



# Gifts of Retirement Plan Assets

Jeff Lydenberg  
Vice President, Consulting  
PG Calc  
[jeff@pgcalc.com](mailto:jeff@pgcalc.com)  
617-497-4997





# Potential for Retirement Fund Gifts

Retirement assets of all types	\$25.3 trillion
IRAs	\$7.6 trillion
401(k) plans	\$4.8 trillion

Retirement funds constitute ~35% of household wealth

3/31/2016 Investment Company Institute data





# Agenda

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



# Retirement Fund Basics

- Defined contribution plans (qualified 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 contributions, earned income, and realized gains not taxed
- Withdrawals entirely taxable as ordinary income
  - Some state exemptions/credits
- 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

- Permanent law, no more sunsets
- Minimum age – 70 ½ (after 70 ½ birthday!)
- Maximum amount – \$100,000 per taxpayer, per year
- Not permitted to private foundation, supporting organization, or donor advised fund
- Source can be traditional IRA, Roth IRA, or inactive SEP or Simple IRA



## Terms of IRA Rollover

- Not permitted to fund gift annuity, CRT, PIF, CLT
- Can fulfill a pledge
- Counts toward required minimum distribution and not included in income
- Beneficiary of inherited IRA can do rollover
- No income tax deduction since donor paid no tax



## 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



## Beneficial to Donors Who:

- Want to reduce their Medicare premiums.
- Beneficiary income determines Medicare Part B and Part D premium costs
- Reduced taxable income from a charitable IRA rollover could save some donors significant premium increases.



## 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



# Proposed Legacy IRA Legislation

- H.R.1337, The Legacy IRA
- Would permit charitable IRAs to fund Charitable Remainder Trusts and Charitable Gift Annuities
- Lifetime cap of \$400,000 per taxpayer
- Minimum 5% payout w/o regard to ACGA rate



