



PLANNED GIVING: WHY NOW, WHAT'S AHEAD, AND WHAT ARE THE PITFALLS?

Presentation for the Arc and the State Chapters

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DISCLAIMERS

I am neither an attorney, nor an accountant, and am not giving financial advice.

None of the following constitutes tax, legal, or financial advice, and for anyone seeking tax, legal, or financial advice should seek their attorney, tax advisor, or financial advisor respectively.

I DIDN'T EVEN STAY...



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AN ALTERNATE DEFINITION

- Planned giving is not just future giving, it constitutes any gifts that are not an immediate reactive request for a donation nor a spur of the moment proactive decision to cut a check
- This can include gifts of stock, bequests, trust structures, irregular recurring gifts, dependent on taxes, etc.



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WHY PLANNED GIVING?

- The number of potential donors increases significantly when planned gifts are considered.
- Planned Giving can significantly deepen relationships with existing donors and establish you as someone looking out for their best interest
- It's the right thing to do from an organizational standpoint, and diversifying income streams.



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OBJECTIONS

- What are the reasons people tell you they can't make a donation today?
- What are the reasons people don't tell you that they can't make a donation today?



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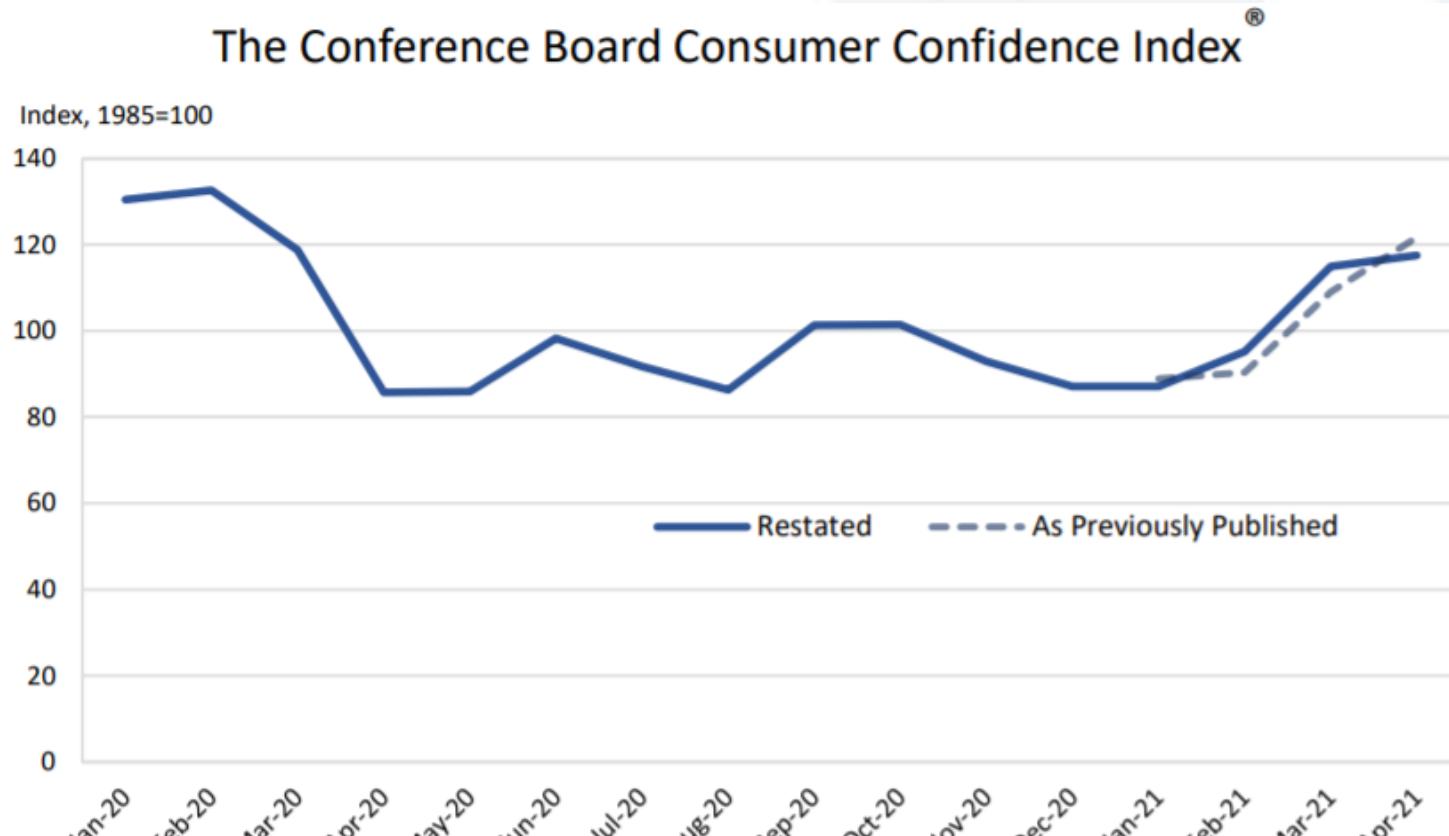
THE STOCK MARKET...



