WOOD GUNDY

CHARITABLE GIVING: FINDING THE RIGHT OPTION FOR YOU

There are many benefits to charitable giving, from the satisfaction of giving back to the community and helping those in need, to the tax credits that can provide significant tax relief during your lifetime and minimize future taxes payable by your estate. Whatever your objective, choosing to support a charity is an important and personal decision that helps not only the charity you choose to support, but you as well.

This report is intended to provide you with a brief overview of the tax benefits of charitable giving, types of charitable gifts and planned giving options for you to consider when planning your charitable giving strategy.

When reviewing this report, it is important to remember that you should seek the advice of a tax and legal professional before making any decisions. These professionals will review your individual situation, as well as the rules applicable to your charitable giving strategy, including the effect on the charity's disbursement requirements. This report does not replace the advice of a tax and legal professional and is only intended to give you an overview of the issues and choices you may want to consider before making a decision about your charitable giving strategy.

Your CIBC Wood Gundy Investment Advisor can work with you to establish a charitable giving strategy that works for you and your financial situation. Speak to your advisor today to learn more about making charitable giving part of your financial plan.

The tax incentive to give

The Canadian government provides a number of tax incentives designed to encourage charitable donations and, in recent years, has introduced new legislation that provides Canadians with additional tax advantages when they make a donation to charity.

Capital gains tax on the donation of publicly listed securities to qualified donees such as charitable organizations and public or private foundations has been eliminated, an exemption further extended with the 2008 federal budget.[1]

Individuals are also rewarded for charitable giving through federal non-refundable tax credits. The first $200 you donate to a registered charity is eligible for a federal tax credit of 15 percent of the donation amount, increasing to 29 percent for donation amounts over $200.

The maximum total charitable donation eligible for a tax credit is 75 percent of your net income for the tax year in which the gift is made. Unused donation credits may be carried forward for five years, subject to the 75 percent maximum. Married spouses or common law partners can combine charitable donations, regardless of whose name appears on the tax receipt, and one spouse can claim all donations up their personal limit.

The federal tax credit rules and limits may not apply in all situations. For example:

- The 75 percent maximum is increased by 25 percent of any taxable capital gain or recaptured depreciation resulting from donations of capital property
- The maximum eligible donation increases to 100 percent of net income in the year of death plus 100 percent of net income in the tax year immediately prior to death

For more information on specific donations and tax rules that apply to such donations, please refer to the following pages on the Canada Revenue Agency (CRA) website:

- Tax Savings (for charitable donations and gifts)
- Gifts And Income Tax Guide

Charitable gifts

There are many types of charitable gifts, each with its own advantages and tax implications. It is important to review and understand the basic features of each gift so that you may choose the option that best suits your needs and financial circumstances.

1) Cash gift

A cash donation is one of the most common charitable gifts and is an easy option for Canadians who would like to make a small donation to charity. You have no future obligation or commitment to the charity, the charity receives the money immediately and you will receive a tax receipt from the charity for the amount donated. Your donation may be eligible for federal and provincial tax credits, based on the rules outlined above.

2) A gift by will

A cash gift may not be the best solution for those who would like to donate a larger amount, leave a lasting legacy or provide guidance as to how their gift will be used. In these situations, you may wish to consider a charitable bequest, a gift of cash or property made through your Will. A charitable bequest allows you to support the charity of your choice while providing for your own financial needs during your lifetime. Assets are not donated to the charity until after death, and you can revoke your gift at any time by changing your Will.

When you bequeath assets to charity, your estate will receive a tax receipt for the amount donated. Your estate may claim charitable donations of up to 100 percent of your net income in the year of death. If the total amount of donations made in the year of death, including donations made through your Will, is more than your net income, the excess donation amount can be applied to your net income in the year immediately prior to death. The charitable tax credits may offset any other taxes payable by your estate; however, it is important to note that a donation in excess of your net income for the year of death and the year immediately prior to death will not be eligible for the full tax credit.

3) Designate a charity as beneficiary of a registered account

If you are considering gifting your retirement savings to charity, or seeking to offset taxes payable upon death, your Registered Retirement Savings Plan (RRSP) and Registered Retirement Income Fund (RRIF) may be donated directly to charity through a beneficiary designation[2] on the account. You may also bequeath your RRSP or RRIF to charity through your Will. In both instances, a tax receipt will be issued to your estate for the full value of the account at the time of death and the donation may be eligible for federal and provincial tax credits.

4) In-kind donation of stocks, bonds and other publicly listed securities

If you have qualifying securities, which may include stocks or bonds listed on a designated stock exchange, eligible mutual fund units or segregated funds that have increased significantly in value, consider donating them in-kind directly to a registered charity.

When you donate property to charity, you are deemed to have received an amount equal to the fair market value of the property. If the fair market value of the property exceeds the cost, a capital gain will be realized. However, the fair market value of the qualifying securities may be eligible for a tax credit, and any realized capital gains are not taxable. As a result of this special tax treatment, it may be more beneficial to donate qualifying securities directly to charity than to sell the property and donate the proceeds.

5) A gift of certified Canadian cultural or ecological property

If you have significant works of art or historical items, you can donate the property to a museum or gallery to take advantage of available tax credits.

When you donate certified Canadian cultural property, you can claim a credit for the fair market value of up to 100 percent of your net income and use any capital losses realized on the property. You can also claim donations of up to 100 percent of your net income for gifts of ecologically sensitive land to Canada, one of its provinces, territories or municipalities, or to a registered charity approved by Environment Canada.

6) Donate a life insurance policy

If you are interested in making a large donation at a relatively small cost, donating a life insurance policy to charity may be an option for you to consider. The donation of a life insurance policy to a charity offers many advantages that are not available with other gifting options. A life insurance policy typically avoids or reduces estate taxes and you can structure your gift to decide when you will receive the tax credits.

