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Advanced Estate Planning

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Estate Planning & Business Law Attorneys

- Estate Planning
- Probate & Estate Administration
- Business Succession Planning
- Asset Protection
- Charitable Planning

- Business Law
- Entity Formation
- Employment Law
- Mergers & Acquisitions
- Real Estate

Presenter

John P. Hannon, III

John Hannon, III's practice focuses on high net-worth estate planning, gift tax planning, charitable planning, and the administration of taxable estates.

He is licensed to practice law in California and has an LL.M. in Taxation.

Background

Cash vs. Property Donation

Assume California resident at top combined tax rates
Assume publicly traded stock with $0 basis

Cash Donation		
Start	$100 cash	$100 stock
Donate Cash	$100 Deduction Reduces Taxes by $51.40	
Sell Stock	Realize $100 Pay $37.10 in Taxes Net $62.90	
Remaining Value	$114.3	

Stock Donation		
Start	$100 cash	$100 stock
Donate Stock	$100 Deduction Reduces Taxes by $51.40	
Remaining Value	$151.40	

Additional value is from avoiding capital gains on sale of stock

Charitable Deduction Limitations

Charitable Deduction Floor

Individual taxpayers who itemize must exceed 0.5% of AGI before any charitable donation qualifies for a deduction.

This replaces the prior "no floor" structure.

Example: If AGI is $500,000, the first $2,500 of charitable contributions ($500,000 x 0.5%) would not be deductible. Only giving above that amount would qualify for a charitable deduction.

Donation	Annual Deduction Limit Against AGI
Cash to Public Charity	60%
Property to Public Charity	30%
Cash to Private Foundation	30%
Property to Private Foundation	20%

Unused Charitable Deduction Carried Forward 5 Years

Trusts Have **Unlimited** Charitable Deduction

Charitable Deduction Limitations

New Cap on Itemized Deductions

Under the One Big Beautiful Bill Act (OBBB), the total value of your itemized deductions cannot reduce your tax bill by more than 35% of the amount deducted, regardless of your tax bracket.

☞ Donors in higher tax brackets who are considering a significant charitable gift should consider accelerating gifts to 2025 to maximize deduction under the current rules before the new cap goes into effect.

Charitable Plans

Charitable deductions involve nuanced rules that depend on income, types of assets contributed, types of charities, and timing.

Talk to your advisors about your charitable plans to mitigate your tax liability and maximize your charitable impact.

