

Minimizing Income Taxes and Transfer Taxes with Charitable Gift Annuities

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Major Gifts, Trusts and Bequests For the American Institute for Cancer Research

The American Institute for Cancer Research is devoted to the task of conquering our nation's most dreaded illness. Each year, the Institute sponsors important research projects at universities and research facilities across America, focusing on the cause and prevention of cancer. It has long been a leader in providing effective educational programs on the prevention of cancer – directed to both health care professionals and the general public.

The primary focus of the American Institute for Cancer Research – in both its research projects and its educational programs – has been the role of diet and nutrition in the development and prevention of cancer. (There is scientific evidence that estimates an average of 35% of all cancer deaths might be linked to diet and nutrition.)

We are winning the war against cancer. But there is still a great need for additional scientific research on the cause, prevention and treatment of cancer. As we learn more about the role of nutrition in the cause and prevention of cancer, our educational programs become more and more important and rewarding.

Millions of Americans provide financial support to our programs – often through tax-planned gifts, trusts and bequests. To encourage, facilitate and recognize this very important financial support, the Institute has created the League of Willful Cancer Fighters. We will be pleased to enroll in the League any client who has made or intends to make a bequest to the Institute or name the Institute as the beneficiary of a trust, life insurance policy, retirement death benefit or other form of estate gift. We invite you or your client to call us at your convenience.

We have prepared this booklet to help attorneys and other financial advisers understand all the important tax and financial rewards Congress has provided. Our staff can provide the exact tax and financial consequences of any gift, trust or bequest your clients may want to consider. Because we are so active in this specialized field, we can provide whatever technical and practical information you may request for planning and drafting a charitable gift arrangement that will provide your clients both the greatest personal satisfaction and the greatest tax and financial rewards.

Please feel free to call the Gift Planning Office at any time. Our toll-free telephone number is 1-800-843-8114. And please . . . if the opportunity presents itself, inform your clients about how a gift, trust or bequest to the American Institute for Cancer Research can help in the fight against cancer, while also enhancing their personal tax, investment, retirement and estate plans.

MINIMIZING INCOME TAXES AND TRANSFER TAXES WITH CHARITABLE GIFT ANNUITIES

On March 3, 1831, John Frey of Palatine, NY, offered to give the American Bible Society \$1,000 if the Society would agree to pay his sister \$70 a year for the remainder of her life – marking what may have been the first charitable gift annuity in American history.

Almost two centuries later, the gift annuity has evolved into the most popular “life-income” gift technique offered by charities to their donors. Indeed, gift annuities, together with charitable bequests, have formed the cornerstone for the endowments and long-term funding of hundreds of organizations, including the American Institute for Cancer Research. Gift annuity donors are generally older (mid-70s) people who often make repeat gifts. Half of all immediate gift annuity donors are over age 77, according to a survey by the American Council on Gift Annuities.

Only charities can issue charitable gift annuities. The American Institute for Cancer Research has a minimum gift level of \$3,000. But gift annuities have been established for six- and seven-figure amounts, as well. And gift annuities sometimes are a solution to gift-planning challenges encountered in establishing charitable remainder trusts.

A charitable gift annuity is simply a contract between a donor and a charitable organization in which the donor exchanges a gift of cash or securities for a fixed income each year for life. In addition to lifetime payments, the gift annuity offers:

- **Tax deduction savings** – a part of any transfer is a deductible charitable gift;
- **Tax-free payments** – a large part of the annual payments will be tax-free return of principal during the recipient’s life expectancy;
- **Reduced capital gains taxes** – if the annuity is funded with appreciated securities, only a fraction of the gain will be reportable, and that amount can be prorated over the recipient’s life expectancy if the recipient is also the donor.

Charities will be taxed on the revenues they receive from charitable gift annuities that do not comply with

IRC §501(m) and the so-called Clay-Brown rules contained in IRC §514(c)(5). These rules require that: (1) the value of the annuity must be less than 90% of the value of the property contributed for the annuity; (2) the annuity must be payable over one or two lives in being at the time the annuity is created; (3) the agreement must not guarantee a minimum amount of payments or specify a maximum amount of payments; and (4) the agreement must not provide for any adjustment of the amount of the annuity payments by reference to the income received from the transferred property or any other property.

