



Gifts of Retirement Plan Assets



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Time: 1:00 – 2:30 Eastern Time
Presenter: Bill Laskin
Vice President, Product Management
PG Calc





Potential for Retirement Fund Gifts

Retirement assets of all types	\$23.0 trillion
IRAs	\$6.6 trillion
401(k) plans	\$4.3 trillion

Retirement funds constitute ~35% of household wealth

3/31/2014 Investment Company Institute data





Agenda

- Retirement fund basics
- Gifts of retirement funds during life
- Questions regarding lifetime gifts
- Gifts of retirement funds at the end of life
- Questions regarding end-of-life gifts



Retirement Fund Basics

- Defined contribution plans
 - IRAs (traditional, Roth, SEP, Simple)
 - 401(k)s, 403(b)s, Keoghs
 - Potential source of charitable gifts
- Defined benefit plans
 - Government pensions
 - Some company plans, but decreasing
 - Not a potential source of charitable gifts



Retirement Fund Basics

- Can take distributions starting at 59 ½
- Must take distributions starting at 70 ½
- Required minimum distributions (RMD)

<u>Age</u>	<u>Minimal Withdrawal</u>	<u>Age</u>	<u>Minimal Withdrawal</u>	<u>Age</u>	<u>Minimal Withdrawal</u>
70	3.65%	80	5.35%	90	8.77%
71	3.77%	81	5.59%	91	9.26%
72	3.91%	82	5.85%	92	9.80%
73	4.05%	83	6.14%	93	10.42%
74	4.20%	84	6.45%	94	10.99%
75	4.37%	85	6.76%	95	11.63%
76	4.55%	86	7.09%	96	12.35%
77	4.72%	87	7.46%	97	13.16%
78	4.93%	88	7.87%	98	14.08%
79	5.13%	89	8.33%	99	14.93%



Retirement Fund Basics

- Plan income and realized gains not taxed
- Withdrawals taxable as ordinary income
- When remaining assets passed to heirs through estate, subject to estate tax AND income tax
 - Estate tax deductible from income taxable amount
 - Total tax still can be 60% or more



Lifetime Gifts to Be Discussed

1. Withdraw retirement funds and give cash
2. Charitable IRA Rollover
3. Combination of appreciated property gift and retirement fund distribution
4. Combination of gift with a Roth IRA conversion
5. Fund a gift annuity with a retirement plan distribution
6. Divide an IRA into two IRAs and structure one like a gift annuity
7. Contribute distributions that include company stock



1. Withdraw Retirement Funds and Give Cash

- Withdraw funds from retirement plan
 - Declare withdrawal as income on tax return
- Give cash to charity
 - Take offsetting charitable deduction
- Deduction can completely offset income
 - Donor must itemize deductions
 - Deduction must not be reduced because of AGI limitations, Pease limitation
 - Donor must not live in state that doesn't allow charitable deductions (e.g., MA)



1. Withdraw Retirement Funds and Give Cash

- Reasonable to give RMD funds to charity
 - Had to withdraw them anyway
- In general, better from a tax standpoint to give other assets – cash, appreciated stock, etc. – than to give retirement assets beyond RMD
 - Retirement assets not taxed while in plan
 - Can earn income and realize gain tax-free until withdrawn



2. Charitable IRA Rollover

- Current situation – expired on 12/31/2014
- Status of rollover legislation
- Prospects for 2015



Terms of IRA Rollover

- Minimum age – 70 ½
- Maximum amount – \$100,000
- Not permitted to private foundation, supporting organization, or donor advised fund
- Not permitted for life income plan
- Can fulfill a pledge
- Counts toward RMD
- Beneficiary of inherited IRA can do rollover



Beneficial to Donors Who:

- Do not itemize deductions
- Would lose deductions with increase in income
- Already contribute 50% or more of income
- Live in a state with an income tax that does not permit itemized deductions (e.g., MA)
- Like the simplicity of making gift directly from an IRA



Not So Appealing to Donors Who:

- Live in a state that exempts all or a portion of retirement distributions and allows itemized deductions on state return
- Could contribute appreciated securities and deduct full amount
- Have an uncooperative IRA administrator



Caveats

- Deduction does not fully offset taxable income in states not providing for itemized deduction (Indiana, Michigan, New Jersey, Ohio, Massachusetts, and West Virginia)
- Withdrawals of retirement funds subject to withholding unless recipient requests otherwise on Form W-4P

