

Chapter 31

Philanthropy and Planned Giving

Marianne Blackwell, J.D.
Attorney at Law

SYNOPSIS

- 31-1. About Philanthropy
 - 31-2. What Are Planned Gifts?
 - 31-3. Types of Planned Gifts and the Advantages to the Donor
 - 31-4. Conclusion
-

31-1. About Philanthropy

Throughout life, you may be asked to make donations to individuals or charities, and, after considerable discerning thought, may give to those to which you feel a connection. However, in the “golden years,” you may be asked to consider a different type of gift: your legacy.

What can you leave the next generation? This question may not be as difficult to answer as: How will you leave your gift to the next generation? The decision about “how” to leave a legacy gift may seem complex at first glance. After all, financial gifts given throughout your lifetime probably came from your income, but now you are deciding about gifts from your accumulated wealth. This chapter is designed to provide some insight into philanthropy as an activity and as a philosophy, help you find information about your favorite charity, and provide you with options with which to plan your gift.

A great essay on the topic of deciding how one should engage in appropriate philanthropy comes from the book, *Philanthropy: Voluntary Action for the Public Good*, by Robert L. Payton. It is an essay on friendship, charity, the human condition, and the methods and values of science and morals. Payton’s reflections on reason and emotion in philanthropy are inspired by Thomas Jefferson’s famous letter to Maria Cosway entitled, “A Dialogue Between My Head and My Heart,” in which Jefferson theorizes that common sense and emotion can often be at odds as we consider charitable intent and acts. Payton postulates that even today, we all have conflicts in deciding how and when and to whom to give — conversations between our Head and our Heart. What gift makes sense in today’s world, where homelessness, famine, and constant human needs are worldwide and ever-present? Will my gift make a difference? Can I be sure that my gift will be used appropriately? We present a part of the essay here to stimulate your thoughts about how to evaluate the question of determining your giving nature.

From Payton’s essay:

Beyond friendship, in our less personal relations in society at large, Jefferson counsels against the misleading influence of narrow self interest. The Head leads us astray when it intrudes in the affairs of the Heart. He illustrates his theme with the example of a weary soldier seeking a lift on the back of Jefferson's carriage. Jefferson's self interest advises against it: His Head argues that there will be other soldiers further on; eventually we'll put too much of a burden on the horses. Jefferson rides on, but his conscience gets the better of him: It may not be possible to help everyone, his Heart pleads, but we ought to help those we can. The logic of compassion wins out, but too late, because when Jefferson turns back to find the soldier, the soldier has taken another road.

The Center on Philanthropy at Indiana University describes philanthropy in a less complex way:

It's a powerful feeling, helping others.

You've felt it: The "warm glow" that comes when you do something good for someone else.

You feel it every time you give money to a cause you believe in. But it radiates just as strongly when you volunteer at a community event, participate in a service club, take food to a sick neighbor, or help out a friend.

This feeling is an expression of your concern for others rather than yourself. Of wanting to help fill a need, solve a problem, make life better for someone else. In short, of wanting to take action, voluntarily, for the public good.

This is philanthropy.

Philanthropy is personal and private. Everyone will have a different philosophy and follow his or her own Heart or Head, or both. We hope you enjoy the journey as you come to a decision regarding your own charitable path.

31-2. What Are Planned Gifts?

Planned gifts include a variety of charitable giving methods that allow donors to express their personal values by integrating charitable, family, and financial goals. Making a planned, charitable gift usually requires the assistance of a knowledgeable advisor such as an attorney, financial planner, or CPA to help structure the gift. Planned gifts can be made with cash, but many planned gifts are made by donating assets such as stocks, real estate, insurance, or business interests — the possibilities are endless. Planned gifts can provide valuable tax benefits and/or lifetime income for donors, spouses, or other loved ones. The most frequently made planned gifts are bequests to charities, made through wills. Other popular planned gifts include charitable trusts and charitable gift annuities.

