

Estate Planning as Ministry

Why Should Estate Planning Be a Ministry?

How Can We Invite Kingdom Conversations?

What Are Some Kingdom Strategies?

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Section 1.01 Why Should Estate Planning Be a Ministry? (Steve Chong)

(a) What is Ministry?

- (1) Doing something for God or others
- (2) In response to a biblical mandate or as an act of worship (Rom. 12:1)

(b) Biblical Mandate

(1) What Does God Require?

- (a) God is at work in Creation
- (b) Gen. 1:28 28 And God blessed them. And God said to them, “Be fruitful and multiply and fill the earth and subdue it, and have dominion over the fish of the sea and over the birds of the heavens and over every living thing that moves on the earth.”
- (c) Gen. 2:15 15 The Lord God took the man and put him in the garden of Eden to work it and keep it.
- (d) Deut. 10:12-13 12 “And now, Israel, what does the Lord your God require of you, but to fear the Lord your God, to walk in all his ways, to love him, to serve the Lord your God with all your heart and with all your soul, 13 and to keep the commandments and statutes of the Lord, which I am commanding you today for your good?”
- (e) Matt. 22:36-40 36 “Teacher, which is the great commandment in the Law?” 37 And he said to him, “You shall love the Lord your God with all your heart and with all your soul and with all your mind. 38 This is the great and first commandment. 39 And a second is like it: You shall love your neighbor as yourself. 40 On these two commandments depend all the Law and the Prophets.”
- (f) Col. 3:23-24 23 Whatever you do, work heartily, as for the Lord and not for men, 24 knowing that from the Lord you will receive the inheritance as your reward. You are serving the Lord Christ.

- (g) 1 Cor. 10:31 So, whether you eat or drink, or whatever you do, do all to the glory of God.
- (h) 1 Tim. 5:8 But if anyone does not provide for his relatives, and especially for members of his household, he has denied the faith and is worse than an unbeliever.
- (i) Proverbs 13:22 A good man leaves an inheritance to his children's children, but the sinner's wealth is laid up for the righteous.
- (j) James 1:27 27 Religion that is pure and undefiled before God the Father is this: to visit orphans and widows in their affliction, and to keep oneself unstained from the world.
- (k) Ps. 24:1 The earth is the Lord's and the fullness thereof, the world and those who dwell therein
- (l) Matt. 25:14-30 14 "For it will be like a man going on a journey, who called his servants and entrusted to them his property. 15 To one he gave five talents, to another two, to another one, to each according to his ability. Then he went away. 16 He who had received the five talents went at once and traded with them, and he made five talents more. 17 So also he who had the two talents made two talents more. 18 But he who had received the one talent went and dug in the ground and hid his master's money. 19 Now after a long time the master of those servants came and settled accounts with them. 20 And he who had received the five talents came forward, bringing five talents more, saying, 'Master, you delivered to me five talents; here, I have made five talents more.' 21 His master said to him, 'Well done, good and faithful servant. You have been faithful over a little; I will set you over much. Enter into the joy of your master.' 22 And he also who had the two talents came forward, saying, 'Master, you delivered to me two talents; here, I have made two talents more.' 23 His master said to him, 'Well done, good and faithful servant. You have been faithful over a little; I will set you over much. Enter into the joy of your master.' 24 He also who had received the one talent came forward, saying, 'Master, I knew you to be a hard man, reaping where you did not sow, and gathering where you scattered no seed, 25 so I was afraid, and I went and hid your talent in the ground. Here, you have what is yours.' 26 But his master answered him, 'You wicked and slothful servant! You knew that I reap where I have not sown and gather where I scattered no seed? 27 Then you ought to have invested my money with the bankers, and at my coming I should have received what was my own with interest. 28 So take the talent from him and give it to him who has the ten talents. 29 For to everyone who has will more be given, and

he will have an abundance. But from the one who has not, even what he has will be taken away. 30 And cast the worthless servant into the outer darkness. In that place there will be weeping and gnashing of teeth.'

(2) In What Ways Is Our Work A Ministry?

- (a) Working heartily as for the Lord, **whatever** you do
 - (1) Whether we are doing estate planning,
 - (2) Litigation,
 - (3) Corporate,
 - (4) Family,
 - (5) Real estate, etc.
- (b) We are serving God through faithful service to clients
- (c) We are in the trust business. People come to us with their problems and they put their **faith and trust** our advice, counsel, and work to help them. We need to be found trustworthy, just like God is trustworthy.
- (d) Where does our work come from? I Sam. 2:7 The Lord makes poor and makes rich; he brings low and he exalts.
- (e) God gives us our clients as an opportunity to worship and glorify Him and to love our clients.
- (f) How can we glorify God with our work?
 - (1) Listen attentively and pray for our clients like Jesus does for us
 - (2) Develop a strategy to help them like God does for us
 - (3) Give thanks for the provision and opportunity to love and serve them. They are divine appointments. Jesus does this for us too.
 - (4) Give God glory as you do good and faithful legal work and God blesses your efforts.

(c) What Is the Spiritual Significance of Your Work?

- (1) In some ways, we are called to reflect God to our clients (2 Corinthians 5:20)
- (2) We may be placed into their lives to help with their temporal problems, but at the same time it is incumbent upon us to show them that God cares about their spiritual lives too.

- (3) Are we asking our clients the deeper reasons about why they are in our offices or in conflict with others?

(d) Estate Planning as An Example

- (1) Typically, estate planning clients come to us looking for advice and documents regarding the disposition of their assets upon death
- (2) What is a “Will”? Is it not a written statement of their values?
- (3) Our clients value their families, their charitable causes, and their friends. Consequently, their wishes are to care for and bless those people or institutions that are meaningful to them. Are we not facilitating the care of widows and orphans in James 1:27?
- (4) Can we affirm that our clients are fulfilling a biblical mandate by caring for their families?
- (5) We play an important role in that process.
- (6) Asking the right questions. If we love our clients, it is incumbent upon us to ask questions that God may ask them later.
 - (a) Who is counting on our clients’ provision?
 - (b) Who gave our clients their material wealth?
 - (c) What are they doing with God’s provision?
 - (d) Why do you think He gave it to them?
 - (e) Will our clients be held accountable for His resources?
 - (f) How can we advise our clients of this?
 - (g) Do our clients steward assets so another person or institution can be blessed?
 - (h) Is that how God does His business? How was Solomon’s temple built?
 - (i) God works through us and others to accomplish His divine purpose.
 - (j) Let’s be vigilant in reminding ourselves and our clients of this.

Section 1.02 How Can We Invite Kingdom Conversations? (Joe Mitchiner)

(a) “Kingdom Conversations”

“Kingdom conversations” relate to the Christian faith, particularly the Kingdom of God as described in the Bible.

How to apply today’s session to other faiths would be a discussion for another day.

(b) The Attorney’s Responsibility

We must know how to invite Kingdom conversations with clients.

(1) Discover the client's level of interest, knowledge and concern in order to determine where conversations should go.

Ask appropriate, open-ended questions in caring, sensitive ways, which are always more fruitful than spewing law, opinions and unsolicited choices.

Steven Covey, motivational and leadership author and speaker:

“Most people do not listen with the intent to understand. They listen with the intent to reply.”

