Understanding the Basics of Planned Giving

Raising Funds for Your Organization’s Future:
A Series of Webinars about Planned Giving

Sponsored by
DC Bar Pro Bono Program

Presented by
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March 23, 2011
Objectives

- Review trends in philanthropy
- Explore what is planned giving and the benefits to a donor and a charity
- Review the role of the development officer in planned giving
- Review the most common forms of planned giving
- Secure additional planned giving resources.
Economic and Demographic Trends

- Mature Americans control 77% of America’s Assets
- Americans 45 and older are 50% of the adult market
- Nearly 8 million millionaire households in the U.S.

On wealth transfer, the following studies indicated...

- Cornell University report estimated $10 trillion transfer over 55 years (1990)
- Boston College Social Welfare Institute study in 2003 stated $41 - 136 trillion transfer through 2052. Note: 2% estate growth estimate was used to determine $41 trillion figure.
  - If 3% growth is used, the estimate climbs to $72 trillion
Wealth Transfer and Giving

• Huge transfer of wealth underway – largest in the history of the civilization!
  • The wealthy give a *smaller percent* of their income, but *more in total dollars*
  • The annual giving rate of U.S citizens is 2.2% -- that equals nearly $1 TRILLION extra in philanthropy over the next 40-50 years from wealth transfers alone!

• 48% of Americans have wills
  • 7.5% using bequests
    • 31% considering
• 90%+ do not revoke a charitable will provision
• 73% do not inform charities of will provision
• 89% of all planned gifts are bequests

Sources: Partnership for Philanthropic Planning (NCPG), Center on Wealth and Philanthropy and Giving USA
What is planned giving?

**Technical definition:**
A planning process that considers the effects of a gift to charity and the donor’s estate and/or resources over a period of time.

**Emotional definition:**
A giving process that honors the donor’s desire to do something special and to give back.
Why would a donor consider a planned gift?

- Increase current income for the donor or others
- Reduce income and/or estate taxes
- Avoid or reduce capital gains tax
- Pass assets to family at a reduced tax cost
- Plan for a transfer of a business
- Make significant donations to charity
Why would a Charity Engage in Planned Gifts?

- Diversify revenue
- Expand options for donors
- Leverage donor relationships
- Strengthen donor commitment
- Build permanent revenue streams
Planned Giving: Your Role
Most Types of Planned Gifts

- Bequest
- Charitable Gift Annuity
- Charitable Remainder Trust
- Charitable Lead Trust
- Donor Advised Fund
- IRA Roll-over
- Private Foundation
- Life Insurance
- Life Estate
- Pooled Income Fund
- Bargain Sales
Planned Giving Vehicles

Discussed Today

- Bequest
- Life Insurance
- Charitable Gift
- Charitable IRA Roll-over
- Annuity
Bequests

What are bequests?

- Types of bequests
- Benefits to the donor
- Benefits to the charity
- Donor cues
- Challenges/Pitfalls
Charitable Gift Annuities

What are CGAs?

- Types of CGAs
- Benefits to the donor
- Benefits to the charity

Donor cues

Challenges/Pitfalls
Life Insurance

Which forms make planned gifts?

- Benefits to the donor
- Benefits to the charity
- Donor cues
- Challenges/Pitfalls
Charitable IRA Roll-overs

What’s the latest?

- Rules and Legislation
- Benefits to the donor
- Benefits to the charity

- Donor cues
- Challenges/Pitfalls
Educational Resources

- Join Industry Associations
- Participate in local, regional and national conferences and roundtables
  - Enroll in specialized philanthropy programs
    - Read periodicals
    - Find a mentor

Feel free to ask dumb questions and copy successful approaches!
Next in the Series
Raising Funds for Your Organization’s Future, Part 2: *Sophisticated and Less Common Planned Giving Vehicles*

April 27, 2011
12 noon – 1:15 p.m. ET

Thank you for taking the time to join us today!
Speaker’s Notes

Understanding the Basics of Planned Giving
“Raising Funds for Your Organization’s Future: A Series of Webinars about Planned Giving”
(Part 1 of 3 in the series)

Sponsored by the DC Bar Pro Bono Program

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First Presented March 23, 2011

The presentation is approximately 1 hour

Slide #2: Objectives of the Presentation
• Review the trends in philanthropy
• Explore what is planned giving and the benefits to a donor and a charity
• Review the role of a development officer in planned giving
• Review the most common forms of planned giving
• Secure additional planned giving resources

Slide #3: Economic and Demographic Trends
• Mature Americans control 77% of America’s Assets
• Americans 45 and older are 50% of the adult market
• Nearly 8 million millionaire households live in the United States

On wealth transfer, the following studies, which are the most frequently cited as it relates to wealth transfer, indicated…
• Cornell University report estimated $10 trillion transfer over 55 years (1990)
• Boston College Social Welfare Institute study restated $41 trillion transfer over 55 years (1999)
  Note: low growth minimum estimate (figure could be as high as $136 trillion)
• Boston College revalidated the $41 trillion estimate in 2003 – based on 2% growth rate in the value of estates through 2052. At 3% it would be $72 trillion. At 4%, it would be $136 trillion.

Slide #4: Wealth Transfer and Giving
• Huge transfer of wealth underway – largest in the history of the civilization!
  • The wealthy give a smaller percent of their income, but more in total dollars
• The giving rate of U.S. Citizens is 2.2% -- that equals nearly $1 TRILLION extra in philanthropy over the next 40-50 years from wealth transfers alone
  • 48% of Americans have wills
    • 7.5% using bequests
      • 31% considering
  • Over 90% do not revoke a charitable will provision
  • 73% do not inform charities of will provision
  • 89% of all planned gifts are bequests

Sources: Partnership for Philanthropic Planning (formerly NCPG – landmark 2000 study), Center on Wealth and Philanthropy and Giving USA

What does this mean?
• There is going to be an extraordinary amount of ADDITIONAL money coming into the non-profit sector over the next generation beyond annual giving levels. The non-profits that are positioned to speak to donors knowledgeably about planned giving are going to be the recipients of a large portion of those funds!
• Since an overwhelming majority of planned gifts come in the form of bequests, development officers do not have to be ultra-experts in planned giving in order to work with most planned giving situations – in other words, don’t let the fear of information overload scare you away from planned giving!

Slide #5: What is planned giving?
• Technical definition: A planning process that considers the effects of a gift to charity and the donor’s estate and/or resources over a period of time.
• Emotional definition: A giving process that honors the donor’s desire to do something special and to give back

Slide #6: Why would a donor consider a planned gift?
Why bother to pursue planned gifts, given the extraordinary time constraints most, if not, all of us have in our development operations – particularly those of us with very limited staff resources?

The long and short of it is that it’s all about the donors – and if you take care of the donors and try to help them meet needs, good work with good intentions often bring substantial rewards!
  • Increase current income for the donor or others
  • Reduce income and/or estate taxes
  • Avoid or reduce capital gains tax
  • Pass assets or business to family at a reduced tax cost
  • Make significant donations to charity that they otherwise would not or could not achieve

According to an NCPG Survey (Now PPP), when asked why donors gave through a planned gift
  • 97% say they care about the charity
  • 87% desire to do something special
  • 35% tax planning
  • 22% know charity’s representative

Slide #7: Why would a charity engage in planned giving?
As mentioned earlier, there is going to be an extraordinary amount of ADDITIONAL money coming into the non-profit sector over the next generation beyond annual giving levels. The non-profits that are
positioned to speak to donors knowledgably about planned giving are going to be the recipients of a large portion of those funds! Beyond the sheer amount of money potentially available, the following are compelling reasons for a non-profit to engage in planned giving

- It helps to diversify revenue
- It provides donors with expanded options to support the organization
- It provides a non-profit the ability to strengthen and leverage strong donor relationships for the best interests of both the donor and non-profit
- It strengthens donor commitment
- It helps to build permanent revenue streams if used to create endowments

**Slide #8: Planned Giving: Your Role**

This graph shows the four major areas of involvement for a development professional in the planned giving process – with the donor in the middle!

Always remember that first and foremost, your role is to be a trusted professional who always approaches planned giving with the DONOR’s best interest in mind.

The Bus…
- The bus can represent you going to school for planned giving – it is your role to understand the various planned giving vehicles so you can be ready to assist donors when they come calling and defend your programs when Board members come calling. We will review some elements today and more complicated vehicles in the second installment of this series, but the more education, the better—even if you’re a planned giving pro.
- Once you’ve taken the bus to school, your role when you get home is to get your board and key leadership at your institution on the bus so you can move forward with programs, gift acceptance policies and procedures.

The Mega Phone…
- Once you have the knowledge, the approval and your materials, it’s time to market the idea of planned giving with your donors. We’ll cover some inexpensive and effective basic strategies in the third installment of this series.
- Also remember, once you have received planned giving support, make sure you are publicizing gifts when appropriate and continuing strong donor stewardship.

Helmet…
- You are the QB in planned giving process—someone must be in charge and it should be you!
  - You are not expected to be an expert in given tools or to be the person executing plans, but someone needs to be in control (but not be a dictator) and working to get the right people in the room to assist donors through the process.
  - Unless you are an attorney or financial advisor or an accountant DO NOT give legal advice or financial advice and certainly don’t be the person executing the legal documents. You are legally and financially liable if you practice law without a license!

Bright Idea…
- Your role with donors is to provide the idea of a planned gift through your marketing and personal contact and work with donors to involve all who are necessary to meet the donor’s needs.
Slide #8: Most Types of Planned Gifts
- Bequest
- Charitable Gift Annuity
- Charitable Remainder Trust
- Charitable Lead Trust
- Donor Advised Fund
- IRA Roll-over
- Private Foundation
- Life Insurance
- Life Estate
- Pooled Income Fund
- Bargain Sales

We won’t be going into deep detail of these today, but I do think it is good to know that planned giving does encompass more than just wills and estates. A little later in the presentation, we’ll review a few of the planned giving vehicles that are most common and relatively simple to execute. We’ll reserve the more complicated or less common planned giving vehicles for part two of this series.

Slide #10: Planned Giving Vehicles Discussed Today
Of the available planned giving vehicles listed, we are going to spend time focusing on the vehicles that are both the most common and the easiest to execute in any development office.
- Bequests
- Charitable Gift Annuities
- Life Insurance
- Charitable IRA Rollover

Slide #11: Bequests
What are they?
- Cash, securities, real estate or personal property given to a nonprofit through a will
- Bequests are a relatively simple form of planned gifts and are the largest source of planned gifts to nonprofits – 89% of all planned gifts are bequests
- Types: There are two types of bequests
  - Revocable Bequests – These are bequests that can be changed or even removed from a will or estate. Revocable bequests are by far the most common form of bequests. These bequests come in the following forms:
    - Specific Bequest: Specific dollars amount or asset from the estate to be donated to a non-profit
    - Residuary Bequest: Remainder or percentage of the remainder of a estate after all other obligations are paid
    - Contingent Bequest: The non-profit is given a percentage or specific amount of an estate if certain specified conditions are met.
    - Restricted Bequest: A gifts to a non-profit out of an estate that is designated for a specific purpose or to support a specific program
  - Irrevocable Bequests – These are bequests that are connected to a binding, enforceable pledge. They are also known as testamentary pledges.
    - Irrevocable bequests usually use fixed dollar value of an asset.
• Irrevocable bequests are helpful in protecting against legal challenges; ensuring funds provided are spent properly and allow for non-profits to provide endowed chair or other substantial naming opportunities that otherwise would be too risky to bestow in a revocable bequest.

• One other note on irrevocable bequests: While revocable bequests can be counted in a capital campaign, subject to many “ifs,” an irrevocable bequest, if accepted by a non-profit, must be counted in their fundraising figures (Financial Accounting Standards Board)

Benefits to the donor:
• Ease of making a charitable gift by naming a nonprofit in a will
• Reduced estate taxes for heirs
• The ability to leave a legacy with no immediate personal financial impact

Benefits to the charity:
• Expectations of a future asset (possibly even a gift to a future campaign)
• Often used to build an organization’s endowment
• Helps increase planned giving support
• Helps indentify donor interests for future gift discussions
• Once included in a will, a charity stays in a will over 95% of the time

Cues that indicate a donor may be interested
• Look beyond major donors: Studies consistently show that bequest donors are likely to be small, but loyal annual donors. The average bequest in the U.S. is $35,000. They aren’t just for the well-to-do. In high cost-of-living areas, people of modest means have been known to make multi-million dollar bequests simply because property values have appreciated so much over several decades (Southern California, for example)
• “I wish I could make a larger gift to the campaign, but I just don’t have the cash to do it.”
• “I have a large estate, is there a way to help my family and the charity at the same time?”
• “I can’t commit to your request at the level you’ve asked. You do know that I have you in my will, right?”
• “I’m too old to be thinking about giving now. I gave when I was younger and I was working.”
• “I have to care for my ailing husband/wife, but I hope to help the charity at some point later.”

Challenges/Pitfalls
• Gift recognition policies: Will a bequest be treated the same as a cash gift in terms of naming opportunities? For irrevocable bequests, you certainly should. For revocable bequests, an organization must seriously consider the extent of gift recognition as it relates to the probably of receipt of a bequest at the level that would be appropriate for outright gifts to be recognized.
• Age challenges:
  o Younger donors: More accepting of a bequest suggestion, but it may not mature for 30-50 years
  o Older donors: Resistance to bequests is almost 50% higher for 70+ than for those in their 40s. When working with donors who are in their 80s, 90s or 100s it is important to involve the donor’s family or advisors. Beyond the fact that it’s usually appropriate to engage family and/or advisors in nearly all planned giving situations, non-profits do not want to be in a situation of being accused of placing a donor under duress or perceived as taking advantage of a donor.
• Be aware that over 75% of bequests are unknown to a non-profit until a check arrives from the executor of the will – the more effort you place into encouraging donors to disclose to you that
they have been so generous, the better you can plan and the stronger your stewardship of the
donor can be.

• Keep a frequently reviewed database of known bequests – not all executors keep the donor’s
intent or mistakenly give the wrong non-profit the gift. Furthermore, will can be challenged and if
you’re not aware of a challenge, your interests may not be represented or heard in the challenge.

Quick Update on legislation involving the Estate Tax

• Legislation in December 2010 reset the estate tax for 2011 to allow the first $5 million of
an individual’s estate to be passed on to non-charitable beneficiaries tax-free and set a
taxable rate of 35% for estate values beyond the exemption. The estate tax was allowed to
expire completely in 2010 as part of the tax legislation enacted in 2001 and 2003, but
would have reverted to a rate of 55% on an estate’s value in excess of $1 million in 2011
if no action was taken.

• Impact: While the higher limits may be perceived to discourage some planned giving
activity on the basis that more estates would fall under the exemption limits, there is a
high likelihood that planned giving activities will increase since there is more certainty as
to the law compared to most of 2010.

Slide #12: Charitable Gift Annuities

What are they?

• A CGA is a special annuity that is designed to produce a fixed payment income stream to the
donor for the life of the donor and/or spouse and provide an immediate charitable gift deduction
as well as a portion of the payments to be tax-free.
• Generally, CGAs have a minimum investment from $5,000 - $20,000
• The non-profit, or a community foundation, is the issuer of the annuity (must be licensed in most
states)
• The annuity is a general obligation of the non-profit and thus must be backed by the assets of the
non-profit
• The American Council on Gift Annuities (ACGA) publishes suggest gift annuity rates based on
the age of the donor to determine fixed payments. Most non-profits use these rates. It helps to
keep non-profits from competing with each other on annuity rates.
• Upon the termination of the annuity, the assets revert to the charity.

Two basic forms:

• Immediate Annuity – Fixed payments (monthly, quarterly, semi-annual or annual payments) start
in the first year of the annuity contract
• Deferred Annuity – Sometimes referred to as a “flexible annuity,” deferred annuity are designed
to grow with the organization for a period of time (a minimum of one year) before payments
begin. Often, this results in a larger fixed payout.

Benefits to the donor:

• Relatively simple process to secure an annuity – the contracts is typically less than three pages.
• Immediate charitable gift deduction (for a portion of the gift).
• Fixed Income stream for the life of the donor and/or the spouse with favorable taxation treatment
• A portion of the payments are tax-free for a period of time based on life expectancy
• Deferred and/or reduced capital gains tax if appreciated assets are used to fund the CGA.
• For deferred annuities, it can be a useful addition to a retirement portfolio of a younger donor. It’s not uncommon to see individuals in their forties giving a deferred gift annuity to compliment other retirement savings and not receive their first payment for 20 years.

Benefits to the charity:
• Immediate addition of cash, securities or other assets to the organization’s investment pool.
• Right to retain the principal of the annuity upon maturity
• Potential long-term planned giving donor partnership and relationship (Donors who choose to take advantage of a CGA often engage in several with the organizations over time).

