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Give&Take®

IDEAS AND INSIGHTS FROM SHARPE GROUP

Are **Charities and Financial Advisors** at War?

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Are **Charities and Financial Advisors** at War?

By Robert F. Sharpe, Jr.

How charities and advisors can work together for the benefit of all.

During a recent presentation to a group of educational fund development executives, a representative of a leading university made the following observation: “Nonprofits are at war with the financial world, and we are losing!” This, understandably, sparked a vigorous discussion. While I certainly don’t agree that the for-profit and nonprofit gift planning sectors are engaged in a destructive conflict, the fact that such a statement was made in a public forum suggests we should revisit this issue.

The need for cooperation

Over the years, we at Sharpe Group have come to realize that the development professionals who are most successful at encouraging and implementing more complex charitable transactions (often referred to as “planned gifts”) are the ones who understand that these gifts can only be completed with the cooperation and coordination of many parties.

Since 1987, we’ve used the following definition of “planned giving” to describe the essence of the process:

*“A planned gift is any gift of any kind or any amount given for any purpose—operations, capital expansion, or endowment—whether given currently or deferred, if the assistance of a professional staff person, qualified volunteer or the donor’s advisors is necessary to complete the gift. In addition, it may be any gift that is carefully considered by a donor in light of estate and financial plans.”**

Inherent in this definition is that teamwork is normally required to complete more complex charitable gifts. Few nonprofits or for-profit advisors are in a position to complete the process by themselves.

Let’s examine how the various parties involved in charitable gift planning can work together effectively to minimize friction and maximize benefits for all.

Two approaches

Two distinct approaches to the gift planning process have evolved over time, one emanating from charities over centuries, the other from for-profit planners who have taken a more active role in recent decades.

Does this mean that charities and the for-profit planning community are locked in a forced public embrace, while behind the scenes they engage in a competition for resources that

Sharpe Group on the Road

Sharpe Group Managing Consultant Joe Chickey will be speaking at the **Colorado Planned Giving Roundtable Summer Symposium** in Denver on August 28, 2017.

Sharpe Group Chairman and Chief Consultant Robert F. Sharpe, Jr. will present **“Introducing the ‘Gerontrophilanthroplutocracy’”** as the keynote speaker at the **National Catholic Development Conference (NCDC)** in San Diego, September 27-30, 2017. He will also lead two breakout sessions: **“How Will the Baby Boomers Really Boom?”** and **”Accelerating Bequests—How to Effectively ‘Mine’ Your Bequest Goldmine.”**

In addition, Robert has been named Dean of the Summit Track at the **National Conference on Philanthropic Planning (NCPP)** in Baltimore, October 9-11, 2017. He will present along with five other veteran charitable gift planners.

Sharpe Group Speakers Bureau

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

may not be in anyone's best interest? NO! So, what does the process behind a successful planned gift look like?

To compete or "complete"?

It's easy to fall into the trap of believing that competition is inevitable—until one breaks down the process of completing a planned gift into distinct and interrelated components.

Let's look at the acronym **C-O-M-P-L-E-T-E** to understand how the various parties can effectively work together to adequately fund the charitable dimension of U.S. society.

- **Communicate.** The gift planning process begins with someone communicating to the donor/client the benefits of well-planned charitable gifts. Through increased channels of communication, the donor/client may learn of charitable gift planning opportunities from any number of both nonprofit and for-profit sources.

- **Open discussion.** Discussions of planned gifts may be initiated in the course of ongoing fundraising activities undertaken by a charity where a donor expresses a desire to give, but is reluctant to proceed because of natural financial concerns. In other cases, the subject may arise in the context of overall estate and financial planning during discussions with a professional advisor.

- **Motivate the donor.** For any gift to proceed from this point, the donor/client must be motivated to make what may be an irrevocable transfer of assets in exchange for income, tax savings and other benefits that are almost certain to have less economic value than the amount transferred to fund the gift. The reasons individuals make charitable gifts are many and varied, and the motivations for any two gifts may never be the same.

