

Professional Advisors Resource Guide



CF-LINKS: Community Foundation – Leadership, Innovation, Networking, Knowledge and Support.



*Community
Foundations
of Canada*

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du Canada*

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Introduction

One thing that sets us as human beings apart from our fellow creatures is the way we consciously control and shape the world around us. We don't wait for fruit to fall from trees before we eat it: We plant the trees, harvest the fruit, improve the stock to develop better fruit, and cultivate more productive orchards.

Communities, like orchards, must be nurtured. We have to plant seeds and wait for results. We have to prune and shape. And we naturally want to share with others the fruits of our labours. We want to help family and friends, but often we also want to give part of what we have for the benefit of people we have never met, and those less fortunate than ourselves.

Charity is as old as recorded history, reflecting the human impulse to give to others. Philanthropists (those who express this 'love of humankind') come in all shapes and sizes and their net worths are relative. There is probably no such thing as a *typical* Canadian philanthropist. The Bronfmans and Alloways of the early 20th Century who built their fortunes and in later years began to give it away, looked nothing like the young, energetic multi-millionaires of today. Today's successful corporate executives and entrepreneurs are only just beginning to give back while they are in the process of making their fortunes, and more often than not, they are seeking hands-on involvement with the not-for-profit and charitable organizations they support. They do not want to use their hands just to write cheques.

Charitable gift planning for people with diverse interests and backgrounds, of different ages and with varied motivations is as much art as it is science. There is no *one-size-fits-all* template on which to offer informed counsel.

Charitable gift planning can be defined as:

"the process of helping clients create a complete and balanced approach to philanthropy that addresses estate, tax and financial planning objectives, enriched by personal philanthropic hopes and dreams".

In this resource guide, we hope to provide you, the reader, with insights and practical tips designed to achieve this result.



Because every client is an individual, each solution should be unique.

Anecdotal information about professional advisors indicates that they do not necessarily need more information on the technical aspects of planned giving to help their clients. Rather, advisors indicate that they wish to become more familiar with the practical everyday situations and ideas that can lead them into a discussion with clients about charitable gift planning and how it can help enrich their broader estate and financial planning.

The information in this resource guide has been developed by Community Foundations of Canada to provide professional advisors with a sampling of planning ideas for consideration in the context of effective estate, tax and financial planning.

If, like the farmer in the orchard, your labours as a professional advisor have helped your clients produce a bountiful harvest, you can experience pride and satisfaction by helping them share it with others. With careful planning and counsel, you have the opportunity to help your clients make a generous gift to charity and to do well professionally at the same time.

The Role of the Professional Advisor

The professional advisor plays a singularly important role in helping the client create and realize a personal philanthropic vision.

Helping a client realize a philanthropic vision provides an opportunity for professional advisors to do what they do best – identify creative solutions that help their clients solve problems and achieve specific objectives.

When the professional advisor displays the full range of charitable planning options available to a client, the philanthropist locked inside that client will have a chance to emerge.

Professional advisors are sometimes reluctant to discuss charitable gift planning with their clients because they equate this area of planning with soliciting the client for a charitable gift. Some professional advisors feel uncomfortable talking about charitable giving unless the client raises the subject first. This dilemma is resolved as soon as charitable gift planning is viewed as a critical piece of the overall planning process.

Taking an active approach can build deeper, richer client relationships, enhance client loyalty, and strengthen the perception of better service. It often helps position the advisor and the firm as community-minded. Indeed, as the “business” of philanthropy grows in Canada, if an advisor fails to relate charitable gift planning opportunities to the client, a competitor will be sure to do so, and the advisor may inadvertently lose a valued client over time.

We believe that earning a reputation in the community as the lawyer, accountant, financial advisor, trust officer or broker who cares about charitable gift planning is well worth pursuing. The advisor is doing his/ her job thoroughly by making these recommendations, and good public relations for the advisor and the firm is often the unanticipated reward.

