

Elements

and

Timing

of a



Charitable

Gift



Completed Gift



Donor

Delivers money or
property



To a charity or agent
of the charity

Not Completed Until Actually Given

Donor



Promises to deliver
money or property in
the future



To a charity or agent
of the charity



Donor

Not Completed
Until Delivered to
Charity/Charity's Agent

Gives money or property
to donor's agent with
instructions to deliver



To a charity or agent
of the charity

Not Completed Until Retained Interests Are Transferred



Donor

Delivers money or
property with retained
interests



To a charity or agent
of the charity

Not a Charitable Gift

Donor



Delivers money or property

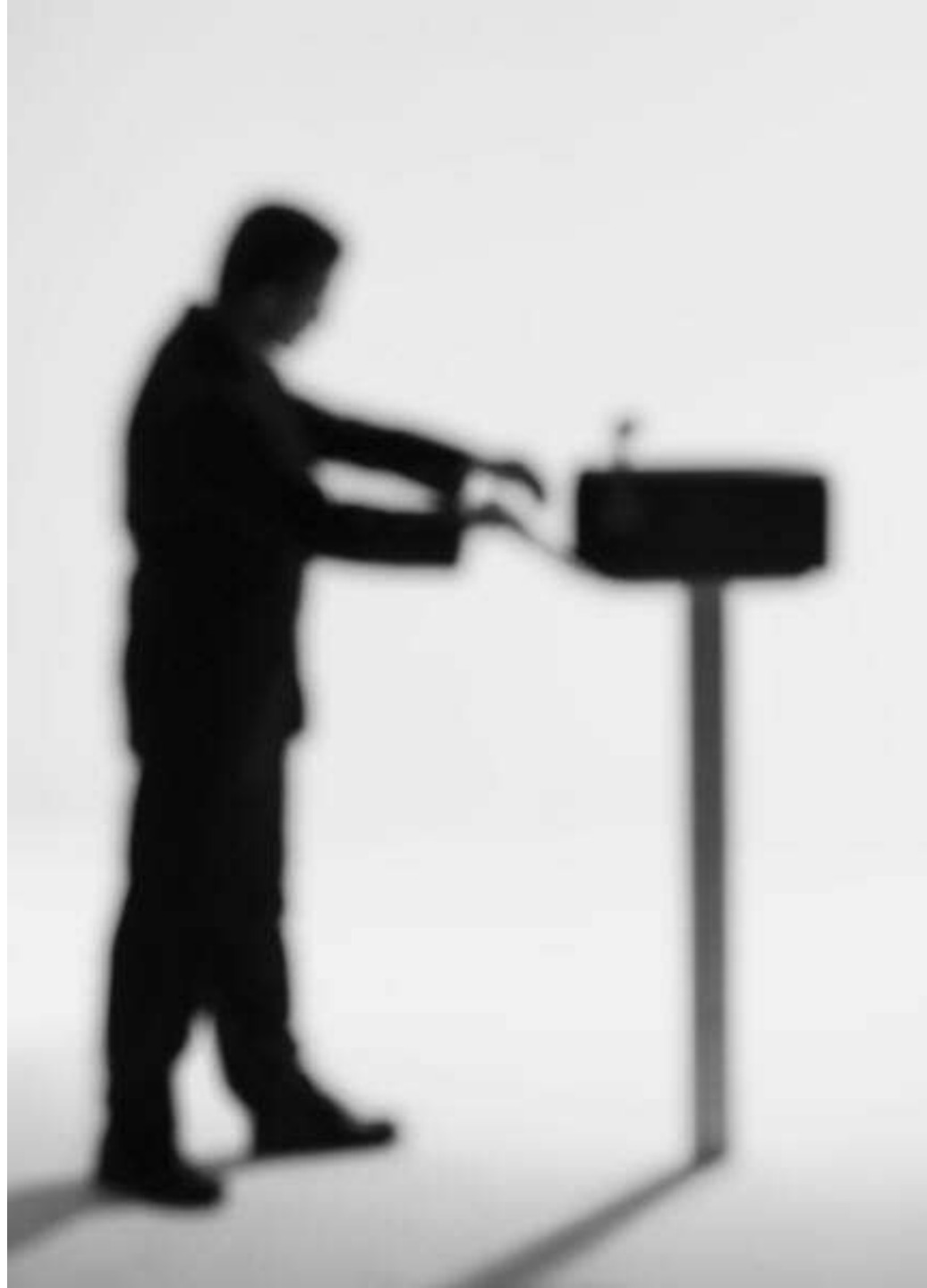


To a charity for a specific person

When is it a completed gift?