Most organizations follow the payout rates recommended by the American Council on Gift Annuities, which range from 5% at age 60 to 9.5% (ages 90 and over) for one-life immediate payment arrangements (rates in effect as of February 1, 2009). A complete schedule of one-life and two-life gift annuity rates offered by the American Institute for Cancer Research is available by calling 1-800-843-8114.

The amount transferred to charity will be more than the “investment in the contract” (the value of the annuitant’s right to receive payments for life, discounted to today’s dollars), and the difference is a charitable contribution (deductions are typically 25% to 50% of the amount transferred).

A portion of each gift annuity payment is a tax-free return of the donor’s principal. The tax-free portion (currently 50% to 75%, depending on ages and interest rates) is figured based on the “exclusion ratio,” which equals the investment in the contract divided by the “expected return” to the annuitant (annuitant’s life expectancy, adjusted for frequency of payments, times the annual payment).

Unlike commercial annuities, gift annuities may be funded with appreciated securities or other property. The bargain sale rules apply and part of any long-term capital gain (the portion prorated to the investment in the contract) must be reported. If the annuity is nonassignable and the donor is an annuitant, any reportable capital gain may be reported annually over the donor’s life expectancy.

Deferred payment gift annuities are arrangements in which payments begin more than one year from the date of the annuity contract. Both the annuity payments and the charitable contribution deductions are larger for deferred annuities; tax-free payments are smaller, as a percentage of the annuity payment. The American Council on Gift Annuities recom-

mends interest factors for computing deferred rates.

We invite you to call our Gift Planning Office at 1-800-843-8114 for computations with respect to charitable gift annuities, including payout rates, charitable deductions, tax-free return of principal and capital gains avoidance and reporting. Or e-mail us at estateplanner@aicr.org.

COMPARISON OF COMMERCIAL ANNUITIES AND CHARITABLE GIFT ANNUITIES

Advisors familiar with annuities issued by life insurance companies will find both similarities and differences in charitable gift annuities. The most important difference is the presence of a charitable contribution in the charitable gift annuity, which occurs because

charities pay less to annuitants than commercial issuers would pay to persons of similar ages. Additionally, gift annuity donors can exchange appreciated securities for an annuity and escape part of the capital gains taxes. Here are some further comparisons:

	Charitable Annuities	Commercial Annuities
Payout rate	Based on Age / Unisex (lower than commercial)	Based on Age/Sex
Charitable deduction?	Yes	No
Tax-free return of principal?	Yes	Yes
Capital gains tax benefits?	Yes	No
Deferred payments possible?	Yes	Yes
Variable payments possible?	No	Yes
Refunding features or death benefits?	No	Yes
Survivor beneficiary?	Yes	Yes
State regulation?	16 states	All states

“EFFECTIVE PAYOUT RATES” FOR CHARITABLE GIFT ANNUITIES

Clients who arrange charitable gift annuities are making irrevocable gifts, not investments, and better “returns” obviously are available from the commercial arena. But tax deductions and other benefits make gift annuity payouts more attractive than they

might seem at first glance. The following table illustrates payout rates, charitable deductions and tax-free return of principal for charitable gift annuities, using a transfer amount of \$1,000 (merely a convenient multiple). For example, a donor age 70

would have a 5.7% payout, but after weighing savings from her tax deduction and tax-free return of principal, winds up with an “effective” payout of 8.1% in a 28% tax bracket.

The formula used for figuring the effective rate is as follows:

$$\text{Effective Payout Rate} = A + \frac{B}{1.0 - X} \div \left(\frac{\text{Gift Deduction} - \text{Tax Savings}}{\text{Tax Savings}} \right)$$

where A = the fully taxable portion of the annuity, B = the tax-free portion, and X = the donor-annuitant’s tax bracket. The Tax Deduction Savings are the donor’s income tax charitable deduction multiplied by his marginal (top) tax bracket.

