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Planned Giving

Toolkit for the Non-Profit

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Basic Planned Giving Toolkit

This toolkit provides basic steps and resources to assist small to medium sized nonprofit organizations in developing a Basic Planned Giving Program. It will help you begin a planned giving program with minimal staff or board time devoted to this activity. The activities will help provide consistent communication of your organization's interest in receiving planned gifts.

What is Planned Giving?

Planned Giving is a form of charitable giving (philanthropy) that involves contributing one's assets through wills and estate plans. Most planned gifts are by a simple bequest in a will naming an organization to receive a gift. Some donors work with their attorney, accountant or financial advisor to provide for future gifts while reserving an income interest using a charitable remainder trust, charitable gift annuities or pooled income funds. A planned gift is a future gift to a nonprofit organization to enhance its work. Planned giving is a way for individuals to add satisfaction and meaning to their lives by assisting organizations close to their hearts. Assets used to fund planned gifts include life insurance, IRA beneficiary designations and appreciated assets such as securities and real estate.

Why should nonprofit organizations be interested in gifts that are deferred until a future date?

The future happens very quickly and deferred gifts could play an important role in your organizations strategic financial plans. Planned gifts help organizations meet their long-term goals and help provide for responsible and effective financial management. Nonprofit organizations can provide a tax shelter for these gifts because such gifts can avoid capital gains taxes.

It is estimated that $20 trillion will be transferred intergenerationally between 2000 and 2020. People today are more aware of the personal benefits derived from including charities in their estate plans.

Planned gifts allow donors to make more substantial contributions than their current income would allow to organizations that have been important to them in their lifetime. It helps donors achieve their charitable and financial goals.

What are the Requirements to Begin a Basic Planned Giving Program?

While any nonprofit organization is eligible to receive a planned gift, the basic requirements necessary to begin a Planned Giving Program are the following:

1. 501c(3) status with the IRS to allow planned gifts to be deductible from income tax and estate tax
2. Incorporated, with bank account, clear financial statements, and by-laws
3. Up-to-date filings as required with state charities officials and the IRS
4. Active board with regular board meetings
5. Newsletter or other periodic communication with supporters
6. Mailing list
7. Individuals identified, either staff or volunteers, responsible for working on planned giving efforts
8. Organizational brochure that includes your case statement

This toolkit sets forth two levels to develop a Basic Planned Giving Program based on the amount of time and energy the organization is able to devote to this form of development.

A. Level I - Basic Planned Giving Program

To implement a basic Planned Giving Program consider the following actions:

1. Clearly articulate your mission, main functions of your organization, and identify ways large and small gifts could impact your work.
2. Educate your board about planned giving opportunities.
3. Draft and adopt a board resolution stating organizational policy for acceptance of planned gifts (see sample).
4. The board should review and affirm the "Model Standards of Practice for the Charitable Gift Planner" recommended by the National Committee on Planned Giving and The American Council on Gift Annuities (included in this packet).
5. Develop an information packet for mailings to prospective donors (see sample).
6. Notify supporters in your newsletter of planned giving opportunities (see samples).
7. Prepare a Response Card and/or Gift Envelope (see sample).
8. Promote the concept of planned giving by using brochures, bookmarks, advertisements and articles.
9. Attend seminars, workshops or classes sponsored by colleges, foundations and other institutions to learn more about planned giving.

B. Level II - Basic Planned Giving Program

In addition to the actions listed in Level I, organizations able to invest additional time and resources can further encourage planned gifts by adopting these practices:

1. Establish a planned giving committee. Include donors and highly motivated volunteers who want to promote your organization.
2. Develop a list of professional advisors with planned giving expertise who will adhere to the "Model Standards of Practice" to assist your organization with the transfer of gifts.
3. Create and prioritize a list of prospective donors based on financial capability and relationship to your organization.
4. Contact individuals that return a response card or gift envelope. Thank them for their response, ask if they need assistance and/or refer them to a professional advisor.
5. Plan a recognition program for those who include your organization in their estate plan. Recognition could include thank you notes, program acknowledgements, or a lunch or dinner. Establish a "heritage society" or a "legacy society" for those that have identified a planned gift.
6. Join the Planned Giving Roundtable or Council in your area and attend programs to educate yourself about opportunities in the planned giving profession.
7. Educate your volunteers and donors about planned giving opportunities by inviting planned giving specialist to speak to your group.
8. With permission, share donor testimonials about charitable giving with supporters.
9. Demonstrate your personal commitment with a planned gift.

