Today’s Speakers

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Tax Partner, KPMG
GVA
Agenda

• The Basics
• Gifts in Kind
• Donations Using Insurance
• Gifts Via Wills
• Remainder and Life Interests
The Basics
Charitable Donations

• Gifting can be simple or complicated depending on the circumstances

• Deferred gifts are the more complex ones
  Gifts via will
  Gift of life insurance proceeds
  Charitable remainder trust

• Gift planning needs to consider both the assets and desires of the donor
Charitable Donations

• Tax planning goal is to maximize and use all the donation credits generated from gifting

• Unused donation credits cannot be transferred to Estate/Beneficiaries

• Unused credits may result from:
  - Passing away early in a calendar year
  - Making significant gifts relative to income levels
Donation Credits

- Charitable gifts provide donation tax credits based on the fair market value ("FMV") of the gift
- Tax credit is worth:

<table>
<thead>
<tr>
<th></th>
<th>Federal*</th>
<th>Federal/ON Combined*</th>
</tr>
</thead>
<tbody>
<tr>
<td>First $200</td>
<td>15%</td>
<td>20.0 – 22.8%</td>
</tr>
<tr>
<td>Over $200</td>
<td>29%</td>
<td>40.1 - 46.4%</td>
</tr>
</tbody>
</table>

* based on 2012 tax rates
Donation Credits

- Credit is non-refundable – only reduces taxes payable

<table>
<thead>
<tr>
<th></th>
<th>Donations Made Upon Passing</th>
<th>Donations Made During Lifetime</th>
</tr>
</thead>
<tbody>
<tr>
<td>Limit</td>
<td>100% of net income</td>
<td>75% of net income*</td>
</tr>
<tr>
<td>Carryback</td>
<td>1 year</td>
<td>N/A</td>
</tr>
<tr>
<td>Carryforward</td>
<td>N/A</td>
<td>5 years</td>
</tr>
</tbody>
</table>

* Increase to limit for any capital gains/recapture from gifting of assets other than cash
Gifts in Kind
Gifts in Kind

• **A gift of property other than cash**
  i.e. Capital property, depreciable property, shares

• **Implications to donor:**
  Disposition at FMV
  Capital gain/loss = FMV – ACB

• **Implications to charity:**
  Donation receipt = FMV. Appraisal would be required. Date of donation would be when property is transferred to charity
Example – Gift of Capital Property

Donor gifts Land to Charity having following attributes:

- **FMV Land**: $900,000
- **Original Cost (ACB) Land**: $300,000
- **Donor’s Pre-Gift Income**: $200,000
Example - Gift of Capital Property

• **Total Income = $500,000**
  - Pre gift income = $200,000
  - Taxable capital gain = $300,000

• **Charitable Gift Limit = $450,000**
  - 0.75 ($500,000) + 0.25 ($300,000)
  - = $375,000 + $75,000
  - = $450,000

• **Taxable income after donation = $50,000**

• **Donation carryforward = $450,000**
Gift of Publicly Traded Securities

• 0% inclusion for capital gain of “Qualifying Property”

• Includes current gifts and gifts by will

• T1170 – prescribed form for individuals

• 2011 Federal Budget has limited the exemption for Flow Through Shares acquired on or after March 22, 2011
  Proposed limitation of the exemption from capital gains tax for Flow Through Shares:
  Only allowed if the gain exceeds an “exemption threshold” (ET)
  ET = original cost of the securities less capital gains previously realized
Gift of Publicly Traded Securities

• **What is Qualifying Property?**

  Share, debt obligation or right listed on a designated stock exchange;
  A share of the capital stock of a mutual fund corporation;
  A unit of a mutual fund trust;
  An interest in a related segregated fund trust; or
  A prescribed debt obligation
Gift of Publicly Traded Securities

- Donation date is when charity accepts gift:
  - Hand delivery – date received
  - Electronic transfer – date in charity’s broker account
  - Mail – date received and accepted by charity
  - Bequest by will – date of death

