Financial and Legal Charitable Giving Strategies

with

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About the Presenters

Zach is a Certified Financial Planner ™ at Sage Rutty who works with clients to help them create the most successful retirement. His fields of focus include tax mitigation strategies and estate planning, charitable giving strategies, and nursing care planning.

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KROLL PROUKOU LLP

Marcus is a member of Kroll Proukou; a boutique law firm focusing its practice exclusively on trusts, estates, elder law, and special needs planning

Part I :

How to Optimize Giving for Tax & Estate

Agenda: How to Optimize Giving for Tax & Estate

- Reduce taxes owed on required minimum distributions
- Ability to avoid taxes on investment profits
- Give more to charity and less to the government
- Maximize tax benefit and "get around" standard deduction limits
- Maximize your wealth transfer at death
- Limit estate tax
- Reduce the impact of the 10 year Secure Act cash out

Gifting While Alive vs. at Death

Giving While Alive:

- **Pros:**
  - See your gift make a difference
  - Help organization when they need it now
  - Potentially help before its "too late"
  - Several ways to save taxes with current giving strategies
- **Cons**:
  - Reduces your assets while alive
  - Takes away from current income/ needs

Giving at Death:

- **Pros:**
  - A larger gift may be possible
  - Interesting tax planning opportunities
  - Does not affect today's income needs
  - Does not reduce assets you may need tomorrow
- **Cons:**
  - You don't see your gift in action
  - Depending on how it is done, there may be no tax savings

Tax Benefits of Gifting

- Potential to reduce your taxable income and save tax at your highest rate
- Reduce taxes owed on Required Minimum Distribution
- Ability to avoid taxes on investments profits
- Strategies to give more at particular times to maximize the tax benefit
- An option to live off of your money, leave money to charity, AND get a tax break
- Reducing taxes owed at death for heirs and estate
- Maximizing your charitable gift at death

The Problem With "Direct Giving"

- According to Bankrate – only 10 % of Americans can itemize their deductions

- The 90 % of Americans that take the "standard deduction" therefore get no tax benefit from a direct gift (I.E. writing a check)

- Therefore, even though charitable gifts are "tax deductible" the high majority of the country would get no benefit from making a direct charitable gift under current law

Charitable Gifting Tools

- Qualified Charitable Distribution
- Gifting appreciated Stock
- Beneficiary Selection
- Donor Advised Funds
- “Clump and Dump”
- Complex planning involving charitable trusts

<u>Qualified Charitable Distribution (QCD)</u>

- Donate funds directly from your IRA to charity without paying tax
- Once you reach age 70 ½ a QCD <u>direct</u> to charity is a tax free withdrawal
- Once you have to take required minimum distribution, save income tax !
- Gift part or all of RMD to charity and get dollar for dollar income reduction and save tax at your highest tax rate (105 K annual maximum)
- Reduce your taxable IRA balance to save future taxes for you and the family (RMDs and 10 year cash out upon inheritance)

<u>Gift Stocks or Investments with Growth</u>

- Have a regular investment account like a TOD, brokerage, or joint account ?
- Investments with gains can be donated direct to charity and tax on those gains can be permanently avoided
- <u>Example:</u>
  - Someone buys Apple Stock for 50 K
  - They are fortunate and over the years it grows to 250 K !
  - Instead of selling the stock and paying tax on the 200 K in gain, donate the stock
  - You save taxes on the 200K and the charity pays no tax. No one ever has to pay the tax on the 200 K gain.
  - Often times a better option than a direct gift due to larger tax saving

Beneficiary Selection

How to make the most out of your gift at death:

1. Consider having charity as an IRA beneficiary. They KEEP more of the IRA money due to not having to pay tax !

2. Life insurance – A way to pay less while alive to leave a bigger gift at death

   - Can be used to pay less today to leave a bigger future gift to charity
   - Though Life insurance may be ideal to give to people due to being tax free

3. Gift money through your Will you weren't able to gift while alive (value from your home, money from a car sale etc.)

   - However, TODs and stepped-up basis assets offer more of a tax benefit to an individual than a charity

