Planned Giving Programs for Non-Profits
Creating Legacy Gifts

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Four things I can do with my money/assets:

1. Spend it (my last check will bounce)
2. Gift to my family/heirs/friends
3. Gift to my favorite charity (directly, using a trust, or using a community foundation)
4. Combination of #2 and #3 above (most common)

Everyone's tax situation/financial situation is different and so everyone's estate is different and unique.

Annual gift tax exclusion: $14,000 ($15,000 for 2018, first increase since 2013)

Estate tax exclusion: Big change in 2011 - $5,000,000 (indexed to inflation)
2016 - $5,450,000
2017 - $5,490,000
2018 - $11,180,000 (Dec 2017-Tax Cuts and Jobs Act)

Tax filing obligations in the year of death:

1. File final Form 1040 from January 1 to date of death (DoD).
2. Open an estate with the IRS, if required, and if income from assets will be over $100.
3. File Form 56 with IRS notifying them of fiduciary relationship
4. File Form 1041 – US Income Tax Return for Estates and Trusts
   a. Return period is from DoD to either December 31, or an 11 month period after DoD
   b. Requires EIN from the IRS
   c. Stays open until all probate assets have been transferred to heirs
   d. IRS wants estates to be closed within 2 years. Can be longer with explanation
5. File Form 1041 if a revocable living trust was established prior to DoD.
   a. Often acts in place of a will
   b. Keeps assets out of the probate process
   c. Requires EIN from the IRS
   d. Can remain open indefinitely
   e. Becomes an irrevocable trust

1-2-3s on Probate:

Probate is not a terrible burden to residents of Colorado. Note that all states are different and if the deceased owns assets in multiple states, probate can be much more of a hassle and costly. If one owns assets in multiple states, it is highly recommended that those assets be placed in a trust or a family partnership.

Probate is the act or process of proving a will. It is the process that enables the heirs/charities to receive property that is rightfully theirs.

The court will appoint a personal representative (PR) or executor to administer the probate. The PR will

1. Collect, preserve and take an inventory of all the probate assets
2. Pay the decedent's debts, including taxes
3. Distribute the assets per the will, or court order if no will, to rightful heirs and charities in a timely manner
4. Close the estate with the court

Even a simple estate can be a mess and costly if not handled correctly.

Example #1 (not what you want to have happen) – Mom owns her house which she has lived in for over 40 years. You don't know what she bought it for, but your guess is $30,000. House is now worth $200,000. Mom just recently moved into a nursing home so the son wants to transfer the house into his name for a variety of reasons, including avoiding probate. Son and mom execute a Quit Claim Deed and the house is now owed by the son. Mom passes away a week later. Mom has executed a gift of the house to her son and the son is happy because he has avoided probate.

When a person gifts an asset, the one receiving the gift also receives the basis (or cost) of the gift (in this case the $30,000). The Son then sells mom's house for $200,000 and visits his CPA to prepare his taxes.

Son's tax return now shows the sale of a house (not his principal residence) for $200,000 with a cost basis of $30,000. He did not inherit the house, it was gifted to him from his mom. Son has taxable capital gain of $170,000. The CPA now has the pleasure of informing the client that he owes $34,000 in federal income taxes (20%) and $8,500 in Colorado income taxes (5%) for a total due of $42,500.

Son takes home $157,500.

Example #2 (the preferred route)

Son is concerned about probate since mom has entered a nursing home. He consults with his CPA and together they decide to let the house pass through mom's estate as a probate asset. Same numbers as in the previous example.

Mom passes away. Son is appointed PR of her estate and her will clearly states that her son is to inherit her home. Son hires an attorney to assist with the probate. House is transferred to the son and then he sells it for the $200,000.

Since the asset was inherited, the son received a STEPPED-UP BASIS to fair value at DoD. In other words, his new basis in the house is $200,000. Mom's estate would have paid taxes if it were a taxable estate (over $5,490,000 for 2017) but it wasn't, so no taxes are due.

Son goes back to the CPA to have his taxes prepared and he reports the sale of the house at $200,000 with a cost basis of $200,000 for NO TAXABLE GAIN. Son just saved $42,500 less the costs of the CPA and attorney. Perhaps these costs were $2,500. Well worth it to save the $42,500 in taxes.

