MYTHS AND REALITIES OF BEQUEST FUNDRAISING

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Planned giving professionals spend a significant amount of time training and preparing to design complex gift arrangements. Fundraisers expend substantial effort learning the intricacies of tax law, complex assets, and estate planning.

The largest source of deferred gift revenue are bequests and beneficiary designations. Attracting these gifts is requires mostly marketing and talking to donors about leaving a legacy rather than delving into tax law and estate planning issues. Nonetheless, there are persistent ideas about how to raise bequest revenue that don't stand up to scrutiny. We will examine some of those ideas and offer some alternative responses to these persistent myths.

Myth #1.

Donors of irrevocable planned gifts are more likely to also make a bequest.

Life income gifts offer the rare opportunity to fully engage with a planned giving donor during life. A donor must engage with the beneficiary charity to create a gift annuity, pooled income fund, or charity trusteed charitable remainder trust or lead trust. These gifts are irrevocable according to their terms. They can terminate only upon death of the beneficiary, expiration of a term of years, or early surrender in favor of the charity.

Establishing an irrevocable planned gift requires donors to engage deeply with charity in the process of negotiating and funding these gifts. That engagement is ongoing: gift annuitants, pooled fund participants, and CRT beneficiaries have a lifelong relationship with the charity. Every quarter, or more often, a check arrives reminding the beneficiary of the charitable beneficiary of their gift. Surely, such close engagement deepens donor commitment and engagement, encouraging irrevocable planned gift donors to consider additional planned gifts.

Reality: The inverse is true. Data from multiple charities with robust life income and irrevocable planned gift programs suggests otherwise. Dr, Russell James found that among those considered philanthropic, only around 10% had a charitable bequest. An even smaller percentage (well under 5%) of those with irrevocable planned gifts also made a bequest or beneficiary designation gift. These donors may feel that their CGA, CRT, or other planned gift represents their legacy commitment. In the donor's mind, they have already "checked the box" of including charity in their long-term plans.

The volume of repeat business among gift annuitants is remarkable. These donors may not consider a bequest, but they are eager to do another gift annuity. Why? Gift annuities get better and better as the annuitant gets older. The annuity rate increases and the deduction increases. Existing annuitants, however, are not typically an audience receptive to doing a bequest or beneficiary designation in addition to their annuity.

There is a negligible return on investment by marketing and fundraising for bequests and beneficiary designations to those who already have already made irrevocable planned gifts. Therefore, focus on those closest to your mission who have not already completed a planned gift.

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Myth #2.

Marketing and fundraising can't influence the bequest pipeline since most bequests are "over the transom."

Estate gifts are a conscious, thoughtful expression of the donor's commitment to the charitable mission. Donors don't undertake estate commitments lightly. Somehow, at a point in time, a charitable mission deeply touched a person. Unfortunately, the feedback loop is imperfect. The charity never learns the donor's narrative since most bequest donors won't reveal their intention prior to death.

A bequest donor may have been a beneficiary of the charity's work as a student, a grateful patient, or a beneficiary of charitable services. The bequest donor may have been a patron of the charity's scientific, historic, or artistic mission. A donor may choose to make a charitable bequest because the charity reflects their values and life story.

Reality: The more resources devoted to bequest marketing and fundraising, the larger the pipeline of future bequests. While a donor's specific motivation for making a bequest gift may remain unknown, continuous communication and fundraising about an organization's mission and impact are likely to engage those likely to make a bequest gift.

Despite best efforts to uncover revocable estate intentions, only about 30% of these gifts will be known in advance. The reasons for not disclosing these intentions are varied.

Donors fear that by revealing their commitment, charity will mark them as prospects for larger gifts. These concerns are well-founded. The full force of the stewardship machine comes into play upon learning of an estate intention. The legacy society welcomes them, and a fundraiser adds the donor to a portfolio. It's a matter of time before the charity asks the donor about the size of their commitment. There's a good chance the charity will solicit an outright gift as well. Consistent marketing of bequest gifts to a broad audience will inspire more donors to make them, even if you don't learn about most of these gifts until after the donors pass away.

