

Impact of the 2003 Tax Act on Charitable Giving

On May 28th, President Bush signed into law the Jobs and Growth Tax Relief Reconciliation Act of 2003. The stated goal was to stimulate a sluggish economy by providing federal income tax relief for many Americans. The primary thrust of the bill is to accelerate income tax rate cuts that were already planned for coming years as part of the provisions of the Economic Growth and Tax Relief Reconciliation Act of 2001. It also contains a number of other changes to our nation's tax laws, some of which can be expected to affect the ways in which larger charitable gifts are structured.

The recent Tax Act does not, however, directly address charitable giving. During the negotiation process in Congress, lawmakers carefully structured the bill to disassociate it from the charitable giving provisions contained in the CARE Act and similar bills introduced in recent months that are specifically designed to stimulate charitable giving. As a result, for example, the bill did not change the tax treatment of gifts from IRAs and other retirement plans, and did not provide for a deduction for non-itemizers or other measures designed to encourage charitable giving. *(As we go to press, the CARE Act and similar bills are under consideration in the House and Senate, with their eventual fate still unknown.)* The bill also made no changes in the schedule for the reduction and/or eventual elimination of gift and estate taxes that were an integral component of the 2001 Tax Act.

The primary provisions of the 2003 Tax Act are listed below:

- Decreases in income tax rates. The maximum ordinary income tax bracket for 2003 will be 35%, down from 38.6%. The brackets above 15% will be reduced

Inside:

- Results of recent ACGA survey of nonprofits p. 2
- Find a Sharpe seminar near you p. 5



This fall, go back to school with Sharpe. Join us for training in Washington, D.C., in September.

to 33%, 28%, and 25%. Other changes apply to lower tax brackets that will result in tax reductions for persons subject to those rates as well.

- Relief from the "marriage penalty" for many taxpayers.
- Lower taxes on capital gains and dividend income.
- Increase in the amount of the childcare credit.
- Reduction of the impact of the alternative minimum tax.
- Incentives for investment in business equipment.

Impact on charitable giving

Although it does not directly target charitable giving, the recent Tax Act can still be expected to have an impact on the way gifts, especially larger ones, are structured.

First, by lowering tax rates, the net cost of a deductible charitable gift is increased. The formula for determining the after-tax cost of a charitable gift is as follows:

$$\text{Cost} = \text{Gift} - (\text{T} \times \text{Gift}),$$

where **T** equals the applicable tax rate

Thus, the cost of a gift of \$1,000 to a person in a 38.6% tax bracket would be \$1,000 - (38.6% x \$1,000), or \$614, some 61.4% of the amount donated. With the



• • • • •
How does your gift annuity program rate?

Planning Matters

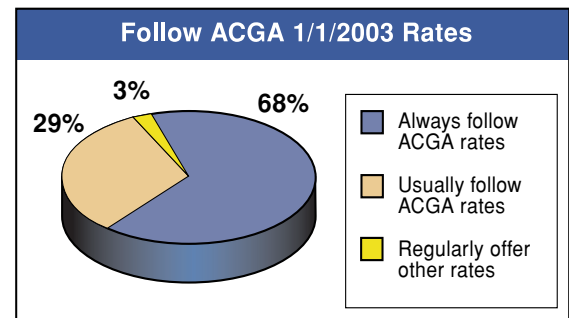
For the second time this year, the American Council on Gift Annuities has recommended that the payment rates it suggests for charitable gift annuities be reduced. The new rates, reproduced below, are effective July 1, 2003. The rate reduction varies from .2% to .5%, depending on the age of the annuitants. The new rates for persons age 60 and older are illustrated in the chart below, with significant decreases highlighted in yellow. For complete rates, see www.acga-web.org.

