

MINIMIZE TAXES BY CHARITABLE DONATIONS AND BEQUESTS

By Tina Tehranchian



You may be one of the generous Canadians that donate to charities, giving to causes you care deeply about, and as such the tax incentives are not top-of-mind. However, by having a strategic approach to philanthropy you can substantially reduce taxes on your income and minimize the estate taxes payable after your death.

Gifts of cash, securities and life insurance during your lifetime can generate charitable donation tax credits that help reduce your taxes. If you cannot afford to donate a substantial sum to your favourite charity during your lifetime, you can leave a bequest in your will; this will not only create a lasting legacy and a gift that keeps on giving after you are gone but can also help reduce taxes payable by your estate.

Charitable Donation Tax Credit

Donations made to charities in Canada are eligible for a charitable donation tax credit. The first \$200 of your donations is eligible for a tax credit equivalent to 15% of the donation amount. If your donations exceed \$200, you will receive a 29% federal tax credit and in Ontario you will be eligible for a provincial tax credit of 5.05% on donation amounts up to \$200 and 11.16% on the remainder. Donations of over \$200 you will receive a combined federal and provincial tax credit of 40.16% if your income is under \$200,000.

The federal donation tax credit rate for donations over \$200 is 33% to the extent that an individual has taxable income that will be taxed at 33%. For instance, if an individual has taxable income of \$220,000 and donates \$25,200, the tax credit will be calculated as $15\% \times \$200$ plus $\$20,000 \times 33\%$ plus $\$5,000 \times 29\%$.

Quebec uses the same practice as the federal government. In Quebec, a higher rate of 25.75% applies for donations over \$200, to the extent that an individual has taxable income that will be taxed at 25.75%.

If you cannot use your tax credits in the year of your donation, you can carry forward your donations for five years. While during your lifetime, you can claim charitable donations up to 75% of your net income (this rule does not apply in Quebec), the tax credits are more generous after your death. In the year of your death, you can claim

donations of up to 100% of your net income and can carry back any excess donations to offset 100% of your income in the preceding year. If you donate through your will it can be treated as if it were made immediately before your death and can be deducted on your final return. Plus, you will have the ability to carry back any excess donations to offset 100% of your previous year's income as well.

Bequests in the Will

Leaving a cash bequest to a charity of your choice in your will is one of the most frequently used vehicles for leaving a bequest. However, if you own stocks and bonds and other publicly listed securities with significant accrued capital gains, you should consider gifting them to a charity in your lifetime or in your will as the favourable tax treatment can shave thousands of dollars off the tax bill for your estate.

If you transfer publicly listed securities or mutual funds to a registered charity or registered private foundation, the capital gains on those securities will not be subject to tax. You will still be eligible for receiving a charitable donation tax credit based on the fair market value of the securities at the time of transfer to the charity.

If you acquire stocks with your employee stock options, you can also donate them to a charity and not only the capital gains will not be taxable but your employment benefit that is included in your taxable income is eliminated as well. If you acquired flow-through shares on or after March 22, 2011, a capital gain will be realized when donating them to a charity and the above rules will not apply.

Life Insurance

Gifting a life insurance policy is another common strategy used for leaving a bequest. This can be done in several ways. You can purchase a policy on your own life and name the charity as owner and beneficiary. You can also donate an existing life insurance policy to a charity and name the charity as the owner and beneficiary. Alternatively, you can simply name the charity as the beneficiary of the policy.

Yet another alternative is to name your estate as the beneficiary of the policy and make a bequest of the proceeds of the policy to the charity in your will. Generally, you will be able to carry back the tax credit and offset 100% of your net income in the prior year. However, if the executor is given discretion in the amount that can be donated to charity then the CRA may consider this to be a donation by the estate and disallow the carry back.

Each of these methods of donating and making a gift of life insurance to a charity has different tax implications. Therefore, it is important that you consider the tax consequences of each method and your desired outcome and discuss it with your financial planner, tax adviser and estate planning lawyer to make sure that it is a good fit for your estate plan.

Gifting RRSPs or RRIFs

If you have more than enough sources of income for your retirement and do not need the income from your RRIF, then you may consider donating your RRSPs or the income from your RRIF to a charity of your choice and thus receive a charitable donation tax credit for this donation. You can also designate the charity as the beneficiary of your RRSP or RRIF. This designation can be made on the plan or through your will (in Quebec

this can only be done through a will). At death, the value of your RRSP or RRIF will be included in your income in your final tax return and will be fully subject to tax, unless your spouse is the primary beneficiary of your RRSP or RRIF. Therefore, if you have a spouse, it is best to name him/her as the beneficiary of the RRSP or RRIF and let the proceeds rollover to your spouse free of tax. The charitable donation tax credit resulting from naming a charity as a beneficiary of your RRSP or RRIF will offset the income taxes that are triggered on that portion of your RRSP or RRIF on death.

By exploring different strategies for leaving a bequest and discussing them with your financial advisor, tax advisor, and lawyer, you can ensure that you are getting the maximum tax benefit from your philanthropy while helping the causes that you care for dearly.

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