

# **Creative Charitable Planning Using Non-Cash Assets**

Bryan Clontz, CFP®  
President, Charitable Solutions, LLC  
bryan@charitablesolutionsllc.com (404) 375-5496

# Agenda

- **Non-Cash Asset Market Overview**
- **Non-Cash Asset Types**
- **A 5-Minute Non-Cash Tax Seminar**
- **Legislative Update: Appraisal Considerations**
- **Reasons Non-Cash Assets are Declined**
- **Ten Non-Cash Acceptance Questions**
- **Three Case Studies**

# Non-Cash Asset Market Overview

- **More than half of affluent investors' assets are held in non-cash assets; cash only represents 3-5%**
- **Aggregate stock market value is approximately \$14 trillion; non-cash market estimates are \$40-60 trillion**
- **Of the \$300 billion in donations last year, non-cash assets are estimated to be 3% or less**

# Non-Cash Asset Types

- **Real Estate**
  - Residential vs. Commercial, Encumbered vs. Unencumbered, Partial vs. Entire Interests
- **Privately-Held Interests**
  - C-Corp and S-Corp Stock, Limited Partnerships or LLCs
- **Restricted Stock**
- **Tangible Personal Property – Art/Collectibles (New PPA Rules)**
- **Weird Stuff**
  - Quarterhorse, Seat on New York Mercantile Exchange, Gold Bullion, Euro-Denominated Bond, Beach House in Mexican Land Trust, Paris Condo, UPREIT Partnership Units, Patents, Timber Deeds, Clay Mineral Rights, Book Royalties, Oil & Gas Interests, Hedge Fund Carried Interest, NFL Team, and finally, Dead Animals

# A 5-Minute Charitable Tax Seminar

- Cash **BAD** – Everything else **GOOD!**
- Capital gain property receives a fair market value deduction AND an elimination of capital gains tax if donated to a public charity
- If donated to a private foundation, donations of non-cash assets during life only receive an adjusted cost basis deduction
- Public charities do not have a 5% payout requirement – private foundations do
- Donor advised funds are especially attractive for multiple grants

# Appraisal Considerations

- **Appraisal may occur 60 days prior to gift at the earliest, and the latest being the time the donor files the tax return – Donor completes Form 8283 and Charity completes Form 8282**
- **Pension Protection Act Key Changes**
  - **Extended Form 8282 to 3 years, Tightened Definition of Substantial and Gross Valuation Misstatement, Increased Appraisal Penalties and Definition of a Qualified Appraiser**