The advantages of planned gifts are many, but some of the more popular reasons for establishing this type of gift are:

- 1) Providing life income to the donors;
- 2) Receiving a charitable income tax deduction;
- 3) Avoiding or mitigating capital gains taxes by gifting appreciated, long-held property;

- 4) Removing assets from one's estate to lessen the estate tax burden;
- 5) Turning low or non-income-producing assets into higher income payouts;
- 6) Fulfilling one's charitable intent by supporting a favorite charity; and
- 7) Providing a charitable gift while receiving tax benefits *and* maintaining control of the asset during one's lifetime.

31-3. Types of Planned Gifts and the Advantages to the Donor

Bequests

The basic, easiest, and most popular planned gift is a bequest. Many planned gifts to charities are bequests. A charitable bequest is a provision in your will or trust that designates a charity as a beneficiary. Bequests can either be specific (leaving a certain asset or a set sum of money to the charity) or general (leaving a percentage of your estate to the charity). Many charities will help you with the bequest language you'll want to use in your will or trust. It is important to include enough information in the bequest so that your estate administrator or trustee will know to which charity or charities you want your gift directed.

The greatest advantage of bequests to charity is that you, the donor, maintain control over your assets until your death. For this reason, charities consider bequests to be *revocable* or incomplete in nature — that is, the gift is not absolute. If the estate's assets cannot support payment of the bequest to a charity, there may be no legal obligation on the part of the estate to make payment. The donor can also change his or her beneficiaries during life and can remove a charity (or any other beneficiary) from his or her will. As in all other types of planned gifts, a bequest can be designated to be used for any purpose that the donor wishes, so long as the gift is not to be used for any intention that is in violation of the law. If you have a particular use to which you would like your bequest directed, the charity will be most pleased if the terms of your intentions are set forth specifically in the will provision so that the charity can use your gift in the way that you intended. If acceptable to you, many charities would appreciate the opportunity to know of your bequest provision and charitable intentions. While you are still living, you could send them the entire will or simply the pages with their particular gift noted thereon. It would be up to you, of course, if you wanted to be publicly thanked and recognized for your future gift by the charity, or you could remain anonymous if that is more comfortable for you.

Retirement Plan Gifts

One way to provide a planned gift to a charity is to include your favorite nonprofit organization in your retirement plan documents. You can designate a charity as a beneficiary of your individual retirement account (IRA), 401(k), or other qualified retirement plan. In many regards, if a person is charitably inclined, it is preferable to fund such gift with this type of asset because the proceeds from these accounts are, at death, considered income in respect of a decedent (IRD). This tax law concept is generally defined as taxable income earned but not received prior to death. No matter who the beneficiary is, the income, when received, will be taxed to the beneficiary as it would have been taxed to the decedent. Generally, inherited property is not included in an heir's taxable income, but if a family member receives an IRD asset, he or she will be subject to income tax when the gift is distributed.

When a donor provides at death for a direct transfer from his or her retirement account to a qualified charity, however, the entire value of the IRD assets will go to the charity *tax free*. In addition, the donor's estate receives a charitable estate tax deduction for the entire amount of the gift. Making a gift of IRD can be quite easy. For example, a donor can make a specific bequest of U.S. savings bonds owned at death to a charity, or the donor can simply change the beneficiary designation on his or her retirement account — *e.g.*, IRA, 401(k), 403(b), or defined contribution plan.

Your retirement plan administrator can furnish you with the appropriate designation of beneficiary forms to complete. As in a will bequest, you can authorize a portion or percentage of your retirement assets to be shared by any combination of charities and/or other heirs.

If you have ample retirement income and sufficient qualified retirement plan assets such that taking mandatory distributions adds to your current income taxes or may be subject to estate taxes someday, a variation is the Charitable IRA Rollover. Within some limitations, you may be able to distribute up to \$100,000 per year directly to a charity, in lieu of any minimum required distribution to yourself, and regardless of your income or any other donations to charity that year. There is no income tax deduction for a Charitable IRA Rollover, but you save on the income taxes paid on an ordinary distribution in the year that you make the gift, along with any estate taxes later.