# Comparative Results

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

- Martha, age 72, 5.4% ACGA rate

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

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

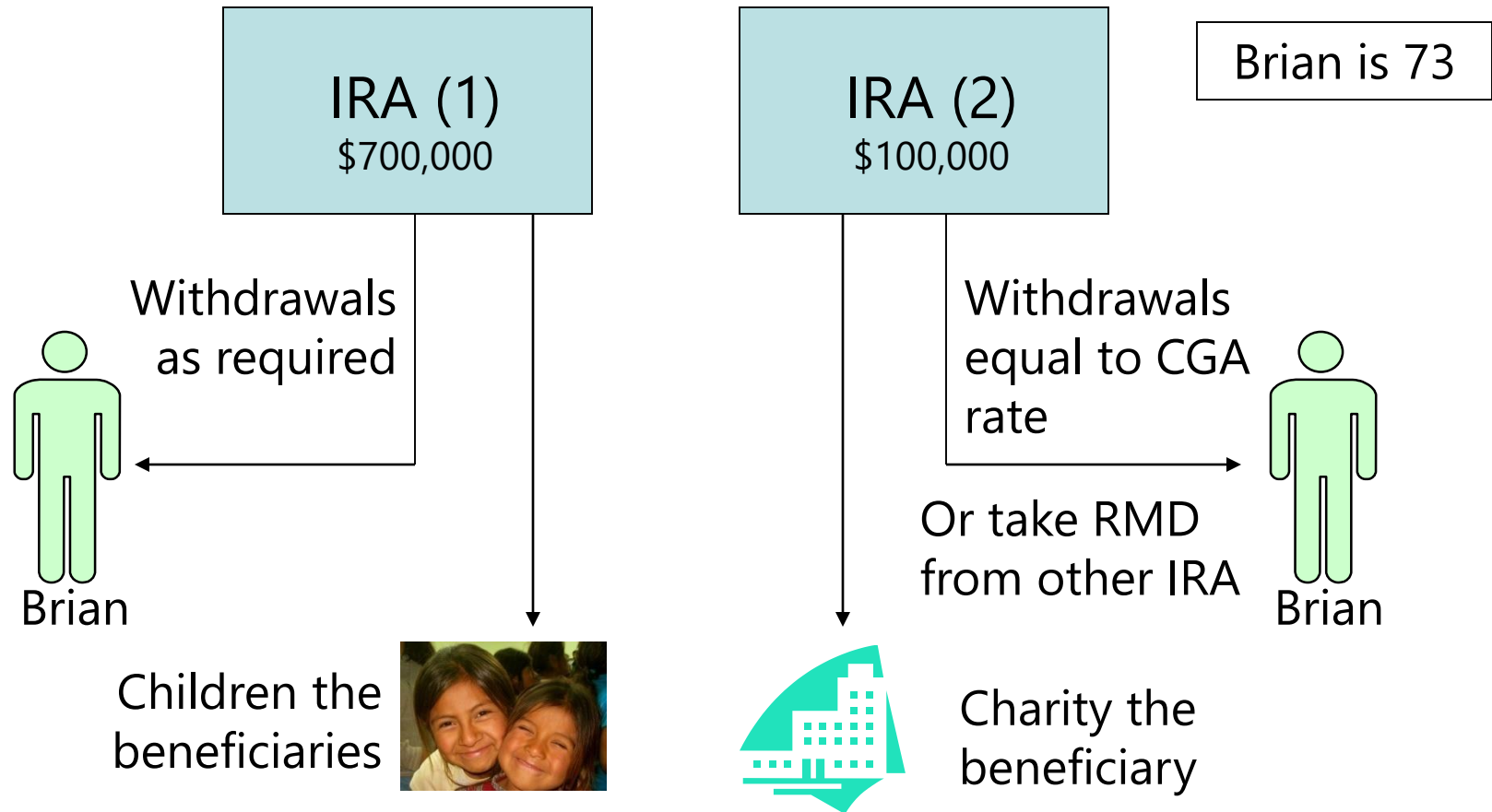
2. If Expanded IRA Rollover Enacted

After-tax annual cash flow (no tax free income!)	\$3,618
Contribution to charity	\$100,000



