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A flexible gift annuity is a simple contract between the donor and the charity.

In exchange for a irrevocable gift of cash, securities, or other assets, the charity agrees to pay one or two annuitants a fixed sum each year for life, with payments starting at least one year after the gift. The annuitants may elect to start receiving payments on any one of a range of dates, such as June 30th of any year from 2005 - 2025. These dates and their corresponding payment amounts must be listed in the agreement. The flexibility to choose when payments start is appealing to annuitants who at the time of the gift are not sure when they will want to start receiving income.

The longer the annuitants elect to defer payments, the greater the fixed income the charity can agree to pay. The donor receives an income tax deduction for the difference between the amount transferred and the value of the annuity, subject to IRS 30%/50% limitations. The deduction the donor receives is the same, regardless of when the annuitants elect to start receiving payments. In general, however, the earlier the earliest elective payment start date, the lower the deduction that will be allowed. For example, the deduction for a flexible gift annuity whose earliest elective payment start date is in 2005 will tend to be lower than the deduction for a flexible gift annuity whose earliest elective payment start date is in 2010.

In most cases, part of each payment is tax-free, increasing each payment's after-tax value. If the donor gives appreciated property, the donor will pay capital gains tax on only part of the appreciation. In addition, if the donor is also the primary annuitant, the capital gains tax will be spread out over the donor's life expectancy rather than be all due in the year of the gift and the first installment will not be due until the donor receives his or her first annuity payment.

Payments may be made in annual, semiannual, quarterly, or monthly installments.

Note: The elective payment schedule of a flexible gift annuity, although not described in the internal revenue code, was approved by the IRS in Private Letter Ruling 9743054. A PLR, however, can be relied upon only by the taxpayer who requests it; it cannot be cited as precedent by other taxpayers. Many practitioners nevertheless find enough comfort in this positive ruling and its logic to recommend

the flexible gift annuity to prospects. For complete assurance, each donor of a flexible gift annuity should first seek his or her own private letter ruling.

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