Planned Giving: A Win-Win Situation

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ABSTRACT

This white paper outlines why every nonprofit organization should have a legacy planning policy and includes a discussion of how they should proceed in establishing such procedures. The paper also provides a clear definition of the various financial tools involved in 'planned giving' and includes a detailed discussion of the advantages for the donors who participate in this type of charitable giving.

Our goal is to de-mystify the process and help potential donors understand the many aspects to planned giving and the benefits they will enjoy.

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Defining Planned Giving

Nonprofit organizations have always struggled to find ways to create a continuous revenue stream, to develop loyal, generous donors and to build a brand that generates passion and gift giving. Unfortunately, charitable giving has traditionally been treated as a “step child” – never having consistent ownership of a ‘piece of the pie.’ Corporate donations, grants, government funding and individual gifts are pursued through a wide variety of activities, ranging from golf outings to galas, all requiring incredible amounts of time and effort in order to guarantee any reasonable return at all.

As disposable income rises in a robust economy, people are more likely to be generous with their philanthropy, but when the economy constricts, one of the first areas that can, and is reduced, is voluntary contributions. While the mortgage, utilities, groceries, car payments, insurance, healthcare and other similar expenses are mandatory, even those with a strong social conscience quickly cut back on charitable giving when the going gets tough.

The leaders in nonprofit organizations are accustomed to the traditional ebb and flow of donations, yet they continue to seek ways to strengthen their cash flow. Along with conventional fund raisers, the planned giving of legacy gifts can provide access to significant additional funding for any organization.

The time is now! This is an area where nonprofit leaders need to be more aggressive and seek opportunities for their organizations, especially because:

- Almost everyone is a prospect for planned giving
- There are incentives for donors – often in the form of significant tax benefits
- It makes donors feel good
- Statistics show that the largest gifts most people make is through the planned giving process
- The costs to the organization are much lower than for any other type of fundraising
- People fail to include bequests in their estate plans because they have never been asked to do so

As the baby boomers age, it is estimated that over the next 50 years more than $6,000,000,000,000 will be transferred through charitable bequests. It is important for each organization to be positioned to leverage access to this staggering amount of wealth.

Exactly what is planned giving?

In its most simple form, the term ‘planned giving’ can be explained as a range of financial strategies that donors can use and customize to reflect their specific situation, to bequeath money or other assets to a nonprofit organization upon their death. In most instances, legacy gifts represent future support for a charity.

There are a number of different avenues that a donor can pursue when considering planned giving as one way to make contributions to favorite charitable organizations.

Understanding the Options

As the definition indicates, through 'planned giving,' donors can *plan* contribution strategies for the future by embracing the most appropriate tactic based on which is best for their financial situation, whether it be by will or other testamentary gifts, life-income gifts, endowments or other strategies.

- A Bequest

The easiest and most straightforward type of planned giving activity is for donors to leave a bequest in their will or trust to be distributed at their death. The amount can be specified as a residuary bequest, meaning the charity receives the residual amount left in the estate after the family is provided for, or it can be a pecuniary bequest, meaning that the gift is designated as a specific sum. The bequest can be a specified dollar amount, such as, "I leave $10,000 to the "X" Association at my death" or it can be a percentage, such as "I bequeath 25% of my estate at the time of my death to "X" Institute."

Along with cash gifts, a bequest can also be made in the form of real estate. A donor may leave instructions such as, "I leave my home to Temple "X"."

The property, in whatever form it takes, is transferred to the charity named as the beneficiary as designated by the donor.

- Gift Annuities

Unlike a bequest, a gift annuity involves an arrangement between the donor and the charitable organization. The donor presents the nonprofit with a gift of cash, insurance policies or other property of a certain determined value and in return the charity agrees to make fixed payments to the donor during his or her lifetime.

The payments to the donor are often based on a rate schedule established by the American Council on Gift Annuities (ACGA). The ACGA has sliding rates, with older donors receiving gift annuity payments at higher rates than those applicable to younger donors.

