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Development of Charitable Trusts in the United States

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The development of the charitable trust in the United States has had profound effects on the advancement of philanthropy during American history. This paper reviews the concept and types of charitable trusts, the legislative development, and theoretic base for the money management and investment of trusts. Furthermore, we conduct case studies of influential charitable trusts in the United States to gauge the purpose and management of charitable trusts in the United States. Policy implications are also discussed.

Keywords: Charitable Trusts, Philanthropy, Case Study, United States.

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Introduction

The development of the charitable trust in the United States has played a large role the nation's expansion of philanthropy. A charitable trust holds and manages the finances for a donor/organization and distributes the funds as they see fit. It is an irreversible trust established for charitable purposes. According to Internal Revenue Code section 4947(a)(1) of the IRS, a charitable trust is a trust that is not necessarily tax exempt, but instead all of the unexpired interests which are designated for one or more charitable purposes are allowed a charitable contribu-tion deduction under a specific sec-tion of the Internal Revenue Code. In addition, a charitable trust is treated as a private foundation unless it meets the requirements of a public charity (IRS, 2014a).

A person or an organization can give all or part of their assets to a fiduciary to take over financial responsibility of the assets. A fiduciary is an individual or organization that holds and manages the assets. The fiduciary makes financial decisions on behalf of the organization, and the financial decisions that are made must be in the best interest of donors/organizations. The fiduciary is also in charge of making sure that the organization is on track to fulfilling their mission financially (Merrill Lynch Center for Philanthropy and Nonprofit Management, 2008).

For all charitable trusts, the fiduciary must follow and apply three categories of responsibility to manage the trust: care, loyalty, and obedience (Merrill Lynch Center for Philanthropy and Nonprofit Management, 2008). In order for a fiduciary to care for an organization, they must understand the mission of that organization. For example, they must be aware of the types of programs that the organization is involved in, as well as their finances. Additionally, they are responsible for reading relevant documents and taking on an active role during board meetings. As for loyalty, the fiduciary must avoid conflict. It is essential to remain unbiased when dealing and investing the organization's assets. In order to remain loyal over time, fiduciaries are not permitted to use what they have learned when dealing with the organization for their own use or benefit, or for the use and benefit of others. Finally, for obedience, the fiduciaries must follow state and federal laws in conformance with the wants of the organization when handling, and making decisions.

The concepts of the charitable trust and the foundation somehow overlap, but still represent different content. A foundation is a nongovernmental entity with a principal purpose of making grants to unrelated organizations or individuals for scientific, educational, cultural, religious, or other charitable purposes (Silk & Lintott, 2011). Its financial management can be in the form of charitable trust or not (Silk & Lintott, 2011). That is, a private foundation can be structured as a charitable trust financially, and that charitable trusts are one type of private foundation. Both nonexempt charitable trusts and private foundations are treated equally in terms of taxes (Ludlum, 2007). However, unlike a private foundation, nonexempt charitable trusts are required to pay annual taxes on revenue that was not used for charitable purposes (Ludlum, 2007).

Types of Charitable Trust

There are two main types of charitable trusts: nonexempt charitable trusts and split-interest trusts (Belvedere, Mikow, & Whitten, n.d.; IRS, 2014b & c). A nonexempt charitable trust is one that designates all of its interests, or beneficiaries, as charitable (Belvedere, Mikow, & Whitten, n.d.; IRS, 2014 c). Split-interest trusts allow financial interest from the trust to be split between a charity and a noncharity, such as the donor's heirs (IRS, 2014b). As a result of their charitable endeavors, both nonexempt charitable and split-interest trusts are distinguished from certain types of organizations deemed tax-exempt by the Internal Revenue Code section 501(c)(3). Most nonexempt charitable trusts are required to file Form 990-PF, a Return of Private Foundations (or Section 4947 (a)(1) Nonexempt Charitable Trust Treated as a Private Foundation). This return is utilized to inquire about the charitable activities of nonexempt charitable trusts and private foundations, as well as to determine their taxable participation in political or lobbying activities, and calculate the excise tax on net investment income. Since nonexempt charitable trusts distribute all of their income for charitable purposes, these trusts have no taxable income (Belvedere, Mikow, & Whitten, n.d.). However, since split-interest trusts do not utilize all of their income for charitable activities, they must file Form 5227, the Split-Interest Trust Information Return, each year, in order to describe financial activity for a given calendar year and to determine if a trust is subject to the excise tax.

The main types of split-interest trust are Charitable Lead Trusts (CLT) and Charitable Remainder Trusts (CRT). As depicted in Figure 1, a CLT is a trust that pays a fixed annuity or unitrust amount to a charitable organization for certain years, which is tax deductable. Upon termination of the payments, the remainder interest is transferred to a noncharitable beneficiary, which is not tax deductable. A CLT can also be either a charitable lead annuity trust (CLAT) or a charitable lead unitrust (CLUT). For a fixed annuity trust, at least 5% of the fair market value (FMV) of the initial trust assets needs to be spent. For unitrusts, at least 5% of the FMV of trust assets are required to be paid to charitable organizations each year. (Bourland & Myesr, 2002; IRS, 2014b)

As for the process of a CLT, a donor makes arrangements for the disposition of the estate, but defers the time of when the beneficiary can actually take control of property. In the interim, the charity receives ongoing benefit from the trust. When payments terminate, the assets pass to the beneficiary and they are not subjected to federal estate tax.

