Goal-Setting Toolkit: Practical Tips to Jump-Start Your Planned Giving Program

Katherine David, Partner
STRASBURGER & PRICE
The Bakery Building
2301 Broadway
San Antonio, Texas 78215-1157
Phone: 210.250.6122
Email: katy.david@strasburger.com

Twitter: @Exempt_Org_Law
Goal-Setting Tip #1: Know the area in which you want to make a change.
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The process by which a donor, the donor’s advisors, and the exempt organization’s development officers work together to determine the most effective method for the donor to give to the organization. ¹
Goal-Setting Tip #1: Know the area in which you want to make a change.

Planned giving is a method of supporting I.R.C. §501(c)(3) organizations that enables donors to make larger gifts than they could make from their income.
Goal-Setting Tip #1: Know the area in which you want to make a change.

Some planned gifts provide a revenue stream to the donor; others use estate- and tax-planning techniques to provide for the recipient organization and other beneficiaries in ways that maximize the gift and/or minimize its impact on the donor’s estate. iii
Goal-Setting Tip #1: Know the area in which you want to make a change.

Unlike an annual gift or membership dues—which may be budgeted for but are made out of the donor’s discretionary income—a planned gift is any major gift, made in lifetime or at death as part of a donor’s overall financial or estate planning.
Goal-Setting Tip #2: Anticipate Obstacles
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• Larger size of planned gifts “raises the stakes” for donor and recipient.

• Comparative complexity of many planned gifts requires more administration and outside advice than gifts of cash.

• Conversations around planned gifts involve mortality and personal legacy.
Goal-Setting Tip #3: Identify Allies and Resources
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The Planned Giving Players

Donor: Supplies charitable intent and assets.

Donor’s Advisors: Advise on selection of gift form with an eye toward tax-planning, estate-planning, liability protection, enforceability; draft documents; value property; handle tax reporting.

Charitable Organization: Develops relationship with donor; help donor create a vision of the gift’s goals and results.
Categories of Planned Gifts

- Pay-on-Death/Transfer-on-Death Accounts.
- Gifts of appreciated property as opposed to cash.
- Gifts that return income or other financial benefits to the donor.
- Testamentary gifts.
Goal-Setting Tip #3: Identify Allies and Resources

**Gifts of Appreciated Property**

- By contributing appreciated property, donor avoids tax on capital gain.
- Deduction for gift of long-term capital gain property to public charity may be determined with reference to property’s fair market value on the date of gift.
- Charitable contribution deduction allowable up to 30% of donor’s adjusted gross income.
- Can take the form of a bargain sale.
Goal-Setting Tip #3: Identify Allies and Resources

**Gifts of Appreciated Property**

**Low-Hanging Fruit:**
- Publicly-traded stocks
- Whole life insurance policies (Ownership or Beneficiary Designation)
- Beneficiary designations for IRA, 401(k), 403(b), and other qualified retirement plans

**Proceed with More Care:**
- Closely-held securities
- Term life insurance policies
- Tangible personal property
- Real property
Goal-Setting Tip #3: Identify Allies and Resources

Gifts of Appreciated Property—Publicly-Traded Stock

• What does your gift acceptance policy say about selling marketable securities?

• Be alert to timing-of-gift issues.
  • Gift of properly endorsed stock certificate complete on date of delivery or mailing if received in ordinary course of mail.
  • If the donor delivers the stock certificate to his bank or broker as his agent (or to the issuing corporation or its agent) for transfer into the name of the donee, the gift is completed on the date the stock is transferred on the books of the corporation.
  • A donation of stock held in “street name” is completed when the donated stock is entered in the corporation's books.
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**Gifts of Appreciated Property—Life Insurance Policies**

- Owner donates a whole life insurance policy he no longer needs to the organization. Organization can:
  - Continue to make premium payments
  - Convert the policy to a paid-up policy (Reduces face amount but captures value of gift with no further investment.)
  - Exchange policy for cash value (Puts cash in hand immediately.)
  - Sell policy to a viatical company.

- Owner donates term policy, in which case—unless donor makes future gifts to cover premiums—organization must continue to pay premiums and may never recover investment.

- Organization must be both owner and beneficiary in order for gift to be recorded.
Goal-Setting Tip #3: Identify Allies and Resources

**Gifts of Appreciated Property—Beneficiary Designations**

Charity can be primary or secondary beneficiary.
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Gifts of Appreciated Property—IRA Charitable Rollovers

• 2015 PATH Act Reinstates and makes permanent exclusion from gross income for qualified charitable distributions from IRAs.
• Available for individuals 70½ and older.
• Distributions of up to $100,000 per year, per individual.
• “Qualified charity” is any public charity other than a supporting organization or donor advised fund.
• Contributions do not apply toward charitable deduction limit; donor does not need to itemize deductions to benefit from exclusion.
• WARNING: Entire amount of deduction must be otherwise allowable.
• Contribution must be directly from IRA to charitable beneficiary.
Goal-Setting Tip #3: Identify Allies and Resources

**Gifts of Appreciated Property—Closely-Held Securities**

- Interests in a pass-through entity will generate unrelated business taxable income even if income not distributed.
- Gain on sale of S-corporation stock is unrelated business taxable income.
  - **Note:** 2015 PATH Act reinstates and makes permanent more favorable basis reduction rules for contributions by S-corporations.
- Are interests subject to a buy-sell agreement?
- Are owners subject to capital calls?
- Is interest a general partner interest?
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Gifts of Appreciated Property—Tangible Personal Property

• Consider costs of sale, insurance, transportation.

• Is it marketable?

