Individual Philanthropy

Strengthening Native American Philanthropy Manual

Component Three

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Strengthening Native American Philanthropy (SNAP)

First Nations Development Institute was founded in 1980 with the mission to assist Native communities control their assets and build capacity to direct their own economic future in ways that fit their culture. Since 1995, through the Strengthening Native American Philanthropy (SNAP) program, First Nations has been working to enhance the role of Native Americans as participants in, and better recipients of, private philanthropy. This program evolved to respond to an increasing interest in formal giving in Indian Country, and to develop new strategies for creating philanthropic structures among tribes and inter-tribal associations. The goals of our SNAP program are to:

- Strengthen the climate for tribal participation in philanthropy.
- Increase social investment in tribes and the Native American nonprofit sector.
- Develop new mechanisms for enabling Native American tribes and organizations to be self-sustainable – to control financial assets, and to create new philanthropic funds and organizations.
- Create and strengthen autonomous grantmaking institutions that will support tribal and community-based organizations working to address critical community needs.
- Raise awareness and provide a forum for Native and non-Native donors to access and exchange information on effective grantmaking in Indian Country.

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COMPONENT THREE: INDIVIDUAL GIVING

Component Three of the Strengthening Native American Philanthropy (SNAP) series on philanthropy focuses on how individual tribal members can contribute to philanthropic causes. There are many ways that an individual can give to charitable and other philanthropic causes, including providing a donation to a group or organization, setting up a charitable fund, and starting a family foundation. Each of these mechanisms, whether the amount involved is large or small, provides a way for Native American individuals to donate to causes they support and give back to communities they care about.

There are many individual motivations for giving. Sometimes a person wants to honor the memory of a deceased family member or friend. Other times a person wants to help a particular cause. In some cases, an individual is looking for a way to reduce his or her income tax payment and at the same time support an organization he or she believes in.

The following material reviews a range of options for individual giving, and at the same time provides a review of the benefits of such individual giving. It is not intended, nor should it be construed as, legal advice but as a guide to the different methods of individual giving. The services and advice of a lawyer, especially within the areas of tax and tribal law, are **essential and highly recommended** if and when implementing any of the philanthropic initiatives mentioned in this booklet.

Chart 1. Individual Giving Options

Direct Gift to Governmental and Educational Institution, Private Foundation or Public Charity

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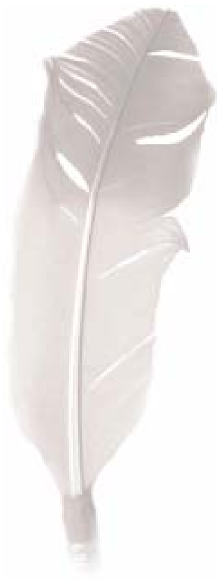


Native Americans have many philanthropic options available for helping other Natives and non-Natives alike. Due to the unique legal standing of tribal nations, the IRS and other branches of the federal government have created, recognized, and encouraged a variety of philanthropic vehicles in Indian Country. Formalized philanthropy is a way of solving problems, improving communities, utilizing assets, and bringing together those individuals who give and those individuals who are helped.

Individually, Native Americans have three major giving options. They include:

- Making a direct gift to a public institution (tribal or non-tribal government or public school), foundation, or other established charitable organization.
- Creating his or her own private foundation.
- Creating a fund within an existing community foundation or other charitable organization.

Each option has advantages and disadvantages. Advantages and disadvantages will be discussed as the different options available for individual giving are described.

Making a Direct Gift to a Governmental Institution, Private Foundation, or Public Charity

The most simple and common method for an individual to fulfill his or her charitable goals is by making a gift directly to tribal governments and established charities. Tax-exempt charitable organizations are commonly known as Section 501(c)(3) organizations. A donation to a Section 501(c)(3) is tax-deductible in most cases, which can lower your federal and state tax burdens. See page 18 for more information. In giving to a tribe or charity, an individual is utilizing an existing organization to support his or her charitable goals. Gifts can be made to:

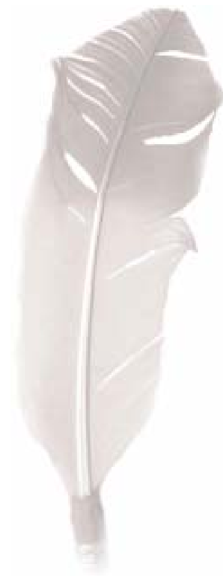
> *Giving to an established charity is usually the least complicated way of giving.*

- Governmental and educational institutions, such as tribal or state government (e.g. Chickasaw Nation, Isleta Pueblo), public schools, and universities.
- Private foundations (e.g. Rosa Mano Hill Foundation).
- Public charities (e.g. First Nations Development Institute, American Indian College Fund, United Way).