A Charitable Remainder Trust (CRT) is the exact opposite of the CLT, as shown in Figure 2. A CRT provides for a specified distribution, at least annually, to one or more beneficiaries, at least one of which is not a charity, for a term of years, with an irrevocable remainder interest to be held for the benefit of charity. Before all of the assets are given to the charity completely, the beneficiary is first paid a certain amount.

There are two types of CRT: the Charitable Remainder Annuity Trust (CRAT) and the Charitable Remainder Unitrust (CRUT). The CRAT distributes the amount each year which must be set at least 5% of the initial FMV of the trust assets. The CRUT distributes the amount received equal to at least 5% of the FMV of the trust assets determined each year at a specified rate. Tax deduction is determined is by subtracting the annual amount received back from the amount put in. Therefore, the higher the dollar amount is set, the lower the income tax deduction will be. In contrast, if one chooses to go with a percentage of trust assets, they will receive a percentage of the charitable trusts' worth every year. The trusts' worth will be reappraised every year, so if the net worth increases, one will receive more money than they did the previous year, and will never receive less than five percent.

The assets in a CRT will be ultimately given to the charity free of tax; including estate and gift tax, and therefore, is a Tax-exempt trust. However, any income received by your non-charitable beneficiaries is taxable.

Finally, the IRS indicates **Pooled Income Funds** (PIF) as another type of charitable trust (IRS, 2014b). The PIF allows donors to donate assets to a charity and the pooled assets are invested as a group. Each donor receives income based on the ratio of his or her contribution to the total value of the investment pool. After the death of the donor, his or her prorated portion of the investment pool is withdrawn and given to the charitable organization (IRS, 2014b).

Benefit vs. Risk of CLT and CRT

Charitable Lead Trusts

There are several advantages of a CLT. One of which is that the assets have a high potential for appreciation in the future. Furthermore, a CLT is well-suited for donors whose heirs are still young and not yet capable of assuming control of a substantial amount of assets. Flexibility for the donor is another benefit of establishing a CLT. A CLT allows the donor to establish the trust as mainly for charity, or this type of trust can be used more for the tax breaks (Silk & Lintott, 2011). The donors who benefit the most are those who donate large sums of money, which is often those who have large financial means, and benefit strongly from the charitable tax deductions that they will get for putting a large sum into the trust (Sullivan, 2011). Therefore, one of the major reasons to create a CLT is to eliminate or lessen gift and estate taxes (Silk & Lintott, 2011). In terms of benefits for the designated charity, a CLT provides charity with immediate support (Silk & Lintott, 2011; Sullivan, 2011).

Another important factor to consider when trying to benefit from a charitable trust is the starting interest rate (Sullivan, 2011). The probability of money being left over in the trust for heirs after the trust is terminated is quite high at 95%. Paul Sullivan states that "the trusts are written so that the assets appreciate substantially over time, but even if they do not; the designated charity – often a family foundation – will still get the money" (Sullivan, 2011). The amount left over in a charitable lead trust can be increased by decreasing the annuity payment, and can often be done without paying any gift taxes (Sullivan, 2011). Furthermore, experts explain that a CLT has large tax-saving power as a result of the time value of money. Meaning, with everything else being equal, a dollar today is worth more than a dollar in the future (Silk & Lintott, 2011).

Although a charitable lead trust comes with many benefits, there are also risk factors that need to be kept in mind. For instance, in the case of a market collapse, the heirs of the trust would not get back a substantial amount of money (Sullivan, 2011). Another risk factor is being too aggressive, for example, giving a lesser amount annually to the charity/ organization when the trust first starts out, so that the trust can accumulate more money for the heirs (Sullivan, 2011). According to Sullivan "this is where the tension between giving money to charity, leaving money to heirs, and minimizing taxes can be extreme" (Sullivan, 2011). The fact that the donor cannot claim an income tax deduction on the contributions made to the trust is considered a weakness of a CLT. An additional weakness of the CLT is that one may need to pay a gift tax on those contributions that are earmarked for the beneficiary (Bisignano & Eisenberg, 2002).

Charitable Remainder Trusts

Figure 1: Process Chart of Charitable Lead Trusts
Source: Deseret Trust Company, Retrieved from: http://deserettrust.com/charitableleadtrust.html

Figure 2: Process Chart of Charitable Remainder Trusts
Source: Deseret Trust Company, Retrieved from: http://deserettrust.com/accounts.html

The benefits of a charitable remainder trust include the tax advantages you are allowed. This includes an income tax benefit, as the donor receives an immediate income tax deduction as a result of the funds donated to charity (Silk & Lintott, 2011). Additionally, the CRT itself is not subject to income tax, which is why experts consider a CRT to be very useful for estate planning (Silk & Lintott, 2011). In regards to estate tax, once the donated property is fully under charity's possession, there is no federal estate tax. Furthermore, with capital gains tax, there is no tax for the value increase of the donated property (Clifford, 2013). Deferring capital gains tax with a CRT is particularly useful for those who possess highly appreciated stock (Silk & Lintott, 2011). In addition, another advantage is the increased returns from the assets due to professional management of the assets.

