

# Charitable giving



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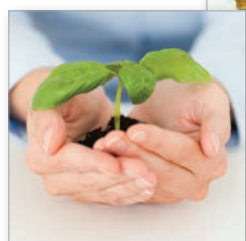
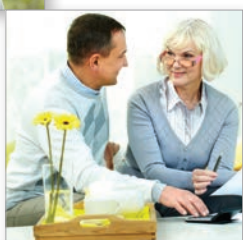
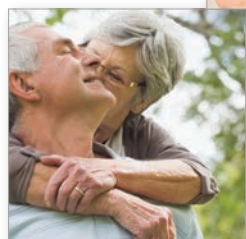
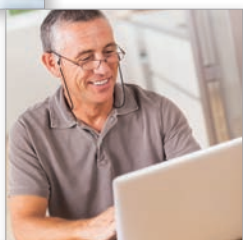
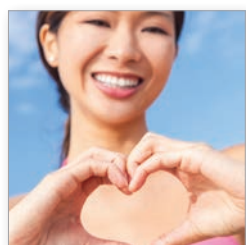
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benefits both society  
and you, the donor. It  
allows you to help the  
causes you care about.

# Introduction – Charitable giving



As a whole, Canadians are a caring group. We care about our social and religious institutions, community facilities, arts, education, research and hospitals. We care especially about those less fortunate than us.

Canadians donate their time, volunteer, fundraise for charities and make charitable donations. All of these efforts contribute to the country's social, medical, educational and cultural well-being.

For years, Canadians have looked to various levels of government to fund much of the good work that charitable groups provide to enhance the quality of our lives. In recent years, governments have cut back on direct funding, and it's up to individuals and corporations to fill the gap. As a result, the government has introduced tax incentives to encourage Canadians to give charitably.

When done properly, charitable giving benefits both society and you, the donor. It allows you to help the causes

you care about. If you are considering making large gifts, be sure to include these gifts in your tax, financial and estate planning. Prior to making any large gift, it is strongly recommended that you contact your professional tax and legal advisors to discuss the various charitable giving options to ensure all of your needs are met.

*The following publication makes reference to proposed legislation. While it has been the long-standing practice of the Canada Revenue Agency (CRA) to allow taxpayers to file their tax returns based on proposed legislation, a taxpayer remains potentially liable for taxes under current law in the event that a budget proposal is not ultimately passed. Therefore, if proposed legislation does not become law, it is possible that the CRA may assess or re-assess your tax return based on existing legislation. It is recommended that you consult a professional tax advisor to assist you in assessing the costs and benefits of proceeding with specific legislative proposals as they relate to you.*



# Charitable giving

What to consider when making a gift to a charity

Charitable giving in this guide is defined as giving a gift to a registered charitable organization in a way that achieves both personal donation goals and provides tax and estate planning benefits to the donor. The gift may be a one-time donation, a series of payments over a set period or ongoing support. It may be a gift the charity can use now or a deferred gift, available to the charity in the future, perhaps even after your death. This guide discusses some of the options to consider when making a gift to a charity.

## What is a gift?

In most cases, the Canada Revenue Agency (CRA) considers a gift to be a voluntary transfer of money or property for which the donor expects and receives no consideration. Gifts can take a variety of forms including:

- **Cash**
- **Gifts in-kind** — Examples include securities such as stocks, bonds and mutual funds or real estate.
- **A right to a future payment** — Life insurance proceeds are an example of this.
- **Certified cultural property** — This is a special category for objects that are of outstanding significance by reason of their close association with Canadian history or national life, their aesthetic qualities or their value to the study of the arts or science. They could be significant works of art and artifacts. Canadian museums have obtained many exhibits this way. The Canadian Cultural Property Export Review Board must certify the items.
- **Gifts of ecologically sensitive land** — This is a gift of land or an eligible interest or right in land (including a covenant, an easement or, in the case of land in Quebec, a real servitude) you make to federal, provincial and territorial governments,

municipalities, municipal or public bodies that perform a function of government within Canada or a registered charity approved by the Ministry of the Environment. The Minister of the Environment must certify that the conservation and protection of this land is important to the preservation of Canada's environmental heritage. Note that under proposed legislation, private foundations are no longer able to accept gifts of ecologically sensitive land.

If you receive any property, service, compensation or other benefit in exchange for the gift, you are considered to have received an advantage. It is possible that a transfer of property for which you received an advantage will still be considered a gift for the purposes of the Income Tax Act as long as the CRA is satisfied that the transfer of property was made with the intention of making a gift. However, the value of the advantage will reduce the "eligible amount" of your gift. It is the eligible amount of the gift that is used to calculate your non-refundable donation tax credit. For example, if you donate \$1,000 to a charity and receive two tickets to a sporting event worth \$50 each, the value of the advantage is \$100 and the eligible amount of your gift for a donation tax receipt will be \$900.