Cues that indicate a donor may be interested
• Donor looking for income security and to do something special for their charity
• Typically donors in their 60s to 90s (40s or 50s for deferred gift annuities)
• Likely a regular annual donor in the past and often not major donors or ultra-wealthy donors in the non-profit’s database.
• “I would like to make a significant gift to our favorite charity, but I still need the income from my investments.”
• “We need more income from our real estate or stock portfolio as we are nearing retirement.”
• “I don’t have any heirs to leave an inheritance. How can we give to charity, receive income and get a tax deduction right now?”
• “I received a large bonus this year, is there a way to get some tax help?”
• “My husband/wife/partner doesn’t have a pension, so I worry about her running out of money.”
• “I am frustrated by the low dividends on my stocks/investments.”
• “I want to find a way to diversify my streams of income for my retirement. Is there a way you could help me with that?”

Challenges/Pitfalls
• A non-profit must be bonded and licensed to enter into CGA agreements or have a relationship with a community foundation to handle their CGAs.
• A non-profit must place the full assets of the organization against potential CGA obligations.
• Rules and regulations differ from state to state – the initial set-up for a non-profit may be time and money intensive. Only non-profits that seek to maintain a robust CGA program should consider getting licensed and bonded. If there is only an occasional donor who asks about CGAs, many smaller non-profits may want to develop an arrangement with a community foundation to handle the CGA contract.
• CGA payment could go on for many years, so it is important for a non-profit to invest the annuity principal wisely so that the CGA does not become a liability to the organization’s bottom-line.

Slide #13: Life Insurance
Which forms make planned gifts?
1) Name a charity the beneficiary of any life insurance policy
   • Easiest (not necessarily the best) because it only requires a form to be completed
   • Drawbacks
     o Non-deductible
     o Proceeds may be counted against estate
     o Revocable
     o Be Aware: This type of gift in a capital campaign is extremely problematic.
2) Donation of a Fully-Paid Premiums on a Whole Life Policy
• Donor would receive a tax deduction for the cash surrender or replacement value of the policy.
• Non-profit would have to make the decision to either cash the policy or hold it like a security.

3) Donation of a policy where the Donor continues to pay the premium
• Donor would receive a deduction for payments made in a given year.
• Pitfall: Charity must be the beneficiary AND owner of the policy in order to get the deduction.

4) Charitable Split-Dollar Insurance Plan – RED FLAG!
• What is it?
  ▪ Charity receives a gift from a donor and invests in an insurance policy that benefits both the charity and the donor.
• What’s wrong with that?
  ▪ In 1999, Congress had approved two changes in the tax laws governing charities. Under one change, a donor's contribution would not be tax-deductible if the charity paid an insurance premium on behalf of the donor and the beneficiary was the donor or a member of the donor's family. The second change imposed a 100 percent excise tax on the charitable organization for any amount of money spent on an insurance policy premium for the donors. Ouch.

5) “Pickens Plan”
• What is it?
  ▪ T. Boone Pickens, an oil and energy sector tycoon, gathered 25 of his fellow Oklahoma State University Alums and was able to get them to donor money to the university that turned around and took out $25 million policies on each of them.
• What’s wrong with this?
  ▪ This may violate a clause for life insurance policies that the owner and beneficiary of a policy must be better off with the insured being alive.
  ▪ Typically, a charity can pass this test by demonstrating that a donor is valuable as a volunteer or has extraordinary future donor potential.
    • This program stretches it to the limit.
  ▪ Plus, the insured must be between 65-85 AND have a net worth of over $5 million AND have excess insurability.
  ▪ BIGGEST CHALLENGE: This could deeply affect a donor's ability to get life insurance later if needed, such as if someone needed to create a life insurance trust to provide cash flow to pay estate taxes to keep a business from being liquidated.

Cues that indicate a donor may be interested
• Life Insurance is popular often with younger donors with whole life policies and plenty of coverage from elsewhere
• Healthy older donors with under insurance (more capability)
• Donors with more insurance exceeding the amount they need
• “I already did my planning. I don’t need a will because I have two assets: a retirement plan (which I am leaving to my kids) and a life insurance policy (which I am leaving to charity).
• “I recall buying life insurance when my children were younger, but now they’re grown.”

Slide #14: IRA Rollover
What is it/how does it work?
• Taxpayers age 70½ and older are required to make annual distributions from their IRAs which are then included in the taxpayers’ adjusted gross income (AGI) and subject to taxes. The IRA Charitable Rollover permits those taxpayers to make donations directly to charitable organizations from their IRAs without counting them as part of their AGI and, consequently, without paying taxes on them.

• A donor’s total combined charitable IRA rollover contributions cannot exceed $100,000 in any one year.

• Charitable contributions from an IRA must go directly to a public charity that is not a supporting organization. Contributions to donor-advised funds and private foundations, except in narrow circumstances, do not qualify for tax-free IRA rollover contributions.

• Distributions can only be made from traditional Individual Retirement Accounts or Roth IRAs. Charitable donations from 403(b) plans, 401(k) plans, pension plans, and other retirement plans are ineligible for the tax-free treatment.

• Distributions must be made directly from the IRA trustee payable to the public charity.

• Donors cannot receive any goods or services in return for charitable IRA rollover contributions in order to qualify for tax-free treatment.

• In order to benefit from the tax-free treatment, donors must obtain a written receipt.

Benefits to the donor:
• Donate up to $100,000 from an asset class that otherwise would require a minimum distribution and, with it, ordinary income tax rates.

• Potential Tax Benefits
  o This “qualified charitable distribution” is excluded from the donor’s adjusted gross income.
  o No "reduction of deduction" for high income taxpayers: Donors who have an income of $166,800 ($83,400 for married filing separately) in 2009 and who would normally be subject to a reduction of their itemized charitable deductions may give through the charitable IRA rollover and effectively receive a deduction for the full amount of the gift.
  o Taxpayers who normally take only the standard deduction (that is, taxpayers who don't itemize and therefore don't get to take charitable deductions) will get the equivalent of a charitable deduction for their rollover gift in addition to their standard deduction.
  o Taxpayers who do itemize but who are close to the adjusted gross income ceiling on charitable gifts (i.e., the 30% and 50% rules) can make a charitable IRA rollover, which will act like a full charitable deduction for their gift, and avoid the ceiling.
  o Donors who have carryover deductions from earlier charitable donations won't lose the ability to take the carryover deduction in the year of the rollover as a result of the IRA rollover gift. Normally deductions for current gifts are applied before any carryover deductions and may use up the allowable deduction amount.
  o Because the charitable IRA rollover amount is never recognized as income to the taxpayer, the taxpayer may avoid tax deduction reductions based on income levels (i.e., 7.5% floor on medical deductions, 2% floor on miscellaneous itemized deductions, etc.).
  o A charitable IRA rollover, as opposed to a withdrawal by the taxpayer that would be includable in income, may reduce the amount of social security payments that are subject to tax.
  o If the donor's state does not normally allow tax deductions for charitable gifts, a charitable IRA rollover may act like a charitable tax deduction. (Note: State laws vary and a tax advisor versed in the tax laws of the state should be consulted before the charitable IRA rollover.)
• SPECIAL NOTE ABOUT CHARITABLE IRA ROLLOVERS: Charitable IRA rollovers can be used to satisfy a pledge to a non-profit! It does not violate IRA self-dealing rules. (IRS Notice 2007-7; 2007-5 IRB 1, Q&A 44).

Benefits to the charity:
• Infusion of up to $100,000 in cash from a source that otherwise would be unavailable!
• The charitable IRA rollover can be used to satisfy a pledge or make a payment toward a pledge.

What’s the latest?
• The IRA Charitable Rollover was first enacted on August 17, 2006, as part of the Pension Protection Act of 2006 and expired on December 31, 2007. The provision was later reinstated and extended by Congress through December 31, 2009.
• On December 17, 2010 the President signed the Tax Relief, Unemployment Insurance Reauthorization and Job Creation Act of 2010 after bi-partisan support from both the House and Senate.
• This new legislation extends the IRA Charitable Rollover provision that expired at the end of 2009. The bill extends the provision that permits tax-free distributions to charity from an Individual Retirement Account (IRA) of up to $100,000 per taxpayer, per taxable year. The bill allows individuals to make charitable transfers during January of 2011 and treat them as if made during 2010. In addition, the bill sets the new expiration date for the Rollover as December 31, 2011, meaning that eligible gifts made throughout all of 2011 will also qualify for favorable tax treatment (in effect, a 2-year extension).

Cues that indicate a donor may be interested
• Over $125 million has been donated since 2006 and 30% of distributions are $1,000 or less (50% are less than $5,000)—this is not just for the ultra wealthy – keep your eyes open from all donors 70 and up!
• “I’ve already designated other charities and family in my will. What other options are there?”
• “I really don’t need or want the required minimum distribution from my IRA.”
• “I have to take my required minimum distribution this year. The tax implications are not going to be pretty.”
• “This is the year Uncle Sam’s going to make me start taking money from my IRA – what a headache that will be for my CPA.”

Challenges/Pitfalls
• The law that allows for this special program has only been renewed in one year increments since 2007. On a given year, it could be the last year to take advantage of the program.
• Donors have to follow a special protocol in rolling over the IRA. If they take the distribution and then donate the proceeds, it would be the same effect as taking a paycheck and then writing a check.
• The IRA Roll-over is limited to $100,000 per year.

Slide #15: Educational Resources
• Join industry associations
  • Partnership for Philanthropic Planning
  • AFP
• AHP
• Participate in local, regional and national conferences and roundtables.
  • National Capital Planned Giving Council
  • Chesapeake Planned Giving Council
• Enroll in specialized philanthropy programs.
  • American Institute for Philanthropic Studies – California State Long Beach Foundation
    • 19 full-day classes over 12 months (6 modules)
    • Practicum
    • Professional Certification program
  • Check local colleges and universities
  • Program conducted by various professional societies
• Read periodicals.
  • Journal of Gift Planning
  • Advancing Philanthropy
  • Chronicle of Philanthropy
  • Planned Giving Design Center (pgdc.org)
• Find a mentor.
• Feel free to ask dumb questions and copy successful approaches!

Slide #16: Next Class
In the second installment of this series, we will explore exciting and more complex planned giving vehicles. While they may not be as popular or as common as the ones we’ve discussed today, in certain circumstances, they can be extremely beneficial to both the donor and the non-profit.

In addition, I will briefly cover a few so-called “innovative” planned giving vehicles that should be avoided.

Talk with you in April! Be sure to fill-out the evaluation form to receive important planned giving resources that relate to today’s topics.
Charitable Contribution Gift Letters
Credit: Martin M. Shenkman, CPA, MBA, JD

Summary: When planning a significant charitable gift or bequest consider a letter agreement with the charity clarifying for all involved what your intent is, how the charity will use the funds, and addressing other issues. The following checklist will provide a starting point for some of the many issues you may want to address.

√ Be specific as to when the bequest to the charity shall take place. If the bequest is made under your will, state the date of the will that governs the bequest and what will happen if you revise your will? Refer to the correct nature of a bequest your will provides that the named charity will receive the intended bequest only your children die not survived by issue, that is a contingent bequest. Imprecise wording, e.g., listing the bequest as one of your remainder estate, might be misleading and create an incorrect inference.

√ Have the charity provide a copy of the letter they receive from the IRS granting them tax exempt status. Occasionally, the name the charity is known by (the one commonly used) and you want to be certain the correct organization, and one which is tax exempt, is properly named. Example: “ABC Charity, Inc., which is recognized by the IRS as qualifying for the unlimited estate tax charitable contribution deduction. A copy of its tax exemption letter from the IRS is attached.”

√ If your bequest is under a will consider whether the language of the gift letter should, or should not, make the bequest a binding commitment. Any charity will opt for the latter. If in fact the charity is starting a program or making commitments today based on your pledge, making it binding might be only fair (and might be the only way to encourage the charity to proceed with the program you wish). However, if there is no current change in position by the charity, consider whether you should expressly state that the pledge is not biding. This way, as circumstances change, you may revise your will and the bequest. “I recognize that this pledged gift is a not a binding obligation of my estate, but merely a statement of my current wishes which may change.”

√ If the charity has oversees offices, specify whether you wish the funds to be retained and used within the U.S. Be certain that if you want the funds used overseas that your charitable deduction is not jeopardized. Example, you might need to make your gift to a U.S. “feeder organization” that qualifies within the U.S. and distributes funds overseas.

√ Consider whether you want to designate specific goals for the bequest. (e.g. held as part of the charity’s endowment fund to support services for those living with Parkinson’s disease.) Work out language with the charity that is specific enough to assure that your charitable intent is adhered to, but within those agreed parameters as flexible as possible to give the charity the latitude to adopt to changed circumstances to assure the longevity and effectiveness of your gift.

√ You should confirm the arrangements for you to be informed of, or even participate in, the selection of specific expenditures, or making other decisions. Consider whether you want the charity to report to anyone on the use of the funds after your disability or demise, who that should be and how it should be handled.

√ Bear in mind there is no estate tax charitable contribution deduction in 2010, but charitable gifts by you during your lifetime, or by your children from an inheritance after your death, will qualify for income tax benefits.

√ If you designated that income from this fund shall be used for a specific purpose you should also to provide flexibility for future years if the goal is no longer relevant (e.g., a cure for Parkinson’s disease is discovered), or in case the size of the fund declines to the point at which it is not feasible to maintain.
Sample Bequest Language

The bequest language is provided as a service of the parish for the donor’s attorney. It is not offered as, or intended to be, legal advice. Every state has requirements governing the creation of a valid last will and testament and a donor should always obtain the assistance of an attorney when making or adding a codicil of a will.

I. Bequest of a Specific Dollar Amount (un-restricted)
“I bequeath the sum of $____ to ABC Charity, a corporation sole, located in (City, State) to be used in such a manner as ABC Charity shall, in its sole discretion, determine. If ABC Charity, or its successor in interest, does not exist at the time of my death, I bequeath this gift to XYZ Charity.”

II. Bequest of a Specific Dollar Amount (restricted)
“I bequeath the sum of $____ to ABC Charity, a corporation sole, located in (City, State) to be used for ______ purpose or campaign at ABC Charity. If ABC Charity, or its successor in interest, does not exist at the time of my death, I give, devise and bequeath this gift to XYZ Charity.”

III. Bequest of a Specific Asset (un-restricted)
“I give, desire and bequeath all of my right, title and interest in ______ (describe the asset) to ABC Charity, a corporation sole, located in (City, State) to be used in such a manner as ABC Charity shall, in its sole discretion, determine. If ABC Charity, or its successor in interest, does not exist at the time of my death, I bequeath this gift to XYZ Charity.”

IV. Bequest of a Specific Asset (restricted)
“I give, desire and bequeath all of my right, title and interest in ______ (describe the asset) to ABC Charity, a corporation sole, located in (City, State) to be used for the ______________ purpose or campaign. If ABC Charity, or its successor in interest, does not exist at the time of my death, I bequeath this gift to XYZ Charity.”

V. Residuary Bequest (un-restricted)
“I give, desire and bequeath to ABC Charity, a corporation sole, located in (City, State) or its successor in interest, all the rest, residue and remainder of my estate to be in used such a manner as ABC Charity shall, in its sole discretion, determine. If ABC Charity, or its successor in interest, does not exist at the time of my death, I bequeath this gift to XYZ Charity.”

VI. Residuary Bequest (restricted)
“I give, desire and bequeath to ABC Charity, a corporation sole, located in (City, State) or its successor in interest, all the rest, residue and remainder of my estate to be used for the ______________ purpose or campaign. If ABC Charity, or its successor in interest, does not exist at the time of my death, I bequeath this gift to XYZ Charity.”

VII. Portion of the Residue (un-restricted)
“I give, desire and bequeath to ABC Charity, a corporation sole, located in (City, State) or its successor in interest, ____% (____ percent) of the rest, residue and remainder of my estate to be in used such a manner as ABC Charity shall, in its sole discretion, determine. If ABC Charity, or its successor in interest, does not exist at the time of my death, I bequeath this gift to XYZ Charity.”

VIII. Portion of the Residue (restricted)
“I give, desire and bequeath to ABC Charity, a corporation sole, located in (City, State) or its successor in interest, ____% (____ percent) of the rest, residue and remainder of my estate to be used for __________ purpose or campaign. If ABC Charity, or its successor in interest, does not exist at the time of my death, I bequeath this gift to XYZ Charity.”
Charitable annuity guarantees income

Q. I am co-owner of a house that provides us with $900 rental income every month. That money augments my part-time earnings and my husband’s pension and Social Security to pay our daily living expenses. The house is about to be sold and I expect to receive about $220,000. Is there any way to invest this money to provide a $900 monthly income indefinitely? A possible alternative would be to pay off our $35,000 mortgage, which we recently refinanced at 4.75 percent. That would release $450 in monthly payments, but we’d still need another $450 for our expenses. I am not overly concerned about inflation as we have some stocks and mutual funds that we do not touch. My primary concern is outliving our money. I am 68 and my husband is 78. Longevity runs in our families.

