Philanthropy

Your legacy is not only how you want to be remembered, but should also comprise a set of guiding principles your family will be encouraged to uphold. Fashioned by lifetime actions and contributions, as well as testamentary bequests, your legacy planning may take many forms and be driven by multiple factors: a desire to support philanthropic pursuits about which you are passionate, a wish to provide a way for family and friends to remember you, or an aspiration for a mechanism to connect future generations. If you intend to build your legacy through charitable efforts, you may also recognize tax benefits. In the current legislative environment, the path to tax-efficient charitable planning is winding and complicated.

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Charitable giving considerations

Although you may be able to offset income or estate tax with a charitable deduction, the tax deduction alone is not usually the deciding factor in making a donation.

Often, a tax deduction for charitable contributions is not the driving factor for a philanthropist, but it does enable the charitably inclined to give more. Even philanthropists focused on the intrinsic value of a donation to charity may seek to benefit the greater good in a more tax-efficient manner.

There are many options to help accomplish your charitable objectives and preserve tax efficiency. However, pitfalls exist that may reduce or totally eliminate the tax benefit received from charitable transfers. Prior to making a donation or charitable pledge, it is critical that you take time to understand the rules affecting the amount and timing of your deduction, as well as the steps that must be taken to protect the deductibility of your contribution.

Each time you review your charitable giving plan, consider the following questions:

With how much wealth am I willing to part?	What type of assets do I have at my disposal?	How much control do I want?	What is the desired income stream for me, my family, and my charity?
What percentage of my income do I want to spend on philanthropy?	Do I anticipate an income event that will enhance or limit the benefit I receive from a charitable donation?	When does the charity need the funds to meet both my goals and its own?	What is my desired timing for receiving an income tax deduction for the charitable gift?

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Charitable planning: A primer

The choices you make with respect to the type of charitable organization recipient and type of property you contribute will directly impact the amount of charitable deduction available to you. As shown in the chart below, you are allowed a deduction in the year of donation of up to 50 percent of your adjusted gross income (AGI). Any excess charitable contributions can be carried forward for five years. The 20, 30, and 50 percent AGI limitations continue to apply in those future years. Additionally, in any subsequent year, the current-year contributions must be claimed before any carryovers can be considered. If carryovers involve more than one year, a first-in, first-out principle is applied.

Let's look at a quick example of how donor's choice of donee organization and donated property can impact the donor's charitable deduction. Assume an art enthusiast donates a painting held for many years that has appreciated in value to a local museum (a public charity). If the museum routinely displays such works of art, then the donation would likely be considered a donation of tangible personal property put to a use related to the museum's charitable purpose or function. In this case, there is a donation of long-term capital gain property, and the amount of the contribution would be based on the fair market value (FMV) of the painting and the amount of the deduction would be subject to the 30 percent AGI limitation.

If instead the painting was contributed to a local church for ultimate disposition in a live auction, it would be considered a donation of long-term capital gain property, but the donation would also be subject to a special rule for tangible personal property *not* put to a use related to the charitable organization's purpose. In this case, the amount of the contribution would be based on the donor's adjusted cost basis of the painting (or FMV, if lower) and the amount of the deduction would be subject to the 50 percent AGI limitation.

Type of property contributed	Type of donee organization			
	Public charities (or private operating foundations, and certain private nonoperating foundations)		**Private foundations** (or other organizations that do not qualify for public charity deduction treatment)	
	Contribution amount	**Deduction limited to**	**Contribution amount**	**Deduction limited to**
Cash	Cash	50% AGI	Cash	30% AGI
Ordinary income property	Adjusted basis*	50% AGI	Adjusted basis*	30% AGI
Short-term capital gain property	Adjusted basis*	50% AGI	Adjusted basis*	30% AGI
Long-term capital gain property	FMV	30% AGI	Adjusted basis*	20% AGI
Long-term capital gain property (qualified appreciated stock)			FMV	20% AGI
Long-term capital gain property (tangible personal property put to unrelated use)	Adjusted basis*	50% AGI		
Long-term capital gain property (reduced deduction elected)	Adjusted basis*	50% AGI		

* Or FMV, if less.

