Wills, Trusts, and Charitable Estate Planning: An Analysis of Document Effectiveness Using Panel Data

Russell N. James III

This paper compares pre-death charitable testamentary expectations with post-death distributions for deceased panel members in the 1995-2006 Health and Retirement Study. Most respondents who reported having a charitable estate plan in the survey wave immediately prior to their death ultimately generated no charitable estate gift after death. Cross-tabulations, linear probability models, and probit analysis all demonstrated that the likelihood of generating a charitable estate gift was significantly higher for respondents who had a funded inter vivos trust than for respondents who had only a will. This difference persisted even after controlling for wealth, income, and other demographic differences. Reasons for the differential effectiveness of these planning documents and implications for financial and gift planners are examined.

Key Words: charitable giving, estate planning, living trusts, planned giving

Introduction

For many clients, charitable giving is an important component of the financial plan. Such desires for charitable giving may be expressed not only in current giving, but also in estate planning. While charitable estate planning can occur with clients of any financial means, it is particularly common among those with substantial wealth holdings (Joulfaian, 2000). Indeed, some who have accumulated sufficient resources for their own retirement may view charitable estate planning as a motivating factor for continued wealth building. As 80-year old billionaire T. Boone Pickens recently commented when asked about his efforts to expand natural gas sales, "I'm not doing this to make money. Whatever I make from this will go to my estate, and all of my estate will go to charity when I go" (Faerstein, 2008, ¶4). In many cases, growth-focused business owners may view charitable estate planning as a way to leave behind a charitable impact without restricting their current resources for business expansion. Thus, providing appropriate advice on charitable estate planning may be critical for financial planners, especially those working with wealthy clients.

This paper provides planners with unique insights on charitable estate planning by presenting a comparison of the effectiveness of different estate planning documents in producing charitable transfers. While several prior studies have examined post-death transfers from probate or tax records (e.g., Barthold & Plotnick, 1984; Boskin, 1976; Clotfelter, 1985; Joulfaian, 2000), and a few have asked living respondents about charitable plans (Chang, Okunade, & Kumar, 1999; National Committee on Planned Giving, 2001; Seargeant, Hilton, & Wymer, 2005), this study is the first to examine both decedents' charitable testamentary intent expressed during life and the ultimate distribution of their estates from longitudinal data. First, living individuals were asked about their testamentary charitable plans. After death, these stated charitable intentions were compared with the individual's actual estate distributions. Through analysis of these comparisons, planners can consider how several factors – including family structure, wealth, and estate planning document choice – affected the likelihood that the donor's stated charitable intent ultimately resulted in a charitable estate distribution.

Literature Review

Estate planning has long been recognized as an important part of financial planning for families (Edwards, 1991). Poor estate planning and an unexpected death can quickly undo the most successful efforts in building a family farm or business (Lee, Jasper, & Goebel, 2003). Bae and Sandager (1997) found estate planning to be an area on which

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consumers commonly wanted financial planners to advise them. In a study of the risk tolerance of business owners, Wang and Hanna (2007) suggested that for such clients, "comprehensive financial planning advice, including insurance and estate planning, may be more useful than specific advice about investment alternatives" (p. 16). For many clients, successfully providing such comprehensive financial planning advice, including estate planning, will involve issues of planning charitable estate gifts.
Much of the previous research on estate planning decisions has focused on the family dynamics of intergenerational transfers or the determinants of having estate planning documents. The possession of estate planning documents has generally been positively associated with greater wealth, education, income, age, and white racial status (Goetting & Martin, 2001; Simon, Fellows, & Rau, 1982). Similarly, Su (2008) found that both financial and health end-of-life documents were more common among those with greater wealth and education.

Much research has focused on the family dynamics of intergenerational transfers (Bernheim, Shteifer & Summers, 1985; Cox & Rank, 1992; Stum, 2001). For example, Stum (2001) examined the emotional and family dynamics of transferring personal property. Others have considered the larger topic of intergenerational family transfers as encompassing both testamentary and inter vivos transfers (Cox & Rank, 1992; Hayhoe & Stevenson, 2007; Koh & MacDonald, 2006). Although such family transfers constitute the bulk of testamentary transfers, charitable bequests are also economically significant.

The practice of leaving a charitable gift in one's estate plan is by no means a strictly modern concept. Using a sample of seventeenth century English wills, McGranahan (2000) found that about 25% of testators left a gift to "the poor," usually for the benefit of those in the decedent's home parish. While charitable estate giving is nothing new, a more recent development has been the rise of the planned giving profession. Whether working for charitable organizations or serving as independent advisors to the charitably inclined, planned giving professionals provide guidance to clients in areas such as charitable estate planning. As evidence of the importance of this field, the National Committee on Planned Giving (2008), a professional association of planned giving professionals, recently reported a membership of approximately 10,000.

