



## Assets and Entities

### Agenda

- Review
- Asset Risk Scale
- Asset Classes
  - Appreciated Assets Overview
  - Types of Assets
- Donor Profile
- Deductibility
- Gift Acceptance at UCI/UC Regents, UCI Foundation
- Donor Types:
  - Individuals
  - Donor Advised Funds
  - Private Foundations

## Review: Estate Gifts

- **Revocable provisions that are included in an individual's estate naming the University as a beneficiary**
- **Suggested Language:**

“I/We devise and bequeath [percentage, residual, amount, asset] to LEGAL NAME (TIN#####), located in CITY, STATE, to be used in our most recently executed gift instrument on file with the LEGAL NAME.”

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## Review: Estate Gifts

### Suggested Language:

“I/We devise and bequeath [percentage, residual, amount, asset] to LEGAL NAME (TIN#####), located in CITY, State, to be used in our most recently executed gift instrument on file with the LEGAL NAME.”

Why do we use this language?

1. It correctly identifies the Charity by the Tax Identification Number and Address
2. It helps to identify how the CHARITY should use the gift
3. The gift agreement will state:
  - Purpose
  - Endowed fund vs. non-endowed
  - Name of fund
  - Contingent uses
  - Approximate value of the gift

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## Review: Estate Gifts

- Estate gifts can be irrevocable but it is inadvisable
- CA has a higher standard, detrimental responsibility
- Donors also do not want to commit assets that they are not sure they will have in the future

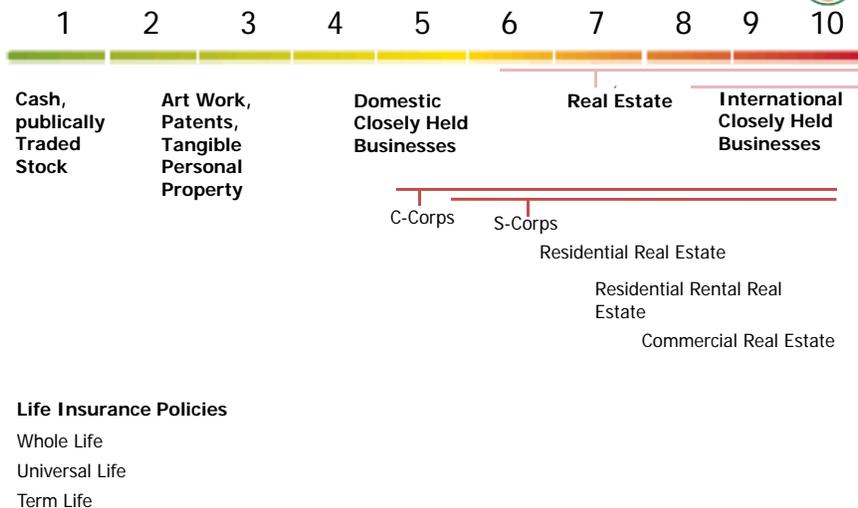
## Estate Gifts: Donor

- Any individual who should have a will or trust (18+)
- The ideal age: 45+
- What is the current value of a probate estate?

\$150,000

## Estate Gifts: Role Playing

- Individual, unknown age, mentions a desire to name Charity as an estate beneficiary. Wants to know what language to include.
  - What do you do?
  - What do you ask?
  - What do you say?



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**\$25,000 gift in support of student endowment**

- Cash gift and stock gift will both produce an income tax deduction of \$25,000

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### Current Gifts: Cash vs. Stock

	Stock	Cash
Gift	\$25,000	\$25,000
Taxable Basis	\$2,500	N/A
Potential Capital Gains Tax	\$5,467.50	N/A
Income Tax Liability	N/A	\$8,250

How would you calculate the actual value and cost of the stock gift?  
Cash gift?