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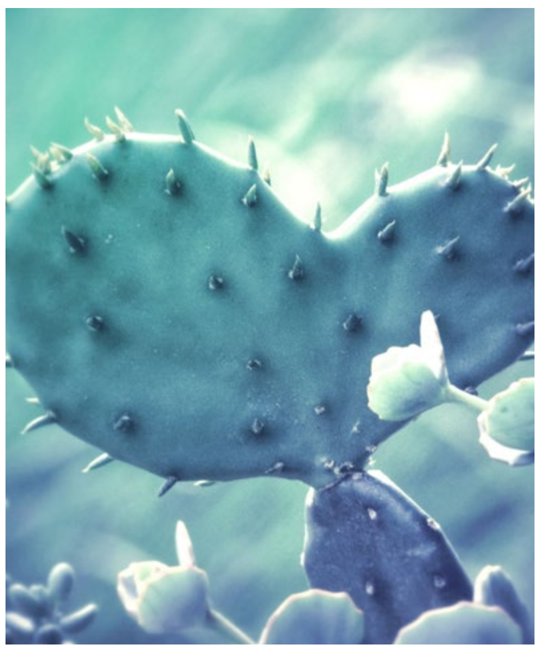
Charitable planning: A primer

Gifting cash versus appreciated stock

It may be more tax efficient to donate appreciated securities held for more than one year rather than cash. If you donate securities, then you not only receive a charitable deduction equal to the FMV of the securities contributed, but you also avoid paying capital gains tax on the stock's appreciation, as well as the 3.8 percent net investment income tax. By preserving the cash, you could purchase new investments with a "refreshed" higher basis. However, even knowing these rules, if you do not wish to surrender a particular security, then you may choose to donate cash despite the potential for a less efficient tax result.



Impact of Pease limitations

Sometimes large donations do not carry forward but are completely eliminated by an overall phaseout of your itemized deductions. The Pease limitation, named for its author, Representative Donald Pease (D-Ohio), requires higher-income individuals to reduce the total amount of most itemized deductions allowed. Under current income tax rates, depending on facts and circumstances, the value of a deduction may range from 39.6 percent to only 4 percent in tax dollars saved. The chart below summarizes the impact of the Pease limitation on the total itemized deductions allowed.

Pease limitation is equal to the lessor of:

3% of AGI over the applicable threshold
80% of itemized deductions

2017 thresholds:

$261,500 for single filers
$313,800 for joint filers

Limitation applies to:

Deductions for taxes
Mortgage interest expense
Charitable contributions
Miscellaneous itemized deductions

Limitation does not apply to:

Investment interest expense
Casualty losses
Medical expenses
Gambling losses

While you may desire to make an immediate gift, a tax adviser may assist by projecting the deductibility over time for increased efficiency of the deduction. This critical information will help you to determine how to achieve your desired philanthropic goal at a mutually agreeable time for both the charity and you.

You want to make a one-time charitable contribution of $200,000 to your alma mater. Should you make it this year or next year?

Let's run the numbers:

	2017	2018
Wages	$3,000,000	$3,000,000
Qualified dividends	$500,000	$500,000
Long-term capital gains	$0	$6,000,000
Charitable contributions	?	?
Other deductions	$125,000	$125,000
Income tax with no contribution	$1,264,654	$2,694,131
Income tax with $200,000 contribution	$1,185,454	$2,676,771
Tax savings	$79,200	$17,360
% Benefit	39.6%	8.68%

In the above scenario, making the contribution in 2017 results in more tax savings.

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Complex asset contributions

Unique rules apply to contributions of complex assets.

Partnership interests

Charitable gifts of partnership interests are inherently more complicated than gifts of publicly traded securities.

A donation of a partnership interest may result in issues for the charity that should be anticipated. For example, a charity may be less willing to accept an interest in a partnership that will produce taxable income not substantially related to the exercise or performance of its charitable, educational, or other purpose or function constituting the basis for its exemption. This is called unrelated business taxable income (UBTI). Unless the charity can be assured of receiving sufficient cash distributions from the partnership to pay the resulting tax liability on the UBTI, it may not be willing to accept the gift.

If you contribute a partnership interest, such as an interest in a fund, to a public charity, you will generally receive an income tax deduction equal to the FMV of the property, assuming it is long-term capital gain property. If the partnership interest has a value greater than $5,000, an appraisal will be required to substantiate the contribution.

Additionally, you should consult with a tax adviser regarding whether there may be a deemed sale related to partnership debt allocated to you and if the amount of the charitable deduction may be reduced to the extent of ordinary income recapture on the partnership interests transferred. Unlike in noncharitable situations where there may be no gain depending on whether your basis exceeds the debt at issue, a transfer to a charity almost invariably gives rise to gain because the donor's basis must be allocated between the charitable portion and the sale portion. If you are considering donating a partnership interest with associated suspended passive losses, then you may want to consider selling the interest, recognizing the suspended loss, and making a charitable gift of the sale proceeds.

