Philanthropy and life insurance

GOLD KEY
Integrity. Knowledge. Affinity.

Presented by: Milan Legris, LL.B., LL.M., TEP

The Great-West Life Assurance Company

Important considerations

This material is for informational purposes only and should not be construed as accounting, legal or tax advice. Reasonable efforts have been made to ensure its accuracy, but errors and omissions are possible.

All comments related to taxation are general in nature and are based on current Canadian tax legislation for Canadian residents, which is subject to change. Persons who are not Canadian residents may be subject to different tax rules in Canada, and persons who are resident in Canada but also citizens of another country may be subject to taxes levied by jurisdictions other than Canada.

For individual circumstances, consult with your legal or tax advisors.

This information is current as of May 1, 2016.

Examples are not complete without the issuing company’s life insurance illustrations including the cover page, reduced example and product feature pages having the same date.

Agenda

1. Why do donors give?
2. Why don’t people give or give more?
3. Donating to charity
4. Giving with life insurance
5. Charitable gift planning

Why do donors give?

Ensure charity continues

No one to leave it too

Protect self or children

Alleviate financial uncertainty

Tax benefits

Really care

Transfer and promote values

Inspired by and respect other donors

Minimize capital gains

Be remembered – seen & acknowledged

Be a leader

Sense of shame/guilt

Use tax benefits for wealth and control

To honour or be honoured

Sense of stewardship

Benefit family

Share good fortune

Increase social image

Competition

Need to give back

Why don't people give or give more?

No one showed them how

Concerned over lifestyle impact

Never took the time to think or talk about what is important

Concern over misuse of contribution

Fear loss of control

Unsure how to find reliable guidance and who can be trusted for advice

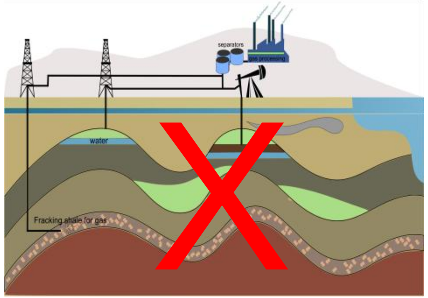
Misbelief gift is not material enough to matter or make a difference

