

Give & Take

News and Ideas for Development Executives of Nonprofit Organizations

Are Your Plans Being Deferred?

by Robert F. Sharpe, Jr.

We have observed in recent months that some gift planners have postponed implementing various components of their gift planning marketing initiatives while they continue to wait for the passage of the CARE Act. Unfortunately for the nonprofits they represent, inactivity may have led to a number of lost gift opportunities.

Time and again

In some respects, today's situation is similar to the fund-raising environment in the late 1960s when development officers faced an uncertain future in light of a proposed major revision of the nation's tax laws as they related to planned giving. The 1969 Tax Act eventually codified the tax treatment of charitable remainder trusts, pooled income funds, and life estate agreements and changed a variety of tax rules affecting foundations and charitable giving. Despite the uncertainty gift planners felt at the time about the changes and the resulting lost gift opportunities, today the 1969 Tax Act is often cited as the seminal legislation in the creation of "modern planned giving." (See page 5.)

Today, gift planners anxiously await the passage of the CARE Act and other legislation intended to provide new incentives for charitable giving. As noted above, a number of nonprofits have put their marketing plans on hold while awaiting the passage of the new law. For some the delays began with the initial 1999 proposals to encourage charitable giving. More plans were affected as gift planners followed the progress of charitable giving legislation dubbed H.R.7 in 2001. In 2002 things heated up on the legislative field and hopes were high for the passage of the CARE Act, which died yet another death in late 2002. The CARE Act was reintroduced in 2003, in addition to a new H.R.7, commonly known as

the Charitable Giving Act. These legislative proposals were unable to be reconciled by the end of 2003, and now the battle is anticipated to be rejoined again this year.

Should we CARE?

The most popular incentives of the charitable giving legislation currently under consideration include an expanded charitable income tax deduction that would allow a benefit for some non-itemizers and a provision for certain limited gifts from Individual Retirement Accounts. The non-itemizer deduction shapes up to be a targeted tax cut for persons that already make charitable gifts as it provides a deduction only for gifts between \$250 and \$500. It likely will provide only a marginal incentive for those not already charitably inclined. The retirement plan provisions relate only to the IRA and exclude gifts from 401(k)s and other popular retirement planning accounts, and will be subject to significant age and other limitations. Most taxpayers will be unaffected by the majority of the other provisions of the legislation as proposed. Other changes such as the 15% maximum tax on capital gains and dividends also serve to make deferred gifts funded from other types of property more beneficial from a tax planning standpoint.

Wait no longer

How many visits, calls, or other activities have been delayed awaiting the passage of this legislation? How much longer can the CARE Act delays be cited as a reason for lackluster planned giving results? It is difficult to say, but one thing is certain—the lost opportunity cost has in some cases been tremendous while others who have forged ahead have experienced double-digit increases in gift annuities and other planned gifts.

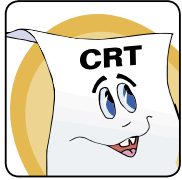
While everyone hopes that this will be the year for new charitable giving incentives, your program should not revolve solely around legislation that may or may not be passed—and whose final content may provide weaker-than-anticipated incentives. Instead, make your plans in light of your current surroundings and circumstances. Then put your best foot forward to implement them.

Inside:

- Find out how proposed IRS regulations could affect you p. 2
- Latest Philanthropic Giving Index holds good news for fundraisers p. 4

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Planning Matters



Making CRTs
less taxing

The Internal Revenue Service recently proposed new regulations for the ordering of income and other distributions from charitable remainder trusts. These regulations reflect changes made to various tax rates as a result of the 2001 and 2003 Tax Acts, including the rates that apply to capital gains and most dividends. A public hearing is scheduled for March 9 to discuss the proposals—proposals that may result in lower taxes on CRT distributions in the future.

The Internal Revenue Code and Regulations have for years provided guidance on determining the tax treatment of payment distributions to beneficiaries from charitable remainder trusts. Known in the field as the “Tier System,” such distributions are treated as follows:

- **First:** As *ordinary income* to the extent that the trust has such income that year, and undistributed ordinary income from prior years. This “tier” of income can be taxed at the federal level at rates as high as 35%.
- **Second:** As *capital gain* to the extent that the trust has capital gain for the trust’s taxable year and any undistributed capital gain from prior years, including gain “trapped” in the trust at the time appreciated property used to fund the trust was sold. This tier of income is taxed at federal tax rates as low as 15%.
- **Third:** As *other income* which is characterized as tax exempt for the trust’s taxable year and undistributed tax-exempt income for prior years.
- **Fourth:** As a distribution of *trust corpus* which would also be tax free.

