BEQUESTS AND SIMPLE BEQUEST ALTERNATIVES

PG CALC WEBINAR

November 17, 2016

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I. INTRODUCTION

However small your planned giving program, you will have charitable bequest prospects, provided your charity has a positive image and has been around a while – long enough to reflect stability and seem worthy of long-term investment. There must also be a significant base of donors who might want to make a bequest to your organization. The first step in nurturing a successful bequest program is carefully managing relationships with existing regular donors. Prompting a bequest gift should be the desired end point in your cultivation of a donor's support, a "capstone" gift, if you will.

You do not have to make a great investment to start a bequest program. It can be relatively easy to administer, and it can be done with very little extra staffing or cost. In fact, because of its relatively low cost, coupled with gifts that are frequently in multiples of 10, 20, or more of a donor's average annual gift, promoting bequest gifts is often the most cost efficient fundraising your organization can do.

For their part, donors are attracted to bequests because such gifts are easily understood and arranged. Due to the fact they can be amended or even completely revoked in the future if circumstances change (so long as a donor retains adequate legal capacity), they feature an appealing flexibility. Also, for donors with estates potentially subject to estate tax, bequests qualify for a dollar-for-dollar estate tax charitable deduction. If indeed an estate is large enough to be taxable, this means the "cost" to heirs, in terms of what they would otherwise have received from the donor, is reduced.

II. WHY BEQUESTS MATTER

Giving USA 2016: The Annual Report on Philanthropy for 2015, reports that charitable bequests totaled $31.76 billion in 2015. This was 8.5% of charitable giving, helping to set a new record for all charitable gifts in 2015. In many cases, a donor's realized bequest gift will exceed the donor's total lifetime giving to the same organization. Also, bequest intentions are playing a larger role in blended gifts, enabling the donor to "get to the finish line" by putting in place a plan to fund a gift the donor might never have thought possible.

III. THE ROLES PLAYED BY GIFT OFFICERS AND OTHERS

As a representative of your charity, you should be familiar with basic estate planning terms and concepts so that you can become a resource for your donors. Similarly, you should have some familiarity with relevant tax principles. Important, too, is understanding the value of having an estate plan in place, recognizing that estate planning properly involves not merely how a person's assets are to be distributed upon death but also various aspects of the person's situation during the balance of his or her life. One of the best ways to acquaint yourself with what's involved is to make your own estate plan. You will then know first-hand how much it costs, how much thought you have to give to it, and the anxieties it may raise.

In short, you do not have to be as informed as an estate planning attorney or other professional advisor, but you should seek to learn as much as you can. This will help you to feel confident in your ability to offer guidance and helpful information in your conversations with donors. You are not prying or soliciting. Rather, you are a resource for your donors, although they must ultimately avail themselves of their own legal counsel and other appropriate professional assistance.

Indeed, sometimes you will be asked if it is absolutely necessary to involve an attorney in the drafting of a will. With preprinted forms, maybe an estate planning software program, and sample language from the charity, a donor may feel equipped to draft his or her own documents, especially upon learning that the cost of having an attorney prepare a relatively simple estate plan will likely be many hundreds of dollars.

Yes, a donor really does need to work with an attorney. Apart from a will, there are other important documents that the donor (and all of us) should have in place, in case of accidents or poor health. Furthermore, many complications can arise that an estate planning attorney will be able to anticipate and deflect, especially as the attorney, unlike the gift planning officer, will be given the full picture of the donor's objectives and the complexity and extent of the donor's estate.

If asked for referrals, provide at least three names, and if a recommendation includes an attorney who also has a relationship with your organization, such as membership on your governing board, make sure to disclose this right away. Separately, the attorney himself or herself will also need to disclose potential or actual conflicts of interest. *In no event, however, should your organization offer to pay on a donor's behalf fees, commissions, or other costs for which your donor is responsible, as this could compromise the independence of the professional judgment rendered to the donor.*

IV. WHY DONORS LIKE BEQUESTS

Donors find making a gift in their will or trust an appealing way to give for many reasons.

- **Satisfaction of giving without parting with the asset** – The donor does not need to part with the asset when the gift is put in place, yet the donor can have the satisfaction of having provided for the future of the charity.
- **Easy to arrange** – A gift in a will or trust or from a retirement plan can be easy to arrange. While an attorney should be involved in drafting documents, a simple sentence can accomplish the donor's philanthropic goal.
- **Revocable** – The donor can change her mind for whatever reason or need.
- **Retain control of the assets** – If the donor needs the assets in retirement, they are available.
- **Flexible**. The donor can structure the estate gift to meet other family needs and priorities. For example, the gift can be contingent on another family member predeceasing the donor.

- **Reduce estate taxes** – If the donor's estate will be subject to federal estate tax, the estate will be entitled to a dollar-for-dollar federal estate tax charitable deduction for the amount going to a qualified charity.

V. Effective Identification of Bequest Donors

Not everyone wants to make a bequest to your organization but places with strong planned giving programs follow some straightforward paths to uncover the needles in the haystacks. One path is looking inside to ask your volunteers, mine your data, and look for the most likely people to give; then these folks should be the focus of your time and energy. Another way is to spread the word far enough and wide enough to get folks to self-identify. Either way, you want to catch people through what many call "the marketing funnel."