By any measure, charitable estate planning is economically significant. Giving through bequests generates over $22 billion annually for nonprofit organizations in the United States (Giving USA Foundation, 2007). By comparison, all charitable gifts from businesses and corporations produce slightly more than half that amount (Giving USA Foundation, 2007). While charitable estate giving is already substantial, the aging of the population will likely produce significant increases in such estate transfers in the coming years (Radcliff, 2002). Consequently, the importance of planned giving advisors should continue to increase. This is particularly true for advisors in non-profit organizations, such as colleges and universities, that receive a larger than average share of gift income from charitable bequests. Although charitable bequests make up about 8% of total charitable giving (Giving USA Foundation, 2007), colleges and universities report that nearly one-quarter of their individual giving comes from bequests (Council for Aid to Education, 2004).

The size and potential of this area of financial advising is significant, but planned giving presents a particularly challenging environment for research. Where current giving matches the donor's actions with an immediate receipt of money by the charity, charitable estate planning is quite different. A donor's charitable estate planning may not result in a gift for years, decades, or at all, depending on intervening plan changes and asset accumulation patterns. Estate planning advisors can develop plans, but it is rare for an advisor to aid in both developing the original estate plan and administering the estate distribution after the client has died. While tax or probate records show final distributions, it is difficult to measure document effectiveness because ineffective documents do not appear in the public record. Unprobated wills and unfunded trusts may leave no evidentiary record behind.

To this point, much investigation of charitable estate giving has been based upon post-mortem information on completed gifts from tax records and probate records or surveys sent to charitable organizations. These studies have commonly focused on the analysis of tax policy. Researchers have generally found that increased estate taxes have resulted in increased charitable estate giving (Bakija & Gale, 2003; Boskin, 1976; Clotfelter, 1985; Joulfaian, 1991, 2000; Kopczuk & Slemrod, 2003).

Other post-mortem research in charitable estate planning has indicated that both the existence and proportional share of bequest giving is positively associated with wealth (Barthold & Plotnick, 1984; Boskin, 1976; Clotfelter, 1985; Joulfaian, 2000), although bequests to religious organizations appeared to be relatively wealth inelastic (Barthold & Plotnick, 1984). Findings regarding the association with marriage have been mixed. Using records from 1,020 large Connecticut estates, Barthold and Plotnick (1984) found that the presence of a surviving spouse diminished the size of charitable bequests. However, McNees (1973), using estate tax return data, found that widowhood (i.e., women with no surviving spouse due to husband's death) was associated with significantly smaller charitable bequests, even after controlling for estate size.

Although less common than post-mortem research, some research has employed survey data regarding the charitable estate plans of living donors. Both the National Survey of Giving and Volunteering (Chang, Okunade, & Kumar, 1999) and the National Committee on Planned Giving's (2001) survey asked respondents about their charitable estate plans. Seargeant, Hilton and Wymer (2005) presented results from a study of living donors who had indicated they had named one of four charitable organizations in a bequest. However, none of these studies were longitudinal, and thus none were able to connect the lifetime intentions expressed by current donors with actual estate distribution outcomes. This paper is the first to connect lifetime charitable testamentary intentions expressed by individuals with later post-mortem distributional outcomes.

Other estate planning research using portions of the dataset analyzed in this paper has examined the impact of estate taxes on current giving (Greene & McClellan, 2001), bequests to children (Cox & Stark, 2005; McGarry, 1999), characteristics of those with wills (Goetting & Martin, 2001), characteristics of those with advanced health directives (Hopp, 2000), and the impact of life events on the decision to execute a will or trust (Palmer, Bhargava, & Hong, 2006). Hurd and Smith (2001, 2002) compared respondents' predictions regarding the anticipated size of their estates at death with the actual size of their post-mortem estates. They found that expectations of leaving an estate were greater for those who were wealthier and widowed. The likelihood of leaving any assets after death was reduced by substantial out-of-pocket medical expenses. However, Hurd and Smith did not examine discrepancies between actual and anticipated beneficiaries, charitable bequests, or estate planning document selection.

Theoretical Framework

Unlike the typical consumer transaction, the decision to make a post-mortem transfer does not, by itself, enhance the consumption of the testator. Some have modeled planned bequests to children or relatives as a method to gain current services from future beneficiaries (Bernheim, Shteifer & Summers, 1985). But, such a model will not typically apply to a revocable charitable bequest, as charities do not provide compensation for such revocable bequests. (Although some non-profits may provide public recognition for those reporting revocable planned gifts, this recognition usually results from self-report, and there is no mechanism to prevent either false reports or immediate revocation.)

