Patterson Belknap Webb & Tyler LLP

Planned Giving: Techniques and Structures

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What Is Planned Giving?

- In essence, any arrangement intended to benefit charity that involves postponement of charity's ability to receive the benefit and (in all likelihood) is subject to a variety of contingencies.
- The term "planned giving" is used to cover an array of structures:
  - Non-binding statement of intention to make a gift or bequest
  - Revocable designation of plan assets or life insurance
  - Charitable pledge meant to bind the donor or his/her estate

What Is Planned Giving?

- Remainder interest in the donor's residence or farm
- Participation in a pooled income fund
- Charitable gift annuity
- A charitable remainder trust
- A charitable lead trust

What Regulatory Areas Are Relevant?

- State charitable solicitations laws
- State insurance laws (charitable gift annuity programs)
- Federal tax law
- U.S. Philanthropy Protection Act of 1995

What Types of Expertise Are Involved?

- Gift planners (development staff or consultants)
  - See *Model Standards of Practice For the Charitable Gift Planner*, National Association of Charitable Gift Planners (adopted 1991, revised 1999)
  - See *Code of Ethical Standards*, Association of Fundraising Professionals (adopted 1964, revised 2014)
  - See *Estate of Lewis Hamilton Tabler v. National Rifle Association of America, et al*, 2017 Md. App. LEXIS 970 (2017)
- Legal (tax, trusts and estates)

What Types of Expertise Are Involved?

- Accounting
- Actuarial
- Investment and Custodial
- Administrative

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