

Wells Fargo Center for Planned Giving

Issues and Considerations in Managing Planned Gifts November 3, 2010

Mark Land

Managing Director, Wells Fargo Center for Planned Giving

Investment and Insurance Products:

- ▶ Are NOT insured by the FDIC or any other federal government agency
- ▶ Are NOT deposits of or guaranteed by the Bank or any Bank affiliate
- ▶ May Lose Value

Wells Fargo Wealth Management provides products and services through Wells Fargo Bank, N.A. and its various affiliates and subsidiaries. Wells Fargo & Company and its affiliates do not provide legal advice. Please consult your legal advisors to determine how this information may apply to your own situation. Whether any planned tax result is realized by you depends on the specific facts of your situation at the time your tax preparer submits your return.

Together we'll go far



Agenda

- Current Environment
 - Regulatory
 - Donor Trends
- Bequests
- Charitable Gift Annuities
- Charitable Remainder Trusts
- Best Practices for Nonprofit Organizations
- Resources
- Glossary of Terms

Planned Giving Basics

Bequests

Charitable Gift Annuities

Charitable Remainder Trusts

What is the Environment Today? Regulatory

- Increased and evolving regulations (UPMIFA), oversight (Sarbanes Oxley, new 990PF), and potential liability of officers and directors.
- Increasing competition for donors, other funding dollars.
- Basic capitalization and fiscal challenges at the institutional level
 - Diminishing endowments and reserves (-30% in 2007/2008)
- Financial stress on individual donors
- New donor demographics
- Nonprofits face increasing pressure for accountability and sound management from
 - Government
 - Donors
- Increased use of technology, expansion of the “local community” of nonprofits and donors (donors are responding to needs well beyond their own geography)

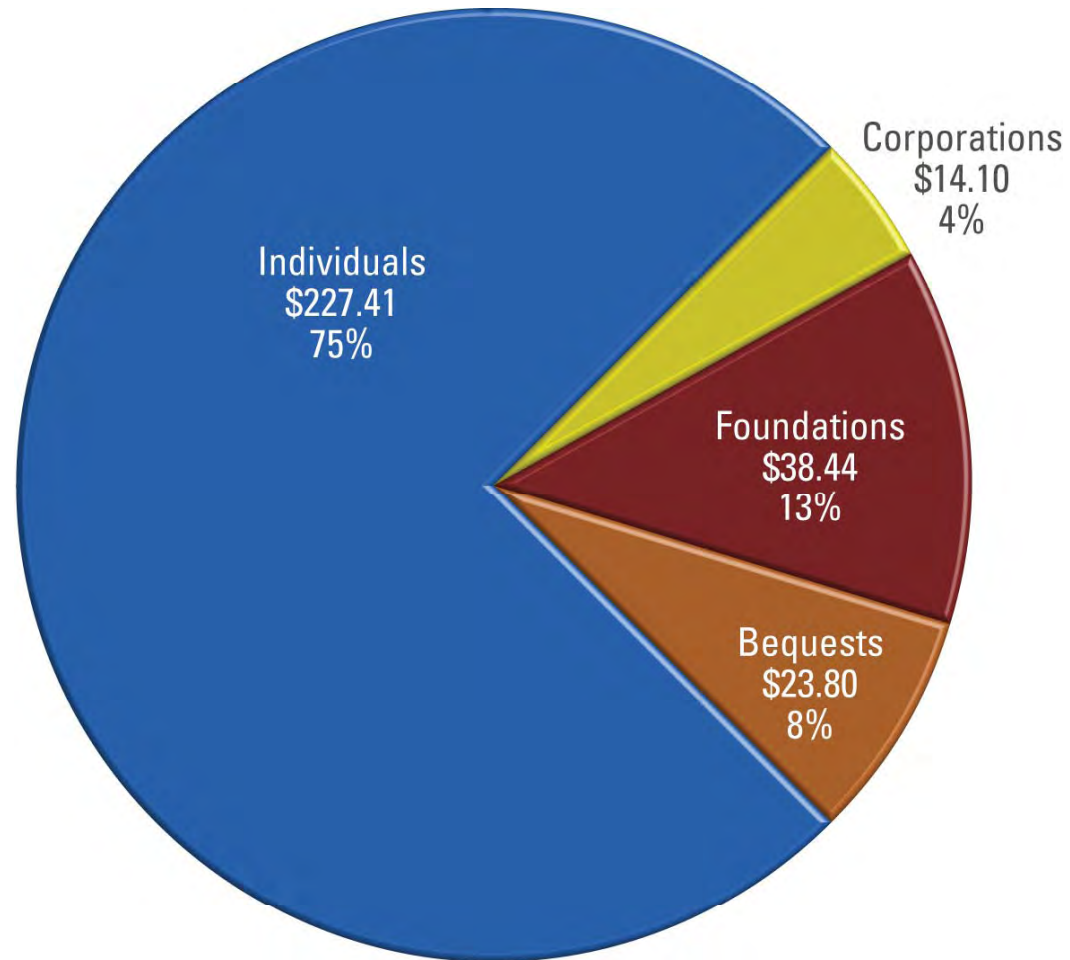
What is the Environment Today? Donor Trends