• Donor’s charitable contribution deduction limited to basis if tangible personal property is not related to charity’s tax-exempt purpose.

• Donor’s charitable contribution deduction for related-use property is limited to basis if sold within three years unless an officer or director of donee signs a written statement (Form 8282), under penalties of perjury, that intended use of property at time of gift has become impractical or impossible, or donee’s use of property was substantial and related to exempt purpose.

• Note: 2015 PATH Act enhanced/made permanent deduction for contributions of food inventory.
Goal-Setting Tip #3: Identify Allies and Resources

**Gifts of Appreciated Property—Real Property**

- Consider residence, vacation property, commercial property, vacant land.
- Costs include title policy, deeds, appraisals, inspection, taxes, maintenance, insurance, commissions.
- Risks include environmental liability, clean-up/repairs, lack of marketability.
- By freeing donor from costs of insurance, maintenance, and taxes, the gift might actually improve donor’s cash flow.
- **Note:** 2014 PATH Act makes permanent increased percentage limits and extended carryforward periods for qualified conservation contributions.
Goal-Setting Tip #3: Identify Allies and Resources

**Gifts that Return Income or Other Financial Benefits to Donor**

- Charitable Remainder Trust
- Charitable Lead Trust
- Charitable Gift Annuity
Gifts that Return Income or Other Financial Benefits to Donor—Charitable Remainder Trust

Donor transfers property to trust. During lead trust term (measured by one or more lives or a term of years), trust makes annual distributions to non-charitable beneficiary. At the end of the lead trust term, property remaining in trust is transferred to charity.

Donor entitled to immediate charitable deduction for the present value of interest that goes to charity. Trust itself is not subject to tax and can sell appreciated property tax-free. Non-charitable beneficiaries are subject to tax on amount distributed.
Gifts that Return Income or Other Financial Benefits to Donor—Charitable Lead Trust

Donor transfers property to trust. During lead trust term (measured by one or more lives or a term of years), trust makes annual distributions to charitable beneficiary. At the end of the lead trust term, property remaining in trust reverts to the donor or passes to a named non-charitable beneficiary.

Depending on how trust is structured, donor either takes an immediate charitable deduction for the present value of interest that passes to charity, which is recaptured over the lead trust term or does not take an immediate charitable deduction but avoids tax on income paid to charity during the term of the trust. If third parties are named as remainder beneficiaries, value of remainder interest is a taxable gift.
Goal-Setting Tip #3: Identify Allies and Resources

**Gifts that Return Income or Other Financial Benefits to Donor—Charitable Gift Annuity**

Donor transfers cash or property to charity in exchange for charity’s obligation to pay a fixed sum of money for a period measured by the life of one or two beneficiaries.

Donor is entitled to charitable contribution deduction for excess of the amount paid over the present value of the annuity stream.

Charity actually owns the contributed property and actually has the liability to make (and fund) annuity payments.

Governed by Chapter 102 of the Texas Insurance Code.
Goal-Setting Tip #3: Identify Allies and Resources

Testamentary Gifts

• Can be made in will or codicil.

• Can be all or a portion of specific property or a specific class of property, or a specific dollar amount.

• Can be percentage (or all) of total estate.

• Can be percentage (or all) of residual estate.

• Can be contingent.
Goal-Setting Tip #4: Convince Yourself to Commit
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- Planned gifts have the potential to be larger than annual and major gifts.
- Planned gifts self-insure the organization against the death of loyal donors.
- Planned gifts, particularly irrevocable gifts, lock-in a donor’s commitment to the organization.
- Planned gifts create a pipeline of future revenue.
- A legacy society builds the prestige of an organization.
- The discipline required to develop and maintain a planned giving program benefits all aspects of development.
Goal-Setting Tip #5: Don’t Succumb to Excuses
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- It may be difficult or feel unseemly to “chase the dead.”

- Restricted gifts and non-cash gifts create liability.

- It’s hard to get excited about a gift that is revocable or that may not materialize for many years.

- If donor does not tell you about gift, it’s hard to measure return on investment or quantify results.

- Personnel and data management are expensive.

- Allowing planned gifts to count towards campaign goals may result in a “successful” campaign with no cash for current spending objectives.

- Shutting down a program that has not achieved success is damaging.
Goal-Setting Tip #6: Take Baby Steps
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• Put name, address, EIN on website to ensure that donors acting alone identify organization correctly.

• Educate Board of Directors and development staff about basics and benefits of planned giving.

• Talk to current donors.

• Develop gift acceptance policy and promote acceptance of insurance and appreciated securities.

• Develop minimum levels for restricted gifts and permissible restrictions.

• Develop gift acceptance policy and promote acceptance of more exotic gifts.

• Establish Planned Giving Circle/Legacy Society.

• Facilitate planned gifts by employees, volunteers, other constituents.
Goal-Setting Tip #6: Take Baby Steps

**Warm-Up Questions to Ask Current Donors:**

- What types of philanthropic appeals attract your attention?
- What do you like to see in marketing materials about giving?
- What important facts about an organization should be communicated to donors?
- If this organization came up in a conversation, what would you say about it?
- Why do you support this organization?
- How do you prefer to be recognized for your gifts to this organization?
- How would you suggest this organization re-engage uninvolved constituents?
Goal-Setting Tip #6: Take Baby Steps

**Critical Questions to Ask Current Donors:**

- Have you ever made a planned gift?
- If so, what factors were important in your decision to make a planned gift?
- If not, why not?
- What advice would you give us as we launch our planned giving program?
- Are there additional questions you think should be asked in this survey?


Id.

Id.

Id.

See Miree, supra note 1, at 9.

