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DO WELL BY DOING GOOD ***THE BENEFITS OF CHARITABLE BEQUESTS IN ESTATE PLANNING***

By Neil A. Derman, Esquire

John's assets exceed the \$1.5 million estate tax exemption; therefore, he will die with a taxable estate. John wants to leave his entire estate to his children but doesn't want to pay any estate taxes. How can John maximize the amount his children can receive while reducing the amount of taxes owed if they are his only beneficiaries?

One of the most overlooked estate planning techniques by both the practitioner and the client is charitable bequests. There are ways to help your favorite charity and your financial situation at the same time. Not only do charitable bequests give the client a sense of personal satisfaction, but it can also save their estate from potential estate tax liability.

When you leave money to a charity at death, the full amount of your charitable gift may be deducted from the value of your taxable estate. A small charitable bequest could be the difference between paying no estate taxes or thousands of dollars in estate taxes. There are numerous ways to leave money to a charity:

1. Outright bequest in your Will

This is usually the simplest and most direct way to leave money to a charity, and the most common technique seen in estate planning. The only requirement is naming the charity as a beneficiary under the will for a specific percentage or amount of your estate. This is usually done when the estate is only a small amount over the estate tax exemption. However, this technique can often increase the amount of money your heirs would receive.

Let's return to the example above, assuming John's Estate is worth \$1,550,000. This will result in an estate tax of approximately \$23,500. If John made an outright bequest to a qualified charity for \$50,000, his estate would not be subject to estate tax and his heirs would receive the remainder of his estate tax free.

2. Make the Charity a Beneficiary

This is the least common technique used in estate planning. By naming a charity as the designated beneficiary, you remove the proceeds from your estate. IRA and other retirement plan proceeds are included in valuing an estate. By leaving this amount to a charity, not only do you remove the value of the retirement account from your estate, but you also save taxes. No estate taxes will be due on the proceeds of the retirement account and the charity will not have to pay income tax on the proceeds it receives, creating a double tax benefit.

Again utilizing the above example, we will assume John has \$1.4 million in assets and \$200,000 in an IRA account due at his death. If he names a charity instead of his children as the beneficiaries of this account, not only will his estate not be taxable, but the charity will receive the full value of the IRA, without having any income tax due.

3. Charitable Trusts

Finally, a trust can be utilized to take advantage of the charitable deduction, especially for appreciating assets. These are called Charitable Split Interest Trusts, as they have both charitable and non-charitable beneficiaries. There are 2 types of trusts available, a Charitable Lead Trust and a Charitable Remainder Trust. Both accomplish the same goal but through different techniques.

With a Charitable Lead Trust (CLT) the charity receives annuity or unitrust payments for a specified term and the corpus then goes to the donor's family or some other non-charitable beneficiary. This is best used when you expect the value of the asset in the trust to appreciate in the future.

Referring back to the John's situation, let's assume his estate is worth \$2.2M. John creates a \$1 million CLT. The trust would provide fixed annual payments to the charity for a certain term of years. When the term expires, the entire trust principal will go to John's children. A certain percentage of John's initial donation based on its value and the term of years of the trust will be excluded as a charitable deduction when John dies. Based on the IRS tables, John could potentially reduce his estate by the full value of the appreciated asset while providing for the charity during the term of the trust on interest alone and allowing his children to still receive a majority of the asset at his death

In a Charitable Remainder Trust (CRT), the non-charitable beneficiary receives annuity or unitrust payments for a specified period, and the charity receives the remaining corpus. A Charitable Remainder Trust is exempt from federal income tax and, therefore, will not be taxed on the gain. The donation to a Charitable Remainder Trust has the same effect as a bequest because at death the donated asset is removed from your estate. Furthermore, it provides the non-charitable beneficiaries with an income stream during the life of the trust.

Our final look back at John's situation now involves setting up a Charitable Remainder Trust. If we assume the same scenario as above, expect that John wishes to provide a steady stream of income for his children during his lifetime; a CRT would be John's best scenario. At the end of the trust period, the remainder interest passes outright to the charitable organization. The amount of the charitable deduction is based on IRS tables, which compute an actuarial value of the remainder interest. Careful planning is necessary to work out John's optimal tax savings.

Not only do bequests to charitable organizations give one a sense of well being by doing a deed, but they can also assist in reducing an estate that may potentially be subject to estate taxes. For people who have limited amounts of beneficiaries but a large estate, charitable bequests may be the most gratifying way to reduce ones estate tax liability. When given the option, most people would rather have their money go to a charity then towards taxes. In the end, it may pay to be benevolent at death, at least for estate tax purposes.



Begley & Bookbinder, P.C. is a law firm that specializes in Elder & Disabilities Law. We are based in Moorestown, NJ, with offices in Stone Harbor & Lawrenceville.

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