

VISIONS



A FINANCIAL AND CHARITABLE PLANNING GUIDE

SUMMER 2008

Q&A: How to Increase Your Income and Support A Cause You Care About

Q. I'd like to increase my income, but I'm also considering a donation to my favorite charity. Is there a trust I can create that will satisfy both of these desires?

A. Yes! The charitable remainder trust will pay you an income for life with the trust balance then going to the charitable organization of your choice. And if you fund the trust with appreciated stock, you'll receive even greater tax benefits.

Example: Joan, 73, owns stock worth \$100,000 that pays a dividend of only \$2,000 a year. Worried about the market, she gives the shares to a charitable remainder annuity trust and elects to receive \$6,000 a year as long as she lives. Though her cost basis for the shares is \$60,000, neither she nor the trust

owes any up-front capital gains tax on the \$40,000 appreciation.

Now look at Joan's remarkable benefits. She has:

- unloaded her risky stock and tripled her income.
- avoided a tax of \$6,000 on the capital gains by not selling the stock.
- entitled herself to an income tax charitable deduction of \$44,093* that will cut her taxes for several years.
- helped a cause she cares about.

If you would like to learn more about this beneficial way to give, please give Community Hospital of the Monterey Peninsula a call. We would be happy to help.

*Based on quarterly payments and a 3.4 percent charitable midterm federal rate

With a charitable remainder trust, you can count on a regular income for the rest of your life; benefit from a charitable deduction; and, if it's funded with appreciated stock, avoid the up-front tax on capital gains.



INSIDE

Close the Gaps in Your Estate Plan

Learn Why Having A Licensed Attorney Is So Important

To learn more about this and other charitable gift options, feel free to contact us.



Close the Gaps in Your Estate Plan

Changes in state or federal tax laws can make some estate planning provisions outdated and in need of review.

Do you have a will? If you answered “yes,” then congratulations—you are ahead of the many people who do not. Now you are set for the rest of your life, right? Not necessarily.

Preparing and signing a will is only the first step toward ensuring that your wishes are carried out after you are gone. Your estate plan should include:

- a current will;
- a living will and a health care power of attorney, should you become unable to make medical decisions;
- a durable power of attorney, to allow someone to act on your behalf when necessary, for financial purposes; and,
- possibly a trust.

Even if you have prepared and signed all these documents, it's easy to overlook details that may result in your wishes not being fulfilled. Simple changes can be amended with a codicil, a legal instrument made to modify an earlier will, while significant alterations may require a newly created will.

Here are seven easy actions to take to make sure your estate plan is the best it can be:

1. **Review your will every few years to make sure it is still current.** You may have new grandchildren, a previously named beneficiary may have died or perhaps you have moved. If you have indeed moved, laws regarding wills vary from state to state, so you may need a new will.
2. **Consider leaving highly appreciated assets,** such as stocks or real estate, to your heirs. Your heirs will then have a stepped-up cost basis, reducing their capital gains tax liability if they later choose to sell these assets.
3. **Decide if you'd like to avoid probate** by putting assets into a revocable living trust. Merely specifying in the trust document that it includes such assets as your house or car is not enough to transfer the assets. The actual ownership or title to these assets must be legally transferred to the trustee.



Learn Why Having a Licensed Attorney Is So Important

On July 20, 2004, 91-year-old Annie Belle Weiss asked her insurance agent, Mr. Chavis, to help her make a will, even though her attorney had drafted a new will for her less than a month earlier.

Mr. Chavis used a Quicken Lawyer disk on his home computer to fill in the necessary blanks to produce her will. He did not name himself a beneficiary of her estate, but he did name himself as the personal representative of her estate—a position that would pay him 5 percent of her nearly \$900,000 estate. Shortly thereafter, Annie went to the hospital.

On July 31, 2004, Mr. Chavis brought the will to her in the hospital and she signed it—without looking at it. She died on Sept. 27, 2004.

The Supreme Court of South Carolina later found that Mr. Chavis' preparation of Annie's will was the unauthorized practice of law because he did not have a license to practice law and acted as more than a mere scrivener (writer). The unauthorized practice of law is prohibited to protect the public from incompetence in the preparation of legal documents and to prevent harm resulting from inaccurate legal advice.

Not all assets can be owned inside a living trust, so be sure to discuss your situation with your attorney. Cash, securities, real estate and other such assets not held inside the trust must still go through probate.

