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The American Council on Gift Annuities thanks...



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31st Conference on Planned Giving***

To Our Participants:

Please refer to the conference program for a complete agenda, including room assignments. The program also includes a diagram of the exhibit hall and a list of exhibitors.

The views expressed in the papers presented in this publication are those of the authors and do not necessarily reflect the opinions of ACGA, its staff, or its board members. ACGA does not guarantee the accuracy of the authors' comments, and none of the material in these proceedings should be construed as legal advice. Readers are urged to consult their own legal counsel regarding any information found herein. Permission to reprint an individual paper must be secured from the author of the paper.

Neither ACGA nor the Baltimore Marriott Waterfront Hotel are responsible for lost or stolen conference proceedings. Replacement cost for the conference proceedings is \$60.00.

Welcome from the ACGA Chairman



Welcome to Baltimore and the 31st Conference of the American Council on Gift Annuities. You join a long line of outstanding individuals who have been attending ACGA Conferences since they began under the flag of the Committee on Gift Annuities in 1927. The “HMS ACGA” has docked alongside the USS Constellation in the beautiful Baltimore Inner Harbor. It is my privilege to welcome you to Baltimore on behalf of the ACGA Board of Directors.

Our three days together will bring new insight and understanding to the influences and uniqueness of the times in which we live. As we have recovered from the fear and anxiety of Y2K, 9/11, and 2008 we are faced with the “aging of the world” and all the opportunities and challenges that come with this cultural reality that will last for the next 50 years.

“Charting a Course for the Future” has been designed to bring you a mix of the old and proven techniques along with new and fascinating methodologies to challenge status quo. Open yourself to the opportunities that present themselves during our time together! Learn and absorb all that you can! It is our hope that you will return to your home port invigorated and willing to sail into the future with a new compass and “chart” for your future.

Good Sailing,



ACGA President & Chairman of the Board

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The 31st American Council on Gift Annuities Conference

A Conference on Planned Giving

ACGA would like to thank the volunteers and staff that dedicated their time and expertise to making this conference possible.

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Table of Contents

MODEL STANDARDS OF PRACTICE FOR THE CHARITABLE GIFT PLANNER.....8

CONFERENCE SPONSORS.....9

CONFERENCE EXHIBITORS.....10

CONFERENCE SCHEDULE13

GENERAL SESSION LISTING14

CONFERENCE FACULTY & SESSION DESCRIPTIONS15

 Wednesday, April 9th Symposia & Keynote Address 15

 Thursday, April 10th Morning Sessions16

 Thursday, April 10th Rates Luncheon.....20

 Thursday, April 10th Afternoon Sessions21

 Friday, April 11th Morning Sessions26

 Friday, April 11th Closing Luncheon32

SESSION HANDOUTS.....33

Wednesday, April 9th - Keynote & Symposia35

 Symposium #1: Trends in Planned Giving.....39

 Symposium #2: Is Traditional Planned Giving Like Cursive Writing?43

 Keynote Address: Selling with Noble Purpose: How to Drive Revenue and Do Work That Makes You Proud59

Thursday, April 10th - Morning Sessions.....65

 State Regulations - Panel Discussion (Track III)69

 Advanced Planning with Gift Annuities (Track II, III).....87

 Introduction to Gift Annuities: Using Best Practices (Track I)..... 111

 Encouraging Generosity: The Demographics of Charitable Estate Planning (Track I, II, III)..... 125

 Donor Centered Gift Development - Ten Steps to Success (Track I, II)..... 139

 Investing CGA and CRT Assets in a Litigious Society - Managing the Process (Track III)..... 149

 Charitable Gifts Using IRAs (Track II)..... 161

 Integrating Gift Planning with Major Gifts (Track II, III) 179

 Rates Luncheon & Chair’s Address: Gift Annuity Rates Presentation 195

Thursday, April 10th - Afternoon Sessions.....223

 Innovative Charitable Lead Trust Structures: Bringing Economic Efficiencies to a Wealth Transfer Workhorse (Track II)227

 Gift Annuity Administration (Track I, II, III)..... 265

 Monitoring Outside Managed Trusts (Track III) 275

 Creative Charitable Planning with Non-Cash Assets (Track II, III) 287

 UPMIFA (Track III) 303

 Donor Stewardship: The Care and Feeding of Donors (Track I, II) 317

 Capitalizing on a Strategic Process for Hiring Development Staff (Track II) 333

 Impact of ATRA 2012 on Estate Planning (Track II, III)..... 355

Friday, April 11th - Morning Sessions.....369

 Prospect Identification and Marketing (Track I, II)..... 373

 Gift Planning with Real Estate (Track II) 387

 Data-Driven Marketing of Gift Annuities: Results You Can Use from the 2013 Survey - Panel Discussion (Track I, II).... 401

 The Ethics of Advising Elderly Donors and Clients (Track I, II)..... 407

 Propel Campaign Success with Planned Giving (Track II)..... 421

 Planning and Drafting Charitable Remainder Trusts (Track I)..... 435

 Optimizing Your Realized Bequests - Panel Discussion (Track II, III)..... 447

 Gift Annuity Marketing Ideas that Generate Inquiries & Gifts - Panel Discussion (Track I)..... 453

 Closing Luncheon: Robin Good and His Merry Remaindermen 461

Model Standards of Practice for the Charitable Gift Planner

Preamble

The purpose of this statement is to encourage responsible gift planning by urging the adoption of the following Standards of Practice by all individuals who work in the charitable gift planning process, gift planning officers, fund raising consultants, attorneys, accountants, financial planners, life insurance agents and other financial services professionals (collectively referred to hereafter as "Gift Planners"), and by the institutions that these persons represent.

This statement recognizes that the solicitation, planning and administration of a charitable gift is a complex process involving philanthropic, personal, financial, and tax considerations, and often involves professionals from various disciplines whose goals should include working together to structure a gift that achieves a fair and proper balance between the interests of the donor and the purposes of the charitable institution.

I. **Primacy of Philanthropic Motivation**

The principal basis for making a charitable gift should be a desire on the part of the donor to support the work of charitable institutions.

II. **Explanation of Tax Implications**

Congress has provided tax incentives for charitable giving, and the emphasis in this statement on philanthropic motivation in no way minimizes the necessity and appropriateness of a full and accurate explanation by the Gift Planner of those incentives and their implications.

III. **Full Disclosure**

It is essential to the gift planning process that the role and relationships of all parties involved, including how and by whom each is compensated, be fully disclosed to the donor. A Gift Planner shall not act or purport to act as a representative of any charity without the express knowledge and approval of the charity, and shall not, while employed by the charity, act or purport to act as a representative of the donor, without the express consent of both the charity and the donor.

IV. **Compensation**

Compensation paid to Gift Planners shall be reasonable and proportionate to the services provided. Payment of finder's fees, commissions or other fees by a donee organization to an independent Gift Planner as a condition for the delivery of a gift is never appropriate. Such payments lead to abusive practices and may violate certain state and federal regulations. Likewise, commission-based compensation for Gift Planners who are employed by a charitable institution is never appropriate.

V. **Competence and Professionalism**

The Gift Planner should strive to achieve and maintain a high degree of competence in his or her chosen area, and shall advise donors only in areas in which he or she is professionally qualified. It is a hallmark of professionalism for Gift Planners that they realize when they have reached the limits of their knowledge and expertise, and as a result, should include other professionals in the process. Such relationships should be characterized by courtesy, tact and mutual respect.

VI. **Consultation with Independent Advisers**

A Gift Planner acting on behalf of a charity shall in all cases strongly encourage the donor to discuss the proposed gift with competent independent legal and tax advisers of the donor's choice.

VII. **Consultation with Charities**

Although Gift Planners frequently and properly counsel donors concerning specific charitable gifts without the prior knowledge or approval of the donee organization, the Gift Planner, in order to insure that the gift will accomplish the donor's objectives, should encourage the donor early in the gift planning process, to discuss the proposed gift with the charity to whom the gift is to be made. In cases where the donor desires anonymity, the Gift Planner shall endeavor, on behalf of the undisclosed donor, to obtain the charity's input in the gift planning process.

VIII. **Description and Representation of Gift**

The Gift Planner shall make every effort to assure that the donor receives a full description and an accurate representation of all aspects of any proposed charitable gift plan. The consequences for the charity, the donor and, where applicable, the donor's family, should be apparent, and the assumptions underlying any financial illustrations should be realistic.

IX. **Full Compliance**

A Gift Planner shall fully comply with and shall encourage other parties in the gift planning process to fully comply with both the letter and spirit of all applicable federal and state laws and regulations.

X. **Public Trust**

Gift Planners shall, in all dealings with donors, institutions and other professionals, act with fairness, honesty, integrity and openness. Except for compensation received for services, the terms of which have been disclosed to the donor, they shall have no vested interest that could result in personal gain.

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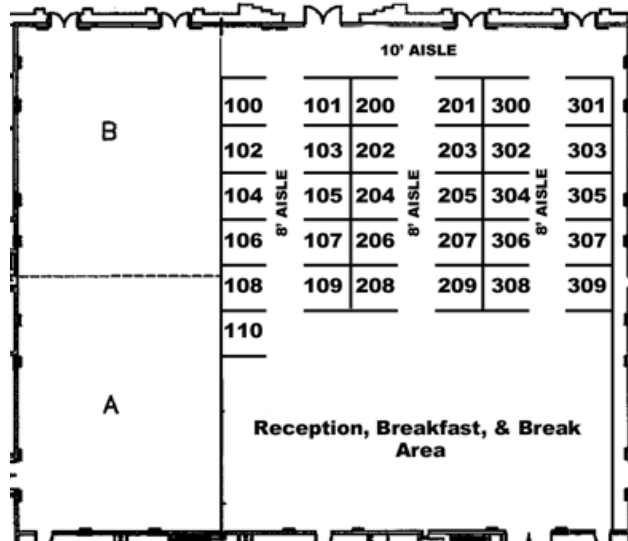


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Booth #

ACGA Sponsorship & State Regulations	110
BNY Mellon Wealth Management.....	101
Carr Assessments.....	306
Charitable Trust Administration Co. (CTAC).....	307
Charitable Giving Resource Center.....	309
CharitablePlanning.com.....	207
Chesapeake Planned Giving Council & National Capital Gift Planning Council	201
Comerica Legacy Foundation	205
Cornerstone Management.....	208
Crescendo Interactive, Inc.	200-206
Endowment Development Services (EDS).....	104
Gabriel Group.....	209
Green Oak Consulting Group	304
Holland & Knight.....	100
Kaspick & Company, LLC	105 & 107
MetLife	102
Northern Trust.....	203
Partnership for Philanthropic Planning (PPP).....	303
Pentera.....	300 & 302
PG Calc.....	103
PNC Bank N.A.....	301
R&R Newkirk	308
RuffaloCODY	106
Sharpe Group.....	305
State Street Global Advisors	108
The Stelter Company	109



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Conference Schedule

Wednesday, April 9

10:00am - 8:30pm	Registration Open
1:30pm - 3:00pm	Symposium 1: Trends in Planned Giving Robert F. Sharpe, Jr., Sharpe Group Harbor A & B
3:30pm - 5:00pm	Symposium 2: Is Traditional Planned Giving Like Cursive Writing? Frank Minton, Frank Minton Consulting, LLC Harbor A & B
5:30pm - 6:30pm	Grand Opening Reception Exhibit Hall Exhibit Hall: Harborside Ballroom C, D, & E Sponsored by: PNC Bank N.A.
6:30pm - 9:00pm	Opening Dinner & Keynote Address: Selling with Noble Purpose: How to Drive Revenue and Do Work That Makes You Proud Lisa Earle McLeod, McLeod & More, Inc. Grand Ballroom V & VI

Thursday, April 10

7:30am - 4:30pm	Registration Open
7:30am - 8:30am	Continental Breakfast Exhibit Hall: Harborside Ballroom C, D, & E
8:30am - 9:45am	Morning Breakout Sessions See session list
9:45am - 10:15am	Refreshment Break Exhibit Hall: Harborside Ballroom C, D, & E
10:15am - 11:30am	Morning Breakout Sessions Repeated See session list
11:45am - 1:15pm	Rates Luncheon & Chair's Address David A. Libengood, ACGA Rates Committee Chair & Lindsay Lapole, ACGA Chairman Grand Ballroom V & VI Sponsored by: Kaspick & Company, LLC
1:30pm - 2:45pm	Afternoon Breakout Sessions See session list
2:45pm - 3:15pm	Refreshment Break Exhibit Hall: Harborside Ballroom C, D, & E
3:15pm - 4:30pm	Afternoon Breakout Sessions Repeated See session list
4:30pm - 5:45pm	Waterfront Reception Harborside Ballroom C, D, & E Sponsored by: Chesapeake Planned Giving Council & National Capital Gift Planning Council
5:45pm	Enjoy Baltimore on your own!

Friday, April 11

7:30am - 12:00pm	Registration Open
7:30am - 8:30am	Continental Breakfast Exhibit Hall: Harborside Ballroom C, D, & E
8:30am - 9:45am	Morning Breakout Sessions See session list
9:45am - 10:15am	Refreshment Break Exhibit Hall: Harborside Ballroom C, D, & E
10:15am - 11:30am	Morning Breakout Sessions Repeated See session list
11:45pm - 1:15pm	Closing Luncheon: Robin Good and His Merry Remaindermen Conrad Teitell, Cummings & Lockwood Grand Ballroom V & VI Sponsored by: The Sharpe Group

Conference Adjourned

General Session Listing

See program brochure for room assignments

Thursday, April 10 ● Morning Sessions (8:30am - 9:45am & 10:15am - 11:30am)

Session	Track
State Regulations - Panel Discussion Kristen Schultz Jaarda, J.D., LL.M. - Crescendo Interactive, Inc. (moderator)	Track III
Advanced Planning with Gift Annuities Frank Minton - Frank Minton Consulting, LLC	Track II, III
Introduction to Gift Annuities: Using Best Practices Laurie W. Valentine - Kentucky Baptist Foundation	Track I
Encouraging Generosity: The Demographics of Charitable Estate Planning Russell James, J.D., Ph.D., CFP® - Texas Tech University	Track I, II, III
Donor Centered Gift Development - Ten Steps to Success Lindsay Lapole - Lindsay Lapole & Associates, Inc.	Track I, II
Investing CGA and CRT Assets in a Litigious Society - Managing the Process Fran M. Coopersmith, Esq. - Asset Strategy Consultants	Track III
Charitable Gifts Using IRAs Jeremiah "Jere" W. Doyle, IV, Esq. - BNY Mellon Wealth Management	Track II
Integrating Gift Planning with Major Gifts Pamela Jones Davidson, J.D. - Davidson Gift Design & Thompson & Associates	Track II, III

Thursday, April 10 ● Afternoon Sessions (1:30pm - 2:45pm & 3:15pm - 4:30pm)

Session	Track
Innovative Charitable Lead Trust Structures: Bringing Economic Efficiencies to a Wealth Transfer Workhorse Paul S. Lee, J.D., LL.M. - Bernstein Global Wealth Management	Track II
Gift Annuity Administration Susan Gutches - Consultant & Nev Major - The Nature Conservancy	Track I, II, III
Monitoring Outside Managed Trusts Sean W. Mullaney, Esq. - Trust Analytics Group	Track III
Creative Charitable Planning with Non-Cash Assets Bryan K. Clontz, CFP®, CLU, ChFC, CAP, AEP - Charitable Solutions, LLC	Track II, III
UPMIFA Phil M. Purcell, J.D. - Ball State University Foundation	Track III
Donor Stewardship: The Care and Feeding of Donors Dan T. Garrett - ACU Foundation	Track I, II
Capitalizing on a Strategic Process for Hiring Development Staff Susan Boggs - Carr Assessments & Paula Felchner - Carr Assessments	Track II
Impact of ATRA 2012 on Estate Planning Heather J. Rhoades - Cummings & Lockwood, LLC	Track II, III

Friday, April 11 ● Morning Sessions (8:30am - 9:45am & 10:15am - 11:30am)

Session	Track
Prospect Identification and Marketing Maribett Varner - BKV Advertising	Track I, II
Gift Planning with Real Estate Emil J. Kallina, II, J.D., LL.M. - Kallina & Associates, LLC	Track II
Data-Driven Marketing of Gift Annuities: Results You Can Use from the 2013 Survey - Panel Discussion Ron Brown - Fordham University (moderator)	Track I, II
The Ethics of Advising Elderly Donors and Clients Leon C. Boghossian, III - Hinckley Allen	Track I, II
Propel Campaign Success with Planned Giving Michelle L. Glennon, Esq. - Johns Hopkins Office of Gift Planning & Scott Lumpkin - University of Denver	Track II
Planning and Drafting Charitable Remainder Trusts David Wheeler Newman - Mitchell Silberberg & Knupp LLP	Track I
Optimizing Your Realized Bequests - Panel Discussion Timothy Prosser, J.D. - Kaspick & Company (moderator)	Track II, III
Gift Annuity Marketing Ideas that Generate Inquiries & Gifts - Panel Discussion Karen Gallardo, CFRE - AARP Foundation (moderator)	Track I

Track Key:
 Track I - Fundamentals
 Track II - Intermediate & Advanced Planned Giving
 Track III - Financial, Investment & Administrative Issues

Conference Faculty & Session Descriptions

Wednesday, April 9th • Symposia & Keynote Address
(1:30pm - 3:00pm, 3:30pm - 5:00pm, & 6:30pm - 9:00pm)

Symposium #1: Trends in Planned Giving **Robert F. Sharpe, Jr. - Sharpe Group**

We are now in the sixth year of fundraising in a time of unprecedented change in the funding environment. It is now becoming increasingly clear that it may be years, if ever, before we are back to business as usual. The combination of a rapidly aging donor population, budget deficits, low interest rates, stock market fluctuations, proposed new taxes on amounts given to charity and the elimination of the federal estate tax for 99.9 percent of all Americans will mean inevitable changes in how donors will make planned gifts, especially larger ones, in coming months and years. When working with the emerging Baby Boomer generation how can we encourage gifts that will produce the most funds in the shortest period of time? Learn why counterintuitive approaches may be more productive in an increasingly competitive environment.

About the Speaker:



Robert F. Sharpe, Jr.

Robert F. Sharpe, Jr., President, Sharpe Group, is a leader in planned and major giving, noted author and speaker. With more than 30 years of fund development and consulting experience, Mr. Sharpe has helped many of the nation's leading nonprofits plan and implement successful major gift planning and endowment development programs. He is the author of many articles on a variety of gift planning topics and has been published in *The Wall Street Journal*, *The New York Times*, *Newsweek*, *Forbes*, *Smart Money*, *Market Watch*, *The Chronicle of Philanthropy*, *Trusts & Estates*, *Kiplinger's* and others. He is a frequent speaker at gatherings across the country. He serves on the editorial board of *Trusts & Estates* magazine and writes a column on philanthropic matters. He is co-author of Model Standards for Gift Valuation adopted by the Partnership for Philanthropic Planning. Mr. Sharpe is a cum laude graduate of Vanderbilt University and Cornell Law School.

Symposium #2: Is Traditional Planned Giving Like Cursive Writing? **Frank Minton - Frank Minton Consulting, LLC**

Typing is in and cursive is out as ever more young people read and write on a laptop, tablet, or cell phone. Some see this as a necessary and inevitable transition to the digital age, while others lament the loss of motor skills and thought processes associated with forming letters. Is planned giving, like writing, going through a transition where traditional practices will be superseded by new ways of giving, marketing, and interaction with donors? And during this transition, are there certain elements of traditional planned giving that have enduring value and can and should be preserved?

About the Speaker:



Frank Minton

Frank Minton founded Planned Giving Services, a national consulting firm that was acquired by PG Calc in 2005. Before entering consulting in 1991, he spent over ten years with the University of Washington, where he served as Director of Planned Giving and Executive Director of Development. He has served both as conference chair and board chair of the National Committee on Planned Giving (now the Partnership for Philanthropic Planning) and received its distinguished service award. He is a recognized expert on gift annuities and has served as chair of the American Council on Gift Annuities from which he also received a distinguished service award. He is the principal author of *Charitable Gift Annuities: the Complete Resource Manual*, the co-author of *Planned Giving for Canadians*, and has made many presentations and published numerous articles on gift planning. A number of his presentations have been to Canadian audiences, and his writing and consultation also deal with cross-border charitable gifts. He is on the advisory board of *Planned Giving Today*, and is a member of the Seattle Estate Planning Council, and the Washington Planned Giving Council.

Keynote Address: Selling with Noble Purpose: How to Drive Revenue and Do Work That Makes You Proud

Lisa Earle McLeod - McLeod & More, Inc.

How to bring a great sense of purpose to your donors, staff, and even yourself.

About the Speaker:



Lisa Earle McLeod

Lisa Earle McLeod is a sales leadership expert and the bestselling author of *Selling with Noble Purpose*.

A sought after keynote speaker, McLeod's clients include Apple, Google, Kimberly-Clark and Pfizer. She also works with numerous franchise organizations, non-profits, and trade associations.

McLeod is the Sales Leadership expert for Forbes.com and has been featured in major news outlets such as *Fortune*, *The New York Times*, and *The Wall Street Journal*. She has appeared on the Today Show, the NBC Nightly News and Good Morning America.

McLeod began her career with Procter & Gamble. She later became the Vice President of Business Development at Vital Learning (formerly McGraw-Hill Training Systems). She established her own firm, McLeod & More, Inc. in 1993.

Her book, *The Triangle of Truth*, was named by the *Washington Post* as a Top Five Book For leaders. Her first book, *Forget Perfect* was featured on Good Morning America and Oprah.com.

McLeod's work centers on how organizations and leaders can drive better results by instilling a greater sense of purpose. A greater sense of purpose enables people to close more business, become more effective leaders and lead happier lives.

Thursday, April 10th • Morning Sessions
(8:30am - 9:45am & 10:15am - 11:30am)

State Regulations - Panel Discussion (Track III)

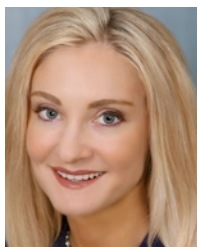
Kristen Schultz Jaarda, J.D., LL.M. - Crescendo Interactive, Inc. (moderator)

This year's state regulations session is aimed at educating charities on the ongoing compliance requirements relating to state gift annuity regulations. Representatives from state agencies will speak on a panel regarding regulatory issues relevant to their states. The goal is to educate charities on ways to comply with state law in issuing and administering gift annuities, with emphasis on meeting both initial and annual reporting requirements. The panel will be moderated and there will be time for Q & A from the audience.

About the Moderator:

Kristen Schultz Jaarda, J.D., LL.M.

As Crescendo's Senior Vice President, Kristen specializes in online marketing and social media for planned gifts. She is responsible for client education, and consultation for Crescendo's web services. She is a nationally recognized speaker, conducts seminars nationwide and is a principal faculty member of GiftCollege.



Kristen serves as a board member for the American Council on Gift Annuities (ACGA) and as a member of the ACGA Rates and State Regulations Committees, Editorial Advisory Board member for Planned Giving Today, Committee Member for the ABA Charitable Planning and Organization's Group, Legislative Chair and a board member for the Partnership for Philanthropic Planning of Greater Los Angeles (PPP-LA), a member of the Ventura County Planned Giving Council and a committee member and volunteer for several local charities. She writes daily for CrescendoTweet and her planned giving blog <http://www.kristenschultz.blogspot.com>.

Previously, Kristen served as Counsel to the Assistant Secretary of Education in Washington, D.C. and was Oversight Counsel to the U.S. House Committee on the Judiciary. Prior to that, she worked in a public affairs law practice. Kristen graduated from UCLA School of Law where she was Law Review Editor. She completed her Tax LL.M. with honors at Loyola School of Law. Kristen is a member of the California State Bar, D.C. Bar and the Maryland State Bar.

Panelists:

Susan Baker

Washington State

Office of the Insurance Commissioner

Edith "Edie" Matulka

PG Calc

Brenda Wilson, FLMI

Maryland Insurance Administration

Advanced Planning with Gift Annuities (Track II, III)
Frank Minton - Frank Minton Consulting, LLC

Most gift annuities are funded with cash or publicly-traded securities by an individual or couple to whom payments are made. This session discusses nine other types of assets that could be contributed for a gift annuity and eight other donor situations for which a gift annuity would be applicable. By venturing beyond “vanilla” gift annuities and broadening its marketing efforts in this manner, a charity can increase its volume of gift annuities.

About the Speaker:**Frank Minton**

Frank Minton founded Planned Giving Services, a national consulting firm that was acquired by PG Calc in 2005. Before entering consulting in 1991, he spent over ten years with the University of Washington, where he served as Director of Planned Giving and Executive Director of Development. He has served both as conference chair and board chair of the National Committee on Planned Giving (now the Partnership for Philanthropic Planning) and received its distinguished service award. He is a recognized expert on gift annuities and has served as chair of the American Council on Gift Annuities from which he also received a distinguished service award. He is the principal author of Charitable Gift Annuities: the Complete Resource Manual, the co-author of Planned Giving for Canadians, and has made many presentations and published numerous articles on gift planning. A number of his presentations have been to Canadian audiences, and his writing and consultation also deal with cross-border charitable gifts. He is on the advisory board of Planned Giving Today, and is a member of the Seattle Estate

Planning Council, and the Washington Planned Giving Council.

Introduction to Gift Annuities: Using Best Practices (Track I)
Laurie W. Valentine - Kentucky Baptist Foundation

To chart the best course for the future of your organization’s gift annuity program you must have knowledge of both gift annuity basics and best practices. This session will review the basics of current and deferred charitable gift annuities to assure you have the knowledge you need to be your organization’s in-house resource for this popular giving option. And, we’ll also explore the ACGA’s recommended best practices for gift annuity programs which can provide risk management to your organization and protection to your donors.

About the Speaker:**Laurie W. Valentine**

Laurie W. Valentine is Trust Counsel and Chief Operating Officer of the Kentucky Baptist Foundation. She is admitted to the practice of law in Florida (1982) and Kentucky (1995). Prior to beginning her work with the Foundation in 1994, she was in private practice in Florida for 12 years, specializing in estate planning, probate and guardianship law.

Mrs. Valentine has spoken on a variety of estate planning, charitable gift planning and incapacity planning topics at seminars sponsored by The Florida Bar, Louisville Bar Association, Crescendo Interactive and National Catholic Development Conference. She has also written articles and chapters on estate planning, estate administration, estate and gift taxes and legal ethics for a variety of legal publications.

Mrs. Valentine has been involved in various professional and community activities including service on the Board of the Suncoast Ronald McDonald House and the Planned Giving Committee of St. Anthony’s Healthcare Foundation in St. Petersburg, Florida, and as president of the Kentuckiana Planned Giving Council (1997-1999), Louisville, Kentucky. Mrs. Valentine has been a member of the ACGA Board since 2000, serving as chair of the 2006 Conference, on the executive committee and, since 2012, as VP-Business.

Encouraging Generosity: The Demographics of Charitable Estate Planning (Track I, II, III)
Russell James, J.D., Ph.D., CFP® - Texas Tech University

This presentation shares results from a 20+ year national longitudinal study tracking the additions and deletions of charitable estate plans for adults over the age of 50. Additionally, it presents results from the post-mortem transfers of more than 10,000 survey respondents who have died during the course of the study. This allows for a unique connection of lifetime charitable planning activity and ultimate post-mortem distributions.

About the Speaker:

Russell James, J.D., Ph.D., CFP®



Russell James, J.D., Ph.D., CFP® is a professor in the Department of Personal Financial Planning at Texas Tech University. He holds the CH Foundation Chair in Personal Financial Planning and directs the on-campus and online graduate program in Charitable Financial Planning. Additionally, he is an adjunct professor at the Texas Tech University School of Law where he teaches Charitable Gift Planning. 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. He also holds a Ph.D. in consumer economics from the University of Missouri, where his dissertation was on the topic of charitable giving.

Dr. James has over 100 publications in academic journals, conference proceedings, and books. These predominantly focus on statistical analysis related to gifts, estates, and property. He has been quoted in a variety of news sources including *The New York Times*, *The Wall Street Journal*, CNN, MSNBC, CNBC, ABC News, *U.S. News & World Report*, *USA Today*, the *Associated Press*, *Bloomberg News* and the *Chronicle of Philanthropy*.

Donor Centered Gift Development - Ten Steps to Success (Track I, II)
Lindsay Lapole - Lindsay Lapole & Associates, Inc.

From prospect identification to gift closure, these "10 Steps to Success" have proven themselves successful when used by hundreds of planned giving professionals closing thousands of gifts. Developed over 35 years and tested in the lives of real people and their families, these steps move the development process off the institutional balance sheet and become the tools for changing the lives of our prospects and their families.

About the Speaker:

Lindsay Lapole



Mr. Lapole is a native of West Virginia and a graduate of Marshall University. Lindsay began his career in fund raising and volunteer management with the Boy Scouts of America in 1969 in Louisville, KY.

In 1979, Mr. Lapole began his 35 year career with The Salvation Army, serving as the Planned Giving Director in Louisville, KY and Tampa, FL. Beginning in August 1986, Mr. Lapole became the Territorial Planned Giving Director of The Salvation Army, USA Southern Territory, a position he held for 27 years until his retirement in July 2013. He was responsible for recruiting, training, and technical consultation for the professional staff of 34 in the 15 Southeastern states as well as the administration, marketing, and quality control for the program across the territory.

Mr. Lapole has served on the Board of Directors of the Georgia Chapter of the Association of Fund Raising Professionals and received his Certified Fund Raising Executive credential in 1985. He is a past board member and President of the Georgia Planned Giving Council. He also served for fifteen years as Chairman of the National Planned Giving Consultants Committee of The Salvation Army.

Lindsay was elected to the Board of Directors for the American Council on Gift Annuities in 1999. He served as the Conference Chair of the 2004 Conference on Gift Annuities, Chair of the State Regulation Committee and Secretary to the Board. Since 2008, Mr. Lapole has served as President and Chair of the Board of Directors of the American Council on Gift Annuities.

Mr. Lapole has been a frequent speaker on topics related to planned giving, and fund raising management throughout the country. In 2012, he was invited by the Republic of Korea to speak at the 2nd International Conference on Sharing in Seoul, South Korea.

Since retirement, Lindsay continues to serve the charitable community as a consultant through his own firm of Lindsay Lapole & Associates, Inc.

Investing CGA and CRT Assets in a Litigious Society - Managing the Process (Track III)

Fran M. Coopersmith, Esq. - Asset Strategy Consultants

Identifying the players, the fiduciary responsibilities, and managing the process for a superior investment program for CGA and CRT assets.

About the Speaker:

Fran M. Coopersmith, Esq.



Fran M. Coopersmith is Senior Consultant and head of the West Palm Beach office of Asset Strategy Consultants. She provides her Endowment, Foundation, Retirement Plan, and High Net Worth clients with a unique consulting perspective of the investment arena.

In addition to her Juris Doctor, MBA, and BS in Engineering from Washington University in St. Louis, Fran has over 25 years of Financial, Administrative, and Consulting experience, in both the for and not-for-profit sectors.

Fran has hands-on experience in two key areas -- Investment Management and Endowments/Foundations. She was a portfolio manager for Brandywine Asset Management, responsible for research and client service in their large cap value product, and a portfolio manager for Rorer Asset Management, providing industry research and client services to high net worth individuals for their large cap relative value product. At Rorer she was also responsible for AIMR performance calculations and reconciliation, and proxy voting.

In addition, Fran has served as Chief Financial Officer for two non-profit Foundations, William Penn Foundation, in Philadelphia, and Quantum Foundation in West Palm Beach. As CFO, Fran was responsible for investments, accounting and budgets, data processing, and human resources, and the pension plan. She worked closely with the Board of Directors and Finance Committee.

Fran is also a recognized authority in Social Investment issues, also known as Mission-based Investment.

She helped found the Delaware Valley Chapter of the Social Investment Forum while CFO at the William Penn Foundation. At the time, William Penn Foundation was the largest private foundation to implement Social Investment guidelines, with both positive and negative screens. Her industry experience has proven to be an exceptional resource for her consulting clients across the entire consulting relationship – asset allocations; investment policy statements; manager structure, manager evaluation and monitoring; and on-going communication about research, reporting, investment and financial issues.

Fran came to Asset Strategy Consultants from Shields Associates, where she was a Senior Partner, after Shields Associates was acquired by a Private Equity funded firm.

Charitable Gifts Using IRAs (Track II)

Jeremiah “Jere” W. Doyle, IV, Esq. - BNY Mellon Wealth Management

Structuring Charitable Gifts of IRAs – discusses the income and estate tax implications of leaving an IRA to charity, both at death and during life, with a discussion of the interaction of the minimum required distribution rules, the \$100,000 exclusion for direct gift under Pension Protection Act of 2006 and how to structure the gift to minimize adverse tax consequences.

About the Speaker:

Jeremiah “Jere” W. Doyle, IV



Jere Doyle is an estate planning strategist for BNY Mellon's Private Wealth Management group and a Senior Vice President of Bank of New York Mellon. He has been with the firm since 1981. Jere provides high net worth individuals and families throughout the country with integrated wealth management advice on how to hold, manage and transfer their wealth in a tax efficient manner. Jere is admitted to practice law in the Commonwealth of Massachusetts and before the United States District Court, United States Court of Appeals (First Circuit) and the United States Tax Court. He formerly served as a member of the Massachusetts Joint Bar Committee on Judicial Appointments. He is the editor and co-author of Preparing Fiduciary Income Tax Returns, a contributing author of Preparing Estate Tax Returns, a contributing author of Understanding and Using Trusts, a contributing author of Drafting Irrevocable Trusts in Massachusetts all published by Massachusetts Continuing Legal Education, a reviewing editor of the 1041 Deskbook published by Practitioner's Publishing Company and a contributing columnist for Estate Planning Review – The Journal published by Commerce Clearing House. Jere is

a lecturer in law in the Graduate Tax Program at Boston University School of Law. Jere received a LL.M. in banking law from Boston University Law School, a LL.M. in taxation from Boston University Law School, a Juris Doctor from Hamline University Law School and a BS in accounting from Providence College. He is a member of the American Bar Association, Massachusetts Bar Association, Boston Estate Planning Council and the Essex County Bar Association. He served as president of the Boston Estate Planning Council and currently serves as a member of its Executive Committee and was a 20-year member of the Executive Committee of the Essex County Bar Association. He is also a member of the steering committee for the American Institute of Certified Public Accountants

Advanced Estate Planning Program. He was named as the “Estate Planner of the Year” in 2009 by the Boston Estate Planning Council. In 2011 he was elected to the National Association of Estate Planners & Councils (NAEPC) Estate Planning Hall of Fame as an Accredited Estate Planner® (Distinguished). He has spoken at numerous professional education programs throughout the country on various topics, been quoted in numerous business publications and has appeared on CNBC, MSNBC and CNN.

Integrating Gift Planning with Major Gifts (Track II, III)

Pamela Jones Davidson, J.D. - Davidson Gift Design & Thompson & Associates

Gift planning is now part of major gift fundraising in most nonprofit development shops, due to the prospect pool and their asset holdings. Major gift officers have many opportunities to listen for what prospects state as their impediment to giving, reasons they cannot afford to part with income. These “cues and clues” will be addressed and what MGO’s can suggest, such as outright gifts like the IRA Charitable Rollover. Also covered will be certain activities in non-profits that can lead to ongoing gift planning conversations at life stages by major gift officers.

About the Speaker:

Pamela Jones Davidson, J.D.

Pamela Jones Davidson, J.D., is President of **Davidson Gift Design**, in Bloomington, Indiana, a consulting firm specializing in all aspects of gift planning and training. She is also a Senior Vice President for **Thompson & Associates**, offering estate planning services to nonprofits. She was with Indiana University Foundation for 11 ½ years, most as its Executive Director of Planned Giving and Associate Counsel.

Ms. Davidson has a B.A. from Indiana University and graduated *magna cum laude* from the Indiana University School of Law at Indianapolis in 1979. She has been an examiner in the Estate and Gift Tax Division of the Internal Revenue Service, and practiced law.

Ms. Davidson was the 1999 President (now, Chair) of the National Committee on Planned Giving (now, Partnership for Philanthropic Planning, “PPP”), and on its board for six years. She serves on the Editorial Board of the Planned Giving Design Center and on the Boards of several charities in her community.



Thursday, April 10th • Rates Luncheon

Rates Luncheon & Chair’s Address: Gift Annuity Rates Presentation
David A. Libengood, ACGA Rates Committee Chair - Kaspick & Company, LLC
Lindsay Lapole, ACGA Chairman - Lindsay Lapole & Associates, Inc.
Sponsored by: Kaspick & Company, LLC

Join us as the ACGA Rates Committee Chair discusses developments regarding ACGA’s suggested gift annuity rates.

About the Speakers:

David A. Libengood

Mr. Libengood leads the team of relationship managers/consultants at Kaspick & Company. He has over 25 years of experience in the planning, administration, and investment of planned gifts. He is also the Chair of the Rates Committee of the Board of Directors of the American Council on Gift Annuities (ACGA) and is a Past President of the Planned Giving Group of New England. Prior to joining Kaspick & Company in 2001, he was responsible for gift planning, trust and bequest administration, and the investment of life income gifts at The First Church of Christ, Scientist in Boston, Massachusetts. Mr. Libengood graduated with high honors from the American Bankers Association’s National Graduate Trust School and is a Certified Trust and Financial Advisor (CTFA). He holds a Bachelors of Music Performance degree and an MBA with distinction from The University of Michigan.



Lindsay Lapole, ACGA Chairman - Lindsay Lapole & Associates, Inc.



Thursday, April 10th • Afternoon Sessions
(1:30pm - 2:45pm & 3:15pm - 4:30pm)

Innovative Charitable Lead Trust Structures: Bringing Economic Efficiencies to a Wealth Transfer Workhorse (Track II)
Paul S. Lee, J.D., LL.M. - Bernstein Global Wealth Management

An IRS ruling, combined with a low 7520 rate has injected new life into a rarely used estate planning vehicle: the CLAT; particularly if the CLAT is structured with back-loaded annuity payments. This presentation discusses:

- How a properly structured CLAT can transfer more wealth than a GRAT and a sale to an IDGT
- Non-grantor and “intentionally defective” grantor CLATs
- Lifetime vs. testamentary CLATs
- How to structure transactions that avoid violation of the private foundation rules
- The investment implications of back-loaded annuity CLATs
- Specific applications pertaining to contributions of FLP interests, private equity investments, preferred investment FLP interests, highly-appreciated single stock positions and life insurance

About the Speaker:

Paul S. Lee, J.D., LL.M.



Paul S. Lee is a National Managing Director of Bernstein Global Wealth Management, a position he assumed in 2006; he is also a member of the firm’s Wealth Management Group, which he rejoined in 2008. Previously, he had been a managing director in the London and New York offices. Prior to joining the firm in 2000 as a Wealth Management Group director, he was a partner in the Atlanta-based law firm of Smith, Gambrell & Russell, LLP. Lee received a BA, cum laude, in English and a BA in chemistry from Cornell University, and a J.D., with honors, from Emory University School of Law, where he was notes and comments editor of the Emory Law Journal; he also received an LLM in taxation from Emory University. Lee was the recipient of the Georgia Federal Tax Conference Award for Outstanding Tax Student and the Ernst & Young Award for Tax and Accounting. A frequent lecturer and panelist on investment planning and tax and estate planning, Lee has spoken at the Heckerling Institute on Estate Planning, the ACTEC National Meeting, the ABA Tax-RPTE Joint National CLE Conference, the Southern Federal Tax Institute, the USC Institute on Federal Taxation and the Notre Dame Tax and Estate Planning Institute. His articles have been published by The ACTEC Law Journal; BNA Tax Management Estates, Gifts and Trusts Journal; BNA Tax Management Memorandum; The Practical Tax Lawyer; Major Tax Planning; Trusts & Estates; and the Emory Law Journal.

Gift Annuity Administration (Track I, II, III)
Susan Gutches - Consultant & Nev Major - The Nature Conservancy

The behind the scenes requirements of a gift planning department are as important as the out-the-door fundraising efforts. A solid gift administration program ensures that your organization will realize the maximum eventual proceeds from deferred gifts. This session will cover best practices in gift planning administration that need to be implemented to keep your organization functioning effectively. Key issues will include: gift acceptance policies, gift annuity registration, investment policies, acceptance of non-cash gifts, and estate administration.

About the Speakers:

Susan Gutches



Susan Gutches is a consultant to non-profit organizations on projects relating to Gift Planning and Gift Planning Administration. She serves on the Boards of the American Council on Gift Annuities as Treasurer; Planned Parenthood of Metropolitan Washington as Chair of the Governance Committee; and the Foundation for the Preservation of Historic Georgetown. Her previous professional experience includes the positions of Director of Gift Planning at The Nature Conservancy and at The National Trust for Historic Preservation. She has a BA from Smith College and a Master’s of Public and Private Management from Yale University’s School of Management.



Nev Major

Nev Major has worked at The Nature Conservancy for over 17 years in a variety of roles. As the Director of Gift Administration he oversees The Nature Conservancy's planned gift asset management, donor advised fund program, estate distributions and gifts of securities. He graduated from James Madison University with a degree in history and anthropology. A native Virginian, he enjoys camping and hiking around the Shenandoah Valley and currently lives in Warrenton, VA with his wife and two children.

Monitoring Outside Managed Trusts (Track III) **Sean W. Mullaney, Esq. - Trust Analytics Group**

This presentation will cover key issues involving the investment and administration of outside managed trusts which benefit your organization. Questions we will address will include:

- How did the trustee determine the investment objective for the trust and how is it monitored?
- How has the trust's investment portfolio performed relative to an appropriate benchmark over the past one, three, five and ten year periods?
- Is the trustee using proprietary mutual funds or common trust funds?
- What is the trustee's security and/or mutual fund selection process and how is it implemented at the trust level?
- For trusts which currently pay income to your organization, how was the distribution rate determined and how often is the distribution rate reviewed?
- How are the trustee fees determined and how do they relate to fees being charged by other corporate fiduciaries?
- Is the trust paying taxes and, if so, how can we minimize or avoid such taxes?
- What does it mean if the trust is a "private foundation" versus a "supporting organization"?
- When does a small trust become "non-economic" and how can it be terminated?
- Has the Uniform Trust Code been adopted in the state in which the trust is being administered and how does that affect the administration of the trust?

Understanding the answers to these questions is necessary for ensuring that your outside managed trusts are being invested and administered in a manner that will provide an appropriate level of financial support to your organization.

About the Speaker:



Sean W. Mullaney, Esq.

Sean W. Mullaney is the founding principal of Trust Analytics Group (TAG). TAG provides cross-disciplinary advisory services to nonprofit institutions and trustees on a broad range of issues relating to the investment and administration of charitable trusts. Since its founding in 2003, TAG has advised a broad array of nonprofit institutions, including some of the country's largest nonprofits as well as leading colleges, universities and hospitals. Prior to TAG, Sean held a variety of executive positions with both public and privately held consulting firms. Sean began his legal career with Ropes & Gray in Boston, MA, practicing in the area of corporate finance. Sean graduated with high honors from Boston College and with honors from Boston College Law School. Sean is also the founder of Shelter Legal Services Foundation, a nonprofit organization which has provided free legal services to more than 5,000 homeless and poor people since 1991.

Creative Charitable Planning with Non-Cash Assets (Track II, III) **Bryan K. Clontz, CFP®, CLU, ChFC, CAP, AEP - Charitable Solutions, LLC**

Having a thorough understanding of charitable planning techniques is critical when assisting affluent donors with charitable giving and tax planning. How would you help a client who wants to donate a painting, horse or beach house to charity? Non-cash assets such as real estate, closely held stock, collectibles, etc., are estimated to be a \$40-60 trillion market. Yet non-cash assets represent less than 5% of all charitable gifts. Bryan will cover how to potentially maximize donations through untapped assets such as real estate, privately held C corporations, S corporations, LLCs, limited partnerships and other unique assets. This highly interactive session will employ case studies to illuminate the key points.

About the Speaker:



Bryan K. Clontz, CFP®, CLU, ChFC, CAP, AEP

Bryan is the founder and President of Charitable Solutions, LLC, specializing in non-cash asset receipt and liquidation, gift annuity reinsurance brokerage, gift annuity risk management audits, emergency assistance funds and life insurance appraisals/audits.

Bryan currently serves as the Leon L. Levy Fellow in Philanthropy at The American College of Financial Services. He also serves as a Senior Consultant to Ekstrom & Associates – a community foundation consulting firm in New Haven, CT. Bryan is the founder of the Dechomai Foundation, Inc. and the Dechomai Asset Trust - two national donor advised funds focusing on non-cash assets generally and S-corp transactions respectively. He is also the founder and President of The Emergency Assistance Foundation, Inc. – a national fund allowing employers to create emergency assistance and disaster relief funds for their employees.

In the decade prior to founding Charitable Solutions, LLC in 2003, he served as the director of planned giving for the United Way of Metropolitan Atlanta, national director of planned giving for Boys & Girls Clubs of America and then as vice president of advancement at The Community Foundation for Greater Atlanta. He received a bachelor's of science in business administration from the College of Charleston in Charleston, SC; a master's degree in risk management and insurance from Georgia State University in Atlanta, GA; and a master's degree in financial services from the American College in Bryn Mawr, PA.

From 2000-2005, he served as a graduate adjunct professor for both personal financial planning and life insurance in the Department of Risk Management and Insurance at Georgia State University. He serves on the Editorial Board of the Planned Giving Design Center (2000-current), the Advisory Board for the American College's Chartered Advisor in Philanthropy designation (2001-current), the American Council on Gift Annuities' Rate Recommendation and Research Committee (2003-2010) and the National Committee on Planned Giving Board (2007-2009).

He has given more than 2,000 presentations on charitable gift planning; been published in an international insurance textbook; and written more than two dozen articles in financial services and planned giving journals, including a planned giving manual entitled Just Add Water, which has sold more than 2,000 copies. Bryan chaired the inaugural statewide *Leave a Legacy Georgia!* campaign. He is the co-inventor of a proprietary CGA risk management process (LIRMAS- Life Income Risk Management Analytic Suite) based on an actuarial study he co-authored for the Society of Actuaries on CGA Mortality.

UPMIFA (Track III)

Philip M. Purcell, J.D. - Ball State University Foundation

This session will explain the most important aspects of the law governing charitable endowments, the Uniform Prudent Management of Institutional Funds Act (UPMIFA). We will review the legislative history of this law, highlighting differences from prior law, the Uniform Management of Institutional Funds Act (UMIFA). How UPMIFA governs the prudent management of charitable endowments will be explored in depth, including the role of the board of directors and staff in implementing investment and spending policies. Implications for fundraising, including endowment gift agreements to comply with UPMIFA, will be emphasized. Unique aspects such as financial accounting for endowments, amendments to endowments over time and definition of quasi-endowment will be analyzed as well.

About the Speaker:



Philip M. Purcell, J.D.

Phil Purcell currently serves as Vice-President for Planned Giving and Endowment Stewardship at the Ball State University Foundation assisting with a \$200 million campaign toward which \$65 million in planned gifts were raised. He is a certified fundraising executive (CFRE). Phil is an attorney and member of the American and Indiana State Bar Associations.

Phil currently serves as a volunteer on the Tax Exempt Organization Advisory Council for the Internal Revenue Service (Great Lakes States region). He teaches courses on Law and Philanthropy, Nonprofit Organization Law and Planned Giving as adjunct faculty for the Indiana University Maurer School of Law and Indiana University Lilly School of Philanthropy and Fundraising School. Phil served on the board of directors for the Partnership for Philanthropic Planning (secretary), Association of Fundraising Professionals Indiana Chapter (president) and Planned Giving Group of Indiana (president). He serves on the Editorial Advisory Board for Planned Giving Today.

He has consulted on behalf of all types of charitable organizations. He serves as senior of counsel to the Indianapolis law firm, Fleming Stage, senior consultant for Heaton Smith Group, providing legacy and charitable estate planning and on the Technical Advisory Board for The Stelter Company. Phil received his B.A. degree from Wabash College in 1981 (magna cum laude) and his J.D. and M.P.A. degrees (with honors) from Indiana University in 1985.

Donor Stewardship: The Care and Feeding of Donors (Track I, II)
Dan T. Garrett - ACU Foundation

Our donors are the lifeblood of our organizations and institutions. How can we maximize our time, energy and resources to keep life (funding) flowing to grow our outreach to those we are privileged to serve? How will we cultivate and engage donors in maximizing their gifts while uncovering future donors after we have moved on? What role should we play? What role are we willing to play? Let's discover the answers to these and other questions together as we discuss the stewardship of our stakeholders.

About the Speaker:**Dan T. Garrett**

For the past forty years Mr. Garrett has worked in the arena of fund development for not-for-profit organizations. He spent eleven years on the Development staff of Abilene Christian University, where he personally directed major campaign efforts in both Annual Giving and Estate Planning. In 1984, Mr. Garrett joined the Baylor University Medical Center Foundation where he served as Vice President until October 1, 1994 when he formed the Garrett Group, a Development and Planned Giving Consulting firm.

In addition to serving as President of the Garrett Group, Mr. Garrett was appointed Vice - Chancellor of Abilene Christian University on June 1, of 1995. In June 1998 he was named the first ever President of The ACU Foundation.

His professional experience has included regular face-to-face work with donors, as well as extensive contact and consultation with financial planning and allied professionals. He has consulted with professionals and individuals on estate plans of all sizes, securing avenues for more efficient transfer of assets and personal possessions. From 1990 through the summer of 1994 he served as a regular featured lecturer for planned giving training seminars with a national association.

Mr. Garrett holds the Bachelors of Science Degree in Business from Abilene Christian University. In 1985 he received the Certified Fund Raising Executive (CFRE) and became licensed as a Certified Financial Planner (CFPTM) designee. He has also received professional certification from the Association for Healthcare Philanthropy (CAHP), is an Accredited Estate Planner (AEP), and a Certified Wealth Consultant (CWC).

Mr. Garrett's work in the not-for-profit arena extends beyond the professional realm. He regularly serves in volunteer and official Board capacity for a number of charitable organizations. He has served as a member of the Board of Directors of the Dallas/Ft. Worth Chapter of the International Association of Financial Planners (IAFP), and on the Board of the North Texas Chapter of the Partnership for Philanthropic Planning (PPP) formerly NCPG.

He and his wife Donna, reside in Abilene, Texas and attend the Southern Hills Church of Christ where he serves as an elder. He has three sons who graduated from ACU and are Eagle Scouts.

Capitalizing on a Strategic Process for Hiring Development Staff (Track II)
Susan Boggs - Carr Assessments & Paula Felchner - Carr Assessments

Staffing for non-profit fund development is a monumental challenge. The difficulty is three-fold --- finding people who can and will do the difficult work of securing donations, bringing them on board when the resources to support and reward them are limited, and then retaining them long-enough so that they become fully trained and productive. Our not-for-profit contacts suggested that they could train on the technical aspects of the job but identifying the soft-skills and personality characteristics that would lead to success was much more difficult. They asked us to complete a study to delineate the traits and qualities that would help an individual to be successful in fundraising. We used pre-hire assessment and a variety of performance criteria in research aimed at developing performance predictors that could be used in selection. We put the model for success together with a strategic search approach that identified and qualified a pool of applicants and provided a road-map for developing the skills new hires would need. The resulting process has helped organizations to get the "right person" in the "right job" with the "right tools" which led to increased revenue production and reduced turnover. This presentation will share what our research has taught us about the people who tend to be both successful and satisfied over the long run in not-for-profit fund development.

About the Speakers:

Susan Boggs



Susan has 30+ years human resource experience. Her scope of responsibility includes: employee relations, developing performance management systems, developing and conducting management and workforce training, handling legally-charged employee performance and termination issues, handling outplacement from a corporate perspective, policy development, and talent management at all levels of an organization.

Susan began her professional career at Saks Fifth Avenue, Kansas City as Assistant Personnel Director where she was responsible for conducting training for new employees, recruiting, employee relations, payroll, seasonal staffing, and performance management.

She joined Blue Cross and Blue Shield of Kansas City where she spent seven of her ten years as Manager of Human Resource Operations. In that capacity, she was responsible for corporate recruitment, employee relations, EEOC, affirmative action, employee development, administration and development of policies and procedures, corporate re-engineering, rightsizing, outplacement, and performance management.

Susan has spent the last 18 years working as a talent management professional providing nationwide consulting to client companies with outstanding new hires (from managers to CEOs) that have become excellent employees with longevity in the organizations they joined.

Paula Felchner



Paula Felchner is a business consultant with over 25 years of experience providing services to for-profit, non-profit, and governmental organizations. For the past 18 years, she has focused on talent acquisition and talent management through her association with Carr & Associates, a firm focused on utilizing individual assessment to identify and develop individuals for their clients. She has had primary responsibility for test validation, research, and product development and is currently filling the position of V.P. of Operations.

Her work for Carr has included an extensive research program which has helped a number of organizations to identify, measure, and utilize characteristics which have been proven to be valid predictors of future performance. She helped to develop an economical online training program for non-profit leadership development with Centerpoint for Leaders, a D.C. based Points of Light organization. She has coordinated with

the Executive Service Corp to provide mentors for not-for-profit leaders seeking coaching to help them to move their organizations forward.

Prior to joining Carr & Associates, Ms. Felchner worked with the Industrial Relations Affiliates in Omaha and the Center for Applied Psychological Services at the University of Nebraska, where she conducted extensive program and management practice reviews and provided change recommendations to senior management in regards to policy/management practices. She also served as an instructor at the University of Nebraska, Omaha and Bellevue University in Bellevue, Nebraska where she conducted classes in general psychology, statistics and research methods.

Ms. Felchner holds a B.S. in Economics from Illinois State University and an M.A. in Psychology from the University of Nebraska, Omaha. She has completed all but dissertation in Industrial – Organizational Psychology with the University of Nebraska.

Impact of ATRA 2012 on Estate Planning (Track II, III)
Heather J. Rhoades - Cummings & Lockwood, LLC

“The Impact of ATRA on Estate Planning” will review the relevant transfer tax provisions of the American Taxpayer Relief Act of 2012, including the various exemptions and rates, portability and the net investment income tax, and the impact of the Act on estate and charitable planning.

About the Speaker:

Heather J. Rhoades



Heather J. Rhoades practices in the areas of estate planning, estate settlement, trust administration and charitable planning. She is resident in the West Hartford office of Cummings & Lockwood LLC where she is a Principal in the Private Clients Group. She is a member of the firm’s National Charitable Planning Group.

Heather is a frequent speaker on estate and tax planning issues and has authored a number of articles focusing on various estate planning subjects. She has been selected for inclusion in The Best Lawyers in America, a publication that lists lawyers considered by their peers to be outstanding in their field. Since 2009, Heather has been named annually by Connecticut Magazine as one of the top young lawyers in Connecticut. Heather is a Fellow of The American College of Trust and Estate Counsel.

Heather is a member of the Executive Committee of the Estates and Probate Section of the Connecticut Bar Association. She is also a member of the Hartford Foundation for Public Giving Professional Advisory Committee and the UCONN Foundation Planned Giving Professional Advisory Council. In addition, Heather is the Treasurer of the Estate and Business Planning Council of Hartford.

Heather received her B.A., summa cum laude, from the University of Connecticut and her J.D., with high honors, from the University of Connecticut School of Law.

Friday, April 11th • Morning Sessions
(8:30am - 9:45am & 10:15am - 11:30am)

Prospect Identification and Marketing (Track I, II)
Maribett Varner - BKV Advertising

An in-depth look at prospect best practices as well as some tips on trying new techniques and new media to get donors engaged in a significant way.

About the Speaker:

Maribett Varner



Maribett is one of the original founders and President of the BKV Advertising which started in 1981 with Christian Children’s Fund as their first client. BKV’s specialty is Direct and Digital Advertising where “accountability” in driving measurable results is the foundation of everyone’s thinking. While BKV works with a variety of major national brands such as AT&T and Mercedes Benz, they’ve always had a number of national non-profits on their client roster. Current clients include: American Red Cross, March of Dimes, Prison Foundation Ministries, Children International and Crohn’s and Colitis Foundation. In the Planned Giving arena, BKV has worked across a variety of media: direct mail, email, print, radio, television and digital.

Gift Planning with Real Estate (Track II)
Emanuel “Emil” J. Kallina, II, J.D., LL.M. - Kallina & Associates, LLC

In general, charities are willing to receive real estate gifts, if they can liquidate the property quickly and do so without liability. Ideally, the charity would like to receive a gift of a piece of real estate, with a reliable 3rd party buyer already lined up, obligated under a contract of sale to purchase the property to be given. However, existing laws do not permit this arrangement, not without taxing the donor on the sale and treating the donor as if he or she sold the property, and then gifted cash to the charity. The answer to this dilemma lies in a technique known as the “Charitable Put,” and other tricks of the trade designed to lessen financial exposure and legal liability.

About the Speaker:



Emanuel "Emil" J. Kallina, II, J.D., LL.M.

Mr. Kallina was educated at Bowdoin College (BA), the University of Maryland School of Law (J.D.), and New York University School of Law (LL.M. in Taxation). He is licensed to practice law in Maryland and the District of Columbia, and is admitted to practice before the U.S. Fourth Circuit Court of Appeals, the U.S. Circuit Court of Appeals for the District of Columbia, the U.S. District Court of Maryland, the U.S. District Court for the District of Columbia, and the U.S. Tax Court.

While Mr. Kallina currently focuses his practice on estate and charitable planning for high net worth individuals, he has practiced extensively over the years in the related fields of business law, corporate tax law, partnerships, and real estate.

Mr. Kallina is the founder of CharitablePlanning.com, a website dedicated to professionals who need the tools to complete planned and major gifts. He is also a co-founder of the Planned Giving Design Center (www.pgdc.com), a former member of the Board of Directors of PPP (formerly NCPG), former Chairman (5 years) of the Government Relations Committee of the NCPG, a co-founder of the Chesapeake Planned Giving Council, Chairman of the Board and President of The James Foundation, a member of the Board of Directors of Search Ministries, Inc., a former and current member of the boards of trustees or directors of a number of other non-profits, and an expert witness on estate planning and charitable matters.

Mr. Kallina has testified on a number of occasions before the IRS on pending matters and has worked extensively with the staff of the various Congressional committees regarding charitable legislation.

Mr. Kallina is a nationally recognized speaker on estate planning and charitable giving and a frequent author on these topics.

Data-Driven Marketing of Gift Annuities: Results You Can Use from the 2013 Survey - Panel Discussion (Track I, II)

Ron Brown - Fordham University (moderator)

Hot off the press: highlights from the most recent national survey by the American Council on Gift Annuities. Learn how to target your marketing based on the best available data. For example: how old are typical annuity donors? Are deferred annuities becoming more popular? How much remains after an annuitant's life for use by charities? Have charities changed their practices following the Great Recession of 2008? And how are charities using gift annuities to encourage Annual Giving and bequests?

About the Moderator:

Ron Brown



Ron Brown has served as Director of Gift Planning at four leading charities: Princeton University, the National Wildlife Federation, United Way of America, and from January 2012 to the present, Fordham University. He serves as a Board member, a member of the Rates Committee, and chair of the Research Committee for the American Council on Gift Annuities (ACGA). He is a board member of the Philanthropic Planning Group of Greater New York and a member of the CANARAS Gift Planning Council. Ron's new website Gift Planning History.org was launched in September 2013.

Previously Ron served as a board member of the National Committee on Planned Giving (now the Partnership for Philanthropic Planning), President of the Gift Planning Council of New Jersey, founding chair of LEAVE A LEGACY® New Jersey, and the board of the ALS Association of SE Pennsylvania. He is a Certified Financial Planner (CFP) as well as a decorated Navy historian, a graduate of Princeton University and the University of Chicago.

About the Panelists:

Catherine K. Gletherow, CPA



Oberlin College

Catherine Klima Gletherow is a CPA and holds a BS in accounting and an MBA from Cleveland State University. Her early career was spent as a tax accountant for regional public accounting firms where she worked with closely held business owners on personal and business accounting and tax issues. She switched to the nonprofit sector when she moved to Boulder, Colorado and worked as the development director for a disability rights agency. Catherine has been with Oberlin College's development and alumni affairs office since 1998 and serves on its senior management team. She has been Director of Gift Planning since 2005 and Senior Philanthropic Advisor since 2013. Her specialty is deferred giving via estate planning, charitable trusts and charitable gift annuities, and she also advises donors in complex gift arrangements, both outright and deferred.



Cam Morin Kelly

Duke University

Cam Kelly joined the University Development Office at Duke as assistant vice president for principal gifts programs in October 2008. She held advancement positions at her alma mater, Smith College, for seventeen years before coming to Duke. Her positions at Smith included director of campaign & gift planning; special assistant to the president for strategic plan implementation (2007 and 2008); and director of planned gifts & bequests. Prior to joining Smith's advancement office she was an investment advisor and portfolio manager with an investment management firm in Boston.

Cam oversees the principal gifts program within University Development, working collaboratively across the university on strategic planning that will secure gifts at the \$5 million level and higher. She is the primary development liaison for the Energy Initiative at Duke, is the co-liaison to the Leadership Gifts Committee and has been closely involved in campaign planning and implementation. She also co-manages Duke's Family Philanthropy effort and works with colleagues to lead the emerging Women in Leadership and Philanthropy effort. Cam earned an A.B. in mathematics from Smith College, and she is a Chartered Financial Analyst (CFA).

Edith "Edie" Matulka

PG Calc

As Senior Consultant at PG Calc, Edith (Edie) Matulka has primary responsibility for assisting charities in complying with state regulations for issuance of gift annuities. She is also an author of certain chapters of *Charitable Gift Annuities: The Complete Resource Manual* and worked on the development of the gift annuity agreement forms integrated in PG Calc's software. In addition to the practice of law, Edie's background includes work in government, public, and nonprofit settings.

A member of the Washington State Bar Association, Edie graduated from Northwestern School of Law at Lewis and Clark College in Portland, Oregon and earned a B.A. in Political Science from the University of Washington.

Edie is a prominent speaker on gift annuities and state regulation, and has spoken at American Council on Gift Annuities (ACGA) conferences as well as to local planned giving councils. She currently serves on the Board of ACGA and is a member of its Research and State Regulations Committees.

Edie joined Planned Giving Services, a Seattle-based consulting firm started and led by Frank Minton, in 1997. PG Calc acquired Planned Giving Services in August, 2005.

John Pierce

Concordia College

John S. Pierce, with a BS in Agricultural Economics from North Dakota State University, Fargo, ND, in his 44th year in advancement at Concordia College, Moorhead, MN, is its Senior Director of Planned Giving; he began at Concordia as Assistant Alumni Director; then he was Executive Secretary of the college's legendary major gifts group, the C-400 Club, for which he secured dozens of internationally-known political, economic and entertainment legends, including Charles Schulz "Peanuts;" Walter Cronkite; Col. Harland Sanders (Kentucky Fried Chicken); opera star Beverly Sills; race car driver Bobby Unser; commentator Paul Harvey; and, this April, Bill Gates, Co-Chair of the Bill and Melinda Gates Foundation. John has played a role in securing tens of millions of dollars of contributions, current and/or deferred, working with hundreds of major gift donors and their professional advisors, as those donors have established planned gift arrangements, revocable and irrevocable, which, in their entirety or in part, have benefited and/or will benefit Concordia College.



The Ethics of Advising Elderly Donors and Clients (Track I, II)
Leon C. Boghossian, III - Hinckley Allen

Charities, and those who work for them, seeking gifts must be extremely careful when soliciting donors. They must not be overly zealous in pursuing donations to the point of treading on impropriety. During our country's financial meltdown this past decade, many charities experienced increased pressure to raise funds in light of decreasing endowments and fewer gifts. This pressure passed down to their development personnel. We have now seen an increase in instances where these employees may have "crossed the line" in obtaining charitable donations. You will learn from this talk the rules of what is proper and what is not proper when seeking charitable gifts and pledges. You will learn how not to cross that line.

About the Speaker:**Leon C. Boghossian, III**

Leon's practice is focused primarily in assisting clients of various degrees of wealth in planning for the orderly and efficient distribution of their estates upon their deaths, with minimal tax costs. Towards that end, Leon also focuses on administering clients' estates upon their passing, with efficiency and tax minimization. Leon is especially adept at mediating possible inheritance issues, including family disputes. He also represents clients in planning for disability, including powers of attorney, guardianships, conservatorships, and living trusts. Leon is an authority on trust and estate litigation, with particular emphasis on obtaining court approvals for trust accountings, trust modifications, and trust terminations. Leon is also well versed in the area of minimizing the use of one's own assets to pay for long-term care costs, including Medicaid planning.

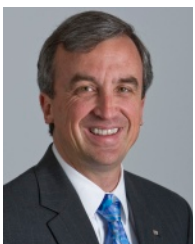
Propel Campaign Success with Planned Giving (Track II)
Michelle L. Glennon, Esq. - Johns Hopkins & Scott Lumpkin - University of Denver

- Why campaign success depends on planned giving
- Simple strategies for including planned giving in a campaign
- Why you don't have to be a planned giving expert
- Why planned giving is the key to closing the largest campaign gifts
- Using a campaign to expand the role of planned giving in your organization
- Counting planned gifts in a campaign
- Securing support from senior leaders for including planned giving in a campaign

About the Speakers:**Michelle L. Glennon, Esq.**

Ms. Glennon is the Senior Director of Gift Planning and Senior Philanthropic Advisor for Johns Hopkins. She joined Johns Hopkins in 2001 and in 2007 was appointed to lead the gift planning program for both Johns Hopkins University and Medicine. Ms. Glennon leads a team of 17 professionals who integrate gift planning, marketing and fiduciary services with the principal and major gift programs at each of Johns Hopkins' schools and divisions. The gift planning program helped raise over \$680 million for Johns Hopkins' \$3.7 billion Knowledge for the World campaign and is anticipated to play a vital role – 20% – in the recently launched \$4.5 billion campaign, Rising to the Challenge: The Campaign for Johns Hopkins. Michelle received her J.D. magna cum laude from the University of Baltimore School of Law, and practiced law with Ober|Kaler, a national law firm based in the D.C.-Baltimore area. She came to Johns Hopkins from the advancement team at Loyola University, Baltimore, her undergraduate alma mater. Michelle, husband and two daughters live in Towson, MD;

she is a member of PPP and CASE, and holds leadership, volunteer roles at her church and her daughters' school.

Scott Lumpkin

Scott Lumpkin leads the University of Denver's comprehensive advancement efforts including overseeing DU's current \$450 million campaign. He became vice chancellor in 2011, after spending 27 years directing DU's planned giving program. Recognized nationwide for his expertise in gift planning, Scott's experience directing planned giving programs and campaigns gives him unique insights into the powerful role of planned giving in campaigns.

Planning and Drafting Charitable Remainder Trusts (Track I)
David Wheeler Newman - Mitchell Silberberg & Knupp LLP

The CRT is the most versatile tool available to gift planners, which can be used to balance the donors' philanthropic objectives with a variety of financial planning objectives. To understand CRT planning dynamics, we will review the various types of CRT, the planning objectives each is best suited to achieve, and typical language that would be used in trust documents to make sure these goals are met.

About the Speaker:**David Wheeler Newman**

David Newman chairs the Charitable Sector Practice Group at the Los Angeles law firm of Mitchell Silberberg & Knupp LLP. For what seems to him like forever he has advised families and individuals concerning their foundations and other philanthropy, as well as charitable organizations and their donors on the legal and tax aspects of planned giving. David is a former member of the Board of the National Committee on Planned Giving, where he served as an officer and member of its executive committee, and is currently on the Board of Directors of the American Council on Gift Annuities. He is a founder and President Emeritus of New Roads School in Santa Monica and a member of the Professional Advisors Council of the Los Angeles Chamber Orchestra.

Optimizing Your Realized Bequests - Panel Discussion (Track II, III)
Timothy Prosser, J.D. - Kaspick & Company (moderator)

Gift planning programs justifiably place great emphasis on the marketing of bequest gifts, identification of bequest expectancies and stewardship of bequest donors. This panel discussion focuses on what comes next: effective monitoring and oversight of post-death bequest administration. A charity's failure to become engaged in the bequest administration process can "leave money on the table" in the form of delayed or inaccurate distributions, payment of excessive fees or unjustified creditors' claims, and incorrect apportionment of estate taxes. The panelists represent diverse charitable organizations with very active bequest realization programs. Our discussion will address each charity's bequest monitoring procedures, its aggressiveness in pursuing bequest realizations, and its efforts to make the case for resources to support this vital function.

About the Moderator:**Timothy Prosser, J.D.**

Mr. Prosser joined KASPICK & COMPANY in 2009 with nearly 20 years' experience in legal practice and financial services. Prior to joining TIAA-CREF Trust Company in 2000, Mr. Prosser practiced law in the areas of estate planning, estate and trust administration, charitable giving, and business succession planning with the firms of Sonnenschein Nath & Rosenthal and Armstrong Teasdale Schlafly & Davis in St. Louis, MO. Mr. Prosser has served on the board of the Partnership for Philanthropic Planning and as Chair of its National Conference. He is a board member and past president of the Saint Louis Planned Giving Council and is a recipient of the Council's "Founders Award." Mr. Prosser received his J.D. degree and MA degree in Public Administration from St. Louis University in December 1990 and his BA in Russian Area Studies in 1987 from Loyola University, New Orleans.

Panelists:**Melissa Copher**

American Red Cross

Melissa M. Copher has been with the American Red Cross Gift Planning Department since 1999. She is a Director, overseeing the life income gift program at the Red Cross. She previously worked at the Indiana University Foundation as an Assistant Director of Gift Planning. She graduated from Miami University, Oxford, OH in 1991 and Indiana University School of Law, Indianapolis, in 1994. She lives in Indianapolis, IN with her husband and three sons.

Stephen P. Link

Georgetown University

Executive Director of Gift Planning for Georgetown University, Stephen Link has served in the field of gift planning since 1992, beginning at Lehigh University, where he was later appointed Assistant Treasurer. After 12 years at Lehigh, Link was named Vice President of Advancement for St. Luke's Hospital & Health Network, a not-for-profit hospital network serving eastern, PA and western, NJ.

Link joined the Gift Planning team at Georgetown University in 2006. Over the past two decades, Link served on the boards of the Lehigh Valley Community Foundation, Historic Bethlehem Partnership and Lehigh Valley Chamber Orchestra. In addition, Link has cycled from San Francisco to Los Angeles, and Montreal to Portland, ME to raise funds for AIDS research and prevention; and in 2013

climbed Mt. Kilimanjaro to benefit the MIRA Foundation, a group that provides guide dogs to visually impaired students age 11-17. Link has spoken on aspects of gift planning and endowment management for a variety of organizations including the Opal Group, the Institute for International Research and Fulton Financial Advisors. Link holds a B.S. in Accounting & Finance, and an M.B.A. from Lehigh University; and a M.A. in European Civilization from Katholieke Universiteit, Leuven, Belgium.

Beth Ridout

The Nature Conservancy

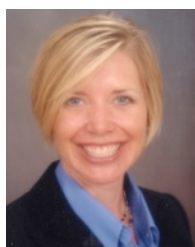
Beth Ridout has been in estate planning for 16 years, working previously as a Trust Officer with Merrill Lynch in Newport Beach, California, and as a Planned Giving Officer with National Wildlife Federation. She joined The Nature Conservancy 9 years ago and is the Director of Estate Administration at the Worldwide Headquarters in Arlington, Virginia. She has her JD from the University of Pittsburgh and a BA in accounting from King's College in Wilkes-Barre, Pennsylvania. She lives in Marin County, California with her husband where she trail runs and appreciates daily all the amazing conservation work The Nature Conservancy has accomplished.

Gift Annuity Marketing Ideas that Generate Inquiries & Gifts - Panel Discussion (Track I) **Karen Gallardo, CFRE - AARP Foundation (moderator)**

This lively panel discussion will allow you to hear from representatives of small to large organizations marketing gift annuities. You'll learn what's working and how to market to multiple audience segments to drive inquiries and new gifts. Sample audience segments include new prospects; repeat donors; and campaign prospects. We'll explore marketing through the mail; newsletters; one-to-one and online channels.

About the Moderator:

Karen Gallardo, CFRE



Karen brings 20 years of fundraising experience to her role as Director of Gift Planning and Major Gifts for the AARP Foundation. In this position she is helping AARP Foundation build a bequest and major gifts program to generate current and future revenue to serve low-income seniors in America.

Prior to joining AARP Foundation in 2008, Karen worked at The Aspen Institute. She also spent more than 14 years at The Nature Conservancy working in Gift Planning, Corporate Fundraising, Cause-Related Marketing, Membership and South American conservation.

Karen serves on the national board of the American Council on Gift Annuities, Vice President of the Board of the Association of Fundraising Professionals Washington DC, and the Cacapon and Lost Rivers Land Trust. She is past president of the National Capital Gift Planning Council. She is also actively involved in the Partnership for Philanthropic Planning, the Executive Women's Golf Association, and the Juvenile Diabetes Research Foundation.

She earned a Bachelor of Arts in English and Communications from the University of New Mexico and a Masters of Business Administration from The George Washington University.

Panelists:

Anna Maria Eades



Johns Hopkins University

Anna Maria Eades is the Senior Associate Director of Gift Planning Administration and has worked in Gift Planning at Johns Hopkins for over 14 years. As a member of the Fiduciary Services Team she works closely with repeat gift annuity donors and oversees the administration of all life income gifts.

Prior to Johns Hopkins she spent 9 years in the banking industry. She graduated from Goucher College with a Bachelor of Arts degree in Communications. A native Baltimorean she enjoys rooting for the Orioles and Ravens but can be found in Blacksburg, VA on weekends in the fall cheering for the Virginia Tech Hokies. She currently lives in Timonium, MD with her Hokie husband.

Christopher McGurn



PNC Institutional Investments

Mr. McGurn is currently a Senior Vice President with PNC's Institutional Investment Group in Baltimore, Maryland. He is responsible for the management and marketing of PNC's Planned Giving Services Department. In addition, he also serves as the primary relationship officer for local and national planned giving programs.

McGurn currently serves on the board of the Chesapeake Planned Giving Council (CPGC) where he holds the office of Treasurer. From 2006 to 2012 he served as a board member for the National Capital Gift Planning Council (NCGPC) in DC, also serving as Treasurer. Prior to his service to NCGPC, he served on the CPGC board where he held the office of Program Chairman, Treasurer and President (2001).

Prior to rejoining Mercantile Bank & Trust in 2003, (Mercantile Planned Giving Services from 1992 to 2000), he served as the Director of Gift Planning at Catholic Charities of Baltimore for three years. While at Catholic Charities, McGurn was responsible for securing a significant number of gift annuities and memberships in the planned gift recognition society.

Since 2004 McGurn has presented to organizations such as the Chesapeake Planned Giving Council, the Delmarva Planned Giving Council, the National Capital Gift Planning Council AHP Mid-Atlantic regional conference and the Emerging Philanthropy Conference. Presentation titles included; 'Blueprint for a successful Gift Annuity program'; 'How to set up a Gift Annuity program-A recipe for success'; 'CGA's-Balancing risk and reward'; 'A look at Trusteeship issues in planned giving'.

McGurn holds a B.S. degree in Business Administration with concentrations in Management, Finance and Marketing from Towson University.

Rebecca Rothey, CFRE

Baltimore Community Foundation

Rebecca Rothey has more than a decade of experience in planned giving. Most recently she served for eight years at Catholic Charities, as director of planned and principal gifts and earlier as director of gift planning. Before joining Catholic Charities, Rothey served as manager of major and planned gifts and major gifts officer at the American Red Cross of Central Maryland. She holds an undergraduate degree in philosophy from the College of Notre Dame of Maryland and certification as a fundraising specialist from Goucher College. Rothey is a member of the board of the Baltimore Estate Planning Council and of the Editorial Advisory Board of Planned Giving Today, a past member and president of the board of Chesapeake Planned Giving Council and a past board member of the Association of Fundraising Professionals.



Friday, April 11th • Closing Luncheon
(11:45am - 1:15pm)

Closing Luncheon: Robin Good and His Merry Remaindermen
Conrad Teitell - Cummings & Lockwood
Sponsored by: Sharpe Group

Conrad Teitell does his best to assure that no one runs aground in their creative approaches to gift development. Conrad will bring us the very latest from "the Hill", and other venues.

April will certainly put us in the "eye of the hurricane" swirling around charities and you will not want to miss this perspective on the course we should follow.

About the Speaker:

Conrad Teitell

Conrad Teitell is a partner in the Connecticut and Florida law firm of Cummings & Lockwood, based in the Stamford, Conn. office and is chairman of the firm's National Charitable Planning Group. He is an adjunct professor at the University of Miami Law School and is also director of the Philanthropy Tax Institute, where he lectures on taxes, philanthropy, estate planning and public speaking. Teitell writes the monthly newsletter, *Taxwise Giving* and is the author of the five-volume treatise, *Philanthropy and Taxation*. His column, *Estate Planning and Philanthropy* appears in the *New York Law Journal*. He is a contributing editor of *Trusts & Estates* magazine and is listed in *The Best Lawyers in America*. He is the recipient of the American Council on Gift Annuities's Lifetime Achievement Award and the American Law Institute/American Bar Association's Harrison Tweed Award for Special Merit in Continuing Legal Education. As a volunteer, on behalf of charities nationwide, he has testified at hearings held by the Treasury, the Internal Revenue Service, the Senate Finance Committee, the House Ways and Means Committee and the House Judiciary Committee.



Session Handouts

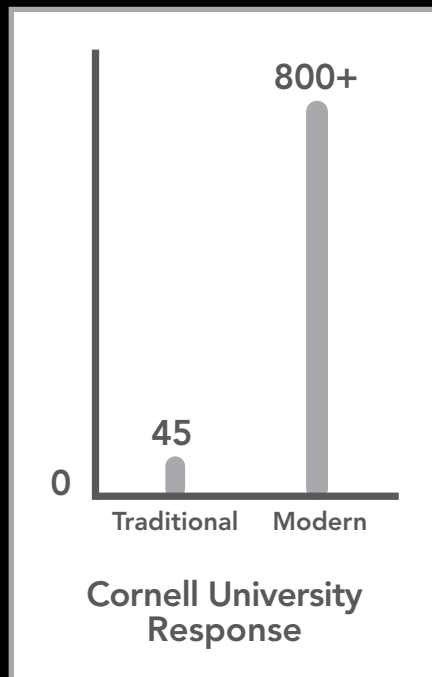
Wednesday, April 9th - Keynote & Symposia

PENTERA

Modern Planned Giving Marketing

Think Traditional Planned Giving Marketing Doesn't Work?

You're Right.

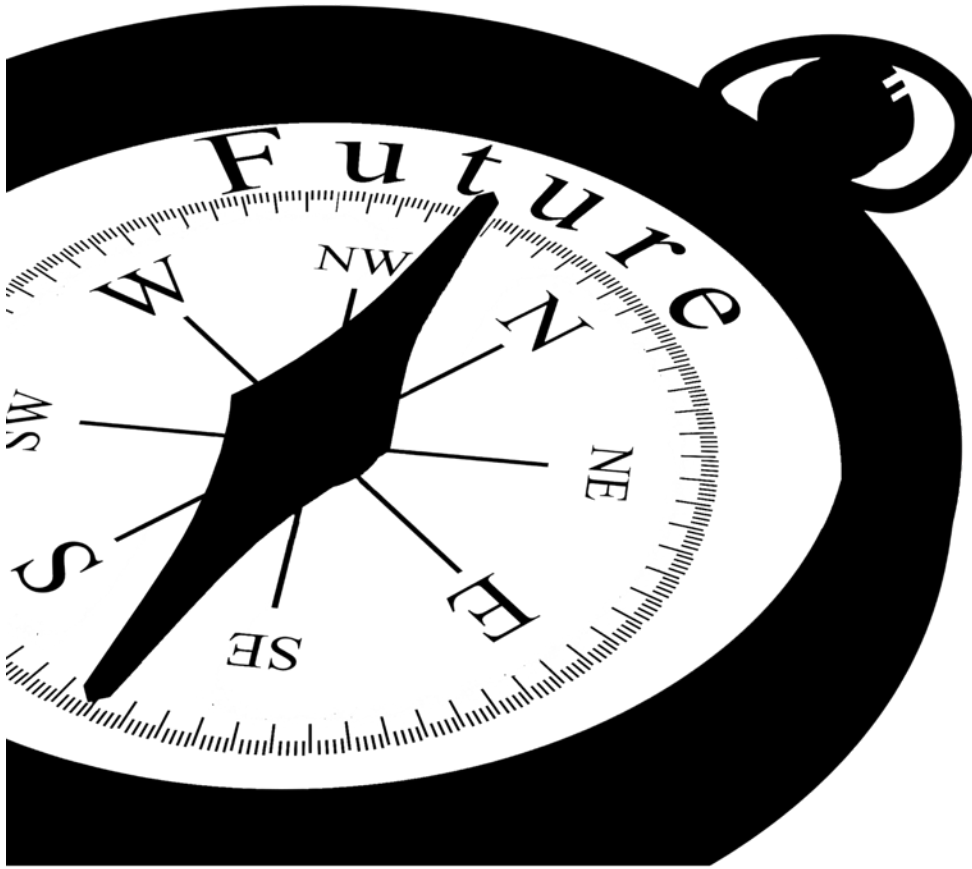


Find out about
Pentera's unique
modern planned
giving marketing.

