do Forms 1099 each year
- Don’t forget that many investment, insurance, & financial consulting firms in your town have “subsidiary trust companies” that can help you and your donor set up an individual CGA account that offers investment management & administration.

CGA – federal law [FYI]

- Issuance of gift annuities was approved in **26 U.S. Code Section 514(c)(5)**.
- Taxation of annuities is regulated in **26 U.S. Code Section 72**.

CGA – NC law [FYI]

- Issuance of charitable gift annuities is regulated under **North Carolina General Statutes Section 58-3-6**.
- In order to issue gift annuities in NC, charity must meet following requirements:
 - have been in **continuous operation for at least three years** (or be the successor or affiliate of an organization in operation for that period of time)
 - have at least **\$100,000 in unrestricted cash**, cash equivalents or publicly traded securities, exclusive of the assets contributed by the donor for the annuity agreement
 - **provide notice** to the Department of Insurance (on a form provided by the Department)
 - A charitable organization does not engage in the **business of insurance** when issuing a charitable gift annuity according to these regulations.

- **Department of Insurance Contact:**

Cara Shackelford, Senior Policy and Rate Analyst
North Carolina Department of Insurance / Life & Health Division
1201 Mail Services Center, Raleigh, NC 27699-1201, (919) 807-6064

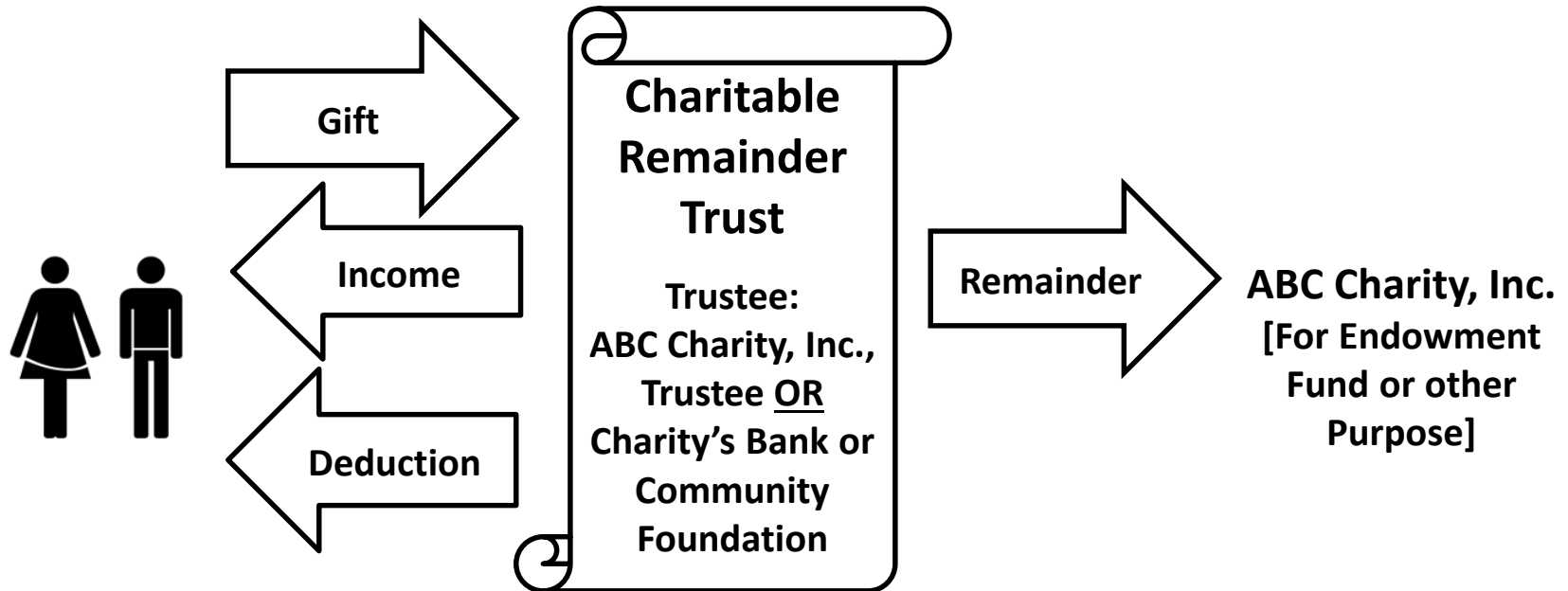
Charitable Remainder Trust (CRT)

Agreement established by a donor, funded with a gift, and managed by a trustee, which

- Pays fixed or variable income to a beneficiary (e.g., donor) usually for life, then*
- Whatever is left over goes to charity(ies) named in the trust agreement*

