WHAT IS PLANNED GIVING?

Paul D. Strug, Esq.
Frank Sommerville, Esq., CPA

While donors may make charitable gifts for many different reasons, almost all donors want to make a difference in their church or community. Once a donor decides to benefit a religious or charitable organization, the donor should explore the different charitable giving techniques. Many factors are involved in selecting the best way to give. As a result, knowledge of the available gifting vehicles enables the donor to make a better decision. "Planned giving" simply means planning the best way to give before actually making the gift. This article introduces some the planned giving vehicles and their terminology.

Gift of Cash vs. Gift of Appreciated Property

Most donors contribute cash (or more precisely checks) to accomplish their charitable giving. While contributions of cash require very little advanced planning, gifts of appreciated property require advance planning. Further, giving appreciated property may actually benefit both the donor and the recipient more than selling the property and giving the cash.

With a gift of long-term capital gain property (stocks, bonds, mutual funds, real estate and like property held for more than one year), the donor is entitled to tax deduction equal to the property's fair market value. The donor is not taxed on the profit from the property, and the charity can sell the appreciated property tax-free. Therefore, the donor gets to benefit from using the property's fair market value, but no taxes are paid on the gains on such property. This technique maximizes the donation to the charity.

Gift of Life Insurance

A donor's contribution of a whole or variable life insurance policy with accumulated cash value to a charity can have a substantial benefit to the charity upon the donor's death. If the donor irrevocably transfers his or her full ownership rights in the policy to a charity, the donor will be entitled to an income tax deduction based on the policy's fair market value (typically it's cash surrender value). Furthermore, if the donor continues to pay premiums on the policy, the amount of each premium payment will be deductible by the donor. Upon the donor's death, the charity will receive the life insurance proceeds. If the donor chooses not to pay the premiums, the policy may still be sustained for a period of time by deducting the premiums from the cash value until the cash value is used up.

Gifts of Retirement Plan

An effective technique which may be attractive to a donor is naming a charity as the beneficiary of an Individual Retirement Account ("IRA") or other qualified retirement plan. Since churches are, by definition, not subject to income tax, the entire plan proceeds will be received by the church without reduction for income or estate taxes.[1] Conversely, if a member of the donor's family is the beneficiary of the donor's IRA or qualified plan, the proceeds will be subject to both income and estate taxes. Accordingly, a donor should designate that his IRAs and retirement assets go to a charity or church. This will have the effect of freeing up other assets that can be given to children.

Split-Interests Gifts

Split-interest gifts are among the most common planned giving vehicles. All split-interest gifts require the involvement of a professional. Most involve the creation of a trust. This vehicle derives its name from the splitting of interests in property between the donor and a charity or church. For example, in a charitable remainder trust ("CRT"), the donor, or a beneficiary selected by the donor, receives the current income from the trust's property, while a charity or church receives what remains in the trust after the donor dies. A charitable lead trust reverses the interests from the CRT; that is, the charity receives the current income from the trust's property, while the donor's estate, or beneficiaries selected by donor, receives what is left after the donor's death. Another variation on the CRT involves the use of annuities to fix the amount of income the donor will receive from the trust. The donor receives a tax deduction based on the value of the interest passing to the church or charity.

Conclusion

There are a myriad of options for a donor to consider when making a charitable contribution. This article scratched the surface of just a few of those options. Every church should set up and promote planned giving techniques to its members. While it takes years to realize a positive cash flow from these gifts, some churches receive millions of dollars every year as a result of their efforts over the years. We are available to assist your church in growing these types of gifts.

Paul D. Strug is an associate with the law firm of Weycer, Kaplan, Pulaski & Zuber, P.C. He can be reached at 713-961-9045 or by email at pstrug@wkpz.com.
Frank Sommerville is a shareholder with the law firm of Weycer, Kaplan, Pulsaki & Zuber, P.C. He can be reached at 817-795-5046 or by email at fsommerville@wkpz.com.

[1] Unless Congress changes the rules, gifts of IRAs and retirement accounts will subject the donor to a penalty if the donor is less than 59 and ½ years of age at the time of the donation.