



CIBC PRIVATE WEALTH

# Effective Philanthropy



## Fulfill the promise of your ambitions

What's your vision for success? We've learned that success often means achieving a sense of satisfaction and joy about the use of your wealth for yourself, your family and causes you hold dear.

It also means having peace of mind about your financial affairs, trusting that your wealth advisor is managing the complexities of wealth ownership. Additionally, for some, it means that plans are in place to realize your vision for broader community impact and a lasting family legacy.

CIBC Private Wealth can be your partner for all of your investment, wealth planning and private banking needs. Our professionals are dedicated to delivering exceptional performance and service with an unwavering focus on you and your best interests.

We hope the information on the following pages will inspire you to articulate your own vision for your wealth. It would be our privilege to help you bring your ambitions to life.

Effective Philanthropy

# Giving strategies: Knowing your options



## Giving strategies

While personal philanthropy is a critical means to effect change in society and can often be initially motivated by tax reasons, for many individuals its value extends well beyond impact and tax savings. Philanthropic giving can be an expression of a person's beliefs and values, a way to connect with others in the community or with family, and an opportunity to create a legacy that can be passed to future generations. In this sense, philanthropy has always been an important component of the wealth planning process. Whether you have only begun to consider incorporating philanthropy into your wealth plan, or already have well-defined goals and aspirations, a variety of strategies may help you effectively achieve your charitable giving goals.

An outright gift to a public charity is simple, gratifying and responsive. However, there are several other giving options which may offer advantages over the outright gift to a public charity. These giving strategies are divided into the following two categories: (a) techniques to be utilized when you want to form your own charitable vehicle; and (b) techniques to be utilized when you want to retain a partial interest in the property for yourself or others.

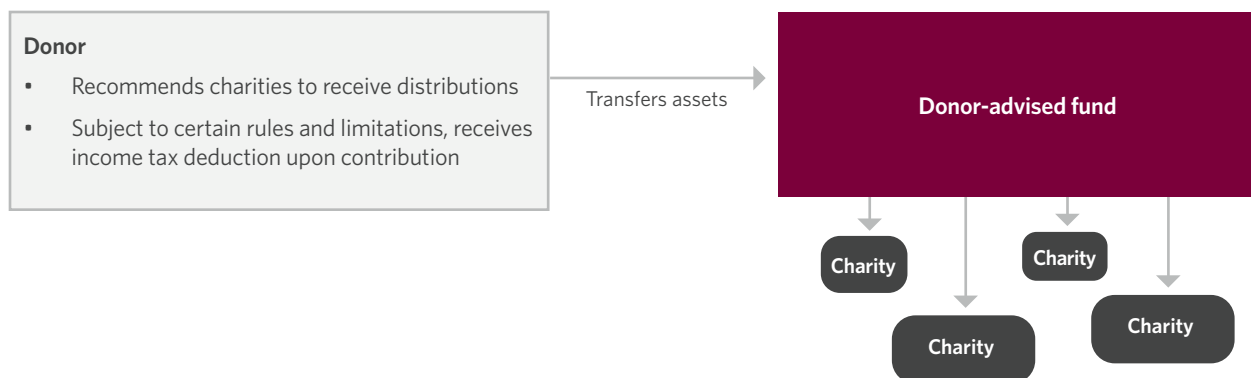
### Personal charitable vehicles

#### Donor-advised funds

If you want to form your own charitable vehicle, but want to limit your administrative responsibilities, you may want to consider the advantages and disadvantages of a donor-advised fund. Donor-advised funds (DAFs) are accounts that are set up within charitable organizations, such as a community foundation. Some DAFs are set up as charitable gift trusts and are managed by financial institutions. In a DAF, the contributions are set aside in a separate account at the charity. The donor may indicate an investment objective or strategy offered by the managing charity, but does not control the investment. The donor also may make non-binding recommendations as to the recipients of grants; however, the donor may not reserve the right to direct the distributions from a donor-advised fund.

