

Akron Tax & Estate Planning Council

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“Making a Charity a Beneficiary of your Estate”

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"I'm afraid he left everything to charity... Oh, I see. I take it your name's Charity?"

Hale Farm and Village - Hale House



True - False

- ▶ Charitable giving in the United States has declined significantly because of the pandemic.

FALSE

- ▶ In 2021, Americans gave \$484.85 billion dollars to charity, a 40% increase over 2020.
- ▶ Adjusted for inflation, total giving remained relatively flat with -0.7% growth.
- ▶ Giving by bequest was 9% of total gifts to charity, or 46.01 billion dollars. (decrease of 7.3% over 2020.)

True of False

- ▶ Oftentimes clients defer making significant gifts to charity until after their death, because they do not know how much it will cost for their lifetime care.

True


- ▶ In 2022, the average cost in the United States of a private room in a nursing home was \$9,300.00.

True - False

- ▶ The most popular form of a charitable bequest is a certain dollar amount, or certain other property such as a residence, art collection, or vacant land.

True

- ▶ A bequest of tangible personal property qualifies for the estate tax charitable deduction for the current appraised value without regard to whether the charity puts the property to a “related use” as required with the income tax charitable deduction.

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- ▶ Most common ways to benefit charity in the donor's estate plan.
 - ▶ 1. Testamentary bequest
 - ▶ 2. Trust distribution
 - ▶ 3. Beneficiary designation

Testamentary Bequest

- ▶ Case study - Testator's Will leaves \$100,000 to a charity, the residue equally to his children. At that time, this gift was 20% of his estate.
- ▶ At testator's death, probate estate is \$110,000.
- ▶ How much does the charity receive?
- ▶ How much is divided among the testator's children?

- ▶ Case Study - Testator's Will leaves 20% to a charity, the residue equally to his children.
- ▶ At testator's death, probate estate is \$100,000.
- ▶ How much does the charity receive?
- ▶ How much is divided among the testator's children?

- ▶ Oftentimes a charity is named as a “contingent beneficiary.”
- ▶ Example: “If at the time of my death I am not survived by my wife or my children, I give, devise and bequest the residue of my estate to [name of charitable organization]”.

Savings Clause

- ▶ “In the event a charitable organization no longer exists, or if it is no longer a qualified organization under Internal Revenue Code, Section 170(c) and 2055(a) (or any successor Internal Revenue Code Section), the Trustee shall select another charitable organization which is a qualified charity under Internal Revenue Code, Sections 170(c) and 2055(a) which serves, as near as possible, a similar charitable purpose.”

Income in Respect of a Decedent

- ▶ Income in Respect of a Decedent (IRD) may be appropriate as a charitable bequest:
- ▶ Examples of IRD: paycheck received prior to death, deferred compensation, US Savings Bonds.
- ▶ Series E US Savings Bonds are valued at their redemption price for estate tax purposes. If left to charity, estate receives a charitable deduction for the redemption value.

- ▶ “To my Executor, I leave whatever amount my Executor shall determine to whatever charities my Executor may select. The remainder I leave to my children.”
- ▶ Charitable bequest will fail, unascertainable amount gifted by the Executor, not the decedent.

- ▶ I leave \$10,000 to those charitable organizations as determined by my Executor. I leave the residue of my estate to my children.”

True - False

- ▶ A client's attorney or accountant may influence a client to:
 - ▶ 1. Include a charity in the client's estate plan.
 - ▶ 2. Name specific charitable organizations.
 - ▶ 3. Determine the dollar amount or percentage to the charitable organization.

Disadvantages of a charitable bequest in a donor's Will.

- ▶ 1. Delay, expense, and public record of estate administration.
- ▶ 2. State Attorney General is a defendant in litigation.
- ▶ 3. Donor did not have the opportunity to witness the benefit to the charity or receive recognition for the gift.

▶ Case Study

- ▶ Widow client has a total taxable estate of \$20,000,000. She had made \$4,000,000 in taxable gifts to grandchildren. She does not like the idea of paying an estate tax. Her husband's trust of \$10,000,000 is not taxable in her estate. She has two adult children who are the outright beneficiaries of her trust.

▶ Total trust estate	\$16,000,000.00
▶ Taxable gifts	\$ 4,000,000.00
▶ Total taxable estate	\$20,000,000.00
▶ Charitable deduction amount required	\$ 7,215,500.00
▶ Taxable estate	\$12,784,000.00
▶ Estate tax $\$12,784,000 \times 40\%$	\$ 5,113,800.00
▶ Federal estate tax credit amount	<u>\$ 5,113,800.00</u>
▶ Estate tax	\$ 0.00
▶ Total to heirs	\$ 8,784,500.00

▶ Total non probate estate	\$16,000,000.00
▶ Taxable gifts	\$ 4,000,000.00
▶ Total taxable estate	\$20,000,000.00
▶ Estate tax $\$20,000,000 \times 40\%$	\$ 8,000,000.00
▶ Federal estate tax credit amount	\$ 5,113,800.00
▶ Estate tax	\$ 2,886,200.00
▶ Total to heirs	\$ 13,113,800.00

- ▶ Reducing the estate tax to zero would decrease the distribution to the children \$4,329,300.00.

Trust Distribution

- ▶ Outright distribution by dollar amount or percentage.
- ▶ Is the charitable gift restricted or unrestricted?
- ▶ Establish an Endowment Fund with the Akron Community Foundation, by example.
- ▶ Trust continues in perpetuity to benefit charities. Distribution Committee created.

Split interest trusts - charitable and non charitable beneficiaries

- ▶ Remainder interest in a charitable remainder unitrust or annuity trust, pooled income fund.
- ▶ Guaranteed annuity interest or unitrust interest in a charitable lead trust.
- ▶ Remainder interest in a Qualified Personal Residence Trust (QPRT)

Private Settlement Agreement

- ▶ Ohio Revised Code Section 5801.10
- ▶ Does not apply to a charitable trust that has one or more charitable organizations as qualified beneficiaries.

Beneficiary Designation

- ▶ Life Insurance Policy
- ▶ TOD Deed - “Transfer on Death Affidavit”
- ▶ IRA, 401(k), 403(b)
- ▶ POD or TOD designation on a non-qualified account

Donating an IRA to Charity:

- ▶ The donor, donor's heirs, and donor's estate will not pay income taxes on the distribution of the IRA assets.
- ▶ Estate tax charitable deduction.
- ▶ May divide retirement assets between charities and heirs according to the percentages designated.
- ▶ Donor's spouse may be required to consent.

True - False

- ▶ An estate or irrevocable trust gift to a charity is more tax efficient than a lifetime gift to a charity.

True

- ▶ By example, a gift of cash during the donor's lifetime to a public charity [501(c)(3)] is, in general, deductible up to 60% of the donor's adjusted gross income.
- ▶ However, in the donor's estate, the charitable deduction on Form 706, United States Federal (and Generation - Skipping) Tax Return, is 100% of the amount gifted to charity at death.


Gift Acceptance Policy

- ▶ Most charitable organizations have what is known as a “Gift Acceptance Policy.”
- ▶ Gifts of real property, by example, may be restricted.
- ▶ Gifts of tangible personal property may also be highly restrictive.
- ▶ Advisable to consult with a development officer of the charitable organization before making the testamentary gift.





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- ▶ “If you think you are too small to make an impact, try going to bed with a mosquito in the room.” Anonymous

Franklin D. Roosevelt

- ▶ “Be sincere, be brief, be seated.”