However, there are some disadvantages to a charitable remainder trust. For example, once the trust is created, the donor relinquishes control over the assets; therefore, he or she is not able to change the organization in which the trust was made for. Also, the donor is not allowed to give lead interest control to a private foundation that the donor is in control of (Weiner, 2012). What can become risky is if there is direct or indirect self-dealing with a disqualified person, e.g. a contributor or spouse (Bourland & Myers, 2002). If a disqualified person gets involved in self-dealing, they are required to pay 5% of whatever the dealing amount was every year that the transaction goes uncorrected (Bourland & Myers, 2002).

Regardless of CLT or CRT, one risk of a charitable trust is if one does not appropriately manage the trusts and attempts to abuse the tax deductions and trick the IRS, such as in the case of Bernard Madoff, who was convicted in 2009 for fraud involving investments and charitable trusts (Silk & Lintott, 2011).

5 Percent Payout Rule

The five percent pay out rule is required by federal state law. This requires foundations to distribute 5 percent of their charitable and administrative purposes" (Minnesota Council on Foundations, 2013). The 5 percent is taken from the foundation's investment assets, this does not include assets that that the foundation uses directly for their mission. Ways in which the 5 percent can be distributed include, but are not limited to: grants, program-related investments, and taxes paid on investments. Expenses related to management of investments do not count towards the 5 percent (Minnesota Council on Foundations, 2013). If the required amount is not distributed, it is subject to an initial penalty equal to 30% of the shortfall. It must also distribute the shortfall or be subject to a penalty equal to 200% of the shortfall (Minnesota Council on Foundations, 2013). The 5 percent rule ensures that the foundation is actually putting their money towards their organization.

Development of Charitable Trust in the United States

While Charitable Trusts were developing in America during the nineteenth century, they faced the obstacle of overcoming the anti-charity bias that existed during that time. Much of this was due to the fear of the church gaining political power. Like in England, charity was often administered by the Church. However, Americans were very concerned with the separation of church and state as they had recently fought for their freedom from England's rule and did not want America to develop a political system similar to England's.(S.F.D., 1968). Furthermore, many during the early nineteenth century viewed poverty as one's own fault, making them undeserving of assistance unless they were a widow or child. (S.F.D., 1968). America became more socially conscious of issues like poverty as the nineteenth century progressed, thus allowing Charitable Trusts to further develop (S.F.D., 1968). However, there were still not many regulations in place to ensure that the Trusts were truly being used for charitable purposes.

In fact, before the 1950's, Charitable Trusts were not widely recorded, nor were they successful, with the exception of a few states (Bell & Bell, 1980). When charitable trusts first started there were no "common law requirements," meaning that charitable trusts were not registered or recorded. The attorney general was completely blind as to how many charitable trusts there were, the assets they obtained, or if they were being ethical. This caused many issues and charitable organizations became ignored and unsuccessful (Bell & Bell, 1980).

Despite the early lack of success that most states had with charitable trusts, there were four states that established a division for the recording of charitable trusts in the attorney general's office, these states included: New Hampshire, Rhode Island, Ohio, and Massachusetts (Bell & Bell, 1980). Due to the positive outcomes, The National Association of Attorneys General requested that the National Conference of Commissioners pass a law to make it mandatory for all charitable trusts to be recorded, and in 1954 the Uniform Supervision of Trustees for Charitable Purpose Act was established.

The first state to acknowledge the new act was California, other states such as Illinois and Michigan adopted the same law soon after. After the Uniform Supervision of Trustees for Charitable Purpose Act was brought fourth, a slew of other similar acts were created and adopted by other states (Bell & Bell, 1980). Each act created was merely a recommendation for each state to take into consideration. In order for the act to be put into action, the legislation of each state must enact the act, so that it becomes law in that jurisdiction (Halbach, 2000). There are several major legislations enacted since 1954 that substantially shape the development of charitable trusts in the United States. The major legislations are summarized below (Merrill Lynch Center for Philanthropy and Nonprofit Management, 2008):

The Uniform Management of Institutional Funds Act was enacted in 1972 in order to set investment standards of conduct for the governing boards of nonprofit organizations. This established that these governing boards possess broad investment authority and was not limited to the investments then authorized for trustees. The statute also authorized the boards to delegate authority to independent financial advisors as well as investment managers. Furthermore, this act permitted the use of investment techniques such as total-return investing, because endowment fund managers were now able to utilize more modern investment methods.

