Charitable giving

Single acts of kindness make a difference

BUILT TO PERFORM.

CREATED TO SERVE.

Giving from the heart. Done smart.

Most people have causes they care deeply about, and charitable giving is a great way to make a difference in the world. But finding the appropriate giving arrangement can be complicated. We hope that this guide helps you maximize your impact to charity—as well as your income tax benefits.

We're here to help

A TIAA advisor can help you figure out how much you can give based on your assets and your needs.

What’s inside

Chapter 1: What’s the best way to give? **2**

Chapter 2: Charitable income-tax deductions **4**

Chapter 3: Direct giving **6**

Cash 6
Securities 6
Retirement accounts 9
Life insurance 13
Personal property 15
Intellectual property 15
Conservation easements 17
Real estate 17

Chapter 4: Donor-advised funds, trusts and other giving arrangements **20**

Donor-advised funds (DAFs) 20
Charitable remainder trusts (CRTs) 23
Charitable lead trusts (CLTs) 25
Charitable gift annuities (CGAs) 26
Private foundations 27
Donor-advised fund or private foundation: Which fits your giving? 29

What's the best way to give?

Choosing the right way to donate your hard-earned dollars is the most important part of a smart charitable giving strategy. You can start by considering:

Who?

Which organization do you wish to benefit? It could be your alma mater, a favorite art museum, the pediatric wing in the hospital where your children were born—you fill in the blank.

When?

When do you want your gift to take effect? It may be now, later or upon your death. Do you want to retain control over the gifted amount(s)?

What?

What type of asset do you want to donate? Cash, marketable securities (stocks or bonds), retirement plan assets, real estate, life insurance or tangible personal property (household items, jewelry, artwork, etc.)? Do you want to make a restricted or unrestricted gift? (A restricted gifts specifies how the donation should be spent. For example, a donor might specify that money she donates go toward scholarships in a university's mathematics department. An unrestricted gifts puts no restrictions on how the donation should be spent.)

How?

Should you make an outright gift or should you retain some interest in the asset? The tax benefits vary according to the nature of the gift, how much of an interest you retain in the gift and market factors.

Do a charity check

Charity Navigator™
charitynavigator.org

BBB Wise Giving Alliance™
give.org

GuideStar™
guidestar.org

Evaluating charities

It's smart to treat your donation like an investment decision. Investigate the charities you're considering donating to—and be sure they're responsible and spend their money wisely. If you don't have enough information about a charity to make an informed decision, there are resources that can help (see page 2).

Trust your instincts

If you still have doubts about a charity, don't contribute to it. Instead, find another nonprofit that does the same kind of work and that you feel comfortable with.

Charitable income tax deductions

People make charitable gifts for many reasons. Whatever your motivation, you may be rewarded with a charitable income tax deduction. The amount of the charitable income tax deduction allowed in a particular tax year depends on:

What?

The type of asset you give. For example, cash, appreciated securities, or tangible personal property (like a painting).

When?

When the actual gift happens. For example, whether you make a gift—let's say a home—outright or whether you give the home but reserve an interest in it—like the right to live in it during your lifetime.

How?

Whether you "attach strings" to your gift or not. For example, let's say you give money to a charity but retain the income from that money during your lifetime. The charity will only receive the money after your death.

Who?

To whom you make the donation—whether a public or private charity.

Charitable deductions at a glance

Gift	Potential deduction
Cash	You may deduct up to fair market value (FMV)—or up to 50% of your adjusted gross income (AGI).
Marketable securities	If the securities are held for less than one year, you may deduct what you originally paid for them—or up to 50% of your AGI. If held for more than one year, the deduction is the fair market value of the asset—or up to 30% of your AGI.
Tangible personal property (TPP)	**If the gift is related to the charity's exempt purpose** (for example, you donate a work of art to a museum) the deduction is the fair market value (FMV)—or up to to 30% of your AGI. However, if the charity sells the item within three years of the date of the gift, the donor may need to recapture—or reverse—the deduction. **If the property is not related to the charity's purpose** (for example, you donate a work of art to a charity dedicated to cancer research, and the charity sells it rather than displays it), the deduction is the amount of your cost basis up to 50% of your AGI.
Real estate	If the property is held for less than one year, you may deduct what you paid for it—or up to 50% of your AGI. If held for more than one year, you may deduct the FMV—or up to 30% of your AGI.
Conservation easements	You may deduct the FMV—or up to 50% of your AGI. And you have up to 15 years following the donation to use up this deduction. Qualified farmers and ranchers are able to deduct up to 100% of income.
Retirement assets	If you are 70½ or older, you can direct up to $100,000 of the money in your Traditional or Roth IRA to go directly to a qualified charity through a qualified charitable distribution (QCD). That QCD will count toward your required minimum distribution (RMD) for the year. The QCD will not be included in your income for the year and you will not receive a deduction for the QCD on your tax return that year.
Life insurance policies	If you transfer ownership of an insurance policy, you may deduct the policy's FMV or net policy premiums paid, whichever is less, up to 50% of your AGI—if you irrevocably name a charity as the owner.