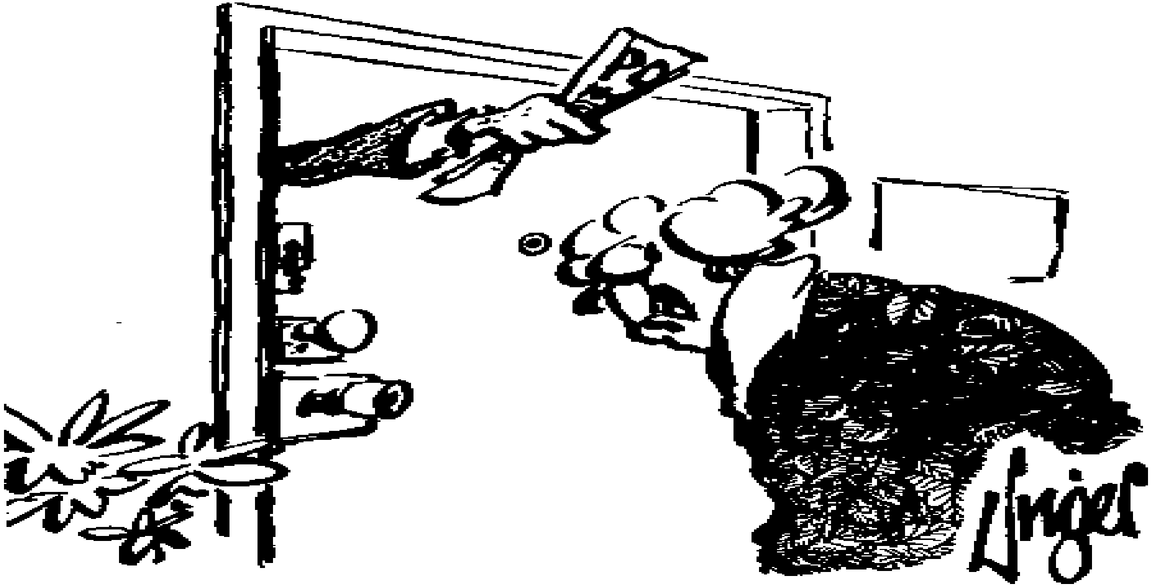
Never asked

Opportunities

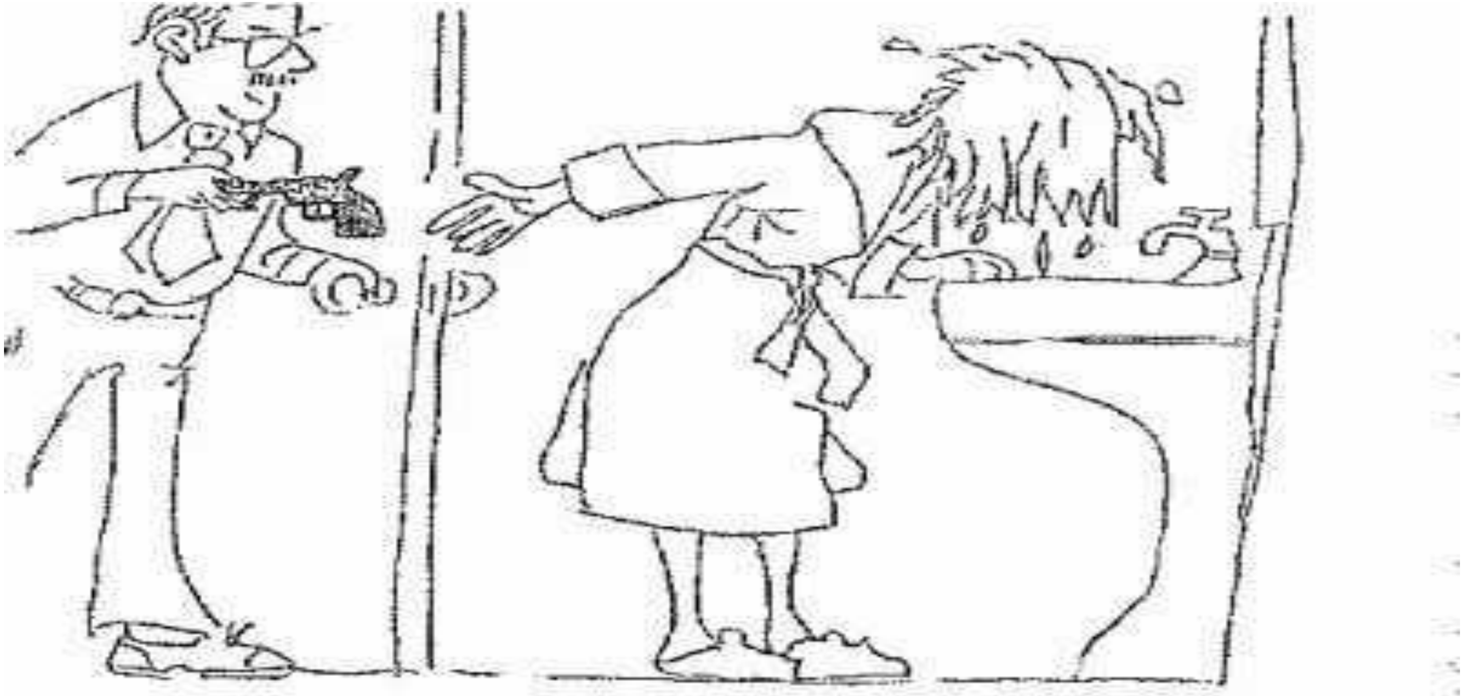
1. Charities and foundations
2. Insurance companies
3. Other financial entities
4. Financial advisors
5. Other professional advisors

Donating to charity





“That insurance guy is still out there!”



"Hand me the Hairdryer"

Easier to give (less financial pain) when it costs less!