1. Subsequent change in value does not affect receipt
Example - Donation of Securities

• Publicly listed shares worth $20,000

• ACB of Shares is $10,000

• Donor wishes to provide funds to Charity

• Should donor donate cash (after tax proceeds) or shares?
### Example - Donation of Securities

<table>
<thead>
<tr>
<th></th>
<th>Sale/Gift Proceeds</th>
<th>Gift of Security</th>
</tr>
</thead>
<tbody>
<tr>
<td>Market value of securities</td>
<td>(20,000)</td>
<td>(20,000)</td>
</tr>
<tr>
<td>Tax on capital gain</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(FMV $20,000 – ACB $10,000) x 50% x 46.4%</td>
<td>(2,320)</td>
<td></td>
</tr>
<tr>
<td>(FMV $20,000 – ACB $10,000) x 0% x 46.4%</td>
<td>(NIL)</td>
<td></td>
</tr>
<tr>
<td>Donation tax credit</td>
<td></td>
<td></td>
</tr>
<tr>
<td>($20,000 x 46.4%)</td>
<td>9,280</td>
<td>9,280</td>
</tr>
<tr>
<td>After-tax cost of donation</td>
<td>(13,040)</td>
<td>(10,720)</td>
</tr>
<tr>
<td><strong>Difference:</strong></td>
<td><strong>$2,320</strong></td>
<td></td>
</tr>
</tbody>
</table>
1. Effective for FTS acquired on or after March 22, 2011.

2. Example:
   - XYZ Resource LP cost = $10,000
   - Renunciation of resource expenses = $10,000
   - Donate LP units to registered charity
   - FMV is $8,000

3. Tax effect of renunciation:
   - Revised ACB of XYZ Resource LP = $NIL
   - Tax savings from Flow-Through of resource expenses = $4,640
<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Initial Cost of FT Share</td>
<td>$10,000</td>
</tr>
<tr>
<td>Tax savings from FT Deduction</td>
<td>$(4,640)</td>
</tr>
<tr>
<td>Tax on capital gain</td>
<td>$1,856</td>
</tr>
<tr>
<td>Donation tax credit</td>
<td>$(3,712)</td>
</tr>
<tr>
<td><strong>After tax cost</strong></td>
<td><strong>3,504</strong></td>
</tr>
</tbody>
</table>
Donating Flow-through Share/Units

Caution:

• Donation receipt must reflect accurate valuation

• May be a “hold” period – i.e. may not be sold immediately

• No active market may exist for security
Illustration – Comparing gifts in kind to cash

<table>
<thead>
<tr>
<th></th>
<th>Cash</th>
<th>Capital Property</th>
<th>Publicly Traded Share</th>
<th>Flow Through Share</th>
</tr>
</thead>
<tbody>
<tr>
<td>FMV</td>
<td>$10,000</td>
<td>$15,000</td>
<td>$15,000</td>
<td>$8,000</td>
</tr>
<tr>
<td>Original Cost</td>
<td></td>
<td>$10,000</td>
<td>$10,000</td>
<td>$10,000</td>
</tr>
<tr>
<td>Savings from flow through deduction</td>
<td></td>
<td></td>
<td></td>
<td>($4,640)</td>
</tr>
<tr>
<td>Tax on capital gain</td>
<td></td>
<td>$1,160</td>
<td>$0</td>
<td>$1,856</td>
</tr>
<tr>
<td>Donation tax credit</td>
<td>($4,640)</td>
<td>($6,960)</td>
<td>($6,960)</td>
<td>($3,712)</td>
</tr>
<tr>
<td>After tax cost of donation</td>
<td>$5,360</td>
<td>$4,200</td>
<td>$3,040</td>
<td>$3,504</td>
</tr>
</tbody>
</table>
Receipting issues

• **Returned gifts**
  - Donee must file an information return if returning a gift over $50.
  - Applies to gifts returned after March 21, 2011
  - Applies to any substituted property

• **Tax shelter arrangements.**
  - Extensive reporting rules that impact the donee
Donations Using Insurance
Gifting of life insurance

