

# Give & Take

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NEWS AND IDEAS FOR DEVELOPMENT EXECUTIVES OF NONPROFIT ORGANIZATIONS

## Is Anybody Out There?

by Robert F. Sharpe, Jr.

How do you obtain quantity and quality of response to gift planning mailings?

**Editor's Note:** Occasionally in *Give & Take* we reprint articles from the past that are often requested by readers. The following is an updated version of an article that appeared in the March 1994 issue of *Give & Take*.

Over the years we have seen response rates from various gift planning mailing approaches that range from 10% (and more) to one-tenth of 1% or less.

Ironically, some of the development executives receiving five responses in 5,000 are the most pleased. They often find that the results are much greater from a few highly interested respondents than from a multitude of "lookers."

In today's competitive and cost-conscious environment, we believe the most prudent course of action in most instances is to emphasize quality of response over quantity. The goal is to find people who, while they might also be considering a planned gift to other organizations, can be convinced that your cause is the one that will make the most of their investment in the future.

That is, after all, what usually motivates the person making the planned gift. Few programs can afford to qualify large numbers of persons who are simply seeking free information. Resist the temptation to play the "numbers game."

### The response you want

Response to various planned gift development efforts can be "engineered" to almost any level. Any number of factors influence the response one can expect. Among them:

**1. The giving history of the recipients.** Usually only long-term, frequent donors will respond to materials with a heavy emphasis on donative intent. The most casual donor, on the other hand, can be coaxed into responding to materials that primarily emphasize self-interest.

**2. The average age of the recipients.** Mailing to all donors, regardless of age, can have a negative impact on response rates where the gift plan discussed is designed to best meet the needs of a certain age group.

**3. The content of the cover letter, if any.** A letter that emphasizes the cause to be supported rather than the self-interest of the donor will generally result in a smaller quantity, but much higher quality, response.

**4. The person who signs the letter.** A letter from a person who has already made a particular type of gift will often yield greater quality response than a letter from someone else.

**5. The level of personalization of the cover letter.** Highly personalized cover letters may not do as well as impersonal, printed letters. Where very personal information is concerned, an arm's length approach may be more effective. Test various levels of personalization to determine which works best for you.

**6. The level of personalization on the carrier envelope.** It may be better to invest in laser-addressing the envelope rather than personalizing the cover letter. This will improve the "opening" rate in many cases.

**7. Whether or not first class or bulk mail is used.** Up to 10% of bulk mail may never be delivered.

*Continued on page 4*

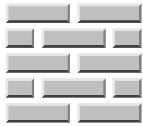


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### Give & Take

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#### Big giving, the Gates way

This February Microsoft CEO Bill Gates made the largest charitable gift ever—\$3.35 billion. The money was given to his two charitable foundations, the William H. Gates Foundation and the Gates Learning Foundation.

Gates has been criticized by some for not sharing enough of his wealth with philanthropic causes. With this gift believed to be the largest gift ever made, the world's richest man also becomes the world's largest single-gift donor. With assets over \$80 billion, the majority of which he plans to give away, Gates may well become the biggest dollar donor in history.

Source: *Fortune*, March 1, 1999

#### Proposed bill would curb split-dollar plans

A controversial charitable giving technique known as a "split-dollar" insurance has come under fire. There are currently two bills in the U.S. House of Representatives aimed at stopping charities from participating in such arrangements.

In a split-dollar plan, a charity and a donor split the economic benefits of a life insurance policy that was purchased with

tax-deductible funds. Proponents of the bills argue that split-dollar arrangements are abuses of the charitable contribution deduction and are thinly disguised schemes for avoiding taxes.

One bill suggests financial penalties in the form of heavy excise taxes for any charitable organization that enters into a split-dollar plan. Charitable organizations would also be responsible for reporting to the IRS about the split-dollar arrangements they enter into each year.