Myth #3.

The future pipeline of bequest expectancies is impossible to quantify.

The bequest pipeline is cyclical and unpredictable. Since typically only 30% of expectancies are known in advance, the amount and timing of the other 70% of each year's realized estate gifts are unknown. Add to this, estates make distributions in installments across multiple years that may be uncertain depending on the administration of the estate.

Comparisons of realized estate gifts over multiple years typically show significant peaks and valleys. Trends may be hard to discern, especially in the short-term. Here is 11 years of actual realized bequest data from a major academic medical center. The blue line represents the annual bequests realized. The total income realized is wildly variable ranging from a low of $29 million

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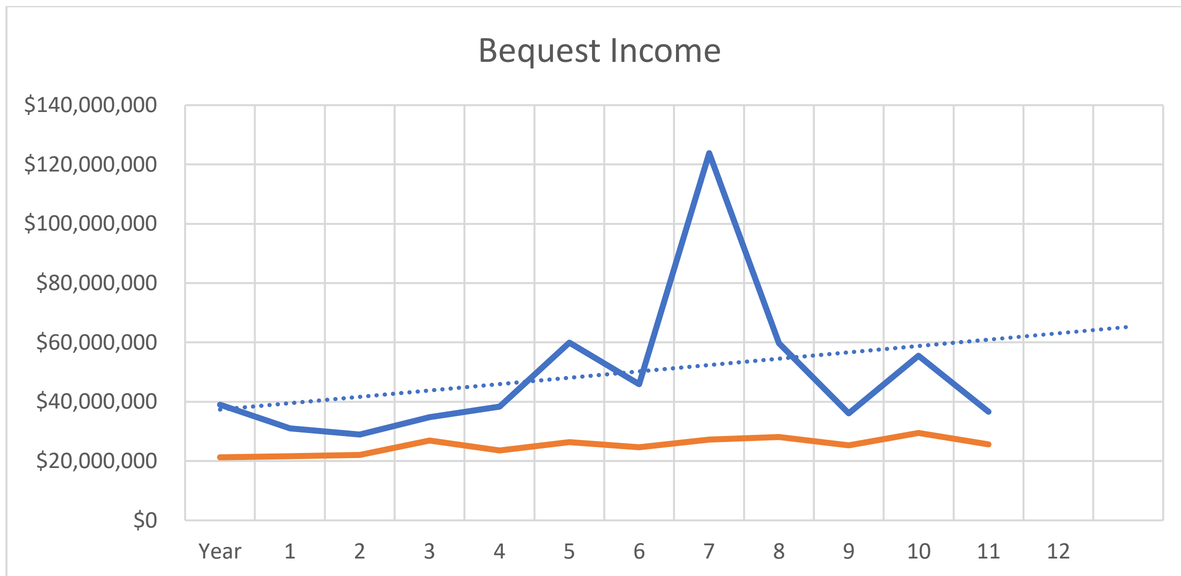
to a high of $124 million for the period. Does this data mean that the variability of bequest revenue makes projection of future performance impossible?



Reality: Historical bequest experience is predictive of future bequests.

Deeper analysis of realized bequest revenue reveals patterns that predict future performance. In the graph above, the red line represents the total of bequests under $1 million. A stable, predictable pattern emerges. The average annual bequest under $1 million is reliably around $25 thousand. Therefore, this charity can count on a minimum of $25 million a year in bequest revenue.

For each year in the 11 years of data, the median total of annual gifts over $1 million was $16 million. That means that in half the years the total of all large gifts realized for the year was more than $16 million and for half the years this total was under $16 million. This information allows us to project bequest income for the following year.

The sum of $25 million baseline expected bequests and the $16 million median of large bequests equals a projected $41 million in total bequests in year 12. In fact, the hospital realized $31 million in bequest income in year 12 and $42 million in year 13.