As such, the motivation to provide a post-mortem gift to charity seems most reasonably modeled as a case of interdependent utility. Interdependent utility simply means that a person's utility is a function not only of that individual's own consumption, but also of the consumption of some other individual or individuals. Becker (1974) developed a framework for interdependent utility by first modeling interdependent utility within a family context, and then extending the model to charitable beneficiaries. For the simplest case, an altruistic individual, *i*, has a perfectly interdependent utility function with another person, *j*. Thus, person *i* receives utility as an outcome of both her own consumption, C_i, and the consumption of person *j*, represented as $U_i(C_i, C_j)$ (Becker, 1976). However, in the more complex case, the level of utility interdependence can vary from person to person.

Because a testamentary distribution is a planned future transfer, the testator's direct utility from the plan will be a function of the testator's utility interdependence with planned recipients, his or her estate size, and expected time until death. A change in one of these factors would result in a change in the current utility of the planned future transfer. Written as an equation, the current utility to person *i* of an anticipated testamentary distribution to *j* others is $U_i = \sum_{t=0}^{\infty} \sum_{j=1}^{j=J} m_t \delta^t e_j(w_t s_j, y_{tj})$

where m_t is the likelihood of dying during time period t, with $\sum_{t=0}^{\infty} m_t = 1$,

δ^t is a time discount factor where $\delta < 1$,

j represents individuals other than *i*,

e_j represents the utility function (empathy) resulting from the anticipated post-mortem increased utility of person *j*,

$w_t s_j$ indicates the size of the estate transfer to person *j*, as a function of anticipated wealth (w_t) and distribution share (s_j), and

y_{tj} indicates the income level of person *j* at time *t* prior to any bequest.

The following investigation focused on discrepancies between lifetime charitable testamentary intentions expressed by individuals and later post-mortem distributional outcomes. In particular, the question was whether document selection (wills v. inter vivos trusts) was a significant factor in determining this discrepancy. However, in order to isolate the effects of the document selection itself, one must attempt to separate the effect of the documents from the characteristics of individuals who select certain types of documents.

An individual with a high desire to see that his or her charitable testamentary plans are fulfilled should be more willing to take precautions to insure that this outcome occurs. For example, the person may take greater care that documents are safe, that charitable beneficiaries know of future transfers, and that potential executors/administrators/trustees are supportive of the charitable transfer. If these precautionary actions are also associated with the selection of a particular type of estate planning document, this could lead to a false conclusion that the document itself was driving the increased likelihood of charitable distribution, rather than other actions stemming from the individual's underlying desire. In such a case, financial planners may be mistaken to expect that by simply changing the estate planning document, the likelihood of an ultimate charitable distribution will increase.

It would, of course, be quite difficult to measure the level of underlying desire for charitable transfer fulfillment among those who have indicated an intention to make a charitable bequest. However, it is possible to use the previous explanatory model to control for factors that may influence the level of utility from a charitable transfer.

For example, greater wealth, w_t, suggests larger bequests and, hence, greater utility from those bequests (*ceteris paribus*). The presence of naturally competing beneficiaries with high utility interdependence, e_j, such as children or a spouse, may suggest relatively less concern over the eventual fulfillment of a charitable bequest intention. A greater expectation of mortality, m_t, due to health concerns may increase the expected utility of the future bequest by shortening the anticipated length of time until transfer. By controlling for these potential determinants of bequest utility, the analysis moves closer to identifying the true effect of the estate planning document itself.

Of course, other mechanisms besides the testator's underlying strength of desire for a charitable bequest fulfillment can explain a discrepancy between a person indicating the presence of a charitable provision in a will or trust and the actual post-mortem generation of a charitable gift. The person's estate may have been insolvent, thus resulting in distributions only to creditors. As such, this provides yet another reason to control for respondent wealth in any estimation of the effectiveness of estate planning documents. Second, the respondent may have been referring to a contingent or delayed charitable gift in his or her will or trust. Such contingent or delayed gifts are most common in the case of married decedents where the entire estate goes to the surviving spouse and the charitable gift takes place at the death of the surviving spouse. Consequently, this situation provides another reason to control for marital status as a common correlate of such contingent or delayed charitable plans.

There are also some mechanisms where the choice of estate planning document itself could alter charitable outcomes. One mechanism could be potential heir malfeasance through document destruction. Heirs who would inherit in the absence of an estate planning document stand to gain financially from the elimination of a charitable estate gift. As such, the destruction of any evidence of a charitable estate planning document may financially benefit such heirs. However, removing evidence of a funded trust may be more difficult, given that public records often show the trust as holding legal title, through the trustee, to various assets. The relative simplicity of will destruction could suggest a differential outcome based on document selection.