[A trust agreement is also a “contract” – between donor, trustee, and income beneficiary]

CRT – how it works



Gift – cash, appreciated stock or mutual funds [or appreciated real property if FLIP-UNITRUST]

Income – pays fixed or variable annual income; minimum rate 5%, maximum as allowed by charity (~7%, depending on age); to one, two, or more persons; for life (or lives) or maximum term of 20 years

Income Tax Deduction – Gift value minus present value of income = present value of remainder

CRT – features & benefits

- ANNUAL INCOME –
 - Trust provides annual income for one, two, or more persons
 - For life(lives) or term of years not to exceed 20
 - Fixed % of initial contribution = fixed income (**ANNUITY TRUST**)
 - Fixed % of annual value of trust = variable income (**UNITRUST**)
- NO GUARANTEE
 - Payments last only as long as assets remain in the trust
 - However, trust assets will be “professionally managed” – usually 60% stocks/40% bonds
- TAX-ADVANTAGED INCOME –
 - Usually about 50% taxed at ordinary income rates, 50% at capital gain rates
- INCOME TAX DEDUCTION –
 - Gift value – present annuity value = present value of remainder (= deduction)
 - Deduction less than the value of gift transferred into trust, but still good
- CAPITAL GAINS SHELTER –
 - part of gains avoided, taxation of rest of gains spread over remaining life(lives) and simply taxed each year as part of income received
- MULTIPLE NAMED CHARITABLE REMAINDER BENEFICIARIES ARE ALLOWED

Must be at
least 5%!

CRT – trust agreement

- Drafted by an Attorney
 - based upon a “standard form” issued by the IRS
- Body of Trust Agreement
 - Covers the identity of the parties, gift made, payment of income and terms of payment, distribution of remainder, trustee’s powers, and other basic matters
- Schedule A – specifics of gift and receipt by Trustee
- Schedule B – how named Charity is to apply gift remainder

CRT – when to propose?

- Rule of Thumb = age 62+
- Donor who has excess capital not needed for purposes other than producing income
- Need for additional income for self...
 - Or others, such as a parent, sibling, or children (gift tax implications)
- Donors who are more wealthy than those doing CGAs
- Donors who are more focused/savvy about “investments”
 - Will ask for information on how trust assets will be invested
- Has already made a current major gift, or many consecutive substantial current annual gifts

CRT – how to present?

- Features & benefits – just the “sizzle”!
 - “High rate of income paid each month/qtr” [min. 5%, max. ?]
 - Can be fixed income using an **ANNUITY TRUST**
 - Can be variable income using a **UNITRUST**
 - “Income that may increase over time as a hedge against inflation”
 - “Plus a good income tax deduction”
 - “Gift planning that’s also good financial & retirement planning”
 - Can be a fixed income “component” in your financial plan
 - Better income than you’re currently earning
 - If gifting appreciated stock or real property, a great capital gains shelter
 - NOTE: If gifting real property, must use the **FLIP-UNITRUST**
 - “After providing you (or others) with a strong stream of income for life, the remainder of your gift applied for purposes you designate”
 - “You can benefit more than one charity”

CRT – how to document?

CRT ILLUSTRATIONS
(generated by
commercial software)

– **CALCULATES:**

- ✓ **PAYMENT &**
- ✓ **INCOME TAX DEDUCTION**

- Original to donor, copy to charity, copy to CPA
- Make sure numbers produced accurately reflected in contract

**CHARITABLE
REMAINDER TRUST**
agreement:

- Will be an ANNUITY TRUST or a UNITRUST
- Signed by donor and charity
- One original to donor, one to charity, copy to CPA

**ENDOWMENT or other
GIFT AGREEMENT** copy:

- Cross-reference this Remainder Trust in that agreement, if possible
- Signed by donor

Charitable Remainder Trust – final thoughts...

- Donor cannot reach principal!
 - Once gift transferred into trust, donor can only receive the income payment stated – cannot ever get the principal back!
- “Additions” may be made to UNITRUSTS – but not to ANNUITY TRUSTS
- May need gift amount larger than for funding a CGA!
 - A UNITRUST tends to preserve almost all of the original gift value, and ANNUITY TRUST less
 - All CRTs generally require \$50,000 to \$100,000 initial funding
- “Counting”: Face value vs. tax deduction value

Charitable Remainder Trust – final thoughts...

Investment management & administration

- Where are your “endowment funds”? Where is your bank account?
- Your bank or local trust company may open individual “Charitable Remainder Trust” accounts for you!
 - Bank/trust will invest, make payments, and may do trust tax work each year
- Don’t forget that many investment, insurance, & financial consulting firms in your town have “subsidiary trust companies” that can help you and your donor set up an individual CRT account that offers investment management & administration, as trustee or just as fiscal agent for the trustee.

