Leaving a Legacy

Q. **Can West Marin Senior Services help me get my estate plan done?**
A. Yes. You can instantly access our basic introduction to estate planning in our clear and concise video series, **Estate Planning Help**. The series takes you through the pros and cons of probate, wills, living trusts, advance health care directives, and other basic estate planning tools. Or you can **download a computer friendly version of our Estate Planning Organizer now**.

Effective estate planning usually takes time, effort and a good attorney. In the end your plan will allow your family to avoid the delay, dissension and needless expense that often occurs when a loved one dies without a Will. Once you have taken care of your family's needs, please consider a thoughtful bequest to West Marin Senior Services.

To order a hard copy of the estate-planning organizer, call Skip Schwartz, at (415) 663-8148 or **skip@wmss.org**.

Q. **How do I include West Marin Senior Services in my will or living trust?**
A. The most common way people remember West Marin Senior Services in a will or living trust is through a charitable bequest. You do not have to rewrite your current documents. You simply add an amendment, called a codicil, to your will or living trust. Here is some suggested language you can have your attorney review:

I give devise and bequeath to West Marin Senior Services (tax I.D. 51-0192320), located in Point Reyes Station, California, the sum of ________________________________ dollars ($ _______________) or state a percentage of your estate, or state a percentage of your estate, or describe real or personal property, including exact location) for the benefit of its general purposes (or specify West Marin Senior Services program you wish to support).

Your bequest is entirely under your control during life and becomes irrevocable only at death. If you have questions about bequests, call Skip Schwartz, at (415) 663-8148 or **skip@wmss.org**.

Q. **What's the big advantage in making West Marin Senior Services a beneficiary of my retirement plan?**
A. A designation in your IRA or other retirement plan may be a very cost-effective way of making a gift to West Marin Senior Services. If you leave your retirement plan to your children, they will have to pay income tax on either a lump sum distribution or the income stream from the plan. West Marin Senior Services does not pay this tax. Here's an example of what this can mean to your heirs:

A widower died a few years ago. He left his $300,000 house to charity and his $300,000 retirement plan to his relatives. He should have done just the opposite. The relatives had to pay income tax on the $300,000 in the retirement plan, an $80,000 cost to them. If they had received the home, and the charity had received the retirement plan payment, no one would have paid tax.

For more information on the advantages of retirement gifts to West Marin Senior Services, call Skip Schwartz, at (415) 663-8148 or **skip@wmss.org**.

Q. **What kind of donors should consider a charitable remainder trust?**
A. Donors who want income for life, bypass of capital gains tax on stock or real estate, reduced taxes and the satisfaction of providing for a good cause like West Marin Senior Services.

First, a few words about charitable trusts generally. Anything you place in a charitable trust--cash, stock, real estate--is invested by the trustee to pay you income for the rest of your life and, if you wish, pay your heirs for life or for a term of years. After the death of all income beneficiaries, what remains in the trust passes to West Marin Senior Services.

Your trust may provide you with some important tax benefits:

1) **An immediate income tax deduction for a percentage of your gift.** We will be happy to give you an idea of the size of your deduction. We simply need to know the ages of the income beneficiary(ies) and the payout rate of the trust.

2) **No tax on the sale of appreciated property.** From the donor's point of view, this is often the most important tax benefit. Sometimes thousands of dollars that would have gone in capital gains taxes remain in the trust generating income to the income beneficiaries.

3) **The trust principal is not subject to estate tax.** Property that might otherwise be subject to federal estate tax, which can be has high as 45%, is preserved from estate tax entirely.

Appreciated real estate is often an excellent asset to place in a charitable trust. Mature investment properties are frequently earning only two, three, or four percent of their fair market value per year. When these properties are sold and the proceeds reinvested by the trust, earnings often increase significantly.

Under ordinary circumstances, owners face substantial capital gains taxes when they sell rental properties or commercial real estate. In some cases personal residences are also subject to capital gains taxes even after the $500,000 exemption has been used. In any case, because your charitable trust will be selling the property, there will be no capital gains taxes due when the real estate is sold. Thus the entire net proceeds from the sale can be reinvested to produce more income for you.

