Understanding Donor Motivations

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Introduction

As I was growing up, my parents owned a neighborhood tavern. Folks would gather and inevitably discuss the days' events. Every now and then someone would start to pontificate. And when they did, I can still see those sitting around the bar glancing at a sign that hung above the cash register that read: "If you're so smart, why ain't you rich?"

Titling a presentation "Understanding Donor Motivations" could invite the same question. And, one cannot help but feel a bit presumptuous doing so. After all, "If you know so much, why aren't you the world's greatest fund raiser?" In response, I am reminded of a Chicago sportswriter who would occasionally begin one of his columns: "Some things you know, some things you are told, and some things you suspect."

As a planned giving officer for nine years and a trust officer for seventeen years (the last fifteen focusing on charitable giving), there are some things I have learned, some things I have heard, and some things I believe about charitable giving. They are what follow.

A Quick Look at the "Landscape"

Nothing happens in a vacuum. We are products of where we are and where we have been. Who we are and what we are colors everything about us, including why we give. So before we begin with what motivates a donor, we would do well to examine their environment.

We Are Wealthier A recent study by the Federal Reserve found that the typical American family had a net worth of over $86,000 in 2003. This was up from $71,600 in 1998; and $60,900 in 1995. More than one-third of American families have a net worth of greater than $100,000 with the average household having a portfolio of $184,400. Families with annual incomes of greater than $100,000 had a median net worth of $510,800 and an average net worth of $1.73 million. And, there are 4.8 million households with a net worth of $1 million or greater, which is a 118% increase from 1992.

Our wealth is held in many forms, but in two classes: assets and income. Assets, which are anything we own that have value, are comprised of stocks, bonds, real estate, stock options, and combinations of these things. It is estimated that the affluent own $2.1 trillion of stocks and bonds. An asset's value may increase or decrease. In addition, an asset may produce income, i.e., a current yield. For stocks, bonds, and real estate, income would be dividends, interest, and rents. Income is also wages and salaries, annuities, trust income, pensions, royalties, and capital gains.

Just as our wealth is divided into either assets or income, assets themselves can be divided into an income interest (the current beneficial interest of the asset) and a remainder interest (that which is available after the income interest has been served). These distinctions are important because they allow us to look beyond income to the assets producing that income as the basis of a charitable gift. They also allow us to split the interests in a particular gift, so we may either keep the income interest and give away the remainder interest or keep the remainder interest and give away the income interest.

Much has been written about the intergenerational transfer of wealth over the next 50 years. Boston College revisited this study and published their results in January 2003. Notwithstanding the recession and depressed stock market experienced in 2000 through 2002, they "project a wealth transfer of at least $41 trillion will take place in the United States by the year 2052."

Although the numbers say we are wealthier, most of us do not believe it. Certainly Bill Gates and Warren Buffet are rich, but who among us? *Money Magazine* did a survey in 1983 where 25% (the largest polarity) of those asked said a net worth of $100,000 made one rich. In 2003, 28% said it would take a net worth of $5 million. Nevertheless, like our clients and donors, I suspect most of us are doing better than we ever thought we would do; certainly, for the most part, better than our parents.

We Are Older In addition to becoming wealthier, we are also living longer. Currently, there are 33 million of us between the ages of 50 and 64. This number is expected to increase to 59 million by 2020. 1 out of 8 of us are over the age of 65. In 1960, that ratio was 1 out of 10. As a matter of fact, it is estimated that of all the people who have ever reached age 65, 50% are alive today. 3.1 million people are 85 or older; up from 940,000 in 1960 and estimated to be 5.4 million by 2020. And, there are 57,000 people who are 100 years of age or over. Prior to 1990 there were less than 37,000, and by 2050 that number is projected to be more than 834,000.

USA Today recently published a study that predicted that of all the women who reach 50 in this decade, 40% would live to be 100. This will have far reaching effects. Assume that when I die I leave everything to my wife and that she is in the 40% who lives to be 100. This means that when she dies our daughter will be at least 65. While this inheritance will make a nice windfall for her, I doubt it will result in a significant change in her lifestyle. Many women had their children while in their twenties and early thirties. These children could well be in their seventies when their mothers die.

Living longer presents an interesting change in the paradigm of wealth transfer. On the one hand, we may have to hold on to our assets longer to take care of ourselves. On the other hand, if we want our assets to make a significant difference in the lives of our children, we may have to pass them on to them sooner. In this regard consider a transfer of $1 to your spouse upon your death compared to a transfer of $1 to your children now. The $1 to your spouse passes transfer tax-free. The $1 to your children is subject to a 50% (rounded up) transfer tax. Assume each doubles in value in 10 years when the spouse dies and transfers $2 to the children. The children are in the same position ($1 after tax), as they would have been if they had received $0.50 (after tax) 10 years ago ($0.50 x 2).

