

14. THE CHARITABLE GIFT ANNUITY

Philosophy

Any attempt to establish a philosophy of charitable gift annuity agreements must emphasize the word “gift”. These agreements constitute one method by which Seventh-day Adventist organizations solicit and receive contributions to carry out their religious purposes. To refer to gift annuities as investments shifts the donor’s focus away from giving to support mission to a more self centered focus on return.

A person who enters into a charitable gift annuity agreement with a qualified charity makes an irrevocable gift to the organization and receives fixed payments for life. Hence, offering members and friends the opportunity of creating a gift annuity for the benefit of a church organization to opportunity to support God’s cause while at the same time preserving, what may be essential, life income.

Definition

A charitable gift annuity agreement (CGA) is a contract **not** a trust, under which the charity, in return for an irrevocable transfer of cash, marketable securities or other property, agrees to pay a fixed sum of money (annuity payment) for a period measured only by one or two lives (**not** a term of years). The annuity payment can be made in equal monthly, quarterly, semi-annual, or annual installments.

The person who receives the annuity payments is called the “annuitant” or “beneficiary”. The annuity payment amount is calculated by multiplying an age determined percentage rate times the value of assets transferred to the charity. The annuity payments are **not** called “income” or “interest” because a portion of each payment is considered to be a tax-free return of a portion of the donor’s gift, nor is it determined by the annuity investment earnings. The annuity payment amount is clearly set forth in the annuity document and is not subject to change. If the donor(s)/annuitant(s) wishes to increase the annuity payments amount by transferring more cash or assets to the charity, a new gift annuity agreement must be established.

The irrevocably transferred property becomes a part of the charity’s annuity investment pool or fund and the payments are a general obligation or liability of the organization issuing the annuity. The annuity is backed by all of the issuing charity’s assets, not just the property contributed or the annuity investment fund. Unlike a trust, annuity payments continue for the life/lives of the annuitant(s), and **not only** as long as assets remain in the annuity investment fund or fund.

Variable annuities, term-certain annuities, guaranteed payment gift annuities (a certain number of payments are guaranteed, whether or not the annuitant survives), or an annuity agreement covering more than two lives do not qualify as charitable gift annuities under the Internal Revenue Code and applicable regulations. State regulations generally prohibit charitable organizations from entering into such agreements.

State Regulation

Several states regulate the issuance, investment, and/or administration of gift annuities. Consult www.acga-web.org for information on state regulation of annuities. Numerous other states require notification of the charity's intent to issue gift annuities in that state. Penalties are possible for those charities that fail to comply with state requirements. It is important to comply with state law in (1) the state the charity is located and the annuity is administered, (2) the residence state(s) of the donor(s) at the time the gift is given and the agreement is signed, and (3) any state where an annuity is promoted including any written or oral communication.

Some states (e.g. California, Washington, New York and others) take the position that the residence state of the annuitant is the state which governs the terms of the contract agreement while in other states the charity's domicile is the governing state. While each state's law is different, the statutes generally deal with the annual filing of information, the maintenance of reserves and the rates of return of the gift annuity. Most states require the inclusion of specific disclosure language in gift annuity agreements and/or promotional information. Required disclosures typically state that the gift annuity is not insurance, is not guaranteed by any governmental agency and is backed by the charity's assets. Generally, the Office of State Commissioner of Insurance administers the statutes governing gift annuities. In addition to complying with insurance commission rules a charity may be required to register with the Secretary of State, the state agency that oversees the sale of securities, or other state departments in order to conduct gift annuity "business" in that state. Up to date information on state regulations is available on the ACGA (www.acga-web.org) and PG Calc (www.pgcalc.com) websites. Each church organization should consult its own legal counsel regarding the applicability of state law to its particular situation.

Funding Assets

Cash is by far the easiest asset for the charity to accept in exchange for a gift annuity agreement; however, assets that are readily convertible to cash (such as marketable securities) are also suitable.

Stock of closely held corporations and tangible personal property are typically hard to value and may also be difficult to sell, making them generally unacceptable to fund a gift annuity agreement. Real estate, while acceptable in most states to fund a gift annuity agreement, should be carefully evaluated before acceptance, as there may be considerable delay before a sale. The charity must start paying the annuity payment according to the contract even if the donated property has not sold. Also, there is a risk that the real estate may sell for less than its appraised value. If the organization wishes to acquire and retain real property for its own purposes and the seller is willing, the organization can pay for the property with a gift annuity agreement rather than cash. The organization will need to make other arrangements to cover its annuity obligation if the property will be unproductive or under-productive of income.

