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NONPROFIT QUARTERLY

Considering Legacy Giving

Editors' note: *This article, first published in print on Jan/Feb 2007, has been republished for Nonprofit Quarterly, with minor updates.*

Legacy giving (also called planned giving) refers to gifts that donors plan to be distributed from their estate after their death. These gifts are generally made by long-time, loyal donors who believe in the need of the group to exist after their own life is over, and more important, who have faith that the organization will continue to do a good job for years and years to come. These are not necessarily major donors; many bequests come from donors who have given small amounts to an organization for a long time.

When I look around at board meetings I attend, I often reflect that in fifty years, people who aren't even born yet will be running the organization. I will be deceased. What would I need to know about this organization to trust that it will continue to attract people to its board and staff who will continue to do good and needed work? Whatever information that creates that confidence is fundamental to getting donors to consider legacy gifts.

Most groups use legacy gifts to build endowments. An endowment is a permanently restricted fund invested to generate interest. The principal, or corpus, is never spent; it is added to as more legacy gifts come in. The interest income can be used as the organization wishes, if the donor hasn't created terms restricting how the gift can be used. Interest income is usually allocated to general operating costs, as these are the most difficult to raise money for.

You need a donor base that includes people who have given your organization money for several years and who think of your organization as one they will support as long as they can.

GETTING READY FOR A LEGACY GIVING PROGRAM

Many organizations think that getting ready for a legacy giving program involves going to seminars and memorizing complicated financial planning language, then identifying the organization's oldest donors, telling them what you have learned, and watching them sign on the dotted line. In fact, before anyone in the organization begins the process of learning the many different ways to word a bequest, a number of things have to be in place.

First, it is critical that your organization discusses and agrees on the need to exist far into the future and comes to grips with what that means for your overall mission. Second, in addition to deciding how far into the future your group needs to exist, you need to look at whether people trust you to do your work now and understand your need for funds. Does your group have a good reputation — not just for work accomplished, but for stewarding resources, handling money responsibly, and raising money with integrity? Although many grassroots organizations could answer yes to all these questions, they may be surprised at the extent to which their donors have no sense of how their group deals with money. If you don't put out an annual financial report, if you don't publish the names of your donors from time to time, and if you don't regularly talk about how you raise money, your donors may have never thought much about your financial needs. You can start a legacy giving program without people being aware of how your organization raises and spends money, but it will not go very far until that information is more commonly known.

I have known donors who had a favorite grassroots organization to which they made significant donations and for which they volunteered, only to make legacy gifts to their university or another much larger institution. They made this decision because they could not be sure the grassroots group would last long enough to benefit from a bequest or because they did not trust that the organization could manage an endowment. This is a vicious circle, and people in fundraising roles in small organizations need to break it by learning as much as they can about legacy giving and convincing some of their bolder donors to take the leap. Once a few do it, others will follow.

Third, and closely related to the previous point, you need a donor base that includes people who have given your organization money for several years and who think of your organization as one they will support as long as they can. Many groups need to develop their donor base — both in numbers and in donor loyalty — before they begin a legacy giving program.

If one or more of these elements are not in place, do what is needed to build that foundation, then come back to legacy giving in a year or two. (Go to www.grassrootsfundraising.org for articles that will help you build that foundation.)

The first step in a legacy giving program is motivating donors to make a will. The second step will then be to encourage them to name your organization as one of their beneficiaries.

PREPARING TO TALK ABOUT LEGACY GIVING

Many organizations that may be ready to start a legacy giving program hesitate to do so because of the almost universal taboo about talking about death. Not only do people feel awkward talking to anyone about their death, they feel doubly awkward raising the subjects of money and death at same time. Such a discussion may seem not only in bad taste but intrusive.

However, it is important to remember that in the United States bequests, which are the most common form of legacy giving, account for nearly 10 percent of all the money given to nonprofits — as much as is given in most years by foundations and always more than the amount given by corporations. If you want people to think of your organization when they are drawing up their estate plans, you will have to ask them in one way or another.

When you ask someone for a bequest you are not asking them to die — as inevitable as that will be for us all. You are instead making a statement about your organization and its need, complimenting the donor on their loyalty and commitment to your cause, and giving them another opportunity to act on that commitment.

