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# The New Fundraising Frontier: Gifts of Real Estate, Art and Collectibles

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# The New Fundraising Frontier:
# Gifts of Real Estate, Art and Collectibles

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## SECTION I: WHY GIFTS OF REAL ESTATE, ART AND PERSONAL PROPERTY ARE IMPORTANT

### A Challenging Environment for Fundraising

Today, a three-fold challenge confronts nonprofit organizations and educational institutions:

1. To compensate for declines in traditional forms of donations, such as cash and securities.
2. To increase the number of donors who make major and planned gifts.
3. To find a source of funding that will counteract stock market volatility and ensure more stable growth in funds and endowments.

The answer to the challenge:

> Develop a comprehensive fundraising program for real estate, art and other personal property.

### Real Estate, Art and Personal Property: A Significant Percentage of Household Net Worth

Real estate, art and other valuables accounts for a major part of household net worth and its value continues to increase. Donors will use these assets to fund gifts to nonprofits. The potential to receive gifts of real estate, art and personal property is significant since many individuals (and potential donors) have the majority of their net worth in noncash assets. Nonprofit organizations that focus only on cash and securities in their fundraising efforts are missing a significant opportunity.

Organizations and donors both benefit when real estate and other noncash assets can be gifted – the donor through financial, tax and other benefits, the nonprofit through additional funds. These gifts can be viewed as “found money” for organizations, as often these donors are not in a position to make the equivalent cash gift.

*Household Net Worth: Real Estate*

Real estate is a large component of the U.S. economy. According to the National Association of Realtors (2006):

- Privately held real estate in the U.S. is estimated to be worth more than $24 trillion.
- 1 out of 25 people owns three or more properties; 1 in 10 owns two properties.
- Over 27% of all homes purchased in 2005 were for investment purposes and more than 12% were for vacation homes.
- $5.9 billion in gifts of real estate were made in 2003. This number is growing as more individuals become aware of the benefits of donating real estate. (IRS, 2006)

Real estate accounts for a major part of household net worth and its value continues to increase, creating a major source of charitable revenue for nonprofits.

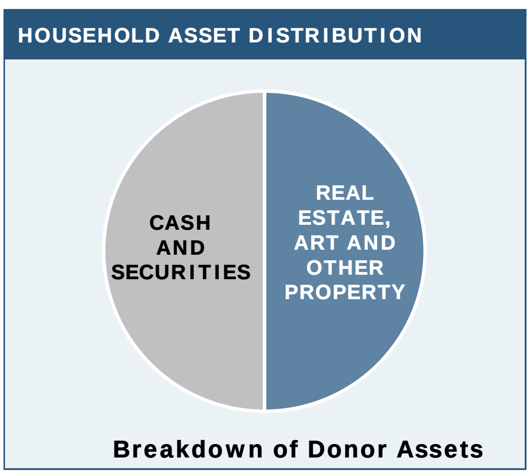
*Household Net Worth: Art & Collectibles*
Over the past decade, the art and collectibles market has expanded exponentially:

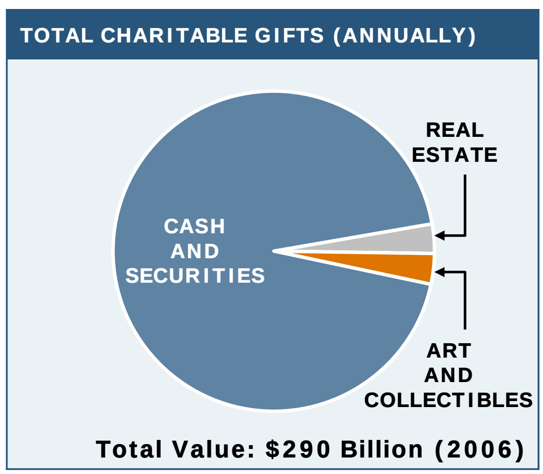
- In 2005, total sales surpassed $4.1 billion, and in 2006, auction houses like Sotheby's and Christie's reported their highest-ever annual revenues. (Artprice.com)
- In 2007, worldwide art sales have been very strong to date. For example, at the February art sales in London, sales reached $880 million with many records set. (*Times of London*, February 2007)
- Art is now considered a valuable component of a diversified portfolio. (*Institutional Investor*, February 2006)
- $829 million of art and collectibles was donated in 2003, and this number is growing as more individuals become aware of the benefits of making such gifts. (IRS, 2006)

With many people investing in art and collectibles, and with the value of these items increasing, the potential for donations of such property, already large, continues to grow.