A registered charity must devote its resources to charitable activities. In general, the charity must be resident in Canada and obtain a registration number from the CRA.

### What is a registered charity?

A charity is an organization established and operated exclusively for charitable purposes, such as the relief of poverty, the advancement of education, the advancement of religion, or other purposes that benefit the community in a way that courts have said are charitable. A registered charity must devote its resources to charitable activities. In general, the charity must be resident in Canada and obtain a registration number from the CRA. A registered charity is generally exempt from paying tax on its income and can issue official donation receipts.

A registered charity must spend a minimum amount each year on its own charitable programs or on gifts to “qualified donees”. If the average value of a registered charity’s property not used directly in charitable activities or administration during the 24 months before the beginning of the fiscal period exceeds \$100,000, the charity’s disbursement quota is 3.5% of the average value of the property. The non-charitable property threshold for public and private foundations is \$25,000.

A qualified donee is an organization that can issue donation receipts from gifts they receive from individuals or corporations. Typically, a registered

charity is a qualified donee. Other examples of qualified donees include:

- A public or private foundation that carries on its own charitable activities or funds other registered charities
- A registered Canadian amateur athletic association
- A registered housing corporation resident in Canada constituted exclusively to provide low-cost housing for the aged
- Her Majesty in right of Canada, a province or a territory
- A registered Canadian municipality
- A registered municipal or public body performing a function of government in Canada
- A registered national arts service organization
- The United Nations and its agencies
- A registered charitable organization outside Canada that has received a gift from the Canadian government
- A registered university outside Canada that is prescribed to be a university, the student body of which ordinarily includes students from Canada

Certain donations are not considered gifts for tax purposes:

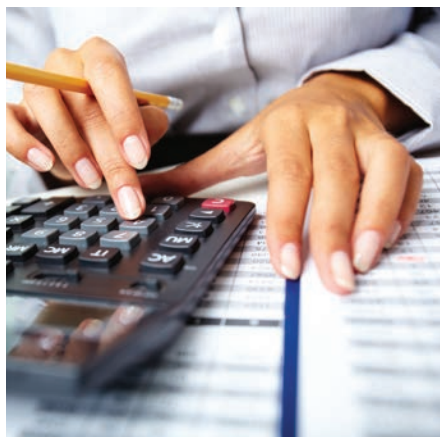
- **Time or services** — For example, lawyers who do free legal work for a charity cannot claim the value of their time as a donation. They could, however, bill and collect from the charity for the work they perform, and use the money to make an eligible cash contribution. The income they receive from the charity is taxable.
- **Property of little value** — You are not entitled to a tax receipt for used clothing or worn-out furnishings.



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# Tax benefits



## Personal donation

### Non-refundable donation tax credit

You may be able to claim a non-refundable tax credit for charitable donations to a qualified donee. With minimal planning, tax savings can fund close to 50% of your gift in some provinces and territories.

There is a federal tax credit for the first \$200 donated each year at a rate that is equal to the lowest marginal tax rate, which is 15%. Amounts over this threshold could attract a federal tax credit at the highest marginal tax rate of 33% to the extent you have taxable income subject to this tax rate. If you are not subject to tax at the highest federal tax rate, your donation over \$200 will attract a federal tax credit of 29%. Your tax savings may then increase when you apply the provincial tax credit. For donations over \$200, the provincial tax credit is usually equal to the highest marginal tax rate; however, this amount varies by province.

To maximize the donation tax credit, couples can currently pool donation

receipts and report them on one spouse's tax return. It is generally preferable for the higher income spouse to claim the credit.

If you make small annual donations, you may also be able to carry forward the donations (i.e. report but not claim the donation for the current year) and then claim the combined donations to utilize the higher credit for gifts above \$200 in a future year. You can carry forward unclaimed donations for five tax years.

The charitable tax credit is non-refundable, which means, if the credit is more than your taxes payable for the year, you will not be paid the difference. You can, however, spread your claim over the next five years if you are unable to use the tax credit in one year.

**Figure 1** shows the tax savings for donations in excess of \$200 where a person has \$215,000 of taxable income, makes a donation of \$20,000 and resides in a province that provides an 18% tax credit:

**Figure 1**

Total donations	\$20,000
Federal credit at 33%* (\$15,000 x 33%)	\$4,950
Federal credit at 29% (\$5,000 x 29%)	\$1,450
Provincial credit at 18%	\$3,600
Total tax savings	\$10,000
Total tax savings as % of gift	50%

\*This example assumes that the highest federal marginal tax rate of 33% applies to income above \$200,000.



### Is there a limit to how much I can claim?

Yes. Generally, you cannot claim a credit for donations exceeding 75% of the net income reported on your federal tax return for each year. For provincial tax purposes, Quebec residents can claim donations up to 100% of their net taxable income. For donations of ecologically sensitive land and certified cultural property, the claim is not limited to a percentage of your net income for the year. Note that under proposed legislation, gifts of ecologically sensitive land will no longer be eligible for this tax treatment if they are donated to a private foundation.

