Charitable Trusts

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There are a number of ways to benefit a charity. It depends on what the person making the gift wants to do. There are also a number of income tax and gift and estate tax deductions and exemptions available for the person making the gift or bequest, which can range up to 100% on the estate tax side and up to 50% on the income tax side. It is also possible to benefit family heirs at the same time. Different types of charitable trust arrangements include charitable remainder trusts, charitable lead trusts, public charities, donor advised funds and private foundations.

Charitable remainder trusts typically provide for monthly or quarterly payments to family members named in the trust, with the remaining balance, typically after the named family members' deaths, going to one or more public charities. The amount going eventually to the charity must be at least 10% of the value of the property transferred into the charitable remainder trust. Charitable remainder trusts can be structured as charitable remainder unitrusts (CRUT's) or charitable remainder annuity trusts (CRAT's), among other arrangements, to give the person making the gift or bequest considerable flexibility as to how much income the family members receive and how much the charity will receive. These trusts are popular and can help provide a predictable monthly income for family members and then benefit the charity after the family members have died. These charitable remainder trusts are the most common type of charitable trust.

Charitable lead trusts are trusts which benefit the charity right from the beginning of the trust, and then later on benefit family members or other individuals designated in the trust. One or more charities can be designated as the initial beneficiaries in the trust or the trust can provide that the trustee selects the charities each year. Charitable lead trusts are used when the donor wants to benefit the charities right away at the time the trust is established. Usually the person making the gift has enough other assets so that he can maintain his or her own standard of living without needing to rely on monthly checks from the charitable trust.

Public Charities Public charities typically are established and funded to provide for educational, scientific, healthcare, disabilities, religious, cultural or social welfare services for the public. Every charitable benefactor thinks at times about creating a new public charity, perhaps one designed to fulfill a charitable purpose not adequately addressed by existing local non-profits. Public charities are usually started by a core group of friends. A public charity trust is managed by its trustees. There is no maximum or minimum number of trustees and trustees may appoint their successors or additional co-trustees, all as provided in the trust. The choice of trustees is a critical aspect of the creation of a public charity trust. The founders' ability to select the identity and characteristics of the trustees and the method of their appointment and succession and to detail their powers and limitations is one of the distinguishing characteristics of this type of charitable trust. The trust can hire employees to provide services to carry out the purposes.

__Donor advised funds__ are trust funds established by charities. It is possible to contribute funds to such a qualifying charity under circumstances where the donated funds will be held by the charity separately from other funds. The donor can advise the charity as to the identity of possible distributees and the possible timing and amounts of the possible distributions, but this power to suggest is merely advisory and not binding. On the other hand, since the trust fund is already in existence, the donor does not have to create a charitable trust, public charity or private foundation.

__A private foundation__ is usually created by a trust, although it can also be created as a non-profit corporation. The private foundation usually receives its support from a limited number of people, such as the person making the gift or bequest and/or that person's family. Family members can be trustees, directors and officers of the foundation and can determine the investments and grants made by the foundation. The foundation is organized for religious, charitable, scientific and/or education purposes, and the foundation gives out grants each year of at least five percent of the annual value of foundation, to worthy public charities chosen by the foundation. The family can continue to be involved over future generations, and the private foundation reflects that the family name will be associated with charitable causes for generations. Private foundations are used to carry out many of the largest charitable plans.

__How to choose__ The best place to start is to choose several approaches you might want to investigate and then have a consultation to discuss options based on a review of your estate plan. Each of the various types of charitable trust arrangements discussed in this article have their own unique characteristics and their own unique tax benefits under the income, estate and gift tax laws. The tax benefits also vary depending on the specific financial circumstances of the person making the gift or bequest, and the tax benefits also vary depending on when the gift or bequest is made. Charitable trusts are very popular with people who want to go beyond an annual gift check to a favorite charity or a simple bequest in a will or revocable trusts.

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