Age	New Rate	Old Rate	Difference	Percent Different
60	5.7	6.0	(0.3)	-5%
61	5.8	6.0	(0.2)	-3%
62	5.9	6.1	(0.2)	-3%
63	5.9	6.1	(0.2)	-3%
64	6.0	6.2	(0.2)	-3%
65	6.0	6.3	(0.3)	-5%
66	6.1	6.3	(0.2)	-3%
67	6.2	6.4	(0.2)	-3%
68	6.3	6.5	(0.2)	-3%
69	6.4	6.6	(0.2)	-3%
70	6.5	6.7	(0.2)	-3%
71	6.6	6.8	(0.2)	-3%
72	6.7	6.9	(0.2)	-3%
73	6.8	7.0	(0.2)	-3%
74	6.9	7.2	(0.3)	-4%
75	7.1	7.3	(0.2)	-3%
76	7.2	7.5	(0.3)	-4%
77	7.4	7.6	(0.2)	-3%
78	7.6	7.8	(0.2)	-3%
79	7.8	8.0	(0.2)	-3%
80	8.0	8.3	(0.3)	-4%
81	8.3	8.5	(0.2)	-2%
82	8.5	8.8	(0.3)	-3%
83	8.8	9.1	(0.3)	-3%
84	9.2	9.4	(0.2)	-2%
85	9.5	9.7	(0.2)	-2%
86	9.9	10.1	(0.2)	-2%
87	10.2	10.4	(0.2)	-2%
88	10.6	10.8	(0.2)	-2%
89	11.0	11.2	(0.2)	-2%
90 and over	11.3	11.5	(0.2)	-2%

Surveying the situation

Even before the new rates were announced, you may have been wondering how your gift annuity practices compare to those of other nonprofits: Do most follow the recommended rates? How many require minimum ages or contribution amounts? The American Council on Gift Annuities (ACGA) has provided answers to these questions and more in a survey conducted and released just prior to the new rate announcement.

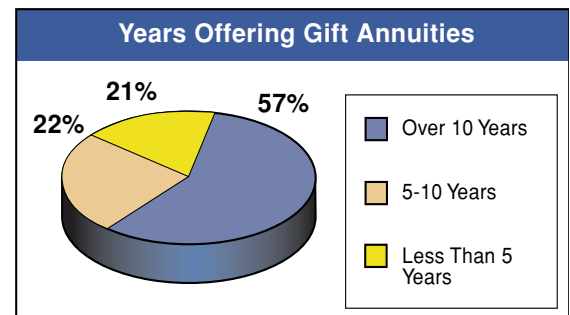
Despite the fact that issuers of gift annuities are free to set their own rates, 97% of those surveyed indicated that they always or usually follow the ACGA suggested rates. Note that charities that issue gift annuities in New York State, for example, must follow the ACGA rates unless they submit their own rates to the State with an accompanying statement from an actuary explaining the rates. For that reason, many issuers of gift annuities will not be able to extend the use of the current rates beyond June 30.



While some survey respondents expressed concern about the institutional risk associated with gift annuities, only 25% reported that their institution's gift annuity reserve fund has declined significantly as a result of the equity and bond markets, and only 4% have had to transfer general funds to their reserve funds to meet requirements mandated by applicable regulations. The most commonly cited action designed to address concerns surrounding financial risks was raising the minimum age of annuitants.

The majority of survey participants have been issuing annuities for longer than a decade.

Less than 10% reported having more than 500 agreements in force. Almost two-thirds indicated increased activity in this area over the past three years.



More information and complete survey results are available at the ACGA's Web site, www.acga-web.org. G&T

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@rfsco.com or through our Web site at <http://www.sharpenet.com>.

The publisher of *Give & Take* is not engaged in rendering legal or tax advisory service. For advice and assistance in specific cases, the services of your own counsel should be obtained.

Articles in *Give & Take* may generally be reprinted for distribution to board members and staff of nonprofit institutions and other non-donor groups. Proper credit must be given. Call for details.

© 2003 Robert F. Sharpe and Co., Inc.

Editor:
Elaine Gumbert

Design:
Kelley Carter

Footnotes

BOOKLET OF THE MONTH

“Giving Through Gift Annuities”

When the American Council on Gift Annuities announced that it would be recommending lower gift annuity payment rates effective July 1, Sharpe editors immediately began the process of updating gift annuity publications. All of Sharpe’s gift annuity brochures, booklets, and newsletters now reflect the new rates and are ready to help you explain this popular gift plan to your donors.

While newsletters and brochures can be especially effective at introducing gift plans to large groups, a booklet format allows for more substantial information and may be more appropriate for use with donors with the potential to complete larger gift annuities or fund their annuity with an asset other than cash. A booklet can also be an effective way to convey more information to those who have responded to broadly based marketing efforts.

