

Competing or *Completing*?

Balancing the roles of various professionals in planning charitable giving maximizes benefits for all

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Over the years we have come to realize that the professionals who are most successful in encouraging and implementing planned gifts are those who recognize and respect the fact that most planned gifts can only be completed with the cooperation of many parties. Failure to understand this—and to work well with other professionals—makes charitable giving overly complicated and frustrating.

Defining the process

Since 1987, we have used a definition of planned giving that attempts to describe the essence of the gift planning process:

“A planned gift is any gift of any kind for any amount given for any purpose—operations, capital expansion, or endowment—whether given currently or deferred, if the assistance of a professional staff person, qualified volunteer, or the donor’s advisors is necessary to complete the gift; in addition, it may be any gift which is carefully considered by a donor in light of estate and financial plans.”

Inherent in this definition is the fact that teamwork is almost always required to complete a planned gift. This is especially true at a time when thousands of nonprofit insti-

tutions and ever more members of the financial and estate planning community are pursuing gifts—and business—in this area. Few nonprofit or for-profit institutions are in a position to complete the entire process by themselves.

The purpose of this article is to examine how the various parties who are involved in the charitable gift planning process can work together more effectively to realize the maximum benefit of all.

Understanding the parties

Who are the entities that must work together effectively to assure a planned gift comes to fruition?

The donor/client

Note the dual description of this party to the gift. When a charity is working with this person, he or she will be known as a “donor.” When an attorney or financial services provider is working with this person, they will typically be referred to as a “client.” The nature of each relationship is fundamentally different. In one case, a “client” may be seeking the advice of an attorney or financial services provider primarily about ways to increase wealth, plan for its distribution, and/or reduce taxation. In other instances, a

“donor” may work with a representative of a charitable recipient to discover more effective ways to redirect wealth for charitable purposes, not increase it.

The charities

Charities that actively engage in proactive planned gift development fall into a number of categories. Some employ highly specialized teams of professionals whose mission it is to help donors make their gifts in the best ways possible. Leaders in this area are often known as “directors of planned giving” or, increasingly, as “directors of gift planning.”

Depending on the organization and the types of gifts it is able to implement, the role of these professionals may be more or less sophisticated. In some cases, their role consists primarily of managing relationships with persons who have informed the organization or institution of their intention to make a gift of some type as part of their will or other long-range financial plans. A small number of charities attempt to offer “turn-key” gift planning operations, where virtually all services with the exception of independent legal review are provided to their donors. But many charities focus on motivating interested persons among

their constituency to make planned gifts while working closely with one or more of their own advisors.

In recent years, planned giving has become a much more important part of fund raising efforts for many charitable organizations and institutions. An aging donor population, lower interest rates and returns on other investments, increased competition for the charitable dollar, and other factors have combined to make the ability to help donors plan gifts utilizing the best tools, and the most appropriate property, more important than ever. Over the past decade, capital campaigns for major universities and other nonprofits, particularly ones with goals of hundreds of millions or even billions of dollars, have come to rely on bequests and other planned gifts for 30% to 40% or more of their total take.

In addition to traditional charitable recipients, a new classification of charities has arisen in recent years with the primary mission of providing gift planning and management services for its donors (in some cases controlled by for-profit service providers). Some of these charities are designed for the primary purpose of receiving planned gifts where donors did not have a particular charity in mind, while others are designed for donors who wish to make a planned gift but prefer to defer for a period of time their decision as to the even-

tual recipient.

The advisors

The legal and financial services world is as diverse as the nonprofit sector. In planning charitable gifts, donor/clients rely on the services of accountants, attorneys, professional fiduciaries, administrators, financial planners, insurance professionals, investment brokers and counselors, and others. Each of these parties approaches the gift planning process differently, depending on the service they render or the product they sell. Charitable remainder trusts, charitable lead trusts, gift annuities, pooled income funds, and various other charitable gift planning tools have in some cases become “wrappers” designed for the sale of any number of financial services and products. In those cases, the “planned gift” becomes a “product” that is “sold” to clients. Any number of variations on the theme “doing well while doing good” have been adapted as sales techniques. These marketing efforts have become more sophisticated over the years, and in many cases have become very effective in communicating to donors that there are better ways, from a financial planning perspective, to make charitable gifts than by simply writing checks or providing for a charitable bequest through one’s will.

Two distinct approaches to the gift planning process are evident, one emanating from charities, the other from for-profit planners. This is proper, and as it should be. Does this then mean that charities and the for-profit planning community are now, or inevitably will be, locked in a kind of forced public embrace, while under the surface they engage in a competition that may not be in the best interest of the donor, the charity, or the advisor? Not at all.