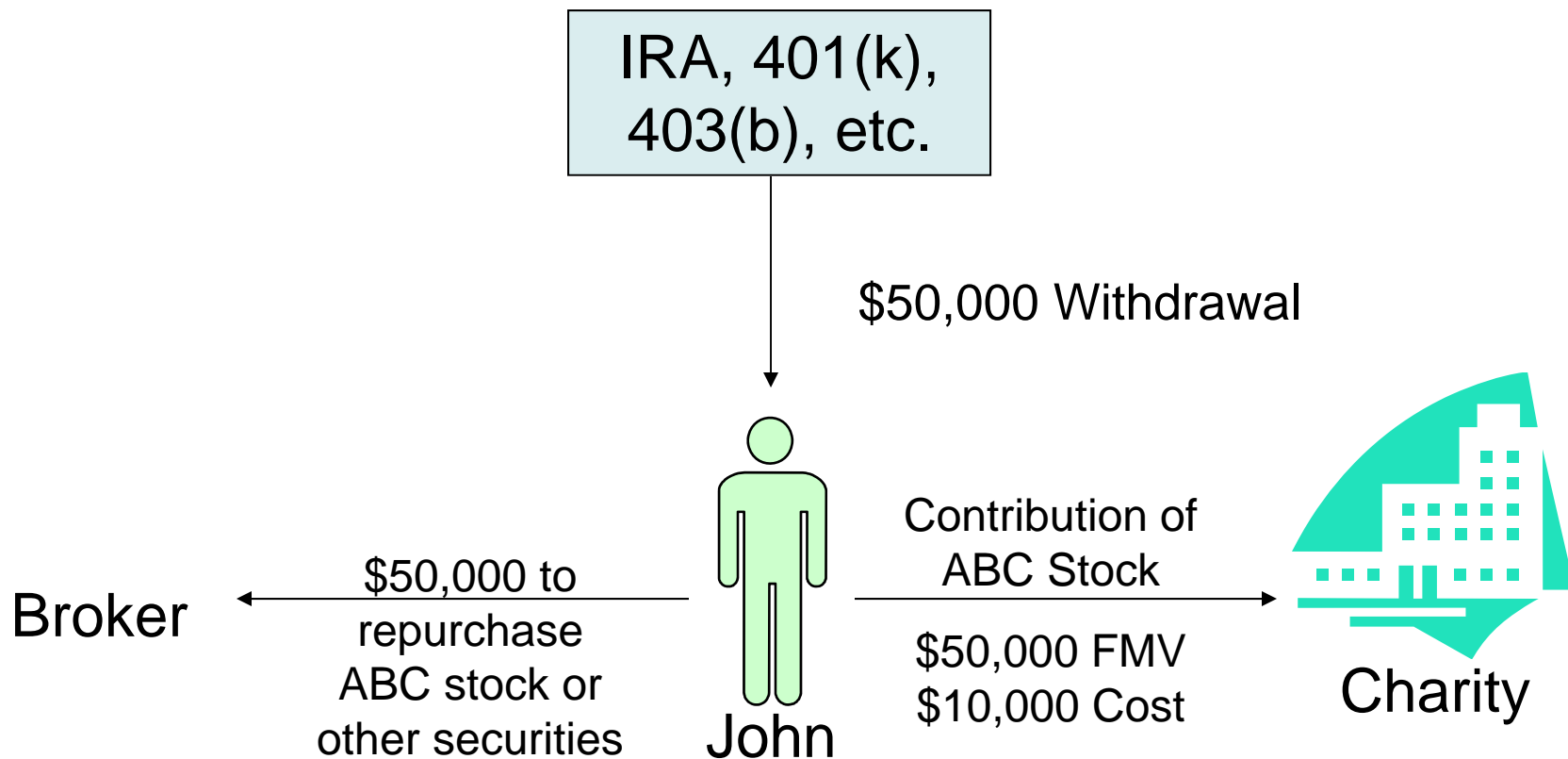


What Donors Can Do In 2015

- Transfer up to RMD/\$100,000 from IRA directly to charity
 - Charity issues a standard receipt for a cash gift
 - If IRA rollover extended retroactive to 1/1/2015, charity issues new receipt to substantiate donor's qualified charitable distribution
- Wait for extension to pass
 - Don't take RMD until very late in year and only if extension doesn't pass
 - If extension passes in 2015, make rollover gift after that

