Gift Planning Now

A Newsletter for Berkeley's Donor Advisors

Fall 2018

Helping Parents and Charity

Thanks to longer life expectancies, more clients may find themselves in the position of acting as caregivers to their parents. Even when the adult children don't have responsibility for the day-to-day care of parents, they may be helping financially. There are ways for children to provide financial assistance, while also qualifying for an income tax charitable deduction.

Charitable remainder unitrust

A son or daughter who normally provides a parent with $500 per month ($6,000 annually) could establish a charitable remainder trust that would pay the income to the parent for life. For example, a child could fund a 5% charitable remainder unitrust with a cash gift of $120,000, naming an 85-year-old parent as income beneficiary. The child's income tax charitable deduction would be nearly $90,000 (assumes quarterly payments and a §7520 rate of 3.6%). The child could avoid any gift tax on the creation of the trust thanks to the gift tax credit that shelters up to $11.18 million.

A child might also choose to fund a two-life unitrust with a cash gift of $120,000 that would continue payments for his or her own life after the parent's death. Assuming the child is age 62, the charitable deduction would drop to about $47,000.

Charitable gift annuities

Charitable gift annuities, as with charitable remainder annuity trusts, offer the assurance of a fixed

payment. In addition, because gift annuity rates are higher for older annuitants, the child may not have to contribute as

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African American Initiative Leads to Scholarships

In the fall of 2015, UC Berkeley created the African American Initiative to address the underrepresentation of African American students, staff, and faculty with a goal to improve the overall campus climate while complying with CA Proposition 209. Since its launch, the Initiative has helped increase the number of resources available to students through the creation of the new Fannie Lou Hamer Black Resource Center. This fall 2018 semester, thanks to an anonymous donor, 28 African American students received the first round of scholarships. Each student will receive $8,000 annually to help make their Berkeley dream a reality.

If you have a client interested in supporting the African American Initiative via a planned gift, please have them contact the Office of Gift Planning at 510.642.6300 or ogp@berkeley.edu.

Helping Parents . . . *(continued from page 1)*

much to provide the same benefit for the parent. The rate for an 85-year-old annuitant is 8.3%. The child could contribute $75,000 in cash, which would provide annual payments of $6,225 for the parent. The child's income tax deduction would be more than $42,000. The child can retain the right to revoke the parent's interest to make the gift incomplete for gift tax purposes.

With either the charitable remainder trust or the charitable gift annuity, the child will no longer have to make gifts with after-tax dollars to provide the same support for the parent, while also making a substantial gift to a favorite charity.

From Like-Kind Exchange to a Unitrust

The like-kind exchange provisions of Code §1031 allow taxpayers to postpone capital gains tax on the disposition of income-producing or investment real estate by "trading" or exchanging for another parcel of similar use. But what happens to real estate investors when they finally

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UC Berkeley Planning Pointer:

Flexible Deferred Gift Annuities Give Baby Boomers Grown Up Choices

Have you heard from your Boomer clients that charitable gift annuities are just for "old people"? You can tell them that establishing a Flexible Deferred Gift Annuity (FGA) just might be the perfect retirement strategy for their generation, offering them both control and stability with respect to their supplemental retirement income. Your clients can establish an FGA at Cal in exchange for an irrevocable gift of cash or securities ($20,000 minimum), choosing a range of possible dates for payments to begin. That way, they have the flexibility to "wait and see" when they want to turn on the annuity payment spigot. This strategy is especially appealing to Boomers who are often unsure of when they will retire. The best part is that the payout rate increases for each year deferred – as with Social Security, there is an incentive to delay payments as long as possible.

We've talked in previous issues about the benefits of the new increased CGA rates for your clients. We're now going to highlight the benefits of FGAs which, in combination with the increased rates, can provide "customized" supplemental fixed retirement income giving your Boomer clients the control they desire. For example, your 65-year-old client who is not planning to retire anytime soon could establish an FGA with the UC Berkeley Foundation funded with $200,000 in cash, choosing a date range of 2019 (first year possible to start payments) to 2038 (last year possible to start payments). If your client then decides to start payments at age 68 in 2021, the annuity rate would be 5.9% paying an annual annuity of $11,800. If your client instead waited until age 73 in 2026 to turn on the fixed income stream, the annuity rate would be 7.9% paying an annuity of $15,800; and at age 76 in 2029 a rate of 9.6% paying $19,200 annually. In addition to getting rewarded for waiting, your client would also enjoy the benefits of a charitable deduction of $74,218 in the year of the gift (very beneficial for those high income earners), along with a portion of his or her annuity payments being tax-free. In sum, FGAs offer enticing benefits for your "forever young" Boomer clients as well as your older clients.

From Like-Kind . . .

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decide to get out of the real estate business? The taxpayer may have made several like-kind exchanges over the years, leaving him or her with a low basis in property with an appreciated fair market value.

