

MODEST¹ Philanthropy™, and Satisfying the Need to Give

- Help for advisors and charities in encouraging modest benevolence in estate planning.

By Timothy B. Borchers, Esq., Borchers Law, P.C. © 2007-2010

Almost to a person I have ever met in my estate planning practice, my clients would like to do something for “the greater good” in their estate plan. Yet, they hardly ever bring up modest giving themselves and they do not know where to begin when they do.

To bring out client’s innate desire to give I feel clients need to be “freed up” to give, even if it is to give modestly. Clients who want to be major donors are usually of mind to do so anyway or have been solicited as potential donors and are at a point where they are ready to lay out their charitable plans without prompting. We encourage the modest givers by affirming that modest giving is important enough that it should be made part of the plan. We need to acknowledge, to appreciate and to congratulate clients for their generosity, however humble. Most of the charitable giving in this country each year comes from modest individual gifts not from major donors, foundations and corporations.

Very importantly: clients need to be freed from the guilt that they are not giving 100% of their estate to their children. Charitable-minded clients need to know – even to be told – that the decision to give to charity is not their children’s decision, but theirs. Moreover, their children will not, or at least should not begrudge charitable gifts from parents with a history of charitable giving.

I feel it is ok to remind clients that their heirs will not miss a few thousand dollars or a few percent of the estate, and that the vast majority of the heirs will enjoy giving in their other relative’s or friend’s memory as a final tribute to the loved one who has provided so much more for them.

How do I know this? My evidence is admittedly anecdotal, but I have observed many humble gifts being made and cannot recall ever having heard an objection. As I often say to clients, “do you really think they will miss 1 or 2% of your estate? Have you thought of the good you can do with just 1 or 2% of your estate?” I have asked heirs, “How does it make you feel to give away this money in your folks’ memory?” “Pretty darn good” or “It makes me feel great!” is what I hear back.

When the topic of benevolent giving is brought up, we perceive an almost universal unmet need, in nearly every client, to give at their passing to causes that they may not have had a chance to support, or to support fully, during their lifetime. For example, a client might feel that she still has something to give, say, to a local Little League, to school, library, music program, or a church, or international organizations like the Red Cross, or Feed the Children, World Vision, Greenpeace – *whatever* it is that motivates the client.

Why MODEST Philanthropy?

Our purpose in developing the MODEST Planning initiative is to “disturb” the client into *releasing* the benevolent goals for the use of their assets and to facilitate *easily meeting* of this unfulfilled objective in their estate. In thinking creatively about this problem, we promote a technique that we call the “Expression of My Benevolent Wishes™.” Using this form, the children and heirs are simply asked to make a donation in the memory of their parents, for specific purposes, and in specific amounts or percentages, with limited ability to choose or to substitute charities for those named by the client.

¹ We have dubbed the term MODEST Philanthropy™, standing for *Model Ordinary Donor Estate Solution and Therapy* – so called for its therapeutic effects on our clients!

The expression can be generic, as in: “It is my request, but I do not create a binding obligation or trust hereby, that my children [*those inheriting*] make a gift in our memory [*anonymously, in honor or memory of another*] to charities and causes that were important to me during my lifetime.”

- The charitable preference in My Benevolent Wishes™ can be stated and amended thereafter, or can be left open-ended.
- The Expression of Benevolent Wishes can (but does not have to) be referred to in the trust instrument.
- A dollar amount or a percentage may (but need not) be specified. In other cases, a specific gift amount or percentage of the estate can be provided for in the trust itself with further instructions to be provided in the Expression of Benevolent Wishes.
- The expression may be done individually and not necessarily as couples.

To charities and professional advisors, I think the guidance is clear:

- (1) We need to disturb the client into remembering purposes beyond the narrow confines of their family’s wealth in their planning. Never ask “Do you want to give anything to charity?” If you do, the answer will almost always be “No.” Instead ask “Do you occasionally give to charity?” The answer will be “yes” 99.9% of the time.
- (2) We need to educate them as to the simplicity of giving modest amounts, particularly percentages of their estate, to charities that they may choose or the children may choose in their memory. Think of the charities they support now with modest gifts. Write these down. Provide a list of potential charitable causes that interest them.²

² **Faith-based charities**, including churches, received the most charitable gifts in 2007, capturing \$102.32 billion – 33.4 percent of total contributions in 2007. Religious charities saw a 4.7 percent increase from the previous year.

Charitable giving to **colleges, universities and educational organizations** accounted for the second largest share of all charitable giving at 14.1 percent. Educational institutions and organizations received \$43.32 billion in gifts -- a 6.4 percent increase from 2006. Donors see them as agents for influencing the future.

Social or human service charities raised \$29.64 billion in 2007 -- an increase of 8.4 percent in donations from the previous year.

