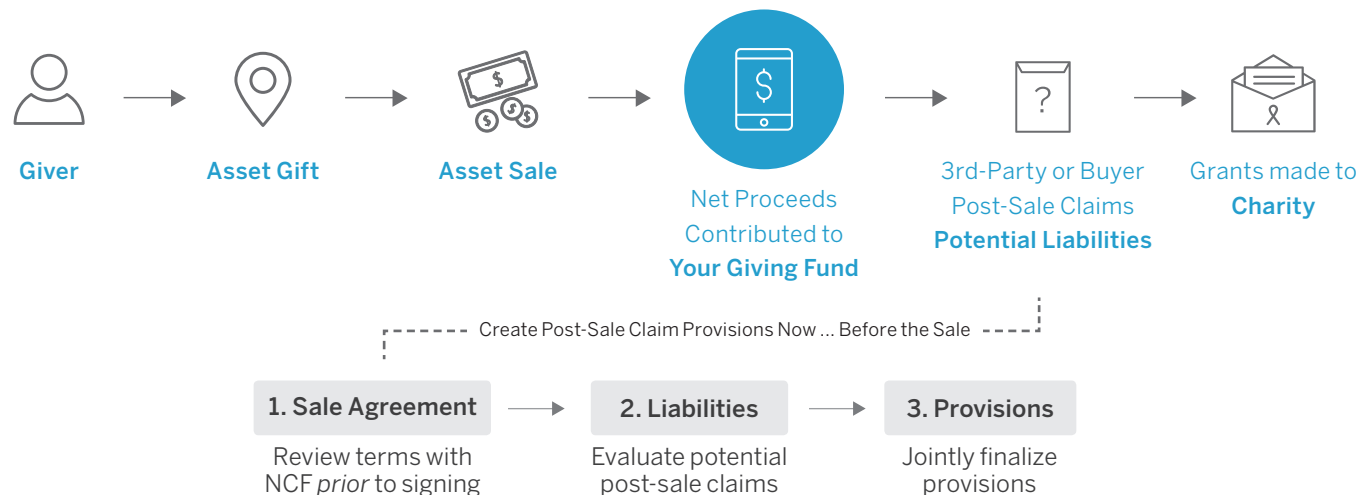


Complex Gifts: Preparing for Potential Post-Sale Claims

Give-and-sell introductory planning considerations

Giving complex assets, such as ownership in a private business or real estate, is a tax-efficient way to optimize giving and multiply your impact for your favorite charities. There are many tax and legal considerations in complex-asset giving and selling, including making provisions for potential liabilities that may occur after the sale (also called “clawback” liabilities). Since each complex gift and sale is unique, NCF’s Complex Gift team will work closely with you and your advisors to develop a plan, based on your specific gift and sale agreement terms, to mitigate or reserve for potential post-sale claims after the asset is gifted to NCF.



KEY STEPS TO TAKE BEFORE THE SALE

It’s never too early to begin planning. Ideally, involve NCF during the drafting stage of the sale agreement to understand and optimize options.

Step 1 – Well before signing, and ideally during the drafting stage, review proposed sale terms with NCF’s Complex Gift Team (including type of sale: stock/member interest, or asset).

Step 2 – Evaluate potential post-sale claims identified by NCF (from sale agreement or pre-sale operations).

Step 3 – With NCF, jointly finalize agreement provisions and strategies to mitigate or reserve for potential post-sale liabilities.

POTENTIAL PROVISIONS FOR POST-SALE CLAIMS

Provisions for post-sale claims could include one or more of the following strategies to reduce, eliminate, or cover liabilities:

- 1. Write out** NCF; limit NCF representations, warranties, and indemnities in sale agreement.
- 2. Sell back** stock to owner (pre- or post-sale, depending on type of sale).
- 3. Hold back** a portion of proceeds from granting temporarily (DAF).

Note: This is for illustration purposes only and is not intended to provide legal or other professional advice. Each giver should consult professional counsel of the giver’s choice.

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