

Trust Advisors Forum

February 26, 2019

Presented By:
Michael King, JD



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Unleashing Generosity Charitable Gift Planning in 2019

I want to be like Stacey?



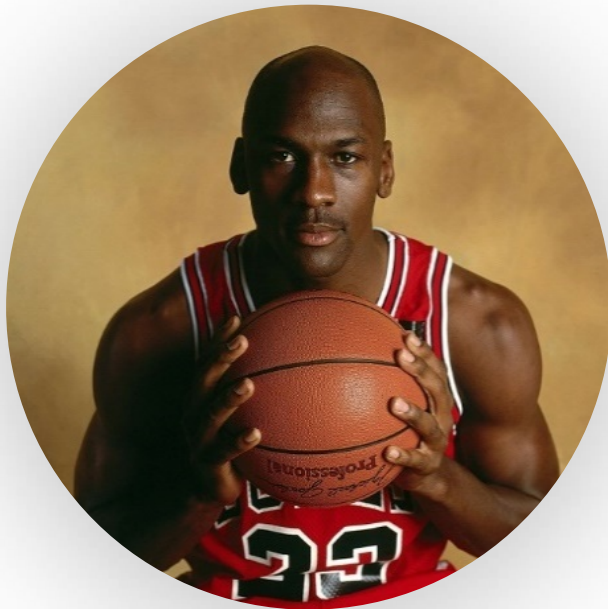
I want to be like Stacey?



Stacey King



I want to be like Stacey?



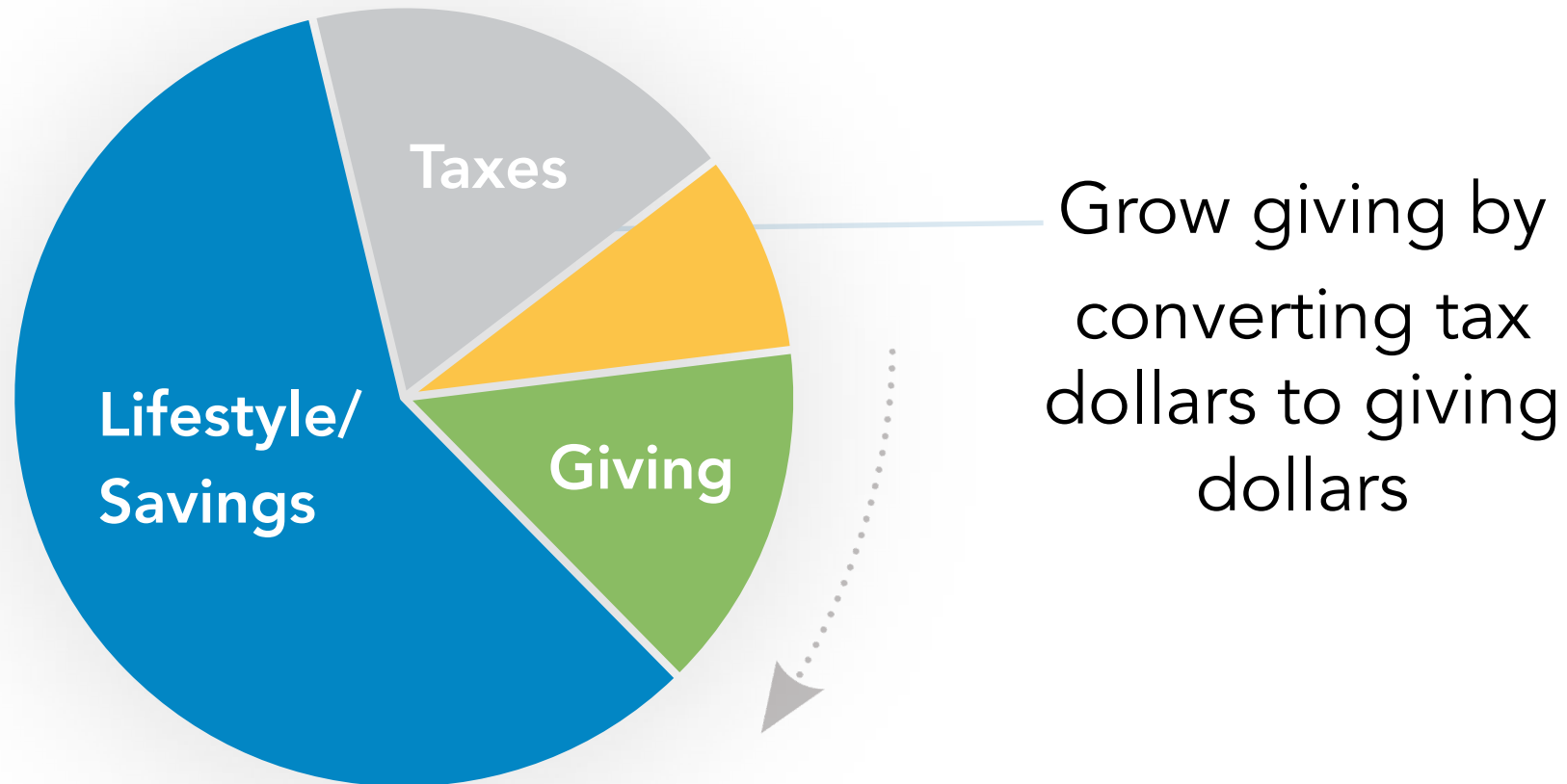
Michael Jordan



Stacey King



Give More, Pay Less Tax



Maximize Charitable Giving, Minimize Taxes

1. Do not pay estate tax
2. Maximize annual charitable income tax deductions
3. Avoid capital gain tax upon sale of appreciated assets
4. Leverage tax benefits beyond 30%/50% AGI giving



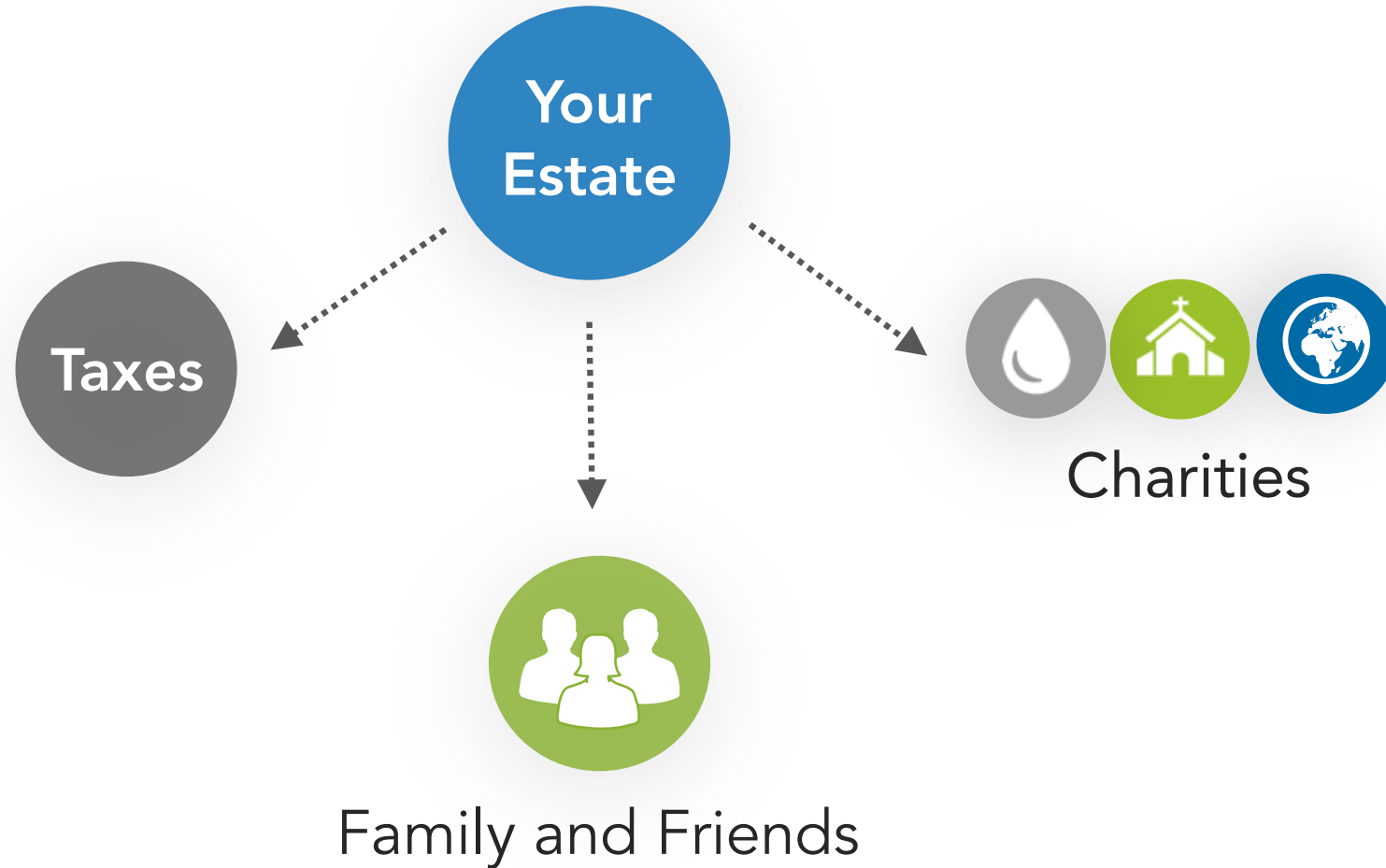
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Giving it All Away in the End



Three Questions to Unlock Giving Potential

What will you do with the rest?

Excess

How much should we give to the kids?

Legacy

How much do I need for myself and my spouse? What's my finish line?

Necessity





I want to give my children enough that they feel like they can do anything, but not so much that they might choose to do nothing.