- M.K., Farmington Falls, Maine

A. Great. This gives me a chance to demonstrate to the many writers who have taken me to task for suggesting that charitable annuities are not appropriate for some financial situations. In previous columns, I have argued that charitable annuities are a poor solution for people who have little protection against future inflation, especially if they use most of their funds to purchase the annuity. It seems to me, though, that a charitable annuity is just the ticket for you. This entails giving an amount of money to a charity, which promises in return to pay you a flat payment of a certain amount monthly for the rest of your life.

You can get a charitable annuity for yourself or your husband, or a joint charitable annuity that will promise the payments for whichever of you lives longer. The latter seems to me to be the best option. At this stage, you might expect a return of about 6 percent on a joint charitable annuity, given your ages.

Although it would be emotionally satisfying to pay off the mortgage, it wouldn’t make much sense, given the low interest rate you are paying and the potential annuity return.

Not only would a return in the neighborhood of 6 percent give you about $2,400 more than you require at this point – which then could be stored up as a further buffer against future inflation – but you would also have a nice inflation-fighting raise coming, at whatever point your mortgage will be paid off. (The rate of return would be higher if you were to take a single annuity in your name, and higher still if it were in your husband’s name, but either of those moves would leave the survivor unprotected.)

Not only would such an annuity fulfill your income-stream needs, with change to boot, but it would also provide you with significant tax advantages.

One caveat you should consider is that there have been some scams involving charitable annuities, and the AARP warns that prospective buyers should check the issuers carefully, concentrating on charities they know and respect.


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Getting Going / By Jonathan Clements

Add to Favorites: A Guide to Web Tools That Help Investors Manage Money

Today’s Lesson: How to retire on the riches of the Internet.

No, I am not going to tell you how to pick dot-com stocks. Rather, my goal is to guide you through the Web’s treasure trove of free financial calculators, so you can quickly and easily plan your retirement.

Do you need to save more to compensate for today’s lackluster returns? Can your nest egg, battered by the bear market, still generate enough retirement income? Here’s where to hunt for answers.

Saving Yourself. Start at www.smartmoney.com. Click on the tab marked “tools” and then scroll down the screen’s left-hand side until you find the 401(k) Planner. Full disclosure: The Web site is a joint venture of Hearst Corp. and Dow Jones & Co., publisher of The Wall Street Journal.

Sure, there are more sophisticated retirement-planning programs. But SmartMoney’s 401(k) Planner is free and there’s no tedium registration process. More important, you can find out whether you are on track for a comfortable retirement by inputting just 12 numbers, all of which you should know off the top of your head.

One warning: Don’t try to compensate for your lackluster savings rate by assuming some ridiculously high portfolio return. After investment costs and given today’s lofty market valuations, I doubt most investors will outpace inflation by more than two or three percentage points a year.

Mixing It up. Do you have the right mix of stocks, bonds and cash investments? There are a bunch of Web worksheets that aim to help. But I wasn’t greatly impressed by the ones I tried. Some seemed simplistic, some took too darn long, and some asked stupid questions in an effort to gauge my risk tolerance.

Still, if you really want guidance, try www.strong.com, Strong Financial Corp.’s Web site. Go to the section for individual investors. From there, head to “advice and education” and then look for the asset-allocation planning tool in the “Investor resources” section.

Strong’s asset-allocation tool will offer you a sensible mix of stocks, bonds and cash. I would have liked a more detailed answer—such as how to divvy up my stock portfolio among large, small and foreign shares—and the suggested mixes may seem aggressive to some folks. But at least the worksheet involved only eight questions, and none struck me as stupid.

Home free. To retire in comfort, you don’t just need a decent-size nest egg. It also helps to pay off your mortgage, thereby ridding yourself of a major monthly expense.

To that end, try the mortgage calculator at www.bankrate.com. Want to be debt-free by the time you retire? Bankrate’s calculator will help you figure out how much to add to each monthly mortgage check.

Cracking your egg. Next, direct your browser to www.troweprice.com/ric/ric, where you will find T. Rowe Price Group Inc.’s retirement-income calculator.

To see whether your retirement nest egg will generate the income you want, you will need to plug in seven pieces of information. T. Rowe Price’s calculator will then use something called Monte Carlo analysis to test your retirement-spending strategy in a host of market environments.

Crying uncle. For those age 65 and over, Social Security is the single biggest source of income. But how much will you get each month from Uncle Sam?

Try the Quick Calculator at www.ssa.gov/oact/ANP1A. To get a more accurate answer, you may want to fiddle with Social Security’s year-by-year income assumptions, especially if your earnings record has been erratic.

Many folks claim Social Security at age 62. But if you are likely to live until age 82 or 83, you may want to delay benefits until 65 or 66, thereby getting a larger monthly check. That, of course, raises the question of your likely longevity.

For an answer, try www.livingto100.com. It takes a few minutes to fill out the site’s questionnaire. But it’s worth the effort. Along with a prediction of your life expectancy, the site offers health and nutrition advice that’s tailored to your answers.

Playing catch up. What if you don’t have enough for a comfortable retirement, even after taking into account your savings, Social Security and any pension?

To boost your retirement income, you might substitute an immediate-fixed annuity that pays lifetime income for part or all of your bond holdings. With this type of annuity, you hand over a chunk of money to an insurance company in return for a check every month for the rest of your life. To get a handle on how large those checks might be, go to www.webannuities.com.

But before you pawn up any cash, head back to www.livingto100.com. The reason: Unless you buy a life annuity that guarantees a minimum number of payments, the income stream will die when you do. As a result, you want to be confident you will live long enough to collect a decent number of checks.

To bolster your retirement income even more, also consider a reverse mortgage, which will allow you to borrow against your home’s value without making any repayments during your lifetime. To find out how much cash you might get from a reverse mortgage, try the calculator at www.reversemortgage.org.
Immediate Gift Annuity Agreement

Charity

Joint Property Gift Annuity For Annuitants George Washington and Martha Washington

This Two Life Agreement is made December 13, 2004 between George Washington and Martha Washington of 123 Main Street, Anytown, California 92780, (hereafter the "Donors") and a qualified exempt charitable organization, known as Charity, 123 Main Street, Anytown, California 92780 (hereafter the "Charitable Organization").

1. Property Transfer. The Donors, as an evidence of their desire to support the work of the Charitable Organization and to make a charitable gift, have this day contributed to the Charitable Organization the property described in Schedule A attached hereto, the fair market value of which is $50,000.

2. Payment of Annuity. In consideration of the property transferred by the Donors, the Charitable Organization shall pay to the Annuitants George Washington and Martha Washington for their joint lives and to the survivor for his or her life an annual annuity of $3,600.00, in equal quarterly payments of $900.00 at the end of each period. The first pro rata payment of $9.86 shall be paid on December 13, 2004 and all future payments shall be one quarter thereafter. The obligation of the Charitable Organization to make the annuity payments shall terminate either without payment if both Annuitants die before the first payment or with the payment prior to the death of the surviving Annuitant.

3. Birth Dates, Ages, Social Security Numbers and Addresses. The birth date, age to the nearest year, Social Security number and address of George Washington are July 11, 1922, Age Eighty-Two (82), SSN 123-45-6789 and 123 Main Street, Anytown, California 92780. Those of Martha Washington are October 8, 1923, Age Eighty-One (81), SSN 987-65-4321 and 123 Main Street, Anytown, California 92780. If any birth date or age shall be at any time found incorrect, then any underpayment or overpayment due to misstatement or other error, with interest as may be specified in Treasury Regulations, shall be corrected by prompt distribution to the Annuitants or by charge against current or future payments, as may be applicable.

4. Annuity Provisions. This annuity is irrevocable and nonassignable, except that it may be assigned to the Charitable Organization. Notwithstanding other provisions, Donors reserve the right by Will to revoke the survivor's annuity interest in each Donor's one-half interest in the Property specified in Schedule A. If a Donor exercises this right of revocation, the Charitable Organization's obligation with respect to that one-half interest shall terminate with the payment prior to the death of the deceased Donor. This Agreement and attached Schedule A constitute the entire agreement of the parties.

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5. **Payout and Use Provisions.** Unless the Charitable Organization is notified in writing of a change of address or another method of payment is selected by written agreement, annuity payments shall be made to the Annuitants' address noted in this agreement. Annuity payments shall be made under the provisions of this agreement and shall not be otherwise modified or commuted. After all required annuity payments under this agreement are completed, any annuity remainder amount shall be distributed to the Charitable Organization for its general uses and purposes.

6. **State Law Provisions.** This Agreement shall be governed by the laws of the state of California.

This annuity agreement shall be interpreted in a manner that is in compliance with applicable existing state law. By signing this agreement, the Donors acknowledge receipt of the Charitable Organization Gift Annuity Disclosure Statement, in accordance with the requirements of the Philanthropy Protection Act of 1995.

**Annuities are subject to regulation by the State of California. Payments under this agreement, however, are not protected or otherwise guaranteed by any government agency or the California Life and Health Insurance Guarantee Association.**

In addition, to the extent an amendment does not conflict with federal law, the agreement may be amended by mutual agreement of the parties solely for the purpose of compliance with state law, with such amendment subject to approval of the Insurance Commissioner of the State of California.

**IN WITNESS WHEREOF,** the Charitable Organization and the Donors have executed this Agreement on the date first stated above.

**Donors:**

__________________________ Date: ____________________
George Washington

__________________________ Date: ____________________
Martha Washington

**Charity  Incorporation Date — 1975**

By: __________________________ Date: ____________________
Signer, Title

Attest: ________________________ Date: ____________________
Attest, Title

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On December 17, the President signed the *Tax Relief, Unemployment Insurance Reauthorization and Job Creation Act of 2010* after bi-partisan support from both the House and Senate. The following elements of the bill will impact the planned giving sector:

**Estate Tax**
The legislation will reset the estate tax for 2011 to allow the first $5 million of an individual’s estate ($10 million for couples passing away in 2011) to be passed on to non-charitable beneficiaries tax-free and set a taxable rate of 35% for estate values beyond the exemption. The estate tax was allowed to expire completely in 2010 as part of the tax legislation enacted in 2001 and 2003, but would have reverted to a rate of 55% on an estate’s value in excess of $1 million in 2011 if no action was taken.

*Impact:* While the higher limits may be perceived to discourage some planned giving activity on the basis that more estates would fall under the exemption limits, there is a high likelihood that planned giving activities will increase since there is more certainty as to the law compared to most of 2010.

**Major planned giving vehicles that help to reduce an estate’s exposure to the estate tax:**
- Bequests
- Life Estates
- Charitable Lead Trusts
- Charitable Remainder Trusts
- Certain life insurance trusts that provide untaxed sources of income to heirs to help pay estate taxes that otherwise may have required businesses or properties in an estate to be liquidated.

**Charitable IRA Rollover**
This new legislation extends the IRA Charitable Rollover provision that expired at the end of 2009. The bill extends the provision that permits tax-free distributions to charity from an Individual Retirement Account (IRA) of up to $100,000 per taxpayer, per taxable year. *The bill allows individuals to make charitable transfers during January of 2011 and treat them as if made during 2010.* In addition, the bill sets the new expiration date for the Rollover as December 31, 2011, meaning that eligible gifts made throughout all of 2011 will also qualify for favorable tax treatment (in effect, a 2-year extension).

*Background on the Charitable IRA Rollover*
The IRA Charitable Rollover was first enacted on August 17, 2006, as part of the Pension Protection Act of 2006 and expired on December 31, 2007. The provision was later reinstated and extended by Congress through December 31, 2009.
- Taxpayers age 70½ and older are required to make annual distributions from their IRAs which are then included in the taxpayers’ adjusted gross income (AGI) and subject to taxes. The IRA Charitable Rollover permits those taxpayers to make donations directly to charitable
organizations from their IRAs without counting them as part of their AGI and, consequently, without paying taxes on them.

- A donor’s total combined charitable IRA rollover contributions cannot exceed $100,000 in any one year.
- Charitable contributions from an IRA must go directly to a public charity that is not a supporting organization. Contributions to donor-advised funds and private foundations, except in narrow circumstances, do not qualify for tax-free IRA rollover contributions.
- Distributions can only be made from traditional Individual Retirement Accounts or Roth IRAs. Charitable donations from 403(b) plans, 401(k) plans, pension plans, and other retirement plans are ineligible for the tax-free treatment.
- Distributions must be made directly from the IRA trustee payable to the public charity.
- Donors cannot receive any goods or services in return for charitable IRA rollover contributions in order to qualify for tax-free treatment.
- In order to benefit from the tax-free treatment, donors must obtain a written receipt.

Why is a Charitable IRA Rollover important to non-profits and donors?
It is an immediate infusion of funding at the end of the year or in 2011 for a non-profit. In addition, it can be used to satisfy pledges. Further, it has potentially enormous benefits to the donor:

- Donate up to $100,000 from an asset class that otherwise would require a minimum distribution and, with it, ordinary income tax rates.
- Potential Tax Benefits
  - This “qualified charitable distribution” is excluded from the donor’s AGI.
  - No "reduction of deduction" for high income taxpayers: Donors who have an income of $166,800 ($83,400 for married filing separately) and who would normally be subject to a reduction of their itemized charitable deductions may go through the charitable IRA rollover and effectively receive a deduction for the full amount of the gift.
  - Taxpayers who normally take only the standard deduction (that is, taxpayers who don't itemize and therefore don't get to take charitable deductions) will get the equivalent of a charitable deduction for their rollover gift in addition to their standard deduction.
  - Taxpayers who do itemize but who are close to the adjusted gross income ceiling on charitable gifts (i.e., the 30% and 50% rules) can make a charitable IRA rollover, which will act like a full charitable deduction for their gift, and avoid the ceiling.
  - Donors who have carryover deductions from earlier charitable donations won't lose the ability to take the carryover deduction in the year of the rollover as a result of the IRA rollover gift. Normally deductions for current gifts are applied before any carryover deductions and may use up the allowable deduction amount.
  - Because the charitable IRA rollover amount is never recognized as income to the taxpayer, the taxpayer may avoid tax deduction reductions based on income levels (i.e., 7.5% floor on medical deductions, 2% floor on miscellaneous itemized deductions, etc.).
  - A charitable IRA rollover, as opposed to a withdrawal by the taxpayer that would be includable in income, may reduce the amount of social security payments that are subject to tax.
  - If the donor's state does not normally allow tax deductions for charitable gifts, a charitable IRA rollover may act like a charitable tax deduction. (Note: State laws vary and a tax advisor versed in the tax laws of the state should be consulted before the charitable IRA rollover.)

- SPECIAL NOTE ABOUT CHARITABLE IRA ROLLOVERS: Charitable IRA rollovers can be used to satisfy a pledge to a non-profit! It does not violate IRA self-dealing rules. (IRS Notice 2007-7; 2007-5 IRB 1, Q&A 44).
Sample Documents

Sample Request from Plan Owner to Administrator for Charitable Distribution from Individual Retirement Account

RE: Request for Charitable Distribution from Individual Retirement Account

Dear Sir or Madam:

Please accept this letter as my request to make a direct charitable distribution from my Individual Retirement Account # (Account Number) as provided by the Sec. 1201 of the Pension Protection Act of 2006 and Sec. 408(d)(8) of the Internal Revenue Code of 1986, as amended.

Please issue a check in the amount of $_________ payable to the organization at address below:

(Legal Name of Charity)
Address
City, State, Zip
Attn: Name

In your transmittal to the charity, please memorialize my name and address as the donor of record in connection with this transfer. Please copy me on your transmittal.

(Optional paragraph for requests occurring close to year-end) It is my intention to have this transfer qualify for exclusion during the (2006 or 2007) tax year. Therefore, it is imperative this distribution be postmarked no later than December 31, 200__.

If you have any questions or need to contact me, I can be reached at (telephone).

Thank you for your assistance in this matter.

Sincerely,

(Plan Owner)

Sample Letter from Donor Informing Charity of Forthcoming Qualified Charitable Distribution from Administrator

Dear Sir or Madam:

It is my pleasure to inform you that I have requested a qualified charitable distribution from my Individual Retirement Account payable to your organization in the amount of $___________ from my plan trustee/administrator, (name of trustee/administrator).
It is my intent to comply with the requirements of Sec. 1201 of the Pension Protection Act of 2006 and Sec. 408(d)(8) of the Internal Revenue Code of 1986, as amended, in connection with this gift.

