

## IRREVOCABLE CHARITABLE TRUST DISCLOSURE STATEMENT

The Billy Graham Evangelistic Association (“BGEA”) is a religious, North Carolina nonprofit corporation that is recognized as tax exempt under section 501(c)(3) of the Internal Revenue Code. BGEA exists to support and extend the evangelistic calling and ministries of Billy and Franklin Graham by proclaiming the Gospel of Jesus Christ to all we can by every effective means available and by equipping others to do the same.

### **BGEA’s Services as Trustee**

BGEA uses its subsidiary, BGEA, MN, a Minnesota nonprofit corporation, to serve as trustee pursuant to agreements established by donors. All activities of BGEA, MN are conducted under the auspices of BGEA. This disclosure will simply use “BGEA” with the understanding that it may refer specifically herein to BGEA, MN. BGEA works with donors who want to establish revocable trusts and irrevocable charitable remainder trusts as a means of supporting worldwide evangelism, while also accomplishing certain income or tax objectives. There are several advantages to charitable remainder trusts, whether revocable or irrevocable, as well as important differences between them. Categorically, however, all trusts that may be established with BGEA are designed to provide some benefit to the organization through a gift of the trust’s income or remainder interest. In these situations, BGEA is permitted by law to serve as trustee and is required to balance the interests of all beneficiaries. BGEA may agree to serve as successor trustee or co-trustee of certain trusts initially established without BGEA’s involvement, provided that all parties acknowledge that BGEA will not be held responsible for acts or omissions of the prior trustee(s). (In recognition of the unique characteristics of charitable lead trusts, BGEA will accept trustee responsibility under such arrangements only in extraordinary circumstances.)

The purpose of this document is to explain some of the important facts relating to these trusts, and to outline some of BGEA’s applicable policies. As with any planned giving opportunity, BGEA strongly encourages donors to communicate with their own advisors in order to help them determine what type of arrangement may be suitable for their particular needs and circumstances.

### **Overview**

All irrevocable charitable remainder trusts have certain characteristics in common, including that once established, such trusts cannot be revoked. With these trusts, a donor (sometimes referred to as the “grantor”):

- a) Irrevocably transfers assets to the trustee,
- b) Receives or assigns a distribution from the trust during the trust term (remainder trust) or at the end of the trust term (lead trust), and
- c) Gives all or a portion of the remaining assets at termination to charity, including a required minimum to BGEA (remainder trust) or during the term of the trust (lead trust).

Certain charitable remainder trusts, including those commonly known as charitable remainder unitrusts and charitable remainder annuity trusts, have tax advantages. Some of these which may be offered by BGEA are described below. A donor may claim an income tax charitable contribution deduction and may bypass capital gain tax with a gift of appreciated property. There is also no taxable capital gain to the donor or the trust when the asset is sold, although the beneficiary may be taxed on a portion of the gain when and if included in the payments they receive. The donor or their designee can receive payments for life or for a term of years. These trusts also qualify for special tax treatment in that the assets in the trust grow tax free, while distributions from the trust are

taxable only to the individuals who receive distributions. Except in the case of *non-qualified* irrevocable charitable remainder trusts (meaning those not qualifying for tax exempt treatment), the remainder beneficiaries must be exclusively charitable organizations. For trusts established with BGEA, those charitable organizations must have purposes that are not contrary to BGEA's mission and Christian religious purposes.

## **Tax Deductions**

Every donor should consult his or her tax advisor in relation to the deductibility of charitable contributions. Determining the income tax charitable contribution deduction for a charitable remainder trust involves complex calculations including such factors as (1) the estimated life expectancy of the trust, (2) the payout percentage, and (3) the type of trust selected. Generally, a donor's charitable deduction will be larger if the trust has a shorter expectancy length, lower payout percentage, and variable payments versus fixed payments.