- More Americans give than any other country in the world.
 - 80% of US households donate money each year to over 1.5 million charities, social welfare organizations and religious congregations in the U.S.
 - An estimated 75% of those donors receive no tax benefit from their charitable gifts
- As our wealth increases, the percentage contributed rises markedly.
 - 95% of families with a net worth in excess of \$1 million give to charitable organizations annually
 - 98% of families with a net worth in excess of \$5 million give annually

2009 Charitable Giving Total = \$303.75 billion

Donor Trends

(\$ in billions – All figures are rounded)



What is the Environment Today? Trends

Donor

- 93% of the affluent would increase giving if they found additional causes they felt passionately for
- 66% would give more if they were better informed about giving options and the effectiveness of their contributions
- 85% would be anxious to receive guidance from their advisor on philanthropy

Source:

The Philanthropy Roundtable,
Boston College - Social Welfare Research Institute and Bankers Trust

What is the Environment Today? Trends

Donor

- Philanthropic Financial Planning
 - Financial planning that takes into account the opportunities for philanthropy that maximize the value of your assets for current planning while allowing you to direct and manage the philanthropic dollars that are part of your wealth.
 - Maximizes income potential on of all donor's assets
 - Allows client to direct and manage personal assets that are allocated to the “common good”
 - » All the Traditional Planning Tools
- **Will Designated Gifts (Bequests)**
- **Charitable Gift Annuities**
- **Charitable Remainder Trusts**
- Charitable Lead Trusts
- Donor Advised Funds
- Private Foundations
- Supporting Organizations
- Funds at Community Foundations and other Charities

WELLS
FARGO

THE PRIVATE BANK

Bequests

Bequests

- The next step in major gift fundraising and relationship building with your donors.
- The great win-win opportunity.
- A complement to your annual and major giving programs, and normally a major component of a comprehensive campaign. If you consider nothing else, consider a basic wills awareness program.
- It is the easiest way to get started in the planned giving field.
- But remember, it is all about your organization's Mission !

Bequests - A Major Opportunity

- Statistically each year, almost 7 out of 10 Americans die without a valid will.
- 7 out of 10 who do have a will, do not like their current plan!
- Charitable bequests can also take the form of beneficiary designations for IRA's, qualified retirement plans, revocable living trusts and life insurance.

Bequests - Types of Will Bequests

- Specific Bequest: specific dollar amount or specific asset.
- Percentage Bequest: a percentage of the donor's estate or undivided interest in an asset.
- Residuary Bequest: after satisfying other bequests, donor gives residue or remainder of estate.
- Contingency Bequest: if other bequests cannot be honored, then those bequests go to charitable organization.

