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What is Planned Giving?

By Mark Blumberg (July 3, 2013)

Planned giving involves tools and techniques to facilitate gifts to charities typically involving the assistance of professional advisors who attempt to balance financial, personal, family, and philanthropic objectives. It could be as simple as placing a bequest in your will to setting up a private foundation. Some planned gifts, such as gifts of publicly traded shares, are immediate, while others, such as a charitable remainder trust are deferred. Some are revocable, such as a bequest in a will, while others are irrevocable. In Canada, sometimes the area of planned giving is referred to as gift planning.

Although there are many ways to benefit charities and causes that you support such as volunteering or making a cash donation, for some people in certain circumstances these are not always the best ways to give.

Planned giving can in certain circumstances allow individuals with average financial resources to achieve larger gifts than they ever thought possible and to make a great difference in the world we live in. For others the attraction is to leave a meaningful legacy. Planned giving takes into account all the complexity of an individual's personal and estate situation.

Different planned giving techniques used in Canada include:

1) Placing a Legacy/Bequest in your Will

This is the most common type of planned gift and results in the vast majority of funds received by charities in the planned giving area. There are a number of ways this can be accomplished in a will including leaving a dollar amount to a charity, leaving a percentage of one's estate to a charity, or in some circumstances leaving one's whole estate to one or more charities. It is

advisable to discuss with a lawyer the mechanics of accomplishing this as part of your estate plan. The advantage of leaving a bequest in your will includes the flexibility of later changing either the beneficiary or the amount of your gift as your financial or personal situation changes. Furthermore, for some donors it is difficult to give away large amounts of money during their lifetime if they are concerned that their savings will not be enough to support themselves as they do not know how long they will live and what expenses they will have up to their death. For others a bequest allows a greater gift to be made than could be achieved annually because at your death, or at your and your spouse's death, you know that the funds are not needed anymore for your support and that of your spouse. It is especially attractive for those who are older and do not have children or they have children who are self-sufficient. Another benefit of bequests is the simplicity - they can easily be added to your will while you are doing your other estate planning. I would just caution that if you are making a substantial donation to a charity that you use a lawyer who has some familiarity with planned giving and that you ensure the issues raised in the article "Leaving a Bequest to a Charity - How a little legal advice can go a long way" at www.canadiancharitylaw.ca are adequately dealt with. The disadvantage of a bequest from a charity's point of view is that a deferred gift may be revoked by the testator preparing a new will or a codicil as well as the possibility that a relative or other will attempt to set aside the will as they may receive a greater amount under an intestacy (when there is no will) or under a previous will.

2) Donating Appreciated Public Company Shares (marketable securities)

If you have public company shares that have increased in value then it is more tax efficient to transfer the actual appreciated shares to a charity directly, rather than selling the shares and then donating the after-tax cash amount. If a donor sold his/her shares and donated the after-tax cash amount the donor would have to pay about 24% tax on the amount the shares have appreciated in value, but if the donor donates the shares directly to a registered charity the donor pays no capital gains tax. This special concession for shares of marketable securities results in a donor getting a greater tax credit for his/her donation. The tax advantage of donating appreciated public company shares now applies to donations to registered charities. Remember that this special tax treatment does not apply to private corporation shares, only public shares. The larger the amount that the public company shares have appreciated, the greater the benefit this type of planned gift provides. The advantage of gifts of appreciated marketable securities, in addition to their tax effectiveness, is the ease with which they can be completed. Public company shares can now even be donated to charities that don't have brokerage accounts, through the use of a registered charity CanadaHelps (www.canadahelps.org).

3) Transferring or Donating Life Insurance to a Charity

In some cases, a donor can for a relatively modest amount purchase a large life insurance policy to benefit his/her favourite charity. If the donor will have substantial taxes that he/she has to pay at death, the tax receipt for the death benefit can assist the estate.

4) Designating an RRSP or TFSA to Charity

If you own a RRSP or Tax Free Savings Account (TFSA) then you can generally designate a charity as beneficiary so that the charity receives the funds in the RRSP or TFSA upon your death. In the case of the RRSP remember, however, that on your death your estate will have to pay the income tax on the funds in the RRSP but the estate will receive a tax credit from the charitable contribution which will offset some or all of the taxes owing in respect of the RRSP. The advantage of this technique is that the gift is outside your estate, not subject to creditors or your will being set aside. As well, the amount given to the charity will depend on the amount in the RRSP or TFSA at the date of death. You can easily change the beneficiary designation if you wish to change the beneficiary.