Cornell did.

CHARTING A COURSE FOR THE FUTURE

- A CONFERENCE ON PLANNED GIVING -



Symposium #1: Trends in Planned Giving

Presented By

Robert F. Sharpe, Jr.

President

The Sharpe Group

(901) 680-5300

info@sharpenet.com

There are no handouts for this session.



PNC INSTITUTIONAL INVESTMENTS® PLANNED GIVING SOLUTIONS

Charitable organizations look to PNC Bank for comprehensive planned giving solutions.

Our professionals help charitable organizations manage the post-gift aspects of their planned giving program. We provide expertise in the specialized area of investment management and life-income gift administration for charitable gift annuities, charitable remainder trusts, and pooled income funds.

Our planned giving relationships include non-profit institutions across the broad spectrum of 501(c)(3) organizations. We provide services to organizations with environmental, religious, educational, arts, social services, community foundation and healthcare-oriented missions.

OUR DEDICATED TEAM IS COMMITTED TO HELPING CHARITABLE ORGANIZATIONS

reduce the amount of time allocated to administration, so they can better focus on their overall mission. We achieve this by:

- assisting you in developing a plan for detailing and reviewing the responsibilities and expectations for each aspect of a gift's administration
- making timely and accurate payments to payees according to established schedules
- maintaining records of transactions, account income and principal as well as providing year-end accounting

- providing specialized reports, such as: individual gift valuations; FASB liabilities; as well as key data to assist you in your preparation of annual gift annuity filings in regulating states
- assisting you in developing an investment plan to help meet the specific investment objectives of your account
- providing tax forms to annuitants and the IRS according to your accounts' requirements

We recognize that each of our service deliverables constitutes a touch-point with your constituents. Our goal is to perform them seamlessly and consistently so that your donors enjoy a positive giving experience with your organization. We understand that successful gifts can lead to repeat gifts.

For more information, contact Chris McGurn at 410-237-5938, email christopher.mcgurn@pnc.com or visit pnc.com/plannedgiving.



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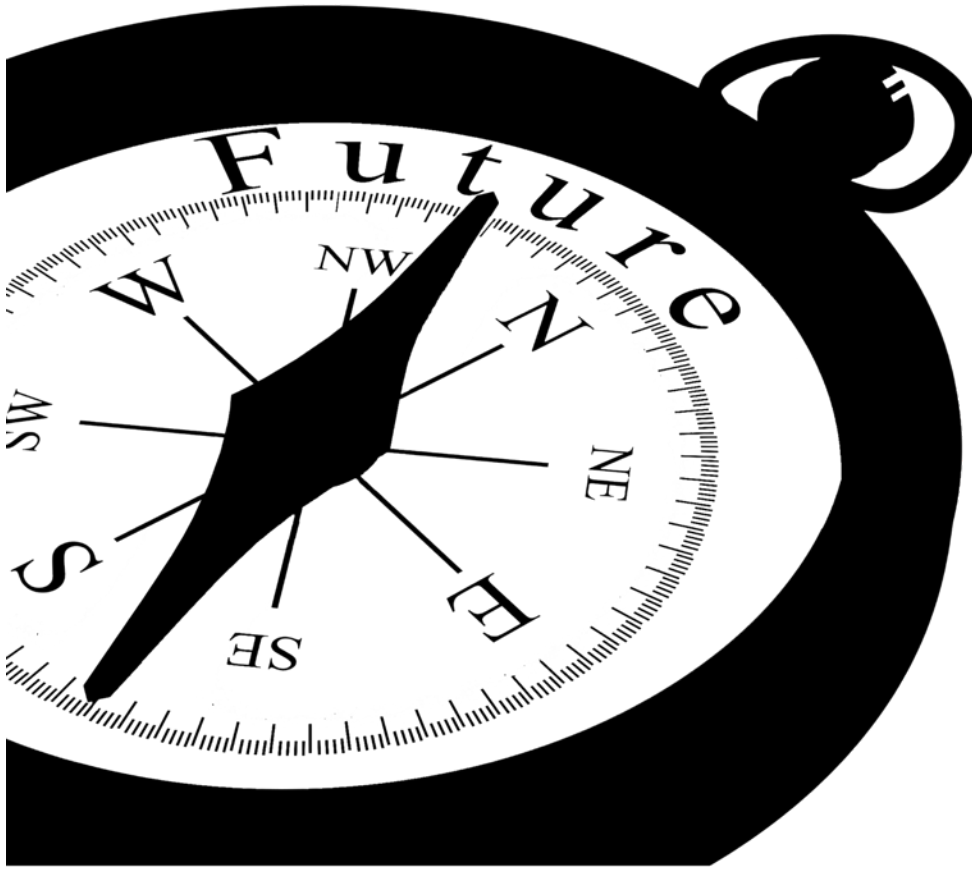
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CHARTING A COURSE FOR THE FUTURE

- A CONFERENCE ON PLANNED GIVING -



Symposium #2: Is Traditional Planned Giving Like Cursive Writing?

Presented By

Frank Minton

President

Frank Minton Consulting, LLC

(206) 365-5154

fdminton@gmail.com

Is Traditional Planned Giving Like Cursive Writing?

Digest of Presentation

INTRODUCTION

A. Definition of Planned Giving

Planned giving, also known as gift planning, is the designing of charitable gifts so that donors realize philanthropic objectives while maximizing tax and other financial benefits. A planned gift is a sizeable contribution made with forethought about the benefit to the charity and the financial implications for the donor and the donor's family.

B. Definition of Cursive Writing

Cursive writing, also known as "joined-up" writing is any style of penmanship where the letters are written in a conjoined manner. It is different from blocked or printed letters which are not joined.

C. Parallels of Planned Giving and Cursive Writing

This paper considers the evolution and future of planned giving first by showing certain parallels with cursive writing and then discussing changes in planned giving that we may expect.

PART I – PARALLELS

A. Origins of Cursive Writing and Planned Giving

Origins of Cursive Writing

A written script for transactions and correspondence was developed by the ancient Romans. Following the fall of the Roman Empire, penmanship was primarily practiced in the monasteries, but there was no standardization. During the Italian Renaissance a form of script called "*italics*" was invented. Although the letters were not joined, they could be formed more quickly, and this script became the precursor of modern cursive.

Origins of Planned Giving

Like cursive writing, bequests have a long history. For example, when William of Durham died in 1249, he bequeathed money to Oxford University to support 10 or more masters of arts students, who were studying theology. Around 1257, Robert de Sorbon endowed a college for theological studies at the

University of Paris that came to be known as the Sorbonne. From an early time, bequests also supported Jewish charities. Gift annuities date back to Medieval England. At that time they were known as “corrodies” and entailed transferring one’s property in exchange for food and lodging for life.

B. Emergence of Cursive Writing and Planned Giving as Distinctive Disciplines

Practice and Teaching of Cursive Writing

Elegant handwriting emerged as a status symbol, and by the 1700s schools educated master scribes. In the early days of the United States, professional penmen copied official documents such as the Declaration of Independence and the Constitution. In the mid-1800s a man named Platt Rogers Spencer formulated a cursive writing system known as the Spencerian method and taught it by textbook. Gradually, it was replaced in primary schools with the simpler, less feminine Palmer method created by Austin Norman Palmer. That method, in turn, was supplanted by the Zaner-Bloser method, which was considered to be still simpler. The great advantage of all of the cursive styles over printing separate letters was that words could be written very quickly.

Practice and Profession of Securing Future Gifts

Bequests were left to American charities as early as the Colonial days, the first gift annuities date to the 1830s, and charitable remainder trusts were being established in the mid-20th century. The 1969 Tax Reform Act stimulated life income gifts by setting the rules of charitable remainder trusts and introducing pooled income funds and lead trusts. Those gifts could be established with more assurance because Treasury provided tables for calculating the deduction for various types of split-interest gifts and gift annuities.

The practice of promoting these various forms of mostly-future gifts was known both as “deferred giving” and “planned giving” though the latter became normative. With the formation of the National Committee on Planned Giving (“NCPG”), a national professional organization, and the adoption of ethical standards, a new discipline had fully emerged. It was fully expected that it would be only a matter of time until most medium and large-sized charities would have one or more planned giving specialists on staff.

C. Accommodation of Cursive Writing and Planned Giving to Technological Developments

Effect of Typewriters and Computers on Cursive Writing

As typewriters swept the country, cursive writing ceased being used for legal documents, business letters, and reports. However, it continued to be used for personal correspondence, check writing, and signatures on legal documents. Then e-mail drastically reduced letter writing, and online payment of bills began to replace check writing. Consequently, schools started eliminating penmanship classes, and handwriting abilities deteriorated.

Effect of Computers and Other Technology on Planned Giving

By the time planned giving became a distinct profession, the typewriter was well established, and word processors had recently been developed. Personal computers were still in their infancy, but they would soon become common. While such technology replaced cursive writing, it contributed mightily to the growth of planned giving. Gift agreements could be generated quickly, and the hours that had been spent on tedious, manual calculations of charitable deductions could now be devoted to interaction with prospects and donors. Also, planned gifts could now be marketed through attractive newsletters and

target mailers, blast e-mails, websites, and then social media. The problem was that every other commercial and charity entity had access to the same marketing techniques with the consequence that it became increasingly challenging to penetrate the avalanche of information and generate responses.

D. Continuation of Cursive Writing as a Skill and Planned Giving as a Profession

Continuation of Cursive Writing

Penmanship classes were dropped as a requirement from the recent Common Core educational standards, and 41 states now do not require public schools to teach cursive writing or reading. The majority of educators believe that cursive will not survive in an age when most communication is done on the keyboard and when keyboarding skills are necessary for students to succeed in their careers. A minority of educators contend that cursive writing should still be taught in schools because it helps children develop motor skills, activates different parts of the brain, and encourages deeper thinking. Although cursive will probably continue to be taught in certain schools for a few more years, it is likely to become just a specialty for people doing historical research on manuscripts, and for those who value it as an art form.

Continuation of Planned Giving as a Separate Profession

In the past, planned giving operated relatively independently of other fundraising specialties, and it was expected that ever more charities would establish planned giving programs staffed by technical experts. However, instead of separate planned giving departments there has been a trend towards integration of planned and major gifts. This has resulted from three factors: an emphasis on short-term financial needs caused by the recessions of the first decade of this century; budgetary restraints necessitating development officers assuming multiple responsibilities; and recognition that many donors arrange a combination of present and future gifts, sometimes called “blended gifts.”

A consequence of the integration of major and planned gifts has been a decline in the number of technical experts on the staffs of charities. There is a general consensus about this, and it is reflected at the smaller attendance at national conferences on planned gifts, and by the fact that the National Committee on Planned Giving chose to change its name to the Partnership for Philanthropic Planning. The tendency has been to hire generalists and to retain professional advisors and consultants to help with complex gifts. The generalists, who do not have in-depth knowledge of the instruments of giving, are more comfortable promoting bequests. This fact, plus the reluctance of donors to make irrevocable gifts in an uncertain economy, partially explains why planned giving, which once emphasized life-income gifts, has now, at many institutions essentially morphed into a bequest program.

In the future, planned giving is likely to remain a separate department at larger charities, and these charities will continue to have on staff experts who can handle a full menu of planned gifts. These planned giving departments, though continuing to be separate, will closely collaborate with the major and annual giving departments. At most medium- and small-sized charities, the prevailing practice will be to hire generalists and outsource the technical aspects of gifts. The challenge of professional organizations like ACGA and PPP will be to serve the growing number of generalists and the diminishing number of specialists, and also connect with the professional advisors to whom donors and charities will increasingly turn for technical assistance with gift planning.

PART II – THE FUTURE OF PLANNED GIVING

Unlike cursive writing, planned giving will continue to be practiced and taught. However, changes may be expected in donor relations, technology, marketing, gift instruments, and skills of gift planners. Below is a summary of the anticipated changes in each of these areas and what might possibly slow those changes.

A. How Donor Relations May Change

Traditional Planned Giving

The traditional *modus operandi* of planned giving was to telephone prospects, request appointments, and meet face-to-face with those who consented. Through the initial and subsequent meetings a relationship of trust was established, information about the donor's philanthropic interests and financial situation was obtained, gift illustrations were presented, the prospect's professional advisors were consulted, and gift agreements were executed, often at a closing ceremony scheduled for that purpose. All of the steps leading to closure of the gift, as well as subsequent stewardship, entailed lots of personal interaction with the donor and sometimes with the donor's professional advisors as well. Even when the advisor initiated the gift, the planned giving officer was likely to be involved in personal meetings regarding the purpose of the gift and any services provided by the charity.

Possible Future

It appears that in the future development officers will have fewer face-to-face meetings with donors. Increasingly, people bank online without seeing a teller, purchase products online without seeing a clerk, buy insurance online without seeing an agent, and with monitoring devices receive diagnoses online without seeing a doctor. Correspondingly, they may be expected to arrange gifts online without seeing or talking to a development officer. That is already happening with outright gifts of cash, and procedures will soon be in place to make online transfers of stock.

At the present time, many gift annuities are completed without face-to-face contact with the donor, though almost always pursuant to some form of personal communication and arrangements for signing a document and transferring assets. Once a methodology for electronic contract approval is developed, many gift annuities will be completed entirely online without the donor ever meeting with, or possibly even talking to, a development officer. Charitable remainder trusts will be more challenging to establish online, for there are so many variables and estate planning implications. Nevertheless, a significant amount of information can be made available electronically and personal contact minimized.

Many gift planners report that they are finding it increasingly difficult to set personal appointments. One reason is caller identification which enables individuals to avoid responding to callers they believe to have a fundraising objective. Another is a cultural shift where people are more wary about inviting relative strangers into their home. Also, the new generation of millennials who will join development staffs within the next decade are accustomed to communicating by texting and social media, and they may lack the interpersonal skills of their forebears. They will be more comfortable communicating electronically.

Even when development officers are able and willing to make personal visits, shrinking budgets may limit the types of calls that are not judged to be cost effective. The instructions from development executives will be to close small gifts remotely and avoid purely exploratory visits, or what used to be called "fishing expeditions" unless the prospects to be visited have been carefully screened.

Reasons Why This Future May Be Modified

Ebenezer Scrooge asked the Ghost of Christmas future, “Are these the shadows of things that must be, or are they shadows of things that might be?” We may similarly ask, “Is it inevitable that planned giving in the future will entail less personal contact with donors?”

Personal contact with prospects and donors will continue for four reasons:

- 1) Larger, transformative gifts almost always result from relationships developed through personal contact, and complex gifts for restricted purposes require extensive discussions and sometimes delicate negotiations. Thus, highly personalized gift planning will continue to be essential for these types of gift.
- 2) It is theoretically possible to go online enroll in one of the healthcare plans under the Affordable Care Act and calculate one’s premium and subsidy. However, people are often confused and require the assistance of an agent who can walk them through the process and answer their questions. Likewise, many people will continue to require personal assistance with any size of planned gift.
- 3) Despite greater difficulty, it is still possible to secure personal visits with strangers, particularly if the caller represents a charity, such as an alma mater, with which the prospect has a strong relationship. Affiliation with that charity gives the caller credibility. Even when there is not a strong connection with the charity, a caller may be successful when preceding a telephone call with electronic messaging.
- 4) Reports of hackers penetrating security walls of companies and obtaining financial information about customers may make some donors hesitant to complete major gift arrangements online, so they may prefer transactions in person.

Even though personal contact with donors will continue to be an important part of planned giving for all of these reasons, it is likely that annual gifts and smaller planned gifts will increasingly be completed online, and that there will be fewer and more selective visits with prospects and donors. Thus, charities must put in place the mechanisms for online planned giving. Otherwise, they will be left behind. Online planned giving will come naturally to the new generation of planned giving officers who are digital natives, but older planned giving officers will struggle to keep abreast of the rapidly-evolving computer technology.

However, it would be a mistake to suppose that being tech-savvy can be a substitute for having interpersonal skills. These skills will continue to be important, and computer sophisticates who have them will be the most prized recruits of charities in the future.

B. How Technology May Change

Existing Software

With existing software the user enters the gift type(s), and the program calculates the charitable deduction, projects cash flows, generates financial illustrations and proposals, and provides certain documents, such as gift annuity agreements. The software may even prompt the user to consider a certain plan, and it will warn the user if a plan proposed by the user fails to meet IRS qualifications.

Possible Future Software

The next generation of software may determine for the user the gift type based on the information provided. The program would select and illustrate the most appropriate plan, which is based on greater

technical knowledge than the average user probably possesses. In other words, the next generation of software will do more of the thinking for the development officer. Considering that charities are employing more generalists and fewer technical experts, the software could, in some sense, compensate for the lack of expertise.

Since our judgment about the appropriate gift for a particular donor is based on many non-quantifiable factors such as family dynamics and the donor's emotions, it would seem that a software program could never replace human judgment. While that is true now, it may become possible to input subjective information about a donor's personality type and feelings along with the standard tax and financial information. In the movie *Her*, Samantha, the artificial intelligence programmed into the smart phone of the future can carry on a dialogue with the owner. It is conceivable that as artificial intelligence develops, it may become possible to discuss with your program what might be the best gift arrangement for a given situation. Then you would have a consultant in your pocket wherever you go.

The Role of the Human in New Technology

These musings about future programs may seem purely fanciful, but not too long ago today's smart phones were unimaginable. At present, we are nowhere close to a program that can combine human intuition and rationality, and perhaps there never will be a program that can match human judgment. However, it is reasonable to expect that the successive generations of software will provide ever more tools and more guidelines and suggestions about gift plans for particular situations.

When gift planners did all of the calculations manually, they necessarily learned the underlying concepts of each gift type. Just as the cessation of cursive writing may have led to the loss of certain motor and language skills, so has planned giving software caused many people to crank out computer illustrations without comprehending how the numbers were derived. The software has been a blessing in liberating us from tedious calculations and freeing us for productive endeavors. It has also made gift planning accessible to a larger number of people. However, the cost is a loss of in-depth understanding except for the minority who bother to probe behind the numbers.

C. How Marketing May Change

Past Practice

Printed material, particularly the planned giving newsletter, has been a major source of prospects for several decades. However, newsletters have been undergoing a transformation. The earlier newsletters discussed in considerable depth estate and gift planning ideas and offered responders a booklet addressing a subject in still more detail. Contemporary newsletters are less technical, and they contain more donor stories and news. At many institutions the newsletter serves both a marketing and stewardship purpose. Response rates to newsletters have also declined, no doubt due to people being inundated with an ever larger volume of mailings and electronic messages. Printed material was always supplemented by other marketing techniques such as seminars and referrals from allied professionals and colleagues in the development office. Within the past two decades websites and electronic marketing have become increasingly important.

Future Marketing Practice

Across the country, many newspapers have folded or consolidated with previous competitors. Book stores like Borders have closed their doors, digitalized books are growing, and libraries are transitioning from paper to digitalized collections. National conferences – excepting the ACGA – provide participants with instructions for downloading papers rather than publishing them in a printed manual.

Thus, we may reasonably conclude that printed planned giving newsletters and brochures have a limited future. Some expect that within the next 10 to 20 years planned giving programs will have entirely replaced print marketing with electronic marketing.

Future marketing will undoubtedly take advantage of the increasing amount of personal information available about our donors. Companies are already capturing this information so that they can target their marketing. For example, if you are planning a vacation to Thailand and search for information about that country on Google, you may expect not long afterwards a pop-up ad on your screen about a tour company that offers Thailand vacation packages. Charities already segment their constituencies based on age, wealth rating, giving history, and the types of charities supported. In the future, with information about an individual's purchases, trips, affiliations, and memberships available, it will be possible to send messages particular to that individual. For example, if a planned giving office does a mailing to 3,000 people, each letter may be personalized for the recipient based on that person's life experiences, preferences, and contacts with the charity. A computer would perform this task based on the vast amount of data that are acquired, stored, and constantly updated.

We may also expect charities, like companies, to create personalized pop-up ads when a person visits a charity's website or does general searches related to the charity's mission. All of this is possible in an era when daily travel is revealed by the GPS in our phone, our purchases by credit and debit cards, our likes and dislikes by postings on social media, and our searches on Google, Bing, and other sites. As Dave Eggers visualizes in his satirical novel, *The Circle*, we are moving to an age when everything that can be known will be known. Charities will be collectors of information and transmitters of information through e-mail, social media, and other forms of electronic communication that may evolve.

Why Traditional Marketing May Linger for a While

A major advantage of a printed newsletter is its staying power. An electronic publication is usually read immediately or not at all, and it is seldom preserved. A printed newsletter, on the other hand can be set aside and read later in one's chair, and it is often retained as a reference. Despite the growth of electronic communication, many larger charities report that the printed newsletter continues to be their primary source of prospects. Thus, printed newsletters and brochures will continue to be important in marketing for a number of years. They probably will not have an indefinite future, but for the foreseeable future – at least for the lifetime of the Boomer generation – they are likely to be used along with various forms of electronic communication.

Electronic marketing is appealing because it is cheaper, but precisely because it is cheaper, it is easy for companies and charities to annoy and overwhelm people with messaging and fail to get their attention. The challenge of future marketing is expressed in the title of Gary Vaynerchuk's new book, *How to Tell Your Story in a Noisy Social World*.

Whether social media will be effective at identifying planned giving prospects or a time-consuming distraction remains to be seen. One planned giving officer who was associated with a large university commented that he had yet to see a successful social media marketing plan. A major source of prospects at universities and other large charities is referrals from development officers, especially those responsible for major gifts. Cross-training them so that they are able to open discussions about planned gifts will be very important. Volunteers can be invaluable in getting access to prospects who do not answer telephone calls or respond to e-mails, and programs like LinkedIn can help ferret out the connections volunteers may have to the elusive prospect.

In summary, print marketing will diminish over time, but it will continue to be part of the marketing mix for a number of years, and even in the more distant future traditional practices like encouraging referrals will continue to be a necessary supplement to electronic marketing.

D. How Planned Gift Instruments May Change

Past Experience

The 1980s and 1990s saw a huge growth in gift annuities and charitable remainder trusts, but during the first dozen years of this century charitable remainder trusts slowed considerably. In fact, there were fewer returns for unitrusts in 2012 than in 2002, which means that the number of unitrusts terminated has exceeded the number created. The decrease in returns for annuity trusts has been even more dramatic – 35 percent decline since 2000. Pooled income funds flourished in the 1970s and early 1980s because it was possible in that high-interest environment to start a new fund and generate a deduction based on a six-percent discount rate while paying a return double that amount. During the past two decades pooled funds have been largely moribund, and many have been terminated. Although gift annuities, like all charitable gifts, were negatively affected by the recession beginning in 2008, they have held up better than charitable remainder trusts, and, next to the bequest, the gift annuity is the most popular planned gift. Bequest revenue has climbed steadily with some fluctuations, but the total volume is well behind Paul Schervish's wealth-transfer projection. The low IRC Sec. 7520 rate has prompted some increased in large charitable lead annuity trusts, but most of these trusts are initiated by professional advisors and financial institutions rather than by charities.

Possible Future

Three factors led to the rapid growth in charitable remainder trusts in the late 1980s and the 1990s: The first was a prolonged bull market resulting in many people owning highly-appreciated assets. The second was strong tax incentives due to higher ordinary income and capital gain tax rates and to a much smaller exemption from the federal estate tax. The third was a large number of financial planners who were actively promoting these trusts. The financial planners, due to changes in tax incentives and the marketplace, found more productive ways to invest their time. Although financial planners have not resumed their activity, two of the former positives have reappeared, at least to some degree. Stock values have recently reached historic highs, and the tax savings from contributing appreciated property to a charitable remainder trust have increased for higher-income individuals. Consequently, there is now an uptick in interest in charitable remainder trusts. It is unlikely that the volume will reach what it was in the 1990s, but in the foreseeable future more charitable remainder trusts will be established. Demographics also portend a better future for charitable remainder trusts. Nearly two thirds of these trusts are established by people age 60-80, and within the next decade, because of the aging of the Baby Boomers, that cohort will be the largest it has ever been.

Gift annuities should also increase because of the larger number of people over age 70. Some people have been hesitant to fund gift annuities, especially deferred gift annuities, because they would be locking in historically-low rates at the very time when they expect interest rates to begin rising. If interest rates, in fact, do rise and gift annuity rates rise accordingly, we may expect a sharper rise in the number of gift annuities than would result from the larger demographic alone.

Many are predicting the total demise of pooled income funds like that of cursive writing, but if we could give voice to a pooled income fund, it might repeat the words of Mark Twain, "The reports of my death are premature." If a person contributes to a brand new pooled income fund, or to one that has been paying a low rate of interest for several years, the charitable deduction can be 70 to 80 percent of the

amount contributed. This means a person can save almost as much in income tax as from an outright gift and have the possibility of increasing income as interest rates rise. Some pooled income funds may be invested in stocks paying good dividends rather than in bonds and cash equivalents. Donors could transfer appreciated stock paying minimal dividends and increase cash flow as well as reap large tax savings. It is strange that charities are leaving pooled income funds to die and avoiding birthing new ones when this instrument could have an important place in the menu of planned gifts.

It is probably only a matter of time before someone designs and seeks legislative approval of a pooled income fund that functions somewhat like a unitrust in that each unit holder receives his or her pro rata share of trust assets. This would be appealing to those who don't like gift annuities because of the lack of inflation protection and can't contribute the minimum required for a separately-managed charitable remainder trust.

There have been relatively few innovative, non-abusive, planned giving instruments in recent years. The latest was the increasing-payment charitable lead annuity trust. Before it, the "flip" unitrust and the flexible deferred gift annuity appeared and have now gained wide usage. Totally new planned giving instruments do not appear to be on the horizon, but there are opportunities for innovative modifications to existing ones. Further, we may expect more instances of blending the instruments – a charitable remainder trust, charitable lead trust combination – to achieve multiple donor objectives. Blending present and future gifts will also become more common.

A truly major change has been removing from the table, except for less than one percent of the population, any discussion of estate tax savings resulting from planned gifts. When the exemption was \$1,000,000 and the top federal estate tax rate was 55 percent, reduction of estate tax could be a motivation for establishing a charitable remainder trust as well as leaving a charitable bequest. Now, saving gift and estate tax is no longer a factor except for the very wealthy who are establishing charitable lead trusts or making large current or testamentary gifts. Leaving a legacy and making a positive difference in the world has always been the primary reason people made testamentary gifts. Now, for nearly all donors, this must be the only reason. Don't expect any change in the future, for it is highly unlikely that an exemption, indexed for inflation, would be rolled back.

People will continue to leave charitable bequests, even with no tax incentive to do so, and bequests will continue to constitute the lion's share of planned giving revenue. However, the total amount given through bequests will be less than it would have been with tax incentives.

E. How the Qualifications of Planned Giving Officers May Change

Previous Qualifications of Planned Giving Officers

In the past, the ideal planned giving officer had two skill sets, which might be associated with the left brain and the right brain. On the one hand, the officer should have an aptitude for mathematics and the ability to understand and explain estate planning principles and charitable gift instruments as described in the Internal Revenue Code, Regulations, and Rulings. On the other hand, the officer should be very comfortable interacting with people whether one-on-one or in a social situation. An ideal hire would be an attorney or other estate or financial professional who already had an understanding of the law and would have credibility with colleagues and who had the requisite people skills. Another good hire could be the liberal arts graduate, who was excellent with people and who had the intellectual capacity and inclination to master a technical body of knowledge.

Future Qualifications of Planned Giving Officers

As noted, there appear to be fewer planned giving officers with a high degree of technical expertise practicing today. That has resulted from the merger of major and planned gifts at many institutions, an increasing focus on bequests, and advancing computer programs. Just as penmanship deteriorated with the advent of the typewriter, so has a comprehension of the concepts underlying planned gifts diminished with programs that do calculations, produce proposals, and which in the future may do more thinking for us.

Most planned giving officers in the field today have excellent interpersonal skills, which is a major reason they were selected. However, the next generation of planned giving officers, who communicate largely by texting and social media, who are, in one sense, more connected than ever, but often isolated at the deepest level, may not have developed the same degree of interpersonal skills and may be far more comfortable interacting with donors remotely. In the cursive era, people took the time to pen thoughtfully-crafted, heartfelt letters and thank-you notes to friends, but only survivors of a bygone era still write them. There are now a hundred hastily written text messages for every handwritten letter, but even with emoticons they don't connect people at the same level.

The ability to use all of the tools of the digital age to market planned gifts, interact with donors, operate software programs, and administer an office will become increasingly important, and the new generation of gift planners will have a decided advantage. Indeed, many current planned giving officers would not meet the requirements stated in the future job descriptions of planned giving officers, no more than a person with beautiful penmanship could compete with the typewriter.

In the future, interpersonal skills will continue to be important, though the pool of applicants with such skills may be smaller. A high degree of technical knowledge will be required for positions at certain large charities with separate planned giving departments, but most of the planned giving jobs will not require the degree of technical expertise that once was expected. Absolutely essential will be versatility and the ability to adapt planned giving to the digital age.

Whether Planned Giving Will Cease or Fundamentally Change

When Spencer and Palmer were writing their textbooks on cursive writing, they never anticipated that the invention of the typewriter would mortally wound penmanship, and that the later invention of the computers, tablets, and smart phones would be its death knell. Planned Giving, like penmanship, has evolved. The artistic, skillful formulation of letters deteriorated into barely legible scribbling and then was replaced by keyboarding that required a new set of skills. Likewise, the increasingly capability of computer technology is rendering some skills less important and elevating others.

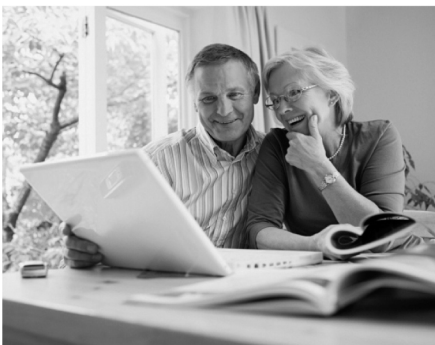
Unlike the teaching of cursive writing, the practice of planned giving is not threatened with extinction. Planned giving has succeeded in embracing and using the tools of technology rather than being replaced by them. Yet, like illegible penmanship, it could deteriorate unless it preserves its intellectual and humanistic dimensions. Even with all of the technological tools available, it is important to comprehend and communicate clearly the technical aspects of gift planning and to develop interpersonal skills.

Some external factors beyond our control could have a profound effect on the profession. Tax reform could sharply curtail the charitable deduction. Already, certain types of gifts in Canada produce greater tax savings than in the United States, and we must be eternally vigilant to preserve what we have. Also, there is the ever present threat of more stringent regulation of charities. On the other hand, a more favorable tax climate for planned giving might be created – for instance with passage of the Public Good Charitable IRA Rollover bill

championed by Conrad Teitell. Just as tablets revitalized Apple, so might such legislation and innovative adaptations of gift plans unleash the potential of planned giving.

Fortunately, even adverse developments, though altering our profession, will not eliminate it, for it taps into the deepest impulses of human nature.

**Successful planned giving programs
have a number of things in common.
A compelling mission is only the first.**

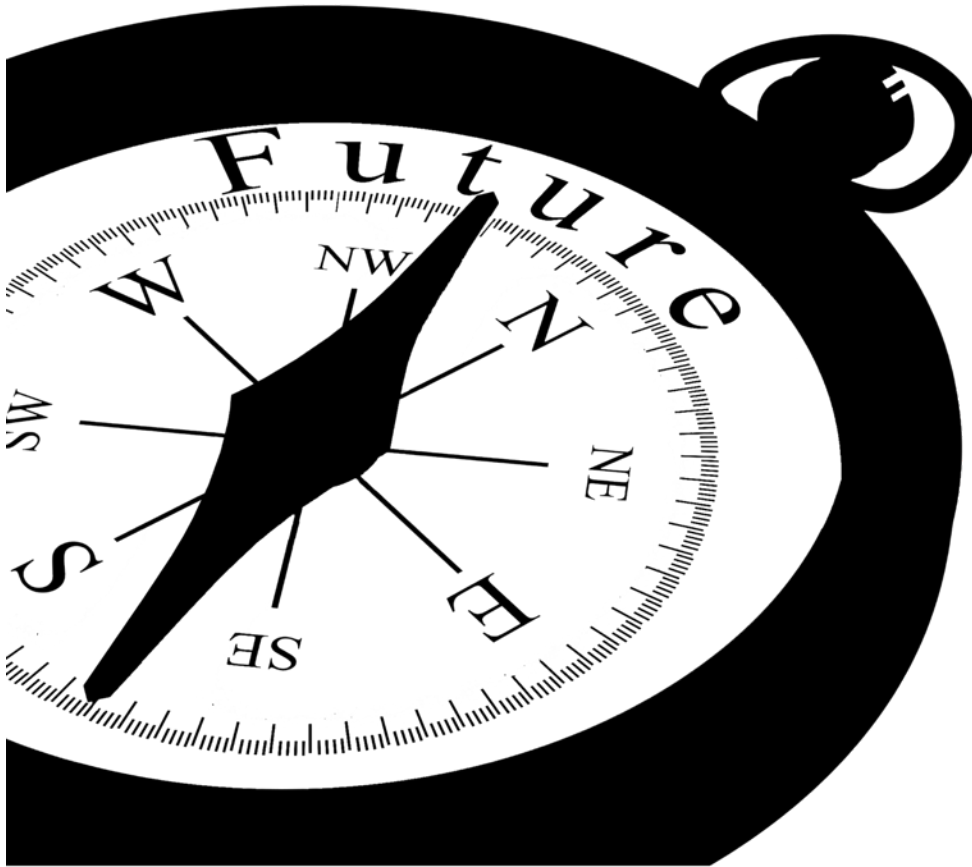


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Keynote Address: Selling with Noble Purpose: How to Drive Revenue and Do Work That Makes You Proud

Presented By

Lisa Earle McLeod

President

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Lisa Earle McLeod

Keynote Speaker | Bestselling Author | Sales Leadership Expert



Programs

Lisa's presentations center on how organizations and leaders can drive better results by instilling a greater sense of purpose. A greater sense of purpose enables people to close more business, become more effective leaders and lead happier lives.

Selling with Noble Purpose

How to Drive Revenue and Do Work That Makes You Proud

We assume that salespeople are primarily motivated by money. We couldn't be more wrong. Drawing from studies of top performing sales organizations, Lisa reveals why the salespeople who sell with Noble Purpose, those who earnestly and factually understand how they make a difference to their customers, outsell salespeople who are primarily focused on sales targets and money.

Leading with Noble Purpose

How to Use Purpose to Drive Results, Solve Problems, and Do Work That Makes Everyone Proud

This session is for senior leaders who want to improve morale, increase focus, solve conflicts and lead their teams to better performance.

Persuade with Purpose

How to Use Purpose to be More Persuasive and Influential at Work

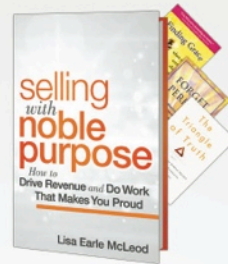
We've all been there: You present a great idea, it gets rejected, yet two months later someone else presents the same idea and it's enthusiastically approved. What happened? This session is for anyone who needs to take the mystery out of persuasion, so they can get support from colleagues, customers, or the boss. You can't be successful if you can't persuade. Drawing from interviews with hundreds of leaders, Lisa reveals the mindsets, skills, and techniques that differentiate the top 2%.

Forget Perfect

How to Bring Purpose and Happiness Into the Life You've Already Got

Based on Lisa's popular book, Forget Perfect, this touching humorous program is for every woman who has put herself last on her own priority list. This session is a huge hit with philanthropic organizations and volunteer groups.

Keynotes - Workshops - Webinars



Lisa Earle McLeod

Organizations like Deloitte, Genentech and Kimberly-Clark hire Lisa McLeod to help them create passionate, purpose-driven sales organizations.

A sought after keynote speaker and workshop leader, McLeod has keynoted for giants like Apple and Google, as well as numerous franchise organizations, non-profits, and trade associations. A powerful presenter, Lisa has delivered programs for audiences as large as 2,500 as well as more intimate programs for executives and board members.

McLeod is a best-selling author in 3 genres: business, personal development and humor. Her newest book, *Selling with Noble Purpose*, is reframing the sales profession.

McLeod is the Sales Leadership expert for Forbes.com and has been featured in *Fortune* and *The Wall Street Journal*, and has appeared on *The Today Show* and the *NBC Nightly News*.

McLeod began her career with Procter & Gamble, where she established herself as a sales leader and highly-skilled sales coach. After leaving P & G she went on to become the Vice President of Business Development at Vital Learning (formerly McGraw-Hill Training Systems).

She established her own firm, McLeod & More, in 1993.

She and her husband, and business partner, Bob McLeod are the parents of two daughters.

Lisa Earle McLeod

“Out of 63 programs, Lisa McLeod was the single highest rated speaker at our Global Conference”

**Tim Cummins, CEO
International Association of Commercial Contract Managers**

“Lisa McLeod is a master at helping organizations reframe their sales narrative around purpose, which boosts sales numbers and sales morale alike.”

**Dan Pink, Author
Drive and To Sell Is Human and Drive**

“Lisa McLeod is a sales leadership expert who has coached top-tier sales teams at Apple, Kimberly-Clark and Procter & Gamble. She knows what it takes to drive growth.”

**Jim Stengel, Former CMO
Procter & Gamble**

“Lisa McLeod is one of the highest-rated speakers we’ve ever had. She is a master communicator who has the rare gift of being able to connect with her audience’s heads and hearts.”

**Bill Eckstrom, President & Founder
EcSell Institute**

“Lisa got our executives aligned behind our strategic goals and our sales people learned how to differentiate themselves. The result is an organization that is focused, organized and passionate about delivering results. We were just ranked #1 in our market for customer service.”

**Ian Truran, President & CEO
Capital G Bank, Bermuda**

McLeod & More, Inc.
A Sales Leadership Consultancy

Our Noble Sales Purpose:

We help leaders drive revenue and do work that makes them proud.



Partial Client List

Apple
Ann Taylor
Capital G
CMIT Solutions
Deloitte
EcSell Institute
G Adventures
getAbstract
Genentech
GlaxoSmithKline
Google
Home Depot
Intel
Kimberly-Clark
Merck
Monster
Peterbilt Trucking
Pfizer
The Entrepreneurs Source
The Salvation Army
United Way

Featured



McLeod & More, Inc.

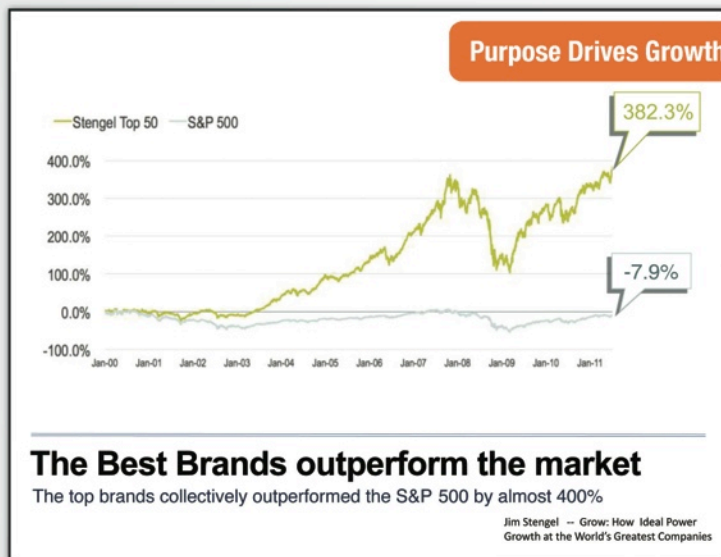
A Sales Leadership Consultancy

Selling with Noble Purpose

The words selling and noble are rarely seen together. Most people believe that money is the primary motivator for top salespeople and that doing good by the world runs a distant second.

That belief is wrong.

Salespeople who sell with noble purpose—who truly want to make a difference to customers—consistently outsell salespeople who were focused on sales goals and money.

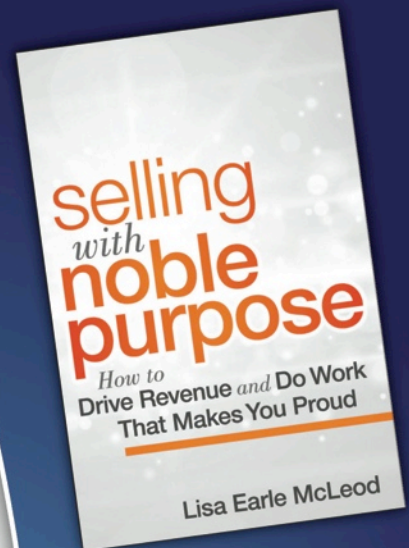


A 10-year growth study of more than 50,000 brands around the world reveal that companies who put improving people's lives at the center of all they do outperform the market by almost 400%.

Finding Your Noble Sales Purpose

1. How do you make a difference to customers?
2. How are you different than your competition?
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Six years of research and 10,000 hours of studying sales organizations revealed: **A Noble Sales Purpose™ (NSP) is the difference between a merely effective sales force and one that's truly outstanding.**



"One great value of *Selling with Noble Purpose* is how eminently practical it is. I strongly recommend for any manager or salesperson. It is right about the big picture. And it gets down to the nitty-gritty of how to make it happen in practice. Buy it. Read It Implement it. It's the future "

Steve Denning
Forbes.com

NSP Examples:

We turn employees into leaders.

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We help people discover more passion, purpose and happiness.

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We bring health and hope to the live of patients.

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We help leaders drive revenue and do work that makes them proud.

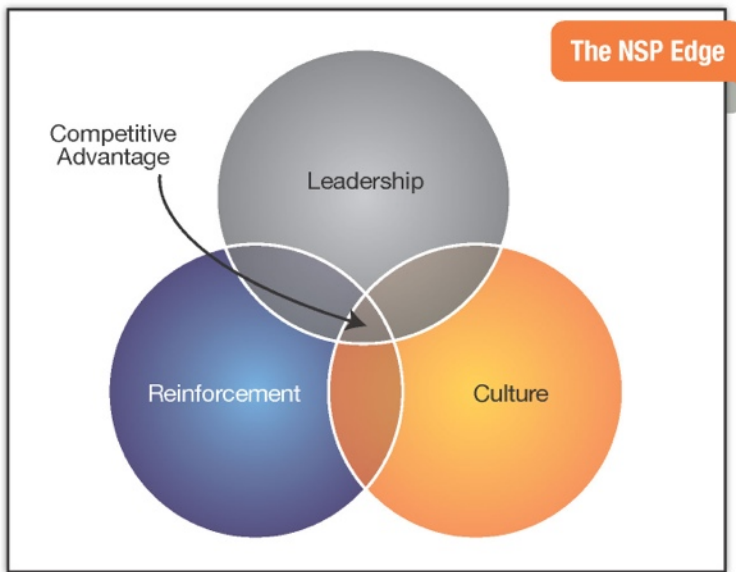
McLeod & More

Driving Revenue Is Not The Purpose Of A Sales Force. It's The Test Of Its Effectiveness.

The conversations managers have with salespeople drives the conversation salespeople have with customers. The internal conversation becomes the external conversation. So if the internal conversations are only about price, volume, and targets, with no mention of a larger purpose, that's exactly what your salespeople will discuss with customers.

The magic manager question:

How will this customer be different as a result of doing business with us?



The research is clear, and it confirms what we know in our hearts to be true: **a noble purpose engages people's passion in a way that spreadsheets don't.**

	◀ product/profit customers impact ▶									
Meetings	1	2	3	4	5	6	7	8	9	10
Rewards	1	2	3	4	5	6	7	8	9	10
Language	1	2	3	4	5	6	7	8	9	10

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Lisa Earle McLeod

Sales Leadership Consultant and Best Selling Author

Lisa Earle McLeod is a leading authority on sales leadership and the author of four provocative books including the best seller, *Selling with Noble Purpose*. She is the Sales Leadership expert for Forbes.com and the President of McLeod & More, Inc.

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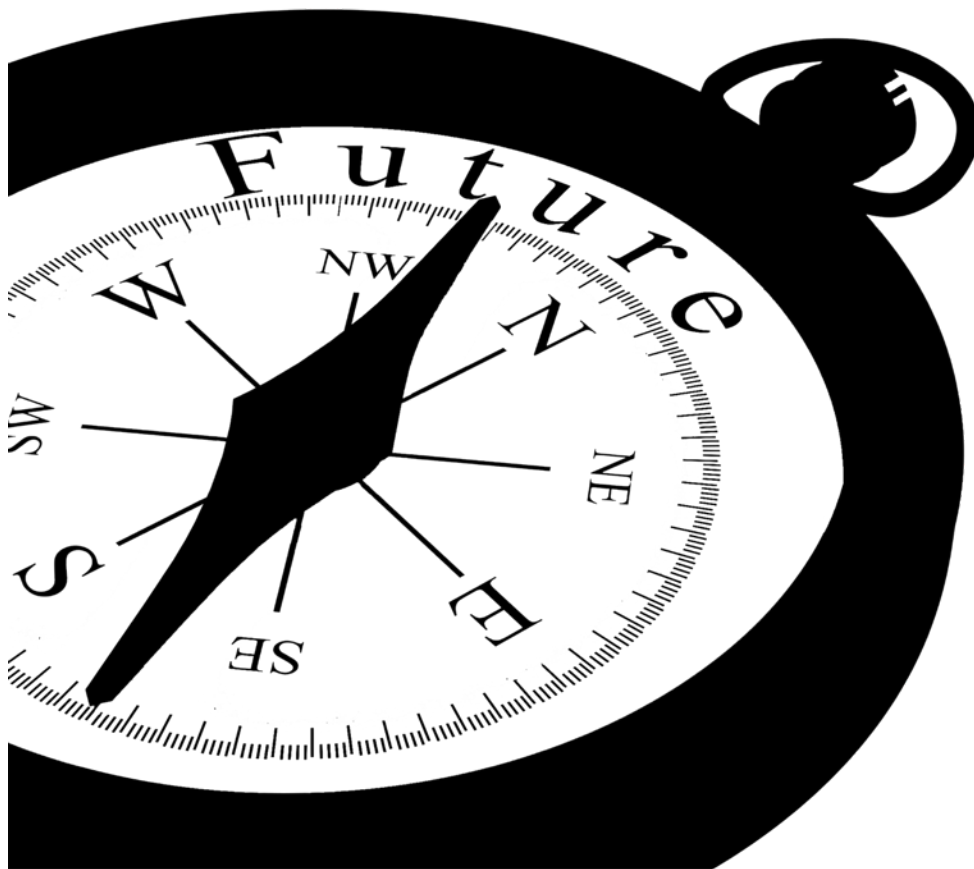


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CHARTING A COURSE FOR THE FUTURE

- A CONFERENCE ON PLANNED GIVING -



State Regulations - Panel Discussion (Track III)

Moderated By

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Panelists

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State Regulations Panel

I. Introduction to the Session

The goal of this session is to educate charities on ways to comply with state law in issuing and administering gift annuities, with emphasis placed on meeting annual reporting requirements. The panelists are Brenda Wilson Associate Commissioner for the Maryland Insurance Administration, Susan Baker a licensing specialist with the Washington State Office of the Insurance Commissioner and Edie Matulka, Senior Consultant of PG Calc. Ms. Wilson and Ms. Baker will answer questions regarding regulation of gift annuities in their respective states and Ms. Matulka will answer questions as they apply to other applicable state regulations. The panel will be moderated by Kristen Schultz Jaarda, Executive Vice President of Crescendo Interactive, Inc.

II. Panel Questions

The moderator will begin the discussion with general questions regarding the state registration process, annual filings, reserve requirements, penalties and changes in future law. Time will be allotted for specific questions directed to the state regulators. This handout has been designed with space for attendees to take notes after each question below.

A. General Questions:

1. Registration:

- a. What level or type of activity subjects a charity to your state's regulations?
- b. What are your state reviewers specifically looking for when reviewing a charity's application to issue gift annuities in your state? What issues prompt the most concern? What steps can a charity take to ensure a successful review process?

2. Annual Filing:

- a. What information are you looking for in the annual report and for what purpose is it requested?
- b. How can charities improve their annual filings? What advice do you have for making the annual filing process less burdensome for charities?
- c. How do you handle late filings or a charity neglecting to submit a filing?

3. Reserves:

- a. What are the reserve requirements in your state?
- b. What happens if a charity is non-compliant with the reserve requirement?

4. Marketing: What requirements does your state have with respect to gift annuity marketing materials?

5. Penalties:

- a. What are the penalties for issuance of gift annuities in your state without a license? How are these enforced?
- b. Does it make a difference if the charity voluntarily admits to issuance prior to obtaining a license as opposed to a separate discovery of noncompliance?

6. Winding Down: If an organization wishes to no longer issue gift annuities in your state and to turn back its permit/certificate, what are the formal steps, if any, the organization needs to take with the State?
7. Legal Changes: Do you anticipate any changes in the near future that will impact gift annuity registrations and compliance?

B. State Specific Questions:

Washington

Washington is moving to an online filing system for gift annuity documents. Can you explain the change and its impact on charities issuing gift annuities in Washington?

Maryland

Maryland has changed its annual filing requirement. Can you explain the change? What must organizations submit to fulfill the “CPA attesting to reserve adequacy” requirement?

Wisconsin

Edie, Wisconsin has new legislation on charitable gift annuities. What is the impact on charities issuing in this state?

III. Audience Questions

If you wish to ask a question of one or more of the panelists, please fill out the Panel Question Form available at your seat and pass it to the aisle during the session. Following the panelists’ responses to the prepared questions, the moderator will read questions from the audience as time permits.

IV. Conclusion

We hope this panel discussion provides you with an opportunity to learn more about the gift annuity state regulatory process and ask the questions you may have regarding compliance. If you have further questions, the ACGA web site contains detailed information on the regulatory requirements of each state. Please consult the gift annuity state regulation pages at www.acga-web.org.

V. Notes

MIKE KREIDLER
STATE INSURANCE COMMISSIONER

STATE OF WASHINGTON

Phone: (360) 725-7202
Fax: (360) 586-2022



OFFICE OF
INSURANCE COMMISSIONER

SURRENDERING A CERTIFICATE OF EXEMPTION
TO ISSUE CHARITABLE GIFT ANNUITIES

The following information is provided for a Charity wishing to withdraw its certification to issue gift annuities in Washington.

Prior to surrendering its certificate of exemption, the Charity needs be in full compliance with Chapter 48.38 RCW, and have no outstanding WA gift annuity liability. To protect its citizens, our Office cannot allow a Charity to abandon its duties and obligations under the privilege afforded by the certificate of exemption.

Typically, the reporting obligations include the following items:

- a) Proper filing of the Charity's Annual Report, which is due two months following the Charity's fiscal year end. This includes the Actuarial Certification and all required documentation;
- b) The \$25 annual filing fee (payable to the WA Office of the Insurance Commissioner);
- c) Response to any inquiry or open investigation by this Office.

These items should satisfy the requirements of RCW 48.38.010(10), 48.38.010(8), and WAC 284-30-650.

If a Charity has payment obligations under its Washington contracts or to Washington annuitants; there are two main ways to address these obligations. The Charity may provide documentary proof that another authorized charitable gift annuity issuer or an authorized insurer, has fully assumed by novation all of the Charity's obligations to each individual owning an annuity issued by the Charity. The second possibility would be for the Washington annuitant to voluntarily forego the future payments, as allowed in the CGA contract, thereby creating an additional gift to the Charity.

Once we have determined that the Charity is in compliance, we can consider its offer to surrender and request to cancel the Certificate. The offer to surrender must include:

- 1) Return of the Certificate. (If the actual document cannot be located, we can accept a notarized statement that after diligent search, the document could not be found.)

Revised 12/10/2012



- 2) Documentation of Charity's Board action authorizing surrender of certificate of exemption.
- 3) A letter from an authorized Officer to our Office containing an attestation that:
 - a) no present WA gift annuity liability exists,
 - b) no WA gift annuity contract has been issued that has not been reported since the charity's last Annual Report;
 - c) the charity understands that it will not issue CGAs to residents of WA unless and until it re-acquires a certificate of exemption issued by our Office.
- 4) Cancellation of the certificate of exemption does not occur and surrender of the certificate is not effective until OIC notifies the charity in writing that the certificate of exemption has been cancelled.

The request to withdraw should be made to the attention of:

Ms. Gayle Pasero, CPCU; Company Licensing Manager
OIC Company Supervision Division
PO Box 40259
Olympia WA 98504-0259

Mail the fee and fee submission form to:

Office of the Insurance Commissioner
Accounting Section
P.O. Box 40257
Olympia, WA 98504-0257

 <p style="text-align: center;">RULE-MAKING ORDER</p>	<p style="text-align: center;">CR-103P (May 2009) (Implements RCW 34.05.360)</p>						
<p>Agency: Office of the Insurance Commissioner</p>	<p style="text-align: center;">Permanent Rule Only</p>						
<p>Effective date of rule: Permanent Rules <input type="checkbox"/> 31 days after filing. <input checked="" type="checkbox"/> Other (specify) <u>March 15, 2014</u> (If less than 31 days after filing, a specific finding under RCW 34.05.380(3) is required and should be stated below)</p>							
<p>Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If Yes, explain:</p>							
<p>Purpose: The new rule will require organizations that hold a certificate from the Commissioner to issue charitable gift annuities to file their financial and related statements with the Commissioner electronically rather than by paper. The new rule will also require these organizations to file their gift annuity contracts electronically with the Commissioner using the SERFF system.</p> <p style="text-align: center;">Insurance Commissioner Matter No. R 2013-24</p>							
<p>Citation of existing rules affected by this order: Repealed: 0 Amended: 0 Suspended: 0</p>							
<p>Statutory authority for adoption: RCW 48.38.075</p>							
<p>Other authority: RCW 48.38.010(10), RCW 48.38.010(9), and RCW 48.38.030.</p>							
<p>PERMANENT RULE (Including Expedited Rule Making) Adopted under notice filed as WSR <u>14-02-075</u> on <u>December 30, 2013</u>. Describe any changes other than editing from proposed to adopted version: None</p> <p>If a preliminary cost-benefit analysis was prepared under RCW 34.05.328, a final cost-benefit analysis is available by contacting:</p> <table border="0" style="width: 100%;"> <tr> <td>Name: Jim Tompkins</td> <td>phone (360) 725-7036</td> </tr> <tr> <td>Address: PO Box 40258</td> <td>fax (360) 586-3109</td> </tr> <tr> <td>Olympia, WA 98504-0258</td> <td>e-mail rulescoordinator@oic.wa.gov</td> </tr> </table>		Name: Jim Tompkins	phone (360) 725-7036	Address: PO Box 40258	fax (360) 586-3109	Olympia, WA 98504-0258	e-mail rulescoordinator@oic.wa.gov
Name: Jim Tompkins	phone (360) 725-7036						
Address: PO Box 40258	fax (360) 586-3109						
Olympia, WA 98504-0258	e-mail rulescoordinator@oic.wa.gov						
<p>Date adopted: February 10, 2014</p> <p>NAME (TYPE OR PRINT) Mike Kreidler</p> <p>SIGNATURE </p> <p>TITLE Insurance Commissioner</p>	<p style="text-align: center;">CODE REVISER USE ONLY</p> <div style="border: 1px solid black; padding: 10px; text-align: center;"> <p>OFFICE OF THE CODE REVISER STATE OF WASHINGTON FILED</p> <p>DATE: February 10, 2014 TIME: 7:39 AM WSR 14-05-017</p> </div>						

(COMPLETE REVERSE SIDE)

**Note: If any category is left blank, it will be calculated as zero.
No descriptive text.**

Count by whole WAC sections only, from the WAC number through the history note.
A section may be counted in more than one category.

The number of sections adopted in order to comply with:

Federal statute:	New	_____	Amended	_____	Repealed	_____
Federal rules or standards:	New	_____	Amended	_____	Repealed	_____
Recently enacted state statutes:	New	_____	Amended	_____	Repealed	_____

The number of sections adopted at the request of a nongovernmental entity:

New	_____	Amended	_____	Repealed	_____
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The number of sections adopted in the agency's own initiative:

New	<u>8</u>	Amended	_____	Repealed	_____
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The number of sections adopted in order to clarify, streamline, or reform agency procedures:

New	<u>8</u>	Amended	_____	Repealed	_____
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The number of sections adopted using:

Negotiated rule making:	New	_____	Amended	_____	Repealed	_____
Pilot rule making:	New	_____	Amended	_____	Repealed	_____
Other alternative rule making:	New	<u>8</u>	Amended	_____	Repealed	_____

Chapter 284-38 WAC
CHARITABLE GIFT ANNUITIES

NEW SECTION

WAC 284-38-010 Definitions. The definitions in this section apply throughout this chapter:

"Certificate holder" means any insurer or educational, religious, charitable, or scientific institution that has been issued a certificate of exemption by the commissioner to conduct a charitable gift annuity business.

"Complete filing" means a package of information containing charitable gift annuity contracts, supporting information, documents and exhibits submitted to the commissioner electronically using the system for electronic rate and form filing (SERFF).

"Contract" means a charitable gift annuity contract as described in chapter 48.38 RCW.

"Date filed" means the date a complete charitable gift annuity contract filing has been received and accepted by the commissioner.

"Filer" means a person, organization, or other entity that files charitable gift annuity contracts with the commissioner.

"Objection letter" means correspondence sent by the commissioner to the filer that:

- (a) Requests clarification, documentation or other information;
- (b) Explains errors or omissions in the filing; or
- (c) Disapproves a charitable gift annuity contract under RCW 48.38.010(9), 48.18.110, 48.38.030, or 48.38.042.

"SERFF" means the system for electronic rate and form filing. SERFF is a proprietary National Association of Insurance Commissioners (NAIC) computer-based application that allows filers to create and submit rate, rule, and form filings electronically to the commissioner.

FILING CHARITABLE GIFT ANNUITY CONTRACTS FORMS

NEW SECTION

WAC 284-38-100 Filing instructions that are incorporated into this chapter. SERFF is a dynamic application that the NAIC will revise and enhance over time. To be consistent with NAIC filing standards and provide timely instructions to filers, the commissioner must incorporate documents posted on the SERFF web site into this chapter. By reference, the commissioner incorporates these documents into this chapter:

- (1) The *SERFF Industry Manual* available within the SERFF application; and

(2) The *Washington State SERFF Life and Disability Rate and Form Filing General Instructions* posted on the commissioner's web site, www.insurance.wa.gov.

NEW SECTION

WAC 284-38-110 General charitable gift annuity contract filing rules. Filers and certificate holders must submit complete filings that comply with these rules:

(1) Filings must comply with the filing instructions and procedures in the *SERFF Industry Manual* available within the SERFF application and *Washington State SERFF Life and Disability Rate and Form Filing General Instructions*.

(2) Filers must submit every charitable gift annuity contract to the commissioner electronically using SERFF.

(a) Every charitable gift annuity contract filed in SERFF must be attached to the form schedule.

(b) All written correspondence related to a charitable gift annuity contract filing must be sent in SERFF.

(3) All filed contracts must be legible for both the commissioner's review and retention as a public record. Filers must submit new and replaced contracts to the commissioner for review in final printed form displayed in ten-point or larger type.

(4) Each contract must have a unique identifying number and a way to distinguish it from other editions of the same contract.

(5) Filers must submit a completed compliance checklist provided in the SERFF application with each new charitable gift annuity contract as supporting documentation. If the filing includes more than one new contract, the filer may:

(a) Complete a separate checklist for each charitable gift annuity contract; or

(b) Complete one checklist and submit an explanatory memorandum that lists any material differences between the filed contracts.

NEW SECTION

WAC 284-38-120 Filing revised or replaced charitable gift annuity contracts forms. If a revised or replaced charitable gift annuity contract form is being filed, in addition to the requirements of WAC 284-38-110, the filer must provide the following supporting documentation:

(1) If a contract is revised due to an objection(s) from the commissioner, the filer must provide a detailed explanation of all material changes to the disapproved contract.

(2) If a previously approved contract is replaced with a new version, the filer must submit an exhibit that marks and identifies each change or revision to the replaced contract using one of these methods:

(a) A draft contract that strikes through deletions and underlines additions or changes in the contract;

(b) A draft contract that includes comments in the margins explaining the changes in the contract; or

(c) A side-by-side comparison of current and proposed contract language.

NEW SECTION

WAC 284-38-130 Filing authorization rules. (1) A certificate holder may authorize a third party to file charitable gift annuity contracts on its behalf.

(2) If a certificate holder delegates filing authority to a third party, each filing must include a letter signed by an employee of the certificate holder authorizing the third party to make filings on behalf of the certificate holder. This subsection does not apply to a third party that is an affiliate or wholly owned subsidiary of the certificate holder.

(3) The certificate holder may not delegate responsibility for the content of a filing to a third party. The commissioner considers errors and omissions by the third party to be errors and omissions of the certificate holder.

(4) If a third party has a pattern of making filings that do not comply with this subpart, the commissioner may reject a delegation of filing authority from the certificate holder.

NEW SECTION

WAC 284-38-140 The commissioner may reject annuity contract filings. (1) The commissioner may reject and close any filing that does not comply with WAC 284-38-100. If the commissioner rejects a filing, the certificate holder has not filed the charitable gift annuity contract with the commissioner.

(2) If the commissioner rejects a filing and the filer resubmits it as a new filing, the date filed will be the date the commissioner receives and accepts the new filing.

NEW SECTION

WAC 284-38-150 Responding to objection letters. If the commissioner disapproves a filing under RCW 48.38.010(9), 48.18.110, 48.38.030, or 48.38.042, the objection letter will state the reason(s) for disapproval, including relevant law and administrative rules. Filers must:

(1) Provide a complete response to an objection letter. A complete response includes:

(a) A separate response to each objection; and

(b) If appropriate, revised exhibits and supporting documentation.

(2) Respond to the commissioner in a timely manner.

ANNUAL REPORTING REQUIREMENTS

NEW SECTION

WAC 284-38-200 Annual reporting requirements. (1) Every certificate holder must electronically file with the commissioner a completed annual report within sixty days of its fiscal year end. A copy of the annual report form and instructions for completing and filing the annual report are available on the commissioner's web site at www.insurance.wa.gov.

(2) As an ongoing statement of financial condition, required under RCW 48.38.010(10), the certificate holder must annually electronically file the following financial reports:

(a)(i) An audited financial statement specific to the certificate holder prepared in accordance with generally accepted accounting principles for the fiscal year immediately preceding; or

(ii) A consolidated audited financial statement prepared in accordance with generally accepted accounting principles for the fiscal year immediately preceding, which includes a supplemental schedule specific to the certificate holder. The audited financial statement must be filed within fifteen days of its release date following the certificate holder's fiscal year end.

(b) Unless permanently exempt in accordance with Internal Revenue Service regulations, file a complete public inspection copy of the certificate holder's IRS Form 990 within fifteen days of its filing with the IRS.

(c) Any other financial information required by the commissioner.

(3) The failure by a certificate holder to file an audited financial statement within nine months following its most recent fiscal year end, and when applicable its IRS Form 990 within fifteen days of its filing with the IRS, will constitute a finding as referenced under RCW 48.38.050 that the certificate holder failed to provide a satisfactory statement of financial condition as required under RCW 48.38.010(10). The finding may subject the certificate holder to disciplinary action as allowed under RCW 48.38.050.

(4) An encrypted or password protected filing or transmission is not considered filed under RCW 48.38.010(10) and this section.

(5) For purposes of determining whether a filing deadline has been met, a document is considered received if electronically submitted on or before the date it is due.

STATE OF WASHINGTON – COMPLIANCE CHECKLIST.

Charitable Gift Annuity Contracts
(For Certificate Holders that are providers of Charitable Gift Annuities)

Line of Business	Other Lines	Line(s) of Insurance	Code(s)
	A10	Charitable Gift Annuity Contract	A10.000
This compliance checklist applies to all Certificate Holders			
Certificate Holder Name:			
Certificate Holder WAOIC #:			
General Standards and Penalties			
Filings		Do file: Contract jackets, disclosure forms, applications, and other forms made a part of the charitable gift annuity contract.	Don't file: Advertising brochures, charitable gift annuitant notices, or other forms that are not part of the contract.
Registration	<u>RCW 48.38.010</u>	A charitable gift annuity provider must have a valid certificate of exemption before the provider can file a charitable gift annuity contract.	If a certificate holder does not include a WAOIC Number in the Filing Company Information under the Companies and Contact tab, we will reject the filing.
Filing Rules	<u>WAC 284-38-110(1)</u>	Filers must comply with these rules and the Washington SERFF Life and Disability Rate and Form Filing General Instructions posted on the commissioner's web site.	If a charitable gift annuity contract filing does not comply with these rules, we will reject the filing. <u>WAC 284-38-140</u>
SERFF	<u>WAC 284-38-110(2)</u>	You must submit all charitable gift annuity contracts through the NAIC SERFF filing system.	If a charitable gift annuity contract is not filed using SERFF, OIC will return the filing without action.
Prior Approval	<u>RCW 48.38.010(9)</u>	Before charitable gift annuity contracts are offered, issued, or issued for delivery in this state or to residents of this state, they must be approved by the commissioner.	The Insurance Commissioner will disapprove charitable gift annuity contracts that do not comply with Chapters 48.38 and 48.23 RCW based on the authority under RCW 48.18.110. Variable annuities are prohibited under RCW 48.38.042 and we will reject the filing. If non-compliance is substantive, the Insurance Commissioner will close the filing without action.
Third-Party Filers	<u>WAC 284-38-130</u>	Persons or entities that are not Certificate Holders may not file forms on behalf of a Certificate Holder unless the Certificate Holder provides written authorization.	

STATE OF WASHINGTON – COMPLIANCE CHECKLIST

Charitable Gift Annuity Contracts

(For Certificate Holders that are providers of Charitable Gift Annuities)


General Standards	<p>RCW 48.38.010(9) RCW 48.18.110</p>	<p>A Certificate Holder is subject to either disapproval or a cease and desist order if:</p> <ul style="list-style-type: none"> • It violates Chapter 48.38 RCW or any order or regulation issued by the commissioner under this chapter; • It contains or incorporates by reference any inconsistent, ambiguous, or misleading clauses, or exceptions and conditions; • It has any title, heading, or other indication of its provisions that is misleading; or • A Certificate Holder is using deceptive advertising to solicit business.
Penalties	<p>RCW 48.38.050</p>	<p>A violation of chapter 48.30 RCW, which is incorporated into chapter 48.38 RCW is:</p> <ul style="list-style-type: none"> • An unfair or deceptive act or practice in the conduct of business; • An unfair method of competition, as specifically contemplated by RCW 48.30.010; and • An act that can subject the Certificate Holder to regulatory action and fines as provided under the chapter
Charitable Gift Annuity Contract Requirements		
Requirement	Reference	Description
Arbitration	RCW 7.04A	If the contract contains an arbitration clause, then Washington's Arbitration Act applies, which requires binding arbitration (see <u>Godfrey vs. The Hartford Casualty Ins. Co.</u> , 142 Wn. 2d 885, 16 P.3d 617).
Civil Actions	RCW 48.18.200	The State of Washington is the jurisdiction of any civil action in connection with a charitable gift annuity contract.
		Complies
		Yes []
		Provision #
		[#]

STATE OF WASHINGTON – COMPLIANCE CHECKLIST
Charitable Gift Annuity Contracts
(For Certificate Holders that are providers of Charitable Gift Annuities)

Required Contents		Each charitable gift annuity contract must contain the following clauses:	Yes []	[#]
<u>RCW 48.38.030</u>	<ul style="list-style-type: none"> A statement of the value of the property to be transferred <u>RCW 48.38.030(1)</u> 	<ul style="list-style-type: none"> A statement of the value of the property to be transferred <u>RCW 48.38.030(1)</u> 	Yes []	[#]
	<ul style="list-style-type: none"> A statement of the amount of the annuity payable <u>RCW 48.38.030(2)</u> 	<ul style="list-style-type: none"> A statement of the amount of the annuity payable <u>RCW 48.38.030(2)</u> 	Yes []	[#]
	<ul style="list-style-type: none"> A statement of the manner and intervals of the annuity payments <u>RCW 48.38.030(3)</u> 	<ul style="list-style-type: none"> A statement of the manner and intervals of the annuity payments <u>RCW 48.38.030(3)</u> 	Yes []	[#]
	<ul style="list-style-type: none"> A statement of the annuitant's age <u>RCW 48.38.030(4)</u> 	<ul style="list-style-type: none"> A statement of the annuitant's age <u>RCW 48.38.030(4)</u> 	Yes []	[#]
	<ul style="list-style-type: none"> A statement of the reasonable value as of the date of the agreement of the benefits created <u>RCW 48.38.030(5)</u> 	<ul style="list-style-type: none"> A statement of the reasonable value as of the date of the agreement of the benefits created <u>RCW 48.38.030(5)</u> 	Yes []	[#]
	<u>RCW 48.23.180</u>	<ul style="list-style-type: none"> A misstatement of age provision 	Yes []	[#]
	<u>RCW 48.23.160</u>	<ul style="list-style-type: none"> A statement of incontestability if any statements other than those relating to age, sex, and identity are required as a condition to issue a charitable gift annuity agreement 	Yes []	[#]
	<u>WAC 284-38-110(4)</u>	<ul style="list-style-type: none"> A unique identifying form number shown in the bottom left-hand corner of each page 	Yes []	[#]
	<u>RCW 48.23.170</u>	<ul style="list-style-type: none"> A statement that the contract and any attachments incorporated by reference therein shall constitute the entire contract between the parties. Or, if the application is endorsed upon or attached to the contract when issued, a statement that the contract and the application constitute the entire contract between the parties 	Yes []	[#]
	<u>RCW 48.18.200</u>	<ul style="list-style-type: none"> A statement that the contract is governed by the laws of the state of Washington 	Yes []	[#]
		<ul style="list-style-type: none"> A signature block for the annuitant to sign, consistent with industry standards of the <u>American Council on Gift Annuities Best Practices</u>. 	Yes []	[#]

STATE OF WASHINGTON – COMPLIANCE CHECKLIST
Charitable Gift Annuity Contracts
(For Certificate Holders that are providers of Charitable Gift Annuities)

Requirement	Reference	Description	Complies	Provision #
Required Contents for Revised or replaced contracts	<u>WAC 284.38-120</u>	If a Certificate Holder files a revised or replaced contract, the filer must provide as supporting documentation a Redline version of the previously filed and approved contract showing revisions. Revised contracts must contain an edition date or a new form number to distinguish the current contract from previous versions.	Yes []	[#]
Certificate Holder Name and Type of Product	<u>RCW 48.38.010(3)</u>	<ul style="list-style-type: none"> Charitable gift annuities are issued only for the benefit of the Certificate Holder 	Yes []	[#]
	<u>WAC 284-30-670</u>	<ul style="list-style-type: none"> A Certificate Holder must conduct its business in its legal name. 	Yes []	[#]
	<u>RCW 48.38.010(7)(a)</u>	<ul style="list-style-type: none"> Each charitable gift annuity contract must include the address of the Certificate Holder. 	Yes []	[#]
	<u>RCW 48.30.060</u>	<ul style="list-style-type: none"> Certificate Holders must not assume or use any name which deceptively infers or suggests that it is an insurer 	Yes []	[#]
	<u>RCW 48.38.042</u>	<ul style="list-style-type: none"> Variable annuities are prohibited 	Yes []	[#]
Service of Suit	<u>RCW 48.38.010(4)</u>	The commissioner is the Certificate Holder's attorney to receive service of legal process in any action, suit, or proceeding in any court.	Yes [] N/A []	[#]



Are you a fundraiser who wants to know more about planned gifts—bequests, gift annuities, trusts, etc.?

The National Capital Gift Planning Council (NCGPC) offers monthly educational programs on a wide variety of topics, from September through June.

We encourage you to join NCGPC to ENHANCE your knowledge, NETWORK with your peers, and LEARN from the very best professionals in our area.

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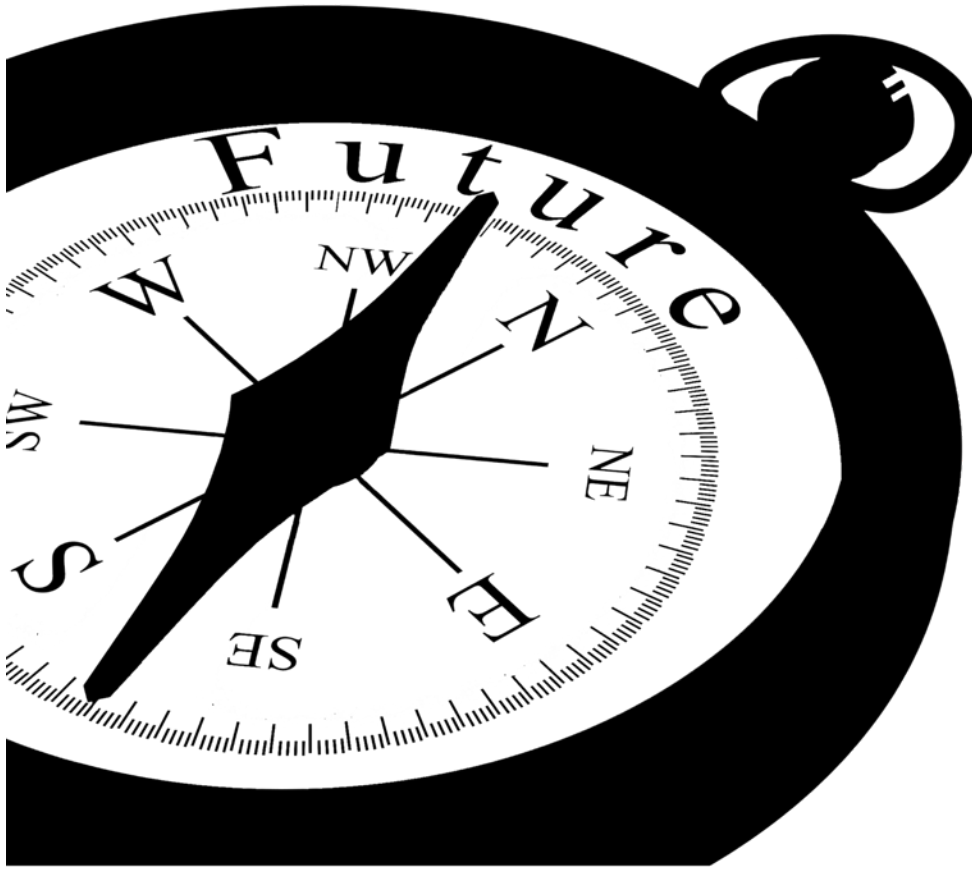


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Advanced Planning with Gift Annuities (Track II, III)

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INTRODUCTION

Most gift annuities issued by charities:

- Are established by a single donor or a couple during life,
- Make payments to the donor(s) starting immediately or at a specified future date, and
- Are funded with cash and/or publicly traded securities.

These could be called “vanilla” gift annuities. A charity that offers only this flavor can close a significant number of gift annuities. However, it will close more if it allows gift annuities to be funded with other types of assets and shows how gift annuities apply to a variety of donor situations.

This paper assumes that the reader is already familiar with vanilla gift annuities, so it does not discuss them. Neither does it deal with operational issues, such as risk management, state regulations, and administration. It rather is intended to show experienced gift planners how to raise more money through gift annuities by venturing beyond the vanilla type.

ASSETS WITH WHICH A GIFT ANNUITY MIGHT BE FUNDED

Some charities will accept only cash and publicly-traded securities for a gift annuity. This is unfortunate, for such a restriction forecloses many gifts from individuals who are not able to give these traditional assets. With proper safeguards, all of the following types of property, discussed in this section, could fund a gift annuity.

- Real estate
- Closely-held C stock
- Closely-held S stock
- LLC shares
- Tangible personal property
- Precious metals
- Life insurance policy with cash value
- Commercial variable deferred annuity
- Commodities

Gift Annuity Funded with Real Estate

The preferred instrument when a person wants to contribute real estate and receive income is a net-income charitable remainder unitrust, with or without a make-up provision, that contains a “flip” provision allowing it to convert to a standard unitrust upon the sale of the property. However, some donors may insist on a gift

annuity because they want fixed payments, preferably beginning soon. Also, a gift annuity may be the only practical alternative if the property is subject to a mortgage, or if the value of the property is below the minimum amount required for a charitable remainder trust.

A charity is understandably concerned about the risk of accepting real estate for a gift annuity, for it commits to fixed payments, not knowing when the property will sell or for how much. The risk can be minimized by adopting one of the following strategies:

- Offer a lower-than-normal gift annuity rate, based on a conservative estimate of net sales proceeds and the time period the charity would be making payments prior to the sale of the property. For example, if the normal gift annuity rate is 5%, the charity would offer a rate of 4%. If the charity operates in a regulated state to which it has submitted the schedule of rates it offers, it cannot vary from those rates except by the donor's knowledge and written consent.
- Ask the donor to defer payments for a year or two. This does not eliminate risk, but at least the charity is less likely to have to advance its own funds prior to the sale.
- Identify a buyer prior to the date the property is transferred. The charity would enter into a purchase-and-sale agreement with the interested buyer after receipt of the property. The risk is that for various reasons the sale to the interested buyer may not close.
- The charity secures a pledge from the donor and then seeks a purchaser. In the pledge agreement, the donor commits to transferring the property for a gift annuity per x terms at whatever time the charity consents to accept the property. Before notifying the donor that it is prepared to accept the property, the charity, acting on its own with no involvement of the donor, will have entered into a purchase-and-sale agreement with a buyer contingent on the charity's receiving the property by gift. If the charity is unable to find a buyer, it simply would never consent to accept the property.
- Exercise a "put" agreement with a prospective buyer in advance of accepting the property. This is conceptually similar to the approach immediately above. The difference is that upon receipt of the property, the charity can, in its own discretion compel the buyer to purchase the property for the agreed price.

Sometimes the rental income from the real property may approximate the annuity payments the charity agrees to pay. That eliminates advancing any of the charity's own money and significantly diminishes the risk.

In other cases, the charity may want to use the property for its exempt purposes. A gift annuity is an excellent way to acquire the property, for effectively the charity is purchasing it at a discounted price. It would be like an installment bargain sale, which in some instances might be preferable to a gift annuity.

In summary, charities should consider accepting real estate for a gift annuity and adopt one or more of the above strategies to keep risk at an acceptable level.

Charitable Reverse Mortgage. Many older individuals, who own their home free and clear, would like to continue living in it and also receive income to supplement what they are receiving from Social Security and their retirement plan. One possibility is a reverse mortgage arranged through a bank, though the fees can be high, and the payments to them will not necessarily continue for life. If they are charitably inclined, and the charity is willing to assume some risk and has some available funds, they might arrange a charitable reverse mortgage with the charity. They would transfer title to the charity, receiving in return a life estate (right to live in the home for life) and life payments in exchange for the remainder interest in the residence. The charity must

determine an annuity amount so that the value of the property at the end of the life estate is expected to be well above the future value of all payments advanced.

Gift Annuity Funded with Closely-Held C Stock

A person who owns stock in a closely-held C corporation could contribute some of that stock to a net-income or net-income-with-make-up provision unitrust that converts to a regular unitrust upon the sale of the stock. Provided certain procedures are followed, the corporation could purchase the shares from the trust using some of its accumulated cash. The shares could also be sold to other shareholders, provided they are not disqualified persons. A non-shareholder, unrelated party, who wants to acquire the company, could also purchase the shares held by the trust, though that person is more likely to be interested in purchasing corporate assets. The donor may opt for a gift annuity rather than a unitrust if (1) the expected purchasers are disqualified persons, such as children of the donor, (2) the donor prefers the certainty of fixed income, (3) or the gift is too small to be practical for a charitable remainder trust.

Example: Lewis, age 69, the principal shareholder of ABC Company, a C corporation, contributes shares appraised for \$1,000,000 to a charity in exchange for a gift annuity that will pay him \$50,000 per year. The cost basis of the shares is only \$60,000. His two sons are minority owners, and Lewis would like for their percentage of ownership to increase as he prepares to hand over management to them and to retire. Each of them has recently inherited a substantial sum from their maternal grandmother, and they would like to purchase the stock from the charity. Under an existing agreement, if any shareholder wants to sell his or her stock, other shareholders first, and then, if no shareholder is interested, the corporation, must be given a right to purchase the stock for the appraised value. Subsequent to receipt of the stock, the charity notifies the other shareholders that it wants to sell its shares for the recently-appraised value. The sons accept the offer. The charity then invests the \$1,000,000 cash in its gift annuity reserve fund. Lewis received an immediate income-tax charitable deduction for \$398,760, and his annual payments of \$50,000 will be taxed \$14,000, as ordinary income, \$33,840 as capital gain, and \$2,160 as tax-free return of capital for the duration of his life expectancy. The sons wind up with a higher percentage of ownership of the company.