The marketing funnel is a series of stages that, like a kitchen funnel, gets smaller and smaller as you go down. Much has been written on this subject and some experts recommend having as many as seven different stages to their funnel. For simplicity here we have three stages:

- At the top of the funnel you have a large group of people called Suspects. No one has the time or budget to market indiscriminately so there are some common sense filters applied before everyone in the world is contacted. You are successful in reclassifying a Suspect to a Prospect when they have done something to attract your attention to them. Various industry-standard ratios apply, but for many organizations there can be as many as 100 or 1,000 Suspects for every Prospect.

- Prospects are in the middle of our three-staged funnel and the job here is to qualify them so that you spend your precious time and energy on those most likely to make a bequest. Qualified prospects either are found through awareness activities or are identified from within.

- Prospects move to the Qualified Prospects stage when they raise their hand high enough to be called or are visited, at which point they are at the last stage of the funnel. Those that make a gift are the drips that come out of the funnel.

- The best prospects will tend to be:
    - Donors who self-identify
    - Childless
    - Members of monthly giving program
    - Consistent long-time donors
    - Board of Trustee members
    - Major gift donors/Endowed fund donors
    - Donors with Donor-Advised Funds
    - Volunteers
    - Age demographic

VI. BEQUEST FUNDAMENTALS

There are essentially four ways a person's assets can be distributed upon death: 1) by default according to state law, 2) by will, 3) by beneficiary designation, or 4) by living trust.

If someone dies "intestate," that is to say, without having executed a valid will while alive, applicable state law will determine how his or her assets will be distributed. Significantly, no provision for charity exists under the laws of any state, even if the decedent made substantial charitable contributions during his or her lifetime.

If a person dies testate, i.e., having executed a valid will, then his or her assets will be distributed according to the terms of the will. Either way, the person's estate will be subject to probate, a court supervised process in which the person's assets are identified; debts, taxes, and estate settlement costs are paid; and whatever remains is distributed (once again, according to the terms of the will if there is one but otherwise as required by state law).

Moreover, regardless of whether a person dies having executed a valid will, certain assets can be distributed without having to go through the probate process, pursuant to written instructions furnished by the person while living. Examples include funds remaining in an IRA or the death proceeds associated with a life insurance policy he or she owned. If no such instructions have been furnished, however, then the assets will typically become subject to the probate process.

Assets placed in a living trust pass directly to named beneficiaries and do not go through the probate process. This is one of the advantages cited for this type of estate distribution vehicle.

Traditionally, a "bequest" was a gift of personal property (i.e., property other than real estate) made through a person's will, whereas a "devise" was a gift of real estate made through his or her will. A "legacy" could take the form of either a bequest or a devise.

Today, the term "bequest" is understood to encompass both traditional bequests and traditional devises, and has thus generally replaced the term "legacy" in common parlance. In addition, a distribution from a revocable living trust upon the death of the person who created the trust is often referred to as a bequest, regardless of whether what is distributed is personal property or real estate.

VII. ESTATE TAX FUNDAMENTALS

Federal Estate Taxes. The federal government imposes a tax on the transfer of assets from an estate valued above a certain amount. The gross estate consists of assets owned by the decedent at death, as well as assets in revocable trusts, retirement accounts, and life insurance policies over which the decedent retained control. Qualified charitable contributions reduce the value of the estate. In addition, any property transferred to a spouse is deducted from the taxable estate. This is called the "Unlimited Marital Deduction."

According to the Joint Committee on Taxation, only 2 in every 1,000 estates (0.2%) owe federal estate tax. This is because the federal estate tax exemption is very high. In 2016, the exemption amount before federal estate taxes are due is $5.45 million. For spouses, the combined federal estate tax exemption in 2016 is $10.9 million. These exemption amounts are indexed for inflation and therefore tend to increase from year to year.

State taxes. Some states impose their own estate or inheritance taxes. The donor should consult their professional advisors to determine the possible impact of state taxes on her estate.

VIII. TYPES OF BEQUESTS AND SAMPLE LANGUAGE

There are several forms a bequest can take, and sample bequest language is helpful to have to offer people who indicate that they are considering a bequest commitment. The language can be a discussion point to explain to the donor the benefits of and the differences between, for example, a gift of a specific dollar amount and a gift of the residue of the estate (or a percentage thereof). More importantly, the conversation offers an opportunity to learn more about the donor's interest in the charity's mission. Donors are usually grateful for an interested and knowledgeable listener and are appreciative of estate planning tips and language you or they can provide their attorney.

Below are the basic ways a bequest can be structured, along with applicable specimen bequest provisions. Any sample language a charity actually furnishes a donor or a donor's attorney should first be approved by the charity's legal counsel.

<u>Pecuniary Bequest</u> – This is simply a certain sum of money.

> "I give the sum of ________ dollars ($_________) to ABC Charity, which has a federal tax identification number of _________ and a current address of ___________________, or its successor organization."

<u>Specific Bequest</u> – In this instance, the donor is leaving the charity a particular asset or assets, such as real estate, securities, jewelry, works of art, etc.

