

Give & Take

VOL. 32 NO. 4 • APRIL 2000

NEWS AND IDEAS FOR DEVELOPMENT EXECUTIVES OF NONPROFIT ORGANIZATIONS

Trust Me . . . The Gift is Irrevocable

by Barlow T. Mann

Don't be caught unawares. A charitable remainder trust gift may not be what it appears.

Planned gifts come in various sizes and shapes. Some result from modifications of wills, insurance policies, retirement plans and other planning tools that donors have in place primarily for non-charitable purposes. Other planned gifts are in the form of charitable trusts, gift annuities, pooled income funds, and other plans that are created specifically for the purpose of making a gift. Some planned gifts are revocable at any time the donor chooses while others are permanent and, once funded, the donor cannot "retrieve" his or her assets.

Many programs understandably place special emphasis on irrevocable life income arrangements, such as charitable remainder annuity trusts and unitrusts. This is especially true in the context of capital campaigns where public recognition may be given for a gift and there is a need for as much certainty as possible. Under the terms of the tax law, such gifts must also be irrevocable in order to enjoy maximum tax savings, and thus the donor cannot take them back...or can they?

"Irrevocable" planned gifts

Under the terms of the Tax Reform Act of 1969 and other pertinent law and regulations, qualified charitable remainder trusts must be irrevocable arrangements. Early trust documents prepared after the passage of the 1969 tax act typically provided for the naming of one or more charitable recipients, and provided for an alternative disposition should one or more of the named charities cease to exist. These provisions became the norm and were rou-

tinely included in pro forma documents prepared during this period.

The more things change

As time went on, more and more donors began to realize and take advantage of the fact that while a charitable trust itself must be irrevocable, donors could still retain the right to change the charitable beneficiary of such a trust at any point in time after the original execution of the trust.

There are a number of reasons that a donor might conceivably wish to change the remainder beneficiary of a charitable trust. Donors' interests may change over time, institutions' needs may change, or a donor may subsequently make an outright gift to one charitable beneficiary and decide to remove that one from their trust, as they feel they have otherwise fulfilled their gift intentions for that charity.

It is rare to see the retention of the power to change the charitable beneficiary of a trust where the trust was prepared by a donor and his or her advisors with the help of a charitable interest. On the other hand,

Continued on page 5

Inside

Is the Federal Government holding assets that could belong to your organization? Page 2

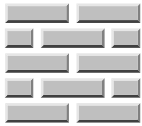
This gift planner enjoys working with angry donors. Find out why Page 3



If you want to enrich your gift planning knowledge, join us in Tampa for "Major Gift Planning II." See page 7 for details.

Planning Matters

Charities with more active estate administration efforts stand to claim millions of additional dollars each year.



Give & Take

A client service publication published monthly since 1968 by Robert F. Sharpe and Company, 6410 Poplar Avenue, Suite 700, Memphis, TN 38119, (901) 680-5300. Fax (901) 761-4268. E-mail info@rfsc.com or through our Web site at <http://www.rfsc.com>.

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Most planned giving specialists are well aware of the importance of bequests via wills as one of the greatest sources of maturing planned gifts each year. Many charitable entities regularly encourage potential donors to take care of friends, relatives, even other charitable organizations first and then consider their organization or institution as a final beneficiary in their wills.

Being considered “last” often means being included in the residuary portion of the estate, or whatever is left after those considered “first” have been given their specific property or a fixed sum as the case may be. Being “last” in the will does not necessarily mean you will get the “least.” Often the beneficiary(ies) that receive all or part of the residuary probate estate will actually receive the largest gifts. In fact, studies show that residuary bequests are generally two to three times the size of the average bequest of a specified amount.

Assets may be overlooked

In most instances, even when there is a program in place to actively administer estate distributions, charitable organizations and institutions must typically wait as long as a year or two from the date of death of the donor to receive the entire amount they are due from the estate of a deceased benefactor. In some cases, the entire amount of a charitable bequest may never actually be received for various reasons. (See page 1 of the March 2000 *Give & Take*.)

With today’s increasingly mobile society and multitude of complex financial transactions, it is possible that nonprofits are foregoing many millions of dollars in lost assets each year. In fact, Federal and state governments currently hold tens of billions of dollars in lost or unclaimed property. These funds include lost IRS refunds, undeliverable Social Security payments, uncashed dividend checks, forgotten security deposits, abandoned bank accounts, insurance proceeds, stocks, etc.

If such property is deemed lost or abandoned, it is turned over to the state or Federal Government for safekeeping. If and when the rightful owner identifies himself or herself and makes a claim on the property, the government is obligated to pay the owner. Eventually the property “escheats” to the ownership of the state.

