GIFT PLANNER'S WORKSTATION™ A PLANNED GIVING INTERACTIVE WHITE PAPER

The Five Most Tax Smart Charitable Gifts in America *Right Now*

Five strategies where donor demographics and tax policy converge, ranked by real world impact for donors. Featuring a first look at Gift Planner's Workstation™ Pro.

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Every era of tax law crowns its own charitable strategies. The One Big Beautiful Bill Act rewrote the deduction landscape beginning in 2026, the §7520 rate now sits at the highest sustained level in nearly two decades, and the largest generation in American history is well into its gifting, legacy planning, and retirement minimum distribution years. Together, those three forces have reshuffled the deck. The five strategies in this paper sit precisely where donor demographics and tax policy converge, and they are ranked by one measure only: real world impact for donors. Together the five also cover the entire donor pyramid, mass affluent at the base and middle, high net worth above, ultra high net worth at the peak; the map ahead shows where each gift lives. The techniques below are not exotic. Each one is executable today, each one solves a problem your donors already have, and each one delivers measurably more philanthropy per after tax dollar than writing a check. This paper walks through the five gifts we believe deserve the top of every gift planner's playbook right now, plus one rate sensitive spotlight for your highest net worth conversations.

THE 2026 NUMBERS THAT DRIVE THIS PAPER

$111,000 Annual QCD limit per person ($222,000 per couple)	$55,000 One time Legacy IRA QCD to a CGA or CRT	5%+ The §7520 rate environment, its highest sustained level in nearly two decades
0.5% AGI New floor beneath itemized charitable deductions	35¢ Maximum deduction benefit per dollar for top bracket donors	$1,000 / $2,000 New non itemizer charitable deduction (single / joint)

THE FEDERAL ITEMIZATION LANDSCAPE

Two more numbers frame every conversation in this paper, because together they decide who itemizes at all. The standard deduction for 2026 stands at $32,200 for a married couple and $16,100 for a single filer, high enough that roughly nine in ten taxpayers claim it and receive no deduction for their charitable checks, which is exactly why the exclusion strategies in this paper carry so much weight. Meanwhile, OBBBA lifted the SALT cap from $10,000 to $40,000 beginning in 2025, rising 1 percent a year through 2029 ($40,400 in 2026), with a phase down at 30 percent of income above $500,000 that never drops the cap below $10,000. The relief is temporary: the cap snaps back to $10,000 in 2030. For four more filing years, some high income households in high tax states will find themselves itemizers again, and deduction timing, bunching, and the strategies in these chapters are how planners make that window count.

One more OBBBA provision deserves plain English, because it quietly trims every itemized deduction, not just the charitable ones. The old Pease limitation is gone; in its place, a rewritten §68 reduces otherwise allowable itemized deductions by 2/37, roughly 5.4 percent, of the lesser of total itemized deductions or the amount by which taxable income exceeds the threshold of the 37 percent bracket. For a donor in that top bracket the arithmetic lands simply: every dollar of itemized deduction now delivers about 35 cents of tax benefit instead of 37. The reduction applies after the 0.5 percent floor, and it reaches state and local taxes, mortgage interest, and every other itemized deduction alike, one more reason the exclusion strategies in this paper, which never touch the itemized side of the return, carry the weight they do.

$32,200	$40,400	$10,000
2026 standard deduction, married filing jointly ($16,100 single)	2026 SALT cap, phasing down above $500,000 of income	The SALT cap returning in 2030, when the window closes

Figures: Rev. Proc. 2025-32; IRC §164(b)(6) and §68, each as amended by P.L. 119-21 (2025); on the 2/37 limitation, see T. Steinberg (Loeb & Loeb) & D. Gespass (Andersen), *Charitable Contributions after OBBBA*, The Washington Report: Wealth Transfer Edition (Finseca 2026). © Planned Giving Interactive.

THE DIRECTION OF TRAVEL

Every figure in this paper describes the law as it stands, and by historical standards federal rates are low. Planning built on the assumption that they will stay there is planning on one leg. The federal top marginal rate has been higher than today's for most of the last century, and proposals to raise rates on high income and high net worth taxpayers, whether through the ordinary brackets, the treatment of capital gains, or a levy on wealth itself, resurface in nearly every budget cycle. None of that is a forecast. It is simply the reason a planner should be careful about telling a donor that waiting costs nothing.

The states are not waiting. Massachusetts has collected a 4 percent surtax on income above a threshold now indexed to $1.1 million since 2023, and it raised more than $3.1 billion in fiscal 2026, well past the $2 billion its sponsors projected.[7] Washington, long the emblem of the no income tax state, enacted a 9.9 percent tax on income above $1 million in March 2026, effective in 2028, reaching roughly 20,000 households and facing a constitutional challenge that was filed almost immediately.[8] California voters will decide in November 2026 on the Billionaire Tax Act, a one time 5 percent levy on net worth above $1 billion, payable up front or across five years.[9] And New York has folded a pied-à-terre tax on second homes valued above $5 million into its budget agreement, with rates and mechanics still being settled.[10] Four states, four different instruments, one direction.

For the planner, the practical consequence is not alarm, it is timing. A donor in a high tax state weighing a gain avoidance strategy is deciding under a rate structure that may not be the one that greets the same transaction in five years, and the strategies in this paper, which remove gain from the tax system entirely rather than deducting against it, are the ones least sensitive to which way rates move next. That is worth saying plainly to a donor who is inclined to wait. Rates are one variable a gift planner cannot control, and structures that never depend on the rate are the most durable answer to that uncertainty.

7. Mass. Const. amend. art. XLIV, §4 (4 percent surtax on income above $1 million, indexed; $1.1 million for tax year 2026); collections reported at more than $3.1 billion for fiscal 2026 against a $2 billion projection.

8. Wash. Laws of 2026, S.B. 6346 (9.9 percent tax on income above $1 million, effective January 1, 2028, first payments due April 2029; estimated to reach fewer than 0.5 percent of residents), signed March 30, 2026, with constitutional challenge announced on signing.

9. California 2026 Billionaire Tax Act (qualified for the November 2026 ballot; one time 5 percent tax on net worth above $1 billion, payable up front or over five years).

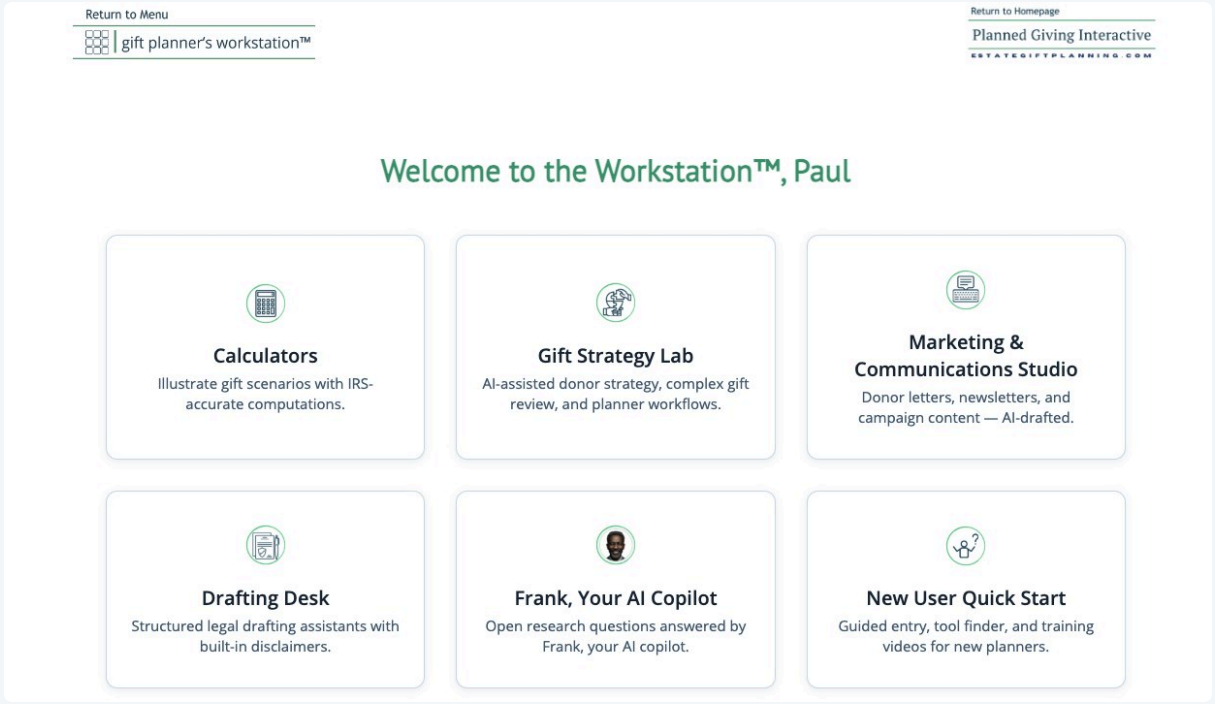
10. New York FY2027 budget agreement (April to May 2026), including a pied-à-terre surcharge on second homes with market value above $5 million; rate schedule and effective date pending.

INTRODUCING

Gift Planner's Workstation™ Pro, The Next Generation

FRANK™

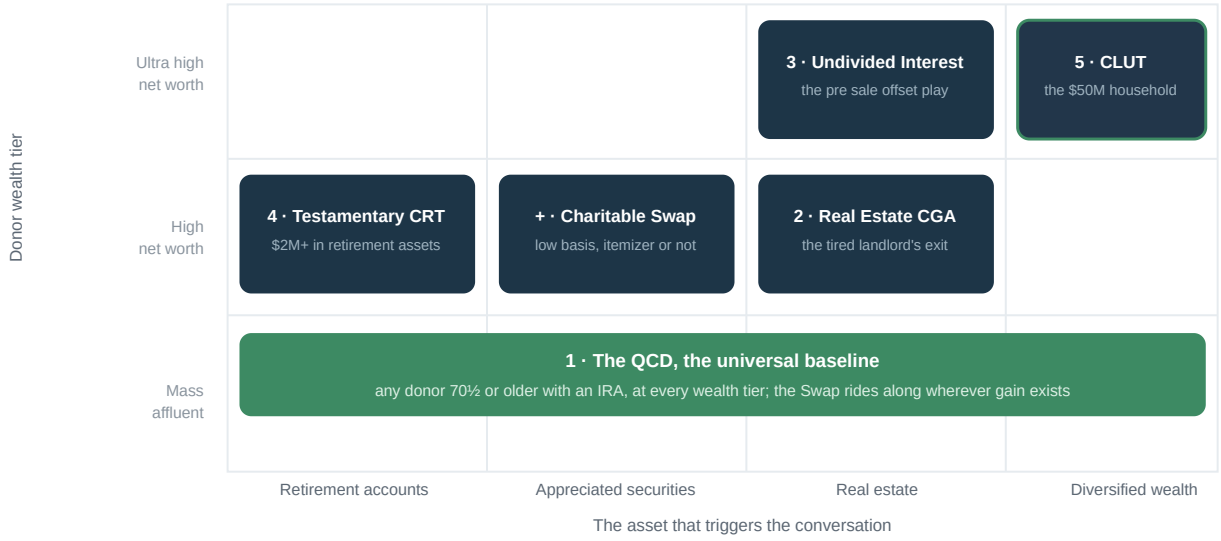
This paper doubles as a first look at the next generation of the Gift Planner's Workstation. Every strategy in this paper is paired with the Workstation tool built to illustrate it: calculators that simulate the numbers in real time, Frank™, your AI copilot, who drafts the donor communications, and document tools that assemble the agreements. Throughout these chapters you will find live views from Workstation Pro showing exactly how each gift comes to life on a planner's screen.



The Workstation Pro home screen: IRS accurate calculators, the Gift Strategy Lab, the Marketing & Communications Studio, the Drafting Desk, and Frank™, the AI copilot, in one place built for gift planners and the charitable planning teams at financial institutions.

BEFORE THE FIVE: THE FREEZE, AND THE MAP

One more thing belongs in this introduction, because it is the quiet reason most of these gifts never happen. The profession has established who the donors are and what they hold; none of it matters if no one at the table can show the donor how the gift actually works. That is the real gap. Donors, gift planners, and financial advisors have rarely had a way to model these strategies visually and explain them in language a donor understands, so the conversation stalls before it starts. The strategies in this paper are technically demanding, and the chapters ahead do not pretend otherwise: §7520 rates, remainder tests, recomputation rules, bargain sale allocations. Read cold, that machinery can produce exactly the wrong reaction. The planner hesitates, and the donor's own advisor, unfamiliar with the structure and unwilling to endorse what he cannot explain, often does the simplest thing available to him and kills the idea outright. Neither reaction reflects a bad gift. Both reflect a missing picture. That is what the Workstation exists to supply, education for the donor and for the advisor, and a visual explanation of how the strategy works that makes a complex gift simple to see. Every chapter ahead pairs its strategy with the tool that runs the arithmetic live, drafts the documents, and hands the advisor a donor ready illustration, so the planner stays the hero of the meeting and the software carries the machinery. That is this paper's ambition in a sentence: you are already the expert, and these chapters, paired with the Workstation's visual, plain language illustrations, are how you become the champion of these gifts.



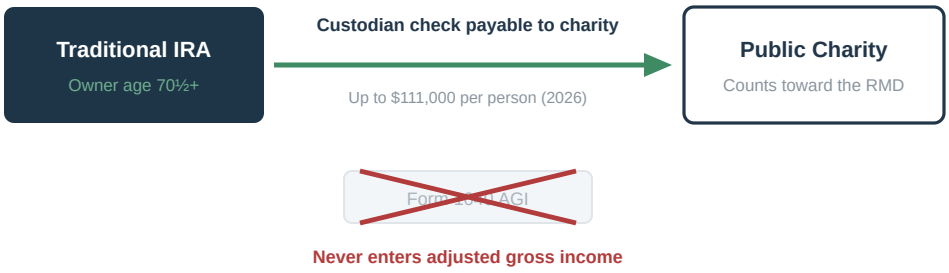
Where each gift lives: wealth tier against the asset that triggers the conversation. The QCD runs the entire bottom of the market as the universal baseline, and the lead unitrust waits in the upper right for the households the Opportunity Gap in Chapter Five counts. Read the vertical axis as your donor pyramid: together, the five cover every level of it.

Geography tunes the dial. In California, New York, or New Jersey, a double digit state tax layer rides on top of every federal figure in this paper, which makes the gain avoidance plays, the swap, the undivided interest, the real estate CGA, worth meaningfully more than the federal arithmetic alone suggests. In Texas, Florida, and the other no income tax states, the QCD's work is entirely federal, managing RMDs, Medicare surcharges, and the taxation of Social Security, and it loses none of its power for that. The map is the same everywhere; the reasons a donor says yes are local.

1 THE VOLUME LEADER
The Qualified Charitable Distribution

Best fit: IRA owners age 70½ and older, especially the majority who no longer itemize

Call it what it is: the number one planned gift in the United States. More than half of all baby boomers have now crossed age 70½, and the overwhelming majority of them take the standard deduction. For those donors, a cash gift produces zero federal income tax benefit. A QCD produces a full one, because it works as an exclusion from income rather than a deduction. Up to $111,000 per person in 2026 ($222,000 for a couple with separate IRAs)[1] moves directly from the IRA custodian to charity, never touches adjusted gross income, and counts dollar for dollar toward the required minimum distribution.



The QCD is an exclusion, not a deduction. The dollars bypass the return entirely.

1. IRC §408(d)(8). The annual limit is indexed for inflation under §307 of the SECURE 2.0 Act of 2022, Div. T of P.L. 117-328; the limit for 2026 is $111,000.

WHY NOW

OBBBA made the QCD more valuable, not less. Itemizers now lose the first 0.5% of AGI in charitable deductions and top bracket donors have their deduction benefit capped at 35 cents on the dollar. Neither limit touches a QCD.[2] Keeping the distribution out of AGI also protects the new $6,000 senior deduction (which phases out with income), holds down Medicare IRMAA surcharges, and reduces taxation of Social Security benefits.[3] The new $1,000/$2,000 non itemizer deduction is welcome, but it is pocket change next to a six figure exclusion.[4]

WHAT THE SECTOR DATA SHOWS

The ranking at the top of this paper is not sentiment. FreeWill's 2026 report on IRA giving, built on transaction data from a network of more than 2,300 nonprofit partners and an early 2026 survey of over 230 fundraising professionals, found that completed QCD gifts on its platform grew 56 percent in 2024 and another 47 percent in 2025, with cumulative gift value up more than 390 percent since 2019 and the average QCD gift landing around $4,000.[5] The same research quantifies the opportunity sitting in every donor file: 76 percent of organizations report that fewer than 10 percent of their age eligible donors made a QCD in 2025, even as one third of organizations say more than half of their donor base has already crossed 70½.[6]

Washington's own scorekeepers corroborate the scale, even though the IRS does not yet publish QCD totals. When Congress made the exclusion permanent, the Joint Committee on Taxation priced it at $8.8 billion of forgone revenue over its first eleven years, and the SECURE 2.0 expansion allowing the one time QCD to a gift annuity or remainder trust was scored at another $2.1 billion through 2032, figures that imply several billion dollars of QCDs flowing to charity every year.[11] And the data will only get better from here. The new Code Y on Form 1099-R gives the Service its first systematic marker for QCDs, which means two things for the profession: national statistics on the QCD's true footprint will finally become possible, and the chronic mismatch problem, where a donor excludes the distribution, the IRS sees only an ordinary 1099-R, and a notice follows, should largely disappear, because the custodian's own coding will tell the IRS the distribution was a QCD before anyone has to explain it.

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2. New IRC §170(b)(1)(I) (deduction allowed only to the extent aggregate contributions exceed 0.5 percent of the contribution base) and new IRC §68 (itemized deductions reduced by 2/37 of the lesser of total itemized deductions or taxable income above the 37 percent bracket threshold), added by §§70425 and 70111 of P.L. 119-21 (2025).

3. P.L. 119-21 (2025) also created a temporary deduction of up to $6,000 for taxpayers age 65 and older for 2025 through 2028, phased out at higher incomes.

4. IRC §170(p), added by §70424 of P.L. 119-21. Gifts to donor advised funds and to supporting organizations described in IRC §509(a)(3) do not qualify for the non itemizer deduction.

5. FreeWill, Giving from IRAs: Why QCDs Are the Hottest Giving Vehicle for Older Donors (2026 report), combining anonymized platform transaction data with a survey of 230+ nonprofit organizations reporting on 2025 activity.

6. FreeWill, Giving from IRAs (2026). The report ties the demographic wave to "Peak 65," with more Americans turning 65 now than at any point in history.

11. Congressional Research Service, Qualified Charitable Distributions from Individual Retirement Accounts (IF11377, updated Jan. 2026), reporting Joint Committee on Taxation revenue estimates: $8.8 billion for FY2015 through FY2025 when the exclusion was made permanent by P.L. 114-113, and $2.1 billion for FY2023 through FY2032 for the split interest expansion of P.L. 117-328.