We Are Concerned About Bob Sharpe tells us that all estate planning is prompted by one of four concerns. The first three are: what happens if I die too soon; what happens if I live too long (i.e., how will I pay for my health care and retirement); and what will happen to those I care about (i.e., my spouse, children, grandchildren, friends, as well as organizations and causes)? Once these are addressed, our thoughts, and motivations, turn to the fourth: how will I be remembered?

A recent article in the *Chicago Tribune* reported on a new device to burn coal. It was much more economical and environmentally sound than the current methods. However, what drew me to the article was a photograph of the machine; particularly what had been scrawled on it: "100 years from now, everyone will admire my work, but no one will know who I was." Each of us has the need to know that our lives mattered and that we will be remembered. What lives on is what we pass on.

The Increasing Use of Charitable Giving in Estate Planning

The Concept of Social Capital Transfers of cash or property, which we make to our spouse, are transfer tax-free. However, transfers that we make to anyone else are subject to either gift or estate tax. The amount we transfer to those other than our spouse left unsheltered by deductions, exclusions, discounts, and our unified credit is taxed at a rate ranging from 41% to 47% depending upon the cumulative amount of our transfers. This amount is called "social capital".

Our social capital can be created by default: the amount the government takes by tax, which is then applied to public works. Alternatively, we can be proactive and direct which public works our social capital is applied towards through voluntary contributions. In this regard, the arguments are often made: "We made it, why don't we decide which public works the money is directed towards?" as well as "It was made here, it should stay here."

"The Kids Are (Going to Be) All Right" As a young lawyer, I experienced clients trying to get as much as possible to their children through their estate plans. Today, parents are more judicious. Although the twin goals of estate planning have not changed (i.e., enhance consumption and influence behavior), parents are realizing the behavior they are trying to encourage will endure far longer than the goods they are enabling their children to buy. As noted in *"The Millionaire Next Door"*: "It's better to teach our children to fish, than to buy them the fish."

Parents are also concerned about the impact of inherited wealth on their children's initiative and self-esteem. The Prince Group recently interviewed those expecting to inherit $7.5 million or more. They found that 93% expected a dramatic change in their lifestyle; 88% expected to quit their jobs; 79% anticipated conflict within their family; and 54% anticipated conflict with their spouse.

Further, siblings tend to dilute their parents' wealth rather than share it; being more concerned with passing wealth down to their children than across to their siblings. Consider the situation of two parents with three children, who each have two children. By the time the parents' $10 million estate passes down to the six grandchildren, after equal division and successive generation of estate taxes, each grandchild will be left with about 4% of their grandparents' estate. This diminution is further exacerbated in those situations where siblings have more spouses than children.

Accordingly, parents are often leaving specific amounts, rather than the residue (whatever is left) of their estates, to their children. These amounts are often directed toward a particular goal, such as education, the purchase of a first home, to start a business, and to purchase a vacation home. And then, as always, there is the issue of values.

The Williams Group, in their work "Preparing Heirs", recently examined 3,250 families who inherited $7.5 million or more. They confirmed that 70% of all wealth transfers failed (failure being defined as "involuntary loss of control of assets"). This failure was not attributed to poor tax planning or poor draftsmanship. Rather, they attributed the failure to the fact that heirs were not prepared to inherit the money. Indeed, as pointed out in numerous works, including the Gallo's *"Silver Spoon Kids"*, money has replaced sex as the taboo subject within our families.

Interestingly, the Williams Group found that in those families where philanthropy was a part of the family fabric, the thinking was that it would be all right if the family fortune were lost because it could always be earned back. However in those instances where there was no family philanthropy the thinking was that if the family fortune were lost it would be gone forever. Consequently, the heirs' duty was to avoid risk and preserve their inheritance. By involving the family in philanthropy, values were identified and accountability promoted. The heirs learned the importance of taking remedial action (what worked, what did not); good communication; and due diligence. But even more importantly, children realized that money is a tool and not a determinant of who they were.

Ask your donor: "To whom do you attribute your success?" Most, if not all, will respond by citing their parents. Yet usually their parents did not pass on any great wealth or particular business acumen. What they did pass on were a sense of values; a framework upon which their children have lived their lives. Their children demonstrate that although it is fine to pass on values without wealth, it can be disastrous to pass on wealth without values. It is far better to pass on wealth and values.

The Psychology/Spirituality of Giving While we reveal to our clients the concept of social capital and the impact of money upon children, they reveal to us the psychology, or spirituality, of their giving. It is a basic concept of our Judeo-Christian tenet to share our time, talent, and treasures. In no other country is this tenet entwined in the public policy and national heritage as it is in ours. Nowhere is private giving for the public good embraced as strongly as it is in our country. Long before there were governments, there were people coming together in communities to solve social issues and build churches, schools, hospitals, roads, and courthouses. Indeed, giving is a by-product of our nation's commitment to individual choice, pluralism, and volunteerism.

