Giving Smarter:

Choosing the right charitable giving strategy

With 84% of Canadians giving charitable donations of $12.8 billion annually (according to Statistics Canada's General Social Survey on Giving, Volunteering and Participating, 2013), it's likely you are among those charitably minded folks. While donations can often take the form of small amounts of money donated on a periodic or regular basis, there are also long-term strategies for charitable giving that may provide tax benefits.

Like wealth planning, effective charitable giving also requires planning. What donation strategy suits your circumstances? What donation tools appeal to you? What tax benefits will you receive for your charitable giving?

Eight Donation Tools: Which works best for you?

Beneficiary Designations

One of the easiest ways for you to donate is to designate your preferred charity as the beneficiary of an RSP, RIF, or TFSA when you open the registered plan, or subsequently when you have made a decision about who you wish your beneficiary to be. Alternatively, you can name a charity in your Will, and your institutional plan-holder will have to honour your choice.

This donation strategy will transfer the funds directly to the charity upon your death, ensuring privacy. On the other hand, a donation via your Will could become public if your Will is probated, since your Will would then be a public document.

Upon your death, your estate will have to report any taxable income. For example, RSPs are 100% taxable in the year of death. However, you will receive a donation receipt for naming a charity as your beneficiary and it's likely that it will be equal to the plan's value, and offset the tax.

By using this strategy, you will benefit your charity of choice, and your estate will get a tax credit that will reduce its tax payable. The amount will vary depending on the amount of your donation and the amount of tax your estate owes.

This tool will be a part of both your Charitable Giving and overall Financial Plan. If you haven't yet named your charity of choice as a beneficiary on your registered plan or don't remember whether you have, and wish to do so, ask your TD Advisor to pull your plan documents so you can review the beneficiary designation.

Bequests

Like most people, you are likely to give to charity through your Will. To do so, make sure you have the proper legal name of the charity. Legal disputes often arise when the charity named in a Will is vague or incorrect. Several charities may attempt to lay claim to the gift. Moreover, eligibility for the donation tax receipt will depend on whether the receiving organization is a registered charity. Before setting out a bequest in your Will, you should check the charity's legal name and status on the CRA's website: *cra-arc.gc.ca/chrts-gvng/lstngs/menu-eng.html*

In 2016, the federal government brought in new rules providing more flexibility for claiming the donation credit for bequests made in 2016 or later with the introduction of a new concept called a "graduated rate estate" (GRE). Your executor must deem your estate to be a GRE. The rules involved are complex. You should consult with an estate-tax professional to ensure that you wish your estate to benefit from these new rules. Given the sophistication of these rules, you may prefer an experienced executor such as a trust company to handle your estate.

The tax impact of giving by bequest is similar to making a beneficiary designation. The charity will receive the gift and your estate will receive a tax credit that can offset tax payable by your estate. You can speak with your TD Advisor to review the tax impact of a bequest on your Financial Plan. Then, if you wish to proceed, designate the beneficiary on your plan form and/or speak with your lawyer to have the bequest inserted in your Will.

Life Insurance

There are a few variations for giving by using life insurance. As mentioned above, you can designate a charity to be the beneficiary of your policy. The charity will receive the life insurance proceeds and your estate will get a donation receipt when it receives the policy death benefit. In this instance, you remain the owner of the policy while you're alive. That means you can also change your mind and revoke the beneficiary designation at any time. (Please note that for Quebec clients, this strategy only works for registered assets within an insurance policy.)

Alternatively, you could purchase a life insurance policy and irrevocably transfer ownership of it to a charity. The charity would then own the policy and you would designate it as the beneficiary of the policy proceeds. In this situation, you would get a donation receipt for the amount of the premiums paid every year.

Or, you could irrevocably transfer ownership of an existing policy to a charity. Perhaps you own a policy that was purchased many years ago that you no longer require. A proper valuation of the policy is required. Then you would receive a donation receipt for the value of the policy for the year the donation is made.