The federal SECURE Act effectively eliminated “stretching” distributions beyond 10 years from a traditional or Roth IRA for most beneficiaries who are not spouses. Two techniques exist to re-create many of the benefits of the former “stretch” IRA. One involves leaving the IRA to charity and replacing the distributions with tax-free cash from life insurance in a life insurance trust. The other involves leaving the IRA to a charitable remainder trust (see below) with the “heirs” as income beneficiaries of the CRT. See your estate planning attorney or charitable giving officer for more details.

Gifts of Appreciated Stock

If you would like to make a larger gift to a charity, appreciated stock is often a better choice than a cash gift of the same value. By donating securities held long-term (more than one year) to a charitable organization, a donor can avoid capital gains tax on appreciation and receive a charitable deduction for the full fair market value of the donation. If the estate will be subject to federal estate tax, removing assets from the estate can also decrease estate taxes. Taxpayers may be responsible for a 15 percent capital gains tax. Here is an example of the advantages of giving appreciated stock versus the gift of money using a taxpayer in the 28 percent tax bracket and 15 percent capital gains tax.

Giving Appreciated Stock

Value of stock gift (28% tax bracket) = \$25,000

Your basis (what you paid for it) in the stock = \$5,000

Expected gain from the sale of the stock = \$20,000

Savings by contributing the stock to charity:

\$25,000 charitable deduction (savings of \$7,000 in income taxes
(\$25,000 x 28%))

\$3,000 capital gains tax savings ($\$20,000 \times 15\%$)

NET COST OF GIFT = $\$15,000$ ($\$25,000 - \$7,000 - \$3,000$)

Selling Stock to Give a \$25,000 Cash Gift

Value of the gift (28% tax bracket) = $\$25,000$

\$25,000 charitable deduction (savings of $\$7,000$ in income taxes ($\$25,000 \times 28\%$))

Capital gains tax on sale of stock with basis of $\$5,000$ ($\$20,000 \times 15\%$) = $\$3,000$

NET COST OF CASH GIFT = $\$21,000$ ($\$25,000 - \$7,000 + \$3,000$)

Life Income Gifts

Charitable Gift Annuity (CGA) and Deferred Charitable Gift Annuity (DCGA)

A charitable gift annuity is a contract between a donor and the issuing charity. This is often the gift of choice when a guaranteed present income or future income is desired. Typically, in this gift option, a gift of cash or securities is transferred to the charity of the donor's choice in exchange for a contractual life income paid to the donor or donors at least annually, or deferred to a later date in the case of a DCGA. The income is guaranteed by the issuing charity, and the donor can name himself or herself as sole annuitant or designate a second annuitant, usually a spouse. A gift annuity can also be purchased on behalf of another party — for example, an adult child. If the CGA is a two-life annuity, the payout will continue until the death of the second annuitant. A portion of the gift is invested by the charity and used to provide income for life, and the remaining portion qualifies as a present-interest gift to the charity, which then entitles the donor to a charitable tax deduction. Some charities require that annuitants be of a certain age — say, 65 — before they can enter into any gift annuity. Some charities also have a minimum dollar amount to fund a CGA.

The American Council on Gift Annuities (ACGA) sets suggested maximum rates for CGAs and DCGAs. The ACGA reviews the rates and changes them periodically, depending upon the current interest rates and current mortality tables. The majority of charities use the rates recommended by the ACGA, and these rates are incorporated into charitable CGA software programs. The annuity payout rate will be determined by the age or ages of the annuitants, although some charities deviate from the suggested rates. (If a charity does not use the suggested rates, be sure to consider whether it has sufficient assets to pay for a higher rate over a long period of time.) In the case of a DCGA, the rate is set at the time the gift is made, but the rate is reflective of what the software program projects the appropriate payout rate will be when the annuitant begins to take payment. Almost all charities that offer gift annuities use software programs that automatically calculate the rate. You can easily request an illustration that will include your variables of amount of gift and age(s) of annuitant(s). This illustration or projection will clearly show the charitable deduction, payout rate, and annuity payment.

