

Give & Take

News and Ideas for Development Executives of Nonprofit Organizations

The Future of Charitable Gift Planning

by Robert F. Sharpe, Jr.

Last month's issue of *Give & Take* explored the first 40 years of Robert F. Sharpe & Company and our efforts to help develop more sophisticated programs aimed at encouraging current and deferred major gifts (visit www.sharpenet.com/gt for the December issue).

As we begin the new year, we would like to take this opportunity to share our views on the future of charitable gift planning and the adaptations we believe may be necessary for organizations' continued success in helping donors better plan their gifts.

Tax law changes

Income, gift, and estate tax law issues have long been important factors in the planning of charitable gifts, whether such gifts are completed in the near term or are structured to provide income or other benefits to the donor or the charitable recipient over time.

We believe that important tax law changes in 2003 and 2004 will increasingly change the ways in which tax planning and charitable giving interrelate.

For example, last year Congress acted to reduce the maximum tax on capital gains and dividends to 15%. The maximum income tax on most other types of income was lowered to 35%. This means, among other things, that charitable deductions will no longer yield quite as much in tax savings as in the past, and that wealthier donors and their advisors will also be less concerned about avoiding capital gains tax through outright donations of appreciated property.

On the other hand, planning gifts for maximum tax benefit will continue to be important. In light of changes in income and capital gains tax laws, efforts will shift to structuring gifts so that they provide the maximum possible amount of income that is taxed at the 15% rate.

This will involve carefully choosing the right property to fund a trust, gift annuity, or other split-interest gift. In addition, recent tax law changes will also have a major impact on the way trust assets are invested.

In the case of a charitable remainder unitrust, for example, trust assets might be invested partly for growth and partly in stocks that pay dividends. As assets are sold and dividends collected to provide funds for payments to the income recipient, the bulk of the amount distributed will be taxed at a maximum rate of 15%. So, we see an emerging trend away from reliance on tax deductions to provide tax savings and toward planning for realization of income at lowest possible tax rates.

In other recent developments, beginning January 1 of this year, the amount exempt from estate tax rises to \$1.5 million per person. Thus, with minimal planning a married couple can now pass up to \$3 million at death free of estate tax. As is the case with changes in income and capital gains tax laws, this change in federal estate tax law is expected to have a significant impact on the way people incorporate gifts in their long-range estate and financial planning.

While the popular press has concentrated on the possible negative impact lower gift and estate taxes may have on bequests and other estate gifts, there may be a quite different outcome.

The vast majority of bequests in recent years have come from nontaxable estates. Based on NCPG surveys and other data, approximately 220,000 estates per year (8% of decedents) leave funds to charity. Contrast this with the fact that only approximately 17,000 estates claimed charitable tax deductions in the most recent year for which figures are available. Thus, some 92% of the estates that have included charitable provisions were exempt from federal estate tax.

It is important to note that noncharitable heirs will always receive more if no funds are directed to charitable use. But it is possible that heirs will now receive more than they would have if the same bequest had been placed under prior law. How is that possible? Because the estate tax has now been effectively repealed for 99% or more of all Americans, there will be no tax on the noncharitable portion of their estates.

Inside:

- How to maximize opportunities in 2004 p. 2
- NCPG announces new gift valuations standards p. 4

Planning Matters



Caution: speed bumps ahead?

As the new year begins, those responsible for the management of gift planning programs should be aware of a variety of recent and proposed legislative changes that may affect the way the nation's nonprofits raise funds in 2004. By keeping these changes in mind, gift planners can safely chart a course to a successful new year.

The Sarbanes-Oxley Act

In the wake of various corporate scandals, in 2002 Congress passed the American Competitiveness and Corporate Accountability Act, also known as the Sarbanes-Oxley Act. Congress passed this act to provide strict oversight of corporate governance of publicly traded companies. Even though the bulk of the law does not specifically apply to nonprofits, some sections do apply to the nonprofit community. Nonprofits should be prepared to achieve ever-higher levels of accountability and should expect pressure from advisors and volunteers to adopt policies to avoid possible problems. For more on the Sarbanes-Oxley Act or its implications for nonprofits, see www.sarbanes-oxley.com or www.afp-net.org.

News from the IRS

For 2004 the Internal Revenue Service has created an exempt organization compliance unit, which can be expected to identify and pursue what it considers to be tax avoidance schemes or other noncompliance issues. On the positive side, the service may also release new sample unitrust forms to complement the recently issued CRAT forms. Check www.irs.gov for details.

