



Choosing the Right Vehicle for a Legacy Gift

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Planning a legacy gift can be an exciting process for a family to work through. Once the decision has been made to make a legacy gift, it is important for the family to iron out the details of where the gift will be made and how it will be handled.

You have three main options when choosing a vehicle for your gift:

- Direct gifts to charity
- A gift to a public or community foundation
- Creating a private foundation

Each of these options is best suited to different scenarios, based on the amount of the gift, the sophistication and involvement of family members, the time horizon of the gift, and several other factors. We will look at the three options considering each of these factors.

Direct gifts to charity

Giving directly to one or more charities is a relatively simple process. The gift must be made to a charity registered with the CRA or to a “qualified donee” (also listed with the CRA) such as a municipality in Canada or an amateur athletic association. If the gift is made to a registered charity or qualified donee, the donor will receive a tax receipt at the time the gift is made. If the gift is made by an individual, a tax credit is available, while if the gift is made by a corporation, a tax deduction will be available to the company.

A direct gift to charity is a good option if you intend to make the gift in one payment, as opposed to making gifts to several charities over a number of years. But if you plan to make a legacy gift to one or more specific charities through

your will, remember that if you change your mind about the charities you would like to support or the amounts you want to give, you will need to change your will – each time you change your mind.

Most people have good intentions to update their will, but the years go by quickly and people forget, and regular updates are not the norm. If you feel your charity choices and gift amounts are firm, naming them directly in your will is a good option. If you might change the charities or amounts from time to time, consider the next two options.

Gift to public or community foundation

Naming a public or community foundation as a gift recipient in your will instead of specific charities can have a few benefits. First, your will needs to mention only the name of the foundation, not the specific charities that may ultimately benefit from the gift (through the foundation). The donor generally leaves instructions with the foundation that will receive the gift as to how the funds should be distributed. This means that if you wish to make any changes to the charities or the amounts they will receive, you need only change the directions on file with the foundation, and no changes would be required to your will.

The directions on file with the foundation need not even identify specific charities, if you wish. You as the donor can instead leave directions that family members (or others) will advise the foundation annually on what charities should benefit from the funds and in what amounts. This approach allows the family to use its discretion in the future to benefit different causes that may arise, and it can engage the next generation in the decision-making.

THE FAMILY MAY WISH TO SEE LARGER DONATIONS BE ALLOCATED TO CHARITIES OVER SEVERAL YEARS OR MAY WANT TO CREATE AN ENDOWMENT FUND THAT WILL EXIST IN PERPETUITY, DISTRIBUTING ITS EARNINGS TO SELECTED CHARITIES EACH YEAR.

A second benefit of using a public foundation has to do with the timing of the gift. Gifts from estates need to be made in a timely manner to qualify for tax credits, so having a foundation accept a lump sum gift from the estate can make estate administration easier and allows flexibility on timing of the distributions from the foundation to the charities. The family may wish to see larger donations be allocated to charities over several years or may want to create an endowment fund that will exist in perpetuity, distributing its earnings to selected charities each year. A public or community foundation will have the flexibility to handle these different giving structures. In addition, foundations are already set up to handle the administration of the gift, making it both low-cost and simple for the family to just provide advice annually on the direction of the gifts.

Creating a private foundation

Setting up a private (family) foundation is another option for a legacy gift. Private foundations differ from public foundations in that at least 50% of the directors, officers, or officials of a private foundation are related (that is, they do not deal with each other at arm's length). Private foundations must be granted charitable status by the CRA, just as public foundations must, to enable the issuance of charitable tax receipts.

Along with their advisors, the donor's family members will be responsible for managing the foundation. This means managing its financial assets and determining an investment strategy, ensuring compliance documents are filed with the CRA annually, and ensuring proper receipting practices are in place for all donations the foundation receives. This option clearly requires more involvement from the family and requires some sophistication to manage.

Working with a professional is recommended to obtain charitable status for a private foundation and to help navigate the CRA's specific rules for such foundations.

Because of the setup costs and annual compliance requirements, a private foundation is often chosen when the legacy gift is of a significant size and when the donor has undertaken considerable giving during their lifetime. If the family values a greater degree of control and some privacy in their charitable giving, and if they plan to use the foundation for generations to come, a private foundation can be a great option for the family to be engaged in together.

Decide based on your circumstances

Each situation is unique. A careful examination of the options available for making a legacy gift is an important undertaking not only for the donor, but for the family. Finding the right fit for different circumstances will put the family at ease and will aid in administering the gift efficiently and as the donor intended.

What is your legacy?

Succession and estate planning can often seem like a puzzle. Our advice and collaboration with your existing advisors will help customize strategies around issues such as liquidity, wealth transfer, and charitable giving. We can help you transition out of your business and ensure your legacy objectives can be achieved.

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