Restatement of the Law of Trust 3d: Prudent Investor Rule was enacted in 1992 in order to guide trustees in terms of their legal duties. The rule also advises trustees on how to invest and manage trust assets as a prudent investor would in the framework of a trust portfolio which incorporates risk and return objectives to form an investment strategy that best suits the trust (Merrill Lynch Center for Philanthropy and Nonprofit Management, 2008). According to this restated prudent investor rule, the trustee should consider the purposes, terms, distribution requirements and all other conditions of the trust. Therefore, the trustee must utilize care, caution, and risk management skills in order to satisfy this standard. The fiduciary's central consideration is the trade-off between risk and return (Merrill Lynch Center for Philanthropy and Nonprofit Management, 2008).

investment assets each year for "**The Uniform Prudent Investor Act (UPIA**) was enacted in 1995 and is applied in most U.S. states. The act requires that trustees utilize the Modern Portfolio Theory in order to ensure that they use up to date "investment principles." This means that they maximize their expected return based on the market risk. This act also made it possible for the trustee to invest as a prudent investor would (Langbein, 1995). There were three major changes that came with this act. This includes diversification, which reduces risk and loss by diversifying trust investments, and is required unless under special circumstances where the trustee feels it is better not to. Another major change is the sensitivity to the risk/return curve in place of the ban on speculation, in which the trustee is allowed to weigh the tolerance level of each trust. This allows the trustee to adjust the trust's investment policy. The final major change was delegation which allows a trustee to delegate investment and management functions (Langbein, 1995).

The Uniform Principle and Income Act, enacted in 1997 and revised 2000, further supplemented the principles of UPIA by providing tools for the investment strategies previously authorized by UPIA. This revised act offers procedures for trustees while permitting more flexibility in the allocation of investment returns between the income for income beneficiaries and principal for remainder beneficiaries. The procedures established by this act make certain that the trust creator's intention is the guiding principle for the decisions made by trustees (Merrill Lynch Center for Philanthropy and Nonprofit Management, 2008).

The Uniform Prudent Management of Institutional Funds Act was enacted in 2006 to replace the Uniform Management of Institutional Funds Act in order to revise the prudence standard that applies to the management and investment of charitable funds. This act establishes that the standards for the investment and management of institutional funds are equivalent regardless of whether an organization is organized as a trust, a nonprofit corporation, or in some other manner. Additionally, this gives the board more flexibility when making endowment expenditure decisions. This allows the board to handle fluctuations in the value of the endowment. Therefore, the act offers modern guidance for the prudence standards that fiduciaries should abide by when making investment decisions (Merrill Lynch Center for Philanthropy and Nonprofit Management, 2008).

In short, the development of legislation and regulations overtime has improved the accountability of charitable trusts (Merrill Lynch Center for Philanthropy and Nonprofit Management, 2008).

Modern Portfolio Theory

Investment is a tradeoff between risk and expected return. Overall, assets with higher expected returns are riskier. Modern Portfolio Theory (MPT) is a theory of finance which attempts to maximize portfolio expected return for a given amount of portfolio risk, or minimize risk for a given level of expected return, by carefully choosing the proportions of various assets (Shipway, 2009; Jacquier, 2013). Assuming that the investors are rational and markets are efficient, the fundamental concept of MPT is that the assets in an investment portfolio should not be selected separate. This means that each choice in the portfolio is related to each other, and cannot be chosen separately. Rather, consider how each asset changes in price relative to how every other asset in the portfolio changes in price. In addition, investors can reduce exposure to individual asset risk by holding a diversified portfolio. It may allow for the same portfolio expected return with reduced risk.

There are certain risks that investments are faced with that pose a threat to portfolios (Merrill Lynch Center for Philanthropy and Nonprofit Management, 2008). For example, the individual investment risk refers to the risk of having the value of the security the investor bought drop below the price they paid for it. Furthermore, market risk refers to the risk of the value of the securities in the market dropping. The possibility that inflation will lower both the purchasing power and the value of the investment return refers to inflation risk. In addition, liquidity risk refers to the decrease of buyers due to the instability of the market. One must also consider the interest-rate risk, which refers to how an increase in interest rates can impact the value of financial aspects such as investments and bonds. Finally, currency risk-refers to how changes in currency exchange will influence returns.

It is essential that institutional investors identify and control investment risk. MPT creates the current attitudes about controlling such risk. MPT states that all assets do not behave in the same manner. This means that having the right combination of assets is critical in determining a portfolio's performance over time. Different types of investments respond differently to economic conditions. Consequently, by investing in different types of investments, a portfolio can reduce investment risk from market declines in any one asset class, or loss from any one security. Therefore, the portfolio should be more efficient this way since the risk is likely lower.

A diverse mixture of asset classes results in an optimal portfolio, or the efficient frontier. The model uses historical data for different asset classes in order to establish the most efficient portfolio for various types of investors. This historical data includes returns, risks and correlations among the asset classes. MPT asserts that different assets' returns are correlated to the risks involved in owning those assets. With the greater risk of owning a particular asset, comes a greater potential for that asset's return. Figure 3 below depicts that the risk of owning a portfolio composed of only stocks is far greater than the risk of owning a portfolio composed of only bonds. However, the expected return on the purely stock portfolio is significantly greater because of that higher risk (Merrill Lynch Center for Philanthropy and Nonprofit Management, 2008).

