



Be on the Lookout for Non-Cash Gift Opportunities

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Learning Objectives

1. What are the most common non-cash assets?
2. Why are non-cash assets helpful to your organization?
3. How do you accept each non-cash asset?
4. How can professional advisors be helpful with uncovering non-cash assets?

Donating Non-Cash Assets Can Unlock Additional Funds for Your Organization

- First, you potentially eliminate the capital gains tax you would incur if you sold the assets yourself and donated the proceeds, which may increase the amount available for charity by up to 20%.
- Second, you may claim a fair market value charitable deduction for the tax year in which the gift is made and may choose to pass on that savings in the form of more giving.

Non-Cash Asset Gift Options

- Publicly traded securities
- Restricted stock (Rule 144)
- Real estate
- Privately held business interests
- Private equity fund interests
- Cryptocurrency
- Fine art and collectibles
- IPO stock
- Equity compensation awards

Publicly Traded Securities

- Shares of appreciated publicly traded securities, such as stocks and mutual funds, are relatively easy to donate. To potentially receive the tax benefits highlighted above, shares should be held for more than one year and you must transfer the shares directly to a donor-advised fund or other public charity. Selling the appreciated shares first will trigger capital gains tax liability.
- Appreciated securities held for more than one year and contributed to a donor-advised fund or other public charity may be donated without incurring any capital gains taxes and are generally deductible at fair market value.

Restricted Stock

- If you are an executive with a concentrated and/or restricted position in a public company's stock, you may be able to donate shares to help reduce potential taxes on your position.
- There are unique considerations with gifts of restricted stock that you will want to consider. For example, if your stock is restricted by legend or is "control" stock owned by an affiliate of the issuer (i.e., you are an officer, director, or 10% shareholder), then your company's general counsel must give you permission to transfer the stock to charity. Restricted stock must be sold in accordance with Rule 144 resale restrictions.¹
- Contributions of restricted stock to a donor-advised fund or other public charity may be deductible at fair market value on the date of contribution, but valuation discounts can apply if restrictions are not lifted prior to gifting. A qualified appraisal may be required to substantiate the fair market value.

Real Estate

- If you contribute highly appreciated real estate to a donor-advised fund or other public charity, you may potentially eliminate capital gains tax on the appreciation and be entitled to a fair market value tax deduction for the donation. A qualified appraisal is generally required to substantiate the fair market value.
- It can make sense to donate real estate that meets the following criteria:
 - The property has been held for more than a year and has appreciated significantly.
 - The property is marketable and relatively easy and cost-effective to liquidate.
 - The property is debt-free.
 - You, as the owner, are willing to irrevocably transfer the property to the charity, which will negotiate the sale price and control the sale, often using an experienced intermediary.
 - Sale negotiations have not proceeded to the point at which the IRS would consider it a prearranged sale, which could result in you bearing the tax liability for any gain on the sale.
- These criteria most often apply to donations of a primary or secondary home or other residential property.

Privately Held Business Interests (C-Corp)

If you are considering a sale of an interest in a privately held company, you may find that donating a portion of your long-term held interest to a donor-advised fund or other public charity before the sale can help to reduce your tax burden and enable you to give generously to charity.

Considerations include:

- A possible sale is already under negotiation with a buyer, but the negotiation has not proceeded to the point at which the IRS would consider it a prearranged sale, which could result in you bearing the tax liability for any gain on the sale.
- Contributions of shares, held for over a year, to a charity are generally deductible at fair market value on the date of contribution. A qualified appraisal is required to substantiate the fair market value.
- Appraisals must be obtained no earlier than 60 days before the date of donation and no later than the due date of your tax return (including extensions) for the year of the gift. Appraisals depend on the facts and circumstances at the time of contribution and may be discounted for lack of marketability and/or presence of a minority interest.
- The company's shareholder, operating, or limited partnership agreements and other governing documents must be reviewed by the charity to understand transfer restrictions, timing, and process to complete the charitable transfer.
- Gifts of indebted interests may trigger negative tax consequences for you and the charity.

Privately Held Business Interests (S-Corp)

Additional considerations for gifts of S-Corp stock

- A donor-advised fund or other public charity will generally be subject to unrelated business income tax (UBIT) on its gain from the sale of the shares and on its share of any income generated by the S-Corp during its ownership.
- The charity may use the proceeds of the sale to pay these taxes and may escrow a portion of the proceeds in a separate account for three years to match the IRS's "look-back" period, during which the IRS can challenge the cost basis of the shares and the taxes paid.