This data is based on very large numbers. A handful of charities enjoy the success reflected in these results. Nonetheless, this case is instructive to any charity that receives bequest revenue, no matter how modest. Your threshold for “large gifts” may be $100,000, not $1,000,000. Your baseline of annual realized bequests may be $500,000 with a median total for annual large gifts of $300,000 on top of that. You could conservatively project total annual bequest revenue of $800,000 a year. Annually update your average and median large gifts to adjust your model.

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Reality: Regardless of history, increasing known expectancies is predictive of additional future bequests.

We've established that historical data from realized bequests support projection of future growth, at least in the short-term. There are ways to project the long-term growth of the bequest pipeline. If only 30% of expectancies are known in advance of the donor's death, how does that predict future growth.

Assume a legacy society with 100 members. Since these are the known expectancies, these 100 members represent 30% of the likely bequest expectancy pipeline since around 70% of expectancies are unknown. From this we can project that there are another 233 unknown expectancies or a total pipeline of 333 future bequest gifts.

Each known bequest expectancy potentially represents another two-plus expectancies that are unknown. Assuming there are 30% known and 70% unknown bequests, adding 5 new legacy society members a year seems like a modest goal. Consider that these 5 new members suggest the existence of approximately 12 other expectancies you don't know about. The bequest pipeline has grown by 17, not just 5.

Myth #4.

Our supporters are wealthy and smart. They already have an estate plan in place.

The estate planning process can be complex and perceived as expensive. The process forces people to detail their assets and liabilities. Estate planners want specific details, accounts, names of institutions holding assets and debt, even the VIN number on vehicles.

Estate planners will want to know about children, stepchildren, parents, grandparents, prior marriages, children or other relatives with physical or mental disabilities or emotional problems. The estate planning attorney will ask if you want to make provisions for heirs whom you may not trust or be competent enough to manage an inheritance. You must decide who will function as executor of your estate, who will make decisions on your behalf if you become disabled, whether you want to be an organ donor. The planning process is more than deciding how to divide property and assets. In short, estate planning focuses on deeply personal, often difficult, issues.

Modern estate plans are more than just a will. In fact, the will is merely the backup document for those with estate plans. The living trust is often the operative document that controls the disposition of most assets in an estate. Like a will, a living trust controls who will benefit from an estate plan that may include people and charities. Living trusts are popular, in part, because they are not subject to the court supervised process of probate. Avoiding probate reduces costs and keeps the details of the estate private.

In addition to the will and living trust, an estate plan typically includes a durable power of attorney, beneficiary designations, letter of intent, a healthcare power of attorney, and

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guardianship designations. These documents force attention onto difficult topics and add to the cost of an estate plan.

Reality: Aretha Franklin, Billy Graham, Stephen Hawking, Prince, Sonny Bono, Margot Kidder, Howard Hughes, and Abraham Lincoln died without a will.

Reality: 70% of adult Americans do not have a will.

Wealthy, highly intelligent people may not have an estate plan in place. For all the reasons mentioned above and the natural aversion to death reminders, many people fail to plan for their ultimate demise. Some of the famous people mentioned above were unprepared for premature death. Despite being one of America's most famous lawyers, Abraham Lincoln didn't prepare for that fateful night at Ford's Theater. Margot Kidder didn't intend to have a drug and alcohol overdose.

Others have long-term health issues, and yet never create an estate plan. Aretha Franklin struggled with health issues since the 1970's prior to her death in 2018. She died with an estate worth $80M that still receives substantial royalty income every year. Her four sons are the presumed heirs to her fortune and 45% of future royalties goes to pay off her unpaid taxes. Due to litigation over her estate and unpaid taxes, her sons have not had access to any of her fortune as of 2021. Proper planning could have prevented the entire mess for Aretha's family from ever happening.

Myth #5

We don't have to monitor estate administration. The courts and executors will make sure we get everything to which our charity is entitled, and we can't do anything about it anyway.

Administration of charitable estate gifts will vary in complexity depending on the size and nature of the gift, the complexity of the estate, the impact of taxes, and the donor's family situation. The charitable distribution may be a fixed amount or a gift of a specific asset. The gift may be in the form of a percentage of some or all the estate after the payment of debts, taxes, and specific gifts.

