



## Charitable Planning and Business Development

By: Roger D. Silk, Ph.D., CFA



**Y**ou know that many clients and potential clients do not have optimal estate plans in place. Indeed, in the recent climate, the very concept of optimal estate planning has become muddled.

However, most clients and potential clients also lack optimal charitable planning. This lack of optimal charitable planning creates an opportunity for planners to use charitable planning as a business development tool.

Clients and potential clients usually have either too much or too little charitable planning.

### Too Much Charitable Planning

How can a client have too much charitable planning? By having previously committed to charitable endeavors that he no longer needs or desires. The most common example of this occurs when a client has a charitable remainder trust (CRT), and the client's needs or circumstances have changed.

A second example occurs in cases in which a client has funded a private foundation, and then again circumstances or desires have changed. While not very common, this can occur when a foundation loses a significant percentage of its initial value, and the founder either cannot or does not wish to bring it back up to size. This happened especially often in the wake of the dot.com bubble, and again in the wake of the 2008 crash.

A third example of too much charitable planning may manifest itself after the death of the principals, when heirs, typically the children, find that they are the beneficiaries of a CRT or a charitable lead trust (CLT). The CRT can create trouble if it is in the estate, where it gives rise to estate taxes without providing the cash to pay the taxes. A CLT can make both the recipient charity, and the ultimate heirs, wait a decade or more for their money. Sometimes this long wait suits neither party.

### *Some Solutions for Too Much Charitable Planning*

Each of the above scenarios creates an opportunity for the planner. We will briefly outline possible solutions to each scenario.

When a client has the income interest in a CRT, and you would not set up the CRT again today given today's conditions, it is time to consider what alternatives are available to the client. One alternative is to evaluate whether the client can sell the income interest. A healthy market now exists, and for many clients a sale of their income interest is the best alternative.

In the scenario of an unwanted private foundation, the client may wish either to unload the management of the foundation onto a professional, or to terminate the foundation. Be aware that terminating a foundation can give rise to significant taxes. But in most cases, if properly handled, a private foundation can be terminated with no tax and little hassle. Typically this involves giving all the foundation's remaining assets to one or more public charities.

When heirs receive an unwanted interest in a CRT or CLT, the best solution may be to sell their interest for cash.

### Too Little Charitable Planning

Have you ever had a client tell you that he doesn't like paying taxes, but that he also doesn't want to spoil his children by leaving them too much?

If so, you are in the same boat as the majority of estate planners. Almost no one likes paying taxes, and this seems to hold especially true of estate taxes.

Yet often clients do not connect all the dots between their desires. If you have a client who doesn't want to pay taxes, and who doesn't want to make his kids 'too rich,' you have a client who is badly in need of charitable planning.

Upon a client's death (or his/her spouse's depending on

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who is the last to die), a client's assets can go only three places: heirs, taxes, or charity.

The client who doesn't want to pay taxes and doesn't want his heirs to get too much must plan to give to charity the amount he isn't willing to give to heirs or the government. Typically, this means the client should be looking at maximizing his annual contribution deductions. He should also consider having a testamentary foundation, CLT, or both.

Annual contributions can most easily be directly to public charities. But many clients want to 'hold on' even to charitable gifts. For them, a private foundation may make sense. For others, a donor advised fund may offer a middle ground. For certain larger or more complex situations, a supporting organization might be a feasible solution.

## Further Resources

Space does not permit us to go into further detail on any of these strategies here. For further information, please visit our website at [www.SterlingFoundations.com](http://www.SterlingFoundations.com), or contact us if you have questions about a particular issue.

### *About the Author:*

*Roger D. Silk, Ph.D., CFA is CEO of Sterling Foundation Management, a provider of backoffice administration for private foundations. Dr. Silk is widely recognized as a leading expert in the field of charitable planning. He is co-author of the bestselling book *Creating a Private Foundation* and a member of the *Trusts & Estates* editorial advisory board for philanthropic matters. Dr. Silk earned a Ph.D. and an M.A. in applied economics from Stanford University, as well as a B.A. in economics (with distinction).*