The three main methods available are:

1. Donation of policy during donor’s lifetime

2. Bequest of life insurance through donor’s will

3. Name charity as beneficiary of a donor’s policy
Donation of policy during donor’s lifetime

• Donor gifts existing policy to charity

• Charity must be owner and beneficiary of policy

• Donation receipt equal to FMV. FMV equal to cash surrender value (CSV), if any OR higher depending on circumstances

• Donor may have income inclusion if CSV exceeds tax cost of policy

• Future premium payments by donor can also be receipted

• Charity can continue to fund policy if donor ceases to
Bequest of policy proceeds

- Donor names estate as beneficiary and donates death benefit to charity through donor’s will

- Donor remains owner of policy during his/her lifetime

- Donation credit equal to death benefit (realized on terminal return)

- No tax relief (tax credit) for annual premium payments

- Need not be irrevocable designation
Name charity as beneficiary

• Similar to previous method

• Donor will register charity as beneficiary of policy vs. naming charity in will

• Donor remains owner of policy during his/her lifetime

• Donation credit equal to death benefit (realized on terminal return)

• No tax relief (tax credit) for annual premium payments
## Summary

<table>
<thead>
<tr>
<th>Method</th>
<th>Gift during lifetime</th>
<th>Bequest in will</th>
<th>Charity is beneficiary</th>
</tr>
</thead>
<tbody>
<tr>
<td>Owner</td>
<td>Charity</td>
<td>Taxpayer</td>
<td>Taxpayer</td>
</tr>
<tr>
<td>Beneficiary</td>
<td>Charity</td>
<td>Estate</td>
<td>Charity</td>
</tr>
<tr>
<td>Tax benefit during lifetime</td>
<td>Policy fmv &amp; premiums are donations</td>
<td>None</td>
<td>None</td>
</tr>
<tr>
<td>Tax benefit at death</td>
<td>None to taxpayer</td>
<td>Death benefit is a donation</td>
<td>Death benefit is a donation</td>
</tr>
</tbody>
</table>
Gifts via Will

- Gifting through a Will is attractive to a donor who wishes to reduce or eliminate the inherent tax liability that would otherwise occur on their death.

- Charitable gifts through the Last Will and Testament are treated as if the gift was made in the year of death.

- The FMV of the gift is claimed as a donation tax credit in the year of death. Any excess can be carried back to the preceding year.

- 100% of net income limitation in the year of death and preceding year.
Example - Gift via Will

• Mr. X holds assets that will deem him to realize a capital gain of $2 million on his death

• The tax liability on death will be $464,000

• If half of these assets were gifted to a charity through his Will the death taxes would be completely eliminated

• Similar approach can be used for a gift of RRSP/RRIF. Although will need to gift 100% of the RRSP/RRIF to offset Income Tax on the deemed inclusion. Use life insurance to replace capital to Estate.
<table>
<thead>
<tr>
<th></th>
<th>No Donation</th>
<th>With Donation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Estate of Mr. X</td>
<td>$1,536,000</td>
<td>$1,000,000</td>
</tr>
<tr>
<td>Charity</td>
<td>0</td>
<td>1,000,000</td>
</tr>
<tr>
<td>Tax Liability</td>
<td>464,000</td>
<td>0</td>
</tr>
<tr>
<td></td>
<td>$2,000,000</td>
<td>$2,000,000</td>
</tr>
</tbody>
</table>
Remainder and Life Interests
Gift of Residual Interest in Real Property

- Donor retains life interest, charity obtains residual interest (i.e. principal residence)
- Must be irrevocable transfer that will ultimately be received by charity
- Donation credit only if donor has no right to encroach on capital
- FMV of gift based on current interest rates, life expectancy of donor, current FMV of property. Actuarial report will be required
Charitable Remainder Trust

• Irrevocable transfer of property to trust

• Life interest retained by donor/other beneficiary (no power to encroach on capital)

• Charity is remainder beneficiary

• Donation credit equal to FMV of remainder interest – need actuarial report to support FMV
Questions?
Thank You

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