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CONSUMER CONFIDENCE



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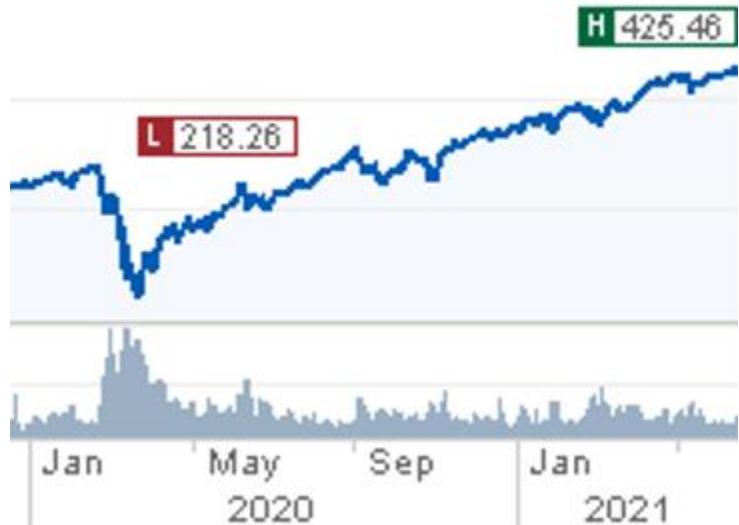


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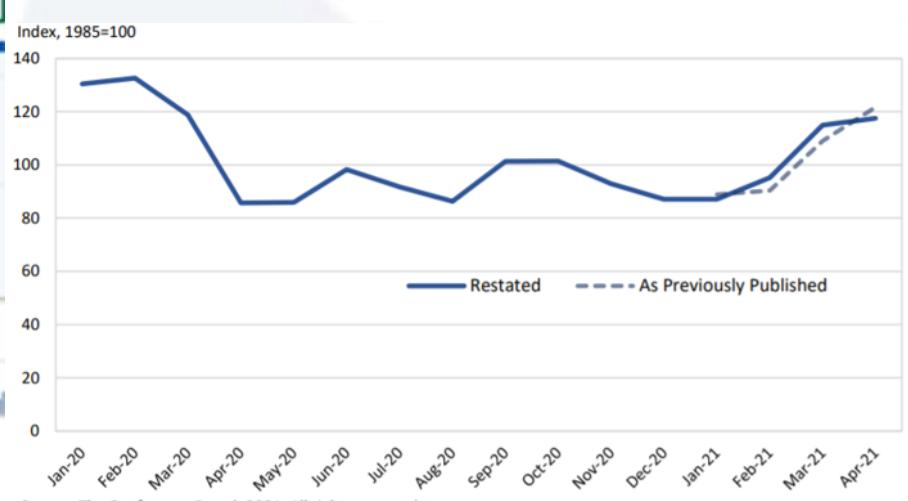
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WHICH ONE IS DOING BETTER

Stocks



Confidence



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STOCK DONATIONS

- A strategy you already knew
 - Many stocks doubled or more over the last year.
- How easy is your form to find, fill out and forward for stock donations
- Are you being proactive with existing donors?