## A New Focus for Development Programs

An analysis of household net worth and asset distribution points to a new strategic approach for the fundraising efforts of nonprofit organizations.




**GIFTS MADE – AVERAGE TOTAL: $1,620**
(*Giving & Volunteering in the United States 2001,* Independent Sector)

**MEDIAN VALUE OF SINGLE FAMILY HOME: $210,000**
National Association of Realtors, 2007

**REAL ESTATE:**
In 2003, donations of real estate totaled $5.9 billion (IRS, 2006)

**ART AND COLLECTIBLES:**
In 2003, donations of art and collectibles totaled $829 million (IRS, 2006)

**Property Donations: Major Gifts**

Major Gifts reinforce an organization's mission, provide a unique opportunity for a donor and instill confidence in other donors, both existing and prospective.

Planned and major gifts are the most efficient forms of fundraising:

- Annual giving programs often yield just 50 to 60 cents on the dollar.
    - A major or planned giving program that includes real estate, art and collectibles generally costs a few cents for each dollar raised.
    - One donated property worth $210,000 can defray several years' expenditures for newsletters, direct mail programs, and other marketing efforts.
- Major gift pledges are often fulfilled over a period of several years.
    - An outright gift of property is a significant gift that is made in one transaction.

**Property Donations: Donor Benefits**

Gifts of real estate, art and other valuables also provide significant benefits to donors. Depending on the nature of the gift, donors can potentially:

- Avoid capital gains taxes due to a sale
- Reduce income taxes
- Reduce estate taxes
- Eliminate the burden of maintaining and paying for property
- Make an asset the basis of a trust that provides income
- Take advantage of an alternative way to support the organization or fulfill pledges
- Create a significant legacy

Note that for gifts of appreciated real estate, donors will generally benefit from avoiding or significantly reducing capital gains taxes. For personal property, however, the IRS differentiates assets that are 'for the benefit of' a nonprofit organization from assets that are 'for the use of' a nonprofit organization.

- A donation that is 'for the use of' an organization has to be relevant to its purpose (e.g. a painting given to a museum). For these gifts, the donor can deduct the fair market value.
- A donation that is for 'the benefit of' an organization is not relevant to its purpose (e.g. a painting given to a cancer research organization that would sell the painting). For these gifts, the donor can deduct only the original cost basis.

For more information, contact legal, financial and tax professionals or visit the IRS website at www.irs,gov

**Why Donate Real Estate?**

The January 2006 issue of *Planned Giving Today*, reported on a 2005 survey conducted by the Planned Giving Group of New England on trends in real estate gifts. One survey highlight was the motivation behind gifts of real estate. The survey asked:

What most motivates real estate donors to give to your institution?

- Availability of tax deductions 64%
- Relief from the headaches of owning and managing real estate 62%
- Charitable intent 60%

It is interesting to note that respondents rate each of these motivations of roughly equal importance. Of interest is the belief that many real estate donors are motivated by the desire to unburden themselves from the worry and responsibility of owning and managing real estate.

**What Can Be Donated**

A wide range of real estate, both residential and commercial, as well as a broad spectrum of personal property can be offered for donation. See lists below.