Some state regulations may also restrict or prohibit acceptance of assets other than cash and listed securities for a charitable annuity agreement. Where non-cash assets are received in exchange for an annuity, consideration should be given to market conditions for a sale and the ability of the charity to make the required annuity payment. When a non-cash asset is used, the

value of the annuity is the fair market value of the asset on the date of transfer to the charity. When the asset is sold by the charity, regardless of the price, the annuity value remains unchanged.

The Rate Structure

The American Council on Gift Annuities (ACGA) has been providing educational and other services regarding charitable gift annuities since 1927. It is a voluntary association of more than 1,500 gift annuity issuing agencies, including the General Conference of Seventh-day Adventists. One of its main purposes is to publish suggested maximum charitable gift annuity rates for use by charities and their donors. To this end the ACGA retains the services of a professional actuarial firm to advise and consult regarding life expectancies and related matters. The ACGA's suggested rates are recognized, by charities, donors, state insurance departments, and the IRS as being actuarially sound.

The recommended maximum rates for gift annuities are based on economic projections, assumed investment returns, and actuarial computations. The underlying belief is that gift annuities should be "marketed" on the merits of the issuing charitable organization, not on rate-based competition among charities.

The gift annuity rates recommended by the ACGA are computed to produce an average charitable remainder (the residuum) of approximately 50% of the amount originally transferred to the charity. Because of the gift element CGA rates are lower than, and are not in competition with, commercial annuity products.

In addition, the ACGA assumes that 100% of the amount transferred to the charity in exchange for the annuity is invested according to the following table.

Assumptions for ACGA Suggested Maximum Gift Annuity Rates (2-1-2009):		
Asset Allocation:	Equities:	40 %
	Bonds:	55 % (10 Year Treasury Bonds)
	Cash:	5 %

The overall investment return is assumed to be 4.75% and annuity fund management expenses are assumed to be 1% of the fund balance. The rate structure is carefully studied and adjusted biannually or as conditions warrant. There is no guarantee the investment market will perform equal to or in excess of these assumptions.

Rates are based on the age of the annuitant(s) on his/her nearest birthday as of the gift date, without regard to gender. The rates are lower for a two-life annuity than for a one life annuity.

The General Conference Corporation Board of Directors considers the American Council on Gift Annuities' recommendations and other factors in determining the rates to be offered by denominational entities. North American Division Working Policy S 40 45 (2.) states, "Rate Schedules—Maximum gift annuity agreement rate schedules are provided by the General Conference Corporation, to officers of union and local conferences and institutions, and shall be strictly adhered to by all issuing organizations."

The Application

Once a prospective donor decides to fund a gift annuity agreement, the applicant should be asked to complete an application form. This form should elicit the following minimum information for each donor:

1. Full name of the annuitant, or both names if it is to be a two-life annuity.
2. Residence address and mailing address to which payments are to be sent.
3. Date(s) of birth and gender.
4. Social Security numbers of each annuitant.
5. City and state of birth (so that birth dates may be verified, if necessary).
6. Desired frequency of payments.
7. Intended asset(s) to be used for funding and asset value.
8. And restrictions or designations, if any, regarding the use of the residuum amount at maturity.

A specimen gift annuity application is included at the end of this chapter.

Effective Date

A gift annuity's effective date is the date in which the contract is executed as required by applicable laws and regulations and upon funding.

Risks Inherent in Gift Annuities

While gift annuities, seen from the donor's perspective, provide some level of financial stability, the annuitant is exposed to "inflation risk" because the purchasing power of the unchanging annuity payment decreases over time. The annuitant that receives payments for ten to fifteen years will experience a significant decline in purchasing power. The annuitant also assumes the risk of the charity becoming insolvent, in which case payments stop. Unlike commercial bank deposits or annuities issued by insurance companies, a gift annuity is not backed up by a guaranty association or government agency.

From the charity's perspective a charitable gift annuity also presents various risks. Investment risk is always a factor to the issuing charity. Most non-profits pool annuity funds and invest them in a managed portfolio. If investment returns are less than expected or less than ACGA assumptions the charity bears the risk that it will not earn the necessary amount over time and the fund could become exhausted while owing payments to one or more annuitants.

