

Comprehensive Charitable Planning

Charitable gifts that preserve personal wealth.



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Giving to charity can provide many benefits and opportunities, both to the charity and to you. The charity, of course, benefits from a donation that can help to further its cause. As the donor, you may receive tax benefits along with the satisfaction that comes with making the gift. The ways in which gifts can be made to charity vary and can be tailored to achieve specific planning objectives.

What is Comprehensive Charitable Planning?

Comprehensive Charitable Planning is a planning approach to giving that takes into account your overall personal and charitable planning objectives. You can design your charitable gifts to be extensive and tailor them to preserve and transfer your own personal wealth. Gifts of almost any type of asset can be made to charity, including cash, securities, real estate, and even life insurance.

Benefits of making charitable gifts. When making charitable gifts, you and the charity benefit in a number of different ways:

- The charity receives a gift it can count on to further its cause.
- In most cases, the charity benefits from the full value of the asset transferred since taxes may not apply.
- You may benefit from the savings associated with a charitable income tax deduction.
- You may be able to avoid a lump-sum capital gains tax on a highly appreciated asset.
- You may achieve significant gift tax savings and minimize estate taxes.
- You may be able to retain an income from the transferred asset for lifetime or for a period of years.
- You can diversify a concentrated stock position without incurring immediate taxes.
- The asset given to charity can be replaced at a discount with life insurance.

How Charitable Giving Works

You can transfer an asset directly to a charitable organization during your lifetime or at death, and at the same time, reduce your taxable estate. You can also make an indirect gift by using a charitable trust or charitable life estate that provides benefits to both you and the charity. Moreover, assets you transfer to charity can be replaced at a discount for your family through the use of life insurance. What's more, the savings from a charitable income tax deduction can even be used to fund a much needed life insurance policy.

Tax benefits will be limited based on the type of asset transferred, the type of charity to benefit, the type of trust being used, if any, as well as your adjusted gross income (AGI) level. The following charts provide only a general summary of what value the charitable income tax deduction is based on, as well as the limitations placed on the deduction once calculated. You should consult your own tax advisor to determine the deductibility of a specific asset for charitable planning purposes.

Value of Charitable Income Tax Deduction¹

	CASH	LONG-TERM CAPITAL GAINS PROPERTY	ANNUITY ²	SHORT-TERM CAPITAL GAINS PROPERTY	REAL ESTATE	NON-PUBLICLY TRADED STOCK	LIFE INSURANCE
PUBLIC CHARITY	Entire Gift	FMV	Lesser of FMV and cost-basis	Lesser of FMV and cost-basis	FMV	Lesser of FMV and cost-basis	Lesser of FMV and cost-basis
PRIVATE CHARITY	Entire Gift	Lesser of FMV and cost-basis ³	Lesser of FMV and cost-basis	Lesser of FMV and cost-basis	Lesser of FMV and cost-basis	Lesser of FMV and cost-basis	Lesser of FMV and cost-basis

The FMV in the above chart refers to Fair Market Value. This chart illustrates the value of the deduction. However, the chart below indicates the maximum amount that can be deducted based on your AGI, the type of property transferred, and the type of charity to benefit.

AGI Limitations on Charitable Income Tax Deduction

TYPE OF GIFT	PERCENT OF AGI THAT CAN BE DEDUCTED*	
	TYPE OF CHARITABLE RECIPIENT	
	PUBLIC CHARITY	PRIVATE CHARITY**
CASH	50%	30%
ORDINARY INCOME	50%	30%
CAPITAL GAINS PROPERTY (applies to life estates)	30%	20%
GIFTS MADE BY		
C-CORPORATION, OR ENTITY TAXED AS CORPORATION	10% regardless of type of property transferred	10% regardless of type of property transferred

*If a gift is made to a Charitable Lead Trust (CLT) that is classified as a Grantor Lead Trust, the grantor of the trust may receive an income tax deduction. If so, the deduction is subject to less favorable AGI limitations, including 30% when the lead interest is held by a public charity and 20% when the lead interest is held by a private charity. Also, if a gift is made to a Charitable Trust in which there are both public and private charities named or the charity is unspecified, the limitation is based on gifts made to a private charity.

**An operating private foundation is equivalent to a public charity with regard to deductibility. Most private foundations, however, are non-operating and therefore will be subject to the deductions based on a gift made to a private charity.