WHAT ARE INDIVIDUALS' MAJOR OPTIONS FOR GIVING?

Table 1: Types of Tax-Exempt Organizations

Governmental and Educational Institutions	Private and Community Foundations	Public Charities
Examples: Chicksaw Nation Isleta Pueblo Commonwealth of Virginia Oglala Lakota College	Examples: Rosa Mano Hill Foundation Arizona Community Foundation Two Feathers Fund of the St. Paul Foundation	Examples: First Nations Development Institute American Indian College Fund United Way Black Mesa Trust The Hopi Foundation



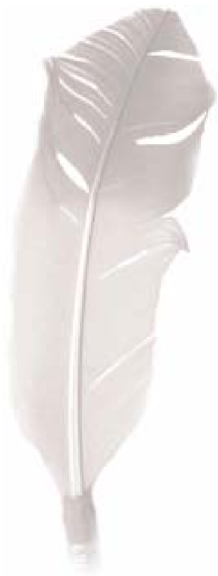
Giving Directly to a Governmental or Educational Institution

Governmental institutions include federal, state, tribal, county, and municipal governmental units. Additionally, publicly-funded schools are considered public institutions. These include public K-12 schools as well as universities and public tribal colleges and universities. Because these institutions are operated for the benefit of the general public, donations to these types of organizations are tax-deductible.

> **Philanthropic Relationships with Native Institutions**
>
> When Sherry Salway Black's mother passed away in 1999, Ms. Black wanted to find a way to honor her mother, who had been a nurse on the Pine Ridge Reservation. Ms. Black donated money to Oglala Lakota College to set up a scholarship fund for nursing students. In this case, the donation was not large enough to create a permanent endowment (that is, a fund in which only the interest is used to fund the scholarship while the principal is left untouched). Therefore, the scholarship will only continue as long as money is added to the fund.
>
> If an individual or family wants to set up a long-term fund but does not have the money to create an endowment, one solution is to simply keep adding money to the fund on a regular basis. But in order to do this, the donor(s) and the institution must have a long-term relationship. If you are considering making a donation to a Native institution, be sure to discuss the institution's desire and capacity to enter into a long-term relationship with you.

- **Giving Directly to a Tribal Government**

In 1982, Congress decided that donations made to federally recognized Indian tribal governments and their political subdivisions should receive the same tax treatment as donations to non-tribal governments and charities. Individuals can give directly to tribal governments under Section 7871 of the Internal Revenue Code, which states that contributions made to a tribal government are tax deductible when made to a tribal government that has been recognized as such by the IRS and the Interior Department, and when made for exclusively



public purposes.[1]

For example, you may wish to give money to support a program that a tribal government is running. The Confederated Tribes of Umatilla Housing Authority runs a financial education program to help clients learn to budget, understand credit, and save money. You could donate funds to the Umatilla Housing Authority to support this program, and would be able to deduct these funds from your taxable income.

Questions About Giving to Tribal Governments

Do the same tax rules apply to tribal governmental programs and/or divisions as apply to tribal government?

Yes, any gift made to an "integral part" of an Indian tribal government is treated the same as a gift to the government itself.

Can I give to a tribal government through a private foundation?

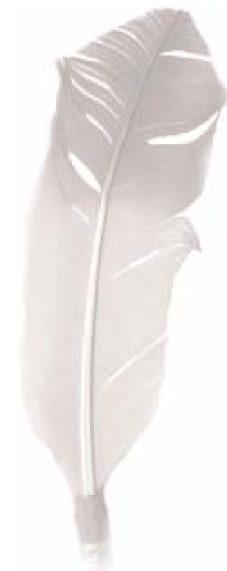
Yes. In a General Information Letter issued by the IRS to First Nations Development Institute (Sept. 8, 1998), the IRS confirmed that a private foundation grant to a federally recognized tribal government would be treated as a qualifying distribution, and not as a taxable expenditure. See http://www.firstnations.org/publications/IRSLetters.pdf.

Giving Directly to a Private Foundation

Donating to an established private foundation is a common form of individual philanthropy. In giving to a foundation, an individual is passing on a gift that will be managed by the foundation and eventually "re-gifted" to other charities or individuals who apply for funding. By giving to a foundation, a donor is essentially pooling his or her money with others that will ultimately be distributed and tracked by the foundation.

At first, a gift to a private foundation may not seem to be the most efficient method of helping charities – why not just give directly to charity, why give to a "middleman"? In fact, foundations are professional philanthropists who make it their business to know which nonprofits are more efficient and do work that helps the most people. Thus, giving to foundations makes a good amount of sense. Foundations also administer special funds for particular causes to which individuals can donate specifically. See some examples below.

