

**NINETEENTH
CONFERENCE
ON
GIFT ANNUITIES**



WISE PUBLIC GIVING SERIES, NO. 58

1986

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ON
GIFT ANNUITIES**

PAPERS PRESENTED AT THE
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COMMITTEE ON GIFT ANNUITIES

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CONTENTS

OPENING REMARKS	5
Dr. Charles W. Baas	
ECONOMIC AND FINANCIAL OUTLOOK	9
Mr. Don R. Conlan	
ACTUARIAL BASIS FOR IMMEDIATE AND DEFERRED GIFT ANNUITY RATES	12
Mr. Michael Mudry	
REPORT ON STATE REGULATIONS	25
Dr. Roland C. Matthies	
CANADIAN TAXATION	32
Mr. James A. Chisholm	
WILLS AND ESTATE PLANNING	37
Conrad Teitell, Esq.	
WORKSHOP SESSIONS REPORTS:	
CHARITABLE GIFT ANNUITIES—BASIC	62
Dr. Alva R. Appel	
POOLED INCOME FUNDS—BASIC	69
Mr. W. Dean Broome & Mr. Frank A. Logan	
CHARITABLE REMAINDER TRUSTS—BASIC	78
Kathryn W. Baerwald, Esq. & Richard A. James, Esq.	
CHARITABLE REMAINDER TRUSTS—ADVANCED	91
Winton C. Smith, Jr., Esq.	
Mr. Frank Minton	
WHO'S IN CHARGE HERE—THE BUSINESS OFFICE OR THE DEVELOPMENT OFFICE?	121
Mr. David Lissner & Mr. Harvey DeVries	
MARKETING LIFE INCOME GIFTS	134
Mr. John S. Ryan	
CHARITABLE GIFTS BY WILL—EFFECTIVE USE OF CHARITABLE LEAD TRUSTS AND QTIP TRUSTS	156
Eugene P. Daly, Esq. & Terry L. Simmons, Esq.	
COMBINING CHARITABLE REMAINDER GIFTS WITH LIFE INSURANCE TRUSTS	181
Mr. James G. Marshall, Jr. & Mr. Miles W. McNally	

CONTENTS *(Continued)*

MINUTES OF THE NINETEENTH CONFERENCE ON GIFT ANNUITIES	200
REPORT OF RESOLUTIONS COMMITTEE	206
REPRESENTATIVES TO NINETEENTH CONFERENCE	211
ROSTER OF SPONSORING ORGANIZATIONS	233
CONSTITUTION AND BY-LAWS OF THE COMMITTEE ON GIFT ANNUITIES	248
UNIFORM GIFT ANNUITY RATES, Reconfirmed by Conference on Gift Annuities, May 1, 1986	<i>Inside Back Cover</i>
COMMITTEE ON GIFT ANNUITIES	<i>Back Cover</i>

OPENING REMARKS

Dr. Charles W. Baas

Chairman, Committee on Gift Annuities

The Committee on Gift Annuities welcomes you to the 19th Conference on Gift Annuities. Actually, the Conference name is a misnomer. Now, as the agenda certainly reveals, other types of capital gifts are also under consideration. At the first Conference in 1927, in fact for most of the early Conferences, the gift annuity was the only subject. The Committee itself began to function in 1927 as an ad hoc group to consider what to do about a real problem in the then infant gift annuity field. At that time, institutions using this vehicle kept upping annuity rates to meet the competition from other similar institutions. By 1927 it had gotten to the point where I am sure, some gift annuity issuers were actually making a gift to the donor rather than the reverse. The Conference determined solution was for a continuing Committee and periodic Conferences to act on maximum gift annuity rates. One side benefit was a considerable saving in actuarial expense by having a rate study made for the whole group instead of each organization duplicating the effort and paying their own actuarial costs, as had been the case before. The present Committee is a direct descendant of that first Committee. It's a bit larger now, with a maximum of 25 members, and the field is broader, including taxes, state regulation and various new types of capital gift vehicles. But I am sure that first Committee could easily relate to the present members and their activities. The Committee exists, and has always existed to serve the sponsoring organizations which include trying to preserve the integrity of the various gift vehicles by promoting sound practices and representing the constituency whenever it was required.

Now, let me be perfectly clear. All through the years, Committee members have served as volunteers, no remuneration goes with the job. Keep in mind these people have fulltime positions, so Committee meetings and requests for information by the membership can be a problem at times. I've often said by becoming a sponsor of the Committee, you have joined one of the loosest organizations in the world. What I mean is, your Committee can only recommend, it has no authority to bind the

member institutions. Yet, in spite of this lack of control, I can attest that the Committee members have, through the years, provided the sponsorship with a great many things valuable to the causes they represent, not the least of which has been financial savings. Material prepared by the Committee is sold to the membership at cost and Conference rates are set only high enough to cover expected expenses until the next Conference.

Let's take a brief look at the sponsorship, and see how it has evolved over the years. At the start in 1927, forty-eight institutions were charter members—almost 90% in what we call the "religious" category. Thirty years later, at the Ninth Conference, the total sponsorship was 126. Religious organizational involvement was down to 51%, but educational groups were up to 29%. Figures at the moment for the Nineteenth Conference, another 30 years later, show 1,296 organizations are sponsors—the largest number in our history. The religious category is now only 25%. Educational institutions are up to 36%, the largest category. Homes and hospitals—16%; Foundations—15%. The great growth in the sponsorship during the last two decades has been obvious from the figures I have just reported.

Each of the prior Conferences have acted on the maximum gift annuity rates, either adopting new rates or confirming existing rates. What the Conferences act on is a recommendation by the Committee which is based on a study by its actuary. You will learn later this morning, that the ingredients of the study include a mortality basis, an interest assumption, a residuum, expense loading and has a payment frequency involved. Alteration of any one of those factors could produce a different rate base. So with this in mind, as usual, we will hear an economic projection, the actuary's report and the Committee's recommendation for maximum gift annuity rates. You will not be asked to act on the proposal until tomorrow morning. The intent is to provide time for you to think it over, talk about it with other delegates.

Just a short word in closing about what your Committee offers in the way of service. One service is mailings between conferences on issues vital to the membership. An example would be the mailing sent in November 1984 when the IRS issued Revenue Ruling 84-162 which affected the actuarial value

of a charitable gift annuity. There is a chance to do it again in 1986—IRS is making our tables unisex July 1st. Those IRS actions also provide illustrations of the periodic need for updating the various manuals prepared and offered by the Committee. There are three main manuals plus various subsidiary forms and material. The manuals are:

Tax Implications of an Annuity Gift—popularly known as
the Green Book

Deferred Gift Annuities—Gold Book

Pooled Income Funds—Red Book

I really don't know what's done with the manuals but in 1985 alone a total of over 2,100 manuals were ordered.

There is also an assortment of mail and phone calls coming, primarily to Mary Lou Ruegg of my office, on such subjects as: interest in sponsorship, inquiries about manuals, questions on tax calculations and state regulation. Many of these inquiries are referred to a local Committee member.

In addition to the Committee, help is also provided by quite a few sponsors who also aid by counseling other organizations and sharing information with Committee members. It is your responsibility as a sponsor to share any information you think will affect other members of the constituency.

Your Committee is also responsible for these Triennial Conferences which, I think you can imagine, is no small task for a group of volunteers. Most of the responsibility for this Conference fell on Clint Schroeder and his committee who arranged the program for the 19th Conference. Joan Cole and her group as the Arrangements Committee dug up this shabby little hotel. Members of these committees have been working on this project for three full years.

While we are talking about Committee members, let me recognize five persons who are leaving the Committee due to retirements or changes in position. Whether you know it or not, these people have done a lot to benefit your organization. Will the Committee members please rise as I call your name and remain standing please: Joan Cole, Agnes Claire Reithebuch, Alva Appel, Bob Bartlett, and John Deschere. Believe me, your

Committee will miss these solid performers—they deserve your recognition.

Now you are about to experience the Nineteenth Conference on Gift Annuities. The majority of you have been to more than one of the previous Conferences. I think you would agree that for the most part, the Conference speakers and Workshop leaders have made high quality presentations. My guess is that you will find this Conference the best one yet.

One helpful practice we have followed in the past has been to appoint a Resolutions Committee to propose Conference actions. If you will allow a continuation of this practice, I would suggest the following persons serve this Conference in that capacity.

Chairman: MR. MEL DEVRIES, Department Secretary,
General Council of the Assemblies of God

MR. JOHN M. DESCHERE, The Committee Secretary
FATHER DONALD LEMAY, Director of Planned Giving,
Saint John's University

DR. DAROLD H. MORGAN, President, Annuity Board,
Southern Baptist Convention

MR. MICHAEL MUDRY, Actuary, Senior Vice President,
Hay/Huggins Company, Inc.

MR. CHARLES N. O'DATA, Vice President Develop-
ment, Geneva College

MISS JANE STUBER, Director, Deferred Gifts & Be-
quests, Smith College

And your Chairman as an Ex-Officio member.

The Conference voted to accept the nominations as presented.

ECONOMIC AND FINANCIAL OUTLOOK

Mr. Don R. Conlan

President, Capital Strategy Research, Inc.

When I think about the U.S. economic outlook, I find it useful to think about it in political as well as pure economic terms. So, let's take a look at what I call Presidential politics. When one looks at the first two years of any Republican president's term all the way back to and including Herbert Hoover, one finds a recession there. Always! When one looks at the same two years under Democratic presidents, one almost never finds a recession. The recession we had in the first half of President Reagan's first term, 1981-82, was deeper than the norm but, at the same time, the reduction in the rate of inflation also was much deeper. In any case, if past is prologue, and it sure has been up 'til now, we should be in or nearing a recession before the end of this year.

Curiously enough, however, under either Party the stock market tends to do basically nothing on balance during the first two years of a President's term. Of course, within that two-year period there can be tremendous volatility so that, if you're in the market, you would hardly characterize the market as "doing nothing."

Well, are we heading for a recession? Let's take a reading on where we stand today. The current economic recovery, which by most standards has been utterly conventional, has entered its fourth year of uninterrupted growth and that definitely is not conventional. Only twice before, in 1961-69 and in 1975-79 did we manage to keep a business expansion going for more than three years. So, based on business cycle history as well as Presidential history, the U.S. economy should be poised for a recession.

A primary factor contributing to the demise of an economic expansion has been a progressive tightening of monetary policy. Traditionally, this switch in policy has gotten underway near the end of the third year of recovery. The reason for the change always was to head off developing problems of excess demand and accelerating wage and price inflation. There is no evidence of either problem at this time. Economic conditions are closer

to those nearer the beginning of an expansion than at the end; indeed, the world suffers from insufficient demand for almost everything.

As a result, the Federal Reserve, far from being worried about inflation, has turned its attention to the problem of sluggish growth and employment. It has been nudged in that direction by a White House that is keenly aware of history and has no interest in going into the critical mid-term elections this fall with the economy weak or, worst of all, in recession. Besides, the Federal Reserve must support the decision made last autumn to push down the dollar and that severely limits its ability to tighten domestic monetary policy even if it wanted to, which it doesn't.

With that in mind plus deep concern about the financial viability of many farmers, financial institutions and even countries, it would be untoward for the Federal Reserve to tighten money or allow interest rates to rise at this time. It is thus likely that strong money growth will continue at least through mid-year and that the probability of a policy-induced recession is very low. The more likely prospect is continuing, perhaps even accelerating expansion with relatively low interest rates. What this means, of course, is that President Reagan is likely to break the pattern of recessions in the first half of a Republican President's term.

If so, then there is a strong possibility that we will make it through 1988 without a recession, matching the pattern of the 1960's. Why? Because in the past, from the midpoint of the President's term onwards, it hasn't made any difference who was in the White House. We almost never have had recessions in the second half of the term under either Republicans or Democrats. In the second half, all attention turns to the next Presidential elections and policy is guided accordingly.

In addition, the stock market, so ambivalent in the first half, always goes up, typically by 32%, in the second half of any President's term. If past is prologue, the Dow will be well over 2000 by 1988. That, by the way, is not a forecast, just extrapolation.

Thus, if we make it past the next few months without a recession—and that appears likely—the near-term outlook is good. The negatives are few and the positives include declining interest rates, accommodative monetary policy, low oil prices, and a weaker dollar. As regards your interest rate assumptions for your annuities, using the 9.25% Treasuries of 2016 as a bellweather, I would expect a low of about 7% sometime in the next few months and, by next year, a high of not more than, say, 8.5% or so.

ACTUARIAL BASIS FOR IMMEDIATE AND DEFERRED GIFT ANNUITY RATES

Mr. Michael Mudry

Senior Vice President

Hay/Huggins Company, Inc. (A Member of The Hay Group)

Before presenting the recommendations of the Committee on Gift Annuities relating to maximum annual immediate gift annuity rates and the maximum interest factors during the deferral period in connection with deferred gift annuities, I would like to provide, first, a historical comparison of both the maximum annual immediate single-life gift annuity rates adopted by previous Conferences on Gift Annuities and the actuarial assumptions used in calculating these rates, and second, a more detailed analysis of actuarial assumptions. Material relating to the historical comparison can be found in Schedule 1. At the top of this schedule is shown a historical comparison at sample ages of the maximum immediate single-life gift annuity rates adopted at each Conference on Gift Annuities since the first Conference in 1927, except for the April 7, 1965 and May 2, 1974 Conferences, which have been omitted due to space limitations and because they reflected relatively small increases.

To avoid possible confusion, I should mention that the word "rate" in the gift annuity field represents the percentage that is multiplied by the amount the charitable organization receives for the annuity, in order to arrive at the annual annuity payable to the annuitant. For example, if the amount paid to the organization for the gift annuity is \$100,000 and the rate table shows 7.8% at the annuitant's age, then the rate is 7.8% and the annuitant will receive 7.8% of the \$100,000 (or \$7,800) as an annual annuity. This meaning of the term "rate" is different from that used in insurance circles, where "rate" means the premium rate that is charged by the insurance company for a benefit. Of course, when I refer later in this paper to mortality rates or interest rates, the difference in usage of the word "rates" will be obvious.

While I am defining terms, I shall also mention that in this paper I designate the original amount paid for a gift annuity as the "principal" for the annuity. For example, the \$100,000 paid

for the gift annuity in the preceding illustration is what I call the principal. Other people may refer to it as the gift or by some other term, but in my remarks I refer to it as the principal.

It can be seen from Schedule I that, for most ages shown, the maximum single-life gift annuity rates in column A which were adopted by the 1927 Conference were higher than those of any subsequent year until 1980. Depending on age, the lowest annuity rates were those adopted by the 1939 or 1955 Conference. Rates adopted subsequent to the 1955 Conference have gradually increased, with the 1983 rates being the highest ever adopted by any Conference (including the original 1927 Conference) at almost every age.

The bottom part of Schedule I contains a summary of the actuarial assumptions used to calculate the various rates for the years shown. Basically these assumptions relate to:

- (1) the mortality rates in future years,
- (2) the investment yield rate to be earned in the future on the principal paid for the annuity,
- (3) the residuum available to the organization at the death of the last annuitant,
- (4) the loading needed for administrative expenses,
- (5) the frequency of the annuity payments and
- (6) adjustments in rates made at younger and older ages.

Some comments relating to these assumptions may be of interest.

The three columns under the heading of "Mortality Basis" identify the mortality rates assumed. The name of the basic mortality table used is shown in the first of these three columns. I won't delve further into this technical area at this time, but will make additional comments concerning mortality later.

The second of the three columns pertaining to the mortality basis sets forth any age set backs included in the assumptions. An age set back is a device used by actuaries to reduce the mortality rates in a mortality table so as to bring them more closely in line with mortality rates assumed for the future. For example, if the age set back is two years, it means that a person of a given age will be assumed to die in accordance with the rates of mortality shown in the unadjusted mortality table for a person two years younger (i.e., with the age set back two years). A set

back has the effect of making provision for lower rates of mortality (and hence longer longevity) than are inherent in the unadjusted mortality table. Thus, set backs are frequently used when it is anticipated that the mortality table with a set back will more accurately portray future mortality experience than will the use of another available mortality table that can be used without a set back.

The third column in Schedule I under the heading "Mortality Basis" indicates the sex assumption used for purposes of calculating gift annuity rates. Except for the annuity rates adopted at the first Conference on Gift Annuities in 1927, all rates have been based on mortality assumptions related to female lives. The usual practice among insurance companies in connection with their issuance of individual annuities is to pay different amounts of annuity to males than to females of the same age for a given amount of premium in recognition of the fact that mortality rates and longevity differ between groups of males and groups of females. In contrast, the maximum gift annuity rates provide the same amount of gift annuity per \$1 of principal at a given age regardless of the sex of the annuitant. Such uniform annuities regardless of sex are also called unisex annuities. This unisex policy has been in effect in connection with the maximum annuity rates adopted at all Conferences ever held. It should be mentioned that, as the result of the U.S. Supreme Court's Norris decision in 1983, insurance companies now also must issue unisex annuities to the extent required for pension plans, but not for individual annuities issued.

The fourth column of actuarial assumptions during past years shows the investment yield rates assumed or, as referred to less accurately but more frequently, the interest rates assumed. These rates have been increasing since the low point of 3% for 1939 to 1955. The 6½% rate adopted at the last Conference in 1983 is the highest ever assumed.

The fifth column of assumptions relates to the residuum built into the rates. From 1927 to 1939, the assumed residuum was 70% of the original principal paid to provide the annuity. The present 50% assumption was adopted in 1939. The residuum represents the portion of the original principal which would be made available to the charitable organization at the death of

the annuitant or annuitants if (1) the total principal had been invested at the date of issue of the gift annuity, (2) the annuity and expenses were paid from such principal and (3) experience exactly equaled all assumptions made.

It is, of course, not required that the availability of the value of the residuum be deferred until the death of the annuitant. It is possible to insure the amount of annuity with an insurance company. Alternatively, the charitable organization can set aside adequate reserves on a self-insured basis to cover the payment of the annuity and make the payments itself, thus releasing a portion of the principal immediately. An earlier release and use of a residuum would normally mean that the amount of the available residuum is reduced because interest will not be earned on the residuum between the date of release and the death of the annuitants. However, this smaller amount is available for use earlier.

The next assumption shown in Schedule I is that concerning expenses. There was no expense loading until the 1955 Conference, at which time the expense assumption that has continued in use since then was adopted. This assumption is that all future expenses will be able to be met on average from an amount equal to 5% of the principal. For example, if the average principal paid for a gift annuity is \$10,000, then it is assumed that an amount of 5% of the \$10,000, or \$500, together with interest thereon, would be able to cover all expenses relating to the annuity, such as those of promotion, writing the agreement, record keeping, issuing and mailing all future annuity payments, reporting to state insurance departments, etc. I shall add some remarks later concerning this area of expenses.

The next assumption mentioned in Schedule I concerns the ages at which the calculated tabular rates were modified. Since 1934, the rates resulting from the application of the various assumptions have been reduced somewhat at the younger ages in recognition of the fact that annuities that commence at those ages are likely to be paid for many years in the future (during which substantial changes in interest rates can occur), so that it would be advisable to be a bit conservative in setting rates at such ages. Similarly, it has been usual in the insured annuity field to not increase the amount of annuity payable to individuals

whose annuities begin above some cut-off age such as 85 or 90. This same practice is followed in connection with gift annuities.

Finally, it is indicated at the very bottom of Schedule I that it is assumed that the annuities will be paid in semi-annual installments, with the first payment due six months after the issue date of the gift annuity agreement. If the payments are actually to be made at a different frequency, such as quarterly or annually, it would theoretically be necessary to modify the gift annuity rates somewhat. In practice, however, most organizations apparently use the rates as approved regardless of the frequency of payment, even though it may have some relatively small impact on the residuum.

The actual process of calculating gift annuity rates becomes a mechanical matter once a decision has been made concerning the assumptions to be used. I will explain the process briefly. If anyone wishes to obtain more detailed information about the procedures used, he or she can refer to my paper to the 1980 Conference which is printed in the booklet issued by the Committee relating to that Conference. For purposes of the 1983 rates, from each \$100 of principal there were subtracted (a) 5% of such principal to cover future expenses and (b) the single premium needed to provide a residuum of 50% of the principal at the death of the annuitant or annuitants. The portion of the principal remaining after these subtractions was the amount available to provide the gift annuity. When this remainder was divided by the single premium for an annuity of \$1 per year payable in installments at the end of each six months, the result was the amount of annual gift annuity that could be provided per \$100 of principal. This dollar amount of annuity, when expressed as a percentage, also represents the gift annuity rate. For example, from each \$100 of principal, \$5 is deducted for expenses, leaving \$95. If the single premium at a given age to provide a residuum of \$50 under the assumptions used is \$24.90 and is subtracted from the \$95, we have \$70.10 left of the original \$100 to fund the gift annuity. If the single premium at the age for \$1 of annual annuity is \$7.48 and is divided into the \$70.10 remainder, the annual annuity produced is \$9.37 which, when rounded, results in a gift annuity rate of 9.4% of the principal.

Now, that I have reviewed the various assumptions that have

been utilized in the past for the calculation of gift annuity rates and illustrated the process of calculating such rates, I will comment further on developments since 1983 that have affected the mortality, interest and expense assumptions used for calculating the rates adopted at that time. Additional remarks do not appear necessary in connection with the other three assumptions concerning a 50% residuum, rate modifications at the younger and older ages and semi-annual payments at the end of each six months.

Let us first consider the mortality basis. The basic mortality rates used in connection with the 1983 rates are those in what is called the 1983 Table a, which was developed from experience among annuitants receiving individual annuities from insurance companies as the result of purchases of annuities or the conversion of death benefits or matured contracts into annuities. The experience did not include that of annuitants receiving benefits under group insurance contracts.

The annuitants reflected in the mortality study which resulted in the 1983 Table a represented a mixture of various types of individuals, including those who themselves had made elections to receive annuities and those where the contractholder who died had imposed the requirement that an annuity be paid to the beneficiary. Individuals who receive annuities under gift annuity agreements generally make their own elections to receive annuities, which tends to mean they have lower rates of mortality and longer life expectancies than do the types of annuitants included in the study related to the 1983 Table a. This was borne out by the last study we made of mortality among gift annuity annuitants, which was for the years of 1970 through 1975. As a result, the 1983 Conference on Gift Annuities adopted the 1983 Table a as the mortality assumption, but with a one-year set back in ages and using female mortality rates for all annuitants.

Three years have now passed since this mortality basis was adopted. Various mortality studies show that mortality rates at a given age continue to decline with the passage of time. This should mean that lower mortality rates and longer life expectancies are now more applicable than those experienced when the gift annuity mortality assumption was adopted in 1983. In

the absence of any other change in assumptions, adjusting the mortality assumption for such reductions in mortality rates would produce lower gift annuity rates than those currently applicable.

Let us now consider the interest assumption. The assumed interest rate adopted for calculating gift annuity rates by the 1983 Conference was 6½%. Actual rates at which investments could be made in the fixed-income market were higher than 6½%, but had been decreasing at the time of the 1983 Conference. This, among other factors, led to some degree of conservatism in setting the interest assumption.

After the 1983 Conference, interest rates rose significantly for much of the intervening time to this date. The net impact has been that for several years the gift annuity rates have tended to provide excess investment return over the 6½% assumption, which has generally produced residua substantially larger than the 50% assumed. In recent months, though, interest rates have declined drastically and are now at lower levels on long-term fixed-income investments than at the time of the 1983 Conference, although still 1% to 2% higher than 6½% on AAA bonds. If this were interpreted as making advisable a reduction in the interest rate assumed, it would result in a reduction in gift annuity rates.

Next let us consider the expense assumption. There has been no development which would make it appear that expense rates have been changing. However, I have long felt that this area has been the least studied of the assumptions made and should be analyzed at least somewhat more fully than in the past. Accordingly, I developed a brief questionnaire which was sent to some of the organizations that write gift annuities, requesting a few items of data concerning gift annuities and expenses related thereto. In the interest of keeping the cost of the study down and because of the limited time remaining before the Conference, the questionnaire was mailed to a selected group of 28 organizations which tend to write a significant number of gift annuities. Of the 11 that responded, only 10 gave sufficient information to be of any value, of which only 7 provided meaningful data concerning expenses. Thus, you can see that the

survey is based on a small volume of data which may or may not make the results of questionable value. For what they are worth, though, a summary of the results is presented in Schedule 2.

I have shown no data for any individual organization nor have I provided information as to averages of the combined groups, since one of the organizations has more annuities than the remaining 9, so would skew the results so as to conceal the variations in response. Where an average is shown, it is for an individual organization. The information set forth indicates the range in which the answers fall. Although some of the data presented does not specifically relate to expenses but can be considered more in the nature of statistical information, it has been included because it may be of interest.

It can be seen from lines 1, 2 and 4 of Schedule 2 that some organizations receive on average relatively small amounts of principal and pay small amounts of annual annuity per agreement, while others, by design or otherwise, obtain large amounts of principal and pay large amounts of annuity on average per agreement. Line 3 shows that some organizations issue considerably smaller percentages of new agreements as compared to the agreements in force than do others.

The main purpose of the survey concerns expenses, so let us consider the items relating thereto. I should first explain that I requested information concerning total expenses during the last fiscal year and that an allocation be made among three categories of expenses, even if it was necessary to make broad estimates. The three categories are (a) promotion or sales, (b) the mechanics of issuing new agreements, such as the preparation of the new agreement, supplying tax information to the annuitants and establishing initial records and (c) normal ongoing administration such as sending checks, accounting and annual reporting to insurance departments.

From line 6, it can be seen that some organizations spend a much greater percentage of their total expenses on promotion than do others. To me the most significant items on line 7 concern lines (d) and (e). The former shows that some organizations spend as much as 30% of the total newly acquired principal in a year on expenses. Line (e) indicates that up to 6% of the

required reserves being held as backing for the annuities that are in force is needed to cover total expenses of a year. This means that, for an organization with such 6% result, it must earn at least a 6% yield on such reserves to cover expenses before any investment earnings are available for the interest yield that is needed to meet the interest assumption related to the annuities being paid.

It can be argued that it is more appropriate to analyze whether expenses are high by comparing the new principal received only with the expenses relating to promotion or to both promotion and issuing new agreements. Information in lines 8 and 9 shows that up to 25% of the new principal received in a year is spent on promotion and up to 28% on promotion and new issue expenses. These percentages do not cover any of the cost of administration in future years relating to such new agreements. Since the expense assumption made in connection with gift annuity rates is that 5% of the principal will cover all expenses, it is clear that at least some organizations spend at a higher level than 5%.

Several comments can be made concerning this situation. First, there is a wide range shown among organizations, not only in connection with expense data, but in other areas as well. Some of the difference may arise from different accounting practices or from differing opinions as to what is or is not considered to be an expense. For example, one of the organizations which supplied data, but which was excluded from the results relating to expenses, indicated that its promotion and new issue expenses were not shown because they were covered by the general budget. This does not mean that such expenses do not exist, but that they are accounted for out of another pocket. Perhaps some aspect of this approach was used by some of the organizations whose replies were included in Schedule 2.

Another point is that, when the entire planned giving operation is viewed in total, it may be that overall results are quite satisfactory even though specific areas such as gift annuities may appear to be producing less than the share desired. This may be the result of how expenses are allocated among the planned giving areas. Whatever the cause, it may be difficult to isolate one area of planned giving from others because of their cumulative impact.

If the allocations are appropriate, some organizations seem to be able to cover their expenses from the 5% expense loading included in the computation of gift annuity rates and in general it is probably a reasonable assumption on average. However, the main purpose of my analysis is to suggest that each organization review its expenses and overall results to make sure that it is deriving value from its planned giving operation. In studying expenses, recognition should be given to all items of actual expense of the organization that relate to planned giving, even if they are not charged to the planned giving department. The fact that expenses may exceed 5% of principal does not necessarily indicate any problem if other factors such as higher interest earnings than assumed or the impact of the overall planned giving program are favorable.

At this point I will summarize my review of assumptions by saying that, since the date the 1983 gift annuity rates were adopted, mortality rates have likely declined, interest rates are lower and expenses, though not necessarily different, may be costing some organizations more than the provision made for them in the gift annuity rates. The Committee on Gift Annuities has reviewed these factors and has decided to recommend to this Conference that both the present maximum gift annuity rates applicable to immediate and deferred gift annuities and the interest factors used during the deferred period in connection with deferred gift annuities be continued at present levels. The reduction in mortality rates only covers a three-year period since the present mortality assumptions were adopted, so should not present a major problem. As for interest, it is recognized that reduced investment yield rates available currently will provide a smaller residuum than before, but such interest rates still exceed 6½%, so should still provide a higher residuum than 50% of principal if other assumptions are realized. The residuum will simply return to more historical levels after having escalated significantly as the result of abnormally high yield rates of relatively recent years.

As for expenses, the assumption is not meant to cover all possibilities, but is intended to meet the average situation, which the present assumption appears to do reasonably well. Organi-

zations are urged to study their individual expense costs and to decide whether any problems exist if they exceed the 5% assumption.

In connection with assumptions in general, it should be recognized that it is not really expected that experience will actually exactly equal any assumption. Gains from experience more favorable than assumed and losses from experience worse than assumed flow into the residuum, which is the balancing item, so serve to respectively increase or decrease the residuum above or below the 50% built into the calculations of the gift annuity rates. Gains from one assumption would offset losses from another assumption, so it is the aggregate net experience that determines the eventual residuum. If such net experience is reasonably close to the assumptions, the residuum will be about 50%. However, if experience is such that significant net losses develop which produce relatively little residuum, it defeats the purpose of a gift annuity program. For this reason, I normally recommend the adoption of a slightly conservative point of view in establishing assumptions and, hence, maximum gift annuity rates. Of course, undue conservatism could lead to unreasonably low gift annuity rates, and have the negative effect of causing individuals to stop entering into gift annuity agreements because of their uncompetitive relative levels. I believe that the recommendation of the Committee to continue the present rates conforms to my philosophy of slight conservatism which provides competitive rates, and yet produces an average residuum of more than 50%. Only the future can tell whether this belief will be realized.

It should be recognized, though, that the annuity rates and factors to be adopted are maximum rates and factors. Thus, if any organization is concerned about the impact of the rates on its residuum, it can always adopt lower rates of payment if its competitive position permits it to do so.

In conclusion, I repeat that the Committee on Gift Annuities plans to formally recommend tomorrow a continuation of present rates and factors in connection with both immediate and deferred gift annuities.

**HISTORICAL COMPARISON OF MAXIMUM ANNUAL IMMEDIATE
SINGLE LIFE GIFT ANNUITY RATES ADOPTED BY THE
CONFERENCE ON GIFT ANNUITIES**

	<u>A</u>	<u>B</u>	<u>C</u>	<u>D</u>	<u>E</u>	<u>F</u>	<u>G</u>	<u>H</u>	<u>I</u>
	Date of Conference Action								
Age	4/29/27	3/17/31	11/20/34	10/5/39	10/4/55	4/15/71	5/4/77	5/8/80	5/5/83
35	5.1%	4.9%	3.0%	2.5%	3.0%	4.0%	4.5%	5.0%	6.0%
40	5.2	5.0	3.5	3.0	3.5	4.0	4.8	5.3	6.2
45	5.4	5.2	4.0	3.5	3.7	4.4	5.0	5.5	6.4
50	5.6	5.3	4.5	4.0	3.9	4.6	5.2	5.7	6.5
55	5.8	5.5	5.0	4.5	4.2	4.9	5.6	5.9	6.7
60	6.2	5.8	5.3	4.7	4.5	5.2	5.8	6.2	7.0
65	6.8	6.2	5.7	5.1	5.0	5.6	6.2	6.6	7.3
70	7.6	6.7	6.2	5.5	5.5	6.2	6.8	7.1	7.8
75	8.7	7.3	7.0	6.2	6.3	7.0	7.7	7.9	8.5
80	9.0	8.0	8.0	7.0	7.4	8.2	9.0	9.2	9.6
85	9.0	8.0	8.0	7.0	7.4	9.7	10.5	11.2	11.4
90	9.0	8.0	8.0	7.0	7.4	10.0	12.0	14.0	14.0

The above comparison excludes the results of Conference action on 4-7-65 and 5-2-74 which raised rates slightly.

ACTUARIAL ASSUMPTIONS

Column Above	Mortality Basis			Annual Interest Rate	Residuum as a Percent of Principal	Expense Loading on Total Principle	Ages at Which Tabular Rates Are Modified
	Table*	Years of Age Set-Back	Sex of Lives				
A	McC	0	Male	4½%	70%	0	Older
B	AA	0	Female	4½%	70%	0	Younger & Older
C	CA	0	Female	4%	70%	0	"
D	CA	2	Female	3%	50%	0	"
E	SA	1	Female	3½%	50%	5%	"
F	1955 AA	0	Female	4%	50%	5%	"
G	IAM	1	Female	5%	50%	5%	"
H	IAM	2	Female	5½%	50%	5%	"
I	1983 a	1	Female	6½%	50%	5%	"

- *McC — McClintock Table of Mortality
- AA — American Annuity Table
- CA — Combined Annuity Table
- SA — 1937 Standard Annuity Table
- 1955 AA — 1955 American Annuity Table
- IAM — 1971 Individual Annuity Mortality Table
- 1983 a — 1983 Table a

In all cases it has been assumed that the annuity is payable in semi-annual installments at the end of each six months.

SCHEDULE I

**SUMMARY OF RANGE OF DATA PROVIDED BY TEN
ORGANIZATIONS
THAT ISSUE GIFT ANNUITIES**

Item	Range
1. Average amount of annual annuity per agreement in force*	\$80 to \$5,479
2. Average amount of annual annuity per new** agreement	\$200 to \$4,944
3. Ratio of new agreements to agreements in force	2% to 20%
4. Average amount of principal received in last fiscal year per new agreement	\$2,000 to \$55,556
5. Average gift annuity rate per new agreement	7.4% to 11.3%
6. % of total expenses in last fiscal year allocated to:	
(a) promotion	8% to 83%
(b) issuing new agreements	5% to 31%
(c) normal administration of ongoing agreements	9% to 66%
7. Total expenses in last fiscal year:	
(a) Divided by number of agreements in force	\$5 to \$180
(b) Divided by number of new agreements	\$196 to \$4,145
(c) As a percent of total annual amount of annuities in force	5% to 36%
(d) As a percent of principal received on new agreements	2% to 30%
(e) As a percent of required reserves for agreements in force	1% to 6%
8. Promotion expenses:	
(a) Divided by number of new agreements	\$35 to \$2,210
(b) As a percent of principal received on new agreements	½% to 25%
9. Combined expenses of promotion and issuing new agreements:	
(a) Divided by number of new agreements	\$65 to \$2,726
(b) As a percent of principal received on new agreements	1% to 28%

* "In force," wherever used in this schedule, is as of the end of the last fiscal year.

** "New" agreements, wherever used in this schedule, refers to those newly issued in the last fiscal year.

SCHEDULE 2

REPORT ON STATE REGULATIONS

Dr. Roland C. Matthies

Vice President and Treasurer Emeritus of Wittenberg University

Another three years have gone by, and I have the pleasure and privilege of greeting you once more. A cordial salute to the great number of you who have been at these sessions before. And a very special welcome to the many "First Timers" who are here to learn, to get to know each other in this very interesting business of ours, and to gain new information. Charley Baas and I have been members of the Committee on Gift Annuities so long that some of you think of us as fixtures! I can assure you that the responsibilities we share at least keep us from being immovable fixtures. I am particularly pleased to note the large attendance and look forward to sharing with you, now, the results of some of our investigative work.

Now we tackle a subject and a problem—"State regulation of charitable gift annuities and pooled life income contracts." Each time we report on this subject, the breadth of coverage seems to grow. We continue to be faced with questions such as: Is a charitable gift annuity a *security*? Is there in existence a federal preemptive statute on this matter? If a Pooled Fund is essentially a trust, does the Securities and Exchange Commission control regulation or is this a state matter? How do Blue Sky laws require regulation and reporting? Why do we continue to have such a dearth of case law on this subject of state regulation?

It is now some nine years since the Committee on Gift Annuities created the Subcommittee which I chair and for which I am now reporting. We were continually well advised by our fellow members to be mindful of the fact that we are a volunteer body and that we have no professional staff. Certainly, we are not in the business of giving legal advice, but rather of reporting factual information as we are able to gather it. Always lurking in the wings is the possibility that a particular state has a statute on the books which presumably gives regulatory power, but there has been no specific attempt indicated to enforce regulation. On the other hand, there have been a number of efforts to indicate that the charitable gift annuity is in the same class as commercial life insurance. The pooled life income fund seems to be more clearly identified as a trust instrument.

Thanks to some great cooperation, each member of this Subcommittee has assumed responsibility for a section of the country, and we have established a network of state monitors. Statutes have been examined, administrative reports obtained with the idea of giving to you the very best information we have as to whether a particular state is seeking to regulate either charitable gift annuities or pooled life income funds. We ask that as you seek information from us concerning regulatory attempts in the states in which your program is operating, you direct your inquiry to the New York Office of the Committee on Gift Annuities. That office will see that your questions are directed according to the indicated regional areas:

Mr. James G. Marshall, Jr., Executive Director, Methodist Health Foundation, Madison, Wisconsin, covering Iowa, Kansas, Minnesota, Nebraska, North Dakota, South Dakota, and Wisconsin.

Mr. James B. Potter, Director of Planned Giving, American Lung Association, New York, New York, covering Connecticut, Delaware, District of Columbia, Florida, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Vermont, and Virginia.

Dr. Roland C. Matthies, Vice President and Treasurer Emeritus, Wittenberg University, 1205 Vester Avenue, Springfield, Ohio, covering Illinois, Indiana, Kentucky, Michigan, Ohio, Tennessee, and West Virginia.

Richard James, Esq., Secretary of the Corporation, Loma Linda University, California, covering Alaska, Arizona, California, Colorado, Hawaii, Idaho, Montana, Nevada, Oregon, Utah, Washington, and Wyoming.

Mr. Tal Roberts, Executive Vice President, Baptist Foundation of Texas, Dallas, covering Alabama, Arkansas, Georgia, Louisiana, Mississippi, Missouri, New Mexico, Oklahoma, and Texas.

The area which we have known for many years as "deferred giving" seems to be going through a descriptive transition to "planned giving." Just so the planning does not get deferred! It appears that more and more institutions are becoming aggres-

sively involved in this area of giving, and I am pleased to report that we have had much less concern over unrealistic offerings, poor taste in advertising, and amateurish investment practices. Nevertheless, regulatory efforts seem to be on the increase.

As in each of our reports, we must call your attention to the customary DISCLAIMERS:

1. We do not relate our efforts to regulation of SOLICITATIONS. This is an area thoroughly covered by reports made from the American Association of Fund-Raising Counsel. Their end-of-the-year issue entitled "Fund Raising Review" gives a complete compilation of state laws regulating charitable *solicitations*. You may obtain copies by contacting AAFRC at 25 West Forty-Third Street, New York City, New York 10036, or by telephoning 212-354-5799. More and more states are enacting this type of regulatory procedure in seeking to control solicitation procedures.

2. Your Committee on Gift Annuities, and the members of this Subcommittee, all of us being volunteers and without professional staff help, are unable and unwilling to "police" this area of concern.

Now, for a few basics:

Basic Number One. A Charitable Gift Annuity is a contract, or agreement, which acknowledges a gift in return for which a life-time payment to one or at most two beneficiaries is to be made. Unless there is an exception stated in the contract, the entire assets of the issuing charitable institution back up this agreement.

State departments of insurance generally concern themselves with commercial life insurance and annuities. The appearance of the word *annuity* in our contracts often seems to bear more weight than the word *charitable*. There appears to be an ongoing attempt in several jurisdictions to declare a Charitable Gift Annuity as a "security" and therefore to be regulated. Some states have specific legislative enactments covering Charitable Gift Annuities. Others utilize staff interpretation. It continues to be true that a majority of the states do not attempt to regulate Charitable Gift Annuities.

At the present time, and based upon what we trust is accurate information obtained, the following states are attempting to regulate the *issuance* of Charitable Gift Annuities:

Arizona, Arkansas*, California, Florida, Illinois, Kansas, Maryland, Minnesota, Missouri, New Mexico**, New York***, New Jersey, Ohio, Oregon, Tennessee****, Utah (as of 7/1/86), Washington and Wisconsin.

We refer you to Section 961, Prentice-Hall's work on charitable giving, for the same report that I indicated to you three years ago, written by Charles Horn and John Herbitter. We have contacted the authors, and they have not brought their survey to a more current date. It is a peculiarity of the statutes in some states that a limit of liability is imposed for Charitable Gift Annuities written by *state* institutions and thus, by such restriction, eroding the concept of a Charitable Gift Annuity. Those statutory limits are usually that of holding the liability to be the same as the contributed amount.

*It appears that several years ago legislation was drafted in Arkansas to exempt Charitable Gift Annuities, and this was made a part of a tax bill; but, at the last minute, this part of the tax bill was pulled. At that time it was the opinion of the Security Commissioner that the problem could be solved with an administrative exemption from his office. To our knowledge, no further action has been taken.

**We have learned that in New Mexico the recent legislative session approved the first significant changes in New Mexico's securities provisions in nearly thirty years. While there is no impact upon gift annuities today, and none is indicated, there are new provisions which could be activated regarding Charitable Gift Annuities. For the present, then, no regulation.

***In late 1985, a new position was taken by the state of New York regarding the reinsurance of Charitable Gift Annuities. I quote, "A society may not issue an annuity to a donor and then purchase an annuity from a commercial life insurer for same. This is not reinsurance in the eyes of this Department. Consequently, such transactions cannot serve as the basis for reductions of reserves." The members of your Subcommittee believe that this position is still being discussed between the

agency and various charitable institutions operating in New York State. A sponsoring organization of this Conference has stated recently, "The position of New York Insurance Commissioner is puzzling and troubling. To require a reserve fund for an annuity gift that has been reinsured with a commercial insurance company, would kill the gift annuity in New York. I would suggest that any such charity take the position that their insurance policy is an asset in the reserve account. Otherwise, the charity would have a double reserve for each gift."

****In the state of Tennessee we have a completely new problem arising. A staff attorney for the Tennessee Department of Commerce and Insurance has stated that our Charitable Gift Annuity agreement is really a "perpetuity agreement" and does not involve life contingencies. Therefore, he takes the position that this is not something subject to regulation by his department. The Tennessee staff member has suggested that the Charitable Gift Annuity be labeled a "Charitable Gift Agreement" rather than an "Annuity" in order to reduce confusion! Reduce confusion, indeed!! Attorneys for one of the institutions involved in the Tennessee discussion state, "Since it is not deemed an annuity by the Department of Commerce and Insurance, there is a question as to whether the Internal Revenue Service should consider the agreement a viable annuity for tax purposes."

The staff attorney from Tennessee is quoted, "While the arrangement set forth in the Agreement looks like a life annuity, it is technically a 'perpetuity.' That is, the \$700 annual payment is simply fourteen percent of the \$5,000 premium or deposit. Therefore, as long as the institution can make investments at fourteen percent, it could pay the \$700 'in perpetuity.'" My personal reflection upon this statement is that the man is thoroughly confused and had little realization that Charitable Gift Annuities have been a long-established form of philanthropic contract. We shall see what comes of this.

We also refer you to Section 3037, Prentice-Hall's work on Tax Exempt Organizations, for a comprehensive 1977 report by Robert L. Toms and Edwin C. Summers, which report continues unrevised.

Basic Number Two. I believe that we all agree that a Pooled Life Income Fund is essentially a *trust*, far different from a Char-

itable Gift Annuity. At the national level, the Securities and Exchange Commission has issued its well-publicized "No Action Letter." In other words, as long as the SEC believes we are acting in good faith and giving proper information to our prospects, there will not be a federal registration required. As for the fifty states, we again refer you to a thorough presentation to the Sixteenth Conference by attorney Julius P. Fouts, from which the following is a partial quotation: "Tax exempt organizations have been reluctant to recognize the applicability of federal and state securities laws to certain of their fund-raising activities, including, notably, their Pooled Income Funds It has been feared that if one or more major charities complied with such laws, other charities might be compelled to follow suit. It has also been hoped that a national legislative solution would render 'Blue Sky' registration unnecessary. And, implicitly, it has been felt that Pooled Income Funds organized and managed by nationally prestigious institutions simply should not have to be regulated in the same manner as profit-oriented public corporations."

To the best of our information, and this is indeed a gray area, the following states are attempting to regulate the *issuance* of Pooled Life Income Fund contracts:

Arizona, California, Florida, Illinois, New York, Ohio, Oregon, and Washington.

Basic Number Three. What about the necessity for registering or submitting to regulation in states other than the state in which your organization is incorporated? Is an occasional mailing to a select list of prospects, or an ad in your national periodical, or an agreement signed in your home office, or regular visits by staff to interested possible benefactors, or having a nonpaid volunteer representative call on prospects enough to require registration in those states? We have no easy answer. The term "doing business" in another state is subject to wide interpretation. We are aware that many institutions take the position that if the money is received in the mail and the contract is written in the state of incorporation the laws of the home state would prevail, and there would be no indication for regulation on the part of the state where the annuitant resides.

Basic Number Four. In addition to the Tennessee incident referred to earlier in this message, a further area of confusion has arisen in a midwestern state. We are in receipt of a fairly comprehensive prospectus issued by a religious congregation in a midwestern state. The prospectus refers to "Life Payment Contracts," offered to members of that congregation and their families. And now I quote from the prospectus, "*Interest rates* on Life Payment Contracts will be in accordance with the most recently established recommendation of the Committee on Gift Annuities, New York, New York. . . ." The instrument is filled with confusing nomenclature and is hedged with all kinds of caveats. Again, as with the Tennessee situation, we are wondering as to what the position of the Internal Revenue Service will be when the contract refers to "interest rates" and whether, as a result, the payment made to the annuitant will be fully taxable as interest. The instructions of our "Green Book" evidently took little effect upon this organization and its counsel.

We highly recommend that all of us be very careful to use the long-accepted terminology that appears in the "Green Book." An annuity is an annuity, and annuity payments are in no way to be called interest payments.

Recommendations:

1. Be sure that your legal counsel in these matters has extended experience in this field.
2. Make certain that proper motions have been adopted and minutes properly recorded covering authorization for your planned giving program. If registration compliance is called for, be certain that it has been authorized.
3. Establish a written statement, for internal use, as to registration procedures, if any, that are to be followed.
4. Keep records. Keep records. Keep records!

The members of this Subcommittee continue in their agreement that our long-standing commentary should be stated once more: "Don't muddy the waters in your state by directly inquiring of state officials as to what regulations need to be met."

