



**Assante**<sup>®</sup>  
WEALTH MANAGEMENT

*Be well-advised.*

# MONEY *matters*

## SHOULD YOU USE A CORPORATE EXECUTOR FOR YOUR WILL?

Choosing an executor can often be one of the toughest decisions you need to make when making or updating your will. While most of us only think of family or friends when it comes to executors, choosing a corporate trustee can be a prudent choice in some circumstances.

While the fees associated with appointing a corporate executor can seem high, the fees may be well worth it when it comes to complex estates or situations where family dynamics may lead to hurt feelings or protracted estate litigation.

### Reducing Stress

For one thing, loss of a loved one is always a very emotionally stressful situation for friends and family. By appointing a corporate trustee, you can help alleviate this stress and allow your family to grieve without having to worry about handling estate settlement duties.

For a fee (that can be up to 5% of the value of the estate and would usually decrease as a percentage based on the size of the estate), a corporate executor can administer all aspects of settling an estate from paying utility bills for properties owned by the estate until they are sold, to communicating with each of the beneficiaries and filing all legal and government paperwork required for settling an estate.

If you want your family or friends to be involved in the



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estate administration process, you can also appoint a corporate trustee in your will to serve as co-executor along with your family member or friend, to ease the burden of estate administration.

## **Complex Estates**

If you have a complex estate, with multiple properties, businesses, an art collection, off shore assets, and the like, and doubt if your family or friends may have the expertise to handle the administration of your estate then a corporate executor can be a good choice.

## **Personal Circumstances of Your Executor**

Sometimes, you may have a family member or friend, who is very competent and capable of handling the complexities of your estate, but you should consider if they will have the time or interest to act in that capacity. Also, you need to consider if at the time of your death, their life circumstances may have changed making it difficult or impossible for them to act as your executor. At the minimum you should give full powers to your estate trustee to appoint an agent to handle the administration of your estate. By doing this you will enable them to hire a corporate executor if their circumstances do not allow them to act in that capacity personally.

## **Second Marriages and Blended Families**

A corporate trustee can be very useful in cases where there have been second marriages and blended families too, as they can help keep family harmony in place and keep every one's emotions in check.

## **Continuity in Estate Administration**

Corporate trustees can also help ensure continuity in the administration of an estate and this is particularly important when testamentary trusts have been established. You always need to consider the fact that a family member or a friend that you appoint as your trustee may want to retire at some point in the future.

## **Physical Distance**

We also live in an age and time where family members may live in different cities, or countries, making it extremely difficult for them to act as trustees without disrupting their personal lives. In such situations, corporate trustees can ease the burden for the entire family.

## **Fees**

Fees can always be a big concern when appointing a corporate executor. Most trust companies charge a one-time fee based on a percentage of the assets in the estate and this percentage typically declines for larger estates. For example, a trust company may charge 4% on the first \$500,000 of assets of an estate and a progressively lower percentage rate on estate assets above that threshold. Also, different trust companies,

accept different minimum estate sizes to manage. Some may require a minimum of \$500,000, while others may require a minimum of \$1,000,000. Therefore, you should consult with a trust company to make sure that you qualify for their services and their fees are reasonable given your circumstances before appointing them as your corporate executor. Fees can be negotiated based on the complexity of your estate and several other factors.

If your corporate executor has to manage a trust for your estate, they would charge an annual administration fee plus an investment management fee for managing those assets. Any legal or administrative fees would also be billed to the estate by the corporate executor.

## **Summary**

While a corporate trustee may be a good choice in certain circumstances, it can never replace the human sensibility that a family member or friend, who knows you and your values well, could bring to the table. In addition, many executors consider it an honor to be appointed executor of a will, even though it is an extremely time consuming and thankless task.

If you decide to appoint a corporate executor, it is important to communicate that decision to your beneficiaries and explain your reasoning. Communication with key stakeholders and beneficiaries is always a key component of good estate planning and can not only ensure family harmony after you are gone, but it can also help minimize needless estate litigation.

## **HOW TO DONATE YOUR LIFE INSURANCE POLICY TO A CHARITY**

There comes a time in our lives that the life insurance policy we took out to protect our family or to use as key man insurance, may no longer have a use. The children may have grown up and you or the key person in your company may have retired, you may have sold or wound up the company and therefore there may no longer be a need for the life insurance policy. Typically, in these situations, the life insurance policy is cancelled and if it is a permanent policy, then it is surrendered for its cash surrender value.