Understanding, balancing, and in some cases reconciling the interests of the various parties to a planned

gift is the key to successful gift planning efforts. Success in better serving the donor/client requires from all parties involved the following:

- An in-depth understanding of the gift planning process.
- An honest and forthright appreciation for the importance of the motivation and proper role of all involved.

The ability to know when to lead and when to follow in each situation, along with a willingness to compromise.

To Compete or “Complete”?

While charities may compete among themselves for donors and for-profit advisors with others when it comes to the sale of products and services to their clients, we really should not see the process of charitable gift planning as involving competition between the nonprofit and for-profit sector. It is very easy to fall into the trap of believing that competition is inevitable—until one breaks down the process of “completing” a planned gift into a number of distinct and interrelated components.

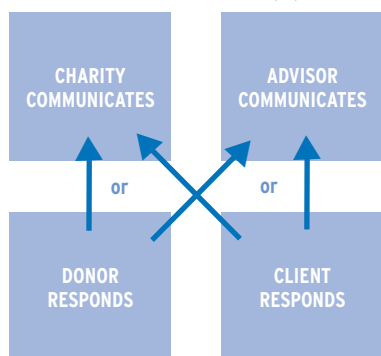
Let’s take a look at the acronym C-O-M-P-L-E-T-E, as it may be helpful in understanding how the various parties can work together more effectively to facilitate the charitable dimension of the coming wealth transfer in America.

C ommunication

At the threshold of the gift planning process, it is important that someone communicate to donor/clients the benefits of gift planning arrangements.

Through increased initial communication, the donor/client can learn of charitable gift planning opportunities from a number of sources, whether it be a charitable interest or a legal, accounting, or other financial advisor. Though charities have traditionally assumed

Chart 1: Paths of Client/Donor Engagement



a greater role in the communication process, as a much larger portion of their constituency is considered potential planned gift donors than that of a typical for-profit advisor, increasing numbers of both non-profit and for-profit planners are engaging this process.

When for-profit advisors communicate with their constituencies, their messages are not infrequently focused on plans that prominently feature their particular specialty. In the case of professional fiduciaries, for example, the benefits of a particular type of trust arrangement may be communicated. An attorney may lead a client through a series of questions to determine whether there is donative intent and, if so, how it might best be fulfilled—perhaps via a bequest from the client's will or revocable living trust. Those involved in the marketing of insurance products may present charitable gift vehicles as a means of providing funds necessary to purchase of insurance, or to "replace" donated funds via the use of insurance.

Opening discussion

After a donor has learned of the possibility of more effective ways of making gifts, the next step is for someone to open a discussion about the best ways to plan gifts in light of his or her situation.

In our experience this process often begins with a response to a marketing effort by either a charity or a for-profit planner. The donor/client may respond directly to the party offering the information or, in context of our discussion, may "cross respond." For example, a financial services provider may, in some cases, engage in communication via a client newsletter, with the client subsequently approaching a favorite charity to discuss it further, or vice versa.

In addition to response by a donor/client to direct marketing ini-

tiatives, discussions of planned gifts may be opened as part of a major gift solicitation process when a donor expresses a desire to give but is reluctant because of financial concerns. Discussions may also begin between a client and investment advisor on a golf course, in response to an attorney's queries regarding donative intent, in the context of an annual review of tax returns with an accountant, or as part of the discussion of the purchase of life insurance to provide liquidity for payment of estate taxes.

Motivate creator of plan

Once the donor/client has been made aware of the possibilities inherent in charitable gift planning and a discussion begun, sufficient motivation must be present to sustain what in many cases is the irrevocable transfer of assets in exchange for income, tax savings and other benefits that are almost certain to be less tangible than the amount to be transferred to fund the gift.

Imagine a 75-year-old childless widower with \$1 million in assets, including \$250,000 in fixed income investments with a cost basis of \$200,000 that yield relatively little income. Suppose that person had planned to leave a substantial bequest as part of his estate plan to fund research in a disease that took the life of his wife, with the remainder of his estate divided among nieces and nephews.

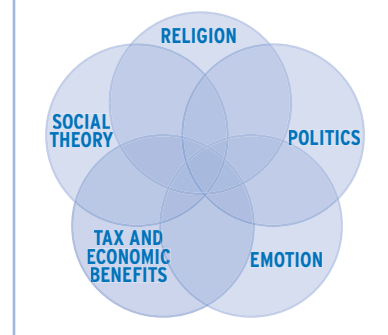
This person could leave his entire estate to family members at death free of estate tax, given the \$1 million exemption from estate tax that went into effect on January 1, 2002, so estate tax savings would not be a prime motivator in this case. When discussing ways to obtain increased income with his financial planner, the planner suggests possibly using \$250,000 in appreciated securities to fund an 8% charitable remainder annuity trust that would result in a fixed income

of \$20,000 for life. The planner points out that he would avoid capital gains tax of \$10,000 while being entitled to an income tax deduction of \$100,000 that would save income taxes of approximately \$30,000.