A less nefarious mechanism could be the inadvertent loss of documents by the decedent. A funded trust document is more likely to be used regularly, as a copy of some portion of the trust may need to be provided whenever assets are moved into or out of a trust. In contrast, a will document is never used during life, which could increase the likelihood that its location would be forgotten in the intervening years.

Finally, there is the possibility that the charitable estate document generates no charitable estate gift due to asset titling. The likelihood of this occurrence might be expected to differ between wills and funded trusts. A funded trust, by definition, controls at least those assets owned by the trust. A will, on the other hand, ultimately controls only those assets titled solely in the name of the decedent with no "transfer on death" beneficiaries. In many cases, all assets may be held in joint ownership or with designated beneficiaries resulting in a will that controls no assets.

At least two additional mechanisms could cause a discrepancy between charitable estate provisions during life and charitable distributions during death. However, neither could be completely controlled for in this study. First, decedents may have made last minute changes to estate plans between the final interview and death. In addition, as with all survey-based research, respondents may give incorrect or misleading answers. If, however, these behaviors did not systematically vary with document choice, then they did not act as confounders for the following analyses.

The following analyses explored the possibility of differential post-mortem distributional results between charitable wills and charitable funded trusts and attempted to identify the relative importance of the alternative predicted mechanisms that may have been responsible for generating these differences. These questions can be separated as follows. First, did document selection have a differential effect on charitable distribution outcomes? Second, to what extent was this effect the result of socio-economic factors associated with document selection, particularly health, wealth and familial status, rather than document selection itself? Third, to what extent was the effect of document selection driven by the problem of post-mortem missing documents?

Data Collection Method

The following analyses used data from the 1995-2006 Health and Retirement Study (HRS). The HRS is a panel study designed to represent the national population of Americans over the age of 50. Initially beginning as two separate panels, the original HRS and the Study of Asset and Health Dynamics among the Oldest Old (AHEAD) merged in 1998 along with two new cohorts to form a single HRS panel. Panel members were interviewed every 2 years. Thus, each respondent may have had several interviews, referred to as waves, over the course of the study. Overall, this combined panel study has included more than 26,000 individuals.

The following analyses specifically focused on those panel members who indicated the presence of a charitable estate plan in the interview wave immediately prior to their death. During life, respondents who had indicated the existence of a will or trust were asked, “Have you made provisions for any charities in your will or trust?” (Institute for Social Research, 2005, p. 2562). For convenience, additional references in this paper to the HRS should be read to include both the HRS and its antecedent, AHEAD.

When a panel member of the HRS died, an “exit interview” was attempted with someone knowledgeable about the financial situation of the deceased, typically a family member (Institute for Social Research, 2007). The exit interview included a series of questions about the distribution of the financial estate of the deceased panel member, including whether any transfers were made to charitable organizations. The following analyses pooled all qualifying exit interview observations from all years under examination.

Results

Descriptive Statistics

The sample presented in Table 1 was limited to decedents who completed a survey in the panel wave immediately prior to their date of death. As shown in Table 1, since the 1995 and 1996 waves, 6,640 such panel members have died (the column 4 total plus the column 1 total). Only 4.5% of these decedents had indicated in the most recent previous survey wave that they had left a charitable estate gift (the column 1 total divided by the sum of columns 1 and 5 totals). This was roughly similar to the frequency of charitable estate plans reported by living respondents in general. Between 1995 and 2006, the overall percentage of living respondents in the HRS indicating the presence of a charitable estate plan was 5.0%.

In Table 1, the column headings above the results reflect information gathered from the decedent in the survey wave immediately prior to the decedent’s death. Decedents reporting a planned gift were those answering, “yes” to the question, “Have you made provisions for any charities in your will or trust?” In this study, estate planning documents were separated into the two categories of wills and funded inter vivos trusts. In order for an inter vivos trust to function differently than a will (or a testamentary trust contained within a will), it typically must be funded during the decedent’s life. If an inter vivos trust was established during life but not funded except through the post-death operation of a pour-over will, then it becomes largely equivalent to a testamentary trust found in a will. The reporting of a funded inter vivos trust came in response to the question, “Have you put any of your assets into a trust?” (Institute for Social Research, 2005, p. 2456). Respondents who indicated that they had not funded a trust but who responded positively to the question, “Do you currently have a will that is written and witnessed?” were categorized as reporting only a will (Institute for Social Research, 2005, p. 2553).