Accordingly, upon your receipt of payment from my trustee/administrator, please send me a contemporaneous written acknowledgement that states the amount of my gift, that no goods or services were transferred to me by your organization in consideration for this gift, and that my gift will not be placed in a donor advised fund or supporting organization.

If you have any questions or need to contact me, I can be reached at (telephone).

Sincerely,

(Donor)

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Sample Contemporaneous Written Acknowledgement from Charity to Donor

Dear (Donor):

Thank you for your gift in the amount of $_________ from your Individual Retirement Account. We are writing to acknowledge that we received your gift directly from your plan trustee/administrator and that it is your intention for all or a portion of your gift to qualify as a qualified charitable distribution from your IRA under section 408(d)(8) of the Internal Revenue Code.

In that connection, we warrant to you that our organization is qualified under section 170(b)(1)(A) of the Internal Revenue Code and that your gift was not transferred to either a donor advised fund or a supporting organization as described in section 509(a)(3).

We further warrant that no goods or services of any value were or will be transferred to you in connection with this gift.

Please retain this letter with your important tax documents and provide a copy to your tax preparer.

Thank you for your generous contribution to our organization.

Sincerely,

(Charity)

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Disclaimer: This article is based on our initial analysis and impressions of H.R. 4 — The Pension Protection Act of 2006. Although we have made every effort to ensure its accuracy, it is not to be construed as legal, accounting, tax, investment, or other professional advice. We urge you to seek competent counsel prior to relying on the opinions expressed herein.
AFP Code of Ethical Principles and Standards

ETHICAL PRINCIPLES • Adopted 1964; amended Sept. 2007

The Association of Fundraising Professionals (AFP) exists to foster the development and growth of fundraising professionals and the profession, to promote high ethical behavior in the fundraising profession and to preserve and enhance philanthropy and volunteerism. Members of AFP are motivated by an inner drive to improve the quality of life through the causes they serve. They serve the ideal of philanthropy, are committed to the preservation and enhancement of volunteerism; and hold stewardship of these concepts as the overriding direction of their professional life. They recognize their responsibility to ensure that needed resources are vigorously and ethically sought and that the intent of the donor is honestly fulfilled. To these ends, AFP members, both individual and business, embrace certain values that they strive to uphold in performing their responsibilities for generating philanthropic support. AFP business members strive to promote and protect the work and mission of their client organizations.

MEMBER OBLIGATIONS

1. Members shall not engage in activities that harm the members’ organizations, clients or profession.
2. Members shall not engage in activities that conflict with their fiduciary, ethical and legal obligations to their organizations, clients or profession.
3. Members shall effectively disclose all potential and actual conflicts of interest; such disclosure does not preclude or imply ethical impropriety.
4. Members shall not exploit any relationship with a donor, prospect, volunteer, client or employee for the benefit of the members or the members’ organizations.
5. Members shall comply with all applicable local, state, provincial and federal civil and criminal laws.
6. Members recognize their individual boundaries of competence and are forthcoming and truthful about their professional experience and qualifications and will represent their achievements accurately and without exaggeration.
7. Members shall present and supply products and/or services honestly and without misrepresentation and will clearly identify the details of those products, such as availability of the products and/or services and other factors that may affect the suitability of the products and/or services for donors, clients or nonprofit organizations.
8. Members shall establish the nature and purpose of any contractual relationship at the outset and will be responsive and available to organizations and their employing organizations before, during and after any sale of materials and/or services. Members will comply with all fair and reasonable obligations created by the contract.
9. Members shall refrain from knowingly infringing the intellectual property rights of other parties at all times. Members shall address and rectify any inadvertent infringement that may occur.
10. Members shall protect the confidentiality of all privileged information relating to the provider/client relationships.
11. Members shall refrain from any activity designed to disparage competitors untruthfully.

SOLICITATION AND USE OF PHILANTHROPIC FUNDS

12. Members shall take care to ensure that all solicitation and communication materials are accurate and correctly reflect their organizations’ mission and use of solicited funds.
13. Members shall take care to ensure that donors receive informed, accurate and ethical advice about the value and tax implications of contributions.
14. Members shall take care to ensure that contributions are used in accordance with donors’ intentions.
15. Members shall take care to ensure proper stewardship of all revenue sources, including timely reports on the use and management of such funds.
16. Members shall obtain explicit consent by donors before altering the conditions of financial transactions.

PRESENTATION OF INFORMATION

17. Members shall not disclose privileged or confidential information to unauthorized parties.
18. Members shall adhere to the principle that all donor and prospect information created by, or on behalf of, an organization or a client is the property of that organization or client and shall not be transferred or utilized except on behalf of that organization or client.
19. Members shall give donors and clients the opportunity to have their names removed from lists that are sold to, rented to or exchanged with other organizations.
20. Members shall, when stating fundraising results, use accurate and consistent accounting methods that conform to the appropriate guidelines adopted by the American Institute of Certified Public Accountants (AICPA)* for the type of organization involved. (* In countries outside of the United States, comparable authority should be utilized.)

COMPENSATION AND CONTRACTS

21. Members shall not accept compensation or enter into a contract that is based on a percentage of contributions, nor shall members accept finder’s fees or contingent fees. Business members must refrain from receiving compensation from third parties derived from products or services for a client without disclosing that third-party compensation to the client (for example, volume rebates from vendors to business members).
22. Members may accept performance-based compensation, such as bonuses, provided such bonuses are in accord with prevailing practices within the members’ own organizations and are not based on a percentage of contributions.
23. Members shall neither offer nor accept payments or special considerations for the purpose of influencing the selection of products or services.
24. Members shall not pay finder’s fees, commissions or percentage compensation based on contributions, and shall take care to discourage their organizations from making such payments.
25. Any member receiving funds on behalf of a donor or client must meet the legal requirements for the disbursement of those funds. Any interest or income earned on the funds should be fully disclosed.

ETHICAL STANDARDS

Furthermore, while striving to act according to the above values, AFP members, both individual and business, aspire to:

- practice their profession with integrity, honesty, truthfulness and adherence to the absolute obligation to safeguard the public trust
- act according to the highest goals and visions of their organizations, professions, clients and consciences
- put philanthropic mission above personal gain;
- inspire others through their own sense of dedication and high purpose
- improve their professional knowledge and skills, so that their performance will better serve others
- demonstrate concern for the interests and well-being of individuals affected by their actions
- value the privacy, freedom of choice and interests of all those affected by their actions
- foster cultural diversity and pluralistic values and treat all people with dignity and respect
- affirm, through personal giving, a commitment to philanthropy and its role in society
- adhere to the spirit as well as the letter of all applicable laws and regulations
- advocate within their organizations adherence to all applicable laws and regulations
- avoid even the appearance of any criminal offense or professional misconduct
- bring credit to the fundraising profession by their public demeanor
- encourage colleagues to embrace and practice these ethical principles and standards
- be aware of the codes of ethics promulgated by other professional organizations that serve philanthropy
Preamble
The purpose of this statement is to encourage responsible gift planning by urging the adoption of the following Standards of Practice by all individuals who work in the charitable gift planning process, gift planning officers, fund raising consultants, attorneys, accountants, financial planners, life insurance agents and other financial services professionals (collectively referred to hereafter as “Gift Planners”), and by the institutions that these persons represent.

This statement recognizes that the solicitation, planning and administration of a charitable gift is a complex process involving philanthropic, personal, financial, and tax considerations, and often involves professionals from various disciplines whose goals should include working together to structure a gift that achieves a fair and proper balance between the interests of the donor and the purposes of the charitable institution.

I. Primacy of Philanthropic Motivation
The principal basis for making a charitable gift should be a desire on the part of the donor to support the work of charitable institutions.

II. Explanation of Tax Implications
Congress has provided tax incentives for charitable giving, and the emphasis in this statement on philanthropic motivation in no way minimizes the necessity and appropriateness of a full and accurate explanation by the Gift Planner of those incentives and their implications.

III. Full Disclosure
It is essential to the gift planning process that the role and relationships of all parties involved, including how and by whom each is compensated, be fully disclosed to the donor. A Gift Planner shall not act or purport to act as a representative of any charity without the express knowledge and approval of the charity, and shall not, while employed by the charity, act or purport to act as a representative of the donor, without the express consent of both the charity and the donor.

IV. Compensation
Compensation paid to Gift Planners shall be reasonable and proportionate to the services provided. Payment of finder’s fees, commissions or other fees by a donee organization to an independent Gift Planner as a condition for the delivery of a gift is never appropriate. Such payments lead to abusive practices and may violate certain state and federal regulations. Likewise, commission-based compensation for Gift Planners who are employed by a charitable institution is never appropriate.

V. Competence and Professionalism
The Gift Planner should strive to achieve and maintain a high degree of competence in his or her chosen area, and shall advise donors only in areas in which he or she is professionally qualified. It is a hallmark of professionalism for Gift Planners that they realize when they have reached the limits of their knowledge and expertise, and as a result, should include other professionals in the process. Such relationships should be characterized by courtesy, tact and mutual respect.

VI. Consultation with Independent Advisers
A Gift Planner acting on behalf of a charity shall in all cases strongly encourage the donor to discuss the proposed gift with competent independent legal and tax advisers of the donor’s choice.

VII. Consultation with Charities
Although Gift Planners frequently and properly counsel donors concerning specific charitable gifts without the prior knowledge or approval of the donee organization, the Gift Planner, in order to insure that the gift will accomplish the donor’s objectives, should encourage the donor early in the gift planning process, to discuss the proposed gift with the charity to whom the gift is to be made. In cases where the donor desires anonymity, the Gift Planner shall endeavor, on behalf of the undisclosed donor, to obtain the charity’s input in the gift planning process.

VIII. Description and Representation of Gift
The Gift Planner shall make every effort to assure that the donor receives a full description and an accurate representation of all aspects of any proposed charitable gift plan. The consequences for the charity, the donor and, where applicable, the donor’s family, should be apparent, and the assumptions underlying any financial illustrations should be realistic.

IX. Full Compliance
A Gift Planner shall fully comply with and shall encourage other parties in the gift planning process to fully comply with both the letter and spirit of all applicable federal and state laws and regulations.

X. Public Trust
Gift Planners shall, in all dealings with donors, institutions and other professionals, act with fairness, honesty, integrity and openness. Except for compensation received for services, the terms of which have been disclosed to the donor, they shall have no vested interest that could result in personal gain.

Charitable Life Insurance Evaluation Guidelines
CHARITABLE LIFE INSURANCE EVALUATION GUIDELINES

A TOOL FOR CHARITABLE GIFT PLANNERS

This publication is designed to provide accurate and authoritative information in regard to the subject matter covered. It is provided with the understanding that the publisher is not engaged in rendering legal, accounting or other professional services. If legal advice or other professional assistance is required, the services of a competent professional person should be sought.

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Preface

Alchemy was a medieval practice that relied on elixirs, mysterious incantations and strange rituals to cure ills, prolong life, and, most famously, transform base metals into gold. Life insurance is sometimes promoted as a modern alchemist’s tool because of its ability to provide significant cash payments and to allow the accumulation of wealth. So too, in some instances, has planned giving been touted as an alchemy of sorts, giving the appearance of generating substantial benefits for the donor, beyond the mere retention of an income interest while fulfilling a charitable goal.

Perhaps it is inevitable, then, that life insurance and planned giving should regularly find common intersections.

Sometimes these intersections have been beneficial. Generous outright contributions of life insurance policies have provided significant financial support for charitable causes. And life insurance has frequently provided the wealth replacement component that made a gift plan possible for the donor and his or her family. On other occasions, the results have been less positive, as was the case with certain split dollar plans promoted in the 1990s.

Charitable gift planners owe it to their donors, clients, and charitable institutions to understand the workings of charitable gift plans and to be willing to objectively explore new and innovative proposals. However, considerable time, effort, and resources would be wasted pursing each and every possibility.

The successful gift planner will rely on the *Model Standards of Practice for the Charitable Gift Planner* as the foundation for any review and evaluation of a gift proposal, including those involving novel applications of life insurance. The Model Standards are reproduced in Appendix 5. Three of the standards (I, III, and X) are key when considering charitable life insurance proposals:

**Philanthropic Motivation** – The principal basis for making a charitable gift should be a desire on the part of the donor to support the work of charitable institutions.

**Disclosure** – The role and relationships of all parties involved should be fully disclosed to the donor and no party should act or purport to act as a representative of any charity without the express knowledge and approval of the charity.

**Public Trust** – Gift Planners shall act with fairness, honesty, integrity and openness and, except for compensation for services which has been disclosed to the donor, shall have no vested interest that could result in personal gain.

These *Charitable Life Insurance Evaluation Guidelines* are provided as a guide to the charitable gift planner. Recognizing the wide array of circumstances and conditions under which life insurance may be applied to charitable giving, no attempt is made to unconditionally affirm—or condemn—life insurance in charitable giving. Even answering all of the questions posed by these Charitable Life Insurance Evaluation Guidelines will not produce a simple yes or no answer.

Ultimately, each proposal for an application of life insurance to charitable giving will have to be judged on its own merits to determine, first and foremost, whether or not the proposal will produce value for the charity and assist the donor in the achievement of his or her charitable objectives. If a proposal or program fails to meet these two criteria, then it fails to qualify as a charitable gift plan.
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Introduction

Life insurance is a valuable tool in many financial and estate planning applications. In addition, many programs have been developed over the years to apply life insurance to charitable giving. Some, such as the charitable reverse split dollar programs promoted in the 1990s, have been discredited and subject to significant regulation while others, such as the outright contribution of existing policies or the combination of wealth replacement insurance with a contribution to a charitable remainder trust, have stood the test of time and have proven to be a significant source of value for charitable organizations.

Charitable gift planners are frequently approached with offers of creative applications of life insurance in regard to charitable gift planning. Some of these proposals involve new or innovative uses of life insurance products while others are merely novel marketing approaches for traditional applications. In general, charitable life insurance programs are aggressively marketed, often with sales promotions that are aimed at board members and other high level officials within the charitable organization.

Some of these proposals provide real economic value for the charitable beneficiary and advantages for the donor, while others seem to be designed primarily to enrich the promoters involved. Frequently, these marketing approaches are accompanied by voluminous, but not necessarily illuminating, financial illustrations which can make it difficult to compare alternatives and to evaluate the potential value to the charitable organization.

Charitable gift planners and donor advisors struggle to analyze these offerings and to navigate through the many and sometimes conflicting claims in order to advise charities, donors and clients. The National Committee on Planned Giving (NCPG) has issued these Charitable Life Insurance Evaluation Guidelines as a tool to assist charitable gift planners in the analysis and evaluation of charitable life insurance proposals.

These guidelines do not purport to judge any specific proposal or type of program; rather, they are designed as an analytical tool that will:

- be useful in the analysis of charitable life insurance proposals;
- provide a methodology to reveal the overall value of such plans for the charitable organization;
- suggest a framework to analyze the projected economic value created for the charitable beneficiary;
- assist charities and donor advisors in evaluating the legal and ethical ramifications of charitable life insurance plans that might place a charitable organization or donor in jeopardy.
Methodology

Responsible gift planners should conduct a careful analysis before engaging in any charitable life insurance program. Since a complete analysis can represent a significant investment of time and effort, these Charitable Life Insurance Evaluation Guidelines propose a stepped analysis, leading from broad and qualitative inquiries through progressively more specific and quantitative analysis, in order to allow the gift planner to effectively triage his or her efforts. If a proposal cannot meet the broad requirements, there may be no need to engage in the more exacting and time-consuming steps in the analysis.

The guidelines are divided into the following sections:

Guiding Principles – an outline of principles to guide the analysis of a proposed charitable gift plan

Threshold Questions – a set of key considerations that should be examined before beginning the step-by-step analysis of a proposed charitable life insurance program

Meeting Organizational Priorities – a subjective examination of how closely the proposal fits the needs of the charitable organization

Economic Analysis – an estimate of the actual value of the proposed program to the charitable organization

Financial Analysis – identifying and understanding how the values flow within the program

Structural and Risk Analysis – analyzing the specific components and structure of the program and the soundness of the providers

Approach

Unfortunately, a common sentiment toward discussions regarding life insurance is summarized by the following observation:

*Ignorance, complexity, and apathy are the three words that best characterize the market for individual life insurance. In this kind of atmosphere, opportunities for the exploitation of consumers abound.*

Gift planners can be tempted to spurn all life insurance proposals without devoting the time and effort to examine each proposal to determine what value it might bring to the charitable organization.