A broad range of asset types may be donated to a DAF, subject to the specific DAF's account acceptance rules. Additionally, all accounting, administration and filings are conducted by the managing charity. Lastly, DAFs, including those charitable gift trusts managed by brokerage firms, impose a management fee ranging anywhere from 0.5% to 2.0%.

With a gift to a DAF, the donor receives the highest available income tax deduction. For those individuals who seek anonymity, the DAF is an excellent alternative as the reporting of the managing charity is performed as a general tax return; individual DAFs are not indicated. When the grant is sent to the charity, the donor can designate whether or not to be anonymous.



## Advantages

- Smaller contributions are accepted.
- The DAF has the least stringent administration and reporting requirements.
- The donor receives an income tax deduction upon contribution, based on the limitations applicable to contributions to public charities.
- Similar to a public charity, the DAF receives more favorable tax treatment than a private foundation.
- Donor can give guidance on selecting the charity.
- Almost any type of asset may be donated.
- Accounting and administration are handled by the fund.

## Disadvantages

- The donor has less control over grants and over investments than with a private foundation.
- Gifts to DAFs are irrevocable.
- Distributions may not be made to private foundations.

### Donating cryptocurrency

If cryptocurrency is donated to a public charity, the charitable contribution deduction is generally equal to the fair market value of the cryptocurrency at the time of contribution if the cryptocurrency has been held for more than one year. Otherwise, the deduction amount is the lesser of basis and fair market value at the time of contribution. (The deduction amount may also be limited by other deductibility rules set forth in the Internal Revenue Code.) If the charity of your choice will not accept a direct donation of cryptocurrency due to the volatility or unresolved issues regarding cryptocurrency, you may consider a service like The Giving Block at [thegivingblock.com](http://thegivingblock.com).

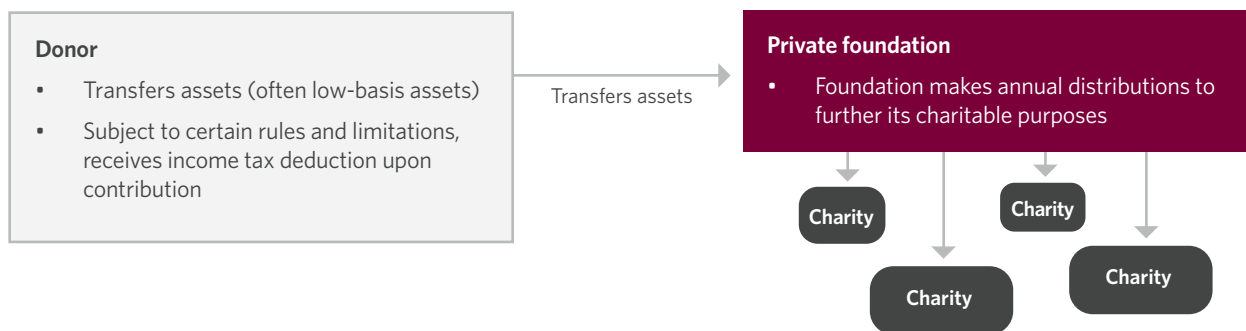
## Private foundations

A private foundation (also known as a “family foundation”) can help you achieve a goal of making charitable grants and may be established in perpetuity for charitable purposes. It may be organized in trust or corporate form. A private foundation exists primarily to make grants to publicly supported charities, non-profit organizations, qualified individuals and government bodies. Private foundations may be terminated in favor of public charities, including supporting organizations and donor-advised funds.

One of the key benefits of a private foundation is that the donor has total control and autonomy in managing the assets and directing the foundation’s grant-making program. Additionally, the donors may pass that level of control to anyone of their choosing, often their children and grandchildren.

Private foundations are best suited for philanthropists who seek control of the governing body, investments and grants. For some individuals, creating a philanthropic family culture and passing down a legacy associated with philanthropy is an important family goal.

Due to the cost associated with establishing and maintaining the foundation, as well as the administrative and regulatory requirements such as record keeping and tax reporting, a minimum of several million dollars is usually recommended when considering a private foundation. However, foundation administration service companies can make these compliance requirements less expensive and burdensome.