Finally, you could buy an annuity from a life insurer, allocate part of your monthly payments toward premiums for a life insurance policy that makes the charity owner and beneficiary of the policy. During your lifetime, you will receive an income stream from the annuity, as well as an annual donation receipt for policy premiums. Upon death, the charity receives the insurance policy proceeds, and the annuity payments are terminated. This insurance donation strategy differs from the former strategies because you will be funding the insurance policy with the annuity.

For example:

- Greg is 65 and has $100,000 he would like to leave to charity upon death.
- Greg could take out a $100,000 life insurance policy, designating the charity as the beneficiary and transferring ownership to it.
- The premiums are $3,411 per year. Greg will pay them for the rest of his life.
- Greg can fund the premiums by buying an annuity with his $100,000 that will pay out $6,485 a year, until his death when the annuity payments will stop.

- The result is Greg will receive $3,074 every year and a tax receipt annually for paying the policy premiums.

To act on any of these life insurance strategies you will need the means to fund them. Speak with your TD Advisor about assessing your ability to do so within the context of your overall Financial Plan.

Publicly traded securities

You can directly donate publicly held securities (for example, a stock traded on a designated stock exchange, or a share of the capital stock of a mutual fund corporation), get the charitable donation receipt and entirely eliminate the tax on the deemed capital gain. Normally, if you sell securities, 50% of the capital gain is taxable. If you decide to donate the securities, you may wish to select those securities which have incurred the greatest capital gains. Donating the securities directly, rather than selling the securities and donating the cash proceeds, would reduce your taxes.

Let's look at an example: Lee had intended to donate to charity by selling some of her publicly traded shares of ABC Inc. and donating the $100,000 sale proceeds. She didn't know by doing so, she would incur $20,000 in capital gains tax. After speaking with her TD Advisor, she discovered that she could donate the shares directly to the charity, pay no capital gains tax, and save $20,000 on her tax bill.

	Sell securities and donate proceeds to registered charities	Donate securities directly to registered charities
Market value	$100,000	$100,000
Cost price	$20,000	$20,000
Capital gain	$80,000	$80,000
Taxable capital gain (Capital gain x 50%)	$40,000	Note 1
Tax on taxable capital gain [$40,000 x 50% (estimated)]	$20,000	Note 1
Tax credits on donations [$100,000 x 50% (estimated)]	$50,000	$50,000
Total tax savings and tax credits	$50,000	$70,000
Net advantage on donating securities directly to registered charity ($70,000 - $50,000)		$20,000

Note 1 – No taxable gains as a result of donating securities directly to registered charity.

Once you have decided which securities to donate, contact the Development Office of your charity of choice. They may have forms for facilitating donations of securities. Meanwhile speak with your TD Advisor about the TD process designed to enable donating securities.

Specialty Gifts

Gifts of property can include many types of property such as land or art work. As with publicly traded securities, unrealized capital gains on specialty gifts will give rise to capital gains tax, but you will also benefit from an increase in your annual donation limit and therefore your tax credit to apply against the taxable gains.

You may wish to give a parcel of land or building to a charity, but before doing so, speak with the charity. Do they wish to receive property? Will the building serve a purpose for the charity? It's more likely they will prefer that this type of property be sold, and you donate the cash proceeds instead.

There are some special cases where an environmental charity would welcome the donation of **ecologically sensitive land**. In fact, such a donation can be made to the federal or provincial governments, municipalities or an approved charity. This program is administered by *Environment and Climate Change Canada*. Look online for more detailed information about this program, here: *http://www.ec.gc.ca/pde-egp/*

The "fair market value" of the property must then be established. Specialty gifts require a proper valuation. An accredited appraiser must be hired to provide a valuation that will be acceptable to the Canada Revenue Agency (CRA). The value of the property, and hence the eventual tax credit, should be worth the cost of hiring such an appraiser.