Investment risk extends to the type of assets acceptable as funding for a gift annuity agreement and the timing of asset sale. If publicly traded securities are accepted as funding the charity must

be careful to liquidate the security as close to the funding date as practical so as to “freeze” the value and avoid value erosion. Reinvestment in a well diversified portfolio will then tend to moderate risk. If significant value is lost immediately after accepting securities or other property for an annuity the losses are seldom regained resulting in accelerated decline of the individual annuity fund value.

When annuitants live longer than expected the annuity pool is exposed to “mortality risk.” The charity is under a contractual obligation to pay the annuitant for life. In some cases when the annuitant outlives the mortality table life expectancy an individual annuity can be exhausted thus requiring the charity to provide funds from operating or another source. No charitable residuum results from such an annuity.

Offering gift annuities at rates higher than the recommended rates may jeopardize the charitable remainder as well as compromise the actuarial soundness of the annuity. Offering increased rates may, in some states, give rise to the need for separate actuarial studies to verify the soundness of the annuity investment fund. If the rate is too high, other funds or the general assets of the organization may be required to carry out the terms of the agreement. A charity that follows the ACGA rates, which the General Conference Corporation generally accepts for use by church organizations, will rarely lose money on a gift annuity even if the annuitant(s) exceed(s) life expectancy and investment performance is mediocre. Compare the following tables for the effect of following ACGA rates vs. exceeding ACGA rates by 1%. Even if the risk of exhausting the contribution is slight, the residuum will be diminished when ACGA rates are exceeded.

The Risk of Following ACGA Rates							
Assuming Constant Return Net of Expenses							
Annuitant Age	ACGA Rate	Life Expectancy in Years		Number of Years to Exhaust Contribution When Net Return is:			
		Annuity 2000 Female Tables	ACGA Life Expectancy	4%	5%	6%	7%
65	6.0%	23.0	24.8	27.6	36.1	∞	∞
75	7.1	14.9	16.4	20.8	24.5	31.3	61.14
85	8.4	8.4	9.5	13.7	15.0	16.7	19.2

The Risk of Exceeding ACGA Rates							
Assuming Constant Return Net of Expenses							
Annuitant Age	Annuity Rate	Life Expectancy in Years		Number of Years to Exhaust Contribution When Net Return is:			
		Annuity 2000 Female Tables	ACGA Life Expectancy	4%	5%	6%	7%
65	7.0%	23.0	24.8	21.3	25.2	32.7	∞
75	8.1	14.9	16.4	17.1	19.3	22.7	28.8
85	9.4	8.4	9.5	12.0	13.0.0	14.2	15.8

Table information provided by ACGA effective July 1, 2006

How Exceeding the ACGA Rate Affects the Residuum				
Assuming One-Life Annuity, Female, Age 70				
Reserves Invested 50% in Stocks and 50% in bonds Expenses of 1%				
Year of Contribution	ACGA Rate Then in Effect	Rate Paid by Charity	Duration of Annuity	Effect of Higher Rate on Residuum
1971	6.2%	7.2%	18 years	31.6% less
1980	7.1	8.1	18 years	14.8 % less
1989	7.3	8.3	15 years	15.1 % less
2000	7.5	8.5	4 years	5.9% less

Table information provided by ACGA effective July 1, 2006

Tax Considerations

Federal Income Tax

A charitable gift annuity consists of two parts. One part is the amount paid for what is the equivalent of a single premium annuity, also known as the "investment in the contract" or "basis." It is the value or cost of the donor's right to receive the lifetime annuity payment. Since complex calculations are required to arrive at this value, it is advisable to use the most recent version of gift illustration/calculation software.

The second part of a gift annuity is the gift portion. The value of the gift portion is determined by subtracting the investment in the contract from the amount transferred. The resultant current value of the charitable remainder is the amount allowed for the donor's income tax charitable deduction. The federal income tax charitable deduction limitation (30% or 50% of adjusted gross income, depending on the type of property donated) and the five-year carryover provisions apply.

During the annuitant's life expectancy each annuity payment for agreements funded with cash is considered part ordinary income and part tax free return of principal (investment in the contract or basis). Annuity payments made after the annuitant's life expectancy are deemed fully taxable as ordinary income.