Technically, a CGA/DCGA is part gift and part sale, or a *bargain sale*. Think of it as two separate transactions: a gift to the charity and then the purchase of an annuity. The gift portion is the value of the property transferred to the charity minus the present value of the annuity. The sale portion is the present value of the annuity. The payout of any gift annuity depends on the asset that was transferred to the charity. Some of the annuity payment will be tax free, some

might be return of capital gain income, and some might be ordinary income. The following is helpful to know:

- ▶ *If the donor contributes cash:* The annuity payment is part tax-free return of principal and part ordinary income for the duration of the annuitant's life expectancy.
- ▶ *If the donor contributes appreciated, long-term property:* The annuity payment is part tax-free return of principal, part return of capital gain income, and part ordinary income — all for the duration of the donor's life expectancy. Another way to look at it: if a donor transfers this kind of property to fund the gift annuity, he or she is deemed to have sold a portion of the property to the charity and the donor can then spread the capital gains over his or her life expectancy (as opposed to incurring the full amount of the capital gains tax if the same property was sold on the open market and not given to charity).

Another component to consider in a CGA or DCGA is the Internal Revenue Service (IRS) discount rate, which is used to determine the charitable deduction. The rate is the annual rate of return that the IRS assumes the gift assets will earn during the gift term. It is related to the prime interest rate, and is updated monthly.

Basically, the higher the discount rate, the higher the charitable deduction will be, and vice versa. If the charitable deduction is important to the donor, he or she may want to wait until the discount rate is at an acceptable percentage. Lower federal interest rates mean lower IRS discount rates, which, consequently, mean lower charitable tax deductions for CGA or DCGA annuitants. The upside of a lower discount rate is that the tax-free portion of a gift annuity's payment is maximized.

The CGA or DCGA is a very popular planned gift option. Let us sum up the benefits of this type of gift, which may be attractive to you:

- ▶ It yields income for life (fixed payments).
- ▶ The donor can select the starting date of the income.
- ▶ It gives the possibility of one or two income beneficiaries.
- ▶ It is a guaranteed contractual agreement — payment is an absolute obligation of the issuing charity.
- ▶ The donor desires to make a present gift to a favorite charity.
- ▶ The donor can turn low or non-producing assets into higher-return assets by establishing a charitable gift annuity with cash or securities.

Here's an example of how a gift annuity can work:

Donor profile:

Mr. Brown, age 72, currently owns \$25,000 in highly appreciated stock, which is producing low dividends; he purchased the stock over one year ago for \$10,000. With retirement approaching, Mr. Brown is considering ways to secure his future income.

Strategy to reduce capital gains:

Mr. Brown establishes a \$25,000 charitable gift annuity by donating his highly appreciated stock to a charity. By gifting to charity, his 15 percent capital gains tax (\$2,250 or $(\$25,000 - \$10,000) \times 0.15$) is not immediately due to the IRS but will be paid by Mr. Brown over his lifetime.

Financial benefits:

Annuity: \$25,000

Annuity Payout: 5.4%

Annual Payout for Life: \$1,350

Immediate Charitable Tax Deduction: \$10,377.50 (assumes a 2.2 percent IRS discount rate)

A great advantage of funding a charitable gift annuity with a donation of highly appreciated stock is the reduction of capital gains tax liability. The 15 percent capital gains tax is eliminated on the gift portion of the transfer. Although he will have some capital gains tax spread out over his life expectancy, Mr. Brown avoids an immediate payment of \$2,250 in capital gains tax (15 percent of the gain) that would be due if he sold the securities.