The first-time charitable beneficiaries receive notice of an estate gift is when a court sends a notice of probate. The notice goes to all potential beneficiaries of an estate under probate court supervision. Sometimes notification will come from the attorney or executor acting on behalf of the estate. A gift may also be from an IRA or a life insurance policy.

There are a bewildering amount of documentation and decisions for charities to make during administration. The estate will ask charitable beneficiaries to consent to the actions of the executor, waive claims against the estate, and may even ask for reimbursement to the estate for mistakes made during administration.

In short, the process can be chaotic and anxiety inducing. Should the charity have a designated point of contact for estate administration? Who is authorized to waive claims and approve estate

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expenses and taxes? Can the charity engage legal counsel to advise it and when should the charity call in legal assistance?

Reality: Charities should pay careful attention to estates in administration to ensure receipt of the estate gift to which the charity is entitled as quickly as possible.

While this paper is not intended as an exhaustive guide to estate administration, here are some points to consider in preparing to receive charitable estate gifts. There are a number of things a charity can and should do to manage and oversee the estate administration process. Particularly when the charity is the beneficiary of a residuary bequest, pay careful attention to the terms of the instrument, the inventory, the appraisal, the taxes, and the expenses.

Charities that receive estate gifts on even an irregular basis should appoint a point of contact for these gifts. That may be an individual in the development office or office of general counsel. It may be outside counsel. Regardless, the point of contact needs written procedures to follow upon receipt of notification of an estate gift.

Notification of an Estate Gift

The first step in estate administration is to gather documents relevant to the donor's estate. If the charitable gift is to come from the donor's probate estate, obtain a copy of the donor's will. The executor will usually supply a copy of the will. The will is a public document available from the probate court for the county in which the donor last lived.

If the donor had a living trust, that document is not public. The executor may provide a copy of the trust. At a minimum, it is appropriate to request an excerpt of the trust that shows the details of the charitable gift. Depending on the terms of the living trust there may be other documents the charity may want to see.

If the gift is from a retirement plan, life insurance policy, or other beneficiary designation, initial notice may come from the company holding the donor's assets. Most IRA administrators explicitly refuse to notify the named beneficiaries of a plan. It is the beneficiary's responsibility to notify the administrator. If the donor did not notify the charity that they are a beneficiary of the IRA, notice may come from the family or executor.

Estate Administration

As mentioned above, the charitable distribution may be a fixed amount or a gift of a specific asset. The gift may be in the form of a percentage of some or all the estate after the payment of debts, taxes, and specific gifts.

It may seem that if charity is the beneficiary of a fixed amount, there isn't anything for charity to do but sit back and wait. In fact, there are things to be done even in these less complex situations. Provide a copy of your IRS exemption letter and state registration documentation to the executor. Inquire of the executor if there are anticipated problems in administration and when to expect the distribution. Estates with illiquid assets and challenges to administration can make oversight of even fixed bequests a challenge.

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A bequest of all or a portion of what's left in the estate after paying debts, taxes, and specific bequests (the residue) raises issues requiring careful oversight. Assets other than cash and marketable securities raise valuation issues. Does the executor plan to sell illiquid assets or distribute them in kind? How is the executor managing the risk of volatility during the estate administration? How are taxes, fees, and expenses apportioned among charitable and non-charitable beneficiaries?

Residuary estate beneficiaries need more information than beneficiaries of specific bequests to determine whether they have received everything to which they are entitled. An inventory and appraisal of the estate is essential to understanding the valuation of the assets. If fees seem excessive, request a detailed accounting of attorney and executor fees and expenses. There may be situations where it is appropriate to request copies of the estates tax returns.

Work to receive specific and residuary gifts as soon as possible. Executors are often hesitant to release funds to ensure sufficient resources to pay taxes, debts, and other claims against the estate. The executor often has discretion to make partial distributions or even full distributions prior to the settlement of the entire estate. The executor may require early distributions to be subject to indemnification (return of the money to the estate) if there are unexpected costs to the estate. Prior to signing any waiver against the estate, ensure that your charity understands the terms of the waiver and what the charity is giving up.

