WILLMS, S.C.

LAW FIRM

MEMORANDUM

TO: Clients and Friends of Willms, S.C.

FROM: Atty. Jessica A. Liebau

DATE: March 10, 2014

RE: Using Designated Funds or Donor-Advised Funds for Planned Giving

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Introduction

There are numerous options for giving to charities during our lifetimes. For example, we may decide to set up a charitable trust or create a private foundation. Both of these options involve a donor who creates an entity that manages funds for charitable purposes. While charitable trusts and private foundations can be highly effective methods of transferring wealth to charities, as well as highly beneficial to the donors themselves, these giving vehicles can also involve a substantial amount of administrative work and require a substantial initial contribution.

This means that many donors will instead opt to simply write a check to the charity of their choosing, or will wait until death to make a bequest in a will or trust. It is important to recognize that there is a "middle ground," i.e. a solution that involves less administrative overhead than administering a trust or private foundation, but allows the donor to enjoy some of the benefits that those giving vehicles provide. That middle ground is the use of a designated fund or donor-advised fund.

Designated Funds

A designated fund (sometimes also referred to as a "restricted fund" or an "endowment") is an account that is set up by a donor to benefit a specific charitable organization, or even a specific cause or mission within a particular charity. These funds may be held and administered either by the charity itself, or by a third party "community foundation" that handles the administrative work on behalf of the charity.

Designated funds can be set up so that funds can be withdrawn at any time in any amount as the need arises, which allows a charity to treat that fund like a bank account that has been set aside for a particular purpose. Alternatively, designated funds can be set up so that instead of distributing the principal on an "as needed basis," the principal is invested, creating an endowment. With this latter approach, income generated from the investment is then distributed to the designated charity on a regular basis, such as annually. Because only the investment income is distributed to the charity, the principal continues to generate income year after year to create a constant income stream for the charity, unlike a one-time cash gift. Either approach allows the donor to make a calculated decision about where they want their dollars to be dedicated.

Donor-Advised Funds

A donor-advised fund, like a designated fund, is an account that is created and immediately funded by the donor. However, instead of designating the charitable beneficiary when the account is created, the donor can recommend beneficiaries over time. Therefore, the donor does not have to make a decision on beneficiaries when the fund is created, unlike a designated fund or an immediate cash gift. A donor-advised fund will have a large pool of charities to which gifts can be made over time. Because donations can be made to a variety of charities over time, instead of simply one designated charity, donor-advised funds are often a good way to get entire families involved in making charitable decisions.

It is worth noting that funding a donor-advised fund is an irrevocable gift of assets, just like funding a designated fund. Because the donor no longer owns the donated assets, he or she cannot demand that the fund administrator distribute assets to a particular organization. Instead, the selection of charitable causes is a recommendation on the part of the donor to the fund administrator.

Generally recommendations will be honored, so long as it falls within the scope of charities that the administrator serves. For example, if a donor creates a fund within a particular religious foundation, it is safe to presume that the foundation will only distribute funds to charities that fall within its mission statement and values. This can actually be a substantial benefit to using a donor-advised fund, because much of the work of vetting the charity and making sure it is in line with the donor's intentions is performed by the administrator, not by the donor.

Benefits of Using Either a Designated Fund or Donor-Advised Fund

As discussed above, designated funds and donor-advised funds do have some key differences. However, there are also several benefits to be garnered from the use of either type of fund:

- Like charitable trusts or private foundations, appreciated assets such as stock or real estate may be contributed to these funds, depending on the type of assets the charity or community foundation will accept. This means that the donor receives a deduction equal to the fair market value of the asset at the time of contribution, but without having to pay capital gains tax on the appreciation. For this reason, appreciated assets can be very attractive charitable contributions for the donor.

- The amount required to set up these funds is generally much lower than the amount required to set up a private foundation or charitable trust. Most funds can be set up with just a few thousand dollars.

- These funds are administered and invested by someone other than the donor, relieving the donor from handling (or paying someone to handle) administrative duties themselves, unlike a charitable trust or private foundation.

- Donors can make additional contributions to these funds at any time, unlike a bequest in a will or living trust, where the donor must set a specific value of what they want to give, and then revise their documents over time if they change their mind.

- The donor can transfer assets to the fund and take the charitable deduction from income taxes immediately, unlike leaving a bequest in a will. Even with donor-advised funds, where the particular charitable recipients may not yet be selected, the transfer of funds to the fund administrator is when the gift occurs.

Summary

The use of designated funds and donor advised funds have grown over time because they provide an attractive option to donors who want to be methodical with their giving, while immediately garnering the tax benefits of a charitable contribution and avoiding the administrative overhead of other charitable vehicles. These funds can therefore be a very important supplement to an existing estate plan.

I hope you have found the information in this memorandum to be helpful. If using one of these funds is something about which you would like more information, we would be happy to walk you through this process.

END OF MEMO