Charitable Remainder Trust (CRT)

A charitable remainder trust is a separate trust arrangement between a donor and a trustee chosen by the donor, and will always involve a legal document establishing the terms of the trust. The trustee can be a bank, trust company, brokerage firm, individual, charity, or sometimes even the donor. Under the terms of the CRT, the donor reserves the right to receive payment from the trust or can provide for payment to other beneficiaries. When the trust is dissolved (often at the death of the donor or surviving beneficiaries), the remaining principal is distributed to the charity or charities named by the donor who established the trust. A CRT is an irrevocable planned gift; that is, the donor cannot change his or her mind once the trust is established and he or she receives the corresponding charitable tax deduction. The beneficiary charities can sometimes be changed, but the trust remainder must be paid out to a charitable organization or punitive tax results will occur. As with all planned gifts, if you are considering a CRT, be sure to seek the advice of your advisors, including tax consultants and attorneys.

To fund a CRT, cash, securities, real property, or other unencumbered assets are transferred into a trust. The trustee manages the trust assets and pays the donor's beneficiaries a fixed income for life or for a term of years. CRTs come in a variety of forms, including a fixed income annuity trust, in which the annual income never changes, and a unitrust, in which the assets are valued each year and the income is paid according to the trust's value. CRTs can even be designed to hold real estate and pay no income, but once the real estate is sold, the trust flips into a life income trust (flip unitrust).

Most banks and trust companies that serve as trustees require a minimum of \$250,000 to establish this type of planned gift. The administrative costs for managing charitable trusts can be quite high, usually a percentage of the trust's assets. Because the CRT is considered a separate entity, it must file a specialized tax return and can be responsible for other reporting duties, which can make the cost of maintenance too high for smaller-sized accounts below \$250,000. Further, preparing the CRT documents can cost a few thousand dollars. The CRT is certainly not for everyone. Fortunately, other options like gift annuities and donor-advised funds exist for the

charitably inclined, which have many of the same personal and tax benefits as CRTs but may be established with lower amounts.

The benefits of a CRT, though, especially a unitrust, are numerous: these trusts are extremely flexible, can be established with higher payout rates, can be used to provide support for a surviving spouse, can turn low or non-producing assets into higher payout assets, can receive additional assets during the life of the CRT (in the case of a unitrust), and more. Here is a comprehensive list of the advantages of this type of gift:

- ▶ The donor retains the right to receive income for his or her life, the lives of others, or for a specified term of years.
- ▶ There is the possibility of multiple beneficiaries.
- ▶ Assets transferred into the CRT can be sold and reinvested in higher-income-producing assets.
- ▶ The donor has the ability to choose the trustee (and can self-trustee in some cases).
- ▶ A CRT can preserve the principal of one's assets while generating life income.
- ▶ The donor can elect to receive a fixed income based on the original value of assets transferred or an income based on the value of the assets recalculated each year (annuity trust versus unitrust options).
- ▶ The donor can continue to fund the CRT if it is a charitable remainder unitrust (CRUT) (assets revalued each year). If the CRT is established as a fixed income trust (a charitable remainder annuity trust), the donor cannot make additional gifts to the trust in the future.
- ▶ The donor receives a charitable income tax deduction in the year that he or she funds the CRT or makes any additional contribution (CRUT). Unused portions of the income tax charitable deduction may be applied in up to five future years.
- ▶ The donor chooses the amount of the payment within a range (generally, a percentage of the initial gift amount or value of assets).
- ▶ The trustee can tailor the investment strategy of the CRT and the taxable character of the income to meet the unique needs of the donor.
- ▶ The donor can choose one or more charitable organizations to share in the trust principal upon termination of the CRT and can reserve the right to change any charity.
- ▶ The donor can change the frequency and timing of the payments (monthly, quarterly, semi-annually, or annually).
- ▶ The donor can reduce potential estate taxes by removing the assets from his or her estate.
- ▶ The donor can avoid/mitigate capital gains tax by funding the trust with appreciated property.

