How do I create a legacy gift to the Sisters of St. Francis, Sylvania, OH? First and foremost, thank you for your forward-thinking interest in benefiting the Sisters of St. Francis, Sylvania OH. The most important thing that you can do is ensure that your gift properly describes the Sisters of St. Francis, Sylvania OH. The Sisters’ taxpayer identification number is 34-4450609. It’s a good idea to add the Sisters’ taxpayer identification number, which will virtually eliminate any confusion. Please call the office if you’re at all unsure about how to name the Sisters as a beneficiary in your estate plan.

Give from IRA or Retirement Plans First. Depending upon the makeup of your property, there are several ways you could go. As a general rule, if you have assets that will be subject to income tax on distribution, such as an IRA or qualified retirement plan like a 401(k) or 403(b), charitable gifts should come first from these assets. Why? Because these assets are subject to income taxation when your family and loved ones take the money out of the account.

Taxes can take up to 70% of the account, with 40% being very common. If you give those assets to the Sisters, they’ll receive 100% of the proceeds, unreduced by tax. Why? The Sisters are tax-exempt. If you’re going to give a part of a retirement account to the Sisters or to any other charity, make sure that it is expressed as a fraction instead of a fixed dollar amount, or it will create income tax in your estate.

Since the federal estate tax at present is not a problem for over 99.4% of us, you’re free to give your non-taxable assets to your family. Of course, you also can give all or part of your non-taxable assets to the Sisters. This could be done in a number of different ways, depending upon the makeup and titling of your assets.

You could leave a bequest to the sisters. Alternatively, if you have a titled asset, such as real estate, or a bank or brokerage account (that isn’t an IRA), you also could benefit the Sisters by adding the Sisters either as a joint tenant (in real estate) or as a beneficiary. Call the office if you’re unsure how to do that.

Is my RMD from my IRA due at the time that I reach 70.5? (let’s say June)? Can I write a check to the Sisters or what is the method to transfer assets from 401K or 403b accounts?

I’ll address your first question first. Technically, your first required minimum distribution (RMD) is due by April 1 of the year following the year that you attain the age of 70.5. That’s a restatement of the actual law, which is convoluted in my opinion. To answer your question directly, your first RMD isn’t due when you turn 70.5, but you are free to do a charitable IRA rollover at that time.

Your second question actually is two totally unrelated questions. You may not make a charitable rollover of up to $100,000 out of an IRA until you are 70.5. You may not do a charitable rollover out of a qualified retirement plan ever; the charitable IRA rollover exception is limited to IRA’s. All distributions from
qualified retirement plans will be taxable to you, even if you gave the funds to the Sisters. Of course, you’d be entitled to an income tax charitable contribution deduction for the amount of the gift, but it might not be a wash on your tax return.

Transfers out of IRA’s or qualified retirement plans prior to attaining age 59.5 generally also have a 10% additional penalty. Anything that is given out of an IRA after age 70.5 potentially qualifies for the IRA charitable rollover of up to $100,000 per person. While you could write a check out of your IRA, for IRA’s that have those privileges, caution is advised. Technically, the funds for an IRA charitable rollover must come from the IRA account. Therefore, don’t deposit the check and then pay that amount to the Sisters. Just give the check to the Sisters. Tip: If you are going to make a distribution out of an IRA charitable rollover, consider telling the Sisters at that time and tell the IRA custodian (for people who don’t have check writing privileges) to mark the check as a charitable rollover and put your name on the check or the memo accompanying the check so that the Sisters can properly thank you for your generous gift.

**I would like to transfer all remaining assets to the Sisters, such as my checking and savings account. Can I do that easily with POD? (what is a POD?)** Thank you for your thoughtful gift to the Sisters. First, let me address your question concerning so-called Pay-On-Death (called POD accounts, which usually involve bank or savings accounts) or Transfer-On-Death (called TOD accounts, which are usually involve stocks or bonds) accounts.

These types of accounts provide for beneficiary designations, and the institution will pay the name of the POD/TOD beneficiary, even if your will provides otherwise. I’m not a big fan of POD/TOD accounts because we’re seeing a significant increase in elder abuse, and a lot of these cases involve a family member, friend or caregiver taking the elder to the institution to fill out beneficiary designations that almost always favor them. The elder often doesn’t understand that the TOD/POD designation trumps their will.

Some may say that I’m a typical lawyer who simply wants to favor probate. But nothing could be farther from the truth. Believe me, some estates NEED to go through probate. I’m a big proponent of sensible probate avoidance, which usually means the use of a revocable living trust. There’s less likelihood of undue influence or similar shenanigans with a will or revocable living trust.

If you are going to name the Sisters as a beneficiary, make sure that you use the Sisters name, **Sisters of St. Francis, Sylvania OH**. The Sisters’ taxpayer identification number is 34-4450609, and I strongly recommend adding this number to the beneficiary designation.

**Consultant Paul Hood, FCEP, works with Thompson & Associates in Toledo, OH to assist charitable organizations and work with their donors on values-based estate planning.**

Paul obtained his undergraduate and law degrees from Louisiana State University and an LL.M. in taxation from Georgetown University Law Center before settling down to practice tax and estate planning law in the New Orleans area. Paul has taught at the University of New Orleans, Northeastern University, The University of Toledo College of Law and Ohio Northern University Pettit College of Law. Paul has authored or co-authored seven books and over 500 professional articles on estate and tax planning and business valuation.