TAX-SMART CHARITABLE GIVING,
ESPECIALLY WITH RETIREMENT ASSETS

The Greater Cincinnati Planned Giving Council

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CHRISTOPHER R. HOYT
University of Missouri - Kansas City
School of Law

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TAX-SMART CHARITABLE GIVING

- Fewer deduct charitable gifts after 2017 TCJA
- Donor advised funds
  - "bunching" tax deductions into tax years
- QCDs from IRAs
  - Advantages
  - Trap after the SECURE Act – how to avoid
- Stretch an Inherited IRA with a CRT?

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Who Gets Tax Benefits from Charitable Gifts?

- Donors who itemize tax deductions
  (who don't take the "standard deduction")

Impact of 2017 tax changes

- Number of taxpayers who deducted charitable gifts fell from 33 million tax returns in 2017 to just 12 million tax returns in 2018.

* Will Congress eliminate $10,000 SALT in 2022?

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WHAT TO DO ?

Tax Saving Strategies for Charitable Gifts

- Don't forget the 11% who itemize their tax deductions
- "Bunching" charitable gifts every few years
  -- donor advised funds have become more popular
- Most donors over age 70 ½ should make *ALL* of their charitable gifts from their IRAs:
  "Qualified Charitable Distributions" (QCDs)

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"Bunching" Gifts

- Example: Married donors contribute $10,000 per year to charities.
  - But with $10,000 SALT limit, their itemized deductions are only $20,000.
  - So they take the $25,000 standard deduction instead
  - They get no tax benefit from their charitable gifts
- BUNCH gifts: Contribute $40,000 to a DAF.
  - They can itemize this year. Tax savings from gifts.
  - The DAF distributes $10,000 annually over the next four years to their favorite charities

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PHILANTHROPIC CHOICE OF CHARITABLE ENTITY

- **DONOR ADVISED FUND**

  -- a fund or account owned by a sponsoring public charity where the donor (or person appointed by the donor) can recommend grants <u>or</u> investments

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PHILANTHROPIC CHOICE OF CHARITABLE ENTITY

- **DONOR ADVISED FUND**

-- lower administrative costs

-- grants to any public charity

-- very popular: grants from donor advised funds already exceed 50% of grants made from private foundations

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Who Offers Donor Advised Funds?

- Traditionally – Local Community Foundations
  - *The Greater Cincinnati Foundation*
- Since 1993, "National DAFs" Associated With Financial Establishments
  - *Fidelity, Schwab, Vanguard, Goldman Sachs, etc.*
- And, national charities, colleges and universities,
  - *The National Christian Foundation*
  - *Harvard University*

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Donor Advised Funds

2021 Donor-Advised Fund Report

National Philanthropic Trust

- 1,005,099 – Number of DAFs in 2020
- $160 billion – assets held by DAFs
- $ 48 billion – contributions to DAFs
- $ 35 billion – grants paid by DAFs

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Growth in Number of Donor Advised Funds

Year	Number of DAFs
2016	290,111
2017	469,749
2018	732,128
2019	864,197
2020	1,005,099

Over 70% of the nation's DAFs are less than five years old

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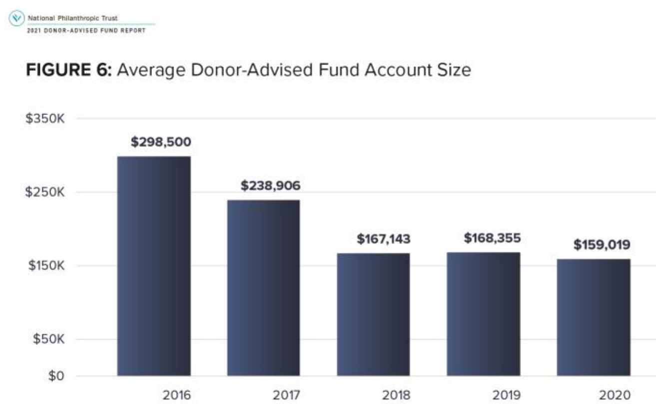
Average Dollars in Each DAF Continues to Decline

