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Split-interest trusts can enhance charitable giving benefits

If you're philanthropically inclined, a charitable split-interest trust is one way to support the causes you care about while enjoying significant tax and estate planning benefits. These benefits are divided between a charitable beneficiary and one or more noncharitable beneficiaries. The two most common examples are charitable remainder trusts (CRTs) and charitable lead trusts (CLTs).

A CRT provides you and your family with lifetime income, with the remainder passing to a charity at the end of the trust's term. A CLT is the reverse: It makes payments to a charitable organization for a specified period and then distributes the remainder to noncharitable beneficiaries — for instance, your loved ones — that you designate. Let's take a closer look at both trust types.

CRTs

A CRT is an irrevocable trust to which you contribute cash, stock or other assets. The trust provides you or other family members with an income stream for life or for a term of up to 20 years, after which the remaining assets are transferred to a qualified charity.

Annual payouts from the trust may be determined in one of two ways:

1. A charitable remainder annuity trust (CRAT) pays out a fixed dollar amount ranging from 5% to 50% of the trust's initial value.
2. A charitable remainder unitrust (CRUT) pays out a fixed percentage of the trust's value, ranging from 5% to 50%, recalculated annually. Note: When the trust is established, the present value of the charity's remainder interest must be at least 10% of the trust assets' initial value.

Although payouts can be unpredictable, CRUTs are usually preferable to CRATs. Because the assets are revalued annually, payouts increase as the value of the trust increases. Keep in mind, though, that the payouts will decrease if the value decreases. Also, CRUTs allow additional contributions after the initial contribution; CRATs do not.

CRTs offer several tax advantages, including:

- The donor may claim a charitable deduction equal to the present value of the charity's remainder interest, subject to applicable limits.
- As a tax-exempt entity, a CRT can be an effective vehicle for selling and diversifying appreciated assets while deferring capital gains taxes.
- Assets transferred to the trust are removed from the donor's estate, reducing potential estate tax liability. Note, however, that a CRT may have gift tax implications if payouts are made to beneficiaries other than the donor.

CLTs

A CLT is like a CRT in reverse: It makes payments to the charitable organization during the trust term, with the remaining assets preserved for your heirs. And CLTs can be structured as charitable lead

annuity trusts (CLATs) or charitable lead unitrusts (CLUTs), which pay out a fixed dollar amount or a fixed percentage of the trust's value, recalculated annually, respectively.

A CLT is like a CRT in reverse: It makes payments to the charitable organization during the trust term, with the remaining assets preserved for your heirs.

CLTs also offer several tax advantages, including:

- The value of the gift received by your beneficiaries for gift and estate tax purposes is reduced by the present value of the trust's payments to charity.
- The present value of the charitable payments is calculated using an IRS-prescribed interest rate. So, to the extent the trust's investments outperform that rate, the excess received by your beneficiaries is essentially a tax-free gift.
- The donor or the trust may claim charitable deductions, depending on whether the trust is set up as a grantor or nongrantor trust.

Unlike CRTs, CLTs aren't tax-exempt entities. Their tax treatment depends on whether they're structured as grantor or nongrantor trusts. If a CLT is a grantor trust, the donor enjoys an immediate charitable deduction based on the present value of the charitable payments. The trade-off is that the donor must report the trust's income each year on his or her tax return. This can be an advantage, however, because it allows the trust assets to grow without being subject to tax at the trust level, leaving more for the noncharitable beneficiaries.

If the CLT is a nongrantor trust, the donor can't claim an immediate deduction. Instead, the trust deducts the annual charitable payments from its income and pays tax on any retained income. Given current limitations on charitable deductions by individuals (including higher standard deductions and a 0.5%-of-adjusted-gross-income floor on itemized charitable deductions), it may be advantageous to structure a CLT as a nongrantor trust, which isn't subject to those limitations.

Which is right for you?

