Donating Retirement Assets

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Why are retirement assets a big deal?

Because that's where the money is!

36% of all household financial assets ($16.5 trillion) were retirement assets

Source: Investment Company Institute (2010) *Research Fundamentals*, 19, 3-Q1.

Part I:
Giving During Life

Life stages of a retirement account

Early distribution (before 59 ½)

Regular distribution (59 ½ to 70 ½)

Required minimum distribution (after 70 ½)

Giving before 59 ½

Normally, withdrawing retirement plan assets before age 59 ½ creates taxable income plus a 10% penalty

Giving before 59 ½

A charitable gift deduction may offset up to 100% of the taxable income from the withdraw, but will not offset the penalty

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Giving 59 ½ to 70 ½

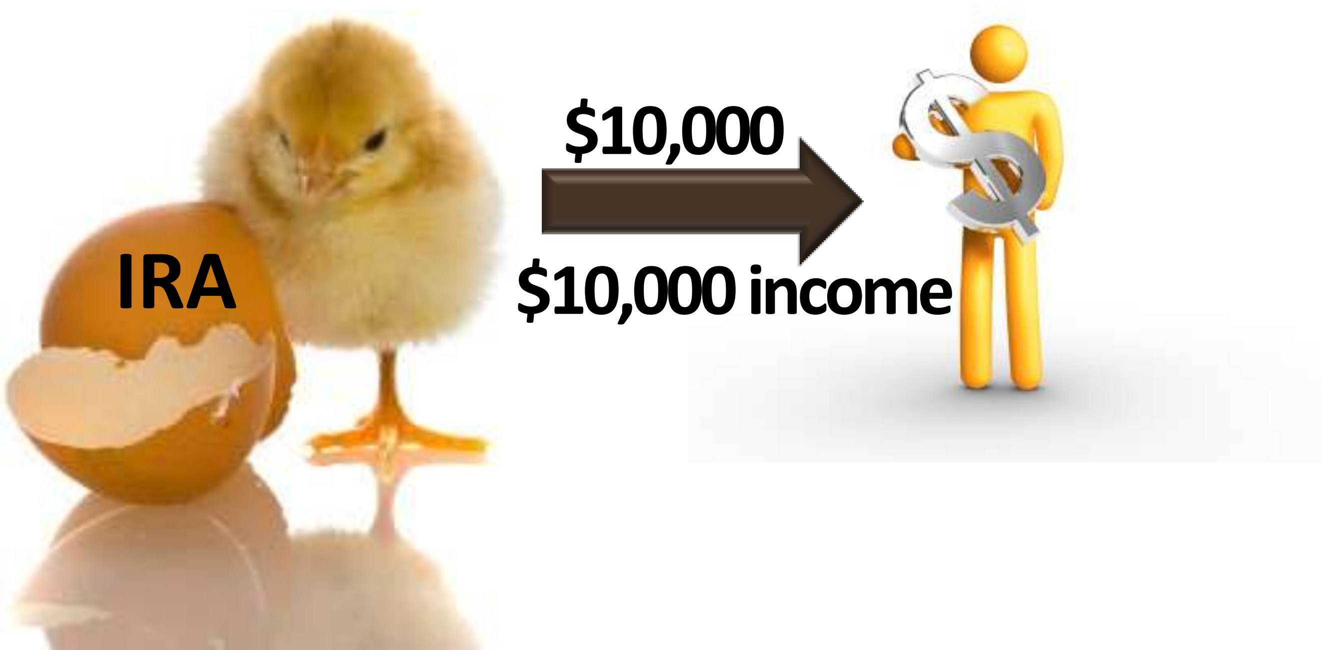
After 59 ½ withdraws are taxable, but create no penalty.