Source: *The Chronicle of Philanthropy*, February 9, 1999

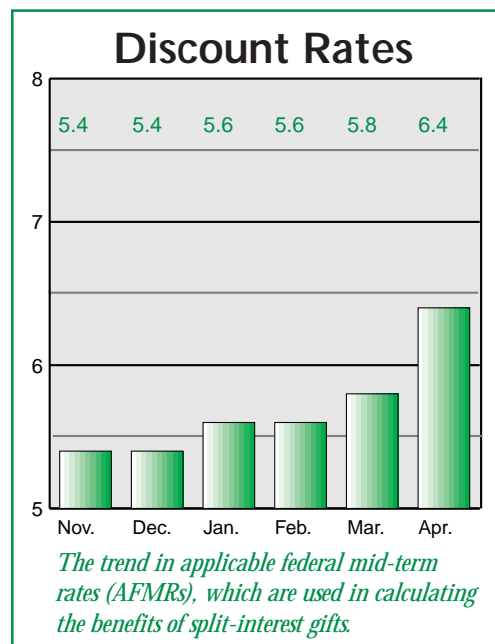
#### Lifelong philanthropist bequeaths money, art

When Paul Mellon, the philanthropist son of industrialist Andrew Mellon, died in February, he left behind large bequests for charity: \$75 million and over 100 works of art to the National Gallery of Art, \$75 million and over 130 works of art to his alma mater Yale University, \$20 million to Carnegie Mellon University, \$10 million and over 50 artworks to the Virginia Museum of Fine Arts, and \$10 million to his prep school Choate Rosemary Hall in Connecticut. Mellon left \$5 million and \$1 million bequests to several other nonprofits, as well as dozens of smaller bequests.

Mellon was a famous yet modest philanthropist during his lifetime. He decided early on to use the fortune he had inherited to further charitable causes. The National Gallery, which his father founded, is filled with some 900 pieces of art he donated over the years. Mellon also established the Yale Center for British Art in 1977.

Mellon's wife, Rachel "Bunny" Lambert Mellon, was left \$110 million and the best of Mellon's American abstract paintings in his will. *G&T*

Source: *Washington Post*, February 11, 1999



## Funding a Gift Annuity With Stock — When Is the Gift Complete?

by Jonathan G. Tidd

Gift annuities are supposed to be relatively simple arrangements, and for the most part they are. But complexities can arise when a gift annuity is funded with stock. One of the complexities involves the question of when the donor's gift is complete. The answer to this question may have multiple tax consequences for the donor.

### Background—outright gifts of stock

To appreciate the issues, it's necessary to understand two basic concepts: first, the date-of-gift rules that are applicable to outright gifts of stock and second, the differences between an outright gift of stock and the transfer of stock in exchange for a gift annuity.

The date-of-gift rules for outright gifts of stock are laid out for the most part in the federal income tax regulations and various court decisions. One clear rule is that an outright gift of stock in certificate form is complete on the date of mailing or hand delivery, assuming the certificate is either properly endorsed on the back or is transferred with an appropriately signed stock power (the stock power is generally preferable from the donee organization's standpoint). This rule is set forth in the income tax regulations.

The "mailbox rule" that applies when a stock certificate is mailed is based in part on the presumption that the donee organization will accept the tendered gift. If the donee organization for some reason does not accept the tendered gift, then there is no gift and, of course, no date of gift.

Acceptance, in other words, is an essential element of a gift—any gift. It's necessary to determine whether an acceptance has taken place in order to ascertain whether a gift has occurred and, if it has, the date of gift.

### Gift annuities as contracts

There is no regulation, ruling, or court decision dealing expressly with the question of when the gift is complete in the case of a gift annuity funded with appreciated stock.

One might assume that the same rules apply as in the case of an outright gift, but jumping to this conclusion could involve faulty logic. The reason is that in order for there to be an acceptance in the case of a gift annuity, there must be, at least, *a meeting of the minds* between the donor and the donee organization as to the terms of the annuity agreement. Why? Because a gift annuity is a *contract*, and contract law requires that both sides see eye to eye and approve of the terms of the arrangement before a contract in fact exists.

**Example:** Let's say Jane Donor mails a certificate for IBM stock (along with a signed stock power) to ABC Charity on December 1, on which date IBM trades for a mean price of \$180 a share. Donor's express intention is to establish a gift annuity and receive annuity payments based on a \$180 per-share value. ABC Charity receives the stock on December 5, on which date IBM trades for a mean price of \$150 a share. What is the date of gift in this situation?

Without knowing more, one might consider December 1, the date of mailing, to be the date of the gift. But let's assume ABC Charity has no policy to deal with this sort of situation—one involving such a sharp decline in share value—and is not willing to base the annuity on a \$180 per-share price.

In this situation, the question is not what is the date of gift. The question is whether there is any gift at all. And the answer, under contract law, is not until Jane Donor and ABC Charity reach agreement as to the terms of the annuity—most

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A donee organization should not sell the stock, if it is appreciated, until there is a meeting of the minds. Selling the stock would put the donor at risk of being stuck with a capital gain.

