



Planned Giving and Professional Advisors: The Why and How to Involve Professional Advisors in Canadian charities

By Mark Blumberg (July 3, 2013)

Professional Advisors have an important role to play in assisting charities with their planned giving programs.

Planned giving involves trying to assist people with their philanthropic desires and goals in a way that is consistent with their estate planning objectives. Some of the objectives include: providing for family members, minimizing taxes, having enough liquid assets to support oneself during one's lifetime and carrying out a plan that is consistent with the donor's values and interests and sometimes leaving a legacy for future generations. Some of the most common planned giving methods include a donation under a will (Bequest), gifts of life insurance, creation of private foundations, as well as gifts of marketable securities or real estate.

In this article I will review various ways in which charities, especially those responsible for planned giving, can involve professional advisors in their planned giving efforts.

In the planned giving context, professional advisors include lawyers (especially those in the estate planning and tax area), accountants, private bankers and trust officers, financial planners, insurance agents, and investment advisors. Other professional advisors may include funeral directors, real estate agents and certain service providers that support planned giving programs.

Veteran and successful planned giving officers work closely with professional advisors, understand their value and have extensive networks of professional advisors to draw upon.

What are the benefits a professional advisor can offer a planned giving officer or a charity and why is it important to involve professional advisors in planned giving?

1) Professional Advisors often have very strong and deep KNOWLEDGE of certain important aspects of planned giving and have the ability to IMPLIMENT the gifts. For example, estate lawyers can draft wills with bequests, obtain probate, and assist with bequest management. Insurance agents can advise and arrange insurance products. Accountants who have strong tax knowledge and knowledge of their client's affairs and can assist with estate planning. Financial planners also deal with clients and estate planning and have knowledge of their client's assets and goals. Investment advisors can remind clients that are interested in philanthropy of the benefits of donating certain listed marketable securities that have appreciated in value and then facilitate the transfer. Banks and trust officers have considerable expertise with private foundations, endowments and trust services and have proximity to those who would be considering planned gifts.

2) Professional Advisors have close PERSONAL CONNECTIONS to individuals who may be interested in philanthropy. Professional advisors are in a good position to raise issues of philanthropy with their clients, for example during estate and will planning or while a client is considering how much life insurance he or she will require. In general, accountants are particularly close to understanding their client's financial affairs and motivations as accountants have regular and in-depth contact with their clients, typically more than most other professional advisors.

3) Some planned giving officers have complained that professional advisors have scuttled a gift planning opportunity for reasons that they do not consider legitimate. As sometimes egos unfortunately play a role in people's actions, it appears that by involving a donor's professional advisors in gift planning at an early stage you strengthen the likelihood of SUCCESS because the advisors will be part of the process, and advise as to the potential pitfalls in a helpful way instead of using their position and knowledge to torpedo a gift planning idea.

4) Professional advisors provide advice and services to their clients, which can be VALUABLE. By involving professional advisors in the planned giving process you are likely to avoid problems that would require significant expense to rectify. Furthermore, professional advisors can provide assistance with tapping into the network that many professional advisors have as to who can most efficiently and economically deal with a particular issue. If you are trying to save money, selecting the right professional advisor in terms of knowledge, temperament and commitment can make a big difference. Maintaining contact with professional advisors is a useful way for charities to educate the professional advisors on what the charity is all about.

5) Professional advisors are often highly motivated and remunerated people who can subsequently be POTENTIAL DONORS or volunteers with a charity.

6) Involvement of professional advisors, especially those with a high profile, will give greater CREDIBILITY to a gift planning program and could be useful in terms of assisting in convincing the management of charities of the importance of gift planning, especially in times of financial need when more immediate concerns may be considered paramount.

7) Professional advisors can be a useful RESOURCE in understanding many of the challenges facing charities and their planned giving officers. Many professional advisors may have been involved for a long period of time with a charity, and can provide useful historical information that can assist a new planned giving officer in understanding their position, which will help them avoid mistakes and make them more successful at their jobs.

How can a charity effectively involve professional advisors in gift planning?

There are a number of different ways - everything from informal discussion with professional advisors to "pick their brains" to highly structured planned giving committees with a large number of professional advisors that have regular meetings.