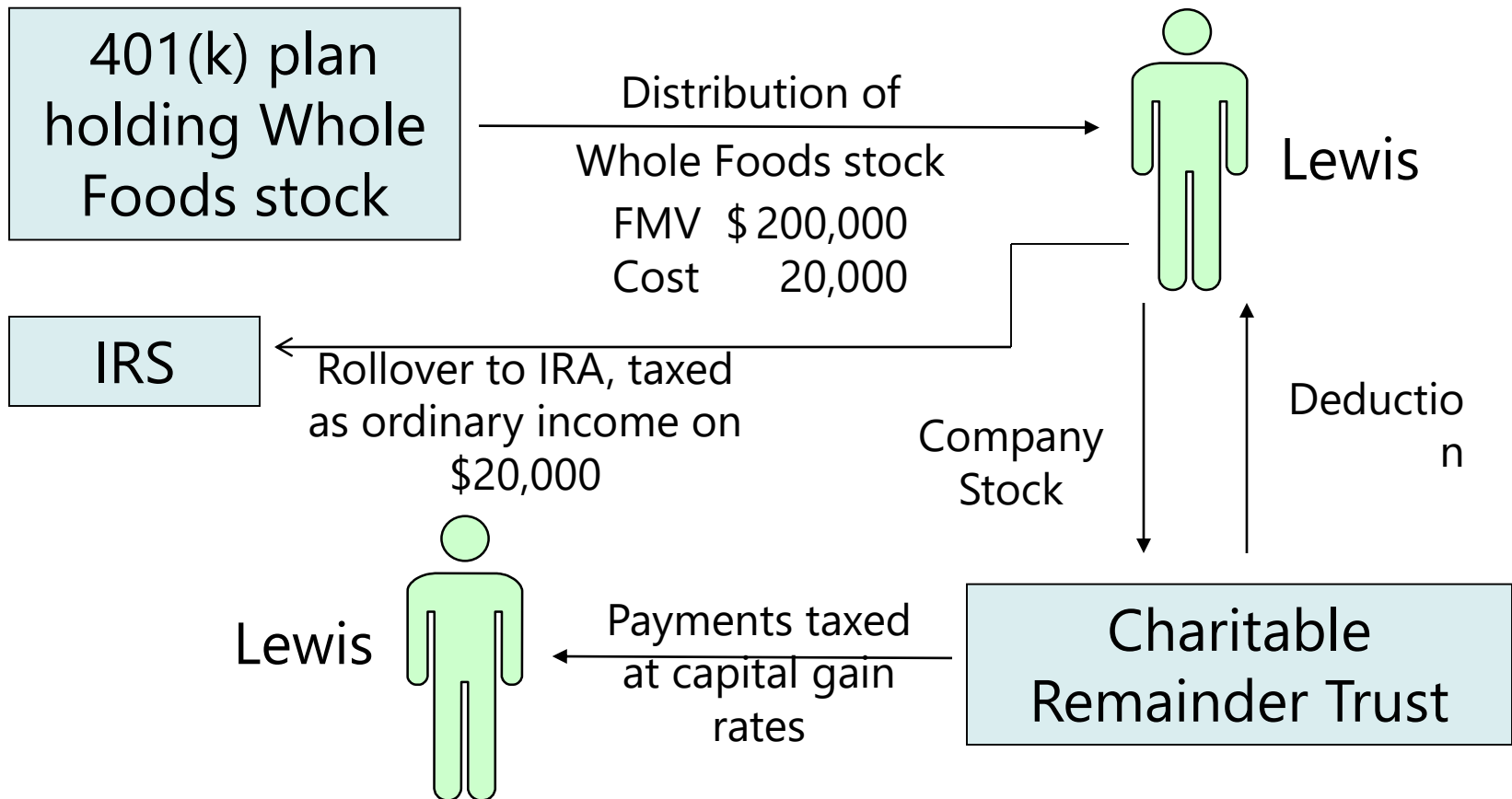


### 3. Divide IRA Into Two IRAs; Treat One Like a Gift Annuity





# 4. Contribute Distributions of Company Stock





# 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



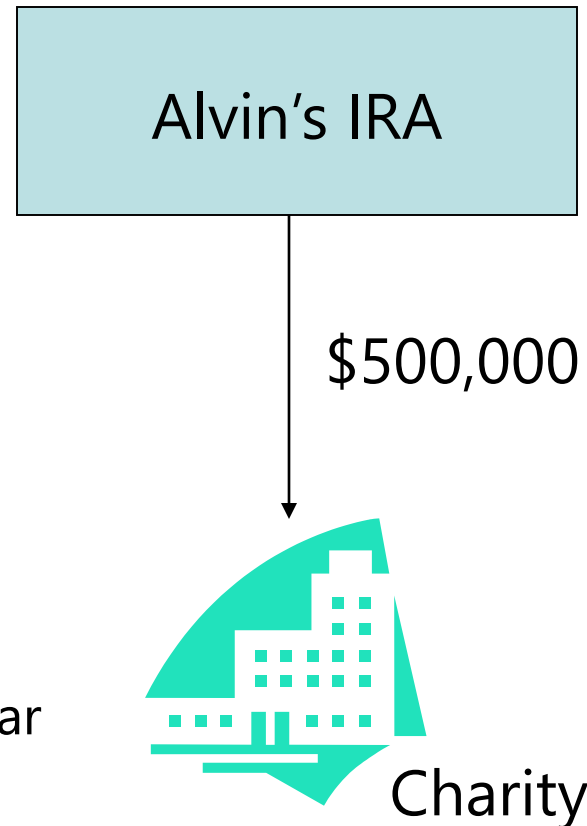
## A Caution on IRA Distributions to Charity

