



LET'S TALK ABOUT

PLANNED GIVING

LEAVING A LEGACY TO THE CHURCH

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INTRODUCTION

“SOMEONE'S SITTING IN THE SHADE TODAY BECAUSE SOMEONE PLANTED A TREE A LONG TIME AGO.”

-WARREN BUFFET

There is renewed interest at our Church regarding contributions to the endowment, remembering the Church in one's Last Will and Testament, and the entire topic of planned giving. While current contributions are always welcomed, many of the larger and more permanent gifts to the Church arise after the passing of a member or supporter. This reflects the reality that most people are able to afford a greater degree of generosity after their passing, rather than during their lifetime.

At first glance, this entire discussion may be simply addressed by including the Church in one's Last Will and Testament. However, there are many other alternatives that may be of greater benefit for both the Church and for the Church member or supporter. In fact, the use of a Last Will and Testament might be the *least* effective method by which to make a gift at one's passing.

This booklet reviews how to make a gift to the Church using a Last Will and Testament and an introduction to what strikes me as much better alternatives. All of these alternatives may provide a charitable deduction for estate tax purposes, or a charitable deduction for income tax purposes, all of which may actually reduce the cost of making the gift, or allow for the making of a larger gift. In no particular order, some of the various alternatives are as follows:

TRADITIONAL IRA, 401K, 403B

Any of these or other tax-deferred retirement investment vehicles make ideal vehicles from which to engage in charitable gifting. The main advantage is that although one's children or other individuals would need to pay income tax on traditional IRAs and similar assets that are left to them, a charity such as the Church does not have to pay income tax on distributions from these types of accounts. Therefore, all of the dollars go to the Church's purposes, rather than some part of that being lost for payment of income taxes. As an added bonus, such an arrangement also avoids probate and may reduce estate taxes.

How to do it

This part is simple. Simply contact the company that manages your retirement account. Every IRA and similar account has a beneficiary designation form. Completion of these forms should not require the help of an attorney. Simply list "First Unitarian Church of Providence" in the space for the beneficiary, designate the amount or percentage, sign the form and return it to the company that manages the account.

GIFT OF A REQUIRED MINIMUM DISTRIBUTION ("RMD")

Those in their early 70s (age 72-73 depending on year of birth) or older are required to take out a certain minimum annual distribution from the types of retirement accounts on the previous page. These distributions result in taxable income. One way of avoiding this taxable income is to make a Qualified Charitable Distribution ("QCD") from such an account.

This means in part that the distribution is made to a charity and therefore not only does it satisfy the required minimum distribution rules for that year, but it is also excluded from your taxable income. Though you do lose the income tax deduction, the deduction is not as important, especially under recent tax rules which have significantly reduced the number of people that itemize deductions. So, the use of this method is a way of maintaining the economic benefit of the deduction, even though you don't take the deduction! Excluding the distribution from income is better than taking the deduction because it also reduces taxes on Social Security and other income for which taxable income is used as a basis from which to calculate the taxable amount. As always, talk to your advisor before making a decision which effects your taxable situation.

How to do it

Speak with the financial institution that manages your IRA and discuss the matter with them. They should be able to assist you with the particulars.

ANNUITIES

Generally speaking, annuities are tax-deferred investments. What that means is that when one passes away and leaves the annuities to beneficiaries, the beneficiaries are usually paying income tax on at least some portion of the annuity. Therefore, as with the IRA analysis above, if you are inclined to give to a charity, it is better to leave the charity something which, if left to your family, would result in the family having to pay income taxes. Of course, you can still leave to your family those assets which would result in no income taxes to them. As an added bonus, making a gift of an annuity to the Church also avoids probate and may reduce estate taxes.

How to do it

As with the IRA's as explained above, this part is simple. Simply contact the company that manages the annuity. Every annuity has a beneficiary designation form. Completion of these forms should not require the help of an attorney. Simply list "First Unitarian Church of Providence" in the space for the beneficiary, sign the form and return it to the company that manages the account.

LIFE INSURANCE

Life insurance is a great gift to leave a charity for several reasons. First, it's very easy to accomplish. See the section below on how to do it. Secondly, many people may have life insurance policies which were purchased for a specific purpose, such as to pay off a mortgage which no longer exists, pay for the college education of children that are now educated or payment of other expected bills which have now resolved themselves. Though in many cases the need for the insurance is no longer present, the policy and its benefits still exist. As with named beneficiaries on retirement accounts and annuities, life insurance benefits payable at your death to a named existing beneficiary, including the Church, avoid probate, and if made to the Church, may also reduce estate taxes.

How to do it

As with the above, simply contact your insurance company or agent and complete the change of beneficiary form in the same manner as described above.