**Effective Payout Rates at 4.0% Applicable Federal Rate*
For \$1,000 Charitable Gift Annuity, Donors in 25%, 28%, 33% and 35% Tax Brackets**

Age	Actual Payout Rate	Payout	Tax-Free Amount	Taxable Amount	Effective Payout rate				Charitable Contribution
					25%	28%	33%	35%	
60	5.0%	\$50	\$28	\$22	6.0%	6.7%	7.1%	7.3%	\$319
61	5.1	51	29	22	6.6	6.8	7.3	7.5	322
62	5.1	51	30	21	6.7	6.9	7.4	7.6	339
63	5.2	52	31	21	6.7	6.9	7.4	7.8	343
64	5.2	52	31	21	6.8	7.1	7.6	7.9	360
65	5.3	53	32	21	7.0	7.3	7.8	8.1	366
66	5.4	54	33	21	7.2	7.5	8.0	8.3	373
67	5.4	54	33	21	7.2	7.5	8.1	8.3	391
68	5.5	55	34	21	7.4	7.9	8.3	8.5	399
69	5.6	56	35	21	7.5	7.9	8.5	8.7	408
70	5.7	57	37	20	7.7	8.1	8.7	9.0	418
71	5.8	58	38	20	7.9	8.3	8.9	9.2	429
72	5.9	59	39	20	8.1	8.5	9.1	9.5	440
73	6.0	60	40	20	8.3	8.7	9.4	9.7	452
74	6.1	61	41	20	8.4	8.8	9.6	9.9	465
75	6.3	63	43	20	8.8	9.2	10.0	10.3	470
76	6.4	64	44	20	8.9	9.4	10.2	10.6	483
77	6.6	66	46	20	9.3	9.7	10.6	11.0	490
78	6.7	67	47	20	9.5	9.9	10.8	11.2	505
79	6.9	69	49	20	9.8	10.3	11.2	11.6	514
80	7.1	71	51	20	10.1	10.6	11.6	12.1	523
81	7.3	73	53	20	10.4	11.0	12.0	12.5	533
82	7.5	75	55	20	10.8	11.4	12.4	12.9	543
83	7.7	77	57	20	11.1	11.7	12.9	13.4	555
84	7.9	79	59	20	11.5	12.1	13.3	13.8	567
85	8.1	81	62	19	11.9	12.5	13.8	14.3	579
86	8.3	83	64	19	12.2	12.9	14.2	14.8	592
87	8.6	86	67	19	12.7	13.5	14.8	15.5	600
88	8.9	89	70	19	13.3	14.0	15.5	16.1	609
89	9.2	92	73	19	13.6	14.4	16.0	16.6	619
90	9.5	95	76	19	14.3	15.1	16.7	17.4	629

* Using different applicable federal rates has almost no effect on the effective payout rate. Charitable contributions and tax-free amounts are affected by using a different AFR, however. Assumes quarterly payments.

CAPITAL GAINS TREATMENT OF GIFT ANNUITIES

Unlike commercial annuities, gift annuities may be funded with appreciated securities or other property. The bargain sale rules apply and part of any long-term capital gain (the portion prorated to the investment in the contract) must be reported. A portion of the capital gain escapes tax entirely – the same percentage as the charitable deduction bears to the amount transferred. If the annuity is nonassignable and the donor is an annuitant, any reportable capital gain may be reported annually over the donor's life expectancy [Reg. §1.1011-2(a)(4)(i)]. Here are the various possibilities and tax results:

Where donor is sole annuitant. Capital gain may be spread over the donor's IRS life expectancy (from Table V, Reg. §1.72-9), assuming the contract specifies the annuity is nonassignable, or is assignable only to the issuing organization. No tax is due

on capital gain that remains unreported at the donor's death.

