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Land Ho! The Many Ways to Give Real Estate



Date: March 27, 2014
Time: 1:00 – 2:30 Eastern Time
Presenter: Bill Zook
Vice President and
Director, Seattle Office
PG Calc



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Agenda

- Real estate basics
- Ways to use real estate to make charitable gifts
- Steps in the gift process
- Issues presented by mortgaged property
- Policies and procedures
- Promoting real estate gifts

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Real Estate Basics

- Real vs. personal property
- Tangible vs. intangible real estate
- Complete vs. partial interests
- Real estate as a donor asset



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Individuals vs. Entities

Who owns the property?
Who is the donor?

- Individual owns property
- Two or more individuals own property
- Individual owns entity that owns property
- Two or more individuals own entity that owns property

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Focus of this Webinar

- U.S. vs. foreign real estate
- Lifetime vs. testamentary
- Long-term appreciated vs. other
- Individual donors vs. entities
- Capital gain property vs. inventory
- Organizations with "public charity" status
- Charitable motivation presumed!

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Common Types of Real Estate

- Undeveloped land
- Residential properties
- Farms
- Commercial properties
- Selected partial interests
- REITs




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Ways to Give Real Estate

- Outright transfer
- Retained life estate
- Bargain sale
- Charitable gift annuity
- Charitable remainder trust
- Charitable lead trust
- (Pooled income fund)




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Outright Transfer

- Conceptually simple: just a deed
- Deduction for fair market value (FMV)
- Impact of "excess" depreciation
- Avoidance of capital gains tax (@ 2 different rates?)
- Prearranged sale danger




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Appraisal Requirements

- Situations when needed
- Who does it
- How it's done
- When it's done
- Who pays for it
- Multiple appraisals
- IRS Forms 8283 & 8282




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Example: Ms. Adams

- Cabin worth \$235,000
- Cost basis: \$30,000
- Deduction; capital gains tax avoidance
- Fulfillment of objectives




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Retained Life Estate (RLE)

- Personal residence or farm only
- Made by special deed
- Tax benefits
- Unique appraisal requirements
- Advisability of agreement re various issues



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RLE Agreement

- Responsibilities of "life tenant"
- Responsibilities of charity
- Addressing "what ifs"



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Options for Ending RLEs


- Life tenant rents property
- Life tenant & charity sell to a 3rd party
- Life interest contributed to charity

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Example: Mr. Baker

- Small farm worth \$470,000
- Improvements currently worth \$185,000
- Improvements worth \$20,000 in 35 years
- \$368,976 deduction
- Fulfillment of objectives



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Bargain Sale

- Sale to charity at bargain price
- Deed plus evidence of gift intent
- Tax deduction
- Cost basis prorated
- *De facto* bargain sale



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Installment Bargain Sale

- Payments spread over more than 1 year
- Deduction a function of present value
- Payments taxed in different ways
- UBTI issue

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Example: Ms. Campbell

- Condo worth \$250,000
- Cost basis: \$150,000
- Sales price: \$150,000
- Deduction: \$100,000
- Capital gain: \$60,000
- Fulfillment of objectives



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Charitable Gift Annuity (CGA)


- Special type of bargain sale
- Deed plus annuity agreement
- Tax benefits
- Agreed upon appraisal
- Annuity rate reduction
- Deferred payment option
- What if charity wants to use property?

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Example: Mr. Duckworth

- Rental house worth \$340,000
- Cost basis: \$80,000
- Net cash flow: \$13,000
- Annuity: \$18,700 (5.5%)
- Deduction: \$195,564
- Taxation of payments
- Fulfillment of objectives




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Charitable Remainder Trust (CRT)

- How a CRT works
- Types of CRTs
- Deed plus trust agreement
- Partial deduction
- Capital gain avoidance/delay
- Trustee options
- "You can't live in your unitrust"




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Example: Mr. and Mrs. Emory

- Raw land worth \$250,000
- Cost basis: \$50,000
- 5% "flip" CRUT
- Deduction: \$81,162
- Capital gains tax benefit
- Fulfillment of objectives




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Charitable Lead Trust (CLT)

- How a CLT works
- Types of CLTs
- Deed plus trust agreement
- Nature of tax benefits
- Decisions regarding structure




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Example: Mr. Franklin


- Apartment building worth \$1.1 million
- \$90,000 net cash flow
- 15-year 7% CLUT
- Gift tax deduction: \$719,708
- Fulfillment of objectives



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Scenario One




A donor who would like to live in his or her house as long as possible but who is willing to have the house go to charity upon death

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Scenario Two

A donor who can afford to part with a piece of real estate only if he or she receives compensating cash flow for life or at least for a term of years




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Scenario Three

A donor who wants to live in his or her house as long as possible but also wants to increase cash flow




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Example: Mr. Baker (Alternative Approach)


- Remainder interest worth \$368,976
- Contributed for 5.8% (vs. 7.2%) annuity
- Assumed cost basis: \$140K
- \$228,075 deduction
- Payments taxed favorably



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Scenario Four




A charity that would like to acquire full ownership of a piece of property as soon as possible

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Steps in the Gift Process

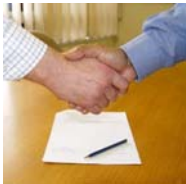
- Analysis of the situation
- Problem solving
- Completion of the gift
- Paying for various costs



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Issues with Mortgaged Property



- Outright Transfers, RLEs, and (some) CLTs
- Bargain Sales
- CGAs
- CRTs

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Policies and Procedures

- Types of property
- Types of gifts
- Criteria, process, roles
- Absolute vs. flexible approaches

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Promoting Real Estate Gifts


- Level of promotional activity
- Share information
- Emphasize tax/non-tax benefits
- Be mindful of emotional aspects
- Define and pursue target markets
- Create realistic time expectations
- Trumpet the charity's mission!




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Questions and Answers



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Still Have a Question?

Contact: Bill Zook
Vice President and
Director, Seattle Office
PG Calc

E-mail: bzook@pgcalc.com

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