If the gift annuity is funded with appreciated assets, the bargain sale rules apply. Consequently, long term gain (gain on capital assets held more than one year) must be allocated proportionately between the gift portion and the investment in the contract. The capital gain allocated to the gift portion is forgiven. The capital gain allocated to the investment in the contract is taxable and is reported in equal amounts spread over the annuitant's life expectancy. In this situation, each annuity payment will consist of three components: ordinary income, capital gains, and tax-free return of principal. If the annuitant dies before the capital gain is fully reported the unreported amount is disregarded.

It is important to note that the capital gains pro rata deferral over the annuitant's life expectancy occurs only when the donor is an initial annuitant and the annuity is non-assignable. Otherwise, the capital gains are reported and taxable in the year the gift annuity is created. For example, if a

donor creates a gift annuity for a friend or child then the capital gain is fully reported in the year of transfer to the charity. The transaction is treated as if the donor sold the appreciated asset and donated cash for the annuity.

The tax character of annuity payments is reported annually to the annuitant on Form 1099-R.

Applicable Federal Rate

Until the late 1980s the federal government published tables that utilized a fixed discount rate for gift calculation purposes. In 1989, the government mandated the use of a floating discount rate that changes monthly. For the purposes of determining the charitable contribution amount, Internal Revenue Code §7520 prescribes the use of a variable rate called the Applicable Federal Rate (AFR). The rate is the assumed annual rate of return the gift assets will earn during the gift term. It equals 120% of the annual mid-term rate, rounded to the nearest 0.2%. The annual mid-term rate is the annualized average yield of treasury instruments over the past 30 days that have remaining maturities of 3-9 years.

Commonly called "monthly rate," "rate of the month," or "7520 rate" the United States Treasury Department determines the monthly AFR. The Treasury publishes the next month's AFR in the Wall Street Journal about the 20th to the 23rd of the month. Crescendo Interactive and PG Calc communicate the monthly rate to clients via email and newsletters.

Since the "Monthly Rate" is a theoretical value intended to reflect economic conditions at the time of the gift and is used in calculations to determine the donor's income tax charitable deduction, it has no effect on the actual charitable remainder. The charitable remainder or annuity residuum is determined by the choice of investment instruments, investment return, management expense, and the actual life span of the donor. Other gift plans affected by the monthly rate are charitable remainder trusts, charitable lead trusts, and life estate agreements.

When performing the gift calculations, Code §7520 allows the selection of the "rate of the month" for the month the gift is made or the rate for either of the two previous months. For example, if the gift was made in September, the donor may elect to use either the monthly rate for September, August or July. Since the rate is published by about the 20th to 23rd of each month the donor could also choose to delay the gift until the next month to take advantage of that rate. However, if the monthly rate for either of the two months prior to the month of the gift is chosen a discount rate election statement must be attached to Schedule A of the donor's federal income tax return for the year of the gift. The election must provide specific information required by the IRS.

Effect of AFR Fluctuations

For gift annuities, the lower monthly rate of the three allowable rates results in a larger tax-free return of principal in each payment and a smaller charitable deduction in comparison to the higher allowable rate. Using the highest of the three allowable rates provides a larger charitable deduction and a smaller amount of tax free income in each payment. The donor may select the monthly rate that best suits his/her situation.

Gift Annuity – Effect of Monthly Rate Fluctuation			
Deduction vs. Tax Free Income			
Gift Date: 05/25/2006, Gift Value:\$50,000, Basis \$20,000			
Monthly Rate	March 5.4%	April 5.6%	May 5.8%
Charitable Deduction	\$24,446.84	\$24,692.00	\$24,935.00
Exclusion Ratio	68.3%	67.6%	66.9%
Capital Gain Pmts	\$1,474.22	\$1,460.08	\$1,446.06
Tax Free Income	\$984.58	\$973.52	\$962.34
Table data generated using Crescendo Pro version 2007.1			

Valuation and Substantiation

When the donation of a non-cash asset produces a charitable deduction in excess of \$500, the donor must complete Section I of IRS Form 8283 indicating the value of the asset on the date of transfer. If the deductible amount of a non-cash asset other than publicly traded securities is over \$5,000 (\$10,000 for closely held stock), the donor must obtain an appraisal from a qualified appraiser and complete Section II of Form 8283. The donor must attach Form 8283 to the tax return on which the charitable deduction is claimed. The charity must file IRS Form 8282 showing the value at the date of sale, if the asset is sold or otherwise disposed of within three years of the transfer. See Chapter 23 of this manual for a more thorough discussion of gift valuation and substantiation rules.

