



# Gifts of Tangible and Intangible Personal Property



Date: June 27, 2013  
Time: 1:00 – 2:30 Eastern Time  
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PG Calc Incorporated



# Outline of Webinar

## I. Gifts of Tangible Personal Property

- Outright gift
- Gift annuity
- Charitable remainder trust
- Bargain sale

## II. Gifts of Certain Intangible Assets

- Copyright
- Patent
- Mineral interests, particularly oil and gas



# Gifts of Tangible Personal Property





## Ways to Give Tangible Personal Property

- Outright gifts
- Gift annuity
- Charitable remainder trust
- Bargain sale



# Outright Gifts: Related Use Rule





# Outright Gifts: Gifts of Fractional Interests



Donor

75%  
Retained



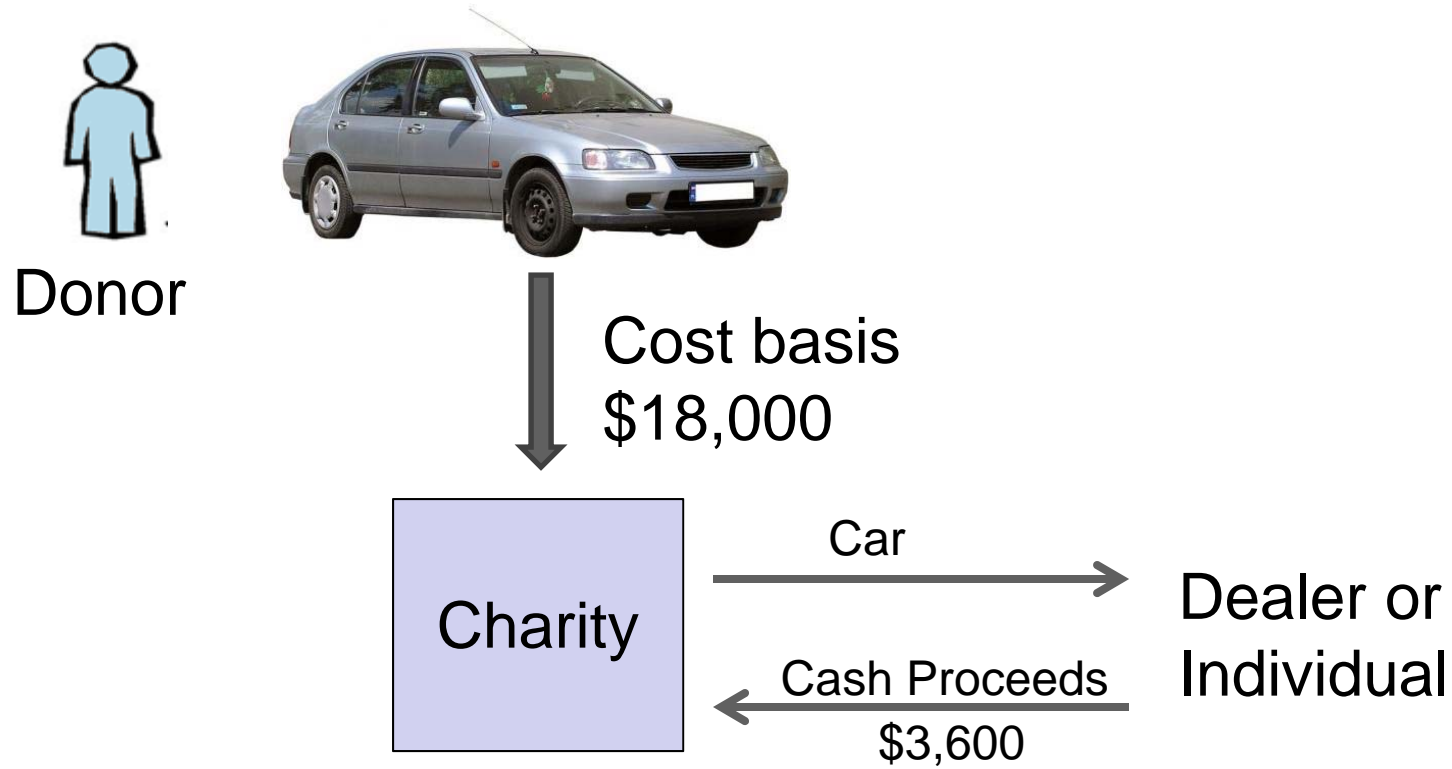
25%  
Contributed



Museum



# Outright Gifts: Used Car Donations





## Outright Gifts: Gifts of Gold and Silver

### Ways to invest in gold and silver

- Purchase coins
- Purchase bullion
- Purchase ETFs
- Purchase shares in mining companies







## Gifts of Gold and Silver (Continued)

### Tax Implications

- If sold, gain subject to maximum federal rate of 28%, and possibly surtax of 3.8%
- If contributed, donor not taxed on gain





# Outright Gifts: Example of Gift of Gold

## Exchange Traded Funds

Donor contributes ETFs valued at: \$170,000  
Cost basis is: \$ 31,000

What is the income tax charitable deduction?



## When Tangible Personal Property Is Ordinary Income Property, Whatever the Use

- Created by donor
- Received from creator as a gift
- Donor is a dealer



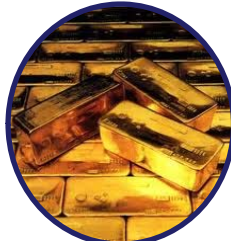
# Gift Annuities: Funded with Tangible Personal Property



Gift annuity funded with a stamp collection



Gift annuity funded with a painting



Gift annuity funded with gold



## Gift Annuity Funded with a Stamp Collection (Collection Sold by Charity)

Appraised value	\$120,000
Cost basis	\$ 16,000
Charitable deduction	\$ 7,685
Annual annuity	\$ 5,400



- Why is the deduction so low?
- How would the payments be taxed?