Board Resolution

A board resolution should be drafted and adopted to set organizational policy for acceptance of planned gifts, to formalize the organization's commitment to your planned giving activity, to provide prospective donors a clear understanding of what the organization will do with deferred gifts, and set the destination and sometimes limitations for planned gifts. A board resolution should be thoroughly discussed and formally adopted by the board of directors. It should be available as a guiding policy of the organization.

The board resolution should address the following items:

- conflict of interest
- use of legal counsel
- confidentiality
- authorization for negotiation
- avoidance of coercion
- investment of funds
- interval of payment
- disposition of planned gifts

A. Sample Board Resolution

Be resolved that the [XYZ Organization's] Board of Directors approves the establishment of a Planned Giving Program and adopts the following policies for such program.

Conflict of Interest:
In all matters involving donors or prospective donors, the interests of the donor shall come before that of *[XYZ Organization]*. No program, trust agreement, contract or commitment shall be urged upon any donor or prospective donor which would benefit this organization at the expense of the donor's interests. No agreement shall be made between *[XYZ Organization]* and any agency, person, company, or organization on any matter whether investments, management, or otherwise which would knowingly jeopardize the donor's interest.

Use of Legal Counsel:
[XYZ Organization] shall seek the advice of legal counsel in matters pertaining to its Planned Giving Program and shall execute no agreement, contract, trust or other legal document with any donor without the advice of legal counsel.

Likewise, all prospective donors shall be advised to seek the counsel of an attorney or other tax advisor in any and all aspects of their proposed gift whether by bequest, trust agreement, contract or other. They shall particularly be advised to consult an attorney or other tax advisor on matters related to the tax liability of a gift and matters related to estate planning.

Confidential Information:
All information concerning donors or prospective donors, including their name, the names of their beneficiaries, the amount of gift, size of estates, etc., shall be kept strictly confidential by *[XYZ Organization]* and its authorized personnel unless permission is obtained from the donor to release such information.

Authorization for Negotiation:
The Board of Directors and such committees and officers as may be designated by it, shall be authorized to negotiate with any donor a charitable unitrust, a charitable remainder annuity trust, or a charitable gift annuity that follows the basic format of the agreements approved by the Board of Directors.

All agreements which are binding on *[XYZ Organization]* and which do not follow the approved forms shall receive the approval of the Board of Directors or its Executive Committee or other authorized officers before such agreements are executed with the donor.

When real estate or real property is exchanged for an agreement of any kind, prior approval of the Board or its Executive Committee shall be received.

When a donor makes recommendations on the handling of stock or securities used to fund a trust agreement; these recommendations shall be non-binding but shall be given appropriate consideration.

Any two of the following shall have authority to sign planned giving agreements on behalf of *[XYZ Organization]*:

- The Chairperson of the Board of Directors
- The Executive Director or President
- The Treasurer
- The Vice President for Development

Avoidance of Coercion:

It shall be the policy of *[XYZ Organization]* to exercise extreme caution against the use of any high-pressure sales techniques when dealing with prospective donors. The task of all personnel shall be to inform, serve, guide, or otherwise assist the donor in fulfilling his/her philanthropic wishes, but never, under any circumstances, to pressure or unduly persuade.

In keeping with this policy, all personnel employed by *[XYZ Organization]* to administer or promote planned gifts shall be paid a salary or hourly wage, but shall not receive commissions which might give such personnel an undesirable personal interest in any agreement.

Investment of Funds:

Investment of funds, securities, or property received in a contract for a unitrust, an annuity trust, or a gift annuity shall be administered by the Board of Directors or such committees and officers as it may designate in a separate trust account.

Investment of funds, securities, or property specifically received for the pooled income fund shall be administered by the Board of Directors or such committees and officers as it may designate in a pooled income fund which meets all the conditions required by law.

Interval of Payment:

Payment of gift annuities and life income contracts shall be made either quarterly, semi-annually, or annually, taking into account any request from the donor.

Final Disposition of Planned Giving Funds:

Upon the demise of the last included beneficiary of a planned giving contribution, charitable gift annuity, or charitable trust agreement, the entire remaining value of the gift shall be transferred to the Endowment Fund of *[XYZ Organization]* unless otherwise determined by the Board of Directors or by agreement with the donor.

Model Standards of Practice for the Charitable Gift Planner

Preamble

The purpose of this statement is to encourage responsible gift planning by urging the adoption of the following Standards of Practice by all individuals who work in the charitable gift planning process, gift planning officers, fund raising consultants, attorneys, accountants, financial planners, life insurance agents and other financial services professionals (collectively referred to hereafter as "Gift Planners"), and by the institutions that these persons represent.