Don't let a simple estate become a mess. Consult with professionals.

Trusts vs Family LLC

Trust pros and cons

- Avoids probate (especially when more than one state is involved)
- Can help manage assets when unable
- Privacy
- Directs how assets are to be distributed to heirs, similar to a will
- Costs of settling an estate even with a trust
- No ability to make annual gifts of interest in the assets
- No tax benefits
- No separate tax return until date of death
- K-1s issued to the heirs

Family partnership pros and cons

- Avoids probate (especially when more than one state is involved)
- Need to train/teach heirs how to manage the assets
- Privacy
- Very appropriate for income generating properties, such as rentals and royalties
- Can transfer partnership interests staying under the annual gift exclusion of $14,000 each year
- Some taxable benefits
- Must file 1065 Partnership tax return every year
- K-1s issued to the heirs/partners

Gifting Example (Done wrong and done right)

Donor bought 500 shares of Apple stock in 1980 for $10 per share, so their cost basis is 500 x $10 = $5,000. They want to either sale the stock and then give the money to their favorite charity or gift the stock directly. Which is the better option?

Option #1 (sale stock and give the proceeds):

1.	Sell the stock at fair value	500 sh x $145/sh = $72,500
2.	Realized gain on sale of stock	$72,500 - $5,000 = $67,500
3.	Pay tax on the capital gains (assume Fed & CO 25%)	($16,900)
4.	Give remainder to charity	$72,500 – 16,900 = $55,600
5.	Receive charity deduction on gift of $55,600 (Fed & CO 30%)	$16,680
6.	Receive CO Tax Credit if charity is an Enterprise Zone Contribution Project (25%)	$13,900

Summary: Charity receives $55,600 in cash, taxpayer saves $13,900 on CO taxes, Federal is a wash

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Option #2 (gift the stock):

1.	Gift the stock at fair value to the charity	500 sh x $145/sh = $72,500
2.	Pay no taxes on the realized gain on the stock	
3.	Receive charity deduction on gift of $72,500	$72,500
4.	Taxes saved on charity deduction (Fed 25%)	$18,125
5.	Taxes saved on charity deduction (CO 5%)	$ 3,625
6.	Receive CO Tax Credit if charity is an Enterprise Zone Contribution Project (25%)	$13,900

Summary: Charity receives $72,500 in Apple stock, taxpayer saves $18,125 on Federal taxes and $17,525 on Colorado income taxes, difference of $21,750!

Giving to charities

If giving to a favorite charity is part of someone's estate plan, they have many choices of how to make the gifts and many options in executing the gifts. Questions to consider:

- Which charities do I want to support?
- How much to each charity (fixed dollar amount or percentages)?
- Give directly to the charities, or indirectly using a Community Foundation (CF) or a Donor Advised Fund (DAF)?
- Update my will and/or trust to reflect my charitable giving wishes
- Do I want to give after my death (via trusts or will) or before my death (directly or indirectly via CFs or DAFs)?
- If I use a CF or DAF, do I give all now, later, over time, endowed or not endowed?

Are you engaging your donors in this conversation?

Transformational Gifts

- A major gift that provides capacity to alter/endow a program or future of an organization.
- More than gifts, they are truly investments in the organization or community.
- The donor, or more appropriately termed the philanthropist, wants to be involved with both the definition of the gift and the organization it will transform.
- Transformational donors invest in issues and ideas – not just in the organization.

- To learn more about transformational gifts:
  - High Impact Philanthropy – How donors, boards, and nonprofit organizations can transform communities. By Kay Sprinkel Grace and Alan Wendroff (2001)

Options for giving $100,000 to charity

- Gift of $100,000 cash. Immediate tax savings (Fed 25%, CO 5%) of $30,000. Charity manages entire gift as it deems best.

- Gift of $100,000 of appreciated stock. Tax savings of $30,000. Charity must have a brokerage account or use a community foundation as a pass-through. Charity now manages the stock.

- Make a $100,000 transfer from IRA directly to the charity. Must be over 70 ½. Counts toward Required Minimum Distribution rules. Limited to $100,000 per individual per year. No tax savings, but also no taxable income on the distribution. Charity receives the cash and manages it.