If the entire amount of the deduction cannot be used when a gift is made due to the above AGI limitations, you may be able to carry-over the remaining deduction for five additional years, subject to the same limitations.⁴

Calculating an Asset's Charitable Income Tax Deduction Potential

Here is a general summary of how the charitable income tax deduction works when making specific types of gifts to charity:

- Gifts of cash or marketable securities made to a public charity may provide you the highest potential income tax deduction.
- If appreciated property qualifies for long-term capital gains treatment (held for more than one year) and is transferred to a public charity, the deduction is limited to 30% of AGI. However, if capital gains property is transferred to a private charity, the deduction is less favorable and is limited to 20% of AGI.
- For gifts of appreciated property in which the gain is considered ordinary income, such as annuities, life insurance, and stock held for 12 months or less, the deduction calculation will be based on the lesser of cost-basis or fair market value, and the respective AGI percentage limitation will apply (50% of AGI for gifts to a public charity and 30% of AGI for gifts to a private charity). These types of assets are generally not recommended for transfer to a charitable trust. However, charitable trusts do purchase these assets.
- For gifts of closely held stock made to benefit a private charity, the deduction calculation will be based on the lesser of cost-basis or fair market value, and the 20% AGI limitation will apply.
- When gifts are made using a Charitable Lead Trust (CLT), a deduction up to 30% of AGI can be taken when the charity to benefit is a public one. A deduction up to 20% of AGI can be taken when the charity is a private foundation.

Types of Charities

Generally, there are two types of charities — public and private. The rules governing each type are very involved and are beyond the scope of information provided here. Briefly, private and public charities are typically tax-exempt, operated for public purposes, and provide the donor with a potential charitable income tax deduction.

The principal purpose of a charity or foundation is to make grants to unrelated organizations or institutions, or to individuals for scientific, educational, cultural, religious, or other charitable purposes. The most common distinguishing characteristic of a private foundation is that most of its funds come from one source, such as an individual, a family, or a corporation. As a result, a private foundation generally does not engage in fundraising, but receives its funds through continuous contributions and investment income. Note, however, there is potentially more control over the grant-making process by contributors of a private foundation. As a result, there is more room for abuse, and strict rules apply to gifts made to private foundations.

A public charity normally receives its assets from multiple sources, which may include private foundations, individuals, government agencies, and fees for service. Moreover, a public charity must continue to seek money from diverse sources in order to retain its public status.⁵

How Charitable Gifts Can Be Made

Charitable gifts can be made directly to the charity, or indirectly through the use of a charitable trust or a life estate:

Making direct gifts.

- **Gifts of cash, securities, or real estate:** When an asset is given away to charity, typically the charity will sell the asset without any tax consequences, since it is a tax-exempt entity. The charity will then use the proceeds from the sale for its charitable purposes. The income tax deduction available to you will be based on the limitations generally outlined in the tables on page 3.
- **Gifts of life insurance policies:** A gift of a life insurance policy on your life (or the joint lives of you and your spouse) can benefit a charity significantly, though the benefit is delayed until death, and scheduled premiums, if any, must be paid by the charity in order to sustain the policy. However, you can also make annual cash gifts to the charity equal to the premium due and you may receive a charitable income tax deduction.
 - **Transfer existing policy.** When a gift of an existing policy and all its rights are made to the charity, the value of the income tax deduction will be based on the cost-basis in the policy or its fair market value, if lower. The fair market value of the policy is the interpolated terminal reserve (ITR) as of the transfer date. The ITR is determined by the insurance company and takes into account premiums paid as well as the policy's cash value. However, no income tax deduction is allowed if there is an existing loan on the policy.

EXISTING POLICY DEATH BENEFIT	CUMULATIVE PREMIUMS PAID	POLICY VALUE	INCOME TAX DEDUCTION	AGI LIMITATION YEAR 1* (50% of \$120,000 AGI)	INCOME TAX SAVINGS YEAR 1 (35% tax rate)	CARRY-OVER DEDUCTION (year 2)
\$1,000,000	\$75,000	\$78,000	\$75,000	\$60,000	\$21,000	\$15,000

* This example assumes an AGI of \$120,000 and that the life insurance is transferred to a public charity.

- **Name charity as policy beneficiary.** A charity can be named as beneficiary of a new or existing life insurance policy you own, but no income tax deduction is allowed since you still have full ownership rights, primarily the right to change the beneficiary designation. In this case, the life insurance proceeds will be included in your taxable estate, but the estate will receive an estate tax charitable deduction at death for the full value of the death proceeds transferred to charity.