## Gift Annuity Funded with a Painting (Painting Retained in Charity's Collection)

Appraised value	\$300,000
Cost basis	\$110,000
Charitable deduction	\$125,823
Annual annuity	\$ 18,000

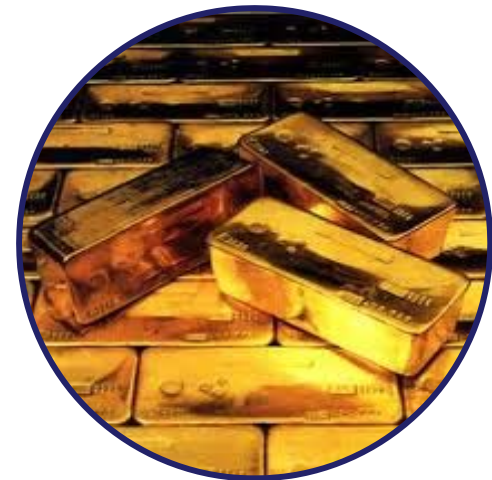


- Why is the deduction comparatively larger than for the stamp collection?
- How would the payments be taxed?



## Gift Annuity Funded with Gold

Appraised value	\$480,000
Cost basis	\$ 83,700



- Was the charitable deduction \$30,715 or \$176,143?
- Was the taxable gain subject to a maximum rate of 15% or 28%?
- How might taxable gain be taxed now?



# Gift Annuities: Regulated States Question

In regulated states, does the value of tangible personal property count towards required reserves?







# Charitable Remainder Trusts: Funded with Tangible Personal Property

## Questions:

- Is an income tax charitable deduction allowed?
- If so, when?
- And how would it be determined?



## Example of a “Flip” Charitable Remainder Unitrust Funded with Artwork

- Two donors age 70 and 68
- Collection appraised for \$300,000
- Cost basis \$120,000
- Contribution made in August 2012
- Payout rate is 5%
- Collection sold by trustee in July 2014
- Sec 7520 rate on sale date is 2.2%



## Example Continued

- Charitable deduction is \$51,104
- Deduction allowed in 2014
- Trust starts paying 5% of assets in 2015
- How will trust payments likely be taxed?



# Bargain Sales: Using Tangible Personal Property

## Bargain Sale Definition:

Knowingly selling property to a charity for less than appraised value with intent to make a gift.



## Example of a Bargain Sale

Appraised value of object	\$200,000
Cost basis	\$ 60,000
Selling price	\$120,000

- What is the charitable deduction?
- On how much gain will the donor be taxed?



## Example of a Bargain Sale (continued)

- Deduction is \$80,000 if the object is retained for a related use
- \$24,000 if the charity purchases the object for re-sale
- Taxable gain (\$84,000) same in both cases



## Bargain Sales: Installment Bargain Sale

- Benefit to donor
- Benefit to charity
- Imputed interest rate
- Taxable debt-financed income



# Tangible Personal Property – Conclusion

With Gifts of



Etc.

Donor can

- Avoid or defer taxation of gain
- Receive a deduction
- Convert an idle asset to a stream of payments
- Support the charity





# Gifts of Certain Intangible Assets



wiseGEEK



## Intangible Asset: Gift of Copyright

- If copyright and material donated, deduction for lesser of cost and fair market value.
- Deduction for royalty income over 10-year period. Declining percentage.



## Copyright: Assignment of Royalty Income

- Assignor taxed on royalty payments.
- Deduction allowed for payments to charity.



## Questions to Ask When Offered a Copyright

1. How did you acquire the copyright?
2. Do you own both the copyright and the material?
3. Are you now receiving income from a company that, pursuant to assigning the copyright, is publishing and selling the work?



## Intangible Asset: Gift of a Patent

- Income tax charitable deduction for lesser of cost basis and fair market value (no deduction if not donor's entire interest).
- Additional deduction for royalties received over 10-year period. Declining percentage.



## Patent: Assignment of Royalty Income

- Assignor taxed on royalty payments.
- Deduction allowed for payments to charity.



## Questions to Ask When Offered a Patent

1. Are you the inventor? Or did you acquire the patent in some other manner?
2. Would you be giving your entire interest?
3. Are you now receiving income from a company that, pursuant to a transfer of the patent, is manufacturing the patented item?



## Intangible Asset: Gift of Mineral Interest

- Surface Interests

- Land
- Water
- Sand
- Gravel
- Stone
- Etc.

- Mineral Interests

- Gas
- Oil
- Coal
- Precious metals
- Etc.





## Intangible Asset: Gift of an Oil or Gas Interest

- If donor gives entire interest, or undivided fraction of entire interest, income tax charitable deduction for fair market value.
- Exception: Term of interest contributed not co-extensive with working interest. Then assignment of income.



## Planned Gifts That Could be Funded with a Mineral Interest

- Gift Annuity
  - Concerns
  - Mitigating risk
- CRUT
  - How to structure the gift and assure continuation of income



## Questions to Ask When Offered an Oil or Gas Interest

- What type of interest is it?
- Who is the legal owner?
- Do you, the owner, also own the surface interest?
- Are you currently receiving income?



## Bequest

- Generally, a bequest is suitable for a gift of any tangible or intangible asset, but charity must decide whether to accept the item per its guidelines





# Questions and Answers





## Still Have a Question?

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