- **Propose a solution.** After a motivated donor/client has learned about planned gifts and engages in discussion with a charity and/or an advisor, someone must propose a solution tailored to the donor's needs. In most cases, the party who initiated the discussion with the donor/client will take the lead at this point.

- **Legal review.** Many donors/clients will seek the counsel of their attorneys before completing a planned gift. Keep in mind that certain gift vehicles such as a will can only be legally drafted by an attorney.

- **Execute the plan.** The next step in "completing" a gift is to actually execute the plan. When more sophisticated gift plans are involved, the services of a number of parties may be required. In almost no case other than a charitable gift annuity will a charity be able to fully execute a gift plan without the participation of one or more other advisors.

- **Trust or asset management.** Where charitable trusts and certain other types of gifts are concerned, there must be an ongoing trustee or other manager or administrator of funds. This may or may not be a different entity from the parties involved in the early stages.

- **Evaluate the results.** Finally, one or more individuals should be involved on an ongoing basis to ensure donor/client satisfaction. This will often, but not necessarily, be the same party who initially communicated and proposed the gift.

Achieving harmony

The best results are achieved when nonprofit and for-profit entities coordinate their roles in the gift process. Understanding, balancing and reconciling the interests of the various individuals involved is the key to successful planned gifts.

Attempts by either a nonprofit or one or more advisors to control the gift planning process will normally limit prospects for success. Instead of a linear process, it may be best to think of this procedure as a circular flow in which a gift's impact can be maximized only through harmonious cooperation among all parties who may enter and/or exit at various points.

And keep in mind the process doesn't always begin with communication by a charity or an advisor. Donors/clients may instead be self-motivated by life circumstances and deeply felt desires and initiate the planning process themselves.

So, in addition to working closely with advisors, it is important to know when to take the lead in suggesting a gift and when to help a donor realize their pre-existing goals. This will greatly increase the chance for a positive experience for all involved.

This article was excerpted from an article under the same title in the July 2017 issue of Trusts & Estates *magazine.* ■

* "An Integrated Concept for Financial Development," *Give & Take,* Vol. 20, No. 4 (March 1988).

Robert F. Sharpe, Jr. is Chairman and Chief Consultant of Sharpe Group.

Planning Your **Year-End Fundraising Calendar**

As was reported in the July issue of *Give & Take*, several studies of philanthropic giving in 2016 reported what many fundraisers already knew from experience—that the last three months of the year are the busiest for fundraising.

Why do people tend to give more at year-end? Many donors rush to make gifts before the end of the calendar year to qualify for tax benefits the following April. Add the impetus from the spirit of giving between Thanksgiving and the end of the year, and December leads all other months in gifts to nonprofit recipients, with over 150 percent more funds raised that month than the next most popular month of giving, June (the end of the fiscal year for many nonprofits, with consequent pushes to collect outstanding pledges).

In addition, the current talk of possible changes to federal income tax laws—changes that could reduce tax savings from charitable gifts in the future—could make this fall an even busier time for giving.

Several national events have been established to help charities promote fundraising at the end of the year.

- **National Estate Planning Awareness Week:** October 16-22, 2017. This week offers an opportunity to partner with estate planners in your area to educate your donors on charitable bequests and other planned gifts that offer income and other financial benefits. Visit www.naepc.org/home/for-public.

- **National Philanthropy Day:** November 15, 2017. While your supporters should be recognized throughout the year, this day has been set aside to shine the spotlight on volunteers and donors. For more information, visit the Association of Fundraising Professionals (AFP)'s site for this event at www.npdlove.com.

- **#GivingTuesday:** November 28, 2017. Coming shortly after Black Friday and Cyber Monday, #GivingTuesday encourages donors to add their favorite charities to their gift list. www.givingtuesday.org.