> "I give [100 shares of XYZ Corp. stock/my guitar collection/the real estate legally described as follows] to ABC Charity, which has a federal tax identification number of __________ and a current address of ___________________, or its successor organization."

<u>Residual Bequest</u> – This is a gift of all (or perhaps only a portion) of what remains of a donor's estate after any pecuniary or specific bequests have been made and debts, taxes, and other estate expenses have been paid. Note: It is not possible for a person to make a bequest of literally all (or a portion) of his or her <u>entire</u> estate, due to the fact that, at a minimum, some of the assets of the estate will need to be drawn upon to pay estate expenses or other things that need to "come off the top."

> "I give all [***alternative****:* ________ *percent (___%)*] of the residue of my estate to ABC Charity, which has a federal tax identification number of __________ and a current address of ___________________, or its successor organization."

Contingent Bequest – This is a pecuniary, specific, or residual bequest that takes effect only under certain circumstances.

> "If my spouse does not survive me, then I give _______________ to ABC Charity, which has a federal tax identification number of _________ and a current address of ___________________, or its successor organization."

In addition to the bequest language given above, ideally the donor will indicate the intended use of their bequest. If the donor is silent on this point, from a legal standpoint the gift is unrestricted and can be used however the organization sees fit. Nevertheless, from a donor relations standpoint, the answer may not be so clear, given indications in the donor's file (sometimes conflicting), oral representations made by the donor over time, or the donor's giving pattern while living. It is better to nip any issues in the bud and have the donor specify their intention in the will itself. *Regardless of how a bequest is structured,* a donor is free either to allow the charity to use the gift in its complete discretion or to require the charity to use it in some particular way.

- Unrestricted Use
  …. "to be used for such charitable purposes as the governing board of ABC Charity may determine."

- Restricted use
  …. "to support medical research in the field of cardiology," "for student financial aid," "for producing television programs on matters of local interest."

- Establishment of an endowment

  "Provided that at the time of my death this gift meets ABC Charity's minimum funding requirement for an endowed fund, this gift shall be (i) entered into ABC Charity's books and records as the (*NAME OF DONOR'S CHOICE*) ENDOWMENT; and (ii) held, invested, administered, and distributed in accordance with ABC Charity's policies as they apply over time to similar endowed funds. This gift may, for investment purposes, be merged with any of the investment assets of ABC Charity. Distributions from the endowment shall be used to [specify purpose, if any; otherwise indicate that distributions may be made without restriction].

  "If, at the time of my death, this gift does not meet the minimum funding requirement for an endowed fund, it shall be [***option 1***: held for current use consistent with the purposes set forth above] [***option 2***: added to an existing endowed fund that benefits _________]."

Useful as well is a power-to-vary provision:

> "If, as determined by the governing board of ABC Charity, it becomes inappropriate or impractical to use this gift for the specific purpose stated above, then the governing board may, in its discretion, redesignate the purpose of the fund and any distributions therefrom, provided that the fund shall bear the name of _____________________ and the amended terms shall adhere as closely as possible to my original intent for this fund."

Note: Even when an endowment is established through a bequest, it is also a good practice – assuming the charity learns about what the donor has in mind – for the donor and the charity to execute a separate endowment agreement. In this regard, a provision such as the following could be included in the endowment agreement:

> "This endowment shall be established or supplemented with bequests or other testamentary charitable gifts that [donor] may make for this purpose, including the designation of life insurance proceeds, individual retirement account proceeds, as well as with employee benefit plan proceeds or gifts from other persons designated for this endowment. All funds received by ABC Charity from any sources (including but not limited to bequests, life insurance proceeds, individual retirement account proceeds, and employee benefit proceeds) as a result of the death of [donor] shall be subject to the terms of this agreement."

IX. ARRANGEMENTS SIMILAR TO BEQUESTS

Charitable gifts can be made upon death in quite a few ways that resemble bequests. In particular, they resemble either pecuniary or specific bequests, in that what the donor is doing is specifying that either a certain sum of money or a certain asset (or group of assets) is to go to charity upon the donor's death. The main difference is that the gift is not structured through a will or a living trust. In some cases, the gift can even be contingent.

A. Basic Options

1. Pay/Transfer on Death Accounts

A "pay on death" account involves the donor instructing a bank to pay to a charity all or a portion of what remains in an account when the donor dies. A "transfer on death" account entails the donor giving essentially the same instruction to a brokerage firm with regard to investments held in the account at the time of the donor's death. The particulars of each arrangement will depend on the bank or brokerage firm in question.

2. Insurance Product Beneficiary Designations

These types of products include life insurance policies of various kinds and commercial annuity contracts. The donor simply completes and returns to the insurance company a form designating that a charity receive all or a portion of the death benefit associated with a life insurance policy or the remaining contract value, if any, associated with a commercial annuity.

3. U.S. Savings Bond Designations

Either though a bank or directly with the U.S. Treasury Department, the donor designates that the proceeds of a new or existing savings bond be paid to a charity upon death. There are different types of savings bonds. In some cases the proceeds will consist solely of the donor's principal, whereas other bonds will result in a distribution of both principal and accrued interest.