- Charity markets the IRA designation as the easiest way to make an estate gift
- Some plan administrators balk at specific dollar designations or purpose restrictions
- If living spouse, spousal waiver required
- IRA administration forms contemplate rollover for the benefit of natural persons, not charity



# 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





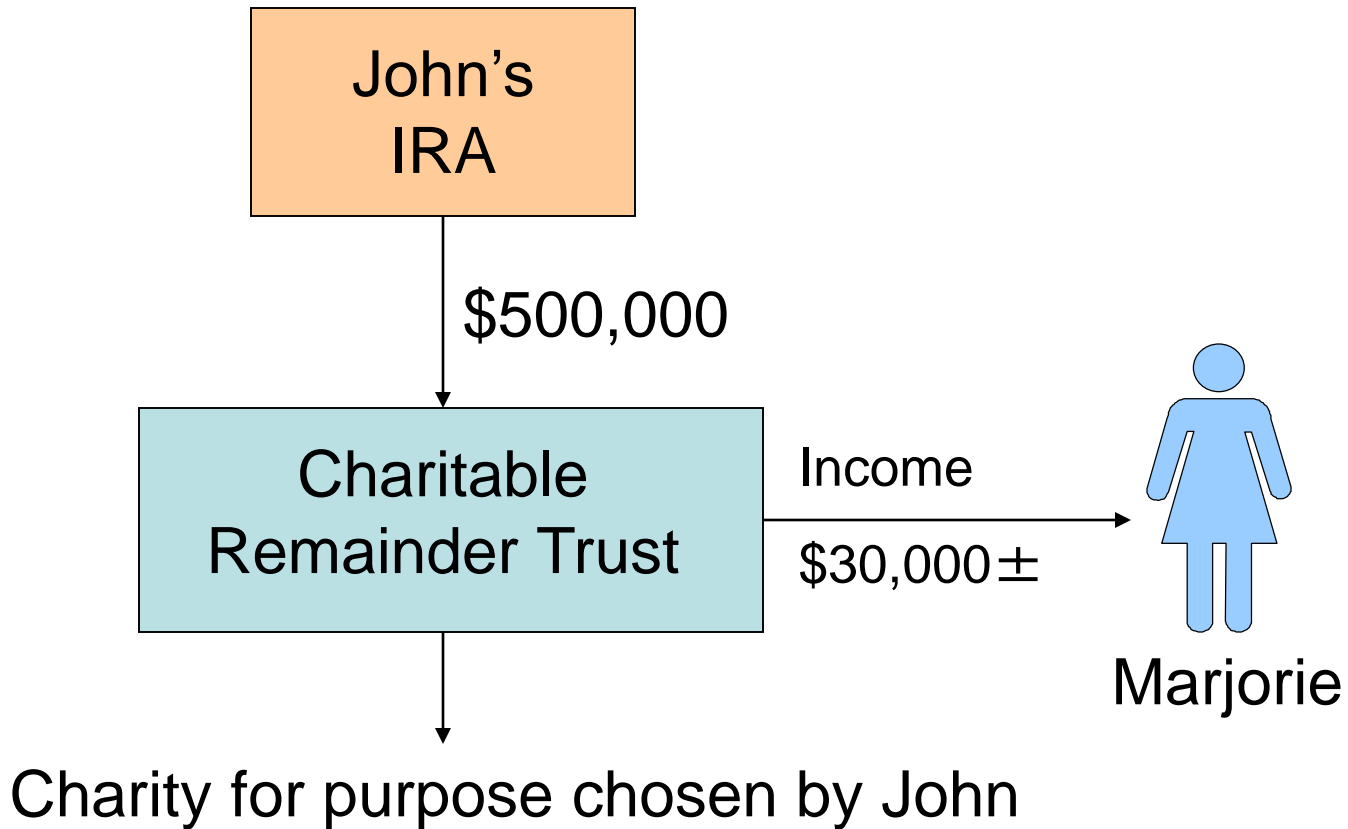
## End-of-Life Gift of IRA to Charity

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





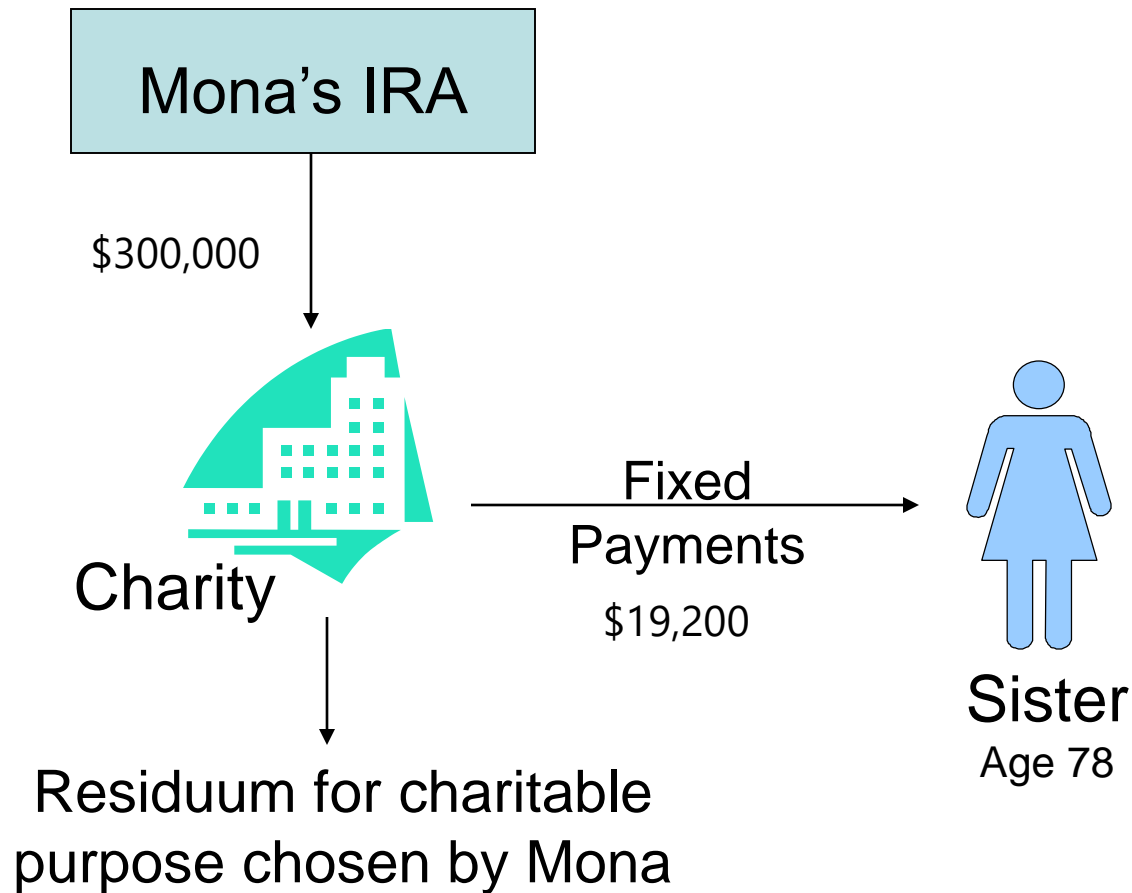
# Tax Consequences

- 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





### 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 at donor's death
- 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



## 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.

- 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 assets



## Concluding Comment

- Every charity should be targeting supporters age 70 ½ and older encouraging IRA rollover to make charitable gifts
- Lifetime gifts of IRAs (other than rollover) are limited
- End of life distributions of IRAs to charity minimize taxes and maximize the impact of charitable use of the IRA





# Questions?

