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GIVING  
SUCCESS



## Important Year-end Charitable Giving Strategies



Date: October 21, 2021  
Time: 1:00 – 2:30 Eastern  
Presenter: Russell James  
Professor  
Texas Tech University



## Important Year-end Charitable Giving Strategies

The strategies and the “words that work” in conversations

Professor Russell James, J.D., Ph.D., CFP®, Texas Tech University



## Our changing charitable world

Definite loss at the end of the year

- Eliminating 100% of taxable income with giving
- Above the line \$300/\$600 charitable deduction
- Any current year (2021) tax benefits (as always)





## Our changing charitable world

### Risk of loss

- The specter of immediate or retroactive tax legislation changing DAFs, stepped up basis at death, FMV gifts of appreciated assets, CRTs without upfront gain recognition, Roth conversions, estate tax avoidance, etc.
- Rising interest rates lowering tax benefits for grantor CLTs, non-grantor CLTs, retained life estates, and increased taxation of CGA payments.





“No” is not the enemy.  
“Later” is the enemy.



The most important impact of “proposed” legislation: Motivating your client or donor to act now!

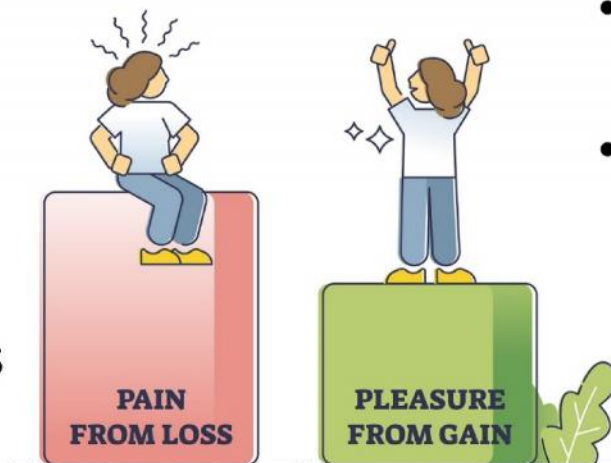


## Behavioral economics: Financial loss motivates more than financial gain

### Loss framing

- Act now or suffer a loss
- This is your last chance because this disappears in a few weeks
- Everything is uncertain and once it's gone, it's gone
- I'm concerned because you may lose out on this tax benefit if we don't act now

### LOSS AVERSION



### Gain framing

- You can get this great benefit
- It's a nice bonus if you want to use it this year
- These are good benefits you can take advantage of now



Last chance “definitely” disappearing  
opportunities in 2021



## The “magic” 2021 charitable tax deduction for non-itemizers

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- \$300 per person
- \$600 married couple (in 2020 was only \$300 for married couple)





**Offset 100% of your income  
with charitable deductions**

- 2021 only
- Cash to an operating public charity
- Doesn't work with donor advised funds



How can we leverage the expiring 100% limitation benefit?

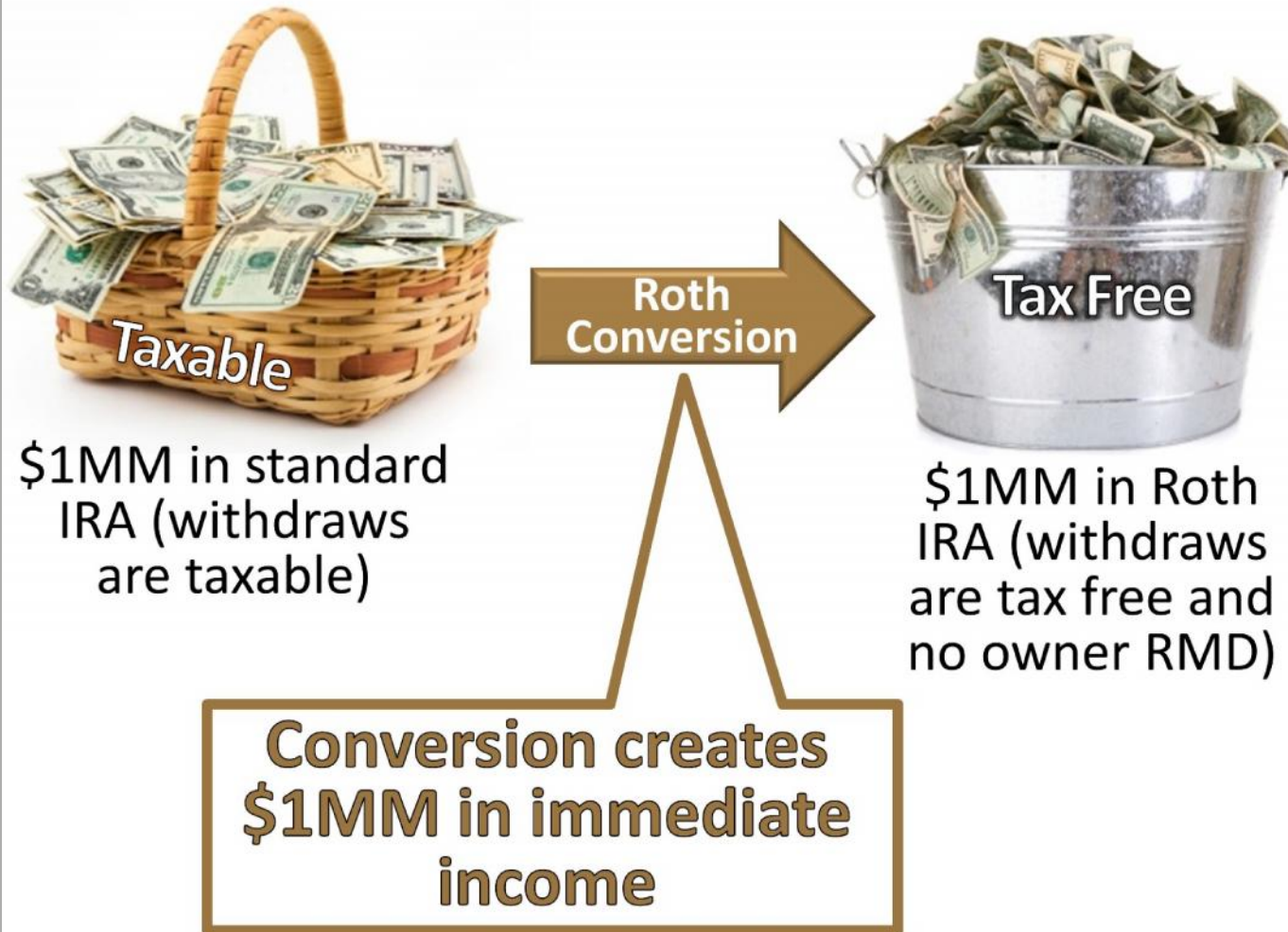


Roth conversions and charitable planning  
can work together to match



**Income**

**Deductions**



Accelerating a multi-year pledge by writing the check now can fit with a Roth conversion.

This year only, donors can eliminate 100% of income with gifts of cash to an operating public charity.





New attraction to CGAs

If the donor can't use charitable deductions, lower interest rates mean a larger share of the annual payments will be considered tax-free return of the original investment.

If funded with cash, the deduction can eliminate 100% of income in 2021. (Connect with me on LinkedIn for the full paper on this.)



Gift of Cash for a CGA (not CRT) should qualify for 100% income limitation for 2020 extended in 2021

A “qualified contribution” requires “(i) such contribution is paid in cash during calendar year 2020 to an organization described in section 170(b)(1)(A)”

A “qualified contribution” is a deductible “contribution,”

1. “paid in cash”
2. “during calendar year 2020”
3. “to an organization described in section 170(b)(1)(A)” (i.e., a public charity).



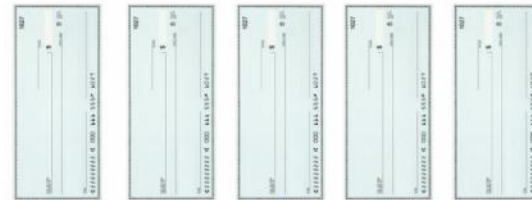
With a CGA, the public charity gets cash immediately



A CGA is a “bargain sale” like paying \$1,000 for a dinner event worth \$95.



2021



2022 2023 2024 2025 2026

It’s not a “split-interest gift” because the donor retains no rights in the gifted property.



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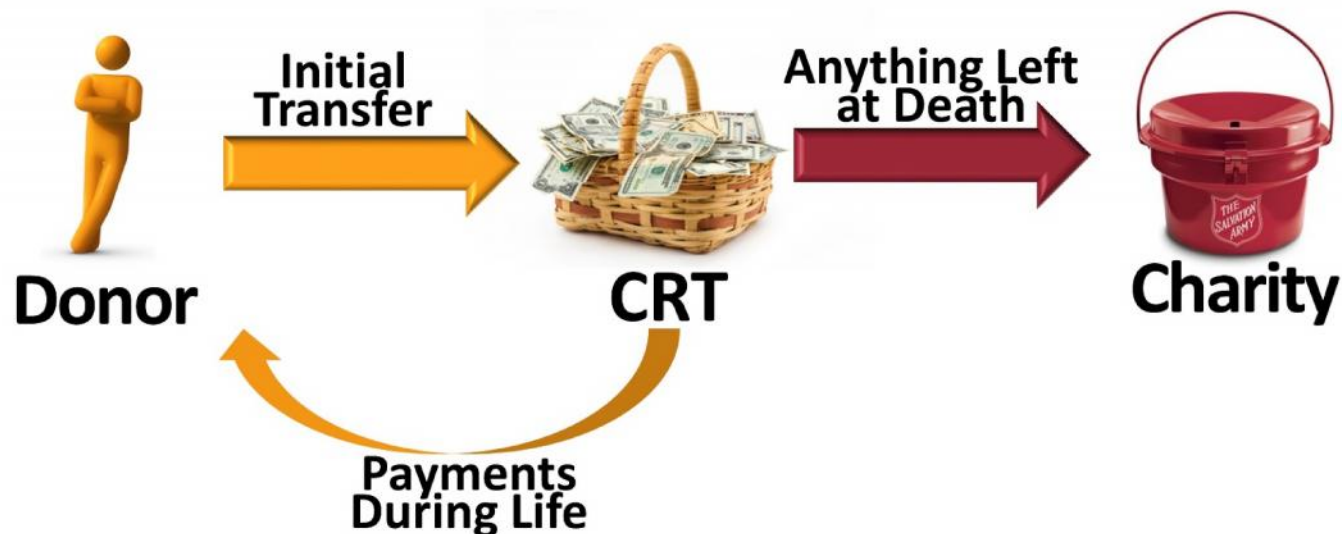
... Death

“such contribution is paid in cash during calendar year 2020 [2021] to an organization described in section 170(b)(1)(A)”



## With a Charitable Remainder Trust the 170(b)(1)(A) public charity gets no cash immediately

1. “paid in cash”
2. “during calendar year 2020”
3. “to an organization described in section 170(b)(1)(A)”







An obscure strategy you can use to get 100% tax deductions even after 2021

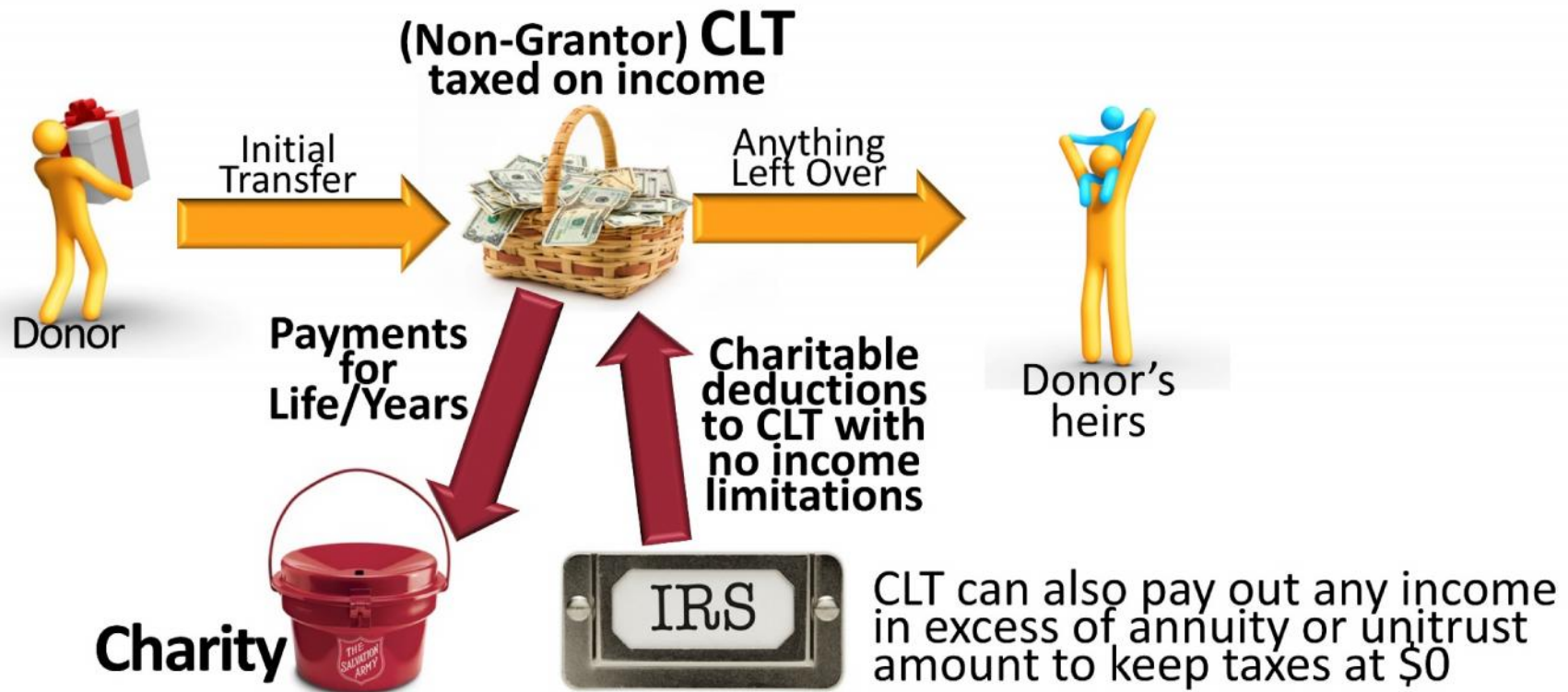


For a client capped out on income limitations (giving from assets with relatively little reportable income) and planning to continue donating:

Move an income-producing asset into a non-grantor CLT. (The asset goes to family at the end with all extra growth going gift/estate tax free.) Charitable giving can offset all income inside the CLT (100% deduction).



