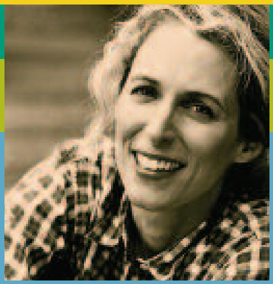
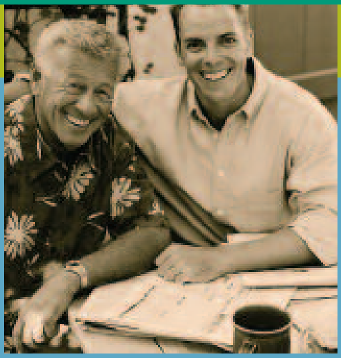
Manulife Investments

Charitable Giving Guide





TRS Tax & Retirement Services

Charitable Giving Guide

Giving to charity has a strong tradition in Canada. But with recent cutbacks, the amount of public funding received by charitable organizations from the government has been dramatically reduced. This leaves many organizations in a precarious financial situation: with more fiscally conservative governments, aging populations and escalating operational costs, many charities are faced with the reality of being unable to maintain effective levels of service.

INTRODUCTION

In response to this new economic reality, individuals, organizations and corporations are stepping forward to help fill the funding void that governments have left behind. And with good reason – not only do charitable donations provide individuals and organizations with the satisfaction of giving back to their communities*, but changes to Canadian tax laws now ensure that there has never been a more tax-advantaged time to give.

To help bridge the gap between donors and charitable organizations, Manulife Investments has prepared this guide on giving assets to charity to provide a brief overview of how donors can optimize their charitable gifts. Through proper tax planning and an understanding of different planned giving options, donors and charities can work hand-in-hand to achieve maximum benefits while enhancing our communities' overall quality of life.

This guide is distributed on the understanding that Manulife Investments is not engaged in rendering legal, accounting or other professional advice. If legal or other expert assistance is required, the services of a competent professional should be sought.

*Most charities are very grateful for the opportunity to thank donors while they are still alive. However, charities usually need permission from the donor in order to publicly acknowledge the gift.

AFTER REVIEWING THIS DOCUMENT, MANULIFE INVESTMENTS RECOMMENDS YOU CONSULT YOUR TAX ADVISOR BEFORE ACTING UPON ANY OF THE INFORMATION PROVIDED.

CHANGES TO BE AWARE OF

The federal government has conducted an extensive review of charitable giving. The 2004 Federal Budget allocated $30 million over 2005 and 2006 to support the Voluntary Sector. The money is being used to improve the tax rules for charities and to support the Voluntary Sector Initiative (VSI). The VSI has developed a 5-year regulatory reform initiative. This will focus on five major areas of charity regulation:

- Service improvements
- Public awareness and sector outreach
- Monitoring and sanctions
- Appeals
- Collaboration among federal, provincial and territorial governments

In addition, a 12-member Charities Advisory Committee was established to provide regular advice, guidance and research between the Canada Revenue Agency (CRA) and the charitable sector.

In conjunction with the federal government's review of charitable giving, the Department of Finance has made many revisions to the legislation governing charitable gifts. Draft legislation was introduced in December 2002 and December 2003. These two pieces of legislation reflect the new approach to charitable giving. The CRA will also be revising existing Interpretation Bulletins and publications to reflect these changes.

This guide incorporates tax rules up to December 2006, as well as the draft legislation introduced in December 2002 and December 2003 and the 2007 federal budget proposal. Although the legislation is not yet law, the CRA has provided guidelines on the proposed amendments that are to be relied upon. Note that rates and other information may change as a result of legislation or regulations issued after this guide went to print.

WHAT QUALIFIES AS A CHARITY?

For an organization to qualify as an official charity – one that can legally issue tax receipts – it must be registered with the Canada Revenue Agency (CRA). Without this qualification, the donor will not be able to obtain tax benefits from the gifts that they provide. There are approximately 80,000 charities registered by the CRA. If a donor has questions as to whether a charity is legitimate, they can confirm the organization's charitable registration number by calling the CRA directly - http://www.cra-arc.gc.ca/tax/charities/.

There are many types of organizations that have been approved by the CRA to issue charitable receipts. Some of these include:

- Registered charities (including Canadian universities and colleges)
- Registered Canadian amateur athletic associations
- Public and private foundations
- Certain non-profit organizations
- United Nations and related agencies
- Canadian and provincial governments, crown foundations, municipalities
- Approved foreign universities

Definition of a "Gift"

If a gift to charity is to obtain special tax considerations, it must qualify as a "voluntary transfer of property without valuable consideration" under CRA guidelines. This means that when a gift is made by an individual or corporation, it is done so without the expectation of the donor receiving something in return. Property under this definition typically falls under one of the following categories:

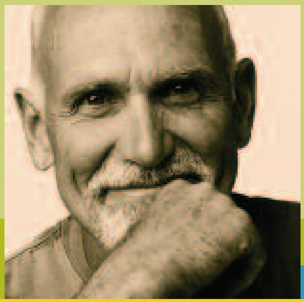
- Cash
- Gifts in kind (typically stocks, bonds and real estate)
- Certified cultural property (works of art, historical or other cultural artefacts)
- The proceeds of a life insurance contract

