

Planned Giving: Making a Bequest to the Vermont Land Trust

Making a bequest can have a lasting impact on the beauty and character of Vermont while protecting its working farms, productive forests, and special ecological resources. Provisions in your will or revocable living trust allow you to control the distribution of your estate and, in some cases, reduce estate taxes.

Bequests can be used to make a substantial gift to a specific program, or to endow¹ your annual support for our general work. They can also be used to conserve your land or enhance the Vermont Land Trust's ability to achieve its mission.

You can also create a charitable gift annuity or charitable remainder trust through your will, which will provide income to your heirs and the Vermont Land Trust with a long-term benefit.²

HOW CAN I GIVE THROUGH A BEQUEST?

Bequests come in a variety of forms. Each of these is described below, sometimes with sample language that can be used in your will. However, this information should not be considered as legal, accounting, or other professional advice. We strongly urge you to consult with your financial and legal advisors before executing a will or revocable trust.

Specific bequests

A specific bequest is an outright gift of money, stocks, bonds, land, tangible personal property, or other assets. The wording for a specific bequest may follow this general form:

I give, devise, and bequeath to the Vermont Land Trust, Inc., a nonprofit charitable organization with offices in Montpelier, Vermont, the sum of \$_____ (or describe any real or personal property), to be used for its general purposes.

In the case of a bequest of land that has conservation value, we urge you to talk with us before signing the will. This will ensure that your wishes will guide VLT's discussions about the future conservation and disposition of the property.

¹ Generally, donors follow the "five percent rule" in creating an endowment. If your annual gift is \$250, an endowment of \$5,000 (with sound investment management) will generate \$250 a year for VLT and still offset inflation.

² A charitable gift annuity or charitable remainder trust can be created at death, but the donor receives only an estate tax deduction; no income tax deduction is available to the estate.

Specific bequests of a conservation easement

Some landowners have used their wills or revocable trusts to place a conservation easement on land upon their deaths. However, when considering this, it is important that you consult with us prior to executing the document to assure that your conservation goals can, in fact, be met. There are important technical details in drafting conservation restrictions that must be included to fulfill the IRS deductibility requirements. We will also inform you of our stewardship endowment policy for the management and enforcement of the easement. The suggested wording for bequests of conservation restrictions is:

1) In the event I do not make such a conveyance [describe the intended conservation easement here] during my lifetime, I hereby bequeath unto the Vermont Land Trust, Inc., a publicly supported 501(c)(3) organization with offices in Montpelier, Vermont, the development rights and conservation restrictions in certain real property described as follows: (Legal Description of Protected Property). The development rights and conservation restrictions to be conveyed shall be substantially in the form set forth in the Grant of Development Rights and Conservation Restrictions attached to this will as Exhibit B, and incorporated herein by reference as if fully set forth. 2) I further bequeath to the Vermont Land Trust, Inc., the sum of \$(_____) as a stewardship endowment for the purpose of monitoring and enforcing the conservation restrictions on the property conveyed pursuant to the preceding paragraph.

Residuary bequests

In a residuary bequest, an individual leaves all or a part of the balance of the estate to a beneficiary after debts, burial costs, probate expenses, and specific bequests have been satisfied. The suggested wording for a residuary bequest might be:

I give, devise, and bequeath to the Vermont Land Trust, Inc., a nonprofit charitable organization with offices in Montpelier, Vermont, all (or ____%) of the rest, residue, and remainder of my estate, to be used for its general purposes.

Contingent bequests

A contingent bequest provides for the disposition of an estate if one or more beneficiaries fail to survive the benefactor. It can be used in conjunction with a specific bequest or a residuary bequest. The following is an example of a contingent bequest:

If any of the above-named beneficiaries should predecease me, I hereby bequeath his or her share to the Vermont Land Trust, Inc., a nonprofit charitable organization with offices in Montpelier, Vermont, to be used for its general purposes.

Revocable living trusts

Some people prefer to plan the distribution of their estates through revocable living trusts. If you have a living trust, you may change it during your lifetime while retaining complete control over your assets, as you would with a will. However, living trusts have several advantages over wills.

If the living trust is properly funded, the trustee would be able to distribute much or all of your estate without the expense or delay of probate. If you own real estate that requires management, such as a farm, the trustee can make management decisions should you become incapacitated, thereby avoiding the complexities of a guardianship.

Because people usually reserve the right to revoke or modify a living trust, they may not realize any immediate income tax benefits. However, if properly drafted, a living trust can, like a will, save estate taxes at your death.

WHAT ARE THE TAX CONSEQUENCES OF MAKING A BEQUEST?

As of January 1, 2010, the federal estate tax had expired. However, under current law, the beneficiaries of estates of people who die during 2010 will not receive a 'step up' in basis. This means they may pay a substantial capital gains tax when they sell the property. After 2010, the estate tax is scheduled to re-emerge, but at 2001 rates and exemptions. Congress is expected to amend the estate tax law before the end of 2010. We will post an update at that time.

We highly recommend that anyone with an estate of more than \$1 million (including personal property, bank accounts, investments, real estate, life insurance death benefit, retirement accounts, ownership in a business, accounts receivable, i.e., all assets) consult with an attorney or estate planner, not only to minimize any potential taxes, but to ensure that assets are distributed according to the person's wishes.

HOW DO I GET STARTED?

Your attorney will be the principal advisor in preparing your will or revocable living trust. The Vermont Land Trust can provide sample language for specific, residuary, and remainder bequests and to review any draft documents upon request.

If a bequest to the Vermont Land Trust involves real estate, it is very important for you to meet with our staff while the will is still in preparation, so that we can discuss your plans and intentions and determine that we can meet them. If you intend to bequeath a conservation easement, we need to determine that the acquisition conforms to our policies, and discuss what restrictions you want to see placed on the land. We will then draft the easement for you and your attorney to review. Please contact Darby at (802) 262-1214 to learn more.

Seek professional assistance

Every person who is preparing an estate plan should seek the advice of an attorney before executing a will or living trust. Not only are there issues of estate taxes and distribution to consider, but there may be potential complications when beneficiaries involve minor children or real estate may be owned by multiple family members. Good estate planning can reduce taxes, avoid future litigation costs, and promote family harmony. A thoughtful estate plan can be a gift for the ages.