Giving 59 ½ to 70 ½

If donor is already itemizing and stays under the relevant income giving limitations, the income can be completely offset by the deduction

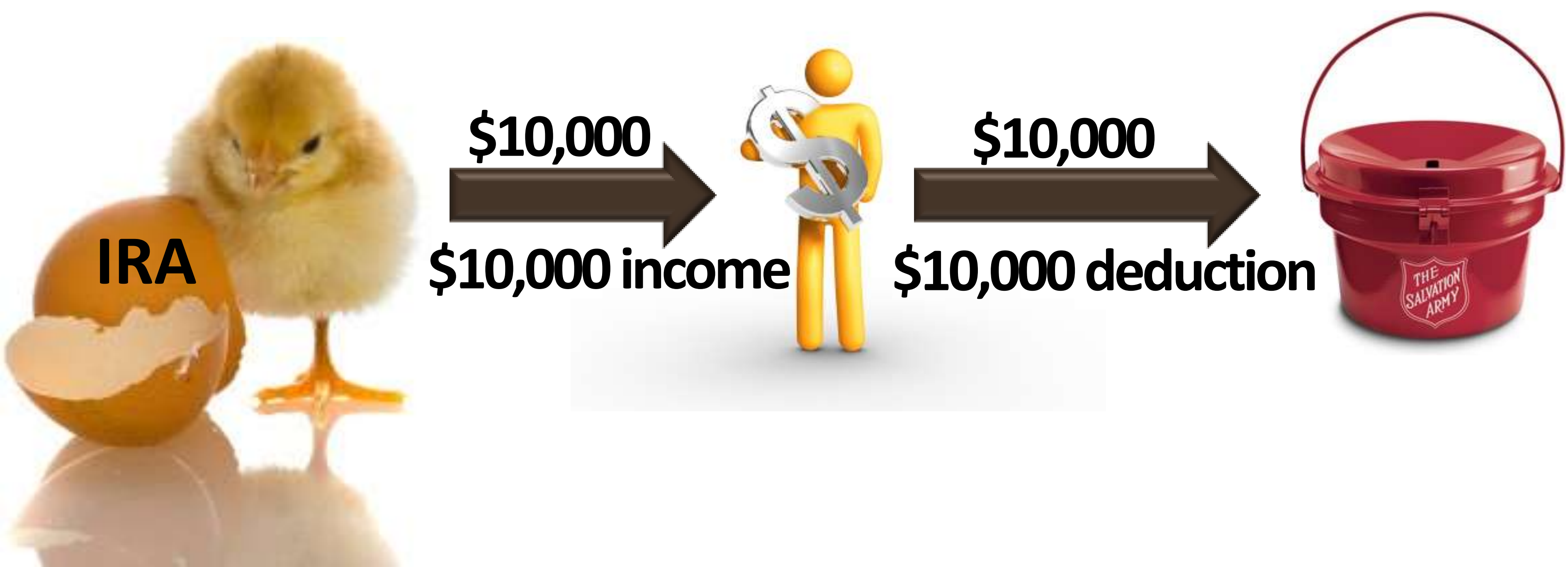
Giving after 70 ½

After age 70 ½ participants must take required minimum distributions (account balance / remaining life expectancy) or pay 50% penalty



