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TECHNIQUES

An income, estate, and gift tax service for attorneys and other professional advisors

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Real Property, Real Impact: Gifts of Real Estate

Ask any seasoned property renovator, and they'll tell you that surface-level details rarely determine value. Quartz countertops and fresh paint may attract attention, but experienced professionals look deeper. They notice a floor plan that can be reimagined, underused square footage that can be repurposed, or a property in a location poised for growth. The trained eye sees potential hidden in plain sight.

That same perspective applies to assets on a donor's balance sheet. A suburban rental, an underutilized vacation home, or an undeveloped parcel of land may appear to be routine holdings, but looking deeper can uncover opportunities for thoughtful planning: years of appreciation, built-in capital gains exposure, concentrated wealth, or assets that no longer fit a client's financial goals. For those with an interest in philanthropy, the right charitable giving strategy can turn these potential obstacles into advantages, helping donors maximize both impact and efficiency.

This issue explores the charitable potential of real estate, reviews common gifting strategies, and examines key tax, planning, and practical considerations. With strategic guidance, professionals can help clients turn real estate holdings into valuable tools for achieving charitable, financial, and estate planning goals.

- [The Charitable Potential of Real Estate, pg. 3](#)
- [Building an Effective Gift Strategy, pg. 4](#)
- [Real Estate Tax Treatment, pg. 6](#)
- [Techniques for Donating Real Estate, pg. 8](#)
- [From Property to Philanthropy, pg. 11](#)

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*More information about charitable giving and tax rules can be found [**here**](#).*

The Charitable Potential of Real Estate

Real estate is becoming an increasingly significant component of charitable giving as donors adopt more sophisticated planning strategies and place greater emphasis on asset selection and timing. Rising property values have also created new opportunities to incorporate these assets into charitable plans, particularly highly appreciated property that no longer aligns with a client's long-term objectives.

Real Estate by the Numbers

Real estate is widely regarded as the largest asset class in the world, with an estimated value of approximately \$393.3 trillion, exceeding the combined value of global equities, debt, and gold.¹ Yet only 3% of all charitable giving involves real estate,² and real estate makes up only 0.14% of the total noncash charitable donations.³ Given the complexity of the planning considerations and the emotional ties many clients have to their properties, it is understandable that this asset is often overlooked in charitable planning.

The coming wealth transfer may significantly expand the charitable potential of real estate holdings. Globally, Gen X and Millennials are set to inherit \$4.6 trillion in real estate over the next 10 years, with the United States expected to capture 52% of that property transfer.⁴ This has important implications for charitable giving.

At the same time, donor-advised funds (DAFs) and specialized charitable intermediaries are helping to address historical barriers to real estate giving. Some estimates suggest that only about 1% of charities directly accept gifts of real estate.⁵ Concerns surrounding



valuation, environmental issues, management responsibilities, and administrative complexity have traditionally made many organizations hesitant to accept these assets. Increasingly, however, DAFs and other charitable intermediaries are simplifying the process, often allowing donors to contribute real estate (and other complex assets), receive tax benefits, and later recommend grants to qualified charitable organizations of their choice—even organizations that do not accept real property directly.

Why Gifts of Real Estate Are Increasing

As ownership changes and financial priorities evolve, clients may come to view properties they once cherished as underutilized, expensive, or burdensome to maintain. These circumstances can create opportunities to reposition real estate as a powerful charitable planning asset.

Several factors are likely driving the growing interest in charitable real estate gifts:

- Significant appreciation in real estate values, creating larger unrealized gains.
- Expanded capabilities among DAFs and public charities to evaluate and accept real property donations, including indirect ownership interests held through partnerships, corporations, or limited liability companies.
- Challenges associated with retaining, managing, or selling illiquid or inherited properties.
- Increased interest in strategies that reduce taxable estates while supporting philanthropic goals.

Building an Effective Gift Strategy

Successful gifts rarely happen by accident. From evaluating the property itself to selecting the right charitable recipient and timing the transfer appropriately, careful planning can help clients maximize both the charitable and financial benefits of a gift.

Key Considerations

The following considerations can help identify potential challenges early and improve outcomes for both the donor and the charitable recipient.

- **Property suitability.** Evaluating whether a property is marketable and appropriate for donation is an important first step. For outright gifts, ease of sale is often critical because charities typically rely on the eventual sale proceeds. Properties

Evolving attitudes and changing circumstances can create opportunities to reposition real estate as a powerful charitable planning asset.

with limited marketability, environmental concerns, or other complexities may require additional planning.

