

**Charitable Gifts of Life Insurance and  
Retirement Plan Assets:  
New Opportunities Under the New Act**

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# Agenda

- **Retirement Plans Defined**
- **Qualified Charitable Distributions**
- **Life Insurance Defined**
- **Key Tax and Appraisal Points**
- **Tried and True**
- **Black and Blue**
- **It's Up To You**
- **Things You Must Do**
- **IRA and Insurance Planning Opportunities and Solutions**

# Retirement Plans Defined

- **Qualified Retirement Plans (Defined Benefit Plans and Defined Contribution Plans – e.g., 401(k), Profit Sharing, etc.)**
- **Non-Qualified Retirement Plans (deferred compensation, supplemental executive retirement plan)**
- **IRAs and RothIRAs**

**Testamentary Planning – ALL plans provide optimal benefits by naming a Charity as Beneficiary EXCEPT the Roth IRA**

**Life-time Planning – Only Traditional, Inherited, Rollover and Roth IRAs and INACTIVE SEP and SIMPLE Plans qualify for QCD treatment.**

# Qualified Charitable Distribution Rules

- Donor must be 70½ years old
- Each donor can contribute a maximum of \$100,000 per calendar year
- QCDs are not included in income and count against Required Minimum Distributions (RMDs)
- Donor may NOT take a check from the IRA and deliver it to a charity – this will not be a QCD
- QCDs create an effective 100% charitable income tax deduction even for non-itemizers
- Not subject to federal withholding and charity should provide a standard acknowledgment letter
- Distributions to private foundations, donor advised funds and supporting organizations do NOT qualify for QCD treat

# Life Insurance Defined/Products

**Contract exchanging a small known loss (premiums) for a large unknown loss (death benefit). Used to create an estate that doesn't yet exist (widows/orphans), generate liquidity (taxes, real estate or closely-held business) or complete a charitable gift.**

**1. Term – Fixed Period with No Cash Value Savings**

**2. Permanent – Life with Cash Value Savings**

**Whole, Variable, Universal/Adjustable (Paid-Up or Non-Paid Up and One or Two Lives)**

**Generally Tax-Free Death Benefit and Cash Value Growth (Inside Build-Up)**

# Key Taxation and Appraisal Points

1. Insurance (life or annuities) is ordinary income property. Therefore the charitable income tax deduction is LESSER of FMV or Adjusted Cost Basis.
2. Pension Protection Act Key Changes
  - \* Qualified appraiser must complete a qualified appraisal for policies \$5,000+
  - \* Form 8283 and Form 8282 must be filed

# Tried and True

1. Direct Gift of Old Policy

Donor keeps paying premiums if not paid-up.

2. Charity Applies for New Policy

Donor contributes assets to fund premium.

3. Beneficiary Allocation

Donor changes beneficiary designation to charity.

4. Donation Replacement – “Wealth Replacement”

Donor “replaces” an outright major gift, bequest, CGA, CRT or any other kind of planned gift. IRA replacement is especially beneficial.

5. CGA - Reinsurance

Charity shifts investment and longevity risk.



# Black and Blue

1. History - Vanishing Premium, Charitable Reverse Split Dollar, LILACs
2. Premium Financing - Third party financing for the policies – provides benefit to charity after paying back loans
3. CHOLI, FOLI, IOLI and STOLI - Promoters created “dead pools” with large numbers of donors. Mostly morphed into other programs including individual high net worth donors. Many used third party premium-financing partners

**Issues: Insurable interest, UBTI, private benefit, NALU and AALU (association groups have opposed these kinds of programs)**



# It's Up to You

1. **Life Settlement** - Selling a policy into the secondary market  
– 70+ and \$1 Million+ Face
2. **Life/Annuity Underwriting Arbitrage** – Purchase of Immediate Annuity and Life Insurance from two different carriers – can provide 5-9% rate of return
3. **Life Insurance in CRTs**- Donating or purchasing life insurance in a CRT, or an immediate annuity in a CRAT
4. **Annuity Donations** – Donating a fixed or variable annuity
5. **Life Insurance as an Asset Class** – Recharacterizing life insurance as a fixed income alternative – 5-7% IRR

# Things You Must Do

1. **Policy Management** - Assign one person to oversee insurance policies pre- and post-acceptance
2. **Policy Under-Performing** – Request in-force illustrations at 2% less than current rates every two years – compare against other policies too
3. **Donor Stops Paying Premiums** – Memo of Understanding should cover options: surrender, reduce paid-up, sell, charity pays, do nothing.
4. **Policy Valuation/Substantiation** – Annual statements for FASB compliance, also donor substantiation
5. **Critical Questions** – References and compensation

# IRA and Insurance Planning Opportunities and Solutions

- Estate Planning Impact
- Life Insurance Impact
- IRA (Qualified Charitable Distribution) Impact

## IRA Case Study

- 72 Year-Old Female with \$250,000 IRA and \$250,000 in Cash/Stocks
  1. Qualified Charitable Distribution Benefits/RMD
  2. Charitable Beneficiary Benefits
  3. Donor Advised Fund Solution