

**GIFT PLANNING TO FURTHER PERSONAL PLANNING GOALS  
AND PHILANTHROPY: CREATING A LEGACY OF YOUR GIVING**

**SIGNIFICANT DONOR BENEFITS IN CHARITABLE GIFT PLANNING**

**ATTRACTIVE GIFT PLANS IN A DOWN ECONOMY**

**SIMPLER PLANNED GIFT OPTIONS**

**CHARITABLE GIFT ANNUITIES – INCOME AND FOR CHARITY**

**THE SMART GIFT CHOICE OF  
*REVOCABLE* BENEFICIAL DESIGNATIONS –  
GIVING CHARITIES EXPENSIVE ASSETS FOR FAMILY TO INHERIT**

**IRA CHARITABLE ROLLOVER EXTENDED**

**GIFT PLANNING IDEAS – A SHORT SUMMARY OF LIKELY OPTIONS**

**Pamela Jones Davidson, J.D.**

**Davidson Gift Design**

*Charitable Gift Planning and Consulting*

3940 Walcott Lane

Bloomington, Indiana 47404-9339

812/876-8646 voice 812/876-9484 fax

[pjdavidson@giftplanners.com](mailto:pjdavidson@giftplanners.com) [www.giftplanners.com](http://www.giftplanners.com)

**IOWA STATE UNIVERSITY FOUNDATION**

**2009 Women and Philanthropy Workshop**

Ames, Iowa

May 13, 2009

## **PAMELA JONES DAVIDSON, J.D.**

Pamela Jones Davidson, J.D., is President of **DAVIDSON GIFT DESIGN**, Bloomington, Indiana, a consulting firm specializing in gift planning, planned giving program design and implementation, and training. Previously, for three years she was a charitable gift planner and consultant with Laura Hansen Dean and Associates, Indianapolis, Indiana, before forming her own company in 1999. From 1985 through 1996, she was with Indiana University Foundation, leaving that organization as its Executive Director of Planned Giving and Associate Counsel.

Ms. Davidson received her undergraduate degree from Indiana University in 1975, and graduated *magna cum laude* from the Indiana University School of Law at Indianapolis in 1979. She has previously been an examiner in the Estate and Gift Tax Division of the Internal Revenue Service, and later practiced business, corporate and probate law with the Indianapolis law firm of Bingham, Summers, Welsh & Spilman before joining the nonprofit sector in 1985.

Ms. Davidson was the 1999 President of the National Committee on Planned Giving (now, the Partnership for Philanthropic Planning), and served NCPG in various capacities during her six years on the Board, in 1995 as Education Chair, in 1996 as Secretary, and as President Elect in 1998. She served as NCPG's 2000 Nominating Committee Chair, and as a past president, is a member and past Chair of its Ethics Committee.

Ms. Davidson is on the Editorial Board of the Planned Giving Design Center. She is a past board member and past treasurer of the Indiana Chapter of the National Society of Fund Raising Executives (now, AFP), and a past board member and president of the Planned Giving Group of Indiana. Ms. Davidson is a former treasurer of the Monroe County Bar Association, a past president and board member of the Network of Career Women, and a Leadership Bloomington alumna. She is on the Board and past president of Middle Way House, her community's nationally recognized women's shelter now in a capital campaign with an endowment component. She serves on the Boards of her local Buskirk-Chumley Theater and the Edgewood Choral Foundation, and also serves on the Community Advisory Boards of both of her local public radio and television stations.

Ms. Davidson has made countless presentations throughout the state of Indiana and nationally to development professionals, planned giving councils, estate and tax attorneys, accountants and financial planners, and to prospects and donors about planned giving and charitable giving techniques. She is known for motivational and understandable presentations about charitable plans that advantage the donor and family and valued charities too.