Do Not Call registry

Judicious use of the telephone may well be the call of the day in the aftermath of *Madigan v. Telemarketing Associates* and the National Do Not Call registry. Even though neither of these items directly applies to gift planning calls made by nonprofit gift planners, you should be sensitive to the reception unsolicited

calls may receive. Be sure to clearly identify yourself and the purpose of the call and respond according to how your call is received. Don't expect donors who have placed their names on "do not call" lists to know or care that the law exempted nonprofits from its reach. For telemarketing efforts, 2004 may become a "year of distinction."

Estate and gift tax changes

The permanent repeal of the estate tax and its effect on charitable giving is likely to be widely debated again in fall 2004 elections. In the meantime, the estate tax exemption equivalent rises to \$1.5 million effective January 1, 2004 (see chart on page 5). In a related area, many individual states are reviewing and revising their estate or inheritance tax laws. Be sure to periodically check how such changes may affect your organization's gift planning efforts in 2004.

The CARE Act

The CARE Act and other charitable giving legislation are being carried over for consideration again in 2004. Those who have delayed or postponed fund-raising activities while waiting for the passage of this legislation the last several years may have done so at a great cost to the organizations they represent. Regardless of the fate of the proposed legislation, gift planners should continue to assist donors with planning their gifts in the most effective manner possible. The CARE Act has been altered from its original form in ways that may reduce its ultimate impact. For example, it now only applies to IRA funds, not 401(k) or other popular plans. Also, all income from trusts and gift annuities funded from IRA assets will be subject to ordinary income rates. This development comes just at a time when the 15% tax on capital gains and dividends makes funding with other assets more attractive than ever. Keep up to date on the status of the CARE Act and other charitable giving initiatives in Congress at the Library of Congress's Web site, Thomas.loc.gov.

The key to a successful year in 2004 is to keep your eyes open so that you can sidestep any obstacles that you encounter. Steering clear of the bumps in the road may then allow you to continue on your course to having a very successful year. G&T

Give & Take:

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Sharpe Seminar Series

Featured Seminar: Strategic Gift Planning

This new seminar addresses the latest trends and topics of current interest to those with a number of years of gift planning experience who need guidance on how to fine tune their efforts in light of proposed tax legislation and other challenges and opportunities.

Presenters will address issues surrounding gift administration and investment, including the pros and cons of serving as trustee and/or administrator of trusts and other irrevocable gifts. Included will be an analysis of recent trends toward the use of private foundations by the wealthy and other plans that result in "fencing off" funds that would otherwise be given outright or left to the endowments of charitable recipients through a donor's estate.

Attendees will benefit from an in-depth analysis of the planning techniques that are most attractive to donors and charitable recipients in today's environment, with special attention given to ways to plan gifts in light of lower interest rates and uncertainties in investment markets. The possible effects of the much-anticipated CARE Act will be included in addition to the ongoing impact of the 2001 and 2003 Tax Acts on charitable gift planning.

The latest techniques for valuation of deferred gifts (see page 4) will be explored with special attention on how to maximize the value of gifts that are completed in the context of capital gift and other efforts to produce gifts with near-term benefits. [G&T](#)



Upcoming Seminar Training Dates

An Introduction to Planned Giving
Washington, D.C.
January 26-27
Chicago
April 13-14

Managing Planned Giving Relationships
Washington, D.C.
January 28-29
Chicago
April 15-16

Major Gift Planning
Seattle
February 9-10
Washington, D.C.
April 1-2

Strategic Gift Planning
New York
January 12-13
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 company.
Phone 1-800-238-3253, ext. 5360
Fax 901-761-4268
Web site: www.sharpenet.com
E-mail: seminars@fisco.com

On the Agenda for 'Strategic Gift Planning 2004'

Day One

- Current Opportunities and Challenges
- Tax and Regulatory Update
- Issues in Gift Administration and Asset Management
- Private Foundations, Advised Funds, and Other "Fenced Off" Gifts
- Open Forum Discussion and Case Studies

Day Two

- Model Valuation and Other Standards—What Is the Gift Worth?
- Understanding the Right Gift Vehicles for Today's Environment
- Challenges in Estate Settlement
- Are Your Gift Acceptance Policies Up to Date?
- Open Forum Discussion and Case Studies

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

Locations and Dates for Strategic Gift Planning 2004

New York
January 12-13

Washington, D.C.
February 26-27

Chicago/Oak Brook
February 19-20

Memphis
December 13-14

NCPG Releases Proposed Valuation Standards

Following its annual conference held in Cincinnati last October, the National Committee on Planned Giving (NCPG) released the proposed Valuation Standards for Charitable Planned Gifts. The standards represent the results of three years of work by a task force comprised of representatives of the gift planning community. For a complete list of the NCPG Valuation Standards Task Force, see below right.