Table 1. Estates of Health and Retirement Study Panel Members Dying 1996-2006

	Decedent reported planned charitable estate gift during life			Decedent did not report planned charitable estate gift during life			
	1	2	3	4	5	6	7
Estate outcome variables	All	Funded trust reported during life	Only will reported during life	All	Funded trust reported during life	Only will reported during life	No will/trust reported during life
Total estates	298	80	218	6342	440	2922	2980
Charitable estates	40.9%	56.3%**	35.3%	3.4%	7.5%**	3.3%	3.0%ns
No estate documents found	7.7%	3.8%†	9.2%	42.0%	5.0%**	14.7%	74.3%**
Distributed estates	275	76	199	5868	418	2697	2753
Charitable distributed estates	44.4%	59.2%***	38.7%	3.7%	7.9%**	3.6%	3.2%**

Note. Column 2 *t*-test compares those reporting a funded trust with those reporting only a will (among those reporting a planned charitable estate gift during life). Column 5 *t*-test compares those reporting a funded trust with those reporting only a will (among those NOT reporting a planned charitable estate gift during life). Column 7 *t*-test compares those reporting neither a will or a trust with those reporting only a will (among those NOT reporting a planned charitable estate gift during life). ns$p > .10$. †$p < .10$. *$p < .05$. **$p < .01$.

While the column headings in Table 1 reflect information provided by the decedent during life, the row labels indicate post-death information, typically provided by a surviving family member. A charitable estate in Table 1 was one where the surviving family member or caretaker indicated that the decedent had made provisions in either the trust or the will for charities or that any of the decedents possessions were left to charities. Where the surviving family member indicated that the decedent had no will and had funded no trust, the decedent was classified as having no estate documents. A small proportion of the estates had not been distributed at the time of the surviving family member's interview. To examine the extent to which this may have affected the outcome, the final two rows report totals only for those estates that had been distributed at the time of the interview.

The cross-tabulations in Table 1 show a noticeable difference between the charitable outcomes of those decedents reporting only wills and those reporting a funded trust. Among those reporting a charitable estate gift in the survey wave immediately prior to death, about 35% of those having only a will generated a charitable estate gift, while 56% of those with a funded trust generated such a gift.

One possible explanation for this difference in document outcomes could be the malfeasance of heirs who intentionally destroyed estate documents containing charitable provisions. Such destruction may be quite problematic where property is already titled in the name of a trust, especially in jurisdictions where some provisions of a real estate owning trust must be recorded in the chain of title. Conversely, destruction of a will may present a much easier opportunity, leading directly to intestate succession. Columns 2 and 3 of Table 1 show that decedents who reported having a funded trust were less likely to leave estates where no estate documents were found as compared with decedents who reported having only a will. Among estates of decedents who had indicated the presence of a charitable estate gift, the missing document problem occurred 5.4 percentage points more frequently in wills (9.2%) than in funded trusts (3.8%). (This difference was significant only at the $p < .10$ level.) However, the missing document problem does not explain the entire difference between wills and trusts. The overall difference in charitable distributions between wills and trusts was 21 percentage points (56.3%–35.3%), far more than the 5.4 percentage point difference in missing estate documents.

This situation may also reflect the greater care taken to preserve estate documents by decedents who have gone through the process of funding a trust. Further, the problem of missing estate documents was less common when decedents had reported the presence of a charitable estate gift than when they had not. (i.e., missing documents were more frequent in column 5 than in column 2, and more frequent in column 6 than in column 3). This suggested that charities were not particularly vulnerable to exclusion through document destruction.

Another explanation for the relatively poor showing of wills in delivering charitable gifts is that lengthy probate processes may have skewed the results. In other words, the charitable transfer may still have been forthcoming for many wills when the survivor was interviewed. To eliminate this source of bias, the final two rows report results only for those estates that had been distributed prior to the survivor interview. This approach barely affected the performance gap between wills and trusts (i.e., column 3 subtracted from column 2), changing it from 21.0 percentage points to 20.5 percentage points. Consequently, the length of the probate process does not appear to have been driving the difference in charitable results between wills and funded trusts.

While the cross-tabulations indicated a dramatic difference between the outcomes of wills and trusts, a variety of reasons unrelated to the planning vehicles themselves could have caused this difference. For example, it may have been that respondents' wealth was driving both the charitable outcome and the choice of estate planning vehicles. Similarly, to the extent that married couples were more likely to have wills instead of funded trusts, this marital difference could have skewed the results. Marital status may have been important in that, except where tax planning dictates otherwise, estate plans for married couples most commonly provide for a transfer of the entire estate to the surviving spouse, with transfers to others only after the death of the surviving spouse (Rosenfeld, 1983). Thus, a married respondent may have claimed the existence of a charitable estate plan, even though the charitable component would not take effect until the death of the surviving spouse.

Table 2 reports descriptive statistics for deceased panel members who, during life, had indicated the presence of a charitable estate gift. These statistics indicated that such charitable planners with only wills differed in several ways from those with funded trusts. Charitable planners with funded trusts were significantly wealthier, older, and more likely to be white and married. (Note that, although marital status was significantly different, the magnitude of the difference was small, 47.5% v. 46.3%). To control for these and other potential intervening factors, the following analyses incorporated multivariate regression approaches intended to isolate more carefully the impact of the estate planning document choice itself.

