

How to Give Through Your Estate

From bequests in your will to complex RRIF arrangements, estate giving is a popular and effective way of supporting your favorite charities.

Giving through your will

How It Works

A will is a formal legal document in which you specify how you wish your property to be disposed of after death. If you should die without a will, your lifetime accumulation of wealth will be distributed according to provincial laws - regardless of family wishes. Fortunately, making a will is not complicated when it is done with legal assistance.

Providing for a charitable gift in your will can easily be accomplished by including a bequest to the charity of your choice. "Bequest" is simply a term used to describe a gift in your will specifying that a certain percentage of your estate, a particular asset, or a specific dollar amount is to be directed to a named beneficiary.

While there are currently no estate or inheritance taxes in Canada, there are certain "deemed dispositions" and income taxes payable under the Income Tax Act that can create tax liabilities. A charitable bequest, however, can provide significant tax advantages to your estate.

When you make a bequest to charity, your estate is entitled to a gift receipt for the full value of the bequest. If the total bequest exceeds 100% of the net income on your final tax return, the excess may be carried back to the previous tax year.

What to Do

A bequest can be for an unrestricted or designated gift in the form of cash, property or securities. It can also take the form of a "residual legacy" whereby a charity received all or a portion of whatever remains of your estate after all debts, taxes, expenses and other bequests have been dispensed. Should you wish to make a bequest through your will, you can contact a lawyer to assist you with the appropriate legal wording.

Benefits to You

- You have the use of your assets during your lifetime.
- There are many options to ensure that your bequest is personally meaningful.
- Your estate receives a tax receipt.
- A bequest is a revocable gift and can be altered at any time should your circumstances change.

To Illustrate

Suppose that, in his will, a widower leaves \$100,000 to a particular charity and leaves the remainder of his estate to his two children. Assuming the net income on his final tax return is large enough for the entire bequest to be claimed for a charitable tax credit, the bequest will result in substantial combined federal and provincial tax savings. If he had left the \$100,000 to his children, taxes would have consumed a considerable portion, leaving only the after-tax residue for his children.

The Sport Legacy Fund recommends the use of professional advisors when considering a gift through your estate.

Charitable remainder trusts

How it Works

A charitable remainder trust is a deferred giving arrangement under which you may transfer property (cash, securities or real estate) to a trustee. You (and/or other beneficiaries) retain the right to the income from the trust either for life or for a specified number of years. The charity received whatever remains in the trust after the specified term, or after the death of the last beneficiary - whichever has been stipulated in the trust document.

Donors who establish a charitable remainder trust receive a charitable donation receipt for the present value of the future gift (the "charitable remainder") which the charity will receive when the trust terminates. That value is calculated based on actuarial tables, taking into account the value of the property transferred to the trust, interest rates, the age of each beneficiary, or the term of the trust if it is for a specific number of years.

What to Do

There are two types of charitable remainder trusts: irrevocable (which means you can't change your mind) and revocable. If you choose an irrevocable charitable remainder trust, you receive a tax receipt now for the present value of the remainder interest. If you opt for a revocable trust, your estate will receive the tax receipt when the assets are delivered to the charity.

If you are thinking about establishing a trust, you should review the tax implications with your estate planner or accountant. Drafting a trust document can be complicated, and requires the assistance of a lawyer to tailor the trust to your own circumstances.

Benefits to You

- You receive an immediate tax receipt for the present value of residual interest.
- You have the benefit of income from your assets throughout your lifetime.
- Your trust is professionally managed.
- You can avoid tax on a portion of, and possibly all, capital gain.

To Illustrate

Suppose that a 70-year-old widow wants to establish an endowed fund for a particular charity, but cannot afford to give up any investment income. She transfers property worth \$250,000 to an irrevocable charitable remainder trust from which her net income will be approximately \$17,500 a year for her lifetime. When she funds the trust, she received a donation receipt for \$90,611, which will translate into substantial tax savings. After her death, the trust principal will be used to create the endowment.

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Giving through life insurance

How it Works

Life insurance is an economical vehicle for giving a larger and more lasting gift to a charity than might otherwise be possible, without drawing on your assets now or depleting your estate. There are several ways of leaving a legacy through life insurance. You can give to a charity through the irrevocable gifting of a new insurance policy or through an existing one that is no longer needed to ensure your family's welfare. By giving through life insurance, you can make a significant future gift with only a small annual or monthly outlay.

Life insurance is a particularly effective gift because of the leveraging effect. Since it is not included in the probate of your will, there are no probate fees and your gift goes to work at the charity quickly. You may also use an insurance policy to replace a cash gift that you make today. If you choose to make a large cash donation to a charity now, a policy can be used to replace those assets in your estate. Your gift will earn tax credits which can be spread over six years and this tax savings can be used to pay for the insurance.

What to Do

There are three ways to give. You can give an insurance policy you already own to the charity; you may take out a new policy in the charity's name; or you can name your estate as the beneficiary of the policy and provide in your will for the policy proceeds to be paid to the charity. Under new legislation, you can also name a charity the beneficiary of your life insurance policy. You will not receive tax benefits during your lifetime, but a charitable donation receipt will be issued by the charity for the full death benefit upon your death, creating a substantial tax advantage for your estate. There is an advantage in the case of new policy where an immediate tax credit is available through receipts issued by the charity for the payment of insurance premiums, or in the case of a paid-up policy signed over to the charity where a tax receipt for the cash value of the policy is issued to the donor. Check with your insurance advisor about a possible taxable disposition when donating an existing paid up policy.

