“The Art of Gift Planning”

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<u>THE ART OF GIFT PLANNING</u>

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THE ART OF GIFT PLANNING

I. Overview

Charitable organizations depend on gifts from donors to carry out their missions. Annual fund drives to raise operating funds, emergency appeals for unexpected expenses, and multi-year capital campaigns to raise funds for endowment, facilities, and other strategic priorities are examples of common fundraising efforts.

The various ways of structuring charitable gifts are often referred to as "planned gifts" and the process of making these gifts as "gift planning." Planned gifts include bequests, beneficiary designations for insurance policies and retirement plans, charitable remainder trusts, gift annuities, charitable lead trusts, and other vehicles. Planned gifts also include gifts of assets, such as securities, art, insurance policies, and real estate.

The following are practical tips for helping clients make larger and more meaningful gifts than they ever thought possible.

II. Introducing Planned Giving into the Estate Planning Process

Do discuss philanthropy with your client as part of the estate planning process. Clients in the following situations might benefit from a discussion of philanthropic planning options:

- The client is providing current financial support to a charitable organization.
- The client has no children.
- The client already has made a planned gift
- The client volunteers for a charitable organization.
- The client owns highly appreciated assets.
- The client is facing an unusually large tax bill because of a sale of a business, a taxable merger, a minimum required distribution from a retirement plan, a receipt of income in respect of a decedent, or some other income-recognition event.
- The client wants to control the disposition of assets that otherwise would go to the IRS as income or estate taxes.

Do discuss the client's values and interests and determine if there is charitable intent. Tax and economic considerations alone will not justify making a planned gift.

Don't explain technical details of planned gifts in legalese. **Do** describe what planned gifts can accomplish in plain English.

Do involve the charity in the gift planning discussion. The best results for both the client and the charity are achieved when there is communication with the charity. The role of the charity's representative is to help the donor make a gift that will carry out the charity's mission in a way that is beneficial to the charity and the donor. Usually a visit to the charity's website or a quick phone call can lead you to the person who can help.

Do take advantage of resources that a charitable organization can offer to professional advisors. Many organizations' websites have content with detailed information about planned gifts that is specifically for professional advisors, including sample gift documents and bequest language. They often have gift calculators to help you prepare illustrations of charitable remainder trusts, gift annuities, lead trusts and other planned gifts for your clients. Some charitable organizations will serve as trustee of charitable remainder trusts and lead trusts.

Do discuss whether the donor wants the gift to create an endowed fund. An endowed fund is a permanent fund, with only the endowment payout being used for the purpose specified by the donor. A donor may wish to name the fund after himself or herself, family members, or others.

Do make sure that the charitable organization accepts and manages endowed funds and inquire about policies regarding minimum funding amounts. Gifts to a charity's general endowment usually do not require a minimum amount, but gifts to establish a separate named endowed fund typically do.

Do keep in mind that a charitable organization's current policies on endowed funds may change by the time a bequest written today or a remainder interest in a charitable trust is delivered to the charitable organization, so it is important to provide flexibility.

Do suggest that the client enter into a gift agreement with the charity to specify the terms of the gift. See Attachment 1 for a sample gift agreement to establish an endowed fund.

III. Pointers on Charitable Bequests and Beneficiary Designations

Do identify the charitable organization correctly**.** Verify the particular organization the donor wishes to support, especially if there are several organizations with similar names or if there are both national and local chapters of an organization. Call the organization to get the correct legal name and taxpayer identification number so that there is no confusion. In *McDonald & Company Securities Inc., Gradison Division v. Alzheimer's Disease and Related Disorders Association, Inc. et al.,* 747 N.E.2d 843 (Ohio App. 1 Dist. 2000), the beneficiary named in an IRA was the "Alzheimer's Research Center." Three organizations claimed the gift. Because the beneficiary could not be determined with certainty, the IRA proceeds were divided equally among the three charities.

Do discuss the purpose of the charitable gift with your client *and* with the charity. A charitable gift that simply names a charitable organization is an unrestricted gift that will be used by the charitable organization for its most pressing needs. It is not enough to ask a client which organizations she wants to support; also ask if she wants the charity to use the gift for a particular purpose, find out if the charity can use it for that purpose, and ask whether she wants to create an endowed fund.

Don't make the bequest overly restrictive. It is better for the bequest language to reflect the essence of what the donor is trying to accomplish. Detailed administrative procedures such as requiring a specific minimum SAT score or GPA in a bequest for a scholarship can quickly become outdated. If the purpose is too narrow, the bequest may become impossible to use. The Smithsonian Institution recently petitioned the U.S. District Court in D.C. to modify a restricted endowed fund and restricted gift created by a bequest of a collection of a specific type of insect (Hemiptera-Heteroptera) and an endowment for the purchase of specimens and collections of these insects to add to the donor's collection. The Smithsonian is seeking to expand the use of the fund for additional purposes related to its entire Hemiptera-Heteroptera collection. Sometimes the best option for the charity is to disclaim a bequest that is overly restrictive.

Do build in flexibility for the use of the gift in case of unforeseen contingencies. This is especially important with endowed funds, which are permanent. As professionals in gift planning often point out, perpetuity is a long time. Some ways of providing flexibility include:

- Provide for an alternative purpose. If the donor's initial purpose cannot be carried out, provide for other purposes in the order of the donor's preference. For example, "if the amount is not sufficient to establish an endowed chair, then an endowed professorship may be established. If the amount is not sufficient to establish an endowed professorship, then the fund may be used for faculty support."