5) Donor Advised Funds at a Community Foundation or Bank

Community Foundations have become quite popular because you can have your own 'foundation' without the administrative burden of a private foundation. In some cases you want to benefit the local community or to have the funds targeted to a particular concern within the community. Other times a donation is provided to the community foundation (or bank donor advised fund) to set up a donor advised fund and you receive an immediate tax receipt. Every year you can provide recommendations as to which charities should receive income from the funds. They also provide expert advice in areas such as investing, regulatory requirements, and they handle all the paperwork. Donor advised funds are particularly attractive for those who wish to make a large charitable donation but are not sure of exactly which charity they want to benefit. As well, community foundations have excellent investment experience, unlike many small charities, so that if you want to benefit a small charity the community foundation could invest the funds and an amount would be disbursed every year. Another attraction of donor advised funds is that one can be set up for as little as $10,000 or $25,000. There are about 175 community foundations in Canada and you can find out more about them at http://www.cfc-fcc.ca/

6) Buying Charitable Gift Annuities

Some charities sell either self-insured or reinsured annuities which provides the donor with a stream of income while they are alive in return for the donor purchasing an annuity. Some charities self-insure the annuities, which is a potentially risky proposition, while others arrange for an insurance company to reinsure them. There are many complexities with charitable gift annuities for both the donor and charity that need to be carefully considered.

7) Private Foundations

A philanthropist may wish to consider setting up a private or family foundation to achieve philanthropic objectives. With a private foundation all the funds can come from one person, or several, and the board of directors can be related to one another, although it does not have to be so. When funds are donated to a private foundation the donor can receive an immediate tax

benefit. A private foundation has registered charitable status and therefore, in addition to the corporate/trust requirements, the private foundation has annual CRA reporting requirements. Some people find that the cost and administrative complexity of a private foundation is burdensome and may prefer to have a donor advised fund at a community foundation, financial services company foundation. Others prefer the independence, control and family legacy that can be created by their own private foundation. For information on private foundations in Canada see www.pfc.ca

8) Charitable Remainder Trusts (CRT)

Property, such as a house or investments or art work, can be placed in a trust, sometimes referred to as a charitable remainder trust, for the benefit of a Canadian registered charity. The donor can use the property during his/her lifetime, obtain a charitable receipt today for the present value of the residual interest and the property would upon the death of the taxpayer be used or sold by the charity. The advantage of the CRT is that you can make a donation now, keep on using the property while receiving the tax benefit now. It is especially useful with donations of homes which are required during your lifetime. As well, if one has large amounts of income this year the receipt from the charity can be used to immediately offset some of that income. While charitable remainder trusts are very popular in the United States, they are used far less frequently in Canada. Establishing a charitable remainder trust involves substantial time and expense, in terms of legal, accounting and valuation services and advice as well as the ongoing cost of administration. Although they are often discussed they are rarely used.

9) Shares in Private Corporations

Much wealth in Canada is tied up in private companies and shares of private companies can be quite valuable. It is very difficult to arrange gifts of private company shares, but in very few cases, it can be the appropriate mechanism for making a large donation. Some of the concerns include the difficulty of valuing the private shares, the need for the donor and his/her family to be arm's length from the charity, potentially substantial capital gains without the benefits that marketable securities enjoy, sizeable professional advisor costs, difficulty of many smaller charities to effectively deal appropriately with the gifts, disappointment of donors in some case as to the amount of the tax receipt, and disappointment of the donor that the process may take months or even years. Other concerns include the charity becoming a shareholder in the company. Often with private company shares it would be preferable to sell the shares and then make a donation by cheque to the charity! For charities the donation must be in many cases substantial to be worth the effort and often there are significant concerns as to the costs of setting up such a gift, the liquidity and value of the shares, and restrictions on the shares. Before the donor makes such a gift and the charity accepts it, both the donor and the charity should obtain significant legal and accounting assistance from lawyers and accountants who are very familiar with private companies and charity law.

What planned giving is not!

A small number of registered charities are involved with issuing fraudulent receipts and abusive charity gifting tax shelter schemes. This is not planned giving as in many cases there is no gift and/or it is an abusive scheme that has little benefit to charities. On www.globalphilanthropy.ca we discuss various types of inappropriate schemes and the potential consequences. CRA has been warning taxpayers for years not to invest in such schemes and you can read the CRA warnings at: http://www.cra-arc.gc.ca/chrts-gvng/ CRA has also been denying tax deductions and revoking charity registrations for those involved with those schemes.

If one is making a planned gift then it is important to understand all the ramifications and, depending on the nature and size of the gift, one should discuss the proposed gift with your advisors, including lawyers, accountants and/or investment advisors. It is also important that someone coordinate the planned gift with the charity or charities in order to ensure the maximum benefit is achieved. If you find all these options confusing and, don't want to really think to hard or consult with advisors, then for the vast majority of people an unrestricted bequest to a charity you care about is probably the best option. Remember also that while thinking about philanthropy and planned giving is important, it means little without action.

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