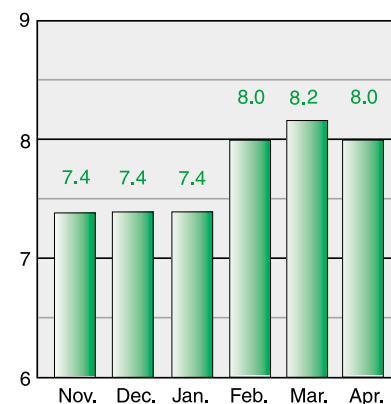
Finding unclaimed property

In the past if a donor with unclaimed property left his or her estate to charity, that property was usually simply overlooked and went unclaimed. After all, if the donor was unable to keep up with the property during life, how could the charity or personal representative of the estate locate it after the donor’s death? Unfortunately, every dollar of estate assets that was “missed” was paid for by the charitable recipients while the specific bequest beneficiaries received their bequests “off the top” of the estate.

Today, technology and the various guardians of unclaimed property, among others, have joined forces to help the public locate this type of property. The National Association of Unclaimed Property Administrators has a Web site designed to assist people in their searches.

Continued on page 6

Discount Rates



The trend in applicable federal mid-term rates (AFMRs), which are used in calculating the benefits of split-interest gifts.

Gift Planner Recommends 'Seizing the Moment'

In this issue of Give & Take, we talk with Tim Wierzbicki, director of major and planned gifts for Habitat for Humanity. Having worked in the nonprofit sector since graduating from college, Mr. Wierzbicki shares his strong viewpoints about fund raising in this "Gift Planner Profile."

Give & Take: Why do you think you were drawn to the field of fund development? Was it something you always planned on doing?

Wierzbicki: I was always a student leader in school. In college I got my degree in public administration. So I have always had a bent for the nonprofit or public sector. I first became interested in nonprofit fund raising through a work study job in the development department at Minnesota State University at Mankato. It was really rewarding to see how your efforts could have such a broad impact on the lives of others.

Give & Take: Tell us a little bit about your fund development background.

Wierzbicki: My first job out of college, I became the executive director of the Minnesota Chapter of the American Civil Liberties Union. I applied for the job but didn't think that I would get it. They decided to take a chance on me and things worked out really well. When I started with the ACLU, the Minnesota Chapter was ranked 36th out of 50 states based on membership and recruitment. Within 12 months, our chapter was ranked first in the nation.

A few years later, when I was working as director of development for the St. Paul Chapter of the American Red Cross, I was transferred to the national headquarters in Washington, D.C. I eventually managed major gift solicitations during disasters. We would be raising funds within hours of a disaster, so we were often on call 24 hours a day. This included talking points and strategy for Elizabeth Dole's major gift solicitations.

Give & Take: You have helped plan some rather creative gifts in your career. Can you tell us about a recent gift that might be especially interesting?

Wierzbicki: I think much of fund raising is about "seizing the moment." Recently while meeting with the chair of a public foundation, he clearly wanted to do whatever it would take to increase the number of people in his state housed through Habitat. I suggested that a leadership gift over a number of years would encourage others to follow. To the surprise of the local Habitat volunteers—and myself—we left the meeting with a commitment for over \$30 million in land over five years. And so far two major cash gifts from individuals have followed on the heels of this leadership gift.

Give & Take: What aspect of your job gives you the most personal and professional satisfaction?

Wierzbicki: I really enjoy asking people for money and negotiating the terms of more complex gifts. I have developed a little bit of a reputation during my career as being the one to call if there is ever a difficult situation with a donor. I enjoy turning negative situations into positive ones. When someone is upset with an organization, our natural inclination is to step back and try not to infuriate that person even more. In reality, what they are saying to us is that they care. I'll take a donor that is furious with an organization over a complacent donor any day. The upset donor is one that cares. I often use this analogy when I give workshops: I ask people to remember the first time they crossed the street without looking both ways and how angry their parents were. The reason they were angry was because they cared. Angry donors often care in much the same way.

Give & Take: What characteristics do you think a person needs to possess in order to be a successful gift planner?



"I'll take a donor that is furious with an organization over a complacent donor any day."

—Tim Wierzbicki

Gift Planner . . . *Continued from page 3*

"I knew that I would never get into trouble by asking for money."

Wierzbicki: As fundraisers, we are really the ones who come in and finish a process many others may have been involved in before us. To use a baseball analogy, other people are "pitching", whether they are in corporate communications, administration, etc. But, as fundraisers, we are the "catchers" who have to take the opportunity to complete the process of realizing the gift. I recently completed a gift of closely held stock that was worth \$1 million. That was not really something I made happen. This gift really started back almost 10 years ago when the donor visited a Habitat site and was extremely taken by the volunteers and new homeowners. So the entire cycle from exposure to gift with this donor took almost a decade to develop. This gift was really a team effort. I'm not even sure if a fundraiser can ever say they solicited a gift "from scratch" because donors usually have contact with so many people from an organization.