A charitable remainder trust would not have been possible in this case because the sons are disqualified persons and could not purchase the stock. Although existing shareholders have a right of first refusal, the charity is under no obligation to sell the shares, so the donor should not be taxed on the gain in the stock. An appraisal of closely-held stock can be costly. If an appraisal is being done for other purposes, the appraiser could be asked also to appraise the shares that are being contributed.

Gift Annuity Funded with Closely-Held S Stock

The 1996 tax legislation added IRC Sec. 501(c)(3) organizations to the list of eligible shareholders of S stock, but did not add charitable remainder trusts, which are described in Sec. 664. Thus, a contribution of S stock to a charitable remainder trust would disqualify the S election.

It is possible to fund a gift annuity with S stock because the donee (and resulting shareholder) would be the charity, a Sec. 501(c)(3) organization. A charity might be willing to accept S stock for a gift annuity if it is reasonably certain that (1) it can sell the stock to other shareholders in the near term or (2) the corporation will make regular distributions of income to shareholders.

If the charity retains the stock, any income earned by the corporation will be taxed as unrelated business taxable income. Even income deriving from interest, dividends, and rents – the type of passive income normally not taxable to a charity – will be taxed. If the charity sells the stock, it will be taxed on the gain (which will be the

difference between the sales price and the present value of the annuity as of the date of the gift and, hence, its cost basis). Note that when a charity receives and sells S stock, it will pay less tax if the stock is contributed for a gift annuity than if it is contributed outright, in which case the charity's cost basis is whatever the donor's was.

Example: On March 15, 2014 Marguerite, age 72, contributed S stock to a charity in exchange for a gift annuity. The stock was appraised at \$400,000, and Marguerite's adjusted cost basis was only \$10,000. Shortly after the contribution, the charity sold the stock to another shareholder for \$400,000. While the charity would ordinarily pay the 5.4-percent ACGA rate, it reduced the rate to 5.0 percent in this instance to compensate for the tax it will pay.

Benefits to Marguerite

Value of S stock	\$400,000
Adjusted cost basis	10,000
Present value of annuity	
(charity's acquisition cost)	213,352
Charitable deduction	186,648
Annual payment	
taxed as follows during each full	
year of life expectancy:	
Ordinary income	\$5,280
Capital gain	14,352
Tax-free	<u>368</u>
	\$20,000

Implications for Charity

Capital gain taxed to charity	
(\$400,000 – 213,352)	\$186,648
Tax on gain	
(assuming the charity is a corporation	\$63,460
and a 34% rate applies)	
After-tax proceeds	\$336,540
Annual annuity as a percentage of after-	
tax proceeds	5.9%*

*The charity could offer an annuity rate lower than 5.0 percent so that the annuity rate as a percentage of after-tax proceeds would be closer to the ACGA rate.

Gift Annuity Funded with LLC Shares

A limited liability company (LLC) is a hybrid between a corporation and a partnership. For tax purposes it is normally treated as a partnership, but like a corporation, it insulates owners (called “members”) from personal liability for obligations of the entity. Income, capital gain, deductions, credits, etc. all pass through to the members. A charity can own an LLC interest if permitted by the operating agreement. If the operating agreement has a provision that does not allow the transfer of any LLC interest to a charitable entity, it may be possible to amend the operating agreement to permit such an interest to be owned by a charity.

If the LLC has only passive income, the charity would not be taxed on that income. If the LLC operates an active business, the income from that business allocated to the charity would be taxed as unrelated business taxable income. In the case of an S corporation, the income allocated to the charity would be taxed to the charity whether it is passive or derives from an active business. Thus, from a charity’s standpoint an LLC interest is generally better than S stock. When the charity sells its LLC interest, it is not taxed on the capital gain, whereas the gain would be taxed on the sale of S stock. This is another advantage of charitable gifts of LLC interests over S stock.

A charity could accept an LLC interest for a gift annuity. However, the charity probably would not want to accept such an asset for a gift annuity unless it was either reasonably certain that it could sell the interest in the near term of that its share of income would equal the annuity payments.

Example: Suppose that Marguerite in the above example contributed an LLC interest appraised at \$400,000 for a gift annuity, and suppose further that all of the income of the LLC is rental income from an apartment building. The charity would not be taxed on its share of rental income so long as it holds the interest, and if it sells its interest to another member, it would not incur tax on the capital gain. Because the entire net sales proceeds, rather than the proceeds reduced by tax on the gain, could be invested in the gift annuity reserve fund, it might not be necessary for the charity to discount the gift annuity rate very much, if at all.

Gift Annuity Funded with Tangible Personal Property (Artworks, Collectibles, etc.)

Tangible personal property refers to a physical item, other than real estate, that can be touched and that is generally movable. Examples include a painting, stamp collection, an automobile, a boat, and fine china.

The person making the gift executes a deed of gift conveying ownership and delivers the object to the charity. The gift is complete when both of these events have occurred.

According to IRC Sec. 170(e)(1)(B)(i), a donor of tangible personal property can deduct the full present market value if the object is related to the exempt purpose of the charity. Examples would be a painting given to an art gallery and a wooden boat for display at a nautical museum. If the object is unrelated to the charity’s exempt purpose, a donor’s deduction will be the lesser of present fair market value and the cost basis. If the object is given for a related use, it is recommended that the donor secure from the charity a letter stating that fact. Should changed circumstances necessitate the charity’s selling the object sometime in the future, the donor’s related-use deduction will not be disallowed, if the donor at the time of the contribution could reasonably expect the donated object to be used for a related purpose. See Reg. 1-170A-4(b)(3)(ii).

If the charity is reasonably sure that the object can be sold soon after the contribution, it might be willing to issue a gift annuity. Since the charity will sell the object, the object will be for an unrelated use, so the deduction will be based on the cost basis.

Example: George age 75 funds a gift annuity with a painting by an artist whose reputation has been rising. He purchased the painting for \$20,000 several years ago, and it was recently appraised for \$100,000. The charity sells the painting to a gallery as soon as practical for the full appraised value. George's income tax charitable deduction is \$9,154. The charitable gift value is 45.772% of the appraised value, but since the gift is for an unrelated use, the deduction is 45.772% of the cost basis rather than 45.772% of the appraised value. His annual payment is \$5,800 of which, for the duration of his life expectancy, \$1,426.80 is ordinary income, \$3,498.56 is capital gain, and \$874.64 is tax-free.

Suppose that George had contributed the painting to the gallery, which is a Sec. 501(c)(3) institution, and the gallery added the painting to its collection and made annuity payments from its general assets. In that case, George's deduction would have been \$45,772. An art museum might be eager to acquire a painting by a well-known artist for its collection, but the owner is unwilling to part with it unless she receives payments in return. The museum could offer a gift annuity in exchange for the painting. Since the gift would be for a related use, the donor's deduction would be based on the appraised fair market value.

However, even if the object is for an unrelated use (the charity sells it) and the deduction is small, the gift could be appealing to the donor, for the donor is able to convert the object to a stream of income, avoid tax on some of the gain, and report the taxable gain ratably over life expectancy. Even though the deduction may not be large, it is immediate. If tangible personal property were transferred to a charitable remainder trust, no deduction would be allowed until the object is sold.

Gift Annuity Funded with Precious Metals

People invest in gold and silver by purchasing coins (American Eagle, Canadian Maple Leaf, Krugerrand, etc.), purchasing bullion, or purchasing Exchange Traded Funds (ETFs). The latter is more common. Each share of the ETF represents a certain amount of gold or silver, which is typically stored at a bank.

An individual might also purchase shares in mining companies. The individual does not own the metal but has ownership in a company that is in the business of extracting the metal. These shares are treated like the shares in any company.

If precious metals are tangible personal property, the charitable deduction resulting from a gift of them would be the lesser of market value and cost basis because the gift would be for an unrelated use, except in the unlikely case the coins would be retained and used for the charity's exempt purposes – for example, display of coins in a museum.

Clearly, coins that are old and rare and that have value beyond the value of the metal itself are tangible personal property. The answer is less clear regarding coins where the value is simply that of the metal.

Inasmuch as the gain in all of these items is taxed at the rate applicable to tangible personal property, it would be consistent for the IRS to regard them as tangible personal property when they are contributed. However, in PLR 9225036, dealing with a proposed gift of Krugerrand gold coins to a charitable remainder unitrust, the IRS took a different position. Here is the pertinent paragraph:

South African Krugerrand coins are more akin to money than to coins that have value as collector's items. South African Krugerrand gold coins are one of the best known types of gold bullion coins. They have no numismatic value. Moreover, in the case at hand, the trustee is authorized to dispose of the coins. Therefore,

pursuant to the rationale of Rev. Rul. 69-63, we conclude that South African gold coins are not tangible personal property within the meaning of section 170(a)(3) of the Code.

The IRS apparently was taking a different position in a later PLR that was withdrawn when the applicant died before issuance.

Thus, we must conclude that there is uncertainty as to whether coins, bullion, and ETFs would be treated as tangible personal property when contributed. In support of the position that they would not be tangible personal property, we have Rev. Rule 69-63 and PLR 9225036. However, doubt is raised by the fact that the IRS was apparently ready to reverse its position in the withdrawn PLR, and particularly by the fact that when these items are sold the gain in them is taxed as if they are tangible personal property. If they are, indeed, tangible personal property (as we believe) the income tax charitable deduction for an unrelated-purpose gift, would be the lesser of current fair market value and cost basis.

Gold and silver prices are very volatile. For example, gold reached \$1,800 per ounce two years ago but has now fallen back considerably. Still, it remains well above its price in the late 1990s. Donors with gold and silver investments, concerned about a decline in values, might be interested in locking in their gains, but they are hesitant to incur the significant tax (federal rate as high as 31.8%) on the gain. They might be willing to make an outright gift of some portion of their investment, and they could, of course, leave their gold and silver to charity by bequest. If they want to reduce their holdings without current taxation of gain and convert the current value to predictable life payments, they could contribute their gold or silver for a gift annuity.

Example: John, now age 72, purchased 300 ounces of gold in 1999, when it was selling for \$279 per ounce. In early March of 2014 it was selling for about \$1,300 per ounce. Knowing that gold prices are subject to significant fluctuations and wanting to lock in his gain, John had been thinking of selling the gold and simply paying the tax on the gain, which could be as much as \$97,403 (\$306,300 gain x 31.8%). The maximum tax rate of gain in tangible property is 28%, and assuming the 3.8% surtax applies, the total rate would be 31.8%.

Instead of doing that, John contributed the gold for a gift annuity, realizing these results:

Income tax charitable deduction	\$ 36,485 ⁽¹⁾
Annual annuity	\$ 21,060
Payments taxed as follows during each full year of life expectancy:	
Ordinary income	\$5,559.84
Capital gain	12,173.59 ⁽²⁾
Tax-free return of capital	<u>3,326.57</u>
	\$21,060.00

⁽¹⁾ The deduction assumes the gold is tangible personal property. If it is not so regarded, the deduction would be \$166,340.

⁽²⁾ The top tax rate on gain in tangible personal property is 28%, or 31.8% if the surtax applies. On the Form 1099-R a charity should differentiate the type of gain.

Even if, as we believe, the gold is tangible personal property, the gift annuity is appealing. Some of the gain will not be taxed and the taxable portion can be reported over life expectancy. Most important, John will have predictable payments for life and doesn't have to worry about changed economic conditions that could cause gold prices to tumble.

Gift Annuity Funded with a Life Insurance Policy

Some individuals have life insurance policies that are either paid up or, at least, have been owned long enough to have accumulated considerable cash value. In some cases, the policy is no longer needed for family protection or liquidity to cover estate expenses, and it is just sitting in the safe deposit box. To derive some current benefit from the policy, the owner might be willing to transfer ownership to a charity for a gift annuity.

In many cases, the current value of the policy will exceed the policy holder's adjusted cost basis. The gain, if the policy were surrendered, would be taxed as ordinary income, not as capital gain. If the policy is contributed for a gift annuity, the income tax charitable deduction must be reduced by the amount of gain allocated to the gift value. The reduction is computed the same way as when "unrelated use" tangible personal property is contributed for a gift annuity.

It is not clear whether taxable gain in a life insurance policy, or other ordinary income property, that is contributed for a gift annuity can be reported ratably over the donor's life expectancy. Reg. §1.1011-2(a)(4)(11) simply refers to "gain" in providing for ratable reporting. However, the example to which reference is made – 1.1011-2(c)(8) – concerns a gift of long-term capital gain property. Arguably, the example merely cites the most common type of gifted property and is not meant to be limiting.

Example: Mildred, age 76, owns a paid-up life insurance policy which she would like to contribute for a gift annuity. The face value is \$100,000, the replacement value is \$40,000, and the adjusted cost basis is \$22,000.

She could either transfer ownership of the policy or surrender the policy and then contribute the cash proceeds. In both cases, her annual payments for the rest of her life will be \$2,400.

However, the tax consequences will be different, depending on whether she transfers the policy or gives the proceeds.

If she transfers the policy:

Income tax deduction	\$10,218
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Taxation of payments during life expectancy:

Taxable	1,402
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Tax-free	998
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If she surrenders the policy and contributes the proceeds:

Income tax deduction	\$18,578
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Taxation of payments during life expectancy:

Taxable	585
Tax-free	1,814
Taxable ordinary gain in year of gift	\$18,000

The advantage of transferring ownership of the policy is that none of the gain in the policy will be taxed in the year of transfer. However, a smaller portion of each payment will be tax-free. Surrendering the policy and then contributing the proceeds causes the gain to be taxed in the year the policy is surrendered. However, the charitable deduction will offset most of the taxable gain, resulting in little tax.

The advantage of this second alternative is that more of the payments will be tax-free. In deciding which alternative is preferable, the donor must weigh the larger up-front savings from transferring the policy against the more favorable taxation of payments from giving the proceeds following the policy surrender.

Gift Annuity Funded with a Deferred Variable Annuity (Issued by an Insurance Company).

Many people have purchased deferred variable annuities from insurance companies, and in the years since the purchase considerable gain has accrued. That gain will be taxed as ordinary income – over time if the owner elects to receive life payments, or all at once if the contract is surrendered. If the contract is given to beneficiaries (other than charities) when the donor dies, the gain will be taxed as ordinary income to them. Owners of these contracts can transfer them for a gift annuity and thereby reduce the tax on the gain, receive life payments, and have the satisfaction of making a charitable gift. The tax savings do not result from avoidance of tax on the gain but from an income tax charitable deduction that totally or partially offsets the taxable gain.

Example: Katherine, age 79, transfers a commercial deferred variable annuity for which she paid \$25,000 and which at the time of transfer had a cash value of \$48,000.

Annual payment	\$3,168
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Taxed as follows:

Taxation of payments during each full year of life expectancy:

Ordinary income	700
Tax-free return of capital	2,468
Income tax charitable deduction	23,579
Taxable gain	<u>23,000</u>
Excess of deduction over gain	579

Katherine was able to convert her commercial annuity to a stream of payments, a substantial portion of which will be tax-free. Had she elected to receive life payments from the commercial annuity, her payments would have been higher, but a higher percentage of them would have been taxable because of the accrued gain.

IRC Sec.1035 permits a tax-free exchange of one annuity contract for another. It is not certain whether this applies only to annuities issued by insurance companies, or whether it would also include an exchange of a commercial annuity for a gift annuity.

Gift Annuity Funded with Commodities

Crops might be wheat, corn, soybeans, cotton, oranges, or any other commodity.

Un-harvested crops could be sold with the land, but reference here is to harvested crops.

The farmer would prepare a conveyance document describing the commodity and the quantity being contributed, and in an accompanying letter the farmer should ask the charity where it wants the grain delivered. The charity would typically designate a grain elevator or other receiving station and would provide a receipt upon delivery. In the case of equipment there would be a deed of gift describing the items.

Harvested crops are tangible personal property, and the donor will be entitled to a deduction only for any costs of production that have not already been deducted as an expense. This means that in many cases there will be no deduction. However, the farmer-donor will not be subject to income or self-employment tax on the value of the donated crops. Equipment is also tangible personal property, so the charitable deduction will be limited to cost, which will likely be zero because the farmer probably had already deducted the cost on his income tax return.

Individuals who are retiring from farming might be interested in contributing farm equipment since the entire proceeds probably would be taxed as ordinary income, especially if they might receive income in return. Those still engaged in farming and who are facing a large taxes because of the increases in grain prices, might be willing to make a gift or a portion of their crops. Again, this would be more appealing if they could receive life income in return.

These items could, of course, be given outright, but crops, such as grain, could be contributed for a gift annuity. The annuity would be low risk in the case of grain because the charity would know at the time of the contribution the approximate amount for which the grain could be sold.

Example: Roger and Thelma contribute corn valued at \$400,000 to a gift annuity. At the time, they had already deducted most of the production costs, so the charitable deduction was very small. They would have incurred income tax plus self-employment tax of 13.3% on the profit. With the gift annuity they avoid these taxes and, he and his wife receive payments for life. The real benefit, other than the satisfaction of making a gift, is receiving income from the entire proceeds from sale of the corn and spreading the taxable income over time, which will likely result in a lower tax bracket.

Acceptable Assets for Gift Annuity Reserves

If a charity is registered to offer gift annuities in Florida or California, it may not be able to use the above assets to meet reserve requirements. California specifically prohibits real estate, and Florida allows it only up to 5% of the reserve fund. Both states disallow any assets not approved for reserve investments.

States (NY, NJ, WA, MD, AR, HI, TN) that follow the prudent investor standard might take issue with certain types in investment, though it is likely that they would object only if the “non-traditional” assets constitute a significant portion of the reserve fund. Another issue is whether the asset is actually in the reserve fund. For example, if a painting were given in exchange for a gift annuity, and the reserve fund is not a separate trust to which the painting is transferred, the painting would be owned by the charity and not in the reserve fund.

In many instances, the reserve fund may have a surplus of reserves, in which case no additional assets are needed to meet the increased reserve requirement due to the addition of an annuity funded with a non-traditional asset. However, in California, no matter how large the existing reserve fund, the charity must place the required reserve amount for each gift in the California trust account. Thus, in California, the charity must be prepared to use some of its cash to meet reserve requirements when it accepts an asset that is not allowable for the reserve fund. Of course, once the charity sells the object, it can replace the general funds it temporarily transferred.

In any state, even in California, any of the above assets can be accepted for a gift annuity. The issue is not the acceptability of the asset for funding a gift annuity, but rather whether the asset can be used to satisfy reserve requirements.

Marketing Suggestions

If a charity believes it can increase the number of gift annuities by accepting a greater variety of assets for them, it may be necessary, as a first step, for the charity to revise its Gift Acceptance Policies. While expanding the list of acceptable assets, the Policies would provide a process for screening gifts that would potentially entail greater risk.

In its marketing material, the charity will also want to include examples of gift annuities funded with different kinds of assets. If all of the examples are of gift annuities funded with cash and appreciated, publicly-traded securities, prospective donors will conclude that these are the only possible funding assets.

Next, the charity will want to segment its prospect base so that in its mailings it can direct information about a particular funding asset to the right audience.

Then it will want to prompt people to think of the particular assets they are holding, and which might be put to more productive use. It might, for instance, talk about putting an idle asset to work, or it might picture a variety of assets, and then pose the question, “Did you know that you could convert any of these assets to a stream of payments for life?”

APPLICATIONS OF GIFT ANNUITIES TO VARIOUS DONOR SITUATIONS

According to the national surveys of gift annuities conducted by the ACGA over the past two decades, the average age of annuitants at the time an immediate gift annuity was established has fluctuated between 77 and 79. In most cases the donor was also the annuitant. Based on the surveys as well as conversations with charities, charities are marketing immediate gift annuities to older donors, who want the security of fixed

payments during their remaining retirement years. Charities also issue deferred gift annuities, though they constitute less than 10% of total annuities, and these are primarily funded by people 50 and older who want to supplement retirement income from other sources.

Just as a charity may close more gift annuities if it accepts a greater variety of assets, it may also close more if it describes the versatility of gift annuities in meeting various donor objectives. This section discusses the following applications of gift annuities:

- Immediate gift annuity with payments to a person other than the donor
- Commuted payment gift annuity
- Flexible deferred gift annuity
- Super-flexible deferred gift annuity
- Inflation-adjusted gift annuity
- Testamentary gift annuity
- Gift annuity funded with remaining retirement funds
- Gift annuity as a virtual endowment

Immediate Gift Annuity with Payments to a Person Other than the Donor

Sometimes it makes sense for a donor to establish a gift annuity for someone else. This means that younger individuals – for example, those who must help support an aged parent and those who want to assist a friend or provide for a retiring domestic worker – could be prospects. Often, such assistance is paid with after-tax dollars, which can be quite costly for the donor. For example, a couple subject to a 35-percent tax rate must earn \$769 in order to provide a \$500 monthly check to one of their parents. It could be advantageous to transfer capital for a gift annuity and name as the annuitant the person whom the donor desires to help. The donor receives an income tax deduction, and the tax paid by the annuitant will probably be minimal because a portion of the annuity payments will likely be tax-free for a number of years, and the taxable portion of the payments will be taxed at a low rate.

Example: Forrest contributes stock having a fair market value of \$100,000 and a cost basis of \$40,000 for a gift annuity and names his mother as annuitant, reserving no power to revoke her interest. His mother, age 82, will receive \$7,200 per year (\$1,800 per quarter) based on the ACGA rate of 7.2 percent.

Forrest in the example will recognize the capital gain allocated to the present value of the annuity, which is \$28,443. However, his charitable deduction of \$52,595 will offset the taxable gain and reduce taxes on other income somewhat, assuming he is able to use the deduction.

Since Forrest will already have recognized the taxable gain, no part of his mother's payments will consist of capital gain. For the balance of her life expectancy, \$5,710 will be tax-free, and only \$1,490 will be ordinary income. The payments to her will be taxed the same as they would have been if Forrest had contributed \$100,000 cash.

Forrest made a gift to his mother of \$47,405 (the present value of her annuity payments). As a present-interest gift, it qualified for the gift tax annual exclusion of \$14,000. Thus, assuming he made no other gifts to her in the year he established the gift annuity, the taxable gift to his mother was \$33,405 (\$47,405 – 14,000). He could have avoided making any taxable gift by retaining in the gift annuity agreement the right, during his life

or upon his death, to revoke his mother's annuity interest. Then he will make no completed gifts to his mother until she actually receives the annuity payments, and since each year's payments are under \$14,000, they will be covered by the gift tax annual exclusion.

Note: In some instances, a company or a nonprofit organization might choose to establish an annuity for an employee, perhaps one for which no adequate retirement plan had been provided. This can be done, though the employee would be taxed on the present value of the payments unless the organization has retained a right to revoke payments.

Commuted-Payment Gift Annuity

According to IRC Sec. 514(c)(5), a gift annuity cannot be for a term of years or guarantee a minimum or maximum number of payments. However, the IRS in certain private letter rulings (e.g. 9042043, 9108021, 9527033, and 200233023) has approved gift annuity agreements that permit an exchange of life payments for a lump sum or for installments to be received during a limited period of time. The actuarial value of the installments must be the same as the actuarial value of the life payments.

In most instances, the commuted payment gift annuity has been used to provide educational expenses for a student attending a college or university, which is why it is often called "the college annuity." A grandparent might establish a gift annuity when a grandchild is young, stipulating that life payments begin when the grandchild reaches 18. Then an authorized person exchanges ("commutes") the life payments for eight semi-annual installments that can be paid at the beginning of each semester the grandchild is in college. The payments could be over a longer period to allow the grandchild more time to complete his or her degree(s). The installments will, of course, be much larger than life payments would have been, and the charity would not have consented to an annuity for a person of such a young age unless the payment period was limited.

The college annuity has the advantage of predictable payments for educational expenses, an income tax charitable deduction for the donor, and, of course, a charitable gift. However, it has these disadvantages:

- Payments will be subject to a 10% penalty tax per IRC Sec., 72(q) because term payments start before age 59½.
- If the annuity is funded with appreciated property, the donor is taxed on part of the capital gain.

A charitable alternative that would avoid these two disadvantages is a term-of-years net-income unitrust that converts to a regular unitrust when the student reaches age 18. Because this alternative is often preferable and because certain non-charitable plans may be a better way to fund a college education, it is probably not a good idea to promote the college annuity.

However, the commuted annuity could be very useful in other circumstances when a person wants income for a certain period of time and it is not practical to establish a term-certain CRT. The contributed amount might be below the minimum required for a CRT, or perhaps the beneficiary likes the simplicity and assurance of a gift annuity.

Example: Maria, age 60, plans to start withdrawals from a well-funded retirement plan when she reaches 70, and she expects her income from that plan and other sources to be quite adequate. However, she would like to increase her income somewhat between age 62, when she plans to reduce her working hours, and age 70. She would like to divest herself of some highly-appreciated stock that she thinks may not perform so well in the future. She purchased the stock for \$40,000, and it is now worth \$200,000. Maria contributes the stock for a deferred gift annuity with life payments starting at age 62 and then commutes those payments to quarterly installments for an eight-year period starting at age 62.

Starting at age 62, she will receive \$24,974 (\$6,243.50 per quarter) for eight years. She will receive an immediate income tax charitable deduction of \$90,890, and the taxable gain can be reported ratably over the payment period. From the charity's standpoint, it is much better to be able to use the residuum after only 10 years rather than waiting until the end of a 60-year-old's life.

Flexible Deferred Gift Annuity

Most gift planners by now are probably familiar with the flexible deferred gift annuity. Three Private Letter Ruling pertaining to it have been issued (9743054, 200449033, and 200742010). It appeals to donors because they can decide later when to start payments, knowing that the longer they wait the larger the payments will be.

The price is this flexibility is a somewhat smaller charitable deduction because the deduction will be the lowest that would result from any possible start state. This disadvantage is offset by the fact that a smaller deduction results in more of the payments being tax-free

Example: David, whose date of birth is February 28, 1960 wanted to supplement his income when he retired, but he did not know when he would be ready to retire. On April 1, 2014, he contributed stock having a fair market value of \$100,000 and a cost basis of \$60,000 for a gift annuity, and he reserved the option to start quarterly payments on June 30 of any year during the period 2024-2034.

The income tax charitable deduction (the lowest deduction resulting from any of the possible payment start dates) was \$27,414. The following table shows taxation of payments for full years during life expectancy.

Elective Start Date	Age at Start Date	Capital Gain	Tax-free Portion	Ordinary Income	Total Annuity
------------------------	----------------------	-----------------	---------------------	--------------------	------------------

6/30/2024	60	\$1,205.36	\$1,808.04	3,086.60	\$6,100.00
6/30/2025	61	\$1,252.44	\$1,878.66	\$3,168.90	\$6,300.00
6/30/2026	62	\$1,296.24	\$1,944.36	\$3,359.4	\$6,600.00
6/30/2027	63	\$1,349.12	\$2,023.68	\$3,427.20	\$6,800.00
6/30/2028	64	\$1,402.56	\$2,103.84	\$3,693.60	\$7,200.00
6/30/2029	65	\$1,459.20	\$2,188.80	\$3,952.00	\$7,600.00
6/30/2030	66	\$1,520.00	\$2,280.00	\$4,200.00	\$8,000.00
6/30/2031	67	\$1,586.96	\$2,380.44	\$4,332.60	\$8,300.00
6/30/2032	68	\$1,659.96	\$2,489.94	\$4,550.10	\$8,700.00
6/30/2033	69	\$1,736.96	\$2,605.44	\$4,857.60	\$9,200.00
6/30/2034	70	\$1,827.48	\$2,741.22	\$5,131.30	\$9,700.00

Super-Flexible Deferred Gift Annuity

The disadvantage for David is that once he makes the election, he must start receiving the entire amount. To maximize flexibility, he could simultaneously establish 10 flexible deferred gift annuities, each funded with \$10,000. Then he could elect payments as needed. In the event he becomes disabled or ill, he could elect payments from all 10 annuities at the same time.

Example: Suppose that David in the previous example created 10 flexible deferred gift annuities, each funded with \$10,000, rather than a single flexible deferred gift annuity funded with \$100,000. At age 62, David decides to reduce his work hours to allow more time for travel. Then, at age 65 he retires but continues to do some consulting. He elects to activate two of the annuities at age 62, three more at age 65, and one each year beginning at age 66. His payments would be:

Beginning at Age	Annual Payment
62	\$1,320
65	\$3,600
66	\$4,400
67	\$5,230
68	\$6,100
69	\$7,020
70	\$7,990

The 10 flexible deferred gift annuity agreements would be identical, so it would not be much work to produce them, and the donor, to maximize flexibility, would sign his name 10 times. The payments from all of the

annuities could be combined into a single check or direct deposit, and the charity could send a single Form 1099-R.

Inflation-Adjusted Gift Annuity

The advantage of a gift annuity is that payments never go down. The disadvantage is that they never go up and thus offer no inflation protection. It is possible to combine the advantages of a gift annuity and a unitrust by designing the annuity so that it has set payments that increase each year by the historical average of the Consumer Price Index. This inflation-adjusted gift annuity is also known as the “step annuity” because payment automatically step-up in amount each year. It is actually an immediate gift annuity combined with a bundle of deferred gift annuities.

Example: Sylvia, age 70, wants her gift annuity payments to increase at the rate of 3.5% per year, which is close to the historical inflation rate, though higher than the Consumer Price Index rate of increase in recent years. The following chart shows how much she would contribute if she wanted these adjustments annually for 10 years:

Type of Annuity	Contribution Amount	Payment Beginning Date	Payment Increment	Total Payment
Immediate	\$100,000	4/30/2014	-0-	\$5,100
Deferred	\$3,236	4/30/2015	\$185	\$5,485
Deferred	\$3,131	4/30/2016	\$192	\$5,677
Deferred	\$3,046	4/30/2017	\$199	\$5,876
Deferred	\$3,015	4/30/2018	\$206	\$6,082
Deferred	\$2,890	4/30/2019	\$213	\$6,295
Deferred	\$2,808	4/30/2020	\$220	\$6,515
Deferred	\$2,735	4/30/2021	\$228	\$6,743
Deferred	\$2,776	4/30/2022	\$236	\$6,979

Sylvia’s total contribution is \$123,637, and her payments will retain their purchasing power for the next eight years (or for whatever period she chose). Assuming the future rate of inflation approximates the historical average.

A charity might hesitate to agree to this plan because the amount contributed for each deferred gift annuity is less than the stated minimum in the Gift Acceptance Policies. However, the charity may be willing to make an exception because the total amount contributed is well above the minimum, the bundled annuities are identical

except for the payment beginning date and the annuity amount, and they can be consolidated for the purpose of making payments and tax filing. A single agreement that incorporates the payment adjustments might be possible, but it would be prudent to secure a ruling.

Testamentary Gift Annuity

A gift annuity, like a charitable remainder trust, can be established at the end of one's life to provide payments to survivors. In the case of a gift annuity, the number of beneficiaries (annuitants) would be limited to two. In a will or living trust, a person would designate a specific sum or all or a portion of the residual estate to fund the gift annuity. The size of the payments will depend on the amount transferred to the charity and the annuity rate then in effect for persons the nearest age(s) of the annuitant(s) as of the time of the donor's death.

Here is possible language that could be used in the case of one annuitant:

I give, devise, and bequeath (\$[*amount*] or "the residue of my estate") to [*Charity*] provided that if [*annuitant*] survives me, [*Charity*] shall pay [*him/her*], in quarterly installments at the end of each calendar quarter, a life annuity, the annual payments of which shall be equal to the value of the property transferred to [*Charity*] multiplied by the charitable gift annuity rate suggested as of the date of my death by the American Council on Gift Annuities for a person then [*his/her*] nearest age.

If a donor wants his or her survivor to receive a specific amount, the following language could be used:

I give, devise, and bequeath to [*Charity*] the amount [*Charity*] requires as a contribution to provide a life annuity of \$[*Amount*] to [*annuitant*] based on the charitable gift annuity rate suggested as of the date of my death by the American Council on Gift Annuities for a person then [*his/her*] nearest age, and I direct that the annuity be paid in quarterly installments at the end of each calendar quarter.

The language could be modified if the testator wants payments to the annuitant to be deferred for a certain number of years following his or her death.

Gift Annuity for a Survivor Funded with Remaining Retirement Funds

It is possible to fund a testamentary gift annuity with assets in an IRA or defined-contribution retirement plan such as a 401(k) or 403(b). (See Private Letter Ruling 200230018.) The donor would take two actions. The first is completion of a beneficiary designation form designating to the charity all or some portion of assets remaining in the retirement plan. Second, is execution of a gift annuity agreement according to which the charity agrees to pay a life annuity to one or two named annuitants, which shall be equal to the value of the retirement plan assets transferred to the charity multiplied by the gift annuity rate then paid by the charity for a person (or persons) of the annuitant's(ts') age(s) at the time of the donor's death.

It is possible that Congress might enact legislation forcing retirement funds of a decedent to be distributed within five years to beneficiaries other than a surviving spouse. If that should happen a gift annuity might be the only way of stretching out the payments to non-spousal beneficiaries. Even if such legislation is not enacted, a gift annuity is an attractive option for those who want to use retirement funds to provide for survivors for these reasons:

- The donor can assure fixed payments to a survivor for life and make a charitable gift. If the survivor is beneficiary of a retirement plan with payments over life expectancy, the mandatory

payments will increase with age, and the fund conceivably could be exhausted. By contrast, the gift annuity payments would continue for life.

- Market risk and management responsibility are eliminated.

Gift Annuity as a Virtual Endowment

Some individuals would like to create an endowment now and have the satisfaction of seeing the endowment income put to use, but they hesitate for fear that they might need all of the income from their capital in the future. A charity might suggest to those persons that they establish a virtual endowment with a gift annuity. The following example demonstrates how it would work.

Example: Lois, age 75, has good cash flow and rather significant investments. At present, her after-tax income exceeds her expenditures, so she is growing her investments. While she expects this to continue, she cannot be absolutely certain. She would very much like to fund scholarships now while she is living. She could, of course, simply retain her assets and make an outright contribution of \$20,000 each year for scholarships so long as she is able

Alternatively, she could contribute \$450,000 for a gift annuity, but authorize the university to retain the annuity payments for scholarships until whatever time that she directs the payments to made to her. The payments will be reported on a Form 1099-R as if she were receiving them, and she will receive a charitable deduction for the amount of the payments, for she is, in fact, contributing them. The withholding arrangement merely avoids having to make a decision and write a check each time she receives a payment.

Suppose she contributed stock valued at \$450,000 with a cost basis of \$300,000.

Amount available for annual scholarships	\$26,100
Initial deduction	205,974
Taxation of payments	
Tax-free	\$13,119
Capital gain	6,560
Ordinary income	<u>6,421</u>
	\$26,100

Since the annual deduction exceeds taxable income, she will save some taxes each year. At the end of her life, the residuum from the annuity will be used for an endowed scholarship fund in her name.

This alternative, which could be called a “Virtual Endowment” provides more for scholarships in the near term. In the event that her circumstances ever change, she can suspend the scholarships and receive the \$26,100 annuity payment.

Marketing Suggestions

The most important thing a charity can do to increase the volume of gift annuities is to expand the demographic. Although the key demographic for gift annuity marketing remains those age 70 and older, it can actually include people from mid-forties and older. People in these younger ages may be interested in establishing gift annuities for older individuals, such as parents, and for using them as supplemental retirement plans.

Charities are not realizing the potential of testamentary gift annuities because they rarely mention an annuity established by a donor at the end of life. Yet, many individuals prefer to leave a survivor fixed payments rather than a lump sum or a trust that could decline in value. Provision in a will or living trust for a testamentary gift annuity could be incorporated as part of general bequest marketing.

Another omission is a gift annuity funded with remaining retirement funds. Charities will certainly promote the Charitable IRA Rollover if it is renewed, and they regularly propose naming the charity as a beneficiary of some percentage of whatever may remain in an IRA or other retirement fund, but they do not very often suggest a testamentary gift annuity as an alternative to a stretch IRA. This option would appeal to people who want to assure payments for the lifetime of a survivor and make a charitable gift, and it would become particularly attractive if Congress limits the distribution period for non-spousal beneficiaries.

In marketing, a charity could also think of the reasons why people hesitate to estate a gift annuity and then show how to overcome them. Perhaps something like this: “You may have considered a gift annuity but hesitated because ...” The flexible deferred gift annuity, the inflation-adjusted gift annuity, the commuted gift annuity are all ways overcome reasons a person might be reluctant to create a gift annuity.

In its marketing to same-sex couples, the charity should be mindful that gift annuities are now more appealing to them. When they establish an annuity funded with jointly-owned or community property, taxable gain can now be reported over joint life expectancy, and an annuity established by one for the other now qualifies for the federal gift tax marital deduction.

Finally, consider the research on proven methods for marketing gift annuities, and then develop modifications for the donor situations mentioned in this section.

Concluding Word

The gift annuity will continue to be the most common planned gift after the bequest. That has been true for a long time, and there is no reason to believe that it will change. It can become an even greater source of philanthropic funds if marketing initiatives show its amazing versatility.

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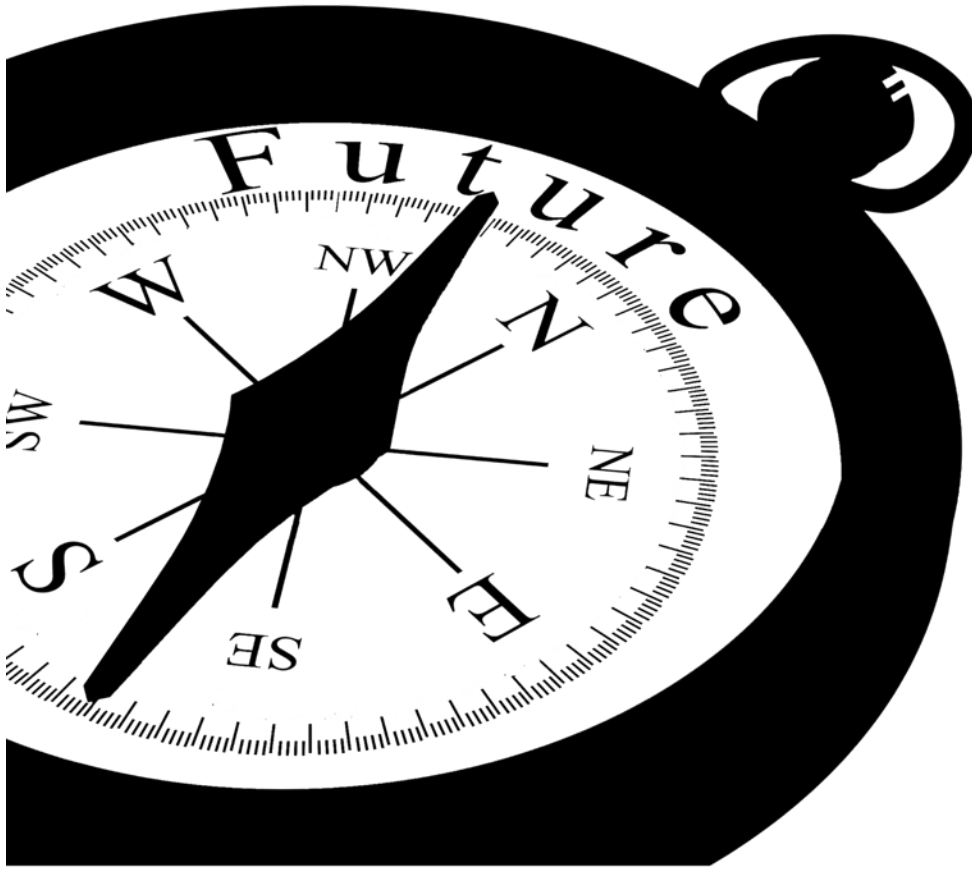
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Introduction to Gift Annuities: Using Best Practices (Track I)

Presented By

Laurie W. Valentine

Trust Counsel & Chief Operating Officer

Kentucky Baptist Foundation

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Introduction to Charitable Gift Annuities: Using Best Practices



Presenter:
Laurie W. Valentine
Trust Counsel and Chief Operating Officer
Kentucky Baptist Foundation

Is Your Organization Ready To Start A Gift Annuity Program?

- Financial stability
- Financial reserves
- Long-term commitment to administering



Charitable Gift Annuities – The Basics

- A contract
- Irrevocable gift transfer
- Annuity payment amount = value of gift x payout rate
- General obligation of charity
- Not a trust
- A gift – not an investment



Gift Annuity Contracts

- Term of Contract:
 - Single life
 - Two-Life joint and survivor
 - Two lives in succession
- Payment Start Date:
 - Immediate
 - Deferred
 - Flexible



Charitable Gift Annuity Rates

- American Council on Gift Annuities Payout Rates
- *Suggested Rates*, not mandated



Charitable Gift Annuity Rates

- Reasons to follow ACGA rates:
 - Risk minimized
 - More funds left for charity's work
 - Don't have to hire own actuary
 - Recognized by state insurance departments and IRS as actuarially sound
 - Gift, not an investment
- Beware "Clay Brown" Rules when AFR low



Tax Issues: Income Tax



- Charitable Deduction =
Value of Gift – Present Value of Annuity Interest
- Portion of each annuity payment is excludable from income as tax-free return of principal
- “Exclusion Ratio” = $\frac{\text{Investment in Contract}}{\text{Expected Return}}$
- Total amount excluded cannot exceed total investment in contract
- Donor’s estate can take unrecovered investment in contract as deduction on donor’s final income tax return

Tax Issues: Capital Gains Tax



- Gift Annuity Transaction = Bargain Sale
- Donor’s basis allocated between “Gift” and “Sale” portions of transaction
- Portion of Gain Recognized =
$$\text{Donor's Basis} \times \frac{\text{Present Value of Annuity Interest}}{\text{Market Value of Gift}}$$

Tax Issues: Capital Gains Tax



- Reportable gain may be reported over donor’s life expectancy if:
 - Donor is sole or first annuitant
 - Annuity interest is non-assignable
- If annuity assignable OR donor NOT an annuitant - reportable portion of gain all reported in year gift made

Tax Issues: Estate Tax



Single Life Annuity

Nothing Included in Donor's Estate

Tax Issues: Estate Tax



Two-Life Annuity

Value of surviving annuitant's interest
included in donor's estate

If second annuitant is donor's spouse
marital deduction available

Tax Issues: Estate Tax



Bequest to Establish Gift Annuity

Donor's estate entitled to
estate tax charitable deduction *if* Will
provides method for determining
annuity payment amount

Marital deduction *if* spouse is
the sole annuitant

Tax Issues: Gift Taxes



Immediate Gift Annuity f/b/o Another =
Completed Present Interest Gift

Qualifies for Annual Gift Tax Exclusion
(\$14,000)

Tax Issues: Gift Taxes



Two Lives in Succession Gift Annuity
Donor First Annuitant =
Future Interest Gift to Second Annuitant

Does NOT Qualify for
Annual Gift Tax Exclusion

Tax Issues: Gift Taxes



Deferred Gift Annuity f/b/o Another =
Future Interest Gift

Does NOT Qualify for
Annual Gift Tax Exclusion

Tax Issues: Gift Taxes



Avoid completed gift by reserving donor's right to revoke second annuitant's interest

Best Practices: Establish Program Properly

- Comply with Federal and State Regulations
 - Philanthropy Protection Act of 1995
 - State Regulatory Requirements



Best Practices: Gift Acceptance Policies

- Gift Minimum
- Frequency of Payments
- Permitted Funding Assets
- Minimum Age
- Maximum Age



Best Practices: Drafting Agreements

- Set agreement up for donor and charity to sign – It's a Contract
- Don't describe restrictions on use/designations in Gift Annuity Contract
- Use separate special agreement for restrictions/designations



Best Practices: Managing The Annuity Fund

- Segregation of assets
- Use appropriate custodian/investment advisor



Best Practices: Managing The Annuity Fund

- How much of the gift to invest?
- Best Practice -- Invest All of It



Best Practices: Managing The Annuity Fund

- Investing the gift annuity fund

ACGA Asset Allocation Assumption:

- 40% Equities
- 55% 10-Year Treasury Bonds
- 5% Cash Equivalents



Best Practices: Administrative Issues

- Make timely payments
- Tax and other calculations
- Tax reporting
- Record keeping
- Software



Best Practices: Ensure Gift Designations Honored

- Establish procedures for calculating residuum of CGA at annuitant's death
- Beware of overly-specific donor restrictions



Best Practices: Contract Termination Procedures

- Termination at Annuitant's Death
 - Condolence letter
 - Obtain death certificate
 - Notify business office to stop annuity payments



Best Practices: Contract Termination Procedures

- Termination During Annuitant's Life
 - Annuitant disclaims annuity interest
 - Calculate charitable contribution value



Best Practices: Marketing Gift Annuities

- It's a gift, not an investment
- Avoid financial instrument terminology
- Make it clear---gift is irrevocable
- Don't use "guaranteed income"
- Donor Testimonials are powerful



Best Practices:

Relationship Between Development Office and Business Office



Best Practices:

On-Going Communication With Donors And Annuitants



Prospect Profiles

- Persons looking for alternatives to low-interest paying CD's
- Persons with savings bonds that have stopped paying interest
- Middle-Aged persons who have maxed out contributions to qualified plans and IRA's
- Persons wanting to diversify or get out of the stock market

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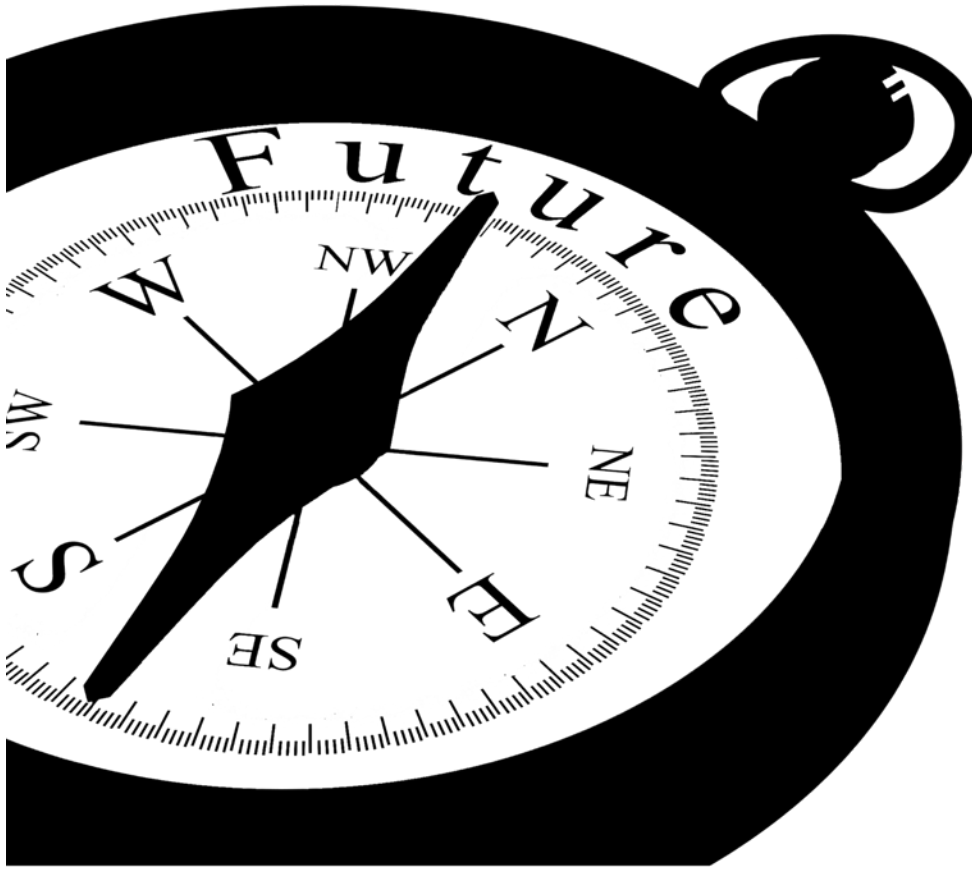
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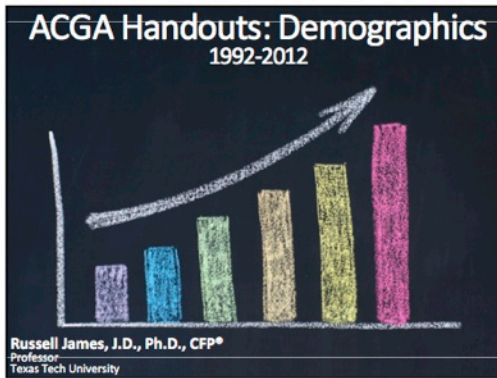
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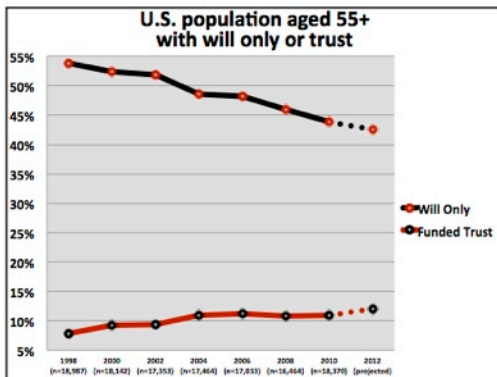


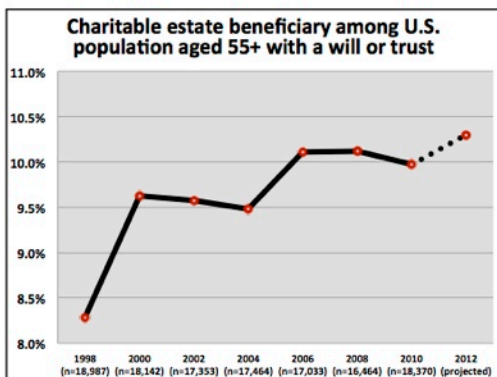
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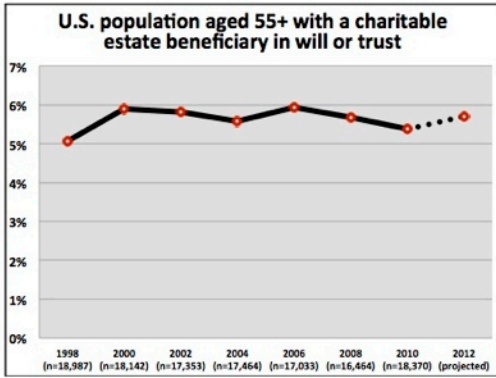
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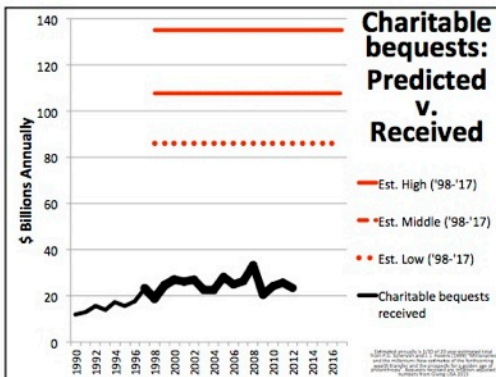
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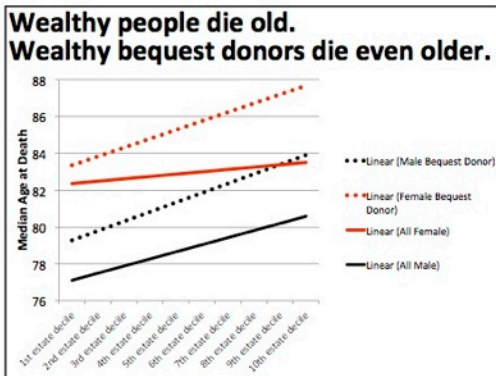


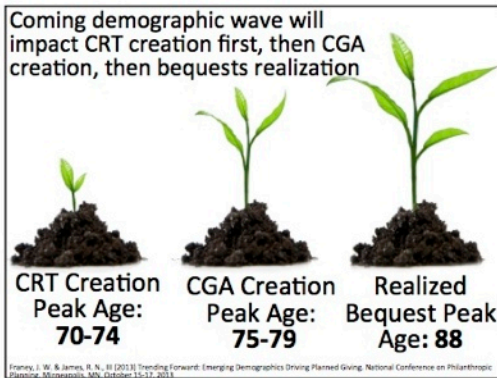


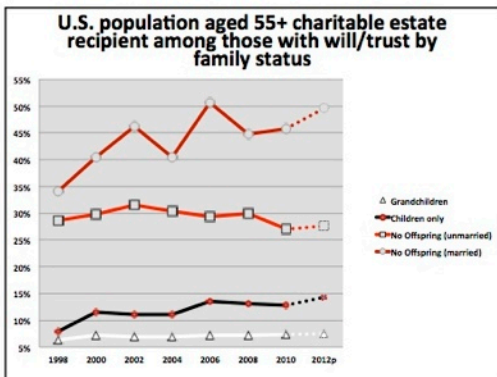


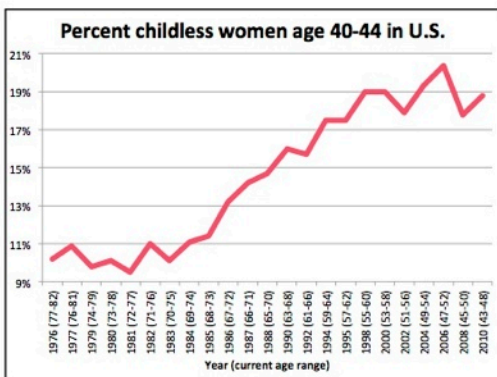


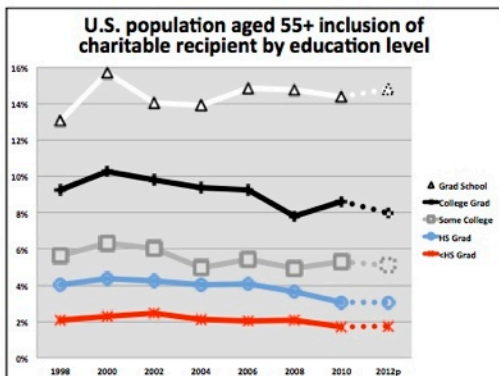


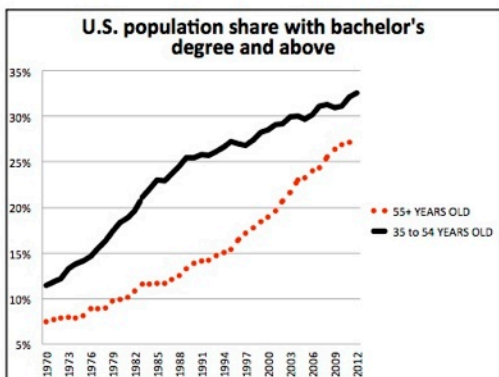


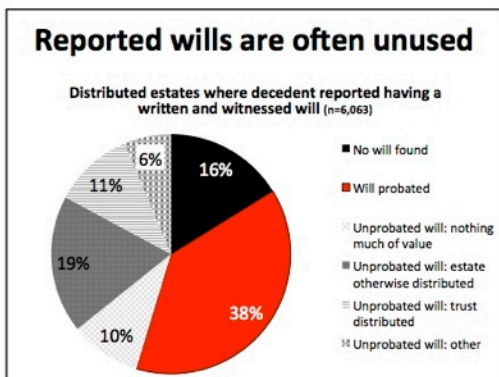


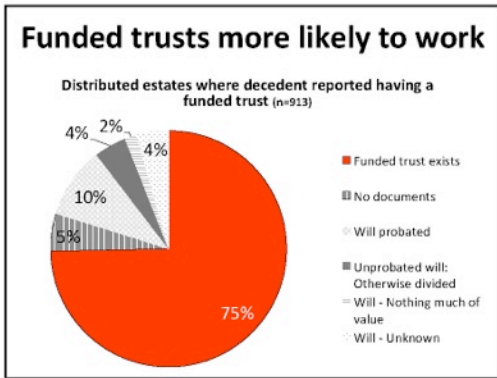






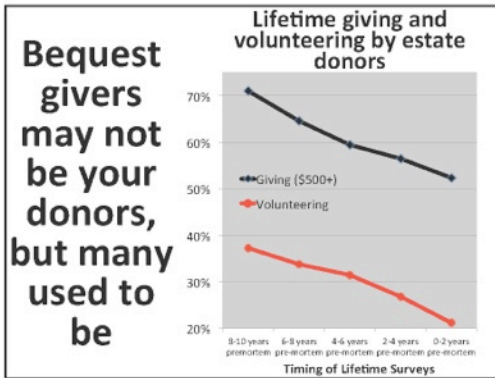


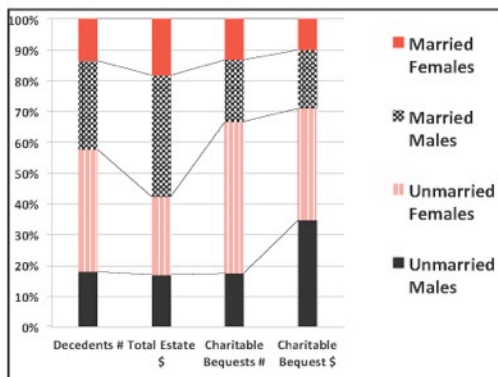




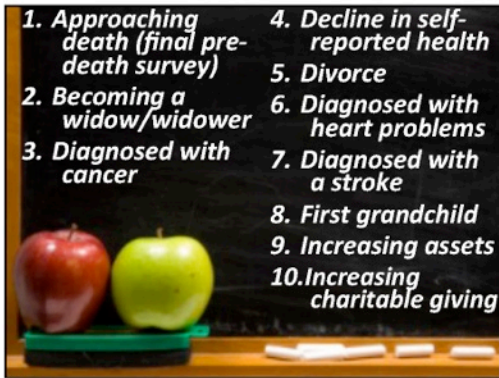


1. % years giving
 2. No offspring
 3. Highest giving
 4. % years reporting funded trust
 5. Female
 6. Last reported wealth
 7. Not married
 8. Last reported giving
 9. Growing wealth
 10. % years volunteering
-



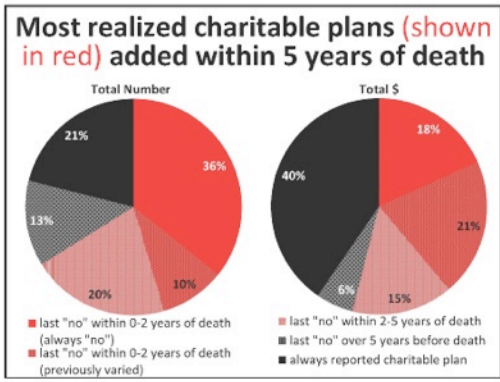








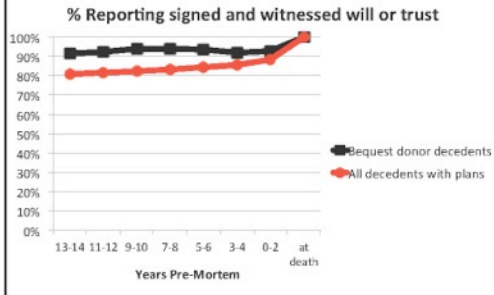




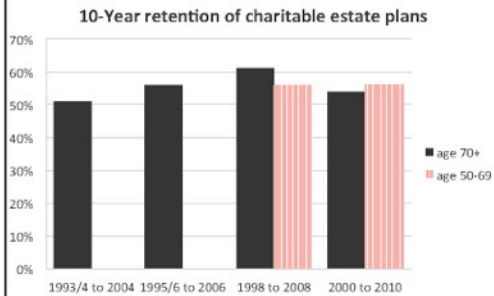




Bequest donors not new to planning




Most still report charitable plans 10 years later



Fiction The NCPG (2000) study showed that 90% of planned bequest donors don't change their plans

Fact It showed that **IF** charity stayed in, plan changes decreased total charitable amount 10% of the time



Among those (avg. age of 58) **WITH** a charitable plan, 10% chose "Amount Decreased" when asked about their overall plan, "Has the amount of the charitable bequest ever increased or decreased?"

ACGA Waterfront Reception Co-Sponsor



*Chesapeake Planned
Giving Council*

The Chesapeake Planned Giving Council exists to unite the planned giving community in best serving the charitable planning needs of donors and clients. Our goal is to facilitate, coordinate, and encourage the education and training of the planned giving community, and to promote a collaborative effort among members of the legal, financial, and development communities in serving the charitable, financial, and estate planning needs of donors and clients.

Founded in 1991, CPGC is one of more than 100 local councils of Partnership for Philanthropic Planning (formerly the National Committee on Planned Giving), which includes more than 8,000 members.

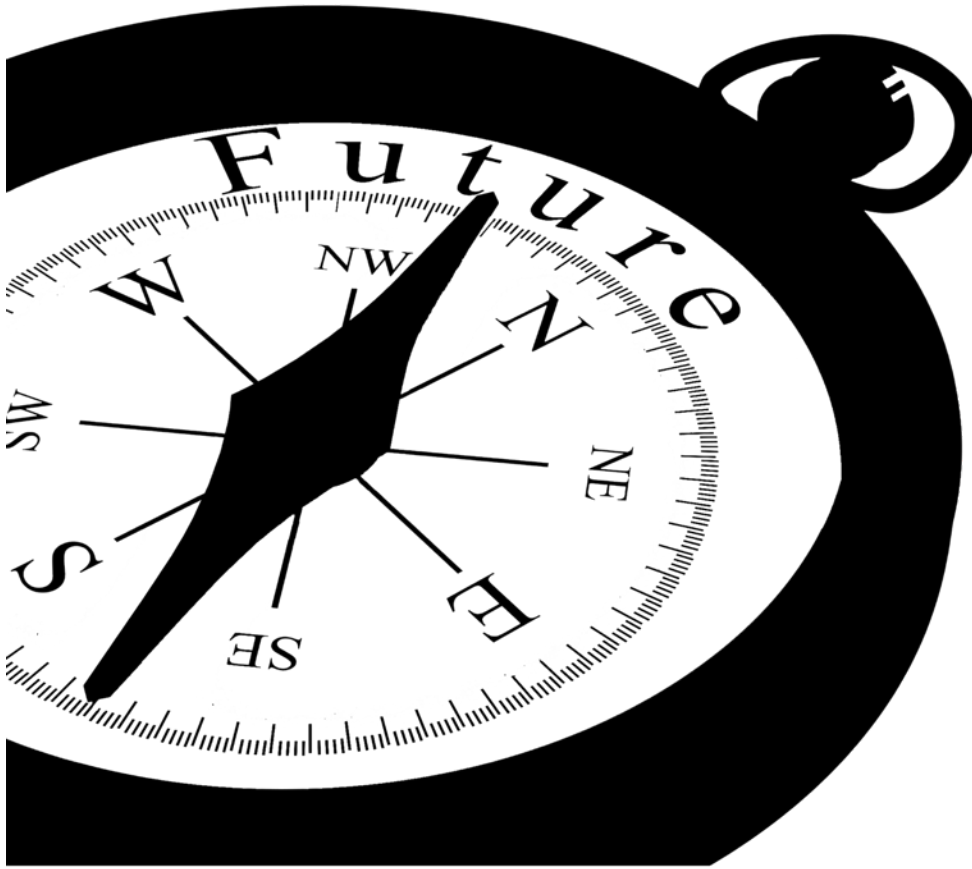
The need for expertise in charitable gift planning has become an important consideration for financial and estate planners nationwide. The onset of the largest intergenerational transfer of wealth in history combined with the changing array of tax considerations and financial opportunities have led to phenomenal growth and interest in the field of charitable gift planning.

Attorneys, accountants, development officers, financial advisors and insurance executives can all benefit from CPGC's range of services. We invite you to become involved in the community of gift planners, representing a range of professions in and around the State of Maryland.

Visit our website at www.cpgc.org

CHARTING A COURSE FOR THE FUTURE

- A CONFERENCE ON PLANNED GIVING -



Donor Centered Gift Development - Ten Steps to Success (Track I, II)

Presented By

Lindsay Lapole

Senior Consultant

Lindsay Lapole & Associates, Inc.

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GETTING STARTED:

FIVE QUESTIONS FOR CONSIDERATION!

What motivates a person to finally respond to one of your promotional efforts when they do respond?

Do you now or have you ever had any **unclosed gifts**?

How long does it take your prospects to “have peace”, “accept”, “be okay with” one of your proposals? (Days, weeks, months, years, never?) What are you doing during that time with the prospect?

Is your planned giving program **primarily targeted** at meeting the needs of your donors and their families **OR** at balancing the institutional budget?

Does your up line management view planned giving as a **line item expense OR as an investment** in the financial stability of the institution?

For answers to these and other vexing questions, you have come to the right place.

INTRODUCTION:

Donor Centered Gift Development is built on a platform that follows a counseling philosophy of how individuals make decisions that I was introduced to in 1968. In his book, Protestant Pastoral Counseling, Dr. Wayne Oates describes the function of the counselor in four steps that are modified here to better fit the development setting.

First, there must be the building of trust and credibility. Most individuals have certain expectations of an interaction, be it with their doctor or their friendly development professional. There are situations in their life that they would like to fix, avoid or accomplish if they knew how to do so. Before they will share the details of their lives with us, that will allow us to assist them in meeting their expectations, they must trust us with the information and details of their lives. Thirty six years of visiting in the homes of individuals indicates that people do not neglect preparing their estate plan because they are afraid of dying. They fail to prepare because they are overwhelmed by the **decision making** involved in the process. We can bring order from the chaos when we earn their trust.

Secondly, the individual must define, visualize, taste and feel what it is that they want to accomplish. And the development professional must take the time to understand and assist them in visualizing that goal. “I want to leave everything I have to my family” may well be the stated goal. That statement should set in motion a myriad of questions about the family, family dynamics, family needs, educational level, and professional accomplishments. Most prospects, knowing **how** to accomplish their goal, would have already done so. Many times they will have made the valiant effort, but are not pleased with the result. We should not lead them down a different branch of the same path to an unfulfilled goal.

The third step is to assist the individual in identifying valid alternatives for meeting their expectations. This process is not as simple as it sounds. In most situations this involves others, with their needs, alternative solutions and perspectives. It may involve dramatic shifts in priorities or lifestyle. In the development situation, one or more possibilities usually do NOT involve making a gift and several possible solutions may disappoint their attorney, financial advisor or family members.

Finally, we guide them through the process of selecting the best possible solution FOR THEM and motivate them to take action on the decision. This step must give the individual a sense of comfort and peace about the decision that allows them to sleep at night and defend their decision to those who have alternative solutions. In some instances, this step may also involve “trying on a solution” for a few days or weeks before settling on it as the best and final choice.

The prospect must take action to implement their decision. Most often this step includes the preparation and execution of documents. It may also include the transfer of assets and changes in beneficiary designations. Our gifting job is not complete until all of those functions are complete.

In 1987 these principals were further expanded in the sales setting in the book Conceptual Selling by Robert B. Miller and Stephen E. Heiman. Over the last 27 years these principals have been the basis of the planned giving program of The Salvation Army USA Southern Territory. There they were tested by over 180 field staff in the living rooms, kitchens and front porches of prospects and donors. And they were incorporated into a 16 hour two day professional training workshop entitled "Conceptual Selling: Donor Centered Interactions" edited by Lindsay Lapole and Dan Ball and published by and available from Miller Heiman, Inc. Reno, NV.

FOUR FOUNDATIONAL PILLARS:

Donor Centered Gift Development stands on four foundational pillars.

1. **Win-win gifting interactions** for both the donor and the institution.
2. Build **long term relationships** between donor and the institution
3. **Repeat gifts** from the donor
4. **Referrals** from the donor

FOUR SEASONS OF PLANNED GIVING:

Donor Centered Gift Development functions throughout the four seasons of planned giving development.

Spring-Prospect Identification

Summer-Gift Development

Fall-Long-term Stewardship

Winter- Maturity and Allocation

SPRING-Prospect Identification

Donor Centered Gift Development begins with a prospect focused direct response prospect identification program. One of the most expensive and frustrating undertakings in development is the tug-of-war between Prospect Identification vs Brand Management. Your planned giving program, to be successful, should consider the following as a basis for the prospect identification functions you want to perform.

- A. Driven by prospect centered themes

"You can create an enduring impact on...while maximizing the value of your estate for your family!"

What impact will your values and beliefs have on planning your estate?

Does your planned gift to ... provide as much benefit to your family as it could?

Are you struggling with the competing demands of family and others as you consider your estate plan?

Does your estate plan meet the long term life style needs of your family?

B. Generates a direct response not brand identification

Is the Development Director thrilled by your “marketing plan” but you have no prospects to visit?

Change the response by changing the message.

If you want a direct response, ask for it and keep changing your material until it generates responses!

C. Evaluating success of your Prospect Evaluation efforts

Number of responses

Number of responses converted to appointments (suspects)

Number of prospects identified from personal appointments

Number of completed gifts

Dollar value of completed gifts

1983 Seminar=1 gift FMV \$4.2million dollars

WAS the seminar successful?

SUMMER—Gift Development

Donor Centered Gift Development is driven by the prospective donor and their passion-without passion you have no prospect-bliss and release them—you will need the time!

A. Build trust and credibility

Transferred credibility-friend, associate, donor

Institutional credibility-works to get you in the door

Personal credibility-best and most permanent

Bank credibility at every interact

B. Identify the prospects passion to

Fix

Avoid

Or accomplish something for someone. ASK THEM!

What are their personal needs, goals and objectives?

Identify a passion for something your institution does. ASK!

C. The prospects passion is identified through a question based interaction with the prospect

Properly worded and sequenced questions gain you trust, credibility and the information you need to assist them.

Sequencing questions properly earns you the right to ask the next question and tells you immediately when you need to slow down and explain the need for the information you are seeking.

Questions focus on the: People

Property

Plans

Planners

and Priorities in their life!

- D. Questioning allows you to identify your Valid Prospects quickly!!

Spend the necessary time with the valid ones by not wasting time on those who are “not ready yet”. Your institution does not have the resources to chase the research vendors “pipe dreams” and “ought to have”. (“Well our research says they ought to be able to donate \$500,000!” Yes, however it is their money and without a passion they probably will not donate even if they ought to!)

- E. Identify and engage all those who will have an impact on the gifting decision. (Family, children, attorney, financial planner, trust officer, next door neighbor, hair dresser or plumber to name but a few.)

Each person has a set of needs, goals and objectives to be met through this gifting discussion.

All of them must be taken into consideration for your proposal to be successful when presented. This is the reason you may have experienced “unclosed gifts”. Somebody killed the proposal at the 11th hour, right?????

- F. Engage your prospects in the process. Have them actually involved by carrying out meaningful and necessary functions to move the process forward. Don’t run ahead and finish without them beside you. This also leads to “unclosed gifts”.
- G. Confirm, Confirm, Confirm
- H. Build trust and credibility, confirm, find their passion, confirm, gather all the pertinent information, confirm, check attitudes, confirm, balance the competing needs of gifting influencers, confirm, build on the specific strengths of your proposal that meets their needs, confirm, make your proposal, confirm

- I. Manage Commitment

Calendar all activities regardless of who will perform the function.

- J. Motivate the commitment by the prospects desire (need) to fix, avoid or accomplish something. Your understanding and clarification of the passion of the prospect in the beginning of the process becomes the motivating factor to get the commitment implemented at the end of the process.

AUTUMN-Long-term Stewardship/Administration

In *Donor Centered Gift Development* stewardship and administration follow the same principals. Stewardship and administration are donor centered and not mechanical processes.

- A. What is a meaningful interaction-from the donor’s perspective—ask them!
- B. Take the birthday card-take the holiday remembrance=2 personal face-to-face interactions each year!
- C. Use “change of address” notifications as a signal of a change in life situation/lifestyle=personal visit!
- D. Watch out for the comfort “rut”- calling on the same 5-8 donors who become comfortable to visit.
- E. Use the correct salutation-ask, don’t have somebody guess!
- F. Spell names correctly-the first time-you are writing and sending checks to your “grandparents”. Close is not near good enough.

- G. Make payments on a specified schedule that is stated in writing! Remember that two usual payment dates are on national holidays.
- H. Be easy for donors, beneficiaries and their families to contact you by phone. Get a dedicated 800 # that is used only for incoming calls from these folks. Promote the number only on check stubs, advices, and donor correspondence.

WINTER-Matured Gifts, Dead files and Allocation

- A. If you have not dealt with the family previously, you will now! Hopefully you know them by first name!
- B. Follow the donors' gift designation. Someone will know if you do not. If there was an issue it should have been discussed with the donor while they still had "capacity" and could make an alternate decision.
- C. All people deal with grief differently. You are dealing with a grieving family. They do not care about your needs, deadlines or how badly the "dean" needs the money. The "dean" will have to wait.
- D. Therefore, be sensitive to the family in requesting needed documents. Patience is the best practice. How would you want your family treated after the loss of a parent or grandparent? Give them 3-6 months before you begin asking. (If you need the money for next week's payroll, your leadership has really serious issues to consider!)
- E. Apply what you learn in this season to the three previous seasons as needed. What do you learn about prospect identification, gift development, and stewardship that will improve your program?
 1. Documentation to defend the desires of the donor
 2. Involve the family at the gift development stage if at all possible.
 3. The children are perfect, but the "in-laws" will make your life miserable!



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the course
for the future...
and it looks bright!*

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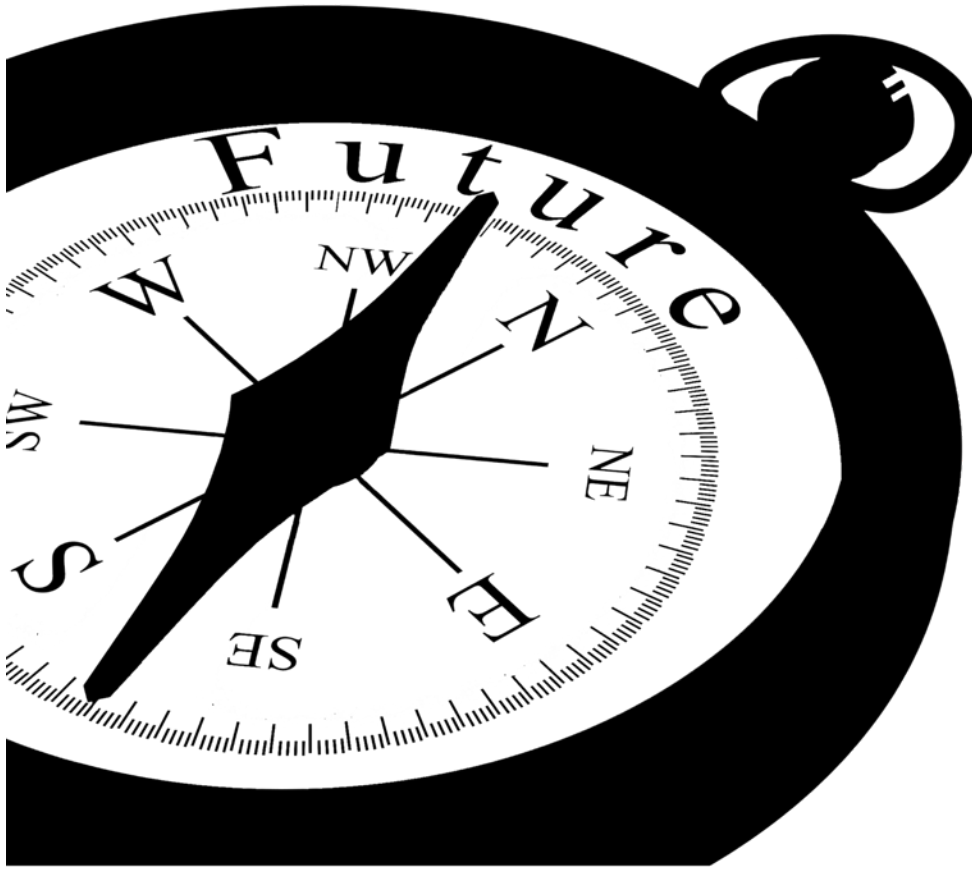
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CHARTING A COURSE FOR THE FUTURE

- A CONFERENCE ON PLANNED GIVING -



**Investing CGA and CRT Assets in a Litigious Society - Managing the Process
(Track III)**

Presented By

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**Investing In A Litigious Society:
Best Practices for Investment
Oversight**
Managing the Process for Investing
CGA and CRT Assets

April 10, 2014



Fran M. Coopersmith, Esq.
Senior Consultant



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With Money Comes Responsibility

Fostering donations through a Charitable Gift Annuity (CGA) or Charitable Remainder Trust (CRT) is grounded in a relationship based on faith and trust





**Charitable Gift Annuities versus
Charitable Remainder Trusts**

Key Differences:


- Investment Decision making and Control
 - Committee/Board
 - Grantor as Trustee
- Legal and Regulatory Environment
 - Annual Annuity Tables
 - State CGA regulations and applicable investment restrictions (residence of the donor)
- Tax Issues
 - Taxable versus Tax Exempt
 - UBIT

Both CGA's and CRT's are most effectively managed by following a disciplined, focused investment program



How to protect your organization.....Beyond the Basics

- For most organizations, the Investment Program represents a key area of multiple types of organizational risk—in addition to poor returns, weak economic conditions, and difficult markets, there are more opportunities for fraud and conflicts in the financial arena than practically any other. The alphabet soup of new and changing investment opportunities creates opportunities and RISK. A rogue investment manager can adversely impact the portfolio.
- Weaknesses in investment oversight can impact more than the investment. Your most valuable asset is your reputation and the trust that it generates. Tarnishing that impacts the entire organization.
- Going beyond the basics and implementing Investment Best Practices will go a long way to preserving your reputation and is part of your Fiduciary Duty.



3

Put another way


Your public exposure to your investments should remain here...
...and NEVER here...



4

Fiduciary Responsibility


- The law imposes broad duties of care and loyalty on the fiduciary. For CGA's, the sponsoring organization is a Fiduciary, as are members of an Investment Committee and the Board of Trustees where they have oversight over the Investment Portfolio. It is important that there is an iron-clad conflict of interest policy which includes the collection of signed statements for all those with investment oversight, and that it is overseen and enforced.
- The buck stops with you. The responsibility for staying informed and knowing what is going on is your Fiduciary Responsibility, and cannot be delegated or contracted away. A Fiduciary should know what is in the portfolio, and why, and what is not in the portfolio, and why not.



5

When You Are a Fiduciary


- The key to Fiduciary Liability is basic: It's not about whether you win or lose, but how you play the game. Liability of the Fiduciary is determined by whether prudent investment practices are followed, not by investment performance.
- Prudence is demonstrated by the process through which investment decisions are made, not by performance. Even conservative and traditional investments may not measure up if a sound process is missing, while aggressive and unconventional investments that are arrived at by a sound process can meet the standard.

6 

Key Aspects of an Investment Program

The process involved in successful CGA and/or CGT programs are common to other successful Investment Programs – simply having defined procedures and adhering to them is a great start to protecting the integrity of the Program! Key elements include:

- Investment Policy and Guidelines
- Asset Allocation
- Manager and/or Mutual Fund evaluation, monitoring and review
- Portfolio Reporting and Review
- Communication


7 

Investment Policy

An Investment Policy provides continuity of direction, focus, and a discipline for addressing investment decisions. Both CGA's and CRT's should have written Investment Policies.

An Investment Policy is not cut in stone, but is a document that changes to maintain the integrity of the Investment Program going forward.

It should be reviewed annually and updated as needed to stay current with market advances.

8 

Asset Allocation Benefits of Diversification and a Disciplined Investment Program

Asset Class	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014
Domestic Equity	15.0%	14.5%	14.0%	13.5%	13.0%	12.5%	12.0%	11.5%	11.0%	10.5%	10.0%	9.5%	9.0%	8.5%
International Equity	5.0%	5.0%	5.0%	5.0%	5.0%	5.0%	5.0%	5.0%	5.0%	5.0%	5.0%	5.0%	5.0%	5.0%
Fixed Income	60.0%	60.0%	60.0%	60.0%	60.0%	60.0%	60.0%	60.0%	60.0%	60.0%	60.0%	60.0%	60.0%	60.0%
Real Estate	10.0%	10.0%	10.0%	10.0%	10.0%	10.0%	10.0%	10.0%	10.0%	10.0%	10.0%	10.0%	10.0%	10.0%
Commodities	10.0%	10.0%	10.0%	10.0%	10.0%	10.0%	10.0%	10.0%	10.0%	10.0%	10.0%	10.0%	10.0%	10.0%

12

Asset Allocation

Asset Allocation has the Biggest Impact on Investment performance, more so than manager/fund selection. Portfolios that are well diversified through use of prudent Asset Allocation are more likely to weather volatile markets.

