

Supplement to THE TOOLS & TECHNIQUES OF CHARITABLE PLANNING

1st Edition

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CHAPTER 2: GENERAL RULES FOR CHARITABLE DEDUCTIONS

Pages 10 - 12: Substantiation—vehicle donations:
The Tax Technical Corrections Act of 2005 clarifies that a charity's acknowledgment of donated vehicle must include *all* of the following information:

- (A) The name and taxpayer identification number of the donor;
- (B) The vehicle identification number (or similar number);
- (C) In the case of a "qualified vehicle" (as defined under IRC Section 170(f)(12)(A)) that is sold without any significant intervening use or material improvement of the vehicle by the charity: (i) a certification that the vehicle was sold in an arm's length transaction between unrelated parties; (ii) the gross proceeds from the sale; *and* (iii) a statement that the deductible amount may not exceed the amount of such gross proceeds;
- (D) In the case of a qualified vehicle sold with significant intervening use or material improvement of the vehicle by the charity: (i) a certification of the intended use or material improvement of the vehicle and the intended duration of such use; *and* (ii) a certification that the vehicle would not be transferred in exchange for money, other property, or services before completion of the use or improvement;
- (E) Whether the donee organization provided any goods or services in consideration, in whole or in part, for the qualified vehicle; *and*
- (F) A description and good faith estimate of the value of any goods or services referred to in (E), above, or if such goods or services consist solely of intangible religious benefits, a statement to that effect. IRC Secs. 170(f)(12)(B)(i) - 170(f)(12)(B)(iv), as added by AJCA 2004; IRC Secs. 170(f)(12)(B)(v) - 170(f)(12)(B)(vi), as added by TTCA 2005.

For guidance on qualified vehicle contributions, see: Notice 2005-44, 2005-25 IRB 1287; IRS Information Letter

INFO 2005-129 (8-3-2005); IRS News Releases IR-2005-145 (12-22-2005), and IR-2005-149 (12-22-2005); and IRS Publication 4303, "A Car Donor's Guide to Car Donations" (7-2004), at: www.irs.gov.

Pages 10 - 12: Substantiation—intellectual property donations: The amount of a donor's initial charitable contribution deduction allowed (under IRC Section 170) for contributions of qualified intellectual property is limited to the *lesser* of (1) the fair market value of, *or* (2) the donor's adjusted basis in, the qualified intellectual property. IRC Section 170(e)(1)(B)(iii). However, a donor may deduct, as a charitable contribution, certain *additional* amounts based on a percentage of the qualified donee income received by, or accrued to, the donee with respect to the qualified intellectual property. IRC Section 170(m). To qualify for the additional deduction, the donor must notify the donee at the time of the contribution of the donor's intention to take the additional deduction. For guidance on the notification requirement for donors, see Notice 2005-41, 2005-23 IRB 1203.

CHAPTER 3: INCOME PERCENTAGE LIMITS

Page 17: Hurricane tax relief—temporary suspension of limits: The Gulf Opportunity Zone Act of 2005 (GOZA 2005), which extends certain emergency tax relief for Hurricane Katrina to Hurricane Rita and Hurricane Wilma, provides that the percentage limitations set forth in IRC Section 170(b) do *not* apply to "qualified contributions" (see below). Furthermore, qualified contributions are *not* taken into account for purposes of applying the percentage limitations (under IRC Section 170(b)) and the carryovers of excess contributions rules (under IRC Section 170(d)) to other contributions. IRC Sec. 1400S(a)(1), as added by GOZA 2005. However, qualified contributions are allowed only to the extent that the aggregate of those contributions do not exceed the excess of (1) the taxpayer's adjusted gross income over (2) the amount of all other charitable contributions allowed under IRC Section 170(b)(1). IRC Sec. 1400S(a)(2), as added by GOZA 2005. "Qualified contribution" means any charitable contribution (as defined in IRC Section 170(c)) that meets two requirements:

- (1) The contribution must have been paid during the period beginning on August 28, 2005, and ending on December 31, 2005, in cash to an organization described in IRC Section 170(b)(1)(A); *and*

- (2) The taxpayer must *elect* to apply this treatment to the contribution. IRC Sec. 1400S(a)(4)(A), as added by GOZA 2005.