Bequests - Basic Facts

- **85%** of all planned gifts are bequests.
- **2/3rds** of the time, the charity knows nothing about the donor's plans or how the bequest is intended to be used!
- Most of those making a charitable bequest learned of the opportunity from the organization's printed materials.

- Average age of first will: 44
- Average age 1st charitable bequest: 49
- Avg. age of bequest donors responding: 58
- Percentage that have informed charity: 32
- Percentage that never revised bequests: 75
- Percentage that never revised will: 31
- Fewer than 1 in 10 who revise their will decrease the amount

Bequests - Planning Ahead

- Who should we be cultivating?
 - Those 40+ years of age
 - Alumni and friends
 - Those with a history of supporting our institution
 - Single individuals
 - Those couples without children
 - Our faculty and staff
 - Graduates of our graduate programs and undergraduate programs
 - Our prospects- regardless of income level!
 - Older donors/prospects

Bequests Done Right – The Role of the Charity

Policies and Procedures

- Develop a comprehensive Gift Acceptance Policy
 - Will charity accept gifts of real estate
 - Will charity serve as trustee on CRT and CLT
 - Will charity offer charitable gift annuities
- Establish minimum gift size for establishing endowed funds, naming opportunities
 - Minimum gift sizes for CRTS and (especially) gift annuity programs
 - Who will conduct environmental reviews of gifts of real estate
 - Will charity accept collectables (art, other “hard to value assets”)
- What gifts will require approval by Acceptance Committee of board
- Define the role and responsibility of nonprofit staff and board in solicitation, negotiation and management of planned gifts
- Build network of allied professionals (estate planning attorneys, real estate agent/appraisers, CPAs, etc...)

WELLS
FARGO

THE PRIVATE BANK

Charitable Gift Annuities

Charitable Gift Annuities – Defined

Charitable Gift Annuity

A contract under which a charity, in return for a transfer of cash or other property, agrees to pay a fixed sum of money for a period measured by one or two lives.



Charitable Gift Annuities - Defined

Immediate- Annuitant starts receiving payments at the end or beginning of the payment period immediately following contribution.

Deferred- Annuitant starts receiving payments at a future time. The annuitant will receive a higher rate based on compound interest factors.

Flexible- Annuitant does not have to choose the annuity starting date at the time of the contribution. Annuitant often opts to wait until retirements needs are more predictable.

Charitable Gift Annuities - Targeted CGA Donors

- The interest rates on their CDs and other fixed-income investments have declined, and they would like to increase their cash flow.
Very attractive in low-interest rate environment like we have today.
- They own appreciated stock or mutual fund shares and have considered selling some of the shares and reinvesting the proceeds to generate more income, but they have hesitated because they don't want to pay tax on the capital gain.
- They would like to count on fixed payments, which are unaffected by interest rates and stock prices and which they cannot outlive.
- They want to assure continuation of payments to a surviving spouse without the delay of probate proceedings.

Charitable Gift Annuities - Donor Benefits

- Easy to establish with no complicated documentation required
- Immediate income tax deduction based on charitable gift
- Lifetime income stream, which may be higher than current investments
- Capital gains taxes incurred may be allocated over the life of the annuity
- Easy way to increase retirement income

Charitable Gift Annuities - Nonprofit Benefits

- Efficient way to administer a large number of smaller denominated donations.
- Provides donors concerned about finances a means to provide meaningful gifts to their favorite charity, potentially increasing the size of future gifts.
- Broadens the universe of potential donors and assists in establishing new donor relationships.

Charitable Gift Annuities - Oversight

American Council On Gift Annuities (ACGA)

Incorporated in 1993 as a not-for-profit organization, the ACGA provides suggested charitable gift annuity rates for use by charities and their donors.

In addition to providing these rates which are accepted as the standard in the charitable field, the ACGA provides educational information and training opportunities to charities nationwide.

