Enhance Your Fundraising with Planned Giving

Ted Batson, Partner

While planned gifts can be complex, taking the time to understand the different techniques and how they might enhance your nonprofit's fundraising can pay off. Even small organizations can benefit from simpler options, and larger organizations may not be aware of all the techniques available.

Let's take a look at the eight basic types of planned gifts, in order of increasing complexity. Note that this article is meant to provide a high-level overview of each. Please contact us for more information or help in exploring any of these options for your organization.

Bequests

In a bequest, a donor provides a gift that transfers to your organization upon his or her death. Bequests can take several forms:

- A revocable or irrevocable bequest made in a will
- An "at death" distribution instruction in a donor's living trust
- A beneficiary designation on an IRA, 401(k), life insurance policy, annuity policy, or other similar contract
- A "payable on death" bank account designation
- A "transfer on death securities registration" for stocks, bonds, and other securities held in a brokerage account (permitted in a number of states)
- A "transfer on death deed" for real property (permitted in a number of states)
- A "transfer on death vehicle registration" for an automobile (permitted in a number of states)

Key considerations:

- Revocable gifts (including bequests) can be revoked, or reversed, while irrevocable gifts cannot be. Donors may opt for an irrevocable bequest for tax purposes.
- Bequests by will are dependent on the donor possessing assets subject to his or her probate estate.

Life Insurance Gifts

These gifts are powerful because they leverage smaller amounts over a longer period to create a death benefit of certain value. For example, life insurance gifts can be useful in capital campaigns or to fund an endowed scholarship. The downside is that as with bequests, your organization may wait some time to receive the gift.

To get an income tax deduction, donors may contribute either:

- An existing life insurance policy that names your organization as the owner and beneficiary and removes any rights of ownership from the donor, or
- Funds to buy a policy on the donor's life, with your organization as the owner and beneficiary of the policy.

Even small organizations can benefit from simpler options, and larger organizations may not be aware of all the techniques available.

Key considerations:

- For the gift to be tax-deductible, the donor must transfer *ownership* of the policy to your organization.
- If payments must still be made on the policy, donors may contribute cash or other property to your organization for the premiums, or make premium payments directly to the insurer on your organization's behalf.

Charitable Gift Annuities (CGAs)

CGAs involve a simple unsecured contract between a donor and your organization under which the donor makes a gift to your organization and in return, you agree to make annuity payments of a fixed amount to the donor for the rest of his or her life.

Each annuity payment includes a taxable and non-taxable portion. This can make CGAs an attractive option for donors who want a stream of income that is only partially taxable.

Key considerations:

- A CGA can be issued for the lifetime of up to two individuals.
- You cannot set up an annuity for a term of years, or for minimum or maximum number of payments. Annuities are for life.
- Some states require the use of annuity rates published by the American Council on Gift Annuities, which recommends rates under prevailing economic conditions.
- If you allow contributions of property like land or closely held stock to a CGA, consider that there could be carrying or selling costs that reduce the cash proceeds and plan accordingly.

The planned giving options discussed in the rest of this article are typically suitable for larger gifts, due to the complexity and administrative costs.

Charitable Remainder Trusts (CRTs) and Other Trust Arrangements

In a CRT, a donor makes a gift to an irrevocable trust, the trust makes payments to the specified income beneficiaries for the remainder of their lives or a specified number of years (the "trust term"), and one or more charitable organizations receive the remainder interest in the trust after the expiration of the trust term.

Key considerations:

- The donor to the trust receives a partial income tax deduction equal to the present value of the charitable remainder beneficiary's future interest in the trust.
- The investment earnings of the trust are exempt from income tax with the exception of unrelated business taxable income (UBTI), which is taxed at a rate of 100%.
- Income beneficiaries are taxed on their distribution.
- Gift tax and estate tax deductions are allowed.
- The CRT must use the calendar year as its tax year, even if your organization uses a fiscal year.
- There are two payment structure options:
    - Fixed (annuity) amount (CRAT) – Income beneficiaries receive the same amount every year except the first and last year, when the amount is prorated. Additional contributions are not permitted.
    - Fixed percentage (unitrust) amount (CRUT) – Income beneficiaries receive a fixed percentage of a changing value. The trust assets are revalued annually, and a fixed percentage is applied to the value to determine that year's payout. Additional contributions are permitted. Variations exist that limit the trust distributions to the lesser of the fixed percentage amount or the trust's net income as determined under state trust law.