Individual giving is prompted by self-interest. The giver is looking for reciprocity, to create a relationship, or be rewarded. Gifts are rational transactions entered into with the expectation of receiving something in return; be it a sense of belonging, identity, love, or hope. Although prompted by individual self-interest, the self is not clearly defined. If you give $1,000 to your spouse or child, have you really given it away? They are extensions of you. The human behaviorists tell us that when someone or something is praised or blamed and you feel happy or sad, that someone or something is an extension of you. They also tell us that altruism does exist. The question is: "In what situations does altruism exist?" And finally, how many gifts come as a form of gratitude?

Elliott Richardson, former United States Attorney General, wrote: "Walking beside the Charles River and thinking hard as I walked, I suddenly understood that no person's identity can be fully defined except in terms of others: family, friends, teachers, fellow workers, other members of the same community and the same heritage. Each unique and inviolable self exists in the midst of a web of interconnecting relationships with other people. To be a complete person is to be a part of others, and to share a part of them. This is what we mean by love. This is why giving is natural."

Charitable Gift Funding Issues

Cash versus Appreciated Property In calculating a donor's charitable income tax deduction, what you give is as important as who you give it to. Basically, there are two types of charities: public charities and private foundations. A public charity performs the charitable work and has a broad base of support and management. A private foundation makes grants to those who perform the charitable work and is funded by a single individual, family or company which also controls its management. Generally, a public charity will quickly apply its gifts in support of its mission, whereas a private foundation need only pay out 5% of the net value of its assets annually. Because the gifts to public charities will be applied for the public good more quickly than gifts to private foundations and because of its broad base of support, public charities enjoy more favorable income tax treatment for its gifts.

Cash contributed to a public charity is deductible up to 50% of the donor's adjusted gross income (AGI). Cash contributed to a private foundation is deductible up to 30% of the donor's AGI. Long term (held for one year or greater) appreciated property given to a public charity can be deducted at either its fair market value or its cost. If fair market value is used, the gift is deductible up to 30% of the donor's AGI. If, on the other hand, the donor's cost or basis is used, the gift is deductible up to 50% of the donor's AGI. Gifts of long term appreciated property to a private foundation are deductible up to 20% of the donor's AGI. Generally, a donor is limited to his/her cost or basis in valuing such gifts to a private foundation. The exception to this rule is if the appreciated property is deemed to be "qualified appreciated stock" (essentially, publicly traded stock that if sold would generate long term capital gain). In that event, the donor may deduct the stock's fair market value. Any amount in excess of the donor's AGI may be carried forward for 5 years after the tax return showing the original gift.

While cash may be the simplest gift to make, notwithstanding its higher deductibility limits, it may not produce the best income tax result. For example, assume you have $10,000 in cash and appreciated property worth $10,000 (stock in this instance that you bought for $7,000). You will get the same $10,000 deduction if you give the cash or the stock to charity. However with the cash you are out of pocket $10,000. With the stock you are out of pocket only $7,000. If you were to sell the stock for $10,000 and donate the proceeds to charity, you would be responsible for a capital gain tax of $450 ($10,000 - $7,000 = $3,000 x 15%). By giving the stock directly, you avoid the capital gain tax.

You can also minimize later capital gain tax if you give the stock in the example above. Assume you gave the stock and then used the $10,000 in cash to purchase that same stock on the open market. If the stock goes up to $12,000 and you sell, you would have a capital gain of $2,000 ($12,000 - $10,000). If you had held on to the stock you gave to charity, you would have a capital gain of $5,000 ($12,000 - $7,000). But what if the stock goes down to $8,000? In this instance, you would have a capital loss of $2,000 ($8,000 - $10,000) as opposed to a capital gain of $1,000 if you had sold your original holding ($8,000 - $7,000).

Lifetime versus Testamentary Giving Charitable gifts may be made either during one's lifetime or at death. Not only are testamentary charitable gifts all deductible at their fair market value, there are no deductibility limitations. However, testamentary gifts are transfer tax inclusive, while lifetime gifts are transfer tax exclusive (both the gift and any transfer tax paid on it are out of the donor's estate). Although lifetime gifts have deductibility limits, it is rare that a donor bumps up against them. Further, lifetime charitable gifts give a double deduction: an income tax deduction, and because the property is out of the donor's estate it has the same tax effect as a testamentary charitable gift.

Income in Respect of Decedent (IRD) Income which is generated during one's lifetime, but is not realized until after death is included in the decedent's estate and is taxable as ordinary income on the decedent's final income tax return. The decedent will get an income tax deduction for the amount attributed to the estate tax. However, this deduction is not available unless the donor can itemize. Further, there is no step up in the basis of any property received as IRD. The two most common assets that produce IRD are savings bonds and IRAs/pension plans. The value of these assets could be subject to income tax, estate tax, IRD, and generation skipping tax.