Gifts that may have monetary value but do not qualify for charitable tax receipts include:

- Gifts for which a personal benefit will be received (for example, payments to a charitable organization for daycare services)
- Gifts of personal time or services like consulting work or manual labour
- Gifts with nominal value like used clothing, old furniture or outdated computer parts

OVERVIEW OF CHANGES

In the December 2002 draft legislation, CRA reviewed the definition of a gift for situations that do not qualify as an outright transfer of property without consideration. This would occur, for example, where an individual buys a ticket to a fundraising dinner and pays an amount greater than the cost of the dinner. The purpose of this exercise was to recognize that, in many cases, it was obvious that



individuals were donating amounts far in excess of what they had received from the charity, but were unable to qualify for donation receipts because they were considered to have received an "advantage". An advantage is the total value of all property, services, compensation and other services that the donor is entitled to as partial consideration or in gratitude for, the gift. Under the previous rules, if a donor received anything in exchange for the donation (e.g. free advertising space), the charity was not able to issue a receipt.

To address this situation, the CRA has outlined the following criteria for a gift:

- There must be a voluntary transfer of property to the charity and the property must have a value that can be clearly determined. Note that this still precludes a receipt for a donation of services.

- Any advantage received by the donor from the charity must be clearly identified and its value ascertainable.

- There must be a clear intent to enrich the charity. In this regard, the Income Tax Act (Canada) ("the Act") will be amended so that a transfer of property will not be disqualified as a gift as long as the advantage to the donor does not exceed 80% of the value of the property transferred to the charity. A second alternative allows for the donor to establish to the satisfaction of the Minister of National Revenue that the transfer was made with the intention to make a gift.

As an example, assume a donor wants to transfer a building with a fair market value of $300,000 to a

Definition of a "Gift" CONTINUED

registered charity. The charity assumes liability for the $100,000 outstanding mortgage. Under the previous rules, the assumption of the mortgage by the charity would be considered an advantage received by the donor and, as such, would deny any donation claim by the donor.

Under the proposed rules, the donor would be eligible to claim a donation amount of $200,000. If the outstanding mortgage was for more than $240,000 (80% of $300,000), the donor could apply to the Minister of National Revenue for a determination as to whether the transfer was made with the intention to make a gift.

SMALL GIFTS OF APPRECIATION

Generally, the proposed definition of the eligible amount of a gift (i.e. the amount for which a donation receipt can be issued) will be the value of the property transferred to the charity, less the amount of the advantage provided to the donor. However, to further complicate the issue, CRA acknowledges that small gifts of appreciation are often given to donors. In order to reduce the administration involved in calculating the eligible amount of a gift, CRA provides a "de minimis threshold": any advantage received by the donor from the registered charity in exchange for the gift must have a value limited to the lesser of:

- 10% of the value of the property donated, and
- $75.

Otherwise, it must be deducted from the donation amount.

To illustrate these rules, CRA provides an example of a fundraising concert where the

tickets are $200. Normally, tickets for this concert sell for $100. Each attendee receives a complimentary t-shirt that retails for $20 and a CD that retails for $15. The eligible amount is determined to be:

Ticket Cost		**$200**
Less: Advantage received by donor		
Comparable ticket price	**$100**	
Complimentary items	**$ 35**	**$135**
Eligible Amount		**$ 65**

The value of the complimentary items is $35, which exceeds the lesser of 10% of $200 ($20) and $75. Therefore, the t-shirt and CD are considered an advantage and must be taken into account in determining the eligible amount. If the only item offered was the CD (with a value of $15), the amount would be less than 10% of $200 ($20) and $75. As such, it would NOT be included as an advantage, and the eligible amount would be $100 ($200 ticket cost less $100 comparable ticket price).

Since the advantage amount of $135 does not exceed 80% ($160) of the actual ticket price, a donation receipt may be issued for the eligible amount ($65).

In the event the value of the advantage is intangible, there would be no eligible amount for any portion of the donation. For example, a dinner with a celebrity cannot be reasonably valued – in this case, no part of the ticket price would be eligible for a donation receipt.

LEGACY GIFTS

With the exception of private and public foundations, charities are required by the CRA to spend at least 80% of all donations (the "disbursement quota") for which tax receipts have been issued each year by the end of

Definition of a "Gift" CONTINUED

the following year. This rule is designed to ensure that a fair proportion of the charity's annual income is used for charitable purposes and is not retained by the organization for other reasons. There are some notable exceptions to this rule however:

- Donations that are received by means of a bequest are exempt
- Gifts donated from other charities are also exempt

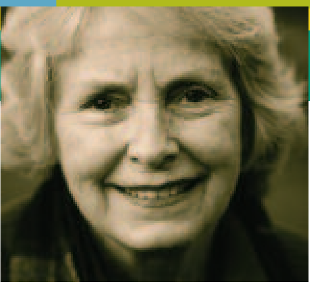
The third and most important exception, however, allows the donor to stipulate that the gift cannot be disbursed for at least ten years. Under this exemption, the charity issues a tax receipt to the donor in the year the funds are given to the charity, but the charity is not required to include the amount of the gift in the calculation of its required disbursements, a figure that the organization is required to report back to the CRA. In order to designate a gift under this ten-year rule, a donor should stipulate in writing that the gift, or the proceeds from the gift, should be held for a period of not less than ten years.

