TOP 10 PLANNED GIFT MARKETING STRATEGIES FROM SCIENTIFIC RESEARCH

PG CALC WEBINAR

OCTOBER 25, 2018

Russell James, J.D., Ph.D., CFP®
Professor of Personal Financial Planning
Texas Tech University
Lubbock, TX 79409
(806) 787-5931
russell.james@ttu.edu

I. INTRODUCTION

After fifteen years in academic research (following more than a decade in frontline planned and major gifts fundraising), this is an attempt to bring together scientific results from economics, neuroscience, psychology, demographics, and other disciplines to present the ten most important and effective strategies for increasing fundraising success in planned gifts. Beyond just "war stories," this brief presentation is intended to give you a deep understanding of what works – and why – in effective planned giving fundraising.

II. UNDERSTANDING THEORY

A. Who cares?

In this paper we will review a variety of planned gift marketing strategies. However, I believe it is important to be able to understand the "why" behind successful techniques, rather than just having a set of tips and tricks. Of course, as a professor and researcher, I am automatically drawn to the underlying "Why" questions. But, beyond this academic motivation, I believe that understanding the theory, i.e., the "Why," is practically important. A fundraiser who understands the "Why" of how decisions are made can adapt to new organizations, new donors, new media, new campaigns, or any other new circumstances. Just knowing a trick that worked for one person at one organization, might work for you, but it might not. And, it certainly won't help you to assess any novel approaches that you haven't yet tested. But, if you understand the underlying "Why," what we would call the theory, then your knowledge becomes much more flexible.

Such theory-based strategies are even more important in planned giving than in other areas of fundraising. When an organization expends effort to raise gifts from wills, it is often many years before the organization receives all of the dollars from these efforts. This long response cycle makes testing much more challenging. As a result, it is possible to do the wrong thing in legacy fundraising for many, many years, without knowing that what you are doing is the wrong thing. That isn't the case in other areas of fundraising. If you do the wrong thing in an appeal letter asking for immediate gifts, you will know it was a bad idea immediately. With such immediate cash responses, you can simply A/B test yourself into reasonably effective letters. But, when the cash responses take many years – or maybe decades – ineffective actions aren't as obvious.

B. You are talking about death

Look, we might as well admit it. Planned giving usually involves planning for your own death. Planned giving might be exclusively planning for your own death, such as a gift in a will. But, beyond the will, many other types of planned gifts involve planning for transfers at death. Retained life estates, CRATs, and CRUTs usually involve planning for transfers at death. Some techniques actually involve making a financial bet on how long you are going to live – as with a gift annuity, CRAT, or CRUT.

Now, you might not be at all uncomfortable talking with people about their death planning. But, it is useful to recognize that the planned giving professional is not dealing with the same topic as the donor. You see, the planned giving professional is talking about *the other person's* death. This topic doesn't necessarily make people too uncomfortable. Other people die all the time. We will even pay to see to movies depicting other peoples' deaths. The planned giving *donor*, however, has to be thinking about his or her *own death*. And that is a very different topic.

C. Theory and experiments with "mortality salience"

Believe it or not, researchers have actually spent years testing what happens to people's attitudes and behaviors when they are reminded that they are going to die. There is, in fact, an entire field of experimental psychology focused on this question called Terror Management Theory. This field dates its origins to turn of the century post-Freudian psychoanalyst Otto Rank, then to Ernest Becker, author of the Pulitzer Prize winning book *The Denial of Death* (1973), and then to the founders of the modern experimental work, social psychologists Jeff Greenberg, Sheldon Solomon, and Tom Pyszczynski. These theoretical origins make for interesting reading for those who enjoy such things. And, in case you aren't a fan of such psychological approaches, you may be comforted to know that the same core predictions resulting from these theories can be generated by a simple, economic model of consumer decision-making.[1] However, from a practical perspective, what is important is that research in the field has generated literally hundreds of experimental results that give us a clear understanding of how people react to death reminders. In simple terms, people react to death reminders with two stages of reactions (labeled the proximal and distal defenses).