In addition, the term “qualified contribution” does *not* include a contribution if it is for establishment of a new (or maintenance in an existing) segregated fund or account with respect to which the donor (or any person appointed or designated by the donor) has, or reasonably expects to have, advisory privileges with respect to distributions or investments by reason of the donor’s status as a donor. IRC Sec. 1400S(a)(4)(C), as added by GOZA 2005. In other words, contributions to supporting organizations, donor advised funds, and private *non*-operating foundations are not eligible donees with respect to qualified contributions.

GOZA 2005 also provides an exception to the overall limitation on itemized deductions (IRC Section 68). The amount of any charitable deduction allowed (under IRC Section 170) that does not exceed the qualified contributions paid during the taxable year will *not* be treated as an itemized deduction for purposes of IRC Section 68. Sec. IRC Sec. 1400S(a)(3), as added by GOZA 2005.

CHAPTER 13: CHARITABLE GIVING USING LIFE INSURANCE

Page 104: State Insurable Interest Rules: Financial arrangements frequently referred to as Stranger Owned Life Insurance (SOLI) or Investor Owned Life Insurance (IOLI) have come under increasing scrutiny lately in the past year or so. For an explanation of how these arrangements work, and a review of the potential abuses associated with such arrangements, see Joint Committee on Taxation, *Description of the Chairman’s Modification to the Provisions of the “Tax Relief Act of 2005,”* (JCX 77-05), November 15, 2005, pp. 30-34, at: <http://www.house.gov/jct/x-77-05.pdf>.

In 2005, the New York Life Insurance Department issued a Letter Opinion dated December 19, 2005 analyzing a SOLI-type of transaction. The department concluded that: (1) a valid insurance interest did not exist in the transactions at issue; and (2) the transactions were not permissible under the New York insurance law. The opinion can be viewed or downloaded at: <http://www.ins.state.ny.us/rg0511215.htm>.

CHAPTERS 15 AND 16: CHARITABLE REMAINDER ANNUITY TRUSTS AND CHARITABLE REMAINDER UNITRUSTS

Chapter 15, page 129; Chapter 16, page 139: What are the tax implications?: In 2005, the Service released final regulations on the ordering rules of IRC Section 664(b) for characterizing distributions from charitable remainder trusts. See TD 9190, 70 Fed. Reg. 12793 (3-16-2005).

Spousal Election Rights and Charitable Remainder Trusts. The IRS and Treasury Department have issued guidance providing a safe harbor procedure to avoid the disqualification of a charitable remainder annuity trust (CRAT) or charitable remainder unitrust (CRUT) if, under

applicable state law, the grantor’s surviving spouse has a right of election exercisable upon the grantor’s death to receive an elective, statutory share of the grantor’s estate, and that share could be satisfied in whole or part from assets of the CRAT or CRUT (in violation of IRC Section 664(d)). The surviving spouse’s elective right to receive an elective share of the grantor’s estate, if the share could include any assets of a CRAT or CRUT created or funded by the grantor, will be *disregarded* for purposes of determining whether the CRAT or CRUT has met the requirements of IRC Section 664(d) continuously since its creation *if* all of the following requirements are satisfied:

- (1) Waiver effective under state law: The surviving spouse must irrevocably waive the right of election to whatever extent necessary to ensure that no part of the trust (other than the annuity or unitrust interest of which the surviving spouse is the named recipient under the terms of the trust) may be used to satisfy the elective share. A valid waiver of the elective share or elective right will satisfy the requirements in the preceding sentence if the waiver is valid under applicable state law, in writing, and signed and dated by the surviving spouse.
- (2) Timing of waiver: For CRATs and CRUTs created by the grantor on or after June 28, 2005, the requirements set forth in item (1), above, must be satisfied on or before the date that is six months after the due date (excluding extensions) for filing Form 5227 (the trust’s information return) for the year in which the *later* of the following occurs: (i) the creation of the trust; (ii) the date of the grantor’s marriage to the surviving spouse; (iii) the date the grantor first becomes domiciled or resident in a jurisdiction whose law provides a right of election that could be satisfied from the assets of the trust; or (iv) the effective date of applicable state law creating a right of election.
- (3) Trustee to retain copy: A copy of the signed waiver must be provided to the trustee of the CRAT or CRUT. The trustee must retain the copy in the official records of the trust as long as the contents may become material in the administration of any internal revenue law. Rev. Proc. 2005-24, 2005-16 IRB 909.