THE QCD MARKET, BY THE NUMBERS[12]

47%
Growth in completed QCD gifts in 2025, on top of 56% growth in 2024

$4,000
Average QCD gift in 2025

76%
Organizations reporting fewer than 10% of eligible donors made a QCD

$18.2T
U.S. IRA assets, the pool every QCD draws from

11,400
Americans turning 65 every day in the Peak 65 zone running through 2027

50.1%
Share of boomer births now past the 70½ line as the 1956 cohort crosses

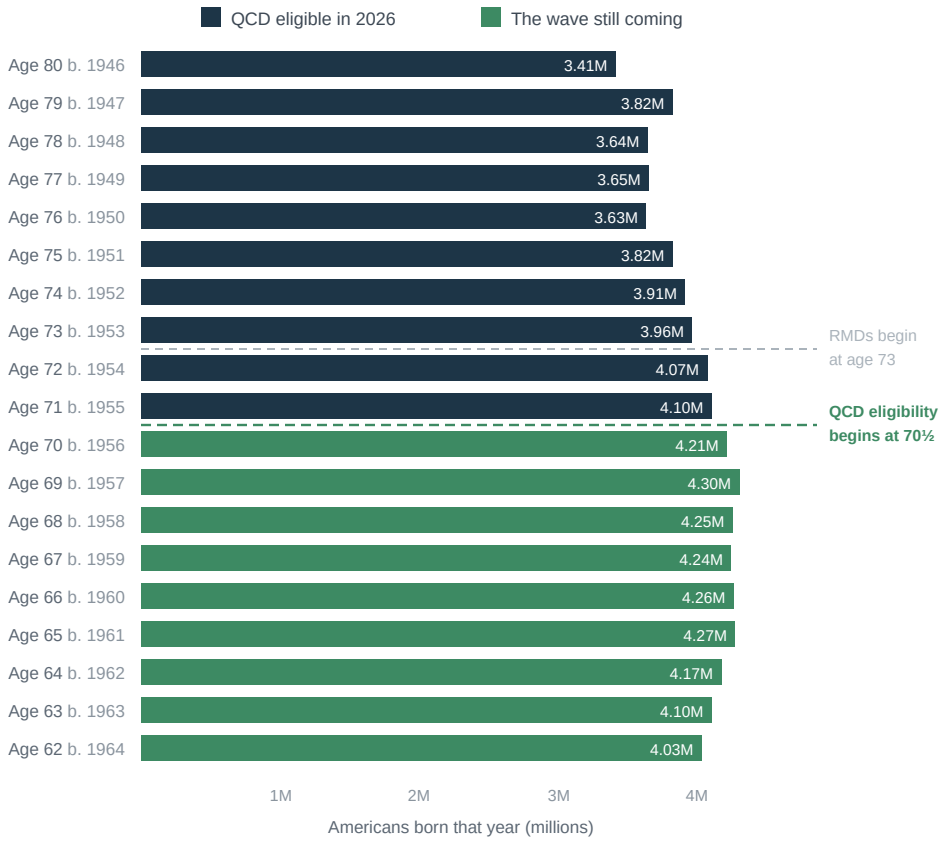
© Planned Giving Interactive

Here is what those numbers mean one donor at a time, from my own work representing national charities: a single QCD routinely eclipses the donor's entire cumulative giving history. The loyal supporter of a national charity might send $100 to $200 a year, faithfully, for twenty years, a lifetime total somewhere between $2,000 and $4,000. Then the QCD conversation finally happens, and one distribution at the $4,000 average, let alone a five figure one, surpasses two decades of checks in a single transfer. The donor was never ungenerous. The vehicle was simply too small for the balance sheet.

The demographics say why this moment, specifically, matters. The exhibit below maps every boomer birth year to its age in 2026, and two milestones land in this single year: the oldest boomers turn 80, and as the 4.21 million member 1956 cohort crosses 70½, more than half of the entire generation becomes QCD eligible.[13] The largest birth cohorts in American history, the 4.2 and 4.3 million baby years of the late 1950s and early 1960s, follow over the next five years. Layer those facts together and the conclusion is unavoidable: this is the most crucial moment for QCD marketing and communications the profession has ever had, or will have. The eligible population has just crossed its majority, its largest reinforcements arrive over the next five years, and its oldest members are turning 80, which means the window to build the QCD habit with the generation that holds the assets is open now and will not stay open. The QCD is the number one planned gift in America right now, and its donor pool has not even peaked.

12. Growth, average gift, and participation figures from FreeWill, Giving from IRAs (2026); IRA assets from Investment Company Institute, Quarterly Retirement Market Data, First Quarter 2026 ($18.2 trillion as of March 31, 2026); Peak 65 figures from the Alliance for Lifetime Income (a record 4.18 million Americans turning 65 in 2025, an average of 11,400 per day, in a zone running through 2027); boomer crossing share computed by Planned Giving Interactive from the birth cohort data in note 9.

13. U.S. live births by year of birth, National Center for Health Statistics vital statistics data; ages shown as attained in 2026. The cohorts born 1946 through 1955 account for 38.0 of the 75.8 million boomer births, or 50.1 percent, with the 1956 cohort crossing 70½ during 2026. QCD eligibility begins at age 70½ under IRC §408(d)(8); required minimum distributions begin at age 73 under IRC §401(a)(9), as amended by SECURE 2.0.



Nineteen birth years, one wave: 2026 is the year the oldest boomers turn 80 and the year the generation crosses its halfway mark on QCD eligibility, with the biggest cohorts in American history arriving at the 70½ line over the next five years.

Two findings in the data deserve a planner's particular attention. First, promotion is the variable that separates results: organizations that put QCDs in front of donors four or more times during the year were the likeliest to raise $100,000 or more, while nearly three quarters of those that never promoted them raised under $10,000, and none reached six figures.[14] Second, activity concentrates late: over half of 2025's QCD gifts arrived in the fourth quarter, driven by RMD deadlines and year end habit. The winning pattern pairs the two, running donor education all year so the December decision is already made, then harvesting the Q4 window with confidence.

14. FreeWill, Giving from IRAs (2026). Survey respondents also named unknown donor eligibility, donor unawareness of QCDs, and limited marketing bandwidth as their top three obstacles.

PLANNER POINTERS

- The transfer must run custodian to charity. Funds that touch the donor's hands are a taxable distribution, full stop.[15]
- Sequencing matters. The first dollars out of the IRA each year are deemed RMD dollars, so execute the QCD before any other distribution.
- Donor advised funds, private foundations, and supporting organizations are not eligible recipients.[16]
- Do not forget the one time Legacy IRA election: up to $55,000 in 2026 can fund a charitable gift annuity or charitable remainder trust, converting IRA dollars into lifetime income plus a legacy gift.[22]
- For donors age 73 and older, sequence the year deliberately: satisfy the entire RMD with QCD dollars first, then make the $1,000 or $2,000 cash gift that rides above the line for non itemizers. The exclusion does the heavy lifting; the §170(p) deduction is the finishing touch.
- Watch for the new Form 1099-R code Y, which custodians are phasing in to flag QCDs, and still obtain the contemporaneous written acknowledgment.[23]

CASE IN POINT: MARGARET

Margaret is a 74 year old widow in Grand Rapids who taught middle school for thirty one years and holds her own 403(b) rollover alongside the IRA she inherited from her husband. Her required minimum distribution this year is $48,000. She also receives $30,000 in Social Security on her late husband’s record, and a $1 million taxable portfolio pays her about $45,000 of interest and dividends. Her house is paid off, her Michigan property tax bill is $4,000, and she gives $18,000 a year, faithfully, to her church and the local community foundation. She is the donor most planners assume has no charitable tax story, because at her income the check she has always written looks like it earns a deduction. It does, and the deduction is the losing move. Redirected as a QCD, the $18,000 never enters adjusted gross income at all, and the next page shows what that is worth once her senior deduction and her Medicare premium are counted alongside the bracket. The close itself came off a screen: her advisor opened the QCD Illustrator in the meeting, and the branded one page illustration, her name, her numbers, her RMD satisfied, ended in minutes the confusion that had stalled the gift for two years.

15. See Notice 2007-7, 2007-1 C.B. 395 (operating rules for qualified charitable distributions).

16. IRC §408(d)(8)(B)(i); donor advised funds as defined in IRC §4966(d)(2); supporting organizations described in IRC §509(a)(3).

WHY THE QCD BEATS THE CHECK, LINE BY LINE

Margaret's facts are worth working all the way through, because they answer the objection a donor's accountant raises most often: if she has enough deductions to itemize, why not simply write the check and deduct it? Give the check its best case and run both returns side by side. Assume she gives $19,000 in total either way, and that on the QCD path she also writes a $1,000 cash check to capture the new above the line deduction, which counts cash only and is available solely to donors who do not itemize.[17] Her Michigan income tax runs about $1,662, since the state exempts Social Security entirely and her IRA income sits under the 2026 retirement subtraction ceiling, so her state and local total is roughly $5,662 once the $4,000 property tax is added.[18]

SAME $19,000 OF GIVING, TWO WAYS	$18,000 QCD PLUS $1,000 CASH	$19,000 BY CHECK, ITEMIZED
Adjusted gross income	$99,500	$118,500
Deduction actually used	$18,150 standard, plus age 65 add on	$24,069 itemized
Senior deduction retained	$4,530	$3,390
Taxable income	$76,820	$91,041
Federal income tax	$11,612	$14,741
Michigan income tax	$1,619	$1,662
Medicare IRMAA surcharge	None	$1,148
All in cost of the year	**$13,232**	**$17,551**

Single filer, 2026 figures. Both columns fund the same $19,000 of charity.

The QCD path leaves her **$4,319 better off on $19,000 of giving**, an effective benefit of about 22.7 percent, and it beats a route on which every dollar was deductible. Four levers produce it, and a planner should be able to name all four. Keeping $18,000 out of income is worth $3,960 at her bracket, and the $1,000 cash gift adds $220 above the line, a deduction the itemizing path forfeits entirely, because that deduction is closed to itemizers. She gives $1,302 of it back, since the check route would have bought her $5,919 of deductions above the standard deduction she otherwise claims. She recovers $251 because the lower adjusted gross income preserves $1,140 more of the senior deduction, which phases out at 6 percent of income above $75,000.[19] Net federal saving, $3,129. Then Medicare closes the argument: the check pushes her adjusted gross income to $118,500, past the $109,000 threshold, and buys her a $1,148 annual Part B and Part D surcharge the QCD avoids entirely.[20]

THE STATE LAYER, AND TWO CAVEATS

The state layer cuts the same way. Michigan allows no charitable deduction or credit of any kind, so all $19,000 of checks earns exactly nothing on her state return.[21] Exclusion still works where deduction does not: Michigan begins with federal adjusted gross income, so the $1,000 above the line gift flows through and trims her state tax by about $43. The QCD itself adds no Michigan saving in her case only because her distributions already fall under the state's retirement subtraction ceiling; for a Michigan donor whose required distributions run past that ceiling, the QCD saves state tax as well, while the check never can. One honest caveat: IRMAA runs on a two year lookback, so the premium her 2026 income sets is the premium she pays in 2028, a real saving but a deferred one. State by state these answers differ, which is exactly the kind of question the Workstation is built to settle before the donor asks it.

17. IRC §170(p), as added by P.L. 119-21 (2025): up to $1,000 ($2,000 joint) for cash contributions to public charities, allowed only to taxpayers who do not elect to itemize, with no carryforward; gifts to donor advised funds and §509(a)(3) supporting organizations do not qualify. The deduction reduces adjusted gross income.

18. Mich. Comp. Laws §206.51 (4.25 percent rate); §206.30(1)(f) (retirement and pension subtraction, fully phased in for 2026 at $61,518 for a single filer); Social Security benefits are exempt from Michigan income tax. State and local taxes are within the $40,400 SALT ceiling for 2026.

19. IRC §63(f) (age 65 additional standard deduction, $2,050 for a single filer in 2026); the OBBBA senior deduction of $6,000 per qualifying individual for 2025 through 2028 is claimed whether or not the taxpayer itemizes and phases out at 6 percent of modified adjusted gross income above $75,000 (single).

20. Medicare income related monthly adjustment amounts for 2026: the first tier for a single filer begins above $109,000 of modified adjusted gross income, adding $81.20 per month to Part B and $14.50 to Part D, about $1,148 a year. IRMAA is determined on a two year lookback.

21. Michigan permits no individual income tax deduction or credit for charitable contributions; the MI-1040 begins with federal adjusted gross income, so federal deductions that reduce AGI flow through to the state base while itemized deductions do not.

FROM THE FIELD: THREE DEEPER INSIGHTS

1. The most underused window in planned giving is 70½ to 73, and it has its own sequence. A donor at 73 or older facing a required minimum distribution should satisfy it with a QCD first, every time; the exclusion beats any deduction that dollar could earn. A donor between 70½ and 73 has no RMD yet, so the order flips at the front: send the first $1,000 of the year's giving as cash ($2,000 for a married couple filing jointly) to capture the new above the line deduction, which counts cash only, then run the rest of the budget through QCDs. Those pre RMD QCDs also shrink the base on which every future RMD is computed, so three early years of giving compound into decades of lower forced income. Donors who wait for the RMD to start are leaving the quietest benefit on the table.

2. Coordinate with Roth conversions. In an RMD year the required distribution must come out before any conversion, and it cannot itself be converted, so the efficient sequence is QCD first to satisfy the RMD and suppress AGI, then convert into the bracket room the QCD just preserved.[24]

3. Let the QCD open the beneficiary conversation. A donor giving from the IRA during life has already learned the lesson that makes the IRA the best asset to leave charity at death: it is income in respect of a decedent to heirs but passes tax free to charity. Mirror the lifetime habit on the designation form, and leave the stepped up taxable assets to the family.

IN THE WEEDS: THE MECHANICS THAT TRIP PLANNERS

Four technical rules separate clean QCDs from expensive surprises. First, the ordering rule works in the donor's favor: when an IRA holds both deductible and nondeductible amounts, the QCD is deemed to come first from the taxable layer, the reverse of the usual pro rata rule, so the exclusion always absorbs dollars that would otherwise have been taxed.[25] Second, the SECURE Act added an anti abuse offset: deductible IRA contributions made for years after the donor reaches 70½ reduce, dollar for dollar, the amount that can later be excluded as a QCD, a trap for donors who kept contributing while working into their seventies.[26] Third, eligibility is broader than most planners assume: a beneficiary of an inherited IRA who has personally reached 70½ can make QCDs from the inherited account, while ongoing SEP and SIMPLE arrangements are excluded.[27]

22. IRC §408(d)(8)(F). The one time election is indexed for inflation; the limit for 2026 is $55,000.

23. IRC §170(f)(8).

24. Treas. Reg. §1.408A-4 (required minimum distributions are not eligible for conversion).

25. IRC §408(d)(8)(D).

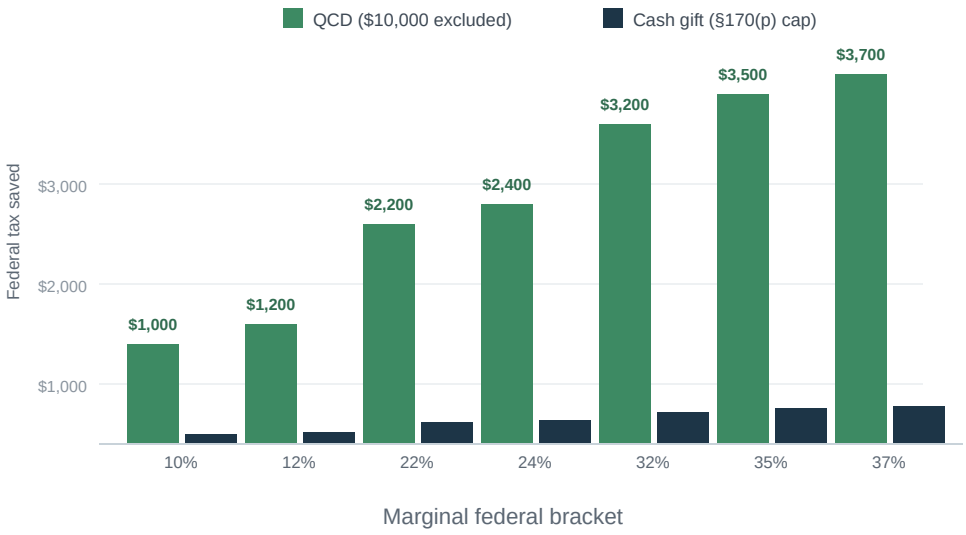
26. IRC §408(d)(8)(A), as amended by §107 of the SECURE Act, Div. O of P.L. 116-94.

27. Notice 2007-7, 2007-1 C.B. 395.

Fourth, the exclusion is all or nothing per dollar: the distribution qualifies only to the extent it would otherwise have been fully deductible, so any return benefit to the donor, even a token one, disqualifies that portion. No galas, no tote bags.

The recipient restriction in the pointers above deserves a strategic word, because it changes how operating charities should market. Under the current federal regime the QCD check cannot go to a donor advised fund; it must run directly to a qualifying operating public charity. That restriction is a quiet gift to the operating charity. By many estimates, roughly one in every four or five dollars Americans give to charity now routes through a donor advised fund first, reaching the working charity only later as grants on the fund holder's timetable. The QCD is the one major giving channel that bypasses that intermediation entirely: the dollars leave the custodian and arrive at the mission, with no sponsor in between. For the gift officer, that is a closing argument hiding in the Code, because the QCD is one of the few asks where the donor cannot answer with a promise to grant it from their fund someday.

The one time split interest election rewards equal care. The gift annuity must be funded exclusively with QCD dollars, must pay at least 5 percent, must be nonassignable, and may name only the donor and spouse as annuitants. Payments are taxed entirely as ordinary income, with none of the usual exclusion ratio, which is the price of never having paid tax on the funding dollars in the first place.[28]



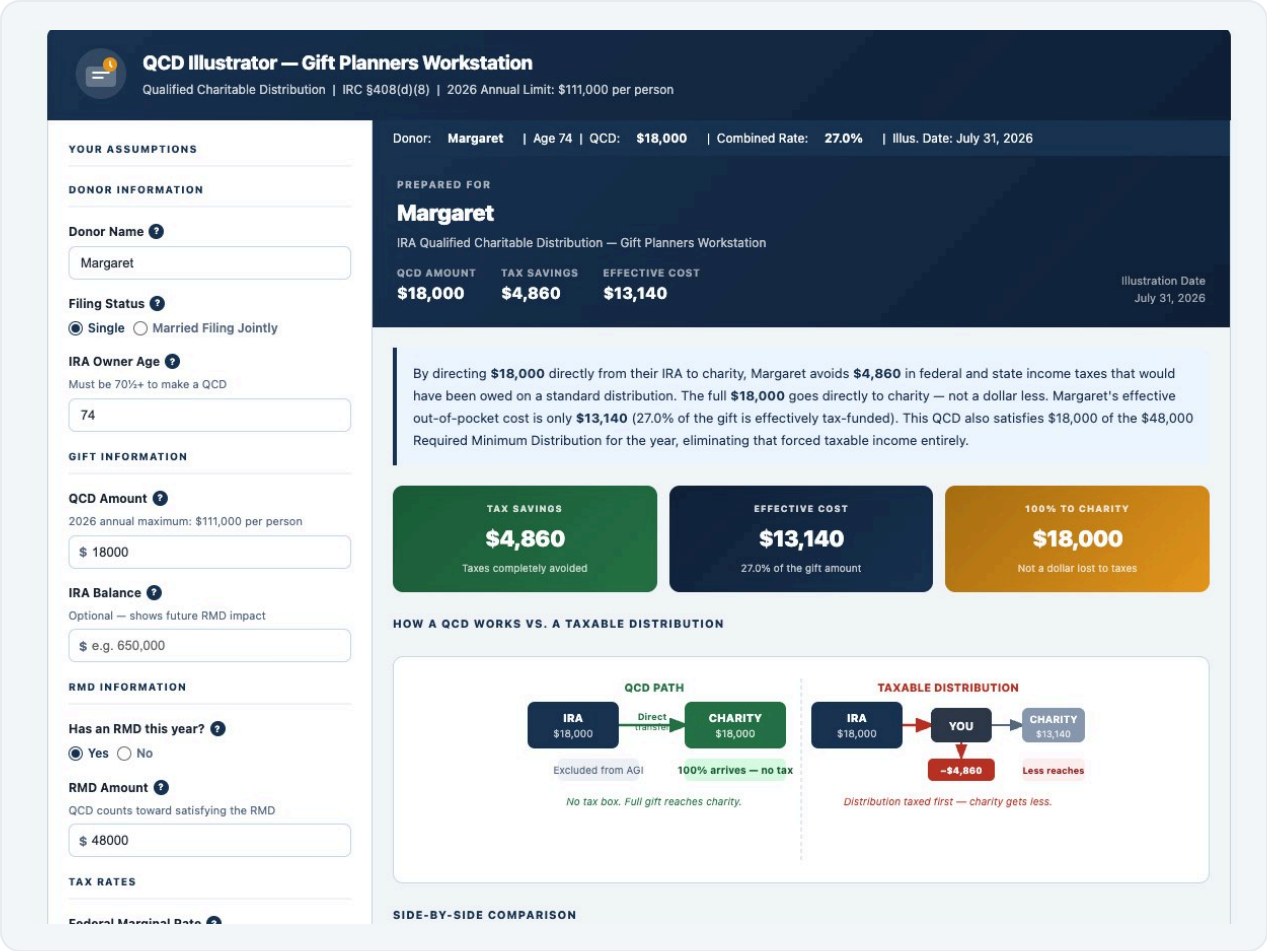
Federal tax saved on a $10,000 gift by a donor taking the standard deduction: the QCD delivers full marginal rate value at every bracket, while a cash gift is limited to the new non itemizer deduction.[29]

28. IRC §408(d)(8)(F), added by §307 of the SECURE 2.0 Act of 2022. Both spouses may each apply their own election toward a joint gift annuity.