The first stage reaction is called *avoidance*. Most people, most of the time react to reminders of their own mortality through a variety of strategies intended to avoid facing this reality. This avoidance can be expressed in a variety of ways, such as distraction (I'm too busy to think about that right now), differentiation (This doesn't apply to me now because I am different), denial (These worries are overstated), delay (I definitely plan to think about this… later), or departing (I am going to stay away from that reminder). For anyone who has ever tried to get people to engage in estate planning, these types of reactions will be quite familiar. However, this first stage defense is not always completely effective. Ultimately, it is difficult to argue with the reality of our own mortality. This then leads to the second stage defense.

The second stage defense has been called the pursuit of *symbolic immortality* or the pursuit of *lasting social impact*. This is the idea that the discomfort from recognizing my own impermanence can be reduced by pursuing goals that will live beyond my own life. In other words, some part of my self – my name, my family, my story, my values – will live beyond me. But, ultimately, only one thing lives beyond me, and that is my community.

[1] James III, R. N. (2016). An economic model of mortality salience in personal financial decision making: applications to annuities, life insurance, charitable gifts, estate planning, conspicuous consumption, and healthcare. *Journal of Financial Therapy, 7*(2), 5.

My community, in this sense, is not necessarily about where I live, but refers to whomever I consider to be my "people," or more formally, my "in-group". Think of it this way; if I was the last person alive on earth, I would have no possibility of making any impact on the world beyond the point of my death. All possibility of impact beyond my death is built upon the foundation of my surviving community.

In experimental research, what happens when people are reminded of their own death is that they become highly protective of their surviving "in-group," and simultaneously resistant to opposing "out-groups." The opinions of other group members, the group's social norms, and the group's social approval, become much more important and influential. Further, recognizing one's own impermanence increases the desire for making a social impact with *permanence*. Thus, the desire for *lasting* social impact, or symbolic immortality, increases dramatically with death reminders. Understanding these core reactions to mortality reminders, 1st stage: avoidance and 2nd stage: pursuit of lasting social impact, helps to explain why many of the following strategies are so effective.

III. Rule 1: If you want a larger audience, don't lead with death

A. Communicating obliquely

If we recognize that personal mortality topics, such as planned giving, are subconsciously aversive to most people most of the time, then it makes sense to wrap them in other non-death related topics to sidestep this initial avoidance response. This is the "spoonful of sugar that makes the medicine go down," and it is a common theme in a variety of successful strategies to communicate planned giving information.

B. The oblique seminar

When I began in planned giving, I worked for a religiously affiliated college. I was taking over for the retiring planned giving officer, so I did what he had done, which was to offer estate planning seminars in the college's supporting churches typically on Sunday afternoons. I like to say that I put together a fantastic seminar on estate planning and *both* of the people who showed up for it agreed that it was great. I learned that if I led with a death topic, I got a very small audience. So, being a recently graduated lawyer, I tried a different strategy by changing my topic to "Christians and the Law," where I talked about religious liberties issues, hot button current events, and ended with a section on Christian stewardship in the law including an encouragement to complete estate planning documents. (If you don't do anything, the government has already made your will for you, and I can guarantee you there is no gift to your church in that will!) I found that not only did attendance skyrocket, but the share of people who signed up for estate planning assistance remained just as high.

There can be a variety of approaches to picking a related topic that doesn't lead with death. Another planned giving officer shared with me that he got dramatically improved results when he changed his seminar topic from "estate planning" to "senior concerns." As before the new topic included an ending section on estate planning after covering other health and financial issues, but because it didn't *lead* with death, it generated much better results. The application of this principle can be used in a variety of ways. You might offer a seminar on "tax-smart giving" or "how to give smarter" where you share current giving tips (e.g., donating appreciated stocks gives you two tax benefits instead of one) and estate giving tips (e.g., if you leave the IRA to the kids, they have to pay income taxes on that money, but anything you leave to charity from the IRA avoids income taxes). Again, the idea is to lead with a non-death related topic and only along the way share the death related information.

C. Other oblique communications

Beyond seminars this same concept can be applied in a variety of communication methods. The use of brief donor surveys has become a popular way to collect information about – and influence – planned giving intentions. When done correctly these surveys focus on the donor's values, interests, and story. Only towards the end will they add in a brief question about planned giving intentions.