- **Charity-owned life insurance.** You can make cash gifts equivalent to the premium amount on a new or existing life insurance policy owned by a charity. Like any cash gift, an income tax deduction is available for the amount of the cash given directly to charity.
- **Gift of an asset for an income stream (Charitable Gift Annuity):** You can also give an asset directly to a charity in return for an unsecured promise by the charity to fund an annuity for your lifetime or a period of years. The charitable income tax deduction is based on the present value of the remaining asset balance, net of the annuity paid to you. The calculation of the deduction generally follows the same rules as those for charitable trusts, discussed below.

Making indirect gifts.

- **Making gifts through charitable trusts:** You may make a gift to a charitable trust to benefit a specifically named charity or a specific cause. Generally, the trust can be established as a Charitable Remainder Trust (CRT), or as a Charitable Lead Trust (CLT). Please note that trusts should be drafted by an attorney familiar with such matters in order to take into account income and estate tax laws (including generation-skipping transfer tax). Failure to do so could result in adverse tax consequences.

When charitable trusts are established, they are considered split-interest trusts since both the donor (or the donor's family) and charity benefit from the trust. Therefore, the charitable income tax deduction is calculated based on the present value of the amount going to the charity, net of the interest that the donor or other family members receive. The trust principal at the end of the term is referred to as the remainder interest, while the income interest may be referred to as a retained interest. The present value is calculated using a government growth assumption, known as the Applicable Federal Mid-Term Rate, often referred to as the AFMR or 7520 rate.

In the case of a Charitable Gift Annuity, the payout rate is based on the American Council on Gift Annuities (ACGA) rates, to assure that there will be a benefit to charity at the annuitant's death. The 7520 rate as well as your age or the length of the trust term also factor into the calculation.

Types of charitable trusts include:

- **CRT.** A CRT is a tax-exempt trust that is set up for a lifetime, or for a period of years not to exceed 20, before the charity receives the balance of trust assets. In the meantime, you (or someone designated by you) will receive an income stream generated from the trust for the trust term. If the trust is established as a Charitable Remainder Unitrust (CRUT), the income will be based on a percentage of the annual value of trust assets. If the trust is established as a Charitable Remainder Annuity Trust (CRAT), the income will be based on a fixed-dollar amount. The charitable income tax deduction is calculated based on the present value of the assets, net of the income stream provided to the non-charitable income beneficiary.

MECHANICS OF CRT DEDUCTION							
CLIENT AGE	ASSET VALUE (public stock to public charity)	ANNUAL LIFETIME INCOME TO YOU (5% payout rate)	PRESENT VALUE OF REMAINDER FOR CHARITY (5% AFMR rate)	POTENTIAL CHARITABLE INCOME TAX DEDUCTION	MAXIMUM ANNUAL DEDUCTION (based on 30% of \$130,000 AGI)	TAX SAVINGS YEAR 1 (35% tax rate)	AMOUNT OF DEDUCTION TO CARRY-OVER
Male 74	\$250,000	\$12,500	\$150,183	\$150,183	\$39,000	\$13,650*	\$111,183

* Carry-over deduction for an additional four years. The AFMR rate assumed for the deduction calculation is 5%. This example assumes that the CRT is established as a CRAT and that the AGI is \$130,000.

The calculation of the income stream (payout rate) will take into account three tests, in an attempt to protect the charity's interest in the trust. If these tests are not passed, the trust will not qualify as a CRT, and you will not be able to receive tax benefits. Therefore, when a CRT is being considered, it is important that each of these tests is passed when the payout is being calculated.

TEST	DEFINITION
10% Remainder Test	Present value of the calculated charitable remainder interest must be at least 10% of the net fair market value of the gift at the time the gift is made.
5% Payout Test*	A minimum income payment of 5% must be paid out every year to a non-charitable beneficiary.
50% Maximum Payout Test	The maximum amount of income that can be paid is 50% of the trust asset.

* In a CRAT, a minimum of 5% of the initial gift must be paid out. In a CRUT, a minimum of 5% of the adjusted annual value of the trust must be paid. There are exceptions for net income trusts. Income can be delayed when a CRT includes net income provisions. See NIMCRUT discussion below.

