

Adding Restrictions to Control Usage of Charitable Gifts

October 31, 2019



For many, philanthropy is an important part of an estate plan and a family legacy. Unrestricted gifts can be risky, especially large donations that will benefit a charity over a long period of time. There are measures that can be taken to ensure that donations are used to fulfill the donor's intended charitable purposes.

Even if a charity is financially sound when a gift is made, there are no guarantees it won't suffer financial distress, lose its charitable status or even cease operations

down the road. Surely a donor would not want a charity to use his/her gifts to pay off its creditors or for some other purpose unrelated to the mission that inspired the donation.

One way to help preserve one's charitable legacy is to place restrictions on the use of gifts. For example, it's possible to limit the use of funds to assisting a specific constituency or funding medical research. These restrictions can be documented in a will or charitable trust or in a written gift or endowment fund agreement.

The will has to be carefully worded to ensure that the decedent's intent is clear, and that there is no ability for the recipient charity to change the intended restricted use without the permission of the estate representative.

Depending on applicable federal and state law and other factors, carefully designed restrictions can prevent a donor's funds from being used to satisfy creditors in the event of the charity's bankruptcy. If these restrictions are successful, the funds will continue to be used according to the charitable intent, either by the original charity (in the case of a Chapter 11 reorganization) or by an alternate charity (in the case of a Chapter 7 liquidation).

In addition to restricting your gifts, it's a good idea to research the charities you're considering, to ensure they're financially stable and use their funds efficiently and effectively. One powerful research tool is the IRS's Tax Exempt Organization Search (TEOS). TEOS provides access to information about charitable organizations, including newly filed information returns (Forms 990), IRS determination letters and eligibility to receive tax-deductible contributions. Access TEOS here: <https://bit.ly/1RYWq2x>

For more information or to discuss charitable donations in greater detail, contact your Anchin relationship partner or [Gary Castle](#), a member of Anchin Private Client, at 212.840.3456 or info@anchin.com.