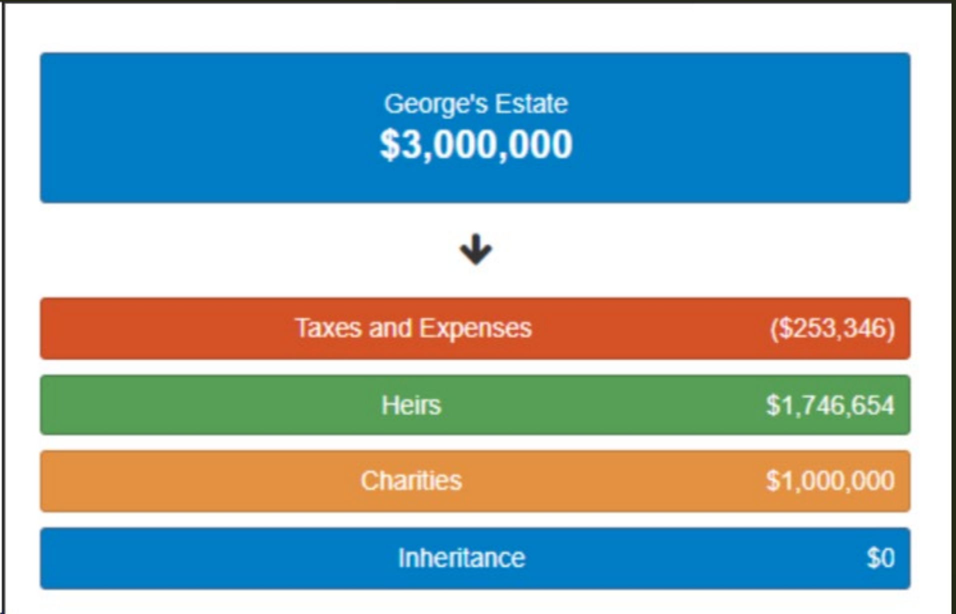
4. ROTH IRAs may be better left to a natural person if you have other accounts to leave to charity due to it's tax-free nature

Beneficiary Selection: Example The Jetsons

- Parents Jane and George Jetson
- 3 million net worth - 1 million IRA, 1 million ROTH, 1 million joint investment account
  - Current Beneficiaries:
    - 1/3 Charitable Bene Rochester Area Community Foundation
    - 1/3 Son Elroy
    - 1/3 daughter Judy
- 2 Kids Judy and Elroy Jetson - 190 K of income each single - (24 % federal tax bracket)

Beneficiary Selection: "Normal Selection"

- IRA, ROTH, and JT account are all 1/3 beneficiary equally split amongst 1/3 Charitable Bene Rochester Area Community Foundation, Son Elroy, daughter Judy
- Judy and Elroy have to cash out IRAs in 10 years and pay tax
- At their tax rate they each would **pay a minimum of 126 K in taxes** and the **Jetson's beneficiaries get $ 2,746,653 NOT - 3 million**



Beneficiary Selection: “Tax Smart Selection”

- Rochester Area Community Foundation is 100 % Bene on IRA
- Judy and Elroy are 50-50 benes on the Joint account and the ROTH
- Judy and Elroy enjoy tax free Roth inheritance and stepped-up basis on the joint account
- Rochester Area Community Foundation inherits the IRA tax free
- The Jetsons ***pass on their entire 3 million net worth to their heirs***

Special "Timing" Strategies to Save Tax

Donor Advised Fund

- Make larger gift into investment fund now and get bigger tax deduction up front
- Then pay out smaller amounts year by year from fund to charities and let fund live on and grow
- Capitalize on tax deduction on larger gift instead of missing out on tax benefit from smaller gifts. However, you still get to make the annual gifts instead of giving entire donation up front

Clump and Dump Strategies

- Use tax code to your benefit to maximize what you can "itemize"
- Perhaps larger giving in one year but skip the next year so you can itemize and save
- Works well in years with more deductions like medical expenses
- Can do large giving year and pre-pay property taxes to increase itemization

Advanced Planning Options for Larger Tax Savings

- Charitable Lead Trust
- Charitable Remainder Trust
- Charitable Gift Annuity

NYS Estate Tax Calculation

$6,940,000
Minus
$6,940,000

= $0

No Estate Tax

- Your Total Assets
- Minus: Deductions
  - Charitable Bequests
  - Exemption Amount

NYS Estate Tax Over the Cliff

$7,287,001
- $6,940,000

= $347,001

Roughly: $675,000 Tax!

