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Presentation to Planned Giving Council

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Prior federal law

- 2009
 - Federal estate tax exemption \$3.5M
 - Generation-skipping transfer tax exemption \$3.5M
 - Gift tax exemption \$1M
 - Basis step-up
- 2010
 - “Repeal”
 - Carryover basis
- 2011
 - \$1M exemption

Prior Massachusetts law

- Estate tax exemption: \$1M
- Graduated tax rate
- No gift tax
- No generation-skipping transfer tax

Current federal tax law

- New federal law
 - Until 12/31/2012
 - Estate tax
 - \$5M, 35%, basis step-up
 - Portability
 - Gift tax \$5M
 - Generation-skipping transfer tax \$5M
- For 2010 deaths, choice of tax regimes

Current Massachusetts tax law

- Estate tax exemption: \$1M
- Graduated tax rate
- No gift tax
- No generation-skipping transfer tax

Taxable estates

- \$100 given to charity at death
 - Reduces federal tax by \$35
 - Reduces Massachusetts tax by about \$10
- Goal: reduce size of taxable estate, during lifetime

Charitable ideas

- IRA Charitable Rollover
- Charitable lead trusts

IRA charitable rollover

- Extended through 2011 only
- Lifetime only
- Up to \$100,000
- Can include RMD
- Roll over directly to charity
- Not included in participant's income

IRA charitable rollover: who's the donor?

- Age 70-1/2+
- Large traditional (or Roth) IRA
- High tax bracket
- Makes charitable gifts but doesn't itemize
- Social security benefits are taxed
- Charitable gifts exceed AGI limits

- MA residents: no charitable income tax deduction

IRA charitable rollover: who's the recipient?

- Public charities
- Community foundation funds
 - Scholarship
 - Field-of-interest
 - Designated
 - But not donor advised funds

IRA charitable rollover: recipient requirements

- Contemporaneous gift receipt
- No benefit to donor
 - Entire distribution: disqualified

Charitable lead trust

- Irrevocable trust
- Opposite of charitable remainder trust (generally)
- Charity receives income
 - Public charity
 - Private foundation
- Remainder to donor's family members
- Income in annuity or unitrust form; usually CLAT
 - More to family
 - Lower administrative costs

Charitable lead trust: purpose and theory

- Vehicle for transferring wealth
 - Fund trust with assets with strong growth potential
 - Value of assets grows during trust term
 - Increased value to heirs without additional transfer tax
 - Appreciation on gifted assets out of donor's estate

Charitable lead trust: tax, 1

- Gift to charity upon creation
 - No income tax deduction (generally)
 - Gift tax deduction for income interest
 - Donor may not retain right to change charity
 - Trustees may apportion income among qualifying charities
- Gift to family members upon creation
 - Uses gift tax exemption
 - Leveraged
 - Only non-charitable interest is a taxable gift
 - Actuarially calculated

Charitable lead trust: tax, 2

- Low interest rates
 - Higher charitable deduction
 - Lower value of gift to family
 - Goal: growth of trust assets outpaces annuity payout
- Income tax deductions for annual gifts
- Trust is not tax exempt
- No further transfer tax on the trust assets
- Heirs get carryover basis

Charitable lead trust: example

- \$2,000,000 transferred to a 25-year CLAT
- 3.0% annuity payout (\$60,000/year)
 - Paid at Trustee's discretion among charities of donor's choice
- Remainder to children
- Value of charitable income interest: \$1,034,044
 - Amount paid to charity over time: \$1,500,000
- Amount of gift tax exemption used \$965,956
 - Amount actually transferred
 - 7% appreciation: \$6,960,306

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