Ron Blue, Founder of Kingdom Advisors:

“A leader who leads with questions will often be ten times more effective than those who lead by telling.”

“Give an opinion when asked, but not before.”

“We are not the Holy Spirit. We are merely facilitators for clients to sense the Holy Spirit.”

Consider being more like an archaeologist who uncovers things, than an architect who just designs things.

Pray before each meeting, and plan intentionally throughout to listen, listen, listen. Our minds and our agenda must remain open for the real reason God has each client in our presence. (E.g., “Lord, I need your heart for this client.”)

We must ask ourselves, “Do I want a transactional practice or a transformational practice?”

(2) Exploring a client's belief system is ethical.

Consider the following excerpts from *Redeeming Law* by Michael P. Schutt (Intervarsity Press, 2007), pp. 255-57:

“Counselors. Attorneys whose role is to counsel encompass a broad range of expertise: in-house counsel, transactional lawyers, estate planners and financial advisers, negotiators, and corporate vice presidents. I’ll list some historical-theological approaches to the specific areas encountered by these lawyers—corporations, contracts and property—but first, let’s review some broad areas of concern for counselors.”

“Wisdom and advice. It is hard to imagine a more important way to love one’s neighbor than by giving godly wisdom. Model Rule 2.1 tells us that in “rendering advice, a lawyer may refer not only to law but to other considerations such as moral, economic, social and political factors, that may be relevant to the client’s situation.”^(original text footnote 52) In other words, we are “permitted” by the ethics rules to treat our clients as if they are fully human and not just legally challenged raw material to be solved by us.”

“Our clients are real people who often need more than mere technical advice when they need a lawyer, and most states’ ethical rules recognize this. As we learn to communicate with our clients on the human level, we will find greater moral meaning in our practice and our service to the people we

represent. If we fail to treat our clients as human beings that have social, familial, spiritual, and economic obligations, we fail to serve them fully.”

“We do, of course, need to be aware of the reasons the client has come to us. Yet it seems wrong to ignore the plain needs of those seeking our counsel. A simple encouragement to seek moral, psychological, or spiritual advice is sometimes all that is necessary. Many lawyers are afraid to go even this far. But don’t we have a duty to go further? Whether particular religious, moral, or other nonlegal considerations—Scripture passages, specific prayer with the client, direct admonition—should be raised in a given situation requires wisdom and prayer.”

“If we claim that the pursuit of justice is a “worthwhile good,” we must admit that ethical rules alone are insufficient to define our obligations to our communities, clients, and God. And if no such obligations exist, perhaps we are spinning our wheels in seeking to address matters of justice, right, and good at all in the practice of law.

“We need to recall, too: our advice to the client is not the end-all. The moral conversation is the means to growth and a good first step toward justice.”

“Stewardship issues. Almost all counselors are in the business of loving their neighbors by helping their clients to be good stewards of what God has entrusted to them. This necessitates a proper view of mammon and a commitment to moral conversation about the ends to which money is a means. If our theology of wealth is properly developed, we will be able to better serve those who wish to faithfully use it to take dominion over creation (see Genesis 1:28), give to others in need (see, *e.g.*, Proverbs 31:9) and leave an inheritance for their children (Proverbs 13:22). (original text footnote 52 *ABA Model Rules of Professional Conduct* R.2.1 (2002))”¹

(3) Being candid about our own belief system is critical.

Candor means transparency. Every client should be aware of “who” their attorney or advisor is.

Our “who” extends beyond mere legal or financial expertise to matters involving family, interests, experiences and, yes, personal faith.

Consider the following questions and statements made by Michael Kitces during a September 2020 Kingdom Advisor Study Group presentation:

First, he asked, “If you can’t lead with your values and your faith, what can you lead with?”

¹ Identical language appears in Rule 2.1 (Advisor) of the North Carolina Rules of Professional Conduct (2019) and in Rule 4-2.1 (Advisor) of the Florida Rules of Professional Conduct (2019). Both Rules also contain the following Comment: *Advice couched in narrowly legal terms may be of little value to a client, especially where practical considerations, such as cost or effects on other people, are predominant. Purely technical legal advice, therefore, can sometimes be inadequate. It is proper for a lawyer to refer to relevant moral and ethical considerations in giving advice. Although a lawyer is not a moral advisor (NC spelling)/adviser (FL spelling) as such, moral and ethical considerations impinge upon most legal questions and may decisively influence how the law will be applied.*

Then he said, “Advisors who focus on a faith-based or values-based niche often form some of the strongest relationships with their clients.”

Then he asked,:

“It’s not about who you don’t fit with. The question is: Who do you fit with?”

“Who will you be the best at—not only at answering their problems, but also at aligning with their values?”

Consider placing in your reception area appropriate Christian books, available for clients to take away... free (e.g., *The Treasure Principle*, *Splitting Heirs*, *Purpose Driven Life*, etc.).

Ask clients, “We’ll be discussing important, personal things today that will impact the lives of others, whether in big or small ways. So, may I start us out with prayer?”

(c) The Client’s Belief System

When it comes to estate planning, a client’s belief system is integral in deciding issues such as long-term health care, burial, cremation, resuscitation, investments, asset management and asset disposition, including charitable giving.

(1) Pre-conference Questionnaires

Examples of what might be included in pre-conference questionnaires to trigger clients’ thinking before they even come into our office:

- What values or principles would you like to communicate to your children, grandchildren or others?
- What would you like to see your primary beneficiaries do with their inheritance if/when left to them outright?
- What do you think are the benefits of leaving substantial wealth to your primary beneficiaries?
- What do you think are the challenges of leaving substantial wealth to your primary beneficiaries?
- The extent to which religion or faith is, or is not, part of a person’s life tends to affect certain aspects of estate planning. To be able to tailor provisions or strategies that would be especially meaningful to you, you are invited to explain what you think is appropriate about your personal faith or religion.
- Would you like to discuss having any religious statements in your health care documents?
- If you know of any special health condition or treatment provision which you would like to include in any healthcare document, please let us know by writing it out here.
- If you like, state why you are leaving whatever you might be leaving to charity, so that your family might understand and appreciate something about your motivation or intentions.

- Tell us about any specific charitable gift strategies that you might want to discuss.

(2) In-conference Questions

Even if clients have provided substantive answers in pre-conference questionnaires, try to go deeper during a face-to-face conference by asking thought-provoking and conversation-starting questions.

(Note: If clients are a couple, get each client's own answers. Also, be prepared to go beyond "yes/no" or other short answers...*e.g.*, "Tell me more about...".)

Examples of in-conference questions:

- What values were important to you while growing up? How about now?
- Do all of your advisors share your values? Do you know their values?
- Whose opinion matters most about your estate plan?
- We may have a spouse, children, relatives and friends, but we don't own them. Are assets we have any different?
- What is important to you about what you have accumulated? What makes that important?
- How much is enough for yourself? For others? Where do those numbers come from?
- Is each heir of your assets prepared to be a good manager and steward?
- Could loving people mean treating them uniquely, as opposed to treating them equally?
- Is there any kind of generosity that you might want to promote?
- Do you have any giving passions? What generates those passions?
- What efforts have you made to transfer wisdom, beyond mere wealth?
- Have you shared your values, giving passions, reasons for generosity, and reasons for provision, with your family? With your advisors?
- Would you have any interest in knowing what the Bible says about leaving a legacy?
- Have you asked God what He wants you to do for the people and with the assets He has entrusted to you ?