This statement recognizes that the solicitation, planning and administration of a charitable gift is a complex process involving philanthropic, personal, financial, and tax considerations, and often involves professionals from various disciplines whose goals should include working together to structure a gift that achieves a fair and proper balance between the interests of the donor and the purposes of the charitable institution.

I. Primacy of Philanthropic Motivation
The principal basis for making a charitable gift should be a desire on the part of the donor to support the work of charitable institutions.

II. Explanation of Tax Implications
Congress has provided tax incentives for charitable giving, and the emphasis in this statement on philanthropic motivation in no way minimizes the necessity and appropriateness of a full and accurate explanation by the Gift Planner of those incentives and their implications.

III. Full Disclosure
It is essential to the gift planning process that the role and relationships of all parties involved, including how and by whom each is compensated, be fully disclosed to the donor. A Gift Planner shall not act or purport to act as a representative of any charity without the express knowledge and approval of the charity, and shall not, while employed by the charity, act or purport to act as a representative of the donor, without the express consent of both the charity and the donor.

IV. Compensation
Compensation paid to Gift Planners shall be reasonable and proportionate to the services provided. Payment of finder's fees, commissions or other fees by a donee organization to an independent Gift Planner as a condition for the delivery of a gift is never appropriate. Such payments lead to abusive practices and may violate certain state and federal regulations. Likewise, commission-based compensation for Gift Planners who are employed by a charitable institution is never appropriate.

V. Competence and Professionalism
The Gift Planner should strive to achieve and maintain a high degree of competence in his or her chosen area, and shall advise donors only in areas in which he or she is professionally qualified. It is a hallmark of professionalism for Gift Planners that they realize when they have reached the limits of their knowledge and expertise, and as a result, should include other professionals in the process. Such relationships should be characterized by courtesy, tact and mutual respect.

VI. Consultation with Independent Advisers
A Gift Planner acting on behalf of a charity shall in all cases strongly encourage the donor to discuss the proposed gift with competent independent legal and tax advisers of the donor's choice.

VII. Consultation with Charities
Although Gift Planners frequently and properly counsel donors concerning specific charitable gifts without the prior knowledge or approval of the donee organization, the Gift Planner, in order to insure that the gift will accomplish the donor's objectives, should encourage the donor early in the gift planning process, to discuss the proposed gift with the charity to whom the gift is to be made. In cases where the donor desires anonymity, the Gift Planner shall endeavor, on behalf of the undisclosed donor, to obtain the charity's input in the gift planning process.

VIII. Description and Representation of Gift
The Gift Planner shall make every effort to assure that the donor receives a full description and an accurate representation of all aspects of any proposed charitable gift plan. The consequences for the charity, the donor and, where applicable, the donor's family, should be apparent, and the assumptions underlying any financial illustrations should be realistic.

IX. Full Compliance
A Gift Planner shall fully comply with and shall encourage other parties in the gift planning process to fully comply with both the letter and spirit of all applicable federal and state laws and regulations.

X. Public Trust
Gift Planners shall, in all dealings with donors, institutions and other professionals, act with fairness, honesty, integrity and openness. Except for compensation received for services, the terms of which have been disclosed to the donor, they shall have no vested interest that could result in personal gain.

Adopted and subscribed to by the National Committee on Planned Giving (www.NCPG.org) and the American Council on Gift Annuities, May 7, 1991. Revised April 1999. Reprinted with permission.

Samples

- Newsletters
- Response Card or Gift Envelope
- Information packets for prospective donors
- Cover letter
- Bequest language for wills
- Testimonials

A. Newsletters

Begin an awareness campaign about planned giving in your newsletter. A small ad, a brief article or a boxed notice are ways to communicate about the options of charitable bequests with supporters in your newsletter or in other communications. These communication methods are easy ways to bring this opportunity to the attention of potential donors on a regular basis. Personalize these sample articles for your organization's newsletter or other communication constituents.

Newsletter Article, Sample 1

By Including *[XYZ Organization]* In Your Will

Your Commitment to [mission] Lives On

In recent years, donors have informed us of their intention to include a gift to *[XYZ Organization]* in their wills. These gifts will provide an estate tax deduction and have a tremendous impact on our ability to [state purpose]. If you would like information on how to include the *[XYZ Organization]* in your will please contact us. [name, address, phone]

Newsletter Article, Sample 2

Include *[XYZ Organization]* in Your Estate Plans

There is yet another way for you to express your commitment to the goals of *[XYZ Organization]* through a planned gift. Once you have provided for loved ones in your will, you may want to include a gift of money, stock or property to the *[XYZ Organization]*. Your gift will be a lasting tribute to your concern for the [mission], while guaranteeing [XYZ's] long-term future.