When a charity is named in your will as a beneficiary of a policy retained by you or as a secondary beneficiary if the primary beneficiary is not surviving, there are no current tax benefits. When death proceeds are paid, the amount will be treated as a charitable contribution and used within the normal limits. To receive a tax benefit for the premium paid, but not for the death benefit, you must ensure that the charity is both the owner and beneficiary of the policy. Arrangements can easily be made by contacting your insurance agent and notifying the charity.

Benefits to You

- You receive a tax receipt, significantly reducing the cost of the policy (provided that the charity is the owner and beneficiary of the policy).
- You pay for the gift in small installments over several years.
- Your gift doesn't reduce the amount of money in your estate available to your family.

To Illustrate

Suppose that a 45-year-old woman has some discretionary income but cannot afford to contribute any capital to a charity whose work she admires. She purchases a new life insurance policy with a face value of \$50,000, names the charity as owner and beneficiary, and pays annual premiums of \$1,800 for five years. Each year, she receives a donation receipt for the premium paid. Her tax savings will greatly reduce her out-of-pocket costs to ensure a future gift of \$50,000 at a very affordable price.

Gift annuities

How it Works

A gift annuity combines your gift to a charity with an annuity which the charity purchases on your behalf through a licensed life insurance company. Your guaranteed annuity payments will continue throughout your lifetime, unaffected by changes in the economy or interest rates. If you wish, the annuity can be written to cover you and your spouse through both lifetimes.

The exact amount of your annuity will depend on your age(s), the size of your contribution, and the annuity rates in effect at the time of your gift. Depending on your age, a portion of your annuity payments will be tax-free. Older annuitants may receive payments that are entirely tax-free in addition to receiving a donation receipt that will result in a tax credit. Because of these tax benefits, you may be able to increase your cash flow while making a charitable gift.

What to Do

Contact the charity of your choice to discuss your specific gift and income objectives and the contribution required to meet them. Review the gift annuity plan with your own financial advisor to be sure that you are completely comfortable with it. You and a representative from the charity may then execute a Deed of Agreement in which the charity promises to acquire an annuity for you in exchange for your contribution.

Someone from the insurance company supplying the annuity will then obtain from you the information required for the annuity application and answer any questions you may have. The charity will pay the premium and your payments will then begin.

Benefits to You

- You are able to help a charity with a significant gift.
- You receive a guaranteed income for life, which can be partially or completely tax-free.
- You may receive a tax receipt for a portion of your gift.
- You avoid probate fees because the annuity is outside your estate.

To Illustrate

Suppose that an 80-year-old widow contributes \$30,000 for an annuity to a particular charity. She receives a tax-free lifetime annuity of \$2,550 (8.5%) each year, and a donation receipt for \$2,970.

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RRSP or RRIF in your estate plan

Saving for your retirement is becoming an essential part of a complete financial plan. However, your strategy should also consider what happens to these funds in your estate. It is important to remember that on your death, your registered savings are deemed to be disposed of, and 100% of the remaining balance is added to your income in the year of death unless they pass to a surviving spouse. Even if your RRSP or RRIF specifies the beneficiaries, the estate is still liable for the tax. If other income was earned prior to death, this could easily be subject to tax at the highest marginal tax rate - significantly reducing the amount of the RRSP or RRIF available to your beneficiaries.

For those who are concerned about preserving capital for distribution to children, family or charity, the recent amendment to the Income Tax Act increasing the contribution limit of donations in the year of death to 100% provides one avenue of exploration.

How it Works

Two possible ways of using your RRSP or RRIF to make a charitable gift are:

1. Make your estate the beneficiary of the RRSP or RRIF, after your spouse, and have the estate donate an equivalent value to the charity. This will allow your estate to take advantage of the tax-free rollover to your spouse, and on the death of the last surviving spouse, a significant gift can be made to the charity. You will must specify the bequest gift to the charity that is equal to the value of the registered savings plan. If your spouse survives you, then the spouse's will must provide for the bequest. You may want to put in the RRSP/RRIF account number and institution it was held at in the bequest clause. If your estate is the beneficiary and a bequest gift is made to charity, a gift receipt can then be issued to the estate. The receipt will offset the tax on the registered savings payable by the estate, making all other income net of taxes available for distribution to other beneficiaries.
2. Incorporate a joint last-to-die life insurance policy with a face value equal to what you expect the registered savings to be at your death into your financial plans. Name your favorite charity as beneficiary of your RRSPs/RRIFs. Recent Federal Budget proposals will allow the charity to issue a charitable donations receipt for the full value of your RRSPs/RRIFs, offsetting the income taxes which would otherwise be payable by your estate. Your heirs will get the full value of the policy without triggering tax because proceeds from life insurance are distributed to beneficiaries' tax-free. This is an interesting proposal for those concerned with caring for family and charity on their death.

For further information on how to include registered retirement savings in your philanthropic plans, please contact your favorite charity or financial advisor.

To Illustrate

A non-smoking couple aged 60 had a \$500,000 RRIF at life expectancy of the second spouse. If they were to take out a \$500,000 life insurance policy that paid out on the death of the last surviving spouse, the present value cost would be about \$50,000. By taking that policy out, this would create an extra \$750,000. \$500,000 would go to the charity, and the family would receive a receipt from the \$500,000 taxable RRIF which would result in an extra \$250,000 going to the family. If they did nothing, the family would receive \$250,000, and the Government would receive \$250,000. Under this example, the charity receives \$500,000 and the family receives \$500,000.

Thanks to Leave A Legacy Waterloo-Wellington, you can learn how to make the most of your estate donations.

(slf/estate giving tips.doc)