Replacing Lost Revenues for Charities: Ways to Consider Charitable Giving Diversification

Description

Nonprofit organizations with traditional reliance on event fundraising are now in a position to solicit donors in an alternate manner because of the COVID-19 pandemic. It is an opportune time to launch formal annual and planned giving programs, to the extent they are not in place at your institution. There are particular methods of giving that are more attractive in light of the current low interest rates, historic trends of giving in turbulent times, the SECURE Act and the CARES Act.

Studies and surveys show that communications at this time to donor bases should be about delivering value to the donor and to strive to enhance each individual donor's sense of wellbeing. Taking the position of a thoughtful advisor is a strategy that will prove to be successful.

Annual Fund and Outright Giving Support

The CARES Act provides ways to promote additional incentives to donors to make outright gifts to your organization. Communicating these changes to donors will be important in 2020.

Under Section 2204 of the Act, taxpayers will be able to claim up to $300 for qualified contributions made to a charity this year as a deduction from their gross income if they take the standard deduction on their 2020 tax return. This deduction will reduce the amount of taxable income to a donor. The percentage of taxpayers itemizing deductions fell by more than half since the passage of the 2017 Tax Cuts and Jobs Act, impacting annual giving for charities. This measure will provide an incentive for donors.

Section 2205 of the CARES Act also increases the limitations on deductions for charitable contributions by individuals who itemize, as well as corporations. For individuals, the cap for cash contributions, previously limited to sixty percent (60%) of a person's adjusted gross income in a year, now has no limitation. For corporations, the ten percent (10%) limitation is increased to twenty-five percent (25%) of taxable income. Organizations should take this opportunity to inform donors about these changes.

Donor Advised Funds

Donor Advised Funds continue to be one of the most popular philanthropic giving vehicles. According to the 2019 DAF Report from the National Philanthropic Trust, there was $23 billion distributed in 2019 from donor advised funds. Due to tax planning strategies to bundle and maximize deductions, many donors may place multiple years of future expected donations into a DAF. Given the current crisis, it makes sense to speak to donors to consider this as a time to distribute those accounts earlier than planned. Also, speak to DAF donors about leaving a testamentary designation to your organization.

Retirement Funds

The Setting Every Community for Retirement Enhancement Act, effective January 1, 2020, raised the minimum required distribution age to 72, from 70 ½. This change in required minimum distribution age reflects the increased life expectancy, since the age was originally set in 1960. This change in age did not, however, affect the ability for donors age 70 ½ and older to make annual tax-free qualified charitable distributions up to $100,000 annually from an IRA to a charity.

The SECURE Act also requires non-spouse heirs to take all the money out of an inherited IRA within ten years. Prior to the Act, heirs could withdraw distributions across their entire life expectancy. This requirement makes

the IRA an even less attractive vehicle to utilize to distribute wealth to children, especially when there is a charitable intent in planning.

Promoting the use of IRA's for qualified charitable distributions is particularly valuable for a donor who does not itemize income tax deductions. With no ability to deduct charitable contributions, this donor typically receives no tax benefit from a gift to nonprofits. The IRA charitable rollover gift keeps the IRA money off of the tax return, eliminating the tax on the withdrawal. This gift also does not impact your Social Security benefits and Medicare premiums as a required minimum distribution would. The use of retirement funds to support your organization is more important now than ever.

Review Endowed and Restricted Funds

Institutions may be in a position to speak to donors with restricted gifts to divert funds for other emergency purposes. If changes in your operations are now making intended use of funds impossible to achieve, contact funders and donors to work with them to amend agreements.

Institutions should also review endowment management procedures and annual endowment draws with the appropriate board members, employees or those individuals charged with governance. The Uniform Prudent Management of Institutional Funds Act ("UPMIFA") provides guidance for institutions.

Subject to the intent of a donor expressed in the gift instrument, an institution may expend so much of an endowment fund as the institution determines is prudent for the uses, benefits, purposes, and duration for which the endowment fund is established. In making a determination to appropriate or accumulate, the institution shall act in good faith, with the care that an ordinarily prudent person in a like position would exercise under similar circumstances, and shall consider, if relevant, the following factors:

(1) The duration and preservation of the endowment fund;
(2) The purposes of the institution and the endowment fund;
(3) General economic conditions;
(4) The possible effect of inflation or deflation;
(5) The expected total return from income and the appreciation of investments;
(6) Other resources of the institution; and

(7) The investment policy of the institution.