There are additional issues beyond the scope of this discussion that may be encountered when donating a partnership interest to a nonoperating private foundation.

Individual retirement accounts (IRAs)

If you are age 70½ or older, you may consider gifting a contribution from an IRA to an eligible charitable organization. These contributions are not subject to the above limitations in certain circumstances. You may transfer up to $100,000 annually (or up to $200,000 if married filing jointly and each spouse contributes from their respective IRAs) directly from the IRA trustee to the eligible charity and exclude the amount from taxable income. A state income tax benefit is also possible as many state forms rely on federal AGI (sometimes modified). Thus, if your AGI is lower with a qualified charitable deduction from an IRA than it would be by withdrawing from the IRA and then making a donation, there is a possible state tax benefit too. Distributions from employer-sponsored retirement plans, including simplified employee pension plans, are not eligible. If these IRA requirements are met, then you do not include the amount of the distribution as taxable income. However, you do not receive a corresponding charitable deduction for the amount transferred to charity.

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Complex asset contributions

Great care should be taken with any conservation easement transaction.

Conservation easements

If you have a particular piece of land in mind with specific conservation objectives, you may consider a conservation easement that would allow you to keep ownership and control while those objectives are achieved. Note that great care should be taken with any conservation easement transaction as this is an area of careful scrutiny by the IRS.

A conservation easement gives power over the land to a qualified private land conservation organization, sometimes called a "land trust," or a government municipality to constrain the owner's use of the land to achieve certain conservation purposes.

A qualified appraiser must determine the value of the easement donation. For income tax purposes, the value of the donation equals the difference between the FMV of the property before and after the easement takes effect. For estate tax purposes, the deceased's estate will be reduced by the value of the donated conservation easement. As a result, taxes will be lower because heirs will not be required to pay taxes on the extinguished development rights. The conservation easement "runs with the land," meaning it is applicable to both present and future owners of the land. As with other real property interests, the grant of a conservation easement is recorded in the local land records and becomes part of the property's chain of title.

Art and antiques

You may want to gift art or an antique to a cultural institution. It is important to analyze and implement appropriate donation strategies, consult on related-use requirements, and review appraisal requirements for income and transfer tax returns. Additional considerations may include fractional donations and charitable remainder trusts. As mentioned previously, for art and other tangible personal property with a long-term holding period, the charitable deduction is FMV only if the property will be put to a use related to the exempt purpose of the charity. A more detailed discussion of these rules will be provided in the "Unique assets" section of the third installment of the 2018 essential tax and wealth planning guide (to be issued in early 2018).

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Charitable giving requires attention to detail

Timing matters

Simple issues with timing may create a risk of being denied the donation in the current year or at all. Generally, timing for charitable donations follows the "mailbox" rule, which means that if the check is in the mail on December 31 of a given year and the check is cashed within a reasonable amount of time thereafter, then you may deduct it. Similarly, for donations charged on credit cards on or before December 31, the payment of the charge can occur in the following year. For gifts of securities, the security must have been transferred out of the donor's brokerage account by close of business on December 31. For gifts of real estate, state law will control when the donation became effective, but the transfer will likely need to be recorded before the end of the year. For other assets, state law will control. You should consider consulting with legal counsel regarding whether they can provide an opinion about the effective date of complex, last-minute donations.

The timing rules create a higher risk that deductions may be lost when the timing of an asset donation relates to an imminent liquidity event. The issue to be considered is whether you must still recognize the income pursuant to the assignment of income rules. A gift of appreciated property will generally not result in income to the donor so long as he or she gives the property away entirely before the property gives rise to income by way of sale. Many last-minute donations are not at risk, especially if they are simply a donation of stock followed by a public sale of the stock by the charitable donee. However, in more complicated cases, such as a corporate redemption, you should seek counsel as to whether or not the donation may be made without the donor having to recognize the income.