THE IMPORTANCE OF A WILL

The terms of almost all legacy gifts, even very complicated ones, are laid out in a will. To give you a sense of the market, more than half of all people die without a will. Of people who make a will, only about 7 percent include a bequest. Even among very wealthy people — for whom a bequest would lower estate tax for their heirs — recent statistics show that only 18 percent of estates included bequests. Everyone should have a will because no one knows when they are going to die and because everything you own during your lifetime you also own after your death. You have the authority to direct what happens to your property after you have died, but if you choose not to make a will the state will make that direction for you. Introducing your donors to legacy giving is thus a service to them because it causes them to think about making or updating their wills. Your nonprofit may get some money as a result, but the main service is that making a will protects the donor's family and other interests.

If a person dies without a will (called "dying intestate"), the law specifies who will receive the estate, depending on surviving family members: spouse, child, parent, brothers and sisters, nieces and nephews.

MOTIVATING DONORS TO MAKE A WILL

In most grassroots organizations, the first step in a legacy giving program is motivating donors to make a will. The second step will then be to encourage them to name the organization as one of their beneficiaries. A few case studies about what happens to people who don't have wills motivates most donors to create one (see sidebar on page 10).

Most people underestimate the worth of their estate and overestimate the time or cost involved in setting up a will. In addition to the distribution of property, a will can carry wishes about how the person wants to be buried, whom they want looking after children or pets, and any other legal or other obligations the deceased wishes heirs to assume.

A warning before proceeding further: Nonprofits cannot be involved in the creation of someone's will. They can encourage people to create a will, offer workshops about wills led by attorneys or estate planners, and discuss what they know about wills with donors and in written materials, but they must not get involved in giving legal advice or in helping people to write their wills. The only advice anyone in a nonprofit should give current or potential donors is that the donor consult their own attorney or financial planner. The reason for these cautions is to avoid being accused of "exerting undue influence," thus opening the way to legal challenge of a will.

THE BEQUEST

The simplest form of legacy giving to a nonprofit — and the most common — is the bequest. A person notes in their will what property they wish your organization to have: cash, stocks, bonds, art — anything of value. People who already have wills and don't want to change them substantially can add a "codicil" or amendment to their will to specify gifts to your organization.

> *Although nonprofits cannot direct people how to word their wills, they can, in their newsletter or other printed material, let donors know the appropriate wording for a bequest a donor may wish to leave to your group.*

One of the most famous and earliest bequests was given by Ben Franklin in 1790. He left the equivalent of $4,000 (in today's dollars) to be divided between the people of the state of Pennsylvania (76 percent) and the city of Philadelphia (24 percent) on the condition that it not be touched for two hundred years. (Franklin had great faith in the future of his state and city!) In 1990, when the two hundred years were up, Franklin's bequest was worth $2.3 million.

How Someone Makes a Bequest

Anyone can make a bequest as long as they are of sound mind when they make their will and they own something they can't take with them. Bequests are not only for wealthy people — if all someone owns is a late model Ford, they can leave that car to a nonprofit, which can then keep whatever amount they can sell it for.

All bequests are revocable during the life of the donor — a will can be changed any number of times. Your organization may be included in one will and left out of a later version. Thus, unrealized bequests (bequests promised to you by donors who are still alive) cannot ethically be counted toward a fundraising goal.

Although nonprofits cannot direct people how to word their wills, they can, in their newsletter or other

printed material, let donors know the appropriate wording for a bequest a donor may wish to leave to your group. In addition to the wording for a general bequest described here, you can find wording for other types of bequests on our website (www.grassrootsfundraising.org).

The general bequest is the simplest bequest, whereby a donor gives a stated amount to the nonprofit group without attaching any conditions. The bequest reads as follows: I give and bequeath to (exact legal name and address of organization) the sum of $____ (or a specific piece of property) to be used as the board of directors directs.

To be absolutely certain there is no confusion about which nonprofit organization the donor meant, it is a good idea to include the address of the group.

The Importance of a Will: THREE STORIES

Names have been changed, but the following stories are otherwise true.

Mary Springhill, age fifty, died of breast cancer. She had no children and her parents were deceased. She had separated three years earlier from her abusive husband but they were not divorced. Mary's estate, including a house, a new car, and some savings, was worth a little more than $400,000. Mary had never gotten around to writing a will; during the time she had cancer, she was too sick to think about preparing one. Now, as the surviving spouse and sole heir, her husband is the beneficiary of her entire estate.

