

CONTENTS AT A GLANCE

Detailed Table of Contents

List of Figures

Contents of Prototype Materials

Acknowledgments

Foreword

Gift Annuities Overview

Chapter 1: The American Council on Gift Annuities

Chapter 2: Description & Tax Aspects

Chapter 3: Gift Annuity Rates

Chapter 4: Deduction Calculation & Payment Taxation

Program Operation

Chapter 5: Establishment & Administration of Program

Chapter 6: Annuity Agreements

Chapter 7: Transferring Assets & Executing Agreements

Chapter 8: Disclosure Requirements

Chapter 9: Tax Information for Donors

Chapter 10: Reinsurance

State Regulations

Chapter 11: Regulations Regarding Issuance of Gift Annuities

Chapter 12: Agreement Requirements

Chapter 13: Reserve Investment Regulations

Chapter 14: Annual Filings

Marketing

Chapter 15: Marketing Gift Annuities

Applications

Chapter 16: Possible Funding Assets

Chapter 17: Gift Annuity Funded with Remainder Interest in a Residence

Chapter 18: Flexible Deferred Annuities & Step Annuities

Chapter 19: Commuted Annuities

Chapter 20: Special Situations

Chapter 21: Cross-border Annuities – Particularly from Canadian Donors

Chapter 22: Best Practices

Index

Afterword

DETAILED SUMMARY OF CONTENTS

List of Figures	xx
Contents of Prototype Materials	xxiv
Acknowledgments	xxviii
Foreword	xxxii

Gift Annuities Overview

Chapter 1: The American Council on Gift Annuities

History	1
Purpose	2
Gift Annuity Rates	2
Lawsuit	2
Organization	3
Additional Information	3
Appendix 1: Charitable Gift Annuity Antitrust Relief Act of 1995	5
Appendix 2: Charitable Donation Antitrust Immunity Act of 1997	7

Chapter 2: Description & Tax Aspects

Description of a Gift Annuity	1
<i>Immediate Gift Annuity</i>	1
<i>Deferred Gift Annuity</i>	2
<i>Flexible Deferred Gift Annuity</i>	4
Tax Aspects of Gift Annuities	4
<i>Allowance of Charitable Deduction</i>	4
<i>Determination of the Charitable Deduction for Immediate Annuities</i>	4
<i>Determination of the Charitable Deduction for Deferred Annuities</i>	5
Gifts Resulting in a Reduced Deduction	6
Taxation of Annuity Payments	6
<i>Contribution of Cash</i>	6
<i>Contribution of Long-term Capital Gain Property</i>	8
<i>Choosing to Report Taxable Gain Immediately Rather than Ratably</i>	11
<i>Applicable Tax Rates</i>	11
<i>Contribution of Ordinary Income Property</i>	12
<i>Contribution of Mortgaged Property</i>	12
<i>Contribution of Depreciated Property</i>	12
Requirements to Qualify for Tax Exemption	14
Assignment of Annuity Interest	15

Gift and Estate Tax Implications	15
<i>Single-life Annuity; Donor Is the Annuitant</i>	15
<i>Single-life Annuity; Donor Is Not the Annuitant</i>	16
<i>Two-life Annuity; Donor Is the First Annuitant, Non-spouse Is the Successor Annuitant</i>	16
<i>Two-life Annuity; Non-spouse Is the First Annuitant, Donor Is the Successor Annuitant</i>	17
<i>Two-life Annuity; Donor Contributes His/Her Separate Property, Donor and Spouse Are Consecutive Annuitants</i>	18
<i>Joint and Survivor Annuity; Husband and Wife Contribute Jointly-owned or Community Property</i>	18
<i>Husband and Wife Contribute Jointly-owned or Community Property, But Only One Spouse Is the Annuitant</i>	19
<i>Joint and Survivor Annuity; Non-spouse Annuitants Contribute Jointly-owned Property</i>	19
<i>Joint and Survivor Annuity; One Spouse Is the Donor</i>	20
<i>Two-life Annuity with Successive Annuitants; Donor Is Not One of the Annuitants</i>	20
<i>When the Power of Revocation Should Be Exercisable</i>	21
<i>Testamentary Gift Annuity</i>	21
<i>Note Regarding Alien Spouses</i>	22
Revocation Language in Gift Annuity Agreements	22
<i>One Life; Donor Is Not the Annuitant, Immediate and Deferred</i>	23
<i>Two Donor Annuitants; Joint and Survivor, Immediate and Deferred</i>	23
<i>Two Successive Annuitants; Donor Is the First Annuitant, Immediate and Deferred</i>	24
<i>Two Successive Annuitants; Donor Is Not an Annuitant, Immediate and Deferred</i>	25
<i>Income Tax Deduction When Power to Revoke Is Exercised</i>	26
<i>Quick Guide for Inclusion of Revocation Language</i>	27
<i>Same-sex Married Couples</i>	29
Appendix 1: How the CMFR Affects the Charitable Deduction	31
Appendix 2: Taxation of Capital Gain Under Different Donor-Annuitant Combinations	33
Appendix 3: Examples Showing Taxation Of Gift Annuity Payments In Different Situations ...	37
Appendix 4: Revocation of Right to Gift Annuity Payments	41

Chapter 3: Gift Annuity Rates

Assumptions Underlying ACGA Suggested Rates	1
<i>Residuum</i>	1
<i>Life Expectancies</i>	2
<i>Other Actuarial Tables Affecting Gift Annuities</i>	3
<i>Expenses</i>	3
<i>Total Annual Returns</i>	4

