

Why should you consider a charitable trust in your Will?

What is a testamentary charitable trust?

A testamentary charitable trust is created within and by your Will and allows you to maintain your philanthropic ties even after your death, and in perpetuity.

The trust will not take effect until after your death and may be created using specific assets, a designated portion of your estate or the entire remaining balance of your estate. Multiple trusts may also be created within your Will if there are several institutions or causes you would like to benefit.

What are the benefits of a testamentary charitable trust?

Whilst you may consider gifting a sum of money to a registered charity or benevolent institution, to make a more permanent and enduring contribution, it may be more effective to establish a testamentary charitable trust in your Will.

The trust will continue in perpetuity and you can specify the particular causes that you wish to benefit, for instance, humanitarian or community purposes such as education, medical or scientific research, advancement of religion, the relief of poverty or protection of animal welfare.

Unlike some other long-term philanthropic structures, the beneficiaries of your testamentary charitable trust do not necessarily need to be registered as 'deductible gift recipients' with the Australian Taxation Office. This gives the trustee of the trust greater flexibility in carrying out your wishes in the administration of the trust.

How does a testamentary charitable trust operate?

By working with one of our estate planning specialists, you can incorporate specific instructions in your Will regarding the operation of the trust. This includes the particular charities or causes that you would like to benefit from the trust and the purposes for which trust funds can be applied by those institutions. The Will represents the governing document for the trust and the trustee will be bound to follow its terms in administering the trust.

Upon your death, the executor of your estate will set aside the amount you have designated to form the initial capital of the trust. The trustee will be responsible for the ongoing administration of the trust and the management of the investment portfolio.

The trustee will distribute trust income to the charitable institutions you have nominated in your Will, with distributions generally made on an annual basis. You can specify the institutions that are to benefit from the trust distributions, as well as the frequency of the distributions, or alternatively, you can leave this decision to the discretion of the trustee. You may wish to provide general guidance to the trustee about the causes you want to benefit from the trust and leave the final decision to the trustee, so they can respond to appropriate issues that may arise in the future. For example, as a result of scientific and medical advancements over the years, there are many new areas of research requiring funding today that would not have been thought possible 50 years ago.

The charitable trust will be exempt from tax on the income and capital gains generated on the investment portfolio. The trust will also be entitled to other tax concessions, such as a full refund of franking credits attached to dividend income. To preserve the value of the trust against inflation, capital gains generated by the investment portfolio will normally be retained.

Why would you choose a charitable trust over an outright bequest?

In some circumstances, it may be appropriate to make an outright bequest to your preferred charity or several charities that you wish to benefit. By making an outright bequest however, you are giving the charity complete discretion as to the application of that money. Alternatively, you may wish to make a more substantial contribution in the form of distributions from a charitable trust, with precise conditions and guidelines over how those funds are to be used by the charity. This allows you to ensure that you are making a lasting and valuable contribution which will continue to generate a continuous stream of income and benefit to your chosen causes following your death.

As an example, consider a one-off donation of \$1 million compared to the establishment of a charitable trust with the same amount. If the trust conservatively distributes 4 per cent per annum and generates capital growth of 4 per cent per annum (assuming constant annual returns), at the end of 20 years the fund will be worth more than \$2.1 million and will have distributed close to \$1.2 million. This is a simple illustration, but there are many real examples of charitable trusts that were established many decades ago that today have a significant capital sum and have distributed millions of dollars to benefit the community over those decades.

A significant benefit of a charitable trust is that it can operate as a lasting memorial in your name or be used to honour the name of a respected person or family member. You can share the experience of giving with your family members and descendants, and establish a tradition of social responsibility for future generations.

Would you like further information?

Speak to us on 1300 308 440.

Shadforth Financial Group | ABN 27 127 508 472 | AFSL 318613

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1300 308 440
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