A great part of the wealth of America is held in IRAs and pension plans. While during one's lifetime these assets are tax advantaged, upon one's death they are tax disadvantaged. As noted above, upon death, their proceeds are subject to income tax, estate tax, IRD, and generation skipping tax. As a result, a good part of their value could be lost to taxation. Because charitable organizations are tax-exempt, such IRD assets are good charitable gift candidates.

Doing Well by Doing Good

Bequests Charitable gifts made by will or other testamentary agreement are the foundation of any planned giving program. Count up your income from bequests and other split interest gifts and you will invariably find bequests making up a minimum of 65% of your total. In terms of lifetime control of assets, bequests are the easiest gifts to make. In terms of actually writing a will or amending it, bequests are among the most difficult. As an estate planning attorney once cautioned me: "How long between the times a client calls you indicating they need a will to when they come into your office to actually sign one? Now add on a charitable bequest." Yet, once in the will, notwithstanding births, deaths, marriages, and divorces, the charitable provision usually remains, and grows.

Bequest expectancies are the connection between lifetime and testamentary giving. For your annual donors, it's a way to memorialize their giving: a bequest of $1,000 will endow an annual gift of $50 ($1,000 x 5%). On the other hand, those who you have already identified as providing for your organization in their will have subconsciously made a provision of $x for you and are living off the income of the amount provided. Why not bring that gift forward, increase the yield of that amount, and get a current deduction?

Planned giving commentators tell us there is generally an increase in the amount of bequests seven to ten years after the close of a capital campaign. There is a heightened awareness of your organization, but the testator believed they could not support you with a lifetime gift at that time, so they were motivated to make a provision in their will. Indeed, as a planned giving officer, I noted a seven to ten year lag time between my identification of a bequest expectancy and its fruition.

Nevertheless, how many times have you heard: "I would give (or give more) if I had more income; or, if I could get out of my concentrated holding without taxes; or, if I knew I had enough for retirement; or, if I knew my children would be all right"? The following charitable split interest gifts are ways to answer those concerns.

Charitable Gift Annuities A charitable gift annuity is a transfer of cash or property to a charity in return for its promise to pay an annual annuity to one or two persons for their lifetimes. The annuity is a percentage of the value of the property transferred to the charity and is based upon the age of the annuitant(s). It is payable in annual, semi-annual, quarterly, or monthly installments. Part charitable gift and part purchase of an annuity, the amount transferred less the present value of the annuity payable qualifies as a charitable gift. The annual annuity amount is part ordinary income subject to income tax and part return of principal, which is not (although once the annuity payments exceed the annuitants life expectancy, the entire amount is taxable). If appreciated property is used, the appreciated portion attributed to the gift escapes taxation, while the portion attributed to the purchase of the annuity is taxed as capital gain. This latter amount is spread out over the life expectancy of the donor if the donor is an annuitant. When appreciated property is used, the tax character of the annuity payment will include ordinary income, capital gain, and tax-exempt return of principal. Upon the death of the annuitants, the assets remain with the charity.

Why Create?: The donor of a charitable gift annuity makes a gift and gets income in return. In most cases, the annual cash flow from the assets transferred will increase. The charitable organization may accept cash, marketable securities, and even real estate to establish the annuity. A charitable gift annuity is a simple and cost-effective charitable planning strategy. The charitable organization handles the paperwork to create the annuity; no separate tax entity is created.

Example: Husband and Wife (age 65 and 60) have $25,000 in a savings account with a current yield of 3%. They would like to increase the cash flow from that investment, but do not want to make a high-risk investment to do so. They would also like to make a modest charitable gift. They contribute $25,000 to charity for a charitable gift annuity and receive an immediate charitable deduction of $5,662 (using the August 2005 IRS Discount Rate of 4.8%). In return, they receive a guaranteed annual annuity for the remainder of their lives of $1,375 (or 5.5%) of which $703 is tax free as a return of principal (after 27.5 years [their combined life expectancy] the entire annuity becomes ordinary income). Their total before tax benefit to them of the annuity paid over their life expectancies is $30,771 and the benefit to charity would be $79,594 (assuming an 8% total return annually).

Pooled Income Funds A pooled income fund is trust maintained by a public charity. The donor transfers cash or property to the fund, which is commingled and reinvested with those of other donors to the fund. The donor receives units in the fund, which are proportionate to the value of the cash or property transferred to the fund. One or two individuals may be the owners of units. The income generated by the fund is attributed to the units of the fund and each unit holder receives his proportionate share of the income. The payments to the unit holder during the year are all taxable as ordinary income. Upon the death of a unit holder, his or her units are severed from the fund and their value passes to the charity maintaining the fund. The donor receives an income tax deduction for the amount transferred less the present value of the income stream expected to be paid. This present value is based upon the age of the unit holder and the highest rate of return generated by the pooled income fund over the past three years. If the fund is younger than three years, the IRS will assign an assumed rate of return.