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PLANS FOR THE UNEASY

- Will Bequests
- Beneficiary Forms
 - Especially Traditional IRAs!
- Trusts, Charitable Trusts, and Gifts with Income Streams Back



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EFFICIENCY IN DISTRIBUTIONS

- Best reason to give?
 - The ❤️
- Badly planned distributions leave less money for other heirs net of tax and can create resentment



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BEQUEST EFFICIENCY

- Most Client Friendly
 - Traditional IRA, Traditional 401k
 - Highly appreciated assets without a step-up
 - Illiquid assets (not always charity friendly!)
- Client Neutral
 - Cash, assets stepped up to Fair Market Value

WHY GIVE NOW?

- High valuations
- Uncertain Tax Environment Ahead
- Maximum Flexibility Available Now



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TAXES



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PROPOSED TAX CHANGES

- Doubling of the top capital gains rate

Objection: Client feels attached to the company or to the stock

Strategy: Donate appreciated stock today, you can buy back tomorrow with current cost basis. Wash sale rules and challenges do NOT apply!

PROPOSED TAX CHANGES

- Proposed Changes to Donor Advised Funds will significantly accelerate payouts

Strategy: Scour previous donations from Donor Advised Funds to get in front of the potential spigot that is about to be turned on.

Second Strategy: Befriend local community foundations with a DAF program

PROPOSED TAX CHANGES

- The Estate Exemption could decrease from \$11 million per person to \$3.5 million per person, with a corresponding reduction in step-up in basis down to \$1 million
- Strategy: Be proactive in working with families from \$3-20 million net worth to reduce their estate size today and tomorrow.



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TAX CHANGES CONCLUSION

- We don't know the final details yet, but starting conversations today is critical.
- January 1 of 2021 may already be too late.
- How fast can someone get a hold of you if they need to give stock quickly.



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SOME YELLOW FLAGS IN PLANNED GIVING

- 1) Restricted Gifts
- 2) Illiquid Gifts
- 3) Insurance Gifts



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RESTRICTED GIFTS

- Every Restricted Gift causes some small amount of work to be done continually over a long term
 - Liability is possible for failing to honor the restriction purposefully or accidentally
- Long term valuation of the gift could be overstated
- Could close doors to new revenue opportunities in the future.

ILLIQUID GIFTS

- Carrying Costs / Carrying Liability
- Valuation (Again!)
- The work required by your charity to convert the illiquid gift into an asset that will help your constituents.



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LIFE INSURANCE

- Not so much to be done, but be aware that any future gifts that are coming to you through any sort of Universal Life Policy may not be in the amount advertised
- Policy lapses have become especially common in some types of policies sold (IUL's especially!)



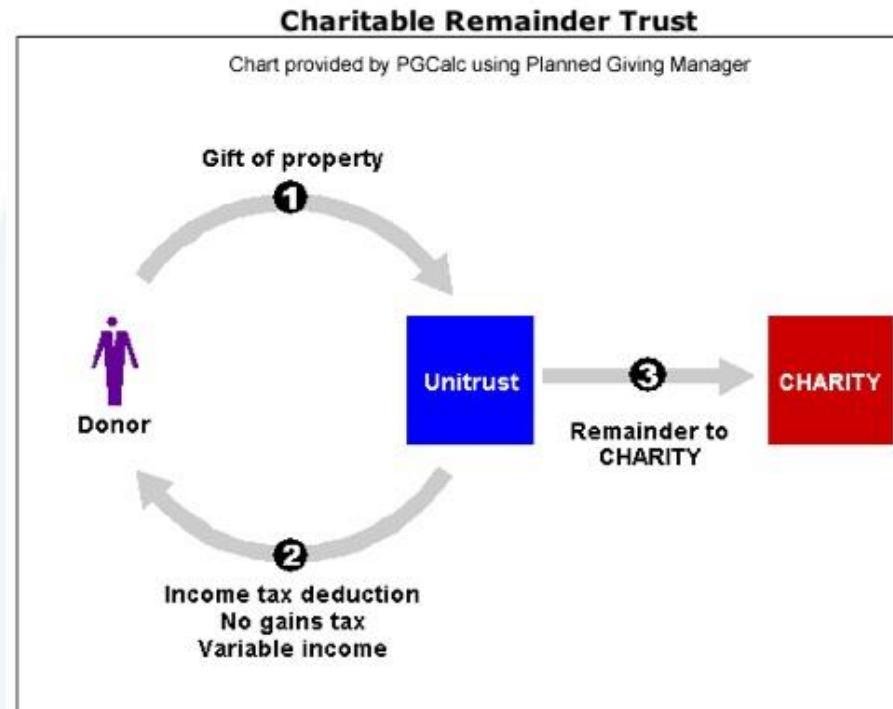
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TOOLS OF THE PAST/FUTURE

- None of these are hot presently but...
- CRT's – May have a present and future
- CLT's – May have a future soon!
- CGA's – Not many starting up...