Sharpe’s 20-page booklet “Giving Through Gift Annuities” features a description of how gift annuities are structured, along with examples that allow donors to see how a gift annuity might meet their various needs. The booklet also contains a question-and-answer section, which addresses topics such as the difference between one- and two-life annuities and relevant tax issues. As in the case of other titles in the Sharpe gift planning library of booklets, “Giving Through Gift Annuities” concludes with a technical advisory section designed for professional advisors. “Giving Through Gift Annuities” is also available with or without gift annuity rates printed on the back cover.

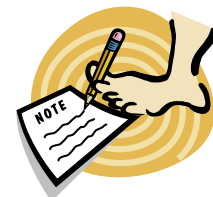
Along with bequests, gift annuities are the most popular planned gift. Today’s low interest rates and uncertain investment returns make the gift annuity’s reliable payments especially attractive for older donors.

For more information, please call 1-800-238-3253 or visit our Web site at www.sharpenet.com.

Sharpe’s year-end brochures

July marks the start of the second half of the year, and the fall will soon be upon us. Now is the time to plan your fund-raising strategy for the year-end giving season.

This year, Sharpe is offering three brochures designed to help you raise funds during this crucial time. Please check www.sharpenet.com/yearend or call 1-800-238-3253 to learn more.



News and ideas about Robert F. Sharpe and Company’s services.




Billing that fits your needs

When fiscal years come to a close, many organizations find themselves in one of two situations— with not enough money to do what needs to be done or with a surplus that may be forfeited when future budgets are planned. In either case, Sharpe’s flexible billing options can help you complete your gift planning projects on your schedule and within your budget.

Sharpe’s billing options allow you to:

- Divide billing over two budget years.
- Prepay for services when budget funds are available.
- Postpone billing until a new fiscal year begins and budgeted funds become available.

Flexible billing options can help you make a smooth transition from one fiscal year to the next. Call 1-800-238-3253 for more information. 

What Participants Say About Sharpe Seminars

“All presentations were excellent...touched on areas that are very high on our interest level at this time. I look forward to having all of our development staff have this learning experience.” Roger Bouchard, President, Florida Sheriffs Youth Ranches, Boys Ranch, FL

“This seminar is a wonderful way to combine the ‘nuts and bolts’ of planned giving with the reality of actually visiting with the donors about their goals.” Sandi Tuttle, Mercy Foundation, Des Moines, IA

“I really enjoyed Mary-Gail’s sessions as well as the whole seminar. I feel much more comfortable and prepared to interact with donors now.” Carrie Pearson, Conservation International, Washington, D.C.

“Excellent—wonderful, interactive seminar. I’ll definitely recommend this to others!” Kerri Melley, University of Rochester Eastman School of Music, Rochester, NY

“I really appreciated the way the notebook was set up (it grew on me as I used it!), with the text on the left side and a blank page for notes and comments on the right side. I

took lots of notes and they will be easy to access.” Allyson Simpson, Scripps College, Claremont, CA.

“The presenters’ professional experience was helpful in applying their examples to the concepts of planned giving.” Tracy Rueckert, Memorial Sloan-Kettering Cancer Center, New York, NY

“The Marketing Matrix presentations will be very helpful to me. A great time. Thank you!” R. Peter Kilburn, University of Virginia Health System, Charlottesville, VA

“Excellent. Worth the money! Want to attend other Sharpe seminars.” Jovanna Little, Director of Donor Relations, Stony Brook University, Stony Brook, NY

“RFSCO and their professionals have opened my eyes to the complete ‘big picture’ of how to, what to do, and what to expect in planned giving.” H.C. “Buzz” Dixon, Family Connection, Inc., Anderson, IN

Does Your Program Need Shaping Up?

From time to time, all of us need to step back to take an unbiased look at our gift planning programs. This quiz, originally printed in the May 1997 issue of *Give & Take*, will help you determine if you have fallen short of your expectations and how you can improve your development efforts in the future.

Scoring is omitted, because no two programs are alike. A “good” or “bad” rating is not the goal. It’s up to you, instead, to judge the effectiveness of your efforts and adjust as you see fit.

1. How does your institution’s or organization’s board of directors show its support of gift planning?
2. What access does the person handling planned giving have to top leadership? Is it enough?
3. How do leaders of your institution or organization learn about gift planning?
4. Does the organization have a long past upon which to build? How are today’s donors reminded of your permanence?
5. Is there someone on staff who can be relied upon to know long-time donors and “fill in the gaps” in donors’ backgrounds? Does that person participate

in visits to donors (either behind-the-scenes or making the actual visits)?