- Create a donor advised fund with community foundation with either cash or stock gift of $100,000. Immediate tax savings of $30,000. Stipulate that the charity receives all the income/earnings every year. Assuming a 7% rate of return, charity receives $7,000 every year and after 14 years, it will have received the entire $100,000 and the $100,000 is still invested at the CF, and continues to pay out every year after that.

Options for giving $100,000 to charity

- Take out a term life insurance policy of $100,000 and designate the charity as the beneficiary. You pay the premiums. Upon your passing, the charity receives the $100,000. Charity receives the funds sometime in the future.

- If your estate is large enough, direct that your trust and/or will transfer $100,000 upon your passing from your estate to the charity. Your estate will have a $100,000 charitable deduction. However, that will not provide any taxable benefit unless your estate is a taxable estate (over $5,490,000 for 2017). Charity receives the funds sometime in the future.

- Create a Charitable Remainder Trust (CRT) with and fund it with an initial contribution of $100,000. You will receive a charitable deduction discounted for the annual payments. The trust assets are invested with a broker or a Community Foundation which pays out a specific distribution, at least annually (5 to 7%). This income goes to the donor for their lifetime. When you pass away, the remainder is paid to at least one charity. Charity receives the funds sometime in the future. Assets are removed from the estate.

- And more…

Why use a Community Foundation?

1. Personal service in establishing a fund
2. Local expertise on local causes and charities
3. Community leadership
4. Collaborative partners in the communities (such as the Denver Bronco visit)
5. Flexibility – meeting donor's needs
6. Simplicity – can set up a DAF with one signature and funding
7. Convenience – the CF takes care of all accounting, record keeping, tax requirements, audits
8. Credibility – respected board and a presence in the community (Onward! was formed 16 years ago)
9. Investment expertise and investment monitoring

Donor Advised Funds (DAF)

- Traditionally a product of Community Foundations
- Can create a simple fund or a sophisticated giving tool fund
- Allows donors to make an immediate gift and receive a full charitable deduction now (subject to IRS donation rules)
- Donor can remain actively involved in suggesting grants/scholarships and other uses of the funds
- Can fund any charitable purchase or cause
- Low cost (Onward!'s annual fund fee is 1% of total assets, minimum of $120 per year)
- Easy to create – sign a fund agreement and make the initial investment (Onward!'s initial investment to create a fund is $12,000)
- Fund can be setup as an endowment. These funds only pay out the income from the investments. The principal is retained and never spent. This provides a lasting stream of income to support the charity or cause. It benefits the community forever.
- Can be created before passing or as part of the will and/or estate.

According to Tiburon Strategic Advisors, baby boomer families (born between 1946 and 1964) have amassed $59 trillion through 2014. Over 10,000 are retiring every day. Will your organization participate in this massive wealth transfer?

Is your organization in a position to receive a legacy gift?

Thank you for attending today's seminar.

ONWARD!

LOCAL LASTING SHARING CARING

A LEGACY FOUNDATION

PLANNED GIVING 101

SAMPLE VERBIAGE

Gifts Through A Will:

Including a charitable bequest in your will is a simple way to make a lasting gift to *ORGANIZATION* and your community. You can leave a bequest to *ORGANIZATION* by adding to an existing will or drafting a new one. Make a gift of a stated dollar amount, specific property, a percentage of your estate, or the remainder after distributions to other beneficiaries. In doing so, you leave a legacy to *ORGANIZATION* and your community, yet preserve and enjoy assets you might need during your lifetime. Plus, the assets distributed to *ORGANIZATION* are exempt from estate tax. For more information on how your charitable bequest can benefit *ORGANIZATION,* please contact XXX. We also recommend you consult your tax advisor, planning professional and/or lawyer.

Gift of Life Insurance:

Giving through life insurance is one of the simplest ways to make a significant contribution to *ORGANIZATION* and establish your legacy of giving. There are two approaches: you can designate *ORGANIZATION* as the primary or secondary beneficiary of either 100% or another percentage of the proceeds from the policy, or you can transfer to *ORGANIZATION* ownership of the policy - either paid in full or for which you continue making premium payments. The transfer of the policy is a present gift for which a charitable tax deduction may be taken, and your continued payment of premiums is considered charitable contributions, deductible to the full extent of the law. For more information about how the gift of a life insurance policy can benefit *ORGANIZATION,* please contact XXX. We also recommend you consult your tax advisor, planning professional and/or lawyer.

