JUST GIVING:

MATCHING YOUR RESOURCES WITH YOUR VALUES

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"When you leave this earth, you cannot take with you anything you received, only what you have given."

St. Francis

I. Framework – Defining Values

If you are listening tonight, you already believe that it is important to give back to your community – whether by volunteering, donating cash or other assets to charitable causes you support, or both. Most often, we give simply by writing a check every year. How we plan to use our social capital is a very personal process. Seeing the big picture and ordering our priorities helps us define our goals for ourselves, our family and the causes that we support. Too often, the charitable giving process is driven by tax considerations, particularly when working with professional advisors, who may be more comfortable discussing technical, rather than personal reasons, to employ our social capital effectively.

A. Ascertaining Your Values and Goals

The primary goal in financial and estate planning is first to provide for yourself and your spouse or significant other. If you have children, their needs come next. Too often, we focus on leaving our children or other beneficiaries enough – but not on the values we want to instill in them. Charitable giving is seen as a way to shift capital from the government (via taxation) to the charitable activities we support, not as an aid to instilling our values in our heirs.

- Underlying values

Try approaching the process in a different way today. Ask yourself the following questions before jumping into the numbers. They are intended to stimulate your thinking about the bigger picture and what is really important to you:

1. To whom do you feel a sense of responsibility or obligation regarding the distribution of your wealth?

    - Self/spouse/significant other

    - Children or other individuals you care about

    - Community

2. Are you financially secure?

3. How much do you need to feel secure?

4. If you own liquid assets (cash, publicly traded stocks), does your approach to investing reflect your social values?

   (a) Do you engage in socially responsible investment? Shareholder activism?

   (b) Do your tax, investment and estate planning advisors understand your goals? Are they equipped to help you use your social capital to effect those goals.

5. How do you want to be remembered?

6. By whom?

7. What kind of legacy do you want to leave for your children?

8. How much?

9. How do you want your children to use this legacy?

10. Do you have a plan to achieve your goals for your children?

11. Are your children trained in handling the wealth you intend to leave them? If not, you can begin the process by providing the opportunity for them to learn these skills by using a charitable fund or family investment partnership.

12. What values would you like to pass to your children?

13. What would your children say your values are?

14. What causes do you support?

15. Would you like the activities you support to continue after your death?

16. Are there other causes you would like to support?

17. How do you feel about treating the community as one of your children?

18. Have you chosen to direct your social capital personally or to allow the government to do it for you, through taxation?

- Taxes

While the mechanics of structuring a charitable gift may be more complicated, the decision to make a charitable gift on death is fairly straightforward. Ask yourself the following: Taking into account all of the taxes you have paid over your lifetime (income, capital gain, excise, property, etc.), if you were required to give estate assets away, and your only choices were the Federal Government as a charitable recipient and all other philanthropic purposes, which would you choose?

[ ] Federal Government 100%, Charitable Organizations 0%

[ ] Federal Government 50%, Charitable Organizations 50%

[ ] Federal Government 0%, Charitable Organizations 100%

[ ] Federal Government _____%, Charitable Organizations _____%

Most in this room would direct all to our favorite charitable causes as that allows us to choose the purposes for which these dollars are spent. The tax rules would affect this decision, too, in many cases: Estate taxes are themselves subject to tax while charitable gifts at death pass free of income and estate taxes.

B. Implementation

One powerful way to leave money to your favorite cause is to designate a portion of the future growth in your estate, over its present value, to go to the community. You can establish a formula so that your children will receive the after-tax portion of what you presently have, and the rest, or part of the rest, goes to a donor advised fund or community/charitable organization so that your children can spend on the community but not themselves.

Or, you can leave a fixed sum of your assets to a charitable organization in your memory, or in the memory of another family member or loved one. You can set this up so that your children choose the organization.

II. Using Family Philanthropy as a Learning Lab for You and Your Children

I encourage you to create a charitable fund each year. You put in most of the money and ask the children to contribute to the fund as well. You could ask them to give to the fund what they would have spent for a holiday gift for you. Then have a meeting to discuss where the money will be contributed. Ask each child to recommend an organization he or she believes in and tell the family why. You and your family then make the decision. This may vary for each family. Once the decision is made, take your children with you and deliver the check to the organization.

This approach has several potential benefits. If pursued, you will create a family tradition of giving to the community. You provide a model to your children as to what you believe in and this helps you connect with your children at a deeper level. It pulls the family together, including grandchildren, should you include them, in an activity that goes beyond the bounds of family. The family as a unit also connects to the larger community. This creates strong relationships among family members. Finally, this approach is the best I know of for you to discuss your values with your children, and it helps establish a healthy stewardship of wealth.

