



# GIVING THROUGH YOUR WILL

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Americans are well known for giving their time and other resources for the benefit of causes they believe in. Many lives are enriched as a result.

Additionally, people choose to include charitable gifts in their estate and financial plans. Making thoughtful gifts in this way can often be possible while preserving economic security for you and your loved ones.

This booklet outlines a number of ways to include a charitable gift in your will, living trust or other estate plans.

You will also find forms that may help you when preparing to meet with your professional advisors and a section with more details for your advisors about wills and estate planning.

More information is available upon request, in confidence and with no obligation.

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## Ways to make gifts

**T**he way you choose to make a charitable gift through your will can depend on a number of factors, including the assets you own, family considerations and your charitable priorities. A few of the most commonly used methods are described here.

### Give a specific amount

Giving a dollar amount through your will offers certainty regarding the amount that will ultimately be put to charitable use. If you regularly update your plans and are certain that other funds will be adequate to provide for your loved ones, giving a specific amount may be a good option.

### Give a specific property

You may choose to leave specific property for charitable purposes. It should be readily marketable unless you have previously arranged for the charitable recipient to make use of the property in a particular way.

Keep in mind that if you sell or otherwise dispose of the asset during your lifetime, you may unintentionally disinherit the intended charitable recipient. Therefore, it is important to give directions as to your wishes in case you no longer own the property you want to give through your will.

## Give a percentage

If you would like to establish a fixed relationship between what is received by charitable and noncharitable beneficiaries under the terms of your will, consider giving a particular percentage of the assets to charity. Your charitable gifts will then automatically adjust along with the total value of your property.

## Give all or part of what's left

After first providing for your loved ones in your will and other estate plans, you may wish to arrange for a charitable gift from the “residue” or what's left.

This ensures that others receive what you would like them to have prior to making charitable distributions.

## Consider a codicil

A charitable bequest can be added or modified by an amendment, or codicil, prepared by your attorney. This may be simpler and more economical than drafting a new will.

## Taking care of others first

**Y**ou may also arrange for assets left through your will to be used to provide support for a surviving spouse or others for life (or other period of time) before being devoted to charitable purposes.

## A variable income

You can provide through your will that an income be paid to a surviving spouse and/or another person for life or another period of time you choose. The income may fluctuate with the performance of investments each year. At the conclusion of the payments, all or a portion of the remaining assets then pass to charity.

## A fixed income

If you would like to leave a loved one a fixed income that will not change over time, you can also accomplish this through your will while providing for an eventual charitable gift. It can be possible to provide that all or a portion of your assets are available to loved ones in the event of an emergency.

## Potential tax benefits

Recently enacted federal tax legislation provides for generous exemptions from estate and gift taxes. As a result, few estates will owe these taxes. This may make it possible to leave more to loved ones and to charity as well.

If your estate is still subject to state and/or federal estate tax, remember there is no limit to the amount that can be left to charity free of federal estate tax.

## Gifts from other plans

If your estate plan includes the use of other methods to transfer a portion of your estate, such as revocable living trusts, retirement plans, life insurance policies or separately titled investment accounts, remember that charitable gift opportunities and tax savings may be realized through those planning tools as well. Amounts remaining in retirement plans can be an especially tax-effective way to give. Check with us or your advisors for more information.

## Reviewing your plans

**W**hile having a will and other estate plans is key to accomplishing many of your goals, keeping these arrangements up to date is equally important.

Estate planning experts suggest scheduling reviews on a regular basis, especially when major events occur in your life (births, deaths, changes in marital status, changes in wealth, etc.), or when there are significant tax law revisions.

To review your will, see your attorney. He or she can explain how tax laws and other legislative changes might prompt changes in your will and/or other plans. A handwritten will or handwritten changes to an existing will may invalidate the document. This could result in the distribution of your property being left to a court of law.

The following pages can assist you in preparing to meet with your attorney to make or review your will. As you complete them, think about how your property can best be distributed among your family, other loved ones and charitable interests.

## 1. My Beneficiaries

List family members, friends, associates and charitable interests for whom you would like to provide.

Name	Age/Relationship/Address
------	--------------------------

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

## 2. My Property

Summarize the property you own: cash (bank accounts); your home and household items; other real estate; stocks, mutual funds and other securities; jewelry, art, collections or other items of value; life insurance and retirement plans; automobiles. Include all current and future sources of income as well. Don't forget any investments (such as annuities) that will generate an income for loved ones.