IV. RULE 2: EMPHASIZE LASTING SOCIAL IMPACT

A. When to lead with death

It is important to keep in mind that the first rule is conditional. I once had a successful planned giving fundraiser tell me that he didn't agree with avoiding death in communicating. He explained that when he was having an estate planning conversation with prospective donors he very strongly led with death, even evoking imagery of the vulnerable surviving spouse being left all alone. This straightforward death focus motivated people to get plans done to protect the family and often to make a lasting charitable impact. His strategy was effective, but it didn't contradict the first rule. Remember the first rule is not, "Don't lead with death." It is, "If you want a larger audience, don't lead with death." In this case, the planner had an essentially captive audience in a one-on-one conversation. When avoiding the conversation (1st stage response) is no longer available, the 2nd stage response increases. This second stage response is an increased desire for lasting social impact.

B. Research examples

In a recent piece of academic research, together with a Ph.D. student of mine, we tested this effect for annuity choices.[2] We gave people a range of annuity options that either paid more income, but had little or no bequest benefit, or paid lower income, but provided a higher bequest benefit. The more strongly we reminded people of their own mortality, the more strongly they preferred annuities with lower income for them, but a higher bequest benefit for others. In another experiment with another Ph.D. student, reminding people of their mortality caused them to prefer a lower rate of spending their assets in retirement,

[2] Williams, J. & James, R. N., III (in press). Bequest provision preferences in commercial annuities: An experimental test of the role of mortality salience. *Journal of Financial Counseling and Planning*

thus leaving more for heirs.[3] These are simple examples from financial decisions of how mortality reminders cause people to become more interested in making a lasting social impact, even at the expense of their own personal consumption.

However, this applies in a charitable context as well. In another experiment[4], psychologists gave people the opportunity to donate to a poverty relief charity. The charity was described either as "meeting the immediate needs of people" or "creating lasting improvements that would benefit people in the future." For the group that was not reminded of their death, donations were 2 ½ times larger when the charity was described as "meeting the immediate needs of people". In contrast, for the group that was first reminded of their own mortality, donations were almost 3 times larger when the charity was instead described as "creating lasting improvements that would benefit people in the future." The death reminders increased the attraction of *lasting* social impact.

B. How to emphasize *LASTING* social impact

As described in the last research example, emphasizing lasting social impact can be something as simple as choosing the right words. In the previous experiment neither the charity nor the giving opportunity changed, only the emphasis in describing the charity's work from immediate to lasting. Although we don't have organizational-level bequest receipt data in the U.S., we do have such data in the U.K. From that research we can see that bequest dollars tend to go to older, more stable organizations. This may be due in part to the demographics of their donors but could also be due to the sense of stability and permanence for the recipient organizations. For newer organizations without this sense of stability it may be useful to consider offering giving opportunities with permanence such as endowments managed by old and respected community foundations or financial institutions. Other organizations may consider developing more permanent giving opportunities with endowment-like features specifically for legacy giving – where such features are particularly attractive.

V. RULE 3: PRESENT A SOCIAL NORM DEFAULT (PEOPLE LIKE ME DO THINGS LIKE THIS)

A. Research origins: The power of social norms in death related decisions

Observational and experimental research demonstrates the extreme power of social norms in the field of death related decisions. For example, in a study of organ donation, one study found that European nations employing an "opt in" choice system generated effective compliance rates of between 4% and 27% where those employing an "opt out" choice

[3] Liu, Y., & James, R. N., III (2018). The impact of mortality salience on the asset decumulation decision. Academy of Financial Services Annual Conference, October 2, Chicago, IL

[4] K. A., Tost, L. P., Hernandez, M., & Larrick, R. P. (2012). It's Only a Matter of Time Death, Legacies, and Intergenerational Decisions. *Psychological Science, 23*(7), 704-709.)

system generated effective compliance rates of roughly 99%.[5] Why are defaults so powerful in a death related decision like organ donation? A default works well with both stages of defenses to mortality reminders. First, a default coincides with avoidance by providing a way out. By accepting the default, one avoids further contemplation about the death related topic. This makes the default particularly attractive when dealing with a topic, like personal mortality, the most people would like to avoid. Second, a default establishes a social norm. It creates an implication that this is what most people do. This social norm is particularly powerful in a death related context. Remember that the second stage defense to mortality reminders is pursuit of lasting social impact. Because my community is the only thing that will survive to remember me, the opinions of the group, the group's social norms, and the group's social approval, become much more important. In this way, the social norm becomes particularly powerful in a mortality context.