The project began in the fall of 2000 in response to the perceived need for guidelines on the best ways to determine the economic value of charitable remainder trusts, gift annuities, and other split-interest charitable gifts to the ultimate charitable recipient.

The Council for Advancement and Support of Education (CASE) has for a number of years promulgated standards for the types of gifts that should be counted toward capital campaign goals in higher education. The NCPG standards, on the other hand, do not address the threshold issue of whether a particular gift should be credited to a campaign or other ongoing fund development efforts, but are designed to instead help determine the value of the gift once the nonprofit recipient has decided to count it.

Why not use the charitable deduction?

Over the years since the Tax Reform Act of 1969 first introduced strict guidelines for determining the charitable income, gift, and estate tax deductions for trusts and other split-interest gifts, a number of programs have adopted the charitable deduction amount as a surrogate for the value of the charity's remainder interest in the gift. In recent years, however, the charitable deduction has become a less reliable measure as Congress introduced changes that caused the charitable deduction to be tied to interest rates on relatively short-term federal government debt obligations.

Note, for example, how fluctuations in the federal midterm funds rate over a five-year period can alter the charitable deduction for a \$1 million, 6% charitable remainder annuity trust for the life of a 72-year-old donor:

Discount Rate	Charitable Deduction
8.2%	\$570,000
7.2%	\$544,000
6.2%	\$516,000
5.2%	\$484,000
4.2%	\$449,000

It is difficult to justify these different valuations when such trusts are rarely invested solely in midterm treasury obligations. The NCPG Valuation Standards are designed to help charities determine what funds are likely to be available at the termination of a gift by employing prudent investment rule standards and then discounting that amount back to present value using the time value of money as represented by inflation.

For example, in the case of the annuity trust described above, the NCPG standards arrive at what many would consider a more realistic value for the trust. Assuming an asset allocation of 60% equities and 40% fixed income, using the 70-year average equity returns and the current 10-year

Continued on page 7

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Charitable Gift Planning...Continued from page 1

This means that a donor can leave a charitable bequest in his or her will and the family can actually receive more than they would have if the donor had made the same bequest as recently as 2001. Thus, there is no logical reason why a person who had included a charitable bequest under prior law would alter those plans because of estate tax repeal when that repeal will actually result in more funds reaching loved ones, even after funding a charitable bequest.

MAXIMUM TAX-FREE AMOUNT

Year	Estate Tax	Gift Tax	Maximum Rate
2002	\$1,000,000	\$1,000,000	50%
2003	\$1,000,000	\$1,000,000	49%
2004	\$1,500,000	\$1,000,000	48%
2005	\$1,500,000	\$1,000,000	47%
2006	\$2,000,000	\$1,000,000	46%
2007	\$2,000,000	\$1,000,000	45%
2008	\$2,000,000	\$1,000,000	45%
2009	\$3,500,000	\$1,000,000	45%
2010	No Tax	\$1,000,000	35%

Shift to lifetime gifts

What is becoming increasingly clear, however, is that reduction and/or elimination of estate taxes will lead to increased interest in gift annuities and other gifts that feature immediate tax savings and favorably taxed income for life or another period of time. Take the case of a married couple that is planning a bequest in the range of \$100,000 from an estate of \$3 million that will no longer be subject to estate tax. Suppose they also have appreciated securities worth \$100,000 that yield no income. A very attractive alternative would be to use the non-income-producing stock to fund a life income gift and receive an immediate income tax deduction equal to a significant percentage of the value of the assets transferred, while enjoying increased income for life that will be received either tax free or will be taxed largely at lower rates applicable to capital gains and dividend income.

Another factor that bodes well for success in major gift planning in coming years is the fact that for the first time in many years, the estate

tax and gift tax will diverge in terms of exemption level. The exemption from the federal gift tax is not slated to rise above the 2003 level of \$1 million per person. This threshold will remain even if the estate tax is eventually eliminated. See chart at left. For this reason, charitable lead trusts and other plans that result in charitable gifts while transferring assets to loved ones during life may become more popular than ever.