When choosing an insurance policy to protect your own personal financial well-being, you would, of course, resist being pressured to make a decision. Instead, you would carefully weigh your personal needs compared to the program being offered, considering your priorities and your financial goals and whether this is the most efficient way to achieve them. You would conduct due diligence to ensure that the promoter was reliable, that the product being touted was legitimate, and that any risks did not outweigh the potential benefits.

You should apply that same level of analysis, and caution, before entering into a life insurance program on behalf of your charitable organization. The sections that follow suggest a stepped analysis that leads to progressively deeper review of charitable life insurance program proposals. Seldom will there be one question or one measure that disqualifies—or qualifies—a specific program. However, in the aggregate, the answers to these questions will, like a mosaic, create a picture that will help determine whether or not a specific charitable life insurance program is likely to create real value for your organization, or if you would be better off devoting your efforts elsewhere.

Definitions

At the outset, it is important to establish the roles and functions of the entities involved in charitable life insurance programs. In some cases, these definitions differ from those used in ordinary non-charitable applications. Although Appendix 1 contains a more complete glossary, the following terms and definitions are key, and will be used consistently throughout these Charitable Life Insurance Evaluation Guidelines:

**Insured** – the individual upon whose life a policy or annuity is issued.

**Insurer** – the insurance company that issues the policy or annuity.

**Owner** – the individual or entity that owns the policy.

**Policy** – a contract issued by an insurer that promises to pay a death benefit to the beneficiary upon the death of the insured.

**Annuity** – a contract issued by an insurer that promises to periodically pay an amount to a beneficiary (the amount of the annuity can be fixed or variable and continue for the lifetime or last for a shorter period according to the terms of the contract).

**Death benefit** – the amount paid upon the death of the insured (the amount of the death benefit can be guaranteed and fixed at the time the policy is issued or it can vary according to the terms of the contract; the net amount available may be reduced by loans or withdrawals made before the death of the insured).

**Beneficiary** – the individual or entity to whom the death benefit or periodic annuity is to be paid.

**Premium** – the amount paid to the insurer in exchange for the contractual promises (insurance policies usually require periodic payment of premiums during the lifetime of the insured; annuities usually require a single premium payment paid when the contract is issued).

Many charitable life insurance programs are variations on one of two basic concepts:

**Premium Financed Plans** – These programs are typically presented as a package consisting of a pre-arranged loan (or other debt facility) that provides the charity with funds to purchase a number of life insurance policies on the lives of a group of donors or other constituents. Such programs rely upon the assumption that a sufficient number of the insured will die as expected based upon an actuarial prediction, in order to ensure that the death benefits collected will be enough to retire the debt and continue to provide future premium payments. After all of the insureds have died, the charity is projected to be left with a significant amount of money or economic benefit despite having invested little, or sometimes no, cash over the course of the program.

**Premium Arbitrage Plans** – These programs are often promoted as a sophisticated investment option rather than as a charitable contribution program. The plans involve either an expenditure of the charitable organization’s own funds or the use of borrowed or other funds provided by outside investors to purchase both an annuity contract and a life insurance policy on the same individual, usually from different insurers. Often the individual to be insured must meet certain specified health and age criteria in order to secure favorable premium pricing.

The promoters maintain that under these conditions they can obtain an annuity that pays enough to cover the premium amount for the life insurance and the interest on the loan (if any) and still provide a current return to either the investors or the charitable organization for as long as the insured lives. When the insured dies, the death benefit of the life insurance provides a guaranteed return of principal to the investors or is used by the charity to repay either the loan or its endowment for the amount that was spent for the annuity contract. (In cases where an outside investor must first be repaid, the charity receives only what is left after this obligation is satisfied.)
Guiding Principles

The following key principles are the philosophical underpinning for these Charitable Life Insurance Evaluation Guidelines, and are useful in the analysis of any charitable gift proposal, especially a proposed charitable life insurance program.

Complete Analysis – Careful analysis of both the subjective and objective factors is key. Some aspects of charitable life insurance programs lend themselves to quantitative analysis, while other aspects are more qualitative in nature. A worthwhile charitable life insurance program will meet both subjective and objective criteria.

Value and Values – The analysis should guard both the value and the values of the charitable organization today and in the future. Even though a charitable life insurance program may be financially viable, it may present unwarranted risk to reputation and/or consume unreasonable amounts of valuable staff time and resources.

Time to Decide – The charitable organization should not be pressured into a decision, no matter how appealing the proposal. Charitable life insurance programs typically run for many years, sometimes multiple lifetimes. Charitable organizations should devote sufficient time and effort to ensure that the charitable life insurance program will provide real value to the charitable organization and is supported by its leadership and its constituents.

Nothing is Free – Nothing of value comes without a price. All of the costs of the charitable life insurance program, including the costs of insurance, borrowing, commissions, and ongoing administration, must be paid by someone at some point. The charity should have a clear understanding of all costs and the sources of the funds to pay these expenses, as well as the ultimate source of the value the charitable organization expects to receive.

Charitable Interest – The charitable life insurance program must respect and serve the charitable interests of the donor.

Obligations and Commitments – Charitable organizations should fully understand the costs involved in a proposed charitable life insurance program and the impact on those costs should the program not unfold as planned. Interest rates, mortality assumptions, and the cost of insurance are all variables that may increase or decrease the charity’s out-of-pocket expenses over time.
Before beginning a careful analysis of the details of a charitable life insurance program, first consider a number of threshold questions. These tend to be subjective in nature and the answers may be qualitative or “gut reactions.” The questions will not likely provide a clear go or no-go decision. However, they may suggest caution, or perhaps additional inquiries that should be made before significant time and effort is devoted to analyzing the financial and technical details of the proposed charitable life insurance program.

What was your initial reaction? – If you found yourself feeling that the program sounds too good to be true or may not be legal or ethical, you may be right. Before your brain got involved, did your gut tell you that something may be wrong? Don’t get caught up in the initial sales pitch.

Do you feel that the program will work? – Don’t check the numbers or research the Internal Revenue Code yet. Just ask yourself whether or not the program seems viable and makes sense. Do you believe that this program, if all goes as planned, will work?

How does the value flow through the program? Is it logical? – “Follow the money,” is still good advice. It should flow from point to point, much like water flowing down a river. It should never move upstream unless there is a reason—which might prove to be a submerged rock creating an eddy! If a donor intends to flow money to his or her favorite charity, it shouldn’t flow backwards without a good reason.

How do you feel regulators and other government officials will react? – How will the IRS react to a deduction that might be taken? How will your State Attorney General view this activity and the decision of your board of directors—as a charitable contribution or as a form of business relationship with the donor? How will your State Insurance Commissioner react to your charity insuring the life of a donor?

Does the program make economic sense for the donor? – Will the donor receive a benefit from the program and is that benefit what the donor expects?

Does the program make economic sense for your charitable organization? – Will your organization receive a value that will exceed your time and effort? Will the long term economic gain exceed the potential long term cost?

Does the program cultivate true “donors” or simply individuals willing to be insured? – Is the program likely to generate new prospective donors? What will the impact be on your current donors?
Organizational Considerations

Does the proposed program fit the needs and priorities of the charitable organization? When purchasing life insurance for your own personal needs, you would approach the decision thoughtfully and cautiously, and you might wonder who would benefit most from your purchase of the policy. Before going very far at all, you would make certain that you actually need the protection and value provided by the insurance product. You would look to the facts for answers, but you would also rely on your knowledge and intuition about your own circumstances and needs.

Many charities have welcomed and promoted contributions of life insurance. The proceeds from life insurance policies have helped charitable organizations carry out their charitable purposes, often in ways that would otherwise not have been possible. Outright contributions of existing or new policies, and the use of life insurance as a wealth replacement strategy in planned giving are commonly used.

These traditional uses of life insurance in charitable giving require little additional effort or commitment from the charitable organization. However, the decision to promote a charitable life insurance program as a source of contributions must be carefully scrutinized. The need to identify, cultivate and solicit participants, and then steward those relationships for many years, as well as manage and monitor the program, all require a long term commitment of staff and program resources.

Supporting Organizational Priorities

Consider three different charitable organizations with different needs that might be met by a charitable life insurance program designed to benefit the charity:

Organization A – was recently notified that its Service Center has been condemned as a result of a termite infestation. It must quickly secure funds to build a new facility.

Organization B – has just launched an endowment campaign with the goal of securing $18 million for its endowment within the next five years.

Organization C – is a financially sound charity that hopes to preserve its ability to serve the community for many years to come.

Although it may be tempted by the potential for long term benefit, Organization A should carefully weigh its need to secure funds for immediate use against the risk of diverting staff attention for the potential of a future benefit. The decision to participate in a charitable life insurance program should be guided by its pressing need for current, rather than deferred, funding.

Similarly, Organization B hopes to have an endowment of $18 million in five years. It too needs to concentrate on those activities that will provide more immediate revenue than the charitable life insurance program.

However, Organization C may determine that the charitable life insurance program is in line with its priorities. Still, Organization C will need to explore other factors that may influence its decision to participate.

Efficient Use of Resources

Although a traditional program simply promoting contributions of life insurance policies is reasonably easy to administer, a charitable organization must recognize that a more complex charitable life insurance program can require considerable staff energy, resources, and attention. Consequently, it needs to decide whether the assignment of staff to the proposed charitable life insurance program is the most cost-efficient way to meet its funding priorities or whether participation in the charitable life insurance program will divert effort and resources from fundraising activities that are more conducive to the organization’s objectives.
Donor Diversion

Some charitable life insurance programs tout the ability to provide donors with the opportunity to support the organization without making a monetary contribution. While this may be an alluring option, prior to soliciting a pool of potential prospects, you should carefully consider whether there are those in the prospect pool who may conclude that this is their “contribution” and reduce other gifts as a result of their involvement in the charitable life insurance program. Staff time may be better used to identify and cultivate prospects for immediate and more substantial contributions.

Debt Financing

The question is not whether the charitable organization has the right to borrow funds, but whether it should borrow money for this particular purpose. There are many good reasons for a charitable organization to borrow funds. For example, loans are often used to allow organizations to alleviate cash flow problems, meet capital projects, or purchase equipment. However, a responsible charitable organization should carefully consider the decision to go into debt for the purpose of purchasing insurance.

Several factors should be weighed in the decision to borrow to pay insurance premiums:

- Will the new debt limit or preclude the charitable organization from borrowing funds in an emergency situation? Will it limit or preclude the organization from borrowing funds to support projects requiring immediate financing?

- As a result of the new debt, what constraints will the organization face? When will cash begin flowing and how will debt service be covered in the meantime?

- What is the probability that the anticipated proceeds from the insurance death benefit(s) will not be received when expected?

- Although investment earnings are tax-exempt for a charitable organization, borrowing funds to generate interest can lead to Unrelated Business Taxable Income (UBTI). Thus, the charitable organization could also subject itself to taxable income on some of the proceeds from the charitable life insurance program.

- There may be securities ramifications. The Securities and Exchange Commission (SEC) regulates investment transactions that involve larger numbers of individuals. This is particularly relevant if the charitable life insurance program involves borrowing funds. If a large number of individual lenders becomes involved, it is possible that the SEC may review the process.

Your best protection is to secure the advice of your own counsel prior to signing any confidentiality or non-disclosure agreement, especially in light of the fact that state laws vary widely regarding the validity and enforceability of non-disclosure agreements.

Non-disclosure Agreements

A non-disclosure agreement, as its name implies, is usually a legal contract in which the signer agrees not to disclose certain information, except under terms as described in the agreement. Common in the scientific industry, non-disclosure agreements are becoming widely used in the financial services field by those who hope to maintain a competitive advantage by claiming a proprietary interest in certain features of a particular charitable life insurance program.

Sometimes these agreements can seriously handicap the charitable organization, and can prevent you from sharing the details of the charitable life insurance program with your trusted advisors. Furthermore, by agreeing to preserve secrecy about a proposed charitable life insurance plan, you may open your organization to legal liability even if you choose not to participate in the plan. For example, if you sign a confidentiality agreement and then decide not to participate with that particular promoter but later choose a proposal from a competing promoter, the first promoter might accuse you of violating the initial non-disclosure agreement.

Your best protection is to secure the advice of your own counsel prior to signing any confidentiality or non-disclosure agreement, especially in light of the fact that state laws vary widely regarding the validity and enforceability of non-disclosure agreements.
Full Disclosure

If you were approached on the street by a stranger who offered to sell you shares of stock in an undisclosed company, you would never consent to the investment without first demanding more details. Similarly, you have a duty to obtain the facts prior to entering into any agreement on behalf of your organization.

It is your right and obligation to know the relationships of the parties involved in the charitable life insurance program and to understand how, under what circumstances, and how much each is compensated and the value each adds to the program in return for his or her compensation. Appendix III provides a checklist with questions that may be useful as you try to understand these relationships. These questions are meant to serve as a guide; your advisors may recommend additional areas of inquiry.

Nonprofit Status

As a matter of public policy, charitable organizations are afforded tax-exempt status when the Internal Revenue Service (IRS) determines that the organization exists primarily to serve charitable purposes. In his article Charities and Insurance, The Next Big Thing, Larry Bell reminds readers that the IRS did not intend that charitable organizations be used to fill the pockets of for-profit professionals, and that if the IRS believes the organization is more intent on generating commissions or fees to the promoters rather than meeting its exempt purposes, the organization could jeopardize its 501(c)(3) status. While this is certainly a worst case scenario, nonetheless it is one that must be seriously considered, especially in light of the recently increased interest of Congress in the activities of charitable organizations.

Ethical Concerns

Many charitable life insurance plans are built on the assumption that the charitable organization will procure large pools of participants willing to be insured. Usually, but not always, the charity is encouraged to seek participants from those who have an existing relationship with the charity. When considering the solicitation of individuals, both those already affiliated with the organization and new participants, legal and ethical ramifications can arise.

In addition to the issues raised by state insurable interest statutes (see page 21), ethical considerations may affect both the organization and the individual to be insured. The organization, especially the governing board, should fully discuss and evaluate the potential consequences of involving unknown individuals in the purchase of life insurance on your constituents before proceeding. Consider:

- Marketing expert Regis McKenna reminds us that it’s not so much what you say about your organization, it’s what your donors and prospects say about you. Perhaps the best test is the age-old “headline” analogy. Ask yourself: What will your constituents say if they read an article describing your involvement in the program? Boston University was the subject of public outrage in 1989 after the Boston Globe reported that the University planned to raise money by taking out insurance policies on BU students.
- A secondary market is developing for charitable life insurance programs, which allows the original lenders or investors to sell their stakes in the program. Will your constituents, whom you invited to participate, be aware of the involvement of new parties and their interest in your constituents’ lives? If not, should they be advised of this situation? And when they become aware of it, will they be comfortable with unknown individuals having a financial stake in their life expectancy? (NOTE: As this report goes to press, Federal legislation has been proposed which would significantly diminish the appeal of charitable life insurance programs as an investment.)
- The promoters will have gained access to financial and contact information on those constituents who choose to participate and often on those who do not choose to participate. Is this appropriate?
- As discussed more completely later in this document, there is a limit to the amount of life insurance that insurers will issue on any given life. Is it ethical to ask a donor to participate in a plan that might restrict or prevent him or her from acquiring additional insurance coverage for personal or other planning needs in the future?
Experience of Others

Finally, before deciding to participate in a charitable life insurance program, be sure to obtain recommendations directly from other participants. How many other charities are working with the promoter? Call some of them and inquire about their successes, any problems they have encountered, ease of communication, and whether the program is working as they had expected. Do background checks. What do you know about the company, the agents, and other involved parties? Consult with colleagues through NCPG’s e-mail discussion group, GIFT-PL, or other national forums, the Better Business Bureau and, certainly, the national insurance associations.

1 IPWatchdog.com, copyright 2003-2004
2 Steve Leimberg, Estate Planning Newsletter #671. An excellent examination of the risks and ramifications of this particular area. Steve Leimberg’s Estate Planning Newsletter can be accessed at www.leimbergservices.com
3 Steve Leimberg, op. cit.
5 Boston Globe, April 20, 1989.
Economic Analysis

Ultimately, how much value will this program bring to your organization?

A charitable organization should consider a number of economic factors before obtaining an insurance policy on the life of an individual. Key among them is a careful analysis and projection of the ultimate economic benefit to the charitable organization, and how much charitable work that economic benefit will allow the organization to accomplish. Analysis of the economic benefit raises several questions:

- What is the present value of the projected future death benefit payment to the charitable organization?
- How is the present value determined?
- Are assumptions used in the projections reasonable?
- What is the probability of receiving the death benefit payment when it is projected?
- What is the present value of the required expenditures during the projected lifetime of the charitable life insurance program?
- Are there circumstances that might require additional payments or contributions to achieve the projected economic value?
- What will be the impact if the insured lives longer than expected?
- What are the economic risks involved (e.g., If interest rates change, how will the value to the charity be affected?)

