

PLANNED GIVING T · O · D · A · Y[®]

THE PRACTICAL NEWSLETTER FOR GIFT-PLANNING PROFESSIONALS

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253 Gift Annuities and Counting

BY FRANK MINTON

Manuel Alarid funded his first gift annuity April 22, 1993, with a contribution of \$1,000. Fifteen years later on May 1, 2008, he funded his 253rd gift annuity with a contribution of approximately \$20,000. By the time this article is published the number may well have increased. Mr. Alarid has been establishing one or two annuities every month.

All of them are with the Society of the Divine Word, a Catholic charity located in the Chicago area. According to Father Sunny Francis, the annuity director for this organization, all of the annuities are unrestricted as to purpose. Mr. Alarid is happy with the Divine Word missionaries, who are working in 67 countries around

the world, primarily with the poorest of the poor, and he wants to provide support wherever it is most needed. He commented that he had received much in his life and that he wanted to help those less fortunate. "When I die," he said, "I want to die penniless."

Cash Flow

Certainly, he will have good cash flow right up to the date of death, for his contributions for the 253 annuities completed through May 1 total \$2,782,747. His surplus cash flow enables him to continue annuity contributions. It should be noted that the payments from all of the annuities are combined into a single check.

Continued on page 2

Best Practices for Gift Annuities

PART I

BY LINDSAY L. LAPOLE

This is the first in a series of three articles that will introduce best practices for charitable gift annuities. Board member Charles Gordy was the primary author of the original document that was prepared for the board of directors of the American Council on Gift Annuities. After review and acceptance, the report was presented to the attendees of the 28th Conference on Gift Annuities held in Chicago in April of this year. The full report can be viewed at the ACGA Web site (www.acga-web.org).

Before addressing the "best practices," it will be useful to review recent developments with charitable gift annuities and why these recommended best practices are so important.

Survey Results and Recent Developments

In 2004, The American Council on Gift Annuities conducted its third survey of charitable gift annuities and received responses from approximately 829 charities across the country.¹ Other information gathered during the survey indicates that more than 4,000 organizations are offering gift annuities.² Clearly there are many more organizations offering charitable gift annuities than responded to the survey, so the gift annuity remains an immensely popular way of making a gift to charity while retaining an income stream.

The vast majority of organizations offering charitable gift annuities are doing so in a responsible manner and to the great

Continued on page 8

THIS MONTH

- 1 Best Practices for Gift Annuities, Part I
- 1 253 Gift Annuities and Counting
- 3 It's All About Customer Service
- 5 Beauty and the Beholder: New Rules for Non-Cash Gift Valuation
- 8 Are You Ready for Planned Giving?
- 11 Marketing Reprintable: What's So Special About Gift Annuities?
- 12 On My Way: Rails to Success Stewardship Counts

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Counting *Continued from page 1*

When informed that his 253 annuities may well be a record for any one individual, he replied that he had not kept count of them but that he was pleased there were so many. "The number is no big deal," he observed, "I just want to help the underprivileged."

Many years ago, Mr. Alarid's parents came from France and settled in New Mexico. They had 11 children, and only Mr. Alarid and a sister are still living. He has never married, and he is the sole annuitant of most of the annuities, though he did complete some joint and survivor annuities for himself and another sister who died in 2005. Mr. Alarid will turn 93 later this year.

Father Sunny, whose disposition is like his name, emigrated from the State of Kerala in South India. He is in charge of a very large and successful gift annuity program at the Society of the Divine Word. Although he is unable to visit personally with all of the thousands of annuity donors, he is planning a summer trip to New Mexico for a first-time meeting with this self-effacing individual who persists in mailing annuity contributions like clockwork.

Lessons Learned

By his actions, Mr. Alarid teaches us several lessons.

The first is that the primary reason for establishing a gift annuity is to support the work of a charity. While a gift annuity is ideal for a person who is philanthropically motivated and also wants the security of fixed payments for life, it is not the best instrument from a pure investment standpoint, and should never be marketed as such.

When Rates Decline

The second lesson is that people continue to contribute to gift annuities even when rates decline. Gift annuity rates were relatively high in the spring of 1993 when Mr. Alarid funded his first gift annuity, but they were reduced at the end of the year in response to plunging interest rates. They increased beginning in 1998 but decreased in 2002, again in 2003, and still again in 2008.

Throughout the period when rates fluctuated up and down, Mr. Alarid's contributions continued unabated. A decrease in gift annuity rates need not slow a gift annuity program if philanthropic intent is kept front and center, and if donors are shown how gift annuity rates reflect the marketplace.

Reasonable Minimums

The third lesson is that a charity should not set too high a bar for a gift annuity. Although Mr. Alarid's first gift annuity was funded with a mere \$1,000, his subsequent gifts have been considerably larger. Currently, a \$1,000 minimum for a gift annuity is definitely too small, and even \$5,000 would be marginally cost-effective if the donor made no more gifts. However, donors often like to test the waters with a smaller contribution before making a larger commitment, and if the minimum is too high, they may never make that first gift.

