



**Submission  
to the**

**House of Commons  
Standing Committee on Finance**

**Priorities for the 2017 Federal Budget  
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**Presented by:  
The Canadian Association of Gift Planners (CAGP)**

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We are pleased to provide this submission to the Federal Standing Committee on Finance in regard to its 2017 pre-budget consultation process.

### **Summary of Recommendations**

1. Amend the Income Tax Act to clarify the law surrounding donations to Charitable Remainder Trusts.
2. Reinstatement of the collection of key data on the charitable and non-profit sector by Statistics Canada that would enable better policy-making on the regulation and capacity-building of the sector in Canada.

### **Introduction**

The Canadian Association of Gift Planners (CAGP) is a national non-profit organization whose purpose is to champion the growth and development of strategic charitable gift planning in Canada. We do so by developing knowledge and providing education; building awareness and promoting philanthropy, locally and nationally; creating connections and facilitating partnerships; and engaging in national dialogues and influencing public policy.

Strategic charitable gift planning is a donor-centred process of planning current and future charitable gifts in a way that meets a donor's philanthropic goals and balances personal, family and tax considerations.

Our national membership is comprised of 1200 charitable gift planners working in Canada's charitable sector as well as individuals from a variety of allied professions in the private sector, including law, trust and estate planning, accounting, life underwriting and financial planning. Members adhere to strict standards of ethics.

We believe these two recommendations, if implemented, would have a significant impact on the fiscal sustainability of Canada's charitable and non-profit organizations and would improve our ability to do our work on behalf of Canadian communities and to collaborate with government on mutual goals and objectives.

#### **1. Charitable Remainder Trusts**

A Charitable Remainder Trust is a "life income" gift that allows donors to create a trust, retain a life income and, upon their death, ensure that the remainder interest goes to a registered charity. If the trust is irrevocable the donor will receive a current tax receipt for the actuarial value of the capital transferred to the trust. It is an important giving technique internationally, but due to lack of clarity in Canadian law, Charitable Remainder Trusts have not to date been widely used in Canada. In other jurisdictions, particularly the US, Charitable Remainder Trusts can be created in a number of different ways and are one of the most significant tools available for charitable giving.

The Charitable Remainder Trust is an attractive structure for donors age 65+ to use to support their charities of choice during their life in situations where they need to retain an income stream.

### ***History of the Charitable Remainder Trust***

The Charitable Remainder Trust has been acknowledged by the Department of Finance and the Canada Revenue Agency as a valid tool for giving significant gifts of assets that needs clarification in Canadian law. In the spring of 2003 at the request of these Departments, a proposal was tabled by CAGP for a legislative framework for Charitable Remainder Trusts under Canadian law. While we have had a series of cordial discussions over the years, the regulatory change required has not been forthcoming.

### ***An Example***

Mrs. Donor, age 80, lost her husband 2 years ago. She has been a life long supporter of the Salvation Army and has included it in her will. She has decided she wants to make the gift now, but has a concern whether she will have sufficient income in future years to support her lifestyle.

With a Charitable Remainder Trust she would receive an income for life and the charity will receive the capital at the time of her death. The gift is irrevocable and thus cannot be undone and since the trust is outside of her probated estate, will not be subject to any claims that might be made against Mrs. Donor's estate – the charity is guaranteed to receive the capital.

At the time of establishing the Charitable Remainder Trust, Mrs. Donor will receive a tax receipt for the present value of the future interest of the capital to be transferred to the charity, which would be approximately 70% of the amount contributed for a donor of this age. The amount of the receipt is always discounted and determined by the age and life expectancy of the donor and a reasonable interest rate. Importantly, Mrs. Donor is recognized today by the Salvation Army for her generosity.

### ***Key Proposed Changes***

CAGP asks for the inclusion of the Charitable Remainder Trust as a defined trust with specific features in the *Income Tax Act* (Canada). Such a trust must have a qualified donee as a beneficiary and would provide for annual distributions to an income beneficiary that in most cases would be the donor, but could be the donor and his or her spouse or a third party. The proposal contemplates that the transfer of property to a Charitable Remainder Trust would be a gift for tax purposes. The charity would be required to value the remainder interest and can issue a tax receipt to the donor for that amount. It is contemplated that the Charitable Remainder Trust would be exempt from tax but that the annual distributions made to a beneficiary would be taxable under the *Income Tax Act*.

### ***Conclusion***

The Charitable Remainder Trust is a prudent and effective giving tool that could unlock significant gifts of assets from donors age 65 years and older. We ask for the support of this Committee to bring some urgency to the Charitable Remainder Trust proposal currently with the Department of Finance. The continued discussions on this proposal are an excellent example of collaboration by both Government Departments and the charitable

sector. The time has come for a final push to adopt the Charitable Remainder Trust proposal in the Income Tax Act for the benefit of Canadians.

## **2. Collection of Key Data on the Charitable and Non-profit Sector**

CAGP recommends that the government reinstate the collection of key data on the charitable and non-profit sector by Statistics Canada that would enable better policy-making on the regulation and capacity-building of the sector in Canada.

This recommendation is broadly supported by organizations in the sector and would address concerns that many charities have had with the lack of information on the economic contribution and employment profile of the charitable and non-profit sector.

There is widespread frustration in the sector over the lack of useful and policy-relevant data on the sector. The last systematic census of the charitable and non-profit sector was conducted in 2003, over 13 years ago. The last study of the contribution of the non-profit sector to Canada's economy was done in 2009, over 6 years ago.

The non-profit and charitable sector is a very important contributor to Canadian economic growth and to our country's social well-being. We wish to work in partnership with the federal government to develop our capacity to contribute to better policy development. This recommendation would lead to significant improvement in our ability to do our work on behalf of Canadian communities and to collaborate with government on mutual goals and objectives.

Thank you for your consideration of these recommendations.