Investor versus Charity Funded

There are two basic funding models for charitable life insurance programs. The flow of economic value as well as the risk differs, depending upon the method of financing used:

- **Investors provide initial funding** – These programs involve one or more outside investors who provide the funding to make the initial and sometimes the ongoing payments for the insurance. Such programs generally provide economic benefit to the charitable organization only upon the death of the insured. Should the insured live longer than expected, the charity will receive the death benefit later than anticipated and, of course, if the insured dies sooner than expected the charity receives its benefit sooner. In either case, the value ultimately received by the charity is unlikely to be precisely the amount projected.

  The timing of this economic benefit is generally no different than if the insured had purchased an insurance policy and named the charity as the beneficiary. Charitable organizations must understand that the timing of the receipt of the death benefit is uncertain, regardless of what may be represented in the program proposal.

- **Charity provides initial funding** – In these programs, the charitable organization makes the initial and sometimes the ongoing payments for the insurance, either through borrowing or the use of its own internal funds. Of course, the charity also assumes the significant additional risk if the program does not perform, since it is the charity’s funds that are invested. The timing of the death benefit, which is usually used to refund the initial expenditure by the charity, is uncertain, which can cause the charity’s funds to be encumbered longer than anticipated.

  In these programs, the charity may also enjoy certain economic benefits while the insured is alive, as well as the death benefit when the insured dies. If the charity provides the initial funding and is the owner of the policy, it may have the right to collect cash dividends, borrow against the policy, and make partial or complete surrenders of the policy.
Some charitable life insurance programs use a hybrid mix of these two funding mechanisms. As explained more fully in the section on Financial Analysis, the charitable organization should fully explore and understand any collateral agreements or encumbrance provisions that could make the charity liable for portions of the financing under certain circumstances.

Net Present Value Analysis

The methodology outlined in NCPG’s Valuation Standards for Charitable Planned Gifts should be used to conduct a present value analysis of the expected expenses (outflows) over time and the anticipated economic benefit (the death benefit expected to be received from the policy or policies) in the future.

The objective of the present value analysis is to provide the charitable organization with some indication of:

- the real value of the proposed charitable life insurance program in terms of the amount of charitable activity that it is likely to support
- the costs and benefits of the proposed program over time
- the financial effectiveness of the organization’s involvement in the program

In those charitable life insurance programs where outside investors provide the funding, the analysis is relatively straightforward: the present value of the expected death benefit(s) should be calculated, with appropriate discounting for the probability of lapse or failure of the program. The result is an indication of the value, in today’s dollars, of the charitable life insurance program to the charity and can be used to compare the program with other fundraising efforts.

Valuation Example

The objective of the net present value calculation is to estimate the value, in today’s dollars, of the charitable work that the proposed life insurance program is likely to provide. This will enable the organization to evaluate the impact the insurance program will have on the organization’s charitable purpose. The NCPG Valuation Standards provide a conceptual framework for the valuation of planned gifts that is applicable to the evaluation of proposed charitable life insurance programs.

Estimating the net present value of a charitable life insurance program involves a number of key assumptions, many of which are specific to the organization. Three key assumptions are:

program life expectancy – In most cases funds will not be available for charitable purposes until the end of one or more lifetimes. In order to calculate the present value of the life insurance program, an estimate must be made of the date(s) at which funds will be available for charitable purposes. In most premium financed programs, a number of individuals are insured and, depending upon the rate at which they die, net funds may begin to be available for charitable purposes once enough individuals have died to provide death benefit receipts in excess of the expenses of the program. The most precise estimate of the timing of availability of charitable funds would involve calculating the present value of the projected death benefit for each of the participant’s life expectancies based upon his or her age. However, for most purposes, an estimate based upon the life expectancy of the youngest insured may be sufficient.

organizational cost rise rate – Since funds will not be available for charitable purposes until some time in the future, an estimate must be made of the effect of inflation over time. The most accurate calculation will use an estimate of the rate at which the organization’s cost of providing its charitable services is expected to increase. In many cases, the general inflation rate as reflected in the Consumer Price Index may be used if more precise measures are not available.

expenses – In most cases the organization will incur expenses in the stewardship of the participants throughout their lifetimes. The marginal additional expense may be minimal if the participants are donors or other constituents involved in the organization. If, however, the participants are unique to the insurance program, the costs of maintaining these new relationships might be more significant.

For example, assume an organization is considering a premium financed charitable life insurance program that envisions the recruitment of 100 individuals who agree to be insured for the benefit of the charitable organization. The program is designed to be self financed and does not require
Obviously, enormous amounts of time and effort could be devoted to the construction of highly precise estimates of the net present value of such a program. In performing the net present value analysis, the organization will need to make trade-offs in order to produce a sufficiently accurate estimate without an inordinate expenditure of resources.

Those programs that require investment or expenditure by the charity of its own funds require a more complex analysis. In addition to calculating the present value of the death benefit(s), the analysis should also account for the present value of all expected expenditures by the charity over the lifetime of the program. A precise analysis will also include a further discounting factor to account for the risk that the charity may lose some or all of its investment in the program.

1 Although a full discussion of the actuarial science involved in estimating the life expectancy of a group of individuals is beyond the scope of this paper, two technical elements should be kept in mind when setting assumptions regarding the timing of the availability of charitable funds. First, individual life expectancy estimates are usually the average expectancy, the point at which one half of all individuals of a given age are expected to have died. Second, because life expectancies are measures of probabilities, the life expectancy of a group is usually longer than the life expectancy of the youngest individual in the group.

2 This estimate is only approximate in that it assumes that none of the funds are available until the last of those insured has died. A more accurate estimate would recognize and take into account that funds are likely to become available for charitable purposes at various points over the duration of the program.

3 Since servicing expenses will decrease as participants die each year, the organization has decided to reduce by one half the expense projection. A more accurate estimate would correlate the estimated expenses with the life expectancies of the individual participants.
Financial Analysis

Where does the money come from and where does it go before it reaches your charitable organization?

The financial analysis of the charitable life insurance program should produce a clear understanding of the financial consequences of the proposed program. Questions should include:

- What is the charitable organization’s commitment?
- How much will it cost the organization and/or its donor(s)?
- How much are the commissions, to whom are they paid, and are they reasonable in relation to the value added for the charity?
- How long will the charity and/or its donor(s) be financially committed?
- How much will the charitable organization receive when the insured dies?
- What is the probability of the charity receiving that amount (is it guaranteed)?
- Under what conditions might the charitable life insurance program fail to deliver the projected benefit?

Outright Contribution of Policy

The most straightforward application of life insurance in charitable giving is the case where the donor simply contributes a life insurance policy to the charity. If the donor transfers ownership of the policy to the charity, he or she may be entitled to an income tax charitable contribution deduction for a portion of the value of the policy. Further premium payments are the responsibility of the charity.

Often a generous donor will agree to make annual contributions to the charity in the amount of the premium. The charity then pays premiums, and the donor receives a deduction for the amount donated (deductible up to 30% or 50% of adjusted gross income). See figure 1.

In a slight variation on the above, the donor may continue to make premium payments directly to the insurer after ownership of the policy is transferred to the charity. In addition to the initial deduction for a portion of the value of the policy, the donor receives an income tax charitable contribution deduction for the premium amounts paid on behalf of the charity as well. See figure 2.
Figure 1: Outright Contribution

Figure 2: Variation on Outright Contribution
Figure 3: Premium Financed Plans

Figure 4: Premium Arbitrage Plans
**Premium Financed Plans**

These programs consist of two elements:

- A leveraged source of funding pays the premiums on the life insurance policies. The source is usually some type of loan or other debt facility, but it can also be funds invested by one or more entities.

- A number of life insurance policies issued on the lives of a group of individuals, usually constituents of the charitable organization.

The program relies on a projected number of insureds dying on schedule in order to ensure that the death benefits collected are sufficient to retire the debt and continue to provide the premium payments required by existing policies.

When all of the insureds have died, the charitable organization is projected to be left with a significant amount of money or economic benefit despite having invested little or, sometimes, no cash over the course of the program. See figure 3.

**Premium Arbitrage Plans**

These programs involve the simultaneous purchase of both an immediate annuity contract and a life insurance policy on the same individual, but usually from different insurers. The program may be offered as an "investment" for the charity’s endowment funds, or outside investors may provide capital or the charity might be encouraged to borrow to provide funding for the program. Regardless of the funding, the transaction usually involves two steps:

- The funds, from whichever source, are used to purchase a single premium fixed payment immediate annuity on the life of an individual. This contract provides a fixed annual payment for as long as the individual lives.

- Then, a life insurance policy is purchased on the same individual with a death benefit in the amount that has been spent on the annuity contract.

Conceptually, the annuity payments provide the source of funds to pay premiums on the life insurance policy and, when it is finally received, the death benefit from the insurance policy will "reimburse" the initial expenditure for the annuity contract.

Premium arbitrage plans usually require that the individual to be insured meets certain specific health and age criteria in order to secure the favorable premium pricing. The promoters maintain that under these conditions they can obtain an annuity that pays significantly more than the amount of the premium for the life insurance policy, leaving enough excess to pay the interest on the loan (if any) and still leave funds to provide a current return to either the charitable organization or the outside investors. See figure 4.

**Commissions**

Insurance agents and brokers earn a commission on the sale of life insurance policies and annuity contracts. Commissions are one way financial professionals are compensated for their advice and expertise. For a life insurance policy, the commission can typically approximate 50% or more of the first year’s premium with a smaller amount, in the range of 3% to 5% as renewal commissions for the next several years. Determining the "reasonableness" of a commission can be very difficult. Donors especially should be aware of the reality of commissions and consider this expense when choosing between life insurance as a charitable gift vehicle versus making an outright gift.

**Financial Soundness**

An important component of the analysis is an evaluation of the insurer (see discussion on page 22). Insurance companies are rated according to their financial soundness, credit rating, and debt rating, which are important factors that can directly affect the likelihood that projected investment returns will be met and projected death benefits will be paid. A.M. Best Company is the oldest of the many insurance company rating services. Standard and Poors, Moody’s Investor Services, Duff & Phelps/MCM Investment Research, and Weiss Ratings, Inc., also provide ratings. A.M. Best rates the largest number of companies, and uses a 15 point scale from A++ (superior) to F (in liquidation). When evaluating an insurance company’s financial strength, A.M. Best examines the company’s balance sheet strength, operating performance and business profile.

When determining the financial soundness of an insurer, a good strategy is to compare the ratings from two or three of the rating services and to review the ratings over a period of several years.
Charity’s Obligations

The financial analysis should include a careful review of the policies, debt instruments, contracts, and other legal instruments associated with the charitable life insurance program, in order to ensure that all of the actual and potential obligations of the charitable organization are identified and clearly understood.

The financial outlay that the charitable organization is expected to make over the course of the charitable life insurance program should be clearly outlined. In addition, it is important to identify contingency and other provisions that might require a large financial commitment on the part of the charity under certain circumstances. You should identify the probability that your charitable organization might be required to make additional payments into the charitable life insurance program.

This analysis will help you decide whether the charitable life insurance program makes financial sense for your organization. In addition, it will allow an evaluation of the opportunity cost of using funds for the charitable life insurance program versus allocating those funds to other efforts.

Collateral

The insurer or the lender may require the charitable organization to provide collateral or guarantee that premium payments will be made. It is important to identify and quantify any provisions that require the charitable organization to pledge or hypothecate its assets for the charitable life insurance program. Such collateral requirements should be evaluated very carefully to ensure that you have a clear understanding of what those obligations are and if they have to be reflected on your balance sheet as a liability. The most conservative analysis requires consideration of the possibility that the assets the charity pledges as collateral might be lost.

Stress Test

Finally, it is important to analyze and understand the terms and conditions of the life insurance policies themselves. Most insurers provide policy illustrations based upon assumptions regarding investment return, mortality rates, and the cost of insurance over time. If those assumptions prove wrong, additional premium payments may be required or the anticipated death benefit may be reduced.

A good financial analysis should include a “stress test” projecting the performance of the charitable life insurance program under adverse circumstances, such as a prolonged period of depressed investment performance or significantly extended life expectancies or (if applicable) a significant change in loan rates. An analysis of these worst case scenarios can help determine whether or not to embark on the charitable life insurance program.
Structural and Risk Analysis

How sound is the structure of the program? What risks are associated with the program and how can the organization anticipate those risks?

Insurable Interest

Early in the history of life insurance, it was not uncommon for people to “wager” on the lives of others by purchasing life insurance on a third party without that person’s knowledge or consent. Since, under these circumstances, the owner profits from the death of the insured, there could be a temptation to speed up the demise of the insured, especially if he or she is a third party unrelated to the owner of the policy. To prevent this, insurable interest laws were instituted that restrict the owners and beneficiaries of a life insurance policy to those who have an interest in the continued life of the insured.

It is permissible, in most states, for a charitable organization to own life insurance on its supporters or even potential supporters. However, the details of insurable interest laws vary by state to state, with some being less restrictive than others. Therefore, it is important that the charitable organization seeks guidance from its own advisors to ensure that participation in an insurance program complies with applicable state insurable interest laws.¹

Some life insurance programs marketed to charitable organizations involve funds provided by outside investors. Charitable organizations should verify that such arrangements are allowed under the applicable insurable interest laws of the various states that may have jurisdiction.

Charitable organizations should also be mindful of the concerns expressed by representatives of the insurance industry ² and various legislative and regulatory authorities, including Senate Finance Committee Chair Charles Grassley, who has stated, “In entering any transaction, charities need to be very careful that their tax-exempt status is not providing inappropriate benefits to a corporation. A penny of benefit to charities doesn’t excuse a pound of profit to the corporations.”³

Private Benefit Payments

Some charitable life insurance programs offer to provide a partial death benefit to the heirs of the insured as an enticement to encourage individuals to agree to be insured under the program. If the program you are considering includes such incentives, be aware that Federal law prohibits a charitable organization from providing financial benefits to an individual outside of the organization unless that benefit is provided as part of the charitable purpose of the organization or as payment for services performed for the charitable organization. Charities that engage in plans that provide incentive benefits to others may be in violation of these laws.⁴

Insurance Capacity

Individuals agreeing to be insured under a charitable life insurance program should consider the risk that participation may consume life insurance capacity and prevent the acquisition of additional coverage for personal or other planning needs in the future.

This is a complex matter because the individual’s maximum insurability or “insurance capacity” is largely a facts and circumstances determination, based upon the underwriting guidelines of the insurer. Although an individual has an unlimited insurable interest in his or her own life, the “need” for insurance usually governs the maximum amount of life insurance an insurer will issue on the life of one individual. Sometimes additional or excess insurance comes at a higher premium cost.

Insurers use a number of different methods to set the maximum amount of life insurance that may be issued on an individual’s life, typically either a
function of the need to replace income when the insured dies or the need to pay future estate taxes, and sometimes a combination of the two. A typical approach to determining maximum insurance capacity based upon the need to replace income involves multiplying the potential insured’s income by a factor that is a function of age. For example: under some guidelines, an insured between 26 and 30 years of age would have a maximum insurability, or insurance capacity, of 16 times annual income; for an insured between 41 and 45 years of age, the maximum may be only 12 times income; while someone 61 to 65 years of age might be limited to insurance of not more than five times their annual income.

Maximum insurance capacity may never be an issue for the average constituent. Still, the issue of insurance capacity should be carefully explained to each participant in a charitable life insurance program. Participants should fully understand that they may be precluded from acquiring additional life insurance to meet personal or other needs in the future as a result of their participation in the charitable life insurance program.

Viability of the Companies

As discussed more fully on page 19, it is important to determine whether or not the insurance companies involved are viable. If not, the policies may, ultimately, become worthless. If a loan is to be used as a part of the charitable life insurance program, you should determine if the lending institution is viable. If not, they may not be there to renew their loan.

The reputation and viability of the insurer and other companies involved must be carefully considered. Researching the reputation and background of an insurance company has become much easier due to the significant amount of reporting required of insurers and the wide availability of public data.

A first step is to contact your State Insurance Commissioner to be certain that the company is licensed to do business in your state.

In addition, you can check the company’s financial condition by reviewing its rating and other data. Several rating agencies, including A.M. Best Company, Fitch Ratings, Moody’s Investor Services, Standard and Poor’s Insurance Rating Service, and Weiss Ratings, assess the financial strength of companies. Rating information is available on the Internet or in publications usually found in the business section of a public library.