If your gift exceeds the amount you're eligible to deduct in any given tax year, you can generally carry forward the unused deduction amount for up to a total of five years.

Direct giving

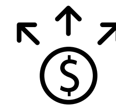
Direct giving is often easy and can make an immediate impact on the charity of your choice.

Cash

- **Giving cash during your lifetime.** It's easy to do and eligible for maximum deductibility. Just write a check or use your credit card to make the donation.

  Generally, you may deduct up to 50% of your adjusted gross income (AGI) for a gift to a public charity, but you must be able to prove the amount of your gift. This is called "substantiation." For further details regarding substantiation, go to **IRS.gov** and read IRS publication 1771.

- **Leaving cash as a bequest.** You can also leave cash as a bequest, which is a transfer that happens only upon your death. You can do this by either:
  - naming a qualified charity as a transfer-on-death or pay-on-death beneficiary of a specific bank account; or
  - designating the charity as a recipient in your will or trust.



A generous and smart way to give

Supporting charities via bequests is popular among individuals who feel like they can only afford to give a limited amount to charity from year to year—because they're concerned about outliving their wealth.

Securities

Publicly traded securities include corporate stocks, bonds, and certain government securities (like bonds, Treasury bills and notes and mutual funds). These gifts work well if you:

- have long-term appreciated securities
- itemize your deductions and pay income tax
- want an income or estate tax charitable deduction

Donating appreciated securities is a great way to give. The gift is eligible for a charitable income tax deduction in the amount of either the cost basis or the fair market value. So instead of selling the securities yourself, you can donate them to a charity. The charity can then sell the securities and keep the full sales proceeds because it is not subject to capital gains tax.

Donating securities upon your death is almost as easy as giving cash. In most states, you can add a transfer-on-death designation to the securities, so the process is the same as that for cash bequests.

Case in point: Donating cash vs. securities

Adam and Emily met when they were students at the same university. They want to pay it forward by giving a gift of $10,000 to their alma mater. They have $10,000 in appreciated stock (with a cost basis of $1,000 and $9,000 of gain) and $10,000 in cash. Their adjusted gross income (AGI) this year is $100,000. Their combined state and federal tax bracket for capital gains tax is 25%, while their ordinary income tax bracket is 30%. They can simply write a check or donate the stock. Either way, the charity receives $10,000. But is there a difference to Adam and Emily?

	Write a check	**Donate stock**
Gift	**$10,000**	**$10,000**
Deduction	**$10,000**	**$10,000**
Tax savings	**$3,000**	**$3,000**

Adam and Emily don't see a difference, and they like having cash on hand. So they sell the stock and write a check, because it's easier for them.

	Sell stock and write a check	**Donate stock**
Gift	**$10,000**	**$10,000**
Deduction	**$10,000**	**$10,000**
Tax on sale	**$2,250**	**N/A**
Net tax savings	**$750**	**$3,000**

Because Adam and Emily owed $2,250 in capital gains tax from selling the stock, the net tax savings is substantially less than if they had donated the stock.

The lesson

If you have appreciated property to donate, your tax savings is larger by donating the property—instead of selling it, paying the capital gains tax and then donating cash.

The cost of giving

	Sell stock and donate cash	Donate stock
Net amount charity keeps	**$10,000**	**$10,000**
Income tax deduction	**$10,000**	**$10,000**
Income tax savings due to deduction	**$3,000**	**$3,000**
Capital gains tax on sale of stock	**$2,500**	**$0**
Net tax savings	**$500**	**$3,000**
Cost of giving	**$9,500**	**$7,000**

The bottom line

The difference is $2,500. Had Adam and Emily donated the stock, they would have never realized the $2,500 of capital gains tax. Assuming a full deduction for either, donating appreciated assets costs you less and has no cost to the charity.

Retirement accounts

As a general rule of thumb, money in retirement plan accounts—like 401(a)s, 401(k)s, 403(b)s, 457(b)s, and non-Roth IRAs—are subject to federal (and possibly state) income tax when withdrawn.

Lifetime gifts of retirement assets

If you're under 59½

The withdrawal is considered taxable income. An early withdrawal penalty might also apply. For this reason, most donors who are under age 59½ will not want to make gifts to charity from their retirement assets.

If you're between age 60 and 70½

The withdrawal is considered taxable income. There is no early withdrawal penalty.

Note: Once you make the withdrawal and pay the taxes (and any applicable withdrawal penalties), you are essentially gifting the net amount as cash to your charity. For this reason, most donors who are under age 70½ will not want to make gifts to charity from their retirement assets.