- **NIMCRUT (Net Income with Make-Up).** When a CRT is established, the trust must make annual income payments to the non-charitable income beneficiary, even if the payments deplete principal. However, when a CRT includes net income provisions in the trust document, the income payments may be delayed and paid at a time when the trust has generated sufficient income to make the payments. By including these provisions, you, as income beneficiary, can time the income payments so that they coincide with your planning needs. The provisions can include a “make-up” clause in which income that is not paid in any given year may be paid in subsequent years.
- **CLT.** Like a CRT, a CLT (**Charitable Lead Trust**) is set up for your lifetime or for a period of years. However, it is the charity that receives an income stream from the trust for the trust term. At the end of the term, you, or your family, will receive the balance of the trust assets.

When the CLT is drafted as a Charitable Lead Unitrust (CLUT), the annual income to charity is based on a stated percentage, determined when the trust is established, of annual trust assets. A Charitable Lead Annuity Trust (CLAT) will provide the charity with a fixed-dollar amount annually.

Unlike a CRT, a CLT is not a tax-exempt trust. Trust income is either taxed at the trust level (non-grantor trust) or at the grantor level (taxed to you as grantor of the trust). A charitable income tax deduction is available only for CLTs that are established as grantor trusts.

If the CLT is a grantor trust, you, as donor, are responsible for the trust's income taxes. In most cases, however, the CLT is established as a non-grantor trust. Since the trust balance in a non-grantor CLT is typically transferred to heirs, you can receive a gift or estate tax deduction for the present value of the income payments made from the trust to charity. This deduction essentially discounts the value of the remainder interest for gift tax purposes.⁶

MECHANICS OF NON-GRANTOR CLAT GIFT TAX DEDUCTION					
CLIENT AGE	ASSET VALUE (public stock to public charity)	ANNUAL LIFETIME INCOME TO CHARITY (taxable to CLAT; 5% pyment)	PRESENT VALUE OF REMAINDER FOR FAMILY* (actual value of gift)	POTENTIAL CHARITABLE INCOME TAX DEDUCTION	PRESENT VALUE OF INCOME TO CHARITY (gift tax discount)
Male 72	\$250,000	\$15,000	\$121,619	\$0	\$128,380

*The 7520 rate assumed for the gift tax deduction calculation is 5%, based on the September 2005 published rates.

The chart below illustrates the types of assets that should not be transferred to a charitable trust to ensure the viability of the tax benefits, and the tax-exempt status of the trust, in the case of a CRT.

TYPE OF PROPERTY	ISSUE
Debt-financed property	Debt is considered Unrelated Business Taxable Income (UBTI), and the charitable trust may lose its tax-exempt status. ⁷
A partial interest in property is transferred	The CRT may lose its tax-exempt status, and the income tax deduction will be lost. When the asset transferred is sold, capital gains will be recognized.
S-Corporation Stock	Generally, a charitable trust cannot be a shareholder under S-corporation rules.
Stock Options	Most stock options have statutory restrictions on transferability.
Qualified Plan Assets	Qualified plans follow ERISA rules, which do not allow transfers of plan assets to a charitable trust.

- **Making gifts of a charitable life estate:** You may prefer to make charitable gifts without giving up assets today. This can be accomplished using the following approaches:

– **A *charitable life estate.*** You may deed your home to charity while retaining the right to live in it for lifetime. In this case, an immediate income tax deduction is available and is based on the present value of the charity’s interest. The deduction takes into account depreciation as well as life expectancy. Moreover, the value of the home is removed from the taxable estate. The charity receives the home at death and can sell it without tax consequences. Note, however, that if there is debt on the property the debt will cause immediate recognition of gain equal to the debt. You will also be responsible for all taxes and maintenance of the property.

MECHANICS OF A CHARITABLE LIFE ESTATE				
DONOR	RESIDENCE (to public charity)	REMAINDER INTEREST FOR CHARITY (potential charitable deduction)	DEDUCTION LIMIT (based on 30% of \$200,000 AGI)	TAX SAVINGS YEAR 1 (35% tax bracket)
Male 72	\$600,000	\$338,029	\$60,000	\$21,000*

* Carry-over deduction for an additional five years. This example assumes an AGI of \$200,000.

– ***Charitable gift annuity for a life estate.*** You may also transfer the remainder interest in a home in exchange for the right to live in the home for life, as well as an annuity, or income stream, provided by the charity. An income tax deduction is available for the value of the home, net of the annuity paid to you, and the value of your right to live in the home. A portion of each annuity payment will be taxable. Again, the charity receives the home at death.