1 J.J. McNab, an independent planner, analyst, and author who specializes in advanced tax, charitable and insurance analysis, has created a state-by-state list of insurable interest laws on her website at www.deathandtaxes.com/insint.htm
2 Update: Investor-Owned Life Insurance (IOLI), NAIFA Frontline
Appendix 1:
Glossary

Life insurance employs a very specific and technical vocabulary. An understanding of several key terms will be helpful in the evaluation and comparison of charitable life insurance proposals:

**account value** – the sum of all premium payments adjusted by periodic charges, credits and partial withdrawals.

**annuity** – a contract issued by an insurer that promises to periodically pay an amount to a beneficiary (the amount of the annuity can be fixed or variable and continue for the lifetime of the insured or last for a shorter period according to the terms of the contract).

**beneficiary** – the individual or entity to whom the death benefit or periodic annuity is to be paid.

**cash surrender value** – the value available upon surrender of the contract.

**death benefit** – the amount paid upon the death of the insured (the amount of the death benefit can be guaranteed and fixed at the time the policy is issued or it can vary according to the terms of the contract; the net amount available may be reduced by loans or withdrawals made before the death of the insured).

**guaranteed value / guaranteed rate** – policy illustrations (see Appendix II) usually include certain minimum or guaranteed rates as well as assumed rates; guaranteed values are those projected based upon the guaranteed rates while values based upon the assumed rates are not guaranteed.

**insured** – the individual upon whose life a policy or annuity is issued.

**insurer** – the insurance company that issues the policy or annuity.

**owner** – the individual or entity that owns the policy.

**policy** – a contract issued by an insurer that promises to pay a death benefit to the beneficiary upon the death of the insured.

**policy year** – the “fiscal year” of the policy, generally beginning the first day the life insurance coverage is in place; premium payments and other outlays are usually assumed to be made at the beginning of the year, while cash values are usually shown as of the end of the policy year.

**premium** – the amount paid to the insurer in exchange for the contractual promises (insurance policies usually require periodic payment of premiums during the lifetime of the insured; annuities usually require a single premium payment when the contract is issued).
Appendix 2:
Understanding the Limitations of Policy Illustrations

Most life insurance policy presentations include illustrations showing how the policy might perform over time. These illustrations present financial projections based upon a number of assumptions about the policy.

Policy illustrations include assumptions about interest rates, investment return, future cost of insurance (premiums) and other policy expenses. Some illustrations also include assumptions about mortality rates (life expectancy of the insured) and other important variables.

Illustrations typically include at least two projections: one based upon assumed or hypothetical rates and another based upon guaranteed minimum rates. In addition, illustrations may include a projection upon a “mid-point” assumption, which is usually the average between the assumed and guaranteed rates.

The ending values contained in projections based upon the minimum rates are usually guaranteed. Policy illustrations include explanations of the assumptions upon which the projections are based. Understanding and evaluating the reasonableness of the assumptions is critical to the evaluation of the likelihood that the policy will perform as expected. Most states require written warnings explaining the basis of the illustrations. A typical assumption disclaimer reads as follows:

“This illustration assumes that the currently illustrated non-guaranteed elements will continue unchanged for all years shown. This is not likely to occur, and actual results may be more or less favorable than those shown.

Based on Guaranteed Values, the policy would not terminate. Based on Midpoint Assumptions, the policy would not terminate. Based on Current Assumptions, the policy would not terminate.”

Note that even though the second paragraph is phrased in a favorable way ("the policy would not terminate") there is no guarantee that the policy will perform as illustrated. In analyzing the policy, the gift planner should heed the advice contained in the first paragraph: “this is not likely to occur ... actual results may be more or less favorable than those shown.

In addition, many states require the recipient, often the applicant or initial owner of the policy, to sign an acknowledgment of the assumptions and the limited reliability of the illustration. A typical acknowledgment reads as follows:

“I have received a copy of this illustration and understand that any non-guaranteed elements illustrated are subject to change and could be either higher or lower. The agent has told me they are not guaranteed.”

In many charitable applications, the charity is not the initial purchaser of the policy and may not be required to consider such an acknowledgment. Nevertheless, the charity should acquire and carefully review a current policy illustration.

*Note: The “guaranteed values” in the illustration may represent the amount available to the charity. In evaluating a life insurance proposal, the gift planner must take into account the effect of certain transactions, including loans, withdrawals, and items that may be deducted from the death benefit or policy ending value. These items can reduce the ultimate value of the policy to the charitable organization.
Appendix 3:
Evaluation Checklist

1. Threshold Questions

1.1. What was your initial reaction? If the program sounds too good to be true or may not be legal or ethical, your instinct may be right. Before your brain got involved, did your gut tell you that something may be wrong? Don’t get caught up in the sales pitch.

1.2. Do you feel that the program will work? Don’t check the numbers yet. Don’t research the Internal Revenue Code. Just ask yourself: Does your gut allow you to believe that this program, if all goes as planned, will work?

1.3. Does the value flow logically? Follow the money. It should flow from point to point much like water flowing down a river. It should never move upstream unless there is a reason.

1.4. Do you feel that government officials will react favorably? How will the IRS react to the deduction that will be taken? How will your State Attorney General’s office react to the actions of the board of directors who approved of using a gift to form a business relationship with the donor? How will the State Insurance Commissioner react to your charity insuring the life of a donor?

1.5. Does the program make economic sense for the donor? Will the donor receive a benefit from the program and is that benefit what the donor expects?

1.6. Does the program make economic sense for the charity? Will your organization receive a value that will exceed your time and effort? Will the long term economic gain exceed the potential long term cost?

2. Meeting Organizational Priorities

2.1. How does the proposed insurance program fit within the priorities of your institution?

2.2. Does your organization ordinarily borrow money to make investments? If not, why not, and why should you consider borrowing in this case?

2.3. Are there more efficient ways to spend the time and effort of staff?

2.4. Are there more optimum gifts that could be sought from prospective donors in the group to be targeted for the insurance program? Might a donor reduce other contributions because of this program?

2.5. Does the promoter require you to sign a “non-disclosure” or similar agreement? If so, what are the ramifications for your organization? Will a non-disclosure agreement prevent your outside counsel or other trusted advisors from reviewing the program?
2.6. Is the relationship and compensation of all parties appropriate and fully disclosed?

2.7. Are those individuals who will be insured under the program truly connected to the charitable organization through previous contributions or services, or are they previously unknown individuals attracted by the appeal of becoming a “donor” for free?

2.8. What other charitable organizations have participated in similar programs with this promoter? How many programs of this type does this promoter have in force?

2.9. If third parties are involved, is this permissible under state insurable interest laws? Will donors be aware of the involvement of these third parties? Will the donors be comfortable with the third party having an interest in their lives?

3. Economic Analysis – know how your organization might benefit

3.1. What is the present value of the projected future pay-off for the institution? What is the probability of achieving the future pay-off as projected?

3.2. What is the present value of the required expenditures during the projected lifetime of the gift?

3.3. What are the contingencies that might require additional contributions in order to achieve the projected future pay-off?

3.4. What is the risk that (and amount of) additional payments or contributions may be required to achieve the target pay-off to the institution?

3.5. What is the present value of the cost of staff time and resources needed to manage this program over time?

3.6. If donors live longer than expected, what is the impact to the program?

3.7. What is the impact on the program if interest rates (or loan rates, if applicable) change over time? Are rates modeled realistically? (Consider asking for a worst-case model as a “stress test.”)

3.8. How many years must the program be in effect in order to achieve the expected pay-off? Are there truly “guaranteed” aspects to the program?

3.9. If this program requires moving existing endowment assets, will the future value of the death benefit exceed the future value of the endowment at life expectancy?
3.10. If this program requires annual contributions from a donor, will the future value of the death benefit exceed the future value, including earnings, of the cumulative contributions?

4. Financial Analysis – understand where the money comes from, where it goes

4.1. Have you created a simple flowchart or model that explains where the money comes from and goes before it arrives at the charity?

4.2. Who gets paid, how much and when?

4.3. What is the financial soundness of all of the companies involved (insurers and lenders)?

4.4. How much will the charitable organization likely be required to pay, and when?

4.5. Is the organization required to provide collateral or other guarantees? If so, what is the value? How will these liabilities affect the organization’s financial statements? If your organization is willing to provide collateral, how much is it willing to lose in a worst-case scenario?

5. Structural and Risk Analysis

5.1. What is the source of the value added by each party? What are the expenses involved with each party? Are the expenses reasonable compared to the value added?

5.2. What are the roles and responsibilities of each of the parties? Will these be fully disclosed to all involved?

5.3. Are the insurance company, lender and others involved viable business entities?

5.4. What is the reputation risk for the charity and its relationships with its donors?

5.5. Does the donor understand and accept the risk that his or her participation may consume life insurance capacity that could prevent him or her from acquiring additional coverage for personal or other planning needs in the future?

5.6. Are the insurance and other financial products involved priced reasonably? (Under-pricing may be an even more significant risk than overpricing.)
Appendix 4: Quick Start Questions

The following questions may be useful as a “quick start” guide to help the gift planner ascertain whether or not there is reason to consider the proposed program.

OUTCOMES
- What is the projected financial benefit to your organization?
- What is the projected financial benefit to the investors?
- What are the assumptions used in the projections?
- What actuarial assumptions are being used?

COMPENSATION
- How are commissions applied?
- Will any death benefit be paid to the heirs of the insured?
- On what will the death benefit be based?

LOANS
- What will be the interest rate on the loan?
- Is the interest rate fixed or adjustable?
- Is collateral or other pledges required from your organization?
- To what extent is the charitable organization liable to the lender in case of a default on the loan?

INVESTOR INFORMATION
- What is the financial strength of the participating insurance companies?
- Are there issues that may affect this rating in the future?
- Do the investors have a vested relationship with each other?
- Do the investors maintain the right to sell their interests to another party?
- If yes, under what conditions?
- Will the charity be notified in advance of such a sale?
- Will the charity have veto power?
- How will the charity be able to track who has invested in the policies and who owns them at any time?

REGULATORY ISSUES
- Will a trust established for purposes of the plan be subject to regulation under securities laws?
- Will payments issued by the investors to the charity be treated as UBIT?
Appendix 5:
Model Standards of Practice for the Charitable Gift Planner

Preamble
The purpose of this statement is to encourage responsible gift planning by urging the adoption of the following Standards of Practice by all individuals who work in the charitable gift planning process, gift planning officers, fund raising consultants, attorneys, accountants, financial planners, life insurance agents and other financial services professionals (collectively referred to hereafter as "Gift Planners"), and by the institutions that these persons represent.

This statement recognizes that the solicitation, planning and administration of a charitable gift is a complex process involving philanthropic, personal, financial, and tax considerations, and as such often involves professionals from various disciplines whose goals should include working together to structure a gift that achieves a fair and proper balance between the interests of the donor and the purposes of the charitable institution.

I. Primacy of Philanthropic Motivation – The principal basis for making a charitable gift should be a desire on the part of the donor to support the work of charitable institutions.

II. Explanation of Tax Implications – Congress has provided tax incentives for charitable giving, and the emphasis in this statement on philanthropic motivation in no way minimizes the necessity and appropriateness of a full and accurate explanation by the Gift Planner of those incentives and their implications.

III. Full Disclosure – It is essential to the gift planning process that the role and relationships of all parties involved, including how and by whom each is compensated, be fully disclosed to the donor. A Gift Planner shall not act or purport to act as a representative of any charity without the express knowledge and approval of the charity, and shall not, while employed by the charity, act or purport to act as a representative of the donor, without the express consent of both the charity and the donor.

IV. Compensation – Compensation paid to Gift Planners shall be reasonable and proportionate to the services provided. Payment of finders fees, commissions or other fees by a donee organization to an independent Gift Planner as a condition for the delivery of a gift are never appropriate. Such payments lead to abusive practices and may violate certain state and federal regulations. Likewise, commission-based compensation for Gift Planners who are employed by a charitable institution is never appropriate.

V. Competence and Professionalism – The Gift Planner should strive to achieve and maintain a high degree of competence in his or her chosen area, and shall advise donors only in areas in which he or she is professionally qualified. It is a hallmark of professionalism for Gift Planners that they realize when they have reached the limits of their knowledge and expertise, and as a result, should include other professionals in the process. Such relationships should be characterized by courtesy, tact and mutual respect.
VI. Consultation with Independent Advisors – A Gift Planner acting on behalf of a charity shall in all cases strongly encourage the donor to discuss the proposed gift with competent independent legal and tax advisors of the donor’s choice.

VII. Consultation with Charities – Although Gift Planners frequently and properly counsel donors concerning specific charitable gifts without the prior knowledge or approval of the donee organization, the Gift Planners, in order to insure that the gift will accomplish the donor’s objectives, should encourage the donor, early in the gift planning process, to discuss the proposed gift with the charity to whom the gift is to be made. In cases where the donor desires anonymity, the Gift Planners shall endeavor, on behalf of the undisclosed donor, to obtain the charity’s input in the gift planning process.

VIII. Description and Representation of Gift – The Gift Planner shall make every effort to assure that the donor receives a full description and an accurate representation of all aspects of any proposed charitable gift plan. The consequences for the charity, the donor and, where applicable, the donor’s family, should be apparent, and the assumptions underlying any financial illustrations should be realistic.

IX. Full Compliance – A Gift Planner shall fully comply with and shall encourage other parties in the gift planning process to fully comply with both the letter and spirit of all applicable federal and state laws and regulations.

X. Public Trust – Gift Planners shall, in all dealings with donors, institutions and other professionals, act with fairness, honesty, integrity and openness. Except for compensation received for services, the terms of which have been disclosed to the donor, they shall have no vested interest that could result in personal gain.

Adopted and subscribed to by the National Committee on Planned Giving and the American Council on Gift Annuities
Now this is taking one for the team.

Oklahoma State Insures Lives of 25 Ailing Donors

The Cowboy Insurance Plan

Tom Staf
depressed insurance plan.

Oklahoma State's insurance plan helps families earn through the power of their generosity.

When the donations aren't enough, the insurance kicks in.

Oklahoma State Insurance Services...
said John Lee, chairman of Dallas-based Management Compensation Group, which is managing the insurance program. To put it less delicately, the donors selected are expected to die in a timely manner to generate the $250-million payout.

Only two of the prospective donors hung up when Larry Reece, Oklahoma State’s executive director of major gifts and development, broached the subject.

Mark Malady, executive vice president of Collegiate Financial Services, a Williamsburg, Va.-based firm, agrees that other college athletic department fundraisers soon will be working the phones.

"Their thinking is that we’ve got donors giving us millions of dollars each year," he said. "But what happens when the donors die? Is there a plan or a policy to replace what they’ve been giving?"

Pickens concurred: "You will see other [similar] deals in the near future" at other nonprofit organizations.

Cowboys fans are betting that Holder can do for football what he accomplished on the golf course. His teams won eight NCAA national championships, and the program used donations from Pickens and others to build a Tom Fazio-designed course on the Stillwater campus, plus a multimillion-dollar golf endowment.

The $200 million that Pickens has donated is funding a large part of the $350-million athletic department building boom on OSU’s campus. Pickens’ name is now on the 1926-era Oklahoma State stadium that before an ongoing renovation was jokingly called Rustoleum Stadium. The Cowboys also are adding indoor practice space for their baseball, softball, track, soccer, tennis and equestrian teams and a village where athletes will live.

Even with this spending spree, the Cowboys still have a way to go. The University of Texas, a Big 12 rival, generated $97.8 million in sports-related revenue during its most recent fiscal year, including $66.8 million from football, while Oklahoma State generated $38.6 million in revenue, including $18.9 million from football.

"Oklahoma State isn’t alone in its heavy spending. During the next two years, Michigan, Texas, Illinois, Louisville, Maryland and Washington State will complete college stadium renovations with price tags of at least $25 million each, according to Sports Business Journal. That kind of spending drove the NCAA to convene last fall a blue-ribbon task force of college presidents and chancellors to identify threats that face intercollegiate athletics."

The Pickens insurance plan passed muster with Oklahoma state regulators, but Oklahoma State will clear $250 million by the time the last donor dies.

Pickens’ money and financial savvy clearly enchant many Cowboys fans. But the athletic department has learned that it does not exist in a vacuum.

Former Stillwater Mayor Bud Lacey said he was voted out of office last spring after questioning the university’s use of endowment domain to seize 200 homes and businesses to make room for the athletic village.

Pickens’ many supporters say that Oklahoma State’s academics also have benefited from his largesse. The campus is home to the Boone Pickens School of Geology, a Pickens-endowed professorship in geophysics, the Boone Pickens Scholars Fund in geology and other scholarship, fellowship and professorship endowments.

"I'm not going to say that the response has been all positive," Reece said. "But we believe that athletics is the front porch of the university. That’s how you advertise nationally. Right, wrong or indifferent, you don’t see the science bowl on ABC. You see the Cotton Bowl and the Final Four."

gregjohnson@oldtimes.com
Planned Giving in Difficult Economic Times

1. **Sale loss assets and give cash to nonprofit.** Use the loss deduction on income tax return. Gift of cash to public charity is subject to higher 50% AGI limitation.