I'm really sort of a nontraditional fundraiser in terms that I believe that program staff can be very active in soliciting gifts as a natural part of their interaction with some of the strongest supporters of our cause, and I rely on volunteers to assist in the final stages of the gift planning process. They put their seal of approval on a gift.

***Give & Take:* How have you tried to cultivate planned givers at Habitat?**

Wierzbicki: What we have done at Habitat is merge the major gift unit with the planned gift unit because we realized that virtually anyone with the desire and means can become a planned gift donor. This took a lot of work, especially by Doris Hardy, our manager of planned giving, and Kay Langford, manager of donor administration. But it's paid off. Cross solicitation and stepped up personal contact helped us meet the planned giving annual goal in just six months, while also increasing major gifts and keeping expenses under budget.

What I have found in going on hundreds of donor calls is that the largest, most generous gifts have almost all come from people who you never would have known are rich—they live in modest homes, drive modest cars, and truly are the "millionaires next door." It can be a big mistake to organize efforts primarily around the discovery and cultivation of those who hit the "radar screen" because they exhibit the trappings of wealth.

***Give & Take:* Have you received any advice about gift planning that you would like to share?**

Wierzbicki: Yes. In my first job, I was calling on wealthy individuals. Even though I was nervous and my voice was shaking, I kept on doing it at the insistence of our board president. About a month after I had been on the job, he blew into the office and starting asking everyone where I was. He sounded very angry and I could hear him headed down to my office. I thought this must be what it was like to get fired. He came in my office and told me that a donor had called him and mentioned how I had kept calling on him for a gift. Then he grabbed me by the shoulders and said, "If I ever get another call like that from another donor...I'll give you a raise!" From that moment on, I knew that I would never get into trouble by asking for money. It was very crucial for me to understand that at the beginning of my career and it has influenced me ever since. Fundraisers have to remember that what we are raising money for is a good thing and we are helping people "buy" something that is priceless once they realize they want it and see and feel the benefits of their generosity. 

Trust Me . . . *Continued from page 1*

the power to replace the remainder beneficiary is very common, if not the norm, in trusts prepared by donors with the help of their advisors with little or no participation by charitable interest in the process. In fact, it would arguably constitute malpractice were an attorney not to tell a client that they could retain this right. With the growth of interests in charitable trusts among for-profit advisors has come an increase in the number of charitable remainder trusts where the charitable remainder interest is changeable and thus essentially equivalent to a bequest expectancy, remainder interest in a retirement plan, or other revocable gift.

What to do?

When charitable organizations or institutions are notified of their inclusion in a charitable remainder trust where the donor has worked with outside advisors to create the trust without the knowledge of the charitable beneficiary, the charity involved should have a well thought out procedure and begin to execute it immediately.

If recognition is being sought for a gift, it may be legitimate to request a copy of the trust to determine the exact nature of the charity's interest. The possibility for bestowing recognition for a gift offers the opportunity to discuss the feasibility of making a revocable provision permanent.

If an organization offers recognition for bequest expectancies in campaigns and as part of other fund development efforts, it may be more difficult to use recognition in a campaign as a way to encourage irrevocability.


As noted earlier, where it is determined that the charitable remainder interest in question is, in fact, revocable and the donor is not open to making the gift permanent, the gift is very similar to a bequest expectancy and should be treated accordingly. The intended charitable remainder recipient may want to consider enrolling the donor in a gift recognition society, maintaining personal contact through visits,

inviting the donor to special events, sending birthday cards, and engaging in other similar relationship-building activities. It is incumbent upon the future charitable recipient of the trust to help maintain the donor's interest in the organization just as in the case of a bequest expectancy.

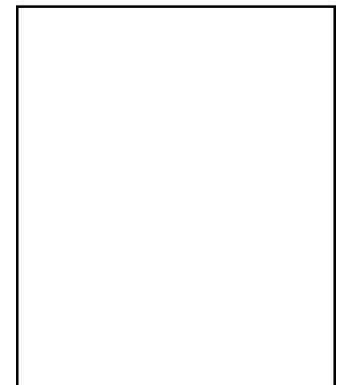
Effective ongoing communication with donors who have included an organization as the remainder interest in a trust may act as an early warning system if a problem is in the making. Keeping in touch with the donor, in much the same way you would communicate with a bequest donor, can mean the difference between your organization's receiving the charitable remainder or forfeiting the trust assets to other charitable interests that have done a more effective job stewarding their relationship after the completion of the trust.

Final thought

Note, too, that just as it is possible to be removed as a remainder beneficiary of a trust, it is also possible for your organization to be added to such a trust already in existence. This may occur as a replacement of or in addition to the existing beneficiary. Donors who have charitable remainder trusts with revocable beneficiaries may be thought of as persons who have a "pocket" from which they can make major commitments simply by changing a beneficiary and/or making an existing designation irrevocable.