Contribution recordkeeping and substantiation

When making donations, you should consult with tax advisers regarding the recordkeeping requirements necessary to sustain the charitable income tax deduction. For a monetary gift of any amount, either a written record (such as a credit card statement or canceled check) or a written contemporaneous acknowledgment from the charity is required. For donations of $250 or more, a written acknowledgment from the charity is required, stating the amount of any benefits received in return for the donation. In this circumstance, a canceled check is not sufficient to support the deduction, nor is an acknowledgment received after a tax return has been filed. These rules apply even if the donation is made to your own family foundation. The acknowledgment letter from the charity must include any benefits received from the donation. If none are received, the acknowledgment letter must say so.

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Charitable giving requires attention to detail

When property other than cash, inventory, and publicly traded securities is donated to charity and such property is valued above $5,000, the property must be appraised and summarized on the donor's income tax return to claim a charitable deduction. If the value exceeds $500,000 ($20,000 for artwork), the appraisal must be attached to the donor's income tax return, whether the donor is an individual, partnership, or corporation.

The chart below summarizes documentation requirements for various types of donations. As shown in the chart on the next page, the devil is in the details. Deductions for otherwise proper charitable contributions have been lost for seemingly minor omissions from these documents, for example: a letter from a charity that does not have the requisite language regarding whether any goods or services were provided, a Form 8283, Noncash Charitable Contributions, with the donor's cost basis information omitted, or a missing appraisal that was required to be attached to the tax return.

Do you have the required documentation to support your contribution?

		Documentation required				
Type of property contributed and amount of contribution		Record of contribution	Contemporaneous written acknowledgment	Form 8283, Section A	Form 8283, Section B	Qualified written appraisal***
Cash and unreimbursed out-of-pocket expenses	< $250	●				
	$250 +		●			
Public securities	Any amount*		●	●		
Other noncash property	Items** for which deduction is $5,000 or less*		●	●		
	Items** for which deduction is > $5,000		●		●	●

* If total deduction for all noncash contributions is > $500.

** Or group of similar items

*** Certain appraisals may be required to be attached to the tax return.

Charitable giving requires attention to detail

Do your supporting documents contain the necessary items?

	Documentation required				
Items that must be included	Record of contribution*	Contemporaneous written acknowledgment	Form 8283, Section A	Form 8283, Section B**	Qualified written appraisal***
Name of donee organization	●	●	●	●	
Address of donee organization			●	●	
Date of contribution	●	●	●	●	●
Amount of cash contribution	●	●			
Description of any noncash contribution		●	●	●	●
Description of condition of tangible property contributed			●	●	●
Date contributed property was acquired by donor			●	●	
How contributed property was acquired by donor			●	●	
Cost or other basis in contributed property			●	●	
FMV of contributed property			●	●	●
Method of arriving at FMV of contributed property			●		●
Statement as to whether goods or services were provided in return by donee organization		●			
Description and estimate of the value of goods or services provided by donee organization		●			
If donee organization provided any intangible (religious) benefits, a statement to that effect		●			
Name, address, and identifying number of the qualified appraiser				●	●
Declaration of appraiser, including signature				●	●
Donee acknowledgment, including signature				●	

* Canceled check, or receipt, or letter from donee organization

** Separate Form 8283, Section B required for each donee and each item of property (or group of similar items)

*** A separate qualified appraisal is required for each item of property that is not included in a group of similar items of property. A qualified appraisal must meet additional requirements as specified in the regulations.

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All of these factors—type of asset, type of charity, timing of the donation, and recordkeeping—make planning for a philanthropic goal complicated. Strict adherence to tax rules is not necessary to benefit the common good. However, it may indeed be possible for you to receive the simultaneous benefit of feeling that you have made an impact on the goals of the charity while also making an impact on your overall tax burden. In the end, if the gift is made in a more tax-efficient manner, then you will have more assets remaining to be able to achieve future philanthropic goals. Therefore, it is extremely important that you plan ahead—perhaps years in advance—to achieve your intended goals.

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Disaster relief

Contributions to assist domestic and foreign natural disaster relief efforts

Recent natural disasters, including earthquakes, hurricanes, and wildfires, have resulted in substantial damage in California, Puerto Rico, the US Virgin Islands, Mexico, the Dominican Republic, and other locations. You may wish to donate to charitable organizations to aid relief efforts; however, the deductibility of such contributions may depend on the choice of charitable organization, the stipulated use of the funds, and other factors.

Generally, charitable deductions are available for contributions to charities created or organized in, or under the laws of, the United States or its possessions, which includes the Commonwealth of Puerto Rico and the US Virgin Islands.