Myth #6

Before admission to a charitable legacy society, the donor must provide documentation of their estate commitment

A well-organized bequest fundraising program should adopt standards for notification for inclusion in their legacy society. Often, documentation and recording of estate gift intentions is haphazard and difficult to find. It's common for these intentions to appear in trip reports without any written confirmation from the donor.

Eventually, staff or leadership realize they need to impose some order by organizing records of estate intentions. To that end, the charity develops a comprehensive estate gift notification form. The charity commonly asks the donor about the exact vehicle by which they will make their gift. Is it a bequest, living trust, beneficiary designation, life insurance policy, or other vehicle? Is the gift a specific amount or a residuary bequest? What is the amount of the gift, at least perhaps an estimate? Finally, provide a copy of all estate planning documents, at least excerpts describing the charity's gift.

Fundraisers deem this important to document the donor's intentions and ensure the donor qualifies for membership in the legacy society.

Reality: The essential reason a donor should disclose their estate gift plans is to ensure charity can carry out their intentions.

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The purpose of the estate gift intention form is not to interrogate donors about the details of their personal financial and estate planning. A charity shouldn't use a statement of intention to make an estate gift to factor the donor's gift into their financial planning. In nearly every case, these are revocable commitments. The vehicle, the amount, even the gift itself may change over time.

Charities often urge those with estate commitments to let them know so they can thank them while they are still alive. This is naïve. A big fuss over a future commitment subject to contingencies and unknowns puts the donor in an awkward position. The intended gift may never come to fruition.

What if someone completes the intention form even though they haven't included charity in their plans? Who cares? There is little to lose acknowledging and stewarding someone who is untruthful about their charitable intentions. Acknowledgment and stewardship costs are typically nominal. A policy of generous inclusiveness encourages more disclosure.

The details of disposition of one's affairs upon their death are deeply personal. Family, friends, and even advisors may not know all the arrangements made in preparation for death. Requiring estate documentation as a prerequisite to admission to legacy society membership hurts only the charity, not the donor. Such a requirement will certainly suppress the willingness of many with charitable intentions to reveal them.

Why should a donor tell a charity that they intend to leave a gift to charity at their death? The accumulation of assets is the result of a lifetime of work. How someone spent their life and how they distribute the assets they own at the end of their life reflects their history and values. A charitable legacy is a continuation of that story and a continuation of cherished beliefs. To that end, the charitable beneficiary of such a legacy has an interest in ensuring they can carry out their donor's wishes. The purpose of notifying a charity of an intended estate gift is to make sure the charity understands and can carry out the donor's intentions. If there is no communication with the charity prior to death, the donor is taking a chance there could be a misunderstanding about what is often the largest gift they have ever made.

Myth #7 Donors learn about legacy giving to charity from their professional advisors.

Based on the discussion so far in this paper, the estate planning lawyer, accountant, or financial advisor are critical players in putting an estate gift to benefit charity into place. These gifts only happen if an advisor collaborates with their client to create an estate plan that includes a gift to charity. Without the help of a professional to implement a charitable estate gift, few of these gifts would get accomplished.

Many non-profits devote marketing resources and staff time to engage professional advisors. Some use newsletters targeted at these advisors to inform them about planned giving, financial planning, and legislative developments affecting charitable giving. Some charities create planned giving boards or committees composed of professional advisors with regular meetings. The purpose of these activities is to educate and engage the advisor community about the work of the non-profit and the ways their clients can support the charity.