[1] Clarification: Section 7871 states that federally recognized tribal governments will be treated like states for the enumerated code purposes. One of those purposes is code section 170, which governs the federal income tax deduction for charitable contributions. Under section 170 (c), donations to federal, state, and local governments for exclusively public purposes are tax deductible.



Lori Piestewa Memorial Scholarships

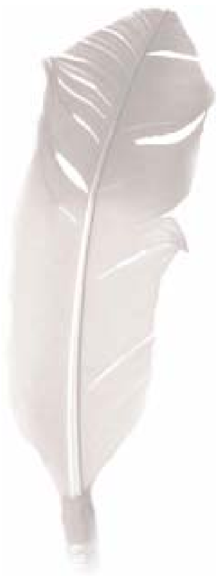
On March 23, 2004, 23-year-old Lori Piestewa, a Hopi Indian from Tuba City, Arizona, was killed in an ambush while serving for the U.S. Army in the Iraq war. She became known to the nation as the first Native American woman killed in combat. The single mother was survived by a 4-year-old son and 3-year-old daughter. Since her death, Piestewa has been honored in a number of ways, including the establishment of two memorial college funds.

Employees of the American Indian College Fund (AICF) donated money to create the Lori Piestewa Memorial Scholarship Fund, which will help pay for college for Piestewa's children. Once their college costs are met, if funds remain, the monies will be used to provide an annual scholarship to a female Indian military veteran. According to Richard B. Williams, president and CEO of the AICF, "(Our employees) wanted to do this as a way of honoring her and remembering her sacrifice." For information about this fund, go to www.collegefund.org.

Additionally, the Pfc. Lori Piestewa Memorial Scholarship Fund was formed by the affiliated Arizona Community Foundation, Hopi Foundation and Tuba City Foundation. The fund was opened with an initial contribution of $5,000 from the Arizona Community Foundation endowment. "We support setting up endowments with community foundations due to their knowledge and experience to manage endowments," says Barbara Poley from the Hopi Foundation, adding that these types of awards exist in perpetuity, using only interest income for scholarships. For more information, go to www.azfoundation.org and www.hopifoundation.org.

Laguna Education Foundation

Like all other foundations, the Laguna Education Foundation exists to give funds to charitable causes. When an individual donates to a foundation, his or her money is combined with money that has been donated by others. These combined funds can have a more powerful impact than if the money were donated here and there for different causes. Like other foundations, the Laguna Education Foundation has a specific focus. In their case, funds go strictly to education for members of the Laguna Pueblo, a pueblo in New Mexico. Within this educational focus, however, funds go to a number of programs, from vocational training to college scholarships. When an individual donates to a foundation, it is usually possible to further direct how the donation is spent. For example, the Laguna Education Foundation itself says "You may have a special area of interest which you feel warrants special attention. The Foundation allows you to make gifts in any area you wish." For more information, go to www.lagunaedfoundation.org.



- **Giving Directly to a Tribal Foundation**

The term "tribal foundation" is not a statutorily defined term. As used in this manual, it may refer to:

- A tribal governmental unit or fund organized or established to receive charitable contributions for exclusively public purposes (see Giving Directly to a Tribal Government, above).
- A nonprofit corporation formed under tribal law for charitable purposes.

In the case of the latter, if the organization has obtained a tax-exempt ruling from the IRS, a donor will receive an income tax charitable deduction for his or her gift to a tribal foundation. You can confirm the tax-exempt status of a tribal foundation by asking the foundation to give you a copy of its tax-exemption letter from the IRS or visit the IRS's website at www.irs.gov/tribes.

> To learn more about giving to Native nonprofits, go to www.NativeGiving.org or call (540) 371-5615.

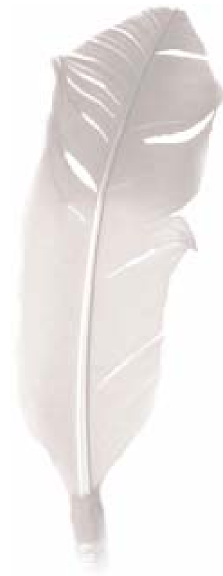
- **Giving Directly to a Public Charity**

A public charity is a type of charitable organization which operates solely for charitable, educational, religious, scientific, or literary purposes to benefit the general public. Most public charities are Section 501(c)(3) tax-exempt organizations. In general, there is no required minimum amount for a gift to a public charity. One advantage of donating to a public charity is that the entire amount of the gift goes directly to the organization, as opposed to a gift to a private foundation which may be subsequently distributed among several different charities. Therefore, the efficient use of the gift will depend upon the skills and experience of the employees of the public charity. Unless a donor places specific restrictions on the gift, as discussed in further detail below, it is possible that the charity may use all or a portion of the gift for administrative costs, in which case those monies would not be used for the direct conduct of the charitable activity.