Appreciated Asset Gift  
Assuming a combined Capital Gains Tax Bracket of 24.3%, a gift of stock with a basis of \$2,500 would by-pass \$5,467.50 of capital gains tax liability

Cash gift is using "after tax dollars"  
Assuming a 33% federal tax bracket, the cost of the gift is really \$33,250, because they would have an income tax liability of \$8,250 in income taxes

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## Current Gifts: Cash vs. Stock

	Cash	Stock
Gift	\$25,000	\$25,000
Taxable Basis	N/A	\$2,500
Potential Capital Gains Tax	N/A	\$5,467.50
Income Tax Liability	\$8,250	N/A

Tax Triggering Event

- Stock (if gifted): donors avoid the capital gains tax
- Cash: Ordinary Income taxes are already due

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## Cash vs. Stock: Role Playing

- Couple in their late 40s.
- Husband is an executive at Broadcom, wife is stay at home mother.
- They have twin sons and wife has an older son from previous relationship.
- Affinity with is for the homelessness in Orange County, which their older son has attended for four years and is about to graduate.
- They have made several small gifts and two larger gifts of \$23,000 in 2014 and \$10,000 in 2015 - typically cash and in conjunction with an event.

- **What do you do?**
- **What do you ask?**
- **What do you say?**

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## Donor Case Studies

- Homework was to identify donors who you believe have or who you know have the following types of assets:
  - IRD Assets (IRA, 401K, 403B)
  - Highly appreciated assets (stocks, real estate)

**Your Goal:**

- 1) Determine what the next move is toward your goal
- 2) Determine common identifying patterns, goals between your various donors

- What do you do?
- What do you ask?
- What do you say?

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## Current Gifts: Non-Cash Gifts

1	2	3	4	5	6	7	8	9	10
Cash, publically Traded Stock	Art Work, Tangible Personal Property, Patents		Domestic Closely Held Businesses			Real Estate			International Closely Held Businesses

- Tangible personal property can have great value, but also may give rise to major disputes with the Service. It is essential to locate an appraiser who is qualified to evaluate the specific type of tangible personal property.
- Art is particularly subject to large value variations determined by different appraisers. Therefore, an IRS Art Advisory Panel meets regularly to evaluate gifts of art to charities. The Art Advisory Panel reduces many of the claimed deductions for gifts of art by 20% to 40%.
- Donors who give tangible personal property should exercise caution in valuing the gifts. Forms 8283 and 8282 were in part developed because of excessive deductions claimed by donors for tangible personal property.

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## Current Gifts: Non-Cash Gifts

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Cash, publically Traded Stock	Art Work, Tangible Personal Property, Patents		Domestic Closely Held Businesses			Real Estate		International Closely Held Businesses	

- Gifts of \$250 or more to a charity require a receipt.
- For "quid pro quo" gifts over \$75, the charity must make a good faith estimate of the value of the goods or services transferred to the donor and disclose the estimate. [Reg. 1.170A-13\(f\)](#).
- Form 8283 must include a description of the property. For tangible personal property, this description should include the general condition of the property. Any restrictions or reservations of income, voting rights, acquisition rights or limits on use should be disclosed. For example, all charitable remainder trust interests must be disclosed. One method of disclosure is to append a deduction calculation to IRS Form 8283. [Reg. 1.170A-13\(c\)\(3\)](#).  
The appraisal document also should include the name, address and other applicable information about the appraiser. The appraiser must affirm that the appraisal was done on a specific date, that the property was valued as of the date of the gift, that the appraisal was done for income tax purposes and the appraisal must disclose the methodology used in deriving the property value. [Reg. 1.170A-13\(c\)\(3\)](#).
- For gifts of property over \$5,000 in value, (\$10,000 for closely-held stock), Part B of Form 8283 must be completed. In addition, both the appraiser and the charitable donee must sign Form 8283. With a charitable remainder unitrust or annuity trust, there may not be a vested charitable donee as remainder recipient. Therefore, for all unitrusts or annuity trusts, the trustee must sign in place of the charitable donee.  
The signature of the donee is merely to acknowledge that the donee has received the property. Furthermore, **when the donee signs Form 8283, it incurs an obligation to file Form 8282 within 125 days of sale of the asset, if that sale date is within three years of the date of the gift.**

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## Current Gifts: Non-Cash Gifts

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Cash, publically Traded Stock	Art Work, Tangible Personal Property, Patents		Domestic Closely Held Businesses			Real Estate		International Closely Held Businesses	

**Tangible personal property** refers to any type of **property** that can generally be moved (i.e., it is not attached to real **property** or land), touched or felt. These generally include items such as furniture, clothing, jewelry, art, writings, or household goods.