Beyond this example from organ donations is the more direct example from charitable estate planning. In one experiment from England, 3,000 people were going through their normal estate planning process.[6] Unbeknownst to them, they were randomly assigned to one of three groups. One group got the standard estate planning questions. One group got these questions with one extra question, "Would you like to leave any money to charity in your will?" The final group also had an extra question asking about a charitable gift, but with the social norm introduction sentence of, "Many of our customers like to leave money to charity in their will." The share of people actually including gifts in their wills in each of the groups was 5.0%, 10.4%, and 15.4% respectively. As compared with not referencing a gift in a will, just asking the question more than doubled the share of people who included gifts in wills. Asking a question with a social norm statement more than tripled the share of real people including real gifts in their will documents. That is an impressive change resulting from a single sentence social norm. This is not just a British phenomenon. In a later study, I found that introducing a social norm statement, "Many people like to leave a gift to charity in their will," substantially increased interest in making this type of a gift.[7]

B. Practical examples: The importance of examples that are LIKE ME

Social norms and social examples become particularly powerful when the examples are similar to me. A simple way to think of an effective social norm is to see if it addresses the question, "Do people *like me* do things like this." In an experiment testing interest in pursuing creation of a charitable gift annuity, identical text describing what someone else had done, "Sara made a gift and received a tax deduction and yearly income…" generated more interest in making a gift than describing what the reader could do, "You make a gift and receive a tax deduction and yearly income…" This fits with the power of social examples. However, a later experiment found that adding a donor picture to the donor example actually reduced the effectiveness of the donor example. In an attempt to figure out why this was happening, I tested a series of donor pictures of different ages. The

[5] Johnson, E. J., & Goldstein, D. (2003). Do Defaults Save Lives? Science, 302, 1338-1339.
[6] Cabinet Office Behavioural Insights Team (2013) Applying behavioral insights to charitable giving
[7] James, R. N., III (2016). Phrasing the charitable bequest inquiry. Voluntas: International Journal of Voluntary and Nonprofit Organizations, 27(2), 998-1011.

results showed that the examples that generated the greatest interest were those picturing a donor who was near the same age as the person reading the message. If the person pictured was of a substantially different age, either much younger or much older than the reader, the donor example was much less influential with the picture than without. In that case, it was better to use a generic photo, such as a picture of campus, rather than a non-matching donor picture. In a related study[8] in Sweden, researchers asked university students to donate to a well-known Swedish charity. The first group received a simple ask and about 40% donated. The second group received the same ask, but were first told that 73% of university students in Sweden who were asked for this donation made one. Among this group, roughly 60% made a donation. The final group was instead told that 73% of students at that particular university who were asked for this donation made one. Among this group, 80% made a donation. This demonstrates the idea that social examples become more powerful when they are examples of people *like* me.

VI. RULE 4: ADVANCE THE DONOR LIFE STORY

A. Research origins: What neuroimaging tells us

In neuroimaging research conducted at the Texas Tech Neuroimaging Institute, I found that the charitable bequest decision was different than other charitable giving or volunteering decisions in that it uniquely involved brain regions associated with "visualized autobiography."[9] Additionally, the greater the activation in the visualized autobiography regions, the more likely the person was to indicate a willingness to leave a bequest gift to the charity. This idea is not new. In her dissertation research in the UK, Dr. Claire Routley conducted in-depth interviews with donors who had included a gift to charity in their wills. She found that, "when discussing which charities they had chosen to remember, there was a clear link with the life narratives of many respondents." So, whether the research method is neuroimaging or conversation, the results agree that these gifts are about the life story. The gift in a will is, in essence, about writing the final chapter of one's autobiography. The key question then is not about the charity's latest project, but rather about whether the cause or the organization is an important part of the donor's life story.