Gifts of appreciated stock are ideal for funding a charitable remainder trust because the stock can be reinvested by the trust for greater income while bypassing capital gains taxes at the time of the sale.

Some people find it useful to give an undivided percentage interest of real estate to a charitable trust rather than all of it. For example, a donor contributed 75% of a vacant lot into a charitable trust. When the lot was sold, about $70,000 came directly to her from the sale while $210,000 remained in the trust. Some of her $70,000 was taxable, but she used the income tax deduction generated by her gift to the trust to offset the tax due on the gain built into the $70,000 she received.

There are two basic types of charitable remainder trusts. An **annuity** trust will pay you a fixed dollar amount for the rest of your life. A **unitrust** will pay you a fixed percentage of the trust principal each year, so if the value of the trust principal increases over time, your income increases with it. By law, your trust must pay you at least 5% of principal. You may choose a higher payout rate if you wish, but the higher the payout rate the lower your income tax charitable contribution deduction. Also, selecting the highest rate possible may not work in your best interests for another reason. If trust principal declines under the strain of meeting the higher rate, your income will decline with it. On the other hand, a lower payout rate may allow the principal to grow, and your income will grow with it. Additions can be made to a unitrust at any time, but you can contribute to an annuity trust only once.

Finally, your trust must have a trustee. If you have an individual trust tailored to your circumstances, the trustee can be a commercial institution such as a bank or trust company, an individual with professional experience in trust management, a relative, or yourself. There are some complications in acting as trustee yourself, but it can be done if you understand and comply with IRS regulations. West Marin Senior Services will be happy to supply you with a list of possible trustees or information on being your own trustee.

The basic advantages of charitable trusts are not difficult to understand:

- diversification of your assets without incurring capital gains taxes
- lifetime income
- immediate income tax benefits
- reduction of estate tax
- the satisfaction of providing for a good cause

There are even ways these trusts can benefit your heirs that we have not covered. But the first thing you should do is find out if a charitable trust makes sense for you.

West Marin Senior Services will provide you with tax and income calculations tailored to your particular situation. This will give you and your advisors the information needed to make an informed decision as to whether a charitable trust meets your financial and philanthropic objectives. All information is provided confidentially and without cost or obligation. West Marin Senior Services deeply appreciates your willingness to help continue its work

For a personalized analysis call Skip Schwartz, at (415) 663-8148 or **skip@wmss.org**.

Q. **How can I give my home and keep it, too?**
A. A charitable life estate agreement allows you to give a personal residence or farm to West Marin Senior Services while retaining the right to live there for life. Donors who enter a life estate agreement receive an immediate income tax deduction. The deduction is based on the present value of the home discounted by the estimated length of time the charity must wait to receive the home. To put it simply, a person age 70 will receive a larger deduction than will a person age 50, all other things being equal.

The IRS grants the deduction even though the donor continues to enjoy full use of the home. But the IRS also expects the owner to have full responsibility for the care and maintenance of the home. That's why life tenancy agreements simply continue things as they are currently, with the donor dealing with maintenance, property taxes, insurance and the like. The major benefits to the donor, then, are continued use of the home, an immediate charitable income tax deduction, the avoidance of probate, the avoidance of estate tax on the property, and the satisfaction of making a substantial gift to West Marin Senior Services during one's lifetime. For further call Skip Schwartz, at (415) 663-8148 or**skip@wmss.org**.

