

# GIVE & TAKE<sup>®</sup>

News and Ideas for Development Executives of Nonprofit Organizations

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## Can You Afford These Gifts? by John W. Jensen

**S**ome years ago when I was the brand new executive director of a local chapter of a national charity, I decided to accept a gift of a used station wagon. Although I would have to pick the car up from a town 80 miles away and then drive it to a local car dealer, I regularly had to go through the area anyway, so I thought “Why not?”

After I picked up the car, I ran out of gas twice because, it turned out, the car got only a few miles per gallon. It took the better part of a day to go 80 miles. Then, the dealer gave us only \$300 for the car, rather than the estimated \$600. Was it a good gift? In retrospect, probably not.

Those of us involved in gift planning sometimes work on unusual gifts because donors offer what they have, which may sometimes be unique, complex, and hard-to-value assets. The first instinct of any good development staffer is to thank the donor and find a way to accept just about any gift. However, this is not always the right decision. Accepting gifts of noncash assets requires thought and a thorough understanding of the asset in question.

With these gifts, it is important to look further and go deeper before making a decision. While not all-encompassing, examples of some of the gifts that need to be examined carefully include real estate, water rights, livestock, partnerships, closely held stock, life insurance, and personal property (paintings, jewelry, vehicles, boats, etc.)

The best place to start when it comes to such gifts is by having an

up-to-date gift acceptance policy that outlines the various gifts that will and will not normally be accepted. Ideally, as part of this policy, there will be backup information and perhaps a manual that includes topics, resources, and a discussion about various types of gifts. This should be a living document that is reviewed annually. Basic policies and guidelines should be approved and understood by senior staff and board members, although the more detailed manual and backup material usually does not get to the board level.

These policies should take into account the nature of your organization, your fund-raising structure, your geographic scope, and other factors. Determining the acceptability of certain gifts will depend on the value of the gifts as well as the expertise necessary to work with various properties available in your organization or from outside consulting expertise.

### Getting real

Easily the most complex, valuable, and potentially problematic gifts are those of real estate. While they can be wonderful and profitable, real estate gifts can also present significant issues. One of the most important threshold factors is the location of the property. If it is located within easy driving distance and in an area where you are familiar with market values, the gift may be quite



Join us in San Francisco for “An Introduction to Planned Giving.” See page 3 for more.

viable. Having board members or others nearby with special legal or real estate expertise can also save money and help in decision-making.

However, if the proposed gift is located 1,000 miles away and you know little about the local market, it may be a very different story. You may hire local experts to investigate the property for you, but this may involve payment of significant sums in advance, before you can determine the viability of the gift.

Having worked on over 500 real estate projects over the years, I have encountered any number of issues in various combinations and permutations. Examples of issues involving real estate gifts include title questions, boundaries, environmental assessments, marketability, current and future land use, time to sell, costs and risks of holding the property, assessing liabilities, and determining realistic values. Such gifts sometimes simply shift a donor’s problems with a particular property to you, while at other times a problem property for the donor is not a problem for the charity.

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**INSIDE:** Are your donors dealing with “bad heirs”? See how a Ferrari turned into a scholarship gift.

# Avoiding 'Bad Heir' Days by Barlow T. Mann

In recent months, there has been no shortage of publicity surrounding the irresponsible behavior of wealthy young persons, some of whom have inherited their assets and others who are earning monumental sums on their own. Some have even gone so far as to point to these "bad heirs" as prime examples of why heavy estate taxes may not be such a bad idea.

In any case, there is nothing new about wealthy individuals worrying about how an inheritance could impact their children or other loved ones. We have even heard of cases where donors were concerned that too large a bequest to a charity might diminish its motivation to raise funds from additional sources.

One of the central themes of the original wealth transfer study by Robert Avery and Michael Rendall of Cornell University was a discussion of the possible impact of an inheritance on baby boomers' initiative and willingness to work. Would the windfall from the wealth transfer trigger large numbers of baby boomers to drop their goals and aspirations in pursuit of frivolity?

## Curing 'affluenza'?

Warren Buffett has addressed this question in his own estate planning, saying publicly that he intends to leave his children enough money so they can do whatever they want with their lives, but not so much that they will have to do nothing at all. With millions of potential heirs who possess differing degrees of personal and professional industriousness

currently in line to inherit trillions of dollars over the next few decades, the concerns of the possible negative effects of what has been termed "affluenza" are spreading to the broader middle class.

