Charitable Gift Planning: 2025 and Beyond

Presented by

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Roadmap:

1. Giving Environment Heading into 2025

2. Interest Rate Sensitive Gifting Strategies (CRATs and CLATs)

3. Pre-Sale Charitable Planning for Private Companies

Headwinds Facing Charitable Organizations

- Financial Challenges
  - Inflation = rising costs
- Donor engagement
  - Economic changes shift donor attention span and interest
- Tax Policy
  - Donors are greatly influenced by the tax benefits (or not)

Trump Administration 1.0: Tax Cuts and Jobs Act of 2017

- Tax Cuts and Jobs Act ("TCJA") – passed in 2017
  - Decreased individual tax rates
  - Increased the standard deduction
  - Doubled the available estate and gift tax exclusion amounts
- All of these negatively impacted the tax incentives of charitable giving

Trump Administration 1.0: Tax Cuts and Jobs Act of 2017

- Decreased Individual Tax Rates and Standard Deduction Increase
  - When tax rates are lowered, so to is the value of a tax deduction

  - Higher standard deduction significantly decreased the number of people itemizing deductions, thus eliminating the ability to deduct charitable gifts.
    - 2025 Standard Deduction for Single/Married: $15,000/$30,000

Trump Administration 1.0: Tax Cuts and Jobs Act of 2017

- Estate and gift tax exclusion amounts doubled
  - Current estate and gift tax exclusion is now $13,990,000 per person.
  - Charitable giving strategies were routinely implemented to reduce the impact of estate taxes.
  - Fewer taxpayers owe an estate tax and thus less dollars flow to charitable organizations

Trump Administration 1.0: Pandemic Economy

- The 2020 Pandemic ushered in a period of extreme economic intervention by the government

  - Interest rates were frozen and hovered around 1%.

  - The U.S. government interjected trillions through economic stimulus and quantitative easing.

  - Stock markets hit all time highs.

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Trump Administration 1.0: Pandemic Economy

- Typically, increased economic performance results in greater charitable giving, however…
  - Tax policy did not reward additional giving
  - Interest rates negatively impacted some common charitable planning strategies (Charitable remainder trusts, to be discussed)
  - Unknowns of a post-pandemic world causes hesitation in giving

Trump Administration 2.0

- The TCJA is scheduled to sunset December 31, 2025
- Sunsetting provisions:
  - Individual top tax rates go up (back to 39%)
  - Standard deduction gets cut in half
  - Estate and gift tax exclusions get cut in half (about $7,000,000/person)

Do we see sunnier skies for the future charitable giving?

Trump Administration 2.0

- Top Priorities in 2025:
  - Immigration
  - Implementing Tax policies
    - Exempting tip income from taxation
    - Extending the TCJA (possibly removing the cap on state local tax deductions)
    - How long of an extension?

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Trump Administration 2.0

- Top Priorities in 2025: One bill or two bills?
  - Immigration + Tax (One Bill): Will take longer to negotiate, but those who want immigration funding will need to come to the table.
  - Immigration, then Tax (Two Bills): Immigration bill would come fast, second bill related to tax policy will become a battle with fiscal conservative and deficit hawks, with unknown outcomes.

Trump Administration 2.0

- Not all is lost!
  - Late in 2024, bi-partisan bill introduced by Sen. Lankford (OK) to allow for a charitable deduction for those taxpayers who do not itemize deductions, equal to 1/3 of the standard deduction applicable to the taxpayer. 23 cosponsors (both Democrat and Republicans).
  - IRA charitable rollover still applies:
    - Allows people aged 70 ½ to make direct transfers from their IRAs of up to $100,000 per year to qualified charities, without having to count these transfers as income for federal income tax purposes. This applies even if you are taking the standard deduction

Interest Rate Sensitive Charitable Giving

Interest Rate Environment Impacts Gifting Strategy

- Charitable Remainder Trusts (“CRT”)
- Charitable Lead Trusts (“CLT”)
- Both rely on the **IRS Section 7520 Interest Rate**: Used to discount the value of annuities, life estates, and remainders to present value, i.e., determine the value of a charitable deduction for a CRT or CLT
- Published monthly

Interest Rate Environment Impacts Gifting Strategy

- **Trump Administration 1.0**: Interest rates at historical lows.
  - 2%-3.5%, dropping down to 0.4% during pandemic

- **Trump Administration 2.0**: Interest rates have climbed 5x since 2020
  - 4%-5.5%

- What does it mean?