You can also perpetuate the tradition of giving through gifts at death to a family fund or foundation that future generations can use to support their communities. This is a gift to future generations, imbued with your values and wisdom about the importance of community. Such a fund will shape the identity and character of future generations and it empowers future generations to effect changes in their communities.

In the end, there is no loss of legacy to your children. In fact, there is a gain because what you give to the charitable legacy is not diminished by taxes. I call this your charitable legacy to your children. Since your children will have to spend this portion of their legacy on the community, you have provided them with the opportunity to become involved in ways that will enrich their lives as well as their children's lives.

III. <u>Giving To Community As Extended Family</u>

There is an inner value to giving that improves heart and health. Your inner sense of well being is heightened. Planning your estate to express your personal values takes the emphasis off of wealth building, asset protection, and taxes, and shifts the focus to what you can do with your wealth for yourself and others. This is true enlightened self-interest.

Once you take this path, you'll begin a whole new field of learning about how to give. You'll move beyond simple check writing in response to a letter or phone call to the realm of grant making. This can be as simple or as complicated as you like. There are several resources available for you to help make grants such as community foundations, nonprofit development officers, and consultants.

Community foundations, as the name implies, can be found in most areas and have program staff who know about local nonprofit organizations. Community foundations also let you set up donor-directed funds of several types that allow you to have all of the fun of giving money away while delegating the administrative burdens, at a low cost, to the community foundation. Types of funds include donor-advised, scholarship, agency designated, supporting organization, corporate, and others.

An often overlooked source of information in grant making is the fund development staffs at nonprofit organizations such as local community foundations, hospitals, educational, social, or religious organizations in which you may have specific interest. In addition to sharing ways in which you can support their organization, they can also help you identify other organizations you might be interested in and how to fund them.

Foundation consultants are also useful both in determining if a private foundation should be established and in running one. A consultant can also serve as an alternative to hiring staff when the private foundation has a small asset base.

When you begin thinking of the community as extended family, you make better connections and meet new people whose life's work has been much different from yours. You will develop a sense of participating in making your community a better place that will be part of your legacy to your children and grandchildren, and you will find meaning and joy through connecting with others.

IV. Be Tax Savvy in Your Giving

You want to establish your personal and family goals before proceeding to consider tactics and tools to accomplish these goals. Failure to use this order distracts your attention away from your deeper goals. Keep in mind that the tax techniques are more about "keeping" or "saving" than they are about "giving."

Once you have focused on your values and determined an interest in supporting community needs, you may move to some of the more complex areas of charitable gift planning. I offer three ideas to you:

- The first is naming a community organization as the contingent beneficiary of a retirement plan or IRA. A good choice for such family charitable legacy can be a donor advised fund with the local community foundation. Other types of nonprofits as well that have sophisticated development departments, such as hospitals, colleges and universities, social, or religious organizations offer many types of funds as well. You probably know that upwards to 80% of a retirement plan will be drained by taxes unless you plan otherwise. With this technique, the children will control 100% of the funds that they can use to make their communities a better place.

- The second idea is setting up a charitable remainder trust to implement a more flexible investment strategy free from immediate tax on capital gains. By designating one of the above-mentioned organizations as the remainder beneficiary of such a trust, you can create a charitable legacy for your children and grandchildren to use in community work.

- The third idea is using a charitable lead trust to give money to grandchildren without incurring gift taxes. A trust providing income to charity for 10 to 20 years can provide grandchildren with a substantial gift at a later point in their lives (such as to fund their college education) and benefit the charity now.

V. Internalizing This Approach

If I were not certain that it is better to give than to hold on, I probably wouldn't even bring up the subject of charitable giving, even though is it my clients' money, not mine, that is at issue. Jacob Needleman, in his book Money and the Meaning of Life, says: “Greed is inevitable in the absence of an inner aim.” As a planner, the greed I see in clients is usually unconscious and manifests itself in excessive attachment to their wealth. For example, a client in his late 60s asked me, in all seriousness, if I could assure him he would have enough to live on after he made a gift of about $1 million to his children out of his $70 million estate. I help my clients to focus on their inner values and their desires for their children and for those organizations that they have supported during their lives. This process leads them to inventory what is in their heart as well as what is on their balance sheet. When my clients can begin to make decisions from their hearts, excessive attachments begin to dissolve. A gift made from the heart will not be experienced as a loss; it will be replaced with a sense of connection to something larger and will bring meaning and purpose into their lives.

Summary of Planned Giving Vehicles

Outright gifts such as gifts of cash or other assets are the most common form of contributions made to a charitable organization during your lifetime. These gifts can range from small donations of cash or property to large endowments. The following is a brief overview of the most commonly used charitable planned giving vehicles available for structuring planned gifts to charity.

