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Successfully Navigating Gifts of Real Estate



Date: March 30, 2017
 Time: 1:00 – 2:30 Eastern Time
 Presenter: Mike Valoris
 Senior Consultant
 PG Calc



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Our Discussion Today

- A different approach to this topic
- Why charities fear gifts of real estate
- Developing an infrastructure
- Due diligence in stages
- Ways to make a gift using real estate
- Promoting gifts of real estate




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Developing The Infrastructure

- Why charities fear gifts of real estate
- Create a procedure for when a gift is offered
- Drafting Gift Acceptance Policies
- Have a Gift Acceptance Committee
- Steps in the due diligence process




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Due Diligence – First Stage

- Staff-driven with minimal costs
- Property questionnaire & property description
- Order a title search
- Local government offices
- Site visit
- On-line databases



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Due Diligence – Second Stage

- Retain professionals – incur fees
- Local attorney
- Building inspection and environmental report
- Meeting with real estate agents
- Gift Acceptance Committee




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Qualified Appraisal

- IRS requirements – Publication 561
- Time frame
- Who pays for the appraisal
- IRS Forms 8283 & 8282
- Pricing the property for sale



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Marketability

- Meeting with real estate agents
- Competitive market analysis
- Time anticipated to market



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Alternatives to Accepting the Property

- Community foundation
- Another public charity
- Single-member limited liability company



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Types of Properties

- Undeveloped land
- Single family house
- Apartments/Multi-family
- Farms
- Commercial property
- Condos, Co-ops, Timeshares, Easements
- REITs





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Mortgaged Property

- To be avoided if possible
- Reduces the charitable deduction
- Donor may immediately recognize some capital gain
- Ways to get rid of a mortgage



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Outright Transfer

- Donor deeds the property to charity
- Deduction for fair market value (FMV)
- Avoidance of capital gains taxes
- Giving vs. selling:
 - a primary residence
 - a vacation home
 - an investment property




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Giving vs. Selling: Primary Residence (Ex. 1)

- FMV today \$ 300,000
- Purchase price in 1995 - 100,000
- Capital gain \$ 200,000
- Tax due on capital gain -0-
- IRS exemption from tax on gain: \$250,000/\$500,000 (single/married couple filing jointly)
- Donor could sell and give cash


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Giving vs. Selling: Primary Residence (Ex. 2)

- FMV today \$ 600,000
- Purchase price in 1995 - 100,000
- Capital gain \$ 500,000
- Tax due on capital gain -?-
- IRS exemption from tax on gain: \$250,000/\$500,000 (single/married couple filing jointly)


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Giving vs. Selling: Vacation Home

- FMV today \$ 300,000
- Purchase price in 1995 - 100,000
- Capital gain \$ 200,000
- Capital gain subject to tax: \$ 200,000
- No exemption from capital gains tax for sale of a vacation home
- Give to charity – avoid capital gain taxes

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Giving vs. Selling: Investment Property

- FMV \$ 300,000
- Purchase price in 1995 100,000
- Depreciation taken - 60,000
- Adjusted cost basis \$ 40,000
- Capital gain subject to tax \$ 260,000
- Tax rate: Capital gain tax rate on appreciation (15% or 20%); 25% tax rate on depreciation
- Give to charity – avoid all capital gain taxes

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Bargain Sale

- Sale to charity at bargain price
- Deed plus evidence of gift intent
- Charitable deduction = fair market value - sale price
- Cost basis proration
- Installment bargain sale




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Example: Ms. Decker

- Condo worth: \$250,000
- Cost basis: \$150,000
- Sale price to charity: \$150,000
- Deduction: FMV minus sale price = \$100,000
- Recognized capital gain: \$60,000
 $(150,000/250,000) \times 100,000$




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Retained Life Estate

- Which donors like this?
- Personal residence, vacation home, family farm
- Division of responsibilities between donor & charity
- Written agreement with donor
- Risks to the charity
- Termination of a RLE




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Example: Dr. & Mrs. Smith

- Dr. & Mrs. Smith – age 78
- Shore home FMV \$770,000
- Improvements worth \$513,300
- Improvements worth \$128,300 in 45 years (salvage value)
- \$495,695 charitable deduction

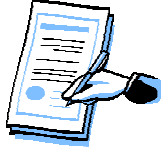


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Charitable Remainder Trust (CRT)

- Basics of a CRT
- Types of CRT's
- Flip charitable remainder unitrust (flip CRUT)
- Property deeded to the flip CRUT
- Partial income tax charitable deduction
- Capital gain "postponement"
- Trustee options




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Example: Martha – 100% Deeded to Flip CRUT

- Martha's goals
- Investment property FMV: \$450,000
- Cost basis: \$175,000
- 100% interest deeded to 5% flip CRUT
- Trust pays no capital gains taxes
- Charitable deduction: \$298,417
- Income for life to Martha




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Example: Martha – 50% Deeded to Flip CRUT

- Martha's goals
- Mortgage: \$50,000
- Investment property FMV: \$450,000
- 50% deeded to flip CRUT; Martha owns other 50%
- Charitable deduction: \$149,209
- After sale – net at closing: \$425,000
 - \$212,500 to Martha; \$212,500 to trustee




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Real Estate to Fund a CGA

- Risks to charity for funding a CGA w/ real estate
- Qualified appraisal and agreement of gift amount
- Selling expenses/time to liquidate the property
- Lowering the annuity rate vs. lowering the gift amount
- Deferral of annuity payments



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Other Ways to Give Real Estate

- Real estate to fund a RLE coupled with a gift annuity
- Real estate to fund a charitable lead trust




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Promoting Gifts of Real Estate


- Most donors are not aware of this gift option
- Only a small number of donors are candidates
- Be efficient with marketing dollars
- Piggyback on other development marketing
- Give examples of how to give real estate



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Questions and Answers



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Contact: Mike Valoris
Senior Consultant
PG Calc

E-mail: mike@pgcalc.com

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