Perhaps you have a preference for supporting arts and culture. You may have a gift of **cultural property** to donate to charities such as a public art gallery, museum, archives or library. To qualify for special tax treatment, the gift must be certified as having "cultural significance". Cultural significance is determined by a federal board the Cultural Property Export Review Board. The Board determines whether an item has cultural significance, and if so, its value. Information about the Board and its guidelines are available here: *canada.pch.gc.ca/eng/1458575435135*. If the gift is accepted by the charity and approved by the Board, the donation will be equal to its fair market value.

With regard to receiving a taxable receipt for gifts of ecologically sensitive land or cultural property, the amount of the donation that you may claim on your tax return can be up to 100% of your net income, rather than the usual 75% limit for other types of gifts.

For the donation of specialty gifts, your first stop will be the Development Office of your charity of choice. Before having the property appraised, ensure that the charity you envision receiving the gift actually wants it. They will also be familiar with the federal organizations and processes for vetting these types of gifts, and based on their experience can give you guidance on how to proceed. You may wish to speak with your TD Advisor to assist you with this process.

Charitable remainder trusts

One strategy that allows you to donate real estate or personal property, retain the use of it (which includes the ability to receive income from it), yet receive a receipt upon donation, involves a "charitable remainder trust". Usually the donor has extensive holdings and plans to make a donation, but would like to reduce income tax now.

If you use a Charitable Remainder Trust, you will part with legal ownership of the property. The remaining capital – the residual interest – will be paid to the charity upon your death. For this tool to work the trust must be "irrevocable", meaning you cannot change your mind about making the donation.

The donation tax receipt is issued to you for the present value of the residual interest in the property. A proper valuation of the capital must be obtained from an accredited appraiser. The transfer of property may trigger unrealized capital gains that could be offset by the donation receipt received. You should speak with your tax advisor to ensure you know the full implications of the transfer.

Perhaps you have a preference for supporting arts and culture.

Finally, the property will also pass to the charity outside of your estate, so probate fees would not apply to the value of the donation, and you will benefit from the privacy of not having made the donation through your Will – a public document if probated.

This strategy is generally more appealing to seniors who want an income source, but are happy to give up the capital, and receive up-front tax relief. This is because the value of the gift/residual interest is determined by discounting the current value of the property using the life expectancy of the donor, and the current interest rate. Therefore, it would be of much less value for midlife donors.

This is a complex strategy. It must make sense for you on a tax basis and with regard to the projected income you will need for the rest of your life. Once the value of the property and the residual interest are properly appraised, talk to your TD Advisor about the impact of donating using a Charitable Remainder Trust on your Financial Plan. If you wish to proceed, please speak with your lawyer and tax advisor about implementing this strategy.

Donor Advised Funds

TD was the first Canadian financial institution to provide clients with the ability to set up Donor Advised Funds for charitable giving purposes as an alternative to establishing a private foundation. Through the Private Giving Foundation (PGF), available through TD Wealth, you can establish a fund, determine the name, donate cash or securities, receive a donation receipt, and decide which charities to grant to.

This can be done without having to undertake the effort, cost, and fiduciary responsibility of setting up and running a private foundation. The PGF's board of directors has the fiduciary duty to ensure that it is in compliance with CRA's rules regulating charities.

The benefits of the PGF are multiple:

- You will receive the donation tax receipt up-front.
- The funds held within PGF are invested and tax-exempt.
- You remain actively involved in choosing the organizations and projects that receive the funds.
- And you have the flexibility to make changes from one year to the next.
- You will be able to engage your family members, especially your children, in the decision-making, creating an opportunity to unite family members around shared values for years to come.

Finally, you will be creating a tax-effective legacy to support the causes that you care about. You can realize immediate tax benefits from donating through a Donor Advised Fund. Your contributions, as irrevocable gifts, may result in tax credits in the year you make them, or they could be carried forward for credit within five years.

Is a Donor Advised Fund suitable for you and your family? For more information on Donor Advised Funds, please contact the Private Giving Foundation. Your TD Advisor can assist you in making the connection.

