

Charitable Bequests Under a Will



The easiest way to create a legacy of charitable giving is through a bequest

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With long-term concerns of limited personal cash flow for oneself and for future generations, many donors have apprehension about making charitable donations to their favoured causes during their lifetime. As such, many donors feel more comfortable leaving charitable gifts or bequests under their Wills, allowing them time to assess their personal needs and future potential demands on their estate (such as education, healthcare or special needs).

A charitable bequest under a Will is used by a donor wishing to gift a specific amount of capital, a specific percentage of the proceeds of their estate or a specific asset (gift-in-kind), or all or a portion of the proceeds

of a life insurance policy. Such gifts will be entitled to a donation receipt that can be used to offset the final or next to final tax bill of the deceased, or in the estate's tax return.

There are Three Types of Bequests:



A specific bequest

is a gift of a particular asset or stated sum of money.

A residual bequest

is a gift of all or a fraction of what remains after all debts, expenses and specific bequests have been paid.



A contingent bequest

takes effect only if the primary intention of the Will can not be met.

For convenience, a donor can choose to make Gift Funds Canada (GFC) the beneficiary of their bequest under their Will. They can leave directions instructing Gift Funds Canada to place the proceeds in their Donor Advised Fund (DAF) and instructions regarding the use of proceeds. The donor can also specify family members, an executor or trustee or Gift Funds Canada to oversee the DAF on behalf of the donors.

Charitable Bequests



The donor can change or add beneficiaries and modify gifted amounts and types of gifts, at any time prior to death



Charitable bequests are flexible as they represent a future intention by the donor to make a gift from their estate to charity following their death. As such, the donor can change or add beneficiaries and modify gifted amounts and types of gifts, at any time prior to death. However, such changes involve a modification of the donor's Will and likely entail retaining a lawyer. An alternative is for donors to make a single gift under their Will to Gift Funds Canada to fund their DAF following death. The donor leaves grant recommendations for specific charitable recipients and instructions for ongoing management of the Fund's assets. This would enable the donor to change any aspect of their gifting strategy by simply notifying GFC

and not incurring the time and cost associated with changing a Will.

It should be noted that, unlike other forms of gifting, bequests are subject to normal issues of the estate process including claims by creditors, legal, executor and administration costs, actual tax liabilities, succession laws and claims against the estate by family members. And charitable bequests may be subject to probate along with the rest of the estate making your gift a matter of public record. The result may be that the gifting wishes of the donor are only carried out in part or not at all as a result of issues related to the estate.

Managing Deferred Gifts

Assets intended for charity may pass through an individual's Will or go directly to the charity thus avoiding all estate issues associated with bequests through a Will. Certain assets allow the naming of a beneficiary; therefore donors wishing to maximize the impact and immediacy of a gifted asset should proactively name the charity as beneficiary of the asset prior to their death. This will allow the gift to flow directly to the designated charitable cause(s) without passing through the donor's estate upon the death of the donor. Making GFC the beneficiary can make such an assignment simple and efficient and will allow the donor to easily make modifications to the grant recipients and terms associated with the donor's Donor Advised Fund.

By way of example if a charity or foundation is named as the beneficiary of a life insurance policy or a registered account (RRSP, RIFF or TFSA), owned by the deceased, the proceeds will be paid directly to the charity upon the donor's death and the charity will issue a donation receipt to the donor's estate. Other assets that are not subject to the assignment of a beneficiary may be transferred to a charity or foundation outside of the donor's Will as a residual gift or a Charitable Remainder Trust.

Many other forms of gifting (such as a gift of life insurance) made during the donor's lifetime, avoid being included in the affairs of the donor's estate. By naming Gift Funds Canada as the policy owner, the donor will receive a donation receipt for the fair market value of the policy at the time of gifting. The donor then leaves instructions for the proceeds of the policy to be placed into a DAF and recommendations for the granting of funds to designated charitable causes. Such a gift transacts outside of the estate and taxation process and is highly flexible in terms of gifting options including changing or adding charitable beneficiaries.





A residual interest gift would allow donors to donate gifts-in-kind prior to their death, while continuing to enjoy the asset, thereby avoiding the estate process. This can include valuable artwork, real estate and other appraisable assets that the donor can continue to enjoy during their lifetime, receive a donation receipt at the time of making the gift and be confident that the proceeds are used for charitable purposes consistent with the donor's wishes. Through a Charitable Remainder Trust donors can contribute financial assets and commercial or rental real estate and receive income for life with the remaining value of the asset going to charity upon the death of the donor.

FOR MORE INFORMATION

For more information please contact us at 1-800-712-5988 or visit GiftFunds.com.



For further information or to discuss establishing your own Donor Advised Fund, please contact us at:

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