4. IRA and Qualified Retirement Plan Designations

A donor can designate that a charity receive all or a portion of what remains in an IRA (regardless of the type of IRA) or in most qualified retirement plans, such as 401(k) and 403(b) plans. The custodian of the account simply furnishes the donor with a form that can be completed and returned to the custodian.

B. Gift Considerations

Generally, all of these gifts are even easier to arrange than bequests, as the documentation is simpler and less formal than a will or a living trust agreement. This is true with respect to both making the initial arrangement and modifying or revoking the arrangement (provided – as in the case of a bequest – that the donor still has adequate legal capacity at the point any change is made). For its part, a charity will typically find any of these gifts to be easier to administer, in that distributions are not subject to the delays and potential complications associated with the probate process. Of course, upon receipt of its gift, the charity will still have the same ongoing stewardship responsibilities in terms of carrying out the donor's wishes.

C. "Income In Respect of a Decedent" Assets – A Tax-wise Way to Give

Several of these bequest alternatives feature a tax benefit not applicable in the case of bequests. This will be so for any asset containing "income in respect of a decedent," or "IRD" for short. If the donor was either the owner or beneficiary of something which, had he or she remained alive, would have been a source of payments that would have been taxed to him or her as ordinary income, then that asset is an IRD asset. If, upon death, others then become entitled to receive such previously untaxed amounts, they must pay income tax on the IRD received.

Most distributions from an IRA made after the IRA owner has died are common examples of IRD with respect to every dollar distributed. (The only exceptions are distributions from a Roth IRA or distributions attributable to contributions of after-tax dollars made by the decedent to some other type of IRA.) The same can hold true for most qualified retirement plans. In the case of certain commercial annuity contracts and savings bonds, some of what is distributed will be IRD, with the rest being nontaxable principal.

The good news for charities is that by virtue of their tax-exempt status, no income tax will be due on any IRD they receive. This means that if a donor's estate plan calls for benefiting both individuals and charities upon death, it is most efficient from a tax standpoint to draw upon IRD assets (to the extent they are available) in making charitable gifts and to earmark other assets for individuals. Not all donors are aware of this fact, so charities need to keep up, and perhaps even step up, their efforts to spread the word.

An additional feature that distributions of IRD to charity share with bequests is deductibility of the distributions for estate tax purposes. Nevertheless, given the likelihood that fewer and fewer estates will be subject to estate tax in the years to come, it is the income tax aspects of distributing IRD to charity that should receive primary emphasis.

Thus, if a donor wants to leave $25,000 to a favorite charity and $25,000 to an individual, it's generally preferable to leave assets such as IRA funds to the charity, with other assets, such as cash or securities, left to the individual. The opposite approach would also be fine with the charity although not as good for the individual.

While IRA beneficiary designations and various testamentary gifts other than bequests are fairly easy to arrange, a donor should – as always – be encouraged to consult with his or her advisors regarding the appropriateness of a contemplated charitable gift in terms of the donor's overall estate plan.

X. TALKING TO DONORS ABOUT BEQUESTS

The most effective part of your marketing may cost you nothing and will be done by you, your staff, your volunteers, and your boards – by talking with your donors about bequests.

A. The Donor's Personality

Bear in mind that donors differ greatly, especially when it comes to matters of death, money, and family. To have a comfortable conversation about estate planning in general and bequests in particular, you need to know your donor well:

- some donors will willingly share sensitive details with you; others are very reticent
- some donors will be sophisticated; others will know next to nothing about estate planning
- some will enjoy discussing technical details; others will not want to spend any time at all on such matters

B. What You Can Say

Even though people find it difficult to bring up the subject of bequests, it can nevertheless be incorporated into conversations you are already having.

- If you have established an element of rapport with the donor, you can ask the question in this respectful way: "Many of our donors who want to ensure the future of our mission have included ABC Charity for a gift from their will or trust. Do I have your permission to ask if you have included ABC Charity in your estate plan or have you considered that?"

- If you are already talking with a donor about gifts to your charity and he or she says, "I just am not in a position to make an outright gift now," you could reply, "Well, you know . . . something you might want to think about . . . is putting a provision in your will . . .."

- If you are thanking your donor for longtime support, you can ask. "Have you considered endowing your support through a gift in your will or trust? Some of our donors have made provisions for an endowment gift in their estate plan that is approximately 20 times their annual gift. This ensures that the support they currently give now will continue in perpetuity."

- You can gently ask if people have had a chance to get their estate plans in order.

- You can ask if they are aware of your charity's legacy society and use that opportunity to explain the reason it exists. It is also a way of letting them know that others have made gifts similar to what you are asking for.

- You can't go wrong with offering information that you believe to be helpful. Even donors who are the "let's keep it simple" types are invariably grateful for efforts to share useful information and provide them with encouragement and resources. You need to be tuned in to what is appropriate – and to know when to hold back.

- If the conversation seems to be getting awkward or if the donor states that they choose not to share that information, thank them for their candor and move the conversation away from the topic. There can be many different reasons why a donor has not implemented an estate plan. Even if they have, they may not feel comfortable talking about it. Emotions that are often involved include indecision, apathy, guilt, or fear.