3940 Walcott Lane, Bloomington, IN 47404-9339      812/876-8646 voice    812/876-9484 fax  
pjdavidson@giftplanners.com      [www.giftplanners.com](http://www.giftplanners.com)

**SIGNIFICANT DONOR BENEFITS  
IN CHARITABLE GIFT PLANNING,  
LIFETIME AND TESTAMENARY BOTH  
or  
Why So Many People Are Considering Planned Gifts  
As Smart for Estate, Tax, Retirement and Financial Planning Goals**

In addition to assisting the donor in fulfilling his or her primary motivation to make a significant contribution to the good work of a favored charitable organization(s), often to endow a favorite purpose which the donor may designate, properly planned gifts can also provide the donor with significant personal tax, estate and financial planning benefits. These benefits include:

**I. Personal satisfaction, the joy and pleasure of becoming a philanthropist for the donor's favored charities, leaving a legacy, a statement of values**

A planned gift is usually much more substantial than the donor ever imagined, making him or her a philanthropist while often achieving many personal estate, tax and financial planning objectives within the well-crafted planned gift arrangement. Many planned giving donors make repeat gifts, so that these advantages are repeatable in different tax years and at different stages of their overall planning. Leaving a legacy, and being remembered in a certain way are often motivations.

**II. Income tax savings**

- A. Reduced income tax due to the charitable income tax deduction, available to itemizers
- B. The avoidance of additional tax on long-term capital gains from contributions of long term appreciated, low basis assets in most cases (deduction for short term property limited to basis)
- C. Reduced or avoided income tax owed by the survivor beneficiary (person or estate) of qualified pension plans, IRA's, deferred compensation plans, etc. by using these assets to make testamentary charitable gifts, such as outright to favored charities by percentage designations of the plan balance, or to a charitable remainder trust ("CRT") that pays income to the survivor for lifetime.

Can even fund CRT for donor and spouse during lifetime with mandatory retirement plan withdrawals, entitling donor to

deductions each year against that included income, and at donor's death to add plan balance to that charitable remainder trust, for income and investment expertise for surviving spouse.

- D. Income tax savings from retained life estate gift, by older individual or couple, of personal residence, vacation home or farm only

### **III. Gift and Estate Tax Savings**

- A. Reduced gift tax for gifts to children or grandchildren where they are the beneficiaries of a lifetime charitable lead trust
- B. Reduced estate tax through lifetime charitable gifts and by including charitable gifts in testamentary provisions
- C. Significant estate tax savings from charitable income plans where donor and spouse are the only income beneficiaries

### **IV. Increased lifetime income**

Through funding of charitable gift annuities and charitable remainder trusts with ordinary income or appreciated assets which are producing a low level of annual income. Contributions of the appreciated asset itself in effect convert the asset to a higher income yield without causing the donor to realize capital gains, while entitling the donor to an actuarially determined charitable income tax deduction. And, then income is paid to the income beneficiaries on the full fair market value, and not just on 85% or 80% or 72% (less basis) as reduced first by the payment of capital gains taxes.

### **V. Tax sheltered lifetime income – better option when municipal rates improve**

A portion of the income received from charitable gift annuities will be tax-exempt income for the life expectancy of the beneficiary, as a tax-free return of principal. It is possible to receive tax-exempt income from charitable remainder trusts, depending on the trust's investment experience and what funding asset was used.

**VI. Supplemental retirement income**

Deferred and flexible payment gift annuities can provide supplemental retirement income.

A version of the charitable remainder unitrust can be invested for growth to pay a larger amount of income to the beneficiary in the future, with nominal annual income until that time; the donor receives a current charitable income tax deduction each year trust is added to.

**VII. Asset management, diversification**

Many of the lifetime income plans offer the benefit of alleviating the donor or a surviving spouse of the worries of managing assets, or in providing income to individuals who might be unable or uncomfortable managing a lump sum. This can also satisfy a diversification objective, to have income from a variety of sources.

**VIII. Financial support of family members or friends**

Contributions can be made to all the lifetime plans with someone other than the donor named as the income beneficiary, such as the spouse, aged parents whom the donor is already supporting, or a term trust to educate children or grandchildren. There can be resulting gift tax implications (none for spouse), but the \$13,000 (in 2009) per year per donee exemption applies, if the gift of income is a present interest.

*Materials originally from Laura Hansen Dean & Associates, Austin, Texas*

## **GIFT PLANNING IN A DOWN ECONOMY**

Pamela J. Davidson, Davidson Gift Design, Bloomington, IN

### 1. The Charitable Gift Annuity (around since the 1840's, highly popular and repeatable)

Advantages:

- Fixed, guaranteed income – attractive to donors in this highly variable market
- Can fund with modest or generous amounts
- Only one or two annuitants
- Best rates and deduction for older individuals
- Generally higher-than-market rates of return, for older individuals
- Ability for a younger generation to fund for older family members or friends, as support and/or tribute
- Creates life income vs. giving assets to heirs

Deferred option of Charitable Gift Annuities – Can fund now and defer when income payments are to begin, e.g. all income to begin at age 65 or 70, way to supplement retirement, and deduct some of that supplemental retirement funding, now.