CANADIAN TAXATION

James A. Chisholm

Special Gifts Officer

The United Church of Canada

The Canadian Committee on Gift Annuities represents approximately 50 charities, primarily religious denominations, through its membership of 16 persons.

During the past triennium, considerable discussion has taken place concerning proposed changes in federal government regulations concerning the issuance of annuity contracts. This item will be discussed later in this report. In the past year a major review of our rate structure was undertaken, the results of which appear later.

As a group, we know very little statistically about each other. Our best estimate would place annual annuity contracts by our member organizations at \$8 million, ranging from contracts of a few thousand each year to \$3 million by one organization.

There appears to be relatively little annuity activity outside religious charities, although some universities are seriously exploring the possibilities. A significant increase in the number of planned giving staff by two major religious organizations and the increase of development staff at two major universities will undoubtedly increase the awareness and future potential of gift annuities.

Federal/Provincial Regulations

The contracts which may be issued by registered charities take primarily two forms:

1. Under the first form, the contract issued is one under which the registered charity receives a sum of money which is equal to the present value of the future benefits to be provided under the contract. The benefits to be paid are based on a current interest rate and on the life expectancy of the person on whose life the annuity contract is based, which is usually the annuitant. This life expectancy is taken from a table set out in Revenue Canada Taxation's Interpretation Bulletin IT-111. Based on

- this arrangement, periodic payments (paid monthly, quarterly, half-yearly or annually) are developed; and
2. Under the second form of contract, the person purchasing the contract would stipulate the amount of money he is prepared to pay to the registered charity and the amount of the annual annuity payment which he wishes to receive. In this form of contract, the registered charity determines the life expectancy of the person on whose life the contract will be based from the table of life expectancies set out in IT-111. Using the number of years which the person can be expected to live, as set out in this table, the registered charity can determine the total amount which it will pay during his or her lifetime by multiplying the number of expected years of the life times the amount to be paid each year as an annuity. This total is then subtracted from the amount to be paid by the individual. This difference is considered to be a donation to the registered charity for which a receipt for income tax purposes can be issued by the charity and for which a tax deduction may be claimed pursuant to Paragraph 110(1)(a). The above procedure is confirmed by IT-111.

In reviewing the recent legislation set out in Sections 12.2 and 56(1)(d.1) of the Income Tax Act and the related rules set out in Part III of the Regulations, two problems are noted:

1. Under the rules set out in Section 304 of the regulations, "annuity contracts"(within the meaning of the term in the Income Tax Act), would not be able to meet the definition of a "prescribed annuity contract" because Section 304 of the Regulations does not include a registered charity as an eligible issuer of prescribed annuity contracts; and
2. With respect to the calculation of the term "accumulating fund" for the purposes of the Income Tax Act, the rules set out to define this term in Section 307 of the Regulations do not provide sufficient information to permit a registered charity to calculate this amount for a life annuity contract. In particular, Paragraph 307, which

applies to all annuity contracts other than those issued by a life insurer, does not provide a mechanism for establishing the appropriate mortality table to compute the accumulating fund for a life annuity contract. Further, Paragraph 307 provides rules for a life insurer to determine the “accumulating fund” for a life insurance policy, including a life annuity contract. This is accomplished by reference to the provisions under which a life insurer determines its income tax reserves as set out in the Regulations, and which provides a basis to establish a mortality table for the purposes of such calculation. However, this calculation in Paragraph 307 is not available to a registered charity because it is not a “life insurer” within the meaning of that term set out in the Income Tax Act.

Based on the above information, the Canadian Committee on Gift Annuities has requested the federal government to amend the legislation and applicable Regulations, retroactive to December 2, 1982, to permit a registered charity to be an issuer of a “prescribed annuity contract” and provide rules in order to permit a registered charity to compute the “accumulating fund” for any “life annuity contracts” issued by it.

The characteristics of a Prescribed Annuity that we expect will be required by Regulation 305 are:

- a) The owner has elected in writing that a prescribed annuity is desired.
- b) The owner or beneficiary is an individual and not a corporation, partnership or unit trust.
- c) The owner is the annuitant.
- d) For Joint and Last Survivor Annuities, the co-annuitant is the annuitant’s spouse (legal husband or wife).
- e) The annuitant is over age 60 at the end of the calendar year or, if under age 60, is totally and permanently disabled or has acquired a previously prescribed annuity on the spouse’s death.
- f) The guarantee or term certain period does not extend beyond age 90 of the owner.
- g) Payments are level and reduce only on one or either death on a Joint and Last Survivor Annuity.

- h) By the end of the calendar year, the first income payment either will have been made or will be made within one payment period i.e. within one month for monthly or one year for annual payments.

This request went to the federal government early in 1984. The matter is still before them; however, we have some assurance that the modification to the regulations will be enacted during 1986. Until this happens there are some uncertainties concerning the sale of annuity contracts by some charities in Canada.

1986 CANADIAN ANNUITY RATES

Prepared in conjunction with Tillinghast, Nelson & Warren Inc.

RATE COMPARISON SINGLE LIFE ANNUITY—Effective April 15, 1986

<u>Age</u>	<u>1981 Rates</u>	<u>1986 Rates</u>
60	9.8	8.3
61	9.9	8.4
62	10.0	8.4
63	10.1	8.5
64	10.2	8.6
65	10.3	8.7
66	10.4	8.8
67	10.5	8.9
68	10.6	9.0
69	10.7	9.2
70	10.9	9.3
71	11.0	9.5
72	11.2	9.6
73	11.4	9.8
74	11.6	10.0
75	11.8	10.2
76	12.0	10.4
77	12.3	10.7
78	12.5	10.9
79	12.8	11.2
80	13.2	11.5
81	13.5	11.9
82	13.9	12.2
83	14.3	12.6
84	14.7	13.0
85	15.0	13.0

Actuarial Basis

1. One-half of the gift (50%) is applied to a single or joint life annuity.

2. Female Ultimate Tables a (55)—British with age rated down three years.
3. No allowance for expenses. All expenses are assumed to be net from interest margins.
4. Interest rate projections are determined by the issuer.
5. The number of yearly payments is based on Revenue Canada's Interpretation Bulletin IIR.

Rationale for Setting Gift Annuity Rates

1. Those entering into a Gift Annuity Agreement are donors and not investors.
2. Rates should not be so low (or high) as to impede sales.
3. Rates should be comparable to and guided by the generally prevailing rates for five year Guaranteed Investment Certificates and Canada Savings Bonds.
4. Since the establishment of the previous rates (1981) there has been a significant swing in rates for five year guaranteed investment certificates:

December 1979	11.50%
December 1981	14.25%
December 1985	10.25%
5. The present income rates are based on a yield greater than current investment rates.

WILLS AND ESTATE PLANNING*

Conrad Teitell, Esq.
Prerau & Teitell
New York, New York

¶8.01 CHARITABLE GIFTS BY WILL—INTRODUCTION

The oldest type of deferred gift is one made by a donor in his or her will. This chapter contains some fundamental information on wills, shows why it is important to have a will and indicates some of the adverse consequences which often result when an individual does not have a will.

¶8.02 WILLS—BASICS

[A] What Is A Will?

A will is your direction in writing, controlling the disposition of your property at death. As long as you are alive, it does not transfer any of your property or give to others any rights to your property.

[B] Who Can Make A Will?

Any adult of sound mind can make a will. If he or she is subjected to fraud, duress or undue influence at the time of making the will, however, the will can be set aside by the courts. Non-citizens as well as citizens can make wills. The right of a minor to make a will is limited; the law on minors' wills varies from state to state.

[C] Who Needs A Will?

You have, no doubt, heard a person say: "I don't need a will because I don't have very much money, and anyway, the law will take care of distribution of my property." True, but the chances are that the distribution would not satisfy you if you were there to witness it. Furthermore, you are probably worth much more than you think you are. When you determine your net worth, remember your life insurance, your pension and profit-sharing benefits, stock options, and other executive compensation payable on death.

*Excerpted from *Deferred Giving—explanation, specimen agreements, forms*. © Conrad Teitell, 1986

If you die intestate (leaving no will), your property passes according to state law. Under the laws of intestacy your close relatives will share in your estate, but most often not in the way that you would have wanted.

The laws of intestacy, although similar in many respects, vary from state to state. In some states, for example, an individual who dies without a will leaving a spouse and two children has his or her property distributed one third to the surviving spouse and two thirds to the children. If the children are minors, a guardian has to be appointed by the court. Although the spouse would probably be appointed, in almost every state he or she has to furnish a bond and pay bond premiums. Court permission must be obtained to use any part of your children's share of your estate for their support or education. And an accounting must be filed each year with the court, detailing what the spouse did with your children's property. The spouse also has to go to court to explain the accounting. Naturally, time and money will be spent in preparing the accounting.

Now, suppose you die and leave a spouse and no children. In many states, if you have no will, your spouse shares your estate with your parents, brothers, sisters, nephews and nieces.

As you can see, if you leave no will, the law is arbitrary when it comes to distributing your property. If you leave no will, everything is decided for you.

[D] Additional Reasons For Having A Will

Entirely apart from the distribution of your property as you wish, there are many other important reasons why you should have a will. Among them are:

- (1) You can name your executor—the person who will manage and settle your estate according to your instructions. If you die without a will, the law will decide for you who is to manage your estate, and he or she may be the person you would have considered least capable. Moreover, if you die without a will, the person selected by the law to manage your estate will have to put up a bond. In a will you

can save the expense of a bond by stating that your executor need not furnish one.

- (2) In a will, you can name the person or persons you want to be the guardian of your children, subject, of course, to your spouse's rights. Although your spouse will usually be appointed guardian of your children by the court, your spouse may be required to furnish a bond and account for all expenditures made from the children's property until they are no longer minors. In your will you can dispense with the bond and accounting requirements and so save these costs.
- (3) You can choose an individual or bank or trust company specifically experienced to manage and invest your estate.
- (4) You can create trusts for your spouse, children or others. Trusts will protect your estate against loss or dissipation which might result from your heirs' inexperience, inadequacy or other characteristics. They can also save taxes.
- (5) You can provide for where and how you are to be buried. However, under most circumstances it is better to leave a separate instrument stating your funeral and burial preferences. Your lawyer will be able to advise you on the correct method.
- (6) You can make gifts to your school, church, hospital, museum, health organization or other philanthropies, or to others who are not related to you.
- (7) Estate taxes may often be reduced or eliminated.
- (8) If estate taxes are payable, you can specify from whose share of the estate they are to be paid.
- (9) You can establish—for tax purposes—the presumed order of death if both you and your spouse should die simultaneously as a result of a common disaster, or if the order of deaths cannot be established. This can fulfill your wishes for the distribution of your estate and can also save estate taxes.

¶8.03 ISN'T JOINT OWNERSHIP AS GOOD AS A WILL?

You may have heard that you can control the disposition of your estate by putting your house in the joint name of you and your spouse; by owning U.S. savings bonds or stock jointly; or by opening a joint savings account with a person whom you wish to inherit from you.

To rely upon joint ownership instead of a will is hazardous. For example, if you rely upon a joint savings account instead of a will to pass property on to a survivor, what would happen to your survivor if you withdrew money, intending to replace it, and then failed or forgot to replace it?

A joint account may be questioned on the ground that it was opened only for convenience and was not intended to pass property to the survivor. Also, a person putting property in another's name jointly with his or her own may later regret it but be unable to do anything about it.

Finally, a joint tenancy may cause adverse gift and estate tax consequences.

Joint ownership may work out the way you want—and then again it may not. Why run the unnecessary risk of having your wishes frustrated?

¶8.04 DOES YOUR SPOUSE NEED A WILL?

Even though there is no property in your spouse's name, your spouse should have a will. It is possible that you and your spouse may die in a common auto or plane disaster. Who would care for your children? With whom would they live? Who would manage their share of your property until they reach majority?

Suppose you should die first, and your spouse inherits most of your estate. Shortly thereafter, your spouse dies without having time to make a will. The distribution of your estate and the protection of your children ought not to be left to chance. You and your spouse can better protect your children by both having wills.

¶8.05 DO YOU NEED A LAWYER TO DRAW YOUR WILL?

Drawing a will is not a do-it-yourself job. Buying a printed form and inserting your intentions in the blanks in your own handwriting won't do the job. Every will drawn by a lawyer is

unique. It is tailor-made to fit your particular needs, circumstances and estate planning problems. A lawyer should supervise the execution and witnessing of your will. If the proper formalities are not observed, your will may be invalid.

Two witnesses are needed in many states, and some require three. Using a member of the family or relative as a witness may get the do-it-yourself will-maker into trouble. If a witness is needed to prove the will, he or she cannot receive any benefit from it. Don't take the chance of cutting off those you wish to benefit by asking them to be witnesses to your will. No matter who your witnesses are, there are certain formalities required in the execution and witnessing of your will which you are likely to omit.

Even if your do-it-yourself will is perfectly legal, your directions may not work out the way you wanted them to. For example, the amount of property you own will probably vary from time to time. You may have much more or much less property when your will is probated than at the time it was signed. It may just so happen that those who are closest to you will lose out. Your lawyer can prevent this from occurring.

Any taxes to be paid on your estate are often determined by the way your will is drawn. Because laypeople don't have special tax training, it is unwise to draw your own will.

¶8.06 HOW TO HELP YOUR LAWYER HELP YOU

[A] Important Information For Your Lawyer

You should disclose fully to your lawyer all the facts concerning your property. For your lawyer to do a proper job, he or she must know what you have and where it is located. Supply your lawyer with personal information about you, your family and others to whom you wish to give part of your estate. All your lawyer's questions are intended to get from you the information needed to draw the will that meets your particular needs and desires.

[B] Preparing A Memorandum Of Your Personal Affairs

Before visiting your lawyer, make a memorandum of your personal affairs. This will assist your lawyer in advising you and in drawing your will. Make several copies of the memorandum.

Keep one where your spouse, executor or close ones can find it if an emergency occurs. This memorandum will be extremely helpful to your executor in administering your estate. You should review and update it at least once a year. Use this checklist in preparing the memorandum.

- (1) Your legal name.
- (2) Address of your permanent residence.
- (3) If you have more than one residence, give the address of each residence, the time you spend in each, where you vote, pay income taxes, etc.
- (4) The date and place of your birth.
- (5) Your Social Security number.
- (6) Your spouse's name.
- (7) The date and place of your marriage and place where your marriage certificate can be found.
- (8) If you have been married previously, give your deceased or former spouse's name. If your spouse is deceased, show your lawyer his or her will and federal estate tax return, if one was filed, and any gift tax returns filed during his or her lifetime. If you are divorced, give the place of the divorce, whether it was contested, who brought the action. This will enable your lawyer to determine whether your former spouse has any inheritance rights remaining. If separated by agreement or court action, give all the details and where your separation agreement can be found.
- (9) Show a copy of a prenuptial agreement if you entered into one.
- (10) List the names, addresses, and ages of your immediate relatives and indicate whether any are incompetent.
- (11) List the names and addresses of others you intend to make your beneficiaries.
- (12) If you are the beneficiary under a trust or have created a trust, show a copy to your lawyer.
- (13) Do you have the right to exercise a power of appointment under someone's will or under a trust? If so, show your lawyer a copy of the document.

- (14) Your accountant's name and address.
- (15) State the place where copies of your income and gift tax returns may be found and the name and address of the person who prepared the returns.
- (16) Name and address of your employer.
- (17) Do you have an employment contract, buy-sell agreement or stock purchase plan?
- (18) Are you entitled to a pension, profit-sharing, stock options or any other employment benefits? How are the benefits payable on your death?
- (19) List life insurance policies owned by you on your life; policies owned by others on your life (stating who pays the premiums on them); and policies owned by you on lives of others. Also list annuity policies owned by you. Include the name and address of each company, the policy number, the principal amount of the policy, the beneficiaries, and whether loans were made on any of the policies.
- (20) Do you own any real estate? Give the approximate present value of the real estate, your cost-basis, any mortgages on the property, and whether you own the property by yourself or jointly with another.
- (21) List your other assets, giving the approximate value of each and its cost-basis. Include all property you own and debts owed to you. Include all property owned jointly, as a tenant in common and as community property.
- (22) Give the approximate amount of your debts, stating names and addresses of persons to whom you are indebted and the basis for the liability.
- (23) Make a list of the names and addresses of those you wish to be your executors, trustees and guardians. How to select them is discussed in ¶8.09.

¶8.07 TRUSTS

You don't need a trust if you give your property outright to your beneficiaries. You may, however, wish one person to have

the income from your property during his or her lifetime and another to get the property later. To accomplish this, you generally need a trust. A trust created during your lifetime is called a "living" or "inter vivos" trust. A trust created in a will is called a "testamentary trust." Your lawyer, after examining your personal situation, will advise you which type of trust you should create, if any.

[A] Protecting Beneficiaries

Generally, trusts are used for purposes of protection. You may wish to protect your loved ones by assuring them of an income for life. The property is placed in the hands of your trustee to administer and pay the income from the trust principal to your beneficiaries. You may also allow your trustee to invade (use) the principal or part of it, if necessary for the support, education, maintenance etc., of your beneficiaries. You can give your trustee as much or as little discretion as you choose.

You may create a trust instead of giving the property outright if you wish to protect your beneficiary against his or her inexperience in managing property. You may also want to protect someone else later, and so have the trust continue after the death of the first beneficiary. Or your desire may be to keep the trust principal intact for your favorite charitable institution, which you wish to receive the principal, after it has fulfilled its initial purpose of furnishing an income for the first trust beneficiary.

By means of a trust you can arrange that your child is to receive the income from the property until a given age, say 30, and then get the principal outright. Or you may want your sister to receive the trust income for her life but want the income to cease and the principal to be given outright to a favorite charitable institution or another person if she marries.

[B] Saving Taxes

Trusts can also save taxes. Skillful estate planning, by your lawyer, considers not only the tax consequences for your estate but also the estates of those individuals who inherit from you. Your lawyer will explain the fine points of this to you.

As you can see, trusts serve many purposes. Just some of them have been mentioned here.

¶8.08 GIFTS TO CHARITABLE INSTITUTIONS

A gift by will to a school, college, church, hospital, museum, health organization or other charitable institution benefits the institution of your choice and can provide significant estate tax savings for you. The gift may be in cash, securities, real or personal property. It may be made outright or in trust.

Before drafting your will, consult the charitable institution and your lawyer to discuss the various methods of making charitable gifts. Some of the methods are:

- (1) Outright gifts.
- (2) Gifts for a particular purpose, such as a memorial or a building fund.
- (3) Gifts of income usable for any purpose.
- (4) Gifts of income usable for a particular purpose.
- (5) Gifts of principal of a trust for any purpose.

Charitable institutions prefer unrestricted gifts in order to avoid the possibility that the purpose for which a gift is given becomes obsolete. It is possible, however, for you to specify that the property be used for a special purpose and at the same time protect the charitable institution if that purpose should become obsolete.

Life income gifts. Your will can create a trust which will pay life income to a survivor. On the survivor's death, the trust principal is delivered to the designated charity. For estates which would otherwise be subject to tax, life income gifts provide substantial estate tax savings.

Some states have laws limiting the amount that can be willed to charitable institutions over the objections of close relatives. And some state laws deny a charitable institution a gift from an individual who dies shortly after making his or her will. Your lawyer will tell you about the law in your state.

¶8.09 WHO WILL MANAGE YOUR ESTATE

[A] Who Should Be Your Executor

This is an important decision. As executor you want a person you have confidence in, a person with the capacity and capability to do what you would like to have done. It is a good idea to ask your intended executor whether he or she will accept

the responsibilities. In many cases you can save an executor's fee by naming your spouse or an adult son or daughter as your executor. You should name an alternate to act in case your designated executor dies, refuses the appointment or fails to qualify. If your designated executor does not act for any of these reasons and you fail to name an alternate, your estate will be administered by a person chosen by the court. Usually, your closest relative will be chosen. You may not have wanted it that way. Don't leave the management of your estate to chance when it is so simple to designate an alternate executor in your will.

If an estate is sizable, it is often advisable to name a bank or trust company as executor. A bank or trust company is experienced in managing and investing estates.

Sometimes it is desirable to name co-executors to act jointly, that is, an individual and a bank or trust company. Your lawyer will advise you on selecting your executor—and how many you should have.

[B] Who Should Be Your Trustee

The trustee under your will receives assets from your executor and holds them in trust under the terms of the will. The trustee will pay the trust income to the beneficiaries and upon the termination of the trust will account and pay over the principal of the trust to the person or charitable institution designated in your will. The trustee's duty is to conserve and manage the trust property.

If you set up a small family trust, you might name a member of your family as trustee in order to save trustee's fees. Do so only if the investment problems are simple or because your family member has investment experience and ability. Generally, it is best to name a disinterested expert, such as a trust company or a bank. Managing trusts is their business. They have the experts, who know how to do a good job. Sometimes trusts last many years. A corporate trustee such as a bank furnishes continuity of management.

If the trust grants the trustee sole discretion to lend money to heirs, pay out principal for important purposes etc., then it is often wise to appoint an individual trustee. A member of your

family or a close friend who knows your wishes might be selected to act as co-trustee with the bank or trust company. As in naming executors, provide for alternates, because the trustee you designate may die, refuse the appointment or fail to qualify.

[C] How To Select Guardians

You can appoint two types of guardians under your will—a guardian of the person and a guardian of the property.

By your will you can appoint anyone as *guardian of the property* of a minor who inherits property under your will. However, you are limited in selecting a *guardian of the person* of a minor. Normally, you will appoint your spouse as guardian of your children. Under ordinary circumstances, you are not allowed to deprive a spouse of the right of personal guardianship. However, you can, by your will, appoint an alternate guardian of your minor children if your spouse does not survive you or you both die in a common disaster.

In selecting a guardian of your child, choose the person best qualified to act as a parent to your child. However, for a guardian of a minor's property, appoint a person who will conserve and wisely manage the property. The same rules apply in selecting a guardian of the property as in choosing a trustee (see ¶ [B] above).

¶8.10 AFTER YOU MAKE A WILL

[A] What To Do With Your Will

Your will should be placed where it won't be lost, stolen or mislaid. Most important, it should be kept where it can be found easily by your executor at death. Many wills have never been found or have not been found until years after the property has been distributed under the laws of intestacy.

Keep your will in your attorney's safe or safe deposit box. Tell your executor where your will is. It is preferable not to keep it in your own safe deposit box because on death the box may be sealed (even if you hold the box jointly with another). Your executor will have to get court permission to open the box to find your will. If your executor is a bank or trust company, it will hold your will for safekeeping.

[B] Making Your Executor's Job Easier

Don't make it difficult for your executor to find your assets. Keep a memorandum of all your property, debts, records and their location with your important papers where your executor can find it. Review the memorandum periodically and make appropriate changes. A check list for preparing a memorandum appears in ¶8.06[B].

¶8.11 HOW TO CHANGE YOUR WILL

You may change your will at any time. It must be changed, however, by executing a new will or a codicil (an amendment or addition) to an existing will. You cannot change your will by merely scratching out or erasing the name of a beneficiary and writing in a new one. If this is done, your will will not be changed, may be invalidated and may result in lawsuits.

Review your will as time passes. It should be changed if altered circumstances dictate a different disposition of your property. The world is not static—persons are born, others die. Your wealth may increase or decrease; your interests and desires may change. Changes in the federal income, estate and gift tax laws are frequent. Thus, review your will and your entire estate plan when you learn that Congress has revised the tax laws.

By means of a codicil you can let part of your will stand and modify or eliminate other parts. Although a codicil is considered an amendment to your will, it must be executed with the same formality as your original will and comply with identical rules.

It is usually better to make a new will than to change a previous one by a codicil. A new will lessens the chances of ambiguity.

When you make a new will, you automatically revoke all previous wills. In addition, you may revoke your will completely by destroying it. The only way to modify your will is by making a new will or a codicil.

Before making any changes in your will, consult your lawyer.

¶8.12 PROPERTY THAT PASSES OUTSIDE YOUR WILL

In planning the disposition of your property, remember that some of your property—like life insurance proceeds and jointly held property—is distributed outside your will.

[A] Life Insurance

Proceeds of your life insurance are paid directly, without any court or legal intervention, to the beneficiary named in the policy. So, too, are annuity receipts which you and your spouse have received as joint annuitants, when your spouse is the survivor annuitant. Only when your "estate" (or the trustee under your will) is named beneficiary on the policies are the proceeds distributed under the terms of your will.

[B] Jointly Held Property

Property owned jointly by you and another will not be distributed according to the terms of your will.

If the title of your home is in your and your spouse's names, you are said to own real property as *tenants by the entirety*. This means that upon the death of one spouse the other becomes the sole owner. If your will directs that on death your home or other real property—which you own as tenants by the entirety with your spouse—is to go to your son, the direction is not given effect. The real estate owned with your spouse passes outside of your will.

Where property is registered in the names of two or more persons and a right of survivorship is intended, they own the property as *joint tenants*. Stocks, bonds, bank accounts can be held in joint tenancy. Upon the death of one joint tenant, his or her interest in the property passes outside the will to the survivor.

[C] Tenants In Common

Under a *tenancy in common*, the survivor retains only his or her share of the property—usually one-half. The other half—owned by the tenant in common who dies—goes into his or her estate.

Your lawyer will tell you whether property you hold with another is held as tenants by the entirety, joint tenants or tenants in common.

[D] Community Property

Community property is another form of property ownership. It exists in only nine states: Arizona, California, Idaho, Louisiana, Nevada, New Mexico, Texas, Washington and Wisconsin. Its fundamental concept is that one-half of what either

the husband or wife earns while married belongs to the other. Community property also includes property *acquired* by the husband or wife during marriage. The *income* from the property is also included.

However, community property does not include: (1) property belonging to either spouse before marriage; (2) property acquired after marriage by gift or inheritance. This is known as “separate property.” The laws of community property states differ among the states in many ways. Your lawyer can advise you what the law is in your state.

There are income, gift and estate tax consequences of community property.

Income tax. Community income is taxed one-half to each spouse regardless of whether they file joint or separate returns.

Gift tax. There is no gift tax when income is earned or property is acquired by one spouse during the marriage and it automatically becomes community property. However, there may be a gift tax where: (1) community property becomes separate property; or (2) spouses make a gift of community property to a third person.

Estate tax. Generally, only one-half of community property is included in the gross estate of the spouse first to die. This is true even though the first to die had not earned any of the property.

¶8.13 PLANNING YOUR ESTATE

[A] Introduction

[1] The Tax Laws

In recent years, Congress has made sweeping changes in the federal estate and gift tax laws. Most estates will be exempt from estate taxes. Those estates still subject to tax will have a lower tax—but a hefty tax, nonetheless.

Tax considerations in estate planning are, of course, important. But a wise estate plan involves much more—so even if your estate is not subject to tax, you will need an estate plan. And those individuals whose estates remain subject to tax will want to plan their estates to save as many tax dollars as possible—consistent with their desires for the disposition of their property.

[2] Effective Estate Planning Is Often A Team Effort

Your lawyer is the captain. He is helped by your accountant, financial advisor, trust officer and life insurance underwriter. You, the individual whose estate is being planned, are an important member of the team. You tell the others your objectives.

[3] Check Your Estate Plan Against These Common Objectives:

- (a) Most important—your wishes. A good plan is tailored to fit each individual. There are no standard plans.
- (b) Increasing spendable income now.
- (c) Avoiding an arbitrary estate plan created by law when a person dies intestate (leaving no will). See ¶8.02 through ¶8.04 for the importance of a will.
- (d) Assuring financial security during retirement and disability.
- (e) Effectively passing property to family members, charities and others.
- (f) Providing competent property management for beneficiaries who cannot handle financial matters.
- (g) Minimizing income, gift, estate and inheritance taxes. Tax savings are important but should not distort your wishes. First decide what you want to do and then see what modifications may be necessary because of taxes.
- (h) Reducing probate and transfer costs.
- (i) Providing liquidity to pay estate and inheritance taxes, administration expenses and debts.
- (j) Avoiding uncertainty and litigation.
- (k) Preventing erosion by inflation.

[B] Information You Need To Plan Your Estate

[1] Determine The Persons And Charitable Institutions You Wish To Benefit

Determine whether you wish to give a specific amount or percentage of your estate. For each beneficiary, list the full name, relationship, age and domicile. Is the beneficiary married? Is the

beneficiary capable of managing property? Does he or she have children? Consider the beneficiary's own financial circumstances.

Life income charitable gifts are now an important part of many estate plans. An individual transfers property to a trustee now and provides income for himself or herself (and a survivor, if desired). Then the gift belongs to the charitable institution.

[2] Your Personal Assets

Make an inventory of your personal assets—including each asset's current fair market value. Estate planning is a family affair, so inventory your spouse's assets. Specify the assets owned as separate property, joint property and community property.

List the cost-basis of each of your assets. This will help your advisors determine the best assets to give to beneficiaries during life and by will. Highly appreciated long-term securities and real estate, for example, are advantageously contributed to qualified charitable organizations during lifetime because you (1) receive a charitable deduction for the full fair market value and (2) pay no capital gains tax on the appreciation.

[3] Your Debts

On the other side of the ledger, list what you owe—e.g., real estate mortgages, notes to banks, loans on insurance policies, accounts payable to others, taxes. Subtract your total liabilities from your total assets to arrive at your net worth.

Once you determine your objectives and the nature and value of your assets, you will have the basic information your advisors need to help you plan your estate. Much time and effort is spent acquiring an estate. It makes good sense to plan how to (1) safeguard your property, (2) best use it now and during retirement and (3) pass it on to others.

For a check list to help you determine whether your estate plan is up to date, see ¶8.21.

¶8.14 ESTATE AND GIFT TAX LAW

Saving taxes should be considered after, not before, your overall objectives are reviewed. First, and most important, what is best for you and your family apart from the tax consequences? Then, how best can you shape your plan to achieve the maximum tax and probate savings? The following background information will help you better understand the savings available through wise planning.

[A] Gift and Estate Tax Exemption

The unified gift and estate tax exemption is \$500,000 in 1986; and \$600,000 in 1987 and later years.

The lowest gift and estate tax rate, after taking the unified exemption into account, is 37 percent. The top gift and estate tax rate is 55 percent through 1987. In 1988 and later years, the top rate will be 50 percent.

[B] Charitable Gifts

Unlimited gift and estate tax charitable deductions are allowed. Thus, charitable gifts and bequests are fully deductible—no matter how large.

[C] Marital Deduction

An unlimited gift and estate tax marital deduction is allowed for transfers between spouses. (For estates of those dying before 1982, the law allowed a marital deduction of the greater of one half of the adjusted gross estate or \$250,000. For gifts before 1982, the gift tax marital deduction was: 100 percent for the first \$100,000, no deduction for the next \$100,000 and a 50-percent deduction for gifts over \$200,000.)

The unlimited marital deduction also applies to transfers of community property to a spouse.

Prior law allowed no marital deduction for a "terminable interest" given to a spouse. Thus, a trust which provided income to a spouse, with remainder to children, did not qualify for the marital deduction, nor did a trust which gave a spouse a life estate coupled with a limited power of appointment. However, a trust which provided life income to a spouse with a general power of appointment did (and continues to) qualify for the marital deduction.

The law now allows a marital deduction for a "qualified terminal interest," a so-called Q-tip interest.

Generally, a terminable interest is qualified if the decedent's executor (or the donor) so elects and the spouse receives a qualifying income interest for life which meets these conditions:

- (1) The spouse must be entitled for life to all the income from the entire or specified portion of the interest, payable annually or more frequently. Thus, income interests granted for a term of years,

or life estates subject to termination upon remarriage or the occurrence of a specified event, will not qualify. Qualifying income interests are not limited to those placed in trust.

- (2) No person (including the spouse) may hold a power to appoint any part of the property subject to the qualifying income interest to any person other than the spouse during his or her life. This rule permits the trustee to invade the corpus for the benefit of the spouse. Creation or retention of any powers exercisable only at or after the death of the spouse over all or a portion of the corpus is also permitted.

If the property subject to the qualifying income interest is not disposed of before the death of the surviving spouse, the fair market value of the property, determined as of the date of the spouse's death (or the alternate valuation date, if so elected), will be included in the spouse's gross estate.

If you wish to take advantage of the increased marital deduction, it is important to review your will—and any trusts you have created—with your lawyer as soon as possible. Many wills, for example, give a surviving spouse an amount equal to the “maximum marital deduction.” For wills drawn before *September 12, 1981*, the term “maximum marital deduction” will be interpreted (unless a state law provides otherwise) as meaning the greater of one half of the adjusted gross estate or \$250,000—and not 100 percent of the estate, as the law now allows.

Caution. In some cases, it may not be advisable to take full advantage of the marital deduction when the increased exemption is taken into account and the combined estate tax on the estates of both spouses is considered.

[D] Annual Gift Tax Exclusion

The gift tax annual exclusion is \$10,000 per donee. With gift-splitting, spouses can transfer a total of \$20,000 per donee per year without gift tax.

Any amounts paid on behalf of any individual (1) as tuition to an educational organization or (2) as payment for the individual's medical care will not be considered a gift. The exclusion

for medical expenses and tuition is in addition to the \$10,000 annual gift tax exclusion and is permitted without regard to the relationship between the donor and the donee.

[E] Special Use Valuation Of Farms And Real Property Used in Closely Held Business

When tests are met, the fair market value of qualified property includable in the gross estate can be significantly reduced—by as much as \$750,000. If you have this type of property, talk to your advisors now. Lifetime planning is often required for your estate to qualify for the tax-saving benefits.

[F] Payment Of Estate Tax Attributable To Closely Held Business

The rules which allow the payment of estate taxes in installments over a period of years and at low interest rates on the unpaid balance are highly beneficial. If the value of the closely held business exceeds 35 percent of the adjusted gross estate, the estate taxes attributable to the business may be deferred for up to 15 years, with the estate making annual interest payments for the first five years and thereafter paying the balance in up to 10 annual installments of principal and interest. The interest rate on the estate taxes attributable to the first \$1 million in value of the business is 4 percent.

Caution. The law provides for acceleration of payment of the deferred tax balance if payment of any installment is delinquent or if 50 percent or more of the decedent's interest in the closely held business is disposed of or withdrawn.

[G] Generation-Skipping Transfer Tax

A tax is imposed on "generation-skipping" transfers. But exempt from the generation-skipping tax—under a transitional rule—were trusts created by wills and revocable trusts in existence on June 11, 1976 if (1) the wills were not amended after that date to create or increase the amount of the generation-skipping transfer and (2) the testator or trust grantor died before January 1, 1983.

Alert. Congress is considering bills that would drastically change the generation-skipping rules.

¶8.15 WILL YOUR ESTATE BE TAXED—AND IF SO, HOW MUCH?

The starting point in determining whether your estate will be subject to tax is your “gross estate.”

[A] The Gross Estate

Your “gross estate” includes not only property distributed by your will but may also include other property such as life insurance, some trusts and jointly owned property.

Joint property—general rule. The gross estate of a decedent includes the entire value of property held jointly with another, except to the extent that the estate establishes that the consideration was furnished by the survivor.

Special “50-percent rule” for husband and wife joint tenancies. Where the property is jointly held by husband and wife with rights of survivorship, for estate tax purposes the property is treated as belonging 50 percent to each spouse, without regard to which spouse furnished the original consideration.

One half of your community property will be included in your gross estate.

The proceeds of life insurance policies owned by you are included in your gross estate.

Your gross estate also includes stocks, bonds, tangible personal property, real property, cash, mortgages, notes and life-time transfers which are revocable or in which you retained a life interest. Also included in the gross estate are property over which you have a general power of appointment and some life-time transfers made within three years of death.

The value of pension benefits for a survivor beneficiary are includable in your gross estate. Generally, the aggregate \$100,000 estate tax exclusion for benefits under qualified pension plans, tax-sheltered annuities, individual retirement accounts and military retirement plans has been repealed. *Effective:* for decedents dying after 1984.

Your gross estate also includes the value at your death of any property given to you by your spouse—in trust or otherwise—if (1) you had a life income interest and (2) your spouse or his or her estate received a marital deduction under the “qualified terminable interest” rule.

The gross estate is valued at its fair market value at death or at six months after death (the alternate valuation date) at the estate's election. However, the alternate valuation date election is allowable only if that valuation would decrease the estate tax liability. So the alternate valuation date can't be used just to further step up the basis of property inherited by survivors. Special rules may apply for valuing farms and real property used in a closely held business. See ¶8.15 [E].

Federal estate taxes are not paid on the gross estate but rather on the taxable estate. And after the tax is computed a credit (the size depends on the year of death) is allowed against the tax.

[B] The Taxable Estate

To arrive at the taxable estate, the gross estate is reduced by: (1) funeral expenses, administration expenses, debts and any casualty losses during estate administration not compensated for by insurance; (2) the marital deduction; and (3) the charitable deduction.

Marital deduction. An estate is allowed an unlimited marital deduction for property passing to a spouse. See ¶8.15 [C].

Charitable gifts. Qualified charitable gifts are completely exempt from estate and gift taxes.

[C] Unified Rate Schedule And Unified Tax Credit

Once having determined the taxable estate (as just described), compute the "tentative" tax using the rate schedule at ¶[E] below. The tax payable is determined by subtracting the unified credit (and other credits such as the state death tax credit and foreign death tax credit) from the "tentative" tax.

In general, any part of the unified credit used against gift taxes during life reduces the credit to be used against the estate tax.

What is the unified estate and gift tax credit? The law provides a credit (not an exemption) against the estate and gift tax itself. This table shows the credit amounts over the phase-in period and the exemption equivalents.

<i>Year</i>	<i>Amount of Credit</i>	<i>Equivalent Exemption Amount</i>
1984	\$ 96,300	\$325,000
1985	121,800	400,000
1986	155,800	500,000
1987 and thereafter	192,800	600,000

[D] How The Unified Rate Schedule Works

The lowest unified gift and estate tax rate, after taking the unified credit into account, is 37 percent.

The top unified gift and estate tax rate is 55 percent through 1987. In 1988 and later years, the top rate will be 50 percent.

[E] Unified Tax Rate Schedule

PERMANENT RATES UP TO \$2,500,000

TAXABLE ESTATE

From	To	Tentative Tax =	+ %	Of Excess Over
\$ 0	\$ 10,000	\$ 0		\$ 0
10,000	20,000	1,800	18	10,000
20,000	40,000	3,800	22	20,000
40,000	60,000	8,200	24	40,000
60,000	80,000	13,000	26	60,000
80,000	100,000	18,200	28	80,000
100,000	150,000	23,800	30	100,000
150,000	250,000	38,800	32	150,000
250,000	500,000	70,800	34	250,000
500,000	750,000	155,800	37	500,000
750,000	1,000,000	248,300	39	750,000
1,000,000	1,250,000	345,800	41	1,000,000
1,250,000	1,500,000	448,300	43	1,250,000
1,500,000	2,000,000	555,800	45	1,500,000
2,000,000	2,500,000	780,800	49	2,000,000

Top Rates for 1984, 1985, 1986 and 1987

2,500,000	3,000,000	1,025,800	53	2,500,000
3,000,000	1,290,800	55	3,000,000

Top Rate for 1988 and Later Years

2,500,000	1,025,800	50	2,500,000
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¶8.16 CHARITABLE CONTRIBUTIONS BY WILL CAN SAVE ESTATE TAXES

For an estate that would otherwise be subject to estate tax, a charitable gift by will can save estate taxes.

Here again, your prime motive is not tax savings but benefiting charity. Estate tax savings reduce the cost of your gift and enable you to give more than you may have thought possible. An unlimited estate tax deduction is allowed for charitable gifts. Your charitable gift is deductible in full from your estate before the estate tax rates are applied.

¶8.17 ESTATE TAX, INCOME TAX AND PROBATE SAVINGS ON LIFETIME CHARITABLE GIFTS

You can also save estate taxes and probate costs with lifetime gifts to charitable institutions, because the amount contributed during lifetime is not included in your taxable or probate estate. There are other advantages to lifetime giving. Most important, you have the satisfaction of seeing the good work your gift will do. You also receive a present income tax charitable deduction.

A charitable gift now can pay you income for life. Your gift can not only save estate taxes later (if your estate would otherwise be subject to tax) but can save you income and capital gains taxes now.

¶8.18 LIFETIME CHARITABLE GIFTS

There is never a federal gift tax on a charitable gift that qualifies for the income tax charitable deduction. So your charitable gifts are immune from gift taxes—no matter how large. The government grants this immunity to encourage charitable gifts.

Charitable gifts made during lifetime or by will can also save estate taxes because the gift is not taxed to your estate. There is an unlimited estate tax charitable deduction.

[A] Income Tax Benefits

When a charitable gift is made during lifetime, it also qualifies for the income tax charitable deduction, so you save current taxes.

- (1) Charitable gifts of money are deductible up to 50 percent of your adjusted gross income—with a five-year carryover for any “excess.”
- (2) Gifts of long-term appreciated securities and real property are deductible up to 30 percent of your adjusted gross income—with a five-year carryover for any “excess.”
- (3) Appreciated art works, antiques and other tangible personal property gifts: your charitable deduction is for the property’s full fair market value when the property’s use is related to the charity’s exempt function (e.g., a painting given to a publicly supported art museum or to a college for its art collection). The gift is deductible up to 30 percent of adjusted gross income—with a five-year carryover for any “excess.”

Tax benefits (but not as great) are available for gifts of art works and other tangible personal property for a use unrelated to the charity’s exempt function. Here the deduction is for the fair market value minus 40 percent of the appreciation. The ceiling on deductibility is 50 percent of adjusted gross income—with a five-year carryover for any “excess.”

[B] State Tax Savings

In addition to the federal tax ramifications of your gifts to family members, charities and others, there are often state and sometimes local tax implications. Check all aspects with your own advisors.

¶8.19 IS MY ESTATE PLAN UP TO DATE?

[A] A Check List

Changed personal and financial circumstances often call for revising your present estate plan. Reviewing your plan periodically with your advisors—in light of current conditions—is the way to assure your objectives.

Recent tax acts have made sweeping changes. All estate plans should be reviewed as soon as possible. Many plans will require modifications.

Among the other times calling for a review of your estate plan are:

- (1) You have no will.
- (2) Marriage, divorce, death of spouse.
- (3) Expected birth of child.
- (4) New business venture.
- (5) Purchase of life insurance.
- (6) Purchase of home.
- (7) Job promotion.
- (8) Move to different state.
- (9) Substantial increase or decrease in wealth.
- (10) Children become financially independent.
- (11) Retirement.
- (12) Grandchildren.
- (13) Your business becomes an increasingly important part of your estate.
- (14) Substantial amounts of property placed in joint names.
- (15) Decision to make sizable charitable gifts.

[B] Life Insurance

Life insurance is an important asset in most estates. A review of your estate plan should include a review of your insurance policies.

- (1) Should beneficiaries be changed?
- (2) Have the best settlement options (apart from tax considerations) been selected?
- (3) Are dividends used to best advantage?
- (4) Can money be saved by paying premiums annually?
- (5) Should ownership of the policies be changed to save estate taxes?
- (6) Is insurance still needed?

Discuss your estate plan with your own advisors, who will establish a plan best for you.

WORKSHOP SESSION—CHARITABLE GIFT ANNUITIES—BASIC

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The purpose of this course is a basic introduction to the Charitable Gift Annuity. The Charitable Gift Annuity is one of the effective methods or tools of charitable giving. We will refer to this as the CGA for brevity. The CGA has no doubt had the fewest changes in regulations of any of the tools in the field of charitable giving. There has been the addition of the Deferred Payment variation and the changes to the unisex rates in calculation. The payment rates have been reviewed every three years after careful actuarial studies and maintained or adjusted by vote of the body at the triennial sessions of the Committee on Gift Annuities.

The philosophy of CGA agreements appears on page 5 of the last updated "Tax Implications of an Annuity Gift," which was sent out under the date of 1-85 by the Committee on Gift Annuities which is located at 1865 Broadway, New York, N.Y. 10023. This publication is a must for anyone or organizations who are or are giving study to enter into this field of charitable giving.

A CGA is basically two things. One is charitable present gift and the second is the purchasing of a life-time income at a fixed rate with the residuum going to the charity at the death of a donor or donors, or stated beneficiary or beneficiaries. For clarity, the donor means the person who transfers the assets to the charitable organization and the beneficiary is the one who receives the income either being the donor or the object of a donor's gift. The charitable present gift can be stated as the amount in excess of what a commercial annuity would cost. If one had no charitable motivation one would go to a commercial annuity organization and purchase the annuity from them and thus receive a higher amount of returns for the same investment. The goal set is to provide an approximate 50% residuum to the charity on the maturity of the CGA contract. With the wide fluctuations of earned interest rates through the years this setting of

rates is not always the easiest task. Payout rates must remain constant for the life or lives of the beneficiary or beneficiaries whether paid out for one year or seventy years.

The CGA is a contract and not a trust as are most other agreements. It is a contract to pay a certain amount for the life of a beneficiary or lives of two beneficiaries and payments may be made monthly, quarterly, semi-annually or annually. There must be at least one payment each year. The only exception would be in the year of signing when the first payment comes during the next calendar year. Once the frequency of payments and the amount of payments have been established they cannot be varied. They must continue until the contract is completed.

CGA may be written either *inter vivos* (during life-time) or testamentary (after death through the operation of one's testamentary provisions). One should seek their own legal counsel to be sure that these plans pass the test of the laws of all jurisdictions.

There are certain important factors of a CGA that should be pointed out at this time: A. The person who provides the acceptable "where-with-all" for the CGA receives a present gift credit for tax purposes at the inception of the agreement. B. The fixed income from the agreement has a substantial tax-free portion to the beneficiary or beneficiaries whether or not they were the provider of the acceptable, "where-with-all." This refers to the income received during each calendar year that the annuity is in effect. In A above the use of this credit depends on the type of assets used to fund the agreement. In B above this will always be on the regular income amount for this is dealing with a cash income.

CGAs are funded with cash, acceptable securities, un-mortgaged real estate, by donor or donors (the providers of the "where-with-all") who may or may not choose to be one of the beneficiaries. This provides many avenues for the donor in his or her concepts of personal, family, and other individual needs as well as providing the residuum for the intended charitable purposes.

This may be the appropriate place to remind you that in all charitable agreements, rules and regulations, both state and federal, are subject to change. These rules and regulations

should always be checked so that documentation and calculations are current. It is also important to ascertain and comply with the qualifications required by various jurisdictions to qualify an organization to issue and manage CGAs.

As previously mentioned, there are two types of CGAs. One that may be called the standard and then the more recent one, namely, the Deferred Payment CGA. The major difference in the two is that the Deferred Payment CGA does not begin payments currently but at a predetermined date in the future. Let us proceed with what is called the standard type.