- The trust payout rate must be at least 5% of the value of assets initially transferred (in the case of a CRAT) or at least 5% of the trust assets as revalued annually (in the case of a CRUT) and no more than 50% of the value of assets initially transferred (in the case of a CRAT) or no more 50% of the trust assets as revalued annually (in the case of a CRUT).
- The term can be set for the lifetime of "lives in being" on the date of funding, or for a term certain of not more than 20 years.
- The present value of the charitable interest with respect to each contribution must be at least 10% at the time of the contribution.

Charitable Lead Trusts (CLTs)

In a CLT, the donor makes a gift to an irrevocable trust, the trust makes payments for some specified term to a charitable organization, and at the end of the term the remaining assets go to taxable beneficiaries (typically the donor's children or another noncharitable beneficiary).

Key considerations:

- The trust is not exempt from income tax.
- There is no maximum or minimum term or payout rate.
- The income tax consequences of the trust's investment activity can be designed to flow to the donor (a "grantor" trust) or be paid by the trust (a "nongrantor" trust).
- An income tax deduction is allowed to the donor, but only if the trust is a grantor trust; otherwise, the trust is allowed an unlimited charitable deduction for the charitable distributions made each year.
- Gift tax and estate tax deductions are allowed.
- Like a CRT, there are two payment structure options:
    - Fixed (annuity) amount (CLAT) – This is the easiest way to structure a CLT so it won't have estate tax obligations. Additional contributions are not permitted.
    - Fixed percentage (unitrust) amount (CLUT) – Additional contributions are permitted.
- There is no "net income" option; the organization will receive something regardless of the trust's investment return.

Pooled Income Fund

This is a type of charitable investment fund in which a group of donors contributes to a common investment fund in return for units in the fund and income generated by the fund passes back to the donors as a taxable distribution in proportion to their units of ownership. When donors pass away, the value of their units passes to your organization.

Key considerations:

- A qualified pooled income fund is a non-exempt trust, but a properly designed and administered fund will typically end up owing no tax.
- The beneficiaries receive trust income as determined under state trust accounting income rules.
- The donor is eligible to take a partial tax deduction on the gift.
- The trust must be maintained by the organization that is the designated recipient of the remainder interest.
- The trust receives a deduction for any long-term capital gain permanently set aside for charitable purposes. Short-term capital gains are taxable to the trust unless the trust agreement specifies they are to be distributed to the beneficiaries.

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Bargain Sale

Bargain sales are often used by organizations that need property, such as a college or church that wants property adjacent to its existing campus for expansion.

Key considerations:

- These transactions involve a partial gift and partial sale, with the sale price less than the value of the property.
- The donor's basis is proportionally allocated between the gift portion and the sale portion to arrive at the donor's realized gain.

Gift of a Remainder Interest in a Personal Residence or Farm

In this gift technique, the donor creates a deed that states he or she will retain possession of the property for the remainder of his or her life, and the organization will assume ownership of the property upon the donor's death. This is sometimes called a retained life estate gift because the donor is retaining the right to remain on the property of the rest of his or her life.

Key considerations:

- Try to anticipate any issues that could arise long term.
- Include a written agreement that specifies:
    - Who will be responsible for property tax payments, insurance, and ongoing maintenance
    - Your organization's right to inspect the property
    - Any sharing of cost improvements
    - The right of the donor to sell, lease, or assign their interest during their lifetime

Also consider protecting your gift with a title insurance policy.

Rounding Out Your Fundraising

Planned gifts can be a very important part of a nonprofit's total fundraising strategy. Once you have a good fundraising program in place for current gifts, these types of transactions can round out your fundraising program.

Finally, after your planned giving program is in place, ensure success by marketing it. Donors can't take advantage of these giving opportunities if they aren't aware of them.

About the Author

Ted R. Batson, Jr., Partner and Tax Counsel
Professional Practice Leader – Tax
tbatson@capincrouse.com
317.885.2620, ext. 1150

As a certified public accountant and tax counsel, Ted advises exempt organizations of all sizes on a wide range of issues. This includes consulting on tax and employee benefit related matters, representation before state and federal tax authorities, and assistance with firm audit or advisory engagements to formulate advice and counsel on important operating and tax issues. Ted also leads the firm's tax preparation practice, including IRS Forms 990 and 990-T and related state forms.

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