Flexible Gift Annuity – allows donor to choose in future when payments begin, with a minimum deferral period first, which the charitable deduction is based on. Rate in effect when donor elects to begin receiving income can be chosen. Donors who may never need this additional source of income but who want it there “in case” are good prospects for this variation.

Donors can consider taking less than the recommended rate for a charitable gift annuity – creates a higher charitable income tax deduction and retains more of the original gift, for endowment or future purposes by the charity, while still usually increasing donor's income. Run calculations for prospects, showing the effect of many choices in payout rate, even a deferral period.

### 2. The Charitable Lead Annuity Trust

Advantages:

- Way to provide funds to charity(ies) now, with asset(s) eventually returned to family, usually donor's children or grandchildren.
- Way to minimize the taxable value of that “future gift” back to family, while providing charity with funds now, e.g. for pledge satisfaction or capital campaign purposes.
- This is a good option for periods when interest rates are low and stock values depressed, yielding a higher charitable deduction, and ability to leverage the gift or estate tax deduction.

### 3. Gift of Remainder Interest in a Personal Residence, Farm or Vacation Home

Advantages:

- Charitable income tax deduction now, for older couple who eventually want the charity to have their personal residence, farm or vacation home.
- Nothing changes for donor couple, who continue live in home, pays its taxes and maintenance.

- Can use this method for an out-of-state vacation home.
  - Several options available for donor if needs to move from home.
4. Beneficial designations, by percentages, of (all or part) of (one or more) retirement plan assets
- Advantages:
- Expensive assets for family to inherit so ideal for charitable purposes.
  - Revocable designation, can change in future, and take care of all charitable interests in one place, e.g. “ %’s to favorite charities, rest to family.”
  - Easy to accomplish, by change of beneficiary form with the company holding the plan(s).
5. Beneficial designations, by percentages, of (all or part) of (one or more) life insurance policies that are no longer needed by donor or donor’s family
- Advantages:
- Easy to accomplish, by change of beneficiary form with the company holding the plan(s).
  - Means face amount of policy not included in donor’s estate. Ownership of policy by donor would mean estate inclusion, though proceeds inherited free of income tax by heirs.
  - Revocable designation, can change in future, can take care of all charitable interests in this same manner.
  - If have a choice, use beneficiary designation on a retirement plan rather than on an insurance policy due to higher potential taxes on a retirement plan, more optimal for a donor
6. Gifts using depreciated stock
- Advantages:
- Donor sells depreciated stock, takes loss deduction and gives those proceeds to charity for a second deduction, this time charitable.
  - Many stocks are low-yield so donor usually not losing much income.
  - Can use those sale proceeds to fund a charitable gift annuity, and potentially increase income.
7. Gifts using matured savings bonds that are no longer paying interest
- Advantages:
- Cash in, redeem, and make outright gift to charity (charitable deduction offsets income inclusion from redemption)
  - If older, redeem and use to fund a charitable gift annuity for self and other
8. Bequests – always in vogue, IF the donor or prospect actually has a will or testamentary trust, and includes a provision for your charity. Changes in the economy don’t affect these gifts in the short term, due to their revocable and testamentary nature, hardest part is getting someone to do an estate plan let alone include a charity in it!

**SIMPLER TYPES OF PLANNED GIFTS, CAN FUND ENDOWMENT,  
MOST WITH LITTLE ADMINISTRATION BY CHARITY**

1. Bequests - donor includes “magic language” in a valid will or testamentary trust
2. Beneficial Designations, by Percentage, of (Part or All) of (One or More) Retirement Plan Assets – revocable, flexible, any age can do it, from expensive assets for family to inherit
3. Gifts of Life Insurance Policies That Are No Longer Needed, can give during life by gifting policy OR give part or all at death by a percentage beneficiary designation
4. Gifts Using Appreciated Stock or Real Estate (often low yield, usually appreciated from purchase price) as Funding Asset
5. Gifts of Real Property Subject to Life Estate (for donor and spouse or partner or sibling, of the same generation) - personal residence, farm or vacation home only
6. Testamentary Disposition, by Bequest, of Government Savings Bonds, OR redeem and gift to charity, OR if older, redeem to fund a charitable gift annuity for self and/or other(s)
7. Gifts Other than Cash - varies message, testimonials to illustrate