2. **Charitable Gift Annuities.** In fluctuating markets, CGAs can provide security to donors who are older and fearful of loss of value in assets along with reduced income. Gift annuities that feature fixed income typically show growth during recessions. Gifts that feature variable income that depends on the underlying performance of assets such as charitable remainder unitrusts and pooled income funds tend to fall off somewhat if there are reductions in stock market values during a downturn. However, if you have sophisticated donors who do have highly appreciated assets (such as commercial real estate) then utilizing a charitable remainder unitrust and investing in the stock market when the values of stock are very reasonable and/or undervalued, may be the right time to make such investments because as unitrust assets increase in value, so do the unitrust payments.

3. **Talk to your donors about making bequests.** Bequests are generally unaffected by economic downturns except in the case of larger bequests of remainders of estates where after a few years of lower stock market and real estate values this begins to depress the size of residuary estates. These are typically the larger estates. In the case of bequests of specific amounts, they are unaffected by economic downturns generally because deaths occur actuarially unrelated to the economy and a specific bequest of $10,000 or some other amount is generally unaffected.

4. **Donors more likely to make planned gifts in difficult economic times than to make outright gifts.** Wealthier people to engage in planned giving during bad economic times when they might otherwise have made an outright gift. That was the case in 1987 and early 1990’s.

5. **Focus on your core donors as opposed to trying to capture new donors.** Let them know that your organization is hurting and that their support is critical to the continued health of the organization. This is the time to maintain or step up their support because others are cutting back on their donations. Appeal to their love of the organization.

6. **Talk to donors about matching gifts.** Donor’s employer may have matching gift program and if donor feels that he or she must reduce gift, the matching gift may result in same level of giving albeit with two donors.

7. **Good stewardship is the key.** If you have done a good job in your stewardship of current donors, they are more likely to support you in difficult economic times and in fact may be even give more because they value their relationship to you. Relationship, relationship, relationship.

8. **The PIE.** Jerold Panas surveyed donors about what was most important to them in supporting a nonprofit: Performance, Image or Exposure (PIE). Of those surveyed, 60% said it was exposure to the nonprofit that mattered most. See stewardship above!
APPENDIX G: 3

CERTIFIED SPECIALIST IN PLANNED GIVING

Reference Materials for Planned Giving

<table>
<thead>
<tr>
<th>Publication</th>
<th>Authors</th>
<th>Contact</th>
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<tr>
<td>The Art of Planned Giving</td>
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<td>Marc Carmichael</td>
<td>R &amp; R Newkirk&lt;br&gt;8695 South Archer, Suite #10&lt;br&gt;Willow Springs, Illinois&lt;br&gt;60480&lt;br&gt;800-342-2375&lt;br&gt;708-839-9207 (fax)&lt;br&gt;(<a href="http://www.taxwisegiving.com">www.taxwisegiving.com</a>)</td>
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<td>Planned Giving Decision Center&lt;br&gt;10800-D Independence Point Parkway,&lt;br&gt;Matthews, NC 28105&lt;br&gt;704-849-0731&lt;br&gt;(<a href="http://www.PGDC.com">www.PGDC.com</a>)</td>
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<tr>
<td>Organizations (6th Edition)</td>
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<td>Harnessing the Power of CRTs</td>
<td>Marc Hoffman</td>
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Bruce Hopkins  
John Wiley & Sons  
800-225-5945  
(http://catalog.wiley.com)  
Taxwise Giving  
800-243-9122  
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(www.taxwisegiving.com)  
Planned Giving Essentials  
Richard D. Barrett and Molly E. Ware  
Aspen Publishers  
800-638-8437  
(www.aspenpublishers.com)  
Planned Giving: Management, Marketing and Law (2nd Edition)  
Ron Jordan and Katelyn Quynn  
John Wiley & Sons  
800-225-5945  
(http://catalog.wiley.com)  
Planned Giving Today (newsletter; series of paperbacks with collections of articles)  
Roger Schoenhals, publisher  
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800-KALLPGT  
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Kathryn W. Miree  
Panel Publishers  
7201 McKinney Circle  
Frederick, MD 21704  
800-234-1660  
(www.PanelPublishers.com)  
Tax Economics of Charitable Giving (13th Edition)  
Arthur Andersen Private Client Services  
VantageSource LLP  
P.O. Box 905735  
Charlotte, NC 28290  

PLANNED GIVING TERMINOLOGY

**Annuity** - A contract (legal obligation) to pay specified amounts over a specified period of time to a specified individual(s) in exchange for cash, securities, or other tangible property

**Appreciated Assets** – Assets that have a higher market value than their basis or tax purpose value. Such assets would, if sold by an individual or non-charitable organization at a price higher than their basis, potentially generate a taxable capital gain (either long-term or short-term depending on the holding period)

**Beneficiary** - An individual or entity named to receive some assets

**Bequest** - A direction in a Will to pay over or distribute personal property

**Capital Gains Tax** – the tax imposed upon profits realized from the sale of financial assets that have increased in value since they were acquired

**Charitable Gift Annuities (CGAs)** – A contract under which a charity, in return for a transfer of cash, marketable securities or other assets, agrees to pay a fixed payment to one or two individuals, for their lifetime

**Charitable Lead Trust (CLT)** – A trust funded with assets by a donor, with an income beneficiary and a remainder beneficiary. The nonprofit is the income beneficiary and receives an income stream for a term of years (or life of the donor). An heir, the donor, or another designated individual(s) is the remainder beneficiary and receives the remainder of the trust upon death of the donor or end of term of years.

**Charitable Remainder Trust (CRT)** – A trust funded with assets by a donor, with an income beneficiary and a remainder beneficiary. The donor (or other designated individual(s)) is the income beneficiary, and receives an income stream for life (or a term of years) based on the value of trust assets and pay-out rate. The nonprofit is the remainder beneficiary and receives the remainder of the trust upon death of the income beneficiary (ies) or end of term of years.

**Estate Tax** – A tax on the value of the property held by an individual at death

**Fixed Income** – Payments received on a regular basis that are not subject to change

**Gift Tax** - A tax imposed on someone who gives money or property to another person without compensation

**Grantor** - The creator of a trust or other legal instrument.

**Irrevocable Trust** - A trust that cannot be changed or dissolved
**Life Income Gift** - A gift of a principal sum, property, or securities with a stipulated life income paid to the donor or another person for his or her lifetime(s)

**Life Income Trust** - A plan whereby gift assets are placed in trust for the lifetime benefit of an income beneficiary, with the remainder going to another beneficiary

**Qualified Retirement Plan** - A retirement plan that is eligible for favorable tax treatment

**Real Property** - Land, buildings, or other forms of real estate

**Tangible Property** - Includes movable objects (e.g. jewelry, artwork, antiques, clothing, etc.)

**Probate** - The process of proving a Will’s validity; used loosely to mean the administration of an estate

**Remainder** - The amount remaining in a trust after income payments have ended

**Revocable Trust** - A trust that can be changed or dissolved at any time by the grantor

**Trust** - An arrangement whereby property is held by an individual or institution for the benefit of others

**Trustee** - Party legally responsible for carrying out the terms and performance of a trust

**Variable Income** – payments received on a regular basis that are subject to change, not fixed

**Will** - A legal instrument disposing of a person’s property at the time of his or her death

Sources:
http://www.ncpg.org/resources/glossary.pdf
http://www.premieradministration.com/glossary.htm
http://www.acga-web.org/whatisga.html
http://www.investorwords.com/
Resource Center

Syllabus for Gift Planners

The Syllabus is a study guide for people involved in charitable gift planning. Its purpose is to identify areas of knowledge related to the acquisition and administration of planned gifts. The Partnership recommends that gift planners consult the Syllabus to plan a program of reading, seminars, conferences and other activities that will fill gaps in their knowledge. Most of the Partnership's educational programs and publications are keyed to the Syllabus for Gift Planners, a detailed outline of professional knowledge and skills. Private vendors, professional associations and planned giving councils can facilitate this learning process by coordinating their seminars and course offerings with the areas of knowledge as outlined in the Syllabus.

1.00 Philosophy & Practice
   .01 Philanthropy
   .02 Ethics

2.00 Donor Relations
   .01 Marketing Planned Gifts
   .02 Donor Concerns That Affect Giving
   .03 Role of Gift Planner with Other Donor Advisors
   .04 Communications

3.00 Understanding and Designing Charitable Gifts
   .01 Charitable Giving Methods
   .02 Charitable Gift Assets
   .03 Computing Charitable Deductions and Tax Savings
   .04 Preparing Proposals and Financial Illustrations

4.00 Management
   .01 Planned Giving Program Policies and Guidelines
   .02 Administration of Planned Gifts
   .03 Program Administration
   .04 Integrating Planned Giving Into a Development Program

5.00 Financial and Estate Planning
   .01 Income Tax Planning
   .02 Estate and Gift Tax Planning
   .03 Retirement Planning
   .04 Investing
   .05 Cross-border Gifts

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Tip of the Iceberg

by K. Gene Christian
Article appeared in Planned Giving Today January 2006

Planned giving is a professional discipline few people imagined as a career option 15-20 years ago. According to their Web site, there are more than 11,000 people supporting the mission of the National Committee on Planned Giving--an organization that didn't exist 22 years ago. With that kind of explosive growth and interest, a logical person might conclude that it's time for a plateau or "correction" to occur. After all, the financial markets and real estate go through cycles, so why not planned giving?

Regardless of how the debate on IRA rollover reform or estate tax elimination goes in Washington, the sheer volume of data supporting the rising popularity of planned giving will continue to flood our professional landscape. Imagine an iceberg looming on the horizon just a few meters away from your boat. What you see is only a small portion of what truly exists below the surface.

So, too, it will be with planned giving. What we see and experience today will be only a small fraction of the reality that occurs during the next 30 years in this business. Consider the following facts on the next page.

The Nation Is Aging Rapidly
In a recent USA Today article titled "2030 Forecast: Mostly Gray," the Census Bureau predicts that 26 states will double their populations of people older than 65 by 2030, when the oldest members of the baby boom generation begin to turn 80 years old.

The growth in the 65-and-older population will be about 3.5 times the growth of the nation as a whole, and in six states more than one in four people will be over 65 years by 2030. Imagine how many more gift annuity prospects will be in your database during the next 25 years.

Land Values Will Increase Dramatically
Property values in many parts of the country have seen explosive growth during the past three years, particularly due to low interest rates. Even though real estate goes through "cycles," imagine what property values in your area will be in 10 to 20 years. The San Francisco Bay area today is a good example of what many cities will experience by 2030.

I call it the 60/70 phenomenon. Many teachers, electricians, nurses, and social workers purchased their relatively modest homes in the Bay area during the 1960s and 1970s for $60,000 to $70,000. Today (depending upon the proximity to the city) those same homes are valued between $1 and $2 million, and those same people (now 60 to 70 years old) are ready to retire. They are living in their single largest valued asset without the benefit of receiving income from it to help pay for living expenses and property taxes.

Many medium and large cities across America (where the majority of planned giving occurs) are about 20 years behind San Francisco in terms of the property value phenomenon. Imagine how many new CRT, bargain-sale, and life-estate prospects will be in your database during the next 20 years.

Unprecedented Transfer of Wealth Occurring
By now, we all know and have read Paul Schervish's and John Havens' thoroughly researched work on the transfer of wealth in our country. It is estimated that $41 trillion is scheduled to transfer intergenerationally until 2052, assuming a 2 percent net growth rate in the value of estates. However if the real growth rate is 3 percent, the wealth transfer will actually be $72 trillion. If estates grow by 4 percent, the transfer amount will be $136 trillion.

If the nonprofit organizations large and small, new and old, will consistently remind people to name them as a beneficiary in estate planning, their prospects will indeed be bright.
planning, how much money might we expect to receive by 2050 through simple and ongoing bequest awareness programs?

Additionally, consider the lower mandatory distribution rules that occurred in 2002 related to IRAs. Now people age 70 1/2 are able to take much less on a mandatory basis from their IRAs than they were required to previously. The result? Twenty-five percent of Americans who have a qualified retirement plan will see their plan value be twice as large at their passing as it would have been under the old mandatory distribution rules in force prior to 2002. Imagine the unprecedented planning opportunities that will become available with IRD assets through charitable estate planning strategies during the next 20-30 years.

Changing Gears...
Now juxtapose the data just presented with what we know about the environment for outright giving during the same time period. The opportunities will be much narrower and the competition will become increasingly fierce.

501(c)(3)s will Double in Number
In June 2004, Adrian Sargeant and Elaine Jay wrote a thesis for the Association of Fundraising Professionals titled “Determinants of U.S. Donor Behavior: The Case of Bequests.” The opening sentence in their well-written and exhaustive piece states that there are 1.2 million nonprofits and churches in America today, with the number of registered nonprofits growing by 5-6 percent annually. That means in a short 15 years there will be 2.4 million nonprofits in America--double the number we have today.

How many of us believe that the number of outright contributions will double during that same time period, or the number of existing donors will double their current giving levels? Not likely. In fact, Sargeant and Jay say that “As nonprofits face slowing levels of growth in giving, increasing levels of competition, and changes in donor audiences and expectations, organizations will have to work harder to solicit the desired levels of support.”

Some would even go further and contend that it will be very hard for nonprofits to simply keep their current levels of financial support during the next 15 years (with inflation factors built in), let alone increase the results by “double digits” as most board members might optimistically hope for.

Foundation Distributions Trend Downward
How many large, grant-making foundations in your region anticipate distributing (by percentage) as much money during the next 15 years as they did during the last 15 years? Most have a mandatory requirement to payout 5 percent of the value of the assets, with a rolling average formula used. However, most financial pundits are suggesting real returns will be lower during the next decade. Bond rates will remain low, and gains across the board in the equity markets will thin out, too. The result? Grant-making foundations may not be dispersing funds into their communities during the next 15 years at the same real rate that they did during the last 15 years.

Donors Give to More Groups
In the May issue of The NonProfit Times, an article appeared by Matthew Sinclair titled “Donors Give to More Groups Wealth Is Being Spread Thinner.” In it, Sinclair reinforces what Sargeant and Jay found--citing a recent survey done by the Opinion Research Corp. for The NonProfit Times. Sinclair points out that 80 percent of respondents gave to at least one organization other than their church or temple during the past 12 months.

This is a notable jump from a similarly worded item in a 1990 survey done by the Roper organization, which found that 57 percent of respondents gave to organizations other than their religious institutions. Sinclair concludes: “The continued decline of donations by individuals as a percentage of overall giving ... coupled with the increasing number of charities would translate to lower average gifts for all.”

Donors Have Little Cash to Give
And finally, Robert Cathcart, who works for a religious nonprofit organization, wrote in a 2003 paper that “… 94 percent of total charitable gifts by Americans were made with cash, and only 6 percent were made with non-cash assets. Yet compared to the property actually owned by Americans, 91 percent of all assets are non-cash and only 9 percent are cash… [organizations are] asking for gifts of current cash from people who mostly own non-cash assets. There simply isn’t enough current cash.”
Conclusion

I hope this article will become “grist for the mill” as thoughtful executive directors and development officers work with their board members. Every nonprofit organization, whether large or small, needs to consider their most effective development office staffing plan in the years to come--given what we know about the fundraising landscape in the future ahead.

While it is not possible to simply ignore more traditional fundraising efforts that help keep the lights on or the water hot, it is also not possible to ignore the phenomenal opportunities that will exist in planned giving in the years to come.

Simply put, the window of opportunity is about to fly wide open as it relates to charitable estate and planned giving…while that same window may be closing a bit when it comes to your more traditional development programs.

Most nonprofit organizations that have particularly been in the bequest awareness business for the past 20 years are significantly stronger today than their counterparts who did not market themselves in the same way.

For those organizations who want to emerge in the next decade as fiscally strong and increasingly viable--ready to influence their community for the mission they are about--they simply must have board members with strong intestinal fortitude and vision, ready to invest resources in their charitable estate and planned giving efforts.

Today we’re only scratching the tip of the planned giving iceberg. The next 20-30 years will ultimately be a harvest many in the planned giving community can scarcely imagine. Our demographics and awareness-building efforts have the potential to produce a meteoric rise in the popularity and effectiveness of charitable estate and planned giving.

K. Gene Christian works for Charitable Estate Planning Northwest, a growing company that provides a wide array of planned giving services to the nonprofit community throughout the Pacific Northwest. He is past president of the Northwest Planned Giving Roundtable, chairman of its annual conference, and writes and speaks regularly to prospective donors and the professionals who advise them. 

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