One important thought about the “business” of philanthropic planning: it’s often good for business.



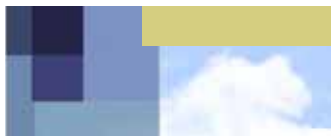
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If a client decides to create a private foundation, establish an endowed fund at the local community foundation or otherwise fund a gift to charity, someone must review the tax implications, draft the appropriate documents and ensure that the plan is well considered. Where a broker or financial advisor recommends an appropriate planning strategy, it may easily generate more assets for management and/or the need for additional life insurance. Helping a client add value to his/her planning can also enhance the value of an advisor's practice.

As a professional advisor, we believe it is important that you be knowledgeable about the many ways charitable gift planning options can help solve everyday tax and financial planning problems while adding value to the client's family and the community.

The strategies presented here are only intended to illustrate how charitable gift planning can work for clients in a variety of situations. We encourage you to contact your local community foundation for more specific information of interest to your clients.



The Advantages of Giving to a Community Foundation

Community foundations are one of the fastest growing and most dynamic networks in the voluntary sector in Canada, across North America and around the world. They have the extraordinary opportunity to influence the capacity of our communities to face present and future challenges – not only in their role of building financial assets and fostering creative grantmaking, but also by offering leadership and building bridges between the diverse groups that give our communities life.

The 'community foundation difference' can be characterized in many ways. The following are some of the advantages of giving to a community foundation that professional advisors may wish to share with their clients.

Community Leadership and Impact

Community foundations often serve as a knowledge hub in the community – convenors, facilitators and community experts – helping donors target their support to address pressing societal needs and promising opportunities. Your clients will appreciate the opportunities for leverage to increase the impact of their philanthropy that can result from combining their support with that of many other donors and funders.

Permanence and Continuity

Community Foundations can guarantee the fulfillment of a donor's charitable intent for community-wide purposes in perpetuity. The size of your client's fund can be increased at any time through additional gifts to the capital account during their lifetime, and/or through a bequest by will at death.

Flexibility

A community foundation will undertake the responsibility to ensure that all gifts received and endowed funds established are used for the purposes directed by a donor. Your client will appreciate knowing that should the original purpose of a gift become impractical, unnecessary, or inconsistent with the realities of the community in the future, the Board of Directors can redirect the use of funds to other similar or related areas of activity where the donor's interests can continue to be most closely realized.

In addition, the community foundation can enable donors to direct support from their *donor-advised* funds to different charitable causes over time as the needs of the community and the donor's charitable interests evolve.



Options for Giving

Your client can fulfill nearly every charitable intention through the programs and services offered by a community foundation. Most organizations maintain a variety of funds under management, allowing contributors to choose the fund options that most closely reflect their philanthropic intentions.

Investment Expertise

Your client will appreciate the time and expense saved on the investment of their contributed funds, assured that gifts to the community foundation are professionally invested and managed.

Professional Management

Your client will be reassured to know that many community foundations engage a professional staff to provide the appropriate administrative and managerial support to a responsible volunteer board and its committees, comprised of leaders drawn from across the community.

Recognition and Stewardship

Funds disbursed from donor-restricted funds are identified to the recipients by the name of the donor(s) that created the endowed fund. Your client can, of course, request anonymity with the assurance and his/her wishes will be respected.

As donors, your clients will also be entitled to receive periodic reports on fund performance, a listing of grant distributions made, updates on the activities of successful grantee organizations and the outcomes produced. Often, it is this information that helps donors make more informed gift decisions in response to future opportunities.

Simplicity

Community foundations offer the convenience of one-stop shopping:

- simplifies record-keeping
- prepares tax-returns
- donors can time gift to match cash flow and tax benefits
- avoids the complexities often associated with creating and administering a private foundation



Cost Effective

Community foundations offer an attractive alternative to those considering the establishment of a private foundation. As long as your client's interests are focused on supporting projects approved for funding in the community, a community foundation can produce the results your client is seeking, while limiting the ongoing administrative work and costs that otherwise might be involved. A client wishing to create a fund has simply to contact the local foundation to set up an arrangement that best suits his/her needs.