Assets that a person, or a couple, may have spent a lifetime accumulating can be wasted in a relatively short period of time. Not only that, the experience may leave heirs in a worse position than they were before receiving and squandering a windfall.

According to a survey conducted by HNW, Inc. for the PNC Financial Services Group, almost two-thirds of high net worth individuals believe that it is important for each generation to take responsibility for creating its own wealth, yet, unlike Warren Buffet, less than one-third of those with estate plans take specific steps to encourage this goal.

## Getting what they need, not what they want

There are many ways to thoughtfully place restrictions or conditions on an inheritance. In some instances, an heir may receive only an income stream for life, or some other period of time designed to give them a start in life. In other cases, a beneficiary may receive the right to use the property for life only.

In the past, various charitable gift planning vehicles have been used to deal with this problem. For example, through a charitable trust or gift annuity arrangement, an heir was left an income for life or a set number of years. Or beneficiaries

received a "Second Chance" inheritance upon the termination of a charitable lead trust that made payments to charity while the heirs learned to provide for themselves.

Others chose to provide a life interest in a personal residence or a farm so a child or other loved one would always have a place to live. The use of these types of planned giving techniques was also particularly attractive when dealing with a variety of gift and estate tax problems.

## Times have changed

Today, however, thanks to current federal gift and estate tax exemption equivalents, the vast majority of people no longer need to worry about death taxes. Reduction in gift and estate taxes provides gift planners with vast new planning opportunities. Instead of having to qualify under various rules and regulations applicable to popular gift plans like CRATs, CRUTs, GAs, DFGAs, CLATs, CLUTs, and PIFs, donors and their advisors may structure arrangements that will encourage more positive outcomes for their heirs and support charitable causes as well.

If donors and planners do not have to worry about conforming to rigid, tax-qualified structures, they may instead decide to provide income for heirs conditioned on some event, such as finishing school, being gainfully employed, getting married, etc. The remainder

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## GIVE & TAKE

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# Sharpe Seminar Series

## Featured Seminar: An Introduction to Planned Giving

This information-packed seminar offers an in-depth introduction to the process of charitable gift planning in today's complex environment. It is designed for those who are assuming responsibility for planned giving for the first time, as well as those who have multiple duties and are looking for guidance on the best ways to spend what may be limited time and budgetary resources on planned giving.

Beginning with an overview of various types of fund development efforts and the role of gift planning in achieving greater success, this

seminar examines the personal priorities of donors at different stages in life and explains how gift planning vehicles can help remove obstacles to larger gifts from donors of all ages and wealth levels. Practical guidance on gift acceptance and valuation policies, program planning, budgeting, and implementation of effective gift planning efforts in programs of various sizes will be presented.

This seminar will prove useful to senior development managers and those responsible for other funding efforts, in addition to those who wish to expand their duties to concentrate more effort in charitable gift planning now or in the future.



## What Attendees Are Saying . . .

*"The Sharpe Group 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

*"The speakers knew their subjects and had good examples based on their experiences; content material was well integrated and reinforced from speaker to speaker."*—Karen Crenshaw, University of Pittsburgh, School of Dental Medicine, Pittsburgh, PA

*"This is the most worthwhile professional conference I can remember attending."*  
—Mr. Chandler Battaile, Association for the Preservation of Virginia Antiquities, Richmond, VA

## On the Agenda for 'An Introduction to Planned Giving'

### Day One

- Introduction to the Planned Giving Process
- Understanding the Life Cycle of Donors
- Basic Planning Considerations
- The Charitable Tool Box—Part One
- The Charitable Tool Box—Part Two
- The Sharpe Gift Planning Matrix

### Day Two

- Introduction to Property Gifts
- What Is the Gift Worth?
- Gift Acceptance Policies
- Marketing Planned Gifts
- Cost-Effective Planned Giving
- Putting It All Together

See [www.sharpenet.com/seminars](http://www.sharpenet.com/seminars) for a complete agenda and dates for this and other Sharpe seminars.

## UPCOMING SEMINAR TRAINING DATES

### An Introduction to Planned Giving

New York  
August 20-21

Tampa  
October 29-30

San Francisco  
November 28-29

### Managing Planned Giving Relationships

New York  
August 22-23

### Major Gift Planning

New York  
September 13-14

Multiple registration discounts are available. For more information or to register, please contact The Sharpe Group.  
Phone 1-800-238-3253, ext. 5313 • Fax 901-761-4268 • Web site: [www.sharpenet.com](http://www.sharpenet.com) • E-mail: [seminars@sharpenet.com](mailto:seminars@sharpenet.com)

# Commitment to Education ‘Drives’ Gift

Suppose a donor walks into your office and says, “I would like to give you a used car.” While this may not provoke much excitement for some gift planners, what if the donor then tells you the car is a 1950 Ferrari with a Zagato body style, one of only nine ever made of its kind?

