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Gift Terminations and Appraisals Q&A

Date: January 25, 2024
Time: 1:00 – 2:00 Eastern
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Agenda

- Brief overview of split-interest gifts
- Basics of terminations or assignments
- Information required
- Substantiating the deduction
- All of your questions

Split-interest Gifts

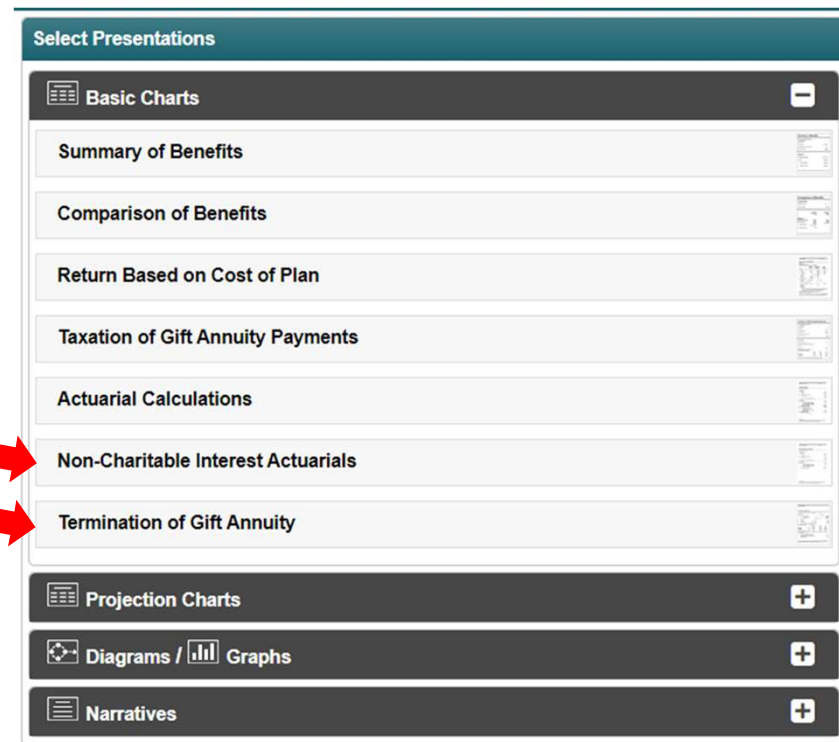
- Donor splits ownership between the right to own the remainder and the right to payments, income, or use of property
- Donor irrevocably contributes remainder interest to charity and retains certain rights (payments, income, use) for life, term of years, or both
 - Charitable Gift Annuity
 - Charitable Remainder Trust
 - Pooled Income Fund
 - Retained Life Estate
- Donor receives current income tax deduction for current value of irrevocable contribution of remainder interest

Calculating Initial Charitable Deduction

- Section 7520 and Regulations specify formulae, discount rates, and mortality assumptions
- Gift Annuity – amount transferred minus present value of annuity interest (the “investment in contract”)
- Charitable Remainder Trust – amount transferred minus present value of income interest
- Pooled Income Fund – amount transferred minus present value of income interest
- Retained Life Estate – sum of present value of remainder interests for depreciable and non-depreciable portions

Termination or Assignment

- Subsequently choosing to end the arrangement early shortens time charity must wait to enjoy full control of the contribution
- Accelerating time when charity receives remainder can result in an additional charitable contribution deduction



Terminations: Step-by-step

1. Annuitant, Beneficiary, or Life Tenant executes termination document (calculations / illustrations may be helpful to donor)
2. Charity issues contemporaneous written acknowledgement
3. Deduction based upon value as of termination date (can be complicated if daily portfolio valuations are not available)
4. Form 8283 required if deduction is greater than \$500

If new charitable deduction is greater than \$5,000:

1. Donor/taxpayer must secure a qualified appraisal
2. Completed Form 8283 must be signed by appraiser & donee charity
 - Charity does not vouch for value, only acknowledges receipt
 - Charity files Form 8282 for CRTs and RLEs reporting full value

Example: Charitable Gift Annuity

- In 2018 donor contributed \$50,000 cash in exchange for Charitable Gift Annuity paying \$2,700 annual annuity for lifetime of a 72-year-old
- \$21,632 charitable deduction (investment in contract = \$28,368)
- \$1,958 of each annuity payment = tax free recovery of investment in contract during first 14.5 years (life expectancy)

- At the end of 2023, the annuitant irrevocably assigns the annuity to charity, terminating right to future annuity payments
- \$16,624 charitable deduction in (unrecovered investment in contract)

Termination of Gift Annuity
5.4% Charitable Gift Annuity - Gift of Annuity Interest

ASSUMPTIONS:

[1]	[a]	Annuitant Birth Date	1/1/1946
	[b]	Age at Date of Original Gift	[1/1/2018] 72
	[c]	Age at Date of Termination	[12/31/2023] 78
[2]		Cash Donated	\$50,000.00
[3]		Payout Rate from ACGA2012 Table	5.4%
[4]		Payment Schedule	quarterly at end
[5]		Discount Rate for [1b] under IRC Section 7520(a) for 1/2018	2.6%
[6]		Discount Rate for [1c] under IRC Section 7520(a) for 12/2023	5.8%

BREAKDOWN OF ANNUITY:

	Tax-free Portion	Ordinary Income	Total Annuity
2018 to 2031	1,957.50	742.50	2,700.00
2032 to 2032	963.50	1,736.50	2,700.00
2033 onward	0.00	2,700.00	2,700.00
2023 (termination year)	1,957.50	742.50	2,700.00

CALCULATIONS:

[7]	Annuity ([2] x [3])	\$2,700.00
[8]	[a] Value of \$1 for age on [1c], rate on [6] (Table S - IRS Publication 1457 (5-2009))	6.9964
	[b] Adjustment for schedule on [4], rate on [6] (Table K - IRS Publication 1457 (5-2009))	1.0215
	[c] Adj. Value of \$1 ([8a] x [8b])	7.1469
[9]	Value of Annuity Interest ([7] x [8c])	\$19,296.50
[10]	Undistributed Tax-free Portion / Adjusted Cost Basis (8 years x 1,957.50) + 963.50	\$16,623.50
[11]	Charitable Deduction for Gift of Annuity Interest (lesser of [9] or [10]), see IRC 170(e)(1)(A))	\$16,623.50



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Example: Charitable Remainder Unitrust

- In 2018 donor contributed \$500,000 to fund a Charitable Remainder Trust paying 5% per year for the lifetime of a 72-year-old
- \$277,535 charitable deduction

- At the end of 2023, the trust principal has grown to \$532,000 when the income beneficiary irrevocably assigns the income interest to charity, terminating right to future payments
- \$196,989 charitable deduction

Non-Charitable Interest Actuarials

5% Charitable Remainder Unitrust

ASSUMPTIONS:

[1]	Beneficiary Age	[1/1/1946] 78
	Date of Gift	12/31/2023
[2]	Principal Value	\$532,000.00
[3]	Payout Rate	5%
[4]	Payment Schedule	quarterly 3 months to <u>1st</u> payment
[5]	Discount Rate under IRC Section 7520(a) for 12/2023	5.8%

CALCULATIONS:

[6]	Adjustment factor for schedule on [4], rate on [5] (Table F - IRS Publication 1458 (2010CM))	0.965496
[7]	Adjusted unitrust payout rate ([3] x [6]) (Reg. 1.664-4(e)(3))	4.8275%
[8]	Remainder factor for values on [1] and [7] (Table <u>U</u> (1) - IRS Publication 1458 (2010CM))	0.62972
[9]	Value of Remainder Interest ([2] x [8])	\$335,011.04
[10]	Value of Life Interest ([2] - [9])	\$196,988.96



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Termination, Assignment, or Surrender

- Charitable Gift Annuity – annuitant assigns annuity to the charity, which relieves charity of obligation to make future payments
- Charitable Remainder Trusts – income beneficiary surrenders right to income which terminates the trust and accelerates the remainder interest
- Pooled Income Fund – income beneficiary surrenders right to income which allows charity to sever those shares of fund
- Retained Life Estate – life tenant surrenders right to occupy property

Cautions

- Check state law - especially statutes and regulations governing charitable gift annuities and trust and real estate law
- Watch out for multiple or successor beneficiaries
- Ensure donors understand terminations are irrevocable
- Beware of adverse tax consequences, especially for cash-out payments





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Information Required

- Original trust, gift annuity, other gift agreements
- Birthdates (not just ages) of all beneficiaries
- Date of death of any deceased beneficiaries
- Current restrictions on the charity's use of the gift
- Income beneficiary subject to a terminal illness
- Copies of original charitable deduction calculations (if available)



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A Word About Timing...

- Qualified appraisal cannot be completed more than 60 days before date of termination
- Best to wait until termination is formalized (so valuation date is known)
- Charity can illustrate projected deduction for planning purposes
- Form 8283 must be completed (signed by appraiser and donee) prior to filing deadline
- Generally, takes about a week ... once all information is in hand



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Some of Your Questions...

1. Why is the appraised value of a gift annuity different than the deduction amount?
2. Is a qualified appraisal required for a new gift?
3. What does an appraisal cost? Who should pay for the appraisal?
4. How does it work if a CRT donor chooses to decline payments in select years?
5. What happens if the charity is trustee of a CRT funded with real estate?
6. How do you approach a CGA that is underwater?



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Questions?



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Still Have a Question?

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