Why Create? Pooled income funds are not used as often as charitable gift annuities because of the limitation of the income interest to the actual income earned by the fund each year. However, they do provide tax-free diversification of an appreciated asset into a portfolio that will produce an income stream. Like a charitable gift annuity, you can make a gift and get income in return. If the minimum amount needed for the creation of a charitable remainder trust cannot be met, think of the pooled income fund as a net income charitable remainder trust. With a pooled income fund, donors pool their gifts with others and get access to professional money management. As with a charitable gift annuity, the charitable organization handles the paper work to create the fund and its administration. If income yields continue to stay low, you can always convert the pooled income fund interest to a charitable gift annuity.

Example: Husband and Wife (age 65 and 60) own publicly traded stock, which is not paying a dividend. The stock has a low basis and a fair market value of $50,000. They would like to sell the stock and reinvest to generate income, but even with a 15% capital gain tax rate they are reluctant to do so. They do not want to incur the accounting, legal, and investment management costs of creating a trust. They would also like to make a charitable gift. They contribute the stock to a pooled income fund, which has a current yield of 3.8%. Assuming the fund's highest rate of return over the past three years was 6.6%, they would receive an immediate charitable contribution of $11,749. They would receive $1,900 the first year, and could expect to receive a total before tax benefit of $54,000 over their life expectancies. The value of their units in the fund at that time is expected to be $50,000 (assuming a 4% annual total return over that period).

Charitable Remainder Trusts A charitable remainder trust involves the transfer of cash or property to a trust. The trust pays a guaranteed annual amount to one or more non-charitable beneficiaries. This amount must be not greater than 50% or less than 5% of the initial fair market value of the trust and can be stated as a fixed dollar amount (charitable remainder annuity trust) or a fixed percentage of the trust's assets as valued annually (charitable remainder unitrust). This amount can be payable for the lives of the income beneficiaries or for a term of years not to exceed twenty. Although the trust itself is tax exempt, the payments to the income beneficiary are taxable on the tier system. This means that to the extent distributions are made from the trust, all ordinary income (current and accumulated) is deemed to be paid out before any capital gains (current and accumulated) are paid; all capital gains before any tax exempt income (current and accumulated); and all tax exempt income before any principal. Upon the completion of the income interest, the entire remainder is payable to charity. The donor receives a charitable deduction upon the creation of the trust (or for any additional contributions to a charitable remainder unitrust) for the fair market value of the amount transferred less the present value of the income interest.

Why Create?: Charitable remainder trusts can be used to increase the yield of a particular asset, diversify a large single investment, and/or minimize capital gains. They can also be used to generate a current tax deduction to offset the taxability of other income or gains. A charitable remainder trust can be employed to make a significant charitable gift and provide a current or deferred stream of income for the support of the creator or others. It is especially worthwhile to consider when the grantor is 60 years or older, holds property with a basis of 20% of its current fair market value, and the trust offers a yield of 2% greater than the current investment. It is also worthwhile when the creator wishes to benefit someone other than his or her spouse and wishes to reduce his or her gift tax.

Example: Husband and Wife (age 65 and 60) have a large ($1 million) holding of a publicly traded stock that has a low basis and a current dividend of $10,000 (1%). They are uncomfortable with the risk that concentrated holding adds to their portfolio. They would like to diversify their position to reduce their portfolio risk, but even with a 15% capital gains tax rate they are reluctant to sell. They would like to retain, or increase, the income stream from the stock. While they also have a strong interest in making a charitable contribution, they feel they cannot afford to give the stock away outright. They contribute that stock to a charitable remainder trust. Because of their ages, they choose a 6% charitable remainder unitrust so they may share in the growth of the trust. They receive an immediate charitable income tax deduction of $254,900 (using the August 2005 IRS Discount Rate of 4.8%) and a first year payment of $60,000. The total before tax benefit to them for their life expectancies is $2,120,659 and the value to charity after that same time would be $1,706,886 (assuming an 8% total annual return).

Charitable Lead Trusts A charitable lead trust is the reverse of a charitable remainder trust. In a lead trust, the trustee pays a guaranteed annual amount to a charitable beneficiary and the remainder passes to non-charitable beneficiaries. The amount payable annually to the charitable beneficiary is stated as either a fixed dollar amount (charitable lead annuity trust) or a fixed percentage of the trust's assets as valued annually (charitable lead unitrust). Most lead trusts state the income interest as an annuity in order to fix the charity's share and, hopefully, pass more on to the remainderman. However, if grandchildren could be takers, a charitable lead unitrust may be used to help with the generation skipping tax issue. Unlike a charitable remainder trust, a lead trust has no minimums or maximum that must be met with the income payments. The term of the income interest can be a number of years (which can exceed twenty) or the life of an individual (which is rarely used). Upon the completion of the lead interest, the property in the trust passes to non-charitable beneficiaries, who may be the grantor or others, such as his/her children.

