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Case Study: Gift of Texas Ranch Subject to Retained Life Estate

By Dennis Bidwell

Take-aways from this gift scenario:

1. **A retained life estate gift can accomplish essentially the same charitable results as leaving a property by bequest, with two important exceptions:** the owners are entitled to a current income tax deduction when they donate the property subject to a retained life estate (unlike a gift by bequest); and the donors can enjoy the satisfaction, and praise, for making the gift in their lifetimes, rather than such recognition coming posthumously.
2. **In the case of a property gift likely to generate a very large tax deduction, the donor can make fractional interest gifts over time**, thus spreading out their tax deductions over sufficient time to enable use of such large tax deductions.
3. The non-profit recipient of the gift, based in Virginia, was able to assemble a team of experts to structure and close this gift in Texas. **Such expertise had its cost, but was well worth it in relation to the ultimate value of the gift.**

George and Jennifer Jackson were owners of a 150-acre ranch in Karnes County, Texas, that they used on the weekends and as a base of operations for their frequent birding expeditions. Their primary residence was on the outskirts of San Antonio.

The Jacksons were long-time members of the National Wildlife Federation, based in Virginia, as well as other conservation organizations. They had no children and had decided some years ago that they would leave their ranch by bequest to a conservation organization. When they became acquainted with the option of donating property during one's lifetime, while retaining rights to continue using the property by way of a retained life estate, they contacted NWF and other organizations to find out who might be interested in working with them on such a gift.

The Jacksons decided to make their gift to NWF because of the good work of NWF, but also because of NWF's access to the sort of expertise necessary to complete a gift of this sort within a reasonable period of time.

Discussions with the Jacksons involved a mineral rights lease on their property (which was likely to become quite profitable in the years ahead) and their desire to spread out their tax deductions over time in order to take maximum advantage of those tax benefits. (Donors can take charitable tax deductions up to 30% of adjusted gross income in the year of the gift, with unused deductions rolling over for up to five additional years.)

Along the way, NWF's due diligence included a title search, an environmental assessment, consultation with knowledgeable local realtors, and careful review of the mineral rights lease. The Jacksons, before finalizing their gift, worked with NWF, their accountants and their appraiser to estimate the tax deductions that their gift might trigger. The parties also worked diligently on the details of a life estate agreement that spelled out, among other things, the responsibilities of the parties for property taxes, utilities, repairs and maintenance, etc. during the time of the life tenancy. This agreement also made it clear that the Jacksons would have sole claim to any mineral rights lease payments made while they continued to use the property.

In the end, the Jackson's donated a 50% undivided interest in the ranch (including its mineral rights, subject to lease) to NWF, subject to a retained life estate. They also signed a document pledging the donation of the remaining 50% interest (also subject to a retained life estate) six years later. This arrangement allowed them to spread out their tax deductions for a period of up to twelve years (because they didn't have sufficient likely adjusted gross income to use their deductions in six years or fewer), but it also provided NWF with the assurance that it would at some point have 100% ownership of the property, putting NWF in position, at some point after the Jacksons had died (or relinquished their life estates), to market the property.

The gift closed prior to year-end, which met the Jackson's tax planning objectives. When they filed their taxes the following April, they were able to claim a very substantial deduction, in anticipation of continued deductions in the following five carry-forward years. After those carry-forward years, they expected to proceed with the donation of the remaining 50% undivided interest in the property.