> **Black Mesa Trust**
>
> The Black Mesa Trust is a nonprofit organization created specifically for one purpose: to preserve the Navajo Aquifer for present and future generations of Indigenous people. The Peabody Coal Company currently pumps 3.3 million gallons of pure groundwater per year from the aquifer for its mining operation. The water is then poisoned and neither reclaimed nor reused. The Black Mesa Trust works to educate the Hopi and Diné (Navajo) living on Black Mesa and the rest of the public about the impacts of the Peabody Coal operation. When an individual donates to the Black Mesa Trust, all of their money goes directly to this effort. For more information, go to www.blackmesatrust.org.

What Are Individuals' Major Options For Giving?

Creating a Private Foundation



The purpose of a private foundation usually reflects the charitable objectives and purposes of the founder. By establishing a private foundation, the donor has a greater ability to ensure that his or her contribution is used in furtherance of his or her particular charitable goals. In general, a private foundation makes grants to other charitable organizations in furtherance of their respective missions. However, a private foundation can also operate its own scholarship program or other type of charitable activity. These types of organizations are called "private" foundations because they generally derive financial support from only one source (e.g., a family, a corporation, an individual, etc.).

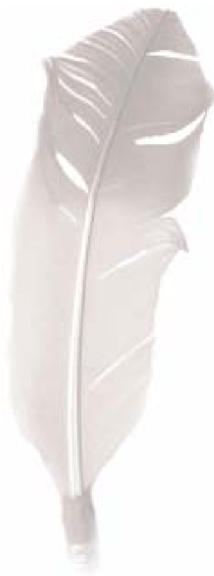
> The Dr. Rose Minoka Hill Foundation is an example of a Native American family foundation; it donates $25,000 a year to diabetes research. Three generations of family members sit on the board of this foundation, whose annual meeting is held during the family reunion.

It can be costly to establish and operate a private foundation. If the size of a donor's gift is not large enough to warrant the creation of a private foundation, he or she may want to consider making a restricted gift to a public charity or establishing a donor-advised fund at a public charity or community foundation. Both gifting techniques are discussed in further detail below.

Creating a Fund within a Preexisting Charitable Organization

By creating a fund within a preexisting charitable organization, such as a public charity or community foundation, a donor is able to create guidelines for his or her gift but have the gift managed by the charitable organization. This is commonly done with community foundations because they are well designed for accepting large donations to be re-granted. This arrangement gives the donor more control over how his or her gift is used but avoids the need to establish his or her own charitable organization. There are a number of ways of to create a donor-advised fund within a preexisting nonprofit. Set forth below is a brief summary of the most prevalent methods.

> **Two Feathers Fund**
>
> When a donor to the Saint Paul Foundation wanted the foundation to use his money to create a multicultural endowment, the community foundation responded by working with the donor to create the Two Feathers Fund. The Two Feathers Fund has a mission "to provide a culturally sensitive, community-responsive philanthropic vehicle for addressing the needs within the Indian communities of Minnesota by supporting artistic, educational, social and cultural development activities." For more information, go to www.saintpaulfoundation.org.



Restricted Gifts

A restricted gift is one in which the donor attaches conditions to a specific gift made to a charitable organization. However, a restricted gift cannot be restricted to providing benefits for a named individual or members of a particular family. In addition, a donor may not attach conditions to the gift that would likely prevent the charitable organization from obtaining the gift or force it to divest its interest in the gift in the future.

Questions about restricted gifts

If I make a "restricted gift," will the charity be required to honor my wishes in perpetuity?

A charitable organization will generally be required to honor a restricted gift in perpetuity unless the purposes or projects for which the restricted gift was made change so much that the donor would likely have redirected the gift.

How do I determine whether the restrictions I have proposed are appropriate?

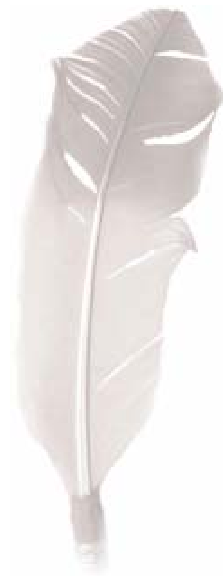
Restrictions that limit the use of the gift to or for certain exempt purposes or projects generally will be appropriate. It is *not* appropriate to propose a gift that benefits an individual person. To determine whether further restrictions are appropriate, a donor should seek advice from a professional financial or tax advisor. The donor may also want to ask the charitable organization whether it feels that it can comply with the restrictions.