Why Create?: If the grantor is the remainderman, the grantor receives an immediate charitable income tax deduction for the present value of the stream of income upon the creation of the trust. However, the grantor is then taxed on the income of the trust as if it were paid to the grantor rather than charity. This may be an attractive option when the grantor anticipates having a lower marginal income tax rate in those years after the trust is created.

If individuals other than the grantor are the remainderman, the grantor does not get an immediate charitable income tax deduction and the present value of the remainderman's interest is a taxable gift. However, in this instance, the grantor has frozen the value of the remainderman's interest. Hopefully the value of the gift they ultimately receive is more than the value of the gift on which the grantor was taxed. The tradeoff is when the remaindermen do take, they take the trust's basis in the assets they receive. Additionally, if the remaindermen are grandchildren of the grantor, there will be generation skipping tax implications.

Nevertheless, a charitable lead trust provides the opportunity to leverage the use of one's $1,000,000 lifetime gift tax exemption to benefit one's children if the total return of the charitable lead annuity trust exceeds the IRS discount rate when the trust is created. Further, the grantor of a lead trust determines which is more valuable: taking a current charitable deduction or removing future income from one's income taxes.

Example: Donor has income producing investment rental property with a fair market value of $1,000,000. The donor makes large annual charitable contributions. He would like to create a future resource for his children to help their retirement. He can transfer the real estate to a charitable lead annuity trust with a 20-year term and an annual payout of $60,000 to various named charities. The present value of the income stream to charity is $773,760 (using the July 2005 IRS Discount Rate of 4.6% [since you want to maximize the income interest and minimize the remainder interest the lower monthly available rate is used]), thus leaving a remainder value of $226,240 for which he will pay a gift tax. The total benefit to charity over the 20 years is $1,200,000 and if the total return generated by the real estate is 8% annually (6% interest and 2% appreciation during those years) at the termination of the trust it will be worth $1,753,295 (compared to a gift tax value of $226,240 at the trust's inception).

Charitable Grant Making Arrangements The following arrangements do not provide for income back to the donor. They do provide an immediate charitable income tax deduction. However the timing of the actual payment to the charitable recipient, as well as its identification, can be deferred. The following analogy has been used to describe these various alternatives: "Think of a donor advised fund as owning an apartment within a building; a supporting organization as owing a condominium within the building; and a private foundation as owning the entire building."

Donor Advised Funds: A donor advised fund is maintained by either a public charity or private commercial organization. The fund, itself, is a public charity that makes grants to public charities. These grants are made pursuant to the recommendation of each fund holder from the balances in the accounts created for them within the fund. The donor also may select how his fund will be managed from the investment alternatives provided by the organization that maintains the fund.

Like a private foundation, the charities selected for grants from a donor advised fund may change from year to year. Unlike a private foundation, there are no legal or accounting costs to create a donor advised fund; no minimum annual distribution requirements or other strict operating rules; and no excise tax on net investment income. Gifts to donor advised funds are also subject to higher deductibility limits. And, a fund can be created very quickly in order to facilitate year-end charitable giving for tax planning purposes.

Supporting Organizations: Like a donor advised fund, a supporting organization is a public charity. Unlike a donor advised fund, the charities it supports must be named in the organizing document (either corporate or trust form). The net income earned by the supporting organization is paid out to the supported organizations.

A supporting organization provides a steady stream of support for designated charities. Contributions to it are subject to more favorable tax treatment than those made to private foundations. Supporting organizations are less costly to operate than a private foundation and are not subject to strict operating rules. It is completely tax-exempt and does not have to pay out its principal.

Private, or Family, Foundations: A private foundation makes grants to public charities (which can change from year to year). These grants total about 5% of the average value of its assets over the previous year. Unlike a donor advised fund or supporting organization, a private foundation pays a tax (albeit a small one: 1-2% on its net investment income). Further, its operation is subject to strict operating rules (such as minimum payout requirements and prohibitions against certain acts). Nevertheless, neither the donor advised fund or supporting organization offers its creators and their families as much control as do private foundations.

A private foundation is one way of giving back to the community and perpetuating one's influence and values. It effectively retains wealth by prefunding the charitable gifts of its creator, immediate family, and succeeding generations. Private foundations assure the continuing involvement of the family through a commitment to a common purpose, meetings, and problem solving. It also provides a non-threatening forum where all can participate and are equally talented. A private foundation insulates its creator and family from grant seekers. Because it is close to the needs of the community and has the ability to move quickly, as well as the freedom afforded by no need to make a profit (as do for profits), no responsibility to preserve funds for the future (as do not-for-profits), and no concern that its funding decisions be popular (as do governments), private foundations are an extremely effective instrument for change. They are also means of memorializing the creator and/or his family's name.