6. How is the continuity of your program preserved through staff turnover and other changes in personnel?
7. How does management foster a teamwork approach to fund gathering?
8. How do those involved chiefly in planned giving share their expertise with others on staff, and vice versa?
9. Do you have gift acceptance policies? Are they up to date?
10. If yes, how are your communications activities governed by your gift acceptance policies?
11. What criteria do you use to determine the prospect pool for various gift planning subjects?
12. Do you use electronic list segmentation capabilities to select persons to receive materials who are most interested in the subject at hand?

Were you pleased with your answers? If so, congratulations. If not, perhaps you have gained insight into areas where improvements can be made that can help transform your efforts into more effective ones. [G&T](#)

Training Update

An Introduction to Planned Giving

For a comprehensive, in-depth training experience, consider attending Sharpe's seminar "An Introduction to Planned Giving."

Presenters Timothy Sharpe, Barlow Mann, and other experts combine their experience to guide participants through the basics of charitable gift planning, from 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 for your constituency.

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

Managing Planned Giving Relationships

Someone has asked for information about a planned gift. What is the next step? How do you use the telephone, written correspondence, personal visits, and other communications in ways that are appropriate, tasteful, and effective?

These and other topics will be explored in a new seminar devoted to the process of developing and managing effective planned gift relationships. Beginning with how to handle initial requests for information, this seminar will also focus on what to do before, during, and after a personal visit.

Also included is an exploration of various ways to work most effectively with donors' advisors to help complete planned gifts.

Special attention will also be given to the process of building and maintaining relationships with the heirs of benefactors after a legacy has been received.

Presenters with decades of combined experience will share their insights regarding ways to build meaningful relationships, including helpful case studies and demonstrations of successful techniques.

Designed to complement "An Introduction to Planned Giving," this one and one-half day session follows that seminar in selected cities. Special

tuition rates are available for concurrent attendance or for prior attendees of "An Introduction to Planned Giving."

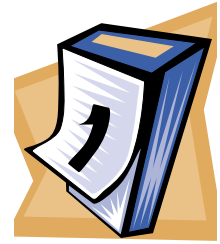
Major Gift Planning

In two concentrated, information-packed days, presenters Robert F. Sharpe, Jr., and Jonathan G. Tidd, Esq., address issues of vital importance to those charged with structuring major gifts to their organizations. By linking their knowledge and over 40 years of combined experience, Sharpe and Tidd lead participants who possess a basic understanding of gift planning tools through a comprehensive training experience designed to help them best utilize their skills in today's environment. Registration is limited to allow for more interaction among participants and instructors. [G&T](#)

Multiple registration discounts are available. For more information or to register, please contact the Sharpe company.

Phone 1-800-238-3253, ext. 5360
Fax 901-761-4268

Web site: www.sharpenet.com
E-mail: seminars@rfsc.com



Seminar Training Dates

An Introduction to Planned Giving
Washington, D.C.
September 4-5
Orlando
November 17-18

Managing Planned Giving Relationships
Orlando
November 19-20

Major Gift Planning
New York
August 14-15
Phoenix
September 8-9
St. Petersburg, FL
December 4-5



Spend August in New York with Sharpe.

Impact of Tax Changes...Continued from page 1

reduction of the maximum tax rate to 35% for 2003, the formula would yield a maximum cost of \$650, or 65% of each dollar donated ($\$1,000 - 35\% \times \$1,000$).

With gifts of appreciated assets, the formula is somewhat different:

Cost = Gift - (T x Gift) - c(Gift - Cost Basis),
where **T** equals the applicable ordinary income tax rate and **c** equals the applicable capital gain tax rate.

In the previous example, if a donor instead gave stock worth \$1,000 with a cost basis of \$200, under prior law the minimum cost would be $\$1,000 - (38.6\% \times \$1,000) - 20\% \times (\$1,000 - \$200)$, or \$454 (45.4% of amount donated). Under the new law, as a result of reductions in both the ordinary income tax rate (from 38.6% to 35%) and the capital gain tax rate (20% to 15%), the cost of the gift described above would be $\$1,000 - (35\% \times \$1,000) - 15\% \times (\$1,000 - \$200)$, or \$530 (53% of amount donated).