**Related-use issue**

If the charity is unable to use the tangible personal property (not including, land, home or patents) for a related use, the donor's deduction will be limited to the basis.

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## Current Gifts: Non-Cash Gifts



1  
Cash,  
publically  
Traded  
Stock

2  
Art Work,  
Tangible  
Personal  
Property,  
Patents

3  
Domestic  
Closely Held  
Businesses

4  
C-Corps

5  
S-Corps

6  
Real Estate

7  
International  
Closely Held  
Businesses

**Similarities**

**Limited liability protection.** Both offer limited liability protection, so shareholders (owners) are typically not personally responsible for business debts and liabilities.

**Separate entities.** Both the S corp and C corp are separate legal entities created by a state filing.

**Structure.** Both have shareholders, directors and officers. Shareholders are the owners of the company and elect the board of directors, who in turn oversee and direct corporation affairs and decision-making but are not responsible for day-to-day operations. The directors elect the officers to manage daily business affairs.

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## Current Gifts: Non-Cash Gifts



1  
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Stock

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Art Work,  
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S-Corps

6  
Real Estate

7  
International  
Closely Held  
Businesses

	S-Corp	C-Corp
<b>Taxation</b>	Pass-through taxation, taxed at the individual level	Double Tax: corporate and individual level
<b>Ownership</b>	S corporations cannot be owned by C corporations, other S corporations, LLCs, partnerships or many trusts. Also, S corporations can have only one class of stock (disregarding voting rights) S corps are restricted to no more than 100 shareholders, and shareholders must be US citizens/residents	C corporations have no restrictions on ownership
<b>Charity</b>	Charity can own S-corp shares (since 1996) but S-Corp Shares can not be contributed to CRTs	Charity Can hold these assets and can sell assets tax free. C-Corp shares can be contributed to CRTs

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## Current Gifts: Non-Cash Gifts

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			C-Corps		S-Corps				

**Charity as an Owner**  
S-corps will subject charity to Unrelated Business Income Tax (UBIT)

In cases where an individuals is considering gifting this to UCI, the University must conduct a due diligence process to mitigate liability

If the charity will participate in the sale of the company, it may be asked to make representations and warranties (and face potential liability) as a selling shareholder. The charity will generally seek to eliminate or minimize any exposure as a selling shareholder, and may seek indemnification from the donor in certain circumstances (e.g., when there is unlimited financial liability post-closing).

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## Due Diligence Process

- Review of Corporate Bylaws
- Review of Debts, Liabilities, Calls, Puts
- Review of liquidation events
- Review of Long Term liabilities

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## Donor Profile: Corporations

- Entrepreneurial
- Is looking to liquidate his/her holdings in the company
- Subject to capital gains
- May be the first or one in a series of liquidation events (“serial entrepreneur”)

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## Case Study #1 – The Entrepreneur

- Dr. and Mr. Lund- 78 and 50 years, respectively
- Primary asset is Dr. Lund’s company
- Dr. Lund is ready to sell the business



- Started business with \$500,000 investment 25 years ago
- Approximate current sale value is \$35 million
- What questions would you ask Dr. and Mr. Lund?
- What solutions might you propose for review?

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## Case Study #1 – the Real Story

- Dr. and Mr. Lund- age 78 and 50 years, respectively
- Primary asset is Dr. Harper’s company
- Dr. Harper is ready to sell the business



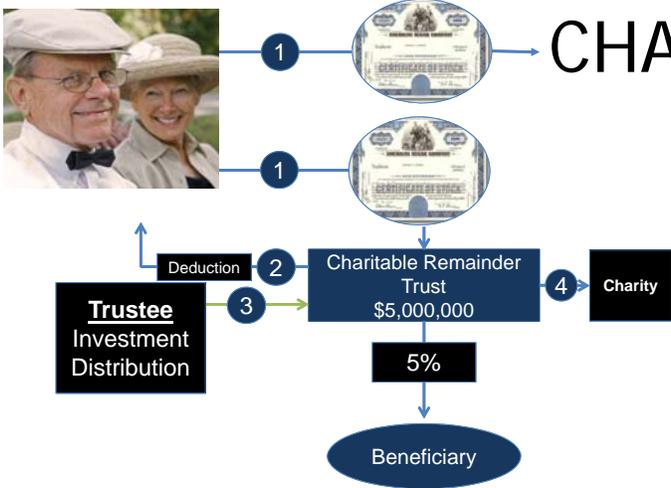
- **Wanted to give a cash gift after the sale- \$3.0 million**
- **What issues do you see?**
- **Which strategies would you suggest?**