Website: www.acga-web.org

Charitable Gift Annuities Done Right – Policies and Procedures

- Board Resolution to offer annuities
- Gift Acceptance Policy
 - Program scope
 - Gift minimums
 - Gift assets
 - Donor ages
- Investing
 - Investment policy language specific to gift annuities
- Know the regulatory environment:
 - Gift annuities fall under the oversight of state statutes/regs.
 - These differ from state to state
 - Not every state has the same level of oversight
 - Registration to offer gift annuities in a particular state
 - Some state require an annual accounting of a CGA program
 - New York, California among the most complex
 - Certain state statues dictate investment restrictions and/or allocations
 - California – 50% Equiy/50% Fixed income

CGA Registration Map

Restricted States(11) **Notice States(16)** **Exempt States(19)** **Silent States(5)**

Alabama	Alaska	Arizona	Delaware
Arkansas	Connecticut	Colorado	D.C.
California	Georgia	Illinois	Ohio
Florida	Idaho	Indiana	Rhode Island
Hawaii	Iowa	Kansas	Wyoming
Maryland	Mississippi	Kentucky	
New York	Missouri	Louisiana	
New Jersey	Montana	Maine	
North Dakota	Nevada	Massachusetts	
Washington	New Hampshire	Michigan	
Wisconsin	New Mexico	Minnesota	
	North Carolina	Nebraska	
	Oklahoma	Oregon	
	Tennessee	Pennsylvania	
	Texas	South Carolina	
	West Virginia	South Dakota	
		Utah	
		Vermont	
		Virginia	

WELLS
FARGO

THE PRIVATE BANK

Charitable Remainder Trusts

Charitable Remainder Trusts - Overview

- The Charitable Remainder Trust (CRT) is used to make a deferred or split-interest charitable gift.
- Provides for distribution of specified payment at least annually to one or more individuals at least one of whom is not a charitable organization.
- Payment must be structured as an annuity or unitrust payment for term of life of beneficiary or term of years.
 - **CRAT** (charitable remainder annuity trust)
 - **CRUT** (charitable remainder unitrust)
 - **NICRUT** (net income unitrust)
 - **NIMCRUT** (net income CRUT with makeup provision)
 - **FLIPCRUT** (CRUT that begins as a NICRUT or NIMCRUT but changes to a standard unitrust upon occurrence of a specified event)

Charitable Remainder Trusts - Benefits for the Donor

- ✓ Provide a more significant gift during one's lifetime than might be possible through an outright donation (increase the "wealth transfer")
- ✓ Donate assets during one's lifetime and still enjoy the income (often times increased)
- ✓ Benefit from the tax-free compounding of excess income
- ✓ Reduce income and estate taxes
- ✓ Receive recognition during one's lifetime for gifts "given" posthumously to the charitable institution
- ✓ Contribute to the continued enrichment of the charitable institution

CRAT Advantages and Disadvantages - Donor

Advantages of a CRAT:

- Annual payments are known up front; therefore personal budgeting is easier.
- Valuation is done only once at the creation of the trust and payments will never decrease.

Disadvantages of a CRAT:

- Additional contributions are prohibited.
- Funding is limited to income producing assets only.
- If principal declines in value, the trust could be depleted, with little or no remainder left to charitable remainderman.

CRUT Advantages and Disadvantages - Donor

Advantages of CRUT:

- Payout reflects appreciation & depreciation of trust assets.
- Additional contributions are permitted.
- Non-charitable beneficiary payout can be limited to net income earned by the trust.
- Income-only distributions can be supplemented by make-up provision in subsequent years.
- Trust may be funded with non-income producing or unmarketable assets.

Disadvantages of CRUT:

Annual valuation may cause payment amounts to decrease.

May not be advantageous to the beneficiary in economic recession.