As depicted by MPT, by holding investments in assorted asset classes through diversification, an investor reduces the risk that the portfolio faces if one asset declines in value. Therefore, diversification capitalizes on the each investment's advantages in order to create more reliable returns. However, diversification works optimally when the various asset classes have a low correlation with each other. A high correlation occurs when returns move in the same direction, at the same time (Merrill Lynch Center for Philanthropy and Nonprofit Management, 2008). On the other hand, when returns move in different directions, they are uncorrelated, or inversely correlated.

Additionally, MPT maintains that asset allocation further reduces investment risk and assists in the generation of more steady returns. Asset allocation refers to the process of determining how much of the organization's money should be placed in different asset classes, such as: stocks, bonds and cash. In fact, studies have found that the most significant determinant of the success or failure of an investment strategy is how assets are categorized among these various asset classes. The significance of asset allocation is further depicted by studies' findings that asset allocation accounts for more than 93% of a portfolio's performance (.Merrill Lynch Center for Philanthropy and Nonprofit Management, 2008)

Case Studies of Charitable Trusts

Table 1 presents number of charitable trusts in 2010, the most recent complete data on charitable trusts (IRS, 2014b & c). There were 125,174 charitable trusts in the United States in 2010. The majority of the trusts were Charitable Remainder Unitrusts, 93,831, or 75.0% of the trusts. This is followed by Charitable Remainder Annuity Trusts, 13.5%, Charitable Lead Trusts, 5.3%, Nonexempt Charitable Trusts, 5.1%, and Pooled income Funds, 1.1%. Related to size of the trusts, majority of them, 85%, were under 1 million, while 1% of trusts had funds more than 10 million. For our case studies on charitable trusts, we selected 4 trusts with relative large and varying funds, to gauge the effects of charitable trusts on their managements.

Case Study 1: Bill & Melinda Gates Foundation and Bill & Melinda Gates Trust

In 1994, the William H. Gates Foundation was established by William H. Gates, with an initial stock gift of US$94 million. The foundation was

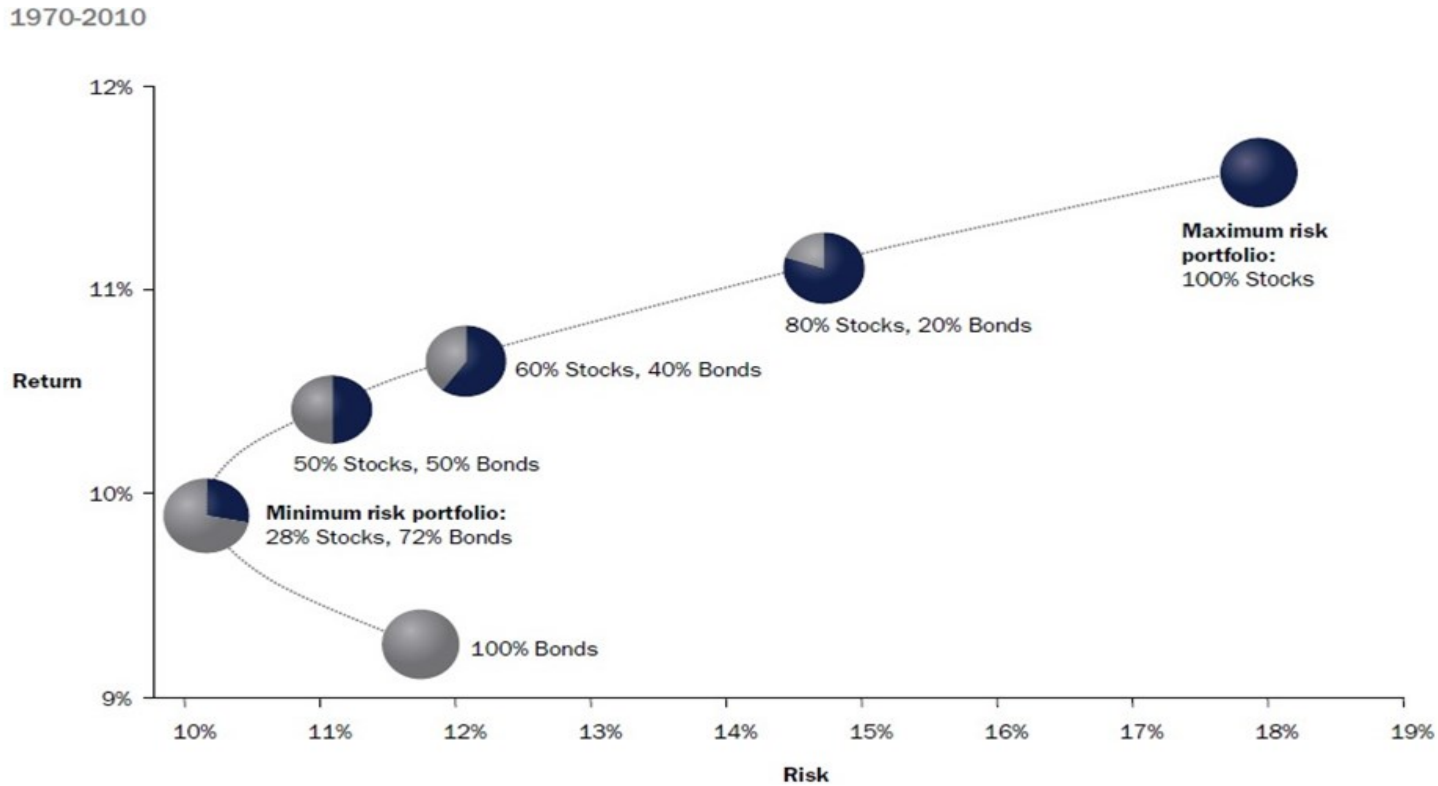

Figure 3: Stocks and Bonds" Risk versus Return, 1970-2010
Source: Source: Merrill Lynch- Investment Models

