

How to Effectively Manage Bequests and Honor Your Donor's Intent

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Why Does This
Matter?



Active Bequest Management Generates Revenue!

- Accelerate delivery of proceeds.
- Quick resolution of disputes.
- Close oversight of charges.
- Thoughtful liquidation of unique assets – real estate, mineral interests, art, cars, etc.
- Stay in touch with family and generate new bequests and gifts.



Final Act of Stewardship!

- Stewardship doesn't end when the donor dies.
- Only way to honor their wishes.
- You have a responsibility to the donor to ensure the gift comes in fully and efficiently.



Step One

- Create process that allows your organization to maintain clear and useful files.
- Tickler system.
- Keep good notes!
- Assign proper personnel.

Step Two

- Usually organization will receive letter in the mail.
- Reach out right away!
 - Provide W9 and IRS letter up front.
 - Send thank you note to family or friend.
 - Prickly PR in Michigan example.
- Consistent communication.
- Monitor fiduciary performance.
 - Negligence or fraud?
- Extra Tip: become familiar with probate process.



Step Three

- Request and slowly review all key testamentary documents and related filings.
 - All codicils and amendments!
 - Maryland case example.
- What are you entitled to?
 - Specific or residual bequest?
 - Noncash asset? Car, art, horse?
- Restriction?

Quick Note on Beneficiary Designations

- Financial custodian *should* reach out notifying you.
 - Encourage your donors to notify you if they leave you a portion of their IRA.
- Do everything you can to avoid opening Inherited IRA and providing personal information.
 - Sometimes it is unavoidable. Keep fighting or give the information and get the funds?
- RIFT Project Database!
 - Thank you, Johni Hays!!!



Step Four

- Create procedure for risky noncash assets.
- Due diligence before accepting.
 - Is the property next to an old gas station?
 - Is the house unsafe?
- Can you even accept the gift?
 - Check/blame gift acceptance policy!
- Only a short window to disclaim. Act fast!

Step Five

- Carefully review receipts, releases, acknowledgments, waivers, etc.
 - Signing receipt before you have the check?
 - Refunding agreement?
 - Indemnification language?
- Who can sign what at your organization?

Step Six

- Be aware of the numbers!
- Request inventory and/or an accounting.
 - Technically inventories aren't done in trust administrations, can ask for informal trust value.
 - Only entitled an accounting if you are residual beneficiary.
- Double check trustee and attorney fees!
 - Look up state statute.
 - Usually around 3% is safe.
 - Does it seem unreasonable? Ask for invoices!



Step Seven

- Dispute and defend if necessary!
 - Typical will contest comes up because of lack of capacity, undue influence, ambiguous wording, etc.
 - Lack of capacity Massachusetts case.
- Factors to weigh before calling an attorney.
 - Cost benefit analysis.
 - Publicity concerns?
 - Who is benefiting at the cost of your charity?
 - Are there other charities who can split attorney costs with you?



If you do call local counsel...

- Lean into the fact that you're from a nonprofit!
- Can you work with a senior associate and only use partner on occasion?
- Can you have a fee cap?



Questions?

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