Since the release of Revenue Procedure 2005-24, the Service has received comments asserting that the revenue procedure places an undue burden on taxpayers and trustees seeking to comply with the safe harbor rule. The Service and Treasury Department are reconsidering the approach of Revenue Procedure 2005-24, including the safe harbor rule. Consequently, the Service is extending the June 28, 2005, grandfather date. Until further guidance is published regarding the effect of a spousal right of election on a trust’s qualification as a CRAT or a CRUT, the Service will disregard the existence of such a right of election, even without a waiver, but only if the surviving spouse does not exercise the right of election. Notice 2006-15, 2006-8 IRB 501.

**APPENDIX B:
CHARITABLE GIFT ANNUITY RATES
SUGGESTED CHARITABLE GIFT ANNUITY RATES
SINGLE LIFE**

Effective July 1, 2004

(According to the ACGA, the Gift Annuity Rates will stay the same on 7-1-05 through 6-30-06.)

Age	Rate	Age	Rate
0-1	3.7%	54	5.5%
2-5	3.8	55	5.5
6-12	3.9	56	5.6
13-19	4.0	57	5.6
20	4.0	58	5.7
21	4.1	59	5.7
22	4.1	60	5.7
23	4.1	61	5.8
24	4.1	62	5.9
25	4.1	63	5.9
26	4.2	64	6.0
27	4.2	65	6.0
28	4.2	66	6.1
29	4.3	67	6.2
30	4.3	68	6.3
31	4.3	69	6.4
32	4.4	70	6.5
33	4.4	71	6.6
34	4.4	72	6.7
35	4.5	73	6.8
36	4.5	74	6.9
37	4.6	75	7.1
38	4.6	76	7.2
39	4.7	77	7.4
40	4.7	78	7.6
41	4.8	79	7.8
42	4.8	80	8.0
43	4.9	81	8.3
44	5.0	82	8.5
45	5.0	83	8.8
46	5.1	84	9.2
47	5.2	85	9.5
48	5.2	86	9.9
49	5.3	87	10.2
50	5.3	88	10.6
51	5.4	89	11.0
52	5.4	90+	11.3
53	5.5		

WARNING: These annuity rates, for both immediate and deferred annuities and for both single life and two lives, should not be used if the gift portion, based on IRS tables and the applicable discount rate, is not more than 10% of the amount paid for the annuity.

NOTES:

1. The rates are for ages at the nearest birthday.
2. For immediate gift annuities, these rates will result in a charitable deduction of more than 10% if the CMFR [IRC Sec. 7520 interest rate] is 4.0% or higher, whatever the payment frequency. If the CMFR is less than 4.0%, the deduction will be less than 10% when annuitants are below certain ages.
3. For deferred gift annuities with longer deferral periods, the rates may not pass the 10% test when the CMFR is low.
4. To avoid adverse tax consequences, the charity should reduce the gift annuity rate to whatever level is necessary to generate a charitable deduction in excess of 10%.

Source: American Council on Gift Annuities

**SUGGESTED CHARITABLE GIFT ANNUITY RATES
TWO LIVES—JOINT AND SURVIVOR**

Effective July 1, 2003 to June 30, 2005

(According to the ACGA, the Gift Annuity Rates will stay the same on 7-1-05 through 6-30-06.)