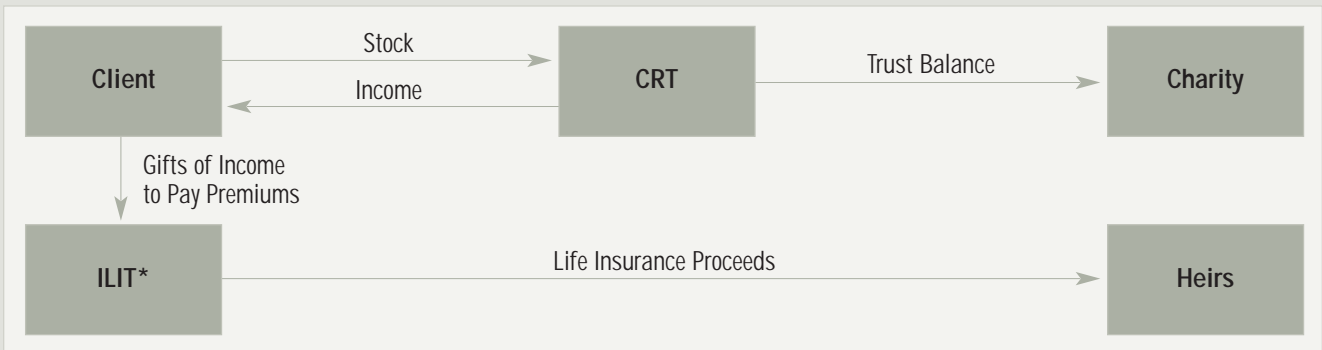
MECHANICS OF A GIFT ANNUITY FOR A CHARITABLE LIFE ESTATE					
AGE OF DONORS	RESIDENCE (to public charity)	REMAINDER INTEREST FOR CHARITY (potential charitable income tax deduction)	DEDUCTION LIMIT (based on 30% of \$100,000 AGI)	TAX SAVINGS	GIFT ANNUITY FOR JOINT LIFETIME
72/72	\$800,000	\$129,428	\$30,000	\$10,500*	\$22,072

* Carry-over deduction for an additional four years. Assumed rate for calculation of the gift annuity is 5%. This example assumes an AGI of \$100,000 and an annuity payment of 6%.

The Benefits of Using Life Insurance in Charitable Planning

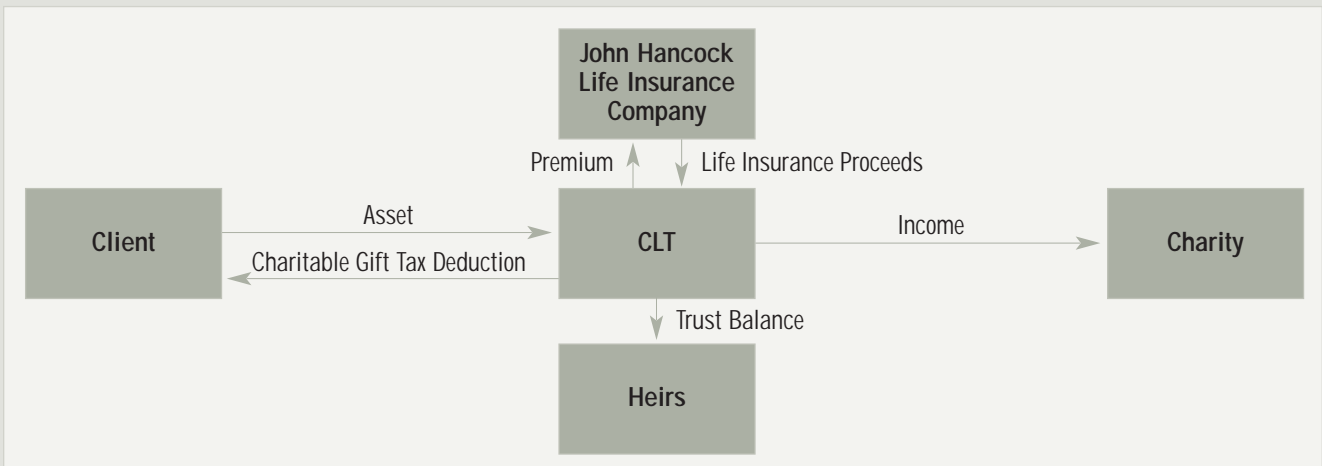
By combining charitable giving with life insurance planning, you may be able to preserve your personal wealth and to address the following planning concerns:

- A concentrated stock position:** If you are concerned about increasing income, but prefer not to diversify your concentrated stock holdings in order to avoid paying taxes on the investment gain, a Charitable Remainder Trust (CRT) can provide the diversification without a lump-sum tax bill. That is, the transfer of the asset to a CRT does not cause recognition of capital gains. And, when the trust sells the asset to diversify and makes income payments to you, there is no taxable gain to the trust. A portion of the income you receive can then be used to fund life insurance on your life to replace the value of the asset at a discount for your heirs, outside your taxable estate. The trust can also be structured to delay the income you receive based on your particular needs.

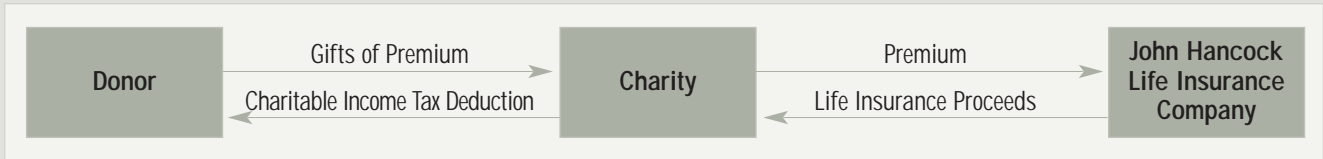


*Irrevocable Life Insurance Trust.

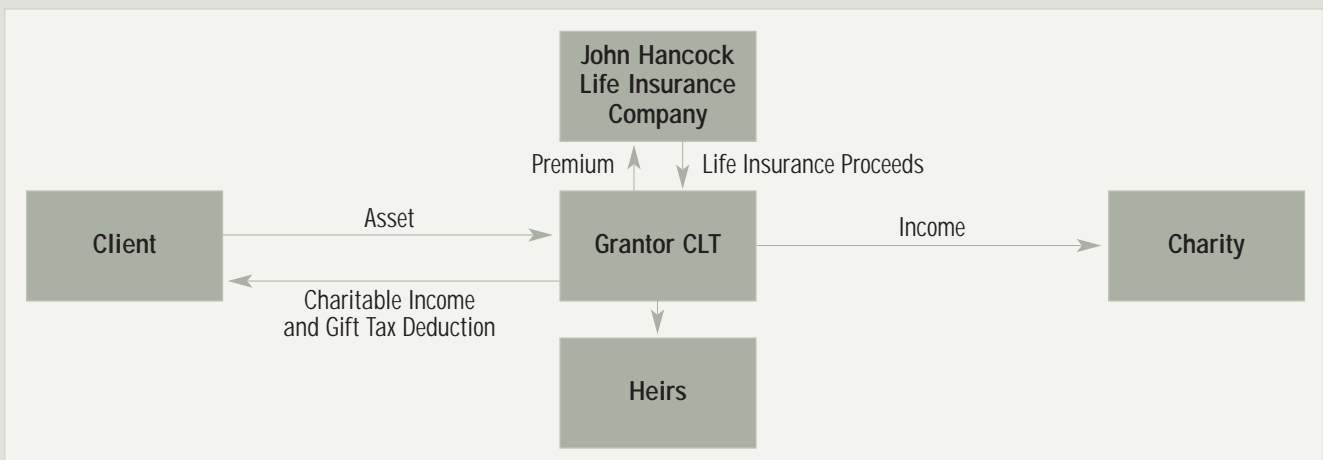
- Wealth transfer planning:** If protecting and preserving wealth for future generations is a concern, the use of a non-grantor Charitable Lead Trust (CLT) may provide substantial gift tax savings and a reduced taxable estate, while leveraging wealth for your family. A non-grantor CLT has readily available funds growing outside the taxable estate that may be leveraged with life insurance to significantly increase the amount you ultimately transfer to your heirs.⁸