  Tips:

  ✓ Tell your donor that it's easy to do.

  ✓ Remind them that the plan is not written in stone – it can be changed as needed.

  ✓ If they fear getting a flood of solicitations, tell them you will protect their privacy.

  ✓ If they fear too much fuss, tell them that their gift is important, however small, and reassure them they will be able to choose their level of involvement.

  ✓ If they worry they are disinheriting children or other relatives, encourage them to get their family involved. Assure them that you know they will want to take care of family and loved ones first and that you are simply asking them to consider a place for your charity alongside them.

C. Uncovering the Problematic Bequest Intention

There are varying opinions as to whether a gift officer should inquire about the substance of a donor's bequest intention once the donor has disclosed the existence of the intention. Some believe it would be rude to inquire. Yet, not all bequests are good for the organization. If the donor has restricted the bequest to a program that no longer exists or for a use that is not a priority for the charity, the value of the bequest to the charity is diminished and the bequest, when realized, may need to be declined. Charities that have accepted "questionable" bequests have at times regretted the decision, finding that the problems of administering a bequest that does not fit directly within the charity's mission outweighs the benefit of having accepted the gift.

A gift officer can respectfully ask a donor who has informed the charity about a bequest intention for information about their bequest. The gift officer should explain that it is of the utmost importance to the organization to honor the donor's wishes for how the estate gift is to be used. If the donor says that the bequest is unrestricted, the gift officer may still choose to inquire further. Thank the donor for sharing that information and ask if there is any additional information they wish to share. Once the door is open and the topic is being discussed, donors will often divulge full information about their bequest gift, including the amount.

If the donor discloses that the bequest is restricted for a specific purpose, then the gift officer should ask the donor to discuss the restriction, again to make sure the organization can honor the donor's instructions. It is also good practice to request the donor to send the paragraph in the will or trust showing the restriction. Donors do not always recall accurately the specifics of the restriction. Also, the donor may wish to revisit the restriction, especially if the estate document was drafted years ago.

If the donor shares that the estate gift is contingent, it is useful for the organization to know the details of the contingency.

XI. Policies

When a charity launches a bequest program, its board and administration must understand what is entailed. Likewise, sound policies will need to be developed, approved, and implemented. Without policies, the receipt of a bequest can cause problems. For example, news of an exceptional bequest to your organization may make current donors believe you do not need their support. Also, if your leadership decides to balance the budget with the windfall, the money and its impact will soon be gone and forgotten. This does not leave you or those who follow after you much to say to the donor's children or grandchildren, or do much to encourage others to consider making your organization a beneficiary of their life's labor.

Policies may include the following:

- the kinds of assets that will be accepted by your organization through a bequest and under what circumstances;
- the procedures that will be followed to consider and accept or reject bequests;
- whether the organization will act as executor of a donor's estate (note: a blanket prohibition on this is advisable);
- how bequest expectancies and realized bequests will be valued, acknowledged, and recognized;
- ethics and responsibilities to donors;
- use of outside resources; and
- how unrestricted bequests will be designated (all to current budget, split – by either a dollar amount or percentage – between endowment and current budget, or all to [quasi] endowment).

XII. Promoting Bequests

The main objective of a bequest marketing program is to generate leads resulting in more bequest expectancies and to increase revenue from realized bequests. The method is two-fold. First, those who are already committed bequest donors are encouraged to self-identify so that their commitments may be recognized and reinforced. Second, existing supporters of the organization are encouraged to include – perhaps in addition to their annual support or their major gift – a deferred gift under their estate plan.

There are many simple ways you can promote bequests. A number of these involve "piggybacking" on communication tools you probably already have in place.

A. Check-off Boxes

Give donors and friends an opportunity to request information about including a bequest in their will or living trust, or to disclose the fact that they have done so. Check-off boxes on annual pledge cards and/or reply envelopes can be as simple as the following:

- "I would like more information about how to include ABC Charity in my will or living trust."
- "I have already included ABC Charity in my will or living trust."

B. Inserts and Taglines

It is easy and inexpensive to include a "buck slip" or "lift note" featuring a bequest message and the legal name of your organization with all gift acknowledgments, as well as in other mailings. It can also be available for distribution at appropriate events. Consider adding a tagline to gift receipts, your letterhead, and e-mail signatures such as *"Please remember ABC Charity in your estate plan."*

C. Miscellaneous Written Materials

Suggest bequests in every major publication produced by your organization. Make your constituents aware that your organization can benefit from bequests. Awareness comes from *frequent and continuous exposure* to the importance of planning a bequest. A small, boxed-in announcement in a corner of every newsletter and a similar announcement in every annual report will help get the word out. Occasional newsletter articles that highlight the gift of a bequest donor can encourage his or her peers to do likewise. Ask the donor to describe the motivation that led to the decision to plan a bequest, and include a photograph with the story to give it a warm, personal touch. By using existing in-house publications, you eliminate time and monetary costs of developing separate materials.