### What if I exceed the limit?

You do not lose your tax credit if you donate more than the 75% limit. The excess amount of the donation may be carried forward for up to five tax

years. That means you may make a large donation now and claim the full credit as time goes by. However, you are still subject to the 75% limit every year you make a claim.

Note that it may not be advantageous from a tax savings perspective to make donations exceeding the 75% limit by a significant amount since the carryforward expires upon death.

On your final tax return that is due after your death, or on your return for the year prior to death, your executor(s) or liquidator(s) may be able to claim a credit for donations made by you in the year of your death or by the terms of your Will upon your death. The 75% limitation does not apply in this case. The limit is increased to 100% of the donor's income for the year in which the donor dies and for the preceding year.

### Donations to a U.S. charity<sup>1</sup>

Under the Canada – U.S. Tax Treaty, you may be able to claim a tax credit for donations made to U.S. charitable organizations that are not qualified donees but would have qualified as a Canadian registered charity if it had been established in Canada and were resident in Canada. The tax credit is generally limited to the lesser of the gifts made to the U.S. organization and 75% of your U.S. source income (e.g. U.S. sourced dividends). There are also special rules if you reside near a Canadian–U.S. border and work in the U.S. If you are considering donating to a U.S. charitable organization, speak to your qualified tax advisor for more information.

<sup>1</sup>) At the time of publishing, the treaty benefit provided to Canadian residents who make donations to U.S. charities is not available to residents of Quebec (*Emballages Starflex Inc. v. Agence du Revenu du Québec*).

# Charitable giving options



Charitable giving can – and should – be tailored to your unique set of circumstances. Consider your age and the amount of money you will need to continue your lifestyle and meet family obligations. As you may expect, retirees are more likely to have the financial resources to be more generous than young people in the early stages of establishing careers and families. Consider your tax situation and, of course, the personal value of supporting a cause you care about.

Now, let's consider some of the available options. Appendix 1 shows some of the financial and estate planning issues related to the various options for charitable giving. Each option is discussed in more detail in the following sections.

## Donating cash

The simple cash gift 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.

This form of giving enables even those with modest means to provide affordable support to their favourite causes. It also gives charities the flexibility to mount both scheduled and special appeals.

The simple cash gift is the easiest donation to make. To claim a

charitable tax credit for the donation, the qualified donee must issue an official donation receipt for the gift that includes their CRA registration number. Qualified donees are not required to issue donation receipts. As receipting can be an administrative burden, qualified donees may choose to issue receipts according to certain criteria or may not issue receipts at all. Before making a donation, you should ask if there are any circumstances where you will not receive an official donation receipt.

## Gifts in-kind

A gift in-kind is a donation of non-cash gifts. These types of gifts may include capital property, personal-use property, a leasehold interest, a residual interest, a right of any kind, a licence, a share, and inventory of a business. Some of these types of gifts will be discussed in more detail later on.

In general, if you donate capital property to a qualified donee, you will be deemed to have disposed of your property for proceeds equal to its fair market value. Any capital gain or loss realized as a result of this disposition must be reported on your tax return for the year in which the donation is made.

There are certain types of capital property that, if donated to a qualified donee, are eligible for an inclusion rate of zero on any capital gains realized on such gift. This means that



you do not have to include in income any capital gains realized as a result of donating this property. The property that qualifies for this tax treatment includes:

- Publicly traded securities such as a share, debt obligation or right listed on a designated stock exchange
- Mutual funds
- An interest in a related segregated fund trust
- A prescribed debt obligation (such as a government savings bond)

Capital losses triggered from the donations of securities can still be claimed and used to offset other capital gains.

If you would like to maintain your position in a particular security with unrealized gains and have the cash to make the donation, consider

making a donation in-kind using your security and using the cash to replenish your position. This will allow you to benefit from the charitable donation tax credit plus get an increase in your adjusted cost base (ACB) without paying tax on the capital gain triggered when making the donation.

Due to the elimination of capital gains on donating certain property, such a donation may produce greater tax benefits than donating cash. **Figure 2** compares donating publicly traded shares directly to selling the shares and donating the cash proceeds.

In 2008, the Government of Canada eliminated the taxable capital gain triggered on the conversion of certain unlisted exchangeable shares or partnership interests into publicly traded securities that are gifted to a registered charity or qualified donee

on or after February 26, 2008, and within 30 days of the exchange. An additional condition requires that at the time the unlisted security is issued, it is exchangeable into the publicly traded security, and the publicly traded security is the only consideration received on the exchange.

The donation of exchangeable securities that are partnership interests may trigger a taxable capital gain that may not be eliminated where the ACB of the partnership interest has been reduced by operating losses.