Where donor is not sole annuitant. If the donor establishes a one-life annuity for another person, the donor is taxable on all capital gain reported under the bargain sale rules in the year of the transfer. If a two-life annuity is funded with one of the annuitant's separate property, the gain may be spread only over the expected lifetime of the purchaser/annuitant. With two-life annuities funded with the donors' joint property, gain is reported over their joint life expectancy.

Step-up in basis. For testamentary gift annuities funded with capital assets, a step-up in basis should apply, avoiding any capital gains reporting. A step-up in basis is not available for assets that are treated as income in respect of a decedent (IRD).

FEDERAL AND STATE REGULATION

Federal regulation. The Charitable Gift Annuity Antitrust Relief Act provides antitrust protection to issuers of gift annuities that are organizations registered as 501(c)(3) non-profit entities and are exempt from taxation. The Act specifies that agreeing to use or using the same annuity rate for the purpose of issuing one or more charitable gift annuities is not unlawful under the antitrust laws. The Philanthropy Protection Act limits the application of federal and state securities laws in regard to charities that issue annuities. The Act is retroactive for lawsuits pending on December 8, 1995. The law provides exemptions from federal securities registration laws and fees but requires charities that maintain "charitable income funds" to disclose to life-income gift donors "written information describing the material terms of the operation of such fund." "Charitable income funds" include charitable remainder trusts and gift annuity revenues that have been commingled for investment

purposes. The disclosure statement must be provided at the time of the donation (for new gift annuities or trust gifts that will be commingled with other funds).

State regulation. As of this writing, 16 states (Alabama, Arkansas, California, Florida, Georgia, Hawaii, Maryland, Montana, New Hampshire, New Jersey, New York, North Dakota, Oklahoma, Tennessee, Washington and Wisconsin) require charities to apply for and receive certification in order to issue gift annuities to residents of that state. Charities must maintain segregated reserve funds, subject to investment restrictions in some states, and an annual reporting must be submitted to maintain certification. Twenty-nine states exempt charitable gift annuities from regulations if certain requirements are met, and five states (Delaware, Michigan, Ohio, Rhode Island, and Wyoming) and the District of Columbia are silent regarding gift annuities. Updated regulations are available at www.ACGA-web.org.

GIFT ANNUITIES IN AN ESTATE PLAN

Gift annuities can be established in a will (see PLR 8506089), living trust or apparently most financial arrangements that provide a beneficiary designation. To assure availability of the estate tax charitable deduction, the will or trust must direct that a set dollar amount or percentage of the estate be transferred to a particular charity, conditioned on the charity's agreement to pay a specific annuity amount to one or two named beneficiaries. The difference between the present value of the annuity and the amount transferred to charity is a charitable contribution. The annuity payout must be ascertainable, although it can be stated with some flexibility:

“Pay my brother, George, an annuity at the same rate XYZ charity pays to other annuitants who are the age of George at the time of my death.”

The donor who establishes a gift annuity in his or her will or living trust should provide against the contingency that the charity may, for one reason or another, be unable or unwilling to accept the annuity agreement. The donor might provide:

“In the event XYZ charity does not accept this bequest with all its conditions, I bequeath \$48,000 to XYZ charity and \$12,000 to my brother, George.”

Obviously, donors who set up gift annuities by will or trust should include contingency clauses covering the possibility that the beneficiary of the annuity may predecease them – either naming an alternative beneficiary or leaving an amount outright to the charity.

The IRS, in a recent Private Letter Ruling, approved a plan by which a donor would establish a gift annuity with IRA proceeds. The donor would name charity as death beneficiary of her IRA. The balance left in her IRA would fund a charitable gift annuity for a family member. The value of the IRA would be included in the donor's gross estate, but there would be an estate tax charitable deduction equal to the value of the IRA, less the value of the annuity. Neither the donor's estate nor the charity would owe income tax (IRD) on the IRA (PLR 200230018).

While there are no cases or rulings on the subject, it would seem any financial arrangement with a beneficiary designation could be adapted to establish a testamentary charitable gift annuity along the lines of the IRA plan set out above. Thus, life insurance, P.O.D. accounts and T.O.D. accounts could name charitable beneficiaries on the condition that the charities pay an annuity to one or two individuals.