This is important to keep in mind when considering the various ways donors can fulfill campaign and other gift commitments in an era that will increasingly be marked by gift planning activities that are driven by donors and their advisors apart from organized fund gathering efforts. 

...The power to replace the remainder beneficiary is very common...in trusts prepared by donors and their advisors.



Barlow T. Mann is an attorney and chief operating officer of the Sharpe company. He designs planned giving programs for a number of America's nonprofits, presents seminars, and authors many articles on gift planning.

Footnotes for Gift Planners

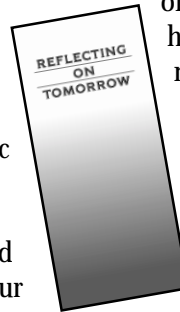
News and ideas about Robert F. Sharpe and Company's services. For more information, join us on the Web at www.rfSCO.com.

Looking for an overview of gift plans?


If you are looking for one booklet that offers a concise, thumbnail sketch of each of the most popular gift planning options along with helpful examples, consider "Reflecting on Tomorrow."

This booklet is designed as a quick read for those who may have a general interest or who meet the basic profile of a planned giver, but who have not yet focused on a particular planning option. A sample is enclosed with this issue of *Give & Take* for your information and review.

Consider using "Reflecting on Tomorrow" as a follow-up piece for those who respond to mailings or other marketing efforts that offer general information on gift



planning. "Reflecting on Tomorrow" can also be an excellent piece to use with members of planned gift recognition societies as a way to pique their interest in other types of gift plans. Consider this booklet as a handout at reunions, appreciation dinners, and other gatherings of donors.

Your organization's logo and address information may be printed on the front and/or back cover(s). Other personalization options may be cost effective in larger quantities. To place your order for "Reflecting on Tomorrow", or to request sample copies of other Sharpe gift planning support materials, please call 1-800-238-3253, e-mail info@rfSCO.com, or visit our Web site at www.rfSCO.com. 

11 Years Ago in *Give & Take*

In the May 1989 issue of *Give & Take*, Timothy Sharpe outlined the benefits of target marketing. Here is an excerpt:

"Ultimately, gift planning is driven by the needs and desires of each *individual* donor—not the desire of the gift planning executive to secure a specific type of gift. Target marketing involves identifying groups of prospects who have similar life circumstances and financial/estate planning needs and presenting ideas that will appeal to them.


...The purpose of keeping good records and doing target marketing is not to find a list to which you 'pitch' a certain plan. Instead, you can identify groups of prospects *likely* to be helped via effective gift planning. By then choosing the theme of your mailing carefully, you have a better chance of speaking directly to their concerns. The distinction may be subtle, but it is crucial to reaching those who can be your largest givers."

Planning Matters . . . *Continued from page 2*

Many individual states also post unclaimed property on their Web sites under the Treasury Department division.

In the past, searching for such assets—which are often less than \$1,000 per claim—simply did not pass the cost/benefit analysis. In the future, charitable organizations and institutions and others involved in estate settlement and administration may routinely use the internet and other tech-

nologies to locate and claim lost property that has become a "ward of the state." With the accelerating transfer of wealth, it is likely that charities with more active estate administration efforts stand to claim millions of additional dollars every year.

For additional information see the November 22, 1999 issue of *Time* and the December 6, 1999 issue of *U.S. News & World Report*. 

Helpful Web Sites

www.unclaimed.org

www.unclaimed-property.com

www.missingmoney.com

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 in 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.

Introduction to Planned Giving

For a comprehensive, in-depth training experience, consider attending Sharpe's new 3-day seminar "Introduction to Planned Giving" to be held May 22-24, in Memphis. Presenters Timothy Sharpe, Barlow Mann, and Phillip Adcock guide participants through the basics of charitable gift planning, from detailed explanations of gift planning techniques, to organizing and implementing an effective gift planning program, to communicating benefits of more effective charitable gift planning in the most efficient manner to your constituency.

Empower yourself with a wealth of gift planning knowledge that your donors will appreciate and that will help your institution benefit from the unprecedented intergenerational wealth transfer that is now on the horizon. This seminar is designed to be especially helpful for those who are beginning their career in gift planning or have multiple responsibilities and are charged with incorporating gift planning capabilities into other development efforts. 

Seminar Training Dates

Major Gift Planning I

Chicago
April 13-14

Boston
May 8-9

Major Gift Planning II

Tampa
May 31 - June 1

Chicago
July 10-11

Planned Giving When That's Not All You Do

San Francisco
April 7

Los Angeles
April 10

St. Louis
June 26

Introduction to Planned Giving

Memphis
May 22-24

**Please see our Web site at www.rfsc.com for more information or to register.*

Multiple registration discounts are available.

For more information or to register, please contact the Sharpe company.

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