Tools for increasing year-end giving

Act now to ensure your fundraising plan is designed to maximize year-end giving. A successful strategy in the final three months of the year could make a real difference in your final fundraising numbers for the entire year.

Not sure how to get started? Sharpe Group consultants can help you design an effective year-end giving strategy specific to your organization. Contact us for assistance at 901.680.5300 or info@SHARPEnet.com.

Sharpe also has several publications that can be used to help boost fall appeals, distributed at events or inserted in gift acknowledgment letters or pledge reminder mailings. Available soon, Sharpe's three year-end giving brochures (see designs below) provide a focused message, while publications such as ***Better Estate Planning, Questions & Answers About Estate Planning*** and ***Your Guide to Effective Giving in 2017*** offer information on a wide range of giving options, including year-end giving.

In addition, ***The Charitable IRA*** brochure highlights gifts from retirement plans, which are traditionally popular at year-end. For more information and to reserve your year-end brochures, visit www.SHARPEnet.com/publications/yearend. ■

> **"Thought-provoking information and supportive case scenarios enhanced by the vast experience of the presenters."**
>
> —**Mark Hansen,**
> Sr. Director, Finance and Development Operations, University of Maryland Medical Center

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
Chicago	March 22-23, 2018

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.

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 listen for clues to help donors determine which giving option may be the best fit for them and how to help them 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.

Washington DC	November 2-3, 2017
Memphis	January 22-23, 2018

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

Moral and Ethical Quandaries in Charitable Giving

By Jon Tidd, Esq.

Working with a donor to structure a gift can often require more than gift planning knowledge; it sometimes involves a moral compass.

Ethics and charitable giving: Like trying to put your arms around a skyscraper, the subject is much too large and complex to easily comprehend.

Consider the ethical dilemmas inherent in these commonplace actions:

- Issuing a gift receipt for a gift of stock made via depository trust company (DTC) transfer
- Sending a letter to a gift annuity donor telling her what her charitable deduction will be
- Advising a prospective charitable remainder trust donor in writing of the tax consequences of the proposed trust

The DTC stock gift

When is a gift considered complete for tax purposes? Is it the date the nonprofit receives the stock, or the date the stock is wired out of the donor's account? In today's volatile equity markets, even one day can make a big difference.

Unfortunately, there is no court case, Treasury regulation or ruling on this point. For the nonprofit to place a value on a gift receipt for a gift of DTC stock is, in effect, to give legal advice to the donor, because the donor will surely take that value and run with it.

But there is a way out. According to IRS regulations, a gift receipt for a noncash gift need not state a value and donors can be advised to determine the gift's value for tax purposes in consultation with their advisors. If the nonprofit decides to include an estimate of the value, however, the gift receipt can include a statement that the value shown is not necessarily the amount of the donor's tax deduction for the gift, and that the donor needs to check with his or her own tax advisor to determine how to claim the gift for tax purposes.

The charitable deduction problem

Let's consider sending the gift annuity donor a letter listing her charitable deduction for funding an annuity. What's wrong with this? The computer software provides the correct deduction figure, doesn't it?

Well, maybe. But then again, maybe not. After all, the donor's overall federal income tax charitable deduction for the year is subject to various limitations. In addition, keep in mind that the donor can elect to use the discount rate for one of the two months preceding the gift month if the proper election is made on the tax return.

Giving a gift annuity donor a charitable deduction figure without also providing some carefully worded caveats is not the right thing to do, legally or ethically.

Advising the CRT donor of tax consequences

No matter the situation, it is not legally or ethically appropriate for a development officer, even if he or she is an accountant or lawyer, to advise donors or prospective donors on anything other than the organization's policies, such as its willingness to serve as a trustee or gift crediting.

Providing information is one thing. Advising—that is, giving tax or other legal advice—is quite another. Many donors want advice from gift planners. Gift officers must resist this pull while still being helpful.

Anticipating problems

What emerges so far are two important points: 1) In the gift planning arena, it is better by far to anticipate and thereby avoid problems rather than to try to solve problems that have arisen. 2) Part of avoiding problems is being careful, disciplined and precise in the use of language, both spoken and written.