Qualified charitable distributions

If you're age 70½ or older, you can direct the custodian to give up to $100,000 directly from your IRA to a charity. You don't receive a charitable income tax deduction, but the IRA distribution is not included in your taxable income and satisfies any required minimum distribution requirement. You are not prevented from taking a distribution in addition to the charitable distribution. Note: You must be age 70½ or older at the time of the distribution. If you won't reach that age until March, you cannot make a qualified distribution in January.

There may be substantial benefits in not including the amount in your taxable income. These may include:

- avoiding limits on your deductions
- avoiding the potential of being pushed into a higher tax bracket
- having to pay taxes on a greater share of Social Security income or paying a greater share of the Medicare premiums

Case in point: Making a gift directly from an IRA

Arthur (age 73) has:

- $500,000 in an IRA
- a required minimum distribution (RMD) of $20,000

Arthur directs the plan administrator to distribute $20,000 from his IRA to his favorite charity—a hospital that does work in the treatment and prevention of childhood cancer.

Here's the result:

- Arthur does not report the distribution as part of his taxable income
- The distribution does not qualify for a charitable income tax deduction
- Arthur's adjusted gross income (AGI) is $20,000 less than if he had taken the distribution
- With a lower AGI, Arthur may be able to deduct other expenses that would have been limited
- The gift fully satisfies Arthur's required minimum distribution requirements
- Arthur's Medicare premium may be lower next year because his AGI is lower

Donating retirement assets at death

Donating retirement assets upon death is as simple as naming the charity as your beneficiary. If you designate a charity as the beneficiary of your retirement account, you may want to do the following:

- Acknowledge within your will or trust that your charitable beneficiaries are identified on beneficiary designation forms for your employer-sponsored retirement plans and IRAs, and reiterate your desire that the amounts earmarked for charity be funded first from your retirement plan assets, and then from the after-tax assets.
- Check with the plan administrator or institution to determine whether it has any restrictions on designating charities as beneficiaries for retirement accounts. If you're married, check with your plan administrator to determine whether or not your spouse needs to consent to the designation.

  Failure to obtain spousal consent could result in a disqualification of the beneficiary designation.

Caution

If a charity and individuals are beneficiaries for your retirement account, it may have a negative impact on the payout options available to your non-charitable beneficiaries. Check with your attorney or tax advisor to be sure it's structured correctly.

Case in point: Bequeathing retirement vs. nonretirement assets

If you have both pretax retirement accounts—like Traditional IRAs—and after-tax accounts—like cash accounts—and you want to leave a legacy to both your family and charity, you should consider the income tax consequences of your bequests. A charitable recipient won't pay any income tax on either bequest. Your children or other heirs will pay income tax on your retirement accounts as they take withdrawals from them. For this reason, you should first allocate retirement (pretax) dollars to your charitable beneficiaries and save the after-tax accounts for your children or other individual beneficiaries.

Peter has $100,000 in cash and $100,000 in an IRA. He wants to give equal amounts to his child (whose effective tax bracket is 22%) and his favorite charity.

Gift	Net going to charity	Net going to Peter's daughter
Cash/after-tax assets	**$100,000**	**$100,000**
IRA	**$100,000**	**$88,000**

The bottom line

Peter's child is better off with the cash/after-tax assets. It makes no difference to the charity.

Additional consideration

Let's assume Peter didn't want to leave an equal inheritance. The same rules apply. He just needs to indicate that his charitable bequests are to be first satisfied by his pretax retirement accounts and that any remainder goes to his daughter (whether via his will, trust or beneficiary form).

Important

Please consult with an attorney before making any bequests as shown in the example above—in order to ensure that your non-charitable heirs have as long a payout option as may be available.

Life insurance

You can use life insurance to make a charitable gift. The cost to you is the premium payments, the amount the charity will receive is the death benefit, which could be much larger. As long as you continue to pay the premiums on the life insurance policy, the charity will receive the proceeds of the policy when you die.

Because life insurance proceeds paid to a charity are not subject to income and estate taxes, probate costs, and other expenses, the charity receives 100% of your gift.

Gift of policy while living

You can transfer the ownership of a life insurance policy to a charity while you are living. Please take note that when you do this, you give up all control of the life insurance policy forever. To do this:

You must:

irrevocably name the charity as beneficiary, and then legally assign all rights in the policy to the charity and deliver the policy to the charity.

If you do, then:

- depending on how you structure your gift, you may be able to take an income tax deduction equal to your cost basis in the policy or its fair market value (FMV), and
- if you continue to pay the premiums after you assign the policy, you may be able to deduct them on your annual income tax return. The amount of the deduction generally depends upon the type of policy.

Gift of policy upon death

You may not be ready to transfer your life insurance policy while you're alive because you may want to retain access to the cash value or for another reason. If this is the case:

You must:

name a charity to receive the benefits of your life insurance policy upon your death.