The appropriation for expenditure in any year of an amount greater than seven (7%) percent of the fair market value of an endowment fund, calculated on the basis of market values determined at least quarterly and averaged over a period of not less than three (3) years immediately preceding the year in which the appropriation for expenditure is made, creates a rebuttable presumption of imprudence, and therefore is not advisable.

Importantly, UPMIFA allows for modification of the use of small funds under certain circumstances. If an institution determines that a restriction contained in a gift instrument on the management, investment, or purpose of an institutional fund is unlawful, impracticable, impossible to achieve, or wasteful, the institution, sixty (60) days after notification to the attorney general, may release or modify the restriction, in whole or part, if:

(1) The institutional fund subject to the restriction has a total value of less than twenty-five thousand dollars ($25,000);
(2) More than twenty (20) years have elapsed since the fund was established; and

(3) The institution uses the property in a manner consistent with the charitable purposes expressed in the gift instrument.

Starting or Enhancing a Planned Giving Program

During times of downturn and uncertainty, people are more likely to hold tightly to their accumulated wealth.

Planned giving opportunities can assist with solutions that ease uncertainty. There has been a major uptick in estate planning since the beginning of March. Charities should be front and center with donors to discuss ways to maximize opportunities for deferred giving. Below is a laundry list of ways to make a planned gift, that you should be promoting now.

Bequests

- A bequest costs your donor nothing now, and yet it offers a way to support a program of your choice or an area in which you are particularly interested.
- Bequests may provide estate tax benefits.
- Estate gifts take place only after the donor no longer needs the money personally. They can also be revocable. They can be a percentage of the estate, and thus can vary in size with financial ups and downs. These percentage gifts are actually much better for charities because they usually end up being much larger.

Life Insurance

Individuals are increasingly expressing interest in life insurance. As the COVID-19 pandemic escalated, life insurance agencies saw an increase in applications in February and March.

- A donor can give a life insurance policy to charity (i.e., charity becomes the owner of the life insurance policy) or the donor can name charity as the beneficiary of a policy he or she continues to own.
- Both a gift of a life insurance policy and a beneficiary change for the policy are accomplished on forms provided by the company issuing the insurance.
- A gift of a policy entitles the donor to a tax deduction. A beneficiary change does not. But both entitle the donor to gift and/or pledge credit.

Charitable Gift Annuities

For institutions offering Charitable Gift Annuities (“CGAs”), this may become a particularly attractive gift. During times of uncertainty, the guarantee of fixed payments can be attractive. In 2008, established organizations reported receiving large CGAs.

A CGA typically exchanges a gift for annual lifetime payments to the donor (or donor and spouse). The payments are guaranteed by the general resources of the charity. In most cases, part of each payment is tax-free, increasing each payment’s after-tax value. If you give appreciated property you will pay capital gains tax on only part of the appreciation. In addition, if you name yourself as the first or only annuitant the capital gains tax will be spread out over many years rather than be all due in the year of your gift.

Low Interest Rates

The rate used for charitable deduction calculations (Section 7520) in complex gifts is at an historic low. This creates a unique opportunity to take advantage of these rates in planned giving conversations.

Retained Life Estates

At times of low interest rates, a retained life estate gift produces a very large tax deduction for the donor, so this gift is highly attractive right now.

A donor gifts their home, vacation home or farm now to charity, reserving the right to live there for the rest of their lives. Charity will take over the property upon the donor’s death.

Who is a good candidate for this gift and why would they want to make this gift?

- A donor who is 75 years of age or older.
- A donor who owns a residence (including a vacation home) or farm that is not intended to pass to the

family after the owner's death.
- A donor who wants to make a substantial commitment but is unable or unwilling to part with income-producing assets.
- A donor who is already making a bequest to the organization and wants to obtain an income tax benefit for that commitment.
- A donor who wants to get a cash benefit from real estate without selling it.

Charitable Lead Trusts

The donors taking advantage of these vehicles are typically very few. However, for the right donor, typically one facing estate tax issues, these vehicles are tax efficient. There are different varieties of these trusts, some designed to gift assets to children, and others to take advantage of income tax planning. The donor transfers assets to the trust and the trust pays an annual fixed amount to charity for a set number of years. Any amount remaining at the end goes to selected heirs or the donor, depending on the type of the trust. These trusts are particularly attractive in low interest rate environments.

Conclusion

Charities should take this time to review governance related to gifts, communication tactics, strategic planning, policies and agreements. Positioning your institution appropriately now will assist with sustaining your future.

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