Returns on Gift Annuity Reserves	4
<i>Reason for Assumed Return on the Investment of Gift Annuity Reserves</i>	4
<i>Lower Cap on Gift Annuity Rates</i>	6
<i>Continuation of Suggested Gift Annuity Rates</i>	6
<i>New York Issue with ACGA Rates</i>	7
<i>How Charities Actually Invest Gift Annuity Assets</i>	7
Marketing Gift Annuities When Rates Are at Historic Lows.....	7
Comparison of Gift Annuity and Commercial Rates	9
<i>Gift Annuity Rates Are Gender Neutral</i>	9
Adjustments in Gift Annuity Rates	10
Analysis of Risk if a Charity Follows the ACGA Rates	10
Risk of Exceeding ACGA Rates	11
Effect of Timing of Returns on Projections	13
Value of a Gift Annuity to the Charity.....	13
Appendix 1: Life Expectancies Based on 2012 IAR Table as of 2021.....	19
Appendix 2: American Council on Gift Annuities (“ACGA”) Suggested Gift Annuity Rates	21
Appendix 3: Historical Assumed Total Returns—Immediate Gift Annuities	27
Appendix 4: Historical Gift Annuity Rates—Immediate Gift Annuities	29
Appendix 5: Complying with New York Maximum Annuity Rates	31

Chapter 4: Deduction Calculation & Payment Taxation

Immediate Charitable Gift Annuity, One Life—Completed Calculation	2
Immediate Charitable Gift Annuity, Two Lives—Completed Calculation	5
Explanation of Calculations for Immediate Charitable Gift Annuities—One Life and Two Lives.....	8
Deferred Charitable Gift Annuity, One Life—Completed Calculation	11
Deferred Charitable Gift Annuity, Two Lives—Completed Calculation	13
Explanation of Calculations for Deferred Charitable Gift Annuities—One Life and Two Lives	16

Program Operation _____

Chapter 5: Establishment & Administration of Program

Establishment of a Gift Annuity Program	1
Deciding Whether to Start a Gift Annuity Program.....	2
<i>Financial Strength</i>	2
<i>Significant Donor Base</i>	2
<i>Staff Person(s) Assigned to Gift Annuity Program</i>	2
Actions by the Board of the Charity	3

Actions by the Development Office of the Charity	4
Execution of Documents	5
<i>Signature Options</i>	5
<i>Recommendation</i>	5
Multiple Donors	6
Proof of Age.....	7
Obtaining Cost Basis	7
Variance from Annuity Rate Schedule	7
Disclosure of Information to Donor	8
<i>Before the Gift Is Completed</i>	8
<i>After the Gift Is Completed</i>	8
Reporting Capital Gain When the Annuitant Is Someone Other Than the Donor	9
Information Provided to Administrator	9
Payments to Annuitants	10
<i>When to Send</i>	10
<i>Joint-and-Survivor Annuities</i>	10
<i>Revocable Living Trust Issues</i>	10
<i>Allowing the Charity to Keep the Payments</i>	10
<i>Delaying First Payment Until New Calendar Year</i>	10
<i>Prorating Final Payment</i>	11
<i>Payment of Incorrect Amount</i>	11
Taxation of Payments.....	12
<i>Annuities with an Annuity Starting Date in 1987 or after</i>	12
<i>Annuities with an Annuity Starting Date before 1987</i>	13
<i>Deferred Gift Annuities</i>	13
<i>Withholding</i>	13
<i>Divorcing Annuitants</i>	14
Missing Annuitants.....	14
Tax Reporting Requirements.....	15
State Reporting Requirements.....	17
Accounting Standards for Gift Annuities Recommended by the Financial Accounting Standards Board (FASB)	17
Investment of Gift Annuity Assets	21
<i>State Requirements Regarding Investment of Reserves</i>	21
Death of Annuitant	22
<i>Notification</i>	22
<i>Death of Sole Annuitant</i>	23
<i>Death of Annuitant Survived by a Successor Annuitant</i>	23
<i>Death of the Final Annuitant</i>	23

<i>Return of One or More Payments</i>	23
<i>Information Provided to the Donor’s Personal Representative</i>	23
<i>Death Prior to End of Life Expectancy</i>	24
<i>Revising and Maintaining Records</i>	24
Expenditure of Annuity Contributions	25
What to Do When an Annuity Runs Dry.....	25
Appendix 1: Sample Resolution Establishing a Gift Annuity Program	27
Appendix 2: Sample Charitable Gift Annuity Policies	29
Appendix 3: Agreement Signed by Charity Only	31
Appendix 4: Gift Annuity Application Form.....	35
Appendix 5: Agreement Signed by Both Charity and Donor	37
Appendix 6: Addendum to Annuity Agreement When Donor Accepts a Lower Rate	41
Appendix 7: Sample Letter Directing That Annuity Payments Be Made to a Revocable Living Trust	43
Appendix 8: Sample Letter Regarding Funding a Gift Annuity with Assets in the Donor’s Revocable Living Trust	45
Appendix 9: Sample Letter Instructing Charity to Retain Annuity Payments	47
Appendix 10: Sample Letter Regarding First Payment Deferral.....	49
Appendix 11: Sample Letter Alerting Annuitant(s) to Upcoming Change in Taxation of Annuity Payments.....	51
Appendix 12: Sample Letter Accompanying IRS Form 1099-R.....	53
Appendix 13: IRS Form 1099-R.....	55
Appendix 14: IRS Form 1096	57
Appendix 15: Sample Letter to Personal Representative Regarding Additional Deduction for Unrecovered Investment in Contract.....	59

Chapter 6: Annuity Agreements

One Life—Donor is Annuitant	3
One Life—Donor is Annuitant (Payments are Deferred)	6
One Life—One of the Donors is the Annuitant, Funded with Jointly-owned or Community Property	9
One Life—One of the Donors is the Annuitant, Funded with Jointly-owned or Community Property (Payments are Deferred)	12
One Life—Donor is Not the Annuitant	15
One Life—Donor is Not the Annuitant (Payments are Deferred)	18
One Life—Neither Donor is Annuitant, Funded with Jointly-owned or Community Property	21
One Life—Neither Donor is Annuitant, Funded with Jointly-owned or Community Property (Payments are Deferred)	24
Two Lives—Joint and Survivor, Funded with Jointly-owned or Community Property	27