Section 1.03 What Are Some Kingdom Strategies? (John Kea)

Introduction

We are living in the midst of the largest transfer of wealth in history. Cerulli and Associates projects that \$84.4 trillion of wealth will be transferred between 2021 and 2045.² Almost \$12

² The Cerulli Report—U.S. High-Net-Worth and Ultra-High-Net-Worth Markets 2021: Evolving Wealth Demographics

trillion of these assets will be donated to charity.³ As attorneys who advise clients and others concerning financial and estate planning strategies, we must be ready to empower them with tools to be the faithful stewards in fulfilling the goals the Lord has placed in their hearts.

Estate planning is more than tax-smart giving strategies and giving to Kingdom ministries. For most individuals, it will be the single largest act of stewardship of their lives. We want to help clients to maximize this opportunity to inculcate their Christian values into the next generation.

In the outline below, Part 1 (Creative Charitable Giving) explains a few core giving strategies, how clients can align their giving with their Christian values, and how to fulfill both family and charitable planning goals through a blended gift. Part 2 (Discipling Descendants) examines how to help clients disciple heirs through their estate planning. It will explore writing a Christian testimony or exhortation to family members, creating trust provisions that encourage spiritual growth, and involving heirs in Christian philanthropy.

Part 1: Creative Charitable Giving

Before discussing specific giving strategies, it is important to review a few foundational aspects of charitable giving.

Charitable Organizations

To qualify for the income, gift, and estate tax charitable deductions, a gift or bequest must be made to a qualifying charitable organization. The deductibility rules for the income tax charitable deduction distinguish between public charities and private foundations, though estate and gift tax deductions generally do not.

Charitable organizations are considered to be private foundations under the tax code unless they can satisfy the qualification requirements to be a public charity. This can be an important consideration since public charities offer more favorable deductibility rules for their donors.

There are four basic types of public charities:

1. Inherently public charities—these are considered charities as a matter of law and generally perform charitable activities rather than issuing grants. Examples include churches, universities, schools, nonprofit hospitals, and medical research institutions. These public charities are classified under Sections 170(b)(1)(A) (i) through (v) of the Internal Revenue Code.
2. Publicly supported organizations—these demonstrate that a minimum percentage of their financial support comes from a broad cross-section of the public, rather than from just one source. These charities fall under Section 170(b)(1)(A)(vi) of the Internal Revenue Code. The charity or foundation must satisfy one of two tests, both of which measure public support as a fraction of the total support the organization receives. Examples of charities that are publicly supported are community foundations, the American Red Cross, and the YMCA.
3. Exempt income function—these receive a substantial portion of their support from program service revenue. These organizations earn revenue from activities like selling tickets, or by charging admission or other fees for the charitable services they provide. These public

³ Id.

charities fall under Section 509(a)(2) of the Internal Revenue Code. Charities in this category must ensure their investment income does not normally exceed one-third of their total support. An example of this kind of charity would be a museum or opera that charges for admission.

4. Supporting organizations—these are attached to or support one or more public charities. In effect, it acquires the public charity status of the organization it supports. Examples include a foundation of a church denomination or the philanthropic arm of a university or hospital. IRC Section 509(a).

Charitable Deductions

Though people often speak of the “charitable deduction” as if there is a single deduction, there are actually three separate charitable deductions set forth in different chapters of the Internal Revenue Code (IRC). They are as follows:

- IRC Section 170—Income tax charitable deduction
- IRC Section 2055—Estate tax charitable deduction
- IRC Section 2055—Estate tax charitable deduction

The three deductions have many similarities, but there are differences, so it is important to become well acquainted with each of the deductions. For purposes of this seminar, our focus will be on income tax deductions for lifetime gifts.

For a lifetime contribution to be eligible for an income tax charitable deduction, the donor must itemize deductions on the donor’s tax return. A donor may not be able to take the full deduction in the year of the gift because charitable contributions are limited to a percentage of adjusted gross income for the tax year. The percentage limitations depend on two factors: (1) whether the gift is made to a public charity versus a private foundation; and (2) whether the gift is made in cash versus appreciated property held long-term.

The AGI limitations for donations to public charities are:

Cash donations: Gifts are deductible up to 60% of AGI if cash is contributed outright (and there are no non-cash contributions) to certain public charities and donor-advised funds.

Appreciated property donations: Gifts are deductible up to 30% of AGI for gifts of appreciated property held for more than one year.

The AGI limitations for donations to private foundations are:

Cash donations: Gifts are deductible up to 30% of AGI if cash is contributed outright to a private foundation.

Appreciated property donations: Gifts are deductible up to 20% of AGI for gifts of appreciated property held for more than one year.

A donor’s AGI deduction limitations may be affected when different categories of gifts are donated or if gifts are made to both public charities and private foundations. Other assets, such as tangible personal property and ordinary income property, have special deduction rules that are beyond the scope of this session.

The 5-year carryover rule is a substantial benefit to many donors. If a donor cannot deduct the full amount of a gift to a public charity or private foundation in the year of the gift because of the AGI limitations, there is a 5-year carry forward for any unused deduction (subject to AGI percentage limitations).

A qualified appraisal is needed in most instances when an appreciated asset with a value of more than \$5,000 is donated. See IRS Forms 8282 and 8283.

IRS Publication 526, Charitable Contributions, is a helpful resource with numerous explanatory illustrations.

Wealth Composition and Giving

It is estimated that only 8% of the average American's assets are held as cash or cash equivalents in financial institutions.⁴ However, "checkbook Philanthropy," gifts of cash and cash equivalents, accounts for approximately 80% of charitable gifts each year.⁵ Cash and cash equivalents account for an even higher percentage of gifts to churches and other religious organizations.

Rules for Cash Gifts to Charity

Under United States tax law, charitable gifts made in cash are generally deductible from the donor's federal income tax return. However, there are certain rules and limitations that apply to these deductions. Here are three key points to consider, along with citations to relevant tax law and revenue rulings:

1. **Qualified charitable organizations:** In order for a cash donation to be tax-deductible, it must be made to a qualified charitable organization. These include organizations that are recognized as tax-exempt under Section 501(c)(3) of IRC, as well as certain religious organizations, educational institutions, and other qualified organizations. IRC Section 170(c).
2. **Donation amount:** The amount of the cash donation that is tax-deductible generally depends on the amount of the donation and the donor's income level. For individual donors, cash donations to qualified charitable organizations are generally deductible up to 60% of their AGI, and up to 30% of AGI for gifts to private foundations, in a given tax year.
3. **Substantiation requirements:** In order to claim a tax deduction for a cash donation, the donor must maintain records of the donation, such as a bank record or written statement from the charity. For donations of \$250 or more, the donor must also obtain a written acknowledgement from the charity that includes certain information about the donation, such as the amount, date, and a statement that no goods or services were provided in exchange for the donation. IRC Section 170(f)(8).