For individuals looking to provide a gift during their lifetime that falls out of the disbursement quota, we recommend that they contact the charitable organization in advance.

TAX GUIDELINES FOR CHARITABLE DONATIONS

What follows is a brief summary of the tax rules that apply to all charitable donations:

- Individuals will receive a federal tax credit of 15% on the first $200 donated to charity, and 29% on any remaining amounts



- An individual can claim an amount for total donations of up to 75% of net income, plus 25% of any taxable capital gains realized as a result of a donation of capital property. For example, if an individual has net income of $40,000 (with no taxable capital gains), he can claim total donations of $30,000. The federal and provincial tax credits would then be applied to the $30,000
- After federal and provincial taxes and surtaxes are taken into account, an individual at the top income level can expect tax savings ranging between 40% and 50% (depending on the province) for every dollar donated over $200
- Donors can claim total donations up to 100% of net income in the year of death and the preceding year
- Donations can be used in the current year or carried forward up to five years
- If an individual donates property, under certain circumstances, the donor can elect to dispose of the property at a value no greater than the fair market value (the amount the property can be sold for) and not less than its adjusted cost base (the amount that the donor originally paid). The tax receipt received by the donor will reflect the amount chosen
- For corporations, donations are generally deductible against income subject to certain limits

Donating Cash

When considering a donation to charity, perhaps the most common method by which Canadians give is simple cash gifts.

ADVANTAGES

Cash gifts can easily be donated to charities in response to fundraising drives, telemarketing campaigns, direct-mail campaigns and even door-to-door appeals. For many individuals, there are a number of immediate advantages to donating cash since it is easy to provide, involves little in the way of planning and the charity receives an immediate benefit. Other positive attributes of cash donations include:

For the donor:

- No costs are incurred to make the donation
- There is no obligation to commit future time or resources to the charity
- The donor receives a donation receipt which results in a tax credit that can be used in the current year or carried forward to a future year

For the charity:

- It obtains immediate access to funds
- The nature of the gift is highly "liquid"
- It can often use the money as it sees fit

DRAWBACKS TO CONSIDER

For people making larger donations, however, there are a number of disadvantages to giving cash. Often cash donations may not be the most tax-advantaged way for donors to give. Other considerations include situations where the donor wishes to provide guidance as to how the money will be used. In this instance, it may be more difficult to assure that the donor's wish is fulfilled

in a manner that conforms to their original objectives. Furthermore, a cash gift lowers current income and savings rather than deferring the payment to a future date – a fact that can affect the amount that many donors can afford to give.

For the majority of Canadians however, cash gifts remain the preferred method of donating to charity. This is especially true for people donating smaller amounts. But for individuals looking to donate larger amounts, or who wish to leave a lasting legacy after their deaths, Manulife Investments recommends a more planned approach. By doing so, the donor can ensure they maximize the benefits to the charity, while receiving significant tax and estate benefits of their own.

TIPS

For individuals who wish to give cash to a charity, there are a number of useful tips that can be followed:

- Ensure that the organization has a CRA charitable registration number. A charity cannot issue a valid tax receipt without one
- Many charities will not issue a receipt if the amount of the donation is less than $10
- Married and common-law couples can pool their donation receipts to maximize their tax credits. This will help avoid having two $200 "thresholds"
- Donors may want to defer claiming small amounts and wait until a future year when the total amount to be claimed will exceed $200. For example, if the donor made a donation in 2007, they could carry it forward as far as 2012 and claim it in that year

EXAMPLE:

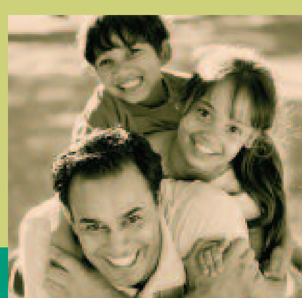
Mrs. Johnston has $300 of donations and Mr. Johnston has $100 of donations. If they claimed them separately, they would receive a federal credit of $74 ($200*15% + $100*29% + $100 *15%). However, if they claimed all the donations on one tax return, they would receive a federal credit of $88 ($200*15% + $200*29%).

Gifts in Kind

An increasingly popular option among donors giving to charities is gifts in kind. Under this option, the donor forgoes giving a charity a highly liquid form of asset like cash in favour of an alternative type of tangible asset. Under certain circumstances, gifts in kind receive special tax considerations under CRA guidelines.

To qualify as a gift in kind, the asset must be a donation of tangible property, and not a service. Assets that commonly qualify are:

- Stocks, bonds, and other publicly listed securities
- Real estate and other capital property
- Certified cultural property. These are items that are of "outstanding significance and national importance" and would include art and historical artefacts
- Ecological property. These are lands, covenants and easements (a right-of-way or a similar right over another's land) that are important to the preservation of Canada's environmental heritage
- Depreciable property such as equipment
- Other assets of discernable value like the inventory of a business



ADVANTAGES

An important benefit of gifts in kind is that they can provide for a simplified means of transferring property from the donor to a charitable organization. Once the fair market value of the asset that is being donated is determined, the charity can issue a tax receipt to the donor based upon the value of the underlying gift. In this manner, the donor is not required to "cash in" or sell the property in question.