In these examples, the cost of the gift of cash by the highest bracket taxpayers will rise by 6% and the cost of a gift of the appreciated stock by 17%.

In the case of zero basis stock where the savings would be the greatest, the minimum cost of such a gift will rise from 41.4% of each dollar donated to 50% per dollar donated, an increase of 21%.

While the after-tax cost of certain charitable gifts will rise under the provisions of the recent Tax Act, it is important to remember that the costs of various types of gifts are relative; it will, for example, still cost as much as 30% more to make a gift in the form of cash rather than appreciated assets.

Despite a predictable and understandable litany of nay-saying in contemporaneous press reports, increases in the after-tax cost of charitable gifts in the past as a result of lower tax rates have not demonstrably affected the amount of charitable

giving. This fact is reflected in trends in gifts by individuals reported by *Giving USA* for the years following reductions in maximum income tax rates brought about by past tax bills. See chart at left.

The message for donors is twofold. First, lower tax rates will make more cash available to donors for charitable gifts and other discretionary transfers of cash and other assets. Nonprofits should take this opportunity to encourage donors to use a portion of their after-tax income to support their charitable interests. Second, for those who have appreciated property, it still makes the most sense to donate the property and use cash to diversify investments. Don't forget that many donors may now have increases in the value of bonds or bond funds as interest rates have fallen in recent years.

Impact on deferred gifts

Perhaps the most important impact of the new tax law for fundraisers is in the area of deferred planned gifts. Reductions in the rate of tax on capital gains and dividend income can actually serve to make certain types of gifts more attractive.

Gift annuities

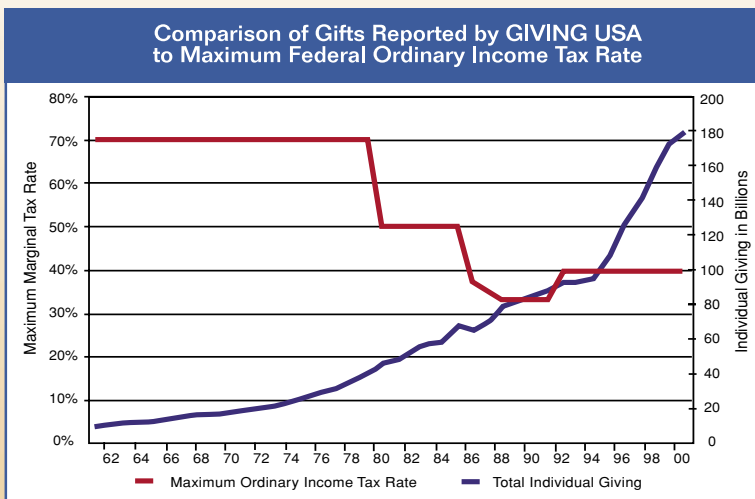
For example, when donors fund charitable gift annuities with appreciated assets, a portion of each payment is taxed as capital gain for a period of time equal to their life expectancy. Lower capital gains tax rates mean they can keep more of the payments and achieve a higher after-tax yield than before. In some cases, this can be more than enough to offset lower annuity payment rates recommended by the American Council on Gift Annuities (ACGA) as of July 1, 2003.

Consider a 75-year-old funding a gift annuity with \$50,000 worth of stock that has a cost basis of \$20,000. The chart on top of the next page highlights the difference between a gift annuity established before and one funded after the recent ACGA rate changes and federal tax law changes.

Note that in this case, reductions in tax rates actually enable the donor to net more after taxes from a new gift annuity, even considering the reduction in rates recommended to go into effect on July 1.

Charitable remainder trusts

Similar results can be realized by taxpayers who fund charitable remainder trusts with appreciated assets. Under the so-called "tier structure" mandated for reporting income from charitable remainder trusts, the nature of income as realized within the trust maintains its character when reported on the recipient's tax return. Thus, the percentage of income that retains its capital gain status may be taxed at a



Impact of Tax Changes...Continued from page 6

	Before Payment Rate & Tax Change	After Payment Rate & Tax Change	Difference
Amount of Gift Annuity	\$50,000	\$50,000	\$0
Cost Basis in Property	\$20,000	\$20,000	\$0
Payment Rate	7.30%	7.10%	-0.20%
Annual Payment	\$3,650	\$3,550	(\$100)
Capital Gain Tax	\$298	\$217	(\$81)
Ordinary Income Tax	\$449	\$396	(\$53)
After-Tax Payment	\$2,903	\$2,937	\$34
After-Tax Rate	5.80%	5.87%	0.07%

lower rate than under prior law. This will serve to make charitable remainder trusts funded with appreciated property even more attractive than before.

