

**The Right Gift for the Right Time:
Charitable Giving Options for Different
Stages in Life**

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Effective giving options for:

- Early Career
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The audience is quiet in anticipation. The orchestra is seated and ready on the stage, waiting for the world-famous conductor to take the podium. Suddenly, a doorman from the lobby moves down the aisle, takes to the podium, and raises the conductor's baton. The doorman's musical experience consists of two accordion lessons in the second grade and once playing "Baa, Baa, Black Sheep" in the local pub. He quickly discovers he is way out of his depth—conducting an orchestra is not nearly as easy as it had looked to him when he watched from the back of the concert hall.

Charitable giving can present similar issues. For someone early in their career, making a complicated gift of real property or a business interest or getting into the details of a charitable trust may not be as easy as expected. In fact, it may not even accomplish their goals effectively if they're not careful in their planning. However, for a wealthy, financially experienced retiree, those same gifts may be the right fit, meeting important planning goals while executing a meaningful and sizable donation.

In this issue, we look at potential giving scenarios that may be a good fit during various stages of life. All scenarios assume the charitable gift is going to a charity that qualifies under IRC §501(c). And while each financial journey is unique, thoughtful advice from a knowledgeable professional can make all the difference in ensuring that the gift is well suited to the donor's circumstances and is carefully executed.

Early Career

Millennials (those currently ages 27-42) comprise a charitably inclined generation, willing to make personal sacrifices to support causes that are important to them.¹ While the size of donations from these individuals may be smaller, their passion for philanthropy should not be overlooked.

Example: When the Desire to Give Outpaces the Financial Reality

Robert and Alice, ages 29 and 27, got married a year ago and just purchased their first house. Robert is an architect working at a mid-level firm in the Midwest, while Alice is a classically trained chef who was recently promoted from junior chef to station chef at a popular downtown restaurant. They both earn decent salaries, but a good portion is still being used to pay down debt (including student loans). They plan to start a family in the next few years, but even before that happens, they would like to establish a consistent plan for giving to organizations that are meaningful to them. While their total estate is still minimal at this point, they have both begun saving for retirement—Robert in his company 401(k) and Alice in an IRA.

Like many younger people, Robert and Alice have the heart for giving but not the financial wherewithal to make gifts that match their desire. They decide the best approach is to establish and maintain a realistic and sustainable pattern of giving—a habitual approach that can grow along with their finances over time.

Cash Gifts

Making regular cash gifts to charity is a straightforward way for Robert and Alice to begin their philanthropic endeavors. Their gifts will qualify for a charitable income tax deduction if they itemize, assuming they maintain a record of the contribution (e.g., a canceled check, a receipt, a written letter from the charitable organization showing the donee name, the date, and the amount of the contribution, or some other reliable written record showing the same information).²

Let's say Robert and Alice inherit some valuable property and want to donate that property to a qualified charity rather than give cash. In that case, additional requirements would apply for them to claim the charitable income tax deduction. If the gifted property is:

- Over \$500, they must include a description of the donated property with their tax return.³
- At least \$5,000 but less than \$500,000, they must obtain a "qualified appraisal" and include an appraisal summary with their tax return.

- \$500,000 or more, they must obtain a qualified appraisal and attach a copy of the appraisal (not just an appraisal summary) to their income tax return for that year.⁴
- Non-publicly traded stock, certain publicly traded securities, or a contribution by a C corporation, they must maintain additional records,⁵ along with the general substantiation records required by Treas. Reg. §1.170A-13(b)(2)(ii).

Bequests

A good option for making a more substantial gift is to include a charitable bequest in each of their wills. This type of revocable future gift can take a few different forms.

- A **specific bequest** is the gift of a specific asset to a particular beneficiary. For example, in a charitable giving context, this could be a donor who gives a particular work of art to their alma mater.
- A **demonstrative bequest** is one that identifies a specific amount of money from a particular source.
- A **general bequest** directs that a gift be made from the general funds of the estate and comes from the estate after all specific and demonstrative bequests are made. Depending on the circumstances of the donor and the estate, general bequests may be in the form of a dollar amount or even a percentage of the remaining estate.

It is important to obtain and include the correct legal name and address for any intended charitable recipient. An improperly or incompletely identified charity can create problems and possibly lead to the charity not receiving the bequest.

Beneficiary Designations

Another easy, comfortable future gift option is to make the charity the beneficiary of the 401(k) or IRA. If Robert and Alice have children, it's easy to change the beneficiary designation. Even if the charity is no longer the primary beneficiary, it could be a partial beneficiary (to receive a percentage of the assets) or even a secondary beneficiary (to receive the assets only if the children cannot).

