Courtesy of

Mark H. Ryan, MBA, CLU®, ChFC®

Financial Advisor • Senior Account Executive

175 Derby St. Suite 33
Hingham, MA 02043
Tel: (781) 741-9950 • Fax: (781) 741-9980
MarkRyan@FinancialGuide.com
www.markhryan.com

Volume 31 • Number 1

Money Planner

In This Issue

Charitable Giving Through Donor-Advised Funds or Foundations

Americans who want to make larger contributions to charity over a longer period of time may consider setting up a private foundation or using a donor-advised fund (DAF) to distribute charitable gifts. There are many factors to take into account when deciding which planned giving vehicle best meets a donor's philanthropic goals, including the size of the tax advantages, the administrative costs, and the legal constraints associated with each of these vehicles.

A DAF is a tax-advantaged investment account managed by a public charity for the sole purpose of charitable giving. Providers of DAFs include nonprofits linked to large fund management companies, as well as the National Philanthropic Trust and community and faith-based institutions. The DAF structure allows individuals to donate assets for charity and receive an upfront tax deduction, while deferring the distribution of the funds to charities to some future point in time. Assets that have been contributed to a DAF grow tax-free within the fund.

As the contribution to a DAF is treated as an irrevocable gift to a 501(c)(3) public charity for tax purposes, the charitable deduction is limited to 50% of adjusted gross income (AGI) for cash gifts and 30% of AGI for donations of appreciated securities or tangible personal property. In most cases, the deduction amount is the fair market value (FMV) of the asset contributed. If the asset is illiquid and worth more than $5,000, an independent appraisal is required to determine the value for deduction purposes. Excess amounts above the AGI thresholds can be carried forward up to five years.

Contributing to a DAF can be particularly attractive when donors want to frontload their charitable contributions in a year when their income is particularly high, such as when they have sold a business

continued on page four

A Look at Guardianship and Older Adults

Suppose an elderly family member becomes incapacitated and has made no arrangements for such a situation. **Advance directives** are legal instructions that express a person's wishes regarding financial and health care decisions in the event that he or she becomes unable to make them. If incapacity occurs and there are no advance directives, is **guardianship** a viable option?

Guardianship for an adult differs from guardianship of a minor child. For minors, it involves parenting because children require adult supervision until they reach a certain age. Further, minors have not yet earned societal rights, such as the right to vote or drive, so they do not give up any rights with guardianship.

By contrast, an adult who is accustomed to making his or her own decisions, typically loses the right to vote, hold a driver's license, marry, and draft a will (laws may vary by state) when placed under guardianship. The guardian, appointed by the court, becomes the *decision-maker* with the power to make some, if not all, financial and health care decisions for an incapacitated person.

Guardianship for an adult is considered to be a serious intervention and is not enforced until *after* a clear need becomes evident. At a minimum, most states require a court hearing and examination by a physician and/or psychologist to determine incompetence. The person for whom guardianship has been petitioned (i.e., the **ward**) must be informed of his or her rights and notified that a court hearing has been scheduled. Proposed wards generally have the right to retain an attorney and to object to the petition for guardianship, even if incapacity prevents them from attending the hearing.

It is important to understand that bouts of confusion or eccentricity do not necessarily indicate mental incompetency. For example, an older individual may appear to be spending money frivolously, but that alone may not indicate an *inability* to manage his or her personal finances. Or, consider what would happen if the court appointed a guardian for someone in a coma who later recovers consciousness. Therefore, guardianship for an adult is used only as a last resort in the absence of advance directives.

Advance Directives

Advance directives can help a person plan for a variety of possible situations. A **durable power of attorney** grants authority to another person to make legal and financial decisions on a person's behalf in the event of mental incapacity. The powers granted can be broad or limited in scope. A durable power of attorney can provide assistance with personal finances, insurance policies, government benefits, estate plans, retirement plans, and business interests.

A **living will** allows an individual to state his or her preferences prior to incompetency regarding the giving or withholding of life-sustaining medical treatment. In most states, a person must have a "terminal condition," be in a "persistent vegetative state," or be "permanently unconscious" before life-support can be withdrawn. The definition of these terms and the medical conditions covered may vary from state to state.

A **health care proxy** allows a person to appoint an agent to make health care decisions on his or her behalf in the event of incapacity. These medical decisions are not limited to those involving artificial life-support.

Time Is of the Essence

Advance directives by durable power of attorney, living will, or health care proxy are generally inexpensive and easy to implement. They are essential estate planning tools available to everyone, regardless of age. In the absence of such documents, court intervention to appoint a guardian may be necessary. This could involve a great deal of time, expense, and stress at precisely the moment when ease of action is of the greatest importance.

The Savings of Many Americans Are Not Improving with the Economy

While most Americans have seen their ability to cover monthly expenses and bills improve since the financial crisis, many are still struggling to make ends meet and are failing to save for retirement, as key indicators of financial capability are no longer improving in step with the economy, a study published on June 20 by the FINRA Investor Education Foundation warned.

