

# THIS YEAR IN NONPROFIT LAW

November 30, 2017

## OPPORTUNITIES AND PITFALLS IN CHARITABLE GIVING

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1. Pitfall – Assignment of income
  - 1.1 Opportunity – charitable involvement in planning
  - 1.2 Illustration - recent
2. Pitfall – undue influence
  - 2.1 Opportunity – use with gentle touch to develop relationship with donor’s attorney
    - (a) # 1 piece of information – which donors do not have children
  - 2.2 Illustration – the neighbors
3. Pitfall – bad drafting by donor’s attorney
  - 3.1 Opportunity – invest in your major donors, offer to pay for a review of documents
    - (a) Of course, be careful of stepping on toes
  - 3.2 Illustration – *Petter Estate* drafting
  - 3.3 Illustration – S stock transaction
4. Pitfall – bad administration by donor’s advisors/fiduciary
  - 4.1 Opportunity – get the AG to fight for you
    - (a) Know when to pay for a review of an administration
  - 4.2 Illustration – tax allocation
  - 4.3 Illustration – living trust
5. Opportunity – vanilla business transitions
  - 5.1 Pitfalls
    - (a) Securities laws
    - (b) UBIT with no cash

- (c) Indemnifications – an absolute rule of never agreeing may leave money on the table
- 5.2 Illustration – finding similarly situated participant
- 6. Opportunity – ‘Neapolitan’ business transitions (where the money lives)
  - 6.1 Pitfalls – this is deep water; penalties and lawsuits
  - 6.2 Illustration – Kinder Morgan deal
  - 6.3 Illustration – Nine figure gift to local university
  - 6.4 Multiple eight figure gifts to DAF