Retained Life Estate Case Study: A New York City Coop Apartment

By Dennis Bidwell

Take-aways from this gift scenario:

1. A retained life estate gift of this sort can accomplish essentially the same things as leaving the property to charity in one's will, **except that in this case the donors are entitled to a very substantial current income tax deduction** and enjoy the satisfaction and recognition of making a gift here and now.
2. **A coop apartment is considered a personal residence for purposes of making a gift subject to a retained life estate.** Technically, the property that is gifted is the shares of the cooperative corporation.
3. **The net effect of making a gift subject to a retained life estate in a case like this one is to increase after-tax income,** because of the cash savings coming from the current tax deduction that is triggered by the gift.

Dr. Jacobs, a graduate of Pioneer Medical School, and his wife, both in their early 80s, own a coop apartment in New York with an estimated value of $8,000,000. They have owned it for over 30 years, so their tax basis in the property is very low by comparison. They love living where they are, and have no desire to move for some time, assuming their health allows. As Dr. Jacobs moves further into retirement he has considered making a substantial "naming opportunity" gift to the Medical School. They had planned to leave the coop to the Medical School through their estates, but a gift officer from the School introduced the possibility of making the donation now, subject to a retained life estate. When they realized the bump to their after-tax income that would result from the charitable deduction triggered by such a gift, they became especially interested.

Medical School staff and the Jacobs' advisors are confident that technical issues associated with such a gift can be worked out: transfer of the Jacobs' lease from the Coop Corporation to the Medical School, with the School subsequently sub-leasing the property back to them; full compliance with all of the requirements of the Coop Corporation Board regarding rights of first refusal, approval of the coop buyer, etc.

The Jacobs are taking their time, as they should, in considering whether to proceed with this gift. **Among the benefits that attract them to this arrangement are:**

- They could continue to live in their wonderful New York residence.
- They would totally avoid the exposure to a large capital gains tax that would come if they were to sell the property
- The value of the substantial tax deduction (in the vicinity of $6 million, useable over 6 years) resulting from such a gift would increase their after-tax income for the years ahead.
- They could experience the satisfaction of having a building named after them now, during their lifetimes.
- Neither they, their executor, nor their children, would have to worry about selling the property down the road.
- They would make a very significant gift while retaining all of their liquid assets.

Medical School officials are excited about the potential gift for a variety of reasons:

- The gift would be irrevocable, allowing them to proceed with naming opportunity discussions.
- The gift would be publicized, and would no doubt inspire others in similar circumstances to consider making a similar gift.
- The Jacobs' other assets – cash, insurance, retirement funds, other real estate, etc. – remain available as possible future gifts.