

Disclaimers

After Jacqueline Kennedy Onassis' death, there was much press coverage about a tax strategy provision in her will. The will created a special sort of charitable trust, known to estate planners as a *charitable lead annuity trust*, or CLAT. During the trust's 24-year life, the trust would pay 8% of its initial value to charities selected by the trustees. Mrs. Onassis' two children, Caroline and John, were two of the four trustees. After 24 years the trust would end, and the assets would pass to her descendants.

In addition to promoting philanthropy, this sort of trust can dramatically reduce transfer taxes on the family fortune. The estate tax at Mrs. Onassis' death would be significantly reduced by a charitable deduction for the projected value of the payments to the charities. When the trust ends, and the assets pass to the private heirs, there would be no further estate or gift tax. As the press noted, the charities would benefit, the family would benefit, and the only "loser" was the IRS.

The rest of the story

The press learned of the trust plan because it was implemented with a will, a document that is necessarily in the public record. However, the trust was never funded. Estate planning expert Conrad Teitell recently explained why in *Trusts & Estates* magazine.

The charitable trust was a back-up estate plan, not the primary plan. Most of Mrs. Onassis' wealth was held in a living trust. The trust provided that its assets were to be divided between Caroline and John, but it invited them to disclaim their inheritance should their financial circumstances warrant it.

A *disclaimer* is a renunciation of a gift or bequest. Properly executed, a disclaimer has no adverse tax consequences. After the disclaimer the property passes as if the recipient had already died. In some cases, that means it is divided among other heirs or passes by intestacy. In this case, however, there was an alternate plan in place should there be a disclaimer. This approach gives the heirs the chance to make adjustments to the estate plan based upon contingencies that the plan's maker could not take account.

As it happened, Caroline and John decided not to disclaim their inheritances. Accordingly, the property passed under their mother's living trust, instead of under her will.

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