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Give&Take®

IDEAS AND INSIGHTS FROM SHARPE GROUP

Who Has the Keys to Your **Digital Assets?**

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Who Has the Keys to Your **Digital Assets?**

by: John Jensen

A new model law aims to address issues of access to digital accounts in estate plans.

Most of us have a growing number of digital accounts, ranging from social media to family photos to virtual wallets (PayPal, Bitcoin, etc.), that are stored in the cloud or on smart phones or tablets. In fact, studies show that Americans now average 90 separate digital accounts. Many of our donors do not give much thought to what will happen to these accounts after their passing and perhaps assume that their executors will take care of digital treasures along with their other personal property.

How wrong they are!

The right to access

Under the Terms Of Service (TOS) of most digital accounts, the person signing up agrees to be the only individual who can access these accounts. When the user passes away, no one else is permitted, under the typical TOS agreement, to access these digital files.

Even if you are careful enough to record all the usernames and passwords, your executor could be violating the contractual TOS to which we all agree when we open these accounts. In fact, the executor may be violating state law if he or she uses these passwords, even if you have allowed it.

Most state probate codes do NOT give executors the right to access digital assets. In situations where family members have requested access to photos or other items stored on the cloud, courts have generally ruled against them, and the digital assets have simply been lost forever. This is now changing in many states—but with a huge caveat.

A new law on the horizon

The Uniform Fiduciary Access to Digital Assets Act is now law in 21 states and is expected to soon pass in remaining states. This model law allows an individual to *explicitly and in writing* give any fiduciary (executor, trustee, conservator, power of attorney, etc.) legal access to any digital assets or accounts. If this authorization is in place at death, companies must comply with state law. In situations where the executor doesn't have the usernames and passwords, a probate court can order companies to provide access, and they will have no choice but to comply.

The fiduciary is also given the right to decide which digital assets should be kept, shared or destroyed to protect items that, in their discretion, are best kept private. The Uniform Act allows the fiduciary to decide if a photo might be misunderstood or a private letter to a loved one might be best not to share with family or others. The deceased can give special instructions in this regard to the executor, trustee or other fiduciary.

> Since this is a new law, almost everyone will need to update their plans to include this language in their will or trust.

The act provides that where the deceased individual fails to appropriately give this power to the fiduciary, NO ONE will have access. Those treasured photos, videos and documents will simply float away into the ether. Given the conflicting concerns about access and privacy, the requirement that the direction be explicit and in writing is unlikely to change.

Keep in mind, however, that like all Uniform Acts, some states will pass them exactly as recommended. Other states may change or omit some provisions and perhaps add components unique to that state. This means one should discuss their state's exact law with their attorneys.

What does this mean to fundraisers?

The primary goal of most planned gift marketing is twofold. First, fundraisers should encourage donors to create their estate plans and make gift provisions for charitable interests in those plans. Second, they should help donors understand that if they fail to keep their plans up to date, their desires regarding the disposition of their assets to their heirs and charitable interests may not reflect their wishes at the time of their death. Such unintended consequences are why Sharpe Group has long placed such strong emphasis on motivating, educating and encouraging donors to review and update their wills and trusts. We now have a new arrow in our quiver. Time to make use of it!

As we communicate with donors in person and through other channels, we can now add another very compelling reason to update an estate plan. Since this is a new law, almost everyone will need to update their plans to include this language in their will or trust.

By informing donors about these new provisions, particularly donors who are completing final estate plans, you will be doing them a service. You will also help ensure that more donors will revisit their plans and possibly update their charitable provisions.

What could be better than simultaneously helping your donors and encouraging a gift at the same time?

As you talk with donors, raise the topic as something you have just recently learned. If the law has not yet been passed in a given state, encourage donors to put the authorization in their wills or trusts regardless. Most experts believe it is just a matter of time before the model law, in some form, will be enacted in all 50 states.

Refer to this in your planned giving marketing materials. Encourage donors to discuss this with their attorneys. Like all marketing messages, this will take time to sink in, so raise the issue repeatedly over time.