## Advantages

- Significant autonomy regarding determination of grant recipients
- Investment control
- Income tax deduction upon funding, subject to certain rules and limitations
- Ability to sell assets without incurring capital gains tax
- Benefits to charity immediately and on an ongoing basis through annual distributions
- Ability to be part of an overall estate plan
- Opportunity to involve family (including employing family members for a reasonable compensation) and establish family philanthropic legacy

## Disadvantages

- Presence of strict operating rules and requirement that 5% of assets must be distributed annually<sup>1</sup>
- Deduction limitations and other less favorable tax treatment
- Excise tax on investment income
- Irrevocable nature of gifts to private foundations
- Possibility of high administrative costs

<sup>1</sup> IRC Sec. 4942.

## Other Types of Charitable Organizations

There are four types of charitable organizations that qualify for **public charity** status: (i) organizations conducting certain favored charitable activities like churches or schools; (ii) organizations which receive a substantial amount of their support from the general public or from certain governmental entities; (iii) supporting organizations; and (iv) public safety organizations. If a charitable organization does not meet one of the above tests, then that charitable organization will be classified as a private foundation.

A **supporting organization** is a charitable organization that is controlled by and operated exclusively to benefit another charity. A supporting organization has many of the advantages of a public charity and avoids most of the disadvantages of a private foundation. However, the rules and regulations governing supporting organizations are complex, so a highly qualified attorney should be engaged if a supporting organization is to be implemented.

A **private operating foundation** is a hybrid approach, combining aspects of a private foundation and a public charity. Private operating foundations typically devote their assets to the active conduct of a charitable purpose as opposed to making grants to other organizations. However, such organizations are not required to meet the public support test for a public charity. As such, a private operating foundation is treated for certain purposes, most notably for purposes of deduction limitations, as a public charity but is subject to certain private foundation restrictions.

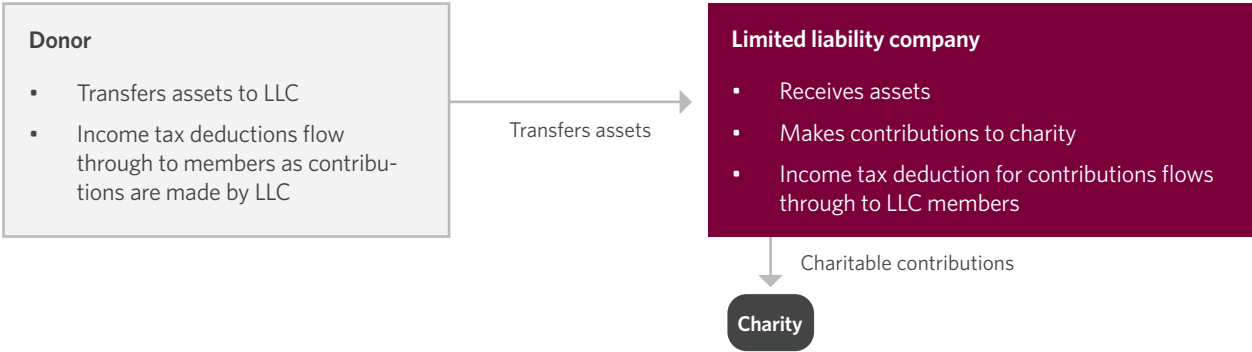
### Charitable limited liability companies

In this strategy, a donor creates an organization for the purpose of making grants to charitable organizations. The limited liability company (LLC) is not tax exempt, and the income tax liability, as well as deductions and losses, are passed through to the donor or other LLC members. Donor may have complete control over grant making and may pass that control to others during life or at death.

LLCs are governed by applicable state corporate law. Corporate formalities must be maintained. There are no separate IRS reporting requirements as to charitable activities. There are also no restrictions on donations, investments or income. In addition, the mission and management of the LLC may be changed at any time, and funds in the LLC may be withdrawn for any purpose. The LLC structure offers donor(s) anonymity as to the funding of the LLC and distributions from the LLC. In addition, there are no annual distribution requirements, no self-dealing restrictions, no excess business holdings rule, and no jeopardy investments rule.

