I. Introduction

A. Using This Booklet

This booklet provides general information about charitable giving, especially that made through large gifts. The booklet gives examples for certain types of gifts and a description of the potential benefits to the donor. Some charitable gifts are very complex and a full explanation is beyond the scope of this presentation. As with all financial matters, it is important to consult an accountant, attorney, or financial planner to determine the specific circumstances for each situation.

B. Why people give

Almost all people who make large gifts support causes because they believe their contribution will in some way improve the overall welfare of society. There are a host of other reasons that may affect the decision to support a project or ministry, including special recognition, tax benefits, and so forth. However, these typically are less important than the desire to do something meaningful and important.

Those individuals capable of making significant charitable gifts also tend to be the most financially sophisticated. They may give for altruistic reasons, but they also take maximum advantage of the tax saving created through their philanthropic support. As Judge Learned Hand, the noted American jurist once wrote,

> Over and over again, the courts have said there is nothing sinister in so arranging one's affairs as to keep taxes as low as possible. Everybody does so, rich and poor, and all do right, for nobody owes any duty to pay more tax than the law demands. Taxes are enforced exactions, not voluntary contributions.[1]

C. Supporting the Church

There are a number of ways a person can support the Episcopal Church. In general, there are three major types of charitable gifts: annual, capital, or deferred. All are important to the overall financial health of a mission, parish, diocese, or other church-sponsored organization. However, each type tends to be used for separate purposes.

Annual pledges and contributions provide the day-to-day funds required to pay salaries, utility bills, printing costs, and so forth. The church uses capital gifts for major renovations and expansion of the physical plant. Deferred gifts are those that the church receives at a future date, e.g., an estate gift. Ideally, deferred gifts are invested to produce future income for operations and special needs.

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[1] Hand, Learned. *Commissioner vs Newman, 159F. 2D 848, 850-851 (CA2 1947)*

Charitable Income Tax Deduction

Jeffrey Miller gives $200,000 in appreciated stock to the diocese. The stock has a basis of $50,000 and Jeffrey's adjusted gross income is $100,000. By transferring the securities directly to the diocese, Jeffrey can deduct the market value and avoid taxes on the $150,000 gain. He also may deduct up to 50% of $100,000 or $50,000 in the current tax year. The remaining $150,000 can be deducted over the next five years, again up to 50% of his adjusted gross income each year.

II. Charitable Giving Vehicles

A. Cash Gifts

Summary: Donation of cash to the congregation or diocese.
Benefits: Provides an immediate benefit.
Concerns: Donor's current or future cash needs may limit or interrupt his or her ability to make annual gifts.
Tax Advantages: There is an immediate income tax deduction for the full amount donated.
Process: Cash/check paid directly to the church or diocese. (Gifts to third parties for the benefit or use of charity are subject to a 30% adjusted gross income (AGI) limitation.).

B. Contributions of Ordinary Income Property

Summary: Donation of copyrights, inventory, accounts receivable, annuities, depreciated or amortized property, partnership interests, or short-term capital gain property.
Benefits: Provides charity with immediate benefit.
Concerns: Donor may have future need for the property or the income it produces.
Tax Advantages: Immediate income tax deduction is limited to the assets cost basis. No gain or loss is recognized on the transfer.
Process: Formal transfer by deed or title.

C. Contributions of Long-Term Capital Gain Property

Summary: Donation of real estate, securities, business interests, and other capital assets held for more than one year.
Benefits: Provides the charity with an immediate benefit.
Concerns: The donor may have a future need for the property or the income it produces.
Tax Advantages: The donor may elect an immediate income tax deduction for either fair market value (30% AGI ceiling) or cost basis (50% AGI ceiling). The donor does not recognize a gain or loss on the transfer.
Process: Formal transfer by deed or title.

D. Contributions of Property Subject to Debt.

Summary: Donation of mortgaged property.
Benefits: Donor relieved of mortgage/debt obligation.
Concerns: Transaction is treated like a bargain sale. Charity may be unwilling to assume

liability.

Tax Advantages: Partial income tax charitable deduction for "gift portion." However, donor must report taxable gain allocable to "sale portion."

Process: Formal transfer by deed or title.

Sarah Keating, age 55, donates $2 million to a charitable lead trust with Christ Church as the income beneficiary. The trust will pay 15% income to the parish for as long as Sarah lives. Upon Sarah's death, the balance of the trust will go to her two children. Sarah's taxable gift is $84,621 (assuming a 5.4% IRC Section 7520 rate). Thus, Sarah ultimately will give almost $2 million to her children at a taxable amount of $84,621 while providing an annual income of $300,000 to the parish.

E. Charitable Bequest

Summary: Testamentary gift of cash or property at donor's death.

Benefits: Donor retains use and control of cash/property during life.

Concerns: Donor's surviving family may need the cash/property.