Gifts to domestic charities for foreign relief

If you want to make a contribution to relief efforts in a foreign country, then you need to ensure that your donation will be deductible. Generally, contributions to domestic charities that transfer the donated funds to a controlled foreign subsidiary *are* deductible. However, you should take care to donate to the domestic organization (as opposed to a direct contribution to the foreign subsidiary).

The IRS provides an Exempt Organization Select Check search tool to help taxpayers identify qualified organizations. Organizations on this list with foreign addresses are generally not foreign organizations, but are domestically formed organizations carrying on activities in foreign countries. These organizations are treated the same as any other domestic charity with regard to deductibility limitations.

Gifts to foreign charities

Contributions made directly to foreign charities are generally *not* deductible. Exceptions to the general rule are as permitted by certain tax treaties between the United States and specific countries. For example, the United States–Mexico Income Tax Convention allows for reciprocal recognition of the tax-exempt status of each country's charities and the allowance of tax deductions for contributions to such organizations; however, the amount of the deduction will be limited to your Mexican sourced income. There is no such treaty in place with respect to the Dominican Republic and other Caribbean nations.

Gifts to donor-advised funds

Alternatively, if you have a specific design for your contribution, a donor-advised fund may be a suitable cross-border charitable vehicle. A donor-advised fund (discussed later) is sponsored by a public charity, and therefore would allow you to make a tax-deductible contribution in the initial year and then recommend grants over time to any IRS-qualified public charity.

Gifts to individuals

You may wish to donate money or property to help affected family members, friends, and colleagues directly. If so, then remember that donations of money or property to help another individual generally constitute a gift. Such a gift does not qualify as an income tax-deductible charitable contribution because the recipient is not a qualified charitable organization.

Fraudulent charities

Criminals may look to take advantage of your generosity by attempting to collect personal information or money from you. Be vigilant when donating and providing information to charities.

Disaster relief

Extra tax benefits for qualified contributions made between August 23, 2017, and December 31, 2017

If you have made or will make gifts to qualified charities for certain types of disaster relief during this time frame, then you may be able to offset more of your income with a charitable deduction than is normally allowed. The recently enacted Disaster Tax Relief and Airport and Airway Extension Act of 2017 provides:

- A temporary suspension of the 20, 30, and 50 percent AGI limitations with respect to qualified contributions. Instead, qualified contributions are allowed up to the amount of an individual taxpayer's AGI (before any applicable net operating loss carryback) less all nonqualified contributions allowed under the normal rules.
- A temporary suspension of the Pease limitation (discussed earlier) with respect to qualified contributions.
- Excess qualified contributions may be carried forward up to five years.
- Qualified contributions are not taken into account for purposes of applying the AGI limitations and the charitable contribution carry forward rules to nonqualified charitable contributions.

"Qualified contributions" are generally charitable contributions that meet the following requirements:

1. Paid in cash;
2. Paid during the period beginning on August 23, 2017, and ending on December 31, 2017;
3. Paid to a charitable organization (except not a supporting organization or a donor-advised fund);
4. Made for relief efforts in the Hurricane Harvey disaster area, the Hurricane Irma disaster area, or the Hurricane Maria disaster area;
5. Supported by contemporaneous written acknowledgment stating that such contribution was used (or is to be used) for such relief efforts; and
6. The taxpayer elects to apply the special rules on his or her tax return.

If you would like to plan for any of these special considerations, contact your tax adviser to make sure that you follow the guidelines and obtain the required documentation in a timely manner.