29. Assumes a single filer claiming the standard deduction, a $10,000 gift, and the $1,000 non itemizer cap of IRC §170(p). QCD savings equal the marginal rate applied to the full excluded amount; secondary AGI effects (IRMAA, Social Security taxation, the senior deduction phaseout) would widen the gap further.

INSIDE WORKSTATION PRO: THE QCD ILLUSTRATOR

This chapter's case study becomes a donor deliverable in about ninety seconds. The QCD Illustrator takes Margaret's facts down the left rail, name, age, filing status, the $18,000 gift, the $48,000 RMD, and her brackets, and assembles the one page explanation on the right: $4,860 of tax completely avoided once her state rate is counted, an effective cost of $13,140 for an $18,000 gift, and the QCD path drawn against the taxable distribution path so the donor can see exactly why the custodian's check matters. The narrative box does the explaining a gift officer would otherwise write by hand, including the sentence donors care most about: this gift satisfies $18,000 of the required minimum distribution.

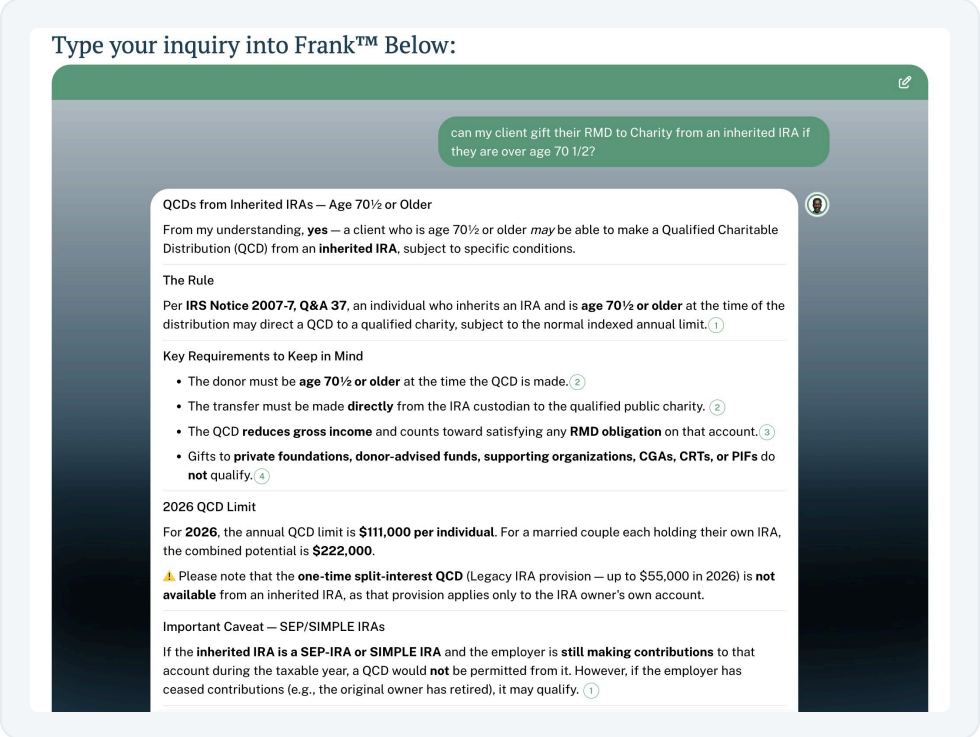


Margaret's case from this chapter as the Workstation illustrates it: $18,000 direct from the IRA, $4,860 of combined federal and state tax avoided at her 27 percent rate, an effective cost of $13,140, and $18,000 of the $48,000 RMD satisfied, with the QCD path and the taxable path drawn side by side.

INSIDE WORKSTATION PRO: FRANK, THE BANDWIDTH ANSWER

The FreeWill survey behind this chapter's exhibits identified the obstacle behind the obstacle. Organizations know the wave is here, and the ones that put QCDs in front of donors four or more times a year raise the most, yet respondents named limited marketing bandwidth among their top three barriers. Nobody has time to write the October letter. That is where Frank™ earns his keep. Frank is the Workstation's AI copilot, and he works as a drafting assistant, never an autopilot: the gift planner and the marketing team still design the campaign and set the calendar each year, and when they decide October is QCD month, Frank drafts the pieces, the letter, the email, the bulletin insert, written as effective, personalized communication for donors and for their advisors, with the current year limits and the custodian to charity language already correct. The planner edits, approves, and sends; every word stays under professional control. Blank page syndrome is what actually rations QCD marketing in most shops, and Frank removes the blank page. Pair him with the Illustrator on the previous page and Chapter One becomes a system: the campaign fills the calendar with the education that creates conversations, Frank makes every piece fast to produce, and the Illustrator closes the conversations the education creates.

Frank also answers the research question that stops a meeting cold. Ask him whether a client over 70½ can make a QCD from an inherited IRA and he returns the rule, the authority, the current year limits, and the traps, in the same minute the question was asked.



A planner's question and Frank's answer: the governing notice, the direct transfer requirement, the 2026 limits, and the disqualified recipients, with the Legacy IRA and SEP/SIMPLE caveats a hurried search would miss. Frank drafts and researches; the planner still decides.

THE EVERYDAY UPGRADE

The Charitable Swap

Best fit: Any donor holding highly appreciated publicly traded stock who was about to write a check anyway

The simplest strategy in this paper, and the one most often left on the table. A donor planning a cash gift almost always holds appreciated public stock somewhere in a taxable account. The swap redirects the gift: donate long term appreciated shares instead of cash, then immediately use the cash that would have gone to charity to repurchase the same shares at today's price. The charity receives the identical value. The donor receives the identical deduction. But the embedded capital gain leaves the portfolio forever, and the repurchased shares carry a basis reset to current market.[30] Wash sale rules pose no obstacle, because they apply to losses, not gains.[31] The maneuver itself is not new; planners have quietly paired donations with repurchases for decades. The nickname that made it famous, the Charitable Swap, comes from Dr. Russell James, whose research and visual teaching of the technique moved it from tax footnote to standard playbook.[32]

The repurchased position becomes strategic raw material. Higher basis stock can be sold later with little or no gain, gifted to loved ones, or held with a fraction of the old tax friction. Every future decision gets cheaper.

The receiving end is equally flexible. The shares can go directly to the donor's charity of choice, which is the cleanest route for a single large gift, or into a donor advised fund when the donor wants one transfer to feed many grants over time. Either way the swap mechanics are identical: appreciated shares out, cash repurchase in, gain gone.

Here is the point that gets missed: the swap is not only for itemizers. The deduction is the bonus; the engine is the gain that permanently disappears.

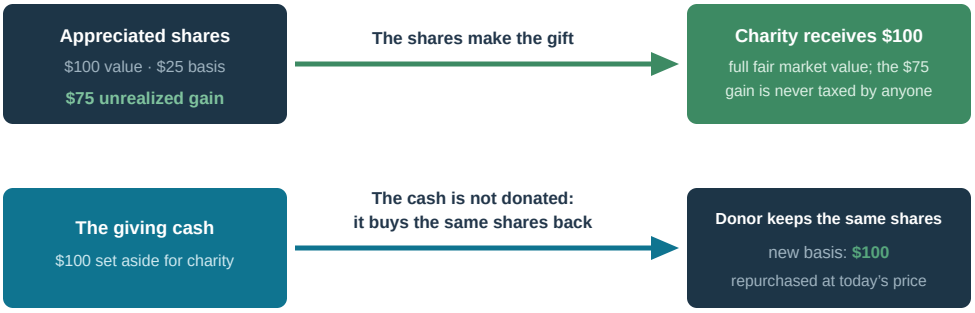
30. IRC §170(b)(1)(C) (fair market value deduction for long term capital gain property given to public charities); compare IRC §170(e)(1)(B).

31. IRC §1091 (loss disallowance only).

A donor who takes the standard deduction and gives appreciated shares instead of cash captures the identical result on the gain side, exactly the way a QCD donor wins by keeping the IRA distribution off the return entirely rather than by deducting anything. Tax never owed beats tax deducted.

For non itemizers the sequencing matters, and it mirrors the QCD playbook. The new above the line deduction counts cash only, so the first $1,000 of the giving budget ($2,000 for couples) should go as cash to capture it.[33] Giving beyond that, for a donor not yet 70½ and therefore not QCD eligible, is where the swap earns its keep: donate the lowest basis appreciated shares, repurchase with the remaining cash, and let the embedded gain vanish.

Two assets, two destinations: the swap crosses them



The cash that was headed to charity buys the basis reset instead; the shares carry the gift.

Same charity, same dollars, same position. The only thing that changes is who never pays the capital gains tax: everyone.

32. Russell N. James III, J.D., Ph.D., CFP®, Professor of Charitable Financial Planning, Texas Tech University; see his *Visual Planned Giving*, which teaches the donate and repurchase technique under the charitable swap name.

33. IRC §170(p) applies only to cash contributions to public charities; gifts of property do not qualify for the non itemizer deduction.

THE NON ITEMIZER'S PLAYBOOK: SHORT TERM STOCK AND THE BASIS RESET

For the donor who is not itemizing, the short term holding is the hidden gem. A donor chasing a deduction must hold shares more than twelve months to earn fair market value treatment, but the non itemizer is not chasing a deduction at all; she is avoiding a gain. That opens the entire taxable account to the swap, including highly appreciated positions owned less than twelve months that would otherwise be taxed at short term rates, the highest rates in the Code. Give the shares, let the gain vanish, and use the cash that was headed to charity anyway to repurchase at the current fair market value.

The repurchase is where the long game begins, because the new basis is strategic capital. Sell the position down the road and the gain is measured only from today's price. Give it to loved ones during life and the higher basis carries over to them, so the same generosity transfers a cleaner asset.[34] Hold it, and every future rebalancing decision is cheaper. Whether the position started long term or short term, the non itemizing donor exits the swap with the same charity funded, the same portfolio, no embedded gain, and more room to plan on every decision that follows.

WHY NOW

After an extended bull market, client portfolios are dense with low basis positions, and OBBBA's new deduction limits make efficiency per donated dollar matter more than ever. For donors bunching gifts into a donor advised fund to clear the 0.5% AGI floor, the swap and the bunch work beautifully together: appreciated shares into the DAF in one large year, cash repurchase the same day.

CASE IN POINT: WALT AND CJ, NO DEDUCTION REQUIRED

Walt, 62, manages several car dealerships in the Knoxville area, and he and his wife CJ give $10,000 a year to their church. A paid off house and Tennessee’s lack of a state income tax mean the standard deduction wins on their joint return every year. Walt holds index shares he bought only eight months ago that have already jumped from $6,500 to $10,000. A deduction chaser would have to wait out the twelve month clock; they are not chasing one. The first $2,000 of their giving goes as cash to capture the new above the line deduction for joint filers, the appreciated shares cover the rest, and the cash they had set aside repurchases the position at market, erasing roughly $2,800 of short term gain that would have been taxed at Walt’s ordinary rate. Same church, same $10,000, and the highest taxed gain in their portfolio simply never happens.

34. IRC §1015(a) (a donee's basis in property received by lifetime gift is generally the donor's carryover basis); compare the basis step up at death under IRC §1014. The repurchase resets the donor's own cost basis to the purchase price.

PLANNER POINTERS

- Shares must be held more than one year to secure the fair market value deduction; short term positions deduct at basis.[35]
- Fair market value gifts of appreciated stock are subject to the 30% of AGI ceiling, with a five year carryforward.[36]
- Identify and transfer the lowest basis lots specifically. Custodian lot selection is where this strategy is quietly won or lost.
- Transfer timing matters at year end. The gift is complete when the shares hit the charity's account, not when the transfer is requested.[37]

CASE IN POINT: ELAINE

Elaine is a 58 year old physician in Charlotte who gives $50,000 a year and, after two decades of steady buying, holds a taxable portfolio built on tech names, Amazon, Apple, Tesla. The block of Amazon she plans to give is worth $50,000 against a $10,000 basis. Donating those shares to her charity and immediately repurchasing Amazon with the cash she had earmarked for the gift removes $40,000 of embedded gain from her portfolio, worth $11,520 once her 5 percent state rate joins the 23.8 percent federal rate, while resetting her basis to $50,000. Gifts of this size also make her an itemizer automatically, so she claims the same $50,000 fair market value deduction her cash gift would have produced, worth roughly another $21,000 at her combined rates, and the gain savings stack on top of the deduction rather than replacing it. Ten years of the same habit removes hundreds of thousands of dollars of taxable gain from her portfolio without changing her giving, her holdings, or her lifestyle in any way.

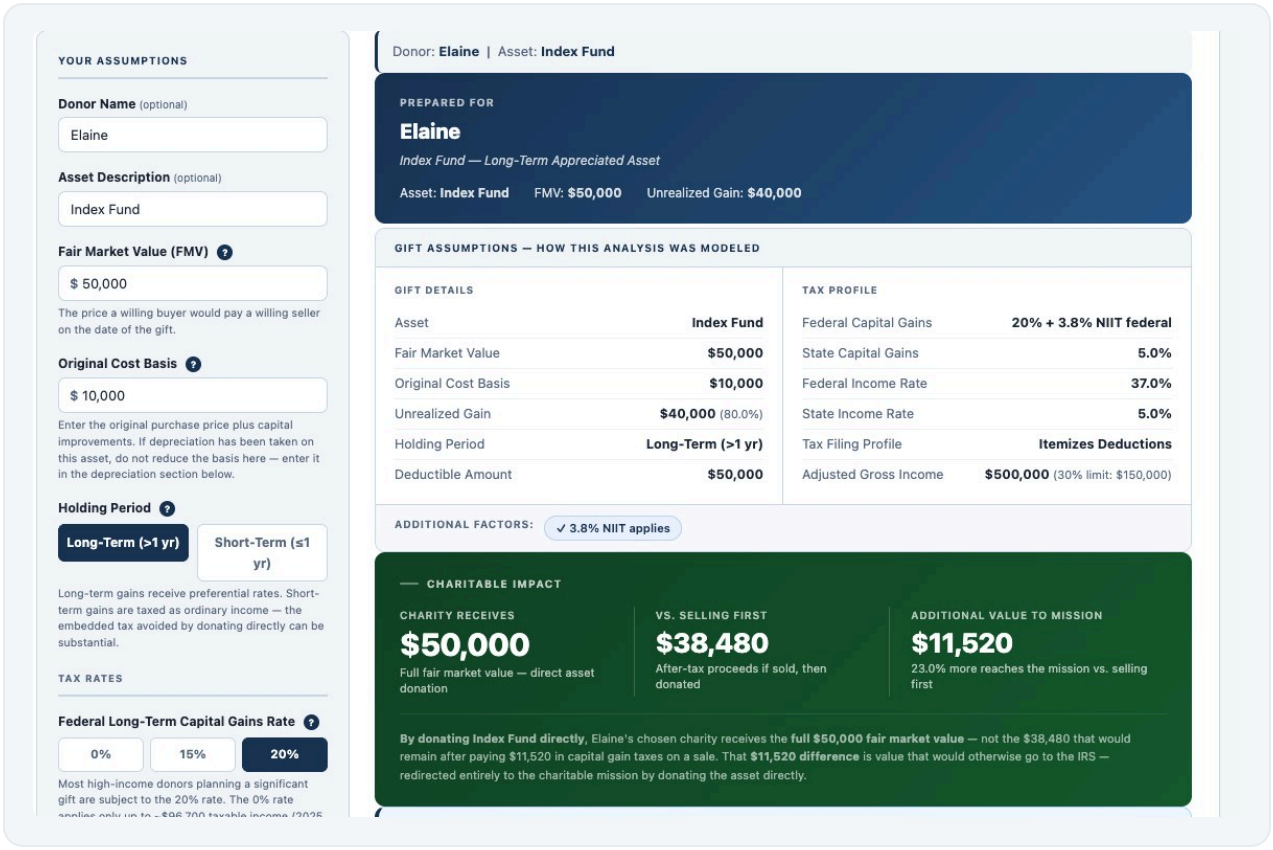
35. IRC §170(e)(1)(A); holding period under IRC §1222(3).

36. IRC §170(b)(1)(C)(i), (ii); §170(d)(1).

37. Treas. Reg. §1.170A-1(b).

INSIDE WORKSTATION PRO: THE SWAP, ILLUSTRATED

The swap's entire argument fits on one screen. The Workstation's appreciated asset calculator takes Elaine's facts down the left rail, the appreciated position, the $50,000 value, the $10,000 basis, the long term toggle, the NIIT checkbox, and builds the donor deliverable on the right. The charitable impact panel makes the case in three numbers: the charity receives the full $50,000, against only $38,480 if she sold first and donated what survived the tax, so an additional $11,520 reaches the mission, 23 percent more for identical generosity. The assumptions panel pins her tax profile in the open, itemizer, $500,000 of adjusted gross income with the 30 percent ceiling flagged at $150,000, so the planner can hand the page across the desk knowing every figure can be defended. The narrative box then adds the itemizer's stack: $11,520 of capital gain tax avoided plus a projected $21,000 of deduction value, a combined benefit of $32,520 on a $50,000 gift.



Elaine's case from this chapter as the Workstation illustrates it: the full $50,000 to charity instead of the $38,480 that would survive a sale, $11,520 of gain tax avoided at her combined 28.8 percent rate, and the 30 percent AGI ceiling checked automatically against her $500,000 income.

2 THE LANDLORD'S EXIT
Real Estate Funding a Charitable Gift Annuity

Best fit: Boomers holding appreciated rental property who are done being landlords but not done needing income

The classic profile walks into your office every week: a donor in their seventies who bought a rental property decades ago, has depreciated it down to a sliver of basis, and is exhausted by tenants, toilets, and property managers. An outright sale triggers capital gain and depreciation recapture in a single tax year. Holding means more landlord years. The real estate funded CGA threads the needle. The donor deeds the property to an issuing charity (national platforms such as the National Gift Annuity Foundation specialize in exactly this receipt and disposition work) in exchange for fixed payments for one or two lives.

The tax mechanics reward patience. The donor receives a charitable deduction equal to the property's appraised value minus the present value of the annuity. The transaction is treated as a bargain sale, so only the gain allocable to the annuity portion is reportable,[38] and when the donor is the annuitant and the annuity is nonassignable, that gain is spread ratably over life expectancy rather than recognized at once.[39] A deferred or flexible start date can push payments (and the associated income) into lower earning years while raising both the payout rate and the deduction.

Here is the practical reality most planners discover the hard way: among the charitable organizations that maintain a gift annuity pool at all, nearly all limit funding assets to cash or publicly traded securities. Very few organizations in the country can actually issue a charitable gift annuity funded with real estate, because doing so requires the balance sheet, the risk management, and the disposition infrastructure to hold and sell property while annuity payments are already flowing. This is my personal specialty.

38. IRC §1011(b); Treas. Reg. §1.1011-2 (bargain sale basis allocation).

39. Treas. Reg. §1.1011-2(a)(4)(ii).

I represent the National Gift Annuity Foundation, which was built for exactly this gift. It follows a specific, disciplined process for structuring the CGA agreement, sequencing the property receipt, and managing the disposition, so the donor's charity of choice receives the remainder without ever touching the real estate risk.

One deed replaces the landlord's headaches with lifetime income and a legacy.

WHY NOW

Two tailwinds converged. ACGA payout rates remain near multi decade highs, and a §7520 rate above 5 percent enlarges the charitable deduction for any given payout.[40] A 75 year old funding a CGA today locks in both a stronger rate and a larger deduction than at nearly any point in the past twenty years. Meanwhile the boomer generation holds trillions in investment real estate it no longer wants to manage.

THE RETIREMENT INCOME CASE FOR THE ANNUITY

There is a second argument for this gift that has nothing to do with the tax code, and it comes from the retirement income literature. Wade Pfau, Professor of Retirement Income at The American College of Financial Services and a leading scholar of sequence of returns risk, has shown that the order of market returns, not just their average, drives retirement outcomes. In his simulations, savers who behaved identically for thirty years finished with anywhere from roughly 3 times to nearly 28 times final salary, and the withdrawal rate a retiree could safely sustain over a thirty year retirement ranged from 1.9 percent to 10.9 percent, determined by nothing more than the luck of when they retired.[41]

40. IRC §7520. The rate is published monthly by revenue ruling.

41. Wade D. Pfau, You Can't Control When You're Born: Revisiting Sequence of Returns Risk (2013) and Lifetime Sequence of Returns Risk (2013), collected in Pfau, Retirement Risks (Retirement Researcher). In the cited Monte Carlo analysis, 151 otherwise identical savers finished with between 2.98 and 27.7 times salary, and maximum sustainable withdrawal rates ranged from 1.9 percent to 10.9 percent, based solely on the sequence of returns each cohort drew.