- **Charity acceptance.** Not every charity is equipped to handle real estate donations. Some organizations lack the resources or expertise to evaluate, hold, or liquidate real estate donations. Early communication with the intended charitable recipient can help clarify whether the organization is prepared to accept the property. Each organization's decision will depend on its gift acceptance policies, internal resources, and risk tolerance.
- **Environmental liabilities.** Properties with environmental issues, such as contamination or hazardous materials, can create significant legal and financial risks for charities. Donors should disclose known environmental liabilities early in the process to prevent complications and allow the charity to evaluate potential risks. An environmental assessment may be appropriate in some situations.
- **Property valuation.** The IRS generally requires a qualified appraisal to substantiate noncash charitable contributions over \$5,000.⁶ For real estate gifts exceeding \$500,000, the donor must generally attach the qualified appraisal to the tax return, along with Form 8283.⁷ Failure to comply with IRS requirements can result in reduced deductions, penalties, or challenges to the claimed deduction.
- **Outstanding debt.** Debt-encumbered properties (those with mortgages or liens) may complicate the transaction, potentially causing all or part of the gift to be treated as a bargain sale,⁸ triggering taxable income for the donor and creating additional financial obligations for the charity.

Strategic Planning Opportunities

Once a property is determined to be a suitable charitable asset, several strategic decisions can influence both the donor's outcome and the charity's ultimate benefit.

1. **Charitable recipient selection.** The choice of recipient can affect gift administration, tax treatment, family involvement, and alignment with the donor's charitable objectives. For example, donating to a public charity equipped to accept real estate could have an immediate impact, while private foundations and donor-advised funds can offer additional flexibility and control, support long-term goals, or encourage family involvement in charitable giving.
2. **Gift design and structure.** The way a gift is structured can significantly affect tax consequences, income opportunities, control, and the ultimate charitable impact. Whether a donor

selects an outright gift, life-income gift, deferred gift, or other charitable planning option depends on which approach best aligns with the donor's broader financial and estate planning goals.

- 3. Gift timing.** Timing can have a significant effect on valuation, tax treatment, and the overall effectiveness of a charitable gift. Opportunities may arise before a liquidity event, following rapid appreciation, when removing illiquid assets from an estate, or when market conditions support a high valuation. Since the deduction is based on the appraised value as of the contribution date,⁹ timing matters, especially for assets sensitive to seasonality or market volatility. Early planning avoids complications, such as starting the process too close to year end (pushing the deduction into the next tax year) or entering into a binding agreement (a pre-arranged sale) to sell the real estate before contributing it to the charity.

Appreciated real estate is one of the most powerful assets for charitable giving.

Real Estate Tax Treatment

Real estate donations are subject to favorable tax treatment. The specific tax benefits depend on the type of property and the way the gift is structured, but appreciated real estate has the potential to qualify for an income tax deduction for the full fair market value (FMV), subject to limitations, while generally avoiding recognition of capital gains tax on the appreciation. This makes appreciated real estate one of the most powerful assets for charitable giving.

Selling the Property and Donating the Proceeds

For appreciated real estate, a direct donation is generally more tax-efficient than selling the property and contributing the proceeds. However, understanding the tax consequences of a sale provides an



important point of comparison, and this approach may be beneficial when the property has declined in value.

When a donor sells the property and contributes the proceeds to charity, several tax considerations apply:

- 1. Capital gains tax.** The donor can receive long-term capital gains tax treatment on real estate held more than one year, but the overall tax result depends on how the gain is characterized. Under current federal tax rates, long-term capital gains are generally taxed at 0%, 15%, or 20%, depending on taxable income, plus any applicable net investment income tax and state income tax. For depreciable real estate, part of the gain may be taxed as unrecaptured Section 1250 gain.
- 2. Unrecaptured Section 1250 gain.** Unrecaptured Section 1250 gain, which generally applies to the portion of the gain attributable to straight-line depreciation, is taxed at a maximum rate of 25%.¹⁰
- 3. Accelerated depreciation.** If the donor used an accelerated depreciation schedule for the property, the IRS generally taxes any recapture beyond straight-line depreciation amounts at ordinary income rates under the Section 1250 recapture rules.
- 4. Furnished property.** If the donor had furnished the property, the IRS would tax any gain on tangible personal property separately from the real estate, with the tax rate determined by the property's classification and nature and taxed based on the specific type of property.¹¹

While the donor may still qualify for a charitable deduction by contributing the sale proceeds to charity, the donor will recognize any taxable gain on the sale. As a result, selling appreciated property before making a gift often produces a less favorable tax outcome than donating the property directly because a direct gift can generally avoid recognition of the built-in capital gain. However, if the property has declined in value, a sale followed by a cash gift is often more tax efficient. It may allow the donor to recognize the loss while still supporting charitable goals.