That is exactly what happened at The University of Alabama. *Give & Take* talked with Phillip Adcock, assistant vice president for development at UA, to find out more about this unique gift and the lessons learned from working with a donor who wanted to give such an unusual asset.

**The Gift:** More than \$1 million through a charitable remainder unitrust funded with a 1950 Ferrari, which will provide an income to the donor and his wife for life and, upon termination, the remaining trust assets will be used to establish a scholarship in the donor’s name.

**The Donor:** Darrell Westfaul, a Mobile native and University of Alabama graduate, Class of 1967, who bought the rare Italian sports car for \$1,500 while he was a student at the University.

## How the gift came to be

According to Adcock, in 2005, Westfaul visited the development office to discuss a gift similar to one he had read about in a car enthusiast magazine. “He came in with the article that explained how a donor had made a gift of a rare Aston Martin to Caltech [California Institute of Technology] through a trust arrangement,” Adcock recalled. “He asked ‘Can the University do something like this?’ and I said ‘Yes, we can, with the right vehicle.’”

During that initial meeting, Westfaul asked many questions. “He wanted to know if the Univer-

sity would serve as trustee, how our trusts were managed, who acted on our behalf, and what the fees associated with such a trust would be,” Adcock said. “He was very thorough.”

Such thoroughness is evidently a trait Westfaul has possessed for some time. “Mr. Westfaul is very astute. He knew this car’s racing history and potential for appreciating in value when he bought it for \$1,500 as a college student in 1967,” Adcock said. “He even worked diligently to locate and pay for the car’s original engine, which was owned by a collector in Birmingham. He kept the engine and the car for 40 years, moving them from garage to garage, because he knew the future value of the car depended on having all its original parts.”

## Creating the trust

After several conversations and meetings between Westfaul, his advisors, and the University’s office of counsel, the charitable remainder unitrust arrangement was developed. “Basically, the gift was in the form of what is known as a ‘flip unitrust’ in which Mr. Westfaul served as trustee until the car sold,” Adcock said. Under the terms of a flip trust, only the income earned by the trust is paid to a donor until the occurrence of what is known as a “triggering event.” “The triggering event in the case of this trust was the sale of the car, which Mr. Westfaul arranged with a collector in Arizona. After the car sold, the University became the trustee.”



University of Alabama donor Darrell Westfaul with his 1950 Ferrari.

Photo: Courtesy of The University of Alabama

Adcock noted that, due to related use rules for a gift of tangible personal property, Westfaul’s income tax deduction for this gift was based on his cost basis—\$1,500—as opposed to the car’s fair market value. “The real tax benefit came in the avoidance of capital gains tax, 28% in the case of tangible personal property such as an automobile or art. Since the car sold for more than \$1 million, that is a significant capital gains tax savings.

“In addition, Mr. Westfaul and his wife will benefit from the income supplement for both of their lives,” Adcock explained. “This car was an asset he had owned for many years that was not producing any income. This gift allowed him to accomplish his goal of making a substantial, tax-efficient gift to UA while at the same time retaining an income during his retirement years.”

For Adcock, working on such an unusual and special gift reinforced his beliefs in some basic tenets of gift planning. “We hadn’t worked with Mr. Westfaul before,” Adcock noted. “So when he told us in our initial meeting that he wanted to fund a unitrust with a used car, I was a bit apprehensive.

## Afford These Gifts? ... continued from page 1

Even if there is a serious roadblock regarding a proposed real estate gift, it is not always necessary to reject the gift. For example, if there is a toxic waste problem on a property, it may well be possible to sell it as is (with full disclosure) or to buy insurance to cover the cost of any cleanup and limit any potential liability. The key is knowing the nature and severity of the problem.

### Lessons in life

Life insurance gifts can also present special challenges. While there is little to be concerned about in the case of life insurance gifts that simply name an organization as the beneficiary at death, today we are seeing more complex insurance policies. For example, some donors will buy life insurance expressly to give to a charity, usually with the encouragement of their insurance agent. Since most life insurance policies are never kept to maturity and thus never pay a death benefit, these can be problematic—generating a commission for the agent, but perhaps diverting annual gifts and never benefiting the charity.