The answer depends on your circumstances and your financial goals. If you're looking to receive current income, tap appreciated assets and generate an immediate tax deduction, a CRT may be for you. If you're interested in preserving assets for your loved ones while minimizing gift and estate taxes, a CLT may be your best choice. Contact your estate planning advisor to help you make the right choice. ▮

Consider funding a CRT with a qualified charitable distribution

If you're age 70½ or older, a qualified charitable distribution (QCD) can be a highly tax-efficient tool for satisfying your charitable goals. By enabling you to transfer up to $111,000 tax-free from an IRA directly to a qualified charity, a QCD effectively provides the tax benefit of a charitable deduction by excluding the distribution from taxable income, regardless of whether you itemize. And QCDs count toward your required minimum distributions for the year, providing even more tax savings.

In addition, you're entitled to make a one-time QCD of up to $55,000 to a CRT. This allows you to combine the tax benefits of a QCD with the income and tax advantages of a CRT, though certain differences apply when a CRT is funded through your IRA.

To file or not to file a gift tax return, that's the question

If you made gifts during the prior year, you may be wondering whether you need to file a gift tax return this filing season. The answer isn't always straightforward.

Many people aren't subject to federal gift taxes because of the $15 million gift and estate tax exemption ($30 million for married couples filing jointly) for 2026. However, there are situations when it's necessary (or desirable) to file Form 709, United States Gift (and Generation-Skipping Transfer) Tax Return, even if you're not liable for any gift tax. Let's take a closer look at the reasons why.

All gifts are taxable, with a few exceptions

The federal gift tax regime begins with the assumption that all transfers of property by gift (including below-market sales or loans) are taxable and then sets forth several exceptions. Nontaxable transfers that don't need to be reported on Form 709 include:

- Gifts of present interests (see below) within the gift tax annual exclusion amount (currently, $19,000 per person),
- Direct payments of qualifying medical or educational expenses on behalf of an individual,
- Gifts to political organizations and certain tax-exempt organizations,
- Deductible charitable gifts,
- Gifts to a U.S.-citizen spouse, either outright or to a trust that meets certain requirements, and
- Gifts to a noncitizen spouse within a special annual exclusion amount ($194,000 for 2026).

If all your gifts for the year fall into these categories, no gift tax return is required. But gifts that don't meet these requirements are generally considered taxable — and must be reported on Form 709 — even if they're shielded from tax by the lifetime exemption.

What to watch for

If you make gifts during the year, consider whether you're required to file Form 709. And watch out for these common pitfalls:

Future interests. The $19,000 gift tax annual exclusion applies only to present interests, such as outright gifts. Gifts of future interests, such as transfers to a trust for the donee's benefit, aren't covered, so you're required to report them on Form 709 even if they're less than $19,000.

The federal gift tax regime begins with the assumption that all transfers of property by gift (including below-market sales or loans) are taxable and then sets forth several exceptions.

Spousal gifts. As previously noted, gifts to a U.S.-citizen spouse needn't be reported on Form 709. However, if you make a gift to a trust for your spouse's benefit, the trust must 1) provide that your spouse is entitled to all the trust's income for life, payable at least annually, 2) give your spouse

a general power of appointment over its assets and 3) not be subject to another person's power of appointment. Otherwise, the gift must be reported.

Gift splitting. Spouses may elect to split a gift to a child or other donee, so that each spouse is deemed to have made one-half of the gift, even if one spouse wrote the check. This allows married couples to combine their annual exclusions and give up to $38,000 to each donee. To make the election, the donor spouse must file Form 709, and the other spouse must sign a consent or, in some cases, file a separate gift tax return. Keep in mind that, once you make this election, you and your spouse must split *all* gifts to third parties during the year.

When to voluntarily file a return

There are situations when it may be a good idea to file a gift tax return, even if it's not required. For example, if you make annual exclusion gifts of difficult-to-value assets, such as interests in a closely held business, a gift tax return that meets "adequate disclosure" requirements will trigger the three-year limitations period for audits.

Suppose you transfer business interests valued at $15 million over a period of years, through a combination of tax-free gifts to your spouse and annual exclusion gifts to your children. If the IRS finds that the interests were worth $20 million, which exceeds the lifetime exemption amount, it can assess gift taxes plus penalties and interest. If you don't file regular gift tax returns, the IRS has unlimited time to challenge the values of your gifts.