Repeat Gifts

The fourth and final lesson is that the best prospect for a gift annuity is a person who has already established one. Over half of all contributions for gift annuities in any given year come from people who have completed one or more gift annuities. Having done a gift annuity, they may approach other charities, whose work they admire, and inquire about an annuity with them as well.

Some of these inquiries have, in fact, prompted charities without a gift annuity program to launch one. It is not uncommon for donors, like Mr. Alarid, to pyramid gift annuities. They keep increasing cash flow with new gift annuities, accumulate surplus cash, and complete still more annuities.

If Mr. Alarid lives a few more years, he may well qualify for the "300 club." Perhaps he will be the only member. In any case, he is an inspiration. ♦

Frank Minton is president of Planned Giving Services, a division of PG Calc Incorporated. He is past chair of NCPG's Board of Directors, and as well as the American Council on Gift Annuities. He has received numerous awards for his planned giving leadership both in the United States and Canada. Frank is a member of *Planned Giving Today's* Editorial Advisory Board.
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DO YOU HAVE A GIFT ANNUITY STORY?

Do you have an interesting story about a donor and your gift annuity program? Or maybe an amusing tale related to gift annuities? Write it down and send it to the editor at roger@pgtoday.com.

It's All About Customer Service

BY AVIVA SHIFF BOEDECKER

Why do you rent a car from one company instead of another when the prices are comparable?

Why do you shop for groceries at Store X instead of Store Y? The locations are equally convenient and the prices about the same.

Why do people rave about Nordstrom? Other department stores have similar merchandise.

When people have a choice, and other factors are about equal, the quality of the service that is provided to customers will generally be the primary factor in consumer decisions about where to shop or which service provider to select. In fact, it is not unusual for people to pay a bit more or go out of their way to patronize businesses where they have had pleasant experiences, and to avoid those where they have not been well-treated.

How often have you heard tales of poor service — rudeness, incompetence, interminable automatic phone-answering trees? These stories are circulated and remembered, sometimes taking on a life of their own. People avoid these organizations when possible.

So . . . what distinguishes your organization from one across town that offers similar programs? Why would donors choose to support your organization?

The level of customer service and stewardship offered to supporters, and to the public at large, says volumes about an organization and its values. It also indicates that the organization is efficient and well-run.

Urgent Call

At a few minutes past 5 p.m. on the day of a major donor event, when almost all of the staff is out of the office, the receptionist picks up a call from someone who wants to talk about making a gift. The receptionist can take a message; direct the call to the appropriate person's voicemail; or seek help from one of the few other staff in the office, the CFO's assistant. He chooses to ask for help.

The CFO's assistant, who already has her coat on, in turn has similar choices: to speak with the caller or to let the call go into voicemail. She chooses to take the call and learns that the caller needs to get assets out of the estate of someone on her deathbed.

The assistant is able to contact the CFO, who is out of town, not at the donor event.

He finds that not only is the gift urgent, the asset is an interest in a family limited partnership. From his hotel room, he manages to contact enough members of the gift acceptance committee to accept the shares. The gift of more than \$1 million was completed less than 24 hours after the initial phone call.

In the end, because the receptionist and the assistant cared — and knew enough about the organization — the gift was completed in time. Since then, the donor has given much more, and told her friends about the organization.

Consequences

Recently, I have been involved in two separate situations where donors changed the charitable beneficiary of trusts because they felt ignored by the original recipient or were dissatisfied with the stewardship they were (or more accurately, were not) getting.

Another couple I worked with had planned a bequest to a local organization, but changed the beneficiary to a different nonprofit doing similar work — not because they were poorly treated themselves, but because they felt that poor service had been given to others.

In the last few years, at least half a dozen people moved donor-advised funds to my community foundation because they were unhappy with the service elsewhere.

I have also heard people complain about how arrogant and uncaring entire organizations were, based on their experience with one staff member who did not return their phone calls, or did not respond to them or their organizations with respect. These responses were not about being turned down for a grant or not getting whatever it was they wanted. The problem was that they had not been treated decently.

Teamwork

Providing excellent service and stewardship to donors should be a given, but sometimes key elements of customer service are forgotten. It's not just the development staff that needs to be constantly aware of the service they are providing; all employees, board members, and volunteers are representatives of the organization.

It is essential that there be a general culture of customer service, both externally and internally. Unfortunately, sometimes

Continued on page 4

People avoid these organizations when possible.

**You don't know who
may be a future donor.**

Customer Service *Continued from page 3*

even the development staff lets key elements of good customer service lapse.

Poor or inconsiderate treatment of internal colleagues is not only rude, it also affects external perceptions. A planned giving officer recently lamented to me that because the business office would not return his calls he was concerned about losing a sizeable gift of real estate.

Poor treatment of a “random” caller will be remembered. It may be the difference between that person becoming a donor or not — and may be the subject of conversation with other donors or prospective donors.

And, of course, professional advisors will avoid those organizations with which they or their clients have had bad experiences, and rely on those they know they can count on.