B. Practical examples

In a later experiment, I found that using the neuroimaging information could increase interest in a charitable estate gift by changing the phrasing of the charitable bequest question. Specifically, I got a much higher level of interest if I asked not just about making a gift to charity in your will, but instead asked about making a gift to charity in your will *to support a cause that has been important in your life*. This phrasing actually incorporates the life review process that is an important part of the charitable bequest decision process. Similarly, when measuring which messages worked best to shift donor attitudes, the best performing message types were brief, 75 word, stories about living donors who had

[8] Agerström, J., Carlsson, R., Nicklasson, L., & Guntell, L. (2016). Using descriptive social norms to increase charitable giving: The power of local norms. Journal of Economic Psychology, 52, 147-153.
[9] James, R. N., III & O'Boyle, M. W. (2014). Charitable estate planning as visualized autobiography: An fMRI study of its neural correlates. Nonprofit and Voluntary Sector Quarterly, 43(2), 355-373. [

included a gift in their wills that reflected their own life story. These outperformed similar deceased donor stories (obviously, a deceased person is not *like me* because they aren't alive), statistics about others agreement with the concept of leaving a gift to charity (no stories), and statistics about the rapid expenditure of inheritance by heirs. Interestingly these living donor stories were quite effective even when the donors in the story were giving to causes different than the ones the respondents were asked about. The donor stories simply established the idea that leaving a charitable gift in a will to reflect one's life story was a normal thing to do.

VII. RULE 5: ENCOURAGE TRIBUTE GIFTS IN WILLS

A. Research origins

In another study[10] I found that even after people had already decided how willing they were to make a gift to a particular charity, that willingness could be increased if they went through a reminder process of being asked about whether or not they had a living or deceased family member who would have appreciated their support of this type of organization. This was followed by asking them to share the story of that family member's connection to the cause. Finally, they were asked again about making a bequest gift to the organization, but this time they were asked about making a bequest gift honoring the family member.

B. Practical examples

This strategy can be implemented in simple conversations with donors. Additionally, an easy change is that if your organization employs a mailing with response cards that include an option of "I have included a gift in my estate plan to support" the organization, it is a simple matter to add one extra line, "My gift is in __ honor of __ memory of ________________ (person) ______________ (relationship)." This simply introduces the idea that such a gift is possible, and normal. In another experiment, just asking about this type of gift increased willingness to make a bequest gift for about one out of four people. Although not a universal solution, this simple change can make a noticeable difference for some people.

VIII. RULE 6: USE FAMILY WORDS NOT FORMAL WORDS

A. Research origins

The research idea here is that we can put people in different frames of mind with the words that we use to introduce a concept. If we use formal, legal, contract language this places people in a market/exchange frame of mind. However, such frames of mind do not encourage sharing. In contrast if we use stories and simple words, this keeps people in a social frame of mind, and this social realm does encourage sharing.

[10] James, R. N., III (2015). The family tribute in charitable bequest giving: An experimental test of the effect of reminders on giving intentions. Nonprofit Management and Leadership, 26(1), 73-89.

B. Practical examples

In a variety of experiments, using more technical, legal, contract language reduced interest in making a gift. Thus, people were more interested in making a "gift in a will" rather than a "bequest gift". They were much more willing to pursue a charitable remainder trust described as beginning with "Make a gift," rather than "Make a transfer of assets". Similarly, just adding in the technical label (e.g., "charitable gift annuity" "charitable remainder trust," or "remainder interest deed,") to otherwise identical descriptions when initially describing a planned gift reduced interest.[11] Similarly, people were much more interested in reading about "other was to give smarter," than in reading about "planned giving." Further, they were not less likely to expect to receive information about planned giving topics such as gifts in wills, trusts, life insurance, bank account TODs, IRA TODs, or gift annuities when reading the simple language "other ways to give smarter" than when reading the insider jargon, "planned giving."[12]

IX. Rule 7: Don't count it and forget it

A. Demographics and statistics

The Health and Retirement Study is a nationally representative longitudinal study that tracks a large group of older adults year after year. It has been going on for more than a quarter century. It not only tracks whether or not each person has a charitable component in their estate plan, but also tracks where the assets actually went after death. Because of this, we can actually see the frequency with which the charitable component in an estate plan is added or dropped. For example, if we look at a group of adults over the age of 50 who report having a charitable component in their estate plan, among those still answering the question 10 years later, about 55% still report having a charitable component in their estate plan. This has been a remarkably consistent result across different 10-year spans ('94-'04, '96-'06, '98-'08, '00-'10, '02-'12, '04-'14, '06-'16) and across different older age groups (50-69 or 70+). Although this level of instability would likely be lower for a donor who actually revealed to the charity that he or she had included a gift in a will, it is important to keep in mind that the 55% retention rate over 10 years is the rate of retention for having any charitable component at all. Thus, if a person started with charity A in their estate plan and ended with charity B in their estate plan, this is considered retention even though it would not be retention for the particular starting charity.