Donating Real Estate Directly to Charity

There are several techniques for donating real estate, with direct gifts to charity among the most common and tax-efficient for appreciated property. Depending on the planning objectives, the donor may contribute the property directly to a public charity or, in some cases, use other charitable planning structures, such as a donor-advised fund, a charitable remainder trust, or another charitable vehicle. Although direct gifts of real estate can be tax-efficient, the specific

Limitations on Deductions

The following limitations on charitable income tax deductions are applicable to all types of donations:

- **AGI limitations.** The deduction is limited to a percentage of the donor's adjusted gross income (AGI), depending on the type of charity and the type of property donated.¹² Any unused deduction amount may be carried over for up to five years.¹³
- **Minimum contribution threshold.** Only total annual contribution amounts that exceed 0.5% of the taxpayer's AGI for the year of the donation qualify for a deduction.
- **Tax benefit cap for high-income donors.** Donors in the top 37% tax bracket will have the tax benefit of their deductions (including charitable deductions) limited to 35%.

tax consequences depend on the structure of the gift and the nature of the property. Key considerations include the following:

- 1. FMV deduction.** Charitable gifts of long-term, unencumbered real estate to a qualified public charity qualify for a deduction limited to 30% of AGI, with a five-year carryforward for any unused amount.
- 2. Private foundation donations.** Contributions of real estate to a private foundation produce a deduction based on the lesser of the FMV or the adjusted cost basis and limited to 20% of AGI.¹⁴
- 3. Ordinary income reduction.** IRS regulations reduce any charitable income tax deduction dollar for dollar for any ordinary income element of the gift.¹⁵
- 4. Debt-encumbered properties.** If the real estate has any debt—recourse or nonrecourse—the donation will trigger bargain sale rules (as well as a sale to charity at below market value). This results in a part-gift and part-sale treatment.¹⁶

With a direct gift, the donor can also potentially reduce any estate tax due by removing the property from the taxable estate.

Techniques for Donating Real Estate

The flexibility of real estate allows it to be used in a wide range of charitable planning strategies. Depending on the donor's objectives, a gift may provide an immediate charitable impact, generate lifetime income, support family philanthropy, or create a charitable legacy after death.

The following techniques illustrate some of the most common ways donors can incorporate real estate into a charitable plan to advance their objectives. Unless otherwise specified, these options apply to any type of property, including a home, farmland, commercial property, a vacation home, or undeveloped land.

Outright Gifts

This is a straightforward gift that relieves the donor of the complexities of a sale and creates an immediate charitable impact. Donors are eligible to receive an income tax charitable deduction equal to the full FMV of the property (subject to limitations), may bypass the capital gains tax on the property's appreciation, and may reduce any potential federal estate tax by removing the property from the taxable estate.

Similar tax principles may apply when donors subdivide real estate and gift one or more parcels while retaining ownership of the

The flexibility of real estate allows it to be used in a wide range of charitable planning strategies.

remaining land, although the specific benefits depend on the facts and proper valuation of each parcel. This method may be attractive when donating the entire property would exceed the maximum allowable deduction for the year.

Bargain Sales

A bargain sale offers donors the unique opportunity to make a direct charitable gift (qualifying for an income tax deduction) and a sale (resulting in a cash payment). The donor sells the property to charity for less than FMV, with the charitable portion generally calculated as the difference between the property's FMV and the amount received from the charity.¹⁷ The donor must allocate the property's basis between the sale portion and the gift portion, and this allocation determines the taxable gain on the sale portion.

Donors can receive an immediate cash payment or arrange a bargain sale so that they receive cash at the time of the transaction, plus income for life or a period of years. When a charity pays the bargain price in installments, the donor receives a periodic cash flow, spreading out the gain over time.

Charitable Gift Annuity (CGA)

CGAs combine charitable giving with a lifetime income stream, making them particularly appealing—especially to older clients. A donor can transfer appreciated real estate to a charity in exchange for fixed, tax-advantaged payments for life for the donor and/or another beneficiary. The income is unaffected by market fluctuations, and the gift portion may qualify for an income tax charitable deduction. Donors may also benefit from a partial bypass of unrealized capital gains and deferral of taxes on the remaining gains.