Historical Section 7520 Interest Rates

	January	February	March	April	May	June	July	August	September	October	November	December
2019	3.4%	3.2%	3.2%	3.0%	2.8%	2.8%	2.6%	2.2%	2.2%	1.8%	2.0%	2.0%
2020	2.0%	2.2%	1.8%	1.2%	0.8%	0.6%	0.6%	0.4%	0.4%	0.4%	0.4%	0.6%
2021	0.6%	0.6%	0.8%	1.0%	1.2%	1.2%	1.2%	1.2%	1.0%	1.0%	1.4%	1.6%
2022	1.6%	1.6%	2.0%	2.2%	3.0%	3.6%	3.6%	3.8%	3.6%	4.0%	4.8%	5.2%
2023	4.6%	4.6%	4.4%	5.0%	4.4%	4.2%	4.6%	5.0%	5.0%	5.4%	5.6%	5.8%
2024	5.2%	4.8%	5.0%	5.2%	5.4%	5.6%	5.4%	5.2%	4.8%	4.4%	4.4%	5.0%
2025	5.2%											

Charitable Remainder Annuity Trust

Section 7520 Rate	Charitable Gift for $1,000,000 CRAT Paying 5% Annuity For Life of 60 Year Old with Annual Payments
.6%	$5,350
4%	$296,725
5.2% (Jan. 2025)	$378,580

The charity's interest at inception also must be worth at least 10% of the value transferred to the trust. Must be less than 5% probability that trust will be exhausted.

Charitable Lead Annuity Trust

Section 7520 Rate	Charitable Gift for $1,000,000 CLAT Paying 5% Annuity For 20 Years
.6%	$939,680
4%	$679,515
5.2% (Jan. 2025)	$612,860

CHARITABLE REMAINDER ANNUITY TRUST ("CRAT")

GOAL: Creating tax-favorable charitable giving opportunities while increasing income stream.

Step 1: Donor (age 60) creates a "charitable remainder annuity trust" or "CRAT" in January 2025

Step 2: Donor transfers low basis stock worth $1 million to the CRAT.

Step 3: The CRAT sells the low basis stock and purchases securities (utilizing the gross sale proceeds) generating a 7% annual return. (NO capital gains tax is then taxable due to the sale.)

Step 4: Donor receives an income tax charitable deduction of $378,580. The CRAT does not pay income tax, but each payment is taxable income to Donor to the extent the CRAT has current income or income from past years, including the original capital gains recognized at the time the stock was sold.

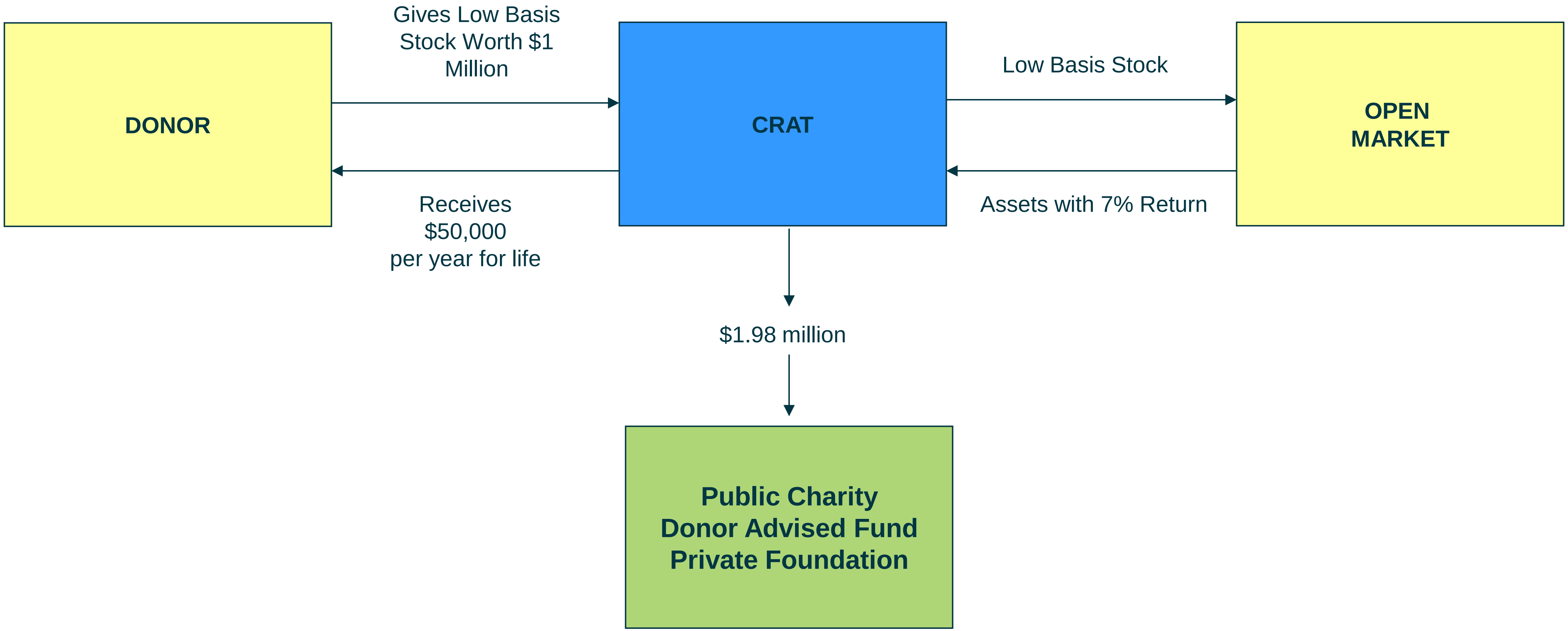
Step 5: Donor receives an annuity of $50,000 per year for life.