Presumably, files stored on personal hard drives, DVDs and similar media are part of the personal property left by a donor, similar to photographs and other documents found in desk drawers and safety deposit boxes. Keep in mind that many of these may be password protected, so it is important to encourage donors to keep their usernames and passwords somewhere easy to locate.

Encourage donors to make sure that their most precious photographs and other digital property are backed up somewhere other than on cloud sources. They might also appreciate learning that it can be a good idea to transfer videotape and audio recordings to more permanent media as tape recorded prior to the 1990s may be nearing the end of its useful life.

To learn which states have enacted the new law, check out our blog post "What Happens to Assets in the Cloud When You Pass Away" at www.SHARPEnet.com/blog.

The Sharpe Gift Planning Newsletter and Website library contains articles that address this issue that you can include in your various communications. Sharpe consultants can also assist you in other ways to raise and encourage discussion on this topic. For more information, visit www.SHARPEnet.com/donor-communications. ■

John Jensen is a Sharpe Group Senior Vice President and Senior Consultant.

100 and Counting

The number of the super-senior population (85 and older) is rapidly growing, and the 100+ population is among the fastest growing segments.

As a result, gift planners interacting with the super-senior population need to better understand the mental and physical health of those who are increasingly likely to live to 100 or beyond.

According to the *Journals of Gerontology Medical Sciences*, 2015, almost one-quarter of those reaching the age of 100 do so with no self-reported diseases. Approximately one in six say they have no difficulty with activities such as walking, climbing stairs and daily tasks such as bathing and dressing. More than half (55 percent) remain mentally alert.

People are living healthier and longer lives, creating an opportunity for gift planners to pay special attention to those in their 80s, 90s and 100s. Many in this group are mentally and physically capable of continuing to participate in philanthropic activities and/or making long-range plans, such as changing their will or trust or accelerating a bequest provision into a lifetime gift so they can witness the impact. ■

The **Charitable IRA** Boom

The Charitable IRA provision offers an attractive giving option for those aged 70½ or older. Here are a few reasons why you should be encouraging these gifts.

While many have speculated about the Boomer Bequest Boom, the reality is that it will be a decade or more before significant funds begin to be received at the passing of Baby Boomers. The oldest Boomers have just entered their 70s, and only a small fraction of charitable bequests come from people dying before age 80. In fact, the average age of charitable decedents is in the mid-80s and has been rising in recent years.

There are things you can do now, however, to help maximize gifts from this generation. In addition to charitable bequests, you can encourage more immediate funds by maintaining your primary focus on gifts with near-term benefits, such as cash, securities, real estate and qualified charitable distributions from IRAs.

Some financial institution studies estimate that Boomers currently hold $10 trillion in tax-deferred retirement plans and accounts. Congress has recently made permanent the Charitable IRA provision that allows donors to give up to $100,000 per year directly from their qualified IRAs to charity. Remember, however, that this tax provision does not apply to 401(k) or 403(b) plans. (See the January 2017 *Give & Take* article "Who Has an IRA?")

Act now to educate donors

It's up to you to educate your donors about this tax-favored giving opportunity.

In previous years, marketing of IRA gifts was often not scheduled until the end of the calendar year. Gift planners, kept waiting by legislative "extender" bills, were limited to sending a postcard here and an email there. With only days or weeks to act, naturally these efforts didn't optimize results for many fundraisers. This marketing delay also often meant that many prospective donors had already taken their required minimum distribution for the year, and the Charitable IRA giving pocket was "empty."

Boom times ahead?

A critically important factor likely to boost qualified charitable distributions from IRA holders aged 70½ or older lies in our changing demographics. The leading edge of the Baby Boom Generation is entering the "Charitable IRA Zone" this year. Last year Boomers born in early 1946 turned 70½, and millions more will reach this milestone in 2017 and be required to tap their IRAs and other retirement plans, regardless of the need for the funds. Approximately 10,000 Boomers on average are expected to turn 70½ every day over the next twenty years.