A CRT can be an excellent strategy to use with illiquid assets, and CRTs come in several varieties. Consider the following example. John and Jane Green, ages 72 and 70, jointly own undeveloped land that is currently valued at \$550,000 and has a cost basis (the price they paid for the property) of \$70,000. They are in a 35 percent tax bracket, and property taxes run \$10,000 per year. They owe nothing on the property and are in a 15 percent capital gains bracket. The property does not produce any income. If they sold the property, the Greens would incur capital

gains of \$480,000. Therefore, their capital gains tax would be \$72,000 ($\$480,000 \times 0.15$) if they sold the land. At the 35 percent tax bracket, the Greens are subject to the 3.8 percent Affordable Care Act income tax surcharge on capital gains.

The Greens learned that they could convert the property to new income with favorable tax benefits using a charitable remainder flip unitrust. They transferred the land to a 5 percent flip unitrust, retaining a joint and survivor income interest. When the land is sold, the trust holding the property “flips” to a regular CRT unitrust and the proceeds from the land sale are reinvested in assets that produce an income for the Greens. When the trust is dissolved, *i.e.*, at the death of the survivor, the remaining assets will go to a charity of their choice.

By transferring the land to a flip unitrust, the Greens accomplished the following:

- ▶ Made an irrevocable gift to one or more of their favorite charities;
- ▶ Avoided an immediate capital gains tax of \$72,000;
- ▶ Generated new income once the property was sold;
- ▶ Received a substantial charitable income tax deduction in the year of the transfer; and
- ▶ Reduced probate expenses and potential estate taxes by removing the property from their probate estates.

Charitable Lead Trust (CLT)

A charitable lead trust is like a mirror image of the charitable remainder trust. In this gift option, a donor transfers property to the lead trust, which pays a percentage of the value of the trust assets, usually for a term of years, to the charity of the donor’s choice. At the end of the trust term, the remaining assets in the trust and any growth it has realized are passed on to the donor or his or her designated beneficiaries. Donors use lead trusts to accomplish the following:

- ▶ Accelerate an income tax charitable deduction for future charitable gifts into the current tax year (qualified grantor lead trust);
- ▶ Pass property to heirs and beneficiaries at reduced transfer tax cost (qualified non-grantor lead trust); and
- ▶ Make charitable gifts beyond the federal income tax charitable deduction ceilings.

There are two types of charitable lead trusts: the *grantor lead trust* and the more popular *non-grantor lead trust*. A grantor lead trust provides the donor with a charitable income tax deduction for the present value of the payments the charity is to receive from the trust. The donor continues to be taxed on the income earned by the trust each year—including the amounts distributed to the charity. At the end of the trust term, the trust assets are returned to the donor or other designated beneficiaries. To avoid any negative tax result, lead trust donors often fund grantor trusts with tax-exempt securities.

In the other type of lead trust, a non-grantor trust, the donor is not treated as the owner and neither reports income earned in the trust nor receives an income tax deduction for the charity’s lead interest. The goal of a non-grantor lead trust, however, is not to get an income tax deduction, but to significantly reduce or even eliminate either the gift or estate transfer tax on the value of the assets used to fund the trust. Like the grantor lead trust, at the end of this CLT’s term, the assets remaining in the trust are distributed, usually to children or grandchildren. Any

appreciation of the value of the trust will avoid gift and estate taxes (transfer taxes) when the assets are eventually received by beneficiaries.

A CLT, either a grantor or non-grantor variety, is not for everyone. They require extensive tax and legal expertise and usually benefit those with serious gift and estate tax considerations. A CLT can be a terrific option if a donor has an income-producing asset that has or will increase in value over time, the donor does not need the income from the asset, and the donor wants the asset back eventually. Here are some of the CLT advantages:

- ▶ The donor receives a gift and estate tax deduction for the assets transferred to the trust (qualified grantor lead trust).
- ▶ CLT property can be transferred to the ultimate beneficiaries at a low transfer cost.
- ▶ Appreciation of the value of the trust will avoid gift and estate taxes (transfer taxes) when eventually received by the beneficiary (non-grantor lead trust).
- ▶ Management of transferred assets can be carried out by an institutional trustee, such as a bank or trust department.
- ▶ It is the best option if the donor has a moderate to large taxable estate.
- ▶ The trust will hold assets with growth and income potential outside of the donor's estate.
- ▶ The donor desires to pass certain assets to heirs or keep them in his or her estate, but also has charitable intent and wants to benefit his or her favorite charity.