One of the real advantages of the CGA is that there is a substantial charitable deduction available for the donor in the year the donation or purchase is made. This deduction will be available under the 50% or 30% rule depending on the assets used to fund the CGA. Some states may limit the type of assets that can be used. The five year carry-over rules can also apply. The second advantage is that there is a substantial portion of the annual income that will be tax-free income to the beneficiary or beneficiaries. This is irregardless of the frequency of payments. This tax-free income is true in all annuities even though there may be some offsetting of the tax-free portion or amount when the annuity is funded with capital gain types of assets.

As a matter of illustration, let us take a lady aged 68 (to her nearest birthday) who funds her CGA with cash. Her current rate would be 7.6% or \$76.00 per thousand invested in the contract. If she funds her CGA with \$2,000 her charitable gift would be \$1,009.54 and subject to the five year carry-over rules. Her exclusion ratio or tax-free portion of the income would be 40.7% of each annual income for the rest of her life. This would mean that of the \$152.00 she would receive during each of these years that \$61.86 would be tax-free income and she would only have to pay tax on \$90.14. The above figures would apply to full year incomes. This will vary on the first year if it is a partial year and would be calculated on the actual amount received during the initial calendar year.

As an illustration, let us take a two life situation. Let us look at a male aged 65 and female aged 63 both figured to the nearest birthday. The combined rate in this case would be 6.7%. If the donated amount were \$10,000, their annual income would be

\$670.00. Assuming they are man and wife, they would be able to jointly deduct \$4,302.05 as a charitable contribution in the year of issue and again this would be under the 50% rule if funded with cash and subject to the five year carry-over. Other type assets could come under the 30% rule. The annual income of \$670.00 would have a 37.1% tax-free factor. Thus \$248.57 would be tax-free income and only \$421.43 of their income would be taxable.

Again the rule, the one supplying the assets receives the benefit of the one-time (current year of issue) charitable gift credit. The one receiving the subsequent annual incomes would receive the benefit of the annual exclusion of income from taxation. This can be quite beneficial depending on the tax bracket of the beneficiary.

The general information needed to process and calculate a CGA is as follows:

1. Full name and birthdate of all donors and beneficiaries.
2. The gender of all beneficiaries.
3. Full address of those above.
4. Social security numbers of all donors and beneficiaries.
5. The amount and type of assets to be used to fund the CGA. If not cash, then other information is necessary, such as date of purchase, value at time of purchase, present value so as to ascertain whether there are gains or losses. If there are losses, it is usually better for the owner to sell these assets, taking a capital loss and funding the agreement with cash. Care should be taken as to each asset whether or not it is acceptable to the issuing organization and in compliance with state and federal rules and regulations.
6. The frequency of payment desired.
7. The date the assets will be delivered to the organization.
8. Who is to be the donor and who is to be the beneficiary. If there are to be more than one in either case, then this should also be ascertained.
9. Any additional information that may be required.

The CGA is often used to assist a worthy friend, a relative, or a faithful employee. The donor, who is often in a higher tax

bracket, receives the tax benefit on the inception of the contract or agreement and the beneficiary receives the benefit of the annual exclusion. The income is no longer in the income of the donor nor are the assets a part of his estate, thus no longer taxable to the donor nor his estate. Remembering again, that a CGA can be issued during the lifetime of the donor or through testamentary provisions. This can thus be a very useful tool in considering family and other needs and yet assuring the residuum will in the end benefit the chosen charity.

When the CGA is used to benefit other individuals it should be remembered that it is subject to the gift tax rules and in some cases will involve the unified credit. Gifts between spouses come under the unlimited marital deduction rules. A successor beneficiary's right to receive income would not be considered a present gift. The rules on this should be looked at carefully.

When a CGA is used as a gift, the gift factor is the actuarial value of the agreement and does not include the total amount of the agreement for the charitable gift portion is not included. Remembering again that the actuarial value is the amount one would normally expect to pay for a commercial annuity. Saying it again a bit differently, one could say that the gift to the charitable organization is the total amount of the gift annuity less the cost of a commercial annuity.

Reporting should be done on current forms as applicable. This reporting should be done promptly by both the donor and the beneficiary. All gifts of future interest as well as gifts over \$10,000 must be reported. Future interest gifts must be reported even though under the \$10,000 amount as they do not qualify for the annual exclusion. Also the gift to the charitable organization must also be reported.

In the case of two beneficiaries, a clause can be used to cancel benefits through the will of the donor. In such a case, there would not be a completed gift, and this would negate the need of filing a gift tax return. It is strongly advisable to check all such and similar cases with one's attorney.

When the CGA is funded with long-term capital gains, the capital gain is figured only on the actuarial value and not on the gift portion. On this basis, the gift portion would be under the 30% rule. The capital gains would be reported ratably over the

life expectancy but never to exceed the tax-free portion. If there is an early demise there is no additional capital gains to be reported. If the beneficiary lives longer than the life expectancy, then the capital gains is no longer reported and the said beneficiary benefits fully from the tax-free portion.

It is not advisable to accept short-term capital gain assets to fund a CGA. When the assets are long-term capital gain assets, it is wise to calculate the tax implications of selling the assets and off-setting the gains by the charitable portion of the present gift. Both this and the funding with the assets as shown by calculations can assist the donor and the tax counsel to determine which method would be in the best interests. Since this is a basic course, we will not go further into the question of acceptable assets.

It is also important to remember what is called the Clay Brown test and never write a CGA where the gift factor is less than 10%. In other words, it may be necessary to reduce the rate of pay out so that there is a least at 10% gift. Remember the rates established by the Committee on Gift Annuities are maximum rates. Rates lower than these which are acceptable to the issuing organization and the donor may be used.

There are two schools of thought on the type of documentation for a CGA. One is to have a separate application from the donor followed by an agreement signed by the organization; the other type of documentation is where the agreement includes not only the signature of the organization but also the signature of the donor or donors. (It is understood there should be proper witnesses). The latter has the advantage of the total agreement or contract being in one document.

It also may be preferable to have separate CGA agreements for cash agreements and for other asset agreements.

If the assets contain real estate that the charity can use, then the CGA is often a very acceptable avenue. Since it is a contract, the question of self-dealing can be mute. There are many aspects to the question of whether or not non-income or hard-to-sell real estate should be acceptable.

The new appraisal rules must be strictly adhered to. This applies not only to the donor but to the charity as well especially so when, for some reason, the property is disposed of during the specified time frame.

Some organizations feel it best to draw up the CGA in duplicate original form with one copy to the donor and one copy for the charitable organization. Other copies as listed may be xeroxed or duplicated as guided by the attorney involved.

1. Copy for the donor's personal file.
2. Copy for the donor's CPA.
3. Copy for the donor's attorney.
4. Copy for filing with the donor's first income tax report.
5. Copy for the organization file.

Tax Aspects of Charitable Giving published by Marshall Publications of P.O. Box 4700, Fort Lauderdale, Florida, 33338, has excellent material on many of the types of agreements, including the CGA. This is a good hand-out to prospective donors.

Philanthropic Tax Institute

I would also refer to the manuals of the Philanthropic Tax Institute by Conrad Teitell as excellent resources and informational material in all aspects of planned giving.

For our exercises and calculations we will use *Tax Implications of an Annuity Gift* as prepared by the Committee on Gift Annuities, January 1985 edition.

NOTE: Illustrations of calculations above do not reflect new tables that may be effective July 1, 1986.

Caveat: This presentation is meant to be a general guide. In all cases seek and take the advice of your own attorney.

WORKSHOP SESSION—POOLED INCOME FUNDS—BASIC

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A. INTRODUCTION

1. This is a workshop designed primarily for those considering new pooled income funds for the first time and others needing basic “refresher” information.
2. Informal definitions:
 - a. A pooled income fund is *not* a sophisticated tax shelter for high divers involving backyard holes filled seasonally with water.
 - b. A pooled income fund is a rather unsophisticated charitable giving method for a wide economic range of donors involving the common sharing of investment (and income) performance.

B. HISTORICAL BACKGROUND

1. Prior to 1969, “life income contracts” were used increasingly by charities; however, there was little relationship between the charitable deduction and the actual payout history; all deductions were based upon an arbitrary 3.5% payout; thus, there was the need for a closer correlation between the two.
2. There were congressional (Senate Finance Committee) concerns regarding a growing number of abuses by donors (e.g., use of tax-exempt investments, overvaluation of charitable remainders, etc.).
3. The landmark Tax Reform Act of 1969 was enacted, which amended the Tax Code, added Section 642(c)(5) and created the “Pooled Income Fund.”

4. The Act therefore produced the four-part deferred giving team (pooled funds, unitrusts, annuity trusts, and gift annuities).

C. LEGAL DEFINITION

1. The Pooled Income Fund is described in Section 642(c)(5) of the Internal Revenue Code.
2. A Pooled Income Fund is a *trust* . . .
 - a. to which each donor transfers property, contributing an *irrevocable remainder interest* in such property to or for the use of an organization described in section 170(b)(1)(A) (other than in clauses (vii) or (viii), and retaining an income interest for the life of one or more beneficiaries (living at the time of such transfers),
 - b. in which the property transferred by each donor is *commingled* with property transferred by other donors who have made or make similar transfers,
 - c. which cannot have investments in securities which are *exempt from taxes* imposed by this subtitle,
 - d. which includes only amounts received from transfers which meet the requirements of this paragraph,
 - e. which is *maintained* by the organization to which the remainder interest is contributed and of which no donor or beneficiary of an income interest is a trustee, and
 - f. from which each beneficiary of an income interest *receives income*, for each year for which he is entitled to receive the income interest referred to in subparagraph (a), determined by the rate of return earned by the trust for such year.
3. Inter vivos vs. testamentary transfers.
 - a. a donor *can* be a decedent making a testamentary transfer (“bequest”) by means of a pourover provision.
4. Eligibility requirements.
 - a. to qualify, the remainderman must be one of certain 50%-type charitable organizations, referred to in the regulations as a “public charity” and described in Section 170(b)(1)(A), clauses 1 through 6.
 - b. this type of organization includes most churches, associations of churches, educational organizations, hos-

pitals, governmental units, and organizations receiving substantial governmental or public support.

D. MANAGEMENT AND MAINTENANCE

1. Role of the Trustee.

- a. any individual or organization (such as a bank) which is qualified to act as a trustee under local law may be named as a trustee of a pooled fund.
- b. an individual trustee usually *cannot* be a donor or a beneficiary; however, a trustee can be a board member of the charitable organization and a donor/beneficiary as long as he or she is not a member of the board's investment committee, for example.

2. The required instruments are: a Declaration of Trust and the instrument of transfer; the meticulous requirements for both are detailed in the Tax Code and Treasury Regulations.

3. A unitized accounting system is required.

4. Minimum/maximum gift and age requirements:

- a. they are not fixed by law.
- b. a \$5,000 minimum gift for a new trust and a \$1,000 minimum gift for an addition to an existing trust are common.
- c. a CASE-sponsored survey conducted in January 1986 with 48 respondents showed that:
 - 60% have a \$5,000 minimum for new trusts in a pooled fund.
 - 46% have a \$1,000 minimum for additional gifts.
 - 21% limit beneficiaries to age 50; 38% have no age limitation.

E. INVESTMENT CONSIDERATIONS

1. The commingling of property:

- a. the pooled fund assets *must* be commingled.
- b. the pooled fund assets may be coinvested (but not commingled) with other assets of the public charity.

2. Types of appropriate and inappropriate gift assets:

- a. cash and publicly-traded securities are the most appropriate.
- b. *tax-exempt securities cannot be used as gifts or investments; otherwise, the pool will be disqualified; probably no*

real estate should be used; definitely no mortgaged property.

3. Performance goals and strategies; having multiple funds:
 - a. three typical pools; high, stable yield; "balanced"; and growth.
 - b. similar to a "family" of mutual funds (but dissimilar because of no tax deductions and no redemptions).
 - c. the choice of investment goals has an important relationship to marketing, i.e., payout history and future tax deductibility.
4. Internal vs. external investment managers:
 - a. a pooled income fund can be invested in a bank's common trust fund.
 - b. a pooled income fund can be invested in mutual fund shares.

F. DISTRIBUTION OF INCOME

—The named beneficiaries *must all be living* when a trust is created.

—The trust *cannot* be for a term of years (unlike a unitrust).

1. General information:

- a. a donor must retain for himself/herself for life, or create for the life of one or more named beneficiaries, an income interest in the property transferred to the trust. The income interest entitles its holder to a *proportionate* share of the fund's net annual income. The income can also be partly payable to charity.

2. Unit of participation.

—the original value is established arbitrarily (e.g., \$1 or \$10)

- a. participation is based on the fair market value of the property transferred to the pool.
- b. the units must be assigned to the designated beneficiary.
- c. the *number* of units is determined by the formula: number of units = FMV of property divided by FMV of a unit (200 units = \$25,000 divided by \$125)

- d. The Fair Market Value (FMV) of a unit is determined by the formula:

FMV of unit = FMV of fund assets divided by number of units (\$125 = \$25,000 divided by 200)

3. Determination dates.
 - a. a determination date involves the valuation of the property in the fund; it must be on the first day of the fund's tax year, plus three other dates no more than three months apart.
 - b. It is also possible (and desirable) to allow transfers to the fund between determination dates.
4. Allocation procedures.
 - a. each unit of participation is assigned its proportionate share of net annual income (interest and dividends) based on the outstanding number of units at year-end: (\$250,000 income divided by 200 units = \$1250 per unit)
 - b. income payments must be made within 65 days of the close of the fund's tax year; no capital gain income can be paid to beneficiaries, only ordinary income.
5. Termination of income interest and severance of property:
 - a. the standard provision in the Declaration of Trust allows for the final payment from the trust to be the last regular payment made *before* the beneficiary's death; the units assigned to the terminated trust are severed from the trust and valued on that date.
 - b. this procedure is more practicable than trying to *pro rata* the final payment.
6. Voluntary revocation of income interest:
 - a. an additional income tax deduction for the donor is equal to the reciprocal of the charitable remainder on the date of revocation.

G. TAX CONSEQUENCES AND CONSIDERATIONS

1. For the Pooled Fund: ("a taxable entity," but not usually taxed)
 - a. there are two special deductions: (1) for all net income distributed by the Fund; (2) for all long-term capital gains, which have to be added to principal.

- b. all short-term capital gains are *taxable*, and should therefore be avoided (very important).
 - c. the Fund takes over the donor's cost basis and holding period.
 - d. annual filing of IRS Form 1041 by the Fund.
2. For the Donor:
- a. there is always a charitable income tax deduction:
 - (1) the deduction is computed by reducing the value of the gift by the present value of the income interest(s) created.
 - (2) the highest yearly rate of return for the past three years of the Fund is used, in part, in determining the deduction.
 - (3) the deduction may be claimed up to 30% of the donor's Adjusted Gross Income (for gifts of long-term appreciated property) and up to 50% of AGI for gifts of cash and non-appreciated property; there is a 5-year carryover for any "excess."
 - b. gift tax: the same computation is used as for the income tax deduction, but the gift tax liability is based on the reciprocal of the income tax deduction:
 - (1) there is no liability when the donor is the sole income beneficiary.
 - (2) there is a possible liability when another person is named as the immediate or surviving income beneficiary.
 - (3) the donor can retain the right to revoke the income interest of another beneficiary by a provision in the Will, thus making the gift "incomplete" and not subject to gift tax liability.
 - (4) even though there is no actual gift tax, the donor should file a Federal gift tax return.
 - c. estate tax: same basic computation as income tax deduction:
 - (1) the full trust value is includible in the donor's gross estate.
 - (2) the trust is fully deductible as a charitable bequest if the donor is the sole beneficiary, or if there are no surviving beneficiaries.

- (3) if the donor's spouse is the surviving beneficiary, the full trust value can be claimed by the executor/ executrix as "qualified terminable interest property" and therefore fully deductible under the unlimited estate tax marital deduction.
 - d. there is no capital gains tax liability for gifts of long-term appreciated property.
3. For the Beneficiary:
- a. income tax: the payments are always taxable as ordinary income.
 - b. estate tax: there is no liability if the beneficiary is not the donor.

H. MISCELLANEOUS

1. The Securities and Exchange Commission (SEC) staff handed down an important "No Action" ruling or letter in 1972, stating that pooled income funds did not have to conform to the registration requirements of the Investment Company Act of 1940 or the Securities Act of 1933; the ruling was based on three conditions:
 - a. the pooled fund must qualify under Section 642(c)(5).
 - b. there must be the issuance of a disclosure statement (or "prospectus").
 - c. designated volunteers and full-time staff members must be the only solicitors for the pooled fund.
2. In order to qualify for full tax benefits, every new pooled fund must first receive an IRS Letter of Approval.
3. Declaration of Trust provisions:
 - a. The requirements of the IRS Code and Treasury regulations are very meticulous and must be met to avoid adverse tax consequences.
4. Disclosure Statement (or "prospectus") guidelines and sections:
 - a. general information
 - b. investment policies
 - c. investment limitations
 - d. income and remainder interests
 - e. unit method of operation
 - f. tax consequences on gifts
 - g. investment performance

- h. trustee/investment management
- i. financial statements
- j. miscellaneous

5. Annual financial reports (fully audited) must be distributed to all donors and beneficiaries.

I. MARKETING

1. Who should sponsor a pooled income fund?
 - a. in theory, almost any qualified "public charity."
2. Who should contribute to a pooled income fund?
 - b. donors of a wide range of financial means who wish to support the good works of a worthy charitable cause.
3. The advantages and disadvantages of a pooled income fund:
 - a. advantages—commingling permits larger investment pool;
 - established by the charity;
 - pays actual income earned;
 - donor can make additional contributions;
 - relatively small gifts can be made.
 - b. disadvantages—cannot invest in tax-exempts.
 - cannot easily accept irregular property.
 - a trust cannot be for a term of years.
 - the trustee either must be the charity or controlled by the charity.
4. Promotional techniques: direct mail, advertising, visitations, publications, seminars and workshops.
 - a. emphasis upon reasons for making such a gift:
 - to support the good work of the charity.
 - reliable income stream (often can be increased).
 - income tax deduction and savings.
 - avoidance of capital gains tax.
 - potential estate tax savings.
 - diversification of investments.
 - reduced management fees and worries.
 - a simple giving method; can be understood.

J. CONCLUSION

Next to the charitable bequest, and possibly the charitable gift annuity, the pooled income fund is the most common type of planned giving method today. It is an appropriate plan for both large and small charities, and for the donor of both major and minor means. For the donor it can be a deceptively simple charitable giving method, one which provides a very attractive array of tax and income benefits. For the charity it can be a critically important source of future endowment funds, a source which can make the difference between survival and failure, or the difference between mediocrity and excellence.

WORKSHOP SESSION—CHARITABLE REMAINDER TRUSTS—BASIC

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I. Introduction

- A. **Split Interest Concept.** More than one interest exists at the creation of a charitable remainder trust. There is an income interest, which provides for income payments at least annually, to at least one individual that is not a charitable organization. In addition, there is a remainder interest, or charitable interest, which is payable at the termination of the trust to one or more qualified charities.
- B. **Irrevocable Trust.** The trust must be irrevocable from its inception, i.e., it cannot be amended or changed. Therefore, care must be taken at the establishment of the trust to ensure that the donor is aware that (s)he cannot change the trust once established.
- C. **Term of Trust.** The term of the income interest can be for the life or lives of the income beneficiaries or for a term of not more than 20 years. IRC Sec. 664(d)(A); 664(d)(2)(A). It is also possible to have a life interest followed by an interest measured by life or a term of years, whichever is shorter. Reg. Sec. 1.644-2(a)(5); 1.644-3(a)(5).
- D. **Tax Advantages.**
 1. **Charitable Contribution Deduction.** At the establishment of the trust, the donor is entitled to a charitable contribution deduction for the actuarial value of the remainder interest passing to charity, IRC 170(f)(2)(A); Reg. Sec. 1.644-4.
 2. **Contribution of Appreciated Property.** In most cases, the donor will not be taxed on the capital gain resulting from a gift of appreciated property, nor will the contribution deduction be reduced by the amount of the gain. The donor may be found

to have entered into a bargain sale if mortgaged property is contributed. IRC Sec. 1011(b); Reg. Sec. 1.1011-2(a)(3); IRC Sec. 170(e).

3. **Gift Tax Consequences.** If the donor is not an income beneficiary of an inter vivos trust, or if the donor does not reserve the right to revoke the interest of a succeeding beneficiary, the donor has created a taxable gift for the present value of the income beneficiary's interest at the time of the gift. IRC Sec. 2511; Reg. Secs. 1.644-3(a)(4); 25.2511-2(b). The income interest of a spouse qualifies for the marital deduction. See also IRC Sec. 2522(c)(2)(A).
4. **Estate Consequences.** If the donor is the sole or surviving income beneficiary, the value of the trust will be included in his/her estate. However, the estate will then be entitled to a charitable deduction for the value of the trust. If the donor predeceases the other income beneficiary(ies) and does not revoke the succeeding interest(s), the actuarial value of the income interest(s) will be included in the estate, with the estate entitled to a contribution deduction for the remainder interest passing to charity. IRC Secs. 2036; 2055; Reg. Sec. 20.255-2(e)(2)(iv). A surviving spouse's interest qualifies for the marital deduction. IRC Sec. 2056(b)(8).

II. **Charitable Remainder Unitrust IRC Sec. 664; Reg. Sec. 1.644-3.**

- A. **Payment of Unitrust Amount.** The governing instrument must provide for payment, at least annually, of a "unitrust amount" equal to a fixed percentage, at least 5%, of the net fair market value of the trust corpus valued annually. IRC Sec. 664(d)(A). (Plan I unitrust).
- B. **Alternative Payments.** The trust may provide that only trust income, up to the unitrust amount percentage, will be paid out (Plan III unitrust) or that excess income can be used to make up for underpay-

ments in prior years (Plan II unitrust). IRC Sec. 664(d)(3); Reg. Sec. 1.644-3(a)(1)(i)(b).

- C. **Additions to Trust.** Additions to the trust corpus can be made if permitted by the governing instrument. Reg. Sec. 1.644-3(b).
- D. **Payments from Trust.** No payment, other than the unitrust amount, can be made except to charity. Reg. Sec. 1.644-3(a)(4).
- E. **Fluctuation of Payments.** The unitrust offers the possibility of increased annual payments to the income beneficiaries as well as the risk of lower payments should the net fair market value of the trust decrease.
- F. **Commingling of Trust Assets.** Assets of unitrust and annuity trusts may be commingled for investment purposes. Rev. Rul. 83-19. However, such must be permitted under state law, the donor should give permission in the trust instrument, state securities laws must be observed, and a SEC "no action" letter should be obtained.

III. **Charitable Remainder Annuity Trust IRC Sec. 664; Reg. Sec. 1.644-2**

- A. **Payment of Annuity Amount.** The trust must provide for the payment, at least annually, of a sum certain (the annuity amount) that is at least 5% of the initial fair market value of the trust. IRC Sec. 664(d)(1)(A). The annuity amount can be expressed as a fixed dollar amount or as a percentage. Reg. Sec. 1.644-2(a)(1)(ii) and (iii).
- B. **Additions to Trust.** There can be no additions to the trust after it has been funded. Reg. Sec. 1.644-2(b).
- C. **Payments from Trust.** No payment, other than the annuity amount, can be made except to charity. Reg. Sec. 1.664-2(a)(4).
- D. **Charitable Deduction "5%" Rule.** At the establishment of the trust, the donor is entitled to a charitable contribution deduction for the actuarial value of the remainder interest passing to charity. Reg. Sec. 1.664-2(d). In Rev. Rul. 77-374, IRC 1977-40, 17, the IRS took the position that no deduction would be allowed

if the probability exceeds 5% that a noncharitable beneficiary of the trust will survive to the exhaustion of the trust. A 1982 tax court decision, *Moor* (TC Memo 1982-299, 5/27/82), eased compliance somewhat with the "5%" rule, and the new 10% tables make it easier to pass the "so remote as to be negligible" test.

- E. **Constant Payment.** The annuity trust provides a constant unchanging flow of income to the income beneficiary(ies). There is no increase or reduction in the annuity payment as the result of a change in the fair market value of the trust, unless the principal of the trust is reduced to zero.

IV. Determination of Deduction.

The amount of the contribution deduction is determined by the use of single life, two life, and term of years tables provided in the regulations. Rev. Rul. 83-128 increased the underlying interest assumption from 6% to 10% and eliminated the distinction between female and male mortality.

Sample remainder factors are as follows:

CHARITABLE REMAINDER FACTORS SINGLE LIVES (Payable Quarterly)

UNITRUSTS

	6%	7%	8%	9%
Age 55	.33486	.28739	.24877	.21704
Age 65	.46772	.41905	.37723	.34107
Age 75	.61677	.57365	.53475	.49951
Age 85	.75491	.72265	.69237	.66390

CHARITABLE REMAINDER FACTORS SINGLE LIVES (Payable Quarterly)

ANNUITY TRUSTS

	6%	7%	8%	9%
Age 55	.50205	.41906	.33607	.25307
Age 65	.57717	.50670	.43623	.36576
Age 75	.67559	.62152	.56746	.51339
Age 85	.78004	.74338	.70672	.67006

**CHARITABLE REMAINDER FACTORS
TWO LIVES
(Payable Quarterly)**

UNITRUSTS

	6%	7%	8%	9%
M 55; F 55	.22218	.17590	.14013	.11227
M 65; F 65	.34522	.29244	.24865	.21214
M 75; F 75	.50181	.45014	.40457	.36425
M 85; F 85	.66445	.62243	.58354	.54749

**CHARITABLE REMAINDER FACTORS
TWO LIVES
(Payable Quarterly)**

ANNUITY TRUSTS

	6%	7%	8%	9%
M 55; F 55	.43863	.34507	.25151	.15794
M 65; F 65	.49724	.41345	.32965	.24586
M 75; F 75	.58985	.52149	.45313	.38478
M 85; F 85	.70489	.65570	.60651	.55733

- V. Mandatory Trust Provisions.** The code, regulations, and revenue ruling provide for a number of mandatory trust provisions. Some, but not all, are as follows:
- A. The charity must qualify as a 170(c) organization at the time of any distribution to it.
 - B. The trust must provide for the proration of payments for short taxable years.
 - C. The trust cannot be obligated for the payment of any death taxes.
 - D. The trust must provide for the correction of over or under payments as a result of incorrect trust valuation.
 - E. Certain of the private foundation rules must be addressed. Under IRC Sec. 508(e) and 4947(a)(2), certain private foundation rules apply to split-interest trusts, "not all of the unexpired interests in which are devoted to" charitable purposes. Thus, the rules apply to charitable remainder annuity trusts, unitrusts, and pooled income funds. The rules are contained in IRC Secs. 4940 through 4948 and the regulations promulgated thereunder. Substantial penalties can be assessed for violation of these rules.

1. **Self-Dealing. IRC Sec. 4941**

- a. Self-dealing is defined as “any direct or indirect:
- (1) sale or exchange, or leasing of property between a private foundation and a disqualified person;
 - (2) lending of money or other extension of credit between a private foundation and a disqualified person;
 - (3) furnishing of goods, services, or facilities between a private foundation and a disqualified person;
 - (4) payment of compensation (or payment or reimbursement of expenses) by a private foundation to a disqualified person;
 - (5) transfer to, or use by or for the benefit of, a disqualified person of the income or assets of a private foundation; and
 - (6) agreement by a private foundation to make any payment of money or other property to a government official (as defined in section 4946(c)), other than an agreement to employ such individual for any period after the termination of his government service if such individual is terminating within a 90-day period.”

IRC Sec. 4941(d)(1). The payment of the annuity unitrust amount is not an act of self-dealing. IRC Sec. 4947(a)(2)(A).

- b. There are certain exceptions to the self-dealing rules, the most common of which is the transfer of real or personal property by a disqualified person to a private foundation. This shall be treated as a sale or exchange if the property is subject to a mortgage or similar lien which the foundation assumes or if it is subject to a mortgage or similar lien which a disqualified person placed on the property within the 10-year period ending on the date of the transfer. [NOTE: If the private foundation does not assume the

mortgage and if the mortgage was placed on the property outside the 10-year period, it is not self-dealing. Several private letter rulings have held that the initial transfer of mortgaged property is not an act of self-dealing.]

2. Excess Business Holdings. IRC Sec. 4943.

- a. Generally, a private foundation may not hold substantial amounts of the voting stock of an incorporated business. Restrictions are also applicable to partnerships. IRC Sec. 4943(c) (2); 4943(c) (3).
- b. The excess business holdings rule will not apply to charitable lead trusts if the income interest is not more than 60% of the fair market value of the trust. IRC Sec. 4947(b) (3) (A).
- c. Similarly, the excess business holdings prohibition will not apply to a remainder trust if none of the annuity amount or unitrust amount (prior to termination) can be distributed to a 170(c) organization. IRC Sec. 4947(b) (3) (B).

3. Jeopardizing Investments. IRC Sec. 4944.

- a. Sec. 4944 prohibits a private foundation from investing in investments which "jeopardize the carrying out of any of its exempt purposes." IRC Sec. 4944(a) (1). Such investments are not defined in the code or regulations and are reviewed on a case by case basis. Certain items which will be "closely scrutinized" are margin tradings in securities; trading in commodities; working interests in oil and gas wells; the purchase of puts, calls, and straddles; the purchase of warrants and selling short. Reg. Sec. 53.4944-1(a) (2) (i).
- b. As with excess business holdings, IRC Sec. 4944 will not apply to certain lead trusts and to remainder trusts from which no charity receives income prior to termination of the trust. IRC Sec. 4947(b) (3) (A) and (B).

4. **Taxable Expenditures. IRC Sec. 4945.** Taxable expenditures are defined as any amount paid or incurred by a private foundation:
- a. To carry on propaganda or otherwise influence legislation;
 - b. To influence the outcome of an election or carry on a voter registration drive except under certain circumstances;
 - c. To provide grants for travel or study except under certain circumstances;
 - d. To give a grant to another organization except under certain circumstances; and
 - e. To carry on any purpose other than one specified in IRC Sec. 170(c) (2) (B). IRC Sec. 4945(d).

- F. **Reformation of Faulty Trust.** The Tax Reform Act of 1984 provided for the reformation of certain faulty charitable remainder trusts. In order to be eligible for reformation, a trust must evidence the intent to comply with the appropriate provisions of the IRC, or meet certain pre-1969 requirements. As a result of the reformation, there can be no more than a 5% difference in actuarial value, the noncharitable portion of the trust must end at the same time, and interest is payable on any pre-reformation tax liability.

There is no time limitation for reformation for those trusts that meet the intent to comply test; reformation for trusts that would have qualified under pre-1969 law but do not meet the intent to comply test begin within 90 days after the filing date for the estate tax return, or if no return is due, within 90 days after the due date of the trust's first income tax return.

VI. Choice of Most Appropriate Instrument.

A. Annuity Trust.

1. The annuity amount is fixed at inception; never changes unless the corpus is exhausted.
2. Additions to corpus after initial funding are prohibited.
3. Generates a higher charitable contribution factor than the Unitrust.

4. Recommended for hard to value assets; only the initial appraisal is required.
5. Provides a lesser degree of inflation protection than the Unitrust.

B. Unitrust.

1. Charitable contribution deduction is the same for Plans I, II, and III.
2. Assets may be added to corpus from time to time if the trust so provides.
3. Plan I
 - a. Uses the four tier concept (see below) for payouts to beneficiary; nearest to the Annuity Trust in this regard.
 - b. Provides some inflation protection; however, income may drop based on annual valuation of the corpus.
4. Plan II (income only, with makeup provisions)
 - a. May be best for trust funded with unproductive or underproductive assets.
 - b. Charity is assured that principal will not be invaded for beneficiaries.
5. Plan III (income only, no makeup)
 - a. Most favorable to the charity but not attractive to donors generally.
 - b. Found to have very little demand and is seldom used.

C. Other Planned Giving Instruments.

1. Gift Annuity or Deferred Payment Gift Annuity.
2. Pooled Fund Life Income Agreement.
3. Deed of farm or residence with reserved life estate(s).
4. Revocable trust.
5. Present gifts may be best.

VII. The Four Tier Concept. Used to determine the nature for tax purposes of distributions to beneficiaries of Annuity Trusts and Unitrusts, Plan I. All funds in the first category must be exhausted before the second category is deemed to be paid out, etc.

- A. Ordinary income.
- B. Capital gains.
- C. Other income (primarily tax exempt income).
- D. Return of principal.

VIII. Selection of Rate of Return.

- A. Minimum rate is 5% for both Annuity Trusts and Unitrusts.
- B. The higher the rate selected, the lower is the charitable contribution deduction factor.
- C. Do not select a rate of return in excess of anticipated rate of return, especially for Unitrust, Plan II or Plan III, as end result is a loss of charitable contribution deductions.

IX. Selection of Trustee.

- A. The donor may serve as trustee, but this is not recommended.
 - 1. The donor seldom has expertise to administer the trust properly.
 - 2. Powers of the trustee are deemed to have been retained by the donor and this may result in unfavorable tax consequences.
- B. The charitable organization itself frequently serves as trustee.
 - 1. Trust administration requires accounting, legal, investment, and real estate expertise which can be expensive.
 - 2. A potential conflict of interest must be recognized.
- C. An independent institutional fiduciary may serve.
 - 1. The fee structure tends to penalize both donor and charity, especially for trusts of small or medium size.
 - 2. The charity may be able to negotiate more favorable rates on a blanket basis.
- D. A qualified individual may serve as trustee.

X. Selection of Term.

- A. Income may be payable to one or more individuals living at the inception of the trust;
- B. Income may be payable for a term certain not to exceed twenty years;

- C. Income may be payable for a life in being followed by a life in being, or by a term of years, whichever is shorter.
- D. Since younger lives greatly reduce the charitable remainder factor, consider terms of years to benefit children, grandchildren or others in younger generations than the donor, perhaps taking into account the anticipated completions of their education.

XI. The Remainder Beneficiary.

- A. All distributions of income or principal must be made only to a qualified charity or charities.
 1. §170(c)—qualified for income tax charitable contributions.
 2. §2055(a)—qualified for estate tax charitable deduction.
 3. §2522(a)—qualified for gift tax charitable deduction.
- B. The trust instrument may name alternate beneficiaries in the event the primary remainder beneficiary does not qualify, such as a parent or affiliated organization.
- C. As a fail-safe provision, trustee is typically given discretion to select one or more qualified charities to receive distribution if the named charitable remainder beneficiaries do not qualify at time of distribution.

XII. Selection of Assets.

- A. **Cash.** After-tax cash is a universally accepted asset. It may pave the way for tax exempt income to the beneficiaries, if desired.
- B. **Traded Securities.** Traded securities may be placed in trust without capital gains tax implications and may later be sold by the trust, also without capital gains tax. This often presents a donor with an opportunity to diversify without adverse tax consequences.
- C. **Closely Held Securities.** While they may be present some difficult valuation problems, closely held securities may be placed in an Annuity Trust or Unitrust.

- D. **Real Property**, other than a residence, office, or other property which the donor plans to occupy in the future, may be transferred into trust.
 - 1. Unproductive or underproductive real property will typically be sold by the trustee and the net proceeds reinvested in income producing assets. A Unitrust, Plan II, may be the best vehicle for administration of such property in trust.
 - 2. Certain real property interests, such as oil and mineral rights, may be very hard to value. An Annuity Trust may be utilized because it requires valuation only once at the time of funding.
 - 3. Encumbered property poses a number of problems which may be difficult or impossible to resolve and for that reason is frequently avoided when funding Annuity Trusts and Unitrusts.
- E. **Stamps, Coins, Antiques** and other items of tangible personal property are generally recognized as unsuitable for the funding of Annuity Trusts and Unitrusts because of the special rules which govern them for charitable giving purposes.

XIII. Summary of Benefits. The establishment of a Charitable Remainder Annuity Trust or a Charitable Remainder Unitrust can provide significant tax advantages and other personal and estate planning benefits, such as the following:

- A. Creation of such a trust will generate a current income tax charitable contribution deduction which would not be available to the donor who chooses to pass his assets to the charity by will.
- B. The trust frees the donor from management responsibilities for the assets which he transfers to it and provides reasonable assurance (although not a guarantee) that he and the other trust beneficiaries will enjoy an income for life or for the selected term certain.
- C. There is room for a reasonable amount of negotiation as to the selected rate of return and special circum-

stances, such as very advanced age, may be taken into consideration in establishing the selected rate.

- D. The donor may avoid capital gains tax on the transfer of appreciated assets to the trust, thus retaining all of the proceeds of the sale in trust to generate future income. Diversification may be accomplished through liquidation of a large block of stock or large parcel of property without recognition of capital gains for tax purposes.
- E. Establishment of the trust may benefit the donor psychologically by giving him a direct and tangible relationship with the charity or charities in which he is most interested during his lifetime. Such a relationship may lead to additional outright or deferred gifts to the charity in the future and also serves to assure the charity that the principal is irrevocably earmarked for its benefit when the trust matures.

WORKSHOP SESSION—CHARITABLE REMAINDER TRUSTS—ADVANCED

Winton C. Smith, Jr., Esq.
Memphis, TN

THE FEDERAL TAX STRUCTURE

THE CHARITABLE DEDUCTION—GRADUATED TAX RATES

HOW TAXES AFFECT YOUR CHARITABLE GIFTS

Through tax laws, the government provides incentives for donors to give to our institution.

1. It does this through graduated tax structures for:
 - a. Income Tax.
 - b. Capital Gains Tax.
 - c. Estate Tax.
 - d. Inheritance Tax.
2. The higher your income or the larger your estate, the higher your tax bracket.
3. The Charitable Deduction allows you to remove the amount of your gift from the reach of the top bracket which otherwise applies.

EXAMPLE: If you are in the 50% tax bracket, the cost to you of a charitable gift is only half of its face amount.

AMOUNT OF GIFT	TAX BRACKET	NET COST OF GIFTS
\$100,000	50%	\$50,000
\$ 10,000	50%	\$ 5,000
\$ 1,000	50%	\$ 500

TAXWISE GIFTS OF APPRECIATED ASSETS

Gifts that cost the least are often those made with
APPRECIATED ASSETS

When making a gift of a long-term appreciated asset, you save twice—on both income tax and capital gains tax. You get a charitable deduction for the full fair market value of the gift, and you save the capital gains tax which you otherwise owe on the sale of an appreciated asset.

EXAMPLE:	Donor in 50% tax bracket gives stock or real estate that cost and is now worth	\$ 20,000 \$100,000
	Donor obtains an income tax deduction for the property's current fair market value	
	Which produces income tax savings of (\$100,000 × 50%)	\$ 50,000
	Plus capital gains tax savings of (\$80,000 × 20%)	\$ 16,000
	Total Tax Savings	\$ 66,000
	Net Cost of Gift	\$ 34,000

NOTE: You can give appreciated stock and then go into the market and buy the same stock. This provides an increased basis in the stock and thus saves capital gains tax if the stock appreciates in value or, alternatively, it provides you with a greater deduction if the stock subsequently declines in value.

GIFTS OF CLOSELY HELD STOCK

Gifts of closely-held stock are extremely attractive gifts because they benefit our institution and they also increase the donor's spendable income.

It works like this: the donor makes a gift of closely-held stock to the institution. The gift produces a current income tax charitable contribution deduction. This income tax deduction saves current income taxes and the tax savings increase the donor's spendable income.

The gift is often followed by a sale of the stock by our institution to the donor's business. This sale provides current dollars for our institution and also returns the donor to a position where he or she owns 100% of the outstanding stock in the business.

The gift benefits our institution and also increases the donor's spendable income as much as a salary increase or dividend payment in the amount of the gift if the donor's income is subject to a 50% marginal income tax rate.

EXAMPLE 1

Donor, who is in a 50% income tax bracket, makes a \$10,000 gift of closely-held stock to our institution. The gift produces a \$10,000 charitable deduction. This increases the donor's spendable income as follows:

Charitable Deduction	\$10,000
Income Tax Rate	<u>50%</u>
Income Tax Savings or Net Increase in Spendable Income	\$ 5,000

The donor's spendable income increases an identical amount if the corporation declares a \$10,000 dividend payment. This of course involves no charitable gift.

Dividend Payment	\$10,000
Income Tax Rate	<u>50%</u>
Net After Tax Income or Net Increase in Spendable Income	\$ 5,000

The gift actually increases the donor's spendable income *more* than the dividend payment if the donor's combined federal and state marginal income tax is greater than 50%.

Suppose the donor's income is subject to a 60% combined federal and state income tax rate.

EXAMPLE 2

Donor, who is in a 60% tax bracket, makes a \$10,000 gift to our institution. The gift produces a \$10,000 charitable deduction. The gift provides a \$6,000 increase in spendable income as follows:

Charitable Deduction	\$10,000
Income Tax Rate	<u>60%</u>
Income Tax Savings or Net Increase in Spendable Income	\$ 6,000

This compares to a \$4,000 increase in spendable income if the corporation declares a dividend payment.

Dividend Payment	\$10,000
Income Tax Rate	<u>60%</u>
Federal and State Income Taxes	\$ 6,000
Net After Tax Income or Net Increase in Spendable Income	\$ 4,000

ACCUMULATED EARNINGS TAX

The gift followed by a redemption of the stock from our institution is especially attractive where the corporation has accumulated substantial earnings in the business over the years. The gift saves current income taxes and also reduces the possibility of an accumulated earnings tax being assessed against the earnings which have accumulated in the business.

We would welcome an opportunity to talk with you and your advisors about the possibility of a taxwise gift of closely held stock or other taxwise gifts to our institution.

Life Insurance Policies

Bargain Sale Gifts

Corporate Gifts of Research Equipment

Gift of Undivided Interests

Gifts of Bonds

Special Valuation Provisions

Tattletale Rule

CHARITABLE CONTRIBUTIONS LIMITATIONS

<u>Type of Property</u>	<u>Amount of Contribution</u>	<u>Adjusted Gross Income Limitation on Deductibility</u>
Cash	Fair Market Value	50%
Short Term Capital Gain Property	Cost basis	50%
Long Term Capital Gain Property	Fair Market Value	30%
Gift of Long-Term Personal Property— Related Use	Fair Market Value	30%
Gift of Long-Term Personal Property— Unrelated Use	Cost Basis plus 60% of Appreciation	50%
Gifts for use of Charity	Fair Market Value	30%

ALTERNATIVE: A donor may increase the limitation on deductibility from 30% to 50% of AGI for gifts of long-term property by limiting their charitable deduction to the asset's cost basis plus 60% of the asset's appreciation.

Carry-Forward Rule: Donors who reach their deduction limitation may carry forward the excess of their charitable deduction into as many as five succeeding years.

HOW TO MAKE A CHARITABLE GIFT SAVE INCOME AND CAPITAL GAINS TAXES AND INCREASE YOUR SPENDABLE INCOME

Donors often transfer highly-appreciated, low-yield assets to a charitable remainder unitrust, and increase their spendable income while providing an eventual gift for our institution. The Trustee pays the donors a life income based on the value of the trust assets each year. The trust may also run for a term of years up to twenty years.

The donors receive a current income tax deduction and also capital gains tax savings if the trust is funded with appreciated assets.

EXAMPLE: A donor in the 50% tax bracket transfers to a Trustee assets that cost \$20,000 but are now worth \$100,000

Donor receives a current income tax deduction of \$60,000 (this varies with the age of the donor and the agreed rate of return).

This provides donor with a current income tax savings of \$30,000. Plus capital gains tax savings of \$16,000. (\$100,000 - \$20,000 cost = \$80,000 gain × 20% = \$16,000). For a total tax savings of \$46,000.

The Trustee pays the donor an 8% annual return of \$8,000

However, donor's effective rate of return is

$$\frac{\$8,000}{\$54,000} = 14.8\%$$

CHARITABLE REMAINDER TRUST FUNDED WITH TAX-EXEMPTS

This Charitable Remainder Trust is funded with Tax-Exempt Bonds. As a result, the donor receives tax-free income in return.

EXAMPLE: Donor gives the Trustee bonds worth \$100,000

for which donor receives a current income tax deduction of \$40,000 (based on donor's age) which provides the donor with current income tax savings of \$20,000 (if in 50% tax bracket).

Donor receives 8% annual tax-free payments. \$8,000

This is equivalent to a tax-free return of 10%,

$$\frac{\$8,000}{\$80,000} = 10\%$$

Or a taxable return of 20%

$$\frac{\$16,000}{\$80,000} = 20\%$$

HOW TO EXPAND YOUR ESTATE WITH CHARITABLE REMAINDER TRUST

With careful planning you may be able to:

- *make a major gift to our institution
- *pass on an amount equal to the cost of that gift to an heir, tax-free,
- *and receive an immediate income tax deduction.

EXAMPLE: A donor, age 60, and his wife own a \$100,000 piece of real estate with a cost basis of \$20,000. They wish to leave \$100,000 to their daughter and they also want to leave a bequest to our institution. Here is the taxwise way they do it:

Donor establishes Charitable Remainder Trust using real estate worth \$100,000

which produces a current income tax deduction of \$40,000 (more if donor is older) . . .

which produces current tax savings of \$20,000 (assuming a 50% tax bracket) . . .

plus capital gains savings of \$16,000 . . .

A total tax savings of \$36,000.

The Trustee pays donor a 6% annual income \$6,000.

Donor takes \$6,000 income and he and his wife make a \$6,000 annual gift to their daughter who purchases a \$100,000 life insurance policy on her father's life with herself as beneficiary.

Question: How much does the daughter receive under this plan?

Answer: \$100,000

Question: How much would the daughter receive from the \$100,000 otherwise, after paying 50% estate taxes?

Answer: \$50,000

Question: How much does the institution receive under this plan?

Answer: \$100,000

Question: How much tax does the donor and his estate save?

Answer: Current income taxes \$20,000 plus estate taxes \$50,000 = \$70,000.

