TRUST TOPICS

Fiduciary Trust International

Summer 2006

Tax-Wise Philanthropy

Using a donor advised fund as the beneficiary of your charitable trust or foundation

This *Trust Topics* presents the use of a donor advised fund as a charitable beneficiary when donors are not yet ready to name another public charity to receive charitable trust or foundation payments.

A donor advised fund can be the charitable beneficiary of a private foundation distribution, a charitable remainder trust or a charitable lead trust, providing flexibility, ease of management and maximum charitable deductions for donors. This technique is especially helpful for donors who support many organizations, and whose support may change over time.

Charitable gifts provide important funding for nonprofit organizations; they also provide substantial income tax benefits for donors. Donors who create charitable trusts, which distribute gifts over time, or charitable foundations, which do the same, are eligible for an immediate income tax deduction.

In many instances, a donor has a longstanding relationship with one or more public charities and names these as the charitable beneficiaries of such gifts. In some cases, however, donors do not want to be committed to a particular charitable organization as the continuing beneficiary of future distributions from their trusts or foundations. In these cases, naming a donor advised fund as the charitable beneficiary of trust distributions or distributions from a foundation may give the donors a chance to reexamine their charitable goals and reevaluate which organizations can help achieve them.

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DONOR ADVISED FUND

A donor advised fund is a fund established by an individual and maintained by a public charity. The individual who establishes the fund (the "donor") has the ability to recommend gifts to various charitable organizations from the fund. These organizations need not include the charity that maintains the fund. In theory, the donor advised fund is not obligated to follow the donor's suggestions. That technicality allows the donor advised fund to be considered a public charity for tax purposes.

Since gifts to a donor advised fund are gifts to a public charity, such gifts provide the most advantageous income tax and other benefits for charitable gifts: the maximum income tax deduction is available for gifts to a donor advised fund; no excise tax is imposed on a donor advised fund; and there are usually no minimum distribution requirements from the fund. This is why a donor advised fund can serve so well as a repository of charitable contributions from charitable vehicles created by a donor. Fiduciary Trust has established the Fiduciary Trust Charitable Giving Fund as a public charity to maintain clients' donor advised funds.

Tax Effects of Gifts to a Donor Advised Fund		
Income Tax	**Gifts of Cash:** Deductible up to 50% of Adjusted Gross Income (AGI)	**Gifts of Long-Term Appreciated Securities:** Deductible up to 30% of AGI
	Unused deductions for gifts of cash and securities may be carried over for 5 years	
Gift Tax	Fully deductible	
Estate Tax	Fully deductible	

Following is a description of some of the charitable entities that a donor may create with a donor advised fund as the recipient of gifts.

Private Foundation

Private foundations are often created and controlled by families to contribute to charitable causes. The advantage of a private foundation is that the individual or family creating it has control over the amounts and recipients of annual distributions and may retain this control over generations. However, a private foundation is required to distribute annually 5% of the average fair market value of its assets to public charities; if it does not make this distribution, it must pay a 15% penalty.

The required annual distribution may be a large amount, which might require additional time and attention. If allowed under its governing documents, a foundation may designate a donor advised fund as the recipient of that 5% distribution, thereby allowing the decision regarding appropriate distributions to be made after proper assessment.

Charitable Remainder Trust

A charitable remainder trust makes payments to the donors of the trust (or other individuals) for their lifetime or a certain number of years, and pays the balance in the trust to charity at the end of that time. The advantages to the donor are an immediate income tax deduction for the charitable portion of the gift, the possibility of donating appreciated securities without fully recognizing capital gain in the year the gift is made, receiving a larger annual payment from assets that may have had a low income yield and making a substantial gift to charity in the future.

When donors create a charitable remainder trust, they may name a particular charity or charities as beneficiaries. However, the payment to charity will not be made for a number of years. In order to allow for flexibility and a second look at which charity will be selected, the donors may establish a donor advised fund and designate it as the beneficiary of their charitable remainder trust. In this way, they, or the successor advisor, may choose charities in which they are then interested as the recipients of the funds and may choose to give the funds to charitable organizations over many years.

Charitable Lead Trust

A charitable lead trust makes annual payments to charities during the term of years in which the trust is in existence, and at the end of that term, the balance of the trust is paid back to the donors (or their estates) or to the individuals they designate. There may be substantial income tax benefits to creating a charitable lead trust and there may also be estate tax advantages if the assets in the trust appreciate in value and pass to persons other than the donors.

Donors may name particular charitable organizations to receive the annual payments during the charitable term. However, if donors are uncertain as to which beneficiaries to name, or want to maintain the possibility of changing beneficiaries, they may establish a donor advised fund and designate it as the beneficiary of the trust. In this way they can create a continuing opportunity to review their charitable wishes and use the payments to further their goals.

SUMMARY

Designating a donor advised fund as the beneficiary of distributions from a private foundation, the remainder of a charitable remainder trust, or recipient of payments from a charitable lead trust should be considered by those wishing to retain continued flexibility in the choice and timing of gifts from charitable structures.

FIDUCIARY TRUST COMPANY INTERNATIONAL was founded in 1931 to specialize in investment management and administration of assets for individuals and families. A bank charter permits Fiduciary Trust to act as executor and trustee, providing continuity of management through multiple generations.

Fiduciary Trust's investment management services were extended to foundations and endowments during the 1930s and then to other institutions. In the early 1960s, Fiduciary Trust began investing internationally, making it one of the first American firms to develop global investment capabilities. Fiduciary Trust, an affiliate of Franklin Templeton Investments, offers the following services to clients throughout the world:

- Investment Management
- Trust and Estate Administration
- Strategic Planning
- Asset Allocation
- Manager Selection and Oversight
- Custody
- Multi-Currency Reporting
- Banking
- Tax
- Risk Management
- Performance Analysis

These services are offered to families with substantial assets in a comprehensive, integrated program: *Family Resource Management®.*

If you would like more information regarding Fiduciary Trust's services, please contact your portfolio manager or one of our representatives:

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Fiduciary Trust International

Fiduciary Trust Company International
600 Fifth Avenue
New York, New York 10020
tel (212) 632-3000
tel (877) 384-1111
www.ftci.com

About the Authors. *Gail E. Cohen, Esq.*, executive vice president and general trust counsel at Fiduciary Trust Company International, has more than 25 years of experience in the area of trusts and estates. She is responsible for estate planning and administration at Fiduciary Trust's New York headquarters and oversees trusts and estates matters at its subsidiaries in Florida, California, Delaware and Grand Cayman. Ms. Cohen is a member of The Rockefeller University Committee on Trust and Estate Gift Plans, the Planned Giving Committee of the Anti-Defamation League, and the Trusts and Estates Steering Committee of the UJA-Federation of New York and the New York City Ballet's Professional Advisors Committee.

Ronnie Ringel is vice president and trust counsel at Fiduciary Trust Company International in New York. Prior to joining Fiduciary, Ms. Ringel practiced law in the estates and trusts area with major New York law firms. She has extensive experience in estate planning and estate and trust administration and has also been active in the area of charitable giving as the planned giving officer of a national charity.

This article and other information on wealth management can be found on Fiduciary Trust's website at www.ftci.com.

FIDUC TWPH 07/06