Would the income and capital tax savings of \$40,000 motivate him to transfer \$250,000 irrevocably? Probably not. Considering his age, this person likely will not live long enough for tax-free buildup of assets in the trust, along with additional income beyond what he could earn if he sold and reinvested on his own, to make this gift a viable alternative from a strictly economic perspective. Yet well informed persons make gifts such as the one described above on a regular basis. Why do they make the gift when it "costs money" to make it?

The reasons people make charitable gifts are many and varied. Among the prime motivators for gifts are religious beliefs, social commitment, political orientation, emotional considerations, and tax

Chart 2: The Five Drivers of Gift Giving



and economic benefits.

In fact, the motivations for any two gifts will almost never be exactly the same, as they typically involve a unique interaction of one or more of the motivators mentioned above. In our example of the widower, the primary motivation for the gift likely would be a combination of various emotions including love for his wife, anger that the disease that took his wife's

life could not be cured, and desire to make a gift in her honor. Making the gift in a way that made the most sense from a tax and economic perspective was a natural and proper part of the decision-making process as well.

The motivation and communica-

also does not wish to be seen as recommending a particular charity.

As noted earlier, communications from a particular for-profit services provider will naturally tend to emphasize solutions that involve the use of the product or services they provide. This is as it should be, and

ments of \$75,000 a year for 20 years to fund a gift of equivalent value while providing a tax-free inheritance for a grandchild. When the donor in this case expresses interest, in many cases the charity would refer the donor to an advisor for more information and to propose a

The person who works with the donor discussing goals and objectives, then designing the gift may not be the one who actually executes the gift.

tion aspects of gifts amount to somewhat of a “chicken or egg” question. Some charities report that the donors they talk to are primarily interested in tax benefits, and are always shopping for the best deals. Others report that their donors are not especially motivated by tax and economic factors. How can this be explained? We have found that an examination of the marketing and communications tools often sheds light on this quandary. Where communications are heavily geared toward tax and other economic benefits, clients tend to be more motivated by those factors. On the other hand, when marketing materials place a greater emphasis on mission and other motivators, donors tend to respond in kind. The best communications from charities tend to bring proper balance to the equation by giving “equal time” to various motivators in an attempt to interest as broad a range of persons as possible.

On the for-profit side, attempts to communicate with clients about the advantages of planned gifts will typically focus more heavily on tax and other economic benefits. This is appropriate, given the fact that the financial services provider is not a charity and thus usually does not attempt to convey the broad array of charitable motivations that exist among its constituency and

clients will, over time, “piece together” the full picture as they receive multiple communications from various charities and for-profit service providers. Each donor will then combine numerous motivators in ways that best serve their unique needs and interests.

Propose a solution

After a motivated donor/client has learned about planned gifts from one or more sources and has engaged in discussion with a charity and/or an advisor, someone must propose a particular solution tailored to the donor’s needs. In most cases, the party that initiated contact and opened the discussion with the donor/client will take the lead in preparing this proposal. They will often involve one or more other parties who are required to facilitate the funding and/or administration of a gift.

In some cases, however, one party will take a gift up to the point of proposing a solution, and will then recommend another party take the lead from that point. For example, suppose a charity has received a negative response from a donor in response to a request for a \$1 million gift. The well-trained representative of the charity then suggests as an alternative the use of a charitable lead trust that would make pay-

specific solution. Charities with more sophisticated capabilities may or may not prepare a detailed proposal, depending on the circumstances of each case.

Alternatively, consider the case of an advisor who has been asked the best ways to help transfer assets to loved ones while reducing or eliminating the impact of estate taxes. The advisor may have a vague recollection that gifts such as charitable lead trusts exist, but is not confident in explaining the plan or proposing its use to the client. The advisor may suggest that the donor contact his or her charitable interests to see if they can provide additional information or suggest resources for fulfilling their desire to transfer assets to loved ones while making charitable gifts in a more tax-efficient manner.

Regardless of who prepares the proposal to the donor/client, another point should be considered. Charitable gift annuities, pooled income funds, and certain charitable remainder trusts are now unambiguously categorized as securities under federal law and the laws of some states. As one of the provisions of the Philanthropy Protection Act of 1995 (PPA), Congress amended the Securities and Exchange Act of 1934 and other regulatory statutes to codify long-standing SEC staff opinions that planned gifts, in some

instances, did possess enough characteristics of securities to subject them to regulation. (For background, see "Is There Security in Planned Giving?," *T&E*, August 1990.) The PPA made it clear that even if a planned gift was deemed to be a security, it need not be registered, and those who facilitate them need not be registered as broker-dealers—so long as commissions were not paid to those marketing these planned gifts, and fair disclosure was made to donors and prospective donors. In addition, the anti-fraud provisions of the securities laws continue to apply, despite the exemption from registration.