An excellent example of a gift annuity made it to the Internet in November 2009 when a retired barber left more than $800,000 to a charity in Erie, PA. that serves developmentally disabled children and adults. When the 95 year old barber, Dominick Colelli, left the surprise gift to the foundation it was one of the largest gifts in the organization's history. Colelli had no real connection to the institute but had befriended its founder John Barber and Barber's aunt Gertrude years ago. A barber for 37 years, Colelli never married and had no children. Although he left smaller, generous amounts to nieces and other relatives, the bulk of his estate went to the foundation. This amazing and unexpected windfall gives everyone renewed faith in the generosity of the human race! (This article appeared on AOL News on November 12, 2009)

- Charitable Remainder Trust

When considering a variety of planned giving tools, the Charitable Remainder Trust (CRT) has a specific role to play. Using this option, a donor can transfer cash or appreciated property to the CRT, which is a tax-exempt trust, and then can sell the appreciated property without paying capital gains tax. The Trust makes payments for a lifetime, or for a defined number of years, to the donor, and then distributes the 'remainder' of the gift to charity.

To complicate things a bit, there are several types of payouts that may be utilized. A charitable remainder annuity trust, called a CRAT, pays a fixed amount annually while a charitable remainder unitrust, called CRUT, pays a percentage of the trust value at the beginning of each year.

- Charitable Lead Trust

The Charitable Lead Trust (CLT) receives cash or property from a donor and then distributes payments to charity, in the form of either a fixed annuity or available unitrust amount, for a defined period of time. The CLT is a taxable trust (which the CRT was not), reporting its income and taking a deduction for the amount it distributes to charity while any excess is taxable. At the conclusion of the specified time period, the Trust is required to distribute the remaining cash or property back to the donor, the donor's family or another specified beneficiary.

- Bargain Sale

In this situation, a sale takes place between a donor and a charity, except that the sale price is intentionally set well below the real value of the property. To put it simply, the donor transfers the asset (which is likely a mortgaged property) to charity and in return receives less than fair market value for his or her property. The difference between the sale price and the appraised value of the property is a gift to the charity. Under this same premise, the donor may select to give the mortgaged property to the charity.

- Pooled Income Funds

In this unique circumstance, a donor gives a charity a gift of cash or stock which the charity invests with similar gifts from other donors and then distributes a portion of the earnings (issued as shares) from the pooled funds (PIF) to the donors for life. The balance of the fund goes to the charity.

Identifying Advantages for Donors

Each specific financial tool under the planned giving umbrella has different advantages for the donor. In general, charitable gifts reduce the amount of tax due from the estate, making planned giving a critical estate planning tool.

Here are some particular benefits enjoyed by the donors:

- A Bequest

  Donors prefer the simple process of making a bequest to their favorite charity, especially when they cannot afford to make a gift during their lifetime. For example, if a couple decides to leave their home to the private school where their children were educated, and they are living in the home throughout their lifetime, they can put the real estate into a bequest, naming the school as beneficiary. At their death, the school will have access to the home and the income they can get from sale or rental of the property. The couple would not have been financially capable of making such a considerable donation while alive, but by using planned giving they are able to fulfill one of their dreams of giving back to the institution.

  In addition to the emotional satisfaction the couple enjoys from planning this gift, it is also important to note that there is another financial advantage. That is, the amount given to the charity is not subject to federal estate tax.

- Gift Annuities

  Under this scenario, the donor is able to make a sizeable gift to the charity and yet, based on the agreement they reach, receive the regular payments they require.

  As in the case of a bequest, there are also important tax considerations for the donor, making gift annuities an important part of an estate plan strategy when possible. The donor received a current federal income tax deduction for the present value of the gift to the charity and a portion of every gift annuity payment to the donor is tax free.

- Charitable Remainder Trust

  The benefit for the donor that elects to establish a Charitable Remainder Trust is that he or she can transfer appreciated property that has little or no income producing capability into a meaningful gift without paying tax on the sale. The Trust sells the property, free of any tax liability, and makes payments to the donor, who now has a new source of income - along with a federal income tax deduction.