Results: Donor has increased his or her income.

Donor is entitled to take a current income tax charitable deduction of $ 378,580 (subject to applicable limitations).

A public charity or DAF (could be private foundation) will receive $1.98 million at Donor's death (assuming 7% return over 22 years).

CHARITABLE REMAINDER ANNUITY TRUST ("CRAT")



CHARITABLE LEAD ANNUITY TRUST (“CLAT”)

GOAL: Expanding tax-favorable charitable giving opportunities, while transferring $1 million of investment assets to the children at a reduced tax cost.

Step 1: In January 2025, Donor creates a “charitable lead annuity trust” or “CLAT” that pays an annual annuity of $50,000 to a charity for 20 years.

Step 2: Donor transfers assets worth $1 million to the CLAT. The value of the gift for transfer tax purposes is about $387,320 (the calculated present value of the “remainder” passing to the children). $612,860 is the calculated value to charity.

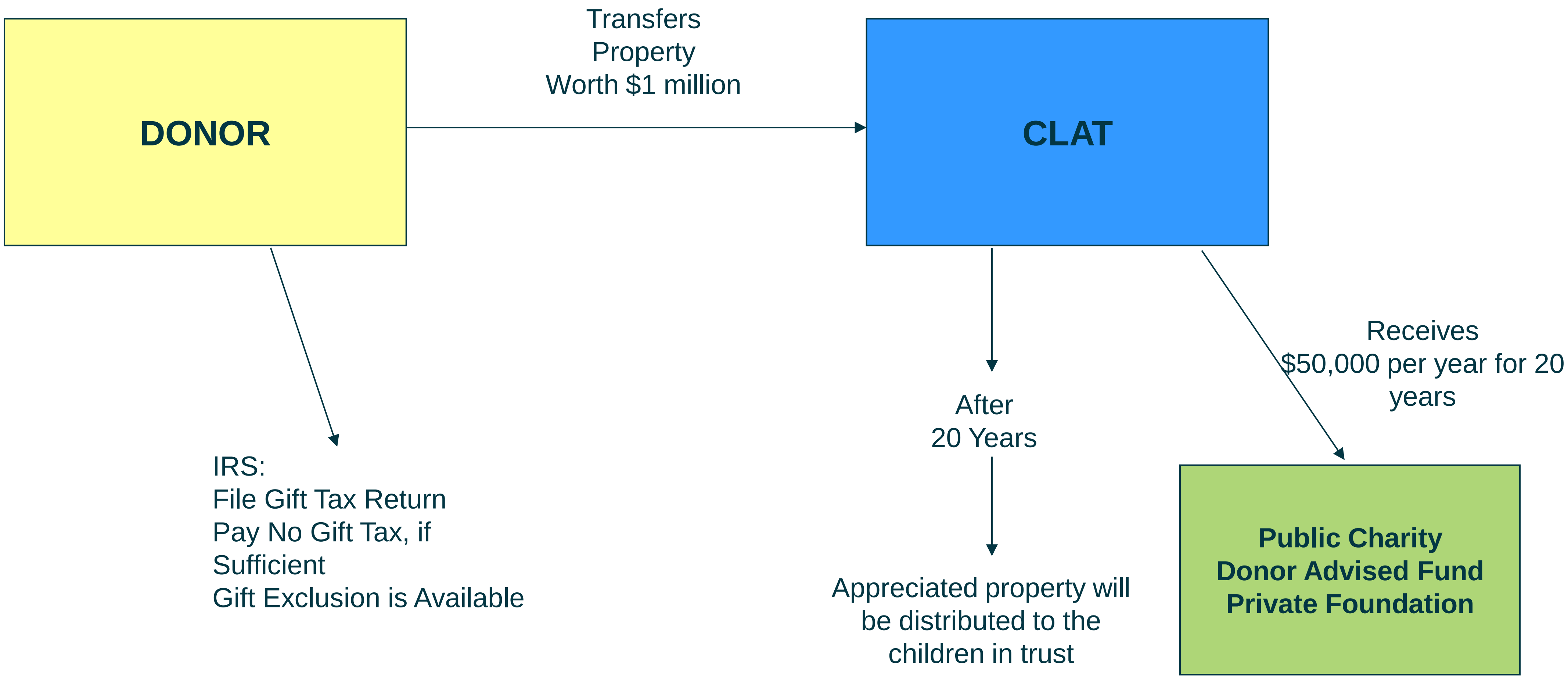
Step 3: In April of 2026, Donor files a gift tax return. If sufficient unified credit is available, Donor pays no gift tax.