Plan with confidence

A well-designed gifting strategy remains a vital part of effective estate planning because it allows you to transfer wealth on your own terms and may reduce future tax exposure. However, to keep from running afoul of the IRS, it's critical to know when you need to file a gift tax return. The deadline to file Form 709 for tax year 2025 is April 15. If you're unsure if you need to file a return, ask your estate planning advisor. ▮

Accounting for collections in your estate plan

When thinking about estate planning, people often focus on traditional assets such as real estate, retirement accounts and investment portfolios. But for many families, some of the most valuable — and complicated — assets are collections. Artwork, rare coins or stamps, vintage automobiles, sports memorabilia, and other collectibles can represent significant financial value as well as deep personal meaning. Properly accounting for these assets in your estate plan is essential to protecting both their worth and your legacy.

Start with a written inventory

One of the biggest mistakes a collector can make is failing to maintain a written inventory of the collection. Unlike stocks or bank accounts, collectibles can be scattered across locations, stored privately or known only to the collector. Without proper documentation, heirs may not even realize the collection exists, let alone understand its value.

A thorough inventory should describe each item in detail and disclose the location. It should also include purchase dates, costs, provenance, certificates of authenticity and photographs.

The inventory should be updated regularly and shared with the estate's executor. A well-maintained inventory not only simplifies administration but also reduces the risk of loss, disputes among heirs or undervaluation.

Conduct periodic valuations

Collections aren't static assets. Their value can change significantly over time based on market trends, condition, rarity and collector demand. What was once a modest investment may become a six-figure asset — or vice versa. For this reason, periodic professional valuations are critical.

Up-to-date appraisals help ensure your estate plan reflects the true value of your collection. This is particularly important when allocating assets among heirs, funding trusts or determining whether an estate may be subject to estate tax. Valuations are also essential for insurance purposes and may be required at death to establish fair market value for tax reporting.

Working with qualified appraisers who specialize in your type of collection can help provide defensible valuations that stand up to IRS scrutiny if needed.

Understand the unique tax treatment of collectibles

From a tax perspective, collectibles generally are treated differently from most other long-term assets. Under federal tax law, long-term capital gains on collectibles generally are taxed at a maximum rate of 28%, which is higher than the 15% or 20% rate that applies to most stocks, bonds and real estate held long term.

This higher tax rate makes capital gains planning especially important for collectors. One key estate planning consideration is the step-up in basis at

death. When a collectible is inherited, its tax basis is generally "stepped up" to its fair market value as of the owner's date of death. This can significantly reduce — or even eliminate — capital gains tax if heirs sell the asset.

Because collectibles may be subject to higher capital gains taxes during life, holding them until death rather than selling them may, in some cases, be more tax-efficient. However, this must be balanced against liquidity needs, estate tax exposure and personal goals.

Integrate collections into your estate plan

Finally, collections shouldn't be planned for in isolation. Consider how they fit into your broader estate plan. Do you want certain items to go to specific heirs? Should a collection be sold to provide liquidity for taxes or equalize inheritances? Is charitable giving an option, such as donating artwork to a museum? Contact your estate planning advisor to help ensure your collection is properly documented, valued and integrated into your estate plan.

ESTATE PLANNING RED FLAG

You're unsure how a revocable and irrevocable trust differ

Trusts are powerful estate planning tools, but not all trusts work the same way. Two of the most common options are revocable trusts and irrevocable trusts. Understanding their differences can help you make informed estate planning decisions.

A revocable trust — often called a living trust — provides flexibility. You (the grantor) retain full control over the trust assets during your lifetime. For example, you can add or remove assets, change beneficiaries and amend or revoke the trust.

Because the grantor maintains control, the IRS generally treats the trust assets as still belonging to the grantor for tax purposes. Notably, revocable trusts don't provide asset protection from creditors or reduce estate taxes on their own. However, they're widely used because they help avoid probate, provide continuity if the grantor becomes incapacitated, and keep estate details private.