Tax-Efficient Funding Sources for Kingdom Giving

Cash is perfectly acceptable for smaller gifts or when a higher AGI deduction limit is needed, though attorneys should help clients explore planned giving strategies for larger gifts. As a basic definition, "planned giving" refers to gifts made during life or at death that combine a donor's overall financial or estate planning goals with tax-efficient strategies.

⁴ *The Wealth of Households: 2020*, Donald Hays and Briana Sullivan (Aug 2022), citing U.S. Census Bureau, 2021 Survey of Income and Program Participation, public use data.

⁵ Giving USA 2022: The Annual Report on Philanthropy for the Year 2021

At a more technical level, planned giving refers to a variety of charitable giving strategies that allow donors to make larger or more complex gifts to nonprofit organizations, often over an extended period of time. These strategies typically involve some sort of financial or estate planning, and they can include gifts made through a will or trust, charitable trusts, DAFs, endowments, and other vehicles.

Our goal as Christian attorneys should be to come alongside believing clients and help them live as Kingdom-minded Christians. Planned giving strategies empower clients to fulfill the dreams the Lord has given them, with a bonus of disinheriting the government.

Let's explore some essential planned giving strategies.

Gifts of Appreciated Assets

Donating appreciated assets to charity is a key strategy and funding source for gifts while a donor is *living*. Though our focus in the seminar is giving through an estate plan, it sometimes makes sense to move estate gifts forward to while the donor is still living to capture income tax deductions. There are several advantages and disadvantages to donating appreciated assets, both in terms of tax benefits and other considerations.

Advantages of donating appreciated assets during life include:

1. **Increased tax benefits:** Donating appreciated assets such as stocks, bonds, or real estate can provide greater tax benefits than donating cash, since donors normally can avoid capital gains taxes on the appreciation of the assets. Also, donors can deduct the fair market value of the donated assets on their federal income tax returns, subject to certain limitations. IRC Section 170(b)(1)(C), Revenue Ruling 78-197.
2. **Increased giving potential:** Donating appreciated assets allows donors to make larger gifts to charity than they might be able to afford with cash donations alone. This can help donors make a bigger impact on the causes they care about.
3. **Estate planning benefits:** Donating appreciated assets as part of an estate plan can help reduce estate taxes and provide other estate planning benefits, such as reducing the size of the estate and potentially increasing the amount of assets that can be passed on to heirs. IRC Section 2055.

Disadvantages of donating appreciated assets during life include:

1. **Potential liquidity concerns:** Donating appreciated assets can be less flexible than donating cash, since it may be more difficult for the charity to sell the assets or convert them to cash.
2. **Potential valuation issues:** Donating appreciated assets can sometimes present valuation challenges, particularly for assets that are not publicly traded or have other unique characteristics. Donors should work with a qualified appraiser and consult IRS guidance to ensure that their donation is properly valued for tax purposes. IRC Section 170(f)(11).
3. **Situation-specific limitations:** There are certain rules and limitations that apply to donations of appreciated assets, such as restrictions on donations of certain types of property and limitations on the amount of the deduction that can be claimed in a given tax year.

There are several types of appreciated assets that can be donated to charity, each with their own unique tax and other considerations. Here are some examples:

1. **Stocks and other securities:** Donating appreciated stocks, bonds, mutual funds, and other securities can provide significant tax benefits, since donors can ordinarily avoid paying capital gains taxes on the appreciation of the assets. Donors can deduct the fair market value of the donated securities on their federal income tax returns, subject to certain limitations. IRC Section 170(b)(1)(C).
2. **Real estate:** Donating appreciated real estate, such as a rental property or a vacation home, can also provide significant tax benefits, since donors can generally avoid paying capital gains taxes on the appreciation of the property. Donors can deduct the fair market value of the donated real estate on their federal income tax returns, subject to certain limitations. IRC Section 170(b)(1)(C).
3. **Art and collectibles:** Donating appreciated art, antiques, and other collectibles can provide tax benefits, but donors should be aware of certain rules and limitations that apply. For example, donations of art and collectibles are deductible at the lesser of their fair market value or the donor's basis in the assets, and donations of certain types of property may be subject to additional appraisal and substantiation requirements. IRC Section 170(f)(11), IRS Publication 561.
4. **Business interests:** Donating appreciated business interests, such as stock in a closely held corporation or a partnership interest, can also provide tax benefits, but donors should be aware of certain complex rules and limitations that apply. For example, donations of closely held business interests may be subject to various restrictions and valuation challenges, and donors may need to consult with a qualified appraiser or other professional to ensure that their donation is properly valued. IRS Publication 561.

Tax-Deferred Retirement Assets

Donating tax-deferred retirement assets, such as traditional IRAs or 401(k)s, is a key funding source for charitable gifts made upon a donor's *death*. A common means to implement this strategy involves naming a qualified charity as the beneficiary of a retirement account, which allows the charity to receive the assets tax-free after the account owner's death.

While most taxable assets like stocks in a brokerage account or a personal residence get a step-up in basis at death, enabling heirs to sell them with little or no tax liability, distributions from tax-deferred retirement accounts are subject to the beneficiaries' personal income tax rate. If an IRA is left to children, they must pay taxes on the full value of the account as it is liquidated. If a charity is the beneficiary, due to its tax-exempt status, no tax will be owed on the withdrawals and the donor's taxable estate and potential federal estate taxes may be reduced.

Advantages of donating tax-deferred retirement assets at death include:

1. **Tax benefits:** Gifts from traditional retirement accounts can provide tax benefits to both the donor and the charity. The donor's estate can receive a tax deduction for the charitable donation, which can help reduce estate taxes. Additionally, because charities are tax-exempt, they can receive the assets tax-free.
2. **Flexibility:** Charitable gifts at death provide flexibility for donors, as they can change the beneficiary designation or amount of a gift at any time during their lifetime. In addition,

the donors have full access to their financial resources in case they have unanticipated expenses during their lifetime.

3. Legacy: The gift allows donors to leave a lasting legacy by supporting causes that are important to them.

Disadvantages of donating tax-deferred retirement assets at death include:

1. Limitations on Beneficiaries: Retirement accounts are subject to beneficiary designation rules of financial institutions, which may limit the donor's ability to distribute assets to other beneficiaries.
2. Required Minimum Distributions: Beneficiaries of retirement accounts are required to take minimum distributions each year, which may reduce the amount of assets that can be donated to charity at death.
3. Complexities in Estate Planning: Charitable gifts require careful planning to ensure that the donor's wishes are fulfilled and to maximize tax benefits.

Qualified Charitable Distribution (IRA Charitable Rollover)

A qualified charitable distribution (QCD) is a charitable giving strategy that allows an individual who is at least 70½ years old to donate up to \$105,000 (in 2025) each year directly from their individual retirement account (IRA) to a qualified charity. This distribution is excluded from the individual's taxable income, and it counts towards the individual's required minimum distribution (RMD). From a tax perspective, a QCD is tantamount to giving a donor a full charitable deduction, with no AGI limitation, for the QCD amount, while still preserving the possibility of also taking the standard deduction since the QCD is not an itemized deduction.