BANK ACCOUNTS, BROKERAGE ACCOUNTS, AND THE LIKE

As with the other assets described above, these assets also allow for the naming of a beneficiary. Someone intending to leave a bank account, stock brokerage account and similar assets to the Church need only communicate with the bank or brokerage representatives to add the Church as the beneficiary. The specific name for such arrangement might differ depending upon the institution. For instance, one might see the phrase “Transfer on Death” beneficiary, sometimes shortened to “TOD” beneficiary. Another example is “POD”, which stands for “Payable on Death” beneficiary. In addition, some institutions, such as credit unions, may wish to use a Trustee/Beneficiary designation in which the Church member is named as the Trustee, and the Church is named as the beneficiary, even though there is no formal Trust Agreement created by the Church member. In any event, under all such arrangements, at the passing of the donor, the financial institution will pay the named beneficiary whatever percentage of the account is designated on their records. As with all of the examples described so far, these types of benefits avoid the Probate Court, and when made payable to the Church, may reduce estate taxes.

How to do it

As with the above, simply contact your bank, credit union or other financial institution and it should be quite easy to list the Church as a beneficiary, sign the form and file it with the bank, credit union or other financial institution.

SPLIT INTEREST GIFTS

These types of gifts come in all kinds, some of which use wills, trusts or deeds to accomplish their purpose. Examples are charitable remainder trusts, pooled income funds, gift annuities, charitable lead trusts and others. In summary, the purpose of “splitting the interest” is that during your lifetime, you and/or someone you designate, can retain some of the interest or benefit from that asset and it is only at some later point in time that the Church obtains all of the interest or benefit of such asset. For example, one could retain the right to all the income from an investment account, and even have it paid to a named survivor. Upon the passing of the named individuals, that asset would then go to the Church. Structured properly, this can even generate an immediate income tax charitable deduction, even though the income is coming back to you and possibly a survivor.

Another example is that real estate, including your home, can be structured so that you have varying levels of control, such as either just the right to live on the property or, absolute control over the property. Yet, at your passing, all of the interest in the property will then pass to the Church. Depending upon the structure, probate avoidance along with income tax deductions or estate tax deductions are possible.

How to do it

Because these involve the use of deeds, trusts or other legal concepts and because of the interplay with the tax laws, the best advice is to seek a good legal and tax counsel.

TRUSTS

Amending one's trust, or creating a trust, is in certain ways similar to preparing a Last Will and Testament. However, trusts generally avoid probate. Therefore, when the use of more traditional probate avoidance techniques, such as joint ownership or designated beneficiary assets, are insufficient, estate planners frequently use a trust. The workings of a trust strike clients as similar to the workings of a Last Will and Testament. The similarities are in fact quite strong, but given the advantages of probate avoidance generally available through the use of a trust, it is easy to see why many advisors recommend the use of a trust, if the other probate avoidance techniques are insufficient. As with the above, probate avoidance and tax savings are possible with the use of trusts for charitable giving.

How to do it

Because of the legal complexities, the best advice is to review this with your attorney. Your attorney may ask if your intent is to leave such amounts to the Church for general purposes or if you have any specific purpose or a specific fund in mind. The attorney will need to know the legal name of the Church which is as follows: "First Unitarian Church of Providence, Rhode Island".

LAST WILL AND TESTAMENT

Clearly, the Church would welcome and appreciate being included as a beneficiary under a member's Last Will and Testament. But in deciding whether this is the best approach, given the other alternatives described above, please consider these facts. In order for an asset to be controlled by an individual's Last Will and Testament, that asset needs to be have been owned by that individual in that person's name, alone, without a named or designated beneficiary, and therefore structured in a manner so it must pass through the probate court. Wills only "speak" in Probate Court. Because a will must go though the probate process, it is not as efficient a manner of gifting as presented by the above alternatives, for several reasons. First, such assets are exposed to the claims of creditors, including the State of Rhode Island for payment of nursing home expenses through its Medicaid program, as well as any other creditors. Separate from the claims of creditors, there is also the delay, cost and lack of flexibility associated with probate court. However, if you are at all inclined to name the Church in your Last Will and Testament, please do so.

How to do it

Your attorney may ask if your intent is to leave such amounts to the Church for its general purposes or if you have any specific purpose or a specific fund in mind. The attorney will need to know the legal name of the Church which is as follows: "First Unitarian Church of Providence, Rhode Island".

CONCLUSION AND DISCLOSURE

As a long-term member of the congregation, I am happy to be of help to the Church and its members. However, as much as I would like to help members of the Church in their estate planning matters, there is a potential for allegations for conflict of interest between your survivors (who might prefer to have all of your assets for themselves) and the Church, if the Church is a beneficiary under your estate plan. Therefore, it might be a far better practice for you to seek your own attorneys, bank advisors, life insurance advisors, tax advisors and the like, rather than rely upon people who have a long-term interest in the success of the Church. Should any of your advisors have any questions regarding the best methods for implementing your charitable intentions, I would be glad to work with them at no charge to you or the Church for such assistance.

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