

You Can't Take it With You . . . Consider Charity in Your Final Plans



As we come to the holiday season, charitable giving comes to the fore. Do you donate money to charity each year? Perhaps you donate to an organization dedicated to finding a cure for an awful disease. Perhaps you choose to benefit organizations that support and encourage positive growth in our youth. Perhaps you choose to support the local animal shelter or abuse prevention organization. Most everyone has a cause that is near and dear to their heart.

Although charitably inclined, you may be concerned that if you are too generous, you may not be able to comfortably support yourself for the rest of your lifetime. Voltaire, a French Enlightenment writer and philosopher, once said that “the man who leaves money to charity in his Will is only giving away what no longer belongs to him.” If you are inclined toward charity, but you wish to ensure that you will have enough money to provide for yourself first, consider making charitable donations that will take effect only when you have passed away. By doing so, you can ensure that your money will be available to you should you need it, but you can also support your favorite cause if you do not happen to spend all of your money prior to your passing.

When you leave money to charity upon your passing, you can designate how and for what purpose the money is spent, which ensures that your money will be used for the purposes that you designate. In the alternative, you may choose to contribute to a charity generally and leave the determination of how to use the money up to the charity’s governing board. Another option is to establish a fund in your own name and thereby leave a legacy that lives on beyond your lifetime.

In addition to a favorite charity, most people will include family members or friends in their Will. You may give a specific dollar amount to your favorite charity; however, leaving a specific dollar amount to a charity in your Will may unintentionally divert your remaining funds away from the family members or friends that you also want to benefit. Unless you are leaving your entire estate to charity, consider leaving a percentage of your estate to your favorite charity with the remaining percentage being divided between family members and/or friends. By leaving a percentage, you can be certain that regardless of how large or small your estate may be, your family, friends, and the charity will receive proportionate shares reflecting your wishes.

Leaving money to charity may also help to preserve your estate and allow for a greater amount of assets to be passed to your family or friends. Presently, the Massachusetts estate tax threshold is \$2 million, and the federal estate tax threshold is \$12.92 million. If the value of your estate exceeds the threshold, then estate tax may have to be paid and the amount remaining for your heirs would be less. Any amounts left to charity will reduce the value of your estate thereby reducing or eliminating estate tax. Further, should your estate contain highly appreciated assets, consider donating these assets to charity as a charity can generally avoid paying income tax when redeeming these assets whereas your estate or individual heirs would incur income tax for the same redemption.

Instead of leaving money to a charity in your Will, you may name a charity as a beneficiary of any asset with a designated beneficiary. Most commonly, a favorite charity is named as the beneficiary of life insurance or retirement plans. It is also possible to benefit a charity using various types of trusts. As every estate plan is different, it is important to choose the most beneficial option when determining which asset to leave to charity, what amount to leave to charity, and what planning technique to use to do so.

Charitable giving can be extremely rewarding. Your donation could fund the research that cures a presently incurable disease. Your donation could build the playground that bears your name at which neighborhood children play. Your donation could provide medical care for an abused animal in desperate need of rehabilitation. Your donation can only meet these needs if you actually make the donation. You can't take it with you . . . consider charity.

Gina M. Barry is a partner with the law firm of Bacon Wilson, P.C., Attorneys at Law. She is a member of the National Academy of Elder Law Attorneys, the Estate Planning Council, and the Western Massachusetts Elder Care Professionals Association. She concentrates her practice in the areas of Estate and Asset Protection Planning, Probate Administration, Guardianships, Conservatorships, and Residential Real Estate. Gina may be reached at (413) 781-0560 or gbarry@baconwilson.com.