A word on the Charitable Remainder FLIP-UNITRUST...

- Gift is appreciated real property
- Trust agreement has special provision:
 - “Until real property is sold, Trustee will just pay net income to the income beneficiaries. When the real property is sold, Trustee will begin paying the standard Unitrust percentage stated in this trust agreement (minimum 5%) beginning on January 1 of the year following the year of sale.”

CRT – federal law [FYI]

- Charitable remainder trust agreements are regulated by **26 U.S. Code Section 664.**

CRT – NC law [FYI]

- All NC trust agreements are governed by **North Carolina General Statutes Chapter 36C**, “North Carolina Uniform Trust Code”
 - Chapter 36C has special provisions regarding CRTs in 36C-4A & 4B

Let's compare...

Gift Annuity

Remainder Trust

Ease of execution

No attorney fees.
Simple contract.

Attorney fees necessary.
More complex agreement.

Min. funding needed

e.g., \$25,000

e.g., \$50,000-\$100,000

How gift made

Cash,
Appreciated Stock.

Cash,
Appreciated Stock, or
Appreciated Real Property (UNITRUST).

Annual Income

Fixed only.
Age-based rate.

Fixed or variable.
Minimum 5%, maximum ?.

Income Beneficiaries

One or two.

One, two, or more.

Term

For life only.

For life or term of years (20 or less).

Remainder Beneficiaries

Issuing Charity only.

Multiple Charities possible.

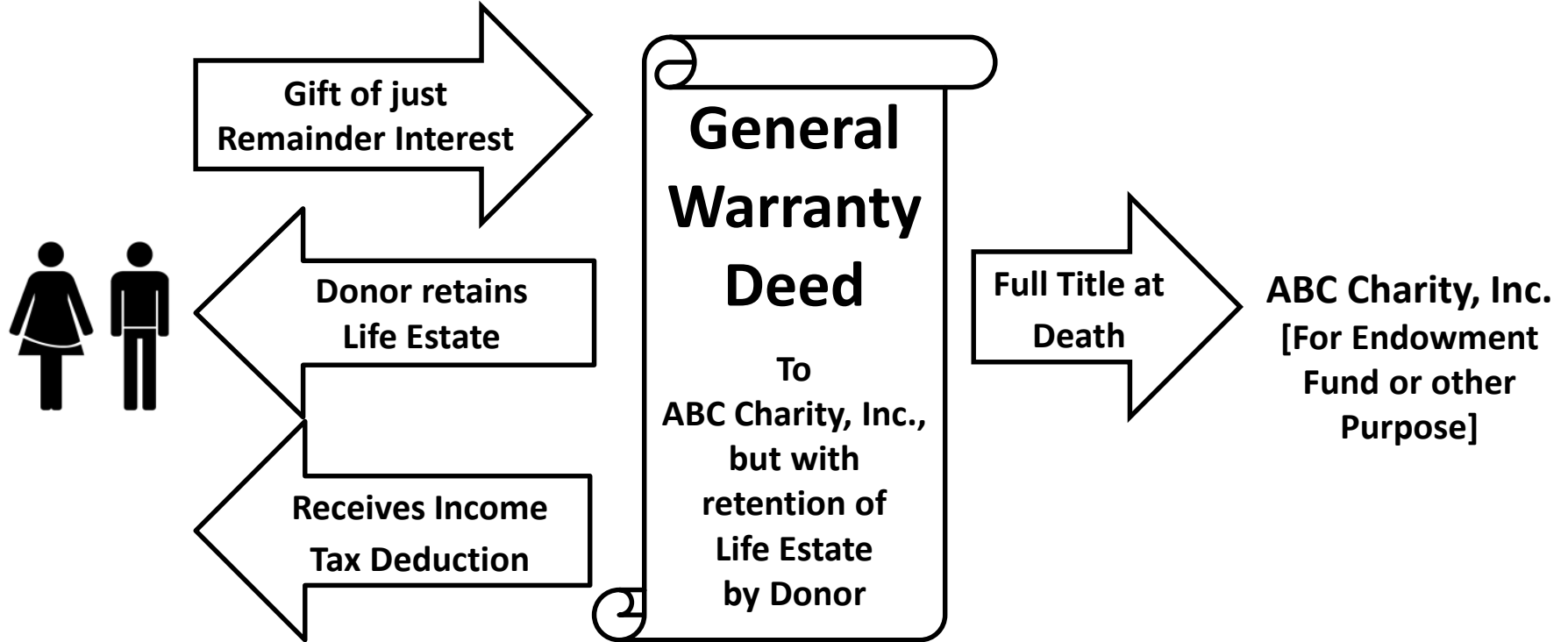
Remainder Interest in Personal Residence or Farm (RPRF)