- Include a clause that allows the charity to use the gift in a way that most nearly accomplishes the donor's initial purpose. This saves that charity from having to go to court in a cy pres or UPMIFA modification action.

- Provide for an alternative to endowment if a minimum amount is not met when the gift becomes available to the charity. Allow the charity to establish a non-endowed fund for the same purpose or allow the charity to add the gift to its general endowment.

- Provide that the gift will go to another charitable organization if the specified purpose cannot be carried out at the initial charity.

- Include a reversion clause for the gift to go back to family members. Be careful about not jeopardizing the tax deduction.

Do update the charitable bequest from time to time. Perhaps the names of the organization or its programs and departments have changed since the will was first drafted. Perhaps a $500,000 bequest drafted 20 years ago to endow a chair for research in Alzheimer's disease will not meet a current minimum gift requirement of $2 million. Perhaps the charity no longer does research on a specific disease because a cure has been found.

Do ask the charitable organization for sample bequest language. *See* Appendix 2 – Sample Charitable Bequest Language.

Do suggest that your client consider making a bequest through a retirement plan beneficiary designation. Charities are not subject to income tax, and a charitable estate tax deduction will be available for the amount passing to charity. If a charity is named as beneficiary, the charity will receive 100% of the proceeds without any reduction for income or estate tax, while the proceeds could be subject to both income and estate tax if left to an individual beneficiary. If a client wants to benefit both charity and family members, consider using the retirement plan for the charitable gift and life insurance or other assets not subject to income tax for family members.

Do consider drafting an agreement on how a charity should use distributions from a retirement plan or insurance policy. Beneficiary designation forms often don't provide enough space to specify how the charity is to use the gift. *See* Appendix 3 – Agreement on Use of Testamentary Gifts.

IV. Pointers on Stock Gifts

Do let the charity know if the donor is going to transfer stock to its brokerage account. If the charity does not know who gave the stock, it cannot send a tax receipt and it will not know how the donor wants the gift to be used.

Don't use last year's instructions on how to transfer stock. Call the charity or check its website for the current information.

Do make sure the stock has been held for more than a year if the donor wants a deduction at fair market value.

Do give stock that has appreciated so that capital gain can be avoided.

Don't give stock that is worth less than its cost basis. The charity is tax exempt so a tax loss is wasted.

Don't ask the charity to hold on to the stock. Restrictions affect the valuation for the tax deduction. An expected merger can fall through and the stock price can drop.

Do start the transfer process well before the end of the year to ensure a deduction in that tax year. Keep in mind that mutual fund shares often take much longer to transfer than individual shares of stock.

V. Pointers on Real Estate Gifts

Don't expect the charity to accept property that is problematic – if the real estate is a problem for the donor, then it will probably be a problem for the charity. Unmarketable property, highly mortgaged property, property with multiple owners, and property with environmental issues may be declined by a charity.

Don't give real estate that the charity is legally bound to sell to a buyer in the wings. This would cause the donor to recognize the capital gain.

Do start the transfer process well before the end of the year to ensure a deduction in that tax year. The charity may need to do a site visit, conduct an environmental assessment or survey, and get board approval.

Do get a qualified appraisal if the deduction claimed exceeds $5,000. See the rules under IRC Section 170(f)(11).

VI. Pointers on Life Income Plans (Charitable Remainder Trusts, Gift Annuities, Pooled Income Funds)

Do consider all of the options. One size does not fit all. Ask the client the following questions:

- Do you need or want to keep income from your gift? How much?
- Do you want fixed income or variable income with the potential for growth?
- Do you want the income for life or a term of years?
- Do you want to provide income to another person or persons?
- How important are income, gift, and estate tax savings?
- What assets are available to make a charitable gift?
- What is the value of these assets?
- Are the assets separate or community property?

The answers to these questions will determine whether the attorney should recommend a charitable remainder unitrust, a charitable remainder annuity trust, an outright gift, a charitable gift annuity, a deferred gift annuity, a pooled income fund gift or another option.

Do consider a charitable gift annuity as well as a charitable remainder annuity trust if your client wants a plan that pays fixed income. Each has its advantages and disadvantages.

Do choose a trustee of a charitable remainder trust with care. Some charities will serve as trustee of CRTs benefiting the charity. If the trustee is an individual, does he know how to administer the trust so that payments and tax filings are timely and correct? A corporate trustee may be the best choice in some cases. A perfectly drafted CRT will not be a qualified trust under IRC Section 664 if it is not administered properly. The case of *Atkinson v. Commissioner*, 115 T.C. 26 (2000), aff'd, 309 F3d 1290 (11th Cir. 2002), cert. denied 124 S.Ct. 388, held that an *inter vivos* charitable remainder annuity trust did not function exclusively as one for two reasons. First, although the donor was named as a primary beneficiary of the trust, she did not receive any annuity trust payments during the two years from the time she created the trust until her death. Second, the trust was invaded to pay estate taxes attributable to the interest of one of the secondary beneficiaries.

Do make sure the trustee and investment advisor understand how the investment of trust assets affects the taxation of the beneficiary's income under the four-tier system of IRC Section 664(b).

Do consult the IRS specimen agreements for CRTs, but **don't** follow them blindly.

Don't choose such a high payout for a CRT that it will not last for the beneficiary's life (for an annuity trust) or will have smaller and smaller payments (for a unitrust) because the principal is invaded each year to make the payout.

Don't fund a CRT with mortgaged property or with a residence that is still occupied by the trust beneficiary. The trust would not be a qualified CRT.