If you donate capital property such as real estate, you are considered to have disposed of the property at fair market value (FMV). Therefore, you could face capital gains tax on the donation if the property has increased in value and tax on recaptured capital cost allowance (CCA) if you claimed CCA in the past. Generally, the donation tax credit will more than offset this tax. However, if this is not the case, you can reduce or eliminate your capital gain by electing to designate your proceeds of disposition at an amount between the ACB and FMV of the property. The amount you elect will become the eligible gift amount used to calculate the donation tax credit.

Capital gains realized on the donation of ecologically sensitive land to a qualified donee other than a private foundation or on the donation of certified cultural property to an institution or public authority designated by the Minister of Canadian Heritage are also not subject to tax. It may also be possible to claim capital losses on the donation of such property.

A charitable tax credit is normally based on the donated property's FMV on the day the qualified donee received the gift. For donations

**Figure 2**

### Donating Cash vs. Donating Shares

Marginal tax rate: 50%\*

Donation tax credit: 46%\*

	Sell shares and donate cash	Donate shares directly
FMV of donation (a)	\$2,000	\$2,000
Adjusted cost base	\$1,000	\$1,000
Capital gain	\$1,000	\$1,000
Taxable capital gain	\$500	\$0
Tax on capital gain (\$500 x 50%) (b)	\$250	\$0
Donation tax credit (\$2,000 x 46%) (c)	\$920	\$920
<b>Total cost of donation = (a) + (b) – (c)</b>	<b>\$1,330</b>	<b>\$1,080</b>

Net tax savings from donating shares: \$250 (\$1,330 – \$1,080), assuming that donations of \$200 have already been made.

\*Assumes the person has taxable income below the top bracket and donations in excess of \$200.

If you exercise employee stock options and donate these shares to a qualified donee, the employment benefit inclusion may be eliminated.

of property, you are encouraged to get one or more independent professional appraisals for more valuable tangible items as the CRA looks closely at the valuations of gifted property.

When the securities are electronically transferred, the donation tax credit is generally based on the value of the securities on the date the qualified donee receives them. However, it is possible that the donor and the donee have a written agreement stating that the securities were effectively transferred prior to the donee having physically received the securities. The Income Tax Act does not provide guidance as to how a gift of securities should be valued. The CRA generally accepts the closing bid price or mid-point between high and low trading prices on the day the security is received.

Be sure to discuss with the charity before making a gift of property. The charity does not necessarily have to accept a donation of property as it may not have the capabilities of valuing and liquidating the property.

#### **Donating shares acquired with employee stock options**

As mentioned earlier, when you contribute a listed security to a qualified donee, the regular capital gains inclusion rate is eliminated. Similarly, if you exercise employee stock options and donate these shares to a qualified donee, the employment benefit inclusion may be eliminated. You will receive an additional 50% deduction against the stock option benefit, in addition to the normal 50% stock option deduction.

To be eligible for this tax treatment, the shares acquired after exercise must be donated in the year of exercise and within 30 days of the employee stock option being exercised. Furthermore, the shares donated must be ordinary common shares and the strike price (i.e. employee's cost) to acquire the shares must be no less than the FMV of the shares at the time the option is granted.

In addition to eliminating or reducing the tax on the stock option benefit, you will also receive a donation tax receipt equal to the FMV of the shares donated. This











donation receipt can be used to reduce the tax payable on other taxable income.

#### Donating personal-use property

You may consider making a gift of personal-use property (PUP). PUP is any property that is owned by an individual and used primarily for personal enjoyment. Examples of PUP include items such as jewelry, works of art, furniture and clothing.

The disposition of these items may generate a capital gain. In an attempt to eliminate the nuisance factor involved in keeping track of these small transactions for tax purposes, the government established a \$1,000 floor rule (applies to ACB and proceeds). Basically, when calculating the capital gain on the disposition of any PUP item, the ACB is either the cost of the item or \$1,000, whichever is greater. Similarly, the proceeds of the disposition are also the greater of the actual proceeds or \$1,000. In this way, any PUP item with a market value of less than \$1,000 will not trigger a taxable capital gain upon disposition.

It should be noted that if you acquire PUP for donation to a qualified donee in circumstances where it is reasonable to conclude that the acquisition of the property relates to an arrangement, plan, or scheme promoted by another person or partnership, the above

You may consider making a gift of personal-use property (PUP). PUP is any property that is owned by an individual and used primarily for personal enjoyment.

rules do not apply. If this situation applies to you, calculate your capital gain or loss using the actual ACB and proceeds of disposition.

Not all qualified donees will accept gifts of PUP. It is important that you confirm the gift acceptance policy of the particular qualified donee you wish to benefit.