# Non-Grantor CLT pays income taxes but deducts charitable distributions usually without income limitations





7520 Interest Rates



More fun with CLTs

How to take advantage of low interest rates **BEFORE THEY DISAPPEAR!**



# Non-Grantor Charitable Lead Trust

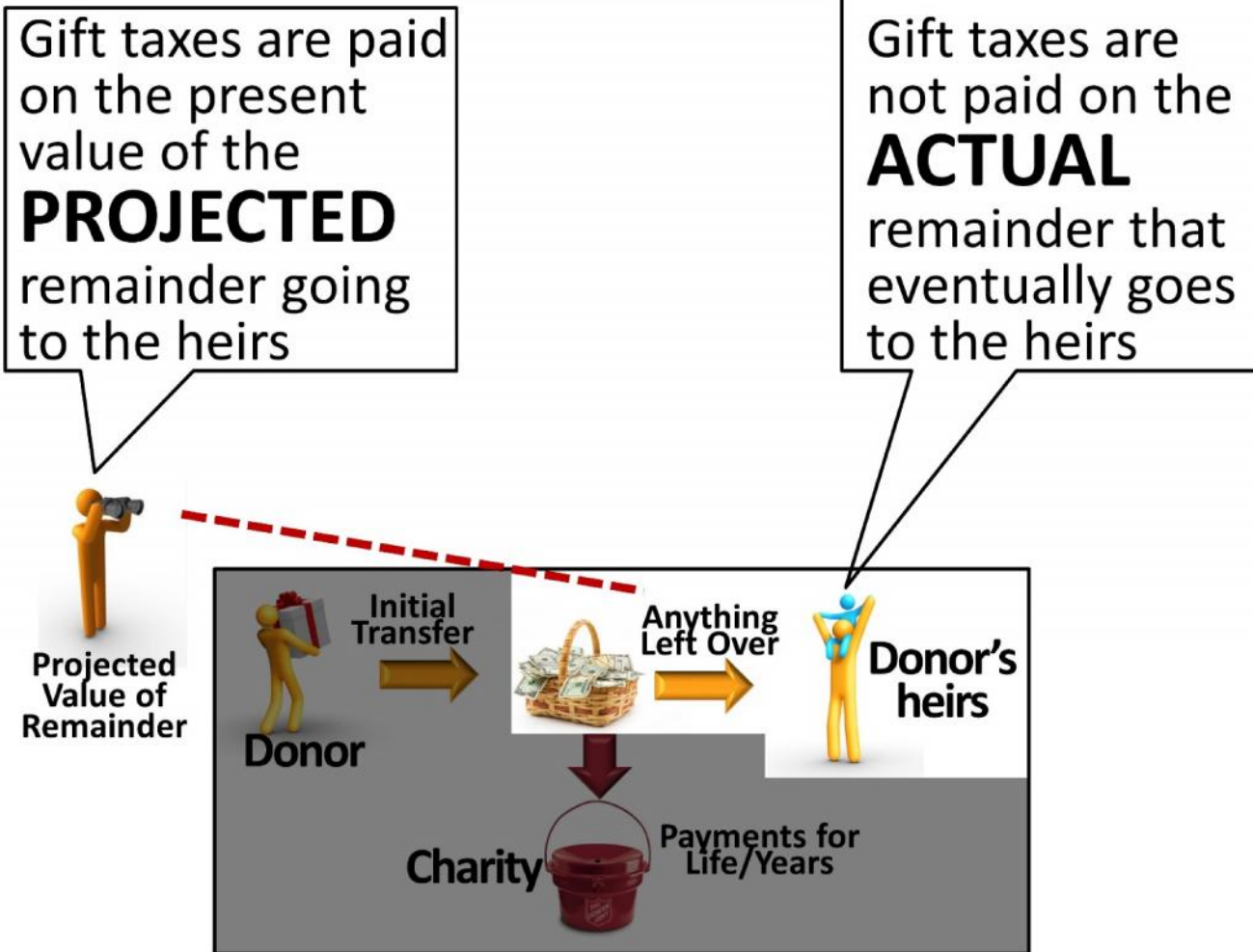
Donor gives money from which charity receives payments, with remaining amount going to family members

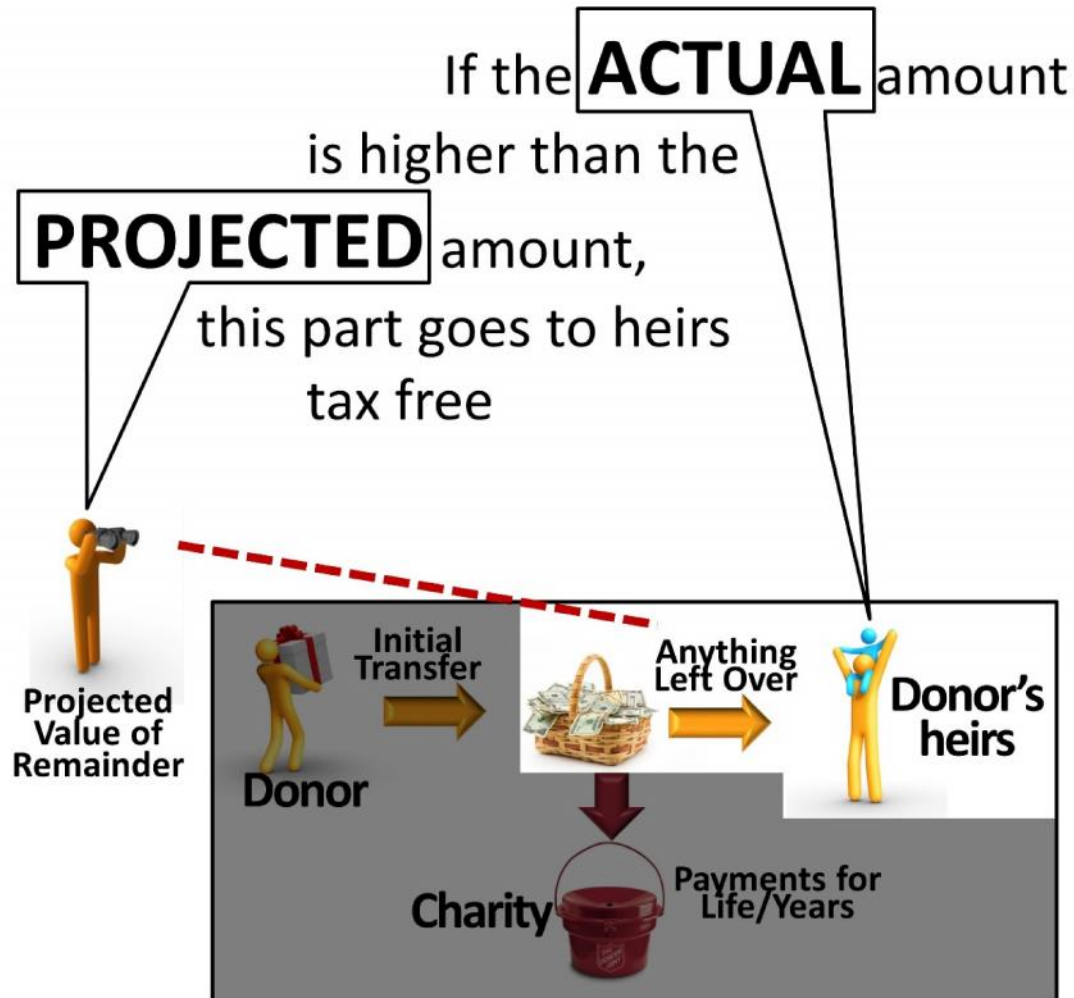






## Using non-grantor Charitable Lead Trusts to cut gift and estate taxes

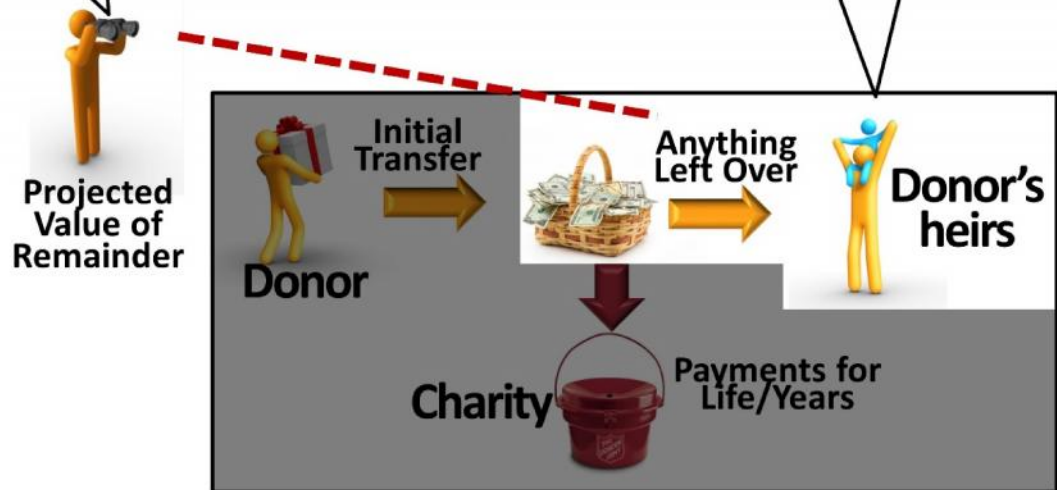






The **PROJECTED** remainder assumes investment will grow at the **INITIAL** \$7520 rate

If actual growth is greater than the \$7520 rate, the **ACTUAL** remainder will be greater than projected







The **PROJECTED** remainder of \$10MM at 0.4% \$7520 with \$521,266/year charitable payments for 20 years is \$0, resulting in \$0 gift taxation

If actual growth is 8%, the **ACTUAL** remainder will be \$22,755,415

Projected Value of Remainder



At 1% rate use \$554,153 payments leaving \$21,250,442



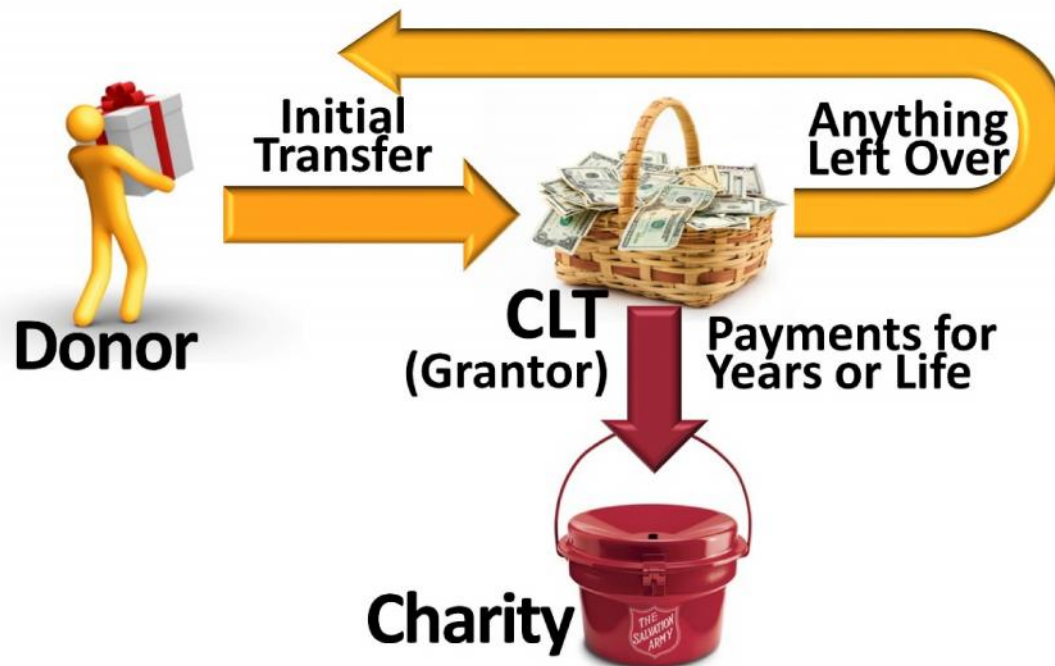
If the charitable gift *(or bequest)* was already planned, the zeroed-out CLAT *(or zeroed-out testamentary CLAT)* provides a no cost chance at tax-free transfers to family





# Grantor CLT

Donor immediately deducts present value of all future projected payments to charity





Funding \$10,000/year gifts through a 20-year grantor CLAT (returning remainder to donor) creates an immediate deduction of

- **\$191,840 at 0.4%** §7520 rate
- **\$98,181 at 8%** §7520 rate

See [iclat.net](http://iclat.net)

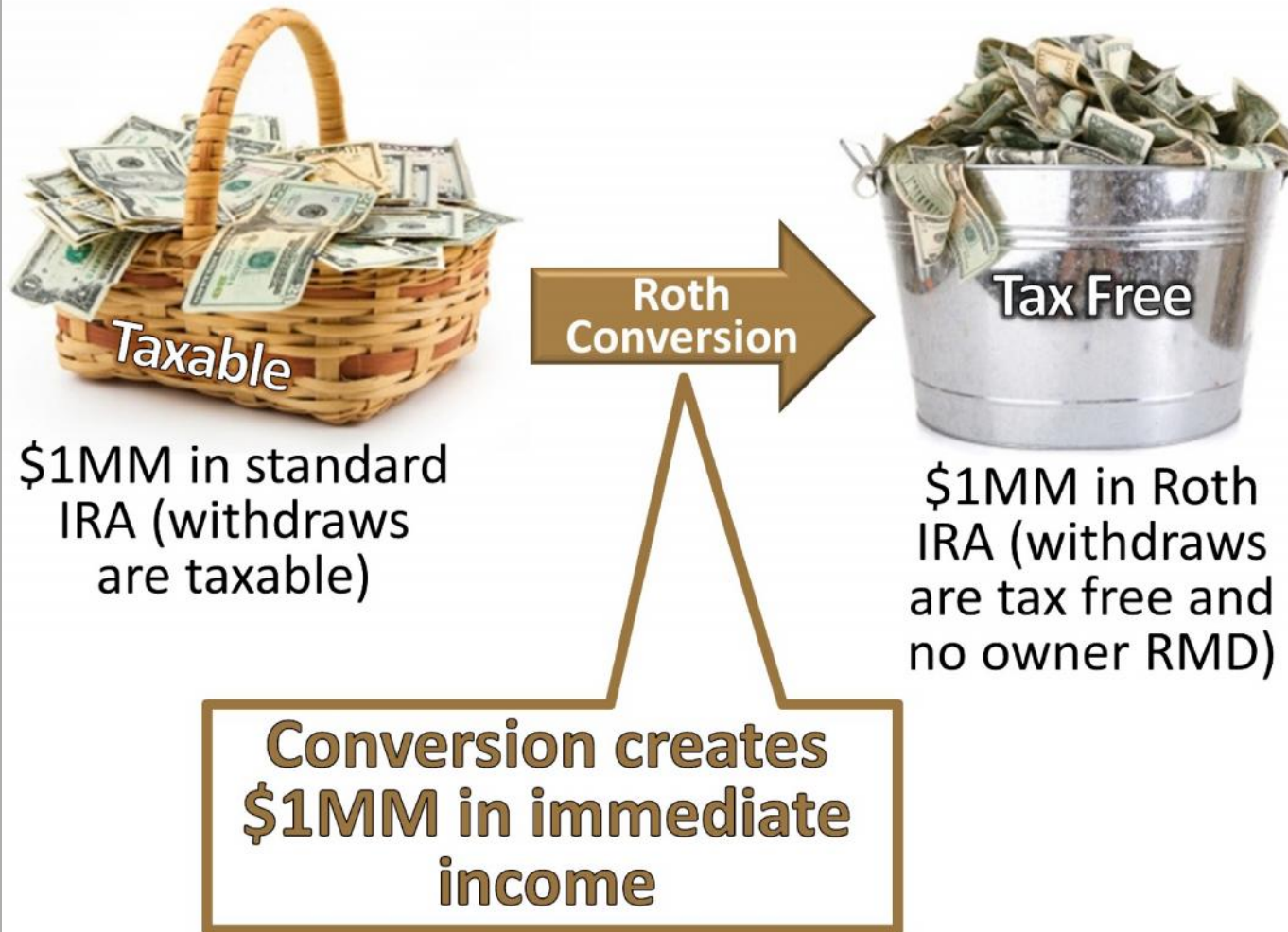






## Roth conversions and charitable planning can work together to match





Roth conversion creates need for immediate tax deductions.