## ATTRIBUTES OF PEOPLE MOST LIKELY TO USE

### CHARITABLE GIFT ANNUITIES, WHICH ASSETS TO USE IN FUNDING

**CHARITABLE GIFT ANNUITIES** (around since the 1840's, today the second most popular charitable gift plan behind bequests)

#### **Benefits:**

1. Fixed, guaranteed (as long as charity is solvent) income for one or two lives. The February 1, 2008 (effective until June 30, 2009) *maximum* rates (often higher than market) are 7.1% at age 80 for a single life and for a two-life, ages 85 and 86. Current *maximum* rate is 9.5% for a single 90 year old or older individual; individual can take less, to leave a larger gift ultimately for charity and with better tax consequences. For updated rates, see, [www.acga-web.org](http://www.acga-web.org)
2. A portion of the annual annuity is taxed as tax-free return of investment for the rest of the annuitant's or annuitants' life expectancy. Typically increases after-tax yield by about 1%. For annuities funded with cash, more than half of the annual annuity can be tax-free for older individuals, e.g. for those who fund with a CD paying a low rate of return.
3. For annuities funded with appreciated property, the portion of the long-term capital gain attributable to the gift portion of the annuity is never taxed. The portion of the long-term capital gain attributable to the annuity is reported as reported as long-term capital gain income spread over the annuitant's or annuitants' life expectancy. If long-term capital gain income is tax-favored (either taxed at a lower bracket or only partially taxable), this type of income is preferable to ordinary income.
4. Produce a higher charitable value for tax purposes than pooled income funds or charitable remainder unitrusts at the same payout rate (same value as charitable remainder annuity trusts).
5. Ability to defer income to date certain in the future by using deferred payment charitable gift annuities.
6. Simple, often short contractual agreement; not expensive to establish or for legal review.
7. Can fund with tangible personal property (coin collections, collectibles, etc. without delay in taking itemized charitable deduction for charitable value) if charity agrees and can use.

8. Much smaller amount needed to fund a charitable gift annuity than a charitable remainder trust, but can be funded with large amounts, too. As such, possibility of repeat charitable gift annuity gifts. Can take less than maximum rate, higher tax deduction, more left for charity.

**Disadvantages:**

1. Fixed, guaranteed (as long as charity is solvent) income for life. Income loses purchasing power as cost of living increases. Cumulative effect of even modest inflation can substantially reduce purchasing power after 10 years.
2. If wish to use to make gifts to several charitable organizations, typically must fund separate annuities with each charity. Some community foundations issue gift annuities with eventual value split among several permanent funds held by the community foundation.
3. Some charities will only accept cash or marketable securities to fund annuities, no real estate or tangible personal property accepted.
4. Inability to have more than 2 annuitants per contract.
5. Minimum age requirements for annuitants by some charities.
6. Relatively low annuity rates for younger annuitants (4.8% for single life age 55, 4.6% for two-life annuity, both age 60).

**Charitable Gift Annuity (Fixed Income) Donor Profiles**

1. 65+ year old donors who could afford to make an outright gift, but are concerned about future income needs and want something they can "count on."
2. Donors who want a fixed income and like the simplicity of the charitable gift annuity agreement and reporting.
3. Donors who want a fixed income but have a modest amount to contribute (not enough for a charitable remainder annuity trust).
4. Donors who want a nominal income they can "count on" and budget for.
5. Donors who want to name an older individual like a parent or former spouse as the annuitant as a way of

providing financial assistance (gift tax implications can be possible) and like the simplicity of the charitable gift annuity and its resulting higher charitable income tax deduction (since based on older ages), plus higher than market payout rates for that older generation.

6. Donors who simply want to replace a fixed income (such as income from a Certificate of Deposit) and make a future charitable contribution at the same time.
7. Donors who must take mandatory withdrawals of retirement plan assets, and use those to fund a charitable gift annuity, immediate or deferred, to offset that income tax inclusion and for income for self and spouse or partner.
8. Donors with low-yield appreciated assets who want higher current income without incurring long-term capital gains taxes.
9. Donors who want to use one or more deferred payment gift annuities as a source of retirement income.