Q. **Why does West Marin Senior Services need planned gifts?**
A. By including a gift to WMSS in your will or living trust you will continue a tradition of neighborly help and support that is part of the West Marin community's way of life. Your WMSS bequest will: help seniors who often live at some distance from what they need, and who often live in poverty, get comfortable transportation to medical appointments; bring professional case management to hundreds of West Marin families who are providing their seniors with food, a safe home, emotional support, and daily care; help find qualified care-assistants for short- or long-term care of the elderly—including nurses' aides, housekeepers, cooks, drivers, gardeners, companions, and repairmen; Give respite to family members providing daily care to their elders; Train volunteers to prepare meals, help with correspondence or gardening, drive seniors to medical appointments or share interests with them; Support home-delivered meals brought directly to homebound seniors and provide them with medical and homecare equipment; support beds at Stockstill House, which provides 24-hour assisted living to those unable to remain in their homes.

Q. **What should I do if I have already remembered West Marin Senior Services in my estate plan?**
A. We would be honored to enroll you in our Legacy of Care, so please let us know of your bequest by calling Skip Schwartz, at (415) 663-8148 or **skip@wmss.org**. Or fill out and mail the form below to:

Skip Schwartz
Executive Director
West Marin Senior Services
Point Reyes Station, California 94549-3915

Dear Skip,

(Check one):

[ ] I have remembered West Marin Senior Services through a bequest in my will or trust or in some other way. Please enroll me in the Legacy of Care. You may publish my name on the Legacy of Care Honor Roll.

[ ] I have remembered West Marin Senior Services through a bequest in my will or trust or in some other way. Please enroll me in the Legacy of Care. **Do not, however, publish my name.**

Name(s) (Please Print) ____

____

Address____

City ____State ___ ZIP _______

Signature: ____

Date: ____

Gifts that pay *you*: Charitable Gift Annuities
The oldest and best known of charitable gifts that pay donors income for life is the charitable gift annuity described here. Charitable remainder trusts also pay donors income for life, and give them an immediate income tax deduction and relief from capital gains tax, but the charitable gift annuity payments are also guaranteed by the issuing charity. The payments are fixed and so completely predictable. The charitable gift annuity allows you to make a gift to a good cause while giving you a current income tax deduction and payments for life. In this way, some donors discover they can make a far more generous future gift to West Marin Senior Services than they thought possible.

A gift annuity is simple to create. You fund your annuity with a gift of cash or stock. You are then paid a guaranteed fixed amount monthly, quarterly, semiannually or annually for life. You must be at least 60 when the payments begin and your annuity must be created with gifts having a total value of at least $10,000.

Your gift annuity can provide payments for one or two lives. Both plans generate an immediate charitable tax deduction and partially bypass capital gains tax. In addition, part of your payment will be tax-free and all of your gift will pass to West Marin Senior Services free of estate tax.

West Marin Senior Services Gift Annuity Program: West Marin Senior Services gift annuity program appeals to those who prefer predictable payments to variable income. A West Marin Senior Services gift annuity provides fixed guaranteed payments to donors along with the satisfaction of making a significant future gift to West Marin Senior Services. Annuity rates vary with age. The older you are, the higher your rate. Payments once establish remain the same for life.

The following are some single life annuity rates:*

Age	**Current Rates**
65	4.7%
70	5.1%
75	5.8%
80	6.8%
85	7.8%
90+	9.0%

*Rates in force as of January 1, 2012
Rates differ for two-life annuities.

*Annuity rates change from time-to-time. Those listed and the example given may understate or overstate the actual rates in place. For an estimate of your rate and deduction, confidentially provided, call West Marin Senior Services planned giving specialist Phil Murphy at 415-457-7482 or **pgphil@earthlink.net**.

An Example: Mary Richards, age 75, funds a $10,000 charitable gift annuity contract to benefit West Marin Senior Services. Her annuity payment is 5.8% of her gift, giving her an annual guaranteed payment for life of $580. $476 of her payment is tax-free for twelve years. She also receives an immediate income tax deduction of $4,102.

Q. Can you provide me with an estimate of my tax and income benefits?

A. Yes, we can provide you with estimates of the tax and income benefits you will receive if you take out a charitable gift annuity, or create a charitable remainder trust. We need to know the birth dates of those who will receive income from these charitable tools and the kind of gift you have in mind (cash, or real estate). These calculations are for educational purposes only and should be reviewed by qualified independent advisers of your choosing. For calculations confidentially provided, call Skip Schwartz, at (415) 663-8148 or at **skip@wmss.org**.