However, there is another alternative. If you need a charitable donation tax credit and want to support your favourite charity, you can choose to donate the policy to a charity for its fair market value.

While most people think that only permanent policies with a cash value have economic value and term policies are worthless when it comes time to surrender them, a term policy can have a fair market value if you decide to donate it to a charity.

## **How Can You Donate Life Insurance to a Charity?**

There are usually two ways to donate life insurance to charity. The first one is owning the policy personally and naming the charity as beneficiary of the policy. In this case, you get no

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charitable donation receipts during your lifetime, but upon death your estate will receive a charitable donation tax credit because the charity will receive the death benefit of the policy as a beneficiary.

The other method of making a gift of life insurance to a charity is to have the charity own the policy and be the beneficiary as well. In this case, CRA deems the policy donation to be done at fair market value and this can be significantly higher than the cash value of the policy depending on several factors. By doing this, you will receive a charitable donation tax credit based on the fair market value of the policy. If you can continue to pay the policy premiums you will receive a charitable donation tax credit for the annual premium that you pay for the policy but upon your death, no charitable donation tax credit would be available to your estate.

The charity may agree to pay the premiums and relieve you of that burden or other donors of the charity may agree to pay the premiums for the policy you have donated and receive a charitable donation tax credit on that basis. If there is enough cash value in the policy, the cost of insurance can be deducted from the cash value of the policy too. The benefit of this strategy for the charity is that upon death of the donor they are likely to receive a significantly higher gift that is usually higher than the initial value of the gift and future premiums.

### **What is the Process?**

The first thing you need to do is to establish the fair market value of the policy. This can be done by an underwriter together with an actuary. The underwriter will establish your mortality risk and life expectancy based on your current age and state of health. The actuary will assess the features of the policy, such as cash surrender value, interest rate or dividend assumptions, guaranteed cash values, death benefit, cost of insurance, replacement cost, policy loans, conversion options, riders and other benefits.

Once the fair market value of the policy has been established you need to talk to the charity you are planning to donate the policy to and obtain their agreement. The charity needs to agree with the valuation of the policy and if you do not wish to continue paying premiums on the policy they need to find a source of funding the premiums. This is not an overnight process and can take several weeks or months.

Charities are not interested in every life insurance policy. The policies that are most attractive for them are the ones where the insured is over 70 years of age and/or the current state of health of the insured is not good and therefore there is a lower life expectancy. Interestingly these types of policies will have the highest fair market values and will provide the highest tax advantages.

Corporately owned policies, whether they are key person life insurance policies or policies obtained for funding of shareholder agreements on death, that may not be needed any longer when the business is wound up, reorganized, sold or when the owners retire, can be good candidates for this

strategy too.

Sometimes it may be possible to transfer the ownership of the policy to the insured in a tax effective manner but in many cases the tax consequences may be prohibitive, and companies decide to cancel the policies rather than transfer them to a shareholder, the insured, or to another entity. Donating these corporately owned life insurance policies to a charity can not only help a good cause but can provide tax relief at a time when the company may be facing a significant tax burden.

### **WHAT HAPPENS TO YOUR UNUSED RRSP AND TFSA CONTRIBUTION ROOM AT DEATH?**

Canadians have billions of dollars of unused RRSP contribution room and many Canadians have not even set up a Tax-Free Savings Account (TFSA) yet.

While unused RRSP and TFSA contribution room can be carried forward and used in future years during your life time, have you ever wondered what happens to these unused amounts upon your death?

According to the CRA guide T4040, RRSPs and Other Registered Plans for Retirement (see "Contributing to your spouse's or common-law partner's RRSP, SPP or both – Contributions made after death), you cannot contribute to the RRSP of a deceased annuitant.

This means that if you did not use your unused RRSP contribution room during your lifetime, your executor cannot make a choice to contribute to your RRSP for you and therefore, that contribution room would be lost.