**BENEFICIAL DESIGNATION GIFTS**  
**FROM QUALIFIED RETIREMENT PLANS –**  
**SMART, TAXWISE AND REVOCABLE GIFT OPTIONS**  
**FOR JUST ABOUT EVERYONE**

1. Many individuals have the majority of their portfolios today in (more than one) retirement plan assets – may well be that individual’s largest asset holding
2. Retirement plan assets are among the most expensive for family to inherit due to potentially heavy taxation, which can be deferred but will still be incurred at some future time
3. Retirement plan assets can be subject to income and estate taxes, both state and federal, so four (or more) potential taxes
4. Most of a retirement plan is usually taxable, especially if funded solely by employer contributions and with significant tax-free market growth
5. Income tax on retirement plans is simply deferred, most often for the lives of the owner and spouse. There is no marital deduction for income tax purposes, so will be taxed, just later and not now
6. Income tax on retirement plan assets can be deferred now to a next generation like children – called “stretch out” IRA’s – which most children are NOT choosing, wanting a lump sum even with taxes paid first, instead
7. Combined estate and income taxes, both state and federal, can erode a majority of the plan’s value, in some cases as much as 80% gone in these multiple taxes
8. In past, there was even a fifth possible tax on retirement plan assets, an excise tax, now repealed – impossible to say if ever will be reinstated
9. Consider using for charitable purposes the most expensive assets family can inherit, which includes retirement plans and deferred compensation plans
10. Can designate a percentage (NEVER an amount) of one or more of one or more retirement plan assets to individuals and/or various charities – designation **revocable** during life
11. Retirement plan assets DO NOT pass via a will or trust, by rather by who is listed on the beneficial designation form – becomes irrevocable when the plan owner dies. This is why a former spouse can take a retirement plan over a current spouse, if the former is listed on the beneficial designation form

12. Gift simple to complete, by completing a change of beneficiary form with the company holding the plan or provided by your employer's benefit office, with a percentage designation to one or more favored charities. Can include a designation to family too, e.g. "5% to five specifically designated charities, remaining 75% to my spouse."
13. Can change the beneficiary designation form anytime by simply completing a new form and sending it back to the company holding the plan
14. Can even designate a (lifetime or testamentary, in a will) charitable remainder trust as beneficiary of a qualified retirement plan, and provide income to spouse or to other family members, remainder eventually to charity or charities. Heirs may actually receive more under this method than if inherited after-tax amount of the plan(s)
15. Even a twenty-one year old can choose this option, e.g. "1% to my favorite charity, 99% to my parents/spouse."
16. Can use one plan, if have multiple plans, as the source of all testamentary charitable giving, and give remaining plan(s) to family members - who inherit after-tax value
17. Some individuals use their mandatory retirement plan withdrawals, which must commence by age 70 ½ for retired individuals and which are subject to income tax, to fund charitable gift annuities for self and spouse, or to make outright charitable gifts. This offsets the income inclusion of the mandatory withdrawal, which must be taken whether or not the individual needs or wants it
18. Beneficial designation gifts are easy to promote and understand, and an extremely viable option for most individuals, of all ages

## IRA CHARITABLE ROLLOVER EXTENDED

Donors of a certain age have a unique opportunity in 2009 only under the formerly titled Pension Protection Act of 2006 (pertaining to 2006 and 2007), and often referred to as the IRA Charitable Rollover. This extended provision provides an especially attractive giving option for philanthropically-minded individuals who attain the age of 70 ½ in 2009, who can in those years use up to \$100,000 of IRA assets they own to make an outright gift to one or more favored public charities. They do this by directing the custodian of their IRA to make a direct distribution from their IRA to a public charity.

Both husband and wife each with their own IRA can each make a \$100,000 distribution to charity in these years, with the same favorable tax treatment. The distribution to charity will qualify towards the donor's required annual withdrawal from the IRA; in 2009 only, individuals, due to recently enacted law, are not required to take a mandatory annual distribution. Only IRA assets can be used under this provision, but there could first be a tax-free rollover from other qualified retirement plans to an IRA (also a qualified plan) to accomplish this technique.