Philanthropic clients faced with this dilemma could find that a charitable remainder unitrust is the solution to their problems due to the advantages listed here:

· There is no capital gains tax when the real estate is placed in the trust or sold by the trustee.

· There is a charitable deduction based on the fair market value of the property, not on the much lower adjusted basis.

· The client receives the payments over his or her life, so the cash flow can mimic the rental income the donor previously received.

· Rather than receiving rent, which is ordinary income, a significant portion (with Berkeley unitrusts, up to 75%) of each year's trust payout may consist of capital gain income, taxed at 15% or 20% (commercial real estate subject to depreciation recapture will have the recapture amount taxed as capital gain at a maximum rate of 25%).

· The client is able to satisfy charitable goals.

It may make sense to arrange a flip unitrust [Treas. Reg. §1.664-3(a)(1)(i)(c)]. The trust would begin as a net-income or a net-income with makeup unitrust and then convert to a standard unitrust in the year after the sale of the real estate, entitling the donor to a fixed percentage of the trust's annual value.

The New Look to Year-End Planning

With higher standard deductions, a $10,000 limit on the deduction for state and local taxes ("SALT" deduction) and the elimination of many miscellaneous itemized deductions, year-end planning takes on a whole new meaning in 2018. The deduction for charitable gifts remains the primary way for clients to exceed the standard deduction threshold. Consider creative ways for philanthropic clients to make gifts while also saving income taxes:

Qualified charitable distributions (QCD) – Clients age 70½ or older can make tax-free gifts of up to $100,000 from IRAs directly to charity. While there is no charitable deduction allowed, the QCD can take the place of required minimum distributions that are taxed at ordinary income rates. This may also allow donors to avoid higher Medicare premiums by reducing taxable income.

Charitable gift annuities – Donors can contribute cash or appreciated property to charity in exchange for a charitable gift annuity that will pay a fixed sum annually for life. Annuity payments can begin in the year of the gift or can be postponed until some later time.

Mary and Kurt, both age 72, have a standard deduction of $26,600 for 2018. They plan to transfer appreciated securities worth $100,000 to arrange a charitable gift annuity that will pay them $5,200 (5.2%) annually for their joint lives. A portion of each year's payments will be taxed at favorable capital gains rates. In addition, the couple will be entitled to a charitable deduction of $35,518 (assuming quarterly payments and a 3.6% §7520 rate), which will enable them to itemize for 2018.

Charitable remainder trusts – Remainder trusts offer the opportunity to turn low-yield, highly appreciated assets into a lifetime stream of

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The New Look . . . *(continued from page 3)*

payments, with the added bonus of a generous charitable deduction for the value of the remainder that will pass to charity when the trust ends. Mary and Kurt could use the $100,000 in securities to fund a charitable remainder unitrust that could pay them even more than the gift annuity for their lives. The exact amount they receive each year would depend on the annual value of the trust's assets. Their deduction would be approximately $44,555, assuming a 5% payout rate.

Capital gains savings – Even donors who aren't able to itemize might nevertheless find it economical to make gifts using long-term appreciated assets. They avoid the capital gains tax that would otherwise be due if they sold the property.

Giving through family members – Clients may enjoy overall family tax savings by making gifts through adult children or parents. For example, a couple in their late 60s who can't itemize plan to give $5,000 to a favorite charity. They could transfer cash or appreciated stock worth $5,000 to a son or daughter who is close to the $12,000 standard deduction for a single individual. The child then makes a gift to the parents' charity in their names and is entitled to the charitable deduction. A child in the 22% income tax bracket would save about $1,100 in taxes by making the gift on behalf of the parents.

Final Substantiation Regs Issued

The IRS has released final regulations on substantiation of charitable gifts that closely match proposed regulations issued in 2008. Among the final rules contained in T.D. 9836:

Pledge cards – A blank pledge card provided as part of a workplace giving campaign does not constitute adequate substantiation because it does not show the information required under Code §170(f)(17).

Appraiser privacy – Qualified appraisers may use a taxpayer identification number, rather than a Social Security number, when signing appraisals.

Form 8283 – Although there is no specified form for contemporaneous written acknowledgments, Form 8283 does not qualify under Code §170(f)(8) since it lacks some of the information required under Code §170(f)(8)(B).

Carry over deductions – A qualified appraisal must be attached to the income tax return on which a deduction is taken for a noncash gift in excess of $500,000. If any portion of the deduction is carried over to later years, the appraisal must also be attached to those returns. The IRS said its need for the information outweighs any burden on the taxpayer.

Qualified appraisers – A qualified appraiser is an individual with "verifiable education and experience" valuing the type of property for which the appraisal is performed. The IRS declined to change the standard to "education *or* experience," saying it would be contrary to language in Code §170(f)(11)(E)(ii)(I).

IRS actuarial tables – The tables used to value charitable remainder trusts cannot be used as a substitute for qualified appraisals to value property in other contexts. The tables don't provide a fair market value, the IRS said.

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