

Tax Efficient Giving

Making a charitable gift is about more than engaging in philanthropy, you'll also receive an official donation tax receipt for a favourable non-refundable tax credit to help you reduce the taxes you pay.

The tax credit is 15.5 percent of the first \$200 eligible amount of donations made in the year, and 29 percent for eligible amounts over \$200. Unused donation credits in a year may be carried forward for five years. Generally, the maximum amount of donations that may be claimed in a year is 75 percent of net income, plus 25 percent of certain taxable capital gains, and 25 percent of any capital cost recapture.

Additional tax incentives are also available, depending on the type of gift you give. This article highlights recent changes to the Income Tax Act that provide attractive tax incentives for certain charitable gifts.

When you donate shares of publicly listed securities to a charity, you are deemed to have disposed of the shares at fair market value. If the fair market value exceeds the adjusted cost base for the donated shares, you are required to pay capital gains tax on 25 percent of the gains.

The 2006 federal budget eliminated the capital gains tax on the donation of publicly-listed securities (including shares, bonds, debentures, debt obligations and mutual fund units) to charitable organizations and public foundations made after May 1, 2006. In 2007, the federal budget extended this incentive to gifts of publicly-listed securities to private foundations made after March 18, 2007. Similarly, donations of publicly-listed securities acquired through an employee stock option agreement (or the donation of the proceeds of disposition of such shares) also benefit from an exemption from capital gains tax.

The claim for a gift of ecologically sensitive land to Canada, or one of its provinces, territories, or municipalities, or a registered charity approved by the Minister of the Environment is not limited to a percentage of your net income. The 2006 federal budget also eliminated capital gains tax on gifts of ecologically sensitive land made after May 1, 2006.

It is therefore much more tax efficient for you to gift publicly-listed securities and ecologically sensitive land than to sell them and donate the proceeds of disposition. Donation of other types of gifts also provides special tax incentives. For example, the claim for a gift of certified cultural property is not limited to a percentage of your net income. In addition, donations made in the year of your death or in the year immediately preceding could also be deducted up to 100 percent of your income.

With careful tax and estate planning, you can take full advantage of various types of tax incentives provided for charitable donations and achieve a win-win scenario for both you and your chosen charity.

Theresa L.M. Man, B.Sc., M.Mus., LL.B., LL.M.

Carters Professional Corporation

Barristers, Solicitors & Trade-mark Agent

This article was prepared by Theresa L.M. Man, a partner with Carters Professional Corporation, a leading Canadian law firm in the area of charity and not-for-profit law. With three offices in Ontario, the firm provides a full range of legal services to its charitable and not-for-profit clients, as well as to individuals, corporations and businesses. This is a summary of current legal issues provided as an information service by Carters Professional Corporation. It is current only as of the date of the summary and does not reflect subsequent changes in the law. The summary is distributed with the understanding that it does not constitute legal advice or establish a solicitor/client relationship by way of any information contained herein. The contents are intended for general information purposes only and under no circumstances can be relied upon for legal decision-making. Readers are advised to consult with a qualified lawyer and obtain a written opinion concerning the specifics of their particular situation. Clients are advised to seek advice regarding their particular circumstances from their personal tax and legal advisors. CIBC Wood Gundy is a division of CIBC World Markets Inc., a subsidiary of CIBC and Member CIPF.



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