For further information on how to include the *[XYZ Organization]* in your charitable giving plans, please contact [name-planned giving contact, address, phone].

Newsletter Article, Sample 3

Donor Leaves a Legacy to *[XYZ Organization]*

In March, [XYZ] received a $100,000 gift from the estate of an individual who passed away in late 1997 and who had stipulated in his will that [XYZ] was to receive the remainder of his estate. Not only is this gift significant in size, but it also marks the first time that [XYZ] has received a gift through a donor's estate.

To find out how you can include your charitable concerns in your estate plans, please contact [name, address, phone, email].

B. Response Card or Gift Envelope

If current and potential donors are interested in the possibility of a planned gift, or have already designated the organization in a will, an easy way to indicate this is through a response card or gift envelope used in direct mail fundraising appeals. The response card or gift envelope can be included with materials in packets or as an insert in a newsletter.

Sample response card or gift envelope wording

- I/we have included the *[XYZ Organization]* in our will or trust and/or
- I/we am(are) interested in including the *[XYZ Organization]* in our will or trust and/or
- Please send me/us information on leaving a gift in my/our will to *[XYZ Organization]*

C. Information Packets for Prospective Donors

Pre-assembled information packets should be available to mail to individuals. This will allow you to respond to prospective donors immediately. The following items could be included in the mailing packet.

- A cover letter
- A description of how funds will be used - identify 2 to 3 ways. This may be included in the cover letter.
- Your organization's informational brochure
- Sample will language

Note: If an individual responds with a gift, have a separate letter prepared to thank and welcome them as a donor to your organization. If you have a recognition program include details in the letter as well.

D. Cover Letter

Sample Cover Letter

Dear John:

Thank you for your interest in including our organization in your will. Enclosed please find a listing of the alternative ways to name *[XYZ Organization]* as a beneficiary in your will. Our legal name is [XYZ Organization'] It is important that you and/or your attorney have our tax-exempt number for your records. Your gift will make a better future possible.

Planned giving specialists suggest it is better to specify a percentage of your estate for an organization, rather than a specific sum. This allows your charitable giving goals to adjust with your changing life circumstances. It would be helpful for our charity to have a copy of your will once it is finalized (or at least the section pertaining to us) and the name and number of your attorney if you are using one to prepare your will. This information would naturally be kept in confidence.

Thank you once again for your interest in and support of *[XYZ Organization]*. If you have any questions or need further information, please do not hesitate to contact us.

Sincerely,
Name
[XYZ Organization]

Note: This cover letter may be personalized and used when mailing information out to prospective donors.

E. Bequests in Wills

How do you add the *[XYZ Organization]* to Your Will?

There are several ways you can name the *[XYZ Organization]* as a beneficiary in your will or trust. You may choose to give specific assets, a portion of your estate, or your residual estate after payment of other bequests.

You can state how you would like your gift to be used.

- State for a specific purpose or program
- Designate "wherever the need is greatest" so that *[XYZ Organization]* can choose to use your gift to fulfill our mission.
- Direct gift to our annual fund
- Direct gift to our endowment fund.

Sample Bequest Language for Wills

residual estate (after other bequests or designations are named):
"I give to the *[XYZ Organization]*, located in [XXX], California, the rest and residue of my estate to be used by the *[XYZ Organization]* wherever the need is greatest."

portion of the estate:
"I give to the *[XYZ Organization]*, located in [XXX], California, _______% of my estate to be used by the *[XYZ Organization]* wherever the need is greatest."

specific amount:
"I give to the *[XYZ Organization]*, located in [XXX], California, the sum of $_____ to be used by the *[XYZ Organization]* wherever the need is greatest."

specific property:
"I give to the *[XYZ Organization]*, located in [XXX], California, all of my right, title and interest in the following described real estate [insert legal description of property] to be used by the *[XYZ Organization]* "wherever the need is greatest."

Note: This document can be included in your packet for prospective donors.

F. Testimonial on Establishing a Planned Giving Program

After reading this information do you think you or your organization still lack the time, personnel, or experience? Read on and think again.