Glossary of Terms:

Bequest: A disposition of property by will, more broadly, any legally binding statement that disposes of property at death.

Benefits to Heirs: Charitable remainder trusts, and other income producing charitable instruments, can provide heirs or friends with income for life or a term of years. The donor can name a child or other individual as a successor income beneficiary when the donor sets up a charitable trust and names the child or friend as a successor income beneficiary. The donor must make sure that the successor income beneficiary is not so young that the charitable trust will be disqualified.

Codicil: An addition to a will that explains, modifies, or revokes a previous will provision or that adds an additional provision. A codicil must be signed and witnessed with the same formalities as those used in the will's preparation.

Capital Gain: The difference between the original price and a higher selling price after something has been held for at least one year. For example, stock purchased for $10 and sold at least one year later for $100 has a capital gain of $90. The gain is subject to capital gains tax.

Charitable Deduction: A deduction from both estate tax and gift taxes for all assets given to charity. Lifetime gifts can, if properly structured, also qualify for an income tax deduction. Charitable remainder trusts and charitable gift annuities both generate charitable deductions.

Charitable Gift Annuity: A contract between a donor and a charity that obliges the charity to pay an agreed upon payment for life in return for the donor's gift. Whatever remains in the donor's death is then used by the charity to support its work. Along with the income tax deduction, the donor also receives an immediate charitable income tax deduction and partial bypass of capital gain tax. Click for information about West Marin Senior Services gift annuity program

Community Property: A method of holding title to property of married persons. All income earned after marriage is usually community property. Each spouse owns an undivided one-half interest.

Devisees & Legatees: Those persons who receive part or all of an estate under the Will of a decedent.

Diversification: In finance, spreading investments into many kinds of investments in hopes of reducing investment risk.

Double Step-Up: Property is held as community property (and not joint tenancy) both spouses’ halves of the property obtain a new basis, not just the deceased spouse's one half.

Estate Planning: A legal process that allows you to determine how your assets will be managed for your benefit if you are unable to do so, when certain assets will be transferred to others, either during your lifetime, at your death, or sometime after your death, and to whom those assets will pass. Estate planning also addresses your welfare and needs, planning for your own personal and health care if you are no longer able to care for yourself. The basic tools of modern estate planning are wills, living trusts, durable powers of attorney for property management, and advance health care directives. Ask for West Marin Senior Services free Estate Planning Organizer to get you started.

Estate Tax: Tax imposed by the IRS on all assets you own at date of death, including life insurance and retirement benefits, plus taxable gifts made during your lifetime.

Gift Tax: Tax imposed on taxable gifts made during life. Gifts to individuals are taxable if they exceed a certain amount, $12,000 in 2007, for example. Gifts to qualified charities are not subject to tax and are also tax-deductible.

Gift Tax Annual Exclusion: The amount of gifts that can be made each year to each person free of gift tax.

Heirs: Generally, those persons who would inherit by Intestate Succession.

Income Tax Benefits: With charitable remainder trusts, donors receive an immediate income tax deduction when they transfer assets to the trust. The deduction is determined by IRS tables. A tax deduction less than 10% of the face value of the trust will disqualify the trust. The key factors in determining the deduction are (1) the ages of the income beneficiaries when a gift is made to the trust and (2) the payout rate of the trust. Care must be taken to make sure the deduction is large enough to satisfy the requirements of the IRS. In general, the older the income beneficiaries, the greater the income tax deduction, and the lower the payout rate the higher the income tax deduction.

Life Estate: In common law, ownership of land for the duration of a person’s life. In a charitable context, the right to use for life property that has been deeded to a charity. Example: Alice Jones, 78, deeds her home to a favorite charity while retaining the right to live in the home for life. Ms. Jones is said to have entered into a Charitable Life Estate Agreement. By irrevocably transferring ownership of her home to charity, Ms. Jones receives a substantial income tax deduction. The deduction is reduced by the value of her life estate, that is, her right to continue to have use of the home. She also must continue to maintain the home in good repair and pay all ordinary expenses, including insurance and property taxes.