It is important to keep in mind that accurately tracking this retention rate cannot be done in a one-time study, but actually requires a lifetime study that tracks the same people across decades. This is because much of the instability in charitable estate planning occurs towards the end of life.

[11] James, R. N., III (2018). Describing complex charitable giving instruments: Experimental tests of technical finance terms and tax benefits. Nonprofit Management & Leadership. 28(4), 437-452.
[12] James, R. N., III (in press). Creating understanding and interest in charitable financial planning and estate planning: An experimental test of introductory phrases. Journal of Personal Finance. Fall, 2018.

B. Practical consequences

This is perhaps one of the most depressing areas of reality for planned giving fundraisers to accept. It would be a simpler world if we could get the charity in the will and then just "count it and forget it." But, unfortunately, actual estate plans don't work this way. Actual estate plans are changed, and particularly toward the end of life. So, this means that fundraisers need to recognize that a bequest commitment is the *beginning* of a process that brings money to the charity, not the *end* of the process. Also, this instability does not mean that it isn't a good idea to get into the estate plan early. In fact, estate plans that have had a charitable component longer actually produce, on average, much larger gifts than last minute gifts. Additionally, after a person includes a charitable gift in their will or trust their subsequent charitable giving increases notably. Thus, when the donor treats charity like a family member, which is essentially what putting charity in a will does, this higher level of connection is expressed in a variety of other ways.

X. Rule 8: Don't go radio silent at the critical moment

A. Demographics and statistics

Tracking the addition and deletion of charitable estate plans reveals that charitable estate plans destabilize when (1) death feels near or (2) family structure changes. These factors lead both to adding a charitable component where none existed before and to signing a new plan with no charitable component despite the prior plan having had a charitable component. Thus, both adding and dropping the charitable component are driven by a similar set of factors. This is because these factors drive new planning and new planning results in both types of instability in the charitable component. Examples of statistically important factors in the category of "death feels near" are when the person is actually approaching death (known retrospectively because it was their final pre-death survey), decline in self-reported health, diagnosis with cancer, diagnosis with heart disease, diagnosis with stroke. Examples of important adding/dropping triggers in the category of "family structure changes" include divorce, birth of a first child, birth of a first grandchild, and becoming a widow or widower.

Because over 12,000 people who were in the lifetime Health and Retirement Study have died and their estate transfers have been tracked, we can look back at their lifetime estate planning reports to connect those lifetime reports to their ultimate post-mortem distributions. This reveals that among those who actually made gifts to charity after death, over half of the charitable estates and the charitable dollars came from plans where the charitable component was added within the last 2-5 years prior to death. Thus, the last few years of life are a time of high instability in the estate plan. This reality matches another important reality. Among those who actually made post-mortem transfers to charity, their tendency to give and volunteer was quite high 8-10 year prior to death, but dropped dramatically in the last 2-5 years prior to death. In fact, only about half of those who actually transferred dollars to charity at death were still actively donating in the last 2 years of life. Thus, the most critical point of decision in charitable estate planning corresponded with the period of time when the people also stopped making donations. The problem is that many charities communicate based largely on recency of last donation. Such a recency approach, when applied to the oldest donors, almost guarantees that the charity will go "radio silent" right at the most critical point of decision.

B. Practical consequences

The most obvious conclusion to address this end of life instability in the charitable component of the estate plan is: don't ignore your oldest supporters. A national study of Australian probate records found that 76% of the dollars transferred to charity were transferred by wills signed in the 80s or older. Wills signed before age 70 controlled only 13% of the charitable dollars actually transferred. Thus, it is important for organizations to stay connected with those over 70 even when they stop making current donations. It would certainly be more comfortable for most fundraisers to believe that they could simply work with people their own age and then "count it and forget it." But, that, unfortunately, is just not how the process works. Older adults are not cognitively fossilized. They change their minds and they change their wills. And when it comes to revocable estate gifts, the score doesn't count until the clock runs out. Only one estate plan matters - the last one.