VII. Charitable Lead Trusts

Do consider recommending a charitable lead trust for affluent clients when the IRS discount rate is low. The transfer tax benefits are greater in a lower interest environment. For example, the gift tax deduction for a $1,000,000 charitable lead annuity trust paying 6% to charity in quarterly installments for 20 years is $970,300 using the March 2014 applicable federal rate of 2.2%. If the same trust was established using the November 1999 applicable federal rate of 7.4%, the gift tax deduction would have been only $633,180.

Don't fund a charitable lead trust with highly appreciated and undiversified assets. A lead trust, unlike a charitable remainder trust, is a taxable entity. A trust funded with highly appreciated stock in just a few companies will force a trustee to choose between selling to diversify holdings (possibly incurring tax) or holding an undiversified portfolio subject to market risk.

Don't forget about the generation-skipping transfer tax if grandchildren are beneficiaries. Most lead trusts benefitting grandchildren are set up as CLUTs because the GSTT exemption can be allocated with certainty when the trust is created.

CONCLUSION

It is important to focus on the gift element when helping a client include philanthropy in his estate and financial planning. After the specific gift vehicle has been chosen, drafted, and eventually administered, will the charity understand what the donor intended her gift to accomplish? By including a representative from the charity on the planning team, both the client and the charity can achieve a better result.

ENDOWED FUND GIFT AGREEMENT

The purpose of this Gift Agreement ("Agreement") is to summarize the mutual understanding of ______________ ("Donor") and Charity regarding Donor's gift to Charity.

1. Pledge and Schedule of Contribution

The Donor pledges to donate $________________________ to Charity for the purpose described in this Agreement. Pledge payments will be made as follows:

- $______ due and payable on or before ___________, 20__.
- $______ due and payable on or before ___________, 20__.
- $______ due and payable on or before ___________, 20__.

Payments may be made in cash or marketable securities at Donor's discretion. If any portion of the pledge is paid in marketable securities the value shall be the average of the high and low price of each security on the date of contribution to Tulane.

2. Use of the Gift and Administration of Endowed Fund

After receipt of at least $__________, Charity will establish the ___________________________ Endowed Fund ("Fund"), the income from which shall be used for ______________________. The initial gift and any future contributions to the Fund shall constitute an endowed corpus that will be established, held, invested, maintained, and administered by Charity in perpetuity according to its policies and procedures for endowed funds.

3. Changed Circumstances

If, in the opinion of the Board, all or part of this gift cannot be usefully applied to the above purpose due to changed circumstances, they may use the gift for any purpose that in their opinion will most nearly accomplish Donor's wishes and purposes.

4. Miscellaneous

- Applicable Law: This Agreement shall be governed by the laws of the state of Louisiana without regard to conflict of law principles.
- Effective date: The effective date of this Agreement is the date on which the last of the parties signs it.
- Multiple Counterparts: This Agreement may be signed in multiple counterparts, all of which shall constitute one original instrument.
- Amendment: This Agreement may be amended at any time by written agreement signed by each party. The effective date of any amendment will be the date on which the last of the parties signs it.
- Satisfying commitment through other entities: Donor acknowledges that she/he is aware that satisfying a personal pledge through a donor advised fund, private foundation, charitable remainder trust, or other entity may have adverse tax consequences or may be prohibited, so the Donor's tax advisor should be consulted if she/he plans to fulfill this commitment through another entity.

DONOR	**NAME OF CHARITY**
______________________________	___________________________________
Name	By:
	Its:
Date:__________________________	Date:______________________________

Sample Charitable Bequest Language

Note: Include the legal name of the charitable organization.

Unrestricted Bequests
An unrestricted bequest is one for the general use of the organization at the discretion of its governing body. An example of such a bequest is:

"I give and bequeath to *charitable organization*, New Orleans, Louisiana [the sum of $______] [____ percent of my residuary estate] [the following property] for its general support."

Restricted Bequests
Donors may restrict the use of their bequests. A restricted bequest might read as follows:

"I give and bequeath to *charitable organization*, New Orleans, Louisiana [the sum of $______] [____ percent of my residuary estate] [the following property] to be used for ____*state purpose*___). If, in the opinion of the *organization's governing body*, all or part of this bequest cannot be usefully applied to this purpose due to changed circumstances, they may use the bequest for any purpose that in their opinion will most nearly accomplish my wishes and purposes."

Bequests for Endowed Funds
Endowed funds are perpetual funds from which only the income is distributed. Bequests may be designated for the organization's general endowment or for the establishment of an endowed fund named after one or more persons or an entity. Named endowed funds can be unrestricted or restricted. Check with the charitable organization to see if it administers endowed funds and find out if minimum gift amounts are required. A current minimum amount may be more by the time a bequest is received.

General Endowment
"I give and bequeath to *charitable organization*, New Orleans, Louisiana [the sum of $______] [____ percent of my residuary estate] [the following property] to be added to its general endowment, the income from which shall be used for its general support."

Unrestricted Named Endowed Fund for General Support
"I give and bequeath to *charitable organization*, New Orleans, Louisiana, [the sum of $______] [____ percent of my residuary estate] [the following property] to be used to establish the '______________ Endowed Fund,' the income from which shall be used for the general support of the university. If the total amount distributed to *charitable organization* as a result of my death for the establishment of this endowed fund is not sufficient to establish an endowed fund under *charitable organization's* policies and procedures at the date of distribution, such amount shall be used to establish a non-endowed fund for the same purpose."