#### Donating flow-through investments

In the past, you could receive an enhanced tax benefit by donating a flow-through common share or a share of a mutual fund corporation that was originally a flow-through limited partnership unit. These flow-through investments generally have an ACB of \$0 or very close to \$0. If you donated the flow-through common share or the share of a mutual fund corporation to a qualified donee, you would have benefited from the elimination of the entire taxable capital gain and the ability to claim a charitable donation tax credit for the FMV of the donation.

In 2011, the federal government introduced new rules to limit what they saw as excessive tax benefits when donating flow-through investments. As a result of these changes, the deemed capital gain is equal to the lesser of the actual capital gain triggered on the donation and the “exemption threshold” amount. In very simplified terms, your exemption



threshold is equal to the original cost of all flow-through shares of the same class less any cumulative capital gains realized on the disposition of flow-through shares in the same class. What this all means is that the exemption from capital gains tax will be available only to the extent that the actual capital gain on the donation of flow-through securities is in excess of your original cost amount.

These rules do not apply to flow-through common shares acquired before March 22, 2011 or mutual fund corporation shares that are received in exchange for flow-through limited

partnership units acquired before August 16, 2011 (no contributions to the partnership can be made on or after August 16, 2011).

Although the current rules limit the ability to claim an exemption from capital gains tax on the donation of a publicly listed flow-through class of property to the amount of capital gains realized in excess of the original cost, this only eliminates one part of the tax benefit that currently exists. If you acquire flow-through shares or flow-through limited partnership units and subsequently donate them (or substituted property – mutual

fund shares) to a qualified donee, you can continue to benefit from resource deductions allocated to you and a charitable donation tax credit based on the FMV of the securities. You will, however, be taxed on any capital gain up to the original cost of the security.

If you are considering donating flow through shares/units, please consult with your tax advisor and the charity to which you intend to make the gift. If you are considering purchasing a flow-through share/unit through a promoter where you are ultimately required to donate the flow through share/unit, please consult with your

You can also name a charity as the beneficiary of your life insurance while retaining ownership of the policy. One advantage of this arrangement is that the death benefit is paid outside your estate and is not subject to probate taxes.

tax advisor and the charity to which you intend to make the gift as to whether this would be considered a gifting arrangement.

#### Donating an insurance policy

##### a) Immediate gift of a life insurance policy

You may consider making a donation of an insurance policy on your life. It may be an existing policy you no longer need or one bought specifically for donation. Typically, it will be a permanent life insurance policy. Special rules govern such gifts. A life-insurance licensed representative can advise you on how these rules may apply to your policy.

The charity must agree to become the owner of the insurance policy; therefore a transfer of the policy ownership must take place. This is simply done by sending the proper forms to the insurer. Unlike a bequest, that transfer of ownership cannot be changed.

If an existing policy is donated, you may receive a donation tax receipt for the cash surrender value and any accumulated dividends or interest, less any outstanding policy loans. Be aware that the transfer of an existing policy is a taxable disposition. You will be fully taxed on the difference between the cash surrender value and the ACB of the plan. The insurance policy provider can tell you the ACB amount. For most people, the tax credit from the donation will offset the taxes payable.

You will also get donation tax receipts when you make premium payments into the policy. When you pass away the charity receives the proceeds of the policy. Neither you nor your estate will receive any further tax benefits upon the death of the life insured.

Aside from generating tax credits now, here are some other advantages to

making a gift of a life insurance policy to the charity during your lifetime:

- Depending on your age and health, a reasonably small outlay could fund a very large payment at death.
- If the charity needs money before your death and if the policy includes a cash surrender value, the charity can use the insurance policy to obtain a loan or even cash it in.
- The life insurance proceeds are paid upon death directly to the charity. Since the policy is owned by the charity, and the charity is the beneficiary, the proceeds pass outside of your estate. Therefore probate taxes will not apply to the gift. This will keep the gift private if you desire, save on probate taxes and speed up the payment to the charity.

##### b) Deferred gift of a life insurance policy

You can also name a charity as the beneficiary of your life insurance while retaining ownership of the policy. One advantage of this arrangement is that the death benefit is paid outside your estate and is not subject to probate taxes.

With an immediate gift/transfer of a policy, you cannot change beneficiaries. However, with a deferred gift, you can change beneficiaries whenever you want.

It is possible to claim the donation tax credit on the deceased's final income tax return if the charity is designated as the beneficiary of the life insurance policy. A donation tax receipt will be issued for the amount of the death benefit paid by the insurance company to the charity.

Please consult with a licensed life insurance representative to learn more about your insurance options.





# Leaving a legacy

You may wish to consider a legacy gift as part of your long-term financial planning. Legacy gifts allow you to continue to support a cause that may be important to you during your lifetime and may provide you with substantial tax and estate planning benefits. Here are some legacy gift giving options to consider.