- Charitable Lead Trust

The Charitable Lead Trust provides advantages for a donor who wants to make a gift to a charity for a specific length of time, and wants to use the opportunity to minimize gift or estate taxes. When the time period has ended, the property is returned to the donor (or his or her family as designated), plus any additional growth in value that occurred during the time period, with no additional tax. The donor also receives an income tax deduction when the Trust is created and also receives a current federal gift or estate tax deduction for the present value of the payments that are made to the charity.

- Bargain Sale

While the donor receives less than fair market value for his or her property, there are advantages for using this tool for planned giving. When maintaining a property becomes prohibitive or unreasonable, or it is mortgaged beyond the donor's capabilities, the donor can choose to execute a bargain sale to charity or give the mortgaged property to charity, thus receiving a cash payment or the necessary debt relief - while at the same time making it possible for a nonprofit organization to acquire a valuable piece of property that it might not have been able to afford under ordinary conditions. The donor avoids paying gains tax on the portion of the sale that represents a charitable gift and receives a current federal income tax deduction for the portion of the property given to charity.

- Pooled Income Funds

When making a gift of stock or cash to a charity to be included in a Pooled Income Fund, the donor receives a current federal income tax deduction and also receives a percentage of the pooled income fund earnings every year for life. This is ideal for the donor who wants to make a contribution of cash or stocks to a charity but needs supplemental income, which can be provided by payouts from the fund.

Making the Case

In order for the nonprofit to promote legacy giving to its current and potential donors, there needs to be a strategy in place. The strategy should:

- Articulate why legacy giving is so important to the organization
- Reinforce the organization's mission and vision as well as its core values
- Identify the organization's long term objectives, and the resources needed to accomplish them
- Clarify how the legacy gifts will help the organization successfully fulfill its mission
- Explain the clear tangible and intangible benefits (tax and other advantages) to the donors who participate in planned giving
- Educate your staff and volunteer leaders regarding the organization's approach to legacy giving
- Create a marketing plan specifically to attract legacy gifts
- Have a clear and simple process for helping prospects participate in planned giving; have a plan for acknowledging gifts
- Select an initial group of prospects to serve as a beta test before rolling it out to the community
- Consider creating a special program just for legacy donors, such as as "Legacy Society"

It is up to the organization to market the concept to potential donors, making the benefits clear. It is also up to the organization to develop a process that is easy to navigate so that donors are encouraged to incorporate planned giving into their estate strategy. Lastly, it is up to the organization to thank the donors and to promote legacy giving to others by sharing successful case studies.

Conclusion

It is important to remember that planned giving is not a charitable strategy limited to the rich and famous. Bequeaths and legacies are not only for families like the Rockefellers or others of wealth and privilege. Instead, everyone can, and should, consider leaving a lasting legacy by remembering a charity in their wills.

There are so many instances when donors wishing to help charitable organizations do not have the financial capability to do so during their lifetime. However, by selecting one of the planned giving tools, all who wish to become donors can have a meaningful impact on the charity of their choice, supporting the causes that are important for them.

While there are a variety of tools available, some more complex than others, it is key that every donor consult with a financial advisor to determine if the tax consequences of a particular contribution are best for them before deciding to make a gift.

If you have any questions about planned giving and how you can integrate this into your estate and retirement planning strategy, please call us at 973-994-9494.

References

Some of the information used in writing this document was adapted from the following sources:

A Guide to Planned Giving from www.purdue.giftlegacy.com

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About the Authors

Ron Matan

Ron Matan, a Member of the Firm and Member in Charge of Sobel & Co.'s Nonprofit and Social Services Group, brings a unique blend of public accounting and business acumen to every client engagement. A key member of Sobel & Co.'s Leadership Team since joining the firm in 1997, Ron works primarily with non-profit organizations, including United States Department of Housing and Urban Development ("HUD") projects, A-133 engagements, and low income housing tax credit programs ("LIHTC").

Ron is a Certified Public Accountant licensed to practice in New Jersey, New York and Pennsylvania. He is a member of the American Institute of Certified Public Accountants and the New Jersey Society of Certified Public Accountants (NJSCPA). Ron has been elected to the PKF North America Network's Nonprofit Committee where he serves as Vice-Chair, and in June 2004, Ron was appointed to the New Jersey Society of Certified Public Accountants Peer Review Executive Committee. Ron is also a member of the NJSCPA's Nonprofit Interest Group.