If you do, then:

when you die, the proceeds are included in your gross estate, but the full amount of the proceeds payable to the charity qualify for a charitable estate tax deduction.

Charitable giving riders

Charitable giving riders on life insurance policies are simply gifts made by the insurance carrier to a charity of the insured's choosing. You designate it at the time of the policy being issued and upon your death, the insurance carrier makes the gift.

Case in point: A gift of life insurance

Harry buys a life insurance policy on his life with a $1 million death benefit. Harry irrevocably names his favorite charity as the beneficiary and then legally assigns the policy to the charity—an organization dedicated to ending world hunger—and commits to paying the annual premiums for the rest of his life. (There is no deduction if Harry simply names the charity as the beneficiary.)

Upon Harry's death:

The charity receives:	Harry receives:
$1 million	▪ a charitable income tax deduction equal to the lesser of the interpolated terminal reserve (cash value + unearned premiums – loans) or adjusted basis ▪ a charitable income tax deduction for each subsequent premium payment

Personal property

Tangible personal property (TPP)

When you donate collectibles, rare books, coin or stamp collections, jewelry, artwork, electronics, office equipment, automobiles or more routine household items that were owned more than one year, you can claim a full deduction for the fair market value of the property if the items are used in connection with the charity's main activity or tax-exempt purpose. If the charity sells the donated tangible personal property item, your deduction is limited to your cost basis in the property (what you paid for it, rather than its appreciated value).

Automobiles, boats and airplanes

Many people give vehicles to charity. If a tax deduction is an important consideration, you should check out the charity, check the value of your vehicle, and see what your responsibilities are as a donor.

The amount you may deduct depends on what the charity does with the vehicle as reported in the written acknowledgment you receive from the charity. Charities typically sell the vehicles that are donated to them. If the charity sells the vehicle, your deduction is generally limited to the gross proceeds from the sale. If you'd like to learn more about donating vehicles, go to **IRS.gov** and read IRS publication 4303.

Qualified vehicles

You can only take a charitable deduction if you donate a "qualified vehicle," which is defined as:

- any motor vehicle manufactured primarily for use on public streets, roads, and highways
- a boat
- an airplane

Intellectual property

Intellectual property refers to creations of the mind: inventions, literary and artistic works, symbols, names, images, and designs used in commerce. Intellectual property is typically divided into two categories:

1. **Industrial property**, like patents, utility models, trademarks, industrial designs and geographical indications of source; and
2. **Copyrights**, like literary and artistic works.

A charitable reduction rule requires that when creators, or donees of creators, donate intellectual property, the deductible amount is limited to *the lesser of* fair market value *or* the creator's cost of creating the property. This charitable reduction rule requires that the fair market value of such property at the time of the gift be reduced by the amount of gain that would have been ordinary income or short-term capital gain if the donated property had been sold.

Case in point: Donating tangible personal property (TPP)

Alice purchased a painting many years ago for $10,000. It's now worth $100,000. She donated the painting to her alma mater. The taxes Alice may deduct depend on what the university does with the painting. Here's how it would work:

If:	Then:
the university displays the painting in its museum	Alice may deduct the full $100,000 fair market value of the painting
the university sells the painting	Alice may only deduct her $10,000 cost basis
Alice assumes that the university will display the painting in its museum and claims a deduction of the full $100,000 fair market value of the painting. Two years later, the charity sells the painting	if the charity sells the painting within three years of receiving it, the sale can trigger a recapture of the deduction

Conservation easements

A conservation easement, also called a conservation agreement, is a voluntary and legally binding agreement between a landowner and a land trust or government agency. When a landowner donates an easement to a land trust or public agency, she or he is giving away some of the rights associated with the land. The easement permanently limits uses of the donated parcel in order to protect its conservation values, as specified in the Internal Revenue Code (IRC) 170(h).

Conservation easements offer private landowners flexibility in protecting their land. Here's an example:

The donating landowner might choose to:

retain the right to grow crops on the donated land while, at the same time, relinquishing the right to build additional structures on it

The receiving land trust or government agency is responsible for:

making sure that a landowner adheres to the conservation terms of the easement An easement may apply to all or a portion of the property and may or may not allow for public access to the property. A landowner who has donated a conservation easement can sell the land or pass it on to heirs, and future owners of the property are bound by the terms of the easement.

Gifting conservation easements is highly technical, and doing so should include your attorney and tax advisor.

Real estate

Gifting real estate—including homes and commercial property—to charity makes sense when:

1. the property in question has significant long-term appreciation, such that the owner would incur a sizable capital gains tax upon selling it, and
2. the property is relatively easy for the charitable organization to liquidate, with minimal chance for incurring liability or major carrying costs before the sale.

You must obtain a qualified appraisal for the real estate that is contributed during the tax year. With real estate, you can also donate a remainder interest; in other words, you can donate your house (or farm) and reserve the right to live there for your lifetime.

Case in point: Sell or donate a home?