A commitment to genuine customer service by everyone who represents the organization toward everyone with whom they come into contact — including clients, vendors, internal staff, and the general public — must be an integral part of the culture of the entire organization. Otherwise, the fundraising efforts, and the organization's entire reputation, will suffer.

You may never know when someone has been alienated. You don't know who may be a future donor. And everyone has friends and acquaintances. Most importantly, all people deserve respect.

How Do You Measure Up?

You probably adhere to most of the following practices instinctively, but sometimes simple, seemingly small items may be overlooked. Perhaps you will also find a few ideas that are new to some in your organization.

Keep in mind that your “customer” is any individual: donors, prospects, professional advisors, patrons, clients, vendors, and yes, co-workers.

Here are some key elements of providing excellent customer service. I've divided them into three different categories.

Obvious Items

These items seem obvious, but pay attention! It's easy to let some of these things slip:

- ◆ Be accessible. Give external customers your direct-dial telephone number.
- ◆ Look at a situation through the eyes of your customers. Consider their priorities.

- ◆ Make others feel they are a priority and provide them with a positive experience.
- ◆ Go the “extra mile” with customers, even when their inquiries may not be clear or if you don't have an immediate way of helping them.
- ◆ Have a can-do, positive attitude toward helping people, internally and externally.
- ◆ Recognize that others may have different work and communication styles, and be willing to adapt as necessary.
- ◆ Be on time for all meetings. If you are going to be late, notify those who are waiting for you about when you expect to arrive.
- ◆ Make notes, in paper or electronic files, when you have contact with donors and prospects so colleagues will have background information when they need it.
- ◆ Act with the highest professional competence and ethical standards.
- ◆ Be honest in your interactions with others.

Easily Overlooked Items

Here are some things you might not have thought about:

- ◆ Know more about “who does what” within the organization. This will not only help you find the right person to help a customer, it will probably also make your job more interesting and help you work more efficiently.
- ◆ Make sure your colleagues know what you do.
- ◆ Respond to voicemails and emails within 24 hours after receiving them and preferably within the same workday.
- ◆ Take personal responsibility for meeting the customer's needs, whether or not the issue relates directly to what you as an individual do at your organization.

Organization-Wide Initiatives

- ◆ Ask senior managers to provide brief “headlines” at all-staff meetings about what's going on and what's new.
- ◆ Does your organization's signage make it easy to find Reception, restrooms, and the other places visitors are likely to be looking for?
- ◆ This should go without saying, but donations should be processed and acknowledged within three days of receipt.

Continued on page 5

Beauty and the Beholder: New Rules for Non-Cash Gift Valuation

BY PHIL PURCELL

Beauty is truly in the eye of the *beholder* when appreciating works of art or other non-cash property for aesthetic value. However, Congress, Treasury and the IRS expect an objective standard when valuing such assets for tax benefits. Beauty is in the eye of the *appraiser*.

The Pension Protection Act of 2006 (PPA) created new rules for qualified appraisers and appraisals. These rules are considered very important by Congress and the IRS to curb abuse in the over-valuation of non-cash gifts for tax benefits.

While the PPA is two years old, many donors and gift planners are still unaware of its many requirements and new penalties. All gift planners should understand these rules to help inform donors so that they are sure to qualify for appropriate tax benefits, especially in the event of an IRS audit!

Qualified Appraisals

The PPA defines a qualified appraisal as an appraisal of property prepared by a qualified appraiser in accordance with generally accepted appraisal standards and any regulations or other guidance prescribed by the Secretary of Treasury (Treasury).

A taxpayer is required to obtain a qualified appraisal for donated property with a

value of more than \$5,000 with the following exceptions:

- ◆ Non-publicly traded stock of \$10,000 or less;
- ◆ A vehicle (including a car, boat, or airplane) if the donor's deduction for the vehicle is limited to the gross proceeds from its sale;
- ◆ Intellectual property;
- ◆ Certain securities considered to have market quotations readily available (see Regulations 1.170A-13(c)(7)(xi)(B));
- ◆ Inventory and other property donated by a corporation that are "qualified contributions" for the care of the ill, the needy, or infants, within the meaning section Internal Revenue Code (IRC) 170(e)(3)(A); or,
- ◆ Stock in trade, inventory, or property held primarily for sale to customers in the ordinary course of a trade or business.

Treasury regulations state that a qualified appraisal means an appraisal document that, among other things:

(1) relates to an appraisal that is made not earlier than 60 days prior to the date of contribution of the appraised property and not later than the due date (including

Continued on page 6

Many donors and gift planners are still unaware of the PPA of 2006.

Customer Service *Continued from page 4*

- ◆ A "first contact owns the issue" approach to customer service will help insure that no one gets dropped between the cracks. The person who took the original inquiry should follow up to make sure the customer has received what he or she needed.
- ◆ Make the most of technology. When anyone is going to be out of the office for more than one day, they should change their outgoing voicemail greeting to let callers know when they will return the call and/or be back in the office. Also, they should use their email "Out of Office Assistant." The messages should provide alternative contacts.
- ◆ If your organization uses an electronic calendar, everyone should keep it up

so colleagues can see when others are and are not available.