Alice Williams, age thirty-three, was killed in a car accident. She and her parents had clashed about her pro-choice activism as well as her progressive attitude toward many issues, and their relationship was very strained. At twenty-one, Alice had inherited $100,000 from an aunt. She had saved the money; using the interest it generated to augment her salary. Without a spouse or children, Alice's estate of $100,000 went to her parents. Alice may not have objected; however, to counter what they saw as Alice's "evil attitudes," her parents gave it all to a variety of anti-abortion organizations.

Fay and Marianna were lovers for five years, living in a home Fay had bought before they got together. Fay also had a comfortable inheritance from her father. They had planned to add Marianna's name to the title of the house and create wills, but before they got around to it, Fay was struck and killed by a drunk driver while walking across the street. Because Fay had no will, her mother became her legal heir. Having never approved of Fay's relationship with Marianna, Fay's mother evicted Marianna from her house and told her she would receive nothing from Fay's estate.

GIFTS FROM INSURANCE AND RETIREMENT FUNDS

Any time a person owns an asset, such as an insurance policy or investment in a retirement fund, they will be asked to name a beneficiary. That beneficiary can be a nonprofit organization. Or they can name an heir and then a nonprofit in the case that the heir dies first. Here are a couple of common examples.

Existing Life Insurance Policies

People generally buy life insurance to protect their survivors if sufficient assets have not been accumulated. The value of the life insurance policy may cover mortgage debt or protect a business. As a person gets older, they may not need that protection and can change the beneficiary of their insurance to a charity of their choice. With certain kinds of policies, the older the life insurance policy, the more cash value it has built up. Sometimes people realize that they don't need the policy any more, and they donate its value during the policyholder's lifetime (this, of course, is not as much money as the policy would pay as a death benefit). The Life Insurance Fact Book (a real page-turner) estimates that there are some 400 million life insurance policies in existence in the United States.

Once a year, send a mailing specifically focused on wills either to your whole donor list or to donors who have given for three or more years in a row.

Buying Life Insurance to Fund a Gift

For people wanting to make a gift to an organization that is far greater than they imagine they would ever be able to give from accumulated assets, buying a life insurance policy and making the charity a beneficiary may be a way to go. The premiums on such a policy may be tax deductible. From an organizational viewpoint, this kind of insurance is problematic because it means the donor is paying out money to help your organization, but you will not see the results of this money until the death of the donor, perhaps far in the future. If the donor stops paying his or her premiums, the nonprofit has neither the insurance nor the donor.

IRAs or Other Retirement Plans

Most Americans are eligible to participate in some kind of tax-deferred retirement plan. You can encourage your donors to make your organization the primary, secondary, or final beneficiary of their plan or to name your organization as a recipient of a percentage of the proceeds. This money may come to you if the person dies before retirement or before they have used all the money in the plan.

OTHER STRATEGIES

The types of legacy giving I have described are the vast majority of planned gifts and will keep the average small nonprofit quite busy.

Beyond bequests, there are other legacy giving strategies, some of which can benefit donors during their lifetime by paying dividends on money put in trust for the nonprofit after the donor's death. Some organizations have had good luck working with their local community foundation to hold and manage trusts such as these and related types of funds. Since community foundations are set up to handle complicated giving arrangements, they have the language and the knowledge of how to do so. A foundation may also impart to a donor a sense of solidity and stability that reassures them that their investment will be well managed. Your organization receives the interest, just as you would if you were managing the asset, but without any of the headache.

INTRODUCING YOUR LEGACY GIVING PROGRAM

The best way to introduce a legacy giving program is also the easiest and most low-key: use letters, newsletters, and your website. In them, discuss your endowment and your vision for the future, and ask donors to think of you when they are making their estate plans. Then add a description of some of the kinds of bequests and an invitation to make your organization a beneficiary of a donor's will.

Start with the newsletter. Once or twice a year, include an article that focuses on the need for your organization to exist for a long time and therefore to have an endowment, and on the need for donors to have a will that expresses their commitments. Use real-life stories and give people examples of language they can use to create a codicil (amendment) to their current will Once a year, send a mailing specifically focused on wills either to your whole donor list or to donors who have given for three or more years in a row. You may wish to send a brochure explaining bequests with the mailing. Many planned giving professionals will provide you with a generic brochure for a small fee, which you can customize for your own organization (check the National Committee on Planned Giving — www.ncpg.org — for names of local professionals).