Restricted Named Endowed Fund for Specific Purpose
"I give and bequeath to *charitable organization*, New Orleans, Louisiana, [the sum of $______] [____ percent of my residuary estate] [the following property] to be used to establish the '____________ Endowed Fund,' the income from which shall be used for (state purpose). If the total amount distributed to *charitable organization* as a result of my death for the establishment

of this endowed fund is not sufficient to establish an endowed fund under *charitable organization's* policies and procedures at the date of distribution, such amount shall be used to establish a non-endowed fund for the same purpose. If, in the opinion of the *organization's governing body*, all or part of this bequest cannot be usefully applied to this purpose due to changed circumstances, they may use this bequest for any purpose that in their opinion will most nearly accomplish my wishes and purposes."

It is recommended that restricted provisions be described as broadly as possible and that detailed limitations be kept to a minimum to enable the charitable organization to use the bequest despite changed conditions. Please consult with the organization's development office before drafting restricted provisions to assure that they can be implemented according to the donor's desires.

The language given here is only suggested language and is meant to be used only with the advice of the donor's attorney.

Appendix 3

AGREEMENT ON USE OF TESTAMENTARY GIFTS

1. Introduction

The purpose of this Agreement is to summarize the mutual understanding of ___________ ("Donor") and _______________ ("Charity") regarding the use of any funds or assets received as a result of the death of Donor, whether through an IRA, retirement plan, insurance policy, will, trust, or other arrangement.

2. **Description of Gift**

Donor has named Charity beneficiary of her retirement plan and may make other gifts to Charity that will be effective upon her death. Charity shall use any funds or assets received as a result of the death of Donor to establish the ____________________ Fund" ("Fund"). However, if Donor's will or beneficiary designation forms specify that Charity use the gift for a different purpose, the specific written provision of the will or beneficiary designation form shall govern.

3. Purpose and Administration of the Fund

[If endowed – Charity will establish the _______________ Endowed Fund. The initial gift and any future contributions to the Fund shall constitute an endowed corpus that will be held, invested, maintained, and administered by Charity according to its policies and procedures for endowed funds. The endowment income shall be used to _________________________________. If, in the opinion of Charity's Board, all or part of the Fund cannot be usefully applied to the above purpose due to changed circumstances, they may use the Fund for any purpose that in their opinion will most nearly accomplish Donor's wishes and purposes. If the amounts received by Charity as a result of Donor's death do not meet the minimum amount then required to establish an endowed fund, then a non-endowed fund shall be established for the same purposes stated above.]

[If non-endowed – Charity will establish the ____________________ Fund as a restricted, non-endowed fund. The Fund shall be used to ______________________. If, in the opinion of Charity's Board, all or part of the Fund cannot be usefully applied to the above purpose due to changed circumstances, they may use the Fund for any purpose that in their opinion will most nearly accomplish Donor's wishes and purposes.]

This Agreement may be amended at any time by written agreement signed by each party. The effective date of any amendment will be the date on which the last of the parties signs it.

DONOR	NAME OF CHARITY
___________________________________	____
Name	By: Its:
Date:_____________________________	Date:_____________________________________

GREATER NEW ORLEANS FOUNDATION

For a vibrant region.

www.gnof.org

Type of Fund	Description	Endowed or Non-Endowed
Unrestricted	Client does not want to direct grants and wants the Foundation to determine what organizations receive the grants	Generally endowed
Field of Interest	Client wants to support a particular area of interest, i.e. education, arts and culture, health and human services, etc.	Generally endowed
Donor Advised	Client wants to support specific organizations with assurance that recommendations will be honored	Either
Designated	Client wants to support the same organization(s) every year	Endowed

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QUESTIONS FOR PROFESSIONAL ADVISORS TO ASK CLIENTS ABOUT CHARITABLE GIVING

1. Are you currently involved with any non-profit organizations and in what capacity?

2. Do you typically support the same organizations every year or do these vary from year to year?

3. How do you decide which non-profits to support?

4. Do you give the same amount every year? Upon what does it depend?

5. Which donations have provided you with the greatest satisfaction?

6. Are there any donations that you have regretted?

7. Do you turn to anyone else in or outside of your family for input in determining which organizations to support and how much to give?

8. What types of assets have you used when you have donated in the past? Cash, checks, appreciated stock, other non-cash assets?

9. Do you have any charitable vehicles in place? A private foundation or a donor advised fund?

10. Do you want to donate primarily during your lifetime or after your death?

Greater New Orleans Foundation
For a vibrant region.

	Donor Advised Fund	Private Foundation	Supporting Organization
Donor Involvement			
Control	Donor recommends grants to Foundation's Board for approval; GNOF is responsible for asset management	Board of Trustees has complete control of grantmaking distributions and responsibility for asset management.	GNOF Board of Trustees has majority membership.
Administrative			
Investments	• Money market • Endowment Pool	Individual financial advisor	Individual financial advisor
Distribution Requirements	None	5% of net asset value annually, regardless of how much the assets earn	None
Costs	None to establish	Significant costs for legal, accounting and filing fees to establish	Minimal
Time to establish	Immediate	Several months	Few months
Minimum Contribution Recommended	$5, 000 – non- endowed $25,000 - endowed	$5 Million	$2 Million
Taxes	None	Excise tax up to 2% of net investment income, including net capital gain	None
Administration / Reporting	All record keeping and accounting performed by GNOF	Annual tax returns including detailed financial schedule	All record keeping and accounting performed by GNOF
Deductibility of Gifts	Cash gifts deductible up to **50%** of adjusted gross income (AGI); gifts of appreciated property deductible at fair market value (up to 30% of AGI)	Cash gifts deductible up to **30%** of adjusted gross income (AGI); gifts of appreciated property deductible at fair market value (up to 20% of AGI)	Cash gifts deductible up to **50%** of adjusted gross income (AGI); gifts of appreciated property deductible at fair market value (up to 30% of AGI)
Privacy and Recognition	Up to each donor, but a fund's individual assets are confidential	Must file detailed and public tax returns on all grants, investments, fees, trustee names, etc.	Up to each donor, but a fund's individual assets are confidential
Liability and Insurance	N/A, covered by GNOF	Any director or officer insurance, employee bonding and office insurance must be purchased	N/A, covered by GNOF