Warren Buffet

Secure Target Inheritance

Basic Estate Planning Strategies

- Transfer Tax Exemptions and Exclusions
 - Annual Gift Tax Exclusion: \$15,000
 - Lifetime Gift Tax Exclusion: \$11,400,000
 - Estate Tax Exclusion: \$11,400,000
 - Generation-Skipping Transfer Tax Exemption: \$11,400,000
- Irrevocable Life Insurance Trust (ILIT)
- Spousal Access Trust



Secure Target Inheritance

Advanced Estate Planning Techniques

- Grantor Retained Annuity Trust (GRAT)
- Intentionally Defective Irrevocable Trust (IDIT)
- Family Limited Partnership (FLP) / Family Limited Liability Company (FLLC)
- Inter-Family Loans
- Charitable Lead Trust (CLT)
- Qualified Personal Residence Trust (QPRT)



Charitable Legacy

1. Avoid estate tax completely – gift or bequest “excess wealth” to charity
2. Minimize annual income taxes by maximizing lifetime charitable gifts

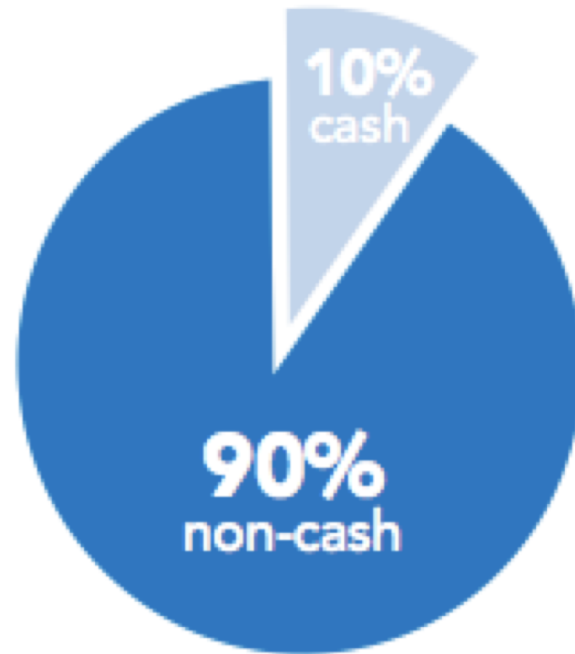


Maximize Charitable Giving, Minimize Taxes

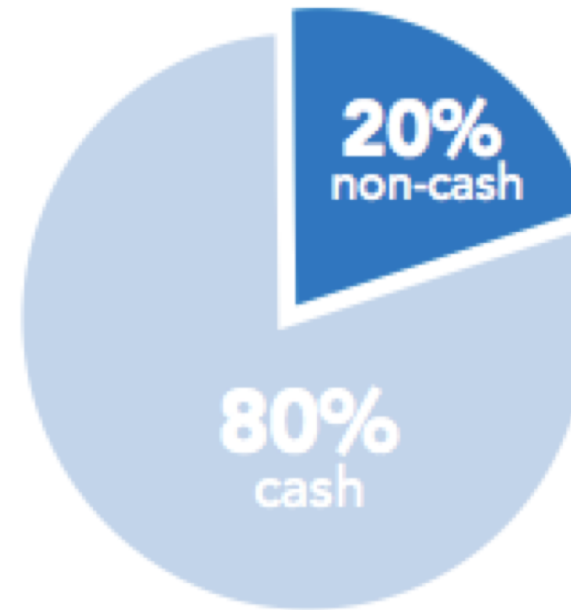
1. Do not pay estate tax
- 2. Maximize annual charitable income tax deductions**
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The Problem With How We Give



What We Have



What We Give



Maximizing Annual Charitable Deductions

The Objective:

- Minimize income tax liability on an annual basis and over the lifetime of the taxpayer
- Take full advantage of the charitable income tax deduction benefits provided by the tax laws
 - 60% AGI Deduction for Cash Gifts
 - 30% AGI Deduction for Non-cash Gifts



Maximizing Annual Charitable Deductions

Appropriate Assets for Consideration:

- Business Interests
 - S Corporations
 - C Corporations
 - Limited Liability Companies
 - Partnerships
- Real Estate
- Marketable Securities
- Cash





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Charitable Shareholder Strategy

Gifts of Privately-Owned Business Interests

Maximizing Annual Charitable Deductions

Three Distinct Tax Benefits

1. Immediate (and maximum) charitable income tax deduction
2. Reduced income tax liability on annual operating income
3. Avoided / reduced income tax liability upon ultimate sale of business



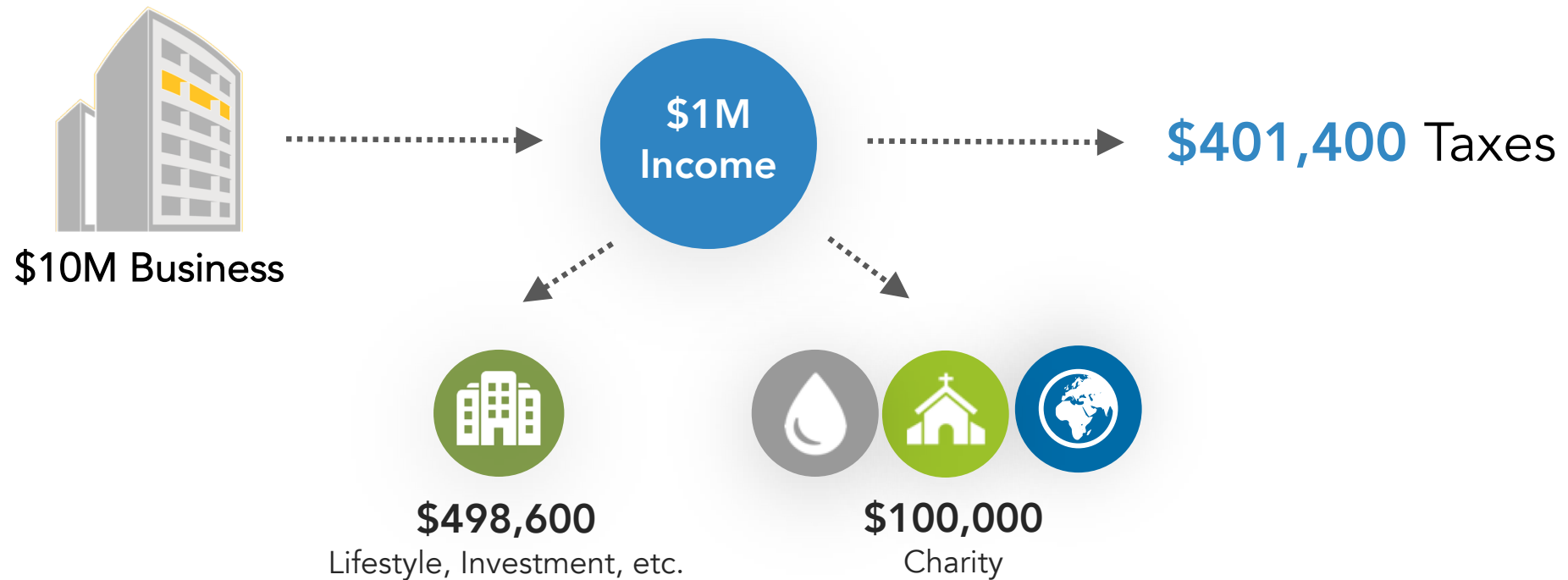
Prescription: Leveraged Giving

Gift of Pharmaceutical Distribution Company

1. Business fair market value: \$10,000,000
2. Annual adjusted gross income (AGI): \$1,000,000
3. Current charitable giving: \$100,000
4. Tax rates
 - Ordinary Income: 44.6%
 - Capital gain: 25%



Current Situation: 10% AGI Giving



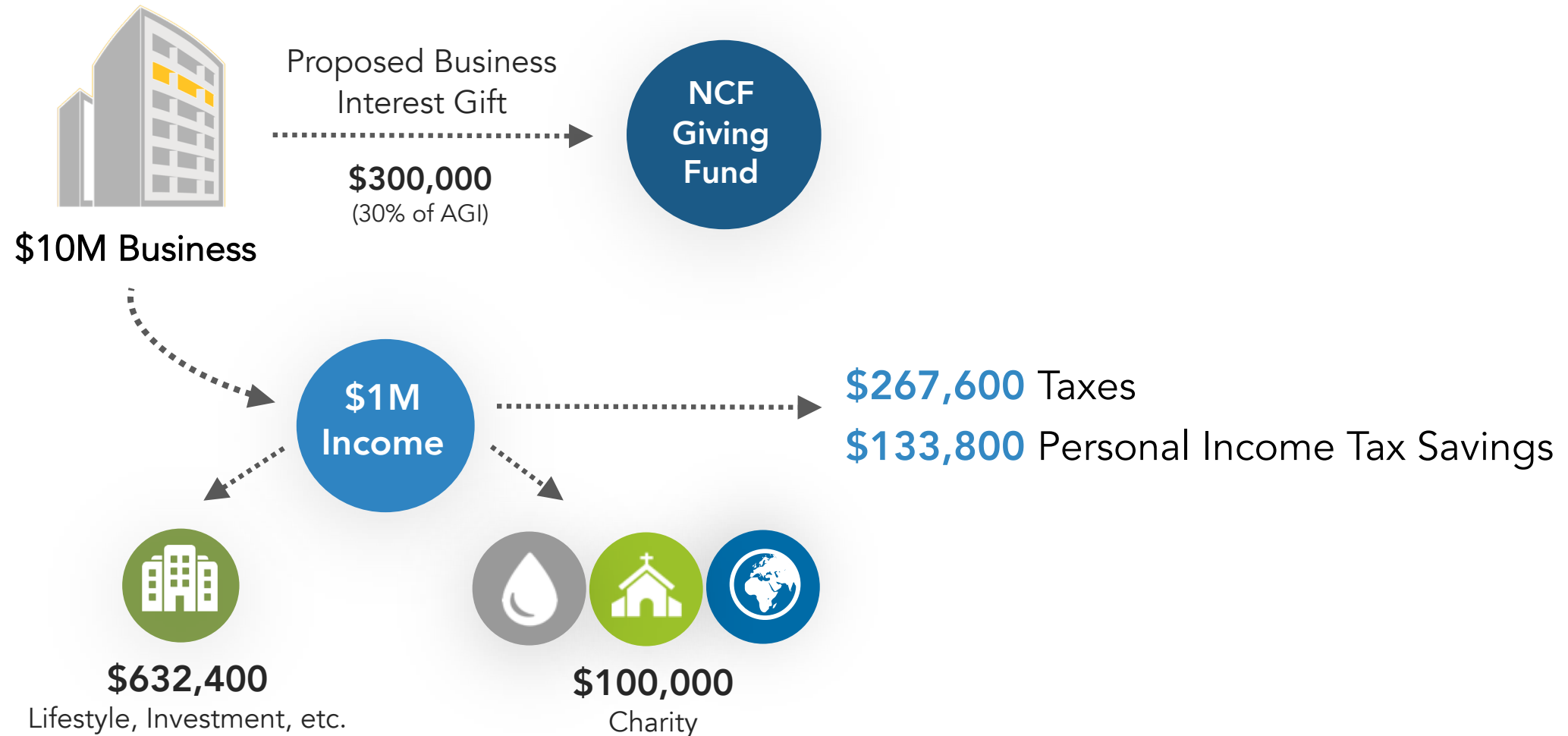
What's Wrong With This Picture?