There are no legal fees attached to setting up a fund within a community foundation, and all tax and other reporting responsibilities for the fund are assumed by the foundation. The foundation will also handle all grant requests, disbursements, receipting obligations and all administrative and financial management requirements for the fund.

Attractive Tax Benefits

Community foundations are *registered charities* that are designated by the Canada Revenue Agency (CRA) as *public foundations* under Canada's federal *Income Tax Act*. Thus, gifts made at any time will generate a charitable tax receipt and produce important income tax advantages for your client.

Charitable Gift Planning Opportunities

It is suggested that the following section on Charitable Gift Planning Opportunities be used as a checklist when meeting with a client.

In recognizing charitable gift planning opportunities, certain defining moments or situations arise that may call for specific planning solutions.

Sometimes the client will be aware of these situations, but more often than not it will be up to the professional advisor to explain and recommend options that open a discussion with a client about using charitable gift planning to help solve an estate, tax and/or financial planning problem.

Charitable gift planning opportunities tend to fall into several broad categories. Often they overlap, affording the professional advisor a range of options from which to choose. Some of these options include the following:

CATEGORY ONE -

The Sale or Disposition of Highly Appreciated Capital Assets

It is quite common for many high-net-worth clients to have the bulk of their wealth tied up in a very small number of assets. Perhaps it is a closely held family business, a family farm or other real estate holding. The client might hold a number of stock options that are ready to mature, or may own marketable securities that have a low cost basis and significant capital appreciation.

Regardless of the asset type, the client may be in a position to unlock some of the appreciation, significantly reduce the capital gains tax and thoughtfully exercise a philanthropic impulse, all through well-conceived charitable gift planning strategies.



Why?

- An outright sale of appreciated assets (other than a principal residence) will produce a substantial capital gains tax liability.
- The gift or bequest of an appreciated asset will trigger a capital gains tax and could cause the premature sale of the asset to pay the tax.
- The disposition of that asset may inadvertently create the need for a new source of income.
- The tax consequences of a sale may produce the need for an offsetting income tax credit.

Planning Scenarios and Strategies:

Where the Client Does Not Need to Generate a New Source of Income:

- Outright gifts to a registered charity like a community foundation produce a donation receipt and maximum donation tax credits.
- Gifts of residual interest allow the client to retain the benefits of the asset for the rest of their life; avoid capital gains tax; and in some cases receive an immediate donation receipt for the present value of the asset's residual interest.
- Donor Advised Funds offered by community foundations may serve to involve the client's family and allow future support of multiple charitable interests to develop.

Use of Stock Options:

- The use of stock options in charitable gift planning is complicated, but gifts funded in this way can result in the significant reduction of capital gains taxes if the exercised shares are gifted within 30 days of the exercise date.

When the sale of an appreciated asset is under consideration, and there is a need to generate additional income after the sale, consider the use of a Charitable Remainder Trust:

- If the trust is irrevocable, the client receives a donation receipt for the present value (PV) of their residual gift to the charity. This receipt will generate *tax credits* that can be used to offset taxes otherwise owing on income this year.
- Capital gains tax can be reduced or eliminated if the asset is sold inside the trust.
- The resulting flow of new income from the trust can be controlled based on the client's current and future needs.
- The future charitable gift is secured.

Note to Reader:

Please understand that charitable remainder trusts (CRTs) can be very complex and costly gift structures in Canada. Currently the tax rules are not clear on how CRTs should be valued and several aspects of tax law are under active review. As a result, there are only limited applications where the CRT can be effectively used.

Until the Canadian tax rules are modified and clarified, CRT's will be useful to only a very limited number of sophisticated, wealthy donors and charities.