The moral component

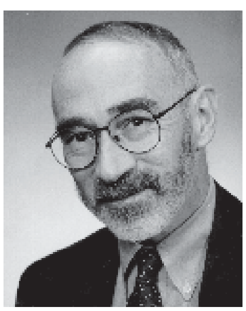
So far, we've looked at problems we can think of as being ethical in nature but which are actually rooted in the law. Some other ethical problems in the gift planning environment, while having a legal dimension, also have a very strong moral component.

Suppose a development officer is working with an elderly individual who places absolute trust in the development officer and is looking to him to guide her in making the best decision as to how to make a sizable "life income" gift. The development officer is convinced a gift annuity is the best gift plan for the donor. His CEO and business officer want him instead to heavily promote the use of a charitable remainder annuity trust (CRAT), which puts his organization at less risk but places the donor at a higher risk of corpus exhaustion that could result in cessation of payments to her. A gift annuity may also offer more favorable tax treatment of payments when received.

Since the development officer is caught between duty to the organization and duty to the donor, he should urge the donor to turn to a competent advisor (attorney or accountant, for example) so that he can do his job while being assured the donor's interests are adequately and independently represented.

Are there any gift situations completely free of ethical considerations?

There are, but they are few and far between. So how should a gift officer deal with this? The best approach is a reflective, mindful one, in which acting in rote fashion is set aside in favor of asking oneself the right questions. To grow as a development officer is to keep getting better at asking those questions—and learning where to go for answers.



Jonathan Tidd is an attorney whose practice is limited to advising charitable organizations on gift planning issues. Jon has served as a technical resource to Sharpe Group for more than 30 years, and is a member of the Arizona, Connecticut, Illinois (inactive), Indiana (inactive) and New York Bars. His clients include a wide range of educational, healthcare, arts, human rights and social service organizations. His articles on charitable gift planning have appeared in The Journal of Taxation; Estate Planning; Taxes—The Tax Magazine; Trusts & Estates *and other professional journals.*

He contributes regularly to Sharpe Group's blog at www.SHARPEnet.com/blog. ■

Lunch With Warren Buffett? Priceless.

Or is it?

As recently reported in *The Wall Street Journal*, the winning bid in the annual auction for a Power Lunch with billionaire investor Warren Buffett was $2.7 million. For the last 18 years, Buffett has annually auctioned off his time to raise funds for the San Francisco charity GLIDE, which provides food, healthcare and other services to the homeless and low-income population.

But when it comes to tax deductions, what part of the amount paid for this lunch can be claimed as a charitable gift? And who is the donor? Warren Buffett, the bidder or both? If it is the IRS's position that the value of any benefit received by a donor in exchange for a gift must be subtracted for tax purposes, how would the donor determine the benefit of a meal with Warren Buffett?

Is there discernable value to having the billionaire's ear over lunch? Has the value of lunch with Warren Buffett been set by the long-standing auction market and thus the deduction is reduced by the entire amount of the gift? Or would the bidder simply subtract the value of the meal and any travel included?

Share your thoughts with us at www.surveymonkey.com/r/warrenbuffettlunch, and Sharpe Group's Chief Operating Officer Barlow Mann will analyze the conversation and offer his thoughts in an upcoming blog post.

For more on a related matter, see the blog post "Gala Dinners—Two Important Tax Issues" from October 2015 at www.SHARPEnet.com/blog. ■

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Gift Planning **Newsletters**

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

Sharpe Newsletters offer a balanced blend of gift planning educational topics, information about your mission and donor stories. A team of gift planning experts write the technical articles and can provide detailed gift plan examples, while ensuring your newsletter reflects the uniqueness of your organization with customized content and design.

Visit www.SHARPEnet.com/newsletters to learn more or contact us at 901.680.5300 or info@SHARPEnet.com.

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