Day 1: I put a cash gift addressed to a charity in the U.S. mail

Day 2: It arrives safely at the charity



Completed Gift



Donor

Delivers money or property

Post office is treated as the charity's agent

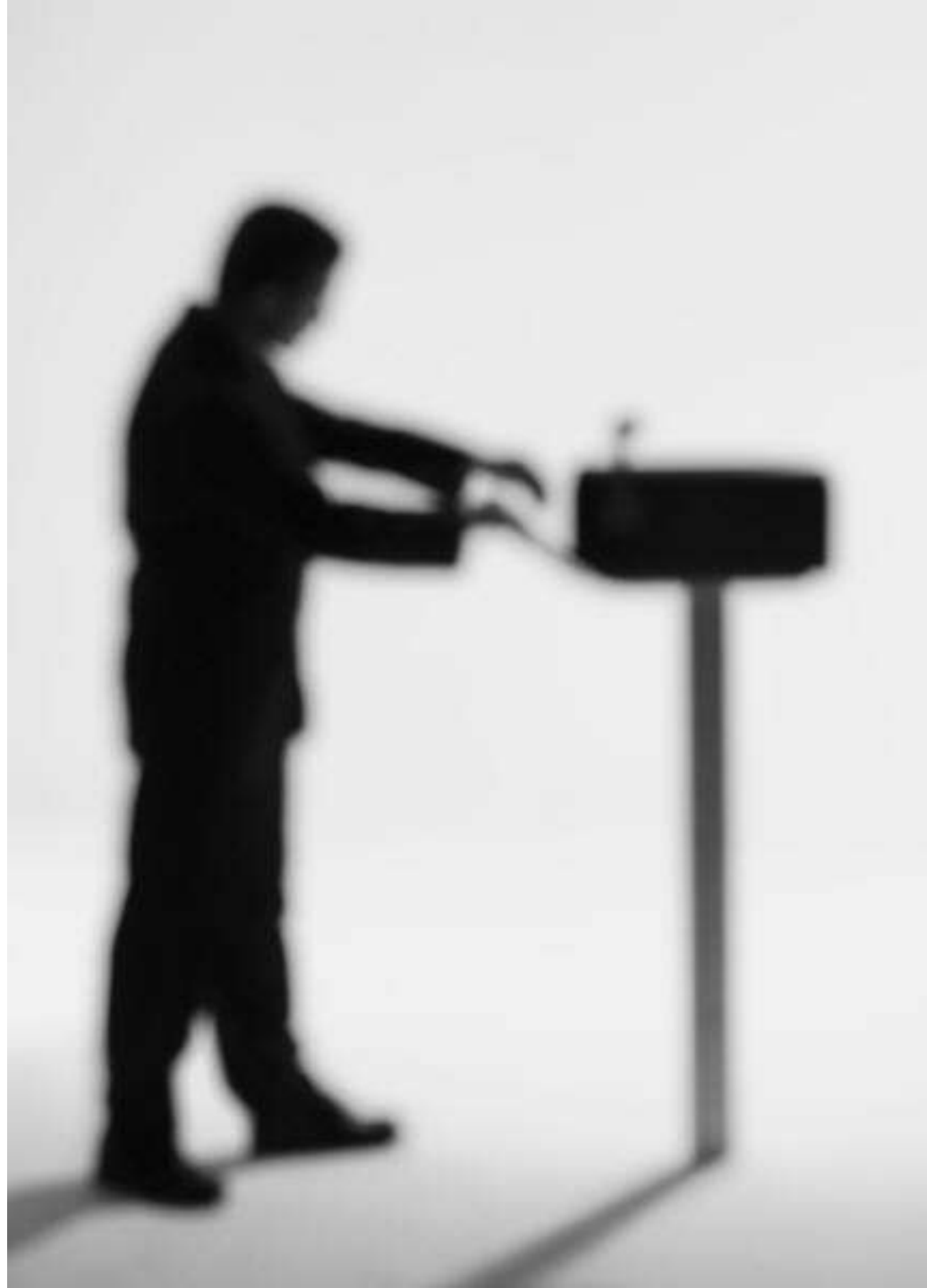


To a charity or agent of the charity

When is it a completed gift?

Day 1: I put a cash gift addressed to a charity in the U.S. mail

Day 2: It arrives safely at the charity



When is the gift completed?

Day 1: I write a check to a charity

Day 2: I put the check in the post office mailbox

Day 3: The charity receives the check

Day 4: The charity deposits the check

Day 5: The charity's bank receives the funds and the charity is credited with the funds



Completed Gift



Donor

A valid check is a valuable negotiable instrument

Delivers money or property

Post office is treated as the charity's agent



To a charity or agent of the charity

When is the gift completed?

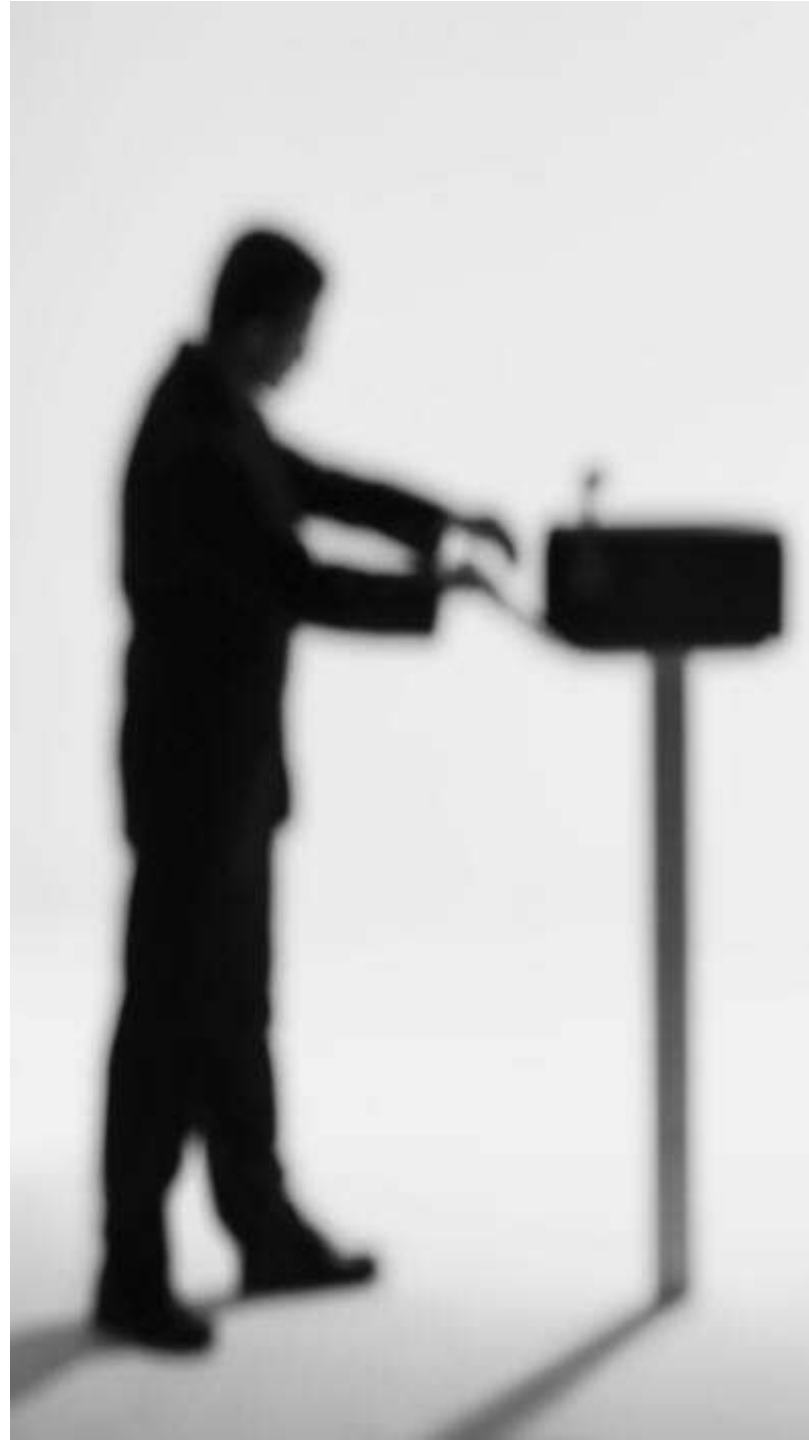
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Day 2: I put the check in the post office mailbox

Day 3: The charity receives the check

Day 4: The charity deposits the check

Day 5: The charity's bank receives the funds and the charity is credited with the funds





Who cares which day
the gift is considered
completed?

The deduction comes one year sooner

Dec 30: I write a check to a charity

Dec 31: I put the check in the post office mailbox

Jan 3: The charity receives the check

Jan 4: The charity deposits the check

Jan 5: The charity's bank receives the funds and the charity is credited with the funds



Or on a different kind of tax return

Dec 23: I write a check to a charity

Dec 24 I put the check in the post office mailbox

Dec 25: I die

Jan 2: The charity receives the check

Jan 3: The charity deposits the check

Jan 3: The charity's bank receives the funds and the charity is credited with the funds





What if the check bounces?