A major question, however, remains in the area of securities law

At the very least, before serving as the fiduciary responsible for fulfilling the terms of a planned gift, there should be a thorough review of all marketing materials and due diligence to assure the terms of governing documents coincide where material representations may have been made by various parties who may have been involved in the marketing and communications process.

In order to provide information sufficient to meet the primary requirements of disclosure regarding the workings of particular plans, many charities and others rely on commercially prepared materials to supplement information provided by employees in proposals that primarily focus on the charitable

cut the plan. As an analogy, consider the situation where a person has spent months with architects designing a new home, and the time has come to choose one or more parties to build it. The architect is typically not in the construction business. The same is often true in the area of planned giving. The person who works with the donor in discussions of goals and objectives and designs the gift may not be the one who actually "executes" it.

In many cases, for example, the services of an attorney will be needed to draft wills or other instruments. State law may dictate that certain documents be drafted by a licensed attorney. If a professional fiduciary is to be involved, that party

It is wise for charities and others involved in making planned gift proposals to encourage their donor/clients to seek legal or other independent counsel before completing their gifts.

and planned giving: When there is division of labor between charities and for-profit advisors, who bears the ultimate responsibility for meeting federal securities law disclosure requirements?

If the charity makes the proposal, for example, and the donor fulfills it with a for-profit asset manager, is the asset manager held accountable for the representations of the charity? Arguably not—unless there is an alliance sufficient in scope to make the charity and the for-profit services providers co-venturers, or partners, from a securities law standpoint. Conversely, what of the case where a for-profit advisor makes the proposal and the nonprofit serves in a fiduciary capacity and the gift does not meet the donor/client's expectations? Who is liable for the consequences? A recent I.R.S. private letter ruling explores this scenario. (See PLR – 200218008.)

dimension of a proposed gift.

Legal review

Many donor/clients will seek the counsel of their attorneys before completing a planned gift. While not normally required under securities law or other regulatory provisions, it is wise for charities and others involved in making planned gift proposals to encourage their donor/clients to seek legal or other independent counsel before completing their gifts. While many donor/clients do not wish to seek such counsel, the recommendation that they do so should still be made in efforts to best serve donor/clients.

Execution of plan

After the donor/client has sought independent review or decided to proceed independent of such assistance, the next step in the process of "completing" a gift is to actually exe-

will want to approve trust documents and ensure that they meet the expectations of donors (see securities law discussion above) before taking on the responsibility of fulfilling the duties to be assumed by the trustee of the gift vehicle.

Where more sophisticated gift plans are involved, the services of a number of "contractors" may be required in order to execute the plan.

In almost no case other than a charitable gift annuity will a charity be able to execute fully a gift plan without the participation of other advisors. Even in that case the donor should be advised to seek legal and/or accounting advice prior to completing the gift.

Trust or asset management

In the case of charitable trusts and certain other types of gifts such as

charitable gift annuities, there must be a trustee or other manager or administrator of funds—one who sometimes may serve for a long period of time. This is an area where multiple solutions are encountered. Some nonprofit institutions will serve as trustee of charitable trusts. In most cases, however, donor/clients will rely on professional fiduciaries to act as trustee of such trusts.

A study published by The National Committee on Planned Giving in 2000 indicates that a large percentage of charitable remainder trusts are created by donors acting in concert with their advisors and without input from the charitable recipient. In the case of charitable gift annuities, perhaps the most popular planned gift vehicle apart from bequests via wills and living trusts,