Gifts of Real Estate:

You can turn the value of real estate into community good and receive financial and tax benefits with a gift to *ORGANIZATION* of real estate. Your personal residence, rental house, vacation home or unimproved land can be gifted to *ORGANIZATION* for sale. You avoid capital gains tax and the proceeds from the sale of the property will be used to support our work in the community. A gift of only the "remainder interest" in your personal residence to *ORGANIZATION* while you and your family continue to live in and fully enjoy your home as long as you can, while also produces a charitable deduction. This is a retained life estate and works just as well with a farm or vacation home as with your principal residence. For more information about how the gift of real estate can benefit *ORGANIZATION,* please contact XXX. We also recommend you consult your tax advisor, planning professional and/or lawyer.

Gifts from Retirement Plans:

Retirement plan assets (those in qualified plans and IRAs) are ideal for charitable giving purposes because these assets are often heavily taxed when passed to non-spouse beneficiaries. To make a gift of retirement plan assets simply requires a designation of *ORGANIZATION* as the beneficiary of the plan. You can also make gifts from your IRA directly to *ORGANIZATION* in lieu of annual required minimum distributions. For more information about how the gift of a retirement plan can benefit *ORGANIZATION,* please contact XXX. We also recommend you consult your tax advisor, planning professional or lawyer.

Gifts of Publicly-Traded Stock or Closely-Held Business Interests:

Shares of appreciated publicly-traded stock are an effective way to support *ORGANIZATION* and avoid taxation on the gain. We can receive stock gifts directly through your brokerage account; you receive a charitable income tax deduction, usually equivalent to fair market value as determined under IRS guidelines. We will sell the stock immediately and apply the net proceeds towards our mission.

ORGANIZATION will also consider gifts of closely-held business interests such as corporations, limited liability companies, and limited partnerships if an acceptable means of converting the stock into liquid assets can be anticipated within a reasonable time. This may occur through redemption agreements, liquidation or asset transfers. These are complex transactions so please consult with your tax advisor, planning professional and/or lawyer. This is a necessity. For more information about how the gift of publicly-traded stock or closely-held business interests can benefit *ORGANIZATION,* please contact XXX.

Charitable Remainder Trust:

Giving through a charitable remainder trust allows you to receive income for the rest of your life or a specified term of years, knowing that whatever remains will benefit *ORGANIZATION*. You transfer assets into a trust and receive an immediate charitable deduction. The trust distributes regular income payments to you or to designated family members. You may choose to receive a fixed payment or one that changes with the value of the trust assets; payments can begin immediately, or you can defer them to increase your charitable income tax deduction. The amount of the payments and the amount of the charitable tax deduction depends on the age of the recipient and the applicable federal rate for determining the present value of an interest for a term of years. Upon the beneficiary's death, or after a defined period of years, the remaining assets in the trust will transfer to *ORGANIZATION*. These are complex transactions so please consult with your tax advisor, planning professional and/or lawyer. This is a necessity. For more information about how the gift of a charitable remainder trust can benefit *ORGANIZATION,* please contact XXX.

Charitable Lead Trust:

A charitable lead trust permits you to remove assets from your estate and benefit *ORGANIZATION* during the trust's terms. Assets selected by you are transferred in to a trust, which pays *ORGANIZATION* an annual amount to accomplish our mission. During its term, the trust can be managed by experienced professionals, which may help your trust investments grow over time. When the trust terminates, either upon your death or after a specified number of years, its final assets are transferred to the family members you designate. Any growth in the trust passes to recipients, often with significant transfer-tax savings. Charitable lead trusts may also be created by will as part of your testamentary planning.

Charitable lead trusts offer financial benefits by sheltering investment earnings from income tax too. However, at the time your trust is established, you may owe gift tax on the present value of your gift to the final beneficiary. Charitable lead trusts can be arranged to make annual distributions of a fixed percentage of the trust assets or distributions of a fixed dollar amount. These are complex transactions so please consult with your tax advisor, planning professional and/or lawyer. This is a necessity. For more information about how the gift of a charitable lead trust can benefit *ORGANIZATION,* please contact XXX.

Information from N.C. Center for Nonprofits.

Questions? Contact us at:

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