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Planned Giving
Tax Benefits of Making Charitable Gifts

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Today’s Speakers

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Agenda

- **The Basics**
- **Gifts in Kind**
- **Donations Using Insurance**
- **Gifts Via Wills**
- **Remainder and Life Interests**

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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:**

	Federal*	Federal/ON Combined*
First $200	15%	20.0 – 22.8%
Over $200	29%	40.1 - 46.4%

* based on 2012 tax rates

Donation Credits

- **Credit is non-refundable – only reduces taxes payable**

	Donations Made Upon Passing	Donations Made During Lifetime
Limit	100% of net income	75% of net income*
Carryback	1 year	N/A
Carryforward	N/A	5 years

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

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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

	Sale/Gift Proceeds	Gift of Security
Market value of securities	(20,000)	(20,000)
Tax on capital gain		
(FMV $20,000 – ACB $10,000) x 50% x 46.4%	(2,320)	
(FMV $20,000 – ACB $10,000) x 0% x 46.4%		(NIL)
Donation tax credit		
($20,000 x 46.4%)	9,280	9,280
After-tax cost of donation	(13,040)	(10,720)
Difference:		$2,320

Donating Flow-Through Share/Units ("FTS")

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

After Tax Cost - Donation of Flow-through Share/Units

Initial Cost of FT Share	$10,000
Tax savings from FT Deduction	
$10,000 x 46.4%	(4,640)
Tax on capital gain	
(FMV $8,000 – ACB $0) x 23.2%	1,856
Donation tax credit	
$8,000 x 46.4%	(3,712)
After tax cost	**3,504**

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

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

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

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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

Method	Gift during lifetime	Bequest in will	Charity is beneficiary
Owner	Charity	Taxpayer	Taxpayer
Beneficiary	Charity	Estate	Charity
Tax benefit during lifetime	Policy fmv & premiums are donations	None	None
Tax benefit at death	None to taxpayer	Death benefit is a donation	Death benefit is a donation

Gifts Via Wills

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.

Gift via Will - Comparison

	No Donation	With Donation
Estate of Mr. X	$1,536,000	$1,000,000
Charity	0	1,000,000
Tax Liability	464,000	0
	$2,000,000	$2,000,000

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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 <u>no</u> 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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