Contributions to the LLC do not result in an immediate income tax deduction. As grants are made from the LLC, an income tax deduction passes to the donor or LLC members in accordance with their percentage interest. Any income tax liability of the LLC is passed through to the members.

Any interest that the donor or members have in the LLC will be included in their estate for estate tax purposes and pass to their heirs under the terms of their wills or trusts.



## Split interest gifts

### Charitable remainder trusts

A trust that makes payments to you (at least annually) for a set term, with the balance passing to the charity when the trust ends, can help you maintain your standard of living while also benefiting your favorite charity. A charitable remainder trust (CRT) is an irrevocable trust that makes payments (at least annually) to you or other non-charitable beneficiaries for a term of years (not more than 20) or for your life or their lives, and then, at the end of the trust term, pays the remaining value of the trust to charity. The rate of the payment is stated in the trust document and must be at least 5%, but not more than 50%, of the value of trust assets.

There are many reasons that a CRT may be the right charitable giving strategy for you, including:

- You have an appreciated asset that you want to sell.
- You would benefit from a charitable income tax deduction.
- You would benefit from an additional source of retirement income or want to provide an income stream for another individual.
- You may sell or retire from a closely-held business.
- You want to fund a private foundation that you will establish later.
- You have a large IRA but want to control the income stream to a beneficiary.

A CRT may be created as either a charitable remainder annuity trust (CRAT) or a charitable remainder unitrust (CRUT). A CRAT pays an annuity amount determined as a percentage of the initial value of the trust assets. This amount remains constant and no additional contributions may be made to the trust. A CRUT pays the noncharitable beneficiary a percentage of the trust value recalculated annually.

#### Advantages of a CRAT over a CRUT

- Predictability
- Simplicity

#### Advantages of a CRUT over a CRAT

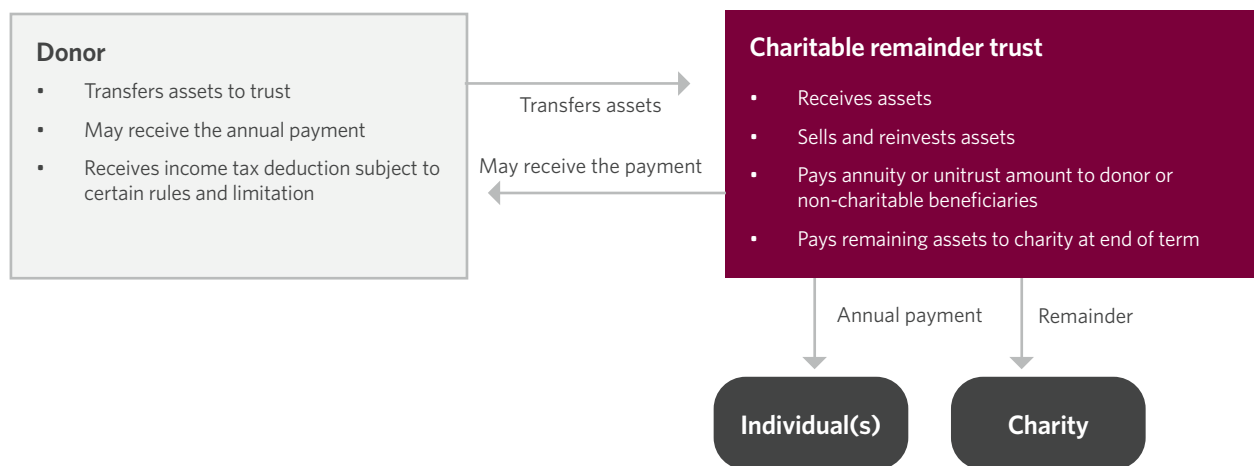
- If the trust grows, the payments increase.
- The trust will not run out of money in an economic downturn.
- A CRUT may receive some illiquid assets.
- A donor can make additional contributions to a CRUT.
- A CRUT may permit the following variations on the standard percentage calculation of the annual distribution:
  - a. Net Income Only Charitable Remainder Unitrust (NICRUT) pays the noncharitable beneficiary the lesser of the fixed percentage or the trust accounting income.
  - b. Net Income with Make-Up Charitable Remainder Unitrust (NIMCRUT) is a NICRUT that provides that if the trust has more income in later years, then the trustee must use this income to “make-up” for years when the fixed percentage was not achieved. A NIMCRUT is often considered when a donor chooses to contribute a low-income producing asset to obtain a current income tax deduction, but who does not wish for the CRT to sell the asset currently. Once the property is sold, then the trust provides for larger payments to “make up” for the minimal distributions in early years.