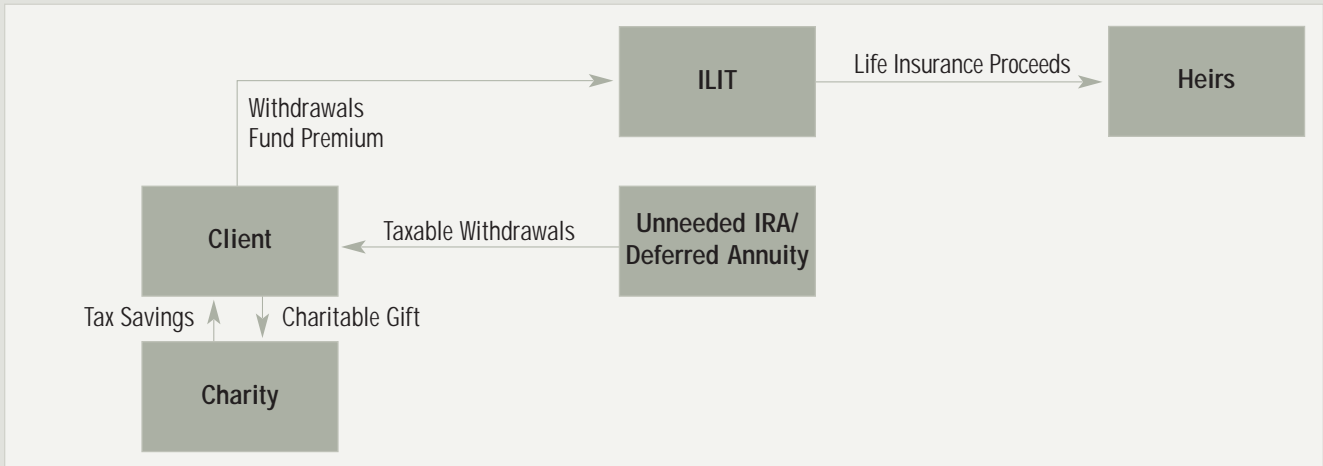
- **Maximizing charitable gifts⁹:** If you are interested in making your current charitable gifts go farther, it may be possible to have a charity own a life insurance policy on your life. You can then make gifts to the charity in the amount of annual premiums. The annual cash gifts are tax-deductible and can provide you with current tax savings.¹⁰



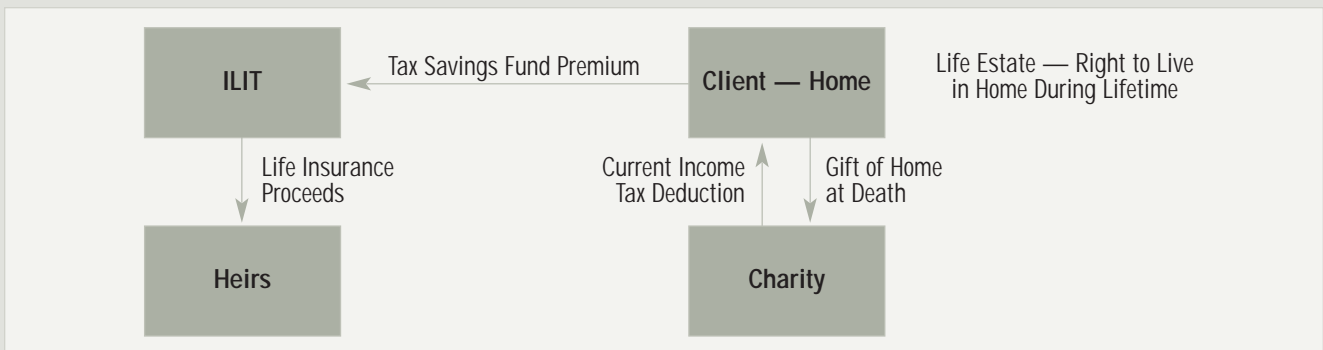
- **Managing large income tax years:** If you have substantial income in a single year due to the sale of a business, receipt of a large bonus, or perhaps taxation of stock options, a CLT may provide an immediate income tax deduction when established as a grantor trust. Although you are responsible for tax on the CLT income, it may be possible for you to effectively manage taxes. Life insurance can be purchased using a portion of the remaining trust principal to leverage the amount transferred to your heirs. The charity benefits from the trust income, and you benefit from transferring the asset at a gift-tax discount to heirs and leveraging the discounted gift with life insurance.¹¹



- Tax-efficient asset repositioning:** A deferred annuity or Individual Retirement Account (IRA) that remains in your estate is subject to double and sometimes triple taxation (income, estate, and generation-skipping transfer taxes) at death, potentially reducing the amount remaining for your beneficiaries. When you make a charitable gift that is eligible for a charitable income tax deduction, you can use the savings from the deduction to offset taxes on withdrawals from an unneeded IRA or deferred annuity. The withdrawals from these assets can be leveraged with life insurance owned by an ILIT, outside the taxable estate. This planning approach assumes that you do not need the income from the deferred annuity or IRA and that you intend on transferring the asset to heirs.