DRAWBACKS TO CONSIDER

The most notable disadvantage of gifts in kind is that the donor must pay tax on 50% of any capital gain realized in the year of disposition (special rules apply for donations of publicly-traded securities). This means that if the donor owns property that has appreciated greatly in value, not only will they be donating the asset to the charity, they will also be asked to pay any capital gains tax outstanding. Because of this reason, Manulife Investments suggests potential donors seek professional tax advice before donating gifts in kind.

TIPS

For individuals considering a gift in kind to charity, there are a number of useful tips that can be followed:

- Many gifts have an objective fair market value. For example, publicly-traded stocks, mutual funds and segregated funds have a value that is listed daily. For assets that do not have an objective fair market value, it may be necessary to obtain an appraisal. For gifts valued at under $1,000, generally the CRA will accept the charity's assessment of the fair market value of the gift. For gifts whose estimated value exceeds $1,000, a qualified third party should be consulted for a more objective appraisal

- The donor can elect to dispose of the property at a value not greater than the fair market value (the value that the property can be sold for), and not less than the adjusted cost base (the amount that the donor paid). The tax receipt received by the donor will reflect the amount chosen. This could be done for gifts of appreciated property, other than publicly-traded securities, such as artwork, real estate, and privately-held companies, to reduce the tax paid on the capital gain

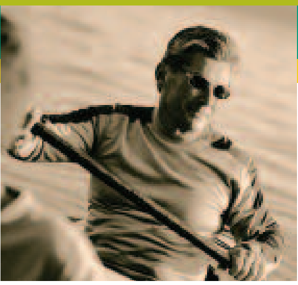
- The donor should ensure the charity is able to accept the gift. Some charities may have restrictions in their by-laws as to what type of property they can accept

Gifts in Kind CONTINUED

DONATING PUBLICLY TRADED SECURITIES

Certain types of property provide special tax benefits under CRA guidelines. The most notable of these would be the donation of publicly-traded securities like stocks, bonds, mutual funds and segregated funds. Normally when transferring the ownership of these assets to a charity, the donor would have to pay tax on 50% of the capital gains realized from the asset's appreciation in value. But under a special government incentive program to encourage charitable giving, the capital gains inclusion rate is reduced to 0%. In other words, the tax on any capital gains arising from the disposition of publicly-traded securities donated directly to a charity has been eliminated – a significant incentive for donors with large capital gains, or for those who wish to purchase a security now with the intention of donating it after it appreciates. Although this special incentive program was supposed to be temporary, the federal government made it permanent because of its success. It should be noted that, effective March 19, 2007, this special treatment also applies to publicly-traded securities given to a registered charity that is a private foundation.

Mr. John Franklin is considering a $90,000 donation to his favourite charity. He is in the top tax bracket of 43% and has enough income to be able to claim the full amount of the donation receipt in the year it is made. He also owns a segregated fund contract with a fair market value of $90,000 and an adjusted cost base of $40,000. His capital gain on the contract is $50,000. In the following table, the first column illustrates what would happen if Mr. Franklin liquidates the segregated fund contract and donates the cash proceeds to charity. The second column illustrates what would happen if Mr. Franklin donates the segregated fund instead. The end result is that by donating the security rather than cash, Mr. Franklin could save $10,750 on his tax return.



	CASH DONATION	DONATING THE SEGREGATED FUND
Taxable capital gain	**$25,000**	**$0**
Donation amount	**$90,000**	**$90,000**
Tax on capital gain	**$10,750**	**$0**
Tax savings from donation	**$(38,700)**	**$(38,700)**
Tax (savings)/cost	**$(27,950)**	**$(38,700)**

For illustration purposes only.

DONATING CERTIFIED CANADIAN CULTURAL OR ECOLOGICAL PROPERTY

Under certain CRA tax provisions, donors who wish to give significant cultural or historical items can claim donations of up to 100% of net income made in the year of the gift. In addition, the donor can use any capital losses on the property. These provisions are especially attractive for individuals wishing to donate significant works of art or historical artefacts to museums and galleries. For a donor to take advantage of this provision, the Canadian Cultural Property Export Review Board must certify the property.

A donor can also claim donations of up to 100% of net income for donations of ecological gifts. To obtain this benefit, the land must be certified by the Ministry of the Environment.

For information on how to obtain certification for these types of property, contact the Registered Charities Directorate at the Canada Revenue Agency.

Donating registered plans (RRSPs, RRIFs)

For individuals who are considering leaving all or part of their retirement savings to charity, gifting the proceeds of a registered plan can be an attractive option. Upon the death of the individual, the proceeds of the registered plan are paid out to the charity. The executor of the donor's estate will include the full balance of the registered plan in the deceased's final tax return and will receive a charitable receipt from the charity for the same amount. This amount can be used on the donor's final tax return, or carried back to the year prior to the year of death.