Two Lives—Joint and Survivor, Funded with Jointly-owned or Community Property (Payments are Deferred)	31
Two Lives—Joint and Survivor, Funded with Donor’s Separate Property	35
Two Lives—Joint and Survivor, Funded with Donor’s Separate Property (Payments are Deferred)	38
Two Lives—Joint and Survivor, Donor is Not an Annuitant	41
Two Lives—Joint and Survivor, Donor is Not an Annuitant (Payments are Deferred)	44
Two Lives—Joint and Survivor, Funded with Jointly-owned or Community Property, Donors are Not the Annuitants	47
Two Lives—Joint and Survivor, Funded with Jointly-owned or Community Property, Donors are Not the Annuitants (Payments are Deferred)	51
Two Lives—Successive Interests, Donor is the First Annuitant	55
Two Lives—Successive Interests, Donor is the First Annuitant (Payments are Deferred)	58
Two Lives—Successive Interests, Donor is Not an Annuitant	61
Two Lives—Successive Interests, Donor is Not an Annuitant (Payments are Deferred)	65
Two Lives—Successive Interests, Funded with Jointly-owned or Community Property, Both Donors are Annuitants	69
Two Lives—Successive Interests, Funded with Jointly-owned or Community Property, Both Donors are Annuitants (Payments are Deferred)	73
Two Lives—Successive Interests, Funded with Jointly-owned or Community Property, One of the Donors is the First Annuitant. The Second Annuitant is a Non-Donor.	77
Two Lives—Successive Interests, Funded with Jointly-owned or Community Property, One of the Donors is the First Annuitant. The Second Annuitant is a Non-Donor. (Payments are Deferred)	81
Two Lives—Successive Interests, Funded with Jointly-owned or Community Property, Neither Donor is an Annuitant	85
Two Lives—Successive Interests, Funded with Jointly-owned or Community Property, Neither Donor is an Annuitant (Payments are Deferred)	90

Chapter 7: Transferring Assets & Executing Agreements

Transferring Assets	1
<i>Cash</i>	1
<i>Publicly-traded Securities</i>	3
<i>Restricted Securities</i>	7
<i>Closely Held Stock</i>	8
<i>Real Estate</i>	8
<i>Tangible Personal Property</i>	9
<i>Commercial Annuities</i>	9
<i>Savings Bonds</i>	10
<i>Retirement Funds</i>	10

<i>Life Insurance</i>	10
<i>Cryptocurrency</i>	11
Executing Agreements.....	12
<i>Who Signs What When</i>	12
<i>Electronic signatures</i>	13
<i>Donor Dies Before Agreement is Signed</i>	13
<i>When to Prepare the Agreement</i>	13
<i>What to Do If Assets Are Transferred on Two or More Different Days</i>	14
Chapter 8: Disclosure Requirements	
State-imposed Requirements	1
The Philanthropy Protection Act of 1995.....	1
Possible Additional Disclosure Requirements Attributable to the Gramm-Leach-Bliley Act.....	2
Privacy Laws	3
Appendix 1: Sample Gift Annuity Disclosure Statement.....	5
Appendix 2: Philanthropy Protection Act of 1995	7
Appendix 3: The Applicability of the Privacy Provisions of Gramm-Leach-Bliley to Nonprofits	13
Chapter 9: Tax Information for Donors	
Appendix 1: Cover Letter to Donor after Completion of Gift Annuity	3
Appendix 2: Summary of Accounting and Tax Information	5
Appendix 3: Applicable Federal Midterm Rate Election	11
Appendix 4: Completed Summary of Accounting and Tax Information	13
Chapter 10: Reinsurance	
Comparison of Benefits of Self-insuring and Reinsuring.....	2
<i>Assumptions</i>	2
<i>Comments on Comparison Charts</i>	4
<i>Advantages and Disadvantages of Reinsurance</i>	11
<i>Advantages and Disadvantages of Self-insurance</i>	11
Cost of Reinsurance	11
Selective Reinsurance	14
Tax Implications of Reinsurance	15
Reinsurance Contract with a Term-certain Option	16
Effect of Reinsurance on Disclosure Requirements	16
Effect of Reinsurance on Reserve Requirements.....	16
<i>Arkansas</i>	17
<i>California</i>	17
<i>Florida</i>	17

<i>Hawaii</i>	17
<i>Maryland</i>	17
<i>New Hampshire</i>	17
<i>New Jersey</i>	17
<i>New York</i>	18
<i>North Dakota</i>	18
<i>Oklahoma</i>	18
<i>Oregon</i>	18
<i>Pennsylvania</i>	18
<i>Tennessee</i>	19
<i>Washington</i>	19
Administration of Reinsured Gift Annuities	19
Gift Annuity Agreement for Reinsured Gift Annuity	19
Marketing Reinsured Gift Annuities	19
Unbundling Gift Annuities	20
Reinsured Gift Annuity Combined with Life Insurance	21
Appendix: Gift Annuity Agreement with Reinsurance Paragraph	23

State Regulations

Chapter 11: Regulations Regarding Issuance of Gift Annuities

Filing Required.....	1
Filing Not Required.....	1
When a Charity Must Comply with the Regulations of a Particular State	2
Potential Regulation of Gift Annuities Under Securities Law.....	3
Alabama	4
Alaska	5
Arizona.....	5
Arkansas	6
California	7
Colorado	8
Connecticut	8
Delaware	9
District of Columbia.....	9
Florida	9
Georgia	10
Hawaii.....	11
Idaho	11
Illinois	12
Indiana	12