Charitable Trusts

Charitable Strategies

Tax Efficient Charitable Contributions of Appreciated Assets

CRUT

Income to Donor

Remainder to Charity

Charitable Deduction

CLAT

Income to Charity

Remainder to Next Gen

No Charitable Deduction

TCLAT

CLAT Created at Death

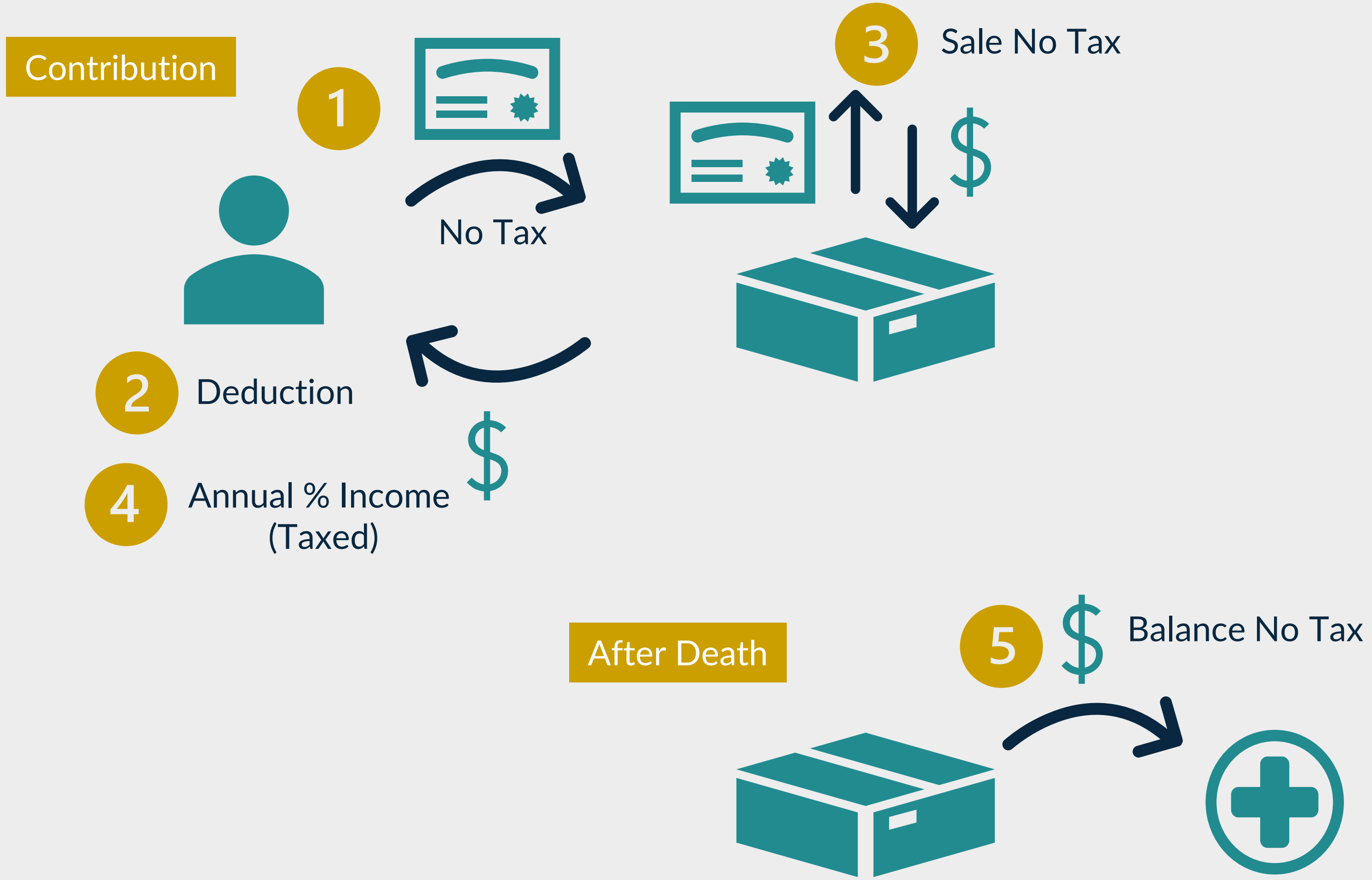
Charitable Remainder Unitrust

CRUT

Income to Donor

Remainder to Charity

Charitable Deduction



Charitable Remainder Unitrust

Types of CRUTs

CRUT

Income is a Fixed Percentage of Trust Assets Valued Annually

NICRUT

Income is Lesser of a Fixed Percentage or Net Income

NIMCRUT

A NICRUT with Make Up Income

FLIPCRUT

A NICRUT or NIMCRUT that Flips into a Regular CRUT upon an Event (e.g., Retirement)

Assets Can Grow Faster Before the Flip

Charitable Remainder Unitrust

Example	
Starting	$10M public stock in single company with $100k basis
Goals	Diversification and income stream in retirement (current age 50)
Lifetime FLIPCRUT	Contributes $6M stock to FLIPCRUT Receives $1.4M deduction Sell $4M stock and the deduction reduces tax
Life Term	Receives no income while working & assets grow at 9% After retirement, receives 5% income ($1M)
Summary	$4M stock sale tax free $2.4M estate tax saving $1M income in retirement (age 65) $50M to charity at death (age 86)

