The Navigator

Philanthropy: What Will Your Legacy Be?

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Is charitable giving important to you and your family? For many high-net-worth families, donating to charity is a core value but what's the difference between philanthropy and charitable giving?

Many of us make charitable donations. We do it on a regular basis, by making an annual gift to a charity that's close to our heart or more spontaneously by responding to a request for donations to aid the victims of disaster. Sometimes we do it simply by giving to various charities as part of their holiday campaign. Philanthropy, however, is more strategic. It is about establishing a long-term plan for giving, setting out the goals of an individual or a family and working to make that vision a reality. It can be a very personal plan that reflects the donor's convictions, beliefs and values. It involves a process of governance, monitoring and assessment and frequently requires a significant commitment from those involved to carry out the plan.

Charitable gifts take many forms. They can include donations of securities, real estate, artwork, life insurance, annuities and even shares of privately held companies. Your motivation for giving is personal to you and can make a statement about who you are, but no matter why you give, your giving should be tailored to your unique circumstances. Individuals and families that engage in philanthropy have the opportunity to express their values and their charitable objectives in a structured form.

In recent years the tax rules regarding charitable giving have become increasingly flexible and generous and contain incentives to encourage Canadians to give to charity. When given appropriate consideration, charitable giving can benefit both donor and recipient. You get a vehicle through which you can help the causes you care about and society benefits as a whole. When considering making large gifts, contact your professional tax and legal advisors to ensure you understand the various charitable giving options available to you and their implications from a financial, estate and tax planning perspective.

Why Do We Give?

What motivates you to give back to the community? Maybe there were events in your personal history that affected you or members of your family and helped shape your philanthropic intentions. In some cases, individuals are driven to give by a sense of social responsibility. Whatever your reason, it may continue to evolve over time and you may want to build enough flexibility into your plan to ensure that your gifts continue to reflect your motivation.

Many high-net-worth families establish a mission statement. If your family has one, does it include charitable giving? Philanthropy can make a statement about your family's values but have you considered what you would like your gifts to achieve? Do you want to educate and inform? In some cases, for families that occupy a prominent place in their community, public recognition of a pattern of giving can be important. Some donors wish to make gifts that have the potential to transform or to be a catalyst for change. For those who have the resources, a thoughtfully-designed and well-managed philanthropic plan can make a meaningful impact on society.

Building a Philanthropic Plan

Consider the charitable donations you made in the past. If you have an interest in charitable giving, could your interest develop into something more strategic? There are many questions to consider, including: What kind of charitable organizations would you like to benefit? In view of your regular schedule, how much time are you willing to give to this endeavour? Do you wish to make it a long-term commitment? Various organizations now offer their clients specialist advice and guidance around setting up a philanthropic plan and managing it in the long term. A critical element of this process is asking the right questions. Some individuals were raised in a culture of charitable giving and are familiar with many of its concepts. To others it is something new. Do the family resources include time for personal involvement in charitable activities, grant-making or administration? By understanding a person's background, the demands of their lifestyle, their objectives and preferences and their past pattern of donating, you can build a realistic framework for strategic giving in the future.

One concern advisors note from their conversations with clients is the idea of giving away too much. It can be difficult to assess the impact that a large donation or an ongoing series of donations can have on personal resources, future income and family legacy. A comprehensive financial plan, developed with input from professional advisors, can help you see the effect that a gift, or a longer-term pattern of giving, will have on your financial picture. It may assist you in determining the amount and timing of your gifts to ensure the optimal outcome.

Tax Advantages of Charitable Giving

You may be able to claim a tax credit for your charitable donations. This may result in significant tax savings, depending on the province or territory where you live. If you donate through a corporation, this may generate a tax deduction that will reduce the corporation's taxable income. The value of the tax deduction will vary according to the donor corporation's effective tax rate. If you are the owner of an incorporated business, consult your professional tax advisor about the advantages of making a charitable donation through your company.[1]

Consider the potential tax benefits that can be realized by timing your charitable donations appropriately. Making a charitable gift at the time you sell property or your business, or when you exercise stock options may help reduce your tax liability resulting from those transactions. If you choose to donate the proceeds, or a portion of the proceeds from the sale of a business, for example, you may receive a tax credit for the value of your donation which could result in significant tax savings for the tax year in which you made the gift.

Wherever possible, it is a good idea to maximize the tax benefits of your charitable gifts. If you exceed the 75% limit, for example, you can carry the excess forward for up to five years. So you could make a large donation now and claim the full tax credit over a longer period of time. A comprehensive financial plan can provide a model for donations to ensure that tax credits will be fully utilized in the future. Making charitable bequests as part of your estate plan can also be tax-effective. Your executors may be able to claim a credit for gifts you made in the year of your death or in your Will. The income limitation increases to 100% of your income for the year of your death and for the preceding year.

Does your Will contain a testamentary trust? By naming a charity as a beneficiary, or giving your trustee discretion to allocate funds to a range of beneficiaries that include a charity, your trustee could donate trust income or capital gains to a charitable beneficiary and the resulting tax credit may offset all or a significant portion of

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the taxes payable on the trust income. It is important to understand the restrictions and limitations that may apply to the donation strategies you consider so always obtain professional tax advice.

