

# Charitable Plans for a Commercial Building Valued at \$2M

**2014**

Linda & George own a \$2 million commercial building. It is fully leased with fixed payment leases. Linda & George are strong supporters of a local charity and George is now on the board and would like to help with a major project. The project will require a gift of \$100,000 per year for seven years and will be named the Linda Green Center. George also wants to pass an inheritance on to their children Susan and Clifton.

As George and Linda discussed the inheritance with their attorney Sharon Erickson, he noted, "We started with nothing. I want to give Susan and Clifton a good income, but no principal. And I do not want to pay any estate tax. I support my government, but over the years I have supported my government!"

## **POTENTIAL SOLUTION:**

Sharon pondered the problem and responded, "George, I think that I have a solution. Let's consider a double charitable trust. We can transfer the building into a charitable lead trust and pay \$100,000 to favorite charity for seven years. After that time, the building can be given to a two life remainder trust for Susan and Clifton."

George responded, "Seems like a good idea. But tell me more about how it will work. How much is paid to favorite charity? How much will Susan and Clifton receive?"

Sharon continued, "Look at this flow chart. Your building is transferred into the seven year lead trust. The 5% net income from the building is paid to favorite charity for seven years. That equals the \$700,000 gift for the Linda Green Center. When you fund the trust there is a gift tax charitable deduction, and with your gift exemptions you will pay no gift tax. After seven years, the building has increased in value to \$3.1 million. It is then given to the 6% charitable unitrust for the lives of Susan and Clifton. In the unitrust, the building can be sold tax-free and the proceeds reinvested. With \$3 million after-sale costs in the unitrust, the 6% payout is about \$180,000, so each child will receive \$90,000 per year for life. And if the unitrust increases in value, their income will also increase. Over their lives, Susan and Clifton each should receive about \$2.5 million."

George and Linda were delighted with Sharon's plan for the double lead trust-unitrust. He exclaimed, "Linda and I love this plan! It helps to build the Linda Green center and still provides a fine lifetime inheritance for our children."

## **Question:**

George continued, I have a friend with a foundation, and his children receive large salaries from their foundation. Plus, the foundation pays for an annual family conference. Can we use Green Foundation funds to hold a family conference every year in Hawaii?"

## **Not a Viable Solution**

Setting up a Type I supporting organization will allow you and Linda to be directors with the Foundation naming 3 directors.

The Type I supporting organization allows for a charitable deduction that is usable to 30% of adjusted gross income over this year plus five. You and Linda will save hundreds of thousands in income tax during the next six years. But supporting foundation rules now limit benefits to family. You, Linda and your children are

considered disqualified persons. This means that you cannot receive salaries, expense reimbursements and other benefits. If you do, there may be an excess benefit tax. The initial tax is 25% of the excess benefit amount. An additional tax of 200% of the excess benefit may apply if a violation is not corrected. A tax of 10% of the excess benefit (not to exceed \$10,000 with respect to any excess benefit transaction) may also be imposed on an organization manager who knowingly participated in an excess benefit transaction.”

As a result, George could not employ his children and could not use Foundation funds to pay for an annual family conference in Hawaii.