

**GIANT, IMPORTANT DISCLAIMER: WE AREN'T GIVING LEGAL, TAX OR FINANCIAL ADVICE. PLEASE SEEK YOUR OWN COUNSEL FOR ANY DONATIONS. MANY OF THESE QUESTIONS ARE OPEN TO SOME INTERPRETATION, ARE GENERAL IN NATURE OR ARE UNIQUE TO A PARTICULAR JURISDICTION. ASSUME ALL ANSWERS ARE WRONG UNTIL YOU/YOUR DONOR CONFIRMS WITH HER/HIS ADVISOR.**

***Q & A from “Don’t be Spooked by Mortgaged Real Estate: Three Creative Solutions” Webinar, November 2020***

QUESTION	ANSWER
How can the land underlying the building be depreciated to \$0?	Generally, it only cannot be depreciated. However, if there are some mineral rights being extracted, it may be depreciable.
Would it be permissible for the charity in this case to lend the donor the balance of the mortgage using another property as collateral? Then donor would take the loan proceeds, pay off the mortgage, give 100% to the CRT and continue to pay back the loan to the charity. The charity acts as a bank this case.	I think this would technically work. However, it’s a highly sophisticated structure. I’m not sure many charities would have an appetite for that, given the due diligence necessary to effectively act as a private lender.
Have you employed the Charitable Put option, when appropriate, in some of your real estate gifts?	Not to my knowledge. We’ve generally only utilized a put option with business interest donations.
Do you have a minimum value for non-cash asset donations, specifically real estate?	No strict minimum, but we do have a \$10,000 minimum fee, so generally donors won't proceed unless the value is \$250k+.
Does Charitable Solutions also sell donated property, or simply arrange for the transaction?	We'll sell it through a local agent in most cases. Sometimes there is a likely buyer ready to make an offer, so no agent or broker is necessary. Basically, we step into the donor's shoes as the seller.
What's the longest that Dechomai has had to hold a property?	A long, long time - we took in a property in North Carolina in 2007 - expected a 4-6 week hold. We sold it in Jan of 2019!

<p><b>How do you recommend we discuss this opportunity with our donors?</b></p>	<p>Sorry this didn't get answered during the webinar. As with all noncash asset donations, it's best to start by asking donors to consider the charitable potential of all assets on their personal balance sheets. If they own multiple pieces of real estate, they may be interested in donating one or more. Then it's a matter of evaluating which property is the best candidate, accounting for factors like debt, tenants, and overall marketability.</p>
<p><b>Bryan, can you talk a little more about the partial or undivided interest in a property? Is that akin to a bargain sale when a donor wants a portion of the proceeds. Or does the donor offer let's say 20% in their property to the charity, it gets sold and the charity ends up with 20% of the sales proceeds?</b></p>	<p>It's the latter case. This is usually done through a tenancy in common. The donor deeds a percentage to the charity. Then the co-owners all work on the sale together, and receive proceeds at closing, corresponding to their proportionate interest.</p>
<p><b>What is the most appropriate life income program for a farm valued at \$2 million inside a converted C-corp to an S-corp that has to wait 5 years before sale in order not revert back to a C-corp and have significant tax liability.</b></p>	<p>For life income, this would probably need to be a charitable gift annuity. Since there is the S-corp element to this, a charitable remainder trust would not work. The CGA would have to be issued net of UBIT and selling expenses, so it may need to have language allowing for deferral and payment on net proceeds.</p>
<p><b>Will you talk about property held in a 1031 exchange?</b></p>	<p>Donating 1031 property should work like any other real estate donation, so it is simple in that regard. However, it's much more complex if the donor retains an interest in the donated property, and wants to roll their retained interest into a 1031 property.</p>