CATEGORY TWO -

The Need to Generate Income for Self or Others

While market performance until recently has been soft, overall the past ten years have seen the unprecedented growth of personal wealth in the form of portfolio appreciation. However, when clients seek to re-align their asset allocation to produce more income and diversify their portfolios, they will face a substantial tax on their gains. This gives advisor and client a chance to be creative in their approach to converting paper gains to cash flow, saving taxes, and turning non-deductible items into ones that attract tax credits while addressing charitable objectives.

What?

Charitable Remainder Trusts:

- Flexible income plans for the client's lifetime, the joint lives of the client and their spouse, and/or a specified term of years.
- If irrevocable, the client receives an immediate donation receipt for the present value of the asset's residual interest.
- The client can avoid tax on a portion of, and possibly all, capital gains (if any) on the trust property.
- Professional trustees can be appointed to manage the trust property.

Charitable Gift Annuity:

- A low cost option for a client to make a significant donation and receive a predictable stream of income.
- Payments are guaranteed; they will continue as long as your client lives, no matter what happens to the economy or interest rates. Payments can be paid on a monthly, quarterly, semi-annual or annual basis.
- If your client is married, he/she may purchase a joint-and-survivorship annuity, which will continue to provide guaranteed income as long as either spouse lives.
- Given the recent changes in the tax regulations for prescribed gift annuities, the client will now receive a much larger donation receipt than in the recent past.
- And for most, older annuitants, a sizeable portion, if not all, of the regular payments will be enjoyed tax-free.

Note to Reader:

Currently the tax rules in Canada prohibit community foundations (and other public foundations) from offering gift annuities. However, some of your clients may be interested in the advantages of a gift annuity, and if so, you may wish to direct them to a registered charitable organization in your community.

Planning Strategies:

Income for Educational Expenses:

Important Points to Remember:

- Gifts of publicly traded marketable securities to a registered charity generate a donation receipt for the full market value (FMV) of the marketable securities, but the marketable securities are only taxed on half the capital gain. Donors of publicly listed securities need only take 25% of the capital gain into income for tax purposes.
- Gift tax consequences must be considered where the income beneficiary is someone other than the donor's spouse.
- A gift once made is irrevocable.
- Gifts can be made during the donor's life or by bequest.

- Although CRA allows student's combined education and tuition tax credits for the year to be transferred to, and claimed as a tax credit by a parent, another solution is the use of a charitable remainder trust for a fixed term of years.

How it works:

- Establish a charitable remainder trust for a fixed number of years and name the student as the income beneficiary and a registered charity (e.g., a university) as the capital beneficiary of the trust.
- Use appreciated securities to fund the trust and reduce the capital gains tax that would be paid if sold outside the trust.
- The donor receives a donation receipt for the present value of the asset's residual interest from the university. The university could then use the remainder to establish a scholarship fund or to meet other charitable interests of the donor.

Honour thy Father and thy Mother:

If the client is helping to support his/her aged parents by writing a cheque every month, there might be a better way to do this and achieve charitable objectives through the use of a CRT or gift annuity.

How it works:

- The client will receive a donation receipt, guarantee a cash flow to the parents, and establish a perpetual tribute in their honour or an endowment fund in their memory.

CATEGORY THREE -

Estate Planning

Perhaps the most opportune time to talk with a client about charitable gift planning strategies is when doing estate planning. Based on the status of the federal and provincial income tax system, clients in the top brackets could pay almost 50 percent on taxable income in the year of death, depending on the tax rates of the province in which they reside.

A key strategy to lessen this tax burden is to add a philanthropic component to the estate plan.

Unlike the annual general donation *contribution limit* of 75 percent of income, the limit in the year of death is 100 percent. This can result in significant savings to the estate. However, philanthropic estate planning is not done solely to reduce the burden of taxes. It is also critical for any plan to instill, communicate and transfer the client's values.