*Deed executed by a donor and recorded by charity,
in which*

- Donor conveys the title to charity, but*
- Retains a complete and exclusive “life estate” in the property conveyed*

[Plus special “MITA” agreement – basically covering donor’s continuing duty to pay for maintenance, insurance, taxes, & assessments, and reviewing other contingencies such as sale during life or abandonment by donor]

RPRF – how it works



Life Estate – complete & exclusive use, possession, custody, and control for life

MITA agreement – continuing duty to pay maintenance, insurance, taxes, and assessments

Income Tax Deduction – Gift minus present value of life estate = present value of remainder

RPRF – features & benefits

- **EASY TO DO & EASY TO UNDERSTAND –**
 - Just a standard General Warranty Deed recorded at Register of Deeds
 - MITA agreement is fairly standard, too
- **PRODUCES A LARGE INCOME TAX DEDUCTION –**
 - Appraised value minus present value of life estate = present value of remainder interest (= deduction)
- **NO PROBATE REQUIRED –**
 - Charity “automatically” vested in full title at death
- **PRODUCES A LARGE GIFT LATER –**
 - At death, charity immediately sells property and applies net sales proceeds to purpose designated by donor
 - And such property will likely appreciate over donor’s lifetime

RPRF – Deed & MITA agreement

- General Warranty Deed drafted by an Attorney
- MITA Agreement (supplied by Charity, reviewed by Attorney)
 - Basically covering identify of the parties, donor's continuing duty to pay for maintenance, insurance, taxes, & assessments, and reviewing other contingencies such as sale during life or abandonment by donor
 - Schedule A – specifics of gift deed and receipt by Charity
 - Schedule B – how named Charity is to apply net sales proceeds

RPRF – when to propose?

- Rule of Thumb = age 62+
- Donor has a primary residence, vacation home, or farm not needed for purposes other than (a) personal use during lifetime or (b) producing income
- Wants to make large gift, but cannot afford current major gift
- Has been making substantial current annual gifts
- Has a large Will Bequest – maybe entire estate going to charity
- Would prefer:
 - making a large gift outside of probate
 - avoiding an additional “ancillary estate administration”
- Has no children, or children do not want this specific property
- Can use a large income tax deduction

RPRF – how to present?

- Features & benefits – just the “sizzle”!
 - “Make a large gift now without parting with your property – like having your cake and eating it, too!”
 - “And it’s so easy – just a deed and our standard MITA agreement.”
 - “The tax deduction is so large, it’s like being paid to make a gift!”
 - “No need for a Will Bequest – you’ve completed your major gift during your lifetime, and all outside the probate process!”
 - “You will continue to have complete and exclusive use, possession, custody, and control of your property – just as you do now! You will also be responsible for maintenance, insurance, taxes, and assessments – just as you are now!”
 - “We’ll sell the property after your lifetimes, and apply the sales proceeds to purpose you designate now in our gift agreement!”

RPRF – how to document?

RPRF ILLUSTRATIONS

(generated by
commercial software)

– CALCULATION OF:

✓ INCOME TAX DEDUCTION:

- Original to donor, copy to charity, copy to CPA
- Make sure numbers produced accurately reflected in MITA

QUALIFIED APPRAISAL document & FORM 8283:

- Signed by appraiser & charity, originals to donor & CPA, copy to charity

DEED document:

- Signed by donor
- Original recorded, re-delivered to charity; copies to donor & CPA

MITA agreement:

- Signed by donor & charity
- Original to both, copy to CPA

ENDOWMENT or other GIFT AGREEMENT copy:

- Cross-reference this Deed in that agreement, if possible
- Signed by donor

Remainder Interest in Personal Residence or Farm – final thoughts...

- This is a great deferred gift plan – woefully under-utilized, yet relatively easy to do!
- Charity should be willing to pay for appraisal & attorney’s fees
- This deferred gift plan is IRREVOCABLE!
 - Once deed is recorded, donor has only a “life estate” in the property
 - Life estate may not be accepted by a lender as loan collateral
 - Can later be sold (e.g., donor moving to retirement community), but donor will receive much less than full market value!
- “Counting”: Face value vs. tax deduction value
- TIP: Provide for “inspection” each five years in MITA agreement
- TIP: Follow up and make sure charity listed as an “additional insured” by donor

RPRF – federal law [FYI]

- Allowed as an exception to the “partial interest rule” found in **26 U.S. Code Section 170(f)(3)(B)(i)**.

Questions & Follow up...