EXAMPLE: When Charitable Giving and Retirement Planning Overlap

Victoria, 31, was recognized as one of the outstanding young lawyers in her bar association and has a bright future in intellectual property litigation. She is currently in her first job as an associate for an upper-level law firm in Chicago but is looking to move to a competitor for a partner position. Before making the jump, Victoria wants to review her current financial plan. In particular, she would like to incorporate charitable donations that might benefit her estate planning for the next 10, 20, and 30 years. Victoria already has a sizable retirement savings and an estate totaling approximately \$1.5 million (mostly from her home). She also has \$20,000 that she wants to use either for retirement or for a charitable gift. She expects to build more wealth over the coming decades.

Victoria can certainly take advantage of simple charitable gift options like cash contributions, a bequest, or a beneficiary designation. However, because she's looking to fund either retirement or a charitable gift, she might consider an option that can help her do both.

A Deferred Charitable Gift Annuity

A charitable gift annuity (CGA) is a contractual agreement made between the donor and the charity under which the donor agrees to make an irrevocable charitable gift of cash or property, and the qualified charity agrees to pay a fixed amount periodically to the one or two annuitants designated by the donor. Payments can begin immediately or be deferred until some point in the future. Victoria could use a deferred charitable gift annuity to make a gift to her favorite charity (assuming they issue CGAs) while also ensuring a steady income stream in retirement—and by deferring payments, she can lock in a higher gift annuity rate.

Victoria decides to gift the entire \$20,000 she has on hand in exchange for fixed annual payments beginning at age 65. This transaction is not merely a “quid pro quo” between Victoria and charity, though—it is considered part gift and part annuity. She will qualify for an immediate federal income tax deduction of \$15,028 for the gift portion and will receive annual payments of \$3,060 for life starting at age 65. This will let her benefit her favorite charity now and receive a nice supplement to her retirement income in the future.

Established Career

Those in Gen X, currently ages 43-58, are well established in their careers. While many are still dealing with financial pressures (say, sending their children to college or simultaneously supporting children and aging parents), many others are a bit more comfortable and have more resources with which to support their favorite charitable organizations. They are also in a position to make use of some of the more complex giving options that can help them achieve their retirement and estate planning goals.

EXAMPLE: When the Gift Includes a Focus on Future Benefits

Marcus (54) works at a large accounting firm. He just received a \$100,000 year-end bonus for his performance and exceptional rainmaking skills. Marcus and his spouse, Taylor, a cyber-security professional who retired from the Navy, have established a good estate totaling \$5.73 million. They have two children in college who both plan to go to graduate school. Though Marcus has made regular charitable gifts over the years, he is now able to make a more significant gift to his favorite charity.

Marcus and Taylor are in the fortunate position of having solid income and savings, plus an unexpected windfall in the form of a large year-end bonus. Marcus can afford to consider gift options that put the charity first but also provide benefits for his family down the road.

A Charitable Lead Trust (CLT)

With a charitable lead trust, the irrevocable trust pays out an annual income to a qualified charitable organization for a specified period of years. These annual payments are either a specified percentage of the initial trust assets (a charitable lead annuity trust or CLAT) or a specified percentage of the annually revalued trust assets (a charitable lead unitrust or CLUT).⁶ At the end of the trust term, the principal passes back to the grantor or to named noncharitable beneficiaries (often, the grantor’s children or grandchildren).⁷

Because the value of the charitable income interest is deductible for federal estate tax purposes, Marcus can use a CLT to reduce taxes while ultimately passing the remaining assets to his children.⁸ Plus, any appreciation inside the trust will pass to the children at the end of the trust term without any additional transfer tax. To make full use of this valuable tax minimization technique, Marcus might consider funding the CLT with assets expected to increase in value. (Note that if Marcus named his grandchildren as the noncharitable beneficiaries of the trust, this could trigger the generation-skipping transfer tax at the time of trust termination.)

Marcus’ family will not have access to or benefit from the property until the trust term expires. However, if Marcus funds the inter vivos trust with appreciated property, his basis in the trust property carries over to his children when the CLT ends. If Marcus dies before the end of the trust term, the present value of the remaining payments to the charity is estate-tax deductible if the CLT is included in Marcus’ gross estate.

Transition Into Retirement

Most Baby Boomers (now ages 59-77) are either approaching retirement or recently retired, perhaps still working out ways to turn savings into income streams and incorporate charitable giving into their new financial landscape.