These rules are guided by the general principle that income subject to the highest tax rates should be distributed first. The proposed regulations extend and apply this general principle to different classes and types of income that may exist as “subsets” within some of the previously mentioned four tiers.

This change is in response to the fact that different types of long-term capital gains are now subject to

different federal income tax rates. See the chart below.

Maximum Capital Gain Tax Rate	
Collectibles	28%
Certain Real Estate Gains	25%
Other Long-Term Capital Gains	15%

Qualified dividend income is also to be taxed at a maximum rate of 15% applicable to most long-term capital gains.

What this means for gift planners

As a practical matter, this means that the first- and second-tier distributions may now contain income that is subject to multiple maximum tax rates. The first tier (ordinary income) may contain qualified dividend income, which is taxed at a maximum rate of 15%, and all other ordinary income, subject to a maximum income tax rate for ordinary income tax purposes of 35%.

The spread between most capital gains (and dividends) and other ordinary income can be quite substantial and is likely to influence how charitable trusts will be invested and administered. Even if the income recipient is not in the 35% income tax bracket, the savings will still be significant for those in the 25%, 28%, and 33% brackets.

Consider the difference in tax due based upon a \$10,000 distribution at the various rates:

Tax on \$10,000 Distribution					
Ordinary Income		Capital Gain Income		Reduction in Taxes	Percent Savings
Tax Bracket	Tax Due	Tax Bracket	Tax Due		
35%	\$3,500	15%	\$1,500	\$2,000	57%
33%	\$3,300	15%	\$1,500	\$1,800	54%
28%	\$2,800	15%	\$1,500	\$1,300	46%
25%	\$2,500	15%	\$1,500	\$1,000	40%

Trustees and money managers will undoubtedly see the tax savings opportunities involved and prudently manage these trusts for the advantage of the income beneficiary and charitable remaindermen. This increased emphasis on capital gains and dividends should benefit both groups, even while investing in accordance with the trustee’s fiduciary responsibilities.

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Give & Take:

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SHARPE  GROUP

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Sharpe Seminar Series

Featured Seminar: Major Gift Planning

One of the more popular seminars in the Sharpe seminar series, Major Gift Planning will be offered in Seattle and Washington, D.C., in the coming months. 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](#)



Join us for Major Gift Planning in Seattle on February 9-10.



Upcoming Seminar Training Dates

Major Gift Planning

Seattle
February 9-10
Washington, D.C.
April 1-2
Chicago
May 17-18
New York
September 9-10

An Introduction to Planned Giving

Chicago
April 13-14
Philadelphia
June 24-25

Managing Planned Giving Relationships

Chicago
April 15-16
New York
August 4-5

Strategic Gift Planning

Chicago
February 19-20
Washington, D.C.
February 26-27

Multiple registration discounts are available. For more information or to register, please contact The Sharpe Group. Phone 1-800-238-3253, ext. 5360. Fax 901-761-4268. Web site: www.sharpenet.com E-mail: seminars@rfsc.com

On the Agenda for 'Major Gift Planning'

Day One

- The Role of Effective Gift Planning in a Comprehensive Fund Development Program
- An Overview of Current and Deferred Gift Planning Techniques
- The Role of Tax and Other Financial Considerations in Planning Major Gifts
- Understanding the Gift Potential in Properties Donors Own
- Maximizing Income From Bequests, Life Insurance, and Retirement Plans
- Integrating Charitable Gifts Into the Overall Estate Plan

Day Two

- Examining the Role of Deferred Gifts in Capital Campaigns
- Case Studies: How Gift Plans Can Help Donors Meet Personal Planning Obligations
- Deferred Gifts with Near-Term Benefits
- Understanding Planned Gift Marketing Regulation
- A Targeted Approach to Communicating Benefits of Gift Planning to Donors
- How to Work Successfully with Donors' Professional Advisors

See www.sharpenet.com/seminars for a complete agenda and dates for this and other Sharpe seminars.

