

MODEST Philanthropy

– Encouraging Estate Gifts Using “*My Benevolent Wishes*™”

By Timothy B. Borchers, Esq.

In 25 years of advising clients, I have found that, given a choice, most clients would like charity to receive some part of their assets when they die. Given the record for generosity among Americans, my unscientific finding is not surprising.¹ Nonetheless, without prompting from an advisor, typical clients plan to give *nothing* to charity, even to causes they care deeply about. By removing obstacles to modest giving, however, we can multiply client’s satisfaction in planning their estates and release significant cumulative amounts of giving to the charities they support.

America’s Legacy of Giving

It turns out that most of us want to leave a legacy besides money.² A large inheritance may be welcomed by our heirs, but what we really want is for our heirs to live responsibly with the resources they receive, and this includes supporting the greater good or social legacy through charity. Yet when estate plans are written, we draft page after page on probate, taxes, and administration, fewer pages on how to spend money responsibly, and far fewer still on motivating heirs to pursue purposes beyond preserving wealth for themselves.

Your Personal Legacy

If you give occasionally to charities such as educational institutions, disaster relief and environmental causes, faith ministries, support of the needy, or myriad of other causes for the greater good it is likely that you, too, value a *social* legacy. You want to provide real support for these causes and you want to express send a message that your life was not all about gaining and accumulating, but about giving and watching the good that comes of it.

Wouldn’t you like to be able to convey this message of giving on to your heirs and not merely pass down your money? According to the survey cited above, you would. Your children may associate you with generosity toward others, or they may not even know of your charitable concerns. But, without direction and an invitation to participate in giving, we can fairly predict that your children will not further your causes when you die. Nor will they catch the spirit and use their windfall to boost their own giving. Heirs rarely volunteer their inheritance to help any cause beyond their own pocketbook!

Frustrated in Giving

As important as charitable giving is to ordinary Americans, I have found that clients do not enter my office *planning* to give to charity in their estate plan. When asked, many want to make a modest gift, but are not sure how to do so or are not aware they could do it so easily, and therefore had not planned to give anything. There are many reasons why people tend to give nothing to charity in their estates. A few are worth mentioning and debunking:

“*Charity begins at home.*” Giving that is demonstrated and learned at home naturally extends beyond the domestic confines. Why not encourage the fervor for helping others in your estate?

Fear of short-changing the heirs. It seems that people feel guilty about not leaving every last dime to their descendants. But, will heirs really miss that one, five, or ten thousand dollars out of

the \$100,000, \$500,000, or millions that they stand to inherit? It is not their entitlement, unless you let it be.

Advisors ask the wrong questions. The question (if it gets asked at all), “Do you wish to leave anything to charity?” is usually an afterthought or is saved for those who have no children or who have great wealth. Why should they get all the fun? ^{/3}

Lack of Information. You know how to give to your faith, your alma mater, and your community group. But, let’s say your heart goes out to the animals you’ve seen rescued on TV. You have the urge to help, but you don’t know how. ^{/4}

Conflict and competition. You’d like to give to the animal rescue league, but you already help starving children. It strikes you that you could leave something for animal rescue in your will, but that involves an appointment with your lawyer – or does it?

“Circumstances may change.” While living, you base your giving on circumstances like the strength of your conviction, your bank balance, tax advantages, and so forth. How can you plan ahead to give to causes and institutions that may change or fold? How can you set the amount, years in advance?

“My gift won’t matter.” We get the impression that “Platinum” donors – the ones who are pictured in charity publications - are the ones that matter, at least to tax advisors and institutions who promote fancy techniques for giving. ^{/5} Advisors can ignore us if they like, but the small gifts from donors like you and me add up.

MODEST Philanthropy^{/6} and the *Expression of Charitable Intentions*.

In thinking creatively about this problem, we began promoting a technique that we call the “Expression of Charitable Intentions” for clients who, though charitably inclined, need an alternative to the formal charitable bequest. Using this form, clients simply ask heirs to make donations in their memory, based on the same factors that determined giving during life. Some features of the *Expression* are:

- The *Expression* can guide the descendants to give for specific purposes, in specific amounts, or as a percentage of the estate, and can be amended at any time.
- The *Expression* can also be generic, as in: “It is my request that you make a gift in my memory [anonymously, in honor or memory of another] to charities and causes that were important to me during my lifetime.”
- The *Expression* can encourage giving invented by the beneficiaries themselves. After all, the idea is to promote the ideal of giving.
- To bolster enforceability, the *Expression* can be referred to in the trust instrument as something that may be completed by the donors separately. An amount may also be supplied in the trust.
- Recipients need not be “qualified” charities. Gifts to grandchildren or other persons can even be mentioned - ok, let *some* charity begin at home! If there is to be an income tax benefit, the children (or other beneficiaries) will get the deduction. ^{/7}
- The *Expression* may be done individually instead of as a couple to maximize the individuality of the giving.

- Remind your heirs to give cheerfully. Those who give are happier than those who don't.^{1/8} The Expression of Charitable Intentions provides a flexible method to express good will and to share the spirit of giving with the next generation. The amounts that clients give using this method are typically modest – hundreds or low thousands of dollars, but the important thing is not the amount. The satisfaction this form of giving provides to all concerned is substantial. In the end, the cumulative effect of this giving will be great.

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FOOTNOTES:

1. The Center on Philanthropy, Indiana University. The average American donates 2.6% of his or her income. Households earning less than \$50,000 give an average of \$971 annually; \$50,000-\$100,000 households give \$1918; above \$100,000, \$3975.
2. When individuals across generations and continents were asked, "What would you like most to leave your family?" 60% worldwide and 81% of US respondents said they want their heirs to inherit their personal values and only 19% wanted their heirs to inherit assets. "Investing in Later Life" conducted by the insurance company HSBC, the largest study of its kind in the world. *Business Wire* 2008, May 13, 2008.
3. When asked the right way, clients not only reveal that they wish to leave behind a modest charitable gift (if not a substantial bequest), but they are relieved and grateful, and loved ones appear to be delighted at the prospect of fulfilling this mission as well. For ideas, feel free to email the author.
4. You'll find charities listed by subject at charitynavigator.org. To vet a charity, visit guidestar.org or give.org.
5. The Giving U.S.A. Foundation says that 65% of the contributions that help fund soup kitchens for example are small gifts from families earning less than \$100,000, many of them, a lot less.
6. We have dubbed the term MODEST philanthropy, standing for *Model Ordinary Donor Estate Solution and Therapy* – so called for its therapeutic effects on our clients! For more information on how you can participate in the Expression and for model forms, feel free to email the author.
7. In the case of large gifts, specific gift amounts or percentages of the estate can be provided for in the trust itself without displacing the *Expression* for other, modest gifts. After comparing the estate and individual tax rates applicable to the gift, it may be best to place the gift in the trust to be sure that the estate gets the deduction off instead of the beneficiary.
8. In case proof is needed of this point, a 2008 study shows spending money on others boosts our happiness.) University of British Columbia, *ScienceNOW* 20 March 2008.