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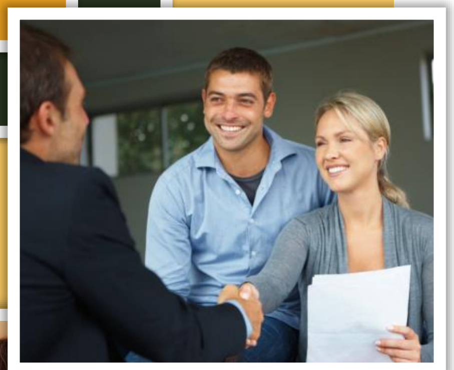

PLANNED GIVING FROM START TO SUCCESS

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Does your organization have Planned Giving?

Planned Giving, for many non-profits, particularly small and mid-sized organizations, is often a program the organization may say it wants to implement, but never does. Sure, if someone leaves the organization a gift in a Will, the non-profit will take it. But for many, the organization may not quite get around to launching a Planned Giving Program or campaign, despite talking about it at board meetings and putting it on annual "to-do" lists.

The reason organizations keep putting off Planned Giving is because it *seems* like it's complicated and a lot of work. When we think of Planned Giving, we may think of lawyers, accountants, legal documents, research… all of the things that sound time consuming and expensive. The truth is, though, that setting up your first Planned Giving effort can be relatively smooth and painless.

What is Planned Giving?

“Planned Giving” is a donor’s act of making a commitment to give a charitable organization a major gift, over time or at death, as part of the donor’s overall financial and estate planning.

The tax and financial benefits to donors for planned gifts was codified into law in order to help motivate people to economically support charitable organizations. Planned giving serves a dual purpose. On the one hand, planned gifts help support worthy causes. At the same time, they can be useful in helping individuals make more substantial gifts, as well as address their own financial needs.

Features of Planned Giving

Planned gifts can allow the donor to:

- Make a personally significant gift, often larger than he or she thought possible.
- Enjoy the satisfaction of providing the means for the organization to fulfill its mission.
- Save on or avoid gift, estate, and inheritance taxes.
- Reduce or avoid capital gains taxes. Donors can contribute “appreciated” property, like securities or real estate, then receive a charitable deduction for the full market value of the asset and pay no capital gains tax on the transfer.
- Pass assets on to family members at reduced tax costs.
- Increase income and effective rate of return.
- Possibly receive income for life. Donors who establish a life-income gift receive a tax deduction for the full market value of the assets contributed, minus the present value of the income interest retained.
- Leave a legacy without giving up assets now.

Types of Planned Gifts

Bequests

Bequests in a Will or Trust: A donor makes a bequest or gift through his or her Estate or Trust, by including a provision in such document naming the non-profit organization as the beneficiary.

Bequests through Non-Probate Assets: Beneficiary Designations/TOD or POD accounts: Not all assets at death pass through a Will or Trust! A donor makes a bequest or gift by naming the non-profit organization as a beneficiary of a retirement plan or life insurance policy.

With all bequests, the amount left to the non-profit can be expressed as a dollar amount or as a percentage of the assets to be given.

Bequests can also be "Restricted," which means donors may designate or "restrict" the use of their donations to a particular purpose or project. An example is a gift to a special scholarship fund at a university. "Unrestricted" funds are donations the nonprofit may use for any purpose.

Remember that Attorney General's Office in NJ must be notified of charitable bequests by the Estate.

Types of Planned Gifts (continued)

Life Income Gifts

- Charitable Gift Annuities - In exchange for an outright gift, the non-profit agrees by contract to pay a fixed amount each year to the donor or another beneficiary for life. Recommended best practices for non-profits to follow are:
  - Meet State regulations (Your State and the Donor's State).
  - Specify the types of assets that will be accepted (typically cash and highly appreciated securities; what about real estate, personal property, etc)
  - Establish minimum ages for immediate and deferred and a minimum amount for a gift annuity.
  - Establish procedures to ensure that Gift Designations are Honored.

Types of Planned Gifts (continued)

Life Income Gifts (Continued)

- Charitable Remainder Trusts – The donor establishes a trust from which the donor or other beneficiaries receive *variable* annual payments for life and/or a term of years. At the end of the term, the remainder of the trust assets go to the non-profit for the purposes designated.

- Charitable Remainder Annuity Trusts – The donor establishes a trust from which the donor and/or other beneficiaries receive annual payments of a *fixed* dollar amount for life and/or a term of years, after which the remainder of the trust assets pass to the non-profit for the purposes designated.

- Pooled Income Funds – The donor's gift goes into an investment pool that functions like a mutual fund. Investment returns are paid to donor and/or other beneficiaries for life, after which the gift is withdrawn and used to support your designated purpose at the non-profit.

Types of Planned Gifts (Continued)

Charitable Lead Trusts - A charitable lead trust makes an annual payment to the non-profit organization for a period of years, and at the end of the term, the remaining assets go to the donor's children or other beneficiary.

Donor Advised Funds - A donor advised fund allows a donor to make a tax-deductible gift to the non-profit organization to establish a fund today, and later advise the non-profit on how to use the gift. At least half of the gift must be designated to the non-profit, and the rest may support other charities.

Charitable Pledges ("promises") - A "charitable pledge" is a contract between a donor and a charity in which the donor promises to make a contribution in the future.

Is a Charitable Pledge Legally Enforceable?

Under traditional contract law, a charitable pledge is enforceable if the pledge meets the requirements for a legally binding contract:

- There must be an agreement between the donor and charity (the donor promises to make a gift, and the charity promises to accept).
- The terms must be clear and all conditions specified.
- There must be consideration. Example, the charity suffered detriment by taking action in "reasonable reliance" of the pledge.

However, in New Jersey, it is considered a matter of **sound public policy** to benefit public welfare and one who has voluntarily made a valid "subscription to a charity of his choice should not be permitted to evade it." So, in NJ, a charitable pledge is legally enforceable, even if unwritten, not backed by consideration, and the charity did not act in reliance.

In Jewish Federation of Cent. New Jersey v. Barondess, 234 NJ Super 526 (Law Div. 1989); More Game Birds In America, Inc. v. Boettger, 125 N.J.L 97 (E&A 1942)