TYPES OF PLANNED GIFTS

Simple Gifts at Death

Charitable bequests

By far, the most common type of planned gift is a bequest by will. It is also generally among the easiest types of planned gifts your organization can receive. So, set aside any fears you may have of complicated gift planning! Establishing a simple bequest program can have great impact on an organization over time and promoting gifts by bequest should be the bedrock of a planned giving program.

When a donor creates their Last Will and Testament or Living Trust, typically with help of an estate planning attorney, she decides where she wants her material possessions to go after death and may include gifts to the organizations she cares about. The donor may state a specific dollar amount, asset, or percentage of her "residual estate" to go to one or more charities, after debts, other expenses and specific bequests to individuals are paid.

To help donors know how to properly include a gift to your charity in their will or living trust, your organization should offer suggested bequest language. (see sample bequest language in section Resources)

Beneficiary designations

There also are assets that can be transferred after death by beneficiary designation. Examples include life insurance policies, retirement and other investment accounts, and bank accounts with "payable on death" designations. Because these do not require a will or attorney, they are the simplest planned gifts to arrange and are most quickly received as they are paid to the beneficiary outside of the probate process. Probate is a legal process that takes place after someone dies that involves proving that a deceased person's will is legally valid, executing their instructions and paying applicable taxes. Some donors may choose to name charities as beneficiaries on these types of assets instead of, or in addition to, naming charities in a will. To be named in a beneficiary designation form, the donors will need an organization's legal name, Tax ID and address.

TIP: An estate planning advisor's job is made easier by having your organization's suggested bequest language, official name, tax ID number, and contact information available on your website so it can be easily referenced for bequests and beneficiary designations.

Split-interest gifts

Split-interest gifts refer to more complex planned gift arrangements that divide the gift between the charity and the donor. Typically one would own the income or lifetime interest while the other would own the remainder or residual interest.

Charitable Remainder Trust

A charitable remainder trust (CRT) is an irrevocable trust in which the donor transfers cash or property to a trustee and, in return, the donor or other individuals named by the donor as income beneficiaries receive income from the trust for life, or a specified term of years, not to exceed 20 years. When the trust terminates, the corpus is distributed to the charities named as the charitable remainder beneficiaries.

There are two main types of charitable remainder trusts:

- A Charitable Remainder Annuity Trust (CRAT) pays a fixed dollar amount, annually, based on the initial fair market value of the property transferred to the trust. For example, if a donor transfers $100,000 to an annuity trust and selects a payout percentage of five percent, the named income beneficiaries will receive $5,000 per year until the trust terminates, regardless of whether the trust principal increases or decreases in value over time. Annuity trusts are generally favored by donors who are more interested in receiving a fixed income than they are in chancing market volatility.

- A Charitable Remainder Unitrust (CRUT) provides fluctuating income payments to the income beneficiaries, based on a fixed percentage of the annually revalued trust corpus. For example, if a donor transfers $100,000 to a unitrust and selects a payout percentage of five percent, the named income beneficiaries will receive $5,000 in the first year. But, if in the second year, the trust grows in value to $110,000, the income beneficiaries will receive $5,500, enjoying the benefit from the appreciation experienced by the trust. Market volatility has a direct impact on the income payments received each year by the income beneficiaries. The trust document must provide a payout percentage of at least five percent.

CRTs offer several compelling benefits to donors: They can convert highly appreciated, often underperforming assets into lifetime income for the donor. Because CRTs are tax-exempt, appreciated assets sold in the trust avoid payment of capital gains tax. Donors enjoy a significant income tax deduction and also reduce the size of their taxable estate. All these financial and tax benefits accompany a strategy that enables them to make a significant deferred gift to causes they care about.

Charitable Gift Annuity (CGA)

A Charitable Gift Annuity is a simple contract between the donor and the charity whereby the donor makes an irrevocable transfer of cash or property to the charity. In return for the contributed property, the charity agrees to pay a fixed amount of money each year for the lifetime of one or two individuals. The payout rate offered by a charity is typically based on recommended rates from the American Council of Gift Annuities. The annuitants have the option to defer receiving their annuity payments until some future date, provided that this decision is made at the time the contract is written.