New DAFs tend to be established with smaller dollar amounts



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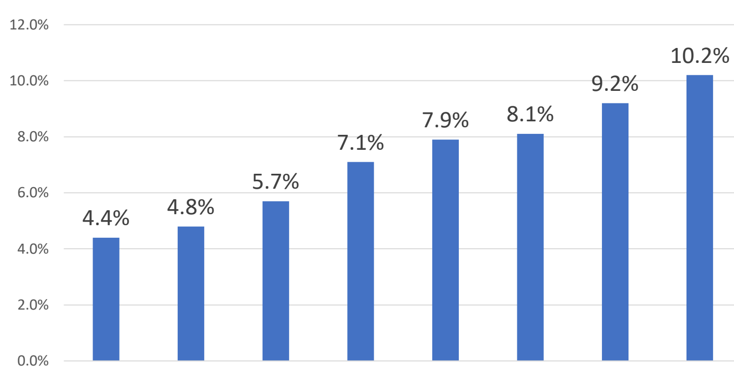
2018: Gifts to DAFs Were 10% of All Individual Charitable Giving



Source: NPT Study

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Qualified Charitable Distribution
-- Lifetime Gifts from IRAs –

- Law Permanent! 2015 PATH Act Dec 20.2015
- Eligible Donors:
  - -- Won't report charitable gifts from IRAs as taxable income
  - -- Not entitled to charitable income tax deduction

❑ Example: Donor, age 75, who has a $10,000 RMD from IRA, says:

- ❑"Issue a check to a charity for $4,000"
- ❑"Issue a check to me for $6,000"

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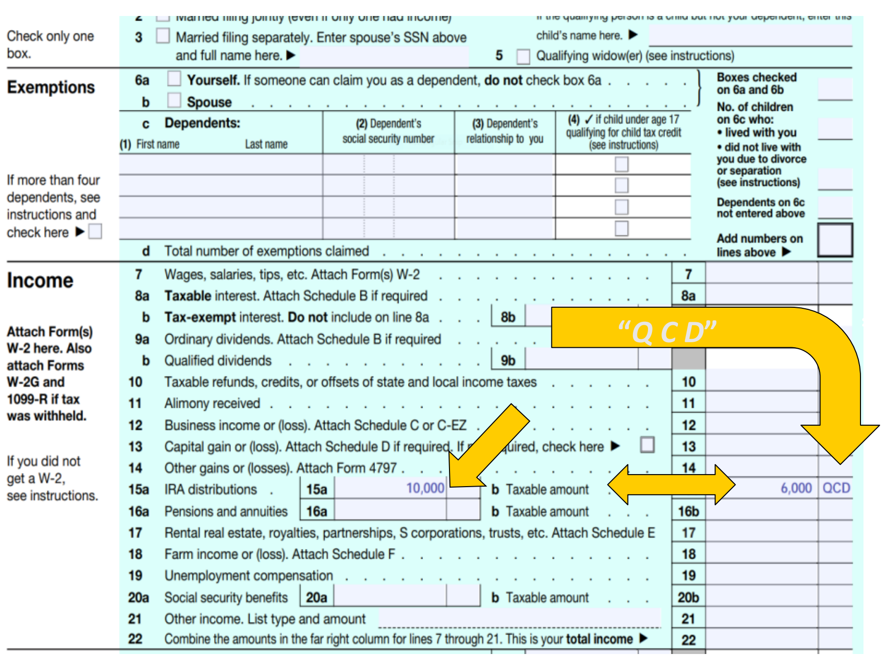

Check only one box.
3 Married filing separately. Enter spouse's SSN above and full name here. ▶
child's name here. ▶
5 Qualifying widow(er) (see instructions)

Exemptions
6a Yourself. If someone can claim you as a dependent, do not check box 6a
b Spouse
c Dependents: (1) First name Last name | (2) Dependent's social security number | (3) Dependent's relationship to you | (4) ✓ if child under age 17 qualifying for child tax credit (see instructions)
If more than four dependents, see instructions and check here ▶
d Total number of exemptions claimed
Boxes checked on 6a and 6b
No. of children on 6c who: • lived with you • did not live with you due to divorce or separation (see instructions)
Dependents on 6c not entered above
Add numbers on lines above ▶

Income
Attach Form(s) W-2 here. Also attach Forms W-2G and 1099-R if tax was withheld.
If you did not get a W-2, see instructions.

