SEATTLE FOUNDATION

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seattlefoundation.org

GIFTS OF REAL ESTATE

UPDATED OCTOBER 2018

OUTRIGHT GIFT OF REAL ESTATE TO SEATTLE FOUNDATION

You may give real estate directly to TSF Properties, an affiliate of Seattle Foundation. When you make an outright gift of real property held for more than a year, you obtain an income tax charitable deduction equal to the property's full fair market value. This deduction lets you reduce the cost of making the gift and frees cash that otherwise would have been used to pay taxes. You also avoid tax on any long-term capital gain. The proceeds from the sale of the property are then used to create the fund of your choosing at Seattle Foundation.

Example: *Roberta gives the Foundation a vacation cottage she no longer uses. It originally cost $50,000 but is now worth $150,000. She gets a $150,000 charitable deduction, which represents a tax savings of $42,000 in her 28% tax bracket. She completely avoids tax on the $100,000 of appreciation. Now she no longer has to maintain the cottage and the property is removed from her taxable estate.*

CHARITABLE REMAINDER TRUST FUNDED WITH REAL ESTATE

When real estate is to be contributed, a net-income charitable remainder unitrust (NICRUT) or a net-income with make-up provision charitable remainder unitrust (NIMCRUT) with a "flip" provision is preferred. Until the property sells, payments to beneficiaries are limited to the trust's net income, but beginning on January 1 following the year of the sale, the beneficiaries start receiving a stated percentage of trust assets. The trustee can invest the sales proceeds for total return because payments can be made from realized gain and capital as well as from interest and dividends. In the event that the donor wants to review and accept purchase offers, the donor could be the initial trustee and then resign in favor of an institutional trustee or Seattle Foundation following the sale.

Example: *Bill, age 66 and a single man, owns an apartment building that he has depreciated down to its current adjusted cost basis of $150,000. The property was recently appraised at $1.5 million. He is no longer interested in managing the property; he also thinks this is an appropriate time to sell. However, he does not want to pay a hefty tax on the capital gain. Most of the gain in this property is attributable to depreciation (IRC Sec. 1250 gain) and is taxable at a rate of 25 percent.*

Bill transfers the property to a NIMCRUT with a 5-percent payout rate that will flip to a standard charitable remainder trust upon the sale of the property. He names Seattle Foundation as the remainder beneficiary and stipulates that the trust remainder be used to fund a perpetual endowed fund at the Foundation from which grants will be made to certain designated charities. He receives income for Seattle Foundation life from the trust, is relieved of management responsibility, avoids tax on the gain when the property is sold, preserves all of the proceeds for reinvestment by the trust, receives an income tax charitable deduction of approximately $700,000, removes the property from his taxable estate and realizes his philanthropic objectives.

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GIFT OF A REMAINDER INTEREST IN A PERSONAL RESIDENCE

The donor deeds the property (which must be either a personal residence or a farm) to Seattle Foundation, reserving the right to occupy and otherwise use the property for life or a term of years. Even though initially the charity receives only a partial interest, it will eventually become the fee simple owner, so long as the Foundation and the holder(s) of the life estate(s) do not decide to sell the property to a third party prior to the expiration of the life estate(s). The term "personal residence" includes a principal residence, a vacation home, condominium, or stock in a cooperative apartment provided that, in all instances, the property is used by the donor as his or her personal residence.

In addition to the deed conveying the property, there should be a contract addressing responsibility for the actual and potential expenses of maintaining the property. The costs of real estate taxes, liability and casualty insurance, utilities, maintenance and minor repairs are customarily borne by the life tenant(s).

The donor is allowed income and gift tax charitable deductions for the value of the property minus the value of the life estate. The lower the charitable midterm federal rate (CMFR), the larger the charitable deduction will be.

Example: *Cheryl, age 76, has been thinking of leaving her home to Seattle Foundation to establish an endowed fund, distributions from which would provide perpetual support to her four favorite charities. The home is valued at $700,000 and the land accounts for $300,000 of this value. Instead of contributing it by will, she decides to give the remainder interest in the property to Seattle Foundation now, reserving a life estate for herself. As a result of the gift, she receives an income tax charitable deduction of $461,093 (based on a CMFR of 3.0 percent), which reduces her tax significantly over the next six years without altering her lifestyle.*

If she has to vacate the premises because of failing health or other reasons, she could (1) give her life estate to Seattle Foundation and receive another deduction, (2) rent the property and keep the rent or (3) in joint agreement with the Foundation, sell the property, whereupon the proceeds would be divided according to the values of the life and remainder interests at that time.

It is possible to leave only a fraction of the remainder interest to charity. (See Rev. Rul. 87-37.) A person who wants to divide the value of a home between a charity and children might choose to do this.

BARGAIN SALE OF REAL ESTATE

A bargain sale is a transaction in which a donor knowingly sells property to a charity for less than its appraised fair market value with the intention of making a charitable gift.

Assuming applicable requirements are met, the donor is allowed an income tax deduction for the difference between the appraised value and the bargain sale price. The donor is taxed on the gain attributable to the sale portion and avoids tax on the gain attributable to the gift value.

Example: *Mr. and Mrs. Potter own a rental house appraised at $500,000 with an adjusted cost basis of $200,000. They believe that now is the ideal time to sell the property. They have also been thinking about establishing a donor advised fund at Seattle Foundation. They accomplish both objectives and save taxes by offering to sell the property to the Foundation for $300,000. The Foundation, following its due diligence, agrees to purchase the property for this amount.*

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They recognize capital gain of $180,000 (the portion of total gain attributable to the sale), but their charitable deduction is $200,000. Assuming they are able to use the entire deduction in the year of the gift, the deduction will offset the tax on all of the gain. As a result of the transaction, they will have aftertax proceeds of approximately $300,000 and will have established a donor advised fund to make grants to the charities they care about. (The exact amount in the donor advised fund depends on the amount realized by Seattle Foundation when it sells the property.)

SEATTLE FOUNDATION WELCOMES GIFTS OF REAL ESTATE. PROFESSIONAL ADVISORS WHO HAVE CLIENTS INTERESTED IN SUCH GIFTS SHOULD CONTACT THE FOUNDATION. THE STAFF AND PLANNED GIVING CONSULTANTS OF THE FOUNDATION ARE AVAILABLE FOR MEETINGS AND WILL PREPARE FINANCIAL ILLUSTRATIONS FOR YOUR REVIEW. PLEASE CONTACT OUR GIFT PLANNING TEAM AT 206.515.2108 OR GIFTPLANNING@SEATTLEFOUNDATION.ORG.

Please note that the information contained herein is not intended to provide specific legal or financial advice and should not be relied upon as a substitute for such professional advice. Seattle Foundation encourages you to seek professional legal, estate planning and financial advice before deciding on a course of action.