Since all gifts with a value of \$250 or more need to be acknowledged by the charity in the form of a receipt issued to the donor, the charity’s receipt must include the deductible amount, description of the donated asset, and a statement that no goods or services were received for the donated amount. It is generally better to issue a gift substantiation letter rather than the receipt form used for outright charitable gifts. A copy of the calculation sheet showing how the deductible amount was derived should be attached to the substantiation letter.

Disclosures

If annuity fund assets are invested in one or more pooled funds, the Philanthropy Protection Act of 1995 requires the charity to disclose certain information to the donor. Some states also require similar disclosure. Accordingly, an Annuity Disclosure Statement should be given to each annuitant at or before the time of the gift. The form and content of the disclosure should be developed in consultation with legal counsel. Though not required, some charities ask the annuitant(s) to sign this statement, indicating that they have read it and still agree to enter into the annuity agreement. This signed statement would then be returned to the charity for inclusion in the annuity file.

Tax Reporting

The charity reports the taxation of distributions on Form 1099-R (Distribution from pensions, annuities, retirements, IRAs, etc.). The gross distribution is reported in Box 1, the taxable amount as ordinary income in Box 2a, any amount taxable as capital gain in Box 3, and any non-taxable amount in Box 5 (See Reg. §1.1011-(2) Example 8). The deadline for providing the

1099-R to the annuitant is January 31. The deadline for the charity to file the 1099-R with the IRS is February 28 with Form 1096 transmittal form. If more than 250 1099-Rs are filed filing must be on magnetic media.

Additional Income Tax Deduction

For gift annuities written after December 31, 1986, if the annuitant(s) lives longer than his/her life expectancy as determined at the inception of the gift annuity and has received a full return of the amount invested in the contract (synonymous with principal, basis in the contract and present value of the annuity), all annuity payments thereafter will be subject to taxation as ordinary income. However, if the sole or surviving annuitant does not live to the anticipated life expectancy, a deduction for the un-recovered basis in the contract is available on the decedent's final personal federal income tax return (Form 1040). It is deductible as a miscellaneous deduction not subject to the 2% of adjusted gross income limitation on Schedule A. The un-recovered basis in the contract is not deductible as a charitable deduction.

Gift and Estate Tax

Gift Tax

When creating a charitable gift annuity where the annuity payment benefits someone other than the donor only, the donor makes two gifts. One gift is to the charity and the other to the annuitant. The gift to charity is a present interest gift equal to the amount transferred less the present value of the annuity. The present value of the annuity is the gift value to the non-donor annuitant and is potentially subject to gift tax.

If the payments to the non-donor annuitant begin immediately the gift is of a present interest and qualifies for the annual gift tax exclusion of \$13,000 (in 2011 and indexed for inflation). If the non-donor annuitant's payments begin in the future as in a deferred gift annuity or a joint and survivor annuity then the gift value is for a future interest and does not qualify for the annual gift tax exclusion. The balance of the gift in excess of the annual exclusion is taxable. To the extent the \$1,000,000 lifetime gift tax exclusion is available there may or may not be any tax payable. Regardless of the annuitant, if the charitable gift portion exceeds annual exclusion amount a gift tax return (Form 709) is required for the amount transferred to charity.

If the donor reserves the right to revoke the non-donor's annuity payments (exercisable only by Will), the gift becomes complete when the annuity payment is made rather than at the time the annuity agreement is signed. A completed gift is a gift of a present interest and therefore qualifies for the annual gift tax exclusion. Excess payments over annual gift tax exclusion per year are taxable gifts that may be excluded from taxation by the donor's lifetime gift tax exclusion if available. The donor annually reports taxable gifts on the gift tax return (Form 709).

If a donor creates a charitable annuity for the sole benefit of a spouse, the gift qualifies for the unlimited gift tax marital deduction. When the husband and wife are co-annuitants the gift tax marital deduction is available only under a joint and survivor annuity.

Estate Tax

Generally, if the present value of the annuity is included in the donor's gross estate for estate tax purposes it is subject to the estate tax. The present value of the annuity would be includable in

the gross estate if it was a testamentary gift or if the donor retains the right to revoke the annuitant's interest. However, if the benefit is for the donor's spouse it will qualify for the unlimited estate tax marital deduction. If the non-donor annuitant is not a spouse then the present value of the annuity included in the estate will be covered to the extent it is available by the donor's lifetime estate tax exclusion (\$5,000,000 in 2011 and 2012).