Table 2. Deceased Panel Members Previously Reporting Planned Charitable Estate Gift (Health and Retirement Study 1995-2006)

Variable	All	Reported a funded inter vivos trust	Reported only a will
Charitable estate distribution	40.94%	56.25%	35.32%**
Reported funded I.V. trust	26.85%	100%	0%**
Household assets prior to death	$577,617 (1,268,333)	$1,120,591 (2,206,524)	$378,361 (529,770)**
Household income prior to death	$58,620 (139,988)	$78,496 (118,014)	$51,326 (146,806)
Married	46.64%	47.50%	46.33%*
Had both child(ren) and grandchild(ren)	56.38%	58.75%	55.50%
Had child(ren) only	9.06%	7.50%	9.63%
White	93.29%	97.50%	91.74%*
Black	4.03%	1.25%	5.05%†
Age	81.27 (9.61)	83.18 (8.05)	80.57 (10.05)*
Male	39.73%	37.50%	40.55%
Survivors found no estate documents	7.72%	3.75%	9.17%†
n	298	80	218

Note. t-test indicated differences between those reporting a trust and those reporting only a will was significant at †$p < .10$. *$p < .05$. **$p < .01$.

Regression Analyses

Table 3 reports results from several regression analyses. Control variables were included to adjust for socio-economic differences following the proposed model and previous research. The proposed model suggested charitable bequest utility differences based upon expected future wealth, expected mortality, and competing beneficiaries for whom the decedent might have had a high level of empathy or interdependent utility, such as a spouse, children, or grandchildren. To model expected future wealth, the regressions included controls for wealth and income during the survey wave immediately prior to death. To

Table 3. Likelihood of Planned Charitable Estate Gift Fulfillment (Health and Retirement Study 1995-2006)

	1	2	3	4	5	6	7
Independent variables	**Linear probability model**	**Linear probability model**	**Linear probability model**	**Probit model**	**Probit marginal effects at sample means**	**Linear probability model**	**Linear probability model**
Intercept	0.3532 (0.0328)**	0.3609 (0.0686)**	-0.1882 (0.2913)	-2.2093 (0.8878)**		-0.0259 (0.2923)	-0.1716 (0.2911)
I.V. Trust (Funded)	0.2093 (0.0633)**	0.1825 (0.0656)**	0.1461 (0.0629)*	0.3644 (0.1819)	0.1427	0.1354 (0.0621)*	0.1438 (0.0628)*
Wealth (100k)		0.0038 (0.0023)	0.0037 (0.0022) †	0.0244 (0.0125)*	0.0091	0.0035 (0.0022)	0.0043 (0.0022) †
Self-reported health		-0.0091 (0.0249)	-0.0174 (0.0241)	-0.0428 (0.0704) †	-0.0168	-0.0119 (0.0239)	-0.0184 (0.0241)
Income (100k)			0.0435 (0.0198)*	0.1346 (0.0803)	0.0519	0.0438 (0.0195)*	0.0440 (0.0197)*
Married			-0.1632 (0.0644)*	-0.4629 (0.188)**	-0.1769	-0.1828 (0.0638)**	-0.1647 (0.0643)*
Children and grandchildren			-0.1172 (0.0600) †	-0.3269 (0.1735)*	-0.1266	-0.1163 (0.0592) †	-0.1134 (0.0600) †
Children only			-0.2012 (0.1027) †	-0.6399 (0.3209)**	-0.2215	-0.2196 (0.1015)*	-0.1918 (0.1028) †
White			0.0429 (0.168)	0.0318 (0.5139)**	0.0123	-0.0049 (0.1664)	0.0326 (0.1678)
Black			-0.1111 (0.2113)	-0.4736 (0.6639)	-0.1684	-0.1401 (0.2086)	-0.1176 (0.211)
Age			0.0084 (0.0029)**	0.0273 (0.0089)*	0.0005	0.0073 (0.0029)*	0.0083 (0.0029)**
Male			-0.0405 (0.0599)	-0.1584 (0.1781)	-0.0610	-0.0415 (0.0591)	-0.0356 (0.0599)
No estate documents found						-0.3109 (0.1031)**	
Recent change in wealth							-0.0728 (0.0519)
Observations	298	298	297	297	297	297	297
R^2	0.0356	0.0447	0.1646			0.1905	0.1703

Note. Table reports coefficients (standard errors) where parentheses occur. †$p < .10$. *$p < .05$. **$p < .01$.

model expected mortality, the regressions also controlled for age, gender, and self-reported health in the survey wave immediately prior to death. This set of controls was also similar to those used in previous research on charitable estate planning which has included controls for age, gender, marriage, children, grandchildren, wealth, income, and race (Auten & Joulfaian, 1996; Barthold & Plotnick, 1984; Boskin, 1976; Chang, Okunade, & Kumar, 1999; Joulfaian, 1991).