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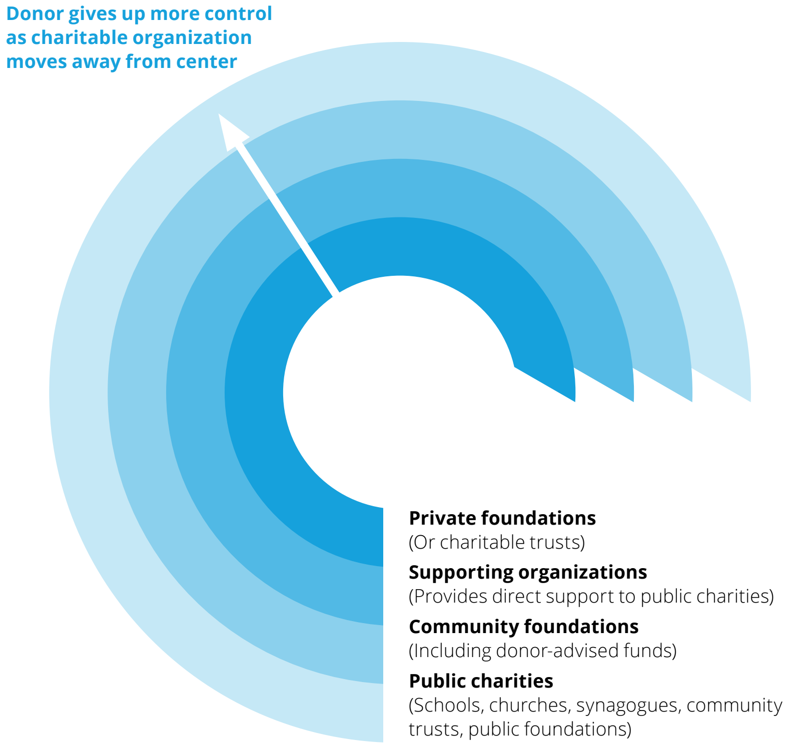
Matching your charitable vision to the right planned giving strategy

For those pursuing tax efficiency, there are many areas that require thoughtful consideration: the type of asset to donate, the timing of the gift, the vehicle to use to fund the gift, and the type of organization to receive it.

If you wish to engage in more complicated planning, it may be possible to maintain partial control over an asset being contributed to a charity or, in limited situations, to maintain a cash-flow stream from the asset. If control is your primary concern, then using a vehicle such as a donor-advised fund or a private foundation may be appropriate. However, if a cash flow stream is desired, then a split-interest charitable trust may be more advisable.



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Matching your charitable vision to the right planned giving strategy

The chart below summarizes the factors you should consider when evaluating where to contribute assets.

Planned giving options	Private foundation	Donor-advised fund	Public charity
Deductible contributions?	Yes	Yes	Yes
Contribution limit? (Generally, exceptions apply)	30% of AGI for cash contributions 20% of AGI for noncash	50% of AGI for cash contributions 30% of AGI for noncash	50% of AGI for cash contributions 30% of AGI for noncash
Donor controls grant making?	Yes	No, but donor can advise	No
Donor controls investment decisions?	Yes	No. Donor may choose investment plan, but sponsoring organization has control	No
Donor manages operations and administers organization?	Yes	No. Donor pays a fee to sponsoring organization to provide administrative services	No
Annual distribution requirements?	Yes (5% of FMV of noncharitable use assets)	No	No
Organization subject to income/excise tax?	Yes (1% or 2% excise tax on net investment income and an income tax on unrelated business income)	No, unless there is unrelated business income	No, unless there is unrelated business income
Organization subject to excise tax for prohibited actions?	Yes. Potential excise tax due for engaging in acts of "self dealing," having "excess business holdings," and making "jeopardizing investments" or "taxable expenditures"	Yes. Potential excise tax on excess business holdings, taxable distributions, and excess benefit transactions	Generally, no (potential excise tax on political activities)
Organization required to file an annual tax return?	Yes (Form 990-PF)	No. An annual filing by sponsoring organization, not each separate donor-advised fund	Yes (Form 990)

Matching your charitable vision to the right planned giving strategy

Private foundation

A private foundation is formed to administer the charitable interests of an individual or family, according to their wishes. Income tax deductions are generally less favorable than those to public charities. You would receive a charitable deduction subject to the 30 percent AGI limit for contributions of cash. If you are donating appreciated securities or assets, you would be subject to the 20 percent AGI limit and the value of your deduction would generally be your adjusted basis unless it was a donation of "qualified appreciated stock." You would not retain any rights to the assets, but could retain certain rights to administer the foundation, subject to the self-dealing rules. Some donors prefer a private foundation because it allows them or their family more control over giving. A private foundation can be used to "pre-fund" several years of normal charitable giving. Private foundations can also be used to give assets that are not easily divided, such as real property, or provide a means to fund foreign charitable endeavors. There is a minimum annual asset distribution requirement.

While a private foundation may be a significant part of the legacy you leave and the vehicle that brings your family together after your passing, you should consider the administrative complexities of maintaining a private foundation when you assess whether it is the right vehicle for you.

Donor-advised fund (DAF)

A DAF is a fund that is managed under the tax umbrella of a public charity such as a community foundation. You would make an irrevocable gift of property (such as stock held for greater than one year) to the host charity and receive a tax deduction equal to the FMV of the property in the year of the gift. Assets are deposited into an investment account where they can grow tax free. Only one acknowledgment letter for the donation to the fund is required instead of one receipt from each charity receiving a donation from the DAF, which can significantly simplify recordkeeping for tax purposes. You retain the right to advise, but not to direct, the host charity in administering the affairs of the DAF.