Retirees are most exposed in the years surrounding the retirement date, when portfolios are largest. Pfau observes that this is a risk the market pays no one to bear, and one that individuals cannot diversify away on their own. His prescription has become the organizing idea of modern retirement income planning: "first build a floor, then expose to upside."

Any charitable gift annuity can build that floor, converting one asset into guaranteed lifetime payments that protect a retiree's income from both sequence of returns risk and longevity risk. The real estate funded version executes the prescription with an asset the donor already wants to shed, which makes it the strategic route for the real estate investor in particular. The typical boomer landlord's balance sheet is concentrated in equities and property, assets with genuine inflation upside and genuine volatility, and little in the way of guaranteed income beyond Social Security. The CGA converts one appreciated property into the floor: fixed payments for life that arrive on schedule regardless of what markets do in the pivotal early retirement years, with the lifetime guarantee also absorbing longevity risk. The retained stocks and any remaining real estate stay on upside duty, where equity growth and rising rents do the inflation protecting that a fixed annuity, by design, does not. The instrument is charitable, but the retirement income mechanics are identical to the commercial annuities in the research.[42] For the donor who was going to sell the duplex anyway, the gift annuity is not just the tax smart exit. It is the risk smart one.

42. See Wade D. Pfau, white paper on deferred fixed annuities (Jan. 2018), finding that annuities offer a way to manage interest rate and market volatility risks and that a lifetime income guarantee further protects against longevity risk, the risk of not knowing how long the retirement plan must last.

PLANNER POINTERS

- The issuing charity carries the risk between deed and sale, so most gifts run through specialists with real estate receipt and disposition infrastructure. Marketability review comes before any commitment.[43]
- A qualified appraisal (Form 8283) is mandatory, and mortgaged property introduces bargain sale and self dealing complications that require early due diligence.[44]
- Depreciation matters less than most donors fear. Real property depreciated straight line, the mandatory method for buildings placed in service after 1986, produces no ordinary income recapture at all; the depreciation simply returns as unrecaptured §1250 gain taxed at up to 25 percent, and it spreads ratably with the rest of the capital gain. True recapture bites in two situations: accelerated depreciation on older vintages, and cost segregation studies that reclassified components as §1245 personal property, where the ordinary income portion is recognized in the year of transfer and cannot be spread. Ask about cost segregation at intake.[45]
- Environmental review, title work, and a property inspection belong in the intake conversation, not the closing week.

CASE IN POINT: CAROL AND DEAN

Carol is 76, a retired dental hygienist in Sacramento who bought a duplex in 1989, years before she met her husband, Dean. She managed it herself for three decades and has depreciated it to a $200,000 basis against today's $800,000 appraisal. The property is still hers alone; the retirement is theirs together, and neither of them is done needing income. An outright sale would recognize roughly $600,000 of gain in a single year. Deeding the property to a national gift annuity issuer instead produces fixed payments for as long as either Carol or Dean is living, with Dean named as the second annuitant, a six figure charitable deduction, and ratable reporting of the annuity portion of the gain across life expectancy. In practice the issuer writes the annuity on a discounted value of the appraisal to absorb selling costs and market risk, something to set expectations around at the very first conversation. And before anyone dated the deed, the advisor glanced at the Workstation's Days to a Higher Rate panel to check whether Carol's next ACGA birthday would lift the payout for both lives, the kind of thirty second check that makes a planner look brilliant for the rest of a contract.

43. To qualify, the annuity must be the sole consideration for the transfer and its present value must be less than 90 percent of the value of the property received. IRC §§501(m)(5), 514(c)(5).

44. IRC §170(f)(11); Treas. Reg. §§1.170A-16, 1.170A-17 (qualified appraisal and substantiation).

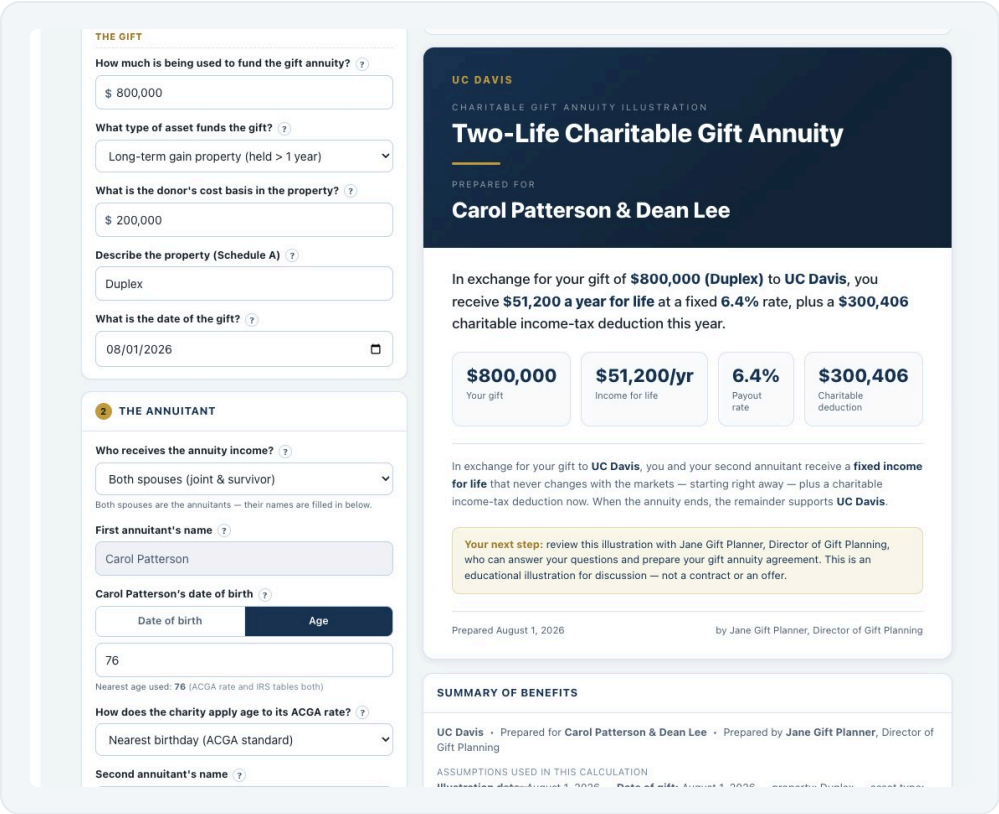
45. IRC §1250(b); IRC §1(h)(1), (h)(6) (unrecaptured §1250 gain taxed at a maximum 25 percent rate); IRC §1245(a)(1).

FROM THE FIELD: THREE DEEPER INSIGHTS

1. The landlord who is tired but not yet retired is a deferred CGA prospect. Every year of deferral raises both the payout rate and the deduction, and a flexible start date lets the donor pick the first payment year later, matching income to the year the W-2 actually stops.
2. Ladder large properties. Splitting an eight figure exit across two or three gift annuities in successive years keeps each deduction inside the 30 percent of AGI ceiling with room to be used, diversifies rate vintages, and gives the issuer sequential rather than concentrated disposition risk.
3. Design the remainder for flexibility. Routing the residuum to the donor's donor advised fund, or naming several charities in percentages, lets the family adjust the ultimate beneficiaries for years after the deed is signed, which often unlocks the gift for donors who love the structure but cannot yet pick the charity.

INSIDE WORKSTATION PRO: THE GIFT ANNUITY ILLUSTRATOR

The Workstation's Charitable Gift Annuity Illustrator carries this entire chapter in one screen. The tab row runs the full contract family, immediate, deferred, flexible, testamentary, commuted, custom rate, and the QCD Legacy IRA election from Chapter One, while the header pins the §7520 rate and the current ACGA schedule the illustration is built on. The panel planners talk about most is Days to a Higher Rate, a gift officer view the donor never sees: it computes each annuitant's nearest age birthday and reports exactly when a dated gift would price at the next ACGA rate, turning the timing conversation from folklore into arithmetic. Below it, the proposal builder assembles the donor deliverable from checkable sections, summary, income chart, taxation detail, actuarials, and the live document renders as the planner types.



Carol and Dean's illustration, exactly as the case study describes it: the $800,000 duplex with its $200,000 basis funding a two life, joint and survivor gift annuity at Carol's nearest age of 76, paying $51,200 a year for as long as either of them is living at a fixed 6.4 percent ACGA rate, with a $300,406 charitable deduction computed on the spot and the donor's next step spelled out beneath the numbers.

IN THE WEEDS: PRICING, MORTGAGES, AND THE 90 PERCENT TEST

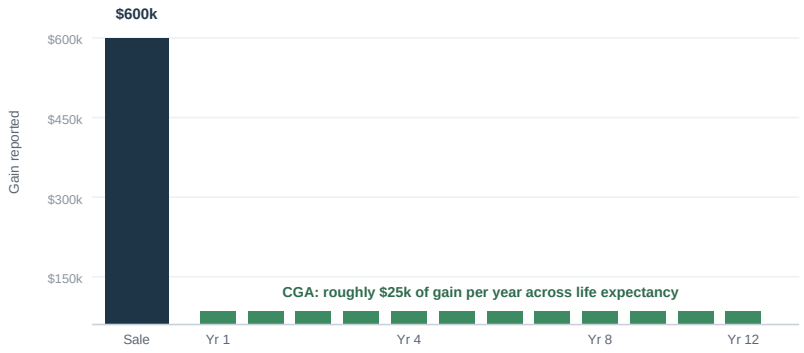
Three mechanics govern whether a real estate CGA works. First, pricing: ACGA suggested rates are built to leave the issuing charity roughly half of the original contribution at the annuitant's death, using conservative mortality, return, and expense assumptions, and real estate issuers then typically write the annuity on a discounted value of the appraisal to absorb selling costs, carrying costs, and market risk. The donor should hear that discount explained at intake, not at signing. Second, qualification: the annuity must be the sole consideration for the transfer, and its present value must be less than 90 percent of the value of the property received, the twin conditions that keep the issuer clear of commercial insurance treatment and keep the later sale outside debt financed income.[46] Third, and most dangerous, debt: an outstanding mortgage is additional consideration that violates the sole consideration requirement, and relief from the debt is treated as an amount realized in the bargain sale computation. In practice, mortgaged property is usually cured before the gift, by paying off the loan, carving out the encumbered parcel, or choosing a different technique such as the undivided interest gift of Chapter Three.[47] Several states, New York and California most prominently, also regulate gift annuity issuers through permit and reserve regimes, one more reason the issuer's infrastructure matters as much as its willingness.

46. IRC §§501(m)(5), 514(c)(5).

47. Treas. Reg. §1.1011-2 (liabilities assumed or taken subject to are treated as an amount realized); IRC §514(c)(5).

The field experience adds a nuance the black letter caution leaves out. In my practice at the National Gift Annuity Foundation, we often do accept real estate funded CGAs that carry a mortgage. Depending on the circumstances it may not be the best outcome for the donor, and the working rule is that the debt to equity ratio usually has to sit below 20 to 25 percent for the gift to remain an effective one. Even within that band, an encumbered property is still a challenging gift to move forward, which is exactly why the debt conversation belongs at intake, where the cure options above can be weighed against a gift structured around the mortgage. One more operating practice worth knowing: at the Foundation, we establish one new contract for each separate real estate asset, so a donor contributing multiple properties will have a separate gift annuity agreement for each.

The bargain sale arithmetic rewards a worked example. On the $800,000 duplex with a $200,000 basis, suppose the present value of the annuity is $400,000. The deduction is the $400,000 difference. Basis is allocated to the sale portion in the same ratio, so $100,000 of basis offsets the $400,000 deemed sale price, leaving $300,000 of reportable gain, and because the annuity is nonassignable and the donor is the annuitant, that gain is reported ratably over a life expectancy of roughly twelve years rather than all at once.[48] The exhibit shows what that does to the donor's tax timeline.



When the same gain hits the return

The same economic gain, two very different tax experiences: an outright sale recognizes $600,000 in year one, while the gift annuity reports a reduced gain of roughly $25,000 per year across life expectancy, with the balance absorbed by the charitable deduction.

IF YOUR POLICIES SAY NO

If your organization's gift acceptance policies simply will not allow real estate inside a charitable gift annuity contract, that does not have to be the end of the conversation. Reach out to Paul at paul@charitablesolutionsllc.com to look for ways to make this gift happen for your organization.

48. IRC §1011(b); Treas. Reg. §1.1011-2(a)(4)(ii), (b); life expectancy determined under the §72 annuity tables, approximately twelve years for a 76 year old annuitant.

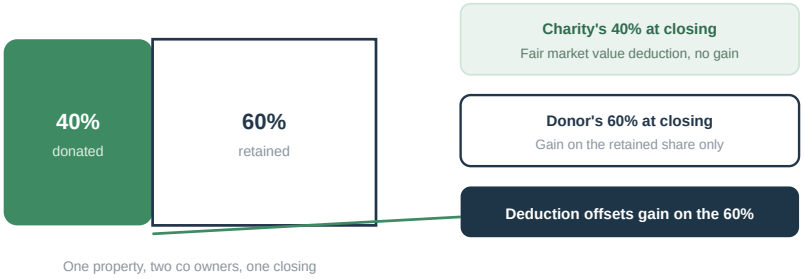
3

THE OFFSET PLAY

The Gift of an Undivided Interest in Real Estate

Best fit: Any donor divesting appreciated real estate who wants the donated share to shelter the retained share

Simple to describe, powerful in effect, and unforgiving of sloppy execution. The donor deeds an undivided fractional interest in a property (say, 40%) to charity before a sale, keeping the remaining 60%. The partial interest rule of §170(f)(3) would normally deny the deduction, but the statute carves out an express exception for an undivided portion of the donor's entire interest.[49] When the property sells, the donor recognizes gain only on the retained fraction, while the deduction generated by the donated fraction offsets a meaningful share of that gain. Done correctly, the donor divests, funds a major gift, and walks away with dramatically better after tax proceeds than a sale followed by a cash gift.



The donated fraction generates the deduction that shelters the fraction the donor keeps.

WHY NOW

With the 0.5% AGI floor and the 35 cent cap arriving in 2026, deduction timing has become a design decision. The undivided interest gift concentrates a large deduction into the exact year the donor has a large gain to absorb it, which is precisely the year the floor and the 30% of AGI ceiling for appreciated property matter least relative to the benefit delivered.

49. IRC §170(f)(3)(B)(ii); Treas. Reg. §1.170A-7(b)(1).

PLANNER POINTERS

- Sequence is everything. The gift must be complete before any binding obligation to sell exists, or assignment of income doctrine collapses the plan. Letters of intent are fine; signed contracts are not.[50]
- The charity is a true co owner until closing. Expenses, insurance, and proceeds are shared pro rata, and the charity must genuinely control the decision to sell its interest.
- Expect the qualified appraisal to consider a fractional interest discount, and prepare the donor for that conversation up front.[51]
- Hopefully the co ownership window is short, but underwrite it as if it will not be. Carrying costs and marketability drive the charity's willingness to participate.

CASE IN POINT: TONY

Tony is a 65 year old attorney from the Dallas area, divorced, remarried, with a big blended family, and most of his wealth did not come from the practice of law. It came from land. For thirty years he bought raw acreage in the path of the metroplex and let the growth do the work, and his best parcel now appraises at $4,200,000 against a $200,000 cost basis. With a sale on the horizon and his alma mater on his mind, Tony deeded a 35 percent undivided interest to the university before any listing agreement was signed. His appraised deduction approaches $1.47 million, subject to any fractional interest adjustment. At closing he recognizes gain on only his retained 65 percent, roughly $2.6 million instead of $4 million, and the deduction shelters a substantial share of that gain within the 30 percent of AGI ceiling, with five years of carryforward for the rest. The Workstation illustrations later in this chapter model the same property, with the optimizer solving for the gift percentage that approaches zero net tax on the exit. The paperwork kept pace with the enthusiasm: the same afternoon, the Tenancy in Common generator produced the co ownership agreement for counsel's review, the draft that used to cost weeks and thousands of dollars before anyone could strike while the iron was hot.

50. Rev. Rul. 78-197, 1978-1 C.B. 83; Ferguson v. Commissioner, 174 F.3d 997 (9th Cir. 1999); compare Dickinson v. Commissioner, T.C. Memo. 2020-128.

51. IRC §170(f)(11); Treas. Reg. §§1.170A-16, 1.170A-17.

FROM THE FIELD: THREE DEEPER INSIGHTS

1. Use the calendar straddle. The deduction lands in the year the fraction is deeded; the gain lands in the year of closing. Deeding in December ahead of a January closing pairs the deduction against a deliberately chosen high income year, a Roth conversion, a business sale, a final bonus, while the retained gain waits for the new year.
2. Fractions can be serial. Nothing limits the donor to one bite: a 25 percent interest this year and another next year restarts the deduction clock against each year's ceiling, and each undivided portion independently satisfies the partial interest exception, at the cost of a fresh qualified appraisal per gift.
3. The co owner does not have to be the ultimate charity. Sponsors built for non cash receipt, including donor advised fund sponsors that specialize in real estate, can serve as the receiving charity, which converts one illiquid asset into a granting account and dissolves the classic objection that the donor's favorite charity cannot take property.

IN THE WEEDS: THE CASE LAW, THE DISCOUNT, AND UBTI

The prearranged sale question has a case line every planner should know by name. Rev. Rul. 78-197 draws the government's line at a legal obligation: gain is the donor's only if, at the time of the gift, the charity is bound or can be compelled to sell.[52] The Ninth Circuit in Ferguson pushed the line earlier, taxing donors where the sale had become a practical certainty before the gift, and Hoensheid reaffirmed in 2023 that a gift made after the deal is effectively done comes too late, while Dickinson shows the taxpayer winning where the charity genuinely controlled its shares and a standing practice of prompt liquidation did not, by itself, create an obligation.[53] The practice rule that falls out of the cases: deed the interest while genuine contingencies remain, before any binding contract, and let the charity make its own sale decision in fact, not just on paper.

52. Rev. Rul. 78-197, 1978-1 C.B. 83.

53. Ferguson v. Commissioner, 174 F.3d 997 (9th Cir. 1999); Estate of Hoensheid v. Commissioner, T.C. Memo. 2023-34; Dickinson v. Commissioner, T.C. Memo. 2020-128.