- 81% of a plan's return variability is due to Asset Allocation

Brinson, Hood, and Beebower - 1991 study

Performing an Asset Allocation incorporates input on the following:

- Investment time horizon
- Risk tolerance
- Return requirements and Cash Outflows
- Volatility of Asset Classes

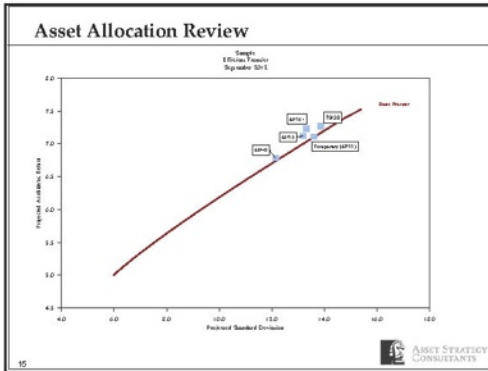
The general Asset Allocation should be reviewed at least annually, shorter term strategic and tactical allocation decisions are applied to the portfolio through re-balances implemented throughout the year.

13

Asset Allocation Review

Asset Class	Target	Actual	Delta
Domestic Equity	15.0%	14.5%	-0.5%
International Equity	5.0%	5.0%	0.0%
Fixed Income	60.0%	60.0%	0.0%
Real Estate	10.0%	10.0%	0.0%
Commodities	10.0%	10.0%	0.0%

14



Manager and/or Mutual Fund Evaluation, Monitoring, and Review

- Has manager/fund met the Investment Policy and Guidelines
- Have there been changes to manager's/fund's:
 - Investment professional team
 - Philosophy, process, discipline
 - Risk/Return profile
- Has manager/fund earned the right to stay in the Portfolio, and does manager/fund still fit into the Asset Allocation structure
- On-going evaluation and monitoring for continued compliance with guidelines should include a comparison of performance within the manager's/fund's peer group.
- **When to change manager/fund:**
 Manager/fund changes should not be taken lightly, and should not be a knee jerk reaction to short term performance issues.

16

Reporting and Review

Reports highlighting the performance and associated risk of the Investment Program with a breakdown of performance and risk of the Total Portfolio and by manager/fund are helpful in remaining educated on the portfolio and the managers/funds. These reports are generated quarterly, and for large accounts may be generated monthly. The use of appropriate benchmarks for both the total portfolio and manager/fund is critical to successful review.

Quarterly meetings to review current economic conditions, tactical allocation shifts, and portfolio performance are the norm, but quarterly reports combined with effective annual meetings may be more productive.

RISK: Tendency for quarterly meetings to focus on quarterly and short term performance. A focus on short term performance tends to encourage higher manager/fund turnover and chasing returns.

17

Investment Best Practices

A focused approach to reach the goal of risk management

- Annual check-ups that best practices are being faithfully and consistently followed will do much to reduce the likelihood of becoming embroiled in reputation damaging controversy.
- Protect from headline risk BY:
 - A clearly delineated chain of command with oversight of the Investment Program
 - Following an Investment Policy that is reviewed regularly
 - Formulating a well structured Asset Allocation that identifies risk tolerances and where return expectations are clear with a provision for automatic rebalancing
 - Selecting investment providers that meet the risk and return parameters, monitoring their performance, and regularly reviewing the total portfolio
 - Avoiding any appearances of Conflict of Interest by those managing the Investment Program

21



Investment Best Practices

Elements of a successful Best Practices Risk Management Program:

- Keep detailed minutes broadly outlining the discussion that includes recognizing:
 - the risks and overall fit in the investment program
 - how the investment impacts the diversification in the portfolio
 - an analysis of the fees for reasonableness
 - expected return in different market conditions
- Utilize a signed Conflict of Interest Statement, updated annually, and require conflicted members to absent themselves (literally) from the discussion and decision-making
- Clearly delineated chain of command and oversight of the investment program
- Retention of financial (and legal as applicable) experts to provide advice

22



Best Practices--It's More Than Just Extra Paperwork

Having process and procedures for an Investment Program and adhering to them provides the structure and procedures to keep you out of the HEADLINES!!!



23





Be noticed

EDS can help you step up your planned gift marketing through innovative print, website and e-marketing products designed to meet your specific needs. Get thought-provoking, motivating messages to your donors, with:

- unmistakable branding and
- instant recognition of your organization and your mission.

Be focused

We know you are focused on developing relationships and spending time with donors and supporters. That's why we focus on making it as easy as possible for you to promote your mission and gift planning options.

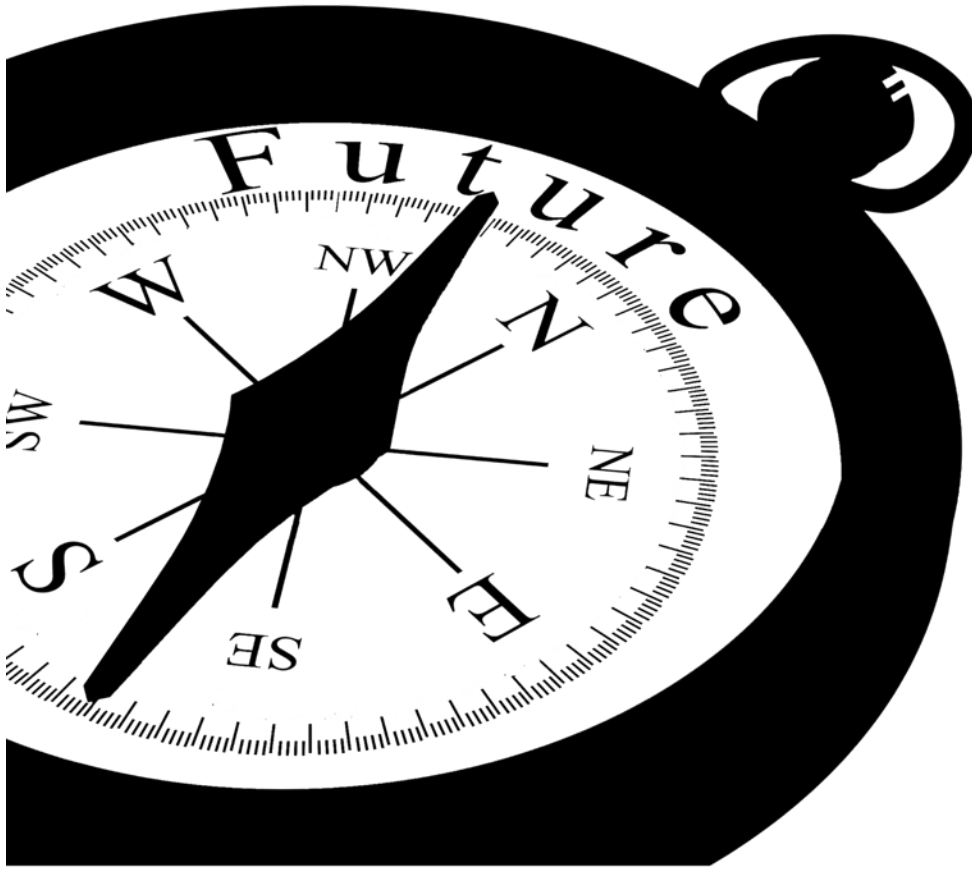
For information, give us a call, email, or visit us at endowdevelop.com. It would be our pleasure to help you implement cost-effective marketing ideas that get you noticed and make the best use of your time.

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www.endowdevelop.com



CHARTING A COURSE FOR THE FUTURE

- A CONFERENCE ON PLANNED GIVING -



Charitable Gifts Using IRAs (Track II)

Presented By

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STRUCTURING CHARITABLE GIFTS OF IRAs

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February, 2014
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(617) 722-7420

Agenda

- Set the stage
- Why Leave IRA to Charity – FIT/FET
- When to Leave the IRA to Charity – Life v. Death
- How to Leave the IRA to Charity
 - Directly
 - To Individual, Followed by Disclaimer
 - To Estate/Trust, Then to Charity
 - QTIP/CRT
- Types of Potential Charitable Recipients
- Speed Bumps
 - REA of 1984
 - Avoid Using an IRA to Satisfy a Pecuniary Bequest
 - Minimum Required Distribution Rules

IRA May Be Subject To:

- Estate Tax
 - \$5.34 million exemption in 2014
- Income Tax
- Generation-Skipping Tax
 - \$5.34 million exemption in 2014

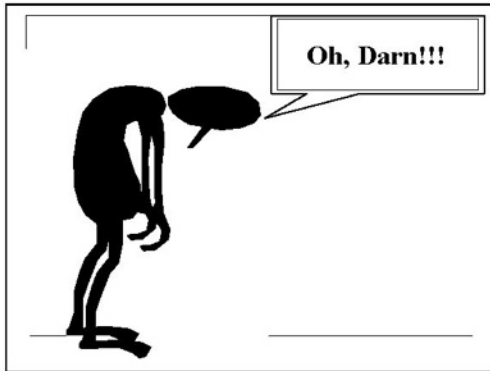


IRA Time Bomb



IRA Time Bomb





Why???

Tax Consequences of Leaving IRA to Charity - 9 PLRs

- No Estate Tax
 - Qualifies for FET Charitable Deduction
- No Income Tax
 - To Donor or Donor's Estate
 - Charity not Taxed on Proceeds
- Tax Efficient gift –100% of IRA can be devoted to a charitable purpose
 - Worth more to charity than to an individual due to the built in tax liability

When???

When to Leave an IRA to Charity

- At Death
- During Life
 - Take Distribution, Pay Income Tax
 - Pension Protection Act of 2006 \$100,000 exclusion
 - Expired December 31, 2013
 - 10 yr Averaging f Born Before 1936
 - Employer Stock in Qualified Plans

Take Distribution, Pay Income Tax

- Charitable deduction may not offset IRA distribution included in income
 - 50% of AGI limit on cash gifts to charity
 - Actuarial value of remainder interest for gift to CRT
- No deduction for nonitemizers
- 10% penalty if IRA owner under 59 ½
- Charitable deduction partially lost if 2014 income exceeds \$305,050 (M/J), \$254,200 (S) or \$5152,525 (M/S)
 - 3% of itemized deductions lost if above income limit
- May be subject to state income tax if state does not allow charitable deduction

Take Distribution, Pay Income Tax

Not a "wash"

IRA distribution	100,000
AGI	100,000
Charitable Deduction	<u>(50,000)</u>
Taxable Income	50,000

Pension Protection Act of 2006 – IRA Charitable
“Rollover” (Expired December 31, 2013)

- Exclusion from gross income
- Of up to \$100,000 per taxpayer, per year
- From a traditional IRA or Roth IRA
- For “qualified charitable distributions”
- Made during 2006 – 2013 (subject to further extension)
- For an IRA owner who has attained age 70 ½ on the date of distribution

Pension Protection Act of 2006 – IRA Charitable
“Rollover”

- Plans not eligible to make “Qualified Charitable Distribution” (QCD):
 - 401(k)
 - 403(b)
 - Defined Benefit Plan
 - Defined Contribution Plan/Profit Sharing Plan
 - Keogh Plans
 - “Ongoing” SEPs
 - “Ongoing” SIMPLES

Note: QCD can be made from inactive SEP or SIMPLE (Notice 2007-7)

Pension Protection Act of 2006 – “Qualified
Charitable Distribution”

- Distribution made on or after the IRA owner reached age 70 ½
- Distribution from traditional IRA or Roth IRA
- Made directly by IRA administrator
- To an organization described in § 170(b)(1)(A)
 - Excludes donor advised funds and supporting organizations
- The payment would otherwise fully qualify for a charitable income tax deduction
 - Charitable gift annuity, pooled income funds and charitable remainder trusts are also ineligible to receive “qualified charitable distributions”
- Distribution would have been taxable if distributed to the plan participant

Pension Protection Act of 2006 – “Qualified
Charitable Distribution”

- Administration Issues:
 - Charity must furnish “contemporaneous written acknowledgement” to donor
 - IRA administrator should note donor’s name on the transmittal of the check or wire transfer to the charity
 - Charity cannot furnish quid pro quo
 - Distribution counts as part of minimum required distribution
 - Special rule for IRAs that include nondeductible contributions
 - How late in December will IRA administrator allow a “Qualified Charitable Distribution”?

Pension Protection Act of 2006 – “Qualified
Charitable Distribution”

- Notice 2007-7 Clarifications:
 - IRA beneficiaries who are 70 ½ or older can make QCD as well as IRA owners
 - Distribution from checkbook IRA to qualified charity qualifies as QCD
 - Distribution in satisfaction of charitable pledge qualifies as QCD
 - not a prohibited transaction
 - QCD not subject to income tax withholding
 - Check payable to charity sent to IRA owner for delivery to charity is a direct payment

Pension Protection Act of 2006 – “Qualified
Charitable Distribution”

- How to Report QCD:
 - IRA custodian reports IRA distribution on Form 1099-R as a taxable distribution
 - IRA owner reports IRA distribution on Form 1040, Line 15a but reports taxable distribution on Line 15b
 - QCD omitted from line 15b
 - Enter “QCD” next to line 15(b) in the margin of the tax return
 - QCD not disclosed as itemized charitable deduction on Schedule A, Itemized Deductions
 - Relieves IRA custodian from determining if distribution qualifies as QCD
 - Burden on IRA owner to determine if distribution qualifies as QCD

10 Yr Averaging if Born Before 1936

- LSD from qualified plan for plan participants born before 1936 (and their beneficiaries) qualify for special treatment
- Distribution is excluded from gross income and taxed under a separate rate schedule
- May result in lower income tax on distribution
- In simple terms, to determine tax, 1/10 of distribution is taxed at 1986 rates and the result is multiplied by 10

Employer Stock in Qualified Plan – Lifetime Gift

HOW IT WORKS

- Donor takes LSD of qualified plan
- Retains the "employer stock"
- Pays income tax on "cost basis" of employer stock
- Contributes "employer stock" to CRUT
- Gets charitable deduction for FMV of employer stock less the value of the retained interest
- CRUT sells stock and pays no capital gains tax
- Proceeds equal to NJA are LTCG under CRUT tier system

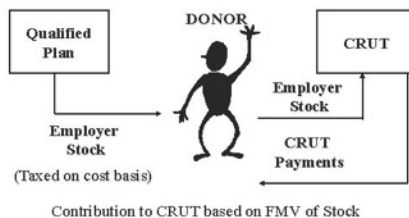
Employer Stock in Qualified Plan – Lifetime Gift

RESULT:

- Donor takes distribution from qualified plan during life
- Contributes stock to CRUT for his benefit
- At a cost to him of ordinary income tax on the "cost basis" of the employer securities
- Gets assets out of his qualified plan at a low tax cost and gives them to charity

This is merely a version of contributing appreciated stock to a CRUT

Employer Stock in Qualified Plan – Lifetime Gift



Employer Stock in Qualified Plan – Lifetime Gift



Will This Work???

Yes!!!

See PLRs 199919039, 200038050, 200202078, 200215032, 200302048 and 200335017

How???

Ways to Give IRA to Charity

- Directly to Charity
 - Name Charity as Beneficiary Form
- To Individual, Followed by Disclaimer to Charity
- To Estate/Trust, Then to Charity
- Income to Individual Beneficiary, Remainder to Charity
 - Qualified Terminable Interest (QTIP) Trust
 - Sec. 2056(b)(7)
 - Sec. 2056(b)(8)
 - Charitable Remainder Trust Sec. 664

Directly to Charity

- Charity named as Primary Beneficiary
 - IRA owner dies, charity gets the IRA
- Charity named as Contingent Beneficiary
 - IRA owner dies, primary beneficiary gets the IRA
 - Charity gets nothing
 - Charity gets IRA only if primary beneficiary predeceases the IRA owner or disclaims

Who???

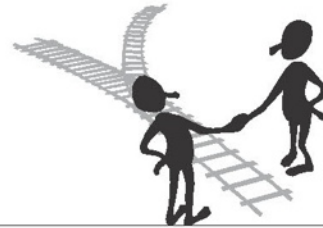
Who Takes Your IRA?

- The Will Doesn't Control
- **The Designated Beneficiary Form Controls**

Beneficiary of IRA

- Named in Beneficiary Form
- Default: See IRA Agreement
 - Estate?
 - Spouse?

Structuring a Tax Efficient Gift



IRA to Son, Stock to Charity

	<u>Charity</u>	<u>Son</u>
Stock	500,000	
IRA		<u>500,000</u>
Total Bequest	500,000	500,000
Less: Income Tax	<u>0</u>	<u><200,000></u>
Net Bequest	500,000	300,000

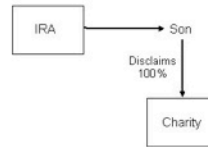
IRA to Charity, Stock to Son

	<u>Charity</u>	<u>Son</u>
Stock		500,000
IRA	<u>500,000</u>	
Total Bequest	500,000	500,000
Less: Income Tax	<u>0</u>	<u>0</u>
Net Bequest	500,000	500,000

IRA To Individual, Followed by Disclaimer to Charity

- IRA owner designates son as primary beneficiary of IRA with charity as the contingent beneficiary
- Son disclaims
- Charity takes the IRA as the contingent beneficiary

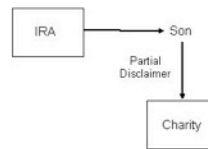
IRA To Individual, Followed by Disclaimer to Charity



IRA To Individual, Followed by Disclaimer to Charity

- IRA owner designates son as primary beneficiary of IRA with charity as the contingent beneficiary
- Son does a partial disclaimer, so he is beneficiary of part of the IRA and charity is the beneficiary of the other part of the IRA
 - Multiple beneficiary rule applies for distributions
- Son can't take distribution of IRA over his LE
 - Must withdraw the IRA within 5 years or over deceased IRA owner's LE, depending on IRA owner's age at death

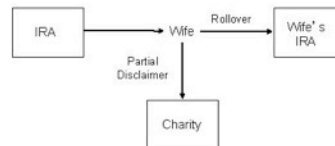
IRA To Individual, Followed by Disclaimer to Charity



IRA To Individual, Followed by Disclaimer to Charity

- IRA owner designates wife as primary beneficiary of IRA with charity as the contingent beneficiary
- Wife does a partial disclaimer, so she is beneficiary of part of the IRA and charity is the beneficiary of the other part of the IRA
- Wife can rollover the IRA to her own IRA and take distributions over her LE

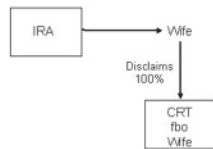
IRA To Individual, Followed by Disclaimer to Charity



IRA To Individual, Followed by Disclaimer to CRT

- IRA owner designates wife as primary beneficiary of IRA with charitable remainder trust fbo wife as the contingent beneficiary
- Wife disclaims so IRA goes to charitable remainder trust fbo wife
- GR: disclaimant can't benefit from property disclaimed
 - Exception: Wfe can disclaim and still benefit from charitable remainder trust

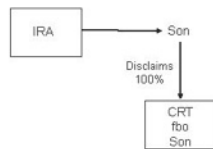
IRA To Individual, Followed by Disclaimer to Charity



IRA To Individual, Followed by Disclaimer to CRT

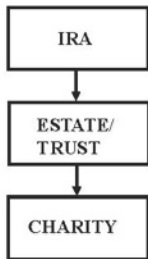
- IRA owner designates son as primary beneficiary of IRA with charitable remainder trust fbo son as the contingent beneficiary
- Son disclaims so IRA goes to charitable remainder trust fbo son
- GR: disclaimant can't benefit from property disclaimed
 - Disclaimer invalid as son (unlike wife) cannot benefit from property disclaimed

IRA To Individual, Followed by Disclaimer to Charity



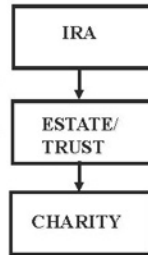
IRA to Estate/Trust, Then to Charity

Don't Make This Mistake !!!



IRA to Estate/Trust, Then to Charity

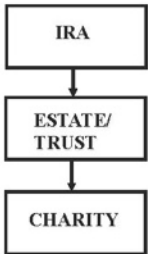
Problem:
Fiduciary Income Tax Charitable Deduction???



IRA to Estate/Trust, Then to Charity

Solutions:

- (1) Qualify for §642(c) Deduction
- (2) "Assign" IRA to Charity
- (3) Pay the Charity Last
- (4) Bypass the Estate



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graph TD
    IRA[IRA] --> ESTATE["ESTATE/  
TRUST"]
    ESTATE --> CHARITY[CHARITY]
  
```

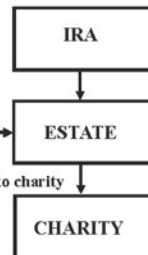
Qualify for §642(c) Deduction

- 2 Requirements for Fiduciary Income Tax Deduction:
 - Paid out of gross income
 - Paid pursuant to the governing document
 - Important: Estate or trust should have language that charitable gift can be satisfied by distribution of IRD

Solution

- Drafting Solution for benefits payable to estate/trust
 - Prohibit use of retirement benefits to fund charitable bequest (if objective to pay over LE of individual trust beneficiary), or
 - Match the retirement benefits to the charitable gift if objective is to have benefits pass to charity free of income tax

IRA to Estate/Trust, Then to Charity



```

graph TD
    IRA[IRA] --> ESTATE[ESTATE]
    ESTATE --> CHARITY[CHARITY]
  
```

PLR 200336020 – IRA distribution included in gross income of estate but qualified for fiduciary income tax charitable deduction.

residue to charity

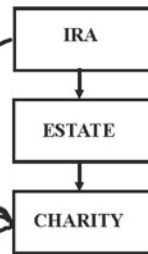
"Assign" IRA to Charity

- D named estate as beneficiary of IRA
- D's will left percent of estate to various charities
- Will authorized non-pro rata distributions
 - Rev. Rul. 69-486 - no tax on non-pro rata distribution if allowed by inst or state law
- IRS says executor could "assign" IRA to charity
- Result: (1) No taxable income to estate or individual beneficiaries, (2) IRA not included in estate's DNI and (3) No taxable income to charity
- Reason: Regs. say if IRD is transferred to specific or residuary legatee, only the recipient must report such income

Authority: PLRs 200234019, 200452004, 200520004, 200526010, 200617020, 200618023, 200620025, 200633009, 200644020, 200652028, 200826028, 200850004, 201013033, 201128036, 201210045, 201210047, 201208039

IRA to Estate/Trust, Then to Charity

Assign the IRA to Charity



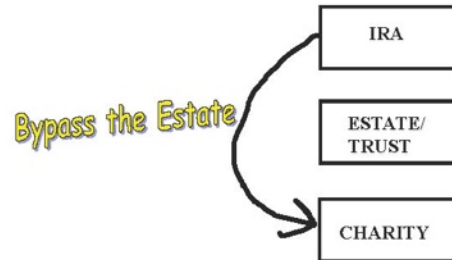
```

graph TD
    IRA[IRA] --> ESTATE[ESTATE]
    ESTATE --> CHARITY[CHARITY]
    IRA -.-> CHARITY
  
```

Pay Charity Last - PLR 200221011, 200336020, 200526010, 200537019

- D's will leaves specific bequests to individuals, residue to charity
- Estate named as beneficiary of IRA
- Year 1 - Executor pays administration expenses and all specific bequests to individuals
 - Charity only remaining bene at end of Year 1
- Year 2 - estate receives IRA proceeds
- Result: IRS says estate is entitled to charitable "set aside" deduction that would offset the inclusion of the IRA proceeds in gross income

IRA to Estate/Trust, Then to Charity



Types of Potential Charitable Recipients

- The Good
 - Public Charity
 - Private Foundation
 - IRA distribution not subject to 2% excise tax on net investment income
 - Donor-Advised Fund
 - Charitable Remainder Trust
 - IRA distribution to CRT not subject to income tax
 - IRA net of §691(c) deduction added to Tier 1 income
 - Maybe only way to get "stretch out" if Obama's 5 year payout proposal is enacted
 - Charitable Gift Annuity
 - Leave IRA to charity at death with charity agreeing to pay annuity to beneficiary for life
 - Benefits paid to charity free of income tax: PLR 200230018.
- The Bad and the Ugly – subject to income tax
 - Charitable Lead Trust
 - Pooled Income Fund

Speed Bumps

- Retirement Equity Act of 1984
- Avoid Using an IRA to Satisfy a Pecuniary Bequest
- Minimum Required Distribution Rules

Retirement Equity Act of 1984

- Applies to Most Qualified Plans
- Spouse has Rights in Qualified Plan
- If Beneficiary of Plan is Other Than Spouse:
 - Waiver Needed
 - Spouse Must Consent to Waiver
- Doesn't Apply to IRAs
 - Be Careful of IRA Rollovers from Qualified Plans

Avoid Using an IRA to Satisfy a Pecuniary Bequest
CCA 200644020

- IRA owner names revocable trust as IRA beneficiary
- IRA owner dies and trust provides for \$100,000 gift to 3 charities
- Residue passes to children
- Trustee instructs IRA custodian to divide IRA into 3 IRAs and assign one IRA to each of the 3 charities

Avoid Using an IRA to Satisfy a Pecuniary Bequest

- IRS says trust required to recognize income under §691(a)(2)
- Trust not entitled to fiduciary income tax charitable deduction under §642(c) because trust didn't direct/require trustee to pay IRA to charity
- Solution: More artful drafting
 - Draft as (1) fractional/percentage (instead of fixed dollar) bequest or (2) specific bequest (name charity as IRA beneficiary)

Minimum Required Distributions

- MRD Rules Dictate:
 - When Distributions Commence
 - Once Begun, How Fast Must Distributions Be Made
 - Who is a "Designated Beneficiary"

Minimum Required Distributions -Executive Summary

- Naming charity as beneficiary of IRA will not affect IRA owner's lifetime MRD
 - MRD computed using "Uniform Table" (exception: naming a spouse who is more than 10 yrs younger)
 - Named beneficiary **disregarded**

Minimum Required Distributions -Executive Summary

- IRA owner must take MRD during life, reducing the amount available for charity
- Planning idea: gift the MRD to charity each year
- Alternative planning idea: if "IRA Charitable Rollover" provision is extended, distributions "count" for MRD purposes.

Minimum Required Distributions -Executive Summary

- When IRA owner dies
 - If IRA beneficiary is a individual, group of individuals or qualifying trust, MRD is over LE of oldest beneficiary
 - Multiple beneficiary rule – MRD generally accelerated if benefits paid to multiple beneficiaries, one of whom is a charity
 - Within 5 yr of IRA owner's death if death before RBD
 - Over IRA owner's remaining LE if death on or after RBD
 - E.g. 79 year old has 10.6 year life expectancy

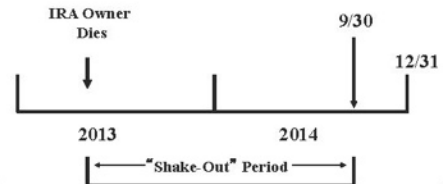
Minimum Required Distributions -Executive Summary

- Post-death MRD
 - No drawback to leaving all of the IRA to charity/CRT or all or part to spouse
 - Charity/CRT is tax-exempt so IRA can be distributed in full with no tax consequences
 - Spouse can R/O or elect to treat IRA as his/her own

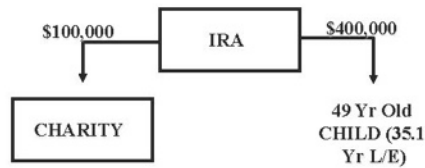
Minimum Required Distributions -Executive Summary

- Problem occurs where there are multiple beneficiaries and one is a charity
 - IRA distribution generally accelerated
- Post-Mortem "Wiggle Room" Solution – certain things can be done by 9/30 of the year after the IRA owner's death:
 - Separate accounts
 - Disclaimer
 - Pay off charity

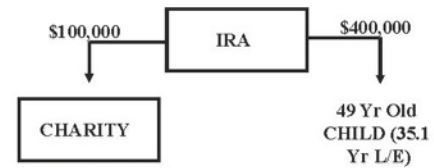
Minimum Required Distributions
Post-Death Distributions



\$500,000 IRA - \$100,000 to Charity, Balance to Child

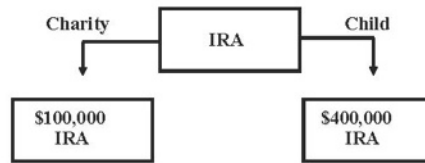


\$500,000 IRA - \$100,000 to Charity, Balance to Child



Charity not a "Designated Beneficiary"
 Death Before RBD: Distribution within 5 years
 Death After RBD: Distribution Over 79 Yr Old Donor's LE (10.8 Yr)

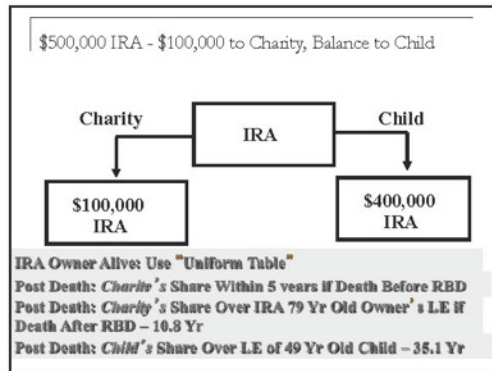
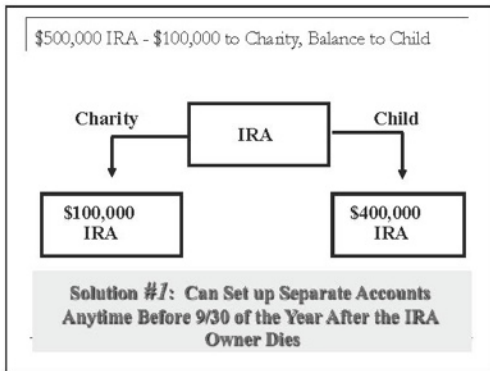
\$500,000 IRA - \$100,000 to Charity, Balance to Child



Solution: Use Separate Accounts

"Separate Account" - Reg. 1.401(a)(9)-8, A-3

"...separate portions of an employee's benefit reflecting the separate interests of the employee's beneficiaries under the plan as of the date of the employee's death for which separate accounting is maintained. The separate accounting must allocate all post-death investment gains and losses, contributions and forfeitures, for the period prior to the establishment of the separate accounts on a pro rata basis in a reasonable and consistent manner among the separate accounts."

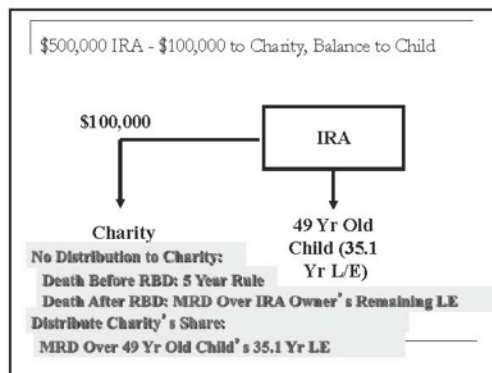
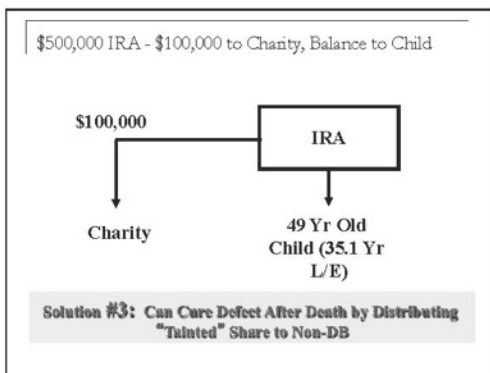


Solution #2

- Charity disclaims interest in IRA
 - Like that is going to happen

Solution #3

- Can Eliminate Beneficiaries for MRD Purposes by Distributing Entire Share to "Tainted" Beneficiary
- If Amount is Entirely Distributed to Beneficiary by 9/30 of the Year After the IRA Owner Dies, Only the Remaining Beneficiaries are "Counted" to Determine if IRA has a DB
- Example: IRA Has Individual and Charity as Beneficiary. If Charity's Share is Distributed to It Before 9/30 of the Year After the IRA Owner's Death, the IRA then has a DB i.e. the Individual



Conclusion

- Set the stage
- Why Leave IRA to Charity – FIT/FET
- When to Leave the IRA to Charity – Life v. Death
- How to Leave the IRA to Charity
 - Directly
 - To Individual, Followed by Disclaimer
 - To Estate/Trust, Then to Charity
 - QTIP/CRT
- Types of Potential Charitable Recipients
- Speed Bumps
 - REA of 1984
 - Avoid Using an IRA to Satisfy a Pecuniary Bequest
 - Minimum Required Distribution Rules

Don' t Try This At Home





YOUR MESSAGE IS OUR MISSION

GABRIEL GROUP is your single source for planned giving lead generation and direct mail fundraising...from organizational strategy and creative visioning to production, delivery and campaign analysis, we can help you consolidate from three or four (or more!) vendors to one trusted partner. Services include:

- Onsite Consulting
- Creative Writing and Design
- Offset and Digital Printing
- Database Analytics and Reporting
- Mailing and Multi-Channel Services

Why should you talk to Gabriel Group about planned giving lead generation?

Superior, quantifiable **RESULTS!**

INTERNATIONAL RELIEF ORGANIZATION

25,000 pieces mailed

**RESULTS: 1,278 Qualified Planned Giving Leads—
5.03% response rate**

Uncovered 176 existing planned gifts

RENOWNED DC UNIVERSITY

14,000 pieces mailed

**RESULTS: 775 Qualified Planned Giving Leads—
5.41% response rate**

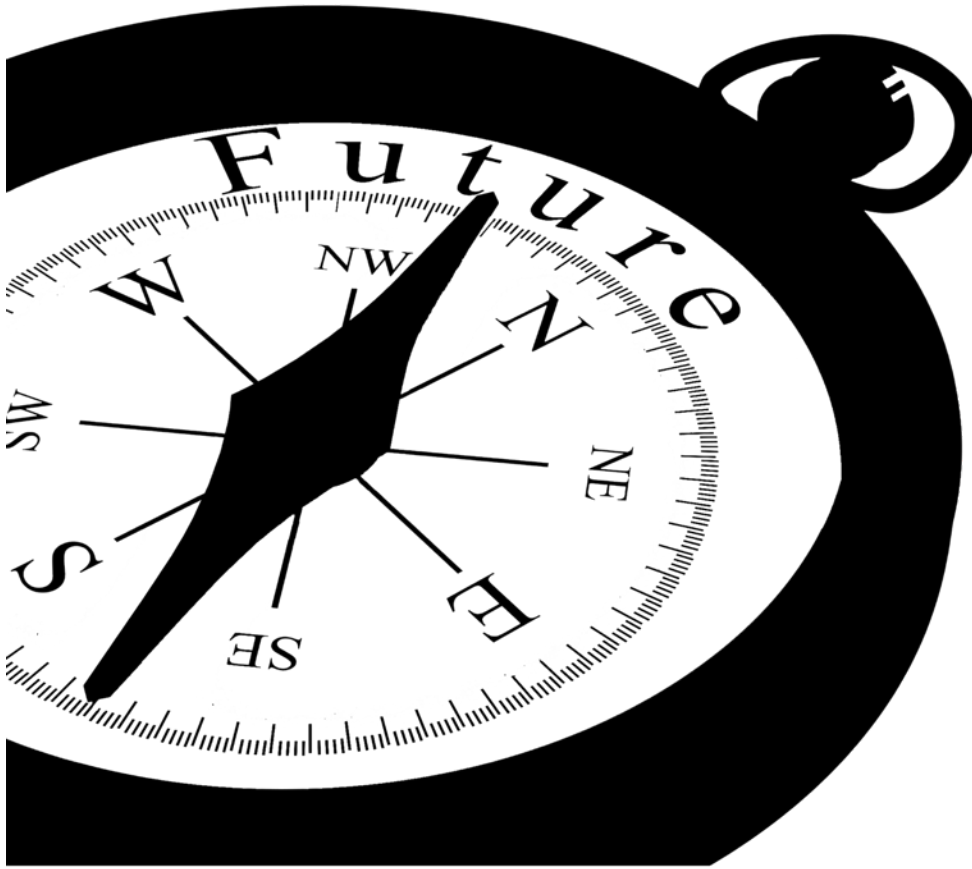
Uncovered 136 existing planned gifts

To find out how Gabriel Group can help you produce similar results, please stop by our **booth #209.**

We promise it won't be a waste of your time.

CHARTING A COURSE FOR THE FUTURE

- A CONFERENCE ON PLANNED GIVING -



Integrating Gift Planning with Major Gifts (Track II, III)

Presented By

Pamela Jones Davidson, J.D.

Consultant & Charitable Gift Planner

Davidson Gift Design & Thompson & Associates

(812) 876-8646

pj davidson@giftplanners.com

**INTEGRATING GIFT PLANNING WITH MAJOR GIFTS –
THE UNIVERSAL LANGUAGE OF ASSETS AND
PERSONAL PLANNING GOALS, PLUS OUR PROACTIVITY**

**MOTIVATING GIFT PLANNING,
TALKING ABOUT IT WITH REAL PEOPLE**

**SIMPLER PLANNED GIFT OPTIONS
THAT ALL CHARITIES
CAN UNDERSTAND AND SUCCESSFULLY PROMOTE, WITH MANY –
WE CAN DO PLANS PRE-TAX, TOTALLY UNIQUE!!**

**BENEFICIAL DESIGNATIONS OF RETIREMENT
PLAN ASSETS – A REVOCABLE AND TAXWISE OPTION
WE NEED TO SUGGEST TO EVERYONE**

**“I DON’T KNOW ANYTHING ABOUT YOU, BUT . . . “
Suggesting Planned Gifts into a Donor Conversation**

SHORT SUMMARY OF MOST LIKELY GIFT PLANNING OPTIONS

PAMELA JONES DAVIDSON, J.D.
DAVIDSON GIFT DESIGN
Charitable Gift Planning and Consulting
THOMPSON & ASSOCIATES
3940 Walcott Lane
Bloomington, Indiana 47404-9339
812/876-8646 voice 812/876-2470 fax
pjdavidson@giftplanners.com www.giftplanners.com
Pamela@ceplan.com www.ceplan.com

**AMERICAN COUNCIL ON GIFT ANNUITIES
31ST ANNUAL CONFERENCE
April 10, 2014
Baltimore, Maryland**

WHAT MOTIVATES THE LARGE GIFTS
Talking with Real People and All Prospects about Beneficial Gift Ideas-
We Must be Proactive and Idea Churners

By, Pamela J. Davidson
pj davidson@giftplanners.com 812/876-8646

1. MISSION worthy of support - meritorious cause - how charity articulates its need for the large or planned gift, in a way that the donor will care about that need.
2. CHARITY'S RELATIONSHIP with donor - past, present and future. Personal relationship works best - direct mail won't often do (except to educate).
3. A practice of donor cultivation, ongoing education about charity's purpose and mission, stewardship when donor has made other gifts to your charity, including telling the donor how his/her gifts have been used, their value that is so appreciated, supporting the critical work the charity does (always tie to mission).
4. Marketing and education, about fundraising and particularly planned giving - stress CONCEPTS (not a technical recitation) of how planned gifts have been, can be successfully used to achieve donor's planning objectives, part of diversified portfolio - goal is to be ENABLING to this donor and others (a "can do" approach and tone). Stories need to be compelling, to trigger an emotional response even.
5. Donor identification - who is most likely IN TERMS OF BOTH LINKAGE AND CAPACITY to consider planned gift options. Who are the identifiers?
6. Charity ASKS certain identified donor(s) to consider planned gift options, how they ensure the charity's future and why, how to consider these attractive planning options - greatly enhanced if development officer is a good listener, and responds then to "cues and clues;" response might be referral to expert.
7. Is the right individual at the charity the point person for this donor, with an individualized (written) plan for cultivating and soliciting each prospect? Can that individual really articulate, discuss planned gift options, at least in concept terms?
8. Are peers such as Board members involved, at least as door openers or as participatory volunteers in the solicitation? Would this be important to this donor? Is there a Board member or other influential individual who has made a planned gift, who would be helpful on the call, has passion to articulate need?
9. Responsiveness to donor objectives, considerations, and intent as to how gift will be used - charity can usually assume will be restricted, if a large gift. This raises issues of how to negotiate, document, who can bind the charity to any arrangement - and if the charity understands how to negotiate these arrangements, how it's affected by the gift's terms (maxim: not all proposed gifts are good gifts).
10. Follow-up with each prospect - how can we be of further help and service?
11. Administrative responsibilities well executed, if charity has any - use those as a stewardship or cultivation opportunity. Written record of business matters.
12. ACCOUNTABILITY on part of charity - keeps donor in loop about what charity is doing, how well it uses and safeguards its precious, finite resources. Charity contacts the donor other than when asking for the gift, tells the donor how his/her gifts (and those of others) have been used, their importance. **Pitch might be how to endow donor's annual support on which charity has come to rely.**
13. Ethics, integrity, confidentiality - all critical to process, perhaps more true in planned giving than in any other area of development (because hear sensitive, private information, some cannot, should not share nor perhaps even document)
14. Donor recognition, if donor wants any - ask him/her - appropriately handled, with sensitivity, e.g. don't need to reveal details, specifics - ask to use their story as a testimonial, to encourage others to consider these wonderful options

15. The non-greedy, non-grasping approach - be realistic that the donor will have other charitable inclinations besides supporting the one you represent. **Pitch should be that the donor can take care of all charitable desires in one well-crafted planned gift arrangement.**
16. Great planning opportunities a genuine, meaningful benefit to entire process, very appealing to prospects

NOTE: You will not find a requirement for your own technical expertise on this list, which expertise is readily available, from your Community Foundation, from other charities or colleagues, from an advisor well experienced in gift planning matters, or a consultant. Services from your Community Foundation are available and often free so use them, even before you call on a good prospect or key volunteer who you know might have assets or planning concerns.

Your role is to tell your charity's story, and to listen to and then share concepts with a likely prospect or donor – THIS YOU CAN DO, should do with just about everyone, will go far in promoting gift planning, a proactive concept, and endowment ideas.

Message to all prospects, clients (from Harvey DeVries): **“Would you consider making a gift if we could show you how?”**

**SIMPLER TYPES OF PLANNED GIFTS, FOR ENDOWMENT,
MOST WITH LITTLE ADMINISTRATIVE RESPONSIBILITY BY CHARITY**

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1. Bequests - donor includes “magic language” in *valid* will or testamentary trust
2. Beneficial Designations, by percentage, of (Part or All) of (One or More) Retirement Plan Assets – revocable, flexible, using expensive assets for family to inherit, all ages can do, one of the best assets to direct to charity after life use
3. Gifts of Life Insurance Policies, by Gifting Ownership of Policies That Are No Longer Needed, or Beneficial Designation of (Part or All) or (One or More) Life Insurance Policies – revocable, flexible, all ages can do
4. Gifts Using Appreciated Stock or Real Estate (often low yield) as Funding Asset
5. Gifts of Real Property Subject to Life Estate (for donor, couple, partners, siblings) – personal residence, vacation home or farm only
6. Testamentary Disposition, by Bequest, of Government Savings Bonds, OR redeem for outright gift, OR redeem, fund CGA if older for self and another
7. Promoting Gifts Other than Cash, and Lifetime Options as well as Testamentary - vary message, use testimonials to illustrate

REMEMBER:

- A. Most planned gifts are restricted, now and forever, by a donor.
- B. Ongoing education and awareness, repeatedly repeating gift planning options is essential.
- C. Your board has a key role in planned giving success, as donors, overseers of the program, volunteers, lead gatherers, as promoters of the charity, its mission.
- D. Planned gifts often have deferred impact to the charity - cost to raise them now, but can be years before the charity sees spendable dollars from planned gifts, so perfect for endowment fundraising.
- E. Planned giving programs more likely to succeed if have staff and financial resources DEDICATED to proactive planned giving promotion and activity.
- F. Can encourage some planned gift activity without much responsibility - but, will have to gear up, technically and administratively, to handle life income arrangements like charitable gift annuities and charitable remainder trusts, OR, can outsource, e.g. to your local community foundation or for-profit provider.
- G. Even the longest journey begins with but a single step . . . so START NOW and continue to promote and market in every publication and way you can.

**BENEFICIAL DESIGNATION GIFTS –
SMART AND REVOCABLE, TAX-WISE GIFT OPTION**

By, Pamela J. Davidson
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1. Many individuals have the majority of their portfolios today in (more than one) retirement plan assets – may well be that individual’s largest asset holding
2. Retirement plan assets are among the most expensive for family to inherit due to potentially heavy taxation, which can be deferred but will still be incurred at some future time
3. Retirement plan assets can be subject to income and estate and/or inheritance taxes, both state and federal, so possibly four (or more) potential taxes
4. Most of a retirement plan is usually taxable, especially if funded solely by employer contributions and with significant tax-deferred market growth
5. Income tax on retirement plans is simply deferred, most often for the lives of the owner and spouse. There is no marital deduction for income tax purposes, so will be taxed, just later and not now
6. Income tax on retirement plan assets can be deferred now to a next generation like children – called “stretch out” IRA’s – which most children may NOT choosing, wanting a lump sum after paying all taxes on the plan balance(s)
7. Combined estate, inheritance and income taxes, both state and federal, can erode a majority of the plan’s value, in some cases as much as 80% gone in these multiple taxes
8. In past, there was even a fifth possible tax on retirement plan assets, an excise tax, now repealed – impossible to say if ever will be reinstated
9. **Consider using for charitable purposes the most expensive assets family can inherit**, which includes retirement plans and deferred compensation plans
10. Can designate a percentage (NEVER an amount) of one or more of one or more retirement plan assets to individuals and/or various charities – designation **revocable** during life
11. Retirement plan assets DO NOT pass via a will or trust, by rather by who is listed on the beneficial designation form – becomes irrevocable when the plan owner dies. This is why in some states, a former spouse can take a retirement plan over a current spouse if that former is listed on the beneficial designation form
12. Gift simple to complete, by completing a change of beneficiary form with the company holding the plan or provided by your employer’s benefit office, with a percentage designation to one or more favored charities. Can “**mix-and-match**,” and include a designation to family too, e.g. “5% to five (5) specifically designated charities, remaining 75% to my spouse”
13. Can change the beneficiary designation form anytime by simply completing a new form and sending it back to the company holding the plan, a revocable choice that the donor can do on own
14. Can even designate a (lifetime or testamentary, in a will or trust) charitable remainder trust as beneficiary of a qualified retirement plan, and provide income to spouse or to other family members for life or a term period, remainder eventually to one or more charities. Heirs may actually receive more under this method, receiving a percentage from the invested gross that with a unitrust could go up over 20 years, than if inherited after-taxes amount of the plan(s)
15. Even a twenty-one year old can choose this option, e.g “1% to my favorite charity, 99% to my parents/ spouse”

16. Can use one plan, if have multiple plans, as the source of all testamentary charitable giving to multiple charities, “**One-Stop Shop,**” and give remaining plan(s) to family members - who inherit after-tax, net value
17. Some individuals use their mandatory retirement plan withdrawals, which must commence by age 70 ½ for retired individuals and which are subject to income tax, to fund charitable gift annuities for self and spouse, or to make outright charitable gifts. This offsets the income inclusion of the mandatory withdrawal, which must be taken whether or not the individual needs or wants it. Can defer the CGA for even greater immediate tax effect and a higher eventual rate of return
18. Beneficial designation gifts are easy to promote and understand, and an extremely viable option for most of your prospects
19. Provide prospects with the exact name of your charity, for beneficiary designation and bequest purposes – don’t let them guess, provide it for them
20. Repeat the message of this can-do gift option repeatedly, in publications and with prospects, a viable option for many donors, could even use in conjunction with a current, outright gift

I Don't Know Anything about You, But . . .
How to Suggest Planned Gifts in a Client Conversation

Proprietary Material, 2014, of
Pamela J. Davidson, Davidson Gift Design
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SCRIPTED SENTENCES to elicit interest in planned gifts, to introduce one or more gift planning ideas or concepts with donors and prospects, about whom you most likely **do not** know specifics asset holdings, capacity or personal planning goals:

1. I don't know anything about you, but if you have one or more qualified retirement plans, I have some really important (tax and inheritance) information for you about these expensive assets for family to inherit . . .
2. I don't know anything about you, but if you're like most people I know, you have highly appreciated stock that may be low yield, that you may want to convert to more income or diversify, have we got ideas for you . . .
3. I don't know anything about you, but if you're helping to support an older generation like parents, grandparents or in-laws, (older) siblings even, have I got some ideas for you . . .
4. I don't know anything about you, but if you are concerned about how to save for retirement now, have I got some planning ideas for you . . .
5. I don't know anything about you, but if you like most Americans hold a lot of CD's (or money market or savings accounts), have I got some great information for you about charitable plans that can most likely give you or others you love more income . . .
6. I don't know anything about you, but if you have children with financial management, or substance abuse issues, or potential in-law concerns, have I got some ideas for you . . .
7. I don't know anything about you, but if you're concerned about your family's management of assets after you're gone and want your spouse or partner or companion to enjoy income from diversified sources after you're gone, have I got some ideas for you . . .
8. I don't know anything about you, but if you have favorite charities, or a capital campaign pledge to our charity that you're looking to satisfy, and want to see the effect during life of your giving, have I got some ideas for you . . .
9. I don't know anything about you, but if you own a farm, personal residence or vacation home in another state, you might not know about ancillary estates (opening a small estate in the state of realty ownership to transfer that real estate), and how a charitable arrangement could simplify even obviate that process . . .
10. I don't know anything about you, but if you own too much of a stock or real estate holding that you'd like to diversify with optimal tax implications, even enjoy income from, have I got some ideas for you . . .
11. I don't know anything about you, but if you have recently received a retirement or severance package or lottery winnings or an inheritance, have I got some cool planning ideas for you . . .
12. I don't know anything about you, but if you're young with young children, and if you (or your parents) would like to save now for your future retirement and your children's future college educations, have I got some planning ideas for you . . .
13. I don't know anything about you, but if your personal situation won't be protected by current marital deduction laws and privileges, have I got some planning ideas for you, to provide for a surviving partner, companion, sibling or loved one . . .

14. I don't know anything about you, but if you're a rental landlord with fully depreciated or zero basis real estate, and you need that rental income replaced, you have capital gains and other tax issues for which we have some great planning ideas . . .
15. I don't know anything about you, but if you are looking to reduce the size and complexity of your estate and enjoy income tax savings now because you won't need charitable estate tax deductions, have I got ideas for you . . .
16. I don't know anything about you, but if you intend eventually for your home or farm or vacation home to go to a favorite charity, and you're older and could use an income tax deduction, have I got some options for you . . .
17. I don't know anything about you, but if you're planning to engage in tax, financial, retirement or estate planning, I've got some great ideas for you . . .
18. I don't know anything about you, but if you own a lot of life insurance, you may not know that beneficiaries receive life insurance free of income tax but the policy value can be included at face value in your estate, have I got ways to avoid that effect . . .
19. I don't know anything about you, but if you own a lot of savings bonds, even some that no longer pay income, I have both lifetime and testamentary planning ideas for those, with tax advantages and that can even produce income to you and another . . .
20. I don't know anything about you, but if you've been reluctant to make a charitable gift because it means irrevocably "cashing out" of the market on that gifted asset, have I got some valuable information for you . . .
21. I don't know anything about you, but if you've been involved in the estate of another person and have experienced first-hand the complications of handling an estate, have I got some simplification ideas for you . . .
22. I don't know anything about you, but if you love one of more charities, if you want to endow your annual giving to a favored charity and leave a legacy to your caring, I have many great planning ideas for you, during life and also in your estate, tax, financial and retirement planning!!!

"Sometimes you can be better off giving something away than keeping it" - applies particularly to well-planned charitable giving arrangements, and to family too! Also,

"Everyone likes a good idea, flexible and revocable options are nice too."

Charitable options can change, to the better, the *form* of what is left, e.g. income to same- aged beneficiaries, instead of the asset itself (to avoid ownership which means taxation)

Harvey DeVries: "Would you (prospect) consider making a gift if WE could show you how?" The whole point - *and* our role!!

SUPPORTING MATERIALS – What to Suggest for Each of These “What Ifs”

(numbers correspond to same numbered statement and related advice)

By: Pamela J. Davidson, Davidson Gift Design, Thompson & Associates

(At some point, both charity and donor will need professional advice from an experienced and knowledgeable advisor, practitioner or technical consultant)

Note: Pooled income funds (“PIF”) are *not* included as options, but could be in some of these circumstances, IF your charity has an already-existing PIF (most charities are unlikely to create one today).

Additionally, bequests would work in some of these circumstances, but are only occasionally noted since they are solely testamentary, and this summary emphasizes lifetime (inter vivos) gift arrangements. An individual can create charitable remainder trust and charitable gift annuity arrangements by bequests in a will or trust, or more likely during life.

1. a) percentage or all (generally not a dollar amount) beneficiary designation, of (one of more) retirement plan assets, revocable, any age can do, can include %’s for numerous charities;
b) beneficial designation on (part or all) of (one of more) retirement plan assets (if sufficient amount) to a charitable remainder unitrust (“CRUT”), for surviving spouse for life or term, or to a CRUT for a term (up to 20 years) for children or grandchildren – 5% payout matters (payout choice irrevocable once trust funded) and should *always* be discussed
2. a) outright gift of a portion of the appreciated stock, if donor does not need its modest yield and an income tax deduction is desirable – deduction is fair market value only if stock held long term; if held short term, deduction is donor’s basis;
b) use stock to fund a life income arrangement such as a CRT or charitable gift annuity (“CGA”) for self and spouse or for others, avoids capital gains recognition on funding so income paid to individuals from a larger amount
3. a) CGA (funded at one or more charities) for that older generation, probably immediate, but can be deferred or flexible, depending on age and needs;
b) if have younger age beneficiaries or certain older ages of other clustered income beneficiaries, a CRT for a term and not for life; unitrust options for younger beneficiaries, annuity trust option for one or clusters of older individuals
4. a) Net income charitable remainder unitrust (“CRUT”) with (or without) make-up provision (can include flip provision for future flexibility if choose to exercise);
b) deferred CGA, commencing at a future retirement age;
c) flexible CGA, possibly commencing at a future (retirement or even older) age
5. a) CGA, for self and surviving spouse or partner or sibling as income beneficiaries, or for others, if older, immediate or the deferred or flexible types;
b) CRT, annuity and unitrust options both considered, depending on age(s) and risk tolerance
Both of these options can create more income for a donor or others and also an income tax deduction, which just about everyone can use
6. a) CRT for term, or for life if child is old enough, probably the unitrust option, even net income only variation depending on circumstances;
b) could do some CGA’s, depends on the child’s age, deferred if possible, perhaps immediate but only if a much older child
7. a) CRT for maximum diversification and donor tailoring, control even, depending on overall portfolio value and risk tolerance;
b) CGA’s, alone or in addition to a CRT
8. a) Outright gifts, from a portion of appreciated stock, real estate, maturing CD’s, matured savings bonds, or even from retirement plan distributions, if can afford to do so;
b) Charitable lead trust (“CLT”) for certain donors, who want to pass a certain asset or value to a subsequent generation at reduced estate and gift tax consequences now, depends on donor holdings

9. a) Gift of real property subject to life estate (a retained life estate gift), yields a valuable income tax deduction;
b) Bequest of property in a will or trust (charity can disclaim if wishes, pursuant to its own state law rules on disclaimers)
10. a) CRT for self and spouse or partner or others, life or term depending on ages, most often the unitrust option since it can pay income off an annually revalued portfolio and therefore can grow over life or term;
b) CGA's for self and spouse or partner or companion or sibling, or for others
11. a) Outright gifts to one or more charities with part of that income;
b) CRT for self and spouse, or for others, term or life, can be net income only;
c) CGA's, immediate, deferred or flexible
d) CLT, asset(s) returned to donor or family in future
12. Net income only CRUT with (or without) make-up provision, probably a 20 year term since younger beneficiaries
13. CRT or CGA, various types, for surviving partner or loved one, funded both during life and additionally in a testamentary will or trust, by bequest, or by beneficiary designation on one or more qualified retirement plan
14. a) CGA's funded by deed of property to charity, immediate, deferred or flexible;
b) CRUT for self and spouse, or others, term or life depending on ages and number of income beneficiaries, the net income option since real estate is funding asset
15. a) Outright gifts to one or more favored charities, can do by deed or portion of appreciated stock or other asset;
b) CGA's if older, even CRT's for self, spouse, partner or a separate one for family, depending on portfolio value;
c) look at all assets, retirement plans, life insurance, home, vacation home, etc., for which can utilize certain planned gift options – both revocable and irrevocable - during life, accomplish over time and as needs and wishes allow
16. Gift of real property subject to life estate (a retained life estate gift), works well for an (older) individual and for a(n) (older) couple or siblings
17. a) All planned gift options, especially a bequest;
b) beneficiary designations by percentage (part or all), on retirement plan assets, also beneficiary designation on life insurance *if* not needed by family
c) Lifetime options, depending on age and income needs, to convert low or non-income producing assets and diversify portfolio, further other planning goals
18. a) Beneficiary designation of (all or part) of (one or more) life insurance policies;
b) Gift of ownership of certain types of life insurance policies to a charity during life, depends on policy type and if donor will continue to make any required premium payments – not an issue with a gift of a paid-up policy;
c) beneficiary designations on life insurance a great inheritance for family, even %'s designated to surviving children on first death and rest to spouse or partner
19. a) Testamentary bequest of U.S. government obligations, in percentages to various, favored charities, include in valid will or testamentary trust
b) Outright gifts, from proceeds of redeemed bonds – deduction will more than offset ordinary income recognition from cashing in the bonds
c) CGA's, for (older) self and another, funded with proceeds of redeemed bonds, if older annuitants, partial charitable income tax deduction should offset ordinary income recognition
20. Charitable remainder unitrust ("CRUT"), either straight or net-income, with or without make-up provision, and depending on needs and risk tolerance, donor can be trustee if s/he has a very good accountant.
21. All planned gift options, including bequests
22. All planned gift options, including bequests

GIFT PLANNING OPTIONS – SHORT SUMMARY OF MOST LIKELY

Bequests – no effect until death, “magic language” that must be included in a *valid* will or testamentary trust. Can express as a certain asset, or a certain amount, percentage, or part or all of the residue of an estate.

Beneficial Designations of (part or all) of (one or more) Qualified Retirement Plan Assets – accomplished by a donor completing a beneficial designation on a qualified retirement plan and sending back to the company holding the plan. Gift often expressed by a percentage. Revocable, no effect until death, can take care of many charities from these assets that are expensive (due to many possible income and other taxes that are only deferred) for a family to inherit.

Gift of Ownership, or Beneficial Designation of (part or all) of (one or more) Life Insurance Policies – if give ownership of a life insurance policy to charity during life, may get an income tax deduction. If designate charity as a beneficiary, usually a percentage, no income tax deduction since revocable, gift happens at insured’s death, possible estate tax savings then.

Gift of Real Property Subject to Life Estate – gift of a primary residence, vacation home or farm, older individual(s) deed real estate to charity, retain on the face of the deed the right to occupy the property for the rest of their life/lives. Life tenants responsible for taxes, insurance, care of property during their occupancy, entitled to an income tax deduction for charitable remainder value, simplifies their estate.

Charitable Gift Annuities – life income plans, usually for older individuals, only one or two annuitants on any contract, *maximum* rates “suggested” by American Council on Gift Annuities and based on age(s), generally higher than market rates of return, takes modest amounts to fund. Can defer when income is paid to annuitant(s), e.g. to save for retirement and receive income tax deductions as fund over time. Negotiate these with prospects, they might take a lesser payout %.

Charitable Remainder Trusts – irrevocable when funded, trusts must follow statutory terms even in payout (5% is minimum, and best choice for most) and be in the form of an annuity trust (pays fixed amount, cannot be added to) or a unitrust (variable payout based on market performance, can add to). Require a trustee. Can pay income for one or more lives, such as to a donor and spouse, or for a term up to 20 years, such as for younger beneficiaries like children, can even fund with retirement plan assets on death of second spouse if sufficient, 20 years income to kids. Net income variation of the unitrust pays trust payout rate or amount of income earned by the trust, whichever is less, for younger donors to save for retirement and if real estate used to fund.

U.S. government savings obligations – U.S. savings bonds a good testamentary gift to charity and other charities since donor would pay income tax if gave bonds during life, can designate in will or trust all government obligations to various charities in various percentages. Older individuals can cash in bonds no longer paying income during lifetime and use proceeds to fund charitable gift annuities, or make outright gift to charities, offsetting income tax deduction.

Gifts Other Than Cash – Use appreciated (often low yield) real estate or stock to give outright to charity or to fund a charitable income arrangement, if give appreciated asset or part thereof, can enjoy significant tax and income advantages such as avoiding capital gain recognition and receiving income from the full amount not reduced for taxes, plus charitable income tax deduction. **A planned gift can be, maybe should be, part of a diversified portfolio.**

Your focus:

Securing support
for your mission

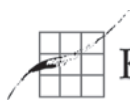
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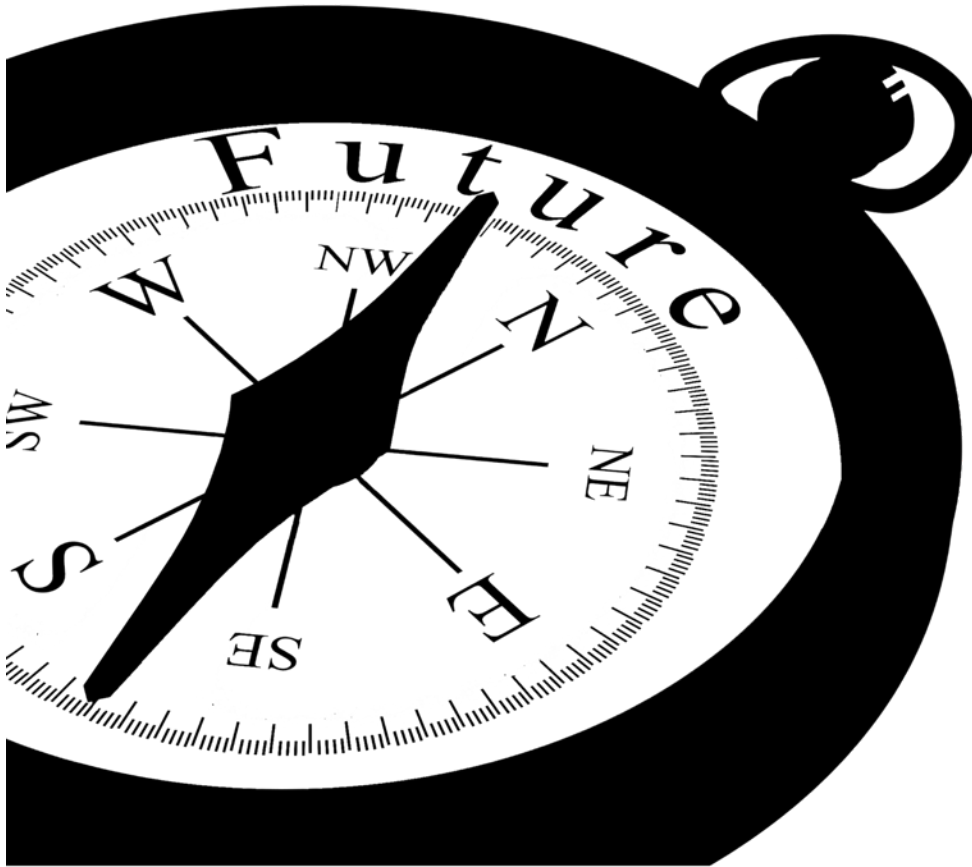
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CHARTING A COURSE FOR THE FUTURE

- A CONFERENCE ON PLANNED GIVING -



Rates Luncheon & Chair's Address: Gift Annuity Rates Presentation

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AMERICAN
COUNCIL ON
GIFT ANNUITIES

Promoting Responsible Philanthropy

**EXPLANATION
of the
ACGA GIFT ANNUITY RATES
Effective January 1, 2012**

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Updated: January, 2014

INTRODUCTION

One of the primary activities of the American Council on Gift Annuities (“ACGA”) is crafting and publishing a table of suggested maximum charitable gift annuity rates for use by charities and their donors. The Council has published suggested annuity rates as a public service since 1927. Its suggested rates have long been recognized by charities, donors, state insurance departments and the Internal Revenue Service as being actuarially sound and responsive to the best interests of all parties involved.

While the suggested rates are voluntary, 96% of the charities responding to the 2013 Gift Annuity Survey reported that they always or usually follow the suggested payment rates.¹ By following the suggested ACGA gift annuity rates, charities are relieved of the expense of hiring an actuary and developing their own rate schedules. Most importantly, when charities follow a common standard and don’t compete with one another on rates, donors are encouraged to make decisions based on the mission of the charities they want to support.

The Rate Review Process

The ACGA Gift Annuity Rates Committee (“Rates Committee”) collects and analyzes information related to the suggested rate tables and the assumptions underlying the rates. ACGA retains an actuarial firm to advise and consult on mortality data and other matters related to rate recommendations.

At least annually, the Rates Committee submits a recommendation to the ACGA Board of Directors on whether or not to change the suggested rates. The Board traditionally reviews and acts on the recommendation at its spring meeting. Any changes in the rates have generally become effective on July 1. However, changes in suggested rates may be made at any time if economic conditions warrant.

Rate reviews normally include the following steps:

1. A general re-assessment of the assumptions underlying the rates in light of the best available data regarding the experience of charities issuing gift annuities, current interest rates and investment experience, mortality of annuitants, and expenses incurred in administering a gift annuity program.
2. Occasional consultation with selected financial professionals regarding expected investment returns and expenses for investment management and administration.
3. A review of the current relationship between suggested gift annuity rates and rates for pure-life annuities offered by insurance companies, and how the current relationship between these rates compares to historical relationships between suggested gift annuity and commercial annuity rates.

¹ The 2013 Gift Annuity Survey was conducted in October and November of 2013 and the Survey Report will be published in April 2014 at the ACGA Conference.

After the Great Recession of 2007-2008, the Rates Committee conducted a thorough re-examination of its process of calculating suggested gift annuity rates. In the three years leading up to the report for suggested rates beginning in January 2012, ACGA took the following steps:

- Hired a consulting firm to perform a rigorous analysis of the rate recommendation process.
- Commissioned an actuarial firm to conduct the largest-ever mortality study of charitable gift annuitants, involving more than 47,000 gift annuity contracts. The findings of this study led to changes in mortality assumptions.
- Explored a new methodology for setting a target for the charitable residuum (the net amount remaining for use by a charity at termination of a gift annuity contract) based on the discounted present value of the residuum. The new suggested rate table incorporates a minimum present value (PV) target for gift annuities issued at all ages.
- Carefully considered the impact on charitable gift annuity programs of continuing volatility in world investment markets and historically low interest rates. For example, the rates suggested for the period beginning January 1, 2012 were calculated using the IRS CFMR rate of 1.4% from November 2011.

Investment and interest rate considerations led to a more conservative investment return assumption for the rates suggested in July 2011, and a further reduction in investment returns for suggested rates beginning on January 1, 2012.

The ACGA Board of Directors held its semi-annual meeting on November 4, 2013. The Board voted to make no changes in the suggested rates that became effective on January 1, 2012. This paper provides highlights of the thinking behind ACGA's rate assumptions and publishes suggested rate tables that follow from those assumptions.

ACKNOWLEDGMENTS

The Rates Committee is grateful to the following institutions and individuals that have provided counsel and support in various ways as the Committee developed an actuarially sound schedule of suggested gift annuity rates:

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TABLE OF CONTENTS

HISTORICAL GIFT ANNUITY RATES	5
ASSUMPTIONS UNDERLYING SUGGESTED GIFT ANNUITY RATES	5
ADDITIONAL ASSUMPTIONS FOR DEFERRED GIFT ANNUITIES	6
RATIONALE FOR ASSUMPTIONS	7
RESIDUUM	7
ANNUITANT MORTALITY	8
EXPENSES	9
AVERAGE INVESTMENT RETURN	9
ASSET ALLOCATION AND BENCHMARKS	10
IMPORTANCE OF THE ASSET ALLOCATION ASSUMPTION	11
HISTORICAL ASSUMED RETURNS	13
COMPARISON OF GIFT ANNUITY AND COMMERCIAL ANNUITY RATES	14
THE FINANCIAL RISK OF ISSUING GIFT ANNUITIES	17
APPENDICES	20
APPENDIX A: PRESENT VALUE CALCULATIONS AND CHARITABLE GIFT ANNUITIES	20
APPENDIX B: SUGGESTED CHARITABLE GIFT ANNUITY RATES	21
APPENDIX C: SUGGESTED CHARITABLE GIFT ANNUITY RATES	22
APPENDIX D: PROCEDURE FOR CALCULATING SUGGESTED DEFERRED GIFT ANNUITY RATES	25
APPENDIX E: NOTE TO CHARITIES ISSUING DEFERRED GIFT ANNUITIES IN NEW YORK AND NEW JERSEY*	26

HISTORICAL GIFT ANNUITY RATES

The ACGA first issued suggested gift annuity rates in 1927. As might be expected, the suggested rates declined during the Great Depression. They remained at low levels through the 1950s due to continuing low interest rates. In the 1980s they rose sharply in response to the high interest rates that prevailed during that period. In the late 1990s, suggested rates began to decline, as can be seen in the following table:

Historical Percentage Gift Annuity Rates (Single Life)

Age	1927	1931	1934	1939	1955	1965	1971	1974	1977	1980	1983	1992
65	6.8	6.2	5.7	5.1	5.0	5.2	5.6	6.0	6.2	6.6	7.3	7.3
70	7.6	6.7	6.2	5.5	5.5	5.7	6.2	6.6	6.8	7.1	7.8	7.8
75	8.7	7.3	7.0	6.2	6.3	6.5	7.0	7.4	7.7	7.9	8.5	8.5
80	9.0	8.0	8.0	7.0	7.4	7.6	8.2	8.5	9.0	9.2	9.6	9.6
85	9.0	8.0	8.0	7.0	7.4	8.0	9.7	10.0	10.5	11.2	11.4	10.9
90	9.0	8.0	8.0	7.0	7.4	8.0	10.0	10.0	12.0	14.0	14.0	12.0

Age	1994	1997	1998	2001	2003*	2003*	2008	2009	2010	2011	2012
65	6.5	7.2	7.0	6.7	6.3	6.0	5.7	5.3	5.5	5.3	4.7
70	6.9	7.7	7.5	7.2	6.7	6.5	6.1	5.7	5.8	5.8	5.1
75	7.7	8.4	8.2	7.9	7.3	7.1	6.7	6.3	6.4	6.5	5.8
80	8.8	9.4	9.2	8.9	8.3	8.0	7.6	7.1	7.2	7.5	6.8
85	10.0	10.5	10.5	10.4	9.7	9.5	8.9	8.1	8.1	8.4	7.8
90	11.0	12.0	12.0	12.0	11.5	11.3	10.5	9.5	9.5	9.8	9.0

*Rates were changed in both January and July of 2003

ASSUMPTIONS UNDERLYING SUGGESTED GIFT ANNUITY RATES

Following is a summary of the major assumptions on which the suggested January 1, 2012 rates are based.

1. **Target Residuum.** Historically, the ACGA has targeted a residuum (the amount realized by the charity upon termination of an annuity) of 50% of the original contribution for the gift annuity. The new rate schedules retain the 50% target residuum, and continue the requirement first applied for the July 2011 rate schedules that the present value (PV) of the residuum be at least 20% of the original contribution for the annuity.

The 20% minimum PV requirement has the effect of reducing rates for annuitants age 57 and under. It is designed to help charities realize a minimum value from gifts whose residua will not be realized for many years. Rates for younger annuitants (ages 5 to 49) were reduced as necessary to comply with the 10% minimum charitable deduction required under IRC Sec.

514 (c)(5)(A) using the 1.4% CFMR for November 2011. Particularly in low interest rate environments, charities should perform their own deduction calculations and lower their annuity rates if necessary to meet the 10% minimum deduction requirement.

2. **Mortality Assumption.** In calculating suggested rates, all annuitants are assumed to be female and one year younger than their actual ages. The suggested rates use the Annuity 2000 Mortality Tables. The rates also incorporate projections for increasing life expectancies (improvements in mortality) using a scale supplied by our actuary.
3. **Expense Assumption.** Annual expenses for investment and administration are 1.0% of the fair market value of gift annuity reserves. The annual expense assumption is unchanged.
4. **Investment Return Assumption.** The gross annual expected return on immediate gift annuity reserves is 4.25%. This is a decrease from the 5.0% total return assumption used in calculating the July 2011 rates. The gross expected return for deferred annuity reserves is also 4.25%. Both immediate and deferred payment annuity calculations use a net compounding rate of 3.25% (4.25% minus 1% assumed annual expenses).
5. **Payment Assumption.** Annual payments are made in quarterly installments at the end of each period. This assumption is unchanged from the 2011 rate calculations.

The rates for the oldest ages are somewhat lower than the rates that would follow from the above assumptions. Single life rates are capped at 9.0% for annuitants age 90 and above. Single life rates for annuitants between ages 81 and 89 are graduated downward from the rate cap. Two life rates are graduated downward in a similar way.

ADDITIONAL ASSUMPTIONS FOR DEFERRED GIFT ANNUITIES

The annual compound interest rate credited during the deferral period for deferred payment gift annuities is 3.25% (the same investment return assumption as for current gift annuities after subtracting the 1.0% expense assumption). In other words, each dollar contributed for a deferred gift annuity is presumed to grow at an annual compound interest rate of 3.25% between the date of contribution and the annuity starting date.

If payments will be made at the end of the period, which is usually the case, the annuity starting date would be at the beginning of the first period for which a payment is made. For example, if payments will be made quarterly, and the first payment will be made on September 30, 2014, the annuity starting date would be July 1, 2014. If payments will be made semi-annually, the annuity starting date in this case would be April 1, 2014.

Assuming that the annuitant would be nearest age 65 on the annuity starting date, and that the period between the contribution date and the annuity starting date is 10.25 years, the compound interest factor would be $1.0325^{10.25}$ or 1.387948. To determine the deferred gift annuity rate, this factor is multiplied by the immediate gift annuity rate, now in effect, for the nearest age of the annuitant on the annuity starting date. In this example, the deferred gift annuity rate would be 1.387948 times 4.7%, or 6.5% (rounded to the nearest tenth of a percent).

The compounding rate during the deferral period is simply the assumed net return (total assumed return of 4.25% less 1.0% for expenses). The compounding rate applies to the entire compounding period, whatever its length. At times in the past, the compounding rate for periods in excess of 20 years was less than the compounding rate for the first 20 years of the deferral period.

In two states, New York and New Jersey, it is sometimes necessary to apply a slightly lower compounding rate when the deferral period is relatively long in order not to exceed those states' maximum allowable deferred gift annuity rates. The ACGA website contains information about New York and New Jersey requirements.

RATIONALE FOR ASSUMPTIONS

RESIDIUM

From its start in 1927, the ACGA has set a residuum target representing a percentage of the face value of the amount funding an annuity contract (originally 70% of the face value, now 50% of the face value of the original amount).

The first assumption is that the target for the residuum (the amount remaining for the charity at the termination of the annuity) will be 50% of the original contribution, assuming that prior to termination expenditures have been limited to annuity payments and to investment and administrative expenses. Obviously, if an organization spends a portion of the contribution for charitable purposes while the annuity is still in force, the residuum will be diminished.

The actual residuum at the termination of any particular annuity could be more or less than 50%, depending on the longevity of the annuitant(s) and the investment returns on gift annuity reserves during the term of the contract. Per the 1999 ACGA survey, which was conducted at the crest of a prolonged bull market, the mean residuum (the share of the contribution actually remaining for charities when annuities terminated) was over 95%. According to the 2004 survey, the mean residuum was 85.5%, and in the 2009 survey the mean residuum was 81.7%. The surveys' data on residua were based on gift annuities that had already terminated. Very few annuities funded just before the onset of the 2008 bear market have terminated. The residua of those contracts are likely to be lower based on the current market value of the reserves of those newer annuities.

The residuum is defined in terms of nominal value, not present value. To say that the residuum for the charity will be 50% means that 50% of the original contribution will remain for the charity. It does not mean that the present value of what the charity will eventually receive is 50% of the contribution.

For a number of years, the Rates Committee has considered moving to a residuum expressed in present value terms because such an approach would mean that—given the investment return, expense, and mortality assumptions—charities would receive similar economic value from gift annuity contracts funded with like dollar amounts, regardless of the age of annuitants. However,

the Committee believes that the 50% nominal residuum is an easily understood target that has appeal in charitable gift annuity fundraising. In order to balance these two objectives, the Committee decided to retain the 50% of nominal value assumption as a starting point, but also require that each contract produce a 20% minimum present value. The 20% minimum present value has the effect of lowering rates for annuities issued at ages 57 and below.

ANNUITANT MORTALITY

The ACGA endeavors to base suggested maximum annuity rates on mortality data for individuals as similar as possible to annuitants who will begin receiving payments under contracts to be established in the near future. Because new gifts might involve making payments for three decades or more into the future, effective mortality assumptions for annuitants require continual research and adjustments.

In the fall of 2010, the ACGA commissioned The Hay Group to conduct what we believe to be the largest-ever mortality study of actual gift annuitants: 28 charities furnished mortality data on 47,075 gift annuity contracts over the five-year period of 2005 through 2009. (The most recent prior study, conducted in 2001-2002, examined 24,445 charitable gift annuity contracts.) The results of the study were somewhat surprising: annuitant mortality exceeded what would have been predicted by the mortality assumptions used in suggested maximum gift annuity rates over the past decade. In other words, significantly more individuals from the sample population died during the five-year period of the study than was predicted by the mortality assumptions used over the past decade.

Our actuaries offered two principal reasons for this discrepancy: (1) the proportion of males establishing gift annuities (relative to females) was higher in the current study than in the 2001-2002 study, and (2) the mortality improvement schedule used to estimate how much life expectancy is likely to improve between mortality study periods has recently come to be viewed by the Society of Actuaries (SOA) as too optimistic.

The increasing proportion of annuities being established by men can be seen in the following table of results of ACGA Gift Annuity Surveys conducted over the past 20 years, and the proportion of males in the two mortality studies recently conducted by the ACGA:

Gender	1994 Survey	1999 Survey	2000-01 Mortality Study	2004 Survey	2009 Survey	2010-11 Mortality Study	2013 Survey
Male	40%	40%	38%	45%	44%	45%	43%
Female	60%	60%	62%	55%	56%	55%	57%

It is not surprising that the number of female annuitants is larger than the number of male annuitants: there are many more women than men in the age range likely to create gift annuities. For example, the 2010 Census counted 11,122,000 males age 70 or older and 15,471,000

females. There are 4.35 million more women than men of the age most likely to create gift annuities. Women represented 58.2% and men just 41.8% of the American population age 70+ in the year 2010.

It is important to note that mortality rates vary by gender, but gift annuity payment rates do not. The ACGA continues to feel that a unisex rate table offers important benefits in terms of simplicity.

The Hay Group has assisted the Rates Committee in evaluating what mortality table assumptions will reasonably and conservatively reflect the actual mortality experience of the annuitants in the 2010-11 study.² Therefore, the ACGA's 2012 rate recommendations assume the use of the Annuity 2000 mortality table with all annuitants assumed to be female and one year younger than their actual ages. Also, following the advice of the Society of Actuaries and The Hay Group, ACGA will use mortality improvement Projection Scale AA instead of Projection Scale G to update its rates until the next gift annuitant mortality study is conducted. Projection Scale AA assumes a slower rate of mortality improvement than Projection Scale G, which as noted above, has come to be viewed as overly optimistic.

EXPENSES

The annual expenses for administering gift annuities are assumed to be 1% per year. These expenses include investment and custodial fees, the costs of making payments and filing federal tax forms, and the costs of submitting reports in regulated states. They do not include the costs of marketing or stewardship, which are presumed to be covered in a charity's general budget for the development office.

For large charities with economies of scale, and for charities that do not operate in heavily regulated states, 1% might be slightly high. However, charities with smaller and mid-sized programs, and those that operate in regulated states that require annual filings, actuarial reports, and sometimes a fee for each annuity written, 1% appears reasonable.

AVERAGE INVESTMENT RETURN

Perhaps the most difficult assumption to make is the average total investment return on gift annuity reserves. First is the challenge of determining the appropriate asset allocation to use in the return calculation. Next is the task of extrapolating from historic and current returns on various asset allocations to arrive at a reasonable projected return on each asset class.

ACGA surveys have provided valuable information about the asset allocations charities are actually using. In the 2009 Survey, charities reported the actual investment allocation for their gift annuity reserve funds. They were asked to report on the investment of their required annuity reserve funds, and other gift annuity funds used to invest the charitable or "surplus" amounts related to annuity gifts. Below is a chart from the 2009 Survey Report showing the number of

² New mortality tables for very large numbers of annuitants are produced from time to time by the Society of Actuaries (SOA) for use by life insurance companies that issue commercial annuities. In 1996 the National Association of Insurance Commissioners asked the SOA to update its mortality tables to reflect recent experience. Later that same year (1996), SOA produced the Annuity 2000 Mortality Tables, which are the current industry standard.

charities where a particular asset class (shown in the rows) constituted a particular percentage (shown in the columns) of the overall asset allocation of their gift annuity.

Asset Allocation for Gift Annuity Investments (2009 Survey Report)

	0-19%	20-39%	40-59%	60-79%	80-100%
Cash	373	70	17	11	16
Government Bonds	290	110	52	17	6
Corporate Bonds	258	149	45	15	4
Stocks/Mutual Funds	82	104	167	99	17
Real Estate/REITs	465	8	6	2	1
Other Assets	444	18	8	1	4

From time to time, the Rates Committee receives guidance from highly-regarded financial advisors, as well as from sponsors’ own business offices, regarding the use of current and past performance of various asset classes to estimate future returns. Finally, the Committee notes current state restrictions on the investment of gift annuity reserves.

Taking into consideration all of these factors, the Rates Committee used the following asset allocation and benchmarks for calculating the weighted average return assumption on which gift annuity rates, effective January 1, 2012, are based.

ASSET ALLOCATION AND BENCHMARKS

The rates effective on January 1, 2012 assume a portfolio consisting of:

- 40% equities
- 55% 10-year Treasury bonds, and
- 5% cash and equivalents.

The following benchmarks are used to determine the average annual total return for each component of the portfolio:

- For *equities*, the approximate average annual *total return* for the period 1926 – 2010 *less 2.0%*.

The Standard and Poor’s 500 Index return for the period 1926 – 2010 is approximately 10% per year. This number is then reduced by 2.0%, resulting in 8.0% as the assumed total return on the equity portion of the portfolio. After careful consideration and consultation with a

number of investment professionals at sponsor institutions and investment management firms, the historical return used to calculate the suggested rate schedules for July 2011 and for January 2012 was reduced by 2.0%, instead of the previous reduction of 1.0%. This reflects the generally more conservative assumptions for economic growth and equity returns in the coming decade.

- For *bonds*, the average *current yield* for the last three months on the 10-year U.S. Treasury bond.
- For *cash*, the average *current yield* for the last three months on the 3-month U.S. Treasury Bill.

The weighted average total return on a portfolio of 40% equities, 55% bonds, and 5% cash is rounded down to the nearest 0.25% using ACGA's current guidelines. The Committee reserves the right to exercise its judgment in rounding the expected return, taking into account current economic conditions, forward-looking projections, recent rate change history, and other practical issues.

IMPORTANCE OF THE ASSET ALLOCATION ASSUMPTION

History has shown that, in well-diversified portfolios, asset allocation (not investment manager selection or individual security selection) is the primary driver of investment return. Because returns from equity asset classes historically have outpaced returns from fixed income and cash allocations, many investment professionals believe that allocations emphasizing higher percentages of equity asset classes are likely to have a higher expected return than those emphasizing fixed income allocations.

However, risk is also a very important element of the portfolio management decision. Equity asset classes have significantly greater variability in returns and much greater downside risk than fixed income asset classes. A large investment market decline (such as we experienced in 2008) can quickly turn a gift annuity contract paying the annuitant 7% of its initial gift value into one that is paying 10% (or more) of its current value. Sustained poor investment markets raise the possibility of a gift annuity contract running out of money, requiring the charity to make payments on the contract from other sources.

As shown above, charities differ significantly on the asset allocations chosen for the investment of gift annuity assets. Some institutions invest charitable gift annuities in their endowments. In many cases these endowments have aggressive asset allocations that approach an allocation of 85% to 90% in equity asset classes (or alternative asset classes designed to produce equity-like returns). Other charities invest their gift annuity assets predominantly or wholly in bonds, or choose to reinsure some or all of their gift annuity contracts.

The ACGA believes the 40% equity/55% fixed income/5% cash allocation used in the derivation of its rate schedule is a reasonable allocation that is achievable by virtually all charities, although not all charities will choose this particular asset allocation. (In the past, investment restrictions in states such as California and Wisconsin made a 40% equity allocation difficult or impossible,

depending upon the mix of contracts in a particular charity's program.) **However, it is very important that charities and their investment advisors select an asset allocation that is appropriate for the unique circumstances and preferences of the institution and its gift annuity program.** For some institutions, it might be appropriate to invest the gift annuity assets more aggressively than the 40%/55%/5% allocation; for other institutions it can be equally appropriate to invest in a more conservative allocation. What's important to note is that the ACGA rate schedule is based on the 40%/55%/5% model portfolio.

The following chart provides some historical perspective as to how the asset allocation of a gift annuity pool affects the residuum.

How Asset Allocation Affects the Residuum				
Assumptions:				
<ul style="list-style-type: none"> • \$10,000 contribution • ACGA rates • One-life annuity, female age 70 • Annual expenses equal to 1.0% of reserves 				
<u>Date of Contribution</u>	<u>Annuity Rate</u>	<u>Duration of Annuity</u>	<u>Amount of Residuum</u>	
			<u>Investment A (50% Stocks/ 50% Bonds)</u>	<u>Investment B (10% Stocks/ 90% Bonds)</u>
12/31/1971	6.2%	18 years	\$16,432	\$12,822
12/31/1979	7.1	18 years	44,246	24,652
12/31/1988	7.3	18 years	20,204	11,418
12/31/1999	7.5	10 years	4,000	7,100

Notes: (1) Investment A: 50% S&P 500 / 50% bonds.
(2) Investment B: 10% S&P 500 / 90% bonds.
(3) Results are calculated on quarterly returns and assume that payments and expenses are taken out at the end of each quarter.

The S&P 500 is the composite series calculated by Wilshire Associates. The bond series is 75% Intermediate Government Bonds and 25% Long-Term Government Bonds as reported by Ibbotson Associates, Inc.

The Rates Committee believes that most investment professionals will consider the following factors in selecting an asset allocation for a charity's gift annuity assets:

- The desired expected investment return
- The risk tolerance of the institution
- The availability of unrestricted assets to make payments on any contracts that might run out of money
- The value of the existing pool of gift annuity assets and the dollar amounts of annuity payments that must be made pursuant to those contracts

- The expertise of its staff or advisors to create, access, and manage well-diversified investment portfolios at reasonable costs
- Whether most gift annuity contracts have unrestricted or restricted gift purposes
- The existence of an institutional assessment against each annuity to build a reserve for making payments on contracts that run out of money.

For more information on implementing the asset allocation decision please refer to ACGA's Gift Annuity Best Practices, which may be found on the ACGA's web site at http://www.acga-web.org/best_practices.html

HISTORICAL ASSUMED RETURNS

Prior to 1997, charities issuing gift annuities were assumed to set aside 5% of the initial amount transferred for expenses, and to invest the remaining 95% at the assumed total rate of return. It is not certain when the 5% expense assumption began to be factored into the rates. In the chart below, the total net return shown below assumes that a 5% expense load applied from 1927-1996. Therefore the total net return shown is 95% of the assumed total return.

Beginning in 1997, an annual expense assumption replaced the front-end load in the calculations. From 1997 through 2001, annual expenses were assumed to be 0.75%. In 2002, they were increased to 1.0% where they have remained. Thus, for years 1997 and later, total net return is total return minus the annual expense assumption.

Historical Assumed Returns

	<u>Total Return</u>	<u>Total Net Return</u>
1927-31	4.5%	4.275%
1934	4.0	3.80
1939	3.0	2.85
1955-65	3.5	3.325
1971	4.0	3.80
1974	4.5	4.275
1977	5.0	4.75
1980	5.5	5.225
1983-92	6.5	6.175
1994	5.5	5.225
1997	7.0	6.25
1998-2000	6.75	6.0
2001	6.5	5.75
2002	6.75	5.75
1/1/2003	6.25	5.25

Historical Assumed Returns

	<u>Total Return</u>	<u>Total Net Return</u>
7/1/2003	6.0%	5.0%
7/1/2006	6.25	5.25
7/1/2008	5.75	4.75
2/1/2009	5.25	4.25
7/1/2010	5.5	4.5
7/1/2011	5.0	4.0
1/1/2012	4.25	3.25

COMPARISON OF GIFT ANNUITY AND COMMERCIAL ANNUITY RATES

The process of reviewing gift annuity rates includes a comparison of them with the pure-life annuity rates offered by highly rated representative insurance companies. Since gift annuities provide for a charitable gift element, the rates are not intended to be competitive with insurance company rates. A narrowing differential between gift annuity and commercial rates would be one factor to suggest that gift annuity rates should perhaps be reduced, while a widening differential would be one indicator that gift annuity rates should possibly be increased. Below is a comparison of ACGA rates and commercial rates in March 2013. It is important to note that commercial gift annuity rates can change almost daily, an approach which is impractical for charitable gift annuity rates. Therefore, comparisons between the ACGA's schedule of suggested maximum charitable gift annuity rates and commercial rates necessary represents only a "snapshot" at a particular point in time.

Comparison of ACGA Rates Effective 1/1/12 with Commercial Rates*			
One-Life Annuity – Female Annuitant			
<u>Age</u>	<u>ACGA Rate</u>	<u>Average Commercial Rate</u>	<u>ACGA as % of Commercial</u>
65	4.7%	6.40%	73.44%
70	5.1	7.23	70.54
75	5.8	8.46	68.56
80	6.8	10.14	67.06
85	7.8	12.61	61.85
90	9.0	16.00	56.25

**Comparison of ACGA Rates Effective 1/1/12
with Commercial Rates***

One-Life Annuity – Male Annuitant

<u>Age</u>	<u>ACGA Rate</u>	<u>Average Commercial Rate</u>	<u>ACGA as % of Commercial</u>
65	4.7%	6.81%	69.02%
70	5.1	7.78	65.55
75	5.8	9.14	63.46
80	6.8	10.99	61.87
85	7.8	13.55	57.56
90	9.0	17.12	52.57

* Commercial rate quotations were obtained on January 25, 2014. The commercial rates are an average of the rates obtained from seventeen insurance companies, except that fewer rates are available from companies that issue annuities to older annuitants.

The following tables give an historical sense of how ACGA rates have compared with commercial rates.

**ACGA Rates as a % of Commercial Annuity Rates
2008-2014**

Date	Male Age 65	Female Age 65	Male Age 70	Female Age 70
Jan-14	69.02%	73.44%	65.55%	70.54%
Mar-13	73.55%	78.33%	69.39%	74.78%
Jul-12	73.30%	78.60%	69.00%	74.80%
Nov-11	69.10%	74.60%	65.90%	71.30%
Mar-11	73.90%	78.90%	71.30%	76.90%
Mar-10	74.30%	79.60%	69.00%	74.80%
Mar-08	70.50%	75.40%	66.70%	72.40%

Date	Male Age 75	Female Age 75	Male Age 80	Female Age 80
Jan-14	63.46%	68.56%	61.87%	67.06%
Mar-13	66.82%	72.41%	64.88%	70.32%
Jul-12	66.20%	72.00%	64.50%	69.90%
Nov-11	63.70%	69.10%	62.10%	67.00%
Mar-11	68.60%	74.20%	66.50%	71.60%
Mar-10	65.30%	71.00%	61.60%	66.70%
Mar-08	63.00%	68.80%	59.60%	64.90%

Date	Male Age 85	Female Age 85	Male Age 90	Female Age 90
Jan-14	57.56%	61.85%	52.57%	56.25%
Mar-13	59.72%	63.99%	52.82%	56.39%
Jul-12	59.10%	63.10%	52.60%	55.40%
Nov-11	57.20%	60.80%	51.30%	53.80%
Mar-11	60.30%	63.80%	55.70%	58.00%
Mar-10	56.60%	60.00%	52.80%	54.50%
Mar-08	56.50%	60.40%	52.30%	54.80%

THE FINANCIAL RISKS OF ISSUING GIFT ANNUITIES

When a charity issues a gift annuity, it incurs a financial risk because the annuity payments are a general liability of that charity. If the contribution for a gift annuity is entirely consumed because of the longevity of the annuitant(s) and/or poor investment performance, the charity must make payments from its general assets. Thus, there is the possibility that the charity could lose money on any one gift annuity, or even on its entire gift annuity program.

The annuitant also assumes a risk because if the charity that issues the annuity becomes insolvent, payments cease. If a charity, pursuant to state requirements, maintains a segregated reserve fund with sufficient assets to back outstanding annuities, the annuitant has a greater degree of protection. Still, there is the possibility that the segregated fund could be exhausted or, in the case of insolvency, that the assets within the segregated fund might not be insulated from the charity's other creditors. Unlike a bank deposit or a commercial annuity, a gift annuity is not backed by a guaranty association. Fortunately, default on gift annuities is rare, but it could happen if the issuing charity has limited financial resources or is not managed well.

The ACGA rates are designed to manage the risks both to charities and donors. They are intended to be high enough to be attractive to donors, but low enough to result in a significant residuum for the charity under normal conditions. If a charity develops and executes a well-diversified investment portfolio with an asset allocation appropriate for its unique situation, it should derive meaningful financial value from its gift annuity program over time. However, this does not mean an individual gift annuity contract can never run out of money. If a charity issues gift annuities in sufficient quantity over time, one or more contracts are likely to run out of money because the annuitant significantly outlives life expectancy at the time of the gift and/or the gift annuity assets suffer a bear market in the early years of the contract.

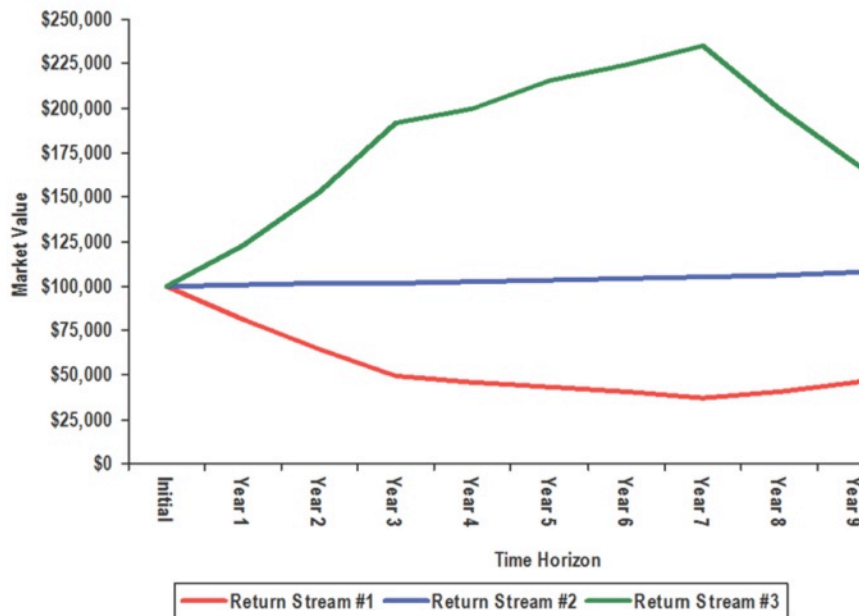
Finally, it is important to consider that the timing of investment returns has a very significant impact on the value of a gift annuity contract at termination. This fact is sometimes overlooked when, for simplicity's sake, one uses average annual returns to estimate the value of a contract to the charity. For purposes of illustration, consider the three series of returns in the chart below. All three series have the same average annual return of 7.6%, yet the average return is achieved in three completely different ways. The first series has significant negative returns of -12% in the first three years, and significant positive returns in the final three years. The second series has constant returns of 7.6%. The third series is a mirror image of the first series. It has significant up returns in the first three years followed by significant down returns in the final years.

Year	Return Stream 1	Return Stream 2	Return Stream 3
1	-12.00%	7.60%	30.00%
2	-12.00%	7.60%	30.00%
3	-12.00%	7.60%	30.00%
4	7.60%	7.60%	7.60%
5	7.60%	7.60%	11.54%
6	11.54%	7.60%	7.60%
7	7.60%	7.60%	7.60%
8	30.00%	7.60%	-12.00%
9	30.00%	7.60%	-12.00%
10	30.00%	7.60%	-12.00%

Average Annual Compound Return	7.60%	7.60%	7.60%
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The line graph below depicts the value of a \$100,000, 7% gift annuity contract established on January 1 of Year 1 and making an annual payment on December 31 of each year. (The calculations are gross of fees.) Also note that these returns are hypothetical and used for illustrative purposes only. They do not represent performance of any specific investment.

The Sequence of Investment Returns Matters



Note that by the end of Year 10, Return Stream #3, which experienced the positive returns in the early years, is worth almost three times as much as Return Stream #1, which experienced negative returns immediately after the gift was established. Return Stream #3 is also worth 30% more than Return Stream #2 in which the gift achieved a constant investment return of 7.6%. The outcome of Return Stream #2 is more than double the poor outcome generated under Return Stream #1.

While the results may seem counterintuitive, the math is relatively simple. If a gift started at \$100,000 and declined by 30% to \$70,000, it would take more than a 30% move upward to bring the contract market value back to \$100,000. In fact, the gift would have to improve by \$30,000 divided by \$70,000—or nearly 43%—to get back to break even. Factor in a constant payment to the income beneficiary and it is easy to understand why bear markets in the early years of a gift annuity contract are so damaging to its value.

APPENDICES

APPENDIX A: PRESENT VALUE CALCULATIONS AND CHARITABLE GIFT ANNUITIES

Definition of Present Value

Present value is simply the value in today's dollars for an amount that will be received in the future. The key concept is that \$1 today is worth more than \$1 received in the future. A simple example is a one-year calculation based on an expected return. If you currently have \$100 and can earn 5% in one year, at the end of year one you will have a projected \$105 in future value. Suppose someone said "I will give you \$105 in one year, how much will you give me today?" You would simply discount the future by the assumed rate of return of 5% and you would end up with a present value of \$100. As you can see by this example, a person can calculate a future value based on assumptions (\$105) and a current present value (\$100), and then can calculate a present value based on assumptions (\$100) and a future value (\$105). This illustrates the time value of money and can be easily calculated using spreadsheet applications or financial calculators.

Historically, the ACGA has recommended charitable gift annuity rates based on an assumption that the nominal or future value of the contract at its termination would be 50% of its original funding amount. For an example, for a \$10,000 gift made by a 60-year old would be worth \$5,000 at the contract termination if all of the assumptions were precisely realized. By using an assumed net rate of return as the discount rate—for example, 4.75%—and a financial calculator, we can derive a present value of \$1,378.26 for the eventual \$5,000 to be received. So the present value to the charity is 13.78% of the original gift annuity contribution. What follows is a table that provides the calculations at various ages for hypothetical gift annuity contracts funded with \$10,000.

Age	Present Value at Issue Date of a \$5,000 Residuum	Present Value as a Percentage of the \$10,000 Original Gift
60	\$1,378.26	13.78%
65	1,689.01	16.89%
70	2,246.63	22.47%
75	2,457.74	24.57%
80	2,893.91	28.94%
85	3,327.19	33.27%
90	3,719.24	37.19%

The above table is simply for illustration purposes only. It does not address differing life expectancies for male and female annuitants; differences between ACGA rate committee assumptions and actual realized results for the variables of expenses, investment returns or payment frequency; or the appropriateness of a particular discount rate.

APPENDIX B:
SUGGESTED CHARITABLE GIFT ANNUITY RATES
 Approved by the American Council on Gift Annuities—Effective January 1, 2012

SINGLE LIFE

Age	Rate	Age	Rate
5-10	2.0	68	4.9
11-15	2.1	69	5.0
16-19	2.2	70	5.1
20-23	2.3	71	5.3
24-26	2.4	72	5.4
27-29	2.5	73	5.5
30-32	2.6	74	5.7
33-34	2.7	75	5.8
35-36	2.8	76	6.0
37-38	2.9	77	6.2
39-40	3.0	78	6.4
41-42	3.1	79	6.6
43	3.2	80	6.8
44-45	3.3	81	7.0
46	3.4	82	7.2
47	3.5	83	7.4
48-49	3.6	84	7.6
50	3.7	85	7.8
51-52	3.8	86	8.0
53-54	3.9	87	8.2
55	4.0	88	8.4
56-57	4.1	89	8.7
58	4.2	90+	9.0
59	4.3		
60-61	4.4		
62-63	4.5		
64	4.6		
65	4.7		
66-67	4.8		

NOTES:

1. The rates are for ages at the nearest birthday.
2. For immediate gift annuities, these rates will result in a charitable deduction of more than 10% if the CFMR is 1.4% or higher, whatever the payment frequency. If the CFMR is less than 1.4%, the deduction will be less than 10% when annuitants are below certain ages.
3. For deferred gift annuities with longer deferral periods, the rates may not pass the 10% test when the CFMR is low.
4. To avoid adverse tax consequences, the charity should reduce the gift annuity rate to whatever level is necessary to generate a charitable deduction in excess of 10%.

APPENDIX C:
SUGGESTED CHARITABLE GIFT ANNUITY RATES
 Approved by the American Council on Gift Annuities—Effective January 1, 2012

TWO LIVES – JOINT & SURVIVOR

Younger Age	Older Age	Rate
5	5-95+	1.8
6	6-95+	1.8
7	7-95+	1.8
8	8-95+	1.8
9	9-95+	1.8
10	10-95+	1.8
11	11-95+	1.9
12	12-95+	1.9
13	13-95+	1.9
14	14-95+	1.9
15	15-95+	1.9
16	16-95+	2.0
17	17-95+	2.0
18	18-95+	2.0
19	19-95+	2.0
20	20-95+	2.1
21	21-95+	2.1
22	22-95+	2.1
23	23-95+	2.1
24	24-95+	2.1
25	25-95+	2.2
26	26-95+	2.2
27	27-95+	2.2
28	28-95+	2.2
29	29-95+	2.3
30	30-95+	2.3
31	31-95+	2.3
32	32-95+	2.3
33	33-95+	2.4
34	34-95+	2.4
35	35-95+	2.4
36	36-95+	2.5
37	37-95+	2.5
38	38-95+	2.5
39	39-95+	2.6
40	40-95+	2.6
41	41-95+	2.7
42	42-95+	2.7
43	43-95+	2.8
44	44-95+	2.8
45	45-95+	2.9
46	46-95+	2.9
47	47-50	3.0
47	51-95+	3.1
48	48	3.0

Younger Age	Older Age	Rate
48	49-95+	3.1
49	49-51	3.1
49	52-95+	3.2
50	50	3.1
50	51-53	3.2
50	54-95+	3.3
51	51-52	3.2
51	53-55	3.3
51	56-95+	3.4
52	52-54	3.3
52	55-95+	3.4
53	53-55	3.4
53	56-58	3.5
53	59-95+	3.6
54	54	3.4
54	55-57	3.5
54	58-95+	3.6
55	55	3.5
55	56-58	3.6
55	59-61	3.7
55	62-95+	3.8
56	56-57	3.6
56	58-59	3.7
56	60-62	3.8
56	63-95+	3.9
57	57-58	3.7
57	59-63	3.8
57	64-95+	3.9
58	58-61	3.8
58	62-65	3.9
58	66-95+	4.0
59	59-60	3.8
59	61-63	3.9
59	64-68	4.0
59	69-95+	4.1
60	60-62	3.9
60	63-66	4.0
60	67-70	4.1
60	71-95+	4.2
61	61	3.9
61	62-64	4.0
61	65-68	4.1
61	69-95+	4.2
62	62-63	4.0
62	64-66	4.1

Younger Age	Older Age	Rate
62	67-69	4.2
62	70-95+	4.3
63	63-64	4.1
63	65-67	4.2
63	68-95+	4.3
64	64-66	4.2
64	67-70	4.3
64	71-95+	4.4
65	65	4.2
65	66-68	4.3
65	69-72	4.4
65	73-95+	4.5
66	66-67	4.3
66	68-71	4.4
66	72-75	4.5
66	76-95+	4.6
67	67-69	4.4
67	70-73	4.5
67	74-95+	4.6
68	68	4.4
68	69-71	4.5
68	72-75	4.6
68	76-95+	4.7
69	69-70	4.5
69	71-73	4.6
69	74-76	4.7
69	77-95+	4.8
70	70-71	4.6
70	72-74	4.7
70	75-78	4.8
70	79-95+	4.9
71	71-73	4.7
71	74-75	4.8
71	76-79	4.9
71	80-82	5.0
71	83-95+	5.1
72	72	4.7
72	73-74	4.8
72	75-76	4.9
72	77-79	5.0
72	80-83	5.1
72	84-95+	5.2
73	73	4.8
73	74-75	4.9
73	76-77	5.0
73	78-80	5.1

SUGGESTED CHARITABLE GIFT ANNUITY RATES
 Approved by the American Council on Gift Annuities--Effective January 1, 2012

TWO LIVES – JOINT & SURVIVOR (cont.)

Younger Age	Older Age	Rate
73	81-83	5.2
73	84-95+	5.3
74	74	4.9
74	75-76	5.0
74	77-78	5.1
74	79-80	5.2
74	81-83	5.3
74	84-87	5.4
74	88-95+	5.5
75	75	5.0
75	76-77	5.1
75	78	5.2
75	79-81	5.3
75	82-83	5.4
75	84-86	5.5
75	87-95+	5.6
76	76-77	5.2
76	78-79	5.3
76	80-81	5.4
76	82-83	5.5
76	84-85	5.6
76	86-88	5.7
76	89-95+	5.8
77	77-78	5.3
77	79	5.4
77	80-81	5.5
77	82-83	5.6
77	84-85	5.7
77	86-87	5.8
77	88-91	5.9
77	92-95+	6.0
78	78	5.4
78	79	5.5
78	80-81	5.6
78	82-83	5.7
78	84	5.8
78	85-86	5.9
78	87-89	6.0
78	90-92	6.1
78	93-95+	6.2
79	79-80	5.6

Younger Age	Older Age	Rate
79	81	5.7
79	82	5.8
79	83-84	5.9
79	85-86	6.0
79	87-88	6.1
79	89-90	6.2
79	91-93	6.3
79	94-95+	6.4
80	80	5.7
80	81	5.8
80	82	5.9
80	83-84	6.0
80	85	6.1
80	86-87	6.2
80	88-89	6.3
80	90-91	6.4
80	92-93	6.5
80	94-95+	6.6
81	81	5.9
81	82	6.0
81	83	6.1
81	84-85	6.2
81	86	6.3
81	87-88	6.4
81	89	6.5
81	90-91	6.6
81	92-94	6.7
81	95+	6.8
82	82	6.1
82	83	6.2
82	84	6.3
82	85-86	6.4
82	87	6.5
82	88	6.6
82	89-90	6.7
82	91	6.8
82	92-93	6.9
82	94-95+	7.0
83	83	6.3
83	84	6.4
83	85	6.5

Younger Age	Older Age	Rate
83	86	6.6
83	87	6.7
83	88-89	6.8
83	90	6.9
83	91	7.0
83	92-93	7.1
83	94-95+	7.2
84	84	6.5
84	85	6.6
84	86	6.7
84	87	6.8
84	88	6.9
84	89	7.0
84	90	7.1
84	91	7.2
84	92-93	7.3
84	94-95+	7.4
85	85	6.7
85	86	6.9
85	87	7.0
85	88	7.1
85	89	7.2
85	90	7.3
85	91	7.4
85	92	7.5
85	93-95+	7.6
86	86	7.0
86	87	7.1
86	88	7.3
86	89	7.4
86	90	7.5
86	91	7.6
86	92	7.7
86	93-95+	7.8
87	87	7.3
87	88	7.4
87	89	7.5
87	90	7.7
87	91	7.8
87	92	7.9
87	93-95+	8.0

SUGGESTED CHARITABLE GIFT ANNUITY RATES
 Approved by the American Council on Gift Annuities—Effective January 1, 2012

TWO LIVES – JOINT & SURVIVOR (cont.)

Younger Age	Older Age	Rate
88	88	7.6
88	89	7.7
88	90	7.9
88	91	8.0
88	92	8.1
88	93-95+	8.2
89	89	7.9
89	90	8.0
89	91	8.2
89	92	8.3
89	93-95+	8.5
90	90	8.2
90	91	8.4
90	92	8.5
90	93	8.7
90	94-95+	8.8
91	91	8.6
91	92	8.7
91	93-95+	8.8
92	92-95+	8.8
93	93-95+	8.8
94	94-95+	8.8
95	95+	8.8

APPENDIX D:
PROCEDURE FOR CALCULATING SUGGESTED DEFERRED GIFT ANNUITY RATES

Approved by the American Council on Gift Annuities--Effective January 1, 2012

1. Determine the annuity starting date, which is:
 - One year before the first payment, if payments are made annually.
 - Six months before the first payment, if payments are made semi-annually.
 - Three months before the first payment, if payments are made quarterly.
 - One month before the first payment, if payments are made monthly.
2. Determine the number of whole and fractional years from the date of the contribution to the annuity starting date (the deferral period). Express the fractional year as a decimal of four numbers.
3. For a deferral period of any length, use the following formula to determine the compound interest factor:

$F = 1.0325^d$, where
F is the compound interest factor and
d is the deferral period

Example: If the period between the contribution date and the annuity starting date is 14.5760 years, the compound interest factor would be $1.0325^{14.576} = 1.593902$

4. Multiply the compound interest factor (F) by the immediate gift annuity rate for the nearest age or ages of a person or persons at the annuity starting date.

Example: If the sole annuitant will be nearest age 65 on the annuity starting date and the compound interest factor is 1.593902, the deferred gift annuity rate would be 1.593902 times 4.7%, or 7.5% (rounded to the nearest tenth of a percent).

Comments:

- The annuity starting date for purposes of calculating the deferred gift annuity rate will be the same as the annuity starting date for calculating the charitable deduction, if payments are at the end of the period (which is usually the case). This was not true with the pre-July 1, 2001 methodology.
- An annuitant is credited with compound interest for the entire period from the date of contribution to the annuity starting date. Under the pre-July, 2001 methodology, compound interest was credited only for the number of whole years between the two dates.
- Charities issuing deferred gift annuities in New York and New Jersey may need to use a slightly lower compounding rate depending on the deferral period (see page 27). Information regarding this subject will be posted on the ACGA website (www.acga-web.org) and on the new gift annuity rate sheets.

APPENDIX E:
NOTE TO CHARITIES ISSUING DEFERRED GIFT ANNUITIES
IN NEW YORK AND NEW JERSEY*
Approved by the American Council on Gift Annuities—Effective January 1, 2012

Through August of 2012 the following compound interest factors during the deferral period noted will satisfy the requirements of New York and New Jersey:

For all deferral periods:

Single-life and two-life annuities, whatever the gender of the annuitants, a compound interest factor of 3.25%.

Information about the maximum compound interest factors for these two states are posted on the ACGA website. See www.acga-web.org.

*New York and New Jersey are the two states known at this time that may require different interest factors for deferred gift annuities with longer deferral periods.

Thursday, April 10th - Afternoon Sessions



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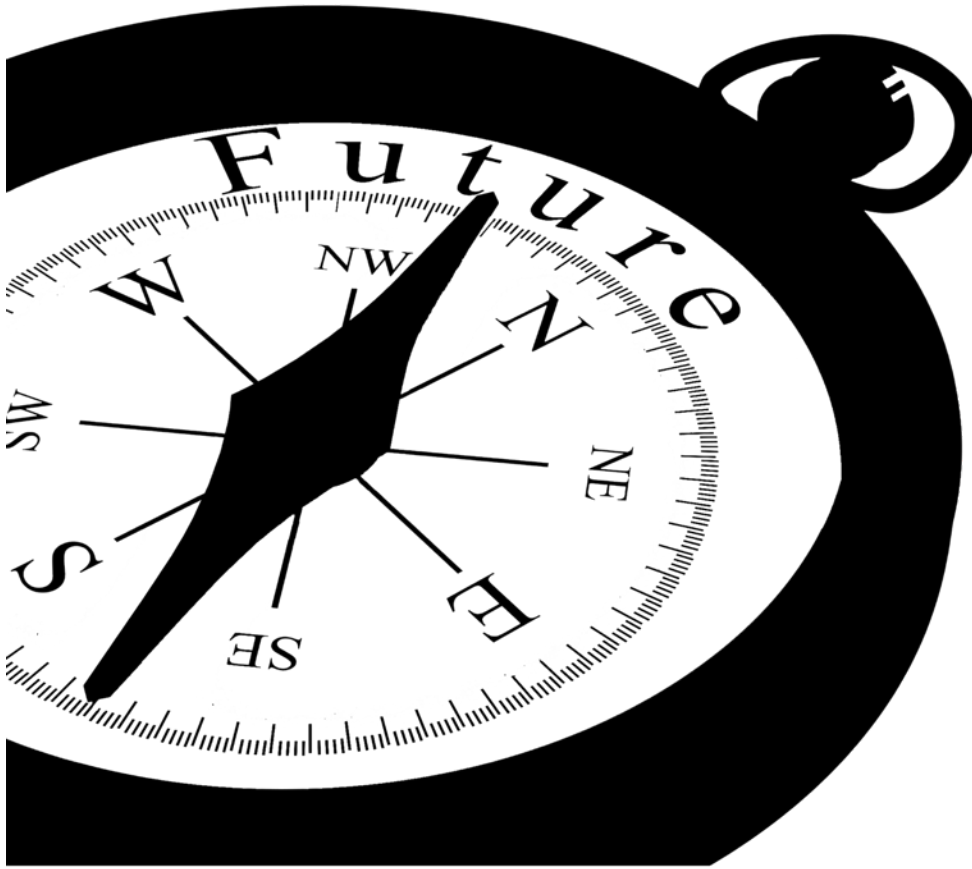
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Innovative Charitable Lead Trust Structures: Bringing Economic Efficiencies to a Wealth Transfer Workhorse (Track II)

Presented By


Paul S. Lee, J.D., LL.M.

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January 2014


Innovative Charitable Lead Trust Structures: Providing Economic Efficiencies to a Wealth Transfer Workhorse

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National Managing Director

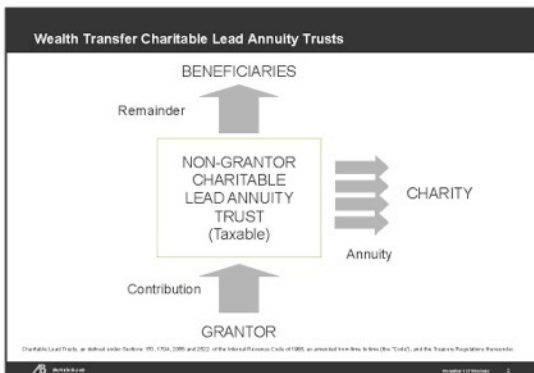


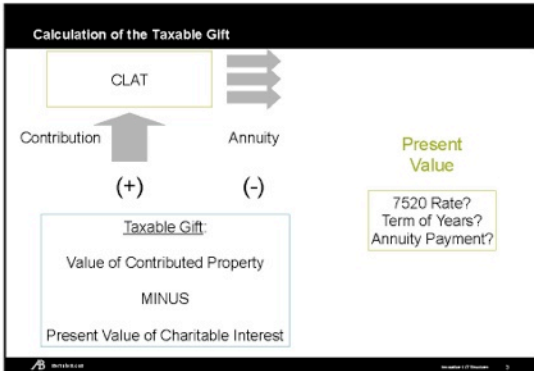
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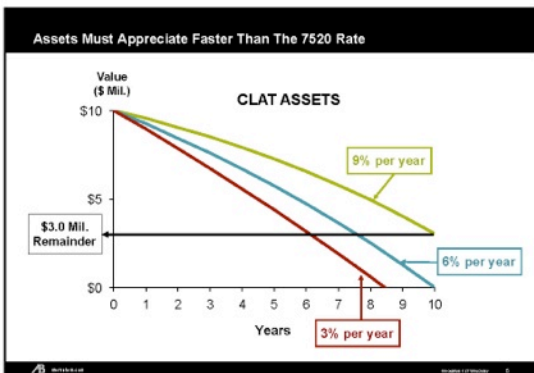
"Zeroed-Out" CLAT: Fixed Annuity

7520 Rate of 6.0%
10 Year Term
\$10 Mil. Contribution

Year	Fixed Annuity
1.	\$1,358,680
2.	\$1,358,680
3.	\$1,358,680
4.	\$1,358,680
5.	\$1,358,680
6.	\$1,358,680
7.	\$1,358,680
8.	\$1,358,680
9.	\$1,358,680
10.	\$1,358,680
Total:	\$13,586,800

Present Value = \$10,000,000

Cumulative Amount to Charity



Investment Returns Are Rarely Average

	Average Return	Return Path 1*	Return Path 2*
Year 1	9.3%	10.1%	-22.1%
Year 2	9.3	1.3	-11.9
Year 3	9.3	37.6	-9.1
Year 4	9.3	23.0	21.0
Year 5	9.3	33.4	28.6
Year 6	9.3	28.6	33.4
Year 7	9.3	21.0	23.0
Year 8	9.3	-9.1	37.6
Year 9	9.3	-11.9	1.3
Year 10	9.3	-22.1	10.1
CAGR	9.3%	9.3%	9.3%

*Return Path 1 represents the average return of the S&P 500 from 1980-2002. Return Path 2 is a random set of returns.
Source: Standard & Poor's and Research

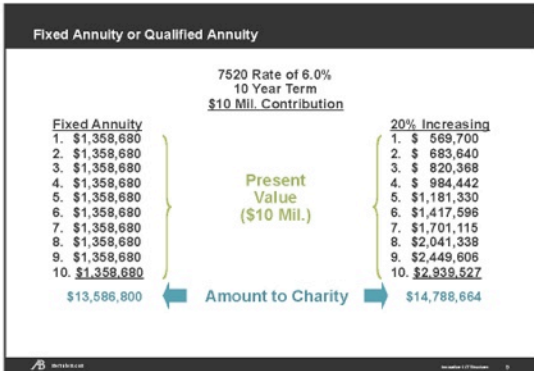
Path Of Returns Is Equally As Important

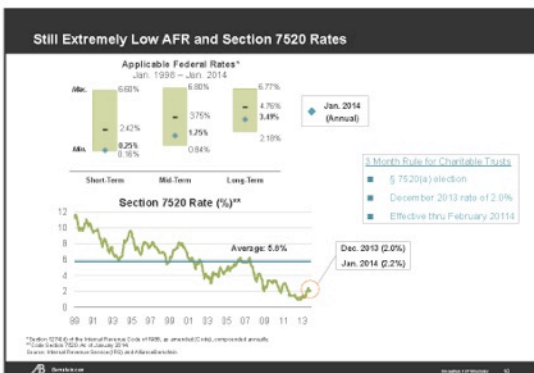
- \$10 Million CLAT
 - 10 Years
 - \$1,358,680 Annuity

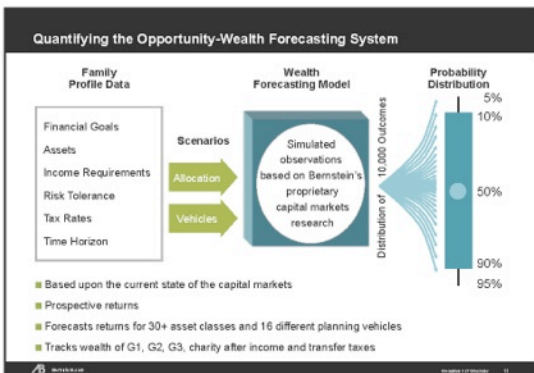
	Charity	Remainder
Average Return	\$13.6 Mil.	\$ 3.4 Mil.
Return Path 1	\$13.6	\$ 8.0
Return Path 2	\$ 8.0	\$ 0.0

"FAILURE"

- GRATs: Treas. Reg. § 25.2702-3(b)(1)(i) and (ii)**
- Qualified Annuity
 - Irrevocable right to receive a fixed amount
 - Must be payable . . . at least annually
 - Fixed Amount
 - Stated dollar amount
 - Not less frequently than annually
 - Only to the extent the amount does not exceed 120 percent of the stated dollar amount payable in the preceding year

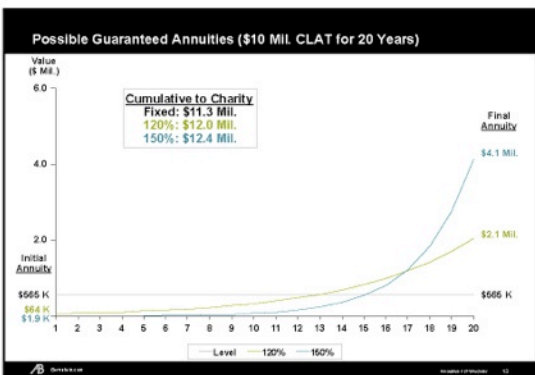


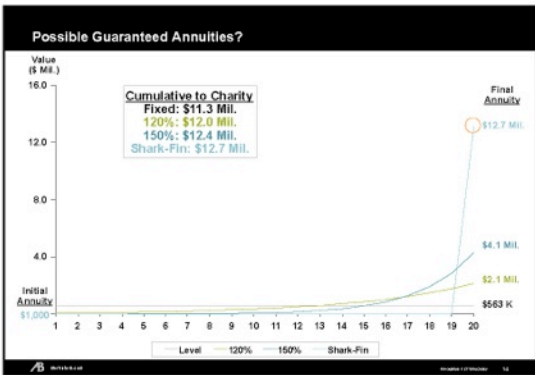




Rev. Proc. 2007-45, 2007-29 IRB 89

- **Guaranteed Annuity**
 - Determinable amount
 - Paid periodically
 - Not less than annually
- **Payment Requirements**
 - Not subject to any minimum or maximum payout
 - May provide for an annuity amount that is:
 - Fixed dollar
 - But increases during the annuity period
 - Provided that the value of the annuity is ascertainable at the time the trust is funded





Why a "Shark-Fin" CLAT is Likely Allowable...

- **Treasury Regulations***
 - "... amount is determinable if the exact amount which must be paid under the conditions specified in the governing instrument of the trust can be ascertained as of the date of the transfer**"
 - "... the amount to be paid may be a stated sum for a term ... at the expiration of which it may be changed by a specified amount, but it may not be redetermined by reference to a fluctuating index such as the cost of living index. **"
- **PLR 201216045**
 - 120% graduated annuity increase approved for testamentary CLAT
- **PLR 9112009**
 - "minimum" annuity amount payable varies each year" & "amount payable each year is specified in the instrument."
- **Tax Policy Reasons**
 - Encouraging gifts to charity (e.g., *Est. of Christensen & Est. of Peter*)"
 - GRAT can be "zeroed-out" with no downside if GRAT fails
 - CRAT is tax-inefficient

*Treas. Reg. §§ 1.675-6(d)(2)(A), 1.675-6(d)(2)(B), 1.675-6(d)(2)(C) & 1.675-6(d)(2)(D)
**State of California, Commission on the State of California's Tax System, July 18, 11, "Globalized State of Finance: Commission on the State of California's Tax System" (6/15/11)

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Back-Loading Increases Wealth Transfer... Only to a Point

Median Wealth Transferred*
\$10 Million, 20-Year Term CLAT
(Real, \$ Millions)

Annuity Structure	Fixed	120%	150%	Shark-Fin
Median Wealth Transferred	\$8.9 Mil.	\$11.2 Mil.	\$11.6 Mil.	\$11.4 Mil.
Probability of Success	94%	95%	94%	93%

*Median wealth transferred for a \$10 million initial amount and 20-year CLAT based on the November 2012 Survey of US Wealthy Families. Assumed 100% grantor equity. Probability of success based on an assumed interest rate of 5.0%.

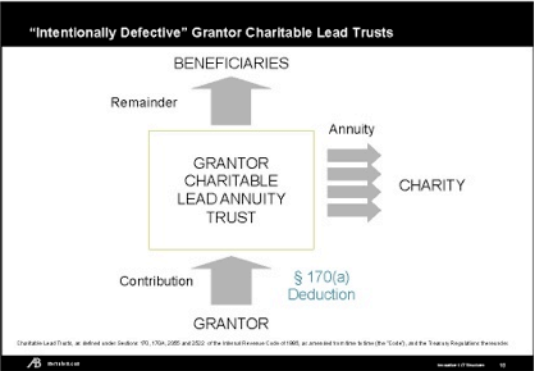
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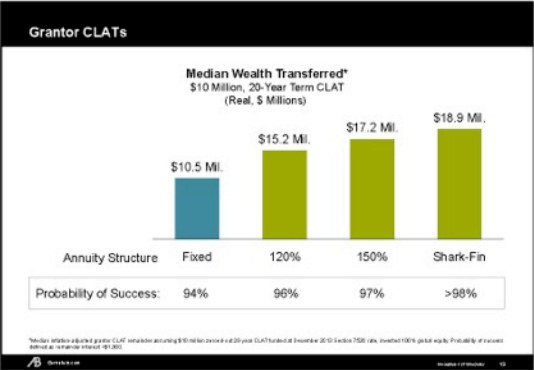
Non-Grantor Charitable Lead Trusts

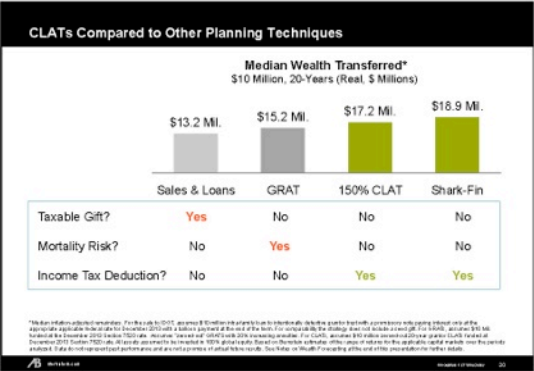
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graph TD
    Grantor[GRANTOR] -- Contribution --> Trust[NON-GRANTOR CHARITABLE LEAD ANNUITY TRUST (Taxable)]
    Trust -- Annuity --> Charity[CHARITY]
    Trust -- Remainder --> Beneficiaries[BENEFICIARIES]
    Trust -- "§ 642(c) Deduction" --> Charity
    Note["Limited to the lesser of:  
(a) Annuity payment  
(b) Annual income"] -.-> Trust
```