*Real Estate – Residential and Commercial*

- Single-family homes
- Vacation homes
- Apartments, condominiums and cooperatives
- Farms, ranches and vineyards
- Undeveloped land
- Office buildings
- Apartments buildings
- Multi-family homes
- Hotels, motels and resort properties
- Warehouses
- Industrial property
- Recreational properties, such as golf courses
- Shopping centers

*Personal Property*

- Sculpture
- Porcelain and silver
- Jewelry and watches
- Aircraft
- Paintings
- Decorative objects
- Rugs
- Watercraft
- Drawings and prints
- Furniture

- Classic cars
- Collections, such as stamps, coins, medals, books or other memorabilia
- Intellectual property, such as copyrights, trademarks, patents, etc.

**How Gifts Are Made**

Major gifts, such as real estate, while motivated by charitable intent, have tax and financial planning implications. Real estate, art and personal property can be donated in many ways, from an outright gift to a charitable trust, depending on the donor's needs and objectives. Depending on the nature of the gift, donors can potentially reduce income or estate taxes, avoid capital gains taxes or receive an income, among other benefits.

There are five principal ways to gift property:

1) Outright Gift
2) Charitable Trusts
3) Bargain Sale
4) Bequest
5) Retained Life Estate (real estate only)

An overview of the five principal ways to make a gift of real estate, art and personal property, along with details on the attendant tax and other financial benefits follows.

1) *Gift Method: Outright Gift*

   *How it works:* The donor transfers the property to the nonprofit organization.

   *Objectives Met:* The donor can eliminate the burden of maintaining a property that is no longer wanted or needed.

   *Benefits - Donors can potentially:*

   - Receive a charitable tax deduction for the appraised value of the property
   - Avoid capital gains taxes
   - Remove the property from their taxable estate

   *Example:* Mrs. Smith owns a building that cost $100,000 and is now worth $300,000. When donated, Mrs. Smith gets to take a charitable tax deduction of $300,000 and avoids paying capital gains taxes. In addition, the property will not be part of her taxable estate.

2) *Gift Method: Charitable Trust*

   *How it works:* Donor transfers the property to a Charitable Trust. The trustee sells the property and the proceeds are received by the trust. The donor (and spouse) receive regular income payments from the proceeds. Upon the death of the last beneficiary, the trust's assets are transferred to the nonprofit organization.

   *Objectives Met:* The donor can diversify his or her assets and benefit from additional income, as well as meet the objective of an outright gift.

   *Benefits - Donors can potentially*:

   - Receive income on an ongoing basis.

- Receive a charitable tax deduction for a portion of the property's value
- Avoid some capital gains taxes
- Remove the property from their taxable estate

*Example:* Mr. Jones donates a 50-acre parcel of land which the trustee of the Charitable Trust sells for $500,000. The proceeds are received and invested by the Charitable Trust. Mr. Jones (and his spouse) receive payments for an agreed upon period of 20 years. Any proceeds remaining are transferred to the organization.

3) *Gift Method: Retained Life Estate*

*How it works:* Donor transfers ownership of the property to the organization, but retains the right to live in the property for a specified period of time – often for the life of the donor (and spouse).

*Objectives Met:* The donor (and spouse) can continue to live in the donated property for life.

*Benefits - Donors can potentially:*

- Receive a charitable tax deduction for a portion of the property's value
- Avoid some capital gains taxes
- Remove the property from their taxable estate

*Example:* Mrs. Johnson donates her home to the organization, but continues to live in it. She receives a charitable tax deduction and avoids some capital gains taxes. On her death, the organization sells the home. The property has been taken out of her taxable estate, thus reducing inheritance taxes for Mrs. Johnson's heirs.

4) *Gift Method: Bargain Sale*

*How it works:* Donor sells a property to the organization for less than its appraised value. This method is often selected for a property that has an outstanding mortgage or that has been owned for less than 12 months.

*Objectives Met:* The donor can eliminate the burden of mortgage payments, taxes and other maintenance.

*Benefits - Donors can potentially:*

- Receive a charitable tax deduction for a portion of the property's value
- Avoid some capital gains taxes
- Remove the property from their taxable estate

*Example:* Mrs. Rogers sells a multi-family home to the nonprofit organization for $180,000, the price she paid she paid for it years ago. At the time of her gift, the property is worth $400,000. Her charitable contribution is $220,000 – the difference between the current value and the sale price. Her capital gains taxes are reduced and she receives a $220,000 charitable deduction.