There are several ways to incorporate life insurance into a charitable giving strategy:

- A charity can purchase a life insurance policy on your behalf and issue a tax receipt immediately for the premiums you pay directly to the insurance company. The charity will receive the death benefit proceeds upon your death.
- You can transfer ownership of an existing policy to a charity. The charity will issue a tax receipt for the fair market value of the policy; generally the cash surrender value of the policy less any outstanding policy loans, or a higher value, as determined by a qualified valuator. If the cash surrender value exceeds the cost base of the policy, you must include the difference in your income.
- If you would like to retain ownership of an existing life insurance policy, you can name a charity as the beneficiary of the policy. The charity will receive the death benefit proceeds upon your death and a tax receipt for the full amount of the insurance proceeds will be issued to your estate.

The taxation of life insurance products involves numerous rules and exceptions, making it a particularly complex topic. The tax implications associated with the disposition of such products further add to the complexity, as the applicable rules vary in different circumstances depending on the transferor, the transferee and the relationship between them. Extreme caution must be taken and these strategies should only be undertaken with the assistance of qualified tax professionals to ensure the desired outcome.

7) Charitable gift annuity

A charitable gift annuity may be an attractive option for those who are concerned about out-living their capital, but would like to support a charity.

You can transfer cash to a charity, which in turn will purchase an annuity from an insurance company. You will receive guaranteed income for life, or for a specific number of years from the annuity. Annuity payments are usually a blend of capital and interest and you will be taxed only on the interest portion. The charity receives the capital from the annuity upon your death, and a tax receipt is issued to your estate for the donation amount less the cost of the annuity.

Charitable annuities are irrevocable and you should thoroughly consider all factors before choosing this option.

8) Set up a charitable remainder trust

A Charitable Remainder Trust may be an ideal option for individuals over the age of 80 who would like to make a charitable donation to take advantage of the tax benefits without jeopardizing their existing income. When you transfer assets into a trust it is possible for you to maintain all rights to the income from the property so that the trust provides you with a lifetime income. You may retain some control over the capital, and the charity receives the capital from the trust upon your death.

Depending on the structure of the trust, a tax receipt may be issued based on the trust's residual interest; that is, the present value of the charity's capital interest in the trust. The present value is the amount donated less the present value of the donor's interest in the trust, which is calculated based on the value of the gift, interest rates and the donor's life expectancy. The transfer of assets to a trust may be irrevocable and you should thoroughly consider all factors before choosing this option. Establishing a trust requires professional advice from a lawyer, accountant or a professional trust company to act as trustee.

Charitable giving strategies

Instead of making a direct contribution to charity, you may want to consider planned giving. There are many choices available for planned giving and, with proper planning and an understanding of the different options, you can achieve your philanthropic goals and your chosen charity can make the most of your gift.

1) Establish a private foundation

A private foundation is best suited for donors who have specific charitable goals and would like to participate actively in the management and distribution of their funds. Donors interested in a private foundation should have a significant amount of capital available to invest (typically several million dollars), given the costs associated with establishing a private foundation.

A private foundation is a non-profit organization (a corporation or a trust) registered as a charity with Canada Revenue Agency. A foundation receives most of its funding from non-arm's length individuals, family members or corporations, and allows the donor to manage and control the distribution of donated funds. A private foundation may distribute funds to other charities or administer its own programs.

Donations to a private foundation are generally eligible for the federal tax credit, with some exceptions, such as the donation of securities issued by non-arm's length persons or entities.

The tax and legal rules applied to the transfer of property and donations to a private foundation are complex and professional advice is recommended. In addition, donors should be aware of the costs associated with establishing a private foundation, along with the attendant tax and legal issues.

2) Donate to a community foundation

A donation to a community foundation is usually in the form of an endowment that will support the long-term objectives of a charitable organization. A community foundation is a less complex alternative to a private foundation, allowing you to create a lasting legacy without the responsibility of managing and distributing funds.

3) Donor advised fund

Donor Advised Funds are an alternative for individuals who are attracted to the idea of a private foundation but who do not want to be involved in the administration and management. A Donor Advised Fund is established through an account with a charitable organization or third-party foundation. You will receive a tax receipt for the donation and assets can grow tax-free within the fund, giving you more funds to donate to charities of your choice. Most organizations have set out minimum donation amounts ranging from $5,000 to $50,000. All administrative work associated with a Donor Advised Fund is taken care of by the charitable organization or third party foundation. Your only responsibility is recommending which charities should benefit from your fund.

Some Donor Advised Funds allow you to name your fund, such as "The Smith Family Foundation," in order to personalize your legacy. Many funds also allow you to be involved directly in the fund's investments and which charities benefit from your investments.

Donor Advised Funds are available through CIBC Wood Gundy. If you are interested in setting up a Donor Advised Fund, speak to your Investment Advisor to determine if this option suits your current financial situation and your philanthropic goals.

Finding the best solution

Charitable giving is a winning gesture for everyone involved, from you, the donor, to the charity that receives your gift. It is important to view your charitable giving strategy as part of a comprehensive financial plan that takes into account your financial needs along with your desire to make charitable donations. Balancing your own financial situation with your philanthropic goals will help you optimize your charitable giving.

Given the complexities involved, the prevailing taxation issues at the time of giving and the irrevocable nature of charitable giving decisions, there are many factors to consider before gifting assets. Professional tax and legal advice is recommended before any action is taken. This is especially important when the contemplated gift is significant. Contact your CIBC Wood Gundy Investment Advisor to help determine the best solution for you.

09/21