Michael and Laurie bought their home 30 years ago for $100,000. It has appreciated in value, and now has a fair market value of $1,100,000. Their mortgage is paid off, their children are adults who live independently, and they want to downsize.

Their current year tax bracket requires them to pay 20% in federal long-term capital gains tax and 5% state long-term capital gains tax. Under current tax law, Michael and Laurie can exempt up to $500,000 from long-term capital gains tax. They will, however, owe tax on the other $500,000 of gain.

	If Michael and Laurie sell their home and donate the profits:	If they donate the home:
They'll take a tax deduction of:	**$0**	**$1,100,000** up to 30% of their adjusted gross income in the year of the gift, and carry forward the remainder for up to five years.
They'll pay long-term capital gains tax of:	**$100,000**	**$0**
They'll pay state long-term capital gains tax of:	**$25,000**	**$0**
They'll donate:	**$975,000**	**$1,100,000**

Case in point: Donate your home

Remember Adam and Emily? A few years ago they made a gift of $10,000 to their alma matter. They are no longer using their lake house and are considering selling it and using the funds to establish a scholarship fund. They intend to give the full amount they receive from the sale.

They remember the lesson of the difference between donating cash versus donating appreciated property. So, instead of selling their house and donating the net proceeds after the commission and capital gains tax, they simply donate their home to their alma mater.

Let's assume that they paid $100,000 for the house and it is now worth $150,000. It's not their personal residence so they're not eligible for an exclusion from capital gains tax. They've found a realtor that will charge a 5% commission. The charity has a realtor that donates her services and it doesn't pay a commission.

Their adjusted gross income (AGI) this year is $100,000. Their combined state and federal tax bracket for capital gains tax is 25% and their ordinary income tax bracket is 30%.

Should they sell the lake house or donate it?

	Sell the house and donate the proceeds	Donate the house
Sale price:	**$150,000**	**$150,000**
Capital gains tax:	**$12,500**	**$0**
Commission:	**$7,500**	**none**
Net gift to charity:	**$130,000***	**$150,000**
Income tax savings:	**$39,000**	**$45,000**

The bottom line

Adam and Emily save $6,000 more in income taxes by donating the house, and the charity receives the same amount. Making the gift was also a lot easier than the sales process. Assuming a full deduction for either, donating appreciated assets costs less and has no cost to the charity.

*The income tax deduction assumes that they have AGI of $100,000 each year for the next 5 years and deduct the maximum of $30,000 each year until they have fully deducted the gift under the rule that the maximum deduction for gifts of appreciated property is 30% of AGI.

Donor-advised funds, trusts, and other giving arrangements

Trusts and other giving arrangements offer powerful ways to support causes you care about—and can be a strategic part of your overall financial strategy.

Donor-advised funds (DAFs)

A donor-advised fund is an account that you establish with a sponsoring public charity specifically to support your charitable giving.

When you open your DAF, you give it a name (yours, or whatever name you wish) and then act as both donor and advisor. You make contributions to your fund and you advise the sponsoring public charity on how to invest your contributions. When you are ready to draw on your DAF to give to your favorite organizations or charities, you advise the sponsoring public charity which organizations or charities you want to support by making gifts (also called grants).

Gifts from your DAF can be distributed to your favorite charities over time—now, next year, whenever you choose. Until then, they are invested with the potential to grow tax-free, which can result in more substantial gifts to charity and greater charitable impact.

Is a donor-advised fund right for you?

You may want to consider a donor-advised fund if you:

- have a spike in income or are about to retire and a charitable income tax deduction would have a larger impact today rather than in the future.
- want the flexibility to change your mind about which charities receive grants from year to year. You can also change your mind about which charity or charities are the beneficiaries of your DAF after you die.
- want to get your children and grandchildren involved in your family's philanthropic legacy over successive generations
- currently make cash gifts to charities but would benefit by giving appreciated securities instead. You can easily transfer securities to your DAF, where they will be sold. This makes 100% of the proceeds available for giving, because the DAF doesn't pay income tax.

- make gifts to many charities throughout the year and have to keep track of multiple receipts. The receipt for your contribution to the DAF is all you need for your records.
- would like to use a single sizeable contribution of appreciated property to support gifts to multiple charities, or if you'd like to spread multiple gifts over multiple years.

How donor-advised funds (DAFs) works:

1. The dollars contributed to a DAF are irrevocable gifts and are placed in a fund named by the donor (you).
2. Contributions are invested and any growth is tax-free. The donor retains advisory privileges over investments.
3. The donor advises on the distribution of the assets to a qualified charity.

Making the move to donor-advised funds

A DAF allows you to make tax-deductible donations with less paperwork and fewer administrative burdens than if you had made multiple gifts. Nevertheless, you should review all of your options before contributing to a donor-advised fund because the contribution is irrevocable.