Pulling forward deductions from future giving includes grantor CLTs and Retained Life Estates.



# Retained Life Estate Deeds for Homes and Farmland





A retained life  
estate deed can  
give the  
inheritance rights  
to a charity

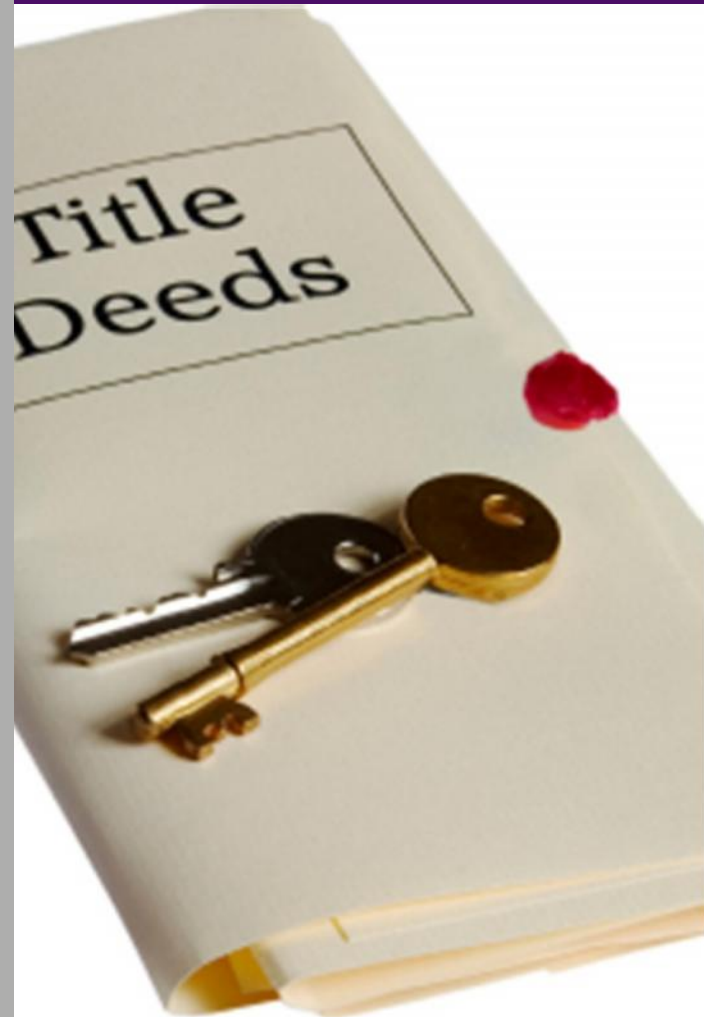






Unlike a will,  
a retained life  
estate deed is  
not revocable

**Remainder  
Interest**



## Transferred by recording a deed

(not by trust or contract)

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e.g., “To John A. Donor for life,  
remainder to Texas Tech  
Foundation, Lubbock, TX 70409”

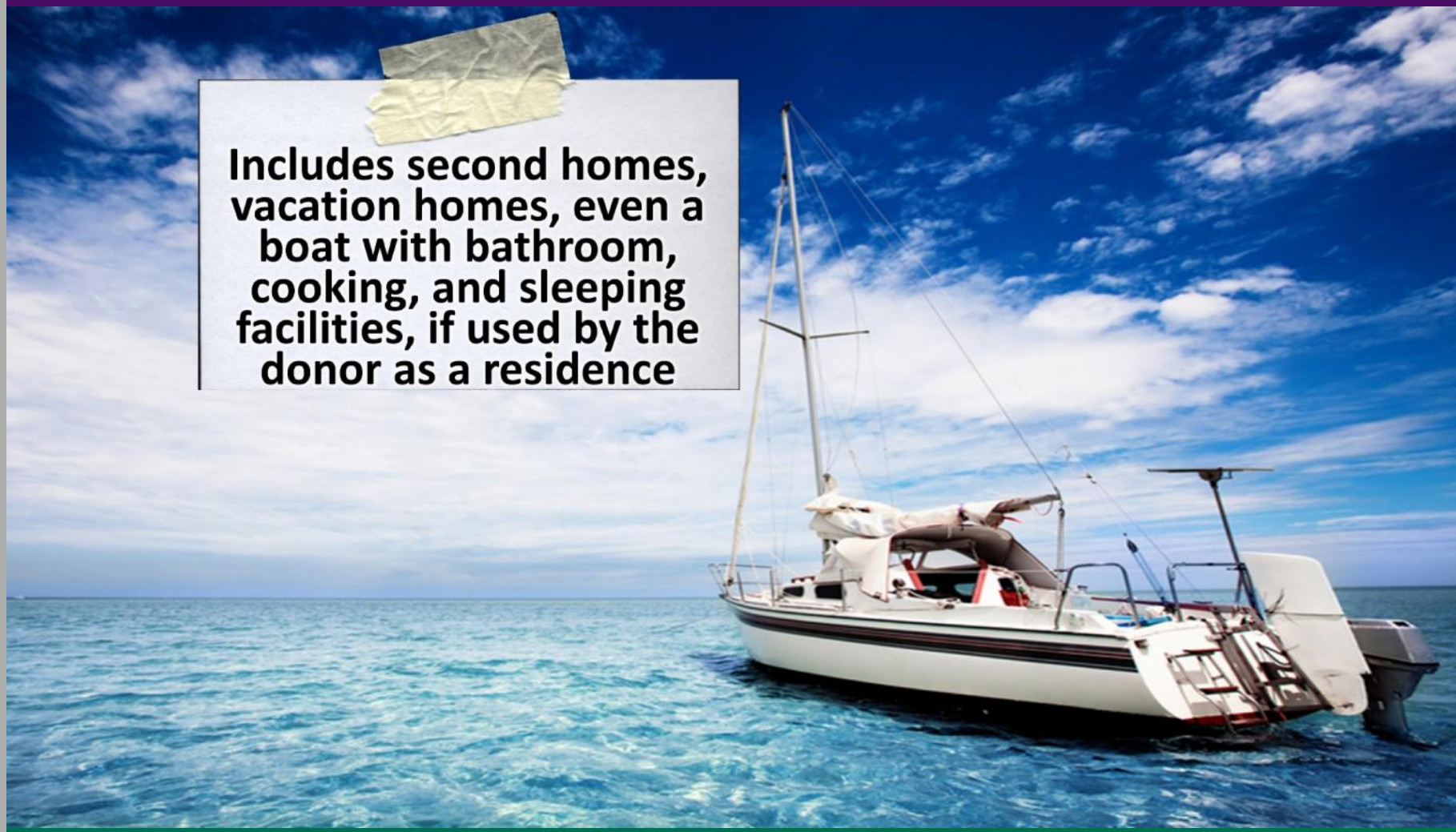


**Remainder  
Interest**

Donating inheritance rights to personal residences or farmland with a retained life estate deed creates a charitable tax deduction



**Includes second homes,  
vacation homes, even a  
boat with bathroom,  
cooking, and sleeping  
facilities, if used by the  
donor as a residence**







Charitable deduction for remainder interest deed with retained life estate in \$1,000,000 of farmland by age 55 donor

You can use the tax savings to buy life insurance for heirs who weren't going to farm anyway



11.6% (May 89)

**\$122,350**



0.4% (Nov 20)

**\$903,710**

- 1% = \$779,640
- 2% = \$616,350
- 3% = \$494,000



7520 Interest Rates



Lock in the biggest deduction by donating the inheritance rights when interest rates are low



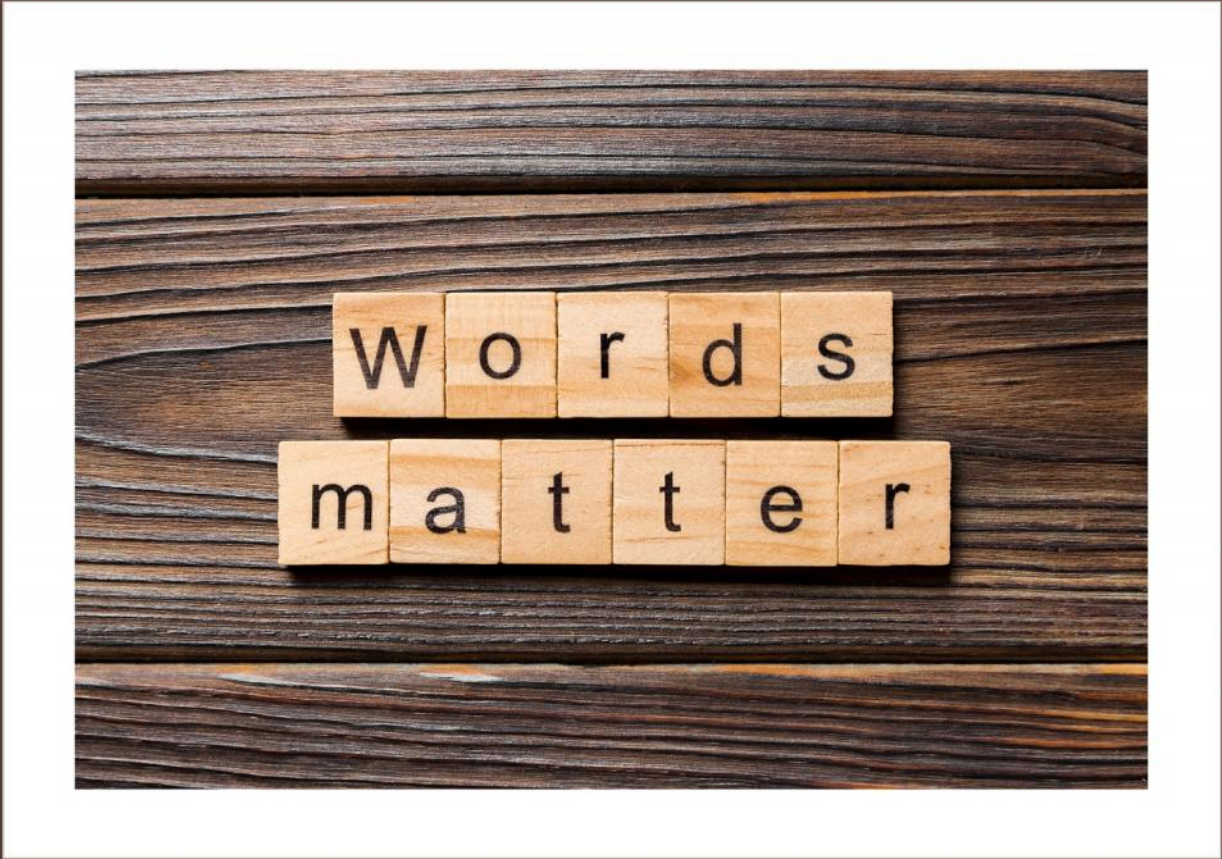
## Leaving land to charity **by will**

- Revocable
- \$0 income tax deduction



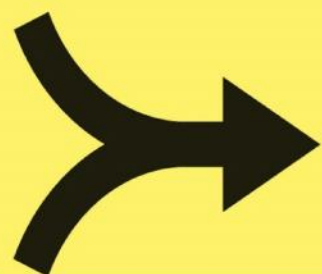
## Leaving land to charity **by retained life estate deed**

- Irrevocable
- Immediate income tax deduction
- Immediately increases donor's available cash by lowering taxes



More  
phrasing  
concepts  
from  
behavioral  
economics





Behavioral economics: Matches create more giving than financially identical rebates



## Match framing

- “Your giving becomes more powerful when you get the government to match your gift with tax benefits.”
- “We want the government to chip in more, so that your giving has a greater impact.”
- “It’s smarter to get the government to share the cost of your gift because it makes your giving more powerful.”

## Rebate framing

- “The government gives you money back for your philanthropy.”
- “This way you get the maximum cash in your pocket from your giving.”