Advantages of QCDs include:

1. Tax benefits: QCDs can provide substantial tax benefits to individuals who want to make charitable donations. By making a QCD, an individual can avoid paying taxes on the distribution, and they can also reduce their taxable income.
2. Fulfillment of RMD: QCDs help individuals fulfill their RMD requirements. When individuals reach 70½ years of age, they are required to withdraw a certain amount of money from their IRA each year, which is known as the RMD. By making a QCD, an individual can fulfill their RMD requirement while also making a charitable contribution.
3. Impact: Charitable organizations have benefitted greatly from QCDs since the law was enacted. QCDs created an entirely new funding source to support their programs and initiatives.

Disadvantages of QCDs include:

1. Eligibility Requirements: In order to make a QCD, an individual must be at least 70½ years old and have an IRA. These requirements may exclude some individuals from participating in this charitable giving strategy.
2. Contribution Limits: The maximum amount that an individual can donate through a QCD is \$100,000 per year (which will soon be indexed for inflation). This limit may not be sufficient for individuals who wish to make larger donations.

3. **Restrictions on Charities:** The charity receiving the QCD must be a qualified charity. This restriction may limit the individual's ability to donate to certain charities, including donor-advised funds, that do not meet the qualified charity criteria.

The Internal Revenue Code (IRC) provides the framework for QCDs. Under IRC Section 408(d)(8), a QCD must meet the following requirements:

1. The distribution must be made from an IRA.
2. The distribution must be made directly to a qualified charity (a check made payable to the charity may be mailed to the donor so the donor can deliver it to the charity).
3. The individual making the donation must be at least 70½ years old at the time of the distribution.

IRS Publication 590-B provides additional guidance on QCDs.

The Consolidated Appropriations Act, which includes the SECURE Act 2.0, was signed into law on December 29, 2022. This new legislation includes enhancements to QCDs:

1. **QCD Maximum Indexed for Inflation:** Individuals age 70½ or older are permitted to make QCDs from their IRA directly to charity and avoid recognition of income. The QCD is limited to a maximum of \$100,000 each year. Under SECURE 2.0, the maximum amount will be indexed for inflation beginning in 2024, which should become a meaningful addition when compounded over several years. In 2025, the maximum for QCDs is \$105,000.
2. **QCD to Split Interest Entity:** In a completely new charitable provision that begins this year, donors have a one-time opportunity to make a QCD of up to \$54,000 (in 2025) to fund a charitable remainder annuity trust (CRAT), a charitable remainder unitrust (CRUT), or an immediate charitable gift annuity (CGA). In addition to supporting a favorite ministry, this type of QCD has the added benefit of allowing individuals to diversify, and potentially fix, a portion of their income during times of volatile IRA investment returns.

Key requirements are:

1. The beneficiary must be the QCD maker and/or spouse.
2. The minimum annual payout must be at least 5%.
3. Annual distributions will be treated as ordinary income.
4. Distributions are not assignable to another individual or charity.
5. The trust or annuity must be funded exclusively by a QCD.

From a practical standpoint, the cost of setting up a CRAT or CRUT may be prohibitive for a \$54,000 QCD. As a result, a CGA will be the preferred giving design in many instances. An additional advantage of funding a CGA is the American Council on Gift Annuities has raised the maximum recommended annuity rates in its most recent updates, which will be attractive to donors who are seeking increased streams of income.

Charitable Remainder Trusts

A charitable remainder trust (CRT) is a planned giving vehicle that enables donors to donate appreciated assets to a charitable organization while retaining an income stream for themselves or

other beneficiaries. The income stream of a CRT can be designed to be paid for the lifetimes of the individual beneficiaries or for a period up to 20 years. The annual distribution from the CRT must be at least 5% and cannot exceed 50% of the corpus of the trust. At the end of the trust term, the remainder passes to charity. To qualify as a CRT, the actuarial value of the charitable remainder interest must be at least 10%. The CRT is a popular option for donors who wish to provide a significant charitable gift, generate income for themselves or others, and reduce their tax liability. CRTs are known as “split interest” trusts because the trust provides a benefit to both charities and individual beneficiaries (typically the grantor, spouse, or other loved ones). Distributions from CRTs are taxed as distributable net income, which involves four-tier accounting rules.

CRTs can be funded during life or at death, though our focus in this seminar is funding CRTs at death with tax-deferred retirement assets.

There are two general categories of CRTs: charitable remainder annuity trusts (CRATs) and charitable remainder unitrusts (CRUTs).

A. Charitable Remainder Annuity Trusts (CRATs)

A CRAT is a trust that provides a fixed annual income to the donor or other designated beneficiaries for the duration of the trust term.

Advantages of CRATs include:

1. **Diversification:** The tax-free transfer of assets into a CRAT and subsequent sale by the CRAT offers an opportunity to diversify highly concentrated assets or low-income producing assets that would otherwise be subject to significant taxation because the donated assets are highly appreciated.
2. **Predictable income stream:** CRATs provide a fixed income stream to the donor or other beneficiaries, regardless of market fluctuations.
3. **Tax savings:** Donors receive an income tax deduction for the present value of the charity's remainder interest in the trust.

Disadvantages of CRATs include:

1. **Lack of flexibility:** Once the CRAT is established, the payout rate cannot be changed, even if the donor's needs change.
2. **No growth potential:** Because the distribution amount is fixed, there is no opportunity for the trust distributions to increase.
3. **Additional Test:** A CRAT must pass the “5% probability test” of Rev. Rul. 77-374. For CRATs created after August 8, 2017, an alternative to the test in Rev. Rul. 77-374 is to include an early termination qualified contingency provision. Rev. Proc. 2016-42, though some commentators caution against this alternative option.

B. Charitable Remainder Unitrusts (CRUTs)

A CRUT is a trust that provides a variable annual income to the donor or other designated beneficiaries for the duration of the trust term.

Advantages of CRUTs include:

1. **Diversification:** The tax-free transfer of assets into a CRUT and subsequent sale by the CRUT offers an opportunity to diversify highly concentrated assets or low-income

producing assets that would otherwise be subject to significant taxation because the donated assets are highly appreciated.

2. Flexibility: The distribution from the trust can be designed to adjust annually, depending on the value of the trust assets or the income of the trust.
3. Growth potential: If the trust assets appreciate, there is an opportunity for the income stream to increase over time.
4. Tax savings: Donors receive an income tax deduction for the present value of the charity's remainder interest in the trust.

Disadvantages of CRUTs include:

1. Less predictable income stream: The income stream generated by a CRUT can vary from year to year, depending on the value of the trust assets.
2. Market risk: Because the trust assets are invested, there is a risk that the assets may not appreciate and may even depreciate.

Comparison of CRATs and CRUTs

1. Income stream: CRATs provide a fixed income stream, while CRUTs provide a variable income stream.
2. Flexibility: CRATs are inflexible, while CRUTs offer substantial flexibility in design options.
3. Growth potential of distributions: CRATs offer no growth potential since the distribution amount is fixed, while CRUTs offer growth potential.
4. Tax Savings: Both CRATs and CRUTs provide income tax deductions for the present value of the charity's remainder interest in the trust. In general, the charitable deduction is higher for a CRUT than a CRAT.