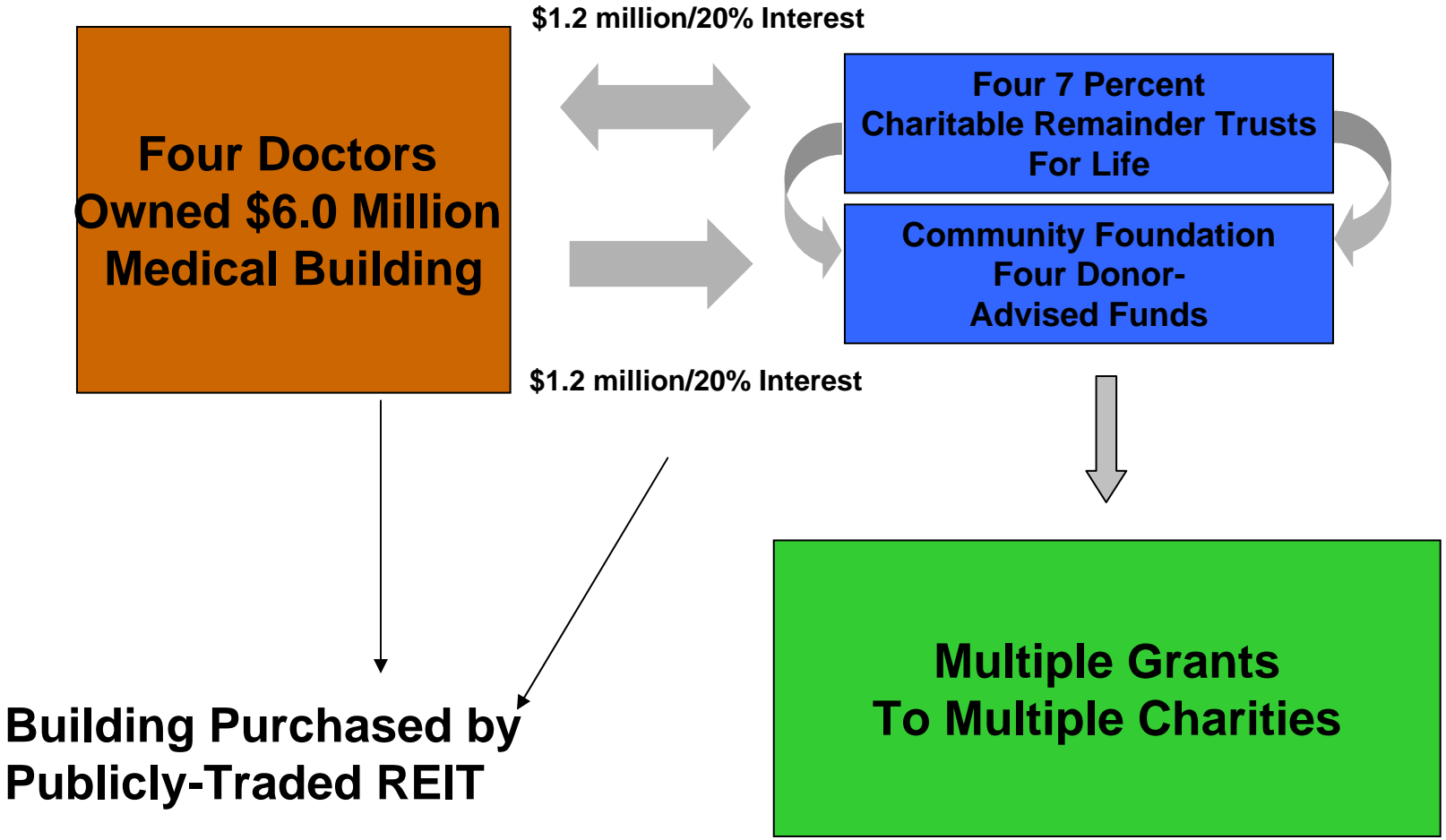
# 80% Of All Non-Cash Gifts Rejected

- **Tax and Legal Complexity (UBTI, Bargain Sale, Palmer/Blake/Ferguson Pre-arranged Sale Issues, Agreement Complexity, Self-Dealing, Excess Benefit, Private Inurement)**
- **Environmental Issues (Due Diligence, Remediation, Disclosures, Deep Pockets)**
- **Management Issues (Holding Period, Insurance Changes, Contract Changes, Appropriate Filings and Paperwork)**
- **Liquidation Issues (Minimizing Costs, Maximizing Value)**
- **Charity's Internal Process (Timeliness, Thoroughness, Risk Tolerance, Weak Gift Acceptance Policies/Procedures)**
- **Perceived Risk/Reward Ratio**

# Top Ten Non-Cash Acceptance Questions

- **Asset Description/Expected Value**
- **Asset Ownership**
- **Partial or Entire Interest**
- **Debt or Other Encumbrances**
- **Outright, Life-Income or Testamentary**
- **Capital or Ordinary Asset**
- **Tax Implications**
- **Potential Buyers and Offer Status**
- **Holding Period and Management Issues**
- **Transfer Timing**