EXAMPLE: When Retirement Distributions Are Not Needed

Wayne, age 74, has been retired for four years. After building a plumbing business from the ground up, Wayne sold his firm to a competitor. Under the terms of the sale, he received a generous initial payment and will continue to receive \$200,000 annual payments over the next seven years. His estate is close to \$7 million. Wayne has extensive estate plans in place, has adequately provided for his family, and has a substantial IRA that he contributed to faithfully over the course of his career.

A Gift from an IRA

Wayne has already begun taking required minimum distributions (RMDs) from his IRA—taxable money he doesn't need. (RMDs must generally begin by age 73 starting in 2023, up from 72.) This year, Wayne chooses to make a qualified charitable distribution (QCD) to support a cause close to his heart. (QCDs are available starting at age 70½.)

The QCD is a simple gift to make. Wayne directs that a distribution of \$100,000 (the annual aggregate limit) be made directly from his IRA to the qualified charity.⁹ A qualified charity includes a charity described in IRC §170(c)(2); certain veterans' organizations, fraternal societies, and cemetery companies; and a Federal, State, or local governmental entity, but only if the contribution is made for exclusively public purposes.¹⁰ Note that neither a donor-advised fund nor a supporting organization are considered qualified charities for the purpose of a QCD.

Although there is no tax deduction for this gift, the amount of the distribution is not includible in gross income, so it has no impact on Wayne's charitable limitation.¹¹ In addition, it satisfies part or all of his distribution requirement, and it's a gift he can make year after year if he wishes.

The distribution will be treated as a qualified charitable distribution only if a deduction for the entire amount would be allowable under IRC §170. If the deduction is not includible in gross income, the IRC provides that the qualified charitable distribution will not be taken into account in determining the charitable deduction.¹²

A donor with multiple IRAs may direct QCDs from multiple accounts, but the total limit remains \$100,000 for the year. However, each spouse in a married couple has their own \$100,000 threshold.

A New QCD Option¹³

Beginning in 2023, Wayne has a new option to consider if he wants to make a gift from his IRA and also secure a new retirement income stream. The SECURE 2.0 legislation gave IRA owners age 70½ the ability to make a one-time IRA distribution of up to \$50,000 to create a charitable gift annuity or charitable remainder trust (either a CRAT or a CRUT). As with the traditional option, no tax is due on the distribution and it counts toward the donor's RMD if one is due.

The CGA or CRT must qualify for an income tax charitable deduction under the current Internal Revenue Code—in other words, the CGA or CRT must pass the 10% minimum income tax charitable deduction test. In addition, the CRT must have a minimum payout rate of 5%, and in the case of a CRAT, the trust must pass the 5% probability test. The CGA must have a minimum 5% payout rate.

Other requirements include the following:

- The QCD may not fund an existing CRT or a deferred payment CGA.
- A CGA funded by a QCD must be non-assignable.

- A CRT funded with a QCD cannot later receive other gifted assets.
- All payments from the CRT or CGA funded by the QCD are subject to tax at ordinary income tax rates. No part of the payments will be considered tax free or taxed as capital gains.

Note: SECURE 2.0 also introduced inflation indexing for QCD limits. Beginning in 2024, both the \$100,000 annual aggregate limit on the traditional QCD and the \$50,000 limit on the new QCD will be indexed for inflation.

The Golden Years

Those who are comfortably settled into retirement (now ages 78 and above) may find themselves in financial circumstances comfortable enough to allow for fairly sizable donations to the causes and charities they find most meaningful as they think about leaving a lasting legacy.

EXAMPLE: When Meeting Goals Means Blending Gifts

Antonia, 80, is a widow with four financially successful adult children and 15 grandchildren. She retired 10 years ago after selling her ownership in a chain of specialty dessert shops all along the East Coast. She is a sophisticated investor and donor, knowledgeable about finance and business law, and she has maintained a tradition of giving since shortly after college. She has a total estate of \$28.5 million, including an IRA, an income stream from rental properties, and a \$2 million whole life insurance policy she bought decades ago to ensure her children's higher education expenses.

After an active first decade in retirement, Antonia is slowing down a bit and has begun to consider how to best leave a lasting legacy for her family and her favorite charity. She has long wished to make a “splash gift”—one large enough to attract media attention to the charity and hopefully encourage donations from other supporters. Working with her legal counsel, financial professionals, and the charity's planned giving staff, she decides to make a blended gift—a combination of gifts that will accomplish her philanthropic goal and work well within her estate and financial plan.

An Immediate Cash Gift

To satisfy her desire to draw attention to the qualified charity, Antonia makes an immediate cash gift of \$1 million. In addition to furthering the charity's important mission, the gift will qualify for a federal income tax deduction under IRC §170. This deduction will be limited to 60% of Antonia's adjusted gross income (AGI) in the year of the gift, and she can carry over any excess for the next five years.

