Please Note:

Issues of *Futures* appear as they were originally published. Information in these publications has not been updated to reflect changes that could affect calculations given in case examples.

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Futures

Winter 2007

A no-nonsense newsletter for estate planners and financial advisors from The Dayton Foundation

Coaching the Philanthropist

By Jonas J. Gruenberg, Esquire, Coolidge Wall Co., L.P.A.

"Open discussion and creative thinking often can remove the barriers to giving and give clients pride in the legacy they create."
– Jonas J. Gruenberg

Estate and financial planners often say that it is difficult to bring up the topic of charitable giving during estate planning discussions. In my experience, however, I have found that fundamentally clients have the inclination to give. It is rare to find a client who doesn't give as a normal part of his or her life.

The vast majority of people I have encountered give to some or all of the following; religious organizations, schools, health care organizations, social service organizations, and arts and cultural groups. They also recognize that when their annual giving ends because of death, the organizations they supported during life will be adversely affected. So, isn't it appropriate to consider how to minimize that impact? I'm not suggesting that everyone will or should leave a charitable bequest to every organization they supported, but it warrants a discussion of why they gave and whether a bequest would satisfy their philanthropic wishes.

While it's not always critical to philanthropic decisions, clients also like that by virtue of inheritance and tax laws, the U.S. government, in effect, partners with them in making their charitable gifts. Many clients would rather give a dollar to charity than they would 50 cents to beneficiaries and 50 cents to the IRS from the taxable portion of their estates.

Jonas J. Gruenberg

Not all clients will build charitable giving into their estate plan, but by bringing up the topic and being prepared to deal with surface resistance, we can benefit our clients and our community as well. Many times the resistance can be neutralized if we help our clients creatively design around the obstacles to their giving.

Many insightful articles have been written about why people give and why others are resistant to giving. Some have appeared in this publication and provide very worthwhile observations about both the positive motivations to give and the resistance. Resistance has four primary sources:

- lack of trust in the potential recipient,
- belief that the cause is someone else's to solve (like government),
- denial of the condition or
- belief that they can't make a difference.

Once that is understood, we as planners can better decide whether we or a charity representative can overcome the obstacle. The desire to give can be even more complex, but if the motivation is present, our job is to help our clients find the most appropriate way to give.

When dealing with a client who is motivated, how do we help design a charitable giving plan that satisfies the client's charitable and financial goals? Fundamentally four questions have to be answered: Who? When? What? How?

Who?

There are two relevant questions:

1. who benefits from the gift and, if necessary,
2. who manages the charitable fund?

The terms can be drawn as specifically or as broadly as the client wishes.

- Is the gift to a specific organization that has resources to implement the terms of the gift and manage the funds?
- Is the fund intended to benefit a field of interest, such as education or disadvantaged children?
- Who will manage the money, and who manages the process of making distributions from the fund?

Obviously these considerations will change, depending upon the size and complexity of the gift. The simplest would be a direct gift to a specific charitable organization without restriction. As the gift size grows, so may the restrictions on use. The fear that an organization or organizations currently providing the supported services will change mission, change leadership or cease to exist, is often a significant source of resistance to giving. However, by working with organizations like The Dayton Foundation, who have a continuous life, a professional staff and an understanding of community needs and resources, a donor can design the necessary discretion and flexibility into the plan to overcome the fear of changed circumstances.

When?

Even though the discussion may come up in the context of estate planning, circumstances often present themselves that suggest that a lifetime gift may be a better financial planning solution than a testamentary gift. This decision usually is driven by short- and long-term cash flow considerations, tax effects, and the timing and needs of the benefited charities.

Continued…

For more information about The Dayton Foundation, please call Joseph B. Baldasare, Vice President of Development, at (937) 225-9954, or visit us online at www.daytonfoundation.org.

Coaching the Philanthropist

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What?

It is appropriate to review with the clients in detail the assets they have available to determine which are potentially best used to meet their charitable commitments. Assuming it doesn't threaten the client's actual or perceived financial security or cash-flow requirements, the most favorable assets typically are IRAs (both during life and at death), and appreciated property, such as securities, real estate or collectibles. In working with any of these assets, we must be conscious of the financial and tax effects on the client, tax limitations and sometimes limitations on the capacity of the intended recipient to accept such gifts.

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How?

In many ways this is an extension of the "who" question.

- Does the client desire to place restrictions on the charities' rights to use the property, or will it be an unrestricted gift?
- Will the client retain rights to the property and use a structured transaction, such as charitable remainder or charitable lead vehicles?
- Will provisions be required dealing with future management of the assets and future exercise of discretion in directing benefits?

Although giving to charity may reduce distributions to children, it's often an effective tool to provide a charitable fund that children can use in the future to meet their charitable commitments, without the need to dig into their personal pockets. In families where giving is highly valued, a well-structured charitable fund teaches philanthropy and provides an economic benefit to future generations.

In Conclusion

The charity discussion can and should be very positive to the planner and to the client. Open discussion and creative thinking often can remove the barriers to giving and give clients pride in the legacy they create. The Dayton Foundation with its many planning resources and management tools can be an excellent partner in answering the who, when, what and how questions and in implementing the charitable plan. ❧

Note: Solutions differ from case to case. The above does not constitute professional financial or tax advice.

For more than 30 years, Jonas Gruenberg has served business owners, real estate developers and investors, and executives in the areas of business planning, estate planning and real estate, while practicing law with Coolidge Wall Co., L.P.A. He is recognized as an "Ohio Super Lawyer" by Law & Politics Publishing.

Pamela Davidson of Davidson Gift Design, Bloomington, IN, will present "Ten Empowering Realities of Estate Planning and How They Relate to Charitable Planning with Prospects" at the University of Dayton on Wednesday, May 16, from 3-5 p.m. The Dayton Foundation, University of Dayton, Planned Giving Council of Greater Dayton and other sponsors are partnering to bring Ms. Davidson to Dayton. Details and continuing-education credit information are forthcoming. To register or for more information, please contact Ted O'Connor, Planned Giving Council of Greater Dayton, at (937) 299-5977.

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THE DAYTON FOUNDATION
We're here for good.
2300 Kettering Tower
Dayton, Ohio 45423
Phone: (937) 222-0410
Fax: (937) 222-0636
Web Site: www.daytonfoundation.org
E-mail: info@daytonfoundation.org

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