ADVANTAGES

One of the key benefits of giving in this way is that the donor retains complete control over the assets until death. This means that even if the individual has worked with a charity to arrange for the future transfer of assets, the donor can still revoke that decision by designating a new beneficiary. The flexibility of this option could prove beneficial if the donor decides to leave all or part of their plan's assets to their dependants. Situations that may prompt a donor to revoke the charity as a beneficiary include a dependant's

TIPS

For individuals who are considering the gift of a registered plan to charity, there are a number of useful tips that can be followed:

- Donors must designate the charity as the beneficiary of the registered plan's assets
- Donors should consult a tax planner to ensure that the benefit of the gift offsets the final tax bill upon death
- Donors with heirs should discuss their intention to give all or part of their plan assets to a charity upon death
- The limit for donation receipts is increased upon death to 100% of net income in the year of death and 100% of net income in the preceding year. If the donor is planning on leaving a substantial amount, steps should be taken to ensure that the estate will be able to use the entire donation receipt
- For individuals who wish to leave the proceeds of their plan to a charity without reducing the value of the estate left to heirs, wealth replacement insurance can help make up the difference (please see the section "Life Insurance as a Wealth Replacement Strategy ")

sudden illness, bankruptcy, divorce or any other significant change in their life. In addition, the funds in the registered plan are available to the individual for use, if needed, in their retirement years.

DRAWBACKS TO CONSIDER

The value of the registered plan is included as income in the year of death. However, the tax owing on this amount is usually eliminated by the value of the donation credit. To make sure that the benefits of giving in this way outweigh any potential drawbacks, Manulife Investments recommends that donors consult a tax professional before proceeding.

From the point of view of the charity, the receipt of these amounts are treated as ordinary gifts, and as such, are subject to the same disbursement quota rules – that is, the charity would need to spend at least 80% of the amount received by the end of the next fiscal year. However, where the charity receives these amounts by way of direct designation, the amounts are treated as endowments for the purpose of the disbursement quota rules. The term "endowment" often refers to bequests or gifts to charities that are granted on the condition that the funds be held for at least 10 years. This means that where the charity is designated as the beneficiary of the registered plan, the donated amount would not be subject to the disbursement rules until the plan is liquidated.

EXAMPLE

Ms. Donor had an RRSP worth $200,000. Since she had no dependants, Ms. Donor named her favourite charity as the beneficiary of her RRSP.

When Ms. Donor passed away in June, her income for that year was $75,000 (not including the RRSP). Ms. Donor is taxed on her marginal income at 43%. In this case, the entire tax bill from the RRSP inclusion is offset by the tax savings from the donation. If Ms. Donor had other donations exceeding $75,000, the executor may not be able to use the entire $200,000 in the year of death, but could potentially carry it back to the preceding year.

	MS. DONOR'S FINAL RETURN	WITHOUT DONATION
Income from RRSP	**$200,000**	**$200,000**
Donation amount	**$200,000**	**NIL**
Tax on income @ 43%	**$86,000**	**$86,000**
Tax savings from donation	**$86,000**	**NIL**
Tax cost	**$ NIL**	**$86,000**
Net proceeds to be paid to charity or beneficiaries	**$200,000**	**$114,000**

For illustration purposes only.

Normally, when an individual has no spouse or minor or infirm dependants, the value of the registered plan is included fully in the final tax return and creates a liability. If the plan is donated to charity, however, the value of the donation receipt will offset the tax on the income inclusion. So instead of $114,000 going to the beneficiary named in the will and $86,000 going to the CRA, the entire $200,000 can be given to the charity.

Bequests

For donors planning to gift larger amounts, a bequest, or the means by which a donor gives assets to charity through a declaration in a will, has traditionally been a popular way to give. The structure of the bequest is usually drawn up by a lawyer and settled after death through the services of the executor. Before proceeding, Manulife Investments recommends that the donor seek the services of an experienced estates lawyer to ensure a bequest is established in the most appropriate way.

ADVANTAGES

There are many advantages to bequests. One of the primary benefits of bequests is the flexibility they provide. For instance, assets allocated to the charity within a will remain under the control of the donor until death. This means that capital does not have to be tied up and can be used as the donor sees fit. In addition, the gift can be revoked at any time by simply changing the will. Furthermore, the type of asset to be bequeathed can take on many forms: real estate, proceeds from an insurance contract, cash, a defined percentage of an estate – the variations are endless. If the donor stipulates that the donation amount is to be a percentage of the estate, it keeps the donation in line with the value of the assets as they change in value, and it also ensures that the estate will be able to meet other obligations.

An additional advantage is that if instructed, the executor of the estate can choose to value the asset between its fair market value (the value the asset can be sold for) and its adjusted cost base (the price that the donor originally paid). This means that there is the potential to eliminate or reduce any capital gains realized on the disposition of the asset.

DRAWBACKS TO CONSIDER

Bequests have a number of significant disadvantages that can undermine their value for donors interested in giving assets to charity. Although flexibility is one of the advantages of bequests, too much flexibility could cause a problem

TIPS

For individuals considering a bequest to a charity, there are a number of useful tips that can be followed:

- Ensure that the amount of the gift and the name of the charity are clearly stated within the will.
- It may be advantageous if the donor gifts an asset through a will rather than donating the cash proceeds from the asset's sale. For example, stock, bonds and other publicly-traded securities benefit from a reduced capital gains inclusion rate
- Donors should be aware that an estate may not receive the fair value of a tax credit if income from the preceding year and year of death are not high enough to claim credit for all donations
- The donor should regularly review their will and ensure that the charities chosen to receive funds continue to exist and retain their official charitable status

for the estate. Without clear instructions, the CRA may view the executor as having too much discretion. This means that the CRA could view that the gift was made by the executor in the name of the donor's estate. If this were to occur, the bequest cannot be claimed as a donation on a deceased's final tax return but would instead be claimed only by the estate.