- c. FLIP-CRUTs start as a NICRUT or a NIMCRUT and then “flip” into a regular unitrust payment upon the occurrence of a triggering event (for example, the asset is sold). This option generally should be considered if the trust is funded with an illiquid asset but the donor wants a consistent income stream once the illiquid asset is sold.

### Income tax considerations

A CRT established during lifetime can be an effective means to sell a highly appreciated asset, while postponing and possibly avoiding some of the embedded capital gains, obtaining a current income tax deduction and benefitting charity. A CRT is a tax-exempt entity, which allows the trust to sell the asset without paying any capital gains taxes. The donor can potentially take advantage of a charitable income tax deduction in the year the property is contributed to the trust, based on the type of property given, whether the charity is a public charity or a private foundation, and an actuarial computation of the present value of the charity’s right to receive the assets at the end of the term. The deduction may be further limited by the deductibility rules set forth in the Internal Revenue Code.

As distributions are made to the non-charitable beneficiary, typically the donor, income and gains will be taxed to the donor, depending on the character of the distribution from the CRT. There are specific rules as to how to characterize distributions from a CRT that are different than other trusts.



### Qualified Charitable Distribution (QCD)

If you are charitably inclined and have taxable IRAs which generate distribution amounts larger than you may want or need, then you may want to consider QCDs. IRS rules allow individuals who are 70½ or older to donate up to \$111,000 in 2026 directly from a taxable IRA to one or more public charities (other than a donor-advised fund or a supporting organization). Also, individuals who are 70½ or older are allowed to make a one-time QCD of up to \$55,000 through a charitable gift annuity or a charitable remainder trust.

The amount of any QCD can be used to satisfy all or part of the donor’s required minimum distribution and is excluded from the donor’s gross income. Therefore, the use of a QCD allows donors to avoid higher tax brackets and certain phaseout amounts while potentially reducing the IRA balance and future required minimum distribution amounts. In addition, QCDs are not counted toward the maximum amount deductible for those donors who itemize.

## Transfer tax considerations

A CRT can also be created under a Will or Revocable Trust or during lifetime for the benefit of a spouse or other individual with the remainder payable to charity. If the annuity or unitrust amount from the CRT is payable to someone other than the donor, the lifetime interest may be subject to gift or estate tax. The marital deduction will usually eliminate any tax on payments to a donor's or testator's spouse. The remainder interest will qualify for a gift or estate tax charitable deduction.

