How to GIVE IT AWAY

At some point, the downsizing begins. Be sure to bestow your money smartly—and maintain peace in the family

By Karen Cheney

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EVEN IF you're not a millionaire, you may have reached a stage where you think, *It's enough.* It could even be a bit too much. A second car may sit mostly in your garage. A beloved vacation home may have transformed from a place to relax to a place to maintain. Your pension? If you're fortunate enough to have one, it, too, could be paying you more than you really need.

But how do you share your resources in a way that is simple, smart and financially prudent? And how do you keep the peace within your family if not everyone agrees on your choices? For the answers, we've asked experts in the fields of charitable giving and estate planning to suggest the best ways to give under the new tax law—for you and your recipient alike—in seven common situations.

YOUR GRANDCHILD NEEDS A COLLEGE EDUCATION

***Solution:** Use her parent's 529 plan.*

The best way to save for a child's future education is through a 529 college saving plan, where money grows tax free and can be withdrawn tax free for qualified educational expenses, including full tuition and expenses for higher education. A provision in the new tax law allows up to $10,000 a year in tax-free withdrawals for precollege education as well, though not all states may adopt this provision.

You can create an account on your own for your grandchild, but it may be wiser to contribute to an account created by the child's parent. Here's why: Financial aid formulas categorize distributions from a grandparent's 529 plan—but not from a parent's plan—as student income. That could reduce any potential financial aid award. (If you've been saving in a 529 in your name, many plans let you switch ownership to the parent, as long as you don't change the beneficiary.)

If you want to hold on to the account, Dawn Brown, a senior financial planner with Lassus Wherley in New Providence, New Jersey, suggests you delay paying until the last two years of college. That's because schools now look at the tax return from two years earlier to determine aid eligibility for the upcoming year, which means you can pay tuition during the student's final two years without affecting financial aid.

How to do it: Either deposit the money directly into a parent-owned plan, or give the money directly to the parent with the expectation that he or she will deposit the money in a 529. (Depending on the state, the account owner might get a state tax deduction for contributing to a 529.) The account owner can choose funds to invest in; age-based plans are usually the best choice. To find out more about different state plans, go to Savingforcollege.com.

YOU WANT TO ESTABLISH A CHARITABLE FOUNDATION AND YOU'RE NOT BILL GATES

Solution: *Opt for a donor-advised fund.*

Donor-advised funds (DAFs) are like charitable savings accounts. You get an immediate tax deduction for any cash (or investments) you put in the fund. This allows you to front-load two or three years' worth of giving into one year, claiming a charitable deduction for a year when you plan to itemize your deductions instead of taking the newly increased standard deduction. Then you can direct grants from the fund to your church, alma mater or other public charity, on whatever timetable you wish. Any money sitting in your fund can be invested tax free, so you potentially have more money to give later on. And you can name other family members as advisers of the fund so they can make donations to charities as well. Just remember: Once you put money in, you can't take it out; it must go to charity. DAFs are especially useful if you have a big spike in income one year or if you expect to be in a lower tax bracket in future years.

How to do it: Open a DAF at a sponsoring organization, such as a community foundation or large investment firm. Fidelity Charitable and Schwab Charitable, for example, require a relatively low minimum initial contribution of $5,000 and let you fund your DAF with cash or assets including stocks and real estate. They'll sell any noncash assets you put in and give you a menu of different funds for investing the proceeds.

SOMETIMES THERE ARE GOOD REASONS FOR NOT LEAVING EACH OF YOUR CHILDREN AN EQUAL INHERITANCE.

YOUR CHILDREN HAVE DIFFERENT LEVELS OF NEED

Solution: *Divide equitably, and put this in writing.*

Sometimes there are good reasons for not leaving each of your children an equal inheritance. Perhaps one child received more of your help during your lifetime. Maybe one of your children has special needs and requires a trust to support him. Or you could have a much younger child who will need more financial assistance for such things as education. Whatever your reasons for dividing your estate unequally, it's your decision. It's also your decision as to whether you want to discuss your thinking with your children. "Some clients talk to their kids about it, and some don't want to debate with their kids," says attorney Laura Beck, a partner with Cummings & Lockwood in Stamford, Connecticut, specializing in estate planning. No matter how and why you make a division of assets, you can't prevent dissatisfaction among your children. You can, however, try to minimize the damage after you're gone.

How to do it: If you don't want to explain unequal bequests while you're alive, Beck suggests you consider leaving behind a letter explaining your motivations. Otherwise, she says, it's more likely you'll be seen as either being unfair or having loved one child more than another. To reduce the chances of an ugly battle over the will's terms and validity, she additionally suggests inserting a no-contest clause in the will—one that says, essentially, "If you challenge this, you'll get nothing."

YOU WANT THE NEXT GENERATION TO ENJOY THE FAMILY VACATION HOME

Solution: *Establish a company.*

First off, don't assume your kids want that memory-filled house by the lake. Ask. If none want it, that's that: Sell when the time is right for you. If just one doesn't want it but the other kids do, consider leaving that child an asset comparable in value to what the other ones get.