- Minus: Deductions
  - Charitable Bequests
  - Exemption Amount

The Impact of the Cliff

- If estate is 5% above exemption, you lose it

NYS Estate Tax – Avoid the Cliff

$7,287,001
- $6,940,000

= $347,001

Roughly: $675,000 Tax!

What To Do?

Reduce your Estate

- Make charitable gifts
  - While alive and at death to stay below the "cliff"
- $18k per person
- Direct payment of Medical/Education expenses
- Consider various forms of trust and legal planning to optimize charitable gifts and reduce or eliminate estate tax

How to Reach Zach With Questions

- I am happy to answer any personal or specific questions with no charge
  - **Zachary T. Armstrong CFP ®, CLTC**
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Part II :

Charitable Estate Planning

Options

- Lifetime Gifts
- Direct Beneficiary
- All the other permutations the planned giving folks love to discuss (charitable checking, charitable annuity, donor advised funds, etc)
- Will
- IRA Trust Under Will

Gifts Under Will

- **Pecuniary Amounts** – Leave a fixed dollar to the charity
  - Pros: Charity gets notice and signs release, full tax effect
  - Cons: Insufficient assets in estate, inflation dilutes gift

- **Residuary Bequest** – A percentage of the estate
  - Pros: automatically adjusts for assets on hand at death
  - Cons: waiver or citation to AG, judicial settlement

Testamentary Charitable Remainder Unitrust

- Defined under Revenue Procedure 2005-57 and 26 U.S.C. § 664 (d)(2)
- IRS will give you the language – some pretty specific requirements
- Set up language in your Will to receive IRA; name that trust as beneficiary
- Created during estate administration
- Income to at least one living beneficiary
- At least 5%, no more than 50%, annual valuation
- Up to 20 years (or lifetime)
- Remainder passes to qualified charity under §§ 170(c) and 2055(a)
- Charity must get at least 10% of initial net fair market value
- Qualifies for partial charitable deduction

Taxation of Distributions

- I'm not a CPA and I don't file returns
- Worst-in, First-out
- Ordinary income reported on K1
- Once ordinary income is exhausted, taxed as capital gains on sale/disposition of capital assets
- Once ordinary income and capital gains are fully distributed, payments are characterized as "other income"
- After all current-year and accumulated income and gains are fully distributed, payments are lastly considered corpus or "principal" of the trust

IRA to CRUT?

- Problem: Lots of qualified retirement money
- Kids have to take it within 10 years (healthy)
- Kids don't need it. Kids are earning income and have assets.
- CRUT allows you to "stretch" IRA inside of the trust to 20 years
- 5% per year, for 20 years = 100%
  - Inflation protection (assuming growth)
  - Never exhausted because distribution adjusts annually
  - Know 5% over 20 years works; I don't want to litigate it
- Charity receives remainder of IRA without income tax burden
- Get estate tax deduction based on remainder value to charity

IRA – CRUT & Best Use

- Funds distributed from qualified account are not taxable to trust
- Distributions to beneficiaries are ordinary income
  - Spreading burden over 20 years vs. 10 years
  - What is beneficiary's tax situation?
- Expect investments to have significant long-term return potential
- Distributions are fixed
  - No flexibility
  - Could be a good thing depending on the Trustee and the beneficiary
- **Client needs to complete beneficiary designations – WORK TOGETHER!**

Considerations

- Need charitable inclination
  - Ask your clients "What are you passionate about?"
  - Rely on organization like RACF to help point in right direction
- Why not just use a normal trust as IRA beneficiary?
  - Let Trustee decide what to keep and distribute based on need and tax consequences
  - More flexibility and asset protection / spendthrift considerations
- Who is going to run this show?
  - Sophisticated issues
  - Corporate/professional?
- Complicated estate administration vs. outright beneficiary designation to kids (or charity)

2026

- What happens? Who knows?
- This planning is flexible because:
  - Not making a gift now…
    - Can change your Will
    - Can keep language in your Will and simply not fund it
    - Can change your beneficiary designations (or POA/Guardian can do it for you)

QUESTIONS

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