5) *Gift Method: Bequest*

*How it works:* Donor bequeaths the property to the organization in his or her will.

*Objectives Met:* The donor (and spouse) can enjoy the property for life.

*Benefits - Donors can potentially:*

- Remove the property from their taxable estate

*Example:* Mr. Peterson bequeaths his rare book collection to the organization. Upon his death, the collection is given to the organization, which sells the books and uses the proceeds as he directed.

Please note that the examples above are based on applicable federal tax regulations, which can change, and a number of simplifying assumptions (e.g., that the property involved would generate long-term capital gains). Potential donors should be told to consult with their legal and financial advisors about their planned gifts and the state and federal tax implications.

## SECTION II: BUILDING A FUNDRAISING PROGRAM FOR GIFTS OF REAL ESTATE, ART AND PERSONAL PROPERTY

Before a fundraising program for gifts of real estate, art and personal property can be launched, a strategic plan must be developed. The key components of that plan include:

- Getting Board and Senior Staff Commitment
- Developing a Gift Acceptance Policy
- Internal marketing and training of Development Office Staff
- Identifying a professional network
- Establishing a process for handling gifts of property
- Marketing to the nonprofit organization's donor base
- Evaluating offers of property
- Selling property
- IRS Reporting Guidelines
- Goal setting and measuring results

Each component of developing an effective program is described below.

**Board and Staff Commitment**

Board and Staff commitment is critical for the success of these fundraising programs. Key messages to these groups include: the program's importance to the strategic growth of the organization, its potential to generate revenue and the fact that there will be a well-thought out process in place to evaluate and sell gifts of real estate, art and other personal property.

As with the launch of any new initiative, the Board's support is needed for the resources required to implement the program and for the long-term view since the program may not start generating charitable revenue immediately. Board Members should also be given the opportunity to lead by example and should be encouraged to make their own gifts of property to help launch the program.

Like planned gifts, donations of noncash assets require multiple areas of knowledge to evaluate and structure the gift, such as financial, tax and legal expertise. In addition to the Development Office, Senior Staff, including the chief financial officer or equivalent, the organization's attorney (whether in-house or external) and any other Senior Staff, should all be on board with the program. Finally, organizations with Planned Giving Programs in place will no doubt benefit from their familiarity and experience with complex gift plans since gifts of property often involve income-producing trusts. However, it is not critical to have a Planned Giving Program in place to accept noncash gifts – many property donations come in the form of outright gifts and bequests.

**Gift Acceptance Policies**
Gift Acceptance Policies establish a framework for accepting and administering gifts and are particularly useful for gifts of real estate, art and personal property. A policy will allow decisions about whether or not to accept such gifts to be made easily and efficiently, based on established parameters. Drafting a policy should be collaborative and should involve development staff, senior staff (such as the chief financial officer or equivalent), and the board. An attorney should review the policy and a final draft should be presented to the board for approval.

Each organization will have a unique policy that reflects the particulars of the organization, however there are certain components fundamental to all policies. This list includes: who or what entity will make decisions about accepting noncash gifts, what types of gifts will be considered (including category of gift, location, condition, debt status, ownership interest, etc.), a list of the gift plans that will be accepted, a clear statement of the criteria for evaluating gifts, a well-defined process for the approval, acceptance and disposition of the gifts, guidelines for reporting the gifts to the IRS, guidelines for avoiding conflict of interest and provision for an annual review of the policy.

The fundraising program for gifts of property will evolve over time, and gifts that are not initially accepted may later be considered acceptable as the organization develops experience and confidence handling these gifts. It is important that the Gift Acceptance Policy be kept up to date by reviewing it frequently, both formally and informally, and revising it as needed.

**Staff Training**
Since real estate and other property donations may not be an integral part of an organization’s fundraising program, training development office staff who will interact with potential donors regarding gifts of property is critical.