GIFT ANNUITIES AND TRANSFER TAXES

Gift tax consequences. Donors who establish annuities for other persons make two gifts for federal tax purposes: a charitable gift that qualifies for an income tax charitable deduction (IRC §170) and for the unlimited gift tax charitable deduction (IRC §2522) and a noncharitable gift that is subject to gift tax. Donors may render gifts incomplete by retaining the right to revoke the annuity *during life and/or at death*. Gifts also qualify for the annual gift tax exclusion (except for deferred payment annuities) and the gift tax marital deduction (except for survivorship and deferred annuities).

Retaining the right to revoke an immediate or

deferred payment annuity means that completed gifts will occur only as payments are actually received by the annuitant during the donor's life. These payments are gifts of present interests that can be offset with the gift tax annual exclusion. Retaining the right to revoke also may be important in two-life annuities for husbands and wives whose marriage is unstable. If a spouse who arranged a joint-and-survivor gift annuity dies, the value of the surviving spouse's annuity is includible in the donor's estate. It qualifies for the estate tax marital deduction [Reg. §20.2056(b)-1(g)] – but not if the spouses have divorced. Keeping the right to revoke, during life or

at death, makes the gifts incomplete, except as to annual payments, which are completed gifts that should qualify for the gift tax marital deduction.

Estate tax consequences. If a donor obtains a gift annuity for his own life, the only items with respect to the annuity that are includible in his gross estate are payments due but not received before his death. If the donor arranges a gift annuity for another, the date-of-gift value of the annuity is includible in his adjusted taxable gifts under IRC §2001(b), assuming the donor did not retain the power to revoke the annuitant's interest. If he did retain such power, the transfer of the annuitant's interest becomes complete only upon the donor's death, assuming the annuitant survives the donor, and therefore the date-of-death value of the annuity is included in the donor's gross estate under IRC §2038.

If the annuitant is the donor's spouse and the value of his or her annuity is includible in the donor's gross estate, it qualifies for the estate tax marital deduction, as previously noted. In addition, to the extent the annuity payments received by the annuitant during the donor's life constituted taxable gifts, they will be included in the donor's adjusted taxable gifts.

Planning strategies. From a purely transfer tax standpoint, donors who establish gift annuities that make payments to someone else should generally include a right to revoke in the annuity contract. A sister who arranges an annuity for her brother with \$50,000 to \$100,000 could wholly avoid gift taxes via the annual exclusion. If she outlives the brother, there would be no estate tax due, either. Even if she dies before the brother, the value of the annuity taxable for estate tax purposes could be much smaller than the original income interest.

PROPERTY USED TO ARRANGE THE GIFT ANNUITY

Cash. A gift annuity is an excellent means of obtaining a charitable deduction and, at the same time, transforming cash into a source of income. Many organizations that issue gift annuities will do so for an amount as small as \$3,000 in cash, in order to obtain repeated contributions from donors of modest means and to provide a means of "breaking the ice" for persons who aren't accustomed to making charitable contributions.

Long-term capital gain property. Long-term capital gain property, especially appreciated stock, is frequently used to purchase a gift annuity where the amount involved is not large enough to justify creation of a charitable remainder trust and where the donor wants more income security than that provided by a pooled income fund. Assuming the annuity is nonassignable (or is assignable only to the issuing organization), the donor may spread any gain realized upon the funding of the annuity over his expected lifetime, as discussed supra.

Tangible personal property. "Collectibles" may be transferred in exchange for a gift annuity if the issuing organization agrees.

As in any case involving tangible personal property, if the property is put to an "unrelated use" by the exempt organization (e.g., by being sold), the donor's contribution will be reduced. The amount of the reduction will be equal to 100% of the long-term capital gain allocated under the bargain sale rules to the contributed portion of the property.