## **Types of Charitable Remainder Unitrusts**

**Type 1 – Standard** – provides the income beneficiaries with an annual payout equal to a fixed percent (minimum 5% by law) of the net fair market value of trust assets determined annually. If the trust earnings do not meet the pre-determined payout rate, principal will be used to meet that requirement.

**Type 2 – Net Income** – provides the income beneficiaries an annual payout equal to fixed percentage (minimum 5% by law) of the net fair market value of assets determined annually, or the actual net income earned, *whichever is less*.

**Type 3 – Net Income With Make-Up** – provides income beneficiaries an annual payout equal to a fixed percent (minimum 5% by law) of the net fair market value of assets determined annually, or the actual net income earned, whichever is less, with the provision that the payments may exceed the stated percentage, up to, but not exceeding, the amount required to make up any accumulated deficiencies for prior years (meaning years in which the trust earned less than the stated percentage.)

**“Flip” Unitrusts** – combines the features of a Type 2 or Type 3 unitrust with those of the Type 1. The trust remains a Type 2 or Type 3 unitrust until a predetermined triggering event occurs. On January 1 of the year following the specified triggering date or event, the entire trust becomes a Type 1 unitrust with payments no longer limited to net income. For example, BGEA may use this type of unitrust where gifts of real estate, closely-held securities or non-income or low income producing assets are concerned. The donor irrevocably assigns these assets to the trustee, and the trust is a Type 2 or Type 3 unitrust until January 1 after the sale of more than 50% of the trust's non-liquid assets, which is the triggering event.

## **Charitable Remainder Annuity Trust**

This type of trust provides the individual income beneficiaries an amount equal to a fixed percent (minimum 5% by law) of the initial gift value of the assets assigned to the trust. The trust will continue to make payments for the term or lifetime of the trust as long as the trust has assets.

## **Establishment Guidelines**

Irrevocable Charitable Remainder Trusts are subject to the following minimum guidelines:

1. Minimum Age of Life Beneficiaries: 55
2. Maximum Term of Years: 20
3. Maximum Term of Years at Death of Life Beneficiaries: 10
4. Minimum Distribution to Charity: 50%

5. Minimum Distribution to BGEA: 50% of charitable remainder portion and 10% more than any other charitable beneficiary (in consideration of administrative expense)
6. Minimum Funding: \$100,000
7. Administration Fee: \$0

BGEA desires that donors have sufficient resources to provide for their future needs, and generally recommends a minimum total net estate value of \$300,000. Of that amount, at least \$250,000 should be accessible (this may include real property, closely held stock, and other non-liquid assets) and available for the donor's needs, including \$75,000 of liquid assets (cash, marketable securities, etc.)

### **Required Legal Documents**

Certain legal documents, such as the trust agreement, and in some cases real property deeds, are required in connection with the establishment of a trust with BGEA. These can be prepared by or on behalf of BGEA at no expense to the donor. Donors are always encouraged to have their personal attorney and/or accountant review any documents. This review is at the donor's expense, of course.

### **Important Information Regarding Certain Gift Types**

Depending on the type of asset you transfer to a qualified charitable remainder trust, a donor may need to meet certain requirements in order to claim a charitable contribution tax deduction, or at least to claim it in a particular year.

**Giving Cash** - Cash gifts in the form of checks are recorded as gifts on the date of the postmark on the envelope received by BGEA, or the date the check is personally handed to a BGEA representative.

**Giving Publicly Traded Securities** – The gift value of publicly traded securities is determined by averaging the high and low for that security on the gift date (net asset value for mutual funds). The gift date for security gifts is: 1) the date that securities are transferred into a BGEA account, 2) the date the certificate(s) and properly executed stock or bond power(s) are personally handed to a BGEA representative, or 3) the date of the postmark on the envelope containing the certificate(s) and properly executed stock or bond power(s) is received by BGEA. The donor must provide BGEA with the cost basis, acquisition date of the securities and any documentation associated with ownership.

