

## Planning for Dot-Com Clients

by Darryl D. Ott, Esq.

*Planning opportunities exist for the newly wealthy to put their recently acquired assets to effective use. Flip CRTs are ideal for individuals with no immediate income needs as well as people who are looking for a retirement substitute. Stock options and restricted stock create opportunities for giving. Community foundations can help individuals with little or no history of giving quickly identify and support effective nonprofit organizations.*

### FLIP CRTs

A “Flip” Charitable Remainder Trust is a Net Income charitable trust that converts to a standard charitable remainder unitrust after a specific “triggering” event occurs. It can be very helpful when:

- the beneficiary does not immediately need the income;
- the assets funding the CRT are illiquid;
- retirement planning is concerned.

In a retirement planning scenario, the client would create a net income charitable remainder trust, invested primarily in growth stocks paying relatively small dividends. The client will receive an immediate charitable income tax deduction but little in income during the initial years of the trust. Upon the triggering event, which could be a specific date – the sale of an unmarketable asset, marriage, divorce, death or the birth of a child – the trust flips and begins paying out a set percentage of the value of the trust, thereby ensuring a larger income stream.

### RESTRICTED STOCK

Restricted stock can be donated to charitable organizations if the plan permits; however, special rules apply to the reporting of income and valuation of restricted stock gifts. Upon a gift to a charity, the donor recognizes ordinary income in two steps – one at the date of the gift

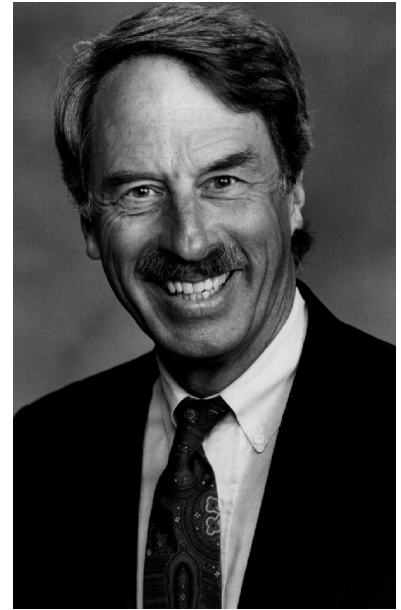
and the second at the date the restrictions lapse. The income reported by the donor in step one will equal the difference between the value of the stock on the date of the gift and the donor’s purchase price and in step two will equal the difference between the values of the stock on the date the restrictions lapse and the date of the gift. Restricted stock is a good candidate for a testamentary gift to charity because it constitutes IRD.

Taxpayers who donate stock subject to restrictions to a charitable organization are required to obtain a qualified appraisal to substantiate their charitable contribution for income tax deduction purposes. Several methods of valuation are described in Rev. Rul. 77-287. However, in Ltr. Rul. 9320007 the IRS ruled that restricted stock for which there was no restriction on its subsequent sale by the charitable donee was qualified stock under section 170(e)(5)(B).

### STOCK OPTIONS

Stock options fall into two basic categories: nonqualified stock options and incentive stock options. Nonqualified stock options may be transferred to a charity if the plan permits. When the charity exercises the option, the donor recognizes taxable income equal to the difference between the option price and the exercise price. The donor also receives a charitable income tax deduction equal to this difference less any withholding tax required to be paid by the charity. Nonqualified stock options, like IRAs and qualified plan assets, constitute IRD and are good candidates for testamentary gifts to charities.

Incentive stock options cannot be transferred to anyone, including a charity. However, they do receive favorable tax treatment as compared to nonqualified options. In order to receive the favorable tax treatment,



the option holder must not dispose of the stock received upon exercise within two years from the date of the option grant or within one year from the date of exercise. Once this holding period is met, regular gifting rules apply to ISO-acquired shares.

### THE ROLE OF THE COMMUNITY FOUNDATION

Community foundations are particularly useful institutions for new entrepreneurs because they can help people with little or no history of giving to develop and realize their charitable goals. They do so by meeting with donors to learn about their charitable vision, designing a charitable fund linked to that vision, and working with the donor to implement their vision.

Community foundations can be analogized to philanthropic incubators. If someone wants to become actively involved in effective charitable giving, community foundations can partner with them to develop their charitable giving in a way that best benefits them and supports effective nonprofit organizations in the East Bay and beyond.

*Darryl D. Ott, Esq. is a partner with Morgan Miller & Blair Professional Corporation in Walnut Creek, CA. He works extensively in wealth transfer planning for business owners and high net worth individuals.*

# Internet Resource for Professional Advisors

The Bay Area Community Foundations are offering a complimentary service to professional advisors – [www.GiftPlan.org](http://www.GiftPlan.org). **GiftPlan.org** is a comprehensive online resource designed to provide professional advisors with immediate access to technical information related to charitable tax planning.

**GiftPlan.org** issues e-mail alerts on the latest IRS pronouncements, court decisions, and legislation affecting charitable tax planning.

**GiftPlan.org** also provides current and fully annotated discussions regarding:

- Planned giving vehicles, such as charitable

remainder trusts, charitable lead trusts, life estates, charitable gift annuities, and bequests;

- The suitability of prospective gift assets and the special issues that apply to their transfer; and
- The rules surrounding deductibility and compliance for charitable contributions for income, gift, and estate tax purposes.

To register for this complimentary service, please contact Chris Nicholson, Director of Advisor Services, at 925.280.0144 or register online at [www.GiftPlan.org](http://www.GiftPlan.org).

## PROFESSIONAL ADVISOR SEMINAR

### Pre-IPO and Pre-Acquisition Planning

Learn how three creative planners are helping clients preserve the wealth they are creating through the IPO and Acquisition processes. The seminar will focus on income and transfer tax strategies for corporate executives, entrepreneurs and business owners.

May 25, 2000  
4:00 to 6:00 p.m. *reception follows*

The Lakeview Club  
300 Lakeside Drive, Suite 2800  
Oakland, CA

Reservations at 925.280.0144  
Registration: \$30

THE SEMINAR WILL FEATURE:

**Francis W. Dubreuil, JD,**  
of Wilson Sonsini Goodrich & Rosati  
**David M. Eckstein, CFA,**  
of FMV Opinions, Inc.  
**Mark L. Vorsatz, CPA, JD,**  
of Arthur Andersen LLP

AND WILL BE MODERATED BY:

**James P. King, CFP,**  
President of J.P. King & Associates

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501 Wickson Avenue  
Oakland CA 94610  
(510) 836-3223  
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