- ◆ Honor individual initiative, competence, and teamwork.
- ◆ Make sure there are opportunities to share how specific customer problems were solved, both as a way to help others with this situation and to recognize good customer service.

Conclusion

By being aware and making a commitment (personally and as an organization) to providing prompt and thoughtful assistance to everyone with whom you and your colleagues come into contact, excellent customer service will become a habit and a hallmark. You and your organization will earn a reputation for being the "go-to" organization among your peers. ◆

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The donor is expected to defend the appraisal in the event of an IRS audit.

Beauty *Continued from page 5*

extensions) of the return on which a deduction is first claimed;

(2) is prepared, signed, and dated by a qualified appraiser;

(3) includes (a) a description of the property appraised; (b) the fair market value of such property on the date of contribution and the specific basis for the valuation; (c) a statement that such appraisal was prepared for income tax purposes; (d) the qualifications of the qualified appraiser; and (e) the signature and taxpayer identification number of such appraiser; and,

(4) does not involve an appraisal fee that violates certain prescribed rules.

A very helpful resource for donors and appraisers is IRS Publication 561, *Determining the Value of Donated Property*, available at www.irs.gov.

Qualified Appraisers

The PPA defines a qualified appraiser as an individual who;

(1) has earned an appraisal designation from a recognized professional appraiser organization or has otherwise met minimum education and experience requirements to be determined by the IRS in regulations;

(2) regularly performs appraisals for which he or she receives compensation;

(3) can demonstrate verifiable education and experience in valuing the type of property for which the appraisal is being performed;

(4) has not been prohibited from practicing before the IRS by the Secretary at any time during the three years preceding the conduct of the appraisal; and,

(5) is not excluded from being a qualified appraiser under applicable Treasury regulations.

Who should pay for the appraisal? The responsibility rests with the donor to assure an appropriate valuation for his/her gift for which tax benefits are claimed. The donor is expected to defend the appraisal in the event of an IRS audit. Therefore, a best practice is that the expense for the appraiser fees should be paid by the donor, not the charitable organization donee.

IRS Form 8283

This form (“Noncash Charitable Contributions”) must be completed and attached to the tax return for a donor who claims an income tax charitable deduction of more than \$500 for all contributed property. Section A (front) of the 8283 form is used by

the donor to list only items (or groups of similar items) for which the donor claimed a deduction of \$5,000 or less. Also, the donor uses Section A to list certain publicly traded securities even if the deduction is more than \$5,000.

Section B (back) of the form is used to list only items (or groups of similar items) for which the donor claimed a deduction of more than \$5,000 per item or group (except contributions of certain publicly traded securities reported in Section A).

The appraiser signs the 8283 form in Part III if the donor completes Section B. As explained in IRS Publication 561 (page 10), a copy of the qualified appraisal need not be filed with the tax return except for the following gifts:

- ◆ Gifts of art for which the claimed deduction is \$20,000 or more;
- ◆ Gifts of any property for which the claimed deduction is more than \$500,000;
- ◆ Gifts of clothing or household item that is not in good used condition or better for which the claimed deduction is more than \$500; or,
- ◆ Gift of an easement or other restriction on the exterior of a building in a historic district.

IRS Form 8282

The PPA requires that this form (“Donee Information Return”) must be completed and filed by the donee charitable organization to report a sale, exchange, or other disposition of the donated property listed in Section B (back) of the 8283 form *within three years after the date of the gift*. Two exceptions that do not require the filing of this form include:

(1) if the value of the donated item is \$500 or less as designated by the donor on his/her 8283 form (Section B), or,

(2) if the donated item is consumed or distributed, without consideration, in fulfilling the purpose or function of the tax-exempt organization.

New Rules for Tangible Personal Property

The PPA requires that if a disposition by the donee of a gift of *tangible personal property* (e.g., art, equipment, collections, etc.) occurs in the tax year of the donor in which the contribution is made, the donor’s deduction generally is limited to its cost basis. If the disposition occurs in a subsequent year, the donor must include as ordinary income for the taxable year in which the disposition occurs an amount equal to the excess (if any) of (i) the amount of the deduction pre-

viously claimed by the donor as a charitable contribution with respect to such property, over (ii) the donor's basis in such property at the time of the contribution.

There is no adjustment of the tax benefit if the donee organization makes a certification by written statement that complies with the PPA and that is signed under penalties of perjury by an officer of the organization. A penalty of \$10,000 applies to a person that identifies applicable property as having a use that is related to a purpose or function constituting the basis for the donee's exemption knowing that it is not intended for such a use.

New Taxpayer Penalties

The PPA lowered the thresholds for imposing accuracy-related penalties on a taxpayer. For example, for income tax deduction valuation purposes, a *substantial valuation misstatement* exists when the claimed value of any donated property is 150 percent or more (formerly 200 percent) of the amount determined to be the correct value. A *gross valuation misstatement* occurs when the claimed value of any property is 200 percent or more (formerly 400 percent) of the amount determined to be the correct value.

