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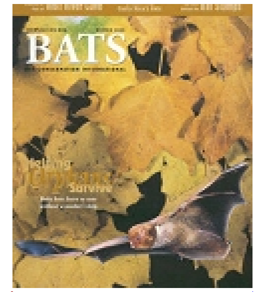

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A Primer on Planned Giving
Michael L. Cook

This is a brief summary of a much more detailed description of planned giving strategies prepared by attorney Michael L. Cook. The complete manuscript is available at BCI's Web site: www.batcon.org.Dedicated members who remember Bat Conservation International in their wills are providing a lasting legacy of support for critical research, education, and conservation projects. And as the options for planned giving become more sophisticated, we increasingly receive inquiries about the best strategies for structuring an estate plan to benefit BCI while fulfilling other goals of the donor. BCI always advises potential donors to consult their own attorneys and financial advisers. This article is not intended as legal advice. It outlines the fundamentals of planned giving to help prepare you for discussing these issues with your estate planner.

Planned giving is simply a strategy for structuring gifts that are made during a person's lifetime and afterwards to ensure that charitable goals are met and to minimize the tax burden facing recipients of this generosity. The principles and rules on which it is based are part of the Internal Revenue Code; this is not an attempt to sidestep taxes the federal government intended taxpayers to pay.

The Uncertain Estate Tax
The estate tax itself is under attack, of course. Current law phases out the estate tax, with progressively higher exemptions and lower rates until the year 2010. Then the tax disappears completely, only to return in 2011 just as it existed in 2000. Not to worry, though; no one expects that scenario to play out as designed. Exactly what will happen, however, is difficult to predict. The need for planning remains.

First, consider the various levels of estate planning. The first level, which is adequate for most married couples, usually involves nothing more than executing wills - or revocable living trust agreements - that maximize the estate-tax exemption through a device variously called a by-pass trust, a family trust, or a credit-shelter trust. This level may also include an irrevocable life insurance trust to protect life insurance proceeds from taxes. In most instances, first-level estate planning does not include extensive charitable giving, other than perhaps a direct bequest to a charity.

A Sophisticated Strategy
The next level utilizes more sophisticated strategies. The most commonly used vehicle for minimizing federal and state transfer taxes while shifting wealth from one generation to another is the family limited partnership. Sophisticated estate planners are beginning to use family limited partnerships in combination with charitable trusts to achieve especially effective charitable giving.

The most commonly used instrument for this purpose is the charitable remainder trust (CRT). The CRT distributes a defined amount at least annually to non-charitable beneficiaries for a lifetime, a combination of lifetimes, or a fixed period of years. At the end of that time period, ownership of the trust (the "remainder interest") is distributed to a charity or charities.

The opposite of a CRT is a charitable lead trust. It distributes a defined amount to a charity or charities for a specific number of years, then the remainder interest is distributed to one or more non-charitable beneficiaries, such as grandchildren.

This raises an important point about all gifts to charities: Make gifts of appreciated assets whenever possible. Appreciated assets have inherent, untaxed gains attributed to them, and a gift of the asset generally allows a contribution deduction equal to the fair market value of the contributed asset. The charity can sell the asset without paying tax on the inherent gain.

Insurance can also play a significant role in planned giving. Insurance can be used in two ways. In one, the person buys life insurance, usually established in the form of a trust, with the charity named as beneficiary. The opposite approach can produce a virtually tax-free estate. In essence, the donor leaves his entire estate to charity - either as a direct bequest or through a private foundation, trusts, or other endowments. The donor provides for the family's needs by purchasing significant life insurance. The insurance proceeds are not taxable if the person has established an irrevocable life insurance trust, which, through contributions made by the donor, buys the life insurance. Since the irrevocable life insurance trust, rather than the donor, owns the policies, the value of the insurance is not included in the donor's estate, and the taxable estate would be zero.

Endowed Gifts

Another popular strategy, especially for donors who have worked hard for years on behalf of a favorite charity, is the creation of an endowed fund in the name of the donor or the family. An endowed gift simply means that the principal remains intact, while the charity enjoys income from the fund in perpetuity. This is normally done through a trust or a nonprofit corporation, and the donor usually names friends or relatives as trustees, although institutional trustees are sometimes chosen.

Another approach to a permanent endowment is to create a private foundation that lets the donor's surviving family decide how and when benefits are distributed. This approach is preferred only when a number of charities are named as beneficiaries and the donor has no clear preference for one charity over another.

Community Foundations

An increasingly popular device is known as the donor-advised fund, in which the gift is made to a large public charity, such as a community foundation. Income from the fund, and ultimately the principal, are distributed by the foundation according to recommendations made by the donor or someone designated by the donor.

Many tools are available to ensure that our charitable goals are met beyond our lifetimes, and most estate planners enjoy developing the most effective approach to charitable giving. Planning now can make a huge difference for the future.

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