Two more technical layers. The qualified appraisal must value the fractional interest itself, and appraisers routinely consider a discount for the partial interest's lack of control and marketability, which trims the deduction below the arithmetic share; prepare the donor for that number early, and remember the appraisal timing rules and the charity's signature on Form 8283.[54] On the charity's side, passive rents on the co owned property generally stay outside unrelated business taxable income, but acquisition indebtedness poisons that exclusion, one more reason encumbered property needs a different plan.[55]

The optimizer behind the donor conversation: net federal tax on the exit as the gift percentage rises. Under the stated assumptions, tax on the retained gain and savings from the deduction cancel near a 37 percent gift, and every point beyond that is net savings plus a larger gift.[56]

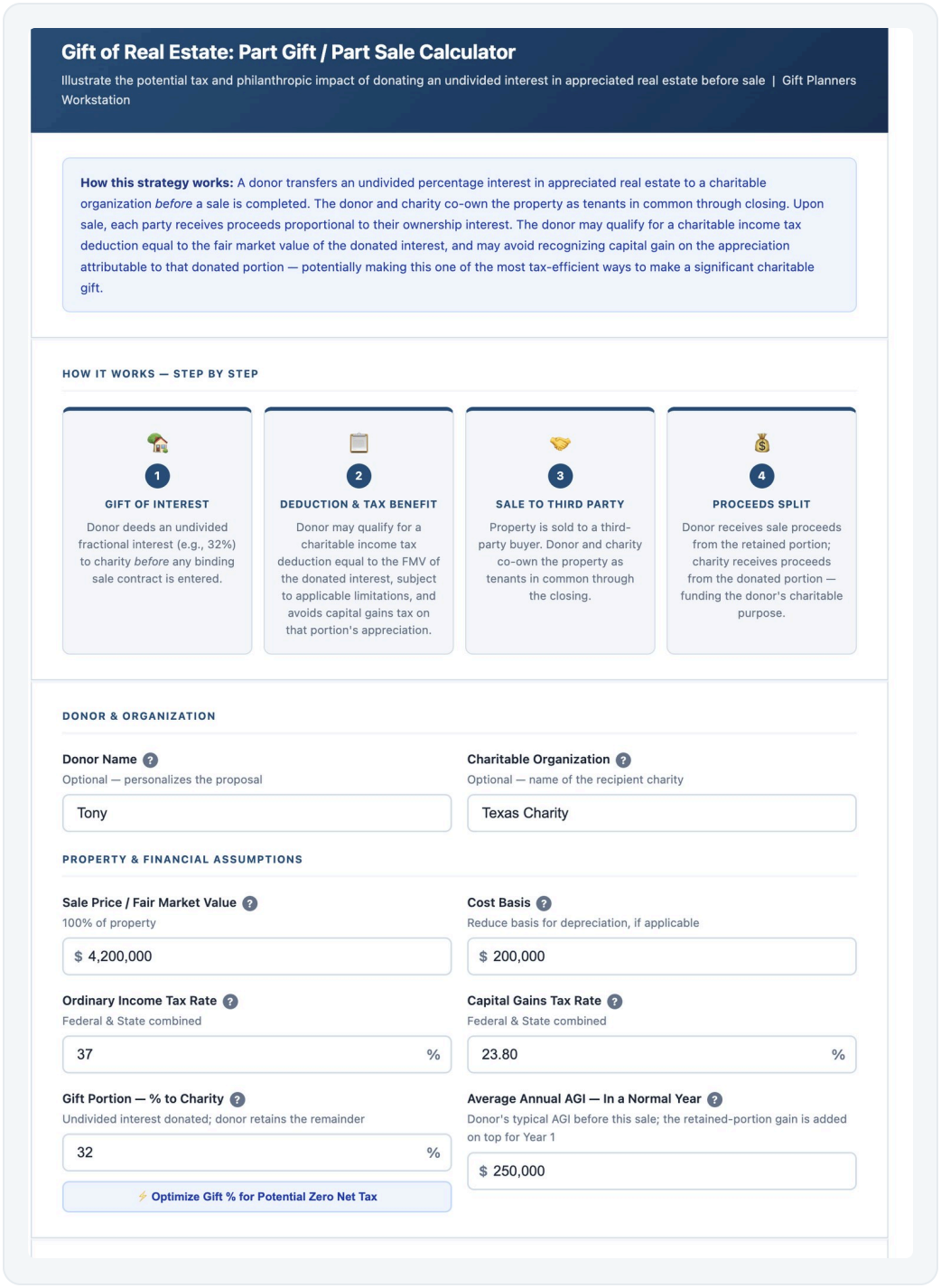
INSIDE WORKSTATION PRO: FROM CONCEPT TO CLOSING DOCUMENTS

This is the gift where the Workstation earns its keep, because the donor conversation lives or dies on seeing the numbers. The Part Gift / Part Sale Calculator opens by teaching the concept in plain language, then walks the four steps: gift of the undivided interest, deduction and tax benefit, sale to a third party, and the proceeds split.

54. IRC §170(f)(11); Treas. Reg. §§1.170A-16, 1.170A-17 (appraisal prepared no earlier than 60 days before the gift and received by the return due date).

55. IRC §§512(b)(3), 514.

56. Assumes a $1,000,000 property with $200,000 basis, a combined 23.8 percent capital gain rate, deduction value of 32 percent, and full use of the deduction within the §170(b)(1)(C) ceiling and five year carryforward. The Workstation computes the same crossover from the actual inputs of each donor.



The calculator educates before it computes: a plain language explainer, a four step walkthrough, and guided inputs with help bubbles on every field, including a one click optimizer that solves for the gift percentage approaching zero net tax.

The output is the donor conversation itself: sell 100 percent on the left, part gift and part sale on the right, with the deduction, the six year carryforward savings, the net to donor, and the combined donor and charity benefit side by side.

Scenario A — Sell 100% of Property	
Gross Sale Price	$4,200,000
Cost Basis	$200,000
Unrealized Gain	$4,000,000
Estimated Capital Gains Tax	$952,000
Net Proceeds to Donor	$3,248,000
Amount to Charity	$0
Combined Benefit	$3,248,000

Scenario B — Part Gift / Part Sale (32.0% Gift)	
Donor Gross Proceeds (68.0% retained)	$2,856,000
Capital Gains Tax on Retained Portion	$647,360
Year 1 AGI (Average + Retained Gain)	$2,970,000
Gross Charitable Deduction	$1,344,000
Est. Tax Savings — Year 1 Only	$306,652
Additional Tax Savings — Carryforward Yrs 2–6	$129,063
Total Est. Tax Savings — All 6 Years	$435,715
Net to Donor — Year 1 Position	$2,515,292
Net to Donor — Total (All Years)	$2,644,355
Gift to Texas Charity	$1,344,000
Combined Benefit — Total All Years	$3,988,355

📊 Summary: Part Gift / Part Sale vs. Sell 100%

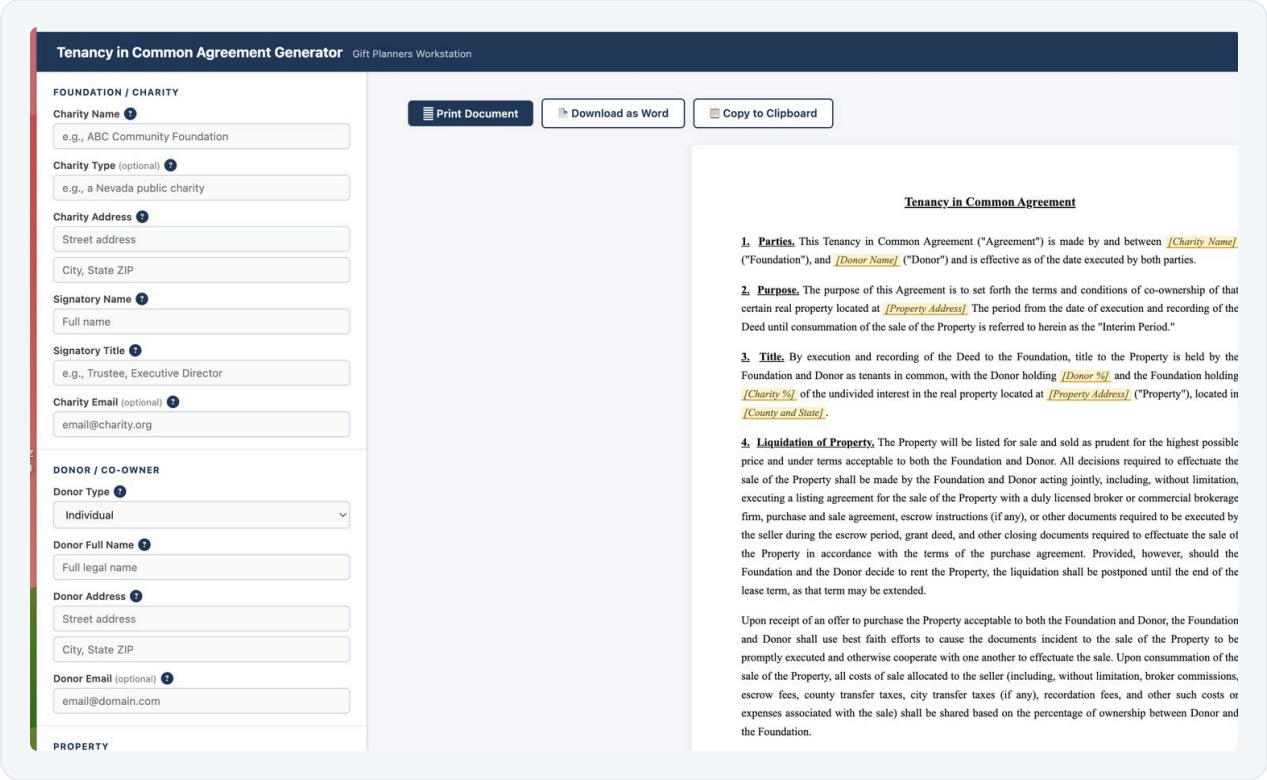
Additional amount reaching Texas Charity	$1,344,000
Change in donor's net position — Year 1 only	−$732,708
Total estimated tax savings — all 6 years (deduction carryforward)	$435,715
Change in donor's net position — total, all years	−$603,645
Combined donor & charitable benefit — total all years	$3,988,355
Difference vs. Sell 100% (combined, total all years)	$740,355

A negative change in the donor's Year 1 net position reflects the charitable gift — the donor transferred 32.0% of the property to charity. "Total all years" includes estimated tax savings from deductions claimed over the full carryforward period (Year 1 through Year 6), using the elevated Year 1 AGI and constant input AGI for subsequent years. Combined benefit figures include both the donor's net after-tax position and the amount reaching charity. This is a simplified, illustrative estimate only.

VISUAL SUMMARY

A $4,200,000 property with a $200,000 basis at a 32 percent gift: the donor sees instantly that $1,344,000 reaches the charity while the combined benefit beats an outright sale by $740,355 over the carryforward period.

And when the donor moves forward, the paperwork has to be put in place prudently. Several documents govern the co ownership window, and the tenancy in common agreement leads the list: parties, purpose, title percentages, and the joint mechanics of listing, selling, and splitting costs. The Workstation generates it from the same inputs, ready to print, download as Word, or route to counsel for review.



The Tenancy in Common Agreement Generator: guided fields on the left, a live draft on the right, with the ownership percentages, liquidation mechanics, and cost sharing provisions assembled as the planner types.

4 THE STRETCH, REBUILT
The Testamentary CRT Funded with Retirement Assets

Best fit: Donors leaving IRAs or qualified plans to adult children who are not eligible designated beneficiaries

THE PROBLEM: THE DAY THE STRETCH DIED

Begin with what beneficiaries lost, because the size of the loss is the size of the opportunity. For decades, an adult child who inherited an IRA could elect the life expectancy payout, known to every planner as the stretch: annual distributions computed on the beneficiary's own life expectancy, with everything not yet withdrawn continuing to compound tax deferred. For a child in her forties, that meant a distribution schedule running forty years or more, beginning with modest required payments that grew steadily larger every year as the life expectancy divisor shrank. The stretch was a rising income stream timed to arrive alongside the beneficiary's own retirement, and it was the single most valuable income tax feature an inherited retirement account carried.

The SECURE Act took it away. Signed into law in the closing days of 2019 and effective for deaths beginning in 2020, the Act eliminated the life expectancy payout for the majority of beneficiaries.[58] Unless the beneficiary falls within a narrow class of eligible designated beneficiaries, the surviving spouse, the disabled and chronically ill, minor children of the decedent, and beneficiaries within ten years of the decedent's age, the entire inherited account must now be emptied within ten years of the owner's death. For most adult children, a forty year schedule became a ten year deadline.

The tax consequences concentrate exactly where they hurt most. The ten year window typically lands in the children's peak earning years, so every distribution stacks on top of a salary at the household's highest marginal rate, and the decades of tax deferred compounding the stretch preserved simply vanish. On a seven figure IRA, the difference is measured in hundreds of thousands of dollars of avoidable tax. That is the problem this chapter solves. The rest of it is about the instrument that solves it best.

58. IRC §401(a)(9)(H), added by §401 of the SECURE Act, Div. O of P.L. 116-94 (signed December 20, 2019, applicable to deaths after December 31, 2019). Before the change, a designated beneficiary could take distributions over the beneficiary's own life expectancy under former Treas. Reg. §1.401(a)(9)-5; see the final required minimum distribution regulations at T.D. 10001 (2024).

THE SOLUTION: A TAX EXEMPT TRUST REBUILDS IT

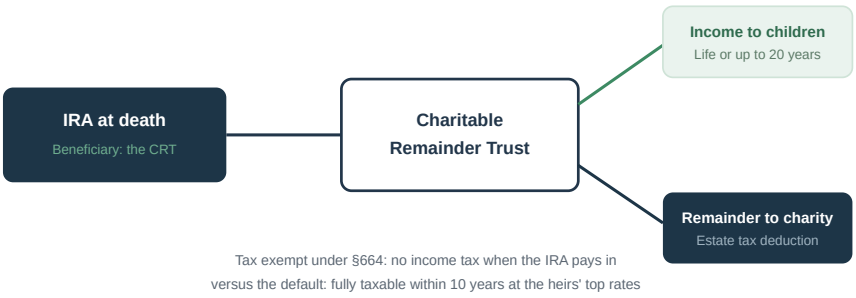
The testamentary charitable remainder trust rebuilds the stretch. The donor names a CRT as the beneficiary of the IRA at death. Because the CRT is tax exempt under §664, the plan assets arrive without immediate income tax, the estate receives a charitable deduction for the present value of the remainder, and the children receive payments for life or a term of up to twenty years, taxed as distributed under the four tier system.[59] The architecture is not novel. The Service confirmed decades ago that qualified plan proceeds paid to a testamentary charitable remainder unitrust are income in respect of a decedent to the tax exempt trust itself, taxed to the family only as distributions are received.[60]

A WORD ABOUT BEQUESTS

You cannot publish a top five list of planned gifts and get away with ignoring the bequest, the most common planned gift in America. So let us say it plainly: for many donors, a simple bequest is exactly right.

This paper exists for the moments that call for more, the donor with a large family, real obligations, and philanthropic intent that has to fit alongside everything else. That is where the professional advisor and the planned giving specialist earn their place, building plans where the donor reaches the philanthropic objective and every personal and family objective too.

And if a bequest does earn a spot on this list, the choice is not close: the most tax advantaged bequest in America is a direct designation of retirement plan assets to charity, the same asset, and the same logic, at the heart of this chapter.[57]



The CRT restores lifetime income smoothing the SECURE Act took away.

57. Retirement accounts left to individuals carry income in respect of a decedent under IRC §691; left to charity, no income tax is ever paid on those dollars. See Chapter One on mirroring the lifetime QCD habit on the beneficiary form.

59. IRC §664(b), (c); Treas. Reg. §1.664-1(d); estate tax charitable deduction under IRC §2055(e)(2)(A). The retirement account balance is income in respect of a decedent under IRC §691.

60. PLR 199901023; PLR 9634019. Private letter rulings may not be cited as precedent and bind only the requesting taxpayer, but they map the Service's analytical path.

One gate comes before all the mechanics. This is a charitable plan that happens to solve a tax problem, not a tax plan wearing charitable clothes, and without genuine charitable intent it should not be considered at all. Yes, it is a wonderful alternative to the ten year rule for beneficiaries who are not eligible designated beneficiaries; that alone is not a reason to do it. The donor has to see a long term charitable vision, and the insights later in this chapter return to what that vision can look like and what to recommend when it is absent.

WHY NOW

The higher §7520 rate is an outright gift to this technique. A discount rate above 5 percent makes the 10% remainder test under §664 easier to satisfy at younger beneficiary ages and enlarges the estate tax charitable deduction.[61] Pair that with the first major wave of boomer estates now transferring seven figure retirement balances, and the testamentary CRT has moved from niche to necessary.

DESIGNING THE REBUILT STRETCH

Remember what the stretch actually felt like to the beneficiary: payments that started modest and grew over time. The unitrust recreates that experience. Because a CRUT pays a fixed percentage of trust assets revalued every year, the payments theoretically rise as the underlying portfolio grows, and the simulation works best when the payout rate is set at no more than 6 percent, leaving growth above the payout in the trust to push each year's check higher. Set at that level, the T-CRUT hands an adult child what the SECURE Act took away: an income stream that starts reasonable and builds across two decades or a lifetime.

Design the rate, the term, and the beneficiary count around the donor's intent. Where the donor expects the adult children to receive the majority of the value, choose a payout and duration that push most of the trust's economics to the income beneficiaries while still passing the 10 percent remainder test; the test is a qualification floor to clear, not a target to aim for.

61. The remainder must equal at least 10 percent of the value contributed. IRC §664(d)(1)(D), (d)(2)(D).

Could you use a testamentary charitable gift annuity instead? Of course you could. The T-CGA tends to be the better recommendation when the income beneficiaries will be older when the income starts, where annuity pricing is strong and contractual simplicity wins. Adult children inheriting a parent's retirement account, though, will typically be anywhere from 40 to 60 years old on average, and at those ages the unitrust usually fits better. The CRT also scales in a way the annuity cannot: a gift annuity agreement may name no more than two annuitants, while a single CRT can carry multiple income beneficiaries, one instrument serving the whole family.

PLANNER POINTERS

- This is drafted now, funded later. The trust instrument and the beneficiary designation must be coordinated, and the designation form is the controlling document.
- Run the 10% remainder test at realistic beneficiary ages. A lifetime unitrust for a 45 year old may fail where a 20 year term passes comfortably.
- Distributions carry out ordinary income first under the four tier rules, so set payout expectations honestly with the family.
- For blended families or spendthrift concerns, the CRT doubles as structure, not just tax planning.

THE ADDRESSABLE MARKET: COUNT THE TRUSTS, THEN COUNT THE IRAS

Chapter Five sizes the lead trust market by holding the number of trusts up against the number of households. Run the same exercise here and the result is even louder. The IRS's last published count by trust type shows 109,684 charitable remainder trusts on file nationwide, 93,822 unitrusts and 15,862 annuity trusts, and the filings were drifting down, not up: total split interest trust returns fell from 123,498 in Filing Year 2007 to 117,710 in 2011.[62]

Now look at the asset side of the ledger. Americans hold $47.6 trillion in retirement assets, $18.2 trillion of it in IRAs and another $13.8 trillion in defined contribution plans.[63] The balances large enough to justify a testamentary CRT are multiplying fastest of all. At Fidelity alone, one recordkeeper among many, 645,000 401(k) accounts and 571,622 IRAs now hold $1 million or more, up 26 percent and 32 percent respectively in a single year.[64] And at the top of the distribution, more than 28,000 taxpayers held aggregate IRA balances of $5 million or more in 2019, nearly four times the count just eight years earlier.[65]

THE TESTAMENTARY CRT MARKET, BY THE NUMBERS

109,684
Charitable remainder trusts on file with the IRS, the last published count by trust type

$18.2T
U.S. IRA assets, with $13.8 trillion more in defined contribution plans

645,000
401(k) accounts over $1 million at one recordkeeper alone, up 26% in a year

571,622
IRA millionaires at the same single recordkeeper, up 32% in a year

28,000+
Taxpayers with $5 million+ aggregate IRA balances, nearly 4x the 2011 count

$105T
Projected to flow to heirs through 2048, 81% of all transfers from boomers and older

© Planned Giving Interactive

62. IRS Statistics of Income, Split-Interest Trusts, Filing Year 2011 (SOI Bulletin): 93,822 charitable remainder unitrusts and 15,862 charitable remainder annuity trusts, 109,684 in total; total split-interest trust returns declined from 123,498 in Filing Year 2007 to 117,710 in Filing Year 2011. The SOI program published detail by trust type only through Filing Year 2012.

63. Investment Company Institute, Quarterly Retirement Market Data, First Quarter 2026 (assets as of March 31, 2026): $47.6 trillion in total U.S. retirement assets, including $18.2 trillion in IRAs and $13.8 trillion in defined contribution plans, of which $9.9 trillion is held in 401(k) plans.

64. Fidelity Investments, Q1 2026 Retirement Analysis, covering more than 54 million Fidelity recordkept IRA, 401(k), and 403(b) accounts: 645,000 401(k) accounts and 571,622 IRAs with balances of $1 million or more, up 26 percent and 32 percent, respectively, from the first quarter of 2025.

65. Joint Committee on Taxation data released by the Senate Finance Committee (2021), for tax year 2019: more than 28,000 taxpayers with aggregate IRA balances of $5 million or more, and 497 taxpayers with $25 million or more averaging over $150 million; compare GAO analysis of 2011 data finding nearly 8,000 taxpayers at the $5 million threshold.

Then add the clock. The nineteen birth years mapped in Chapter One's exhibit define this chapter's window too: over roughly the next 18 years the youngest boomers reach 80, the oldest reach 98, and the generation's estates settle. Cerulli projects $124 trillion in wealth transferring through 2048, $105 trillion of it to heirs, with nearly $100 trillion, 81 percent of all transfers, coming from baby boomers and older generations.[66] Retirement accounts ride at the front of that wave because they pass by beneficiary designation, and in most families the designation points what the surviving spouse does not consume toward the children, which is precisely the transfer the ten year rule now taxes hardest.