Table 1: Number of Charitable Trusts in the United States in 2010

Item	Total	Size of total assets			
		Under $500,000	$500,000 to < 1 million	$1 million to < 10 million	$10 million and more
Nonexempt Charitable Trusts	6,387	3,796	1,003	1,455	133
Charitable Remainder Annuity Trusts	16,937	13,664	1,855	1,357	61
Charitable Remainder Unitrusts	93,831	66,555	14,431	12,130	715
Charitable Lead Trusts	6,609	2,991	1,314	2,011	293
Pooled Income Funds	1,410	1,079	118	188	25
Total	125,174	88,085	18,721	17,141	1,227

Source: IRS, 2014b and c. SOI Tax Stats - Split-Interest Trust Statistics renamed as the Bill & Melinda Gates Foundation in 1999. In October 2006, the foundation was reorganized into a two-entity structure: The Bill & Melinda Gates Foundation (the foundation) and the Bill & Melinda Gates Foundation Trust (the trust). The foundation distributes money to grantees to reduce inequities around the world, while the trust manages the endowment assets and transfers proceeds to the foundation as necessary to achieve the foundation's charitable goals. Both entities are tax-exempt private foundations that are structured as a charitable trust. In 2012, the Foundation had assets of $37 billion, which is the largest foundation in the United States, and operated programs in more than 100 countries and regions (Foundation Center, n.d.; The Bill & Melinda Gates Foundation, n.d.).

We examine the Bill & Melinda Gates Foundation Trust Reports from 2006 to 2011, to assess its financial management. Overall, around 90% of the assets of the trusts were used for investment while around 10% of the assets were used for grant support during this time period. It is evident that the percentage of grants increases over time from less than 8% in 2006 to around 12% in 2011. Regarding the return of investment to assets, the return rate is about 5% for 2006-2011; however, it is sensitive to performance of economic market. For example, during the economic recession of 2008, the financial return of the trusts was bleak in negative territory, -25%, or loss of around $8 billion. In contrast, the return was over 10% in the next two years, 2009 and 2010, once the economic market gradually pulled itself out of recession (The Bill & Melinda Gates Foundation Trust Reports, 2006-2011).

The setup of the charitable trust for The Bill & Melinda Gates Foundation has important effects on the development of the foundation (The Bill & Melinda Gates Foundation, n.d.). The integration of the Foundation and the Trust enabled the Gates Foundation to expand its scale of assets and scope of services. The dual-entity system lead to a more effective management approach of the endowment, and contributed to collaborations between the foundation and its donors. Efficient financial management helps to secure financial stability and sustainability. By entrusting money to an independent entity, charitable trust helps to ensure organizational accountability. Ultimately, charitable trust helps to enhance individual or organizational donors' financial capacity in fulfilling their mission and vision.

Case Study 2: The Pew Charitable Trust Fund

The Pew Charitable Trust Fund is a public charity, which began as the beneficiary of seven individual trusts established between 1948 and 1979 by the children of Sun Oil Company founder Joseph N. Pew. This Charitable Trust Fund describes its mission as to solve today's most challenging problems with the power of knowledge (Pew Prospectus, 2012). Pew is a global research and public policy organization which focuses on public opinion research, arts and culture, as well as environmental, health, and policy initiatives. With a large emphasis on improving public policy, Pew has established the Pew Center on the States, Pew Environment Group, and Pew Health Group (Pew Prospectus, 2012).

The most recent available financial records for the Pew Charitable Trust Fund and the Pew Research Center are for the 2011 fiscal year. Pew's total net assets at the beginning of the 2011 year were $4.6 billion, while the net assets at the end of that year were $5.3 billion. This represents a $711,532,460 positive change in assets (Pew Prospectus, 2012). These financial gains depict the success that the Pew Charitable Trust Fund and Pew Research Center has had in managing their funds. These records indicated a total value of $279 million on operating expenses, including $100 million on grants and another $161 million on program expenses for that fiscal year (Pew Prospectus, 2012). The percentage of grants and program expenses in total assets was about 5.7% in 2011 (261 million / 4.6 billion). The operating expenses are often large for Charitable Trust Funds of this magnitude as there is much fundraising, programming, and general administrative tasks that must be done in order to ensure that the Trust operates properly. High operating cost is a risk to beginning a large scale Charitable Trust Fund, but can be managed so long as the operating costs are utilized in the most effective ways. Pew is able to do this successfully as their 2011 total revenues was $991 million, which is much larger than their operating expenses (Pew Prospectus, 2012). These revenues come from contributions, investment gains, distributions from supporting trusts, and other sources.

