A New Direction for Gift Annuity Rates

For the first time in more than two decades, recommended gift annuity rates have gone up. The American Council on Gift Annuities issued new rates, effective this month. Charitable gift annuities offer several advantages to donors, particularly those who might not otherwise be able to itemize deductions under the new tax laws.

Gift annuities offer donors secure, fixed payments for life for one or two annuitants, in exchange for their gifts of cash or appreciated assets. UCBF accepts gifts of cash, stocks or bonds to establish gift annuities. The exact amount of the annuity payout depends on the age or ages of the annuitants. The new recommended one-life gift annuity rates start at 4.7% for donors age 60 up to 9.5% for those who are age 90 or older; while the new recommended two-life rates are slightly lower than the new one-life rates.

Donors also benefit from the charitable deduction, which may enable them to itemize their deductions. According to the 2017 Survey of Charitable Gift Annuities, sponsored by BNY Mellon, the average donor funding an immediate payment gift annuity is age 79. Most donors in that age group have already paid off their mortgages, leaving them with itemized deductions for only state and local taxes (maximum $10,000) and charitable gifts. The new standard deduction for a taxpayer age 65 or older is $13,600 (single filers) or $26,600 (joint filers). Establishing a charitable gift annuity may allow donors to exceed the standard deduction while also boosting spendable income.

For example, Barbara and Don, both age 81, transfer $100,000 cash for a charitable gift annuity that (continued on page 2)

Fiat Lux Scholars Shine Bright at Berkeley

Established by Berkeley faculty in 2016, the Fiat Lux Scholarship Program aims to attract high-achieving students who come from challenging socio-economic circumstances. This highly successful program promotes “giving back” by encouraging scholars to do outreach in local high schools with the support of Berkeley’s Center for Educational Partnerships. These scholars act as important, aspirational role models for high-school students in low-income and underrepresented minority communities.

If you have a client interested in supporting a Fiat Lux scholar via a planned gift, please have them contact the Office of Gift Planning at 510.642.6300 or ogpberkeley.edu.
will pay them $5,900 (assuming a 5.9% payout rate) annually for as long as either is alive. Their charitable deduction of $47,925, along with their $10,000 deduction for state and local taxes, exceeds their standard deduction. Of the $5,900 that they receive each year, $4,342.40 will be tax-free income for their joint life expectancy, with the remainder taxed as ordinary income. If they instead fund their gift annuity with $100,000 in stock for which they paid $30,000, their annuity payment of $5,900 would consist of $197.38 tax-free income and $44502 capital gains income for their life expectancy, with the balance taxed at ordinary income rates. This assumes quarterly payments and the use of a 3.4% §7520 rate.

A donor may calculate the deduction for the gift annuity using the $7520 rate for the month of the gift or either of the two prior months if more favorable. The rate has been climbing in recent months, which yields deductions that are slightly higher.

For example, a 75-year-old donor who funds a charitable gift annuity with $50,000 cash using June’s 3.4% §7520 rate would be entitled to a deduction of $24,627, assuming quarterly payments and a 5.8% payout rate. In comparison, the deduction using the §7520 rate of 2.4% from June of 2017 would be just $22,886.

These annuity rate increases, along with an improvement in the charitable deduction due to increases in the IRS discount rate, should make gift annuities a more attractive gift vehicle for clients who wish to support a charity’s mission while receiving fixed payments for life.

UC Berkeley Planning Pointer:

Two-Step Your Way Around the Challenges of IRA Beneficiary Designations to Charity

For the most part, beneficiary designations of 401(k)s, IRAs and other qualified plans to charities are easy, low-cost ways to make a tax-wise planned gift. Some of the advantages of having the benefits paid directly to charity are that your clients can continue to take distributions from their retirement accounts during their lifetimes; they can create a tax-efficient estate plan by leaving to their loved ones other assets that are not subject to both income tax and estate tax (if applicable); and they allow flexibility in that your clients can change their beneficiary designations at any time.

To ensure your clients’ preferred charities such as the University of California, Berkeley Foundation (UCBF) receive these IRA gifts, you can assist them by encouraging them to follow this two-step process.

First, on the beneficiary designation form provided by the plan administrator or downloaded from the administrator’s website, your client should name the charity along with its Taxpayer Identification Number (TIN), and the percentage of the charity’s share [For example, the University of California, Berkeley Foundation (UCBF), TIN 94-6090626].

Second, as most beneficiary designation forms do not provide adequate space to outline the specific gift purpose at the University, if your client wants to designate a particular use for their gift, as opposed to supporting the campus’s highest priorities, it is necessary that your client provide a Letter of Direction that spells out the specific purpose or directs the gift to support the desired fund or unit. We are happy to provide a sample Letter of Direction that your client can personalize, sign and return to the Office of Gift Planning where we will keep it on file.
Do You Have an “Interest” in Charitable Trusts?