## Bequests under a Will

Leaving a gift to a qualified donee under your Will may produce a valuable tax credit on your final tax return that can potentially save your estate a considerable amount of tax if you have RRSPs/RRIFs or large holdings of capital property that will be deemed to have been disposed of at your death. As already indicated, in the year of death and the previous year, you may be able to claim a donation tax credit for donations of up to 100% of your net income. Another advantage of making a bequest in your Will is that you can revoke the gift simply by changing your Will (assuming you are mentally capable). Finally, you may choose to bequeath a percentage of your estate instead of an absolute dollar amount so that the amount of your gift is automatically kept in line with the amount of your wealth.

There are some things you should consider before making such a gift:

- Your charitable intentions could be thwarted by the family and succession laws of the province or territory in which you reside that provide certain dependants (e.g. spouse, children) with the right to financial support. Your Will cannot take away this right. Thus it may prove difficult to “give it all away to charity” if you have dependants that might challenge your Will in

court. Seek professional legal and tax advice when drafting or revising your Will.

- A charitable bequest made in your Will does not avoid probate taxes. In most provinces, probate taxes will be due on the value of your estate before distributions are made.

Prior to 2016, a charitable gift made by Will was deemed to have been made by the individual immediately before death. The donation tax credit arising from the gift could be used by the executor/liquidator in the deceased’s terminal tax return to offset any tax liability arising from the deemed disposition of the deceased’s capital property on death. Under the current rules, when a gift is made in your Will (or by beneficiary designation under an RRSP, RRIF, TFSA or life insurance policy), the donation is deemed to be made by the estate at the time the donation is made to a qualified donee. The donation tax receipt will be based on the fair market value of the gift at the time the property is transferred to the qualified donee.

The executor/liquidator of an individual’s estate may have some flexibility in their use of the donation tax credit if at the time the donation is made, the estate is a “Graduated Rate Estate” (GRE). A GRE is an estate that arises on and as a consequence of the





individual's death and satisfies the following conditions:

- The estate is a testamentary trust for tax purposes;
- No more than 36 months have passed since the deceased's date of death;
- The estate designates itself, in its T3 return of income for its first taxation year (or if the estate arose before 2016, for its first taxation year after 2015), as the individual's GRE;
- No other estate is designated as a GRE of the individual (there can only be one GRE); and
- The estate includes the deceased individual's Social Insurance Number in its return of income for each taxation year of the estate that ends after 2015.

If the estate is a GRE at the time the property is transferred to the charity, the executor/liquidator has the flexibility to allocate the donation tax credit among:

- The taxation year of the estate in which the donation is made;
- An earlier taxation year of the estate;
- The last two taxation years of the deceased individual; or
- Any of the five taxation years of the estate subsequent to the donation.

If the executor/liquidator makes the donation in the fourth or fifth year of the estate, and the estate continues to meet the requirements of the definition of a GRE, other than the 36 month existence requirement, then the executor/liquidator may use the donation tax credit in the taxation year of the estate in which the donation is made; in any prior year of the GRE; or in the last two taxation years of the deceased individual. The donation tax credit may also be carried forward five years.

In addition, to benefit from this flexible use of the donation tax credit, the donated property must be property that was acquired by the estate on and as a consequence of the death (or property that was substituted for such property).

It also should be noted that the rules relating to the elimination of capital gains on the donation of publicly listed securities will be limited to donations made by GREs (or former GREs in the fourth or fifth year of the estate).

For donations made relating to deaths prior to 2016, the executor/liquidator should speak with a qualified tax advisor to determine whether the donation tax credit can be claimed on the deceased's terminal return or in the estate.

Make sure the recipient charities are identified by their proper legal

names and, if leaving a large gift for a specific purpose, contact the charity in advance to ensure they can actually accept the gift for that specific purpose.

If there is any chance your survivors may question your decision, you may consider attaching an explanatory side letter to the Will. Although not legally binding on your executor or liquidator, it may help clarify your wishes to your beneficiaries. Discuss your Will with your executors and have it professionally reviewed at least every three to five years or when there is a change in your family situation, or if the property that is the subject matter of the charitable gift is sold. You should discuss bequests you wish to make through your Will with your professional legal advisor.

### Donation of an RRSP/RRIF

You may consider naming a qualified donee as a beneficiary of your RRSP/RRIF. When a charity is named beneficiary on the RRSP/RRIF, the proceeds of your RRSP/RRIF are paid directly to the qualified donee upon your death, and probate taxes may be avoided.

For tax reporting purposes, the value of the RRSP/RRIF must be included in your income at the time of death. In order to be able to claim the donation tax credit on your terminal return to offset the taxes payable on that amount, your estate must either





qualify as a GRE at the time the RRSP/RRIF assets are transferred to the qualified donee, or, if 36 months have passed from the date of death, the transfer must occur in the fourth or fifth year of the estate and the estate must meet the other requirements of the definition of a GRE.

The donation of publicly traded securities inside an RRSP/RRIF does not qualify for the eliminated taxable capital gain rule as these assets are inside the registered plan and when the assets are taken out to make a donation, the FMV of the assets is considered an income inclusion, not a capital gain.