The Math Lead Trusts, as defined under Section 170, 170A, 2055 and 2052 of the Internal Revenue Code of 1986, as amended (the "Code"), and the Trusts in Reg. 1.675-6(d)(2)(A)-(D).

BDO | BDOUS.COM







Is a Shark-Fin Advisable?

- Annually increasing annuities (e.g., 150%) should be used under most circumstances:
 - Income tax mortality risk (grantor to non-grantor trust)
 - Lifetime CLATs with annually increasing annuities have little or no 'mortality risk'
 - Perception that a "Shark-Fin" is too good to be true
- Shark-Fin CLATs might be advisable:
 - Lifetime Shark-Fin CLATs are superior ways of fulfilling a testamentary charitable bequest
 - Nature of the assets:
 - Lack liquidity
 - Volatile
 - Limited diversification opportunities

Interesting Application #1: Commercial Real Estate LP Interest

Commercial Real Estate Partnership Interest (Discounted)

Cash Flow

— Cash Flow + 6% — Shark-Fin

- What about excess business holdings under § 4943? What if the property has a mortgage and UBTI?
- Consider grantor trust and contribute subject to an option and avoid self-dealing (Treas. Reg. § 53.4941(d)(1)(B))

Interesting Application #2: Private Equity Investments

Net Investor Cash Flows Hypothetical Venture Capital Fund

Capital USD

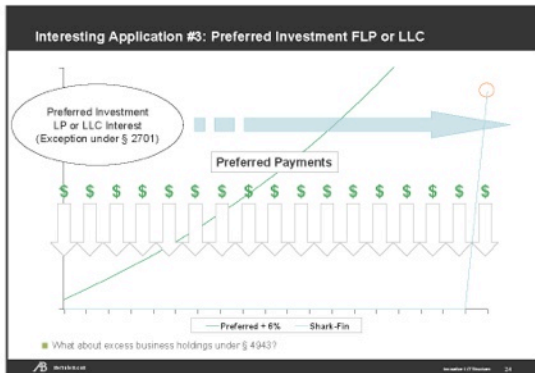
Years

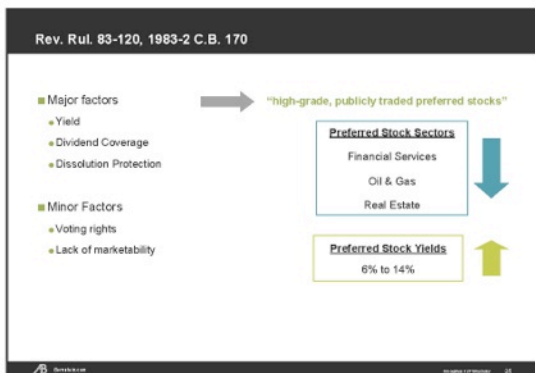
GP "calls" committed capital from LPs to fund investment opportunities and fees

GP "exits" investments through IPO or sale of company

"J-Curve"

- Remember gifts of speculative property are NOT jeopardy investments (Treas. Reg. § 53.4944-1(a)(2)(ii)(a))





Interesting Application #4: Single Stock Positions

	Annual Growth Rate 1990-2009	Growth of \$1 Million 1990-2009
Oracle Corp.	20.7%	\$43.1 Million
General Dynamics	18.6	30.3
Lowe's	18.4	29.3
Apple	17.8	25.6
TJX Cos.	17.6	25.6
Nike Inc. (Cl B)	17.5	25.2
Medtronic	17.5	25.2
Intel	16.7	21.9
Paccar Inc.	16.5	21.2
Home Depot	16.0	19.5
S&P 500	8.2%	\$4.8 Million

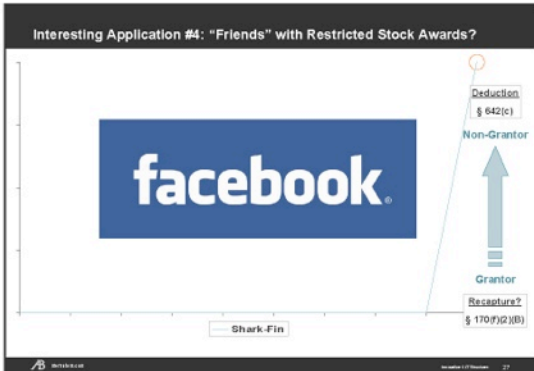
Shark-Fin

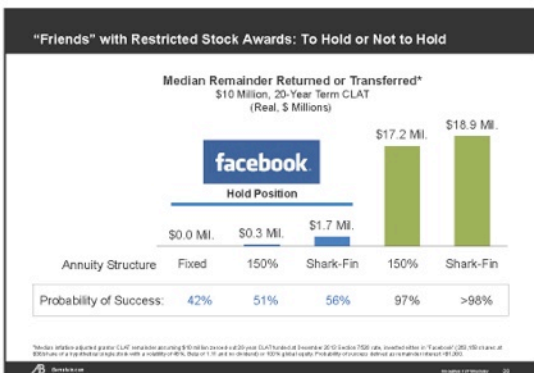
Grantor

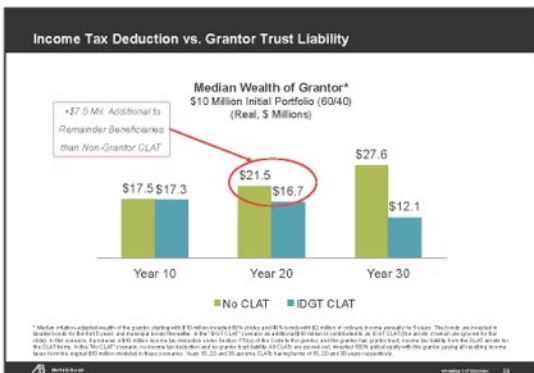
Recapture? § 170(f)(2)(B)

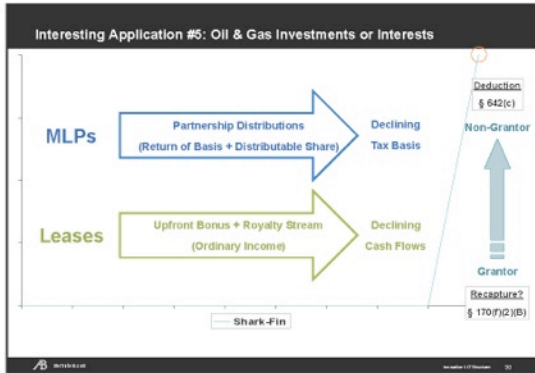
Non-Grantor

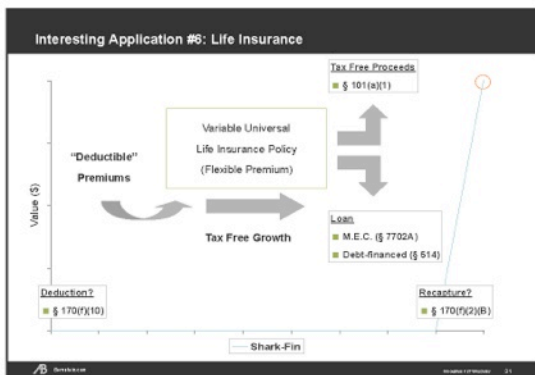
Deduction § 642(c)

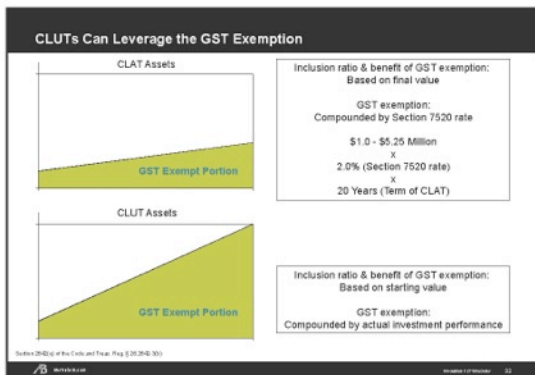






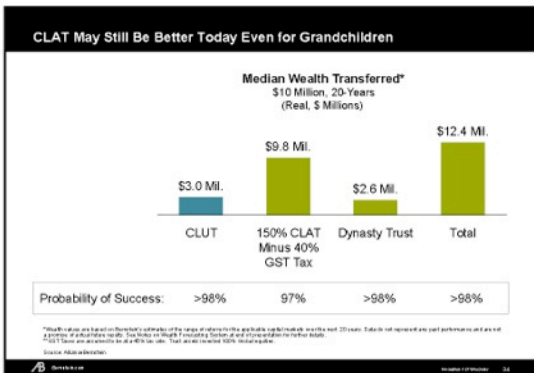


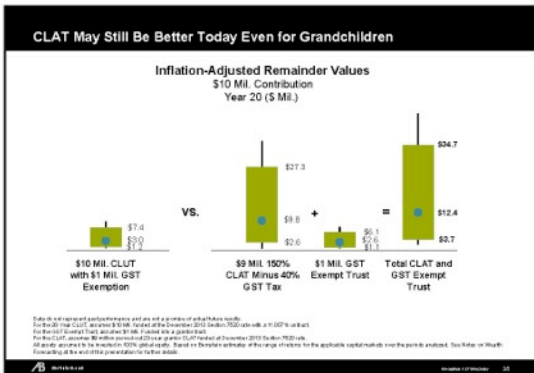


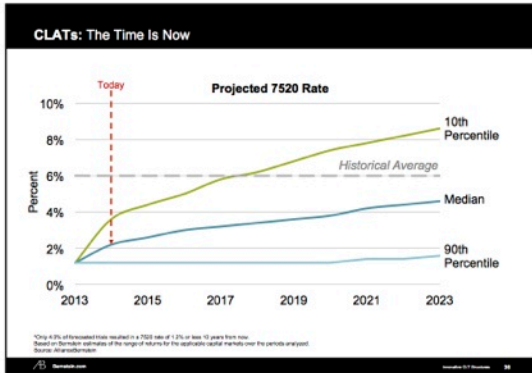


For Grandchildren: CLAT or CLUT Today?

<p style="text-align: center;">Option 1:</p> <p style="text-align: center;">\$10 Million</p> <p style="text-align: center;">20 Year Grantor CLUT</p> <p style="text-align: center;">11.090% Unitrust</p> <p style="text-align: center;">\$1 Mil. Taxable Gift</p> <p style="text-align: center;">\$1 Mil. GST Exemption Applied</p> <div style="border: 1px solid black; padding: 5px; text-align: center; margin-top: 10px;"> Entire CLUT Remainder Free of GST Tax </div>	<p style="text-align: center;">Option 2:</p> <p style="text-align: center;">\$9 Million</p> <p style="text-align: center;">20 Year Grantor CLAT</p> <p style="text-align: center;">150% Increasing Annuity ("Zeroed-Out")</p> <p style="text-align: center;">+</p> <p style="text-align: center;">\$1 Mil. Taxable Gift to a Dynasty Trust</p> <p style="text-align: center;">\$1 Mil. GST Exemption Applied</p> <div style="border: 1px solid black; padding: 5px; text-align: center; margin-top: 10px;"> Entire CLAT Remainder Subject to GST Tax </div>
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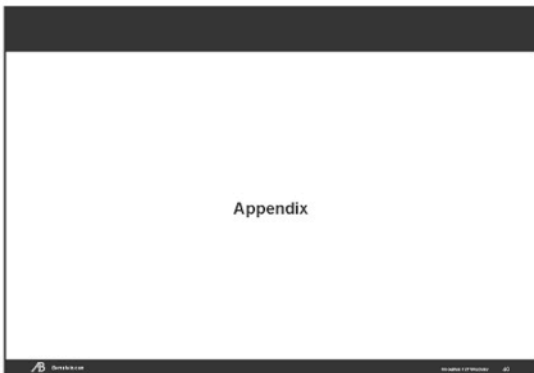




- ### In Summary: CLATs Today
- Unprecedented planning opportunities are available because of:
 - Historically low Section 7520 Rates
 - Ability to back-load the annuities
 - Careful planners should consider:
 - How back-loaded should the annuity be?
 - Grantor or non-grantor trust?
 - Do the private foundation rules apply?
 - Term certain? How long? Lifetime?
 - How should the CLAT assets be invested?







Capital-Market Projections & Notes on the WFS (As of December 31, 2012)

	Median 45-Year Growth Rate	Mean Annual Return	Mean Annual Income	One- Year Volatility	45-Year Annual Equivalent Volatility
Int-Term Diversified Municipal	3.5%	3.3%	3.7%	4.0%	9.2%
Int-Term Taxable	4.4%	4.0%	5.5%	4.5%	11.0%
Equities - U.S. Value	9.0%	10.5%	4.3%	18.0%	22.3%
Equities - U.S. Growth	9.3%	10.5%	3.0%	21.4%	24.1%
Equities - U.S. Diversified	9.3%	10.4%	3.6%	19.2%	22.3%
Equities - U.S. SMID	9.5%	10.3%	3.2%	21.7%	24.3%
Equities - Developed International	9.2%	11.4%	4.3%	20.0%	22.2%
Equities - Emerging Markets	7.2%	11.4%	4.2%	21.0%	22.2%
Inflation	3.1%	3.4%	N/A	1.1%	11.2%

Notes:
The Bernstein Wealth Forecasting System uses a Monte Carlo model that simulates 10,000 possible paths of returns for each asset class and inflation. It produces a probability distribution of outcomes, based on Bernstein's estimates of the range of returns for the applicable capital markets over the appropriate time period. The model does not draw randomly from a set of historical returns to produce estimates for the future. Instead, the forecasts (1) are based on the building blocks of asset returns, such as inflation, yields, yield spreads, stock earnings, and price multiples; (2) incorporate the linkages that exist among the returns of various asset classes; (3) take into account current market conditions at the beginning of the analysis; and (4) factor in a reasonable degree of conservatism and uncertainty.

*Global "equity" is defined as 20% US Diversified, 20% US Value, 20% US Growth, 7% US SMID, 22.8% Developed International, 9.5% Emerging Markets.

These returns are not guaranteed and are not a promise of performance. Past performance does not guarantee a similar outcome. Past performance does not guarantee a similar outcome. Past performance does not guarantee a similar outcome.

February 2014

Charitable Remainder Trusts—They're Back!

A Powerful Tool to Defer and Avoid Income Taxes



B
BERNSTEIN
Financial Management

Tastes Have Changed but CRTs Are Forever



1960s
1966 CRT is born
TRA 99

1970s
1977 CRT suffers exhaustion
Rev. Rul. 77-374

1980s
1989 CRT meets 7520
TAMRA 98

1990s
1995 CRT exhaustion relapse
7520 Pkg

2000s
1997 CRT gets amended
TRA 97

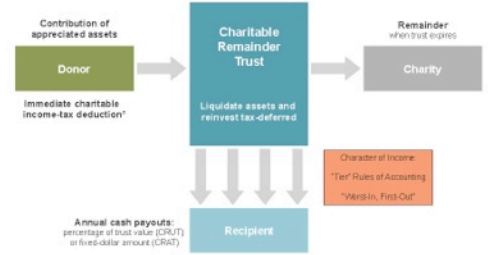
2010s
1998 "Flip" is born
T.D. 8791

2010s
2013 CRT buys health insurance
T.D. 9644

2003-2006
CRT class struggles
Pkg. 11/03/06-09

Source: AIA/Investment
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How a Charitable Remainder Trust Defers and Avoids Taxes



Contribution of appreciated assets
Donor → Charitable Remainder Trust → Remainder when trust expires → Charity

Immediate charitable income-tax deduction*

Liquidate assets and reinvest tax-deferred

Annual cash payouts: percentage of trust value (CRUT) or fixed-dollar amount (CRAT)

Recipient

Character of Income
"Tier" Rules of Accounting
"Wash-in, Pass-Out"

*This immediate deduction is not the final amount realized, but rather the present value of what is expected to pass to charity. The calculation of the present value is based on the value of the contributed assets, the discount rate (based on the Section 7520 rate) and the number of the trust's expected life, or the applicable rate in effect from Section 7520 and the actual dates on which the 50%, 60%, or 80% of the trust's net income is to be paid to the recipient, and the Trust's regulatory formula for determining the amount.

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The New Tier Rules of Accounting: Category and Class

- Tier rules [§ 664(b) & Reg. § 1.664-1(d)(1)]
 - Income assigned among 3 categories of income
 - Each category is assigned to a different class based on the Federal income tax rate
 - Highest rate in each class is paid out first

Category	Class	Rate
Ordinary Income	Interest	39.6%
	Qualified Dividend	20.0%
Capital Gain	Short-Term Gain	39.6%
	Long-Term Gain	20.0%
Other Income	Tax-Exempt Interest	0.0%
Corpus	Basis	n/a

Source: Information Systems
© 2014 ABN-AMERITRA.COM CRUTs: The New Rules - March 2014 7

Today: CRUTs Up, CRATs Down

Maximum Allowable Lifetime Unitrust Percentage

Age	2.4% 7520 Rate	6.0% 7520 Rate
40	7.089%	7.611%
50	9.879%	10.824%
60	15.260%	16.989%
70	25.872%	28.671%
80	49.029%	50.000%

Maximum Allowable Lifetime Annuity Percentage

Age	2.4% 7520 Rate	6.0% 7520 Rate
40	---	6.238%
50	---	6.441%
60	---	6.839%
70	5.075%	7.569%
80	6.907%	9.235%

Source: Information Systems
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Modern Uses of Charitable Remainder Trusts

Stock



Art



Real Estate



IRA



Source: Information Systems
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Case Study Assumptions

- California resident*
- \$10 million asset
- \$0 cost basis
- No additions or withdrawals (except for income taxes)
- Sale proceeds reinvested in 100% globally diversified equities**
- Charitable deduction from CRT offsets long-term capital gains taxable income in first year***
- All wealth outcomes expressed in inflation-adjusted dollars (2014)

*All cases assume California residency is maintained for the duration of the analysis.
 **Global diversified equities are defined as 25% US domestic, 25% US global, 25% US value, 15% US S&P, 22.5% developed international and 7.5% emerging markets.
 ***Based on a Federal and state blended long-term capital gains rate of 27.5%.

2003: Bush Tax Cuts Reduced Tax Deferral Benefits of CRTs

Tax Erosion of Zero Basis Stock Long-Term Capital Gain

Category	Value	Reduction
Pre-Tax	\$100	-
Net of Federal Taxes	\$85	15.0%
Net of Fed & CA Taxes (AMT)	\$76	24.3%

**Odds of Having More Wealth After 20 Years
8% CRUT vs. Sell Outright**

38%

Based on Bernstein's estimates of the range of long term returns for the appropriate capital markets. Data do not represent past performance and are not a promise of actual future results or a range of future results. See Notes on Wealth Forecasting System in Appendix for further details. Source: Alternatives.com

But if Charity Was a Priority, then CRTs Were Still a Good Fit

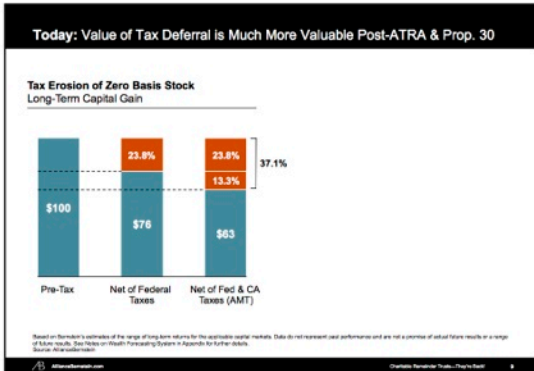
Tax Erosion of Zero Basis Stock Long-Term Capital Gain

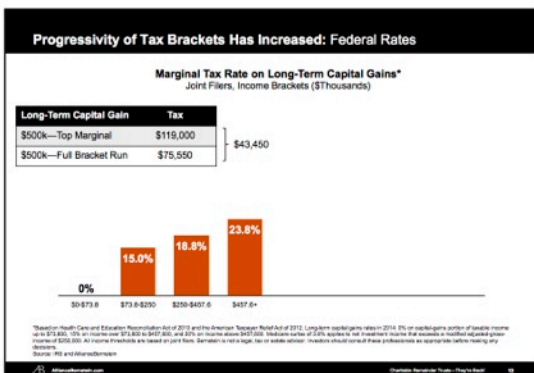
Category	Value	Reduction
Pre-Tax	\$100	-
Net of Federal Taxes	\$85	15.0%
Net of Fed & CA Taxes (AMT)	\$76	24.3%

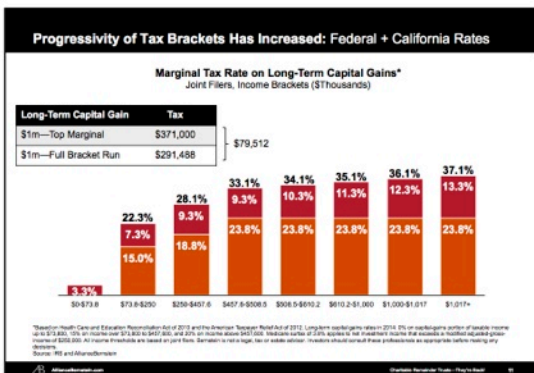
**Wealth After 20 Years—Median Case (\$Mil.)
Sell Outright vs. 8% CRUT**

Category	Value (\$Mil.)
Sell Outright	\$13.7
8% CRUT (Personal)	\$13.1
8% CRUT (Charity)	\$5.2
Total 8% CRUT	\$18.3

Based on Bernstein's estimates of the range of long term returns for the appropriate capital markets. Data do not represent past performance and are not a promise of actual future results or a range of future results. See Notes on Wealth Forecasting System in Appendix for further details. Source: Alternatives.com







CRTs: Back in the High Life

Benefits of a Charitable Remainder Trust

- ✓ Up-Front Income-Tax Deduction
- ✓ Defer Capital Gains Tax
- ✓ Tax-Advantaged Growth

✓ Payouts at Lower Tax Rates*

Today vs. 2003-2012

Greater

Possible

*Based on an assumed rate of 15% for qualified dividends and 20% for other income.

Source: AdvisorSource.com

Today: Value of Tax Deferral is Much More Valuable Post-ATRA & Prop. 30

Tax Erosion of Zero Basis Stock Long-Term Capital Gain

Category	Value	Tax Rate
Pre-Tax	\$100	-
Net of Federal Taxes	\$76	23.8%
Net of Fed & CA Taxes (AMT)	\$63	23.8% (Fed), 13.3% (CA)
Total Tax	\$37	37.1%

Odds of Having More Wealth After 20 Years 8% CRUT vs. Sell Outright

80%

Based on Gordon's estimates of the range of long-term returns for the applicable capital markets. Data do not represent past performance and are not a promise of actual future results or a target of future results. See Gordon Wealth Planning System in Appendix to further details. Source: AdvisorSource.com

Modern Uses of Charitable Remainder Trusts

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Reminders When Dealing with Stock

- Contributions of long-term capital gain property to CRTs with private foundations as remainder
 - Reduction of deduction by amount of appreciation (cost basis) [§ 170(b)(1)(B)(ii)]
 - Exception for "marketable securities" [§ 170(e)(5)]
 - Still subject to 20% AGI ceiling [§ 170(b)(1)(D)]
- **Marketable Securities Exception:**
 - Available if market quotations are readily available on an established exchange [§ 170(e)(5)(B)]
 - Not available for stock contributions in excess of 10% of the outstanding stock of the corporation (including related persons) [§ 170(e)(5)(C)]

Source: Information Systems
 © 2014 AIAA-CPA.com CRUTs: The New Tax-Deferred Wealth Transfer

Tier Rules Now with Net Investment Income

Category	Class	Rate
Ordinary Income	NI Interest	43.4%
	Excluded Interest	39.6%
	NI Qualified Dividend	23.8%
Capital Gain	Excluded Qualified Dividend	20.0%
	NI Short-Term Gain	43.4%
	Excluded Short-Term Gain	39.6%
Other Income	NI Long-Term Gain	23.8%
	Excluded Long-Term Gain	20.0%
	Tax-Exempt Interest	0.0%
Corpus	Basis	n/a

Source: Information Systems
 © 2014 AIAA-CPA.com CRUTs: The New Tax-Deferred Wealth Transfer

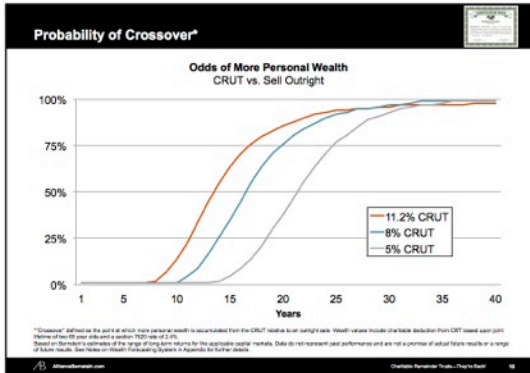
When Is "Crossover" Achieved?

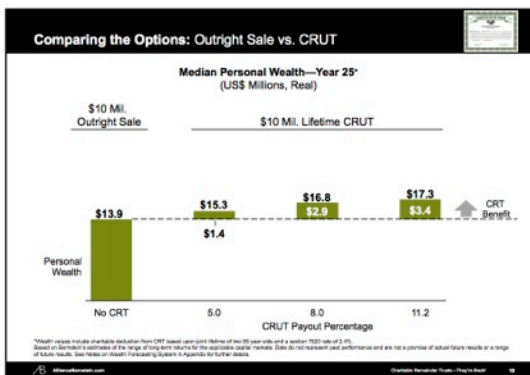
Personal Wealth Over Time—Median Case*
 (US\$ Millions, Real)

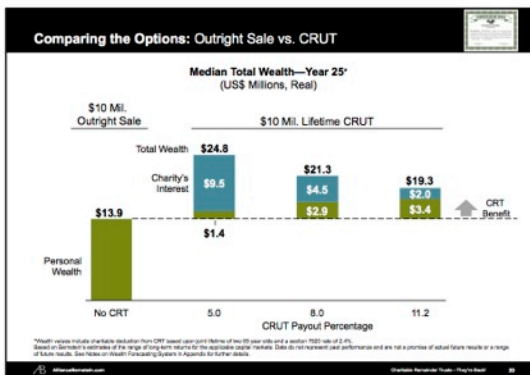
CRUT Payout (%)	Years Until Crossover**
11.2	14
8.0	17
5.0	21

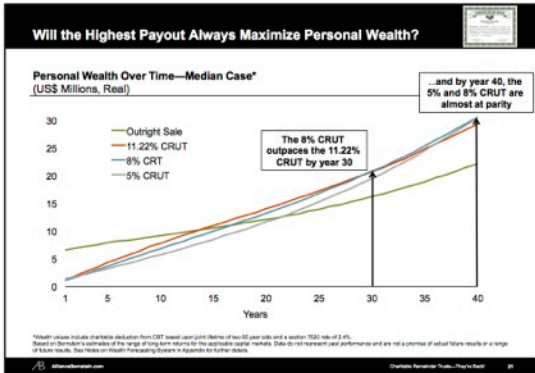
* Available foundation's base of operations and income at the 10% level, and a 70% rate of 2.0%.
 ** "Crossover" indicates the point at which the amount of the median case CRUT Trust is no longer less than the outright sale. This CRUT is based on the median case (20% portfolio).
 Based on the median case of the group, showing how long it takes for the available capital to be used. CRUTs do not represent actual performance and are not appropriate to be used in isolation or a range of other specific facts. Please consult your advisor for more information.

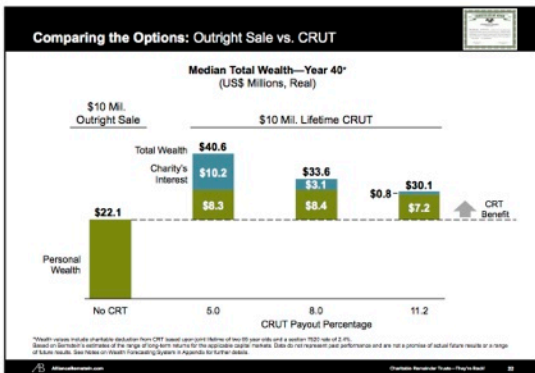
Source: Information Systems
 © 2014 AIAA-CPA.com CRUTs: The New Tax-Deferred Wealth Transfer

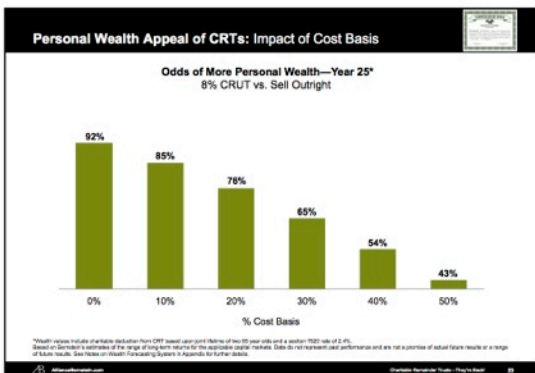












Modern Uses of Charitable Remainder Trusts

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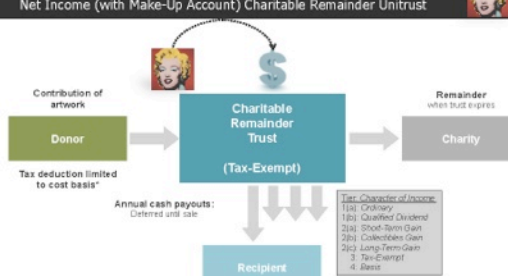
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Artwork: Don't Count on an Income Tax Deduction

- **Collector/Investor-Owned Art**
 - "Unrelated" Contributions
 - Contributions of appreciated tangible personal property not "for the use" or "related" to the exempt purpose of the charity (public or private)
 - Reduction of deduction by amount of appreciation (cost basis) [§ 170(e)(1)(B)(ii) & Reg. § 1.170A-4(a)(3)]
 - Deemed Charitable Gift Concern
 - No deduction for a future interest in tangible personal property until all intervening interests and rights to actual possession or enjoyment have expired (or held by unrelated parties) [§ 170(a)(3) & Reg. § 1.664-2(d), -3(f)]
 - Subsequent sale by CRT may give rise to deduction (PLR 9452026)
- **Creator-Owned Art**
 - Considered "ordinary income property" [§ 170(e)(1)(A) & Reg. § 1.170A-4(b)(1)]
 - Reduction of deduction by amount of appreciation (cost basis)

Source: Advisor Group, Inc. | Charitable Remainder Trusts - Update 2014 | 25

"Flip" for a More Tax Efficient Avenue of Liquidity: Net Income (with Make-Up Account) Charitable Remainder Unitrust



Donor → Contribution of artwork → **Charitable Remainder Trust (Tax-Exempt)** → Remainder when trust expires → **Charity**

Annual cash payouts: Deferred until sale → **Recipient**

Order of Character of Income:

- 1(a) Ordinary
- 1(b) Qualified Dividend
- 2(a) Stock-Specific Gain
- 2(b) Collectibles Gain
- 2(c) Long-Term Gain
3. Tax-Exempt
4. Basis

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Artwork: "Flip" NIMCRUT

- **"Flip" Event**
 - Can be "on a specified date or by a single event whose occurrence is not discretionary with, or within the control of, the trustees or any other person." [Reg. § 1.664-3(a)(1)(i)(C)]
 - Includes a sale of "unmarketable assets" including real property, closely-held stock, and unregistered securities [Reg. § 1.664-3(a)(7)(i)]
 - Conversion to a trust the following taxable year with less of any "make-up" amount not otherwise paid out prior to conversion [Reg. § 1.664-3(a)(1)(c)(3)]
- **Allocation of Gain to Net Income**
 - Pre-contribution gain is allocated to principal [Reg. § 1.664-3(a)(1)(i)(b)(3)]
 - Post-contribution gain may be allocated to income if the governing instrument provides and if allowable under state law [§ 642(b), Reg. §§ 1.664-3(a)(1)(i)(b)(3) & 1.643(a)-3(f)]
- **Plan for Valuation Discounts?**

Source: ArtMarketWatch.com

Tier Rules Now with Art

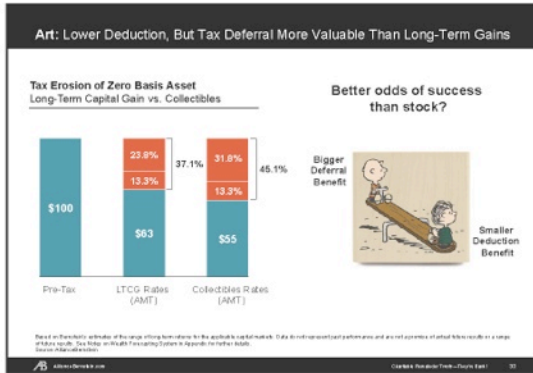
Category	Class	Rate
Ordinary Income	Nil Interest	43.4%
	Excluded Interest	39.6%
	Nil Qualified Dividend	23.8%
Capital Gain	Excluded Qualified Dividend	20.0%
	Nil Short-Term Gain	43.4%
	Excluded Short-Term Gain	39.6%
	Nil "Collectible" Gain	31.8%
	Excluded "Collectible" Gain	28.0%
Other Income	Nil Long-Term Gain	23.8%
	Excluded Long-Term Gain	20.0%
	Tax-Exempt Interest	0.0%
Corpus	Basis	n/a

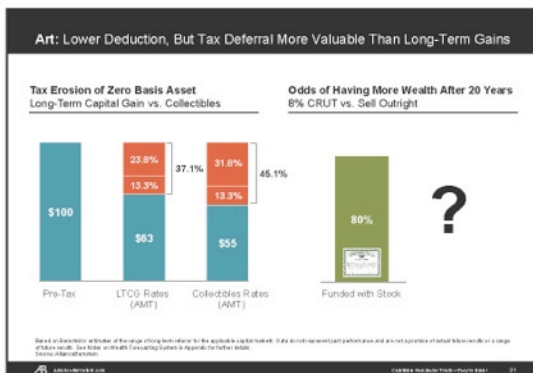
Source: ArtMarketWatch.com

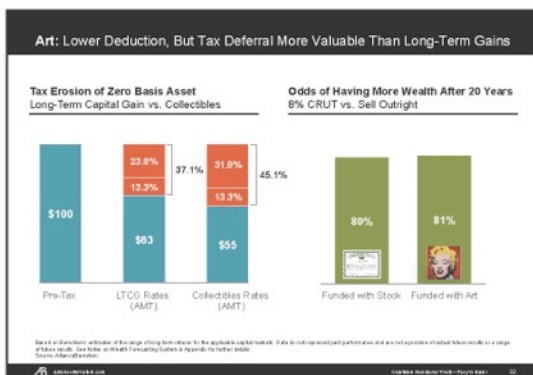
Art Case Assumptions

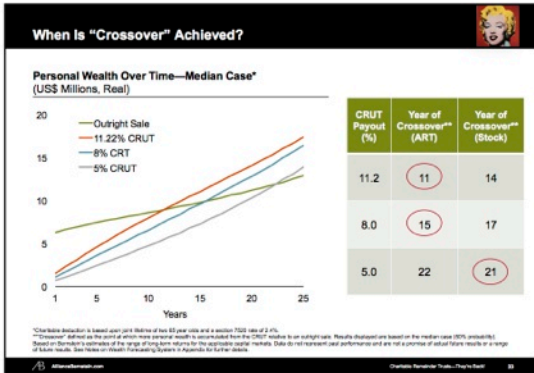
- Acquired for \$100,000
- \$10.0 million fair market valuation today
- \$11 million sale value one year from today net of closing costs
- **Charitable Remainder Trust**
 - Trust is structured as a NIMCRUT that "flips" to a unitrust payout upon the sale of the artwork
 - \$1 million of post-contribution appreciation is deemed to be income for the purposes of determining the make-up distribution
 - Charitable deduction is limited to cost basis

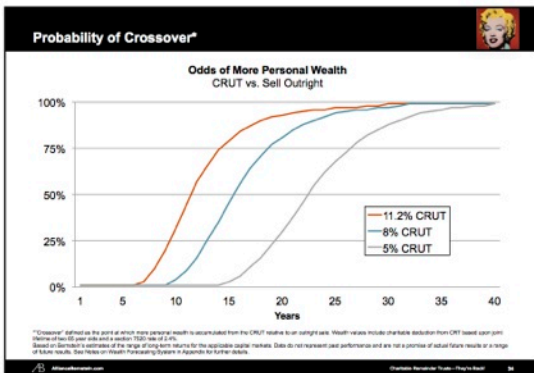
Source: ArtMarketWatch.com

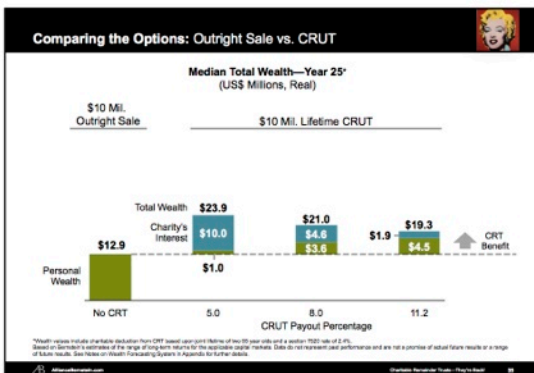


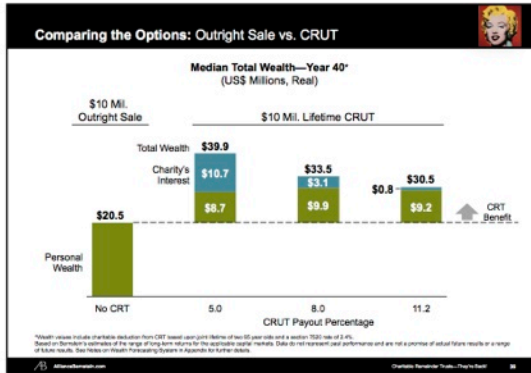


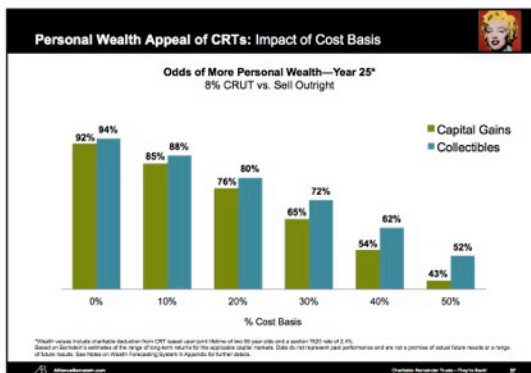












Modern Uses of Charitable Remainder Trusts

Stock

Art

Real Estate

IRA

Real Estate: Playing in the Dirt Can Be Messy

- NIMCRUT or "Flip" NIMCRUT
- The Problem with Debt:
 - Contributions of debt in excess of basis will be a taxable event [§ 1,1001-2]
 - Contributions of "negative basis" LLC or LP interests also will be a taxable event [§§ 753, 751(a) & 751]
- Unrelated Business Taxable Income (UBTI)
 - Debt-financed income is UBTI [§ 514(c)(2)(A)]
 - 100% excise tax on UBTI, allocated fully to corpus [§ 694(c)(2)(A) & Reg. § 1.694-1(c)(1), (d)(2)]
 - 10 year exception for mortgaged property (debt placed and property owned more than 5 years prior to inter vivos transfer) [§ 514(c)(2)(B)]
- Real Property Tax
 - Proposition 13 reassessment

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Tier Rules with Real Estate

Category	Class	Rate
Ordinary Income	NI Interest	43.4%
	NI Net Rental Income	43.4%
	Excluded Interest	39.6%
	Excluded Net Rental Income	39.6%
Capital Gain	NI Qualified Dividend	23.8%
	Excluded Qualified Dividend	20.0%
	NI Short-Term Gain	43.4%
	Excluded Short-Term Gain	39.6%
Other Income	NI Unrecaptured § 1250 Gain	28.8%
	Excluded Unrecaptured § 1250 Gain	26.0%
	NI Long-Term Gain	23.8%
	Excluded Long-Term Gain	20.0%
Other Income	Tax-Exempt Interest	0.0%
Corpus	Basis	N/A

← '81-'87 Property is § 1250 Recapture

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How Does Real Estate Compare to Stock or Art?