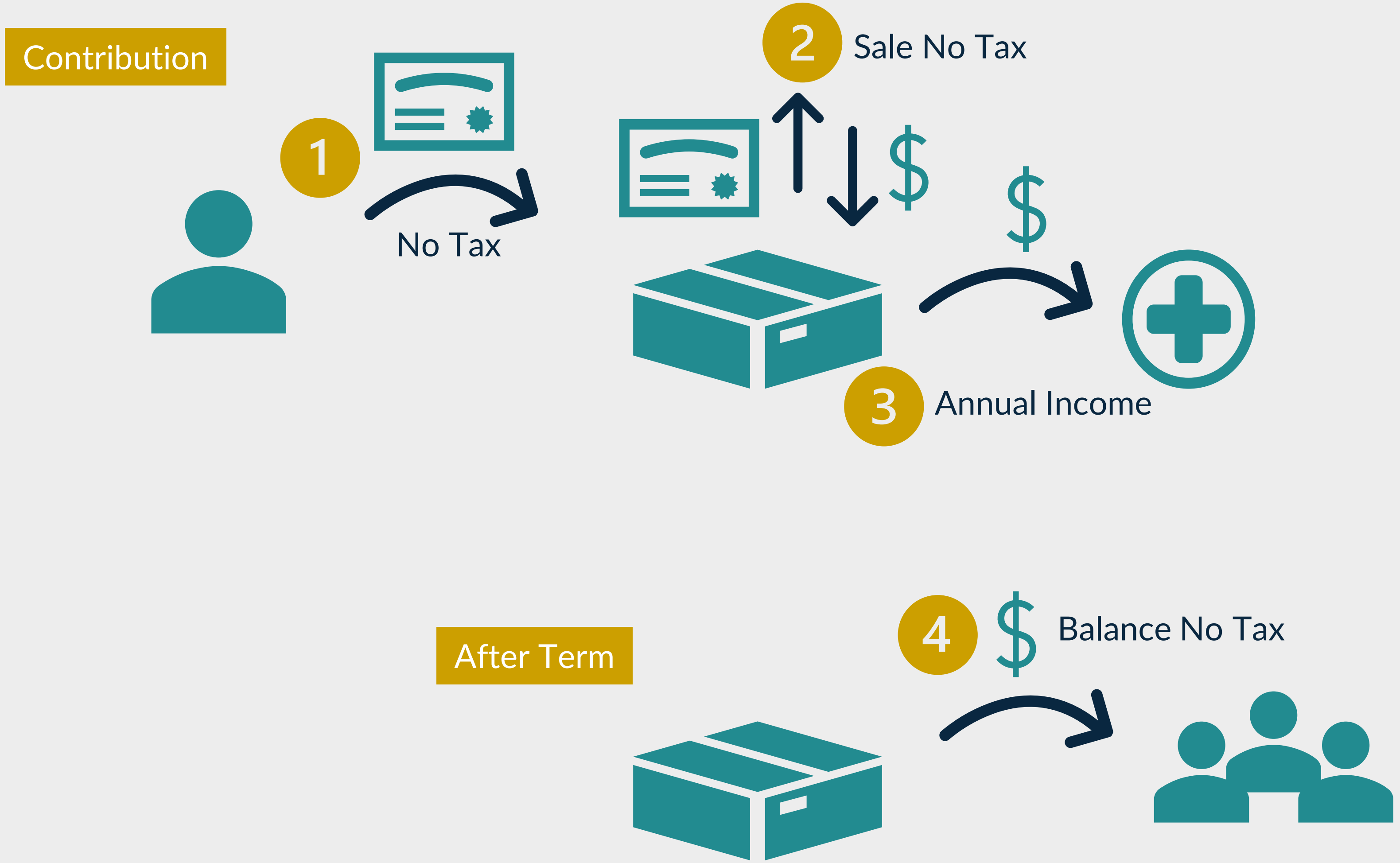
Charitable Lead Annuity Trust

CLAT

Income to Charity

Remainder to Next Gen

No Charitable Deduction



Charitable Lead Annuity Trust

Example		
Starting	$1M public stock in single company with $50k basis	
Goals	Diversification, wants to benefit charity now, no need for charitable deduction	
20-Year Zeroed Out CLAT	Charity receives $83,000 per year Assets invested and return 8%	
After 20 Years	$671,000 to children	
Summary	<u>Direct Gift</u> $1M to charity $400,000 estate tax savings $0 to children	<u>CLAT</u> $1.86M to charity $400,000 estate tax savings $671,000 to children

TCLAT

Testamentary Charitable Lead Annuity Trust

TCLAT

CLAT Created at Death

No Estate Tax on Contribution

Example	
Starting	$5M over estate tax exemption
20-Year Zeroed Out TCLAT	No estate tax on contributed amount (save $2M) Charity receives $415,000 per year Children able to serve on board of foundation Assets invested and return 8%
After 20 Years	$3.4M to children $8.3M to foundation

Charitable Strategies

Ideal Scenarios

CRUT

Appreciated Assets & Need to Diversify

Lifetime Income Stream

Charitable Deduction

CLAT

Appreciated Assets & Need to Diversity

Current Charitable Fulfillment

Deduction Not Needed

Remainder to Next Gen

TCLAT

Beneficiaries Have "Enough"

Estate Tax Savings

Patient Beneficiaries

Charitable Organizations

Balancing Control, Compliance & Impact

Private Foundation

"Business Owner"

Compliance Your Responsibility

High Charitable Involvement

Donor Advised Fund

"Check Writer"

Compliance Their Responsibility

Minimal Charitable Involvement

Fiscal Sponsor Fund

"Cause Champion"

