

## LEAVE A LEGACY

by Barbara H. Cane, Attorney at Law

"Count me in," said Phil Green as he circled the Rockland Leave a Legacy November 12, 2004 Annual Philanthropy Day in red on his calendar. "This is a project I definitely want to be part of so I can learn more about charitable giving!" Phil, a young stock broker with an interest in several local charities, has a keen interest in helping his clients and the charities he cares about.

"Last month I saw how charitable giving can play a role in estate and financial planning," Phil told his wife, Sally. "A lovely couple called me with an interesting problem. Stock, which made up the bulk of their portfolio, suddenly shot up in value because a bigger company announced plans to buy all of the outstanding shares. If the deal takes place, the couple would be faced with huge capital gains taxes. I suggested they talk to their lawyer about a charitable remainder trust, or "CRT". Their lawyer helped them create the charitable trust and transfer some of the stock to it. The charitable trust will pay them income for life, and when they are gone, distribute whatever remains to the charities they choose. Because the stock they contributed to the trust was paying low dividends, the trustee will probably sell the shares and reinvest the proceeds for higher income investments. Since the trust is treated as a charity for tax purposes, the trust will not pay capital gains tax on the stock's appreciation. The donors will pay income tax on what they get from the trust, and some of it may eventually be treated as capital gains. Meanwhile, they will benefit from the improved cash flow when the trustee selects new investments. They will even get an income tax deduction based on the fair market value of their contribution, minus the value of their right to receive income in the future. Best of all, they know their charities will benefit handsomely someday."

"Wow," said Sally, "is that legal?" "Yes," replied Phil, "it is part of the government's policy to encourage charitable giving, but certain guidelines do have to be followed. And it isn't for everybody. You need to have serious charitable motivation, because once the assets are in the trust, you can't take them out again, nor can you pass them on to your kids."

"But won't you lose the account if your clients give to charity?," Sally asked. "Not necessarily," Phil answered. "The clients might choose our firm as trustee. Or they might choose an individual trustee who decides to invest the trust's assets with our firm. This is likely, especially for clients who want to benefit several charities. Even if a client selects one big charity which might act as trustee, the clients appreciate my role in helping them achieve their charitable and financial goals. If I do the rest of my job right, this builds our relationship."

The next day Sally Green had lunch with her friend, Linda Brown, a lawyer, and mentioned her conversation with Paul. "Linda," she asked, "don't you serve on the board of a few charities? And don't people ask you about their estate plans even though your professional work doesn't have much to do with wills and trusts?" "Of course," Linda agreed, "and it is a little embarrassing because while I know lots about real estate, this is an area I don't have much experience in. But that doesn't mean I don't care about it, or that I don't get asked for my opinion! I really should learn more about charitable giving, even if it's only to be able to refer people to solid sources of information. As for my role as a board member, a big part of that involves fund raising. I should know enough about the basics tools so I can say more than 'write us a check!'"

Right after lunch, Linda circled November 12<sup>th</sup> on her calendar and called her cousin, Doris Black. A mainstay of Hospice, her children's schools, the public library, her college and her synagogue, Doris has put in years as a dedicated volunteer. Raffles, dinner dance journals, yard sales, and candy sales, Doris has done them all. As she and her husband think about their own estate planning, they want to secure the future for the institutions they love. What are the best choices for them: a bequest under their wills? Naming a charitable beneficiary to their IRAs? Deeding their house to a charity while keeping the right to live there for life? How can she, as a volunteer, leave "her charities" organizationally better prepared to build continuity and endowments for financial security? Doris circles November 12<sup>th</sup> on her calendar, and calls some friends, other volunteers, community leaders, her insurance advisor, her accountant, all the people she can think of who are personally and professionally committed to using private resources to supplement government spending and make the world a little better.

On November 12, "Paul Green", "Linda Brown", "Doris Black", and their friends interested in fostering charitable giving in Rockland County will meet for the annual Philanthropy Day. Modeled on successful programs across the country, as well as metropolitan New York and rural Dutchess County, Leave a Legacy is a cooperative effort by not for profit groups, professionals, and dedicated volunteers to provide opportunities for the community to learn about charitable giving and how to do it. Now is the time to help plan the events. Circle November 12<sup>th</sup> on your calendar to help shape the future.

The characters are fictional; the issues (and the event!) are real.

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