This training should include: an overview of the property donation program with detail on the process for evaluating, accepting and selling gifts as well as information on the communications and outreach that will drive the program; a thorough grounding in the Gift Acceptance Policy; tactics for soliciting property donations with potential donors; and common methods of gifting property. The program’s strategic importance to the fundraising efforts of the organization overall should also be discussed. Not only will the program generate revenue – generally “found money” – but it also provides donors with another way to support the organization. Finally, set expectations – as with any major or planned giving program, gifts of property can take time to develop.

**Professional Network**
As noted previously, gifts of real estate, art and personal property are complex gifts requiring skilled oversight and many areas of expertise. Therefore, a network of professional advisors should be put in place before the fundraising program is launched. This network includes appraisers, lawyers, tax and financial advisors and other

consultants. With a network in place, last-minute scrambling to provide answers to a potential donor about their gift of property can be avoided. The Gift Acceptance Policy will help dictate the types of professionals and other advisors needed in the network. For example, if the Gift Acceptance Policy has provided for the acceptance of local residential real estate, then the network should include one or two appraisers, a real estate lawyer, and a few real estate brokers. Leverage referrals from existing counsel, the chief financial officer, senior staff, development staff and board members. Make sure that the conflict of interest guidelines outlined in the Gift Acceptance Policy are followed.

**Handling Gifts of Property**

The Gift Acceptance Policy will clearly outline the process for handling gifts of property, from evaluation to acceptance and sale. While each organization will have its own process, typically, handling each gift would involve a team comprised of the Development Office, the chief financial officer and an attorney, as well as outside experts, such as appraisers. The person or functional role responsible for each aspect of the process needs to be clearly identified to all members of the organization.

**Marketing and Communications**

It is likely that many donors and friends may not have thought about the real estate or art they own as something that can be donated. Furthermore, it is unlikely that they have a complete understanding of their giving options or the range of financial and tax benefits they can receive by gifting property. A comprehensive Marketing and Outreach program will increase awareness of the organization's property donation programs and of their interest in receiving such gifts.

All communications channels should be leveraged: newsletters, magazines, the website, appeal letters, etc. In addition, mailings, phone calls and visits to targeted prospects will help promote the program. One of the key messages to be communicated through these various media is that gifts of property can be both altruistic and part of a sound financial plan. An integrated Marketing and Outreach program will let donors and friends know about the benefits of donating property and of the organization's interest in receiving it.

**Property Evaluation**

As offers to donate real estate, art and other property are made, each offer must be properly evaluated to ensure that accepting it is in the best interest of the organization and that it falls within the guidelines established by the Gift Acceptance Policy. In general, the organization should accept real estate, art and personal property that is in reasonably good condition, does not suffer from deferred maintenance and can be easily marketed for sale.

Most organizations starting a fundraising program for gifts of real estate, art and other personal property will focus on gifts that can be quickly converted to cash, and not held for investment purposes. This should be made clear to donors as should the fact that all proposed gifts are conditional on acceptance. Therefore, a comprehensive evaluation of any proposed gift is necessary.

To effectively evaluate a potential gift of property:

- Review the appraisal which will include information on the property's condition and value
- Review the market for the property and get opinions on how quickly the property is likely to sell
- Conduct other pre-acceptance due diligence (for example, an environmental audit may be necessary for real estate)
- Recommend acceptance or rejection of the proposed gift

For gifts of property, an appraisal is one of the most important elements in making an evaluation of the proposed gift. Appraisals should be submitted by the prospective donor. Conducted by a professional, the appraisal will provide information on the property's condition and value. Appraisals provide an objective value of a property and are therefore needed for a transfer of ownership, whether through sale or donation. Noncash gifts of real estate, art or other personal property worth more than $5,000 must have a "qualified appraisal" if the gift is to be claimed as a charitable income tax deduction. The IRS requires a "qualified appraisal" made by an independent "qualified independent appraiser". This appraisal must be obtained within 60 days prior to donation. For information on IRS guidelines governing qualified appraisals and appraisers, visit the IRS website, www.irs.gov.