## Is Anybody Out There? . . . *Continued from page 1*

Clients report that many of their wealthiest donors will not make a long-distance phone call at their own expense, while they will donate thousands of dollars!

**8. If first class, the day of the week mailed.** Mail timed to “land” in homes on a Friday or Saturday may be more widely read, especially if the content is geared toward younger people who may still be in the work force.

**9. The content of the materials.** The more directed the materials are toward the donor’s self-interest, the higher the quantity of response to be expected. But is your role really to dispense free information on estate planning with only tangential references to the charitable dimension?

**10. What is offered on the response device.** For example, contrast the booklet title “How to Avoid Estate Taxes” with “Giving Through Your Will.” Would you rather have 50 respondents to the first title or 10 respondents to the latter?

Does your response device ask whether a donor has already provided for your organization in his or her estate plan? This may depress response by as much as 50%, primarily from those persons who would have otherwise been motivated by self-interest. Often, you must decide whether you wish to forgo a high quantity to identify the very persons you are seeking.

**11. The level of confidentiality conveyed in all of the materials.** Response can be improved by making it clear that all replies will be held in strictest confidence.

Self-mailer reply cards may be convenient and less expensive, but some who use them report that their best responses using such cards come enclosed in the donor’s own envelope in an effort by the donor to ensure confidentiality.

**12. Whether or not “free services” are offered.** While we do not believe it is the province of development officers to plan donors’ estates, nevertheless some programs will offer to do so. If the offer is made, there will be a noticeable increase in response.

Expect a lower, though often more productive, response to offers to help people better plan their charitable gifts.

**13. Presence of a reply envelope.** When budget is a concern, it is usually better to

save money elsewhere than to skip the return envelope. Making it easy to reply boosts response, probably from both serious inquirers and casual “lookers.” See factor #11, too.

**14. Whether or not the reply envelope is prepaid.** Many programs are not willing to lose a good prospect for a gift because the person didn’t have a stamp close by. The use of a prepaid envelope can be wise when the rest of the package is geared toward the charitable element of the planned gift rather than “free information.” In the same vein, an 800 number may be a good investment. Clients report that many of their wealthiest donors will not make a long-distance phone call at their own expense, while they will donate thousands of dollars!

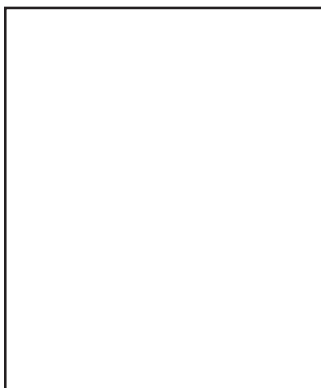
**15. Number of previous mailings to the same list.** If you have been regularly mailing planned giving material to the same group for a number of years, that is no reason to stop, since new people become interested each year. This pattern, however, will result in a lower response level over time.

The longer you have been mailing to the same group, the higher the quality level of response which does still come from that list.

**16. Amount of recognition offered to respondents.** If you have a recognition program for planned gifts, featuring this element in your marketing package can sometimes have a positive impact on the number and quality of response. Others may be turned off by offers of recognition as they are concerned that they may lose their anonymity if they respond.

**17. The “feel” of the materials.** Do they seem like advertising, or are they helpful information? Avoid materials that are too slick or resemble financial product advertising too closely.

Misuse of four-color printing, glossy paper, overly sophisticated graphics, and other elements can give the wrong impression to the target audience, which will often be persons predominantly over the



*Robert F. Sharpe, Jr., is president of the Sharpe company. He advises a number of the nation's leading nonprofits in the design and implementation of their gift planning initiatives.*


## June 8 Is Deadline for Flip Trust Reform

As reported in the February and March issues of *Give & Take* this year, there are new IRS regulations regarding "flip trusts." Under the terms of a flip trust, a net income unitrust can "flip" and become a straight rate payout unitrust. The new IRS regulations now allow this flip to occur in the year following a "triggering event" that the donor has no control over, such as a specific date, a birth, or a marriage.

For those who want to take advantage of the opportunity to convert net income unitrusts into straight rate payout unitrusts, trust reformation proceedings must be started by June 8, 1999.