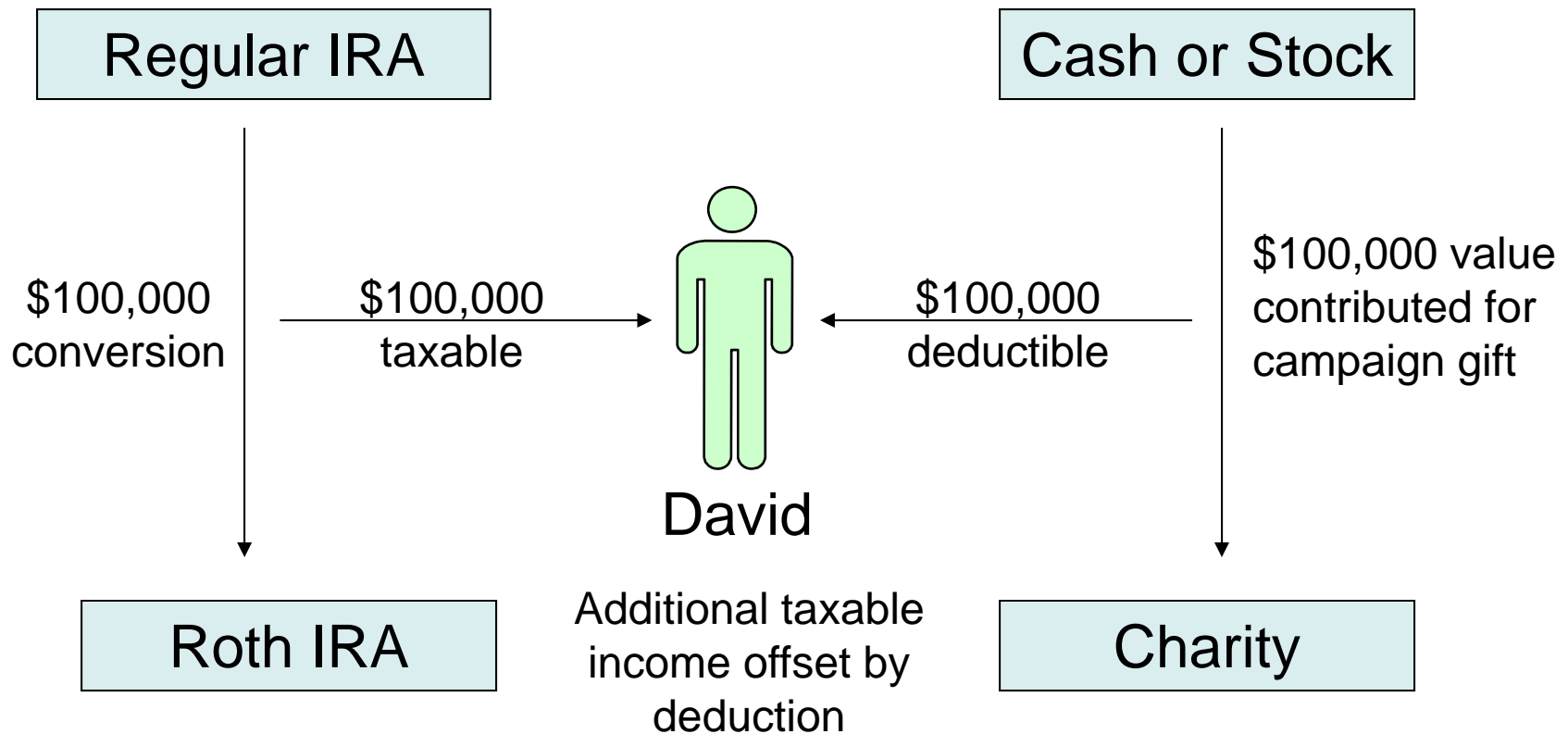


3. Combination of Appreciated Property Gift and Retirement Fund Distribution





4. Combination of Gift with Roth IRA Conversion