Ways to use donor-advised funds

- **As a teaching tool.** Talk to children or other loved ones about your fund and encourage them to search for causes and charities on their own. When they find something they feel strongly about, help them make a grant recommendation. It's a great way to start a meaningful dialogue with family about ethics, compassion and giving. You may inspire them to learn more about the world, while empowering them to make a difference.
- **Share a good year.** Use it whenever you receive a windfall (or an increase in the financial market) and know that your current year tax liability will be higher than normal. The deduction associated with the gift might be worth more.
- **In memoriam.** Honor the memory of loved one or create a legacy that will last past your lifetime.
- **To pre-fund retirement giving.** Give strategically now to maximize charitable tax deductions during your peak earning years and to pre-fund the charitable giving that you wish to continue when you retire.
- **As an alternative to a private foundation or charitable bequest.** A DAF can be a low-cost, simpler way to go.

Learn more about donor-advised funds

TIAA Charitable
TIAA.org/giving

Charitable remainder trusts (CRTs)

A charitable remainder trust (CRT) is an irrevocable trust that pays you or another person for a specified period, after which the trust property is distributed to designated charitable organization(s).

If properly structured, a CRT is considered to be the equivalent of a public charity, and the contribution qualifies for a charitable income tax deduction. The amount of the deduction is the amount expected to go to charity at the end of the term of the trust. The expected amount is determined by a present value calculation using a rate set by the IRS each month (called the applicable federal rate or AFR).

There are two types of charitable remainder trusts:

- **Charitable remainder annuity trusts (CRATs)** pay a fixed ***dollar*** amount each year to the beneficiaries. The payment is a percentage of the original value of the trust.
- **Charitable remainder unitrusts (CRUTs)** pay a fixed percentage of the value of the trust (recalculated each year). The payment varies from year to year depending on the trust's value.

Frequently asked questions

How do I establish a CRT?

With a gift made during your life or a bequest to be fulfilled upon your death.

How often are payments made?

Quarterly, semiannually or annually.

How long does a CRT last?

In years (20 years maximum), the lifetime of the donor, the lifetime of a designated recipient, or the lifetimes of the donor and one or more persons.

What happens to assets left in a CRT at the end of the trust term?

Any remaining trust assets go to the charitable beneficiary(ies) of the trust.

Can I make additional contributions?

You can't make additional contributions to a CRAT because the annuity amount is fixed from the beginning of the trust term. You can make an additional contribution to a CRUT because the trust is revalued each year to determine the payment.

How are CRTs taxed?

The trust is exempt from income tax, including the net investment income tax, but the payments to any non-charitable beneficiaries generally include a component of income and/or gain on which the recipient may be taxed.

Any additional considerations?

CRATs may be unadvisable in low interest-rate environments, but CRUTs are unaffected.

Case in point: Creating cash flow and gifting to charity (CRUT)

Carmen and David have been married for 47 years. They are both 71 years old. They establish a charitable remainder unitrust (CRUT) with $500,000 of marketable securities with a payout rate of 5%. The actual dollar amount is predetermined annually based upon the value of the assets on a date set in the trust document.

Establishing the trust provides Carmen and David with:	Upon the death of the first spouse:	Upon the death of the surviving spouse:
A lifetime annual distribution equal to 5%, which in the first year is **$25,000**. If the assets increase in value, so will their distribution. If the assets decrease in value, their payment will decrease.	The surviving spouse continues to receive the same percentage annual distribution from the trust.	The remaining trust assets pass to the charities named in the trust instrument.

Charitable lead trusts (CLTs)

A charitable lead trust (CLT) is the opposite of a charitable remainder trust (CRT). A CLT is an irrevocable trust that pays a designated charitable beneficiary(ies) for a specified period after which the trust property is distributed to you (the donor) or non-charity beneficiary(ies) that you designate.

There are two types of charitable lead trusts:

- **Charitable lead annuity trusts (CLATs)** pay an annuity each year during the trust term to the charitable beneficiary(ies). The annuity is a fixed percentage of the original value of the trust, or a fixed dollar amount (e.g., 5% or $50,000).
- **Charitable lead unitrusts (CLUTs)** pay a unitrust amount each year during the trust term to the charitable beneficiary(ies). The unitrust is a fixed percentage of the value of the trust recalculated each year (e.g., 5%). The unitrust payment will vary from year to year and will increase or decrease depending on the increase or decrease in the trust's value.

Frequently asked questions

How do I establish a CLT?

With a gift made during your lifetime or a bequest to be fulfilled upon your death (under a will or revocable trust).

How often are payments made from my CLT to my charitable beneficiary(ies)?

Quarterly, semiannually or annually

How long does a CLT last?

The trust term may be of years (not limited to 20 years as with a CRT), the life of the donor (you) or the lives of you and individuals you designate.

What happens to any money left in a CLT at the end of the trust term?

