



An Overview of Charitable Giving Options

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Charitable Giving

- Nature of Giver
- Nature of Gift
- Nature of Recipient
- Parties Other Than Giver and Recipient
- What's Timeless, What's Timely



Definitions

- Planned Giving/Gift Planning
- Planned Gift
- Estate/Legacy Planning



Characteristics of Planned Gifts

- Assets vs. Income
- “Assisted Giving” vs. Solo Endeavor
- Donor’s Timing vs. Charity’s Timing
- Heart vs. Head
- Endowment (vs.) Other Use
- Deferred (vs.) Current



Types of Charitable Recipients

- Various Public Charities
- Community Foundations
- Supporting Organizations
- Private Operating Foundations
- Private Non-operating Foundations



Various Public Charities

- Many Organizations, Many Missions
- Gifts: Unrestricted vs. Restricted
- Superior Tax Benefits for Donors



Community Foundations

- “Special” Public Charities
- Make Grants to Other Pub. Chars. (Mostly)
- Foci/Constituencies
- Types of Funds



Community Foundation Funds

- Unrestricted/Discretionary
- Area-of-Interest
- Designated
- Donor Advised



Supporting Organizations

- Three Types
- Established by Donor or by Public Charity
- Treated as Public Charity
- Often Paired with Donor Advised Fund



Private Operating Foundations

- Do What Public Charities Do
- Not Publicly Supported
- Treated as Public Charity



Private Non-operating Foundations

- Make Grants to Public Charities (Mostly)
- Not Publicly Supported
- Inferior Tax Benefits for Donors



Continua of Control

Public Charity →

Private Non-
operating
Foundation

Discretionary
Fund →

Donor Advised
Fund



Universe of Planned Gifts

- Current
- Deferred



Current Gifts

- Outright Transfers of Various Types of Assets (Irrevocable)
- Bargain Sales (Irrevocable)
- Charitable Lead Trusts (Irrevocable*)



Deferred Gifts

- Bequests (Revocable)
- Beneficiary Designations (Revocable)
- Charitable Gift Annuities (Irrevocable)
- Charitable Remainder Trusts (Irrevocable*)
- Pooled Income Funds (Irrevocable)
- Retained Life Estates (Irrevocable)



Outright Transfers

- Cash
- Long-Term Appreciated Capital Assets (Don't Sell!)
- Ordinary Income Property
- Special Case: Tangible Personal Property



Outright Transfers: What Can Go Wrong

- LTCG Assets Sold, Not Transferred
- STCG Assets Used to Make Gift
- Loss Assets Used to Make Gift
- Tangible P. P. Dynamics Not Understood
- Transfer Delays
- Valuation Misunderstood



Charitable Bequests

- Three Basic Ways to Structure
- Contingency Options
- Estate Tax Benefits



Bequests: What Can Go Wrong

- Wrong Charity Is Named
- Donor Loses Capacity to Revise
- Changes in Estate Size Skew Unrevised Plan
- Donor Fails to Clear Restrictions with Charity



Beneficiary Designations

- Bank/Brokerage Accounts
- Life Insurance Policies
- Some Commercial Annuity Contracts
- IRAs/Qualified Retirement Plans
- Probate & Other Estate Planning Issues



Beneficiary Designations: What Can Go Wrong

- Designation Not Coordinated with Rest of Estate Plan
- Custom Beneficiary Designation Resisted by Financial Institution
- Pecuniary Designation Incapable of Being Fulfilled



“IRD” Assets

- Basis Can't Be Stepped up
- IRD Not Taxable for Charities
- Mix and Match



Lifetime Gifts of IRA/QRP Assets

- A Wash at Best
- Withdraw Cash, Give LTG Capital Assets
- “Charitable Rollovers” (IRA vs. QRP)



Charitable Gift Annuities

- Contractually Fixed Annual Payments for 1 or 2 Lives
- Typically Funded with Cash or LTCG Marketable Securities
- Attractive Rates
- Immediate or Deferred Payments
- Partial Charitable Deduction
- Favorable Taxation of Payments



CGAs “vs.” Commercial Annuities

- Extent of Regulation (by WA, Other States, & U.S.)
- Payment Options
- Annuity Rates
- “Reinsurance” Options



Gift Annuities: What Can Go Wrong

- Gift Not Coordinated with Rest of Estate Plan
- Donor Regards Arrangement as Strictly Financial
- Charity Exhausts Contribution



Charitable Remainder Trusts

- Two Types: CRATs & CRUTs
- Various Conditions Must Be Met
- Typically Funded with LTCG Assets
- Partial Charitable Deduction
- Payment Taxation Depends on Investment Results



CRTs (continued)

- Payments Can Be “Deferred” with Some CRUTs
- Trustee Issues/Options
- “Non-Qualified” CRTs



CRTs: What Can Go Wrong

- Payout Rate Is Too High
- Inappropriate Structure Selected
- Improper Assets/Investments
- Trust Taxation Not Understood
- Incompetent Trustee
- Insufficient Assets
- Trust's Name Exposes Donor's Identity



Charitable Lead Trusts

- Two Types: CLATs and CLUTs
- CLTs Are Not Tax Exempt
- Still, Certain Conditions Must Be Met
- Grantor vs. Non-grantor
- Current Appeal of CLATs



CLTs: What Can Go Wrong

- Improper Assets/Investments
- Payout Rate Too High/Trust Term Too Long



“Charitable GRAT” Alternative

- GRAT Basics
- No Choice of Discount Rate
- Donor Shares GRAT Benefit with Charity
- Benefit Can Be Cash or Securities



Retained Life Estate Arrangements

- RLE Basics
- Low Discount Rate = Higher Deduction
- Options If Donor/Tenant Wants to Move



RLEs: What Can Go Wrong

- Life Tenant Fails to Maintain Property Adequately
- Life Tenant and Charity Fail to Agree on Details If Property Needs to Be Repaired or Sold



Charitable Bargain Sales

- Mechanics
- Tax Deduction
- Prorating of Basis
- Suitable Types of Assets
- Installment Option



Bargain Sales: What Can Go Wrong

- Capital Gain Recognition Out of Sync with Availability of Charitable Deduction



Relevant Categories of Life Insurance

- Whole Life
- Universal Life
- Term



Giving Options with Life Insurance

- Transfer of Paid-up Policy
- Transfer of Policy with Premiums Owing
- Purchase of New Policy
- Choices for Charity, Once It Owns Policy
- Beneficiary Designations
- Other Options???



Life Insurance: What Can Go Wrong

- If Payments Still Need to Be Made on Policy Owned by Charity, Donor Stops Making Them
- Charity Makes Disposition of Policy It Owns That Upsets Donor



Wealth Replacement Insurance

- Outright Gifts vs. Life Income Gifts
- What Is Amount of Wealth to Be Replaced?



Dispositions of CRT Income Interests

- Complete or Partial “Cash-out”
- Complete or Partial Gift to Remainder Beneficiary(ies)
- Conversion to New Life Income Arrangement



Tax Considerations

- Cost Basis of Income Interest Is Zero
- Low Discount Rate = Major Roadblock for Some CRUTs
- The More Beneficiaries, the More Complexity
- Appraisal Required If Charitable Disposition Made



Non-tax Considerations

- Spendthrift Provision Can Be a Problem
- Court or Attorney General May Need to Be Involved
- Winding up Trust Requires Careful Attention



Dispositions of Other Non-charitable Interests

- CGA: Cash out, Surrender, Convert to New CGA
- PIF: Cash out, Surrender, Convert to CGA
- RLE: Addressed Previously
- CLT: Charity Cash-out May Be Possible