Increased concerns over global warming and the impact the environment has on health motivated donors to give \$6.96 billion to **environmental and animal-welfare** issues -- a 10.8 percent increase over 2006. People are beginning to connect the environment to health-related issues. This has helped garner support and draw new donors for environmental causes. Giving for these organizations was 2.3 percent of the total estimated giving for 2007.

Contributions to **public society benefit organizations** - nonprofit organizations such as the United Way or Jewish Federation who collect funds for distribution to a number of other agencies - received \$22.65 billion in donations -- a 5.8 percent increase.

- (3) We need to inspire them to begin that process during their lifetime if at all possible and, if not, then at least to complete the initiative in their estate. Stories of impact will help.
- (4) We need to assist with the implementation by providing forms and making updating of those forms part of the estate plan review process over the years.
- (5) Charities need to be much more direct and to think more grandly in their approach to potential major donors, of course, but should not overlook the opportunity at concerts, at church stewardship time, at other fundraisers and capital drives, dinners and other appropriate events to mention MODEST Philanthropy as a significant way for ordinary donors to keep on giving, to make one last impact, to make up for some lost years here or there (as often happens in the final years before a donor dies – the gifts fall off unintentionally), and to make a statement to the heirs who will make the gift in their memory. The statement to the heirs is, “Hey, now that we have you attention, why not keep it up? Keep giving to this charity or to one of your choice, but keep giving!”

How do we go about Disturbing and Educating?

Start with asking, “Do you give to charity each year, or even occasionally?” The answer will be “yes” 99.9% of the time. “Is there more you would do for others less fortunate or for causes you care about if you could?” “Would your children miss a few thousand dollars if it went to charity?” “Could your kids use a tax break? ... Of course they could.” “We have a method that will create the modest charitable legacy I think you are looking for....”

Develop your own approaches and feel free to adopt the author’s forms, if you like. (For more information on how you can adopt the Expression of Benevolent Wishes and for model forms, feel free to email the author or go to www.mybenevolentwishes.com.)

Invite charitable organizations to adopt a program of asking for modest contributions to the endowment on top of giving for annual expenditure programs. Suggest that charities adopt the approach of asking for MODEST Philanthropic estate gifts using the Expression of My Benevolent Wishes™ form.

Ethical considerations for Advisors:

(1) We could *over* do it. We could be accused of placing ideas in client’s minds that they would not have considered on their own, if we do not introduce giving as part of consciousness raising to complete fulfillment of *their* goals, not ours. We should never count or publish how much clients are given, even

Overall giving to **health-related organizations** such as hospitals and other health charities that raise money for research, public awareness and fighting increased 5.4 percent from 2006 to \$23.15 billion.

Arts, cultural and humanities giving increased 7.8 percent to \$13.67 billion. Gifts to arts, culture and humanities organizations were 4.5 percent total estimated giving in 2007.

(Data from Giving USA. www.givingusa.org/)

though we might want to keep score, so to speak, of the wonderful possibilities we are going to be responsible for helping to create, at the risk of making this about us. The notion of charitable giving is good to raise in writing, in a questionnaire and in a proposal letter and other literature, and in discussions with children/heirs present in the interests of transparency and clarity

(2) Discourage impulsive giving of large gifts (over 5% of an estate I would consider large giving). Larger levels of giving should be encouraged after much more forethought and over time. Very elderly, marginally competent, and infirm persons should not be encouraged so much as just *asked* if they would like to include charity in their plan. But we should not be bashful about asking because charities that are important to clients are every much a natural part of a plan for giving away a small part of an estate as are family and close friends in many cases.

(3) Avoid strongly encouraging giving to any organization that we have a personal stake in: for example a particular church where we are a member (especially if part of leadership or stewardship committees), a particular club or trust fund (in my case, Rotary Foundation, local library, church, musical society, kids' youth sports, and so forth).

(4) Take "no" as the answer when given. Consider bringing up giving in future reviews and in future questionnaires when discussing "unfulfilled goals" and "nice things to do if possible."

When dealing with MODEST philanthropy, the amounts involved are not generally going to be extremely large numbers – often hundreds or low thousands of dollars. We love to see clients feeling led to give 1, 2 or 5% of the estate away in this manner, but we feel that more than that should be put into the will or trust, where the gift becomes mandatory. In fact, I feel that more than a few thousand dollars deserves a mention in the trust or will that "I may make a request in *My Benevolent Wishes*[™] or similar form asking my heirs to donate in my memory." The collective impact of many donors to a charity, over time, making gifts of hundreds here and thousands there, is to be encouraged and appreciated. Charities do not have the resources to pursue small and modest gifts, but annual drives and stewardship committees are perfect for including requests for MODEST Philanthropy. Advisors like estate and financial planners can help release their clients' pent up desire to contribute, to keep on giving, to make a statement all the while keeping it simple.

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