

PG Calc YOUR PARTNER IN PLANNED GIVING SUCCESS

Shifting the Conversation from Cash to Assets



Date: June 27, 2019
 Time: 1:00 – 2:30 Eastern
 Presenter: Jeff Lydenberg
 Vice President

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Agenda

- Correlation of asset gifts to overall giving
- Subjective and objective variables and wealth
- Raising the subject of wealth and assets
- Overcoming objections and stalling
- How to say yes to gifts of assets
 - ✓ Risk control strategies
- Accepting gifts of illiquid assets
- Planned gift vehicles appropriate for assets

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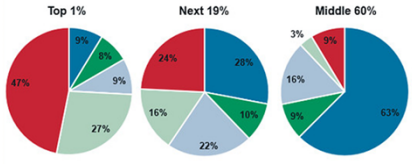
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What Assets Make up Wealth?

Asset Mix
 Composition of household wealth, by asset, for wealthiest 1%, next 19% and middle 60%

- Principal residence
- Pension accounts
- Business equity and other real estate
- Liquid assets and miscellaneous
- Financial securities



Group	Principal residence	Pension accounts	Business equity and other real estate	Liquid assets and miscellaneous	Financial securities
Top 1%	37%	9%	27%	9%	9%
Next 19%	24%	16%	22%	10%	28%
Middle 60%	3%	16%	9%	9%	63%

Edward Wolff, New York University | WSJ.com


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Who Are the 1%?

- The top 1% of Americans have a household net worth of \$10.3M or more
- The top 1% of Americans have income of \$434,455 or more per year
- Seven Sins**
 - ✓ **Per week:**
 - ✓ €270,000
 - ✓ \$307,031
- There are 1.3M U.S. households that are in the top 1%



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Why Assets Instead of Cash?

- Data support the conclusion that charities that accept and encourage gifts of assets raise more money than those who receive mostly cash gifts
- Subjective and objective reasons to put assets on the table
 - ✓ Gifts of cash and disposable income represent a tiny percentage of the prosperity of the wealthiest families
 - ✓ Business interests and real estate represent the largest source of resources for the wealthiest families
 - ✓ Gifts of assets are highly tax-efficient

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Gifts of Assets Increases Giving

- A review of over 1M Form 990s shows:

5-year average growth in total fundraising (2010 to 2015)		
NONPROFITS receiving ONLY CASH gifts <small>2,548 nonprofits raising \$1MM+ in 2010 reported only cash gifts in 2010 & 2015 on e-file IRS-990</small> 11% GROWTH	NONPROFITS receiving ANY NONCASH gifts <small>4,230 nonprofits raising \$1MM+ in 2010 reported noncash gifts in 2010 & 2015 on e-file IRS-990</small> 50% GROWTH	NONPROFITS receiving SECURITIES NONCASH gifts <small>2,143 nonprofits raising \$1MM+ in 2010 reported securities gifts in 2010 & 2015 on e-file IRS-990</small> 66% GROWTH

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Why Do Gifts of Assets Increase Giving?

- Subjective variables
 - ✓ **Sudden windfall:** An inheritance, a bonus, a commission
 - Unearned, unexpected dollars increase perception of wealth
 - ✓ **Assets v. Money:** Cash is fungible; associated with disposable income. Assets represents wealth. Personal, almost emotional connection to assets
 - ✓ **Income v. Wealth:** What donor can "afford" to give tied to income and liquid savings. Wealth focuses on donor "capacity" to give

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Why Do Gifts of Assets Increase Giving?

- Objective variables
 - ✓ Capital gain and income taxes
 - ✓ Sale of long term appreciated property taxed at 23.8% for wealthiest Americans
 - ✓ Top ordinary income tax rate is 37%
 - ✓ Gift of appreciated property
 - ✓ Complete avoidance of capital gain tax
 - ✓ Income tax charitable deduction could save 37 cents on the dollar

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Why Do Gifts of Assets Increase Giving?