Donor-Advised Funds

A donor-advised fund is a separate account at an existing public charity or community foundation. After the donor transfers money to the account, he or she makes non-binding suggestions to the charity regarding the investment and distribution of the funds in the account. The donor receives an immediate tax deduction for the entire amount of the gift.

The Kalliopeia Foundation gave some funds to First Nations Development Institute to establish a Native Youth and Culture Fund (NYCF). The goal of First Nations' NYCF is to partner with and support tribes and Native nonprofits seeking to preserve, strengthen, or renew Native culture and tradition among Native youth. In this situation, the Kalliopeia Foundation retained the right to advise First Nations regarding how to spend the funds. For more information about the Kalliopeia Foundation, go to www.kalliopeia.org.

What Are Individuals' Major Options For Giving?



Questions about donor-advised funds

Is there any cost involved or fees charged when a donor-advised fund is created?

There is very little cost involved in establishing a fund. The program sponsor generally picks up most of the cost, but may charge a nominal fee. In many cases, a donor-advised fund account can be opened with as little as $10,000.

Can I transfer assets out of my fund at a later date?

No. The gift is irrevocable; the fund legally belongs to the sponsoring organization.

Can I add to an existing donor fund?

Yes. Most programs encourage donor-advisors to make additional contributions.

Can I designate successor advisors?

In many cases, the program sponsor will allow you to designate one or more successor advisors but you should confirm with the sponsor.

The IRS recognizes many types of donations. Assets are not restricted to currency but include anything of monetary value that is transferable. Artwork, land, stock, and securities are all assets that can be donated. The IRS will recognize gifts if the proper steps are taken. The types of property and the proper steps taken to donate them are discussed below.

Cash

When donating cash, a donor needs to obtain and keep documentation/acknowledgment of the gift. Cash contributions include those paid by cash, check, and credit card. For contributions of less than $250, a donor must keep one of the following for each separate contribution: cancelled check or readable statement, a receipt of acknowledgment from the charitable organization, or other reliable written records made near or at the time of the contribution. For contributions of $250 or more, the donor must have an acknowledgement of the contribution from the charitable organization in writing. This receipt from the organization will generally indicate whether the donor received any goods or services from the charity in return for the gift. The value of any goods or services received by the donor from the charity will reduce the amount of the charitable deduction.

Stock and Securities

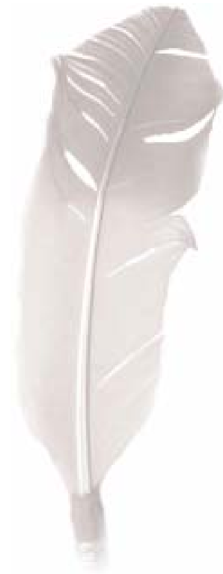
Appreciated stocks and securities are very attractive assets to donate to charity. Donation of appreciated, capital gain stock may yield a double tax benefit to the donor. The donation of appreciated stock that would have generated long-term capital gain if sold may yield this double tax benefit to the donor because:

- The donor may be entitled to deduct the fair market value of the securities as a charitable contribution.
- The donor is not taxed on the appreciation of the stock, so they may claim a charitable deduction with respect to such appreciation.

For more information, see IRS Publication 526 (Charitable Contributions). In certain cases, the amount of the charitable deduction for donations of stocks and securities may be limited; for example, where a donor contributes closely-held stock to a private foundation. It is recommended that you consult with an attorney who specializes in tax law when making a gift to stocks or securities to charity.

Real Property

A donor may receive an income tax charitable deduction for a gift of land to charity. Below are some issues one needs to be aware of when donating real property.



Questions about giving real property

How do I assign value to the property I donate to a qualified organization?

The amount of your charitable contribution is generally the fair market value of the property at the time of the contribution.
[Note: The income tax charitable deduction for a contribution of real property to a private foundation is limited to the donor's basis.]

What about the amount I paid for the property, or if I paid nothing for it?

According to the IRS, your "basis" in the property is generally what you paid for it. This basis is part of a formula for determining your tax deduction. For more information on this, see IRS Publication 551, *Basis of Assets*.

What if my gift involves allotted trust lands?

You may have to obtain approval from the Bureau of Indian Affairs (BIA) to make such a gift. Indian trust lands are frequently subject to restrictions on any form of transfer.

If I donate the use of my property, is that tax deductible?

In most cases, donating only the use of your property to a qualified organization is *not* tax deductible. However, a donor can obtain a federal income tax charitable deduction for the donation of a qualified conservation easement with respect to his or her real property. To qualify, the easement must satisfy certain tax law requirements.