XI. Rule 9: Target the 3 C's (Childlessness, Consistency, Capacity)

A. Demographics and statistics

By far the most powerful indicator of whether or not a person will leave a charitable gift in their estate plan is childlessness. The difference in behavior is massive. For example, a person age 55+ with grandchildren who has will or trust documents has about a 7% chance of including charity in those documents. In contrast about 50% of married childless people age 55+ with will or trust documents include charity in those documents. Beyond childlessness, lifetime factors that predicted post-mortem charitable transfers were led by consistency in donating. Wealth was an important factor in whether or not a person left any gift to charity and was the dominant factor in how much they transferred to charity. Interestingly, it was important not only that the person have a lot of wealth but that their wealth was growing up to the point of death. So, it's not just about the amount of wealth, but also about the trajectory of the wealth.

B. Practical consequences

Targeting those who are childless, consistent donors, with capacity makes sense in this type of fundraising. Although charitable giving in general is skewed to the very wealthy, estate giving is skewed even more so. Fortunately, the demographics are working in favor of planned giving as the upcoming large Baby Boom cohort is not only larger, but far more likely to be childless.

XII. Rule 10: Go beyond the will

A. Demographics and statistics

There are two offsetting trends in charitable estate planning operating over the last 20 years. First, a smaller and smaller share of people age 55+ have estate planning documents (wills or trusts). That's bad for charity because people without estate planning documents die intestate and intestacy leaves no gifts to charity. However, counteracting this trend is an increasing tendency for those people age 55+ with will or trust documents to include charity in their documents. This increasing trend for including charity is driven largely by increases in childlessness and education among this age group. These two trends almost exactly offset each other (smaller share with will or trust documents, but a larger share of those with documents including charity) as the overall likelihood of having a will or trust document with a charitable component has remained relatively flat. Further, the primary trend has been a drop in the use of the will document as a planning document. There has actually been a modest increase in the use of funded trusts in estate planning, but nowhere near enough to offset the dramatic drop in those with will documents.

B. Practical consequences

What is behind this decreasing use of will documents? Although not directly observable as a cause-effect relationship in the data, the drop in will documents has occurred at the same time as what some legal commentators have called the Nonprobate Transfers Revolution. As an example, in 1995, Missouri was the only state that allowed adding a transfer on death designation to real estate (called a beneficiary deed). However today almost all states west of the Mississippi allow this as well as several eastern states. This means that essentially all assets can be transferred without the use of will or trust documents.

This critical importance of titling is also demonstrated in a study of what actually happened to the signed and witnessed will documents reported by decedents in their last survey prior to death.[13] When the heirs were interviewed after the testator's death, the will document controlled something in only 38% of the cases. In 17% of the cases the heirs indicated that they found no documents, but in the remaining situation the heirs indicated that there was a will document, but that it wasn't used. The reason the will document wasn't used is that it didn't control anything. A will is simply a backup document. It is only there to control assets that don't have joint ownership with right of survivorship, or a transfer on death designation, or a beneficiary designation like an IRA or life insurance policy. When there are no assets titled solely in the name of the decedent with no other beneficiary designations, the will document, and the whole probate process, is not needed. This is why it is so important to have a conversation that goes beyond the will. Many people have a false expectation that the will document controls everything, when in reality it usually

[13] James, R. N., III (2016). The new statistics of estate planning: Lifetime and post-mortem wills, trusts, and charitable planning. The Estate Planning & Community Property Law Journal, 8(1), 1-39.

controls nothing. Thus, it can be worthwhile to ask about titling of assets. This can begin with something as simple as mentioning that any part of the IRA inherited by the children will be subject to income taxes, but if the charity is named as a beneficiary, any part going to the charity avoids income taxes. This is an extra step in the conversation that wasn't needed a century ago when estate planning was controlled by a single document – the will – completed in a single location, the lawyer's office. But, today people change their estate plan every time they open a bank account or stock brokerage account with a TOD designation or buy a life insurance policy or open an IRA with a beneficiary designation. Estate planning decisions today are highly fragmented, further emphasizing the value of always staying top of the mind with our donors.