- Life Insurance is the ideal gift within this context
  - Give it now
  - Give it in the future
  - Support a gift
  - Support planning
  - Total gift is greater than insurance payments
    - Lesser sum (premiums) = larger death benefit

Giving with Life Insurance – introductory

Options

1. Bequest of insurance proceeds via will
2. Donation of premiums
3. Gift of death benefit - beneficiary designation
4. Gift of policy

Giving with Life Insurance – Summary

Policy owner	Beneficiary	Tax Benefit to donor (lifetime)	Tax Benefit to donor (at death)
Taxpayer	Estate (charitable bequest in will)	None	Death benefit is donation
Charity	Charity	Annual premium is the donation	None
Taxpayer	Charity (designated beneficiary)	None	Death benefit is donation
Charity	Charity	Fair market value of policy plus any annual premium is the donation	None

Disbursement quota – Reg. 3702(1)(b)(vi)

- Reg. 3701(1) is the 3.5% disbursement quota (DQ) on assets
- Reg. 3702(1)(b)(vi):
  - For the purposes of Reg. 3701(1) – the DQ - the value of a property … is determined to be
  - A life insurance policy, other than an annuity contract, that has not matured, nil, …
- What does this mean?
  - Easier administration for charity
  - Gifts of life insurance less complex

Tax shelter rules – gifts of life insurance

- 2003 (draft) legislation
  - responded to tax shelter donation schemes
- 3 year and 10 year look back rule
  - grind to gift
- Where donor acquires a life insurance policy
  - Less than 3 years before gift is made, or
  - Less than 10 years before the day the gift is made, and

  it is reasonable to conclude at time donor acquired policy, one of the main reasons was to make a gift to a qualified donee ...

Tax shelter rules – gifts of life insurance

... then

FMV of policy is deemed lesser of:

1. FMV, and
2. ACB of policy immediately before the gift

Charitable gift planning

1. Gifting public securities to charity

- Personal lifetime gift of securities
  - $0 capital gain
  - Fair market value receipt tax credit = tax savings
  - Cash cost is ‘cost’ amount of securities or adjusted cost base (ACB) for tax purposes
- How is personal wealth replenished?
  - Life insurance
  - Tax savings can pay for life insurance
  - Added benefit of estate/creditor by-pass

1. Gifting public securities to charity

Is there a better strategy for business owners (Opco/Holdco)?

- Transfer personal securities tax-deferred to corporation and in exchange
  - Get cash or note for ACB, plus
  - Shares for FMV less ACB
- Corporation gifts stock to charity
  - No capital gain on gift of stock + CDA credit
  - Charitable receipt = income deduction (tax-free cash flow)
- Replenish capital with life insurance with tax-free cash flow
- CDA credit
  - Gift of stock + life insurance

Example: Public stock ACB $400,000 and FMV $1,000,000

	Personally donate stock	Stock transferred to corporation and corporation donates stock
Taxable capital gain	$0	$0
Tax @ 50%	$0	$0
Charitable receipt	$1,000,000	$1,000,000
Personal after-tax wealth	-$400,000 (ACB)	$400,000 note + $600,000 shares
Corporate CDA		$600,000
Personal after-tax income flow	$1,000,000 (or $2.0M CG)	$1,000,000 (note + $600,000 CDA)
Net after-tax personal $	$600,000 (or $1.6MK)	$1,000,000
Corporate tax-free cash flow		$1,000,000

Example: summary

Summary

- **Shareholder** and **Company**
  - No tax
  - $1 million tax shield
- **Shareholder $1 million**
  - $400,000 note/cash
  - $600,000 tax-free dividends
- **Charity**
  - $1 million stock
- **Canada Revenue Agency (CRA)**
  - $0

Example: life insurance recovery

- $1,000,000 charitable receipt = $1,000,000 corporate income shield
- Use corporate money for insurance planning/recovery
  - COLI with $1,000,000 death benefit
  - Shareholder (54) and spouse (50) JLTD UL policy
  - Annual deposit of $21,651 for 46 years = $1,000,000
  - **$1,000,000 CDA (plus original $600,000 CDA on gift of stock)**