WEALTH ACCUMULATION TRUST

Mr. and Mrs. Donor transfer \$100,000 to trustee \$100,000

for which they receive a current income
tax deduction of \$50,000

which provides federal income tax
savings of \$25,000

plus capital gains tax savings of \$16,000

for total tax savings of \$41,000

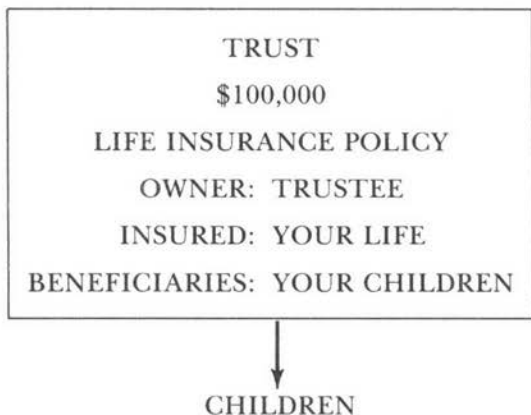
Trustee pays 6% a year for life \$ 6,000

The effective rate of return is actually 10.16%

$$\frac{6,000}{59,000} = 10.16\%$$

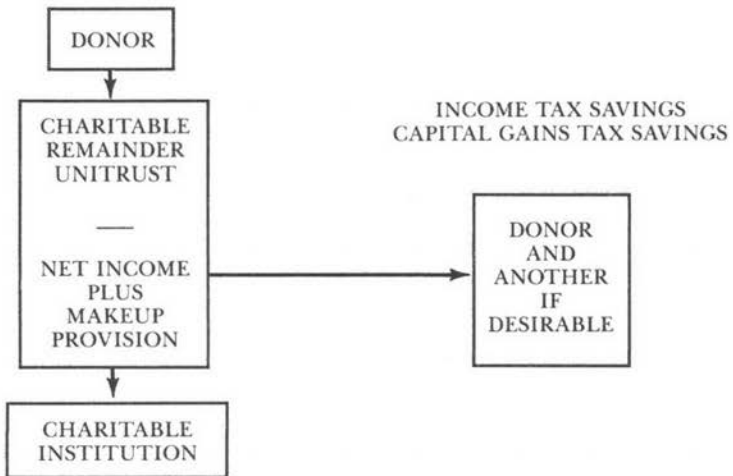
WEALTH REPLACEMENT TRUST

The Wealth Replacement Trust transfers property free of federal estate and state inheritance taxes and therefore it often provides an even greater inheritance for your children.



The Wealth Replacement Trust saves \$50,000 in federal estate tax, and \$10,000 in state inheritance tax. Your children thus receive the entire \$100,000 instead of \$40,000 which they would receive if this transfer were subject to \$50,000 in federal estate tax and \$10,000 in state inheritance tax which would normally occur if you simply left the property outright to them.

HOW TO MAKE A CHARITABLE GIFT AND SAVE CURRENT INCOME AND CAPITAL GAIN TAX AND PROVIDE A RETIREMENT INCOME FOR YOURSELF AND ALSO FOR ANOTHER PERSON IF YOU DESIRE



ADVANTAGES

1. Current Income Tax Savings.
2. Capital Gains Tax Savings.
3. Estate and Inheritance Tax Savings.
4. Tax-free Accumulation of Retirement Fund.
5. Maximize Retirement Income.
6. The present satisfaction of making a charitable gift.

HOW TO MAKE A CHARITABLE GIFT SAVE INCOME AND CAPITAL GAINS TAXES AND PROVIDE FOR YOUR GRANDCHILDREN'S EDUCATION

Donor transfers \$50,000 to Trustee	\$50,000
For which he receives a current income tax deduction of \$23,325	
Which provides current income tax savings of \$11,662	
Plus capital gains tax savings of \$6,000	
For total tax savings of \$17,662	
Trustee pays 10% to grandchildren for 8 years	\$40,000

FINANCIAL RESULTS

Donor pays \$11,662 in current income taxes.

Donor saves \$6,000 in capital gains taxes.

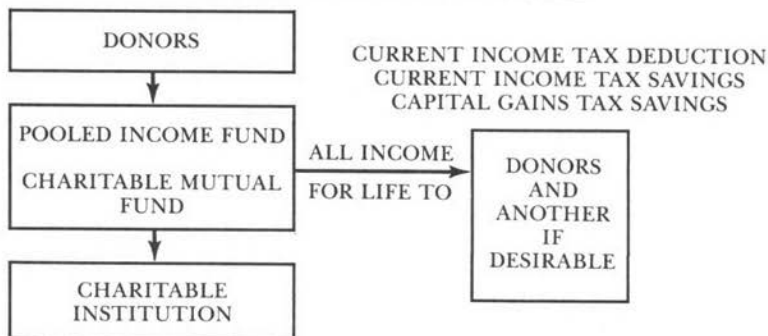
Donor saves \$40,000 in income taxes over 8 year term of trust since he or she would have to earn \$80,000 and pay \$40,000 in income tax in order to set aside \$40,000 for children's education.

Donor provides \$40,000 for grandchildren's education.

Donor provides \$50,000 for your institution.

Total value \$147,662 over 8 year term.

HOW TO MAKE A CHARITABLE GIFT AND SAVE INCOME AND CAPITAL GAINS TAX AND INCREASE YOUR SPENDABLE INCOME



ADVANTAGES

1. The simplest life income gift.
2. The gift often pays the maximum income.
3. Current Income Tax Savings.
4. Capital Gains Tax Savings.
5. Estate Tax Savings.
6. The present satisfaction of making a charitable gift.

CHARITABLE GIFT ANNUITIES

An annuity is an arrangement whereby a donor receives a guaranteed income for life in exchange for a fixed sum of money. A Gift Annuity is an arrangement whereby a charitable insti-

tution eventually benefits as well as the donor. Consequently, the donor of a Gift Annuity is allowed an immediate charitable deduction for income tax purposes upon setting up such an Annuity.

Advantages of Charitable Gift Annuities

Simplicity . . . They are easy and straightforward to arrange.

Guaranteed income for life.

Security . . . Lifetime income is backed up by all the assets of the charitable institution.

Donor receives an immediate tax deduction, and also capital gains tax savings if the annuity is funded with appreciated assets.

Donor receives partly tax-free income.

The Standard Guaranteed Annuity Rates paid by most charitable organizations with similar programs are as follows: The rate is the same for men and women.

Age	Rate of Annual Income	Age	Rate of Annual Income	Age	Rate of Annual Income	Age	Rate of Annual Income
50	6.5%	60	7.0%	70	7.8%	80	9.6%
51	6.6%	61	7.0%	71	7.9%	81	9.9%
52	6.6%	62	7.1%	72	8.0%	82	10.2%
53	6.6%	63	7.1%	73	8.2%	83	10.6%
54	6.7%	64	7.2%	74	8.3%	84	10.9%
55	6.7%	65	7.3%	75	8.5%	85	11.4%
56	6.8%	66	7.4%	76	8.7%	86	11.8%
57	6.8%	67	7.5%	77	8.9%	87	12.2%
58	6.9%	68	7.6%	78	9.1%	88	12.8%
59	6.9%	69	7.7%	79	9.4%	89	13.4%
						90 & Over	14.0%

HOW TO PLAN YOUR WILL FOR YOUR FAMILY, FRIENDS, AND YOUR CHARITABLE INTERESTS

1. List your BENEFICIARIES
2. List your PROPERTY AND ITS VALUE
3. TAX CLAUSE
4. BEQUEST OF PERSONAL PROPERTY
5. BEQUEST OF SPECIFIC AMOUNT
6. BEQUEST OF PERCENTAGE OF ESTATE
7. RESIDUE OF ESTATE

8. THE USE OF TRUSTS IN YOUR ESTATE PLAN
9. DISCLAIMER PROVISIONS
10. FINAL CONTINGENT PROVISIONS

**HOW TO PLAN YOUR ESTATE, SAVE ESTATE AND
INHERITANCE TAXES AND PROVIDE FOR YOUR
FAMILY, YOUR OTHER HEIRS, AND YOUR
CHARITABLE INTERESTS**

1. THE MARITAL DEDUCTION
2. THE UNIFIED TAX CREDIT
3. THE ANNUAL GIFT TAX EXCLUSION
4. TAXWISE LIFETIME GIFTS
5. ESTATE FREEZING TECHNIQUES
6. THE SPECIAL FARM VALUATION PROVISION
7. SPECIAL PROVISIONS TO DEFER ESTATE TAXES
8. CHARITABLE ESTATE PLANNING TECHNIQUES

THE ECONOMIC RECOVERY TAX ACT OF 1981
THE NEW FEDERAL ESTATE TAX RATES
UNIFIED TAX RATE SCHEDULE

Taxable Estate		Tentative		Of Excess
From	To	Tax	+%	Over
0	10,000		18	\$
10,000	20,000	1,800	20	10,000
20,000	40,000	3,800	22	20,000
40,000	60,000	8,200	24	40,000
60,000	80,000	13,000	26	60,000
80,000	100,000	18,200	28	80,000
100,000	150,000	23,800	30	100,000
150,000	250,000	38,800	32	150,000
250,000	500,000	70,800	34	250,000
500,000	750,000	155,800	37	500,000
750,000	1,000,000	248,300	39	750,000
1,000,000	1,250,000	345,800	41	1,000,000
1,250,000	1,500,000	448,300	43	1,250,000
1,500,000	2,000,000	555,800	45	1,500,000
2,000,000	2,500,000	780,800	49	2,000,000
Top Rates for 1982				
2,500,000	3,000,000	1,025,800	53	2,500,000
3,000,000	3,500,000	1,290,800	57	3,000,000
3,500,000	4,000,000	1,575,800	61	3,500,000
4,000,000	.....	1,880,800	65	4,000,000
Top Rates for 1983				
2,500,000	3,000,000	1,025,800	53	2,500,000
3,000,000	3,500,000	1,290,800	57	3,000,000
3,500,000	.....	1,575,800	60	3,500,000
Top Rates for 1984-1987				
2,500,000	3,000,000	1,025,800	53	2,500,000
3,000,000	.....	1,290,800	55	3,000,000
Top Rates for 1988 and Later Years				
2,500,000	.....	1,025,800	50	2,500,000

THE ECONOMIC RECOVERY ACT OF 1981
THE NEW UNIFIED CREDIT

	Credit	Exemption Equivalent
1981	47,000	175,625
1982	62,800	225,000
1983	79,300	275,000
1984	96,300	325,000
1985	121,800	400,000
1986	155,800	500,000
1987	192,800	600,000

Planning Opportunities

The Marital Deduction
The Marital Deduction Trust
The Credit Shelter Trust

THE TYPICAL TAXWISE WILL ILLUSTRATION

YOU CAN ELIMINATE THE FEDERAL ESTATE TAX FOR AN ESTATE OF \$1,200,000 BY 1987 IF YOU OBTAIN A WILL WHICH PROPERLY QUALIFIES FOR THE NEW MARITAL DEDUCTION AND ALSO INCLUDE A CREDIT SHELTER TRUST FOR YOUR SPOUSE, CHILDREN AND OTHER HEIRS.

WILL OF EITHER SPOUSE
Total 1987 Estate of \$1,200,000

Surviving Spouse
for
\$600,000

Credit Shelter Trust
for
Surviving Spouse
\$600,000

I leave my entire estate outright to my spouse *except* for the credit protected amount (\$600,000 in 1987) which I leave to the Credit Shelter Trust in Item _____ of my Will.

Trust provides all income for spouse and principal for spouse if needed for health, maintenance and support. The trust assets at surviving spouse's death go to the children free of estate taxes in the surviving spouse's estate.

Surviving Spouse's \$600,000 goes tax-free to the children. The survivor spouse uses his or her credit to protect this amount in the estate from tax, and thus it goes tax-free to the children.

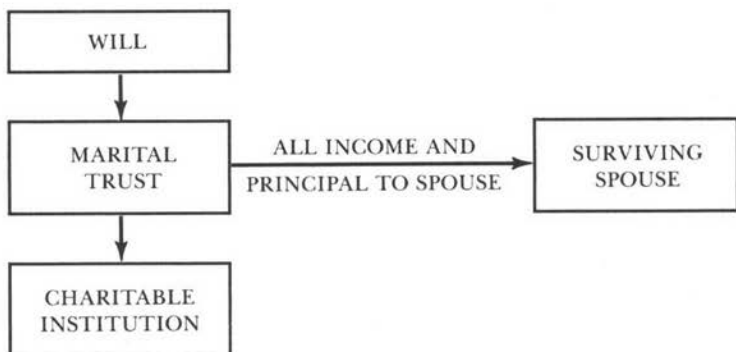
The Trust assets (\$600,000) eventually go tax-free to the children because they are not included in the surviving spouse's estate, and thus the trust assets are not subject to tax.

This plan provides \$1,200,000 tax-free for the spouse and eventually for the children.

You can eliminate the federal estate tax for an estate of \$800,000 in 1985 by using this plan. The amount protected from tax by this plan increases to \$1,200,000 in 1987 as the federal tax credit increases to the maximum amount in that year.

HOW TO MAKE A GIFT THROUGH YOUR WILL AND PROVIDE FOR THE MANAGEMENT OF ASSETS FOR A SPOUSE FOR HIS OR HER LIFETIME

THE NEW MARITAL TRUST FOR SPOUSES



ADVANTAGES

The Trust eliminates the federal estate taxes in the first spouse's estate.

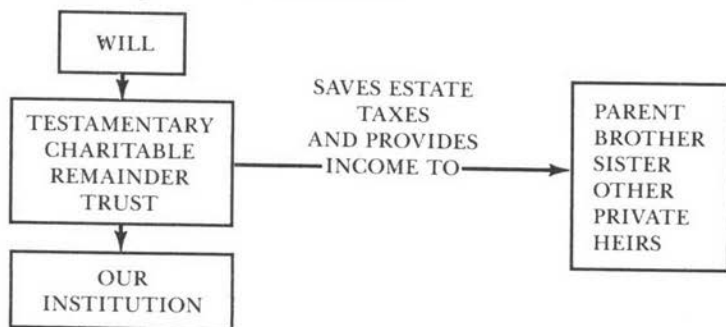
The decedent's assets are thus preserved to produce the maximum return for the surviving spouse during his or her lifetime. The Trustee may use the entire trust assets for the surviving spouse if needed as a result of unforeseen circumstances such as illness or uncertain economic conditions.

The Trust also eliminates the federal estate tax in the surviving spouse's estate if the trust assets provide for a charitable institution and its mission.

HOW TO MAKE GIFTS THROUGH YOUR WILL, SAVE TAXES, AND PROVIDE FOR THE MANAGEMENT OF ASSETS FOR A SURVIVOR FOR HIS LIFETIME

Why a Testamentary Charitable Remainder Unitrust Might Be Right For You.

A Charitable Remainder Unitrust in your Will provides for the management of assets for a survivor for his lifetime, saves estate taxes, and thus preserves your property to provide an increased income to the survivor for his lifetime, while providing an eventual gift to our institution.



ADVANTAGES

- Provides life income for a loved one.
- Provides for the management of assets for a loved one.
- Provides a possible hedge against inflation.
- Estate and Inheritance Tax Savings often mean increased income for heirs and/or other survivor beneficiary.
- Yields long-range support for our institution.

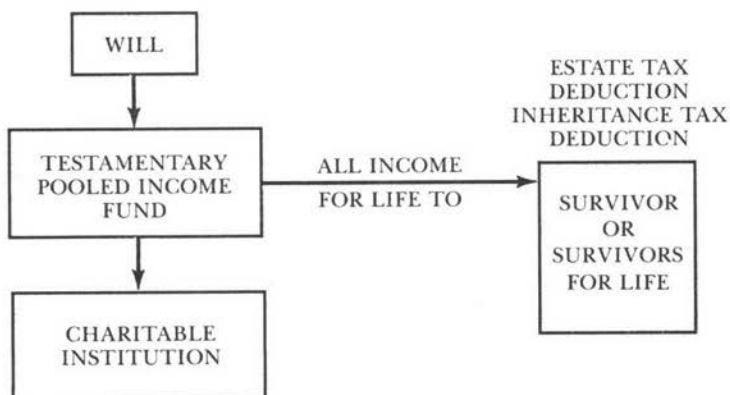
HOW TO MAKE GIFTS THROUGH YOUR WILL, SAVE TAXES, AND PROVIDE A GUARANTEED INCOME FOR A SURVIVOR

A Testamentary Gift Annuity

ADVANTAGES

- Provides a guaranteed life income for a loved one.
- Good rate of return.
- Assures management of assets for spouse or other beneficiary.
- Security.
- Estate and Inheritance Tax savings mean increased income for survivors.
- Yield long-range support for charitable institution.

**HOW TO MAKE A CHARITABLE GIFT THROUGH
YOUR WILL AND SAVE ESTATE AND INHERITANCE
TAX AND INCREASE A SURVIVOR'S INCOME FOR HIS
LIFETIME**



ADVANTAGES

1. This Plan often pays the maximum income to a survivor.
2. Federal Estate Tax Savings.
3. State Inheritance Tax Savings.
4. The present satisfaction of making a charitable gift.

**HOW TO MAKE GIFTS THROUGH YOUR WILL, AND
INCREASE YOUR ESTATE FOR YOUR HEIRS**

TESTAMENTARY LEAD TRUST

You can include a Charitable Lead Trust in your Will and make a gift to our institution for a term of years and also eliminate the Federal Estate Tax and also the generation skipping tax, and thus protect your assets for your children, grandchildren, or other heirs.

The following chart assumes a 50% taxpayer and compares a \$1,000,000 bequest to grandchildren or other heirs with a Testamentary Lead Trust paying 10% a year to our institution for 16 years, with the trust assets going to the heirs at the conclusion of the trust term.

The following chart assumes that the charitable contribution

deduction produced by the Lead Trust is used in combination with the unified tax credit to transfer the trust assets tax-free to the grandchildren.

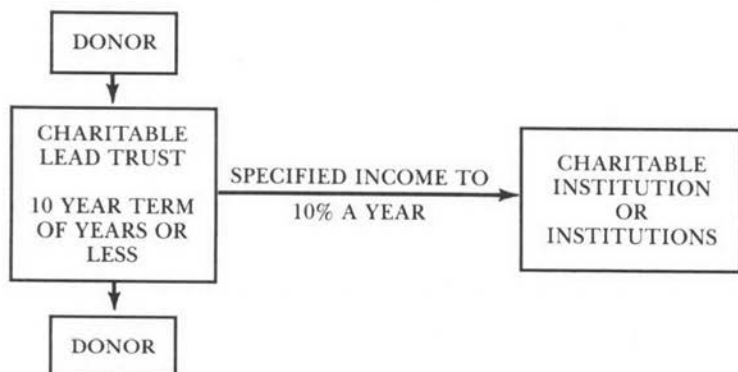
Column I assumes a One Million Dollar fully taxable bequest to heirs.

Column II assumes a 10% payout and no appreciation of the trust assets.

Column III assumes a 10% payout and 10% appreciation a year.

	Column I	Column II	Column III
50% Taxpayer	Direct Bequest	CLT	CLT
Federal Government	\$500,000	—	—
The Institution	—	\$1,600,000	\$1,600,000
Grandchildren	\$500,000	\$1,000,000	\$4,000,000

THE GIFT YOU CAN TAKE BACK THE SHORT TERM LEAD TRUST

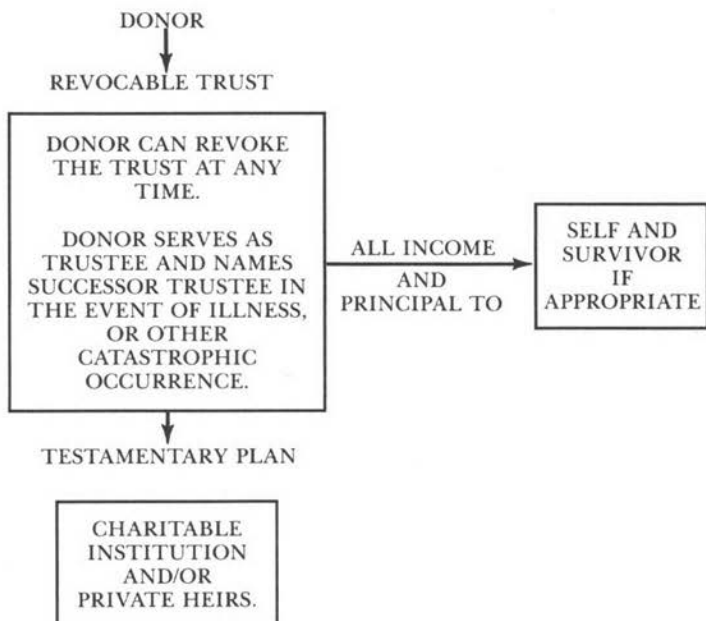


ADVANTAGES

1. Donor obtains current income tax deduction for the value of the gift over the trust term.

2. Donor maximizes income tax savings in current high bracket year.
3. Donor often uses this trust in high income years or in pre-retirement years or at a time when the donor or his advisor contemplates a possible drop in income tax rates in subsequent years.
4. Donor should fund the trust with tax-free bonds because the trust income is included in the donor's income during the trust term.

THE GIFT YOU CAN TAKE BACK REVOCABLE TRUST



ADVANTAGES

1. A gift you can take back if you need the assets later.
2. An effective plan for the management of your assets in the event of accident or other disabling illness.
3. A testamentary plan for the ultimate distribution of your assets.

LIFE ESTATE CONTRACTS HOW TO GIVE AWAY YOUR HOME OR FARM AND ENJOY IT ALL YOUR LIFE

A life estate contract enables you to give your farm or personal residence to our institution and retain lifetime use of it for yourself, your spouse and/or other beneficiary.

Your personal residence is not necessarily your principal residence. For instance, you can give away a vacation home, or stock owned as a tenant stockholder in a cooperative housing development, and retain lifetime use of same.

Advantages:

- Donor retains use of home or farm and income therefrom.
- Immediate income tax savings.
- Avoids capital gains tax.
- Eventual estate tax savings.

Example:

A donor, 65 owning a home or farm which has a charitable remainder value of \$100,000. Donor is in a 50% income and estate tax bracket, and donor enters into a life estate contract with our institution.

Income Tax Savings:	\$50,000
Estate Tax Savings:	\$50,000
TOTAL Tax Savings:	\$100,000

Note: Donor increases his or her cash flow by \$50,000 to reinvest at current high interest rates.

WORKSHOP SESSION—CHARITABLE REMAINDER TRUSTS—ADVANCED

Frank Minton

*Director of Planned Giving
University of Washington*

PART II. ADMINISTRATIVE PROBLEMS

Purchasing Tax-Exempt Bonds

The trustee of a charitable remainder trust may retain tax-exempt bonds which have been contributed to the trust, or the trustee may purchase tax-exempts with trust assets. Even if they are the only investment, the status of the trust will not be affected. Problems arise when the trustee is *required* to keep tax-exempt investments.

Restrictions on investments. Reg. §1.664-1(a)(3) states that a charitable remainder trust will be disqualified if the trust agreement includes a provision "which restricts the trustee from investing the trust assets in a manner which could result in the annual realization of a reasonable amount of income or gain from the sale or disposition of trust assets." It could be argued that a requirement to invest in high quality municipal bonds does not restrict the trustee from realizing a reasonable amount of income. However, in one case the Internal Revenue Service ruled that a provision requiring the trustee to invest in tax-exempt bonds or to retain tax-exempt bonds originally transferred will disqualify the trust (Letter Ruling 7802037). Thus, prudence dictates that the trust instrument impose no investment restrictions on the trustee and that it contain a paragraph stating that nothing in this instrument shall be construed as imposing such restrictions. Otherwise, the trust could be disqualified.

Converting appreciated property to tax-exempts. When appreciated property is transferred to the trust, an obligation on the trustee to sell the property and reinvest in a prescribed manner may cause the donor to be personally liable for the gain. The well-known Pomona Rule (Rev. Rul. 60-370, 1960-2 CB 203) specifically pertained to an obligation to reinvest in tax-exempt securities, but the Service on a number of occasions has sought

to broaden its scope to cover an exchange of appreciated property for any type of investment. The Service's position is that the donor, by creating an obligation, effectively sold the property and contributed the cash proceeds. If he must recognize the gain, presumably his contribution would be subject to the 50% of adjusted gross income limit.

The difficulty with the Pomona Rule is its reference to an obligation "either expressed or implied." An expressed obligation in the trust agreement is easily identified, but what constitutes an implied obligation? For example, which of the following would come under the purview of the ruling?

- Donor makes the gift pursuant to the charity's sales brochure illustrating the financial benefits when appreciated securities are converted to tax-exempts.
- Representative of the charity orally promises that the trustee will invest in tax-exempts even though the agreement contains no prescription.
- Donor writes a letter to the trustee stating his investment preference, but the trustee makes no commitment.

The first two situations probably could be construed as an implied obligation; the third unlikely. Inasmuch as the trustee has a fiduciary responsibility to the income beneficiary as well as the remainderman, it certainly seems appropriate for the trustee to take into consideration the beneficiary's financial objectives. Indeed, whoever negotiates the gift should, as a matter of course, convey the donor's objectives to the trustee.

To take the position that the trustee should never sell appreciated securities and buy tax-exempts appears to be an over-reaction to the Pomona Rule. There must be no restrictions in the agreement and no commitments, either in writing or orally, but a trustee acting independently, with knowledge of the donor's situation and concern for the charity's best interests, should be able to convert to tax-exempts when it seems appropriate. To be sure, the income paid to the beneficiary will not be all tax-exempt after the conversion, at least not for some time, because under the four-tier reporting system capital gains must be reported before tax-exempt interest. Nevertheless, income which is 100% long-term gain is often preferable to a slightly higher level of income, all of which is fully taxable.

Selling Closely Held Stock

Closely held stock may be transferred to a charitable remainder trust, but the transaction involves these potential problems:

Self-dealing. (I.R.C. §4941.) Since closely held stock generally pays no dividends, no payments to beneficiaries will be possible unless it is sold. It is rather well-established that a redemption by the corporation is possible without adverse tax consequences to the donor if the charity is not legally bound nor cannot be compelled by the corporation to surrender the shares for redemption (Rev. Rul. 78-197, 1978-1 CB 83). However, a corporation is a disqualified person in relation to a charitable remainder trust if the donor owns more than 35% of the voting stock. Thus, the redemption could be a prohibited act of self-dealing. One solution, assuming the trust is a "net-income" unitrust and the beneficiaries can forego income for a period of time, is simply to retain the stock in the trust until an eventual liquidation of the corporation. A present redemption could also avoid the self-dealing prohibition provided an offer of redemption is made to all persons who hold securities of the same class and the trust receives no less than fair market value. This exception is described in Reg. §4941(d)(2)(F) and is reinforced by Letter Ruling 8309063 dealing with a situation where a unitrust was funded with closely held stock and the corporation then offered to redeem the stock from the trust and other shareholders at fair market value. An independent appraisal and a record of corporate minutes and correspondence evidencing that a bona fide offer was made to all shareholders would be essential.

Excess business holdings. (I.R.C. §4943.) This problem only arises for a trust that provides payments to charitable remaindermen before the trust terminates (I.R.C. §4947(b)(3)(13)). An example is a trust having a 7% payout rate with 5% allocated to family beneficiaries and 2% to the charitable remainderman. In such a case, the maximum amount of voting stock that can be held by the trust, without being considered to have excess business holdings, is 35 percent reduced by the holdings of all disqualified persons. The maximum voting stock permitted to the trust is further limited when the trust and all disqualified persons

together own more than 35%. This problem of excess business holdings can be avoided by drafting the trust instrument to provide for no income payments to the charity when the trust will be funded with closely held stock. The prohibition of I.R.C. §4943 is also inapplicable to a lead unitrust or annuity trust if the present value of the income interest doesn't exceed 60% of the fair market value of the trust assets.

Unrelated business income. (I.R.C. §512.) A charitable remainder trust does not pay tax on passive income derived from rents, interest, and dividends unless any of those items derive from a "controlled corporation." In I.R.C. §368(c)(1) "control" is defined as ownership of at least 80% of the combined voting stock and at least 80% of all other classes of stock. If the trust owns this amount of stock in a business, all dividends and other income it receives from the company will be taxed. Generally an individual should transfer less than 80% of his stockholdings to a charitable remainder trust unless the trust will be able to dispose of these holdings in the near future, either through a liquidation or a sale. Actually the situation rarely arises because most donors will not make gifts where they and other family shareholders are left with minority interests.

Paying Expenses When Trust Property Generates No Income

If a charitable remainder trust is funded with an illiquid asset such as real estate, no cash may be available for current expenses. Presumably a "net income" unitrust will have been selected for this type of asset, so no payments need to be made to beneficiaries until the property is sold and the trust begins to generate income. Nevertheless, other expenses such as real estate taxes, insurance, utilities, and assessments have to be paid in the meantime. Ideally, the donor will contribute some cash or marketable securities along with the property to provide the trust with operating funds. In reality many donors are willing to part with the property only, and to insist on an additional contribution might jeopardize the gift.

The trust could perhaps borrow money, either from an external lender or from the charity itself. However, such a loan would probably be defined as acquisition indebtedness, causing

the gain upon sale of the property to be taxed. Ordinarily, rents from real and personal property and gains from the sale of the property are not subject to tax as unrelated business income, but they will be taxed as unrelated debt-financed income to the extent they derive from property subject to an "acquisition indebtedness." This term includes not only debt incurred in acquiring the property, but also debt incurred after acquisition "if indebtedness would not have been incurred but for the acquisition or improvement, and the incurrence of the debt was reasonably foreseeable at the time of the acquisition or improvement." (Reg. §1.514(c)-1(a).) The need to borrow to cover necessary expenses was certainly foreseeable at the time the property was transferred to the trust. While it could be contended that the trustee's intention was to sell the property as quickly as possible, it would have to be admitted that the probability of borrowing was very high.

So long as the property generates no income this is a moot point, but if the property is sold while the debt is still outstanding the tax consequences could be significant. Consider, for example, a piece of property having a fair market value of \$500,000 and a tax basis of \$50,000 transferred to a net-income unitrust. The trustee borrows \$10,000 to pay various expenses incurred prior to a sale for market value. The portion of gain considered unrelated debt-financed income is determined by this formula provided in Reg. §1.514(a)-1(a)1(v):

$$\text{UDFI} = G \times \frac{F}{B}, \text{ where}$$

G = gain in property

F = highest amount of acquisition indebtedness during the past twelve months and

B = property's average adjusted basis.

Substituting the numbers from the example,

$$\text{UDFI} = 450,000 \times \frac{10,000}{50,000} = \$90,000$$

In many instances where the loan for expenses is modest or the gain is small, the tax on the unrelated, debt-financed income will have a minimal impact on the trust, though there remains the inconvenience of filing the required return.

The tax would appear to apply even if the loan is unsecured and no lien is actually recorded against the property. This might be the arrangement if the charity, acting as trustee, pays the expenses from its own funds and merely records a debit against trust assets. Such a debit, even if unsecured, is apparently covered by the definition of acquisition indebtedness. The charity might pay the expenses directly, never charge the trust, and eventually recoup its costs from the distribution of the remainder interest. Considering the time value of money, this alternative could be rather costly to the charity. It also inflates the unitrust payments because these expenses are not deducted from the annual valuation amount. Nevertheless, it would seem to be a viable way of avoiding the problem of unrelated, debt-financed income. A modification of this approach would have the charity pay the expenses until the property is sold and then present the bill to the trust, which it would pay along with various selling expenses. Here no debt is recorded against the trust, and consequently the expenses are not factored into annual valuations prior to the sale. Technically the trust has no indebtedness since the obligation only begins when the bill is presented. This approach is not without risk because the Service might contend that substantively the indebtedness began when the charge was incurred, not when it was billed by the payor. Nevertheless, it deserves consideration as a practical way to handle trust expenses prior to the sale of non-income producing property and to compensate bank trustees who would not otherwise agree to manage a trust having no income or liquid assets.

Loaning Trust Assets to the Charity

Some charities would like to tap the funds within charitable remainder trusts to assist with a building project. That is especially appealing when borrowing power is limited or interest rates are high. Perhaps some of the trust remainders are earmarked for the building project, and the donors would be pleased if it could serve that purpose at an earlier date. In fact, a charity

might finance a building by asking individuals who cannot afford a major outright gift to contribute to a charitable remainder trust with the understanding that the charity will borrow the principal and pay interest only until the trust terminates.

It appears that such a loan would not be a prohibited act of self-dealing, even if the charity acts as trustee. The reason is that I.R.C. §501(c)(3) organizations are excluded from the definition of disqualified persons under Reg. §53.4946-1(a)(8). Thus, the loan could be secured by a note issued by the charity, or the trust could purchase revenue bonds issued by the charity. This very situation was addressed in Letter Ruling 8327032, which concluded that investment in the charity's securities or notes did not constitute an act of self-dealing and the trust would continue to qualify as a charitable remainder trust.

There is, however, an inherent conflict of interest when the charity, as trustee, loans to itself. If the trust is a unitrust and the interest charged is below market rates, the beneficiaries will be adversely affected. For the annual valuation amount, on which beneficiaries' payments are based, might be smaller than it would have been had another investment been selected. The beneficiaries would not be hurt if the loan is from an annuity trust at an interest rate equal to or exceeding the trust payout rate. That would eliminate any risk of exhausting the trust assets and stopping payments. The ultimate value of the charitable remainder would, of course, suffer from low interest earnings, but the charity presumably is willing to have present benefits at the expense of future benefits. Selecting an independent trustee eliminates the conflict of interest problem, but the charity couldn't count on the loans being granted. If the charity is the trustee, the problem is mitigated if the loan is from an annuity trust or from a unitrust at market rates.

Investing Trust Assets in the Charity's Endowment Fund

Just as a bank trustee can invest trust assets in its own common trust fund (Rev. Rul. 73-571, 1973-2 C.B. 213), so may a charitable trustee invest them in its general endowment fund (Rev. Rul. 83-19, I.R.B. 1983-4, 13). Before doing so these factors should be considered:

Investment performance. If it has been quite mediocre, investing thusly could be a breach of fiduciary responsibility.

Investment mix. Many endowed funds consist of about 50% equities and 50% fixed income investments. They would be appropriate for an annuity trust or a regular unitrust having a moderate payout rate. However, the modest earnings from equities might cause the payments from a net income unitrust to be consistently below the percentage unitrust amount.

Tax bracket of beneficiaries. High-bracket taxpayers will benefit to the extent that their trust payments are taxed as long-term gain. Thus, an endowed fund that pays modest interest and dividends but has steady growth is an ideal investment. On the other hand, an equity-oriented fund is less appropriate for older beneficiaries in lower brackets whose trusts have higher payout rates.

Accounting procedures. Commingling requires a proper accounting of appreciation and income attributed to the trust assets. Not merely the total, but also the character of the income, must be determinable—how much consists of interest, dividends, short-term gain and long-term gain. Such recordkeeping will not be difficult if the endowed fund operates on the unit system like a mutual fund and has regular monthly or quarterly valuations and distributions of income.

Liquidation of investments. The trustee will probably have to request a periodic liquidation of participatory units in the endowed fund in order to make the required payments to beneficiaries. Dividends and interests will likely be less than the stipulated payout, especially if the payout is in the 7% to 9% range. To minimize administration costs, the trustee can sell units once a year and retain the excess in a short-term, interest-bearing account.

Before commingling trust assets with the assets of its general endowment, the charitable trustee should ascertain that such an investment is permitted in the trust instrument. It should also make sure that commingling is permitted under state law and that the state Blue Sky laws are observed.

Consulting with Donor Regarding Investment Decisions

The sale of unitrust property directly affects the beneficiaries' present and future income. Thus, they may wish to be consulted about major transactions. For example, suppose that Miller contributed real estate appraised at \$200,000 one year

ago. It has been listed for the appraised value, but in spite of aggressive marketing techniques no offers even close to that amount have been received. Finally, the trustee receives a solid offer for \$150,000. He is inclined to accept it because management of the property entails considerable time and expense. Yet, he is aware that the donor was emotionally attached to the property and firmly believes that it is worth the full \$200,000, and he realizes that the donor would have some tax exposure if a selling price is reported on Form 8282 significantly below the value used in computing the deduction. Should the trustee consult the donor before responding to the offer, or simply exercise his own judgment and inform the donor after the fact? Assume the donor is consulted and advises against the sale, whereupon the trustee rejects the offer.

Has the donor been allowed to exercise a restriction contrary to the requirements of Reg. §1.664-1(a)(3)? In the past the Service has interpreted this provision broadly. In one case a donor, who had partly funded his unitrust with mutual fund shares, forbade the trustee from selling those shares for the duration of his life and prescribed that if they were sold following his death, the proceeds had to be invested in other mutual fund shares. Despite the fact that the trust instrument contained the standard disclaimer about restrictions on the trustee, the donor's directions disqualified the trust. (Letter Ruling 8238085).

Although the two cases have some similarities, substantial differences remain. The donor of the real property advises but does not prescribe. The trustee is perfectly free to act contrary to his advice. That is not necessarily the best course of action from a public relations standpoint, and if the selling price proved to be well below value, the trustee could be liable for the improper exercise of his fiduciary responsibility. Still, the trustee is able to make an independent judgment that an immediate sale of the property for less than appraised value will prove more beneficial to both the charity and the income beneficiaries.

Provided the donor understands that he cannot veto a sale or dictate the terms, soliciting his counsel is quite appropriate. After all, who else is more knowledgeable about the property than the person who owned it for years? Moreover, the donor should be allowed to say whether a somewhat reduced level of

income starting in the present is more important than the potential for more income if the trustee holds out for a higher price. Even if the trustee acts contrary to the donor's recommendations, the mere fact that the matter was discussed with him and his advice taken seriously will be appreciated. And reassurance that the trustee will invite his opinion on offers may be just enough to convince the teetering prospect who hesitates to lose control.

WORKSHOP SESSION—WHO'S IN CHARGE HERE—THE BUSINESS OFFICE OR THE DEVELOPMENT OFFICE?

David Lissner

Vice President, Bethel Foundation

Harvey DeVries

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Carleton College*

THE ADMINISTRATIVE IMPLICATIONS OF PLANNED/ DEFERRED GIFT DEVELOPMENT

The deferred gift officer's representation of a deferred gift plan presumes administrative functions and performance beyond his or her jurisdiction. Administrative performance is a critical element in marketing a gift plan. Therefore, both the deferred gift officer and the prospective donor need to understand with some reasonable degree of assurance who and how administrative performance will be provided. Often a deferred gifts officer represents performance which a business officer must deliver.

Obviously the donor is free to choose anyone to serve as trustee. If he/she chooses to work directly with a commercial trustee the institution has no responsibility for administration. However, it does have a great concern, first, for the donors satisfaction, because if any trust or gift arrangement is an unsatisfactory experience the institution representing the plan to the donor will likely be affected by the displeasure associated with administration of the plan. Secondly, the institution is concerned because administrative performance directly affects the value of the remainder interest.

If the institution is named as trustee it must "do" or "get done" the administrative performance through its jurisdiction. Usually administrative performance becomes the responsibility of the business officer either in doing it, or getting it done.

Value of a deferred gifts program to an institution involves ability in acquisition first, and in administration second! Some-

times it is less difficult to make a remainder value grow than to acquire a like additional gift. Whether it is more noble to acquire than to administer is not the question. How to do both is the answer.

In this session we would like to review for you the administrative implications of deferred gifts. Inasmuch as this generally represents a joint venture between the development and business offices we will treat the subject in a joint venture format:

Administrative Performance In Marketing Planned/Deferred Gifts (Development Office)

Administrative Performance Requirements for Sustaining A Planned/Deferred Gifts Program (Business Office)

All gifts generate some administrative responsibility; however, planned/deferred gifts have administrative implications which require substantial support services beyond the primary jurisdiction of the development staff. The nature of the required administrative support services derives from: 1. the form of the gift plan or the deferred gifts portfolio; 2. the kind of property used to fund the gift; 3. the specific objectives of the donor; and 4. the specific objectives of the institution.

This outline is simply a checklist of administrative and management considerations related to implementation and maintenance of a Deferred Giving Program.

I. Description

A brief description of the various items in the deferred gifts portfolio is required to clarify the administrative implications and distinctions between each.

A. Wills and Bequests

These usually require no institutional administrative action unless the institution is named as a corporate executor, trustee under a testamentary provision, or some other specific designation. There should be a standard procedure for response to notice of probate, representation of beneficial interests, receipt, and acknowledgement of bequests, and assimilation of the gift.

B. Charitable Gift Annuity

A Charitable Gift Annuity is a contractual arrangement between an institution and an individual whereby the institution agrees to pay a fixed annual income (annuity) to the individual(s) for life, in exchange for money or property. The annuity is a full faith and credit obligation for the institution.

1. There is no direct relationship between the gift property, investment of funds and the annuity payment.
2. Rates and tax implications are determined by formulas described by the "Committee on Gift Annuities" and Internal Revenue Service.
3. Compliance requirements have been established for several states and may vary.
4. There is a Deferred Payment Annuity option.

C. Pooled Income Fund Trust

A Pooled Income Fund Trust is a Charitable Remainder Trust maintained by a qualified charitable organization in which gifts of a number of individuals are commingled for purposes of administration and investment and from which each donor retains a proportionate share of the income for life.

1. A qualified charity must declare and maintain the fund under its jurisdiction.
2. All donors have a similar income interest in the fund. Each receives a pro-rata share of the income based upon the value represented by their gifts relative to the value of all other gifts in the fund. The fund distributes ordinary income only.
3. Specific restrictions apply to administration and investment of the fund (Section 642(c)(5) and 1.642(c)5(b), Internal Revenue Code.)
4. Tax implications are similar to Charitable Remainder Trusts with respect to income tax deduction, capital gains conservation, federal estate tax, etc. (Formula for income tax deduction is based on highest rate of return over previous three-year period, or nine percent if less than three years.)

5. Trust must be valued with respect to all existing gifts in the fund to determine unit value for any new gift.
- D. Charitable Remainder Trusts
1. A Charitable Remainder Unitrust pays a fixed percentage (not less than five percent) of the fair market value of the assets in the trust, as determined annually. Terms of the trust are for life (lives) or a term of years not to exceed 20. The remainder must be delivered over to a qualified charity.
Alternative 2 is to pay a fixed percentage of fair market value annually, as above, or the actual income, whichever is less, and deficiencies in payment must be made up in later years.
Or 3, to pay a fixed percentage of fair market value annually or the actual income, whichever is less, and deficiencies need not be made up in later years.
 2. Charitable Remainder Annuity Trusts pay a fixed annuity (annual income payment) based upon a rate, not less than five percent, applied to the fair market value of the assets placed in trust at the creation.
- E. Administrative Implication of Trusts
1. Specific governing instrument requirements are necessary to qualify the trust for tax benefits.
 2. Each trust must be administered as a separate entity.
 3. Income payments must follow and be treated exactly as earned in the trust and in a prescribed order as follows:
 - a. Ordinary income to the extent there is ordinary income adequate to meet the payment requirement (including realized short-term gains)—subject to ordinary rate
 - b. Long-term capital gains realized—subject to gains rates
 - c. Tax-exempt income—tax exempt
 - d. Return of principal—no tax.

II. Inter-Office Responsibilities

Administration of deferred gifts requires a coordinated effort from central administrative offices at most institutions. The Development Office does the acquisition function, computes and reports tax consequences, and negotiates the gift and all necessary arrangements with the donor. However, execution of a deferred gift agreement (trust, annuity, etc.) is at the corporate level and involves corporate or administrative resources. The Development Officer prepares and interprets all the technical implications, obtains all the relevant data from the donor, identifies the donor's specific objectives, etc. He/she is not usually an officer of the corporation authorized to execute agreements on its behalf, to assume investment management responsibility, do necessary accounting, etc. The Development Officer usually delivers the property (securities, stock powers, titles, deeds, cash) together with copies of executed agreements over to the Treasurer or Business Officer.

A. Development Office

Donor-elicited information for records and communication to Business Office:

1. Fund or Trust name and donor account designation or number.
2. Names and addresses of donor and beneficiaries together with relationship.
3. Names and addresses of donor's attorney, accountant, bank, professional advisers or agents, as appropriate, for recording and reporting purposes.
4. Birthdates and social security numbers of donor and all beneficiaries, as required for tax computation and fiduciary reports.
5. Tax calculation form and reports.
6. Nature and value of gift property for tax purposes and for payout purposes.
7. Cost basis, holding period, and means of acquisitions of property.

8. Dates of transfer, valuation dates and method, payment dates, fiscal year and type of agreement.
9. Special consideration such as type and timing of income, preferred tax treatment of income, or specific investment objectives.
10. Ultimate designation or use of funds at termination of income beneficiary's interests.

B. Business Office

1. Execute or complete transfer of property.
2. Establish and maintain all records and accounts.
3. Valuation, payment rates and schedules.
4. Payments and reports to donor/income beneficiaries.
5. Preparation and filing all fiduciary reports, tax return information, and requirement for compliance. (8283 & 8282 for reporting valuation and price of sale are applicable.)
 - a. Charitable Gift Annuities
 - annuity contract or certificate
 - tax calculation form
 - donor/income report form
 - W-2P
 - W-3
 - b. Pooled Income Fund
 - declaration trust (P.I.F.)
 - agreement form
 - tax calculation form
 - income beneficiary's report
 - SS4—identification number
 - 1041—fiduciary return
 - 1041K1—beneficiary's income
 - 5227—schedule of assets and values
 - 4720 (for violations)
 - computation of annual rate of return
 - c. Charitable Remainder Trusts (Unitrust-Annuity Trust)
 - conforming qualified executed trust
 - tax calculation form
 - SS4

- 1041K1
 - 1041A
 - 5227
 - 4720 (violations)
 - d. Revocable Trusts
 - SS4
 - 1041
 - 1041K1
 - e. Charitable Income (Lead) Trusts
 - 1041
 - 1041A
 - 5227
 - 4720
 - 6. Record all relevant donor data such as name and current address, social security numbers, cost basis, holding period, specific investment information, objectives, etc.
 - 7. Termination and Disposition of Remainders (Reference: "Guide to the Administration of Charitable Remainder Trusts," C.A.S.E.)
- C. Governor Board
- Trusteeship, jurisdiction for investment of funds, compliance requirements, fiduciary responsibility and management of assets is generally a corporate responsibility. Boards may create or use agents to perform the necessary functions, but they usually cannot assign fiduciary responsibility or potential exposure. Usually the Business Office or Treasurer stands between the Development Office and the donor, and between the Corporate or Governing Board and the donor in terms of execution of the administration of agreements; the Development Office negotiates, the Board authorizes, and the Business Office administers.
- The Board may appoint, assign, or work through an investment committee, retain an investment advisory service or use a commercial trustee actually to do the required work as their agents. However, the Business Office usually expedites Board policy at this point.

III. Governing Board

- A. Establish investment policies for the various kinds of funds and trust accounts.
- B. Maintain and manage each trust as a separate account and maintain specific objectives for separate trusts or kinds of property within trust accounts.
- C. Monitor performance of investment manager.
- D. Comply with regulations for trustees where applicable or demonstrate "prudent man" standards.
- E. Record and report action, changes, and considerations related to exercise of trusteeship.