Year of Crossover* Median Case				Personal Wealth Advantage—Year 40** (US\$ Millions, Real)			
CRUT Payout (%)	Year	Stock	Art	CRUT Payout (%)	Year	Stock	Art
11.2	14	11	11	11.2	\$8.3	\$8.7	\$8.7
8.0	17	15	15	8.0	\$8.4	\$9.9	\$9.9
5.0	21	22	22	5.0	\$7.2	\$9.2	\$9.2

Crossover defined as the year at which asset price and wealth is accumulated from the CRUT equals to an outright sale.
 **Values depicted are based on the median scenario and assume a portfolio allocation from 50% to 100% over 40 years and median 7.5% rate of return.
 Based on 10-year horizon, with the first group starting from the applicable capital gains. Data is not representative of performance and are not intended to be used as a basis of financial advice. See Valuations.com for more information on the assumptions used.

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Modern Uses of Charitable Remainder Trusts

Stock



Art



Real Estate



IRA



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IRA Considerations

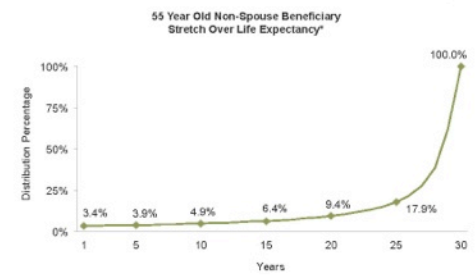
- PLR 199901023
- CRT can be the beneficiary of a qualified retirement account
- Distributions are ordinary income under the tier rules [§ 691(a)(3) & 694(b)(1)]
- Entitled to a deduction under § 691(c)(1)(A) for estate taxes, if any

Category	Class	Rate
Ordinary Income	NI Interest	43.4%
	Excluded Interest	39.6%
	Excluded IRA Income	39.6%
NI Qualified Dividend	NI Qualified Dividend	23.0%
	Excluded Qualified Dividend	20.0%
	Capital Gain	NI Short-Term Gain
Capital Gain	Excluded Short-Term Gain	39.6%
	NI Long-Term Gain	23.0%
	Excluded Long-Term Gain	20.0%
Other Income	Tax-Exempt Interest	0.0%
Corpus	Basis	n/a

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Required Minimum Distributions: Current Law

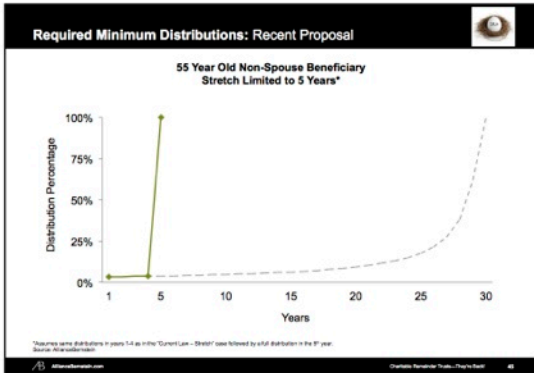
55 Year Old Non-Spouse Beneficiary Stretch Over Life Expectancy*



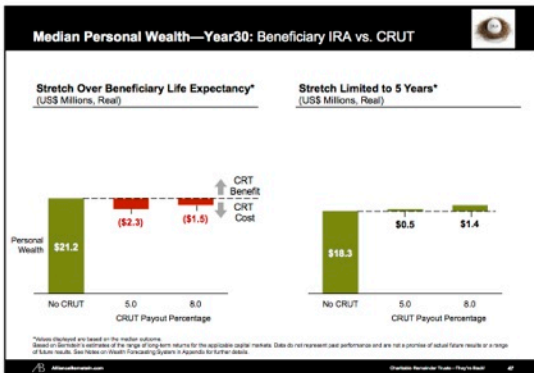
Years	Distribution Percentage
1	3.4%
5	3.9%
10	4.9%
15	6.4%
20	9.4%
25	17.9%
30	100.0%

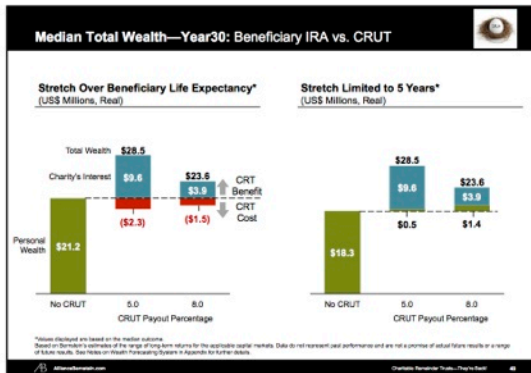
*Assumes a 55 year old beneficiary with a 30 year life expectancy. Source: AdviserNetwork.com and Internal Revenue Service.

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- ### IRA Case Study Assumptions
- Non-spouse beneficiary is 55 years old
 - IRA → Beneficiary
 - Federal estate tax liability on IRA is \$4 million and is assumed to be paid from non-IRA assets
 - Beneficiary is entitled to \$4 million IRC 691(c) income tax deduction on IRA distributions*
 - IRA → CRUT
 - Federal estate tax liability calculated on present value of non-spouse beneficiary's life interest in CRT**
 - IRC 691(c) deduction is netted against Tier 1 accounting income from IRA distributions to the CRT
 - Estate tax savings is credited to non-spouse beneficiary's taxable account
 - 5.0% CRUT: Estate tax = \$2.7 million, Tax savings = \$1.3 million
 - 8.0% CRUT: Estate tax = \$3.3 million, Tax savings = \$0.7 million
- *Proportion of benefit deductions for tax years with AGIs in excess of Phase threshold ignored for the purposes of this analysis.
**Present value of lifetime interest of 55-year-old male at 6.5% and female 6.0% and 5.0% interest rates. 10% of total distribution value @ 5% interest equals 21.7%. Assumes a Section 7020 rate of 4% and quarterly CRUT distributions.







- Common Investment Management Approach for CRT Accounts**
- | CRTs are tax-exempt, so..... | However |
|---|---|
| <ul style="list-style-type: none"> ■ Always use taxable bonds ■ Portfolio turn-over doesn't matter ■ Realizing short-term capital gains doesn't matter | <ul style="list-style-type: none">ordinary income passed out firstmay never be able to distribute tier III incomeignores "worst in, first out" accounting matter |
- Source: Alton Williams

Bernstein CRT Tax Management

Continuous	Opportunistic
<ul style="list-style-type: none"> Evaluate right type of bonds based on client's tax circumstances Manage taxes with every trade, not only at the end of the year Avoid realizing short-term gains Sell or trim positions by tax lot, highest-cost first 	<ul style="list-style-type: none"> December 2012 <ul style="list-style-type: none"> Accelerated long-term gains to avoid 3.8% Medicare tax on future distributions December 2013 <ul style="list-style-type: none"> Harvested capital losses to defer 3.8% Medicare tax on current distributions

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Appendix

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Lifetime CRUT: Charitable Deduction by Age and Payout

Age	Single Life CRUT—Charitable Deduction* Based on Payout Percentage							Maximum Payout**
	6%	6%	7%	8%	9%	10%	11%	
45	21.7%	10.7%	10.1%	10.5%	n/a	n/a	n/a	8.2%
55	31.0%	26.2%	21.0%	18.3%	15.5%	13.3%	11.5%	12.0%
65	44.0%	39.0%	34.1%	30.0%	28.5%	23.8%	21.1%	19.4%
75	80.2%	64.0%	50.2%	46.1%	42.4%	38.1%	36.2%	36.2%

Age	Joint Life CRUT—Charitable Deduction* Based on Payout Percentage							Maximum Payout**
	6%	6%	7%	8%	9%	10%	11%	
45 / 45	13.0%	n/a	n/a	n/a	n/a	n/a	n/a	5.0%
55 / 55	22.1%	16.0%	12.5%	n/a	n/a	n/a	n/a	7.5%
65 / 65	33.0%	27.5%	22.5%	18.4%	15.2%	12.5%	10.4%	11.2%
75 / 75	49.2%	42.0%	37.7%	32.1%	28.1%	25.8%	22.0%	19.1%

*Charitable deduction is expressed as a percentage of the CRT's taxable amount and is equal to the amount of the charitable contribution divided by the sum of the amount of the contribution plus the value of the other assets included in the CRT's taxable amount. The maximum charitable deduction is limited to the lesser of 30% of the CRT's taxable amount or 30% of the donor's adjusted gross income. **The maximum charitable deduction is limited to the lesser of 50% of the donor's adjusted gross income or 30% of the CRT's taxable amount. The maximum charitable deduction is limited to the lesser of 50% of the donor's adjusted gross income or 30% of the CRT's taxable amount. © 2014 Bernstein Tax Management, LLC

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Notes on Wealth Forecasting System (con't)

18. Charitable Remainder Trust
 The Charitable Remainder Trust (CRT) is treated as a salesperson or estate planning vehicle, which makes an annual payment to the recipient(s) specified by the grantor, and after the distribution, retains in the recipient's, trustee, trustee's beneficiary's estate, also to be paid to the remainder beneficiaries. Depending on the assets, whether the CRT can be treated as either a Charitable Remainder Trust (CRT) or a Charitable Remainder Annuity Trust (CRAT). The CRT is treated as a trust to a fixed percentage of the portfolio's beginning value, whereas the CRAT received annually a fixed dollar amount. In the remainder year of the CRT, the grantor receives an income tax deduction typically equal to the present value of the charitable deduction, adjusted to the taxable Adjusted Gross Income (AGI) from an irrevocable deduction and phase out of his or her production, so will be the value reported on the basis of gift to similar beneficiaries. Charitable deduction amounts are carried forward up to five years. Although the CRT does not provide any income or capital gains, it provides an included (adjusted) income (AGI) using the following for computing the CRT's income: (1) Charitable Income; (2) Dividend Income; (3) Capital Gains; (4) Other Income; (5) interest Income; and (6) Tax Exempt Income. CRT's are exempt from tax and exempt from personal residence (1) Excess of AGI carried over previously related (2) Charitable deduction carried over previously related (3) net, and (4) for a limited set. For purposes of determining which (1) subject to the look-back rule, CRTs are not eligible for a CRT deduction attributable to the recipient's estate or annual distributions to the recipient of the base amount of distributions for that year, or (2) the current and accumulated all other CRT. Accumulated of a CRT is the total amount of AGI received by a CRT only for years beginning after 2012.

Capital Market Projections

	Median 10-Year Growth Rate	Mean Annual Return	Mean Annual Volatility	One-Year Volatility	10-Year Annual Equivalent Volatility
US Diversified	6.0	9.4	21.1	16.3	21.6
US Value	6.2	9.9	21.7	15.8	21.3
US Growth	7.7	9.7	25	18.2	23.0
US SMD	6.1	10.2	2.7	18.6	24.0
Developed International	6.5	10.6	3.4	19.0	22.0
Emerging Markets	6.6	12.7	4.3	25.5	28.3
Inflation	3.1	3.4	N/A	0.8	11.1

Data is not intended to predict performance and does not guarantee of any future specific results or returns, or any specific range of returns.
 Based on 10000 simulations for each scenario on four percent.
 Returns are presented in tabular and the tabular and contents as of September 30, 2013.

> Want to spend **less time worrying** about the risks and costs associated with your Charitable Gift Annuity program and **more time raising new donor gifts?**

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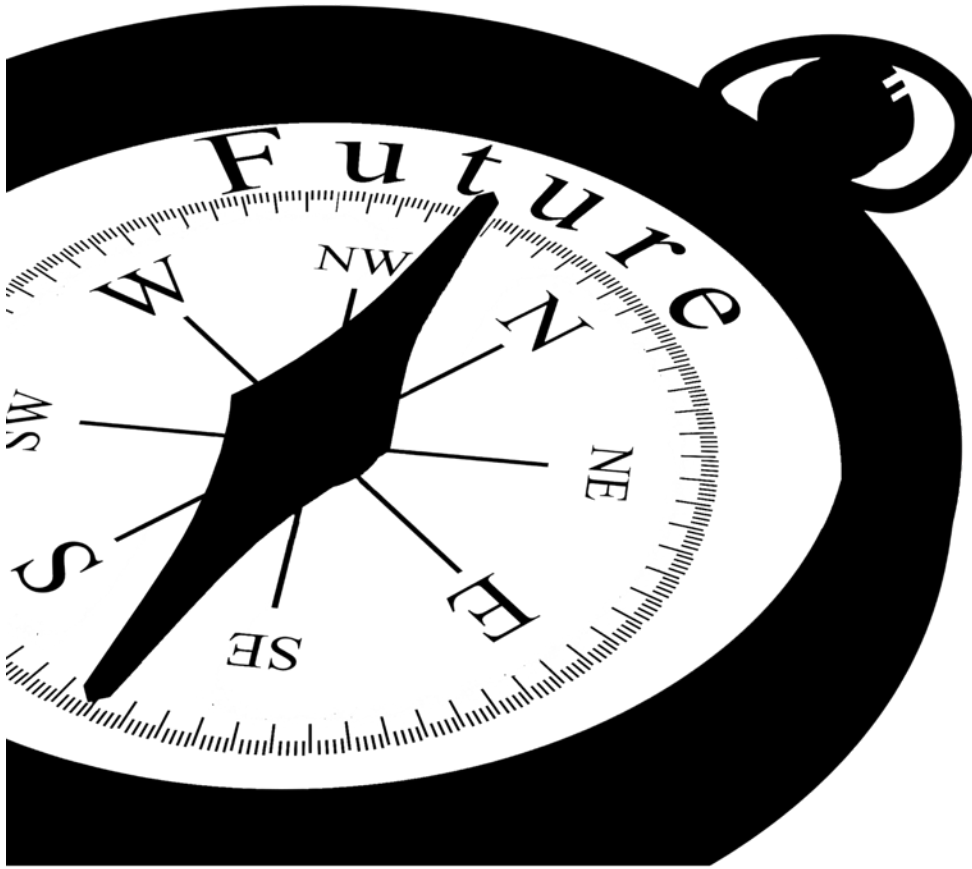
cburke@metlife.com

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CHARTING A COURSE FOR THE FUTURE

- A CONFERENCE ON PLANNED GIVING -



Gift Annuity Administration (Track I, II, III)




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	The "Principals" of Gift Administration Susan Gutches, Board Member, ACGA Nev Major, Director, Gift Planning Administration
 	

	Gift Administration
	<p>Provides the infrastructure for processing and administering gifts to allow fundraisers to focus on raising gifts to support the organization's mission</p> <p>Key communicator and facilitator between Legal, Finance, Development/ Fundraising staff and Donors</p>

	Who is responsible for Gift Administration
	<p>Large organizations often have a team assigned to gift administration; Smaller organizations may have one or two staff members.</p> <p>Very small organizations may turn to assistance from legal and/or financial staff.</p>




Fundamentals of Gift Acceptance	
<ul style="list-style-type: none">• Provide gift acceptance standards• Technical resource to organization• Oversee all gift documents, including disclosure statements• Administrative and regulatory oversight• Stewardship of existing gifts• Administrative framework for processing new gifts and terminating matured gifts• Metrics	



Gift Acceptance Standards	
<ul style="list-style-type: none">• Providing appropriate assumptions for life income gifts<ul style="list-style-type: none">• Payout rates-both CRTs and CGAs• Gift minimums• Minimum age requirements• Remainder projections• Allowable assets to fund gifts• Other issues – act as trustee?	




Gift Acceptance Standards	
<ul style="list-style-type: none">• Gift administration should have a key, if not leading role in creating these organization policies and standards• Include key finance, legal and fundraising staff• Provides a framework for all gifts to your organization	



Technical Resource


- Technical resources for fundraisers
 - Provide a resource for complex gift questions
 - Organizational knowledge of gift policies and acceptance
 - Help with closing "good" gifts
 - Investment Policies for planned gift assets



Gift documents


Provide standard and conforming gift documents that are updated regularly and in response to special situations:


- Gift annuity contracts
- Trust documents
- Pooled income fund documents
- Donor Advised Fund documents
- Disclosure statements





Administrative and regulatory oversight

- Provide other essential tasks and centralized functions for the organization
 - Oversee and understand the audit process of planned gift assets
 - CGA state regulation compliance, including registration process and renewal
 - Compliance with federal requirements
 - Liaison with Finance and Legal staff

	Stewardship
	<p>Tax information and annual reports to donors.</p> <p>Respond to questions regarding trust allocation, gift payments.</p> <p>Updates on investment environment as needed.</p>


	Gift processing
	<p>Efficient systems to facilitate processing new gifts, - including gifts of non-liquid assets and tangible personal property</p> <p>Effective systems to ensure maximum remainder to charity</p> <p>Estate administration sometimes included</p>

	Metrics
	<p>Comparative Reports on Quarterly Basis</p> <p># and \$ of new gifts, by type of gifts and funding asset, with attention to repeat gifts</p> <p>Projected real remainder values</p> <p># and \$ of matured gifts</p> <p>Percentage remainder by type of gift</p> <p>Life income gifts that lead to bequests.</p>




Aren't all gifts good?

- No!
 - A good gift will match the needs/ aspirations of the donor with the mission of the organization
 - Help to educate fundraisers on good gifts for the organization
 - Help in donor discussions to make sure they understand the gift they are making



Trusteed Asset Providers are an Important Partner

- Gift Administration is the key contact for your trustee asset providers
 - Set investment policies and allocations
 - Accounting and reconciliation
 - Managing state reserve requirements
 - Gift Statistics
 - Potential cashflow
 - Strategies to maximize remainder amounts
 - Key Role in Donor stewardship



In conclusion!

With effective gift administration, fundraisers can concentrate on raising new gifts, and Donors can be ensured that maximum gift will go to charity – which leads to

MORE GIFTS!

Whatever your mission, ours is to help you thrive.

Let our Outsourced CIO program take the burden off your staff so they can concentrate on what really matters: your mission. Northern Trust's Foundation & Institutional Advisors is a dedicated practice working with a wide variety of nonprofit organizations. Our experts offer a range of customized investment solutions as well as perspectives on donor trends, attitudes and behaviors. To learn more or to schedule a meeting, contact James W. Tucker at 404-279-5207 or JWT3@ntrs.com or visit northerntrust.com/FIA.

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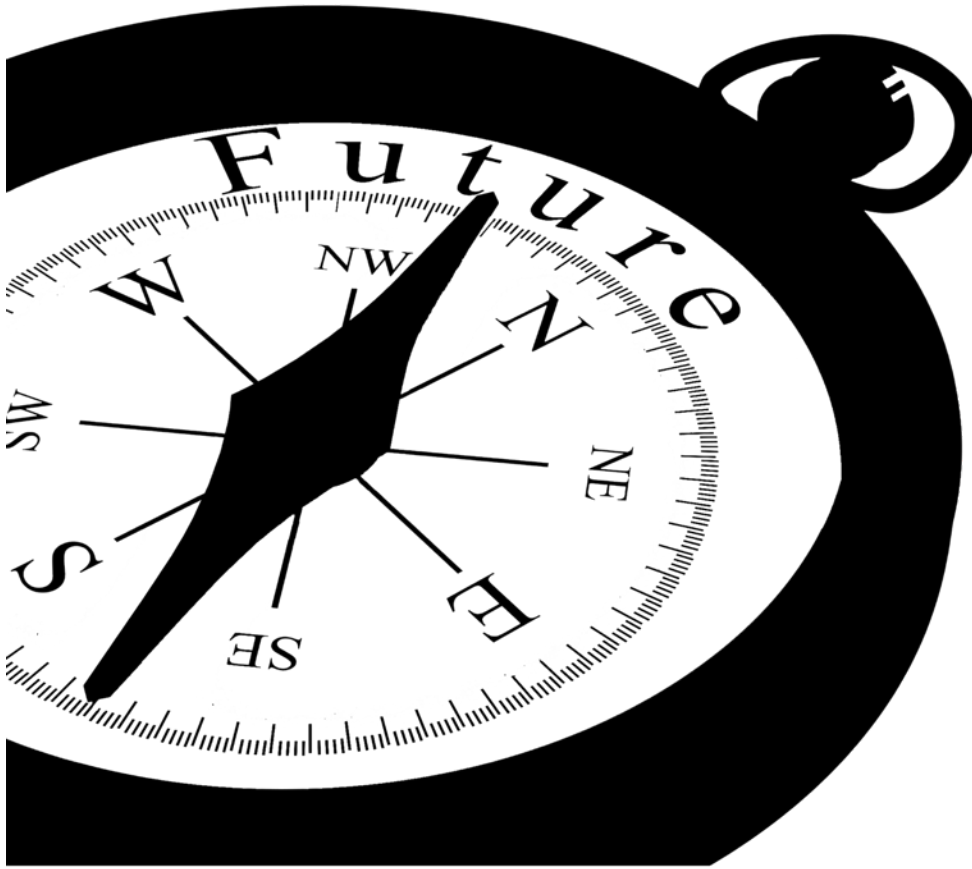
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CHARTING A COURSE FOR THE FUTURE

- A CONFERENCE ON PLANNED GIVING -



Monitoring Outside Managed Trusts (Track III)

Presented By

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Principal

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MONITORING OUTSIDE CHARITABLE TRUSTS -
HAVING AN INFORMED DIALOGUE
WITH YOUR TRUSTEES



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WHICH CHARITABLE TRUST
ASSETS ARE WE TALKING ABOUT?

- Nonprofit institutions really have two endowments – Internal and External.
- The internal endowment is comprised of charitable trust assets which have been transferred *directly* to the nonprofit institution. Legal and equitable title to the funds is held by the nonprofit.
- The external endowment is comprised of charitable trust assets which have been transferred to a third party in trust for the current or eventual benefit of the nonprofit institution. Legal title to the funds is held by third party trustee while equitable title is held by the nonprofit.

PAGE 2

LAWS GOVERNING THE INTERNAL
ENDOWMENT

- Until the late 1960's, internal endowments were primarily invested for "income" as most distributions from most restricted funds were limited to income.
- In 1967, the Ford Foundation commissioned a study on university endowment management and the ensuing report showed poor performance as a result of an emphasis on avoiding losses and maximizing income.
- The Commission recommended a shift towards maximizing long-term total returns, which would permit greater distributions, greater long-term growth and greater stability.
- These recommendations became the basis for UMIFA: The Uniform Management of Institutional Funds Act (now UPMIFA).

PAGE 3

LAWS GOVERNING THE INTERNAL ENDOWMENT

- UMIFA changed everything for the investment of the internal endowment.
- Permitted the adoption of modern portfolio investment strategies.
- Uncoupled the distribution formula from the investment strategy.
- Enabled the "professionalization" of the endowment management function at nonprofits across the country.
- How has it worked?

Harvard Endowment:	1973	\$1.0 billion
	2012	\$30.4 billion

PAGE 4

LAWS GOVERNING THE EXTERNAL ENDOWMENT

- Twenty years after UMIFA, the laws governing the investment and administration of the external trusts which comprise the external endowment have also been change and improved to permit external endowments to be managed in much the same manner as the internal endowment.
- The Uniform Prudent Investor Act (1994)
 - Ditched the Prudent Man Rule
 - The prudence of an investment is no longer measured in isolation
 - Requires diversification
- The Uniform Principal and Income Act
 - Permits adjustments between income and principal
 - Effectively removes "net income" limitations on distributions
 - Updates accounting treatment for new asset classes

PAGE 5

WHY SHOULD YOU MONITOR YOUR EXTERNAL ENDOWMENT?

- Twenty five years ago, the external endowment ran on autopilot. Investments were restricted and distributions were generally limited to "net income".
- The adoption of UPIA and UPIAIA have changed all that. UPIA permits the adoption of the modern portfolio theory investment strategies. UPIAIA enables distributions which are not limited to "net income".
- Since the Gramm-Leach-Bliley Act of 1999, the financial services sector has seen tremendous consolidation. This consolidation has impacted the trust operations of many corporate fiduciaries, some of whom are using call centers.
- Just as the complexity, and potential for increased investment return, has increased, the resources of many corporate fiduciaries have been stretched.

PAGE 6

MONITORING THE EXTERNAL
ENDOWMENT – KEY ISSUES

- Investment Objectives – What you should know
- Each trust account should have an investment objective tailored to the nature and duration of the trust account.
- The investment objective should have a total return target which covers the required distributions, the expected costs and expenses of managing the account and the expected rate of inflation.
- For example, a charitable income trust, which makes 5% distributions, and has annual fees and expenses of 1.5%, needs to have an investment objective with an expected total return of between 8.5% and 10%.
- Charitable trusts which do not have expected total returns which exceed expected distributions and inflation, will lose purchasing power overtime.

PAGE 7

MONITORING THE EXTERNAL
ENDOWMENT – KEY ISSUES

- Performance Reporting – What you should know
- You should annually request a performance report showing how each trust account performed relative to an appropriate blended benchmark.
- A trust account which has annualized returns of 10% sounds great, but not when the benchmark returns are 20%.
- Make sure the blended benchmark being used is appropriate. For example, a trust account with an equity/fixed income weighting of 65% equities and 35% fixed income should be compared to a blended benchmark of the same weighting.
- In addition to the weighting, make sure that sub-asset class performance is being measured against an appropriate index.

PAGE 8

MONITORING THE EXTERNAL
ENDOWMENT – KEY ISSUES

- Proprietary Mutual Funds and Common Trust Funds.
- The use of proprietary mutual funds and common trust funds is generally expressly permitted under most states' laws.
- There can be advantages to using proprietary mutual funds and common trust funds, primarily on the cost side and primarily for the common trust funds which do not have '40 Act reporting expenses.
- The use of a proprietary mutual fund or common trust fund should be gauged like any other investment vehicle. If the fund in question continually underperforms its benchmark and/or its peer funds, it should be divested.
- Index funds may offer a compelling low cost alternative.

PAGE 9

MONITORING THE EXTERNAL ENDOWMENT – KEY ISSUES

- **Distribution Rates and Intervals.**
- It is important to know how your trustee determines your distribution rate as well as the frequency of the payments.
- If the trust is a private foundation, ask your trustee to make quarterly distributions of an amount equal to what they expect the RMD to be.
- If the trust is not a private foundation, ask your trustee to make an adjustment under the UPAIA to fund a 5% payout.
- In addition to the UPAIA, some states have other statutes which specifically address charitable trust distributions, e.g. the Pennsylvania Charitable Trust Statute and the Ohio Institutional Trust Funds Act.

PAGE 10

MONITORING THE EXTERNAL ENDOWMENT – KEY ISSUES

- **Trustee fees and expenses.**
- Trustee fees only move in one direction.
- There are not many options available to challenge trustee fees.
- The best means of taking issue with high trustee fees is to make the trustee earn the fee. Some corporate fiduciaries will offer charitable discounts. You need to ask for this.
- Expenses have to be specific, reasonable and necessary.
- If your trust incurs legal expenses, you have the right to know why and you have right to the work product, i.e. legal opinion.
- If there is a silver lining to high trustee fees/expenses, it is that they will inevitably lead to more non-economic trusts which can be terminated administratively or judicially.

PAGE 11

MONITORING THE EXTERNAL ENDOWMENT – KEY ISSUES

- **Non-economic trusts.**
- A trust becomes non-economic when the value of the trust becomes insufficient to justify the costs of administration.
- Most states have statutes which permit the administrative termination of noneconomic trusts. The Uniform Trust Code establishes the threshold at \$200,000. Varies by state.
- Regardless of the threshold, a trust is also non-economic where the fees and expenses consume an inordinate portion of the economic benefits being generated by the trust.
- Illinois has a statute which describes a trust as non-economic when the fees and expenses of the trust exceed 20% of the distributions being made to the charity.

PAGE 12

MONITORING THE EXTERNAL
ENDOWMENT – KEY ISSUES

- **Supporting Organizations and Private Foundations.**
- Tax Reform Act of 1969 bifurcated the charitable trust world by creating the private foundation designation.
- Congress acted out of a concern that tax-exempt funds were accumulating without a corresponding public benefit which merited the tax exemption.
- Divided the tax-exempt trust world into “supporting organizations” and private foundations.
- SO’s are generally tax-exempt trusts with designated beneficiaries who have the ability to enforce the terms of the trust under state law.
- SO’s are not subject to private foundation rules/regulations.

SLIDE 11

MONITORING THE EXTERNAL
ENDOWMENT – KEY ISSUES

- **Supporting Organizations and Private Foundations.**
- The private foundation category of tax exempt trusts includes trusts which do not have designated beneficiaries or trusts where the IRS is not satisfied that the beneficiaries would provide an appropriate level of oversight.
- PF’s are subject to a number of excise taxes intended to ensure required minimum distributions are made, to deter self-dealing and other abuses, to prevent certain business holdings.
- PF’s are also subject to a 2% excise tax on all investment income (IRC 4940). This tax was intended to fund PF oversight function within the IRS. This oversight function was never created and these taxes simply go to the general Treasury fund.

SLIDE 12

MONITORING THE EXTERNAL
ENDOWMENT – KEY ISSUES

- **Issues specific to Private Foundations.**
- The Pension Protection Act of 2006 effectively converted thousands of SO’s to PF’s. There were advantages and disadvantages to this.
- The required minimum distribution for PF’s is ~5%.
- The first tier excise tax for failing to make the RMD is 30%
- The second tier excise tax for failing to make the RMD is 100%.
- The excise tax becomes applicable one year and a day after the year in which the RMD was required.
- Many trustees wait until the end of this window of time to make the RMD, thereby causing accumulations of undistributed income.

SLIDE 13

**MONITORING THE EXTERNAL
ENDOWMENT – KEY ISSUES**

- **Uniform Trust Code.**
- The Model Uniform Trust Code was substantially revised in 2000 and has since been adopted by 27 states (Massachusetts, 2012).
- As revised, the UTC has a number of provisions which should be helpful to the beneficiaries of charitable trusts.
- *Non-Economic Trusts* - \$200,000 threshold.
- *Non-judicial Settlement Agreements* - Provides for the non-judicial resolution of trust issues by the agreement of the interested parties.
- *Trustee Removal Standards* – Substantial change in trustee removal standards. Court may remove trustee upon request of beneficiaries if removal best serves the interest of beneficiaries.

INCE II

**MONITORING THE EXTERNAL
ENDOWMENT – WAR STORIES**

- Trust portfolio review included review of the ABC Trust, a perpetual “net income” trust that held approximately \$9.2 million in principal assets. It was established in 1951 to support two national charities.
- Trust was distributing net income of approximately 2.5% annually.
- Applicable state law provided several options for increasing distribution of payouts to beneficiaries of net income trusts, none of which had been considered by the trustee.
- Trustee agreed to adopt 4.5% spending policy under UPAIA, resulting in approximately \$180,000 in incremental distributions per year.
- Trustee also agreed to make a retroactive adjustment for prior years which resulted in a one-time distribution of almost \$400,000.

INCE II

**MONITORING THE EXTERNAL
ENDOWMENT – WAR STORIES**

- Trust portfolio review included review of the XYZ Trust, a perpetual “net income” trust that held approximately \$6.4 million in principal assets. The trust was created for the benefit of five colleges and universities.
- Review revealed that the XYZ Trust had been making payments of federal and state income taxes notwithstanding the fact that the XYZ Trust had been exempted from federal and state income taxes.
- Intercession led to the recovery of more than \$300,000 of taxes together with interest for the multi-year period over which such taxes had been paid.
- In light of this gross oversight, the trustee agreed to a multi-year waiver of their fees and a modification of the distribution methodology to facilitate a better cash flow.

INCE II

MONITORING THE EXTERNAL
ENDOWMENT – WAR STORIES

- Trust portfolio review included review of the LMN Trust, a split interest trust with approximately \$22 million in assets.
- The LMN Trust annually distributes \$6,000 per year, or 0.03% of its current asset value, to two life-time annuitants who are in their mid-eighties. A national charity is the sole remainderman.
- The terms of the trust instrument permit the trustee to distribute principal to the remainderman if the trustee believes interests of the life annuitants are protected.
- Client received more than \$12.6 million from this trust as well as a commitment from the trustee to annually distribute the excess of the trust's value over \$10 million.

PAGE 19

MONITORING THE EXTERNAL
ENDOWMENT – WAR STORIES

- Trust portfolio review included review of the QRS Trust, a non-qualified split-interest trust with approximately \$32 million of principal assets. The beneficiaries were three national charities.
- The QRS Trust annually distributes an annuity which was then equal to less than 0.5% of the trust's value. The trustee fee was approximately 1% of the trust's value
- Client requested that the trustee file a court petition requesting a partial termination of the trust. The trustee refused whereupon our client filed a petition for a partial termination on behalf of itself and the other charities.
- The matter was successfully resolved in mediation resulting in a partial termination of the trust and a distribution of \$15 million (plus expenses) to the three charities.

PAGE 20



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PAGE 21

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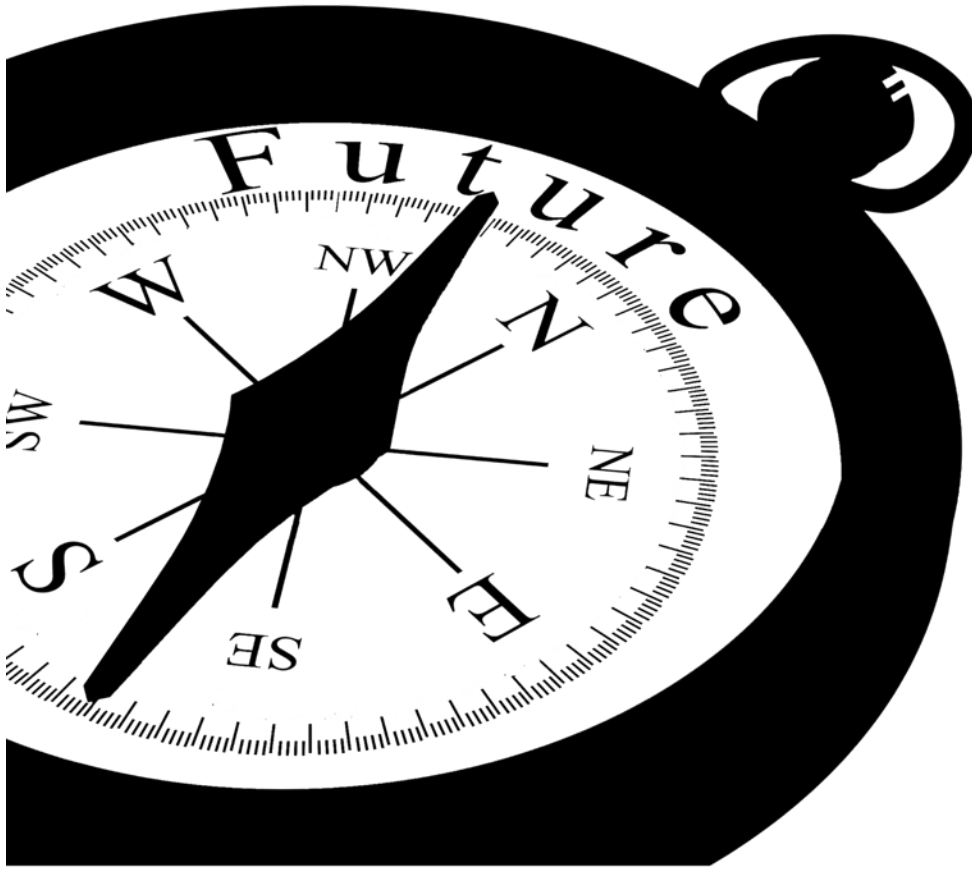
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Experienced Gift Planners
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Planned Giving Specialists
Development Directors
Financial Advisors



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Creative Charitable Planning with Non-Cash Assets (Track II, III)

Presented By

Bryan K. Clontz, CFP®, CLU, ChFC, CAP, AEP

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Creative Charitable Planning with Non-Cash Assets:

A Case Study Approach

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Agenda

- Non-Cash Market Overview
- Non-Cash Asset Types
- A 5-Minute Non-Cash Tax Seminar
- Legislative Update
- Reasons Non-Cash Assets are Declined
- Top Ten Non-Cash Questions
- Three Case Studies
- Non-Profit Management and Disposition

Non-Cash Asset Market Overview

- More than half of affluent investors' assets are held in non-cash assets; cash only represents 3-5%
- Aggregate stock market value is approximately \$16 trillion; non-cash market estimates are \$40-60 trillion
- Of the \$316 billion in donations last year, non-cash assets are estimated to be 5% or less

Source: Spentier Group and Charity Trends.com 2004

Non-Cash Asset Types

- Real Estate
 - Residential vs. Commercial, Encumbered vs. Unencumbered, Partial vs. Entire Interests
- Privately-Held Interests
 - C-Corp and S-Corp Stock, Limited Partnerships or LLCs
- Restricted Stock
- Tangible Personal Property – Art/Collectibles (New PPA Rules)
- Weird Stuff
 - Quarterhorse, Seat on New York Mercantile Exchange, Gold Bullion, Euro-Denominated Bond, Beach House in Mexican Land Trust, Paris Condo, UPREIT Partnership Units, Patents, Timber Deeds, Clay Mineral Rights, Book Royalties, Oil & Gas Interests, Hedge Fund Carried Interest, NFL Team, and finally, Dead Animals

A 5-Minute Non-Cash Seminar

- Cash BAD – Everything else GOOD!
- Capital gain property receives a fair market value deduction AND an elimination of capital gains tax if donated to a public charity
- If donated to a private foundation, donations of non-cash assets during life only receive an adjusted cost basis deduction
- Public charities do not have a 5% payout requirement – private foundations do
- Donor advised funds are especially attractive for multiple grants

Appraisal Considerations

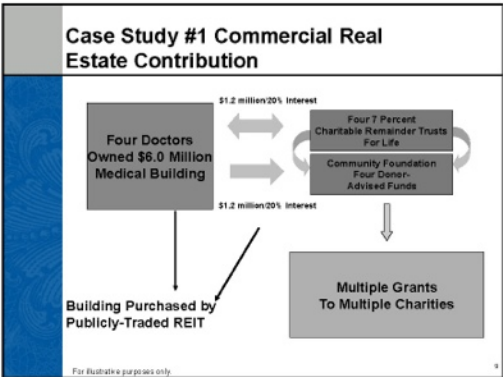
- Appraisal may occur 60 days prior to gift at the earliest, and the latest being the time the donor files the tax return – Donor completes Form 8283 and Charity completes Form 8282
- Pension Protection Act Key Changes

80% Of All Non-Cash Gifts Rejected

- Tax and Legal Complexity
- Environmental Issues
- Management Issues
- Charity's Internal Process
- Perceived/Real Risk/Reward Ratio

Top Ten Non-Cash Questions

- Asset Description/Expected Value
- Asset Ownership
- Partial or Entire Interest
- Debt or Other Encumbrances
- Outright, Life-Income or Testamentary
- Capital or Ordinary Asset
- Tax Implications
- Potential Buyers and Offer Status
- Holding Period and Management Issues
- Transfer Timing



**Case Study #2
Closely-Held Business**

1. Donor Contributes Stock – Receives Full Deduction
 2. Company Buys Stock Back
 3. Minority Interest Holders Increase Percentage Ownership With No Gift Tax
 4. Donor Creates Named Research Fund

For illustrative purposes only

Case Study #3: S-Corp UBIT Solution/Dechomai Asset Trust Donation Flow

Deduction: \$1M of S-corp stock with \$200K adjusted basis

UBIT at trust rates (\$800K @ 20%) = \$160K in tax but receives 50% AGI deduction to \$80K tax

Non-Profit Management and Disposition

- Assign One Staff Person Non-Cash Responsibility
- Document/Transaction/Asset Due Diligence
- Self-Dealing, Conflict-of-Interest, Private Inurement Due Diligence
- Prudently Manage Asset
- Manage Disposition
- Manage Risk

Creative Charitable Planning with Non-Cash Assets

This outline is intended to be a practical guide for recognizing noncash opportunities, minimizing risk, maximizing donor service and magnifying gifts. It will also point to a number of additional, more technical resources once you have one “on the hook.”

I. The Non-Cash Market

For purposes of this presentation, non-cash assets are all assets other than cash, publicly-traded stock or mutual funds. Some typical examples would include real estate, privately-held business interests (sole proprietorship, C or S-Corp stock, limited and general partnerships and LLCs) restricted stock, tangible personal property, notes and other miscellaneous weird stuff. **Combining all these assets, the aggregated value is estimated to be 4 to 6 times that of the entire stock market, yet 80 percent of these types of gifts are initially declined by charities.**

II. Typical Major Donor Holdings

The larger the donor’s wealth, the greater the likelihood of non-cash holdings and the greater the proportion of the holdings relative to other assets. The majority of millionaires created their wealth through real estate or privately-held business interests. From a planning perspective, these same interests are likely to have a very low tax basis and are therefore ideal for charitable planning opportunities.

III. Challenges: Why are 80% of these gifts initially declined?

Any fundraiser with experience has heard all the reasons why these gifts should not be accepted – tax and legal complexity, on-going management issues, environmental issues, liquidation issues and the struggle with internal policies and procedures.

IV. The Big Ten Non-Cash Questions

1. What is the asset and what is its fair market value?
2. Who/what owns the asset?
3. Is it a gift of a partial or entire interest?
4. Does it have any debt?
5. What are the donor’s goals – outright gift, life income gift or testamentary gift?
6. Is it a capital asset or ordinary income asset?
7. Are there any tax implications to the donor or the charity?
8. Are there any potential buyers and, if so, how far along are the discussions?
9. What is the expected holding period and what management issues should be addressed?
10. When does the donor wish to make the transfer?

Certainly any gift will require more questions that are specific to the transaction but these questions should quickly qualify or disqualify a prospective gift. Further, a detailed memo of understanding is used to disclose the process, what party is responsible for what function and any fees that will be charged to the donor.

V. Four Case Studies: Outright and Deferred Gift Planning with Non-Cash Assets

A. CGA: Four Doctors and a REIT

Four doctors had practiced together for 21 years. During that time, they purchased the medical office building and it was owned in 25% common tenancy. A real estate investment trust had approached them about selling the property and then lease it from the REIT. The tentative offer was for \$6.3 million. The doctors had an aggregate adjusted tax basis of \$450,000 with no debt. At the same time, the doctors had an interest in supporting a local

Boys & Girls Club that was in the midst of a capital campaign. They wanted to maximize a guaranteed fixed income and were concerned about the financial health of the local Club.

What are the issues? What would you suggest?

B. Outright Gift: New York Mercantile Exchange Seat

A donor approached CNYCF with a gift of an exchange seat that was worth \$1.4 million dollars. The Exchange actually had a constant anonymous bid/offer function through their membership division. She wanted to make an outright gift.

What are the issues? What would you suggest as the next steps?

C. CRT/Outright Gift: Closely-Held C-Corp

Donor approaches CNYCF representative with an interest in a combination gift of his closely-held C-Corp. He wants to create a net income with make-up Flip-CRUT with \$1 million and he wants to make an outright contribution of \$500K. His company plans to redeem the shares at the appraised value but the company can only buy back \$500K per year over three years.

What are the issues? What would you suggest?

D. CLT: Real Estate Millionaire with Limited Partnerships

A donor with a large portfolio of commercial real estate owned by limited partnerships has a strong charitable interest. He also wants to transfer \$5 million of the property down to his two children in a tax advantaged way. During your meeting he said, "If they can't make it on \$2.5 million, they don't deserve to make it." The donor will have three times the income this year than he will in future years (he is retiring).

What are the issues? What would you suggest?

VI. Missing Out on Non-Cash Asset Gift Opportunities? Avoid the Risks and Get the Gift (Reprinted with Permission from Planned Giving Today)

Outright charitable gifts of non-cash assets will probably forever be the tax geek's dream and the charity's nightmare. From the donor's tax perspective, usually cash is the worst gift option, appreciated stock is usually next best and some form of wiggling, crawling (but hopefully not glowing) real estate might be the best. You have surely heard all the statistics: privately held non-cash assets represent approximately four to six times the entire value of the stock market, yet over 80 percent of these gifts are estimated to be initially declined by charities, and of those gifts accepted, they represent approximately two percent of all giving. What follows are suggestions on how to better position your charity to receive these assets either directly or indirectly with as little risk as possible.

Why Do Charities Frequently Decline Non-Cash Assets?

In general terms, non-cash assets include all forms of real estate, closely held C and S-Corp stock, limited partnerships, artwork and collectibles, and other assets. All of these have distinct and inherent risks. For real estate, the risks are more obvious: environmental issues, liquidation concerns, property management functions, etc. For limited partnerships, the risks might be more subtle: potential capital calls, ongoing UBIT liability, increased annual audit discussions, etc.

How to Establish a Non-Cash Risk Management Plan

For non-cash gifts, it is critically important to establish a risk management plan. I suggest viewing these gifts on a continuum from 1-10. My non-scientific legend is: 1 = cash gifts, 2 = publicly-traded appreciated securities, 3 = mutual fund gifts, 4 = closely held C-Corp stock, 5 = personal residence with no debt and strong

marketing potential, 6 = limited partnership/LLCs/S-Corp stock, 7 = commercial or out-of-state residential real estate, 8 = any asset with potential liability (like poor marketing potential, existing mortgage, problem tenants or property), 9 = any asset with probable liability (like outstanding property problems, complex tax consequences or a complex marketing process for assets like tangible personal property), 10 = any asset with known liability (environmental issues, zoning issues or outstanding capital call).

Most charities are very comfortable going to a 3 or 4 on the continuum where some are willing to tread into deeper waters. Asking a fundraiser where the ideal placement would be will usually yield of response of a 7 to 8. Not surprisingly, asking the financial officer will usually place the charity around the 3 or 4 range. To establish a customized risk management plan – what risks to retain, reduce, transfer or avoid - it is important to understand how risk tolerant the charity is and what the loss possibilities might be. The next step is to determine if your charity wants to receive the gift directly or if you should refer the gift elsewhere and still try to receive some benefits.

How to Receive a Non-Cash Gift Directly

To receive any form of non-cash gift, it is critical to have well-drafted and approved gift acceptance policy and procedure manual that sets forth what assets will be accepted, in what form and in what way. This document should also describe various risk reduction strategies including, but not limited to, environmental appraisal, market assessments, site inspection, document review, formulating a gift acceptance committee, using a separate corporation/trust (typically a Type II supporting organization), legal counsel review, etc.

The benefits of receiving a non-cash gift directly include maximizing the gift value and having more donor relations and legal control. The costs of receiving a non-cash gift directly include identified and unidentified risks, staff time and associated direct and indirect expenses.

Even with the best of policies and procedures and risk reduction strategies, charities will not be able to capture all the non-cash asset opportunities that present themselves. Beyond the gift falling outside the charity's comfort zone, the most common reason for declining or losing non-cash assets is the lack of decision-making speed. Many donors will call on Monday and will want an answer by Thursday. This always seems to happen when each member of the gift acceptance committee is vacationing on different continents. When this occurs, rather than losing the entire gift, charities should be aware of other options.

How to Receive a Non-Cash Gift Indirectly Using Charitable Intermediaries

If your charity cannot accept the asset directly there are two primary ways to still get the gift using charitable intermediaries. These intermediaries come in two primary forms: community foundations (including local, state-wide, religious foundations or national donor advised funds) or non-cash pass-through charities.

Community foundations have long served an important role in accepting complex assets on behalf of other charities. Generally, they take on all the risks that have already been mentioned when accepting the gift, manage the assets and liquidate the property. The proceeds are then typically added to an endowed fund in the charity's name with the spending policy defining what income interest will be granted annually. In some cases, the community foundation will allow the proceeds to be deposited in a donor advised fund with the donor retaining the ability to advise or recommend future grants (these funds can be endowed – only allowing advice on the income, or non-endowed – allowing advice on the principal and income). Community foundations usually do not charge an up-front fee for this service if the asset will remain over time. This allows them to recoup some of their initial acquisition costs through an annual administrative fee.

New options have been developed in recent years that use a community foundation structure, but the mission is only to receive non-cash assets, manage them, liquidate them and then grant them back to the charity the donor was trying to give it to in the first place. The two foundations that serve this particular niche are the Dechomai Foundation, Inc. – www.dechomai.org (using Charitable Solutions, LLC as an administrator) and the National

Real Estate Foundation, Inc. – www.nationalrealestatefoundation.org (using Chase Magnuson as a consultant). Both public charities assume all the risks (the referring charity is not in the chain of title), provide the tax acknowledgement to the donor and then immediately grant the net proceeds after liquidation as a donor advised fund grant. Fees generally range from 1 to 10 percent and are based on the asset size, overall complexity, contribution timing and liquidation difficulty. These organizations, depending on the group, may also provide other charitable consulting services to help charities receive non-cash gifts directly, non-cash gift annuities and serving as initial trustee on CRTs with illiquid assets.

This section is not intended to promote or endorse any particular vendor, structure or strategy, only to make planned giving practitioners aware of the various options available should they wish to explore non-cash receipt and liquidation alternatives.

Summary

Noncash assets will continue to be an under-tapped but lucrative development strategy for charities. By understanding what assets are likely to be donated, developing a risk tolerance profile for an organization, plotting that profile on a risk continuum, developing sound gift acceptance policies and procedures with risk reduction strategies, and finally a policy about when and where to refer non-cash assets that are not conducive for direct receipt, a charity can maximize their non-cash asset success.

VII. Additional Resources

There are two especially comprehensive resources in the non-cash area. The first is Kathryn Miree's new book, Professional Advisors' Guide to Planned Giving which can be purchased at www.aspenpublishers.com. It is one of the best books I have ever seen on planned giving and I would strongly suggest that you make it part of your library. You will be pleased to see that it takes a very practical approach on every component of planned giving.

The second resource is the Planned Giving Design Center (www.pgdc.com). The free site has a wealth of free information ranging from articles on S-Corp stock gifts, Savings Bonds, Life Insurance, Real Estate, Bargain Sales, Stock Options and on and on. It also has technical overview sections on Real Estate, Tangible Personal Property, Intangible Personal Property and all life income vehicles.

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Financial/Estate/Tax Planning Considerations for Top Ten Non-Cash Asset Contributions

Asset Type	Various Forms	Unique Issues and Potential Traps	Planned Gift Issues	Additional Comments
Real Estate <i>Deduction: FMV</i>	Residential, commercial, domestic or foreign, leasehold/life or remainder interest	Environmental liability, holding period management, accelerated depreciation, negative basis, debt (note "5-and-5 UBTI exception"), pre-arranged sale	Ideal for FLIP-CRUT, difficult for CRAT and CGAs because of marketability	Real estate represents nearly 50% of privately held wealth, estimated at twice the entire stock market. Yet only 2% of all charitable gifts are real estate.
Closely-Held Stock <i>Deduction: FMV</i>	C-Corp or S-Corp	Thin to non-existent market, difficult valuation, self-dealing without independent appraisal, pre-arranged sale, S-Corp UBTI issues	Ideal for FLIP-CRUT with no known liquidation event – other vehicles work for corporate redemption or market sale	Private company contributions are very popular prior to a market sale. S-Corp gifts to a trust are tax-effective prior to sale or to a corporation if held.
LLC Interests <i>Deduction: FMV</i>	Tax status may be corporate or partnership	Same as Closely-Held and characteristics of underlying assets and potential capital calls, multiple shareholders/assets difficult	Same as Closely-Held	Charities usually want the LLC interest for liability protection. Multiple shareholders make this option difficult.
Partnerships <i>Deduction: FMV</i>	General, Limited or Operating	May be difficult or expensive to appraise, characteristics of underlying assets, general partnerships have full liability, partnerships with negative basis	Limited partnerships are particularly good funding assets for Lead Trusts.	For LLCs and Partnerships, appraisal discounting may apply.
Life Insurance/Annuities <i>Deduction: Lesser of Adjusted Cost Basis or FMV</i>	Paid-Up and Non-Paid Up Life Insurance – Variable or Fixed Deferred Annuities	Non-paid up policies, "Stranger-Owned" or premium financed, or gifts with policy loans are more difficult. Paid-up whole life policies work well. Annuities trigger gain upon transfer.	Life insurance is an excellent life-time or testamentary gifts (through beneficiary designation). Annuities are only attractive as testamentary gifts because of IRD.	Life insurance can be an excellent wealth replacement tool for any planned or outright gift. Premiums can be paid with appreciated property.
Mineral Interests <i>Deduction: Varies</i>	Oil/Gas Working or Non-Working Interests, Timber, Other Minerals	Valuation difficult, tax law very complex and state rules may govern (e.g., timber).	Very difficult but possible.	These assets are typically held in partnerships or LLCs so those rules apply as well.
Restricted Stock <i>Deduction: FMV</i>	Section 144 or 145	Appraisal requirement, lock-up period	Restricted stock can easily be used for just about every planned gift	Restricted stock should be coordinated with an experienced broker.
Stock Options <i>Deduction: Varies</i>	Qualified (ISOs) or non-qualified	"In-the-money" option transfers trigger gain to the donor at ordinary income rates at the time of gift.	ISOs can be excellent funding assets provided they are exercised and then held for over a year.	Qualified replacement stock from an employer retirement plan/ESOP can work well for both outright and planned gifts.
Collectibles/Art <i>Deduction: Basis for non-related use/FMV for related use</i>	Art, coins, antiques	Valuation, insurance, storage, transaction costs, complex structures like private operating foundations are sometimes uses	Tangible property work fairly well for nearly all forms of planned gifts – cost basis deduction is an issue however. Testamentary gifts are ideal.	New PPA 2007 rules severely tighten partial interest art gifts. Capital gains taxes remain at 28% federal so there is an extra tax benefit in tangible property donations.
Intellectual Property <i>Deduction: Varies</i>	Patents, royalties, copyrights Revenue or non-revenue producing	Valuation cost, disposition process	Work best as testamentary gifts to receive step-up in basis.	2004 Act reduced attractiveness of patent/royalty gift to basis.

This table has general information and should not be relied upon as tax, legal or financial advice.
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Gift Acceptance/Management/Disposition Considerations for Top Ten Non-Cash Asset Contributions

Asset Type	Liability/Cost Exposure	Risk Management/ Due Diligence	Acceptance Issues	Staff Role	Disposition Alternatives
Real Estate	Environmental, UBTI, liens, IRS penalties, accident claims, up-front due diligence expense, on-going holding costs, remediation or improvement cost, time-to-reward ratio, fiduciary risk	Indemnification letter, environmental audit, survey, BPO or appraisal, insurance, site inspection with pictures, determine property's history, develop sales plan - review all deeds, lease agreements, rental agreements, inspection reports, donor should complete disclosure checklist citing any known issues, outsource to another charity	Conflicts of interest, valuation, self-dealing, implied or expressed restrictions	Tax substantiation – 8283/8282, due diligence, change insurance /utilities, execute transfer documents, donor communication, audit preparation, manage disposition <u>Note: One person should manage all illiquid assets.</u>	1. Hold (not usually recommended) 2. Sell to private buyer (unrelated party) 3. List with broker
Privately-Held Stock/LLC/Partnerships	Capital calls, indemnification clauses, lack of control with minority gifts, UBTI and specific issues related to underlying property	Indemnification letter, independent appraisal, review financials if appropriate, develop sales plan, review all entity documents	Thin to non-existent market, difficult valuation, self-dealing without independent appraisal, S-Corp UBTI issues	Tax substantiation – 8283/8282, due diligence, execute transfer documents, donor communication, audit preparation, put stock certificate or assignment document in safe. Check in with company annually to see if there has been any material change.	1. Sold back to entity 2. Sold in open market transaction 3. Sold to private unrelated buyer
Life Insurance/Annuities	Virtually none except as it relates to complex foundation-owned, charity-owned and investor owned contracts – so split interest gifts are allowed.	IRS has listed a number of reportable transactions – be cautious to comply with reporting requirements. Also review the illustration or policy being considered and have a memo outlining the donor's premium paying responsibilities and the charity's options for non-compliance.	Work with agent to illustrate any non-paid up (universal or variable life policies) at 2% under the current crediting rate.	Tax substantiation – 8283/8282, due diligence, execute transfer documents, donor communication, audit preparation, manage policies annually to determine health. Put donor in contact with a qualified insurance appraiser.	1. Usually held to death 2. Cash surrender to company 3. Reduce paid-up 4. Sold to life settlement companies
Mineral Interests/Intellectual Property	None other than potential capital calls	More than any other asset, having a well-designed sales plan prior to acceptance is critical	Marketability, appraisals	Tax substantiation – 8283/8282, due diligence, execute transfer documents, donor communication, audit preparation	1. Hold (not recommended unless strong income payments) 2. Sold via broker 3. Sold privately
Restricted Stock/Stock Options	Post-contribution loss possibilities during restricted or holding period	Review all restrictions and option agreements	None	Tax substantiation – 8283/8282, due diligence, execute transfer documents, donor communication, audit preparation	Sold with broker as soon as restriction is lifted
Collectibles/Art	None other than post-contribution holding expenses	Review history of collection, document with pictures	Work with broker /appraiser to assess value prior to acceptance	Tax substantiation – 8283/8282, due diligence, execute transfer documents, donor communication, audit preparation, insurance, storage	1. Auction sale 2. Private buyer 3. Broker

This table has general information and should not be relied upon as tax, legal or financial advice.

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Additional Readings for Non-Cash Assets

Real Estate

1. Planned Giving Design Center – Technical Report on Real Property (<http://www.pgdc.com/usa/item/?itemID=60165>)
2. Gifts of Real Estate – (<http://www.pgdc.com/usa/item/?itemID=23747>)
3. Gold in the ground: A Practical Guide to Developing and Accepting Gifts of Real Estate, Myerberg, Neal - Journal of Gift Planning, Volume 10, Number 2, June 2006 , pp. 11-43(33)
4. Real Estate Gifts--Beyond the Basics, Carovano, J.; Nash, Anne Journal of Gift Planning, Volume 7, Number 3, 1 September 2003 , pp. 5-41(37)
5. Contributing Mortgaged Property to Charity, Peebles, Laura – (<http://www.pgdc.com/usa/item/?itemID=27287>)

Closely-held Stock/LLC/Partnerships

1. Planned Giving Design Center – Technical Report on Privately-Held Interests (<http://www.pgdc.com/usa/item/?itemID=60431>)
2. Gift Partnering with Entrepreneurial Donors, Ticconi, Peter Journal of Gift Planning, Volume 4, Number 3, 1 September 2000 , pp. 11-33(23)
3. Charitable Gifts of Subchapter S Stock: How to Solve the Practical Legal Problems, Hoyt, Chris (<http://www.pgdc.com/usa/item/?itemID=24792>)
4. Tax Saving Opportunities for Charities Owning Subchapter S Stock, Peebles, Laura (<http://www.pgdc.com/usa/item/?itemID=25732>)
5. Issues to Consider When Making and Accepting Gifts of Restricted Stock, Franklin, J and Shevlin, D (<http://www.pgdc.com/usa/item/?itemID=28116>)

Life Insurance/Stock Options/Collectibles/Intellectual Property

1. Life Insurance: The Good, The Bad and the Ugly, MacNab, JJ Journal of Gift Planning, Volume 5, Number 1, 1 March 2001 , pp. 17-44(28)
2. Charitable Gifts of Life Insurance, Clontz, B and Brink, M. (<http://www.pgdc.com/usa/item/?itemID=27962>)
3. Navigating Stock Options and Other Stock Rights, Ott, D. and Lew, R. (<http://www.pgdc.com/usa/item/?itemID=27235>)
4. Planned Giving Design Center – Technical Report on Intangible Property (<http://www.pgdc.com/usa/item/?itemID=60379>)
5. Planned Giving Design Center – Technical Report on Tangible Property (<http://www.pgdc.com/usa/item/?itemID=60229>)

Gift Acceptance/Management/Disposition

1. Understanding and Drafting Non-Profit Gift Acceptance Policies, Miree, Kathryn (<http://www.pgdc.com/usa/item/?itemID=26663>)
2. The Hazards of Unmanaged Life Insurance Policies, Barney, A. (<http://www.pgdc.com/usa/item/?itemID=27755>)

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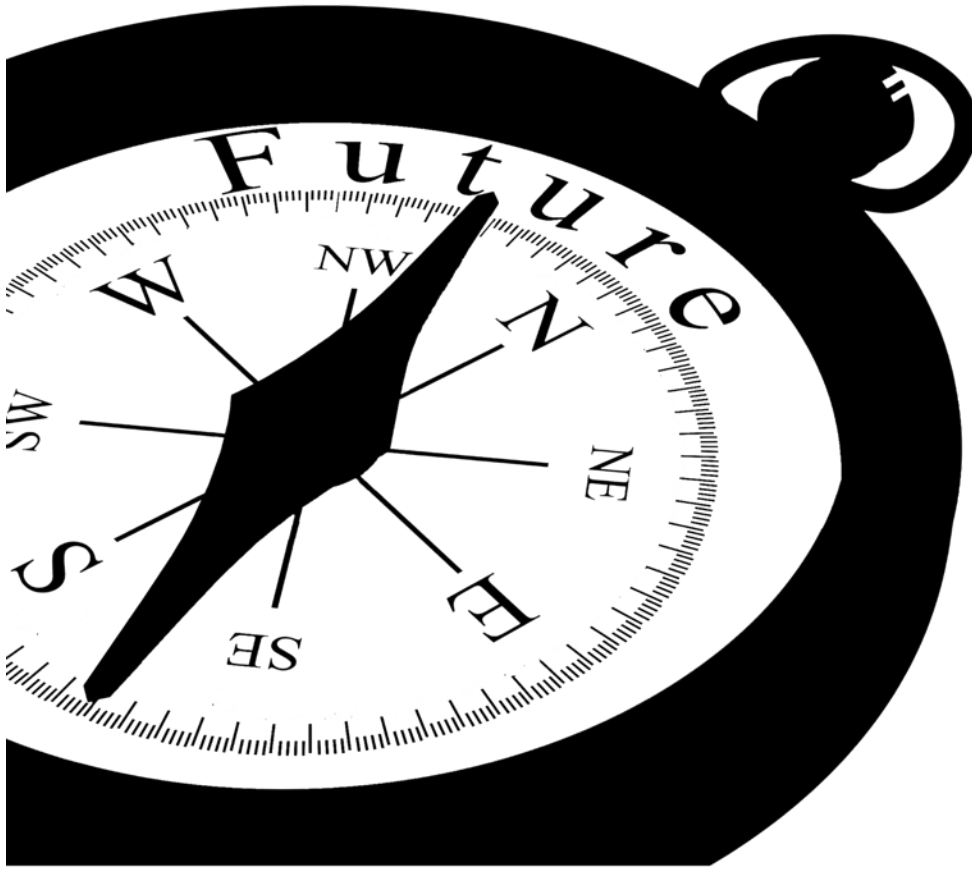
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UPMIFA (Track III)

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Uniform Prudent Management of Institutional Funds Act

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1

What's UP with UPMIFA?

- History of Endowments and UPMIFA
- Definition of Endowment
- Creation of Endowments
- Restrictions and Changes Over Time
- Investment Policy
- Spending Policy
- Accounting Issues
- Fundraising for Endowments

2

History of Endowments and UPMIFA

3

Endowments in the News

- Is endowment appropriate for your mission (religious, short-term programs)?
- *Robertson v. Princeton University* – see <http://www.princeton.edu/robertson/about/>
- Senate Finance Committee inquiry into university endowments
- Compensation of investment managers
- Impact of Great Recession of 2008
- *Socially Responsible Investing (SRI)*: fossil fuels, health concerns, political issues

4

An Ancient Concept

- Plato's will to ancient Rome
- Middle Ages thru 18th-19th Century England
- Imported to early U.S. with English trust law
- *Harvard College v. Army*: "Prudent Man" Rule



5

Problems with Old Trust Law

- Trustees of charitable trust subject to negligence standard of liability
- Analyzed risk on a per asset basis per original Prudent Man Rule
- Goal to preserve principal and spend income
- Spending "income" (dividends, rents, interest, etc.) limited investment options prior to creation of UPIA (Uniform Prudent Investor Act), i.e., spending realized gains
- Could not delegate investment authority

6

Emergence of UMIFA

- Emergence of Modern Portfolio Theory in 1950's: reduce risk, increase long term total return through asset class diversification
- Prudence now defined in a new way
- Ford Foundation study prompted Uniform Law Commissioners model law

7

UMIFA

- UMIFA (Uniform Management of Institutional Funds Act) promulgated by Uniform Law Commissioners in 1972 – legal support for implementation of Modern Portfolio Theory
- Can spend realized gains using a spending rate or formula
- Nonprofit corporate standard of gross negligence
- Can delegate investment authority

8


Historic Dollar Value

- UMIFA provided that a governing board may expend "net appreciation" (realized and unrealized gains) in the fair market value of a fund over his historic dollar value (HDV)
- HDV equals value of original and subsequent gifts on date(s) given plus any "accumulations" pursuant to direction in the gift instrument

9

The Underwater Problem

During a down market, this could mean suspension of spending if fund value was less than HDV (though many agreed that "income" – interest and dividends – could be spent)



30


Emergence of UPMIFA

- Uniform Prudent Management of Institutional Funds Act approved by Uniform Law Commissioners (ULC) in 2006
- <http://uniformlaws.org/>
- Passed in various forms in all states (and District of Columbia) except Pennsylvania (PA does not require recognition of HDV but imposes other considerations)
- **Note:** All references herein are to UPMIFA as promulgated by the ULC

31

Elimination of HDV

- Deleted historic dollar value requirement
- Prudent who? The board!
- Can spend when underwater, but must exercise prudent standards



32

Additional Changes with UPMIFA

- Modern articulation of prudent standards for investment and spending
- Applies to trusts, nonprofit corporations and other charitable organizations
- Updates standards relative to release and modifications of restrictions by donors

33

Application of UPMIFA: Who?

- Applies to charitable organizations regardless of state law organizational format: nonprofit corporations, charitable trusts, LLCs, unincorporated associations, etc.
- Does not apply to funds or trusts managed by individuals or corporate trustees.

34

Application of UPMIFA: When?

- UPMIFA applies retroactively to institutional funds created before the act unless a signed agreement with the donor promises a different approach such as application of UMIFA standards.
- UPMIFA is a "default" application in the absence of a signed agreement promising application of other standards as agreed by donor and institution.


35

Definition of Endowment

36

Who's on First?

- UPMIFA definition
- Financial Accounting Standards Board - FASB (Accounting) and 990 definitions



37

UPMIFA Definitions

"Endowment fund" means an institutional fund or part thereof that, under the terms of a gift instrument, is not wholly expendable by the institution on a current basis.

The term does not include assets that an institution designates as an endowment for its own use (i.e., "quasi-endowment").

38

Institutional Fund

Fund held by an institution exclusively for charitable purposes but NOT:

1. Program-related investments/assets
2. Fund held for an institution by a trustee that is not an institution
3. Fund in which a beneficiary that is not an institution has an interest

19

Institution

• Person, other than individual, organized and operated exclusively for charitable purposes (i.e., corporation, business trust, estate, trust, partnership, LLC, association, joint venture, public corporation, government unit or any other legal or commercial entity)

20

Institution

• Government or government subdivision
 • Trusts that (1) are not managed by corporate or individual trustees, and (2) after any non-charitable interests are terminated (e.g., charitable remainder trusts after term of years or lifetime income beneficiary interests expire if donor designates remainder for endowment)

21

Pooled Investments

- May pool assets from multiple types of funds for investment purposes to increase total return and reduce costs
- Assign units similar to mutual funds
- Collective investment pool is one "institutional fund" for purposes of UPMIFA standards for investment and delegation of authority
- Each individual fund for application of UPMIFA standards relative to spending and restrictions

22

Difference: UPMIFA – FASB/990

- FASB definition of endowment is broader.
- FASB encompasses all funds established to provide income for the support of an institution, including unrestricted funds set aside by the board.
- FASB Statement 117 requires both identification of funds as endowment and the allocation of each such fund to one of three categories: permanently restricted, temporarily restricted or unrestricted.
- See: FASB Statement 117, Glossary

23

FASB 117 Definition

An established fund of cash, securities, or other assets to provide income for the maintenance of a nonprofit organization. The use of the assets may be permanently restricted, temporarily restricted or unrestricted. Endowment funds generally are established by donor restricted gifts and bequests to provide a permanent endowment, which is to a permanent source of income, or a term endowment, which to provide income for a specified period.

24

FASB 117 Definition

The portion of a permanent endowment that must be maintained permanently – not used up, expended or otherwise exhausted – is classified as **permanently restricted net assets**. The portion of a term endowment that must be maintained for a specified term is classified as **temporarily restricted net assets**. An organization's governing board may earmark a portion of its unrestricted net assets as a board-designated endowment (sometimes called funds functioning as endowment or quasi-endowment funds) to be invested to provide income for long but unspecified period. A board-designated endowment...is not donor restricted and is classified as **unrestricted net assets**.

25

990 Instruction Definitions

- See: 990 Instructions
- **Endowment:** See temporarily restricted endowment, permanent endowment, and quasi-endowment. See also SFAS 117 (ASC 958-205-45).
- **Permanent (True) Endowment:** An endowment fund established by donor-restricted gifts that is maintained to provide a permanent source of income, with the stipulation that principal must be invested and kept intact in perpetuity, while only the income generated can be used by the organization. See SFAS 117 (ASC 958-205-45).

26

Temporarily Restricted

• **Temporarily Restricted Endowment:** Includes endowment funds established by donor-restricted gifts that are maintained to provide a source of income for either a specified period of time or until a specific event occurs (see SFAS 117 (ASC 958-205-45)), as well as all other temporarily restricted net assets held in a donor-restricted endowment, including unappropriated income from permanent endowments that is not subject to a permanent restriction.

27

Quasi-Endowment

- **Quasi-Endowment:** An endowment fund established by the organization itself, either from unrestricted donor or organizational funds, over which the organization itself imposes restrictions on their use, and which restrictions can be temporary or permanent in nature. These funds are sometimes referred to as board-designated endowments. See SFAS 117 (ASC 958-205-45).
- See 990, Schedule D, Supplemental Financial Statements

Accounting Issues

Need for Guidance

In 2008, the Financial Accounting Standards Board (FASB) issued staff Position 117-1 to provide guidance on the net asset classification of endowments in states that have adopted UPMIFA.

FASB 117-1: Disclosures in Financial Statements

- Board's interpretation of law (UPMIFA) that underlies net asset classification
- Description of spending policy
- Description of investment policy
- End of period net asset class totals and by type of fund, showing donor vis-à-vis board restricted endowment funds
- Reconciliation of beginning and ending balance of endowment in total and by asset class

Types of Donor Restrictions

- **Purpose Restrictions:** Restrictions include in a gift or fund agreements that limit expenditures from the fund to a specific charitable purpose or organization. Classified by FASB as temporarily restricted until funds are spent for stated purpose.
- **Endowment Restrictions:** Affect the timing and amount of distributions from a fund. Endowments can be permanent or a term of years. Classified by FASB as permanently or temporarily restricted.

FASB Staff Position 117-1

- The value of an endowment in excess of that which is permanently restricted is reported as **temporarily restricted** until such time as it is "appropriated for expenditure" at which time the amount becomes **unrestricted**.
- FASB **discourages** reporting as permanently restricted the "purchasing power" of a fund, i.e., historic dollar value increased by rate of inflation, not reduced by losses or expenditures.

FASB Staff Position 117-1

- Charity should classify "all or a portion" of gifts for endowment as **permanently restricted** based upon **explicit donor restrictions** for endowment and/or Board determination
- Example: Board could determine to classify "historic dollar value" as permanently restricted OR to classify none as permanently restricted due to variance power in agreement

Variance (Amendment) Power by Charity

Sample statement for community foundations:
 "To modify any restriction or condition on the distribution of funds for any specified charitable purposes or to specified charitable purposes or to specified organizations if in the sole judgment of the governing body (without the necessity of the approval of any participating trustee, custodian or agent), such restriction or condition becomes, in effect, unnecessary, incapable of fulfillment, or inconsistent with the charitable needs of the community or area served."
 Treas. Reg. 1.170A-9(f)(11)(v)(B)(1)

Classification Depends on Variance Power

- Sample gives power to modify the purpose but not to invade the endowed amount or principal. Therefore, Board must determine amount to be classified as permanently and/or temporarily restricted.
- Other variance power language could give power to invade principal, requiring the entire fund to be classified as unrestricted.

37

FASB 124

- Requires distributions and losses of an endowment be taken from the temporarily restricted asset class first then from the unrestricted asset class.
- Permanently restricted asset value would not change except by future gifts.

38

FASB 136

Charity irrevocably transfers assets to related or community foundation:

1. Foundation books as liability on its financial statement
2. Charity books as asset on its financial statement

Donors give to charity's fund at foundation:

1. Foundation books as asset
2. Charity does not reflect on its financial statement at all

39

Creation of Endowments

40

UPMIFA Definition: Gift Instrument

- Record or records, including an institutional solicitation, under which property is granted to, transferred to, or held by an institution or institutional fund
- A "record" is information inscribed in a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

41

Types of Records

- Gift agreements, contracts, memoranda
- Wills, trusts, deeds, conveyances
- Bylaws, articles of incorporation, meeting minutes, canceled checks
- Emails, electronic transmissions
- Fundraising letters, brochures, newsletters
- Governmental appropriation
- Matching gifts if allowed by matching entity

42

Record as Gift Instrument

- A record becomes a gift instrument if both the donor and the charity were or should have been aware of its terms when the donor made the gift
- Requires a "meeting of the minds"
- Example: Endowment gift for "general purposes" may be defined by purposes stated in articles of incorporation

43

Rules of Construction

- Words that create an endowment:
 1. "use only ... income", "interest", "dividends", or "rents, issues or profits"
 2. "to preserve the principal intact"
 3. words of similar import
- Unless other language in gift instrument limits duration or purpose

44

Drafting Pointers

1. Name of fund: donors, mentors, family
2. Biographical information for historic archives and use in promotion
3. Purpose(s) stated as preferences
4. Avoid purpose(s) that are too narrow, administratively burdensome
5. State alternative purposes
6. Avoid donor control
7. Variance or amendment power by institution if purposes become illegal, impossible impracticable, wasteful

45

Drafting Pointers

7. Description of outright and/or deferred or planned gifts at any time from any source
8. Disclosure of current and future investment, spending and fee policy application with control by board
9. Permission for promotion
10. Applicable law (reference to UPMIFA)
11. State of jurisdiction
12. Signed by donor and institution
13. Appendix to describe current gift


46

Restrictions - Changes Over Time

47

Protecting Donor Intent


UPMIFA requires charity to follow donors' instructions relative to creating an endowment as stated in written gift instruments



48

Modification with Consent

With donor consent, an institution may release or modify a restriction in a gift instrument on the management, investment, or purpose of an institutional fund.



49

Equitable Deviation

Upon application of institution, court may modify a restriction in a gift instrument regarding the management or investment if the restriction:

1. becomes impracticable or wasteful,
2. impairs the management or investment of the fund, or
3. the modification will further the purposes of the fund.
4. Attorney General must be notified.

50

Cy Pres

- If the charitable purpose or a restriction in a gift instrument becomes unlawful, impracticable, impossible to achieve or wasteful, the court upon application of an institution may modify the purpose or the restriction in a manner consistent with the purpose stated in the gift instrument
- Attorney General must be notified.

51

Small and Old Funds

If institution determines a restriction on management, investment or purpose is unlawful, impracticable, impossible, or wasteful, the institution with 60 days notice to the Attorney General may release or modify in whole or part if fund is:

1. Less than \$25,000,
2. More than 20 years old, and
3. Property is used consistent with purpose stated in gift instrument

52

Enforcement

- Attorney General can bring an action to enforce terms of a restricted gift.
- Others with standing may include officers, directors, trustees and members
- Donors may or may not have standing. *No standing: Carl Herzog Foundation v. University of Bridgeport*, 699 A.2d 995 (1997); *Standing: Sminters v. St. Luke's Roosevelt Hospital Center*, 723 N.Y.S.2d 426 (2001)

53

Investment Policy

54

UPMIFA: Focus on Generational Equity

- Needs and goals of today balanced with ...
- Needs and goals of the future



55

Factors : Managing & Investing

1. General economic conditions
2. Possible effect of inflation or deflation
3. Expected tax consequences
4. Role of each investment within portfolio
5. Expected total return from income and appreciation
6. Other resources of institution
7. Needs of institution/fund to make grants and preserve principal
8. Asset's special value or relationship to purpose of institution

56

Additional Considerations

- Consider differences with other state laws such as applicable nonprofit corporation code
- Individual assets judged in the context of the total investment portfolio and strategy suited to the institution
- Duty to diversify unless the purposes of the fund are better suited otherwise
- Within reasonable time, assets are retained or disposed and/or the portfolio rebalanced in compliance with distribution requirements of the institution

57

Conditions

- Subject to donor's intent in gift instrument and consider charitable purposes of institution
- Note: Does not mean the donors can dictate investments to charity
- Good faith application
- Duty of prudent care: "with the care an ordinarily prudent person in a like position would exercise under similar circumstances"

58

Duty of Loyalty

- Avoid personal financial benefit
- Avoid conflict of interest
- Act in "sole" interest of charity (trust law)
- Act in "best" interest (nonprofit corporation law)

59

Prudence is a Verb!