I find it strange but some planned giving officers that I have met do not know a stock broker, estate planning lawyer, insurance agent or accountant who they can approach for informal advice. At a minimum every planned giving officer should have a network of at least one professional advisor for each area of expertise who are knowledgeable about planned giving and are prepared to spend a few minutes discussing issues and answering questions. This approach may avoid many of the common pitfalls, and involves little expenditure of time and resources on the part of the charity. The problem is that if you are fishing for free advice professional advisors are more receptive than many but at a certain point they are running a professional business and there are limits to the energy they will spend on your charity's problems unless they can justify to themselves or others in their firm the time and lost revenue.

Another approach is the highly structured approach as used by charities in which they have planned giving committees that have members who are professional advisors and who have regular meetings. They are able to get professional advisors to volunteer more time because, in

addition to them being fine institutions, they are giving formal recognition to the professional advisors and an opportunity for the professional advisors to network - ie. professional advisors are getting something back. Professional advisors are treated with respect and invited to events in a similar way that donors are treated. The criticism of this approach of using planned giving committees primarily stems from the cost of maintaining the committee and the events which can be substantial in terms of time and energy. Other issues include which advisors are picked and how to remove advisors who are undermining the work of the committee and alienating others. However, this needs to be offset against the benefits which may be substantial including the professional advisors learning more about the charity; professional advisors learning from each other; and the charity learning from the professional advisors who because of the recognition they receive are prepared to spend considerable time assisting the charity.

A further approach is the occasional lecture geared toward professional advisors in which they are invited to the charity's offices or facility and told about the work of the charity. This can provide valuable information to the professional advisors. Many professional advisors, for example, lawyers involved with legacy gifts, are not aware of the planned giving profession and that many charities have full time planned giving officers who can assist with planned gifts. Programs such as these are ideal to introduce these lawyers to planned giving. However, the lecture approach is limited in terms of making a lasting connection between the two or providing feedback to the charity.

Another approach to involving professional advisors which is in between the informal network and the highly structured formal committee is to retain advisors on an ad hoc basis as needed in terms of type of advice or geography. If you have an estate issue in BC you may want to hire a BC estate lawyer to handle it. If you are trying to understand a tax issue you may wish to retain an accountant. This approach gives the greatest flexibility and the true professional relationship is typically preferred by professional advisors who are remunerated for their work. However, cost can be an issue. As well the advisor picked to work on a particular project may know little about the charity and its overall needs and often will not provide either proactive or strategic advice with respect to the charity's needs that you may obtain from professional advisors who are regularly meeting as part of a planned giving committee.

It is not easy for many professional advisors to initiate discussions with clients around philanthropy. There are many different reasons for this such as a perception that some client are uncomfortable with the subject or disinterested; some professional advisors are unsure of their technical knowledge in this area and they lack confidence in their abilities; the large number of different issues that professional advisors need to cover as part of estate planning process; and time constraints on the professional advisor and their client.

It is important that charities engage professional advisors not only in terms of innovative ways to raise the 'philanthropic question' or to discuss the latest technical issues with certain charitable

'vehicles', but also to provide encouragement to professional advisors to overcome their inhibitions in order to benefit some very worthwhile and appreciative charities.

As charities become larger and more complex, and the ramifications of planned giving increases, it is important that charities pick a model of working with professional advisors that works for them. Perhaps it is one of the models above, or a combination. An example of a combined model is involving a professional advisor in a planned giving committee for strategic advice on a pro bono basis and then retaining that same professional advisor to undertake certain discrete tasks on a professional basis. It is very important for charities to encourage professional advisors to raise philanthropy with their clients and to involve professional advisors in the process.

There are hundreds of thousands of professional advisors in Canada. They play an important role in any planned giving program. It is important for charities to consider their situation and to find a model that works for them in engaging with professional advisors.

Mark Blumberg is a lawyer at Blumberg Segal LLP in Toronto, Ontario. He can be contacted at mark@blumbergs.ca or at 416-361-1982 . To find out more about legal services that Blumbergs provides to Canadian charities and non-profits please visit www.canadiancharitylaw.ca or www.globalphilanthropy.ca

This article is for information purposes only. It is not intended to be legal advice. You should not act or abstain from acting based upon such information without first consulting a legal professional.