The PPA tightens the thresholds for imposing accuracy-related penalties with respect to the estate or gift tax as well. Under the PPA, a *substantial estate or gift tax valuation misstatement* exists when the claimed value of any property is 65 percent or less of the amount determined to be the correct value (formerly 50 percent). A *gross estate or gift tax valuation misstatement* exists when the claimed value of any property is 40 percent or less of the amount determined to be the correct value (formerly 25 percent).

The penalty is 20 percent of the underpayment of tax resulting from a substantial valuation misstatement and rises to 40 percent for a gross valuation misstatement. No penalty is imposed unless the portion of the underpayment attributable to the valuation misstatement exceeds \$5,000 or \$10,000 in the case of a corporation other than an S corporation or a personal holding company.

No penalty is imposed with respect to any portion of the understatement attributable to any item if:

- (1) the treatment of the item on the return is or was supported by substantial authority; or,
- (2) facts relevant to the tax treatment of the item were adequately disclosed on

the return or on a statement attached to the return and there is a reasonable basis for the tax treatment.

In addition, the accuracy-related penalties do not apply if a taxpayer shows there was reasonable cause for an underpayment and the taxpayer acted in good faith in the case of a substantial valuation misstatement. Under the PPA, the "reasonable cause" exception to the accuracy-related penalty does not apply in the case of gross valuation misstatements.

New Appraiser Penalties

The PPA establishes a civil penalty on any person who prepares an appraisal that is to be used to support a tax benefit if such appraisal results in a substantial or gross valuation misstatement. The penalty is equal to the greater of \$1,000 or 10 percent of the understatement of tax, up to a maximum of 125 percent of the gross income derived from the appraisal. The penalty does not apply if the appraiser establishes that it was "more likely than not" that the appraisal was correct.

The Treasury is now authorized to discipline appraisers after notice and hearing. Disciplinary action may include, but is not limited to suspending or barring an appraiser from:

- (1) preparing or presenting appraisals on the value of property or other assets to the Treasury or the IRS;
- (2) appearing before the Treasury or the IRS for the purpose of offering opinion evidence on the value of property or other assets; and,
- (3) providing that the appraisals of an appraiser who has been disciplined have no probative effect in any administrative proceeding before the Treasury or the IRS.

Conclusion

Congress, Treasury, and the IRS have expressed significant concern for the overvaluation of non-cash gifts for many years. Gift planners must assist donors to understand that the beauty of non-cash gifts for tax benefits must be determined in the eyes of a qualified appraiser. ♦

WRITE US

PGT readers are invited to respond to articles appearing in the newsletter by writing a "Letter to the Editor." Articles, news, humorous anecdotes, and other items of interest to the planned giving community are also welcome.

Send editorial correspondence to: roger@pgtoday.com

The Treasury is now
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Are You Ready for Planned Giving?

BY FRED MATTHEWS

Not every nonprofit organization should start a planned giving program. In fact, launching a program without adequate planning can result in the kind of disaster that will take years to overcome.

Here are 11 questions to address before your organization gets in over its head with planned giving:

1. *Is the organization on solid financial footing?* Planned giving donors want to support an organization that's going to be around 100 years from now. Soft or marginal finances will not attract many planned gifts.

2. *Does a planned giving program fit the strategic plan and financial projections of the organization?* The program will require an investment for several years before a significant return can be expected — normally five to seven years. Is the organization willing and able to make this kind of investment?

3. *How will the funds be used?* Does the organization intend to use them for operations, establishing or building a reserve

fund, or developing an endowment? Each of these uses or a combination of them poses important marketing and promotion issues for the planned giving program.

4. *Does the organization have appropriate gift-acceptance policies and procedures?* Planned gifts, by their very nature, require much more detailed and long-term oversight and care than annual gifts or capital gifts. The board must approve the policies and procedures that ensure that the marketing/promotion, solicitation, and management of the gifts will be both ethically and procedurally proper.

5. *What types of planned gifts will the organization actively seek?* Most organizations start with a program to seek bequests and other simple planned gifts such as being named the beneficiary of various types of financial accounts or insurance policies.

6. *Are the members of the board personally committed to making planned gifts?* Board members need to seriously consider

Continued on page 10

The program will require an investment for several years.

Best Practices *Continued from page 1*

benefit of their donors and organizations, but gift annuities and the charities that offer them have faced a number of challenges in recent years. Between 1999 and 2004, which was when the last survey was conducted, the country experienced one of the worst bear markets in history.³ This substantially decreased the value of many charities' gift annuity reserves and caused charities to focus on the financial risk they incur when issuing gift annuities.