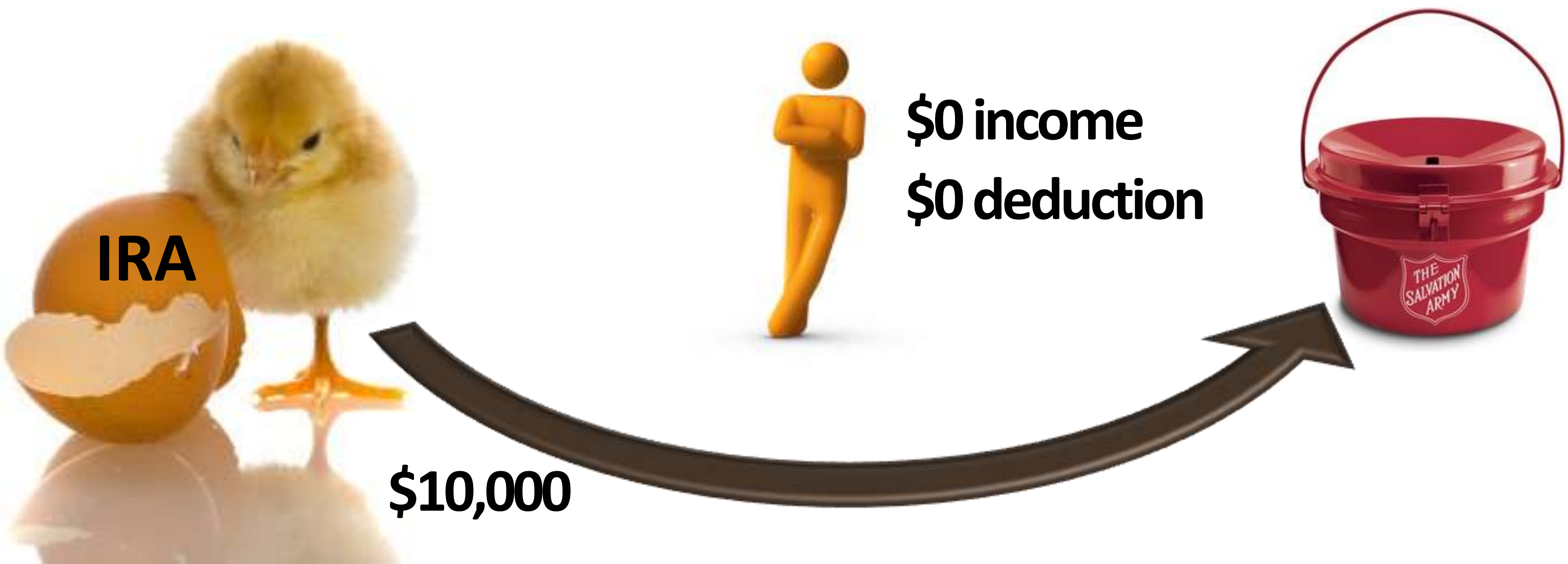
Giving after 70 ½

If the income is not needed, a charitable gift deduction may offset the income (if itemizing and no income giving limitations exceeded)