Various Types of Gift Annuities

There are different types of charitable gift annuities, and not all states permit the use of each type. Within the regulating states, the charity often must submit a sample of each different "version" of each "type" of agreement it wishes to offer to the residents of that state before it issues that agreement.

Versions of Agreements

Generally, there are three "versions" of each "type" of agreement:

1. A "single life" agreement (pay only one person for their lifetime),
2. A "two life in succession" agreement (pay person "A" and then if person "B" survives person "A", pay person "B"),
3. A "joint and survivor" agreement (pay two persons simultaneously with both names on the annuity payment check, each getting half of the payment, and at the demise of the first to die, pay the survivor the full annuity amount). This is often used for married couples who file joint tax returns and/or who live in community property states.

Types of Agreements

Immediate Gift Annuity

With an immediate gift annuity, the annuitant(s) start(s) receiving payments at the end (or the beginning) of the payment period immediately following the contribution. The annual annuity payment is determined by multiplying the amount contributed (fair market value on the gift date, NOT the net proceeds of sale if CGA is funded with securities or some other non cash asset) by the annuity rate. Payments can be made monthly, quarterly, semi-annually or annually. The end of a period is not the first day of a month, but the last day of a month or period, or the anniversary date of the gift. The first payment is often prorated from the date of the contribution to the end of the first period, and thus is smaller than the subsequent regular payments, but it is possible to stipulate that the first payment be for the full amount. It is also possible that the first pro rated payment be combined with the first regular full payment or be omitted entirely. All of these factors have some effect on the amount of the charitable deduction.

Deferred Payment Gift Annuity

Deferred payment gift annuities are often attractive to persons who do not need current income, but prefer a larger annuity payment at a future time. A longer deferral period results in a higher annuity rate and ~~consequent~~ payment.

With a deferred payment gift annuity, the annuitant(s) start(s) receiving payments at a future date chosen by the donor. The deferred starting date must be more than one year after the date of the contribution. As with immediate gift annuities, payments can be made monthly, quarterly, semi-

annually or annually.

Flexible Annuity

A Flexible Deferred Payment Gift Annuity means that the donor does not have to choose the payment starting date at the time of the contribution. The annuitant (who may or may not be the donor) may make the choice of the payment starting date based on his/her retirement date or other considerations. The older the annuitant(s) when the payments start, the larger the payments will be.

This concept provides some of the flexibility offered by commercial annuities sold by commercial insurance companies. The donor chooses a target date for payments to begin. However, the annuitant can elect to have payments begin either earlier or later than the target date. The annuity contract will include the range of payment beginning dates and a requirement that the annuitant give 90 day notice to the charity of the desired beginning date. The charitable deduction is based on the earliest payment beginning date and remains fixed regardless of the eventual beginning date.

Testamentary Gift Annuity

It is possible to establish a gift annuity for another person by will or trust. This method may appeal to testators concerned that a specific beneficiary may be too young or inexperienced to handle a lump sum distribution. A testamentary gift annuity may also serve the needs of an elderly person needing additional income to supplement retirement income while potentially preserving a charitable gift. The will or trust should direct the personal representative/trustee to acquire from the desired charity a charitable gift annuity for a sum certain or percentage of the residual estate/trust at the gift annuity rate then in effect. The annuity computation would be based on the age of the annuitant as of the nearest birthday to the date of donor's death.

Early Termination of a Gift Annuity

It is possible to terminate a gift annuity prior to the death(s) of the annuitant(s). Rather than early termination of an entire gift annuity, most commentators believe it is also possible for the annuitant(s) to surrender only a fractional share of their stream of future annuity payments. Early termination can often benefit both the annuitant(s) and the charity.

An annuitant can benefit by accelerating his/her cash flow from the gift annuity by receiving the present value of their future annuity payments either as a lump sum payment or in installments. The annuitant would recognize some income from the transaction and would pay any resulting taxes and penalties.