Intestate: If you don't have a Will, you are said to die "intestate".

Intestate Succession: Statutory system setting forth which relatives will receive the estate of a person who died without a Will.

Inventory Form: A form that allows you to list what you own in preparation for meeting with an estate planning attorney. Click on example if you would like to review a typical inventory form.

Joint Tenancy: A method of holding title to property with another which allows that property to pass automatically to the surviving property owner.

Legacy of Care: The Legacy of Care honors those who have included West Marin Senior Services in their estate plan by listing them, by name or anonymously if they wish, on the Legacy of Care honor roll. Legacy of Care members are invited to special events from time-to-time. If you have already included West Marin Senior Services in your estate plan, we would be honored to enroll you in the Legacy of Care. Please contact Skip Schwartz, at (415) 663-8148 or**skip@wmss.org**.

Lifetime Income: With charitable trusts, the payments made to the trust's individual income beneficiaries, usually for life. Payments can also be established for a term of years rather than for life.

Living Trust: An entity created by execution of a document entitled Trust Agreement. The person who creates the document is the Trustor. The Trustor transfers most of his or her assets into the trust during his or her lifetime. Living trusts are also referred to as "Revocable Trusts," "Revocable Living Trusts" and "Inter Vivos Trusts." A Living Trust is revocable and amendable by the Trustor, that is, the person who established the trust, during the lifetime of the Trustor, and all assets can be removed by the Trustor at any time. Upon the Trustor's death, the Trust assets pass to the persons named in the Trust, without probate.

Payment Rate: The payment rate of a charitable remainder trust determines the amount paid annually to the trust's income beneficiaries. The payout rate also affects the charitable income tax deduction generated by the trust; the higher the rate, the lower the deduction. By law, the rate must be at least 5% of the value of the trust. The creator of the trust can select a higher rate than 5%, but not so high that the charitable income deduction generated by the trust is be less than 10% of the trust's value when funded.

Probate: A court proceeding by which a deceased person's property is administered to clear title to the property, pay debts and expenses, and distribute the property to the proper heirs or devisees.

Separate Property: A single person's property is separate property, and property that was owned by a spouse before marriage or that is inherited after marriage is that spouse's separate property.

Stepped-Up Basis: For income tax purposes, assets of a decedent get a new basis equal to fair market value at date of death. This means that, when the property is sold by an heir, there will be little or no capital gains tax because the capital gain is the difference between the basis and the fair market value.

Tax and Income Calculations: West Marin Senior Services will provide you and your advisers with estimates of tax and income benefits your may receive by establishing a charitable remainder trust, a charitable gift annuity, and other types of charitable vehicles. All information is provided confidentially and without cost or obligation. Call Skip Schwartz, at (415) 663-8148 or **skip@wmss.org**.

Term of Years: A specified length of time. For example, a charitable remainder trust may last for a term of years, not to exceed 20, rather than for the life expectancy of the income beneficiary.

Testate: If you have a Will, you are said to die "testate".

Trustee: The person who is in charge of administering the Trust (i.e. making investments, distributing the trust income and principal pursuant to the provisions in the Trust Agreement). During the Trustor's lifetime the Trustor is usually the Trustee. If the Trustor becomes incapacitated or dies, then the next person named in the Trust Agreement to be Trustee becomes the Trustee.

Undivided Percentage Interest: A stated percentage of a whole property, rather than a specifically defined part of a whole: “They decided he would own a 50% undivided percentage of the house rather than own the second floor only.”

Unified Credit: The amount of your estate that can pass to anyone before an estate of gift tax is payable.

Unlimited Marital Deduction: A deduction from estate tax or gift taxes for all assets passing outright to a spouse or to a qualified trust for a spouse (except for non-US citizens).

Will: A document that directs what happens to your property at your death.