To: Quad City Planned Giving Council
From: Gordon Fischer (gordon@gordonfischerlawfirm.com)
Subject: 7 Steps to Creating a Planned Giving Program
Date: February 2, 2021

INTRODUCTION

I’m Gordon Fischer, an Iowa lawyer for more than 25 years.

I have my own law firm, rather unimaginatively named, Gordon Fischer Law Firm, P.C.

I am proud of the singular, perhaps even unique, mission of my law firm. The mission of Gordon Fischer Law Firm is to promote and maximize charitable giving in Iowa.

As such, I have four core services I provide to my clients:
A. Estate planning – everything from simple wills to the most complex trusts
B. Employment law – everything from setting clear hiring/firing guidelines to implementing an excellent employee handbook
C. Nonprofit policies and procedures – both internal and external, protecting your nonprofit requires having clear and comprehensive policies in place. I can help draft, review, and implement policies for a wide variety of legal issues.
D. Training – I train boards, staff, volunteers, donors, potential donors, and other stakeholders on their proper roles and responsibilities, the basics of charitable giving, and advanced charitable giving tools and techniques.

7 STEPS TO CREATING A PLANNED GIVING PROGRAM

1. What IS “planned giving,” anyway?
2. Obtaining commitments from your Board of Directors
3. Preparing an action plan or business plan
4. Managing the program
5. Implementing appropriate policies and guidelines
6. Creating a Professional Advisory Committee
7. Initiating a Donor Recognition and Stewardship Program
1. What IS “planned giving,” anyway?

A planned gift is any charitable gift, made in lifetime or at death, as part of a donor’s overall financial planning and/or estate planning.

By contrast, most gifts are made from a donor’s discretionary income, and while they may be budgeted for, they are not planned.

Whether a donor uses cash, appreciated securities, real estate, artwork, partnership interests, personal property, life insurance, retirement benefit plan, etc., the benefits of funding a planned gift can make this type of charitable giving very attractive to both donor and charity.

Benefits of planned gifts are many and should be obvious.

Thus, planned gifts are a critical component in philanthropy.

2. Obtaining commitments from your Board of Directors

Kathryn Miree & Associates (Birmingham, Alabama)

http://kathrynmireeandassociates.com/

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Engaging the Board in Planned Giving

3. Preparing an action plan or business plan

4. Managing the program

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Asking the Right Questions: The Mysteries and Metrics of Planned Giving Programs

How to Identify, Hire, and Retain the Perfect Planned Giving Officer

Grab the low hanging fruit. Don’t get caught up with, and become either confused or intimidated by, the alphabet soup of charitable tools and techniques: CGAs, CRUTS, NIM-CRUTS, Shark Fin CLATS, and so on.

Instead, focus on (A) estate plans (wills/trusts); (B) gifts of stock; and (C) retirement benefit plans. Perhaps, also, if makes sense for your nonprofit, gifts of grain.
ESTATE PLAN IS SET OF LEGAL DOCUMENTS
An estate plan is simply a set of legal documents to prepare for the event of your death or disability. Note I said “estate plan,” and not “will.” While these terms are often used synonymously, they are not at all the same thing. An estate plan is a set of legal documents, and a will is just one of those documents, albeit an important one.

SIX “MUST HAVE” ESTATE PLANNING DOCUMENTS
There are six documents that should be part of most everyone’s estate plan. Plus, you should keep these documents updated and current. Also, don’t forget about assets with beneficiary designations, such as savings and checking accounts, and retirement benefit plans. For many Iowans, that’s enough—keeping six documents and assets with beneficiary designations current. I’ll just briefly touch on five of the six documents, before we dive into your will and charitable gifting to the XYZ Foundation.

ESTATE PLANNING QUESTIONNAIRE
You should begin with an estate planning questionnaire. (Like this one on my website.) An estate plan questionnaire is an easy way to get all of your information in one place, and it should help you understand and prioritize estate planning goals.

POWERS OF ATTORNEY
A power of attorney for healthcare designates someone to handle your healthcare decisions for you if you become unable to make those decisions for yourself. This essentially gives another person the power to make medical decisions on your behalf.

The power of attorney for financial matters is similar, only your designated agent has the power to make decisions and act on your behalf regarding your finances. This document gives your agent the authority to pay bills, settle debts, sell property, or anything else that needs to be done if you become incapacitated and unable to do this yourself.

DISPOSITION OF PERSONAL PROPERTY
Another useful document is the disposition of personal property. This is where you get to be specific about items you want people to have, say, your eldest daughter getting your wedding ring, or your nephew getting your baseball card collection.

DISPOSITION OF FINAL REMAINS
Yet another helpful document is the disposition of final remains, where you get to tell your loved ones exactly how you want your body to be treated after you pass away. This could include details on burial or cremation, and what type of service(s) you want.

WILL
With your will, you’ll be answering four major questions:
A. Who do you want to have your stuff? A will provides orderly distribution of your property at death per your wishes. Your property includes both tangible and intangible things. (An example of tangible items would be your coin collection. An example of an intangible asset would be stocks.)
B. Who do you want to be in charge of carrying out your wishes as expressed in the will? The “executor” is the person who will be responsible for making sure the will is carried out as written.

C. Who do you want to take care of your kids? If you have minor children (i.e., kids under age 18), you’ll want to designate a legal guardian(s) who will take care of your children until they are adults.

D. What charities do you want to support with your estate assets? Which of your favorite causes do you want to support at death?

Also, remember that some individuals and families have enough assets, or varied assets, and it would make sense for them, instead of a will, setting up a trust.