IV. Administrative Implications of Forms of Gift Property

A. Facilitating Planned/Deferred Gifts

Various forms or kinds of property interests may be used to fund a planned gift. Often the form dictates a kind of administrative activity which requires specialized skills or effort. For example:

- 1. Gifts in kind including securities, real or personal property may involve problems of valuation, classification, appraisals, use, or sale.
- 2. Gifts of undivided interests may involve partnership relationships (limited or general) management, rentals, maintenance, etc.
- 3. Gifts of closely held, or corporate directors', or 5% owners stock may involve securities regulations, assumption of restrictions, voting, management, negotiations, sales, etc.
- 4. Gifts subject to life estate may involve interests in residences, farms, etc., and relationships with life interest parties.
- 5. Gifts of insurance policies involve premium payments, cash surrender, loans.
- 6. Payment used to fund charitable gift annuities involve compliance requirements, tax reporting, payments schedules, and fund management.
- 7. Property used to fund Charitable Remainder Trusts involve tax returns, income accounting, payments, fund or asset management, investments,

leases, sales and purchases, compliance requirements.

- B. In recent years, an increasing number of gifts has been funded with real estate, business interests, and a variety of properties other than securities. Commercial trustees may not always be uniformly best at managing all forms of property, nor do they always have the inclination to do so. It may not always be in the trustor-life income beneficiary's best interest, or the remainderman's best interest to sell, buy, diversify, retain, manage, develop, acquire, divest, etc. The institution must determine what and how much of this kind of activity it will assume, what other resources it may wish to use, what are the acceptable administrative alternatives and the consequences of each.

A commitment to a comprehensive planned/deferred gifts program requires significant facilitating decisions.

SAMPLE POLICY STATEMENT

The Board of Trustees shall formally establish policies which officially commit the College to a position which will protect 1) the best interests of the donor, 2) the official representatives of the institution, 3) the welfare of the institution itself, and 4) the administrator's charges with management related to the deferred gifts program. The following policies are recommended to the institution's Board of Trustees by the Development Staff:

A. Conflict of Interest

The interest of the donor shall come before that of the institution. No program, agreement, trust, contract or commitment shall be knowingly urged upon any prospective donor which would benefit the institution at the expense of the donor's interests and welfare. No agreement shall be made between the institution and any agency, person, company, or organization on any matter related to investments, management, or otherwise, which would knowingly jeopardize the donor's interest.

B. Legal Counsel

Prospective donors shall be advised to consult their

attorney in all matters related to deferred gift instruments, such as drafting of wills, trusts, agreements, contracts or other. They shall be advised to consult with their attorney or accountant on matters related to the tax implications and estate planning aspects of a deferred gift agreement. If a representative of the institution makes a referral to an attorney, it shall be understood that the attorney is retained to represent the donor-client's interests.

The institution shall consult with legal counsel in all matters pertaining to its deferred gift program and shall execute no agreement, contract, trust or other legal document with any donor without the service of legal counsel.

C. Influence

Representatives of the institution shall exercise extreme caution to avoid pressure or undue persuasion when dealing with prospective donors. The role of such a representative is to inform, counsel and assist the donor in estate planning concerns, including the exercise of prudent consideration of the donor's personal interests as well as in fulfilling charitable objectives.

All personnel employed by the institution to contact prospective donors or to promote the deferred gifts program shall be paid a salary or fixed wage, but shall not receive commissions which could give such personnel a beneficial interest in any agreement.

D. Scope of Service

Services of representatives of this organization shall extend beyond the consideration of the institution, to help donors remember whatever additional charitable interests they may have in other organizations and agencies.

E. Confidential Information

All information concerning prospective donors including names and addresses, names of beneficiaries, nature and worth of estates, amounts of provisions, etc., shall be kept strictly confidential by this organi-

zation and its authorized personnel unless the donors grant permission to use selective information for purposes of referral, testimonial or example at the discretion of authorized representatives. Employees of the institution who violate this policy are subject to dismissal.

F. Authorization for Negotiation

Only the personnel approved by the Board of Trustees shall be authorized to negotiate on behalf of the institution with any donor in respect to gift annuities, trusts, life income agreements and other formal deferred gift instruments that follow the format described in this program and are approved by the Board. Any agreements which involve a legal obligation on the part of the institution or its agents which do not follow the forms described in this program under "Deferred Gift Instruments," or are special agreements of any kind, will require the approval of the governing board.

Any real estate, real property or hard-to-value assets exchanged for an agreement of any kind must be approved through the governing board.

G. Limitations

No gift annuity shall be issued in exchange for an amount of less than ____ or for persons less than ____ years of age on the date of the agreement. Gift annuity agreements shall not be issued for more than ____ lives, and in a case involving more than one life, shall have a ____ dollar minimum.

No unitrust or annuity trust shall be written for less than ____ dollars, and where two or more lives are involved, the minimum amount shall be ____ dollars. Agreements for a term of years shall not be for more than ____ years.

Any exception to these limitations shall require approval of the Board of Trustees.

H. Investment of Funds

Funds received in exchange for a gift annuity or a life income contract, and funds placed in trusts ad-

ministered by the institution or any of its appointed agencies shall be managed under the jurisdiction of the governing board. Investment practices shall comply with guidelines established and approved by the governing board, utilizing the most competent professional advisory services available and which are designed to best achieve the objectives first of the life income beneficiaries and secondly of the remainder beneficiaries.

All funds received for gift annuity agreements shall be invested and retained in the fund until the demise of the life-income beneficiaries. Invested funds which have an obligation to a life income beneficiary shall not be hypothecated or used for self-dealing interests within other institutional funds.

I. Payments

Payments on life income obligations shall be made quarterly, semi-annually, or annually at the donor's choice. Payments shall be made and reported to the donor in the manner prescribed by the Internal Revenue Service Regulations.

J. Disposition of Funds

Only upon the demise of the last life income beneficiary shall the principal amount of a deferred gift be released to or for the use of the institution, and only an amount equal to the charitable remainder as determined by the governing board shall be released unless otherwise stated by the agreement.

SAMPLE STANDARDS OF CARE

1. Receipts shall be issued by authorized representatives of the institution for any funds or property given, or to be transferred under negotiation of any gift agreement.
2. The Development Office will deliver all funds or, property to the Business Office for handling and disposition under any gift agreement.

3. The Business Office shall confirm or establish valuation, rates of payment, beneficiaries, and payment schedule.
4. The Board of Trustees shall authorize official signatures for all official documents and agreements related to deferred gifts.
5. No agreements shall be concluded without advice and consent of legal counsel. Any agreements which differ substantially from approved forms must have the approval of the Trustees.
6. Accounting and reporting procedures shall conform to requirements of the Internal Revenue Service and shall provide the donor and/or income beneficiaries with information required by the I.R.S.
7. Trustees responsible for administration of the deferred gifts program for the institution shall meet at least quarterly and as often as necessary to review management of the program and performance of funds.
8. The Trustees shall establish the investment objectives of all deferred gift fund accounts.
9. All funds shall be subject to supervision of professional investment advisory service.
10. All accounts shall be held in the name of the institution or its authorized agents. A registered brokerage firm, member of the New York Stock Exchange, may be designated custodian of securities.
11. Orders to buy or sell on recommendation of investment advisory service may be authorized by the chief business officer of the institution with the consent of at least one other member of the Trustees responsible for management of the program. All transactions shall be reported to all the Trustees.

WORKSHOP SESSION—MARKETING LIFE INCOME GIFTS

John S. Ryan

Director of Planned Giving

University of Minnesota Foundation

I. Introduction

It is my privilege to share this session with my colleague, Frank J. Mayo. My comments are really dedicated to the donors I have had been honored to work with over the last twenty-six years. They have taught me what I share with you today. I continue to apply what they teach me in my new relationships with prospects and donors. My goal is to pass their teaching on—to assist you in raising even larger resources for your significant causes.

I would like to raise three questions concerning donors:

- (1) Where are the donors?
- (2) How do I find them?
- (3) What do I do when I find them?

Let's assume that all the organizations represented here today are carrying on noble work and therefore, you all have a significant group of people you have served in the past and are serving today.

Consequently, I will assume that the question is not really one of discovering prospects but recognizing them when they are close enough to touch. Now, if somehow we can figure out a way to just deal with people who are ready to move and who are ready to make decisions or want to make decisions, then we're always going to be dealing with very qualified and motivated prospects.

II. Understanding the Potential Donor.

I will attempt to share what donors have taught me in the following visual illustrations:

A. Donor Life Cycle—(See Illustration I)

There is a simple life cycle that I've experienced in dealing with donors. We can divide life into three segments: people, property, and distribution. For example, my first job as a child was pulling groceries home in a cart for my folks who paid me fifty cents.

As soon as the coins hit my hands, I went over to the hardware store and spent all my money on a tennis ball. So as a little boy, I was the people. I spent my income on a tennis ball for my own self-interest. The tennis ball was my property.

Fifteen years later I was married. My wife was pregnant, and I had to make decisions concerning what to do with my \$300 per month income. My choices were limited to the needs of my family, and \$300 went to buy all the things we needed at that survival stage in our lives.

We've talked about the mindset of a child and a young adult. Now let's skip to the end of a person's life cycle and view the three segments again. People who are older have usually accumulated savings and other investments to try to take care of themselves. They are at a time in their lives when they have to make distribution decisions depending on their welfare and the welfare of their heirs or loved ones. If they don't have any heirs or don't care to do anything for a natural heir, then the only other option they have are charitable causes. As we move along in our discussion, we'll see how this need to make distribution decisions is intensified by other forces and relates to our role as development officers.

B. Fund Raising Pyramid (See Illustration II)

This simple fund raising pyramid represents almost every charitable organization: a constituency, annual giving, capital campaigns, and planned giving. I feel uncomfortable with the limited term "planned giving," because we're either dealing with small or big gifts, and those big gifts are either present gifts or future gifts. Planned giving, if it's done correctly, should generate an enormous cash flow, and we might refer to planned giving as simply the art of generating large gifts.

Look at the very bottom of the pyramid. At the University, everyone in the state or everyone who has ever lived in the state is a prospect, because whether

they know it or not, we've done something to benefit their lives. We can't call on everybody so we have to qualify our large constituency. The next step up the pyramid is our mailing list. This group still represents too many to call on so we must qualify further. Moving up again, we begin to discover gift levels of \$100,—\$500,—\$1000, and even higher. Continuing on upward, we find the Capital Campaign. I work at the very top of the pyramid where we find Planned Giving. The difference between capital fund raising and typical planned giving is that when people make capital campaign gifts, they have something left over to keep. On the other hand, planned giving decisions center around making distribution choices for *everything* people have taken a lifetime to accumulate.

Please direct your attention to the second line on the right side of the pyramid, labeled the Stages of Life. I've already referred to the struggling times when my wife and I were first married. How many of you can identify with that in the early stages of your career or your married life? Every donor I've ever dealt with, regardless of their present financial comfort, can identify with that first stage, the Survival Stage of life. We need to remember that, even if the person's net worth goes up into the millions, people keenly remember and identify with those days of difficulty.

Secondly, there is the Accumulation Stage of life. Our youngest, now age twenty-three, graduated from college a year ago. My wife and I now find ourselves with a surplus disposable income of \$8000 because we're not assisting him with educational expenses anymore. We've started to save, to accumulate money. A third stage, the Preservation Stage of life, is around or soon after retirement. At this time, people often get very conservative. For example, they often get out of the stock market, because they don't want to take any risks. Government paper and bank certificates satisfy their orientation towards safety. Somewhere along the growing older line, (see line on far right) people enter the

fourth stage of life, the Distribution Stage. In my experience, people usually enter this stage in their late seventies or eighties. All of a sudden people start consciously or unconsciously thinking about distribution decisions. They have thoughts like . . . "I've taken care of myself and others and accumulated all this. I really don't need all I have and I have to decide who's going to get what I've accumulated."

When people come to that time when they need to make distribution decisions, what shapes their actual decisions?

Example: One night, several years ago, my wife JoAnne and I were dining alone, enjoying our empty nest. To my surprise JoAnne asked me, "Why do people give money to the University?" I was surprised because we seldom discuss my work. I said, "Let's assume that thirty years from now, we've both inherited a wee bit from our parents. And let's say our net worth was half a million dollars. We're childless . . . and all of a sudden . . . I'm dead. I'm no longer here, and the following Monday you have to visit our attorney and tell him or her what you want to do with our half a million dollars." I said, "What would you tell him?" "Oh," she said, "I'd leave it to the kids." I said, "Honey, remember we don't have any kids so what are you going to tell our attorney come Monday morning?" "Oh," she said, "I'd leave it to the Trinitarian Congregational Church of Wayland, Massachusetts."

Now Trinitarian Congregational Church is 1,400 miles from where we have lived for the last nine years. I knew exactly why my wife responded the way she did. In our early thirties, she had needed some help and a little encouragement. There was a counseling pastor in that church who met a need in her life and did something to help her that she never even shared with me. The thing I do know is that when my wife had to make a decision to distribute everything that we accumulated in our whole lifetime, the Trinitarian Congregational Church of Wayland would have benefited.

If you remember nothing else from this seminar, I hope this story will be useful. Somewhere along the line when that light goes on and people have to make distribution

decisions they naturally return to the people and institutions that have made a difference in their lives.

The first line on the right side of the pyramid I have referred to as the "line of serious deliberation." I will use my own personal experiences to illustrate how people think differently depending on the dollar level of the gift. Several months ago, on the way to the University book store I met a fellow who claimed to be an Iranian student. He had quite a selection of visual aids showing individuals who were being tortured in Iran and he said, "Will you give some money to help people who are being abused by Khomeini?" I pulled out a ten dollar bill and I handed it to him. I said, "Can I have a receipt?" He replied, "I don't have any receipts." I walked back to my building and about the time I reached my office I realized, "I've been conned. This guy's a con-man!" But you know, I never went back to try to find him, and the reason was that ten dollars was such a low level of serious deliberation that it really didn't make any difference; it wasn't worth the trouble.

Now when a friend of mine comes to me and says, "I've committed myself to get five people to give \$100 each to help a campus worker. Will you be one of the five?" I'll write out a check for \$100 even if I don't know the worker or even if I don't like the organization . . . Why? Because my friend asked me to help him.

When it gets to \$500, I have to like an organization, and I start to get more, yes, much more serious. When it gets beyond \$500, it becomes extremely serious. For example, I give a substantial amount to my church. Requests come along which cause me to consider increasing my pledge. If I have reservations about how money is being spent and/or I think the minister might be manipulating the process, I will freeze that contribution or give the increase elsewhere. How many of you identify with this decision making process?

As the giving amounts increase, the more serious I get. However, we must remember I still have plenty left both in present and future income, and I have retained most if not all of my property. When people get to the Distribution Stage of their lives, this is the most serious deliberation that they will ever make.

We have to be careful in fund raising to recognize when people are in this stage of life.

At the left side of the pyramid, you will find the donor thought line. A donor recently died and left the University several million dollars. She said, "John, when my husband Bob died, the bankers came out and said I should sell the land, liquidate everything, and put it in nice, safe investments that we could easily manage. I had debts and was forced to sell 400 acres in order to pay them off." She said, "John, you think a lot about money when you're in the Survival Stage of life." "But," she added, "When you have more than enough and things are going better, you don't think about money anymore, you think about values . . . about the important things in life." The difficulty is that in fund raising we can easily be perceived as leeches because too often we're talking and writing about money. If dollar signs are in our eyes, our potential donors will see right through everything we say.

The second line on the left is the method of solicitation. It is noble to ask for money and yet I don't remember asking for money ten times in twenty-six years of fund raising. Why? Because I've found that if I listen to what's really going on, people will make statements about their values, and I can follow up on those statements of value and close large cases without ever having to directly ask for money. It's an art form to know when to stop asking and when to start listening. In my experience, I found that asking for money is counterproductive at the top of the pyramid.

Your highest potential prospects are probably already somewhere in your organization's pyramid structure. As a result, your marketing and communications should be calculated to make it very easy for these individuals to strengthen the strong bond that already exists—dormant or latent as it may be.

C. The point where prospects are the most motivated.
(See Illustration III)

As we deal with people, we should be alert for those who are at the place in life when all the lines on the pyramid are intersecting. These people are your most qualified prospects.

What can you do to find these qualified prospects? Whenever someone comes to your attention who has

done something good for your organization or inquires about some aspect of your program that could ultimately result in increased funding, I recommend the following:

- (1) Pick up the telephone immediately and sincerely *thank* these prospects or donors for what they have done or inquired about doing.
- (2) Tell them how much their gift or inquiry means to you.
- (3) Ask them what *motivated* them to make such a generous gift or led them to inquire about the bequest, gift annuity program, or any other giving opportunity.
- (4) Be quiet and listen. It often will take ten minutes or more to listen to the difference your institution has made in their lives. Interject additional questions in order to draw out the prospect's full feelings.
- (5) Ask yourself. Where is this person on the fund raising pyramid . . . perhaps the lines are intersecting! Good news!

D. Practical Suggestions

The place of recognition. (Refer to Illustration IV)

At the University we recognize people in traditional clubs at the ten thousand, hundred thousand, and the million dollar cash giving level. For future gifts, those same clubs require—\$25,000, \$150,000 and \$1.5 million commitments.

Let me concentrate on the \$25,000 future gift requirement for the Presidents Club. It was a real problem for me when someone would say, "I'm thinking about doing something or have done something for the University in my estate." I wanted to thank them but there was no gracious way for me to say, "We can thank you if the gift is over \$25,000." I've tried to write it, and I've tried to say it. Every time I tried, I felt tongue-tangled. Why? Because we've unconsciously violated two common principals:

- (1) We were *prying* for an amount.
- (2) We were inferring that amounts under \$25,000 were not worth appreciation.

We were violating some very sensitive danger zones in order to get another name on our Presidents Club Roster. Was there a solution?

We recently created a new recognition vehicle which we called the Heritage Society. We thank all future givers. They don't have to provide us with any documents. All they have to do is tell us they've done something by signing an acceptance invitation. We thank them personally and by letter and give them a paperweight as a memento.

What will actually happen in real life is as follows: When people tell us they have done something, they are cultivated and graciously thanked. Most of these donors will move up into the higher gift club levels because most of their gifts are already in excess of \$25,000. However, they never would have told us anything if we pried or had dollar signs in our eyes in the cultivation process. Also we find the inquirers actually make cash gifts and life income gifts of a substantial nature.

So much of our big gift marketing and individual approaches to our friends are based on gratitude and appreciation that the Heritage Society is becoming a very effective and comfortable vehicle for everyone, for both development staff and volunteers.

E. Simple Explanation of Charitable Income Contracts

I want to spend a moment reviewing what I have found to be a simple way to explain complicated charitable contracts. Many of you have been to the Uni-trust, Annuity Trust and Pooled Income Fund Marketing sessions. They are necessary because you need to know the technical data relating to the various contracts. The difficulty is that if we try to superimpose our knowledge on the donor, we may confuse the donor and we'll never be able to benefit them or our charitable cause. How can we explain to a donor

in a simple way what these very complicated trusts do? I've used Illustration V over the years and have found prospects and donors can understand most of what they need and want to know prior to making a decision. I usually draw it on a napkin or scrap paper.

Let's assume a person wants to leave \$50,000 to a loved one. There are two ways to give. You can give either capital or income to your loved ones. I ask the prospects, "Have you ever thought about leaving income to your heirs?" "Well, no, I never thought about that. How does that work?" I then explain how it works. You put \$50,000 in the reservoir, and the reservoir will pour out the exact amount of money you want your niece to have spread over as many years as you desire (up to twenty years or her lifetime). When she gets the exact amount of money you want her to have, say \$50,000, then what ever remains in the reservoir will revert to your preferred charity. You pick the amount in the reservoir, the amount of income, the time period, and the charity to benefit.

Now obviously this illustration is simplistic; however, I have found that it helps donors understand. You can't create a Gift Annuity for a term certain so we usually recommend an Annuity Trust for between ten to twenty years with income not exceeding ten percent. I have had these testamentary agreements signed where the donors didn't even know which contract was going to do the job. The donor didn't care. The only thing the donor wanted to know was that the loved one was getting \$500 a month for the rest of their life.

Example: A prospect, age 64, was referred to me recently. His wife had died of cancer shortly before we met. They each had their own careers and no children. He had an estate of approximately \$700,000. He wanted to take care of his loved ones. I said, "Well, there's two ways to take care of your loved ones. Either you leave them capital or you leave them income," and we went over the income stream

scenario. He decided on income versus capital as eight out of ten people I talk to do. We now have three testamentary life income contracts in our inventory—two Gift Annuities, one to his mother initially and then his sister, if they both survive him and a second Gift Annuity which benefits a brother-in-law, if he survives our donor. In addition, a testamentary ten year term certain Annuity Trust will provide nieces and nephews with the exact amount of dollars he wants them to have. We worked this out with an out-of-state attorney who was initially terrified of any kind of testamentary gift annuity or charitable remainder trust. We were able, through our counsel, to help him draft these documents and bring this case to the point where a signing took place. However, this is not the end of the story.

F. Memorandums to File.

Illustration VI is an example of what the University Foundation calls an Exhibit B. This spells out in detail what the institution will do with this prospect's money once the obligations of the income arrangements for his heirs are complete and funds are released into the area of his choice. Exhibit B is also useful for outright bequests.

The Exhibit is signed by the donor(s), the Deans or Department Heads, and the Executive Director. This agreement maintains the identity of the donor's funds with his or her values and ties in directly with the key motivation behind the decision to give. Donors normally do not want to give to a big charitable pot and allow others to determine what is the best use of their money.

This agreement forces development officers, donors, and academic professionals to communicate and usually puts donors in direct touch with the program they love. This results in the opportunity of continued cultivation being shared or even taken over by the key individual responsible for administering the money the donor plans to give. The relationship between this

key individual and the donor should result in large lifetime gifts . . . not by asking . . . but by the natural process of continued communication.

G. Bequest donors often have the potential to give generously during their lifetime.

Exhibit B also demonstrates how a phrase can be included to provide lifetime giving. Allow me to return to the donor I was just describing to illustrate this provision.

The following is an example of what happened during a recent visit with this donor. "By the way, Bert, I would estimate that you probably have \$30 to \$40,000 worth of surplus income right now that you aren't spending." I knew about what his life style was. It probably cost him \$15,000 a year to live. "You're saving this money, and it will eventually come to the University." And he said, "You're right." I said, "Have you ever thought about helping the students right now that you want to help in your distribution plan?" And he said, "That might not be a bad idea." I responded, "If you have some extra money sometime, you might keep this in mind." He said, "By the way, you know I still do some part time consulting. Maybe I could . . . does my company have a matching fund program?" I replied, "Yes, I think so." "How much can I match?" he asked. We walked down the hall and spoke to a staff member who looked up his company. Would you believe that his company matches up to \$10,000 a year. I predict that this future gift donor will make a \$10,000 gift which will be matched by another \$10,000 before the end of the calendar year. It will probably underwrite four full tuition, board and room, scholarships for young women from rural Minnesota who would not be able to come to the University were it not for this donor's lifetime giving.

The lines on the pyramid may intersect at ages younger than the late seventies or eighties. Sometime they intersect at a younger age as in Bert's case. I can remember dealing with people as young as the mid

twenties where deteriorating health forced distribution decisions.

When you're dealing with donors at the top of the pyramid and they've made plans to leave you their entire estate, remember the following: Someday they are going to leave it all to you. When donors tell you, "Oh, I don't need any more income, I can't spend the money that I have right now" or when they have neither the health or energy to spend what they have coming in, you might give them the opportunity to have a lot of fun for their remaining years . . . like funding the very things that they're planning to fund after they're gone. And this works; I'm being facetious here in a sense, but it really works.

You're giving them an opportunity to perpetuate their values expressed in their estate planning immediately. The department involved sees to it that the students benefiting are in direct contact with the donor to express personal appreciation. The relationships that will be built as the result of lifetime giving will continue to fuel their motivation. How do we measure a good fund raising operation? Illustration VII shows that a good shop moves people up the pyramid, broadens the base of the pyramid, and also moves people down the pyramid (from the top where future distribution decisions are made) to active large current gifts.

Did I ask Bert for money? Well, I did make a suggestion that he could activate his value system now rather than later.

H. Handling Bequest Inquiries

How should we deal with people who make inquiries for bequests? We're currently producing a pamphlet on bequests. When we initially started to design the pamphlet, we asked ourselves what we wanted to accomplish. The principle thing we wanted to accomplish in the pamphlet was to have prospects or their attorneys feel comfortable enough to pick up the phone to call us. When this happens, we want to

have them tell us about their motivation and their values. We can help them with some tailormade testamentary language.

Let me take you through Illustration VIII to show you how it might happen. This outline is the basis on which we hope to improve our communication with our friends. The pamphlet will be enclosed in gift receipts, and it will have a tearoff portion to enable people to ask for more information. The typical inquiry comes from either a donor or the attorney, and often people who are going on a trip. The attorney will say something like, "My client's getting on a plane Thursday morning. They're coming in here Wednesday afternoon at 3:00, and I have six hours to draft the documents. Give me the language so that I can proceed." I reply, "Oh, your client wants to establish a scholarship fund. Well, I can give you some basic language, but this usually won't do a thorough job." I tell the attorney that his or her client can simply leave funds to the University of Minnesota Foundation, address, etc., to establish a scholarship fund in the name of Mary Jones but there are some problems in this approach. Let me share what those problems are.

Someone needs to ask the client some qualifying questions. Is the scholarship to be endowed or an outright gift? Is it to be memorialized? If so, for whom? Their mother, their deceased son or themselves? Need or merit? An upper class man or woman, a beginning student or a graduate student, etc.? What department do you want to benefit? (I've never run into a mechanical engineer who wants to give funds to an electrical engineering student. They all want to give it to mechanical engineers.) Who will make the decision? The dean? The department head?

Does your client have time to think through these issues prior to signing? "Well, no, you raise some excellent points but I have to get this will signed. Would

you like some temporary and flexible language?" "Yes, I really would."

I suggest the following: **To the University of Minnesota Foundation to establish the John Jones Memorial Scholarship which shall be further described in a memorandum to file described as Exhibit B.**

Then I make arrangements to get back to the attorney or invite both him or her and the clients to lunch to discuss their objectives. Usually the invitation is accepted, and long term relationships are established.

III. Conclusion:

I'd like you to take one last look at the pyramid we've been discussing. Now turn the pyramid upside down. What does it look like now? A funnel . . . when we *listen to* people and *listen for* the values they express, you will discover an amazing dynamic. When people are able to release their feelings, tell their stories, they fall out of the funnel . . . naturally, without any pushing on our part. When we behave in this manner, we often provide an answer to a person's search for meaning . . . and that is why I call our work a noble endeavor.

Thank you for your attention. My hope is that one or more of the above suggestions will be useful as you market not only life income gifts but your whole program.

LIFE CYCLE

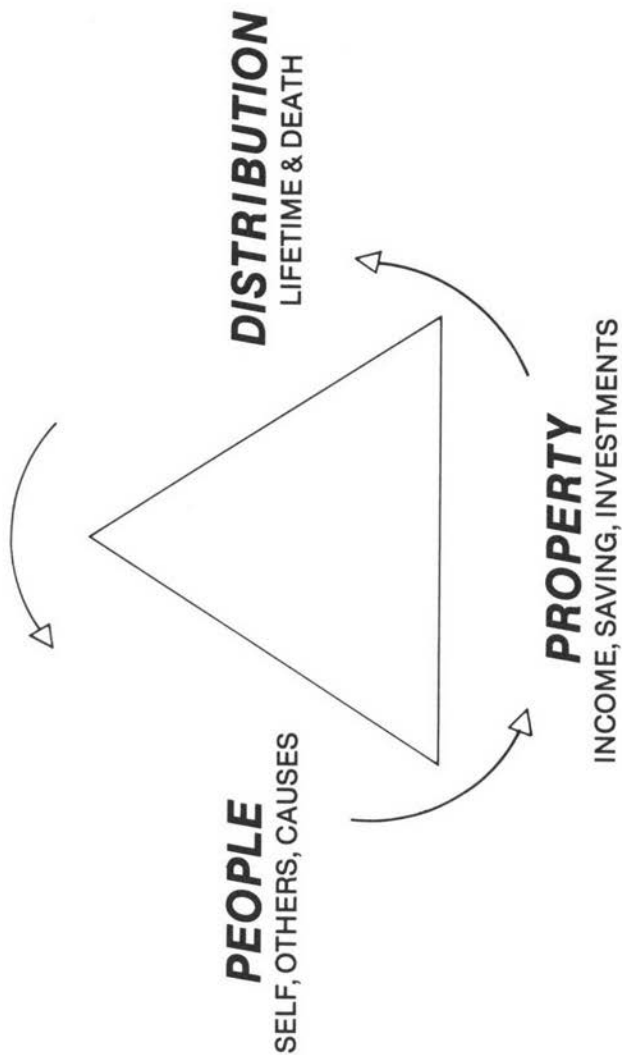


ILLUSTRATION I

ILLUSTRATION II

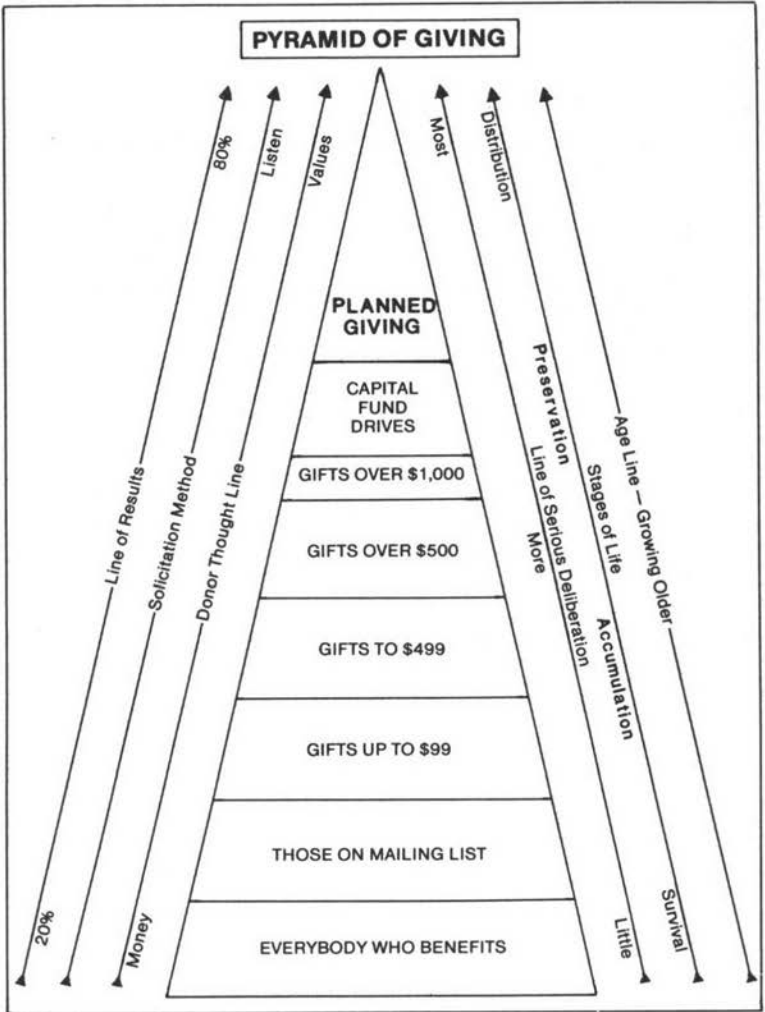
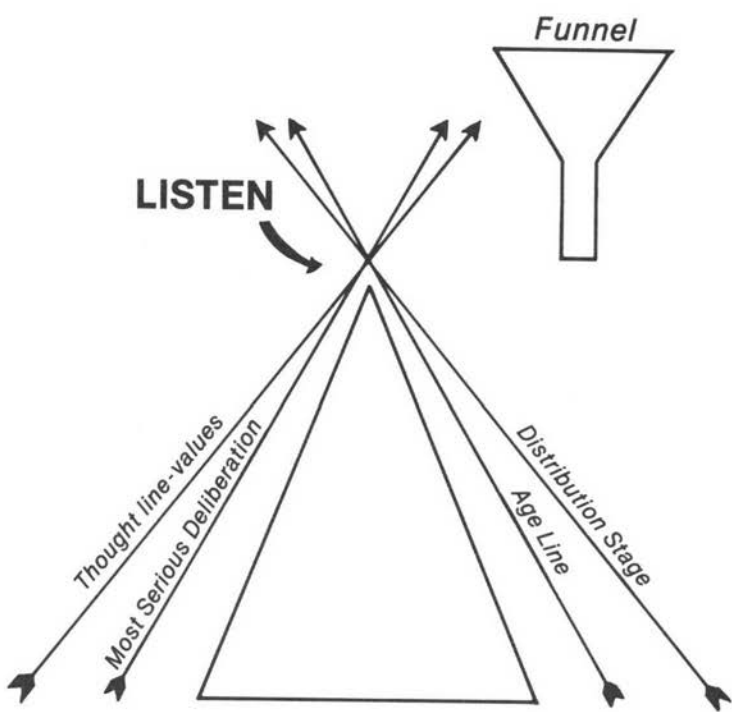


ILLUSTRATION III



RECOGNITION MEASURED BY SIZE

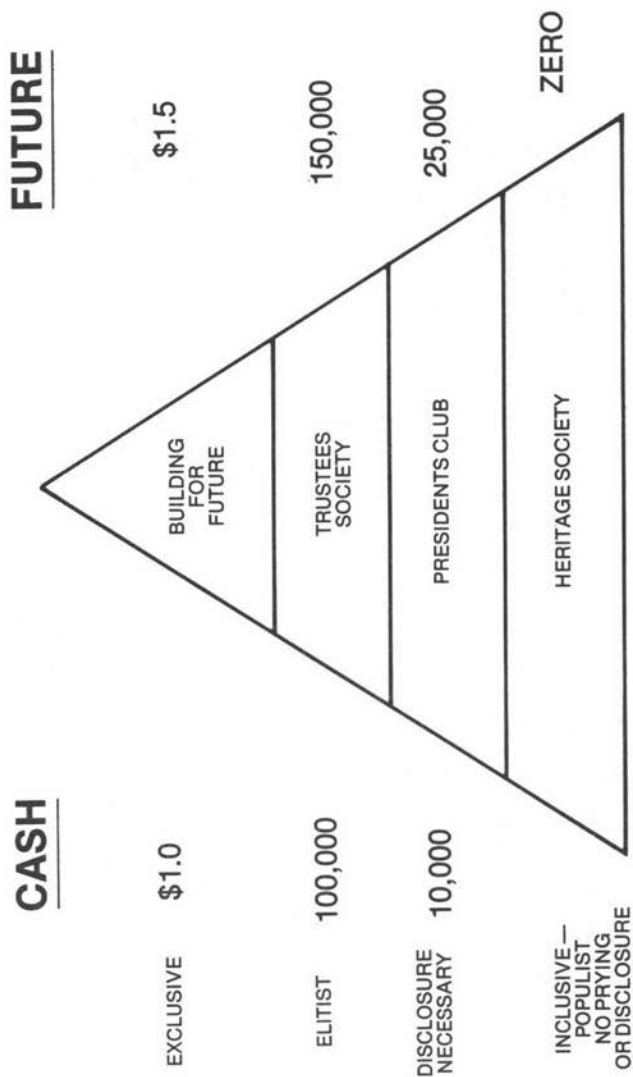


ILLUSTRATION IV

ILLUSTRATION V

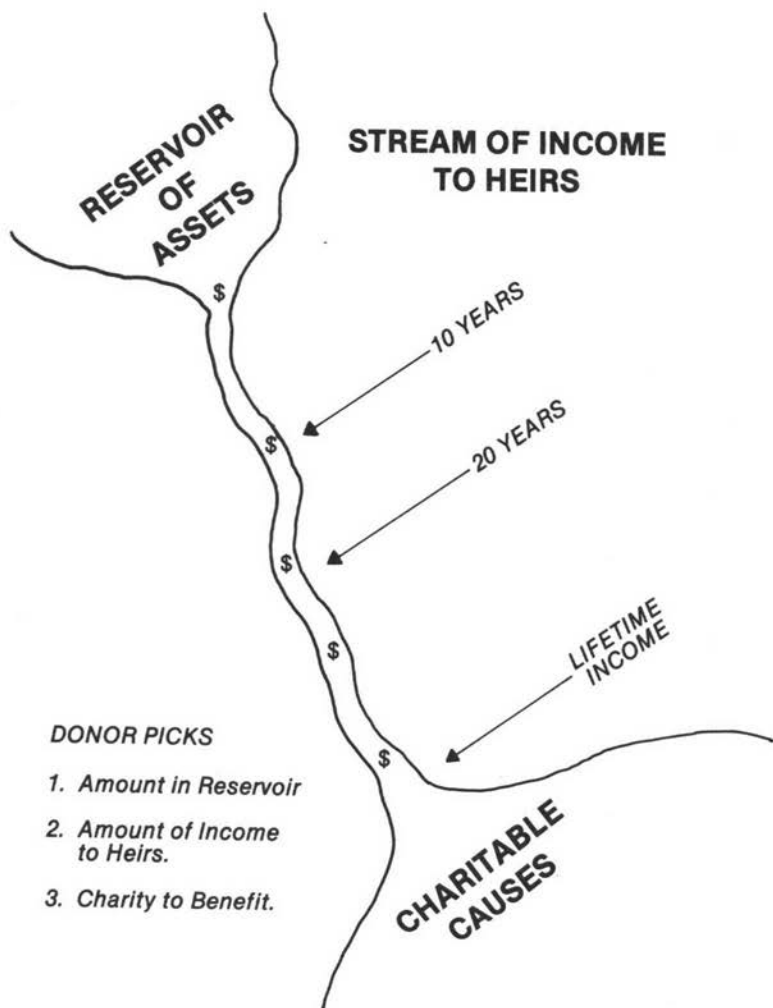


ILLUSTRATION VI

EXHIBIT B THE GERALD A. & MILDRED B. HAWKINS ENDOWMENT FUND

The Gerald A. and Mildred B. Hawkins Endowment Fund has been established by the testamentary planning and possible lifetime contributions of Gerald A. Hawkins, Class of '39, in memory of and in tribute to his beloved wife, Mildred. The fund shall be maintained by the University of Minnesota Foundation, and the income therefrom shall be used for the following purpose:

To provide full-tuition scholarships for students enrolled in the Department of Food Science and Nutrition of the College of Home Economics. The Dean of the College of Home Economics, or his or her designate, shall have discretion over the selection of candidates.

It is the donor's wish, but not demand, that preference be given to undergraduate female students from rural communities. Although merit is to be considered, preference shall be given to those students who would not be able to attend the University if it were not for this scholarship award. A student granted this award may be eligible to receive the award in consecutive years, at the discretion of the Dean.

During his lifetime, the donor retains the right to revoke or amend this memorandum; however, any alterations or amendments shall be with the consent of the University of Minnesota Foundation.

If, in the future, circumstances should arise making it unnecessary or unwise in the opinion of the Foundation Board of Trustees to use the gift for the purpose above set forth, the Board may in its discretion use the income from this fund for the fulfillment of such other objective at the University of Minnesota as the Board may specify, keeping in mind the objectives of the donor and in any case keeping the names of Gerald A. and Mildred B. Hawkins linked with the distribution.

Signed:

Gerald A. Hawkins

Date

Keith McFarland
Dean, College of Home
Economics
University of Minnesota

Stephen W. Roszell
V.P. & Executive Director
University of Minnesota
Foundation

ILLUSTRATION VII

GOAL

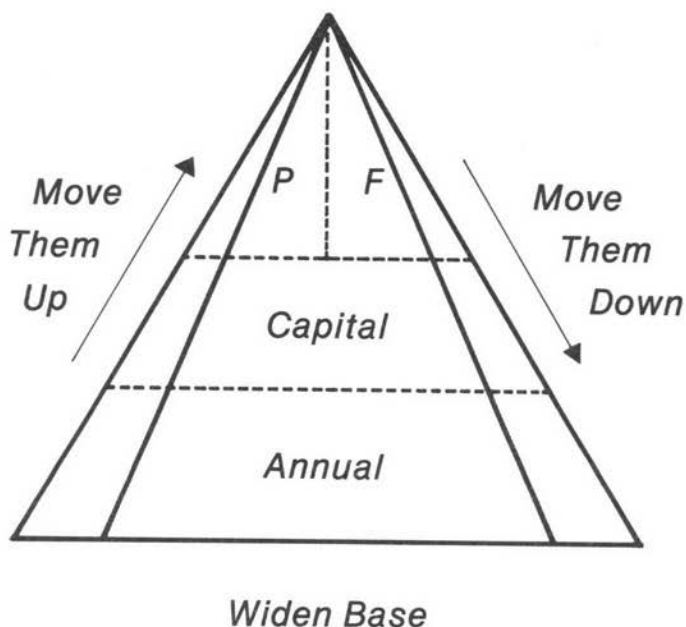


ILLUSTRATION VIII

BEQUEST FLOW CHART

1. **INQUIRY**
2. **REQUEST FOR LANGUAGE**
3. **RAISE QUESTIONS AS TO CONTENT**
4. **REACT TO QUESTIONS**
 - A. **OUTRIGHT OR ENDOWED**
 - B. **MEMORIALIZED**
 - C. **SELF OR LOVED ONE**
 - D. **NEED OR MERIT**
 - E. **UPPER, LOWER CLASS PERSON, GRADUATE**
 - F. **DEPARTMENT TO BENEFIT**
 - G. **WHO WILL MAKE DECISION**
 - H. **DOES CLIENT WANT TO TAKE TIME NOW TO THINK THRU THESE ISSUES?**
 - I. **WOULD YOU LIKE SOME TEMPORARY/FLEXIBLE LANGUAGE?**
5. **DRAFT INITIAL EXHIBIT**
6. **COMMUNICATE WITH ACADEMIC COMMUNITY**
7. **DRAFT LEGAL LANGUAGE**
8. **COPY IN FILE**
9. **RECOGNITION**
10. **APPRECIATION**
11. **PRODUCTION CREDIT**
12. **INVOLVEMENT**

WORKSHOP SESSION—CHARITABLE GIFTS BY WILL—EFFECTIVE USE OF CHARITABLE LEAD TRUSTS AND QTIP TRUSTS

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Gray, Plant, Mooty, Mooty, & Bennett

Terry L. Simmons, Esq.

Trust Counsel

Baptist Foundation of Texas

I. INTRODUCTION

- A. Since January 1, 1982, the effective date of the marital deduction provisions included in the Economic Recovery Tax Act of 1981, an unlimited marital deduction has been available for spouses for qualifying lifetime transfers and for qualifying transfers at death.
- B. Obviously, outright transfers between spouses qualify for the marital deduction. This would be true whether those transfers occurred during lifetime or at death. Additionally, certain transfers in trust which qualified for the limited marital deduction before 1982 continued to qualify for the unlimited marital deduction after December 31, 1981. Specifically, gifts to a surviving spouse through the utilization of a testamentary general power of appointment trust or through an estate trust continue to have viability, even under the new marital deduction rules. The key to the qualification of both of these trusts is the absolute freedom which the surviving spouse is given to appoint or select the ultimate recipients of the property which passes into the marital trust.
- C. While the power of appointment trust and the estate trust continue to have applicability, a new type of trust was added by the Economic Recovery Tax Act of 1981. Specifically, a trust can now be instituted by a decedent in his will which will qualify for the marital deduction even though the decedent will have preselected the ultimate recipients of the property following the death of the surviving spouse. This trust, known as a

“qualified terminable interest property trust” or “QTIP Trust,” has dramatically changed estate planning in general. Although typically an individual establishing a QTIP trust would name his children as the ultimate beneficiaries, the freedom is present to choose any ultimate beneficiary that the individual desires. Included in that wide-open class are tax-exempt organizations. Consequently, while the opportunities in the estate planning area generally have been broadened, the opportunities for planning in charitable giving have also been enhanced. In this outline, the utilization of this vehicle in testamentary planning that includes charitable giving will be considered.

- D. While this outline will concentrate on testamentary giving, it should be noted that qualified terminable interest property gifts can be made during an individual's lifetime as well as at death, since gift tax marital deduction provisions which parallel the estate tax marital deduction provisions are also found in the Internal Revenue Code.
- E. Another planning tool which, although helpful in estate planning generally, is primarily a charitable giving vehicle, is the charitable lead trust. The testamentary charitable lead trust produces an estate tax charitable deduction for the value of an annuity or unitrust interest payable to charity over a specified term of years or for the life or lives of individuals. Often, the annuity or unitrust rate can be calibrated to greatly reduce, and in the case of the annuity interest, even eliminate, estate taxation in large estates altogether. Corresponding gift tax savings accrue for charitable lead trusts established during the donor's lifetime.
- F. In this outline, the various applications of the testamentary lead trust will be considered. Additionally, the opportunities for combining the utilization of the QTIP trust and the charitable lead trust will be addressed. To round out the picture, other methods of

testamentary planning with an inclination toward charitable giving will also be examined.

- G. The outline begins with a discussion of QTIP trusts. Next, charitable lead trusts will be considered in detail. Finally, several schematic examples of the utilization of QTIP trusts, charitable lead trusts and other planning vehicles related to charitable giving at death will be presented and discussed.

II. QUALIFIED TERMINABLE INTEREST PROPERTY TRUSTS

A. *Qualified Terminable Interest Property Trust with Charitable Remainder*

1. A qualified terminable interest property trust, qualifying for the marital deduction under §2056(b)(7), provides the surviving spouse with a qualifying income interest for life, with the remainder payable to charity on the death of the surviving spouse.
2. The requirements for this treatment are:
 - a. The surviving spouse is entitled to all income from the trust;
 - b. no person has a power to appoint trust property to any person other than the surviving spouse;
 - c. the surviving spouse must have the power to compel conversion of non-income-producing property into income-producing property.
3. The tax results of this arrangement are:
 - a. A marital deduction is allowed for up to 100 percent of the trust in the estate of the first spouse to die, if QTIP treatment is elected for part or all of the trust property, so that any possible estate tax consequences may be deferred until the death of the second spouse to die.
 - b. Upon the death of the second spouse to die, a charitable deduction will be allowed for the corpus of the trust passing to charity.
 - c. The trust is taxable under normal trust rules.