In many cases it will be beneficial for both life income beneficiaries and charitable remainder organizations to convert to a straight payout unitrust. In cases where net income trusts are paying out only 3 or

4% in the form of ordinary income from a 6% net income unitrust, a conversion to a straight unitrust would result in payments equal to 6% of the value of the trust each year, with the possibility that much of the additional income taxed at lower capital gains tax rates under the so-called tier structure of income reporting. The charitable remainder portion may be more likely to grow as well if the trustee then reinvests for total return including capital appreciation that might not have been possible under the asset allocations that were more appropriately weighted toward debt instruments when the trust was operating as a net income trust.

For more information on flip trusts and a complete listing of the new IRS regulations regarding them, please see the Sharpe Web site at [www.rfsc.com](http://www.rfsc.com). 

Quick action can mean more favorable results for both income beneficiary and the remainder recipient of charitable trusts.


## When Is the Gift Complete? . . . *Continued from page 3*

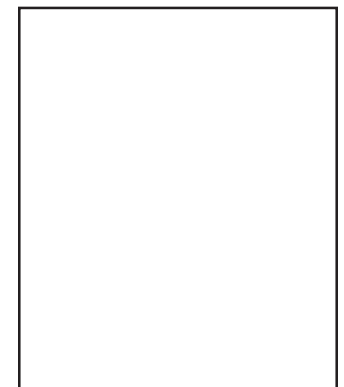
important, agreement as to the annual annuity amount. Bear in mind that because the donor has not intended to make an outright gift, the mailbox rule does not necessarily apply. The donor's intent, it is important to note, is another essential element of any gift.

Now, here is something else to keep in mind. Until the terms of the annuity are agreed upon, the donor is still the owner of the stock for tax purposes (the donor, after all, has not intended to make an outright gift). This means the donee organization should *not* sell the stock, if it is appreciated, until there is a meeting of the minds. Selling the stock would put the donor at risk of being stuck with a capital gain should there be no agreement on the terms of the gift.

### The final analysis

This example just begins to scratch the surface of the potential complexities involved in using stock to establish a gift annuity. The problems suggested in the example are the sort best avoided, and they can usually be circumvented by a charity's adoption of a clear policy as to when stock to be used to establish a gift annuity will be valued for purposes of determining the annual annuity amount.

This policy should be communicated to donors up-front, during the gift discussion and negotiation process, and probably ought to be spelled out in some way in the formal gift annuity disclosure statement provided to prospective gift annuity donors. With a clear policy in place, a charity can avoid potentially uncomfortable situations and focus on assisting donors who want to fund gift annuities with stock. 



*Jonathan G. Tidd, Esq., practices law in Connecticut. He serves a variety of nonprofit causes throughout the country and formerly was on the staff of New York University as planned giving director. He regularly co-conducts the Sharpe seminars described on page 7 and is a nationally respected authority on gift planning subjects.*

## Footnotes for Gift Planners

News and ideas about Robert F. Sharpe and Company's services. For more information, join us on the Web at [www.rfSCO.com](http://www.rfSCO.com).

### Updated booklet explains life income gifts

More and more people today are worried about having enough assets to support themselves in their later years. Even those who would like to give to charitable causes are often reluctant to give away assets that they may need sometime in the future. For those people, charitable gifts that also provide the donor or others with payments for life are often very appealing options.



The newly updated Sharpe booklet "Giving Through Life Income Plans" explains to readers the many different types of charitable gift plans that also provide the donor or others with payments for a period of time or for the rest of their lives. Helpful, easy-to-follow examples accompany the descriptions of each plan, allowing the reader to see how each gift plan works and the tax benefits where applicable.

If you would like more information about "Giving Through Life Income Plans," or to place your order, please call 1-800-238-3253.

### Building a "bridge" between current and deferred gifts

Let Robert F. Sharpe and Company's new memorial emphasis brochures help you educate your donors and prospects about the advantages of memorial giving. "Giving Through Living Memorials" explains in straightforward, non-technical language how memorial gifts can be funded in the wisest, most effective ways. For example, readers learn about funding memorial gifts with cash or other assets such as stocks that have appreciated in value. The subject of bequests and deferred gifts is also presented in a natural way that can lead to a "bridge" between current and deferred gifts.

Sharpe now features four attractive cover designs from which to choose (please see the back page of this *Give & Take*). Plus, "Giving Through Living Memorials" now comes complete with a detachable reply device that can be personalized with your logo and other pertinent information. This reply device is not only convenient for your donors, it also saves you the need to print separate response devices.