Dec 30: I write a check to a charity

Dec 31: I put the check in the post office mailbox

Jan 3: The charity receives the check

Jan 4: The charity deposits the check

Jan 5: The charity's bank receives notice of insufficient funds

No Gift



Donor

An invalid check was never money or valuable property



Delivers money or property



To a charity or agent of the charity



What if the check bounces?

Dec 30: I write a check to a charity

Dec 31: I put the check in the post office mailbox

Jan 3: The charity receives the check

Jan 4: The charity deposits the check

Jan 5: The charity's bank receives notice of insufficient funds

NO GIFT

What about a post-dated check?

Dec 25: I write a check to a charity dated Jan 1

Dec 26: I put the check in the post office mailbox

Dec 31: The charity receives the check

Jan 1: Nothing happens

Jan 2: The charity deposits the check

Jan 3: The charity's bank receives the funds and the charity is credited with the funds



Not Completed Until Actually Given



Donor

A post-dated check is
a promise to pay
money in the future

Promises to deliver
money or property in
the future



To a charity or agent
of the charity

What about a post-dated check?

Dec 25: I write a check to a charity dated **Jan 1**

Dec 26: I put the check in the post office mailbox

Dec 31: The charity receives the check

Jan 1: Nothing happens

Jan 2: The charity deposits the check

Jan 3: The charity's bank receives the funds and the charity is credited with the funds



What about a credit card gift?

Dec 31: I make a donation by credit card and the charity is credited with the funds

Jan 20: I receive a credit card statement noting the donation

Jan 30: I pay my credit card bill in full



Completed Gift



Donor

Delivers money or property

Regardless of how I got it in the first place (e.g., borrowed)

To a charity or agent of the charity

What about a credit card gift?

Dec 31: I make a donation by credit card and the charity is credited with the funds

Jan 20: I receive a credit card statement noting the donation

Jan 30: I pay my credit card bill in full



What about credit card rebates?

- Day 1: I earn \$20 in rebates from my credit card company
- Day 2: I click online to donate those rebates to a charity
- Day 9: The credit card company mails a check to the charity
- Day 10: The charity receives a check from the credit card company
- Day 11: The charity deposits the check
- Day 12: The charity's bank receives the funds and the charity is credited with the funds





Donor

Not Completed Until Delivered to Charity/Charity's Agent

Gives money or property to donor's agent with instructions to deliver

By clicking, I instruct my agent (credit card company) to give



To a charity or agent of the charity

What about credit card rebates?

Day 1: I earn \$20 in rebates from my credit card company

Day 2: I click online to donate those rebates to a charity

Day 9: The credit card company mails a check to the charity

Day 10: The charity receives a check from the credit card company

Day 11: The charity deposits the check

Day 12: The charity's bank receives the funds and the charity is credited with the funds



What about a legally enforceable contract?

- Dec. 1: I sign a legally enforceable contract (a pledge) to give \$100,000 to the charity on August 1
- Dec. 5: The charity books this as an asset in their general ledger
- Dec. 10: The charity sells the rights to this pledge to an accounts receivable purchasing agency for \$90,000
- Dec. 11: The charity spends the \$90,000
- Aug. 1: I pay the \$100,000 pledge to the charity



Not Completed Until Actually Given



A legally enforceable contract is still a promise to pay

Promises to deliver money or property in the future



To a charity or agent of the charity

What about a legally enforceable contract?

Dec. 1: I sign a legally enforceable contract (a pledge) to give \$100,000 to the charity on August 1.

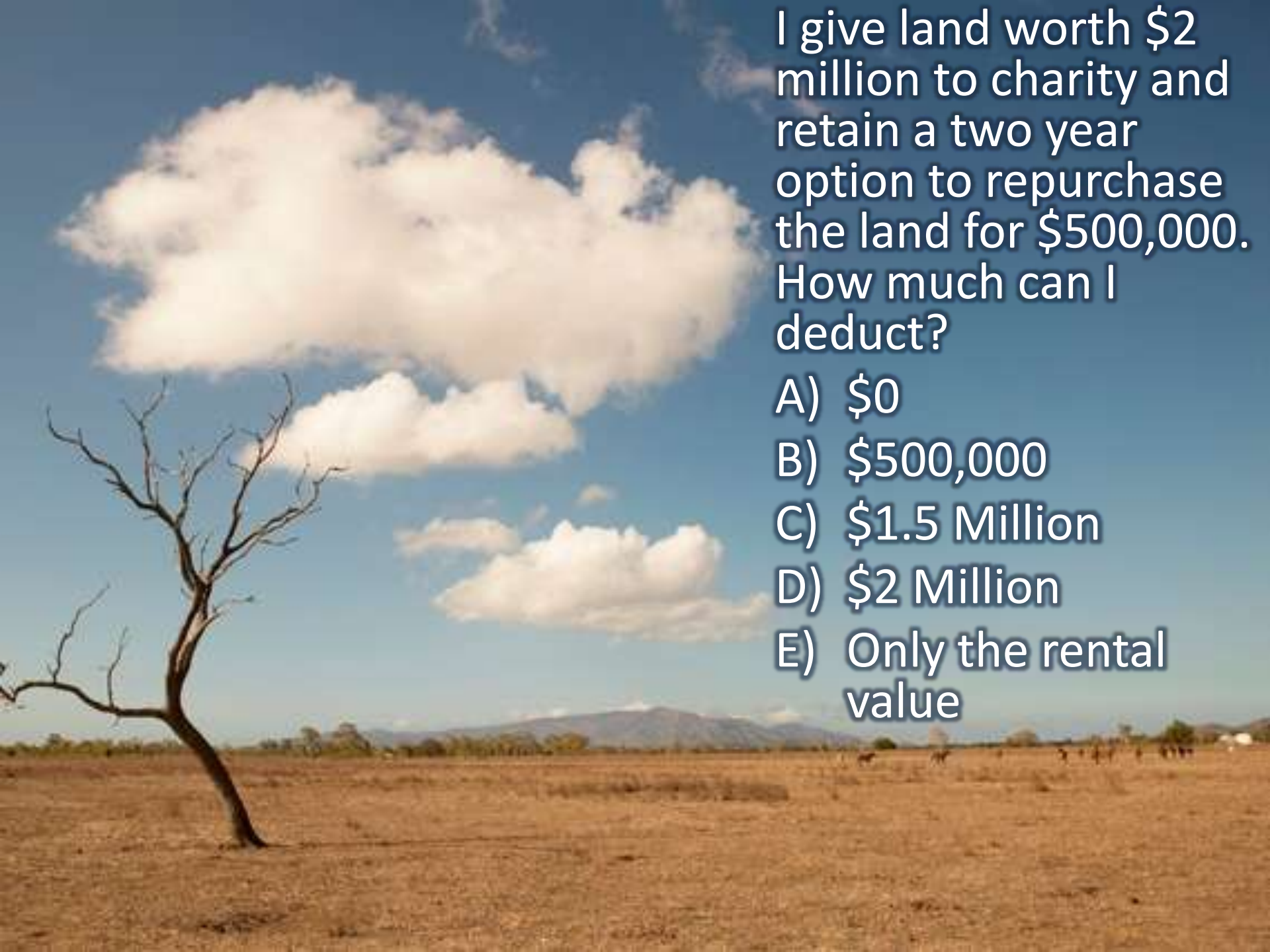
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Dec. 10: The charity sells the rights to this pledge to an accounts receivable purchasing agency for \$90,000

Dec. 11: The charity spends the \$90,000

Aug. 1 I pay the \$100,000 pledge to the charity





I give land worth \$2 million to charity and retain a two year option to repurchase the land for \$500,000. How much can I deduct?