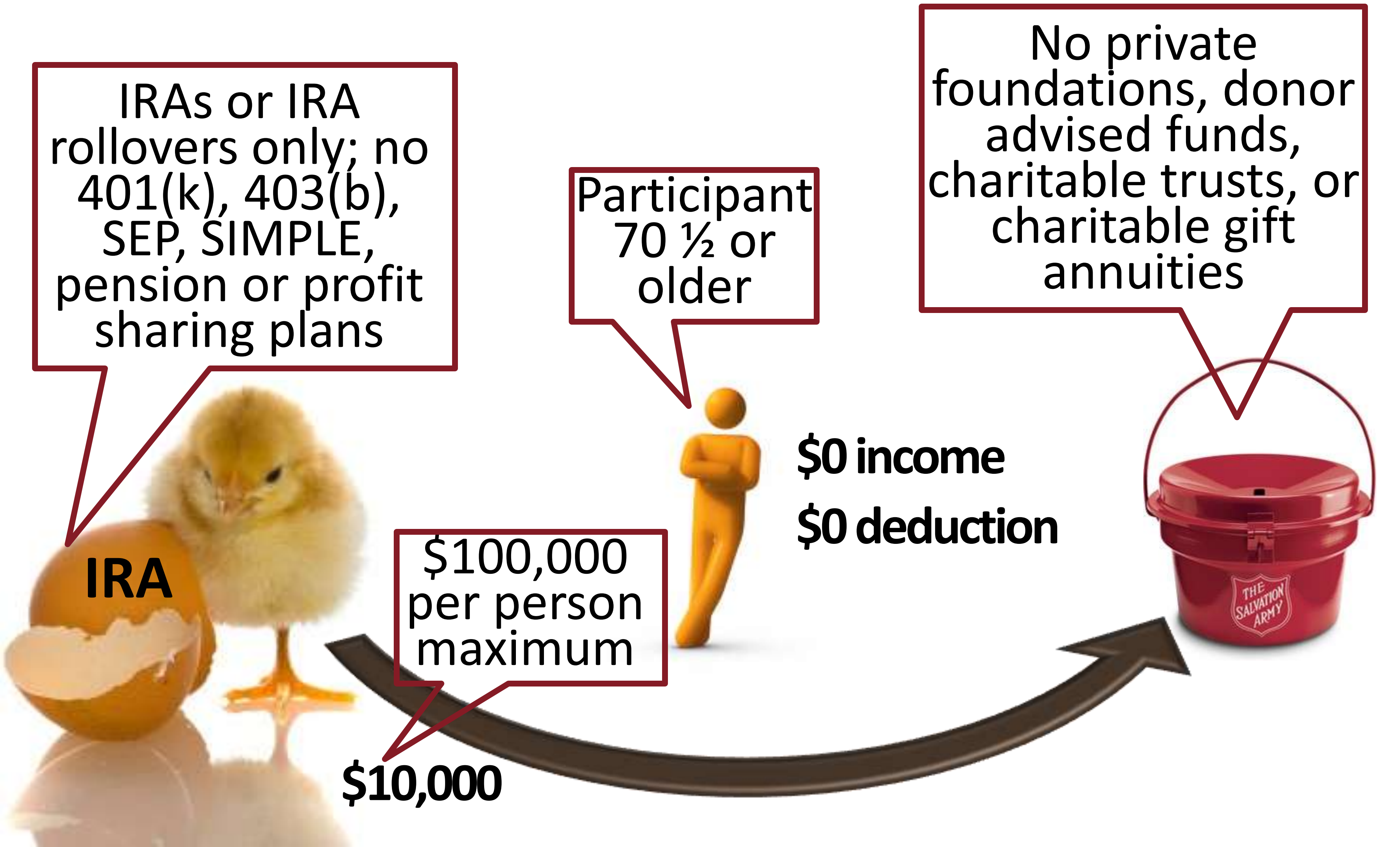


Giving after 70 ½

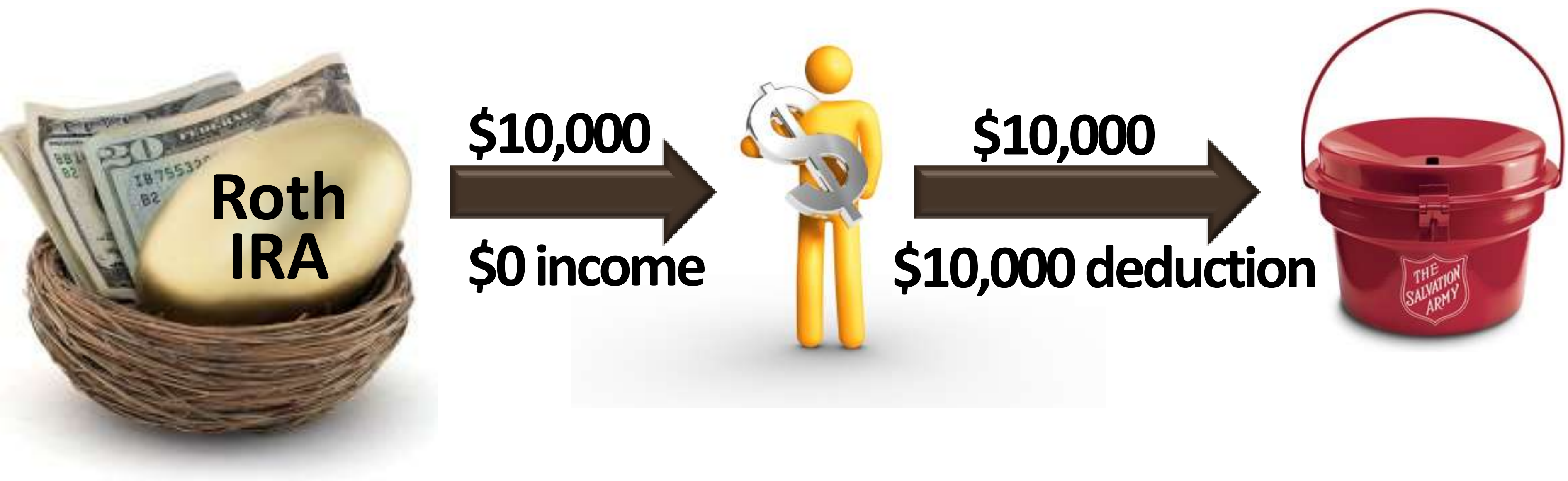
In some years, congress has allowed a Qualified Charitable Distribution (QCD), eliminating both the income and deduction