### Charitable remainder trusts

If you wish to make a large gift to a qualified donee but are also interested in maintaining use of the gifted property during your lifetime or the lifetime of another you might consider setting up a charitable remainder trust.

A charitable remainder trust involves the transfer of property to a trust whereby the donor retains a life interest in the property but makes an irrevocable gift of the residual interest to a registered charity. This type of trust is structured so that the donor or another retains the use of and the income derived from the property for their lifetime and on their death, the property is transferred to the charity

that is named as beneficiary. There is no ability to encroach on the capital of the trust during the donor's or trust beneficiary's lifetime.

A charitable remainder trust can be established during your lifetime or in your Will. It can be set up so you or someone else receives the benefit of the property during your lifetime.

The main benefit of setting up a charitable remainder trust is that you are provided with immediate tax relief but continue to benefit from the property for your lifetime. As well, on the death of the donor or life tenant, the remaining property in the trust will pass directly to the charity and will not be subject to probate.

When you contribute property with accrued gains in-kind to an inter vivos charitable remainder trust, you will be subject to tax on any

unrealized capital gains. You will receive a donation tax receipt for the present value of the remainder interest that the trust receives. The donation tax credit from the donation may offset the taxes payable on the realized capital gains.

If you are interested in establishing a charitable remainder trust, speak to a qualified legal and tax advisor. You will need to consider the set-up costs and ongoing administration fees associated with the trust. You may want to consider appointing a corporate trustee, such as Royal Trust, to ensure the trust funds are professionally managed according to the terms of the trust. It is also important that you consider the future financial requirements for you and your family. As well, it is important to discuss your plans with the charity to ensure that they are willing to accept this type of gift.

One of the key benefits of using Royal Trust as your corporate trustee is the security of knowing you are engaging experienced professionals to protect the interests and requirements of your trust. Royal Trust can administer the trust and invest in assets according to the directions set out in the trust agreement. Speak to your RBC advisor for more information on how Royal Trust can help.



## Other donation options

### Endowment funds

Many institutions operate endowment funds that provide scholarships, fellowships, bursaries and research grants.

In some cases, wealthy individuals or families provide very large donations to fund, for example, a professorship. Endowment funds invest your gift and use only the income stream to fund ongoing projects.

### Private charitable foundations

A private charitable foundation is a non-profit organization usually funded by a single source or a small group. The foundation awards grants to support specific work by others or makes contributions to other registered charities.

Private foundations provide the greatest flexibility in charitable giving. Many of today's foundations were created because wealthy donors wanted to dispose of property with substantial capital gains. The ability to value the gift between cost and market value enabled them to plan their tax credits and potentially minimize tax while creating a lasting legacy.

Unlike other forms of giving, a private foundation also provides flexibility in controlling the use of the money. The donation is not tied to a specific charity. Instead, the foundation's directors or trustees can award grants case by case, usually within guidelines set by the founders. There are now several large family foundations that no longer have ties to the original donor family.

Normally, an active charity cannot receive more than 50% of its capital from one person or group of related people. In addition, at least half its directors must deal with each other at arm's length. Those requirements do not apply to private foundations but private foundations face tighter rules related to their activities and investments.

The creation and operation of a private foundation is a highly specialized legal and estate planning area. It should be considered only by individuals willing to commit a significant amount to charitable activities.

For those with less to give, there are also a number of non-political community foundations in Canada. They use money from many donors to benefit the particular city or region. Depending on the value, the gift may go into a general fund or be administered separately as directed by the donor.

There are special purpose foundations too. They invest money collected from the public and use the income to fund grants.



### Charitable gift fund

An alternative to a private foundation is a charitable gift fund. A charitable gift fund allows you to create an enduring charitable legacy but without the time and expense required for a private foundation. With a charitable gift fund, you can donate cash or other assets to a fund administered by a registered public foundation. The gift is irrevocable. You receive a donation receipt equal

to the value of the assets donated and you can recommend how contributions are managed and which charities receive grants, subject to the foundation's final approval.

A charitable gift fund may be the right choice for you if you want to establish an enduring legacy and you prefer convenience over control. The minimum initial investment varies depending on the fund but may start as low as \$25,000.

The RBC Charitable Gift Program is specifically designed for individuals and families wishing to support charitable causes in a meaningful way, without the time and cost associated with establishing a private foundation. It is an easy, convenient way to support charitable causes you care about, today and in the future, while receiving important tax benefits. Through this program, you can make initial and ongoing contributions to a charitable gift fund administered by Charitable Gift Funds Canada Foundation, one of the leading charitable foundations in the country. Ask your RBC advisor for our brochure on the RBC Charitable Gift Program and how this form of charitable giving may be right for you.