What Attendees Are Saying About Major Gift Planning

"Sitting for two days (a near biological impossibility) was a breeze with the zest of the presenters. Many thanks!"

—Betty Wolf, St. John's Health Center Foundation, Santa Monica, CA

"Great seminar. Very helpful, well organized, and easy to follow. I really enjoyed it!"

—Martha Allen, Catholic Medical Mission Board, New York, NY

"You both are an outstanding team! I've enjoyed, appreciated, and gained good new ideas from this seminar and found the review of basics most helpful."

—John C. Thompson, The Principia School and College, St. Louis, MO

Philanthropic Giving Index Reveals Surge in Confidence

The Center on Philanthropy at Indiana University's recently released Philanthropic Giving Index (PGI) holds good news for gift planners. After the PGI reported a five-year low in fund-raising confidence this summer, the December 2003 report contains the greatest six-month increase in the PGI's history and the greatest 12-month increase since December 2002. See the Center on Philanthropy's Web site at <http://www.philanthropy.iupui.edu/PGI-Dec2003.pdf> for the complete report.

What does the PGI measure?

The Center on Philanthropy has been conducting these periodic surveys of the nation's fundraisers since 1998. Intended to gauge confidence among those engaged in nonprofit fund development, the survey is mailed to a cross-section of the nation's fund-raising executives and consultants representing a broad range of charities of various sizes, geographical locations, and levels of revenue.

The survey asks respondents not only to comment on the present fund-raising environment but also to predict the climate for fund-raising success in the upcoming six months. The average of these two is then reported as the overall PGI. Higher numbers indicate increased confidence.

As was mentioned previously, the December 2003 survey reported notable improvements in fundraisers' opinions about the present fund-raising situation, their

expectations for the next six months, and the overall PGI. These most recent results revealed especially significant increases from the Summer 2003 report: a 15.2% increase in the overall PGI, a 19.8% increase in the Present Situation Index, and an 11.7% increase in the Expectations Index. See chart on page 7 for the results of the most recent PGI.

It's the economy

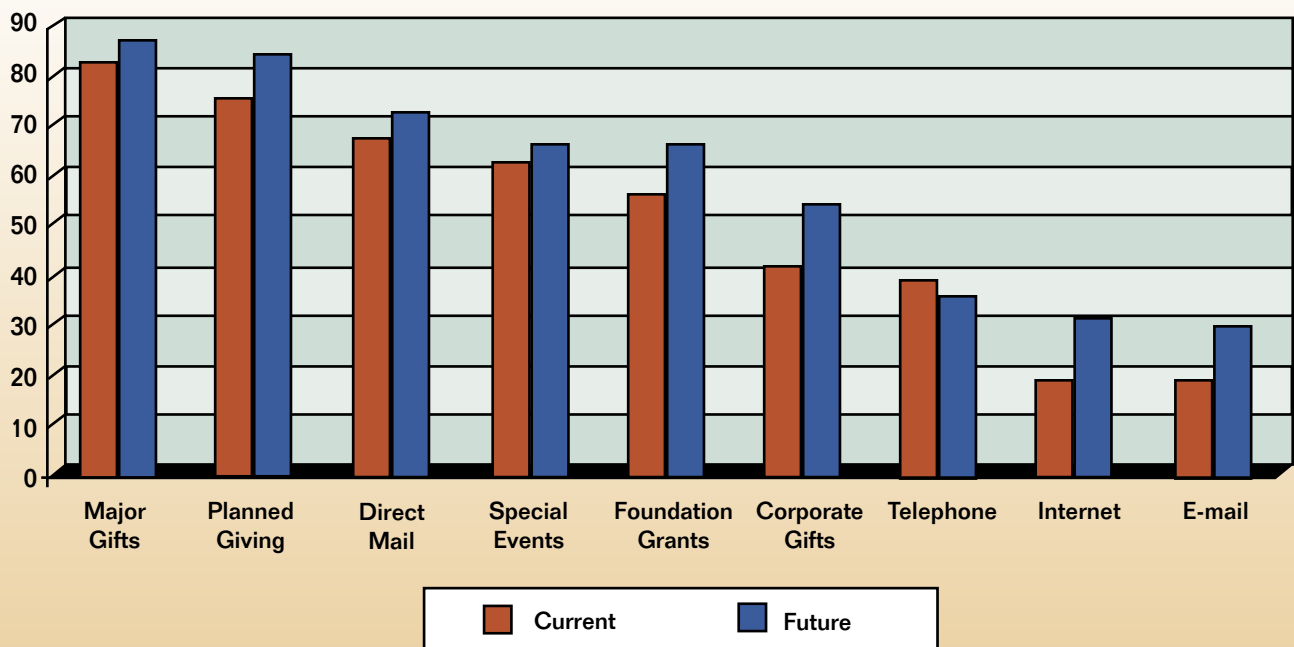
The Center on Philanthropy attributes this increase in confidence to the corresponding improvement in the nation's economy in the latter half of 2003. The S&P 500 Index rose about 10% in the six-month period from the spring of 2003, the reporting period for the Summer 2003 PGI survey, to October 2003, when the current PGI poll was performed. Additionally, the nation saw an increase in the level of personal income and corporate pre-tax profits during those months.