An irrevocable trust, as the name suggests, is far less flexible. Once you establish and fund the trust, you typically can't change or cancel the trust or reclaim the assets. This loss of control is intentional and can create significant planning advantages. Assets placed in an irrevocable trust are generally removed from your taxable estate, which can reduce estate taxes. In addition, those assets may be protected from creditors and lawsuits, depending on state law and how the trust is structured.

The trade-off is complexity. Irrevocable trusts require careful drafting, ongoing administration and a clear understanding of tax consequences. Income generated by the trust may be taxed differently, and mistakes can be difficult — or impossible — to undo.

In a nutshell, revocable trusts prioritize control and simplicity, while irrevocable trusts prioritize tax efficiency and asset protection. There's no one-size-fits-all solution. The right choice depends on factors such as your net worth, family goals, business ownership, and long-term financial plans.

Travel on your mind? Key before-you-go reminders

The main thing is to allow enough time to nail down the essentials ahead of time.

Photo Credit: petrenkod

It's nearly spring and summer is coming right behind. Do you have travel on your mind?

Depending on where you're headed, these might be on your list, or at least the first two.

1. Swimsuit? Check.
2. Sunscreen? Check.
3. Durable power of attorney? Check—wait, what?

Yes, number three should be there, too. You know, or can find out, what to bring along on just about any type of vacation to ensure a fun, safe time over two or three weeks. But what do you need to leave behind—or, put in place—to ensure peace of mind well into the future? Estate and trust planning and administration issues are critical.

Key Point: Updates, modifications, or additions can take time to identify and then to execute. Please be sure to contact us well in advance of your travels so that there is time for proper review and implementation.

Wills and Other Basics: A will is a must. Even if you already have one that's well-prepared and you believe is up-to-date, be sure it's on your list. Checking this one off can be as simple as calling us and letting us know what your plans are. We'll alert you to any special concerns that need to be handled before you go.

Emergencies: Clearly another must to consider. While neighbors can call the police if they notice a broken window, they can't, and probably shouldn't, authorize much of anything else without your approval. Sometimes written permission may be required, which you can easily take care of ahead of time. At the very least, one neighbor or family member should have direct contact information for you and any travelling companions.

Children: Travelling out of the country with your kids—even just over the border into Canada? With child trafficking receiving more and more attention, and deservedly so, authorities are becoming more and more vigilant. Why take the chance that your trip might be interrupted by a misunderstanding? Passports are often required and usually cover just about any contingency. Check Canadian and Mexican requirements; lesser documentation is sometimes accepted. Grandparents taking grandkids on a trip? Be especially diligent.

Or, if you're leaving your kids (or pets!) at home under someone else's care, consider providing general written authorization for that responsibility, even for specific, necessary actions and even for family. Discuss with all concerned, including an attorney. You might consider designating individuals to take care of the kids temporarily if you can't return home on schedule.

Key Point: Understandably, we're often confident that "it can't actually happen to me." But, actually, it can. Start planning in time to cover various possibilities, even if you don't like to think that they might happen. And, whatever planning you do now, will benefit everyone over the longer term.

Finances: Can you easily access more cash, or credit, if necessary? Can your travelling companions? While not necessarily common, injury, illness, or even death can occur, each presenting particular challenges, including extended stays. Having advance healthcare directives established is important.

Know whether your insurance covers these types of concerns. If not, do you need travel insurance—maybe a particular kind depending on where you're travelling and what you're doing, the risks you're taking? For instance, are there any specific issues concerning estate planning or trusts? Be sure to talk to us, and we can advise.

Power of Attorney (POA): Don't forget to check this off your list—or, at least, check it out with us. There are basically four types with different advantages and disadvantages. (Durable is often considered the most powerful.) What is a POA, exactly? Why might you want to establish one before travelling or, for that matter, at any time?

To learn more, just call or email us at 312-900-0151 or jmichael@themichaellawgroup.com. We always want to hear from you and welcome your calls.

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