Create a brochure or fact sheet providing sample bequest language and indicating how bequest commitments will be honored. A generic brochure from one of the companies that specializes in these publications can be relatively inexpensive, whereas a custom brochure tailored to your policies and organization can be quite expensive and go out of date quickly. These and similar items can constitute a "will kit" for use in following up on inquiries.

D. Targeted Mailings

At some point you may want to do mailings targeted to a specific donor group that you have identified, reminding them about the importance of having a will and suggesting that they consider including your organization in their estate plans. The group can be large or small (thousands or just dozens). The key concept is that mailings will be distinguished. A letter to those who have been loyal and consistent donors for many years will be different, for example, from a letter to retired staff or to those who have made prior gifts of securities.

If possible, all mailings should thank and recognize recipients for the nature of their support thus far. The communication is driven by a wish to offer useful information to donors and to remind them that the charity is there to offer help and guidance at no cost or obligation.

Possible market segments:

- Older donors;
- Those who have given consistently and over a long period of time;
- Retired staff and widows or widowers of retired staff;
- Former board members;
- Those with no heirs;
- Volunteers, and
- Those who may have an interest in endowing their annual gift.

E. Web Site Content

Bequests and other planned giving arrangements should be featured on at least one page of a charity's web site. Ideally, the case for bequests can be made on a separate subpage reached from the main development page (or the planned giving page, if there is one). In turn, the bequest page could link to a separate page with sample bequest language. At a minimum, a visitor to the charity's website (whether a donor or an advisor) should be able to find:

- The charity's legal name, federal tax identification number, and address; and
- Whom to contact at the charity for more information and how to contact him or her.

F. Testimonials

Testimonials encourage prospects to identify with a peer who has already established a planned gift. Readers feel like they can become a part of a special group of supporters. These stories can set the stage for an article about a specific gift vehicle in a newsletter. They also can be used for inserts, brochures, videos, target mailings, and web pages.

Use testimonials from donors wherever possible. Help donors organize their thoughts for testimonials by sending them a list of questions regarding how the gift came about, including their history of involvement with the organization, why they gave, the benefits, etc. One institution invites bequest donors to submit a photograph and to prepare a testimonial of approximately 500 words describing what the institution means to them. This information is then made available in the donor recognition area. The stories and pictures are retrievable on a touch screen by geographic area or by last name.

G. Telemarketing

Some organizations have borrowed this technique – commonly used in direct mail fundraising – and applied it to the marketing of planned gifts. A letter is sent to a targeted mailing list and followed up with a telephone conversation. That conversation might be as follows: “Thank you for your ongoing support of ABC Charity. I am calling to let your know how much we appreciate your generosity and to ask whether you would consider naming ABC Charity in your will. If this is something you may be interested in, we would like to send you our will information kit.”

H. Seminars

You may want to sponsor a seminar to provide information about the basics of estate planning or estate administration. Seminars can be a good way to inform individuals about what’s happening at your charity, provide a service and, at the same time, bring them closer to your organization and its mission.

I. Internal Marketing

Be sure others at the charity, particularly the development staff and anyone who is in a “front line” position of working with the public, are aware of the program. Also, inform the leadership of any volunteer groups the charity may have. Explain their roles in the prospect identification process and ask for referrals. Make sure everyone knows that you are a resource available not just to them but also to donors and prospects.

Lead by example and plan your own bequest. Then encourage your organization’s key staff to do the same.

J. Utilize Volunteers

Whether structured as a formal committee or as a less formal advisory group, consider enlisting volunteers to help you in asking for bequest gifts. Ideally, the notion of a bequest gift will be so imbued throughout your organization that it becomes part and parcel of all ongoing annual and major gift donor conversations. However, a group of volunteers trained in the basics of estate gifts and how to talk with donors about them will help ensure this conversation is being held or will supplement the effort with visits to donors who otherwise would not receive personal asks. This not only leverages what you are able to accomplish given your other job responsibilities, but peer-to-peer solicitations can be more effective with certain donors than staff solicitations.

K. Outreach to Advisors

You might also mail information about your program to estate planning attorneys, trust officers, and other allied professionals, or – if time permits – go visit them. The package could include an annual report, sample bequest language, information about your legacy society, a gift notification form, and a supply of business cards. Advisors will appreciate knowing that you pay attention to those who plan bequests, and that you are prepared to recognize and thank those individuals who are willing to make their plans known to you. (Clients who will not permit their advisors to share this information may nevertheless allow their advisors to inform you of their bequest arrangements on an anonymous basis.) Offer an opportunity for the advisor to visit the charity and learn more about its work first-hand. Finally, if you can make use of the expertise of selected advisors as part of a planned giving committee or similar group, they may well appreciate being asked to participate.

XIII. Stewardship and Recognition

A. The Importance of Good Stewardship

Good stewardship serves to strengthen a donor's relationship with your organization and is a vital part of a bequest program. The hope is that both "new" and "uncovered" bequest donors will, as a result of recognition and good stewardship, *at least* continue to keep the provision in their estate plans and *at best* a) increase the level of their bequests or b) accelerate their gifts by implementing life income plans or by making outright contributions.

When you first learn about a bequest expectancy, you need to respond promptly.