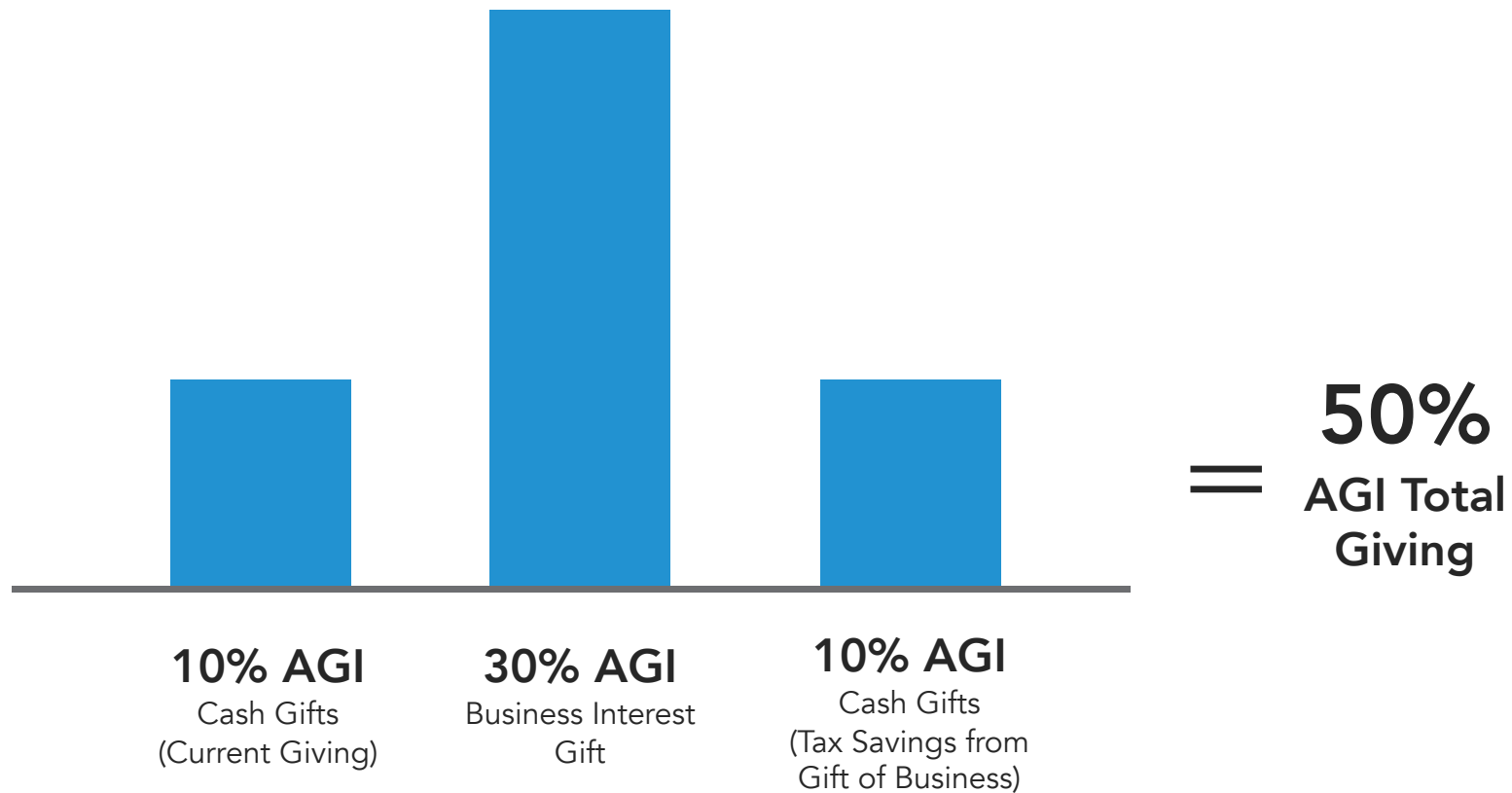
\$100,000 charitable gift vs. \$401,400 of taxes
Pay 4x more in taxes, then give to charity



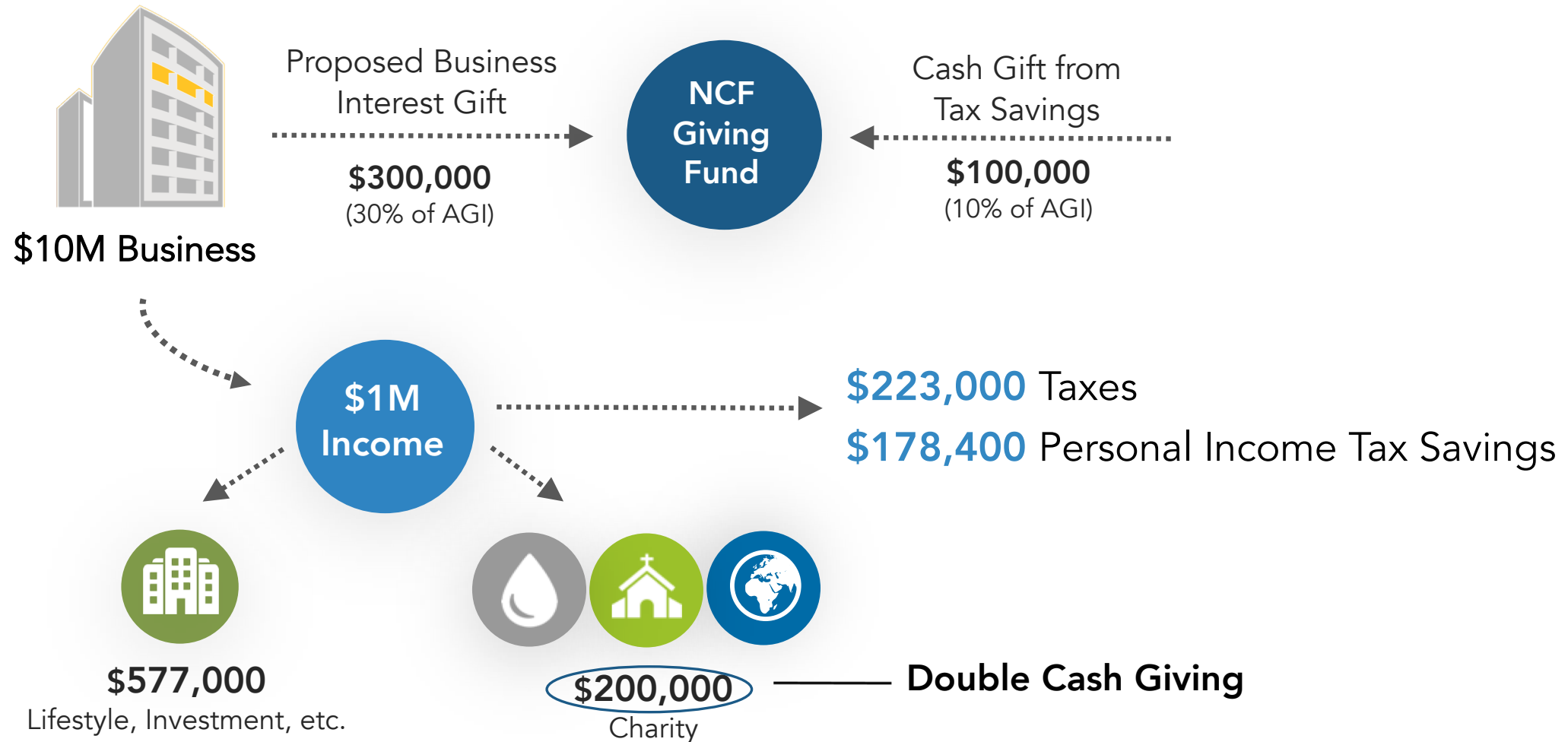
Solution: 10% - 40% AGI Giving



Maximizing Charitable Deductions



Solution: 40% - 50% AGI Giving



Misalignment: Giving and Taxes



Before

\$100,000 charitable gift vs. \$401,400 of taxes

Pay 4x more in taxes, then give to charity



Heart Alignment: Giving and Taxes



After

\$500,000 charitable gift vs. \$233,300 of taxes



Observations

1. 30% AGI gift generally requires a gift of 2% to 4% of the value of the giver's business
2. Value of business generally increases at a higher rate, therefore, only giving a portion of the annual appreciation to charity
3. Most families make repetitive gifts on an annual basis
4. Additional tax benefits realized from annual income and upon eventual sale of the business



Technical Issues and Considerations

Charitable Entity

- Private foundation vs. donor-advised fund / public charity
- Trust vs. corporate entity structure

Nature of Business Entity

Generally give non-voting / non-controlling interests

Charitable income tax deduction

- Fair market value – valuation discounts; put option
- Qualified appraisal
- “Hot assets”



Technical Issues and Considerations

Excess business holdings

Recommended 5% distribution

Unrelated business taxable income (UBTI)

Potential implications of debt



Maximize Charitable Giving, Minimize Taxes

1. Do not pay estate tax
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- 3. Avoid capital gain tax upon sale of appreciated assets**
4. Leverage tax benefits beyond 30%/50% AGI giving



Give Before Sale

Secure Charitable Deduction *and* Avoid Capital Gain Tax

Assets to Consider:

- Marketable Securities
- Real Estate
- Privately-Owned Business

Consider Split-Interest Arrangements

- Charitable Remainder Trusts
- Charitable Gift Annuities





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Give then Sell Strategy

Real Estate

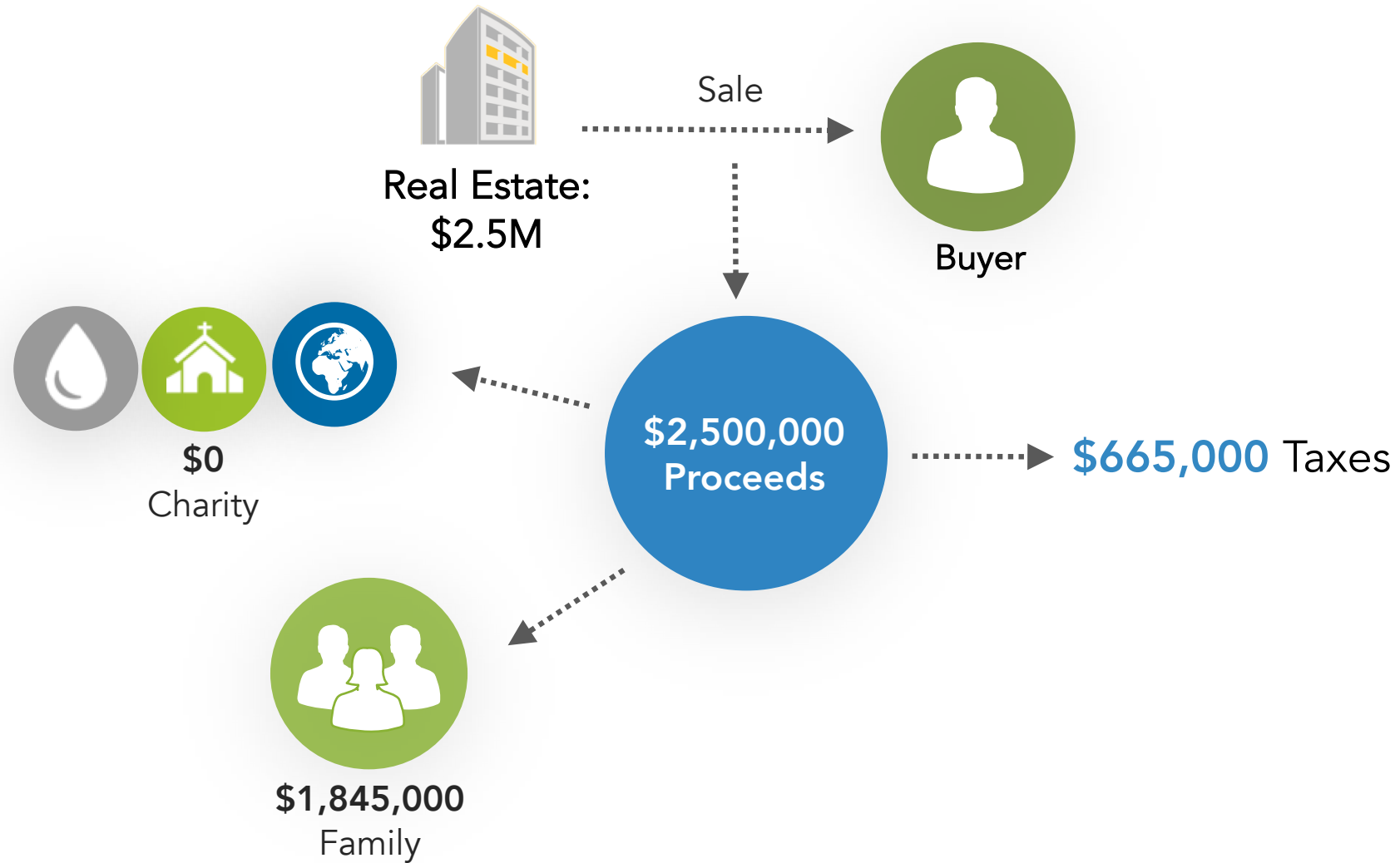
Subway: Give Fresh!

Assumptions

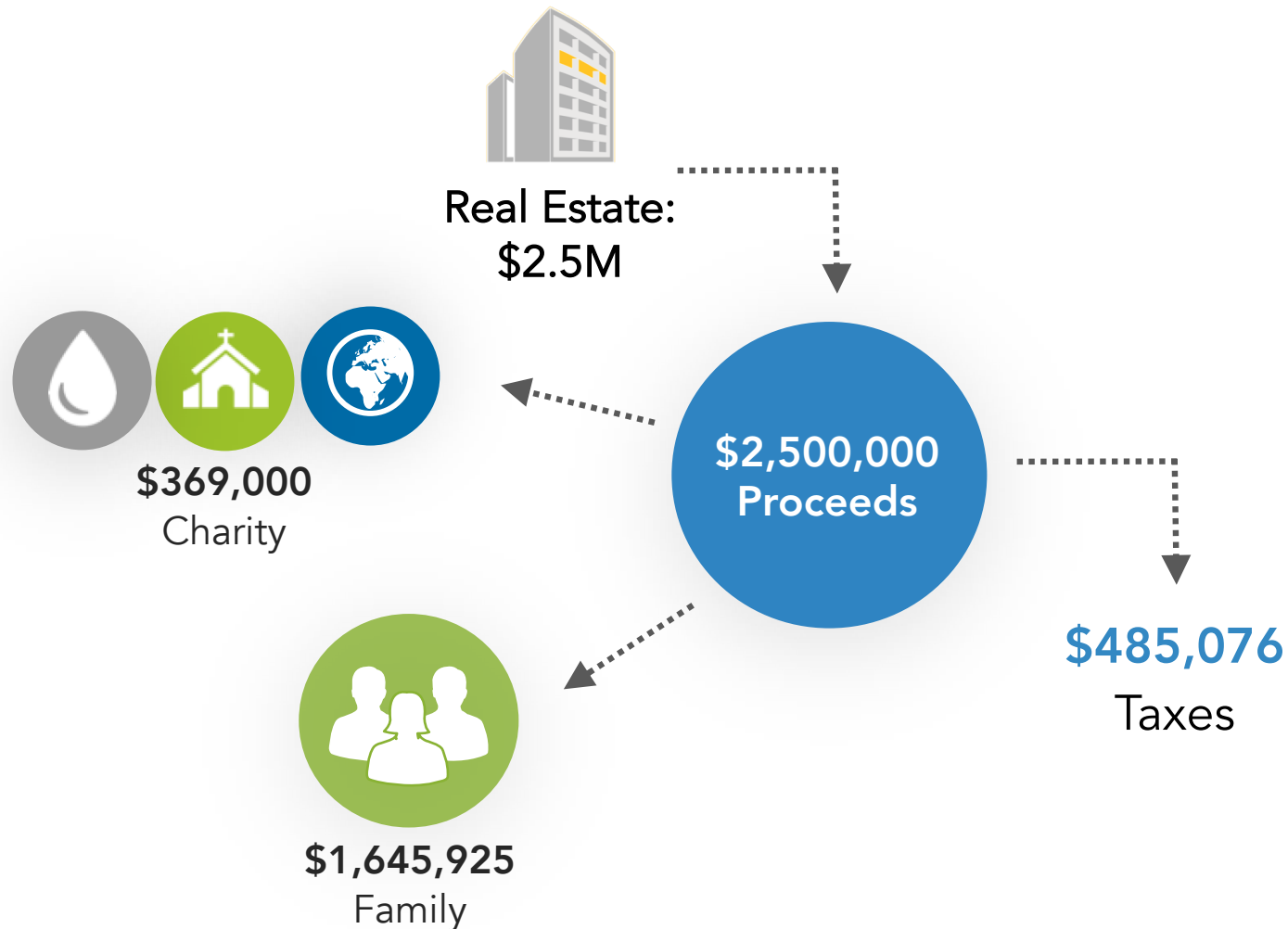
1. Business fair market value: \$2,500,000
2. Valuation Discount: 10%
3. Adjusted Basis: \$500,000
4. Tax rates
 - Ordinary Income: 46.05%
 - Capital Gain: 26.45%
 - Depreciation Recapture: 31.45%
 - Obamacare Medicare Tax: 3.8%



Base Case: "No Gift"



Scenario 1: "Gift After Sale"



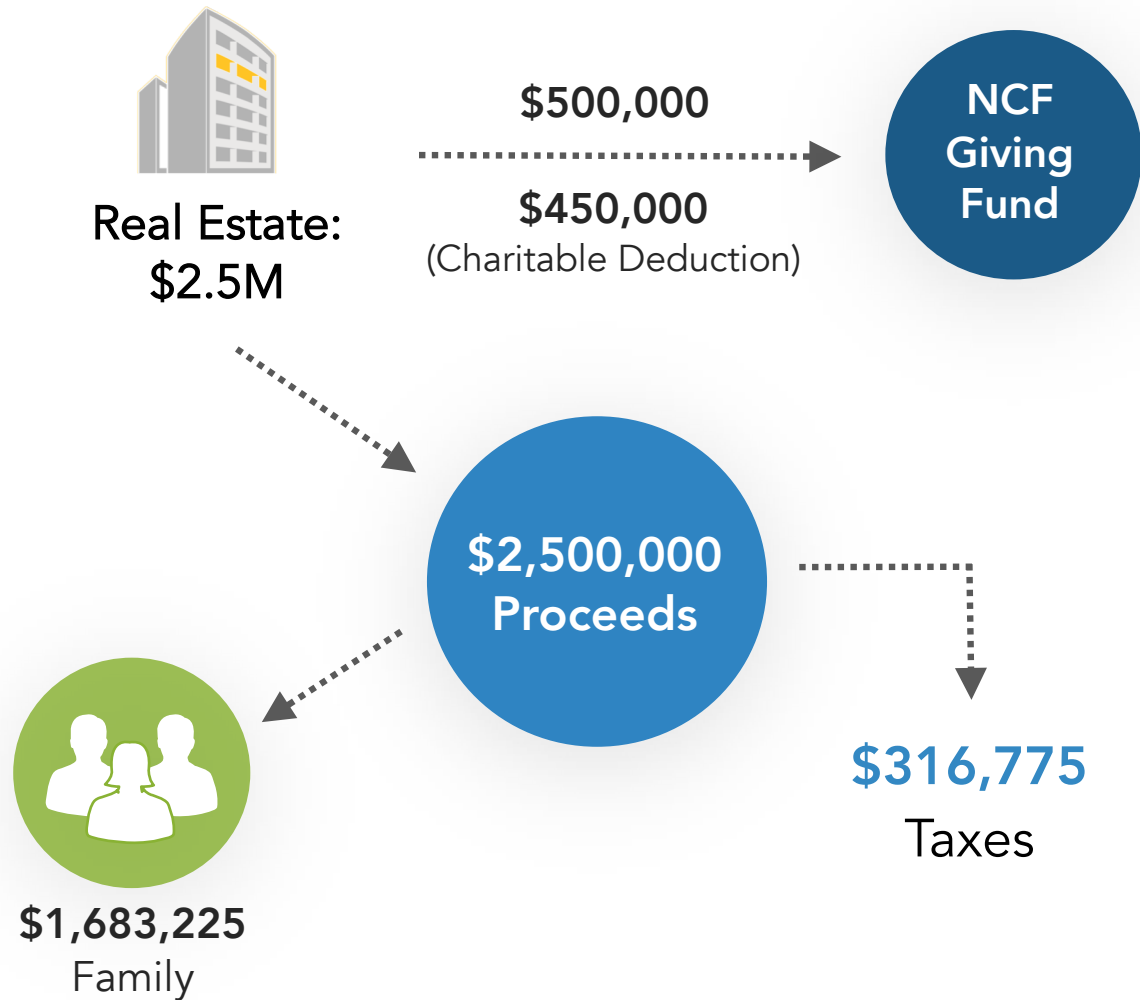
Assumptions:

1. After sale, gift 20% of after-tax proceeds = \$369,000 (\$500,000 - \$131,000 of capital gain tax)
2. \$369,000 cash gift saves the giver \$169,925 in taxes

\$169,925 Total Tax Savings



Scenario 2: "Gift Before Sale"



Assumptions:

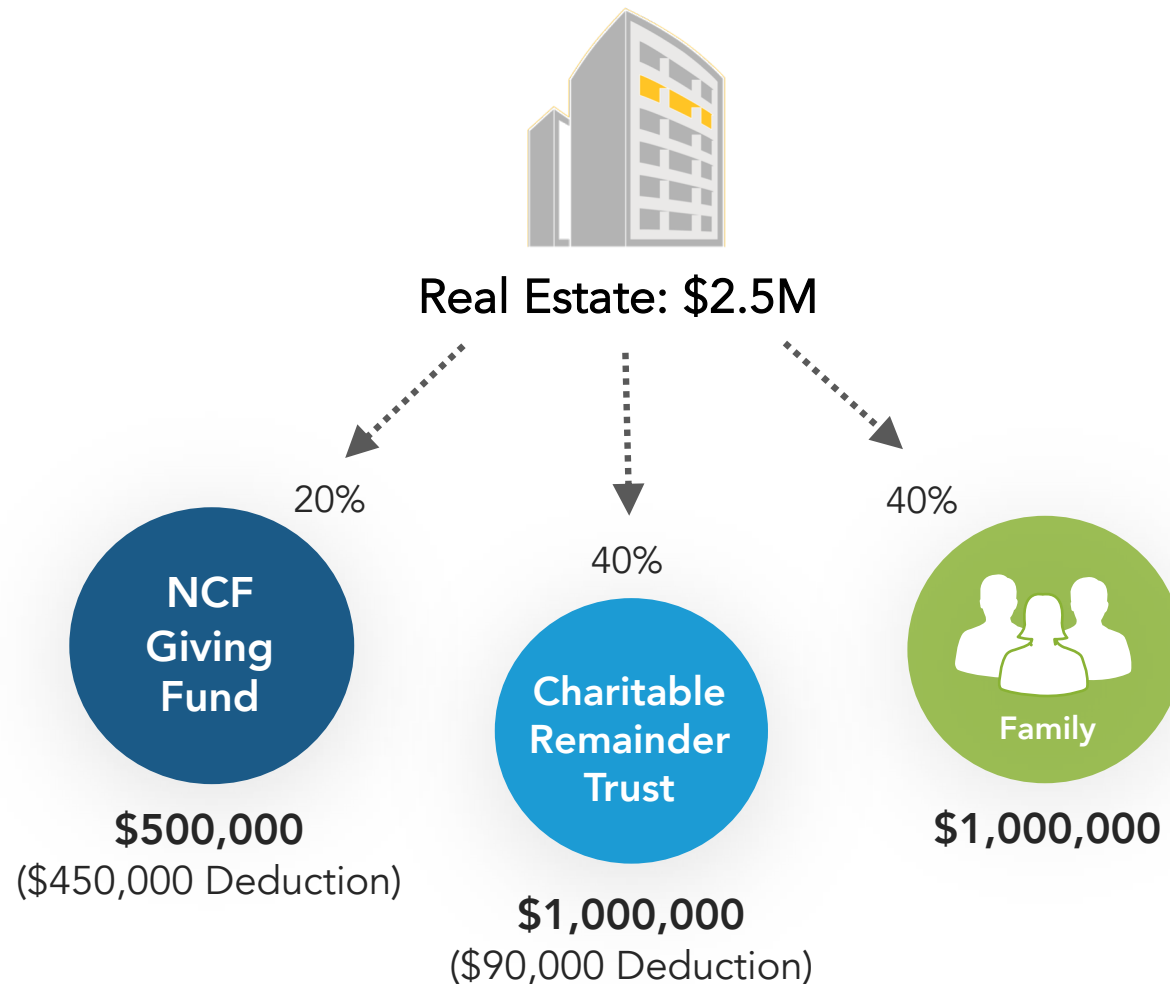
1. 20% gift before sale = \$500,000 to charity
2. Giver's charitable deduction reduced by 10% valuation discount (\$500,000 - \$50,000 = \$450,000)
3. Gift before sale saves the Giver \$388,225 in taxes
 - \$207,225 deduction tax savings
 - \$131,000 avoided capital gains tax

\$388,225 Total Tax Savings

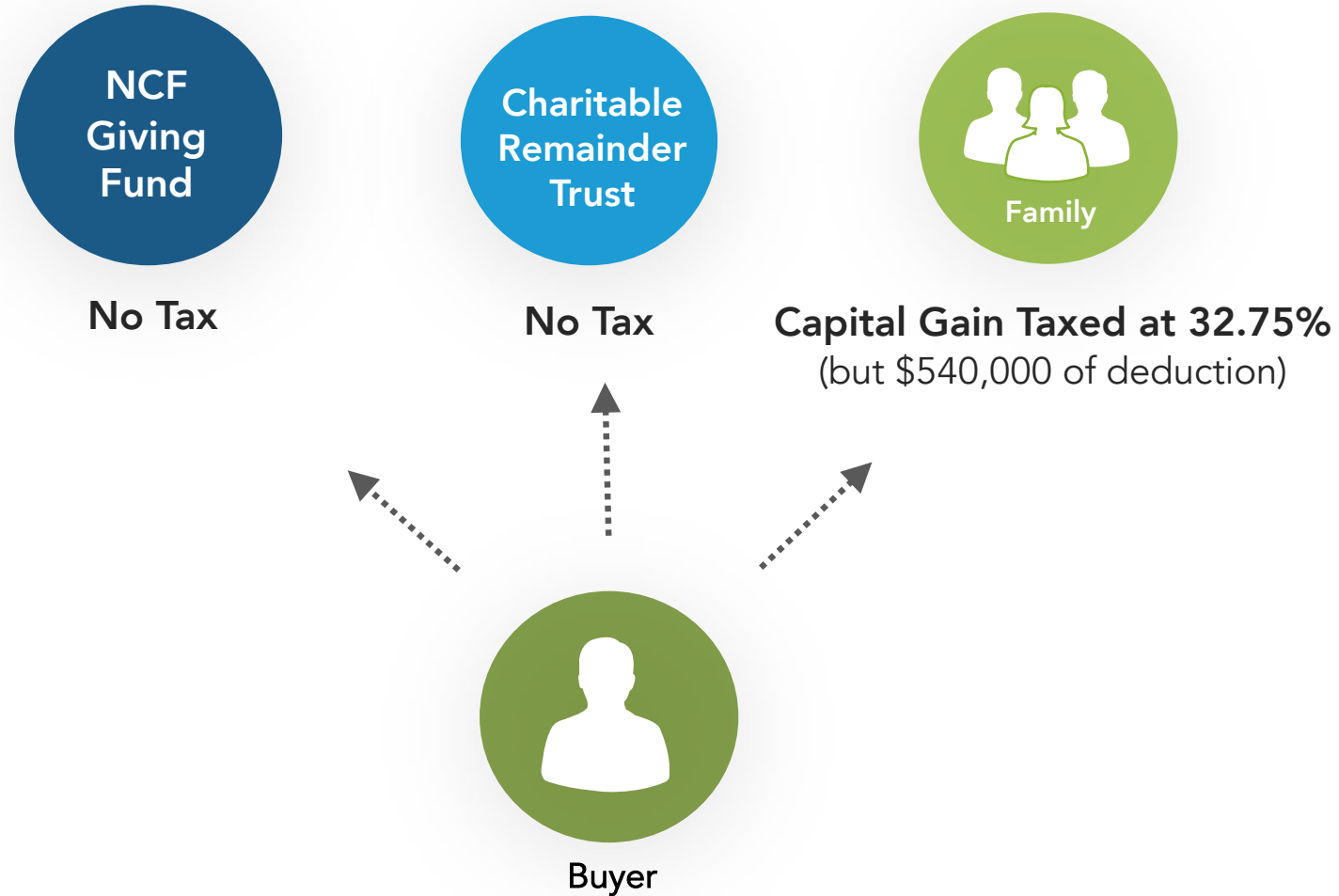
\$168,301 Tax Savings from Giving Before Sale