For more information or to place your order, please call 1-800-238-3253. You may also fax your order to (901) 761-4268. ☞

## Is Anybody Out There? . . . *Continued from page 4*

age of 65. Looking too much like investment marketing materials can invite the comparisons you will almost always lose.

It is better to keep the feel more in line with your other fund-raising materials, which is, after all, what you are about.

**18. The time of the year the material is sent.** The effect varies by geographic location, age distributions, and other factors. Avoid mailing in times of the year when many persons are traveling (if a factor in your locale.)

**19. Amount of other mail being received from the organization.** Avoid mail to younger donors who are not prospects for most planned gifts in any event. Ideally, the

amount of current gift mail to the older donors should be reduced as they age, while the amount of deferred gift material should increase.

**20. How the recipient perceives the organization at the time the material is received.** Has there been negative publicity, a scandal, a controversial change in leadership, etc.?

Over the years, we have seen hundreds of combinations of the above factors and others which have produced results that differ greatly.

The makeup of the prospect file, the level of commitment to the cause, and prior

## Training Update

### Major Gift Planning I - Options and Opportunities

In two concentrated, information-packed days, presenters Robert F. Sharpe, Jr., and Jonathan G. Tidd, Esq., discuss the most important facts gift planners need to know to successfully guide their organizations into the 21st century. By linking their knowledge and over 40 years of combined experience, Sharpe and Tidd lead participants through a comprehensive training experience.

Make sure you are prepared to meet your donors' needs in the future by attending this popular seminar. Registration is always limited to allow for more interaction among participants and instructors.


### Major Gift Planning II

For the more experienced gift planner there is "Major Gift Planning II," which focuses on applying various planning tools to help donors meet multiple goals while

making significant gifts. A working knowledge of various gift planning vehicles is assumed. Special emphasis is placed on the impact of recent tax legislation and investment market conditions.

Instructors Robert F. Sharpe, Jr., and Jonathan G. Tidd, Esq., pay particular attention to the practical challenges facing today's fund gatherers.

### Planned Giving When That's Not All You Do

If you're responsible for more than planned giving, this one-day seminar will help you focus your efforts. "Planned Giving When That's Not All You Do" is designed to broaden the knowledge of gift planning throughout your organization, from the CEO or president to the support staff who may be first on the phone with donors. Your staff can become some of your best planned giving advocates once they understand its benefits for your donors and your institution. 

### Seminar Training Dates

#### Major Gift Planning I

Chicago  
April 8-9

Tampa  
June 2-3

San Francisco  
September 9-10

#### Major Gift Planning II

Phoenix  
May 10-11

Chicago  
December 13-14

#### Planned Giving When That's Not All You Do

Chicago  
June 30

Washington, D.C.  
July 16


New York  
August 2

*Multiple registration discounts are available. For more information or to register, please contact the Sharpe company. Phone 1-800-238-3253, ext. 360; Fax (901) 761-4268; Web site [www.rfsc.com](http://www.rfsc.com); E-mail [seminars@rfsc.com](mailto:seminars@rfsc.com)*

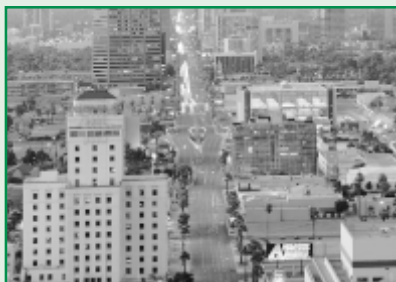
## Is Anybody Out There? . . . *Continued from page 6*

development efforts are probably the most vital determinants of both the quantity and quality of response received.

### Seek quality, not quantity

As we enter a new millennium in planned gift marketing, in a time of unprecedented activity in this area, "less may be more." Tell your story and show the most interested among your supporters the best ways to make their gifts. Work closely with and serve those who express the greatest degree of commitment. Then judge the results of your efforts over time, rather than by the number of cards on your desk tomorrow morning. 

## Phoenix to Host Gift Planning Training



Would you like to expand your knowledge of more advanced gift planning techniques? Would you like to do it in only two days? Then consider joining Robert F. Sharpe, Jr., and Jonathan G. Tidd, Esq., in Phoenix for Major Gift Planning II on

May 10-11. Attendants will build on their basic knowledge of planned giving, learning more in-depth gift planning methods in a fast-paced, interactive atmosphere. Call 1-800-238-3253, ext. 360 to register or reserve your place through the Sharpe Web site at [www.rfsc.com](http://www.rfsc.com).