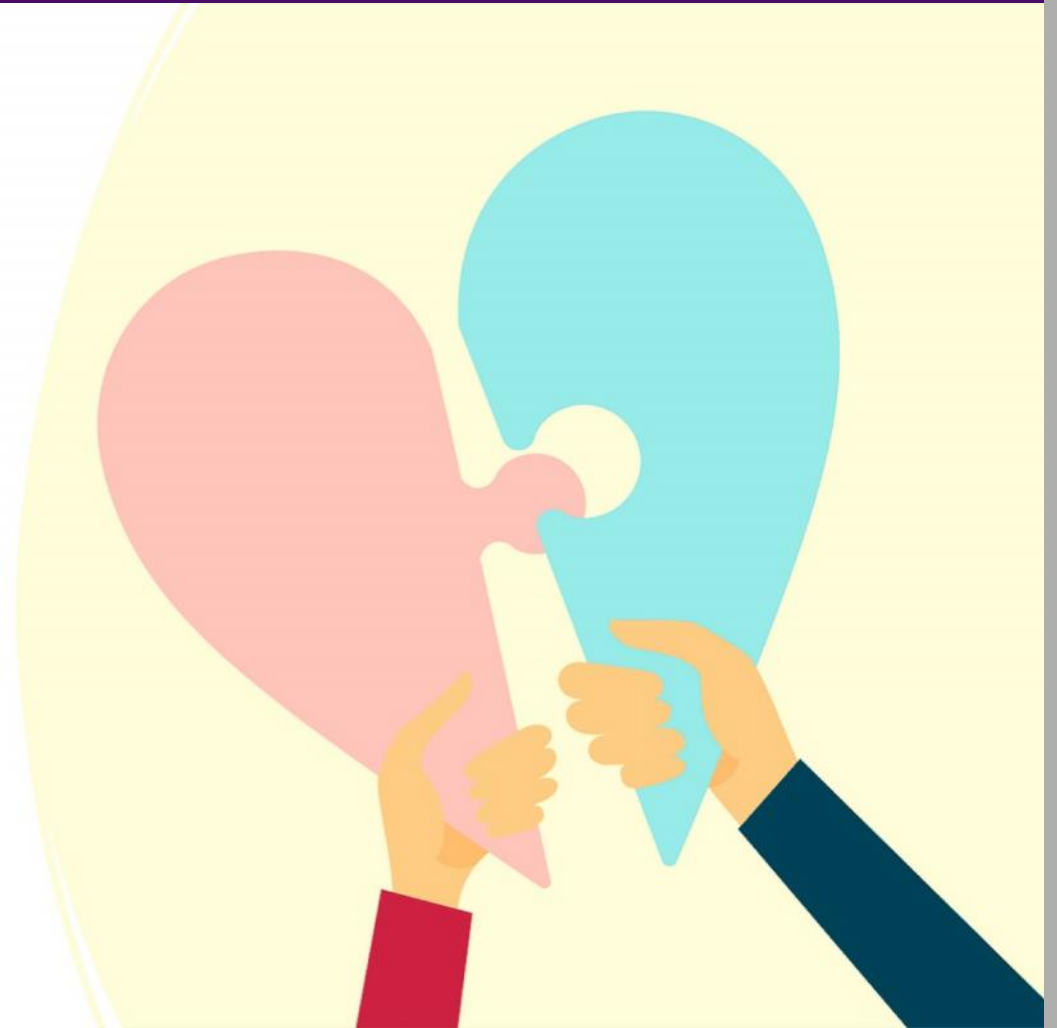


Getting the government to match your charitable gift makes your giving more powerful

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The government pays part of the cost of your gift with

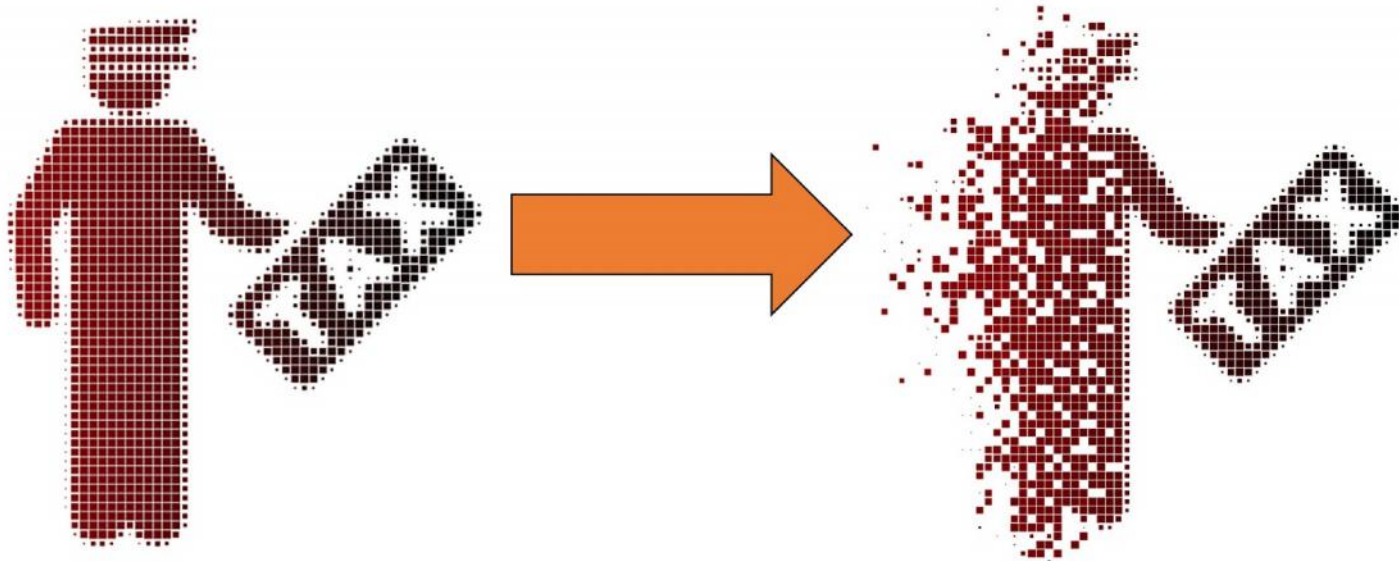
1. Tax deduction  
(Good, if you are itemizing)
2. Tax avoidance  
(Even more powerful!)





Tax avoidance: The magic disappearing tax bill

It makes an upcoming tax bill disappear





Tax avoidance: Income you never have to report

TAXES



- You earned the income – but now you never have to pay taxes on it.
- You made a profitable investment – but now you never have to pay taxes on it.
- No itemizing required!





## Tax avoidance: But wait, there's more!

**Deduction:** Reported income (AGI) stays high, but taxes are lower

**Avoidance:** BOTH reported income (AGI) AND taxes are lower. This can help with

- Medicare Part B & D payments
- Eligibility for
  - Deducting IRA contributions
  - Making Roth IRA contributions
  - Adoption credit
  - Earned income tax credit
  - Child tax credit
  - Qualified business income deduction
  - Education tax benefits (American Opportunity Credit, Lifetime Learning Credit, deductibility of student loan interest)



## Tax avoidance with charitable giving

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1. Gifts of appreciated assets
2. The charitable swap
3. IRA gifts instead of required minimum distributions
4. IRA gifts without or above required minimum distributions
5. IRA beneficiary gifts



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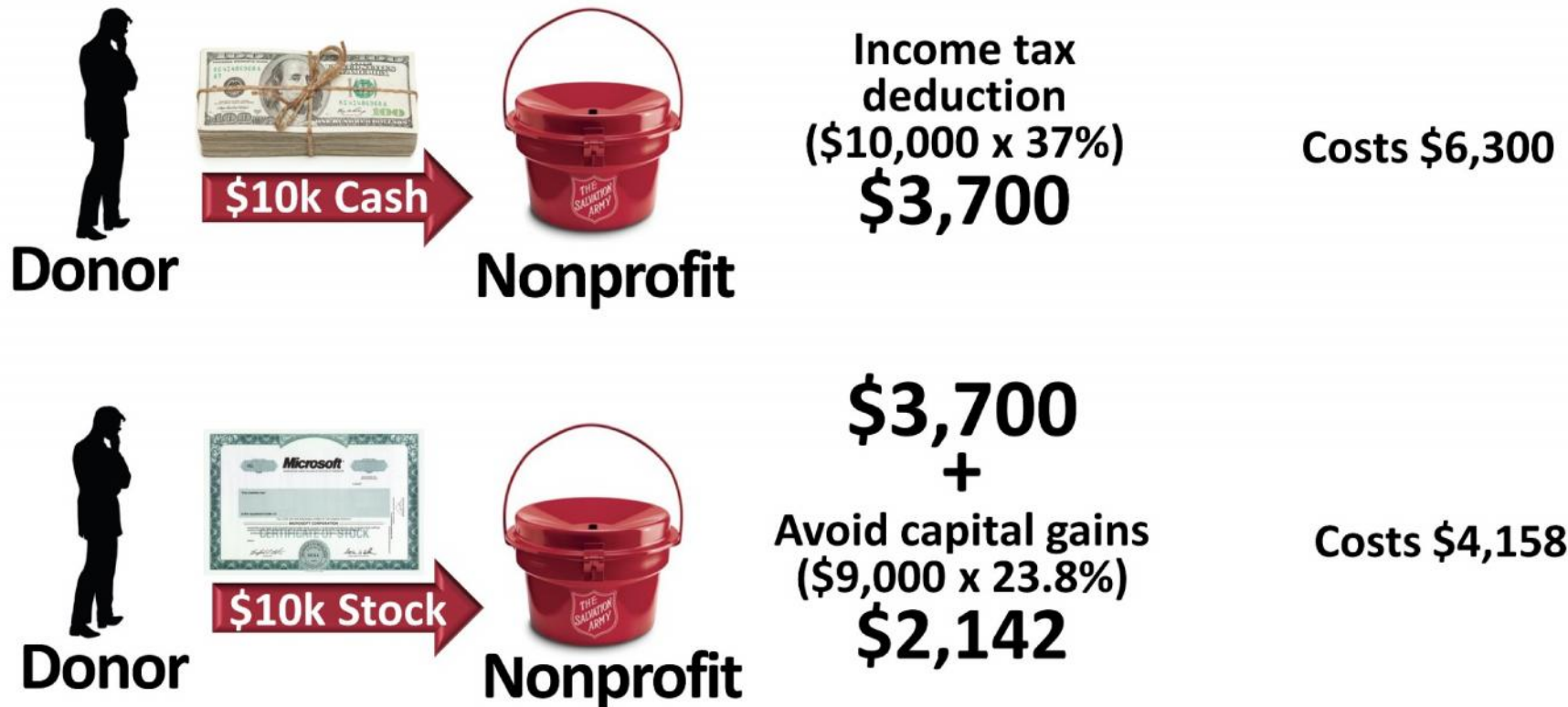
# Appreciated asset gifts are objectively cheaper