- Annual board-approved investment policy
- Duty to allow appropriate and reasonable costs
- Duty to verify facts
- May pool assets
- Authority to delegate management and investment functions



60

External Delegation

- Subject to limitations in gift instrument
- May delegate to external agent
- In good faith with prudent care to:
 1. Select agent
 2. Set scope and terms of delegation
 3. Periodically review agent's actions
 4. Agent owes duty of reasonable care
- If charity complies with standard, then not liable for decisions and actions of agent
- Subject to jurisdiction of charity's state courts

61

Internal Delegation

- Board may delegate to committees, officers and employees as authorized by state law
- Persons with special skills or expertise have a duty to so use in investing and managing the funds

62

Spending Policy

63

Conditions

- **Subject to** donor's intent in gift instrument and consider charitable purposes of institution
- **Good faith** application
- **Duty of prudent care:** "with the care an ordinarily prudent person in a like position would exercise under similar circumstances"

[64]

Factors for Expenditure or Accumulation

1. Duration and preservation of the fund
2. Purposes of institution and fund
3. General economic conditions
4. Possible effect of inflation and deflation
5. Expected total return from income and appreciation of investments
6. Other resources of institution
7. Investment policy of institution

[65]

Application

- Board-approved annual spending policy (unless donor requests and charity agrees to another spending approach)
- Assets are donor-restricted (**not unrestricted from a legal perspective**) until appropriated for expenditure
- To limit charity's authority, gift instrument must explicitly state
- "Endowment fund" may be of a limited duration (not perpetual) – term endowment

[66]

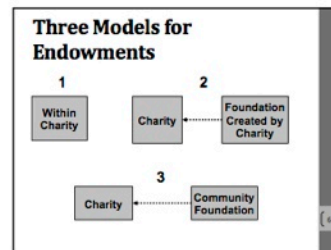
(Optional) Presumption of Imprudence

- **Rebuttable** presumption of imprudence if:
 1. Spending greater than 7%
 2. Calculated on basis of FMVs determined at least quarterly and averaged over a period of not less than 3 years preceding the year of expenditure
 3. If endowment is less than 3 years old, then calculate over entire life of fund
- No presumption of prudence if spending is less than 7%

[67]

Fundraising for Endowments

[68]



Model 1: Within Charity

- Gift agreement with charity for current or deferred planned gifts
- Board approved policies:
 1. Investment policy
 2. Spending policy
 3. Fee policy

[70]

Model 2: Related Foundation

Various legal models of affiliation:

1. 509(a)(3) supporting organization (Type 1, 2 or 3) of supported 501(c)(3)
2. 501(c)(3) affiliate of another 501(C) class of charity
3. Public university foundation per IRC Sec 170(b)(1)(A)(iv)

[71]

Rationale

1. Allows tax deductions for donors
2. Board of foundation responsible for successful fundraising oversight
3. Insulates foundation's donated assets from liability of related organization it supports
4. Separate endowment management
5. Protection of donor records

[72]

**Model 3:
Community Foundation**

- Designated agency or organization fund held by community foundation
- Gifts made directly by donors to community foundation or granted from charitable organization or agency
- If grant from agency, then assets may be booked on its financial statement as well as community foundation's statement

75

Rationale

1. Donated funds pooled with larger invested endowment for improved investment performance.
2. Many local donors may trust the expertise of the community foundation board, staff, advisors.

Note: Community foundation owns donated assets and charges a fee.

76


Fundraising Strategies

- Brochures, websites, target mailings, testimonials, endowment "view books"
- Well defined agreement process with disclosures
- Promote concept of perpetual – legacy
- Naming opportunity tied to fund minimum
- Encourage both current and deferred gifts
- Consider matching gifts to named funds – to leverage current and deferred gifts
- Spectacular fund stewardship with donor recognition, fund reports, events and more!

75

Uses of Endowment

- Operating subsidy
- Program support
- Chairs, Scholarships
- Maintenance costs
- Provides independence
- Hedge against inflation
- Leverage for loans/bonding
- Institutional prestige



76

Endowment Alternatives

77

Virtual Endowment

- Pledge to pay certain amounts each year to build the endowed amount (principal)
- PLUS a separate pledge to pay certain amounts each year equal to what the endowment would pay once fully funded (e.g., at a 5% spending rate)

78

Mortgage Endowment


- Donor pays endowment over time
- Calculate annual payments using a mortgage amortization program
- Incorporate endowment principal amount, payment term and interest rate

79

Revocable Endowment

- Grantor Reversionary Term of Years Charitable Lead Trust
- Upfront income tax charitable deduction for donor
- Charity gets annual annuity payments for term of years
- At end, donor can roll principal into new CLT, make outright gift to fund permanent endowment or take the funds back

80



"It takes a noble person to plant a seed to grow a tree that will one day provide shade to those whom one may never meet."

**Dr. David E. Trueblood
(Earlham College)**

81

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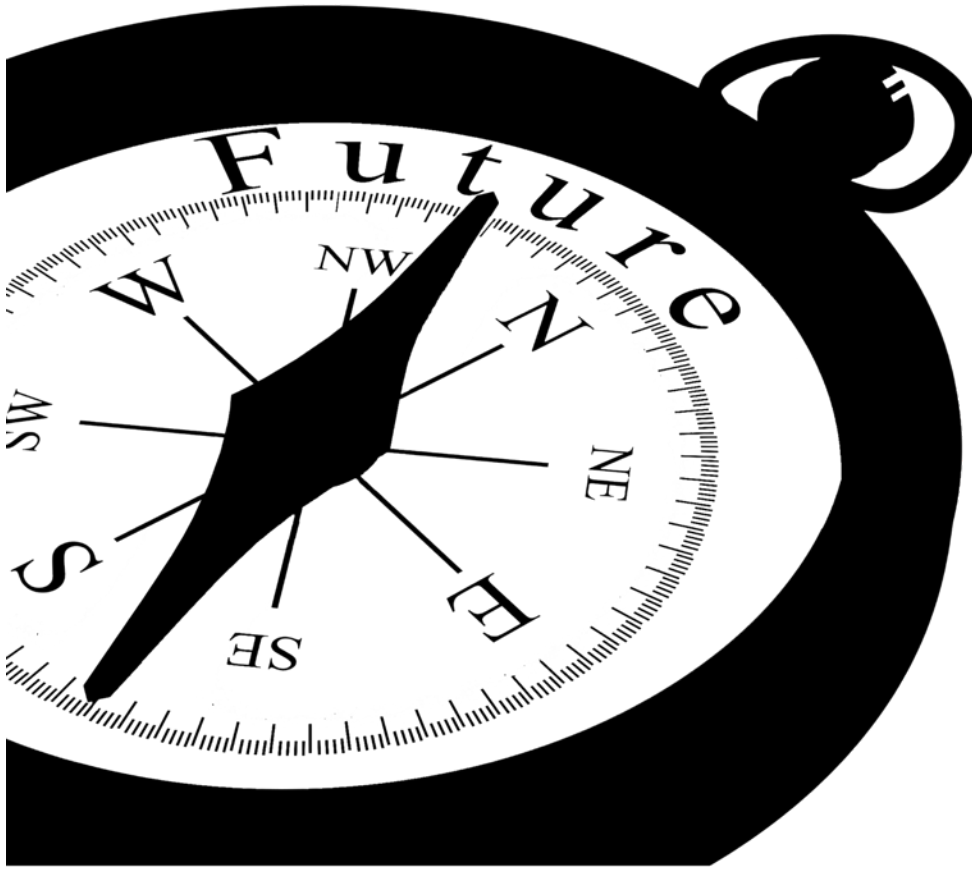
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CHARTING A COURSE FOR THE FUTURE

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Donor Stewardship: The Care and Feeding of Donors (Track I, II)

Presented By

Dan T. Garrett

President, The ACU Foundation

The ACU Foundation


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**The Care and Feeding
of Donors**



The 31st American Council on Gift Annuities Conference
A Conference on Planned Giving
Baltimore, MD
April 2014



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Times Change:
**“What got you here,
won’t get you there...”**

- How are you communicating with donors / prospective donors?
- How should we be communicating?

3 Foundation

**“Smart people learn from their
OWN experiences.**

**Wise people learn from the
experiences of OTHERS!”**

4 Foundation

When soliciting a gift or cultivating a prospective donor:

“What they say is FACT.

What we say is OPINION.”

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What is the most valuable information you should know about your donors?

What would you like to know?

How will you find out?

Legacy will last.

Fame is fleeting.

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Validate your relationship with the donor.

- Compliment them on _____
- Ask permission:
 - May I ask you a few questions?
 - What's important to you?
 - What's valuable to you?
(Listen for their Passion)
- Where did you learn that?
- What comes to mind when you think about that?

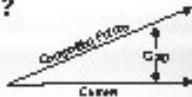
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- **What else are you passionate about?**
 - **Family**
 - **Education**
 - **Faith**
- **Describe:** _____

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- **Imagine a compelling future for**

- **List 3 – 4 points**
- **Articulate where you are currently**
- **What value would it be to you to fill the gaps?**



- **How long do you want your wealth to stay in the family?**
- **What do you want your wealth to accomplish?**
- **What influence do you want to your wealth to have?**

First:

Ask the Appropriate Questions to Help Your Donors Identify and Articulate Their Passions (core values).

Second:

Provide Opportunities for Them to Fulfill Their Passions.

If you do not have an opportunity inside your organization, provide one outside of your organization.

Third:
Help Them Articulate The Value
of the Gift to THEMSELVES:
"What Did Your Gift Mean to YOU?"

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Question becomes would
you prefer to work with

1. Donors?
or
2. Philanthropists?

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Donor: a person who donates
something (usually money) to a
charity.

Philanthropist: a person who seeks
to promote the welfare of others,
with generous donations of funds,
time, energy to good causes.

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What is

**Transformational
Philanthropy?**

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A Transformational Gift
is one that has as big of an impact on
the Donor as it does on the
Organization; which has nothing to do
with the size of the gift and everything
to do with the passion behind the gift.

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**Donors Become
Philanthropists from
Transformational Gifts**

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**Creating
Transformational Gifts**

■ ©2012

**Results for
Donors / Philanthropists
and
Philanthropy**

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**Creating
Multi-Generational
Transformational Gifts**

21

Fóundation

The Challenge:

Traditional planning has failed to keep families and their fortunes together for three or more generations...

...and that has been true for centuries all over the world.

22

Fóundation

England, 1350
"Clogs to clogs in three generations"

Germany, 1700's
"Seldom three descents continue good."

United States, 1800's
"From shirtsleeves to shirtsleeves in three generations"

Spain, 1500's
"First generation Traider, second generation Gentleman, third generation Beggar."

Brazil, 1900's
"From the stables to the stars to the stables in three generations."

China, 2000 years ago
"Wealth Never Survives Three Generations"

Fóundation

Lessons from history:

Geography
Cultures - Economies
Governments - Tax Structures

Don't Matter.

Families *rarely* keep their money and families together for more than three generations.

24

Fóundation

The Obvious Question...

What do the successful 10% do differently?

25 Foundation

Successful Families Share Several Common Traits – Including:

- A Culture of Communication & Trust
- Shared Vision
- **Balanced View of Wealth** (which includes philanthropy)
- Training and Mentoring Each Generation

*Sustaining Family Wealth & Unity Across Generations
Rodney C. Zeeb & Ryan D. Zeeb, 2012*

26 Foundation

Balanced View of Wealth

Foundation
Human Capital

Wisdom
Intellectual Capital

Financial
Financial Capital

Community
Social Capital

27 Foundation

Enrolling G2, G3, ...

aka

Growing Philanthropists!

28 Foundation

The Natural By-Product

Creating

Multi-Generational

Donors / Philanthropists

■

Philanthropy

There is a direct correlation

between knowing your donor's

core values, and how much

business and how many

introductions they provide to you.

■

Philanthropy

Mindset is Everything:

Are you building relationships with your donors to "get to the ask?"

Or, are you building relationships with your donors to understand their passions and provide them an opportunity to fulfill those passions?

■

Philanthropy

Step One:

Asking the Right Questions

Guided Discovery

■

Philanthropy

“Guided Discovery”

is a process of learning in which you are guided by another to learn from your own experiences.

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Guided Discovery Themes

1. Words have meaning
2. Same words have different meaning
3. Questions have impact
4. "What" questions - NOT "Why" questions
5. Remember it's about THEM
6. The power of the appropriate next question
7. Silence is Golden!
8. Defining life moments
9. What they say is fact. What we say is opinion.

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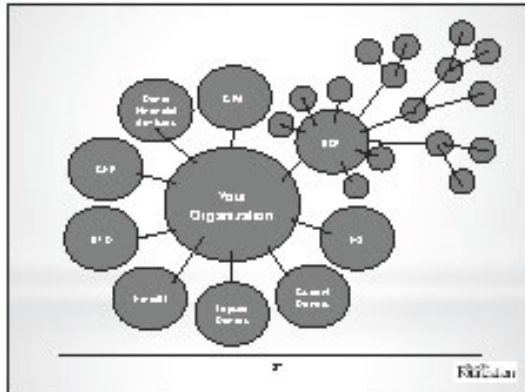
“Transformation Does Not Come From Doing Things Bigger, Better Faster or Doing More Of It; Transformation Comes From Starting From a Different Place.”

Doug Coker, "Circle Forward"

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The Power Of A Collaborative Team

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Next Steps:

- Create Your Process for Introducing the Concept of Transformational Philanthropy to Donors, and Philanthropists
- Create Your Process for Helping Your Donors and Philanthropists Identify and Articulate their Passions (core values), Either Personally or Through Collaboration

Your Process Must Include:

- Helping Your Donors and Philanthropists Identify and Articulate Their Passions (core values)
- Identifying Opportunities for Them to Fulfill Their Passions (which may be outside of your organization)
- Helping Your Donors and Philanthropists Identify and Acknowledge What the Gift Meant to THEM!

Previous Workshops:

1. Lectures on Tax Economics of Charitable Giving
2. How to Get to "YES"

To Be Successful:

1. Enjoy – be passionate at what you do.
2. Begin each day on a positive note.
3. Genuinely enjoy talking to and getting to know people.
4. Dress appropriately.
5. Seek to know something other than the donor's name and how much they give.

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*"People will forget what you said.
People will forget what you did.
But people will never forget how
you made them feel."*

Maya Angelou

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A Parting Story...

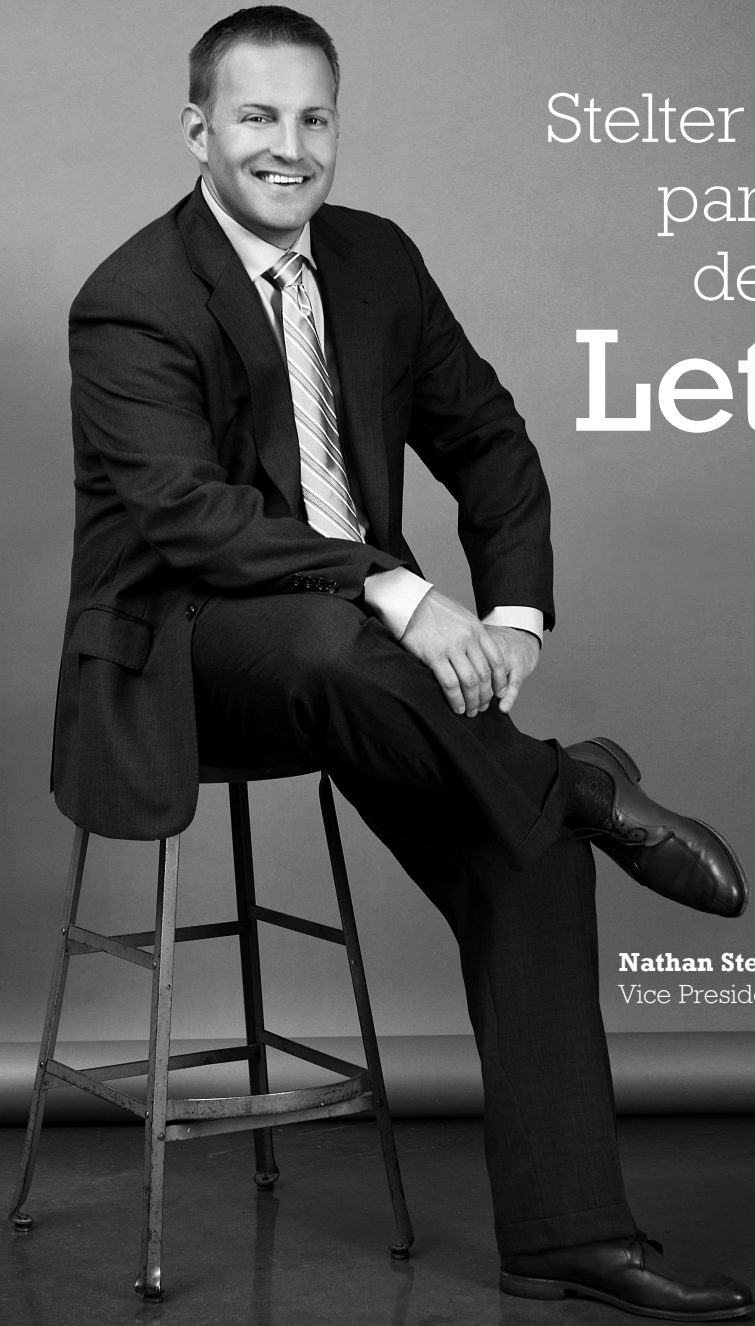
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Questions

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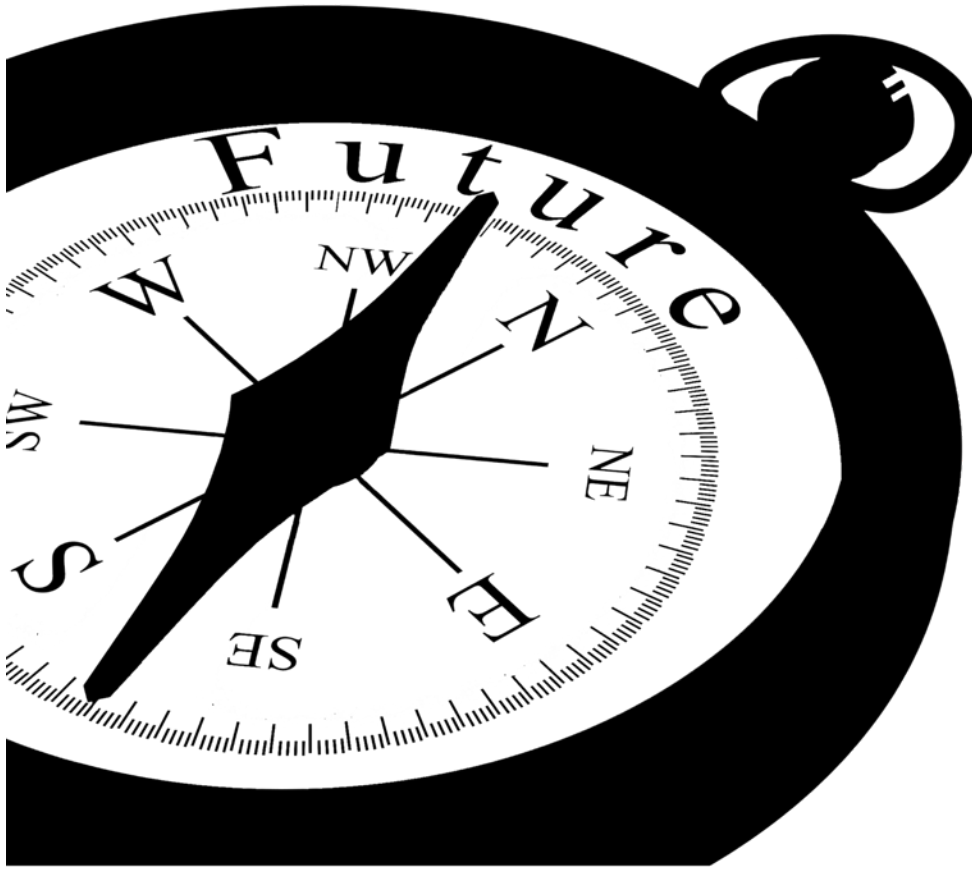
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CHARTING A COURSE FOR THE FUTURE

- A CONFERENCE ON PLANNED GIVING -



Capitalizing on a Strategic Process for Hiring Development Staff (Track II)

Presented By

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VP Operations
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A Strategic Process For Hiring Development Staff

“Don’t Start A Search Without A Compass”

A Presentation by Paula Felchner and Susan Boggs
For The American Council on Gift Annuities 2014 Conference on Planned Giving



A Strategic Process For Hiring Development Staff

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Good afternoon. I’m Paula Felchner from Carr Assessments. Our company has created cutting-edge systems that utilize advanced algorithms and multiple psychological tools to predict behavior in the workplace. Data is analyzed and interpreted by our experienced psychologists who tailor reports to the job, and to the client’s culture and values, enabling our clients to make objective, rather than subjective or emotional, hiring and development decisions. These decisions have direct bearing on employee turnover and the ability for an organization to meet their stated goals.

We have worked closely with leading not-for-profit organizations in selecting leadership as well as planned giving and resource development personnel for over 20 years. We have developed and tested a process for recruiting and evaluating the talent our non-profit clients need to place them consistently among the top fundraisers in the nation. We are here to let you in on some of the things we have found in our work through the years.

My background is in Industrial-organizational psychology. I taught statistics and research methods before coming to Carr 19 years ago. While I have the primary responsibility for Carr research and development, I promise to try not to sound too much like a statistician ... or a teacher ... as I talk to you a little bit about what we have been able to accomplish for our non-profit and for-profit clients.

Also here with me today is my colleague Sue Boggs. She has been in H.R. management and recruiting for nearly 30 years. We have worked closely with our clients to develop and test the processes we are going to describe. We will spend a little time defining the problem and then we will outline the processes we have used to build a “compass”, define the “destination”, and select the “vehicle” we have used to help the charitable organizations we work with develop a pool of applicants and identify those who can be successful fund-raisers and identify applicants who are likely to remain in the field and with the organizations who hire them.

THE PROBLEM

There is no doubt that charitable organizations are a force in the U.S. economy. You employ 7% of the U.S. workforce (10% if we include all non-profits in that number) (Congressional Research Service). By some estimates, you raised 1.4 Trillion in revenue in 2012 and report holdings nearly \$2.6 trillion in assets. Your health as an industry will have an impact on the economy and conversely, the recent downturn made it all too clear that outside economic factors have a large impact on the not-for-profit world, particularly on fundraising efforts.

All of your organizations were hit hard by the economic decline that started in 2007. Recent data suggests that giving has increased but the recovery has been spotty at best. The US top 400 fundraising charities reported some gains over the past years --- but after an increase of about 8% in 2011, donations increased only 4% in 2012 and some of the forecasts for 2013 have been even less positive. It seems as though available resources are slipping as the number of charities is growing and the need for services keeps climbing.

But the pain is not being spread evenly. While most organizations have not returned to pre-recession levels, those that have healthy Major Gifts and Planned Giving programs have made the largest gains (Phanthropy.com). You are here because you (or your organizations) recognize the value of planned giving as a part of your overall funding strategy.

But not everyone has the knowledge, skill, or abilities required to sit down with a potential donor, walk him or her through the very complicated options that are before them, and leave them with a plan that takes care of their immediate needs, addresses their own and their family's long-term goals, and preserves their legacy through giving. In fact, the dearth of qualified planned giving professionals has been discussed in board rooms, corporate headquarters, human resources departments, and in literature for some time.

When was the last time your organization worked for months to fill an open development position only to give up because you couldn't find anyone worth hiring for the money you had to offer --- thought you had found that perfect new hire only to have the individual move on or "flunk out" during training --- had that ideal new hire move on to a position in an insurance company or a brokerage firm where they could earn twice as much money calling on half as many clients? Have you ever had to sit with open development positions for months, even years because you couldn't find any suitable candidates? If so, you are not alone.

Researchers and nonprofit professionals started lamenting about the lack of talent in fund development as early as 2002 – and since specialized knowledge is critical to success in planned giving, the situation may be even worse there. More recently Zachary Smith, Assistant Vice Chancellor of development at University of California,

Riverside and CompassPoint (a provider of non-profit services) (Bell & Cornelius, 2013) added their voices to the issue.

Pretty much everybody agrees that the talent shortage is the result of a number of converging factors. Smith and others talked about a seemingly thin pool of qualified applicants, movement out of the field due to retirement, little promotion of fundraising as a career choice, few educational programs focusing on development as a professional career, salary and benefits competition from the “for-profit” world, and the difficulty of measuring and appropriately rewarding for performance in development roles. What a challenge!

One option is to develop educational programs and internships to encourage young people to view your field as a viable career option --- to fill the pipeline so to speak. The problem is educational programming is expensive; it requires a commitment by university systems, and the assurance of students who would fill the courses. This is, at best, a long-term solution to the problem that is facing your organizations today. Executives in your field have estimated that it costs them at least \$22,000 a day for every day you don't have a productive person in your planned giving role. That is money left on the table when the need is now. A long-term solution is not enough.

There were over a million charitable organizations listed with the IRS as of the end of 2012 and over two million when you count those that are not required to file for tax exempt status -- there are just not enough trained, experienced professionals in your field to go around. Most of you won't have the dollars to compete against one another and the employers in the “for profit” world for the few “qualified” applicants that are actively seeking fund development positions so you need to look for another option.

If you can't find and attract those few experienced and successful fundraisers educators have suggested that another option is “to recruit and hire competent professionals with little/no previous fundraising experience and train them with the necessary technical skills to be successful. This option receives some support in the research of Zachary Smith (2010) who suggests that education fundraisers should be selected based upon competence and organizational/job fit rather than experience.

Obviously you would need to look for transferable skills – but what skills, what experiences, what personal characteristics should you be looking for --- where will you find the people who possess them --- and how will you identify them among your applicant pool? The people at Carr Assessments and our nonprofit clients who were facing these same issues used a research oriented perspective to address these questions and to build a process that could help our clients to find, acquire, and hold the talent they would need to fill the ranks of their Planned Giving and Resource Development departments and retain their new hires long enough so that they could become trained and productive contributors to their organizations' fund development programs.

OUR SOLUTION

A recent survey by The Aberdeen Group found that Best in Class Organizations (those that show high manager satisfaction, high retention rates, and high performance) have developed and implemented a strategic process for talent acquisition. We have worked with a number of organizations, both for-profit and non-profit, to put together such a process. While we have employed a similar strategy in a variety of organizations, the story of its development starts with our experience within the charitable organizations we have assisted for over 20 years.

Carr is no newcomer to the challenges faced by our not-for-profit clients.

- We have been assisting a major charitable organization with staffing in their fund development staffs and executive leadership positions for over 20 years.
- We have helped a number of local, regional, and national nonprofits recruit and select for their leadership positions (Art Centers, Minority Councils, various religious organizations, hospitals – we have “touched” them all.)
- We worked hand-in-hand with Centerpoint for Leaders and a local branch of Executive Service Corp to develop and deliver leadership training that was focused on non-profits, easy on the budget, and delivered through a mentored program that paired emerging nonprofit leaders with someone who could give them the management and leadership skills they might not be able to find within their own organizations.

We have continually refined our recruiting processes and the tools we use to assess candidates through a formalized research process

An initial study completed in 2002 suggested long-term productivity and tenure increased dramatically under a strategic selection procedure that we had implemented for one of our larger charitable clients. Although adjustments have been made to meet particular client needs and to take advantage of new technologies and advancements in the field of industrial-organizational psychology and our research has continued over the years, a similar set of procedures remains in force today.

Our recruiting and assessment system is built upon three key components:

- Involvement of key decision makers in the upfront establishment of a carefully prepared and validated set of selection criteria and a pre-determined stepped process to narrow the selection pool – a “compass”,
- Careful job and organizational analysis to make sure a clear understanding of the position, the work environment, and the organization is achieved – a “destination”,

- Unbiased, scientific measurement of a candidate's skills, abilities, and characteristics – a “vehicle” for getting there.

We would like to give you a little bit of insight into why a systematic process is important, what you can do to define your own processes, and how we have established that they can contribute to fund development efforts and results.

Why?

When it comes to talent acquisition, Aberdeen defined “Best in Class” as those companies who have achieved:

- A 1st year retention rate of 94% or above
- 80% or more of employees who exceed performance standards
- Year-over-year improvement in hiring management satisfaction

You should take a minute to reflect – is your organization falling into “Best In Class” or are you lagging behind in one or more of these criteria, in particular, when it comes to your fundraising efforts. Are you able to hold your new hires? Have your last 5 hires met your expectations with regard to performance? Is management proud of the accomplishments of their most recent staff additions? If you (or your organization) are not where you want to be – what does it take to get there?

Clearly there are a number of factors that go into making a good organization great – but as Jim Collins stated, getting the “right people on the bus” is paramount. The Aberdeen research indicates that organizations who were able to achieve “Best in Class” performance have utilized recruiting systems and pre-hire assessment data to identify candidates whose scores would suggest that they would have both organizational fit and performance potential. They state “assessments have evolved into a critical element for a successful talent strategy”. Based upon the Aberdeen Group survey research, those organizations who are able to achieve “Best In Class” have:

- A clearly defined process to assess candidates and applicants
- HR and line of business management collaboration to ensure that assessment content addresses business needs

- Support and buy-in for assessment from senior executives and organizational leadership
- Hiring managers who are trained to use the output of assessments

They further go on to say that to achieve “Best in Class” organizations need to:

- Utilize assessments as a source of objective data to inform decisions at all points in the talent lifecycle, from hiring to development to retention
- Create individualized action plans based on assessment output
- Align assessment use to specific purpose for which it is intended and ensure that both employees and managers understand how and when assessment data should and should not be used.

Carr’s talent acquisition process does these things toward the goal of ensuring speed and quality of decision-making, subsequent productivity, and long tenure. We want to give you a little insight into the lessons we have learned and the research we have conducted through our 20+ years of recruiting for non-profits.

What?

Start by developing a clear understanding of the key competencies that will be critical to the success of the candidate. A strategic talent acquisition process should be able to provide a clear picture of the performance expected of any individual in a form that is useable to identify and qualify a pool of candidates for a specific organizational position.

Examine the job description and the available literature on your planned giving or resource development positions. While there are clearly some similarities to traditional sales roles, there are other skills, characteristics, experiences that will be required. Planned giving as well as resource development representatives will need to identify, qualify, and cultivate donor prospects --- all activities that would be important to most sales roles. However, they will also be called upon to develop case statements and write proposals --- requiring the technical skills that would be more often found in marketing and advertising. And last, but certainly not least, the successful fund raising associate will need the interpersonal skills necessary to steward donors pre- and post-donation calling for a customer service orientation and attitudes more typically found in service and retail positions.

Take the time to sit with job experts and decision makers to get their views of the criteria that will be important to successful performance in this organization --- in this job --- in this position. Whether you are the formal “recruiter” or a hiring manager striving to fill your position, make sure you get a thorough understanding of:

- how the position helps the organization to accomplish objectives,
- the goals the organization has set for this position,
- what needs to be accomplished and the time frames for doing so,
- how the organization will measure success, and
- what would be seen as exceptional achievement for this position in the first year -
- second year --- third year.

Carr does this by putting the group of decision-makers in the same room, guiding them through a sometimes lively “give and take”, pushing them to define their ideal candidate in terms that are both observable and complete, and putting together a set of agreed upon selection criteria that will be used at every step of the process to decide whether a candidate will move on in the search. Key organizational decision makers participate in setting these criteria, minimizing the chances of derailing the outcome by an 11th hour demand not previously considered in moving candidates along in the process.

We use an interactive process, listening, refining, and ultimately capturing the key components (characteristics, experiences, attitudes) that key decision-makers believe will be important in the position --- and then converting these often subjective and difficult to measure “wants” into quantifiable standards to be applied to every candidate. In doing so, we create a set of selection criteria that provides a compass to point the selection committee and the recruiter - to the candidates that stand the best chance of being successful in the role.

Let’s illustrate by using the next few minutes to build a few selection criteria for one of your planned giving positions.

Once this “compass” has been identified, our professional recruiters utilize a number of different avenues to surface the best candidates. As you are probably well aware, you can no longer rely on traditional sourcing. What resources have you used to build your applicant pool?

We maintain an active database of applicants whose high potential has been previously determined. We ask for referrals -- from finalists, as well as industry experts with whom we maintain regular and frequent contact. We use our networks (both personal and online) to surface active as well as passive candidates in every search. When we find a candidate that shows promise, we use our persuasive skills to build interest and encourage them to apply. We build upon the “8 Questions” Lou Adler has offered to convert passive candidates with talent into applicants for your jobs.

- What's the one single thing that could make your current position significantly better?
- Think about the most satisfying job you've ever held. What made it so satisfying, and does your current position offer these same things? If not, what's missing?
- Are you maximizing your use of time, or do you feel that in the last year or so you've just been treading water?
- Forget about compensation for a moment. What do you like most about your current role, and what do you like least? Now what about the compensation?
- How long have you been in your current role? Is it equally as satisfying now as it was when you first started? What changed?
- What would you require in a new job to ensure it offered both short-term and long-term growth?
- Is there anything from a location or situational standpoint that leaves you unsure about the future or uncomfortable about the present?
- Is this your dream job? If so, why, and if not, what would it take to make it one?

These questions allow a recruiter to uncover concerns and provide specific details to build interest in an apparently qualified candidate.

We concentrate on both traditional media and social media outlets such as LinkedIn to surface candidates for key positions. We utilize connections with professional associations and publications, job boards, blogs, and Twitter posts, as well as appropriate social networks. We employ both national and local media outlets where appropriate. Some of the resources we have found to be particularly useful for surfacing planned giving associates are:

- Indeed.com
- Opportunity Knocks
- LinkedIn – Sponsored Ads
- AFP Local Chapters
- LinkedIn - Professional Groups

All of this often surfaces in excess of 200 resumes for a Planned Giving position – but as anyone in recruiting will tell you, fully 2/3 of these will not meet the minimum qualifications for your position – creating a real time burner for your recruiting staff. You might be tempted to use resume screening software to weed through the bulk and count on it to spit out the most promising candidates but we want to caution you – you will miss potentially qualified candidates along the way.

Because we believe resume screening software has proven to be less than satisfactory, Carr relies upon trained recruiters to review the information provided by applicants at this stage. We let the Selection Criteria developed with the client make the decisions about what applicants should move on in the process. In a typical search, thirty-five to fifty candidates whose resumes and applications meet the minimum criteria are asked to go to the next step in the process.

Those who move forward complete a screening instrument that targets basic employability, interaction style, and reactions to supervision. But remember – we are proposing a strategic process not a test. Each successive step in the process should give the decision-makers more information and an increasingly refined picture of how likely an individual is to be able to perform at a high level in a given position. Let's spend a little time talking about the steps we have used.

How?

At the first level of assessment, the goal is to screen “in” those who stand a strong chance of being successful while limiting the time that must be spent in successive levels of the recruiting process with those who do not show promise. While you want to use a broad brush stroke at this point, you want to make sure that the tools you use at this (and every stage of the process) will predict important performance criteria. In order to be certain our screening tools would not screen out people who would ultimately be successful in the role, we conducted research utilizing pre-hire assessment data and 3 measures of performance for current and former Planned Giving representatives. We contrasted:

- Star performers with all others (To make sure our prediction formulas would not exclude the highest performers).
- “Stayers” versus “Leavers” (To make sure we captured those who would be likely to stay with the organization long enough to learn the job and become productive)
- Top versus Middle versus bottom third in gift production

If the selection model was doing its job, Stars, Stayers, and the Top Third would all receive higher ratings than other groups. They did. In fact, the Job Fit Rating based

upon a comparison of an individual's scores to a selection model was a significant predictor of:

- Identification as a Star Performer ($r=.324^*$)
- Net Production ($r=.340^{**}$)
- Rank order based upon production ($r=.496^{**}$)
- Membership in High vs. Average vs. Low Performance Groups ($r = .520^{**}$)

The concern with an early screening process is to make sure you don't make the criteria so stringent that you miss out on those high performers because you screened them out too early – and that you don't waste too much time on those that would end up being low performers. It is always a balancing act. Typically our clients decide to err on the side of inclusion at this stage of the process.

An examination of the decisions that would have been made at the first level of screening suggested we were fairly successful in keeping those who would be high performers in the selection process and eliminating some of those who would ultimately be marginal performers. The table below illustrates the results of our study of current and former Planned Giving Associates. We had similar results for Resource Development and for-profit sales.

Table 1 – Job Fit Rating by Post-hire Performance at Level 1 Assessment

Job Fit / Performance	Very Good	Above Average	Average	Below Average	Questionable
High Performers	17%	50%	33%		
Average Performers		28%	67%	5%	
Low Performers		18%	53%	24%	5%

As you can see, all of the high performers remained in the search based on the Level 1 criteria. 94% of the Average performers also remained in the process. 71% of the low performing groups were considered further.

Overall, a “correct” decision would have been made 75% of the time with most of the “errors” occurring in letting low performers through to the next level of the process. Interview, reference checks, and successive levels of Carr assessments would be called upon to further separate promising candidates from those who are less likely to be successful.

The following characteristics proved to be good predictors of performance in the role:

- Social Presence
- Drive/Goal Orientation
- Detail Focus
- Emotional Resources
- Person-centered Sales Style
- Reliability
- Caution

No surprises here.

You should ask yourself, how are these things being measured in your current selection processes? If you are not using a psychometric tool – how can you get at these things in your review of the resume? In an interview? How reliable will these be if that is your only assessment of these characteristics?

The next step in the systematic process calls upon management or an outside recruiter to conduct chemistry interviews with the help of the Selection Criteria they have helped to create. In all cases the interviewer would have had an opportunity to see a descriptive report of an individual's scores on relevant criteria and interview suggestions based upon a candidate's scores. The interviewer would be able to score each candidate against the Selection Criteria and a decision would be made based upon this information about whether or not to proceed with a candidate.

Candidates who look promising would be asked to complete the next level of assessment involving a deeper level of testing which would tap into abilities, problem solving style, biographical data, and additional personality data. The accumulation of information on each candidate would be reviewed by a professional psychologist to prepare a report addressing the candidates overall potential for success in the role.

The following measured characteristics and abilities were significantly related to important performance criteria and were thus added to the selection model used at the second level of assessment.

- General Cognitive Ability (*Ability to acquire information and deal with complex issues*)
- Problem Solving Style (Tendency to size up a situation, come up with a solution, and attend to the concerns of others while doing so)
- Focus and Deliberation
- Agreeableness (*Tendency to manifest as kindness, cooperativeness, warmth, and consideration for others*)
- Achievement Striving (*Tendency to put in effort in order to accomplish goals and objectives*)
- Positive Outlook (*Tendency to view the world in a generally positive manner – you will see a “Can-do” attitude*)

Job Fit ratings continued to be strongly related to a host of desirable outcomes. In all cases the relationship between the Job Fit Rating (driven by a candidates responses on the assessment measures) and desired performance outcomes were even stronger than those reported at the first level of assessment.

- Tenure ($r=.575^{**}$)
- Net Production ($r=.491^{**}$)
- Cumulative Production ($r=.487^{**}$)
- Production Rank Order ($r=.626^{**}$)
- High/Average/Low Group Membership ($r=.624$)

The assessment at this level of assessment is used to determine finalists who would be brought in for final interviews. Since there is often a significant cost involved in blocking off selection committee time and bringing a candidate into a designated location, the criteria should be more challenging, help to identify disqualifiers, and remove from contention any candidates whose scores suggest they have a below average chance of being successful on the job. The following table illustrates the results of a recent study of planned giving and resource development associates.

Table 2 – Job Fit Rating by Post Hire Performance At Level 2 Assessment

Job Fit / Performance	Very Good	Above Average	Average	Below Average	Questionable
High Performers	18%	72%	22%		
Average Performers		11%	83%	6%	
Low Performers		18%	35%	47%	

As a general rule, our clients tend to bring Above Average and Very Good candidates into their offices for final interviews. Average candidates are reviewed with the client making a decision about whether or not to include the participant in final interviews. Below Average candidates are dropped from consideration. If these rules are applied:

- All high performers are eligible to remain in the selection pool. 90% would have automatically moved forward to final interviews.
- Most average performers are eligible to remain in the process (*94% would have been eligible. 88% would be reviewed based upon all available information and the client would make the determination about whether to include them in the Panel Interview stage.*)
- Half of the low performers would have been screened out (*i.e., 47% would not have moved forward in the selection process. 35% of the low performers would have been reviewed with the client making the final determination. Only 18% of low performers would move forward at this stage of the assessment if the decision were based solely on the assessment's Job Fit Rating.*)

If the strategic selection process is applied as defined, 81% of the time the correct decision would have been made at the second stage of assessment (*i.e., Average and High Performers would have had an opportunity to remain in the selection process and Low Performers would have been dropped*).

The report at the second assessment stage is generally shared with the entire selection committee. In most cases the committee follows-up the report with a formal interview and a conditional offer of employment for the selected candidate. For some clients, a third level of assessment may be used that includes a face-to-face interview, assessment feedback for the selected candidate, and a final report. Cognitive complexity and values and motivators are assessed at this time. The information is compiled with information collected at earlier stages in the process and a report is prepared that highlights suggestions for onboarding and coaching/training recommendations for any developmental needs.

The cumulative assessment data on the Planned Giving and Resource Development associates who were part of the study continued to show strong support for the selection model's ability to identify high performers. If we assume that individuals who

would have received Above Average and Very Good Job Fit ratings as a result of the full selection model would have been hired, all but one of the high performers would have been hired; 5 of the 16 Average performers would have been hired; and, 2 of the Low Performers would have been hired. We would have achieved an 81% "hit ratio", that is, the correct decision would have been made at least 8 out of 10 times.

Overall, there appears to be considerable evidence for the validity of the selection procedures utilized in this study. The ability to predict performance increased at each stage of the process. The individuals identified as Above Average and Very Good fits for the planned giving and resource development roles did, indeed, outperform others on a variety of criteria. They made more contacts, produced more gifts, and stayed in their jobs longer --- all important for building a sustainable giving program. The question is: What can you take away to build your own strategy to guide you in making the right hires in your own fund development staff?

We have given you some guidance in building your compass.

- Get agreement by key decision makers on criteria to be used in selection up front.
- Establish how their presence/absence will be judged at each stage in the process.
- Utilize the identified selection criteria to decide who to move into the assessment stage.

We talked about establishing a clear picture of the destination.

- Use organization and job analysis to understand the position.
- Establish a quantified selection model.

We talked about utilizing a well-researched vehicle to narrow the pool and make your decision.

- Cast a wide net.
- Use a "convincer" to move promising passive candidates to an active status.
- Use reliable and well validated instruments to screen and qualify applicants.
- Utilize a stepped approach which builds the information you will need to make the final decision.

We hope you have gained some insight into our processes that will help guide your own efforts to target, source, screen, and qualify your applicants. We have included a sample set of selection criteria, a few "convincers" to use in recruiting, some key interview questions, and a summary of the research that lends support both for assessment and a stepped approach to selection. In addition, we have provided our

contact information. Sue and I are happy to answer your questions, today or, feel free to contact us should something occur to you at a later date.



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Resources

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Established in Cleveland, Ohio in 1995, CTAC offers constructive, expert administration services of gift annuities and other charitable vehicles to assist you and your donors in managing your philanthropic endeavors.

Our back-office charitable administration services include:

- Private-labeled services (customized checks, reports, and other correspondence)
- Tax reporting (Forms 5227, 990, 1099, 1096, etc.)
- State registrations, notifications, and filing for Charitable Gift Annuity programs
- Online access to donor contracts, reports, tax returns, and other documents
- Access to knowledgeable staff for even the most complex gift situations
- Proprietary software utilized for Unitized Accounting
- Distributions processed via check or electronic transfer
- Flexibility in working with any and all Custodian and Investment Manager's

The vehicles we serve include:

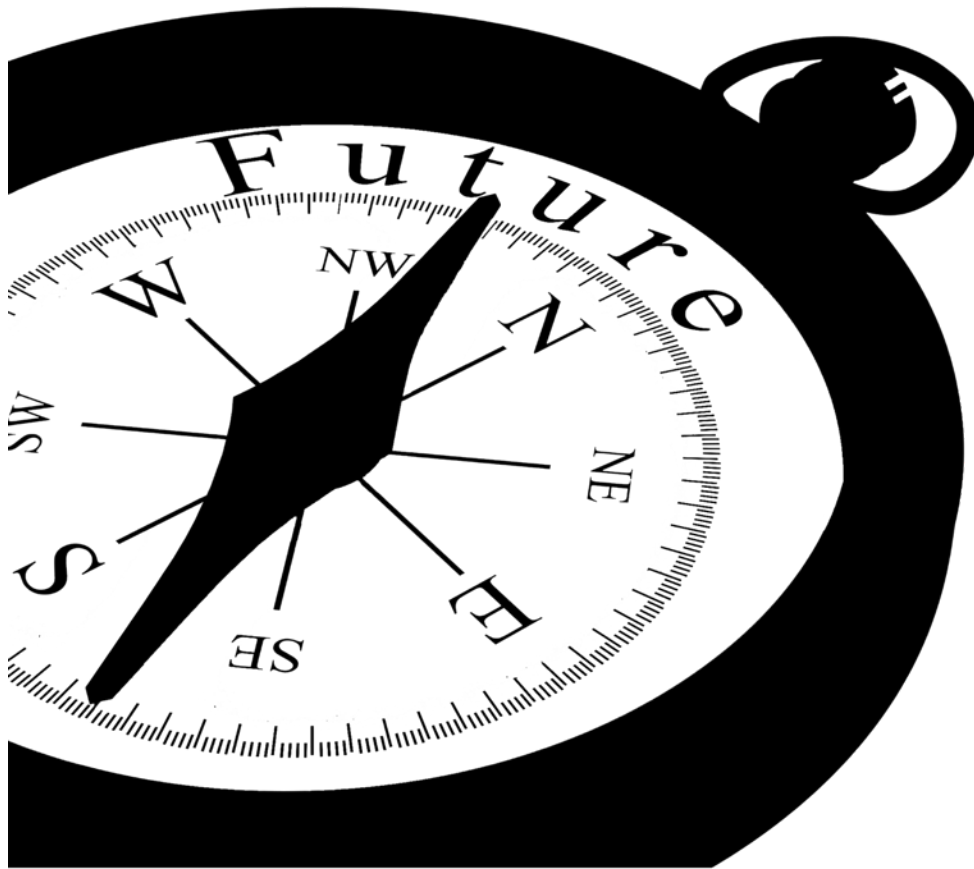
- Charitable Gift Annuities
- Charitable Remainder Trusts
- Charitable Lead Trusts
- Donor Advised Funds
- Endowments
- Pooled Income Funds
- Private Foundations
- Supporting Organizations

We treasure the relationships we have established with non-profits, philanthropic individuals, and professional advisors nationwide as we serve as a valuable extension of their team. If you have any questions, please feel free to contact Kristen Schmidt via email at kschmidt@ctacadmin.com or via telephone at (800) 562-2045.

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CHARTING A COURSE FOR THE FUTURE

- A CONFERENCE ON PLANNED GIVING -



Impact of ATRA 2012 on Estate Planning (Track II, III)

Presented By

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AMERICAN COUNCIL ON GIFT ANNUITIES

Impact of ATRA 2012 on Estate Planning

Summary of Relevant Transfer Tax Provisions
Presented by: Heather J. Rhoades, Esq.

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AMERICAN COUNCIL ON GIFT ANNUITIES

ATRA

- Estate and gift tax exemptions and rates
- Income tax rates
- Capital gains and qualifying dividend rates
- IRA charitable rollover
- Other extenders

AMERICAN COUNCIL ON GIFT ANNUITIES

2014 Estate, Gift and GST Tax Exemption

- \$5 million estate, gift and GST exemption remain in effect indexed for inflation
 - \$5,340,000 for 2014
- Annual exclusion = remains at \$14,000 for 2014

2014 Estate, Gift and GST Tax Rate

- Effectively 40% flat estate, gift and GST tax rate
 - Slight run up brackets to \$1 million
- Up from 35% rate in 2012

Portability

- Made permanent
- Ability to use remaining exclusion from last deceased spouse (DSUE)
- Changed "basic exclusion amount" to "applicable exclusion amount"
- No privity requirement

Portability Example

- H1 dies - unused exclusion \$2 million
- W remarries and predeceases H2
- W can leave to H2 the \$2 million from H1

Why Still Use Estate Tax Sheltered Trust Planning ?

- State estate tax exemption not portable
- GST exemption not portable
- Asset protection
- Lose growth of assets

Provisions Made Permanent

- GST exemption unified with estate tax exemption
- Gift and estate tax exemptions reunified
- State death tax deduction
- Automatic allocation of GST exemption to "GST Trusts"
- Qualified severance of trusts for GST purposes
- 9100 relief from late GST elections

Bush-Era Tax Cuts

- Extended permanently
 - Taxable income below \$406,750 (for 2014) for unmarried individuals
 - \$457,600 (for 2014) for married individuals filing jointly
 - Top income tax bracket is 39.6% for individuals with taxable income above these threshold amounts

Capital Gains Rates

- Maximum qualified dividend and long-term capital gains rate increased
 - 20% for individuals exceeding income thresholds
 - 15% for all other individuals

Medicare Tax

- 3.8% surtax on net investment income (net investment income tax (NIIT))
- Net investment income:
 - Interest, dividends, royalties, rent or annuities
 - Business income only from passive activity
 - Net gain from disposition of property (capital gains)

Medicare Tax (cont'd)

- Applies with AGI exceeding
 - \$200,000 for unmarried individuals
 - \$250,000 for married individuals filing jointly
- Imposed on lesser of net investment income or AGI in excess of threshold
- Imposed on trusts and estates to lesser of undistributed net income or AGI in excess of threshold of \$12,150 (income limit for highest trust tax rate)

Charitable Remainder Trusts

- Final regulations issued on November 26, 2013
- Exempt from NIIT
- Annuity or unitrust distributions may be net investment income to noncharitable beneficiary
- Final regulations
 - distributed amount of net investment income determined within each of four tiers (normal section 664 rules)

Charitable Remainder Trusts (cont'd)

- Multiple beneficiaries - net investment income apportioned pro-rata
- Accumulated net investment income of CRT = Only net investment income after 12/31/12
- Net investment income before 12/31/12 not subject to NIIT upon distribution to noncharitable beneficiary

Non-grantor CLTs

- Subject to 3.8% NIIT on any net investment income not distributed to charity
- Low \$12,150 threshold

Grantor CLTs

- Donor taxable on trust income and capital gains even though paid to charity
- Trust not subject to NIIT
- Donor subject to NIIT on any trust net investment income exceeding threshold

Charitable Gift Annuities

- Earnings of funds are not taxable to charity
- Annuity payments (not return of principal portion) are net investment income to annuitant
- Capital gain on transfer of appreciated assets for gift annuity is net investment income to donor

Review of Tax Impact

- Income tax rate
 - 39.6% top income tax rate
 - Can be as much as 43.4%

$39.6\% + 3.8\% \text{ Medicare surtax} = 43.4\% \text{ tax rate}$
- Increased incentive for charitable giving

Review of Tax Impact (cont'd)

- Capital gains and qualified dividend rates
 - 20% top rate + 3.8% surtax = 23.8% rate*
 - 15% rate + 3.8% surtax = 18.8% rate*
- Consider gifts of stock and other appreciated property
- Avoid capital gains tax - significantly higher tax avoided

IRA Charitable Rollover

- Expired January 1, 2014
- Will it be enacted in 2014 and made retroactive?
- Once 70%, distribute up to \$100,000 directly to qualified charities (including RMD)
- Outright - not life income gifts
- Qualified charities = public charities
- Not supporting organizations or donor-advised funds

IRA Charitable Rollover (cont'd)

- Distribution to charity - **not** treated as taxable income
- No additional charitable deduction
- Counts as part of RMD
- Multiple distributions permitted - \$100,000 total annual limit
- Only traditional and Roth IRAs

IRA Charitable Rollover (cont'd)

- Be Careful!
 - Distribution from IRA made **directly** from IRA administrator to charity
 - **Not** to donor
 - No quid pro quo - entire distribution for charity
 - No chicken dinner
 - Must actually be 70½

Advantages of IRA Charitable Distributions

- Huge pool of funds for charitable giving
- Two-thirds of taxpayers who take standard deduction
 - Cannot deduct charitable gifts
 - Get equivalent of deduction
 - Not being taxed on income

Advantages of IRA Charitable Distributions (cont'd)

- Itemizers who hit AGI ceilings on deductibility
 - Use IRA distributions to make additional gifts
 - Not taxed on income = deduction
- Use carryovers for current year
 - Not deducting IRA distribution
 - Allows use of carryover

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Advantages of IRA Charitable Distributions (cont'd)

- Using IRA charitable distributions avoids/minimizes impact of phaseouts/limitations
 - Does not increase AGI
- If state income tax does not allow charitable deduction
 - Equivalent of state charitable deduction
- Public Good IRA Rollover Act of 2013 (S. 1772)

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Phaseouts Reinstated

- Personal exemption phaseout (PEP)
- Itemized deduction limitation (Pease limitation)
- AGI in excess of \$254,200 for unmarried individuals
- AGI in excess of \$305,050 for married individuals filing jointly

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Pease Limitation

- Reduces amount of otherwise allowable itemized deductions by 3% of amount by which AGI exceeds threshold level
- Reduction of itemized deductions capped at 80%
- Example:
 - Family has AGI of \$500,000
 - \$200,000 more than threshold of \$305,050
 - \$6,000 reduction of itemized deductions

Impact of Charitable Giving

- Not as impacting as you may think
- Taxpayers with other nondiscretionary itemized deductions unlikely to be impacted
 - State income taxes
 - Real estate taxes and mortgage interest

Example

- John and Jane Smith - AGI = \$500,000
 - Itemized deductions
 - Mortgage interest \$20,000
 - State income tax 25,000
 - \$45,000
 - Pease limitation - 6,000
 - (\$500,000 - \$300,000 x 3% = \$6,000) \$39,000
 - Charitable contributions 50,000
 - Total deductions \$89,000

Phaseouts and IRA Charitable Rollover

- IRA Charitable Rollover especially attractive to high-income donors
- Distribution to charity **not** taken into income
- Donor's income threshold lower
- If donor took RMD into income - increase income and exposure to phaseouts

Treatment of Same-Sex Married Couples

- Rev. Rule 2013-17
 - *United States v. Windsor*
 - *Hollingsworth v. Perry*
- Same-sex couples legally married in jurisdiction that recognizes marriage are treated as married for federal purposes
- 2013 forward - same-sex couples treated as married for federal tax purposes (income, gift and estate taxes)
- Ability to file amended returns for prior open years
- Charitable contribution carryover
- Gift tax marital deduction for CRTs, CGAs

Lower Interest Rate Environment

- Historically low § 7520 rates
- Favorable for CLATs, gifts of remainder interests in personal residence or farms

Friday, April 11th - Morning Sessions

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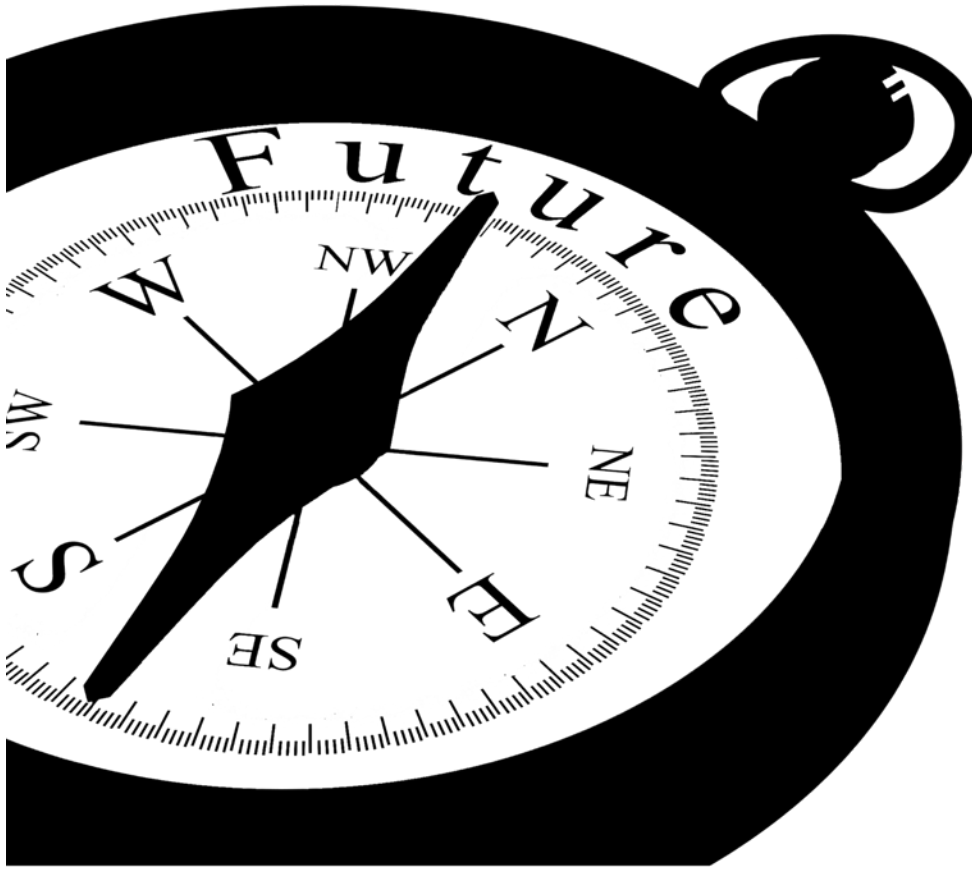
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Prospect Identification and Marketing (Track I, II)

Presented By

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President, Atlanta

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maribett.varner@bkv.com

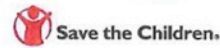
Prospect Identification and Marketing for Planned Gifts

April 11, 2014

Maribett Varner
President
3390 Peachtree Road, 10th Floor
Atlanta, GA 30326
404.233.0332



- BKV is a full-service direct and digital marketing agency with over 30+ years working with major national non-profits
- Past/Current Planned Giving Clients
 - American Red Cross
 - The Salvation Army/Southern Territory
 - Save the Children
 - ChildFund International
 - American Cancer Society



How many of you rely pretty much solely on Gift Officers to find prospects and cultivate/close them – and are happy/successful with that approach?

How many of you “prospect” in your house file to find candidates for planned giving conversations?

8 Steps to Making PG Marketing Successful



1. Create a plan

- If you don't plan it, it won't happen
- Mix your initiatives between offers, media and information
 - CGAs vs. Wills vs. Gifts of Insurance
 - Direct mail vs. Email
 - Asks vs. Information/newsletters/surveys/stories
- Cultivate “cold” house names differently from “warm” house names

2. Begin prospecting in the house file for planned giving

- Look for the "Matures," the aged in your file (70+) for CGAs, etc.
- Younger for Wills (55, 60)
- Look for the frequent donor (give regularly for a number of years; size of gift, not as important)

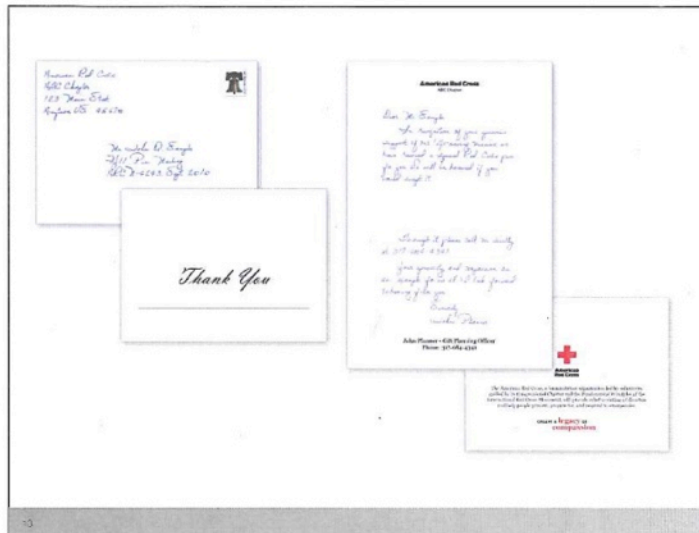


Consider that the historic results of the past PG campaigns might not apply to the next 10 years:

- Boomer bubble (this year all boomers will cross the 50+ threshold)
- Today's 50 year old is not like the 50 year old of 10-15 years ago; much more tech savvy
- In a media sense, they are the most multi-media age bracket: they're omnivores
- So what to do: test and migrate. Embrace the changes but time it right!

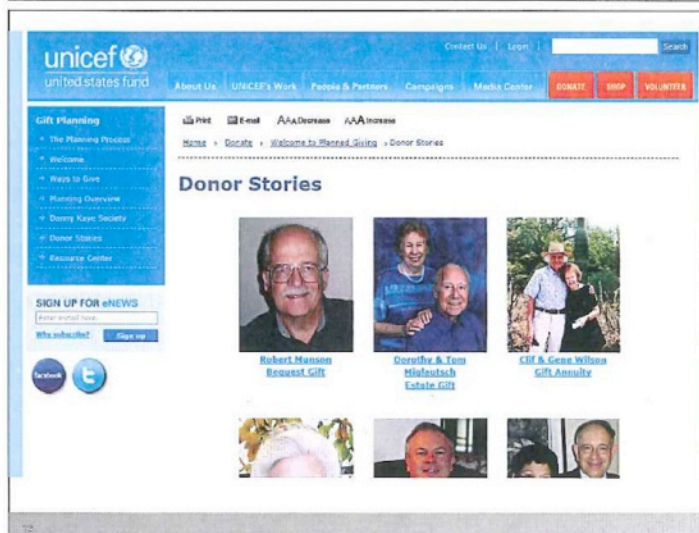
3. Good CRM at its best

- CRM basics
 - Recency – making a loyal PG customer happens in the first 30-60 days of personal contact
 - Frequency – if the content is relevant and compelling, frequency can escalate; Frequency is probably going to be highly rewarded with boomers
 - Honor, reward, acknowledge – acknowledge you know who they are, honor them when they reach certain milestones, reward the behavior that you want to encourage
 - Create dialog – never more important than in this Social 3.0 world
 - Look for "flags of loyalty" and know how to increase their incidence
 - Repeat visitation
 - Referring a friend
 - Completing a survey
 - Liking on Facebook
 - Well-resolved customer service issue



4. Tell Stories

- Everyone likes a good (often short) story
 - Write copy that has innate human interest appeal
 - Walk away from the copy desk ("institutional speak") and put yourself in your donor's armchair
 - Match your stories to right age of donor. Talking to a 55-year-old requires a different language from talking with a 75-year-old – but the hot buttons are similar!





Use testimonials

"A Charitable Gift Annuity enables seniors like me to make meaningful gifts to organizations, while increasing our income. It is one of the best bargains available. One of the organizations I choose to support this way is **Doctors Without Borders**. It has an outstanding reputation, and carries on its work under very difficult conditions. It gives me great satisfaction to know that any donation I make will go where there is much need for it."

-Dora Wiebenson, Charitable Gift Annuity Donor

People buy for emotional reasons and then rationalize their choice with logic

Maslov's Hierarchy of Needs:

Think about the psychology about why the donor wants/needs to engage with your organization



5. Frequency of communication can be important

- Planned giving prospects don't respond just because we ask
- Studies have shown it can take as many as 12-15 communications (asks/other) before someone responds
 - Confidence/Research
 - Timing
- Studies are showing that "boomers" will tolerate more communications than the "Matures"
- Mix your channels: mail/email/phone calls/visits/events/ acknowledgements for regular gifts

6. Study other characteristics of the file for CGA specifically

- Length of time on file relative to frequency
 - Sweet spot seems to be 5 to 15 years on file with a minimum of 7 gifts
- Cadence of gifts (how long between each gift on average; shorter cadence is much better)
- Other involvement with the organization (e.g., Volunteer, responding still to general appeals)
- Appended data:
 - Highly educated
 - Has no children
 - Retired
 - Widowed
 - Note: HH Income is not necessarily predictive!



Data Modeling as an option

- Use scientific analytics process to uncover those most likely to respond to PG appeals
 - CGA responders
 - Wills Kit offers
- ARC tested in 2012 to increase the effectiveness of their mail efforts – modeled mail panels performed over 22% better than the control
- Have no have a consolidated, clean database
- Enough volume to merit the cost
- Make sure you're modeling for the correct answer

Predictors' impact vary across models

Predictor	WG Offer Mailing Model	ARC in Will Model	Annuitant Model
Donor Age	✓	✓	✓
Gifts	✗	✓	✓
WG mailing respondent	✗	✓	✓
Average Gift Amount	✗	✓	✓
Household Income	✓	✓	✗
Time Since Last Gift	✓	✓	✗

✗ – No Impact

✓ – Significant positive or negative impact

7. Study the “competition”

- Make yourself a student of other campaigns – in your category and out. Make it a regular part of your job.
- Talk to your donors about other organizations who they have a PG relationship with





Organizations That We Requested CGA Information From



Organizations We Received CGA Information From



Customer Experience – Positive

- 
 - Had the most personalized CGA package.
 - Only organization to send a handwritten note card.
- 
 - Received email within one day to confirm address.
 - Only package to include a gift in fulfillment package.
 - Follow-up by email AND mail to see if illustration had arrived.
 - Also sent additional information on Wills and Bequests.
- 
 - Fulfillment email received within one day of initial request.
 - Provided CGA illustration and very useful CGA brochure, as well as an equally-useful bequest brochure and bequest information sheet.
- 
 - Received CGA illustration both by email and mail, along with a follow-up email to insure we had received both copies.

8. Track everything

- Aggregate results/response rates will be low but they're still (over time) how you know to improve your program and optimize it
- Make accommodations on your database to "record" involvement from potential PG donors (e.g., flag their record if they complete a survey)
- NOTE: Survey responders have been seen to be 17%+ more responsive to subsequent appeals

Prospecting: Beyond the House file

- An investment strategy
- Depends on the brand recognition of your organization
- Depends on the size and health of your traditional donor prospect initiatives (if you're struggling to hold response rates for 1x gifts from new donors, this may not be for you)
- Look for "natural" channels that fit your organization (e.g., Wounded Warrior might seek planned givers in Veterans Organizations)

Media tactics to consider

- Print (PSAs in seniors publications)
- Direct response TV
- Direct response Radio
- Email capture on web (and other places)
- Digital
 - Paid search
 - PSA digital ads
 - SEO
 - General website best practices

DRTV

- Great for wills kit offers
- Harder for CGA or other instruments
- Part of a two step campaign: qualify leads prior to turning over to gift officers
- Cost is barrier to entry; consider radio



Let's talk about landing pages

- Why a landing page is preferable to a link to the home page
- Why a landing page is preferable to a link to the PG part of the site

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Thousands of children are trafficked right here in the U.S. These kids are victims, not criminals.

TAKE ACTION

UNICEF makes the world better for kids

The United Nations Children's Fund (UNICEF) works in more than 190 countries and territories to save and improve children's lives, providing health care and immunizations, clean water and sanitation, nutrition, education, emergency relief and more.

HOME PAGE - NO MENTION OF PLANNED GIVING

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Gifts That Pay You Income

Do you want to support the U.S. Fund for UNICEF and give a lifeline to children struggling to survive, but worry about having enough income for yourself and your loved ones? Life-income gifts such as gift annuities and charitable remainder trusts can provide donors with an income stream, significant tax savings, and the satisfaction of providing the U.S. Fund for UNICEF with vital, long-term resources.

The creation of a life-income gift benefits both the giver and the receiver, a "win-win" situation. The following life-income gifts are available, and one may be right for you:

Charitable Gift Annuities

Immediate Payment
Gift Annuity

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See Diagram

Deferred Payment
Gift Annuity

Click to
See Diagram

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Charitable Gift Annuity— Immediate Payment

[GIFT DETAILS](#)

STEP 1 You give the U.S. Fund for UNICEF a gift of cash or property (and receive an income tax deduction)

STEP 2 The U.S. Fund for UNICEF makes fixed payments to you and/or another beneficiary starting now

STEP 3 Remainder to the U.S. Fund for UNICEF

Donor Spotlight
Elizabeth Caldwell explains why she has planned a bequest to support the U.S. Fund for UNICEF.
[Read more](#)

Contact Us

- Email: lanca@unicefusa.org
- Toll-Free: 866.486.4233
- [Confidential Reply Form](#)

CGA LANDER

Paid Search/SEO

- Good for being where the "searchers" are
- Very cost-effective to acquire leads; cultivation a little longer
- Consider a two-step lead cultivation

Searches and Clicks for These Terms

Keyword	Local Monthly Searches	Estimated Daily Clicks	Estimated Monthly Clicks
charitable gift annuity	6,600	3	90
how to write a will	18,150	48	1,440
planned giving	22,200	21	630
charitable gifts	4,350	86	2,580
charitable gift fund	5,400	5	150
end of life planning	2,400	2	60

planned giving

Web Images Maps Shopping More Search tools

About 124,000,000 results (0.28 seconds)

Planned giving - Wikipedia, the free encyclopedia
 en.wikipedia.org/wiki/Planned_giving - Planned giving (less commonly known as gift planning) is an area of fundraising that refers to several specific gift types that can be funded with cash, equity, ...

Resources - What is Planned Giving? at PlannedGiving.com
 www.plannedgiving.com/what-is-planned-giving - Planned giving, sometimes referred to as gift planning, may be defined as a method of supporting non-profits and charities that enables philanthropic individuals ...

Planned Giving Design Center | The World's largest community of ...
 www.pggdc.com/ - Providing planned giving specialists with resources they can use to advise clients and donors for advanced charitable gift planning.

Planned Giving - Creating Extraordinary Opportunities—Preserving ...
 giving.yale.edu/planned-giving - With a planned giving strategy, you can put your assets to work for any part of Yale you choose—like your alma mater's university share in the Bancrofts. This website ...

U.S. Fund for UNICEF Planned Giving - Welcome to Planned Giving
 unicefusa.org/planned-giving - Planned Giving. Why Planned Giving? Because you can leave behind a legacy of caring that will save and improve the lives of countless children. Your planned ...

Red Cross Legacy Gifts
 www.redcrosslegacy.org/legacygift - Learn How to Support the Red Cross Mission through Your Estate Plan.

How Gift Annuities Work
 www.gomona-planyourlegacy.org/ - 1 (877) 534 1944
 Gift annuities have many benefits. Find out more now. Rate calculator.

What is Planned Giving
 www.about.com/What-Is-Planned-Giving - What Is Planned Giving Search Now! Over 60 Million Visitors.

Planned Giving
 www.hartconnect.com/ - The Leading Provider of Fundraising & Directory Solutions for 50 Years.

Planned Giving
 www.unisc.org/ - By Making an Estate Gift You Ensure Your Impact Lives on. Learn More.

Giving to Stanford | Planned Giving

Wills/Bequests Example Flow

estate planning

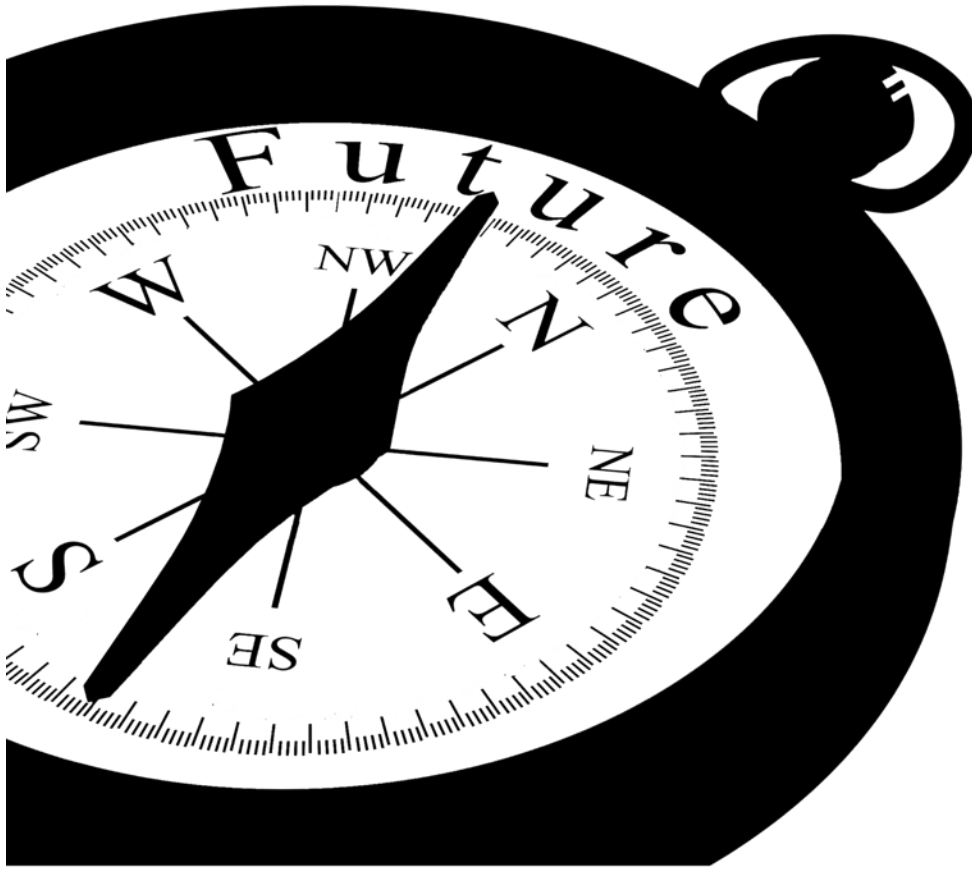
Planning Your Will | redcrosslegacy.org
 www.redcrosslegacy.org/estateguide
 A Step-by-Step Guide to Writing Your Will and Planning Your Estate.

American Red Cross
 Get a Headstart on Writing Your Will
 FREE Audit and Workbook for Estate Planning and Charitable Giving
 Register your gift online and then return to your mailbox. It's that easy! FREE audit and workbook for estate planning and charitable giving.

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 1. Who supports your will today?
 2. Who supports your will today?
 3. Who supports your will today?

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Gift Planning with Real Estate (Track II)

Presented By

Emanuel “Emil” J. Kallina, II, J.D., LL.M.

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ejk@kallinalaw.com

Gift Planning with Real Estate: The “Charitable Put”

Some prospective gifts of real estate may be simple, and a charity can easily determine that the benefits of accepting the asset exceed the burdens. But for many complicated potential real estate gifts, the charity may conclude that further measures need to be taken to reduce inherent risks in order to arrive at a point where the reward to risk ratio is tolerable. In some of these situations, it may make sense to explore alternative ways of structuring the gift transaction to incorporate a “charitable put.” In other situations, it may make sense to restructure the gift to allow the liquidated value of the gift to flow to the charity without the charity itself being in the chain of title.

These alternative structures are especially helpful in accepting gifts of real estate to fund charitable gift annuities (“CGAs”) or in structuring bargain purchases of real estate. However, it is in these gift structures that nonprofit organizations are most often exposed to the risk of being required to make payments (either annuity payments or a bargain purchase price) before cash has been realized through the sale of the property. Charitable gift annuities funded with real estate are especially well-suited to donors wishing to make a gift while seeking steady, predictable income and wishing to avoid the legal costs and complexities of a charitable remainder trust (“CRT”). Alternatively, bargain sale transactions can be very attractive to the donor who seeks to make a gift while also generating immediate cash for health needs, travel, etc., or who would simply rather invest and manage proceeds from the sale himself or herself rather than having another entity do so through a CGA or CRT.

Donors have a range of gift-structuring alternatives available for use in real estate-funded CGAs, bargain sales, and other transactions, which can be quite helpful in minimizing or eliminating liquidity risks. But the most beneficial gift-structuring alternative for both the charity and the donor is the “Charitable Put.”

The “Charitable Put”

The concept known as the “Charitable Put” emerged as a solution for problems associated with non-cash gifts, especially gifts of real estate. These problems arise in five major areas:

Environmental and Other Risks: The first area, and usually the most important one from the charity’s perspective, is the environmental risk associated with acquiring the property. These risks can include the cost associated with the cleanup of contaminated soil or the cost of removing underground oil tanks. To that, one can add the danger of acquiring real estate, only to find out that there are unexpected obligations entitled with ownership.

Carrying Costs: A second concern is the cost the charity incurs to receive, administer, and liquidate the real estate. In today’s world, charities are sensitive primarily to out-of-pocket expenses, but are becoming increasingly aware that a planned gift/major donor officer cannot be raising money for the charity if she is busy administering and attempting to sell non-cash assets.

Lack of Return on Investment: A third problem is the charity's potential loss of return on investment during the period from the gift to its liquidation. Although this may not be an apparent concern, chief financial officers and treasurers of charities do include this factor in their thinking.

Delayed Fulfillment of Charitable Purposes: Fourth, the charity is worried about the lack of marketability and liquidity, which affect its ability to fulfill its charitable purposes.

Valuation Uncertainties and Adverse Fallout: Fifth, the charity is worried—or should be worried—about valuation uncertainties on the date of the gift; and closely connected to this, the charity desires to protect itself from the donor claiming a charitable deduction that is significantly greater than the value at which the charity can sell the real estate. The perceptions of the Internal Revenue Service (“IRS”), Congress (especially the Senate Finance Committee), and the public are important to the charity; its reputation can be severely damaged by the publicity surrounding a high profile donor who takes an excessively large deduction.

One of the obvious threads running through each of these potential problems is “liquidity.” In other words, the charity can solve most of these problems, except perhaps the environmental one, by quickly disposing of the real estate upon receipt as a gift. We all know, however, this is easier said than done, because of a number of factors including the donor's tax situation and the real estate market in general.

Obviously, many of the charity's problems would evaporate quickly if the donor were to transfer the real estate gift along with an already prepared contract for sale of the property to a legitimate, wealthy buyer. However, from the donor's perspective, this does not work because the IRS will treat the donor as having sold the real estate and gifted the sale proceeds to charity (see the discussion below). Historically, because of this dilemma, the charity is stuck with accepting a gift of real estate without a guaranteed buyer, along with the attendant problems discussed above.

The Charitable Put solves the charity's problems, while at the same time not jeopardizing the tax situation of the donor. At its simplest, a Charitable Put allows the charity to enter into a contract with a third party—prior to receiving the gift—that gives the charity the right, upon receipt of a particular gift of real estate, to require the third party to purchase the real estate for a pre-arranged price, within a pre-determined period of time.

For example, suppose that donor (“D”) desires to give to charity Lorelei Heights, which consists of land and buildings in a major city, in exchange for a charitable gift annuity. Once the charity becomes aware of the gift, the charity obtains a real estate broker, who finds a third party buyer (“B”) to purchase Lorelei Heights. Before the gift occurs and before the gift annuity is finalized, the charity will enter into a legally binding contract with B where it (the charity) may require B to purchase Lorelei Heights within (for example) 10 days of the gift, for cash. Finally, the charity returns to D, letting him or her know that it is now ready to accept the gift of real estate and finalize the gift annuity contract.

If B cannot pay cash, then the contract can provide for alternate financing that is acceptable to the charity. Obviously, the Charitable Put technique requires someone such as the treasurer or a

finance officer to thoroughly vet the financial capabilities of B, to make certain that the transaction actually does happen. Other than having a buyer with sufficient cash in the checking account, this could be done with an irrevocable letter of credit, bank loan, or similar banking technique.

The idea of the Charitable Put is appealing from the charity's standpoint:

- There is certainty as to sales price and timing of the sale.
- The environmental risks are reduced, as well as other liabilities, if the period the charity holds the real estate is very brief.
- The carrying costs are minimal and definable (read into this, you have a happy finance office).
- There is no lack of return on investment.
- There is no delay in fulfilling the charitable purpose.
- Valuation uncertainties are eliminated, as well as any adverse publicity risk.

Legal Analysis – From the Donor's Perspective

Obviously, the Charitable Put works for the charity, but does it work from the donor's perspective? Remember, the donor needs to be assured he or she will not be taxed on the inherent appreciation in the real estate gift. Although the following discussion is highly technical, it is essential a planned or major gifts officer understands the tax and legal issues, and is able to communicate them to the donor's tax counsel in a fashion that the donor and his or her advisers are confident the gift can take place as desired and intended.