For the kids who take on the vacation house, your goal is to work out in advance all the issues that could arise after the transfer. The best way to do that is to formalize a plan. David Fry, an attorney and coauthor of *Saving the Family Cottage: A Guide to Succession Planning for Your Cottage, Cabin, Camp or Vacation Home,* recommends you achieve this by transferring the house to a limited liability company (LLC) and giving shares in it to the kids. Spell out your children's rights and responsibilities in the LLC's operating agreement, including how maintenance expenses will be shared and when different families can use the property. Most important, if someone wants to sell his or her share, the LLC agreement should provide a way to pursue this (typically, at a price less than the person's share of the property's full value).

How to do it: Hire a lawyer, because setting up an LLC of this type and creating and writing an operating agreement can be complicated. One tip: Define the universe of eligible owners as lineal descendants and not spouses. That prevents a divorce from creating an ownership battle.

YOU WANT TO SHARE MONEY HELD IN AN IRA

Solution: *Go ahead ... or get charitable at 70½.*

Hey, it's your money—you can take whatever you wish from an IRA once you reach age 59½. The issue is mostly taxes; a large withdrawal could push you into a higher tax bracket, increase the taxes on your Social Security payments and boost your Medicare premiums. If you give money from a traditional IRA distribution to your child (or anyone else), you'll have to pay income taxes on what you pulled out, just as you would if you kept the money. Beginning in 2018, you can give up to $15,000 (or $30,000 if you're married) to a person in a year without having to tell the IRS. Above that, you'll need to file a gift tax return, though you won't have to pay any taxes on the gift now. The total lifetime tax exemption for your estate

and gifts is $11.2 million per individual, so odds are that the IRS won't ever collect.

What about giving IRA money to charity? Once you're 70½ or older—that is, when you have to start taking your annual required minimum distributions—you can transfer up to $100,000 per person per year directly from a traditional IRA to a public charity you want to support, and the money is completely excluded from income taxes. Even better: It's deemed part or all of your minimum mandatory withdrawal for the year. You won't even have to itemize your deductions to gain the tax benefit, since the funds come out of your IRA without any tax consequence.

How to do it: Contact your IRA provider and get a copy of its charitable-distribution form. You'll supply the name of one or more nonprofits, and your provider will send a check directly to the charity. Two caveats: You can't do this with a 401(k) required minimum distribution, and you don't get any tax benefit donating money from a Roth IRA, since Roth distributions aren't subject to federal taxes in the first place.

YOUR CAR OR YOUR BOAT IS GATHERING DUST

Solution: *Avoid the middleman.*

Let's say you have an old SUV that you don't drive anymore. One option is to give it to your child or sell it to her cheap; just be sure to officially transfer the title. (Also, file a gift tax return if the fair market value is greater than the $15,000 annual gift tax exclusion.)

Alternatively, you could donate that SUV to charity and possibly get a tax deduction, as long as you're itemizing. But offering an in-kind donation, such as a car or boat, isn't always simple, says Michael Thatcher, CEO and president of the watchdog organization Charity Navigator.

He advises calling the charity you want to support and finding out if it wants your vehicle. If the nonprofit plans to put your car to use—say, to deliver meals or shuttle people to a health clinic—you can take the car's fair market value as a deduction. But if the charity plans to sell the car at a rock-bottom price, you might want to sell it yourself and donate the money, says Bob D. Scharin, a senior executive editor with Thomson Reuters Tax & Accounting in Hoboken, New Jersey. The reason: Your deduction would be the charity's selling price. What about those for-profit organizations that serve as a middleman to help donate your car to charity? They often take a large cut of your gift, Thatcher says.

How to do it: If you want to sell the car yourself, find out its worth by using the Kelley Blue Book (kbb.com); enter the year, make, model and other factors. Next, put the listing on a car-sales site such as Cars.com or TrueCar. You can also request a Kelley Blue Book "instant cash offer" (rather than a trade-in offer) from a local dealer and avoid selling the car yourself.

YOU WANT TO PASS ALONG WEALTH MADE VIA STOCKS OR MUTUAL FUNDS

Solution: *Give the shares to family members during their low-income years.*

Your heirs will get a break from the IRS if they inherit your stock upon your death: The profit they'll be taxed on when they sell those shares will be calculated based on the shares' value when you died, not the (probably) lower price you paid for them. But what if someone in the family could use the money now? You could sell the stock, but then you'd have to pay capital gains taxes on the profits, which could be large if the investment is old or has done especially well. Instead, you could give those shares to your children or another family member. That's a great option if the recipient is in a low tax bracket (meaning that, currently, he has a taxable income of less than $38,700 if single, or double that if married); he wouldn't owe capital gains taxes when selling the shares, explains Monica Sonnier, a certified public accountant and a member of the National CPA Financial Literacy Commission for the Association of International Certified Professional Accountants.

Alternatively, you could transfer shares you've held for one year or more to charity. This strategy would maximize both the size of the gift and your tax benefit.

For instance, let's assume you're in the 22 percent tax bracket (earning a maximum of about $82,500 if single, or $165,000 if married) and you have $20,000 worth of stock you bought years ago for $5,000. If you sell the stock and, after calculating your tax bill, donate the net proceeds to charity, the nonprofit will get about $17,750 and you'll owe the IRS $2,250. But if you simply give the shares, the charity will get the full $20,000 and you'll cut your tax bill by a cool $2,250.

How to do it: Reach out to your brokerage firm to learn what it requires to give your stocks to a charity or another person. Usually you need to fill out a transfer form with the recipient's brokerage and account number, which you'll have to track down on your own. And make sure that the people who handle fundraising at a charity know your gift is on the way, so they can properly credit you for your contribution. ■