The economic improvement was reflected in the December 2003 PGI results. The Summer 2003 survey showed that 73.7% of those surveyed held a negative opinion about the impact of the economy on fund raising and that 42.5% predicted that the negative impact would continue for the next six months.

Compare those numbers with those taken from the December report, which shows a 20-point decline in fundraisers holding a negative opinion of the current

Continued on page 7

Percentage of Survey Respondents Who Find These Techniques Successful



Being Deferred...Continued from page 1

Remember that you can always “write around” proposed legislation as Sharpe editors have done and include contingency plans in case the legislation passes. In the meantime, recognize the impact of tax legislation that has already passed (both in 2001 and 2003), keep in mind the changing economic environment, and plan your activities accordingly. This approach will help to maximize your organization or institution’s success in 2004. [G&T](#)

Planning Matters...Continued from page 2

All gift planners and professional advisors should closely follow the progress of the IRS’s proposed regulations and then adjust their marketing and asset management strategies accordingly. Whatever the outcome, the role of gift planners remains to find the most productive and beneficial way for donors to make gifts to the organizations and institutions whose causes they support. [G&T](#)

35 Years Ago in Give & Take

Many gift planners have felt as if they were in a state of limbo for the past several years while Congress has been debating the possibility of charitable giving legislation (see page 1). 35 years ago development officers faced the same problem as they awaited passage of the much-anticipated Tax Act of 1969. Read below for Robert F. Sharpe, Sr.’s timeless message to Give & Take readers in November of 1969.

Dear Reader:

How many deferred gift contracts have you lost in 1969. . . since all this talk about tax changes has been going on? Some institutional development officers have been waiting because they’ve read that deferred giving is suffering from the mortal illness of tax law revision. . . and will die promptly if tax changes do come about.

Here’s a story to illustrate the point that your attitude is perhaps the key factor in determining the success or failure of your deferred gift program during this time of uncertainty.

At Christmastime a college freshman returned home. He was talking to his father, “Dad, my economics professor has been telling us that business is bad and will be worse after the first of the year.” When the son returned to campus, his father began to think about what his son had said. The father owned a restaurant and a drive-in hamburger stand. He had “planted” signs every mile for ten miles on both sides of his business which said “Stop at Joe’s for the world’s best hamburger.” After one “thinking”

session, he closed the roadside drive-in, reasoning that the customer could go inside if he wanted to eat Joe’s hamburgers. In a following “thinking” session, he decided logically that since business was falling off, he should save on overhead by not maintaining the signs and had them all removed. A few weeks

later, Joe wrote, “Dear Son, You certainly have a brilliant economics professor. What he’s been teaching is right. Business is bad. In fact, it is so bad you cannot return to school next quarter.”

This is the long way of saying if we think deferred giving is dead, it will surely die. . . cheer up. The future for deferred giving is exceedingly bright. Some institutions are carrying on a live, vibrant, and fruitful program. [G&T](#)





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News and ideas
about The Sharpe
Group's services.

Footnotes

What can The Sharpe Group do for you?

With over 40 years of experience in the gift planning field, The Sharpe Group is in a unique position to combine perspective on past trends with an innovative approach to today's gift planning needs. The experts that staff the company's consulting, training, and creative services departments work together to provide a cohesive and integrated approach to your organization's specific needs.