Grantmaking			
Grantmaking	Donor has access to GNOF staff for research and expertise; recommends grant; no required time period; GNOF staff monitors grantee reporting.	Board and staff must do research, review and monitor proposals, and keep up with grantee reporting. 5% of net asset value must be granted annually.	Donor has access to GNOF staff for research and expertise; recommends grant; no required time period; GNOF staff monitors grantee reporting.
Anonymity	Yes	No	Yes
Self Dealing*			
Exposure to Penalties	No	Yes	No

Some common examples of self dealing include: credit card usage for personal expenses; attending fundraisers; excessive compensation; soft money investment fees; non-exempt expenditures; fullfilling a personal pledge

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THE U.S. TRUST STUDY OF THE PHILANTHROPIC CONVERSATION:

Understanding advisor approaches and client expectations

OCTOBER 2013

Conducted in partnership with The Philanthropic Initiative (TPI)

U.S. TRUST
Bank of America Private Wealth Management

Overview

The vast majority of high net worth (HNW) individuals give to charity, and many feel that philanthropy is an important aspect of their wealth experience. HNW individuals are increasingly relying on professional advisors for support with their charitable activity[1]. However, the philanthropic conversations with and advice provided by their advisors are not always aligned to their needs. Several disconnects between HNW individuals and advisors center on the initiation and substance of their philanthropic discussions. Such discussions can play an important role in an individual's or family's wealth experience and have implications for their wealth planning and management. These conversations can also help advisors deepen relationships and grow their businesses by connecting with clients on something truly meaningful to them.

To better understand the extent and dynamics of philanthropic conversations taking place between wealthy individuals and their advisors, U.S. Trust recently partnered with The Philanthropic Initiative (TPI) on a study of advisors' approaches to and HNW clients' expectations of these discussions.

The following key findings from the study, conducted in August 2013, are based on an online survey of a random sample of more than 300 advisors—including wealth advisors, trust and estate attorneys, accountants and other tax professionals—and a random sample of 120 HNW individuals with $3 million or more in investable assets who are actively engaged in charitable giving. The study was conducted by Phoenix Marketing International, an independent market research firm, on behalf of U.S. Trust and TPI, with all data tested for statistical significance at the 95% confidence level.

Key Findings

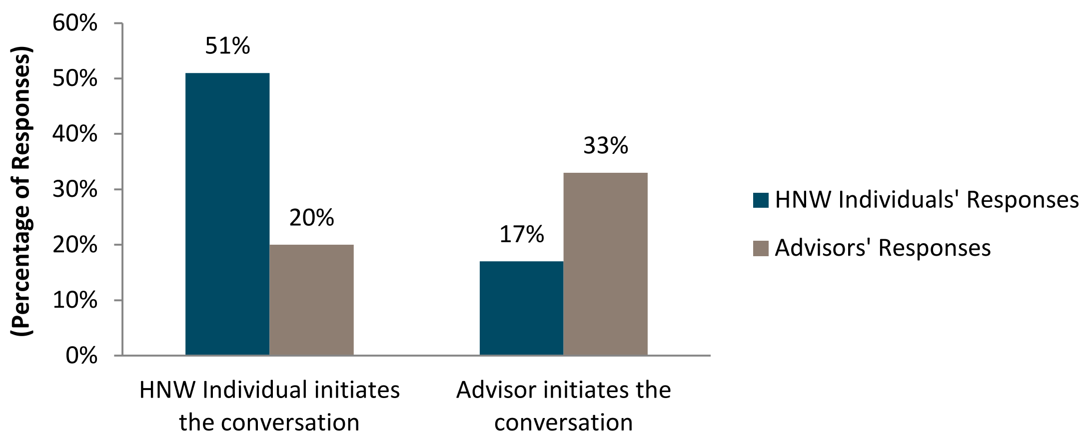
THE PHILANTHROPIC CONVERSATION: LOOK WHO'S TALKING

The study found that most advisors (88%) believe these discussions are important to have with their clients—with many (46%) considering them to be very important. In keeping with these findings, the study also found that most advisors (89%) discuss philanthropy with clients to some degree, and 71% make it their regular practice to ask clients about their interest in charitable giving. Perhaps because advisors deem the philanthropic conversation to be so important, 54% will revisit the subject even if their clients initially appear to be disinterested in discussing their charitable activity.

Professional advisors and the HNW clients they serve are in disagreement about the frequency of these discussions and who initiates them. Contrary to the fact that most advisors (89%) say that they discuss philanthropy with at least some of their clients, only 55% of HNW individuals say they discuss philanthropy with a professional advisor—with an additional 13% open to such discussions. Most HNW individuals (90%) say they do discuss charitable giving with someone, if not their advisor—often a spouse or partner (84%), other family members (48%) or friends (37%), or with a nonprofit organization to which they give (33%).