## Charitable lead trusts

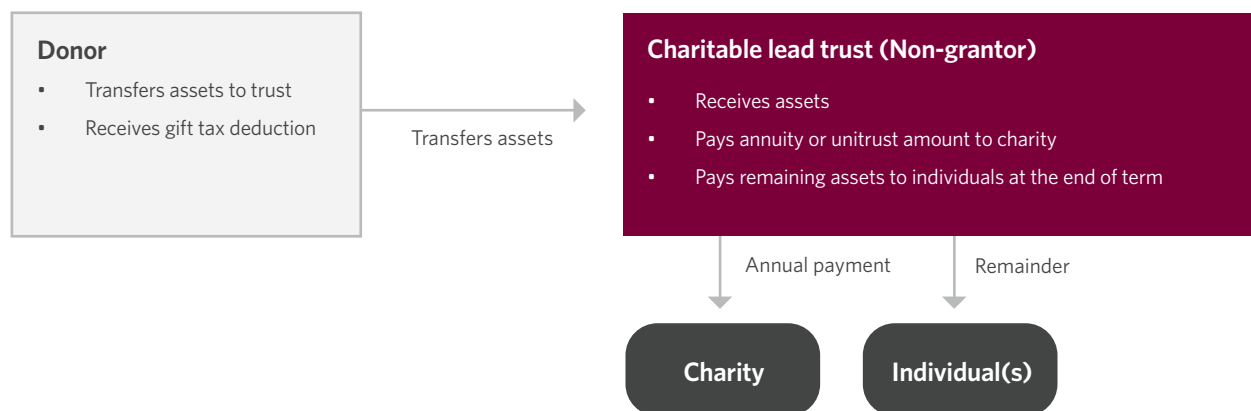
A charitable lead trust may help you to achieve your philanthropic goals while also receiving certain transfer tax benefits. With a charitable lead trust, your charity of choice receives payments for a set term, but you may pass the assets to your beneficiaries after the set term. A charitable lead trust (CLT) is an irrevocable trust that makes payments (at least annually) to charity for a term of years or for the lifetime of one or more individuals, and then pays the remaining value of the trust back to the grantor or to another individual at the end of the term. A CLT may be created as either a charitable lead annuity trust (CLAT) or a charitable lead unitrust (CLUT). There are important differences to understand when comparing a CLAT versus a CLUT. A CLAT pays an annuity amount determined as a percentage of the initial value of the trust assets. This amount remains constant and no additional contributions may be made to the trust. A CLUT pays a fixed percentage of the trust assets revalued on an annual basis.

### Advantages of a CLAT over a CLUT

- The excess over the guaranteed annuity will accumulate for ultimate distribution to the noncharitable remainder beneficiary.
- The assets only need to be valued upon contribution, unlike a CLUT where the assets must be valued every year.

### Advantages of a CLUT over a CLAT

- Additional contributions may be made to a CLUT with a gift tax deduction allowable for such additional contributions.
- A CLUT is more beneficial than a CLAT when the fair market value of the assets is expected to decline or where the donor desires to benefit the charitable income beneficiary more than the noncharitable remainder beneficiary.
- With a CLUT, the allocation of the generation-skipping tax (GST) exemption is much more straightforward as compared to the allocation of the GST exemption in connection with a CLAT.
- In addition to the annuity and unitrust variations, a CLT may be created as a "grantor" or "non-grantor" trust. A non-grantor trust can provide valuable transfer tax benefits, as illustrated below.