Not only was there risk in the financial markets, but a lawsuit in Texas that threatened to destroy the issuance of charitable gift annuities focused attention on the legal risks to institutions offering gift annuities.⁴

State regulators have increased their scrutiny of gift annuities and the organizations that issue them because of concerns over scams targeted at senior citizens by issuers more interested in financial gain than the charitable giving opportunity that gift annuities present. In 2002, The North American Securities Administrators Association (NASAA) issued a press release including charitable gift annuities as one of its "Top Ten Scams, Schemes, & Scandals" of the year.⁵ The ACGA responded

and it appears that NASAA has backed off from that assertion.⁶

The Arizona Commission Corporation's Security Division identified gift annuities as one of its top 10 scams.⁷ Much of this regulatory activity in Arizona was a result of the conduct by Mid America Foundation, which amounted essentially to a \$54-million Ponzi Scheme in which the principal used the donated funds to buy homes, to pay child support, and to support a lavish lifestyle.⁸

In 2003, The Securities Administrator in Maine issued a cease-and-desist order against a Maine insurance agent and the Tennessee based "New Life Corporation" for representing gift annuities as "guaranteed, no risk investments."⁹ The insurance agents selling these gift annuities also received a 6 percent commission.¹⁰ The Administrator's action prevented the sale of one annuity valued at more than \$1 million.¹¹

In the summer of 2003, Arizona state regulators secured judgments totaling \$4.3 million against an Arizona company and two insurance agents for fraudulently selling gift annuities, again representing them as secure investments.¹²

Continued on page 9

Best Practices *Continued from page 8*

Finally, gift annuities have come under increased scrutiny by The Internal Revenue Service. Early in 2007, the IRS issued a proposed rule that would make changes to the private annuity rules that would remove the ratable reporting of gain in the asset used to establish the private annuity, and while doing so requested comments as to whether the rules governing gift annuities should be similarly changed.¹³ NCPG and ACGA have filed comments opposing this new point. The results remain to be seen.

Gift annuities remain a well-respected and excellent way for many people to make gifts because the vast majority of organizations are acting responsibly and donors are satisfied with their gifts and the income they receive. The responses to challenges and pro-active activity by ACGA, by NCPG, and by many charitable organizations have met the regulatory challenges head-on and for the most part have been successful in preserving gift annuities as a viable gift option. To continue being successful and standing up under state and federal scrutiny, ACGA must continue to promote its mission:

Mission and Best Practices

The American Council on Gift Annuities actively promotes responsible philanthropy through actuarially sound gift annuity rate recommendations, quality training opportunities, and the advocacy of appropriate consumer protections.

In furtherance of those efforts and ACGA's mission, ACGA recommends the following best practices and encourages charitable organizations to utilize as many of them as possible.

Establishing Your Program

1. *Meet state regulations.* ACGA recommends that charities begin their programs by indentifying and meeting the State Regulatory Requirements in their State of Incorporation. Charities should also meet the Multi-State Expectations in all states in which they intend to issue gift annuities. Our interaction with state regulators indicates that the state of legal residence of the donor determines the need to register with the state.

The Philanthropy Protection Act of 1995 requires that a Disclosure Statement, containing specific information, be provided to the prospective donor. ACGA recommends that the donor be asked to sign the Disclosure Statement indicating that he or she has

received the document. Some states also require "state specific" Disclosure Statements that also must be used as needed.

Annual reporting requirements are to be filed on an ongoing basis with the states that require such reporting. A review of the ACGA Web site will help keep you up-to-date on the current requirements.

2. *Develop a gift policy that specifies what asset categories will be accepted.* Cash and appreciated securities are the most usual assets accepted for funding charitable gift annuities. Some organizations have chosen to accept real estate, tangible personal property, and intangible property under special situations. Care must be taken with "hard-to-sell" assets as they may create liquidity issues in the annuity reserve.

Situations will arise in which the organization will be asked (or demanded) to consider an exception to their policies. Therefore it is appropriate to have a procedure for making exceptions in advance of the request for an exception. This can save the organization and its support for unnecessary embarrassment.

3. *Establish minimum ages for immediate and deferred annuities.* The most common minimum age is between 60 and 65 years of age. Approximately 30 percent of institutions issuing gift annuities have a 55 age minimum. The average age of annuitants is 78. The younger the donor, the smaller the benefit to the donor of the arrangement because of the effects of inflation on the annuity distributions, and the smaller the benefit to the charity because of the work required over a longer period of time to maintain and steward the gift. Therefore, higher age limits increases the annuity benefit to the annuitant(s) as well as the benefit to the charity.

4. *Establish minimum amounts for a gift annuity.* Charitable organizations considering a gift annuity program are well advised to establish minimum gift amounts. The 2004 survey indicates that \$10,000 is the most common gift minimum in institutions of higher education.

We also found that \$5,000 is the usual minimum in religious and environmental organizations. The minimum chosen should ensure that the charity will realize a minimum gift in exchange for the effort in setting up the gift, its stewardship, and administrative expenses during the life of the annuity.

5. *Follow the ACGA rates.* Using the recommended rates of ACGA allows the individual charity to minimize risk. Use of the

Continued on page 10

The average age of annuitants is 78.