One-third of advisors (33%) say they are the one to initiate these discussions with their clients, and that clients initiate them just 20% of the time. However, among HNW individuals who report having discussed philanthropy with an advisor (55%), half (51%) say that they are typically the one to initiate the conversation, and that their advisor brings up the subject on their own just 17% of the time.

Chart 1: Who Initiates the Philanthropic Conversation: Depends on Who You Ask



What matters more to HNW individuals than who initiates the philanthropic conversation is that it be had in a meaningful way early in the relationship. Advisors indicate that they are more likely to bring up the subject of philanthropy once they have greater knowledge of a client's personal (40%) or financial goals (47%), or when they are aware that a client volunteers or is active in the community (43%). However, fully one-third (34%) of HNW individuals feel the topic should be raised during their very first meeting, and virtually all (90%) agree that this discussion should occur within the first several meetings with their advisor.

Among advisors who discuss philanthropy with their HNW clients, nearly all (91%) encourage their clients to give to charity, with 41% of advisors doing so regardless of a client's asset level. However, half (50%) of advisors prefer to wait until a client has accumulated at least $500,000 in liquid assets before encouraging charitable giving, and one-quarter (24%) place the starting point at $3 million or more.

Approximately half of advisors (48%) discuss their own charitable giving with their clients, which the study found to be a good idea. Many HNW individuals (34%) – whether they discuss philanthropy with an advisor or not – say that they would be more open to discussing charitable giving, or would perceive the value of philanthropic advice from an advisor to be greater (43%), if they were aware of the advisor's own philanthropic engagement.

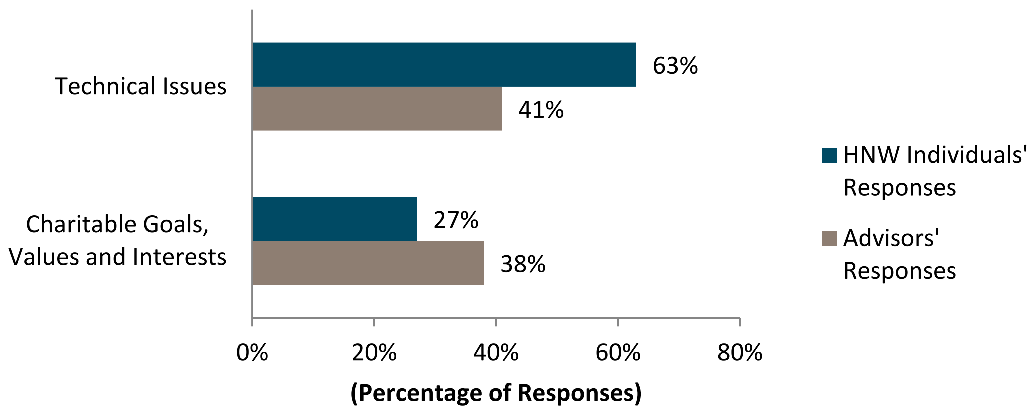
CLIENTS SEEK VALUES-BASED CONVERSATIONS: DEEPENING THE DISCUSSION

Less than half of HNW individuals (47%) feel that professional advisors are good at discussing personal or charitable goals with them. This feeling doesn't improve all that much even among individuals actually discussing philanthropy with an advisor, with just 63% finding their advisor to be proficient at rendering philanthropic advice.

This may be one of the reasons why less than half of HNW individuals (41%) are fully satisfied with these conversations. Another reason may be that twice as many advisors (71%) say that they raise the philanthropic discussion from a technical perspective—focusing on tax considerations or wealth structuring, for example — compared to those who do so beginning with their clients' philanthropic goals or passions (35%).

Once initiated, 41% of advisors say their further philanthropic discussions also center on technical issues, compared to 38% who tend to focus more on their clients' charitable goals. HNW individuals report otherwise, with nearly two-thirds (63%) finding that ensuing discussions with their advisor about charitable giving tend to center on the more technical issues, while just 27% indicate that these discussions center on their charitable goals, values and interests.

Chart 2: Focus of Philanthropic Discussions: More Technical Issues than Personal Goals



Despite this disconnect, many individuals (73%) who discuss philanthropy with an advisor still believe such conversations are important, and the vast majority (82%) still feel that their advisor plays an important, if not very important (33%), role in their charitable giving.