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## Leveraging Charity to mitigate taxes

### Current and deferred Gift



**CHARITY**

1. Stock is gifted into charitable remainder trust and outright to charity.
2. Dr. and Mr. Lund receive a one time income tax deduction.
3. CRT sells stock and makes annual distributions of 5% of the CRT assets per year. In the first year, that income is projected to be \$250,000.
4. At death of the beneficiaries, the CRT disburses all of its assets to charity.

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## Current Gifts: Real Estate

1	2	3	4	5	6	7	8	9	10
Cash, publically Traded Stock	Art Work, Tangible Personal Property, Patents		Domestic Closely Held Businesses	C-Corps S-Corps		Real Estate		International Closely Held Businesses	

- Subject to qualified appraisal rules
- Has a range of potential liability depending on previous use
- For most charities, real estate tax is due on the property
- Exception is the UC Regents which, by the CA Constitution, is exempt from Real Estate Tax on Property held in CA. This does not apply to the UCI Foundation.
- All Gifts of Real Estate must be approved by UCOP**

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## Current Gifts: Real Estate

1	2	3	4	5	6	7	8	9	10
Cash, publically Traded Stock	Art Work, Tangible Personal Property, Patents		Domestic Closely Held Businesses	C-Corps S-Corps		Real Estate		International Closely Held Businesses	

What do you suppose the liability is for the following pieces of Property?

- Raw undeveloped land
- Residential Property built in 1943
- Rental, Residential Units
- Property adjacent to land once used as a gas station
- Commercial Office Space
- Commercial Industrial Space

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## Risk Scale: Life Insurance

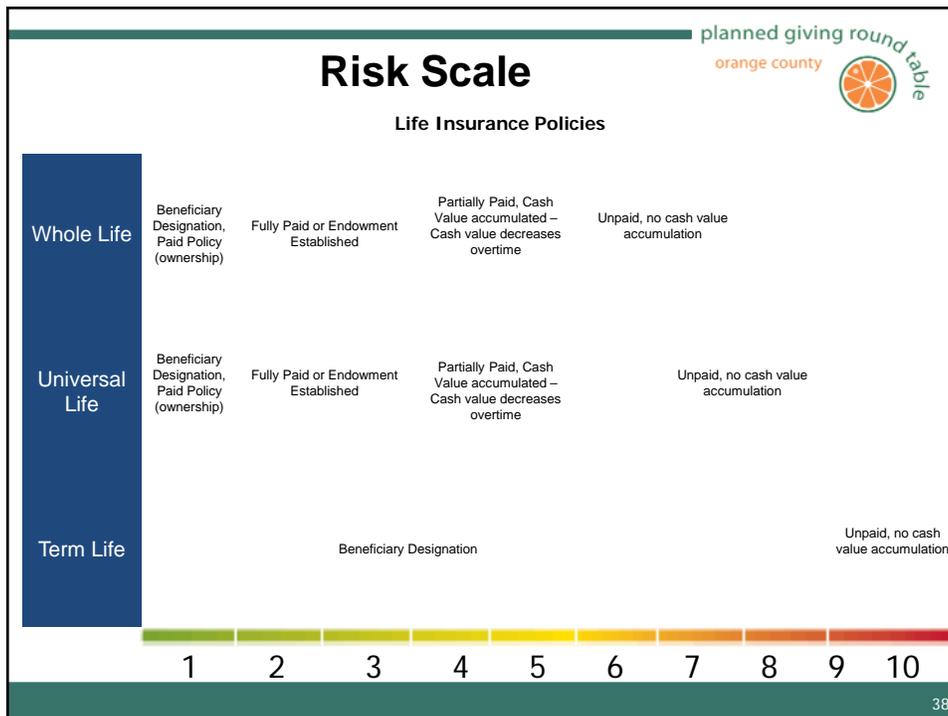
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**whole life insurance**  
life insurance that pays a benefit on the death of the insured and also accumulates a cash value.  
Characteristics: Higher Premium Value, provides a deduction for the cash value, premiums remain fixed