Results: Donor provides for future charitable giving.

Donor effectively receives an income tax charitable deduction on income distributed to the charitable beneficiary. Donor’s itemized deduction cutback remains unaffected by CLAT distributions because they are not included in Donor’s income.

At the end of the 20-year term, the CLAT property will pass to the children without any additional transfer tax (can also be made “generation-skipping” to benefit future generations). If assets grow at 7%, there may be $1.8M remaining for children, free of estate and gift tax.

CHARITABLE LEAD ANNUITY TRUST (“CLAT”)



Limitations on Charitable Deductions*

Type of Asset	Public Charity/DAF	Private Foundation
Cash	60%	30%
Appreciated Securities	30%	20%

*Percentage of Adjusted Gross Income allowed as a deduction. This is a basic chart, and there are many nuanced limitations that apply when contributing other types of long-term capital gain assets to public charities and private foundations

Pre-Sale Charitable Planning for Private Companies

Pre-Sale Charitable Planning for Private Companies

– Expected Rise in M&A and Private Equity Activity

– Interest rates likely to come down

– Regulatory environment to ease, especially anti-trust policy

– More opportunities for those looking to exit their business…opportunities for charitable giving should rise.

Pre-Sale Charitable Planning for Private Companies

Example: Hawaiian Tropical Ice Company LLC is looking to get acquired, and founder Sue wants to fund improvements to several local parks where she first sold her Hawaiian Tropical Ice. Sue believes she can sell the company for $25,000,000. She wants to donate $5,000,000 after the sale.

- Sue's tax basis in the company is $3,000,000. A sale of the company will generate $6,600,000 of capital gains income tax. Sue has $18,400,000 left, and contributes $5,000,000 to charity, leaving Sue with $13,400,000.
- If Sue donated 20% of the company prior to sale, the charity would receive $5,000,000 in sale proceeds (no tax), Sue's capital gains on the 80% is $5,280,000, leaving her with $14,720,000. She retained more proceeds with the same benefit to charity.

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Pre-Sale Charitable Planning for Private Companies

1. **No prearranged sales**: Sue cannot transfer the company shares to charity after she has signed a letter of intent and is heading to a closing.
2. **Qualified Appraisal**: Sue can obtain a deduction for her contribution of the company shares, but needs to obtain a qualified appraisal meeting strict standards.
3. **Tax Issues**: Some types of companies are more complex (S-corporations can be tricky, but LLCs/partnerships/C-corps are not).
4. **Timing**: Plan ahead if the company does not end up selling…what happens if the charity suddenly owns the shares without a timeframe for exit?

The Hoensheid Case (Assignment of Income Doctrine)

Issues Analyzed

1. Whether and when Donors contributed shares to DAF
   – Simply put, it was too late in the game because the sale of shares was already virtually done before the transfer to charity occurred
2. Whether Donors had unreported capital gain income
   – Yes, due to the assignment of income doctrine
3. Whether Donors were entitled to charitable contribution deduction
   – No, because the qualified appraisal requirement was not satisfied as the appraisal was deficient in certain respects

More On Qualified Appraisals for Giving Non-Cash Assets

1. **A "qualified appraisal" is an appraisal by a qualified appraiser**
   – Must contain specific information, described in rules published in the Treasury Regulations and Tax Code, that enables someone who is reviewing the appraisal to determine both the value of the donated property and the qualifications of the appraiser who prepared the appraisal.
2. **Form Filing and Appraisal Requirements**: Specific forms must be submitted with a tax return to report non-cash gifts over $5,000, and the appraisal must be attached when the value exceeds $500,000.
3. **Strict vs. Substantial Compliance**: Courts have been ruling against taxpayers, similar to the Hoensheid case, who trip over the rules.

More On Qualified Appraisals for Giving Non-Cash Assets

1. **Schweizer v. Commissioner (T.C. Memo. 2022-102)**
   - Taxpayer (1) failed to obtain the required qualified appraisal for a donation of tangible personal property valued at more than $5,000 and (2) did not file the requisite IRS forms or include a copy of a qualified appraisal with his tax return.
2. **Chrem, et al. v. Commissioner (T.C. Memo. 2018-164)**
   - Appraisal did not value the specific property that the taxpayers gave but valued a block of stock, some of which was given by the taxpayers and some of which was not;
   - Appraisal was not addressed to the taxpayers claiming the deduction but rather to the company that issued the donated stock; and
   - Appraisal was not attached to the taxpayers' tax return.

NO SHORT CUTS!

END (APPLAUSE NOW)