The study, "The State of U.S. Financial Capability," is based on the results of a nationwide survey conducted every three years. The latest survey data, from 2018, include responses from more than 27,000 U.S. adults. Originally developed in 2009, the survey measures key indicators of financial capability and evaluates how these indicators vary depending on the respondents' underlying demographic, behavioral, attitudinal, and financial literacy characteristics.

According to researchers, the results of the past four waves of the survey show signs of widening or ongoing gaps among certain groups on key measures of financial capability. The percentage of survey respondents who reported having no difficulty in covering monthly expenses and bills grew only slightly from 2015 (48%) to 2018 (50%), after increasing sharply between 2009 (36%) and 2015.

The findings further revealed that although Americans' ability to make ends meet improved between 2009 and 2018, there has not been a corresponding increase in the propensity to save. The 2018 results showed that 41% of respondents reported spending less than their income, 36% said they spend about equal to their income, and 19% said they spend more than their income. Researchers noted that these percentages have remained consistent across all four survey waves.

In addition, the 2018 results indicated that many Americans are stressed about money. More than half (53%) of respondents reported that thinking about their finances makes them anxious, and 44% of respondents said they find discussing their finances stressful. Across age groups, respondents aged 18-34 reported experiencing the highest levels of stress (63%) and anxiety (55%).

Moreover, the 2018 results suggested that Americans are still not saving adequately for retirement, with just 41% saying they have tried to determine what they need to save for retirement, and only 58% of reporting that they have an employer-based or individual retirement account. The 2018 data also point to an ongoing gender gap in retirement saving behavior, with 47% of male respondents, but just 35% of female respondents, indicating they have tried to determine what they need to save for retirement; and 62% of male respondents, compared to 55% of female respondents, saying they have a retirement account. Researchers noted that these gender gaps appear to have expanded slightly since 2009.

Yet the study's authors emphasized that these gender differences in preparing for retirement pale in comparison to differences by household income: in 2018, only 19% of respondents with an annual income under $25,000 said they have tried to plan for retirement, compared to 62% of respondents with an annual income of $75,000+. Meanwhile, the percentage of respondents who said they are worried about running out of money in retirement declined only slightly between 2015 and 2018, from 56% to 51%.

The 2018 survey also found that 34% of respondents could answer at least four of five basic financial literacy questions on topics such as mortgages, interest rates, inflation, and risk; down from 42% in 2009. Researchers observed that this decline in financial literacy was most pronounced among younger respondents aged 18-34, who have had little exposure to high interest rates or inflation as adults.

Charitable Giving Through Donor-Advised Funds or Foundations

continued from page one

or exercised stock options. Using this strategy, the donor can maximize the value of the tax deduction in a high-income year, but retain the flexibility to formulate a long-term charitable giving strategy.

A DAF has other features that may be attractive to donors. The DAF can, for example, facilitate the donation of appreciated securities to a smaller charity that lacks the means to handle the donation directly. Unlike private non-operating foundations, DAFs have no minimum distribution requirements, and are not subject to excise taxes. Moreover, DAFs can be used to make anonymous gifts, as the ultimate distribution comes from the charitable organization sponsoring the DAF, which is not required to disclose the source of the donation.

For some taxpayers, the DAF can serve as a less expensive alternative to a private non-operating foundation, providing a way for donors and their family members to engage in the process of charitable giving, while ensuring the tax-free growth of their philanthropic legacy. Donors can set up programs that provide ongoing income streams to their favored charities, which can be continued after death by a designated family member.

DAFs also have some disadvantages, however. Donors should be aware that the fund is owned and controlled not by the donor, but by the organizational sponsor. Thus, a DAF is not strictly required to follow the donor's guidance on how the funds are invested or on which charities receive the grants. But in practice, donors can expect that their advice on the fund's investments or distributions will be followed, provided it is within the guidelines.

Donors should also take into account that most DAF providers charge administrative fees in addition to any underlying investment costs, and may impose minimum thresholds for both initial and subsequent donations. And unlike in a foundation, the donor's investment choices are generally limited to the options made available by the sponsoring entity. Donors should also keep in mind that a DAF is required to make its gifts to another public charity, and cannot make grants to an individual, to a private non-operating foundation, or to a split-interest trust.

Taxpayers who want more control over their charitable giving may therefore want to consider creating a private non-operating foundation. Compared to DAFs, private foundations are considerably more expensive to set up and operate. Each year, foundations are required to pay out 5% of their previous year's net average assets in qualifying distributions, which typically include grants as well as administrative expenses; and their net investment income may be subject to an excise tax of up to 2%. Moreover, the charitable deduction for donating to a private foundation is limited to 30% of AGI for cash gifts and 20% of AGI for contributions of appreciated securities and other non-cash assets.

However, because foundations are independent not-for-profit entities, they can retain control over their investments, choose their own board members, and hire their own employees—including qualifying family members—to administer the foundation. Unlike DAFs, foundations can also make gifts to individuals. Whereas DAFs may be subject to time limits, a private foundation can be maintained in perpetuity. Yet ultimately, both DAFs and private foundations provide taxpayers with opportunities to contribute to their favored charities over a long time span, while also enjoying substantial tax advantages.