Both CRATs and CRUTs are powerful planned giving tools that enable donors to make significant charitable gifts while still providing income for themselves or other beneficiaries. The key feature of CRATs is a fixed income stream, while CRUTs offer a variable income stream and growth potential.

There are three main types of charitable remainder unitrusts (CRUTs), with several more sub-variations, that donors can choose from, each with its relative advantages and disadvantages. These include standard CRUTs, Net Income CRUTs, and Flip CRUTs.

I. Standard CRUTs

A standard CRUT is a trust that pays a fixed percentage of the trust's value, which is recalculated each year, to the donor or other designated beneficiaries for the duration of the trust term. IRC Section 664(d)(2).

Advantages of Standard CRUTs include:

1. Flexibility: The income distribution adjusts annually, depending on the value of the trust assets. IRC Section 664(d)(2)(A).
2. Growth potential: Because the trust assets can appreciate, there is an opportunity for the income stream to increase over time. Treasury Regulations Section 1.664-3(a)(1).

3. Tax savings: Donors receive an income tax deduction for the present value of the charity's remainder interest in the trust. IRC Section 170(f)(2)(A).

Disadvantages of Standard CRUTs include:

1. Less predictable income stream: The income stream generated by a standard CRUT can vary from year to year, depending on the value of the trust assets.
2. Market risk: Because the trust assets are invested, there is a risk that the assets may not appreciate and could even depreciate. Treasury Regulations Section 1.664-3(a)(1).

II. Net Income CRUTs

A Net Income CRUT is a trust that pays the lesser of the trust's income or a fixed percentage of the trust's value to the donor or other designated beneficiaries for the duration of the trust term. IRC Section 664(d)(3). A make-up provision can be incorporated to gain greater control over the timing of the distribution of the income. This version is a NIMCRUT.

Advantages of Net Income CRUTs include:

1. Control over income stream: The income stream generated by a Net Income CRUT is more controllable than that of a standard CRUT because the trust's income can be significantly influenced by the investments of the trust.
2. Tax savings: Donors receive an income tax deduction for the present value of the charity's remainder interest in the trust. IRC Section 170(f)(2)(A).

Disadvantages of Net Income CRUTs include:

1. Limited growth potential: Because the distribution is restricted to the trust's income, there is limited growth potential for the income stream.
2. Lack of flexibility: The distribution percentage of a Net Income CRUT cannot be adjusted to include the capital appreciation of the trust's assets.

III. Flip CRUTs

A Flip CRUT is a trust that starts as a Net Income CRUT but then "flips" to a standard CRUT when certain triggering events occur, such as the sale of an asset or a specified period of time passing.

Advantages of Flip CRUTs include:

1. Funding flexibility: Flip CRUTs are ideal designs for contributions of real estate or other assets that may not generate income or may take time to sell. If the sale of the asset is the triggering event, the CRUT is obligated to distribute only the income of the trust until after the flip.
2. Growth potential: When the Flip CRUT "flips" to a standard CRUT, there is an opportunity for the income stream to significantly increase. Revenue Ruling 2003-121.
3. Tax savings: Donors receive an income tax deduction for the present value of the charity's remainder interest in the trust.

Disadvantages of Flip CRUTs include:

1. Complexity: Flip CRUTs can be more complicated to set up and administer than other types of CRUTs.
2. Limited control: Donors may have limited control over when the trust "flips" to a standard CRUT.

Comparison of CRUT Types

1. Income stream: Standard CRUTs and Flip CRUTs offer a higher, though variable, income stream, while Net Income CRUTs offer a more predictable income stream.
2. Flexibility: Flip CRUTs offer more design flexibility than Standard and Net Income CRUTs.
3. Growth potential: Standard CRUTs and Flip CRUTs offer more growth potential for the income stream than Net Income CRUTs.

Donor-Advised Funds

A donor-advised fund (DAF) is a convenient solution for donors seeking to simplify the administration of their charitable contributions over time and maximize their tax benefits. As philanthropic vehicles sponsored by public charities, DAFs allow donors to make charitable contributions, receive immediate tax deductions, and recommend grants from the fund over time. From a more technical perspective, a DAF is a separately identified fund or account that is sponsored by a public charity, to which donors can make irrevocable contributions of cash, securities, or other property. IRC Section 4966(d)(2). The donor retains advisory privileges over the distribution of funds from the account. The charity must have ultimate control over the use of the donated funds, but the donor is able to recommend how the funds are used. IRC Section 4966(d)(2). In addition, a DAF may appeal to clients who want to involve their family in giving decisions. Donors, their families, or other designated individuals can advise the fund on asset investment, organizations to receive grants, and how much to give.

Advantages of DAFs include:

1. Tax benefits: Donors receive an immediate income tax deduction for the full fair market value of the donated assets, subject to certain limitations. IRC Section 170(a)(1).
2. Flexibility: Donors can make contributions to the DAF and recommend distributions to qualified charities over time, providing flexibility in timing of gifts to charitable organizations.
3. Expertise: DAF sponsors often have expertise in charitable giving and can assist donors in identifying and evaluating charitable organizations. They also provide professional investment management services.

Disadvantages of DAFs include:

1. Control: While donors retain advisory privileges over the distribution of funds from the DAF, the charity has ultimate control over the use of the funds, which may not be desirable for some donors. Revenue Ruling 68-489.
2. Perpetuity: DAFs can exist in perpetuity and are not required to make distributions each year, which may not align with a donor's charitable goals.

3. Fees: DAFs typically charge administrative fees, which can reduce the amount of charitable funds available for distribution. However, DAF fees are usually considerably lower than the expense of maintaining a private foundation.

DAF are subject to several restrictions:

1. Prohibition on private benefit: DAFs are prohibited from providing more than an incidental benefit to the donor or any other disqualified person. IRC Section 4967.
2. Prohibition on self-dealing: DAFs are prohibited from engaging in any act of self-dealing, such as selling property to a disqualified person. IRC Section 4941(d)(1).
3. Prohibition on excess business holdings: DAFs are subject to restrictions on owning more than a certain percentage of the voting stock in any business enterprise. IRC Section 4943.

Bequests

Charitable bequests are gifts that are made as part of a donor's estate plan. It involves a provision in a will or trust that directs the distribution of assets to a charitable organization after the donor's death. IRC Section 2055(a). The bequest can be a specific dollar amount, a percentage of the estate, or a residuary bequest. IRC Section 2055(a). Charitable bequests can be made to public charities or private foundations.

Advantages of Bequests include:

1. Estate tax deduction: Charitable bequests are deductible for estate tax purposes, which can reduce the size of the estate subject to estate tax.
2. Control: Charitable bequests allow donors to retain control over their assets during their lifetime, while still providing for a charitable organization after their death.
3. Legacy: Charitable bequests can help donors leave a lasting legacy and support causes they care about.

Disadvantages of Bequests include:

1. Delayed impact: Charitable bequests do not provide immediate support for charitable organizations since the gift occurs after the donor's death.
2. Administration: Charitable bequests can be subject to legal and administrative expenses that can reduce the amount of assets available for distribution to the charitable organization.