- A) \$0
- B) \$500,000
- C) \$1.5 Million
- D) \$2 Million
- E) Only the rental value

Not Completed Until Retained Interests Are Transferred

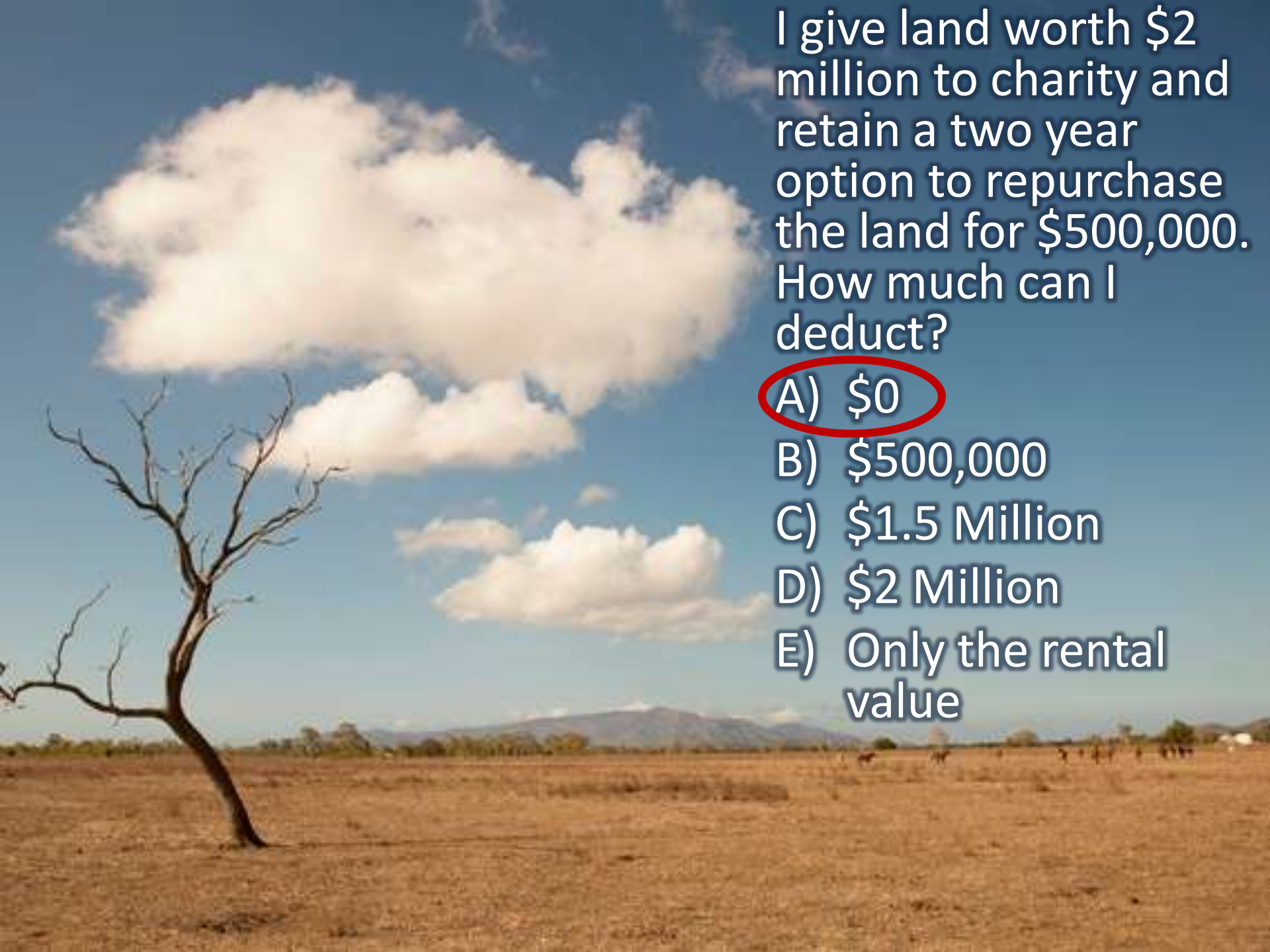
Donor



Delivers money or
property with retained
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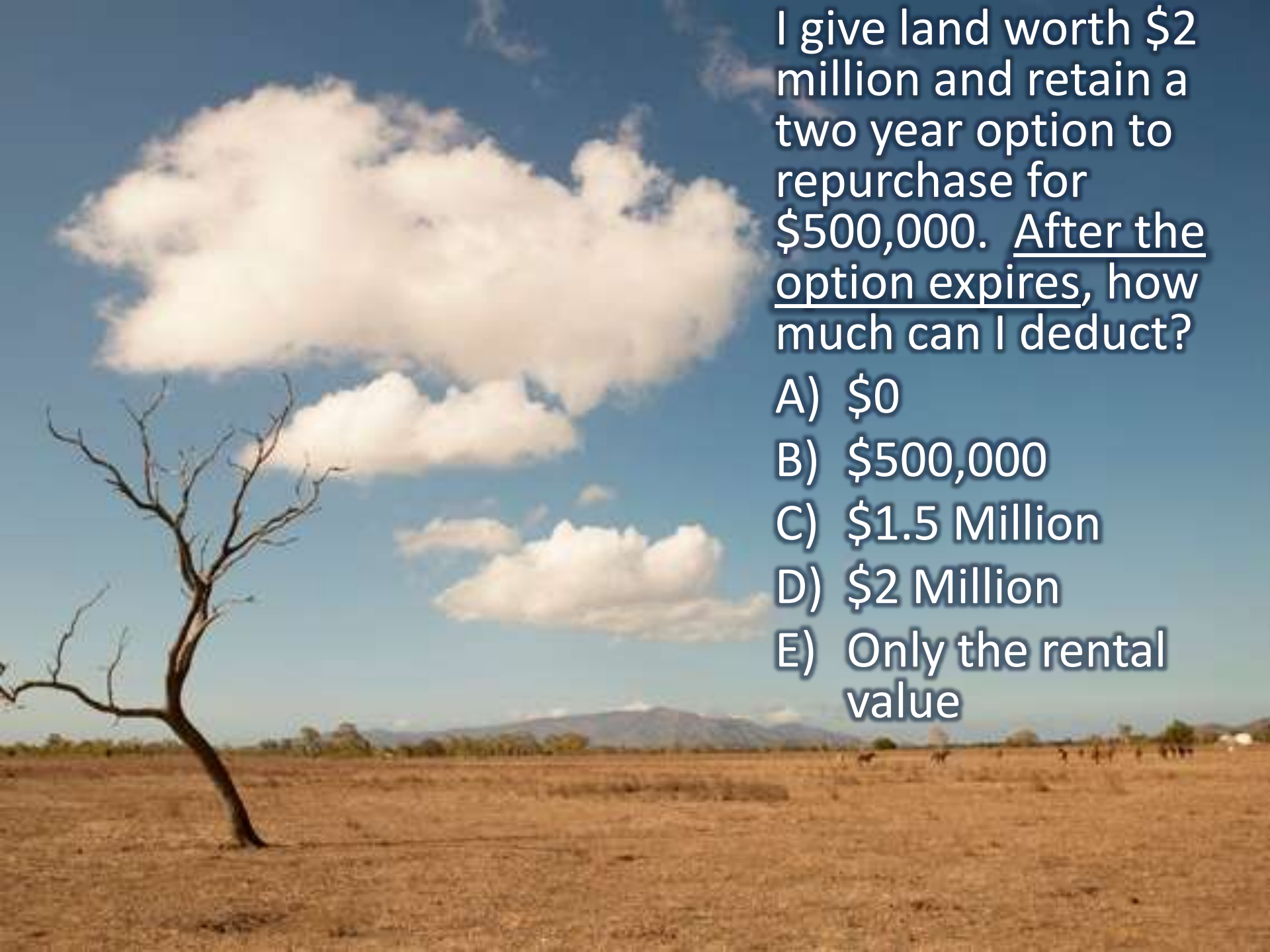


To a charity or agent
of the charity



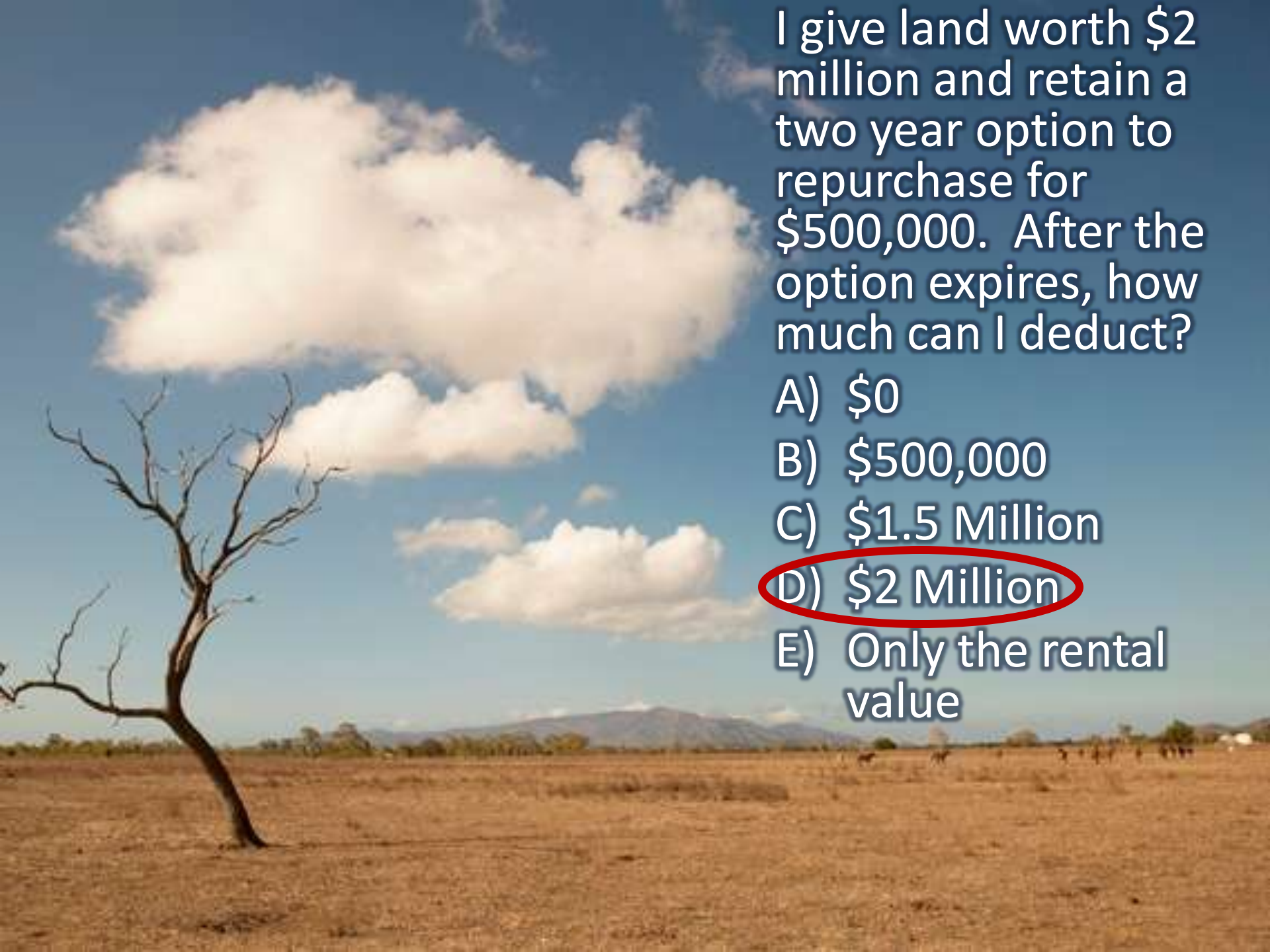
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- A) \$0
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I give land worth \$2 million and retain a two year option to repurchase for \$500,000. After the option expires, how much can I deduct?

- A) \$0
- B) \$500,000
- C) \$1.5 Million
- D) \$2 Million
- E) Only the rental value



I give land worth \$2 million and retain a two year option to repurchase for \$500,000. After the option expires, how much can I deduct?