CHARITABLE REMAINDER TRUSTS (CRTS)

- 1) You donate money irrevocably, get a partial tax deduction today
- 2) Get a predetermined income stream for as long as you are alive (which may be tax advantaged) and the trust has money (either flat amount or percentage typically)
- 3) Charity receives entire amount at the end of the term (Usually single or joint life expectancy)



How it works

- 1) You transfer cash, securities, or other property to a trust.
- 2) You receive an income tax deduction and pay no capital gains tax.

During its term, the trust pays a percentage of its value each year to you or to anyone you name.

Regarding Capital Gain Tax - At the sale of the appreciated assets, capital gain tax is deferred allowing for the full reinvestment of the assets.

WHY NOT MANY CRTS NOW?

- In theory this illustrates super well. There are minimum payouts, and minimum projected ending balances.
- The IRS estimates growth based off of published actuarial rates which are presently below 2%. For younger clients, the math ends up being catastrophic in terms of deductions and may be outright impossible for a life expectancy.



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WHEN MIGHT CRTS WORK?

- Present:
 - Older clients (75+) with highly appreciated stock
 - Clients of any age willing to do a fixed term of 10 years or so (maybe someone is 57 and retired and wants income until social security)
- Future:
 - If interest rates go up, and stock valuations stay favorable at the same time!

EXISTING PRESENT OPPS

- If you know someone has mentioned they have a “charitable trust”, ask to see the document. If it’s a CRT, often the trust will allow the creator to change the beneficiary to another 501c3 as long as they are alive and competent.



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CHARITABLE LEAD TRUSTS

- The opposite of CLTs in many ways.
- You give to a trust, the trust gives assets to charities for a fixed term.
- The balance typically goes to an heir, and will typically be deemed either a non taxable transfer or at worst a partially taxable transfer.



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WHY NOT MANY CLTS

- In some ways, the CLT's are *much* more appealing from an interest rate standpoint. You can pass significant wealth to heirs at a very big discount.
- The challenge is our current estate exemption is \$11 million, and double if married. Not many people are terribly worried about getting under the estate tax exemption.



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WHAT COULD CHANGE

- If the estate tax limits drop and the rates on wealth transfer increase, CLT's would deserve to be used much more at current interest rate environments!



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CHARITABLE GIFT ANNUITIES

- Much like CRTs except.
 - Charity retains control of assets and cuts the checks, ensuring the donor does not change charities
 - Rates are predetermined, less flexible than CRT's in some ways but still based on actuarial science
 - CGA's sometimes give better tax treatment dollar for dollar than CRTs depending on assets and income generated



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HAZARDS OF CGA'S

- Interest Rates being so low impact CGAs as well, creating less than ideal income tax deductions.
- CGAs can be work both up front and ongoing for the charity.
- In the aftermath of 2008 several CGA programs outright failed leaving donors furious.



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SHOULD YOU DO A CGA

- Opinion: The Arc in particular, with the popularity of the pooled funds, that serve a different sort of purpose, may end up being an especially poor choice for a CRT program, especially insofar as it may create confusion between two similar programs...



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TWO MINUTE ADVERT!

- We are in the Corporate Trustee Business with a National Charter.
- We consistently refer smaller bank customers who have relatives with special needs to the Pooled Funds The Arc provides
- We not only serve as trustee on Charitable and Personal Trusts, but Special Needs Trusts are an area of special importance to us!

SECOND MINUTE OF ADVERT

- Minimum Asset Level on Special Needs Trusts is \$400,000, one of the lowest of any nationally chartered bank.
- We are willing to serve in many states beyond Texas.
- We are happy to discuss situations that may not be immediate revenue and be a source of expertise.



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QUESTIONS?



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THANK YOU!

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