Asset	Approximate value
-------	-------------------

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

Location of more complete listing of assets, accounts and passwords:

\_\_\_\_\_

\_\_\_\_\_



### 3. My Plans

Now, match the beneficiaries you listed with your property to begin developing your plans. Keep in mind that many forms of property may be distributed by percentages to different recipients, and that you may provide for a current or future income for others.

Include any charitable interests you'd like to remember after providing for your loved ones. You may wish to consider a bequest in memory or in honor of someone special to you. Many people find making a memorial gift through their will or other plans can be a satisfying way to pay lasting tribute to loved ones.

Person/Organization	Asset/Income
---------------------	--------------

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

### 4. My Advisors

List professional advisors with whom you have worked over the years. Circle the one(s) you consider to be your primary advisor(s).

Attorney \_\_\_\_\_

Banker \_\_\_\_\_

Accountant \_\_\_\_\_

Life Insurance Representative

\_\_\_\_\_

Investment Advisor/Broker

Other Planners \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**L**eaving a legacy to future generations is a rewarding and noble act. But a gift from your estate—whether through your will or other estate planning vehicles—can be made only if you plan ahead. As you’ve seen in these pages, very simple plans are often all that are required.

We will be pleased to discuss with you ways in which we can help you meet your charitable goals. You may also wish to share this booklet with your financial advisors. They may find the following section especially helpful.

### Technical Advisory Section

The charitable bequest is widely known as a vehicle for property transfer and is the most common means of leaving assets to qualified charitable organizations and institutions at death.

#### Begin with the basics

**A** will that includes one or more charitable recipients is basically no different from other wills. To be valid, the information it contains and the method in which it is executed must qualify under applicable state laws.

*The proper name:* Charitable entities may sometimes share the same or very similar names and they may possibly be located in the same city or state. When drafting a will that leaves property to a charitable entity, it is critical to correctly identify the intended recipient of the property. If in doubt, check with the organizations or institutions involved and request legal names and other identifying information. It may also be useful to include most recent known addresses.

*The use of the property:* As in bequests to individuals, testators often choose to specify a particular use for their bequests. What is known as *precatory language* may be used to express a preference, or wishes may be stated in such a way that leaves little room for the recipient to determine use.

Most charitable bequests are left to the charitable entity “for the general purposes of the organization” a number of years before the funds are received, and the needs of the organization may change in many ways. Most donors choose to allow maximum flexibility for the use of the funds bequeathed.

If a donor wishes to restrict the use of a bequest, it is in the best interest of all involved to discuss the intended use with authorized representatives of the charitable recipient before the execution of the will.

*Limits on the size of charitable bequests:* Some states may impose limits on the amounts that can be left to charitable beneficiaries in certain situations. A spouse and/or children may be entitled to specific percentages of an estate which may override charitable dispositions. Such restrictions rarely impose barriers in the typical situation, but state laws should be examined if a donor is contemplating one or more charitable bequests that amount to a substantial portion of his/her estate.

Other than the considerations outlined above, there generally are no limits on the amount of property that can be left for charitable purposes through a will.

### Choosing the form of the bequest

A charitable bequest may be structured in many ways. A person may choose to leave a specific dollar amount, particular real or personal property, a percentage of the estate, all or a portion of the residue of the estate following the satisfaction of other bequests or a combination of the above.

*A fixed dollar bequest:* In the case of a smaller bequest, it is usually best to simply state a specific dollar amount. This is particularly useful in the case of a highly liquid estate that will be reviewed on a regular basis.

If a person is considering a larger bequest or if the estate will be composed primarily of relatively illiquid assets, it may be best to choose another method of satisfying charitable intentions.

*A bequest of property:* A donor may choose to leave a particular real property—whether a home, farm or rental property—to a charitable beneficiary. It may be left outright, or a life estate may be granted to a surviving spouse or other relative or friend.

Great care should be taken to properly describe the intended property and the interest bequeathed if it is not the entire ownership interest. In the case of tangible personal property such as jewelry, automobiles and other assets, all aspects should be carefully considered before making such assets the subject of a charitable disposition. Such gifts may create disputes and unnecessary friction among charitable and noncharitable heirs.