Qualified Charitable Distribution (QCD)



Distributions from Roth IRAs are generally not taxed



Part II:
Giving After Death

Retirement plan assets inherited by non-charitable beneficiaries are reduced by both estate tax and income tax


A top tax rate donor with a $1MM IRA and a $1MM house wants to leave one to her child and one to charity
Does it matter which goes where?

IRA(child); House(charity)	IRA(charity); House(child)
$1,000,000 House	$1,000,000 IRA
$1,000,000 to charity	**$1,000,000 to charity**
$1,000,000 IRA	$1,000,000 House
-$550,000 (55% estate tax)	-$550,000 (55% estate tax)
$450,000	**$450,000 to child**
-$180,000 (40% income tax)	
$270,000 to child	

Good retirement plan death beneficiaries

- A public charity
- A private family foundation
- A charitable remainder trust

Bad retirement plan death beneficiaries

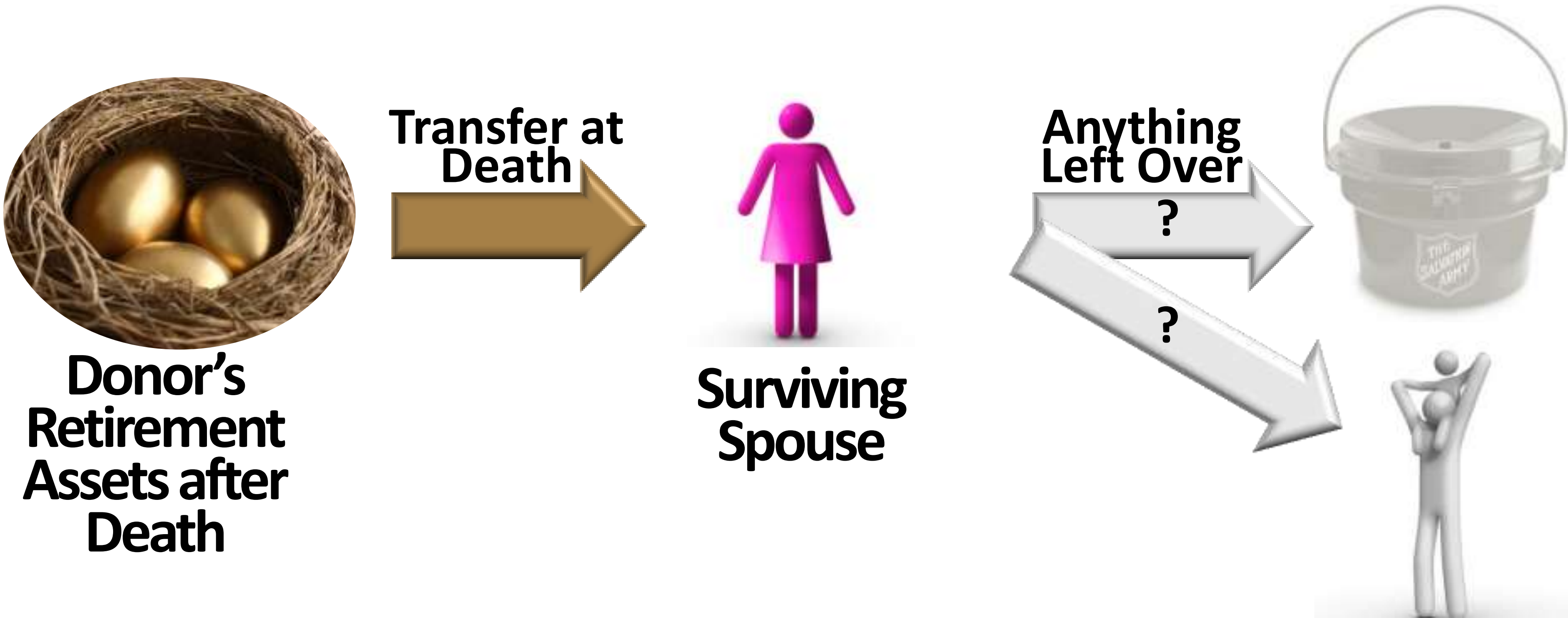
- Avoid naming other types of charitable trusts (e.g., Charitable Lead Trust, Pooled Income Funds)
- Avoid naming estate as beneficiary with instructions in estate documents (estate may have to pay income taxes)
- Avoid specific dollar charitable gifts instead of percentages