Younger Age	Older Age	Rate	Younger Age	Older Age	Rate	Younger Age	Older Age	Rate
0-1	All	3.5	59	62+	5.5	72	81-84	6.4
2-5	2+	3.6	60	60	5.4	72	85+	6.5
6-12	6+	3.7	60	61+	5.5	73	73	6.1
13-19	13+	3.8	61	61-65	5.5	73	74-75	6.2
20	20+	3.8	61	66+	5.6	73	76-78	6.3
21	21+	3.8	62	62-64	5.5	73	79-81	6.4
22	22+	3.8	62	65-70	5.6	73	82-84	6.5
23	23+	3.9	62	71+	5.7	73	85+	6.6
24	24+	3.9	63	63	5.5	74	74	6.2
25	25+	3.9	63	64-68	5.6	74	75-76	6.3
26	26+	3.9	63	69+	5.7	74	77-79	6.4
27	27+	3.9	64	64-66	5.6	74	80-81	6.5
28	28+	3.9	64	67-72	5.7	74	82-84	6.6
29	29+	4.0	64	73+	5.8	74	85+	6.7
30	30+	4.0	65	65	5.6	75	75	6.3
31	31+	4.0	65	66-70	5.7	75	76-77	6.4
32	32+	4.0	65	71+	5.8	75	78-79	6.5
33	33+	4.1	66	66-68	5.7	75	80-82	6.6
34	34+	4.1	66	69-73	5.8	75	83-85	6.7
35	35+	4.1	66	74+	5.9	75	86-88	6.8
36	36+	4.1	67	67	5.7	75	89+	6.9
37	37+	4.2	67	68-71	5.8	76	76	6.4
38	38+	4.2	67	72-76	5.9	76	77-78	6.5
39	39+	4.2	67	77+	6.0	76	79-80	6.6
40	40+	4.3	68	68-70	5.8	76	81-82	6.7
41	41+	4.3	68	71-74	5.9	76	83-84	6.8
42	42+	4.3	68	75-78	6.0	76	85-87	6.9
43	43+	4.4	68	79+	6.1	76	88+	7.0
44	44+	4.4	69	69	5.8	77	77	6.5
45	45+	4.5	69	70-72	5.9	77	78-79	6.6
46	46+	4.5	69	73-76	6.0	77	80	6.7
47	47+	4.6	69	77-80	6.1	77	81-82	6.8
48	48+	4.6	69	81+	6.2	77	83-84	6.9
49	49+	4.7	70	70-71	5.9	77	85-87	7.0
50	50+	4.7	70	72-74	6.0	77	88-90	7.1
51	51+	4.8	70	75-77	6.1	77	91+	7.2
52	52+	4.9	70	78-82	6.2	78	78-79	6.7
53	53+	4.9	70	83+	6.3	78	80-81	6.8
54	54+	5.0	71	71-73	6.0	78	82	6.9
55	55+	5.0	71	74-76	6.1	78	83-84	7.0
56	56-57	5.1	71	77-79	6.2	78	85-86	7.1
56	58+	5.2	71	80-83	6.3	78	87-89	7.2
57	57-58	5.2	71	84+	6.4	78	90-92	7.3
57	59+	5.3	72	72	6.0	78	93+	7.4
58	58-63	5.3	72	73-74	6.1	79	79	6.8
58	64+	5.4	72	75-77	6.2	79	80-81	6.9
59	59-61	5.4	72	78-80	6.3	79	82	7.0

Source: American Council on Gift Annuities

TWO LIVES–JOINT AND SURVIVOR (continued)

Effective July 1, 2003 to June 30, 2005

(According to the ACGA, the Gift Annuity Rates will stay the same on 7-1-05 through 6-30-06.)

Younger Age	Older Age	Rate	Younger Age	Older Age	Rate	Younger Age	Older Age	Rate
79	83-84	7.1	83	88	7.9	87	92	9.0
79	85-86	7.2	83	89	8.0	87	93	9.1
79	87-88	7.3	83	90-91	8.1	87	94	9.2
79	89-90	7.4	83	92	8.2	87	95+	9.3
79	91-93	7.5	83	93-94	8.3	88	88	8.7
79	94+	7.6	83	95+	8.4	88	89	8.8
80	80	6.9	84	84	7.6	88	90	8.9
80	81	7.0	84	85	7.8	88	91	9.1
80	82	7.1	84	86	7.9	88	92	9.2
80	83-84	7.2	84	87	8.0	88	93	9.3
80	85	7.3	84	88-89	8.1	88	94	9.4
80	86-87	7.4	84	90	8.2	88	95+	9.5
80	88-89	7.5	84	91	8.3	89	89	9.0
80	90-91	7.6	84	92	8.4	89	90	9.1
80	92-94	7.7	84	93-94	8.5	89	91	9.3
80	95+	7.8	84	95+	8.6	89	92	9.4
81	81	7.1	85	85	7.9	89	93	9.5
81	82-83	7.2	85	86	8.0	89	94	9.7
81	84	7.3	85	87	8.1	89	95+	9.8
81	85	7.4	85	88	8.2	90	90	9.3
81	86-87	7.5	85	89	8.3	90	91	9.5
81	88	7.6	85	90	8.4	90	92	9.6
81	89-90	7.7	85	91	8.5	90	93	9.8
81	91-92	7.8	85	92	8.6	90	94	9.9
81	93-94	7.9	85	93-94	8.7	90	95+	10.1
81	95+	8.0	85	95+	8.8	91	91	9.6
82	82-83	7.3	86	86	8.1	91	92	9.8
82	84	7.4	86	87	8.2	91	93	10.0
82	85	7.5	86	88	8.4	91	94	10.1
82	86	7.6	86	89	8.5	91	95+	10.3
82	87	7.7	86	90	8.6	92	92	10.0
82	88-89	7.8	86	91	8.7	92	93	10.2
82	90	7.9	86	92	8.8	92	94	10.4
82	91-92	8.0	86	93	8.9	92	95+	10.6
82	93-94	8.1	86	94	9.0	93	93	10.4
82	95+	8.2	86	95+	9.1	93	94	10.6
83	83	7.4	87	87	8.4	93	95+	10.8
83	84	7.5	87	88	8.5	94	94	10.8
83	85	7.6	87	89	8.6	94	95+	11.0
83	86	7.7	87	90	8.8	95 & over	95+	11.1
83	87	7.8	87	91	8.9			