Marketing Your Message

Not All Charitable Giving is Tax and Cost Motivated Think of your last major purchase. I would wager you spent more than you originally thought you would. Indeed if cost was all we cared about, then everyone would be driving Yugos. Just as there are a number of considerations that go into any purchase, there are a number of considerations that go into any charitable gift. Focus on the gift objective (what will the gift enable your donor and your organization to accomplish) rather than the dollar amount. And remember the advice of Robert Sharpe, Sr. "Emotion is the river upon which logic flows."

In this regard, when I became a planned giving officer, I visited with other planned giving officers and attorneys to get their insights regarding how to go about doing my job. One of those was a planned giving officer for a number of years before returning to the practice of law. She must have sensed my pride in being an attorney with a tax background. Her advice to me was "to never forget, you are first and foremost a good will ambassador for your organization. All your tax and estate planning knowledge is icing on the cake." Think about any of your donor visits, how many have begun with the question: "So what's new at your organization?" If you cannot speak with authority to that question, you will never get to discuss the nuances of the gift you want to propose.

And when you do start talking about the gift you want to propose, keep in mind Margaret Thatcher's caution: "If you need someone to talk in the vernacular, you don't need me." Indeed, "A gift that saves you taxes, gives you income in return, and enables us to..." says much more than "You need a 6% FLIP CRUT."

You Cannot Create a Need Marketers tell us that you cannot create a need, but you can create a want. Earlier we spoke about the needs a gift addresses: family, belonging, identity, love, and hope. We cannot create these, but we can identify them, and then create a want for the donor.

In this regard, Rush Kidder, the Executive Director of the Institute of Global Ethics, speaks of an inverted pyramid of consensus building. Consensus is broadest at the top. As we move down the inverted pyramid, we lose consensus. Kidder's inverted pyramid has values at the top; where we have the greatest opportunity for agreement. Below values are goals, then plans, and tactics at the bottom. It is possible for us to agree on values, but disagree on tactics. So it is with donors. Just as we need to identify their needs, we need to identify their values and match them with our organizations.

As we move down the pyramid, we need to check with our donors to confirm we are still in agreement. If we are not, we need to move back up to where we are in agreement and then resume our discussions. Consequently, how we structure a gift is a plan or tactic. If our donor decides not to go through with the gift that does not necessarily mean they do not agree with our organization's mission.

Seek to Understand before You Attempt to be Understood Long ago I was advised: "Before they care how much you know, they have to know how much you care". The advice and counsel you give will be better received if the donor feels you really know his or her particular circumstances and have a stake in satisfying their goals or concerns. Do your donors see you as an "expert" or a "trusted advisor"? An "expert" is called upon to answer a particular question and then moves on. A "trusted advisor", on the other hand, is there throughout the process and has a relationship with the donor, often anticipating the donor's needs. You cannot have such a relationship unless you understand the other person.

Why is your donor interested, or should be interested, in your organization? What is his/her motivation? How can your organization help them accomplish their goals? Remember we talked about values. Always base your discussion on those. Goals, plans, and tactics can be accomplished and your donor may be ready to move on. But values are the bedrock upon which goals, plans, and tactics derive.

Pay Attention to Your Donor The gift should be the starting, or middle, point; never the end point. Just as it is easier to sell a new product to an existing customer, a satisfied donor is a repeat donor. This is particularly true for planned gifts, where I have heard that as much as 70% of all planned gifts come from an existing donor. *Money Matters*, a book that examined the motivations for giving to churches, noted that when donors felt they had a stake in the success of the church, they would increase their level of giving. One way to do this is to make your donor your partner, not only in the problem you are seeking to address, but also in the implementation of the gift. Present them with opportunities and make them a part of the solution.

You should also be ever vigilant about ways to recognize your donors: articles in your organization's publications, small gatherings, plaques at the organization's facility, or mementos (in this regard one former board member offered that the best was "something of small monetary, but great intrinsic value"). How you treat past donors is the best indication to your prospective donor regarding how they can expect to be treated.

Involve Your Donor's Family and Advisors Too often, it is only after our donor has passed away that we try to cultivate their family and advisors. However, by that time, it is too late. The connection is gone, as well as the passion of the donor. "That was mom's (or dad's) cause, I have my own interests," is usually the response by the children given to the charity's entrees.

I remember hearing the son (who was successful in his own right) of a wealthy entrepreneur relating his feelings when he learned of his father's gift to name a building at the father's alma mater: "I felt like the college was the other woman. Where was it all those years when my father was missing my ball games, parent teacher conferences, and the like because of his work?"