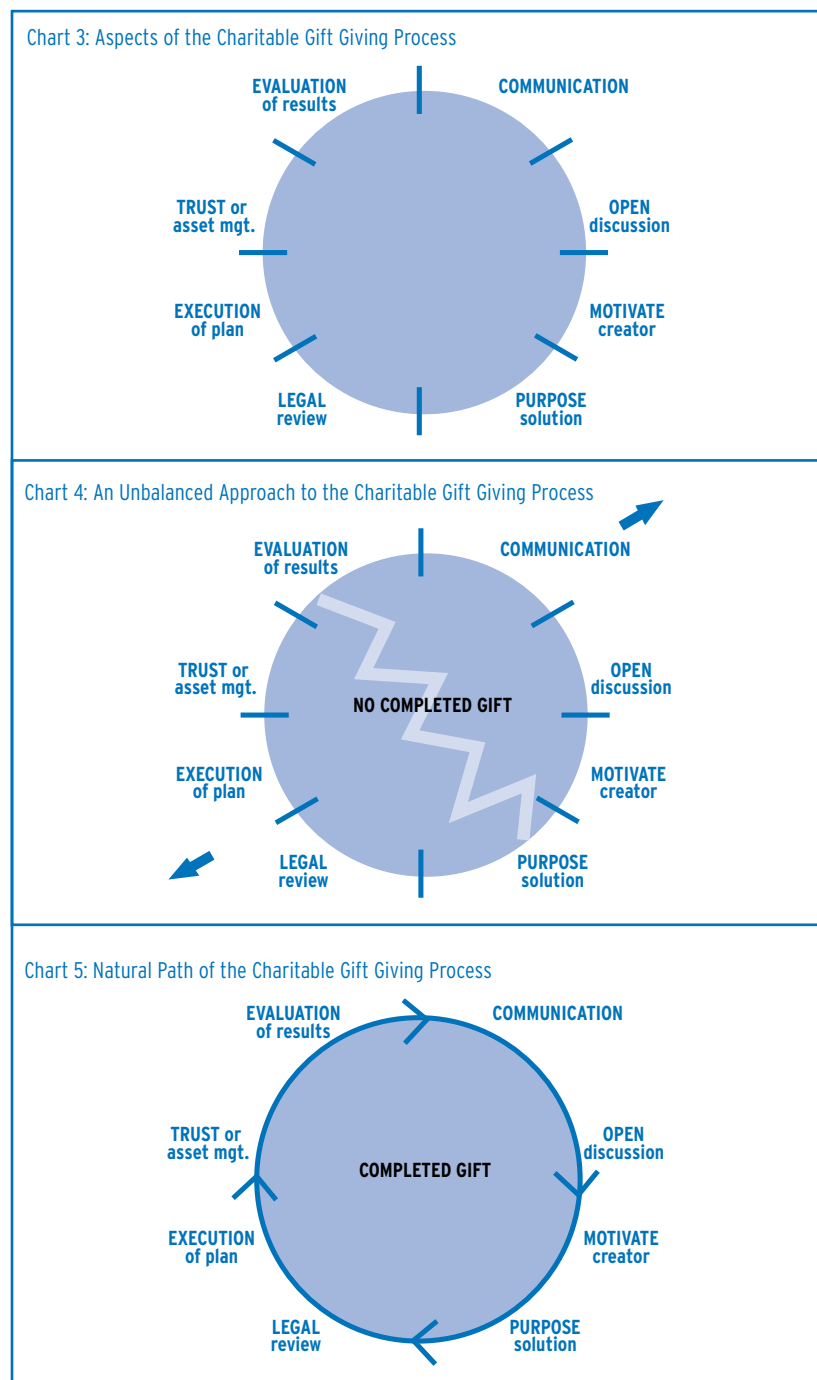
there is no trust involved, and the gift consists of a contractual obligation on the part of the charity. Even in that case, however, a large number of charities contract out the gift administration duties to the same entities that frequently serve as the fiduciary of charitable trusts.

Evaluation of results

Finally, after completion of the communication, discussion, proposal, review, execution, and choice of a trustee or asset manager, one or more persons should be involved on an ongoing basis to assure donor/client satisfaction. This will often be the same party who initially communicated and proposed the gift who steps back in, after a detour by the donor/client to others to design and implement the technical aspects of the plan.

In other cases, the nonprofit or for-profit entity that received the “hand-off” from the party that originally suggested the gift will also take responsibility for long-term stewardship of the relationship with the donor/client. In any event, this is an area that does not always receive the attention it deserves. At a time of increasing job mobility, it is important that steps be taken to ensure that the donor/client receives the ongoing support and attention he/she requires and deserves.

Chart 3 represents a thumbnail sketch of the gift giving process that can unfold in reality in a myriad of combinations and permutations. It is best not to think of this process as linear and/or compartmentalized, as there is really no logical division of labor that applies in all situations. Attempts to “control” certain aspects by either a non-profit or any one advisor will almost certainly fail. Such efforts, depicted in Chart 4, can result in a pulling apart of this process and in the destruction of many a gift that could have held significant benefits for all parties involved.



Only through harmonious cooperation can parties maximize gifts. Instead of a linear process, it may be best to consider the process as a circular flow (Chart 5).

The process does not always begin with communication by a for-profit or non-profit. A donor/client may be self-motivated by circumstances in their life and seek out someone to help make a gift. The evaluation of the results of a prior gift can often lead to opening discussion of another gift.

In any event, being realistic about capabilities and knowing when to take the lead and when to follow—and how that changes from situation to situation—will prove key for those who wish to be a part of a successful planned giving process.

Cases in point

The following cases, based on actual gift situations, may be helpful in illustrating how various roles in the process of helping to “c-o-m-p-l-e-t-e” gifts can shift from case to case. Note that a “leadership score” is assigned in each case, and that the party with the most “points” at the outset did not necessarily achieve the outcome desired.