### Other donation arrangements

You should also be aware of the risks associated with other donation arrangements such as gifting trust arrangements, leveraged cash donations and buy-low-donate-high arrangements. The CRA has audited many of these gifting arrangements. In general, the CRA

will limit donations made under these arrangements to a maximum of the donor's out-of-pocket costs. In some cases, the CRA may conclude that effectively no gift was made, and as a result, the donation tax credit will be zero. You should consult with a qualified tax advisor before considering such arrangements.





# Corporate donations

Corporations making a donation may qualify for a tax deduction that will reduce their taxable income.

Corporations making a donation may qualify for a tax deduction that will reduce their taxable income. A corporation can claim a deduction for charitable donations of up to 75% of the corporation's net income for the year. Any excess amount of a donation may be carried forward for up to five tax years and deducted in a future tax year. The value of the tax deduction varies with the donor corporation's tax rate. For example, if the corporation is subject to tax at a rate of 50% on passive investment income, a \$1,000 donation could save the corporation \$500 in corporate income tax.

In addition, if the corporation donates publicly traded securities, such as shares, debt obligations or rights listed on a designated stock exchange, shares and units of mutual funds, interests in related segregated funds, trusts and certain other debt

obligations, the taxable capital gains triggered when making the donation will likely be eliminated. If the capital gain is eliminated, the corporation can add the non-taxable portion of the capital gain to the capital dividend account (CDA), which is 100% of the capital gain in the case of an in-kind donation. The balance of the CDA may be paid out to the shareholder as a tax-free dividend. As a result, a corporation making a donation in-kind benefits from a deduction equal to the FMV of the asset from its taxable income, the elimination of the taxable capital gain on the gift and an increase in the CDA, allowing for a possible tax-free dividend to the shareholder.

*If you are interested in making a donation through your corporation, you should consult with a qualified tax advisor.*

## Conclusion

Charitable gifts take many forms. They can include donations of securities, real estate, artwork, life insurance 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.

Your favourite charities may have a Gift Planning Officer who can help you select the most effective ways to

make a donation. This is especially important if you are considering making a planned gift other than cash. Your RBC advisor can also assist you in this regard. Not all charities want to or can administer some of the charitable giving options discussed in this publication. Therefore, talk to someone at your favourite charity before taking any action. Financial planners, estate planners, accountants and lawyers can also offer professional advice if required.

# Appendix 1: Summary of different types of gifts

Personal and estate planning considerations regarding charitable giving

Donation option	Minimum amount required	Can you revoke the gift?	Do you get income or use during lifetime?	Subject to probate?	Charitable tax credit available?	When can charity use gift?
Outright gift now of cash or property	None	No	No	No	Now	Immediately
Charity is owner and beneficiary of insurance policy	Check with charity	No, if you don't pay your premiums, charity can pay them, reduce death benefits or cash in policy	No	No	Now and as you pay future premiums	Generally after death
Charity is the only beneficiary of insurance policy	Check with charity	Yes, as owner of policy you can change the beneficiary of the policy	Yes, if you can cash in the policy, but then there's nothing left for the charity	No	After death, tax credits used by your estate, or possibly in your final tax return or return for the preceding year	After death
Bequest under Will	None	Yes, by changing your Will prior to your death	Yes	Yes*	After death, by your estate, or possibly in your final tax return or return for the preceding year	After death
Charity as named beneficiary of your RRSP/RRIF on plan documentation	None	Yes, by changing your beneficiary election prior to your death	Yes	No	After death, by your estate, or possibly in your final tax return or return for the preceding year	After death



Donation option	Minimum amount required	Can you revoke the gift?	Do you get income or use during lifetime?	Subject to probate?	Charitable tax credit available?	When can charity use gift?
Charitable remainder trust (inter vivos)	Sufficient funds to justify required set-up costs and ongoing administration fees	No	You can use property and receive all income generated	No	Now, based on gift value adjusted for life expectancy of life tenant*  If you are considering setting up a testamentary charitable remainder trust, speak to your qualified tax advisor	After death of life tenant (income beneficiary)
Endowment fund	Depends on purpose	No	No	Only if gift made under your Will*	Now, or if gift made by Will, by your estate or possibly in your final tax return or return for the preceding year	Income immediately, or after death if gift made under your Will
Private charitable foundation	Several hundred thousand dollars as creation and operation require professional services	You can lend funds to the foundation to be repaid if needed  Loan can be forgiven at death or if money is not needed	No; although you can control the investments and disbursements, there are restrictions	Only if gift made under your Will*	For year of donation to foundation, but no credit for loan, or if gift made by Will, by your estate or possibly in your final return or return for the preceding year	You control the grants subject to minimum yearly quotas set by tax rules
Charitable Gift Fund	Varies, generally \$25,000	No	No	No	Now	Grants subject to minimum disbursement quotas set by the tax rules

\*Notarial Wills in Quebec do not have to be probated.



**Wealth  
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