The plan must actually have a residual death benefit to pass to charity, rather than just a lifetime income right

Participant's spouse must approve beneficiary for ERISA accounts, e.g., 401(k), but not for non-ERISA accounts, e.g., IRA

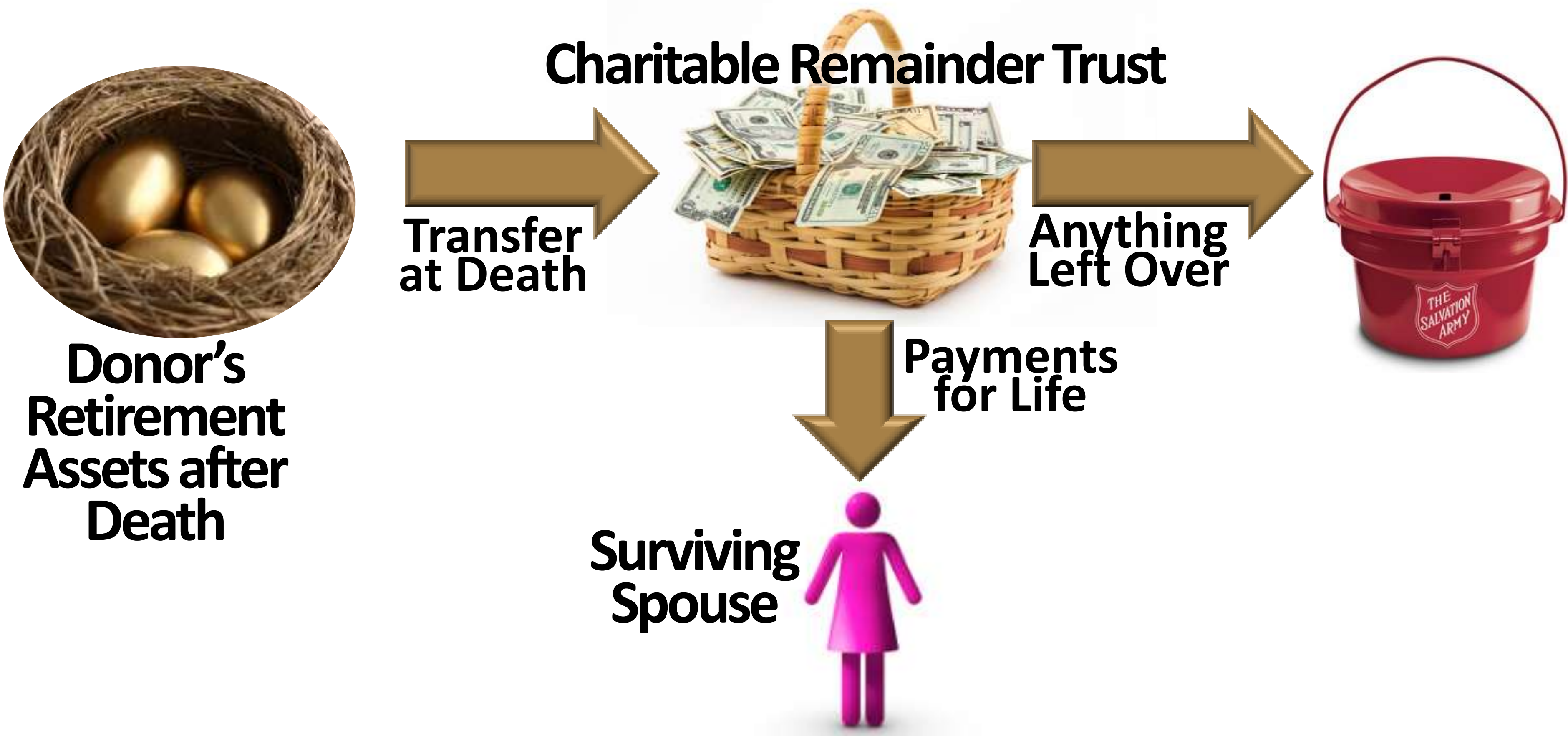
Primary Beneficiary: Spouse
Alternate: Charity