Consulting

Sharpe consultants are leaders in the gift planning field. Together they offer decades of combined experience to help evaluate and improve your institution's gift planning efforts. On-site evaluations and consultations allow for comprehensive analysis. Sharpe's consulting clients also enjoy the peace of mind that comes from knowing that expert advice on specific gift planning situations is only a phone call away.

Training

The Sharpe Group has been a leader in gift planning training seminars for over 35 years. A team of experts in the field offers training at all levels of expertise—beginning, intermediate, and advanced—to satisfy everyone from a new staff member to a veteran gift planner in need of a refresher course.

Offered throughout the country, Sharpe seminars are regularly updated to reflect changes in tax and other laws affecting nonprofits. The Sharpe Seminar Series includes four popular seminars:

- **“An Introduction to Gift Planning,”** geared for new staff members and those in charge of other areas of development work who need a basic knowledge of planned giving.
- **“Managing Gift Planning Relationships,”** centered around how to handle relationships with donors and their advisors from the initial contact to the completed gift and beyond.
- **“Major Gift Planning,”** designed for experienced gift planners who want to stay up to date on effective gift planning strategies, tax law changes, and current trends.
- **“Strategic Gift Planning 2004,”** a new seminar for those with long-term experience in the field of charitable gift planning.

For more information on these seminars, including comprehensive descriptions, dates, and quotes from past attendees, see page 3 or visit www.sharpenet.com/training.

Creative Services

No gift planning program is complete without an effective means of communicating the benefits of more effective gift planning to donors. Writers, editors, designers, and other experts from Sharpe's creative services team work closely with clients and Sharpe consultants to create communications pieces that are uniquely suited to the client's needs. All publications are reviewed by Sharpe editors and consultants for technical accuracy and marketing effectiveness.

The Sharpe Group can quickly assemble a team of experts in various fields to help your organization determine and fulfill its gift planning needs. Call 1-800-238-3253 to learn how The Sharpe Group can help you achieve long-term financial stability for your institution.

G&T

Summary of Sharpe Group Services

Turn to The Sharpe Group for specialized assistance in these and other vital areas of nonprofit development work:

- Expert consultation for planning, implementing, and evaluating efforts to encourage effective current and deferred gift planning for endowment and other purposes.
- Basic, intermediate, and advanced staff training that integrates marketing considerations with the latest gift planning techniques.
- Creation of marketing materials that inform and educate donors and their advisors. Extensive personalization opportunities are available to meet your requirements.
- Step-by-step assistance and training in designing a marketing plan to encourage gift planning among the proper segments of your constituency.
- On-site seminars for donors, your staff, and professionals.

Surge in Confidence...Continued from page 4

economy and an 18-point decline in those who predict a negative impact in the next six months. Well over half of those surveyed in the December report (61.4 %) predict that the economy over the next six months will have a positive or very positive impact on the future of fund raising.

Just in the short time since October, the S&P 500 has increased about another 10% and the Dow has surged to a level well above 10,000. With no indication of an imminent decline, gift planners have good reason to feel confident that a solid economy will translate into increased gifts, both planned and immediate, in the near future. Not surprisingly, a number of institutions are now reporting a sharp increase in gifts of securities in the final months of 2003.

Good news for planned giving

As has been the case in the past, fundraisers once again listed planned giving among the most successful fund-raising techniques, along with major gifts. Almost three-quarters of respondents (73.8%) currently listed planned giving as a successful or somewhat successful way to raise funds, and 81.8% feel that it will continue to be in the next six months.

Organizations with annual revenues exceeding \$10 million found the most success with planned giving, as did those with either a regional or a national donor base.

Fundraisers feel somewhat less confident about future prospects for other common fund-raising techniques, as is reflected in the chart on page 4.

It is interesting to note that the only fund-raising technique that development executives foresee as being less successful in the next six months is marketing by telephone. As previously mentioned in *Give & Take*, the National Do Not Call list does not apply to nonprofits. However, fundraisers are wise to anticipate a decline in the effectiveness of unsolicited telephone calls. Those on the receiving end are unlikely to know or care that nonprofits have been excluded from the ban, and unwanted phone calls can thus be expected to elicit a chilly response in some cases.

How different organizations fared

In general, the nation's educational institutions felt the most confidence in all three aspects of the survey while religious institutions felt the least optimistic. See chart above.


What does it all mean?