Segmenting CIRA prospects

Virtually every IRA holder of this age should consider Charitable IRA gifts. This tax-free method of giving is particularly attractive to non-itemizers, those who are still working past age 70, Social Security recipients who don't want to experience benefit trimming increases or those with potentially taxable estates.

Potential donors include those who are considering small, medium and larger gifts. The largest number of gifts will be under $1,000. However, experience reveals that most of the dollar value will come from a smaller number of gifts between $10,000 and $100,000. The balance will fall in the middle. Surveys in past years have indicated there are more distributions of $5,000 than any other amount. The second most common distribution to a single charitable entity was the maximum amount of $100,000.

Getting your share of IRA gifts

If you are interested in making sure you receive your share of the coming Charitable IRA boom, contact Sharpe Group for more information at 901-680-5300 or visit www.SHARPEnet.com. ■

Sharpe Group has several tools to help you educate donors on the benefits of giving from IRAs, including a strategic marketing guide, educational donor publications and complimentary postcard art and copy available for immediate download. Visit www.SHARPEnet.com/CIRA to learn more.

*Source: "Pulling Retirement Cash, but Not by Choice," *The Wall Street Journal*, 01/16/17.

Sharpe Group on the Road

Sharpe Group Senior Consultant Aviva Shiff Boedecker will lead a session on "Looking for Gifts in All the Right Places: 10 Clues that You're Talking to a Planned Giving Prospect and What to Do About It" at the **AFP International Fundraising Conference** in San Francisco, April 30-May 2, 2017.

Sharpe Group Managing Consultant Joe Chickey will lead a gift planning presentation at the **Planned Giving Day in Little Rock**, hosted by the Arkansas chapter of Charitable Gift Planners, on April 27, 2017.

Sharpe Group Speakers Bureau

Since 1963, Sharpe Group has been a leader in the field of gift planning. In addition to our popular seminar series, our experts speak to groups of all sizes and at national and professional conferences. For more information, visit www.SHARPEnet.com/speakers-bureau.

Upcoming **Sharpe Group Seminars**

An Introduction to Planned Giving

Discover how to build your planned giving program.

Learn the keys to effective communications with your donors. Examine the donor lifecycle and explore how you can help donors make larger gifts today and plan gifts through bequests, trusts, gift annuities and other vehicles. Learn to work effectively with those 65 and older who may make up much of your donor base—or soon will. This seminar is appropriate for those who are new to planned giving or responsible for finding ways to enhance an existing program.

Washington DC	September 14-15, 2017

Structuring Blended Gifts

NEW

Explore ways donors can give using a blend of current and deferred gifts.

This seminar explains how blended gifts can make it feasible for those balancing multiple financial priorities to make larger gifts than they may have thought possible. In the days ahead, donors and advisors will increasingly turn to blended gifts to reap both current and future benefits. Note that proposed tax law changes will be incorporated throughout the presentation. Make sure you're informed so your organization doesn't miss out on this growing trend.

Washington DC	April 18-19, 2017
New York	August 10-11, 2017
Chicago	October 2-3, 2017

Integrating Major and Planned Gifts

Learn how major and planned giving can work together.

Discover how to help donors make the best gifts based on their age, wealth and other factors, while meeting your current, capital and endowment needs. Learn how to interpret a donor's verbal and non-verbal clues to determine which giving option is right for them and how to help donors make charitable gifts that might not otherwise be possible. This seminar is for you if your organization has both departments and would like to bring everyone together, or if you or others are responsible for both major and planned gifts.