- Objective variables
 - ✓ Taxation of private equity and hedge funds
 - ✓ Much of the income from these investments are deductible business expenses or carried interest taxed at only 15%
 - ✓ Alternative investments are highly illiquid but represent significant wealth
 - ✓ Sale of these investments subject to tax
 - ✓ Gift of alternative investments avoid heavy taxation

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Talking About Wealth and Assets

- Wealth screens may present an incomplete picture
- Assets held by business organizations not public
- Matters of finance and wealth intensely personal
- How gift is funded often follows solicitation
 - ✓ Negotiation of amount, recognition, funding



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Shifting the Conversation

- High wage earners/Big spenders = Low wealth
- Consider cash flow to maintain lifestyle
- Do you have an estate tax problem?
 - ✓ Yes? Net worth at least \$11.4M+ or \$22.8M+

- ❖ Snowmass Village, Aspen
- ❖ Christmas week 2019
- ❖ 6 guests
- ❖ \$24,735.18 for the week



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Shifting the Conversation

- Signals to raise topic of assets
 - ✓ Multiple financial and personal obligations
 - ✓ Need for income for lifestyle
 - ✓ Outliving income
 - ✓ Wealth is illiquid
 - ✓ Gift of assets in context of complex planning
 - ✓ Only considering a gift of portion of donor's wealth

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Overcoming Objections and Stalling

- Solicited amount is "too much"
 - ✓ We can help you use your assets and investments to make gift
- We're over committed
 - ✓ Not focused on disposable income
 - ✓ Tapping into wealth can meet multiple financial, personal and philanthropic objectives

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Overcoming Objections and Stalling

- A gift of that size would reduce needed income
 - ✓ Gifts can be structured to pay income and reduce taxes
- Worried about economy, recession, and tariffs
 - ✓ A gift can make fixed, guaranteed payments without risk of market fluctuation
- Let me think about it
 - ✓ What are the concerns you need to consider

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What to Do When the Donor Says Yes

- Senior leadership and business office often resistant to anything besides cash and securities
- Clear gift policies requiring due diligence, risk control strategies, and institutional buy-in
- Charity doesn't have to do it all!
 - ✓ Development and business office don't have to manage
 - ✓ Financial services partner can manage many assets
 - ✓ Real estate management firms will handle entire process

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Risk Control Strategies

- Donor Advised Funds
 - ✓ DAFs affiliated with financial services firms experienced in accepting complex, illiquid assets
 - ✓ Net proceeds on sale of asset goes into donor's DAF
 - ✓ Minimum gift amounts higher for unusual assets
 - ✓ Example: Vanguard DAF minimums
 - ✓ \$25,000 if funded with cash or securities
 - ✓ \$750,000 if funded with closely held businesses, private equity, and hedge funds

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Risk Control Strategies

- Single Member Limited Liability Company (LLC)
 - ✓ Charity creates and is only member of the LLC
 - ✓ LLC does not need to apply for tax-exempt status or file Form 990
 - ✓ Gift to LLC is same as gift to charity
 - ✓ Liability for claims arising from an asset limited to the LLC
 - ✓ LLC liquidates asset and distributes to charity
 - ✓ Charity insulated from claims against LLC

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Gifts of Complex/Illiquid Assets

- Cash and securities from non-U.S. donor
 - ✓ Can run afoul of currency and banking regulation in U.S. and donor's home country
 - ✓ Chinese citizen limited to transfer equivalent of \$50K per year out of China
- Real estate
 - ✓ Non-residential real estate likely held by business entity
 - ✓ Does charity want to be shareholder or property owner?
 - ✓ Co-owners? Management agreements? Mortgages?

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Gifts of Complex/Illiquid Assets

- Closely held businesses
 - ✓ C corporation
 - ✓ S corporation
 - ✓ Limited liability corporation
 - ✓ Limited partnership
- What is the exit strategy?
 - ✓ Can business make a gift of assets instead?
 - ✓ How quickly and under what conditions can ownership be liquidated?