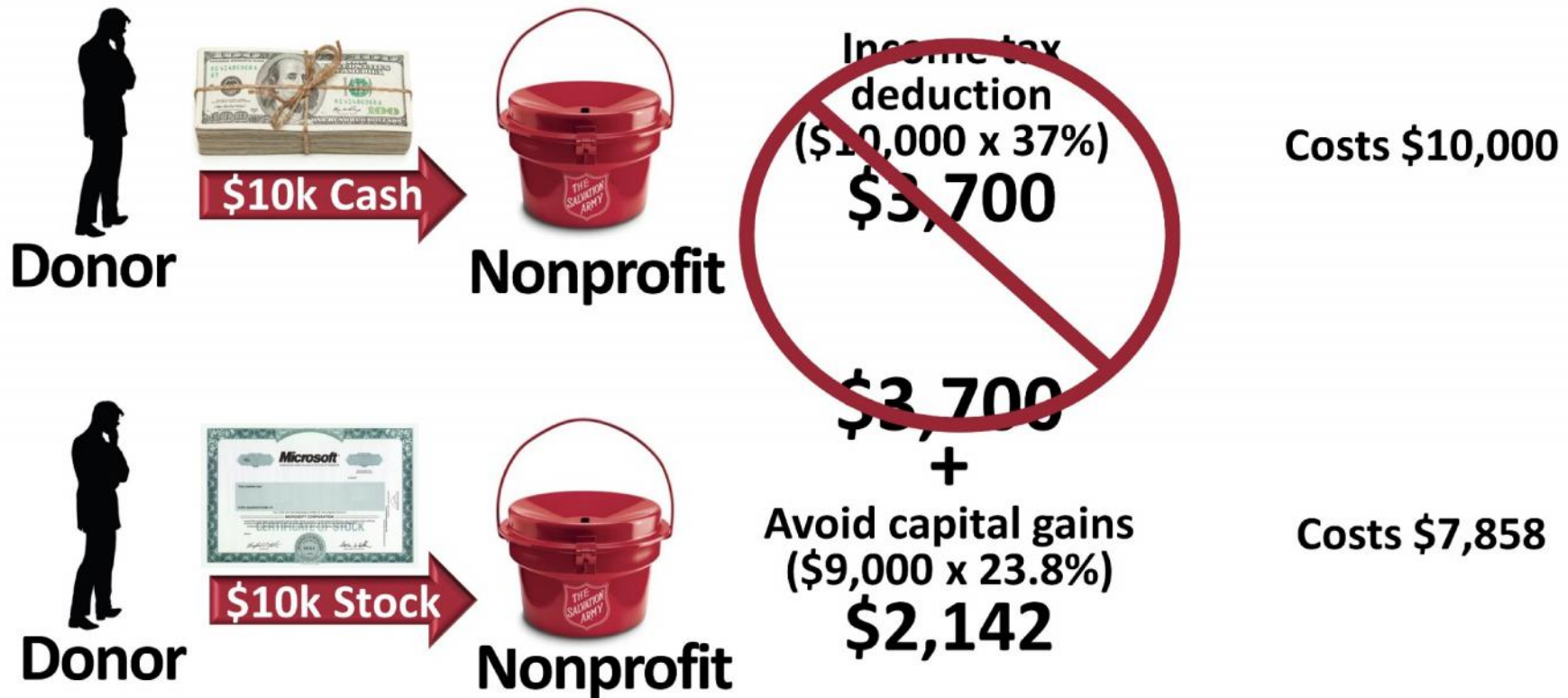


# Asset gifts are cheaper for itemizers



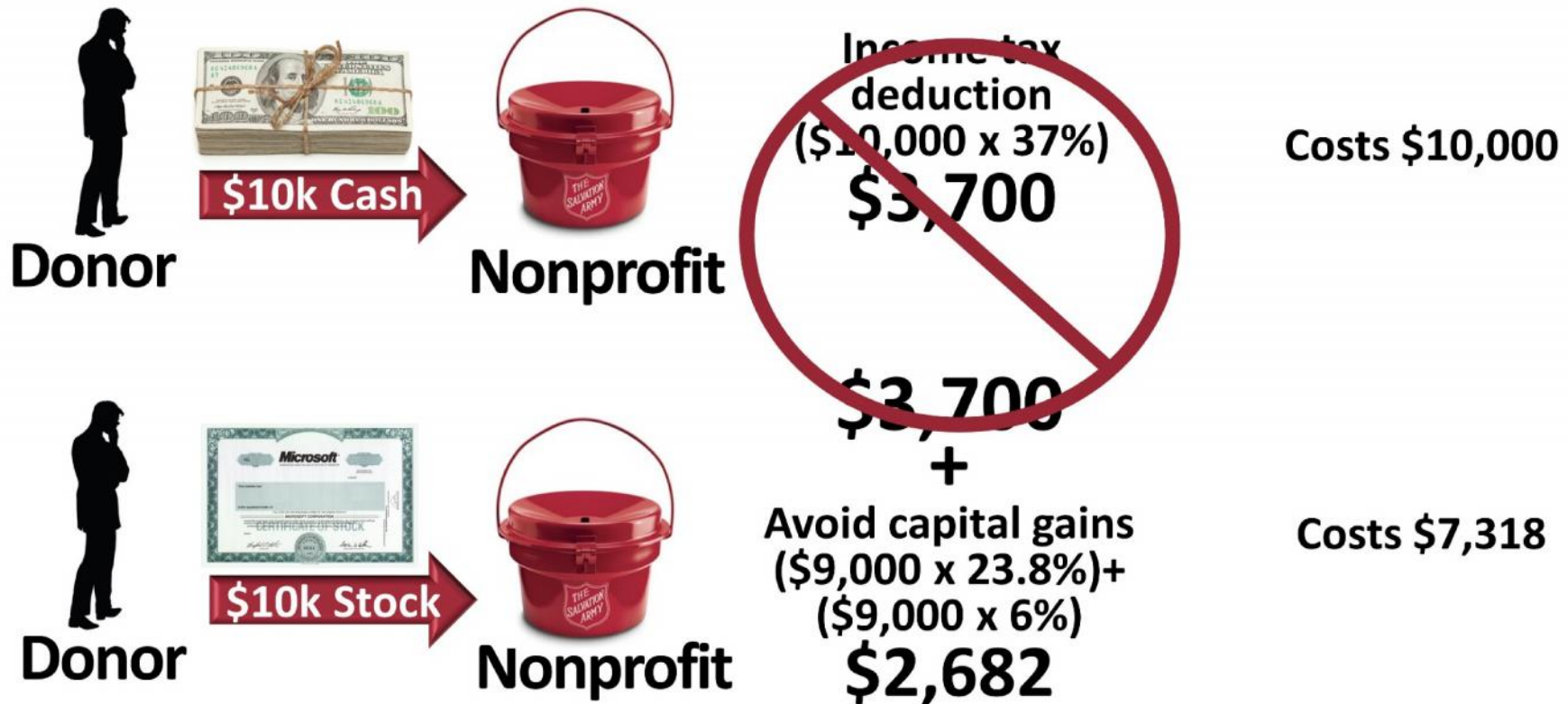


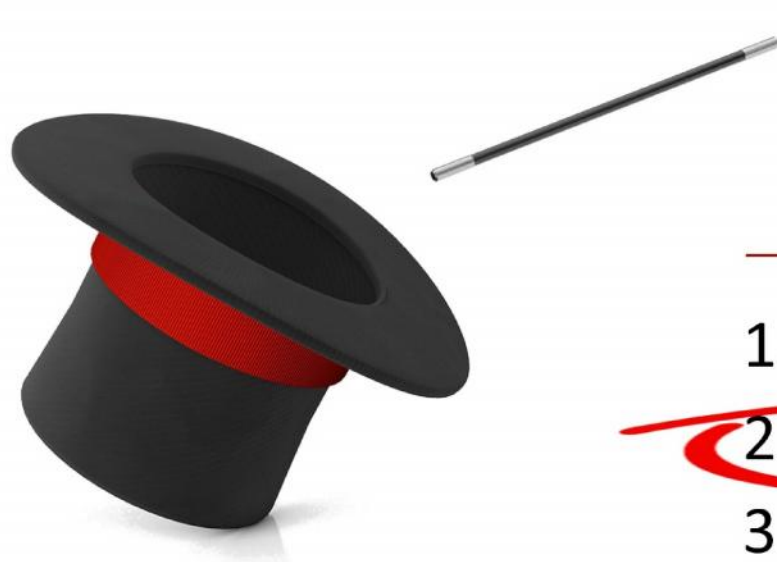
# Asset gifts are cheaper for non-itemizers





# Asset gifts are cheaper for non-itemizers (especially with state capital gains taxes)





## Tax avoidance with charitable giving

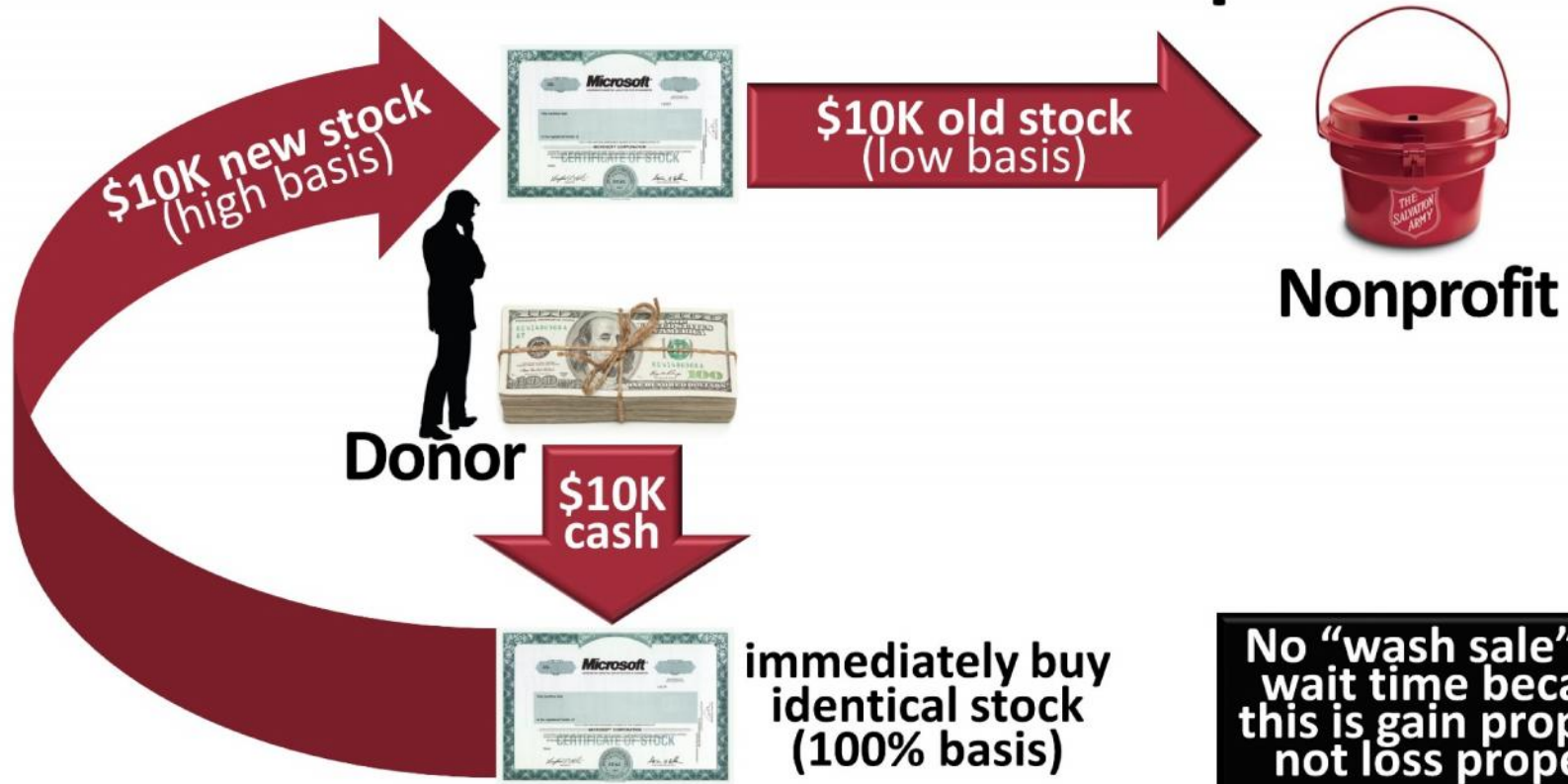
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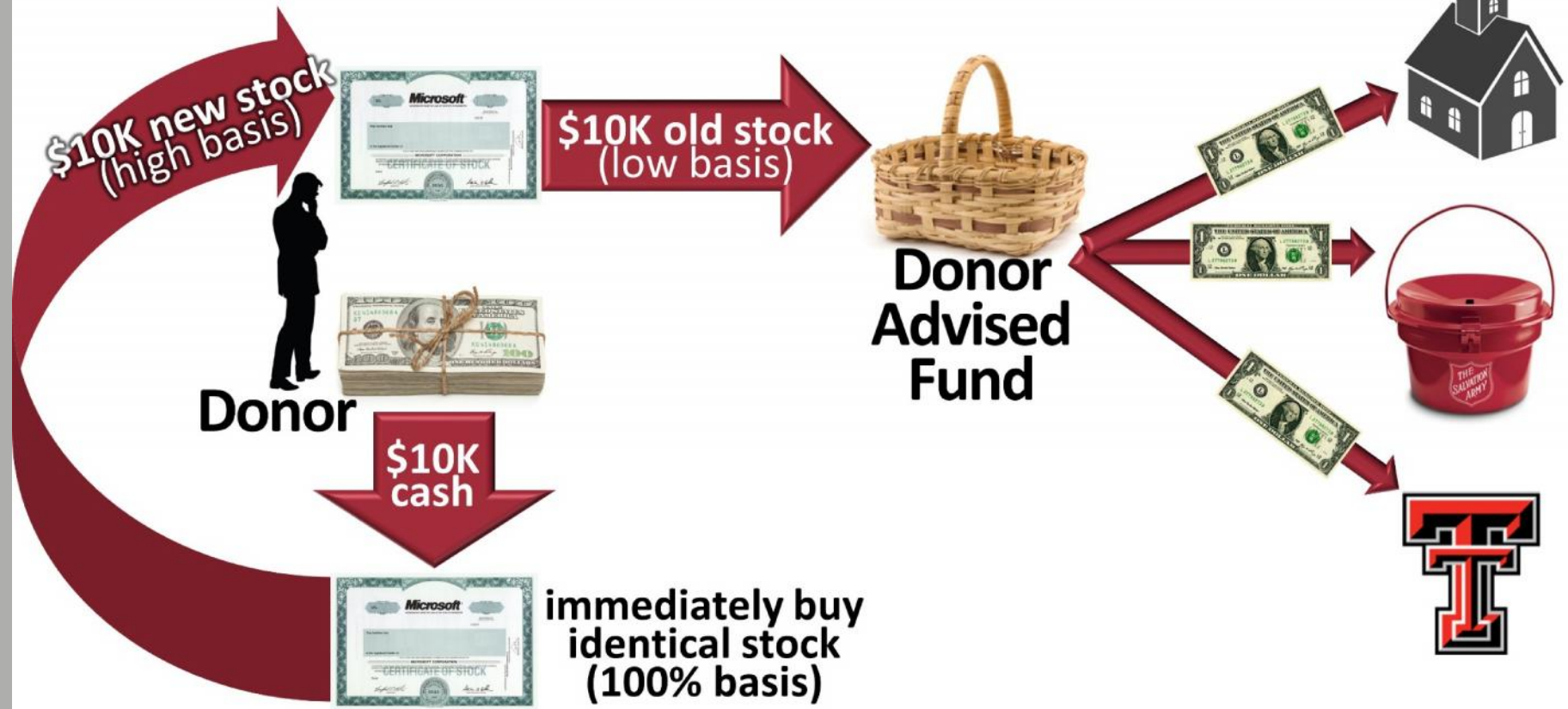
# No need to change your portfolio! The Charitable Swap



**No "wash sale" rule  
wait time because  
this is gain property,  
not loss property**



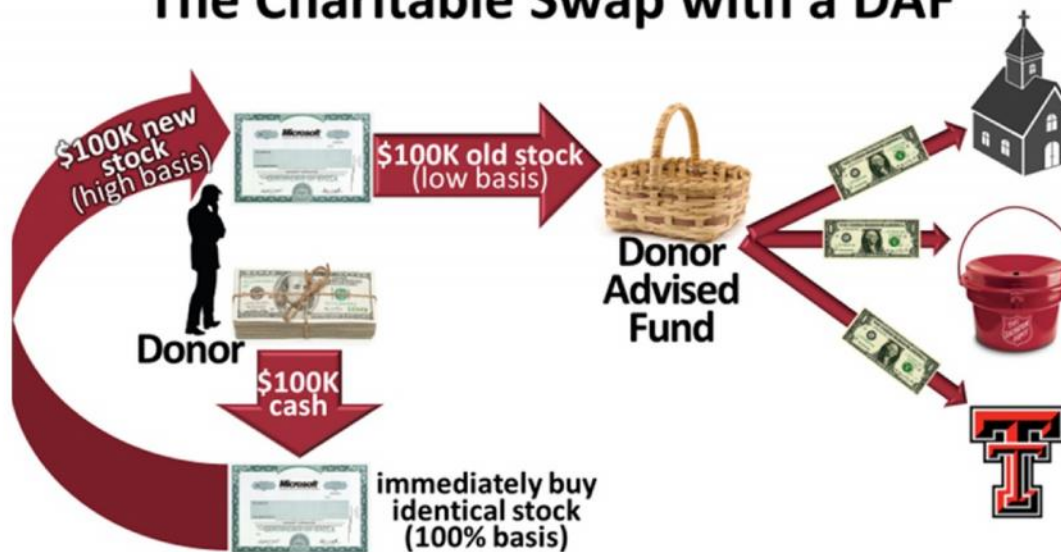
# The Charitable Swap with a DAF





Buy low, give high, lock in the tax benefits!

### The Charitable Swap with a DAF



“Lock in part of your gains without changing your portfolio.”

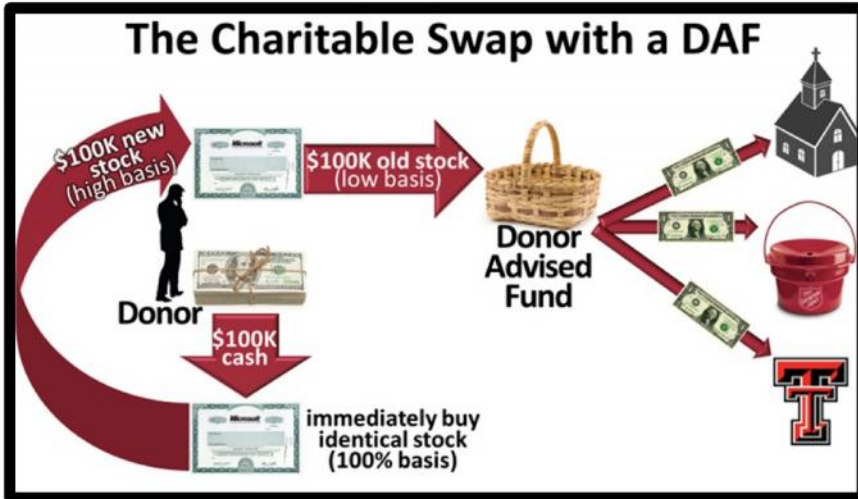
1. @\$10/share – buy
2. @\$110/share – give as a charitable swap replacing gifts of cash
3. @\$10/share – sell

Harvest a \$100 tax loss (instead of \$0)! Worth up to \$23.80 federal plus up to \$13.30 state.



# Do it now or risk losing out!

- Fair market value deductions might disappear!
- Stepped-up basis might disappear!
- Stock value might drop (losing the chance to harvest tax losses)!