Common Types of Charitable Bequests:

1. Specific bequest: A bequest that directs a specific asset to a charitable organization. For example, "I give my personal residence at 100 Main Street, Nashville, TN to XYZ Charity."
2. General bequest: A bequest that directs a specific dollar amount or percentage of the general assets of the estate to a charitable organization. IRC Section 2055(a). For example, "\$300,000 from my estate" or "20% of the value of my total estate."

3. Residuary bequest: A bequest that directs the remaining assets of the estate to a charitable organization after debts and expenses are paid and all other bequests have been fulfilled. For example, “30% of the remaining assets of my estate.”

This is a 40,000-foot overview of several charitable strategies that can empower the generosity of your clients and equip them with wiser alternatives than making cash donations. Hopefully, it has stimulated your planning thoughts and stirred your curiosity for further research.

Aligning Charitable Gifts with Christian Values

Our culture is shifting in ways that are sometimes in opposition to the Bible. Churches, Christian ministries, and other nonprofits are not immune from these trends. We regularly talk with donors who are concerned about the future direction of ministries. They trust the current leaders, but they are reticent to make a significant gift from their estate because they fear the gift may ultimately be used for purposes they do not support.

A solution embraced by many clients has been to establish a donor-advised fund (DAF) or an endowment that includes a doctrinal statement of eligibility. Each year, the charitable organization must affirm that it affirms the doctrinal statement in order to receive a distribution from the DAF or endowment.

In our work, the clients who express concerns about culture are usually theologically conservative. Statements of Christian beliefs that they have adopted include: the Baptist Faith and Message (2000), the statement of faith of the Billy Graham Evangelistic Association, the Nicene Creed, the Apostles’ Creed, etc. Some take a simple approach and require the recipient organization to affirm the “inerrancy of Scripture,” from which many other beliefs usually align.

Example: Doctrinal Requirement from a DAF agreement:

DONOR RECOMMENDATIONS AFTER HIS LIFETIME

The Donor, who is the initial Advisor, will make grant recommendations from time to time during his life. Following the lifetime of the Donor, if there are no successor Advisors who are living, the Donor recommends the following grant structure:

- A. If the balance of the Fund reaches the sum of \$2,500,000 or more within one year of the date of my death, each year thereafter, for a period of 50 years, the Fund will distribute 6% of the January 1 balance of the Fund to the following charitable organizations in the percentages set forth:

75% to the Southern Baptist Theological Seminary, 2825 Lexington Road
Louisville, Kentucky 40280, designated for the Southern Fund, or its nearest
equivalent if the Southern Fund no longer exists;

5% to Grace to You, 28001 Harrison Parkway, Valencia, California 91355, as an
undesignated gift for its general religious and charitable purposes;

5% to Ligonier Ministries, 421 Ligonier Court., Sanford, Florida 32771, as an
undesignated gift for its general religious and charitable purposes;

5% to Alliance of Confessing Evangelicals, 600 Eden Road, Lancaster,
Pennsylvania 17601, as an undesignated gift for its general religious and
charitable purposes;

5% to ABC Bible Church, 100 Wright Street, Pensacola, Florida 32505, designated for The Chapel Library if it is in existence at the time of the gift; if The Chapel Library is no longer in existence, then the gift may be used for the general religious and charitable purposes of ABC Bible Church; and

5% to the Banner of Truth Trust, 63 E. Louther Street, Carlisle, Pennsylvania 17013, as an undesignated gift for its general religious and charitable purposes.

- B. After the passage of 50 years from the date of my death, the annual distribution will terminate and the remaining balance of the Fund is to be distributed outright to the following charitable organizations in the percentages set forth:

75% to the Southern Baptist Theological Seminary, designated for the Southern Fund, or its nearest equivalent if the Southern Fund no longer exists;

5% to Grace to You as an undesignated gift for its general religious and charitable purposes;

5% to Ligonier Ministries as an undesignated gift for its general religious and charitable purposes;

5% to Alliance of Confessing Evangelicals as an undesignated gift for its general religious and charitable purposes;

5% to ABC Bible Church, designated for The Chapel Library if it is in existence at the time of the gift; if The Chapel Library is no longer in existence, then the gift may be used for the general religious and charitable purposes of ABC Bible Church; and

5% to The Banner of Truth Trust as an undesignated gift for its general religious and charitable purposes.

- C. In order for the Southern Baptist Theological Seminary to be eligible to receive a grant under the grant recommendations in this Schedule C, the Southern Baptist Foundation must have reasonable confidence that the organization affirms (a) the Abstract of Principles and (b) the Doctrines of Grace, a copy of each is attached hereto. If there is reasonable doubt or question as to the affirmation of these doctrines by the Southern Baptist Theological Seminary, the Foundation is directed to request the organization to affirm these doctrinal beliefs prior to issuing a recommended grant. If the Southern Baptist Theological Seminary fails to affirm these doctrinal beliefs upon request, it shall be removed as a recommended grant recipient and its share is to be divided equally between the following organizations, if they affirm (a) the Abstract of Principles and (b) the Doctrines of Grace:

Covenant Baptist Theological Seminary, 1501 E. 26th Street, Owensboro, Kentucky 42303, as an undesignated gift for its general religious and charitable purposes;

Reformed Theological Seminary, 1231 Reformation Drive, Oviedo, Florida 32765, as an undesignated gift for its general religious and charitable purposes;

Westminster Theological Seminary, 2960 Church Road, Glenside, Pennsylvania 19038, as an undesignated gift for its general religious and charitable purposes; and

Mid-America Reformed Seminary, 229 Seminary Drive, Dyer, Indiana 46311, as an undesignated gift for its general religious and charitable purposes.

If any of these successor beneficiary organizations fails to affirm (a) the Abstract of Principles and (b) the Doctrines of Grace upon request, it shall be removed as a recommended grant recipient and its share shall be divided equally between the other successor beneficiary organizations that affirm these doctrines.

- D. In the event an organization that is recommended as a grant recipient has ceased to exist without a successor organization with similar mission or otherwise fail to qualify under law for distributions from the Fund, the Donor recommends the organization's share be distributed to the remaining organizations that are recommended as grant recipients in the percentages, and under the eligibility requirements, set forth in Paragraph A above and subsequent paragraphs.
- E. Notwithstanding the foregoing recommendations, in the event the balance of the Fund has not reached \$2,500,000 or more within one year following my death, annual distributions should not be established and instead the full balance of the Fund is to be distributed outright to the charitable organizations in the percentages, and under the eligibility requirements, set forth in Paragraph A above and subsequent paragraphs.

Fulfilling Family and Charitable Planning Goals in One Gift

A creative and highly useful giving design in estate planning is to incorporate a testamentary charitable remainder unitrust (CRUT) to receive some or all of a client's tax-deferred retirement accounts. The CRUT distributes a stated percentage of its balance each year to the decedent's family members for their lifetimes (if they are old enough) or for a period of up to 20 years. At the end of the term, the CRUT will terminate and distribute all of its remaining balance to one or more charities named by the client.