CASE 1: THE DONOR WITH MULTIPLE INTERESTS

Paul Thornton, age 75, has never married, and has been a devoted

volunteer and donor to a number of organizations. He has a net worth of \$4 million, some \$1 million of which is held in a stock portfolio with a cost basis of \$200,000 that yields 1% in dividends. He is interested in realizing more income, and is concerned that he could realize significant losses in the event of a market correction; he does not, however, want to pay \$160,000 in capital gains taxes for the privilege of redeploying his assets.

Paul receives a newsletter from a university he attended. The school has targeted all alumni over the age of 60 to receive information aimed at explaining the benefits of incorporating charitable components into their estate plans. He is intrigued by the idea of a charitable remainder trust. He likes the fact that he will avoid capital gains tax at the time of the gift, receive more income on a tax-favored basis, and enjoy significant tax savings. He was planning to leave 50% of his estate, or \$2 million, to his two nephews, and the remainder to five charitable interests, one of which is the university. He returns a response card and requests additional information.

The university’s planned giving officer calls on Paul, returns to the office, and prepares a proposal for a \$1 million unitrust with an irrevocable remainder interest of 100% of that amount for the university. This

amount was chosen because Paul did not specify an amount, so the planned giving officer decided to propose that \$1 million worth of the most highly appreciated portion of the stock portfolio be used to fund the gift.

Upon receipt of the proposal, Paul decides to solicit the opinion of his investment adviser. Paul decides initially not to seek legal advice, since he had an unpleasant experience in the recent settlement of his mother’s estate. His investment advisor tells him it might be a good idea, and that he would be glad to help out with the gift if he can.

When the planned giving officer follows up, Paul says he has thought about it, is willing to proceed, and has decided to create five trusts for \$200,000 each, dividing the charitable portion of his estate equally among five of his favorite charities and institutions. The planned giving officer attempts to discourage this due to the costs involved. Paul asks if the university could serve as trustee of one trust funded with \$1 million with the remainder split five ways. He’s told that university policy would not allow for this type of gift unless the university gets at least 51% of the remainder.

Paul does not understand the reason for this, and the planned giving officer is unable to waive the policy. The planned giving officer offers to establish a trust for \$200,000 for the university alone, but Paul is not interested in that option, as he had previously been told that such a trust was not really economical.

Paul then checks with the other charities and finds that three of them were unable to help him with a trust. The fourth was able but had the same policy as the university. One of the other charities suggests he go back to his investment advisor.

His broker was able to quickly establish a charitable remainder trust

TABLE 1: THE DONOR WITH MULTIPLE INTERESTS

	C ¹	O ²	M ³	P ⁴	L ⁵	E ⁶	T ⁷	E ⁸
University	10	10	10	10	0	0	0	0
Broker	0	0	0	0	5	8	10	10
Attorney	0	0	0	0	5	2	0	0
LEADERSHIP								
University	40							
Broker	33							
Attorney	7							

Note: Based on 10-point scale. 1. Communication 2. Opening discussion 3. Motivate creator of plan 4. Propose a solution 5. Legal review 6. Execution 7. Trust or asset management 8. Evaluation of results

with the trust company affiliate of the brokerage serving as trustee and supplying all necessary documentation subject to review by Paul's counsel. Paul reluctantly agrees to legal review and receives a \$1,500 legal bill. He asks if the charities involved would pick up that cost. Three agreed and paid \$500 each. Two of his charitable interests, including the university that initially suggested the gift, refuse to pay the fees. He responds by altering the trust to pay one third, or \$333,000 each, to three charities and leaving the other two as residuary beneficiaries under his will.

See Table 1 for the total "leadership score" for each party.

While the university initially was in almost total control of the process, failure to accommodate the donor's desire to benefit other charitable interests resulted in a less than desirable outcome. This result is often the case when an organization does a good job on the "comp" and is less capable with the "lete."

CASE 2: WORKING TOGETHER TO MEET CONFLICTING GOALS

Phillip and Carol Brickson, both age 76, are interested in participating in an endowment fund for a local health care agency. They have both been active as donors and volunteers. They have an ocean-front home in a very exclusive area in the Northeast recently appraised at \$2.5 million. Prior to the 1997 tax act they were planning to sell the home, with a cost basis of \$350,000 when they purchased it in 1965. They were planning to reinvest a substantial portion of the sale proceeds in a new home in Arizona. Following the 1997 tax act, however, they were dismayed to learn that they would owe capital gains tax on any gain in excess of \$500,000 on the sale of the home and that they could not "roll it over" into another residence tax free, as they could have under prior law.

In discussing their dilemma with a development staff member of the health foundation, it was suggested that they use their home to fund a trust as their contribution to the endowment campaign via a so-called "FLIP" unitrust. This type of trust would hold the home for the donors until sold and then pay them a straight unitrust percentage of 5% following the sale. The foundation representative suggests that they talk to a trust institution that the donors had used for other trusts, and have their attorney review the proposal as well. The foundation representative knows each of the financial advisors from their local planned giving council.