As Member in Charge of the firm's Nonprofit and Social Services Group (audits of A-133, HUD and LIHTC programs), Ron is responsible for the firm-wide quality of this practice area and is the firm liaison for the AICPA's Government (Nonprofit) Audit Quality Center. With over 30 years experience of public accounting and private industry experience with all types of nonprofit and social service organizations, Ron brings a unique blend of experience and insight to these specialized engagements. Ron is a Certified Tax Credit Compliance Professional and is listed in the Guide which is circulated to all State Agencies Allocating Tax Credits as well as the Internal Revenue Service. He also has taken courses in advanced training for peer reviews and performs peer reviews of other accounting firms.

Ron is a member of the Board of Directors of First Occupational Center and serves on the Education Committee for the Mid-Atlantic Chapter of the Society for Association Executives (NJSAE). Ron has been appointed to the Plainfield Neighborhood Health Center Board and Union County Educational Services Foundation Board. Ron was the former treasurer and board member of Kids Peace Treatment Centers for emotionally disturbed children, located in Bethlehem, Pennsylvania.

Ron is a graduate of Kings College in Wilkes-Barre, Pennsylvania, where he received a Bachelor of Science Degree in Accounting.

Bridget Hartnett

Bridget Hartnett, a senior manager in the Nonprofit and Social Services Group at Sobel & Co. LLC, has more than ten years of experience in public accounting. She uses her experience to provide services for clients as their most trusted advisor, drawing especially on her expertise in accounting and auditing to assist them.

Bridget works with clients in social services and nonprofit areas, including educational institutions, as well as other niches such as benefits plans, retail, construction, and real estate. Bridget supervises the audit engagements conducted by Sobel & Co. for the Cerebral Palsy Association of Middlesex County, the Youth Development Clinic of Newark and the Catholic Charities of the Trenton and Metuchen diocese, Freedom House, and C.J. Foundation. In addition, she handles all of the firm's education audits and holds a New Jersey Public School Auditor's license.

Bridget is also responsible for preparation of nonprofit, corporate, partnership, fiduciary and individual tax returns.

Bridget carries her commitment to social services beyond the work place to a personal involvement in several areas such as at St. Benedict's school in Holmdel where she is always available for volunteering for projects and special events as needed as well as giving resources—and often her time—to various children's charities, such as the New Jersey chapter of Make-A-Wish and others. She is also a volunteer with professional business groups in the New Jersey community, including the Western Monmouth Chamber of Commerce, Monmouth Ocean County Nonprofit Committee and the New Jersey CPA Society Nonprofit Interest Group.

As a licensed certified Public Accountant in New Jersey, Bridget is a member of both the American Institute of Certified Public Accountants (AICPA) and the New Jersey Society of Certified Public Accountants (NJSCPA).

Bridget graduated with her Bachelor of Science degree from Montclair State University. She resides with her husband and two daughters in Aberdeen, New Jersey.

About Sobel & Co.’s Nonprofit and Social Services Group

Sobel & Co.’s nonprofit and social service clients are served by a team of professionals who understand the importance of efficient operations for charitable, educational, government and civic organizations. With more than 160 clients in this growing niche, the team has developed a distinctive depth of experience that enables us to deliver the high quality service combined with industry expertise that our clients deserve.

At our firm we do more than “walk the walk” and “talk the talk” for our nonprofit clients. Instead, we deliver the advice and guidance that the situation calls for, from long range planning to disaster recovery to executive compensation. No matter what the issues, we have services tailored to their critical needs. Along with the more traditional accounting and tax services that Sobel & Co. provides for the nonprofit community, we also offer a range of additional services.

Taking care of nonprofits is a top priority at Sobel & Co. As a result, our clients benefit from our proven track record, specialized technical skills, industry credentials and ongoing commitment to remain at the cutting edge of the nonprofit services sector.