## Tax avoidance with charitable giving

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## Life stages of a retirement account



Early distribution (before 59 ½)



Regular distribution (59 ½ to 72)

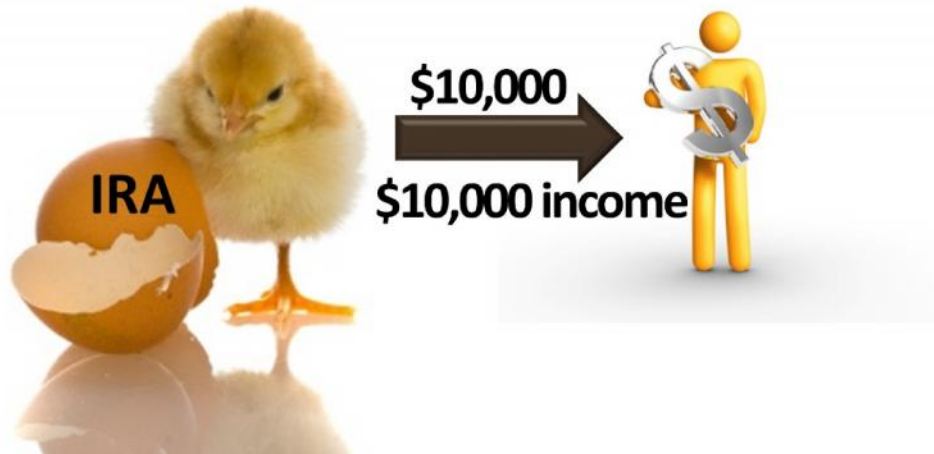


Required minimum distribution (72+)



## Giving after 72

After age 72 participants must take required minimum distributions (account balance / remaining life expectancy) or pay 50% penalty

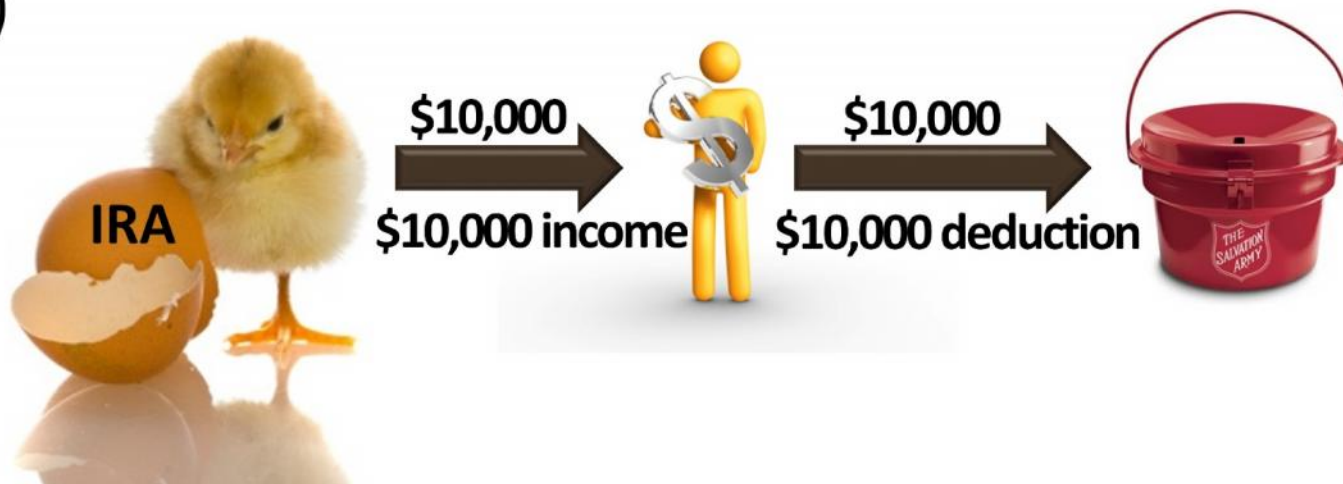




## Giving after 72

If the income is not needed, a charitable gift deduction ***might*** offset the income

(if itemizing *and* no income giving limitations exceeded *and* no negative effects from increased AGI *and* not in the wrong state)

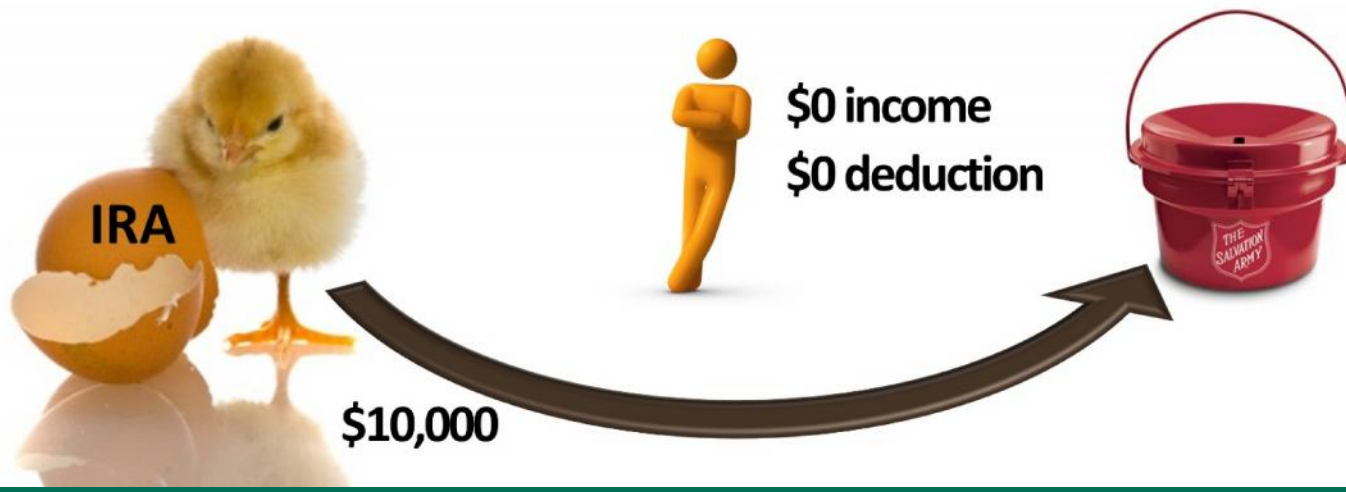






## Giving after **70½**

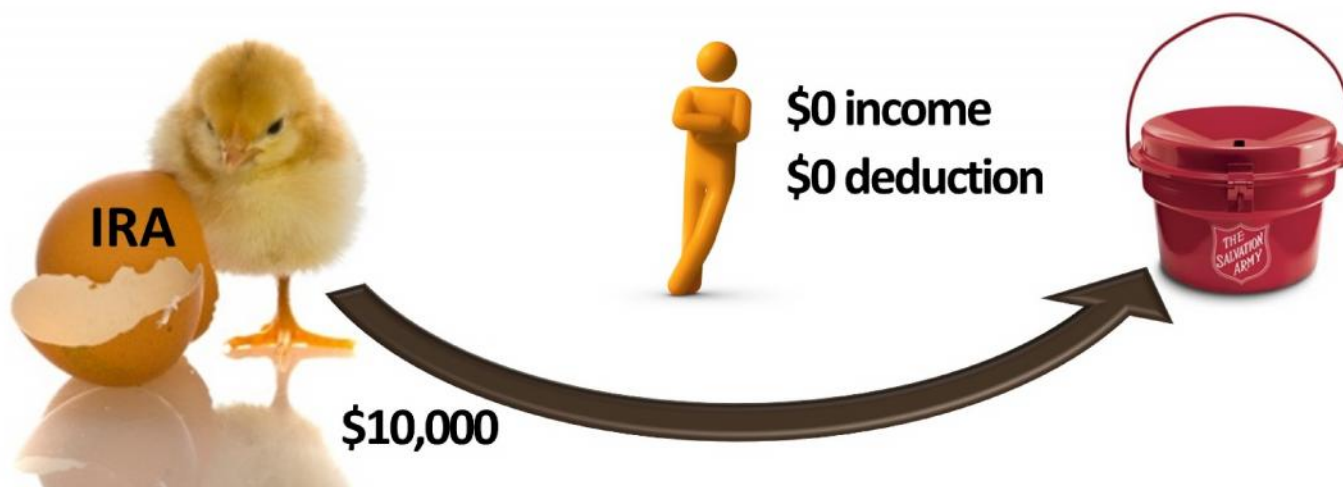
A Qualified Charitable Distribution (QCD) eliminates both the income and deduction





## How much can a donor age 70½+ transfer via QCD?

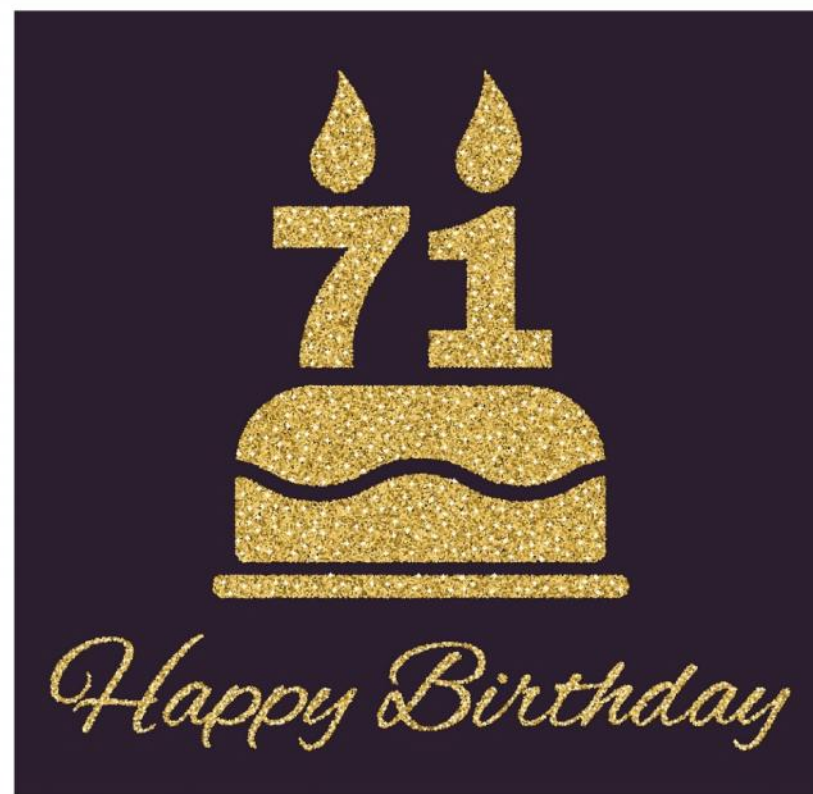
1. If their RMD is \$25,000? Answer: \$100,000.
  2. If their RMD is \$0? Answer: \$100,000.
  3. If their RMD is \$200,000? Answer: \$100,000.
  4. If their RMD is \$2 Million? Answer: \$100,000.
- (Hint: The answer is always \$100,000.)





Convert to IRA rollover before December 31 at age 71

- To make charitable distributions from an 401(k), 403(b), 457(b), or other pre-tax qualified plan, requires first converting to an IRA rollover.
- Any RMDs must be paid in the year of conversion. Waiting until the year you turn age 72 is too late!





## Tax avoidance with charitable giving

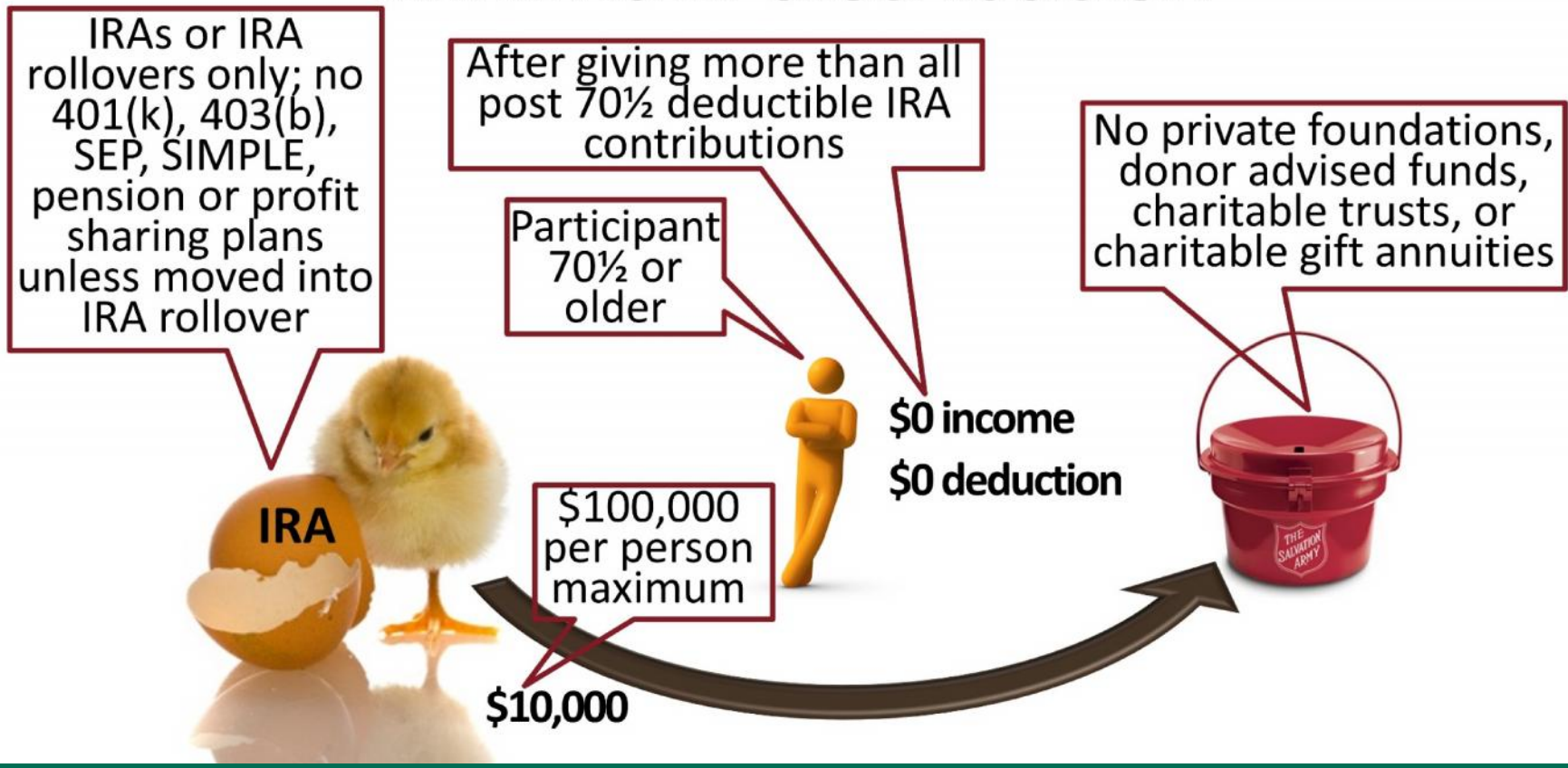
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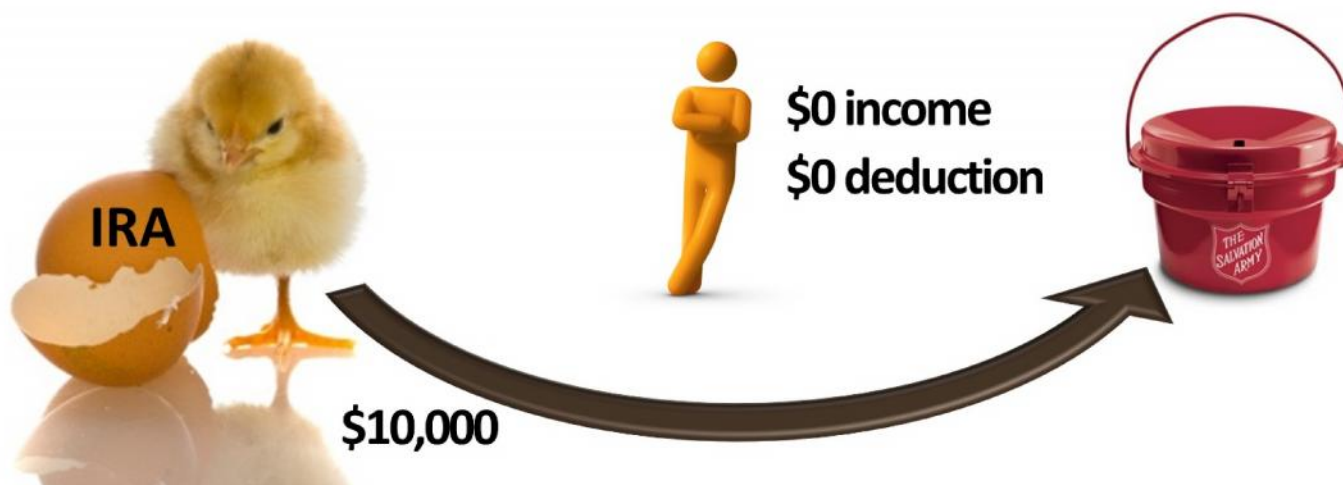
# You can give more than your required minimum distribution





## Giving beyond or without a required minimum distribution

- Income taxes must be paid on this money sometime unless it is transferred to charity.
- Tax avoidance (QCD) is more efficient than a tax deduction.
- It is much more efficient that an unused tax deduction (not itemizing).