Retained Life Estate Deed: Personal Residence or Farm

You can donate your personal residence, farm, or vacation home to the charity of your choice while retaining the right to live on and use the property for life or for a fixed term of years. This arrangement is called a retained life estate. In exchange for this type of planned gift, you receive an immediate income tax deduction. The amount of the deduction depends on the value of the property and your age as well as the age of any other person given lifetime use. You retain the right to rent your home or make improvements to it, and you continue to have responsibility for maintenance, insurance, and property taxes. The advantages of this type of planned gift could be attractive for a donor who does not plan to leave the property to his or her heirs or has no heirs, who has taxable income and could benefit from a charitable deduction, and who wants to benefit his or her favorite charity. Here is a list of the benefits of making a retained life estate gift:

- ▶ The donor receives an immediate income tax deduction for the value of the property minus the present value of the retained life estate.
- ▶ The donor retains full use of the property during his or her lifetime.
- ▶ The donor can reduce gift and estate taxes that would be owed by his or her heirs by removing assets from his or her probate estate.
- ▶ The donor can make a gift now, while retaining the right to use the realty.
- ▶ The donor can benefit a charity of his or her choice.

Obviously, this type of gift will work best for donors who have no plans or desire to pass their residence, farm, or vacation home to their heirs or who have no heirs to whom they wish to leave the property.

Here's an example of how a retained life estate gift works. Ellen, aged 65, a widow, deeds her home to XYZ Charity, though she plans to live there for the rest of her life. The market value of the property is \$200,000 (the house, \$160,000, and the land, \$40,000). Using the required IRS table to discount the gift based on Ellen's life expectancy and future depreciation of the house, her accountant determines her income tax deduction to be in excess of \$70,000, which she can take the year of her gift, plus she can carry over any excess deduction over an additional five tax years. Ellen remains on the property until her death or she moves, retains most incidents of ownership, removes her home from her estate (and thus negates the need for her heirs to use probate proceedings to transfer the deed), and makes a substantial future gift of her home to charity.

Gifts of Life Insurance Policies

Gifting life insurance policies can be another way to make charitable gifts and to potentially achieve income tax deductions. Gifts of life insurance policies can be made by naming a charitable organization as the beneficiary of a life insurance policy, resulting in a charitable estate tax deduction upon the donor's death. Another way to gift a life insurance policy is to irrevocably transfer ownership of the life insurance policy to the charitable organization, resulting in a current income tax deduction at the present value of the policy. Gifting the ownership of the life insurance policy can also provide annual income tax deductions for policy premiums paid by the donor after the gift is made.

A gift of an old, small life insurance policy can result in a much larger gift to charity than a senior might otherwise be able to afford.

31-4. Conclusion

Hopefully, this chapter has enticed you to think about your giving nature and brought about such questions as: Do I want to give to charity? Can I afford to give? How much should I give? Is my charity worthy of a gift? What about my heirs? In the event that you have come to a "Heart and Head" conclusion that charitable giving, especially the gift of a legacy, is something you would like to pursue, the options that gift planning provide are numerous. Although by no means a complete explanation or listing of all the varieties of planned gifts, we provide here a starting point we hope you will find helpful.

In today's society, there are more complexities than Thomas Jefferson could ever have anticipated. Fortunately, modern technology gives us an opportunity to evaluate charitable organizations through a variety of resources, some of which may be found at Appendix A: Resources, Chapter 31.