Fewer "death gifts"?

In addition to the impact of the tax law factors outlined above, the aging of the baby boomers can be expected to alter the gift planning landscape. The oldest of the baby boomers are now 58 years old. So, even though some 70 million Americans will pass age 65 over the next 20 years, the life expectancies of the boomers stretch out to between 25 and 41 years into the future.

For this reason, we foresee greater use of gift plans that will provide usable resources for charitable recipients during the donor's lifetime. Term of years charitable trusts, life income gifts for parents, lead trusts, and charitable remainder trusts with temporary assignment of income are just a few of the plans we predict will enjoy greater popularity. Traditional charitable remainder trusts for the donor's lifetime and gift annuities will likely peak in importance before waning for a few years until the mass of baby boomers passes the age of 75.

Organizational changes

Many organizations and institutions are now adapting their efforts to encourage more effective gift planning in light of the factors outlined above. They are placing greater emphasis on better ways to integrate planned and major gift development efforts. Smaller programs without clear historical lines of demarcation between "planned gifts" and "major gifts" appear to be progressing more rapidly in this process.

As mentioned in last month's issue of *Give & Take*, the term "planned gift" has over the years become largely synonymous with gifts that take place at death. The term "major gifts," on the other hand, has normally been applied to larger current gifts.

The most successful programs today, and in the future, will increasingly organize their development efforts around the fact that there will gradually be more overlap between pro-



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.

Footnotes



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News and ideas about The Sharpe Group's services.

"Has Congress Changed Your Will?"

Recent and proposed tax law changes are scheduled to be enacted in 2004, and as usual the media has speculated about the way these changes will impact estate and financial planning. Ever since the enactment of the 2001 Tax Act, much of the press regarding the future of charitable giving has been negative, suggesting that lower income, estate, and gift tax rates would lead to a reduction in charitable giving. See page 1 of this issue of *Give & Take* for more on this topic.

What to do?

The beginning of a new year is the perfect time to take a proactive approach in communications with your donors, especially with those who traditionally provide the bulk of your organization's support. As noted above, important changes to the nation's tax laws took place on January 1, changes that will have a real and immediate impact on the way many persons arrange their financial affairs. Make sure you are prepared to communicate to your constituents the important planning opportunities that exist as a result of the changes in the law.

The Sharpe Group's brochure "Has Congress Changed Your Will?" is designed to help your donors determine how recent tax law changes

may positively affect their plans. The brochure features easily understandable tips on the most effective ways to include charitable contributions in your donors' long-range planning in light of reductions in federal estate taxes.

You will want to send "Has Congress Changed Your Will?" to all or a portion of your donors as early as possible this year. It is a helpful, low-key way to remind your donors of

the importance of effective estate planning and of their support for your cause.


The brochure may be imprinted with your information on the front and/or back covers. Choose from a variety of custom covers or furnish your own. Call 1-800-238-3253, fax (901) 761-4268, or visit www.sharpenet.com/donor for more information or to order your copies.

Time to review other publications

Make a resolution this new year to maintain a fully stocked and up-to-date gift planning library. Sharpe offers a full range of publications that are carefully prepared to help gift planners explain the benefits of effective planning to their donors. The booklets "A Guide to Giving in 2004" and "Better Estate Planning" provide valuable overviews for those donors who have not yet decided on the best way to include your institution in their plans. Sharpe also provides a number of specialty brochures and booklets designed to give a helpful introduction to the basics of various popular giving plans, such as gift annuities, lead trusts, and charitable remainder trusts. Visit www.sharpenet.com/donor for a complete listing of Sharpe's gift planning publications offerings.

Now is also a good time to ensure your existing publications are not out of date given recent tax law changes. You may want to check for references to an estate tax exemption of \$1 million per person. As of January 1, 2004, each American is allowed to pass on \$1.5 million at death. Also check for examples using a 49% gift and estate tax rate and references to capital gain tax rates of 20% or tax rates on other income up to 38.6% or 39.6%. Even though the gift tax exemption amount remains steady at \$1 million, the maximum rate for both estate and gift taxes was reduced on January 1st to 48%.

Sharpe writers and editors make a practice of preparing publications in light of anticipated tax law changes. As a result, many Sharpe publications remain correct despite the changes referred to above as care has been taken to ensure that wording survives changes we have anticipated. For example, wherever possible, Sharpe publications have been written to remain accurate regardless of the fate of the CARE Act and other charitable giving legislation currently under debate in Congress.