The December Philanthropic Giving Index bodes well for the immediate future of fund raising in general and planned and major gifts in particular. The dramatic increase from the Summer 2003 report indicates that fundraisers have reason to feel increased confidence—presumably because of a corresponding increase in the number of gifts and inquiries received over that period.

In summary, all indicators point to increased success in the next six months. Almost two-thirds of those surveyed feel that the economy will encourage donors to give, and present economic indicators point to a stable economy in the near future.

	Philanthropic Giving Index	Present Situation Index	Expectations Index
Total of Those Surveyed	83.3	75.5	91.1
Education	89.8	84.7	94.8
Public Benefit, Environmental, Animal, and International	85.8	76.3	95.2
Health	85.3	76.1	94.5
Art, Culture, and Humanities	81.4	72.9	90.0
Human Services	76.7	69.8	83.6
Religion	67.6	57.2	78.1

This year has also ushered in a number of tax changes that should bode well for fund-raising success. The increase in the estate tax exemption and a decrease in estate and gift tax rates may mean more interest in gifts that provide income tax savings, increased spendable income, and other immediate benefits. These tax changes will also lead many donors to reevaluate their financial and estate plans, and many may decide to include a bequest to a favorite charitable organization now that less may be due in taxes and more funds will consequently be available for other heirs.

Wise fundraisers will see an opportunity this spring to take advantage of a favorable economy and the general optimism to help ensure their organization's future stability. Sharpe's latest seminar offering, "Strategic Gift Planning 2004," is designed to help experienced fundraisers recognize and capture the unique fund-raising opportunities presented this year. Visit www.sharpenet.com/training for details. 

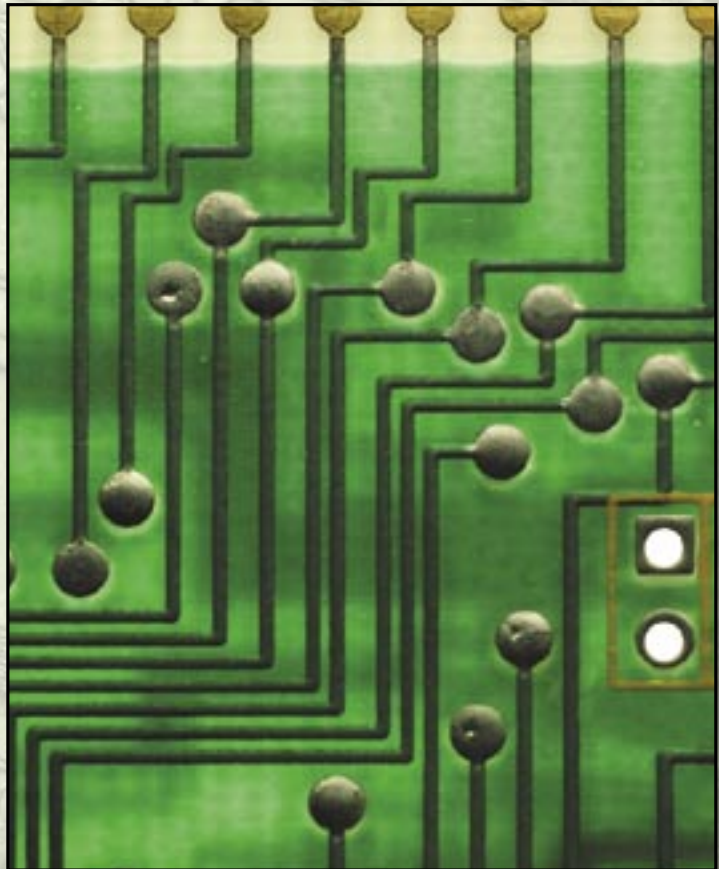


Integrated Solutions

Strategic Gift Planning 2004

Experienced gift planners know that every gift results from a complex interaction of economic, social, political, and emotional factors. Successful development officers need to remain aware not only of their donors' personal motivations but also of external factors that can determine how a gift should proceed.

“Strategic Gift Planning 2004” is designed for veteran gift planners who know that the key to success lies in constantly reevaluating how market trends, tax law changes, and recent and proposed legislation affect their donors and their desire to give.



Plan today to attend one of these upcoming presentations of “Strategic Gift Planning.”

Chicago
February 19-20

Washington, D.C.
February 26-27