Charitable Remainder Trusts - Benefits for the Charity

- ✓ Part of a comprehensive fundraising program within a nonprofit
- ✓ Enhances the role of the charity with the donor, charity is a “solution provider” not just a charity in need.
- ✓ Can provide sizable gifts to organization, building endowment/program support
- ✓ Enhanced legacy for donor and their heirs through donor recognition programs

Trusts Pointers

CRT's created with less than \$200,000 in assets are generally not advisable. A CRT requires document drafting, appraisals and ongoing administrative costs, and there is a minimum threshold that the trust can stand on its own.

CRT's provide significant flexibility and appeal for donors –

1. The “retirement” Flip CRUT
2. “Dividend Replacement” CRUT

CRTS Done Right - Polices and procedures

- Will nonprofit serve as Trustee or Agent?
 - “Principles of Prudence” are expected in either case
 - Duty to conform to fiduciary standards
 - Requirements of care and skill
- As Trustee, required to act with impartiality, balance between the goal of generating current income (for the beneficiary) and the need to protect against purchasing power and depletion (the interest of the remainderman)
- If serving as Trustee, will charity require that they are the *sole* remainderman?
 - Typical among many nonprofits, yet, community foundation will often have multiple remaindermen in CRTS they administer
 - Will nonprofit manage all aspects – investing, administration and tax work – of CRT’s in house, or out source?

Planned Giving Best Practices for Nonprofits

- Develop gift acceptance policy with scope of planned giving program, age and gift minimums, and remainder severance policy
- Develop an investment policy statement for CGA reserve and surplus and CRTs Invest 100% of the gift annuity amount
- Develop planned giving marketing strategy
- Educate board and staff; Educate donors; Educate advisors
- Invest with fiduciary scope for planned giving assets
- Register with states for CGA programs; file annual report if necessary
- Keep accurate records, including donor W-9
- Perform due diligence audit on CRT and CGA assets, investment management, tax reporting and donor stewardship records
- Benchmark, benchmark, benchmark

Resources

- American Council on Gift Annuities www.acgaweb.org
- Partnership In Philanthropic Planning www.pppnet.org
- Fiduciary 360 www.fi360.com
- GuideStar www2.guidestar.org

WELLS
FARGO

THE PRIVATE BANK

Closing thoughts/Questions

Contact Information



Mark E. Land
Managing Director
Wells Fargo Center for Planned Giving
mark.land@wellsfargo.com
336-732-0425 direct

Glossary Of Terms

AMERICAN COUNCIL ON GIFT ANNUITIES "(ACGA) is a qualified nonprofit organization formed in 1927 as the Committee on Gift Annuities for the purpose of providing educational and other services to American charities regarding gift annuities and other forms of planned gifts." <http://www.acga-web.org>

ANNUITANT An individual or entity entitled to receive an **annuity**.

ANNUITY An amount to be paid periodically. Usually (1) the amount is a fixed sum not dependent upon income; (2) the period is the life of an **annuitant**; and (3) the frequency of payment of the fixed sum is at least annual. Payors of annuities generally base the annuity on the **life expectancy** of the annuitant as well as the premium. States treat commercial annuities as insurance products and regulate them under insurance laws. **Example:** In return for ten years of premiums of \$10,000 each year, an insurance company agrees to pay annuitant A \$8,000 annually in monthly installments.

APPRECIATION The excess, if any, of the value of an asset above its **basis**.

BASIS the tax purpose value of the property or asset used in establishing the potential capital gain amount.

CHARITABLE GIFT ANNUITY A gift annuity is a contract between a donor and a qualified charity that will provide a fixed income for the life of the donor or other designated beneficiary. The total assets of the charity back the annuity payments. Rates offered are based on the annuitant's age at the time of the gift. A substantial portion of each annuity payment is received tax-free.

Gift annuities generate an immediate charitable income tax deduction. Capital gains are reduced dramatically and can be reported over a number of years so that those taxes are not due all at one time.

Annuities based on two lives are also available, but the rates are generally lower.

Glossary Of Terms

CHARITABLE INCOME TAX DEDUCTION An expense that a taxpayer is allowed to deduct from taxable income. This lowers taxes, depending on one's tax bracket. One dollar of deduction saves twenty eight cents of tax for a person at the 28% bracket.