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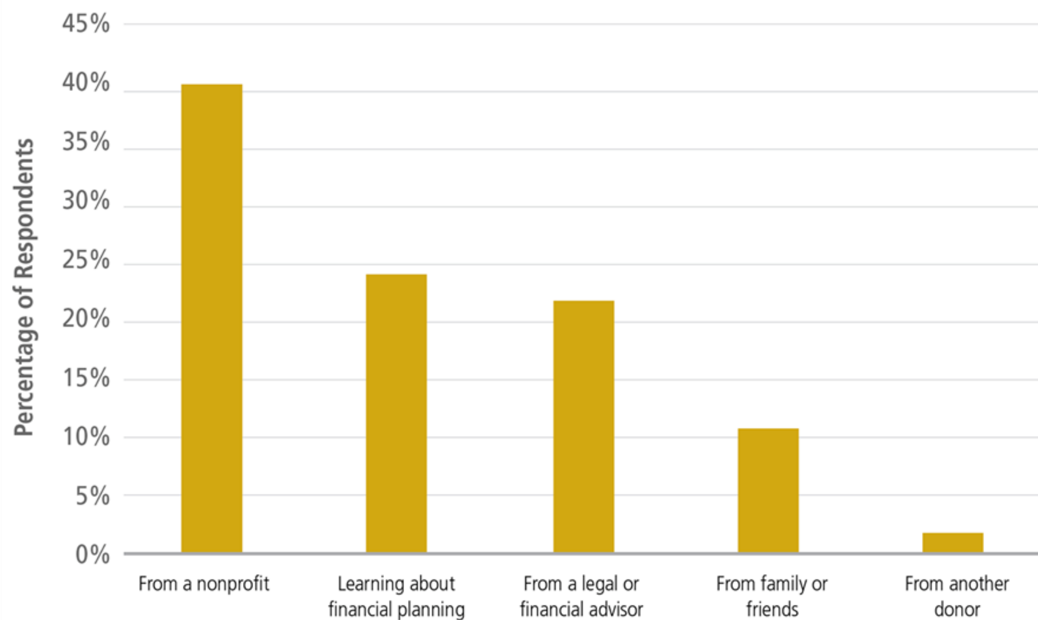
Reality: Professional advisers are not often the genesis of the planned giving/bequest decision. Far more donors learn about making a planned gift through engagement with fundraisers and marketing than from any other source.

The reality is that donors make gifts, not professional advisors. The role of the professional is to carry out their client's instructions. Professional codes of conduct universally consider it unethical for an advisor to recommend any person or organization for inclusion in the client's estate plan. That prohibition extends to charitable gifts as well.

However, estate planners consider it a best practice to ask the client if they have any charitable interests. Despite that, there were no questions about charitable interest in a review of intake forms from the estate planning departments of three major estate planning law firms. Some advisors are uncomfortable asking about any estate beneficiaries not considered "the natural objects of one's bounty." The law typically defines that as the closest living relatives.

Giving USA asked of legacy gift donors "How did you first learn about legacy giving?" Over 40% of respondents reported that non-profits were the first source of information about making a legacy gift. Less than 25% first learned about legacy giving from their legal or financial advisor.



These donors primarily learned about making a legacy gift from a combination of contact with fundraisers, marketing materials, and the charity's website.

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Table 10

How donors first learned about legacy gifts from the nonprofit

Source	Percentage
Personal conversation with a representative from the nonprofit	48.7%
In a mailing	40.1%
In another type of printed communication	14.6%
On the nonprofit's website	12.7%
At an event hosted by the nonprofit	11.2%
In an email	8.6%
On board or staff	5.6%
Other	7.1%

Myth #8 A donor can add charity to their will through a simple codicil. It's easy.

Charities work to overcome the impediments facing donors to add charity to an estate plan. To motivate donors and to make the process simple, charities suggest a codicil to the donor's will to amend the estate plan to include charity. Donors hear "estate planning" and groan at the difficulties they've been through to implement the plan they already have. Donors balk at the thought of facing the estate planning process "for one little thing."

Charities promote adding codicils because the donor doesn't have to completely rewrite their will and because of the simplicity of adding a codicil. Here are two quotes from charity websites promoting the use of a codicil:

> "When it's time to update your will, you don't have to start from scratch. You can use a codicil, an addition or supplement that explains or modifies your existing will."

> "A Codicil is a simple legal document which allows you to make changes to your existing Will without you needing to write a new one."

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Charities suggest that if the donor is only amending their will to include charity, making a codicil is a reasonable option. The codicil is offered to avoid the costly and time-consuming process of creating a new will.