No official census counts households by combined IRA, 401(k), and 403(b) balance, so the honest way to state the market is as a range built from the verified trend. With million dollar accounts compounding at 26 to 32 percent a year at a single recordkeeper, and the $5 million tier nearly quadrupling in eight years, boomer households holding $2 million or more in retirement assets during this window are reasonably measured in the hundreds of thousands today, and plausibly exceed a million before the window closes.[67] Most of those households are already planning to leave some portion of those accounts to their children; that is what $105 trillion to heirs means at the level of one kitchen table. Set that population against 109,684 charitable remainder trusts, the accumulated inventory of five decades of planning, and the conclusion writes itself: the testamentary CRT's addressable market runs roughly ten deep for every CRT that has ever been counted, and it is arriving on a schedule the profession can read in a birth chart.

66. Cerulli Associates, "Cerulli Anticipates $124 Trillion in Wealth Will Transfer Through 2048" (Dec. 2024): $105 trillion to heirs and $18 trillion to charity; nearly $100 trillion, 81 percent of all transfers, from baby boomers and older generations; $62 trillion from high net worth and ultra high net worth households, roughly 2 percent of all households.

67. Author's extrapolation from the growth rates cited in notes 53 and 54; neither the IRS nor the Federal Reserve publishes a count of households by combined retirement account balance.

CASE IN POINT: ROBERT

Robert is 78, a retired project engineer in Naperville, Illinois, with a $1,200,000 IRA headed to his two children, Eric, 48, an anesthesiologist, and Tori, 46, a sales executive, both in their peak earning years. Withdrawn or distributed under the ten year rule, hundreds of thousands of dollars evaporate in federal income tax, concentrated in their highest bracket years. Naming a unitrust for Eric and Tori's joint lives as beneficiary instead delivers the full $1,200,000 into a tax exempt trust, generates an estate tax charitable deduction for the remainder value, spreads their income across roughly four decades at rates they can plan around, and endows Robert's charitable legacy, a gift to The Nature Conservancy, with what remains. And the fear that freezes this plan in most offices died on screen: the calculator ran the 10 percent remainder test live against the actuarial tables, and the design passed at 14.4 percent before the meeting ended.

FROM THE FIELD: THREE DEEPER INSIGHTS

1. The beneficiary form takes percentages, so the choice is not all or nothing. Naming the CRUT for 40 percent and the children outright for 60 percent gives the family immediate liquidity, keeps the smoothing and the legacy on the larger arc, and softens the most common family objection to the strategy.

2. For blended families, the consecutive interest design is the quiet star: income to the surviving spouse for life, then to the children, with charity guaranteed the remainder from one instrument that no one can rewrite later. Watch the 10 percent test as lives are added; every additional beneficiary presses on it.

3. Charitable intent is the admission ticket, not a footnote. However elegant the mechanics, this plan should not be considered for a donor without a genuine long term charitable vision; for that donor, systematic lifetime Roth conversions can serve the children better outright. The vision can take two shapes: operating charities the donor is passionate about, or a donor advised fund named as the remainder beneficiary so that future generations of the family make the grants, which turns the trust into a governance legacy as well as a financial one. When the intent is real, the CRT wins, because it is the only option that pays the children on a smoothed schedule and endows that legacy from the same pre tax dollar.

IN THE WEEDS: DRAFTING, THE TESTS, AND WHO SHOULD NOT DO THIS

Start with who keeps the stretch anyway: surviving spouses, disabled and chronically ill beneficiaries, minor children of the decedent until majority plus the ten year runout, and beneficiaries within ten years of the decedent's age all remain eligible designated beneficiaries with life expectancy payouts, so the testamentary CRT aims squarely at the adult child who is none of those.[68] Choose the unitrust over the annuity trust for younger beneficiaries: the CRAT must also survive the 5 percent probability of exhaustion test, which lifetime annuity trusts for beneficiaries in their forties and fifties routinely fail, while a 5 percent lifetime CRUT passes the 10 percent remainder test at ages a CRAT cannot approach.[69] Remember the character rule: the IRA proceeds arrive as tier one ordinary income inside the four tier system, so distributions to the children carry ordinary character until that layer is exhausted, which for a trust funded entirely with retirement assets means essentially forever. Set expectations accordingly, and coordinate the §691(c) deduction where estate tax was actually paid.[70] Above all, the beneficiary designation form is the controlling instrument. The most elegant trust in the file does nothing if the custodian's form still names the children outright.

68. IRC §401(a)(9)(E)(ii). For a surviving spouse, the rollover remains almost always superior to any trust arrangement.

69. Rev. Rul. 77-374, 1977-2 C.B. 329 (exhaustion test); Rev. Proc. 2016-42 (qualified contingency alternative); IRC §664(d)(1)(D), (d)(2)(D).

70. IRC §§664(b), 691(c); Treas. Reg. §1.664-1(d).

IN PRACTICE: WHERE THE TRUST DOCUMENT LIVES

Every testamentary CRT needs two things: a funding source and a governing instrument, and the first usually decides where the second lives. When the funding comes from the probate estate, the CRT provisions belong in the will. When it comes from assets held in a revocable living trust, they belong in the trust document. Simple enough. In the author's experience, though, the most practical funding source in most cases is neither. It is a beneficiary designation: an IRA, a 401(k), a life insurance policy, even a TOD or POD account. Naming the trust directly as beneficiary is the cleanest approach, and it keeps the retirement dollars moving by contract rather than through probate.

That choice raises the question Timothy Prosser framed memorably: where should the trust document "live"?[71] A beneficiary designation form has no room for twenty pages of trust provisions, so the terms must be recorded somewhere else, and there are three workable homes. The provisions can be written into a new will or codicil, with one drafting caution: the designation form and the will must be coordinated so the retirement dollars are allocated specifically to the CRT and not generally to the estate, which could create an unnecessary income tax liability at the estate level. They can be written into the revocable living trust document, even though the funding will come from the IRA rather than from trust assets; the designation simply points to them, for example, "to the trustee of the charitable remainder trust described in Article X of the trust instrument executed by me on [date]." Or they can live in a standalone instrument drafted for the purpose, the so-called dry trust: a separate trust created during life, funded with a nominal amount such as ten dollars, intended to sit quietly until the donor's death.

The dry trust carries two traps, one federal and one state. The federal trap: never draft it in irrevocable form. The regulations require a CRT to be administered as a CRT from the date of its creation, so an irrevocable dry trust would owe a taxpayer identification number, annual fiduciary returns, and tiny beneficiary payments from the day the ten dollars arrived, and skipping those formalities risks disqualification of the trust and, with it, the estate tax charitable deduction.[72] The fix is to create the standby instrument as a revocable trust whose nominal funding the trustee need not invest: no income, no payments, no reporting of its own, just a valid receptacle under state law that converts to a CRT at the donor's death. The state trap: some states do not acknowledge unfunded trusts, and unfunded irrevocable trusts in particular, so confirm local law before relying on a standby instrument and let the nominal funding do its quiet work of making the trust real.

71. Timothy J. Prosser, "Where Should a Testamentary CRT Document 'Live'?," TIAA Kaspick, LLC.

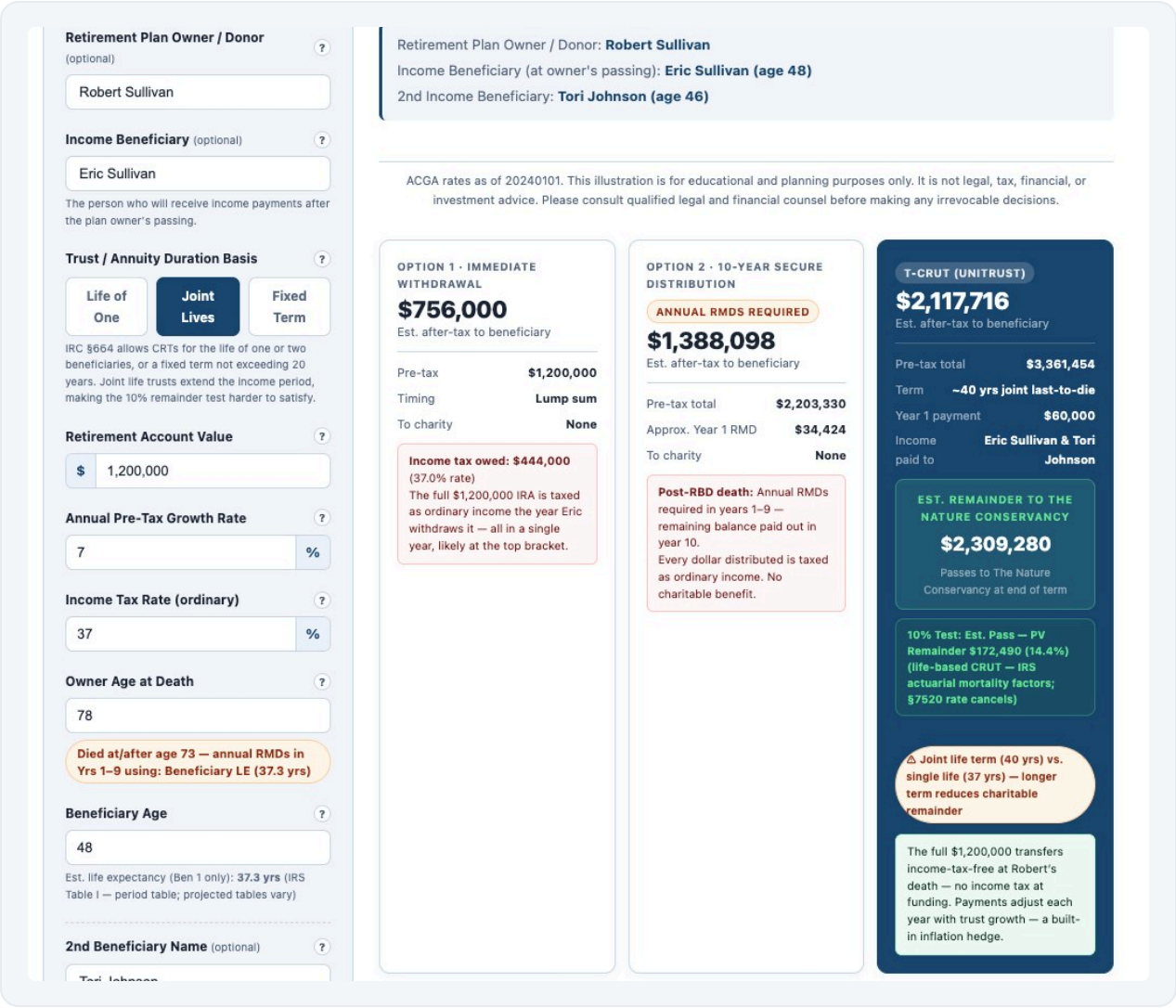
72. Treas. Reg. §1.664-1(a)(4).

The $1,200,000 IRA, two ways: under the ten year rule the children net $780,000 after tax and the story ends; the twenty year unitrust pays them a comparable $884,000 over a longer arc and still delivers a $1.38 million remainder to charity.[73]

INSIDE WORKSTATION PRO: THE TESTAMENTARY CRT CALCULATOR

The exhibit above makes the case with one set of assumptions; the Workstation makes it with the donor's own, and the screen on the next page is Robert's. The Testamentary CRT Calculator takes his $1,200,000 IRA, a 7 percent growth rate, the 37 percent bracket, death at 78, and the ages of Eric and Tori, and lays three futures side by side: an immediate withdrawal that nets $756,000 after a $444,000 tax bill lands in a single year; the ten year SECURE distribution, with the post required beginning date RMDs computed year by year, netting $1,388,098; and the joint lives T-CRUT, which pays $60,000 in year one, adjusts with trust growth as a built in inflation hedge, and delivers an estimated $2,117,716 after tax to Eric and Tori across roughly forty joint life years while a $2,309,280 remainder passes to The Nature Conservancy. The tool also runs the 10 percent remainder test live against the actuarial tables, passing here at 14.4 percent, the drafting question from the weeds answered before the meeting ends.

73. Assumes level ten year withdrawals, a 6 percent net trust return, a 5 percent unitrust payout, and a 35 percent beneficiary bracket on all distributions; no reinvestment is modeled on either side, and the estate tax charitable deduction for the remainder interest is not included. Individual results vary with returns, payout design, and brackets.



Robert's three futures on one screen: the immediate withdrawal nets $756,000, the ten year rule nets $1,388,098, and the joint lives T-CRUT delivers an estimated $2,117,716 after tax to Eric and Tori, with a $2,309,280 remainder to The Nature Conservancy, the 10 percent test passing live at 14.4 percent, and the joint life design flagged against the single life alternative.

5 THE RARE AIR
The Charitable Lead Unitrust in a High*(er)* Rate Environment

Best fit: High net worth donors focused on wealth transfer, especially to grandchildren and other skip persons

The rarest gift in this paper, and deliberately saved for last. For higher net worth donors focused on wealth transfer, the lead trust conversation has flipped. The parenthetical in this chapter's title is doing real work: nobody would call today's rates historically high, and this paper does not. Measured against the near zero years that shaped a generation of lead trust planning, though, the §7520 rate now sits at its highest sustained level in roughly two decades, and higher, not high, is all this technique requires. The CLAT was the darling of the near zero rate years because its deduction is the present value of a fixed annuity stream: cheap money meant a large deduction and a low hurdle. With the §7520 rate holding above 5 percent, that deduction has compressed and the growth hurdle is steep. The CLUT is nearly indifferent to the rate, because its payout is a percentage of annually revalued assets. Its deduction holds firm while the CLAT's erodes.[74]

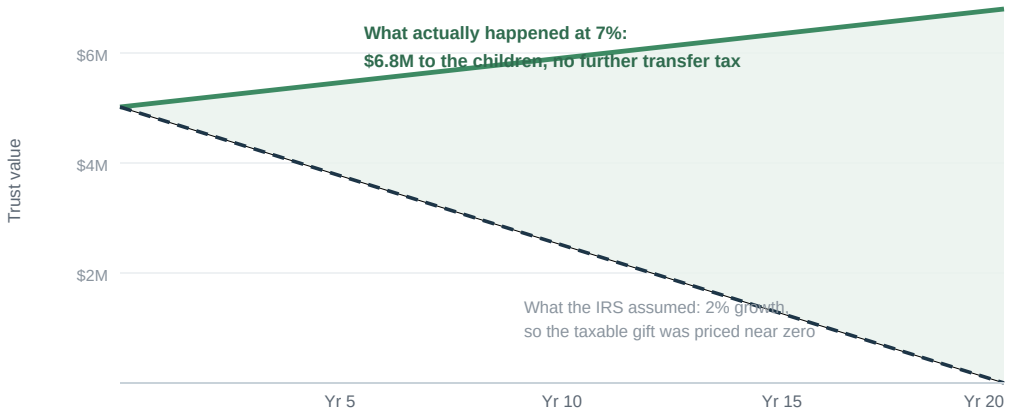
FOUNDATIONS, PART ONE: HOW A LEAD TRUST MOVES WEALTH

Strip away the acronyms and a charitable lead trust is a simple machine with two outputs. Charity is paid first, a stream of payments for a term of years; the family receives whatever remains when the term ends. The transfer tax cost is fixed on day one: the taxable gift equals the amount contributed minus the present value of charity's stream, and that present value is computed using the §7520 rate as the assumed growth rate of the trust.[75] Read that sentence again, because the entire strategy lives inside it: the IRS prices the family's remainder by assuming the trust will grow at the §7520 rate. The actual trust is under no such obligation.

74. For grantor lead trusts, IRC §170(f)(2)(B); for the gift and estate tax deductions, IRC §§2522(c)(2)(B), 2055(e)(2)(B); valuation under IRC §7520, with rates published monthly by revenue ruling.

75. IRC §§2522(c)(2)(B), 7520; see Rev. Proc. 2007-45 (sample inter vivos charitable lead annuity trust provisions).

In the near zero years, that assumption made the annuity version a wealth transfer machine for adult children. Take a $5,000,000 CLAT funded when the §7520 rate was 2 percent, paying charity $305,784 a year for twenty years. At the assumed 2 percent growth, those payments consume the trust almost exactly, so the remainder is valued near zero and the taxable gift is near zero. But if the portfolio actually earns 7 percent, the arithmetic runs away from the assumption: $6.8 million arrives at the children at the end of the term with no additional gift or estate tax, all of it having grown outside the donor's gross estate.[76] A donor can grasp that in one meeting: beat the hurdle, and everything above it belongs to the kids.



Trust value after each annual payment to charity

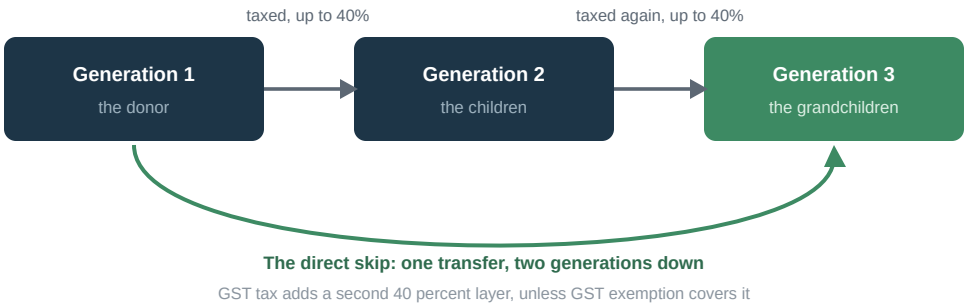
The classic low rate CLAT: the IRS assumed 2 percent growth and priced the gift near zero; the portfolio earned 7 percent, and the shaded wedge, $6.8 million, passed to the children with no further transfer tax.

The unitrust cannot run that play as hard, and it is worth being honest about why. A CLUT's payout is a fixed percentage of the trust's value, revalued every year. When the portfolio outperforms, the charity's checks grow right along with it, so the excess growth is shared with charity rather than captured entirely for the family. The estate freeze arithmetic is real but less dazzling, which is exactly why the CLAT owned the conversation for twenty years of cheap money. So why does this chapter still crown the unitrust? Two reasons. The first is the rate environment, which the crossover section ahead will quantify. The second is an entire class of remainder beneficiaries for whom the CLUT wins outright: grandchildren. Explaining that requires a short detour into the strangest transfer tax most planners never formally studied.

76. Illustration assumes a $5,000,000 twenty year charitable lead annuity trust with level annual year end payments of $305,784, sized to zero the remainder at a 2 percent §7520 rate; actual growth of 7 percent produces a remainder of $6,812,673. Excess growth above the §7520 assumption passes free of additional transfer tax.

FOUNDATIONS, PART TWO: THE GENERATION SKIPPING TRANSFER TAX IN PLAIN ENGLISH

The estate and gift tax system is designed to take its toll once per generation. Wealth moving from the donor to the children is taxed; the same wealth moving later from the children to the grandchildren is taxed again. Leave assets directly to the grandchildren and one toll booth simply vanishes, which is why Congress closed the route with the generation skipping transfer tax, enacted first in 1976 and rebuilt in its modern form in 1986 after the original version proved unworkable: a separate, additional tax, imposed at the highest estate tax rate, currently 40 percent, on transfers to skip persons.[77] A skip person is a grandchild or anyone else two or more generations below the donor, and for unrelated beneficiaries, anyone more than 37½ years younger. One humane exception: where a grandchild's parent has already died, that grandchild moves up a generation and is not a skip person at all.[78]



Why the GST tax exists: the transfer tax system expects a toll at every generation, so the direct skip to grandchildren carries its own 40 percent layer in place of the one it bypasses, unless GST exemption absorbs it.

The system also provides the shield: every individual has a GST exemption equal to the estate tax exclusion, $15,000,000 per person beginning in 2026, which can be allocated to transfers.[79] The bookkeeping runs through a fraction called the inclusion ratio: allocate exemption equal to the full value of a transfer and the ratio is zero, meaning fully exempt; allocate nothing and the ratio is one, meaning fully exposed; the tax actually imposed is 40 percent multiplied by the ratio.

77. IRC §§2601, 2641 (applicable rate equals the maximum federal estate tax rate times the inclusion ratio). The original GST tax of the Tax Reform Act of 1976, P.L. 94-455, was retroactively repealed by the Tax Reform Act of 1986, P.L. 99-514, which enacted the current regime.