Three years ago I joined the staff of a very young and small nonprofit organization. At that time the organization had two full-time staff. My job was to build a fundraising and communications program from scratch. We had a handful of donors-about 150 members and a half a dozen foundation donors. I had an interest in planned giving, but no actual experience. What I did have was a passion for our mission. I believed that what I felt had to be felt by our donors too. So I began promoting planned giving at the most basic level: asking our donors and newsletter readers to consider making a gift to our organization in their wills. I put a small article in our newsletter. I gave donors a chance to check off their possible interest in a bequest on our regular gift envelope.

Two years after taking these planned gift "baby steps", our organization (with an annual budget of $450,000) received its first bequest of $279,000.00 from a $100.00 donor. I don't know what actually motivated this person to make such a generous bequest-perhaps it was the newsletter article or maybe he would have made the gift regardless. But because someone decided to leave their legacy to our organization, we'll be able to accomplish so much more. Wouldn't you like to give your donors the same chance?

Best of luck in all that you do to, in the words of Emerson, "leave the world a bit better, whether by a healthy child, a garden patch or a redeemed social condition."

Planned Giving Terms

These are common terms used in planned giving. The definitions are basic and do not fully state the meaning, benefits, or limitations.

Planned Giving

- Planned giving often allows a donor to increase income, avoid taxes, and make a generous gift to one or more charitable organizations in the future.
- Gifts of appreciated assets or gifts with a low yield can be turned into a higher income-producing asset without experiencing a capital gains tax
- The gift to charity is no longer a part of the donor's taxable estate, reducing the estate tax liability
- The gift is provided for now, but the organization benefits sometime in the future
- Several types of planned gifts provide an income to the donor and/or other beneficiaries

Charitable Bequests

- Provisions in a person's will which leaves money or another asset to a charitable organization
- The bequest may be for a specific amount, a percentage, the residual of the estate, or contingent upon a certain event happening.
- The charitable gift is not included in the donor's taxable estate

Beneficiary Designation

- A charitable organization may be listed as a beneficiary of retirement plan benefits and IRAs
- Can avoid both federal estate taxes and income taxes if they are made payable at death to a charitable organization or to a charitable remainder trust
- Life insurance policies may be contributed to a charitable organization by irrevocably changing the policy ownership and beneficiary to the organization

Trust Designation

- Individuals who establish a Living Trust, also called Revocable Trust, may designate that at death a particular asset or dollar amount will go to a charity
- Living trusts generally hold all assets of an individual and thus avoids probate as to such assets

Life Income Gifts

- Allow donors to increase income, save taxes, and make generous charitable gifts
- Gifts must reflect the donor's needs
- Gifts are irrevocable

Remainder

- The portion of a planned gift that remains after the life of the donor to further the organization's mission

Charitable Gift Annuity

- Contract between donor and charitable organization
- The donor gives a gift, and in return, the organization guarantees to pay an annual amount for the lifetime of one or two people
- The annual payout is fixed and cannot be changed
- Payout rates vary according to the age(s) of the beneficiary, and organizations normally use rates recommended by a national organization called the American Council on Gift Annuities.

Deferred Gift Annuity

- The donor makes the gift now, but the payments to the beneficiary are deferred until a later time, often a specific age
- Because the gift has an opportunity to grow, the payments are often larger, as is the final remaining amount that the organization may use

Charitable Remainder Unitrust

- This requires a legal agreement involving a donor, a trustee, and one or more charities
- The donor permanently transfers assets to the trust, but the charitable beneficiary may be changed
- When the trust is formed, a payout rate (at least 5%) is set. Each year this rate is applied to the unitrust amount, which is paid annually to the donor or another beneficiary.
- Annual payouts will vary based on the current value of the trust
- The donor may continue to make contributions to the trust

Charitable Annuity Trust

- Similar to the unitrust except it pays a fixed amount per year (at least 5% of initial trust value)
- A fixed dollar payout set when an annuity trust is established.
- The donor may not add additional assets to the trust

Charitable Lead Trust

- The charitable organization receives income from a trust for a set number of years
- At the end of the term, the assets are returned to family members designated by the donor

Pooled Income Fund

- This is a charitable "mutual fund"
- The fund contains the contributions of many donors
- The beneficiary receives a proportional share of the fund's earnings. Therefore the amount of income varies annually based on the performance of the fund
- When the beneficiary dies, the charitable organization withdraws that portion of the fund allocable to that beneficiary

Life Estate Reserved for Residence or Farm

- A donor deeds his or her residence or farm to a charitable organization with the right to live in (or rent out) the home or farm while the donor is alive.

For additional planned giving assistance, please contact:

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