Tax Advantages: No immediate income tax deduction, but cash/property escapes estate taxation. (Inclusion in gross estate is offset by estate tax charitable deduction.)

Process: Will must provide specifically for charitable bequest.

III. Split-interest Gifts

A. Charitable Remainder Trusts

Summary: A donor transfers property to an irrevocable trust and retains either an annuity interest—a fixed percentage of the initial value of the trust (CRAT)—or a unitrust interest, in which the percentage is applied to the value of the trust, determined annually (CRUT). At the end of the trust term, the remaining property is paid to designated charities.

Benefits: Increased income; increased property passing to heirs through the use of a separate wealth replacement trust.

Concerns: Sale of the asset; loss of control over the proceeds.

Tax Advantages: The trust can sell highly appreciated assets without incurring a capital gains tax. The donor is entitled to an immediate income tax charitable deduction of the present value of the remainder interest.

Process: Strict guidelines must be followed when drafting the trust; legal and tax counsel should be consulted to determine optimal terms.

B. Charitable Lead Trusts

Summary: A charitable lead trust is essentially the reverse of the remainder trust; after income-producing property is transferred to the trust, the charity receives annual payments for a set term. At the end of the term of the trust, the remaining property passes to beneficiaries or reverts to the donor.

Benefits: It enables the donor to reduce the tax burden of an unusually high-income year.

Concerns: The donor may be taxed on the trust's income during the term.

Tax Advantages: A current income tax charitable deduction is available; can also be established at death to provide substantial estate tax savings.

Process: IRS regulations must be followed; competent counsel should be consulted.

D. Wealth Replacement Trust

Summary: Life insurance in irrevocable trust to replace property gifted to charity.
Benefits: Replaces gifted property with liquid capital to meet family needs.
Concerns: Insured must not retain control of trust.
Tax Advantages: Life insurance death proceeds received free of income and estate taxes.
Process: Trust must be established and operated in accordance with local law; legal and tax counsel must be consulted.

E. Charitable Gift Annuities

Summary: A donor transfers cash or property to a charity in exchange for a life annuity, generally at rates set by the American Council on Gift Annuities.
Benefits: Allows for smaller gifts than might be feasible with split interest trusts.
Concerns: Fixed annuity may become inadequate in inflationary economy.
Tax Advantages: Charitable income tax deduction allowed for amount by which fair market value of cash or property transferred exceeds present value of annuity received.
Process: The donor simply contributes the cash or property in exchange for the annuity.

Charitable Gift Annuities

Angela Hernandez, 55, transfers $500,000 of assets to Our Lady of Guadalupe in return for a Charitable Gift Annuity. The assets have a basis of $100,000. The charitable gift deduction based on an IRC Section 7520 rate of 5.6% is $107,712. The standard gift annuity rates for her age call for an annual income of $32,000. The $32,000 is taxed as follows:

$18,464 taxable income
$10,822 capital gain
$ 2,714 tax free return of cost basis
$32,000

E. Qualified Conservation Contributions

Summary: A donor gives an easement or other "qualified real property interest" to a charity exclusively for conservation purposes.
Benefits: Allows donor to benefit charity while retaining use or possession of the property. Can provide guarantee that conservation use will be perpetual.
Concerns: Can result in recapture of rehabilitation investment credit or denial of special use valuation.
Tax Advantages: Immediate income tax deduction for the value of the easement or other qualified contribution.
Process: Complexity of tax rules and regulations requires advice of legal and tax counsel.

F. Remainder Interests in Personal Residences and Farms

Summary: A donor makes a present gift of the remainder interest to charity while retaining lifetime use of the property.
Benefits: Donor obtains current tax deduction without giving up property.
Concerns: Heirs may feel deprived of use of the property, particularly where there is

sentimental value.

Tax Advantages: Immediate tax deduction for the present value of the remainder interest.

Process: Drafting of deed and other documentation requires expert local counsel.

IV. Charitable Giving With Life Insurance

A. Gift of New Policy

Summary: New policy issued to charity as owner.

Benefits: Substantial gift can be made without depleting existing estate.

Concerns: Donor has no access to cash values and no control over policy.

Tax Advantages: Premiums paid by donor are income tax deductible. No estate or gift taxes. Policy is not included in the donor's taxable estate.

Process: Donor applies for new policy with charity named as owner and beneficiary. Donor pays premiums through the charity.

B. Gift of Existing Policy

Summary: Donor transfers existing policy to charity.

Benefits: Advantageous way to dispose of surplus life insurance.

Concerns: Donor gives up control and access to cash values and dividends.

Tax Advantages: Income tax deduction for current value of policy (or cost basis, if lower) and subsequent premium gifts. Policy is removed from donor's taxable estate. (Inclusion under three-year rule is offset by estate tax charitable deduction).

Process: Policy is absolutely assigned to charity. Donor pays subsequent premiums through the charity.