78. IRC §§2613, 2651(d); the predeceased parent rule appears in IRC §2651(e).

79. IRC §2631; P.L. 119-21 (2025) sets the basic exclusion amount, to which the GST exemption is tied, at $15,000,000 indexed.

The magic is that a trust with an inclusion ratio of zero stays exempt forever, no matter how large it grows, which is why allocating exemption to assets before their growth is the most leveraged move in transfer tax planning.[80]

Now the lead trust wrinkle, and the whole reason the unitrust owns the grandchild lane. For a CLAT, Congress refused to allow the cheap lock. You cannot simply allocate exemption against the near zero remainder at funding, because the entire strategy is that the actual remainder will be far larger than the assumption. So §2642(e) makes the allocation provisional: the exemption you allocate is grown on paper at the original §7520 rate to the end of the term, and only then compared with the remainder that actually exists. If the trust outperformed, the adjusted exemption falls short, the inclusion ratio rises above zero, and the excess is exposed to the 40 percent tax. Notice what happened: the CLAT's superpower and its GST weakness are the same fact. The outperformance that escapes the gift tax is precisely what the GST recomputation claws back into reach. The CLUT is exempt from the recomputation entirely, because its charitable payout shares proportionally in performance, so there is no arbitrage against the assumption to police: the inclusion ratio you fix at funding stays fixed forever, regardless of how well the trust does.[81] Grandchildren in the remainder therefore point to the unitrust almost by definition, and the exhibit in the weeds section at the end of this chapter puts numbers on exactly how much the CLAT leaks as performance improves.

With those foundations laid, the current environment argument reads differently than it would have five years ago, and it is worth stating precisely.

The crossover is not folklore; it is arithmetic. For a term of years lead trust paying annually at year end, the two deductions are exactly equal when the §7520 rate equals the payout rate.[82] Below that rate the annuity version deducts more; above it, the unitrust wins, and the gap widens as rates climb. With a 5 percent payout, the crossing sits at exactly 5.00 percent, which is why the current environment belongs to the CLUT.

The CLUT also owns the generation skipping lane outright. GST exemption allocated to a CLAT is recomputed at the end of the term under §2642(e), so a CLAT that outperforms (the entire point) leaks GST exposure. A CLUT takes exemption allocation at funding with a fixed inclusion ratio.[83]

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80. IRC §2642(a).

81. IRC §2642(e); Treas. Reg. §26.2642-3. The recomputation applies only to charitable lead annuity trusts; a charitable lead unitrust allocates exemption against the actual remainder interest at funding, and the ratio does not change with performance.

82. Lead interests computed under the standard actuarial framework of IRC §7520 and Treas. Reg. §§20.2031-7 and 1.664-4, including the Table F adjustment for payment timing. For a term of n years and payout p with annual year end payments, the CLAT lead interest is $p(1 - (1 + i)^{-n})/i$ and the CLUT lead interest is $1 - (1 - p/(1 + i))^{n}$; at i = p both reduce to $1 - (1 + p)^{-n}$.

83. IRC §2642(e); Treas. Reg. §26.2642-3.

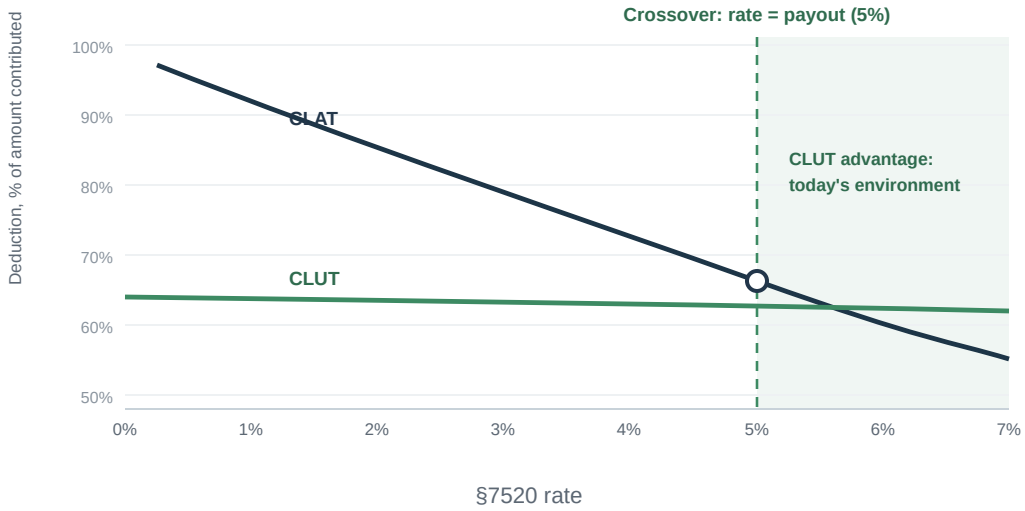
AN OPEN QUESTION: OBBBA'S HAIRCUTS AND THE NON GRANTOR LEAD TRUST

One more piece of current law belongs in this conversation, because it is unsettled. OBBBA's new charitable limits were written with individuals in view: the 0.5 percent floor applies to itemizing individuals, not to estates and trusts. A non grantor lead trust takes its charitable deduction under §642(c), which allows the deduction "without limitation," and many practitioners read that phrase to mean that the percentage limits disciplining individual donors simply do not apply at the trust level. The harder question is the 2/37 haircut. The original Pease limitation expressly excluded estates and trusts through old §68(e); OBBBA's rewrite conspicuously omits that exclusion, and a number of commentators conclude the new limitation likely does reach estates and trusts, the "without limitation" language notwithstanding. The dollars on a large lead trust are real but rarely decisive; the uncertainty is the problem, because the trust, not the donor, bears the tax if the deduction is trimmed. Until Treasury or the IRS provides guidance, particularly on whether the haircut reaches a non grantor CLT's §642(c) deduction, model the trust both ways and put drafting counsel in the room when the assumption is chosen.[84]

84. IRC §642(c) ("without limitation"); IRC §68, as amended by P.L. 119-21, omitting former §68(e), which had excluded estates and trusts; see Steinberg & Gespass, *Charitable Contributions after OBBBA* (Finseca 2026) (concluding the limitation likely applies to estates and trusts and urging guidance).

When the goal is children rather than grandchildren, or if rates retreat well below 5 percent, the CLAT deserves a fresh look. In this environment, lead with the unitrust.

The lead payments themselves offer real flexibility. The annual unitrust distributions can flow directly to one or more operating charities, or into a donor advised fund, which lets the family adjust grantees year to year without amending the trust. For donors whose philanthropic priorities are still taking shape, the DAF as lead beneficiary keeps the tax structure fixed while the giving stays fluid.



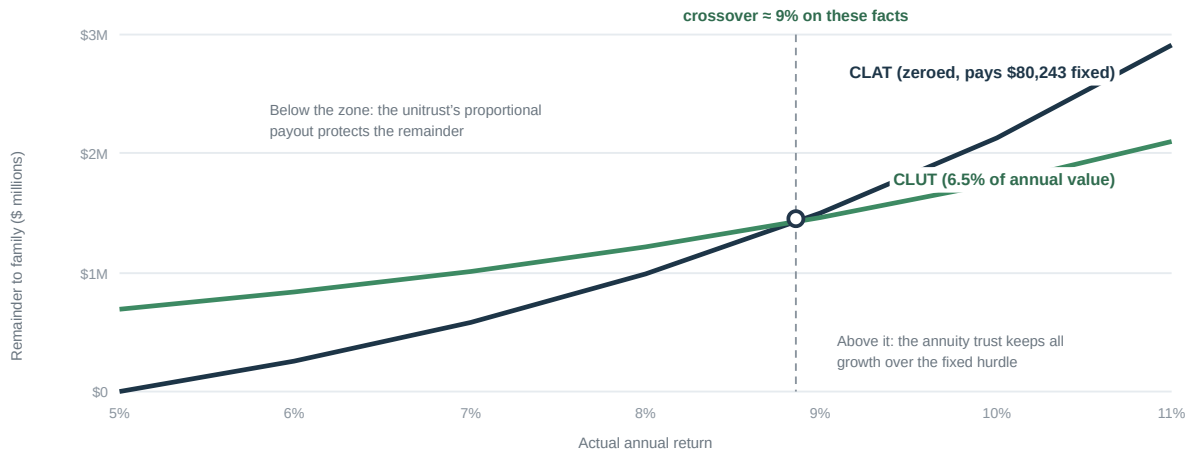
Computed deduction curves for a 20 year term lead trust with a 5 percent payout, annual payments at year end. The curves cross exactly where the §7520 rate equals the payout rate.

WHY NOW

This is the most conditions dependent gift of the five. Rates above 5 percent strip away the CLAT's traditional advantages while leaving the CLUT untouched, and the first great wave of generation skipping wealth transfer among boomer families is now underway. When the deduction edge narrows and grandchildren enter the remainder, the unitrust usually wins outright.

THE SECOND CROSSOVER: WHAT THE TRUST ACTUALLY EARNS

The crossover on the previous page is arithmetic, priced at funding and immune to markets: it tells you which structure buys the bigger deduction. The second crossover is a bet, and it decides the question families actually ask: which structure leaves more at the end? That answer turns on the actual annual return, not the §7520 rate. A CLAT's payout is a fixed drain, so weak returns eat principal, and at low enough returns the annuity exhausts the remainder entirely; strong returns pour everything above the fixed hurdle into the family's side. A CLUT's payout is proportional: it can never exhaust the trust on the downside, because the payment shrinks with the corpus, and on the upside the charity shares the growth. Two payout designs, two different bets.



Computed on $1 million over a 20 year term funded at a 5.0 percent §7520 rate: a fully zeroed out CLAT paying $80,243 a year against a 6.5 percent CLUT, straight line returns, annual year end payments, before any GST accounting.

Read the chart as a zone, not a magic number. On these facts the lines cross near 9 percent, close to where Gerald's table lands later in this chapter, but a richer payout, a longer term, a different funding rate, or the GST toll on an outperforming CLAT all move the crossing, and a straight line table flatters the annuity trust: a fixed drain is sequence of returns sensitive, while a unitrust self adjusts through a bad early decade. The Workstation's Lead Trust Illustrator runs both structures against any return assumption side by side, so this conversation can happen on the donor's actual facts instead of this page's.

THE OPPORTUNITY GAP: COUNT THE TRUSTS, THEN COUNT THE HOUSEHOLDS

Here is a fact based way to size this technique's untapped market. The last time the IRS published detailed statistics on split interest trusts, charitable lead trusts of every kind, grantor and non grantor, annuity and unitrust, numbered 6,617 filings nationwide. That is beside 109,684 charitable remainder trusts on file the same year, and barely 6 percent of all split interest trust returns.[85] The Service has not published a count by trust type since, so roughly six and a half thousand remains the best official measure of how many lead trusts exist in the entire country.

Now count the households. UBS counts 123,870 Americans with net worth above $50 million, more than half of the world's 243,060, and because wealth at that altitude is held as a family balance sheet, each effectively marks a household where this conversation belongs. The pipeline is swelling: the United States added more than 440,000 new millionaires in 2025 alone, with the fastest growth in the wealth bands above $5 million.[86] Set the two numbers side by side. Even if every charitable lead trust in the country belonged to a different $50 million household, only about one in nineteen of those households would have one. The natural constituency for this chapter's technique outnumbers the technique's entire installed base by roughly nineteen to one.

THE LEAD TRUST MARKET, BY THE NUMBERS

6,617
Charitable lead trusts on file with the IRS, the last published count by trust type

109,684
Charitable remainder trusts on file the same filing year

123,870
American households above $50 million in net worth, per UBS's count of adults

51%
Share of the world's $50 million+ individuals who live in the United States

19 to 1
$50 million+ households for every lead trust in existence

440,000+
New U.S. millionaires added in 2025, fastest growth above $5 million

© Planned Giving Interactive

The gap is not ignorance of the wealth; it is unfamiliarity with the vehicle. The lead trust sat out the low rate decade in most planning conversations because the CLAT's arithmetic got all the attention, and the CLUT, the version this chapter argues for, was rarely modeled at all. A $15,000,000 exemption, a rate environment above 5 percent, and the largest intergenerational wealth transfer in history are now pulling in the same direction. The planner who can model a CLUT confidently is walking into a market where the product is nearly unbuilt and the buyers have already arrived.

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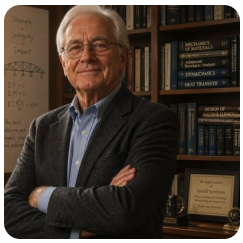
85. IRS Statistics of Income, Split-Interest Trusts, Filing Year 2011 (SOI Bulletin): 117,710 Form 5227 returns, comprising 93,822 charitable remainder unitrusts, 15,862 charitable remainder annuity trusts, 6,617 charitable lead trusts, and 1,402 pooled income funds. The SOI split-interest trust program published detail by trust type only through Filing Year 2012.

86. UBS Global Wealth Report 2023 (wealth as of year end 2022): 243,060 adults worldwide with net worth above USD 50 million, of whom 123,870 were in the United States; higher bands included 79,490 adults above USD 100 million worldwide. UBS counts adults rather than households; wealth at this level is generally held jointly, so the adult count is a close proxy for households (couples where both spouses clear the threshold make the household count modestly lower). UBS Global Wealth Report 2026: more than 440,000 new USD millionaires in the United States in 2025, with the strongest growth in segments above USD 5 million.

PLANNER POINTERS

- Choose grantor or non grantor status deliberately. A grantor CLUT front loads an income tax deduction but taxes trust income to the donor for the term; a non grantor CLUT offers no income tax deduction but removes the income from the donor's return entirely.[87]
- Allocate GST exemption at funding and document the fixed inclusion ratio; this single mechanic is why the unitrust owns the skip person lane.
- Consider a donor advised fund as the lead beneficiary when the family wants year to year flexibility among grantees without trust amendments.
- Model payout and term against realistic return assumptions. The family receives what growth leaves behind, so an overreaching payout starves the remainder the plan exists to create.

CASE STUDY: GERALD AND THE $3,000,000 QUESTION



Every argument in this chapter eventually meets a real donor, so here is one, drawn from an actual analysis with the name and institution changed. Gerald is a retired professor from the college of engineering who built his wealth the quiet way. Early in his career his textbooks produced significant royalties, and he invested them; he also consulted for a well known pharmaceutical company that paid him partly in equity, a position he never sold. A frugal investor across five decades, he compounded all of it into a net worth of roughly $20 million, including about $3 million of that single pharmaceutical stock, now carrying almost no basis. He wants a lead trust to support the university where he taught for four decades, with whatever remains at the end passing to his eight grandchildren, who today range in age from six months to fifteen. Gerald is divorced, so his estate faces federal estate tax with no spouse's exemption to lean on, and his instinct, correct before any planner ever spoke to him, was that moving future growth out of his estate now is worth real money. Gerald's question is the one this whole chapter has been circling: annuity trust or unitrust? He is genuinely on the fence, and he should be, because the honest answer depends on the rate of return.

87. IRC §170(f)(2)(B) (grantor lead trusts); IRC §642(c) (charitable set aside deduction for non grantor trusts).

Both structures were illustrated on identical assumptions so the comparison would be fair: $3 million of funding, a thirty year term, a 5.0 percent §7520 rate, and a 9.0 percent assumed annual return. Neither was tilted toward the other. Here is what came back.

ON IDENTICAL ASSUMPTIONS	LEAD ANNUITY TRUST (CLAT)	LEAD UNITRUST (CLUT)
Total support to the university	$9,862,801	$7,115,237
Projected to grandchildren	$21,873,748	$17,230,474
GST exemption required	$3,000,000	$1,257,341
Inclusion ratio	0.407	0.000
Generation skipping tax	$3,563,168	None
Net to the grandchildren	$18,310,580	$17,230,474
Delivered per dollar of exemption	$6.10	$13.70

Read the table the way Gerald's attorney will. On these assumptions the annuity trust delivers about $1.1 million more to the grandchildren and sends the university more as well; it is not a bad structure, and pretending otherwise would not survive the meeting. But look at what it costs to get there. The CLAT consumes the entire $3 million of GST exemption, nearly two and a half times what the unitrust requires, and still cannot reach a zero inclusion ratio: the §2642(e) recomputation leaves 0.407 of the remainder exposed and a $3,563,168 tax due at the end of the term. Allocate only the $1,257,341 the unitrust needs and the inclusion ratio climbs to 0.752, the tax to $6,575,837, and the grandchildren's share falls to $15,297,911, which is $1.9 million behind the unitrust on identical exemption. Measured per dollar of exemption spent, the unitrust delivers more than twice as much.

The deeper issue is what kind of bet each structure makes. The annuity trust is a leveraged wager that the concentrated stock will outrun a fixed hurdle for thirty consecutive years, with the GST bill deferred to the end of the term, when the recomputation finally measures it. The unitrust locks the GST answer in at funding and shares the returns with the charity along the way. Depending on the rate the portfolio actually earns, either structure can win, and the sensitivity table on the next page is where the fence Gerald is sitting on actually lives.

IF THE PORTFOLIO EARNS	ANNUITY TRUST, NET OF GST TAX	LEAD UNITRUST
5%	Nothing	$5,434,085
6%	$3,423,252	$7,281,787
7%	$8,087,412	$9,730,193
8%	$13,814,279	$12,965,827
9% (illustrated)	$18,310,580	$17,230,474
10%	$25,583,314	$22,836,765
11%	$34,459,787	$30,187,971

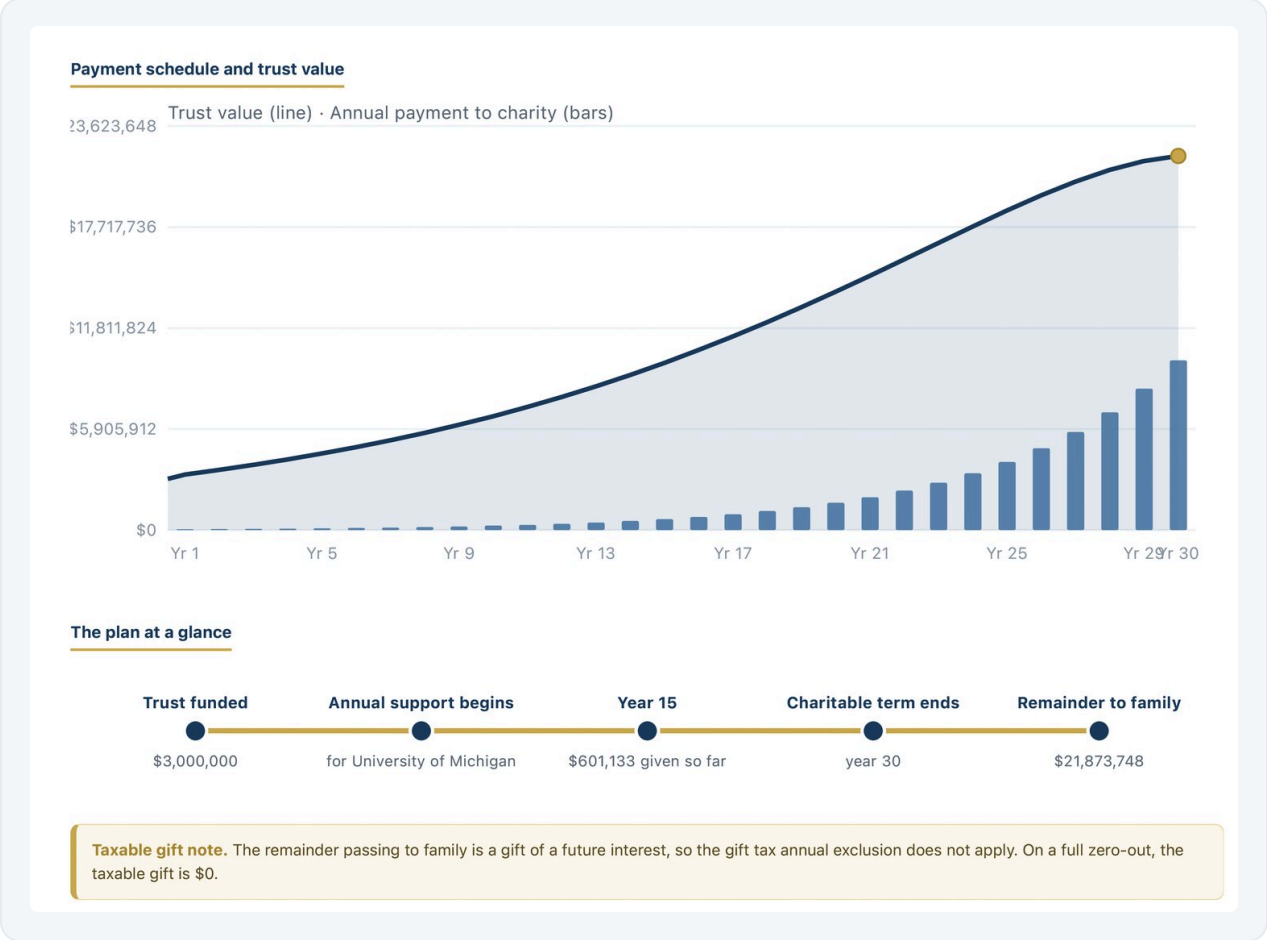
The unitrust column carries no generation skipping tax at any return, because the inclusion ratio was settled at funding. Below roughly 8.5 percent the unitrust wins outright, and at a 5 percent return the annuity trust pays the university $9.9 million and leaves the grandchildren nothing at all. Above the crossover the annuity trust wins by a margin that narrows once the exemption it consumes is counted. And notice the irony sitting inside Gerald's own illustration: with grandchildren as the remainder beneficiaries, the 9 percent return the illustration assumes is almost exactly the return the annuity trust needs just to justify choosing it over the unitrust. The CLAT's case rests on its own assumption clearing its own hurdle, with half a point to spare. Two further notes belong in the file. The annuity illustration relies on payments that increase 20 percent each year, a widely used design the IRS has never ruled on in a lead trust, while the unitrust rests on settled ground. And because the stock carries almost no basis, the trust's own §642(c) deduction, drafted to permit distributions of capital gain, gives the trustee a thirty year runway to unwind the concentrated position against the annual charitable payments and hand the grandchildren a diversified portfolio rather than a single stock, the funding point from the weeds section priced in dollars.

