

Bequests (continued from page 3)

3. Choice of Executor

If you know that your charity is the residuary beneficiary in a person's Will, it can be very advantageous to you if you, as the charity, are also appointed as the executor of that Will. If you are a residuary beneficiary and not the executor, the executor who has been appointed will not be as motivated as you are to swiftly administer the estate. The person or entity most likely to swiftly administer an estate is the residuary beneficiary of that estate.

4. Passive v Active Approach

Many charitable beneficiaries adopt a passive approach to the administration of an estate in which they are a beneficiary. We recommend that charities adopt an active approach in that they be in regular contact with the executor to ensure that the executor is administering the estate properly and as quickly as possible.

It is important to have an active approach where there is a Family Provision Act (FPA) claim. It is in the best interests of your charity to have a commercial and pragmatic approach to assessing the likely success of claims and actively be involved in the settlement before too much delay or cost is incurred, as opposed to being satisfied with whatever outcome is achieved in court.

The resolution of even a simple FPA claim will cost no less than \$30,000.00 (in 2006) for each side and the estate will usually be ordered to pay the costs of both sides if the claimant is successful. The mere instance of an FPA claim will usually mean that the executor cannot distribute any part of the estate. The delay will be at least 18 months.

5. Taxation of the Estate

Until such time as the beneficiaries become "presently entitled", the executor will pay tax on the taxable income of the estate at the maximum rate applicable to the income of a trust to which no person is presently entitled. A beneficiary becomes

presently entitled as soon as the executors have completed their executorial duties (ie until he or she has obtained a grant of Probate, got in the assets, and paid all the liabilities of the deceased).

Once the beneficiaries become "presently entitled", the net income of the estate ceases to be taxed in the hands of the executors and is shown in the tax return as being distributed directly to the beneficiaries in the relevant proportions, and the beneficiaries must then include the income in their own taxation returns and it is taxed at that point.

Clearly it is beneficial for a charity that it becomes beneficially entitled as swiftly as possible so that the executor shows the relevant part of the estate income being distributed to the charity and the charity (having no obligation to lodge a tax return or pay tax) receives that net income free of tax.

From the Editor

Advancing Fundraising is in its second year! It's proving to be a popular forum for fundraisers and experts working with professional fundraising to express their points of view. This is of great value to our members in keeping their work fresh and relevant.

Another way to be fresh and relevant is to attend FIA's International Fundraising Conference in Perth! *NEWFrontiers* will offer new horizons to professional fundraisers. Already slated to be the most successful conference that WA fundraisers have ever seen, *NEWFrontiers* is bringing international speakers to our shores, the inaugural Asia Pacific Forum and all coinciding with Perth's International Arts Festival. What better way to start the year?

At the start of a new year it is timely to wish you well in your professional – and indeed personal – lives. In 2008 FIA also looks forward to working with you in developing your career, raising standards and representing our profession to the public, government and business.

The White Shirt Brigade

Dr Wendy Scaife MFIA
Australian Centre for
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Fundraising doyen Everald Compton FFIA used to say that all you need to call yourself a fundraiser is a clean white shirt everyday. Everald had no Omo shares! He was just trying to make people (us!) recognise that it takes more than a fresh shirt to do what we do. It's the ticker under that shirt, the mind above it and how you exercise both that count. Fundraising is a serious job.

How serious? I could wax lyrical about our mission outcomes but you know all that. Better to share with you some interesting views CPNS encountered on the fundraising role in looking at what's hot in fundraising training round the world. This search was part of FIA's independent review of its Skills training – look out for the new Skills offerings in 2008.

So what's hot? Well people are looking beyond the white shirt - big time. Professional development is a buzzword in the UK, North America and across Europe.

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...continued on page 2

Inaugural Asia Pacific Forum

There has never been an opportunity like this to sit together with our colleagues from our near region to explore issues impacting on our work. This is not about aid and development, rather the forum will be taking an in depth look at social ventures and microfinance, the social economy, benchmarking, capacity building and professional development. Working in groups, participant will form resolutions to guide ongoing work in the international arena in our immediate region. Register now as places are limited and filling fast. Forms are available on the homepage of FIA's website www.fia.org.au

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KNOW IN RELATIONSHIP INTEGRITY

Bequests

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People leaving charitable bequests in their Will may have benevolent intent, however there are many challenges and consequences if proper care is not taken when the Will is being prepared.

Some of the areas of concern include identity, the wording of bequests, the choice of executor and taxation of the estate. This is why charitable institutions need to be most specific and informative when it comes to their websites and any collateral information for testators.



The White Shirt Brigade (continued from page 1)

Common subjects and an agreed body of knowledge that all fundraisers should know are starting to emerge. That's a seven league boot stride ahead for fundraisers and especially from the late 80s when Everald was speaking.

It's good because it means a posse of smart practitioners and some practical academics have taken a few years of consultation to figure out what a successful fundraiser really needs to know and do – core competencies in education-speak. It also means:

- Fundraisers can be more productive, sooner.
 - Employers and fundraising managers can rely on some core base standards from recruits who have completed recognised courses, and
 - Fundraisers are starting to more readily work between states and countries.
- (So that dream of working in fundraising while you rent the villa in Tuscany may be a little closer! Fantastic!)

What else is hot? Ethics is taking centre stage and there's much chatter about the public trust fundraisers hold. More is emerging about the global nature of philanthropy and fundraising's international



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Nonprofit Management

2. Wording of Bequests

A testator can leave a benefit to a charity for its general purposes, for example, "To The National Trust Australia (NSW) for its general purposes". Alternatively, a testator can leave a benefit to a charity for a particular purpose falling within its general purposes, for example, "To The National Trust Australia (NSW) for the purpose of bush regeneration".



of fundraising is not well informed. In listening to Joe and Jane Average and Jack and Jill Donor around the country during the *Giving Australia* study a misperception of mistrust was evident. Perception is perception. Professionalism is the weapon of choice to fight such misperceptions. In the US, surveys over time are showing lower turnover, greater job stability, stronger commitment to organisations and their missions and a greater identification of fundraising as a profession rather than a craft. The ingredients have been identified as more people undertaking longer periods of training, an agreement on what are the principles of fundraising, the development of transferable knowledge, some stronger theoretical base and a stronger sense of community within the profession. The more professional we can make fundraising, the better chance we have of attracting the best and brightest to work and volunteer for our missions. We need to be skilled, self-directed and lifelong in our learning and recognised for the absolutely critical facilitation we provide.

So before the year ramps up, consider your professional development goals for 2008. Will you sashay into Skills, 'dosido' into the Diploma of Fundraising Management, cram for CFRE, mosey along to Madison or 'gofer broke' with Fundraising Leadership Program? See you in Perth. I'll wear a clean, white shirt!

Benefits left to charities for their general charitable purposes clearly offer the charity a broader discretion in directing the benefit to areas of current funding need. Benefits left for specific purposes can cause difficulty in identifying suitable recipients and can give rise to the need for an application to the Attorney-General or the court for a scheme to administer the trust 'cy pres' (ie for a charitable purpose which is as near as possible to the intentions of the original testator).

It is therefore essential that your website contain the wording you wish testators to use in their bequest to your charity. Your website should contain the wording for:

- legacies;
- a gift of the residuary estate;
- gifts for the general purposes of the charity; &
- gifts for specific charitable purposes.

...continued on page 4

It's time to say

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...for being a great Member
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