2. Gifting to charity with life insurance to shelter registered savings

- Dr. (practice via MPC) & spouse both age 61
- Own 2 personal UL policies each $1,000,000 death benefit (+/- account value)
  - combined premium $775 per month ($9,300 pa)
  - FMV $297,000 (CSV $42,000 ACB $26,000 = $16,000 gain)
  - FMV $260,000 (CSV $29,000 ACB $16,000 = $13,000 gain)
- LI policies donation to charity = $557,000 receipt
- Donation receipt shelters $557,000 RSP from personal tax

2. Gifting to charity with life insurance to shelter registered savings

- RSPs
  - $1,150,000 (less $557,000) and $500,000 respectively
- Dr. uses $557,000 for PAC
  - $30,200 annually (tax = $1,200) nets $29,000
- $20,000 cash flow for T20 JFTD $1,050,000 death benefit
  - May transfer to MPC (and convert to permanent LI)
- +$9,000 cash flow donated to charity (old premiums)
  - $9,000 donation shields spouse's RSP withdrawals ($30,000)
  - Until age 65 as RIF or annuity additional pension credit

3. Gifting to charity with private shares + life insurance

- Mr. (73) & Mrs. (70) own Holdco ($12.0M near cash)
- Holdco was frozen
  - Mr. & Mrs. have $12.0M of frozen preferred shares
  - Children own growth (common) shares
- Clients (charitable) and a referral from CPA
- Showing
  - Do nothing vs. gift 50% shares with/out insurance
  - $6.0M of JLTD UL insurance less opportunity cost(s)
  - Annual deposit/premium $131,781

Optimizing Taxation of Preferred Shares
Insured Share Donation Strategies

Pref Share Value: 12,000,000

		Current	Donate 50% without insurance	Donate 50% with insurance	Donate 50% plus insure surtax
			Donation Strategy		
Life Insurance Proceeds	Joint-Last	-	-	6,000,000	6,372,000
Capital Gain Realized on Death		$ 12,000,000	$ 12,000,000	$ 12,000,000	$ 12,000,000
Capital Loss Carryback		-	-	-	-
Net Capital Gain		12,000,000	12,000,000	12,000,000	12,000,000
Taxes Payable		3,212,000	3,212,000	3,212,000	3,212,000
Donation Credit		-	(3,025,000)	(3,025,000)	(3,212,000)
Net Tax Payable ...		3,212,000	187,000	187,000	-
LEGACY					
Estate/Heirs		8,788,000	5,813,000	5,813,000	5,628,000
Increase in Common Shareholder Value - Net			-	6,000,000	6,372,000
Foundation		-	6,000,000	6,000,000	6,372,000
Total Legacy		8,788,000	11,813,000	17,813,000	18,372,000
Total Advantage @ age 90		-	-	6,000,000	6,559,000
Opportunity Cost of Insurance Premiums		-	-	2,286,000	2,428,000

(amount equal to premium re-invested at 4.00% pre-tax)

3. Gifting to charity of private shares – other

- Must be shares (not debt)
- Recipient generally public charity
  - Private foundation works if redeemed/monetized within 60 months of gift (plus disbursement quota)
  - Generally workable only at death
- Donor must be arm’s length to charity
- Donor must be arm’s length to all officers, directors and trustees

3. Gifting to charity of private shares – foundations

- For estate planned (significant) donations with private company shares keep in mind the rules for foundations owning private company shares:
  - Foundation acquiring control of a company
  - Private foundation excess corporate holding regime
  - Private foundation holding non-qualified investments
  - Donation of non-qualifying securities

3. Gift to charity of private shares – Alternative

What if unable to gift private shares?

