

WILLS, TRUSTS, ESTATES & CHARITIES

Giving money away requires careful planning

By Nancy Graham

When you sit down to discuss their wills with your clients, you have, either mentally or on paper, a checklist of issues that you want addressed. Naming executors, identifying beneficiaries and clarifying how your clients want their assets distributed are some issues you discuss.

When your clients are discussing how to distribute their estate, they are deciding how they want to give their money away. Some clients may foresee this as their executor simply writing cheques and transferring ownership of assets to their beneficiaries. You play an important role in helping your clients make informed decisions about how — and to whom — to give their estate.

In general, there are two main types of beneficiaries clients identify: their family and their community. Here are some considerations for each group.

Keep it in the family

When gifting assets to your family, it is important to consider the suitability of using a trust arrangement. Properly conceived and maintained, a trust created in a will can hold and manage assets to provide long-term financial security for the beneficiaries. Additional benefits include reducing income taxes and providing some measure of asset protection from the risk of business, creditor or matrimonial claims.

A trust can also be an opportunity for rancor and hostility if not handled correctly. The pitfalls — both financial and social — will require adept communication and financial skills to navigate. Financial pitfalls could be failing to reap the maximum tax benefits available, or neglecting to have a complete financial picture of the estate sponsoring the trust.

Social pitfalls could involve sharing the news that a loved one won't inherit a dime, but that their children will have their education paid for with joy. It could also mean counselling parents that their adult children lack the life skills necessary to manage a planned inheritance, and that establishing a trust will ensure that their offspring will have a secure source of income.

Trusts can also be established to care for family members who are incapable of

earning a living, or who require other financial assistance and stewardship. Furthermore, the trust document can expire upon the death of a life tenant and the assets can be transferred to another beneficiary.

Trusts should be created only with a definite understanding of the financial and social implications the trust presents to the estate. Working with a financial estate planner, legal counsel can provide their clients with options that will maximize possible benefits.

Share with a charity

When your clients mention giving to their community, how do you help them gain comfort that their other objectives — including providing for their family — remain secure? Obtaining an accurate picture of assets and the tax and estate settlement costs involved in leaving them to heirs gives your client an understanding, in today's terms, of precisely what assets are available for family. A financial estate planner helps with this, providing legal counsel with options and tax implications in fact-based numbers.

What makes a good gift? While the traditional and everwelcome gift is cash or life insurance proceeds, liquid assets are often needed to pay estate settlement costs. Gifting property, such as marketable securities, RRSPs or real property can provide significant tax benefits, but the wise donor ensures that the intended charity can manage the type of property being gifted. A handsome cash bequest might be very welcome indeed, but an income-bearing apartment building might burden many charities.

It is wise to consider involving your client's favoured charity in planning the gift. If your client wishes to remain anonymous or wants to benefit a number of charities, you may find the resources of your local community foundation valuable. Community foundations across Canada receive, manage and distribute charitably directed monies within local communities. They can receive a gift from your client and, if so directed, anonymously direct it to a specific charity.

Charitable organizations are also a great resource to help your clients understand the value of their gift. How many students can

be educated? How many hot meals can be served in a community shelter? How much research can be advanced? How many survivors of serious disease can be helped? How many seniors can be given the care and support they need to remain independent? These are questions that take philanthropy from a concept to an act.

It is important, of course, to obtain financial expertise to optimize the income tax benefits of a bequest. There are a host of rules introduced over the last few years that can make the gift more tax-attractive.

While tax benefits rarely stimulate the making of a gift, the amount a donor feels they can give may be enhanced when they understand the amount by which taxes are reduced in the process. The next time you sit down with your clients to discuss their estate planning, three questions can provide a comfortable way to start the conversation:

- "Do you have an educational or charitable interest you wish to benefit through your estate?"
- "Would you like to leave a legacy to your community that your grandchildren can experience and benefit from?"
- "Are you interested in learning about the benefits of a financial trust?"



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