What About a Roth IRA Conversion Combined With a Life Income Gift?

- Could work, but the FMV of the contributed asset would have to be considerably larger

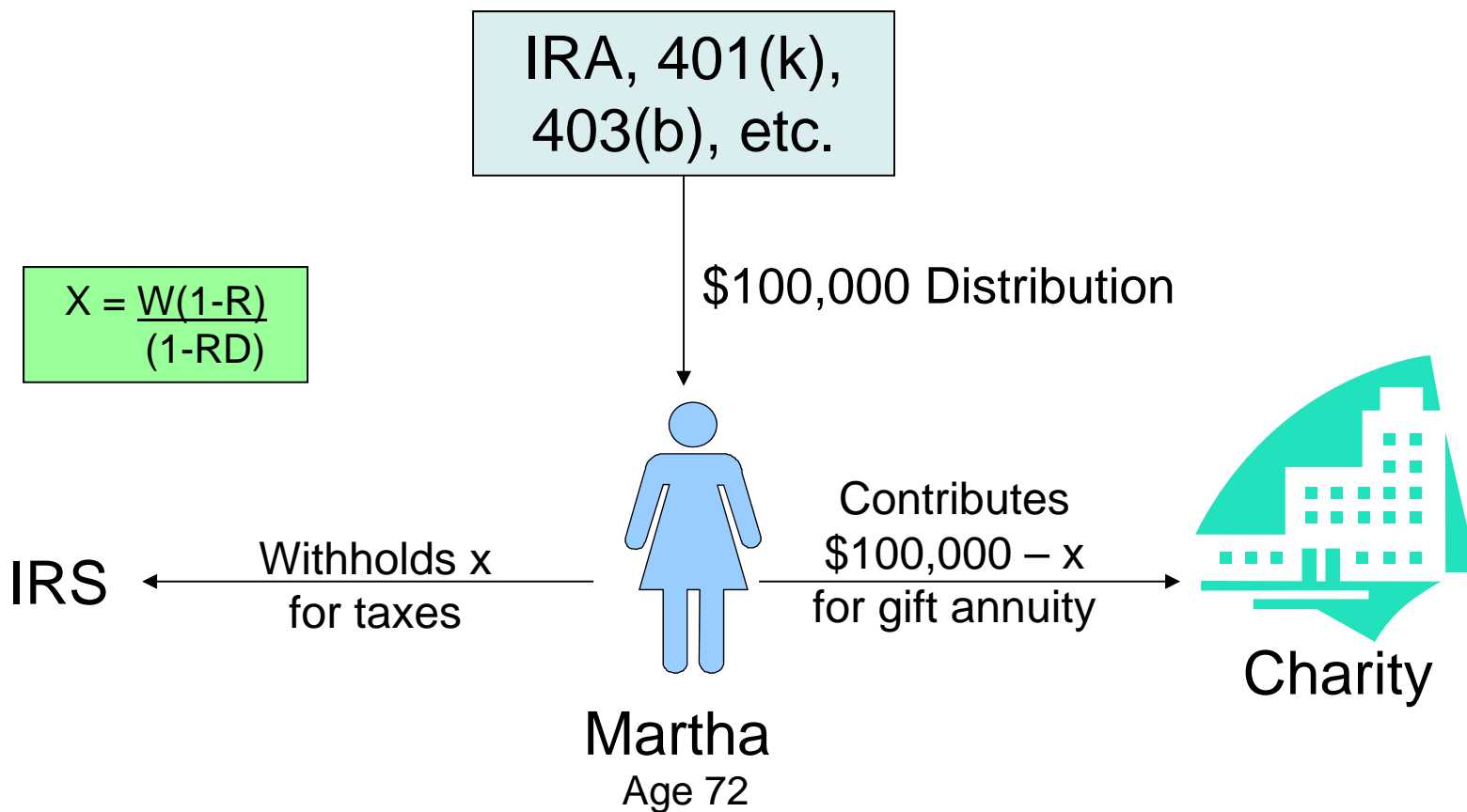
Example:

\$100,000 Roth IRA conversion

\$100,000 deduction resulting from a \$300,000 contribution to a CRT



5. Funding a Gift Annuity With a Retirement Fund Distribution





Comparative Results

If tax-free IRA rollover for a gift annuity were possible:

Current Law (Withdrawal, reserve portion for taxes,
contribute balance)

After-tax annual cash flow for Martha	\$3,842
Contribution to charity	\$77,635

If Expanded IRA Rollover Enacted

After-tax annual cash flow	\$3,618
Contribution to charity	\$100,000

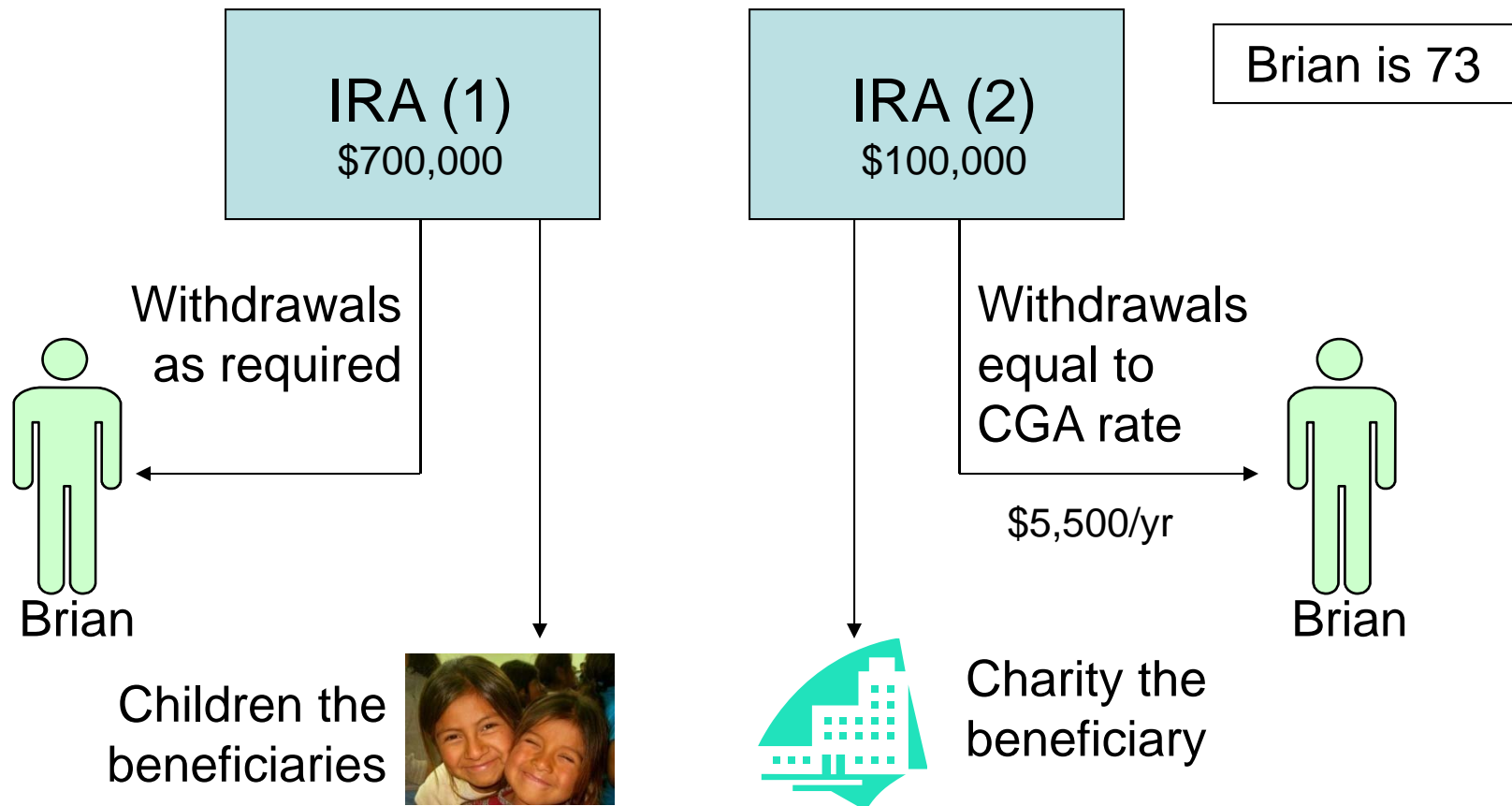


Tax Withholding

- No need to elect out of withholding on Form W-4P because the donor would only be contributing the after-tax amount
- 3.8% Medicare surtax may apply to portion of gift annuity payments