- Exposure to estate taxes:** Assets remaining in the estate at death may be subject to estate and potentially generation-skipping transfer taxes. Therefore, when making a charitable gift, the asset and all its growth are removed from the estate permanently. The replacement of the asset for your heirs can be achieved outside the estate through the use of life insurance owned by an ILIT. The life insurance can be funded with savings from the charitable deduction, or from income provided to you from a charitable trust. If you make a gift of a charitable life estate, for example, this is how it works:



- **Estate planning in a low interest rate environment:** When interest rates are low, the use of a CLT may produce higher income, gift, and estate tax deductions. This means that a CLT may help you to transfer more to charity and to family while maximizing current tax savings, especially when CLT assets are leveraged with life insurance.
- **Giving less to the IRS:** If you prefer to dictate where your tax dollars go, you may be interested in routing funds to a charity, rather than to the government, by making gifts to charity. The asset you give away can then be replaced for heirs outside the taxable estate using life insurance that is owned by an ILIT.

Clearly, there are many benefits of using life insurance in the Charitable Giving plan. Your specific planning objectives will dictate how life insurance may work for you.

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1. Please see IRC §170 for specific rules regarding charitable deductions. If you donate property that has a current fair market value that is less than your cost-basis, your deduction amount is limited to the lower fair market value.
2. You are taxed on the gain at ordinary income tax rates when you transfer an annuity to charity. For annuities purchased prior to April 23, 1987, the deduction is limited to cost-basis, and you are taxed on the gain when the charity surrenders the annuity, not at transfer.
3. The deduction for qualified appreciated stock whose value is readily available on an established securities market can be deducted at its fair market value.
4. The IRS has ruled previously that the five-year deduction carry forward is not available for a CLT benefiting a private foundation. See PLR 8824039.
5. See IRC §501 (c)(3) and IRC §170 to understand the differences between private and public charities and how a determination is made as to what type a charity is considered to be.
6. If death occurs prior to the term, the charitable income tax deduction may be recaptured.
7. The Tax Relief and Health Care Act of 2006, which was signed into law by President Bush on December 20, 2006, includes a major change to the taxation of charitable remainder trusts (CRTs) which have unrelated business income (UBI), as defined in Section 512 of the tax code. The Act, which takes effect for tax years beginning after December 31, 2006, changes the penalty for CRTs that have unrelated business income. Instead of losing its tax-exempt status, a CRT that has unrelated business income will now be subject to a 100% excise tax on the unrelated business income. As a result of this legislation, Section 664 of the Internal Revenue Code has been amended. While the penalty is now less draconian than the loss of exempt status, it is still important for trustees of CRTs to minimize unrelated business income.
8. Income generated from a CLT should not be used to purchase the life insurance or the CLT may be characterized as a grantor trust, in which case the trust principal (including any life insurance) will be includible in the taxable estate. Trust income will also be taxable to you if the trust is considered a grantor trust. See IRC §671-679.
9. The Tax Increase and Prevention Reconciliation Act of 2005 (TIPRA) created new code section IRC 4965, which imposes an excise tax on tax-exempt organizations that engage in prohibited tax shelter transactions for tax years ending after May 17, 2006. "Prohibited tax shelter transactions" include any reportable transaction, any listed transaction or any transaction that is "substantially similar" to one of those. The excise tax is imposed whether or not the transaction is determined to be abusive.
10. The Pension Protection Act of 2006 (PPA), which became effective on August 17, 2006, includes a provision that requires tax-exempt organizations to report investor-owned life insurance transactions to the Treasury Department for review. The Treasury Department will study the transactions over a 30 month period to determine whether tax-exempt organizations are abusing these arrangements.
11. Although there are a number of favorable private letter rulings (PLR) illustrating the estate and income tax benefits of a grantor CLT when properly structured, a PLR is not authority, and this technique remains relatively untested.

Insurance policies and/or associated riders and features may not be available in all states.

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