Chapter Six – 0250LF

Charitable Giving Techniques: Doing Well By Doing Good

Hosted by Philadelphia Bar Foundation and Probate & Trust Law Section

Course Summary

This course will provide an overview of ways to support charities by gifting during lifetime and also by making gifts to charity at death by a Will or other means. The goal of the program is to answer questions that attorneys may have about estate planning for themselves and their clients and to raise awareness of the benefits of giving to the Philadelphia Bar Foundation.

Course Planner:
Jessica R. Hilburn-Holmes, Esq.
Executive Director
Philadelphia Bar Foundation

Panelists:
Robert H. Louis, Esq.
Partner, Saul Ewing Arnstein & Lehr LLP
Trustee and Assistant Treasurer, Philadelphia Bar Foundation

Matthew Pritzkur
Senior Wealth Strategist
Bernstein Private Wealth Management

Laura E. Stegossi, Esq.
Chair, Philadelphia Bar Association Probate & Trust Law Section
Partner, Diamond, Polsky & Bauer PC

BIOGRAPHIES

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COURSE PLANNER:

Jessica R. Hilburn-Holmes, Esq.

Jessica Hilburn-Holmes joined the Philadelphia Bar Foundation in 2013 as Executive Director. A former diplomat and international lawyer, Ms. Hilburn-Holmes has been a member of the Pennsylvania Bar since 1985. During her U.S. State Department career, she was the Legal Adviser to Ambassador Richard Holbrooke in Germany. At the inception of the United Nations Yugoslav War Crimes Tribunal, Ms. Hilburn-Holmes served in the Hague as an Expert-on-Mission in the Office of the Prosecutor. As Deputy in the Office of the Legal Counselor at the US Embassy in The Hague, her assignments included liaison to the Scottish Court in the Netherlands for the Lockerbie/Pan Am 103 terrorism trial, and serving as a member of the 1999 US Observer Delegation to the UNESCO Diplomatic Conference on the 1954 Hague Convention on the Protection of Cultural Property in the Event of Armed Conflict.

A graduate of Brandeis University and the Georgetown University Law Center, Ms. Hilburn-Holmes brings over twenty-five years of legal, managerial and diplomatic experience, and a life-long commitment to working for equal access to justice and the mission of the Bar Foundation.

PANELISTS:

Robert H. Louis, Esq.

Robert H. Louis is a senior partner in Saul Ewing Arnstein & Lehr LLP, a 400-person law firm with offices in Philadelphia, Washington, Chicago, Miami and other cities. Mr. Louis counsels clients on business succession issues, planning for the responsible and positive transmission of wealth, and methods of ensuring a comfortable and successful retirement. He is a *summa cum laude* graduate of the Wharton School of the University of Pennsylvania and a *cum laude* graduate of the Harvard Law School, and he has an LL.M in Taxation from Temple University.

Mr. Louis is a Fellow of the American College of Tax Counsel, the American Bar Foundation and the Pennsylvania Bar Foundation, and a Trustee and assistant treasurer of the Philadelphia Bar Foundation. He has served as Chair of the Probate and Trust Law Section of the Philadelphia Bar Association and as Chair of its Publications Committee and Co-Chair of its Business Planning Committee. He has also served as Chair of the Tax Section of the Pennsylvania Bar Association. He is a member of the American Bar Association and its Taxation Section and Senior Lawyers Division.

Mr. Louis has a long history of service to charitable organizations, having served as President of the Philadelphia Volunteer Lawyers for the Arts and the Senior Artists Initiative, Vice-President of the Spring Garden Soup Society, Counsel and Secretary of the Fund for the School District of Philadelphia, trustee of charitable foundations, and in active leadership of several local civic organizations.

Mr. Louis is a frequent lecturer and writes articles for the *Legal Intelligencer* on retirement and tax issues. He has written or spoken on tax, estate planning and retirement issues more than 150 times. Mr. Louis has been named a Super Lawyer many times, although he cannot fly.

Matthew S. Pritzkur

Matthew S. Pritzkur has been with Bernstein Private Wealth Management as a member of the Washington, DC, office since 2005. He currently works as an Associate Director in the firm's Wealth Strategies Group. Mr. Pritzkur holds his Series 7, 66 and 31 licenses, and has earned a Certified Fund Specialist designation from the Institute of Business & Finance.

Prior to joining Bernstein, Mr. Pritzkur worked for two years as a financial advisor with American Express Financial Advisors. He graduated from the University of Delaware, where he earned a BA in economics, was a founding member and manager of the Blue Hen Investment Club, and was a member of the track and cross-country teams.

Laura E. Stegossi, Esq.

Laura E. Stegossi is a partner at the law firm of Diamond, Polsky & Bauer in Philadelphia, where she concentrates her practice on trust and estate planning and administration. She counsels individuals and families on estate, gift and generation-skipping tax issues, business succession planning, and charitable giving programs. Ms. Stegossi also represents personal representatives and trustees in the administration of trusts and estates.

Ms. Stegossi was recognized by the *Pennsylvania Super Lawyers* magazine as a Rising Star for 2005-2008 and 2011-2012 and as a "Pennsylvania Super Lawyer" in 2013-2015. She has also achieved an AV Preeminent Peer Review Rating from Martindale-Hubble. Ms. Stegossi has served as a continuing legal education course planner and has frequently lectured on a variety of estate planning and related topics.

Ms. Stegossi received her B.A., *summa cum laude*, from the University of Pennsylvania, her J.D. from Temple University Beasley School of Law, where she was a member of the *Temple Law Review*, and her LL.M. in Taxation from Villanova University School of Law. She is admitted to practice in Pennsylvania and New Jersey.