- Look at your database. Has the donor given recently? Check on patterns of giving. Has the donor given over a long period of time?
- Call and thank the donor personally not just for the bequest but for yesterday's gift, for last month's gift, or for loyal and longstanding support in general. Also, be sure to thank the donor for sharing with you information about the bequest.
- Emphasize respect for confidentiality.
- If there is a relevant recognition society, mention that the donor is now eligible to join by virtue of the bequest. If no such society exists, don't worry. Say that you will try to keep the donor involved in things that are going on.
- Emphasize that the donor can choose his or her level of involvement.
- Assure the donor that the gift is important no matter how small (or how contingent!).
- Make clear that you can help ensure the donor's wishes are carried out and that you are a resource and would welcome any questions.

Once a donor has been welcomed into a charity's community of bequest donors, the relationship should now continue to grow. Indeed, the focus now shifts to deepening that relationship through ongoing contact by cards, phone calls, and personal visits.

B. The Bequest Recognition Society

A recognition society provides an excellent platform for stewardship.

1. Purpose

The purpose of the society is to recognize and keep in touch with donors. Donors who have made a commitment to your organization through their will or other deferred gift should be thanked on an ongoing basis. By remembering your organization in his or her will, a donor has in some respects elevated your cause to the status of family. It is a profound expression of confidence in your institution. A bequest to charity is often a donor's single largest, most thoughtful charitable gift in their lifetime. Your charity should let donors know of its continued appreciation for their future gifts.

The society provides opportunities for your donors to join with others who have similar interests. Events and activities connect donors with other individuals who have made a commitment to the future of your organization, and they reinforce the concept that planning for the future is important.

The recognition society allows the organization to focus on a group that has already invested in it and provides a systematic means to build in accountability. Charities have a responsibility to be good stewards of relationships. A recognition society allows you to provide ongoing expressions of gratitude, as well as assurances to your donors that their gifts are well placed.

2. Standards for Membership

a. Eligibility

A society can include not only those who have made bequests and similar testamentary arrangements, but also those who have made irrevocable deferred gifts, such as charitable gift annuities, pooled income fund contributions, charitable remainder trust beneficiary designations, or gifts of partial interests or remainder interests in property.

b. Evidence of commitment

Some organizations will not recognize a donor as a member until written evidence of the commitment is received. Others simply accept any written or verbal indication that a commitment has been made. Be careful not to push too hard for this information. It may result in the donor retreating and choosing not to become a member of the society. Treat all bequest donors the same. By their very nature, bequest commitments are difficult to "value" and to "credit" (generally, they are *revocable*). Since the underlying purpose of the recognition society is to strengthen relationships with your organization, it will be to your advantage to be generously inclusive. The only information you really need to know is the donor's contact information. "Counting" and reporting your successes is of secondary importance.

Show great respect for a donor's preference for anonymity or confidentiality and consider proactively seeking permission to publish any names. In other words, weigh carefully the pros and cons of not listing anyone's name without their express permission, versus letting donors know you will list their names unless they "tell you otherwise." Generally, it is preferable to act to protect confidentiality rather than publish a name without the written permission of the donor.

C. Other Forms of Recognition

Whether through a society or otherwise, a bequest donor can be offered public recognition, participation opportunities, and mementos, along with ongoing friendship and contact.

- Public recognition offers the double advantage of recognizing donors while building awareness about your program. Consider these techniques:
  - ✓ Publish names of donors (and stories if possible) in your newsletter and annual report. Include brief information about the bequest society (if there is one) and how to contact you for more information.
  - ✓ Recognize donors at public events or ceremonies.
  - ✓ List names of donors on a plaque in a public space in your building.

  Note: Since a goal of public recognition is to honor a donor, be sensitive to the donor's preferences. Sometimes these are not so easy to discern, and you need to give your donor and yourself some time to tease out what is possible and desirable! You can always point out that public recognition is, in many ways, a second gift to the organization that may serve as an inspiration to others to be equally generous.

- Plan an annual event, such as a luncheon. The event should be designed to involve donors with your charity and make them feel good about their roles as investors in your organization's future. Attendance at events gives donors the chance to meet and mingle with like-minded people. It also further educates your donors about the activities of your organization and creates a greater level of involvement. Make the event important. Board members and the executive director should attend. Your leaders should convey the strength, momentum, and future plans of your organization and recognize the impact deferred gifts of society members will have.

  Don't limit the activities of the society to one event a year. Consider these folks to be major donors and look for opportunities to include them in important events such as annual meetings, building openings, receptions for new leaders, awards ceremonies and such. When seating them, do not isolate them by age group, but mix them in with other donors. They typically like to interact with younger generations and they can be a good influence on your younger donors. Consider special nametags that identify them as estate gift donors.

- Mementos or token gifts can remind a donor of your charity and serve as evidence to others that he or she supports your organization. Try to think of something representative of the organization that will remind donors of it each time they see the item, but you probably want to select something that is not too elaborate. These are generally older persons who are in downsizing mode and likely have all the "stuff" they will ever want to have. They also are typically the kind of people who would not want to see your organization "waste" money on tchotchkes. On the other hand, small gifts can provide you with an opportunity to meet and visit with donors and begin to develop relationships. They may also serve as conversation pieces that can help build awareness among friends and family members.