The charitable beneficiary(ies) receive the payments during the trust term and the non-charitable beneficiaries receive the remainder at the end of the trust term, either outright or in a trust.

Can I make additional contributions to my CLT?

You can't make additional contributions to a CLAT because the annuity amount is fixed from the beginning of the trust term. You can make an additional contribution to a CLUT because the trust is revalued each year to determine the payment.

How are CLTs taxed?

Payments from CLTs are subject to income tax. The way the CLT is structured will determine who pays the income tax (and whether an income tax charitable deduction will be available to you, the donor, on funding the trust).

Any additional considerations?

A CLAT is particularly advantageous in a low interest-rate environment. Generally, CLUTs are unaffected, but some types of CLUTs are disadvantaged in low interest-rate environments.

Charitable gift annuities (CGAs)

A charitable gift annuity (CGA) is a contract under which a charity, in return for a transfer of cash, marketable securities or other assets, agrees to pay a fixed amount of money to one or two individuals, for their lifetimes. The contributed property, given irrevocably, becomes a part of the charity's assets, and the payments are a general obligation of the charity.

You (the donor) are entitled to a charitable income tax deduction based on the difference between the present value of the annuity that will be paid to the non-charitable life beneficiary and the fair market value of the assets transferred to the charity. The payments may begin the year of the donation or be postponed until a future time, such as retirement.

How gift annuities work

- A person who receives payments is called an "annuitant" or "beneficiary."
- The annuity payments are fixed and unchanged for the term of the contract, and are typically established using rates published by the American Council on Charitable Gift Annuities.
- A portion of each payment is taxable, as the remaining portion is considered to be a partial tax-free return of your (the donor's) gift, spread "ratably" (in equal payments) over the life expectancy of the annuitant(s).
- The annuity rate is a function of the annuitant's age and assumed rates of return that can be earned by the charity as it invests the contributed assets.

Case in point: Providing lifetime income through a CGA

Caroline, age 70, writes a check for $10,000 to her favorite charity in exchange for a charitable gift annuity. The charity pays her $510 each year and she's eligible for $4,250 as a charitable income tax deduction. This is based on the IRS assumption that Caroline will receive a total of $5,749.64 over her lifetime and the charity nets $4,250.

The example above assumes that Caroline will live to her expected life expectancy; the charity uses the rate of 5.1% as suggested by the ACGA to calculate the annuity payment and that the IRS discount rate to determine the amount of her available deduction is approximately 2.5%.

Private foundations

Wealthy individuals or families—typically those whose net worth is $5 million or more—who plan to donate substantial assets to charity have a number of ways to do it. One popular option is to establish a private foundation, which is a federal tax-exempt organization created and operated exclusively for charitable, educational, scientific or similar purposes.

Why choose a private foundation?

Private foundations accomplish a number of purposes. They can:

- fulfill the family's charitable goals during their lifetimes and beyond.
- provide an opportunity for family members to work together for the greater good.
- help each family member build real-life business skills by collaborating on behalf of the foundation.
- help family generations maintain ties, deepen social consciousness, and increase personal fulfillment.

Non-operating foundations: A closer look

Non-operating foundations are the most commonly used foundation type for the transfer of assets to a nonprofit organization. Understanding the basics of this type of foundation is essential to determine if it's the right choice for your situation.

Q: When is a non-operating foundation an appropriate choice for charitable contributions?

A: Non-operating foundations are appropriate for individuals, families, corporations or institutions which plan to make a sizable donation to one or more nonprofit organizations. Charitable planning experts suggest that non-operating foundations be initially funded with at least $1 million to make economic sense because of the costs involved in establishing and administering them.

Q: How is a non-operating foundation established?

A: A non-operating foundation is formed either as a charitable corporation or as an irrevocable trust under state law. An irrevocable trust foundation is one where no changes can be made after the trust is formed. There are several advantages and disadvantages to each type.

Three types of private foundations

1. **Operating foundations,** which directly engage in their charitable purposes through programs, services, or other activities.
2. **Non-operating foundations,** which accumulate investment assets and make distributions to other qualified charities.
3. **Pass-through foundations,** which pay out all gifts they receive to public charities or operating foundations within a brief time, perhaps a few months, after the end of the year in which the gift was received.

Irrevocable trust foundations

An irrevocable trust foundation is governed by a trust agreement under state law. It is required to:

1. state a charitable purpose, name a trustee, and empower him or her to administer, invest and distribute trust assets in accordance with the trust;
2. outline the process for trustee selection and name successor trustees;
3. establish the trust term;
4. clearly indicate that it will abide by appropriate excise tax provisions of the Internal Revenue Code;
5. prohibit lobbying and benefit for private organizations or individuals; and
6. include distribution guidelines for grant making and outline the process for dissolution.