Iowa	12
Kansas.....	13
Kentucky.....	13
Louisiana.....	13
Maine.....	13
Maryland.....	14
Massachusetts.....	14
Michigan	15
Minnesota.....	15
Mississippi	15
Missouri	15
Montana	16
Nebraska.....	16
Nevada	17
New Hampshire	17
New Jersey.....	18
New Mexico	19
New York	19
North Carolina	21
North Dakota.....	22
Ohio	22
Oklahoma.....	22
Oregon	23
Pennsylvania	24
Rhode Island	25
South Carolina	26
South Dakota.....	26
Tennessee	26
Texas.....	27
Utah	28
Vermont	28
Virginia.....	29
Washington	29
West Virginia	30
Wisconsin	31
Wyoming.....	31
Appendix 1: State Regulatory Categories	33
Appendix 2: States by Regulatory Categories	35

Appendix 3: Alabama Gift Annuity Disclosure Statement	37
Appendix 4: Arizona Gift Annuity Disclosure Statement	39

Chapter 12: Agreement Requirements

Filing Agreements with the States	1
Requirements Incorporated in Base Agreements	2
<i>Property Transferred—Payment Interval</i>	2
<i>Payment of Annuity</i>	2
<i>Age(s) and Sex of Annuitant(s)</i>	2
<i>Termination</i>	2
<i>Governing Law</i>	2
<i>Donor Signature</i>	3
<i>Form and Serial Numbers</i>	3
Requirements Included Only in Specific State Agreements.....	3
<i>Property Transferred</i>	3
<i>Payment Correction</i>	4
<i>Reasonable Value of Benefits</i>	4
<i>Revocation Language</i>	5
<i>Uses and Purposes of Gifts</i>	5
<i>State Specific Disclosure Language</i>	5
<i>Addendum—Variance from Annuity Rate Schedule</i>	6
<i>Jointly-owned or Community Property</i>	7
<i>Tax Credit—Montana and North Dakota</i>	7
Appendix 1: State Agreement Requirements	9
Appendix 2: Form Numbers	13

Chapter 13: Reserve Investment Regulations

Arkansas	3
California	4
<i>Investment Rules for Required Reserves</i>	4
<i>Possible Exemption from Investment Restrictions</i>	5
<i>Withdrawal of Money from the California Gift Annuity Trust Account</i>	5
Florida	5
Hawaii.....	6
Maryland.....	7
New Hampshire	7
New Jersey	7
New York	7
Tennessee	8
Washington	8

Chapter 14: Annual Filings

General Overview of State Requirements 1

Non-gift annuity registrations..... 3

Audits 3

State-by-State Requirements 3

Alabama..... 3

Arkansas..... 3

California 4

Florida 5

Georgia 5

Hawaii 5

Maryland 6

Montana 6

New Hampshire 6

New Jersey 7

New York 7

North Dakota 8

Oklahoma 8

Tennessee 8

Washington 9

Appendix: Arkansas Certification Form..... 11

Marketing _____

Chapter 15: Marketing Gift Annuities

Introduction 1

Value Proposition 2

Support for the program 2

How to Create an Effective Marketing Program 3

Establish the Objectives 3

Example Objectives 4

Tips for Developing Objectives 4

Considerations 5

Define the Strategy 6

The Gift Annuity Audience 6

Immediate Gift Annuity Audience 7

Deferred Gift Annuity Audience..... 9

Flexible Gift Annuity Audience 10

Commuted Gift Annuity Audience..... 10

<i>Messaging</i>	11
<i>Messaging Themes</i>	12
<i>Testimonials</i>	12
<i>Lead Generation</i>	12
<i>Prospecting via data mining</i>	13
<i>Referrals</i>	13
Execute the Tactics	13
<i>The Four Ps of Marketing</i>	13
<i>Marketing Techniques</i>	15
<i>Execution Recommendations</i>	21
Marketing Strategies for an ACGA Rate Change	23
<i>Strategies for communicating the rate changes</i>	23
<i>ACGA Rate Increase Self-Mailer Announcement</i>	24
<i>Communicating with existing CGA donors</i>	25
<i>Prospecting for gift annuitants</i>	25
<i>The bigger impact of a rate change</i>	25
Marketing Gift Annuities When Rates Are at Historic Lows.....	25
Marketing Reinsured Gift Annuities	25
Using Gift Annuities in Blended Gifts	25
Gift Annuity Marketing Examples	27
<i>Postcards</i>	28
<i>Print Newsletter</i>	36
<i>Self-Mailers</i>	41
<i>Letter Package – Personalized Illustration</i>	48
<i>Advertisements in an Organization’s own Publications</i>	49
<i>Mailer Inserts</i>	52
<i>Email</i>	54
Measure, Report, Refine.....	57
<i>Measure</i>	57
<i>Report</i>	57
<i>Refine</i>	59
Appendix 1: Inquiry Form	61
Appendix 2: Comparison of the Markets for Gift Annuities and Charitable Remainder Annuity Trusts.....	63
Appendix 3: Comparison of the Markets for Gift Annuities and Pooled Income Funds	65
Appendix 4: Emphasis on the Gift	67