Bequest Gifts

A bequest may provide for a specific dollar amount, a percentage of your estate, or specific asset(s) to be given to a charity in support of its various programs and endeavors after your lifetime. A bequest may also be in the form of a gift of the remaining assets of one's estate. Bequests, like other gifts, can be designated for many purposes or given without restriction.

Retirement Plans

Individual Retirement Accounts (IRAs), tax-sheltered annuities, Keogh plans, 401(k), 403(b) and other qualified pension and profit-sharing plans can also provide significant support for charitable organizations. You need to inform your retirement plan administrator that you wish to name a designated charity as a beneficiary of the plan. If your beneficiary designation form is completed properly, the funds will pass to that charitable organization outside of probate and free of all taxes.

Life Insurance

In many cases, a gift of life insurance can often be the easiest and most substantial gift that an individual can make to charity due to the power of leverage. Many individuals in their 20's, 30's and 40's favor this option because it allows them to make a much larger gift than they would otherwise be able to make. It is also important to note that, for older individuals, gifting an existing policy that has outlived its original purpose (college costs for children, mortgage payoff, income replacement for a spouse who has passed away) is easy to do and makes good sense.

Charitable Trusts

A charitable remainder trust makes a distribution to you, you and your spouse, or other beneficiaries for life or a specified term of years (a maximum of 20 years), with the balance of the assets available for the use of the designated charity at the end of the trust.

Charitable remainder trusts offer many opportunities to address specific goals and situations. For example, a charitable remainder trust established for a term of years can assist in funding college education costs for a child or grandchild. Also, charitable remainder trusts are frequently used as a means of providing supplemental income during retirement, and can be especially attractive as away to convert appreciated, low-yielding assets into a high-yielding diversified portfolio without incurring immediate capital gains tax. When you establish a charitable remainder trust, you receive a partial charitable deduction equal to the value of the charitable remainder interest.

Charitable remainder trusts take two basic forms: the charitable remainder unitrust and the charitable remainder annuity trust.

A *Charitable Remainder Unitrust* makes a payment based on a percentage of the fair market value of the trust assets as determined annually. Because a unitrust pays a variable payment based on the annual market value of the trust assets, this form of charitable remainder trust can be an effective hedge against inflation. When the value of the trust principal increases, so will the income to the individual beneficiary. There are a number of variations of charitable remainder unitrust, including “net income” unitrusts, “net income with makeup” unitrusts, and “flip” unitrusts, which may provide the savings and opportunities for the deferral of income.

A *Charitable Remainder Annuity Trust* makes a payment based on a percentage of the initial value of the trust and never changes. Since the annuity payment does not change during the term of the trust, an annuity trust provides the certainty of a fixed payment each year regardless of any fluctuations in the value of the trust assets.

Charitable Lead Trust

A charitable lead trust is the mirror-image of the charitable remainder trust. The initial or “lead” interest is for the benefit of the designated charity. You transfer assets to a charitable lead trust, which distributes its income to the designated charity for a term of years. At the end of the trust term, the trust distributes the trust assets to designated noncharitable beneficiaries, usually children or grandchildren (or trusts for their benefit).

By establishing a charitable lead trust, you are, in effect, “lending” the assets to a designated charitable organization for the term of the trust. The benefits of this gift arrangement are primarily the reduction or elimination of the transfer taxes (estate and/or gift taxes) imposed on the transfer of assets to children or others at the end of the trust, and the ability to make a current gift to charity without permanently giving away your property.

Charitable Gift Annuities

A charitable gift annuity is a simple agreement between you and a charitable organization that guarantees payments to you and a deferred gift to the charity. The charity agrees to pay a lifetime annuity in exchange for a charitable gift at your death. The amount of the annual fixed payment is generally determined by the age of the income beneficiary and the fair market value of the gifted asset.

Charitable gift annuities may also be structured to defer income until a future date. Appropriately, these gifts are considered by many to be an excellent retirement planning vehicle because, when income is deferred, the annuity payment is greatly increased. You also receive a larger charitable deduction with a deferred gift annuity (as opposed to an immediate gift annuity).

Retained Life Estates

You may gift your personal residence to charity, yet continue to live there for life. Further, your spouse may live there for life. You receive an immediate tax deduction for the contribution, based on the value of the designated charity's remainder interest. The property does not have to be your primary residence – it may be a vacation or second home, as long as the property is used as a personal residence. Further, in the case of a farm, you do not have to reside on the property.

Pooled Income Fund

A pooled income fund is a vehicle whereby contributions from multiple donors are placed in a common fund for investment and management purposes. Each donor is allocated a pro rata share of the fund and receives for life a commensurate share of the total net ordinary income earned. When the donor passes away, his or her share is retained by the charitable organization. The income tax deduction is based upon the current value of the remainder interest that will pass to the charitable organization.