Nonprofit corporation foundations

When a foundation is created through a nonprofit corporation, it must file the appropriate incorporation documents with the state Secretary of State. The foundation is governed by a board of directors which elects officers and carries out and properly records the foundation's activities. This structure is most often used because of its greater flexibility and its liability protection.

How do they compare?

Irrevocable trust foundations	Nonprofit corporate foundations
A trust is less formal in the way it's established and operated. No regular meetings or minutes are required under the trust code (but documenting the decision-making process for the IRS and others may impose the same obligation).	The corporate approach is more formal, requiring articles of incorporation, bylaws, regular meetings and annual reports filed with the state.
Amending the charitable trust instrument may be difficult, possibly requiring court approval or notice to the attorney general.	Corporate bylaws can be drafted to facilitate amendments that don't affect the charitable status.
Trustees have a fiduciary duty (and liability) imposed by the trust code, in addition to IRS rules.	A corporation may provide greater protection from personal liability to its board members and insurance may be easier to obtain.

Donor-advised fund or private foundation: Which fits your giving?

There are substantial set-up and operational differences between the two.

	Donor-advised fund	**Private foundation**
Start-up costs	None	$3,000 to $6,000
Ongoing costs	None	Potential CPA fee for tax return; annual report fee for corporations
Investment options	Can range from limited pools of funds to robust fund menus	Diverse options
Required annual distributions	None	Generally 5%
Donor's required effort	Minimal, donor only needs to advise regarding timing and amount of grants	Ongoing time to comply with trust or corporate formalities
Gift giving	Distributions limited to public charities	Distributions can be made to anyone so long as in furtherance of charitable purposes
Tax deduction for contributions of capital gain property	30% AGI Limit	20% AGI Limit (only appreciated publicly traded stock qualifies; for nonpublicly traded stock the deduction is limited to cost basis)
Tax deduction for cash contributions	50% AGI Limit	30% AGI Limit

Flexibility and grant-making

- **Donor-advised funds (DAFs).** The community foundation or sponsoring charity of a DAF has final approval on all grantmaking. Some sponsors allow grantmaking to any IRS-approved 501(c)(3) public charity, others focus on a geographic region or area of interest.
- **Private foundations.** In contrast, private foundations provide far greater flexibility, including grants directly to individuals for scholarship, hardship and emergency assistance. Such flexibility is becoming more important as many individuals and families move toward higher-engagement philanthropy. As the costs of ongoing private foundation management continue to decline, many families of moderate vs. "mega-wealth" are choosing private foundations to facilitate strategic philanthropy and to otherwise provide flexibility not offered with other options.

Compensation and expense reimbursement

A donor's family members may be named as directors of a not-for-profit corporation, trustees of a charitable trust establishing a foundation, or as members of a donor-advised fund advisory committee.

- **Donor-advised funds.** Donor-advised funds cannot make distributions to individuals and cannot compensate the advisory committee for services rendered. Strict rules and harsh penalties for making a disallowed distribution to the donor or a family member make it inadvisable to make a distribution even for actual expenses incurred while pursuing the fund's philanthropic goals.
- **Private foundations.** The directors of a private foundation may be paid reasonable compensation for their services and may be reimbursed for expenses directly related to the organization. Private foundations must be aware of and follow self-dealing rules.

Income tax deductibility limits

The IRS treats donor-advised funds and private non-operating foundations differently:

- **A donor-advised fund (DAF)** is treated as a public charity to which a charitable income tax deduction for cash is allowed of up to 50% of the donor's adjusted gross income.
- **A private non-operating foundation** is subject to a deduction of up to 30% of the donor's adjusted gross income.

In addition, the limits on deductions for capital gain property differ:

- A 30% adjusted gross income limit is imposed upon outright gifts to a DAF.
- A 20% adjusted gross income limit is imposed upon gifts of publicly traded stock to a **private foundation**. Only appreciated publicly traded stock qualifies. For nonpublicly traded stock, the deduction is limited to the security's original value for tax purposes.

DAFs vs. private foundations

If convenience or deductibility limits are the critical factors in your gift-making decision, then a donor-advised fund—with its 15-minute set-up time, low initial contribution and 50% deductibility limit—may be the best choice for you and your family.

Tax deductions at a glance

DAFs, private foundations and outright gifts

Deductible item	DAF (AGI limit)	Private foundation (AGI limit)	Outright gift (AGI limit)
Tax deduction for cash contributions	**50%**	**30%**	**50%**
Tax deduction for contributions of capital gain property	**30%**	**20%**	**30%**

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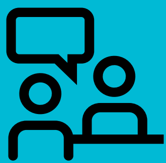

A TIAA advisor can review your options with you

Whether you think you may have a little or a lot to give, a TIAA advisor can help you determine how much you can afford and the income and estate tax consequences of various options.

Your advisor, backed by a team of specialists, can help you understand each option and how best to fulfill your specific goals, whether it's a direct gift, a charitable trust, a donor-advised fund or a family foundation.

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