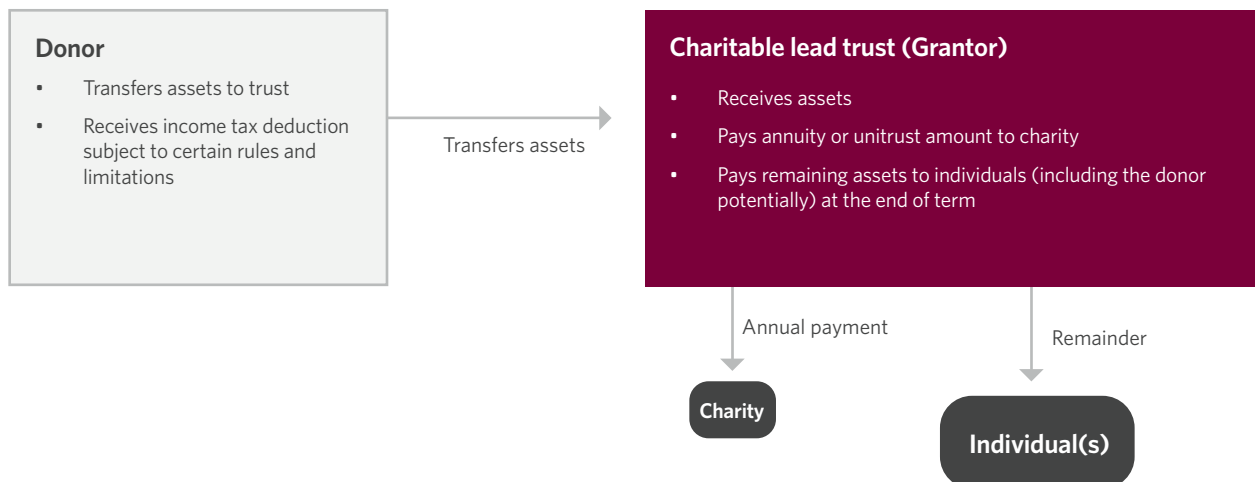
## Transfer tax consequences

Generally, in a “non-grantor” charitable lead trust, the remainder interest in the trust passes to individuals other than the grantor at the end of the term. The tax deduction provided for this type of trust is in the form of a deduction from transfer taxation for the value of the charity’s right to receive an annual payment for a set term. If the charitable lead trust is created during life, the grantor may receive a gift tax deduction for the value of the charitable income interest. If the trust is created at death, the deduction may offset estate taxes.

## Income tax consequences

If a CLT is structured as a “grantor” trust for income tax purposes, the donor may receive a current income tax deduction for the transfer to the CLT. With such a grantor trust, the income earned in the trust each year may be taxed to the donor, even though the donor does not receive any distributions. This type of CLT can be useful where the donor expects high taxable income in one year and a decrease in taxable income thereafter.

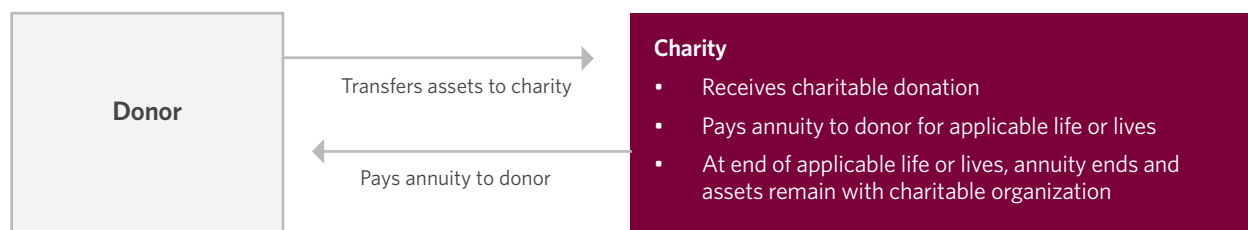
Regardless of what type of deduction is allowed, the value of the deductible interest is determined by a formula that includes the duration of the trust, the rate of payment to the charitable beneficiary each year and the current rate of return on investments determined by the federal government each month. These factors are applied to government tables to determine the amount of the charitable deduction. In the case of a “grantor” CLT, if the deduction exceeds a certain percentage of the donor’s adjusted gross income for the year of the gift, that portion may be carried over into future years.



## Charitable gift annuities

A charitable gift annuity is a contract between a charity and a donor whereby the charity pays an annuity to the donor for life, in exchange for a gift of cash or other assets. This arrangement is part gift and part purchase of an annuity. When creating a charitable gift annuity (CGA), the donor relinquishes control of the property at the time the donor gifts the assets to the charity. A charitable gift annuity may be structured to provide an annuity payment during the life or lives of the donor or donors. Moreover, the annuity payment may begin immediately or at some date in the future. If payment will begin at a date in the future, it is referred to as a deferred gift annuity. The administrative burden is on the charity, not the donor.

Generally, when creating a charitable gift annuity, the donor receives an income tax deduction for the portion of the assets that qualifies as a gift to charity, subject to certain rules and limitations. For example, charitable gifts are subject to the 60% deduction limit for the gift portion of a CGA funded with cash. A 30% deduction limit applies if the gift portion of a CGA is funded with long-term appreciated securities.