Depending on the policies of the host charity, advice may include naming the fund, managing investments, recommending grants, and selecting a replacement adviser at the death of the donor. DAFs cannot benefit you directly or any other private interest.

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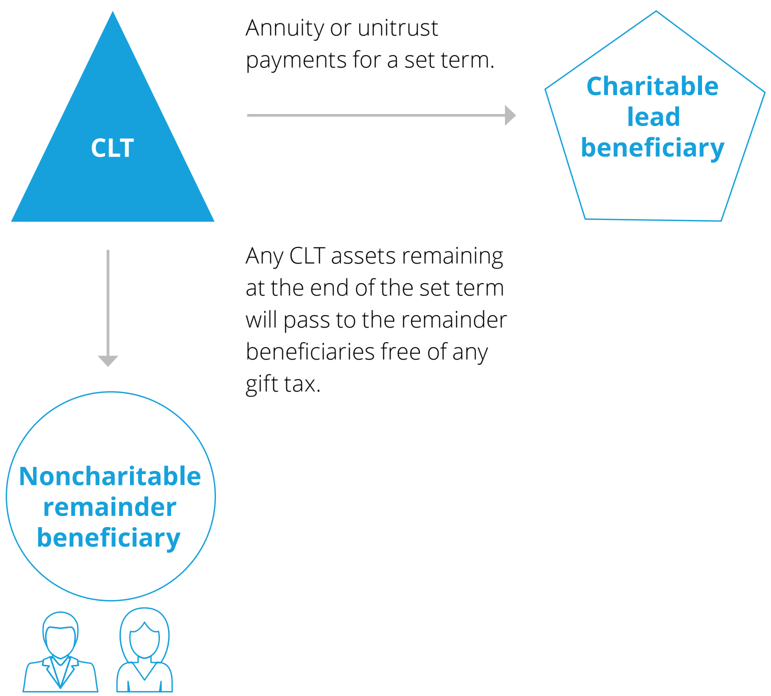
Matching your charitable vision to the right planned giving strategy

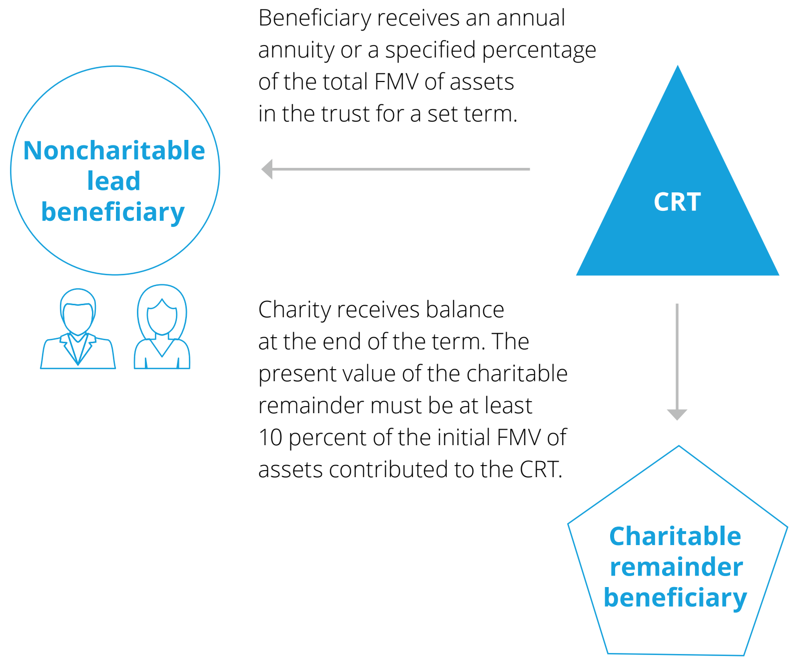
If a cash flow stream is desired, either prior to or after the asset is transferred to charity, then a split-interest charitable trust may be a tax-efficient alternative to transfer the asset. The financial interest from these trusts is split between the charitable and noncharitable beneficiaries (including the donor). The two most common kinds of split-interest charitable trusts are a charitable lead trust (CLT) and a charitable remainder trust (CRT). Both of these trusts are related, but they are fundamentally different.