However, CGAs funded with real estate pose risks for charities. If the property sells for less than the agreed value of the annuity, the charity must cover the donor's payments from its reserves, potentially reducing the charitable impact of the gift. Because of this risk, charities with substantial reserve funds and endowments are typically the only ones to allow CGAs funded with real estate, and even these charities employ risk-reduction strategies to protect their financial stability.

Charitable Remainder Trusts (CRTs)

CRTs provide flexibility, control, and the potential for long-term charitable impact. Donors can fund the trust with highly appreciated real estate (or other assets), avoiding capital gains tax at the time of the transfer and qualifying for an income tax charitable deduction based on the present value of the charity's remainder interest (subject to limitations). By removing the property from the taxable

Gifts of Timeshares

Although a timeshare is generally treated as an undivided fractional interest in real estate for tax purposes, many timeshares have little market value and carry ongoing maintenance obligations. As a result, most charities (including donor-advised funds) are unwilling to accept them. Donating the use of a timeshare, such as for a charity auction, does not qualify for a charitable deduction because no ownership interest is transferred.

estate, there is also the potential for reducing any future estate tax liability.

The trust sells the real estate, invests the proceeds, and makes payments to the donor and/or other beneficiaries for life or for a term of up to 20 years. The donor can customize the trust to meet particular planning needs. At the end of the trust term, the remaining assets support the charity's mission.

Donor-Advised Funds (DAFs)

A DAF can be one of the most practical and flexible ways to facilitate real estate gifts, particularly when the intended charitable recipient is unable or unwilling to accept real property directly. By contributing real estate to a DAF that will accept the property, donors may qualify for an immediate income tax charitable deduction based on the property's FMV (subject to limitations) and may bypass capital gains tax on the appreciation.

DAFs offer significant flexibility. Donors can recommend grants to one or more charities over time rather than making an immediate decision about the ultimate charitable recipient. They can also facilitate ongoing family involvement in charitable giving. This can be particularly attractive during high-income years, allowing donors to claim a current deduction while developing a longer-term philanthropic strategy. In addition, once a DAF sponsor agrees to accept the property, it will usually handle the administrative, legal, and due diligence requirements associated with accepting and liquidating complex assets, making DAFs an efficient solution for many real estate gifts.

Gifts with a Retained Life Estate

A retained life estate allows clients to make a charitable gift today while continuing to use the property for life. This strategy is available for personal residences (including vacation homes and co-op ownership interests) and farms. The donor receives a current charitable deduction, bypasses capital gains tax on the property's appreciation, and retains the right to occupy or use the property during life. After the donor's death, the property passes to the designated charity.

Ordinarily, a charitable deduction is available only when the donor transfers their entire interest in property. An exception exists for irrevocable transfers of a remainder interest in a personal residence or farm. Under this arrangement, the donor (and spouse, if applicable) can continue using the property for life or for a specified term while receiving a current charitable income tax deduction based on the charity's remainder interest, subject to limitations.¹⁸ This exception only applies to non-trust transfers.¹⁹

A Gift in a Will or Trust

For clients who wish to retain control of their real estate during life, making a gift of the property in a will or trust offers a flexible solution that can be adjusted if their goals or circumstances change. Clients can document their charitable intentions without transferring the asset during life, while helping ensure their legacy supports the causes they care about. Depending on how the plan is structured, it may also simplify the ultimate transfer of the property as part of the estate plan.

A Transfer on Death (TOD) Deed

A TOD deed allows clients to designate a charity as the beneficiary of a home or other real estate while retaining complete ownership and control during life. Recognized in many states, this approach allows the property to pass directly to the charity at death without going through probate. Because the designation remains revocable during the donor's lifetime, a TOD deed can be a practical option for clients who want to support a charity while preserving flexibility if goals or circumstances change.

From Property to Philanthropy

Real estate remains one of the most underutilized assets in charitable planning despite its significant value and meaningful tax advantages. For many clients, appreciated, inherited, underutilized, or difficult-to-manage properties represent an opportunity to achieve charitable, financial, and estate planning objectives through a single asset.

As property ownership changes hands and charitable intermediaries expand their capacity to accept complex assets, real estate gifts are likely to become a more important planning strategy. By helping clients evaluate a property's suitability, understand the available tax benefits, and select the most appropriate charitable vehicle, professionals can transform overlooked assets into meaningful charitable impact while advancing broader planning goals.

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Endnotes

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- 15 Treas. Reg. § 1.170A-4 (providing the rules that reduce a charitable income tax deduction by the amount of ordinary income that would have been recognized if the donated property had been sold).
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- 17 IRC § 170(e).
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