In addition to fixed payments, a Charitable Gift Annuity provides other benefits to donors including a significant income tax deduction, capital gains tax savings when appreciated assets are contributed, partially tax-free payment in almost all cases and the satisfaction of supporting a worthy cause.

Larger charities and some community foundations offer CGAs. Since these are contracts that guarantee payments for the donors' lifetimes, charitable organizations offering them must have a strong asset base and sophisticated accounting platforms for administration. A charity must register to offer CGAs through its state insurance commissioner and meet certain compliance standards. For some organizations that do not have the expertise or capacity to administer CGAs, creating a partnership with your local community foundation or The National Gift Annuity Foundation is an excellent option.

Charitable Lead Trust

A charitable lead trust (CLT) is an irrevocable trust arrangement that pays current annual income to the nonprofit organization for a specified period of years, with the trust principal reverting to the donor or the donor's family when the trust ends. The annual income payment by the trust is similar to an outright gift of cash, for the charity is free to use the cash as soon as it is received, subject, of course, to any restrictions placed on the gift by the donor. For a charity, it is a wonderful advantage to know they will receive a regular annual payment. Such predictable payments can provide a cornerstone of support that can be transformational for a smaller organization. CLTs usually start at a minimum of $500,000 and require experienced legal, tax and financial advisors to establish and oversee the trust.

Typically, donors utilizing Charitable Lead Trusts have large estates and are seeking relief from gift or estate taxes. CLT donors qualify for a gift tax deduction that discounts for gift tax purposes the value of the assets that will eventually pass to their heirs. At the end of the trust term, their beneficiaries will receive the trust assets. Any asset growth that occurs in the trust will be distributed to the beneficiaries free of gift or estate taxes.

Retained Life Estate

Under a retained life estate, the donor irrevocably deeds a personal residence or farm to charity, but retains the right to live in it for the rest of his or her life, a term of years, or a combination of the two. The term is most often measured by the life of the donor, or of the donor and the donor's spouse. The donor receives a significant income tax deduction for the present value of the remainder interest.

When the term ends, typically when the last of one or more tenants dies, the charity can either keep the property for its own use or sell the property and use the proceeds as designated by the donor. An agreement should be established with the donor to clarify the responsibilities they will have to maintain the property and ensure taxes and insurance are paid.

(Source: Establishing a Planned Giving Program by Dean Regenovich and Gordon Fischer Law Firm)

IMPORTANT NOTE: If you are providing this information to donors, please use the following wording: "(Name of your organization) does not provide legal or tax advice. All donors should consult their tax advisors to properly determine the tax consequences of making a charitable gift."

Current Gifts of Non-Cash Assets

Gifts of assets such as stock, real estate, and tangible personal property, although given for the current use of a nonprofit organization, qualify as planned gifts by virtue of their dollar value and complexity.

Appreciated stock

Publicly traded or closely held stock represents the most common type of noncash gift. Nonprofit organizations prefer gifts of publicly traded stock because they are highly liquid—they can be sold quickly by a phone call through a broker—and have readily ascertainable fair market values, published daily online and in newspapers like the Wall Street Journal. It will be necessary for your organization to open a brokerage account to receive such gifts.

Real estate

Real estate is the second most common type of noncash gift, but proceed with caution. There are a number of issues a nonprofit organization should address before accepting a gift of real estate. Is the estate subject to a debt? Are there liens or encumbrances on the real estate? Is the donor the sole owner, or is the property jointly owned with others? Once accepted, will the organization be able to sell the property within a reasonable period of time, and if not, does the organization have funds available to pay for the insurance, taxes, and maintenance? Will the organization retain the property and use it for its exempt purpose? Have environmental tests been conducted on the property to ensure that it is not contaminated? Many organizations require Board approval before accepting gifts of real estate. Some even create a real estate checklist that must be satisfied before the proposed gift is presented to the Board.

TYPES OF GIFTS RESOURCES

Samples:

- Bequest language
- Real Estate Gift Acceptance Procedure Manual, by the University of the Pacific
- Charitable Gifts of Noncash Assets, by Bryan Clontz