Applications

Chapter 16: Possible Funding Assets

Gift Annuity Funded with Real Estate	2
<i>Strategies to Minimize Risk</i>	2
<i>Summary of Options</i>	7
<i>Other Risk Considerations</i>	7
<i>Excise Tax</i>	7
Gift Annuity Funded with Mortgaged Real Estate.....	10
Gift Annuity Funded with Depreciated Real Estate.....	10
Other Payments for Property	14
Gift Annuity Funded with Tangible Personal Property	14
Gift Annuity Funded with Gold and Silver	16
<i>Tax Implications of Contributing Gold and Silver Investments</i>	16
Gift Annuity Funded with a Life Insurance Policy	18
<i>Non-charitable Dispositions</i>	18
<i>Charitable Gift</i>	20
<i>Alternative to Giving Policy</i>	20
Gift Annuity Funded with a Commercial Annuity	20
Gift Annuity Funded with Savings Bonds.....	24
Gift Annuity Funded with Assets in an IRA or a Qualified Retirement Plan	24
<i>Lifetime Gift Annuity</i>	24
<i>Testamentary Gift Annuity</i>	27
Funding the Gift Annuity with Other Retirement Assets.....	30
Gift Annuity as the Equivalent of a Stretch IRA.....	31
Gift Annuity in Connection with a Roth IRA Conversion	31
Gift Annuity Funded with Closely-held Stock	32
Gift Annuity Funded with a Partnership or LLC Interest	32
Gift Annuity Funded with Assets Needed by the Charity	34
Gift Annuity Funded with a Conservation Easement	34
Gift Annuity Funded with Cryptocurrency	34
Gift Annuities Funded with Other Commodities, such as Crops	36
Gift Annuity Funded with Assets in a Donor Advised Fund	37
Appendix 1: Private Letter Ruling 200230018	39
Appendix 2: Sample Agreement for Testamentary Gift Annuity Funded with IRA Assets	45

Chapter 17: Gift Annuity Funded with Remainder Interest in a Residence

Determination of Annuity Payments	1
Determination of Income Tax Deduction.....	1
Taxation of Annuity Payments.....	3

Contribution Ceiling.....	4
Documentation Necessary to Complete Gift.....	8
Reasons for Caution.....	8
Gift Annuity Funded with a Portion of the Remainder Interest in a Personal Residence.....	8
Preserving Flexibility	9
Using a Retained Life Estate to Fund a Gift Annuity.....	9
Appendix: Life Estate Contract for a Personal Residence	11

Chapter 18: Flexible Deferred Annuities & Step Annuities

Flexible Deferred Annuities.....	1
<i>Private Letter Ruling</i>	2
<i>Maximizing Flexibility</i>	4
<i>Who Can Elect the Payment Commencement Date?</i>	5
<i>Flexible Deferred Annuity as a Bequest Substitute</i>	5
Step Annuities	6
<i>How a Step Annuity Might Compare to a Charitable Remainder Unitrust</i>	7
<i>Documentation for the Step Annuity</i>	9
Appendix 1: Promotional Article	11
Appendix 2: Sample Illustration	13
Appendix 3: Completed Gift Annuity Agreement	17
Appendix 4: Completed Summary of Accounting and Tax Information	23
Appendix 5: Sample Letter Prompting an Annuitant of a Flexible Deferred Annuity to Consider Whether He or She Is Ready to Have Payments Begin	25
Appendix 6: Sample Letter for Use by Annuitant When Electing Commencement Date	27
Appendix 7: Specimen Flexible Deferred Annuity Agreements	29
<i>One Life—Donor is the Annuitant</i>	30
<i>One Life—Donor is Not the Annuitant</i>	34
<i>Two Lives—Joint and Survivor, Funded with Jointly-owned or Community Property</i>	38
<i>Two Lives—Successive Interests, Donor is an Annuitant</i>	43
<i>Two Lives—Successive Interests, Donor is Not an Annuitant</i>	48
Appendix 8: Private Letter Ruling 9743054	53
Appendix 9: Tables Submitted with PLR Request in 1997.....	57

Chapter 19: Commuted Annuities

Description	1
Analysis	1
<i>Effect of the CMFR on the Size of the Payments</i>	2
Commuted Annuity for College Expenses	2
<i>Advantages and Disadvantages</i>	2

<i>Generation-Skipping Transfer Tax</i>	3
<i>Annuity Payments to an Education Trust</i>	3
Charitable Alternative to the College Annuity	5
<i>Description of a NIMCRUT</i>	5
<i>Defining Trust Accounting Income to Include Realized Capital Gain</i>	5
<i>Features of NIMCRUT Used for College Education</i>	5
Comparison of College Annuity and College NIMCRUT	5
<i>Advantages of College Annuity</i>	5
<i>Advantages of College NIMCRUT</i>	8
<i>Kiddie Tax</i>	8
<i>Commuted Annuity for Other Purposes</i>	8
<i>Term-of-Years Gift Annuity</i>	8
Commuted Payment Gift Annuity vs. Term-Certain Charitable Remainder Annuity Trust.....	10
Reasons for Caution	10
Appendix 1: Specimen Commuted Annuity Agreement	13
Appendix 2: Commutation Letter	19
Appendix 3: Completed Summary of Accounting and Tax Information	21

Chapter 20: Special Situations

Deduction When the Sole or Last Annuitant Dies Prior to End of Life Expectancy	1
<i>Determining the Deduction Amount</i>	1
<i>A Contrary Position</i>	2
<i>Deduction in the Case of Very Highly-appreciated Stock</i>	2
<i>Calculating the Deduction</i>	2
<i>Claiming the Deduction</i>	5
Changing the Frequency of Annuity Payments	6
<i>Less Frequent Payments</i>	6
<i>More Frequent Payments</i>	6
<i>Timing of Payments</i>	7
<i>Taxation of Payments</i>	8
Contributing the Right to Annuity Payments to the Charity.....	8
<i>The Amount of the Gift</i>	8
<i>The Amount of the Charitable Deduction</i>	10
<i>Reasons for Our Position:</i>	10
<i>A Contrary Position</i>	11
<i>Pre-1987 Gift Annuities</i>	12
<i>Contribution Limitation</i>	13
Assignment of the Annuity Interest of a Flexible Deferred Gift Annuity	14
Cash-out of a Gift Annuity	15
Contributing the Income Interest in a Charitable Remainder Trust for a Gift Annuity	17