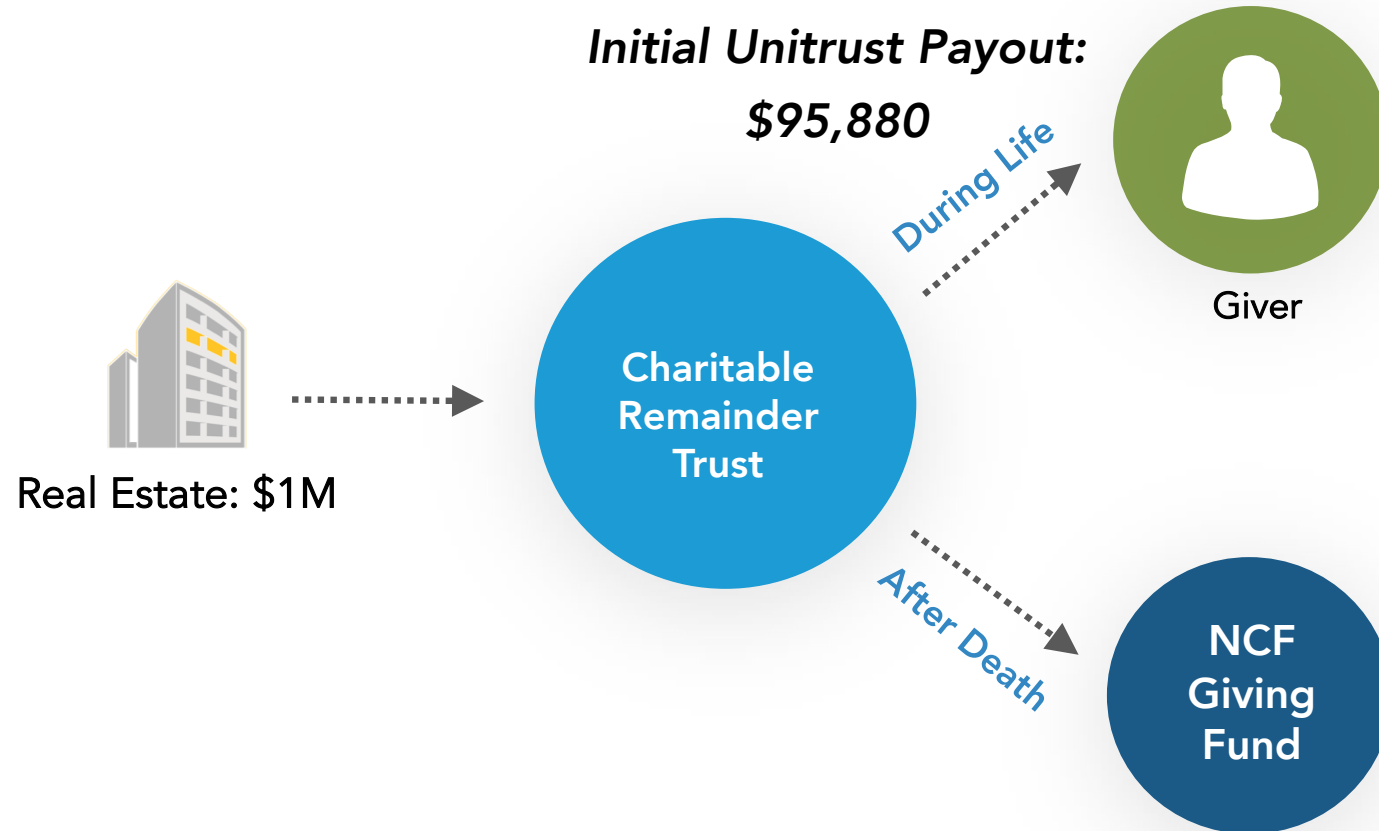
Scenario 3: The "Three Bucket" Approach



Tax Treatment Upon Sale



The Charitable Remainder Unitrust



Buyer Assumptions:

1. Ages: 62 and 60
2. Unitrust Payout: 9.588%
3. 7520 Rate: 2.4%

Initial Unitrust Payout:
\$95,880



Charitable Gift: Comparison Results

Total	Family	Charity	Taxes
Current: No Charitable Gifts	\$1.845M	\$0	\$655K
Scenario 1: Sell then Give 20%	\$1.646M	\$369K	\$485K
Scenario 2: Give 20% then Sell	\$1.683M	\$500K	\$317K
Scenario 3: 20% Gift, 40% CRT, 40% Retained	\$1.897M*	\$590K**	\$13K*

* This amount includes the after-tax proceeds retained directly by the family, and the present value of the CRT annual payments paid over the donors' joint lifetimes.

** This amount includes the outright charitable gift, and the present value of the CRT charitable remainder interest.



Maximize Charitable Giving, Minimize Taxes

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Move Income to a Tax-Free or Tax-Deferred Environment

- Move assets from the taxable side of the fence to the tax-free or tax-deferred side of the fence
- Ultimately, one's annual income tax bill can be commensurate with lifestyle spending



Offline Giving Strategies

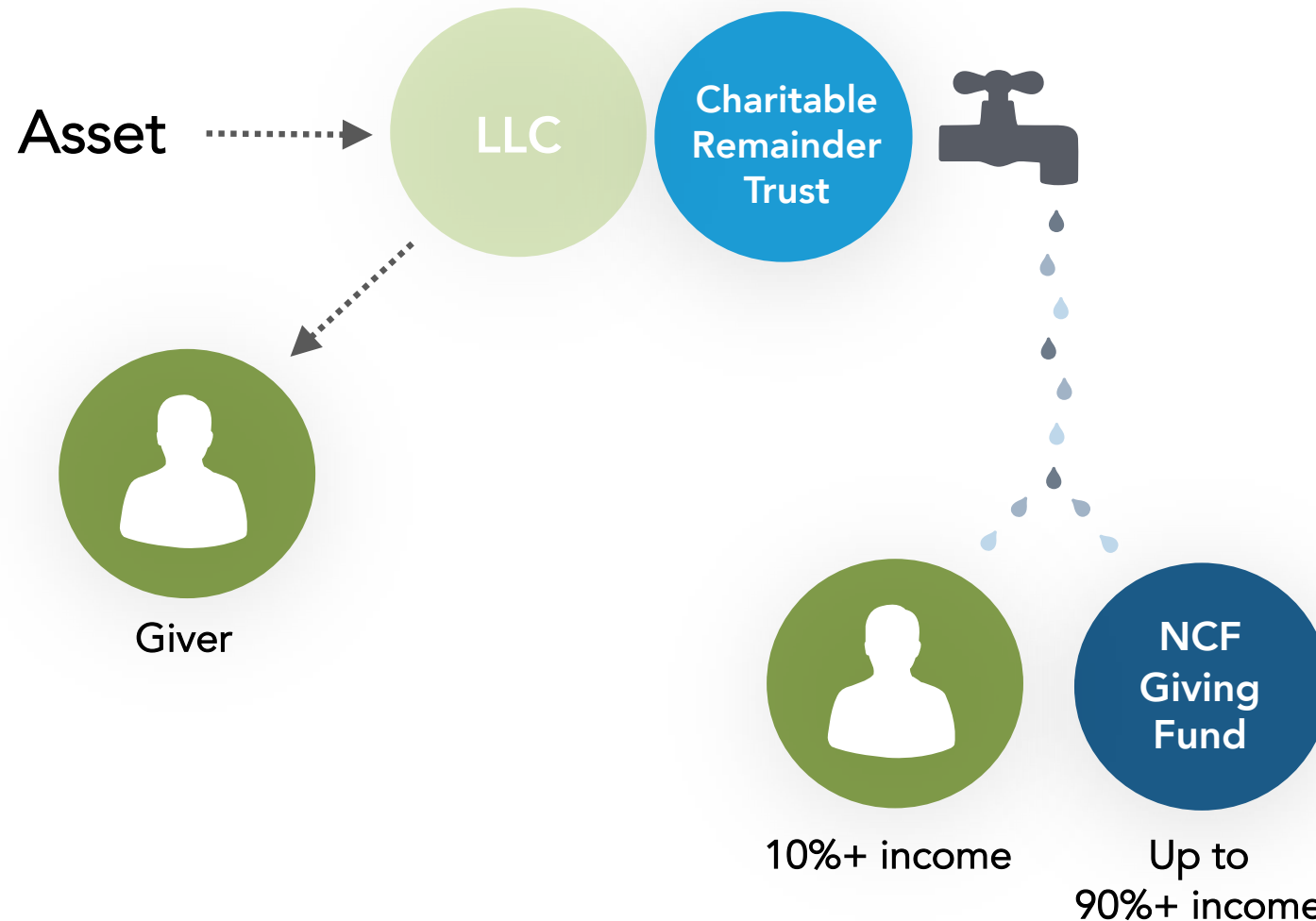
Strategies for Giving Champions (50%+ AGI Givers)

Strategies for a “No Charitable Deduction” Environment

- Faucet net income with make-up Charitable Remainder Unitrust (NIMCRUT)
- Non-Grantor Charitable Lead Trust (CLT)
- Gifts of Income Producing Assets Exempt from Unrelated Business Taxable Income (UBTI)
- Investing through Private Placement Deferred Annuities (PPDA)



Faucet Net Income with Make-up CRUT



- Deduction
- Gain deferral upon sale
- Defer tax on income
- Distribute as desired
- Stockpile tax free
- Discretionary gifts to charity
- Exceed 50% AGI limit
- Future deduction for gift of income interest
- Preserve excess charitable deductions