Privately Held Business Interests (LPs or LLCs)

Unique features for gifts of Limited Partnerships (LPs) or Limited Liability Corporations (LLCs)

- Deductibility rules, holding period considerations, and adjusted gross income limits are generally the same as those for privately held stock.
- Lack of marketability and/or presence of minority interest discounts may apply to the qualified appraisal.
- Partnerships and most multi-member LLCs are taxed as flow-through entities. Thus, if the entities engage in an active trade or business or have acquired assets with debt, the donor-advised fund or other public charity may be subject to UBIT on its share of the entity's income.
- Gifts of indebted interests may trigger negative tax consequences for you and the charity.
- The charitable deduction must be reduced by the amount of ordinary income that would have been realized if the interest had been sold at fair market value on the date contributed.

Private Equity Fund Interests

By donating highly appreciated alternative investments to a donor-advised fund or other public charity, you can take a fair market value tax deduction—as determined by a qualified appraisal—for the donation while potentially eliminating capital gains tax on the distributions and appreciation.

Considerations include:

- The charity should be able to redeem or sell the interest.
- Minority limited partnership interests in private equity funds are highly illiquid until fully realized and redeemed by the general partner. Sales of these interests in the secondary marketplace may be subject to steep discounts.
- Some charities may be able to hold private equity fund interests until scheduled termination dates in order to realize the full value of the investment.
- Charities generally will not assume liabilities associated with these investments. You should plan to contribute sufficient liquid assets to cover your grant recommendations from your donor-advised fund account as well as the private equity fund's open commitments, UBIT, or other liabilities.

Cryptocurrency

A gift of cryptocurrency, such as bitcoin, to a donor-advised fund or other public charity is not recognized by the IRS as a gift of currency or legal tender. For tax purposes, cryptocurrencies are treated as capital assets or income, depending on whether the cryptocurrency was held for investment purposes or received as a form of compensation (e.g., as a mining reward or income received in the form of cryptocurrency).

It is important to note the unique tax features of cryptocurrencies:

- If the asset was held as an investment for more than one year and you itemize deductions, you may deduct the fair market value (as determined by a qualified appraisal) of the gift, up to 30% of your adjusted gross income (AGI) with a five-year carryover.
- If the cryptocurrency was held as an investment for one year or less, or was not held for investment (i.e., an ordinary income asset), and you itemize deductions, you may deduct the lesser of cost basis (cost plus adjustments) or fair market value at the time of contribution (as determined by a qualified appraisal). This deduction is limited to 50% of your AGI with a five-year carryover. (See IRS Notice 2014-21 on the tax treatment of transactions involving cryptocurrency.)

Fine Art & Collectibles

Charitable gifts of collectibles and fine art to a donor-advised fund or other public charity are eligible for a charitable deduction at the lesser of your cost basis or fair market value at the time of your donation. Depending on how you obtained your collectibles or fine art, selling these assets may expose you to a higher capital gains tax rate (28% maximum) than other capital assets (20% maximum). A donation can help you potentially reduce or eliminate this tax liability.

IPO Stock

An initial public offering (IPO) can accelerate appreciation of private company stock held by founders, executives, and early employees. An IPO wealth event may result in substantial capital gains taxes when the IPO stock is sold. If you are a charitably minded investor, donating a portion of your IPO stock—either during or after the lock-up period—to a donor-advised fund or other public charity may provide you with a current year, fair market value income tax deduction and potentially eliminate capital gains taxes.

The decision as to whether and how charitable gifts of IPO stock may be made during a lock-up period is determined by the issuer's counsel. In cases where gifts can be made during a lock-up period, any restrictions that materially affect the value of the shares or prevent the shares from being freely traded may require you to obtain a qualified appraisal to substantiate the fair market value, which may be subject to valuation discounts.