<i>Private Letter Ruling Authorizing the Exchange</i>	17
<i>Determination of the Gift Annuity Payments</i>	17
<i>Choosing the Annuity Rate</i>	17
<i>Allowance of an Income Tax Deduction</i>	18
<i>Allowance of a Gift Tax Deduction</i>	18
<i>Recognition of Capital Gain</i>	18
<i>Taxation of Annuity Payments</i>	18
<i>Procedure</i>	18
<i>Multiple Trust Beneficiaries</i>	19
Contributing the Income Interest in a Pooled Income Fund for a Gift Annuity	19
Assigning an Annuity Interest to the Charity in Exchange for a New Annuity	22
Testamentary Gift Annuity	22
<i>Immediate Annuity Funded with a Specific Sum or with the Residuary Estate</i>	22
<i>Immediate Annuity, Payments of a Specific Amount</i>	23
<i>Date the Obligation to Make Payments Begins</i>	26
<i>Distribution in Kind</i>	26
<i>Deferred Annuity Funded with a Specific Sum or with the Residuary Estate</i>	26
<i>Determination of Charitable Deduction</i>	27
<i>Testamentary Gift Annuity Funded with IRA Assets</i>	27
Gift Annuity to Benefit More than One Charity	27
Gift Annuity Issued by One Charity to Benefit Another	28
Assigning Liability for Existing Annuities to Another Charity	29
Contribution of Both Appreciated and Depreciated Securities	30
Contribution of Appreciated Securities and Cash	30
Gift Annuity to Benefit an Employee	30
Effect of a Gift Annuity on Medicaid Eligibility	30
Payments from a Gift Annuity to a Special Needs Trust	31
Qualifying a Gift Annuity for Matching Funds	36
Gift Annuity Combined with Outright Gifts – Variation One	37
Gift Annuity Combined with Outright Gifts – Variation Two	38
Gift Annuity Combined with a Charitable Remainder Unitrust	38
Divorcing Annuitants	39
Gift Annuity in Lieu of a Bequest	40
Appendix 1: IRS Form 1040 Schedule A	43
Appendix 2: IRS Form 1040 Schedule A, Line 16 Instructions	45
Appendix 3: Publication 529 Excerpt—Unrecovered Investment in Annuity	47
Appendix 4: Assigning an Annuity Interest to the Charity	49
Appendix 5: Sample Letter: Cashing Out a Gift Annuity	51

Chapter 21: Cross-border Annuities – Particularly From Canadian Donors

Rules Regarding Gift Annuities	1
<i>Canadian Gift Annuity Rates</i>	1
<i>Donation Receipt</i>	2
<i>Obtaining Premium Quotations</i>	4
<i>Taxation of Payments</i>	4
<i>Life Expectancies</i>	4
<i>Deferred Annuities</i>	4
<i>Taxable Gifts</i>	5
<i>Testamentary Gift Annuities</i>	5
Contributions by Canadians to American Charities for Gift Annuities.....	7
<i>Allowance of Tax Credit in General</i>	7
<i>Donation Receipt Issued by an American Charity</i>	7
<i>Authority and Tax Consequences</i>	8
<i>Reporting and Withholding</i>	9
<i>Canadian as Successor Annuitant</i>	10
<i>Gift Annuity Agreement and Currency</i>	10
<i>Contribution of Appreciated Assets</i>	10
U.S. Citizen Who Is a Resident of Canada	11
Gifts of Canadian Property Owned by Americans.....	12
Annuity 2000 Mortality Tables Life Expectancies	12
Gift Annuities for Donors from a U.S. Territory	12
Gift Annuities for Donors from Other Countries.....	13
Possible Applicability of the USA PATRIOT Act	13
Appendix 1: Donation Receipt	15
Appendix 2: CRA Form T4A	17
Appendix 3: IRS Form 1042	19
Appendix 4: IRS Form 1042-S.....	21
Appendix 5: IRS Form 1042-T	23
Appendix 6: IRS Form W-8BEN.....	25
Appendix 7: Annuity 2000 Tables Life Expectancies - Male and Female.....	27
Appendix 8: Annuity 2000 Tables Life Expectancies—Two Lives, Ages 60-90	29

Chapter 22: Best Practices

Best Practices When Issuing a Gift Annuity.....	1
<i>Compliance with applicable state regulatory requirements</i>	1
<i>Providing a disclosure statement</i>	2
<i>Gift date</i>	2

<i>Annuity rate</i>	3
<i>Proof of annuitant's age</i>	3
<i>Determining who is/are the donors</i>	4
<i>Annuitant is not the donor</i>	4
<i>Gift tax</i>	4
<i>Capital gains tax</i>	4
<i>CMFR choice</i>	4
<i>Obtaining cost basis</i>	5
<i>Payment frequency and first payment date</i>	5
<i>How will the residuum be used?</i>	5
<i>Signing the agreement</i>	6
Best Practices in Mitigating Risk.....	6
<i>Gift Annuity Rates</i>	7
<i>Meeting the assumptions</i>	8
<i>Impact of exceeding ACGA rates</i>	8
<i>Policies Regarding Annuitant Age and Contribution Amount</i>	9
<i>Investment returns/expenses</i>	10
<i>Marketing Gift Annuities Consistently</i>	11
<i>Tracking Individual Market Values</i>	12
Evaluating a Gift Annuity Program	14
<i>Measuring the Profitability of a Gift Annuity Program</i>	14
<i>Projecting Distributions from Existing Gift Annuities</i>	15
<i>Constant-Net-Return Model</i>	15
<i>Monte Carlo Model</i>	15
<i>The Value of Using Multiple Models</i>	16