4. Other results of the QTIP approach:
 - a. Invasion of principal for benefit of spouse is permitted.
 - b. The actual income is paid out to the surviving spouse.
 - c. Sales of assets can be made between the trust and related family members or companies.
 - d. No problems exist with mortgaged property or business income.
 - e. A family member can be trustee of the trust.
 - f. At the death of the second spouse to die, the trust could be used to fund a charitable lead trust.
 - g. At the death of the second spouse to die, the trust corpus is included in the gross estate of that spouse under §2044(c). This could affect the qualification of estate property for deferral of estate tax under §6166.
- B. *Charitable Remainder Trust with Spouse as Sole Income Beneficiary.*
 1. Under §2056(b)(8), a marital deduction is allowable for the surviving spouse's interest in a qualified charitable remainder unitrust or charitable remainder annuity trust, provided that two tests are met:
 - a. The surviving spouse must be the only non-charitable beneficiary of the trust after the death of the donor.
 - b. The trust must qualify as a charitable remainder trust under §664.
 2. The tax results of this arrangement are:
 - a. The spouse's interest qualifies for the marital deduction, while the remainder interest qualifies for a charitable deduction.
 - b. None of the property in the qualified trust is included in the estate of the surviving spouse at the spouse's death.
 - c. The trust is exempt from income tax under §664. Therefore, the trust can freely sell assets

without incurring capital gains tax. It can also accumulate income in excess of the amount distributed without tax.

d. The private foundation self-dealing rules and the unrelated business income tax provisions apply to the trust.

C. *Trust Funded While Both Spouses Alive Provides Income Tax Savings.*

1. An immediate income tax deduction for the value of the remainder interest is obtained.
2. No gift tax is incurred upon the creation of the trust.
3. No capital gains tax is incurred.
4. No estate tax is incurred at the death of either spouse.

III. CHARITABLE LEAD TRUSTS—GENERALLY

A. *Income Interest:* Payments to charity from the trust must be in the form of either a guaranteed annuity or a fixed percentage, distributed yearly, of the net fair market value of the property as determined each year (i.e., a unitrust interest). §§170(f)(2)(B); 2522(c)(2)(B); and 2055(e)(2)(B).

1. A guaranteed annuity must be an exact amount which is ascertainable as of the valuation date of the trust. It may be expressed as a fixed dollar amount or as a fraction or percentage of the net fair market value of the trust assets' initial value. In the case of a testamentary trust, the guaranteed annuity can be stated as a fraction of the residue of the estate, as finally determined for federal estate tax purposes. Reg. §20.2055-2(e)(2)(v).
2. A unitrust interest must be a fixed percentage of the net fair market value of the trust fund property (including principal and accumulated income) which must be revalued each year. Distribution of the lesser of net income or the prescribed rate is indirectly prohibited by implication. Reg. §20.2055-2(e)(2)(vi).

3. Additional characteristics of the guaranteed annuity include:
 - a. Only one valuation of the trust fund is required.
 - b. Appreciation in the trust fund inures to the benefit of the recipients of the remainder interest.
 - c. The trust can easily invest in bonds with a known yield, which avoids the throwback rules and provides certainty.
 - d. The charitable beneficiary is guaranteed a definite dollar amount annually.
4. Additional characteristics of the unitrust interest include:
 - a. Additional contributions to the trust can be made.
 - b. Charitable beneficiaries are potentially protected to some extent against inflation.
 - c. Depreciation or appreciation in the trust fund is shared by the charity.
5. No Specific Percentage or Term of Years is Required.
 - a. The term of years can be fixed (limited only by the Rule Against Perpetuities) or defined by the life or lives of one or more individuals, all of whom must be living on the initial valuation date. There is no requirement of a five percent minimum income payment as is the case in remainder trusts. Reg. §20.2055-2(e)(2)(v)(a).
 - b. The tables utilized in computing the remainder interest value were based on a six percent rate of return through November 30, 1983, and have been based on a 10 percent rate of return since December 1, 1983.
 - c. Combinations of trust terms and annuity rates producing a deduction equal to 100 percent of the value of the entire trust fund under the six percent tables and under the current ten percent tables are set out below:

**Rate Required to Reduce
Taxable Gift to Zero
Assuming Annual Payments**

<u>Years</u>	<u>Old*</u>	<u>New*</u>
10	13.6	16.3
12	11.9	14.7
15	10.3	13.2
18	9.2	12.2
20	8.7	11.7
25	7.8	11.0

* rounded to nearest tenth

d. If the trust contains excess business holdings as defined in §4943, the trust will be subject to the penalty provisions of that section if the charitable deduction exceeds 60 percent of the initial trust fair market value. Reg. §20.2055-2(e)(2)(v)(e). When the excess business holdings provisions do apply, the IRS has indicated that such trusts must require that income in excess of the annuity or unitrust amount also be distributed to charity each year. See PLR 8241098.

- B. *Remainder*: The trust remainder will pass to a non-charitable beneficiary or beneficiaries. Noncharitable beneficiaries can include the donor or the donor's estate, children, grandchildren or other trust or trusts for noncharitable beneficiaries.

IV. OBJECTIVES OF CHARITABLE LEAD TRUSTS

- A. Charitable lead trusts are generally used by wealthy individuals who have sufficient assets to otherwise provide for current needs of their family.
- B. With proper investments, the effects of inflation, and some luck, remainder beneficiaries receive the remainder interest free of (or at reduced rates of) estate taxes, although this is more difficult to accomplish now than it was under the six percent tables.
- C. In summary, these trusts are used to minimize gift and estate taxes, reduce cash requirements at death, facilitate the retention of illiquid assets, retain control of assets by family members, and secure ultimate passage of assets to family, all while fulfilling charitable desires.

V. TESTAMENTARY LEAD TRUSTS

- A. *Testamentary* lead trusts provide an estate tax deduction based upon the present value of the charitable income interest at the date of the donor's death, and have historically been considered an especially appropriate approach to the creation of charitable lead trusts.
- B. *Estate Tax Savings Are Often Significant*
1. The estate can receive an unlimited charitable deduction, up to 100 percent of the fair market value of the entire funds, if the income interest is in the form of a guaranteed annuity or unitrust interest and other requirements are met.
 2. A lead trust can be used in conjunction with the marital deduction if the donor is married.
 3. A lead trust can be used to preserve family-owned corporations in the face of an otherwise-necessary forced sale. However, the self-dealing and excess business holdings limitations must be satisfied.
 4. The remainder interest may be subsequently disclaimed with a resulting gift over to charity if the trust is drafted appropriately. §2055(a), §2518.
 5. The trust can retain illiquid income-producing assets so as to avoid a forced sale to pay estate taxes.
 6. The savings may be supplemented by an income tax deduction for "distributions" under IRC §661 in connection with the funding of the trust. *United States Trust Co. v. U.S.*, 85-2 USTC Par. 13,642 (S.D. Miss. 1985); but see, *Mott v. U.S.*, 462 F.2d 512 (Ct. Cl. 1972), *cert. denied*, 409 U.S. 1108 (1973); *Estate of O'Connor*, 69 T.C. 165 (1977).

VI. CHARACTERISTICS OF LEAD TRUSTS

- A. *A Lead Trust is a Taxable Entity.*
1. A lead trust is a taxable entity, and constitutes a complex trust, since it is not required to distribute all of its income currently and therefore is subject to IRC §641-44; 661-63; and 665-67, unless the trust qualifies as grantor trust. (By contrast, re-

mainder trusts are exempted from taxation by §664(c), unless they have unrelated business income.)

- a. Under §642(c), the trust receives an unlimited deduction from its gross income for amounts paid to or set aside for charity under the terms of the governing instrument.
- b. Before TEFRA, the charitable income tax deduction constituted a tax preference item for the trust subject to the alternative minimum tax calculation of §§56 and 57(b)(2) in the case of an inter vivos nongrantor trust created after 1976. TEFRA has now eliminated this problem. (However, beware of Treasury proposals currently being presented to the Senate Finance Committee.)
- c. Excess income which is accumulated will be taxed to the trust and will be subject to the accumulation throwback rules. The subsequent use of the accumulated income to satisfy a later annuity payment will not qualify as an accumulation distribution. Reg. §1.665(b)-1A(c)(2). A specific provision directing the use of excess current income to currently prepay a future annuity installment avoids this onerous tax effect, but the Internal Revenue Service has announced in Rev. Proc. 82-11, IRB 1982-8 that it will no longer issue letter rulings for lead trusts containing a prepayment provision. Furthermore, the Internal Revenue Service has indicated that it will seek on audit to disqualify lead trusts using this approach.
- d. Although IRC §661 allows deductions (not in excess of distributable net income) for all amounts properly paid out, Reg. §1.663(a)-2 has been interpreted as requiring any charitable payment to be deducted only under §642(c). See *Mott v. United States*, 462 F.2d 512 (Ct. Cl. 1972); *Estate of Lindsay O'Connor*, 69 T.C. 165 (1977).

- e. There is no lead trust provision which directs the specific order of the income character of distributions as does §664(b) for remainder trusts. Accordingly, the trust instrument should specifically provide that the income interest be paid, first from ordinary income (including short-term capital gains income), then from long-term capital gain income, then from unrelated business income, then from tax-free income, and lastly from principal.
 - f. The obligation to make income payments must commence as of date of death and interest should be paid on deferrals from the date of death to the time of the funding of the trust and the actual commencement of payments, as well as on any underpayment as finally determined, to preserve the §642(c) deduction. See IRS News Release 83-158 (Dec. 22, 1983).
- B. No payments for private purposes may be made to noncharitable beneficiaries during term of income interest §§20.2055-2(e)(2)(v)(f) and 2(e)(vi)(e).
- C. Lead Trusts are Subject to Private Foundation and other related rules.
- 1. Section 4947(a)(2) provides that §§507, 508(e), 4941, 4943, 4944 and 4945 apply to a charitable lead trust as though it were a private foundation. A lead trust must be drafted, in a fashion similar to remainder trusts, to prohibit self-dealing, excess business holdings, jeopardy investments and taxable expenditures.
 - 2. There is an exemption from the application of §4943 (excess business holdings) and §4944 (jeopardy investments) if the charitable deduction is not more than 60 percent of the fair market value of the entire trust fund. IRC §4947(b)(3); Reg. 53.4947-2(b)(i). See PLR 8241098 for possible additional requirements for this exemption.

VII. SCHEMATIC EXAMPLES FOR TESTAMENTARY GIFTS TO CHARITY

On the pages following, diagrams of a number of estate planning and charitable giving situations are presented. While these diagrams are certainly not exhaustive, they do depict the wide variety of planning opportunities available in testamentary situations:

ESTATE PLANNING EXAMPLE NO. 1

All too often, couples who have an estate potentially subject to federal estate tax have simple wills which leave everything at the first death to the survivor. This has the unfortunate result of stacking the estates, thus incurring the maximum possible estate tax at the death of the second spouse to die. This situation is illustrated in the following example:

H = Husband
W = Wife

ESTATE PLANNING EXAMPLE NO. 1 \$2,176,500 JOINT ESTATE

<u>H</u>		<u>W</u>	
\$1,088,250 H's estate	marital deduction gift to W	\$1,088,250	W's estate
	no tax at H's death due to unlimited marital deduction	+ 1,088,250	marital deduction gift from H
		<hr/>	W's gross estate at death
		\$2,176,500	estate tax payable
		- 674,485	net estate available for distribution to the family
		<hr/>	
		\$1,502,015	

ESTATE PLANNING EXAMPLE NO. 2

Traditional estate planning, since 1981, for couples with an estate potentially subject to federal estate tax, leaves the maximum amount of property which can pass free of estate tax in a "credit shelter" or "by-pass" trust. In other words, the maximum amount of property which can pass free of tax at the first spouse's death passes to a trust which will be available to the surviving spouse, but will not be taxed in that spouse's estate. To the extent that the first spouse to die has assets over and above that which can pass to the credit shelter trust free of tax, those assets are passed to the surviving spouse either outright or in trust in a manner which will qualify for the unlimited marital deduction. This plan avoids taxation at the first spouse's death and reduces the stacking of the estates, thus reducing the estate tax payable at the death of the second spouse to die.

H = Husband
W = Wife

ESTATE PLANNING EXAMPLE NO. 2 \$2,176,500 JOINT ESTATE

<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="text-align: right;">H</td> <td style="text-align: center;"><u>H</u></td> <td style="width: 50%;"></td> <td style="text-align: center;"><u>W</u></td> </tr> <tr> <td style="text-align: right;">\$1,088,250</td> <td style="text-align: right;">H's estate</td> <td style="text-align: right;">\$1,088,250</td> <td style="text-align: right;">W's estate</td> </tr> <tr> <td style="text-align: right;">- 600,000</td> <td style="text-align: right;">exemption equivalent, 1987</td> <td style="text-align: right;">+ 488,250</td> <td style="text-align: right;">marital deduction gift from H</td> </tr> <tr> <td style="text-align: right;"><u>\$ 488,250</u></td> <td style="text-align: right;">marital deduction gift to W</td> <td style="text-align: right;"><u>\$1,576,500</u></td> <td style="text-align: right;">W's gross estate at H's death</td> </tr> <tr> <td style="text-align: right;">\$600,000</td> <td style="text-align: right;">credit shelter trust</td> <td style="text-align: right;">- 397,425</td> <td style="text-align: right;">estate tax payable</td> </tr> <tr> <td></td> <td></td> <td style="text-align: right;"><u>\$1,179,075</u></td> <td style="text-align: right;">W's net estate</td> </tr> <tr> <td></td> <td></td> <td style="text-align: right;">\$1,179,075</td> <td style="text-align: right;">W's net estate credit shelter trust,</td> </tr> <tr> <td></td> <td></td> <td style="text-align: right;">+ 600,000</td> <td style="text-align: right;">H's estate</td> </tr> <tr> <td></td> <td></td> <td style="text-align: right;"><u>\$1,779,075</u></td> <td style="text-align: right;">total net estate available for distribution to the family</td> </tr> </table>	H	<u>H</u>		<u>W</u>	\$1,088,250	H's estate	\$1,088,250	W's estate	- 600,000	exemption equivalent, 1987	+ 488,250	marital deduction gift from H	<u>\$ 488,250</u>	marital deduction gift to W	<u>\$1,576,500</u>	W's gross estate at H's death	\$600,000	credit shelter trust	- 397,425	estate tax payable			<u>\$1,179,075</u>	W's net estate			\$1,179,075	W's net estate credit shelter trust,			+ 600,000	H's estate			<u>\$1,779,075</u>	total net estate available for distribution to the family	
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ESTATE PLANNING EXAMPLE NO. 3

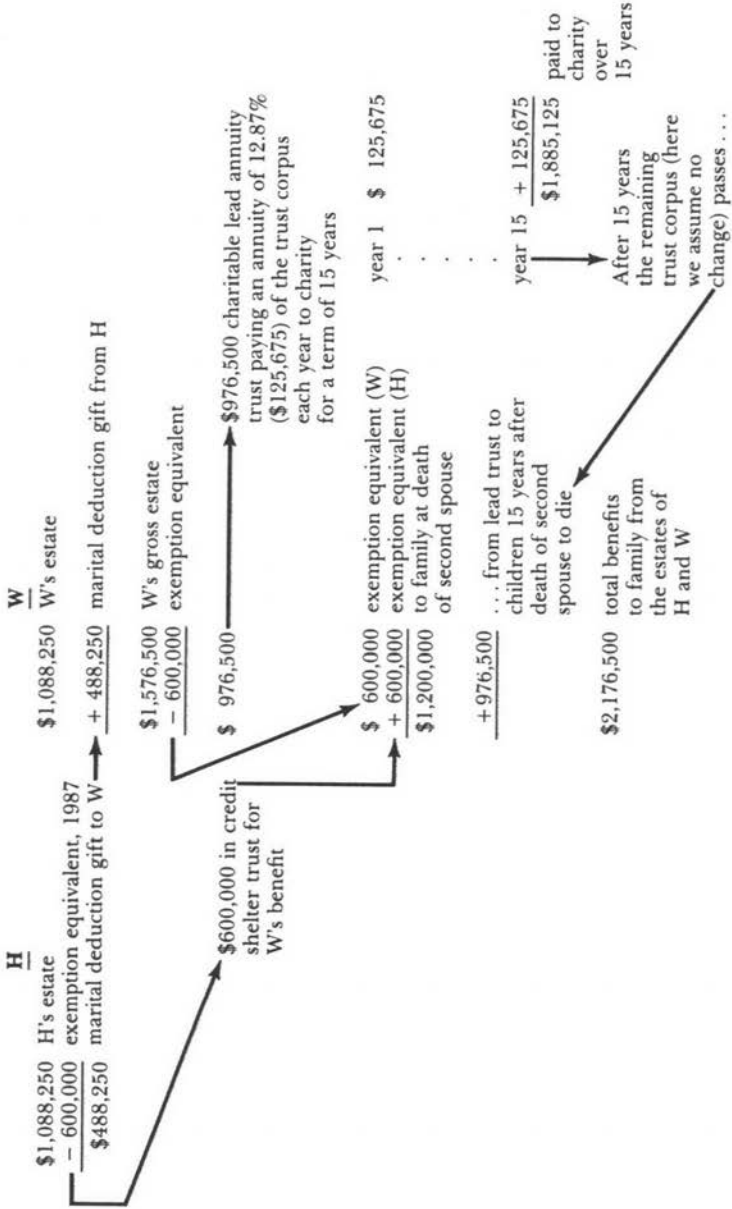
In Estate Planning Example No. 3, the second spouse to die creates a charitable lead annuity trust with the portion of her estate that would otherwise be subject to estate tax at her death. The charitable lead annuity trust pays an income to charity for a period of years, and at the end of that term the assets in the trust pass outright to the donor's children or grandchildren, as the donor designates. The estate tax charitable deduction which results from the establishment of the lead trust avoids estate tax in the second spouse's estate. In other words, the family potentially receives the entire estate, but by postponing the receipt of a portion of the estate until the end of the lead trust term, all estate tax is avoided.

(See chart next page)

H = Husband
W = Wife

ESTATE PLANNING EXAMPLE NO. 3

\$2,176,500



ESTATE PLANNING EXAMPLE NO. 4

In Estate Planning Example No. 4, typical estate planning is employed in the first spouse's will. However, at the second spouse's death, all assets which will be subject to estate tax if passing to the couple's children are instead passed to charity. In the typical situation, the family will receive \$1,200,000 free of estate tax while charity will receive everything in the estate over that amount. By making this gift to charity, the estate tax on the estate assets over and above \$1,200,000 is completely avoided.

H = Husband
W = Wife

ESTATE PLANNING EXAMPLE NO. 4

\$2,176,500

	<u>H</u>		<u>W</u>	
\$1,088,250	H's estate		\$1,088,250	W's estate
- 600,000	exemption equivalent, 1987		+ 488,250	marital deduction gift from H
\$ 488,250	marital deduction gift to W		\$1,576,500	W's gross estate
			- 976,500	outright gift to charity
			\$ 600,000	at death of second spouse to die exemption equivalent

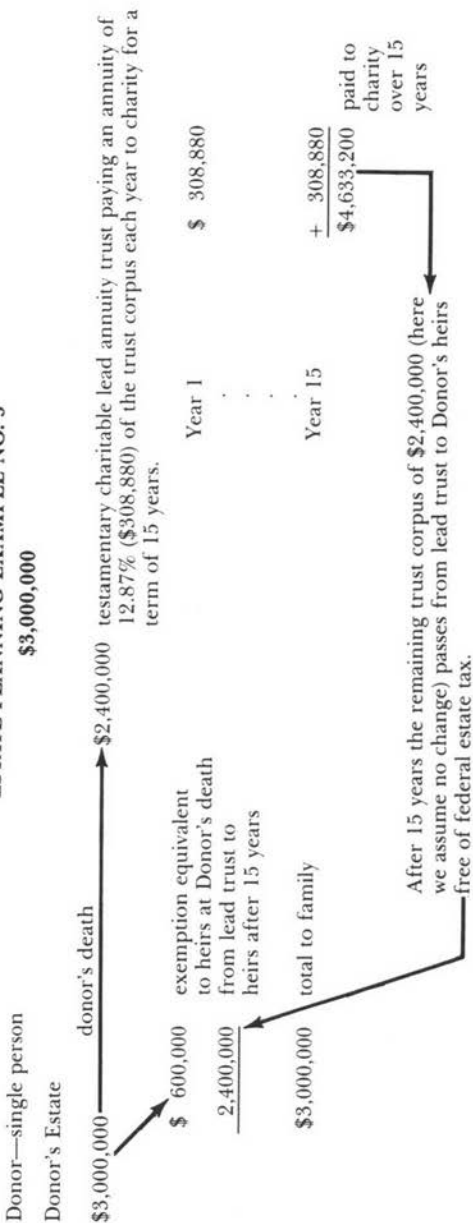
Recapitulation:

\$ 600,000	credit shelter trust (H)	
+ 600,000	exemption equivalent (W)	
\$1,200,000	passes to family at death of last spouse to die	
+ 976,500	outright gift to charity at death of second spouse to die	
\$2,176,500	total estate, Husband and Wife	

ESTATE PLANNING EXAMPLE NO. 5

In this example, we assume that we have a single donor who passes the exemption equivalent for 1987 and thereafter to his family at death. His remaining assets pass into a charitable lead annuity trust for a period of 15 years, paying charity an annuity each year equal to 12.87% of the initial fair market value of the trust corpus. After the termination of the trust, the \$2,400,000 in the lead trust, or whatever the lead trust corpus may have decreased to or increased to during the 15-year lead trust term, passes to family members free of transfer taxes. The family potentially receives total gifts of \$3,000,000, while charity receives annuity distributions over 15 years of \$4,633,200.

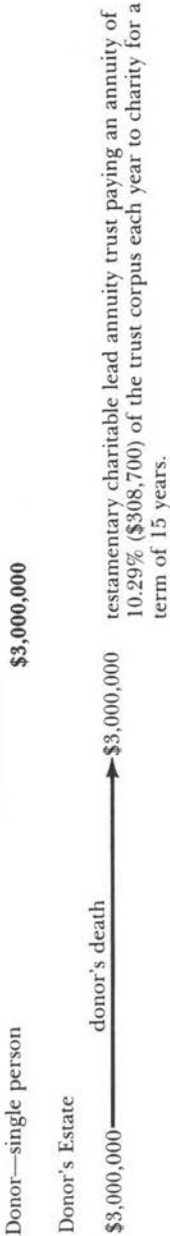
ESTATE PLANNING EXAMPLE NO. 5



ESTATE PLANNING EXAMPLE NO. 6

This example is similar to Example No. 5, except that the donor foregoes the opportunity to pass the \$600,000 exemption equivalent to his family in return for the opportunity which utilization of the exemption equivalent in the lead trust offers to dramatically reduce the lead trust annuity rate necessary to completely avoid estate taxes at the donor's death. As indicated, an annuity rate of 10.29% payable for 15 years will leave a taxable estate of \$600,000, which will be covered by the exemption equivalent.

ESTATE PLANNING EXAMPLE NO. 6



Year 1		\$ 308,700			
:					
:					
:					
Year 15	—————	+ 308,700	—————	\$4,630,500	paid to charity over 15 years

After 15 years the remaining trust corpus of \$3,000,000 (here we assume no change) passes from lead trust to Donor's heirs free of federal estate tax. (Although the lower rate of 10.29% leaves a taxable gift of \$600,000, this gift is sheltered from tax by the \$600,000 exemption equivalent.)

ESTATE PLANNING EXAMPLE NO. 7

In this example, the husband at his death creates a credit shelter trust for his wife funded with \$600,000. The remaining assets in his estate, \$1,400,000, pass to a QTIP trust for the wife's benefit. The husband controls the ultimate disposition of these assets, and he provides in his will that at the wife's death, the assets will pass to a charitable lead annuity trust. The wife, through her will, can only control the disposition of assets outside the QTIP trust, although the QTIP trust assets will be included in her gross estate.

The \$1,400,000 that passes to a lead trust at the wife's death will constitute a charitable deduction for that amount in her estate tax return, since the rate and term of the lead trust are sufficient to produce a 100% estate tax deduction.

The wife leaves the remainder of her estate, the portion of the estate which is subject to distribution under her will, outright to the family. This \$2,000,000 outright gift to the family will result in an estate tax of \$588,000 being incurred by the wife's estate.

The lead trust will pay an annuity of 12.87% to charity for 15 years, and assuming a corpus of \$1,400,000, the annual payments of \$180,180 will produce total payments to charity of \$2,702,700 over 15 years. The remaining assets of the lead trust will pass to the family at the end of the 15-year period.

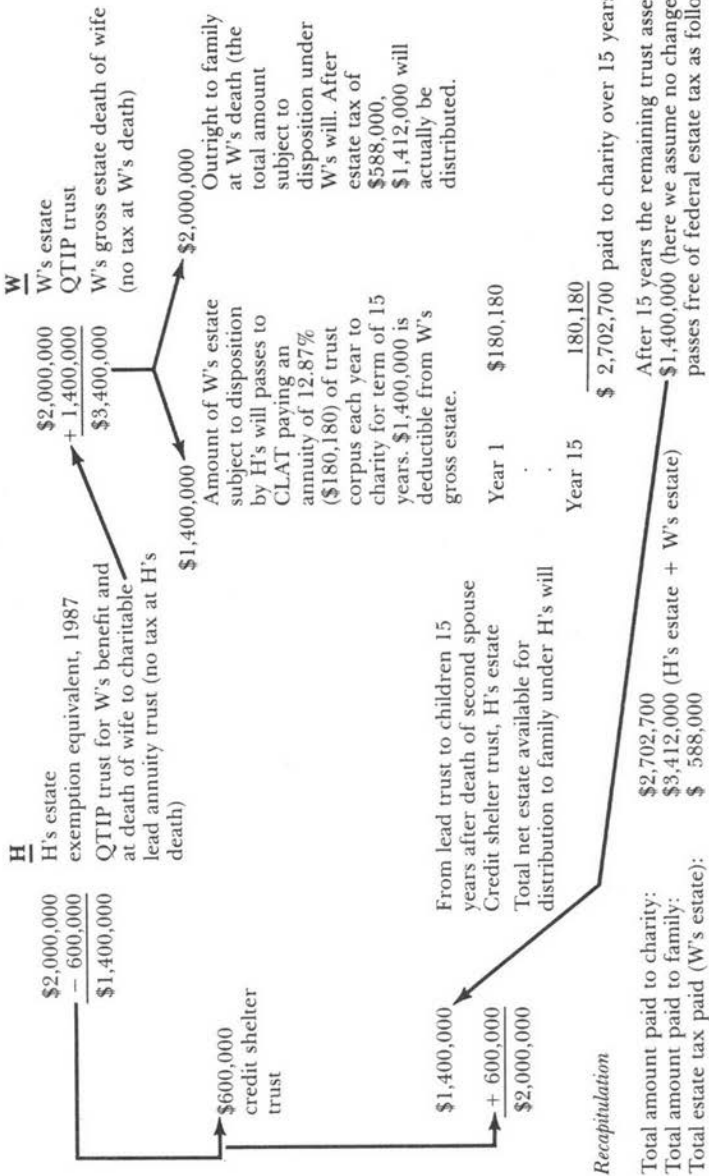
The \$600,000 credit shelter trust established by the husband will pass outright to the family at the wife's death.

In summary, charity will receive \$2,702,700 over 15 years, the family will receive \$3,412,000 over 15 years, and \$588,000 in estate tax will be paid.

ESTATE PLANNING EXAMPLE NO. 7

H = Husband
W = Wife

\$4,000,000



ESTATE PLANNING EXAMPLE NO. 8

In this example, the husband at his death creates a credit shelter trust for his wife funded with \$600,000. The remaining assets in his estate, \$1,400,000, pass to a QTIP trust for the wife's benefit. The husband controls the ultimate disposition of these assets, and he provides in his will that at the wife's death, the assets will pass to a charitable lead annuity trust and a charitable remainder annuity trust. The wife, through her will, can only control the disposition of assets outside the QTIP trust, although the QTIP trust assets will be included in her gross estate. In this example, we assume that the wife matches the husband's dispositive scheme in his QTIP trust so that their joint total estates pass either to a charitable lead annuity trust or charitable remainder annuity trust at the wife's death.

The remainder trust is funded with \$925,000. Because of the operation of the charitable deduction and the exemption equivalent, no estate tax will result from the establishment of the remainder trust. The remaining assets in the QTIP trust and the remaining assets over which the wife has control pass to a lead trust for a period of 15 years.

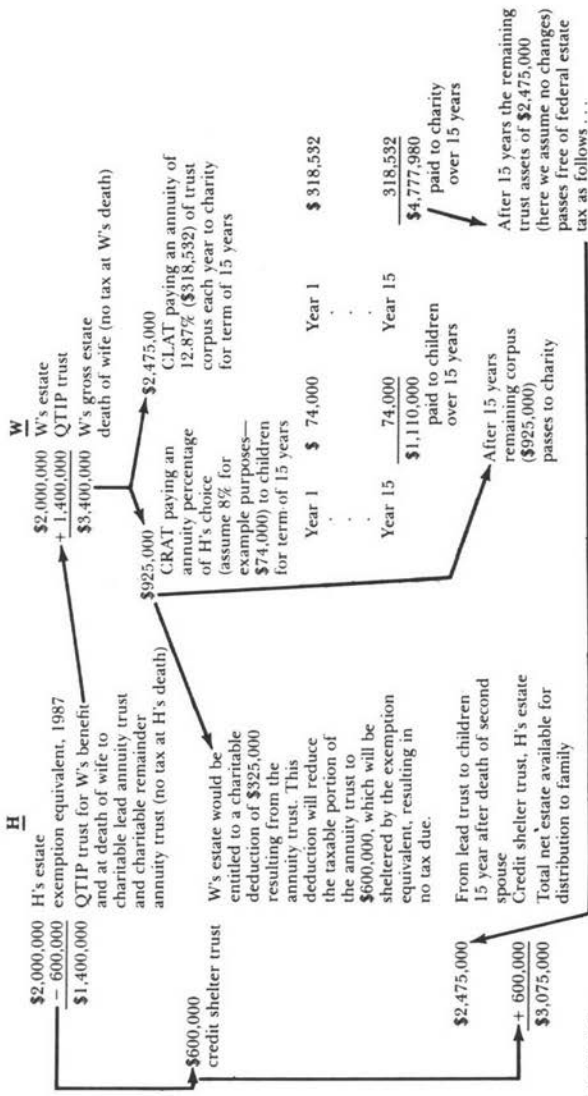
At the wife's death, the family receives the \$600,000 credit shelter trust established by the husband and also begins to receive an annuity of \$74,000 each year from the annuity trust. At the end of the 15 years, the charitable remainder annuity trust will terminate, as will the companion charitable lead annuity trust. At that time, the family receives the remaining assets in the lead trust. During this time, charity has been receiving an annuity of \$318,532 from the lead trust. At the termination of the lead trust, the charity will receive outright the assets remaining in the charitable remainder annuity trust.

Over a period of 15 years, \$5,702,980 will be received by the charity and \$4,185,000 will be received by the family. No estate tax will have been paid in either estate.

ESTATE PLANNING EXAMPLE NO. 8

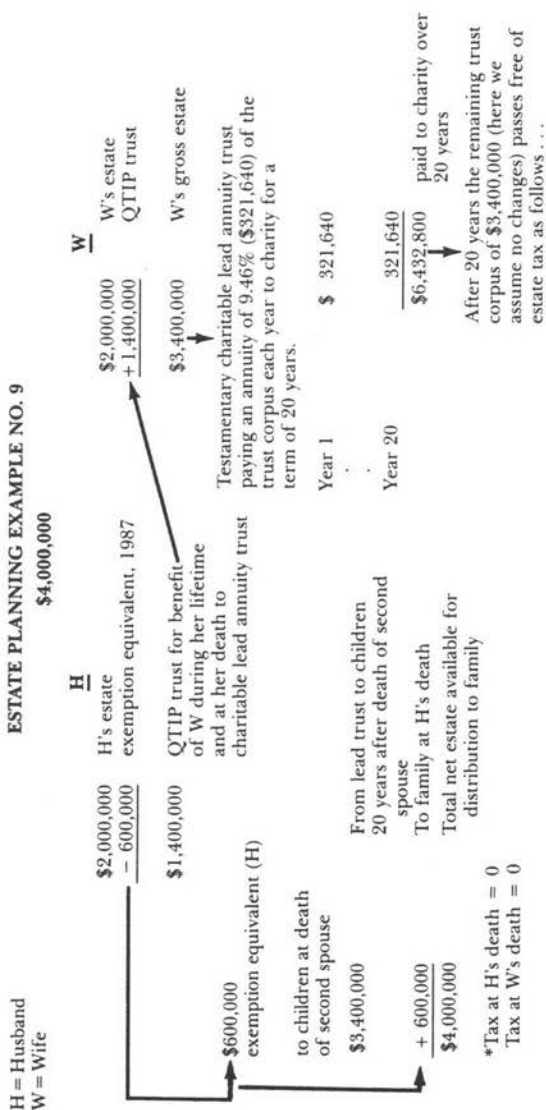
H = Husband
W = Wife

\$4,000,000



ESTATE PLANNING EXAMPLE NO. 9

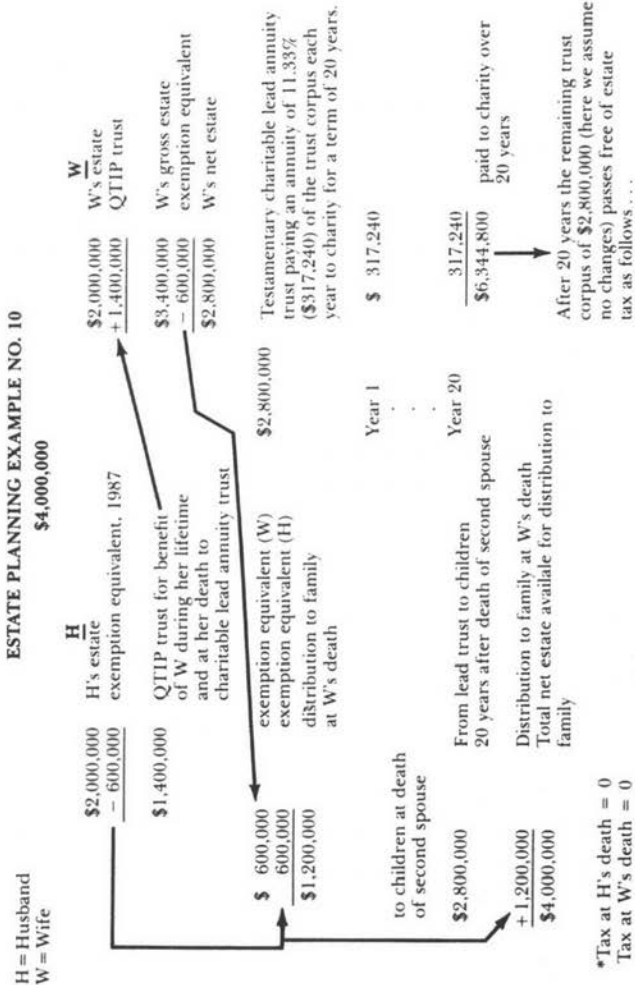
This example contemplates a lead trust established by the husband through the QTIP trust as well as a complementary disposition by the wife of the assets over which she has control in her estate. Because the wife foregoes the opportunity to pass the \$600,000 exemption equivalent to her children, the charitable lead annuity trust percentage can be reduced. In this case, an annuity of 9.46% paid for a period of 20 years will be sufficient to completely avoid estate taxation of the wife's estate.



*Tax at H's death = 0
Tax at W's death = 0

ESTATE PLANNING EXAMPLE NO. 10

This example is similar to the prior example, except that the wife does pass the exemption equivalent to her family at her death. As a result, the annuity rate for the charitable lead annuity trust must be increased to 11.33% for a period of 20 years to avoid estate taxation of the wife's estate.



ESTATE PLANNING EXAMPLE NO. 11

This example contemplates a credit shelter trust for the surviving spouse as well as a QTIP trust for the surviving spouse's benefit. At the death of the surviving spouse, both exemption equivalents of \$1,200,000 will pass outright to family. The remaining assets will pass to a non-qualifying charitable trust which permits invasion of principal for the trust beneficiaries. Because the trust is a nonqualifying trust, no estate tax deduction will be received for the benefit of the remainder interest in the trust ultimately passing to charity. As a result, \$1,283,000 of estate tax will be paid at the wife's death.

This example would almost never be desirable, although under certain circumstances, a donor might choose to use it because of the invasion feature available. In any case, it is illustrative of the significant tax consequences which result in an estate in which qualified charitable planning is foregone.

H = Husband
W = Wife

ESTATE PLANNING EXAMPLE NO. 11

\$4,000,000

<u>H</u>	<u>W</u>																				
<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%;">\$2,000,000</td> <td style="width: 50%;">H's estate</td> </tr> <tr> <td style="border-top: 1px solid black;">- 600,000</td> <td style="border-top: 1px solid black;">exemption equivalent, 1987</td> </tr> <tr> <td style="border-top: 1px solid black;">\$1,400,000</td> <td style="border-top: 1px solid black;">QTIP trust for benefit of W</td> </tr> </table>	\$2,000,000	H's estate	- 600,000	exemption equivalent, 1987	\$1,400,000	QTIP trust for benefit of W	<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%;">\$2,000,000</td> <td style="width: 50%;">W's estate</td> </tr> <tr> <td style="border-top: 1px solid black;">+ 1,400,000</td> <td style="border-top: 1px solid black;">QTIP trust</td> </tr> <tr> <td style="border-top: 1px solid black;">\$3,400,000</td> <td style="border-top: 1px solid black;">W's gross estate</td> </tr> <tr> <td style="border-top: 1px solid black;">- 600,000</td> <td style="border-top: 1px solid black;">exemption equivalent, 1987</td> </tr> <tr> <td style="border-top: 1px solid black;">2,800,000</td> <td style="border-top: 1px solid black;">W's gross estate at H's death</td> </tr> <tr> <td style="border-top: 1px solid black;">- 1,283,000</td> <td style="border-top: 1px solid black;">estate tax payable</td> </tr> <tr> <td style="border-top: 1px solid black;">\$1,517,000</td> <td style="border-top: 1px solid black;">W's net estate</td> </tr> </table>	\$2,000,000	W's estate	+ 1,400,000	QTIP trust	\$3,400,000	W's gross estate	- 600,000	exemption equivalent, 1987	2,800,000	W's gross estate at H's death	- 1,283,000	estate tax payable	\$1,517,000	W's net estate
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<p>At death of surviving child the remaining trust corpus passes to charity</p>																					

WORKSHOP SESSION—COMBINING CHARITABLE REMAINDER GIFTS WITH LIFE INSURANCE TRUSTS

James G. Marshall, Jr.

Executive Director

Methodist Health Foundation, Inc.

Miles W. McNally, CLU, ChFC

Vice President of Marketing

McNally, Dunnavan & Lund, Inc.

I. CONCEPTS OF CHARITABLE PLANNING

A. Importance of Donative Intent

1. Key factor for outright gifts or bequests
2. Secondary importance in deferred gift—superceded by financial motivations for donor

B. Success Dependent on Solicitation Technique

1. Ability of Development Officer to discern deferred gift prospect
2. "Team players" necessary to bring deferred gift to actuality
3. Needs of the charity must be secondary—shared with other charities in presentation
4. "Problem solving" requires knowledge of Deferred Giving Techniques and their relative values and limitations

C. Charitable Planning Team

1. Development Officer—determine prospect
2. Insurance advisor—analyze solutions
3. Client's attorney—approve solution, documents
4. Client's accountant—confirm tax computations
5. Charity Trustee—understand investment philosophy

D. Use of Computer in Charitable Planning

1. Calculation of tax savings in deferred gifts
2. Comparison of specified interest rate assumptions
3. Projection of benefits to Donor and Charity
4. Graphic presentations enhance understanding and lead to logical solution

E. Limitations on Presentation

Confined to discussion of Charitable Remainder Unitrust coupled with Life Insurance Trust

II. BACKGROUND AND BASIC RULES

A. Internal Revenue Code Section 170(a)(1) provides:

“General Rule.—There shall be allowed as a deduction any charitable contribution (as defined in subsection (c)) payment of which is made within the taxable year.”

B. Types of Charitable Gifts

1. Outright
2. Deferred—separate agreement
 - a. Provision by Will
 - b. Charitable Remainder Annuity Trust
 - c. Charitable Remainder Unitrust
3. Deferred—agreement with charity
 - a. Pooled Income Fund
 - b. Gift Annuity
 - c. Life Insurance Contract

C. Percentage Limitations

For individuals, there are three percentage limitations, all of which are to the taxpayer’s “contribution base,” i.e., adjusted gross income, computed without regard to any net operating loss carry back. Sec. 170(b)(1)(F).

1. The 50% limitation applies to gifts to “public charities” of cash or unappreciated property. Sec. 170(b)(1)(A).
2. The 30% limitation applies to all gifts of appreciated long-term capital gain property to “public charities,” and to cash gifts to “private foundations.” Sec. 170(b)(1)(B) and (C).
 - a. Special election to reduce deduction by 40% of gain allows use of charitable contribution up to 50% of “contribution base.” Sec. 170(b)(1)(C)(iii).
3. The 20% limitation applies to contributions of appreciated property to private foundations, and to

all contributions for the use of the donee. Sec. 170(b)(1)(D).

4. Five year carryover of unused deduction permitted.

III. SPECIAL RULES AFFECTING PROPERTY GIFTS

A. Gifts of Appreciated Property

1. Capital Gains tax avoided
2. Full fair market value deductible
3. 30% limitation applies, but with 5 year carry-forward

B. Ordinary Income Gifts

A donor may deduct only his original cost basis for gifts of ordinary income type property and short-term property.

C. Tangible Personal Property Gifts

Gifts of tangible personal property held for more than six months (such as books, works of art, etc.) will be deductible on present fair market value:

1. With no capital gains tax on the appreciation only if the use of the property is related to the donee's exempt function (appraisal required if over \$5,000).
2. If unrelated, the deduction is the donor's cost basis plus 60% of the appreciation.

D. Bargain Sale Results in Partial Gain (IRC Sec. 1011(b))

If a donor sells property to a charity at less than fair market value with the intent of making a gift of excess over the sale price, he is required to allocate his cost basis between the gift portion and the sale portion of the property.

E. Bargain Sales of Encumbered Property

If property is transferred subject to indebtedness, the indebtedness is treated as an amount realized for determining whether there is a sale or exchange under IRC per 1011(b), even though the transferee does not assume or agree to pay the indebtedness.

F. Charitable Transfers: Timing

1. Year of contribution deduction: requirement of payment
 - a. Payment of cash contributions by check
 - b. Payment by completed transfer
2. Special Rules applicable to gifts of stock
 - a. Appraisal if over \$10,000 non-traded securities

G. Partial Interest in Property

1. Contribution of donor's entire interest in property
2. Contribution of undivided portion of donor's entire interest

IV. CHARITABLE REMAINDER TRUSTS

Allows separation of property—income stream directed to non-charitable beneficiaries, remainder to charity. Present value of remainder deductible, provided in form of

Annuity/Unitrust



A. Annuity Trust (IRC Sec. 664 (D)(I))

1. Specifies fixed dollar amount of the annual income payable to income beneficiary—at least 5%
2. Must be at least 5% probability that charity will receive a remainder

B. Unitrust (IRC Sec. 664(d)(2))

1. Specifies fixed percentage of fair market value of trust assets as determined annually—at least 5% (no 5% probability test)
2. Duration of Trust
 - a. For designated lifetime of beneficiary (1-3)
 - b. For designated term of years
3. Optional Trust Provisions
 - a. **Standard**—fixed percentage for duration
 - b. **Net Income**—actual amount earned if less
 - c. **Makeup**—deficiencies in distributions must be made up in later years if trust income exceeds the fixed percentage

C. Unitrust (or Annuity Trust) Features

1. Overview of characteristics
2. **Charitable Contribution Deduction**—\$100,000 Gift (Amount of deduction dependent on duration of the trust (life expectancy) and selected percentage)

Age of Donor	Yield	Deduction
50	5%	\$34,568
	10%	15,259
60	5%	46,865
	10%	25,512
70	5%	60,423
	10%	39,479

3. Tax-Exempt Entity
 - a. No tax to donor on earnings or appreciation (unless distributed)
 - b. Exemption from tax lost if trust has unrelated Business Income (UBI) and must file Fiduciary Form 1041
Trust holding debt-financed property = UBI (unless mortgage placed on property more than 5 years before transfer, and donor held property more than 5 years)
4. Trust Assets protected from Creditors
Insolvency Planning to provide protection against Malpractice Claims, or Business Reversals
5. Investment Flexibility
 - a. Most types of Investments are acceptable (avoid self-dealing and Unrelated Business Income)
 - b. Hazardous investment should be avoided
 - c. Selection of Trustee important, to consider donor's income needs and tax status, and to maintain objectivity of trustee
6. Payout Sequence to donor or beneficiary
 - a. Character of Income flows through to beneficiary
 - b. All ordinary income distributable first
 - c. Capital gain income distributable second

- d. Tax-free income distributable third
- e. Principal not distributed unless income insufficient to provide required payout.

VI. WEALTH REPLACEMENT TRUST

A. Attractive when coordinated with Charitable Remainder Gift

Highly appreciated assets, otherwise includable in donor's estate at death, transferred to charitable remainder trust, pooled income fund, or annuity

- 1. Lifetime income to donor and spouse
- 2. No realization of gain on transfer to trust, pooled fund, or annuity
- 3. Charitable deduction based on present value of remainder interest offsets current income taxes, or funds replacement of asset

B. Wealth Replacement Trust

Annual payments from charitable trust (or tax savings) fully funds survivorship whole life insurance, payable on death of survivor of donor and spouse

- 1. Insurance available with short-term payment alternative—premiums fully paid after 6-9 years
- 2. All incidents of ownership in insurance policy transferred to irrevocable trust—donor retains no beneficial interest in trust
- 3. Each premium payment by donor is gift for gift tax purposes
 - a. Must qualify premium payment as present interest qualifying for annual gift tax exclusion
 - b. Trust beneficiaries must have present right to withdraw premium "contribution" each year—Crummey Power
- 4. Insurance proceeds not includable in donor's estate if donor survives three years after transfer of policy to trust
- 5. Proceeds available 100% for family—children, grandchildren, or other relative.