The recommendation: the thirty year unitrust at a 3 percent payout, remainder to a single trust for the eight grandchildren. Gerald applies $1,257,341 of exemption, roughly 8 percent of what he has, and in exchange every dollar the trust earns for thirty years sits permanently outside the transfer tax system: $17,230,474 to the grandchildren, $7,115,237 to the university, no generation skipping tax, and nothing left to find out later. The annuity trust may produce a larger number. It will not produce a certain one.

About this case. Adapted from an actual client analysis by the author; the donor's name and institution have been changed. Both illustrations are hypothetical, assume the stated returns and §7520 rate throughout the term, and are provided for discussion purposes only; actual results will differ.

INSIDE WORKSTATION PRO: THE LEAD TRUST ILLUSTRATOR

Every chapter in this paper ends at a Workstation screen, and this one ends at the screen Gerald actually reviewed. The Lead Trust Illustrator renders the annuity side of his comparison exactly as the donor sees it: the trust value line climbing toward $23.6 million while the bars beneath it trace the escalating annual payments, small in the early years and growing 20 percent a year, which is precisely the design feature the case study weighs. The plan at a glance timeline walks the donor from funding to remainder in five stops, and the taxable gift note prices the zero out on the spot.



The annuity trust from Gerald's comparison, one screen: $3,000,000 funded, thirty years of annual support, payments concentrated late in the term by design, and a $21,873,748 projected remainder to family, with the gift tax zero out noted beneath the timeline.

FROM THE FIELD: THREE DEEPER INSIGHTS

1. Respect the exemption math before proposing the trust. OBBBA fixed the basic exclusion at $15,000,000 per person beginning in 2026, indexed and permanent, so the CLUT's true lane is the estate clearly above exemption, or the donor leveraging GST exemption against growth assets. Below those lines, simpler tools win, and saying so builds the credibility that closes the larger cases.[88]
2. Fund into weakness. Because everything above the payout passes to the remainder, contributing high conviction growth assets at depressed valuations maximizes the excess growth the family captures, and the annual revaluation means the charity shares fairly in the down years instead of draining a fixed sum from a shrinking corpus.
3. Keep the shark fin in the drawer, not the trash. Backloaded, escalating payment designs are a CLAT only tool, and if rates retreat below the payout line while the client's goal is children rather than grandchildren, the escalating CLAT re enters the conversation. Vehicle follows goal and rate; the planner who holds both structures wins in every environment.

IN THE WEEDS: GRANTOR STATUS, THE §2642(E) ARITHMETIC, AND FUNDING

The grantor election is the chapter's biggest fork. A grantor CLUT delivers an upfront income tax deduction, subject to the lower percentage ceilings that apply to gifts for the use of charity, and in exchange the donor pays tax on the trust's income for the entire term; if grantor status ends early, including at death, part of the deduction is recaptured.[89] A non grantor CLUT offers no personal deduction but takes its own unlimited §642(c) deduction for amounts paid to charity, removing the lead payments from any personal return, which is often the better trade for a donor already at the deduction ceilings. Either way the trust lives under the private foundation rules by cross reference, so self dealing, excess business holdings, and jeopardizing investments all apply, which is why closely held stock and leveraged assets need counsel's review before funding.[90]

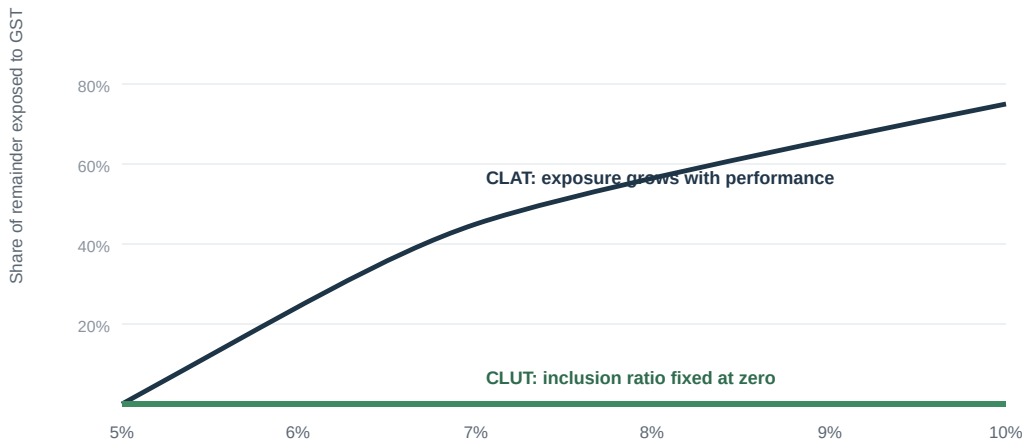
88. P.L. 119-21 (2025) (basic exclusion amount of $15,000,000 for estates of decedents dying and gifts made after December 31, 2025, indexed thereafter).

89. IRC §170(f)(2)(B) (deduction and recapture); the 30 and 20 percent of AGI ceilings for contributions for the use of charity under IRC §170(b)(1)(B), (D).

90. IRC §4947(a)(2), applying IRC §§4941, 4943, 4944; IRC §642(c).

Fund with marketable securities where possible: the unitrust requires an annual revaluation, and hard to value assets turn that yearly exercise into a yearly appraisal bill. Within the marketable universe, the ideal funding assets are cash and income producing investments, sized so the portfolio's own yield carries a meaningful share of each lead payment. A trust funded with pure growth assets must sell something every year to write charity's check, and every one of those sales is a taxable event, recognized inside the trust for a non grantor CLUT and passed straight onto the donor's return for a grantor CLUT. The §642(c) deduction absorbs much of the resulting income in the non grantor design, but the trustee is still left managing gain recognition, distribution character, and payment timing all at once. Cash and income producers keep the lead payments flowing without forced liquidation; anything else demands a considerably more strategic trustee.

And the §2642(e) arithmetic deserves to be seen, because it is the whole GST case in one picture. For a CLAT, exemption allocated at funding grows on paper at the original §7520 rate; if the trust merely matches that rate, the adjusted exemption exactly covers the remainder and the inclusion ratio is zero, but every point of outperformance leaves remainder the exemption never reaches. The exhibit runs the numbers for a $5,000,000, twenty year CLAT: at 7 percent growth, 45 percent of the remainder is exposed to GST tax, and at 9 percent, two thirds. The CLUT never enters the race, because its allocation fixes the inclusion ratio on day one.[91]



Why the unitrust owns the skip person lane: the share of a $5,000,000 CLAT remainder exposed to GST tax rises steeply as the trust outperforms the 5 percent rate assumed at funding, while the CLUT inclusion ratio is fixed at zero regardless of performance.

91. IRC §2642(e); Treas. Reg. §26.2642-3. Exhibit assumes exemption allocated at funding equal to the present value of the CLAT remainder at a 5 percent §7520 rate, a 5 percent of initial value annuity, and a twenty year term.

HONORABLE MENTIONS: FIVE GIFTS THAT JUST MISSED THE LIST

Five gifts made the list, and a bonus swap rode along. Five more deserve seats just outside the ring, not because the tax outcomes are weaker, but because each carries a gate, of size, of subject matter, or of geography, that keeps it from being a volume play.

CLOSELY HELD C CORPORATION STOCK

For the right donor there may be no better asset to give. Founders' shares in a closely held C corporation are routinely the lowest basis asset on the entire balance sheet, often approaching zero, so a gift of long term shares to charity ahead of a liquidity event earns a fair market value deduction while the embedded gain, sometimes the largest single gain the donor will ever realize, leaves the picture entirely.[92] The gate is transactional cost: closely held stock requires a qualified appraisal, and the legal planning around redemptions and the prearranged sale doctrine takes real professional time, so the gift usually needs to exceed $250,000, and often closer to $500,000, before the economics justify the effort. Two practice notes: the gift belongs before any letter of intent is signed, for the same prearranged sale reasons Chapter Three walks through, and donor advised fund sponsors built for non cash receipt now take closely held shares routinely, converting a founder's paper into a granting account. Above that line, it is one of the great outcomes in charitable planning.

One new competitor for the founder’s attention belongs in the conversation, and it is why this gift sits here rather than in the top five. OBBBA rewrote the qualified small business stock rules for stock acquired after July 4, 2025: the old all or nothing five year cliff became a ladder, 50 percent of gain excluded at three years, 75 percent at four, and 100 percent at five, with the per issuer cap lifted from $10 million to $15 million (still measured as the greater of that amount or ten times basis) and the issuer’s gross asset ceiling raised from $50 million to $75 million.[93] The stock must be original issue C corporation stock in an active qualified trade or business, which is exactly the profile of the founder in this section. The planning consequence is straightforward: a founder who can exclude much or all of her gain outright has less tax pressure pushing her toward a charitable solution, and the pre sale gift now competes with a statute rather than with a full capital gains bill. That does not make the gift less valuable, it makes the conversation different. Gain above the cap, shares that miss the holding period ladder, and stock that never qualified in the first place all remain squarely in charitable territory, and for a donor who intends to give regardless, giving the shares still beats giving the after tax proceeds. Ask which shares are QSBS eligible before modeling anything.

LARGE GIFTS OF CASH

The simplest gift in the Code earns its mention at the top of the wealth ladder. OBBBA kept the 60 percent of AGI limit for cash gifts to public charities, and it is worth remembering that the ceiling stood at 50 percent for generations before 2018.[94] For high net worth and ultra high net worth donors whose passive income alone runs $3 million to $4 million a year, a $1 million annual cash gift fits comfortably inside the ceiling year after year, no appraisal, no committee, no closing. Cash also plays cleanup in the founder scenario above: when a pre sale gift of stock starts to make the buyer uncomfortable, a post sale gift of cash is the next best thing, with a larger income to absorb it and a deduction ceiling nearly twice as generous as the one appreciated property receives. For the seller who missed the pre sale window, the first tax year after closing is often the largest income year of her life, which makes it the single best year the 60 percent ceiling will ever have.

92. IRC §170(b)(1)(C) (fair market value deduction for long term capital gain property contributed to public charities); qualified appraisal required for closely held stock under IRC §170(f)(11) and Treas. Reg. §§1.170A-16, 1.170A-17 (publicly traded securities excepted). On prearranged sales, see Rev. Rul. 78-197 and the case law discussed in Chapter Three.

93. IRC §1202, as amended by P.L. 119-21 (2025) (tiered 50/75/100 percent exclusion at three, four, and five years for stock acquired after July 4, 2025; per issuer cap raised to the greater of $15 million or ten times basis; issuer gross asset ceiling raised to $75 million). Pre-OBBBA stock remains subject to the five year holding period and $10 million cap.

94. IRC §170(b)(1)(G) (60 percent of contribution base limit for cash gifts to public charities), enacted by the Tax Cuts and Jobs Act of 2017 and made permanent by P.L. 119-21 (2025); the general limit was 50 percent before 2018 under IRC §170(b)(1)(A). Large cash gifts remain subject to the 0.5 percent AGI floor and the 35 cent cap discussed in Chapter One.

RETAINED LIFE ESTATES ON HOMES AND FARMS

Still in favor, and squarely aimed at the boomer who intends to live in the home for the rest of her life. The donor deeds a personal residence or farm to charity today while reserving the right to live there for life, one of the few remainder gifts the partial interest rule expressly allows.[95] The gift is irrevocable, and the donor should walk in understanding exactly that, but in exchange the income tax deduction arrives now, for the present value of the remainder the charity will one day receive, while nothing about daily life in the home changes: the donor continues to pay the taxes, the insurance, and the upkeep, exactly as before. Rising §7520 rates have trimmed remainder values over the last three to four years, yet for the donors who actually make this gift, typically in their mid seventies and beyond, the deduction remains substantial, often a majority of the appraised value, precisely because the actuarial window is short. For the boomer who was never going to sell the house anyway, the retained life estate converts an asset that was already committed into a current deduction and a settled legacy. The gift also keeps a second act available: the donor who later leaves the home can contribute the retained life estate itself for a second deduction, or join the charity in a sale and divide the proceeds by actuarial shares.

ART AND ARTIFACTS, FROM THE COLLECTOR TO A RELATED USE

For the collector, not the artist, tangible personal property can be one of the most tax favored gifts in the Code, provided one rule is respected: the receiving charity must put the object to a use related to its exempt purpose, the painting to the museum wall, the archive to the university library. Meet the related use test and the collector deducts full fair market value on long term holdings; fail it and the deduction collapses to cost basis.[96] The gain avoidance is worth more here than with stock, because collectibles gain is taxed federally at up to 28 percent, plus the 3.8 percent net investment income tax, against 20 percent for shares. The artist's gift of her own work, by contrast, is ordinary income property deductible only at basis, which is why this mention belongs to collectors. Watch the paperwork: a qualified appraisal, Form 8283 with the charity's signature, and a three year holding expectation at the charity, since a disposition within three years claws back the fair market value deduction without the proper certification. And for works valued over $50,000, the donor can ask the IRS for a Statement of Value in advance, insurance worth having at that altitude.

95. IRC §170(f)(3)(B)(i) (remainder interest in a personal residence or farm excepted from the partial interest rule); Treas. Reg. §1.170A-12 (valuation of the remainder, including the required straight line depreciation adjustment for improvements); valuation under IRC §7520.

96. IRC §170(e)(1)(B)(i) (related use requirement for tangible personal property); IRC §170(e)(1)(A) (a creator's own works are ordinary income property deductible at basis); collectibles gain taxed at a maximum 28 percent under IRC §1(h)(4), plus the 3.8 percent net investment income tax of IRC §1411; recapture on dispositions within three years under IRC §170(e)(7); substantiation under IRC §170(f)(11).

HARVESTED COMMODITIES FROM PRODUCING FARMERS

In the Midwest this is a fall ritual: the producing farmer delivers a load of corn, soybeans, or wheat to the elevator in the charity's name and lets the charity sell it. Done correctly, the transaction is beautiful in its simplicity, because the benefit is not a deduction at all. The cash method farmer who gives raised grain never recognizes the sale, so the revenue stays off the tax return entirely, while every cost of producing that grain remains deductible on Schedule F.[97] For a self employed sole proprietor, the skipped income avoids federal and state income tax and self employment tax besides, a combined rate that can make a modest load of grain outperform a much larger gift of cash. The execution rules carry the weight: the gift must be unsold inventory delivered in the charity's name, the charity must take genuine dominion and control and make its own decision about when to sell, and there can be no prior sale commitment. Crop share landlords generally stand on different footing; this mention belongs to the producers.

The technique runs on two tracks. The first is the annual outright gift, anywhere from $1,000 to $10,000 and sometimes up to $50,000 of harvested grain given directly to charity each year, the farm country cousin of the QCD: simple, repeatable, and settled at the elevator. The second track is the big one. For the farmer approaching retirement, with depreciation running out and fewer deductions left to offset the sale of inventory, $100,000 or more of harvested grain can fund a charitable remainder trust. Because commodities are liquid the moment they reach the elevator, either a CRAT or a standard CRUT works, no special design required. The trust sells the grain untaxed, the farmer recognizes no income and no self employment tax on the contribution, and the payments that come back through retirement arrive without self employment tax as well, ordinary income under the four tier system but never earnings from self employment. For a producer staring down a final harvest and a thin deduction ledger, it is one of the most effective planning techniques in agriculture.

There is a natural drafting partner for the second track. Producing farmers tend to hold their deepest institutional relationships with land grant universities, and the gift planning offices at many land grant institutions will draft the charitable remainder trust themselves. The remainder does not have to be theirs alone: in many cases the farmer can name additional charities alongside the university, though a land grant that serves as trustee will usually require at least 50 to 51 percent of the remainder for itself as the price of administration. For the farmer, that is often an easy trade: professional drafting, institutional trusteeship, and room in the remainder for the church and the county hospital foundation too.

97. Campbell v. Prothro, 209 F.2d 331 (5th Cir. 1954); Rev. Rul. 55-138, 1955-1 C.B. 223; Rev. Rul. 55-531, 1955-2 C.B. 520 (no income realized on a cash method farmer's gift of raised commodities). The commodity is zero basis ordinary income property, so the charitable deduction is limited to basis under IRC §170(e)(1)(A), effectively nothing; the exclusion itself, including self employment tax under IRC §1401, is the benefit. Crop share landlords face the assignment of income authorities; see Tatum v. Commissioner, 400 F.2d 242 (5th Cir. 1968); Rev. Rul. 75-11, 1975-1 C.B. 27. On the retirement design, the trust's sale is shielded by IRC §664(c), and unitrust or annuity distributions are taxed under the four tier system of IRC §664(b) without constituting net earnings from self employment under IRC §1402.

THE FIVE AT A GLANCE

GIFT	IDEAL DONOR	PRIMARY TAX LEVER	FUNDING ASSET	COMPLEXITY
1. QCD	IRA owner 70½+, standard deduction filer	Income exclusion; satisfies the RMD; protects AGI driven benefits	Traditional or inherited IRA	Low
Bonus: Charitable Swap	Any donor with appreciated stock and a giving budget, itemizer or not	Gain removal plus full basis reset on repurchase	Appreciated public securities	Low
2. Real Estate CGA	Boomer landlord seeking income and an exit	Deduction plus ratable gain spreading via bargain sale	Appreciated rental or investment property	Moderate to high
3. Undivided Interest	Any donor divesting appreciated real estate	Deduction on the gifted share offsets gain on the retained share	Fractional interest in real property	Moderate; sequencing critical
4. Testamentary CRT	Donor leaving retirement assets to adult children	Tax exempt receipt of IRD; estate deduction; rebuilt stretch	IRA or qualified plan at death	Moderate; drafting driven
5. CLUT	High net worth donor with skip person heirs	Rate immune deduction; clean GST exemption allocation at funding	Diversified investment assets	High

THE COMMON THREAD

None of these strategies asks a donor to give more. Each one asks the donor to give smarter, sourcing the gift from the asset the tax code treats most favorably and timing it for the year the benefit is largest. That is the gift planner's real value in 2026: not persuading generosity into existence, but making sure the generosity that already exists is never taxed on its way out the door. Gift Planner’s Workstation Pro exists to put these conversations, the calculators behind them, and the documents that follow them within reach of every planner's desk.

About the Author

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A note on figures and citations. Statutory, regulatory, and ruling authority appears in the footnotes throughout this paper. Dollar limits and the §7520 rate are stated as of July 2026 and are indexed or reset over time; confirm current figures before relying on any illustration. This publication is educational and is not legal or tax advice; donors should consult their own tax and legal advisors before acting on any strategy described here.

How this paper was prepared. Prepared by the author with the assistance of artificial intelligence tools. All analysis, conclusions and recommendations were reviewed and verified by the author.

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