In general, under the anticipatory assignment of income doctrine, a taxpayer who earns or otherwise creates a right to receive income will be taxed on any gain realized from it, if the taxpayer has the right to receive the income or if, based on the realities and substance of the events, the receipt of the income is practically certain to occur (regardless of whether the right has become a fixed right). This holds true even if the taxpayer transfers the right before receiving the income.[1] In contrast, the mere anticipation or expectation of the receipt of income is insufficient to conclude that a fixed right to income exists.[2]

In Revenue Ruling 78-197, the Service announced that it will treat the proceeds of a redemption of stock as income to the donor **only if the donee is legally bound or can be compelled by the corporation to surrender the shares for redemption**. [3] The Tax Court has characterized the "legally bound" standard in Revenue Ruling 78-197 as a "bright line" test for determining if a contribution of stock to a charity followed by a redemption of that stock from the charity should be respected in form, or recharacterized as a redemption of the stock from the donor followed by a contribution of the proceeds by the donor to the charity.[4]

In *Palmer v. Commissioner*[5], a shareholder, in control of a corporation, gifted stock of that corporation to a charitable foundation also controlled by the donor. Subsequent to the gift, and as part of the same plan, the shareholder caused the corporation to redeem the gifted stock from the donee foundation the next day. The Tax Court respected the form of the transaction and did not recharacterize the transaction as a redemption of the stock by the donor shareholder followed by

a gift of the redemption proceeds to the charitable foundation, because it found that a gift of stock had, in fact, been made to the foundation and the foundation was not legally obligated to redeem the stock at the time it received title to the shares. In reaching its decision, the court noted: “there were two paths which the [donor] could have taken—he could have had the stock redeemed and then made a contribution of the [proceeds], or he could have contributed the stock and let the donee arrange for the redemption. The tax consequences to the donor turn on which path he chooses, and so long as there is substance to what he does, there is no requirement that he choose the more expensive way.”[6]

In *Blake v. Commissioner*[7], the court held that an expectation and advance understanding between a donor and a charity that appreciated stock contributed by the donor would be sold by the charity and the proceeds used to purchase the shareholder’s yacht was enough, under the step transaction doctrine, to re-structure the transaction. The Tax Court treated the shareholder as selling the stock realizing gain, and then transferring the sale proceeds to the charity. Further, the Tax Court found that the donee was legally bound to purchase the yacht under a theory of promissory estoppel. Consequently, the taxpayer was taxed on the gain from the charity’s sale of stock, and his charitable deduction was allowed only for the value of yacht. On appeal, the appellate court stated:

“...whether or not the ‘understanding’ the Tax Court found here was legally enforceable under state law, we hold that where there is an understanding that a contribution of appreciated property will be utilized by the donee charity for the purpose of purchasing an asset of the contributor, the transaction will be viewed as a matter of tax law as a contribution of the asset -- at whatever its then value is -- with the charity acting as a conduit of the proceeds from the sale of stock. This makes the taxpayer/putative donor taxable on the gain of the stock ... Where there is, as here, an expectation on the part of the donor that is reasonable, with an advance understanding that the donee charity will purchase the asset with the proceeds of the donated stock, the transaction will be looked at as a unitary one.”[8]

Despite the apparent inconsistencies between *Palmer*, Revenue Ruling 78-197, and *Blake*, there are logical interpretations of these and other relevant cases and rulings. *Blake* dealt solely with a situation in which there was a gift of an appreciated asset to charity, so that the charity in turn could purchase an asset from the donor. In effect, there was a quid pro quo required by the donor, in order for the donor to make such a substantial gift. The donor admitted this in court. In fact, viewed in its entirety, *Blake* involved a taxpayer who received a charitable deduction of \$700,000 for a boat that was really worth \$200,000, as evidenced by the sales price months later. If a situation does not involve a quid pro quo, or if it does not involve a scheme to obtain an inflated tax deduction, then the legal test in *Palmer* and Revenue Ruling 78-197 applies; namely, that there must be a legal obligation on the part of the donee if the donor is to be subject to tax on the resulting gain. This departure from the legal standard of *Palmer* and Revenue Ruling 78-197 to the one espoused in *Blake* is justified only where a quid pro quo exists; this conclusion is supported by the Second Circuit’s later decision in *Greene v. United States*, discussed next.

In *Greene*[9], the taxpayer contributed futures contracts[10] to a Section 501(c)(3) private operating foundation which he founded in the early 1970s. In 1974, the taxpayer obtained

a private letter ruling from the Service indicating that he would be entitled to an income tax charitable deduction in an amount equal to the FMV of the contracts on the date of gift, and that there would be no gain recognized to him when the charity subsequently sold the futures contracts. In 1981, Section 1256 was amended to provide that 60 percent of the gain on futures contracts would be long-term capital gain, and the balance would be treated as short-term capital gain regardless of the holding period.

In 1982, Greene donated the 60 percent long-term capital gain portion to the charity, taking a full deduction. According to the court, the fact that the donor could reasonably anticipate at the time of the contribution that the donee would immediately sell the donated property does not necessarily convert the donation into an anticipatory assignment of income. On the other hand, where there is merely anticipation or expectation, rather than a certainty, of income, there is no assignment of income. On appeal, the court stated that the assignment of income doctrine applies to cases where the donor retains sufficient power and control over the donated property or the receipt of income so as to make it reasonable to treat the donor as the recipient of income.[11] However, the court went on to affirm summary judgment for the donor taxpayers. The court held that the donors could not be deemed to have realized income on the contracts under the anticipatory assignment of income doctrine after they were sold by the charity, because the donors had no control over the sale. Distinguishing the case from *Blake*, the Second Circuit also ruled that the interdependence test was not met, and the step transaction doctrine was inapplicable.

In *Ferguson v. Commissioner*[12], three individuals donated appreciated stock to charitable organizations immediately before their corporation was sold to another in a tender offer. The Tax Court held that the taxpayers were taxable on the gain in the stock transferred under the anticipatory assignment of income doctrine. The taxpayers and their children owned 18.8 percent of the stock of American Health Companies Inc. (“AHC”). In July of 1988, AHC entered into a merger agreement with two acquiring corporations (“X”). Under the agreement, X was to purchase AHC’s stock in a tender offer and then merge into AHC. On August 3rd, AHC’s board voted on a tender offer made by X. The taxpayers abstained from voting, as board members, on the tender offer. Nonetheless, the offer was approved. Between August 15th and 21st, the taxpayers executed “donation-in-kind” records stating their collective intention to donate 61,111 shares of AHC stock to the charities. The taxpayers’ stockbroker (“Broker”) helped the taxpayers create separate accounts for all of their respective stockholdings. On August 26, the charities were formed. As of August 30th, more than 50 percent of AHC’s outstanding shares had been tendered or guaranteed. On September 8th, the Broker transferred the shares to the newly formed charities, at which time more than 95 percent of the outstanding shares of AHC stock had been tendered or guaranteed.

On September 9, the merger took place, with AHC stock being traded for X stock. The Service determined that the taxpayers were taxable on the gain attributable to the AHC shares that were donated to the charities. The court held that Broker was not an agent of the charities, but instead an agent of the taxpayers, and stated the taxpayers “have failed to explain how the gifts to the charitable foundations occurred on August 15, 1988 and August 21, 1988, respectively, when the [charitable] foundations were formed on or about August 26, 1988.” The Court held that there was no unconditional delivery of stock to charities or to their agents as required under

Section 1.170A-1(b) of the Income Tax Regulations, until September 9, 1988, when the taxpayers relinquished control. When the taxpayers relinquished control on September 9th, more than 95 percent of the outstanding shares of AHC stock had been tendered or guaranteed, meaning that the taxpayers and the charity had no ability to prevent X from completing the transaction. The court said:

“We do not believe that application of the anticipatory assignment of income doctrine is conditioned on the occurrence of a formal shareholder vote. We believe, instead, that when more than 50 percent of the outstanding shares of AHC stock had been tendered or guaranteed, which in effect was an approval of the merger agreement, and the Charities could not vitiate the intention of the shareholders, who had tendered or guaranteed a majority of AHC stock, of the [taxpayers], and of [X], the right to merger proceeds matured. When the Charities received AHC stock on September 9, 1988, payment in exchange for those shares pursuant to the tender offer was imminent (i.e., four days from the date of the gifts). Moreover, the Charities did not even need to tender their shares, but would have received \$22.50 a share in cash, because the merger agreement provided that shares outstanding after the tender offer would be converted into the right to receive \$22.50 in cash. The fact that AHC shareholders may not have had a legal right to the merger proceeds prior to acceptance of the tendered or guaranteed shares by [X] does not change our conclusion. The Court of Appeals for the Eighth Circuit in *Hudspeth v. United States*...rejected the taxpayer's contention that the gifts preceded the time when an enforceable right to the liquidation proceeds accrued and focused, instead, on the fact that the donees could not change the future course of events; i.e., the liquidation of the corporation.”[13]

In effect, the court held that the strong likelihood of something happening was the legal equivalent of the event actually taking place. Thus, the *Ferguson* decision clouded the bright lines of *Palmer* and Revenue Ruling 78-197 regarding the donee's legal obligation to proceed with the transaction. On appeal, the appellate court noted that “once a right to receive income has ‘ripened’ for tax purposes, the taxpayer who earned or otherwise created that right, will be taxed on any gain realized from it, notwithstanding the fact that the taxpayer has transferred the right before actually receiving the income.”[14]

That court also stated “to determine whether a right has ‘ripened’ for tax purposes, a court must consider the realities and substance of events to determine whether the receipt of income was practically certain to occur.” In fact, “...the Tax Court could have relied on the way things were going, not merely how things were.”[15] The holding of the 9th Circuit affirmed the Tax Court in its choice of August 30th, days before the tender offer actually became final, and not September 9th, the day the tender offer actually became final (when 85 percent of the outstanding AHC shares had been tendered or guaranteed as required by the tender offer and merger agreement), from a factual and legal standpoint.

Private Letter Rulings (“PLRs”) in 2001 and 2002[16] gave practitioners hope that the *Ferguson* cases were just an aberration in thinking, and that the Service would not continue to litigate this point. This idea was shattered by *Rauenhorst v. Commissioner*, where the Service argued that a gift of warrants to four charities was an anticipatory assignment of income.[17] The

Tax Court, in this case, however, took a totally different view than it did in *Ferguson* and publicly reprimanded the Service for ignoring Revenue Ruling 78-197 and the *Palmer* case, demanding that the Service live within the constraints of its own published rulings. The impact of Judge Ruwe's decision was felt so widely within the Service that IRS chief (legal) counsel felt obligated to publicly announce the Service "would never again argue that the IRS is not bound by its own revenue rulings." [18]

Rauenhorst was followed by PLR 200321010, regarding a gift of stock to a charitable remainder trust, where the stock was subject to a restriction on transfer. Here, the Service reasoned that the CRT was not legally bound under Revenue Ruling 78-197 and *Palmer* to sell the stock, and thus the stock restriction, which was tantamount to a first right of refusal, would not cause the donors to be taxable when the CRT sold the gifted stock.

Very little activity has occurred at the IRS level regarding pre-arranged sales and assignment of income since *Rauenhorst*, despite the fact these legal concepts are omnipresent in most transactions. That being said, in late May of 2008, the Service issued PLR 200821024, dealing with a pre-arranged sale and repurchase from a donor advised fund ("DAF"). In that ruling, the Service declared that the possible purchase by a donor (via a trust of which he is the trustee) of stock contributed by him to a DAF would not constitute an anticipatory assignment of income.

The investment policies of the community foundation that maintained the DAF require that the foundation's investments be diversified. Under the facts as represented, the foundation has indicated an intention to sell and will seek to find prospective buyers. The donor through a related entity may purchase a portion of the gifted shares, if the foundation offers the shares for sale. The remaining shares owned by the foundation may be purchased by others, who are unrelated to the donor.

The donor represented that none of the shares are "subject to any condition or legally binding obligation requiring Y [the foundation] to sell the shares, or offer them for sale. The contributed shares will not be subject to any option or right by any person to acquire them from Y. Y has the sole discretion regarding whether or when to sell the contributed shares and to whom those shares may be sold. Further, [the donor] will not retain any rights or interest in the contributed shares."

The Service determined that under *Palmer* [19] and Rev. Rul. 78-197, the proposed transaction would not be treated as a direct purchase of the stock by the trust. This ruling shows a maturation in the willingness of the IRS to consent to a pre-arranged sale, where there is no legally binding obligation to sell on the part of the charity. This type of ruling has been requested from the Service on a number of occasions, but to-date the Service has refused to consider a gift/repurchase arrangement. As long as there is no excess benefit to the donor, and everything is transparent, the IRS should not have a problem with this type of transaction.

Being able to have an outlet for re-selling the stock is in the best interests of the charity, the donor, and the government. It would be helpful if the Service would turn this PLR into a Revenue Ruling, since we cannot rely upon the former, but can do so with the latter.

In summary, other than *Ferguson*, unless there is a quid pro quo arrangement (as in *Blake*), the Service and the courts apply the rule “legally bound” standard of *Palmer* and Revenue Ruling 78-197. The Service’s latest pronouncement in this area, although it cannot be relied upon by other taxpayers, certainly indicates a favorable attitude towards an arrangement that does not have a Charitable Put, but does have a re-sale to the very donor who gifted the asset.

Applying the law of assignment of income and the pre-arranged sale to our Charitable Put technique, it is clear the charity is under no legal obligation to sell the real estate to the third party buyer. The charity has an option (a “put”) it can exercise within its discretion, not an obligation. In conclusion, because there is no quid pro quo and the charity will not be legally bound to sell the real estate, gain on the sale to the third party cannot be attributed to the donor.

Managing Donor Expectations

Needless to say, the charity needs to manage donor expectations as it implements the Charitable Put. For example, the charity needs to make sure the donor understands the concept, his or her tax advisers are comfortable with the technique, and he or she is aware of the identity of the potential third party buyer and the price at which the real estate is to be sold. Obviously, it is imperative the charity work with its donor on the sales price, since the donor already has his or her own perception of value and how much of an income tax deduction is available.

Private Letter Ruling Request?

This concept has been informally presented to the IRS, and discussed in some depth with various high-level IRS agents, all of whom are staff and not the decision makers. These individuals were skeptical at first, but as the discussions proceeded, they seemed less and less concerned. They were careful to say they could not approve the technique without significant in-house study and analysis, but were quite surprised to learn that the technique was being widely used by sophisticated tax practitioners in the field.

Even though this technique has been used frequently and is becoming more prevalent, without a definitive Revenue Ruling, legal counsel for donors may find it advisable to seek a Private Letter Ruling when using the Charitable Put technique. When the Charitable Put was presented to the Service two years ago, they discouraged a formal PLR request. In late May of this year, however, the IRS published PLR 200821024, which is closely aligned in spirit with the Charitable Put. Perhaps the time is ripe for another run at the IRS!

Conclusion

The importance, nationwide, of real estate as an asset, and the success of growing numbers of charities in attracting major gifts through real estate transfers of various sorts, should motivate more and more charities to reexamine their reluctance (or refusal) to accept real estate gifts. In taking a fresh look at the trade-offs between the risk in real estate gift acceptance and the returns from such gifts, charities should consider that adherence to proven due diligence procedures can, in many cases, largely eliminate potential environmental liability, transfer cost, lack of liquidity, carrying costs and other risks and expenses. In the case of more complicated gifts, and/or where

the institution seeks additional protections from risk, a variety of creative structuring alternatives can be used with great success. Chief among these are the Charitable Put—which can be especially useful in charitable gift annuity and bargain sale gifts where the charity needs assurances regarding the timing of the sale and the price of the sale.

[1] *Ferguson v. Commissioner*, 174 F.3d 997 (9th Cir. 1999) (citing *Jones v. United States*, 531 F.2d 1343, 1346 (6th Cir. 1976); *Kinsey v. Commissioner*, 477 F.2d 1058, 1063 (2d Cir. 1973); *Hudspeth v. United States*, 471 F.2d 275, 280 (8th Cir. 1972); *Estate of Applestein v. Commissioner*, 80 T.C. 331 (1983); and *Lucas v. Earl*, 281 U.S. 111, 50 S. Ct. 241, 74 L. Ed. 731 (1930)).

[2] *S.C. Johnson & Son, Inc. v. Commissioner*, 63 T.C. 778, 787-88 (1975).

[3] Rev. Rul. 78-197, 1978-1 C.B. 83 (explaining that this “legally bound” standard will only apply in cases under facts similar to those in *Palmer v. Commissioner*, 62 T.C. 684 (1974), *aff’d* on another issue, 523 F. 2d 1308 (8th Cir. 1975)).

[4] *See Rauenhorst v. Commissioner*, 119 T.C. 157, 165 (October 7, 2002).

[5] *Palmer v. Commissioner*, 62 T.C. 684 (1974), *aff’d* on another issue, 523 F. 2d 1308 (8th Cir. 1975).

[6] *Id.* at 693.

[7] *Blake v. Commissioner*, 42 T.C.M. 1336 (1981).

[8] *Blake v. Commissioner*, 697 F.2d 473, 480-481 (2d Cir. 1982).

[9] *Greene v. United States*, 806 F. Supp. 1165 (S.D.N.Y. 1992).

[10] http://en.wikipedia.org/wiki/Futures_contract (According to Wikipedia, a “futures contract” is a “standardized contract, traded on a futures exchange, to buy or sell a certain underlying instrument at a certain date in the future, at a specified price.”)

[11] *Greene v. United States*, 13 F.3d 577, 582 (2d Cir. N.Y. 1994).

[12] *Ferguson v. Commissioner*, 108 T.C. 244 (1997).

[13] *Id.* at 262-264 (emphasis added).

[14] *Ferguson v. Commissioner*, 174 F.3d 997, 1003 (9th Cir. 1999).

[15] *Id.* at 1003-1004.

[16] I.R.S. P.L.R. 200117016 (April 27, 2001); 200205008 (Feb. 1, 2002); and 200232004 (Aug. 9, 2002).

[17] *Rauenhorst v. Commissioner*, 119 T.C. 157 (October 7, 2002).

[18] Tax Analysts Reference 2002 TNT 205-1 (22 Oct 2002).

[19] *Palmer v. Commissioner*, 62 T.C. 684 (1974), *aff'd* on other grounds, 523 F.2d 1308 (8th Cir. 1975), *acq.*, 1978-1 C.B. 2.

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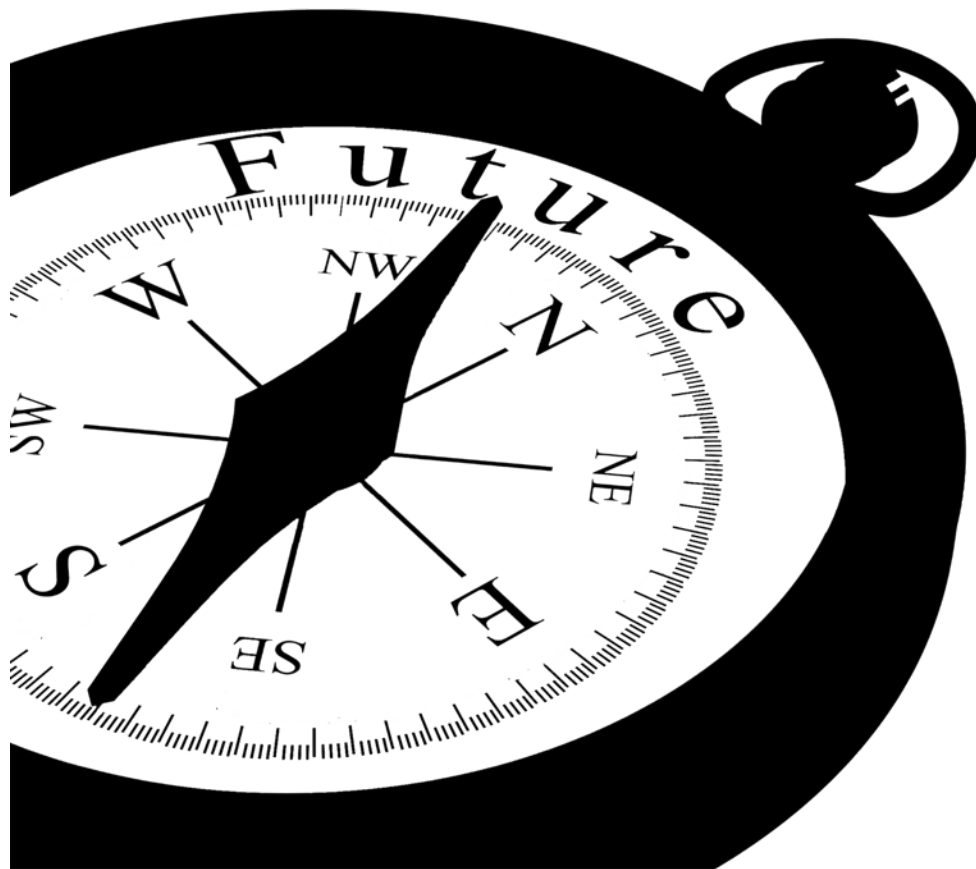
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CHARTING A COURSE FOR THE FUTURE

- A CONFERENCE ON PLANNED GIVING -



Data-Driven Marketing of Gift Annuities: Results You Can Use from the 2013 Survey - Panel Discussion (Track I, II)

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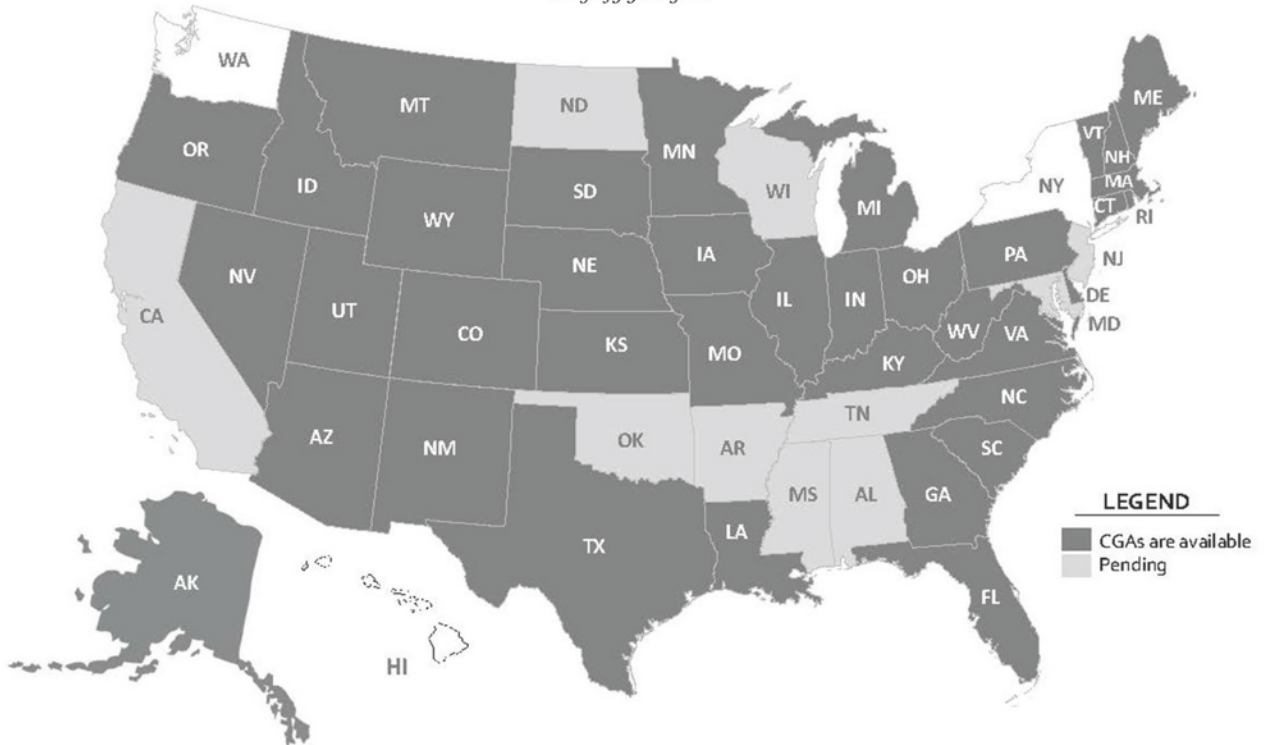
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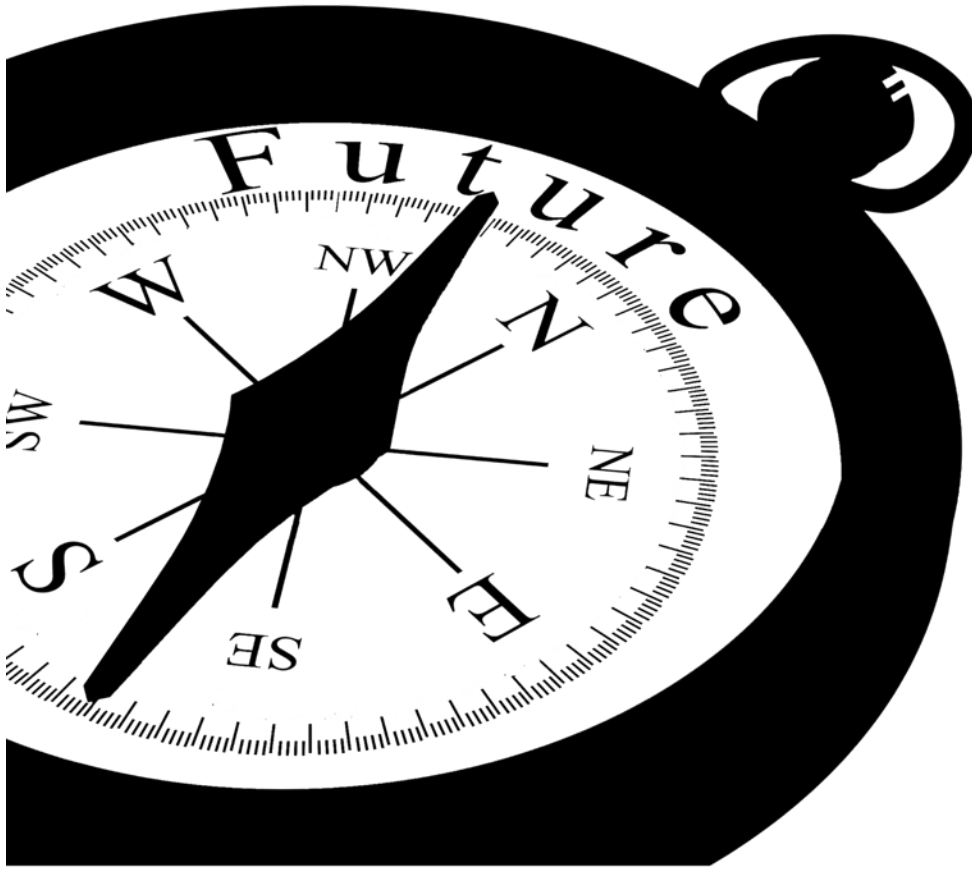
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CHARTING A COURSE FOR THE FUTURE

- A CONFERENCE ON PLANNED GIVING -



The Ethics of Advising Elderly Donors and Clients (Track I, II)

Presented By

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The Ethics of Advising Elderly Donors and Clients

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Presentation Summary

- I. Introduction: U.S. Population is Aging
- II. Selected Ethical Guidelines for Philanthropic Fundraising Professionals
- III. Legal Rules
 - a. General Rules
 - i. Lack of Capacity
 - ii. Undue Influence
 - iii. Fraud
 - b. Breach of Fiduciary Duty
- IV. Case Studies: *Dauray v. Estate of Mee*, 2012 R.I. Super. LEXIS 141 (Sept. 2012)
Chu v. Legion of Christ, Inc. (D RI, January 13, 2014)

The Ethics of Advising Elderly Donors and Clients

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- I. **Introduction: U.S. Population is Aging**
 - a. The elderly population is rapidly expanding. Nearly 13% of the US population is comprised of individuals who are age 65 or older (and that number is expected to rise to nearly 20% by 2030). Fundraisers and professional advisors are increasingly faced with unique challenges, both legal and ethical, when working with the elderly.

- II. **Selected Ethical Guidelines for Philanthropic Fundraising Professionals**
 - a. Members shall effectively disclose all potential and actual conflicts of interest; such disclosure does not preclude or imply ethical impropriety.
 - b. Members recognize their individual boundaries of competence and are forth-coming and truthful about their professional experience and qualifications and will represent their achievements accurately and without exaggeration.
 - c. Members shall present and supply products and/or services honestly and without misrepresentation and will clearly identify the details of those products, such as availability of the products and/or services and other factors that may affect the suitability of the products and/or services for donors, clients or nonprofit organizations.
 - d. Members shall establish the nature and purpose of any contractual relationship at the outset and will be responsive and available to organizations and their employing organizations before, during and after any sale of materials and/or services.
 - e. Members shall protect the confidentiality of all privileged information relating to the provider/client relationships.
 - f. Members shall take care to ensure that all solicitation and communications materials are accurate and correctly reflect their organization's mission and use of solicited funds.
 - g. Members shall take care to ensure that donors receive informed, accurate and ethical advice about the value and tax implications of contributions.
 - h. Members shall obtain explicit consent from donors before altering the conditions of the financial transactions.

- III. **Legal Rules**
 - a. General Rules
 - i. *Lack of Capacity*
 1. The standard for donative and/or testamentary capacity is that the donor and/or testator must (i) have knowledge of and comprehend the natural

- objects of his bounty, (ii) understand the kind and character of his property, (iii) understand the nature and effect of his act and (iv) make a disposition of his property according to some plan formed in his mind.
2. An individual may still be found to have donative and/or testamentary capacity even if:
 - a. The donor/testator is old;
 - b. The donor/testator is under guardianship;
 - c. The donor/testator is illiterate.
 3. While no presumption of incapacity may be drawn simply because of old age, this does not mean inferences are impermissible. To the contrary, inferences unfavorable to the position of a will's proponent may be drawn from the old age, deafness, or other infirmities of the donor and/or testator when considered with other evidence.

ii. Undue Influence

1. In its most basic sense, undue influence is the substitution of the will of a third party for the free will and choice of the donor or testator in making a gratuitous disposition.
2. Weakness of mind of the donor or testator, while a relevant factor, is not an essential element to a finding of undue influence.
3. General Elements: Typically, in order to prove undue influence, the person seeking to undo the gift or avoid the will must prove (by a preponderance of the evidence) that:
 - a. influence was applied to such an extent as to force and coerce the donor or testator into the action, destroying the free agency of the donor or testator;
 - b. the gift or will was obtained by this coercion; and
 - c. the circumstances surrounding the gift or implementation of the will are inconsistent with any hypothesis but undue influence.
4. An inference of undue influence arises when there is an unnatural disposition of a decedent's property by will, considered along with other factors.
5. Courts have frequently noted that one claiming undue influence is often unable to produce direct evidence of the undue influence to the factfinder but rather must rely on circumstantial evidence.
6. Burden of Proof: Generally, the party contesting the gift or will must prove undue influence by a preponderance of the evidence. However, where a relationship of trust and confidence exists between a grantor and grantee, it is generally held that the burden shifts to the grantee to establish that the transfer was the deliberate and voluntary act of the grantor and that the transaction was fair, proper, and reasonable in all circumstances. The confidential relationship presumption should be used to shift the burden when circumstances are suspicious and call for some explanation.
7. In the context of a claim of undue influence, where property is conveyed to a person holding a confidential relation to the grantor, the onus is on the grantee to show affirmatively that the grantor acts with full knowledge and independently of the pressure of the relation. The rule applies especially to persons in fiduciary situations, but it is not confined to them. It is applicable whenever the relation is such that the grantor is

dependent on the grantee for advice and direction, or is, as it were, in tutelage or subjection to him as the guiding or controlling mind. Many courts have recognized such confidential relationships between clergymen and parishioners, or between similar religious leaders and their followers. When such trust is betrayed in order to obtain another person's property even though not for one's self, the processes of equity will come to the aid of the one who has parted with his property while under that influence. In the presence of such a spiritual ascendancy, all gifts or benefactions from the subject of such an influence to the possessor of it, have been frequently avoided on grounds of public policy, and without any suspicion that fraud or imposition of any kind has been practiced.

iii. Fraud and Misrepresentation

1. To establish a claim for fraud, a plaintiff must prove that:
 - a. the donee or legatee made a false representation intending thereby to induce the donor or testator to act in reliance thereon; and
 - b. the donor or testator justifiably relied thereon and did act to his or her damage.
2. The representation must be false at the time it is made.
3. Further, a misrepresentation is defined as "a manifestation by words or other conduct by one person to another that, under the circumstances, amounts to an assertion not in accordance with the facts."
4. In the context of concealment as the basis for a claim of fraud, mere silence is not fraudulent unless there is a duty to speak.
5. Whether there is a duty to disclose information turns on the facts of the case and is a flexible inquiry.

Lastly, although justifiable reliance is an essential element of a claim for fraud or deceit, direct evidence on this issue is not required if the necessary reliance can be inferred from the circumstances attending the transaction in question.

b. Breach of Fiduciary Duty

- i. A fiduciary relationship has "one supreme characteristic." The agent owes the principal a duty of utmost good faith and absolute loyalty.
- ii. Courts have held this to mean that, in the absence of language to the contrary in the document establishing the relationship, the agent must act solely in and to further the principal's interest, even at the expense of the agent's own interest in matters connected with the agency.
- iii. In other words, an agent must not derive any personal gain or advantage, either directly or indirectly, from the use or disposition of property of the principal for which the agent is responsible.

IV. Case Studies:

- a. Dauray v. Estate of Mee, 2012 R.I. Super. LEXIS 141 (Sept. 2012) – See Exhibit A
- b. Chu v. Legion of Christ, Inc., (D RI, Jan. 13, 2014) – See Exhibit B

Exhibit A

Case Study:

Dauray v. Estate of Mee

2012 R.I. Super. LEXIS 141 (Sept. 2012)

Summary: After the passing of her husband, Mrs. Mee, a very religious woman, gave over \$5,000,000 to the Legion of Christ, a Catholic organization, late in her life. In addition, she gradually modified her will and trusts, as well as her late husband's Foundation, to direct that all of couple's assets would pass to the Legion at her death. She also modified her estate planning documents to name various members of the Legion to act in certain fiduciary capacities for her. At her death, more than \$55,000,000 passed to the organization. After certain unfavorable details of the life of the founder of the Legion came to light, Mrs. Mee's niece brought a suit against the Legion claiming undue influence, fraud and mistake in the inducement.

Facts:

Mrs. Mee's Early History

Mrs. Mee was born in 1911 and was a very devoted Catholic (always attended mass, attended Catholic high school, etc.).

In 1950, Mrs. Mee married Mr. Timothy Mee. He also had a Catholic upbringing and was a highly devoted Catholic. Together they attended mass and recited the Rosary nightly.

Mr. Mee was a very successful businessman who had been an executive with Fleet Bank (the "Bank").

In 1967, Mr. Mee created the Hope Charitable Foundation. In 1982, he created a charitable trust ultimately benefiting the Hope Charitable Foundation. At that time, Mrs. Mee established a revocable trust ("Mrs. Mee's Revocable Trust") to benefit the Hope Charitable Foundation at her death.

In 1985, Mr. Mee established the Timothy J. Mee Foundation Trust (the "Mee Foundation"), which was then named as the ultimate beneficiary of the couple's wealth. The Bank was named as the trustee of the Mee Foundation.

Mr. Mee died later in 1985. Mr. and Mrs. Mee had no children.

Mrs. Mee's Initial Actions After Mr. Mee's Passing

In 1987, Mrs. Mee established a charitable trust ("Mrs. Mee's Charitable Trust") to benefit a new Catholic organization, the Contemplatives of Our Lady of Joy ("Our Lady of Joy"), set up by two RI brothers.

In 1989, Mrs. Mee visited another Catholic organization, the Legion of Christ (the “Legion”). While there, she met with Father Maciel Degollado (“Father Maciel”), who had originally established the order in Mexico in 1941. Shortly after her visit, Mrs. Mee made a \$1,000,000 gift to the Legion.

In 1991, Mrs. Mee executed a new will leaving 90% of her estate to the Legion and 10% to Americans for Life. She then became a consecrated woman with the Legion and then resided at the Regnum Christi facility in RI. Later that year, she made a \$3,000,000 gift to the Legion.

In 1993, one of the brothers of Our Lady of Joy was accused of soliciting sex from another male. Mrs. Mee immediately withdrew her financial support. She then deeded title to her home to the Legion and amended her Charitable Trust to name the Legion as the sole beneficiary.

The Legion Becomes More Involved

In 1994, Mrs. Mee amended the Mee Foundation to benefit only the Legion, as long as it remained “faithful to the Holy Father as determined by the Roman Pontiff or his designee”. The Amendment established an Advisory Committee “composed of three persons appointed by the [Legion]” to “in its sole discretion make recommendations to the Trustee regarding the amounts and distributees of the [Foundation].” The principal and income of the Mee Foundation was to be distributed to the Legion “in such amounts and in such manner as the Trustee (after taking into consideration any recommendations of the Committee) may from time to time determine.” The Amendment obligated the Trustee to “make proper distributions after taking into consideration any recommendations of the Committee,” which was comprised solely of Legion appointees. Lastly, the Amendment required that future amendments to the Mee Foundation could only be made with the consent of Mrs. Mee or the Committee.

This 1994 amendment was allegedly drafted by a member of the Legion.

In 1995, Mrs. Mee amended her will to leave all of her estate to the Legion.

In 1996, the Legion bought a building in New York for \$35,000,000. This was made possible by a \$25,000,000 loan from the Bank (again, which was also the trustee of the Mee Foundation) along with a \$5,000,000 revolving line of credit. A loan officer said that the Bank agreed only because the Legion and Mrs. Mee said the debt would be repaid by the Mee Foundation and Mrs. Mee’s Trust (of which the Bank was also the trustee).

Father Maciel’s Scandalous Past Begins to Emerge

In 1997, a Connecticut newspaper article detailing that Father Maciel had been accused of sexual abuse in the past (and other transgressions) from the 1940’s on.

In 1998, the Vatican became aware of the accusations and initiated its own investigation.

In 1999, Mrs. Mee amended her Charitable Trust to restrict the trustee to “invest only in companies, the products, activities and business practices of which are consistent with Catholic moral teaching and in accordance with the investment guidelines of the Legion.” Her will was similarly amended.

The Legion Becomes Very Involved

In 2000, Mrs. Mee executed a durable power of attorney in favor of a member of the Legion’s clergy, Father Bannon, authorizing him to represent her in any discussions with the Bank regarding the Mee Foundation and Mrs. Mee’s Trust.

She then amended her will again to name Father Bannon as executor of her estate ahead of the Bank. The Bank was named as successor executor.

In March of 2001, the Legion requested the Bank to terminate Mrs. Mee’s Charitable Trust and add its assets to the Mee Foundation (which had less restrictive distribution standards) so that the Legion could use the assets to pay off its mortgage. The Bank refused. The Legion and Mrs. Mee sued the Bank. A settlement was reached in 2003.

In 2002, during the litigation, Mrs. Mee amended her Will to remove the Bank entirely as an executor and instead naming another Legion’s clergy member as successor executor.

More Aspects of Father Maciel’s Past Come to Light

In 2005, Father Maciel retired. It later came to light that he had fathered children and lived with a woman.

In 2006, the press office of the Pope released a report stating that, beginning in 1998, the Vatican began to receive allegations against Father Maciel. An investigation of Father Maciel had been conducted and the Cardinal, after reviewing the results, decided to forego a formal proceeding against Father Maciel but “invited him to a reserved life of penitence and prayer, relinquishing any form of public ministry.” The report concluded that the Legion was independent of its founder and was still a “worthy apostolate” of the Church.

Additional Gifts

Later in 2006, Mrs. Mee instructed the Bank to release any and all information regarding her bank accounts and trusts to the Legion. She also instructed the Bank to distribute \$3,000 a month from her Trust to the Legion.

In December 2006, Mrs. Mee made a \$1.2 million gift to the Legion from her personal bank account. In August of 2007, she made a \$600,000 gift.

In May of 2008, just 4 days before her death, Father Bannon wrote the Bank and requested a \$400,000 gift be made to the Legion from Mrs. Mee's account. The Bank complied and Mrs. Mee passed away 2 days later on May 16, 2008.

All of Father Maciel's Transgressions Are Revealed

In May of 2010, the Pope issued a notice essentially stating that Father Maciel had engaged in immoral actions during his life, some of which "constitute real crimes and manifest a life devoid of scruples and authentic religious meaning." The report acknowledged that the conduct of Father Maciel had given rise to "serious consequences in the life and structure of the Legion, such as to require a process of profound re-evaluation." However, after describing plans to review, redefine and purify the Legion, the Pope reaffirmed the Vatican's support of the organization.

Summary of the Claims:

Mrs. Mee's niece contested the probate of Mrs. Mee's Will, claiming that the members of the Legion unduly influenced and fraudulently induced Mrs. Mee to gift and bequeath her assets to the organization (by will, trust and gifts). She also brought a breach of fiduciary duty claim against the Bank.

Summary of Court's Conclusions:

The Court ultimately held for the defendants agreeing that Mrs Mee's niece did not have standing to bring the claims. That said, if she had standing, the court concluded that her claims would all go to trial (i.e., would not be dismissed on summary judgment). Thus, it would be in the hands of a jury to decide whether actions of Father Maciel or other members of the Legion amounted to Undue Influence and/or Fraud.

Exhibit B

Case Study: *Chu v. Legion of Christ, Inc.* (D RI, January 13, 2014)

Summary: Upon the passing of Dr. James Boa-Teh Chu, it was discovered that he had named the Legion of Christ as beneficiary of certain retirement annuities. Dr. Chu's estate was probated in Rhode Island, and his son Paul was appointed executor. Paul, in his capacity as executor of the estate of Dr. Chu, brought suit in Federal Court seeking to invalidate the designation of the Legion of Christ as beneficiary of his father's retirement annuities.

In his ruling on a motion for summary judgment, the Rhode Island Federal Magistrate Judge denied such motion and noted that there was evidence to continue the suit and possibly support a claim that the Catholic organization, Legion of Christ, used fraud and undue influence to possibly induce Dr. Chu to name the Legion as beneficiary of his retirement annuities.

The Magistrate Judge also noted that Dr. Chu's son, as executor of the estate, did have standing to bring such suit to invalidate the gifts since if the gifts failed, the assets would revert to the estate.

Legion of Christ did argue that the executor also lacked standing because if Dr. Chu did not list the Legion of Christ as beneficiary, he would likely have named another Catholic charity in its place.

The Magistrate stated as follows:

"All in all, through this muddle, one thing clearly emerges: the record in this case has more than sufficient evidence from which a fact finder could conclude that, absent the influence of the Legion (Legion of Christ), Dr. Chu's beneficiary for some or all of his annuities would not necessarily have been another Catholic charity. Accordingly, I find that there is a genuine fact dispute regarding Dr. Chu's charitable intent."

Additional Pertinent Facts:

Dr. James Boa-Teh Chu was a mechanical engineering professor at Yale University. After Dr. Chu's death, family members discovered documents among the Doctor's belongings that could possibly support the fact that the Legion of Christ was fostering the fact that the founder of the Legion, Reverend Marcial Maciel, was no ordinary individual, but in fact a saint. Perhaps because of this representation of Reverend Maciel's sainthood, Dr. Chu named the Legion as beneficiary of certain retirement annuities valued at over \$1,000,000.

Dr. Chu's family claimed that Dr. Chu was suffering from dementia in his later years and fell under the "spell of the movement".

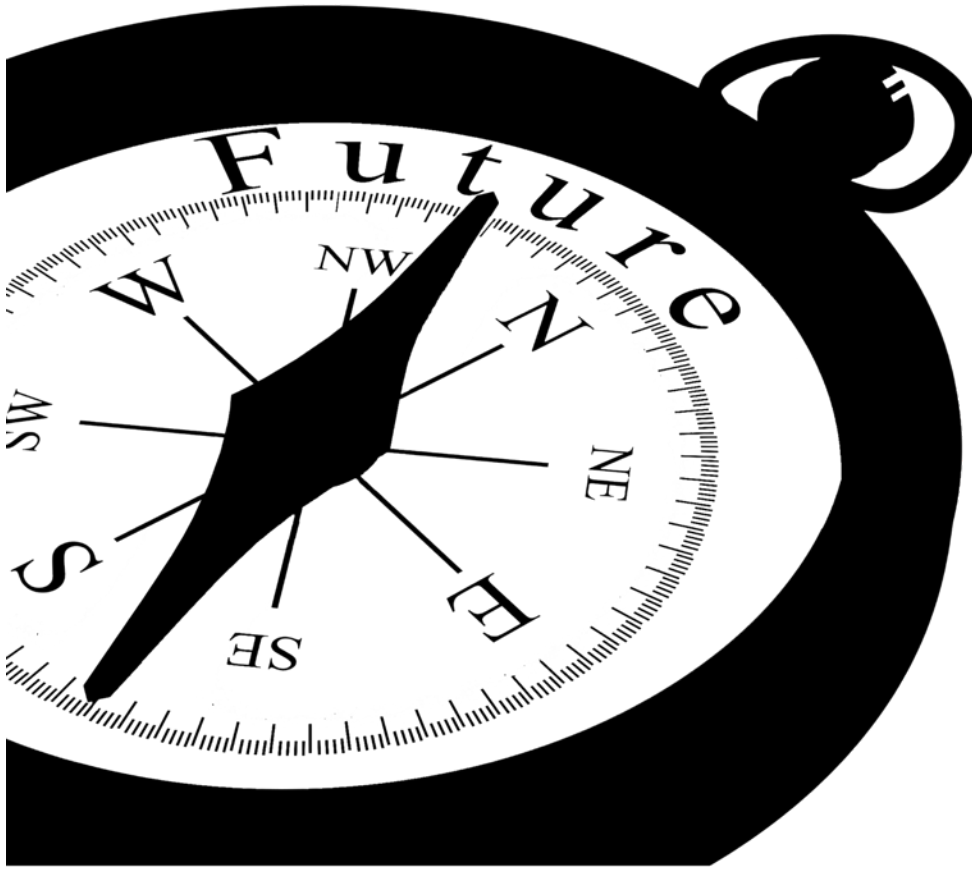
Dr. Chu's family also alleged that while the Legion was fostering this sainthood of Father Maciel in Dr. Chu's mind, it was also aware of the fact that at that same time, facts were being uncovered by the Vatican's investigation into allegations of sexual abuse against Father Maciel. Furthermore, it was also suspected that within that same timeframe that the Legion of Christ was working with Dr. Chu, the Vatican would have legal right to take control of the defunct order.

Dr. Chu eventually joined the order's lay movement in 1997, and in the following year named the Legion as sole beneficiary of his annuities, which were then worth between \$1,000,000 and \$2,000,000.

52304457

CHARTING A COURSE FOR THE FUTURE

- A CONFERENCE ON PLANNED GIVING -



Propel Campaign Success with Planned Giving (Track II)

Presented By

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PROPEL CAMPAIGN SUCCESS WITH PLANNED GIVING	Scott Lumpkin University of Denver Michelle Glennon Johns Hopkins University
April 11, 2014 ACGA Conference	

LEARNING OBJECTIVES
<ul style="list-style-type: none">■ Why incorporating planned giving in campaigns is better for donors and organizations■ How to articulate the importance of planned gifts to institutional leaders■ Simple Strategies that any organization can implement <p style="text-align: center;">Culture change → permeate organization</p> <p style="text-align: right;">2</p>


CAMPAIGNS AND PLANNED GIFTS
<ul style="list-style-type: none">■ Poll■ Campaign history/trends■ University of Denver■ Johns Hopkins University <p style="text-align: right;">3</p>

CAMPAIGN SUCCESS = PLANNED GIVING

- Win-Win for donors and organization
- Bigger, more meaningful gifts
- Greater donor satisfaction

4

VIDEO: A LEGACY IS – BOB AND KATHE SHINHAM



3

CAMPAIGN SUCCESS = PLANNED GIVING

- Pipeline of future dollars
- Foundation for next campaign
- Catalyst for changing how organizations think about campaigns

5

LARGER, BETTER CAMPAIGN GIFTS

- Asset- versus income-based giving
- Not just one-time transaction
- Incorporate philanthropy with *all* types of planning
- Expand philanthropic options

WHAT HIGH NET WORTH INDIVIDUALS OWN
2012 SURVEY

North America

Asset Category	Percentage
Cash/Deposits	37.2%
Equities	21.3%
Real Estate	18.7%
Alternative Investments	13.5%
Fixed Income	9.3%

* Includes stock and products, hedge funds, derivatives, foreign currency, commodities, private equity
 † Excludes primary residence
 Note: Chart numbers may not add up to 100% due to rounding
 Source: Capgemini, RBC Wealth Management and Scope Partners poll of HNW U.S. & Canada 2012

DONOR'S MULTIPLE OBJECTIVES

- Philanthropic**
 - Provide ongoing support
 - Meet a campaign goal
 - Create a legacy
- Financial Planning**
 - Create a retirement stream
 - Diversify highly appreciated assets
 - Receive an income tax deduction
 - Minimize gift and estate taxes
- Personal and Family**
 - Pass assets to heirs
 - Family philanthropy
 - Public recognition

7 SIMPLE STRATEGIES

#1: Campaign Counting Policies

- The Impact of Fundraising Numbers
 - Tell us how much has been raised
 - Are used to assess productivity
 - Impact resource allocation
 - Affect staff morale, public confidence, donor satisfaction and strategic plans

30

THE PROBLEM

- Not all gifts are created equal
- Managers need to have a thoughtful and consistent approach to report fundraising results for all gifts
- Counting policies should *create a climate where numbers have a positive impact that goes beyond the bottom line by encouraging all gifts and that leverages productive partnerships*

31

RECOMMENDATIONS

- Fundraising reports would:
 - Be better structured
 - Create clearer expectations
 - Be more transparent in their reporting
 - Provide a better basis for comparison among organizations
 - ...if they use three complementary categories to report fundraising results:

32

GIFT COUNTING CATEGORIES

- 1) An **outright gift category** for gifts that are usable or will become usable during the reporting period (whether one or more years)
- 2) An **irrevocable future gift category**, for gifts committed during the reporting period but usable at some point after the end of the period
- 3) A **revocable gift category** for gifts committed during the reporting period but in which the donor retains the right to change the commitment and/or beneficiary

13

ISSUES & CHALLENGES

- Modifying fundraising information system to count bequest intentions.
- Two Categories OR Three Categories
- Age Minimums
- Face Value / Present Value
- Reconciling counting vs accounting
- Developing new fundraising reports

14

7 SIMPLE STRATEGIES (CON'T)

#2: Blended Gifts

- Combining outright and future gifts
- Depend on counting guidelines
- Maximize donor impact
- Opportunities for collaboration among development officers

15

7 SIMPLE STRATEGIES (CON'T)

#3: Marketing

- Media
- Message
- Metrics (Objectives)
- Examples
 - rising.jhu.edu/giftplanning
 - giftplanning.du.edu

16

7 SIMPLE STRATEGIES (CON'T)

#4: Legacy Society

- Purpose
 - Perennial engagement, cultivation and stewardship
 - Marketing umbrella; awareness raising
 - Fosters new and repeat gifts
- Incorporate into campaign
 - Membership goal
 - Special recognition
 - Marketing

17

7 SIMPLE STRATEGIES (CON'T)

#5: Collaboration

- Shared credit
- Valuable resource, not afterthought
- Demonstrate you are a partner
- Effective PGO = effective development professional

18

7 SIMPLE STRATEGIES (CON'T)

#6: Don't need army of planned giving experts

- Focus on Relational Progress
- Partner with MGOs
- Success breeds success
- Conversational planned giving

19

#6: Don't need army of planned giving experts (cont)
CONVERSATIONAL PLANNED GIVING

- Determine what information I want to learn and set goal(s) for visit
- Key drivers:
 - Philanthropy
 - Financial/estate planning
 - Assets owned
 - Career
 - Key people
- Active listening → Keep conversation going

20

#6: Don't need army of planned giving experts (cont)
CONVERSATIONAL PLANNED GIVING

Donor Says	Could Mean	How to Reply
"I'm Retired"	■ All/most of retirement assets have been converted to annuities.	■ "Did you know you could make a gift and receive income from the gift"
"I'm Living on a Fixed Income"	■ Conservative investor ; low return; likely owns CDs.	■ "Charitable Gift Annuity rates are very attractive for donors 70 and above."
"I'm worried about outliving my money"	■ Reluctant to sell appreciated assets to invest for higher return due to capital gains tax.	■ "Did you know you can make a gift after your lifetime and keep total control of your assets until then?"

21

#6: Don't need army of planned giving experts (cont.)
CONVERSATIONAL PLANNED GIVING

Donor Says	Could Mean	How to Reply
"All My Assets Are Tied Up or Illiquid"	<ul style="list-style-type: none"> ■ May think can only use cash to make the gift. ■ May think has to sell something to make the gift and doesn't want to pay capital gains taxes. ■ Majority of wealth may be in family owned/closely held business or real estate. 	<ul style="list-style-type: none"> ■ "Did you know you can give part or all of certain assets like stocks and bonds, real estate, business interests, property, and art work?" ■ "You don't have to sell an asset to make a charitable gift – there are tax advantageous under the right circumstance and you can give us the asset."

7 SIMPLE STRATEGIES (CONT)

#7: Effective use of Volunteers

Who

- Tap into current leadership volunteers
- Incorporate into campaign volunteer structure

What

- Tell gift planning story
- Tailor "job description" to skills and needs

SUPPORT FROM SENIOR LEADERSHIP

- Poll
- Challenges
- Misperceptions
- Clarity about role of gift planning program
- Key elements for successful program in place



SUPPORT FROM SENIOR LEADERSHIP

- What does your VP need to know about planned giving?
- What does your President need to know about planning giving?
- What does senior volunteer leadership need to know about planned giving?

26

DISCUSSION

- Q and A
- Thank you!

27

Guide to Help Identify Donor Assets, Capacity and Wealth Planning Information

BEFORE VISIT, Determine What I Know About...

- **Philanthropy:** Prior giving to JH and other charities; amounts and types of gifts
- **Financial/Estate Planning:** Is prospect working with financial advisor and/or estate attorney? Are estate plans in place? Has donor mentioned s/he is starting to plan? Based on age of donor, what is s/he likely focusing on with planning (e.g., college tuition? retirement?); bequest or planned gift already made?
- **Assets:** Investments, securities, IRA, property, assets used to make prior gifts to JH (stock, cash, C IRA, trust, foundation, donor advised fund?)
- **Career:** Salary range, compensation package/benefits (e.g., stock option), nearing retirement?
- **Key People:** Marital status, children, grandchildren, other dependents; who does prospect consult with about decisions (attorney, financial advisor, which family members, etc.)
- Is there a **recent research report** or capacity screening? If not, request one
- Contact **Gift Planning Advisor** (even if not going on visit) to help with strategy
- Determine what **information I want to learn** and **set goal(s)** for visit

SAMPLE QUESTIONS to Elicit Key Information from Prospect

Philanthropy

- The “Passion Question”: What would you like to accomplish with your money that would be meaningful to you?
- What are your philanthropic priorities? Where does Johns Hopkins fit in those priorities?
- How have your children responded to your philanthropy?
- Who do you involve in your philanthropic planning?
- How has Johns Hopkins made a difference in your life?

Financial/Estate Planning

- What type of estate and wealth planning do you have in place and what are your objectives with your planning?
- Do you have an advisor who assists with your planning? Who else do you involve with your planning? (If nearing retirement) What are your plans for your retirement?
- What values do you want to pass on to your children and how much wealth is too much to pass on?
- Would you like to learn more about charitable giving methods that could help advance your financial and estate planning goals?
- Do you have any charitable structures currently in place? If so, what and what are your objectives with them?

Assets

- How did your family achieve its present financial status (personal effort, good fortune, support from others, inherited wealth)?
- Do you follow the stock market?
- How long have you been in this house?
- Where do you vacation?
- (If business owner) Did you create this business on your own, or do you have partners? How have you achieved success over the years?

Funding a Proposal

- If proposal already submitted: In your consideration of our proposal, which asset would make the most sense from a tax perspective?
- If now is not the right time to discuss a gift, what information could I provide that would be helpful for our next meeting?

POST-VISIT STRATEGY

- Note key information learned
- Create next steps and consider others to involve

How Do I Know if the Comerica Legacy Foundation is the Right Solution for My Organization?

We encourage organizations to create their own program and help them prudently invest and administer their CGA pool and each individual donor contract.

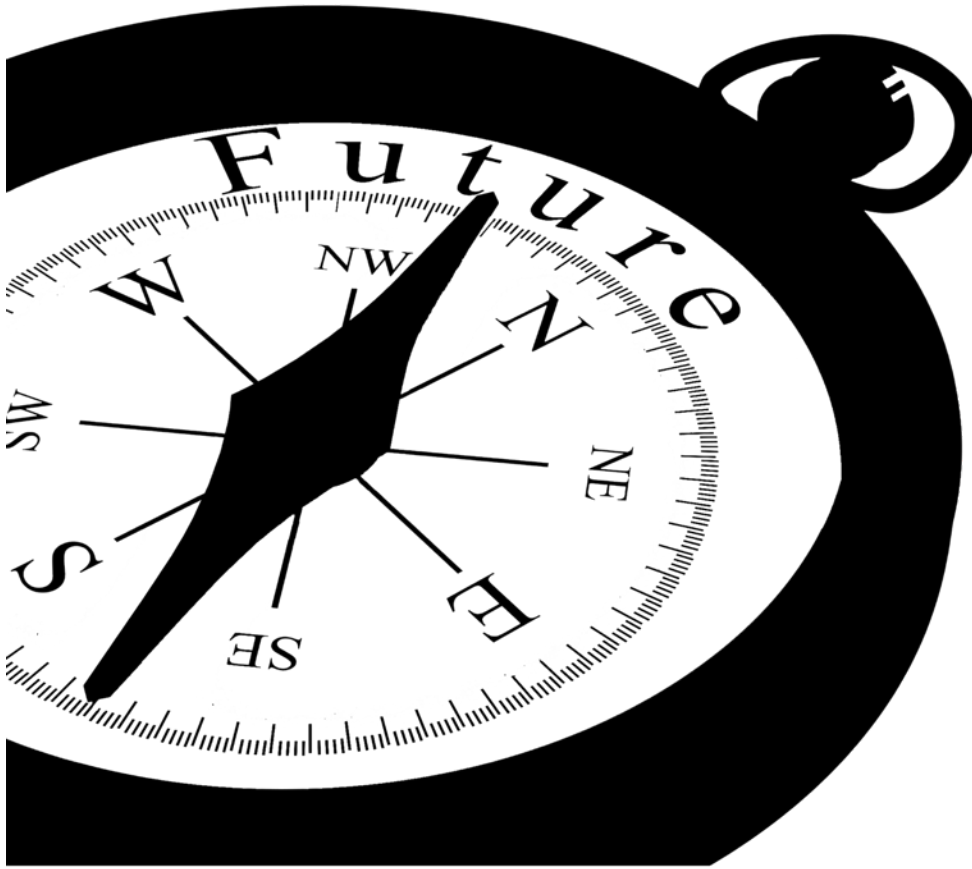
We recognize that this is not always possible and offer a program through the Comerica Legacy Foundation to support organizations who:

- Have donors throughout the country
- Hesitant to invest the time and resources to get licensed in multiple states
- Local organizations with headquarters in a State with significant licensing requirements
- Organizations just starting their planned giving efforts with a very small program in place
- Organizations where maybe your next charitable gift annuity will be your first
- Your donor wishes to support multiple charities— including yours— through a single gift vehicle where a charitable remainder annuity trust isn't the answer

Administrative Headquarters
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CHARTING A COURSE FOR THE FUTURE

- A CONFERENCE ON PLANNED GIVING -



Planning and Drafting Charitable Remainder Trusts (Track I)

Presented By

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Basic Training:
Planning and Drafting
Charitable Remainder Trusts

David Wheeler Newman

dwn@msk.com

General Concept

- Irrevocable Trust
- Distributes a formula amount to non-charitable beneficiary during its term
- Distributes remainder to charity
- Generally tax-exempt
- Contributions to trust qualify for charitable deduction for income, estate and gift tax

Term of Trust

- The life or lives of one or more individuals
 - Who are income beneficiaries of the trust
 - Who are alive when the trust is created
- Fixed term
 - Not to exceed 20 years

Distribution Formula: CRAT

- Charitable remainder annuity trust distributes a **fixed amount** each year
- May be expressed in the trust document as a dollar amount or a percentage of the initial value of trust assets
- Must be at least 5% and not more than 50% of initial value
- No additional contributions to CRAT allowed

Distribution Formula: CRUT

- The unitrust amount is a **fixed percentage** of the value of trust assets, *determined annually*
 - A standard charitable remainder unitrust (SCRUT) distributes the unitrust amount
 - Percentage must be at least 5% and not more than 50%
 - Additional contributions allowed

Net-Income Limitation

- A net-income unitrust (NICRUT) distributes the *lesser* of the unitrust amount or net income of the trust
 - Net income is trust accounting income under state law
- Optional make-up provision creates a NIMCRUT (Net Income with Make-Up)
 - Distributes trust income in excess of the unitrust amount to the extent that distributions in prior years were limited to net income

Flip CRUT

- Net-income limitation stops
- “Flips” to a SCRUT
 - (Rather than a NICRUT or NIMCRUT)
- When a triggering event occurs
 - Outside control of the trustee
 - Typically a fixed date
 - Or the sale of the asset contributed to the CRUT

Tax Deduction

- Charitable deduction based on present value of charitable remainder
 - The higher the payout percentage, the lower the deduction
 - E.g. deduction for a 5% CRUT for the life of a 75 year old is about 60%
 - For a 7% CRUT about 50%
 - Calculated using full market value of contributed property if remainder goes to a *public charity*
 - Calculated using the basis of the contributed property if remainder goes to a *private foundation*

Tax Deduction

- Standard AGI limits apply
 - Charitable deduction may not exceed 30% of adjusted gross income if trust is funded with appreciated capital gain property
 - 50% limit if no deduction for untaxed appreciation
- If CRT is funded with tangible personal property (e.g. a painting)
 - Deduction calculated using the basis of the property
 - No deduction until the property is sold by the CRT

Other Tax Rules

- Present Value of charitable remainder must be at least 10%
- CRTs are generally tax-exempt ←
– *UBTI is taxed at 100%*
- Subject to some private foundation rules, including excise tax on self-dealing transactions

Character of CRT Distributions

Categories

1. Ordinary income, to the extent of the CRT's current and accumulated ordinary income
2. Capital gain, to the extent of the CRT's current and accumulated capital gain
3. Tax-exempt income, to the extent of the CRT's current and accumulated tax-exempt income
4. Distribution from trust corpus

Character of CRT Distributions

Classes

- Tier 1 ordinary income includes classes of income taxed at different rates
 - Dividends at 20%
 - Interest and other at up to 39.6%
- Tier 2 capital gain includes classes
 - Short term gain up to 39.6%
 - Collectibles at 28%
 - Section 1250 gain at 25%
 - Other capital gain at 20%

3.8% Tax on Net Investment Income

- For existing CRTs, the Trustee must keep track of pre-2013 investment income, which is not subject to the tax when distributed
- All post-2012 NII reported when distributed to income beneficiaries

Character of CRT Distributions

"WIFO"

- General rule is that distributions made first from income taxed at the highest rate
- Under the category and class system
- (and if the CRT has pre-2013 investment income)
- Distributions come first from categories and classes taxed at the highest rate
 - E.g. interest before qualified dividends, and post-2012 interest before pre-2013 interest

Planning Opportunity

- Sale of appreciated asset with proceeds used to generate income to the donor
- Tax-exemption allows re-investment of before-tax proceeds
- For gain to be attributed to the CRT and not to the donor, there cannot be an agreement in place, to sell the asset, by which CRT will be bound
 - Assignment of income doctrine

Example

- Proposed sale of business with basis 100 and value 1000
- Effective federal and state tax rate on capital gains = 30%
- If individual sells, tax of 270 reduces proceeds available for re-investment to 730. Income at 5% = 36.5
- If CRT sells, available proceeds of 1000 and income at 5% = 50

Include a Net-Income Limitation?

- Most CRTs distribute quarterly
- Some assets take longer to sell, and the CRT may not have cash to make distributions
- Textbook case for a net-income limitation
 - NICRUT or NIMCRUT
 - E.g. CRT funded with stock would only need to distribute dividends, if any, received by the CRT
 - CRT funded with real estate would only distribute rents, less expenses

Include a Flip Provision?

- Sales proceeds reinvested in balanced portfolio may generate good *total return* but inadequate income
 - Don't want the net-income limitation to last forever
- Trigger to convert to SCRUT could be sale of the asset contributed to the trust
- Flip becomes effective first year after the triggering event

Example

- The sales proceeds of 1000 reinvested in balanced portfolio with total return of 8% but current yield of only 3%
- Flip provision allows distributions for succeeding years to be full unitrust amount
 - 5% SCRUT = distribution of 50 rather than 30 from NICRUT or NIMCRUT

Annuity or Unitrust?

- Unitrust versatility
 - the “Swiss Army Knife” of gift planning
 - Optional net-income limitation
 - Additional contributions allowed
- Variable payments allow for possible inflation protection
 - E.g. if 5% SCRUT total return = 8%
 - Distributions will increase 3% per year

Annuity Trust

- Some donors may want the certainty of a fixed payment
 - E.g. if the 5% trust has total return of 2%, SCRUT distributions would decrease by 3%, while CRAT distributions would remain the same
- No inflation protection
- Possibility that trust assets can be exhausted
 - (unlike a CGA)

The Best Prospective Donors

- Own appreciated assets
- That can be sold without too much risk/time/trouble
- Donor is willing to commit the value of he assets to charity
- But not willing (or able) to forgo income generated with the sales proceeds of those assets

Compliance

- CRT files Form 5227
- Income beneficiaries receive Form K-1 (1041) that details the amount and tax character of the distributions they receive

Who Should Be Trustee?

- Donor?
- Charity?
- Bank or trust company?

Consider

- Infrastructure
- Impact on donor relationship
- Fiduciary liability

Alternatives

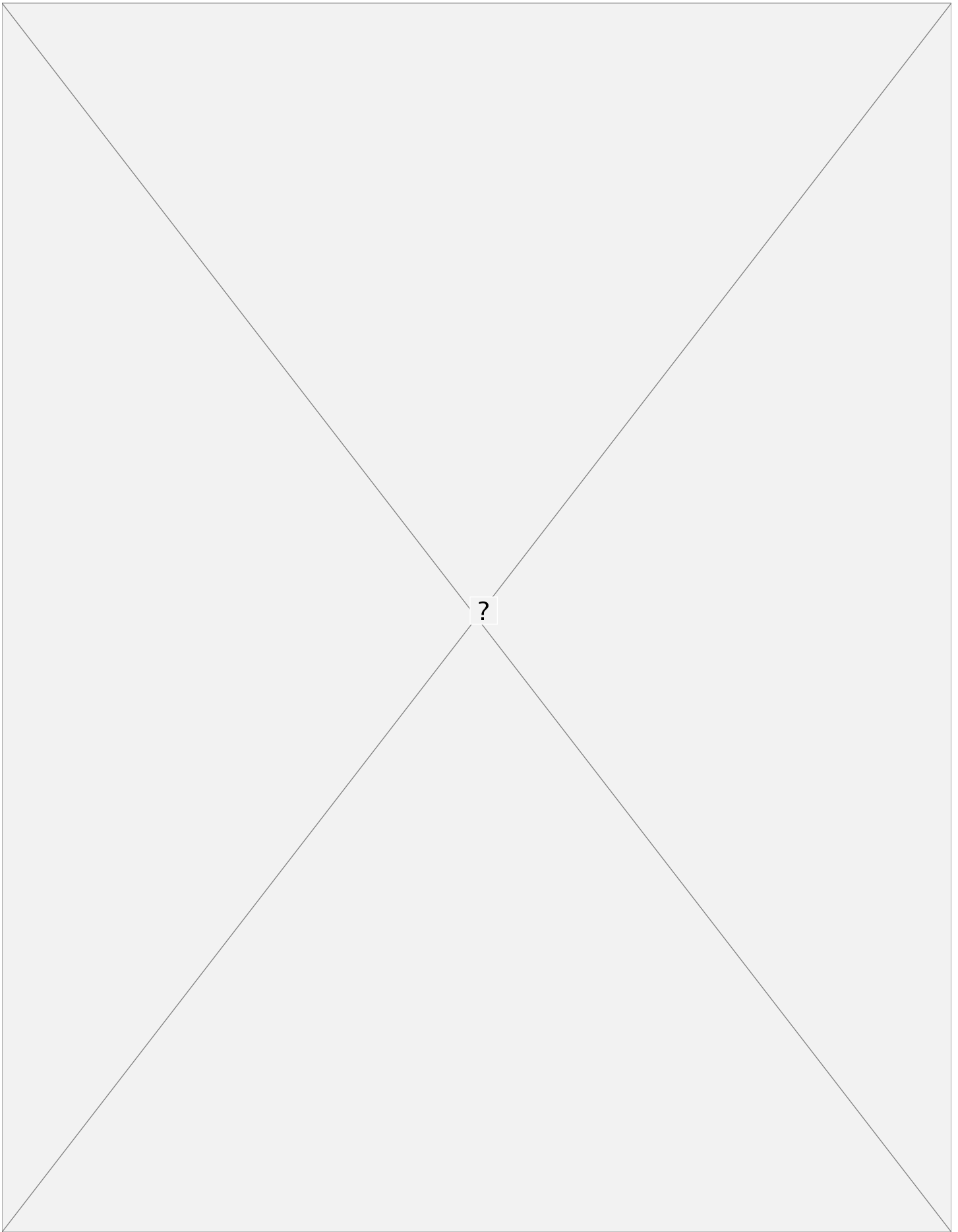
- CRT funded with real estate
 - Donor as initial trustee until the property is sold
 - Then Charity becomes the successor trustee
- Charity as trustee
 - If Charity lacks in-house infrastructure, it can outsource the administrative and investment functions.

Form Documents

- CRUTs, NICRUTs, NIMCRUTs and Flip CRUTs
 - Revenue Procedures 2005-52 through 2005-59
- CRATs
 - Revenue Procedures 2003-53 through 2003-60

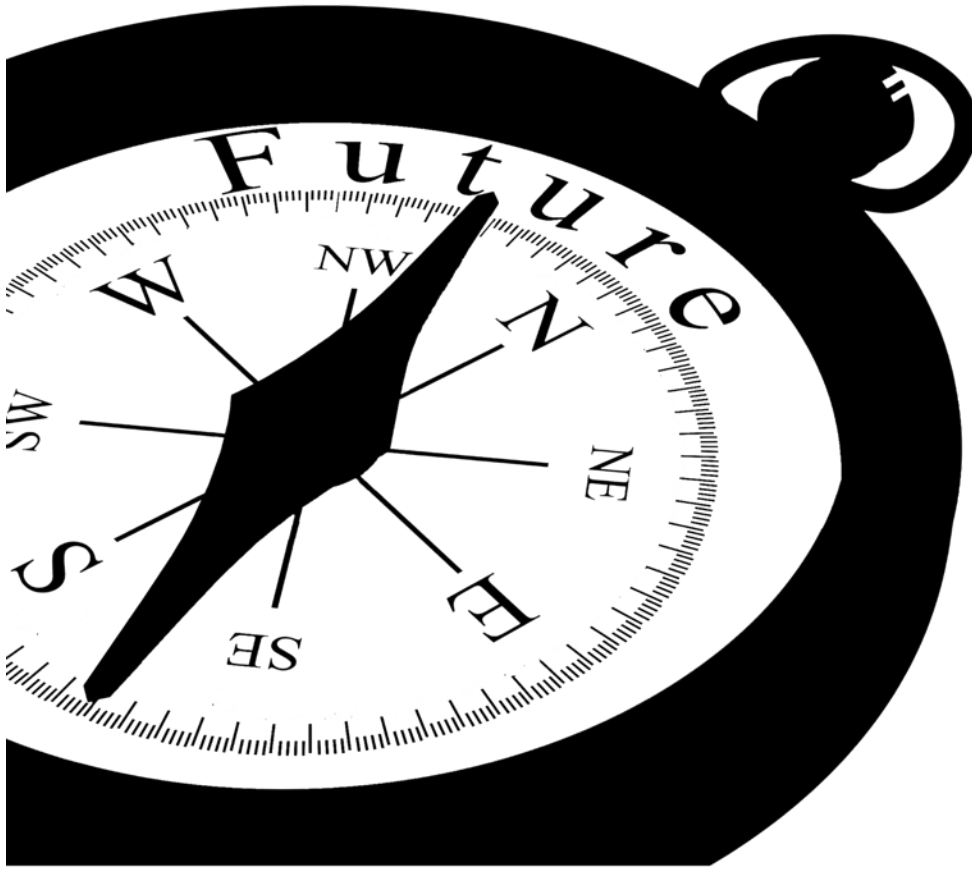
CRATs





CHARTING A COURSE FOR THE FUTURE

- A CONFERENCE ON PLANNED GIVING -



Optimizing Your Realized Bequests - Panel Discussion (Track II, III)

Moderated By


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KASPICK & COMPANY
A member of the TIAA CREF group of companies

**OPTIMIZING YOUR
REALIZED BEQUESTS**
APRIL 11, 2014
Tim Prosser, Kaspick & Company,
Moderator

Panelists

- **Melissa Copher**
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KASPICK & COMPANY

Value of Realized Bequests

Medians	FY 2013
All Clients	\$ 8,755,143
College	\$ 1,703,784
University	\$11,951,510
Local & Other	\$ 2,783,093
National	\$79,354,590

Source: HARRIS & COMPANY 2014 Planned Giving Program Analytics Report

KASPICK & COMPANY

The Importance of Monitoring Bequests

- Brings to fruition your institution's efforts to build a relationship, and to negotiate and secure the donor's gift
- Fulfills your obligation to the donor by ensuring that his intent is carried out
- Maximizes the value of bequests to your institution (i.e., not leaving money on the table)

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Topics

- Organization and process
- Your institution's posture
- Making the case for resources

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Organization and Process

- What are the key elements in your bequest oversight process that ensure your institution's objectives are achieved?

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Your Institution's Posture

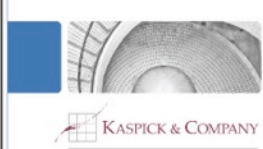
- How aggressively do you pursue your institution's interests?

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Making the Case for Resources

- What prompted your institution to make bequest oversight a more focused effort?

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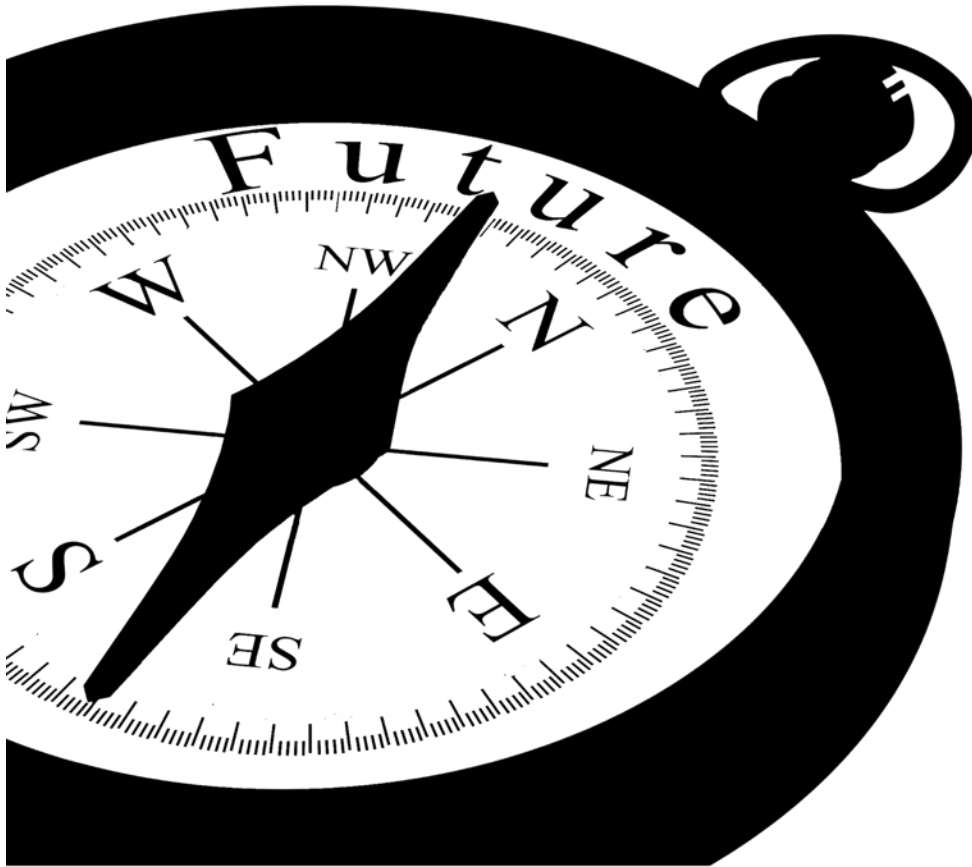


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**OPTIMIZING YOUR
REALIZED BEQUESTS**
APRIL 11, 2014
Tim Prosser, Kaspick & Company,
Moderator

CHARTING A COURSE FOR THE FUTURE

- A CONFERENCE ON PLANNED GIVING -



**Gift Annuity Marketing Ideas that Generate Inquiries & Gifts - Panel Discussion
(Track I)**

Moderated By

Karen Gallardo, CFRE

Director Of Gift Planning & Major Gifts
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Panelists

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Rebecca Rothey, CFRE

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Gift Annuity Marketing Ideas that Generate Inquiries & Gifts

CHARTING A COURSE FOR THE FUTURE
April 9 - 11, 2014



A panel discussion featuring:
 Karen Gallardo, CFRE, AARP Foundation
 Chris McGurn, PNC Institutional Investments
 Anna Maria Meades, Johns Hopkins University
 Rebecca Rothey, CFRE, Baltimore Community Foundation

AMERICAN COUNCIL ON GIFT ANNUITIES
Planning. Executing. Persevering.

Who is our audience?

- Prospects
 - Ages, Giving History
 - People who've inquired before
- Repeat CGA donors
- Development staff & gift officers
- Other internal stakeholders

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What channels to reach that audience?

- Direct mail
- Advertising
- Online
- Newsletters
- Training or seminars
- One on One conversations

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Deferred Gift Annuities

- What is the current market?
- How do you target the small segment?



Campaign Gifts

- Ideas for "blended" gifts
- What if you receive that BIG, BIG gift?



Favorite Marketing Ideas



Stewardship of CGA donors

- What ideas have led to repeat gifts?
- Best practices in working with gift administrator
- Annual contact around existing gift annuity

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Comparing a CGA to a CRAT

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Q & A

Thank you!

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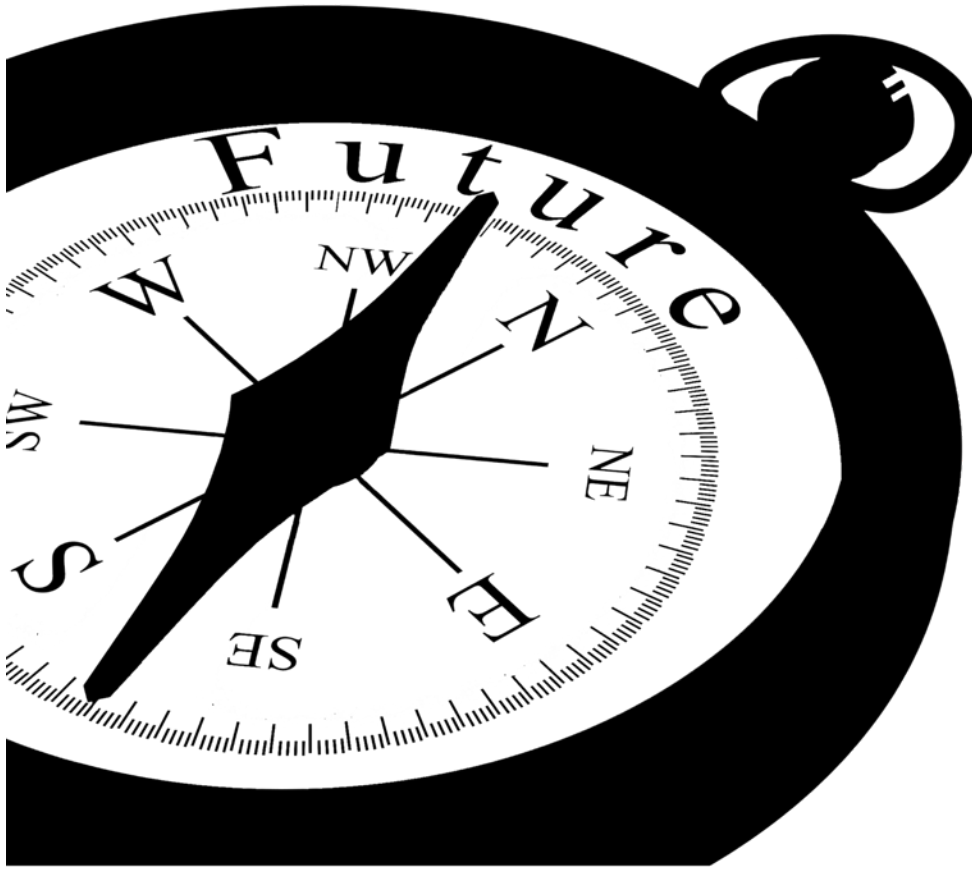
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Closing Luncheon: Robin Good and His Merry Remaindermen

Presented By

Conrad Teitell

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There are no handouts for this session.

AMERICAN
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