

Legacy Donation Considerations

by John L. Petrini, MD, MASGE

So now that you are retired, how can you maximize your retirement income?

Once you have reached 70 ½ years of age (or later, as the regulations keep changing), a strange change takes place in your retirement income. You are no longer consumed with building a retirement portfolio, and now need to begin withdrawing from social security, your IRA accounts or 401k accounts. This assumes you do not have a pension program, since each plan has its own considerations and rules. For those of us who do not have a pension plan, we are usually drawing from social security and our IRA/401k contributions that have been building throughout our career. If you choose to delay the start of drawing from social security in order to increase the monthly benefit, the maximum age that you can continue to increase your social security benefit is 70, so beyond that age, there is no advantage for not taking social security benefits. The goals for many retired individuals are:

- Wealth preservation
- Preserving assets for our heirs
- Minimizing tax burden from capital gains for estate taxes
- Giving back to valued nonprofits that have significantly impacted our careers

The typical way most of us have donated to nonprofit organizations and charities is through individual donations. Changes in tax laws, however, have made this form of tax shelter less desirable for many of us. The primary change was the doubling of the standard deduction, so that many people no longer itemize their deductions. There are, however, ways to donate to nonprofits and charities that will continue to be good options for donors. Donations directed to nonprofits from your required minimum distributions from IRA or 401k accounts will reduce your income and may be a good way to reduce your tax bracket. However, there are several other donation vehicles that may be useful for those who have substantial estates.

You can plan to donate any asset directly to a nonprofit, but the tax advantage may be small or non-existent, especially if you are using post-tax dollars. The discussion here is only an introduction. You will need to consult with a tax or retirement attorney or financial advisor to fully understand the role of donations on your estate.

Planned charitable contributions fall into three main categories:

- Deferred gifts of cash or other assets
- Gifts that pay an income
- Gifts that protect a donor's assets

Deferred planned gifts

Deferred planned gifts are “deferred” as the nonprofit only receives the asset after the donor passes. Simple to establish, the nonprofit is named as a beneficiary for a part or all of the assets in the donor's will or estate.

Bequests made up approximately 9% of all charitable giving averaging about \$50,000 per bequest in 2018. The bequests can be a specific cash or asset allocation, a percentage of the donor's estate, or the remainder of the estate after all other beneficiaries have received their payments.

The deferred gift can also be a retirement plan's assets or life insurance policy. Each of these deferred gifts can be a particularly good strategy to reduce income and inheritance taxes for donors with large estates.

Planned gifts that pay income

Life income gifts require durable and established relationships between the donor and the nonprofit organization.

Donor Advised Funds

You can contribute assets to a Donor Advised Fund (DAF) and receive an immediate tax deduction. These funds are then allowed to develop and accrue value over time. The donor "advises" the DAF which nonprofit should receive the funds and when. This type of fund is beneficial for donors who want to make a large donation in a year that their income is high, even though the ultimate donation to nonprofits may be in a future year. A DAF may have drawbacks for donors, who no longer control the investment strategy, and there have been DAFs that have gone bankrupt, distributing the DAF's assets to creditors.

Planned gifts that protect a donor's assets

Charitable Lead Trust

The charitable lead trust is the opposite of a charitable remainder trust. The donor makes a gift that generates a fixed income stream to the nonprofit for either a specific term of the life of the donor. The residual assets in the trust revert back to the donor's estate at the end of the contracted term or the death of the donor. The main benefit for donors is in the reduction of their estate taxes while still providing for heirs.

Retained Life Estates

In this scenario, the donor transfers a property deed or title to a nonprofit while retaining the right to use the property. Upon the end of the set term or death of the donor, the property belongs to the nonprofit. The donor benefits by obtaining a tax deduction with the gift and reduction in estate tax.

Legacy giving and planned giving are strategies that may not be applicable to all retirees, but individuals with substantial estates may want to look into these strategies to reduce taxes and preserve assets for heirs.