As an example, if the will states that the charity is to receive 10% of the estate after certain fixed payments were made to other beneficiaries, the CRA would consider this to be a bequest. However, if the executor has the discretion under the terms of the will to decide if certain payments to other beneficiaries should be made or not, the amount of the donation is not determinable and the CRA would consider this to be a gift made by the estate and therefore can only be claimed on the estate's final return.

There are a number of other disadvantages to bequests. Surviving dependants could challenge the will in court, potentially annulling the donor's original intentions. Another drawback is that creditors could also have their day in court. If the donor of the estate owes money at the time of death, a creditor could establish a legal claim on remaining assets held by the estate. Another downfall of bequests is their potential cost. For example, probate and estate administration fees may absorb a considerable percentage of the estate's value before it moves on to its rightful heirs. And because a probated will is considered a public document, the donor's privacy cannot be guaranteed.

Additional factors that should be considered before drawing up a bequest are:

- There are no tax savings provided to the donor during life, but the donation tax credit can be claimed on the donor's final tax return
- Assets are not donated to the charity until after death
- The donor will not witness the benefits their gift will provide
- The executor may not be able to claim the full value of the tax credit if the donor dies early in the year and thereby records a very low level of income. However, the executor may be able to carry back the unused portion to the preceding year
- If the donor's financial situation changes, the size of the bequests provided for in the will may need to be adjusted

EXAMPLE

Mr. John Johnson died on February 5th. In his will, he left his favourite charities a total of $75,000. His income in the year of death was only $15,000 and his income from the preceding year was $50,000 and he had no other donations claimed in that year.

In Mr. Johnson's final tax return, the executor will only be able to claim $15,000 of the donation receipt. The executor can then amend the preceding year's tax return and claim an additional $50,000 of donations. However, as the 100% limit was reached in both years, there is $10,000 ($75,000 - $15,000 - $50,000) that cannot be claimed.

Charitable gift annuity

A charitable gift annuity is an attractive option for donors wishing to make a planned gift to charity. The principal benefit of a charitable gift annuity is that it not only provides the donor with a guaranteed level of income for a set number of years, or for life, it also provides an immediate gift to charity - all from the same capital source.

A charitable gift annuity works in the following manner:

- The donor gives a lump-sum donation to a charity with the understanding that the charity will provide a fixed amount of income back to the donor over a specified term, or for life. The life annuity can include a guarantee period as well
- The charity can either fund the annuity to the donor itself, or like most organizations, can use the lump-sum donation to purchase an annuity from an insurance company. Generally, if the charity purchases an annuity from the insurance company, the payments are made directly to the donor
- The donor receives a tax receipt equal to the amount donated less the cost of the annuity
- The donor is taxed on the interest portion of each annuity payment received
- The difference between the cost of purchasing the annuity and the amount of the original donation is then set aside for the charity's immediate needs

CHANGES TO BE AWARE OF

Potential donors should be aware that the tax treatment of charitable annuities was significantly changed by the December 20, 2002 legislation. This legislation generally provides that the eligible amount of a charitable annuity will be the amount contributed by the donor less the amount that would have been paid at the time to an arm's length third party to acquire an annuity to fund the guaranteed payments.

ADVANTAGES

There are some unique advantages to charitable annuities that make them worthwhile for anyone considering a planned gift. Unlike traditional interest-bearing securities for example, the income from a charitable gift annuity can be guaranteed for life, which is an outstanding

feature for donors who may be concerned about out-living their capital.

Additional benefits of charitable gift annuities include:

- The donor can receive an immediate donation receipt if the amount of capital given to the charity is greater than the cost of the annuity
- With an annuity, there is no need to pay for ongoing investment management services or administration fees
- A charitable annuity allows the donor to give during their lifetime rather than postponing the gift until after death
- Only a portion of each annuity payment is taxable in the hands of the donor (Depending on the age of the donor at the time the annuity is purchased there may be no taxable portion of the annuity)

DRAWBACKS TO CONSIDER

The most notable drawback to charitable annuities is that once established, they are irrevocable.

TIPS

For individuals considering a charitable annuity, there are a number of useful tips that can be followed to make the most of their donation:

- Couples can consider arranging a joint and last survivor annuity with the charity in question to ensure the surviving spouse's income stream remains intact
- Donors with excess capital can consider investing a portion of the annuity payments received into a life policy to provide for capital replacement after death
- A portion of the annuity becomes taxable to the donor when received. Each payment is comprised of an interest component and a return of capital component. The income portion will be included in the donor's income for tax purposes

EXAMPLE

Mrs. Donor, age 71, has $90,000 she'd like to give to her favourite charity but she also wants to ensure she has some income to help provide for living expenses. According to her calculations, $5,000 per year will be enough.