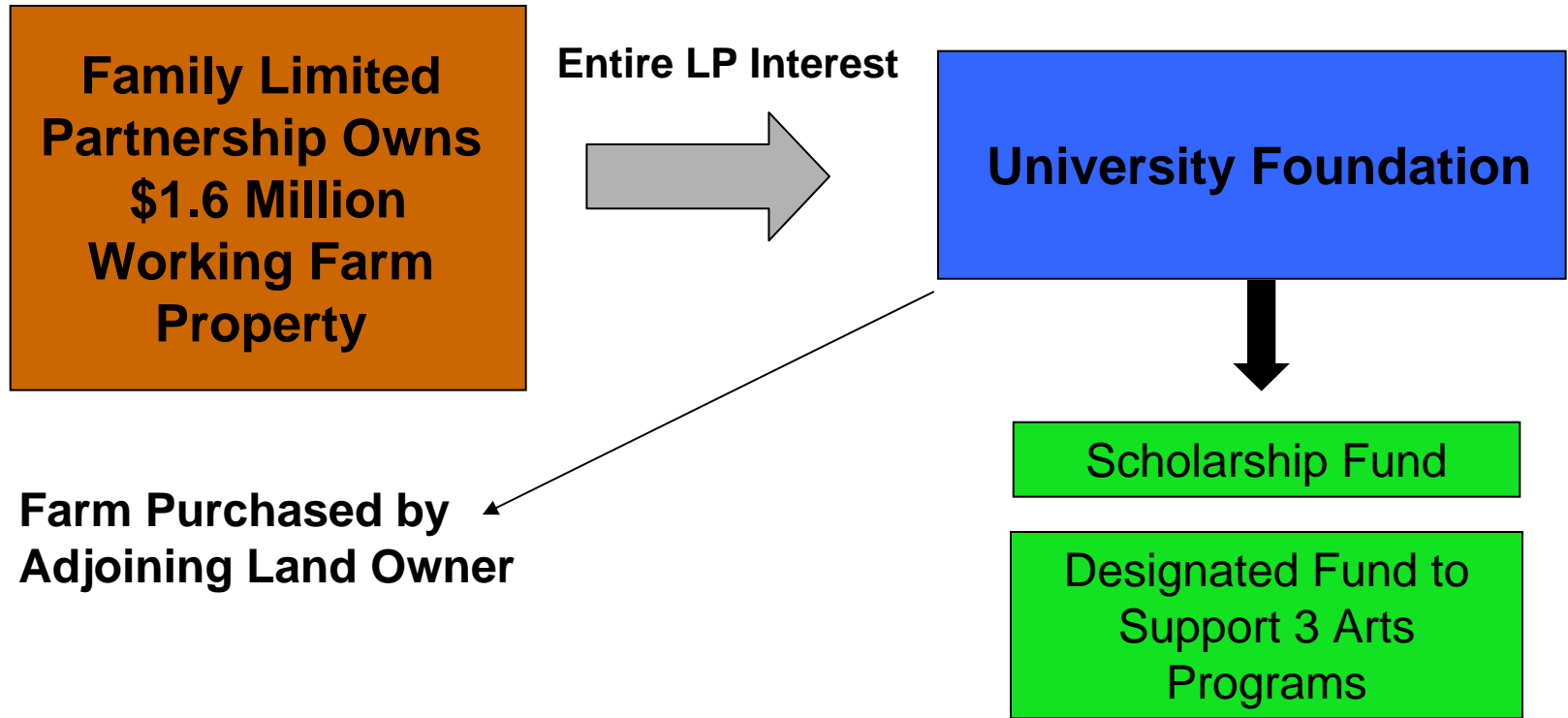
# Case Study #1 Commercial Real Estate Contribution



For illustrative purposes only.

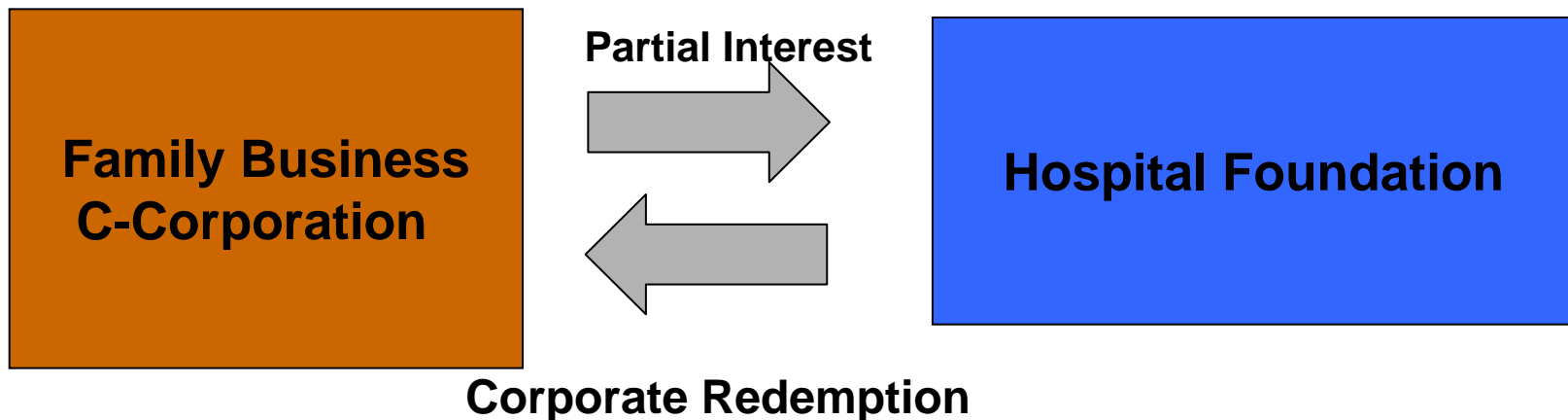
# Case Study #2

## Limited Partnership Gift



# Case Study #3

## Closely-Held Business



1. Donor Contributes Stock – Receives Full Deduction
2. Company Buys Stock Back
3. Minority Interest Holders Increase Percentage Ownership With No Gift Tax
4. Donor Creates Alzheimer's Research Fund and a Rural Health Field-of-Interest