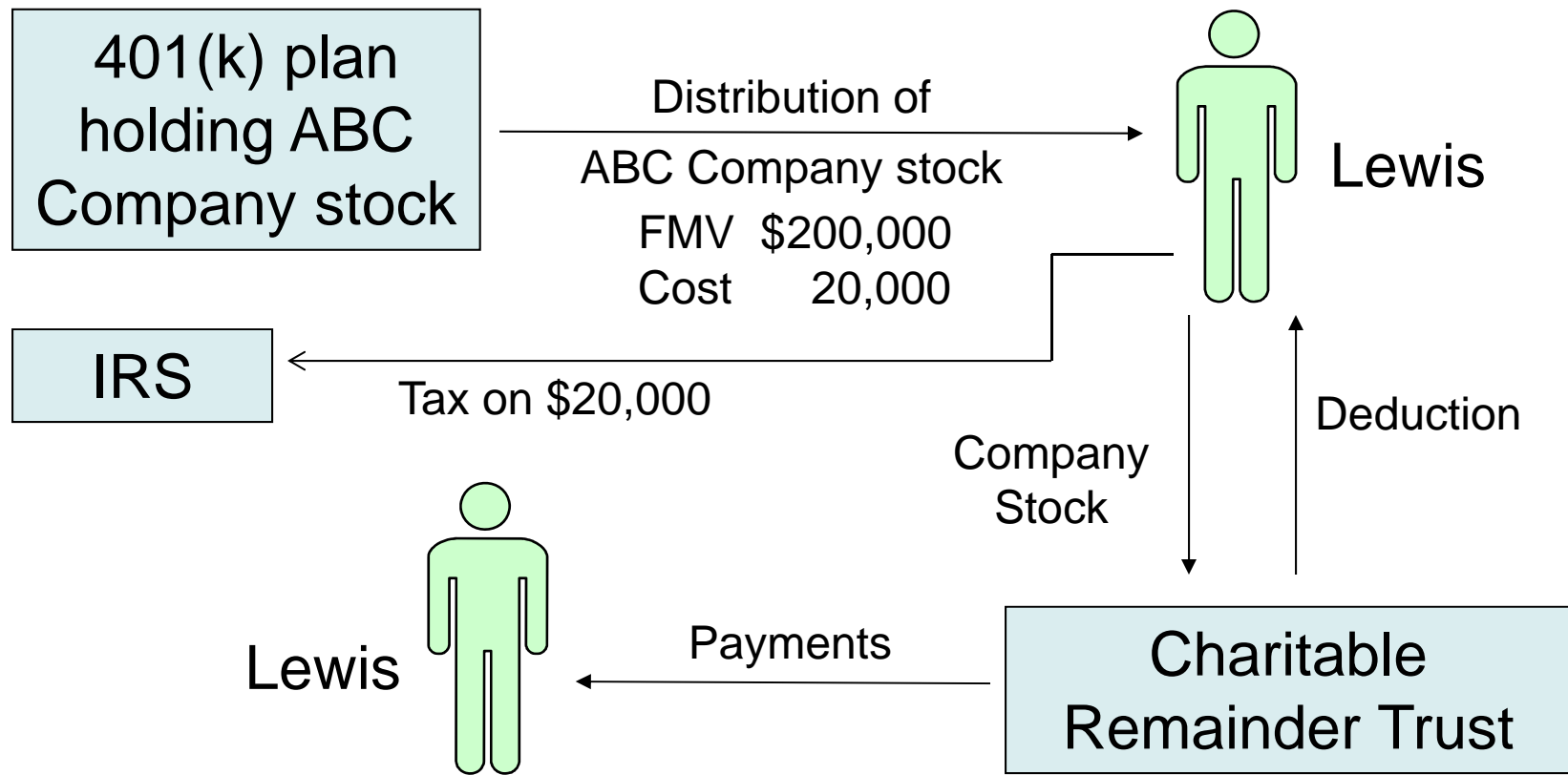


6. Divide IRA Into Two IRAs; Treat One Like a Gift Annuity





7. Contribute Distributions of Company Stock





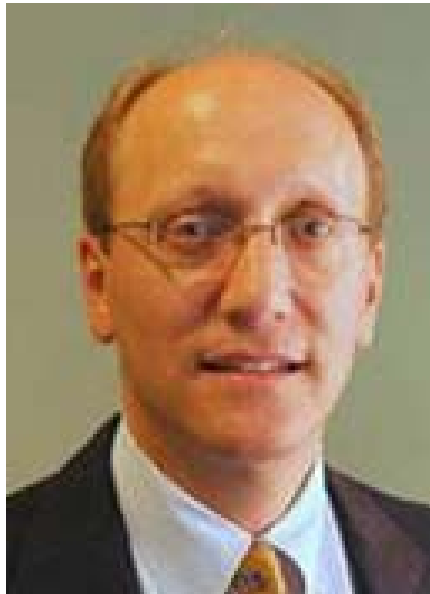
In Summary . . .

- Charitable IRA rollover beneficial to many donors and easy to market, but . . .
- There are many other attractive ways to make lifetime gifts of retirement funds, and . . .
- Unlike the IRA rollover, they are not limited to IRAs
- Even with no IRA rollover, plenty of lifetime options to market/discuss





Questions and Answers





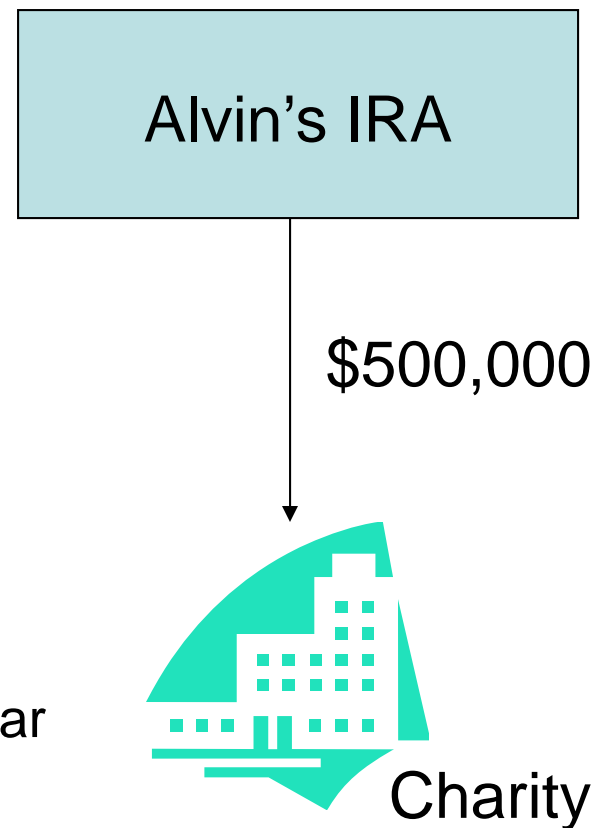
End-of-Life Gifts to Be Discussed

1. Charity named as beneficiary of all or a portion of an IRA or other retirement plan
2. Fund CRT for survivor(s) with all or a portion of remaining retirement fund assets
3. Fund gift annuity for survivor(s) with all or a portion of remaining retirement fund assets
4. Back up a pledge with remaining retirement funds
5. Gifts of other IRD assets



1. Charity Named as Beneficiary of All or a Portion of an IRA or Other Retirement Plan

- \$6 million estate
- Give IRA to charity
 - No income tax
 - No estate tax
- Define distribution as
 - % of remainder, or
 - (target/remainder) x target
- Charity & individual benes
 - Cash out charity by 9/30 of year after death
 - Individuals can then stretch-out





End-of-Life Gift – Option A

Alvin gives \$500,000 from his general estate assets to charity and the IRA to his children.