Potential advantages of testamentary CRUTs include:

1. A CRUT is tax-exempt, so it can receive and invest the full balance of the IRA. This creates a larger corpus to generate income to beneficiaries, compared to heirs paying taxes on the distribution and investing the remaining amount. With the CRUT, taxes are due only when distributions are made to the beneficiaries.
2. Some beneficiaries will not be able to handle a substantial lump-sum inheritance. The stream of income from the CRUT creates long-term, recurring income for these heirs.
3. While assets are held in the CRUT, in many states the assets are protected from the creditors of the beneficiaries.
4. Sometimes retirement accounts are the primary asset in a client's estate. In such instances, a testamentary CRUT is an innovative way to use the asset to both bless family members and to provide for charitable causes.
5. The "stretch" IRA clients formerly created for heirs now must be paid out to beneficiaries within 10 years unless the beneficiary qualifies for an exception. See SECURE 2.0 and final regulations released earlier this year.
6. The estate of the deceased donor is entitled to a federal estate tax charitable deduction for the estimated value of the charity's remainder interest in a CRUT.

A testamentary CRUT is a powerful tool for the estate plan of many Christian clients.

Part 2: Discipling Descendants

Letter to Family About Living in Christ

Having your clients write a letter to their family members about life in Christ and their hopes for their family may be of more eternal significance than any of the estate planning documents you help them create. Below is a letter from a grandfather to his family:

Example: Handwritten Letter from a Father and Grandfather:

To my Children and Grandchildren,

I hope that the small material inheritance left by Nona and I will be seen as an expression of our love for you, but a million times more important for us is the spiritual inheritance we desire to leave you in our prayers and example of

“Seek first the Kingdom of God and His righteousness”

May you each experience the daily thrill of a growing, vital relationship in loving obedience to Jesus Christ, our Lord and Savior, and to our loving Heavenly Father, the eternal and all wise God, who loves us with an eternal, unchanging love.

To Him be all praise, honor, and glory, both now and throughout eternity.

Dad + GrandDad

“REJOICE IN THE LORD”

Example: Excerpt from Handwritten Letter from a Mother to Her Children:

Each one of you were given to God, yes, at conception and before you were born, with my prayers for your good health, both in mind and body. Also with the prayer that you would love God (and serve Him) with all your heart, soul and mind! That you would “seek His will first.” Matt. 6:33.

Family Trusts Provisions that Encourage Christian Growth

In making distributions to beneficiaries of a trust, trust instruments often state that the distributions are “in the sole discretion of the trustee,” or the trust includes some version of “health, education, maintenance, and support” as the standard. With Christian clients, we can help think more intentionally and thoughtfully about how they can encourage spiritual growth in their descendants.

A. List of Faith Components to Stimulate a Client’s Thoughts

When clients want to include faith components in a trust but are unsure where to begin, we share a list of sample provisions as a starting point.

Example: List of Potential Trust Provisions to Encourage Spiritual Life in Heirs

Spiritual Development Trust Provisions for a Child

Spiritual Education and Formation

1. Biblical Education Support
 - Full funding for:
 - Christian college or university tuition

- Seminary or theological studies
 - Christian leadership training programs
 - Bible college coursework
- Matching funds for accredited Christian educational institutions
- Additional support for missionary training or theological research
- 2. Ministry and Mission Support
 - Full or partial funding for:
 - Short-term mission trips
 - Christian ministry internships
 - Faith-based community service projects
 - Missionary work preparation
 - Travel and living expense coverage for faith-based service opportunities
 - Matching funds for time spent in Christian missionary or ministry work

Spiritual Growth Incentives

1. Church and Community Engagement
 - Financial incentives for:
 - Active church membership
 - Leadership roles in church ministries
 - Participation in small group Bible studies
 - Volunteer work in faith-based community organizations
 - Annual stipend for spiritual retreats and conferences
 - Funding for Christian leadership development programs
2. Discipleship and Mentorship
 - Coverage for:
 - Christian mentorship programs
 - Spiritual counseling
 - Discipleship training
 - Faith-based personal development workshops
 - Matching funds for expenses related to spiritual growth
 - Support for attending Christian conferences and seminars

Personal Spiritual Development

1. Bible Study and Theological Resources

- Annual allowance for:
 - Religious books and study materials
 - Bible translations
 - Christian academic publications
 - Online theological courses
 - Digital and print Christian resources
- 2. Worship and Ministry Tools
 - Funding for:
 - Musical instruments for worship
 - Christian media production equipment
 - Technology for online ministry
 - Christian counseling certification
 - Christian leadership tools and resources

Character and Spiritual Integrity

- 1. Moral and Ethical Development
 - Provisions supporting:
 - Christian character development programs
 - Ethical leadership training
 - Faith-based personal growth workshops
 - Counseling for spiritual challenges
- 2. Family and Generational Faith Transmission
 - Support for:
 - Family faith retreat experiences
 - Intergenerational Christian education
 - Christian parenting resources
 - Family ministry involvement
- 3. Charitable Giving Incentives
 - Matching funds for:
 - Tithe and church donations
 - Christian charitable contributions
 - Support for Christian non-profit organizations
 - Missionary support funding

Accountability and Guidance

1. Spiritual Accountability Mechanism
 - Require periodic spiritual mentorship reviews
 - Documentation of spiritual growth activities
 - Advisory board of Christian leaders to provide guidance
 - Transparent reporting on spiritual development goals

Protective and Supportive Provisions

1. Spiritual Counseling and Mental Health
 - Coverage for:
 - Christian counseling services
 - Faith-based mental health support
 - Spiritual wellness programs
 - Pastoral care and guidance
2. Flexibility for Spiritual Journey
 - Adaptable provisions recognizing individual spiritual paths with Christ
 - Support for exploring deep faith questions

Faith Components in DAFs and Endowments

As a means of passing Christian values to the next generation, clients increasingly desire to include their children and grandchildren in their philanthropy, and to provide spiritual parameters to assist them. This offers both practical guidance and a testimony to the client's love for Jesus.

Example: Spiritual Parameters Excerpt from a DAF Agreement to Guide Successor Advisors

Thirty-Five Percent (35%) of the annual distribution is to be at the discretion of the Donors' children as successor Advisors of the Fund. While both children are living, each child will be able to make grant recommendations for 50% of this share of the annual distribution. If only one child is living, the child will be able to make grant recommendations for 100% of this share of the annual distribution.

An organization shall be deemed eligible for a distribution from the Fund only if at the time of a distribution such entity is recognized and qualifies as a tax-exempt organization under Sections 501(c)(3) and 509(a) of the Code, contributions to which are tax deductible under Sections 170(c) and 170(b)(1)(A) of the Code. In order for an organization to be eligible to receive a grant under this share, the organization must be an evangelical Christian organization, including the church of a successor Advisor, that affirms the inerrancy of the Bible and views the Bible as authoritative for all aspects of the organization, or a university. In assessing the eligibility of a Christian organization to receive a grant from the Fund, the Donors direct the successor Advisors and the Southern Baptist Foundation to reference the Baptist Faith and Message (2000), The Nashville Statement on human sexuality, and the Danvers Statement on biblical manhood and womanhood for guidance on how the Donors understand the Bible.

If the Donors' children as successor Advisors do not make grant recommendations (or recommendations sufficient to account for all funds available for distribution) in a given year, any remaining funds available for distribution that year are recommended to be distributed to the organizations (in the specified percentages) listed in Section 1 above.

May God bless you and your practice as you come alongside Christian families and other clients.