

Making the Most of Gifts

By Aaron Azari
Executive Vice President and Trust Officer
Colorado State Bank and Trust

Most donors are familiar with the general concept of contributing stocks, bonds, mutual funds, and other financial assets to charity. These kinds of assets are efficiently transferred and are easily convertible to cash by the charity receiving them. Less well known are the challenges associated with the transfer, gifting, valuation, and management of real estate or natural resources (oil and gas interests, mining, timber, etc.), which may be donated to charity.

If properly managed and transferred, these types of assets can provide many benefits to the donor, such as reducing estate and income taxes and lowering or eliminating capital gains. The benefit of real estate or natural resources as a gift to the nonprofit can be quite dramatic and realized in two ways: as an income-generating asset that

can continue to be used as a powerful ongoing revenue stream, provided the nonprofit has access to the expertise to handle such matters; and as an asset that can be readily sold with funds used to support the goals and objectives of the nonprofit; therefore, it is important that the nonprofit organization have a gift acceptance and management policy ready and in place to properly deal with these unique assets if they are offered.

With respect to real estate, there are several issues that need to be considered prior to acceptance. Some donors may prefer that their real estate gift not be sold, but rather continued to be used in a specified manner, therefore, consideration needs to be given to how the nonprofit would provide ongoing management of such a gift. The nonprofit also needs to be certain that the gift will not become a burden or an administrative distraction to their organization. It is helpful to have a due diligence process in place to assist prior to acceptance. Questions include:



- a) Does the donor have a fee simple title and actual possession?
- b) What, if any, liens, mortgages, or leases are in place?

TIPS FOR EFFECTIVE GIVING

By Sarah Harrison, Deputy Vice President
of Philanthropic Services,
The Denver Foundation

Giving money to charity is less about giving something away and more about taking action to accomplish something that's

important to you. Here are some questions to consider when making a charitable contribution.

How do I choose where to give?

It's the age of information, and there's a lot of it available on every topic, including charitable organizations. Ask yourself what is meaningful and interesting to you. Check in with your personal network—family, friends, people who share your devotion to a topic or cause—about their involvement in the community. Make inquiries of your professional contacts, including your financial and legal advisors, your philanthropic advisors, and trusted colleagues. There are many resources to help you describe your cause, identify the organizations addressing

it, research the most effective programs, and find the right fit for you.

What kind of gift should I give?

Understanding what you want to accomplish and what organization you want to support will help you decide what to give. You can make one large gift, a series of smaller gifts, or even donate through monthly installments. If you want to give complex assets like real estate or appreciated securities, you'll want to confirm that your selected beneficiary organization can accept and liquidate such gifts properly. Your financial and philanthropic advisors can help you with these decisions, as well.

of Complex Assets

- c) What, if any, environmental liabilities may be present?
- d) What, if any, zoning or city ordinance violations may exist?
- e) What is the current physical condition and actual market value?
- f) What are the ongoing expenses such as property insurance, taxes, utilities, maintenance, etc., attributable to owning the real estate?

Similar due diligence inquiry, specific to the interest type, is appropriate for oil and gas, water, gravel, coal, etc. In Colorado, oil and gas interests figure prominently as a potential charitable gift to a nonprofit. While the type of ownership in oil and gas properties can vary, ownership is generally in non-producing or producing mineral estates, nonparticipating royalty interests, leaseholds, and working interests.

Ownership in mineral interests and rights to royalties are typically low risk and do

not carry much, if any, liability. On the other hand, a working interest includes some risk in regard to the operations of a well. That risk is defined not only as liability for damages, but for the owner's proportionate cost of operations.

Often, this exposure results in an out-of-hand rejection by charities of all working interests as a viable donation. There may also be concern about potential tax implications, such as the possibility of incurring Unrelated Business Income Tax; however, such concerns should not immediately lead to a decision to refuse a working interest, as thoughtful preparation and a well-reasoned gift acceptance policy can provide for creative options to easily accept and accommodate such ownership.

Certainly, converting oil and gas interests into cash before or soon after a charitable transfer eliminates the need for long-term management and affords a one-time cash influx; however, long-term ownership of properly managed real estate, oil and gas, and other unique assets carries the potential

to yield extraordinary revenue streams for many years. From a donor perspective, donation of real estate and mineral interests can be a cost-effective way to transfer such assets, as opposed to incurring the expense associated with a commercial transaction. From the charity's point of view, receiving and holding these assets affords a unique opportunity to participate in the powerful cash flows, diversification, and returns associated with holding real estate and minerals.

Some charitable organizations, including The Denver Foundation, are experienced in accepting gifts of unique assets. However, most do not have the resources or staff to do so. But that should not stop them from being open to accepting and holding such assets. Competent outside counsel, valuation specialists, along with real estate and mineral management services are available through organizations such as Colorado State Bank and Trust to provide the advice and expertise necessary to address the potential risk, and effectively manage these unique assets.

Restricted or unrestricted?

If you want to accomplish something particular with your contribution, it's important to discuss your goals with the people at the organization you're supporting. Find out how they use gifts that are given for use "where needed most." Also, find out what options they offer for restrictions. This is especially critical if you're leaving a testamentary gift that will arrive after your lifetime. You want to be sure you're restricting your funds to a program that will exist and need support when your gift arrives.

Share the questions you have about philanthropy in general and your personal giving specifically: Email sharrison@denverfoundation.org, or call 303.300.1790, x134.