Compliance Their Responsibility

High Charitable Involvement

Income in Respect of Decedent

Highly Taxed Disadvantaged Assets

IRD

Income Not Received Until After Death

Includable in Your Estate

Recipient Is Taxed at Ordinary Income Tax Rate

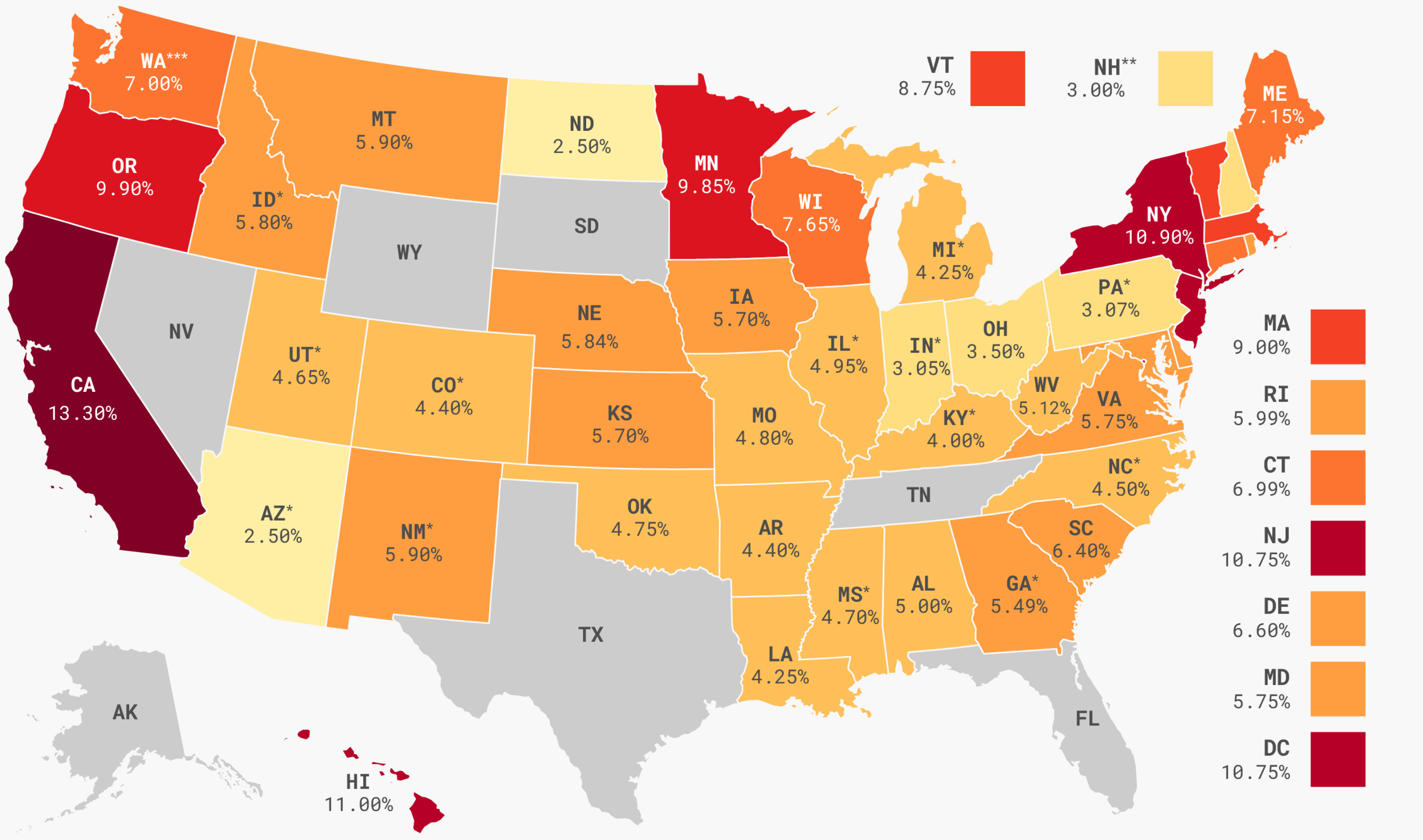
Potential Double Taxation

Example. Assume you die with a $100 IRD item that is inherited by your child after your death. Assume your child has a combined federal and state income tax rate of 51.4%.

Your estate tax on the asset will be 40% of $100, or $40. Your child's gross income inclusion will be $100 minus the $40 estate tax attributable to the IRD, or $60, and the income tax on that amount will be $30.84.

Thus, your child will net only $29.16 after tax—implying an ***overall tax rate of 71%*** **(t**his can be worse if state estate tax or inheritance tax is involved.)

Top Marginal State Individual Income Tax Rates (as of January 1, 2024)



(*) State has a flat income tax.
(**) State only taxes interest and dividends income.
(***) State only taxes capital gains income.
Note: Map shows top marginal rates: the maximum statutory rate in each state. This map does not show effective tax rates, which would include the effects of various tax preferences. Local income taxes are not included.
Sources: Tax Foundation; state tax statutes, forms, and instructions.

TAX FOUNDATION

@TaxFoundation

Residency

Residency Income Tax Only for:

- Qualified Retirement Plans
- Deferred Compensation Plans with at Least 10-Year Installments

Qualified Retirement Accounts

Tax Efficiency for Deferred Taxes

Qualified Charitable Distributions

Donate RMDs to Charity on Age 73 or Older

Eligible Designated Beneficiaries

Exceptions to the 10-year Rule: Spouse, Disabled, Minor, Younger by Only 10 Years or Less

Charitable Beneficiary

Charitable Estate Tax Deduction at Death

Take Aways

- Appreciated assets: Sale vs donate
- Charitable deduction limitations
- Charitable trusts can benefit both charity & family
- Match the type charity to your desired charitable impact
- Intentionally plan for tax deferred accounts

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- Any questions?