Index

Afterword

LIST OF FIGURES

Chapter 1: The American Council on Gift Annuities

None

Chapter 2: Description & Tax Aspects

Figure 2.1: Charitable Gift Annuity Description	2
Figure 2.2: Determining Future Payments from a Deferred Gift Annuity	3
Figure 2.3: Gift Resulting in a Reduced Deduction	6
Figure 2.4: Contribution of Cash	7
Figure 2.5: Contribution of Capital Gain Property	10
Figure 2.6: Contribution of Mortgaged Property	13
Figure 2.7: Quick Guide for Inclusion of Revocation Language	26

Chapter 3: Gift Annuity Rates

Figure 3.1: Compare After-tax Cash Flow from Gift Annuity v. Fixed-Income Investment	8
Figure 3.2: Comparison of ACGA Rates and Commercial Rates in 2020 and 2021	9
Figure 3.3: Table comparing ACGA Rates and Commercial Rates	10
Figure 3.4: Graph comparing ACGA Rates and Commercial Rates	11
Figure 3.5: Changes in ACGA Single-Life Annuity Rates, 2010 - 2021	12
Figure 3.6: Changes in ACGA Two-Life Annuity Rates, 2010 - 2021	12
Figure 3.7: Analysis of Risk (Immediate Annuities)	14
Figure 3.8: Analysis of Risk (Deferred Gift Annuities)	16
Figure 3.9: Effect of Timing on Projected Residuum Remaining for Charity	17
Figure 3.10: Hypothetical Projected Residua for Annuitants of Differing Ages	18

Chapter 4: Deduction Calculation & Payment Taxations

None

Chapter 5: Establishment & Administration of Program

Figure 5.1: Sample Accounting Entries for a Particular Gift Annuity	19
---	----

Chapter 6: Annuity Agreements

None

Chapter 7: Transferring assets & Executing Agreements

None

Chapter 8: Disclosure Requirements

None

Chapter 9: Tax Information for Donors

None

Chapter 10: Reinsurance

Figure 10.1: Investment Performance Over the Past Four Years per 2017 ACGA Survey	3
Figure 10.2: Investment Performance Over the Past Ten Years per 2017 ACGA Survey.....	3
Figure 10.3: Projected Residuum, Reinsurance v. Self-insurance, Male Annuitant, Age 65	5
Figure 10.4: Projected Residuum, Reinsurance v. Self-insurance, Female Annuitant, Age 65.....	6
Figure 10.5: Projected Residuum, Reinsurance v. Self-insurance, Male Annuitant, Age 75.....	7
Figure 10.6: Projected Residuum, Reinsurance v. Self-insurance, Female Annuitant, Age 75.....	8
Figure 10.7: Projected Residuum, Reinsurance v. Self-insurance, Male Annuitant, Age 85.....	9
Figure 10.8: Projected Residuum, Reinsurance v. Self-insurance, Female Annuitant, Age 85.....	10
Figure 10.9: Cost of Reinsurance 2021	12
Figure 10.10: Cost of Reinsurance 2020	13
Figure 10.11: Tax Implications of Reinsurance	14

Chapter 11: Regulations Regarding Issuance of Gift Annuities

None

Chapter 12: Agreement Requirements

None

Chapter 13: Reserve Investment Regulations

Figure 13.1: Overview of AR, CA, and FL Gift Annuity Reserve Fund Investment Criteria	2
---	---

Chapter 14: Annual Filings

Figure 14.1: Summary of State Gift Annuity Annual Filing Requirements	2
---	---

Chapter 15: Marketing Gift Annuities

Figure 15.1: Gift Annuity Profile from 2013 and 2017 ACGA Surveys.....	6
--	---

Chapter 16: Possible Funding Assets

Figure 16.1: Gift Annuity Funded with Real Estate.....	8
Figure 16.2: Gift Annuity Funded with Mortgaged Real Estate	11
Figure 16.3: Gift Annuity Funded with Depreciated Real Estate	15
Figure 16.4: Gift Annuity Funded with Tangible Personal Property	17
Figure 16.5: Gift Annuity Funded with ETF Shares	19
Figure 16.6: Gift Annuity Funded with a Life Insurance Policy.....	21
Figure 16.7: Gift Annuity Funded with a Life Insurance Policy with a Loan Outstanding.....	23
Figure 16.8: Gift Annuity Funded with a Commercial Annuity	25
Figure 16.9: Gift Annuity Funded with Savings Bonds	26

Figure 16.10: Lifetime Gift Annuity Funded with IRA Assets	28
Figure 16.11: Testamentary Gift Annuity Funded with IRA Assets	30
Figure 16.12: Gift Annuity Funded with S Corporation Stock	33
Figure 16.13: Gift Annuity Funded with a Conservation Easement	35

Chapter 17: Gift Annuity Funded with Remainder Interest in a Residence

Figure 17.1: Risk to the Charity When It Issues a Gift Annuity in Exchange for the Remainder Interest in a Personal Residence	2
Figure 17.2: Contributing a Remainder Interest in a Residence for a Gift Annuity	5
Figure 17.3: Flexible Deferred Gift Annuity Funded with the Remainder Interest in a Personal Residence	10

Chapter 18: Flexible Deferred Annuities & Step Annuities

Figure 18.1: Flexible Deferred Gift Annuity	4
Figure 18.2: Step Annuity	6
Figure 18.3: Super Flexible Deferred Gift Annuity	8

Chapter 19: Commuted Annuities

Figure 19.1: Commuted Gift Annuity for College Expenses	4
Figure 19.2: College NIMCRUT	6
Figure 19.3: Commuted Gift Annuity for Older Donor/Annuitant	9