DEFERRED CHARITABLE GIFT ANNUITY A **charitable gift annuity** which is to make its first payment more than twelve months after the gift is set up. The **annuity** payments are based on the **annuitants'** ages at the time the payments are to begin. To decide those amounts, **nonprofits** should increase the value of the contribution by a compound interest factor to take account of the time that the nonprofit will have the contribution before payments must begin.

EXCLUSION RATIO A fraction or percentage which is applied to payments from a **charitable gift annuity** to determine what part of those payments is tax free. Except for **annuities** created before 1987, no part of charitable gift annuity payments is tax free for **annuitants** who live beyond their **life expectancies**. Annuitants who die short of their life expectancies can deduct any unused balance of the **investment in the contract** on their final income tax return.

Determining the exclusion ratio requires knowing the investment in the contract, the annuity payments and their frequency, the annuitant's age, and the **expected return multiple**.

FAIR MARKET VALUE I.R.S. Regulation Section 170A-1(c)(2) says, regarding charitable deductions: "The fair market value is the price at which the property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or sell and both having a reasonable knowledge of relevant facts."

FIDUCIARY An individual or entity responsible to manage assets for the benefit of others. **Examples:** **trustee, executor, administrator**, guardian, conservator, member of a board of directors, **partner**, etc.

Glossary Of Terms

FLEXIBLE GIFT ANNUITY A flexible gift annuity is structured so that the annuitant has control over the date at which payments begin. This may be a good gift vehicle for those who are unsure of their retirement date.

FORM 1040 The standard federal income tax return for individuals upon which individual donors can claim their charitable contributions, on Schedule A, as itemized deductions.

GIFT ACCEPTANCE GUIDELINES Guidelines, policies, **or** procedures to help avoid accepting **planned gifts** which might result in undue expense for your **nonprofit**. **Example:** No gift of **real estate** will be accepted without a preliminary title report. Such a report should show encumbrances, including property taxes, which your nonprofit may have to pay in order to retain the property. Those encumbrances could also cause the gift to be treated as a **bargain sale**, with the donor having to recognize some income.

GIFT-IN-KIND A gift other than cash. **Example:** Stock, **real estate**, copyrights, furnishings, art, etc.

GIFT TAX A tax imposed on gifts made during life. The federal government's gift tax is the **unified transfer tax**. The manner of imposition is virtually the same as for the **estate tax** but taking into account such things as the fact that a living **person** can make gifts many times over many years, but an estate tax is only imposed once. The **unified transfer tax credit** is available for gift taxes as well as for estate taxes. Some states also impose gift taxes; check the law of your own state.

IMMEDIATE CHARITABLE GIFT ANNUITY A **charitable gift annuity** which is to make its first payment within twelve months after the gift is set up.

IN KIND CONTRIBUTION a donation of goods or services (as opposed to cash or securities)

Glossary Of Terms

INVESTMENT IN THE CONTRACT A term used in making calculations for **charitable gift annuities**. Recall that charitable gift annuities are **bargain sales**. Investment in the contract refers to the sale portion of charitable gift annuities. The sale portion of a charitable gift annuity is the **present value** of the annuity based on the **life expectancy** (or **expected return multiple**, in the case of annuities) of the **annuitants** using the Internal Revenue Service's assumptions for earnest rates (revised monthly). You can make these calculations most easily using specifically designed computer software. **Example:** In the example under **exclusion ratio**, the \$22,665.48 investment in the contract is the present value of the \$5,700 paid annually in quarterly installments to the 85-year old donor, with an adjusted life expectancy of 6.8 years and using Internal Revenue Service rates current for the date of the gift.

SEED MONEY a grant or contribution used as the initial funding to start a program or fund.

TRUST a legal arrangement whereby a trustee (fiduciary) holds assets for the benefit of a beneficiary.