Commercial annuities. Donors who wish to fund a charitable gift annuity with a commercial annuity must recognize income on the difference between their cost basis in the annuity contract and the cash surrender value of the contract. If the annuity contract was issued after April 22, 1987, the donor will recognize ordinary income in the year of transfer, just as if he or she had cashed in the annuity [Code §72(e)(4)(c)]. However, the gift annuity will be considered to have been funded with cash in the amount of the contract's cash surrender value. If the commercial annuity contract was issued before April 23, 1987, the donor must also recognize income, but in the year the donee charity surrenders the annuity for its cash value (Rev. Rul. 69-102, 1969-C.B. 32). That year may or may not be the year of the gift. The donor's deduction for a charitable gift annuity will

be reduced (figured on the donor's cost basis) if the charity "cashes out" in a year after the charitable gift annuity is issued. The donor's deduction thus could be both reduced and badly timed with respect to the recognition of income from the commercial annuity.

Is it possible to "roll over" a commercial annuity into a charitable gift annuity as a so-called "1035 exchange?" Code §1035 does permit tax-free exchanges of certain insurance policies, including exchanging one annuity contract for another annuity contract [Code §1035(a)(3)]. But a close reading of Code §1035(b) indicates that the issuer of the annuity contract must be an insurance company. Accordingly, it seems doubtful that §1035 could apply to the exchange of a commercial annuity for a charitable gift annuity.

U.S. savings bonds. Savings bonds can't be contributed to charity during life, but many donors own U.S. savings bonds that have stopped earning interest (an estimated \$8 billion now fall in the "dead"

category). These bonds should be cashed. Proceeds could be used to fund a gift annuity that provides lifetime income that is partly tax free and a charitable deduction that may shelter the interest reported when the bonds are cashed. Deductions can be enlarged for this purpose if the donor takes a lower payout than that generally offered by AICR.

Donors who plan to give proceeds from some of their savings bonds that are still earning interest should retain bonds that are paying the highest rates of interest and cash the ones with low yields. Donors also need to take care that they redeem bonds at the proper time. In many cases, bond interest is credited at six-month intervals. (Interest is credited monthly for Series EE bonds purchased after May 1, 1997, and for certain other issues.) Cashing a bond just before interest is credited could cost the donor up to six months' interest. One source of assistance is www.treasurydirect.gov, which provides bond earnings reports and calculations of current redemption values.

PLANNING IDEAS WITH CHARITABLE GIFT ANNUITIES

Retirement planning. Deferred payment charitable gift annuities provide a way for "baby boomers" to make major charitable gifts that cut taxes and improve their retirement security. But what if the "baby boomer" says she doesn't really know the year she wants payments to start? She may decide to work until age 70 or 75 and won't need the money earlier than that. Or she may fear the onset of poor health and want the ability to tap annuity payments early.

A 1997 IRS ruling permits a donor to postpone choosing the exact starting date for the annuity until years into the future (PLR 9743054). One of the challenges in using deferred annuities as a retirement planning tool is that most people can't pinpoint in advance the year they actually will retire. The ruling permits a donor to elect to have payments start in any year, upon giving charity three months' notice. The donor's deduction would be fixed at a

"ballpark" starting date (age 65, for example), but he or she could qualify for larger payouts by delaying the start of payments according to a schedule incorporated into the annuity contract. The donor could start payments earlier than the assumed start date by taking lower annual payments.

It would seem that every deferred payment gift annuity now should be of the "flexible" variety. But who is the best market for this technique? Baby boomers may come to mind first, but the technique may appeal to persons of any age who need tax deductions and the ability to receive life income payments at some indeterminate time in the future. Anyone with a large influx of income (a lottery winner, for example) might be an ideal prospect.

Roth IRA conversions. Karen, age 60, plans to convert \$25,000 from her traditional IRA into a

Roth IRA. She'll be taxed on that \$25,000, but additional itemized deductions could offset some tax. Karen might decide to transfer \$65,000 from her money market account for a deferred payment gift annuity that would begin paying her \$5,590 (8.6%) at age 70. Deferring the start of payments increases her charitable deduction to about \$25,000 – erasing the Roth IRA conversion tax. After five years, all withdrawals from her Roth IRA will be tax exempt, and a portion of her future gift annuity payments will be tax free, as well. Her gift annuity agreement can contain an option to start payments before age 70, at reduced levels.