Codicils are helpful to bequeath specific items of property not disposed of in the existing will. For example, a codicil is perfect to direct a gift of jewelry, artwork, or other personal property that may not be addressed in the will. Typically, the codicil should only include changes that don't dramatically conflict with the terms of the existing will, such as when a beneficiary of the will changes their name.

The process appears straightforward. The donor writes down what they want to remove or add to the existing will, signs it, and follows the formalities required to create a valid will (typically with two witnesses) and then keep it with the original will. After death, the estate interprets the two documents together.

Reality: Making a new will is often as easy as making a codicil, and less likely to cause confusion and uncertainty.

Adding a codicil can be more complex and more expensive than it first appears. Even for a codicil, the donor should work with their advisor to ensure a codicil dovetails with and does not conflict with the original will. To add a codicil to an existing last will you typically need to:

- Commit the changes in writing into a new document.
- Sign the document in front of two witnesses: and
- Have the witnesses sign the document, along with a statement that they believe you are of sound mind and are acting of your own free will.

It's critical to keep the codicil with the original will so that both can be read and interpreted together.

Inartful drafting of the codicil can inadvertently create confusion, conflicts between the codicil and the will, and frustrate the donor's intentions. Something as simple as the two documents may get separated or lost creates opportunities for misunderstanding.

The original will, by definition, does not mention that a codicil exists. To make certain that new beneficiaries and original beneficiaries are protected and provided for it is prudent to create an entirely new will, revoking all previous wills.

To complicate the process even further, there may already be multiple codicils to the will. It may be a better idea to consolidate the original will and all existing codicils into one new will than to add yet another codicil.

When there is a major life change, such as a marriage or divorce, a death in the family, or…adding a charity to the plan, it is often more appropriate to execute a new last will and testament rather than a codicil.

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Myth #9 Bequest marketing and fundraising should focus on your oldest donors.

An often quoted statistic is that the average age at the death of a charitable bequest donor is 87. There is research suggesting that donors remove or modify charitable provisions as they age. For these and other reasons, bequest programs may focus fundraising and marketing only on the oldest and most loyal donors.

It's not enough for a donor to add charity to their donor will. Most people will revise their will multiple times as life events change priorities and plans. The critical point is for charity to be in the donor's last will. The best way to be in the last will is to collaborate with the oldest donors who have a shorter life expectancy and are less likely to remove charity from their will.

Reality: Most people make their first will before age 40. Surveyed donors who made bequest gifts included a charitable provision in their first will.

One of the most important reasons to have an estate plan is to make provisions for minor children. Providing for children should something happen is a top priority for parents. This includes deciding who will care for the children and providing for their financial needs. The age at first birth averages 23 years old for women and 26 years old for men. The need to begin planning for the unknown starts early.

Data from Giving USA Foundation shows that making a will begins early. The largest percentage of respondents (nearly 25%) indicated they created their first will between the ages of 30 and 39. Most people write their first will before age 60 and they include a charitable bequest in that first will. A tiny minority reported writing their first will when they were over the age of 70.

