

## THE NEBRASKA LAWYERS FOUNDATION THE REASON FOR A PLANNED GIFT

The Preamble to our Rules of Conduct which govern the membership of the Nebraska State Bar Association clearly sets out our responsibilities and obligations as a member of the legal profession. It states that we have a special responsibility for the quality of justice and an obligation in all professional functions to be competent. Item (6) of the Preamble begins:

“As a public citizen, a lawyer should seek improvement of the law, access to the legal system, the administration of justice and the quality of service rendered by the legal profession.”

This certainly means that we must ensure that the public has the opportunity to be represented in their legal affairs by well prepared individuals and that the public receives equal treatment within the judicial system. The lawyers of Nebraska through their State Bar Association created the Nebraska Lawyers Foundation to address these responsibilities and obligations. The Foundations’s MISSION is:

“To support programs to improve the legal profession and the administration of justice.”

The Nebraska Lawyers Foundation improves the legal profession and the administration of justice by funding the Volunteer Lawyers Project, the Minority Justice Committee and the Nebraska Lawyers Assistance Program.

The Volunteer Lawyers Project (VLP) is a statewide volunteer legal assistance program and referral network. It provides legal assistance for low income persons who are unable to afford to hire a lawyer and who do not qualify to receive assistance through the federally funded legal service programs operating within the state. VLP is the program of last resort for these low income individuals.

The Minority Justice Committee was created through the joint efforts of the Nebraska Supreme Court and the Nebraska State Bar Association to examine and address issues of racial and ethnic fairness in our Courts and our legal profession. The Committee has implemented programs to: 1) promote diversity in the legal profession and the workforce of the Courts; 2) ensure equal access to the justice system by

providing such things as bilingual forms and supplementing the cost of interpreters for individuals with limited English language skills; and 3) address racial disparities in the criminal justice system.

The Nebraska Lawyers Assistance Program (NLAP) is available and offers help to lawyers, judges and law students suffering from substance abuse, stress, depression, gambling, physical illness or other types of disorders which may impair their ability to perform in a competent and professional manner. The director of NLAP is assisted by a network of judges and lawyers throughout the State who are themselves recovering from alcohol or other drug addiction, psychological problems and impairment caused by other conditions. The activities of NLAP also include education, involvement in matters of lawyer discipline and issues related to death, disability or illness in a practice.

### HOW CAN I HELP FUND THESE VITAL PROGRAMS.

Many times when we are asked to support a worthwhile cause we become anxious about our ability to meet our family and business financial obligations in the light of providing monies for these essential programs of the Foundation. There are planned gifts that can be made that do not change your current lifestyle, your cash flow or your family security. These are called “Painless” gifts because they are done with assets that are out of sight or out of mind to you and are planned by you to be transferred to the Foundation in the future from your estate.

The first most common “Painless” method is to make a bequest to the Foundation through your Will or Trust that will take effect only after your other obligations have ended. Typically there are three ways of providing a gift in your Will or Trust to the Foundation that will continue its Mission of improving the legal profession and the administration of justice. These can be easily modified if your financial circumstances change.

- Residual bequests. An example of a residual bequest is:

I give, devise and bequeath an undivided one-half share of the residue of my estate to the Nebraska Lawyers Foundation. I further direct that the Personal Representative of my Estate (or Trustee) shall pay such remainder share solely from assets of my estate that constitute “Income In Respect of a Decedent” within the meaning of IRC § 691 and from the assets of my estate.

- Specific bequests. An example of a specific bequest is:

I give, devise and bequeath the sum of \$25,000.00 to the Nebraska Lawyers Foundation. I further direct that the Personal Representative of my Estate (or Trustee) shall pay such specific gift, devise and bequest

solely from assets of my estate that constitute “Income In Respect of a Decedent” within the meaning of IRC § 691, then from other income of my estate, and if such other income is insufficient, then from the other assets of my estate.

- Contingent bequests. An example of a contingent bequest is:

Upon my death, I give, devise and bequeath all of the residue of my estate to my child. In the event my child is not living at the time of my death, then the gift to her shall lapse and then I give, devise and bequeath all of the residue of my estate to the Nebraska Lawyers Foundation.

The second most common “Painless” method is to designate the Foundation as a beneficiary of your 401K, IRA or other type of retirement account. The Foundation doesn’t pay income tax or estate tax on these monies and neither does your family.