There is no income tax deduction for that distribution directly to charity, because the IRA has never been taxed, but that donor does *not* have to include the IRA distribution in income taxes the year he or she makes that distribution to charity(ies). This is most attractive for an individual with IRA assets they don't foresee needing, to satisfy a charitable pledge or commitment they may have made, to begin to reduce estate size and complexity, or to endow their annual support to one or more valued public charities.

Private foundations, donor advised funds, and supporting organizations do not qualify for this favorable treatment. Income plans such as charitable remainder trusts, charitable gift annuities, and pooled income funds also cannot be a recipient of this tax favorable IRA distribution.

Update, from website of the National Committee on Planned Giving ([www.ncpg.org](http://www.ncpg.org)):

### **IRA Charitable Rollover Extension Signed into Law** (10/03/08)

President Bush has now signed into law the Emergency Economic Stabilization Act of 2008 ([H.R. 1424](#)), which **includes an extension of the IRA Charitable Rollover**. The extension is retro-active, applying to distributions made throughout both the 2008 and 2009 tax years. The extension will allow individuals 70½ and older to donate up to \$100,000 from their IRAs to charities tax-free. It does not expand the IRA Charitable Rollover to allow tax-free donations to split-interest gifts.

The Senate approved H.R. 1424 on Wednesday, and the House followed suit that afternoon. Within two hours of the House vote, President Bush signed H.R. 1424 into law.

## GIFT PLANNING IDEAS -- SHORT SUMMARY OF LIKELY OPTIONS

Bequests – no effect until death, “magic language” that must be included in a valid will or testamentary trust. Can express as a certain asset, or a certain amount, percentage, or part or all of the residue of an estate.

Beneficial Designations of (part or all) of (one or more) Qualified Retirement Plan Assets – accomplished by a donor completing a beneficial designation on a qualified retirement plan and sending back to the company holding the plan. Gift often expressed by a percentage. Revocable, no effect until death, can take care of many charities from these assets that are expensive (due to many possible taxes that are only deferred) for a family to inherit.

Gift of Ownership, or Beneficial Designation of (part or all) of (one or more) Life Insurance Policies – if give ownership of a life insurance policy to charity during life, may get an income tax deduction. If designate charity as a beneficiary, usually a percentage, no income tax deduction since revocable, gift happens at insured’s death, possible estate tax savings then.

Gift of Real Property Subject to Life Estate – gift of a primary residence, vacation home or farm, older individual(s) deed real estate to charity, retain on the face of the deed the right to occupy the property for the rest of their life/lives. Life tenants responsible for taxes, insurance, care of property during their occupancy, entitled to an income tax deduction for charitable remainder value, simplifies their estate.

Charitable Gift Annuities – life income plans, usually for older individuals, only one or two annuitants on any contract, maximum rates “suggested” by American Council on Gift Annuities and based on age(s), generally higher than market rates of return, takes modest amounts to fund. Can defer when income is paid to annuitant(s), e.g. to save for retirement and receive income tax deductions as fund over time.

Charitable Remainder Trusts – irrevocable when funded, trusts must follow statutory terms even in payout (5% is minimum, and best choice for most) and be in the form of an annuity trust (pays fixed amount, cannot be added to) or a unitrust (variable payout based on market performance, can add to). Require a trustee. Can pay income for one or more lives, such as to a donor and spouse, or for a term up to 20 years, such as for younger beneficiaries like children. Net income variation of the unitrust that pays trust payout rate or amount of income earned by the trust, whichever is less, good method for younger donors to save for retirement.

Testamentary disposition of all U.S. government savings obligations – U.S. savings bonds a good testamentary gift to charity and other charities since donor would pay income tax if gave bonds during life, can designate in will or trust that all government obligations to various charities in various percentages. Older individuals can cash in bonds no longer paying income during lifetime and use proceeds to fund charitable gift annuities, usually a better return than certificates of deposit.

Gifts Other Than Cash – Use appreciated (often low yield) real estate or stock to give outright to charity or to fund a charitable income arrangement, if give appreciate asset or part thereof, can enjoy significant tax and income advantages such as avoiding capital gain recognition and receiving income from the full amount not reduced for taxes, plus charitable income tax deduction.