Subsequently, their attorney suggests that they alter the trust by adding their two children, ages 43 and 41, to the trust. This form of trust would still qualify under 1997 tax law restrictions as it would result in a 13% remainder factor.

The health foundation responds that their gift acceptance policies would not allow credit for this gift at more than the charitable deduction amount of \$325,000. Mr. Brickson is disappointed. He asks if there might be some other alternative. He is told that credit for the full face value is given where there was no income beneficiary under the age of 70.

In a meeting with the health foundation development representa-

tive, the Brickson's attorney, and their trust officer, the following is decided: Two trusts will be created, one for the life of the Bricksons only (Trust A) and one for the life of the Bricksons and their children (Trust B). The trust for the Bricksons will be funded with a 50% undivided interest in the home; the remaining 50% interest in the home will be deeded to a Trust B for the life of the Bricksons AND their children.

The charitable deduction for Trust A is some 52%, or \$648,000. The deduction for Trust B is 13%, or \$163,000. Total income tax deduction is \$811,000, as opposed to \$325,000 under the original plan. The total capital gain tax in the home is avoided in either case. The Bricksons receive all of the income from the sale of the home for their lifetime, just as they would have under the original plan.

Total gift credited in the campaign was \$1.25 million + \$163,000, or \$1,413,000. The Bricksons are very pleased with this outcome. The children are happy because the tax savings from the additional charitable deduction, over \$185,000, will be used to purchase life insurance payable to them at the death of their parents or, alternatively, to help provide college tuition for the Bricksons' grandchildren.

See Table 2 for the total "leadership score" for each party.

TABLE 2: WORKING TOGETHER TO MEET CONFLICTING GOALS

	C ¹	O ²	M ³	P ⁴	L ⁵	E ⁶	T ⁷	E ⁸
Health Fdn	10	10	10	10	0	0	0	10
Attorney	0	0	0	0	8	5	0	0
Trustee	0	0	0	0	2	5	10	0
LEADERSHIP								
Health Fdn	50							
Attorney	13							
Trustee	17							

Note: Based on 10-point scale. 1. Communication 2. Opening discussion 3. Motivate creator of plan 4. Propose a solution 5. Legal review 6. Execution 7. Trust or asset management 8. Evaluation of results

TABLE 3: FOR-PROFIT ADVISOR TAKES THE LEAD

	C ¹	O ²	M ³	P ⁴	L ⁵	E ⁶	T ⁷	E ⁸
Insurance	10	10	10	10	0	0	0	6
Cultural Org.	0	0	0	0	0	0	0	4
Attorney	0	0	0	0	8	10	0	0
Accountant	0	0	0	0	2	0	5	0
Donor	0	0	0	0	0	0	5	0
LEADERSHIP								
Ins. Prof.	46							
Cultural Org.	4							
Attorney	18							
Accountant	7							
Donor	5							

Note: Based on 10-point scale. 1. Communication 2. Opening discussion 3. Motivate creator of plan 4. Propose a solution 5. Legal review 6. Execution 7. Trust or asset management 8. Evaluation of results

In this case, the health foundation assumed the leadership and managed the relationship to a successful conclusion for all concerned.

CASE 3: FOR-PROFIT ADVISOR TAKES THE LEAD

The local planned giving council for a medium-size city sponsors a planned giving education day and invites local development officers and financial and estate planning professionals. A local insurance professional attends and is fascinated with an example he sees of a charitable remainder trust coupled with wealth replacement insurance. He immediately thinks of a client who is selling a closely held business. The client is active in a number of local charities, and he has reason to believe this client would be receptive to this idea.

After talking with the client, it was decided that a charitable remainder trust would be funded with \$2 million, with the client serving as trustee and his son as successor trustee. The income from the trust is to be paid to the client and his wife for their lifetimes; an insurance trust is to be established, with the son as trustee; and insur-

ance is to be purchased with tax savings and a portion of the income from the trust.

The donor's attorney and accountant were active in completing the gift arrangements, and the accountant will handle the annual reporting of the trust.

The insurance professional asks the client which charities he wishes to benefit. In consultation with his attorney, he decides to name four charitable interests as equal beneficiaries, all on a revocable basis, as he and his wife wish to retain the free-

dom to change their mind. The charities are all notified. All are grateful, but one of them, a local cultural group, publicly announces the commitment and recognizes it as it would a \$500,000 bequest commitment to its current campaign. Three years after establishing the trust, the donors decided to make their commitments to this charity, confirm one of the others irrevocable, and maintain their freedom to change the remainder beneficiary of the other two charities they had not heard from since the initial notification.

See Table 3 for the total "leadership score" for each party.