However, the same guide states that if the deceased has a surviving spouse or common-law partner who is age 71 or younger, contributions can be made to a spousal RRSP. Therefore, if the deceased has unused RRSP contribution room, the estate of the deceased can make contributions to a spousal RRSP in the year of death or 60 days after the year of death and deduct the amount from the deceased's terminal tax return, to help offset taxable income in the year of death.

Therefore, for single or widowed persons, the unused RRSP contribution room would be lost but if the deceased has a surviving spouse or common-law partner who is 71 years old or younger and is a beneficiary of the estate, the unused RRSP contribution room can still be utilized by the executor of the estate by contributing to the spousal RRSP of the surviving spouse.

Unfortunately, the same does not apply to TFSA accounts. Under the Income Tax Act (ITA), only the person who establishes the TFSA account can contribute to the account and once the account holder dies, the estate of the deceased cannot contribute to the account. Therefore, the unused TFSA contribution room will be lost on death.

Knowing the rules around the use of unused RRSP

*"As with all other aspects of your financial planning, it is better to have a thoughtful and year around approach to your donations and charitable tax planning."*

contributions on death can help minimize estate taxes. Knowing the fact that you cannot use your unused TFSA contribution room on death can be a good motivator to ensure you use your TFSA contribution room during your lifetime to ensure tax free rollover of your accumulated TFSA contribution to your successor (your spouse or common-law partner).

## HIGH INCOME EARNERS GET HIGHER TAX CREDIT FOR CHARITABLE GIVING

You can claim qualifying charitable donations that you make in 2018 or unclaimed donations that you made in any of the five previous years and receive a charitable donation tax credit when you file your 2018 tax return.

The top federal marginal tax rate was 29% for a long time and the federal government applied this top marginal tax rate to all donations over \$200 to calculate the charitable donation tax credit.

However, when the new federal marginal tax rate of 33% was introduced in 2017, the government did not continue to apply the top marginal tax rate to all donations above \$200. Instead, a new formula was introduced that provides a 33% tax credit for donations made by individuals who are in the 33% tax bracket. This in effect means that high income earners will get a higher charitable donation tax credit than the rest of the population.

The new formula that was introduced in 2017 works as follows:

Step 1: 15% of the first \$200 of donations

Step 2: 33% of donations equal to the lesser of:  
A) Amount of taxable income exceeding \$205,842; and,  
B) Amount of donations exceeding \$200

Step 3: 29% of total donations not included in steps 1 and 2. For example, let's assume your income in 2018 is \$215,842 and you donate \$12,200 to charity this year. Your charitable donation tax credit would be calculated as follows:

Step 1:  $15\% \times \$200 = \$30$

Step 2: 33% x lesser of:

A)  $\$215,842 - \$205,842 = \$10,000$ ; and

B)  $\$12,200 - \$200 = \$12,000$

$33\% \times \$10,000 = \$3,300$

Step 3:  $29\% \times (\$12,200 - \$200 \text{ (step 1 donation)} - \$10,000 \text{ (step 2 donation)}) = \$2000 \times 29\% = \$580$

Total federal tax credit:  $\$30 + \$3,300 + \$580 = \$3,910$

If your income in 2018 is less than \$205,842, then your federal charitable donation tax credit on the same \$12,200 donation

would amount to  $(\$200 \times 15\% = \$30) + (\$12,000 \times 29\% = \$3480) = \$3,510$ .

Of course, in addition to the federal tax credit, you will also be eligible for a provincial donation tax credit. You can also claim donations made by your spouse or common-law partner, which would allow you to maximize your tax credits if you are in a higher tax bracket.

While most people leave their donations until the last minute and make a panicky decision to give late in December, as with all other aspects of your financial planning, it is better to have a thoughtful and year around approach to your donations and charitable tax planning. This will not only enable you to make a more impactful gift to the causes that are important to you but will also allow you to maximize the tax effectiveness of your charitable giving.

## ABOUT THE EDITOR

Tina Tehranchian MA, CFP®, CLU®, CHFC® is a Branch Manager and Senior Wealth Advisor with Assante Capital Management Ltd., one of Canada's largest wealth management firms, offering integrated financial solutions to create wealth and prosperity for you and your family. The 750 advisors serve over 300,000 Canadian families across the country and take pride in the exceptional service they offer to clients through trusted face-to-face relationships and a level of service excellence second to none. Money Matters is published as a special service for clients of Tina Tehranchian.

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