Chicago	June 29-30, 2017
Washington DC	November 2-3, 2017

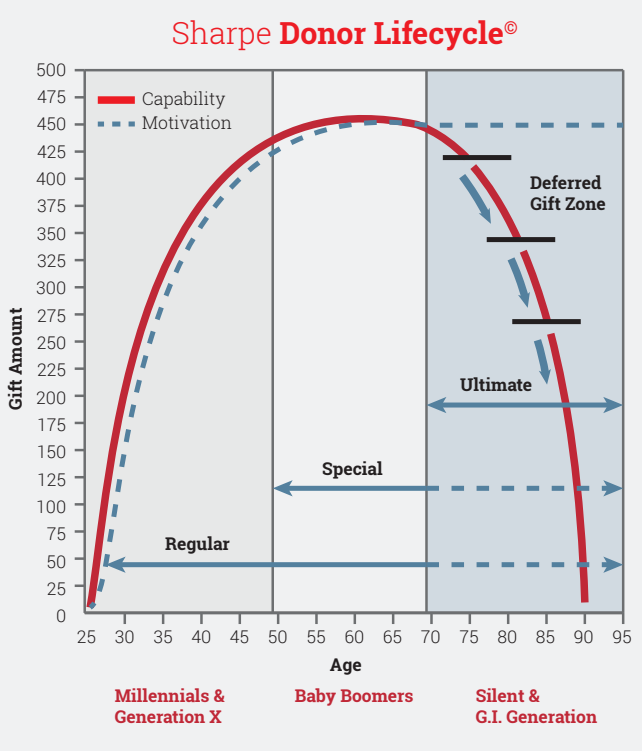
See full agendas and register at www.SHARPEnet.com/seminars or call 901.680.5318 with questions.

Entering the Matrix—Easy as ABC and 123

by Barlow Mann

Most fundraisers have a grasp of who their largest and most generous contributors are at present but are not necessarily sure where to find their leading donors in coming years.

The Sharpe KnowledgeBase® has continually evolved over the past 54 years and has been the foundation of several tools designed to assist fundraisers in identifying and motivating those who are capable of making regular, special and ultimate gifts. Two of the most popular Sharpe tools can offer a place to start. Let's begin with the Sharpe Donor Lifecycle©.



The early years

The Sharpe Donor Lifecycle adapts an economic or consumer lifecycle for philanthropic planning purposes. During the early years when donors are younger, the vast majority are prospects for "regular" gifts from income, mainly in the range of $25, $50 or $100 from their checking accounts or credit cards. Over time, as their incomes increase and their level of interest rises, those $25 or $50 donations may increase to $100, $500, $1,000 or more.

The middle years

In the middle years, between ages 50 and 70, both discretionary household income and net worth typically increase. Consequently, more people begin to give. Regular gifts will still make up the bulk of philanthropic activity, but relatively few donors in this age range begin to have the capacity to make large "special" or "major" gifts from cash or noncash assets of five, six or even seven figures and above.

These larger gifts, made outright or over a period of years, are more likely to be in a form other than cash and may be structured in some combination of current and deferred gifts (a blended gift). Most donors in this age range are still working and making more money than ever before. Additionally, many are reducing debts and increasing savings and other investments and are focused on enhancing their net worth in anticipation of a potentially lengthy retirement.

The later years

During the later years, when most donors are retired, the youngest tend to be in their late 60s or early 70s, but many are older. In the early part of this later phase of life, some are still working and accumulating wealth. Those who are retired may have seen their net worth continue to increase because of the rising value of real estate, securities and other assets. Other donors in this age group may be receiving inheritances from their parents or others.

Many others are not so fortunate and find themselves living on Social Security and modest withdrawals from retirement plans. In fact, most find that their household income will fall below the national average during this phase of life, and they will begin "spending down" their lifetime's accumulation of assets. As a result, regular and special gifts may become less frequent or cease entirely.

Meanwhile it is the third stage of the donor's lifecycle where an individual may seriously consider the ultimate gift, which oftentimes comes from all, or part, of whatever assets remain after providing for family and friends. It is important for gift planning professionals to remember that actions speak louder than words or intentions, and even donors who have recently lapsed may choose to include an ultimate gift in their estate. The later years of the donor lifecycle, when donors make their final wishes clear, is when over 90 percent of the estate plans that actually include charitable provisions are completed.