If the annuitant wishes and if the amount is large enough to meet the charity's gift acceptance guidelines, part or all of the present value of the income interest could be transferred to the charity as funding to create a pooled income agreement or charitable remainder trust. The annuitant/donor would then get a charitable income tax deduction for the present value of the charity's remainder interest in the pooled income agreement or charitable remainder trust based on the donor's(s') life expectancy(ies) and the applicable federal rate (monthly rate) in effect on the date of gift.

As another alternative, the annuitant(s) could completely surrender the entire right to all future

annuity payments and receive an income tax charitable deduction for the present value of the future payments surrendered. The amount of the deduction would depend on the nature and timing of the transaction. If the charitable deduction amount is in excess of \$500, the donor must file federal Form 8283 along with an appropriately worded gift receipt to substantiate the deduction. If the charitable deduction amount is in excess of \$5,000, the donor must also obtain a qualified appraisal.

In each of the above scenarios, the charity can benefit by being able to use all or part of the balance of the gift annuity account for its charitable purposes at an earlier date.

Early termination of all or part of a gift annuity can be a complex transaction with specific tax consequences. Such a transaction should only be considered if both the annuitant(s) and the charity are represented by qualified legal and tax counsel.

Denominational Policy

All gift annuity agreements must be accounted for, invested and administered in accordance with North American Division working policy (NAD WP) and applicable state laws.

North American Division Working Policy – NAD WP S 40 45, Gift Annuity Agreements (General Conference Working Policy GC WP S 40 10)

1. *Approved Organizations*— General Conference, union and local conference associations/corporations, and other legally-recognized entities may issue gift annuities to the extent allowed by applicable laws and regulations.
2. *Rate Schedules*—Maximum gift annuity agreement rate schedules are provided by the General Conference Corporation, to officers of union and local conferences and institutions, and shall be strictly adhered to by all issuing organizations.
3. *Accounting*—Gift annuity agreements shall be accounted for by Generally Accepted Accounting Principles (GAAP) for such agreements as set forth in accepted fund accounting manuals. Each gift annuity shall be accounted for separately, and no part of the total annuity amount may be used for operations until the death of the final annuitant.
4. *Union/Division Counsel*— Before denominational organizations enter into Gift Annuity agreements funded with cash or publicly traded securities in excess of \$500,000 or other non-cash assets, the denominational organization personnel shall obtain counsel from the Union or Division Trust Services Director or officers. Denominational organizations shall comply with applicable state/provincial registration, reporting, investment and administration requirements for all charitable gift annuities.

Summary

For many years, the charitable gift annuity has been recognized as an effective instrument for securing charitable remainder gifts, from the very large to the very small, for large numbers of charitable organizations in the United States. Tax advantages include favorable federal income, estate, and gift tax benefits that are attractive to many donors.

Gift annuities are often instrumental in establishing a bond between the donor(s) and the organization which encourages the donor(s) to take a greater personal interest in the organization and its activities. This may result in further gifts, both present and deferred, as well as possible referrals of relatives, friends, and associates.

Additional Resources

The foregoing discussion is not intended to be comprehensive, though it provides a brief review of certain features of the charitable gift annuity. For additional information, refer to the following:

American Council on Gift Annuities web site. www.acga-web.org

Charitable Gift Annuity, PGDC Technical Report. www.pgdc.com.

Charitable Giving Tax Service, Volume 1, R & R Newkirk, Oak Brook, Illinois.

Minton, Frank, Edith Matulka and J. William Zook, Jr. *Charitable Gift Annuities: The Complete Resource Manual*. Planned Giving Services, Seattle, Washington. Available at www.pgcalc.com.

Teitell, Conrad, *Deferred Giving*, Taxwise Giving, Old Greenwich, Connecticut, 2001.

Toce, Joseph P. et al *Tax Economics of Charitable Giving*, Warren, Gorham, & Lamont of RIA.

[Corporate Name of Organization]

Planned Giving & Trust Services

[Address]

[Telephone Number] [Fax Number]

GIFT ANNUITY APPLICATION FORM

I (we) hereby make application for a gift annuity subject to the following terms and conditions:

Donor(s) (Enter both names if property is jointly-owned or community property; otherwise enter one name)

Name _____ Name _____

SS# _____ Date of birth _____ SS# _____ Date of birth _____

Address _____ Address _____

City _____ State _____ ZIP _____ City _____ State _____ ZIP _____

Daytime phone (____) _____ Daytime phone (____) _____

Annuitants

Check one:

One annuitant

Two annuitants, joint-and-survivorship (payments to both jointly, continuing to the survivor)