Creating "social" or "community" capital is a strategy that has little to do philosophically with taxes. Rather, it is the means by which the client, either through planned gifts to a registered charity, a family Donor Advised Fund and/or a Field of Interest Fund within a community foundation, sets an example for the next generation.

Many professional advisors choose this as the starting point for discussions with clients about philanthropic interests. Clients are interested in philanthropy for different reasons.

A discussion about values and the family's charitable legacy can shape and ultimately realize an effective philanthropic vision.

These are just a few suggestions. Financial advisors and their clients can work together to develop a variety of options to enhance the impact of an estate plan.

Why?

Bequest by Will:

The simplest charitable estate planning technique for many prospective donors to understand is the charitable bequest.

Since the charitable gift in a will does not take effect until after the death of the donor, there is no up-front income tax benefit. Also, a bequest intention in the will is *revocable*, and can be amended or revoked by your client at any time.

Charitable bequests can be made to:

- Registered Charities
 - Charitable Organizations
 - Public Foundations (like Community Foundations)
 - Private Foundations
- Canadian Amateur Athletic Organizations registered with CRA
- Charitable Trusts
- Non-profit Corporations
- Low Cost Housing Corporations
- The United Nations and related agencies
- Canadian Municipalities
- Certain Foreign Universities
- U.S. Charities (restrictions apply)
- International organizations to which the government of Canada has made a gift during the year or preceding year
- Canadian, Provincial, or Territorial Governments

Planning Strategies:

Give Assets to Charity that Carry the Heaviest Tax Burden:

When structuring a charitable bequest, advisors should choose assets that will save clients the most taxes.

In most cases, income tax is due at the death of the individual who incurred the tax.

If the advisor indicates in the client's Will that charitable bequests should be paid first, this generates a donation receipt, and avoids income tax, since charitable entities are not subject to income tax.



Use Life Insurance to Fund a Wealth Replacement Strategy:

The use of life insurance can be effective in replacing an asset that is gifted to charity. For example, assume that a client is a widower with two children and a large retirement savings plan and/or retirement income fund (RRSP/RRIF).

How it works:

- If the RRSP/RRIF accumulations are left to children as named beneficiaries, assets would be subject to significant income taxes.
- Instead have the estate remain the ultimate beneficiary of the RRSP/RRIF and name a registered charity as a beneficiary in the will of an equivalent value.
- Have the client take out a *joint last-to-die* life insurance policy with the children as the beneficiaries. The policy should have a face value equal to what the donor expects the value of the RRSP/RRIF to be at the time of death.
- The heirs or other beneficiaries would receive the life insurance proceeds and thus receive an amount equivalent to the full estimated RRSP/RRIF balance. No tax is payable because the donation receipt would offset the income taxes payable on the RRSP/RRIF balance. The proceeds from life insurance are distributed to the beneficiaries free of tax.



Philanthropic Planning

There are times when clients initiate the philanthropic planning discussion. The discussion might sound something like this:

“I was at a seminar yesterday put on by the private client group at my bank, and they were talking about creating an endowment fund in our family’s name. Is that something I should consider?”

Or,

The client might talk about the brochure he/she just received from the local community foundation that suggests setting up a *field of interest* fund.

It is at these times when the professional advisor can be most helpful to the client, since charitable intent and interest have already been expressed. Understanding all the options a client has to work with will give definition and depth to a client’s philanthropic vision. They may help him/her to perpetuate a special interest in a charitable area and/or allow him/her to create a values-based plan that will involve future generations of the family.

What?

The Private Foundation:

Private Foundations trace their roots to feudal England and perhaps even earlier. Over the years they have grown to be a major force in private philanthropy in Canada because they give the donor/client maximum control of his/her philanthropy within a strict set of rules, while fostering values-based planning and intergenerational involvement.

Although private foundations are still synonymous with the very wealthy, many families, individuals and corporations have created private foundations at modest levels in order to support registered charitable organizations in a structured manner consistent with their charitable objectives.

