

FUNDING A PLANNED GIFT WITH PUBLICLY- TRADED SECURITIES: WHAT YOU NEED TO DO

C. Alan Korthals, Director of Client Support

A planned gift funded with appreciated publicly-traded securities such as stocks, bonds, or mutual fund shares, can provide important benefits to you as well as valuable support to the charity. This article will review the steps you need to take, working with your advisors, to complete your gift. The gift planning professionals in the development office of the charity are available to assist you.

Complete the Agreement

If you are creating a *charitable gift annuity*, the charity will provide you with a copy of a contract between you and the charity in which it promises to pay you (and/or your designated beneficiary) an annuity for life. Some charities will ask you to sign the contract.

If you are creating a *charitable remainder unitrust* or *annuity trust*, you will need to sign a trust agreement. Important terms of the agreement include the:

- Trustee and any successor trustee
- Income beneficiary(ies) and the ultimate charitable beneficiary(ies)
- Annual payout rate
- Term of the trust (either for life, a term of years, or some combination).

There are a number of special provisions that must be included in the trust agreement to comply with IRS rules. The gift planning office at the charity can be of assistance by referring your advisors to the appropriate IRS guidance, by providing you with a sample agreement or, in some cases, by preparing a draft document for you and your advisors to review.

Select and Transfer the Securities

In order to obtain the greatest tax benefit, you should fund the gift with securities that have been held for more than one year, and are currently worth more than their purchase prices. You or your advisor should then discuss with the charity the best way to transfer them to the charity. In most cases, you or your broker will transfer the securities directly to Charles Schwab & Co., Inc., the charity's custodian. If the securities are held in electronic form, they can be transferred electronically to Schwab. If the securities are held in certificate form, they should be mailed to Schwab. Completed stock powers (signed exactly as your name appears on the certificate) should be mailed in a separate envelope. The charity will provide you with detailed instructions for transferring securities to Schwab.

*If the securities are held
in certificate form, they
should be mailed to Schwab.*

If you are contributing mutual funds, you or your advisor should discuss transfer options with the charity because of the length of time it sometimes takes to transfer mutual fund shares. In some cases, the best way to transfer mutual funds may be for the charity to establish its own account with the mutual fund company, or with the brokerage firm where the funds are held. Then the mutual fund shares can be transferred directly from your account to the charity's account.

Value Your Gift and Comply with the IRS's Substantiation Requirements

Before you can determine the date of the gift according to IRS rules, two steps must be completed. There must be a signed trust agreement (in the case of a charitable remainder trust) or a valid contract under state law (in the case of a charitable gift annuity) and the securities must have been irrevocably transferred into the control of the charity.

If the securities are sent electronically, the transfer is considered to be complete as of the date they arrive in

the charity's account. Since the price of securities can change daily, the value of the gift as determined for income tax deduction purposes is almost always different than the securities' value on the date the transfer process was initiated. If stock certificates, and the corresponding stock powers, are sent by regular U.S. Postal Service mail, the transfer is considered to be complete as of the postmark date. If stock certificates are hand-delivered to the charity or its agent, or sent by courier, the transfer is complete upon delivery.

You must provide the cost basis and date of acquisition for each security you contribute.

It is your responsibility (working with your advisors) to determine the amount of the charitable deduction you will take on your income tax return for this gift. The charity will assist you with this process. In general, the securities are valued at the average of the high and low trading prices on the day the gift is effective.

If publicly-traded securities are contributed to fund a planned gift, no formal appraisal is required by the IRS in order to value the securities. However, if the securities are valued at \$500 or more, you must complete Part A of IRS Form 8283. You must submit this form with the income tax return on which you claim the deduction for the gift. You can obtain a copy of the form from your accountant, from the charity, or from the IRS's Web site at www.irs.gov. You should also include a copy of the software output containing the charitable deduction calculation for the gift along with your income tax return.

Provide the Cost Basis of the Securities You Are Donating

Regardless of the type of planned gift created, you must provide the cost basis and date of acquisition for each security you contribute. This information is needed in order for the charity to determine the tax character of the payments you (and any other beneficiaries) will receive each year. Ideally, you should provide this information when you make the gift. If that is not possible, you should provide it to the charity no later than December 31 of the year of your gift.

If you are not able to provide cost basis information for the securities you plan to contribute, an alternative is available. If you can substantiate that the securities have been held for more than one year, they can be treated for tax purposes as a *long-term asset with a zero cost basis*. This means that the charitable deduction for the gift can be calculated based on the market value of the securities, rather than their cost basis. If you donate securities that have been held less than one year, your deduction must be based on the *lower* of the cost basis or the market value.

There can be a downside to using a zero cost basis for the securities, especially if you are funding a gift annuity. If you establish a gift annuity for yourself, this means that none of your payment will be considered tax-free, and that you will have to report more capital gain income over the life of the contract. If you establish the annuity for another person and do not retain annuity payments for yourself, you will need to recognize more capital gain in the year of the gift than if you had substantiated a cost basis greater than zero.

In the case of a charitable remainder trust, the adoption of a zero cost basis for the securities means that the trust will record larger capital gains when the securities are sold. (The trust itself will not pay tax on those capital gains.) Because of the nature of the IRS rules governing how payments from charitable remainder trusts are taxed, there is generally no detrimental effect upon the tax character of the beneficiary payments from using this approach. In a few cases, however, it will mean that some portion of the beneficiary payments that would have been distributed tax-free will be taxed as capital gain.

Provide Payment Information and Mailing Instructions

You, and any other current beneficiaries, will need to provide some additional information to the charity. All current beneficiaries must supply their Social Security numbers on IRS Form W-9 so that the charity can provide proper tax reporting each year. Beneficiaries should also provide bank information in order for their payments to be electronically deposited to their accounts, and their mailing addresses (including any seasonal addresses) so that the charity can provide reports, updates, and annual tax information. ■