When the donor decides to stop paying the premiums or furnishing the funds to do so, the charity is then in the difficult position of having to press the donor to pay the premiums or deciding to use the organization's funds to do so. As a result, charitable entities accepting life insurance may wish to go slow in giving recognition where future payments need to be made, and should consider retaining the right to modify or cash out the policy at any time.

If an organization is named the owner of a policy, it should regularly obtain an "in-force illustration" every year or two. What is an "in-force illustration?" When a policy is sold, the agent usually provides two illustrations—one showing the guaranteed earnings on the policy, and another

that will show a higher assumed or estimated (but not guaranteed) earnings level. An in-force illustration is the insurance company's best estimate of the current and future projected financial health of the policy. Insurers will normally provide this document upon request without charge.

Armed with this information, it is often possible to predict when the cost of providing death benefits will surpass the earnings, i.e. when the policy will start to lose value or even collapse without more premiums. When a policy starts to slide, it is usually possible to make additional premium payments, terminate the policy, and receive its current cash value, or convert it to a policy that will provide a lower death benefit. It is also a good idea to obtain an in-force illustration prior to or immediately after accepting a gift of an existing life insurance policy.

### Related-use property

The nature and purpose of the organization will also often determine what kinds of gifts may be offered and should be accepted. For instance, a music school may be well-positioned to receive gifts of musical instruments because the gift is related to their mission and the staff should be knowledgeable of the instruments' values, while a national health charity might have a more difficult time handling a gift of this type. Similarly, an art museum may be capable and willing to handle gifts of most paintings and easily determine if they have value, either for the museum itself or on the open market. For a maritime academy or water-focused organization, a boat or yacht may be an acceptable and natural gift, since such groups tend to attract donors with similar interests. For organizations that lack such expertise, accepting gifts of boats can be very problematic.

### Accept that you can't accept everything

Keep in mind that each charity's gift acceptance policies will differ depending not only on the nature, mission, and structure of the organization, but also on the it's risk tolerance, available expertise, and fiscal capacity.

Don't reject gifts simply because they are unusual or complex, but do investigate them carefully before making a decision. Seek and accept gifts that are within your areas of expertise and interest, while making sure to get knowledgeable and qualified advice for gifts that are outside of your comfort zone.

Most importantly, make sure to factor in the real cost of staff time and effort for all gifts. Depending on the work and costs involved, the donor's gift may sometimes be one you simply cannot "afford" to take because the ultimate cost to the charity in terms of time, staff engagement, fees, and other costs may be more than the amount that is finally received.



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## 'Drives' Gift . . . continued from page 4

But I was patient and just listened. I didn't jump to any conclusions. I think that is important in all conversations with donors. Be polite, listen carefully, let them know you want to work with them in any way you can, and follow-up with them promptly."

Adcock also pointed out that, even though Westfaul knew his decision would enhance the lives of students at his alma mater, deciding to give away the Ferrari was not easy. Adcock explained, "This was the car he drove in college. It still had the 1966 University student parking decal on the window! So giving away this car, letting something go that you have held on to and enjoyed, was incredibly difficult and something

he had to think very carefully about. "Bob Sharpe, Sr., used to teach in his seminars that most of us have an emotional attachment to our assets," Adcock said. "That was clearly the case with Mr. Westfaul and his Ferrari. He even said the car had been like a member of his family over the years. But he had a love of and a commitment to the University, and he wanted to provide scholarships for students from the Mobile high school he attended. This arrangement was a wonderful way for him to make an extraordinary gift that will support student scholarships while at the same time enhancing financial security for him and his wife during retirement."



Photo: Courtesy of The University of Alabama

Alabama parking decal from 1966 was still on Ferrari's window.

## 'Bad Heir' Days . . . continued from page 2

may then go to charity after a term of years, on the failure of an heir to qualify for the income, or at the death of an heir. As a variation on the lead trust theme, a trustee may be instructed to match the amount earned by an heir each year with any remaining income devoted to charity.

In addition to providing incentives for positive activities, disincentives may help encourage heirs to avoid potential destructive behavior in order to receive income. In such trust arrangements, there can also be a final charitable beneficiary, even though the trust is not drafted as a qualified charitable remainder trust.

### More opportunities to achieve goals

Gift and estate planners may thus discover that the practical elimination of estate and gift tax concerns for most of their clients

and donors will provide additional planning flexibility, thereby allowing more people to address their personal and philanthropic goals than can currently be accommodated in the existing menu of tax-qualified options.