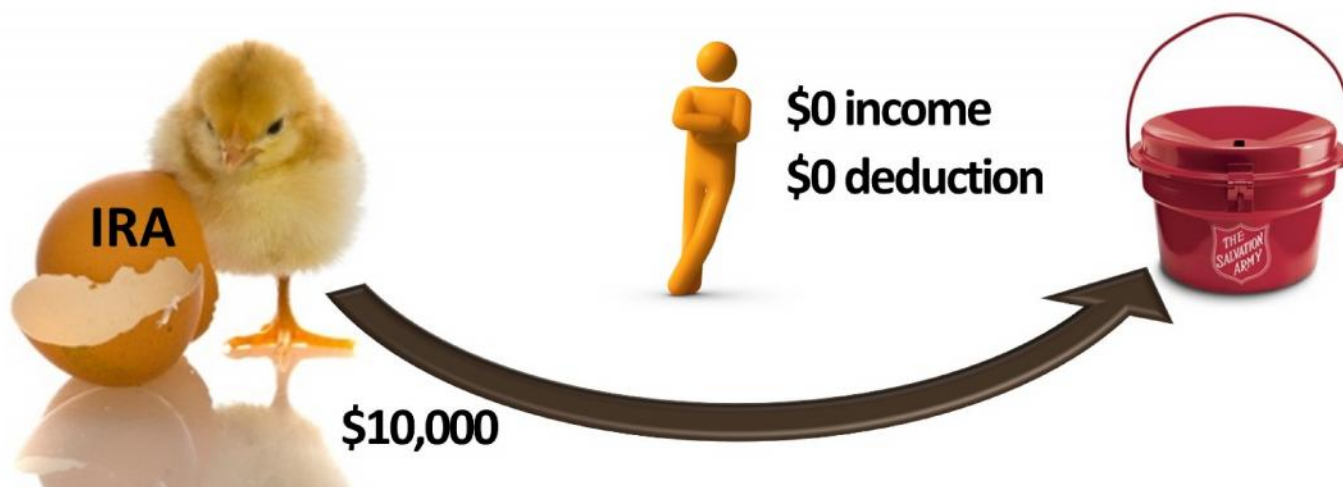




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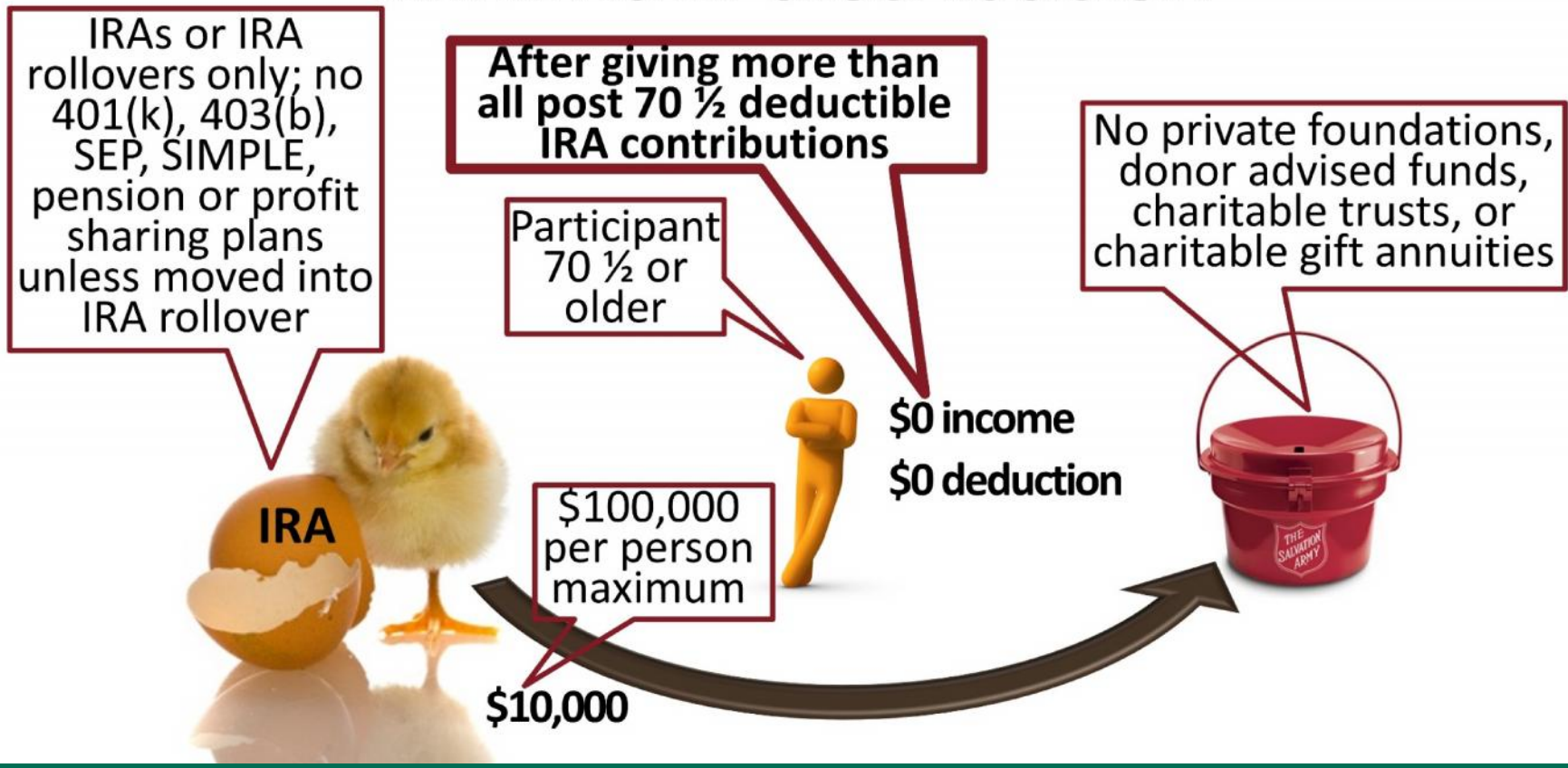
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# You can give more than your required minimum distribution





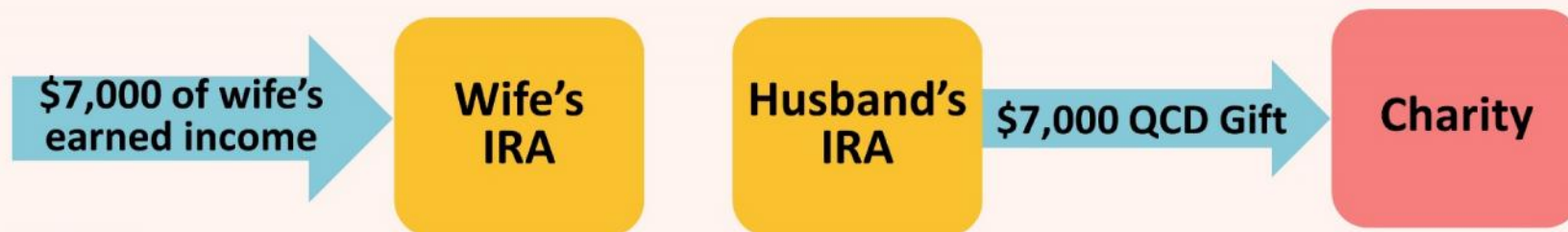


## The SECURE Act's "above-the-line" charitable deduction

A donor couple has earned income, but doesn't want to add to combined IRA balance



**RESULT:**  
An unusable itemized deduction



**RESULT:**  
An above-the-line \$7,000 deduction for Wife's IRA contribution regardless of her age.  
No change in combined IRA balance: \$7,000 shift from Husband's IRA to Wife's IRA.  
A \$7,000 reduction in Husband's Required Minimum Distribution with no income recognition.



End of Year Warning:  
IRA checkbook gifts  
must be written early!

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Unlike other gifts, the check  
must clear the bank before  
the end of the year.

(QCD rules require money is  
removed from the IRA by the  
end of the year, but the  
check is not actually from  
the IRA; it is from an empty  
account that is authorized to  
then request funds from the  
IRA.)





## Tax avoidance with charitable giving

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**Retirement  
plan assets  
inherited by  
non-charitable  
beneficiaries  
are reduced by  
income tax**





**A client with a \$1MM IRA and a \$1MM house wants to leave one to her child and one to charity**

**Does it matter which goes where?**





IRA(child); House(charity)

\$1,000,000 House  
**\$1,000,000 to charity**

\$1,000,000 IRA  
-\$370,000 (37% federal income tax)  
-\$133,000 (13.3% California state  
income tax)

**\$497,000 to child**

IRA(charity); House(child)

\$1,000,000 IRA  
**\$1,000,000 to charity**

\$1,000,000 House  
-\$0 (no income tax)

**\$1,000,000 to child**

**SECURE Act now requires  
faster withdraw (10 years)**





## Easy answers to a misunderstood issue

**Problem?** Charities are not “designated beneficiaries,” so might accelerate RMDs for other beneficiaries.

**No problem!** Many solutions:

- Payout charity share before September 30 of year following participant death.<sup>1</sup>
- Beneficiaries can separate accounts by end of year following participant death.<sup>2</sup>
- If spouse is beneficiary, simply roll that share into spouse’s IRA.
- Separate IRAs into a 100% charitable and 100% non-charitable account before death (+ RMDs can be taken from either to match desired plans).



1. Treas. Reg. sec. 1.401(a)(9)-4 Q&A 4(a)    2. Treas. Reg. sec. 1.401(a)(9)-8 Q&A 2(a)





## Tax avoidance with charitable giving

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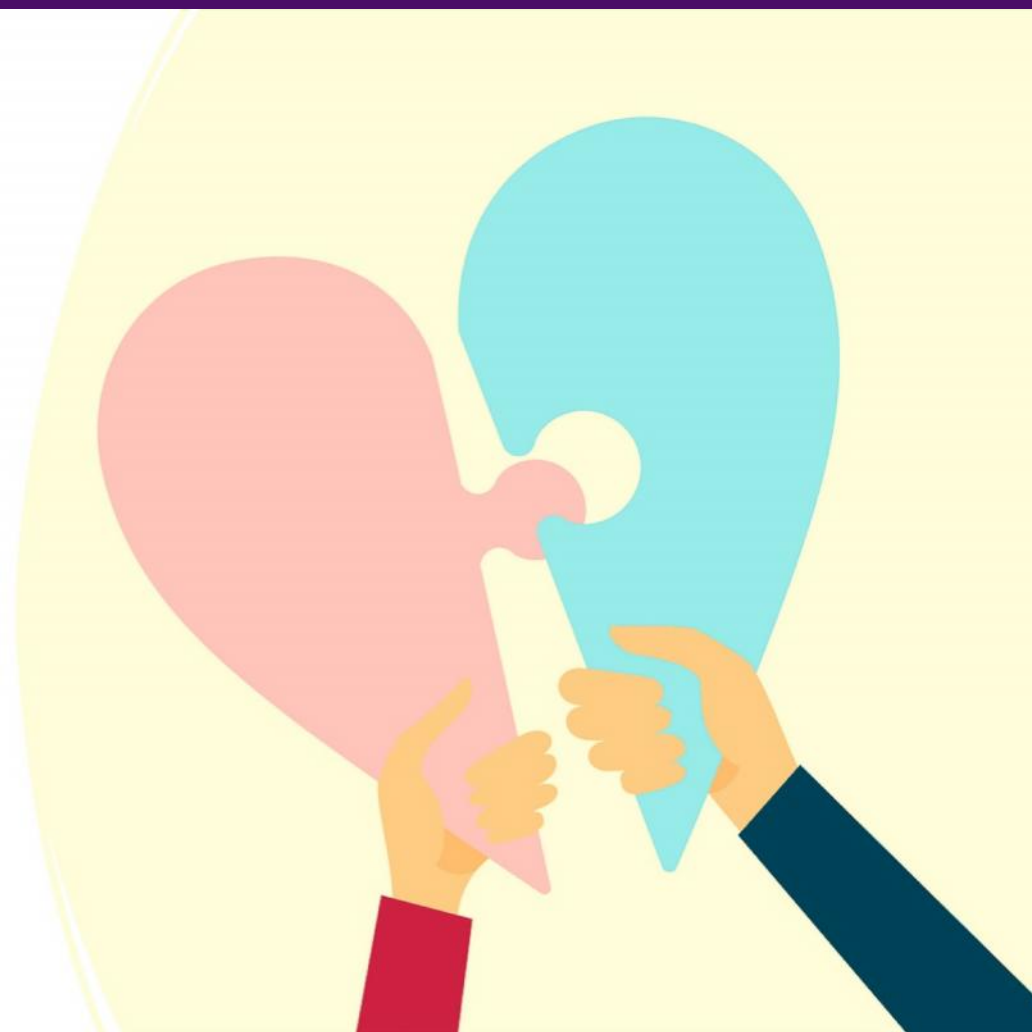


Getting the government to match your charitable gift makes your giving more powerful

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The government pays part of the cost of your gift with

- 1. Tax deduction (Good, if you are itemizing)**
2. Tax avoidance (Even more powerful!)





**Behavioral  
economics  
and bad  
information**

**Should you  
mention tax  
benefits?**







# Social Desirability Bias

People report socially-approved motivations



Other motivations must be tested, not self-reported





Donating isn't only about motivation. It's also about cost.