7	Wages, salaries, tips, etc. Attach Form(s) W-2	7
8a	Taxable interest. Attach Schedule B if required	8a
b	Tax-exempt interest. Do not include on line 8a — 8b	
9a	Ordinary dividends. Attach Schedule B if required	9a
b	Qualified dividends — 9b	
10	Taxable refunds, credits, or offsets of state and local income taxes	10
11	Alimony received	11
12	Business income or (loss). Attach Schedule C or C-EZ	12
13	Capital gain or (loss). Attach Schedule D if required. If not required, check here ▶	13
14	Other gains or (losses). Attach Form 4797	14
15a	IRA distributions — 15a 10,000 — b Taxable amount	15b 6,000 QCD
16a	Pensions and annuities — 16a — b Taxable amount	16b
17	Rental real estate, royalties, partnerships, S corporations, trusts, etc. Attach Schedule E	17
18	Farm income or (loss). Attach Schedule F	18
19	Unemployment compensation	19
20a	Social security benefits — 20a — b Taxable amount	20b
21	Other income. List type and amount	21
22	Combine the amounts in the far right column for lines 7 through 21. This is your total income ▶	22

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Qualified Charitable Distribution -- Lifetime Gifts from IRAs --

- IRA owner must be over age 70 ½
- Maximum: $100,000 per year
- Yes! Charitable gift satisfies required minimum distribution requirement from IRA!

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WHO WINS?

- Donors who do not itemize tax deductions ("standard deduction")
- Donors who live in states where the state income tax laws do not permit deductions for charitable contributions (Ohio, Indiana, etc)

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WHO WINS ?

- Donors who incur taxes as their income increases

-- social security benefits taxable

-- Medicare “B” premiums

-- 3.8% health tax if AGI>$200,000

- The heirs

-- inherited stock gets step-up tax basis

-- inherited IRAs are taxable income

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LEGAL REQUIREMENTS

- Over age 70 ½
- IRA (only) – <u>not</u> 403(b), 401(k), etc.
- “Directly” from the IRA to charity

-- “IRA checkbooks” are OK

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LEGAL REQUIREMENTS

- ELIGIBLE CHARITY – Public charity or private *operating* foundation
  -- however, a PF, donor advised fund
  or supporting org is <u>not</u> eligible
- Must qualify for full charitable deduction – no dinners; no CGAs

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LEGAL REQUIREMENTS

- Taxable part of IRA distributions (only)
  -- tax-free distributions protected
- Donor must have letter from charity that donor received no goods or services in exchange for the gift

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TECHNICAL ISSUES

- Yes! Charitable IRA gifts can satisfy legally binding pledges!
- Joint return? Up to $200,000
- No withholding taxes
- Beneficiary of an inherited IRA <u>who is over age 70 ½</u> can make charitable gifts of required distributions

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Want to make charitable gifts from your IRA ("QCD")?
Then NEVER make a tax-deductible contribution to your IRA after attaining age 70 ½

SECURE Act: Beginning in the year 2020, employed taxpayers over age 70 ½ are permitted to make tax-deductible contributions to a traditional IRA (e.g, up to $7,000 per year)

HOWEVER: If a person ever makes a tax-deductible contribution to an IRA after age 70 ½, then the amount of the qualified charitable distribution from an IRA that can be excluded from taxable income is reduced by that amount.

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Want to make charitable gifts from your IRA ("QCD")? *Then NEVER make a tax-deductible contribution to your IRA after attaining age 70 ½*

New last sentence added to end of Sec 408(d)(8)(A):

The amount of distributions not includible in gross income by reason of the preceding sentence for a taxable year (determined without regard to this sentence) shall be reduced (but not below zero) by an amount equal to the excess of—

- ***(i) the aggregate amount of deductions allowed to the taxpayer under section 219 for all taxable years ending on or after the date the taxpayer attains age 70 ½, over***
- ***(ii) the aggregate amount of reductions under this sentence for all taxable years preceding the current taxable year.***

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Want to make charitable gifts from your IRA ("QCD")? *Then NEVER make a tax-deductible contribution to your IRA after attaining age 70 ½*

LEGISLATIVE INTENT

- To get a tax benefit from a charitable gift, a taxpayer must generally itemize deductions (state taxes, mortgage interest, etc)
- Only 11% of tax returns itemized deductions in 2018
- A working senior could (a) contribute $7,000 to an IRA and then (b) distribute $7,000 that same year to charities, and indirectly deduct charitable gifts via IRA contributions

ADMINISTRATIVE and BOOKEEPING HEADACHES

- People in their 80s and 90s will need to keep all tax records after age 70 ½ and then make cumulative computations

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Want to make charitable gifts from your IRA ("QCD")?
Then NEVER make a tax-deductible contribution to your IRA after attaining age 70 ½

EXAMPLE

- I. Work's RMD both for this year and next year is $5,000
- She donates each year's RMD to charity; would be QCD
- She is employed. This year she deducts $7,000 for IRA.
  Next year she does not deduct any IRA contribution
- How much can she EXCLUDE from income for QCD?

