



Charitable Trusts: Two Critical Underpinnings

As we begin a new year—and 2002 is no exception—weighing the past and making sense of the future is increasingly on our minds. Particularly during the past four months, our thoughts have turned more than ever to what is enduring in our lives, despite the changes wrought by recent events.

The recent 14th National Conference on Planned Giving, sponsored by the National Committee on Planned Giving (NCPG), presented many topics of great interest, some new, some time-honored. Not surprising to us was the strong focus placed on two themes, presented in a broad range of perspectives by many speakers.

We'd like to review these with you in this issue. The first theme is the importance of the administration process of charitable trusts; the second, the significance of the investment management process to these trusts.

This focus reminded us of the impetus for establishing our firm. Our purpose—

CTAI's mission is to provide state-of-the-art administrative services for the establishment and ongoing operations of charitable trusts—was strongly reinforced by the conference's presenters. Like many other important objectives in our lives, our focus on diligently laying the groundwork or successful outcomes has not changed, and will not change.

The Administration Process: Structure, Management and Distribution

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The key elements of administration for any type of planned gift are at least threefold. First, the gift's proper establishment and intake must be undertaken. This involves determining the goals and objectives of the donor, drafting the

appropriate documents to accommodate the gift, and implementing the funding and receipt process. In order to create a vehicle that can appropriately accommodate the donor's wishes, it is imperative for both the planner and the donor to understand the entire process. It is also critical for both

the donor and the administrative staff of the charitable organization to have a complete understanding of expectations on all sides (and that these be reasonable). All parties to the transaction need to understand both the benefits and the potential snags these arrangements may present.



The second phase in the administration of charitable trusts is the ongoing day-to-day activities in managing the trust. These include the accounting function,

distribution of income, preparation of tax returns and financial reports, and communications with the donor. No matter how well the investment vehicle performs or how great the mission of the organization is, if the distributions are not made accurately and on schedule, or if the tax returns are not completed on a timely basis, donors will be—understandably—frustrated. It goes without saying that this outcome is never in a non-profit organization's best interests.

The third phase of administration involves the distribution to the charitable remainderman at the time of the event that triggers the conclusion of the trust. This may occur at the end of a period of time specified in the trust or upon the death of the last income beneficiary. The final accounting, tax returns and distribution of funds (with appropriate communication of the gift to the charitable organizations) will provide the opportunity for acknowledgement of the gift and the appropriate responses to the family.

Investment Management

The second—and equally important—key issue in the operation of a planned giving program is the investment management of the assets involved. Poor investment management of charitable trust assets will leave both an unhappy donor and an unhappy organization, both of which may feel they did not receive what they expected or anticipated. While this function may be, and normally is, outsourced to outside professionals, both the donor and the charity have the responsibility to have basic knowledge of the activities involved and to oversee the process.



As all charitable trusts are considered split-interest trusts (the donor has an income interest and the charity will receive the remainder of the trust), there are normally competing objectives. Both parties are deemed to be “investors” in the process. Both may be at odds regarding the investment goal for the funds that are invested. Depending on the type of planned giving vehicle utilized, the different parties may bear different risks in the investment of the trust.

What are the key elements in the investment process?

There are at least five elements to consider:

1. The needs and risk tolerance of the donor
2. Fiduciary responsibilities under the “Uniform Prudent Investor Act”
3. Written investment policies
4. Benchmarks and evaluation of investment managers
5. Costs and operational considerations

Let's briefly review each element. In determining the donors' needs, such issues as age, tax bracket, risk tolerance, other sources of income, other assets, and personal family planning issues are all important considerations. What are some of the "risks" to be weighed for both the donor and the charity? These include: market, reinvestment, inflation, payment volatility, and tax status of distributions (i.e. capital gain, ordinary income, exempt, principal return).

Some of the elements set out by the "Uniform Prudent Investor Act" that fiduciaries must consider include: A review of general economic conditions, inflation considerations, diversification of assets, "total return" from both income and capital appreciation, delegation of duties as permitted, and impartiality among beneficiaries.

It is critical for all parties to have a formal, detailed written investment policy. This document will provide the guidelines for all parties to manage and review the portfolio's performance. This written investment policy should include the selection of the appropriate benchmarks established to evaluate the performance of the various asset classes in the portfolio. Any well-diversified portfolio should have several asset classes and several investment management styles and managers, and the implementation and oversight of that function will be facilitated by both choosing the appropriate benchmarks and periodically carrying out a formal manager review.

The cost considerations of all of the administrative and investment management functions—particularly over the long period of time that a trust normally

operates—can significantly impact net overall performance. This can add thousands of dollars to both the income beneficiary and the remainderman over a 20-year period. The typical cost for these services ranges from 1 to 2.5% of the assets on an annual basis.

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giving program, efforts to reward and safeguard the wonderful intentions of donors must receive equal attention. The key element in cultivating appreciative donors is to pay careful attention to the administration and investment management

of these charitable trusts for each and every one of them.



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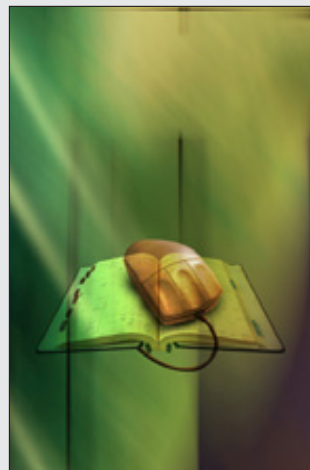
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Professional Designation in Planned Giving

The American Institute for Philanthropic Studies, in conjunction with California State University, Long Beach offers a certificate program titled Certified Specialist in Planned Giving. This program is of great value to professionals in the planned giving field—in gaining both knowledge and recognition in the profession. Charles McLucas Jr., President of CTAI, will be teaching the program's section on "Administration of Planned Gifts." For information on the program, contact Delona Davis at Long Beach State at (562) 985-8466 or ddavis@uces.csulb.edu. You may also contact Paula Wenzel at our office; she'd be happy to send you a brochure on the program.

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