Ms. Stegossi is an active member of the Philadelphia Bar Association's Probate and Trust Law Section, where she is currently Chair of the Section, serves on the Executive Committee and was the past Chair of the Education Committee. Ms. Stegossi is also an adjunct professor at the Temple University Beasley School of Law where she teaches in the Graduate Tax Program.

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I. Outright Gifts

The simplest method of giving to a charitable organization is by an outright gift. This can be done by a check or credit card payment. It is now possible to make an outright charitable gift through a text on your phone, which is fine provided you get a receipt for the gift.

Gifts to most charitable organizations are deductible for federal income tax purposes. There are limitations on how much you may deduct, with a carryover to future years for amounts that can't be deducted. Organizations generally state on their website whether contributions are tax deductible. Some organizations advise that contributions to them are not tax deductible, generally because they engage in significant political activity. Funds that are set up to benefit a particular individual or family are not tax deductible. Some states provide a deduction for state income tax purposes for charitable contributions. Pennsylvania is not one of them.

In addition to making gifts of cash, you may contribute to charitable organizations things like clothing, furniture and even larger items, such as cars or boats. You may receive a tax deduction for the fair market value of such items. Be sure to check the rules on verifying the deductible amount for federal income tax purposes. For gifts of larger value, an appraisal may be required. Gifts of appreciated securities can also generate valuable tax benefits. Speaking of outright gifts, you may give any amount you feel appropriate to the Philadelphia Bar Foundation.

II. Gifts by Pledge

Many organizations solicit pledges of contributions. The purpose of such pledges is to help those organizations plan their future activities: a new building, for example. There is law on whether charitable pledges are enforceable, and it often depends on the wording of the pledge. But there is no income tax deduction for pledges; the deduction comes when payment is made.

III. Speaking of Taxes

We have indicated that gifts to charitable organizations (but not to political organizations or individuals) can produce a federal income tax deduction, as well as a state income tax deduction (but not in Pennsylvania). There is another tax benefit that should be mentioned. Charitable gifts are not subject to Pennsylvania inheritance tax, nor to federal estate tax. For those who want to make charitable gifts in their will, this is a valuable tax benefit. An outright gift by will is very simple. It may be a stated amount or a percentage of the estate. Many organizations, particularly universities, have established "societies", to honor those who have named the organization in their wills.

IV. Life Insurance

We think of life insurance as a product to provide for our families after our death. But a life insurance policy may be used to benefit a charitable organization. You may simply name the charity as the beneficiary of some or all of the insurance proceeds. This does not produce an income tax deduction, but it does eliminate those proceeds from your estate for death tax purposes. Alternatively, you may transfer ownership of the policy to the charity. This will generate an income tax deduction for the value of the policy, which is not the amount of the death benefit, but the value of the policy as an asset. The IRS has developed rules for the valuation of life insurance policies. (And, in recent years, an extensive business has built up by which owners of life insurance policies may sell them to third parties.) Unless the policy that is given to the charity is paid up, someone will have to continue to pay premiums. If the insured does so by giving the premium payment to the charity, that will produce an additional income tax deduction.

The use of life insurance as a means to benefiting charitable organizations has resulted in a number of exotic planning techniques that have pushed the envelope on permissible tax planning, at times further than the IRS would accept; some of these techniques, which made the front pages of national newspapers, have had to be abandoned. It is important to be careful when reviewing tax planning ideas, especially those that involve life insurance. As with any type of tax planning, if it offers something for nothing or benefits that far exceed their cost, the better course is to avoid them.

V. **Donor-Advised Funds**

Many people want to donate to charity and have the amount given be used over a period of years. One simple way to accomplish this goal is through a donor-advised fund. A large foundation that is designed to benefit many different interests invites donors to contribute to the foundation in a fund allocated to that donor. The foundation then makes distributions to charities. It has the final word on who get the contribution, but the donor can advise where the money should go, and that is usually the destination.

VI. **Foundations**

A donor with significant charitable interests may establish a foundation for his or her private use. This is an undertaking that requires much effort and expense, as it requires a detailed application to the IRS. Consequently, it should be used only when substantial amounts of money are to be donated. But there are advantages to a foundation as well. It allows donated funds to be distributed gradually. And for families, it can be a means of developing a family tradition of philanthropy. An income tax deduction is available in the year of transfer to the foundation, even though the money is disbursed later.

VII. **Making Gifts through Trust Planning**

Some people, although they like the idea of charitable giving, are reluctant to give away large sums and lose their use for them and their families. Some more complex charitable gift planning could provide a solution. A charitable remainder annuity trust works as follows: a sum is placed in trust. It is invested, and for a specified period of years, a payment is made back to the donor or to someone else selected by the donor. This will be a percentage of the original value of the assets placed in trust. At the end of the term, whatever is left in the trust passes to the charity. If the growth in the trust assets is greater than the payments made, there could be a substantial amount left for the charity. Conversely, there could be nothing. An income tax deduction is provided if this type of trust is set up during the donor's life, based on a calculation of what the charity is likely to receive.

This technique can also be reversed, as a charitable lead annuity trust. The charity gets the percentage payments, and the family gets whatever is left at the end.

An alternative to each of these methods of making charitable gifts is a unitrust, by contrast with an annuity trust: a payment is made, based on a specified percentage of the value of the assets as determined each year.

VIII. **Annuity Planning**

Some charitable organizations, such as universities and religious groups, offer charitable annuities. You contribute money or property and receive payments, generally for life. For this contribution, you receive an income tax deduction, based on a calculation of the value the charitable organization is likely to receive. Payment of the annuity may begin immediately or be deferred.