Two successive annuitants (payments to one, then to the survivor)

If annuitant(s) is(are) other than the donor(s), complete the following:

First annuitant _____ Date of birth _____

Street address _____

City _____ State _____ ZIP _____

SS# _____ Relationship to donor _____

Second annuitant _____ Date of birth _____

Street address _____

City _____ State _____ ZIP _____

SS# _____ Relationship to donor _____

Assets to be Transferred for Gift Annuity:

Cash: _____ Anticipated dollar value: \$ _____

Securities (include details if known; otherwise, estimate fair market value and indicate the cost basis)

Description _____

Cost basis _____ Estimated fair market value: \$ _____

(Note: Actual fair market value of securities for calculating the amount of the annuity and tax deduction will be determined when the securities are received by [Organization Legal Name] .)

Other Property:

Description _____

Cost basis _____ Estimated fair market value: \$ _____

Total estimated value of all assets contributed: \$ _____

Annuity type and Annuity payment:

Will payment of the annuity be immediate or deferred? Check one:

_____ Immediate payment. _____ Deferred payment

Payment frequency. Check one:

_____ Monthly _____ Quarterly _____ Semi-annually _____ Annually

If deferred, check and complete either (a) or (b) below:

(a) Payments are to begin on the last day of the period indicated above in _____ (indicate month and year).

(b) Payments may begin on the last day of the period indicated above in any year during the period

_____ and _____
(1st possible year) (last possible year)

Choose one of the following payment methods:

_____ Electronically deposited into my bank/credit union account (We recommend this method for greater security. Please complete the enclosed direct deposit authorization and attach a voided check)

_____ Send check to me personally

_____ Other _____

Charitable Purpose:

Indicate the purpose to which gift is to be directed. Undesignated contributions will be used for general purposes.

[The following are listed only as specimen disclosures and should be included in your organization's annuity application only if applicable to your organizations' gift annuity program. If your state or the state in which the donor resides do not include these disclosures in the application.]

Disclosures

The following disclosure statements are required by the respective states and are applicable only to residents of the respective state:

Arizona: the following disclosure is made pursuant to Arizona Revised Statutes Section 20-119, B.: The charitable organization issuing the annuity is [Organization Legal Name] whose principal office is located at [Street address, City State Zip Code]. [Organization Legal Name or abbreviated name] was incorporated in the [State of incorporation and date of incorporation]. It is established for religious, charitable, educational, and scientific purposes, and specifically for promoting the Christian gospel and fostering the growth of the Seventh-day Adventist Church, with which it is affiliated, through worship, evangelism, education, health, publishing and other denominational activities. [Organization Legal Name] will make available its most recent current audited and interim financial statements to the gift annuity donor on request. A charitable gift annuity is not insurance under the laws of the State of Arizona, is not subject to regulation by the director of the Department of Insurance and is not protected by any state guaranty fund. The State of Arizona and the Department of Insurance have not approved or disapproved the charitable gift annuity being offered and have not determined whether any of the information provided to the donor is truthful or complete.

Oklahoma: A charitable gift annuity is not regulated by the Oklahoma Insurance Department and is not protected by a guaranty association affiliated with the Oklahoma insurance Department.

South Dakota: Charitable gift annuities are not regulated by and are not under the jurisdiction of the South Dakota division of insurance.

[Other states may require a disclosure statement in the application or in other documents.]

The undersigned acknowledges the following:

1. I have received the disclosure statement from [Organization Legal Name] regarding its gift annuity reserves and investments, as required under the Philanthropy Protection Act of 1995.
2. I understand that a charitable gift annuity is irrevocable and that, at the death of the last annuitant, the portion of my contribution remaining after satisfying the annuity payment obligation will be used by [Organization Legal Name] for the charitable purpose stated above.

[If the state where your organization is domiciled requires a specific disclosure include that statement here instead of the following generic statement.]

3. I understand that payments made under a charitable gift annuity are backed by the full faith and credit of the issuing organization, are not insured or guaranteed by an insurance company, are not protected by any insurance guaranty association and are not backed in any way by the states.
4. That I am not making this gift in order to reduce my assets to a level qualifying me for any government assistance program.
5. That I am hereby advised to seek competent legal and tax counsel before signing the gift annuity document.

Signature of Donor(s): _____ Date: _____
_____ Date: _____