Tax Savings Beyond 30%/50% AGI Giving

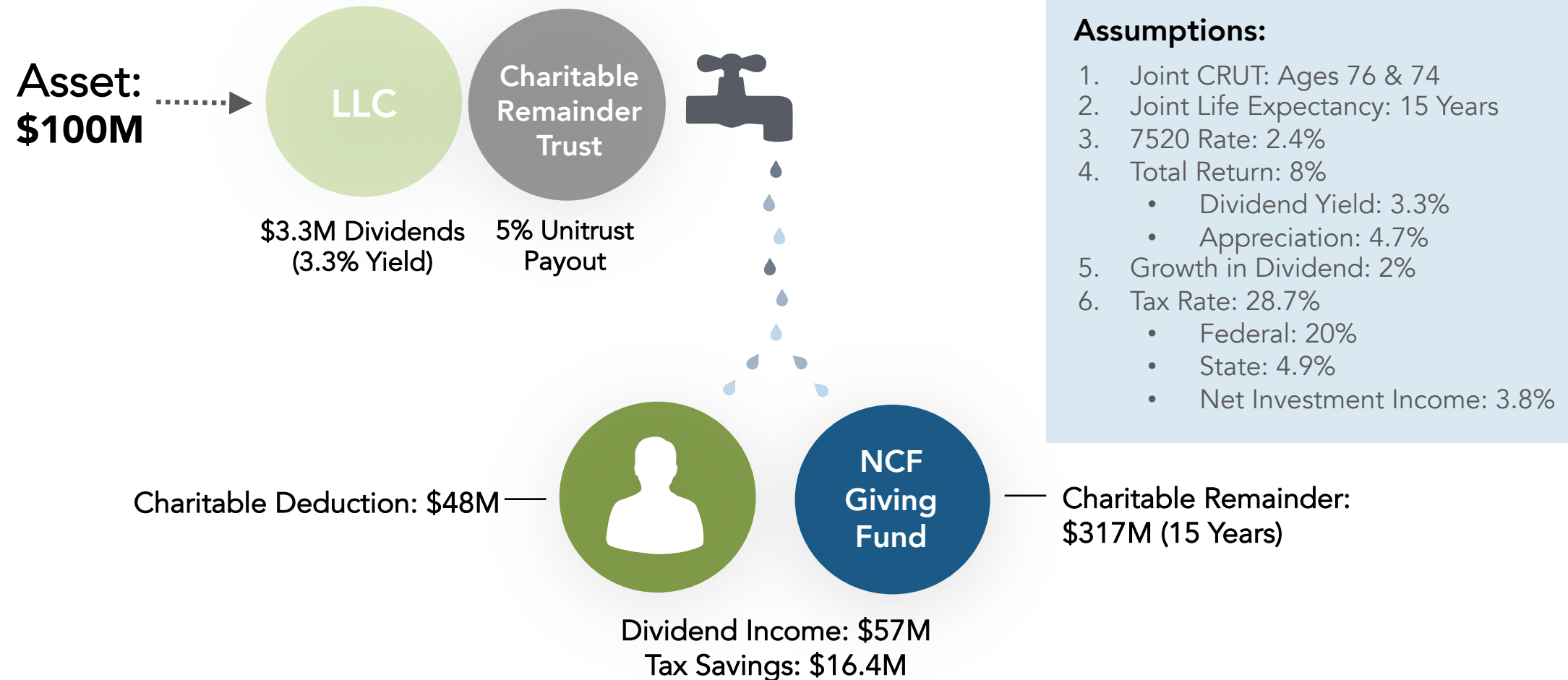
Concentrated Publicly-traded Stock

1. Husband built business that eventually went public
2. Estate valued at \$1.5 billion, with the publicly-traded stock representing about \$1.2 billion
3. Estate plan: \$750 million to children, \$750 million to charity
4. Annual adjusted gross income in excess of \$30 million
5. Charitable giving equals or exceeds 50% of AGI



Faucet CRUT

Publicly-traded Stock with 3.3% Dividend

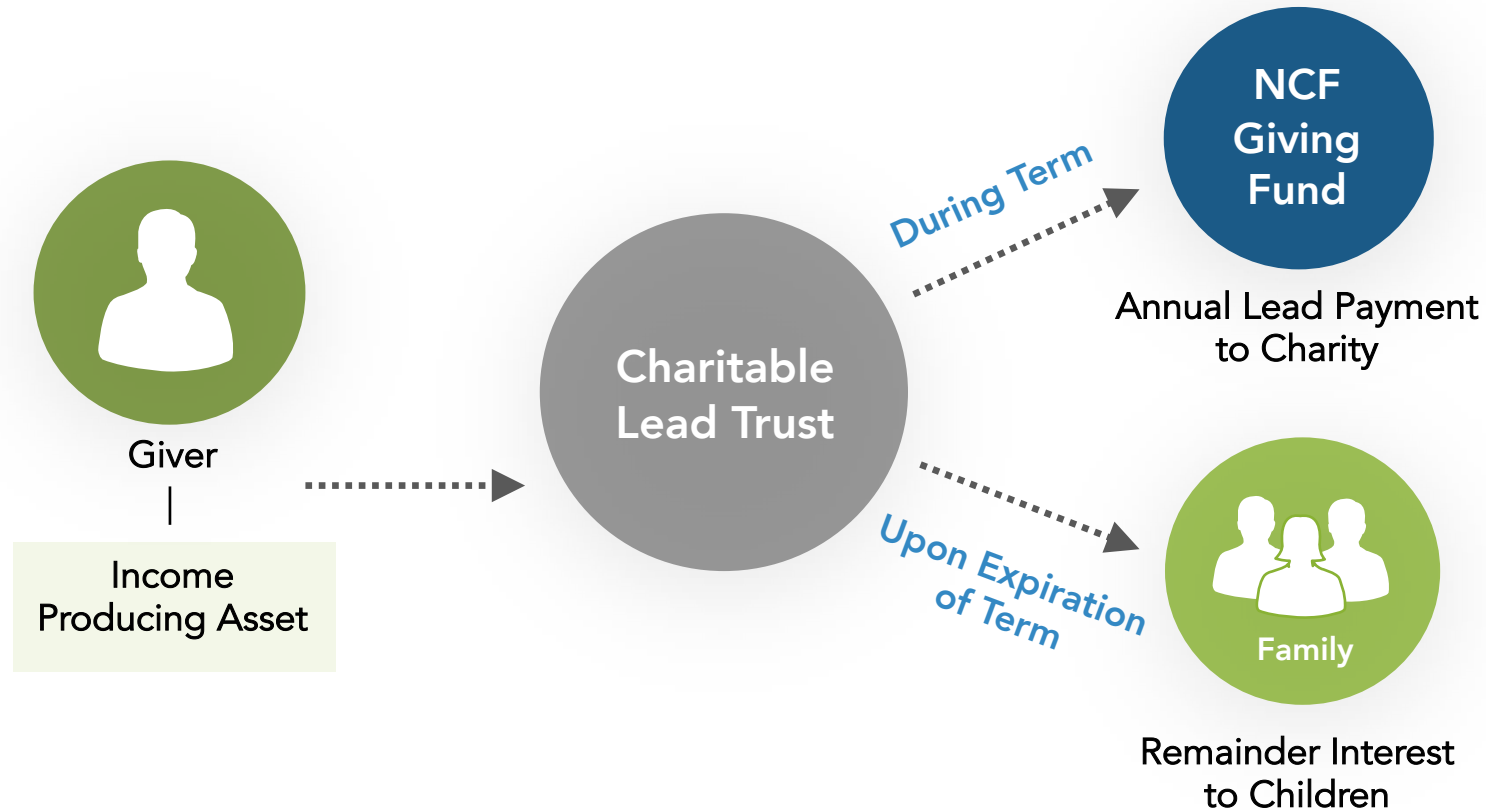


Assumptions:

1. Joint CRUT: Ages 76 & 74
2. Joint Life Expectancy: 15 Years
3. 7520 Rate: 2.4%
4. Total Return: 8%
 - Dividend Yield: 3.3%
 - Appreciation: 4.7%
5. Growth in Dividend: 2%
6. Tax Rate: 28.7%
 - Federal: 20%
 - State: 4.9%
 - Net Investment Income: 3.8%



Non-Grantor Charitable Lead Trust

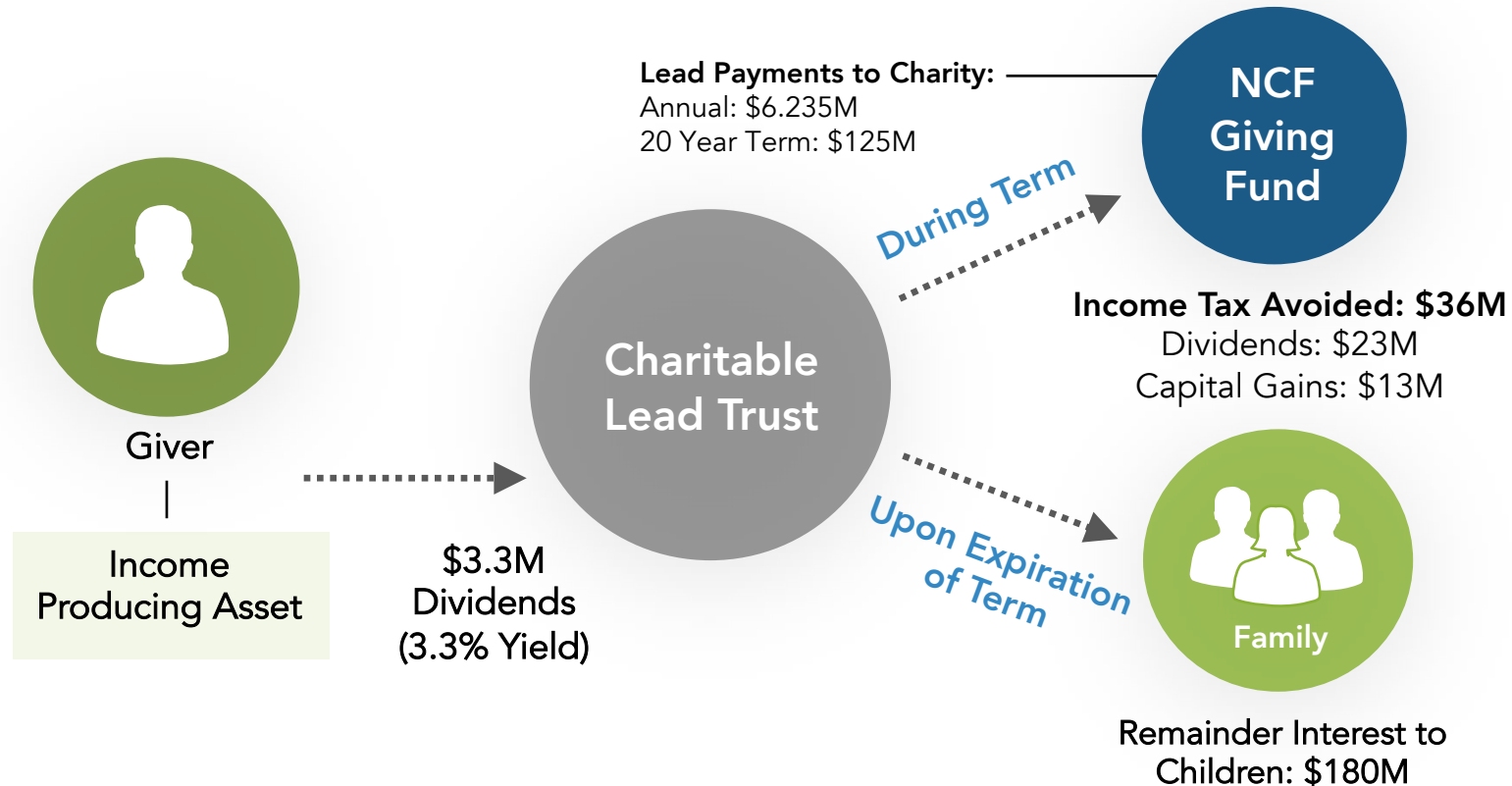


If charitable lead payment is equal to or greater than income, CLT avoids income tax, providing a 100% AGI charitable deduction.