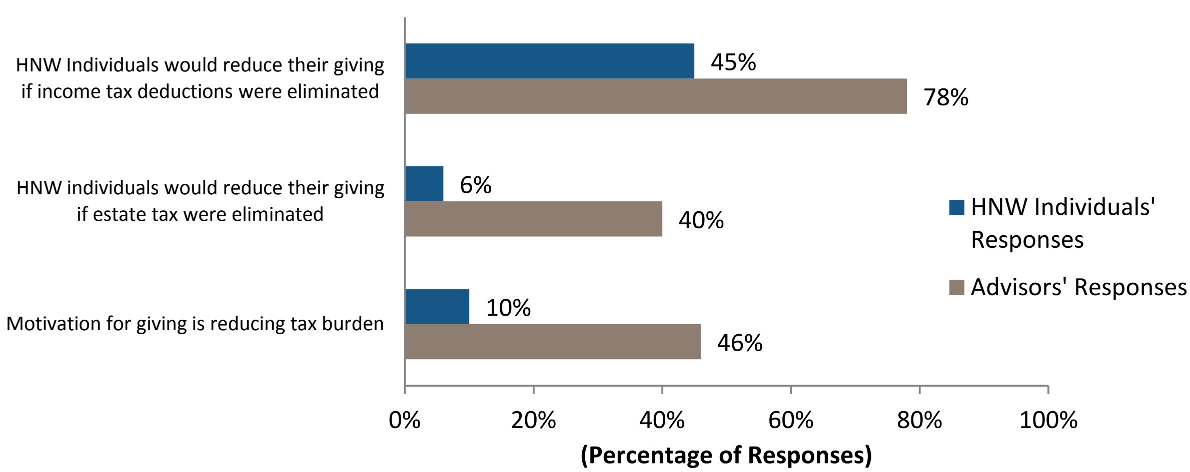
WHY PEOPLE GIVE AND WHY THEY DON'T: KNOWING WHAT MATTERS MOST TO CLIENTS

The top three reasons why advisors believe their HNW clients engage in charitable giving are consistent with the top motivations reported by HNW individuals themselves, which are: being passionate about a cause, having a strong desire to give back, and having a positive impact on society and the world. After that, however, reasons provided by HNW individuals and advisors differ significantly:

- The next three most cited reasons by HNW individuals were: to encourage charitable giving by the next generation (30%), religious or spiritual motivations (23%), and because they believe giving back is an obligation of wealth (22%). Meanwhile, advisors believed their clients' next most popular motivations would include: reducing their tax burden (46%), religious or spiritual reasons (41%), and creating a family legacy (30%). The study found that, in fact, just 10% of HNW individuals cite reducing taxes among their motivations for giving.

- Further evidence of a disconnect on the topic of taxes was found when advisors cited a belief that 40% of HNW individuals would reduce their giving if the estate tax were eliminated, and that 78% would do so if income tax deductions for donations were eliminated—whereas just 6% and 45% of HNW individuals, respectively, indicated that they would reduce their charitable giving if these tax policy changes occurred.

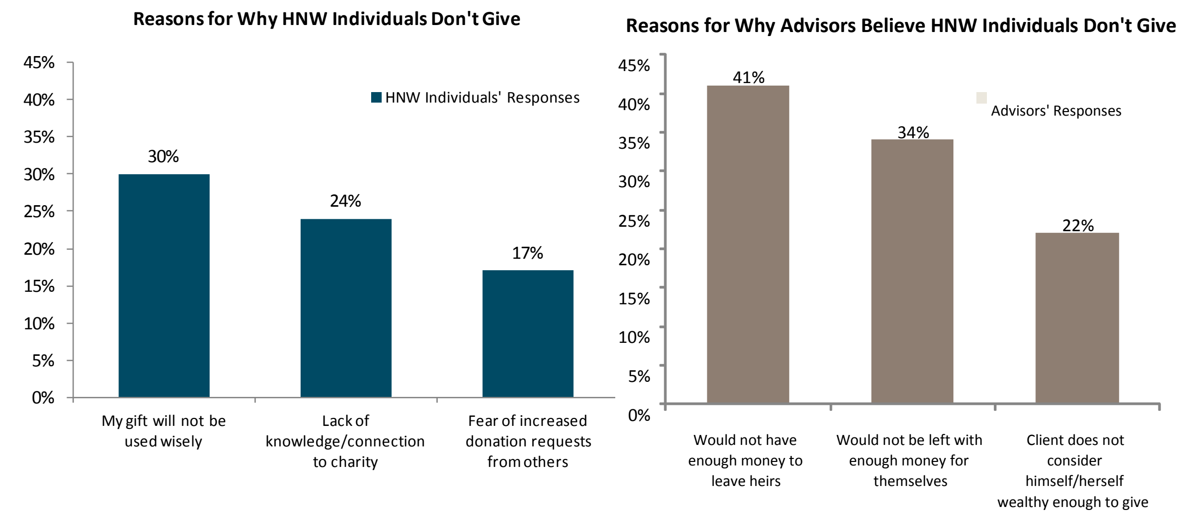
Chart 3: Tax Benefits as a Motivation for Giving: Less Important than Advisors Think



The reasons advisors and HNW individuals cite for why HNW individuals don't give or hesitate to give to charity differ even more starkly:

- Advisors are under the misimpression that the top reasons HNW individuals may shy away from giving are that they won't have enough money to leave to their heirs (41%), they won't be left with enough money for themselves (34%), and they don't consider themselves wealthy enough to give (22%). To the contrary, HNW individuals cite a concern that their gift won't be used wisely by a nonprofit recipient (30%), their lack of knowledge about or connection to a charity (24%), and fear of increased donation requests from others (17%).

Chart 4: Inhibiting Factors of HNW Giving: Advisors Perceptions Not Always on the Mark



UTILIZATION OF GIVING VEHICLES

According to the *2012 Bank of America Study of High Net Worth Philanthropy*, the majority of wealthy donors (71%) give strategically, and have a plan for their giving versus merely responding to requests for donations. This strategic focus has resulted in more HNW donors utilizing structured giving vehicles — such as donor-advised funds, private/family foundations and charitable trusts — to help achieve their philanthropic goals.

Our study here found that the use of giving vehicles is correlated with more advisor involvement – among HNW individuals who discuss philanthropy with an advisor, 47% use one or more structured giving vehicles when making donations to charitable organizations—while such vehicles are used by just 12% of individuals who don't discuss philanthropy with an advisor.

One-third (32%) of HNW individuals indicate that discussions with their advisor about philanthropy have included advice about giving vehicles and/or help in setting one up. And, among individuals who discuss philanthropy with an advisor, 84% feel confident that their advisor is knowledgeable about these vehicles.