An excellent resource for more information about appraisals and for referrals is the following three professional associations:

- American Society of Appraisers (www.appraisers.org) – for real estate and personal property
- Appraisal Institute (www.appraisalinstitute.org) – for real estate only
- Appraisers Association of American (www.appraisersassoc.org) – for art and select personal property only

Using information about the property from an appraisal, the next step in the evaluation process is to get a sense of the property's marketability. For real estate, contact real estate brokers in the area in which the property is located and for personal property, contact appropriate sellers. For example, for a rare book collection, contact rare book sellers. The internet is also an excellent resource for market information. Finally, synthesize all this information and make a data-driven recommendation as to whether or not to accept the gift of property.

**Property Sale**

Once a property has been accepted and transferred to the organization, arrangements for its sale must be made. The Gift Acceptance Policy will clearly outline the process for handling the sale of the property. During the evaluation process for the property in question, a team of people would have been consulted, such as appraisers and sellers. This team, along with other members of the Professional Network, can be consulted to handle the sale of the gift. Once a sale has been made and the funds received, any parameters for its use as directed by the donor should be fulfilled. Finally, the IRS has reporting requirements for the acceptance and sale of noncash gifts, see below.

**IRS Reporting Guidelines**

Noncash gifts worth more than $5,000 must have a "qualified appraisal" if the gift is to be claimed as an income tax charitable deduction. The IRS requires a "qualified appraisal" made by a "qualified independent appraiser". Both the organization and the donor have responsibility with respect to IRS reporting.

- *Nonprofits' Filing Requirements – Form 8282*
  If the organization sells, exchanges or disposes of donated property having a value of $5,000 or more, other than cash or marketable securities, the organization must complete and file IRS Form 8282, *Donee Information Return*, within two years of the date of the gift.

- *Donors' Filing Requirements – Form 8283*
  If a donor claims a charitable income tax deduction in excess of $5,000 for a noncash gift, the IRS requires that Form 8283, *Noncash Charitable Contributions* be filed. The donor, qualified appraiser and organization must complete and sign designated sections of this form.

For more information, consult with a lawyer, accountant, financial advisor or the IRS. The IRS maintains an extensive website: www.irs.gov and can also be reached by phone at 1-800-829-3676.

**Goals and Results**

As with any fundraising initiative, establishing goals and benchmarks at the outset is critical for success. Each organization will have different criteria to measure the program's success. As criteria are being developed, remember, however, that donations of property are major gifts and that it takes time to cultivate such gifts. Remember too, that as with any new program, time is needed to refine and calibrate the program so that it works effectively for your organization. When identifying benchmarks to evaluate the program's success, the following should be considered:

- Marketing and Outreach – how many people were reached through each of the various communications channels?
- Donor Inquiries – how many donors inquired about the program or about making a gift?
- Gifts – how many proposed gifts became actual gifts?
- Revenue – what was the revenue generated? Note that these gifts can take a long time to cultivate and process, and the revenue raised each year will change dramatically, so avoid comparing revenue figures from year to year as an indicator of success.

Other parameters should be examined as well, such as how efficiently the program is working. The program should be reviewed annually.

**A Growing Trend:**
**Donating Real Estate, Art and Other Personal Property**

Gifts of property can be viewed as "found money." In fact, individuals who are not in a position to give cash or securities may be able to donate an inherited home, a seldom used vacation condominium or a piece of art.

- In 1998, $3.5 billion in gifts of real estate was made to nonprofits. *(Thornberg Investment Management)*

- In 2003, real estate donations totaled $5.9 billion and donations of art and collectibles totaled $829 million. (IRS, 2006)

- In 2006, gifts of real estate, art and collectibles grew steadily, helping many organizations raise large sums.

By soliciting donations of real estate, art and personal property, nonprofit organizations support their mission by creating a significant new charitable revenue stream.

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