FOUR TYPES OF BEQUESTS
Charitable gifts in a will are called “bequests.” Generally speaking, there are four types of bequests.

A. **Pecuniary Bequest**: A gift of a fixed or stated sum of money designated in a donor’s will. An example: “I give the sum of $10,000 (ten thousand dollars) to XYZ Foundation.”

B. **Specific Bequest**: A gift of a designated or specific item in the will. The item will most likely be sold by the organization and the proceeds would benefit that nonprofit. An example: “I give my Grant Wood painting to XYZ Foundation.”

C. **Residuary Bequest**: In legal terms, a “residue” of the estate is what is left of the estate after payment of debts, funeral expenses, executors’ fees, taxes, legal, and other expenses incurred in the administration of the estate, and after any gifts of specific assets or specific sums of cash. The estate residue would include all property, both personal and real estate. A residuary clause is a provision in a will that passes the residue of an estate to beneficiaries identified in the will. An example: “I give all of the residue of my estate to the XYZ Foundation.”

D. **Contingent Bequest**: A gift in a will made on the condition of a certain event that might or might not happen. A contingent bequest is specific and fails if the condition is not made. An example: “I give the sum of $10,000 (ten thousand dollars) to my niece, Jane Smith, if still living. If my niece fails to survive me, I give the sum of $10,000 (ten thousand dollars) to the XYZ Foundation.”

Which type of bequest to the XYZ Foundation should you choose? It really depends on your personal circumstances. Consult your individual estate planner for specific advice.

Charitable gifts of long-term, appreciated securities (e.g., gifts of publicly traded stocks) have several advantages: [read here](#).

Charitable gifts of retirement benefit plans (e.g., are super easy and very tax advantaged: [read here](#).
Read specifically about tax treatment of retirement benefit plans [right here](#).

Gifts of grain? [Check out this blog post](#).

5. Implementing appropriate policies and guidelines

**TEN MAJOR POLICIES & PROCEDURES**

Ten major policies and procedures which IRS Form 990 are:

1. **Compensation** – Formalizes the process of determining compensation that is reasonable and not excessive, while also attractive enough to attract and retain the best possible management and staff.

2. **Conflict of Interest** – Assists the organization in avoiding financial or other material benefits flowing to individuals in positions of authority in the nonprofit; and protects against charges of impropriety involving officers, directors, employees, volunteers, and other stakeholders.

3. **Document Retention and Destruction** – Defines what types of documents should be retained, duration of storage, and how they should be filed/stored for tax, business, and other regulatory purposes.

4. **Financial Policies & Procedures** – Specifically addresses guidelines for making financial decisions, reporting financial status of the organization, managing funds, and developing financial goals. This document should also outline the budgeting process, investments reporting, what accounts may be maintained by the nonprofit, and when scheduled auditing will take place.

5. **Form 990 Review** – Governs the process for distributing IRS Form 990 to board members for review and approval, as well as identifying any areas that need particular scrutiny.

6. **Fundraising** – Guides compliance with local, state, and federal laws, and defines the organization’s own fundraising criteria.

7. **Gift Acceptance** – Evaluates non-cash gifts and offers guidance on how to decline gifts with liabilities and obligations the organization is not able to sufficiently manage.

8. **Investment** – Determines accountability for investment decisions, offers guidance on growing and protecting investments, and governs overall financial management decisions.

9. **Public Disclosure** – Establishes which organizational documents (other than those required by law) will be made publicly available.
10. **Whistleblower** – Sets a formal process for grievances (including protection) to encourage sound and swift responses to complaints, and to protect the nonprofit from knowingly or unknowingly violating state and federal laws.

**6. Creating a Professional Advisory Committee**

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**Identifying Professional Relationships That Make A Difference**

**7. Initiating a Donor Recognition and Stewardship Program**

A. Don’t create a “planned giving” program and stop. You need ways to properly measure and record. Be sure staff that come after you can follow everything you’ve done.

B. Never underestimate the importance of a “thank you”! And keep in touch!

**P.S. CGAs and CRTs**

**CHARITABLE GIFT ANNUITY**
A Charitable Gift Annuity (CGA) is a contract. It’s a contract that combines the benefits of an immediate income tax deduction and a lifetime income stream. Also, your future taxable estate will be reduced for the remainder value of the property transferred to charity.

A CGA is an arrangement in which you make a gift of cash, or other property, in exchange for a guaranteed income annuity for life. This is similar to buying an annuity in the commercial marketplace, except that you can claim an immediate charitable tax deduction for the excess of the value of the property over the value of the annuity, based on IRS tables. The charity must receive at least 10% of the initial net value of the property transferred in order for you to claim a charitable deduction for a portion of the purchase price.

There’s much more to say about CGAs. I wrote an article detailing more specifics, as well as their benefits, check it out here.

**CHARITABLE REMAINDER TRUST**
A charitable remainder trust (CRT) provides a unique opportunity for donors to retain lifetime income from property while obtaining a current income tax deduction (or estate tax deduction) for the remainder interest which will pass to charity.

Charitable remainder trusts are often appealing to donors with appreciated assets, producing little or no income, such as real estate or securities. This is because the assets can be sold without capital gains tax and invested to provide a higher income stream.
A CRT separates the current interest and future interests in property and disposes of each differently. Income from trust assets is paid to at least one non-charitable beneficiary (often, the grantor or the grantor’s family) for a certain period. The payments can be made for the non-charitable beneficiary’s lifetime (or joint lives for multiple beneficiaries), or over a fixed period of up to 20 years. When the non-charitable beneficiary’s interest ends, the trust assets pass irrevocably to a charity. One of several blog posts on my website about CRTs, you can read here.

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