CORDKEEPING

What if I owe a mortgage or other debt on my property?

Special rules apply to properties subject to debt or interest paid. Consult someone who specializes in tax and/or tribal law for more information.

How do I document the value of gifted real property?

You must furnish information on how you got the property and how much the property cost you (basis). If the value of the property is more than $5,000, you must obtain a qualified written appraisal from a qualified appraiser. See IRS Publication 561 (*Determining the Value of Donated Property*) for more information.

Artwork is an acceptable donation. The IRS will, in most cases, recognize donations of artwork and other collectibles as deductible charitable contributions. Below are relevant questions that one needs to ask before donating artwork or other collectibles:

Questions about donating artwork

How do I document the value of gifted artwork and other collectibles?

Just as with a cash gift, for gifts of art you must obtain and keep an acknowledgment of your contribution from the qualified organization.

For gifts of artwork and other collectibles for which the donor claims a deduction of more than $5,000, the donor must have a qualified appraisal by a qualified appraiser and attach a completed appraisal summary (Schedule B of IRS Form 8283) to his or her tax form. If the donor claims a deduction of $20,000 or more for gifts of artwork or other collectibles, the donor must attach to his or her return a completed appraisal summary and a complete copy of the signed appraisal.

If the art or other collectibles contributed has been appraised at $50,000 or more, the donor should request a Statement of Value for that item from the IRS to substantiate the value of the charitable contribution for income tax purposes. For more information, see IRS Publication 561 *(Determining the Value of Donated Property)*.

What kind of appraisal procedures does IRS require?

Appraisals of artwork or other historical artifacts should be performed by a qualified appraiser (preferably by an individual specializing in the kind and price range of the art being appraised) and include:

- A complete description of the object.
- The cost, date, and manner of acquisition.
- The history of the item, including proof of authenticity.
- A photograph that is of a size and quality to fully show the object.
- The facts on which the appraisal was based, including sales or analyses of similar works, quoted prices in dealer catalogs, exhibitions at which the art was displayed, standing of the artist, etc.

Types Of Gifts And Recordkeeping

Determining Your Tax Deduction on Donations

When you donate cash (meaning cash, check, charge, payroll deduction, etc.) to charity, the total amount of your donation(s) throughout the year is what you can deduct from your "taxable income." For example, if you earned $30,000 from January to December and in that same amount of time you donated $1,000 to charity, your taxable income is reduced to $29,000. That is, you pay taxes based on your income *after* charitable donations; in this case, on $29,000.[2]

Taking a tax deduction on charitable giving gets more complicated when you receive something in return (for example, the cost of the dinner at a fundraiser) or when you are donating non-cash items (property, artwork, stocks), especially if their value is more than $5,000. Because every donation is different, whether it is cash or something else, it is important to seek the advice of an accountant or tax attorney in order to correctly determine your tax deduction on the donation you've made.

Planned Giving

Planned giving is a way for many people to provide income for both themselves and their families and the causes they support while at the same time reaping tax benefits. This type of giving is not usually a one-time gift; it more often involves *a long-term gift or a deferred gift* that requires a fair bit of planning to set up. Planned gifts capitalize on assets such as cash, real estate,

[2] This example is a very simple example of tax law and doesn't discuss the percentage limitations applicable to the charitable deduction. Please consult a tax attorney for more detail regarding your own taxable donations.

appreciated stock and securities, or utilize mechanisms [legal instruments], such as trusts, bequests, and life insurance. There are a number of ways to approach planned giving.

Charitable Trusts

A trust contains assets held by one party for the benefit of another. Charitable trusts provide a way for individuals to turn their assets into a source of income for themselves (and their families) while also giving to charitable causes. For example, an older couple with a dividend-producing appreciated stock may want to avoid selling the stock and paying capital gains tax. They can donate this stock to their favorite charity and retain the dividends but avoid paying the capital gains tax. Only after their lifetime[s] will the principal of the stock go to the charitable organization. In most cases, charitable trusts provide the donor with capital gains, income, and/or estate tax benefits. There are several types of charitable trusts; a few of the most common are summarized below.

Charitable Lead Trusts

A charitable lead trust is one in which the donor transfers assets to a trust that provides for an annual income to be paid to a charity for a term of years; at the end of the trust's term, the then-remaining assets in the trust are then given back to the donor or transferred to an individual, usually a family member. This type of trust is called a "lead" trust because the income to the charity leads (precedes) the payment of the remainder to the individual beneficiary. A charitable lead trust provides income for a fixed term (in years) or, in the case of a bequest, for the lifetime of the donor. Lead trusts can provide either a fixed or fluctuating income to the charity. Once set up, this type of trust is irrevocable.