Source: American Council on Gift Annuities

**APPENDIX G:
MODEL FORMS FOR CHARITABLE REMAINDER TRUSTS**

Page 265: In 2005, the Service released updated sample forms for CRUTs. The new forms for inter vivos CRUTs are: (1) Rev. Proc. 2005-52, 2005-34 IRB 326 (one measuring life); (2) Rev. Proc. 2005-53, 2005-34 IRB 339 (term of years); (3) Rev. Proc. 2005-54, 2005-34 IRB 353 (consecutive interests for two measuring lives); (4) Rev. Proc. 2005-55, 2005-34 IRB 367 (concurrent and consecutive

interests for two measuring lives). The new forms for testamentary CRUTs are: (5) Rev. Proc. 2005-56, 2005-34 IRB 383 (one measuring life); (6) Rev. Proc. 2005-57, 2005-34 IRB 392 (term of years); (7) Rev. Proc. 2005-58, 2005-34 IRB 402 (consecutive interests for two measuring lives); and (8) Rev. Proc. 2005-59, 2005-34 IRB 412 (concurrent and consecutive interests for two measuring lives).

**APPENDIX I:
INCOME TAX RATE SCHEDULES**

TAXABLE YEARS BEGINNING IN 2006

**SCHEDULE X
SINGLE INDIVIDUALS**

<i>Taxable Income</i>	<i>Tax on Lower Amount</i>	<i>Tax Rate on Excess</i>
\$ -0- to \$ 7,550	\$ -0-	10.0%
7,550 to 30,650	755	15.0%
30,650 to 74,200	4,220	25.0%
74,200 to 154,800	15,108	28.0%
154,800 to 336,550	37,676	33.0%
336,550 to	97,653	35.0%

**SCHEDULE Y-1 JOINT RETURNS
AND SURVIVING SPOUSES**

<i>Taxable Income</i>	<i>Tax on Lower Amount</i>	<i>Tax Rate on Excess</i>
\$ -0- to \$ 15,100	\$ -0-	10.0%
15,100 to 61,300	1,510	15.0%
61,300 to 123,700	8,440	25.0%
123,700 to 188,450	24,040	28.0%
188,450 to 336,550	42,170	33.0%
336,550 to	91,043	35.0%

**SCHEDULE Y-2
MARRIED FILING SEPARATE**

<i>Taxable Income</i>	<i>Tax on Lower Amount</i>	<i>Tax Rate on Excess</i>
\$ -0- to \$ 7,550	\$ -0-	10.0%
7,550 to 30,650	755	15.0%
30,650 to 61,850	4,220	25.0%
61,850 to 94,225	12,020	28.0%
94,225 to 168,275	21,085	33.0%
168,275 to	45,522	35.0%

**SCHEDULE Z
HEAD OF HOUSEHOLD**

<i>Taxable Income</i>	<i>Tax on Lower Amount</i>	<i>Tax Rate on Excess</i>
\$ -0- to \$ 10,750	\$ -0-	10.0%
10,750 to 41,050	1,075	15.0%
41,050 to 106,000	5,620	25.0%
106,000 to 171,650	21,858	28.0%
171,650 to 336,550	40,240	33.0%
336,550 to	94,657	35.0%

ESTATES AND TRUSTS

<i>Taxable Income</i>	<i>Tax on Lower Amount</i>	<i>Tax Rate on Excess</i>
\$ -0- to \$2,050	\$ -0-	15.0%
2,050 to 4,850	308	25.0%
4,850 to 7,400	1,008	28.0%
7,400 to 10,050	1,722	33.0%
10,050 to	2,596	35.0%