Year	Donate	Exclude	Taxable
This year	$5,000	-0-	$5,000*
Next year	$5,000	$3,000	$2,000*

* Taxpayer can claim an *itemized* charitable deduction

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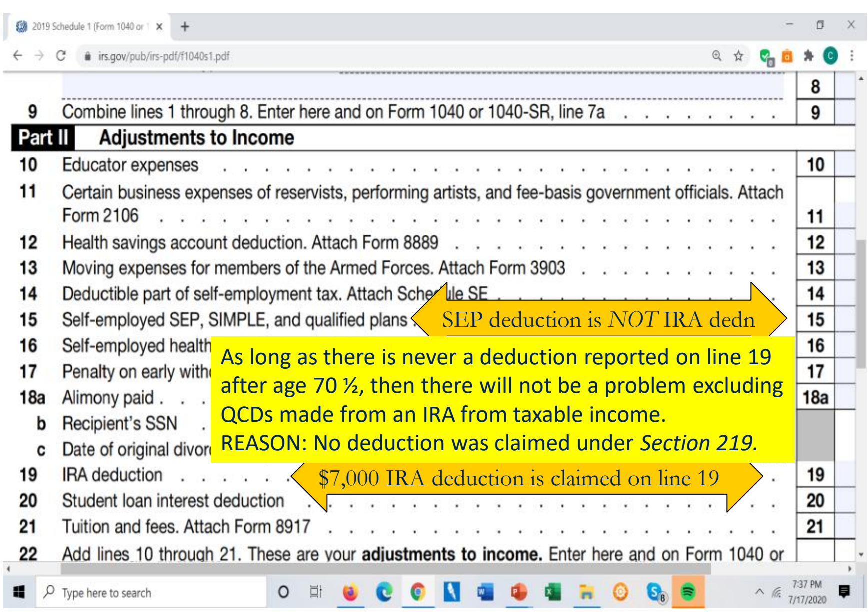
Only the $7,000 *IRA* deduction is a problem for QCDs



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Want to make charitable gifts from your IRA ("QCD")? *Then NEVER make a tax-deductible contribution to your IRA after attaining age 70 ½*

STRATEGIES

- If ever want to make a QCD, don't contribute after age 70 ½
- Working seniors can contribute to plan at work (401(k), etc.)
- Working seniors can contribute to a Roth IRA (if income under $144k ($214k married))
- Self-employed? Contribute to an SEP-IRA

  (but <u>don't</u> make a QCD from the SEP that <u>same year</u>)

Footnote: Employed upper-income taxpayers can't even make tax-deductible contributions to an IRA if there is a plan at work (e.g., 401(k)). No tax deduction is permitted in year 2022 if AGI is over $78,000 ($129,0000 on married joint returns). IRS Tax Tip 2021-170.

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Stretch IRA

- "Stretch IRA" means an inherited retirement account (e.g., IRA), where payments are gradually made over the beneficiary's life expectancy
- Until the enactment of the SECURE Act, it was fairly easy for any beneficiary who inherited a retirement account to receive distributions until the age of 83 (or older for beneficiaries who inherited at an older age)
- Beginning 2020: General rule is a ten year liquidation
- Inherited IRA distributions are taxable income
- *A $1million IRA will shrink to $700k in 10 years* (oversimplified)

Outright charitable bequest?
Family & charity combined: philanthropy (PF or DAF)

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Stretch IRA

- "Stretch IRA" means an inherited retirement account (e.g., IRA), where payments are gradually made over the beneficiary's life expectancy
- Until the enactment of the SECURE Act, it was fairly easy for any beneficiary who inherited a retirement account to receive distributions until the age of 83 (or older for beneficiaries who inherited at an older age)
- Beginning 2020: General rule is a ten year liquidation
- *"Would you like your descendants to be able to get an income stream from all of your retirement assets for the rest of their lives?"*

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LIQUIDATE INHERITED IRAs IN TEN YEARS