Consider also the impact of reducing the tax on dividend income. Presumably, dividend income will still enjoy its favored treatment when received by the income beneficiary of a charitable remainder trust. If this is in fact the case, then a donor may prefer a charitable remainder annuity trust to a gift annuity that pays the same rate if it is anticipated that the trust will yield dividend income that will be taxed at lower rates under the new tax law. The ordinary income element of a gift annuity payment, on the other hand, is taxed at full ordinary income tax rates with no differentiation of any portion of ordinary income derived from dividends.

While this may be an esoteric point, it is a helpful distinction when an institution is approached by a younger donor seeking a gift annuity that would offer relatively high payments. There may now be tax savings justifications that would lead the donor to opt for a charitable remainder annuity trust where liability is limited to trust assets and the gift does not amount to a general obligation of the charity.

In funding charitable remainder trusts and certain other split interest gifts, it may also be helpful to note that some assets will still be subject to much higher capital gains tax rates than 15%. For example, the amount of gain in real estate represented by the difference between the original cost basis and amounts deducted in the past as straight-line depreciation will be taxed at 25%. The gain in tangible personal property such as jewelry, art, and other collectibles will continue to be taxed at 28%. Thus, in appropriate circumstances, these types of assets may be better choices for funding gifts than property that would be taxed at lower rates if sold.

Charitable lead trusts

Lower taxes on capital gain and dividend income may also lead to increased interest in charitable lead trusts. Donors holding large amounts of appreciated property may be more likely to sell the property, pay historically low capital gain tax rates, and place the net proceeds in a lead trust. This amounts to, in effect, paying a 15% capital gain tax on part of the value of the assets rather than gift and estate taxes of up to 49% on the entire value of property transferred directly to non-charitable recipients.

The new law may also lead to increased interest in a plan sometimes referred to as a "Super CLAT," under which a grantor lead trust enables a donor to remove an asset from his or her estate and enjoy a tax deduction today against an income tax rate as high as 35% while reporting income in later years that may be taxed at favorable capital gain and dividend tax rates. This latter point is another example of the subtle nature of the impact of the new Tax Act on charitable giving.

Where to go from here

As always, it is important to make certain that staff, volunteers, donors, and other constituencies receive the information they need in order to understand the impact of tax legislation on charitable giving. Sometimes the message is clear and direct; sometimes it is not as readily apparent. The impact of this law may seem negligible on the surface, but can have powerful implications for the funding and subsequent allocation of assets in the case of split interest gifts such as gift annuities, charitable remainder trusts, and lead trusts.

In communicating with donors, it is appropriate to make observations about the positive impact lower taxes can have on charitable gifts. Take the time to remind them that gifts of appreciated assets remain more advantageous than cash gifts. When making proposals for deferred gifts, help donors carefully consider which assets will help them take full advantage of the provisions of the new Tax Act.

By their very nature, tax law changes such as the one just signed into law alter the fund-raising landscape. Fundraisers that stay informed, remain resourceful, and help their donors navigate the new tax laws will chart a safe course to the future. [G&T](#)

Your Move

In today's complex environment, leaders of America's nonprofits must make vital decisions about how to meet current needs while building for a stable future. Every move counts.

Increase your awareness of gift planning opportunities available to you and your donors. Attend the two-day workshop "Major Gift Planning—Options and Opportunities" in:

New York, August 14-15
Phoenix, September 8-9
St. Petersburg, December 4-5

Robert F. Sharpe, Jr., and Jonathan G. Tidd, Esq., will lead this fast-paced seminar on charitable gift planning, with emphasis on plans that produce benefits for your organization in the near term and the impact of recent and proposed tax legislation and regulations.

"Major Gift Planning" will equip you to cost-effectively help donors plan their gifts to help ensure your organization's future.

Enrollment is limited. Call 1-800-238-3253, ext. 5360, or visit www.sharpenet.com for more information or to reserve your place.



Robert F. Sharpe & Company, Inc.