Charitable Remainder Trusts

A charitable remainder trust is also a trust that lets people leave assets to a favored charity and receive a tax break but still retain income. A charitable remainder trust is one in which the donor transfers assets to a trust that provides for an annual payment to the donor or other beneficiaries (usually a family member) for either a) the life of the donor/beneficiaries or b) a fixed period up to 20 years. At the end of the specified period, remaining assets (the "remainders") revert to the charity. Once set up, this type of trust is irrevocable. There are specific types of charitable remainder trusts. For example, a *charitable remainder unitrust* allows for a fluctuating annual payment based on a percentage of the value of the assets in the trust. A *charitable remainder annuity trust*, on the other hand, provides for a fixed annual payment – even if the value of the asset increases. This is a lower risk trust for the donor. There

are still other formulations for charitable trusts, so if a charitable trust looks attractive to you, the next step is to talk to a financial adviser, accountant, or attorney who specializes in charitable trusts.

Charitable Gift Annuities

A common alternative to a charitable trust is a charitable gift annuity, which takes the form of a contract rather than a trust. A donor transfers assets to a charity and the charity in return makes a fixed payment to one or two individuals for their lifetime(s); *not* for a set amount of years. The payments from the charity back to the individual(s) are considered to be a partial tax-free return of the charitable gift rather than income. Once set up, a charitable gift annuity is irrevocable.

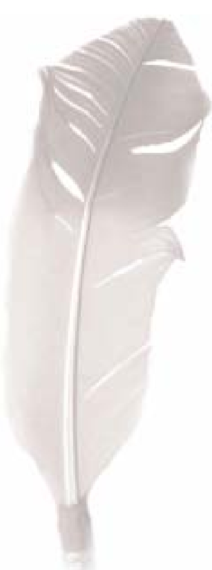
Charitable Bequest

A donor may leave assets to charity at his or her death by making a bequest in his or her will. The advantage of leaving assets to charity at death is that the assets are available for use by the donor during his or her lifetime. The fair market value of property left to charity is deductible for estate tax purposes. A bequest is easy to make and the donor may revoke the bequest at any time during his or her lifetime simply by amending his or her will.

Gift of Life Insurance

An individual may be able to donate an existing life insurance policy or a new life insurance policy to a charitable organization. It's possible to either a) list the charity as a beneficiary of the policy or b) to transfer ownership of the policy to the charity. Donating a life insurance policy to a charitable organization may provide income tax savings to the donor and a financial gift to the organization. In some cases, a charitable organization can cash in the value of the paid-up life insurance policy. A word of caution: Complex charitable life insurance transactions should be reviewed by the donor's attorney or tax advisor.

PLANNED GIVING



Questions about probate of Indian estates:

When is the Bureau of Indian Affairs involved in the estate of a deceased Indian?

The BIA makes determinations about heirs/beneficiaries of an Indian estate only when that estate is part of a trust or restricted property. The BIA does *not* review or approve the distribution of:

- Real or personal property in an estate of a deceased Indian that is not trust or restricted property.

PLANNED GIVING

Table 2. Comparison of Planned Giving Options

Type of Planned Gift	Who receives the gift?	What's the term of the gift?	Who controls the assets?	Can I keep some of the assets?	Is it revocable?	What are the tax benefits?

Charitable Lead Trust	First a charitable organization, then beneficiaries (donor, family, etc.).	The life of the donor and/or other beneficiaries **OR** a fixed term (in years).	The trustee of the trust controls the assets during the term of the trust.	Yes	No	Income tax deduction only in certain cases – Consult your attorney for more information.
Charitable Remainder Trust	First the beneficiaries (donor, family, etc.), then the charitable organization.	The life of the donor and/or other beneficiaries **OR** a term up to 20 years.	The trustee of the trust controls the assets during the term of the trust. The charity controls the assets at the end of the trust term.	Yes	No	Income tax deduction; no capital gains tax deduction; potential estate tax benefits.
Charitable Gift Annuity	First a charitable organization, then beneficiaries (donor, family, etc.).	The life of the donor and/or other beneficiaries.	The charitable organization controls the assets.	Yes	No	Potential income tax and capital gains tax benefits.
Bequest	A charitable organization can receive all or part of a bequest.	Charity receives property at donor's death, at end of donor's life.	The charitable organization controls the assets, but the donor can restrict the gift.	N/A	Yes	Estate tax benefits.
Life Insurance Gift	A charitable organization, heirs or both.	Charity receives property at donor's death, at end of donor's life **OR** a one-time transfer of policy.	The charitable organization controls the assets, but the donor can restrict the gift.	N/A	Yes, if charity is named as beneficiary. No, if policy is gifted.	Potential immediate income tax deduction or future estate tax deduction.

