WIGGIN
WIGGIN AND DANA

ADVISORY

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CHARITABLE GIVING

For the charitably inclined, transferring assets during life or at death to a public charity, private foundation and donor-advised fund is an excellent strategy to give back in a tax efficient way. Charitable giving remains a key consideration in a client's overall estate plan, as distributions from a trust or directly to a tax-exempt nonprofit organization will not cause a capital gain recognition event under current law or proposed legislation.

However, the proposed legislation presents a potential dilution of the current benefits that exist for creating a split-interest charitable trust (e.g., a charitable lead trust or charitable remainder trust). While the charity's share of any taxable gain would not cause a recognition event, appreciated assets attributable to a non-charity beneficiary would generate capital gains tax as to its share of the value transferred. While the proposed legislation does not affect the tax-exempt status of such trusts, their utility could be greatly diminished. As a result, clients with charitable intentions should consider creating such trusts now in order to lock in their optimal benefit.