**universal life insurance** (often shortened to UL)  
a type of permanent **life insurance**, primarily in the United States of America. Under the terms of the **policy**, the excess of premium payments above the current cost of **insurance** is credited to the cash value of the **policy**.  
Characteristics: Mid range Premiums, accumulates cash value, provides a deduction for the cash value

**term life insurance**  
life insurance that pays a benefit in the event of the death of the insured during a specified term.  
Characteristics: Low Premiums, no cash value, has an end date, premium goes up after a certain period of time

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## Charitable Entities: The Private Foundation

**Criteria**

- Typically created with assets of at least \$5.0M as a legal separate entity
- Subject to numerous reporting and administrative requirements
- Must grant at least 5% of assets each year
- May or may not have succession structure
- Contributions and distributions **are** public information
- Donor(s) control board and investments

**Deduction**

- 100% Deduction
- Deduction able to offset 30% of AGI for Cash Gifts, 20% of AGI for Stock Gifts

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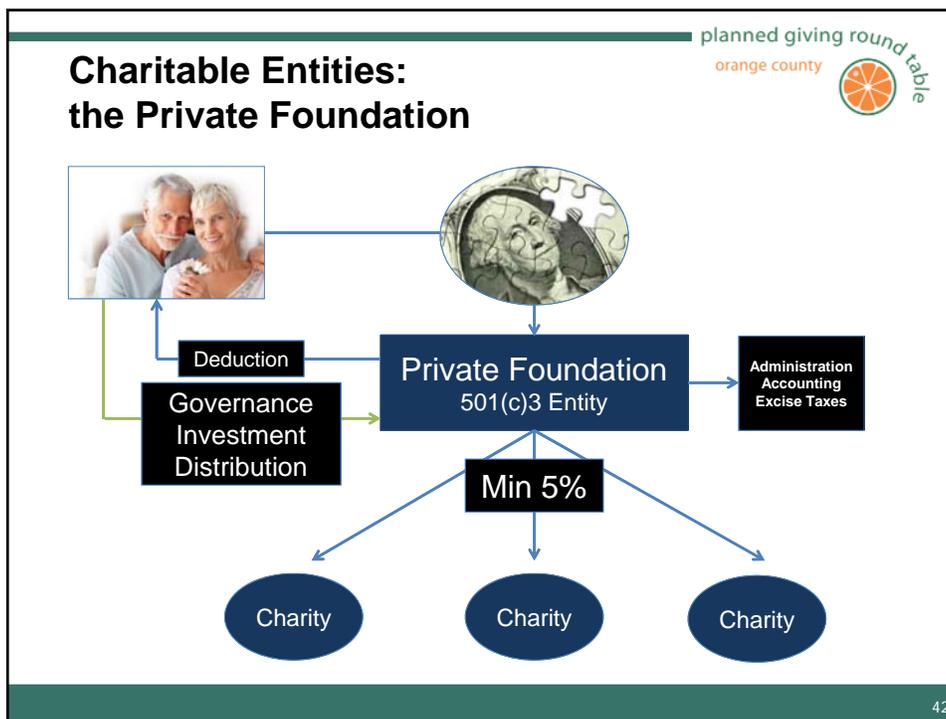
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## Charitable Entities Private Foundations

Private Foundations

- Family may serve on the committee board to issue grants in your name or their name
- Family can set criteria and mandate an annual gathering or consensus on grant distributions
- **CON:** Family may not want to proceed with administering the PF, or they may not want the high costs

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- ### Charitable Entities: the Private Foundation
- #### Private Foundation
- **Cannot** fulfill a personal pledge of a donor
  - **Can** enter into a pledge on behalf of the donor
  - **Can** provide naming options for the donor
  - **Cannot** provide goods and services to the donors
  - **Can** award scholarships (grants to individuals) but must receive advance approval and come under a higher level of scrutiny
  - **Can** make distributions to scholarship funds
  - *Recommended:* to be funded with at least \$5.0 million
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## Charitable Entities: Public Charity