A) \$0

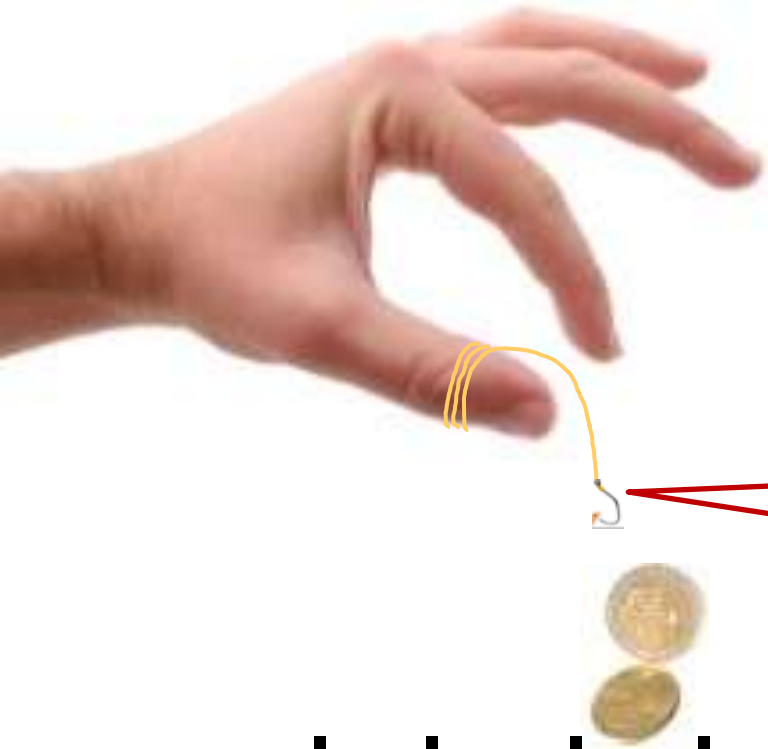
B) \$500,000

C) \$1.5 Million


D) \$2 Million

E) Only the rental value

Retained interests are allowed if...



Chance of interfering
with charity ownership
is negligible, or



Restricting use for a
specific charitable
purpose (or return funds)

Donor gives money
to a university and
directs that the
funds must be spent
on athletic
scholarships or
returned.

Is it deductible?



Retained interests are allowed if...



Restricting use for a
specific charitable
purpose (or return funds)

Donor gives money to a university and directs that the funds must be spent on a scholarship for Sarah A. Student

Me ← College ← You



Not a Charitable Gift

Donor



Delivers money or property



To a charity for a specific person

Donor gives money to Texas Tech University and directs that the funds must be spent on a scholarship for students from Loving County, Texas or returned

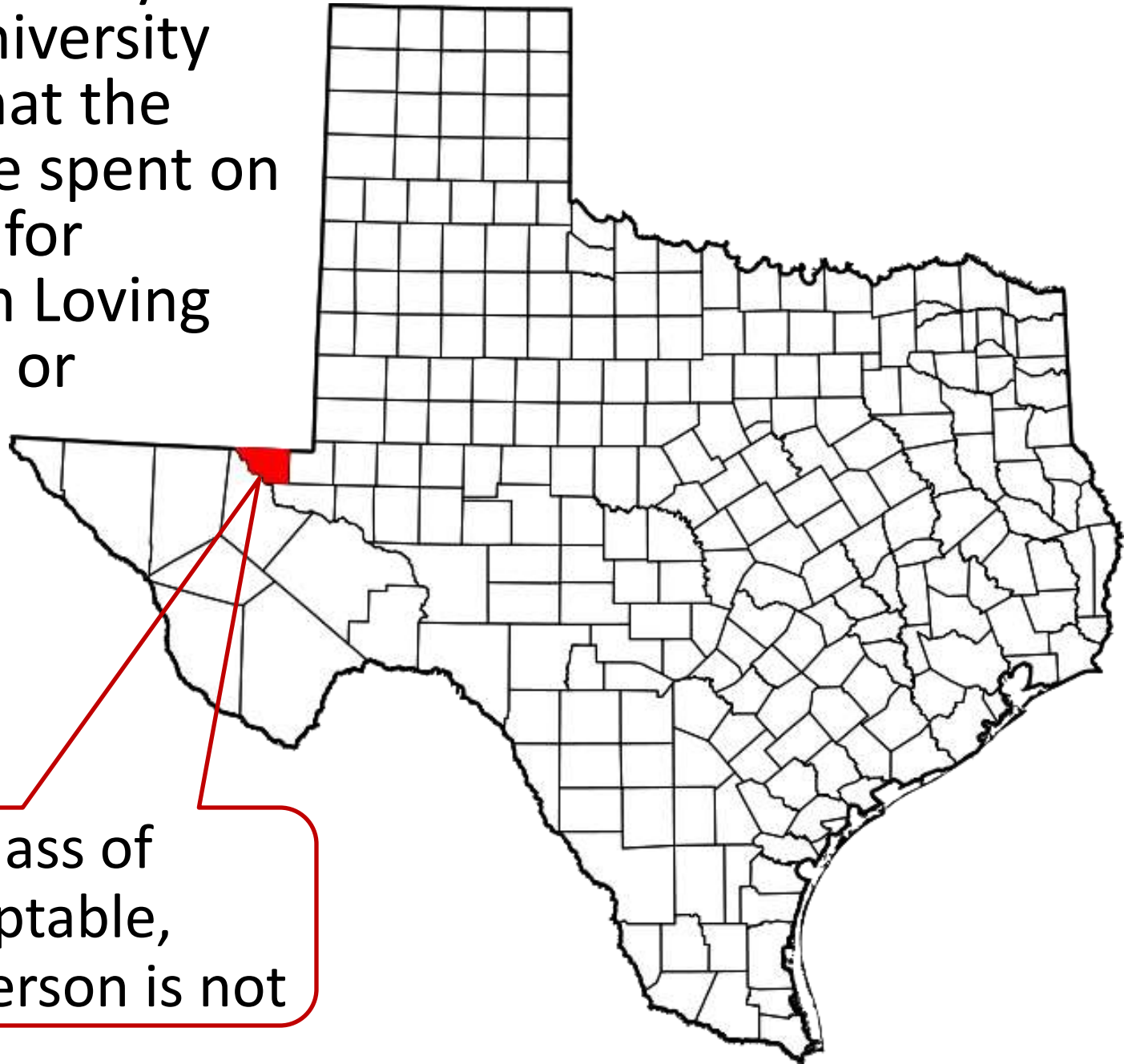


Retained interests are allowed if...

