Plan Your Bequests to Meet Your Family and Charitable Objectives

A properly drawn will is the cornerstone of estate planning—no matter how simple or complex the plan—because in your will you specify how you wish to distribute your assets to family, friends, and organizations such as ours.

Your will is not the only factor to consider in developing solutions for your estate-planning needs. Working in combination with your will, various trust arrangements can help you express your exact wishes about the distribution of your assets—including how they are distributed, to whom, and when.

This guide discusses various types of charitable bequests in your will and different types of trusts that can provide for your family while supporting our work. The guide also discusses the limitations of a will.

Choose the Type of Bequest That Best Meets Your Needs

Each year thousands of individuals, exercising their privilege to determine the final distribution of their estates, designate that a portion of their assets be used for the benefit and support of America's charitable organizations. Bequests have become an integral part of the American philanthropic tradition because such gifts enable you to make significant contributions that may not have been possible during life.

Charitable bequests can take various forms. You and your advisors may wish to consider several types of bequests when preparing your will, selecting the type that best protects your family's interests while supporting our mission. Remember that a bequest provision in your will is revocable. If your financial situation or family circumstances change, you can remove or modify the charitable bequest.

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General Bequest: A general bequest is one of the most popular ways to make a charitable gift by will. You simply leave a specified dollar amount to the designated organization. **Example:** "I give [INSERT DOLLAR AMOUNT] to XYZ Charity to be used for its exempt purposes."

Specific Bequest: A specific bequest is another popular type of charitable bequest. With this bequest you designate that an organization is to receive a specific asset. **Example:** "I give [INSERT DESCRIPTION OF ASSET] to XYZ Charity to be used for its exempt purposes."

Residuary Bequest: A residuary bequest gives the organization all (or a portion thereof) of an estate owner's assets after all debts, taxes, expenses, and all other bequests have been paid. **Example:** "I give the rest of the property I own at my death to XYZ Charity to be used for its exempt purposes."

Contingent Bequest: When writing your will, it is important to plan for the possibility that the beneficiary of a bequest dies before you or disclaims the asset. Consider naming our organization as the alternate or contingent beneficiary. This will ensure that the asset will pass to us rather than to unintended beneficiaries. **Example:** "If [INSERT NAME] predeceases me or disclaims any interest in [DESCRIBE ASSET], I give such property to XYZ Charity to be used for its exempt purposes."

Restricted Bequest: The bequest provisions suggested above are designed to provide unrestricted gifts. However, you may prefer to restrict your bequest for a specific purpose. For example, you may wish to memorialize a family member or an honored colleague. You should make a restricted bequest in the broadest terms possible to guard against the purpose of your gift becoming obsolete. **Example:** "I give [INSERT DOLLAR AMOUNT] to XYZ Charity. This gift shall be held as a permanent endowment to be known as the '[PERSON'S NAME] Fund,' only the income of which may be used to support the [INSERT EXEMPT PURPOSE FOR WHICH THE GIFT IS TO BE USED]. If the governing board of XYZ Charity determines that it is not feasible or economical to use the income of the fund for the purpose stated above, the income of the fund may be used for such exempt purposes of XYZ Charity as the governing board directs."

Provide for Your Family with a Charitable Trust That Pays Loved Ones First

You can direct in your will that a certain sum be placed into a life-income plan that will provide a stream of income to your designated beneficiary for life, with the remainder passing to us on the beneficiary's death. To qualify for special tax consideration, the trust must be in one of two forms: a unitrust or an annuity trust.

Charitable Remainder Unitrust

The primary feature of the charitable remainder unitrust is that it provides for payment to the beneficiary(ies) of an amount that may vary. The payment must equal a fixed percentage (at least 5%) of the net fair-market value of the trust assets as valued annually.

A 6% unitrust valued at $100,000 its first year will pay out $6,000. If the trust assets are valued at $110,000 in its second year, the payout will be $6,600. The variable nature of the unitrust payments may provide your beneficiary with a hedge against inflation—assuming the assets grow in value.