Gift of Existing Life Insurance Policies

Gary Medford gives Grace Church a whole-life insurance policy with an interpolated terminal reserve value of $30,000. Gary’s cost basis in the policy is $20,000. Upon gifting the policy through a change of ownership form, Gary will be able to deduct his cost basis of $20,000 (the lower of $30,00 or $20,000). Additionally, if Gary fits the annual premiums of $1,000 each year to the parish (not to the insurer), he will be eligible to deduct $1,000 each year up to 50% of his adjusted gross income.

C. Charitable Beneficiary Designation

Summary: Donor names charity as beneficiary of death proceeds.

Benefits: Donor retains control and access to cash values and dividends. Alternative to standard charitable bequest (avoids probate). Beneficiary designation can be changed or revoked.

Concerns: Charity receives no current benefit.

Tax Advantages: No income tax deduction, but death proceeds escape estate taxation.

(Inclusion in gross estate is offset by estate tax charitable deduction).
Process: Donor simply executes a change of beneficiary form.

V. Tax Deduction Limitations

The tax advantages of any charitable gift may be limited by tax deduction limitations[2]. The following information summarizes the amount deductible and the percentage limitation for several contribution categories and different types of charitable organizations.

Limitations are percentages of adjusted gross income (AGI). Deductions in excess of the percentage limitation may be carried forward, subject to the same limitation in each successive year, for up to five years.

Gifts made to third parties" for the use of" rather than outright to charity are subject to a 30% AGI limitation, regardless of the type of charitable organization. For example, a donor's payment of a life insurance premium directly to the insurer, rather than to the charity, might be considered "for the use of" the charity and subject to the 30% limitation.

A. Cash

Contributions to 50% Type Organizations[3]

Amount Deductible	Cost	Percentage Limitation	50%

Contributions to 30%-Type Organizations[4]

Private Foundations[5]

Amount Deductible	Cost	Percentage Limitation	30%

Other 30%-Type Organizations

Amount Deductible	Cost	Percentage Limitation	30%

B. Ordinary-income property

Inventory, depreciable property, agricultural products, oil and gas property, Section 306 stock, original issue discount debt instruments, market-discount bonds, donor-created art and other property that would yield ordinary income if sold.

Contributions to 50% Type Organizations2

Amount Deductible	Cost	Percentage Limitation	50%

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[2] In addition to the limitations listed, a donor whose adjusted gross income exceeds a threshold amount must reduce itemized deductions by 3% of the excess over the threshold (an annually adjusted, indexed amount). The reduction may not exceed 80% of the allowable deductions.

[3] Public charities described in IRC Sec. 170(b)(1)(A). Also includes private operating foundations, pass-through foundations, and pooled-fund foundations.

[4] All charities that are not 50%-type organizations.

[5] All private foundations other than those listed in Note 2.

Contributions to 30%-Type Organizations[3]

Private Foundations[4]

Amount Deductible	Cost	Percentage Limitation	30%

Other 30%-Type Organizations

Amount Deductible	Cost	Percentage Limitation	30%

C. Short-term capital gain property

Stocks, bonds, and other capital assets that would yield short-term capital gain if sold.

Contributions to 50% Type Organizations[2]

Amount Deductible	Cost	Percentage Limitation	50%

Contributions to 30%-Type Organizations[3]

Private Foundations[4]

Amount Deductible	Cost	Percentage Limitation	30%

Other 30%-Type Organizations

Amount Deductible	Cost	Percentage Limitation	30%

D. Long-term capital gain property, in general

Stocks, bonds, and other capital assets that would yield long-term capital gain if sold.

Contributions to 50% Type Organizations2

Amount Deductible	air Market Value	Percentage Limitation	30%

Contributions to 30%-Type Organizations3

Private Foundations[4]

Amount Deductible	Cost[6]	Percentage Limitation	20%

Other 30%-Type Organizations

Amount Deductible	Fair Market Value	Percentage Limitation	20%

E. Long-term capital gain property if the donor elects to reduce the amount of the deduction by the amount of the long-term gain.

Contributions to 50% Type Organizations[2]

Amount Deductible	Cost	Percentage Limitation	50%

Contributions to 30%-Type Organizations[3]

Private Foundations[4]

Amount Deductible—Not Applicable   Percentage Limitation—Not Applicable

Other 30%-Type Organizations

Amount Deductible—Not Applicable   Percentage Limitation—Not Applicable

[6] It may be possible to deduct the full fair market value of contributions for "qualified appreciated stock" to certain private foundations.

F. Tangible personal property, if use of property by donor is unrelated to charity's exempt purpose or function.

Contributions to 50% Type Organizations2

Amount Deductible	Cost	Percentage Limitation	50%

Contributions to 30%-Type Organizations3

Private Foundations[4]

Amount Deductible	Cost	Percentage Limitation	20%

Other 30%-Type Organizations

Amount Deductible	Cost	Percentage Limitation	20%