



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

Michael Davis, MBA CTFA

*September 22, 2021*

Investment products and services are:

NOT A DEPOSIT • NOT FDIC INSURED • MAY LOSE VALUE •

NOT BANK GUARANTEED • NOT INSURED BY ANY FEDERAL GOVERNMENT AGENCY

# Important Disclosures

U.S. Wealth Management – U.S. Bank is a marketing logo for U.S. Bank.

U.S. Bank and its representatives do not provide tax or legal advice. Your tax and financial situation is unique. You should consult your tax and/or legal advisor for advice and information concerning your particular situation.



Deposit products offered by U.S. Bank national Association. Member FDIC. Credit products offer by U.S. Bank national Association and subject to normal credit approval.

Other disclosures may apply.

# Agenda

- Legacy giving and legacy donors
- Bequest basics
- Transfer tax
- Probate
- Real property, personal property, odds and ends
- Gift scenarios
- Program basics and some marketing

# What is legacy giving?

- Can mean different things to different people
- Many factors in decision making process:
  - Mortality
  - Impact at organization(s)
  - Family
  - Advisors
- Usually larger than annual gifts or lifetime gifts
- If many organizations in lifetime, usually fewer with legacy gifts

# Who are legacy or planned giving donors?

- The people closest to your organization
  - Loyal donors
  - Volunteers
  - Event attendees
- Frequent planned giving indicators/opportunities
  - Age
  - No taxable heirs (AKA kids)
  - Multiple properties
  - Liquidity events
  - Life events
- Remember to trust your gut!

# Donor Conversations

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

# What happens with an unrestricted bequest?

- Depends on the organization and the size of the gift
- Many organizations add to general endowment
- 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 but preferable charity has control over it?

# Transfer Tax

- Federal Transfer Tax
  - Unified Estate & Gift Tax Credit (often referred to as exemption amount)
  - 2020 is \$11,700,000 (for individual)
  - Schedule 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



# 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

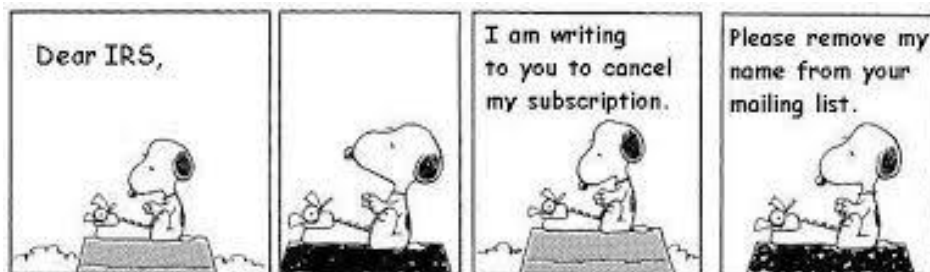
# Tangible Personal Property Gifts

- 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)



# The Right Gift – 1 of 3

- Donor with a bequest to your organization
- You learn they have a highly appreciated asset
- Solution: 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.”
  - Donors can receive income & charitable deduction
  - Avoid capital gains on sale of asset
  - Great gift for organization



## The Right Gift – 2 of 3

- Donor with bequest to your organization
  - Donor has an IRA account
  
  - Multiple opportunities!
    - IRA beneficiary designation
- AND...
- “My advisor told me I should talk to you about doing a QCD from my IRA because my RMD is so large this year.”

## The Right Gift – 3 of 3

- Donor interested in retirement income, but wary of market
- Cash or 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.”
  - CGA indicators:
    - Over age 60/65 (“sweet spot” generally 77-83)
    - Risk averse

# 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 now

- 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



# Tag lines and Web Forms – So easy!



PSU  
Foundation  
PORTLAND STATE UNIVERSITY

LET KNOWLEDGE SERVE  
THE CAMPAIGN FOR PSU

*Have you remembered Portland State University in your estate plans?*

My Gift Should Benefit:

## Additional Information

Anonymous:  I prefer to make this donation anonymously

Comments:

*For additional gift instructions or if you wish to make your gift "In Memory Of" or "In Honor Of" someone, please use this Comments section.*

I remembered Lewis & Clark in my will:  Yes

# Remember

- You can do this!
- Start simply and scale up
- Ask questions
- The PG community is small but mighty

# What We Covered

- Legacy giving and legacy donors
- Bequest basics
- Transfer tax
- Probate
- Real property, personal property, odds and ends
- Gift scenarios
- Program basics and some marketing





# Thank You!

Michael Davis

U.S. Bank Charitable Services Group

Michael.davis1@usbank.com