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Charitable Remainder Annuity Trust

While the charitable remainder annuity trust shares many features with the unitrust, the major difference is that the annuity trust provides for a fixed payout. This amount must equal a specified amount of not less than 5% of the initial fair-market value of the gift in the trust.

A 6% annuity trust valued at $100,000 will pay out $6,000 every year, whatever the return on trust assets. It could be the preferable instrument if your beneficiary is older and you want to provide the security of fixed, predictable income. The unitrust, on the other hand, would be better if your beneficiaries are younger and would like the potential of income growth.

Example: Martha Sets Up a Unitrust for George

Martha has long been one of our supporters and wants to make a significant gift at her death. However, she feels that her husband George will need all of the income from her estate to maintain his current lifestyle.

After consulting with her advisors, Martha decides to direct in her will that $200,000 of her estate assets be used to fund a charitable remainder unitrust that will pay her husband George each year 6% of trust assets, valued as of the beginning of the year. The amount for the first full year will be $12,000. Thereafter, the payment amount will fluctuate depending on investment performance. If total net income exceeds 6%, George's income will increase. If Martha wants to increase the potential for income growth, she could select a 5% payout percentage.

At the end of George's life, the trust will terminate and the remaining assets will be distributed to our organization. The value of the remainder that will eventually come to us qualifies for an estate-tax charitable deduction, which could reduce estate taxes—depending on the size of her estate.

A Trust That Provides Flexibility for Family Contingencies

Possibly, you like the idea of using a charitable remainder unitrust to provide for a surviving spouse and to make a future charitable gift. However, you hesitate because you want your spouse not only to receive a prescribed amount of income but also to have access to principal.

A qualified terminable interest property (QTIP) trust provides such flexibility. Your surviving spouse would receive all of the trust income for life, and he or she would have the right to invade the principal for any amount needed for health reasons or to maintain a current standard of living. At the termination of the trust, the remaining assets can be paid to loved ones, paid to our organization, or distributed partly to loved ones and partly to us. For those whose estates are large enough to be subject to federal estate tax, a QTIP trust offers two tax benefits: The amount transferred to the trust is not taxed at the death of the first spouse because it qualifies for the estate-tax marital deduction, and whatever goes to us at the death of the surviving spouse qualifies for the estate-tax charitable deduction.

The QTIP trust ensures that sufficient assets will be available to meet the potential needs of your surviving spouse. It also allows the flexibility of being able to make binding provisions to support our work in the event the need to invade the trust principal does not arise.

Example: John Sets Up a QTIP Trust for Ruth

John wants to make a significant gift to us under his will, but he is concerned that his wife Ruth, who has recently had health problems, may need access to the principal of his estate for her care after his death.

After consulting with his advisors, John decides to direct in his will that $400,000 be put into a QTIP trust. Ruth will have the right to all of the income for life, plus she will have the right to invade the principal for

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any amount she may need for health reasons or to maintain her current standard of living. The value of the trust at Ruth's death will pass to us.

Result: The entire amount transferred from John's estate to the trust qualifies for the estate-tax marital deduction, and the amount distributed to us at Ruth's death qualifies for the estate-tax charitable deduction. Consequently, the trust will reduce taxes if John's estate would be large enough to be subject to the federal estate tax. Even if estate taxes would not be payable by his estate, the QTIP trust is a great way to provide maximum protection to a surviving spouse and make a future charitable gift.

Another Strategy Is to Set Up a Trust Now

This guide has been explaining trusts that are set up through your will to help your family and support the causes you care about. Another strategy is to establish a revocable living trust now in combination with a so-called pourover will. The will simply states that the remainder of the estate after payment of taxes and settlement costs is to pour over into the trust you created during life. Even life insurance proceeds and retirement-plan benefits can be paid to the trust, thereby coordinating all estate assets under a single instrument.