Many people are happy to answer questionnaires, so one way to introduce your legacy giving program is to include a questionnaire in a mailing or newsletter, as in the following example:

Reviewing Your Plans

- Do you have a will? . . . . YES NO
- If the answer is no, would you like more information about how to create one? . . . . YES NO
- Have you reviewed your will in the last three years? . . . . YES NO
- Have you experienced significant changes since you last reviewed your will (such as moved to another state, had a child, bought a house)? . . . . YES NO
- Have you included the organization you care about in your will? . . . . YES NO

Follow the questionnaire with the article in your newsletter described above or with a letter giving some of the answers to commonly asked questions about preparing wills and leaving money to charity. In the article or the letter, offer to meet with anyone who would like to discuss your organization's need for an endowment and how they might help.

In every newsletter and on your website, include a notice (like a classified ad) that your organization is receiving bequests and ask people making up their wills to remember you. Here is sample language for such ads:

As you are making out your will, remember us with a bequest. Our full legal name and address are _________. For more information about bequest language, call or write: phone number, postal and e-mail addresses.

Or:

If you have provided for (name of your group) in your estate plans, please let us know. If not, please let us show you how you can. Call or write: (group's name and addresses).

Givers can also be reminded that they can name your organization as the first, second, or final beneficiary for part or all of the proceeds from IRAs, insurance policies, wills, or any other estate-planning documents.

Present this information frequently and people will begin to notice. Once they begin to notice, they will remember your organization when they are making out their will.

Create a Legacy Giving Mailing List

As you do more mailings about legacy giving and as people contact you for more information, you will develop a list of people who have identified themselves as wanting information about legacy giving. This list will include some serious prospects who may consider giving a legacy gift as well as people doing fundraising for other groups who want to see your material and people who love to get mail and write away for everything. You will have to sort out the serious prospects from the others in order to focus any personal attention you want to give to genuine prospects.

People interested in legacy giving can also be encouraged to sign up for information sent by e-mail. Any e-mail notices you develop should also be posted on your website and reached through an icon, "Making a Bequest" or "Ensuring Our Future." Look at the websites of large organizations to get ideas for how to promote legacy giving using the Web.

Many organizations create a "heritage society" — a group of people who have included your organization in their will. These people get some special mailings from time to time, some of which can describe your organization's legacy giving options in more detail, using examples and stories. They can be invited to receptions or lectures designed for them.

Hold a Seminar

A good community service that can also generate some legacy gifts is a seminar on estate planning. Invite people who have indicated an interest in legacy giving and announce your seminar to the broader community, if you like. Have an estate planner there and plenty of materials both about your group and about estate planning strategies. If you can, have someone there who will discuss how they included your organization in their estate plans.

The purpose of the seminar is to help people think through what they are going to do with their estates, so

you don't want to spend a lot of time talking about your organization. However, you will need to mention yourselves a few times to drive the point home that if a person includes a charity in their will, you hope it will be yours.

A seminar lets you meet people, making follow-up easier. One follow-up technique is for your group to help form groups of people who want to discuss estate planning or legacy giving options with the help of an expert. Each month or so, your group provides an expert for these prospects to meet with who presents one topic in depth. (The group can also discuss related personal issues, such as when children should have access to their inheritance, the kindest thing to do with pets at the death of an owner, living wills, and so on.)

Many groups have found success in cosponsoring seminars such as those described above. More people attend and it is clear that no one charity is being emphasized.

A MUTUALLY BENEFICIAL GIFT

Once you are able to move past your anxiety and awkwardness about talking about legacy giving, you will see that a legacy gift is probably the most mutually beneficial gift a donor can make. In any gift, the organization benefits from the donation and the donor benefits by knowing that work he or she believes needs to be done will continue. The bigger the gift, the more assurance the donor needs to have that this will be the case. An organization expresses its gratitude to these donors for moving the work forward through thank you notes, special events, and other kinds of attention. With a legacy gift, the donor may actually be thanked with income earned as well as taxes lowered.

A gift given through a donor's estate is the final expression of commitment from a donor to an organization and the most profound opportunity the organization offers the donor to help. It is the ultimate exchange. It does not and cannot take place outside of a relationship that the person has with the cause and the mission of the organization.

An organization that wants a working legacy giving program will have in place everything that a working fundraising program needs: a desire to work with donors, the capacity to keep meticulous records, people willing to ask, plans and goals for the future, and a belief in the enduring value of the work.

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Kim Klein co-founded the Grassroots Fundraising Journal in 1981 and was its publisher for 25 years. She is the author of five books, including Fundraising for Social Change, now in its 7th edition. She has provided training and consultation in all 50 states and 21 other countries. She lives in Point Reyes, CA with her wife, Stephanie Roth.