However, despite this financial success, The Pew Charitable Trust Fund has received much criticism regarding its partnership with the Laura and John Arnold Foundation. The Institute for America's Future issued a report that calls the Pew-Arnold partnership "a plot against pensions" that has "distorted the conversation about public pensions and created a movement to convert traditional public pensions into riskier and costlier schemes" (Bradford, 2013). This institute also finds Pew's partnership with this foundation troubling because The Laura and John Arnold Foundation is run by conservative political operatives and financed by an Enron billionaire (Sirota, 2013). By forming a partnership with another foundation that has clear political affiliations and motives, Pew seems biased, which hurts the credibility of Pew's research initiatives.

This negative reaction regarding Pew's partnership with another Foundation depicts a risk in the charitable trust fund world. Forming a partnership with another foundation can sometimes hurt the Charitable Trust Fund, even if Pew argues that this partnership was formed to give good analyses surrounding pensions so that politicians are aware of what public policies regarding pensions should change (Bradford, 2013). Many do not see this partnership as appropriate, and thus, it may end up hurting Pew's resources and image.

Case Study 3: The New York Community Trust

The New York Community Trust takes pride in supporting community initiatives such as after-school programs and work-training programs throughout New York City's five boroughs. This trust was established in 1924, and has utilized donors' charitable funds to support New York City nonprofits. In fact, there are more than 2,000 charitable trusts in the New York Community Charitable Trust (The New York Community Trust, 2014). This charitable trust distributed more than $144 million in grants in 2013. The New York Community Trust focuses grant spending on: community development, health and people with special needs, education/art, and children/families (The New York Community Trust, 2014). This charitable trust attracts donors by giving them the opportunity to put their donations towards bettering New York City.

The New York Community Trust's most recent financial statement states an asset size of more than $2.4 billion in 2013. This is the trust's largest asset size, as the asset size has been steadily rising. For example, The New York Community Trust's asset size in 2008 was only $1.5 billion. Furthermore, the $144 million that The New York Community Trust spent on grants in 2013 is the largest that this trust has distributed in grants since 2008. Though larger grant distributions than 2009-2012, the 2013 grant distribution is still less than the $167 million that the New York Community Trust distributed in 2008. This decrease in grant distribution after 2008 likely had much to do with the recession of 2008-2009, which left those in New York City, and elsewhere, with fewer funds to donate.. From 2008-2013, based on financial statements from their website, the percent of investment in assets was around 97%, as it ranged from 94-98%. Also from 2008-2013, the percent of returns to investment was around 2.6%, but range widely from -32.6% in 2008 to 16.4% in 2009.

A benefit of this trust supporting a specific community is that funds can be especially useful during times of crisis, such as a national disaster. This was the case after hurricane sandy, which had a devastating impact on New York. The New York Community trust established a $100,000 grant to assist the neighborhood Housing Services of Staten Island with its program designed to help victims of Hurricane Sandy return to their homes (Sherry, 2014). A trust that focuses on a specific area allows community members to donate to something that they know will make their community better for themselves and their neighbors. Therefore, when it is clear that their community has become the victim of a disaster, such as Hurricane Sandy, many will feel encouraged to donate to a fund that they know will be benefitting their community, rather than donating to a more international charity such as The American Red Cross. Watching one's donations improve their own community can also contribute to one's sense of community, thus encouraging them to continue to contribute to such a fund in the future.

Conclusion

Though the development of the charitable trust in the United States was slow at first, in the past six decades the charitable trust has had profound effects on the development of philanthropy in the United States. In particular, the development of legislation and regulations overtime improved the accountability and sustainability of charitable trusts, thus improving charitable trusts altogether. The majority of the trust assets are allocated in investments and managed by professional financial institutions. By entrusting money to an independent entity, charitable trusts help to ensure organizational accountability. The return of investments is relatively high; however, it faces market uncertainty, as evidence in 2008 financial crisis. When creating a charitable trust, one must consider the different options, such as utilizing a nonexempt charitable trust to designate all funds to charity, or a split-interest trust in order to split the funds between a charity and a non-charity such as the donors' heirs. If the decision is the more commonly-used split-interest trust, one must also weigh the advantages and disadvantages of a Charitable Lead Trust or a Charitable Remainder Trust. A constant across all types of charitable trusts is the varying tax deductions and benefits, which is sometimes more of a motivator to establish a charitable trust. Overall, the charitable trust helps to enhance an individual or organizational donors' financial capacity in fulfilling their mission and vision.

References

Belvedere, M., Mikow, J., & Whitten, M. (n.d.). Taxing Charity: Linking Income Tax Returns to Samples of Nonexempt Charitable and Charitable Remainder Trust Returns. Retrieved from http://www.irs.gov/pub/irs-soi/taxchary.pdf.

Bisignano, S., & Eisenberg, T. M. (2002). *Charitable Lead Trusts*. Estate Planning Strategies: A Lawyer's Guide to Retirement and Lifetime Planning, 87.