Assistance for parents. The gift annuity can be a satisfying way for clients to provide financial support for a parent or other family member. For example, a daughter who is age 67 wishes to assist her mother, who is 85. The daughter could contribute \$40,000 for a gift annuity and AICR would agree to pay her mother \$2,080 a year for life, with lifetime payments continuing for the daughter after her mother dies. Part of the payments will be tax free, and the daughter will receive a charitable deduction of about \$15,500, while assisting both her mother and AICR.

Retirement security for children. Mrs. P poses the question: “My son has not done a good job of

saving for retirement and, frankly, is not a very good money manager. This concerns me. Could a gift annuity be helpful?” Mrs. P could provide her son with a good retirement income and the management services of the AICR through a deferred payment gift annuity that would start paying him at age 66 (or some other age). Mrs. P would be entitled to a significant charitable deduction, as well.

Relief from low-interest CDs. Mrs. M, age 80, has a \$10,000 CD that is maturing soon. She expects to get 3% interest on a new CD. Mrs. M also has long considered making an important gift to the war against cancer. She decides to transfer the \$10,000 CD proceeds, at maturity, for a gift annuity that will pay her \$710 a year (7.1%) for the rest of her life. About \$508 of her payments will be tax free, and she will also receive a charitable deduction of about \$5,227.

Leaving a lasting legacy. Caroline, who had established several gift annuities for herself over the years, has decided to arrange, through her will, nine separate charitable gift annuities for her brothers, sisters and other family members. The gift annuities will provide lifetime payments to her family, along with significant estate tax savings for Caroline's estate and eventual assistance for AICR.

BEST CANDIDATES FOR CHARITABLE GIFT ANNUITIES

Immediate payment gift annuities have greatest appeal to older clients who are charitably motivated and wish to add a fixed income component to their portfolios. Both payout rates and deductions are high for this age group (the average gift annuity donor is 77, according to the American Council on Gift Annuities).

As discussed earlier, retirees who are unhappy with low CD returns can increase their spendable income with gift annuities and also enjoy payments that are partly tax free. Capital gains savings are advantageous to investors who wish to move from equities into a fixed income arrangement. Deferred payment gift annuities may be beneficial to “baby boomers”

who wish to set aside more for retirement and reduce taxes during their peak earning years. The expanded deductions available from deferred annuities also may appeal to clients who face unusually large income in a particular year, from a Roth IRA conversion, sale of a business, a winning lottery ticket, etc.

Gift annuities seem to have particular appeal for women, who continue to live longer than men by roughly five years, and so may have a greater interest in “an income that a person cannot outlive.” Unlike commercial annuities, charitable gift annuities do not discriminate between men and women on payout rates: Women receive the same payments

as men of identical ages from charitable gift annuities, and charitable deductions are equal, as well, even though women are likely to receive more benefits over their longer life expectancies.

Note: Gift annuities with AICR can be restricted to scientific research, education or other important and ongoing programs focused on the role of diet and nutrition in the prevention and treatment of cancer.

Reducing tax on Social Security. Retired people who receive Social Security benefits are subject to tax on up to 85% of those benefits if they have too much income from other sources. But if their “outside” income is between \$20,000 and \$32,000, they may be able to beat the tax by switching some money from savings or other investments to a charitable gift annuity. Their incomes would remain about the same, but since annuity income is typically 50% to 75% tax free, the switch can reduce or eliminate any tax on Social Security.

U.S. savings bonds for a charitable gift annuity. A man we’ll call Herbert tells us the following:

“I recently ran across a packet of U.S. savings bonds that I had been accumulating since World War II. It was quite a stack, too – war bonds, Series E and EE bonds. Some were so old I think they had stopped paying interest. I checked with the bank and here’s the situation: The bonds are worth \$23,420 and, if I cash them in, I will be taxed on about \$12,000 of interest.