The CLT will make distributions to a charity for a particular amount of time. After that, the assets within the trust, which are called the remainder interest, will pass to desired noncharitable beneficiaries. With the CRT, the assets placed within the trust will provide distributions to the noncharitable beneficiaries (typically the donor) for a certain time period or the lives of the beneficiaries. The assets will then become property of the charity. These two trusts are inverses of one another and are taxed in significantly different ways.

Charitable lead trust (CLT)



Charitable remainder trust (CRT)



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Matching your charitable vision to the right planned giving strategy

Charitable lead trust

A CLT can be designed to pay in two different ways: as a fixed annuity payment or a unitrust amount to the charity. This means that the charity can be paid a fixed dollar amount annually or a fixed percentage of the FMV of the assets in the trust. A CLT may be useful when the asset being contributed has a high potential for future appreciation. It may also be appropriate if your heirs are still young and not capable of assuming control of a substantial amount of assets. In creating and funding a CLT, you would make final arrangements for the disposition of the assets by your estate but defer the time when your beneficiaries can actually take control of and receive property. In the interim, the charity receives ongoing and immediate benefit from the trust. When assets do eventually pass to the beneficiary or beneficiaries, they are not subjected to federal gift tax. Timing and recipient of the charitable deduction depends on the terms of the trust.

Charitable remainder trust

Alternatively, a CRT will first pay the beneficiary, which could be yourself, before the remaining assets are permanently awarded to the charity. Like the CLT, the payment to the beneficiary can be an annuity, which is a fixed dollar amount, or a unitrust, which is a fixed percentage of the FMV of the assets in the trust. The amount distributed each year must be set at the creation of the trust to be at least five percent of the initial FMV of the trust assets. A CRT may be a good planning option if you have an appreciated asset that you would like to sell and diversify, but desire to be able to defer the gain over time. Income is taxed only when distributions are made from the trust (assuming there is no UBTI).

You would receive a charitable deduction in the year of transfer equal to the remainder value for the charity, which must be at least 10 percent of the amount contributed.

CLTs are useful for donors who:	CRTs are useful for donors who:
• Have sufficient other income-producing assets to provide for their cash needs during the charitable term	• Require a current income stream • Desire to defer large capital gain • Anticipate having a need for income during the trust term, particularly if the donor uses appreciated property to fund the trust
CLT benefits	**CRT benefits**
• May assist when contributions exceed charitable AGI limits • Allows a donation to charity while keeping assets in the family • Helps mitigate gift/estate taxes	• Charitable contribution deduction is allowed for the present value of the remainder interest of the trust • Provides annual payout to noncharitable beneficiary • Allows for deferral of gain on assets to be sold
CLT drawbacks	**CRT drawbacks**
• No income tax deduction for grantor unless CLT is a grantor trust • Requires charitable payment each year regardless of income • Subject to some private foundation rules	• Irrevocable—may not be changed • Limited on types of assets in which to invest • Subject to some private foundation rules

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Planning for philanthropic goals

Charitable contributions are often the largest controllable deduction for an individual. For those seeking tax efficiency, there are many areas that require thoughtful consideration: the type of asset to donate, the timing of the gift, the vehicle to use to fund the gift, and the type of organization to receive it.

It is critical to work with an adviser specializing in this area to navigate your way through these decision points effectively for the sake of both your philanthropic goals and your tax planning.

Resources

Private wealth	Deloitte Private Wealth Private Wealth brochure
Tax reform	Tax Reform insights Tax News & Views: Capitol Hill briefing
Individual income tax planning	Private wealth tax controversies: Deep experience navigating interactions with taxing authorities
Wealth transfer planning	Wealth planning: Securing your legacy US estate and gift taxation of resident aliens and nonresident aliens
Philanthropy	Private foundations: Establishing a vehicle for your charitable vision
Identity theft	IRS Identity Protection Specialized Unit: +1 800 908 4490 IRS.gov, Identity Protection: Prevention, Detection and Victim Assistance IRS.gov, Taxpayer Guide to Identity Theft IRS.gov, Identity Theft Guide for Business, Partnerships and Estate and Trusts Helpful resources: Publications, articles, YouTube videos and other identity theft related outreach IRS.gov, Tax Scams / Consumer Alerts IRS.gov, IRS Publication 5027, Identity Theft Information for Taxpayers Federal Trade Commission: Consumer Information, Identity Theft

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