Lowell Patton established a 15-year charitable lead trust in 2003, naming five charities to receive annual distributions. Three family members were to receive the remainder when the trust terminated. The trustee had the authority to withhold any distributions, without interest, if the property “may be subject to conflicting claims, to tax deficiencies or to liabilities.” Several years later, the real property funding the trust was sold for $3 million. No distributions had been made to the charities.

In 2006, Patton and the trustee sought to overturn the trust on the grounds of fraud. The charities were named as defendants. The suit was settled with four of the charities, resulting in $1.4 million in accumulated lead trust payments being made to Patton’s church. The Ventura County Council Boy Scouts of America (VCC), which had not been part of the settlement, sought to compel a distribution from the trust.

The trial court directed the trust to distribute $238,669 – the amount VCC would have received in annual distributions – to VCC. VCC appealed the court’s refusal to award interest, saying the order to compel the payments was an “implied finding” that the trustee breached the trust agreement.

The California Court of Appeals agreed with the trial court, noting that there was no finding of a breach of trust. Trust language expressly allowed the trustee to withhold annual payments in the event of conflicting claims (without the payment of interest) and the trial court had ordered payments to be withheld pending court approval (Patton v. Ventura County Council Boy Scouts of America, 2d Civil No. B278628).

Two-Step Your Way Around the Challenges . . . (continued from page 2)

guidance when the gift is received.

Finally, while spousal consent is not necessary to name an IRA beneficiary under federal law, your matrimonial dance partner may have rights under state law. For example, if you live in a community (such as CA) or marital property state, spousal consent is generally required to name someone other than the spouse as the beneficiary of an IRA. Community property states include Alaska, Arizona, California, Idaho, Louisiana, Nevada, New Mexico, Texas, Washington and Wisconsin. This is important because a donor’s intent to leave IRA or 401(k) assets to charity could be defeated without a spousal waiver under some circumstances and pursuant to state law.

In sum, both clients and charities benefit when advisors “take the lead” by providing as much guidance as possible to inform their clients how to make their charity the beneficiary of their retirement accounts and IRAs.
Gift Annuities for Friends and Family

Some clients may benefit from establishing charitable gift annuities prior to year’s end, as a way to generate a larger charitable deduction that might enable them to itemize deductions in 2018. Higher §7520 rates – 3.4% for July – mean that deductions will be larger. But clients need not think only in terms of their own financial needs when planning charitable gift annuities. Gift annuities are also an excellent way to provide for friends and family, especially with higher gift tax exemptions sheltering lifetime gifts up to $11.18 million in 2018. Gift annuities provide lifetime payments to one or two persons the donor selects, plus eventual benefit to charity. Here are some possibilities:

Taking care of elderly parents – An adult child who currently provides financial support to a parent could instead establish a charitable gift annuity, while saving taxes in a couple ways. For example, a son currently sending $500 per month to his mother has to earn $641, assuming he is in the 22% federal tax bracket, in order to have $500 after taxes to send his mother. The son could fund a gift annuity that would pay his mother the same amount. He would be entitled to a charitable deduction, which might enable him to itemize on his income tax return. If his mother is age 82, a gift annuity of $80,000 would pay her $513 per month (7.7%) for life. The son’s charitable deduction would be $41,300, using a 3.4% $7520 rate.

Helping with a child’s retirement savings – Many Generation X members haven’t saved as much for retirement as their Baby Boomer parents have. Parents could establish deferred payment charitable gift annuities for the children that will start payments when children reach retirement age. For example, a deferred gift annuity for a 52-year-old child, with payments to start when the child is age 66, would pay the child 5.2% of the gift amount. Assuming quarterly payments, a $7520 rate of 3.4% and a gift of $50,000, the parents’ charitable deduction would be $32,617. The child would receive $2,600 annually beginning at age 66.

A retirement plan substitute – Housekeepers, nurses and other household employees often spend years working for a family, but have no qualified retirement plan. A charitable gift annuity could serve that purpose. A $100,000 cash charitable gift annuity established for a longtime employee, age 65, would pay $5,100 annually, of which $3,233 would be tax-free for the annuitant’s life expectancy. The donors would be entitled to a charitable deduction of about $35,600, assuming quarterly payments and a 3.4% $7520 rate.

All of the foregoing gift annuity arrangements would require the filing of a gift tax return by the donors. But the $11.18 million exemption generally avoids any gift tax on the value of the annuity payments provided to friends or family. These gifts are best funded with cash, since the capital gain for gift annuities funded with appreciated assets may be spread over the annuitant’s life expectancy only if the donor of the annuity, or the donor and one surviving annuitant, are the only annuitants [Reg. §1.1011-2(a)(4)(ii)]. A donor funding a charitable gift annuity for another person would be subject to tax on the capital gain allocable to the annuity portion of the gift annuity if appreciated assets are used.

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