ENGAGING THE NEXT GENERATION

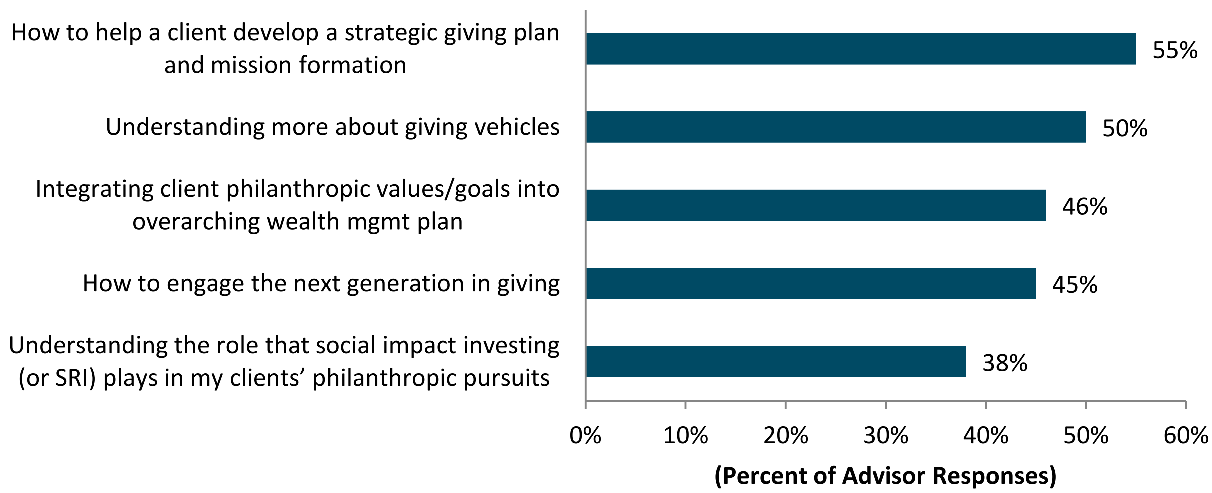
The study found that a mere 14% of advisors are likely to raise the topic of philanthropy with clients (who have children) for the purpose of helping to instill charitable values among the next generation. Affirming this, just 9% of HNW individuals report that their advisor has suggested involving children and grandchildren in such discussions. Yet nearly half (45%) of HNW individuals feel it is important to involve children and grandchildren in discussions with their advisor about charitable giving.

VALUABLE KNOWLEDGE

Nearly one-third of HNW individuals (31%) indicate that they would be more likely to choose an advisor who is knowledgeable about charitable giving. More than half of advisors (57%) plan to increase their knowledge about philanthropy and to better their ability to advise clients about charitable giving.

- Among advisors interested in becoming more proficient at rendering philanthropic advice, the areas they would most like to learn about are: developing a strategic giving plan (55%); understanding more about giving vehicles (50%); becoming better at integrating a client's philanthropic values and goals into an overarching wealth management plan (46%); engaging the next generation in giving (45%); and the role that impact investing (or Socially Responsible Investing) plays in their clients' philanthropic pursuits (38%).

Chart 5: Hot Topics: What Advisors Want to Learn About Philanthropy



GOOD FOR CLIENTS, GOOD FOR BUSINESS

Three out of four (74%) advisors say that discussing philanthropy with clients is good for their business for a variety of reasons, including that it: presents a more comprehensive and holistic approach to managing a client's wealth (24%); demonstrates greater interest in their clients' charitable goals and aspirations (18%); shows clients that they are interested in more than just their clients' money (13%); and provides insights that help advisors better serve their clients (13%).

Many advisors (75%) find discussing philanthropy with clients to be an excellent way to deepen relationships and establish new relationships (54%). Many HNW individuals (40%) agree that discussing philanthropy with an advisor has, in fact, deepened their relationship.

More than half of advisors (56%) have also found that discussing philanthropy with clients has helped them build relationships with members of the client's extended family – this proved most true among wealth/financial advisors (64%).

CONCLUDING THOUGHTS

The philanthropic conversation between professional advisors and their clients is important to have early and often. And while these discussions may be happening, they are falling short of their potential. HNW individuals are looking to advisors to help them fulfill their philanthropic missions, involve the next generation, and leave a legacy. They are also seeking more values-based discussions with advisors about their philanthropy — conversations that go beyond tax considerations and include life goals, values and passions — so that they can achieve their philanthropic ambitions for themselves, their families and their communities.

U.S. TRUST

About U.S. Trust Institutional Investments & Philanthropic Solutions

U.S. Trust, Bank of America Private Wealth Management is dedicated to the philanthropic and nonprofit communities. Through U.S. Trust Institutional Investments & Philanthropic Solutions we put our strengths and resources behind every mission — be it a nonprofit organization or a philanthropic individual or family. We provide specialized advisory, administrative and investment solutions to both nonprofit organizations and private philanthropic clients that help transform their charitable goals into meaningful action. We tailor mission-focused solutions and offer ongoing advice and guidance through a close working relationship with a dedicated advisor, helping organizations and individuals turn missions into milestones.

About The Philanthropic Initiative

The Philanthropic Initiative (TPI) is an innovative philanthropic consulting firm that helps corporations, foundations and families develop and execute customized strategies to increase the impact of their giving. Working nationally and globally, TPI helps donors achieve philanthropy that is more strategic, effective and fulfilling, and helps professional advisors build the capacity to do the same with their own clients. Over the past 25 years, TPI has directed more than a billion in philanthropic dollars and influenced billions more.

[1] *2012 Bank of America Study of High Net Worth Philanthropy*