In this case, the planning process was almost completely dominated by professional advisors, but one of the charitable beneficiaries seized the available opportunity and greatly improved its financial position in the plan and positioned itself to take a greater leadership role in future gifts made by this family.

CASE 4: A CHARITY "GOES IT ALONE"

Martin and Sarah Fox are a recently retired couple in their early 70s. They respond to a marketing piece from one of their charitable interests offering information on ways to make gifts that feature income for

TABLE 4: A CHARITY "GOES IT ALONE"

	C ¹	O ²	M ³	P ⁴	L ⁵	E ⁶	T ⁷	E ⁸
Charity	10	10	10	10	0	10	10	10
Attorney	0	0	0	0	3	0	0	0
Trustee	0	0	0	0	3	0	0	0
Accountant	0	0	0	0	4	0	0	0
LEADERSHIP								
Charity	70							
Attorney	3							
Trustee	3							
Accountant	4							

Note: Based on 10-point scale. 1. Communication 2. Opening discussion 3. Motivate creator of plan 4. Propose a solution 5. Legal review 6. Execution 7. Trust or asset management 8. Evaluation of results

life and attractive tax benefits. They have already included significant bequests through their wills. Their children are all doing well financially and have encouraged them to provide for their charitable interests as part of their estate planning.

The Foxes meet with a representative of the charity they wish to benefit and decide to fund a gift annuity with \$100,000 worth of highly appreciated stock. They like the idea of a tax deduction up front, avoidance of capital gain tax at the outset, and the favorable tax treatment they will enjoy when they report the payments from the gift annuity each year. At the urging of the charity, the Foxes seek advice from their accountant, their investment manager, the trustee of their revocable living trust and marital trusts under their wills, and their attorney. Only the accountant thought the gift annuity seemed like a good idea.

They decide to proceed with the gift annuity, and are pleased with the results of their gift. They decide to enter into a new annuity each year until they have \$500,000 in gift annuities in place.

See Table 4 for the table “leadership score” for each party.

In the case of a gift annuity, a charity is typically in a very strong leadership position.

CASE 5: THE CHARITABLE

BEQUEST

Mary Morton is a retired nurse, age 79. Her sister recently died, and she was named personal representative in the settlement of her sister’s estate. Her sister died with no will, and Mary was dismayed by the problems she experienced as a result. She has received a number of pieces of information about charitable bequest planning and has attended a seminar on estate planning sponsored by a local charity.

She decides that her estate is in need of an update and visits her attorney. The attorney asks her a number of questions including whether she would like to include any charitable interests in her will. She decides to include six organizations and institutions from among the fifty or more she has supported during her lifetime. The attorney asks if she wishes them to be notified. She says no. Subsequent to the execution of her will, she gradually reduces the amount and frequency of her giving and stops gifts entirely to three organizations. She responds to planned gift marketing efforts of the six organizations she originally named and subsequently notifies two of them of her intentions, and is pleased to be part of their recognition society for estate donors. Her attorney is in touch with her periodically to check with her on the need to update her plans. Who is the

leader in this situation?

See Table 5 for the total “leadership score” for each party.

In the case of charitable bequests, which produce the bulk of planned gifts nationwide, the role of charity is primarily one of education, motivation, and stewardship, with the bulk of planning and asset management left to donors and their advisors.

Conclusion

Competition among charities for gift dollars, especially in the area of meeting needs for current and capital support, is healthy, and ultimately leads to greater funding for all. Competition among various financial services providers likewise is healthy and leads to greater product awareness and maximum sales.

When it comes to helping donor/clients plan for major transfers of income and other assets for charitable purposes where unfamiliar and somewhat sophisticated transfer vehicles are involved, excessive competition can be destructive to the process. Once donors are at the point where they are contemplating what may be the ultimate expression of their values—a material expression of deeply held values—they may wish to benefit more than one charity, and it may take cooperation among those charitable interests and one or more advisors to help the donor/client clarify their charitable visions and make them a reality.

To succeed in a world where more and more entities are involved in the gift planning process, a planner must understand his or her legitimate, and perhaps in some cases unique, role in the process; the role of others in the process; when to take responsibility for the process and lead and when to let the donor/client choose another to lead; and the importance of cooperating in every way possible with all involved before, during, and after completion of a gift. ♦

TABLE 5: THE CHARITABLE BEQUEST

	C ¹	O ²	M ³	P ⁴	L ⁵	E ⁶	T ⁷	E ⁸
Charities	10	0	10	0	0	0	0	5
Attorney	0	10	0	10	10	10	0	5
Donor	0	0	0	0	0	0	10	0
LEADERSHIP								
Attorney	45							
Charity	25							
Donor	10							
<small>Note: Based on 10-point scale. 1. Communication 2. Opening discussion 3. Motivate creator of plan 4. Propose a solution 5. Legal review 6. Execution 7. Trust or asset management 8. Evaluation of results</small>								

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