The sample for these analyses was limited to those individuals who had indicated the presence of a charitable estate gift in the survey wave immediately prior to their death. In all regressions, the outcome was 1 if the surviving family member or caretaker reported that a charitable gift was made from the estate and 0 otherwise. The independent variables were all based upon information collected from the decedent during the survey wave immediately prior to death. Wealth was the total value of all assets less the total amount of all debts. Income was annual household income. Both wealth and income were reported on a $100,000-unit scale simply to aid coefficient readability. (For example, wealth of $155,200 would correspond with a wealth variable of 1.552. The use of this larger unit-scale did not truncate any information; it simply moved the decimal point on the coefficients for wealth and income to make them more readable.) The "with children and grandchildren" variable was 1 if the respondent had both grandchildren and children, and 0 otherwise. The "children only" variable was 1 if the respondent had children but not grandchildren, and 0 otherwise. Married, white, black, and male were all dummy variables equal to 1 when the condition was true. The "self-reported health" variable was the respondent's coded response to the question, "Would you say your health is excellent, very good, good, fair, or poor? where excellent is 5, very good is 4, good is 3, fair is 2, and poor is 1." For one regression, the variable "recent change in wealth" was added. This represented the percentage change in wealth between the second-to-last and last interview waves immediately prior to death. The "recent change in wealth" variable was capped at plus or minus 100%.

Columns 1, 2, 3, 6, and 7 of Table 3 present coefficients (standard errors) from linear probability models. The linear probability model used an ordinary least squares estimation of the coefficients. An advantage of the linear probability model was that coefficients are easily interpretable. For example, a coefficient of .20 suggested that the predicted probability of having an estate that generated a charitable gift increased by .20 for every one unit increase in the independent variable.

The first column shows the bivariate relationship between trusts and charitable estate distribution. These results simply corresponded to the cross-tabulations reported in Table 1. The most obvious intervening factor may be that individuals with greater wealth were more likely to use an inter vivos trust and may have been more likely to have estates of sufficient size to generate a charitable distribution. Also, expected mortality due to poor health may have influenced both charitable outcomes and document selection. The second column of results controlled for these health and wealth factors. While the impact of the inter vivos trust was slightly reduced (from .2093 to .1825), it remained statistically significant.

Column 3 presents results with the full set of controls. After controlling for marriage, children, grandchildren, race, gender, health, income, and assets, the presence of an inter vivos trust was still significantly associated with a resulting charitable estate distribution. The presence of an inter vivos trust, instead of just a will, increased the predicted probability of a charitable estate distribution by .1461. This effect did not result from the association of trust planning with health, marriage, race, gender, children, grandchildren, income, or assets. Rather, estate planning document usage was associated with a difference in charitable distribution outcomes separate from these factors.

To see whether this effect of trust documents was simply the result of trust documents being less likely to be lost or destroyed, column 6 included a control for the absence of documents after death. After controlling for the problem of lost documents, the selection of a funded trust, rather than a will, remained significantly associated with the successful fulfillment of previously expressed charitable intentions. While the results in Table 1 suggested that funded trust documents were somewhat less likely to be lost, this association does not explain the full effect of trust creation on charitable transfer fulfillment. Column 7 included a measure of pre-death household wealth trajectory prior to the final interview wave. The results indicated no significant effect from wealth trajectory between the last and second-to-last inter vivos survey waves. Although not reported, alternative specifications with interaction variables indicated that the impact of the other independent variables did not differ significantly either between those who held a will as compared with holding a trust or between those who were married as compared with being unmarried.

One disadvantage of the linear probability model is that the ultimate predicted probabilities can be greater than one or less than zero. Consequently, an alternative methodology, such as probit analysis, is commonly employed when analyzing a binary outcome variable. Column 4 presents results from a probit regression using the same set of controls. While the probit regression does insure that predicted probabilities will be between 0 and 1, the coefficients were not directly interpretable. (The coefficients represent the amount of predicted change when mapped onto the standard normal distribution.) Column 5 reports the marginal effects from the probit analysis at sample means. The marginal effects represented the change in the predicted probability of a charitable distribution resulting from a one unit change in the independent variable when all other variables are at their sample mean values. Using this approach, the marginal effect of having an inter vivos trust increased the probability of a charitable estate transfer by just over .14, similar to the results from the linear probability model. Thus, under either approach, the use of a funded living trust increased the predicted likelihood that a reported planned estate gift would actually result in a charitable transfer by more than 14 percentage points.