Estate tax savings \$200,000

Income tax savings + \$0

Total tax savings \$200,000

Net cost of gift \$300,000



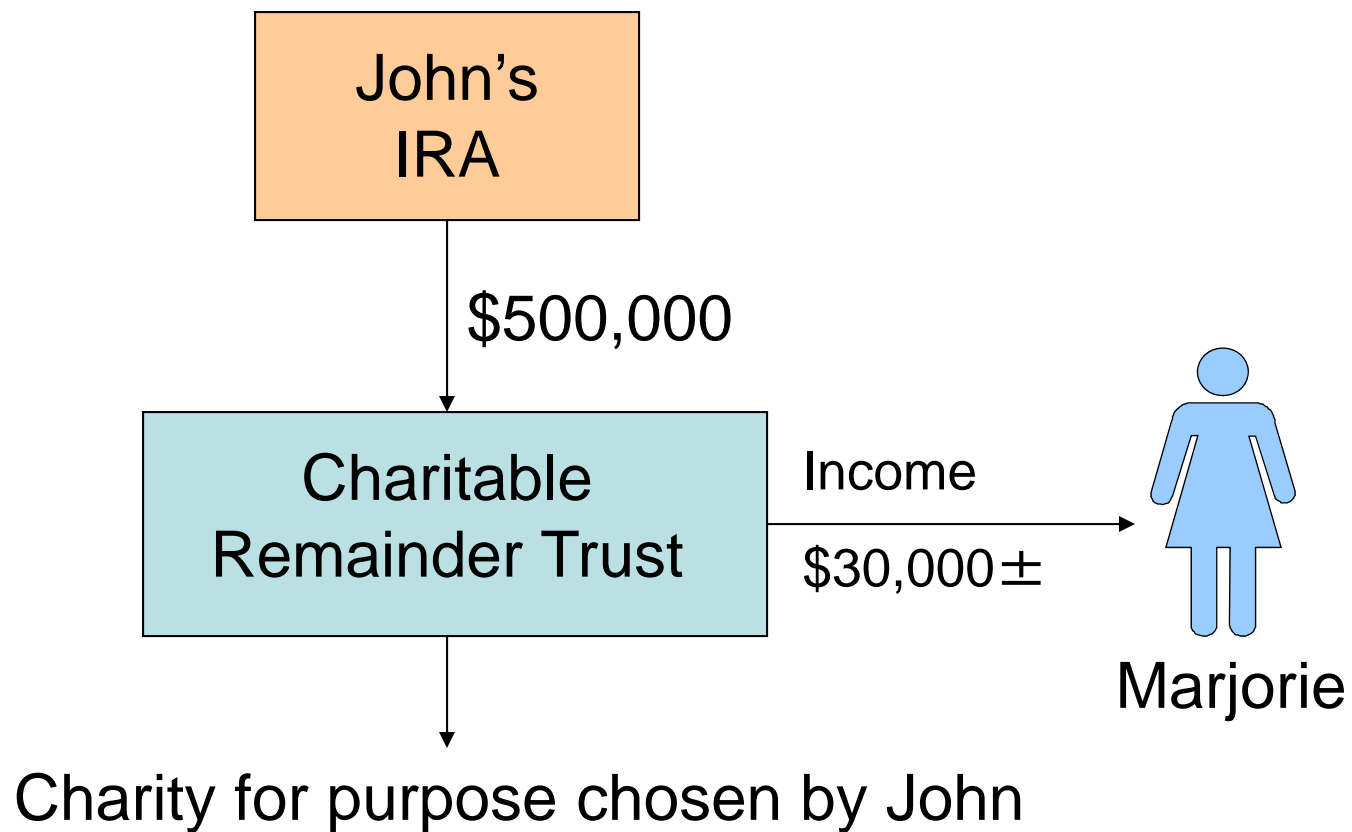
End-of-Life Gift – Option B

Alvin (35% income tax bracket) gives his IRA to the charity and other assets to his children.

Estate tax savings	\$200,000
Estimated income tax savings	+ <u>\$105,000</u>
Total tax savings	\$305,000
Net cost of gift	\$195,000



2. CRT for Survivors With All or a Portion of an IRA or Other Retirement Plan





Tax Consequences

- Distribution from retirement fund not taxed as income to estate of donor or to trust
- Payments to beneficiary taxed as all ordinary income until funding amount plus interest and dividends has been reported per four-tier system
- Value of income interest included in taxable estate if beneficiary is not a spouse



Procedures

- Make the trust the beneficiary of the retirement fund
- Possible ways of creating trust:
 - Minimally funded CRT created during life
 - Living trust that converts to CRT at death
 - CRT established during life but not funded until death
 - CRT established pursuant to will