IMPLICATIONS FOR CHARITIES

Donors more likely to consider

- Outright bequests
- Retirement assets to tax-exempt CRT
  - Child: income more than 10 years; then charity

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CHARITABLE REMAINDER TRUST

- Payment to non-charitable beneficiary (ies) for *life* *or* for a *term of years*
  (maximum 20 years)
- Remainder interest distributed to charity
- ***Exempt from income tax***

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LIQUIDATE INHERITED IRAs IN TEN YEARS

IMPLICATIONS FOR CHARITIES

Donors more likely to consider

- Outright bequests
- Retirement assets to tax-exempt CRT
  - Child: income more than 10 years; then charity
  - Spouse & children (no estate tax marital deduction)

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2-GENERATION CHARITABLE REMAINDER UNITRUST

- Typically pays 5% to elderly surviving spouse for life, then 5% to children for life, then liquidates to charity
- Like an IRA, a CRT is exempt from income tax
- Can be like ***a QTIP trust for IRD assets***

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Theory: Tax advantage of income tax deferral !

Move IRD tax-free after death from one tax exempt trust (e.g., the IRA) to another tax-exempt trust (the CRT)

*[**compare:***

a charitable lead trust is NOT tax-exempt;

don't name a CLT as an IRA beneficiary !]

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Theory: Tax advantage of income tax deferral !

Move IRD tax-free after death from one tax exempt trust (e.g., the IRA) to another tax-exempt trust (the CRT)

It can be done!   PLR 199901023

- No taxable income to beneficiaries until they receive distributions from CRT

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Can a CRT Produce More Family Wealth Than a Ten Year Liquidation?

Yes. It is possible. But usually not likely.

- It can happen with long-term CRUTS (e.g., 40 or 50 years) and beneficiaries who pay high income tax rates
- Outcomes vary with investment returns and tax rates

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Can a CRT Produce More Family Wealth Than a Ten Year Liquidation?

5% CRUT -- Investments earn 5% -- Tax rate: 40%					
			5% Annual		
			<u>Income</u>		
CRT	$1,000,000	< charity	**$50,000**		
Income tax	<u>-400,000</u>				
After-tax	**$600,000**	<family gets	**$30,000**		

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Can a CRT Produce More Family Wealth Than a Ten Year Liquidation?

5% CRUT -- Investments earn 5% -- Tax rate: 40%					
			5% Annual		
			<u>Income</u>	<u>*Consume*</u>	<u>*Save*</u>
CRT	$1,000,000		**$50,000**	*$30,000*	*$20,000*
Income tax	<u>-400,000</u>		*Income tax >>>*		<u>*-$8,000*</u>
			Net annual investment		***$12,000***
After-tax	**$600,000**	*Purchase*	*$600k*	*life insurance?*	**<50 years?**

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Can a CRT Produce More Family Wealth Than a Ten Year Liquidation?

5% CRUT -- Investments earn 5% -- Tax rate: 20%					
			5% Annual		
			<u>Income</u>		
CRT	$1,000,000	< charity	**$50,000**		
Income tax	<u>-200,000</u>				
After-tax	**$800,000**	<family gets	**$40,000**		

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Can a CRT Produce More Family Wealth Than a Ten Year Liquidation?

5% CRUT -- Investments earn 5% -- Tax rate: 20%					
			5% Annual		
			<u>Income</u>	<u>*Consume*</u>	<u>*Save*</u>
CRT	$1,000,000		**$50,000**	*$40,000*	*$10,000*
Income tax	<u>-200,000</u>		*Income tax >>>*		<u>*-$2,000*</u>
			Net annual investment		***$8,000***
After-tax	**$800,000**				**<50 years?**

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Can a CRT Produce More Family Wealth Than a Ten Year Liquidation?

Yes. It is possible. But usually not likely.

- It can happen with long-term CRUTS (e.g., 40 or 50 years) and beneficiaries who pay high income tax rates
- Outcomes vary with investment returns and tax rates
- A CRT is best for someone with charitable intentions who also wants to benefit family. It should not be foisted on people who have no charitable intent.

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CRUT Can Offer Other Benefits

- A steady income-stream to the child that will last for the child's entire lifetime
- Asset protection provisions can be included in the CRT in the event of a divorce or other financial challenge
- Professional asset management is possible with a corporate trustee, which could be particularly helpful for a child who would have likely mismanaged a large lump-sum inheritance

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