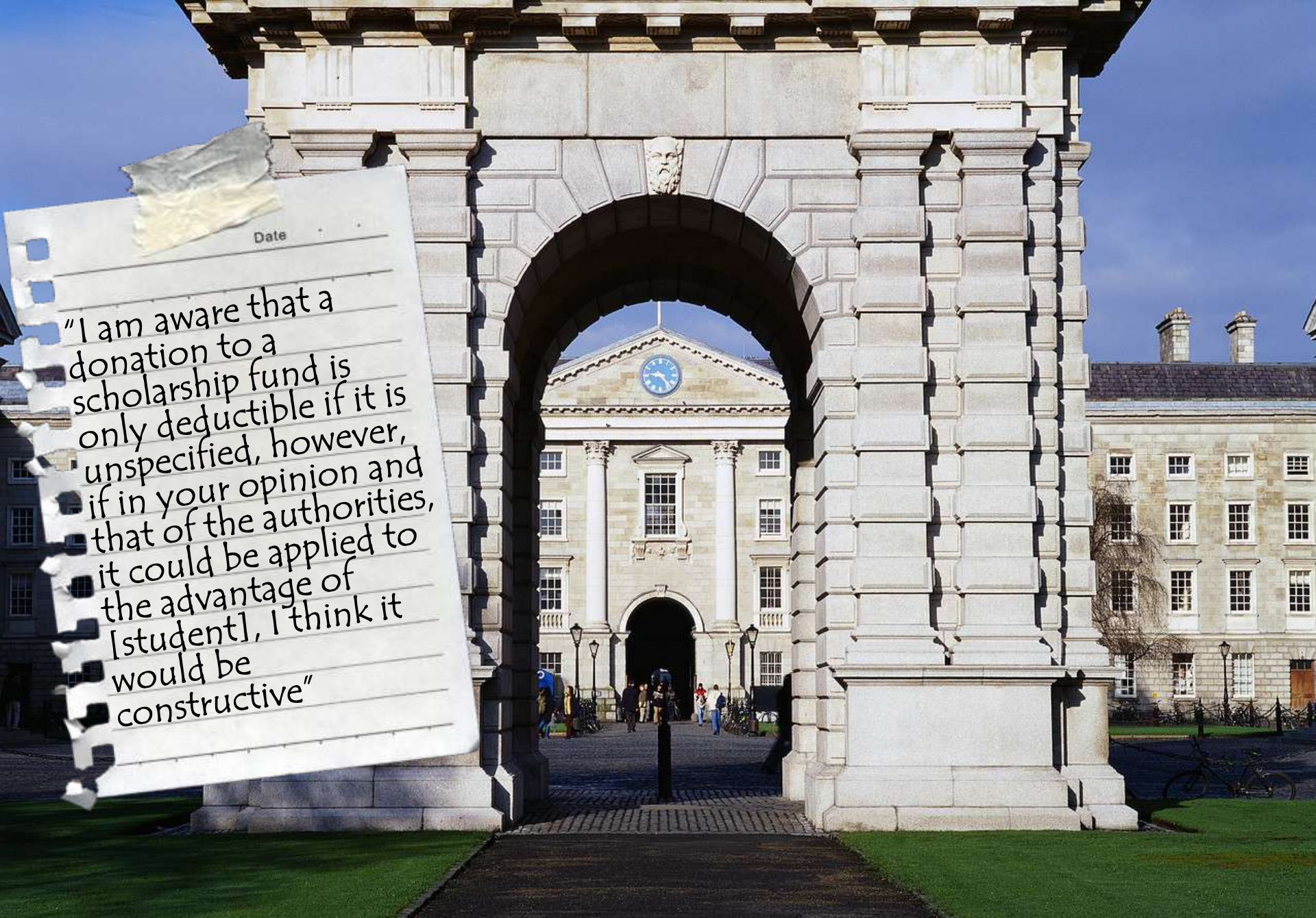


Restricting use for a
specific charitable
purpose (or return funds)

Donor gives money to Texas Tech University and directs that the funds must be spent on a scholarship for students from Loving County, Texas or returned



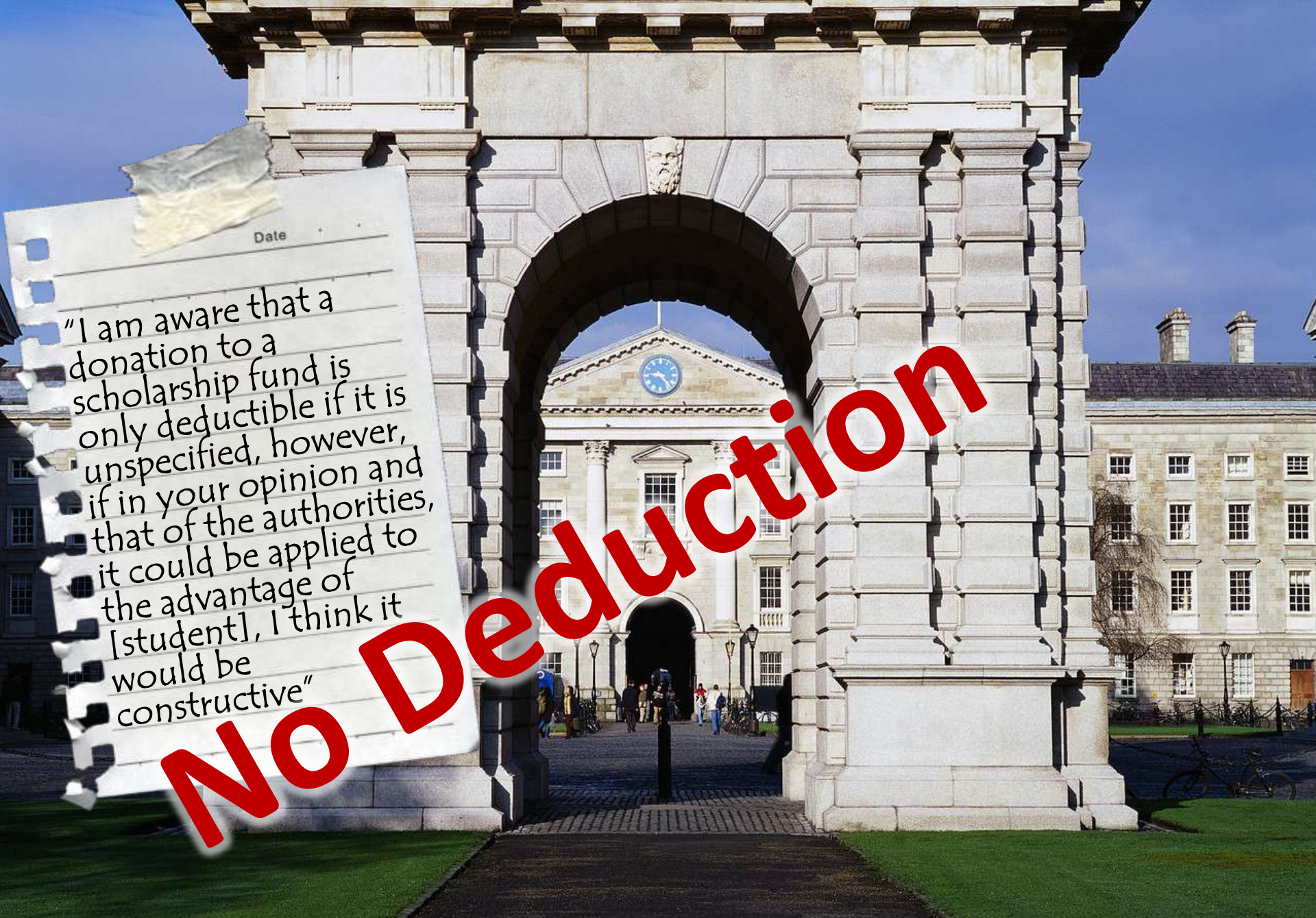
Limiting to a class of people is acceptable, limiting to a person is not



Date

"I am aware that a donation to a scholarship fund is only deductible if it is unspecified, however, if in your opinion and that of the authorities, it could be applied to the advantage of [student], I think it would be constructive"

The college applies the money to the student's account. Charitable gift?