4. **Be especially careful in your decision-making if you and/or your spouse have children from a prior marriage.** Do you want your house to go to your spouse or to your children? What about personal items? If everything goes to your spouse, it could eventually end up in the hands of his or her children, not yours.

The laws of succession are complicated, so decide carefully how to distribute your assets, and then make your decision clear in your will or trust.

5. **Think carefully about distributions from your retirement plan,** taking into account minimum distributions and withdrawal requirements. This type of income is taxable to you as you receive it and will also be taxable to your heirs when they receive it.

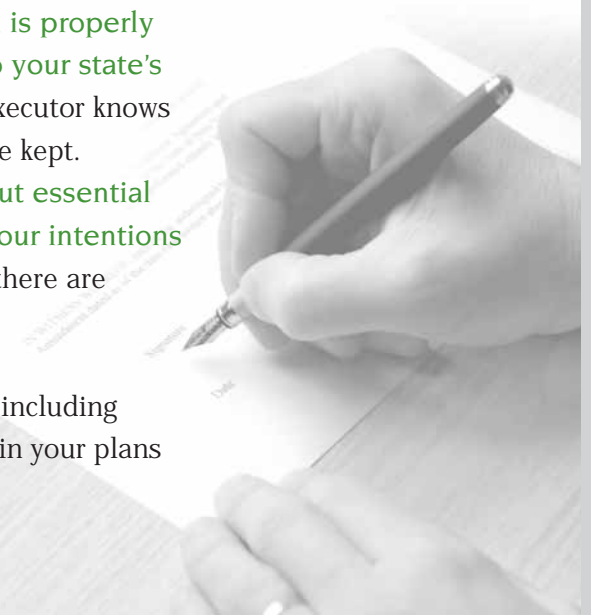
Therefore, retirement assets are an excellent charitable gift to make upon your death, in part to avoid the chance of double taxation from estate and income taxes.

If you want to distribute all or a portion of your retirement plan assets to charitable organizations, you need to list or specify them on the beneficiary designation form, rather than just making a provision in your will or trust.

6. **Make sure your will is properly signed according to your state's laws,** and that the executor knows where documents are kept.
7. **Finally, a difficult but essential step is to discuss your intentions** with loved ones so there are no surprises.

Call us to discuss how including charitable organizations in your plans can enhance your estate.

Achieve peace of mind by having a current will and an up-to-date estate plan.



Does Your Will Cover Your Particular Situation?

Although we will never know if this version of Annie's will truly represented her wishes, we do know Mr. Chavis' actions caused harm to her estate because he spent part of it—that would have otherwise gone to her family—on his legal defense.

Computer-generated forms can't provide the expert legal advice you need to properly plan your estate. Therefore, always seek the advice of a licensed attorney.

Franklin v. Chavis, 640 S.E.2d 873 (S.C., 2007)

Our **FREE** guide, ***Your Will: Uniquely You***, shows you how to address your specific needs and goals, whether you:

- are single
- are remarried
- have grandchildren
- have a child with a disability
- intend to make charitable gifts



Return the enclosed reply card to receive your complimentary copy today!

Living Will or Living Trust? Why You May Need Both

Contact
your attorney
to help you
determine what
documents you
should own.

Do you ever have trouble keeping straight the difference between a living will and a living trust? They are both legal documents, of course, but one has to do with your *health*, and the other your *finances*.

The Living Will

How long do you prolong someone's life after brain activity has ceased? This is a difficult question to answer. Luckily, a living will (not to be confused with a "last will and testament") permits you to make known your decision on life-prolonging procedures before the problem arises.

In addition to having a living will, you can avoid problems by giving an "agent"—usually a spouse or family member—a "power

of attorney for medical care," to make critical decisions when you cannot.

The Living Trust

A living trust also allows you to make provisions during your lifetime for what will happen at the end of your life. It typically provides for ways to avoid unnecessary estate taxes, probate delays and expenses, and family problems after your death as your assets are passed to others.

Just as a living will allows you to make your health care wishes known, a living trust allows you to make your financial wishes known. A "last will and testament" can accomplish the same financial objectives, but a living trust also avoids probate and provides privacy to your estate.



LOOKING FOR OTHER PLANNED GIFT OPTIONS?

You may be interested in a charitable planned gift that will provide you with income for life.

For information or to speak with someone who can assist you with your estate planning, call the Development Office at (831) 625-4506.

Or visit our website at www.chomp.org, click on *Ways to Give*, then follow the links to *Private Calculation*.



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