VII. PROBLEM SOLVING WITH CHARITABLE REMAINDER UNITRUST

A. Fact Pattern

1. 60 Year old male, spouse 58
 2. One daughter (married to an attorney) financially successful
 3. Two grandchildren
 4. Contemplating retirement in Florida (condominium)
 5. Major annual donor to hospital
- B. Response to Capital Fund Campaign
1. *Unable* to make capital gift (retirement)
 2. In process of establishing Florida residence
 3. Liquidating assets to simplify life style
 4. Business has been sold to key employees under leveraged buyout
 5. Apartment building is remaining obstacle to a problem-free retirement
- C. Analysis of Real Estate
1. Current Market Value—\$500,000
 2. Net income before taxes—\$40,000 (8%)
 3. Anticipated growth in value 3% to 4%
 4. Fully depreciated down to land value \$60,000
 5. Willing to sell, reinvest in municipals
- D. Development Officer suggests Charitable Remainder Unitrust
1. Donate property to hospital, retaining income stream for lifetime of donor and/or his spouse (Type II)
 2. Rate of Income selected determines tax deduction
 - a. Computer printout calculates deduction in $\frac{1}{2}\%$ increments (following page)
 - b. Lower income = greater tax deduction
 3. Reinvestment by charity/trustee of sales proceeds avoids capital gain taxation (tax-free trust)
 4. Selection of lower income stream enhances future income—"Cost of Living Adjustment"
 - a. Election of 5% payout rate = largest deduction
 - b. Reinvestment by Trustee @ 10% = 5% COLA
 - c. Taxation of income stream as important as amount (reinvestment in capital gain—type property makes 5% more valuable than 10% rent)

5. Comparisons of 6% and 8% Unitrusts enhance understanding (pages 189-191)

**Charitable Remainder Unitrust
Two Lives—Multiple Payout Rates
MR. DONOR**

A. Input Assumptions:

Date of transfer	06/01/86
Fair market value of property transferred	500,000.00
Unitrust payout rate	5.00%
Payment sequence	Annual
Number of months between the valuation date and the first payout for the first full taxable year of the trust	12
Age of first measuring life	60
Age of second measuring life	58

Payout Rate	Deduction Factor	Deduction Amount
5.00%	0.341410	170,705
5.50%	0.308190	154,095
6.00%	0.278620	139,310
6.50%	0.252110	126,055
7.00%	0.228330	114,165
7.50%	0.207030	103,515
8.00%	0.187980	93,990
8.50%	0.170840	85,420
9.00%	0.155420	77,710
9.50%	0.141600	70,800
10.00%	0.129150	64,575
10.50%	0.117920	58,960
11.00%	0.107790	53,895
11.50%	0.098680	49,340
12.00%	0.090430	45,215
12.50%	0.082970	41,485
13.00%	0.076220	38,110
13.50%	0.070110	35,055
14.00%	0.064570	32,285
14.50%	0.059530	29,765
15.00%	0.054960	27,480
15.50%	0.050800	25,400
16.00%	0.047010	23,505
16.50%	0.043550	21,775
17.00%	0.040410	20,205
17.50%	0.037530	18,765
18.00%	0.034900	17,450
18.50%	0.032490	16,245
19.00%	0.030290	15,145
19.50%	0.028260	14,130

CHARITABLE REMAINDER UNITRUST NO. 1

Contribution to Trust:		\$500,000		Annual					
Donor Initial Tax Bracket:		50.00%		\$93,990					
Total Trust Yield:		4.00%		Charitable Deduction:					
Total Trust Appreciation:		6.00%		Gift Transfer Date:					
Income Payout Rate:		8.00%		5/1/1986					
Prepared for Mr. Donor				Payment Sequence:					
				Charitable Deduction:					
				Gift Transfer Date:					
Yr	1	2	3	4	5	6	7	8	9
Age	Contribution	Deduction	Income	Asset Value	Pre-Tax	Value	Investment	of Return	Rate
1	Allowed	Permitted	Tax Savings	Start of Yr	Income	Year End			of Return
1	60	58	\$500,000	\$46,995	\$40,000	\$500,000	\$453,005	8.82%	8.82%
2	61	59	0	0	40,800	561,000	453,005	9.00%	8.91%
3	62	60	0	0	520,200	41,616	453,005	9.18%	9.00%
4	63	61	0	0	530,604	42,448	453,005	9.37%	9.09%
5	64	62	0	0	541,216	43,297	453,005	9.55%	9.18%
6	65	63	0	0	552,040	44,163	453,005	9.74%	9.27%
7	66	64	0	0	563,081	45,046	453,005	9.94%	9.37%
8	67	65	0	0	574,343	45,947	453,005	10.14%	9.46%
9	68	66	0	0	585,830	46,866	453,005	10.34%	9.56%
10	69	67	0	0	597,546	47,804	453,005	10.55%	9.66%
11	70	68	0	0	609,497	48,760	453,005	10.76%	9.76%
12	71	69	0	0	621,687	49,735	453,005	10.97%	9.86%
13	72	70	0	0	634,121	50,730	453,005	11.19%	9.96%
14	73	71	0	0	646,803	51,744	453,005	11.42%	10.06%
15	74	72	0	0	659,739	52,779	453,005	11.65%	10.17%
16	75	73	0	0	672,934	53,835	453,005	11.88%	10.28%
17	76	74	0	0	686,393	54,911	453,005	12.12%	10.38%
18	77	75	0	0	700,121	56,010	453,005	12.36%	10.49%
19	78	76	0	0	714,123	57,130	453,005	12.61%	10.61%
20	79	77	0	0	728,406	58,272	453,005	12.86%	10.72%
21	80	78	0	0	742,974	59,438	453,005	13.12%	10.83%
22	81	79	0	0	757,833	60,627	453,005	13.38%	10.95%
23	82	80	0	0	772,990	61,839	453,005	13.65%	11.06%
24	83	81	0	0	788,450	63,076	453,005	13.92%	11.18%
25	84	82	0	0	804,219	64,337	453,005	14.20%	11.30%
26	85	83	0	0	820,303	65,624	453,005	14.48%	11.43%
27	86	84	0	0	836,709	66,937	453,005	14.77%	11.55%
28	87	85	0	0	853,443	68,275	453,005	15.07%	11.68%
29			0	0	0	0	0	0	0
30			0	0	0	0	0	0	0
31			0	0	0	0	0	0	0
32			0	0	0	0	0	0	0
33			0	0	0	0	0	0	0
34			0	0	0	0	0	0	0
35			0	0	0	0	0	0	0
Totals			\$500,000	\$46,995	\$1,482,048				
NPV @ 7.00%			\$87,841	\$43,921	\$590,517				

CHARITABLE REMAINDER UNITRUST NO. 2

Contribution to Trust: **\$500,000**
 Donor Initial Tax Bracket: **50.00%**
 Total Trust Yield: **4.00%**
 Total Trust Appreciation: **6.00%**
 Income Payout Rate: **6.00%**

Prepared for Mr. Donor

Payment Sequence:
 Charitable Deduction: **\$139,310**
 Gift Transfer Date: **5/1/1986**

Yr	1 Age	2 Age	10. Bene Contribution Allowed	11. Deduction Permitted	12. Income Tax Savings	13. Asset Value Start of Yr	14. Beneficiaries Pre-Tax Income	15. Gross Asset Value Year End	16. Total Net Investment	17. Pre-Tax Rate of Return	18. Average Pre-tax Rate of Return	
1	60	58	\$500,000	\$102,000	\$51,000	\$500,000	\$30,000	\$550,000	\$449,000	6.68%	6.68%	
2	61	59	0	37,310	18,655	520,000	31,200	572,000	430,345	7.24%	6.96%	
3	62	60	0	0	0	540,800	32,448	594,880	430,345	7.53%	7.15%	
4	63	61	0	0	0	562,432	33,746	618,675	430,345	7.84%	7.39%	
5	64	62	0	0	0	584,929	35,096	643,492	430,345	8.15%	7.48%	
6	65	63	0	0	0	608,326	36,500	669,159	430,345	8.48%	7.65%	
7	66	64	0	0	0	632,660	37,960	695,925	430,345	8.82%	7.82%	
8	67	65	0	0	0	657,966	39,478	723,762	430,345	9.17%	7.98%	
9	68	66	0	0	0	684,285	41,057	752,713	430,345	9.54%	8.16%	
10	69	67	0	0	0	711,656	42,699	782,821	430,345	9.92%	8.33%	
11	70	68	0	0	0	740,122	44,407	814,134	430,345	10.31%	8.51%	
12	71	69	0	0	0	769,727	46,184	846,700	430,345	10.73%	8.70%	
13	72	70	0	0	0	800,516	48,031	880,568	430,345	11.16%	8.89%	
14	73	71	0	0	0	832,537	49,952	915,790	430,345	11.60%	9.08%	
15	74	72	0	0	0	865,838	51,950	952,492	430,345	12.07%	9.28%	
16	75	73	0	0	0	900,472	54,028	990,519	430,345	12.55%	9.48%	
17	76	74	0	0	0	936,491	56,189	1,030,140	430,345	13.05%	9.69%	
18	77	75	0	0	0	973,950	58,437	1,071,345	430,345	13.57%	9.91%	
19	78	76	0	0	0	1,012,908	60,774	1,114,199	430,345	14.12%	10.13%	
20	79	77	0	0	0	1,053,425	63,205	1,158,767	430,345	14.68%	10.36%	
21	80	78	0	0	0	1,095,562	65,734	1,205,118	430,345	15.27%	10.59%	
22	81	79	0	0	0	1,139,384	68,363	1,253,322	430,345	15.88%	10.83%	
23	82	80	0	0	0	1,184,959	71,098	1,303,455	430,345	16.52%	11.08%	
24	83	81	0	0	0	1,232,358	73,941	1,355,594	430,345	17.18%	11.33%	
25	84	82	0	0	0	1,281,652	76,899	1,409,817	430,345	17.86%	11.59%	
26	85	83	0	0	0	1,332,918	79,975	1,466,210	430,345	18.58%	11.86%	
27	86	84	0	0	0	1,386,235	83,174	1,524,858	430,345	19.32%	12.14%	
28	87	85	0	0	0	1,441,684	86,501	1,585,853	430,345	20.10%	12.42%	
29	0	0	0	0	0	0	0	0	0	0	0	
30	0	0	0	0	0	0	0	0	0	0	0	
31	0	0	0	0	0	0	0	0	0	0	0	
32	0	0	0	0	0	0	0	0	0	0	0	
33	0	0	0	0	0	0	0	0	0	0	0	
34	0	0	0	0	0	0	0	0	0	0	0	
35	0	0	0	0	0	0	0	0	0	0	0	
Totals			\$500,000	\$139,310	\$69,655		\$1,495,027					
NPV @ 7.00%				\$127,915	\$63,958		\$548,988					

(C) 1983 PhilanthroTec, Inc.

**Charitable Remainder Unitrust—
Comparison of Net Benefits to
Donor and Institution
Based Upon Varying Payout Rates**

Gift Transfer Date: 5/1/1986
 Contribution to Trust: \$500,000
 Donor Tax Bracket: 50.00%
 Total Trust Earnings: 10.00%
 Payout Rate Unitrust 1: 8.00%
 Payout Rate Unitrust 2: 6.00%

Prepared for Mr. Donor

Unitrust Payout Rate:	8.00%	6.00%
A. Contribution to Trust	\$ 500,000	\$ 500,000
B. Charitable Deduction	93,990	139,310
C. Tax Savings in Bracket of: 50.00%	46,995	69,655
D. Net Investment	453,005	430,345
E. Pretax Income	1,482,048	1,499,027
F. Average Annual Return	52,930	53,537
G. Average Rate of Return	11.68%	12.42%
H. Combined Savings and Pre-Tax Income	1,529,043	1,568,682
I. Amount to Benefit Institution	853,443	1,441,684
J. Total Personal & Charitable Return	2,382,487	3,010,367
K. Percent Income lost by using lesser Income Payout Rate (Based Upon Net Present Value)		3.38%
L. Percent Gain in Trust Value Distributed to the Charity		68.93%
(c) 1983 PhilanthroTec, Inc.		4/15/1986

VIII. OBJECTIONS TO UNITRUST SOLUTION

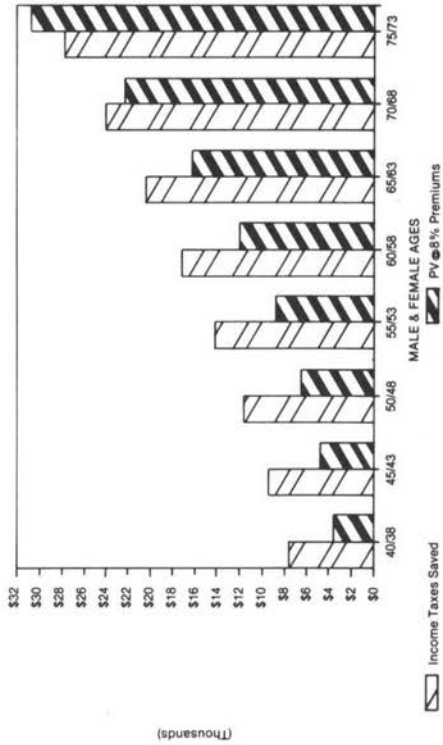
- A. Cannot profit by giving it away
 - 1. Remainder lost to heirs by charitable gift
 - 2. Selecting low rate of return must benefit charity—not the donor
 - 3. If it sounds too good to be true—it is
- B. Son-in-Law (the Lawyer) wants to keep status quo
 - 1. Management of real estate no big deal
 - 2. Retaining ownership will benefit everyone in the long run
 - 3. The hospital wants the capital—regardless of how it may hurt the family
 - 4. Unstated objection—loss to the heirs!

IX. WEALTH REPLACEMENT TRUST AS THE FACILITATOR

- A. Utilizing tax savings *alone* can fund wealth replacement trust
 - 1. Present value of tax deductions (payable one year hence) can cover present value of insurance premiums (following page)
 - 2. Use of Survivorship Life Insurance can create asset in hands of heirs (free of estate tax) when remainder reverts to charity
 - a. Death Benefit paid at second death
 - b. Cost effective since two lives insured—comparable to zero coupon bond compounding investment earnings until second death
 - c. Relaxed underwriting
 - d. Psychologically easier to accept
- B. Economic advantages of unitrust over retention of property can be demonstrated, without fear of loss to heirs of remainder interest
 - 1. Lack of charitable intent—already decided; only decision is to which charity: IRS or charities of your choosing
 - 2. Computer “what if” scenario can compare possible solutions with forceful accuracy

WEALTH REPLACEMENT

Tax Savings from \$100,000
5% Unitrust used to fund
Survivorship Whole Life
(Present Value of Premiums @ 8%
under Vanishing Premium Concept)



—AGES—		INCOME TAXES SAVED (@ 50%)	PRESENT VALUE @ 8% OF PREMIUMS	PERCENT OF ASSET REPLACED
Male	Female			
40	38	7,599	3,623	210.00%
45	43	9,420	4,837	195.00%
50	48	11,595	6,504	178.00%
55	53	14,148	8,777	161.00%
60	58	17,071	11,908	143.00%
65	63	20,353	16,246	125.00%
70	68	23,946	22,264	108.00%
75	73	27,770	30,677	91.00%

- 1) Although income stream is retained for lifetime of either donor, charitable gift of remainder interest creates current tax deduction (usable over 6 years up to 30% adjusted gross income if appreciated property).
- 2) Allowing dividends to purchase paid-up additions in early years enables owner to stop paying premiums after 6-9 years, with future premiums paid by applying current dividends and surrender of previous additions.
- 3) Since Wealth Accumulation Trust is a separate taxpayer, high investment yields currently available to trustee allow high discount rates comparable to expected earnings (8% assumed for Present Value calculations).

C. "Investment Options" Computer Program

1. Enter 16 variables in LOTUS 1.2.3 Program
2. Compares retention of property management conversion to municipal bonds conversion to unitrust & wealth replacement
3. Bottom line
 - a. Property retained IRS receives as much as donor, spouse, and heirs together
 - b. Municipal Bonds—low level income, but zero hedge against inflation
 - c. Conversion to Unitrust—donor, spouse, and heirs receive comparable benefits—IRS reduction goes to charity
4. Alternate scenarios
 - a. High growth rate of property enhances heirs, but produces low income stream to donor and spouse

- b. Comparison of after-tax incomes shows power of growth factors in unitrust and tax treatment of income distribution
 - c. Caveats on second page simplify presentation—present value analysis to satisfy CPA and make true comparison
- D. Completing the Sale
- 1. Suggest Community Foundation to receive remainder interest—retains power of choice by Donor
 - 2. Convince Trustee of Investment Philosophy to use capital gain-type property to *benefit donor* on taxation of income stream (also enhances remainder!)
 - 3. Use Type II Unitrust (with makeup provisions) to protect charity/trustee until property sold
 - 4. Establish insurability of donor and spouse before final decision—payment of initial premium by Wealth Replacement Trustee will help close case
 - 5. Use referral technique to develop other prospects with similar problems to be solved
 - 6. *By working together* we can consummate the unitrust.

**COMPARISON OF INVESTMENT STRATEGIES
Appreciated Securities or Real Estate**

Donor: Mr. Donor

Spouse: Mrs. Donor

Owner Age: 60	Market Value of Property	\$500,000	Cost Basis of Property	\$60,000	Unitrust Income Selected (%)	6.00
Spouse Age: 58	Investment Return before Tax (%)	8.00	Income Tax Bracket (%)	50.00	Unitrust Investment Rate (%)	10.00
	Growth Rate of Property (%)	3.50	Capital Gains Tax Bracket (%)	20.00	Tax Savings created by Unitrust	\$69,650
	Liquidation or Sales Cost (%)	7.00	Estate Tax Bracket (%)	50.00	Present Value Insurance Premiums	
	Assumed Cost of Money Factor (%)	7.00	Munic Bond Investment Return (%)	7.00	to fund Wealth Replacement Trust	\$61,522

OPTION 1—RETAIN PROPERTY @ 8.00%

OPTION 2—CONVERT TO MUNICIPALS @ 7.00%

OPTION 3—CONVERT TO UNITRUST @ 6.00%

Age of Owner Spouse	Net Income after taxes to Owners		Market Value of Property		Net Income after taxes to Owners		Market Value of Property		Net Income after taxes to Owners		Market Value of Property		Net Income after taxes to Owners		Market Value of Property		Net Income after taxes to Owners		Market Value of Property			
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)	(14)	(15)	(16)	(17)	(18)	(19)	(20)		
60	20,000	500,000	20,000	0	26,880	384,000	81,000	0	27,628	500,000	10,500	483,600	20,700	517,500	26,880	384,000	0	18,860	500,835	10,156	502,944	
61	20,700	517,500	20,700	0	26,880	384,000	0	0	18,860	500,835	10,156	502,944	21,425	535,613	26,880	384,000	0	19,615	501,705	10,562	523,062	
62	21,425	535,613	21,425	0	26,880	384,000	0	0	19,615	501,705	10,562	523,062	22,174	554,359	26,880	384,000	0	20,399	502,940	10,984	543,984	
63	22,174	554,359	22,174	0	26,880	384,000	0	0	20,399	502,940	10,984	543,984	22,950	573,762	26,880	384,000	0	21,215	504,900	11,424	565,744	
64	22,950	573,762	22,950	0	26,880	384,000	0	0	21,215	504,900	11,424	565,744	23,754	593,843	26,880	384,000	0	22,064	507,640	11,881	588,373	
65	23,754	593,843	23,754	0	26,880	384,000	0	0	22,064	507,640	11,881	588,373	24,585	614,628	26,880	384,000	0	22,947	511,215	12,356	611,908	
66	24,585	614,628	24,585	0	26,880	384,000	0	0														

67	65	25,446	636,140	25,446	0	26,880	384,000	0	0	23,864	515,665	12,850	636,385
68	66	26,336	658,405	26,336	0	26,880	384,000	0	0	24,819	521,725	13,364	661,840
69	67	27,258	681,449	27,258	0	26,880	384,000	0	0	25,812	513,495	13,899	688,314
70	68	28,212	705,299	28,212	0	26,880	384,000	0	0	26,844	509,570	14,455	715,846
71	69	29,199	729,985	29,199	0	26,880	384,000	0	0	27,918	508,775	15,033	744,480
72	70	30,221	755,534	30,221	0	26,880	384,000	0	0	29,035	509,330	15,634	774,259
73	71	31,279	781,978	31,279	0	26,880	384,000	0	0	30,196	510,750	16,259	805,230
74	72	32,374	809,347	32,374	0	26,880	384,000	0	0	31,404	513,075	16,910	837,439
75	73	33,507	837,674	33,507	0	26,880	384,000	0	0	32,660	516,350	17,586	870,936
76	74	34,680	866,993	34,680	0	26,880	384,000	0	0	33,967	520,525	18,290	905,774
77	75	35,894	897,338	35,894	0	26,880	384,000	0	0	35,325	525,645	19,021	942,005
78	76	37,150	928,745	37,150	0	26,880	384,000	0	0	36,738	531,760	19,782	979,685
79	77	38,450	961,251	38,450	0	26,880	384,000	0	0	38,208	538,915	20,573	1,018,872
80	78	39,796	994,894	39,796	0	26,880	384,000	0	0	39,736	547,170	21,396	1,059,627
81	79	41,189	1,029,716	41,189	0	26,880	384,000	0	0	41,325	556,590	22,252	1,102,012
82	80	42,630	1,065,756	42,630	0	26,880	384,000	0	0	42,978	567,240	23,142	1,146,093
83	81	44,122	1,103,057	44,122	0	26,880	384,000	0	0	44,698	579,195	24,068	1,191,936
84	82	45,667	1,141,664	45,667	0	26,880	384,000	0	0	46,486	592,530	25,031	1,239,614
85	83	47,265	1,181,622	47,265	0	26,880	384,000	0	0	48,345	605,865	26,032	1,289,198
	84	48,919	1,222,979	48,919	0	26,880	384,000	0	0	50,279	619,200	27,073	1,340,766
	85	50,631	1,265,784	50,631	0	26,880	384,000	0	0	52,290	632,535	28,156	1,394,397
	Estate Tax Liability		(632,892)	632,892	0		(192,000)	192,000	0		0	0	
	Total Benefits	925,813	632,892	1,558,704	0	752,640	192,000	273,000	0	915,655	632,535	488,668	1,394,397
		(Owners)	(Heirs)	(IRS)	(Charity)	(Owners)	(Heirs)	(IRS)	(Charity)	(Owners)	(Heirs)	(IRS)	(Charity)
					3,117,409				1,217,640				3,431,256
		Payments to All Parties				Payments to All Parties				Payments to All Parties			

COMPARISON OF INVESTMENT STRATEGIES
Explanation of Columns

Column 1	Assuming rentals on fully-depreciated real estate or dividends, income to the owners is reduced by ordinary income tax rates. Net income is projected to increase at the same growth rate as market value, since rents or dividends will keep pace with inflation.
Column 2	Market Value of the property is assumed to increase in value at the assumed growth rate as specified.
Column 3	Federal Income Taxes Paid are based on the assumed incremental Income Tax Bracket selected. Estate Taxes are levied at the second death, since unlimited marital deduction is assumed at the first death; Federal Estate Tax rates assume other estate assets exhaust the \$600,000 exemption. State Income and Estate Tax rates are omitted for simplicity, but can be included by adjusting incremental tax rates.
Column 4	Since full control is retained by owners, there is no contractual payment to charity.
Column 5	If the appreciated property or real estate is sold and reinvested in municipal bonds, Liquidation or Sales Cost and Capital Gains Taxes must be deducted from the market value before calculating the net investment return.
Column 6	Market Value of municipal bonds purchased with net proceeds ignore market fluctuations attributable to variations in market interest rates. At the second death, estate values are reduced by estate taxes.
Column 7	Long-Term Capital Gains Rates are assumed to determine Income Tax Liability on sale proceeds of the property, less the cost basis.
Column 8	Since full control is retained by owners, there is no contractual payment to charity.
Column 9	The trustee of the unitrust is assumed to invest net proceeds from the property donated to the unitrust in capital gain type property, so that only 50% of donors' income will be taxed as ordinary income. First-year net income is increased by the tax savings generated by the remainder gift, less amounts contributed to the Wealth Replacement Trust.
Column 10	Sufficient contributions are made by donors to the Wealth Replacement Trust (an irrevocable, defective insurance trust, with Crummey powers) to cover Survivorship Life Insurance premiums on the donors' lives, with premiums to the "vanish point" where future premiums will be covered by assumed dividends. (Dividend projections based on 1986 Scale—not guaranteed.)
Column 11	Federal Income Taxes (50% ordinary, 50% long-term capital gains) on distributable income from the unitrust are assumed, since reinvestment will be in capital gain type property, with modest dividends. The income and income taxes increase annually, since the unitrust is distributing less than the growth rate assumed on reinvested assets of the unitrust.
Column 12	At the second death, the unitrust terminates and the principal of the unitrust reverts to the designated charity. The unitrust principal increases annually, since the growth rate assumed for the unitrust is greater than the distribution payout rate selected by the donors when the unitrust was created.

PRESENT VALUE ANALYSIS

In order to properly compare different income streams, a common analytical technique is to include the "time value of money" by discounting the unequal income streams to their present value at a common discount rate. This technique shows the amount of money needed today which will pay the exact incomes at the end of each year, based on a specified interest rate earned.

	OPTION 1—RETAIN MANAGEMENT OF PROPERTY				OPTION 2—CONVERT TO MUNICIPALS @ 7.00				OPTION 3—CONVERT TO UNITRUST @ 6.00			
	Net Income to Owners	Market Value	Fed Income Taxes Paid	Remainder to Charity	Net Income to Owners	Market Value	Fed Income Taxes Paid	Remainder to Charity	Net Income to Owners	Wealth Repl Trust	Fed Income Taxes Paid	Remainder to Charity
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	
Present Value @ 7.00%	346,240	95,188	441,429	0	326,246	28,877	104,578	0	340,736	95,135	179,383	209,720
(Owners) Payments to All Parties (Pres Value 7.00%)	(Heirs)	(IRS)	(Charity)	(Owners) Payments to All Parties (Pres Value 7.00%)	(Heirs)	(IRS)	(Charity)	(Owners) Payments to All Parties (Pres Value 7.00%)	(Heirs)	(IRS)	(Charity)	(Charity)
	882,857	882,857	882,857	459,701	459,701	459,701	459,701	459,701	459,701	459,701	459,701	824,973
	(Pres Value 7.00%)	(Pres Value 7.00%)	(Pres Value 7.00%)	(Pres Value 7.00%)	(Pres Value 7.00%)	(Pres Value 7.00%)	(Pres Value 7.00%)	(Pres Value 7.00%)	(Pres Value 7.00%)	(Pres Value 7.00%)	(Pres Value 7.00%)	(Pres Value 7.00%)

M I N U T E S

Nineteenth Conference on Gift Annuities The Hyatt Regency New Orleans, New Orleans, Louisiana

Wednesday, April 30, 1986

First Plenary Session

The Conference was called to order at 9:05 a.m. by Chairman Charles W. Baas. The place of meeting was the Regency Ballroom of the Hyatt Regency.

Invocation was delivered by The Rev. Dr. Russell T. Hall, Associate Secretary: Finances, Canadian Bible Society.

Welcoming remarks were made by Dr. Baas. The full text is set forth in this booklet beginning on page 5.

Chairman Baas proposed the following persons to constitute the Resolutions Committee:

Chairman: MR. MEL DEVRIES, Department Secretary, General Council of the Assemblies of God

MR. CHARLES N. O'DATA, Vice President of Development, Geneva College

FATHER DONALD LEMAY, Director of Planned Giving, Saint John's University

MR. JOHN M. DESCHERE, Committee Secretary

DR. DAROLD H. MORGAN, President, Annuity Board, Southern Baptist Convention

MR. MICHAEL MUDRY, Actuary, Senior Vice President, Hay/Huggins Company, Inc.

MISS JANE STUBER, Director, Deferred Gifts & Bequests, Smith College

DR. CHARLES W. BAAS, Chairman, Committee on Gift Annuities—Ex Officio

MOTION was made and seconded that the proposed Committee be approved.

MOTION CARRIED

Mr. Don R. Conlan, President of Capital Strategy Research, Inc. was then introduced to discuss the topic, "Economic Review and Projection." A compilation of tables was distributed to participants. Mr. Conlan referred to the tables frequently. The text of his remarks is set forth in this booklet beginning on page 9.

Mr. Conlan addressed the question, "Is the US economy ready to roll over into a recession?" He analyzed the historic experience, noting what happened during the first and last two years of each Presidential term since 1948. He concluded that there is a fairly low probability of a recession through 1988. A most appreciative audience applauded his talk enthusiastically.

A coffee break recess took place from 10:15 to 10:30 a.m.

When the Conference reconvened, Mr. Michael Mudry, Actuary, Senior Vice President, Hay/Huggins Company, Inc., was called upon to present the "Actuarial Basis for Gift and Deferred Annuities." His paper and supporting schedules are set forth in this booklet beginning at page 12. He noted that a new Mortality Table identified as "1983a" has been adopted with a one year set back. Interest and mortality rates have been declining since 1983. He described a questionnaire he had prepared on expense loading, but noted that too few replies had been received to make it possible to draw significant conclusions. He recommended that maximum gift annuity rates be continued at present levels. A brief period of questions followed his remarks.

Dr. Roland C. Matthies then presented a report on State Regulations. He listed four questions that have been raised in this connection:

- a. Is a gift annuity a security?
- b. Is a pooled income fund a trust?
- c. Are "Blue Sky" laws relevant?
- d. Is SEC oversight involved?

Dr. Matthies noted that for state regulation purposes, the charitable gift annuity is classified with commercial annuities. Although regulatory efforts are on the increase, most states still do not regulate Gift Annuities.

An unresolved question concerns the necessity for registering in states other than the state where the charity is located. The term "doing business" is subject to wide interpretation.

Dr. Matthies emphasized the following recommendations:

- a. Use accepted terminology consistently
- b. Be sure legal counsel is experienced in this field
- c. Have minutes and motions authorize annuity program
- d. Establish registration procedures internally
- e. Maintain adequate records

The full text of Dr. Matthies' remarks are reproduced in this booklet, beginning at page 25.

The first plenary session was declared in recess at 11:45 to resume at 12:30 for luncheon.

Luncheon Session

Grace was offered by Dr. Robert B. Gronlund, President of Gronlund, Sayther & Associates.

There was no luncheon program.

The Conference recessed from luncheon to designated locations to participate in Workshop Sessions.

Workshop Sessions

The following workshops convened at 2:00 p.m.

1) *Gift Annuity—Basic*

MR. DAVID F. THORNTON—Director of Planned Giving, Harvard Law School

DR. ALVA R. APPEL—Former Director, Trust Services, General Conference of Seventh-day Adventists

2) *Gift Annuity & Deferred Annuity—Advanced*

MR. COLIN FOSTER—Director of Planned Giving, The Salvation Army, Eastern Territory

LYNDA S. MOERSCHBAECHER, ESQ.—Niesar & Wickersham, San Francisco, CA

3) *Pooled Income Fund—Basic*

MR. W. DEAN BROOME, CFRE—Director of Planned Giving, The Salvation Army, Southern Territory

- MR. FRANK A. LOGAN—Director of Bequests & Trusts, Dartmouth College
- 4) *Pooled Income Fund—Advanced*
MR. JAMES B. POTTER—Director of Planned Giving, American Lung Association
- 5) *Charitable Remainder Trusts—Basic*
KATHRYN E. BAERWALD, ESQ.—General Secretary, American Lutheran Church
RICHARD A. JAMES, ESQ.—Legal Counsel, Loma Linda University
- 6) *Charitable Remainder Trusts—Advanced*
MR. FRANK E. MINTON—Director of Planned Giving, University of Washington
WINTON C. SMITH, JR., ESQ.—Memphis, TN, Formerly Director of Planned Giving, Rhodes College
- 7) *Who's in Charge Here—The Business Office or The Development Office?*
MR. DAVID LISSNER—Vice President, Bethel Foundation
MR. HARVEY DEVRIES—Director of Capital Fund Development, Carleton College
- 8) *Marketing Life Income Gifts*
MR. JOHN S. RYAN—Director of Planned Giving, University of Minnesota Foundation
MR. FRANK J. MAYO—Vice President, Saint Joseph Medical Center Foundation
- 9) *Charitable Gifts by Will—Effective Use of Charitable Lead Trust and Q'Tip Trust*
EUGENE P. DALY, ESQ.—Gray, Plant, Mooty, Mooty & Bennett, Minneapolis, MN
TERRY SIMMONS, ESQ.—Trust Counsel, Baptist Foundation of Texas
- 10) *Combining Charitable Remainder Gifts With Life Insurance Trusts*
MR. MILES W. McNALLY, ChFC, CLU—Vice President of Marketing, McNally, Dunnavan & Lund, Inc.
MR. JAMES G. MARSHALL, JR.—Executive Director, Methodist Health Foundation, Inc.

The first workshops (Session "A") concluded about 3:30 p.m. for a coffee break of approximately 15 minutes. The second workshops (Session "B") followed, lasting until about 5:15 p.m. At their conclusion, the Conference recessed for dinner.

Optional Evening Sessions

The following optional sessions convened in the evening:

Canadian Taxation

MR. JAMES A. CHISHOLM—Special Gifts Officer, The United Church of Canada

U.S. Developments, including:

- a) New Appraisal & Substantiation Requirements
- b) Impact of New Gift Annuity Valuation Tables
- c) Unlimited Reformation of Charitable Trusts Law
JAMES S. HALPERN, ESQ.—Baker & Hostetler, Washington, DC, Former Senior Technical Advisor, Internal Revenue Service

Thursday, May 1, 1986

The Conference was reconvened at 8:30 a.m. in the Regency Ballroom by Chairman Baas.

The Chairman of the Resolutions Committee, Mr. Mel DeVries, submitted the following Resolutions:

- I. BE IT RESOLVED, that the present maximum immediate gift annuity rates, as adopted by the Eighteenth Conference on Gift Annuities on May 5, 1983, be continued as the Uniform Gift Annuity Rates recommended by the Nineteenth Conference on Gift Annuities.
- II. BE IT RESOLVED, that the present interest rate used to calculate interest factors for Deferred Gift Annuities, as adopted by the Eighteenth Conference on Gift Annuities on May 5, 1983, be continued as the interest rates recommended by the Nineteenth Conference on Gift Annuities.

Mr. DeVries moved adoption of these Resolutions which were promptly seconded and ADOPTED unanimously.

The Conference recessed to previously designated locations to resume participation in Workshop Sessions "C" and "D".

Following these sessions at 12:15, luncheon was served. Grace was offered by Colonel Floyd K. Hooper, National Treasurer, The Salvation Army.

Second Plenary Session

The Conference reconvened at 1:30 p.m. in the Regency Ballroom. The Chairman of the Resolutions Committee, Mr. DeVries, presented the report of that committee. The full text of the Resolutions Committee Report is printed beginning at page 206. Mr. DeVries read the entire report and moved its adoption. It was seconded and ADOPTED unanimously.

Dr. Baas then introduced the speaker for the final session of the Conference, Conrad Teitell, Esq., Partner, Prerau & Teitell, and Editor of *Taxwise Giving*. His topic was "Federal Tax Legislation." He reported on recent regulations and encouraged the Conference body to write to the IRS requesting them to postpone the effective date of the proposed new expected return multiple tables until January 1, 1987. He informed and entertained the audience with his unique style of presentation and received an enthusiastic ovation.

The Conference adjourned at 3:00 p.m. with the Benediction given by The Reverend Thomas F. McQueeney, S.J., Director, Jesuit Seminary Association.

Respectfully submitted,
John M. Deschere, *Secretary*

REPORT OF THE RESOLUTIONS COMMITTEE

- I. BE IT RESOLVED, that the present maximum immediate gift annuity rates, as adopted by the Eighteenth Conference on Gift Annuities on May 5, 1983, be continued as the Uniform Gift Annuity Rates recommended by the Nineteenth Conference on Gift Annuities.
- II. BE IT RESOLVED, that the present interest rates used to calculate interest factors for Deferred Gift Annuities, as adopted by the Eighteenth Conference on Gift Annuities on May 5, 1983, be continued as the interest rates recommended by the Nineteenth Conference on Gift Annuities.
- III. BE IT RESOLVED, that the Nineteenth Conference on Gift Annuities note with special interest the information set forth in Chairman Baas' opening statement regarding the number of sponsors that have been developed for this Conference, (now 1,296), and give recognition to the fact that this growth could not have come about without the active personal promotion and support of individuals attending this and prior conferences.
- IV. BE IT RESOLVED, that the Nineteenth Conference on Gift Annuities express its sincere appreciation to Mr. Don R. Conlan, President of Capital Strategy Research, Inc., for his timely and authoritative address on the subject, "Economic Review and Projection".
- V. BE IT RESOLVED, that the Nineteenth Conference on Gift Annuities express appreciation to Mr. Michael Mundry, Actuary, Senior Vice President of Hay/Huggins Company, Inc., for his study on the rate structure for both standard and Deferred Gift Annuities.
- VI. BE IT RESOLVED, that the Nineteenth Conference on Gift Annuities express deep appreciation to those other persons who made plenary session presentations on matters of continuing concern, namely:

Dr. Roland C. Matthies, Vice President and
Treasurer Emeritus, Wittenberg University
"Report on State Regulations"

Conrad Teitell, Esq., Partner-Prerau & Teitell;
Editor, *Taxwise Giving*
"Federal Tax Legislation"

VII. BE IT RESOLVED, that the Nineteenth Conference on Gift Annuities express gratitude to the leaders of the various workshop sessions who graciously shared their knowledge and expertise during this Conference, namely the following:

- Mr. David F. Thornton, Director of Planned Giving, Harvard Law School
- Dr. Alva R. Appel, Former Director, Trust Services, General Conference of Seventh-day Adventists
- Mr. Colin Foster, Director of Planned Giving, The Salvation Army, Eastern Territory
- Lynda S. Moerschbaecher, Esq., Niesar & Wickersham, San Francisco, CA
- Mr. W. Dean Broome, CFRE, Director of Planned Giving, The Salvation Army, Southern Territory
- Mr. Frank A. Logan, Director of Bequests & Trusts, Dartmouth College
- Mr. James B. Potter, Director of Planned Giving, American Lung Association
- Kathryn E. Baerwald, Esq., General Secretary, American Lutheran Church
- Richard A. James, Esq., Legal Counsel, Loma Linda University
- Mr. Frank E. Minton, Director of Planned Giving, University of Washington
- Winton C. Smith, Jr., Esq., Memphis, TN, Formerly Director of Planned Giving, Rhodes College
- Mr. David Lissner, Vice President, Bethel Foundation
- Mr. Harvey deVries, Director of Capital Fund Development, Carleton College
- Mr. John S. Ryan, Director of Planned Giving, University of Minnesota Foundation

Mr. Frank J. Mayo, Vice President, Saint Joseph Medical Center Foundation
Eugene P. Daly, Esq., Gray, Plant, Mooty, Mooty & Bennett, Minneapolis, MN
Terry Simmons, Esq., Trust Counsel, Baptist Foundation of Texas
Mr. Miles W. McNally, ChFC, CLU, Vice President of Marketing, McNally, Dunnavan & Lund, Inc.
Mr. James G. Marshall, Jr., Executive Director, Methodist Health Foundation, Inc.

VIII. BE IT RESOLVED, that the Nineteenth Conference on Gift Annuities express appreciation to those persons conducting optional sessions and pre-Conference introductory sessions, namely:

Mr. James A. Chisholm, Special Gifts Officer, The United Church of Canada

James S. Halpern, Esq., Baker & Hostetler, Washington, DC, Former Senior Technical Advisor, Internal Revenue Service

Miss Agnes Claire Reithebuch, Former Accounting Manager, Society for the Propagation of the Faith

Dr. Robert B. Gronlund, President, Gronlund, Sayther & Associates

IX. BE IT RESOLVED, that the Nineteenth Conference on Gift Annuities recommend to the various societies, agencies, boards, institutions, colleges, homes and hospitals, that for the purpose of uniformity and a better understanding of gift annuity agreements:

1. the agreement between the donor and the issuing agency be referred to as a "gift annuity agreement";
2. the periodic payment under gift annuity agreements be referred to as "annuity payments"; and
3. in discussing, promoting or advertising gift annuity agreements, such terminology as "bonds," "interest," "investment," "principal" which apply to other forms of financial transactions, be carefully avoided.

X. BE IT RESOLVED, that the Nineteenth Conference on Gift Annuities recommend that organizations issuing gift

annuity agreements maintain the funds related to their gift annuity program as "segregated funds" to make certain that all required annuity payments can be made.

- XI. BE IT RESOLVED, that the Nineteenth Conference on Gift Annuities recommend that religious, educational, health, and charitable groups which cooperate with the Committee on Gift Annuities be requested to send to the Chairman of the Committee copies of new rulings by Federal or State authorities dealing with gift annuities or life income agreements.
- XII. BE IT RESOLVED, that the Nineteenth Conference on Gift Annuities strongly urge and encourage all organizations issuing gift annuity agreements to adopt the Uniform Gift Annuity Rates as maximum rates.
- XIII. BE IT RESOLVED, that the Nineteenth Conference on Gift Annuities recommend to the Internal Revenue Service that the effective date of the proposed changes in life expectancy multiples (to be incorporated into tables under Section 1.72-9 of the Income Tax Regulations) be postponed until January 1, 1987, to permit preparation of revised tables and projected tax implications of annuities issued by charitable organizations prior to such issuance and to simplify the income tax reporting of annuity agreements issued during 1986 to reduce confusion to the public and tax administration problems for the Internal Revenue Service.
- XIV. BE IT RESOLVED, that the Nineteenth Conference on Gift Annuities send greetings to Mr. Forrest Smith, Honorary Treasurer; and to Mr. Charles L. Burrall, Jr., Dr. J. Homer Magee, Dr. Chester A. Myrom, and Dr. R. Alton Reed, Honorary Members, remembering their many contributions to the work of the Committee.
- XV. BE IT RESOLVED, that the Nineteenth Conference on Gift Annuities express its appreciation for the special helpfulness extended to this group in connection with the arrangements for it to Miss Mary Lou Ruegg, Administrative Assistant to the Treasurer of the American

Bible Society, Miss Patricia A. Blankenship, Mrs. Charles W. Baas, and the staff and management of The Hyatt Regency New Orleans.

- XVI. BE IT RESOLVED, that the Nineteenth Conference on Gift Annuities express its warm thanks and hearty commendation to Clinton A. Schroeder, Esq. and the Reverend Dr. K. Joan Cole, for their leadership as convenors of the Program Committee and Arrangements Committee, respectively, for this Conference.
- XVII. BE IT RESOLVED, that the Nineteenth Conference on Gift Annuities express to Dr. Charles W. Baas, Chairman; Dr. Darold H. Morgan, Miss Agnes Claire Reithebuch and Mr. Tal Roberts, Vice Chairmen; Mr. John M. Deschere, Secretary; Dr. John D. Ordway, Treasurer, and to the other members of the Committee on Gift Annuities, its appreciation for this outstanding Conference and for their many services since the last Conference.

