Charitable Giving

TRUSTS AND ESTATE PLANNING GROUP

A gift to a qualifying charity entitles you to a federal tax credit on your personal income tax return. This credit can only be used to reduce income tax otherwise payable. Any unused donations can be carried forward for five years. The tax credit is not to exceed 75% of your net income for the particular tax year. There are comparable tax credits for provincial and territorial income tax calculations.

The above net income limitation does not apply to gifts made on death. In such circumstances, the limit is increased to 100% of your net income in the year of death. In the event the gift exceeds this limit, any excess can be applied to the tax otherwise payable in the year immediately prior to the year of death. The 2014 federal budget introduced favourable changes. Starting in 2016 executors will have greater flexibility in determining if the tax credit created as a result of a gift made in a Will should be used by the estate in the year the gift was made, an earlier tax year of the estate or the last two tax years of the individual prior to his or her death.

The following are some ways in which you can make a gift to your favourite charity while you are alive and/or on your death:

Cash

A cash gift can be a one time gift or a regular gifting program can be set up. You receive the tax credit when you make the gift.

Your Will can make a cash legacy to be paid to a charity on your death or provide that all or a portion of the residue of your estate is to pass to a charity. You can also direct your executor to make a gift to a charity to the extent that the gift will eliminate all or some of the income tax otherwise payable on your death (sometimes referred to as a "tax eliminator" clause). By making the gift in your Will you maintain control and access to the assets while you are alive. You can also amend your Will during your lifetime. The tax credit is only available after your death.

Registered Retirement Plans

You can name a charity as the beneficiary of your RRSP or RRIF. In addition to the income tax savings noted above, estate administration tax (also referred to as probate fees) of approximately 1.5% is avoided on the value of your RRSP or RRIF at the time of your death. You retain control and access to the RRSP and RRIF while you are alive. You can also change your mind and revoke the beneficiary designation.

Life Insurance

If you wish to make a substantial gift while you are alive, you may want to consider purchasing a life insurance policy which will replace the monies or assets you have donated to the charity so that you can still leave an inheritance for your heirs. You obtain the tax credit at the time the gift is made to the charity.

You can also, like with RRSPs and RRIFs, name a charity as the beneficiary of your life insurance policy. This is appropriate for individuals with policies they no longer need or wish to make a gift to a charity but do not have the ready funds to do so. The tax credit is recognized on your death.

Finally, you can make your preferred charity the owner and irrevocable beneficiary of a life insurance policy based on your life. It can be a fully paid up policy or you can continue to make the premium payments. You receive an immediate tax credit if the policy is fully paid up. Otherwise you obtain the credit as and when you make the premium payments.

Publically Traded Securities

When you make a gift of publically traded securities the tax savings are greater than selling the shares and using the cash proceeds to make the gift. When you gift shares you do not need to pay income tax on the accrued capital gain on the shares (as you normally would when you otherwise disposed of the shares). This type of gift is most appropriate for individuals with investment portfolios that include significantly appreciated securities.

Certified Cultural Property and Ecologically Sensitive Land

You can make a donation of certified cultural property or ecologically sensitive land. A donation made while you are alive may entitle you to claim a tax credit up to 100% of your net income. Capital gains on the disposition of such property will not be triggered (as it otherwise would be on the property's disposition).

Charitable Gift Annuity

An individual can make a gift to a charity in return for regular payments for life (or a specified number of years). The charity will typically use the lump sum to purchase an annuity. You receive a tax credit equal to the amount donated less the cost of the annuity. The payments of income may be partially or fully exempt from income tax (it depends on your age at the time the gift is made). Once the annuity is established, it is irrevocable.

Charitable Remainder Trust

During your lifetime you can contribute assets to a trust and immediately receive the tax credit. Income tax will be payable on the accrued capital gain of the assets transferred to the trust. While you are alive you receive the income generated by the assets held in trust and if the asset is real property you can also continue to use of the property while you are alive. However, you cannot encroach on the capital of the trust. On your death, your selected charity receives the "remainder" of the assets held in trust. You cannot change the charity beneficiary once the trust is established. No estate administration tax will be payable on the fair market value of the trust assets on your death.

A charitable remainder trust can also be set up in your Will. The gift to the trust would occur on your death. Income generated by the trust fund would benefit a selected individual while he or she is alive. On his or her death (or some other specified time) the named charity would obtain the remainder of the trust fund.

Creating an Endowment Fund

You can make a substantial gift to a charity whereby the income earned on the invested assets can be used by the charity on an ongoing basis over a long period of time. An endowment fund is a good way to leave a lasting legacy. The funds could be used to create a scholarship or fund a particular project.

Private Foundations

A private foundation is a registered charity. It is funded and controlled by an individual or a family. The funds are used to make gifts to other charities. It is useful in situations where a substantial gift can be made and there is a desire to engage family members and future generations in the management of the private foundation. You can also make a further donation to your private foundation on your death through your Will.

Donor Advised Fund

There exist public foundations with individual accounts. This is a good alternative to setting up a private foundation or endowment fund as the charitable entity already exists. You enter into an agreement with the public foundation setting aside a certain amount of money or assets (and can make additional contributions) to support your choice of charities over a period of time. It is less expensive than setting up a private foundation and you can make the donation much more quickly as you do not need to prepare nor submit a charity application to the Canada Revenue Agency. You can make a further donation to your fund on your death through your Will.

There are specific rules that apply to charitable gifts. If charitable giving is important to you, we can discuss ways in which we can organize such gifts in order to maximize the income tax and estate administration tax savings.

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