Increasingly the rules, regulations and expenses related to creating and administering private foundations in Canada have become burdensome and the income tax benefits are sometimes not as attractive as when gifts are made directly to registered charities. Some clients may seek other alternatives.

Community foundations offer many advantages at modest cost:

- excellent knowledge of local community issues and organizations
- donors can be involved in the grantmaking process
- there are no administrative responsibilities
- on-going sound management, investment and stewardship
- subsequent generations of the family can be involved
- named funds receive recognition in perpetuity
- donors can maximize tax benefits
- gifts of appreciated public shares have a reduced taxable portion of the capital gains tax (25% for community foundations vs. 50% for private foundations)
- maximum flexibility for donors in the types of funds that can be established

Endowed Funds for a Registered Charity

A client could establish an endowed fund at a community foundation, where the corpus remains intact and only the investment earnings are used to make grants to specific programs or projects determined by the donor. An endowment can be created to address a specific need (e.g., scholarships at a university for students from a particular region). It can be for a particular “field of interest” (e.g., education). Or its use can be completely unrestricted and therefore used to fund grants to the highest priority in the community. The fund can be named by its benefactor and is typically permanent in nature.

Although many endowments are established during a donor’s lifetime, it is very often part of an estate plan where the donor seeks a permanent identification with one or more charitable organizations in which she/he had an interest.

The Donor Advised Fund:

One type of endowed fund attracting more attention recently is the Donor Advised Fund (DAF) offered by your local community foundation. This fund is typically established by a donor who reserves the right to direct/advise as to which charitable organization(s) will receive the grant disbursements annually.



Benefits to Donor/Client

- Like any fund within a community foundation, the DAF may carry the donor's chosen name or be anonymous.
- Current gifts to public foundations (i.e. community foundations) may receive more generous tax treatment than some gifts to private foundations.
- Since DAFs are administered and invested by the community foundation, it is a low cost efficient alternative to a private foundation. Donors are able to practice organized philanthropy and maximize their charitable dollars while leaving the administrative burden to the community foundation.
- Generally no start up costs and no papers to file with CRA.

Planning Strategies:

Perpetuating an Annual Gift to a Community Foundation:

A client has been a long-time supporter of the local community foundation. She/he has risen to the leadership gift level at \$10,000 a year. This annual gift is one that has been given each year for a number of years. If the client wishes to maintain that level of giving beyond his/her lifetime, it can be achieved as part of an estate plan. She/he could use any of the options noted under the "Estate Planning" section or make a gift of a life insurance policy to the foundation.

In the gift document (Will, CRT, etc.) it would state that the gift was being made for an endowed purpose. In order to perpetuate a \$10,000 annual contribution, it is recommended that the client make a gift of at least \$ 250,000 that, if invested for total return by the foundation with a 4% spending requirement, would perpetuate the annual gift.

If the corpus of the endowment grows through sound investment management over time, the annual distribution is also likely to increase.

Taking Advantage of a Windfall Opportunity:

A client received an unusually large amount of income this year and needs to generate substantial tax credits. It is December 28 and there is little time to consider a private foundation. Suggest to the client that she/he meet with the Executive Director of the local community foundation, where the client can open a charitable gift fund in less time than it takes to set up the meeting.



The procedure is simple:

- She/he fills out a simple two or three page form to create the fund.
- Client makes a gift of cash or appreciated securities to the foundation and the net proceeds are credited to the donor's fund account.
- Client will receive a donation receipt for the year the gift is made to the fund.
- Client reserves the right to make future grant recommendations to the foundation and usually can appoint family members or others as successor grant advisors to the fund.
- Client maximizes charitable tax credits in the years when they are most needed as a tax advantaged alternative to a Private Foundation.

The Charitable Gift Planning Process at Work

Situations in which charitable gift planning can play a role are infinite. The following examples are meant to provide guidance on how a client might realize a personal philanthropic dream.

