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GIFTS YOU CAN GIVE AFTER YOUR LIFETIME

Oast & Hook is pleased to announce that it has opened its new Harbour View office. This office is located in the TowneBank Harbour View Financial Center at 5806 Harbour View Boulevard, Suite 203, Suffolk, Virginia 23435. Oast & Hook's telephone and fax numbers will remain the same.

A May 2010 *Oast & Hook News* article discussed the different gifting options that are available for you. These included gifts of cash, appreciated property, and real estate. This article discusses the different gifting options that are available after your death. These options include bequests in either a will or revocable trust, gifts of the proceeds from a retirement plan, and gifts derived from a life insurance plan you may own. These options are all revocable decisions, which means that you can change your mind or adjust amounts and beneficiaries up to the point that you die. This flexibility enables you to enjoy full use of the assets during your lifetime and to distribute these assets after your death in a way that is advantageous to both the charitable organization and your beneficiaries who will be able to enjoy the tax benefits provided by these options.

The first option is the traditional bequest in either a will or a revocable living trust. A bequest is achieved by naming a specific party, which can be a charitable organization, in your will along with an amount or item to be given to that charity. Bequests can be of any asset that you own, and can be made for a specific item, amount, percentage of your estate, or can be of the "rest, residue and remainder" of your estate. This is the value of your estate that is left after all of your debts have been paid and your other wishes have been carried out. One can also make a contingent bequest, which will take effect only if a stated condition is met. Bequests to charitable organizations can be either restricted or unrestricted, meaning that they can be designated to be used for a stated purpose or can be given to the organization to use in a way that the organization deems best. Some of the advantages of a bequest are that it enables you to continue using the assets by deferring the giving

until after your death, it allows you to make sure that an organization whose cause you care about continues to receive money after you are gone, and the fact that charitable donations are exempt from estate tax. This is an important decision and you should think carefully about what you want given to whom. After considering the issue, it is important that you talk to an attorney who can prepare or amend your will or trust so that your precise wishes will be carried out.

The second charitable giving option available after your lifetime is to designate a charity as the beneficiary of a retirement plan such as an IRA or a 401(k). An important consideration when deciding who should receive the balance of your retirement account after your death is how retirement plans are taxed. Qualified retirement plans are those that receive favorable income tax treatment during an employee's lifetime. No income tax is due on the funds as contributed, and no income tax is due on the earnings and appreciation while in the plan – you pay taxes only on the funds as you receive them. Usually, the undistributed balance of qualified retirement plans is included in your estate for estate tax purposes; however, since the funds in retirement accounts usually represent deferred compensation that has not been subject to income tax, giving the accounts to individual heirs also exposes the balance to income taxes. Therefore, leaving these funds to an individual could result in double taxation at rates that can be up to 65% of the amount left in the plan. Naming a charitable organization as a beneficiary of a retirement plan, however, allows all of the funds to pass to the organization free of estate and income tax; and also generates an estate tax charitable deduction that can be applied by your heirs to the remainder of your estate, allowing them to receive more of the other assets available in the estate. There are many other considerations that should be taken into account in order to maximize the tax benefit to your heirs and estate, so it is important that you consult with a professional before pursuing this option.

The third charitable giving option available is to make a gift of a life insurance policy that might no longer be needed to fulfill the purpose for which it was originally purchased. This is an easy way to make a generous gift with little cost to you, and it can be done either with life insurance policies that are paid up or for ones that on which you are still paying premiums. For example, if the life insurance was originally purchased to make sure your children had money for college, but your children have already finished college, then this can make a generous gift for a charity. Two different options for gifting life insurance are either to name the organization the owner of the policy or to name the organization a beneficiary of the policy. If you chose to name the organization the owner of the policy, then you are relieved from paying any remaining premiums on the policy and allow the organization to surrender the policy to receive the cash value now. Assigning ownership provides you with an income tax deduction now for the fair market value of the policy and removes the proceeds from your estate thereby reducing estate taxes. You could instead choose to name the organization as a beneficiary of your insurance plan. Doing this creates an estate tax deduction for the insurance proceeds. You can also name the organization as a contingent beneficiary of the policy to make sure that your beneficiaries' needs are provided for first.

Life insurance is a versatile tool, however, and can be used in a variety of other ways. One of the greatest increases in the use for life insurance is to replace for beneficiaries of an estate the value of assets being given in some way or other to a charitable organization. For example, it might be more

effective to donate appreciated securities to a charity and then use the proceeds from the resulting tax deductions to purchase a similar quantity of life insurance to benefit your heirs. Keep in mind that life insurance policies are flexible assets and a financial professional will be able to best help you structure a use of a life insurance policy that works best for your beneficiaries and you.

The attorneys at Oast & Hook also assist clients with their estate, financial, insurance, long-term care, veterans' benefits and special needs planning issues.

Ask Allie

O&H: Allie, we've heard that you recently had an interesting visitor. Please tell us about it.

Allie: Sure! I was waiting at the front door for my usual visitors, you know, the regular kind like a bird, a squirrel, or a rabbit or two. But to my surprise, and to my mom's alarm, there was this BIG "CAT" sitting in the bushes near the driveway. Mom knew I had spotted something unusual because when she walked into the room, she noticed that my ears were pointed straight up and the tip of my tail was swishing back and forth ever so slowly. Well, Mom came to the door and quietly screamed. (Yes, that can be done – you know mouth wide open, eyes wide open and a faint screeching voice). Anyway, she screeches: "Allie, get away from the door. THAT'S A SKUNK! Don't startle him or he will end up leaving you a gift that you really don't want." I can't imagine that a gift that I really don't want; I like gifts. So, I steadfastly remained at the door; I peered at this skunk and it peered at me. In the meantime, Mom went to get some enticements to draw me away from the door. Three different laser toys: "NO"; My ball that rolls by itself: "NO"; My Undercover Mouse toy: "NO"; Four different catnip toys: "Still NO."; catnip straight from the pouch: "NO, NO, NO!" I was intrigued by this big cat with the wide white stripe! Well, eventually Mom showed me another toy, a bird that chirps every time I touch it that I love chasing around the room. So she caught my attention, and I ran away from the door and into the room to play with the chirping bird. The lesson learned: A bird in the hand is better than a skunk in the bush. Speaking of that bird, it's time to go find him. See you next week!

Announcements

Oast & Hook attorney Andrew Hook recently gave a podcast interview on the topic of estate planning. To listen to this podcast, please visit <http://tinyurl.com/398jwvc>.

Oast & Hook will hold its quarterly Social Workers and Administrators Breakfast on Wednesday, August 18th at the Virginia Beach Central Library, 4100 Virginia Beach Boulevard, Virginia Beach, Virginia 23452. The topic is life care planning. Registration begins at 9:00 a.m., and the presentation begins at 9:30 a.m. Questions will be answered from 10:30 a.m. to 11:00 a.m. The breakfast is designed to be both a networking opportunity and also an educational opportunity for area professionals who work with seniors, the disabled, and their families. Seats are limited, so please register early for this breakfast by phoning Jennie Dell at 757-967-9704.

Oast & Hook attorney Letha McDowell will speak on the topic of elder law at the monthly meeting of the Norfolk Retired Employees Association from 10:30 a.m. to 11:00 a.m., Friday, August 27th at the Titustown Recreation Center located at 7545 Diven Street, Norfolk, Virginia 23505. For more information on this organization, please visit www.norfolk.gov/retirees.