Mel DeVries, Chairman
John M. Deschere
Father Donald LeMay
Darold H. Morgan
Michael Mudry
Charles N. O'Data
Jane Stuber
Charles W. Baas, Ex Officio

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| Arthritis Foundation | Baptist Mission of North America |
| Asbury College | Baptist Retirement Center Foundation |
| Asbury Methodist Home, Inc. | Bard College |
| Asbury Theological Seminary | Barnabas Foundation |
| Ashland College | Barrington College |
| Ashland Theological Seminary | Barry University |
| Association of Baptists for World Evangelism, Inc. | Bay Path Junior College |
| Association for Benevolent Care, Inc. | Baylor University |
| Association of Free Lutheran Congregations | Baylor University Medical Center Fdn. |
| Association of Graduates of the US Air Force Academy, Inc. | Beaver College |
| Association of Graduates of the US Military Academy | Benedictine College |
| Association for Research and Enlightenment, Inc. | Benedictine Monks, Inc. |
| Atherton Baptist Homes | Bensenville Home Society |
| Audubon Zoological Garden | Bentley College |
| Augsburg College | Berea College |
| Augustana College, Rock Island, IL | Bergan Mercy Foundation, Inc. |
| Augustana College, Sioux Falls, SD | Berkshire Christian College |
| Aurora University | Lee Bernard & Company |
| Austin College | Berry College |
| Awana Youth Association | Bethany Bible College |
| | Bethany Christian Services |
| | Bethany College, Lindsborg, KS |
| | Bethany College, Bethany, WV |
| | Bethany Fellowship, Inc. |
| | Bethany Lutheran College |
| | Bethany Methodist Home & Hospital |

Bethany Nazarene College
 Bethany Theological Seminary
 Bethel College
 Bethel College & Seminary
 Bethesda Health Foundation
 Bethesda Lutheran Home
 Bethphage Mission, Inc.
 Bethune-Cookman College
 Bible Christian Union
 Bible Literature International
 Biola University, Inc.
 Black Hills Children's Home
 Blackburn University
 Bloomfield College
 Blue Cloud Abbey
 Boston University
 Boulder Community Hospital Fdn.
 Boy Scouts of America
 Boys & Girls Homes of NC, Inc.
 Boyssville of Michigan, Inc.
 Bradley University
 Braille Institute of America, Inc.
 Bremwood
 Brenau College
 Brennan Company
 Brentwood Congregational Church
 Endowment Trust
 Brethren Hillcrest Homes
 Brethren Home
 Brethren in Christ Church
 Brethren Village
 Brevard Mental Health Centers &
 Hospital, Inc.
 Briar Cliff College
 Bridgewater College
 Brigham & Women's Hospital
 Broeker, Mihalchick & Blumer
 John Brown Limited, Inc.
 Brown University
 John Brown University
 Browning Associates, Inc.
 Bryan College
 Bryn Mawr College
 Bryn Mawr Hospital Foundation
 Buena Vista College
 Burns, Kennedy, Schilling & O'Shea
 Butler County Memorial Hospital

CARE
 Dallas, TX
 CARE, Inc.
 New York, NY
 CRISTA Ministries
 Cabell, Kennedy & French
 California Lutheran Educational
 Fdn.
 California Lutheran Homes
 California-Pacific Conference
 United Methodist Foundation
 California Polytechnic State
 University Foundation
 California State University, Chico
 Calvary Assembly of Winter Park
 Calvary Bible College
 Calvary United Methodist Church
 Calvin College
 Campbellsville College
 Canadian Bible Society
 Capin, Crouse & Co.
 Capital University
 Carleton College
 Anne Carlsen School
 Carnegie Institute
 Carnegie-Mellon University
 Carroll College, Helena, MT
 Carroll College, Waukesha, WI
 Carson-Newman College
 Casa Colina Foundation
 Case Western Reserve University
 Gordon M. Caswell & Associates
 Cathedral High School Education
 Foundation, Inc.
 Catholic Church Extension Society
 Catholic Diocese of Jefferson City
 Catholic Diocese of Orlando
 Catholic Diocese of Toledo
 Catholic Family Sharing Appeal
 Catholic Foreign Mission Society of
 America, Inc.
 Catholic Foundation
 Catholic Foundation of North-
 Central Louisiana
 Catholic Foundation of Oklahoma,
 Inc.
 Catholic Foundation of Rhode Island
 Catholic Indian Mission
 Catholic Near East Welfare Assn.
 Catholic Relief Services
 Catholic University of America

CAM International
 CARE
 Kansas City, MO

Cedar Falls Lutheran Home
 Cedar Lake Home Campus
 Cedars Home for Children Fdn.,
 Inc.
 Cedars Medical Center
 Cedarville College
 Centenary College
 Central Baptist Theological Seminary
 Central Christian College of the
 Bible
 Central College, Pella, IA
 Central College, McPherson, KS
 Central Michigan University
 Chadron State College
 Chicago Symphony Orchestra
 Child Evangelism Fellowship, Inc.
 Child & Family Services of Knox
 County
 Children's Home
 Children's Hospital Foundation
 Denver, CO
 Children's Hospital Foundation
 Philadelphia, PA
 Children's Hospital Medical Center
 Children's Hospital of Michigan
 Children's Hospital National Medical
 Center
 Children's Hospital of St. Paul
 Children's Medical Fdn. of Texas
 Children's Memorial Hospital
 Children's Memorial Hospital Fdn.
 Children's Museum
 Children's Orthopedic Hospital Fdn.
 Christ for the Nations, Inc.
 Christian Aid Mission
 Christian & Missionary Alliance
 Christian Appalachian Project, Inc.
 Christian Broadcasting Network, Inc.
 Christian Church Foundation
 Christian Church Homes of
 Kentucky, Inc.
 Christian Church in Kansas
 Christian Communications of
 Chicagoland
 Christian Crusaders
 Christian Homes, Inc.
 Christian League for the
 Handicapped
 Christian Life Communities
 Christian Light Publications, Inc.
 Christian Reformed Board of Home
 Missions
 Christian Reformed World Missions
 Christian Schools Int'l. Foundation
 Christian Theological Seminary
 Christmount Christian Assembly
 Church of the Brethren
 Church of God, Inc.
 Board of Church Extension &
 Home Missions
 Board of Pensions
 Church of the Lutheran Brethren
 Church of the Nazarene
 The Church Pension Fund
 Church of the United Brethren in
 Christ
 Churches of Christ in Christian
 Union
 Cincinnati Bible Seminary
 Claremont McKenna College
 Claremont University Center and
 Graduate School
 M. J. Clark Memorial Home
 Clarke College
 The Clarke School for the Deaf
 Clemson University
 Coe College
 Colby College
 Colby-Sawyer College
 Colgate Rochester Divinity School
 College of Mount St. Joseph
 College of New Rochelle
 College of the Ozarks
 College of St. Catherine
 College of St. Mary
 College of Wooster
 Colorado Boys Ranch Foundation
 Columbia Theological Seminary
 Columbia University
 Columbus-Cuneo-Cabrini Medical
 Center
 Comboni Missionaries
 Community Trust of Metropolitan
 Tarrant County
 Compassion International
 Computone Systems, Inc.
 Concordia College
 Connecticut Bank & Trust Company
 Connecticut College
 Conservative Baptist Association of
 America
 Conservative Baptist Cooperative
 Stewardship Ministries

Conservative Baptist Foundation of
 Arizona
 Continental Bank
 Convalescent Home for Children
 Cook Christian Training School
 Kenneth Copeland Ministries
 Copley Memorial Hospital Health
 Care Foundation
 Cornell College
 Costerisan & Engel, P.A.
 Courage Center
 Cove Ministries, Inc.
 Covenant College
 Covenant Harbor Bible Camp
 Covenant House
 Lester E. Cox Medical Center
 Creighton University
 Crescendo Planned Gifts Software
 Crosier Fathers
 Crystal Cathedral of the Reformed
 Church in America
 Culver-Stockton College
 Cumberland College
 Cumberland Presbyterian Church

 Dakota Wesleyan University
 Dallas Christian College
 Dallas Methodist Hospitals
 Foundation
 Dallas Theological Seminary
 Dana College
 Danbury Hospital Development
 Fund, Inc.
 David & Margaret Home, Inc.
 Davidson College
 Daytop Village Foundation, Inc.
 Deaconess Development Foundation
 Deaconess Foundation
 Deaconess Medical Center
 Foundation
 DeBevoise & Plimpton
 Deborah Hospital Foundation
 Decatur Memorial Hospital
 Deerfield Academy
 Delco Memorial Foundation
 Denison University
 DePauw University
 Denver Conservative Baptist
 Seminary
 Development Association for
 Christian Institutions
 Development Management Associates

 Dickinson College
 Dickinson State College Foundation
 Diocese of Bismarck
 Diocese of Des Moines
 Diocese of Helena
 Diocese of Kansas City-St. Joseph
 Diocese of Phoenix
 Diocese of Pittsburgh
 Diocese of San Bernardino
 Diocese of Tucson
 Direct Relief International
 Doane College
 Dominican Friars' Guilds
 J. Donovan Associates
 Drew University
 Bishop Drumm Retirement Center
 Duke University
 Dunwoody Industrial Institute
 Duquesne University
 Dwight-Englewood School

 Eagle Village, Inc.
 Earlham College
 East Carolina University Foundation,
 Inc.
 Easter Seal Society of Oregon
 Eastern College/Eastern Baptist
 Seminary
 Eastern Mennonite College
 Eastern Michigan University
 Ebenezer Foundation
 Eden Theological Seminary
 Eger Homes & Foundation
 Don R. Elliot & Associates
 Elmhurst College
 Embry-Riddle Aeronautical
 University
 Emmanuel School of Religion
 Endowment Board/Conference
 Claimants
 Endowment Foundation of Thomas
 More Prep-Marian
 Jacob Engle Foundation
 Episcopal Church Center
 Episcopal Retirement Homes, Inc.
 Erskine College
 Estate Archetypes
 Ms. Ellen G. Estes
 Eureka College
 Evangelical Alliance Mission
 Evangelical Covenant Church of
 America

Evangelical Free Church of America
 Evangelical Friends Church, E.R.
 Evangelical Lutheran Good Samaritan Society
 Evangelical Mennonite Brethren Conference
 Evangelical Methodist Church
 Evangelistic Faith Missions, Inc.

Faegre & Benson
 Fairfield, McDonald, Sullard & Lane
 Fairfield University
 Faith Baptist Bible College
 Family Service of Rochester, Inc.
 Far East Broadcasting Company
 Cal Farley's Boys Ranch
 Fauntleroy United Church of Christ
 Feed the Children
 Fellowship of Reconciliation
 Field Museum of Natural History
 Findlay College
 First Assembly of God Church
 First Christian Church Foundation
 First Church of Christ, Scientist
 First United Presbyterian Foundation
 Father Flanagan's Boys' Home
 Florida Baptist Children's Homes
 Florida Hospital Foundation
 Florida Institute of Technology
 Florida Sheriffs Youth Fund, Inc.
 Florida State University Foundation
 Florida United Methodist Children's Home
 Fordham University
 Fort Sanders Foundation
 Fort Wayne Bible College
 Foundation for Chiropractic Education & Research
 Foundation for Christian Living
 Foundation for Physical Therapy
 George Fox College
 Steven Fox
 Framingham Union Hospital
 Franklin & Marshall College
 Franklin United Methodist Home
 Friars of the Atonement, Inc.
 Free Methodist Church of N.A.
 Free Will Baptist Foundation
 French Camp Academy
 Friends Bible College
 Friends Committee on National Legislation

Friends of Israel Gospel Ministry
 Friends University
 Fuller Theological Seminary
 Furman University
 Gardner-Webb College
 Garrett-Evangelical Theological Seminary
 Gateway United Methodist Youth Center & Family Services
 Gaylord Hospital
 General Conference of Mennonite Brethren Churches
 General Conference Mennonite Church
 General Council of the Assemblies of God
 General Health, Inc.
 Geneva College
 Georgetown College
 Georgia Baptist Children's Homes, Inc.
 Georgia Baptist Foundation, Inc.
 Georgia Institute of Technology
 Georgia Sheriffs Youth Homes, Inc.
 Girl Scout Council of Bergen County
 Girl Scouts of the USA
 Glendale Adventist Medical Center
 Glendale Federal Savings
 Glenmary Home Missioners
 Cardinal Glennon Children's Hospital
 Glenwood School for Boys
 "Go Ye" Mission, Inc.
 Gonser, Gerber, Tinker, Stuhr
 Gonzaga University
 Good Samaritan Foundation
 Good Samaritan Hospital
 Good Samaritan Medical Center Fdn.
 Good Shepherd Home
 Goodwill Industries Rehabilitation Center
 Goodwill Industries—Suncoast, Inc.
 Gordon College
 Gordon-Conwell Theological Seminary
 Marvin Gorman Ministries
 Gospel Fellowship Association
 Gospel Missionary Union
 Gospel Volunteers, Inc.
 Governor Dummer Academy
 Grace Bible College
 Grace Brethren Missions

Grace College of the Bible
 Grace Schools, Inc.
 Graceland College
 Billy Graham Evangelistic Assn.
 Grand Rapids Baptist College &
 Seminary
 Grant Hospital Development
 Foundation
 Gray, Cary, Ames & Frye
 Gray, Plant, Mooty, Mooty & Bennett
 Great Lakes Bible College
 Greater Europe Mission
 Greater Minneapolis Association of
 Evangelicals
 Grinnell College
 Gronlund, Sayther & Associates
 Guideposts Associates, Inc.
 Guilford College
 Gustavus Adolphus College

 Hamilton College
 Hamline University
 Hampden-Sydney College
 Hanley-Hazelden, Center at St.
 Mary's
 A. S. Hansen, Inc.
 Hardin-Simmons University
 Hargrave Military Academy
 Harmarville Rehabilitation Center,
 Inc.
 Harvard Management Company
 Harvard Medical School
 Harvard University
 Hauck & Associates
 Haven of Rest Ministries
 Hawthorne Gospel Church
 Hay/Huggins Company, Inc.
 Health Sciences Foundation of the
 Medical University of S. Carolina
 Healthaven Corporation
 Ray Heckendorn & Associates
 Heifer Project International
 Heralds of Hope, Inc.
 Marilyn Hickey Ministries
 Hillcrest Medical Center
 Hillsdale Free Will Baptist College
 Lee F. Holdmann, Esq.
 Holland Home
 Holy Land Christian Mission Int'l.
 Hope College
 Hope Haven, Inc.
 John Hopkins University

 Houghton College
 Hudelson Baptist Children's Home
 Hudson Valley Philharmonic
 Huntingdon College
 Huntington College
 Huron College

 Idaho Youth Ranch, Inc.
 Iliff School of Theology
 Illinois Institute of Technology
 Illinois Wesleyan University
 Indiana Masonic Home Foundation,
 Inc.
 Ingalls Memorial Hospital
 Institute of Logopedics
 Inter-Aid, Inc.
 Inter-Mountain Deaconess Home for
 Children
 International Bible Society
 International Foundation of the
 American Historical Society of
 Germans from Russia
 International Lutheran Laymen's
 League
 International Ministries to Israel
 Inter-Varsity Christian Fellowship
 Iona Preparatory School
 Iowa Methodist Health Foundation
 Iowa Natural Heritage Foundation
 Iowa Wesleyan College
 Israel Histadrut Foundation, Inc.

 Beth Jacobs Schools of Philadelphia
 Thomas Jefferson University
 Jesuit Deferred Funds
 Jesuit Deferred Giving Program
 Jesuit Development Office
 Jesuit High School
 Jesuit Mission Bureau
 Jesuit Seminary Association,
 Chicago, IL
 Jesuit Seminary Association,
 St. Louis, MO
 Jewish National Fund
 Johnson Bible College
 Judson College
 Juniata College

 Kennedy Sinclair, Inc.
 Kenosha Memorial Hospital
 Kentucky Baptist Foundation

Kentucky Baptist Homes for
 Children
 Kenyon College
 Kettering Medical Center
 Kewanee Public Hospital
 King's College
 Kingswood Manor
 Knoxville College of Osteopathic
 Medicine

 LDS Foundation,
 Lafayette College
 Lake Bluff/Chicago Homes for
 Children
 Lake Forest College
 Lakeside Association
 Lambrides, Samson, Mendler &
 Company
 Lambuth College
 Lancaster Bible College
 Lancaster Theological Seminary
 Latin America Mission, Inc.
 Laubach Literacy International
 Lawrence University
 League of Women Voters Education
 Fund
 Lebanon Valley Brethren Home
 Lebanon Valley College
 Lehigh University
 Le Tourneau College
 Lewis & Clark College
 Lexington Theological Seminary
 Lincoln Christian College
 Lincoln Memorial University
 Little Company of Mary Hospital
 Living Bibles International
 David Livingstone Missionary
 Fdn., Inc.
 Alice Lloyd College
 Loma Linda University
 Long Beach Community Hospital
 Fdn.
 Longwood College Foundation, Inc.
 Loras College
 Los Angeles Orthopaedic Foundation
 Los Angeles Society for the
 Prevention of Cruelty to Animals
 Louisiana Baptist Foundation
 Louisiana College
 Louisville Presbyterian Theological
 Seminary
 Loyola High School

 Loyola Marymount University
 Loyola University
 Lubbock Christian College
 Lowell Lundstrom Ministries
 Luther College
 Martin Luther Home Foundation
 Luther Northwestern Theological
 Seminary
 Lutheran Bible Institute
 Lutheran Church in America—
 Canada Foundation
 Lutheran Church in America
 Foundation, Dunedin, FL
 Lutheran Church in America
 Foundation, New York, NY
 Lutheran Church—Missouri Synod
 Fdn.
 Lutheran Evangelistic Movement,
 Inc.
 Lutheran Foundation of the
 Southwest
 Lutheran Health Care Foundation
 Lutheran Health Services Foundation
 Lutheran Homes, Inc.
 Lutheran Medical Center
 Lutheran School for the Deaf
 Lutheran Social Services of Colorado
 Lutheran Social Services of Illinois
 Lutheran Social Service of Minnesota
 Lycoming College
 Lynchburg College

 Catherine McAuley Health Center
 Paul A. McCann & Associates, Inc.
 McCormick Theological Seminary
 McKendree College
 McPherson College
 MAP International
 MacAlester College
 James Madison University Fdn.
 Maenner Relocation, Inc.
 Malone College
 Manhattan Christian College
 Mankato State University
 Mare and Company
 Marianist Mission
 Marietta College
 Marion College
 Marist College
 Marquette University
 Marshall & Melhorn
 Marts & Lundy, Inc.

Mary College
 Marymount College
 Marymount College of Virginia
 Masonic Charity Foundation of Connecticut
 Masonic Charity Foundation of New Jersey
 Masonic Homes of California
 Massachusetts College of Pharmacy
 Connie Maxwell Children's Home
 Meals for Millions/Freedom from Hunger Foundation
 Medical Center Hospital of Vermont
 Medical College of Georgia
 Memorial Homes Foundation, Inc.
 Memorial Hospital Foundation
 Memorial Medical Center Foundation
 Memorial Sloan-Kettering Cancer Center
 Mennonite Board of Missions
 Mennonite Foundation, Inc.
 Mercer University
 Mercy Health Center
 Mercy Medical Center
 Meredith College
 Messiah College
 Messiah Village
 Methodist Health Foundation, Inc.
 Methodist Home
 Methodist Hospital of Brooklyn
 Methodist Hospital Foundation
 Miami Christian College
 Miami Valley Hospital
 Middlebury College
 Midland Lutheran College
 Midland Mutual Life Insurance Company
 Mid-South Bible College
 Military Vicariate, Inc.
 Millikin University
 Milliman & Robertson, Inc.
 Mills Memorial Hospital Foundation
 Millsaps College
 Minnesota Medical Foundation
 Minnesota Orchestral Association
 Minnesota Public Radio
 Minnesota United Methodist Foundation
 Mission Aviation Fellowship
 Missionaries of Africa
 Missionaries of the Sacred Heart
 Missionary Church, Inc.
 Mississippi University for Women
 Lynda S. Moerschbaecher, Esq.
 Moffit Cancer Center
 Moody Bible Institute
 Moore Memorial Hospital, Inc.
 Moral Re-Armament Inc.
 Moravian Church
 Moravian Church in America
 Moravian College
 Mt. Angel Abbey & Seminary
 Mount Holyoke College
 Mount Mercy College
 Mount St. Clare College
 Mt. St. Joseph's Residence and Extended Care Center
 Harvey Mudd College
 Cardinal Muench Seminary
 Muhlenberg College
 Multnomah School of the Bible
 Museum of Science and Industry
 Musick, Peeler & Garrett
 Muskingum College
 Mystic Seaport Museum

 Nadel Associates
 Narramore Christian Foundation
 National Academy of Public Admin.
 National Association of Congregational Christian Churches
 National Audubon Society
 National Bank of Waterloo
 National Benevolent Association
 National Church Residences
 National Easter Seal Society
 National 4-H Council
 National Methodist Foundation for Christian Higher Education
 National Wildlife Federation
 Nature Conservancy
 Navesink House
 Navigators
 Nebraska Children's Home
 Nebraska Christian College
 Nebraska Methodist Hospital Foundation
 Nebraska Wesleyan University
 New England Baptist Hospital
 New Jersey Institute of Technology
 New Mexico Baptist Foundation
 New Mexico Boys Ranch

New Mexico Conference Methodist
 Fdn., Inc.
 New Tribes Mission, Inc.
 New York-Connecticut Foundation of
 the United Methodist Church, Inc.
 New York University
 Newcomb Hospital Foundation, Inc.
 R & R Newkirk/Longman
 Niessen, Dunlap & Pritchard
 Nixon, Hargrave, Devans & Doyle
 Noble & Greenough School
 Noel-Schopen & Company
 North American Baptists
 North Carolina Baptist Foundation,
 Inc.
 North Central College
 North Dakota State University
 Development Foundation
 Northeastern Illinois University
 Northeastern University
 Northern Arizona University
 Northern Baptist Theological
 Seminary
 Northern Rocky Mountain
 Easter Seal Society
 Northland College
 Northridge Hospital Development
 Assn.
 Northwest Baptist Foundation
 Northwest Community Health
 Services Fdn.
 Northwest Nazarene College
 Northwestern College
 Roseville, MN
 Northwestern College
 Orange City, IA
 Northwestern University
 Northwood Institute
 Nyack College

 OMS International, Inc.
 Oak Grove Lutheran High School
 Oak Hills Fellowship, Inc.
 Oakwood College
 Oakwood Hospital Foundation
 Oberlin College
 Oblate Missions
 Oglethorpe University
 Occidental College
 Ohio Northern University
 Ohio Presbyterian Homes
 Ohio State University Campaign

 Ohio Wesleyan University
 Oklahoma Baptist University
 Oklahoma Christian College
 Oklahoma United Methodist
 Foundation Inc.
 Old Time Gospel Hour
 Omaha Home for Boys
 O'Melveny & Myers
 Open Bible Standard Churches, Inc.
 Open Doors with Brother Andrew
 Oregon Episcopal School
 Oregon State University Foundation
 Osborn Foundation
 Otterbein College
 Otterbein Home
 Ouachita Baptist University
 Our Lady of Victory Homes of
 Charity
 Overlake Hospital Foundation
 Ozark Christian College

 PG Calc Inc.
 Pace University
 Pacific Garden Mission
 Pacific Lutheran University
 Pacific School of Religion
 Pacific Union College
 Pacific University
 Packer Collegiate Institute
 Robert Packer Hospital
 Paducah Community College
 Palmer Home for Children
 Paoli Memorial Hospital
 Park Street Church
 Francis W. Parker School
 Paulist Fathers/Missionary Society of
 St. Paul the Apostle
 Pendle Hill/Quaker Study Center
 Peninsula/Baltimore Foundations
 United Methodist Foundations
 Peninsula United Methodist Homes,
 Inc.
 Pennsylvania College of Optometry
 Pennsylvania State University
 Pension Fund of the Christian
 Church
 Pentera, Inc.
 People-to-People Health Foundation,
 Inc.
 Peoria Rescue Mission
 Pepperdine University

Phipps, Burkholder, Geisert & Huffman
 Philadelphia College of Bible
 Phillipps Exeter Academy
 Phillips University
 Phoebe-Devitt Home
 Phoenix Memorial Hospital Foundation
 Piedmont College
 Piedmont Technical College Foundation
 William M. Pierson
 Pikeville College
 Pilgrim Place
 Pinecrest Manor
 Pine Rest Christian Hospital
 Planned Giving Consultants, Inc.
 Planned Giving Specialists, Inc.
 Planned Parenthood Federation of America
 Plymouth Congregational Church
 Plymouth Harbor, Inc.
 Plymouth Place, Inc.
 Pocket Testament League, Inc.
 Point Loma Nazarene College
 Pomona College
 Prairie Bible Institute
 Prairie View Inc.
 Presbyterian Church in America Foundation
 Presbyterian Church (USA) Board of Annuities & Relief
 Presbyterian Church (USA) Foundation
 Presbyterian Foundation, Inc.
 Presbyterian Home of South Carolina
 Presbyterian Homes, Inc.
 Presbyterian Homes of the Synod of FL
 Presbyterian Homes of Minnesota, Inc.
 Presbyterian Homes of New Jersey
 Presbyterian Hospital Center Foundation
 Presbyterian Intercommunity Hospital Fdn.
 Presbyterian Residents Center
 Princeton Theological Seminary
 Prison Fellowship Ministries
 Private Alternative, Inc.
 Providence Hospital
 Prudential-Bache Securities
 Public Relations Counselors, Inc.
 Quakerdale Home
 RBM Ministries, Inc.
 Regions Beyond Missionary Union
 Radio Bible Class Trust
 Radcliffe College
 Randolph-Macon Women's College
 Ray, Trotti, Hemphill, Shearin & Finfrock, P.C.
 Redemptorist Fathers Foundation
 Redlands Community Hospital Foundation
 Reformed Church in America
 Reformed Church of Bronxville
 Reformed Theological Seminary
 Regis College
 Reorganized Church of Jesus Christ of Latter Day Saints
 Republic Bank of Dallas
 Rescue Mission Alliance
 Resource Development, Inc.
 Retirement Housing Foundation
 Rhode Island College
 Rhodes College
 Rice University
 Rideout Hospital Foundation, Inc.
 Rider College
 Rio Grande Bible Institute, Inc.
 Ripon College
 Roanoke College
 Oral Roberts Ministry
 Oral Roberts University
 Roberts Wesleyan College
 James Robison Evangelistic Association
 Rochester Institute of Technology
 Rockefeller University
 Rockford Memorial Development Foundation
 Rockhurst College
 Rockhurst High School
 Rockmont College
 Rocky Mountain College
 Rocky Mountain United Methodist Homes & Ministries, Inc.
 John R. Rogers Company
 Rollins College
 Roman Catholic Diocese of Brooklyn
 Roman Catholic Diocese of Syracuse

Rotary Foundation of Rotary
 International
 Roxbury Latin School
 Rutgers University Foundation

SEND International
 SPCA of St. Petersburg
 Sacred Heart League
 Sacred Heart Program
 St. Andrews Presbyterian College
 St. Anthony's Foundation
 St. Cloud State University
 Foundation
 St. Columbans Foreign Mission
 Society
 St. Francis Boys' Homes, Inc.
 St. Francis Foundation, Inc.
 St. Francis Hospital of Evanston
 St. John's College
 St. John's Hospital & Health Center
 Fdn.
 St. John's Mercycare Foundation
 St. John's University
 St. Joseph's Indian School
 St. Joseph Medical Center
 Foundation
 St. Joseph Mercy Hospital
 Ann Arbor, MI
 St. Joseph Mercy Hospital
 Pontiac, MI
 St. Lawrence Seminary
 St. Louis High School
 St. Luke's Health Care Foundation
 St. Luke's Hospital Foundation
 St. Luke's Hospital Fdn. for Medical
 Education and Research
 St. Margaret Mary's Church
 St. Mary College
 St. Mary's College
 St. Mary's Foundation
 St. Mary's Hospital
 St. Mary's Hospital & Health Center
 St. Mary's Hospital, Inc.
 St. Mary's Hospital of Rochester, MN
 St. Mary's Medical Center
 St. Meinrad Archabbey & Seminary
 St. Michael's College
 St. Olaf College
 St. Paul School of Theology
 St. Paul Seminary
 St. Thomas Hospital Development
 Fdn.

St. Thomas Theological Seminary
 St. Vincent Infirmary Foundation
 St. Vincent Medical Foundation
 St. Vincent's Fdn. of Alabama, Inc.
 St. Vincent's Hospital
 St. Vincent's Services, Inc.
 St. Xavier High School
 Salem Academy and College
 Salem Children's Home
 Salesian Missions
 Salvation Army
 Phoenix, Arizona
 Fresno, California
 Los Angeles, California
 Rancho Palos Verdes, California
 San Francisco, California
 Denver, Colorado
 Washington, District of Columbia
 Tampa, Florida
 Georgia Division-Atlanta, Georgia
 Atlanta, Georgia
 Honolulu, Hawaii
 Chicago, Illinois
 Indianapolis, Indiana
 Louisville, Kentucky
 Baltimore, Maryland
 Jackson, Mississippi
 Charlotte, North Carolina
 Newark, New Jersey
 Verona, New Jersey
 Eastern Territory-New York,
 New York
 New York, New York
 Syracuse, New York
 Cincinnati, Ohio
 Cleveland, Ohio
 Oklahoma City, Oklahoma
 Portland, Oregon
 Philadelphia, Pennsylvania
 Pittsburgh, Pennsylvania
 Dallas, Texas
 Seattle, Washington
 Samaritan Medical Foundation
 Samford University
 San Diego State University
 Foundation
 Sansum Medical Research
 Foundation
 Santa Monica Hospital Medical
 Center Foundation
 Save the Children Foundation
 School of the Ozarks

School of Theology at Claremont
 Schreiner College
 Agnes Scott College
 Scripps Clinic & Research
 Foundation
 Scripps Memorial Hospital
 Seamen's Church Institute
 Seattle Pacific University
 Seattle University
 Seeing Eye, Inc.
 Seventh-day Adventists
 Allegheny West Conference
 Arizona Conference
 Arkansas/Louisiana Conference
 Atlantic Union Conference Assn.
 Canadian Union Conference
 Carolina Conference
 Chesapeake Conference
 Association of Colorado
 Columbia Union Conference Assn.
 Dakota Conference
 Florida Conference
 General Conference
 Georgia-Cumberland Association
 Idaho Conference
 Illinois Association
 Indiana Conference
 Iowa-Missouri Conference Assn.
 Kansas-Nebraska Assn.
 Kentucky-Tennessee Conference
 Lake Region Conference
 Lake Union Conference Assn.
 Michigan Conference Assn.
 Mid-America Union Conference
 Minnesota Conference Assn.
 New Jersey Conference
 North Pacific Union Conference
 Assn.
 Oklahoma Conference
 Pacific Union Association
 Southeastern California Assn.
 Southern Union Conference Assn.
 Southern Union
 Southwestern Union Conference
 Texas Conference Association
 Texico Conference Association
 Charles M. Shackelford, Esq.
 Sharp Hospitals Foundation
 Robert F. Sharpe & Co., Inc.
 C. W. Shaver & Company, Inc.
 Shepherd's Inc.
 Shriners Hospitals for Crippled
 Children
 Shults-Lewis Child & Family Services,
 Inc.
 Sierra Club Foundation
 Sierra View Homes, Inc.
 Sigma XI, The Scientific Research
 Society
 Silver Cross Hospital
 Simmons College
 Simpson College
 Sioux Falls College
 Sisters of Providence
 Sky Ranch Lutheran Camp
 Smith College
 Society for the Propagation of the
 Faith
 South Dakota Children's Aid
 South Dakota Lutheran Development
 Ministry
 South Dakota United Methodist Fdn.
 South Iowa Methodist Homes
 South Miami Hospital
 Southeastern Seminary
 Southern Arkansas University Fdn.
 Southern Baptist College
 Southern Baptist Convention
 Annuity Board
 Foreign Mission Board
 Radio & Television Commission
 Southern Baptist Foundation
 Southern California College of
 Optometry
 Southern Methodist University
 Southwest Baptist University
 Southwest Community Health
 Services
 Southwest Florida Retirement Center
 Southwest State University
 Southwestern Baptist Theological
 Seminary
 Southwestern College
 Southwestern University
 Spring Arbor College
 Spring Hill College
 Springfield College
 Leland Stanford Junior University
 Starr Commonwealth Schools
 State University College of Oswego
 Foundation, Inc.
 Harry Steinberg
 Stephens College
 Stelter Company
 Sterling College

John B. Stetson University
 Stewards Foundation
 Don Stewart Evangelistic Assn.
 Barton W. Stone Christian Home
 Stout University Foundation, Inc.
 Cardinal Stritch College
 Sudan Interior Mission
 Summit Ministries
 Suncoast Family YMCAs, Inc.
 Sunnyside Presbyterian Home
 Suomi College
 Sussex County Association for
 Retarded Citizens
 Jimmy Swaggart Evangelistic Assn.
 Swarthmore College
 Sweet Briar College
 Swiss Village, Inc.
 Sword of the Lord Foundation

 Tabor College
 Taylor University
 Teachers College (Columbia
 University)
 The Temple, Congregation B'nai
 Jehudah
 Temple University
 Texas Christian University
 Texas Methodist Foundation
 Texas Military Institute
 Texas Presbyterian Foundation
 Texas Tech. University Health
 Sciences Center
 Texas Wesleyan College
 Toccoa Falls College
 Tomlinson College
 Tressler-Lutheran Service Assoc.,
 Inc.
 Trevecca Nazarene College
 Trinity College
 Trinity University
 Trumpet Associates, Inc.
 Tucson Medical Center
 Tulane University
 Twin Towers/United Methodist
 Retirement Community
 Twinwells Indian School

 UCI Foundation
 UCLA Foundation/Public Affairs
 UCSF Foundation
 UNC Foundation, Inc.
 Union League Foundation for Boy's
 Clubs

Union Theological Seminary
 Union Theological Seminary in VA
 Unitarian Universalist Association
 United Catholic Social Services
 United Church Board for World
 Ministries
 United Church of Canada
 United Church of Christ
 Commission on Development
 Connecticut Conference
 Illinois South Conference
 Massachusetts Conference
 Ohio Conference
 Pension Boards
 Southern California Conference
 United Church Homes, Inc.
 United Church of Religious Science
 United Hospital Foundation
 United Indian Missions, Inc.
 United Methodist Children's Home
 United Methodist Church
 Board of Child Care
 Central Pennsylvania Conference
 General Board of Discipleship
 General Board of Global Ministries
 General Council on Finance &
 Admin.
 North Indiana Conference
 Northern New York Conference
 Preachers Aid Society of the
 Central Illinois Conference
 Preachers Aid Society
 Southern New England
 Conference
 South Indiana Foundation
 West Ohio Conference
 United Methodist Church
 Foundation, Inc.
 United Methodist Foundation
 Alabama—West Florida
 Detroit Annual Conference
 Endowment Fund, Inc.
 Iowa Annual Conference
 The Kansas Area
 Nebraska Annual Conference
 North Carolina Conference
 Northern Illinois Conference
 South Carolina
 Texas Annual Conference
 Western North Carolina Annual
 Conference
 United Methodist Foundation of
 Louisiana

United Methodist Foundation of the Northwest
 United Methodist Foundation of Western Pennsylvania
 United Methodist Homes for the Aging
 United Methodist Homes of New Jersey
 United Methodist Pension Fund
 United Methodist Retirement Center
 United Theological Seminary
 United Way Foundation of Central Iowa
 United Way of Orange County
 United Way of Santa Barbara County
 Unity School of Christianity
 University of California Berkeley Foundation
 University of California Gifts & Endowments Office
 University of Chicago
 University of Cincinnati Foundation
 University of Colorado Foundation, Inc.
 University of Connecticut Foundation
 University of Delaware
 University of Denver
 University of Florida Foundation, Inc.
 University of Georgia
 University Hospitals of Cleveland
 University of Indianapolis
 University of Judaism
 University of Louisville
 University of Miami
 University of Minnesota Foundation
 University of Northern Iowa Foundation
 University of Oregon Foundation
 University of Portland
 University of Puget Sound
 University of Redlands
 University of Rhode Island Foundation
 University of Richmond
 University of San Diego
 University of Santa Clara
 University of Scranton
 University of Vermont
 University of Washington
 University of West Florida Fdn., Inc.

Upstate Home for Children, Inc.
 Upton Foundation
 Ursinus College
 Ursuline College
 Uta Halee Girls Village
 Valley Baptist Medical Center Fdn.
 Valparaiso University
 Jack Van Impe Ministries
 Vassar College
 Vennard College
 Vermont Health Foundation
 Vernon Advent Christian Home, Inc.
 Virginia Polytechnic Institute & State University
 Viterbo College
 Voice of China & Asia Missionary Society, Inc.
 Voice of Prophecy
 WPBT-2
 Wadsworth Atheneum
 Walker Methodist Health Center
 Warner, Norcross & Judd
 Warner Pacific College
 Warner Southern College, Inc.
 Warren Wilson College, Inc.
 Wartburg College
 Wartburg Seminary
 Washington Bible College
 Washington University
 Washington & Lee University
 George Washington University
 Water Street Rescue Mission
 Wayland Academy
 Waynesburg College
 Wellesley College
 Wentworth Institute of Technology
 Wesley Gardens
 Wesley Medical Endowment Fdn.
 Wesleyan Church
 Wesleyan University
 West River Health Services Fdn.
 West Virginia Baptist Fdn., Inc.
 West Virginia Wesleyan College
 Westbrook College
 Western Maryland College
 Westmar College
 Westminster Academy
 Westminster Day School
 Westminster Theological Seminary

Westminster Theological Seminary
 Ministries
 Westmont College
 Wheaton College, Wheaton, IL
 Wheaton College, Norton, MA
 White Plains Hospital Medical Center
 Whitman College
 Whitworth Foundation
 Wichita State University Endowment
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 Wiggin & Dana
 Willamette University
 Willamette View Manor Foundation
 Emma Willard School
 Williams College
 Wilmington College
 Wilmington Financial Group, Inc.
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 Wisconsin Evangelical Lutheran
 Synod
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 Inc.
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 Words of Hope
 World Changers, International
 World Gospel Mission
 World Evangelistic Enterprise Corp.
 World Home Bible League
 World Literature Crusade
 World Mission Prayer League
 World Missionary Press, Inc.
 World Neighbors
 World Radio
 World Radio Missionary Fellowship,
 Inc.
 World Vision, Inc.
 Worldteam, Inc.
 Worldwide European Fellowship
 Wycliffe Bible Translators, Inc.
 Wynn, Brown, Mack, Renfro &
 Thompson
 YMCA of Austin, MN
 YMCA of Greater New York
 YMCA of Greater St. Louis
 YMCA of Metropolitan Minneapolis
 YWCA of Minneapolis Area
 YWCA of the USA, National Board
 Yale University
 Yellowstone Boys & Girls Ranch
 York College of Pennsylvania
 York Hospital
 Young Life Foundation

**CONSTITUTION
of the
COMMITTEE ON GIFT ANNUITIES**

ARTICLE I

The Committee on Gift Annuities, hereinafter referred to as the Committee, shall continue the activities of the Committee on Annuities organized in 1927 as a Sub-Committee on Annuities of the Committee on Financial and Fiduciary Matters of the Federal Council of the Churches of Christ in America.

The Committee shall study and recommend the proper range of rates for charitable gift annuities and the accepted methods of yield computations for pooled income fund agreements.

The Committee may also study and recommend the form of contracts, the amount and type of reserve funds, and the terminology to be used in describing, advertising, and issuing charitable gift annuities, pooled income fund agreements, and such other deferred gift agreements as the Committee shall decide.

The Committee may ascertain and report as to legislation, taxability, and related matters regarding charitable gift annuities, pooled income fund agreements, and such other deferred gift agreements as determined by the Committee.

The Committee shall call a conference on charitable gift annuities at least once each four years and invite those who contribute to its activities to attend.

ARTICLE II

The membership of the Committee shall consist of not more than 25 persons. These members shall be chosen by a majority vote of the Committee from important religious, educational, charitable, and other organizations or from groups of such organizations issuing and experienced in gift annuities and/or life income agreements. In electing members to the Committee, the Committee shall secure representation from the member groups,

but such member is not the agent of the organization or group from which he or she comes, nor is the organization or group bound by any decisions reached by the Committee.

As a general rule, only one representative shall be selected from each organization or group of related organizations unless for special reasons an additional member is selected by the Committee.

Membership on the Committee shall not continue beyond the time the member terminates service with the organization or group of organizations with which he or she was associated at the time of election to the Committee.

Persons who are not affiliated with organizations or groups of organizations above defined may be elected by the Committee present and voting by unanimous vote only.

ARTICLE III

In order to finance its activities and its research in actuarial, financial, and legal matters, and the publication and dissemination of information so obtained, the Committee will collect registration fees from those who attend its Conferences and fees from those who make use of its findings and services. It may set a periodic membership fee and may request gifts from those groups that cooperate with it to cover the expenses of its various activities, such amounts to be decided by the Committee. The Committee will also sell its printed material to pay for its out-of-pocket expenses.

ARTICLE IV

This Constitution may be changed, provided the proposed changes are presented at one meeting of the Committee and voted upon at the next meeting. Any proposed changes shall be provided to every member of the Committee, prior to the meeting at which it shall be voted upon, and approval by two-thirds of the members present and voting shall be necessary for final approval.

BY-LAWS
COMMITTEE ON GIFT ANNUITIES

- I. The Officers shall be a Chairman, one or more Vice Chairmen, Treasurer, Secretary, Assistant Treasurer, and Assistant Secretary, who shall be elected at the Committee meeting next following the Charitable Gift Annuity Conference and shall serve until the first meeting after the next such Conference or until their successors have been elected and installed. Officers may be elected to one or more successive terms and a majority vote of Members present will elect.
- II. Vacancies in the offices of the Committee shall be filled by the Committee at any meeting. A vote of a majority of those present will elect.
- III. The Chairman, Vice Chairmen, Treasurer, Secretary, Assistant Treasurer, and Assistant Secretary of the Committee shall fulfill the usual duties of those offices during their term of office. The Treasurer shall keep the accounts, and the Secretary shall keep the Minutes of the meetings of the Committee and each shall perform such other duties as may be assigned them by the Chairman or the Committee.
- IV. The Chairman, or in his absence a Vice Chairman, shall call the meetings of the Committee at such time and place as seems desirable either to the Committee if it is in session or to the Chairman if the Committee is not in session. At least two weeks' notice of the forthcoming meeting should ordinarily be given.
- V. Conferences on Gift Annuities shall be called periodically as required by the Constitution of the Committee on Gift Annuities. A majority vote of Committee Members shall be required to call a Conference.
- VI. A membership nominating committee shall be appointed by the Chairman. It may submit nominations for consideration at any meeting when the membership of the

Committee consists of less than the maximum established in the Constitution. A vote of a majority of those present will elect as provided in the Constitution.

- VII. A quorum necessary for the conduct of business of the Committee shall consist of seven Members.
- VIII. The Committee shall carry Directors and Officers liability insurance to protect its Members from any claims that might be filed against the Committee or against a Member in his or her capacity as a Committee Member, and it shall provide indemnity to its Members for any costs or other liability incurred with respect to such claims to the extent permitted by law.
- IX. These By-Laws may be amended at any regularly called meeting of the Committee, provided the proposed changes are approved by a two-thirds vote of the Members present and voting.

	80	81	82	83	84	85	86	87	88	89	90	91	92	93	94	95	AGE
																	35*
																	36 37 38 39 40
																	41 42 43 44 45
																	46 47 48 49 50
																	51 52 53 54 55
																	56 57 58 59 60
																	61 62 63 64 65
																	66 67 68 69 70
																	71 72 73 74 75
																	76 77 78 79 80
2	8.3																
3	8.4	8.5															81
4	8.5	8.6	8.7														82
4	8.6	8.7	8.8	8.9													83
5	8.6	8.8	8.9	9.0	9.1												84
5	8.7	8.8	9.0	9.1	9.3	9.4											85
6	8.8	8.9	9.1	9.2	9.4	9.5	9.7										86
7	8.9	9.0	9.2	9.3	9.5	9.7	9.8	10.0									87
8	8.9	9.1	9.3	9.4	9.6	9.8	10.0	10.1	10.3								88
8	9.0	9.2	9.3	9.5	9.7	9.9	10.1	10.3	10.5	10.6							89
9	9.0	9.2	9.4	9.6	9.8	10.0	10.2	10.4	10.6	10.8	11.1						90
9	9.1	9.3	9.5	9.7	9.9	10.1	10.3	10.6	10.8	11.0	11.3	11.5					91
0	9.2	9.3	9.6	9.8	10.0	10.2	10.4	10.7	10.9	11.2	11.5	11.7	12.0				92
0	9.2	9.4	9.6	9.8	10.1	10.3	10.6	10.8	11.1	11.4	11.7	12.0	12.2	12.5			93
0	9.2	9.4	9.7	9.9	10.1	10.4	10.7	10.9	11.2	11.5	11.8	12.1	12.4	12.7	13.0		94
1	9.3	9.5	9.7	10.0	10.2	10.5	10.7	11.0	11.3	11.7	12.0	12.3	12.6	12.9	13.2	13.5	95
9	80	81	82	83	84	85	86	87	88	89	90	91	92	93	94	95	AGE

UNIFORM GIFT ANNUITY RATES
SINGLE LIFE

These rates were adopted at the
19th Conference of the
May 1, 1986.

Adopted by
Conference on Gift Annuities
May 5, 1983

AGE OF YOU

Age	Rate	Age	Rate
35 and under	6.0%	63	7.1%
36	6.1%	64	7.2%
37	6.1%	65	7.3%
38	6.1%	66	7.4%
39	6.2%	67	7.5%
40	6.2%	68	7.6%
41	6.2%	69	7.7%
42	6.3%	70	7.8%
43	6.3%	71	7.9%
44	6.3%	72	8.0%
45	6.4%	73	8.2%
46	6.4%	74	8.3%
47	6.5%	75	8.5%
48	6.5%	76	8.7%
49	6.5%	77	8.9%
50	6.5%	78	9.1%
51	6.6%	79	9.4%
52	6.6%	80	9.6%
53	6.6%	81	9.9%
54	6.7%	82	10.2%
55	6.7%	83	10.6%
56	6.8%	84	10.9%
57	6.8%	85	11.4%
58	6.9%	86	11.8%
59	6.9%	87	12.3%
60	7.0%	88	12.8%
61	7.0%	89	13.4%
62	7.1%	90 and over	14.0%

AGE	35*	36	37	38	39	40
	35*	5.8				
36	5.8	5.9				
37	5.8	5.9	5.9			
38	5.8	5.9	5.9	5.9		
39	5.8	5.9	5.9	5.9	6.0	
40	5.8	5.9	5.9	5.9	6.0	6.0
41	5.8	5.9	5.9	5.9	6.0	6.0
42	5.8	5.9	5.9	5.9	6.0	6.0
43	5.8	5.9	5.9	5.9	6.0	6.0
44	5.8	5.9	5.9	5.9	6.0	6.0
45	5.8	5.9	5.9	5.9	6.0	6.0
46	5.8	5.9	5.9	5.9	6.0	6.0
47	5.8	5.9	5.9	5.9	6.0	6.0
48	5.8	5.9	5.9	5.9	6.0	6.0
49	5.8	5.9	5.9	5.9	6.0	6.0
50	5.8	5.9	5.9	5.9	6.0	6.0
51	5.8	5.9	5.9	5.9	6.0	6.0
52	5.8	5.9	5.9	5.9	6.0	6.0
53	5.8	5.9	5.9	5.9	6.0	6.0
54	5.8	5.9	5.9	5.9	6.0	6.0
55	5.8	5.9	5.9	5.9	6.0	6.0
56	5.8	5.9	5.9	5.9	6.0	6.0
57	5.8	5.9	5.9	5.9	6.0	6.0
58	5.8	5.9	5.9	5.9	6.0	6.0
59	5.8	5.9	5.9	5.9	6.0	6.0
60	5.8	5.9	5.9	5.9	6.0	6.0
61	5.8	5.9	5.9	5.9	6.0	6.0
62	5.8	5.9	5.9	5.9	6.0	6.0
63	5.8	5.9	5.9	5.9	6.0	6.0
64	5.8	5.9	5.9	5.9	6.0	6.0
65	5.8	5.9	5.9	5.9	6.0	6.0
66	5.8	5.9	5.9	5.9	6.0	6.0
67	5.8	5.9	5.9	5.9	6.0	6.0
68	5.8	5.9	5.9	5.9	6.0	6.0
69	5.8	5.9	5.9	5.9	6.0	6.0
70	5.8	5.9	5.9	5.9	6.0	6.0
71	5.8	5.9	5.9	5.9	6.0	6.0
72	5.8	5.9	5.9	5.9	6.0	6.0
73	5.8	5.9	5.9	5.9	6.0	6.0
74	5.8	5.9	5.9	5.9	6.0	6.0
75	5.8	5.9	5.9	5.9	6.0	6.0
76	5.8	5.9	5.9	5.9	6.0	6.0
77	5.8	5.9	5.9	5.9	6.0	6.0
78	5.8	5.9	5.9	5.9	6.0	6.0
79	5.8	5.9	5.9	5.9	6.0	6.0
80	5.8	5.9	5.9	5.9	6.0	6.0
81	5.8	5.9	5.9	5.9	6.0	6.0
82	5.8	5.9	5.9	5.9	6.0	6.0
83	5.8	5.9	5.9	5.9	6.0	6.0
84	5.8	5.9	5.9	5.9	6.0	6.0
85	5.8	5.9	5.9	5.9	6.0	6.0
86	5.8	5.9	5.9	5.9	6.0	6.0
87	5.8	5.9	5.9	5.9	6.0	6.0
88	5.8	5.9	5.9	5.9	6.0	6.0
89	5.8	5.9	5.9	5.9	6.0	6.0
90	5.8	5.9	5.9	5.9	6.0	6.0
91	5.8	5.9	5.9	5.9	6.0	6.0
92	5.8	5.9	5.9	5.9	6.0	6.0
93	5.8	5.9	5.9	5.9	6.0	6.0
94	5.8	5.9	5.9	5.9	6.0	6.0
95	5.8	5.9	5.9	5.9	6.0	6.0

AGE OF OLDER LIFE

* Applies to all ages 35 and younger.



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