

# Why should I consider a charitable trust in my Will?

Estate Planning Client Guide

A charitable trust provides a lasting memorial to the causes that have been dearest to you during your life.

## What is a testamentary trust?

In general, a trust describes an ownership structure where the assets of the trust are owned by one person or organisation (the trustee) but held for the benefit of other individuals or organisations (the beneficiaries).

A testamentary trust is a trust that is created within and by your Will but does not take effect until your death. It differs from a family trust (also known as an inter vivos trust) as a family trust is created by deed and commences during your lifetime.

A testamentary trust may be created using specified assets, a designated portion of your estate or the entire remaining balance of your estate. Multiple trusts may be created by the one Will.

## Why a charitable trust?

There are different approaches available if you wish to give back to the community via your Will. You may, for example, be considering a one-off bequest to a registered charity or benevolent institution.

An alternative is to generate everlasting benefits through a testamentary trust known as a charitable trust. Your Will can instruct the executor to set aside a portion of your estate to be held on trust in perpetuity, supporting those causes dearest to you.

A charitable trust allows a foundation to be established upon your death that carries on forever. It may benefit a variety of humanitarian or community purposes such as education, medical or scientific research, advancement of religion, or the relief of poverty.

You may have one or a number of different causes you wish to provide for after your death. The beneficiaries of your charitable trust do not necessarily need to be registered as 'deductible gift recipients' with the Australian Taxation Office.

## How does a charitable trust operate?

Your Australian Executor Trustees estate planner will help you develop instructions within your Will on how you would like the charitable trust to proceed. The Will represents the governing document for the trust and may include as many instructions as you choose.

Upon your death, the executor of your estate will set aside the amount you have specified to form the initial capital of the charitable trust. A trustee nominated in your Will then arranges the ongoing administration of the trust and the management of its investment portfolio.

The trustee will organise the disbursement of income from the charitable trust, with distributions generally made on an annual basis. To preserve the value of your trust against inflation, capital gains generated by the investment portfolio will normally be retained.

The trustee is guided by your nomination of which charities or causes are to receive the trust income. You can specify the institutions to which income is to be allocated, or alternatively leave this decision to the discretion of the trustee.

Your charitable trust is exempt from tax on the income and capital gains generated on its investment portfolio. The trust will also be entitled to other tax concessions, such as a full refund of franking credits attached to dividend income.



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## Why would I choose a charitable trust over an outright bequest?

Australians have a longstanding history of including outright bequests to charities in their Wills. Under some circumstances, this may be a more suitable approach for a Willmaker to demonstrate a spirit of giving and achieve personal satisfaction.

However, your bequest may ultimately be more valuable if it assists the community in perpetuity. A charitable trust allows you to achieve everlasting benefits from your philanthropy. Your trust will carry on forever, generating a continuous stream of income rather than a one-off donation.

A charitable trust can operate as a lasting memorial to the deceased, or be used to honour the name of a respected person or family member. You can share the experience of giving with your descendants, and establish a tradition of social responsibility for generations to come.

## How AET can help

AET has specialised in helping people give back to the community for over 120 years. We work in partnership with both clients and their financial advisers to develop and manage charitable trusts.

The Australian Taxation Office has issued strict guidelines that charitable trusts must adhere to. AET ensures that your Will is in accordance with these guidelines, making it simple to establish the trust, with little effort required on the part of your executor.

As your charitable trust will go on forever, you may consider selecting a trustee company such as AET to administer the trust. Appointing family and friends into this role may present them with responsibilities they are not capable of satisfying.

AET can also manage all aspects of the ongoing administration of your charitable trust, including the transaction records, investment review and regulatory reporting. This is often done in consultation with your investment adviser.

## Would you like further information?

For further information please contact your AET Estate Planner on 1800 882 218.

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