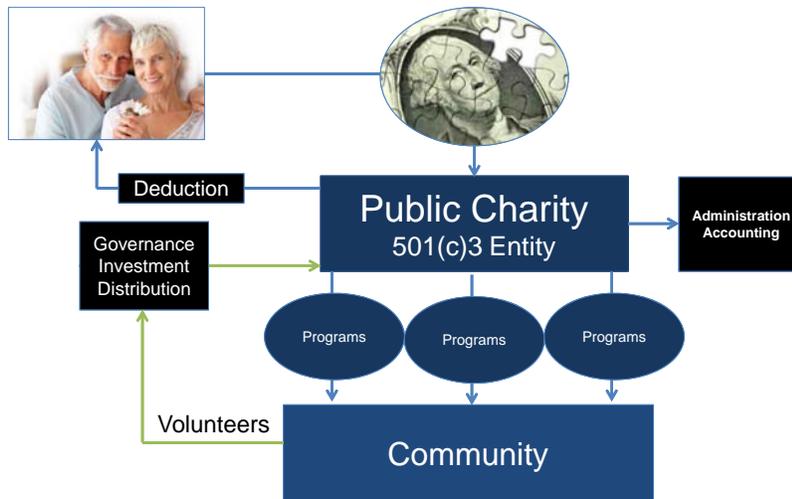
### Criteria

- Created for the Community by the Community
- Subject to IRS mandated reporting and administrative requirements
- Intended to last in perpetuity
- Use of charitable funds are public information
- Community controls board and investments

### Deduction

- 100% Deduction
- Deduction able to offset 50% of AGI for Cash Gifts, 30% of AGI of appreciated assets

## Charitable Entities: Public Charity



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## Charitable Entities: Public Charities | The Donor Advised Fund

*Like a private foundation without the administrative and reporting burden*

### Criteria

- Funded with as little as \$5,000
- Housed at institutions like Wells Fargo, Merrill Lynch and Community Foundations - fund is not a legal separate entity
- Subject to IRS reporting and administrative requirements, administered by the organization
- No minimum distribution requirements
- Distributions are public information, contributions are not
- Community controls board and investments

### Deduction

- 100% Deduction
- Deduction able to offset 50% of AGI for Cash Gifts, 30% of AGI of appreciated assets

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## Charitable Entities: Public Charities | the Donor Advised Fund

### Donor Advised Funds

- Family may serve as an advisory committee to issue grants
- Donor can set criteria and mandate an annual gathering or consensus on grant distributions

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## Charitable Entities: Public Charities | the Donor Advised Fund



### Donor Advised Funds

- **Cannot** fulfill a personal pledge of a donor
- **Can** enter into a pledge on behalf of the donor
- **Can** provide naming options for the donor
- **Cannot** provide goods and services to the donors
- **Cannot** award scholarships (grants to individuals), but can make distributions to scholarship funds

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## Charitable Entities: Donor Profile



### Private Foundation Donors:

- Prefer Control - asset investments
- Have an attorney – and most likely an advisory team
- Have long-range plans for legacy
- Desire to include family in management of assets, transfer of values

### Donor Advised Fund Donors:

- Prefer anonymity over control
- Community Foundation Donors - Desire greater impact
- Bank Donors - Fee sensitive, desires tax deduction
- Wants more flexibility in grant making
- Has long range plans for legacy
- Desires the higher AGI Limitation: 50%, 30%, 20%

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## Case Study #2 – The Entrepreneur

- Jim is an annual donor, giving gifts at \$1,000 or below since the early 2000's
- He is a twenty-year patient of UCI
- Has two kids
- His wife retired from UCI as a Career Counselor after 15 years
- Jim is a former CEO of a local company and retired 20 years ago. He holds stock with the company
- He has established an estate plan and trust, including his church and a charity in Mexico
- Members of his family have lived past 100 and he wants to be sure he has enough income to live to that age
- Has an unused property in OR



- **What questions would you ask Jim?**
- **What potential issues can you anticipate?**
- **What solutions might you propose for review?**

# Questions?