Another Sharpe tool

Consider a second popular Sharpe tool, the Sharpe Gift Planning Matrix©, a logical extension of the Donor Lifecycle. Donors tend to fall into one of three categories: younger, middle-aged or older. Additionally, the matrix includes groups of three income or wealth levels. The first group is considered wealthy, usually with high six-figure incomes and seven-figure wealth levels. The second group encompasses those of moderate means with above-average income and assets (mainly household incomes between $50,000 and $200,000 and net worth, excluding principal residence, of $250,000 to $2,000,000 depending on where they live).

Sharpe Gift Planning Matrix©

	<50	50 to 70	>70
Wealthy	A1	B1	C1
Moderate Means	A2	B2	C2
Limited Means	A3	B3	C3
	Gen Y and Gen X	Baby Boomers	Silents and G.I.

The third group includes those of more limited income and wealth levels (household income from below $50,000 and estimated net worth below $250,000). Note that age, income and net worth levels may vary depending on the charitable organization and its donor demographics and location.

Upwardly mobile donors

Studies by Pew Charitable Trusts and the Federal Reserve indicate that a growing number of the upper range of the middle class are transitioning to the next level. While many donors of the B2 matrix box will transition horizontally into the older C2 box, such studies indicate that another group will move vertically into the wealthier B1 and C1 boxes and that those already in those boxes will find their wealth continuing to grow. Such movement will expand the market for special, major and ultimate gifts over the next 20 years, as a segment of affluent Boomers continues to accumulate higher levels of wealth.

First gifts first

According to Sharpe's studies of many thousands of estates in recent years, the median age at death of bequest donors is now 87 and the most common age is 90. Considering medical advances, it is anyone's guess how long the average Baby Boomer will live, but it is a safe bet that the oldest Boomers are likely to live another 15 to 20 years. In the meantime, many of them are now just entering their prime years for regular and special gifts. Thus, many charitable organizations will find a large percentage of their overall donor base is comprised of individuals in the 60-plus age range, which bodes well for outright major gift fundraising efforts in both the near and long term. ■

For more information on ways to use the Sharpe KnowledgeBase tools to enhance the results of your fund development efforts, consider attending an upcoming presentation of the popular Sharpe seminar, "Integrating Major and Planned Gifts." See Page 5 for details.

Barlow T. Mann is Sharpe Group's Chief Operating Officer.

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Newsletters

Even in the age of digital marketing, printed publications are still the most effective way to reach donors who can and will make planned gifts in the next few years.

Findings from more than 50 years of working with nonprofits of all sizes and missions confirm those who are your most likely prospects for planned gifts are from generations who still prefer print communications. According to Pew Research, fewer than half of Americans aged 75+ use the internet, meaning that the majority of your planned giving prospects will not be reached using a digital strategy alone.

One of the most effective ways to reach this group is with a newsletter. Your Sharpe Newsletter will always reflect the uniqueness of your organization with **customized content and design**. Sharpe Newsletters offer a balanced blend of gift planning educational topics, **information about your mission** and **donor stories**. Sharpe's team of planned giving experts write the **technical articles** and can provide detailed **gift plan examples**.

Each newsletter client is supported by a team who will work with you, helping you to choose the topics that best serve your donors' interests. We will write **engaging, informative articles** and design the newsletter using your branding guidelines as well as graphic elements proven to appeal to older readers. Our **experienced editors** will interview your donors as needed and write compelling stories about their gifts.

Your Sharpe consultant will recommend the most appropriate follow-up materials from our library of booklets. These pieces provide your donors with more detailed information about the topic highlighted in your newsletter.

An eNewsletter option is available for those who have a Sharpe Newsletter and Gift Planning Website.

To help you reach a broader segment of your donor base, for an added fee Sharpe can convert your printed newsletter into an easy-to-read-and-navigate eNewsletter for those who have a Sharpe Gift Planning Website.

Cost depends on content customization and quantity. Contact a Sharpe Consultant for options and pricing.

Contact us to learn more.

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