- Corp owns life insurance policy on shareholder's life
- Corp uses life insurance proceeds and CDA credit to redeem shares
  - 50% solution reduces tax
- Estate gifts the cash instead to the charity
- The cash gift receipt offsets capital gains tax liability arising at death

4. Protecting a charity's donor (its 'annuity')

- Mr. Donor (55) consistently makes annual cash donation of $5,000
  - What if Mr. Donor dies?
  - Who is the NGG (next generation giver)?
- Mr. Donor life expectancy is approx. 30 years
  - T20 on Mr. Donor for $200,000 of death benefit is approx. $1,400 pa
  - If Mr. Donor's MTR is 50% it costs him $700 pa
- Why wouldn't you have that conversation with long time/term giver Mr. Donor?

Opportunities for donors and their charity(ies)

Your beneficiaries

spouse/partner

+

children/grandchildren

favourite charity

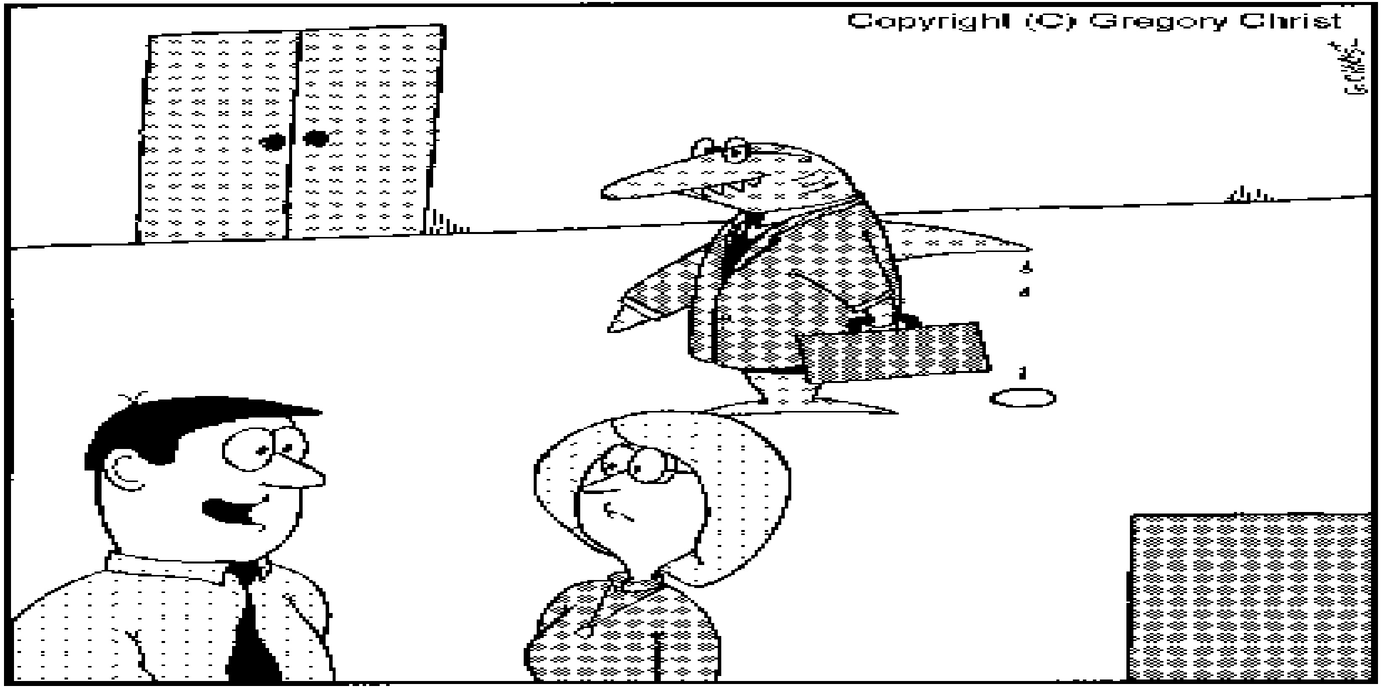
Canada Revenue Agency

Pick two!

“a donation separates commitment from conversation”

Where have we been?

1. Why do donors give?
2. Why don’t people give or give more?
3. Donating to charity
4. Giving with life insurance
5. Charitable gift planning



The new guy has the instincts to be a great lawyer!