Discussion

The gap between lifetime reports of charitable estate planning and actual charitable estate distributions was substantial. By any measure, considerably fewer than half of those reporting the presence of a planned charitable estate gift actually generated a charitable estate gift after death. This gap between the reports of planned estate gifts and actual charitable transfers is important from a number of perspectives. For planned giving professionals working in nonprofit organizations, this gap suggests that counting future revenue based upon self-reported planned estate gifts is a precarious practice. More than half of the self-reported planned estate gifts in this study resulted in no charitable transfer at the death of the reporting individual. Further, this analysis examined only the presence of a charitable estate transfer, rather than the specific organizations named. Consequently, the counting of future revenue for a particular charitable organization based upon self-reported planned gifts could be even more uncertain than is represented by these results, due to the potential for changes in the specific charitable beneficiary named.

The gap may also be concerning from the perspective of financial planners hoping to aid clients in fulfilling their wishes. Certainly, some of the gap between reported planned gifts and actual estate transfers may have been intentional. Individuals may have falsely described their plans. Others may have altered their plans during last-minute deathbed changes. Further, married individuals may have reported a charitable planned estate gift when the gift was planned at the death of the second spouse. (This corresponds with the regression results indicating that marriage was negatively associated with a charitable estate transfer among those decedents who had reported the presence of a charitable estate plan.) Nevertheless, these factors do not seem to explain adequately the extent of the gap between reported planned estate gifts and actual transfers. For example, even among unmarried individuals reporting a planned charitable estate gift, over 48% left estates that generated no charitable transfer. While it is possible that some of these reported planned gifts were altered due to last minute changes, it seems more likely that many individuals fully expected to leave a charitable estate gift. To the extent that this was the case, the culprit may have been a lack of effective planning, resulting in unfulfilled charitable expectations.

An indication of one potential source of this planning gap comes from the frequency with which wills failed to be probated. Among decedents with a will but no funded trust who claimed a charitable estate plan during life, fully 40% of their estates did not use the probate process. These wills, although they may have contained a charitable component, were functionally irrelevant.

It certainly is possible to convey charitable estate gifts through non-probate beneficiary designations. However, a clear difference between a will and a funded trust is that a will with a charitable estate provision may not control any assets. A funded trust, by definition, does control the distribution of some assets. However, a properly signed and witnessed will may control no assets. In general, the probate process is necessary only for assets titled solely in the name of the decedent with no "transfer on death" designations. Even in very large estates, there may be no titled assets without co-owners or "transfer on death" designees. In such a case, the heirs may find little motivation to go through the probate process and may simply agree among themselves on the distribution of the untitled assets.

A person may have executed a will providing for a gift of, say 10%, of the estate to a charity, and may therefore have reasonably expected that he or she had a charitable estate plan. But, depending upon the titling of his or her assets, the will may ultimately control nothing. This creates the potential for a mistaken expectation regarding charitable estate transfers. In comparison, a funded trust with a similar charitable provision will definitely generate a charitable distribution. (This excludes the circumstance where the funded trust ceases to be a funded trust prior to death or where there are creditors with superior claims.) As such, the potential for a mistaken belief in the presence of a charitable estate plan is greater with a will than with a funded trust.

For those in a professional position to aid clients in fulfilling their charitable intentions, especially for those planned giving officers working for charitable organizations, the outcome differences between wills and funded inter vivos trusts are significant. An individual wishing to benefit a charity may execute a will designating a significant gift for those purposes. However, some years later, when a child is placed on a bank account "for convenience," or named as the death beneficiary on an account or title, it may not occur to the individual that these steps are essentially undoing the previous planning. As shown by the regression results, those individuals with a natural co-owner or beneficiary, such as a spouse or child, were significantly less likely to ultimately generate a charitable transfer.

While the process of creating and funding an inter vivos trust takes more time and effort than signing a will, the process does train the individual to understand that titles matter. The initial work of retitling all assets into the name of the trustee as the manager of the trust creates the understanding that the trustee must be named as the owner in his or her capacity as the manager of the trust. Without this understanding, it is easy for clients to forget about the estate plan in their day-to-day lives, and instead use joint titles and death beneficiaries for convenience.

For planned giving professionals working for charitable institutions, these results should be sobering. The practice of estimating the value of a planned estate gift from the charitable amount stated in the will must be tempered by the reality that in this study, 40% of those charitable wills were never probated. Suggesting that the donor go through the more initially expensive and cumbersome process of funding an inter vivos trust may appear to be a barrier in completing the planning process. However, for those interested in turning the client's charitable intentions into actual charitable transfers, this step represents a significant factor in making that result happen.

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