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Gifts of Complex/Illiquid Assets

- C corporations
 - ✓ easiest business asset with least risk
 - ✓ What is plan to convert to cash? Stock redemption?
- S corporations
 - ✓ Single largest source of wealth in U.S.
 - ✓ Can subject charity shareholder to UBIT
 - ✓ Consider gift of corporate assets instead
- Pass-through entities
 - ✓ Greatest flexibility in how to structure
 - ✓ Not subject to UBIT as a passive investment

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Gifts of Complex/Illiquid Assets

- Gifts of Private Equity and Hedge Funds
 - ✓ Partner with experienced financial services firm
 - ✓ May be challenge for donor to get appraisal
 - ✓ General partner may need to approve charitable gifts of units of private equity and hedge funds
 - ✓ Careful tax planning required to avoid UBIT to charity
 - These investments raise money by borrowing
 - Debt financed income can generate UBIT to charity

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Gifts of Complex/Illiquid Assets

- Qualified Charitable Distribution (QCD) (a.k.a. charitable IRA rollover)
 - ✓ Must be over 70 1/2 and limited to \$100k per year
 - ✓ Equivalent to income tax charitable deduction (but not deductible)
 - ✓ Must otherwise qualify for 100% deduction
 - ✓ Can't be used for tickets, auction items, or if more than minimal quid pro quo benefits
 - ✓ Can't be made to supporting org or private foundation

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Gifts of Complex/Illiquid Assets

- Beneficiary of IRA at death
 - ✓ Simple for donor, file new beneficiary designation
 - ✓ Tax-efficient gift, no income tax on distribution to charity
 - ✓ IRA divisible into interests for multiple charities and heirs
- Processing gifts from IRAs after death
 - ✓ Get ready, process is complex, intrusive, and lengthy
 - ✓ Consider advising donor to make DAF beneficiary of IRA


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Cryptocurrency

- Educate yourself
- Bitcoin is only one of hundreds of virtual currencies but most popular
- Unresolved legal, tax, and regulatory issues
- Treated as gift of property
 - ✓ Appraisal required if claimed value over \$5,000
 - ✓ Short term v. long term



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Gifts of Complex/Illiquid Assets

- Don't accept cryptocurrency until infrastructure in place to accept (or not!)
 - ✓ See paper for resources
 - ✓ Risk is fluctuation in value, sell immediately like stock
- Consider reputational risk
 - ✓ Know your donor
 - ✓ How and why are they trading in virtual currency
 - ✓ Associated with illegal activity

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Gift Vehicles for Complex/Illiquid Assets

- Outright gifts of complex/illiquid assets often the best outcome
 - ✓ High net worth donor needs deduction and tax avoidance more than any other benefit
- Vehicles to consider:
 - ✓ Charitable remainder unitrust with flip provision
 - ✓ Retained life estate
 - ✓ Bargain sale

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Gift Vehicles for Complex/Illiquid Assets

Charitable remainder unitrust with flip provision

- Vehicle of choice for illiquid assets
- Pays lesser of net income or unitrust amount until sale of donated property
- Gives trustee time to dispose of property
- Taxes generated from sale of property trapped inside CRUT
 - ✓ Beneficiary taxed on income on WIFO basis
- Starting in year after sale of property, CRUT pays a percentage of value as revalued annually

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Gift Vehicles for Complex/Illiquid Assets

Retained Life Estate

- Donor may contribute personal residence or farm
- Retains right to live in home
- Income tax deduction at time of gift
- Prototype donor
 - ✓ High net worth, multiple homes, vacation properties
 - ✓ Need not be primary residence
 - ✓ Can generate significant income tax charitable deduction

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Bargain Sale

Bargain Sale

- Donor sells property to charity at a bargain price
- Donor gets cash, reduction in gains and income tax
- Zero tax solution
 - ✓ \$5M property with \$750k basis
 - ✓ Sells to charity for \$3.2M
 - ✓ Income tax savings: \$653,494
 - ✓ Capital gain tax due: \$653,494
 - ✓ Net tax due from donor: \$0
 - ✓ Net gift to charity: \$5M - \$3.2M = \$1.8M

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Questions?



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Still Have a Question?

Contact: Jeff Lydenberg
Email: jeff@pgcalc.com
Phone: 888-497-4970

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