

Sarah MacEachern - Sat, 4/20/2013 - 00:00

By including the non-profit in her will or living trust, a donor has elevated your organization to the same status as family members, friends, and other loved ones. Through proper stewardship you can ensure that this decision is a life-affirming one for the donor and remains in place, perhaps even growing in the process.

With diligent gift administration, you come full circle by ensuring that the donor's desire to make a difference is realized to the fullest extent possible. You do this by seeing to it that your organization receives all that it is entitled to, as quickly as possible. Diligent oversight is particularly important in the case of residual gifts (percent of the estate), where costs and fees all affect the bottom line and there is often delay in making distributions.

There are additional benefits to effective bequest administration. When volunteers and donors see how well you treat bequest gifts from others, they will be more inclined to arrange their own estate gift. Also, you will be rubbing shoulders with estate planning attorneys and other professional advisors in the course of the estate administration. Now is your chance to make a good impression and show by your actions that estate gifts (and by implication the donors of these gifts) are important to, and valued by, your organization.

The Process

A bequest made through a will (versus living trust) is going to be subject to probate, an essentially unpredictable process. Not only may assets be hard to track down, difficult to value, or hard to sell, but often there are unforeseen creditor issues and family disagreements. Moreover, the details associated with the process will differ considerably, depending on which state's law governs.

Having said this, on average most estates will take nine months to a year to complete. If the estate is of sufficient size to be subject to estate tax, it usually takes 16 -18 months to administer the estate due to the filing of an estate tax return.

The amount of effort and vigilance required for a particular bequest gift depends on its nature. If it is a *pecuniary* bequest, e.g., "I give \$10,000 to XYZ Charity," the

amount of oversight needed will be small. For the most part, your involvement will be limited to ensuring that the gift is distributed in a timely manner.

This may also be the case where the donor has made a *specific* bequest identifying a particular piece of property, e.g., 50 shares of Microsoft stock. However, watch out for gifts of property you might not want to accept, e.g., real estate located near a Superfund cleanup site. Beyond publicly traded securities, gifts of property should be carefully evaluated and probably approved by your gift acceptance committee.

And with a residual gift, as one planned giving officer puts it, “your antennae should be up!”

The Mechanics

To administer estate gifts effectively you should have the following in place: 1) a filing system, 2) “to do” checklists, and 3) a tracking method (“tickler system”).

Files

Open a new file for each estate gift. If you have a lifetime file for the decedent, combine these two files together so that you have all information about the donor available in one place. Decide whether the files will be disbursed throughout your other planned giving donor files (in order to keep a strictly alphabetical arrangement in place) or whether you will have a special section for matured estate gifts. If the former, you should color code the labels or the files themselves for quick identification. Be sure that the files are stored in a secure area with limited access as they will contain sensitive information.

An estate file should contain the following information:

- a copy of the final will or living trust document, with any amendments (“codicils”) or restatements
- copies of all other legal documents and notices received
- the Inventory and Appraisement (if it is a trust, a listing of assets or some other information regarding the value of the trust)
- copies of all accountings
- copies of checks and associated paperwork
- copies of correspondence sent and received related to the gift

While you need to have a physical file, it is also very helpful to have an electronic file as well. This will help with quick document retrieval, location of specific information, and ease sharing of information where appropriate.

Checklists

When notified of a matured estate gift, complete an estate file information sheet. This form should summarize all of the most pertinent information about the gift, including contact information, and can be placed in the front left side of the file for easy reference as well as kept electronically.

Use checklists for opening and closing files to make sure that all the proper steps are taken. You can work with an estate planning attorney to help put together these checklists (actually, their paralegal will probably be the most helpful!), or ask your planned giving colleagues to share samples of what they use. Samples were also provided as part of a recent PG Calc webinar on this topic. These can be adapted to incorporate the unique internal processes within your organization.

Tracking

It is very important that you have a system for monitoring progress and reminding you of important dates. The idea is to follow-up sufficiently so that the gift is received as quickly as possible but not at inappropriate times or to the point of unwarranted annoyance. One professional fiduciary said she welcomes frequent contact from charities but cautions development officers to tickle contacts appropriately and check their notes before calling. In other words, don't call for an update a week after the last call, when the personal representative said nothing would happen in the estate for a least a month!

You also don't want to miss an important legal deadline such as the time period for objecting to a final accounting or disclaiming a gift. There are software packages, including *Bequest Manager* by PG Calc, that are designed specifically to help manage the process for each estate gift.

One important date to keep in mind if the bequest is of a specific piece of property is the "Disclaimer Date". Any beneficiary may decide that it does not want to receive particular property it has been left in the will. It may give up its rights or "disclaim" this property and never be in the chain of title. This right must be exercised within a particular time period, often within nine months of the decedent's date of death.

While realizing each estate will be unique, and timing will depend heavily on the diligence of the personal representative, the ease with which heirs can be located, the type of assets, etc., some general timing guidelines are:

- specific bequest – review 5-6 months after notification. For smaller specific bequests attorneys will generally advise their clients to distribute at four months or soon after expiration of the creditors claim period. If this is not the case, tickle for review at the 9-12 month mark.
- residual bequest – review 5-6 months after notification to receive a copy of the inventory. Review 5-7 months after that to make sure that the estate is closing.

If the estate must file a federal estate tax return, calendar the final review for about 18 months after notification. With residuary bequests, attorneys will generally advise their clients to wait to distribute until after the federal estate tax return has been filed and the IRS has signed off on the return. A PR has nine months from the date of death to file the federal estate tax return but in almost all cases they will request the available extension of six months, for a total of 15 months. Then there is a three- to four-month wait for final IRS approval and sign-off.

In between the initial check and the final check you will want to be in fairly frequent contact. Exactly how often depends on the nature of what is in the estate and what stage it is in, e.g., you might be in contact on a weekly basis during the time real estate is being sold. One non-profit was the residual beneficiary of artwork which the PR decided to place for auction with Sotheby's. In that case they tickled the file to check-in a few days after the auction date to see what the outcome was.

Final Tips

- Select one person or office to be in charge of the monitoring of bequest gifts. Be sure everyone in the organization knows who this person is. This will require periodic reminders!
- Be ready for the initial notification of a matured estate gift. Have a letter for the attorney ready to go, with your 501(c)(3) letter and a completed IRS Form W-9.
- Remember family members and/or friends of the deceased donor with initial condolences, and further stewardship as seems appropriate and time allows.
- Some PRs are very open to contact from charities and the other beneficiaries while others are more private and don't wish to be contacted. The estate

attorney can guide you as to the appropriate level of engagement in a particular situation.

- Respond in a timely manner and be cooperative.
- Don't be shy about asserting your organization's rights. Remember that you are now the steward of your donor's final wishes, at least as they pertain to your organization.

Concluding Thoughts

Bequest administration is sometimes given short shrift at non-profits. It can be seen as an afterthought, a clean-up process where checks are simply collected. However, it can and should be so much more.

Effective administration helps to maximize the gift an organization receives and minimize the time in which it is received. It helps build good relations with the professional advisors community, often the gateway to estate gifts from donors who are their clients. It also helps in the cultivation of donors. Careful handling of matured bequest gifts can instill in your donors a sense of trust that their final gift would be well-used and inspire them to arrange their own bequests to your organization.

It is well worth the investment to make sure you have good bequest administration systems in place and the necessary staff time to do the job well.

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