Private Foundation

A private foundation is a highly structured form of giving, which involves a great deal of hands-on involvement by the donor, and usually his or her family – much more than a Donor Advised Fund. Moreover, you will receive the same tax benefits as donating through a Donor Advised Fund; however, it will also mean incurring more expenses to set up and maintain.

You would normally work with a lawyer to set up your foundation as either a trust or a non-share capital corporation. If it is established a corporation, you would need a minimum of three people as a board of directors, or a trustee if it is established as a trust. An application is made to the CRA to obtain registered charitable status.

Once the foundation is established, you donate to it, and receive a donation receipt. You can donate a wide range of assets – cash, securities and life insurance – to your foundation. It can also be the beneficiary of your RSP, RIF, TSFA or life insurance policy. Private foundations are tax-exempt, enabling income and capital gains to accumulate tax-free. It should be noted that all gifts to private foundations are irrevocable.

The foundation has to disburse, or use for charitable purposes, a minimum of 3.5% of its average value in the previous two years to charity and must abide by all of CRA's rules governing charities. Annual filings must be made to the CRA.

To establish whether you have the funds and time required to set up and maintain a Private Foundation speak to your TD Advisor about your personal and financial circumstances and consult with our Private Foundation Services.

The basic tax benefits of donating

The value of tax credits is determined by two factors:

1. The total amount of your annual donations
2. Your income

These general rules apply to both the federal and provincial donation tax credits, which will have a combined impact on your tax payable.

For the provinces, generally a donation total up to $200 will result in a tax credit equal to the respective province's lowest tax rate. For a donation total above $200, the tax credit will generally equal the province's highest tax rate. The total combined rate will vary depending on the province you live in.

On the federal level, the rates are as follows:

- If the total amount of your tax donations for the year is $200 or less, you will receive a tax credit of 15%.
- The credit will be 33% on the lesser of: the amount by which the donor's total donations for the year exceed $200 and the amount by which the donor's

taxable income exceeds the dollar threshold of the top personal tax rate. In 2016, this amount was $200,000.

- For a donation total that is not eligible for the 33% rate, the tax credit rate will be 29%.

Let's look at an example:

Ryan has $215,000 of taxable income and makes a total of $20,000 in donations. His tax credit will be calculated as the total of:

1. **$30**, being **15%** of the first $200 of total gifts;
2. **$4,950**, determined as **33%** of $15,000, being the lesser of:
   - the amount by which Ryan's total gifts exceeded $200 ($19,800) and the amount by which the Ryan's taxable income exceeded $200,000 ($15,000); and,
3. **$1,392**, determined as **29%** of $4,800, being the amount by which the Ryan's total gifts for the year ($20,000) exceeds the total of $200 and the amount of Ryan's gifts to which the 33% rate applied ($15,000).

Therefore, in Ryan's case, his individual tax credit would total **$6,372 ($30 + $4,950 + $1,392)**, reducing his federal tax payable by $6372.

Three more points to keep in mind

1. Generally, the total amount of charitable donations claimed can be up to 75% of your net taxable income. The principal exemption to this rule is your year of death, and the year prior to death, when the total donation amount claimed can be up to 100% of net income.
2. One other point to keep in mind is that in a year when you have no tax payable, or your total donation amount is greater than 75% of taxable income, the donation amounts can be carried forward and claimed in any of the subsequent five years. The charitable donation tax credit is "non-refundable". In other words, you cannot get a refund from the CRA if you do not otherwise have any tax payable.
3. You can maximize the impact of the donation tax credit in any given year in a variety of ways. For example, you could gather receipts received for donations given over a few years, combine and use them to obtain a larger credit in one year – within the five-year carry-forward limit. Or, spouses or common-law partners can also pool their taxable donations so the person with the highest income can claim the donation and can maximize his or her tax savings.

Now you can speak to your TD advisor and consult your tax, insurance and/or legal professional to:

- Start planning your charitable giving
- Choose which charitable giving strategies are suitable for you
- Identify the tax benefits that arise from the strategies you choose within the context of your overall Financial Plan

40218c (03/03/2017)