Note: The 60% limit applies to cash gifts to public charities in 2023. The limit is set to return to 50% on January 1, 2026. A deduction for a cash gift to a private foundation is limited to 30% of the donor's AGI.

A Pledge for Further Annual Cash Gifts

Antonia also makes a pledge to the charity for a \$2 million gift to begin the year after her “splash gift” and continue over the next 10 years (at \$200,000 per year). At the 37% federal tax rate, Antonia estimates she will save \$74,000 a year from her deductions (assuming the deduction limitations permit her to take the entire \$200,000 deduction in one year). Her total tax savings from these annual gifts could be \$740,000 over the ten-year period, making the net cost of the \$2 million gift only \$1,260,000.

A Gift of Life Insurance

In addition to these current gifts, Antonia would like to make a future gift to sustain the charity's important work for years to come. Since she no longer needs the \$2 million life insurance she purchased

years ago—her children are long out of college and doing well financially—she changes the policy beneficiary to the charity. With this simple, straightforward gift, at the time of her death, the charity will receive the proceeds directly in the same manner as any other beneficiary. This gift will not produce an income tax charitable deduction, but it will result in an estate tax charitable deduction.

An Alternative Life Insurance Gift

If Antonia wasn't set on combining immediate gifts with a future gift, she might also have considered a simple, outright gift of her existing policy to the charity—a gift that might be eligible for an income tax charitable deduction. To get the deduction, though, Antonia would generally have to transfer all ownership rights to the charity. If she reserved any rights in the policy, her gift would be considered a gift of a partial interest and would not be tax deductible.

The value of an outright gift of a paid-up life insurance policy is the policy's replacement cost. However, if the replacement value is greater than Antonia's basis in the policy, the amount she could deduct would be limited to that basis. If further premiums are due, the value would be the policy's interpolated terminal reserve value, plus any unearned premium and accrued dividends, minus any policy loan. The insurance company would provide this figure on IRS Form 712.

With an outright policy gift, Antonia could face the question of "insurable interest." Most U.S. states have enacted laws clarifying that a charitable organization has an insurable interest in a donor. However, this is not a uniform position among all states. A few states still provide that a charitable organization may not be considered to have an insurable interest in a donor. The question of insurable interest generally only arises at the time of policy issue, not when some subsequent assignment occurs. In most states where a charity does not have an insurable interest in its donors, the donor (who always has an insurable interest in his or her own life) could apply for the policy and then transfer it to charity. The donor's legal counsel should always check the laws of a particular state to determine the applicable law concerning insurable interest.

Antonia's Full Blended Gift

	Charitable donation	Antonia's tax benefit
Immediate Cash Gift	\$1,000,000	\$370,000 income tax deduction
Pledge for Yearly Gifts	\$2,000,000	\$740,000 combined annual deductions
Gift of Insurance Proceeds	\$2,000,000	\$800,000 estate tax deduction
TOTAL IMPACT OF GIFT	\$5,000,000	\$1,910,000 total tax savings
EFFECTIVE COST OF GIFT	\$3,090,000	

The Right Gift for the Right Donor

The world's best jockey would not last long on the offensive line in a professional football game, nor would an NFL lineman last long trying to guide and push a horse to a Kentucky Derby win. While both are skilled professionals, they have each focused on their own unique strengths to maximize their potential. Successful philanthropy similarly requires carefully matching the right gift option to the donor's goals, circumstances, and strengths to maximize the potential for making a meaningful impact. The right gift for a retired business owner with significant assets is not likely to work for a new college graduate with a heart full of compassion but relatively empty pockets. No matter a donor's circumstances, though, you can look at the big picture and point them to gift options that prove successful.

ENDNOTES

- 1 Mark C. Perna, “Why Gen Z Might Become One of the Most Charitable Generations Yet,” *Forbes*, November 29, 2022.
- 2 Treas. Reg. §1.170A-13(a)(1).
- 3 IRC §170(f)(11)(B).
- 4 IRC §170(f)(11)(D).
- 5 Treas. Reg. §1.170A-13(c)(2)(ii).
- 6 *Ibid.*
- 7 Treas. Reg. §20.2055-2(e)(2)(vi)(a) and §20.2055-2(e)(2)(vii)(b).
- 8 IRC §2055(e)(2)(B).
- 9 IRC §408(d)(8).
- 10 See: IRC §170(c)(3)-(5) and §170(c)(1).
- 11 IRC §408(d)(8)(A).
- 12 IRC §408(d)(8)(E).
- 13 The IRA distribution option was part of the Consolidated Appropriations Act of 2023, which included SECURE 2.0.

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