The **BENEFITS of naming the Foundation as a beneficiary are:**

- Avoidance of the potential double taxation of the estate tax and income tax that your heirs would pay.
- The ability to always change the beneficiary designation if your family’s financial circumstances change.
- During your lifetime you continue to take distributions from your retirement accounts

The third most common “Painless” method is to designate the Foundation as a beneficiary of a life insurance policy. The use of life insurance policies to make your gift to support the Mission of improving the legal profession and the administration of justice can be done without having to reach for your checkbook. Just do the following:

- Name the Foundation as the primary beneficiary,
- Change a current policy naming the Foundation as owner and beneficiary,
- Continue to pay the premium to enhance the endowment fund,
- Name the Foundation as sole revocable Beneficiary of group term life insurance in excess of \$50,000.00,
- Give a paid up policy to the Foundation, or
- Assign your annual dividends on your policy to the Foundation.

The transfer of a life insurance policy to the Foundation lets you make a significant gift without having a large estate. It is an easy way to leverage less cash into large dollars.

The fourth most common “Painless” method is to use the automatic transfer at time of death of bank accounts and certificates of deposit by designating the Foundation as a joint tenant or a payable on death or transferable on death beneficiary. Examples of methods of transfer of Bank Accounts or C.D.s:

- Mary Smith or the Nebraska Lawyers Foundation, JTWROS,
- Mary Smith, POD to the Nebraska Lawyers Foundation, or
- Mary Smith, TOD to the Nebraska Lawyers Foundation.

The fifth most common “Painless” method is the use charitable trusts. The use of charitable trusts can provide income to you plus an income tax deduction. The two most popular forms of charitable trusts are the Charitable Remainder Unitrust and the Charitable Remainder Annuity Trust.

With the Unitrust, securities or other appreciated property are transferred to it. The Trust pays a percentage of the principal based on the annual value of the assets to you or your named beneficiaries. When the trust terminates, the remaining principal is paid to the Nebraska Lawyers Foundation.

With the Annuity Trust, securities and other appreciated property are transferred to it. The Trust then pays a fixed rate of income to you or your named beneficiaries. When the trust terminates, the remaining principal is paid to the Nebraska Lawyers Foundation.

With both the Unitrust and Annuity Trust the benefits to you are:

- Receipt of income for life or a specified number of years,
- Income tax deduction for a portion of your contribution, and
- Additional gifts can be made to the trust.

Planned gifts also include those that can be made currently to the Foundation. The two most common methods is to transfer appreciated assets or to create and fund a Charitable Lead Trust.

The transfer of stocks, bonds or mutual funds that have appreciated in value immediately allows the Foundation to sell those appreciated assets and to use the proceeds to further the Mission of improving the legal profession and the administration

of justice. The benefits of transferring appreciated assets are:

- You receive an income tax charitable deduction based on the fair market value of the asset on the date of transfer no matter what you paid for it,
- You pay no capital gains when the asset is sold, and
- Many times the transfer of appreciated assets is better than cash because of the smaller investment you have in the asset and the use of fair market value as the basis of the charitable deduction.

The Charitable Lead Trust currently is funded with securities and other appreciated property. The Trust then pays the income to the Nebraska Lawyers Foundation for a specified period of time. When the trust terminates, the remaining principal is paid to your named beneficiaries.

The benefits of the Charitable Lead Trust are:

- Income payments to the Foundation reduce the ultimate tax cost of transferring an asset to your beneficiaries,
- The amount and term of the payments to the Foundation can be set so as to reduce or even eliminate transfer taxes due when the principle reverts to your beneficiaries, and
- All appreciation that takes place in the trust goes tax-free to the individuals named in your trust.

WHICH planned giving METHOD will you CHOOSE to meet your RESPONSIBILITY to IMPROVE the quality of justice, to afford ACCESS to the legal system for all of the citizens of Nebraska; to ENSURE the quality of representation available to the public; and to FOSTER fair treatment of the lawyers, employees and litigants involved in the legal process?

BEFORE ADOPTING ANY OF THESE PLANNED GIFTING STRATEGIES YOU NEED TO TALK WITH YOUR TAX PREPARER TO DETERMINE THE INCOME, GIFT OR ESTATE TAX BENEFITS TO YOU.