It takes time to develop a sound program.

Are You Ready? *Continued from page 8*

whether they personally will make planned gift commitments to the program. If there is reluctance or reticence, the program should not move forward until the cause(s) for these feelings are resolved.

7. *Is there at least one board member who is the “advocate” for planned giving?* There should be at least one member of the board who will be an ongoing champion of the program. When this person leaves the board (either through term limits or for other reasons) another person must be identified to fill this vital role.

8. *Is there someone on the staff with the time to consistently work on the planned giving program?* Too often the planned giving program is given to a current staff member as an additional responsibility or duty. Experience shows this usually does not work. Because actual gifts are years in coming, the press to work on activities that bring in current gifts crowd out the time that must be spent to have an effective planned giving program.

9. *Are the financial resources available and committed to planned giving for the next*

five to seven years? Like any fundraising activity, a budget must be created — based on a plan — for implementation of the program. It takes time to develop a sound program, cultivate relationships, and generate planned gifts.

10. *Does senior management support the program?* In addition to board commitment, the support of senior management is crucial. In addition to assuring staff time and budget for the program, senior managers should lend their personal support by making personal gift commitments to the planned giving program.

11. *Can the organization attract the support and interest of professionals in the community?* These professionals include those who are in the estate planning and wealth management fields. Can several of them be enlisted to assist the staff with technical questions and in helping promote the program based on the planned giving plan?

If the board can answer these 11 questions positively, or takes action to be able to answer them affirmatively, the organization has a strong foundation on which to build a planned giving program. ♦

Best Practices *Continued from page 9*

ACGA rates also usually reduces the need for the charity to have to obtain its own actuarial verification. The rates also provide for an anticipated 50 percent residuum. Our survey indicates that the residuum is more usually between 75 and 80 percent.

Use of the ACGA rates allows the individual organization to focus on the gift instead of the administrative support of a different rate structure. The rates are viewed by many as the “industry standard” and therefore add credibility to your donor relationships and your gift annuity program.

6. *Establish gift allocation policies.* As your program is established, create guidelines that ensure that the donor designation is honored at the time of the allocation of the gift. You will also want to ensure that all organizational units understand and appreciate the actual value they will receive. These policies will ensure donor confidence that their desires will be honored.

With these guidelines implemented, under the guidance of competent legal counsel, your organization will be in a better position to meet the needs of your constituency, your administration, and state regulatory bodies. With your program

established — or fine-tuned, as the case may be — you are ready to move on to meeting with donors and closing gifts.

Next month we will consider “Prospect Relationships, Disclosure, and Closing the Gift.” ♦

- 1 The “Report and Comments on the American Council on Gift Annuities 2004 Survey of Charitable Gift Annuities” is available at www.acga-web.org/orderform06.pdf
- 2 *Supra*, See the ACGA 2004 Report’s Introduction
- 3 *Supra*
- 4 *Supra*, and Ozee, et al. v. The American Council on Gift Annuities, Inc., et al., www.pgdc.com/usa/item/?itemID=30453
- 5 See Charitable Gift Annuities Make Regulator’s Top 10 Scam List, Planned Giving Design Center, September 19, 2002, www.pgdc.com/usa/item/?itemID=54550.
- 6 See comments by the ACGA at www.acga-web.org/scams.rhtml
- 7 See Commission News, www.azcc.gov/divisions/securities/news_releases/2002/Apr01c-02.pdf
- 8 See Tax Analyst Summary on the Planned Giving Design Center’s Web site at www.pgdc.com/usa/item/?itemID=54550
- 9 See Testimony of Christine A. Bruenn, NASAA President and Maine Securities Administrator, U.S. Senate Committee on Banking, Housing and Urban Affairs, May 7, 2003, http://www.nasaa.org/Issues___Answers/Legislative_Activity/Testimony/555.cfm
- 10 *Supra*
- 11 *Supra*
- 12 See the press release by the North American Securities Administrators Association, September 4, 2003, “State Securities Cops: Senior Investors Facing a Perfect Storm for Investment Fraud” http://www.nasaa.org/NASAA_Newsroom/News_Release_Archive/1552.cfm
- 13 See www.ncpg.org/gov_relations/Annuity_lettermcpaggadd.asp, and www.acga-web.org/IRShearingletterJan07.pdf

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What's So Special About Gift Annuities?

You have probably heard or read about charitable gift annuities and wondered why all the excitement? Why does ABCharity offer these and why are donors obtaining these? What's so special about gift annuities?

1. With a gift annuity, you give the cake and eat it too. By that, we mean you receive annuity payments after you give your gift. You give and receive — what can be more special than that?

For example, Ann Nuity gave \$10,000 to ABCharity for a gift annuity. She is 75 years old and for the rest of her life, she will receive payments totaling \$_____ every year. ABCharity wins too, because we receive whatever is left after Ms. Nuity is gone.

2. With a gift annuity, you receive fixed payments for life. That is, your annuity payments will not change over time. It doesn't matter what happens to the economy; your payments will continue to be the same amount year in and year out. You can count on it!