- 100% flexibility to spouse, including rollover into spouse’s own account
- No estate tax if surviving spouse retains charity as beneficiary



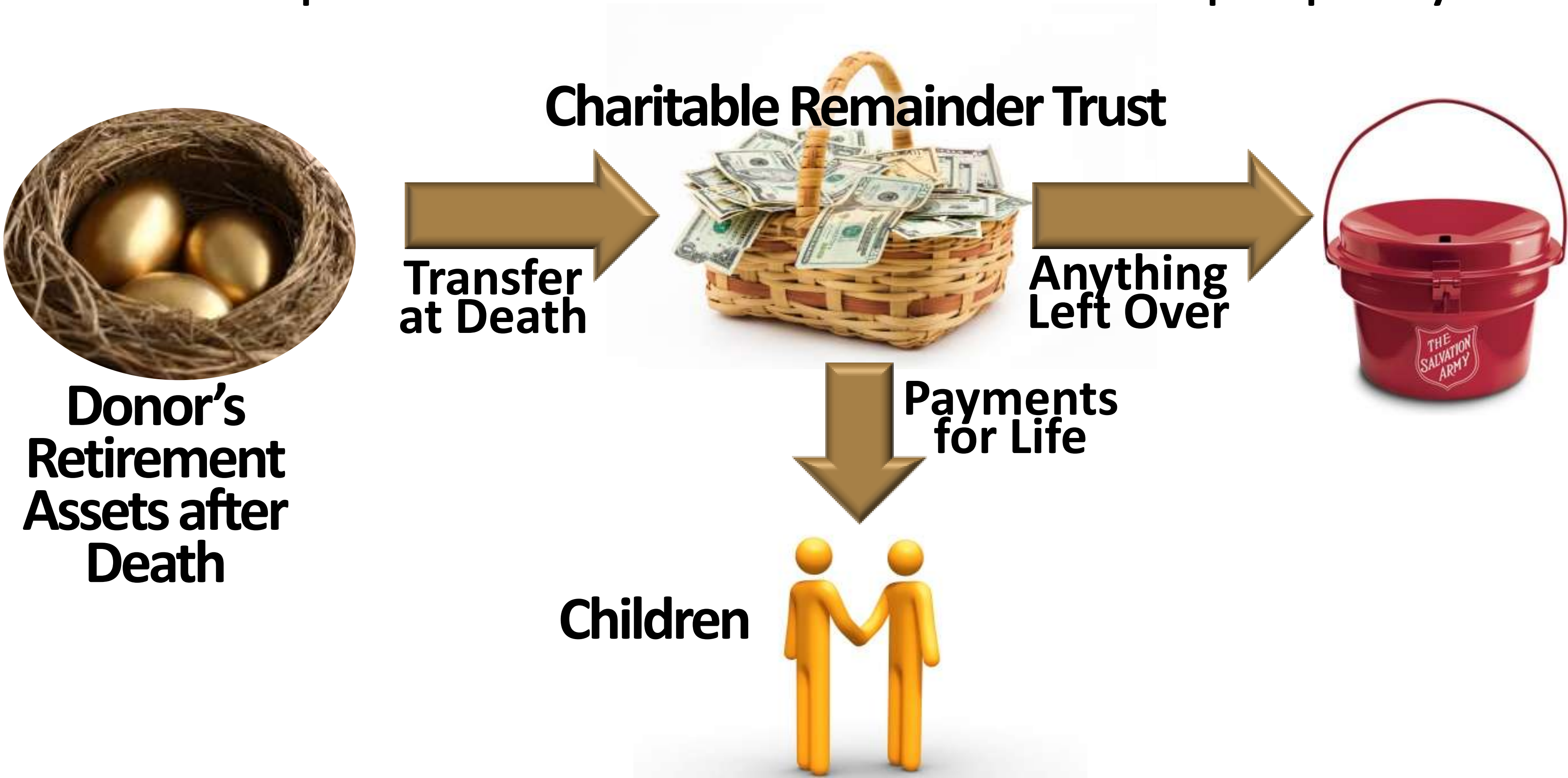
Beneficiary: CRT with payments to spouse