Non-Grantor Charitable Lead Trust

Publicly-traded Stock with 3.3% Dividend

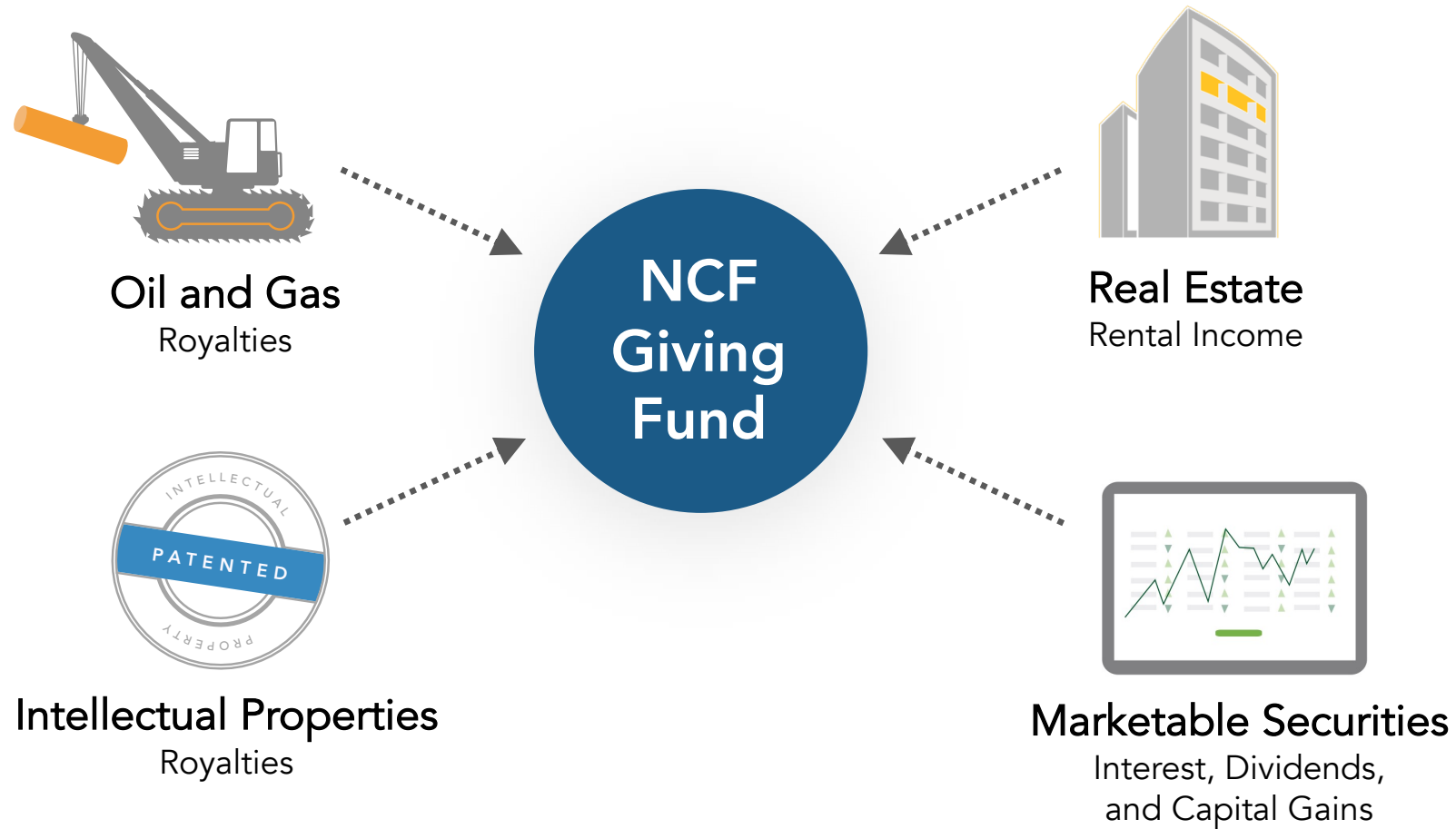


Assumptions:

1. Term: 20 years
2. 7520 Rate: 2.2%
3. Total Return: 8%
 - Dividend Yield: 3.3%
 - Appreciation: 4.7%
4. Growth in Dividend: 2%
5. Tax Rate: 28.7%
 - Federal: 20%
 - State: 4.9%
 - Net Investment Income: 3.8%



Non-UBTI Producing Assets



Non-UBTI Producing Assets

Royalty Income

- Large distributor of Fortune 100 company's products
- Warehouse facilities and office building owned by the owner and leased to the company
- Real estate encumbered, valued at \$18 million, and produces \$1.5 million in annual rental income
- Giver's tax rate is 48.65% on rental income
- Charitable giving equals or exceeds 50% of AGI
- Gift of real estate:
 - Avoid \$729,750 tax on annual rental income
 - Over 10 years, avoid over \$7 million in taxes

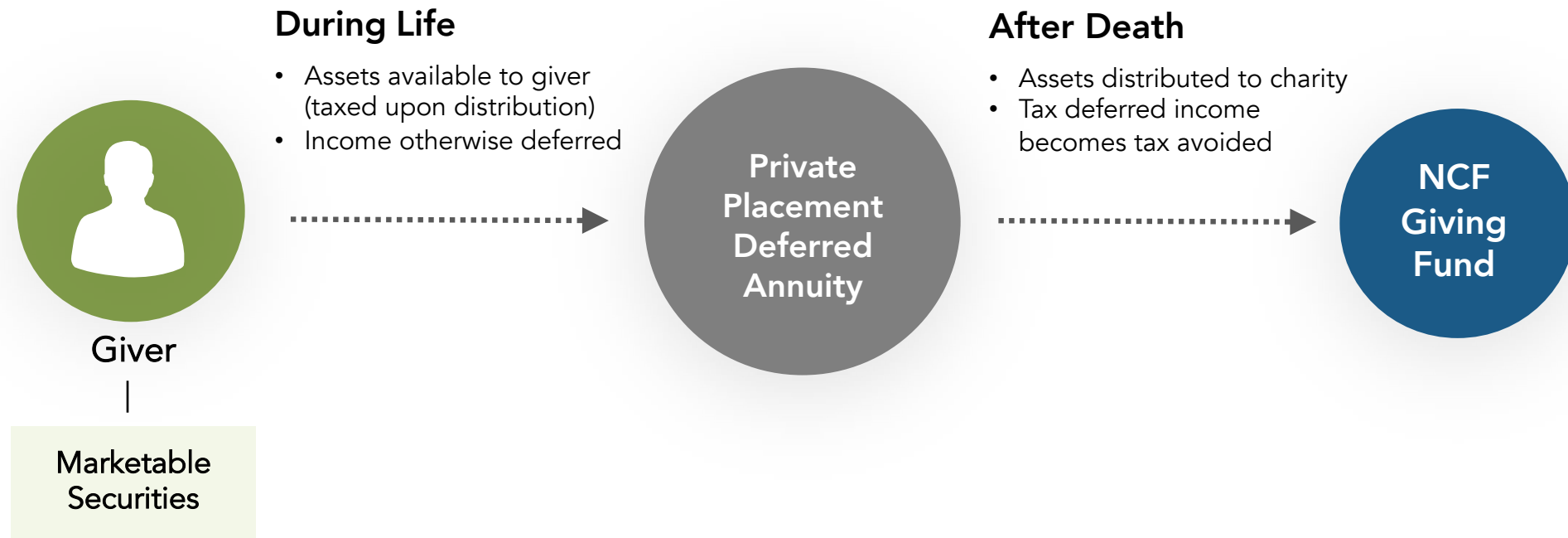


Non-UBTI Producing Assets

Royalty Income

- Commercial security related business
 - Numerous patents related to security products
 - Four related business entities
 - One LLC entity owns all of the intellectual property
- Annual adjusted gross income of \$6 million
 - \$1 million representing royalty income to the IP entity
- Reverse tither: give 90% of income each year, live on remaining 10%
- Charitable gift of 99% interest in IP entity to charity (donor advised fund)
 - Fairness opinion: reasonable royalty payments could be tripled to \$3 million
 - Giver's tax rate is 43.4% on royalty income
 - Avoid \$1.3 million on annual royalty income
 - Over 10 years – avoid over \$13 million in taxes

Private Placement Deferred Annuity

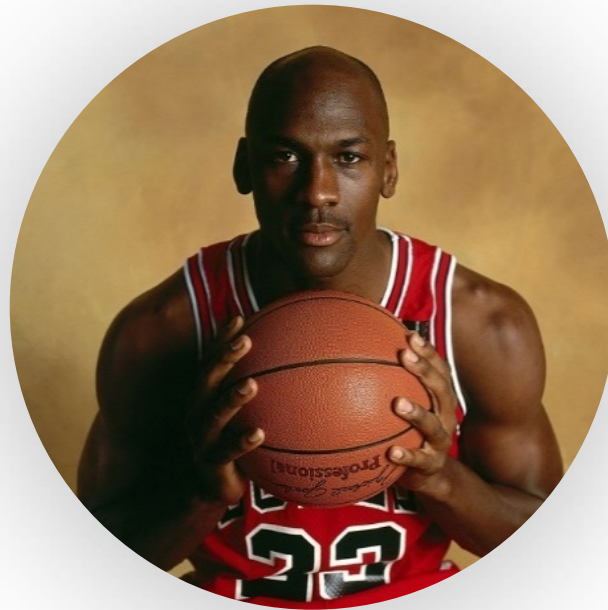


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I want to be like Mike!



Michael Jordan





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