“I understand it’s possible to receive lifetime income from gifts to charity. Now here’s my question: Is there some way I can give these bonds, avoid any tax, get a deduction and obtain income, too?”

We got back to Herbert with the following answers: U.S. savings bonds are impossible to transfer to another person, even to a qualified charity. So to use them in a gift arrangement, Herbert would have to cash the bonds and give us the proceeds. That means he would have to report all the built-up interest on his tax return.

While we can’t prevent Herbert from having to report the interest for tax purposes, we can assure him that he won’t have to pay much tax if he transfers the \$23,420 into a charitable gift annuity. Herbert is 79 and, if he receives an income from his gift of \$1,616 a year (6.9%), he will be entitled to a charitable deduction that will wipe out any tax on the \$12,000 of built-up interest. If Herbert needs a larger deduction, he might consider a lower payout rate (5%, for example).

The charitable deduction means that Herbert actually has more money left from the bonds to produce income than if he had cashed them and reinvested the proceeds. Note: Herbert no longer has the option to exchange the series EE bonds for Series HH bonds and receive payments from the Treasury. Clients who previously “rolled over” EE bonds into HH bonds might consider establishing gift annuities to reduce taxes when the HH bonds mature.

* Sample Gift Annuity Agreement

This agreement is made this _____ day of _____, 2009, between _____ of _____, hereinafter called the Donor, and The American Institute for Cancer Research, Inc., a not-for-profit corporation currently located in Washington, D.C. at 1759 R Street, NW, 20009.

First. The American Institute for Cancer Research, Inc. hereby acknowledges the receipt of \$_____ from the Donor.

Second. In consideration of the property transferred by the Donor, The American Institute for Cancer Research, Inc. agrees to pay the Donor during each year of his/her life an annuity of \$_____. The annuity will be paid in equal quarterly installments at the end of each calendar quarter. The first payment will be made on _____ and will be prorated from the date of the gift. Thereafter, each quarterly payment will be \$_____.

Third. The obligation of The American Institute for Cancer Research, Inc. shall terminate with the regular quarterly payment prior to the death of the Donor.

Fourth. The Donor states that his/her date of birth was _____. His/her age to his/her nearest birthday is _____.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals.

By: _____ **Date:** _____
Donor

Social Security: _____

By: _____
Executive Vice President
THE AMERICAN INSTITUTE FOR CANCER RESEARCH

Date: _____

* Agreements vary by state.

The War Against Cancer

When you have the occasion to draft a trust or a bequest for a client who wants part of his or her estate to support the war against cancer, our correct legal name is:

“The American Institute for Cancer Research, a not-for-profit corporation located in Washington, DC.”

Please feel free to contact our Gift Planning Office for additional information about the mission and the future goals of the American Institute for Cancer Research.

New Estate Planner's Corner

www.aicr.org/estateplanner

A gift planning toolbox at your fingertips

We are excited to announce AICR's new website for advisors! Not only can you find the answers to your complex tax questions through the Charitable Giving Tax Service, but you can calculate and print personalized gift planning illustrations for your clients simply by clicking on the Gift Calculator found on the Estate Planner's Corner home page.

Information for the Attorney or Advisor

- AICR's official name:
The American Institute for Cancer Research
- AICR's mailing address:
1759 R Street, NW
Washington, DC 20009
- AICR's phone number:
1-202-328-7744 or 1-800-843-8114
- AICR's identification:
A not-for-profit organization under Section 501(c)(3)
of the Internal Revenue Service Code
- AICR's tax-exempt IRS number:
52-1238026

The information and examples provided in this booklet are for information and discussion purposes only. The examples are hypothetical, and the facts and tax consequences of individual transactions may vary from person to person. Each estate planning professional must independently determine and evaluate the tax and financial consequences of each individual situation.

Gift Planning Office

AMERICAN INSTITUTE FOR CANCER RESEARCH

1759 R Street, NW

Washington, DC 20009

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estateplanner@aicr.org