



# Planned Giving 102: Legacy Giving and How to Talk to Donors About it

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# Legacy Giving



- Definitions
  - a gift by will
  - something transmitted by or received from an ancestor or predecessor or from the past
- Often made in contemplation of death
  - Mortality
  - Spiritual Beliefs
- Larger percentage of assets than annual giving
- Transformational

# Legacy Motivations

- Philanthropy
  - Estate planning is about how to transfer stuff to heirs
  - Communicate values to family and community
  - Transferring philanthropic wealth
  - Leaving heirs a better community
- Memorializing family name
- Honoring loved ones
- Paying back



# Donor Conversations

- Motivation + Mission
- Never lose sight of your narrative
- Tax consequences are the same with every charity, what you will do with the gift is the differentiator



# Legacy Giving

- Default is endowed bequest
  - Endowment- restriction as to time, gift must be set aside for perpetuity
  - True endowment = endowed by donor
  - Quasi endowment = set aside by Board
  - UMIFA/old model= principal preserved, income spent
  - UPMIFA/new model= unitrust spending
  - Oregon UPMIFA- more than 7% distribution in a year creates rebuttable presumption of imprudence
  - Important to have money set aside for future – balanced with current needs/control/access



# Transfer Tax

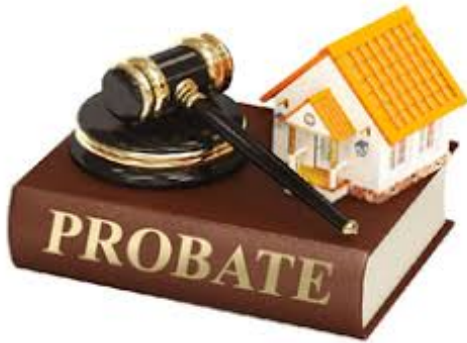
- Federal Transfer Tax
  - Unified Estate & Gift Tax Credit (often referred to as exemption amount)
  - 2019 is \$11.4 million
  - Scheduled to revert back to \$5 million in 2026 (indexed for inflation should be closer to \$6 million)
- State Transfer Tax
  - 26 states have Estate or Inheritance Tax
    - Oregon estate tax exemption \$1 million
    - Washington inheritance tax exemption \$2.19 million
  - Only two states have gift tax (CT, MN)



# Comparison of Gifts

	Bequest	CRT	CGA	IRA	Beneficiary Designation (non-IRA)
Income Tax Planning	No	Yes	Yes	Yes	No
Probate	Yes (in a will) No (in a trust)	No	No	No	No
Federal Transfer Tax planning	Yes	Yes	Yes	Yes	Yes
State Transfer Tax planning	Yes	Yes	Yes	Yes	Yes
Revocable until death	Yes	No	No	Yes	Yes

# Probate



- Expensive
  - Court filing fees, attorney fees, personal representative fees
- Time Consuming
  - Minimum of 4 months in OR, many last well over a year (WA is easier process than OR)
- Public Record
- Only necessary if there is a probate estate
- Non-probate assets
  - Jointly owned with right of survivorship
  - Passes under beneficiary designation
    - Life insurance, retirement accounts, POD
  - Trust assets



# Alternative to Bequests

- CRT or CGA
  - Beneficiary doesn't have to be donors
  - CGA for elderly parent
  - CRT for grandkids
- VERY deferred CGA
- IRA Beneficiary Designation



# Identifying gifts for donor needs

- Donor with a bequest to your organization, highly appreciated asset = CRT
  - “We don’t want to manage our rental property anymore (getting too old, ready to travel, headaches with tenants, etc.) but are going to owe a lot of tax on the sale.”
- Donor with bequest to your organization, IRA account = IRA beneficiary designation
  - “My advisor told me I should talk to you about doing a QCD from my IRA because my RMD is so large this year.”
- Donor interested in retirement income, appreciated stock portfolio= CGA
  - “My stock portfolio has done very well the last 10 years but I am not sure that this market is going to continue and this scares me because I am relying on my portfolio to live off of in retirement years.”

# You have identified a PG prospect, now what?



- No tax advice
- Never guess
- Offer follow-up
- Bring in other staff/resources
- Considering partnering with larger organization or community foundation
- Policies in place
  - Serve as Trustee of CRT?
  - Offer CGAs?
  - Real estate gifts and due diligence
  - Named funds/Restricted gifts
  - Review every few years with Board or committee

# Identify your resources

- Board members
  - Planned giving champion?
- Fellow development staff
- Volunteers
- Paid counsel
- Past staff or board members
- Mentor
  - NWPGRT, AFP, WVDO
- Planned giving consultant
- Investment manager/vendor



# Marketing



- Planting and watering seeds/ steady drip
- Simple things like signature line on letters and emails
- Mission stories that include funding by planned gift
- Make it easy to request more information
- Demonstrating good stewardship
- Legacy Society
- Newsletters
- Website
- Mailings/emails
- Donor planned giving stories
- Events (PG specific?)
- Long term donor club in addition to large \$ amount club



# Real Estate Gifts

- Outright

- Charitable income tax deduction for appraised value
- Charity will need to perform due diligence prior to acceptance
- Policies should outline due diligence needed and minimums for gift

- Bargain Sale

- Charity purchases property for less than appraised value
- Part gift/part sale
- Donor receives charitable income tax deduction for difference between appraised value and amount paid
- Donor recognizes gain but only on sale portion of transaction
- Works especially well with property the charity wishes to keep



# Real Estate Gifts

- Retained Life Estate
  - House or farm property
  - Donor signs a deed irrevocably transferring remainder interest after their death to charity
  - Donor gets charitable income tax deduction for present value of remainder interest based on appraised value of the property
- Charitable Remainder Trust
  - Works especially well for real estate- Flip trust
  - Donor can serve as initial trustee to avoid time and expense of charitable due diligence





# Tangible Personal Property Gifts

- Related Use Property
  - Income tax deduction at market value (appraised value)
- Non-related use
  - Income tax deduction is based on tax basis
- Consider with CRT despite the limited deduction





# IRS Forms related to gifts

- Form 8283- donor will include with their tax return if claiming more than \$500 deduction for property
  - Charity may need to sign to acknowledge (over \$5,000)
- Form 8282- charity files if sells property donated within 3 years of receipt (\$500 or more)
- Appraisal required for gifts over \$5,000 (other than cash or publicly traded stock)