3. You not only help yourself, you help ABCharity with your gift annuity. This is so because part of what you give for a gift annuity is considered to be a charitable gift, a much-needed gift to help us carry our work into the future. Your gift helps us fulfill our mission.

4. There are tax advantages as well. These may include a charitable income tax deduction, an estate

tax deduction, and even capital gains tax relief. In other words, the IRS looks favorably upon charitable gift annuities and actually rewards folks for using these to help organizations like ABCharity.

Would you like to learn more about gift annuities and how they can help you *and* ABCharity? Simply fill out the form below and mail it to the address below. Or you can call our planned giving office at (number).

PLEASE COMPLETE AND MAIL THIS FORM

Dear Friends at ABCharity:

- Please send me (us) a free illustration to show the benefits of having a gift annuity with ABCharity.
- Please send me a personalized illustration of a gift annuity.

Age(s): _____ / _____

Amount: \$_____ Asset: cash stock

- Please contact me (us) about a personal visit. The best time to call me (us) is:

- Please send information about the ABC Heritage Society.

Name(s): _____

Address: _____

City: _____ State: _____ Zip: _____

Phone Number: _____

Mail this form to:
ABCharity, 123 Main Street, Anytown

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On My Way . . .

◆ **Rails to Success.** I recently attended a regional planned giving conference in Southern California sponsored by the Planned Giving Roundtable of Southern California. I was there as one of 16 presenters and roughly 50 sponsor representatives mingling among the 275 or so attendees. It was a well-run conference and, from comments I heard, exceptionally valuable. I had been there several years previously as a speaker and was pleased to return. Love the PG folks in Southern California, the palm trees, and the radiant sun.

Debbie Bills, one of the co-chairs of the program committee, said, “I think the Western Regional Planned Giving Conference is well-known for providing an excellent opportunity for networking and meeting great people in the industry . . . the conversations and new relationships you build during an event like this, as well as the exposure to such wonderful people, are as invaluable as the technical information you receive.”

This dual emphasis on technical training and relational networking is typical of planned giving conferences, whether national, regional, or local in scope. It is typical because both things are necessary for our success in planned giving.

While I didn’t “ride the rails” down the coast from Seattle, I did think about railroad tracks when I reflected on the conference and the theme, “The Path to Successful Planned Giving, Taking the Lead.” I thought maybe we should consider the “path” as two tracks running side by side — technical expertise and relational effectiveness.

I recall a readership survey we did 15 or so years ago in which we asked what the reader considered most important for success in planned giving: technical expertise or relational skills. We also asked about length of time in planned giving.

Those who identified themselves as PGOs with two years or less experience said that the technical outweighed the relational in importance. Interestingly, those who were at the other end of the longevity scale in planned giving pointed to relational skills as paramount. We need both to succeed.

What local council programs, as well as regional and national conferences on planned giving, teach us year after year is that it takes two “rails” to get the train down the track. The engine of philanthropic desire pulls the different vehicles of planned giving techniques along the parallel rails of techni-

cal know-how and relational skills toward the destination of a planned gift.

Planned giving officers are sometimes considered conductors orchestrating the various elements and persons involved in completing a planned gift. We might also use the term “conductor” in a railroad sense in that we are onboard helping the passengers (donors, professional advisors, family, etc.) reach their common destination successfully.

We invite “all aboard” and walk the aisles of conversation to see that everyone is enjoying the ride. We conduct the train to the station.

Newcomers to planned giving may rank technical expertise more highly because they feel such inadequacy in this area and see how badly they need to know these things. Those who’ve been “riding the rails” for years know all the clicks and clacks and have learned that building solid relationships are important in keeping folks from jumping off at various whistle stops, not to mention a disgruntled professional that might derail the whole process.

I feel a song coming on: “She’ll be comin’ ‘round the mountain when she comes . . .”

◆ **Stewardship Counts.** We hosted a couple recently for three days here at our mountain home. And as is always the case, we had lots of time to chat. With my background in planned giving, I found it particularly interesting to probe the experiences and opinions of this couple who have been so generous over the years to their alma mater . . . and the lack of follow-up information pertaining to the scholarship endowment they had established.

Our conversations reminded me of similar concerns voiced by other donors who felt let down by those organizations that worked so enthusiastically to obtain the initial gift. I’m talking about stewardship and missing the opportunities for further gifts because the donors are disappointed.

In the case of our friends, they were mulling over a gift of \$150,000 and were asking questions of themselves (and me) whether or not they really wanted to do this.

Good stewardship provides regular information about investment results, use of endowment payouts, and ongoing appreciation. Every donor can influence others in his or her circles of family and friends to get involved . . . or to stay clear. Sometimes it’s better *not* to land a planned gift than to get one and fail the stewardship test. ◆

— GRS

NEXT MONTH

- ◆ **Doing the Ethical Thing**
- ◆ **A Tale of Two Endowments**
- ◆ **Best Practices for Gift Annuities, Part II**
- ◆ **And More . . .**

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