If you have questions regarding the use of particular publications, contact a Sharpe representative at 1-800-238-3253. 



Charitable Gift Planning...Continued from page 5

grams that are designed to encourage larger outright gifts and planned giving programs that place more emphasis on gifts that are completed as part of the long-term estate and financial planning process.

In order to efficiently structure gifts from relatively young donors who have accumulated significant amounts of assets but who are not necessarily prepared to make large outright gifts, it will be necessary to facilitate much closer interaction between “planned” and “major” gift development efforts.

How this change is accomplished will vary according to the scope of an organization’s fund-raising efforts, the demographics of the donor constituency, and other factors. In some cases, it will simply mean that a person working in a smaller shop who is responsible for all development activities will want to become more attuned to gift planning options other than cash or gifts of securities. In larger programs with more division of labor, it may mean more cross-training and perhaps reassigning responsibility for working with some among the segment of older, wealthier donors.

Getting your share

Against the backdrop of tax law changes and demographic shifts, it is important to keep abreast of the unfolding of the greatest intergenerational transfer of wealth in history. Reports from the Social Welfare Research

Institute at Boston College indicate that previously reported wealth transfer statistics will not be significantly affected by recent investment market fluctuations. With the unprecedented increase in programs designed to encourage planned gifts in recent years and more and more capital campaigns relying on deferred gifts to achieve ambitious goals, however, there is no shortage of organizations and institutions that are expanding their gift planning capabilities. That being the case, there is no reason why a rising tide can’t raise all ships. But it won’t raise those that remain in port, lashed to the dock, or those with their crew below deck!

There is a bright future indeed for those who have chosen to devote their energies to helping donors and prospective donors engage in the process of voluntarily devoting a portion of their accumulated assets to charitable use today and in the future. This is a noble activity and one that never fails to yield a variety of both material and intangible rewards to donors, those who assist them as they plan, and their charitable interests.

Today we stand at a crossroads. Those who have come before us have laid the foundation for success. Those organizations that act decisively to seize the opportunities that are all around us will prosper in ways earlier generations could only imagine. [G&T](#)

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There is no reason why a rising tide can’t raise all ships. But it won’t raise those that remain in port, lashed to the dock, or those with their crew below deck!
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Proposed Valuation Standards...Continued from page 4

federal funds rate for the fixed income portion, the net return on the trust described above would be 7%. If the trust pays 6% and earns 7%, at the end of the donor’s 15-year life expectancy the remainder of the trust should be worth approximately \$1,225,000. If this amount is discounted to present value using the long-term historic average inflation rate of 3.4% to account for lost purchasing power, the remainder interest in the trust has a present value of \$742,000. Note that this figure is significantly different from the charitable deduction amount, which would fluctuate as illustrated above from \$449,000 to \$570,000 during a recent five-year period.

Experienced gift planners know that in the case of charitable gift annuities, the charitable deduction is normally in the range of 30% to 40% of the amount used to establish the gift annuity. In reality, many institutions

report average actual residuum amounts of 75% or more. A more thoughtful approach to valuing the gift from the charity’s perspective, in lieu of an outmoded method of relying on the charitable deduction, will cause charitable gifts to be evaluated more fairly and accurately.

The proposed standards feature helpful explanations of methodology and numerous examples of how the recommendations are applied in practice. To review the proposed standards, visit www.ncpg.org. An in-depth examination of the standards will be featured in Sharpe’s Strategic Gift Planning 2004 seminar, to be held in New York on January 12 and 13 and Chicago on February 19 and 20. See page 3 or visit www.sharpenet.com/ training for details of this and other upcoming Sharpe seminars. [G&T](#)

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When donors and prospective donors ask for detailed gift planning information, it is important to have a library of appropriate and accurate publications at your fingertips.

Replenishing your gift planning library can be as quick as a phone call. Sharpe's full line of informational booklets is available to help you give donors and their advisors the information they need when considering specific types of gifts.

All Sharpe publications have been updated for 2004 and reflect the most recent developments in tax laws and other important changes such as new recommended gift annuity rates.

Plan ahead and save

All booklets may be personalized on the front and/or back cover. Enjoy reduced unit and personalization costs when ordering multiple titles. Flexible billing arrangements are available to coincide with budget cycles. Call 1-800-238-3253 for more information about Sharpe's complete library of gift planning information.