Trust companies realize they have a much better chance of retaining trust assets if they involve the next generation while their current customers are alive, rather than wait until the existing relationship ends and the assets are on their way out the door. So, too, should charities involve the donor's family and advisors while their donor is around, and can be used as their advocate. Make your --- and your donor's --- cause their cause.

Reinforce Your Organization's Role in the Community What your organization does matters. It matters not only today, but it will matter tomorrow. If your organization were not there, who would be doing what it is doing? And why is it important that your organization is the one doing it?

Just as we do not take our donors for granted, we must be sensitive that our donors do not take our organization for granted. It should be top of mind to look for ways to reinforce our organization's experience and expertise, as well as its commitment to be a continuing resource for the community long after our donor and we are gone.

When You Say It is as Important as What You Say A recent article in the Harvard Business Review noted "The din of marketing has escalated to a cacophony, with the whines of e-mails, phone calls, and direct mailings drowning one another out. But when customers actually require help or when their needs or desires change, they hear nary a peep from companies. That is because marketing organizations spend their time figuring out 'whom' to target with 'what' message but have largely ignored the question of 'when'... Consumers say time is their most valuable asset; they won't thank companies that waste theirs with information they don't need. But what is dismissed as junk at the wrong moment may be valued and pursued at the right one..." The authors endorse monitoring customer activities (or lack thereof) to spot conditions under which a communication will have real impact, so called "dialogue marketing".

Substitute donor for customer and consumer and you understand that there is a message here for those in the philanthropic community because its messages are competing with those of the for-profits. The first charitable gift annuity I issued came after two years of dialogue with the donor, and I know it was one of the first things I spoke with her about. But when I raised it, the timing was not right for her. Fortunately for me, she saw me as a non-threatening resource, so when the timing was right for her (i.e., she had certificates of deposit maturing and could not match the expiring certificates' interest rate), she called me. Timing is everything, and you must be sensitive to the environment in which your message is being sent.

And, as the Season Winds Down, Some Closing Baseball Analogies As any baseball fan will tell you, home runs are exciting. But if all you are doing is swinging for the fences, chances are, in the long run, you are not really doing your team much good. Similarly, everyone would like to bring in the multi-million dollar gift. But if you focus only on those, you may miss some good six figure or high five figure gifts. Every good ball player knows *"you are not going to hit a home run every time up"*. Better to concentrate on making contact because those singles, doubles, and triples can also add up to quite a few runs. And, it goes without saying, you cannot get any kind of hit unless you are up there batting.

How many bequests has your organization received where it was the only charity named? How many donors do you know who give to only your organization? Similarly, *"you aren't the only one pitching"*. Remember your donor has other interests. Unless you can make the case why in this particular situation your organization is the only one who can do what your donor wants done, you need to be sensitive to your donor's other interests and structure your gift request accordingly.

Finally, Bill Veeck, the revered and iconoclastic owner of the Chicago White Sox, had a favorite toast: *"May you get a hit, when you need one."* The timely hit, often the difference between victory and defeat, has long been the answer to many a baseball prayer. And so, my parting wish for you is: "May you close the gift, when you need it."

...for Paul

Biography

Charles Slamar, Jr. is a Senior Vice President and Director of National Services and Account Administration for the Charitable Management Services Group of Bank of America. This Group services philanthropic individuals, family foundations, and public charities across the country. Nationwide, it administers approximately 10,000 charitable accounts with a cumulative fair market value of over $31 billion in assets under management. According to the Center on Foundations, Bank of America administers more foundations than any other bank in the country.

Charlie is also the Team Leader for the Bank's Chicago Charitable Management Services Group. The Chicago Group administers approximately 300 accounts with $2 billion in assets under management. Included in these accounts are 57 family foundations, having a cumulative fair market value of $900 million. The Group provides grant-making services for 22 of these foundations, which made grants exceeding $28 million last year.

Charlie has served as member of the Board of Directors of the National Committee on Planned Giving and currently serves as a regional liaison for its Government Relations Committee. He is a past president of the Chicago Council on Planned Giving and the Exempt Organization Subcommittee of the Chicago Bar Association Federal Taxation Committee. He serves as an officer of a number of family foundations and as a member of the planned giving advisory committees for various public charities. He has written and spoken on tax and charitable giving topics for bar, professional, and tax-exempt organizations both nationally and locally.

Charlie joined Continental Bank, predecessor bank of Bank of America, in 1990 after nine years with Children's Memorial Medical Center as Director of Estate Planning Services, where he designed and implemented its planned giving program. Previous experience includes seven years with the Chicago law offices of Spatuzza & Spatuzza and two years with the trust department of Lake Shore National Bank, Chicago.

Charlie graduated from the University of Illinois-Champaign/Urbana (B.A.); Loyola University School of Law, Chicago (J.D.); and the John Marshall Graduate School of Law (LL.M. – Taxation). He is admitted to practice law in the state of Illinois.

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