Equity Compensation Awards

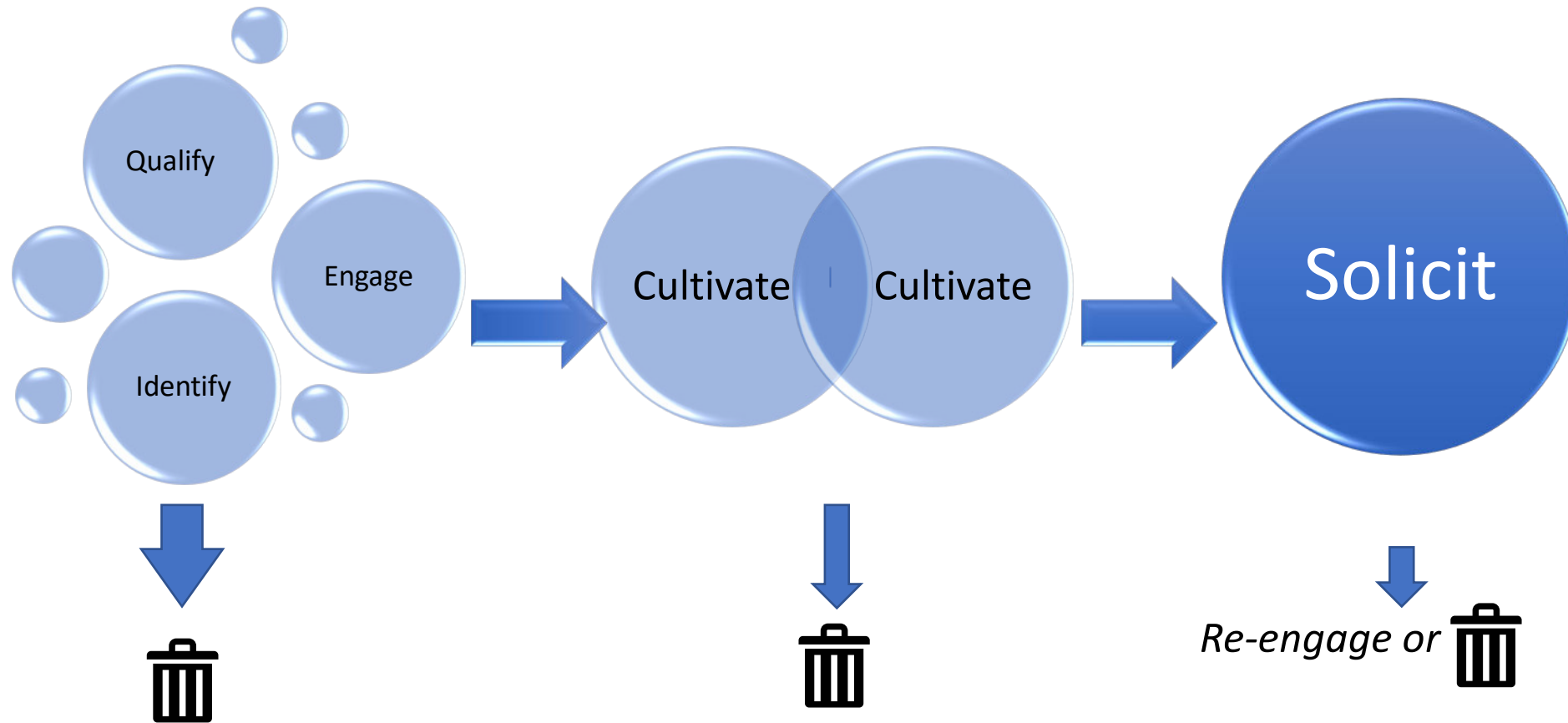
Certain equity compensation awards (or, more accurately, the stock acquired upon award exercising or vesting) often have a low cost basis and significant current market value that result in a large capital gains tax bill when sold. If you itemize deductions, these appreciated shares, held more than one year, may provide a large tax benefit in the form of a current year, fair market value income tax deduction and potential elimination of capital gains taxes.

The most common forms of equity compensation awards are non-qualified stock options, incentive stock options, restricted stock units, and restricted stock awards. The awards themselves are generally not transferable and therefore cannot be given to charity. However, once these awards are vested and/or exercised and the underlying stock is held for more than one year, a gift may be made. Note: in order to maximize tax benefits of the contribution, incentive stock options must be held two years from grant date and more than one year from the date of exercise.

How to Uncover Opportunities for Non-Cash Gifts

- Make your existing donors aware that your organization accepts non-cash gifts. Highlight examples in your marketing materials.
- Share donor stories when your donors make non-cash gifts.
- Make presentations at Board Meetings, with long-term employees and offer seminars to potential donors that make all aware of non-cash gifts and the benefits to those that make them.
- Develop relationships with professional advisors and let them know how they can assist with cultivating non-cash gifts.

Working Smarter with the Core Process



Next Steps for You to Take Today

- Make a plan to increase non-cash gifts
- Set a goal to have conversations with existing donors
- Add information about non-cash gifts in your marketing material
- Plan for one activity or presentation each quarter to highlight non-cash gifts
- Set a metric for the number of meetings with professional advisors each month
- Work your plan!

Wrap Up / Q & A