- A gift results from the intersection of motivation and cost
- Smart planning and tax benefits can help with cost



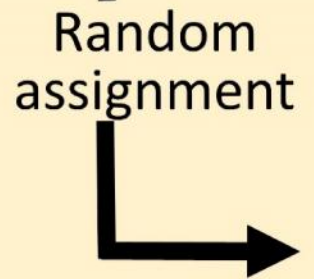




James, R. N., III (2018). Describing complex charitable giving instruments: Experimental tests of technical finance terms and tax benefits. *Nonprofit Management and Leadership*. Advance Online Publication. DOI: 10.1002/nml.31302

# Mentioning tax deductions increases charitable interest

	Interested Now <i>definitely/somewhat/slightly</i>	Will Never Be Interested
<p><b>Avoid capital gains tax by making a gift of stocks or bonds to a charity.</b></p>	<b>20%</b>	<b>17%</b>
<p>Make a gift of stocks or bonds to charity.</p>	<b>14%</b>	<b>23%</b>



1,006 Respondents  
Groups X/Y



James, R. N., III (2018). Describing complex charitable giving instruments: Experimental tests of technical finance terms and tax benefits. *Nonprofit Management and Leadership*. Advance Online Publication. DOI: 10.1002/nml.31302

Random rotating assignment

# Mentioning tax deductions increases charitable interest

Interested Now <i>definitely/somewhat/slightly</i>		Will Never Be Interested
<b>50%</b>	<b>Receive a tax deduction and</b> make a gift that pays you income for life.	<b>8%</b>
<b>33%</b>	Make a gift that pays you income for life <b>and receive a tax deduction.</b>	<b>14%</b>
<b>31%</b>	Make a gift that pays you income for life.	<b>20%</b>

1,904 Respondents  
Groups D/E/F



James, R. N., III (2018). Describing complex charitable giving instruments: Experimental tests of technical finance terms and tax benefits. *Nonprofit Management and Leadership*. Advance Online Publication. DOI: 10.1002/nml.31302

Random rotating assignment

## Mentioning tax deductions increases charitable interest

	Interested Now <i>definitely/somewhat/slightly</i>	Immediately receive a tax deduction for 70% of the value of a house or land by making a charitable gift of the property, but keeping the RIGHT TO USE it for the rest of your life.	Will Never Be Interested
	<b>26%</b>		<b>23%</b>
	<b>12%</b>	Make a charitable gift of either a house or land, but keep the RIGHT TO USE for the rest of your life <b>and immediately receive a tax deduction for 70% of the value of the property.</b>	<b>33%</b>
	<b>11%</b>	Make a charitable gift of either a house or land, but keep the RIGHT TO USE it for the rest of your life.	<b>42%</b>

1,826 Respondents,  
Groups F/B/D





James, R. N., III (2018). Describing complex charitable giving instruments: Experimental tests of technical finance terms and tax benefits. *Nonprofit Management and Leadership*. Advance Online Publication. DOI: 10.1002/nml.31302

Random rotating assignment

# Mentioning tax deductions increases charitable interest

Interested Now <i>definitely/somewhat/slightly</i>	Get an immediate tax deduction by making a gift where you still control the investment of the assets, and receive income from the investments for the rest of your life with anything left over going to charity at your death.	Will Never Be Interested
28%		17%
27%	Make a gift where you <b>get an immediate tax deduction</b> , still control the investment of the assets and receive income from the investments for the rest of your life with anything left over going to charity at your death.	20%
21%	Make a gift where you still control the investment of the assets, and receive income from the investments for the rest of your life with anything left over going to charity at your death.	25%

1,782 Respondents,  
Groups E/A/C





# Best phrasing to describe tax benefits





I might  
be/am  
definitely  
interested

\_\_\_%

\_\_\_%

\_\_\_%

\_\_\_%

\_\_\_%

\_\_\_%

**Please rate your level of interest  
in clicking on the button to read  
the corresponding information.**

**Avoid taxes by giving stocks**

**How to avoid taxes by giving  
stocks**

**Save taxes by giving stocks**

**Tax tips when giving stocks**

**Avoiding capital gains taxes by  
giving stocks**

**Giving stocks**



I might  
be/am  
definitely  
interested

**Please rate your level of interest  
in clicking on the button to read  
the corresponding information.**

**28%**

**Avoid taxes by giving stocks**

**27%**

**How to avoid taxes by giving  
stocks**

**25%**

**Save taxes by giving stocks**

**24%**

**Tax tips when giving stocks**

**24%**

**Avoiding capital gains taxes by  
giving stocks**

**16%**

**Giving stocks**

James, R. N., III (2018). Describing complex charitable giving instruments: Experimental tests of technical finance terms and tax benefits. *Nonprofit Management and Leadership*. Advance Online Publication. DOI: 10.1002/nml.31302





**Mentioning  
tax benefits  
works, but it  
isn't "the  
reason"**



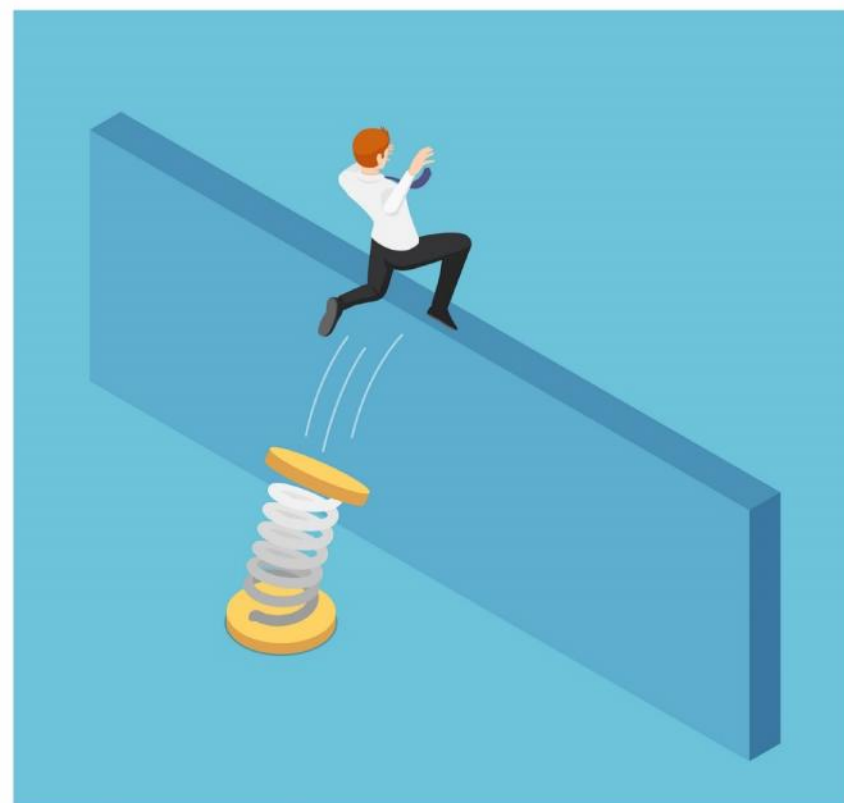




## Cost is still important

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- Cost is not about motivations
- It's about the barrier to acting on those motivations





## The problem with tax deductions



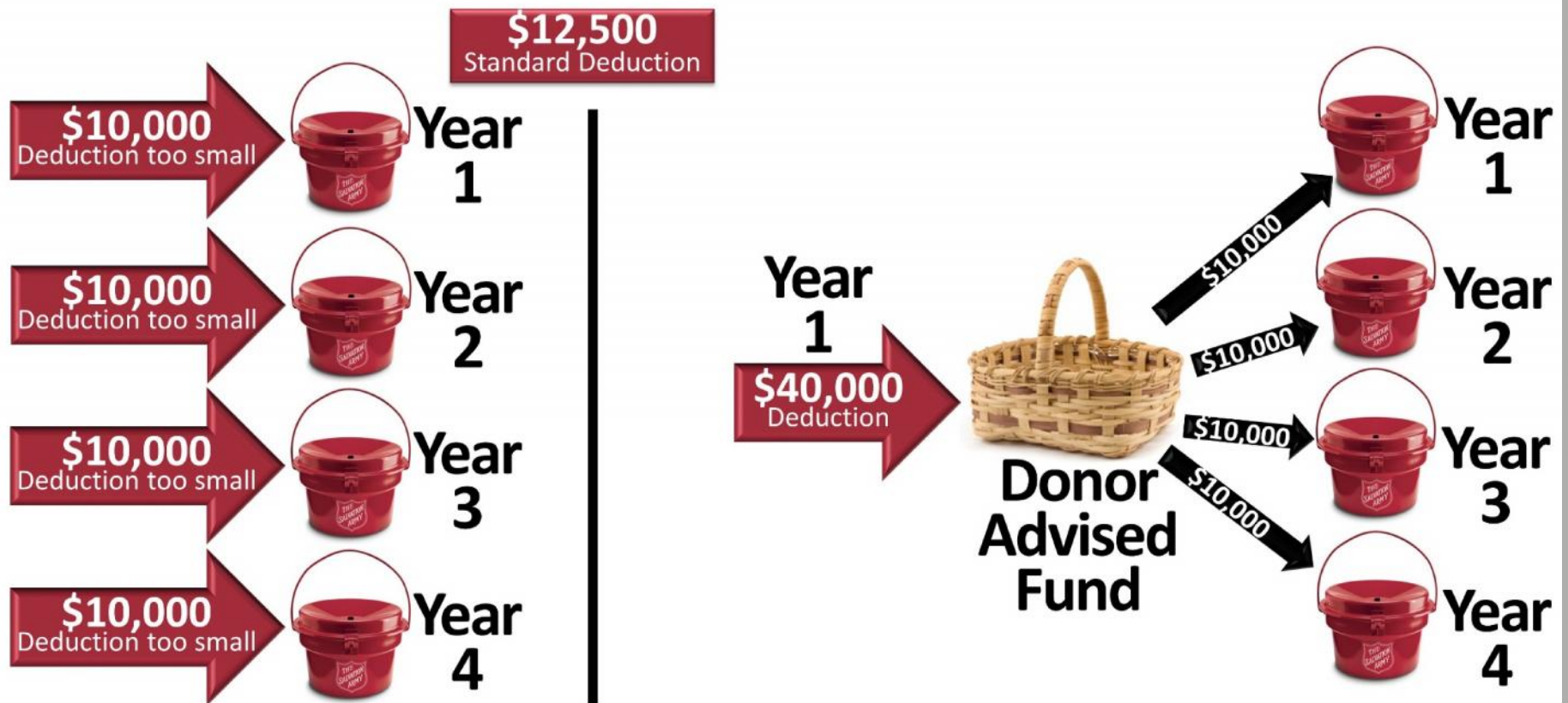
- With higher standard deductions, fewer people itemize
- If you aren't itemizing, you can't use charitable tax deductions, right?
- Not so fast ...



The “bunching” solution



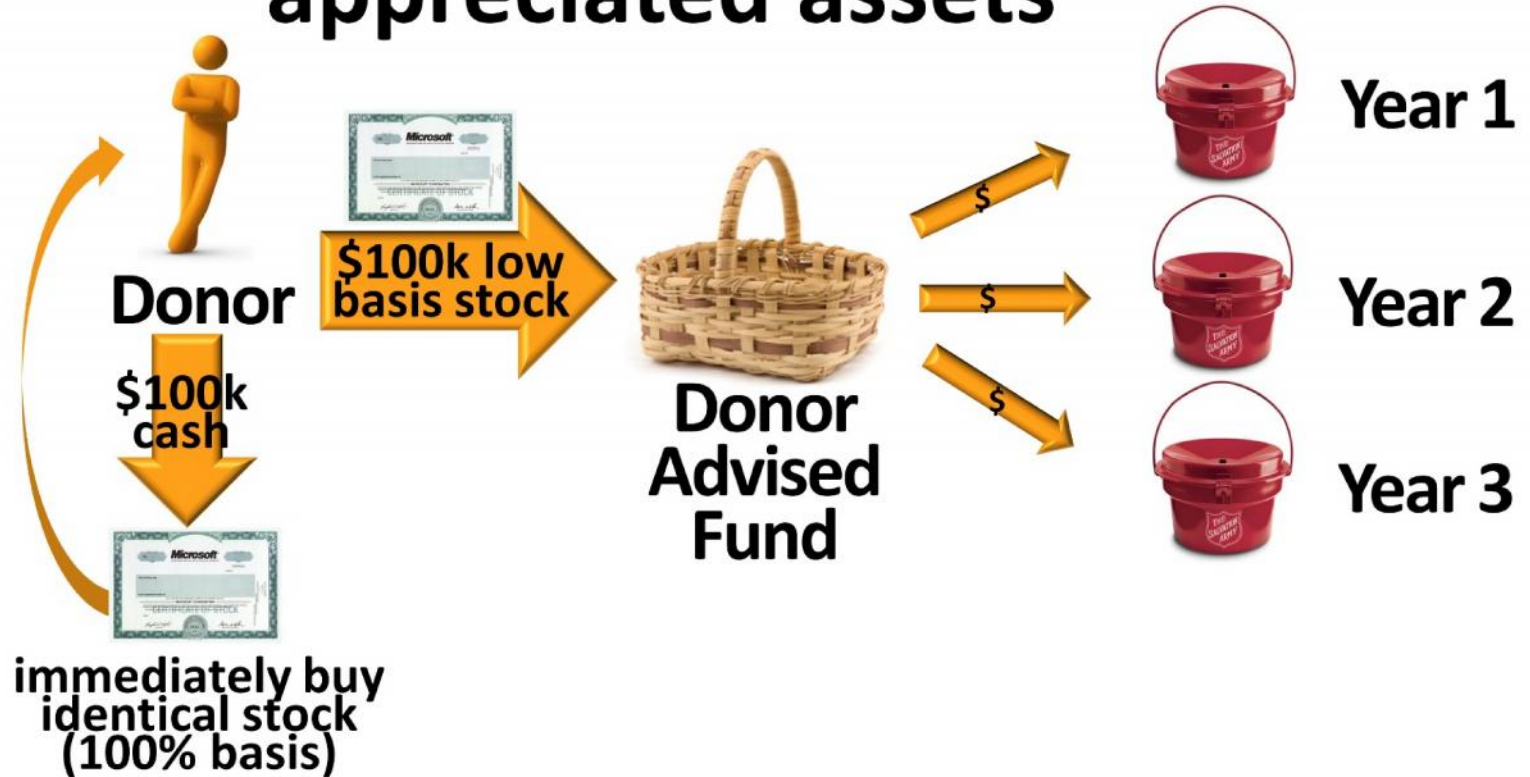
# For non-itemizers, consider bunching donations into BIG giving years







# For non-itemizers, consider bunching donations into BIG giving years with appreciated assets





# One last wonky end- of-year tax tip

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1. The 20% deduction for qualified business income can phase out at higher ***taxable income*** levels
2. But charitable deductions reduce ***taxable income***, and can “bring back” this business deduction from the dead
3. Double benefit: Charitable deduction + bringing back the phased-out qualified business income deduction





## Important Year-end Charitable Giving Strategies


The strategies and the “words that work” in conversations

Professor Russell James, J.D., Ph.D., CFP®, Texas Tech University





## Questions?

- To ask a question:
  - ✓ Click  to the left of the slide.





## Still Have a Question?

Contact: Russell James

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or Connect with me on LinkedIn