The fact patterns and suggested solutions are broad and meant to illustrate how the charitable gift planning process might work and should not be read (or interpreted) in the context of a definitive estate, tax or financial plan.

Illustration #1: Cashing Out

Martine Gagnon, a retired CEO of a corporation, has an extensive portfolio of listed, blue chip stocks, including 25,000 shares of XYZ stock acquired several years ago at a cost of \$8 per share. The stock is currently valued at \$40 per share, and she is considering selling some of the stock and diversifying her holdings.

She has also been considering a gift of \$100,000 to the local community foundation. She is thinking about contributing 2,500 shares of this stock to fund the gift. Her annual income, exclusive of taxable gain from the transaction, is \$200,000.

Should Martine sell the stock and give the proceeds, or should she simply give the stock 'in-kind' to the community foundation? What are the issues she should consider? What are the tax implications?

Assume that her top combined marginal tax rate is 50%, and that her combined tax savings resulting from the charitable tax credit are 50% of the contribution claimed.

Tax Benefit of Donating Shares

	Donation of Cash	Donation of Shares
Tax on Gain		
Capital gain recognized (\$100,000 - \$ 20,000)	\$80,000	\$80,000
Taxable gain (50%, 1/2 of 50% if donated shares)	\$40,000	\$20,000
Tax on gain (assume 50% marginal tax rate)	\$20,000	\$10,000
Tax Credit¹		
Donation receipt	\$100,000	\$100,000
Combined tax credit (\$100,000 X 50%)	\$50,000	\$50,000
Tax Savings		
Combined tax credit	\$50,000	\$50,000
Tax on gain saved by donating shares	–	\$10,000
Total tax savings	\$50,000	\$60,000
Maximum amount creditable²		
On income (75% x \$200,000)	\$150,000	\$150,000
On taxable capital gain		
Donation of cash (75% x \$40,000)	\$30,000	–
Donation of shares (75% x \$20,000)	–	\$15,000
plus 25% of taxable capital gain	–	\$5,000
Maximum amount creditable	\$180,000	\$170,000

- NOTES:** 1. Since the receipt is less than the maximum amount creditable, the entire receipt amount can be used.
2. For lifetime gifts of appreciated property, the contribution limit each year is 75% of income including taxable gain, plus 25% of the taxable capital gain.



Many of your clients may have highly-appreciated securities (including segregated and mutual fund units) in their portfolios. In the past, they may have hesitated to give away such assets because of the tax implications. Now that the taxable gain on these assets is only half what it was before, they have a strong incentive to give them. You can facilitate gifts funded with appreciated securities by calling attention to the tax advantages, and the ease of doing this through the local community foundation.

Illustration #2: Realizing a Dream

John Gray has just concluded 19 years on the Board of Directors of the local community foundation and received its distinguished service award. As a volunteer member of the professional advisory committee, you have been asked to take responsibility for providing advice to donors planning a gift to the foundation. John tells you that he would like to establish an endowed fund to commemorate his service on the Board, but doesn't know if he can.

Fifteen years ago, he was divorced with two daughters and married Amanda, also divorced and the mother of three sons now in their thirties. Amanda had chemotherapy for a tumour last year, and though her health seems to have returned to normal, John is worried that the cancer might recur.

John himself has had two minor heart attacks and recent bypass surgery. He says that he wants to make sure his wife has enough money for living expenses and healthcare if he should predecease her, but he wants none of his property to go to her sons, whom he considers quite unworthy. However, he would like to leave something for his two daughters and three grandchildren. He would also like to minimize the taxes due at his death. Fortunately, he purchased a \$300,000 life insurance policy some years ago when he was insurable, and he has named his daughters as equal beneficiaries under that plan.