Chapter 20: Special Situations

Figure 20.1: Determining the Deduction Amount When Death Occurs Before Investment in the Contract Fully Returned	3
Figure 20.2: Analysis If Final Payment Occurs in the Year during Which Return of the Investment in the Contract Is Completed	5
Figure 20.3: Agreement Wording for Changing to Less Frequent Payments	6
Figure 20.4: Methodology for Calculating Annuity Amount When Payment Frequency Changes.....	7
Figure 20.5: Agreement Wording for Changing to More Frequent Payments	8
Figure 20.6: Effect of Change of Payment Frequency on Taxation of Payments.....	9
Figure 20.7: Calculating the Deduction When an Annuity Interest Is Assigned	12
Figure 20.8: Gift Annuity Cash-out – One Annuitant.....	16
Figure 20.9: Gift Annuity Funded with Income Interest from an Underperforming NIMCRUT	20
Figure 20.10: Possible Solutions when Unitrust is Shrinking Because Payout Rate Is Too High.....	21
Figure 20.11: Conversion of Pooled Income Fund Interest to a Gift Annuity.....	23
Figure 20.12: Exchanging One Gift Annuity for Another.....	25
Figure 20.13: Gift Annuity Funded With Capital Gain and Capital Loss Stock	32
Figure 20.14: Gift Annuity Funded With Both Appreciated Stock and Cash	34
Figure 20.15: Gift Annuity to Benefit an Employee	35

Figure 20.16: Gift Annuity for a Shareholder	37
Chapter 21: Cross-border Annuities – Particularly From Canadian Donors	
Figure 21.1: Determination of Age.....	2
Figure 21.2: Calculation of Donation Receipt—Contrasting Methodologies	3
Figure 21.3: Calculation of Donation Receipt and Taxation of Payments—One Life	5
Figure 21.4: Calculation of Donation Receipt and Taxation of Payments—Two Lives.....	6
Figure 21.5: Taxation of Gain When Appreciated, Listed Securities are Contributed for a Gift Annuity.....	11
Chapter 22: Best Practices	
None	

CONTENTS OF PROTOTYPE MATERIALS

Accompanying this manual are prototype materials formatted in Microsoft Word for Windows, along with PDF files containing annual filing materials for certain states as referenced in Chapter 14. (For users of the print version of this manual, the materials are on a separate CD.) The Word and PowerPoint materials may be adapted, personalized, and reproduced for use by your institution. They are made available to you with the understanding that the authors are not engaged in the practice of law, nor in rendering legal or other professional advice. Accordingly, you are advised to have your own legal counsel review and approve the documents, including any modifications, before using them.

Document	File Name	Chapter & Page Number
Directory to Annuity Agreements	agreements-directory.docx	xxii
Sample Letter Revoking Successor Annuitant's Right to Gift Annuity Payments	revocation of annuity.docx	2.41
Sample Letter Revoking Current Annuitant's Right to Gift Annuity Payments	revocation of annuity.docx	2.42
Deduction Calculation Worksheets	deduction calculations.docx	4.2 & 4.11
Sample Resolution Establishing a Gift Annuity Program	resolution to establish.docx	5.27
Sample Charitable Gift Annuity Policies	policies.docx	5.29
Gift Annuity Application Form	application form.docx	5.35
Addendum to Annuity Agreement when Donor Accepts a Lower Rate	lower rate addendum.docx	5.41
Sample Letter Directing that Annuity Payments Be Made to a Revocable Living Trust	payments to RLT.docx	5.43
Sample Letter Regarding Funding a Gift Annuity with Assets in the Donor's Revocable Living Trust	CGA funded via RLT.docx	5.45
Sample Letter Instructing Charity to Retain Annuity Payments	payments to charity.docx	5.47
Sample Letter Regarding First Payment Deferral	first payment deferral.docx	5.49
Sample Letter Alerting Annuitant(s) to Upcoming Change in Taxation of Annuity Payments	annuity becoming taxable.docx	5.51
Sample Letter Accompanying IRS Form 1099-R	1099-R letter.docx	5.53
Sample Letter to Personal Representative Regarding Additional Deduction for Unrecovered Investment in Contract	unrecovered inv in contract letter.docx	5.59
New York Agreements	NY agreements.docx	6.2
Annuity Agreements – Immediate & Deferred	agreements-base.docx	6.3
Sample Gift Annuity Disclosure Statement	disclosure statement.docx	8.5

Document	File Name	Chapter & Page Number
<i>Tax Information for Donors</i>		
Cover Letter to Donor after Completion of Gift Annuity	tax-cover letter.docx	9.3
Summary of Accounting and Tax Information	tax-info summary.docx	9.5
Applicable Federal Midterm Rate Election	tax-CMFR election.docx	9.11
Gift Annuity Agreement with Reinsurance Paragraph	agreement-reinsurance.docx	10.23
Alabama Gift Annuity Disclosure Statement	AL-disclosure.docx	11.37
Arizona Gift Annuity Disclosure Statement	AZ-disclosure.docx	11.39
State Specific Disclosure Language	disclosure-states.docx	12.5
Arkansas Investment Certification	AR-certification.docx	14.11
Sample Agreement for Testamentary Gift Annuity Funded with IRA Assets	agreement-IRA.docx	16.45
<i>Flexible Deferred Annuity</i>		
Promotional Article	flex-article.docx	18.11
Sample Letter Prompting an Annuitant of a Flexible Deferred Annuity to Consider Whether He or She Is Ready to Have Payments Begin	flex dga-check-in letter.docx	18.25
Sample Letter for Use by Annuitant When Electing Commencement Date	flex dga-election letter.docx	18.27
Flexible Deferred Annuity Agreements	flex dga-agreements.docx	18.30
<i>Commuted Annuity</i>		
Commuted Annuity Agreement	commuted-ann-agreement.docx	19.13
Commutation Letter – Commuted Annuity	commuted-ann-commutation.docx	19.19
<i>Early Termination of Annuity</i>		
Assigning an Annuity Interest to Charity	Assignment-CGA interest.docx	20.49
Cashing out a CGA	Cash out-CGA interest.docx	20.51