Date

"I am aware that a donation to a scholarship fund is only deductible if it is unspecified, however, if in your opinion and that of the authorities, it could be applied to the advantage of [student], I think it would be constructive"

No Deduction

The college applies the money to the student's account. Charitable gift?



A special exception for timing of gifts from
C-Corporations

A C-Corporation using accrual accounting may deduct contributions made within 2 ½ months after the tax year if board authorized giving during the tax year



Why?

Because corporations wanting to make the maximum gift (10% of net income) often couldn't figure out their net income by the end of the year.



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Graduate Studies in Charitable Financial Planning

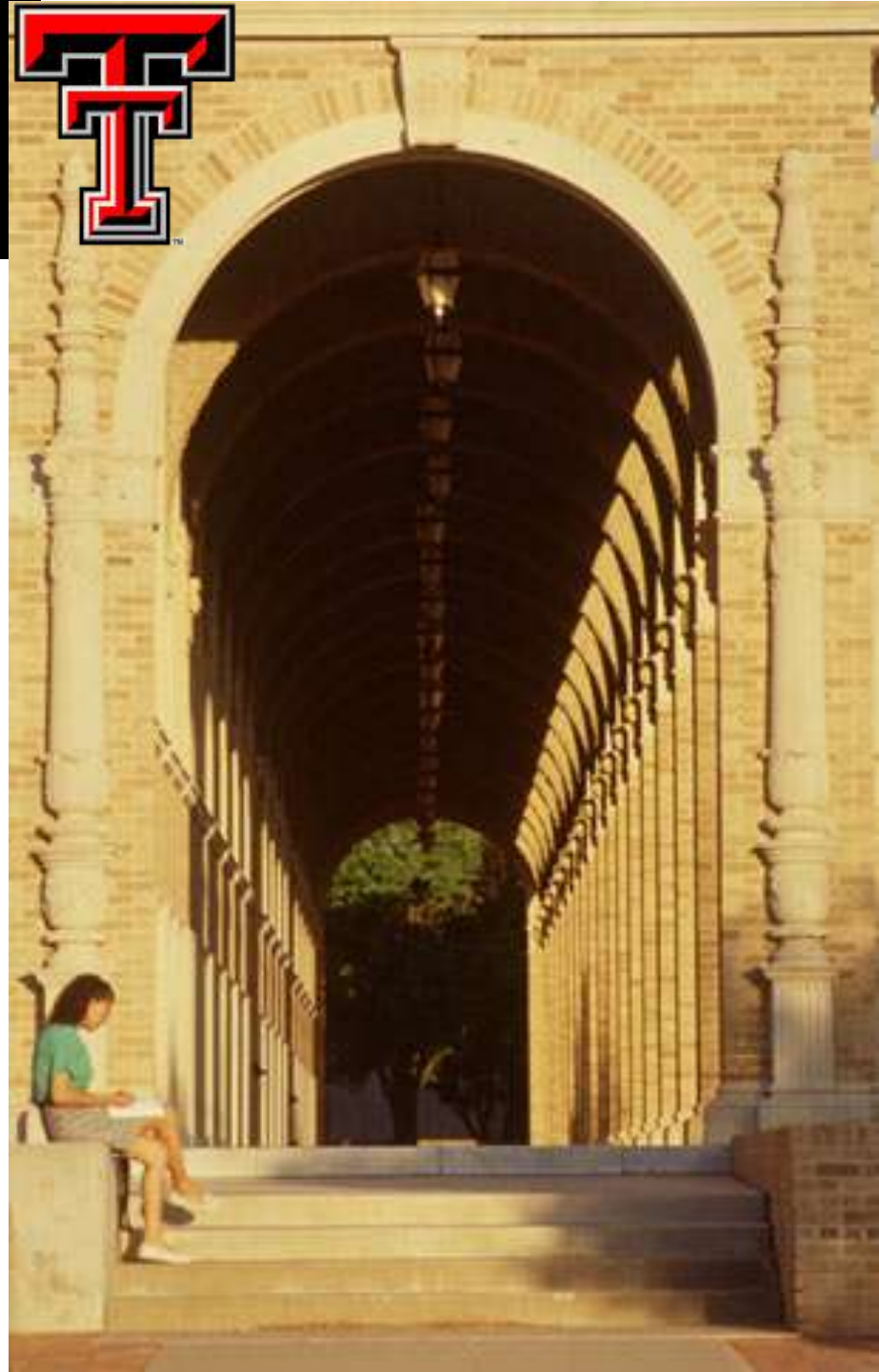
at Texas Tech University



This slide set is from the introductory curriculum for the Graduate Certificate in Charitable Financial Planning at Texas Tech University, home to the nation's largest graduate program in personal financial planning.

To find out more about the online Graduate Certificate in Charitable Financial Planning go to www.EncourageGenerosity.com

To find out more about the M.S. or Ph.D. in personal financial planning at Texas Tech University, go to www.depts.ttu.edu/pfp/



About the Author

Russell James, J.D., Ph.D., CFP® is an Associate Professor and the Director of Graduate Studies in Charitable Planning in the Division of Personal Financial Planning at Texas Tech University. He graduated, *cum laude*, from the University of Missouri School of Law where he was a member of the Missouri Law Review. While in law school he received the United Missouri Bank Award for Most Outstanding Work in Gift and Estate Taxation and Planning and the American Jurisprudence Award for Most Outstanding Work in Federal Income Taxation. After graduation, he worked as the Director of Planned Giving for Central Christian College, Moberly, Missouri for six years and also built a successful law practice limited to estate and gift planning. He later served as president of the college for more than five years, where he had direct and

supervisory responsibility for all fundraising. Dr. James received his Ph.D. in Consumer & Family Economics from the University of Missouri where his dissertation was on the topic of charitable giving. Dr. James has over 100 publications in print or in press in academic journals, conference proceedings, professional periodicals, and books. He writes regularly for *Advancing Philanthropy*, the magazine of the Association of Fundraising Professionals. He has presented his research in the U.S. and across the world including as an invited speaker in Ireland, Scotland, England, The Netherlands, Spain, Germany, and South Korea. [\(click here for complete CV\)](#)



Me (about 5 years ago)



Lecturing in Germany. 75 extra students showed up. I thought it was for me until I found out there was free beer afterwards.



At Giving Korea 2010. I didn't notice until later the projector was shining on my head (inter-cultural height problems).