A specific bequest of intangible personal property such as stocks and bonds may not be the best choice. The value may have increased or decreased to a point where it no longer represents the intention of the testator.

In the case of any gift of property, language should be included that expresses the wishes of the testator if the property has been disposed of prior to death.

*Bequest of the residue:* Perhaps the most common method of leaving charitable bequests is through residuary clauses.

After providing for significant others and friends, many testators will specify that all or a portion of the residue of their estate be distributed to one or more charitable organizations or institutions.

As a result, loved ones are cared for first and charitable wishes then follow, if this is the testator's desire. Many people choose to leave a set percentage of the residue of their estate for specified charitable uses.

This approach offers a correcting mechanism in case the estate should unexpectedly increase or decrease in value.

## Tax considerations

**A**n unlimited amount of charitable gifts may be deducted from federal estate and gift taxes. See Internal Revenue Code section 2055(a). Check applicable state laws for restrictions that may apply.

*The marital deduction:* Some married people use trusts in their wills to take maximum advantage of the unlimited marital deduction. In the case of a life interest

left to a spouse followed by a charitable disposition of the property, a combination of the charitable deduction and the marital deduction will effectively eliminate all tax at the federal level. See IRC sections 2523(a) and 2056(a).

*Gift and estate taxes:* The *Tax Cuts and Jobs Act of 2017* continued the trend toward reducing the impact of federal estate and gift taxes on personal estate planning. The maximum federal estate and gift tax rate remains 40% for estate and/or gift taxes beyond the exemption amount. Effective January 1, 2018, the act doubled the estate and gift tax exemption amount to \$10 million for individuals and \$20 million for a married couple, adjusted for inflation since 2011. It is anticipated the exemption amounts for 2018 will be approximately \$11.2 million for singles and \$22.4 million for married couples. These amounts will continue to be indexed for inflation in future years. Check for latest amounts.

As in the past, unlimited amounts can still be transferred for qualified charitable purposes free of estate and gift taxes. The reduction of estate and gift taxes at the federal level on amounts left to family and other loved ones may now mean that more is available to make charitable gifts during lifetime and at death by those who are charitably inclined.

The federal gift tax was reunified with the estate tax by legislation enacted in 2011. The maximum amount that can be given to noncharitable recipients during life was increased in 2011 from \$1 million under prior law to the same amount exempt from estate tax (see above). The gift and estate tax exemption is also portable between spouses, meaning that a surviving spouse can elect to use any portion of the estate and gift tax exemption not used by the predeceasing spouse.

*Generation skipping transfer (GST) tax:* This area of the law is quite complicated; however, charitable gifts may minimize the amount of transfer tax owed for some estates. It is one consideration to explore if the support of future generations is one of the person's goals and if the estate would otherwise be affected by the generation skipping transfer tax. Under terms of federal tax legislation in 2017, the amount exempt from the GST tax was also increased to an estimated \$11.2 million per individual (as indexed for inflation).

For details on the GST tax, see Code sections 2601–2663 and the corresponding regulations, and check for the latest changes in the law governing this provision.

## Other opportunities

The will is the most commonly used method of making charitable gifts at death. Other opportunities exist, however, that may be used in combination with a will or as stand-alone vehicles.

For example, a *charitable remainder unitrust* or *annuity trust* allows a person to receive income each year for life while making a substantial charitable gift at death.

If desired, such a trust may be created in a will to go into effect at the person's death. The income in that case would be distributed to a survivor as specified in the trust agreement.

Charitable income or estate tax deductions (depending upon whether the trust is inter vivos or testamentary) are taken in the year the trust is established.

Other life income plans that feature fixed or variable income may also be available. In short, virtually any giving method that can be used during life may also be included in a will, adding to its attractiveness to donors.

**Recent developments:** The tax code changes frequently. Always check for recent developments before the completion of estate plans. The IRS publishes helpful tax planning information and updates at [www.irs.gov](http://www.irs.gov).

The purpose of this publication is to provide general gift, estate, and financial planning information. It is not intended as legal, accounting, or other professional advice. For assistance in planning charitable gifts with tax and other financial implications, the services of appropriate advisors should be obtained. Consult an attorney for advice if your plans require revision of a will or other legal document. Tax deductions vary based on applicable federal discount rates, which can change on a monthly basis. Some opportunities may not be available in all states. © Copyright MMXVIII by Sharpe Group. All Rights Reserved.



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