Another advantage of creating a charitable gift annuity is that it may assist in avoiding potential estate taxes by removing the asset and its future appreciation from the donor's gross estate.<sup>2</sup>

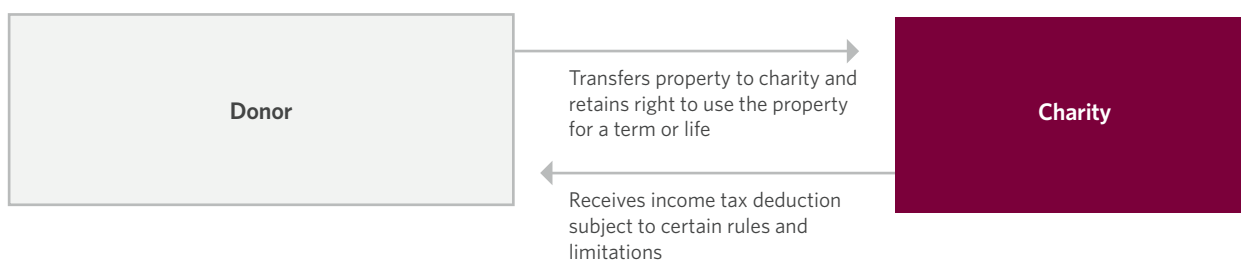
A charitable gift annuity is an excellent way to convert non- or low-income-producing property into an income stream. Generally, the guaranteed annuity rate increases with the age of the donor at the time of the gift. Payments to the income beneficiary may be part ordinary income, part capital gain and part return of principal. Furthermore, most often there is no direct cost associated with establishing a charitable gift annuity.

### Retained life estates

A retained life estate is a charitable giving strategy whereby the donor makes a gift of a residence, farm or other property to a charitable organization and retains the right to occupy the property for a term or life, with the property passing to the charity at the end of the term or at the death of the last person who retained an interest in the property. An advantage of retaining a life estate is that the donor and/or other beneficiaries continue to enjoy the property during their lives or for a term of years. As part of this arrangement, the donor agrees to maintain and insure the property as if still the owner.

Generally, upon creation of the life estate, the donor receives an income tax deduction for the present value of the remainder interest in the property that will pass to the charitable organization, although the income tax deduction may be subject to certain rules and limitations. This structure may be eligible for a five-year carryover of unused deductions and assists in avoiding potential estate taxes by removing the asset and its future appreciation from the donor's gross estate.<sup>3</sup>

A retained life estate can be an efficient way to remove an often burdensome asset from one's estate at death. Moreover, it may afford the donor the ability to satisfy a charitable desire without loss of the use of the home.



<sup>2</sup> IRC Sec. 170 (b).

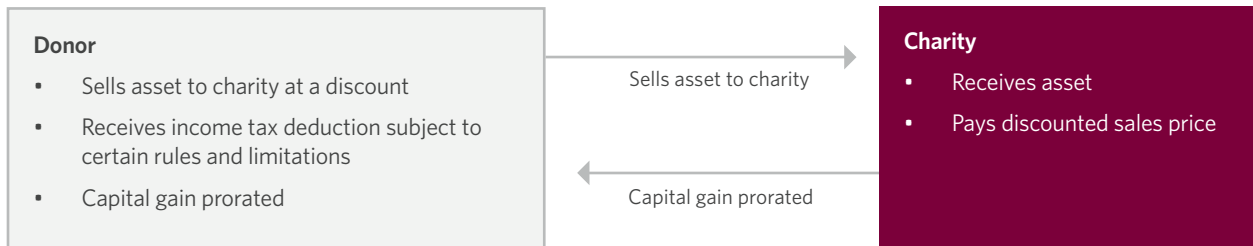
<sup>3</sup> IRC Sec. 170 (b).

## Bargain sales

In a bargain sale transaction, a donor sells property—often real estate—to charity for less than its fair market value in exchange for cash or an installment note, relinquishing control over the property at the time of the sale. The donor may receive an income tax deduction for the gift (or bargain) portion of the sale, and the capital gain from the sale is adjusted based upon the ratio of the sales price to the gift.

A bargain sale may be an appropriate option if a donor wishes to receive some value for the property and benefit the charity. The donor avoids capital gains tax on the donated portion and can use cash from the sale portion for cash flow, to pay off a mortgage, or purchase new property.

If you are considering a charitable vehicle as part of your overall wealth plan, please ask your CIBC Private Wealth Advisor for more information.







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