The charity receives $90,000 from Mrs. Donor. However, they need to ensure they have the funds to pay Mrs. Donor her $5,000 per year for as long as she lives. To mitigate this risk, the charity buys an annuity from an insurance company to provide $5,000 per year on the life of a 71-year-old woman. If the cost to the charity is approximately $65,000, the excess amount of $25,000 is for the charity's immediate use (note: the cost of the annuity is shown for illustration purposes only and is not calculated based on the rates effective on the date of publication). Mrs. Donor will also receive a charitable donation receipt for $25,000. The $5,000 annuity will qualify as a prescribed annuity and a portion of each payment would be considered taxable. In this case, approximately $650 of the annuity would be taxed on an annual basis.

Charitable remainder trusts

For wealthier individuals looking to make very large gifts to a charity, establishing a charitable remainder trust may prove to be an attractive planned giving option – especially if the donor is looking to secure both income and meaningful tax relief during their lifetime. The arrangement is also appealing to the charity as it obtains immediate legal title to the property without having to worry about the possibility of the donor changing their mind.

Working through trust and estates lawyers, a donor establishes a charitable remainder trust by transferring property to a trust. The donor is considered to have disposed of the property upon transfer and may realize a capital gain or loss. The trust documents instruct the trustee to pay all of the income earned within the trust to the individual but requires the property to be transferred to a charity at some later date, usually upon the death of the donor. Once the charity is named as the beneficiary of the trust, it cannot be removed or revoked.

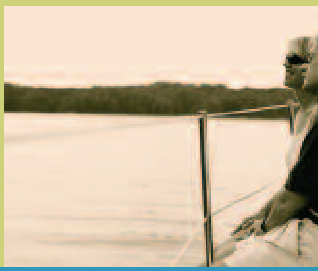
After death, the assets are then passed on to the designated charity. If the donor has a spouse, the charitable remainder trust should be set up so that the property passes to the charity only after the death of the second spouse.

ADVANTAGES

A key benefit of a charitable remainder trust is that it can provide significant tax relief during the donor's lifetime. When the trust is established, a tax credit is issued back to the donor based upon the trust's residual interest – a calculation based upon the trust's fair market value and an estimate of the donor's life expectancy. Because charitable remainder trusts tend to be used for larger charitable donations, the tax credit issued back to the donor is often of considerable value.

Another key feature of charitable remainder trusts is that they can provide an additional source of income. Once assets are donated to the trust, any income generated can be paid back to the donor. And while this income will not receive privileged tax treatment, the donor will benefit knowing the underlying assets will eventually be passed on to charity.

Charitable remainder trusts also allow the donor to retain control and use of the assets within the trust. For example, the donor can alter how the trust's assets are invested to generate additional income, or if the asset is real property, the donor can maintain the right to use the property. By retaining this control,



the donor can find comfort knowing that they still have a say in how the trust's assets are managed.

Additional advantages to charitable remainder trusts include:

- Upon the death of the donor, assets held within the trust will not be subject to probate or estate administration fees
- The donation cannot be contested by dependants or other beneficiaries of the estate
- The donor can elect the proceeds of disposition on the asset transferred into the trust provided it is not greater than the fair market value (the value that the asset can be sold for), and not less than the adjusted cost base (the value that the donor originally paid). The chosen amount is also used to determine the amount of the charitable receipt

DRAWBACKS TO CONSIDER

As with every planned giving option, there are drawbacks to charitable remainder trusts that make them unsuitable for some donors. An important consideration is their cost. Because charitable remainder trusts can be complicated and require the expertise of a lawyer, they are commonly expensive to set up and maintain. Experts suggest that donors only consider this option when planning gifts in excess of $200,000.

Once established, the beneficiary of a charitable remainder trust cannot be revoked. This means that once a charity is named the beneficiary, the donor cannot change their mind. Furthermore, once capital is donated to the trust, it cannot be removed. The donor may redirect how the assets are allocated, but the underlying principal amount cannot be withdrawn.

Another drawback of charitable remainder trusts is that income from the investments held within the trust is taxable in the donor's hands until death. However, this shortcoming must be weighed against the considerable benefit that the initial tax credit provides.

A transfer of assets to the trust results in a taxable disposition. If publicly-traded securities are transferred to the trust, any capital gain realized on the transfer will not be eligible for the reduced inclusion rate as the transfer is not considered a direct transfer to a charity.

Finally, because of the difficulty in valuing the "residual interest" of some assets, professional advice should be sought before choosing the assets to be transferred into the trust.

TIPS

For individuals considering the establishment of a charitable remainder trust, there are a number of useful tips that can be followed to make the most of their donation:

- Due to the cost associated with establishing and maintaining a charitable remainder trust, this option should only be considered for donations in excess of $200,000
- A donor may have to obtain a professional evaluation of the trust's assets to determine its residual value
- The donor should only consider allowing the proceeds of the trust to pass on to charity after both spouses die

The benefits of donating the proceeds of insurance

DONATING A CONTRACT DURING LIFE

For individuals looking for alternative ways to give, leveraging the benefits of insurance can be a very effective way to donate to charity. The gift of a permanent life insurance policy during life, for example, provides donors with an affordable means to make a large contribution. Here's how it works:

- The donor arranges with a charity to purchase a life insurance policy based on the donor's life
- The charity is named as the owner of the contract, and is named as the beneficiary of the contract. This ensures that the charity will receive the proceeds upon the donor's death
- The donor then makes regular payments to the charity or to the life insurance company to make the premium payments that keep the policy "in force"
- Upon the donor's death, the proceeds of the policy passes directly to the organization

A donor also has the option of transferring an existing policy to a charity. In this case, the donor transfers ownership of the existing policy to the charity while naming it as the beneficiary of the contract. In return, the donor receives a tax credit based on the cash surrender value* (less any policy loans) of the policy. The donor may have some income to include as the policy is treated as having been disposed of.