His individually-owned assets consist of their residence, valued at \$300,000; an apartment building consisting of five rental units, valued in total at \$1,000,000, which he purchased for \$500,000 and has been depreciating (total depreciation to date is \$150,000); listed public securities worth about \$200,000 (with an adjusted cost base of \$110,000), and \$100,000 in cash. He estimates that his retirement income from pensions and investments will be about \$100,000 per year. John is now 72 and Amanda is 70. What gift arrangement, if any, might be appropriate for John?



Possible Solution:

Although there may be many options the Grays could choose, a charitable gift planning approach to the situation helps them to accomplish all of their objectives. Looking back at the section of this material entitled, “Charitable Gift Planning Opportunities,” you can see that the Grays circumstances are captured under the headings of:

- Sale or Other Disposition of Highly Appreciated Capital Assets
- Need to Generate Income for Self or Others
- Charitable Gift Planning

The suggestions made in this solution speak to John’s concerns for a fair inheritance for his daughters. It allows he and Amanda to receive sufficient income from his pensions and a Charitable Remainder Trust while establishing an endowed fund during his lifetime that will significantly grow in value upon their deaths.

How Does the Plan Meet Stated Objectives and how is it Structured?

After much discussion with John and Amanda, the following estate and charitable gift plan was arranged:

- John’s daughters remain as beneficiaries of the \$300,000 life insurance policy to be realized upon his death.
- The Gray’s home (their principal residence) has been put into a Testamentary Trust giving Amanda full use of the home during her lifetime. John’s grandchildren are named as beneficiaries of the home or proceeds upon Amanda’s death.
- Amanda will receive any cash assets of John’s estate.
- John donates the \$200,000 in securities as an in-kind gift to the community foundation. This gift qualifies for the low 25% capital gains inclusion rate. He receives a donation receipt for \$200,000 from the Foundation that will help offset any income tax he may have payable.
- The donation establishes the **John Gray Family Fund** at the community foundation. John will now have the pleasure of seeing good work funded in his community within his lifetime and be confident that this legacy will continue after his death.

Information published in this reference guide is of a general nature. It is provided to assist professional advisors in better understanding the process of charitable gift planning in Canada.

Descriptions of gift instruments and examples cited are believed to be accurate interpretations of current Canadian tax law, but readers should be aware that the material is subject to change and may require periodic revision and review.

- John is concerned about the depreciating value of his apartment building, but values the rental income it provides for him and Amanda. He is also keen to minimize taxes due upon his death and to ensure the ongoing impact of his endowment fund. The plan uses this building to provide an ultimate endowment gift to the community foundation.
- The asset is transferred to a Charitable Remainder Trust (CRT) for the benefit of the foundation. John receives a sizeable donation receipt from the foundation based on the present value of the remainder interest. This is more than enough to offset the tax on capital gains and recaptured depreciation. The apartment building will be sold by the CRT trustee and the proceeds invested in an income-producing investment. John and Amanda will have income (taxable) for as long as either is alive and then upon the last to die the \$1,000,000 capital in the trust (held in securities) will be transferred to the ***John Gray Family Fund*** at the community foundation.

Conclusion:

The creativity of the estate planning process is surpassed only by the end result.

Helping a client to realize a philanthropic dream is only the beginning. Just as a composition by Mozart or B.B. King gives pleasure to the artist who wrote it and to countless generations that hear it, so too does a philanthropic masterpiece of gift planning touch lives long after the ink is dry on the documents that created it.

A client's creation might help to fund a cure for cancer, enable a budding young student to fulfill his or her academic potential, feed the homeless or give hope to inner-city youth who benefit from a community-based social program. Perhaps a child will learn to use a computer in a school where there were no computers, and that experience will transform his/her life.

Sowing the seeds of philanthropy today helps nurture a value system that will sustain and strengthen the communities of tomorrow. Children, grandchildren and successive generations will live to enhance the original vision of their predecessors under the creative, wise and skilled counsel of their professional advisors on charitable gift planning.

It is the charitable gift planning process that creates the joy of giving, while the end result enhances the value of living.