- The very best recognition, however, provided that time permits and the donor allows, is regular ongoing personal contact through correspondence, visits, and phone calls.

XIV. Keeping Track

Determining the success of a planned giving program takes time. You can build the case for support through good tracking mechanisms and proactive reporting.

A. Bequest Commitments

At a minimum keep a database of bequest donors and, when you have been informed of a bequest intention, make note of it immediately. Include a generous field – or several – for “notes.” Track every scrap of information about the donor (e.g., birth date, giving history, attendance at events, etc.) for future stewardship purposes. After each phone call or visit, make notes and update records. Try to personalize each contact as much as possible. Not only note the level of involvement that a donor desires, but also don’t assume that this will remain unchanged. Your records will prove invaluable when following through with an appropriate stewardship plan. *Keep your colleagues informed about donors’ bequest intentions.*

B. Realized Bequests

It will be very helpful to track and produce periodic reports on estate gifts. Keep track not just of totals but also of averages and means. Show how progress is made year by year. Indicate how many estate gifts come as surprises. See if you can “profile” a typical bequest donor and analyze trends. *Share these data, along with donor stories, with the senior management and colleagues to raise awareness of the significance and value of estate gifts to the organization.* Remember to share stories and facts and figures relating to a particular area/department with that unit for the general education of those involved or – if a broader but still targeted audience is sought – for placement in departmental newsletters or other publications.

XV. Estate Administration

Whereas a bequest made through a living trust should take relatively little time to be distributed, a bequest made through a will is going to be subject to probate. Probate is essentially an unpredictable process. Not only may assets be hard to track down, difficult to value, or hard to sell, but often there are unforeseen creditor issues and family disagreements. Moreover, the details associated with the process will differ considerably, depending on which state’s law governs.

Nevertheless, it is possible to identify some points with general applicability:

- One person or office at the charity should be in charge of monitoring bequest gifts, and periodic reminders should be sent to staff to ensure that everyone in the organization knows to whom this responsibility has been assigned.
- Good communication will reduce the risk of misunderstandings and inefficiency.
- In the case of a pecuniary bequest or in the case of a typical specific bequest, you will only have to anticipate the timing of the distribution. In the case of a residuary bequest, your antennae should be up!

- If legal issues arise, the charity's legal counsel should be able to advise the organization as to whether legal action should be taken. Obviously, it is best to avoid litigation if possible, due both to the cost and to the potential for adverse publicity. On the other hand, the charity, like the person or entity administering the estate (usually called the executor/executrix or the personal representative), has an obligation to the donor to see that his or her wishes are carried out properly.

  In any event, a charity will likely need to consult its legal counsel whenever there is ambiguity with regard to the wording of the bequest provision, the potential for a will contest, or a situation in which the person or entity administering the estate is not doing what he/she/it is supposed to be doing.

Effective bequest administration brings with it a number of "side" benefits, in terms of creating good will among heirs of the donor, other supporters of the organization, additional charitable beneficiaries of the estate (if relevant), attorneys and other professional advisors, and "the public" at large. In this regard, the following are ways for a charity to honor the donor and appear worthy of the gift in the eyes of others:

- make sure the gift arrives in a timely way;
- make sure the distribution is correct;
- make sure the donor's wishes are carried out and the gift is used appropriately (check for ambiguities, conflicting directions – make it your job to represent the donor's interests within your institution);
- include biographical information in your files and make sure it is available to the recipients of the gift;
- if applicable, name the fund or account after the donor;
- publicize the gift as an inspiration/example to others;
- show supporters and others that the gift is well used and appreciated;
- talk enthusiastically about the gift to your governing board; and
- keep relatives and the person or entity administering the estate informed about any fund that may have been created through the bequest and about the recipients of distributions from the fund.

In particular, you can be a source of comfort to bereaved relatives and friends. Many people are surprisingly grateful for your interest.

Also, how you respond to a notice informing you about an estate gift is a good indication of the responsiveness and effectiveness of your organization. This is an opportunity for important exposure to the advisor community. Respond quickly and enthusiastically. *Remember that comparisons may be made.* Provide tax identification numbers, and assist in any way you can. Furthermore, take advantage of this opportunity to tell advisors of the services your organization can provide, such as providing sample bequest language and preparing illustrations for life income gifts. Send your "advisor information packet" to those you are working with at the moment.

Finally, if charities in addition to your own are beneficiaries of the donor's estate, consider:

- sharing resources, knowledge, and costs;
- joint representation if you need legal counsel and your interests are not adverse; and
- designating one charity to act as agent for the entire group.

XVI. CONCLUSION

"The capital shall be invested… the interest shall be annually distributed in the form of prizes to those who, during the preceding year, shall have conferred the greatest benefit on mankind."

-- from the will of Alfred Nobel

Encouraging estate gifts is all about helping your donors support those causes they care most about in life and perhaps in the process establish their own legacy. Don't shortchange your organization or your donors by being hesitant to promote and nurture end-of-life gifts. Instead, embrace this possibility and invite your donors to accomplish more than they ever thought possible.