Bourland, M., & Myers, J. (2002). The Charitable Remainder Trust. In J. A. Soled (Ed.), *Estate Planning Strategies: A Lawyer's Guide to Retirement and Lifetime planning* (pg. 73-86). Chicago, IL: ABA Publishing.

Bradford, H. (2013). "Pew's Pension Reform Activism Drawing Critics." *Pensions and Investments.* http://www.pionline.com/article/20130930/PRINT/309309973/pews-pension-reform-activism-drawing-critics

Clifford, D. (2013). *The Charitable Remainder Trust: Do Good and Get Tax Breaks.* Retrieved From: http://www.nolo.com/legal-encyclopedia/charitable-trust-tax-deduction-break-29702.html

Foundation Center. (n.d.). *Top 100 U.S. Foundations by Asset Size*. Retrieved from: http://www.foundationcenter.org/findfunders/topfunders/top100assets.html

Halbach Jr, E. C. (2000). Uniform Acts, Restatements, and Trends in American Trust Law at Century's End. *California Law Review*, *88*, 1877.

Howard, C. M. (1936). Charitable Trusts in Maryland. *Maryland Law. Review*, *1*, 105.

IRS. (2014a). "Charitable Trusts." http://www.irs.gov/Charities-&-Non-Profits/Private-Foundations/Charitable-Trusts

IRS. (2014b). SOI Tax Stats - Split-Interest Trust Statistics. Retrieved from: http://www.irs.gov/uac/SOI-Tax-Stats-Split-Interest-Trust-Statistics

IRS. (2014c). SOI Tax Stats - Domestic Private Foundation and Charitable Trust Statistics. Retrieved from: http://www.irs.gov/uac/SOI-Tax-Stats-Domestic-Private-Foundation-and-Charitable-Trust-Statistics

Klick, J., & Sitkoff, R. (2008). Agency costs, charitable trusts, and corporate control: Evidence from Hershey's kiss-off. *Harvard Law and Economics Discussion Paper*, (593), 07-16.

KPMG. (2009-2012). Rockefeller Brothers Fund, Inc. Financial Statements and Supplemental Schedule.

Kutner, L., & Koven, H. H. (1966). Charitable Trust Legislation in the Several States. *Northwestern University Law Review*, *61*, 411.

Langbein, J. H. (1995). Uniform Prudent Investor Act and the Future of Trust Investing, The. *Iowa Law Review*, *81*, 641.

Ludlum, Melissa. (2007). *Domestic Private Foundations and Charitable Trusts: Charitable Distribution and Investment Assets, Tax Year, 2014*. Retrieved from: http://www.irs.gov/pub/irs-soi/04pfandct.pdf.

Merrill Lynch Center for Philanthropy and Nonprofit Management. (2008*). Nonprofit Guide to Prudent Investing.* Retrieved from: http://www.mainecola.org/Portals/0/DOCS/Prudent%20Non%-20Profit%20Investing.pdf

Pew Prospectus (2012). *The Pew Charitable Trusts.* http://www.pewtrusts.org/uploadedFiles/wwwpewtrustsorg/Static_Pages/About_Us/PewProspectus2012.pdf

Rockefeller Brothers Fund (2009)."2009 Annual Review." Retrieved from: http://www.rbf.org/2009annualreview/program-overviews

Rockefeller Brothers Fund (2012). "Charting Our Progress." Retrieved from: http://www.rbf.org/content/total-spending

Rockefeller Brothers Fund (2014). "About the Fund." Retrieved from: http://www.rbf.org/content/about-fund

The New York Community Trust, 2014. http://www.nycommunitytrust.org/AboutTheTrust/Overview/tabid/496/Default.aspx

S.F.D. (1968). "The Enforcement of Charitable Trusts in America: A History of Evolving Social Attitudes." *Virginia Law Review*, *54*(3), 436-465.

Silk, R., & Lintott, J. (2011). *Managing Foundations and Charitable Trusts*. Hoboken: Wiley.

Sirota, D. (2013). The Plot against Pensions. *Institute for America's Future.* http://ourfuture.org/wp-content/uploads/2013/09/Plot-Against-Pensions-final.pdf

Sherry, V. (2014). Group that aids Sandy victims receives 100G - The grant from New York Community Trust supports the

'Staten Island Recovers' program. NewsBank. http://docs.newsbank.com.proxy.libraries.rutgers.edu/openurl?ctx_ver=z39.88-2004&rft_id=info:sid/iw.newsbank.com:AWNB:SIAB&rft_val_format=info:ofi/fmt:kev:mtx:ctx&rft_dat=14C2EFB65BA1EDC8&svc_dat=InfoWeb:aggdocs&req_dat=D83CF54774014EDE87F4C732384FFD42

Sullivan, P. (2011). A Trust Surges, Heirs and Taxes in Mind, but Mind the Details. *The New York Times.* Retrieved from: http://www.nytimes.com/2011/07/23/your-money/estate-planning/charitable-lead-trusts-draw-renewed-interest.html?pagewanted=all&_r=0

Weiner, J. (2012). *Why is now the time to leverage a charitable lead trust?*. Retrieved from: http://www.fidelitycharitable.org/docs/charitable-lead-trust.pdf

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