Using Your Property and Resources to Create a Philanthropic Plan

As previously discussed, you can use many types of property for your charitable donations. For example, you can gift cash, securities, stock options, eco-gifts, works of art, private company shares or even life insurance. Your professional tax advisor can guide you through the restrictions, taxes or advantages that may apply to the type of gift you choose. Then you need to consider how to make your gift and the timing of your gift. Again, you have choices. You can give directly during your lifetime or defer your gift until your death by naming a registered charity (including a private foundation or fund) as the beneficiary for your Registered Retirement Savings Plan (RRSP), Registered Retirement Income Fund (RRIF), Tax-Free Savings Account (TFSA), or your life insurance policy. You can make specific charitable bequests in your Will or designate a charitable organization as a beneficiary of a portion of your estate.

What Level of Involvement in Charitable Activities Is Right for You?

Have you or your family considered how much time and effort you wish to devote to philanthropy? For many families, their involvement extends beyond providing financial funding. In the case of families that have established a charitable foundation, they may be actively involved in establishing a policy for making grants and disbursing funds for charitable activities directly or to registered charities that carry on charitable activities. They may be involved in fundraising, in actual charitable activities, in the administration of the foundation or in managing the fund's investments.

What is the most suitable structure for achieving your charitable objectives or those of your family? Do you already have a private charitable foundation, or is a donor-advised fund a better fit? It may be wise to start small, without a foundation, and work towards something more formal as experience and the philanthropic vision grows.

Outright Gift Directly to Charity

An outright gift directly to a charity is the most widespread form of charitable giving. It might be cash given to a volunteer fundraiser who comes to your door, a cheque sent in response to a mail or telephone campaign or a payment automatically deducted from your paycheque. A direct donation to a charity allows you to provide immediate financial support to the cause of your choice and to benefit in return from an appreciable tax saving.

Private Foundations

A private charitable foundation is a non-profit organization frequently funded by a single source, group or family that can provide a personalized approach to giving. The foundation awards grants to support specific charitable work or makes contributions to other registered charities. This kind of organization can be very flexible, as donations are not tied to a specific charity and the foundation's directors or trustees can award grants on a case-by-case basis, usually within set guidelines. A private charitable foundation is a highly specialized legal and estate planning area incorporating a myriad of considerations. Many philanthropists, working within the structure of a foundation, are concerned to measure the impact of their donations against their operating costs. They also keep a close watch on their investment returns, both to safeguard their capital assets and to generate sufficient income to disburse grants. There can be substantial expenditure associated with set up and ongoing administration but if you are willing to make the time commitment and devote significant financial resources to charitable activities, a private foundation may be an option for you.

Donor-Advised Funds

A donor-advised fund is an alternative to a private foundation and one that is growing in popularity. It can enable you to make an irrevocable gift of cash or other assets to a fund administered by a registered public foundation. This may appeal to you if you want to create an enduring charitable legacy, but do not wish to commit the time and funds required for a private foundation. Donations can be made during your lifetime or according to the terms of your Will. As a donor, you will receive a donation receipt equal to the value of the assets you donate, and you can recommend how contributions are managed and which charities are to receive grants, subject to the foundation's final approval. If you make donations to this kind of fund, you have the option of choosing a name for the fund you establish. For example, you may wish to make a donation in your family name or even make anonymous donations if you prefer.

Other Considerations

When designing a strategic plan for your charitable gifts, factor into your decision where you wish to conduct your charitable activities. Are you focusing on specific areas of interest in Canada, or in other locations? In Canada, the Income Tax Act contains restrictions on Canadian registered charities that carry on charitable activities outside Canada. Will these factors have an impact on your ability to be involved at the level you desire, whether hands-on or more remotely? If other family members are likely to be involved, consider their roles and their potential compensation. Are there individuals in your family who have the personal experience or talent that makes them a natural choice for such activities? This is a complex and highly regulated area. Professional tax and legal advisors can help you identify the strategic options that suit your objectives and guide you through the considerations and restrictions that may influence your decision.

"Passing the Torch"

When you are putting a philanthropic plan in place, consider whether you would wish to continue to give if you could no longer manage the process in person, or even after your death. Private foundations often have directors and trustees that can carry on the legacy into the future, sometimes with ongoing involvement from family members. In such cases, you will want to consider the powers and responsibilities you give to your directors and trustees and the nature of any input that will be needed from the family.

If continuing to operate a foundation isn't in the cards, you will need a plan to wind it up and distribute the remaining assets. In the absence of suitable successors, a donor-advised fund may work well but you will need to give the fund direction for making future grants.

Whether you are just setting out to build a structured plan for your giving, to allow your existing plan to evolve and grow or merely exploring the alternatives, the journey is likely to be challenging and highly rewarding. We recommend you harness the insight and the collective expertise of your team of professional advisors as you choose your route and navigate your way through the obstacles.

Please contact us for more information.

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