- Spouse cannot alter payout
- Charitable beneficiary selection could be irrevocable
- No estate tax (but, adding a non-spouse beneficiary destroys any marital deduction)



Beneficiary: CRT with payments to children

- Payments likely ordinary income, but spread out
- Income tax deduction for estate taxes paid on retirement assets likely won't be used, as all ordinary income is paid out of CRT before tax-free property



A retirement account with charitable beneficiary can act like a mini-CRT

IRA + Charitable Beneficiary

- Remainder to charity at death
- Income to donor after 59 ½ (unrestricted)
- Deduction for entire value placed into IRA
- Minor administration costs
- Cash transfers only
- Limited size

Charitable Remainder Trust

- Remainder to charity at death
- Income to donor for life (fixed)
- Deduction for value of charitable remainder
- Significant administration costs
- Cash or property transfers
- Unlimited size

Roth conversions and charitable planning can work together to match

$1MM in standard IRA (withdraws are taxable)

Roth Conversion

$1MM in Roth IRA (withdraws are tax free)

Conversion creates $1MM in immediate taxable income

Where can I find offsetting deductions?

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Put money into a

- Charitable remainder trust
- Charitable lead trust (grantor)
- Charitable gift annuity
- Donor advised fund
- Private foundation

Or give a remainder interest in a residence or farmland to a charity

Charitable deductions may be limited (with five year carryover) to 20%, 30%, or 50% of income depending on gift and recipient

If I have unused deductions, how can I pull future income into current year?

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With a Roth conversion

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Roth Conversion

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About the Author

Russell James, J.D., Ph.D., CFP® is an Associate Professor and the Director of Graduate Studies in Charitable Planning in the Division of Personal Financial Planning at Texas Tech University. He graduated, *cum laude*, from the University of Missouri School of Law where he was a member of the Missouri Law Review. While in law school he received the United Missouri Bank Award for Most Outstanding Work in Gift and Estate Taxation and Planning and the American Jurisprudence Award for Most Outstanding Work in Federal Income Taxation. After graduation, he worked as the Director of Planned Giving for Central Christian College, Moberly, Missouri for six years and also built a successful law practice limited to estate and gift planning. He later served as president of the college for more than five years, where he had direct and supervisory responsibility for all fundraising. Dr. James received his Ph.D. in Consumer & Family Economics from the University of Missouri where his dissertation was on the topic of charitable giving. Dr. James has over 100 publications in print or in press in academic journals, conference proceedings, professional periodicals, and books. He writes regularly for Advancing Philanthropy, the magazine of the Association of Fundraising Professionals. He has presented his research in the U.S. and across the world including as an invited speaker in Ireland, Scotland, England, The Netherlands, Spain, Germany, and South Korea. (click here for complete CV)


Me (about 5 years ago)


Lecturing in Germany. 75 extra students showed up. I thought it was for me until I found out there was free beer afterwards.

At Giving Korea 2010. I didn't notice until later the projector was shining on my head (inter-cultural height problems).