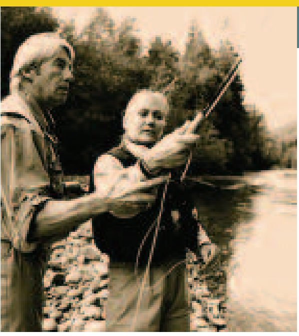
ADVANTAGES

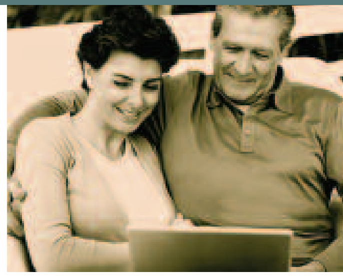
There are a number of advantages of giving to charity the proceeds of an insurance contract that makes this option stand out when compared to other alternatives. First, it can provide individuals with an affordable means to leave a very substantial gift to charity. Second, because the insurance contract is owned by the charity, it is not considered part of the donor's estate. This means that the proceeds will pass directly to the charity upon the donor's death, without the possibility of the transaction being contested by creditors or heirs. And finally, because the charity is deemed to be both the owner and beneficiary of the policy, the donor can receive donation receipts for the premiums paid on the insurance contract during their lifetime.

DRAWBACKS TO CONSIDER

The most notable drawback to donating the insurance policy during life is that once the ownership is transferred to the charity, it cannot be revoked. Another important consideration is the long-term commitment that is required on the

*Under proposed legislation, the donation receipt will be based on the fair market value.





part of the donor. The policy premium must either be "paid up" (meaning enough premiums are paid up front to keep the policy in force), or premiums must continue to be paid. If the donor decides to stop making premium payments, the charity must decide if it wants to continue making the payments on behalf of the donor.

DONATING PROCEEDS UPON DEATH

Donating the proceeds of life insurance upon death is another planned giving option accomplished by naming the charity as the beneficiary of the policy. But unlike donating the proceeds from an insurance policy during life, this option provides donors with the ability to retain control over the eventual proceeds until death.

ADVANTAGES

Like a bequest, the donor will retain control over the asset – in this case the policy – during their lifetime. This means the donor can access the surrender value of the contract, or designate a new beneficiary at any time. In addition, when the donor dies, the proceeds of the policy will be paid directly to the charity, bypassing probate and estate administration fees. Furthermore, a charitable tax receipt equal to 100% of the policy's value will be issued to the donor. The executor can either claim this on the deceased's final tax return or, if necessary, carry back any unused portion to the previous year.

DRAWBACKS TO CONSIDER

Because the donor retains control over the policy, they will not receive any tax relief during their lifetime.

Life insurance as a wealth replacement strategy

For individuals who would like to donate assets to charity without eroding the value of the estate left to their heirs, wealth replacement insurance is becoming a popular option. Here's how it works:

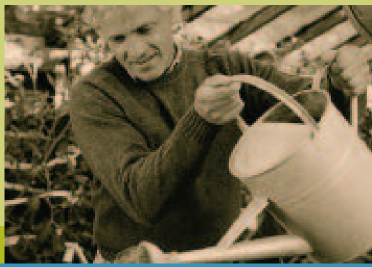
- The donor wants to donate an asset to a charity but does not want to deflate the value of the estate left to their heirs
- To help make up for the difference, the donor purchases a life insurance policy based on their life; the donor's heirs are named as beneficiaries. The idea is to purchase a life insurance policy that would have the same approximate death benefit as the fair market value of the asset that is to be given to the charity
- The donor either gives the asset to the charity now or at death
- Upon the death of the donor, the heirs receive the proceeds of the insurance policy in cash, in lieu of the asset donated to charity. Using this strategy, both the charity and the donor's heirs receive equal treatment according to the donor's wishes

ADVANTAGES

Wealth replacement insurance provides a number of benefits when compared to leaving other tangible assets to heirs. First, the beneficiaries receive the proceeds of the insurance policy tax-free and in cash. This can be a considerable benefit when compared to leaving tangible assets that may have to be sold in order to pay capital gains tax or real estate, where the asset cannot be easily divided or sold. Second, the transition of assets may be simplified by avoiding probate and estate administration fees if there are named beneficiaries. And last of all, the heirs will receive the proceeds in a timely manner – a significant benefit to consider during their special time of need.

DRAWBACKS TO CONSIDER

Due to fluctuations in the market value of an asset, the value of the policy may be less than the value of the asset donated to charity.



TIPS

- By purchasing a life insurance policy with an increasing death benefit, the value of the policy can increase over time. This option could help compensate the heirs for the increasing value of an asset that is donated to charity
- If the donor has a spouse, they can reduce the cost of the insurance premiums by purchasing a joint second to die policy

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