Concerns about the effects of affluenza on heirs may drive an increased prevalence of charitable remainders in estate plans. Instead of having to conform with the tax rules and regulations for qualified charitable remainder gifts, greater numbers of people will be able to structure gifts that provide both for family and loved ones, while resting assured that funds not used in this fashion will still ultimately benefit their charitable interests.

Ironically, because most people's estate plans will no longer revolve around dealing with estate taxes, we may see a golden age of estate planning where the goals of the individual—both personal and

philanthropic—are met without having to comply with artificial constraints previously imposed by inflexible tax laws, regulations, and the courts that have interpreted them.



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

## Encourage End-of-Year IRA Gifts

If you are looking for a way to inform your donors about the opportunities still available for IRA giving under the terms of the Pension Protection Act of 2006, consider providing donors with the Sharpe brochure “The Charitable IRA.”

Regardless of whether Congress extends the deadline, the IRA charitable rollover provisions provided by the PPA are still in effect until the end of this year. Make sure your donors are aware of the advantages of giving IRA assets before the close of 2007, including:

- Those age 70½ or older who make charitable gifts directly from their traditional or Roth IRA can do so tax-free.
- Donors may give all or a portion of their mandatory IRA withdrawals up to \$100,000 this year.
- Donors over 70½ who are not able to itemize their tax deductions can give directly from their IRA and achieve the same benefits as if their gift was fully deductible.
- Donors over age 70½ who are receiving Social Security income may make gifts directly from their IRA without increasing their adjusted gross income and possibly subjecting their Social Security income to higher levels of taxation.
- Those whose retirement assets are in other plans, such as a 401(k), may be able to transfer

assets to an IRA and then make their charitable gifts.

Because the IRA provisions are currently set to expire by the end of 2007, time is of the essence. Don't miss your chance to remind your donors about the benefits of giving retirement plan assets this year thanks to the Pension Protection Act.

To view “The Charitable IRA” brochure, and other materials that feature IRA rollover gift information, visit the Sharpe Web site at [www.sharpenet.com/irarollover](http://www.sharpenet.com/irarollover). If you would like to speak to a Sharpe representative or place an order, please call 1-800-238-3253.

## Get a Head Start on Year-End

Though summer is in full swing, August does signal that fall is just around the corner. With vacations winding down and schools back in session, now is the perfect time to regroup and make plans for communicating with your donors this fall and in the upcoming year-end season.

Because statistics show that the majority of charitable gifts arrive in the final months of the year, The Sharpe Group has created four brochures designed to help you make the most of the year-end giving season. These attractive brochures offer a convenient and economical way to communicate with a broad group of donors this fall about ways they can maximize their giving before the end of 2007.

“Giving at Year-End” points out the advantages of making gifts with various assets, such as cash, appreciated property, retirement plans, and others. This brochure is offered in two unique designs.

“Giving Thanks at Year-End” accentuates the spirit of Thanksgiving and how it can carry over and motivate charitable giving throughout the fall months.

“Giving Before December 31st” emphasizes the importance of timing one's charitable gifts for maximum tax benefits. This brochure may be especially appropriate for use in communications with donors late in the year.

While these brochures are an excellent resource for encouraging current gift before the close of the year, each brochure also features references to the importance of reviewing long-range plans at year-end as well. All of these publications also reflect current tax

laws regarding gifts of IRAs that are available until the end of 2007.

Each brochure may be personalized with your logo and contact information on the front and/or back cover or may be totally customized to fit your needs. See [www.sharpenet.com/yearend](http://www.sharpenet.com/yearend) to see each brochure in its entirety. Call 1-800-238-3253 for more information or to place an order with a Sharpe representative.



# Sharpe Gift Planning Seminars

For over 40 years, development executives have turned to The Sharpe Group for premier training. If you want to increase your awareness of gift planning techniques and help your program reach its full potential, there is still space available in the following Sharpe Training Seminars:

## August

An Introduction to Planned Giving	New York	August 20-21
Managing Planned Giving Relationships	New York	August 22-23

## September

Major Gift Planning	New York	September 13-14
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## October

An Introduction to Planned Giving	Tampa	October 29-30
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## November

An Introduction to Planned Giving	San Francisco	November 28-29
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Registration is always limited to allow for more interaction between participants and instructors. Previous seminar presentations have sold out. Register early to ensure your spot.

For more details or to register, call 1-800-238-3253 ext. 5313, or visit [www.sharpenet.com/seminars](http://www.sharpenet.com/seminars).

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