



Donations and Gift Planning

Cover Article

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Let me begin with words that are painful to write. In 2019 my father died tragically, and in 2022 my mother passed away from the combined effects of dementia and COVID. These past few years have been marked by crisis and trauma for me and my family. Honestly, it has been a struggle for us to cope with it all.

I have carried the additional burden of being executor for each of my parents, and in this capacity I have learned a great deal about probate, estates, and the tax implications that accompany death. I want to share some of what I have learned in this regard, and in so doing I hope to encourage people to include the CMS in their estate and gift planning. Note, however, that I am neither a lawyer nor a financial advisor; hence what follows should not be taken as professional advice.

One of the first things that I learned after the death of my father is that joint assets, such as joint chequing accounts or jointly owned real estate, easily pass through to the surviving joint owner(s) when a person dies. Other assets are treated differently and might or might not be included within a person's estate, depending on various factors.

Many of us have personal investments in the form of RRSP, RRIF and TFSA accounts. Financial institutions allow clients to designate beneficiaries for these types of "registered" accounts, not unlike how we can also specify beneficiaries for life insurance policies that many of us also have (often via insurance policies provided by our employers). We are asked to name beneficiaries when we initially open such accounts or when we are initially enrolled in a life insurance policy, although we can update our designations at any time. As personal circumstances change, it is advisable to make updates. For instance, when I initially opened some of my accounts many years ago, I likely named my parents as my beneficiaries. If I were to now update my beneficiary designations so that 99% of my TFSA is to go to my siblings and 1% to the CMS, then upon my death the bank that holds my TFSA will distribute its holdings according to these new instructions. When a beneficiary is a surviving spouse, the bank is able to transfer the inherited money directly to a registered account of the same kind as the source account. This is especially helpful for RRSP and RRIF accounts, for otherwise their balances would need to be counted as taxable income earned by the deceased person immediately prior to their death.

Another feature of designating beneficiaries for life insurance and registered accounts is that the corresponding money avoids being considered part of the deceased person's estate and therefore it is not subjected to provincial probate fees. However, in the absence of a surviving beneficiary, then the money would flow into the estate and be subjected to probate fees. Probate fees are akin to a tax that is calculated as a percentage of the value of a person's estate. These fees are charged when somebody applies to be appointed as executor or trustee of an estate. Moreover, settling of an estate can be a lengthy process, sometimes taking years, and during part of this time the assets within the estate may be frozen by the associated financial institutions. By designating beneficiaries for registered accounts, not only do these accounts escape the probate fee, but their funds can be distributed sooner than funds that are part of a person's estate.

In the event that a person has a will, it generally specifies what their executor is to do with their estate. It is common practice for people to make provision for legacies within their wills. Note that bequests made to registered charities are considered to be charitable donations made by the person's estate, which is a recent change in taxation policy. For deaths prior to 2016, the CRA deemed that gifts described in a person's will were given by the individual immediately before their death. For deaths since 2016, willed bequests are treated as having been given by the person's estate. These donations are therefore reported on the estate's income tax return, with provision that the corresponding tax credit can then be applied to the return that was previously filed for the person's year of death (i.e., the "final return" for the individual). Yes, there are two separate income tax returns involved here: one for the person up until their death, and one for the estate that came into being at the moment of their death. This may sound convoluted, but my point is that donations made within a will can help to offset income that must be reported in the person's final income tax return, which is important because a person's final tax return can include a lot of income that was not anticipated.

For instance, I've already mentioned that RRSP and RRIF accounts that are not transferred to a surviving spouse (by way of having previously told the bank that the spouse is the designated beneficiary) are redeemed in full and treated entirely as the deferred income they were set up to be. However, the original intent was likely to spread out the deferred income over several years, rather than to receive it all at once.

Additionally, when a person dies, the CRA generally considers that they have disposed of all of their capital property immediately before their death. This has the potential to trigger substantial capital gains. Some exemptions exist for stocks and securities that are donated to charity. There are also special exemptions for a person's home, but any other real estate they had, and that was not jointly owned, must be assessed for the purpose of capital gains, even if the property is bequeathed to family members without being sold.

Given that these several sources of actual and deemed income can generate a significant spike in taxable income for a person's final tax return, quite possibly lifting them into a higher tax bracket, having charitable deductions that are planned to coincide with the income can help to reduce the tax liability. On that note, I encourage each of you to examine your own circumstances, think about what types of legacy and philanthropy you would like to be remembered for, and to formalise your wishes within a will and through beneficiary designations on your registered bank accounts, etc.

Preparing a will is also helpful to whomever it is that must administer your estate (as executor for each of my parents, I can attest to this from personal experience). If you have not yet prepared a will, I strongly recommend that you prepare one. If you do have a will in place already, and you would like to make a new bequest to the CMS or other recipient, then you have two options. One is to draft a completely new will. The other is to prepare a codicil, which is essentially an addendum to an existing will (for an example codicil, [click here](#)).

At this point I would like to remind everyone that the CMS is a registered charity, and as such it depends on donations in order to be able to pursue its mission. I would particularly like to call on CMS members to join me in including the society in each of our legacy plans by making provision for a bequest of some nature to be given towards the society. Among the many worthy activities that are supported by donations are specialty math camps that give youth rewarding experiences and exposure to mathematics, training camps for students who are preparing to represent Canada at the International Mathematical Olympiad and the European Girls Mathematical Olympiad, competitions that we organise each year for elementary and secondary level students, the annual Canadian Undergraduate Mathematics Conference, as well as activities that take place in conjunction with our semi-annual meetings. Of course there are also operational expenses as well as costs associated with maintaining the heritage building that we purchased in 2022 as a new home for our Ottawa office.

My hope is that we can collectively develop a culture of generous gift giving, whereby we can take personal comfort in knowing that we are contributing towards the continued support and celebration of mathematics through our final directives. That said, annual giving to the CMS while we're still alive is also very much appreciated!

The Registered Charity Number for the Canadian Mathematical Society is 118833979 RR 0001. For information on how to donate, please go to <https://cms.math.ca/about-the-cms/donations/>.

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