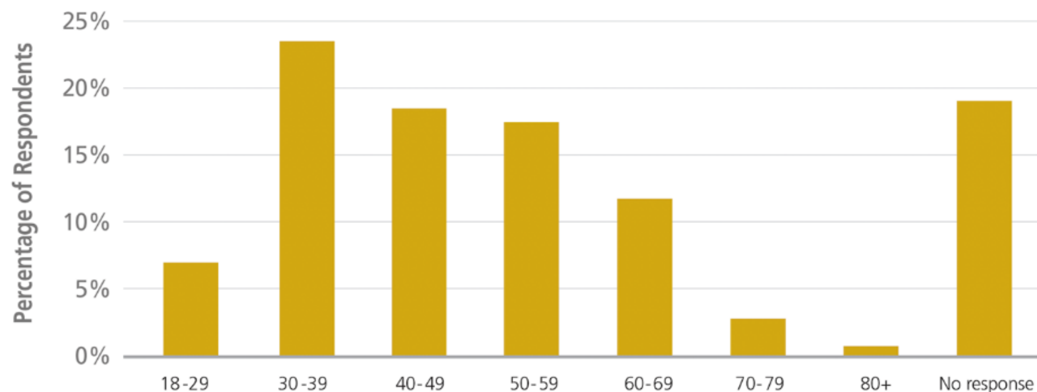

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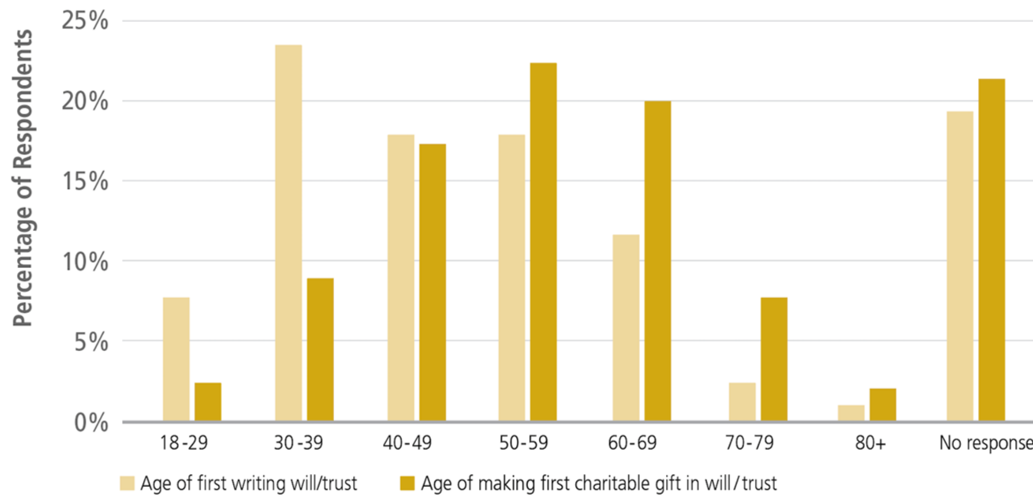
Figure 7

Age of adding a charitable gift in will/trust vs. first writing will/trust



These data suggest that will-making occurs early in life. Most people make wills well before they reach the target age for charitable bequest marketing. These early wills are likely to include a provision for charity. There is no question the source of realized bequest revenue (gifts from people who have died) is overwhelmingly from older donors. Consider that far fewer bequest donors die before life expectancy. Also consider that the older the donor, the more wealth they are likely to have accumulated. More bequests come from older people because that's when they die, and they are wealthier. That doesn't mean younger donors don't have charitable bequest intentions in place.

Studies of estate planning supports the conclusion that people will change their will multiple times before death. In fact, those with charitable provisions may change their wills very close to death. Nonetheless, the research conducted by Giving USA reflected in the table below suggests those with charitable bequest intentions are unlikely to decrease or eliminate that gift. Once made, revocable gifts are most likely to be maintained or increased. Rarely are they decreased or eliminated.

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Table 4

Charitable legacy giving as a factor of age

Changes in gift planning	Percentage
The number of gifts has not changed	50.4%
I have increased the number of gifts	44.2%
I have decreased the number of gifts	5.4%

It is well settled that most charitable bequest marketing should focus on older donors, those 70 and above. They are the target demographic to add a charitable bequest provision or disclose an existing intention. Nonetheless, people begin estate planning well before the target age and frequently include a charitable provision in their first will. The reality is that charitable bequest marketing among younger donors should result in a bigger bequest pipeline that ultimately will result in more realized bequests.

Conclusion

Persistent myths about bequest and beneficiary fundraising hamper efforts to raise these gifts. Non-profits may focus on activity that is wasteful or inefficient, ignore actions that can increase estate gift revenue, and fail to market and position bequest gifts that are most attractive to their donors. Focus on the realities of how donors make bequest gifts.

Those closest to your organization make bequest gifts. Bequest gifts are deeply personal expressions of endorsement of your mission and values. Active engagement with these donors, including younger donors, through marketing and fundraising staff will increase the likelihood of being included in their estate plans and increase future bequest gifts to your institution.

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