**Giving Real Estate or Closely Held Securities** - The initial fair market value of real estate or closely held stock placed in a charitable remainder trust is determined by a qualified appraisal at the time of the gift. An appraisal must be completed no sooner than 60 days prior to the gift date. For real estate, the gift date is the date the properly executed deed transferring ownership to BGEA as trustee is: 1) given to a representative of BGEA, 2) mailed to BGEA (postmark on the envelope received by BGEA) or 3) recorded. For closely held stock, the gift date is the date when ownership is transferred to BGEA as trustee.

### **Appraisals**

Appraisal of real estate or closely held stock is the responsibility and expense of the donor. IRS Publication 561 – Determining the Value of Donated Property (available at [www.irs.gov](http://www.irs.gov)) explains qualified appraisal requirements. An IRS Form 8283 must be completed, and signed by the qualified appraiser and provided to BGEA. The qualified appraiser must include on Form 8283 a description of the property and the appraised market value. After completion of the donee acknowledgement section of the Form 8283, BGEA will return the original form to the donor to be included with the donor's income tax return. Note that BGEA must file Form 8282 upon liquidation of real estate that is sold within three (3) years of the gift.

## **Transfer of Assets to Trust**

BGEA requests that each trust donor completes a Donor Information Worksheet in order to provide BGEA with information about the assets which may be held in a trust. This form requests specific information about a donor's assets, **including acquisition cost and current value**. A Real Estate Information Form is required for all real estate to be transferred to the trust. If there are potential concerns relating to the property, such as environmental conditions, BGEA reserves the right to further inspect the property and/or to request a formal Phase I survey at the donor's expense. These measures and other communications with donors give BGEA the opportunity to understand tax and other issues relating to potential trust assets.

## **Investment of Trust Funds**

As trustee of an irrevocable trust, BGEA has fiduciary responsibility to manage the trust assets for the benefit of both income and remainder beneficiaries. The donor and other beneficiaries may provide input regarding investments through the selection of preferred investment objectives, using an Investment Objective Form provided by BGEA. BGEA has the fiduciary responsibility to ensure that trust funds are invested in good faith and with the care an ordinarily prudent person in like position would exercise under similar circumstances, and will use its best judgment in balancing the objectives of various beneficiaries. BGEA's Board of Directors has created an Investment Committee to assist with certain responsibilities pertaining to the investment of trust funds. BGEA trust funds are frequently combined for economies in purchasing, but are separately managed by trust. All funds may be comingled for investment purposes unless specifically established and prescribed by law to be maintained as a separate trust. In order to reduce trading costs, BGEA may on occasion trade securities at independently determined market value among the accounts it administers. Trading prices are available upon request. A donor may request that BGEA does not use this practice for their trust.

## **Payment Schedules and Periodic Statements**

Payment schedules are fixed at the time a trust is established. Payments schedules are specified in the trust document and can be quarterly or more frequently to best meet the needs of life beneficiaries. BGEA provides donors with a report of trust assets on a periodic basis, but at least annually. BGEA provides each income beneficiary with an IRS Form 1041, Schedule K-1, for each year. This form shows how much and what kind of income to report on his or her federal and any applicable state and local personal income tax returns. BGEA makes every reasonable effort to deliver the Schedule K-1 as soon as possible after January 1 each year, but in any event will do so no later than April 15.

## **Privacy**

BGEA takes privacy rights very seriously. We gather non-public personal information as we communicate with donors regarding charitable gift planning opportunities, such as trusts. BGEA protects that information and provides access only as needed to fulfill agreements with donors and as required by law. BGEA never sell, rents, leases or exchanges your personal information with other organizations.

## **Disclaimer**

Prospective donors are advised to consult with their attorney or tax advisor. This disclosure statement does not constitute legal or tax advice. To ensure compliance, please note that any U.S. federal tax information contained in this disclosure statement is not intended or written to be used, and cannot be used, for the purpose of (i) avoiding penalties under the Internal Revenue Code, or (ii) promoting, marketing, or recommending to another party any transaction or matter discussed herein.