Financial Benefits Of Individual Philanthropy

Charitable giving incorporates the Native value of reciprocity. The individual benefits of charitable giving are as varied as each person who decides to give to a cause they believe in; however, the financial benefits of charitable giving are more narrowly defined.

Individual Tax Status and Philanthropy

Federal Income Tax Basics for Native Americans

Like all U.S. citizens, tribal members can reduce their tax liability by filing a federal income tax return and claiming deductions for items like charitable contributions. Income earned by tribal members is subject to U.S. federal income tax unless specifically exempted by a treaty or statute. Virtually all wages earned by tribal members are subject to federal income tax – whether earned on or off the reservation. Governmental payments distributed on a "per capita" basis to tribal members may also be subject to federal tax depending on the source and purpose of the payment. For example, per capita payments made under the Indian Gaming Regulatory Act are fully taxable and subject to withholding, while certain land settlement payments are excludable from income for federal tax purposes.

State Income Tax Basics for Native Americans

Federal income tax returns frequently provide the basis for state tax returns, therefore charitable deductions may also reduce one's state income tax liability. The degree to which a tribal member is subject to state income tax depends on the following items.

- The tax policy/laws of the particular state with jurisdiction over the individual paying income tax.
- Whether the tribal member is residing on or off the reservation.
- Whether the tribal member is working on or off the reservation.
- The type and source of the income.

As a general rule, income earned by a tribal member who is both living and working on the reservation will be free of state income taxes.

Estate Tax Basics for Native Americans

Like all U.S. citizens, tribal members are subject to the federal estate tax on the transfer of their assets at death to family members or other beneficiaries. While the dollar threshold for the imposition of estate tax is relatively high, federal estate tax rates are also extremely high (up to 55 percent). So, it would be worthwhile to look into formalized philanthropy to offset the potentially high estate tax burden.

Further Information

All IRS forms and publications mentioned in this pamphlet are available at www.irs.gov under Forms and Publications.

First Nations Development Institute can be reached by phone at (540) 371-5615 or over the Internet (through its website), at www.firstnations.org.

Conclusion

Component Three of the Strengthening Native American Philanthropy (SNAP) series was meant to be a general but thorough outline of individual giving options for Native Americans. It's worthwhile to consider which options best suit your own desires for giving. When you are ready to take the next step, consult an attorney who specializes in tax and tribal law. No matter what option(s) you choose, and no matter whether your gift is large or small, it provides a way for you to give back to the community you care about.

Your own actions will likely provide an incentive for others to become in charitable endeavors to further Native American causes. Good luck!

Resources

Books

Nilles, Kathleen M., Endreson, Douglas B.L., Texler, Jeffrey, and Locklear, Amy, *Giving With Honor: A Legal Reference on Charitable Activities of American Indian Tribes.* Washington, D.C.: Council on Foundations, 1998.

Wells, Ronald Austin, *The Honor of Giving: Philanthropy in Native America.* Indianapolis: Indiana University Center on Philanthropy. 1998.

Organizations

The Alford Group
Washington DC Regional Office, 7272 Wisconsin Ave., Suite 300, Bethesda, MD 20814, Phone: 301-941-1954 Fax: 301-951-3628
http://www.alford.com

American Indian College Fund
8333 Greenwood Blvd., Denver, CO 80221, Phone: (303) 426-8900 Toll Free: (800) 776-3863 Fax: (303) 426-1200
www.collegefund.org

Council on Foundations
1828 L Street NW, Washington, DC 20036, Phone: (202) 466-6512 Fax: (202) 785-3926
www.cof.org

First Nations Development Institute
2300 Fall Hill Avenue, Fredericksburg, VA 22401, Phone: (540) 371-5615 Fax: (540) 371-3505
www.firstnations.org

Gardner Carton & Douglas LLP
1301 K Street, NW, Suite 900, East Tower, Washington, DC 20005-3317 phone: (202) 230-5000 Fax: (202) 230-5300
http://www.gcd.com/indianlaw

National Congress of American Indians
1301 Connecticut Ave NW, Suite 200, Washington D.C. 20036 Phone: (202) 466-7767 Fax: (202) 466-7797
www.ncai.org/

National Indian Gaming Association
224 Second Street SE, Washington, DC 20003, Phone: (202) 546-7711 Fax: (202) 546-1755
www.indiangaming.org/

Native Americans in Philanthropy
151 East County Road B2, Little Canada, MN 55117, Phone: (651) 766-8777 Fax: (651) 766-0012
http://www.nativephilanthropy.org