You have complete freedom to change the terms of the living trust or to withdraw funds at any time. You may name yourself as trustee and thereby retain investment control or, if you prefer, you can appoint another trustee and unload management responsibility.

As with a will, you can name the beneficiaries of the living trust—which could be family members and/or our organization. The amounts designated for them could be paid in a lump sum at the termination of the trust, or you could arrange for them to receive income for life or a term of years and then for the remaining principal to be paid to us and other organizations. In either case, a charitable gift may qualify for an estate-tax charitable deduction that could result in estate-tax savings—depending on the size of your estate.

Will You Be Subject to Estate Taxes?

This guide on several occasions has mentioned the possibility of federal estate taxes "depending on the size of your estate." What does that mean exactly? Since 2001 the size of estates exempted from the estate tax has continued to increase—doubling in the Tax Cuts and Jobs Act of 2017. In 2024 the exemption is $13.61 million. Since any amount not used at the death of the first spouse is portable and available to the surviving spouse, a married couple can now exempt $27.22 million.

The increase in the exemption amount and the portability of the exemption eliminates federal estate taxes for all but a small number of the wealthiest Americans. These two changes free most individuals from having to deal with sophisticated transfer-tax techniques designed to reduce the effect of these taxes—and instead place their primary planning focus on the who, what, when, and how of asset distribution.

Do not suppose, however, that estate planning is unnecessary if you are not among the wealthiest Americans who have estates of such size. If you reside in a state that has a state estate or inheritance tax, your estate assets could be subject to a state tax—if not to a federal tax. The primary reason is that the exemption amount in those states is generally lower than the federal exemption. Even if your estate will be subject to none of these "transfer" taxes, you will want to take steps to reduce any income tax that could be owed on certain types of assets passed on to your loved ones.

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For example, if you own both a retirement fund and securities in a brokerage account and you want to provide for loved ones and also leave a legacy gift to us, you can reduce income tax by naming our organization as beneficiary of all or a portion of your retirement account and giving the securities to family members. That is because capital gain on the securities accruing prior to your death will not be taxed, whereas retirement-fund distributions will be taxed to loved ones unless the distributions come from a Roth account. Retirement funds given to our organization are not subject to income tax.

Example: Karen Saves Her Niece Income Tax and Capital-Gain Tax

Karen's estate is not currently subject to federal estate taxes, and she plans to make a bequest to her niece and one to our charitable organization (for which she volunteers). Her niece is currently listed as the beneficiary of her $100,000 IRA, and Karen has appreciated stock worth $100,000 with a basis of $40,000 that she would like to give to us. After discussing her situation with her financial and legal advisors, she changes the beneficiary designation of the IRA to our organization and bequeaths the stock to her niece.

Tax Results: There will be no income tax due on the IRA distribution to us, a potential income-tax savings of as much as $37,000—depending on the tax rate of her niece, who would have had to pay income tax on the IRA proceeds. Moreover, the basis of the stock received by her niece will be stepped up to the date-of-death value, which eliminates tax on capital gain accruing prior to Karen's death.

Some of Your Assets May Not Be Covered in Your Will

Even a will has its limitations, and it is important for you to know about them. Not all of the assets you have accumulated will pass through your probate estate and be distributed under the terms of your will. For example, if you own property jointly with your spouse, such as your family home, it will pass automatically to your spouse at your death. The will has no effect on its disposition. Life insurance proceeds and survivor benefits from a retirement plan or a deferred-compensation agreement also escape the probate process if paid to a named beneficiary other than your estate.

These different types of assets, passing in different ways and at different times, can introduce complications when your assets are distributed. Even though a will can go a long way in expressing your wishes, it may not be able to accomplish everything. Consult with your financial advisors about assets you have that may bypass probate.

We Are Here to Help

Please know that we offer a variety of gift-planning opportunities and that we would be delighted to help you select the gift mechanism that best suits your objectives.

Please contact us for more information. We look forward to serving you.

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