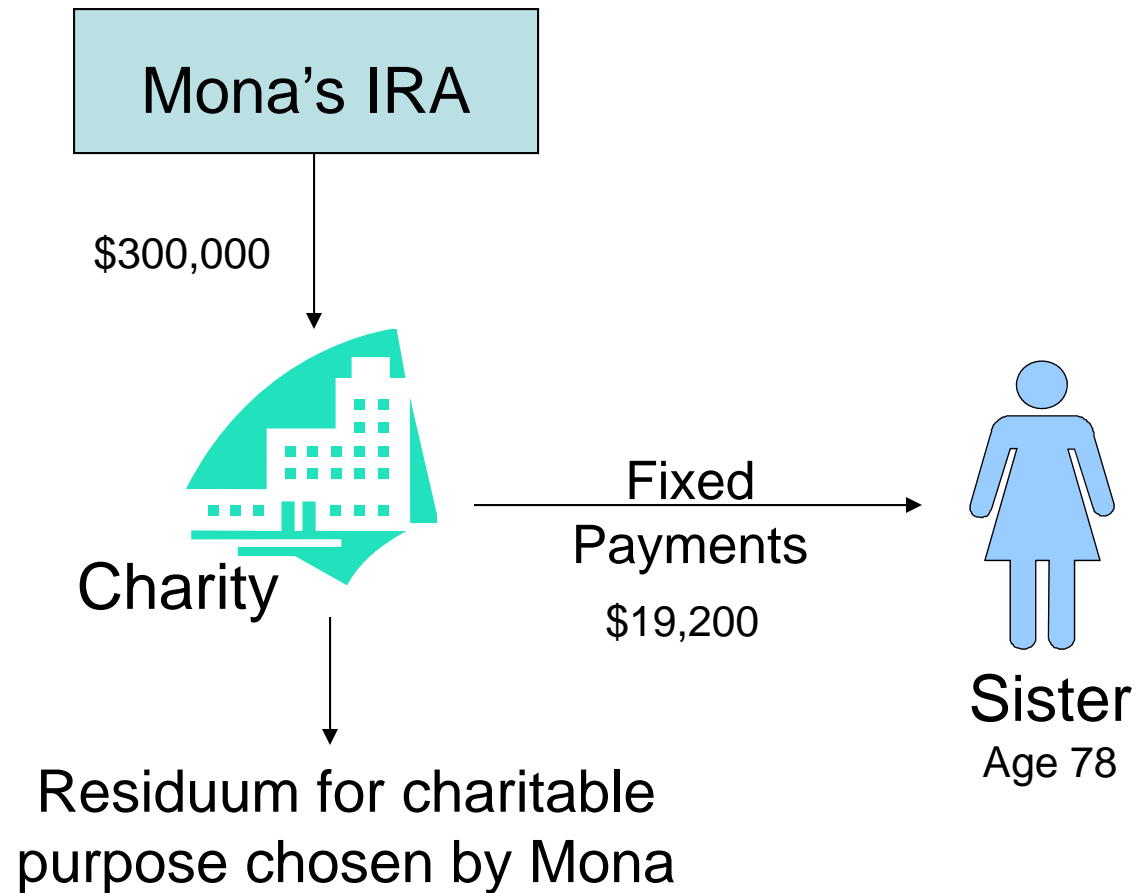


How to Handle Testamentary CRAT Funded with Multiple Distributions

- Trust deemed created at death
- All property passing to trust by reason of death considered one contribution
- See Treas. Regs. 1.664-1(a)(5)(i) and 1.664-1(a)(5)(ii) for rules on correcting under/over distributions



3. Gift Annuity for Survivors with All or a Portion of an IRA or other Retirement Plan





Tax Consequences

- Distributions from retirement fund not taxed as income to donor's estate or to charity
- Payments to beneficiary taxed entirely as ordinary income
- Value of annuity interest included in taxable estate unless spouse is the annuitant



Procedures

- Execute gift annuity agreement during donor's life.
- Agreement states that payment amount equals amount received by charity multiplied by applicable rate given annuitant ages
- Name charity as beneficiary of all or a portion of retirement fund



Possible Opportunity

- Possibility that all inherited IRAs would have to be liquidated in five years
- Then, stretch IRA would no longer be possible
- Gift annuities and CRTs for survivors funded with IRA assets would then become more appealing
- But portion of payments might be subject to 3.8% Medicare surtax (unlike IRA distributions)



4. Pledge Backed With Remaining Retirement Funds

Pledge by Rod for campaign	\$1,000,000
Paid during life	\$400,000
Paid by beneficiary designation from retirement plan	\$350,000
Paid from estate	\$250,000



5. Gifts of Other IRD Assets

Income in Respect to a Decedent (“IRD”) refers to taxable income to which a deceased person was entitled.

Examples:

- Unpaid salary
- Unpaid interest and dividends
- Accrued interest on U.S. savings bonds
- Value of an annuity in excess of investment in the contract
- Retirement funds (other than a Roth IRA)



Like Retirement Funds, IRD Assets Make Excellent End-of-Life Gifts

- The charity, being tax exempt, does not pay income tax when it is a beneficiary of IRD assets
- Individual beneficiaries would be taxed on IRD
- All end-of-life retirement fund gifts discussed are also possible with other IRD



Concluding Comment

Gift planners sometimes think that their ability to secure gifts of retirement funds rises or falls with the availability of the charitable IRA rollover.

While extending that law would create a marketing opportunity, there are many ways to make advantageous retirement plan gifts under current law.





Questions and Answers





Still Have a Question?

Contact: Bill Laskin

Vice President, Product Management

PG Calc

E-mail: bill@pgcalc.com